

United States District Court

Southern District of Illinois

750 Missouri Avenue

P. O. Box 249

East St. Louis, Illinois 62202

JAMES L. FOREMAN

CHIEF JUDGE

STUART J. O'HARE

CLERK OF COURT

June 7, 1991

Mr. Abel Mattos
Chief, Programs Branch
Court Administration Division
Administrative Office of the
United States Courts
Washington, D.C. 20544

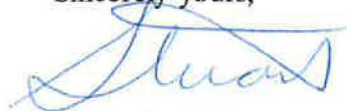
Dear Abel:

Attached is the set of minutes from our recent Civil Justice Reform Act committee meeting.

The month of June will be devoted to subcommittee work. Our next general meeting will be on July 19th, at which time the tedious task of writing will begin. If any minutes come from the subcommittee meetings, I'll make sure that you get copies.

Take care.

Sincerely yours,



Stuart J. O'Hare
Clerk of Court

SJO:sml

Enclosures

**MINUTES OF THE CIVIL JUSTICE REFORM ACT ADVISORY GROUP
MEETING HELD ON MAY 31, 1991**

Present: Donald E. Weihl, Chairman
Mark C. Goldenberg, Vice-Chairman
Richard E. Boyle
Milan Chestovich
Harry Crisp
David R. Freeman
Richard O. Hart
Ann Hatch
Jack Hensel
Thomas F. Kennedy III
Gordon Lambert
Alexis Otis-Lewis
Theodore J. McDonald
Michael J. Reagan
Robert Simpkins
Melvin C. Wilmsmeyer
Stuart J. O'Hare, Secretary (Recording)

I. Approval of Minutes of April 26, 1991 Meeting

Upon motion and a proper second, the minutes of the April 26, 1991 meeting were approved.

II. Chairman's Activity Report (Weihl)

A. Vice-Chairman's Trip to Naples, Florida

Mr. Weihl reported that Vice-Chairman, Mark Goldenberg, attended the Naples, Florida conference and will report to the Advisory Group. See Section IV, *infra*.

B. Scheduling of presentation by Judge Jan V. Fiss to the entire group

Mr. Weihl reported he has been trying to get Judge Fiss to address arbitration techniques. Judge Fiss has been unavailable, and Mr. Weihl stated that he would try to get Judge Fiss to discuss this topic at a subcommittee meeting.

C. Center for Public Resources Legal Program materials supported by a grant from General Mills, Inc.

D. Southern District of New York Court-Referral Projects

The Southern District of New York has had court-referral projects in place for seven years. The Chairman asked Mr. O'Hare to secure any written materials the Southern District of New York have and make those materials available to the subcommittee.

E. Subcommittees' meetings

Mr. Weihl will be requesting reports from the chairpersons of those subcommittees who have met. See discussion under Section V.

F. Funding request to the Administrative Office

See Section III A, infra.

G. Gender Bias Report of the ISBA

Mr. Weihl reported that the Gender Bias Report of the ISBA was very extensive. He reported after reading the report that there would be nothing of value for this advisory group.

III. Advisory Group Secretary's Report (O'Hare)

A. Request for Funding

Mr. O'Hare reported that the budget request was filed timely with the Administrative Office. The request was for \$24,000.00. In discussions with the Administrative Office on May 30, 1991, he was advised that the budget requests were submitted to the CJRA Advisory Committee for ratification. The AO advises sufficient monies appear to be available to cover all budget requests. The AO anticipates releasing funds either the second or third week of June.

B. Program for reimbursements

i. How processing will occur

ii. When reimbursements can be expected

Mr. O'Hare stated that he is in a dilemma as to how to go about travel reimbursement. Most committee members do not want to be reimbursed for travel, while others do. An additional problem has cropped up when the various subcommittees meet. Mr. O'Hare stated that he has no way of knowing when this happens unless the subcommittee chairpersons submit an attendance report and a request for reimbursement. He will be calling each member of the committee to discuss this situation. For those members who do seek reimbursement, however, he anticipates making reimbursement on a monthly basis.

C. Law clerks' presentations

Mr. O'Hare stated that he had been in contact with each of the law clerks regarding their presentations. They all were very anxious to meet the AG and would make themselves available for any questions the AG may have. See detailed report in Section VI.

IV. Vice-Chairman's Report (Goldenberg)

Vice-Chairman Mark Goldenberg gave a verbal report on his recent trip to Naples, Florida. He will follow up with a detailed written report. Therefore, for these minutes, only the highlights of his trip will be discussed.

Mr. Goldenberg reported that the meeting was very comprehensive and perhaps a little short in time. He stated that our District is approximately in the middle as far as its designated task is concerned.

The Southern District of Florida has prepared an extensive questionnaire for the Bar and the Court. He expects receiving copies of these questionnaires momentarily. Mr. O'Hare requested and received copies of all questionnaires from South Florida and subsequently faxed copies to Mr. Weihl and Mr. Goldenberg.

Judge Schwarzer, Director of the Federal Judicial Center, discussed the contents of the Cost and Delay Reduction Plan. The final report consists of three parts: one, an assessment of where the Court currently is; two, the problems as perceived by the litigants, the Bar and the Bench; and three, specific recommendations to aid in Cost and Delay Reduction.

The FJC is developing a proposed format for the final report and expects to have a sample to the advisory groups by the end of June. They feel, for consistency's sake, a standard format is warranted throughout the system.

Other topics of discussion by Judge Schwarzer and members of the FJC:

- Uncontrolled lengths of trials.
- Controlled trial lengths (judicial intervention).
- Can't homogenize the various courts.
- Cant's sweep problems under the rug.
- Incorporate aspects that are working well into the final report.
- Consideration must be given to differential case management.
- Early judicial intervention on limiting or expanding discovery.
- ADR is an important part of the Act and must be thoroughly investigated and set in place.
- The AG's have the duty to recommend new rules and procedures for the Federal Rules of Civil Procedure.
- The AG's must meet and question court staff and Judges and the litigants.
- Public hearings are mandated by the Act.
- Court-annexed arbitration should be thoroughly explored - non-binding, early in case to save costs. Some courts are using experienced lawyers to meet with opposing counsel.
- There is a video tape that discusses the CJRA. This tape was mailed to the Chief Judges on January 16, 1991. Mr. O'Hare was asked to secure a copy for the AG.
- It is very important for the chairperson-reporter to stay in touch with the Judges.
- The Northern District of California has an excellent bibliography on CJRA materials.
- What can law schools do to better train lawyers.

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- The various Advisory Groups should consider some form of networking, either by a computer bulletin board or personally.
 - The Federal Judicial Center is an excellent resource tool for the AG's.
 - A mistake to spend a lot of time reviewing statistics.
 - Time could be better spent in reviewing case types via filings, pending and termination.

Mr. Goldenberg reported that the pilot districts are having AG meetings approximately every two weeks. Most other districts are having monthly meetings which last two to three hours.

V. Subcommittee Reports

A. Richard E. Boyle - Survey Committee

Mr. Boyle reported that his subcommittee met on May 9, 1991. He reported that it is a very difficult task to prepare an attorney survey questionnaire. Mr. McDonald submitted a comprehensive survey which has been forwarded to the committee members for comment. Time frame for distribution - 60 days.

B. Ann Hatch - Trial Committee

This subcommittee is scheduled to meet immediately following this general session. Ms. Hatch reported that most judicial officers are not in favor of ADR or arbitration, which makes this committee's job that much more difficult. Pursuant to statute, this topic must be addressed in the final report.

C. Donald J. Dahmann - Discovery Committee

Mr. Weihl reported that this committee has not met as of this date. Mr. Dahmann advises a notice will be going out very shortly.

D. Robert Simpkins - Magistrate Committee

This subcommittee is due to meet immediately following the general session. He suggested that since prisoner petitions account for a large portion of all civil filings, a visit to the Marion Penitentiary may be warranted. Several AG members stated this was an excellent idea. He further stated that extensive interviews must be conducted with the pro se law clerk. He reported that Judge Posner keeps pushing for an administrative review under a certain dollar amount. The committee must take this under consideration.

VI. Law Clerks' Presentations

- A. 11:00 a.m. - Karen Stallman (Magistrate Judge Philip M. Frazier)
- B. 11:15 a.m. - Margaret (Mindy) Finan (Judge William L. Beatty)
- C. 11:30 a.m. - Julie Fix (Judge William D. Stiehl)
- D. 11:45 a.m. - Vasyl Markus (Chief Judge James L. Foreman)

Each law clerk made a presentation to the AG of approximately fifteen to twenty minutes in length. For the length of the minutes, it was decided not to incorporate the various remarks within

the minutes. Their handouts are attached as exhibits to these minutes. Mr. Weihl directed the Secretary to express the appreciation of all AG members to the law clerks and to the Judges. Their remarks were insightful and will be very helpful to the committee. As the various subcommittees delve into their tasks, it is anticipated that the law clerks will be contacted for additional information.

VII. Lunch

A box lunch was ordered in by the secretary. A round table discussion was held during lunch (not reported).

VIII. Old/New Business

A. Attendance notification to Susan Ligman (618-482-9200)

Mr. Weihl asked for compliance with notifying Susan Ligman regarding attendance at general meetings. This helps the chairperson in scheduling meetings and gives her accurate information for lunch expenditures.

B. Carpooling to meetings

Mr. Weihl suggested that carpooling served a multitude of purposes. One, it cuts down on cost (if any), and two, it gives the committee members a chance to discuss and exchange ideas during periods of travel.

Mr. Weihl suggested that there be no general meeting during the month of June. He stressed the importance of the subcommittees meeting during June, as the next general meeting during the month of July will be an important one. He stated there were a lot of billable hours on this committee and that our next general meeting would be critical. The topic of the reporter must be addressed at the next general meeting because certain portions of the final report will be ready for drafting. He once again reiterated that it is the Chief Judge's duty to appoint the reporter, but that the Chief Judge was seeking guidance from the AG.

Mr. Goldenberg suggested that a liaison be formed between this AG and the AG in the Eastern District of Missouri. Ted McDonald that he knew most of the people on the Eastern District of Missouri AG and would attempt to establish a relationship. The person we will be dealing with in Eastern Missouri will be Gene Buckley.

Next meeting: Mr. Weihl suggested that the next general meeting be July 19th or July 26th. He asked Mr. O'Hare to have Ms. Ligman call the AG members the first part of July to ascertain preferences. Whichever date has the most AG members available will be the date of the next meeting. After discussion, it was the consensus that the next general meeting should be held in East St. Louis. Mr. Weihl stressed the importance of the various subcommittees meeting during June as the July meeting will be a milestone for this project.

Thereafter, at 12:55 p.m., the meeting was adjourned.