



CIVIL JUSTICE REFORM ACT

*UNITED STATES DISTRICT COURT
MIDDLE DISTRICT
OF LOUISIANA*

PLAN

December 1993

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
ARTICLE ONE: Differential Case Management	1
ARTICLE TWO: Disclosure and Discovery	3
ARTICLE THREE: Motion Practice	4
ARTICLE FOUR: Alternative Dispute Resolution	4
ARTICLE FIVE: Miscellaneous	5
APPENDIX	8

INTRODUCTION

Congress has enacted **THE CIVIL JUSTICE REFORM ACT OF 1990**, 28 U.S.C. §471 et seq. ("the CJRA"). The CJRA requires each United States District Court to implement 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.

This Court has appointed an Advisory Group in accordance with 28 U.S.C. §478. After consideration of the Advisory Group's findings and recommendations, the pending and soon to be effective changes to the Federal Rules of Civil Procedure, and after independent consideration, the United States District Court for the Middle District of Louisiana adopts the following **CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN** ("the Plan").

ARTICLE ONE: DIFFERENTIAL CASE MANAGEMENT

(1) Cases Exempted:

The provisions of Article One shall not apply to student loan cases, bankruptcy appeals, motions to vacate sentence, habeas corpus applications, prisoner 1983 cases and social security claims.

Case management of habeas corpus applications, prisoner cases and social security claims shall proceed in accordance with the Court's longstanding practice, set forth in General Orders Nos. 57 and 63.

(2) Timing:

Within 10 days after the action has been filed, the Court shall issue an order scheduling a preliminary conference. Such conference will be scheduled no later than 120 days after filing of the complaint. The form of notice shall be uniform for all judicial officers.

(3) Officer Presiding:

The preliminary conference shall be conducted by a judicial officer. This conference may be conducted by telephone to convenience counsel and to reduce expense.

(4) Scope of Preliminary Conference:

The preliminary conference shall:

- (a) provide for an early neutral evaluation, establish requirements and deadlines and disclosure of witness identities, documents and other exhibits, damage computations, and insurance agreements;
- (b) establish deadlines for depositions and other discovery;
- (c) establish deadlines for filing of motions, amending pleadings, and adding parties;
- (d) establish deadlines for exchange of reports of expert witnesses;
- (e) determine (i) the feasibility of limiting discovery below the limits established in the Federal Rules of Civil Procedure, the Local Rules or the Plan, or (ii) whether due to the complexity of the case those limits might be exceeded;
- (f) discuss the possibility of settlement and the need and date for any further settlement conference;
- (g) establish case completion goal and final pretrial conference.
- (h) discuss any other matter appropriate for effective management of the case by the Court.

(5) Attendance:

Participants at the preliminary conference shall be the trial attorney designated pursuant to Local Rule or any counsel of record on pleadings already filed with full authority to make decisions and agreements that bind the client, unless permission for attendance by other counsel is obtained from the Court in advance.

(6) Scheduling and Management Order:

Following the preliminary conference, the Court shall issue an order establishing all disclosure requirements and deadlines, discovery deadlines and limits, if any, and final pretrial conference date. All sections of the Court shall employ a uniform order.

ARTICLE TWO: DISCLOSURE AND DISCOVERY

(1) Disclosure:

(a) Medical and Expert Witnesses:

Counsel shall furnish copies of all medical reports to all opponents within the time limits set by the court.

Unless leave of court is obtained, no physician will be permitted to testify with respect to findings on examination where report of such examination is not furnished to opposing counsel within the time limits set by the court.

With respect to expert witnesses other than medical experts, names and written reports of such experts plaintiff and defendant intend to call shall be furnished to opposing counsel within the time limits set by the court.

All expert witnesses, including medical experts, who will testify must submit written reports so that the parties can comply with this order.

(b) Other Disclosure:

Other voluntary disclosure shall be completed as ordered by the Court.

Disputes between the parties concerning disclosure shall be subject to the same procedures as for discovery disputes set forth in the Local Rules.

(2) Discovery Limits:

The number of interrogatories shall be limited in accordance with Local Rule 6.01. Requests for admission shall also be limited to twenty-five (25) in accordance with that Local Rule.

Discovery depositions shall be conducted and limited as ordered by the Court.

Judicial officers assigned to cases will, in consultation with counsel, in appropriate cases impose limits on discovery more restrictive than those established above, or if the case is complex, extend such limits.

ARTICLE THREE: MOTION PRACTICE

(1) Motions shall be filed and considered in strict compliance with applicable provisions of the Local Rule 2 and the Fed.R.Civ.P.

(2) Motions for postponement of trial shall be accompanied by the certificate of an attorney of record, signed pursuant to Fed. R. Civ. Pro. 11, certifying that his client has been advised by the signing attorney that the attorney has initiated or consented to a motion to continue the trial and that the client has been provided with a copy of the motion or consent. Any such motion shall be filed in complete compliance with applicable provisions of Local Rules.

(3) Motions shall be decided by the presiding judicial officer as soon as practicable. Discovery motions and motions to remand should be given priority.

ARTICLE FOUR: ALTERNATIVE DISPUTE RESOLUTION

If the presiding judicial officer determines at any time that the case will benefit from alternative dispute resolution, the judicial officer shall:

(a) have discretion to refer the case to private mediation, if the parties consent, even if such mediation efforts upset previously set or other dates;

(b) have discretion to order nonbinding mini-trial or nonbinding summary jury trial before a judicial officer with or without the parties' consent; or

(c) employ other alternative dispute resolution programs which may be designated for use in this district.

ARTICLE FIVE: MISCELLANEOUS

(1) Final Pretrial Conference and Pretrial Order:

Pretrial orders shall be prepared for each case according to a uniform form of Pretrial Notice and Instructions, to be used by all sections of the Court and provided to counsel as an attachment to the order issued following the preliminary conference.

The judicial officer who will preside over the trial shall preside over all final pretrial conferences. If necessary, the district judge may designate a magistrate judge to conduct this conference.

(2) Settlement Conferences:

In its order following the preliminary conference described in Article One above, the Court shall state that a conference will be scheduled at the request of any party for the purpose of discussing settlement.

The presiding judge with responsibility for trying the case shall preside over any settlement conference requested by any party or make arrangements for it to be conducted by another District Judge or Magistrate Judge.

Participants at any settlement conference must include counsel of record with authority to bind settlement. The Court may, in appropriate cases, specifically require attendance at a settlement conference by the parties to the suit or by representatives of the parties with authority to bind settlement.

(3) Telephone Attendance:

Attendance of counsel by telephone, when feasible, may be permitted by the Court.

(4) Trial Settings:

Although all sections of the Court may set more than one case for trial on any given date or on any day during any particular trial week, it will be the policy of all sections of this court to set a single trial on a specific date.

If the Court cannot adhere to a trial date, and is unable to provide another judicial officer to try the case as scheduled, the judge shall advise counsel as soon as practicable and continue the trial. Such a continued case should be given calendared preference thereafter.

(5) Non-Jury Trial Decisions:

Decisions in non-jury cases shall be determined by the presiding judicial officers as soon as practicable.

(6) Advisory Group Studies:

The Advisory Group appointed under 28 U.S.C. §478 shall, as a part of its first annual assessment of the Plan, study and report to the Court by December 31, 1994 on the following two matters:

(a) Whether a formal "tracking" procedure of identifying cases by their complexity and imposing predetermined discovery or scheduling limits according to the designated track should be instituted in the District; and

(b) Whether, and if so how, a court-annexed program should be established in the District for alternative dispute resolution.

(7) Conflict with Other Rules:

In the event the rules or procedures in the Plan conflict with other Local Rules or procedures of this Court, this Plan shall prevail.

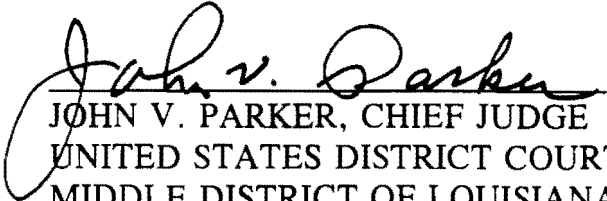
(8) Plan Modification:

The Plan may be modified by the Court at any time after consultation with the Advisory Group.

(9) **Effective Date:**

The Plan shall be effective and applicable to all civil cases filed on or after December 1, 1993 and to such other civil actions as the presiding judicial officer shall order.

SO ORDERED, this 9th day of November, 1993.


JOHN V. PARKER, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

APPENDIX

COURT CONSIDERATION OF THE RECOMMENDATIONS OF THE ADVISORY GROUP UNDER 28 U.S.C. §472(a)

The Court has considered each recommendation of the Advisory Group, including the following:

- (1) Systematic differential treatment of civil cases under §473(a)(1).

The Advisory Group considered this on pages 12 and 13 and on page 42 of the Report and recommended that no formalized system of differential treatment, in addition to those presently in use, is needed. The Court generally concurs with that recommendation as evidenced by the provisions of Article One of the Plan. The Court also directed the Group to study whether a formal "tracking" procedure should be instituted. See Article Five, Section (6).

- (2) Early and ongoing judicial control of the pretrial process under §473(a)(2) including:

- a. case planning
- b. early and firm trial dates
- c. control of discovery
- d. deadlines for motions

The Advisory Group considered this matter on pages 12 and 13 as well as page 42 of their Report and recommended essentially that there be no change in the Court's current procedures except that all judicial officers should use the same pretrial order form. The Court accepts that recommendation as evidenced by Article Five, Section (1) of the Plan.

- (3) Discovery - case management conferences, at which the judicial officer and the parties explore the possibility of settlement, etc. under §473(a)(3):

The Advisory Group considered this matter on pages 13 and 43 of their Report and recommended no additional formal changes of settlement conference practices or other case management practices be made except that the Court should generally rule on discovery issues as quickly as possible.

The Court concurred in that recommendation as evidenced by the provisions of Article 3, Section (3) of the Plan.

(4) Encouragement of voluntary exchange of information among litigants and other cooperative discovery and devices under §473(a)(4):

The Advisory Group considered this matter on pages 13, 43 and 44 of their Report and recommended against any formal mandate of voluntary disclosure except those set forth in their proposed final pretrial conference order which relates to expert witnesses.

The Court generally concurred with this recommendation and specifically incorporated the Advisory Group's recommendation on medical and expert witnesses in Article Two, Section (1) of the Plan. Other voluntary disclosures are handled on an individual basis as set forth in Article Two of the Plan.

(5) Prohibition of discovery motions unless accompanied by certification by the moving party that a good faith effort was made to each agreement with opposing counsel under §473(a)(5):

The Advisory Group considered this matter on pages 13 and 44 of their Report and recommended no change in the present procedure, since Local Rule 2.11 E&M already requires such a certificate for discovery motions.

(6) Alternative dispute resolution procedures §473(a)(6):

The Advisory Group considered this matter on pages 36 through 41 and at page 44 of their Report and recommended that there be no formal rules relating to alternative discovery resolution procedures at this time. The Court considered including formal alternative dispute resolution procedures but concluded that a reluctant Bar would not be receptive or effective. Accordingly, the Court accepted the recommendation but has included Article Four specifically authorizing alternative dispute resolution procedures and has directed the Committee to further study this matter as set forth in Article Five, Section 6(b).

Finally, the Advisory Group concluded with a message to the Congress that "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." Page 45.

The Court fully concurs in this recommendation and urges the Congress to act upon it promptly.