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(1908-1994)

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February 28, 1995

The Honorable Thomas R. Brett  
United States District Judge  
for the Northern District of Oklahoma  
333 W 4th Street  
Tulsa OK 74103

**RE: Civil Justice Reform Act of 1990,  
Annual Report of the Advisory Committee  
of the Northern District of Oklahoma**

Dear Judge Brett:

One of the obligations with which our group is charged by the Act is to submit an annual report on the effect of the implementation of our plan.

Our plan has been in effect for a limited period of time and because of the addition of Judges Terry Kern and Michael Burrage, the prospective addition of Judge Sven Holme and two new Magistrate Judges, we have elected to defer a detailed report until the end of 1995. A limited Annual Report has been prepared and is enclosed for your consideration.

Some of the things which have occurred in response to the plan for the Northern District of Oklahoma are:

1. A reduction of the backlog of dispositive motions and pro se matters;
2. Increased early involvement by Article III judges in the management of new cases;
3. Appointment and confirmation of three Article III judges;
4. Obtaining a third United States Magistrate Judge position;
5. Significant improvement in computer capabilities of the office of the clerk of court and availability of documents to attorneys in the public;
6. Enhanced awareness of all judicial officers of the costs of discovery and litigation plans to reduce that cost; and

The Honorable Thomas R. Brett  
United States District Judge  
for the Northern District of Oklahoma  
February 28, 1995  
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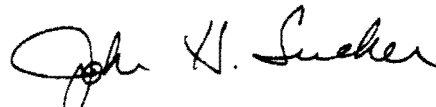
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7. Use of Friday as a non-trial day, avoiding frequent interruption of matters in trial.

This report will complete the term of service of this advisory group. We have appreciated the opportunity to be of service to the Court.

Thank you for your attention.

Sincerely,



JOHN H. TUCKER  
Chairman

JHT:ac  
Enclosure

cc: The Honorable James O. Ellison  
The Honorable H. Dale Cook  
The Honorable Michael Burrage  
The Honorable Terry Kern  
Abel Mattos, Administrative Office  
Bob Hoecker, Circuit Executive  
The Honorable Stephanie K. Seymour  
Richard Lawrence, Court Clerk for the Northern District of Oklahoma

**1995 ANNUAL REPORT OF THE ADVISORY GROUP  
OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA  
APPOINTED UNDER THE CIVIL JUSTICE REFORM ACT OF 1990**

**February 28, 1995**

**1995 ANNUAL REPORT OF THE ADVISORY GROUP  
OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA  
APPOINTED UNDER THE CIVIL JUSTICE REFORM ACT OF 1990**

**Prepared for the Court**

**by**

**Members of the CJRA Advisory Group  
for the Northern District of Oklahoma**

**John H. Tucker, Esquire  
Chairperson**

**Professor Martin A. Frey  
Reporter**

**February 28, 1995**

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## INTRODUCTION

On April 1, 1990, Chief Judge H. Dale Cook of the United States District Court for the Northern District of Oklahoma appointed an Advisory Group pursuant to the Civil Justice Reform Act of 1990. On December 31, 1991, Judge Cook took senior status and on January 1, 1992, James O. Ellison became Chief Judge. On December 11, 1992, the Advisory Group submitted its Report to Chief Judge James O. Ellison and the Court. On November 30, 1993, Chief Judge Ellison and District Judge Thomas R. Brett approved and adopted a "Cost and Delay Reduction Plan for the United States District Court for the Northern District of Oklahoma."

On June 10, 1994, District Judge Kern and District Judge Burrage assumed positions on the Court. Judge Burrage's official duty station is the Eastern District of Oklahoma although he is designated .5 for the Northern District. The appointment of Judges Kern and Burrage increased the actual number of judges for the Northern District to 3.5 (plus one senior judge). With the appointment of Judge Burrage, the number of authorized judgeships for the Northern District of Oklahoma changed from 3.67 to 3.5.

On November 7, 1994, Chief Judge Ellison took senior status and Judge Brett became Chief Judge on November 8. This change reduced the actual number of judges for the Northern District to 2.5 (plus two senior judges). The current vacancy will be filled on March 8, 1995, when Sven Holme joins the Court.

On February 28, 1995, the Court's Cost and Delay Reduction Plan will be fifteen months old and the original Advisory Group will complete its term of appointment. As a conclusion of its work, the original Advisory Group submits this Report. This Report reviews the implementation of the Cost and Delay Reduction Plan for the United States District Court for the Northern District of Oklahoma. The new Advisory Group will study the impact of the Plan on cost and delay reduction for the District.

Since the Court adopted its Plan on November 30, 1993, a number of significant events have taken place that will reduce the cost and delay of litigation within this District. Some of these events are as follows:

- o The number of pending civil cases has remained in the 1100 to 1200 range although the number of pending civil cases has steadily decreased since July 1, 1994, when the number of pending civil cases reached its high of 1220
- o The additional Article III judge, authorized for the Northern District of Oklahoma by the Federal Judgeship Act of 1990, has been filled
- o The vacancy created when Chief Judge Cook took senior status has been filled

- o For six months in calendar year 1994 (June 10, 1994 - October 7, 1994), the Court has operated with no vacancies
- o The vacancy created when Chief Judge Ellison took senior status will be filled on March 8, 1995, and the Court will then operate with no vacancies
- o With the new judges and the Senior Judges taking cases, the number of pending cases per judgeship has been significantly reduced
- o A number of cases have been assigned to the Magistrate Judges with the consent of the parties
- o A third United States Magistrate Judge position has been allocated to the District and should be filled early this spring
- o Article III judges have increased their early involvement in the management of new cases
- o A joint case management plan, which includes a discovery plan, a settlement plan, an estimation of litigation costs, a disclosure of anticipated dispositive motions, and a recitation of stipulations, is now required for the case management conference
- o Friday has become a non-trial day so the frequency of interruptions of matters in trial has been reduced and the Court has block time to devote to disposing of dispositive motions
- o The backlog of dispositive motions and pro se matters has been reduced
- o A full functioning PACER (Public Access to Computerized Electronic Records) system has been installed thus allowing attorneys with PC capability to dial into the court's docketing system and extract data
- o An ICMS (Integrated Case Management System) has been installed allowing both civil and criminal docketing to be automated
- o New Local Rules have been adopted by the Court to implement the Plan

The following Report will detail these and other changes within the Northern District of Oklahoma.

## **I. Systematic Differential Treatment of Civil Cases**

### **A. Case Management Tracks**

The Court has established five tracks for all civil cases:

1. Prisoner Litigation
2. Social Security Appeals
3. Bankruptcy Appeals
4. Standard Management
5. Special Management

### **B. Assignment of Tracks**

Cases falling within the Prisoner Litigation, Social Security Appeal, or Bankruptcy Appeal tracks are now assigned to the appropriate track by the Court based on the initial pleading. All other cases are assigned to either the Standard Management track or the Special Management track by the Court at the Case Management Conference. The Standard Management and Special Management tracks are reflected on the Case Management Forms which were developed by the Court as a part of its Cost and Delay Reduction Plan.

### **C. Management Procedures**

1. **Prisoner Litigation.** Most habeas corpus petitions and prisoner civil rights cases are routinely screened by the pro se law clerk upon filing. Case management conferences are not being conducted in prisoner cases unless ordered by the Court. The overflow from the pro se law clerk is being handled directly by the Magistrate Judge's Office without the pro se law clerk.

The Magistrate Judges enter such orders as are necessary for the efficient management of the case. Some orders are issued directly by the District Court Judges rather than by the Magistrate Judges.

2. **Social Security Appeals.** All social security appeals go through the Magistrate Judge's office. Upon filing, the social security appeals are routinely assigned between the two Magistrate Judges. To reduce the existing backlog, seventy cases were taken from the Magistrate Judges and processed directly through the District Court Judges Offices.
3. **Bankruptcy Appeals.** The Magistrate Judges have been conducting bankruptcy appeals hearings on an advisory basis.



4. **Standard Management.** Cases assigned to the Standard Management Track are managed in accordance with the standard practice and procedures of the Court.
5. **Special Management.** If the Court determines that a case is appropriate for special management, the Court has followed the requirements of Fed.R.Civ.P. 16 and the local rules, unless the Court has otherwise ordered. Counsel has an opportunity to indicate on the Case Management Plan form that the case is one requiring additional, specialized case management.

Currently, several cases, including a CERCLA case, are on the special management track.

## **II. Case Management Plan**

To implement its Plan, the Court developed a Case Management Plan form. Under new Local rule 16.1, this form must be jointly completed by the parties prior to the case management conference.

## **III. Early Judicial Case Management**

### **A. Case Management Conference**

Case management conferences have now been completely switched from the Magistrate Judges offices to the District Judges Offices. The Magistrate Judges only do case management conferences in consent cases.

### **B. Intensive Management of Discovery Disputes**

1. **Effort by Parties to Resolve Discovery Disputes.** Local Rule 37.1 now requires a good faith personal conference between opposing counsel as a condition precedent to filing a discovery motion.
2. **Approval of Extensions of Time.** The Court has continued its cost saving practice of permitting counsel, rather than the client, to request extensions of time.
3. **Voluntary Disclosure and Cooperative Discovery.** The Court has continued its practice of encouraging voluntary disclose and cooperative discovery. Local Rules 16.1(C)(6), 26.1(E). In addition the Local Rules do require disclosure of insurance agreements. The Court, however, opted out of portions of Fed.R.Civ.P. 26. Its absence has not been noticed.

4. **Adjunct Discovery Judges.** The Court has successfully used adjunct discovery judges in several cases. The Court anticipates the use of adjunct discovery judges to increase.

The Court has developed a procedure whereby the case is assigned to an adjunct discovery judge. The task is defined. The adjunct discovery judge submits a report to a Magistrate Judge. The Magistrate Judge submits the report to the parties with a request to identify reversible error. On occasion a party will identify possible reversible error. The Magistrate Judge will evaluate the adjunct discovery judge's report along with the parties comments as to reversible error. The Magistrate Judge will then adopt the report, with modifications, as the discovery order.

5. **Abatement of General Discovery During the Pendency of Dispositive Motions.** The Court has done some abatement of general discovery during the pendency of dispositive motions as a major cost saving measure. The Court has been much more amenable to abatement since the Plan has been adopted.

6. **Emergency Telephone Conferences.** The Magistrate Judges have continued the pre-Plan policy of making themselves available for emergency telephone discovery conferences. The Court readopted this procedure in Revised Local rule 37.2(B).

7. **Mandatory Disclosure.** In light of the uncertainty surrounding the parameters of proposed Rule 26 of the Federal Rules of Civil Procedure disclosure, the intense local opposition to mandatory disclosure not directed or supervised by the court, and the resultant likelihood of disclosure-related ancillary litigation, the Court has continued its cautious approach. The Court continues to carefully circumscribe the use of pretrial disclosure to those areas historically required by the Court. The one addition has been in the area of charts disclosure.

The Court has adopted Rule 26(a)(2) of the Federal Rules of Civil Procedure with regard to the disclosure of witnesses and experts and having reports. This has been incorporated in the Court's Case Management Format and Scheduling Order which requires the reports of the experts.

- 8. Discovery Limitations and Advisories.** In order to reduce cost and delay in connection with discovery, the Court has incorporated limitations and advisories into its revised local rules.
- o Revised Local Rule 26.1(D) provides that all discovery requests be served in sufficient time to allow a response prior to the discovery cut-off date.
  - o Revised Local Rule 30.1 permits video depositions without a prior application; sets a presumptive time limit per deposition of six hours; requires an enforceable agreement of counsel to take depositions outside the regular business hours; and presumptively restricts the number of depositions to be taken by each side to ten.
  - o Revised Local Rule 33.1 presumptively limits the number of interrogatories to 25 per party and defines subparts as separate interrogatories.
  - o Revised Local Rule 37.2 makes a general referral of all discovery motions to the assigned Magistrate Judge and states that all discovery orders of a Magistrate Judge will remain effective until modified or reversed by a district judge, using an abuse of discretion standard of review.

#### **IV. Dispositive Motions**

##### **A. Quicker Decisions**

The Court believes that rulings are being made more quickly on dispositive motions. The Court adopted new local rules when the Plan was adopted in 1993. A year later, the Court modified the Local Rules to permit partial consent so a Magistrate Judge could rule just on dispositive motions. See Revised Local Rule 16.1(F)(7) (effective January 1, 1995). Appeals from the Magistrate Judge's ruling can be taken directly to the Circuit Court. The Court has modified its consent form so it now has a consent form and a partial consent form.

##### **B. Dilatory Motions Disapproved**

The Court has continued its firm stance against dilatory motions.

**C. Fewer Expanded Orders**

The Court has not limited written expanded explanatory orders.

**D. Full Use of Magistrate Judges**

The Court has continued its policy of fully using Magistrate Judges in accordance with 28 U.S.C. §§ 636(1)(B) and (C). The only significant change is that the Magistrate Judges are not being used for case management unless the parties have consented to trial before a Magistrate Judge.

**V. Trial Procedures**

**A. Magistrate Judge Consent Cases Encouraged**

The number of consent cases has increased since the Court's adoption of its Plan. With regard to Social Security Appeals, the vast majority consent to trial before a Magistrate Judge.

FY 1993	4.4
FY 1994	92.8

Average Number of Cases Pending  
Before the Magistrate Judges

(FY - fiscal year begins on October 1 and ends on  
September 30)

**B. Limiting the Number of Witnesses and the Time for Testifying**

Some judges are limiting the number of expert witnesses, the number of fact witness and the time given to testify at trial. Generally, there is more of a willingness to impose limitations now that the Court has adopted its Plan.

**C. Presenting Direct Testimony by Narrative**

The Court is permitting some witnesses, in addition to medical experts, to present their evidence on direct examination through a narrative formate or through a partial narrative format. The proposed narrative must first be provided in written form to opposing counsel so counsel has a fair opportunity to present objections. This format was used in almost all asbestos cases in the Northern District and has been used from time to time on a case by case basis.

**D. Presenting Testimony by Deposition**

The Court is permitting some witnesses, in addition to medical experts, to present their evidence through deposition, even though that witness may be subject to subpoena. If the deposition was by video, the Court no longer requires a transcript to accompany the video.

**E. Exhibits**

Since the Court adopted its Plan, exhibit conferences and preadmission of exhibits and demonstrative aids are used more frequently. Almost all the Judges now will admit exhibit in mass at the beginning of trial.

**F. Jury Selection**

1. **Pre-Service Screening Questionnaire.** The Court has not increased its use of questionnaires. The Court has concluded that the present juror screening questionnaire was adequate in most cases.
2. **Voir Dire.** Two Judges and two Magistrate Judges are permitting limited attorney voir dire.
3. **Consecutive Jury Selective.** The Court has experimented with consecutive jury selection but it is not the standard practice.

**G. Notetaking by Jury**

One Magistrate Judge is permitting jurors take notes in some cases. In surveying the jurors after the trial, the Magistrate Judge has found that jurors appreciate the opportunity to take notes. The litigants have not objected to the practice.

**H. Civil/Criminal Conflicts**

The scheduling of trials for four rather than five days a week has reduced the civil/criminal conflicts.

**I. Four-Day Trial Week**

The Court has scheduled jury trials for four days a week, rather than five. By leaving Fridays free from jury trials, civil matters requiring the Court's attention and criminal hearings can be scheduled on that day. This practice has reduced the interruptions during the trial of civil cases.

## **J. Court-Appointed Experts**

The use of court appointed experts has not been widespread. The theory may be better than the practice. The Court has had difficulty finding truly independent experts. The Court has found that in addition to the court appointed expert, each side would like its own expert. Therefore, the costs have increased rather than decreased.

## **VI. Alternative Dispute Resolution**

### **A. Permanent Case Management and ADR Advisory Committee**

The Court is in the process of constituting its permanent Case Management and ADR Advisory Committee. The Court anticipates completion of the appointment process by the end of February 1995. The Committee will assist the Court in studying and implementing Civil Justice Reform measures generally, including new ADR initiatives. See Revised Local Rule 16.3(K).

### **B. Existing ADR Programs in the Northern District**

#### **1. Pre-trial Settlement Conference**

- a. Early Conferences Encouraged.** Judge Burrage and Judge Kern are currently ordering almost all cases that go through their case management conferences to pre-trial settlement conference.
- b. ADR Brochure.** The Court, with the assistance of the Center on Dispute Resolution of The University of Tulsa College of Law, has developed an ADR brochure for the Northern District. The court clerk is distributing the brochure to counsel to be provided to and discussed with clients. For a copy of the brochure, see pp. 14-15.
- c. Assessment Questionnaire.** The Court contemplates developing an assessment questionnaire to be completed by both the attorneys and the litigants who participated in the settlement conference. This project will be assigned to the Case Management and ADR Advisory Committee.
- d. Development of Additional Resources.** The Case Management and ADR Advisory Committee will be assigned the development of a mechanism to make a settlement conference available at any time before trial if, in the view of the parties, it would be beneficial

to a potential settlement of the case.

**2. Adjunct Settlement Judge Program**

- a. Program Made Permanent.** As part of its Plan, the Court recognized the Adjunct Settlement Judge Program as a permanent program.

An additional ASJ training program is being developed for May 1995. It is anticipated that in addition to training ten new adjunct settlement judges, the program will be open to the new district court and Magistrate Judges in this district as well as several from other districts who have expressed an interest. Revised teaching materials are being developed and the training program may include a settlement day where the new ASJs will conduct settlement conferences under the supervision of an experienced ASJ.

- b. Institutionalization.** The Court has not moved toward institutionalizing the ASJ Program as of this time.
- c. Special Project Assignments.** Although most of the ASJ settlement conferences have been on a pro bono basis, several ASJs have been assigned to special projects on a paid basis.
- d. Liberal Disqualification Policy.** The Court has continued its liberal disqualification policy of ASJs in order to preserve the actual and perceived integrity of the ASJ Program.
- e. PACER Access.** The Court has encountered bureaucratic obstacles that have made it impossible to provide ASJs with cost-free access to PACER (Public Access to Computerized Electronic Records) in connection with cases assigned to them for settlement purposes. The Court is continuing its efforts with the Federal Judicial Conference.

- 3. Other Alternative Methods of Dispute Resolution.** The Court has continued to experiment with other alternative methods of dispute resolution, including summary jury trial, minitrial, and executive summary jury trial. The Court will emphasize the availability of these processes during its next ASJ Training Program.

**C. Court-Annexed Arbitration**

The Court has developed a dialogue with the Western District of Oklahoma so some Northern District of Oklahoma cases might gain access to its court-annexed arbitration program. Some Western District cases have gained access to the ASJ Program of the Northern District. The Northern District does not anticipate initiating a court-annexed arbitration program.

**D. Early Neutral Evaluation**

The Court continues to provide ENE where appropriate in the early settlement conferences conducted by Magistrate Judges and ASJs. The settlement conference includes both facilitative and evaluative mediation techniques. The Court does not anticipate instituting a separate ENE program.

**E. ADR Ethical Standards**

The Court has not formalized ADR Ethical Standards. Ethical considerations have, however, been incorporated into the ASJ training programs. The Case Management and ADR Advisory Committee may be asked to develop a formal set of written guidelines to institutionalize the ethical standards and principles that now govern the Court's settlement conference and other ADR procedures.

**VII. Need to Increase Personnel**

**A. Magistrate Judges**

This spring, the number of Magistrate Judges will increase from two to three. The third Magistrate Judge has been nominated and his nomination is proceeding through the FBI clearance check.

**B. Court Clerk Personnel**

The ASJ Program continues to be administrated through Magistrate Judge John Leo Wagner's Office. The Court Clerk's Office has not received an increase in personnel for this position.

**VIII. Technology**

The Court has been successful in obtaining funding to pursue hardware and software applications to assist the management and processing of lawsuits. Within the Court, ICMS (Integrated Case Management System) has been installed allowing both civil and criminal docketing to be automated. The Court no longer uses paper dockets. Management reports now automated include a monthly Motion Pending Report by



chambers. Although the regular cycle is monthly, this report is often generated on an as needed basis. All chambers have been computer networked along with the courtrooms and Clerk's Office. Some advantages are docket entries are immediately available to chambers, inquiries and calendaring may be performed in the courtroom by courtroom deputies, and staff drafts of orders are readily available to judicial officers for revision.

A full functioning PACER (Public Access to Computerized Electronic Records) system has been installed. This system allows attorneys with PC capability to dial into the Court's docketing system and extract data. Frequent users of the dial-in feature are the United State Probation and United States Attorney's Offices.

The staff in the Clerk's Office are able to receive computer based training using CD ROM technology. They also have access to the Administrative Office's nationwide bulletin board system.

In the near future, the Federal Rules of Civil and Criminal Procedure, the Local Rules, jury instructions and several other reasonably static data bases will be loaded into a centralized computer which can be accessed through the network system. This will release memory in the PCs in chambers, thus increase response time.

In March the Court is scheduled to have the DCN (District Court Network) system installed. This will replace the current network system and provide a link with the Tenth Circuit Court of Appeals and the Administrative Office in Washington.

## **IX. Educational Mission**

### **A. Continuing Legal Education**

The Court continues to work with the Oklahoma Bar Association in presenting an annual CLE program regarding practice in the Northern District of Oklahoma. The last program was held in December 1994 and another is scheduled for December 1995.

### **B. Judicial Internships**

The Court continues to use Judicial Interns from The University of Tulsa College of Law. This program gives law students an opportunity to see the court in action.

**X. Reforming Local Rules**

**A. New Local Rules**

The Court adopted new Local Rules which were consistent with its Cost and Delay Reduction Plan (November 30, 1993). These rules were subsequently revised and became effective January 1, 1995.

**B. Uniform Rules Among the Oklahoma Districts**

The dialogue concerning uniform rules among the three Oklahoma District Courts continues. Although the prognosis is not too promising, work continues to encourage uniformity and cooperation where ever possible.

**XI. Contingent Fee Reform**

The Court has considered controlling or setting contingent fees and the concept has been rejected. The topic will be presented to the Case Management and ADR Advisory Committee for its consideration.

**ALTERNATIVE  
METHODS  
OF DISPUTE  
RESOLUTION  
(ADR)  
in the  
UNITED STATES  
DISTRICT COURT  
for the  
NORTHERN  
DISTRICT  
OF OKLAHOMA**



**UNITED STATES  
DISTRICT COURT  
for the  
NORTHERN DISTRICT  
OF OKLAHOMA**

**Party's Request for ADR**

Case Name: \_\_\_\_\_ v.

Case Number: \_\_\_\_\_

I wish to participate in the following ADR procedure (check one):

- Settlement Conference conducted by an Adjunct Settlement Judge
- Settlement Conference conducted by a Magistrate Judge
- Mini-Trial
- Summary Jury Trial

Signature \_\_\_\_\_

\_\_\_\_\_  
Name (Please type or print)

I am a (please check one):

- Plaintiff
- Defendant
- Other

Mail to:  
Richard M. Lawrence, Clerk  
U.S. District Court for the  
Northern District of Oklahoma  
411 U.S. Courthouse  
333 West Fourth Street  
Tulsa, OK 74103

**ALTERNATIVE METHODS  
OF DISPUTE RESOLUTION  
(ADR)  
in the  
UNITED STATES  
DISTRICT COURT  
for the  
NORTHERN DISTRICT  
OF OKLAHOMA**

Historically, more than 90 percent of civil cases settle before trial. Therefore, it makes sense to explore settlement early in a case, before substantial costs and expenses are incurred.

To obtain earlier, more satisfactory results, the court has made the following methods of alternative dispute resolution available. You are encouraged to seriously consider using these alternative procedures.

**SETTLEMENT CONFERENCE**

The settlement conference is the most commonly used, and most successful ADR procedure offered by the court. A settlement conference is a court-sponsored mediation conducted by an officer of the court. Settlement conferences generally should be scheduled early in the case, but you may request one at any time before trial.

The settlement conference is usually hosted by an adjunct settlement judge (ASJ). An ASJ is a lawyer who has been specially selected and trained by the court to conduct settlement conferences. Each ASJ has one or more areas

of special legal expertise and is assigned only to cases involving those areas of expertise.

The court encourages settlement conferences hosted by adjunct settlement judges because the magistrate judges and district court judges have very limited availability for settlement conferences. The court, however, never requires parties to appear before an ASJ against their will. In the rare instance where a settlement conference is requested and universal consent to proceed before an ASJ is not freely given, the conference will be set before a disinterested judicial officer of the court when one becomes available.

When all parties do consent to the use of an ASJ, the court carefully selects a highly qualified ASJ to conduct the settlement conference, and the conference is scheduled as conveniently as possible for the parties.

Ordinarily, there is no charge for the services of an ASJ. A modest hourly charge, however, may be imposed in exceptionally complex cases that require multiple conferences. When appropriate, these charges are equitably apportioned among the parties.

A settlement conference provides significant advantages over trial.

- It is a relatively inexpensive, nonbinding process that often results in the immediate resolution of the dispute.
- If a settlement can be reached, the parties will save discovery, litigation, and appeal costs.
- It is private and noncoercive, and proceeds under the protection of a strict confidentiality order imposed by the court.

- It is informal and unstructured with each litigant having an opportunity to discuss his or her case in private with the settlement judge, an independent third party.
- It allows the litigants to control the outcome of their dispute, and encourages creative resolutions that are not available through trial.
- It is more cooperative and less confrontational than a trial.
- It eliminates the uncertainties that are inherent in a trial.
- If settlement is not reached, the settlement judge will not participate in the trial track of the case.

### MINI-TRIAL

The mini-trial is a nonbinding process that is often useful in resolving disputes between corporate parties. In a mini-trial, settlement authorized representatives (usually senior executives of the respective corporations) join a judge to form a three-person panel. The panel hears a summary presentation of the case by the attorneys. After the presentation, the corporate members of the panel discuss settlement, often with the judge's assistance.

A mini-trial also provides several advantages over trial.

- The hearing lasts no more than one day.
- The hearing crystallizes the case for all participants.
- The corporate representatives hear both sides of the case, often for the first time.

- The post-hearing settlement discussions capitalize on the senior executives' negotiating skills and the skills of the judge.
- If settlement can be reached, the costs of discovery, trial, and appeal can be saved.

### SUMMARY JURY TRIAL

The summary jury trial is a sophisticated settlement mechanism involving a summary presentation by attorneys to a judge and jury. The procedure is flexible and tailored to the particular requirements of each case. Although the summary jury trial may be structured so no witnesses are used, when the credibility of witnesses becomes important, a limited number of witnesses are permitted to testify.

A regular jury is selected to hear the case. At the conclusion of the evidentiary presentation, the jury is given a limited amount of time to deliberate, and settlement discussions are commenced. The litigants and their lawyers are permitted to talk at length with the jurors after the verdict is returned. The verdict and comments of the jurors are then considered as the settlement negotiations proceed.

In an executive summary jury trial, senior executives from the litigating corporations are asked to sit on the bench with the judge during the abbreviated jury trial.

The preparation and presentation of a summary jury trial requires substantial effort, and they are not routinely used. In an appropriately selected case, however, a summary jury trial offers distinct advantages over trial.

- A summary jury trial is normally conducted in one day.

- The attorneys present the evidence in summary fashion, and the rules of evidence and procedure are relaxed.
- The jury verdict is nonbinding unless the parties agree that it shall be binding.
- If the jury verdict is nonbinding, the verdict provides the parties with insight into the probable outcome of the case.
- If the parties agree that the jury verdict shall be binding, no further trial is necessary. The parties can stipulate to high and low parameters on the outcome, and thus control their respective trial risks, as well as their costs.

### HOW DO I ASK FOR COURT-SPONSORED ADR?

A litigant can ask for court-sponsored ADR at any time by filling out the attached form and mailing it to the Court Clerk.

### NON-COURT-SPONSORED ADR

Non-court-sponsored alternative methods of dispute resolution are also available in our community, usually at nominal charge. Due to scheduling, timing, or other considerations, the use of these services may be preferable in your case. These private methods include mediation, arbitration, and private trials. Your attorney can provide you with additional information concerning private ADR providers.

This ADR pamphlet has been created by the United States District Court for the Northern District of Oklahoma with the assistance of the Center on Dispute Resolution The University of Tulsa College of Law