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THE WHITE HOUSE

Office of the Press Secretary

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FACT SHEET

EXECUTIVE ORDER ON CIVIL JUSTICE REFORM

The President today signed an Executive order to apply immediately the reforms proposed in the Council on Competitiveness report "Agenda for Civil Justice Reform in America" to civil litigation involving the United States Government. The Executive order requires agencies to implement discovery and expert witness reforms and to adopt the Fairness Rule (also known as the English Rule), whenever feasible. The Executive order also requires agencies to attempt to settle disputes prior to litigation, and to employ settlement and Alternative Dispute Resolution (ADR) techniques in order to avoid prolonged litigation.

In August 1991, the President's Council on Competitiveness recommended 50 specific changes to our current civil litigation system. These recommendations were aimed at achieving swifter justice and reducing the costs of litigation. The proposals facilitate more timely and efficient handling of civil cases.

This Executive Order on Civil Justice Reform seeks to produce a more fair American legal system by making Federal litigators a model for parties in the private sector involved in dispute resolution. Although the Executive order requires the Federal Government to implement many of these legal reforms unilaterally, the Administration expects this Executive order to be a catalyst for civil justice reform in the Congress, State legislatures, and the courts.

Background

The tremendous growth of civil litigation in the past 30 years, including litigation involving the United States Government, has overburdened the American court system. Excessive litigation imposes high costs on American individuals, small businesses, industry, professionals, and government at all levels. With 70 percent of the world's lawyers, it is not surprising that the number of lawsuits filed in the Federal courts each year has more than tripled in the last 30 years -- from approximately 80,000 in 1960 to more than 250,000 in 1988.

Proposing Legislation and Regulations that Do Not Unduly Burden the Courts

The Executive order also contains provisions designed to reduce litigation caused by poorly drafted Federal legislation and regulations. Specifically:

- All legislation and regulations proposed by the Administration will be reviewed to eliminate drafting errors and to use clear and specific standards instead of more ambiguous general standards whenever practicable.
- All legislation and regulations will be reviewed against a "litigation checklist" of 15 specific issues (such as statutes of limitation, preemptive effect, retroactivity, etc.) that historically have led to needless litigation.
- Agencies proposing legislation and regulations must certify compliance with this checklist in their legislative submissions to the Office of Management and Budget.

Promoting Just and Efficient Administrative Adjudication

The Executive order also requires that, whenever reasonable and practicable, all agencies that adjudicate administrative claims employ more efficient case management procedures in administrative law proceedings.

Scope and Effective Date

This Executive order applies to civil matters only and is not intended to affect criminal matters. It shall become effective 90 days from the date of the President's signature, and will not apply to litigation commenced prior to the effective date.

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