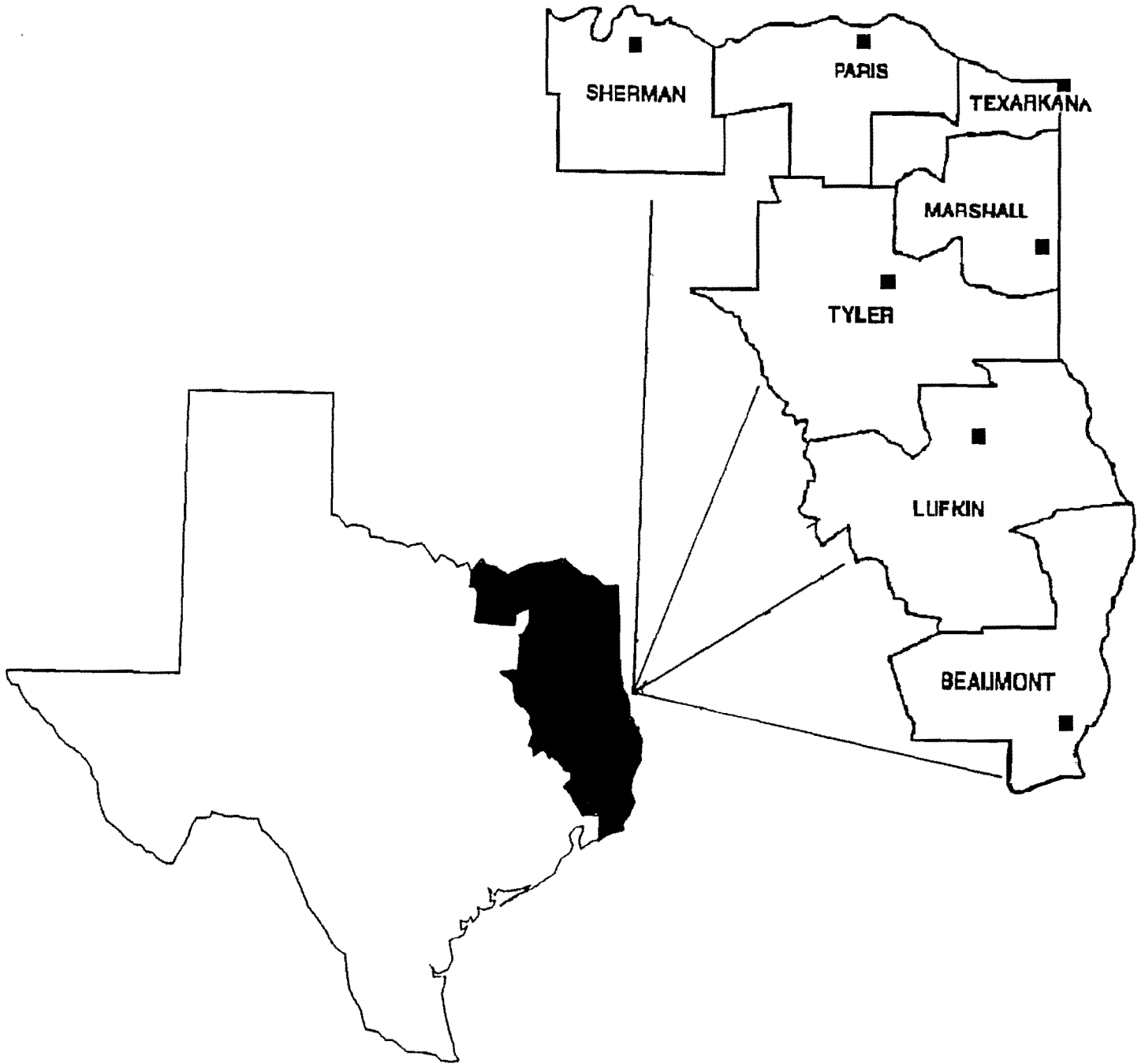


**REPORT OF THE ADVISORY GROUP
OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
APPOINTED UNDER
THE CIVIL JUSTICE REFORM ACT OF 1990**

OCTOBER 30, 1991

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**DETAIL OF GEOGRAPHICAL BOUNDARIES
AND DIVISIONAL COURT LOCATIONS OF
THE EASTERN DISTRICT OF TEXAS**

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LIST OF RECOMMENDATIONS

1. Local Rule 4(b) of the United States District Court for the Eastern District of Texas should be amended to require court ordered, standard interrogatories.
2. The United States District Court for the Eastern District of Texas should adopt local rules making Rule (16) conferences as authorized in the Federal Rules of Civil Procedure mandatory in most cases within 120 days of the filing of the first responsive pleading.
3. The United States District Court for the Eastern District of Texas should adopt local rules requiring prompt rulings on motions.
4. The United States District Court for the Eastern District of Texas should seek ways to make court appearances more efficient by eliminating unnecessary appearances and improving scheduling of appearances.
5. The United States District Court for the Eastern District of Texas should encourage the use of alternative dispute resolution, but should not make it mandatory.
6. Judicial officers of the United States District Court for the Eastern District of Texas should carefully scrutinize expert witnesses for the purpose of eliminating those that are redundant.
7. The United States District Court for the Eastern District of Texas should adopt local rules prohibiting speaking or coaching objections during the taking of depositions.
8. The United States District Court for the Eastern District of Texas should adopt procedures to expedite the resolution of discovery disputes.
9. The United States District Court for the Eastern District of Texas should not place a cap on contingency fees.

INTRODUCTION

In conformity with the Civil Justice Reform Act of 1990, hereinafter referred to as "the ACT," Chief Judge Robert M. Parker of the United States District Court for the Eastern District of Texas appointed an Advisory Group of sixteen lawyers and three nonlawyers in February of 1991.¹

The ACT places responsibility upon Advisory Groups of the United States District Courts for developing a plan "to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes."

The Advisory groups are required by Section 472(b) of Title 28 U.S.C., "to submit to the court a report which shall be made available to the public" and which shall include: an assessment of the state of the court's civil and criminal dockets; the basis for its recommendation either to develop a new plan or to select a model plan; recommended measures, rules and programs; and a discussion of the principles and guidelines of litigation management and cost and delay reduction which are detailed in Section 473.

The Advisory Group for the United States District Court, Eastern District of Texas was charged with the task of developing its own plan, making viable recommendations for case management designed to reduce both costs and delay in the litigation process in federal courts, and reporting to the Court its efforts toward fulfilling the challenge to become an Early Implementation District.

¹ See Appendix A for a brief biographical sketch of the Advisory Group members.

Beginning in March, the Advisory Group met monthly throughout the spring, summer and fall, extensively discussing the condition of the district's docket, and the causes of and remedies for excessive cost and delay in civil litigation in the district. At its final meetings prior to submitting this report, the Advisory Group discussed eight major recommendations pertaining to reducing cost and delay in civil litigation in the Eastern District of Texas. There were substantial differences of opinion on specific aspects of several of the recommendations or on the substance of some of the recommendations as a whole. The nine major recommendations listed in this report represent majority opinion of Advisory Group members present and voting on November 22, 1991. Statements throughout this report referring to beliefs or opinions of the Advisory Group should be interpreted as representing the views of the majority, and not necessarily a consensus. Dissenting comments by some Advisory Group members are provided in Appendix B.

It is the consensus of the members, supported by available statistical data, that the district does not have severe problems of delay in civil litigation except in asbestos cases. The very large number of these complex cases filed in the district distort its civil litigation case processing statistics. However, Advisory Group members identified several delay problem areas and recommend a number of reforms.

With respect to cost, it is the opinion of the Advisory Group that the blame for excessive costs must be widely shared. Certain orientations and practices of attorneys, judges, and litigants, as well as the increasing complexity of society and

issues, all are responsible for the high cost of litigation in the federal courts. However, members of the Advisory Group believe that most litigants in the Eastern District of Texas are spared the worst of the practices that contribute to excessive costs.

With this point made, members of the Advisory Group do believe that there is room for improvement in reducing costs. The principal recommendation of the Advisory Group is early judicial intervention for purposes of case management and discovery limitation. It is the opinion of the members of the Advisory Group that unbridled discovery and the appearance of "discovery specialists" is a major cause of the increased cost of litigation in the nation. The Advisory Group also recommends increased disclosure, more timely disposition of motions, and more efficient organization of court appearances, encouragement of alternative dispute resolution, elimination of redundant expert witnesses, limitation of objections during depositions, and adoption of procedures to simplify resolution of discovery disputes.

Description of the Court

The Eastern District of Texas encompasses a long strip of land, bordering Louisiana, that is bounded by Oklahoma on the north and the Gulf of Mexico on the south. According to the 1990 census, the populations of its major cities are Beaumont (114,323), Denton (66,270), Longview (70,311), Lufkin (30,206), Marshall (23,682), Nacogdoches (30,872), Orange (19,381), Paris (24,699), Plano (128,713), Port Arthur (58,724), Sherman (31,601), Texarkana (31,656), and Tyler (75,450). During the 1980's the population of the entire district increased 19% to a total of 2,292,232.

The economy of East Texas is diverse, with its most important industries being agriculture, forestry, oil and gas exploration and development, petro-chemical manufacturing, and tourism. Beaumont/Port Arthur at the southern end of the district is a center of the chemical industry and a port.

The pattern of civil litigation in the district is, of course, strongly influenced by the economy of the region and the other activities of its inhabitants. For example, the large number of asbestos cases that have clogged the court docket primarily arise out of the petro-chemical industry. The collapse of the Texas economy in the mid 1980's resulted in a large number of bankruptcies as well as criminal prosecutions for fraud involving financial institutions. The large number of prisoner cases reflect the fact that several state prisons and one federal prison are located in the district. Additional prisons will open in the near future. The district also expects a very substantial increase in the number of criminal cases.

The United States District Court for the Eastern District of Texas is classified as a metropolitan court and comprises seven Divisions², the composition of each division is as follows:

1. Tyler Division, headquarters for the district, comprising Anderson, Cherokee, Gregg, Henderson, Panola, Rains, Rusk, Smith, Van Zandt, and Wood counties.
2. Beaumont Division, comprising Hardin, Jasper, Jefferson, Liberty, Newton, and Orange counties.
3. Marshall Division, comprising the counties of Camp, Cass, Harrison, Marion, Morris, and Upshur.
4. Sherman Division, comprising Collin, Cook, Denton and Grayson counties.
5. Texarkana Division, comprising the counties of Bowie, Franklin and Titus.
6. Paris Division, comprising the counties of Delta, Fannin, Hopkins, Lamar and Red River.
7. Lufkin Division, comprising Angelina, Houston, Nacogdoches, Polk, Sabine, San Augustine, Shelby, Trinity and Tyler counties.

Presently there are seven district judgeships authorized by 28 U.S.C. § 133. Two additional senior active judges continue to serve, each carrying a full assignment of work.

Four full-time magistrate judgeships and two part-time magistrate judgeships are authorized by the Judicial Conference.

Special Statutory Status

The Eastern District of Texas has elected to be an Early Implementation District, and has so advised the Administrative Office.

²With the exception of the Lufkin division where court is held for those counties in both Lufkin and Tyler, court for each division is held at each divisional court location.

ASSESSMENT OF CONDITIONS IN THE DISTRICT

Condition of the Docket

In the 1990 edition of the "Federal Court Management Statistics," prepared by the Administrative Office of the U.S. Courts, the judicial work profile for the Eastern District of Texas, for a twelve-month period ending June 30, 1990, civil filings are shown to be 3,252 cases, a slight increase of 1.6% over civil filings in 1989 (see Appendix C). At the time of the preparation of that statistical material, this district was only authorized six district judgeships. One position has been added (28 U.S.C. § 133), but did not figure in the calculations shown in this particular statistical report. Procedures are presently underway to fill the seventh judicial position.

A comparison of the judicial work profile (see Appendix C) for the Eastern District of Texas with the national judicial workload profile shows the filings per judgeship to be 503 civil and 39 criminal felonies, compared with the national profile of 379 civil filings and 58 criminal felonies per judgeship. The pending cases for this period show 1,042 actions per judgeship for the Eastern District of Texas, compared with the national profile of 474 actions per judgeship. The unusually large number of pending actions is a direct result of the huge volume of multi-party cases, primarily asbestos, which have been filed in this district during the past decade. A more detailed commentary on the asbestos docket follows.

Weighted filings show 581 per judgeship in the Eastern District of Texas, with the national profile being 448 per judgeship. Terminations show 541 per

judgeship in the Eastern District of Texas, with the national profile being 423 per judgeship.

Trials completed in the Eastern District of Texas show 40 actions per judgeship, compared with the national profile of 36 actions per judgeship. Median time (months) from filing to disposition of civil cases is 10 months, compared with the national average of 9 months. Median times (months) from filing to disposition of criminal felonies is 5.6 months in the Eastern District of Texas, and 5.3 months for the national profile. From issue to trial, civil only, the Eastern District of Texas shows 11 months and the national profile shows 14 months.

A close analysis of the judicial workload profile will reflect that this district has been able to conduct its affairs in a very credible manner, although there are some peculiar problems deserving of further comment.

Trends in Filings

Referring once again to the judicial workload profile published by the Administrative Office, civil filings from 1985 through 1990 have been fairly constant. It is anticipated that civil filings will continue to show a very small percentage increase from year to year, unless, as is discussed elsewhere in this report, a complete collapse of the asbestos docket occurs. In that event, a sizeable reduction in filings should be anticipated. Criminal filings are expected to increase over the next few years, by as much as 40 to 50%.

Asbestos Cases. Asbestos cases have been a major factor in both caseload and docket management in the Eastern District of Texas for the past 10 years. The trial of one asbestos case consumes approximately two weeks. With filings

increasing monthly and cases accumulating on the pending roster at an increasing rate each year, by the mid-1980's the asbestos docket was approximately 2,500 cases. In 1987 alone, 1,121 new asbestos cases were filed in the district. (See figure 1 for asbestos filing trends.)

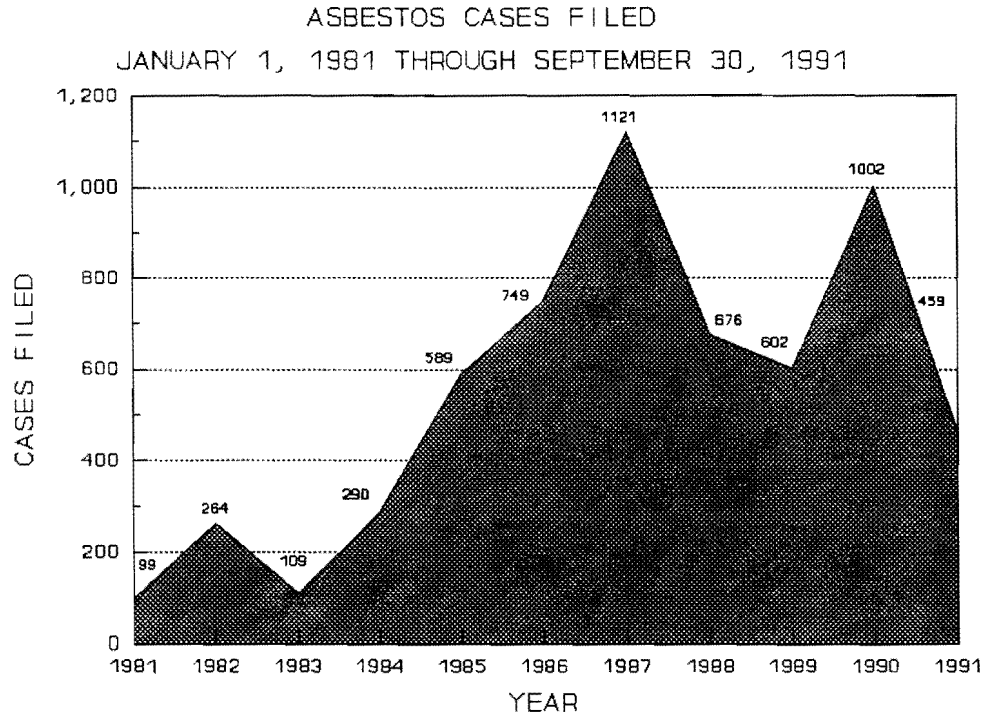


Figure 1

Chief Judge Robert M. Parker has initiated numerous innovative measures to manage this district's asbestos litigation, including the use of class actions, consolidations, alternate dispute resolution, and appointment of a Special Master. His efforts have resulted in several thousand judgments, including trials and settlements. One of his asbestos case-management projects, a civil action known as "Cimino," originally comprised of approximately 3,100 cases, was tried in the Beaumont Division during 1990, in stages, after nearly 800 cases were settled, the remainder were tried and are presently on appeal to the Fifth Circuit Court of

Appeals. If the appellate court should reverse and remand "Cimino" to the District Court, this large group of over 2,300 cases will require trial on the issue of damages.

In July of this year (1991), the Multi-District Litigation (MDL) Court ordered all pending asbestos cases in U.S. District Courts throughout the country, not on trial or appeal at the time of the order, be transferred to the Eastern District of Pennsylvania. The Eastern District of Texas transferred approximately 1,500 cases to the Pennsylvania court pursuant to that order. At the present time the case files remain in the Eastern District of Texas, with only the docket sheets being forwarded to the Pennsylvania court. As instruments are filed in the pending asbestos cases, they are docketed in the appropriate division in which they were initially filed, in the Eastern District of Texas, and then sent to the court in Eastern Pennsylvania. No action can be taken by the court in the Eastern District of Texas, with reference to these transferred cases, without a remand order from the court in Pennsylvania; however, the personnel in the Eastern District of Texas must docket and process the pleadings, motions, orders, etc. that are filed in these transferred cases. While it is not anticipated, the possibility exists that the 1,500 cases transferred by the MDL Panel could be remanded to the Eastern District of Texas for trial.

The effect of the "Cimino" and MDL actions upon the current status of asbestos cases in the Eastern District of Texas is that in less than a year the asbestos docket decreased by 3,800 cases. The approximately 600 remaining on

our docket are new filings for 1991, which by the end of the year will also be transferred by MDL to the court in Pennsylvania.

It is anticipated that there will be a rapid decline in filings of asbestos cases in the Eastern District of Texas. The current activity of the MDL Court and Judge Parker's success in consolidating and closely monitoring trial procedures, as in the "Cimino" action, have prompted those members of the Bar who confine their practice to multi-party (asbestos) litigation to file their new cases in state court rather than federal court. Should the Court in Eastern Pennsylvania remand the MDL cases for trial, or should the Fifth Circuit Court of Appeals reverse and remand the "Cimino" cases, the attraction of the federal court to the asbestos Bar would be immediately enhanced, and it is sound speculation to say that an immediate upsurge in asbestos case filings in this district would occur. With these two events being very speculative, asbestos cases presently are not a problem impacting upon case load per judge or time from filing to trial (see Appendix D).

Prisoner Cases. The Eastern District of Texas has also been innovative in case-management efforts with regard to prisoner litigation. Agreements and liaison work with the Texas Attorney General's staff and prison officials has facilitated service of summons, writs and orders and the scheduling and holding of Spears (Evidentiary) Hearings. Staff attorneys and Magistrate Judges work effectively in reviewing pleadings and preparing reports and recommendations prior to the cases being set for trial before the Judges. Prisoner case filings from July 1, 1990, to June 30, 1991, were 783. Case closings for the same period were 949. Prisoner cases pending September 30, 1991, were 615 (see Appendix D).

For a number of years the prisoner filings have remained consistently high in the Eastern District of Texas. This is attributable to the fact that there are five penal institutions located within the district. Three new state prison facilities are under construction. One, a 2,250-bed unit, is being constructed at Livingston. A 1,000-bed unit is being constructed at Rusk. In addition, a 2,550-bed unit is in the planning stage and will be constructed at Beaumont. A 3,000-bed federal unit is under construction at Beaumont. These four new units will add approximately 9,000 beds to the Eastern District of Texas. As a result of this huge increase in prisoner population, a marked increase in prison litigation is anticipated. Figure 2 shows the growth in state prison populations over the past ten years. The projected filing trends are shown in figure 3 on the following page.

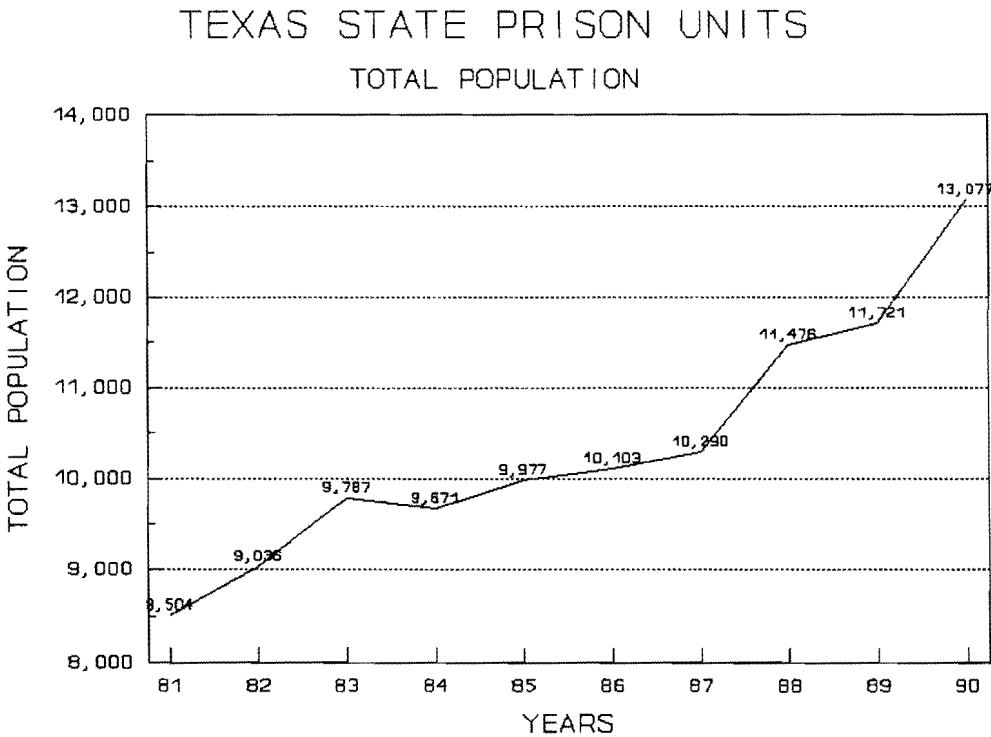
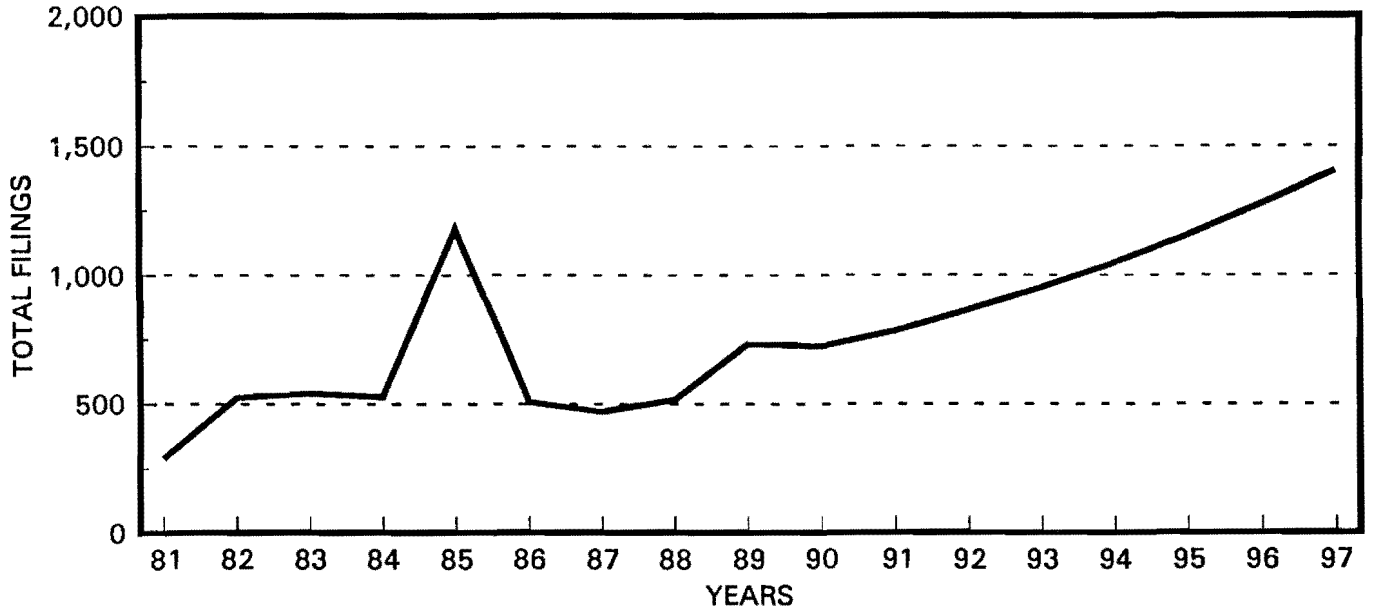


Figure 2

**PROJECTION OF PRISONER FILINGS
 BASED ON TREND OF 10.2% INCREASE
 1981- 1997**



* PROJECTIONS CALCULATED BY AVERAGING
 VARIANCES FROM 1987 TO 1991
 **BASED ON CURRENT PRISON UNITS

PROJECTION OF PRISONER FILINGS

	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97
TOTAL	291	522	451	527	1176	508	489	517	731	722	783	863	951	1049	1155	1273	1402
% CHANGE		79.4%	-13.6%	16.9%	123.1%	-56.9%	-7.7%	10.2%	41.4%	-1.2%	8.4%	10.2%	10.2%	10.2%	10.2%	10.2%	10.2%

*AVERAGE CHANGE OF 10.2%

Other Civil Filings. The filing of non-prisoner civil rights cases seems to be tapering off, with the main emphasis being directed to age discrimination cases. It is too early to assess the impact of the Civil Rights Act of 1991 on new filings. The recent Habeas Corpus Reform Act passed by Congress will reduce judge time on state habeas corpus petitions. Bar associations are predicting the next large caseload will be environmental actions involving refineries and their effect upon communities, industrial water pollution, soil contaminants and problems of that nature.

Criminal Filings. Criminal filings and closings in the Eastern District of Texas have doubled over the past three years, with increasingly greater emphasis being placed upon prosecution of drug offenders. Drug cases tend to have numerous defendants per case, which places an additional load on the Judges and on the resources of the Court. Companion suits seeking forfeiture of properties obtained with drug funds are also increasing.

While many elements were responsible for the current increase, the addition of a number of assistant United States Attorneys, along with substantial growth of federal agencies, will have a major impact on the future criminal caseload in the district.

In 1982, the U.S. Attorney had 11 assistants in the district, and the criminal caseload consisted of 184 cases, and 220 defendants. During the six-year period from 1982 to 1988, the U.S. Attorney's staff doubled, resulting in a dramatic increase in civil filings and a 16% increase in criminal filings. In 1989, cases filed against criminal defendants increased to 322 cases and 424 defendants, a 66%

rate of growth from 1988. Filings in 1990 were 299 cases, with 436 defendants. It is the opinion of the U.S. Attorney's office that the current caseload will remain steady through 1991 and then double by 1993.

While attorneys are needed to prosecute cases, investigators are needed to bring the evidence and findings forward. During the same period, between 1988 and 1990, when the criminal caseload grew substantially, federal law enforcement and investigative agencies expanded their presence in the district. The following table reflects that growth:

<u>Agency Staffing</u>	<u>1988</u>	<u>1990</u>	<u>1991</u>
ATF	0	5	8
FBI	19	23	29
Customs	6	7	8
DEA	4	5	6

Additionally, state, county and municipal law enforcement agencies have been given training on recognizing federal crimes that previously may not have been identified for prosecution. The assistance of state and local agencies basically creates an army of law enforcement officers trained to recognize federal offenses and notify the appropriate agency. As an incentive, proceeds from the assets seized from federal defendants are split between the federal government and the local organization making the initial arrest and investigation. These local agencies will greatly expand the coverage of law enforcement within the district.

The U.S. Attorney's office expects an increase in the identification of federal offenses in the area between Tyler and Beaumont after the new federal judge is sitting in Lufkin. (See Judgeships, below.) Their perception is that an increased

awareness and exposure to the federal courts and agencies will result in more federal crimes being prosecuted.

Until recently the prosecution of some federal crimes in Collin County in the Sherman Division were handled by the U.S. Attorney for the Northern District of Texas, mainly due to the proximity of Collin County to Dallas. A Plano office, staffed with two assistant attorneys, is now operational and will expand the role and caseload of the Sherman Division. Plano, with its rapid population growth, is the largest city in the Eastern District of Texas.

These major factors--the great increase in federal investigators for the district, the expansion and growth of both federal and local law enforcement agencies, and the evolution of teamwork between federal and local law enforcement--ensure the proposition that this district will continue to experience major growth in the criminal caseload. Figure 4 illustrates this growth pattern over the past ten years.

Criminal Docket
 Eastern District of Texas
 Cases and Defendants Filed by Calendar Year

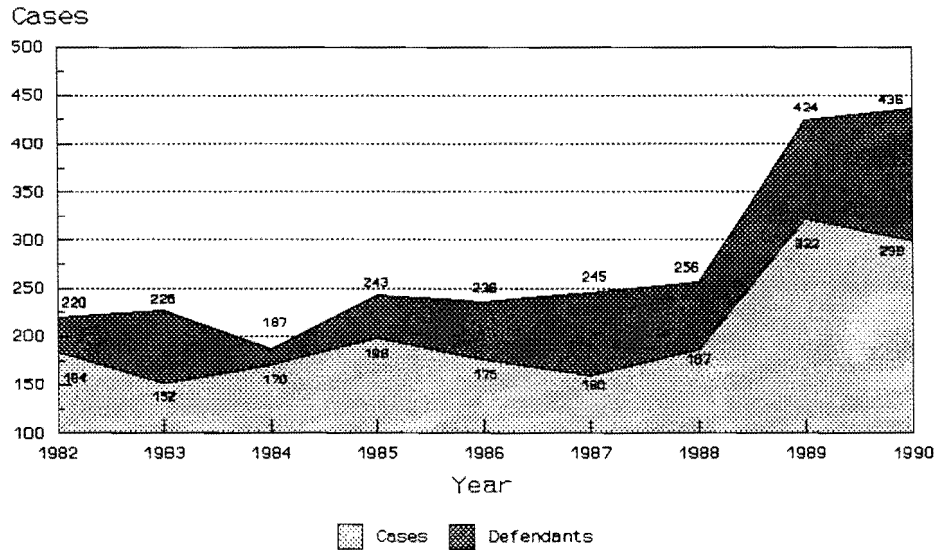


Figure 4

Court Resources

Judgeships. With the addition of the seventh district judgeship presently being filled, this district’s judgeship needs are adequately met. With the anticipated growth in criminal filings in the Sherman Division, there is a present need for a full-time magistrate judge position, which has been requested. The absence of a full-time magistrate judge position in Sherman has not seriously impacted on the court in the past, but a continued absence of such position could create a serious need and result in considerable inconveniences, if not additional cost and delay. Sherman, Texas, the site of the Sherman Division, is located 130 miles from the headquarters division at Tyler. With no full-time magistrate judge located at Sherman, with six Assistant U.S. Attorneys now located at Sherman and with a marked increase in criminal filings expected in that division, the need for a full-time magistrate judge becomes readily apparent.

Magistrate Judges. The Eastern District of Texas is currently served by four full-time magistrate judges and two part-time magistrate judges. Two of the magistrate judges are located in the Tyler headquarters office and two are located in the Beaumont Division. The part-time magistrate judges are located in the Texarkana and Sherman Division offices.

The magistrate judges in this district play an invaluable role in the Court's case management efforts. Under the authority of a General Order entered by the Court, the magistrate judges preside over both civil and criminal matters and exercise the full range of judicial authority provided under Title 28 USC §636. The growth in felony drug prosecutions has had a significant impact on the criminal workload of the magistrate judges in recent years, particularly in the Beaumont and Sherman Divisions. Preliminary proceedings in felony cases are handled by magistrate judges on a monthly rotational basis. The duties include the issuance of search and arrest warrants, appointment of attorneys, detention and suppression hearings, and extradition proceedings. The magistrate judges also preside over misdemeanor trials upon consent of the defendant.

For civil cases, the Court refers cases to the magistrate judges on a random basis. The district judges, in their discretion, determine which cases will be referred to a magistrate judge. In the Tyler and Beaumont Divisions, however, the district judges have issued standing referral orders with respect to prisoner and social security cases, whereby the cases are automatically referred to the magistrate judges upon the filing of the case.

The bulk of the civil cases referred involve prisoner issues, such as civil rights and habeas corpus. In a typical prisoner civil rights case, the magistrate judge will review the pleadings, conduct a *Spears* evidentiary hearing at a Texas Department of Corrections prison unit, if necessary, to obtain a better understanding of the prisoner's claims, and issue a report and recommendation to the district judge assigned to the case. The magistrate judges also preside over a number of consent cases, where the parties have agreed to allow the magistrate judge to preside over all facets of the case at the district court level. The caseload of the magistrate judges is expected to substantially increase in the future due to the anticipated growth in felony drug prosecutions and an increase in prisoner §1983 cases due to the completion of new prison facilities in the Eastern District of Texas.

Staff Attorneys. This district presently has three staff attorneys assigned to assist with the case management of the large volume of pro se prisoner filings. Two of the staff attorneys are located in the Tyler headquarters office and one staff attorney is located in the Beaumont Division office.

To meet the increased criminal workload, Public Defenders for the Eastern District of Texas, with two attorneys and staff to be based at the Beaumont Division and one attorney and staff to be based at the Tyler Division, have been approved and their employment is awaiting funding. A sizeable increase of the Probation Office staffing has also occurred as a result of the increased demands upon that office.

Clerk's Office. The Clerk's Office provides the court with support in managing the flow of litigation through scheduling and calendar control, in

providing space and facilities management, records management, statistical and accounting controls, personnel management and procurement of services and supplies. This office is now actively involved in automation management as well. In a brief period of two years, the Clerk's Office has converted from a manual docketing system to a fully-automated Integrated Case Management System. The rapid and recent implementation of the latest case management tools provides invaluable support resources, which will be enhanced by additional hardware and applications and continuing training and support through the automation staff. This transition has not been without its downside, however. The implementation of these systems created a considerable strain on the human resources within the Clerk's Office. During the process, deputies were not only responsible for their regular duties, which were demanding, but also learning the system and entering all the case information in all the pending cases. Automation of civil cases is complete now and criminal cases will be automated within the next six months. For the past several years the Clerk's Office has been staffed at less than 100% of its personnel allotment. This has not resulted in the work of the Court being neglected, but it has placed a more demanding burden on the Clerk's Office.

Space and Facilities. In November of 1990, this district hosted a three-day Space and Facilities review, headed by Walter G. Moon, Chief of Space and Projects Management Branch, Administrative Office of the U.S. Courts. After a very detailed study of the needs of this district, the concluding report indicated that every Division in the District, with the exception of Texarkana, is in dire need of additional space for the court and related federal agencies. The five-year, ten-year,

and thirty-year projections indicate that a building program to fill the current needs of the Eastern District of Texas, if funded at present-day dollar values, would require an investment of \$122,000,000. The new construction, if authorized, will be located at the Beaumont Division, the Tyler Division, the Marshall Division and the Sherman Division.

COST AND DELAY

Based on the foregoing examination of the condition of the docket in the Eastern District of Texas, the Advisory Group concludes that the district does not have severe delay problems, except in asbestos cases. The court has taken steps to solve the asbestos case problem, and these are expected to be successful.

Determining whether there are excessive costs in the district to litigants is a much more difficult matter. The short period in which the Advisory Group had to complete its business prevented any systematic data collection on the issue. However, there is ample evidence in the form of statements of the practicing attorneys on the committee that certain costs, especially those associated with discovery, have become excessive and that reform is necessary. Indeed, runaway discovery may be the single most important reason for excessive costs in civil litigation.

In considering the problems of cost and delay, the Advisory Group discussed the following issues and provides recommendations on each:

Disclosure

RECOMMENDATION #1: LOCAL RULE 4(b) OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHOULD BE AMENDED TO REQUIRE COURT-ORDERED, STANDARD INTERROGATORIES.

Most Advisory Group members believe that more disclosure is necessary. It was observed that parties often must spend inordinate time and expense discovering the basic facts and issues of the case. Obviously it is most efficient for the party possessing relevant information to furnish it. On the other hand, committee members are wary of disclosure proposals so extensive that fundamental properties of the adversary system would be lost.

Members of the Advisory Group believe that much cost and delay would be reduced through the use of court ordered, standard interrogatories to be filed by both parties within short time limits. In cases claiming personal injury, the plaintiff should submit a medical records authorization form as part of the plaintiff's response to court-ordered interrogatories. Court-ordered, standard interrogatories should be made part of the Local Rules of the Eastern District of Texas.

A proposed amendment to Local Rule 4(b) requiring answers to court ordered interrogatories and drafts of recommended interrogatories are provided in Appendix E.

Case Management and Scheduling

RECOMMENDATION #2: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHOULD ADOPT LOCAL RULES MAKING RULE 16 CONFERENCES MANDATORY IN MOST CASES WITHIN 120 DAYS OF FILING THE FIRST RESPONSIVE PLEADING.

A basic cause of cost and delay in litigation is the fundamental orientation of the courts and the legal profession, deeply imbedded in the American legal culture and adversary system, that leaves most of the important decisions concerning the conduct of law suits to the litigants' attorneys. It has been assumed that (1) the interests of a litigant and his or her attorney always coincide, (2) that professional norms and codes of responsibility are sufficient to prevent attorneys from exploiting their clients, and (3) that in the process of each party seeking to maximize its advantage, cases will be efficiently moved toward just conclusions.

There is cause to question, but not abandon all of these assumptions. First, the interests of attorneys and clients do not always coincide. It may be in the interests of any attorney to run up costs and fees or to delay disposition of a case at the expense of a client. This may occur out of economic self-interest or as a defensive measure. Attorneys are increasingly wary of disappointed clients as potential plaintiff's in malpractice lawsuits. This apprehension forces the expensive over preparation of cases as part of defensive law.

Second, few attorneys are sanctioned by either licensing bodies or the courts. These do not offer effective protection to clients for any but the most egregious professional abuses.

And finally, the massive dissatisfaction of the public with cost and delay in the courts is testimony enough that the engine of adversariness, as it has traditionally existed, is not adequate to efficiently move cases through the court system to just conclusions.

For these reasons, the majority of the members of the Advisory Group conclude that the role of the judge in the U.S. courts must be modified to include early judicial intervention and active case management.

The Advisory Group finds that U.S. district judges already have the authority to adopt a more active role but that it is not used frequently enough or extensively enough. Rule 16 of the Federal Rules of Civil Procedure authorizes the Court, in its discretion, to convene a scheduling conference for the purpose of expediting disposition, establishing judicial control, discouraging wasteful pretrial activities, encouraging better preparation for trial, and facilitating settlement.

The Advisory Group believes that the mandatory and effective use of Rule 16 conferences offers the best possibility of reducing cost and delay in the district. Such conferences will force parties to focus on and realistically assess their cases early in the process. It offers the opportunity to judicial officers to manage the case and to prevent excessive cost and delay. In particular, the committee encourages judicial officers to carefully scrutinize the number of depositions to be taken. In determining the scope and extent of discovery to be conducted in the

case, the court should seek to eliminate redundant and marginally relevant depositions and other discovery activities, and generally seek to minimize costs to the litigants, to the extent consistent with a just disposition of the case.

The Advisory Group proposes that a Rule 16 scheduling conference should be made mandatory by local rule for most cases. The conference should be held within 120 days of the first responsive pleading. The only cases which would be excluded from the requirement would be as follows:

- a. In forma Pauperis cases brought by prisoners;
- b. condemnation suits;
- c. cases in which the parties have agreed to alternative dispute resolution;
- d. cases in which the parties have agreed to severe limits on the number of depositions, number of expert witnesses, and time for case disposition.

Except for cases in the excluded categories, each party should be permitted no more than three depositions prior to the Rule 16 conference. Drafts of proposed Local Rules 4A and 4C establishing a mandatory scheduling conference and provision for the conduct thereof are attached as Appendix F. A proposed Appendix C to the Local Rules specifying the content of the scheduling order and a draft of the proposed scheduling order appears as Appendix G.

Prompt Responses to and Rulings on Motions

RECOMMENDATION #3: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS ADOPT LOCAL RULES TO REQUIRE PROMPT RULINGS ON DISPOSITIVE MOTIONS.

The Advisory Group believes that one of the greatest sources of delay and expense is the failure to rule promptly on motions which would dispose of preliminary evidentiary issues and other questions and to promptly rule on dispositive motions so as to eliminate claims and defenses on which the opposing party cannot demonstrate there is sufficient evidence or authority to submit the evidence to a jury.

Drafts of proposed amendments to Local Rules 6(e) and 6(g) pertaining to motions are included as Appendix H.

Court Appearance Practices

RECOMMENDATION #4: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHOULD SEEK WAYS TO MAKE COURT APPEARANCES MORE EFFICIENT BY ELIMINATING UNNECESSARY APPEARANCES AND IMPROVING SCHEDULING OF APPEARANCES.

Members of the Advisory Group believe that in some courts appearance practices requiring litigants' attorneys to be physically present hours before their case will be called, or when it will not be called at all, contribute to litigant costs. The committee suggests that the court investigate ways to eliminate unnecessary appearances at court and to improve scheduling of court appearances.

Alternative Dispute Resolution

RECOMMENDATION #5: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHOULD ENCOURAGE THE USE OF ALTERNATIVE DISPUTE RESOLUTION, BUT SHOULD NOT MAKE IT MANDATORY.

The members of the Advisory Group believe its use should be encouraged and it should be specifically considered at Rule 16 conferences. However, the members of the group do not favor compulsory ADR.

Expert Witnesses

RECOMMENDATION #6: JUDICIAL OFFICERS OF THE UNITED STATES DISTRICT COURT OF THE EASTERN DISTRICT OF TEXAS SHOULD CAREFULLY SCRUTINIZE EXPERT WITNESSES FOR THE PURPOSE OF ELIMINATING THOSE THAT ARE REDUNDANT.

Members of the Advisory Group agree that expert witness fees are high and sometimes outrageous. The committee did not see an effective way to solve this problem other than eliminating redundant experts. At the Rule 16 conference the judicial officer should carefully scrutinize the need for each proposed expert witness and eliminate those whose testimony will be redundant.

Objections During Depositions

RECOMMENDATION #7: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHOULD ADOPT LOCAL RULES PROHIBITING SPEAKING OR COACHING OBJECTIONS DURING THE TAKING OF DEPOSITIONS.

Any practice that slows or impedes the discovery process adds to the cost of litigation. The Advisory Group finds that some attorneys prolong and impede the efficient taking of depositions by constant objections. The members of the Advisory Group believe that local rules should be modified to prevent this abuse of the deposition process. Speaking or coaching objections during depositions should be prohibited.

Expedite Procedures for Resolving Discovery Disputes

RECOMMENDATION #8: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHOULD ADOPT PROCEDURES TO EXPEDITE THE RESOLUTION OF DISCOVERY DISPUTES.

The members of the Advisory Group believe that time and expense are wasted under current procedures for resolving discovery disputes. The process could be made more efficient by making it less formal through the use, for example, of telephone conferences or letter motions. The court should adopt procedures to expedite resolution of discovery disputes.

Cap on Attorneys' Contingency Fees

RECOMMENDATION #9: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHOULD NOT PLACE A CAP ON CONTINGENCY FEES.

The committee, having considered the issue of attorney fee caps at its April and May meetings, and again at its November meeting, feels constrained to make a recommendation on caps on attorneys' contingency fees. The members believe that any such cap is counterproductive to the interests of justice. A cap will not result in any reduction in time and undue expense. The members of the Advisory Group believe such a cap will do nothing but disadvantage clients who are unable to pay hourly fees.

Conclusions

Following the mandate of the Civil Justice Reform Act of 1990, the Advisory Group for the United States District Court for the Eastern District of Texas has assessed the condition of the criminal and civil dockets, has identified trends in case filings, and has identified the principal causes of cost and delay in the district.

The Advisory Group voted that the district should become an Early Implementation District and develop its own plan, rather than adopting a model plan.

The Advisory Group's recommendations address those issues mandated by the Act. Recommendation #1 requires cost effective disclosure through cooperative exchange of information between the parties. Recommendation #2 mandates early and ongoing judicial control of the pretrial process through involvement of a judicial officer in establishing the scheduling of the case, limiting the extent of discovery, setting deadlines for the filing and disposition of motions, investigating the possibility of settlement, identifying the principle issues, and encouraging alternative dispute resolution. Recommendation #3 more specifically suggests efficient disposition of motions. Recommendation #4 suggests more cost effective court appearance practices. Recommendation #5 encourages alternative dispute resolution. Recommendation #6 suggests elimination of redundant expert witnesses. Recommendation #7 suggests the more efficient taking of depositions. Recommendation #8 suggests more expeditious resolution of discovery disputes.

The Advisory Group believes that its recommendations will go far to address problems of excessive cost and delay as they exist in the district and that they should be incorporated into the district's plan.

APPENDICES

APPENDIX A

THE ADVISORY GROUP

Chairman: Tracy Crawford, of Ramey, Flock, Jeffus, Crawford, Harper & Collins law firm, Tyler, Texas

Members

Ronald H. Clark, of Henderson, Bryant & Wolfe law firm, Sherman, Texas (General Civil and Trial Practice, Insurance, Real Estate, Corporation, Probate, Taxation, Bankruptcy, Municipal and Oil & Gas Law)

Jim Coody, Center for Claims Resolution, Richardson, Texas (Representing Business Interest)

Timothy B. Garrigan, of Stuckey & Garrigan law firm, Nacogdoches, Texas (Constitutional, Civil Rights and Personal Injury Law)

J. Don Gordon, of Hynds & Gordon, P.C., law firm, Sherman, Texas (General Civil, Trial and Appellate Practice in State and Federal Courts. Real Estate, Oil & Gas, Probate, Family, Corporate, Tax, Estate Planning, Product Liability, Creditors' Rights, Banking, Negligence and Labor Law)

Michael Hodge, Assistant Attorney General, Chief, Criminal Law Enforcement Division, Austin, Texas, (State Government)

William M. Huffman, Huffman & Palmer law firm, Marshall, Texas (General and Civil, Corporation, Insurance, Negligence, Oil & Gas, Probate and Real Estate Law)

Franklin Jones, of Jones, Jones, Curry & Roth law firm, Marshall, Texas (General and Trial Practice, Negligence and Workers' Compensation Law)

James W. Knowles, of Wilson, Sheehy, Knowles, Robertson & Cornelius law firm, Tyler, Texas (General Civil and Trial Practice, Oil & Gas, Banking, Probate, Real Estate, Corporation, Bankruptcy, Taxation, Administrative, Insurance Defense and Personal Injury Law)

Gilbert I. Low, of Orgain, Bell & Tucker law firm, Beaumont, Texas (General Civil and Trial Practice, Corporation, Public Utilities, Oil & Gas, Probate, Real Estate, Federal & State Taxation, Labor Relations, Admiralty and Insurance Law)

John Nash, Chandler, Texas (Private Industry)

Peter J. Nelligan, Associate Professor & Chair, Department of Social Sciences, University of Texas at Tyler, Tyler, Texas (Academic Interests)

John W. Newton, III, of Orgain, Bell & Tucker law firm, Beaumont, Texas (General Civil and Trial Practice, Corporation, Public Utilities, Oil & Gas, Probate, Real Estate, Federal & State Taxation, Labor Relations, Admiralty and Insurance Law)

Hubert Oxford, III, of Benckenstein, Oxford & Johnson law firm, Beaumont, Texas (General Civil and Trial Practice, Admiralty, Municipal, Corporation, Administrative, Business, Estate Planning, Probate, Trusts, Insurance, Workers' Compensation and Real Estate Law)

John D. Rienstra, Jr. of Mehaffy & Weber law firm, Beaumont, Texas (General Civil and Trial Practice, Corporation, Probate, Family, Federal & State Taxation, Labor Relations, Insurance and Admiralty Law)

Curtis B. Stuckey, of Stuckey & Garrigan law firm, Nacogdoches, Texas (Constitutional, Civil Rights and Personal Injury Law)

Greg Thompson, of Umphrey, Eddins & Carver law firm, Beaumont, Texas (Asbestos Litigation)

Howard Waldrop, of Atchley, Russel, Waldrop & Hlavinka law firm, Texarkana, Texas (General Civil and Trial Practice, Insurance, Products Liability, Workers' Compensation, Probate, Hospital, Banking, Real Estate, Corporate and Federal Taxation Law)

Ruth H. Yeager, First Assistant United States Attorney and Chief of Civil Division, Tyler, Texas (Federal Government)

Ex-Officio Members:

Honorable Robert M. Parker, Chief Judge, U.S. District Court, Eastern District of Texas, Tyler, Texas.

Honorable Paul Brown, U.S. District Judge, Eastern District of Texas, Sherman, Texas.

Honorable Howell Cobb, U.S. District Judge, Eastern District of Texas, Beaumont, Texas.

Reporter:

Murray L. Harris, Clerk of Court, U.S. District Court, Eastern District of Texas, Tyler, Texas.

Assistant to the Chairman:

Ingrid S. Young

APPENDIX B

DISSENTS TO THE REPORT, IN WHOLE OR IN PART

CURT STUCKEY'S DISSENT

We have been charged with the task developing a plan designed to reduce costs and delay in the litigation process. I am, of course, in complete agreement with these objectives and I have no quarrel conceptually with any of the "List of Recommendations", except Recommendation No. 1. However, I disagree with the Advisory Group concerning how the recommendations are to be achieved because it is my view that implementation, as presently proposed by the Advisory Group, would only marginally decrease delay while actually increasing costs. Therefore, I respectfully dissent and urge the Court to reject the Report of the Advisory Group.

Discovery abuse is the core cause of unnecessary litigation costs. It is my view that the Federal Rules of Civil Procedure, Local Rules, and case law provide the Court with ample ammunition to stop discovery abuse. It is also my view that the Advisory Group's plan for dealing with discovery abuse, if implemented, would amount to throwing the baby out with the bath water without significantly decreasing costs. Specifically, it strikes me that it rarely serves the interest of justice to prohibit one party from taking the deposition of a witness who is listed by the other party as having knowledge of relevant facts. I am also fearful that the presumptive caps put on the number of depositions will frequently trigger time consuming satellite litigation.

It is my view that form interrogatories, including court ordered interrogatories, are a bad idea and will increase costs. Form interrogatories are prohibited by Local Rule in the Southern District of Illinois, presumably because the Court determined that same are not useful. Simply put, paper discovery can be most economically completed if tailored to the specific case. I am aware of no set of interrogatories that would be useful in every case. The form interrogatories (Appendix A-1) are over broad because they take a lot of time to answer and require the opposing party to provide me with a lot of information that I rarely want. I suggest that the form interrogatories be limited to the identification of witnesses with knowledge of relevant facts together with a brief summary of the facts that each witness had knowledge of, if the form interrogatories are to be used at all.

It is crystal clear that increasing the number of hearings before trial will increase litigation costs. The question is whether the utility of the hearings outweighs these increased costs. My life experience teaches me that pre-trial hearings, including Rule 16 conferences, are almost always a waste of time and I doubt that this will change, our good intentions notwithstanding. It is my view that costs will be substantially decreased if, absent a specific request, the attorneys' first appearance in court is at jury selection at which time the case is set for a time certain.

TIMOTHY B. GARRIGAN'S PARTIAL DISSENT FROM THE REPORT OF THE
ADVISORY GROUP

1. Dissent from Advisory Group Regarding Recommendation for
Disclosure/Standard Court Ordered Interrogatories

(a) I dissent from the Advisory Group's recommendation to require court ordered standard interrogatories for the following reasons:

(1) Instead of requiring counsel to focus on the case early during litigation, the concept of standardized court ordered interrogatories will have the opposite effect. Instead of counsel tailoring discovery for their cases, we will rely on the court ordered standardized form interrogatories.

(2) The concept of standardized court ordered interrogatories would reward lazy lawyering. Incompetent counsel would be hand fed enough information to practice in federal court, when in fact they are very poorly prepared.

(3) It will be impossible and hopelessly complex to formulate universally applicable standardized interrogatories appropriate for all cases. This is evidenced by the Advisory Group's inability to agree on proposed standard interrogatories. (See note at beginning of Appendix A-1).

(4) Because of vague, general answers and boilerplate groundless objections, interrogatories are often not an effective discovery tool. Given time, some lawyers will find artful ways to dodge even standardized court ordered interrogatories. Many of these problems will persist in the absence of the appropriate use of discovery sanctions.

(b) As an alternative to the Advisory Group's recommendation to require court ordered standard interrogatories, I would propose the following which will require counsel and the parties to focus on their case prior to trial:

(1) Simply order the parties to conduct and complete sufficient discovery to resolve all of the objectives, and address all subjects, contained in Rule 16 prior to the Case Management Conference, or be subject to sanctions pursuant to Rule 16(f).

(2) Limitations on the number of depositions (not more than 3?) conducted prior to the case management conference may be appropriate.

(3) An expedited procedure to deal with resistance to discovery may also be necessary to insure cooperation prior to the Case Management Conference.

2. Dissent From Advisory Group Recommendation Regarding Case Management and Scheduling

(a) I am in agreement regarding the concept of the Case Management Conference (CMC), assuming the parties can realistically prepare in 120 days. I dissent because the Advisory Group Report's proposed conference does not have sufficient teeth to effectively force counsel and parties to be prepared to consider the merits of their positions early on. I respectfully suggest that the following alternatives/additions (mostly derived from Rule 16) be made to the CMC agenda:

(1) The CMC shall be held at the courthouse. (This would impress parties and other non-attorneys present with the importance of the CMC);

(2) The Court shall review preliminary discovery to determine whether parties have meaningfully participated, and consider the imposition of sanctions, sua sponte, pursuant to Rule 16(f);

(3) Frivolous defenses and claims shall be eliminated;

(4) Disputed issues for trial shall be framed precisely;

(5) Stipulations of fact and admissibility of evidence shall be obtained to eliminate unnecessary discovery and trial preparation;

(6) All witnesses, fact and expert, shall be identified along with the substance of anticipated testimony so that redundant and cumulative witnesses can be excluded before depositions are taken;

(7) Anticipated additional depositions and discovery shall be disclosed and less costly alternatives considered

(8) Anticipated motions shall be disclosed and less costly alternatives explored;

(9) Each party shall realistically estimate and disclose the cost of each anticipated component of pre-trial preparation and trial; and

(10) There should be provisions for a definitive Case Management Memorandum to memorialize all conclusions reached at the CMC. Requiring counsel to produce a joint memorandum might facilitate settlement negotiations and early resolution.

Finally, I do not believe the parties, or counsel, should have the ability to delay or circumvent the CMC unless the Court is convinced all of the matters normally resolved at the CMC have in fact been resolved. (i.e. - any alternative dispute resolution should be completed prior to the CMC, otherwise it might become an instrument for delay.)

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy B. Garrigan', is written over a horizontal line. The signature is stylized and somewhat cursive.

Timothy B. Garrigan

APPENDIX C

JUDICIAL WORKLOAD PROFILE FOR THE EASTERN DISTRICT OF TEXAS FOR 12-MONTH PERIOD ENDING JUNE 30, 1990

TEXAS EASTERN		TWELVE MONTH PERIOD ENDED JUNE 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT		
		1990	1989	1988	1987	1986	1985			
OVERALL WORKLOAD STATISTICS	Filings*		3,252	3,200	3,219	3,471	3,006	3,242		
	Terminations		3,247	2,684	2,533	3,743	2,776	2,575		
	Pending		6,252	6,285	5,770	5,084	5,356	5,126		
	Percent Change In Total Filings Current Year		Over Last Year...	1.6						[2.5] [3]
			Over Earlier Years...		1.0	-6.3	8.2	.3		[15] [2]
	Number of Judgeships		6	6	6	6	6	6		
Vacant Judgeship Months		.0	.0	5.9	.0	4.2	32.6			
ACTIONS PER JUDGESHIP	FILINGS	Total	542	533	537	579	501	540	[16] [6]	
		Civil	503	488	512	550	479	512	[10] [3]	
		Criminal Felony	39	45	25	29	22	28	[7.2] [5]	
	Pending Cases		1,042	1,048	962	847	893	854	[1] [1]	
	Weighted Filings**		581	555	547	667	536	490	[9] [2]	
	Terminations		541	447	422	624	463	429	[9] [4]	
	Trials Completed		40	33	35	35	33	27	[32] [3]	
	MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	5.6	4.1	4.3	3.1	3.0	2.2	[48] [6]
Civil			10	14	11	22	15	16	[45] [4]	
From Issue to Trial (Civil Only)		11	10	9	7	10	11	[12] [1]		
OTHER	Number (and %) of Civil Cases Over 3 Years Old		1,917 31.3	1,242 20.3	768 13.5	369 7.3	926 17.5	773 16.0	[90] [8]	
	Triable Defendants** in Pending Criminal Cases Number (and %)		135 (60.0)	178 (63.6)	99 (61.1)	44 (35.2)	64 (58.2)	30 (36.6)		
	Jurors**	Avg. Present for Jury Selection	22.17	19.44	17.99	18.96	15.90	13.57	[13] [3]	
		Percent Not Selected or Challenged	26.7	26.9	25.0	32.8	23.7	24.9	[39] [4]	

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

1990 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	3020	54	79	722	55	46	69	283	1403	16	140	3	150
Criminal*	227	1	12	34	10	12	33	38	16	40	-	5	26

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

APPENDIX C (CONTINUED)

JUDICIAL WORKLOAD PROFILE FOR THE NATION FOR 12-MONTH PERIOD ENDING JUNE 30, 1990

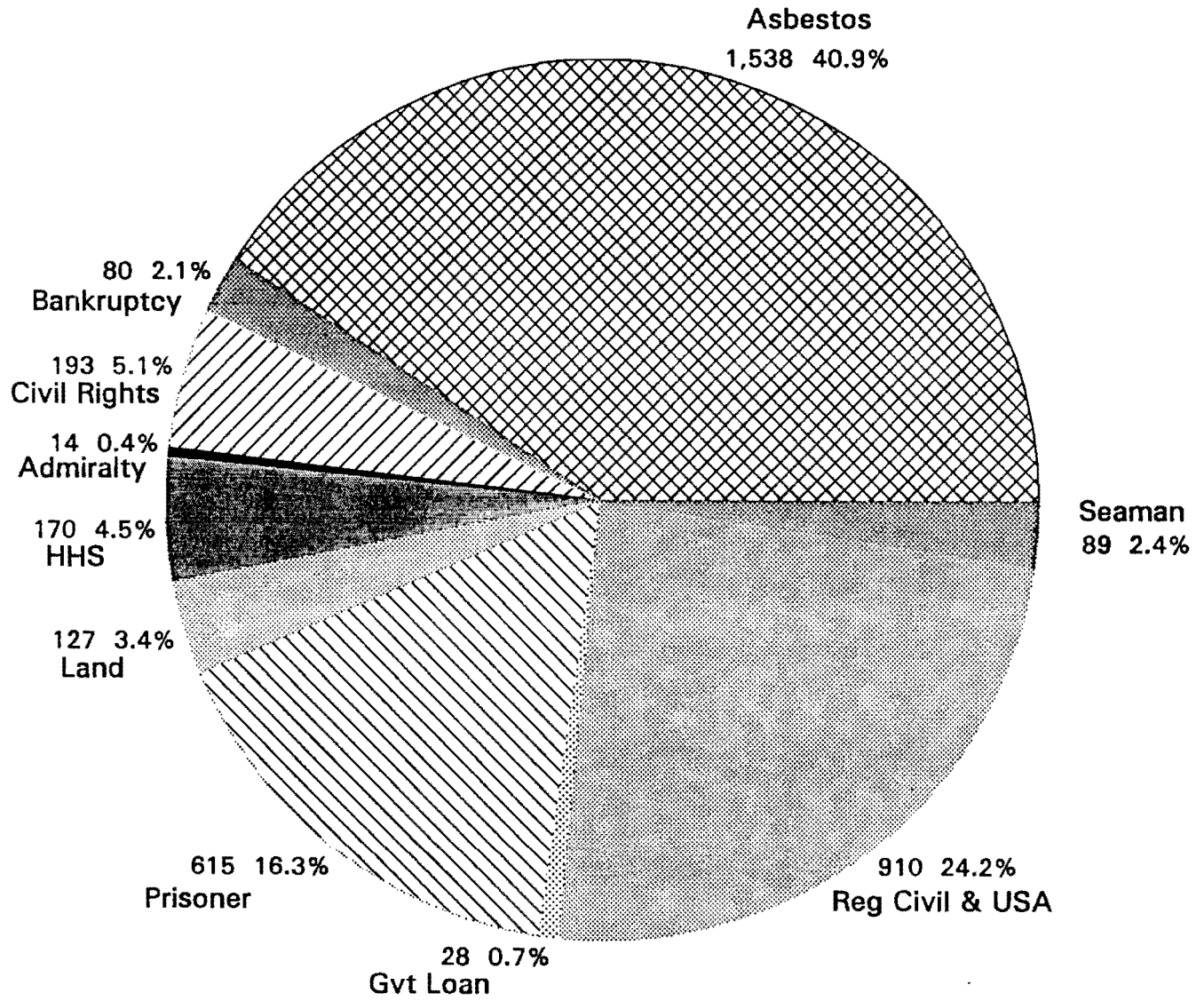
		ALL DISTRICT COURTS							
		1990	1989	1988	1987	1986	1985		
OVERALL WORKLOAD STATISTICS	Filings ¹	251,113	263,896	269,174	268,023	282,074	299,164		
	Terminations	243,512	262,806	265,916	265,727	292,092	293,545		
	Pending	272,636	265,035*	268,070	264,953	262,637	272,636		
	Percent Change in Total Filings - Current Year	Over Last Year ▶	-4.8						
		Over Earlier Years ▶			-6.7	-6.3	-11.0	-16.1	
	Number of Judgeships		575	575	575	575	575	575	
Vacant Judgeship Months		540.1	374.1	485.2	483.4	657.9	883.8		
ACTIONS PER JUDGESHIP	FILINGS	Total	437	459	467	466	491	520	
		Civil	379	406	417	416	444	476	
		Criminal Felony	58	53	51	50	47	44	
	Pending Cases		474	461*	466	461	457	474	
	Weighted Filings		448	466	467	461	461	453	
	Terminations		423	457	462	462	508	511	
	Trials Completed		36	35	35	35	35	36	
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	5.3	5.0	4.3	4.1	3.9	3.7	
		Civil	9	9	9	9	9	9	
	From Issue to Trial (Civil Only)		14	14	14	14	14	14	
OTHER	Number (and %) of Civil Cases Over 3 Years Old		25,207 (10.4)	22,391 (9.2)	21,487 (8.8)	19,782 (8.1)	19,252 (7.9)	16,726 (6.6)	
	Triable Defendants in Pending Criminal Felony Cases Number (and %)		20,544 (43.6)	18,084 (43.2)	17,349 (46.2)	16,408 (49.3)	14,171 (44.1)	12,301 (42.9)	
	Jurors	Present for Jury Selection		35.84	35.89	32.7	31.1	32.0	32.0
		% Not Selected, Serving, or Challenged		34.2	35.8	33.7	32.1	34.3	34.8

1990 CIVIL AND FELONY FILINGS BY NATURE OF SUIT AND OFFENSE			
TOTAL CIVIL		TOTAL CRIMINAL FELONY ¹	
A-Social Security	7,439	A-Immigration	2,180
B-Recovery of Overpayments and Enforcement of Judgments	10,878	B-Embezzlement	1,653
C-Prisoner Petitions	42,630	C-Weapons and Firearms	2,582
D-Forfeitures and Penalties and Tax Suits	8,797	D-Escape	777
E-Real Property	9,505	E-Burglary and Larceny	1,819
F-Labor Suits	13,841	F-Marihuana and Controlled Substances	3,427
G-Contracts	35,161	G-Narcotics	7,229
H-Torts	43,759	H-Forgery and Counterfeiting	1,280
I-Copyright, Patent, and Trademark	5,700	I-Fraud	6,508
J-Civil Rights	18,793	J-Homicide and Assault	583
K-Antitrust	472	K-Robbery	1,379
L-All Other Civil	20,904	L-All Other Criminal Felony Cases	2,981

¹Filings in the "Overall Workload Statistics" section include criminal felony transfers, while filings "by nature of offense" do not.

APPENDIX D

CATEGORIES OF PENDING CIVIL CASES EASTERN DISTRICT OF TEXAS SEPTEMBER 30, 1991



APPENDIX E

AMENDMENT TO LOCAL RULE 4(b) OF THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS

Local Rule 4(b) shall be amended by the addition of the following paragraphs:

(4) Within thirty (30) days of the filing of the first responsive pleading by each defendant, or third party defendant, the plaintiff, or third party plaintiff, shall serve on all counsel of record, the following:

- a. Answers to the Court ordered interrogatories, set out in Appendix A-1 of the local rules. Answers shall be made in accordance with the Federal Rules of Civil Procedure, and shall be verified by the plaintiff or third party plaintiff, filing same.
- b. If there is a claim for damages for a personal injury, each plaintiff, or third party plaintiff, shall serve on counsel for defendant, or third party defendant, a medical records authorization in the form set out in Appendix A-2.

5. Within thirty (30) days of filing the first responsive pleading by a defendant, or third party defendant, such defendant, or third party defendant, shall serve on all counsel of record, the following:

- a. Answers to the Court ordered interrogatories, set out in Appendix B of the local rules. Answers shall be made in accordance with the Federal Rules of Civil Procedure, and shall be verified by the defendant or third party defendant.

6. Within forty-five (45) days after the filing of a first responsive pleading, the attorneys for the parties shall confer and file a joint proposal for contents of a scheduling order containing the information set out in Appendix C of the local rules. If extenuating circumstances exist at that time, the Court should be advised.

NOTE: PRESENTED BELOW IS THE ADVISORY GROUP'S PRELIMINARY DRAFT OF COURT-ORDERED INTERROGATORIES TO THE PLAINTIFF AND DEFENDANT. THIS IS A DRAFT ONLY AND WILL BE REFINED BY THE ADVISORY GROUP IF THE COURT WISHES.

**APPENDIX A-1
TO
LOCAL RULES OF THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

INTERROGATORIES TO PLAINTIFF

1. Please state your full name and each other name, married name and nickname by which you have been known in the past.

a. Present full name;

b. All other names, married names and nicknames you have ever used:

ANSWER:

2. Please state your date and place of birth.

ANSWER:

3. Please state the full street address of your present residence.

ANSWER:

4. Please state the name and address of each of your present employers and the name of your immediate supervisors.

ANSWER:

5. Please state the name and address of each person or business entity by which you have been employed since January 1, 1980, and state the type of employment you had with each employer.

ANSWER:

(INTERROGATORIES 6-8 ARE TO BE ANSWERED WHEN PLAINTIFF IS A CORPORATION).

6. Please state the correct corporate name, charter number, business address, and phone number of Plaintiff corporation.

ANSWER:

7. Please state the names and addresses of the President and the Secretary of Plaintiff corporation.

ANSWER:

8. Please state the name and address of the shareholders of Plaintiff corporation. If there are more than fifteen (15) please indicate and list the names and addresses of the fifteen largest shareholders.

ANSWER:

9. Please state the name, address, and phone number of each person who was a witness to any of the events described in Plaintiff's Complaint, and for each witness please state the events that person witnessed or may have witnessed.

ANSWER:

10. If you have any knowledge, either directly or indirectly, of any statement or admission of any kind, of a defendant, or any agent, representative, or employee of defendant, which might be relevant in any way to this lawsuit, please state the nature of each such admission, identify each person who allegedly made such admission, and all persons who heard or may have been in a position to hear such admission. If the statement or admission is in writing or recorded electronically, or by any means, attach a copy of it to your answer to these interrogatories.

ANSWER:

11. If this action involves or includes a claim relating to the claimed defect in the design, manufacture, labeling or warning, in connection with the use of a product, state:

a. The name(s), current address(es), and telephone number(s) of the designer and manufacturer of the product;

b. The name(s), current address(es), and telephone number(s) of any person or entities who sold, distributed, or used the product made the subject of Plaintiff's claim;

c. The dates you sold, distributed, purchased, installed, or initially placed the product in use; and

d. If you did not initially place the product in use, the name, current address and telephone number of the person or entity who did, and the date it was initially placed in use.

ANSWER:

12. Please state the full name and current address of each doctor, chiropractor, psychologist, psychiatrist, and other practitioner of a healing art by whom you have been treated as a result of the events described in Plaintiff's Original Complaint and state the amount of expense incurred with each.

ANSWER:

13. If you have ever had any other claim or lawsuit against any person, firm, company, or governmental entity for injuries, violation of rights, or damages, please state the date such claim or suit was brought, the full name and address of the person, firm, governmental entity, or company against whom the claim or lawsuit was brought, and the county and number of the court in which each claim or lawsuit was brought.

ANSWER:

(USED FOR EACH MINOR PLAINTIFF)

14. Please state the following information concerning each minor Plaintiff and minor for whose benefit suit is being brought:

a. Present full name: _____

b. Date of birth: _____

c. Place of birth: _____

d. Full street address of minor's present residence:

e. Name, address, and phone number of each of minor's natural parents, guardians, and adoptive parents:

15. Please state the full name and current address of each doctor, chiropractor, psychologist, psychiatrist, and other practitioner of a healing art by whom each minor has been treated as a result of the events described in Plaintiff's Original Complaint.

ANSWER:

(INTERROGATORIES 16-21 ARE TO BE ANSWERED IN DEATH CASES)

16. Please state the name, date of birth, place of birth, current address and social security number of each natural born child, adopted child, and step-child of each deceased.

ANSWER:

17. Please state the name, date of birth, current address, and social security number of each parent, step-parent, and/or adoptive parent of each deceased.

ANSWER:

18. Please state the name, date of birth, place of birth, current address, and social security number of each (woman/man) to whom each deceased has been previously married, either ceremonial, or by common-law. For each such person, please state the date of divorce and the cause number and county of the court in which the divorce was granted.

ANSWER:

19. Please state the name, date of birth, place of birth, current address, and social security number of each legal heir of each deceased.

ANSWER:

20. Please state whether or not each deceased died testate. If so, please attach a copy of the Last Will and Testament of each deceased.

ANSWER:

21. Has an administrator or administratrix been appointed for the estate of each deceased? If so, please state that person's name and address. If not, please state why not.

ANSWER:

22. Please describe every settlement, guaranty, hold harmless agreement, or other agreement, deal, or understanding of any kind, with any other person, firm, corporation, or party, whatsoever regarding the handling of, defense of, prosecution of, or settlement of this lawsuit (verbal, written or otherwise), including, but not limited to, "Mary Carter" agreements. This interrogatory seeks, but is not limited to, information concerning agreements or understandings of any kind whatsoever, including past, present and future settlements, deals, agreements, undertakings and conduct, by or between you and any person or entity whatsoever.

ANSWER:

23. State the name and address of each person, corporation, or other entity not presently a party to this action, who is a potential party or should be joined as a party to this action.

ANSWER:

24. Pursuant to Federal Rules of Civil Procedure 26, please state the name, address, and telephone number of every potential party and of every person who has knowledge of any discoverable matter, who has not been named in answer to a previous Interrogatory. For each person named, please state generally the facts or other discoverable matter concerning which the person has knowledge of.

ANSWER:

APPENDIX A-2

MEDICAL AUTHORIZATION

TO: All hospitals, physicians, psychological and psychiatric clinics, laboratories, and any other installation possessing medical, psychiatric or psychological information or knowledge concerning _____.

You are hereby authorized to permit any representative of the law firm of _____ to inspect and/or copy any and all records you have in your possession pertaining to the physical condition or treatment of the below signed patient, including said patient's present condition and past medical history.

Further, you are specifically authorized to provide a copy of any and all records or documents, that are otherwise protected for confidentiality by state or federal law, including but not limited to, Texas Rules of Evidence 509 (Physician/ Patient Information) and in Article 4495B, Section 5.08 of the Medical Health Practice Act; in Article 5561h, Section 4 of the Mental Health Code; Federal Regulation 42CFR Part II, Drug Rehabilitation, Alcohol Rehabilitation, Psychiatric and Psychological Treatment, Mental Health, and Mental Illness Records and Information. Any person, firm or entity that releases matters pursuant to this Authorization is hereby absolved from any liability that might otherwise result from the release of these matters.

This Authorization is intended to encompass all medical information of whatever nature, including any and all reports, references, results, testing or treatment concerning HIV (AIDS) antibodies virus.

A copy of this Authorization shall be as effective as the original. All blank spaces on this Authorization were filled in before I signed the same.

Any and all claims which the undersigned might be entitled to assert on account of the disclosure of information authorized by this release are hereby waived and released.

MY NAME PRINTED OR TYPED:

SOCIAL SECURITY NUMBER:

DATE OF BIRTH:

DATE OF THIS AUTHORIZATION:

I, the undersigned attorney for the person whose signature appears above, hereby approve the foregoing Authorization, with the stipulation that if I so request, a copy of all records obtained by this Authorization shall be furnished to me.

ATTORNEY'S NAME PRINTED OR TYPED:

ATTORNEY'S ADDRESS:

PHONE NUMBER:

**APPENDIX B
TO
LOCAL RULES OF THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

INTERROGATORIES TO DEFENDANT

1. Please state your full name and each other name, married name and nickname by which you have been known in the past.

a. Present full name;

b. All other names, married names and nicknames you have ever used:

ANSWER:

2. Please state your date and place of birth.

ANSWER:

3. Please state the full street address of your present residence.

ANSWER:

4. Please state the name and address of each of your present employers and the name of your immediate supervisors:

ANSWER:

(INTERROGATORIES 5-7 ARE TO BE ANSWERED WHEN DEFENDANT IS A CORPORATION).

5. Please state the correct corporate name, charter number, business address, and phone number of Defendant corporation.

ANSWER:

6. Please state the names and addresses of the President and the Secretary of Defendant corporation.

ANSWER:

7. Please state the name and address of the shareholders of Defendant corporation. If there are more than fifteen (15) please indicate and list the names and addresses of the fifteen largest shareholders.

ANSWER:

8. Please state the name, address, and phone number of each person who was a witness to any of the events described in Plaintiff's Complaint, and for each witness please state the events that person witnessed or may have witnessed.

ANSWER:

9. If this action involves or includes a claim relating to the claimed defect in the design, manufacture, labeling or warning, in connection with the use of a product, state:

a. The name(s), current address(es), and telephone number(s) of the designer and manufacturer of the product;

b. The name(s), current address(es), and telephone number(s) of any person or entities who sold, distributed, or used the product made the subject of Plaintiff's claim;

c. The dates you sold, distributed, purchased, installed, or initially placed the product in use; and

d. If you did not initially place the product in use, the name, current address and telephone number of the person or entity who did, and the date it was initially placed in use.

ANSWER:

10. If you have any knowledge, either directly or indirectly, of any statement or admission of any kind, of a defendant, or any agent, representative, or employee of defendant, which might be relevant in any way to this lawsuit, please state the nature of each such admission, identify each person who allegedly made such admission, and all persons who heard or may have been in a position to hear such admission. If the statement or admission is in writing or recorded electronically, or by any means, attach a copy of it to your answer to these interrogatories.

ANSWER:

11. Does the Defendant have any policy of liability insurance, or other insurance, which insures or might insure, the Defendant from liability which may be assessed as a result of this suit?

ANSWER:

12. If your answer to the previous interrogatory is in the affirmative, then please state the name of each insurance company who has issued such an insurance policy, the number of such policy, the beginning and ending dates of coverage of each policy, and the amount of coverage afforded by such policy, and attach to your answers to these interrogatories, a copy of each such policy.

ANSWER:

13. Please describe every settlement, guaranty, hold harmless agreement, or other agreement, deal, or understanding of any kind, with any other person, firm, corporation, or party, whatsoever regarding the handling of, defense of, prosecution of, or settlement of this lawsuit (verbal, written or otherwise), including, but not limited to, "Mary Carter" agreements. This interrogatory seeks, but is not limited to, information concerning agreements or understandings of any kind whatsoever, including past, present and future settlements, deals, agreements, undertakings and conduct, by or between you and any person or entity whatsoever.

ANSWER:

14. State the name and address of each person, corporation, or other entity not presently a party to this action, who is a potential party or should be joined as a party to this action.

ANSWER:

15. Pursuant to Federal Rules of Civil Procedure 26, please state the name, address, and telephone number of every potential party and of every person who has knowledge of any discoverable matter, who has not been named in answer to a previous Interrogatory. For each person named, please state generally the facts or other discoverable matter concerning which the person has knowledge of.

ANSWER:

APPENDIX F
AMENDMENT
TO
LOCAL RULES OF THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

The local rules of the Eastern District of Texas are amended by the addition of the following **Rule 4A**:

(1) Pursuant to the provisions of Federal Rules of Civil Procedure 16 and 26(f), a scheduling conference will be had within 120 days after the filing of the first responsive pleading. Each individual plaintiff, each individual defendant, a representative of each business entity and each governmental entity which is named as a party in the suit, and the respective attorneys for each of the parties shall attend such conference. In case of business entities, or claims covered by insurance, the person attending shall be a person with authority to approve costs of litigation and settlement. In the case of self-insured governmental entities, the person attending shall be the chief executive officer of the governmental entity, or of the department being sued, or a designated representative with authority to recommend settlement to the governing body. In the case of a governmental entity with insurance, the person attending shall be a person with authority to approve costs of litigation and settlement.

(2) Prior to the scheduling conference, the attorneys shall have conferred about, and filed, a joint proposal for contents of a scheduling order as required by Rule 4(b)(6). Counsel for each party shall have informed their respective clients about their duties and responsibilities under the Texas Lawyer's Creed.

(3) At the scheduling conference, which at the discretion of the Court, may be held in open court, in chambers, or by teleconference, the court shall:

- a. Resolve any parts of the scheduling order which have not been agreed to, and determine the scheduling order to be entered to govern disposition of the case;
- b. Discuss with the parties, the representatives, and attorneys, the feasibility of alternative dispute resolution;
- c. Obtain from the attorneys and the parties an estimate of the extent and cost of discovery they believe necessary for the disposition of the case;
- d. Discuss with the attorneys and the parties the list of all anticipated witnesses, both fact and expert, and the anticipated subject matter of their testimony. If it appears to the Court that a party has identified an excessive number of fact or expert witnesses, that party may be required to discuss why such witnesses are not cumulative or unnecessary.

Failure to be prepared for this conference will result in the imposition of sanctions pursuant to Rule 16(f).

(4) A scheduling conference will not be held, except upon order of the Court, in the following cases:

- a. In forma pauperis cases brought by prisoners;
- b. Condemnation suits;
- c. Cases in which no responsive pleading has been filed;
- d. Cases in which the parties have agreed to alternative dispute resolution prior to the date set for the scheduling conference. The District Clerk shall be notified of the date on which the Alternative Dispute Resolution is scheduled, and the scheduling conference will be postponed until after the Alternative Dispute Resolution is completed. Counsel for all parties have the duty to notify the Court as to whether the Alternative Dispute Resolution is successful or unsuccessful. If unsuccessful, the Court will set a date for the Scheduling Conference.

- e. Cases in which the parties have agreed that a scheduling conference is not necessary, and have filed a Joint Proposal for a Scheduling Order which limits the parties to a total of five (5) depositions for each party; limits the parties to two (2) expert witnesses for each party; and provides that all actions required under the Pretrial Order shall have occurred within 12 months after filing of the Complaint. The proposal must be signed by counsel for all parties, and by each person who would have attended the scheduling conference pursuant to paragraph 1 of this Rule.
- (5) Following the pre-trial conference, or following the receipt of the scheduling order agreeing that no scheduling conference need be held pursuant to paragraph 4(e), the Court will issue a scheduling order in the form contained in Appendix D to the local rules.

**AMENDMENT
TO
LOCAL RULES OF THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

The local rules of the Eastern District of Texas are amended by the addition of the following **Rule 4C**:

Except for good cause shown, the plaintiffs collectively, and the defendants collectively, shall each take the depositions of no more than 3 witnesses (inclusive of parties) prior to the scheduling conference held in accordance with rule 4A. At the scheduling conference, pursuant to Rule 4A, the parties shall identify the depositions they intend to take after the scheduling conference. The Court shall determine the number of additional depositions to be allowed considering the agreement of the attorneys and the parties, the issues in the case, and the reasons stated by the attorneys for each party to take such depositions.

COMMITTEE NOTE: The Court is encouraged to carefully scrutinize the number of depositions to be taken. In determining the scope and extent of discovery to be conducted in the case, the Court shall seek to eliminate redundant and marginally relevant depositions and other discovery activities, and generally seek to minimize costs to the litigants, to the extent consistent with a just disposition of the case.

APPENDIX G

APPENDIX C TO LOCAL RULES OF THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS

1. Pursuant to Local Rule 4, the parties shall confer and file a joint proposal for a scheduling order which contains the following:
 - a. A proposed time limit to join other parties;
 - b. A list of proposed expert witnesses for each party;
 - c. A proposed time limit to designate additional expert witnesses;
 - d. A proposed limit on the number of expert witnesses;
 - e. A list of anticipated fact witnesses to be called by any party. (This may not be the final list of witnesses actually called by any party, but the list will be considered by the Court in determining limitations on discovery pursuant to Rule 4a and 4c.)
 - f. Limitations on discovery, including:
 1. A time limit to complete discovery;
 2. A proposed limit on the number of depositions as set out in Local Rule 4c;
 3. Any proposed limit on additional discovery.
 - g. A proposed time limit to amend the pleadings;
 - h. A proposed time limit to file dispositive motions;
 - i. A proposed time limit to file a joint pre-trial order;
 - j. An estimate of the cost of discovery to be incurred by each party;

- k. An acknowledgement that an offer of judgment under Rule 68 has been considered and that alternative dispute resolution has been considered; and
- l. An acknowledgement that counsel have informed their respective clients about the requirements of the Texas Lawyer's Creed; and
- m. Any other proposals pertaining to scheduling and discovery that the parties believe will facilitate expeditious and orderly preparation of this case for trial.

2. The attorney for plaintiff is responsible for initiating contact with opposing counsel for the purpose of preparing the proposal, but lead counsel for all parties are equally responsible for seeing that the proposal is timely filed. At least one attorney for each party shall sign the proposal prior to filing.

3. If counsel cannot agree on a particular recommendation, the proposal shall set forth each party's recommendation and state why an agreed proposal could not be reached. Rule 16(b) Fed. R. Civ. P. provides that a scheduling order shall be issued no later than 120 days after filing of the complaint. Therefore, any request for an extension of time to file the proposal will be denied absent a showing of good cause.

**APPENDIX D
TO
LOCAL RULES OF THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

At or following the scheduling conference required by Local Rule 4A, the Court will issue a scheduling order in the following format:

SCHEDULING ORDER

Pursuant to Fed. R. Civ. P. 16, the following order is now entered which will govern the preparation of this case for trial. The scheduling deadlines contained in this order have been established by the Court after conferring with counsel in an effort to ensure that all necessary pre-trial activities will be completed at the time the case is called for trial.

Pending motions will not be considered grounds for failure to comply with the Court's scheduling deadlines or for failure to be prepared for trial.

In consideration of the foregoing, it is hereby ORDERED that:

(1) Motions to implead third parties or join additional parties pursuant to Fed. R. Civ. P. 14 or 19, respectively, shall be made by 5:00 p.m. on _____.

(2) Each party shall furnish to the other party the identity of each person whom the party expects to call as an expert witness at trial, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. Each party shall also furnish copies of all materials reviewed by, or prepared by, each expert or under his or her direction in connection with the case including statements, drawings, computer printouts, letters, memoranda, photographs and reports. (Materials such as very large maps, plats, movies, video recordings, and x-rays, which are difficult to copy, shall be made available for inspection at the office of the attorney for the party employing such expert, and copies shall be provided to opposing counsel, upon the agreement of opposing counsel to pay reasonable cost of reproduction. Reproduction cost shall be the

actual reproduction cost using economical methods, and shall not include components of profit or billable time for the party's attorney.)

- a. Plaintiff shall identify no more than _____ expert witnesses. Defendant shall identify no more than _____ expert witnesses.
- b. Plaintiff(s) shall furnish such information to Defendant(s) by not later than _____.
- c. Defendant(s) shall furnish such information to Plaintiff(s) by not later than _____.

(3) Plaintiff(s) may take _____ depositions. Defendant(s) make take _____ depositions.

(4) All discovery in this cause shall be completed by _____.

Discovery sought pursuant to Federal Rules of Civil Procedure 33, 34 or 36 shall be served at least 30 days prior to the date discovery is to be completed. The Court will refuse to entertain any motion to compel discovery filed after the date of this Order unless the movant advises the Court within the body of the motion that counsel for the parties have first conferred in a good faith attempt to resolve the matter. See Eastern District of Texas Local Court Rule 6(h).

(5) All motions to amend pleadings by Plaintiff(s) shall be filed by 5:00 p.m. on _____.

All motions to amend pleadings by Defendant(s) shall be filed by 5:00 p.m. on _____.

(6) All pre-trial motions, including all dispositive motions, shall be filed by 5:00 p.m. on _____ with the exception of motions in limine.

(7) On or before 5:00 pm. of _____, the attorneys for the respective parties shall submit to the Court the following:

- a. A jointly prepared and completed final pre-trial order in the form set out in Appendix E to the Local Rules. In the event counsel desires to modify the pre-trial order after the pre-trial conference, an appropriate motion should be filed setting out the exceptional circumstances justifying the request.

(8) Requested jury instructions, definitions, and interrogatories or proposed findings of fact and conclusions of law (whichever is applicable to this case) shall be filed with the Clerk by all parties on or before 5:00 p.m. on _____.

(9) All depositions to be read into evidence as part of the parties' case-in-chief shall be EDITED so as to exclude all unnecessary, repetitious, and irrelevant testimony; ONLY those portions which are relevant to the issues in controversy shall be read into evidence.

Since all of the foregoing dates have been established with the assistance of counsel, the Court will not grant an extension of time as to the dates set out in paragraphs 1, 4, 5, and 6 above, except for good cause, even with the consent of all counsel. Extensions of the deadlines set out in paragraphs 2 and 3, may be extended by order of this Court on a motion showing good cause.

Signed this ____ day of _____, 19 ____.

United States District Judge

**APPENDIX E
TO
LOCAL RULES OF THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

The final pre-trial order shall contain the following subjects:

- A. Statement of Jurisdiction
- B. Statement of Nature of Action
 - 1. This section should be very brief and merely state the type of case.
- C. List of any pending motions
- D. Contentions of Parties
 - 1. The contentions of each party should be succinctly stated in a form suitable to be read to the jury.
- E. Statement of any Stipulations and/or Uncontested Facts
- F. Statement of Contested Issues of Fact and Law
- G. Exhibits
 - 1. Each party shall include a separate list of numbered exhibits (including exhibits to be used solely for impeachment), with a description of each containing sufficient information to identify the exhibit. Depositions shall be listed as exhibits. Each party shall specify in writing all objections, and the grounds therefor, to the other party's exhibits, including depositions.
 - 2. This section shall also contain a certification by counsel for each party that the party's exhibits on the exhibit list are: (a) in existence, (b) numbered, and (c) have been examined by opposing counsel.
- H. List of Witnesses
 - 1. Witnesses shall be listed by name and address and separated into categories of fact witnesses and expert witnesses.

2. There is reserved to each of the parties the right to call rebuttal and rejoinder witnesses, without prior notice to the other party. (Note that the Court views strictly the requirement that parties identify every person who has knowledge of any discoverable matter, as set out in the Court ordered interrogatories, found at Appendices A and B.)
 - I. The Probable Length of Trial
 - J. A Provision whereby upon approval by the Court, the Order may be dated and signed by the Judge.

APPENDIX H

AMENDMENT TO LOCAL RULE 6(e)

Local Rule 6(e) shall be amended as follows:

(e) Time to file supporting documents and briefs.

Except in the case of a dispositive motion, a party opposing a motion has 10 days in which to serve and file supporting documents and briefs. A party opposing a dispositive motion has 30 days in which to serve and file supporting documents and briefs. Any party may separately move for an order of this Court lengthening or shortening the period within which the supporting documents and briefs may be filed; but in no event may the period be reduced to fewer than 10 days.

**AMENDMENT
TO
LOCAL RULE 6(g)**

Local Rule 6(g) shall be amended by the addition of the following sentence:

Any motion may be considered and determined by the Court at any time after the response is due under Local Rule 6(e). The Court shall issue a ruling on all motions within 45 days after the response is due under Rule 6(e). Any hearing on a motion should be scheduled within that time.

COMMITTEE NOTE: The Committee unanimously agrees that one of the greatest sources of delay and expense is the failure to promptly rule on motions which would dispose of preliminary evidentiary issues and other questions and to promptly rule on dispositive motions so as to eliminate claims and defenses on which the opposing party cannot demonstrate there is sufficient evidence or authority to submit the matter to a jury.