

FROM THE EXECUTIVE CORRESPONDENCE UNIT

DATE: April 8, 1997
TO: Mr. MATYUS / CAPS
(NAME/ORGANIZATION)

- APPROPRIATE ACTION
- CHANGES/CORRECTIONS
(SEE NOTATIONS/MARKED COPY)
- CONCURRENCE/CLEARANCE
- DIRECT RESPONSE/HANDLING
(PROVIDE ECU W/ COPY OF RESPONSE)
- FOR YOUR FILES
- FOR YOUR INFORMATION
- FURTHER COORDINATION REQUIRED
- IMPROPER ASSEMBLING OF CORRESPONDENCE;
MISSING DOCUMENT CLEARANCE RECORD/
DOCUMENT SUMMARY SHEET
- PER CONVERSATION
- PER REQUEST
- REVIEW/DISCUSS WITH THE DIRECTOR
- SEE DIRECTOR'S NOTE
- SPECIAL INSTRUCTIONS

COMMENTS: Thank you.

Your timely handling/action of this material is appreciated. If you have any questions, please contact Pam Koday or Deborah Mayronne in the Executive Correspondence Unit on 273-3012.



LEM
ATTORNEY (Report Forwarded)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA
OFFICE OF THE CLERK

RICHARD T. MARTIN
CLERK

TELEPHONE: 504-389-0321
FACSIMILE: 504-389-0309

March 31, 1997

To: *Recipients of the Civil Justice Expense and Delay Reduction Plan*

Subject: *1996 Annual Assessment of the Civil Justice Reform Act Plan for the Middle District of Louisiana*

Enclosed is a copy of the 1996 Annual Assessment for the United States District Court for the Middle District of Louisiana.

If you have any questions regarding this report, please feel free to call.

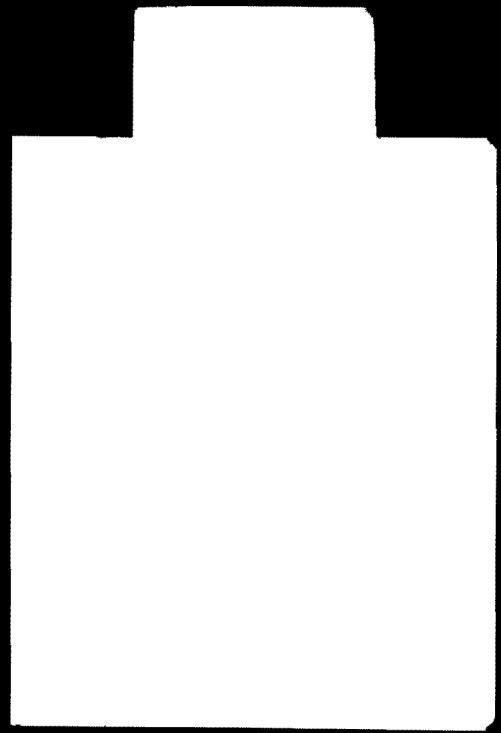
Sincerely,

Richard T. Martin

RTM:tr

Enclosure

c: J. Clayton Johnson, Chairman



1996

*CJRA Plan
Assessment
Middle
District of
Louisiana*

**REPORT OF THE
MIDDLE DISTRICT OF LOUISIANA'S ADVISORY GROUP
CONCERNING THE ADVISORY GROUP'S
1996 ASSESSMENT OF THE COURT, ITS PLAN AND ITS DOCKET
PURSUANT TO
THE CIVIL JUSTICE REFORM ACT OF 1990**

I. INTRODUCTION

Congress enacted THE CIVIL JUSTICE REFORM ACT OF 1990, 28 U.S.C. §471 *et seq.* ("the CJRA"), which requires each United States District Court to develop a Civil Justice Expense and Delay Reduction Plan to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy and inexpensive resolution of civil disputes. The United States District Court for the Middle District of Louisiana submitted its plan in December 1993.

Pursuant to Section 478 of the Civil Justice Reform Act, the United States District Court for the Middle District of Louisiana Chief Judge, John V. Parker, appointed an Advisory Group to annually assess the condition of the Middle District Court's civil and criminal dockets in order to determine appropriate actions for reducing costs and delays in litigation. A list of the members of the Advisory Group is attached as Appendix A. The Advisory Group has discussed and reviewed the *Civil Justice Reform Act*, *United States District Court Middle District of Louisiana Plan*, and the Middle District of Louisiana's docket condition, met with Court officials and solicited input from practicing members of the Middle District.

II. DESCRIPTION OF THE COURT

The Middle District of Louisiana encompasses the parishes of: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge and West Feliciana. Court is conducted at the Russell B. Long Federal Building and Courthouse, located in Baton Rouge, Louisiana. The court has only 2 judges, Chief Judge John V. Parker and Judge Frank J. Polozola, and 2 magistrates, Stephen C. Riedlinger and Christine Noland. An additional magistrate for the Middle District has been authorized and an appointment has been submitted, with final authorization due in approximately May, 1997. At that time, the new magistrate will begin performing her duties in the Middle District.

III. ASSESSMENT OF THE DOCKET

A. Condition of the Docket

i. Civil Cases

The Clerk of Court of the United States District Court for the Middle District of Louisiana reported civil cases statistics for the 12 month period beginning in January 1996 and ending in December 1996. These statistics are attached as Appendix B.

The volume of filings in the Middle District, together with the small number of judges handling the bulk of the cases, makes almost certain a docket which increases in cases pending from year to year. In the year 1995, there were 2,044 civil filings in the Middle District. In 1996, there were 7,611 civil filings. At the end of 1996, 10,999 civil cases were pending, as compared to 4,693 pending at the end of 1995. Although 19 visiting Federal District Judges and Magistrates are assisting with the caseload in the

Middle District, most of those judges are handling 10 to 20 cases, with only 1 visiting judge handling more than 50 cases. At the end of 1996, 1,813 of the pending cases were assigned to Judge Parker, and 9,036 were assigned to Judge Polozola. There is a degree of temporary inflation in the numbers from the norm, as approximately one-half of the pending cases arise out of the Exxon explosion, where a substantial number of individual plaintiffs have sought relief against various defendants. The enormity of the problem in the Middle District, however, is not diminished by the temporary inflation, because one-half of the caseload of the Middle District is still many times greater than the caseload of the judges in the Eastern District and almost every, if not every, district in the United States.

One area in which filings seem to be diminishing is that of prisoner lawsuits. It seems that, with the advent of filing fees and a restriction on the number of suits, prisoner filings have diminished by 40-50%.

ii. Criminal Cases

There were 136 criminal filings in 1996, up from 108 in 1995. This is a 26% increase in criminal filings. The U. S. Attorney's office indicates that criminal filings can be expected at the same level for the upcoming years.

Based on information for the fiscal year 1996, which began October 1, 1995 and ended on September 30, 1996, the following information indicates the impact of the criminal caseload on the court.

In any given month, there are approximately 21 court days. If you multiply that by 2 (the number of District Judges), we then have 42 court days available per month for trials, etc. If this is multiplied by 12 months, this gives us the number of court days in the year, which is 504 days.

Of the 504 available court days, the criminal docket of the Court consumed the following.

During the relevant time period, 7 felony criminal trials were conducted. Each trial averaged 3 days. Therefore, of the 504 available court days, 21 were taken up by criminal trials.

As to the criminal arraignments, pre-trial motions, sentencings, post-trial motion, etc., the U. S. Attorneys spent approximately 295 hours in court. If you divide this by 7 hours (an average full day of court proceedings), 42 additional days were spent in court by the two District Court Judges on criminal matters.

Therefore, the District Court Judges spent a total of 63 court days on criminal matters; or, 31.5 days per judge (approximately 1.5 months each for fiscal year 1996). This, of course, does not include time that each judge must spend outside the courtroom in preparing for court. This includes such things as jury charge preparation, research, preparation of opinions, reading memoranda submitted by counsel, etc.

As to time spent in court by the U. S. Attorneys before the two Magistrate Judges, 198 hours were logged. Again, making the same assumptions as above, the two Magistrate Judges spent 28 days or 14 days each on criminal matters.

The criminal docket dramatically affects time available to the Court for the handling of civil matters. Additionally, by federal statute, the criminal docket must be given priority over civil proceedings. If the first 4 months of fiscal year 1997 are an indication of things to come, 6 criminal felony jury trials have already been completed through January, 1997.

B. Trends in Filings

The following kinds of cases have been filed in the Middle District: personal injury, admiralty/maritime, prisoner, civil rights, contract, ERISA, employment/labor, land condemnations, foreclosures, Social Security, student loan, veterans, as well as other miscellaneous categories.

C. Court Resources

The following is quoted from the 1995 Advisory Group's report:

"As stressed in the 1993 and the 1994 Advisory Group's Report:

Addition of one or more judges to the Middle District would be the main and most efficacious method of eliminating delays, which invariably lead to increased costs of litigation.

However, despite the urging of the Middle District Judges and the CJRA Advisory Group, Congress has neglected to approve an increase in the number of Middle

District Judges. The only relief enjoyed by the Court has been from visiting Federal District Judges and Magistrates from the Western and Eastern Districts of Louisiana and from Texas."

The delays and increased costs referred to are compounded and worsened each year. Although the visiting Federal District Judges' and Magistrates' help is badly needed, the effect on the caseload and the number of pending cases is relatively slight.

An additional magistrate has been authorized for the Middle District and will be in place in approximately May, 1997. Because the magistrates do hear some of the cases and handle preliminary matters in the cases heard by the Federal District Judges, this will certainly help to lessen the increasing number of pending cases. A review of the statistics, however, indicates that each of the two existing magistrates is handling fewer than 50 cases at any time, which, again, has a relatively slight effect on the total number of pending cases.

As stated above, the addition of 1 or more judges to the Middle District is the only way this committee perceives as significantly reducing the pending cases and the cases handled by each judge, thus bringing the Middle District more in line with an average district. Presently, there is a bill which has been introduced by Senator John Breaux which would increase the number of judges in the Middle District by 1, at the same time that the number of judges in the Eastern District of Louisiana is decreased by 1. Because the caseload of Federal District Judges in the Middle District is between 7

and 10 times greater than the caseload of Federal District Judges in the Eastern District, this change in the total number of judges is certainly warranted. This committee would recommend that the Bar Associations within the Middle District do everything they can to make known the plight of the court in the Middle District in an effort to increase the chance of success for the bill by Senator Breaux.

IV. CLERK OF COURT

The Advisory Group has reviewed the procedures and practices of the Clerk of Court of the United States District Court for the Middle District of Louisiana and has found no additional ways in which it can more efficiently and effectively handle its caseload.

The 1995 report of the Advisory Group suggested that the Clerk's office implement scanning equipment to reduce the time-consuming manual input of documents into the computer system and to reduce the margin of error. The scanning equipment is now in place and will be operational by April, 1997.

The 1995 Advisory Group suggested that electronic storage equipment was necessary to meet future document storage limitations and the lack of physical storage space. Equipment is now in place which will hold 80 disks of storage, approximately 4 to 5 years of documents. This equipment will automatically store each document which is filed and scanned into the system by the Clerk of Court.

The 1995 Advisory Group suggested that the existing office space should be redesigned and additional office space should be found for the increased demands

commensurate with the increased caseload. Redesign of the Clerk of Court's office will take place in 1997 to change offices into cubicle space, accommodating additional employees, and the Clerk of Court is taking over 2,000 additional square feet of space. These changes should accommodate the requirements of the Clerk of Court's office until additional judges are authorized.

The Clerk of Court's office is negatively impacted by the 19 Federal District Judges who are assisting with the caseload in Baton Rouge, although the Clerk's office welcomes the assistance to the court. The Clerk of Court's office must supply the support function for these judges, with no additional employees or funds allocated. This situation would be partially alleviated with the addition of 1 or more permanent District Court Judges in the Middle District.

During the past year, all computers in the Court have been brought up to Pentium 166 processing capacity. All judges and courtroom deputies have notebook computers which can be plugged into docking stations, putting them on line. With the tremendous caseload in the Middle District, it is imperative that the Clerk of Court's office work with the utmost computer efficiency, as its staff is mainly based on the number of judges and magistrates authorized for this district, with limited credit for the caseload.

The Clerk of Court has installed larger screens on all computers and has supplied touch screens for the public access computers, which are much more user friendly for persons not trained in computer use than are keyboard operated screens. The Clerk of Court has also installed a video conferencing system which greatly reduces the need for

magistrates to drive to Angola. The system is a joint venture with the State. Additional video conferencing capability has been requested to allow conferences between judges in other districts and judiciary officials in Washington, DC.

V. PRETRIAL ORDERS

A. At the direction of the Chairman of the Civil Justice Reform Act Advisory Group, this Subcommittee was tasked with developing a Uniform Pretrial Notice and Uniform Pretrial Order form with the intention that it would be utilized in both divisions of the U.S. District Court for the Middle District of Louisiana and by each of the Magistrate Judges.

B. The Subcommittee carefully reviewed the existing pretrial notice requirements currently being utilized by the U.S. District Court and met, individually, with Judges Parker, Polozola, Riedlinger and Noland to review specific pretrial procedures employed in their respective courts. In addition, the Subcommittee also reviewed current pretrial order forms being utilized in the U.S. District Court for the Eastern and Western Districts of Louisiana. The general guidelines given to the Subcommittee were to work towards "simplifying" the existing requirements and, above all else, to develop a "uniform" format that could be utilized by the bar for essentially all cases in the Middle District. In unusually complicated or complex matters, it is anticipated that the Court will modify the default format on a case-by-case basis.

C. The principal recommended changes to existing practice include the elimination of any requirement to list (1) contested issues of law and fact, (2) essential

elements of the claim for relief, and (3) specific evidentiary objections to the admissibility of exhibits in the pretrial order. After reviewing the current requirements with each of the sitting Judges, it was concluded that requiring this kind of specificity in the pretrial order more often than not makes preparation of the order unnecessarily complicated and typically leads to laundry lists of information that are of no real use to either the Court or counsel in preparing a case for trial. In addition, since a substantial majority of cases are in fact settled without proceeding to trial, simplifying preparation of the pretrial order is an important step in reducing the overall cost of litigation.

D. It is acknowledged that individual members of the Advisory Group and some members of the Court may prefer more, or less, detail in the form that has been proposed. However, this is worked out, in the final analysis, the most important criterion is that there be one single form used throughout the Court.

E. Attached as Appendix C is the proposed Uniform Pretrial Notice and attached as Appendix D is the proposed Uniform Pretrial Order.

VI. DISCLOSURE AND DISCOVERY

A. Federal Rule of Civil Procedure 26

The 1995 Annual Report made recommendations with regard to Federal Rule of Civil Procedure 26. The 1995 Annual Report recommended that a may-call witness list and preliminary exhibit list be required of all parties within twenty (20) days after completion of the 90 Day Status Conference. Recommendations were also made as to disclosure of expert testimony, as provided in Federal Rule of Civil Procedure

26(a)(2). Although no action has been taken on the witness and exhibit lists matters, none of the judges or magistrates now require full reports from treating physicians. The other recommendations of the 1995 Annual Report still should be considered.

B. 90 Day Status Report

A Subcommittee on the 90 Day Status Report met individually with Judges Parker and Polozola and Magistrates Riedlinger and Noland regarding the 90 Day Status Report. After discussions between the Subcommittee and the judiciary, it was determined that the 90 Day Status Report, as it exists, does not need revision at the present time, subject to the comments, mentioned above, in the 1995 Annual Report.

VII. ALTERNATIVE DISPUTE RESOLUTION

This Subcommittee continued to improve and analyze the mediation process in the Federal Court. This mediation procedure was introduced at the behest of Magistrate Judge Christine Noland and has been largely formulated by her, with input from this committee in the past.

This past year, the committee placed as its goal to prepare a brochure to be published and placed in the Federal Court building for ease of access to attorneys in order to advertise the program. It was determined from this committee's survey of two years' ago that the mediation process was a positive experience for almost all participants that had completed questionnaires on this topic. Because it was a new program, this committee felt that the next goal should be to advertise the advantages of the mediation program in order to encourage its use.

This committee prepared a draft brochure and accepted commentary from Judge Noland and from all the mediators currently participating in the Federal Court's program. Attached as Appendix E is a copy of the brochure which has been adopted and is being published for use.

Additionally, this committee identified one area for which some revision in the program was suggested. Many of the mediators expressed concern regarding the time it took to schedule the mediations. The order of the court required that the mediator coordinate this scheduling. The order of the court has now been changed to place the burden for scheduling on the plaintiff, unless otherwise agreed by the parties. It is envisioned that this alternative may be used when the defendant desires the mediation and the plaintiff would agree to accommodate that request, provided the defendant does the scheduling.

VIII. LOCAL RULES

Rule 83 of the Federal Rules of Civil Procedure provides that each District Court, acting by majority of its district judges, may, after giving appropriate public notice and an opportunity for comment, make and amend rules governing its practice. A local rule . . . shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

On March 12 1996, the Judicial Conference mandated a procedure to "adopt a numbering system for Local Rules of Court that corresponds with the relevant Federal

Rules of Practice and Procedure." The conference set April 15, 1997, as the deadline for the Courts to adopt a uniform numbering system.

The Judicial Conference indicated that the uniform numbering system will assist the Bar in locating rules applicable to a particular subject, reduce the chance of a trap for unwary counsel, and ease incorporation of Local Rules into indexing and computer services. The uniform numbering system was deemed to be especially beneficial to help a national practitioner to quickly find and familiarize himself/herself with the Local Rules in the various courts in which they practice.

The uniform numbering system mandates that the number of the particular local rule correspond with the relevant number of the Federal Rules of Practice and Procedure. The Judicial Conference gives an example that any Local Rules governing summary judgments or responding to summary judgments should be located in number 56 of the District Court's Local Rules covering civil practice (to correspond to Rule 56 of the Federal Rules of Civil Procedure).

The Subcommittee learned that Mike Rubin (a prominent local attorney) and Pam Mitchell (an attorney and clerk at the Western District Court of Louisiana) had been appointed by Judge Eugene Davis of the United States Fifth Circuit Court of Appeals to correlate the Civil Justice Reform Act Plan with the Local Rules of Court in a uniform manner. In order to accomplish this task, Mike and Pam decided that it would be necessary to renumber all the rules. Pam prepared a draft plan under Mike Rubin's direction that renumbered and correlated the Civil Justice Rules with the Local Rules.

At the same time, Warren Cuntz (with the Eastern District of Louisiana) had prepared a similar renumbering plan and draft. Then Pam Mitchell took her draft, Warren Cuntz' draft, and attempted to coordinate and combine their efforts in a new draft which is intended to also comply with the mandate for renumbering to conform with the Federal Rules of Practice and Procedure. That draft is presently being reviewed by this Subcommittee and by all three Courts.

It is the Subcommittee's belief, based on the progress shown thus far, that a uniform renumbering system for the Middle, Western and Eastern Districts of the United States District Court will be implemented by the April 15, 1997 deadline.

There are also a number of Local Rule proposals that are being considered by the Middle District of the United States District Court, some of which have been adopted by the other districts in Louisiana. The Subcommittee is reviewing the Local Rules and proposals for new rules and is attempting to get a consensus on any necessary rule changes. The Subcommittee will also be reviewing any Standing Orders that might be duplicative of Local Rules or incorporated into the Local Rules to reduce the number of places a member of the Bar must research in order to be in compliance with all the rules of the Middle District. It is the intent of the Subcommittee to gain input from the local Bar members prior to making a recommendation to the Court on any rule changes. Thereafter the Subcommittee would recommend that the Court provide full notice and adequate opportunity to comment on any proposed changes to the Bar pursuant to Rule 83 of the Federal Rules of Civil Procedure. It is the opinion of the Subcommittee that

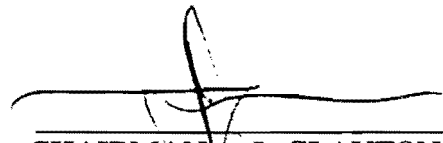
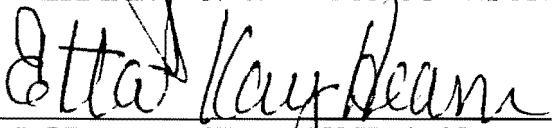
allowing input from the members of the Middle District Bar Association prior to providing final notice of any rule changes will only enhance the relationship between the Bar and the Court.

It is the Subcommittee's recommendation (after discussion with the Court) that no new rule changes be made until the renumbering system is implemented, so as not to delay the renumbering process prior to the April 1997 deadline.

IX. CONCLUSION

The Advisory Group finds that the United States District Court for the Middle District of Louisiana continues in a remarkably good condition considering its caseload in relationship to the number of judges and magistrates. The single most important change to increase the efficiency of the Court and reduce the expense to litigants would be one or more additional judgeships in the District. Without this change, the Court is now operating close to its maximum degree of efficiency. The Advisory Group compliments the Federal District Judges and Magistrates, the Clerk of Court, and their staffs in maintaining this degree of efficiency in the face of overwhelming statistics. The Advisory Group suggests that the Court consider the recommendations set forth in this report.

The report is respectfully submitted on behalf of all members of the Advisory Group through its Chairman and its Reporter, to the Honorable John V. Parker, Chief Judge, United States District Court for the Middle District of Louisiana, this 11th day of March, 1997.


CHAIRMAN - J. CLAYTON JOHNSON

REPORTER - ETTA KAY HEARN

APPENDIX A

ADVISORY GROUP MEMBERS AS OF MARCH 1, 1996

Mathile W. Abramson
Denise N. Akers
Howard B. Bolton, Jr.
R. Wendel Foushee, CPA
Leo C. Hamilton
Etta Kay Hearn (Reporter)
J. Clayton Johnson, Jr. (Chairman)
William C. Kaufman, III
John A. Manda
Professor J. Warren Mengis
Roy A. Mongrue, Jr.
John W. Perry, Jr.
Arthur R. Thomas
Steven C. Thompson
Honorable L. J. Hymel

APPENDIX B

U.S. DISTRICT COURT -- JUDICIAL CASELOAD PROFILE

LOUISIANA MIDDLE		TWELVE MONTH PERIOD ENDED SEPTEMBER 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT		
		1995	1994	1993	1992	1991	1990			
OVERALL CASELOAD STATISTICS	Filings*	3,007	2,942	1,234	1,200	1,321	1,239			
	Terminations	1,361	1,250	1,181	1,248	1,234	1,101			
	Pending	4,649	3,057	1,386	1,462	1,510	1,427			
	Percent Change In Total Filings Current Year	Over Last Year.	2.2						54	7
	Over Earlier Years. . .	143.7	150.6	127.6	142.7			2	1	
	Number of Judgeships	2	2	2	2	2	2			
	Vacant Judgeship Months**	.0	.0	.0	.0	.0	.0			
ACTIONS PER JUDGESHIP	FILINGS	Total	1,504	1,471	617	600	661	620	1	1
		Civil	1,457	1,447	575	575	630	592	1	1
		Criminal Felony	47	24	42	25	31	28	47	5
	Pending Cases -	2,325	1,529	693	731	755	714	1	1	
	Weighted Filings**	1,233	1,182	456	388	473	411	1	1	
	95% Confidence	Upper	1,425	1,361	489	418	507	442		
		Lower	1,042	1,004	424	357	439	380		
	Terminations	681	625	591	624	617	551	1	1	
Trials Completed	22	16	21	18	22	26	64	8		
- MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	3.7	4.2	3.4	3.0	3.7	2.7	2	1
		Civil**	10	6	11	13	13	15	63	6
	From Filing to Trial** (Civil Only)	24	29	35	27	34	30	70	8	
OTHER	Number (and %) of Civil Cases Over 3 Years Old		97 2.1	122 4.0	98 7.3	85 5.9	118 8.0	156 11.1	15	1
	Average Number of Felony Defendants Filed per Case		1.2	1.1	1.1	1.1	1.2	1.2		
	Jurors	Avg. Present for Jury Selection**	21.76	24.00	22.20	21.00	21.45	15.22	5	1
		Percent Not Selected or Challenged**	12.8	16.7	20.9	15.9	13.0	11.1	9	1

**FOR NATIONAL PROFILE AND NATURE OF SUIT AND OFFENSE CLASSIFICATIONS
SHOWN BELOW -- OPEN FOLDOUT AT BACK COVER**

1995 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2913	35	5	501	9	25	39	116	1982	13	123	2	63
Criminal*	91	-	6	7	-	1	22	-	5	41	-	1	8

* Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not.
 ** See Page 167.

CIVIL

PENDING CASELOAD					
	1992	1993	1994	1995	1996
Pending Caseload	1,278	1,384	3,798	4,593	10,999

FILINGS					
	1992	1993	1994	1995	1996
January	100	81	87	158	93
February	84	31	87	110	106
March	81	106	108	97	68
April	100	98	143	93	151
May	110	92	144	118	2,709
June	86	93	265	100	111
July	85	107	126	86	88
August	110	104	276	916	107
September	115	79	1,271	102	3,921
October	86	86	99	85	95
November	91	92	85	95	66
December	92	107	913	84	96
TOTAL	1,140	1,076	3,604	2,044	7,611

CIVIL

	TERMINATIONS				
	1992	1993	1994	1995	1996
January	172	137	81	171	104
February	84	73	123	74	112
March	108	141	108	79	110
April	107	91	99	76	72
May	133	85	73	110	95
June	101	54	156	93	75
July	99	68	118	94	148
August	88	95	105	142	108
September	117	69	91	127	96
October	130	75	75	105	120
November	66	92	116	97	74
December	94	74	101	76	80
TOTAL	1,299	1,054	1,246	1,244	1,194

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA
REPORT OF CIVIL CASES (JS-9)

REPORTING PERIOD OF 12/1/96 THRU 12/31/96
FOR DIVISIONAL OFFICE 3 (Baton Rouge)

JUDGE / MAGISTRATE	PENDING FIRST OF PERIOD	+ NEWLY ASSIGNED +	REOPENED DURING PERIOD	+ FROM ANOTHER JUDGE	- TO ANOTHER JUDGE	- DISPOSED OF DURING PERIOD	= PENDING END OF PERIOD
Beer, P. (3L23)	5	0	0	0	0	0	5
Berrigan, G. (3L29)	3	0	0	0	0	0	3
Doherty, R. (3616)	3	0	0	0	0	0	3
Duplantier, A. (3L19)	2	0	0	0	0	0	2
Duval, S. (3L30)	2	0	0	0	0	0	2
Fallon, E. (3L34)	1	0	0	0	0	0	1
Feldman, M. (3L26)	1	0	0	0	0	0	1
Little, F. (3612)	1	0	0	0	0	0	1
McNamara, A. (3L24)	1	0	0	0	0	0	1
Melancon, T. (3617)	28	0	0	0	2	3	23
Mentz, H. (3L25)	3	0	0	0	0	0	3
Noland, C. (3NBD)	38	0	0	5	0	2	41
Parker, J. (3N02)	1813	33	0	2	5	36	1807
Polozola, F. (3N03)	9036	63	1	0	4	36	9060
Riedlinger, S. (3NBC)	30	0	0	3	0	2	31
Schwartz, C. (3L16)	1	0	0	0	0	0	1
Sear, M. (3L17)	2	0	0	0	1	0	1
Simon, J. (36BE)	1	0	0	2	0	0	3
Trimble, J. (3615)	6	0	0	0	0	0	6
Vance, S. (3L31)	1	0	0	0	0	1	0
Walter, D. (3613)	1	0	0	0	0	0	1
Wilkinson, J. (3LBI)	1	0	0	0	0	0	1
Wilson, A. (36BF)	2	0	0	0	0	0	2

TOTAL:	10982	96	1	12	12	80	10999

Note: Pending first-of-period may differ from prior month pending end-of-period due to case activity from a prior month entered after report submission.

APPENDIX C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

Plaintiff(s) : CIVIL ACTION NO. 97-0000-A-1
VS. :

Defendant(s) :

UNIFORM PRETRIAL NOTICE

Pursuant to Rule 16 of the Federal rules of civil Procedure, a pretrial conference will be held in chambers in this proceeding at ____ o'clock __.M. on the ____ day of _____, 19__, before Judge _____.

I. PRETRIAL ORDER REQUIREMENTS

Counsel for the plaintiff(s), with the cooperation and assistance of all other counsel and any unrepresented parties, shall prepare a written pretrial order in this case to be signed by all counsel of record and then submitted to the Court not later than ten (10) days prior to the scheduled pretrial conference. In the event that there is any disagreement with the content of the pretrial order or any part thereof, the objecting counsel or party shall attach an opposition to the pretrial order prior to its submission to the Court. A completed pretrial order, approved as to form for use in this Court, is attached to this notice.

The pretrial order shall contain the following information:

1. The specific statute(s) or other authority upon which federal subject matter JURISDICTION is founded, and any jurisdictional questions raised by any party.
2. A list of all pending MOTIONS, if any, and specific issues raised in those pending motions.

3. A brief statement of the PLAINTIFF'S CLAIMS.
4. A brief statement of the DEFENDANT'S CLAIMS.
5. A brief statement of the CLAIMS OF OTHER PARTIES, if any.
6. FACTS ESTABLISHED by pleadings or by stipulation of counsel.
7. (a) A listing of all EXHIBITS (except documents for impeachment only) to be offered in evidence by all parties.
(b) As to each listed exhibit, a representation that:
 - i. There are, or are not, objections to the AUTHENTICITY of the exhibit and the reasons therefor;
 - ii. Objections, if any, to the ADMISSIBILITY of exhibits need not be addressed in the pretrial order, but will instead be presented to the Court by motions in limine and pretrial memoranda to be filed at a time to be set by the Court at the pretrial conference.
8. (a) A list of all WITNESSES for each party, including their names, addresses and a brief statement as to the nature of their expected testimony together with a representation whether they WILL be called to testify or MAY be called to testify.
(b) WILL CALL witnesses shall be produced or subpoenaed by the party listing them and made available during the trial in order that such witnesses may be available to opposing counsel as witnesses even if not actually called upon to testify by the party so listing them. This is intended to eliminate the necessity of opposing counsel having to subpoena the same witnesses who are being voluntarily produced or subpoenaed by the party listing them.
(c) MAY CALL witnesses shall be listed on the pretrial order, but there is no obligation to have may call witnesses subpoenaed and present for the trial.
(d) The parties shall also designate which of the witnesses, if any, will testify by WRITTEN OR VIDEOTAPE DEPOSITIONS. Where written or video depositions are to be used, the parties shall designate for the Court and all other parties those portions of the deposition which are to be read or shown to the jury not later than

twenty (20) days prior to trial. Only those portions of the deposition which are necessary to a party's case shall be read or played to the jury. Where a video deposition is used, the parties shall file into evidence a written transcript of the deposition.

9. Any proposed AMENDMENTS to the pleadings and what objections, if any, there may be to any proposed amendments.
10. Any ADDITIONAL MATTERS which may aid in the disposition of the case, including, e.g., settlement possibilities, whether the parties wish, to engage in a summary jury trial, arbitration, mediation and or trial before the United States Magistrate Judge, and an estimate of the probable length of the trial.

II. ADDITIONAL INSTRUCTIONS

1. NON-JURY TRIALS. In non-jury trials, proposed findings of fact and conclusions of law, bench books of exhibits marked for identification with numbers to be used at trial, and pretrial briefs shall be filed in duplicate with the Court not later than ten (10) days prior to trial, with copies provided to opposing counsel.

2. JURY TRIALS. In jury trials, proposed jury instructions, voir dire questions, jury interrogatories, bench books of exhibits marked for identification with numbers to be used at trial, and pretrial briefs shall be filed in duplicate with the Court not later than ten (10) days prior to trial, with copies provided to opposing counsel. Jury instructions relating to the Court's general charge, that is, those charges which pertain to the function of the jury, credibility of witnesses, burden of proof, and similar matters, need not be filed with the Court unless the case presents unusual circumstances in which special instructions on these matters are desired, or are otherwise ordered by the Court at the pretrial conference.

3. EXCEPT FOR GOOD CAUSE SHOWN, ONLY EXHIBITS AND WITNESSES LISTED IN THE PRETRIAL ORDER, OR PERMITTED TO BE LISTED IN AN AMENDMENT TO THE PRETRIAL ORDER, SHALL BE ADMITTED IN EVIDENCE OR ALLOWED TO TESTIFY.

Baton Rouge, Louisiana, this ____ day of _____, 19__.

U.S. DISTRICT COURT

APPENDIX D

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

Plaintiff(s)
VS. _____
Defendant(s)

:
:
:

CIVIL ACTION NO. 97-0000-A-1

UNIFORM PRETRIAL ORDER

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a pretrial conference was conducted in this proceeding by _____ on the ____ day of _____, 19__.

_____ appeared as trial counsel for plaintiff(s);

_____ appeared as trial counsel for defendant(s).

1. JURISDICTION.

This Court has subject matter jurisdiction in this proceeding under the provisions of 28 USC §1332. The plaintiff is a citizen of the State of Louisiana and the defendant is a citizen of the State of Illinois, and the amount in controversy exceeds, exclusive of interest and costs, the necessary jurisdictional amount.

2. MOTIONS.

There are no pending motions. The defendant will file a motion in limine to exclude certain photographs from evidence at trial on the basis that they are unnecessarily gruesome and unlikely to assist the jury in resolving any disputed issues of fact.

3. PLAINTIFF'S CLAIMS.

The plaintiff claims that he was seriously injured in an automobile accident

in Baton Rouge, Louisiana, on October 19, 1996, and that the accident was caused by the negligence and fault of the defendant driver who ran into the rear of the plaintiff's automobile after he had stopped for a red light. The plaintiff also contends that his injuries in the accident required a long period of hospitalization and made it impossible for him to return to his regular employment as a truck driver for six months, all of which resulted in significant loss of income and out-of-pocket medical and hospital expenses.

4. DEFENDANT'S CLAIMS.

The defendant denies that he was negligent or otherwise at fault for the occurrence of the accident for which the plaintiff has filed suit, and also claims that the plaintiff had serious health problems for many years prior to the accident and that these problems were not caused or aggravated by any injuries he sustained in the accident.

5. CLAIMS OF OTHER PARTIES.

None.

6. ESTABLISHED FACTS.

- (1) The plaintiff and defendant were involved in an automobile accident in Baton Rouge, Louisiana, on October 19, 1996.
- (2) The plaintiff was hospitalized in the Baton Rouge General Hospital from October 19, 1996, to November 30, 1996.
- (3) The plaintiff incurred medical and hospital expenses of \$63,480 from October 19, 1996, to March 30, 1997.

7. EXHIBITS.

- (a) The plaintiff will offer the following exhibits at trial:

Exhibit No. 1: Diagram of accident scene;

Exhibit No. 2: Four (4) photographs of accident scene;

Exhibit No. 3: Hospital records from Baton Rouge General Hospital from October 19, 1996, to November 30, 1996;

Exhibit No. 4: Four (4) photographs of injuries to plaintiff's left arm and leg;

Exhibit No. 5: Medical and hospital bills totaling \$63,480.

(b) The defendant will offer the following exhibits at trial:

Exhibit No. 1: Three (3) enlarged photographs of accident scene;

Exhibit No. 2: Scale model of accident scene and automobiles;

Exhibit No. 3: Plaintiff's hospital records from Ascension General Hospital from March 1, 1990, to March 30, 1990.

The parties agree that all listed exhibits are authentic, except for defendant's Exhibit No. 2 to which the plaintiff objects because it does not correctly depict the scene of the accident.

8. WITNESSES.

(a) Plaintiff's Witnesses:

(1) Paul Plaintiff
125 Mulberry Street
Baton Rouge, Louisiana

Plaintiff will testify about the accident and his injuries.

(2) Paulette Plaintiff
125 Mulberry Street
Baton Rouge, Louisiana

Plaintiff's wife will testify about her husband's injuries.

- (3) Walter Witness
128 Mulberry Street
Baton Rouge, Louisiana

This is an eyewitness who will testify about the accident.

- (4) Dr. Tom Terry
350 Medical Plaza
Baton Rouge, Louisiana

The plaintiff's treating physician will testify about his injuries.

- (5) Edwin Employer
ABC Manufacturing
150 Industrial Blvd.
Baton Rouge, Louisiana

The plaintiff's employer will testify about his lost wages.

- (6) Danny Defendant
140 Elm Street
Baton Rouge, Louisiana

The defendant will testify about how the accident occurred under cross-examination.

(b) Defendant's Witnesses:

- (1) Danny Defendant
125 Mulberry Street
Baton Rouge, Louisiana

Defendant will testify about the accident.

- (2) Paul Plaintiff
125 Mulberry Street
Baton Rouge, Louisiana

Plaintiff will testify about the accident and his injuries under cross-examination.

- (3) William Witness
130 Mulberry Street
Baton Rouge, Louisiana

This is an eyewitness will testify about the accident.

- (4) Dr. John Smith
Ascension General Hospital
190 Worthy Road
Gonzales, Louisiana

The plaintiff's former treating physician will testify about his health prior to and after the accident.

- (5) SGT Tom Trooper
Baton Rouge Police Department
Baton Rouge, Louisiana

SGT Trooper will testify about his investigation of the accident.

9. AMENDMENTS.

None.

10. ADDITIONAL MATTERS.

The parties estimate that the case can be tried in one day, and have considered the possibility of settlement.

DATE: _____

ATTORNEY FOR PLAINTIFF

DATE: _____

ATTORNEY FOR DEFENDANT

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

Plaintiff(s)
VS. _____
Defendant(s)

:
:
:

CIVIL ACTION NO. 97-0000-A-1

ORDER

Premises considered;

IT IS ORDERED, that this proceeding is set for trial (with/without a jury) at ____ o'clock ____ .M. on the ____ day of _____, 19___. Motions in limine that the parties desire, or that the Court directs, are to be filed with the Court not later than the ____ day of _____, 19__.

Baton Rouge, Louisiana, this ____ day of _____, 19__.

U.S. DISTRICT COURT

What Is Mediation?

Mediation is a process of dispute resolution that allows the parties informally to present their dispute to an independent non-biased third party who attempts to get the parties to reach a compromise. Mediation is **not binding**. However, any agreement reached by the parties must be memorialized in a binding agreement.

Who Acts As Mediators For Federal Court?

The Federal Court has a list of mediators who have offered their services for mediation in the Federal Court. When the parties elect to use the mediation process, the judge or magistrate overseeing the case will assign a mediator. All the mediators have experience in this area and have attended at least 20 hours CLE credit in the mediation field.

What Is The Procedure For Establishing Mediation In Your Case?

All parties must consent to mediation in order for a matter to be directed there. Once all parties consent, they can inform their judge or magistrate of their desire for mediation by letter or at a scheduled status conference. The following documents must then be executed:

1. A mediation order must be signed by the court setting this matter for mediation before a particular mediator.

2. A hold harmless and confidentiality agreement must be signed by each party, agreeing that: (a) none of the

conversations or evidence introduced at mediation shall be used at trial nor be used as an admission; (b) disclosures made during private meetings with the mediator are to remain confidential and (c) no subpoena shall issue to the mediator requesting that the mediator testify for discovery purposes or at trial of the matter;

3. A mediation certificate must be executed by each attorney in the matter agreeing to participate in good faith in the mediation process and obligating that party to have physically present at the mediation a person with authority to settle.

A mediation can be scheduled as soon as convenient for the parties concerned and the mediator's schedule. Often the mediation can occur within the month. Thus, this process can potentially reach a resolution much faster than the trial process. The mediation can be conducted at the Federal Court building or at any mutually convenient place agreed to by all concerned parties. Obviously there will probably be a charge for a meeting place outside of the Federal Court. This charge shall be divided between all parties equally, unless otherwise agreed. The average mediation conference lasts approximately four(4) hours with ten(10) to eleven(11) hours being on the high side and one(1) hour being on the low side.

What is the Cost?

Except for a \$25 administrative fee, mediation is free to the parties. The

mediators offer their services free of charge in this pilot program by the Federal Court.

Comments From Mediation Participants

Mediation has been available on a trial basis in the Federal Court system for approximately two years now. Comments and evaluations from participants have yielded very favorable support for this program. Some of the comments from participants are the following:

“The process enables the client to more fully understand the case evaluation process and the see the opposing side's view.”

“Helped client determine rational value of case. Even though case not settled, client obtained realistic idea of case.”

“It let the defendants know that they are exposed to liability, which they did not perceive before.”

“We were particularly fortunate to have such a skilled mediator... his diplomacy and persistence were vital to the parties reaching a mutually beneficial settlement.”

In a questionnaire to attorneys participating in the mediation process, the following statistics were obtained:

39% found the overall early mediation conference very helpful in a resolution of the case and an additional 47% found it somewhat helpful.