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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

March 7, 1990

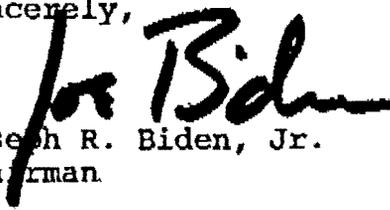
The Honorable Aubrey E. Robinson, Jr.
Chief Judge
U.S. District Court for the District of Columbia
U.S. Courthouse
333 Constitution Avenue, Northwest
Washington, D.C. 20001

Dear Judge Robinson:

I would like to take this opportunity to thank you for your testimony at yesterday's hearing on S.2027, the Civil Justice Reform Act of 1990. I appreciate your insights on this complex issue.

I have enclosed some questions from the committee. A timely response would be appreciated.

Sincerely,


Joseph R. Biden, Jr.
Chairman

Senator Thurmond

QUESTIONS FOR JUDGE ROBINSON

1. S.2027 requires each federal district court to develop its own "Civil Justice Reform Plan" which is to include provisions for assigning cases of differing degrees of complexity to different "tracks". Do you believe this is a sound and workable approach? Why or why not?

2. Judge Robinson, do you believe that if we make greater use of pre-trial and status conferences, as proposed in S.2027, judges will be better able to monitor and limit abusive discovery and schedule early and firm trial dates?

3. Judge Robinson, is it proper in your opinion for Congress to direct district courts to develop and implement within twelve months a "Civil Justice Reform Plan"?

4. Judge Robinson, the latest figures supplied by the Judicial Conference indicates that as of 1989, some 95 additional judgeships need to be created to meet current caseload requirements. Would it not be wise to include in any civil

justice reform plan the judgeships necessary to provide speedy and effective resolution of disputes?

Senator Hatch

Questions for Judges Robinson and Enslin

1. Could you identify those measures that the bill requires to be in each "civil justice expense and delay reduction plan" which can be undertaken without legislation, and those measures which require legislative action?

Senator Hatch

Questions for all Witnesses, Both Panels

1. a) Even Judge Enslin, who already does much of what the bill would impose on all judges, doesn't utilize all of the bill's required procedures. Are all of these procedures appropriate for every kind of District, rural and urban, and for every judge?
- b) If some judges or District Courts have no appreciable case backlog, does it make sense to make all of them undertake the exercises required by this bill?
- c) This bill requires the judge, not a magistrate, to preside over the initial discovery conference. Some districts, unlike districts in large cities like New York or Washington, have more than one seat of court. Forcing the judges there to run between those seats of court, attending conferences a magistrate can handle may slow, not speed, justice. Could you comment on this?
- d) The firm and early setting of a trial date is aimed at ensuring that trial will commence on the designated date. But it also ensures that trial won't start any

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earlier. I understand that some judges in more rural districts and even some in urban districts still use the so-called trailing calendar. Under this procedure, a firm trial date is rarely set, but counsel know that their case is subject to being tried at any time after it has come of issue, and on short notice. This may spur the litigants and attorneys into speeding the process along.

Did the Task Force consider this possibility, that in some courts a firm, early trial date may not be so beneficial or that this alternative might be more effective?

2. a) Is it necessary for Congress to pass a bill requiring judges to develop "procedures for resolving motions necessary to meet the trial dates and the discovery deadlines established pursuant to the plan, including the adoption of time guidelines for the filing and disposition of substantive and discovery motions"?
- b) If particular judges aren't deciding motions in a timely manner before trial, are there less intrusive ways to address the situation, such as having the Judicial Conference work with the judge?

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3. Under this bill, what happens if a judge does not adhere to the delay reduction plan, and misses a deadline or largely ignores the plan?