

**UNITED STATES DISTRICT COURT**  
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DISTRICT OF ARIZONA

RICHARD H. WEARE  
CLERK OF COURT / DISTRICT COURT EXECUTIVE  
UNITED STATES COURTHOUSE  
230 NORTH FIRST AVENUE, ROOM 1400  
PHOENIX, ARIZONA 85025-0093

NORMAN H. MEYER, JR.  
CHIEF DEPUTY CLERK  
JAMES A. WALSH COURTHOUSE  
44 EAST BROADWAY BOULEVARD, ROOM 202  
TUCSON, ARIZONA 85701-1711

January 21, 1994

RONNIE HONEY  
CHIEF DEPUTY CLERK  
UNITED STATES COURTHOUSE  
230 NORTH FIRST AVENUE, ROOM 1400  
PHOENIX, ARIZONA 85025-0093

**Re: Civil Justice Expense and Delay Reduction Plan  
for the District of Arizona**

Enclosed for your information are two brochures published and distributed as a result of the Plan.

One is a brief introduction to the Differentiated Case Management program. The brochure was distributed at federal practice seminars conducted to present the Plan, and will also be provided to litigants when a case is filed.

The other prescribes the Standards for Professional Conduct, as developed by the 7th Circuit, and adopted by this District. This was also distributed at federal practice seminars. In addition, the attorney admissions application has been amended to include attestation that the applicant has read and will ascribe to these standards, with the brochure provided as part of the application. During attorney admissions, District Judges also will provide a copy of the brochure to any attorney who may not have received one.

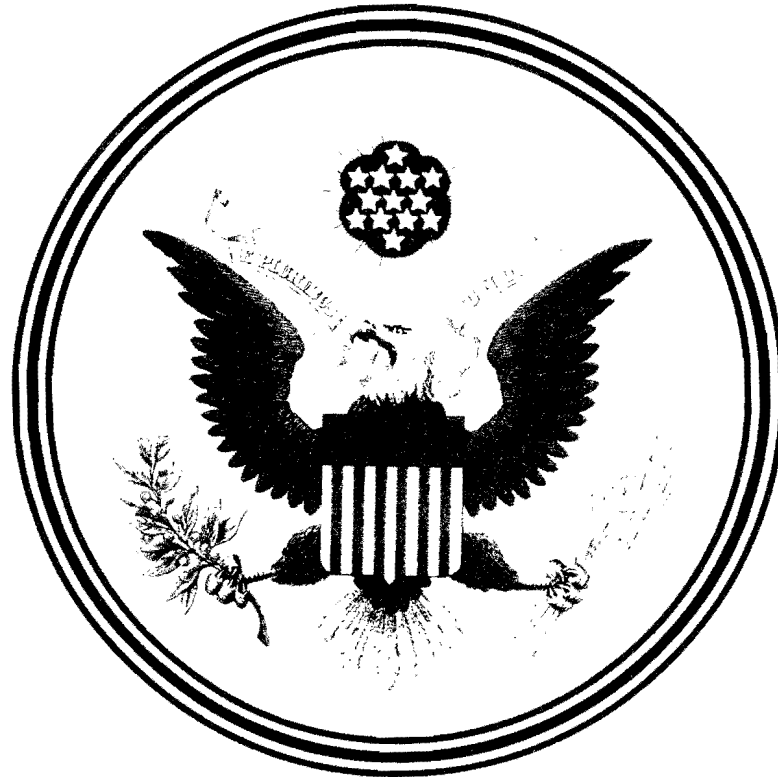
These brochures should be appended to the Report of the Advisory Group and the Plan, which were mailed to you previously.

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DISTRICT OF ARIZONA

**DIFFERENTIATED CASE MANAGEMENT**

**pursuant to**

**THE CIVIL JUSTICE REFORM ACT OF 1990**



**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

## INTRODUCTION

Congress enacted the Civil Justice Reform Act of 1990 ("CJRA"), set forth in Title 28, United States Code, section 471 *et seq.*, to address the problems of high litigation costs and case processing delay that burden both plaintiffs and defendants. The Act requires each of the nation's 94 federal district courts to implement a civil justice expense and delay reduction 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."

One of the litigation management principles to Act requires courts to consider is the "systematic, differential treatment of civil cases..."

## DIFFERENTIATED CASE MANAGEMENT

The U.S. District Court for the District of Arizona has implemented a Differentiated Case Management ("DCM") system for civil cases. DCM is the heart of our CJRA Plan, and is the direct and realistic remedy to delay problems as they may exist in this District. The Plan applies to all civil cases filed on or after December 1, 1993, and may, at the discretion of the court, apply to cases then pending.

DCM, as governed by local rule, screens cases for complexity, assigns cases to specific tracks based on the complexity, and manages cases to disposition according to predetermined case management milestones established for each respective track.

When cases are filed, they are assigned to a specific track primarily depending on the nature of the suit as listed on the Civil Cover Sheet (JS 44). The rule does provide that cases may be reassigned to a different track when appropriate.

# TRACKS

**Expedited** cases are those which usually are resolved on the pleadings, and include:

- Bankruptcy Appeals; • Social Security;
- Student Loan, Veteran's Benefits, and other recovery; and
- Forfeiture/Penalty actions.

Other cases may be assigned to this track based on complexity. Such determination may be made either by the parties at filing, or by the Court at a preliminary scheduling conference. A case in a nature of suit listed above, but which may have more complex issues or facts, may likewise be assigned to another track.

**Arbitration** cases are assigned to this track by the Clerk of Court, and are managed pursuant to 28 U.S.C. §651 *et seq.* and local rule governing arbitration, which define discovery and other deadlines. Cases which withdraw from arbitration shall be reassigned to the appropriate track based on the criteria in the local rule governing differentiated case management.

**Prisoner Pro Se** cases are assigned to this track by the Clerk of Court based on the following natures of suit:

- General Habeas Corpus;
- Motions to Vacate Sentence;
- Mandamus petitions; and
- §1983 and Bivens actions.

**Standard** cases do not meet the criteria of the Expedited, Arbitration, or Prisoner Pro Se tracks, and are not determined to be complex. A preliminary scheduling conference shall be conducted, and a scheduling order issued, in which deadlines shall be established and dates determined for filing a joint proposed pretrial order and conducting a pretrial conference.

**Complex** cases are those which require extensive judicial involvement, and shall be so designated by the judge, counsel, and parties. A case management plan shall be defined specifically for any case which is determined to be complex.

**STANDARDS FOR PROFESSIONAL CONDUCT**

**adopted by**

**THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**



## Preamble

A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as lawyers, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful, and efficient manner.

A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe to all participants in a legal proceeding respect, diligence, punctuality, and protection against unjust and improper criticism or attack.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice.

The following standards are designed to encourage us, judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We expect judges and lawyers will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice throughout this District.

These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

These standards should be reviewed and followed by all judges and lawyers participating in any proceeding in this District. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

## Lawyers' Duties to Other Counsel

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of our clients. We will treat all other counsel, parties, and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communication.
2. We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties, or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.
3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.
5. We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.
6. We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.
7. When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide the opportunity for review of the writing to other counsel. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement

without explicitly advising other counsel in writing of the addition.

8. We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.

9. In civil actions, we will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.

10. We will not use any form of discovery or discovery scheduling as a means of harassment.

11. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.

12. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.

13. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.

14. We will consult other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts.

15. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.

16. We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings, or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the court to use the previously reserved time for other matters.



17. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided our clients' legitimate rights will not be materially or adversely affected.

18. We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity.

19. We will take Depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.

20. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

21. We will not obstruct questioning during a deposition or object to deposition questions unless necessary under the applicable rules to preserve an objection or privilege for resolution by the court.

22. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.

23. We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.

24. We will respond to document requests reasonably and not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

25. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.

26. We will respond to interrogatories reasonably and will not

strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.

27. We will base our discovery objections on a good faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.

28. When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.

29. We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

30. Unless specifically permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

## **Lawyers' Duties to the Court**

1. We will speak and write civilly and respectfully in all communication with the court.

2. We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible.

3. We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

4. We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

5. We will not knowingly misrepresent, mischaracterize, misquote,

or miscite facts or authorities in any oral or written communication to the court.

6. We will not write letters to the court in connection with a pending action, unless invited or permitted by the court.

7. Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.

8. We will act and speak civilly to all other court staff with an awareness that they, too, are an integral part of the judicial system.

## **Court's Duties to Lawyers**

1. We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.

2. We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral communications with lawyers, parties, or witnesses.

3. We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

4. In scheduling all hearings, meetings and conferences we will be considerate of time schedules of lawyers, parties, and witnesses.

5. We will make all reasonable efforts to decide promptly all matters presented to us for decision.

6. We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.

7. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on

lawyers by the exigencies of litigation practice.

8. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

9. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom or the causes which a lawyer represents.

10. We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.

11. We will not adopt procedures that needlessly increase litigation expense.

12. We will bring to lawyers' attention uncivil conduct which we observe.

## **Judges' Duties to Each Other**

1. We will be courteous, respectful, and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

2. In all written and oral communications, we will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge.

3. We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.