

Plans should consider (plans) to control fees - If they consider, may or not do anything as long as they consider the subject of fees -

Review - get back to Brock & Ann. Compare to good plans which will be furnished - also get staff review of good plans

FJC Review of CJRA Reports and Plans

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

District: Southern District of Iowa

Date: November 8, 1993

The Southern District of Iowa includes six divisions, but judicial business in three has been pretermitted and transferred to other divisions. The district has three authorized and filled judgeships, two full-time magistrate judges, and two part-time magistrate judges.

Summary of Conditions in the District

The advisory group examined the court's caseload data, informally canvassed the bar, and sent surveys to private and government attorneys. The advisory group found that the "state of the docket is good and has improved with the addition of the third judge." According to the advisory group:

- Civil filings have declined significantly since 1988. Terminations, trials completed, and issue-to-trial time are equal to or better than the national average.
- Criminal filings increased from 7% of all filings in 1986 to 11% in 1990, but remained a fairly small percentage of the caseload. The number of criminal trials increased from 1987-89, but declined in 1991.
- The court's asbestos caseload was transferred pursuant to an MDL order, which reduced the court's pending civil caseload by half.

From the surveys the advisory group learned that the district's attorneys do not perceive problems of either excessive cost or unnecessary delay. To the extent there are occasional problems with cost or delay, attorneys specifically did not cite ineffective case management as its cause. Rather, the bar identified the principal causes as:

- the "squeeze" of the criminal docket and the time needed for these cases,
- the conduct of opposing counsel, clients, or insurers,
- unnecessary discovery or prolonged discovery disputes,
- the volume of the docket in particular classes of cases (prisoner pro se), and
- "the passage of legislation which increases the workload of the federal court without commensurate increase in judicial resources . . ."

Prisoner civil rights cases make up nearly half the court's private civil caseload and several of the group's recommendations focused on more efficient handling of those cases.

Summary of the Court's Plan

The court accepted the advisory group's findings regarding conditions in the district and in its plan adopted some of the advisory group's recommendation, rejected others, and created some provisions of it's own.

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Case Management

The court is automating the criminal docket on a scale similar to the civil docket and expects to complete the project by January 1, 1994.

In response to an advisory group recommendation, the district's judicial officer's will, to the fullest extent permissible under 28 U.S.C. §636(c), continue to advise parties that they may consent to proceed before a magistrate judge, particularly in §1983 prisoner litigation. The magistrate judges will continue implementing and evaluating a pilot project for expediting prisoner litigation.

If proposed FR CivP 26(b)(5) is not adopted, the court will consider the advisory group's recommendation of adding a local rule establishing procedures for cases asserting privilege or work product in objection to discovery requests.

Alternative Dispute Resolution

The court will encourage full-time magistrate judges to pursue further study and training in ADR techniques. In addition, the court directed the magistrate judges to propose, by Jan. 1, 1994, a pilot project for selection of cases for in-person meetings to discuss ADR alternatives (similar to an ENE program used in the N.D. of Iowa).

Implementation

The local rules of the Northern and Southern Districts of Iowa will be revised and will reflect concerns about cost and delay in civil litigation. The chief magistrate judge of the Northern District (serving as a committee with another N.D. magistrate judge), will, with the federal practice committees of both districts, make recommendations to the district court judges of both districts by Jan. 1, 1994 on proposed revisions and modifications of local rules.

The court adopted the plan on Oct. 22, 1993.

Consideration of §§ 473(a) and (b)

The court included in the plan a discussion of each of the statute's provisions. It identified those principles and techniques already in use in the district, such as early judicial involvement and discovery control on a case-by-case basis, certification of efforts to resolve discovery disputes, and presence at settlement conferences of someone with authority to bind the parties. The court explained why it rejected several provisions, including signatures on requests for extensions. And the court said it will wait for action on proposed amendments to the FR CivP before adopting rules on voluntary exchange of information or a joint discovery plan.

Comments

The court's plan appears for the most part to be responsive to the advisory group's analysis of the district's condition and to its recommendations (although it is silent on the recommendation that a second pro se law clerk be appointed). The plan, like the advisory group report, reveals little of the court's case management practices - for example, how cases are scheduled and how discovery is controlled. In light of the advisory group's conclusion that the district is functioning well, perhaps there is no need to be concerned about this limited picture of the district.

The plan and report also provide only limited information about the condition of the court's caseload. A check of statistics provided by the FJC to the district (see Chart 6, attached) shows that life expectancy for Type II civil cases (those other than prisoner, social security, and so on) is substantially longer than the national average. This may be an indicator of delay, but, again, attorneys who practice in the district did not identify delay as a problem. Furthermore, perhaps the condition will improve now that a third judge has been appointed and the asbestos docket transferred.

Conclusion and Recommendation

The picture of the district's practices is sufficiently unclear and the picture of the caseload sufficiently troubling that the committee may wish to ask this district to provide more specific information about procedures used to schedule cases and control discovery.

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