

TABLE OF CONTENTS

Part I
Assessment of the Docket

A. Introduction

B. Gathering Information

1. Advisory Group Members' Memoranda 3

2. Statistical Information 3

3. Interviews 3

4. Other Sources 3

C. Analysis of Information

1. Statistical Data 4

2. Non-statistical Information 4

D. Discussion

1. Types of Cases 6

 (a) Criminal Litigation 6

 (i) Complex Criminal Cases 6

 (ii) Criminal Sentencing Guidelines 7

 (b) Asbestos Cases 8

 (c) Prisoner and Pro Se Cases 9

 (d) Civil Rights Cases 11

 (e) Complex Civil Matters 11

 (i) Non-Jury Trials 11

 (ii) Management of Complex Civil Cases 12

 (f) Tort and Contract Cases 13

2. Case Management 14

 (a) District Judges 14

 (b) Magistrate Judges 14

 (c) Senior Judges 15

 (d) Vacant Judgeships 15

 (e) Discovery Disputes 15

 (f) Dispositive Motions 16

 (g) Alternative Methods of Dispute Resolution 16

 (h) Trials 17

3. Conclusions 17

E. Order of Court

Order of Court Adopting Plan 19

**Part II
Cost and Delay Reduction Plan**

Article I. Pretrial Differential Case Management

Rule 1.01. Definition of a Judicial Officer 21

Rule 1.02. Early Assessment of Cases 21

- (a) Scheduling conference in civil cases 21**
- (b) Meeting of counsel 21**
- (c) Settlement proposals 21**
- (d) Joint statement 22**
- (e) Conduct of scheduling conference 22**
- (f) Scheduling orders 23**
- (g) Modification of scheduling order 24**

Rule 1.03. Case Management Conference 29

- (a) Conduct of case management conference 29**
- (b) Meeting of counsel 30**
- (c) Additional case management conferences 30**

Article II. Discovery

Rule 2.01. Control of Discovery 34

- (a) Cooperative discovery 34**
- (b) Disclosure orders 34**
- (c) Discovery event limitations 35**

Rule 2.02. Sequencing of Discovery 37

- (a) Automatic document disclosure 37**
- (b) Further discovery 38**
- (c) Certification of discovery motions 38**
- (d) Resolution of discovery disputes 38**
- (e) Removed and transferred actions 38**

**Rule 2.03. Disclosure of Medical Records in
Personal Injury Cases 41**

- (a) Disclosure by claimants 41**
- (b) Assertion of privilege 42**
- (c) Removed and transferred actions 42**

Rule 2.04. Copying Expense for Discovery Materials 43

- (a) Inspection of Documents 43**
- (b) Copies of Documents 43**

Rule 2.05. Subsequent Stages of Discovery 44

- (a) In general 44**
- (b) Phasing of interrogatories and documents 44**
- (c) Objections to interrogatories 45**
- (d) Answers to interrogatories 45**

(e) Claims of privilege	45
Rule 2.06. Uniform Definitions in Discovery Requests	47
(a) Incorporation by Reference and Limitations	47
(b) Effect on scope of discovery	47
(c) Definitions	47
<u>Article III. Motion and Party Practice</u>	
Rule 3.01. Control of Motion Practice	50
(a) Motion plan	50
(b) Motion practice	50
(c) Unresolved motions	50
Rule 3.02. Addition of New Parties	51
(a) Amendments adding parties	51
(b) Service on new party	51
(c) Limitation on amendment by consent	51
<u>Article IV. Alternative Dispute Resolution</u>	
Rule 4.01. Alternative Dispute Resolution	54
Rule 4.02. Settlement	54
Rule 4.03. Other Alternative Dispute Resolution	
Programs	54
(a) Discretion of judicial officer	54
(b) Mini-trial	55
(c) Summary jury trials	55
(d) Mediation	55
<u>Article V. Control of Trial</u>	
Rule 5.01. Final Pretrial Conference	59
(a) Schedule of conference	59
(b) Representation by counsel	59
(c) Meeting of counsel	59
(d) Joint statement	59
(e) Motions to continue	60
(f) Conduct of conference	60
(g) Trial Brief	61
Rule 5.02. Special procedures for Handling Experts	62
(a) Setting terms and conditions	62
(b) Objections to expert witnesses	63
Rule 5.03. Trial	64
(a) Time Limits for Evidentiary Hearing	64
(b) Evidence at the Evidentiary Hearing	64

Article VI. Sanctions

Rule 6.01. Imposition of Sanctions 67

Appendix A

Plaintiff Case Disclosure Form 69

Appendix B

Defendant Case Disclosure Form 70

Part I

Assessment of the Docket

A. Introduction

The Judicial Improvements Act of 1990, Public Law No. 101-650, became effective on December 1, 1990. Title I of the statute consists of the "Civil Justice Reform Act of 1990" (the "Act"), which requires the implementation of a Civil Justice Expense and Delay Reduction Plan (the "Plan") in all district courts within three years following its enactment.

To assist in the development of the Civil Justice Expense and Delay Reduction Plan for the District of Massachusetts, Chief Judge Frank Freedman appointed a Civil Justice Reform Committee consisting of United States District Judges Joseph L. Tauro, Chairman, David Nelson, and William Young. The Committee, in turn, appointed an Advisory Group consisting of attorneys, the Clerk of the Court, magistrate judges, and others, and designated Professor Arthur R. Miller of the Harvard Law School as the reporter for the Group. Professor Miller appointed William L. Leschensky as Assistant Reporter.

The members of the Advisory Group are David Berman, Leo Boyle, United States Attorney Wayne A. Budd, Scott Charnas, Louis M. Ciavarra, Magistrate Judge Lawrence P. Cohen, Walter A. Costello, Jr., John P. Driscoll, Jr., Louis Elisa, Donald R. Frederico, Susan Garsh, Nancy Gertner, Cynthia O. Hamilton, Attorney General Scott Harshbarger, Michael B. Keating, Gael Mahony, Margaret H. Marshall, Richard S. Milstein, Michael E. Mone, Ronald E. Myrick, Rudolph F. Pierce, Magistrate Judge Michael Ponsor, Richard S. Scipione, Terry Philip Segal, Clerk Robert J. Smith, Jr.,

Nicholas C. Theodorou, Gordon T. Walker, Daniel B. Winslow, and Associate United States Attorney Judith S. Yogman.

To meet its obligation to make a "thorough assessment of the state of the court's civil and criminal dockets," the Advisory Group established a preliminary work plan for gathering and analyzing relevant information about the workload and practices of the District Court. The process is ongoing and this document must be viewed as organic in nature. It is anticipated that, as experience is gained in its use, the Plan may be further developed and refined to reflect what is learned.

B. Gathering Information

Section 472(c) of the 1990 Act requires the district's Advisory Group to make "a thorough assessment of the state of the court's civil and criminal docket." The statute directs the Group to:

- (1) "determine the condition of the civil and criminal docket";
- (2) "identify trends in case filings and the demands being placed on the Court's resources";
- (3) "identify the principal causes of cost and delay in civil litigation"; and
- (4) "examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the Courts."

Accordingly, the Advisory Group has undertaken a detailed, thorough, and ongoing assessment of the Court's docket. This task has provided an opportunity to scrutinize in detail how the Court actually functions and how this district in particular addresses its judicial responsibilities. The components of this assessment include:

1. Advisory Group Members' Memoranda. The Advisory Group met to consider suggestions for formulating the district's Plan on February 19, 1991. At that meeting, members of the Advisory Group were encouraged to prepare memoranda on selected topics of interest to them that relate to the development of a Cost and Delay Reduction Plan. During the following two months, memoranda were received from numerous members of the Group. The members' observations, experiences, recommendations, and proposals have provided valuable insight both into the functioning of the District Court and into the ways of improving its operation.

2. Statistical Information. General statistical information having relevance to cost and delay in the federal courts was obtained from several sources, including the recent comprehensive study of the issue conducted by Louis Harris and Associates. In addition, the Advisory Group was furnished with specific statistical information about the District of Massachusetts. Every effort was made to obtain the most recent, reliable, and particularized statistical data available because it was felt that this information would be most helpful to the Advisory Group and the Committee in developing a Plan. This task was undertaken by the Office of the Clerk under the guidance of Clerk Robert J. Smith, Jr. In addition, the judges in the district provided the Reporter with copies of their standard procedural and pretrial orders.

3. Interviews. Informal interviews were conducted with judicial staff persons and members of the civil and criminal bars of this court.

4. Other Sources. Other sources of information were available to the Advisory Group. These included the professional literature, newspaper and magazine articles, the results of a comprehensive questionnaire that was completed by all district

judges and their courtroom deputies, and the Almanac of the Federal Judiciary.

C. Analysis of Information

1. Statistical Data. The statistical data that was gathered permitted the calculation of case processing times, total disposition times for different categories of civil cases, and provided a number of other general indices of activity and performance.

2. Non-statistical Information. The non-statistical information that has been gathered was considered along with the statistical data to help identify "choke points" in the system, and to determine how cost and delay are affected by current court practices and procedures, and by the ways in which litigants and their attorneys approach litigation. At the same time, the analysis also helped to identify which procedures seem to be effective, and those factors that currently contribute to the fair disposition of controversies without excessive cost and delay.

D. Discussion

A detailed and thorough assessment of the court's docket provides an opportunity to scrutinize in detail how it actually functions and how this district in particular addresses its judicial responsibilities. Nonetheless, the observations inevitably are impressionistic and the data relied on unavoidably are fragmentary. To prepare these comments various sources have been consulted. They are as follows:

- (1) Judith Yogman, Chief of the Civil Division in the Office of the United States Attorney has provided a complete set of questionnaires from each judge. The questionnaires elicit information on the practices of each judge and their management tools.**

- (2) **A computerized report that lists by judicial officer the time interval from filing to disposition by nature of suit and method of disposition of civil cases terminated during the period January 1, 1990 through December 31, 1990.**
- (3) **A report prepared by the Administrative Office of the United States Courts' Office of Planning, Evaluation and Statistics entitled "Select Significant Factors in the Workload of the Federal Courts."**
- (4) **A joint report prepared by the Federal Judicial Center and the Administrative Office entitled "Guidance to Advisory Groups Appointed under the Civil Justice Reform Act of 1990."**
- (5) **A report for each judge in this district of all pending cases that were filed prior to December 31, 1985.**
- (6) **A report on median time intervals from filing to disposition of criminal defendants disposed of during the 12 month period ending June 30, 1990.**
- (7) **Memoranda submitted by various members of the Civil Justice Advisory Group.**
- (8) **Defeating Delay, by the Lawyers Conference Task Force on Reduction of Litigation Cost and Delay, Judicial Administration Division, based upon the American Bar Association's Court Delay Reduction Standards.**
- (9) **Judging, by the Honorable Robert E. Keeton, United States District Judge for the District of Massachusetts (West 1990).**
- (10) **Interim Report of the Committee on Civility of the Seventh Federal Judicial Circuit (April 1991).**
- (11) **Informal Interviews of judicial staff persons and members of the civil and criminal bars of this court.**

1. TYPES OF CASES

(a) Criminal Litigation

(i) Complex Criminal Cases

Complex criminal cases involving multiple parties, counts, and frequently difficult or unsettled legal issues often result in protracted pretrial proceedings and lengthy trials. Among the most troublesome cases are those under the Racketeering Influenced Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 et seq., and the Continuing Criminal Enterprise Statute, 21 U.S.C. § 848. These provisions permit a linking of numerous acts and individuals that, in turn, causes problems of proof, which lead to lengthy trials. Charges concerning criminal enterprises involving numerous persons over extended periods of time necessarily will take many trial days before a verdict can be reached. This district has had its share of high visibility protracted criminal cases in recent years, including: (a) U.S. v. Ellis, et al; (b) U.S. v. Angiulo, et al; (c) U.S. v. Levasseur, et al; (d) U.S. v. Clemente, et al; (e) U.S. v. Oreto, et al. Trials in these cases lasted from approximately 50 days to 150 days. In one instance, the trial was conducted in another division of the court, requiring the trial judge and staff to travel between offices for a substantial period of time.

Because of the Speedy Trial Act, priority must be given to criminal cases. As a result of some of the cases cited above, the judges involved have been removed from the random draw of criminal cases and, in at least one instance, from civil cases as well. As a consequence, their colleagues have borne the burden of additional cases being assigned to their criminal and civil dockets. Protracted criminal trials have a stagnating effect on the docket of an individual trial judge, and certainly also can affect the overall balance of the court's docket.

There are other effects as well. Judges who are burdened with a heavy criminal trial are not pressed by the bar to attend to their civil business. Because most lawyers believe the pressure would be counter-productive, they refrain from applying it. Judicial attention to matters other than the particular criminal case tends to diminish as the criminal trial continues. Motions that might well be dispositive are not filed, or are filed less often during such a period. Each long criminal case tends to cause considerable delay to the civil docket of the judge.

Protracted criminal cases demand extensive judicial attention, and that is appropriate. The liberty interests of the defendants require the highest level of concern. But, the attention that consequently is diverted from the civil list, and the resulting reduced ability of the judges to manage other cases, is reflected in the statistics of the court. Although it virtually is impossible for the judges to control the flow of criminal cases, it seems desirable (1) to develop management techniques to improve the efficiency with which they are processed, and (2) to put some mechanism in place to prevent other cases from stagnating.

(ii) Criminal Sentencing Guidelines and Minimum Mandatory Sentences

The Sentencing Reform Act of 1984 and minimum mandatory sentences play a significant role in decreasing the time judges have available to devote to civil matters. As examples, it appears that:

1. Change-of-plea hearings require more time and procedural steps for the entry of a guilty plea and to schedule the preparation and dissemination of the presentence report;
2. Sentencing hearings have become much more complicated and time consuming and also may require evidentiary hearings; and

3. There are fewer guilty pleas and more defendants are going forward with trial.

Every district faces these problems, but they are causes for particular concern in this district. A comparison of recently published figures demonstrates that, in guidelines cases, 78.9% of the defendants in this district were convicted by pleas, as compared to the national average of 87.7%, and as compared to the figure of 91.2% for non-guidelines cases. See United States Sentencing Commission 1990 Annual Report (statistics for period ending August 31, 1990). The plea figures for this district are significantly lower than the national average for the same time period. They also show a decrease over the figure of 83.5% for the prior year ending, December 31, 1989. Given this decrease in pleas for guidelines cases, it is not surprising that the numbers also reflect a corresponding increase in the number of criminal trials in the district.

(b) Asbestos Cases

Until quite recently, the asbestos litigation in this district has represented a significant portion of cases that could be considered delayed. For a period of time, they comprised the oldest group of cases in the District of Massachusetts. Over 2500 of these proceedings were in the system and 87% of them were more than three years old. After years of relative inactivity, these cases came under highly effective management. One judge tracked them, holding conferences and assigning the cases in list form for trial. A settlement of a significant number of these cases finally was achieved in June of 1991.

These cases are not typical of the court's docket. Rather, they represent a unique species of litigation that occupy a significant portion of a single judge's time. In

numbers alone, they represent roughly five times the average judge's caseload. It is significant that, at the time of the recent settlement, the asbestos cases accounted for 2074 of the 2293 civil cases pending in the District of Massachusetts that were over three years old. These cases obviously have skewed the statistics of this district for some time.

Their disposition is to be applauded, but it does not justify ignoring the reasons why these cases went unresolved for so long. Given the current litigation environment, it is quite possible, perhaps even likely, that some other major calamity -- a mass disaster, a product failure, or a widespread toxic event -- may create another special category of cases that will dominate the docket of one of the district's judges.

(c) Prisoner and Pro Se Cases

Prisoner and pro se cases represent ~~a large portion of the civil delay in this~~ district. The addition of the pro se law clerk to the Clerk's Office staff to review and screen these cases is having some impact on the disposal rate of some of these matters at an early stage in the proceedings. Unfortunately, however, prisoner and pro se cases consume a large amount of judicial attention, as the pleadings and other papers are not in the customary style or format. Judges and their staffs are tested by the unconventional demands of litigants, some of whom may be in custody and generally unresponsive to and unfamiliar with the usual manner in which the court operates. Prisoner cases require significant attention, because staff must sift through large quantities of oftentimes illegible and incoherent filings to reach the merits of the documents. Moreover, the handling of these cases is affected by the budgetary

constraints of the Commonwealth of Massachusetts. The Massachusetts Department of Corrections legal department generally has been understaffed and underfunded. This has had a significant impact, in cases involving the Commonwealth, on the filing of responsive pleadings and dispositive motions by counsel in a timely fashion.

Another problem in dealing with the prisoner and pro se cases is the reluctance of the private bar to accept pro bono appointments. Although the pro se law clerk now is playing an important role in screening out frivolous cases, it is difficult for the court to find attorneys willing to accept those cases that require further attention. In many instances, assignments are rejected by attorneys, including those employed at major law firms in the City of Boston. The paper work and time involved in appointing and reappointing pro bono counsel, many times without success, certainly does not advance the litigation process and the court's work.

There also are logistical and scheduling problems presented by plaintiffs in custody. Oftentimes judges attempt to schedule conferences and hearings on short notice, when they find themselves with unexpected openings in their schedules. Too often, they discover that the time, expense, and extra paperwork involved in obtaining a prisoner's presence in the courthouse for a brief scheduling conference is not warranted or feasible. Subsequently, these cases generally are passed over during routine case management and calendaring.

Prisoner and pro se cases languish, more than most other types of cases, for an inordinate amount of time. Yet, they should be pressed and resolved quickly. There is little or no likelihood that, if left unattended, they will resolve themselves. Furthermore, in a fair proportion of these cases, settlement holds no advantage for

the plaintiff who generally is seeking a moral vindication and, in some instances, a punitive award. For the most part, prisoner cases must be tried or disposed of by judicial activity. Those prisoner cases that have existed on the docket for over three years presumably have been delayed excessively and should be resolved promptly. With the cooperation of the bar, prisoner cases are an ideal category for close case management.

(d) Civil Rights Cases

Civil rights cases instituted by persons not in custody for other than "corrections" reasons also take longer than the norm to resolve. Of all ~~pending civil rights cases~~ in the district, 21.4% are more than three years old. All cases need prompt attention, but civil rights cases generally should have early settlement conferences and quick trial assignments. These disputes often involve ongoing conduct, or the injuries complained of fester and become increasingly intractable over time. These cases, like prisoner cases, are more likely to require a trial to resolve. Again, with the cooperation of the bar, this category of case can benefit from close case management.

(e) Complex Civil Matters

(i) Non-Jury Trials

Approximately 20% of the civil cases presenting complex issues that must be resolved by a judge without a jury are more than three years old.¹ Pretrial

Banks & Banking	25% over 3 years old
Patent	11% over 3 years old
Truth in Lending	17% over 3 years old
Labor	16% over 3 years old
Land	23% over 3 years old

proceedings, hearings, and rendering opinions in these cases require time and attention that usually cannot be delegated by the presiding judge. Moreover, non-jury trials often lack the cohesiveness that the mere presence of a jury provides. Many present novel and complex legal issues, and often produce records of enormous proportions.

Although burdensome, some of these complex civil matters are intellectually challenging, and that leads judges to want to produce a helpful judicial opinion. These opinions typically require considerable effort and consume a great deal of time. Their production, therefore, may cause a substantial time lag after the matter has been tried.

(ii) The Management of Complex Civil Cases

The Boston school desegregation litigation typifies the ways in which contemporary complex and protracted cases tax the resources of the federal courts. This case, which began in 1972, consumed enormous amounts of the court's administrative resources and has required the attention of the court as recently as May, 1991, nineteen years after the proceeding initially was filed. This litigation was of great public import and received tremendous media attention. It exemplifies the now well-known phenomenon of the utilization of the federal courts to secure compliance with a mandate of the Constitution when the other branches of government appear unwilling or unable to act.

Securities	24% over 3 years old
Social Security	22% over 3 years old

Judges in this district have been obliged to exercise jurisdiction in a number of protracted civil litigations involving judicial intervention over significant periods of time. In addition to the recently concluded asbestos cases, several of the lawsuits pending three years or more are those in which judges have maintained jurisdiction over important governmental institutions -- Boston's Charles Street Jail, the Salem Jail, the Dedham Jail, the Department of Social Services, the Bridgewater Treatment Center, and the Fernald and Belchertown Schools for the retarded. Also, many environmental cases, such as the proceeding involving the clean-up of Boston Harbor, are complex civil cases that will continue to require judicial attention for years to come.

It is impossible to quantify the time drawn away from other matters by these enormous, time-consuming cases. It must be considerable, however, for any judge who is confronted with one of these behemoths. All of the experience in recent decades, now reflected in Federal Rule of Civil Procedure 16, as amended in 1983, and in the successive editions of the Manual for Complex Litigation, seems to demonstrate that these cases can profit from a reasonably high level of judicial management, and require considerable cooperation from the counsel in the case.

(f) Tort and Contract Cases

In 1990, roughly one third of the cases filed in this district were either personal injury or contract matters. (Of the 4,107 cases instituted that year, 618 were contract and 754 were personal injury.) These cases comprise a large portion of the workload, and are affected most by the habits of the attorneys and the management practices of the judges. Various commentators have theorized that simple tort and contract

matters respond best to judicial control, including tracking. Approximately 90% of these cases are settled without a full trial, 32% are resolved before a pretrial conference, 32% are resolved after a pretrial conference, and the balance are settled at or during the trial.

2. CASE MANAGEMENT

(a) District Judges

All civil and criminal cases filed in the District of Massachusetts are assigned upon filing as follows:

- (1) In Boston, cases are assigned randomly to all active judges with a half a case load assigned to one senior judge;**
- (2) In the Western Section, Springfield, all cases are assigned to Chief Judge Freedman; and**
- (3) In the Central Section, Worcester, civil cases are assigned randomly to the active Boston judges for case management. The district currently is awaiting the appointment of a permanent judge to the Central Section.**

Based on this assignment pattern, each judge is responsible for the processing and management of cases pending on his or her own docket. Since each judge has a different demeanor, work habits, and theories on case management, the process varies significantly from one set of chambers to another.

(b) Magistrate Judges

The magistrate judges are not used in a uniform manner in this district. An efficient example of magistrate judge management exists in the Springfield, Massachusetts docket. There, Chief Judge Freedman and Magistrate Judge Ponsor, have a one-to-one relationship. By way of contrast, in Boston the ratio is twelve judges to four magistrate judges, or three to one. Magistrate Ponsor handles all pretrial matters in the cases filed in Springfield. His ability to be consistent

generates predictability and stability for the attorneys.

Magistrate judges represent a resource of enormous potential. Every effort must be undertaken to maximize their utility. Although a one magistrate to one judge relationship is not possible in Boston, there may be ways to reduce the current variant approach to the use of magistrate judges and to improve on their utilization. Pairing magistrate judges with district judges for discovery and pretrial proceedings may be a way to improve the management of cases.

(c) Senior Judges

A variation on the desirability of making effective use of the magistrate judges is found in the relationship this district has with its senior judges. Only one of the senior judges in this district has a caseload and regularly is assigned matters. Other senior judges preside over certain types of trials.

(d) Vacant Judgeships

The district has thirteen authorized active judge positions. As of January 1, 1992, vacancies will exist in four of these thirteen positions. Until these vacancies are filled, the backlog can be expected to increase.

(e) Discovery Disputes

Discovery disputes often are expensive for litigants and time consuming for lawyers. They take up precious judicial resources and are often unnecessary and counter-productive in that they tend to widen the gap between the parties. Improvement in the handling of the discovery process represents the greatest

prospect for reducing cost and delay.

(f) Dispositive Motions

Those judges in the district who hold regular hearings on potentially dispositive motions, and promptly resolve those motions, have fewer older pending cases.

Judges who do not conduct hearings tend to have more older pending cases.

Reviewing all motions in a timely manner to determine whether they are ripe for resolution, or should be scheduled for hearing, is an important part of the case management process. Moreover, deciding motions as soon as possible after receipt of all opposition papers, or, if no opposition is filed, after the time for filing has elapsed, can serve to advance the litigation.

(g) Alternative Methods of Dispute Resolution

Although the District of Massachusetts has no compulsory arbitration program in place to assist in dispute resolution, a few of the judges employ methods such as summary jury trial in an attempt to resolve civil cases prior to investing the time and expense that are necessary for a full trial. Other mechanisms suggested by various judges as techniques that should be pursued for an earlier resolution of disputes include: agreement to proceed before a magistrate judge for trial, appointment of a master, or consulting with a private arbitrator or alternative dispute resolution firm.

An example of both the possibilities and the current level of utilization of alternative methods of dispute resolution is the court's participation in the Boston Bar Association Federal Court Mediation Program, a voluntary program established with the cooperation of the Bar Association several years ago. The program is

monitored by the Bar Association, which independently maintains a panel of volunteer attorneys who donate their time to serve as mediators to assist the court in resolving civil cases. ~~Although this program has been in place for quite some~~ time, it rarely is used by the judges of this court as an alternative method of attempting to ~~resolve civil cases.~~

(h) Trials

The timely scheduling of a final pre-trial conference, with some degree of certainty that the case will be reached for trial within 30 days from the date of that conference, will help resolve disputes.

3. CONCLUSION

The development of an effective case management plan presents an enormous opportunity for reducing the delay and cost associated with litigation in the District of Massachusetts. Individualized case management, more effective use of magistrate judges and senior judges, prompt resolution of all motions, especially potentially dispositive motions, and cooperative discovery will alleviate many of the major choke points in the system.

Although the focus in this discussion has been on the court's procedures and the ability of judges to manage cases, each participant in the judicial system -- whether judge, clerk, lawyer, or litigant -- plays an important role in the process. Attorneys who are unfamiliar with the local rules, or continually request continuances or extensions of time, or fail to file timely motions and/or responses, cause delay in the handling of cases and often create additional unnecessary and burdensome

paperwork. All litigation participants must perform their roles as effectively and efficiently as possible to make the system work.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ORDER
November 18, 1991

ORDERED;

That the Civil Justice Expense and Delay Reduction Plan developed by the Civil Justice Advisory Committee of this district pursuant to the requirements set forth in chapter 23 of Title 28, United States Code, as added by section 103(a) of the Civil Justice Reform Act of 1990 be, and hereby is, adopted.

s/ Frank H. Freedman
Chief Judge

s/ Rya W. Zobel
United States District Judge

s/ Joseph L. Tauro
United States District Judge

s/ William G. Young
United States District Judge

s/ Walter Jay Skinner
United States District Judge

s/ Mark L. Wolf
United States District Judge

s/ A. David Mazzone
United States District Judge

s/ Douglas P. Woodlock
United States District Judge

s/ Robert E. Keeton
United States District Judge

s/ Edward F. Harrington
United States District Judge