

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
P.O. BOX 868
HARRISBURG, PA 17108-0868

SYLVIA H. RAMBO
CHIEF JUDGE

December 2, 1994

L. Ralph Mecham, Director
Administrative Office of the
United States Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C. 20544

Dear Mr. Mecham:

Enclosed is a copy of the revised CJRA Plan for the Middle District of Pennsylvania. The majority of changes to the plan were made to bring the plan into conformity with our Local Rules of Practice. The following is a brief summary of the substantive changes to the Plan:

Page 3: Case Management - Language was stricken which allowed counsel to conduct a telephone conference in lieu of the meet and confer requirement.

Pages 3, 4: Tracks - "Initial complaint" was changed to "the action in this court." Specific changes include:

Fast Track - 6 months
Expedited Track - 8 months
Standard Track - 15 months
Complex Track - 2 years

Page 6: Summary Jury Trials - Statistics were altered to reflect the time period through June 1, 1994.

Pages 7, 8: Mediation - The report requirement for mediators was eliminated. Page 8, paragraph 2, was amended to "the services of the mediator shall be provided pro bono." The third paragraph now indicates that a judge selects the mediator.

Page 10: Chart - Figures were corrected for the number of judges in Scranton and Harrisburg.

Letter to L. Ralph Mecham
December 2, 1994

Page Two

Pages 18, 21, 27: Case Management Plan:

1.10 Principal Issues - The first sentence was added requesting parties to summarize the case.

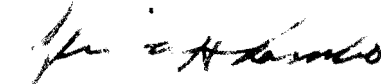
3.0 Consent to Jurisdiction by a Magistrate Judge - Language was included regarding the option for appeal to a district judge. An area was created to select the appeal option.

9.2 Suggested Date for Trial - This new section was added above the Pretrial Conference date area. Items 9.3 through 9.6 were renumbered.

"Case management/scheduling conference" was changed to case management conference, throughout the Plan.

Please contact me if you have any questions about these changes or need additional information.

Sincerely,



Sylvia H. Rambo, Chief Judge
Middle District of Pennsylvania

Enclosure

cc: Lance S. Wilson, Clerk of Court

**THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

**CIVIL JUSTICE REFORM ACT OF 1990
EXPENSE AND DELAY
REDUCTION PLAN**



Hon. Sylvia H. Rambo, Chief Judge
Hon. William W. Caldwell
Hon. Edwin M. Kosik
Hon. James F. McClure, Jr.
Hon. William J. Nealon
Hon. Malcolm Muir
Hon. Richard P. Conaboy
Lance S. Wilson, Clerk of Court

CIVIL JUSTICE REFORM ACT OF 1990

**UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

**CIVIL JUSTICE EXPENSE AND DELAY
REDUCTION PLAN**

**September 1993
(Revised 10/1/94)**

(TRO) filed by prisoners with counsel be assigned in all instances to a Judge rather than a Magistrate Judge. Local Rule 72.4 currently states that a TRO may be assigned to a Magistrate Judge for submission of a report and recommendation. The Court feels that Local Rule 72.4 speeds the processing of TRO's and should not be modified. The Court approved the remaining 15 recommendations, recognizing that excessive cost and delay in civil litigation inhibits justice, negatively impacts the economy, and presents challenges to American companies competing in a world market.²

The United States District Court for the Middle District of Pennsylvania, after considering (1) the recommendations of the Civil Justice Advisory Group appointed pursuant to Title 28, United States Code, Section 478; (2) the principles and guidelines of litigation management and cost and delay reduction listed in Title 28, United States Code, Section 473(a); and (3) the litigation management and cost and delay reduction techniques listed in Title 28, United States Code, Section 473(b), and after consulting with the Civil Justice Reform Act Advisory Group in reference to Title 28, United States Code, Section 473(a) and (b), adopts the following Civil Justice Expense and Delay Reduction Plan, pursuant to Title 28, United States Code, Section 471, et seq. With the exception of Health and Human Service

January 1, 1994, and may, at the discretion of the individual judicial officer, apply to pending cases.

1. **Case Management.** In every civil case the Court requires completion of a joint case management plan for discussion at an initial case management conference.³ Lead counsel shall meet and confer in person regarding the matters set forth on the Court's case management form. At least five days prior to the initial case management conference, counsel shall file a concise case management statement consisting of the completed case management plan.

Within 120 days of the filing of the action in this court, or on the first date thereafter available on the judge's calendar, lead trial counsel shall attend an initial case management conference to arrange differential treatment of the case based on the case type and its facts. Accordingly, the case shall be placed on an appropriate case management track:

1.1. **Fast Track** - The Court issues a standard order referring the case to a Magistrate Judge for recommendations. The order sets forth standard time-frames conducive to the characteristics of the case, setting a trial date goal or disposition of not more than six months from the filing of the action in this court.⁴

³. See, Appendix A for a copy of the case management plan.

⁴. While the CJRA Plan does not apply to Health and Human Service cases, prisoner, pro se parties and United States Government loan cases, the Court anticipates that the majority of fast track cases will consist of procedural-type cases which are not subject to a case management plan. Although, the Court at any time prior or subsequent to completion of the case management statement may consider assigning a civil case to the "fast track".

The primary goal of the mediation program is the settlement of the case. Secondary goals of the mediation program include but are not limited to the following:

1. Improve communications and cooperation among counsel and litigants.
2. Identify any facts upon which the parties may agree.
3. Narrow and isolate dispositive issues.
4. Explore the interests and needs underlying the stated legal position of all parties.
5. Have the parties think creatively about ways to resolve their disputes.
6. Increase the chances of a later settlement.

The services of the mediator shall be provided pro bono. A mediator shall not be called upon to serve more than twice in a calendar year without prior approval of the mediator.

Referral of a case to a mediator is at the discretion of the Court. Parties may request referral or the assigned judge may recommend mediation to counsel. Upon referral, the judge's office selects a mediator from the list of certified mediators for the Middle District.

Other program features include:

- ▶ Counsel and parties with settlement authority must attend the mediation session, unless excused by the mediator for good cause shown and then must be available by phone.
- ▶ The mediation session is conducted in a neutral setting.

A formal training program for the mediators could be developed with a local law school and/or the Pennsylvania Bar Association. The training program would be mandatory and required before placing an attorney on the list of available mediators for the Middle District.

A continuing education program would also be desirable under which the mediators would continue to attend an annual training session on mediation techniques. Completion of this continuing education program would be a requirement for attorneys to remain on the list of mediators.

The actual length and content of the formal training program and the continuing education program remain to be determined.

2.3 Settlement Officer Program. Litigants and counsel meet with either a Senior Judge, a Magistrate Judge or a neutral evaluator appointed by the assigned trial judge for the purpose of discussing settlement. The assigned trial judge decides who the settlement officer will be on a case by case basis.

Referrals to a Senior Judge as a settlement officer would more frequently occur in non-jury cases and after the Middle District has a full complement of District Judges.

In the year 1995, it is envisioned that each location will have the following number of judicial officers:

<u>Scranton</u>		<u>Harrisburg</u>		<u>Williamsport</u>	
District Judges	= 3	District Judges	= 2	District Judges	= 1
Senior Judges	= 2	Senior Judges	= 1	Senior Judges	= 1
Magistrate Judges	= 2	Magistrate Judges	= 1	Part Time M.J.	= 1

The availability of four Senior Judges, with at least one in each location, allows for the flexibility of using a Senior Judge as a settlement officer for complex or specialty type cases.

Referrals to a Magistrate Judge for the purpose to preside as a settlement officer is an option presently available to the Middle District. The use of a Magistrate Judge in this capacity is assumed to be derived from the general authority of the Magistrate Act and of the district Court itself. The Judicial Conference Committee on the Administration of the Magistrate System suggests that such referrals be made pursuant to a local rule.

Referrals to a neutral evaluator are a type of referral available under the settlement officer program. The neutral evaluator is normally an attorney of the local bar or other expert in a particular field whom the assigned judge, with concurrence of all parties, appoints to serve as the settlement officer.

The primary goal of the settlement officer program is settlement. The settlement officer preferably intervenes early in the case process, thereby assuring that if a settlement is reached, the litigants avoid the substantial costs of full discovery and trial.

Secondary goals of the settlement officer program include but are not limited to the following:

1. Improve communications and cooperation among counsel and litigants.
2. Promote voluntary exchange of information.
3. Identify any facts upon which parties may agree.
4. Narrow and isolate dispositive issues.
5. Probe the strengths and weaknesses of the case from all sides.
6. Increase the chances of a settlement at a later date.

The referral of a case to a Senior Judge or Magistrate Judge optimizes the respect which counsel and litigants have for a judicial officer. This referral allows for an improved evolution of realistic appraisals and settlements.

The services of the Senior Judge and Magistrate Judge as a settlement officer are provided at no cost to the litigants. The service of the neutral evaluator is provided pro bono unless a fee for the neutral evaluator has been discussed and resolved with all the parties by the assigned trial judge before the appointment of the neutral evaluator.

Other program features include:

- ▶ Persons with settlement authority must attend, unless excused by the settlement officer for good cause shown, and then must be available by phone for the settlement conference.
- ▶ The settlement conference is conducted in a neutral setting, ideally in the chambers of the settlement officer or a neutral location chosen by the neutral evaluator.
- ▶ Parties may be required to submit a written evaluation before the conference.
- ▶ Settlement officers may employ the technique of "shuttle diplomacy" to reach a desired settlement.
- ▶ The Court may require the settlement officer to prepare a written report and recommendation for the assigned judge.

The experience that a Senior Judge provides to this type of program is unsurpassed and is likely the strongest feature of the program. The experience of the senior judges eradicates the need for their training. This experience will assist in training other settlement officers.

Training of the Magistrate Judges in the techniques of "shuttle diplomacy" and mediation would enhance their effectiveness in the settlement of cases.

The appointment of a neutral evaluator as a settlement officer is usually a result of the assigned judge and parties recognizing that the individual chosen as the neutral evaluator has some special expertise or training on the particular subject matter of the case. Therefore, it is this expertise, and not the settlement skills of the

neutral evaluator that is important for the settlement officer and no structured or formal training is envisioned for the neutral evaluator.

3. Code of Professional Conduct. The Court shall adopt a code of professional conduct for the District to improve lawyer collegiality and civility. The Clerk of Court shall incorporate the code of professional conduct into the general and special admissions packet for attorneys applying for practice in the District.⁶ The Code of Professional Conduct shall be published in various law journals and periodicals, as well as sent to attorneys upon a filing of a complaint in federal court. The copy sent to attorneys when a complaint is filed will not include a signature line.

The Court shall establish local training programs that facilitate bench-bar interaction through seminars. The goal of the programs is to enhance collegiality and civility in the District.

4. CJRA Positions in the Clerk's Office. The two Civil Justice Reform Act positions, originally created to assist the Advisory Group in the preparation of its report and the Court in developing its expense and delay reduction plan and upholding the requirements of the Act, shall perform the following ongoing functions in support of the Act. The continuance of these

⁶ See Appendix C for a copy of the Code of Professional Conduct.

positions is necessary for the Court to fully comply with the ongoing requirements of the Act.

4.1. Manage the implementation of the District's CJRA Plan including the adoption of a program for alternative dispute resolution, the use of common case management practices, and establishing a differential case management system.

4.2. Investigate and respond to inquiries by attorneys, litigants or the court regarding the status of the CJRA Recommendations.

4.3. Inquire into the status of all cases pending for more than three years and all motions awaiting decision for more than six months including a review of the docket.

4.4. Coordinate with the Circuit Executive's Office quarterly reporting of six month pending motions.

4.5. Administer and evaluate semi-annually the effectiveness of the District's program for alternative dispute resolution including Mediation, Summary Jury Trials, Arbitration, and a Settlement Officer Program proposed in Section 2 of the CJRA Plan.

4.6. Administer and evaluate semi-annually the effectiveness of the District's CJRA case management program including the adoption of a DCM, use of a Case Management Form, and Common Scheduling Practices proposed in Section 1 of the CJRA Plan.

4.7. Serve as an ombudsman to facilitate the implementation and success of the District's CJRA expense and delay reduction plan to include: (1) serving as liaison between members of the bar or litigants; (2) responding to requests for information from litigants; (3) educating the Court, the bar, and public in regard to the CJRA plan and its impact on federal practice.

4.8. Coordinate the annual assessment required by 28 U.S.C. § 475 by providing the Court and the Advisory Group with a comprehensive review of the civil and criminal dockets and a report on compliance with the District's expense and delay reduction plan.

4.9. Support the CJRA Advisory Group to (1) schedule meetings and distribute materials; (2) attend meetings; (3) disseminate information to Advisory Group members; (4) conduct research and studies at the direction of the Advisory Group or Clerk of Court; and (5) draft meeting minutes.

4.10. Coordinate the annual CJRA Bench/Bar seminar as proposed in Section 3 of the CJRA Plan.

4.11. Act as Project Manager for the CJRA Rand Corporation Time Study including (1) acting as liaison among the RAND Corporation, Chambers, and the Clerk's Office; and (2) managing the compilation of data and time study reports for submission to the Rand Corporation and the Federal Judicial Center.

4.12. Perform such other functions as the Clerk of Court deems appropriate in furtherance of the CJRA's objectives.

5. **Discovery.** The Court shall modify Local Rule 26.7 to require the certificate of a good faith effort to be filed at the time of the motion.

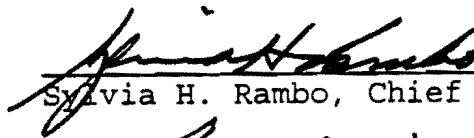
6. **Litigant Education.** The Court shall disseminate to the Bar or public basic case processing information.

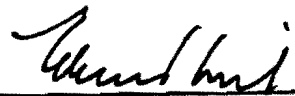
7. **Legislative Impact.** The Court agrees with the Advisory Group's finding that Congress must recognize and acknowledge the impact of legislation on judicial discretion and on cost and delay separate and apart from the efficacy of the courts. The Court advocates that Congress review legislation prior to enactment to study its impact in regard to increased court caseloads and changes in judicial discretion. Such a study should reflect the legislative impact by district.

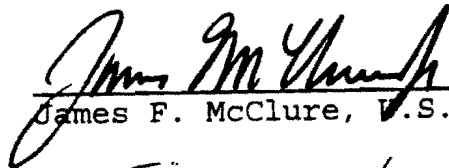
Conclusion

The Court adopts this Plan in recognition of its responsibility to provide proper and timely judicial relief for aggrieved parties. The Court requests that litigants and their attorneys share in this responsibility by embracing the principles and techniques for enhancing justice prescribed in this CJRA Plan. The Plan is hereby ADOPTED.


So ORDERED this 7th day of October, 1994.

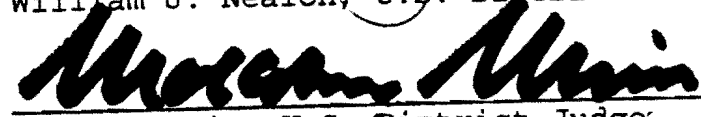

Sylvia H. Rambo, Chief U.S. District Judge

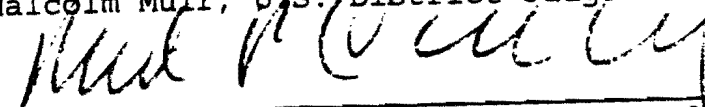

Edwin M. Kosik, U.S. District Judge

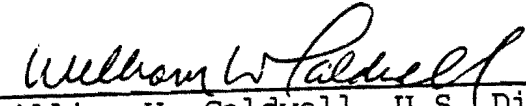

James F. McClure, U.S. District Judge


Thomas I. Vanaskie, U.S. District Judge


William J. Nealon, U.S. District Judge


Malcolm Muir, U.S. District Judge


Richard P. Conaboy, U.S. District Judge


William W. Caldwell, U.S. District Judge

agree upon are:

1.40

1.41

1.42

1.50 Identify any unresolved issues as to service of process, personal jurisdiction, subject matter jurisdiction, or venue:

1.60 Identify any named parties that have not yet been served:

1.70 Identify any additional parties that:

plaintiff(s) intends to join:

defendant(s) intends to join:

1.80 Identify any additional claims that:

plaintiff(s) intends to add:

defendant(s) intends to add:

2.0 Alternative Dispute Resolution ("ADR")

2.10 Identify any ADR procedure to which this case already has been assigned or which the parties have agreed to use.

ADR procedure _____

Date ADR to be commenced _____

Date ADR to be completed _____

2.20 If the parties have been unable to agree on an ADR procedure, but one or more parties believes that the case is appropriate for such a procedure, identify the party or parties that recommend ADR and the specific ADR process recommended:

2.30 If all parties share the view that no ADR procedure should be used in this case, set forth the basis for that view:

3.0 Consent to Jurisdiction by a Magistrate Judge

Indicate whether all parties agree, pursuant to 28 U.S.C. § 636(c), to have a magistrate judge handle all the remaining pretrial aspects of this case and preside over a jury or court trial, with appeal lying either to the United States Court of Appeals for the Third Circuit under 28 U.S.C. §636(c) and Fed.R.Civ.P. 73(c) or alternatively upon consent of all parties, to a judge of the district court under 28 U.S.C § 636(c)(4) and Fed.R.Civ.P. 73(d):

All parties agree to jurisdiction by a magistrate judge of this court: yes no

If parties agree, select one option for appeal below:

U.S. Court of Appeals for the Third Circuit

District Judge

4.0 Disclosures

4.100 Separately for each party, list by name and title/position each person whose identity has been disclosed.

4.101 Disclosed by _____:

<u>Name</u>	<u>Title/Position</u>
4.102 _____	_____
4.103 _____	_____
4.104 _____	_____
4.105 _____	_____

4.151 Disclosed by _____:

<u>Name</u>	<u>Title/Position</u>
4.152 _____	_____
4.153 _____	_____
4.154 _____	_____
4.155 _____	_____

4.200 Separately for each party, describe by categories the documents that have been disclosed or produced through formal discovery, indicating which categories relate (even if not exclusively) to damages:

4.201 Categories of documents disclosed by _____:

- 4.202 _____
- 4.203 _____
- 4.204 _____
- 4.205 _____

4.251 Categories of documents disclosed by _____:

4.252 _____

4.253 _____

4.254 _____

4.255 _____

4.300 Additional Documents Disclosures: Separately for each party, describe each additional category of documents that will be disclosed without imposing on other counsel the burden of serving a formal request for production of documents:

4.301 Additional categories of documents _____ will disclose:
(party)

4.302 _____

4.303 _____

4.304 _____

4.351 Additional categories of documents _____ will disclose:
(party)

4.352 _____

4.353 _____

4.354 _____

4.400 Separately for each party who claims an entitlement to damages or an offset, set forth the computation of the damages or of the offset:

4.401 plaintiff's calculation of damages:

4.402 defendant's calculation of offset:

4.403 counterclaimant/third party claimant's calculation of damages:

5.0 Motions

Identify any motion(s) whose early resolution would likely have a significant effect either on the scope of discovery or other aspects of the litigation:

<u>Nature of Motion</u>	<u>Moving Party</u>	<u>Anticipated Filing Date</u>
-------------------------	---------------------	--------------------------------

6.0 Discovery

6.100 Briefly describe any discovery that has been completed or is in progress:

By plaintiff(s):

By defendant(s):

6.200 Describe any discovery that all parties agree should be conducted, indicating for each discovery undertaking its purpose or what kinds of information will be developed through it (e.g., "plaintiff will depose Mr. Jones, defendant's controller, to learn what defendant's revenue recognition policies were and how they were applied to the kinds of contracts in this case"):

6.300 Describe any discovery that one or more parties want(s) to conduct but to which another party objects, indicating for each such discovery undertaking its purpose or what kinds of information would be developed through it:

6.400 Identify any subject area limitations on discovery that one or more parties would like imposed, at the first stage of or throughout the litigation:

6.500 For each of the following discovery tools, recommend the per-party or per-side limitation (specify a number) that should be fixed, subject to later modification by stipulation or court order on an appropriate showing (where the parties cannot agree, set forth separately the limits recommended by plaintiff(s) and by defendant(s)):

6.501 depositions (excluding experts) to be taken by:

plaintiff(s): _____ defendant(s): _____

6.502 interrogatories to be served by:

plaintiff(s): _____ defendant(s): _____

6.503 document production requests to be served by:

plaintiff(s): _____ defendant(s): _____

6.504 requests for admission to be served by:

plaintiff(s): _____ defendant(s): _____

6.600 All discovery commenced in time to be completed by:

6.700 Reports from retained experts due:

from plaintiff(s) by _____

from defendant(s) by _____

6.800 Supplementations due _____

7.0 Protective Order

7.1 If entry of a protective order is sought, attach to this statement a copy of the proposed order.

7.2 If there is a dispute about whether a protective order should be entered, or about certain terms of the proposed order, briefly summarize each party's position below:

8.0 Certification of Settlement Authority (All Parties Shall Complete the Certification)

I hereby certify that the following individual(s) have settlement authority.

Name

Title

Address

()___ - ___ Daytime Telephone

Name

Title

Address

()___ - ___ Daytime Telephone

9.0 Scheduling

9.1 This case may be appropriate for trial in approximately:

___ 240 Days from the filing of the action in this court

___ 365 Days from the filing of the action in this court

___ Days from the filing of the action in this court

9.2 Suggested Date for Trial:

_____ (month/year)

9.3 Suggested Date for the final Pretrial Conference:

_____ (month/year)

9.4 Final date for joining additional parties:

_____ Plaintiff(s)

_____ Defendants(s)

9.5 Final date for amending pleadings:

_____ Plaintiff(s)

_____ Defendants(s)

9.6 All potentially dispositive motions should be filed by:

10.0 Other Matters

Make any other suggestions for the case development process, settlement, or trial that may be useful or necessary to the efficient and just resolution of the dispute.

11.0 Identification of Lead Counsel

Identify by name, address, and telephone number lead counsel for each party

Dated:

Attorney for Plaintiff(s)

Dated:

Attorneys for Defendant(s)

Appendix B

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ORDER
CASE MANAGEMENT SCHEDULE

The Court issues this order pursuant to Rule 16 of the Federal Rules of Civil Procedure. The views of counsel and any unrepresented parties as to how and on what schedule pretrial matters should be conducted have been solicited at the initial case management conference. This case has been identified as appropriate for the [FAST, EXPEDITED, STANDARD OR COMPLEX CASE MANAGEMENT SCHEDULE] and pursuant to these rules it is the goal of the Court and counsel to project a trial date of no more than ____ days [DEPENDING ON THE CHOSEN SCHEDULE] from the filing of the action in this court. Therefore, requests for extensions of the following time periods will not be granted except under exceptional circumstances and must comply with Local Rule 7.5. Furthermore, all requests for extensions of the discovery deadline must be made at least thirty days prior to the expiration of the discovery period.

[JUDGE'S INDIVIDUAL SCHEDULING PRACTICES]

(A) SETTLEMENT/PRETRIAL CONFERENCE. A pretrial conference will be held on _____ at _____ . At the pretrial conference the Court will consider:

[JUDGE'S INDIVIDUAL SCHEDULING PRACTICES]

United States District Court Judge

DATE:

Appendix C

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

CODE OF PROFESSIONAL CONDUCT

As a member of the Bar of the United States District Court for the Middle District of Pennsylvania, I will strive for the following professional ideal:

1. *The rule of law will govern my entire conduct. I will not violate the law or place myself above the law.*
2. *I will treat with civility and respect the lawyers, clients, opposing parties, the court and all the officials with whom I work. Professional courtesy is compatible with vigorous advocacy and zealous representation. Even though antagonism may be expected by my client, it is not part of my duty to my client.*
3. *I will respect other lawyers' schedules as my own, and will seek agreement on meetings, depositions, hearings, and trial dates. A reasonable request for a scheduling accommodation should never be unreasonably refused.*
4. *Communications are life lines. I will keep the lines open. Telephone calls and correspondence are a two-way channel; I will respond to them promptly.*
5. *I will be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and to the judicial system.*
6. *I will earnestly attempt to resolve differences through negotiation, expeditiously and without needless expense.*
7. *Procedural rules are necessary to judicial order and decorum. I will be mindful that pleadings, discovery processes and motions cost time and money. I will not use them heedlessly. If an adversary is entitled to something, I will provide it without unnecessary formalities.*
8. *I will not engage in conduct that brings disorder or disruption to the courtroom. I will advise my client and witnesses appearing in court of the proper conduct expected and required there and, to the best of my ability, prevent my client and witnesses from creating disorder or disruption.*
9. *Before dates for hearings or trials are set, or if that is not feasible immediately after such date has been set, I will attempt to verify the availability of necessary participants and witnesses so I can promptly notify the court of any likely problems.*

*I agree to subscribe to the above
Code of Professional Conduct:*

Signature