

FJC Review of CJRA Reports and Plans

Prepared for the Judicial Conference Committee on Court Administration and Case Management

District: Central District of Illinois

Date: December 21, 1993

The district has four district judges, a senior judge, two full-time magistrate judges, and one part-time magistrate judge.

Summary of Conditions in the District

The advisory group analyzed the court's civil and criminal caseloads, conducted a case-by-case review of cases over three years old, and surveyed attorneys, litigants, judges, court staff, and the media. The analysis of the docket showed a court in fairly good shape:

- At the close of SY92, only 6% of pending cases were three or more years old, compared to 10% nationally.
- Median civil disposition time was 8 months in SY92, compared to 9 months nationally, and has been dropping for the past five years.
- Over the last five years, pro se inmate § 1983 cases have grown to nearly 30% of the docket. These are time-consuming cases, especially for the magistrate judges, and finding representation for these litigants is difficult.
- The number of hours spent on criminal matters has increased exponentially and 56% of trial time is now spent on criminal cases. This will be a cause for concern unless more magistrate judges are appointed.
- In SY92, median time for felony cases was at the national average of 6 months.
- Under the Sentencing Guidelines, defendants are more likely to go to trial than plea, and sentencing hearings have become much more time-consuming.

From its examination of the court, the advisory group found that the court already actively manages its cases. A magistrate judge holds an initial scheduling conference, at which a case schedule is set that includes discovery deadlines. Local rules limit interrogatories to 20 and authorize use of summary jury trials. The advisory group also found, however, that the local rules specify no procedures for settlement conferences.

From its surveys, the advisory group found that nearly 90% of those surveyed think the court currently has an appropriate level of case management (moderate to high). Most, however, would like the court to provide more opportunities for settlement. When asked about potential changes in case management, half of all respondents favored assistance by a neutral attorney in early factual determinations and/or settlement.

Regarding cost and delay, most attorneys believed disposition time was reasonable, although about half of litigants felt it took too long. Most attorneys thought litigation costs, including attorneys fees were about right, but about half the litigants did not. Where cost and delay were seen as high, tardy motions rulings and discovery were identified as

the main culprits. An examination of the court's 76 cases over three years old showed that the time to disposition was generally explained by case characteristics, such as a pending interlocutory appeal or bankruptcy decision, rather than judicial actions.

Based on its extensive review of the caseload and its surveys of the bar and litigants, the advisory group concluded that "on the whole, civil cases in the Central District progress from filing to conclusion fairly, expeditiously, and without undue cost. Consequently, we have no significant criticism of present procedures." The group therefore fashioned recommendations that would "'fine tune' and enhance a system which already performs well, given the fiscal and legislatively imposed constraints under which it functions."

Summary of the Court's Plan

Based on the advisory group's report, the court concluded that "there is no pressing need for major revisions of the practices in this court with regard to the management of civil cases. The court also recognizes that some areas can be handled more efficiently and that some matters discussed in the report need further study." Thus, the court's plan incorporates nearly all the advisory group's recommendations and revises three local rules to implement the plan.

Case Management

Differentiated Case Management. Recognizing that "each case is unique and deserves individualized evaluation, the court accepted and adopted the group's recommendations for improved differential case management. Thus, at the initial scheduling conference the court will discuss with the parties and establish the following: deadlines for amendment of pleadings and joinder of parties; discovery deadlines, including timing for disclosure of expert witnesses; a dispositive motions schedule; and the availability of settlement assistance through settlement conferences or summary jury trials. The court will enforce all deadlines and will alter them only on a showing of diligence and good cause.

Early and On-going Judicial Involvement. The court recognized the importance of early and on-going judicial involvement and will implement it through the following: pretrial hearings before magistrate judges whenever practicable; use of the telephone for as many hearings as possible; use of video-conferencing for civil cases; exploration of settlement at every possible stage in each case; and review of the pretrial and trial procedures within each division to determine whether more uniform procedures would be appropriate. The court rejected the group's recommendation that all cases be set for periodic status conferences. Instead, the judges will set such conferences when helpful.

Firm Trial Dates. The court agreed with the advisory group that setting firm trial dates is not always possible. However, the court rejected the recommendations to explore waiving the jury and to re-assign cases ready for trial to a judge with available court time (which, the court said, already happens informally). Rather, at each final pretrial conference, the court will explore with counsel the possibility of consent to trial before a magistrate judge or of placing the case on a "short notice" calendar made up of cases with only local parties or with most witnesses appearing by deposition.

Motions Practice. The court said that, in the absence of evidence of back-logged motions or gross inefficiencies, it would not require judges to conform to certain methods in dealing with motions. Thus, the court rejected the advisory group's recommendation

to set motion hearings only when necessary. However, the court agreed to set a goal to rule on all motions within 60 days of being at issue; to rule on pending discovery or non-dispositive motions as soon as possible; to hear oral emergency discovery motions by telephone; and to use district judges, rather than magistrate judges, to decide summary judgment motions.

Discovery. The court agreed with the group's finding "that there is no need for revision of current practices in this district to control discovery" because local rules already provide for limits on the number of interrogatories, mandate that counsel attempt to settle discovery disputes before filing motions involving discovery, and set discovery scheduling conferences in almost every civil case." The court said that the magistrate judges can, at the scheduling conference, set realistic discovery deadlines. The court also said that it would re-examine its procedures if and when amendments to FRCP 26 become effective. (Subsequent to the effective date of the amendments, the court has decided to follow the new federal rules. Conversation with clerk, 1/4/94.)

Alternative Dispute Resolution

The court said it has been using some ADR techniques for several years, but that in light of survey results showing a desire for more settlement assistance the court will explore over the next twelve months ways to encourage the use of settlement conferences in more cases. Thus, the court rejected the group's ADR recommendations, saying that an ADR subcommittee and administrator are premature. The court requested that the advisory group study the matter further and report back on the availability of local resources to implement such a program.

Other

Following the advisory group's lead, the court made an additional full-time magistrate judge its highest priority, saying this is essential to handle the court's caseload and to fully implement the plan.

The court heartily agreed with the advisory group that Congress should:

- provide the full staff and funding necessary, including filling all judicial vacancies expeditiously, no caps on juries, full complement of support personnel, etc.;
- consider a broader mandate for Legal Services Corporation, making additional funding available for it and other similar projects;
- consider the impact on district courts of the ongoing federalization of crime;
- be specific as to both the cause of action created and the remedies afforded in legislation creating civil jurisdiction, clearly addressing applicable procedures; and
- consider making 42 U.S.C. § 1997e mandatory, requiring states to develop formal administrative review procedures for complaints from state prisoners.

The court said that all of the group's recommendations for better data tracking have been implemented by the court's systems manager.

The court will develop and maintain a pro bono panel of attorneys. The court will also investigate the implementation of other programs, through law schools or local bar associations, to increase the number of attorneys available for pro bono assignment and to enhance their skills and performance levels.

Implementation

The plan was adopted on November 24, 1993, and will become effective January 1, 1994. The advisory group is instructed to make an annual assessment of the docket and the plan and to report back to the court on December 1 of each year.

Consideration of §§ 473(a) and (b)

The advisory group's report specifically addressed the provisions of § 473(a) but did not mention those in § 473(b). In following the advisory group, the plan addresses the provisions of § 473(a) but fails to address those in § 473(b). One, a discovery plan, is already part of the court's local rules. Another, ENE, is one of the ADR options that may be developed. And a third, the requirement that someone with settlement authority be present at settlement conferences, appears to be standard practice. However, the advisory group's report does not address § 473(b)(2), which suggests that someone with authority to bind be present at all pretrial conferences, and § 473(b)(3), which suggests that requests for continuances be signed by the attorney and client. It is worth noting that these are among the most frequently rejected provisions of the statute.

Comments

The advisory group appeared to be particularly concerned about the lack of opportunities for settlement discussions and proposed an ADR program to address this concern. The court rejected the idea of ADR as premature, but promised to explore other means of settlement. Although the court's response is not as strong as the advisory group desired, the court acknowledges the concern, provides an interim method for addressing it, and asks the advisory group to develop a better proposal.

Overall, the advisory group's examination of the district is exceptionally thorough and well done. Their recommendations are focused and address the problems identified by their studies. The appointment of another magistrate judge, for example, will directly enhance civil pretrial management, as will the efforts to be undertaken on behalf of pro se prisoners. Recognizing the advisory group's thoughtful analysis, the court's plan adopts nearly all of the group's recommendations and provides convincing explanations for those it rejects.

Conclusion and Recommendation

I see no need to ask this district to take further action and recommend that the Committee accept the plan for the Central District of Illinois.

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