

WESTON HURD
FALLON PAISLEY & HOWLEY

COUNSELLORS AT LAW

2500 TERMINAL TOWER • CLEVELAND, OHIO 44113-2241 • 216/241-6602

OHIO TOLL FREE 800/336-4952 • FAX 216/621-8369

May, 1991

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Dear Colleagues:

The Federal Judicial System has a problem. Civil lawsuits cost too much and take too long! That's the bad news! The good news is that the system knows it has a problem and is doing something about it!

The passage by our legislators of new laws, regulations, and rules has resulted in more cases being filed which means more time--more discovery--more depositions--more motions--and more pretrial hearings. The bottom line is greater costs to citizens using the Courts and a longer wait to get the cases heard.

Last year the Congress passed the Civil Justice Reform Act. As part of that Act, every U.S. District Court has appointed an Advisory Group composed of lawyers and laypersons to recommend a plan to cut costs and reduce delay in the Federal Court System. From those recommendations, each District Court will put a plan in operation no later than December, 1993.

Chief Judge Thomas D. Lambros of Ohio's Northern District recently appointed a 32-member Advisory Group. It is my privilege to serve as Chairperson of that Group. My Advisory Group colleagues and I think this is an exciting opportunity to help improve our judicial system.

The enclosed newsletter is being used to keep the Advisory Group posted on progress and to share ideas. I'll see that you receive all copies of the newsletter and I invite your suggestions and ideas for this important project.

Feel free to call me if you want additional information. During the months ahead, we may ask your assistance on some specific projects. I hope we can count on your help in our efforts to give all citizens access to an economical and efficient judicial system.

Sincerely,

Louis Paisley
Louis Paisley, Chairperson
Civil Justice Reform Act
Advisory Group



JUDICIAL ADVISORY

U. S. District Court
Northern District of Ohio

VOLUME ONE, NO. 1

MAY, 1991

CIVIL JUSTICE REFORM ACT BECOMES LAW -- The CJRA is aimed at reducing cost and delays of civil litigation in the District Courts. The Act contemplates a community effort and requires the Chief Judge of each District Court to appoint an Advisory Group to assist in developing a plan. The Advisory Group will assess the Court's work load and recommend the adoption of specific measures, rules, and programs to help solve the problems of cost and delay and civil litigation.

All Courts must have plans implemented by December 1, 1993. Some Courts, designated as Early Implementation Districts or Demonstration Districts, will implement plans by December 31, 1991.

The Act designates five District Courts as Demonstration Districts. The Northern District of Ohio is a Demonstration District and will experiment with a systems of differentiated case management.

ADVISORY GROUP HAS UNIQUE OPPORTUNITY -- Chief Judge Thomas D. Lambros, of the U.S. District Court for the Northern District of Ohio, told the Advisory Group that they "had a unique opportunity to examine and inquire into the criteria and standards by which we resolve human disputes." Judge Lambros disagreed with critics who conclude that our society is too litigious. He told the Group members that, because our society places a great value on human dignity, it had an obligation to provide an opportunity and forum in which human disputes may be resolved.

The Chief Judge said the Group would "have an opportunity that few lawyers really have. You'll get a firsthand look at how judges work and the administrative burdens and responsibilities of each Judge in maintaining the docket. As you move along, you'll have an opportunity to see what makes a court tick and you'll have a chance to make the system work better."

The Group met on March 20th, 1991, in the courtroom of Chief Judge Lambros. Members were told the Northern District was "front and center" on the reform action stage and would be under the watchful eye of the Senate Judiciary Committee, the Administrative Office of the United States Courts, and the Federal Judicial Center of the Judicial Conference of the United States. The Northern District has been named as a Demonstration District and is expected to have a Differentiated Case Management plan in place and ready to go well before the first of the year.

LOUIS PAISLEY TO CHAIR ADVISORY GROUP -- Louis Paisley, of Weston, Hurd, Fallon, Paisley and Howley, has been appointed Chairperson of the Civil Justice Reform Act Advisory Group. He told members to take a creative approach to the question of cost and delay regarding case management in the Federal District Court. He said that this was an exciting opportunity to do something different -- a chance to put aside our own particular biases and do something for this District Court which will serve as a model for the whole nation.

WORLD CLASS DELAY -- It may not be in the Guinness World Book of Records, but the case of Stoner v. Graddick took 19 years before it ground to a conclusion. Then, People v. Archerd took 11 years, Commonwealth v. Patton zoomed along for 10 years, State v. Luck hung on for 15 years and Story v. State experienced a 17-year delay before ending. The record for longest preaccusation delay may be

State v. Jergins, which involved an indictment issued 22 years after the alleged offense. Of course, these cases are in the criminal arena where the dockets zoom past the civil matters.

So, predictably, a civil case has made the Guinness Book of Records. Under the category of "Most Protracted Litigation," we are told the story of the longest contested lawsuit ever recorded. It was a civil case which ended in Poona, India on the 28th of April, 1966. Balasaheb Patlogi Thorat received a favorable judgment on that date coming from a suit filed by his ancestor Maloji Thorat some 761 years earlier in the year 1205. Now there's an example of a Court management system in dire need of a good delay reduction plan and probably alternative dispute resolution. (Thanks again to Court Librarian Irene M. Milan.)

SO MUCH FOR THE FRIVOLOUS LAWSUIT -- The English case of Everet v. Williams, known as the highwayman's case, was filed in the early 1700's. It seems two English highwaymen had trouble dividing the loot. So, they filed a Bill in Equity with a prayer for discovery, account, and general relief and the Bill was signed by Jonathan Collins, as counsel. The Court declared the Bill "scandalous and impertinent" and the Court's "tipstaff" was ordered to go forthwith and attach the bodies of Mr. William White and Mr. William Wreathock, the plaintiff's solicitors. They were fined 50 pounds for contempt and Jonathan Collins was ordered to pay all costs. As for the two parties, the plaintiff, John Everet, was executed at Tyburn in 1730 and Joseph Williams, the defendant, was executed at Maidstone in 1727. No more frivolous lawsuits for them!

WHEN THE TRIAL BEGINS, THE DELAY ENDS - OR DOES IT -- The testimony in a jury trial held at the St. Clair County Courthouse, Belleville, Illinois in 1984 lasted 672 days. When the testimony ended, the jury deliberated for another two months. It's the longest jury trial in legal history and ended with the plaintiff securing the sum of \$1 nominal compensatory damages and \$16,250,000 punitive damages. The case concerned an alleged toxic chemical spill.

TASK FORCE ON DIFFERENTIAL CASE MANAGEMENT APPOINTED - Because the Northern District of Ohio has been designated as a Demonstration District, the Court has appointed a Task Force to focus on the special issues associated with Differential Case Management. David C. Weiner, of Hahn, Loeser & Parks, will serve as Chairman of the Task Force and Vice Chairman of the Advisory Group. The Task Force met shortly after the March 20 Advisory Group meeting and additional meetings were held in April.

Task Force members are described as "Commandos." The Task Force must move fast and hard to fulfill its statutory mandate. Among the issues identified were the use of magistrate judges and uniformity among judges. The various categories of cases were divided among Task Force members for in-depth study. The Clerk's Office, as well as the Administrative Office of the Courts, has provided statistical information to the Task Force. A Differential Case Management Plan is expected to be developed by June 30, 1991 and operational by September 30, 1991.

AMERICAN BAR ASSOCIATION OFFERS HELP -- Thanks to Ted Cole, JAD Chair Elect of San Francisco, California, the Judicial Administration Division of the American Bar Association, who has been sending information to members of the Advisory Groups appointed under the Civil Justice Reform Act. To date, local members of our Advisory Group should have received copies of the publication titled Defeating Delay and another titled Case Flow Management. JAD had its own Task Force on reduction of litigation cost and delay, and the publications being offered represent the end result of some of their work. I think you'll find them to be helpful and other publications will be made available from a variety of sources in the months ahead.

JUDGE BELL CHAIRS ADVISORY GROUP COORDINATING COMMITTEE -- An Advisory Group Coordinating Committee within the Northern Ohio Federal Judiciary is chaired by Judge Sam H. Bell. Serving with him are Judge George W. White and Judge John W. Potter. Judge Bell told Advisory Group members at their initial meeting that there was a great fundamental principle to be guarded by

Advisory Group in the course of its work. "That fundamental is that the Court serves the people of the United States, not the Judges, not the lawyers, but the people you represent and that we attempt to give justice to. Were I to have some guiding principle in relationship to this whole committee, it would be that I hope the committee will seek the voice of the people in what they finally decide."

FUNDING AVAILABLE -- President Bush recently signed into law a supplemental appropriation for the Judiciary. Included in that appropriation are funds for implementation of the Civil Justice Reform Act. A total of \$5.2 million was made available for use by all districts.

Chief Judge Lambros is working with Group Chair Louis Paisley and Task Force Chair David Weiner on a budget request for the Northern District of Ohio. We'll keep you posted on the outcome of that request and the categories available for funding. We'll also keep you posted on the procedures which will be required in order to be reimbursed for any expenses or have any particular projects funded. More later.

ORGANIZATIONAL STRUCTURE COMMITTEE REPORT -- The Organizational Structure Committee, chaired by Cleveland Marshall College of Law Professor Solomon Oliver, recommended establishment of seven specific subcommittees. The Task Force is considered as a subcommittee. The other six are as follows: 1) Nontrial Resolution; 2) Docket Assessment/Causes of Delay; 3) Discovery, Motion Practice and Pretrial; 4) Community and Media Involvement; 5) Judicial and Technical Resources; and 6) Civil Trial Proceedings.

Professor Oliver gave members of the Advisory Group a committee list with a suggested mission statement. Committee volunteers were requested and the Organizational Structure Committee suggested that the committee chairs serve as an Advisory Group steering committee.

COUNCIL OF YOUNGERS -- It's never too early to start! Detroit schools have added a fourth "R" to reading, 'riting 'and 'rithmetic. The fourth "R" is for relationships. Playground justice, once dispensed by the principal or teachers, is being placed in student hands.

Several Detroit school districts are training students to mediate problems between peers. Instead of using the "wham-bam" Ninja Turtle method, students are encouraged to solve problems with their heads. The hope is that peer mediation will result in less fighting and hostility between students. Instead of duking it out over the backyard fence, they can think it out over a mediation table. If it works, we'll have a fine supply of mediators for tomorrow's problems. (A special thanks to Court Librarian Irene Milan for sharing this Plain Dealer story with your Editor.)

JUSTICE FOR ALL -- The Book of Genesis for the Civil Justice Reform Act is titled "Justice For All." It is the report of the members of the Brookings Institute Task Force on Civil Justice Reform. At the suggestion of the Chairman of the Senate Judiciary Committee, Senator Joseph R. Biden, Jr., the Brookings Institute and the Foundation for Change convened the Task Force of authorities from throughout the United States to develop recommendations to help solve the problems of excessive cost and delay. The 39-page report of the Advisory Group is interesting and helpful reading. All members of our Task Force have received a copy and we'll make arrangements to have them recycled so everyone can look at this report.

A publication of the Civil Justice Reform Act Advisory Group

Louis Paisley, Chairperson
2500 Terminal Tower
Cleveland, Ohio 44113
(216) 241-6602

Hon. Jerry L. Hayes, Reporter
Common Pleas Judge, Portage County
203 W. Main St.
Ravenna, OH 44266
(216) 297-3880