

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
ALBUQUERQUE, NEW MEXICO 87103

ADVISORY GROUP
CIVIL JUSTICE REFORM ACT

JESSE CASAUS
REPORTER

October 22, 1991

Shapiro
New Mexico
debt analysis
Shapiro
P.O. Box 688
505/766-2808

Mr. Mark Shapiro
Court Administration Division
Administrative Office of the U. S. Courts
Washington, D. C. 20544

Dear Mark:

Reference is made to our recent telecon concerning materials being gathered by advisory groups.

As I mentioned to you, our Advisory Group has established six sub-committees to proceed with its assignment. These sub-committees are delving into specific issues which impact on the court's ability to handle its civil caseload, i.e., criminal justice matters, assessment of conditions within the district, costs and delays, discovery, pro se issues and court procedures.

In order to develop a data base for assistance to the sub-committees, we asked for assistance from the Federal Justice Center for selection of random samples of specific categories of cases which we would review and send out survey questionnaires to attorneys and litigants. We also developed some general survey questionnaires on civil and criminal cases for those attorneys not included in the specific cases. The basic questionnaires were obtained from the Center and other courts and we added or deleted review items as we felt were necessary.

I am enclosing a set of the review forms, sample letters and the different questionnaires we have used todate. We will change these as we deem it necessary upon requests for additional specific data from the sub-committees.

With personal regards, I remain,

Jesse Casaus
Yours truly,

JESSE CASAUS
Advisory Group Reporter

cc: Mr. R. M. March, Clerk
w/attachments

ADVISORY GROUP
CIVIL JUSTICE REFORM ACT
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

MOTION REVIEW FORM

Case Caption: _____

Case Number: _____

For each non-dispositive motion and for each dispositive motion, i. e. motion to strike pleadings, motion to amend, motion for summary judgment, motion to dismiss, etc.), complete the following for each:

Type of Motion: _____

1. Date of filing motion: _____

- a. Opposed?
(1) Yes _____
(2) No _____
(3) C/A _____

2. Date of filing response and/or opposition brief: _____

- a. _____ total days elapsed between No. 1 and No. 2

3. Date of filing reply: _____

- a. _____ total days elapsed between No. 2 and No. 3

4. Were there any extensions of time granted for any actions required in connection with this motion?

1. Yes _____
2. No _____
If yes, total number of days granted as extensions _____

5. Date of filing Court's Order or ruling on motion: _____

- a. _____ total days elapsed between No. 1 and No. 5

- b. _____ total days elapsed between No. 3 and No. 5

6. Was there any oral argument in connection with this motion?

1. No _____
2. Yes _____

ADVISORY GROUP
CIVIL JUSTICE REFORM ACT
U. S. DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

CASE DOCKET SHEET REVIEW FORM

(NOTE: All blanks should be completed with the appropriate entry. If no entry is required or a code is not provided, enter 99999; if entry cannot be ascertained (C/A), enter 88888.)

A. GENERAL INFORMATION

1. Case Caption: _____
2. Case Number: _____
3. Case Description: (Category of case as well as nature of suit code number from cover sheet) _____

4. Number of Parties in Case:
 - a. Plaintiffs _____
 - b. Defendants _____
5. Date complaint was filed: _____
6. Date of service of last defendant: _____
7. Date of filing of answer by last defendant: _____
8. Date of filing of amended complaint: _____
9. Date of filing answer to amended complaint: _____
10. Were any additional parties brought in on 3rd party complaint?
 1. No _____
 2. Yes _____
 3. Number of Plaintiffs _____
 4. Defendants _____
11. Were any cross-claims or counterclaims filed?
 1. No _____
 2. Yes _____
 3. Number of cross claims? _____
 4. Counterclaims? _____
12. Total time in months from filing of complaint to entry of final judgment for all parties: _____

13. How was this case disposed of: (Circle one or specify)

0. Transferred to another district
1. Remanded to state court
2. Dismissed for want of prosecution
3. Dismissed for lack of jurisdiction
4. Judgment on default
5. Judgment on consent
6. Judgment on motion before trial
7. Judgment on jury verdict
8. Judgment on directed verdict
9. Judgment on court trial
10. Multi-district litigation transfer
11. Remanded to U. S. agency
12. Dismissed: voluntarily
13. Dismissed: settled
14. Dismissed: other
15. Judgment on award of arbitrator
16. Judgment on trial de novo after arbitration
17. Judgment on other
18. Statistical closing

14. Were extensions of time for filing answers granted in this case?

1. No _____
2. Yes _____
3. C/A _____

If yes, circle appropriate event:

1. To file answer to complaint.
2. To file answer to amended complaint.
3. Responding to counterclaim, cross-claim, or third party actions.

15. If extensions of time were granted for any of the above, indicate the total number of days for all such extensions:
Number of days _____

16. Was oral argument held on any of these motions for extensions of time?

1. No _____
2. Yes _____
3. C/A _____

If so, on how many motions? _____

If extensions granted on oral argument, how many days were granted? _____

B. RULE 16 SCHEDULING ORDERS/DISCOVERY/PRETRIAL CONFERENCES

Under Rule 16 of the Federal Rules of Civil Procedures, the Court may at the beginning of the case enter a scheduling order which sets dates for completion of discovery, filing of motions and other deadlines as well as trial date. If a scheduling order was entered in this case, please indicate below as appropriate.

1. Initial pretrial conference?
 1. Yes _____
 2. No _____
 3. If held, date of initial pretrial conference: _____
2. Initial pretrial order entered?
 1. Yes _____
 2. No _____
 3. Date of initial pretrial order: _____
3. Date of discovery deadline: _____
 1. Was met: _____
 2. Was not met: _____
 3. C/A _____
 4. None set _____
4. Total number of days set for discovery: _____
5. Date of discovery motions deadline: _____
 1. Was met _____
 2. Was not met _____
 3. None set _____
 4. C/A _____
6. Date of dispositive motions deadline: _____
 1. Was met _____
 2. Was not met _____
 3. C/A _____
 4. None set _____
7. Date set as deadline for amending pleadings: _____
 1. Was met _____
 2. Was not met _____
 3. C/A _____
 4. None set _____
8. Date set for deadline for Pretrial Order: _____
 1. Was met: _____
 2. Was not met: _____
 3. C/A _____
 4. None set _____

9. Date set for deadline for expert witness list: _____
1. Was met _____
2. Was not met _____
3. C/A _____
4. None Set _____

10. Date discovery completed: _____

11. Were extensions granted for any of the discovery deadlines?
1. Yes _____
2. No _____
3. C/A _____

(If yes, complete a motion review form for each, indicating the number of days granted for each such motion.)

C. OTHER DISCOVERY

1. Were dispositive motions filed?
1. No _____
2. Yes _____ (If so, complete a motion review form for each.)
2. Were non-dispositive motions filed?
1. No _____
2. Yes _____ (If so, complete a motion review form for each.)
3. List the number of the following discovery devices used by each party:

a. Plaintiff:

- (1) Number of sets of interrogatories: _____
Was motion to extend maximum number filed?
(1) No _____
(2) Yes _____ (If so, complete motion review form.)
- (2) Number of requests for document production: _____
- (3) Number of requests for admission: _____
- (4) Number of notices to take depositions: _____
- (5) Number of reschedulings of notices to take depositions: _____

b. Defendant:

- (1) Number of sets of interrogatories: _____
Was motion to extend maximum number filed?
(1) No _____
(2) Yes _____ (If so, complete motion review form)
- (2) Number of requests for document production: _____
- (3) Number of requests for admission: _____
- (4) Number of notices to take depositions: _____
- (5) Number of reschedulings of notices to take depositions: _____

4. Were any of the above discovery devices used by any additional parties brought into the lawsuit?
- (1) N/A _____
 (2) Yes _____
 (3) No _____
 (4) C/A _____
5. Was magistrate judge involved in discovery stage?
- (1) Yes _____
 (2) No _____
 (3) C/A _____
6. Was a special master used?
- (1) No _____
 (2) Yes _____
7. Was a settlement conference held:
- (1) Yes _____
 (2) No _____
 (3) Outcome:
 [1] Case settled _____
 (2) No settlement _____
8. Were sanctions imposed?
- (1) No _____
 (2) Yes _____ (If so, cite appropriate rule: _____)
9. Total number of non-dispositive motions filed? _____
10. Total number of dispositive motions filed? _____

D. TRIAL AND RELATED ACTIVITIES

1. Was there a trial?
1. No _____
 2. Yes _____ (If so, indicate number of days of trial: _____)
 3. Beginning date of trial: _____
 4. Ending date of trial: _____
2. Were there any extensions or continuances of trial date?
1. Yes _____
 2. No _____
 3. C/A _____
 4. N/A _____
3. If trial extensions granted, indicate if:
- (1) By motion of party _____ (Number of days of extensions _____) Complete motion review form
 (2) On Court's own motion _____ (Number of additional days granted _____)

4. Date of final pretrial order: _____

5. Date of final pretrial conference with trial judge: _____

6. Indicate if the following was used or occurred: (Circle)

- 1. summaries of expected testimony
- 2. summary jury trial
- 3. mini-trial
- 4. arbitration
- 5. mediation
- 6. interlocutory appeal
 - 1. date of USCA judgment _____
 - 2. time in months from appeal to USCA judgment _____
- 7. evidentiary hearings
- 8. temporary restraining orders
- 9. injunctions
- 10. appeal of final judgment
 - 1. date of USCA judgment _____
 - 2. time in months from appeal to USCA judgment _____
- 11. post appeal filings and prosecution in district court
- 12. attorney fees issues

C. GENERAL COMMENTS:

1. Based upon your review of the copy of the docket sheet for this case, do you believe that the time it took to resolve this matter was:

1. Much too long
2. Moderately long
3. About right
4. Too fast
5. Moderately fast

2. Based on your review of this docket sheet, list the principal factors that in your opinion contributed to the length of time which it took to resolve this case. Your answer should contain an explanation for the item circled above. If you think the case took too long, please include in your answer what you think could be done to reduce the time it took to resolve the case. (Continue on reverse of sheet, if necessary.)

ADVISORY GROUP ON REDUCTION OF LITIGATION COSTS AND DELAYS
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CRIMINAL CASE DOCKET SHEET REVIEW FORM

NOTE: All blanks should be completed with the appropriate entry. If no entry is required or a code is not provided, enter 99999; if entry cannot be ascertained (C/A), enter 88888.)

A. GENERAL INFORMATION

1. Case Caption: _____
2. Case Number: _____
3. Offense(s) Charged: (General offense category, i. e., drugs, and specific offense(s) and U.S. Title/Section)

4. Number of Other Defendants, if applicable: _____
5. Date of Arrest: _____
6. Date of Initial Presentment: _____
7. Date of Indictment (Information?): _____
8. Date of Arraignment: _____
9. Date of Preliminary Hearing, if applicable: _____
10. Date of Detention Hearing, if applicable: _____
11. Date of Appearance of Counsel:
 - (1) Public Defender _____
 - (2) CJA Attorney _____
 - (3) Retained Counsel _____
 - (4) Pro Se _____

B. DISCOVERY

12. Date of Discovery Order _____
13. Deadline for Filing Motions: _____
 - (1) Was met _____
 - (2) Was not met _____
 - (3) None set _____
 - (4) C/A _____

14. Were motions filed?
 (1) No _____
 (2) Yes _____ (If so, complete motion review form for each)
15. Were motions for extensions of time to file motions or responses thereto filed?
 (1) No _____
 (2) Yes _____ (If yes, complete motion review form for each)
16. If extensions of time were granted for any motions, indicate the total number of days for such extensions:
 Number of days: _____
17. Initial date set for trial: _____
 (1) Not met _____
 (2) Met _____
18. Were there any extensions or continuances of trial date?
 (1) Yes _____
 (2) No _____
 (3) C/A _____
 (4) N/A _____
19. If trial extensions, indicate if:
 (1) By motion of party _____ (Number of days of extensions _____). Complete motion review forms.
 (2) On Court's own motion _____ (Number of additional days granted: _____).
20. Total number of motions filed: _____

C. TRIAL AND RELATED ACTIVITIES

21. Was there a trial?
 (1) No _____
 (2) Yes _____ (If yes, indicate:
 [1] Number of days of trial: _____
 [2] Jury? _____
 [3] Non-jury? _____
22. What was the outcome of this case?
 (1) Guilty verdict _____
 (2) Acquittal _____
 (3) Guilty plea _____
 To all original charges _____
 To some original charges _____
 To reduced charges _____
 (4) Nolo Contendere _____
 (5) Pending: _____
 [1] Fugitive _____
 [2] Appealed _____

23. Date set for sentencing: _____
24. Was there an extension of time for sentencing?
 (1) No _____
 (2) Yes _____ (If yes,
 [1] By motion of party? _____ (complete motion review form)
 [2] By Court's own motion? _____
 (3) Number of days extension granted _____
25. Was there a sentencing hearing?
 (1) No _____
 (2) Yes _____ If yes,
 [1] by motion of party? _____ (complete motion review form)
 [2] by Court's own motion _____
 (3) Number of days for hearing: _____

D. RECAP OF SPEEDY TRIAL ACT EVENTS AND EXCLUDABLE DELAYS

26. Date of Interval One: _____ (Indicate one of following)
 (1) Arrest _____
 (2) First Appearance on complaint _____
 (3) Summons _____
 (4) In custody _____
27. Date of Interval Two: _____ (Indicate one of following)
 (1) Indictment _____
 (2) Information _____
 (3) Consent to Magistrate trial on complaint _____
 (4) Other _____
 [1] 1st appearance on Rule 40 _____
 [2] Rule 20/21 _____
 [3] Superseding Indictment/Information _____
28. Number of days from Interval One to Interval Two: _____
 (AFTER EXCLUDABLE DELAYS)
29. Date of Arraignment: _____
30. Number of days from Interval Two to Arraignment: _____
 (AFTER EXCLUDABLE DELAYS)
31. Date of end of Interval Two: _____ (Indicate one)
 (1) Trial (voir dire) began: _____
 (2) Pled guilty _____
 (3) Pled nolo _____
 (4) Charges dismissed _____

32. Number of days from arraignment to end of Interval Two: _____
(AFTER EXCLUDABLE DELAYS)
33. Date of sentencing (if applicable): _____
34. Number of days from end of Interval Two or end of trial,
if applicable, to sentencing: _____

E. GENERAL COMMENTS

35. Based upon your review of the copy of the docket sheet for this case, do you believe that the time it took to resolve this matter was: (circle one)

- (1) Much too long
- (2) Moderately long
- (3) About right
- (4) Too fast
- (5) Moderately fast

36. Based on your review of this docket sheet, list the principal factors that in your opinion contributed to the length of time which it took to resolve this case. Your answer should contain an explanation for the item circled in Question 19. If you think the case took too long, please include in your answer what you think could be done to reduce the time it took to resolve the case. (Continue on reverse of sheet, if necessary.)

October 22, 1991

^F1^
Attorney at Law
^F2^
^F3^

Re: ^F4^
^F5^

Dear Counselor:

The Judicial Improvements Act of 1990, Public Law No. 101-650, became effective on December 1, 1990. This statute requires the implementation of a Civil Justice Expense and Delay Reduction Plan in all federal district courts within three years following its enactment.

The Chief Judge of this Court has appointed an Advisory Group consisting of attorneys and other professionals to assist in the development of the required plan. To meet its obligation, the Advisory Group has established a preliminary work plan for gathering and analyzing relevant information about the workload and practices of this Court to:

- (1) "determine the condition of the civil and criminal docket"
- (2) "identify trends in case filings and the demands being placed on the Court's resources"
- (3) "identify the principal causes of cost and delay in civil litigation"; and
- (4) "examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the Courts".

To assist the Advisory Group arrive at the above, the Court would appreciate your completing and returning within ten days the attached questionnaire concerning captioned case in which you were counsel of record. Furthermore, it is kindly requested that you forward the second copy of this letter with the enclosed litigant questionnaire for completion by the party or parties you represented. Preaddressed, franked envelopes are enclosed for use by you and your client(s) for returning the completed questionnaires.

The information which attorneys of record and litigants provide will be used anonymously and only in connection with the overall project mandate. The time and effort to complete the questionnaires will be of great assistance towards this end. Chief Judge Burciaga joins the Advisory Group in thanking you for your participation in this very important undertaking.

Yours truly,

JESSE CASAUS
Advisory Group Reporter

Civil (Specific)

September 26, 1991

1~
Attorney at Law
2~
3~

Dear Counselor:

The Judicial Improvements Act of 1990, Public Law No. 101-650, became effective on December 1, 1990. This statute requires the implementation of a Civil Justice Expense and Delay Reduction Plan in all federal district courts within three years following its enactment.

The Chief Judge of this Court has appointed an Advisory Group consisting of attorneys and other professionals to assist in the development of the required plan. To meet its obligation, the Advisory Group has established a preliminary work plan for gathering and analyzing relevant information about the workload and practices of this Court to:

- (1) "determine the condition of the civil and criminal docket"
- (2) "identify trends in case filings and the demands being placed on the Court's resources"
- (3) "identify the principal causes of cost and delay in civil litigation"; and
- (4) "examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the Courts".

Inasmuch as you have practiced in federal court and to assist the Advisory Group with the above project, the Court would appreciate your completing and returning the attached questionnaire within ten days. A franked, preaddressed envelope is enclosed for your convenience.

The information which attorneys provide will be used anonymously and only in connection with the overall project objectives. Your time and efforts in completing the questionnaire will be of great assistance towards this end.

Yours truly,

JESSE CASAUS
Advisory Group Reporter

Civil (non-specific)

ADVISORY GROUP ON REDUCTION OF LITIGATION COSTS AND DELAYS
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUGGESTED QUESTIONS FOR JUDGES (CIVIL AND CRIMINAL CASES)

A. General Comments

1. Is there a problem with delay of civil cases in this district?
 - a. In all cases?
 - b. In certain types of cases?
2. If you believe there is a problem with delay in this district, what can be done to decrease delays
 - a. By the judges?
 - b. By the magistrates judges?
 - c. By counsel?
 - d. By the parties?
3. What are the biggest difficulties that you encounter in attempting to move the civil docket?
4. What is the most effective tool that you have used to expedite the civil docket?
5. Is there a problem with excessive litigation costs in this district?
 - a. in all cases?
 - b. in certain types of cases?
6. If there is problem with excessive litigation costs in this district, what can be done to decrease these costs?
 - a. by the judges?
 - b. by the magistrate judges?
 - c. by counsel?
 - d. by the parties?

7. Is there any problem with the quality or preparation of the attorneys who practice before you?
8. Would the appointment of counsel for pro se litigants decrease delays in pro se cases?
9. How would you characterize the level of judicial case management that you employ?
 - a. Intensive
 - b. High
 - c. Moderate
 - d. Low
 - e. Minimal
 - f. None
 - g. I'm not sure
10. Is the level of case management that you employ in the pretrial stages different than it is during trial?
11. Have you found Rule 11 of the Federal Rules of Civil Procedure to be a useful judicial management tool?
12. Is there any manner in which the magistrate judges can be used more effectively in this district?
 - (1) Can appeals from the magistrates be better coordinated with the date for trial before the district judge?
 - (2) In the Eastern District of New York, magistrates are not assigned prisoner, Social Security, and other cases that are routinely appealed to the district judges. Should such a system be considered in this district?
 - (3) Could magistrate judges be used more extensively to hold settlement conferences in civil cases?
 - (4) Should cases be routinely assigned to magistrate judges, as well as district judges, upon filing?
 - (5) Should a magistrate judge be available by telephone at certain times to resolve discovery disputes?

13. Are there ways in which the clerk's office could more effectively help to reduce litigation cost and delay?
 - (1) Could computers be used more effectively in managing the court's docket?
 - (2) Is there additional information (such as computerized reports) that the clerk's office could provide to help you more effectively manage your docket?
14. The Advisory Group is to "examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the courts."
 - a. What are your general thoughts on this subject?
 - b. Are there specific examples of congressional action or inaction, with respect to legislation or filling judicial vacancies, that have impacted upon the civil or criminal docket of this district?
15. What other suggestions do you have for addressing costs and delays in civil litigation?

B. Civil Case Processing

16. Time Limits

- a. Do you or your clerks monitor service of process?
- b. What is your practice regarding extensions of time to respond to:
 - (1) the complaint?
 - (2) motions?
- c. What procedures have you found most effective in enforcing time limits?

17. Pretrial Conferences

- a. What is your practice concerning scheduling conferences?**
 - (1) Do you hold scheduling conferences?**
 - (2) Describe the format of these conferences.**
 - (3) Are certain types of cases exempt from these conferences?**
 - (4) Do you find scheduling conferences to be effective?**
 - (5) How often do attorneys comply with the dates set at the initial scheduling conference?**
 - (6) Do you use a scheduling order? (Obtain a sample copy.)**
- b. Do you hold other pretrial conferences?**
 - (1) Other than scheduling conferences, how many pretrial conferences do you typically hold in a given case?**
 - (2) When in a case are these conferences held?**
 - (3) Describe the format of these conferences.**
 - (4) Are certain types of cases exempt from these conferences?**
 - (5) Do you find these pretrial conferences to be effective?**
- c. Do you use law clerks or magistrate judges to conduct scheduling or other pretrial conferences?**
- d. Do you encourage counsel to request a pretrial conference if they believe one would help expedite pretrial proceedings?**

18. Final Pretrial Conferences and Orders

- a. Describe your procedures concerning final pretrial conferences.
- b. Do you use a form final pretrial order? (Obtain a sample copy.)
- c. Do you require the parties to attend the final pretrial conference?
- d. Do you use the final pretrial conference to explore settlement possibilities with the parties?
- e. Do you use magistrate judges:
 - (1) to hold final pretrial conferences?
 - (2) to help prepare the final pretrial order?
 - (3) to explore settlement possibilities with the parties?

19. Discovery Procedures

- a. Do you set discovery cut-off dates?
- b. How often do attorneys comply with initial discovery cut-off dates?
- c. Do you use a form discovery scheduling order? (Obtain a sample copy.)
- d. Describe any procedures you use to attempt to control the volume and scope of civil discovery.
- e. Do you hold Rule 26(g) discovery conferences?
- f. Do you encourage counsel to request a Rule 26(g) conference if one would help expedite discovery?
- g. How do you use magistrate judges in the discovery process?
- h. In what percent of your cases, if any, does discovery needlessly contribute to litigation delay?
- i. In what percent of your cases, if any, does discovery needlessly contribute to litigation expense?
- j. Are there particular types of cases in which discovery disputes disproportionately occur?
- k. If discovery needlessly contributes to litigation delay or expense, what should be done about it?
- l. Should the court consider specific discovery restrictions such as a limitation on the number of depositions without leave of court or form interrogatories for certain types of cases?
- m. Should the court monitor discovery by requiring counsel to report on the status of discovery by hearings, telephone conferences, or letter reports?

20. Motion Practice

- a. Describe, generally, your internal policies for handling motions.
- (1) Do your policies differ in civil and criminal cases?
 - (2) Are opposing parties routinely required to file written oppositions to all motions?
 - (3) What is your practice regarding oral argument (including whether you require a specific request for oral argument and your criteria for granting oral argument)?
 - (4) What is your practice with respect to oral rulings on motions?
 - (a) How often do you rule from the bench?
 - (b) Describe the procedures that you employ and the types of cases in which you rule from the bench.
 - (5) Do you monitor the filing of motions, responses and briefs?
 - (6) Do you require attorneys to file proposed orders:
 - (a) routinely;
 - (b) in specific cases;
 - (c) never.
 - (7) In ruling on motions, do certain types of motions receive a priority?
 - (8) What are your policies for the publication of opinions?
- b. What is your opinion about a separate motion docket and motion day?
- c. Do you conduct motion or other hearings by telephone conference call?
- d. In what percent of your cases, if any, does a delay in filing motions needlessly prolong a case?

- e. In what percent of your cases, if any, does a delay in filing motions needlessly increase litigation expense?
- f. In what percent of your cases, if any, does a delay in ruling on motions needlessly prolong a case?
- g. In what percent of your cases, if any does a delay in ruling on motions needlessly increase litigation expense?
- h. Are there procedures, such as a requirement of a statement of disputed issues of fact that could assist you in ruling on motions?
- i. Could pre-motion conferences be effectively used to reduce litigation costs and delays in this district?
- j. Would restriction of the parties to letter briefs in discovery disputes reduce litigation costs and delay in this district?

21. Trials

- a. Describe the manner in which you set trial dates. i.e., date certain set by court, trailing calendar, consultation with counsel about date, etc.
- b. When a civil case is ready for trial, how long does it take you to reach case for trial?
- c. According to statistics from the Administrative Office of the U. S. Courts, 6.2% of the civil cases in the District of New Mexico are tried as opposed to 4.8% of civil cases in the Tenth Circuit and 4.0% throughout the federal court system.
 - (1) What may account for this different rate of trials in the District of New Mexico?
 - (2) Are these different rates of trials good, bad or neither?
 - (3) Should counsel or judges attempt to settle more of the civil cases in the District of New Mexico?
- d. Under what circumstances to you bifurcate trials or otherwise structure the sequence of trial evidence?

C. Alternative Dispute Resolution

22. Which, if any, of the following forms of alternative dispute resolution have you used: mediation, arbitration, evaluation by a third-party neutral, settlement conferences, summary jury trial or judicial mini-trial?
23. What is your opinion as to the effectiveness of each of the alternative dispute resolution techniques that you have used?

D. Criminal Cases

24. Does the criminal docket impact upon the civil docket?
25. Are there certain types of cases that the United States Attorney should not bring in this court?
26. What can be done by the United States Attorney to expedite the handling of criminal cases?
27. What can be done by the criminal defense bar to expedite the handling of criminal cases?
28. Could the petty offense docket be handled more efficiently?
29. Do counsel regularly follow the pretrial deadlines set by the court in criminal cases?
30. Are there disputes within criminal cases (such as questions concerning discovery) that the attorneys should be encouraged or required to resolve among themselves without resort to the court?
31. Should the pretrial aspects of criminal cases be expedited?
32. Could pretrial hearings in criminal cases be expedited by, for instance, not routinely requiring an opposition from the United States to all motions, curtailing the number of hearings on pretrial motions, or holding pre-motion conferences?

ADVISORY GROUP ON REDUCTION OF LITIGATION COSTS AND DELAYS
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ATTORNEY QUESTIONNAIRE (Civil Cases)

CASE CAPTION: _____
CASE NO. _____

A. CASE MANAGEMENT

Case management refers to litigation oversight and supervision by a judge or magistrate. This management may involve the use of status requests, pretrial conferences, scheduling orders, initial pretrial orders, etc., or other mechanisms or procedures for rapid progress to trial.

1. How would you characterize the level of case management which was involved in the above case? Please circle only one.
 - (1) Intensive
 - (2) High
 - (3) Moderate
 - (4) Low
 - (5) Minimal
 - (6) None
 - (7) I am not sure

2. Do you believe that the level of case management in this case was: (circle one)
 - (1) Appropriate to this particular case
 - (2) Too intensive
 - (3) Not intensive enough

3. If you circled (2) or (3) for question 2, please explain your answer below and, if necessary, on the reverse of this sheet.

4. Listed below are several case management actions which could have been taken by the court in this case. For each listed action, please circle one number to indicate whether or not the court took such action in this case.

	Was Taken	Was not Taken	Not Sure	Not Applicable
(1) Held pretrial activities to a firm schedule	1	2	3	4
(2) Set and enforced limits on allowable discovery	1	2	3	4
(3) Narrowed issues through conferences or other methods	1	2	3	4
(4) Magistrate ruled promptly on pretrial motions and other discovery matters	1	2	3	4
(5) Judge ruled promptly on pretrial and dispositive motions	1	2	3	4
(6) Judge allowed sufficient time for appeals from 1 rulings of magistrates		2	3	4
(7) Case referred to alternative dispute resolution	1	2	3	4
(8) Early trial date set	1	2	3	4
(9) Held parties to initial trial date	1	2	3	4
(10) Conducted or facilitated settlement conferences/discussions	1	2	3	4
(11) Exerted firm control over trial	1	2	3	4
(12) Other (please specify) _____	1	2	3	4

5. Are there any case management techniques that you believe should have been used in this case which were not used?

(1) No. _____

(2) Yes _____ (If you answered yes, please enter the letter or letters of each technique that you believe should have been used from the listing of the techniques in question 3 or write out the description of any other technique(s) which you think could have or should have used): _____

6. Are there case management techniques which were actually used in this case which you believe should not have been used?

(1) No _____

(2) Yes _____ (If you answered yes, please enter the letter or letters of each technique which you believe should not have been used from the listing of the techniques in question 3, or write the name of any other technique(s) which you believe s h o u l d n o t h a v e b e e n used): _____

7. In some courts, case are referred to lawyers for pretrial settlement evaluation and conferences or for initial factual determinations. The lawyers utilized in these programs have been especially trained and are experienced in the subject area of the cases which are referred to them.

(1). Had such a referral been an option, would you have seriously considered requesting that this case be referred to a lawyer who was not a judge or magistrate for settlement evaluation and discussions with counsel?

(a) Yes _____

(b) No _____

(c) I am not sure _____

(2). Had such a referral been an option, would you have seriously considered requesting that this case be referred to a lawyer who was not a judge or magistrate for the purpose of making preliminary factual findings which could be appealable to the judge?

(a) Yes _____

(b) No _____

(c) I am not sure _____

B. TIMELINESS OF DISPOSITION OF THIS CASE

1. How many months should this case have taken from filing to disposition under circumstances in which the court, all counsel, and all parties acted reasonably and expeditiously, and there were no obstacles such as a backlog of cases in the court?

_____ months

2. Please consider the time that actually elapsed from filing to disposition for your client in this case compared to what it might have been under ideal circumstances. Circle one of the following answers that pertains to your client in this case.

- (1) The time from filing to disposition was reasonable.
- (2) The time from filing to disposition was too long.
- (3) The time from filing to disposition was too short.
- (4) I can't say.

3. If you believe the time from filing to disposition was too long in this case (that is, you circled No. 2 to Question B2 above, please indicate the reason(s) for the delay by circling each of the following reasons which apply.

- (1) Excessive case management by the court.
- (2) Inadequate case management by the court.
- (3) The court's failure to rule promptly on motions.
- (4) Actions by the court, other than failure to rule promptly on motions.
- (5) Dilatory actions by counsel.
- (6) Dilatory actions by the parties.
- (7) Backlog of other cases on the court's docket.
- (8) Other reasons. (Please specify.)

4. How many months should discovery in this case have taken under circumstances in which the court, all counsel, and all parties acted reasonably, expeditiously and cooperatively?

_____ months

5. Please consider the time that discovery actually took compared to the time it might have taken under ideal circumstances. Please circle one of the following answers that pertains to your case.

- (1) The time taken by discovery was reasonable in this case.
- (2) The time taken by discovery was too long in this case.
- (3) The time taken by discovery was too short in this case.
- (4) I can't say.

6. If you believe that discovery took too long in this case, this is you circled answer 2 to question 5 above, please indicate the reason(s) for the delay by circling each of the following reasons which apply.

- (1) I undertook too much discovery.
- (2) Opposing counsel took too much discovery.
- (3) The discovery which I undertook was not as efficient as it might have been.
- (4) The discovery taken by opposing counsel was not as efficient as it might have been.
- (5) The court did not set as early a discovery cut-off date as it might have.
- (6) The court did not require adherence to the discovery cut-off date that it initially set.
- (7) The court did not limit the scope of discovery to the extent that it might have.
- (8) Other reasons. (Please specify):

7. If you have found delay to be a problem generally in this district, please make suggestions for reducing delay on the back of this page, or a separate sheet.

C. COSTS OF LITIGATION IN THIS CASE

This section seeks information about litigation costs in federal district court. When answering these questions, please consider only activity which was in direct preparation for or occurred subsequent to filing the case in federal court, up until the time of final disposition in the federal district court. Do NOT take into account activity related to state court or administrative proceedings, settlement efforts which took place prior to federal court filing, nor any appellate litigation.

1. Please estimate what was at stake for your client in this case. Please answer "1", "2" or both "1" and "2" to reflect the stakes for your client in this litigation.

(1) The amount of money at stake for my client in this case was approximately \$_____.

(2) The following "stakes " were of interest to my client but were not susceptible to monetary valuation. (List here items such as concern about future litigation or the possibility of a legal precedent of significant consequence to your client.)

2. What was the attorney fee arrangement which you had with your client in this case?

- (1) Hourly rate
- (2) Hourly rate with a maximum
- (3) Hourly rate plus a contingency fee
- (4) Set fee
- (5) Contingency fee
- (6) Government or other salaried attorney
- (7) Other (Please describe)

3. Please indicate the costs spent on behalf of your client on this case for each of the categories listed below. If you are unable to categorize the costs, please indicate the total cost only.

(1) attorneys' fees: _____

(2) attorneys' expenses (copies, postage, travel, etc.)

(3) consultants and investigators: _____

(4) expert witnesses: _____

(5) other (please describe): _____

(6) total cost of litigation: _____

4. Were your client's total litigation fees and costs, including but not limited to attorneys' fees:

(1) much too high

(2) slightly too high

(3) about right

(4) slightly too low

(5) much too low

5. If you believe the total litigation costs in this case were too high (You circled answers (1) or (2) above), please circle the applicable following reasons for the excessive costs.

(1) Excessive case management by the court.

(2) Inadequate case management by the court.

(3) The court's failure to rule promptly on motions.

(4) Actions by the court, other than failure to rule promptly on motions.

(5) Dilatory actions by counsel.

(6) Dilatory actions by the parties.

(7) Backlog of other cases on the court's docket.

(8) Unnecessary discovery.

(9) Inefficient discovery.

(10) Other reason. (Please specify):

6. If you believe that the costs associated with civil litigation are too high in this district, please make any suggestions for reducing these costs here, on the back of this page or on separate sheet(s).

D. ATTORNEY PROFILE

1. How many years have you been engaged in the practice of law?
_____ years

2. Do you, personally, specialize in any area of the law?
(Circle one).

(1) Yes

(2) No

(3) If yes, please list your specialty: _____

3. What percentage of your practice has been devoted to federal district court litigation during the past five years or during the time you have been in practice, if less than five years?

_____ percent of my practice has been devoted to federal district court litigation

4. Of the amount of your practice devoted to federal district court litigation during the past five years:

_____ percent has involved criminal cases

_____ percent has involved civil federal question cases

_____ percent has involved civil diversity cases
_____ percent has involved other federal cases

(The above percentages should total 100 percent.)

5. Concerning your civil federal district court cases: (Circle one)

- (1) The great majority of my federal civil cases are in the District of New Mexico.
- (2) The great majority of my federal civil cases are in a federal district other than the District of New Mexico.
- (3) I litigate civil cases in a number of federal district courts, including the District of New Mexico.
- (4) Other (Please specify.) _____

E. FEDERAL JURISDICTION

1. Many of the civil cases heard by federal district courts also could have been heard by state courts.

- (1) My preference was for this case to be heard in: (Circle one)
 - (a) federal court
 - (b) state court
 - (c) no preference
- (2) The reason for my preference expressed in answer to question 1 above was: (Circle all which apply)
 - (a) A preference for the likely judge who would hear the case.
 - (b) A preference for the likely jury that would hear the case.
 - (c) A desire for a speedier case resolution.
 - (d) A desire for a more delayed case resolution.
 - (e) A desire for a less costly case resolution.

(f) A desire for more favorable judicial rules of procedure and evidence.

(g) Other. (Please explain):

2. If federal diversity jurisdiction was invoked in this case, please circle as many of the following statements about this case as are correct.

(1) Although there was diversity of jurisdiction between the parties, a federal jurisdictional basis other than diversity existed in this case.

(2) The court was asked to resolve a dispute between the parties concerning whether diversity jurisdiction was properly invoked in this case due to a question about the parties' citizenship, the jurisdictional amount in controversy or other federal diversity requirement.

(3) Federal diversity jurisdiction led to a faster and less expensive resolution of this case than would have been possible in state court.

3. Please use this space, the back of this page or a separate sheet to make any additional comments about litigation management in this case or in the federal courts generally.

ADVISORY GROUP ON REDUCTION OF LITIGATION COSTS AND DELAYS
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ATTORNEY QUESTIONNAIRE (CIVIL-NON CASE SPECIFIC)

While your practice may include both civil and criminal cases in the state and federal courts, please restrict your answers to this questionnaire to your experience with civil cases in the United States District Court for the District of New Mexico.

A. MANAGEMENT OF LITIGATION

1. Case management refers to litigation oversight and supervision by a judge or magistrate judge. This management can take such forms as scheduling orders, pretrial conferences, close monitoring of motions practice or other forms of rapid progress to trial.

How would you characterize the level of civil case management in this district? Please circle one.

- (1) Intensive
- (2) High
- (3) Moderate
- (4) Low
- (5) Minimal
- (6) None
- (7) I am not sure

2. Do you believe that the level of civil case management in this district is: (circle one)

- (1) Generally appropriate.
- (2) Too intensive
- (3) Not intensive enough.

If you circled "2" or "3", please explain your answer.

3. Listed below are several case management actions. For each listed action, please circle one number to indicate whether or not the federal judges in this district generally take such action in civil cases.

	<u>Is Taken</u>	<u>Isn't Taken</u>	<u>Not Sure</u>	<u>Not Applicable</u>
a. Hold pretrial activities to a firm schedule.	1	2	3	4
b. Set and enforce limits on allowable discovery.	1	2	3	4
c. Narrow issues through conferences or other methods.	1	2	3	4
d. Rule promptly on pretrial motions.	1	2	3	4
e. Allow sufficient time for appeals from rulings of magistrates.	1	2	3	4
f. Refer cases to alternative dispute resolution, such as mediation or arbitration.	1	2	3	4
g. Set an early trial date.	1	2	3	4
h. Hold parties to initial trial date.	1	2	3	4
i. Conduct or facilitate settlement discussions.	1	2	3	4

- | | | | | | |
|----|--------------------------------------|---|---|---|---|
| j. | Exert firm
control over
trial. | 1 | 2 | 3 | 4 |
| k. | Other (Please
specify.) | 1 | 2 | 3 | 4 |
-
-

4. Are there case management techniques that you believe the federal judges in this district should use in civil cases that they are not now using?

(1) yes.

(2) no.

If you answered "yes" to this question, please enter the letter or letters of each technique that you believe should be employed in this district from the listing of these techniques in question 3 or write out the name of the technique. _____.

5. Are there case management techniques that the federal judges in this district are now using in civil cases that you believe they should not use?

(1) yes.

(2) no.

If you answered "yes" to this question, please enter the letter or letters of each technique that you believe should not be employed in this district from the listing of these techniques in question 3 or write out the name of the technique. _____.

6. In some courts, cases are referred to lawyers for pretrial settlement evaluation and conferences or for initial factual determinations. The lawyers utilized in these programs have been specially trained and are experienced in the subject area of the cases that are referred to them.

a. Were such referrals an option in the District of New Mexico, would you seriously consider requesting that a case be referred to a lawyer who was not a judge nor magistrate for settlement evaluation and discussions with counsel? (Circle one)

- (1) Yes, in all cases.
- (2) Yes, in appropriate cases.
- (3) No.
- (4) I am not sure.

b. Were such referrals an option in the District of New Mexico, would you seriously consider requesting that a case be referred to a lawyer who was not a judge for the purpose of making preliminary factual findings which would be appealable to the judge? (Circle one)

- (1) Yes, in all cases.
- (2) Yes, in appropriate cases.
- (3) No.
- (4) I am not sure.

B. TIMELINESS OF DISPOSITION

7. Please consider the time that generally elapses from filing of the complaint to disposition in this district compared to what it might be under ideal circumstances. Then circle one of the following answers.

- (1) The time from filing to disposition is generally reasonable.
- (2) The time from filing to disposition is generally too long.
- (3) The time from filing to disposition is generally too short.
- (4) I can't say.

8. If you believe the time from filing to disposition is generally too long in this district (you circled answer "2" to question 7), please indicate the reason(s) for the delay by circling each of the following reasons that apply.

- (1) Excessive case management by the court.
- (2) Inadequate case management by the court.
- (3) The court's failure to rule promptly on motions.
- (4) Actions by the court, other than failure to rule promptly on motions.
- (5) Dilatory actions by counsel.
- (6) Dilatory actions by the parties.
- (7) Backlog of other cases on the court's docket.
- (8) Other reasons. (Please specify.) _____

9. Please consider the time that discovery generally takes in this district compared to the time that it might take under ideal circumstances. Then circle one of the following answers.

- (1) The time taken by discovery is generally reasonable.
- (2) The time taken by discovery is generally too long.
- (3) The time taken by discovery is generally too short.
- (4) I can't say.

10. If you believe that discovery generally takes too long in this district (you circled answer "2" to question 9), please indicate the reason(s) for the delay by circling each of the following reasons that apply.
- (1) I undertake too much discovery.
 - (2) Opposing counsel take too much discovery.
 - (3) The discovery that I take is not as efficient as it should be.
 - (4) The discovery taken by opposing counsel is not as efficient as it should be.
 - (5) The court doesn't set as early discovery cut-off dates as it should.
 - (6) The court doesn't require adherence to the discovery cut-off dates that it initially sets.
 - (7) The court doesn't limit the scope of discovery to the extent that it should.
 - (8) Other reasons. (Please specify.) _____
11. If you have found delay to be a problem generally in this district, please make any suggestions for reducing delay here, on the back of this page, or on a separate sheet.

C. COSTS OF LITIGATION

12. Do you believe that the total litigation fees and costs (including but not limited to attorneys' fees) to litigate a case in this district are (circle one):
- (1) much too high
 - (2) slightly too high
 - (3) about right
 - (4) slightly too low
 - (5) much too low

13. If you believe the total litigation costs in this district are too high (you circled answers 12(1) or 12(2)), please circle each of the following reasons for the excessive costs.

- (1) Excessive case management by the court.
- (2) Inadequate case management by the court.
- (3) The court's failure to rule promptly on motions.
- (4) Actions by the court, other than failure to rule promptly on motions.
- (5) Dilatory actions by counsel.
- (6) Dilatory actions by the parties.
- (7) Backlog of other cases on the court's docket.
- (8) Unnecessary discovery.
- (9) Inefficient discovery.
- (10) Other reasons. (Please specify.) _____

14. If you believe that the costs associated with civil litigation are too high in this district, please make any suggestions for reducing these costs here, on the back of this page, or on a separate sheet of paper.

D. ATTORNEY PROFILE

15. How many years have you been engaged in the practice of law?
_____ years

16. Do you, personally, specialize in any area of the law?
(Circle one)

(1) Yes. (Please list your specialty: _____)

(2) No.

17. What percentage of your practice has been devoted to federal district court litigation during the past five years or during the time you have been in practice if less than five years?

_____ percent of my practice has been devoted to federal court litigation

18. Of the amount of your practice devoted to federal district court litigation during the past five years:

_____ percent has involved criminal cases

_____ percent has involved civil federal question cases

_____ percent has involved civil diversity cases

_____ percent has involved other federal case

The above percentages should total 100 percent.

19. Concerning your civil federal district court cases: (circle one)

(1) The great majority of my federal civil cases are in the District of New Mexico.

(2) The great majority of my federal civil cases are in a federal court other than the District of New Mexico.

(3) I litigate civil cases in a number of federal district courts including the District of New Mexico.

(4) Other: (Please specify)

E. FEDERAL JURISDICTION

20. What is your opinion concerning federal diversity jurisdiction? (Circle one or more of the following answers.)
- (1) Federal diversity jurisdiction should be retained in its present form.
 - (2) The minimum amount in controversy for federal diversity claims should be raised.
 - (3) The minimum amount in controversy for federal diversity claims should be lowered.
 - (4) Plaintiffs who are citizens of the state in which suit is filed should not be able to invoke federal diversity jurisdiction concerning their claims.
 - (5) Federal diversity jurisdiction should be abolished.
21. Many civil cases can be heard by either federal or state courts.
- a. When there is a choice between state and federal courts, my preference generally is for a case to be heard in: (circle one)
 - (1) federal court
 - (2) state court
 - (3) no preference

b. The reason for my general preference expressed in answer to question 21(a) is: (circle all that apply)

- (1) a preference for the likely judge who will hear the case;
 - (2) a preference for the likely jury that will hear the case;
 - (3) a desire for a speedier case resolution;
 - (4) a desire for a more delayed case resolution;
 - (5) a desire for a less costly case resolution;
 - (6) a desire for more favorable judicial rules of procedure and evidence;
 - (7) other (please explain) _____
-

22. The Advisory Group is required by statute to "examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the courts." Please use this space, the back of this page, or a separate sheet to provide the Advisory Group with your thoughts on this subject. In your response, please consider the impact on litigation

ADVISORY GROUP ON REDUCTION OF LITIGATION COSTS AND DELAYS
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LITIGANT QUESTIONNAIRE FOR CIVIL CASES

Case Caption: _____
Case Number: _____

1. Were you a plaintiff or defendant in this case? (Circle one)

(1) Plaintiff

(2) Defendant

2. Please circle the following choice that best describes the outcome of this particular case.

(1) The judge ruled in my favor in this case.

(2) The judge ruled against me in this case.

(3) The parties agreed to a settlement of this case that was favorable to me.

(4) The parties agreed to a settlement of this case that was unfavorable to me.

(5) The parties agreed to a settlement of this case that was neither favorable nor unfavorable to me.

(6) Other (Please explain your answer):

3. Please circle the following choice that best describes your feelings about the outcome of this particular case.

(1) I believe that I received a fair hearing concerning my claims or defenses in this case.

(2) I don't believe that I received a fair hearing concerning my claims or defenses in this case.

(3) Other. (Please explain your answer):

4. Was the time it took to resolve this matter (circle one):

- (1) much too long
- (2) slightly too long
- (3) about right
- (4) slightly too short
- (5) much too short

5. If you believe that it took too long to resolve your case (you circled answers 4(1) or 4(2)), what actions should have been taken to resolve your case more quickly by:

- (1) your attorney?
- (2) opposing counsel?
- (3) the court?

6. Some courts have experimented with various types of "alternative dispute resolution" to resolve civil lawsuits without formal adjudication by the judge or jury. These alternatives include arbitration, mediation, and other procedures that use a specially trained and experienced third-person other than the judge to preliminarily decide facts or engage counsel in settlement discussions.
- a. Was any form of alternative dispute resolution considered by you or your attorney in this case?
- (1) Yes (Please explain your answer.)
- (2) No
- b. Was any form of alternative dispute resolution actually used in this case?
- (1) Yes (Using the back of this sheet if necessary, please describe the alternative dispute resolution, the results of that alternative dispute resolution, and your satisfaction with this means of attempting to resolve your dispute.)
- (2) No
- c. Had such a referral been an option, would you have seriously considered requesting that this case be referred to a lawyer who was not a judge for settlement evaluation and discussions with counsel? (circle one)
- (1) Yes.
- (2) No.
- (3) I'm not sure.
- d. Had such a referral been an option, would you have seriously considered requesting that this case be referred to a lawyer who was not a judge for the purpose of making preliminary factual findings (which would have been appealable to the judge)? (circle one)
- (1) Yes.
- (2) No.
- (3) I'm not sure.

7. Please estimate what was at stake for you in this case. Please answer "1," "2," or both "1" and "2" to reflect your stakes in this litigation.

(1) The amount of money at stake for me in this case was approximately _____.

(2) The following "stakes" were of interest to me but were not susceptible to monetary valuation. (List here items such as concern about future litigation or the possibility of a legal precedent of significant consequence.) _____

8. What type of fee arrangement did you have with your attorney in this case? (circle one)

(1) hourly rate

(2) hourly rate with a maximum

(3) hourly rate plus a contingency fee

(4) set fee

(5) contingency fee

(6) other (please describe): _____

9. Please estimate as best you can the costs that you spent on this case for each of the categories listed below. If you are unable to categorize your costs, please indicate the total cost only.

(1) attorneys' fees _____

(2) attorneys' expenses (for copying, postage, travel, filing fees, etc.) _____

(3) consultants and investigators _____

(4) expert witnesses _____

(5) other (please describe): _____

_____ (6) total cost of litigation _____

10. Were the total costs you incurred on this case (circle one):
- (1) much too high
 - (2) slightly too high
 - (3) about right
 - (4) slightly too low
 - (5) much too low
11. If you believe that the cost of this litigation was too high (you circled answers 10(1) or 10(2)), describe the actions that should have been taken to reduce the costs of this matter by:
- (1) your attorney?
 - (2) opposing counsel?
 - (3) the judge?
12. Please estimate the number of other cases in which you have been involved as a party. In addition to the case about which this questionnaire inquires, I have been involved as a party litigant in approximately _____ cases.
13. Of the cases included in the answer to question 12:
- (1) _____ (list number) of these cases were in the state courts, and
 - (2) _____ (list number) of these cases were in the federal courts.
14. Please add any comments on the back of this sheet concerning the time and cost of litigation in the federal courts.

ADVISORY GROUP ON REDUCTION OF LITIGATION COSTS AND DELAYS
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ATTORNEY QUESTIONNAIRE ON CRIMINAL CASES

Case Caption: _____
Case Number: _____

A. CASE MANAGEMENT

1. Case management refers to oversight and supervision of litigation by a judge or magistrate judge. This management can take such forms as setting deadlines, scheduling orders, pretrial conferences, closing monitoring of motions practice or a requirement of rapid progress to trial.

How would you characterize the level of case management in this case? Please circle only one.

- (1) Intensive
 - (2) High
 - (3) Moderate
 - (4) Low
 - (5) None
 - (6) I am not sure
2. Do you believe that the level of case management in this case was: (Circle one)
- (1) Appropriate to this particular case.
 - (2) Too intensive.
 - (3) Not Intensive enough.

If you circled answers "2" or "3", please explain your answer:

3. Listed below are several case management actions that could have been taken by the court in the litigation of this case. For each listed action, please circle one number to indicate whether or not the court took such action in this case.

	<u>Was Taken</u>	<u>Wasn't Taken</u>	<u>Not Sure</u>	<u>Not Applicable</u>
a. Held pretrial activities to a firm schedule.	1	2	3	4
b. Held timely evidentiary hearings.	1	2	3	4
c. Set and enforced deadlines for providing allowable discovery.	1	2	3	4
d. Narrowed issues through conferences or other methods.	1	2	3	4
e. Ruled promptly on pretrial motions.	1	2	3	4
f. Allowed sufficient time for appeals from rulings of magistrates.	1	2	3	4
g. Did not require written oppositions to pretrial motions without a request from the court.	1	2	3	4
h. Set an early <u>trial</u> date.	1	2	3	4

i.	Held parties to initial <u>trial</u> date.	1	2	3	4
j.	Set an early <u>sentencing</u> date.	1	2	3	4
k.	Adhered to an early <u>sentencing</u> date.	1	2	3	4
l.	Exerted firm control over trial.	1	2	3	4
m.	Other (please specify):	1	2	3	4

4. Are there case management techniques that you believe should have been used in this case that were not?

(1) yes.

(2) no.

If you answered "yes" to this question, please enter the letter or letters of each technique that you believe should have been used from the listing of these techniques in question 3 or write out the name of the technique. _____

5. Are there case management techniques that were actually used in this case that you believe should not have been used?

(1) yes.

(2) no.

If you answered "yes" to this question, please enter the letter or letters of each technique that you believe should not have been used from the listing of these techniques in question 3 or write out the name of the technique. _____

B. TIMELINESS OF DISPOSITION OF THIS CASE

6. Please consider how long this case should have taken from its commencement (by indictment or information) to verdict or entry of plea under circumstances in which the court, all counsel, and all parties acted reasonably and expeditiously, and there were no obstacles such as a backlog of cases in the court. Please consider the time that actually elapsed in this case compared to what it might have been under these ideal circumstances. Please circle one of the following answers that pertains to your case.
- (1) The time from commencement to verdict or plea was reasonable in this case.
 - (2) The time from commencement to verdict or plea was too long in this case.
 - (3) The time from commencement to verdict or plea was too short in this case.
 - (4) I can't say.
7. If you believe that the time from commencement to verdict or plea was too long in this case (you circled answer "2" to question 6), please indicate the reason(s) for the delay by circling each of the following reasons that apply.
- (1) Excessive case management by the court.
 - (2) Inadequate case management by the court.
 - (3) The court's failure to rule promptly on motions.
 - (4) Actions by the court, other than failure to rule promptly on motions.
 - (5) Dilatory actions by counsel.
 - (6) Dilatory actions by the parties.
 - (7) Backlog of other cases on the court's docket.
 - (8) Other reasons. (please specify) _____

8. Please consider how long this case should have taken from verdict or entry of plea to sentencing under circumstances in which the court, all counsel, and all parties acted reasonably and expeditiously, and there were no obstacles such as a backlog of cases in the court. Please consider the time that actually elapsed in this case between verdict or entry of plea and sentencing compared to what it might have been under these ideal circumstances. Please circle one of the following answers that pertains to your case.
- (1) The time from verdict or plea to sentencing was reasonable in this case.
 - (2) The time from verdict or plea to sentencing was too long in this case.
 - (3) The time from verdict or plea to sentencing was too short in this case.
 - (4) I can't say.
9. If you believe that the time from verdict or plea to sentencing was too long in this case (you circled answer "2" to question 8), please indicate the reason(s) for the delay by circling each of the following reasons that apply.
- (1) Delay in preparation of presentence report.
 - (2) Objections of the United States to presentence report.
 - (3) Objections of the defendant to the presentence report.
 - (4) Scheduling of sentencing hearing.
 - (5) Other reasons. (please specify) _____
10. If you have found delay to be a problem in criminal cases in this district, what suggestions do you have for reducing this delay?

COSTS OF LITIGATION IN THIS CASE

This section seeks information about the costs of litigating this case in federal district court. When answering these questions please consider only activity that was in direct preparation for or occurred subsequent to the indictment in federal court, up until the time of final disposition in the district court.

11. What was the attorney fee arrangement that you had with your client in this case?

- (1) hourly rate
- (2) hourly rate with a maximum
- (3) set fee
- (4) court-appointed counsel
- (5) government or other salaried attorney
- (6) other (please describe) _____

12. Please indicate the costs spent on behalf of your client for each of the categories listed below. If you are unable to categorize the costs, please indicate the total cost only.

- (1) attorneys' fees _____
- (2) attorneys' expenses (for copying, postage, travel, etc.) _____
- (3) consultants and investigators _____
- (4) expert witness _____
- (5) other (please describe): _____

- (6) total cost of litigation _____

13. Were the total litigation fees and costs (including but not limited to attorneys' fees) that your client incurred (circle one):
- (1) much too high
 - (2) slightly too high
 - (3) about right
 - (4) slightly too low
 - (5) much too low
14. If you believe that the total litigation costs in this case were too high (you circled answers "1" or "2" to question 13), please circle all of the following reasons for the excessive costs.
- (1) Excessive case management by the court.
 - (2) Inadequate case management by the court.
 - (3) The court's failure to rule promptly on motions.
 - (4) Actions by the court, other than failure to rule promptly on motions.
 - (5) Dilatory actions by counsel.
 - (6) Dilatory actions by the parties.
 - (7) Backlog of other cases on the court's docket.
 - (8) Other reasons. (please specify) _____
15. If you believe that the costs associated with criminal litigation are too high in this district, what suggestions for reducing these costs do you have?

20. Concerning your criminal federal district court cases:
(circle one)

- (1) The great majority of federal criminal cases are in the District of New Mexico.
- (2) The great majority of my federal criminal cases are in a federal district court other than in the District of New Mexico.
- (3) I litigate criminal cases in a number of federal district courts including the District of New Mexico.
- (4) Other. (Please specify:)

21. Please use the space below, the back of this page or a separate sheet to make any additional comments about the management of this particular case or about management of litigation in the federal courts generally.

D. ATTORNEY PROFILE

16. How many years have you been engaged in the practice of law?

_____ years

17. Do you, personally, specialize in any area of the law?
(circle one)

(1) Yes.

(2) No.

If you circled "yes," please list your specialty.

18. What percentage of your practice has been devoted to federal district court litigation during the past five years (or during the time you have been in practice, if less than five years)?

_____ % of my practice has been devoted to federal district court litigation

19. Of the amount of your practice that has been devoted to federal district court litigation during the past five years:

_____ % has involved federal criminal cases

_____ % has involved civil federal question cases

_____ % has involved civil diversity cases

_____ % has involved other federal cases

The above percentages should total 100 percent.

20. Concerning your criminal federal district court cases:
(circle one)

- (1) The great majority of federal criminal cases are in the District of New Mexico.
- (2) The great majority of my federal criminal cases are in a federal district court other than in the District of New Mexico.
- (3) I litigate criminal cases in a number of federal district courts including the District of New Mexico.
- (4) Other. (Please specify:)

21. Please use the space below, the back of this page or a separate sheet to make any additional comments about the management of this particular case or about management of litigation in the federal courts generally.