

To: Mr. Abel Mattos, Chief of the Programs Branch
Court Administration Division
Administrative Office of the United States Courts

From: Chief Judge Robert E. Coyle
Professor John B. Oakley, CJRA Advisory Group Reporter

Date: April 29, 1992

**Memorandum on Implementation of the
Civil Justice Expense and Delay Reduction Plan
adopted as of December 31, 1991 pursuant to the
Civil Justice Reform Act of 1990
with Timetable and Amendments adopted in
Response
to the Suggestions and Observations of the
Ninth Circuit Civil Justice Reform Act Review Committee**



UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF CALIFORNIA

The Civil Justice Reform Act Advisory Group of the Eastern District of California met on April 23, 1992, to consider and act in response to the suggestions and observations of the Ninth Circuit Civil Justice Reform Act Review Committee. The Review Committee met by telephonic conference on April 2, 1992. Its suggestions and observations were set forth in the minutes sent to Chief Judge Wallace of the Ninth Circuit by the Review Committee's chair, Judge Bilby of the District of Arizona, under cover of his April 7, 1992, letter to Chief Judge Wallace.

The suggestions and observations of the Review Committee respecting the CJRA Plan of the Eastern District of California were as follows (quoting Judge Bilby's minutes, emphasis in original):

Omitted from Plan is Certification of Discovery Motions.
Principle is in existing Local Rule.

Omitted from Plan is Differential Case Management.
Suggestion is that Plan specifically state that principal was considered and rejected. The Order does state that all elements were considered.

A time table for implementation has been prepared and will be attached to plan.

In response, the Eastern District of California's CJRA Advisory Group has proposed and (unless you are notified otherwise) on April 30, 1992, the Court will adopt the following timetable for implementation of the Eastern District's CJRA Plan as well as the following amendments to Points 13 and 14 of the Plan.

The timetable provides point-by-point for the various features of the Plan to be implemented immediately or to be implemented in a staged fashion over the next 90 to 180 days subject to the planning and monitoring activities of various new committees set up by the Advisory Group. The amendments are designed to articulate clearly, on the face of the Plan, certain features of existing practice that are consonant with the goals and recommendations of the Civil Justice Reform Act and that are intended to be retained and encouraged by practice under the CJRA Plan.

AMENDMENTS AND IMPLEMENTATION TIMETABLE
for the December 31, 1991
CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN
of the United States District Court
for the Eastern District of California
as amended April 30, 1992

Plan Point 1: Amend Local Rule 252

Implementation schedule: Immediate.

Plan Point 2: Establish ADR Advisory Panel

Implementation schedule: Immediate establishment of Advisory Group's "ADR subcommittee" charged with organizing comprehensive Alternative Dispute Resolution Advisory Committee (ADRAC); ADR subcommittee to report to Advisory Group within 90 days on working plans for ADRAC; ADRAC to be operational within 6 months.

Plan Point 3: Sponsor CLE Programs on Local Federal Practice

Implementation schedule: Immediate; existing informal practice is to be continued without change.

Plan Point 4: Expand Attorney Panels for Pro Se Civil Rights and Habeas Corpus Cases

Implementation schedule: Immediate establishment of Advisory Group's "Attorney Panel subcommittee" charged with evaluating causes and solutions for current chronic shortfall of available volunteer counsel for assignment in pro se civil cases; Attorney Panel subcommittee to present initial report to Advisory Group within 90 days.

Plan Point 5: Formalize the Scheduling, Planning, and Invitation Process of the Annual Eastern District Meeting

Implementation schedule: Immediate; existing informal practice is to be continued without change.

Plan Point 6: Institute Experimental Screening or Tentative Ruling System Administered by a Volunteer District Judge

Implementation schedule: Immediate; Advisory Group's designated monitor to present initial report to Advisory Group within 90 days.

Plan Points 7-10: Nationwide Institutional Reforms to be Addressed to Appropriate National Forums: [Point 7] Additional Law Clerks; [Point 8] Prompt Action to Fill Vacant Judgeships; [Point 9] Revision of Case-weight Criteria; [Point 10] Accurate Assessment and Advance Provision for Judicial Impact of New Legislation

Implementation schedule: Immediate; no local implementation required beyond communication of these points to national policymaking institutions by the publication and distribution of the Eastern District CJRA Plan.

Plan Point 11: Staggered Scheduling of Law and Motion Matters

Implementation schedule: Immediate.

Plan Point 12: Avoidance of Continuances Except by Stipulation or Motion

Implementation schedule: Immediate.

Plan Point 13: Setting of Realistic Trial Dates

Implementation schedule: Immediate; existing informal practice is to be continued without change.

Proposed amendment: Amend to make clear that the Court intends to continue its present policy and practice whereby each individual judge, using the standing orders issued by that judge in newly filed actions and such specially crafted orders as may be issued at the initial status conference, takes early and firm control of the pretrial process and differentiates systematically in the pretrial treatment of civil cases according to their level of complexity or any other characteristic meriting special treatment.

Plan Point 14: Bifurcation of Issues and Staged Discovery When Threshold Issues May be Dispositive

Implementation schedule: Immediate; existing informal practice is to be continued without change.

Proposed amendment: Amend to incorporate expressly the terms of pre-existing Local Rule 251, requiring discovery motions to be accompanied by certification that counsel have entered into good faith efforts to resolve the discovery dispute by negotiation.

Plan Point 15: Encourage Alternative Dispute Resolution (ADR)

Implementation schedule: Immediate establishment of Advisory Group's "ADR subcommittee" as discussed above re implementation of Point 2; comprehensive Alternative Dispute Resolution Advisory Committee (ADRAC) will be operational within six months and will be responsible for proposing to the Advisory Group such implementing recommendations or amendments to the Plan as are necessary to encourage maximum efficient use of ADR by federal litigants within the Eastern District of California.

Plan Point 16: Experiment with Early Settlement Conferences

Implementation schedule: Immediate; ADRAC established within six months pursuant to Point 2 will be responsible for reporting to the Advisory Group on the success of early settlement conferences.