

**THE COST AND DELAY REDUCTION PLAN
FOR THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

DECEMBER 1, 1993

CONTENTS

COST AND DELAY REDUCTION PLAN FOR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

INTRODUCTION	i
A Commitment to Civil Justice	i
I. Systematic Differential Treatment of Civil Cases.	1
A. Case Management Tracks	1
B. Tracks Defined.	1
1. Prisoner Litigation	1
2. Social Security Appeals	1
3. Bankruptcy Appeals	1
4. Standard Management	1
5. Special Management	1
C. Assignment of Tracks	2
D. Management Procedures.	2
1. Prisoner Litigation	2
2. Social Security Appeals	2
3. Bankruptcy Appeals	2
4. Standard Management	3
5. Special Management	3
II. Subsequent Treatment of Cases on the Special Management Track.	3
III. Early Judicial Case Management	4
A. Case Management Conference	4
B. Intensive Management of Discovery Disputes	4
1. Effort by Parties to Resolve Discovery Disputes	4
2. Approval of Extensions of Time	4
3. Voluntary Disclosure and Cooperative Discovery	4
4. Adjunct Discovery Judges	5
5. Abatement of General Discovery During the Pendency of Dispositive Motions	5
6. Emergency Telephone Conferences	5
7. Mandatory Disclosure	5
8. Discovery Limitations and Advisories	7
IV. Dispositive Motions	7
A. Quicker Decisions	7
B. Dilatory Motions Disapproved	7
C. Fewer Expanded Orders	7
D. Full Use of Magistrate Judges	8

V.	Trial Procedures	8
A.	Magistrate Judge Consent Cases Encouraged.	8
B.	Limiting the Number of Witnesses and the Time for Testifying	8
C.	Presenting Direct Testimony by Narrative	8
D.	Presenting Testimony by Deposition	8
E.	Exhibits	9
F.	Jury Selection	9
1.	Pre-Service Screening Questionnaire	9
2.	Voir Dire	9
3.	Consecutive Jury Selection	9
G.	Notetaking by Jury	10
H.	Civil/Criminal Conflicts	10
I.	Four-Day Trial Week	10
J.	Court-Appointed Experts	10
VI.	Alternative Dispute Resolution	10
A.	Permanent Case Management and ADR Advisory Committee	10
B.	Existing Alternative Dispute Resolution Programs in the Northern District	10
1.	Pre-trial Settlement Conference	10
a.	Early Conferences Encouraged	10
b.	ADR Brochure To Be Developed	11
c.	Further Study Contemplated	11
d.	Development of Additional Resources	11
2.	Adjunct Settlement Judge Program	11
a.	Program Made Permanent	11
b.	Institutionalization	12
c.	Special Project Assignments	12
d.	Liberal Disqualification Policy	12
e.	PACER Access	12
3.	Other Alternative Methods of Dispute Resolution	13
C.	Court-Annexed Arbitration Considered	13
D.	Early Neutral Evaluation Considered	13
E.	ADR Ethical Standards To Be Formalized	13
VII.	Need to Increase Personnel	13
A.	Magistrate Judges	13
B.	Court Clerk Personnel	14
VIII.	Technology	14
A.	Funding Sought	14
B.	Modernization Approved	14
C.	Better Use of Presently Available Technology	14
IX.	Educational Mission	14
A.	Continuing Legal Education	14

B.	Judicial Internships	14
X.	Reforming Local Rules	15
A.	New Rules Adopted	15
B.	Uniform Rules Desirable	15
XI.	Contingent Fee Reform.	15
	Appendix A	16
	Case Management Forms	16
	Case Management Plan	17
	Scheduling Order	19
	Settlement Conference Order	21
	Pretrial Order	26
	Appendix B	29
	New Local Rules Implementing Civil Justice Reform	29
	Local Rule 16.1	30
	Case Management	30
	Local Rule 16.2	35
	Pretrial	35
	Local Rule 16.3	38
	Alternative Dispute Resolution	38
	Local Rule 26.1	41
	Discovery	41
	Local Rule 26.2	43
	Disclosure of Insurance Agreements	43
	Local Rule 26.3	44
	Treatment of the Proposed Amendments to Rule 26 of the Federal Rules of Civil Procedure	44
	Local Rule 30.1	45
	Depositions	45
	Local Rule 33.1	47
	Interrogatories	47
	Local Rule 37.1	48
	Informal Conference to Settle Discovery Dispute	48
	Local Rule 37.2	49
	Discovery Enforcement	49
	Local Rule 72.1	50
	United States Magistrate Judge	50
	Appendix C -- Program Outline	53
	Appendix D -- Order Permitting Free Access to Pacer System For Adjunct Settlement Judges	56
	Appendix E -- Standing Order	58

INTRODUCTION

A Commitment to Civil Justice

The Northern District of Oklahoma has been under severe caseload pressure for over a decade. Our court family has consistently strived to provide our community with the highest quality of civil justice. To this end, we have streamlined procedures and used magistrate judges extensively for case management and ADR purposes. Our district judges primarily try the cases that are not resolved by our innovative, non-coercive ADR program which has been experimentally in place for many years, and which we have now made permanent.

Due to increasing caseloads and diminishing resources, more efficient procedures and practices have necessarily evolved. We welcome and embrace this opportunity to study and reexamine our present practices and to further refine our case management, ADR, and trial practices. We are committed to enhancing public confidence in our system of civil justice and believe the measures adopted in our Cost and Delay Reduction Plan will advance this goal.

We express our sincere appreciation to the members of our Civil Justice Reform Advisory Group, who applied boundless energy and collective wisdom towards the goal of improving civil justice in this district. Their efforts produced an excellent report, which we have fully embraced in formulating our plan.

**COST AND DELAY REDUCTION PLAN
FOR THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

The Court approves the following Cost and Delay Reduction Plan for the United States District Court for the Northern District of Oklahoma, effective December 1, 1993.

I. Systematic Differential Treatment of Civil Cases.

A. Case Management Tracks. Each civil case will be assigned to one of the following tracks:

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

B. Tracks Defined.

1. **Prisoner Litigation:** Prisoner petitions for writs of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2254, motions/complaints pursuant to 28 U.S.C. §§ 1331 and 2255, motions pursuant to Fed.R.Crim.P. 35, and civil rights complaints pursuant to 42 U.S.C. § 1983.
2. **Social Security Appeals:** Cases seeking review of a denial of Social Security benefits by the Secretary of Health and Human Services.
3. **Bankruptcy Appeals:** Appeals to the District Court from the U. S. Bankruptcy Court for the Northern District of Oklahoma.
4. **Standard Management:** All cases not designated at the Case Management Conference as requiring assignment to any other track shall be handled in accordance with the standard practices and procedures of the Court as governed by Fed.R.Civ.P. 16 and the local rules of this court.
5. **Special Management:** Cases shall be designated for this track at the Case Management Conference if they require specialized and more intense management because of their complexity, urgency, number of parties, extensive discovery, volume and commonality (such as asbestos cases), or for any other reason determined by the Court.

C. Assignment of Tracks.

1. Cases falling within the Prisoner Litigation, Social Security Appeal, or Bankruptcy Appeal tracks will be assigned to the appropriate track by the Court based on the initial pleading. All others will be assigned by the Court at the Case Management Conference.
2. Counsel may request assignment or reassignment of a case to a particular track. The request may be made in the joint case management plan, delivered to the Court not less than four (4) working days prior to the Case Management Conference.
3. The Court in its discretion may reassign any case to a different track at any time.

D. Management Procedures.

1. **Prisoner Litigation.** Habeas corpus petitions and prisoner civil rights cases will be routinely screened by the pro se law clerk upon filing. Case management conferences shall not be conducted in prisoner cases unless otherwise ordered by the Court. Matters requiring evidentiary hearings or otherwise requiring judicial attention may be referred to the assigned magistrate judge. The magistrate judge will then enter such orders as are necessary for the efficient management of the case and will enter a Report and Recommendation for the Court, pursuant to 28 U.S.C. § 636(b).
2. **Social Security Appeals.** These appeals may be routinely assigned or referred to a magistrate judge upon filing. The magistrate judge will enter such orders as are necessary for the efficient management of the appeal and will prepare a Report and Recommendation for the Court pursuant to 28 U.S.C. § 636(b).¹
3. **Bankruptcy Appeals.** Bankruptcy appeals may be referred to the assigned magistrate judge for an advisory hearing, pursuant to 28 U.S.C. § 636(b)(3). The purpose of the advisory hearing is to complete the appellate record by means of a recorded oral argument. The magistrate judge may enter such administrative orders as are

¹The newly appointed United States Attorney in this district has indicated that the Secretary of Health and Human Services will consent to disposition of all but one pending social security appeal before the magistrate judges, pursuant to 28 U.S.C. § 636(c). The United States Attorney's office is currently exploring whether the appellants will likewise consent. If the consent procedure is involved, it is anticipated that appeals from the magistrate judges' decisions will be taken directly to the Tenth Circuit. The consent procedure is encouraged by the court, as it eliminates the costs and delay inherent in two tiers of consideration at the district court level.

necessary for the efficient management of the appeal prior to disposition by the assigned district judge. Bankruptcy appeals will be disposed of by order of the assigned district judge upon consideration of the record on appeal and recorded oral argument.

4. **Standard Management.** Cases assigned to the Standard Track shall be managed in accordance with the standard practice and procedures of this Court pursuant to Fed.R.Civ.P. 16 and the local rules of this Court. Cases assigned to this track will ordinarily be scheduled for trial within eighteen months of filing as contemplated by 28 U.S.C. § 473(a)(2)(B).
5. **Special Management.** If the Court determines that a case is appropriate for special management, all requirements of Fed.R.Civ.P. 16 and the local rules of this Court apply, unless otherwise ordered by the Court. In addition, counsel shall indicate on the Case Management Plan form that the case is one requiring additional, specialized case management and the reason(s) why.

II. Subsequent Treatment of Cases on the Special Management Track.

A. During or after the Case Management Conference, the Court may direct counsel to jointly prepare and present a proposed Special Case Management Plan addressing such matters as the Court may direct, such as:

1. identification of lead and liaison counsel and the responsibilities of each;
2. the necessity for and scope of any desired protective orders;
3. the sequence of discovery to be had under relevant provisions of the Federal Rules of Civil Procedure;
4. in class action cases, a proposed timetable for class issue discovery, briefing, and hearing;
5. a timetable for the filing and service of dispositive motions under Fed.R.Civ.P. 12 and/or Fed.R.Civ.P. 56;
6. proposals relating to the addition of parties, bifurcation, and special needs concerning service of process;
7. subjects bearing upon the administration of the case, including suggestions regarding appointment of an adjunct discovery judge to administer discovery or a special master for other purposes; proposals to set up a document depository; establishing a method of serving notices and court orders to multiple parties; and the establishment of trial time frames;
8. the need for an expert appointed by the Court under Rule 706 of the Federal Rules of Evidence; and

9. any other matter which the parties consider pertinent to the administration of the case.

B. The Court may hold additional conferences as deemed necessary to monitor discovery, to explore settlement opportunities, and to consider the possibility of referring the case for alternative dispute resolution procedures.

III. Early Judicial Case Management

A. Case Management Conference

A case management conference will be conducted by a judicial officer assigned to the case pursuant to Local Rule 16.1, attached. As provided by that Local Rule, counsel will be required to meet prior to the case management conference and prepare a joint case management plan.

The joint case management plan shall include a discovery plan, a settlement plan, an estimation of litigation costs, a disclosure of anticipated dispositive motions, and a recitation of stipulations. It shall be reviewed, approved, and signed by the parties, as provided in the Case Management Plan form, attached. It shall also indicate that the parties have received the Alternative Dispute Resolution Booklet to be prepared at the direction of the Court.

Once approved by the Court, the litigation will be controlled by the case management plan, unless it is modified by the Court in the interest of justice.

B. Intensive Management of Discovery Disputes

1. Effort by Parties to Resolve Discovery Disputes

The Court will continue to require a good faith personal conference between opposing counsel as a condition precedent to filing a discovery motion. See Local Rule 37.1, attached.

2. Approval of Extensions of Time

The Court will continue the practice of having counsel, rather than the client, request extensions of time. The court should, however, be advised if the client disapproves of the extension request.

3. Voluntary Disclosure and Cooperative Discovery

The Court will continue to encourage voluntary disclosure and cooperative discovery. See Local Rules 16.1(C)(6) and 26.1(E),

attached.

4. Adjunct Discovery Judges

The Court may consider, in appropriate cases, using adjunct discovery judges to resolve discovery issues. These adjunct discovery judges will ordinarily be compensated by the parties. See Local Rule 16.3(G), attached.

5. Abatement of General Discovery During the Pendency of Dispositive Motions

The Court may abate general discovery in appropriate cases while dispositive motions are pending. See Local Rule 16.1(E), attached.

6. Emergency Telephone Conferences

Since 1987, magistrate judges in this district have made themselves available for emergency telephone discovery conferences. Requests for such conferences are given high priority, and result in immediate judicial intervention. This instant access has vastly reduced the generation of discovery disputes, and has been an effective means of dealing with abusive discovery tactics. The court readopts this procedure as part of its cost and delay reduction plan. See, Local Rule 37.2(B), attached.

7. Mandatory Disclosure

The court has carefully considered the mandatory disclosure provisions of proposed new Rule 26(a)(1) of the Federal Rules of Civil Procedure,² and has reviewed the disclosure provisions in the civil justice expense and delay reduction plans for the Eastern District of Texas and Western District of Oklahoma. Whether the duty to disclose is defined as encompassing "information that bears significantly on any claim or defense"³ or "information relevant to

²Proposed Rule 26(a)(1) is controversial. Both the American Bar Association and the Clinton administration voiced opposition, and on October 6, 1993, the U.S. House Judiciary Committee voted to remove the mandatory disclosure requirements from Rule 26.

³See, Civil Justice Expense and Delay Reduction Plan for the United States District Court for the Eastern District of Texas at page 4, and Civil Justice Expense and Delay Reduction Plan for the United States District Court for the Western District of Oklahoma, at page 11.

disputed facts alleged with particularity in the pleadings,"⁴ considerable uncertainty as to the extent of disclosure required will ensue.⁵

Many members of our bar have experience working with disclosure rules already in place in some early implementation districts. This experience has resulted in a strong reaction against the concept of disclosure. This reaction has been so strong, in fact, that our advisory group suggested quick repeal of the not-yet-adopted new version of Rule 26.⁶

In light of the uncertainty surrounding the parameters of proposed Rule 26 disclosure, the intense local opposition to mandatory disclosure not directed or supervised by the court, and the resultant likelihood of disclosure-related ancillary litigation, this court has carefully circumscribed the use of pretrial disclosure to those areas historically required by the court.⁷

In addition, the timing of disclosure has been carefully weighed, and adjusted so as to allow for judicial definition at the time disclosure requirements are imposed. This is accomplished by deferring disclosure until after the case management conference hosted by an assigned judicial officer. It is expected that some forms of disclosure may eventually be required prior to the case management conference, once sufficient experience is generated to establish well defined disclosure parameters that can be easily integrated into our local custom and practice.

Our approach allows orderly and controlled experimentation with, and implementation of, disclosure. At the same time it accommodates any

⁴See, Communication from The Chief Justice of the United States transmitting Amendments to the Federal Rules of Civil Procedure and Forms, Pursuant to 28 U.S.C. 2072 (April 22, 1993), at page 28, setting forth proposed amendments to Rule 26 that adopt this criterion.

⁵The Eastern District of Texas stated "It is further anticipated that 'bears significantly on' will provide new grist for the common law mill." See, United States District Court for the Eastern District of Texas Civil Justice Expense and Delay Reduction Plan, page 2.

⁶See, 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, Part III(E) (1), where the Advisory Group suggests that the repeal of proposed new Rule 26 be addressed because "...new Rule 26 may well prove to be unworkable, and in fact, increase costs and create delays in the civil justice system."

⁷The court has historically required disclosure of witnesses, exhibits, expert opinions and the basis therefor (sometimes even requiring a written narrative to be read by the expert witness at trial in lieu of direct examination by question and answer), the order of witnesses to be called at trial, and rebuttal evidence. As a practical matter, voluntary disclosures of insurance and indemnity agreements, damage computations, and, in appropriate cases, information regarding solvency and ability to pay have usually been made in the context of a settlement conference. When insurance information was not voluntarily disclosed, formal discovery requests have been routinely enforced.

judge who shares Justice Scalia's reservations about new Rule 26.⁸ See, Local Rules 26.1(E) and 26.2, attached.

8. Discovery Limitations and Advisories

The court has incorporated certain limitations and advisories into its new local rules, in order to reduce cost and delay in connection with discovery. 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. Local Rule 30.1 permits video depositions without a prior application; sets a presumptive time limit per deposition of six (6) hours; requires an enforceable agreement of counsel to take depositions outside of regular business hours; and presumptively restricts the number of depositions to be taken by each side to ten (10). Local Rule 33.1 presumptively limits the number of interrogatories to twenty-five (25) per party, and defines subparts as separate interrogatories. Finally, 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 will endeavor to rule more quickly on dispositive motions. To assist in this effort, the Court may employ early limited discovery on dispositive issues; limit the length of briefs; decide some dispositive motions on briefs rather than after oral argument; and decide some cases from the bench after oral argument with findings and conclusions prepared by the prevailing party. See, generally, Local Rule 16.1, attached.

B. Dilatory Motions Disapproved

The Court will continue its firm stance against dilatory motions.

C. Fewer Expanded Orders

The Court will consider limiting written expanded explanatory orders to deserving cases.

⁸See, Communication from the Chief Justice of the United States Transmitting Amendments to the Federal Rules of Civil Procedure and Forms, Pursuant to 28 U.S.C. 2072, dissenting statement of Justice Scalia, at 107.

D. Full Use of Magistrate Judges

It is the policy of this Court to fully utilize magistrate judges in accordance with 28 U.S.C. § 636(b)(1)(B) and (C). See, Standing Order on Referrals to Magistrate Judges, Miscellaneous Order No. M-128-D, attached.

V. Trial Procedures

A. Magistrate Judge Consent Cases Encouraged.

The judges of this Court will continue to encourage consents as allowed by 28 U.S.C. § 636(c)(2). All magistrate judges in this district have been designated to exercise civil jurisdiction and to try consent cases pursuant to 28 U.S.C. § 636(c). See Local Rule 72.1, attached.

When the parties consent to try their case before a Magistrate Judge, they will be afforded a special trial setting on a date certain, unless otherwise ordered by the assigned Magistrate Judge. Through this mechanism, parties may avoid the expense and delay which may be encountered when their case is regularly set on a district judge's trailing docket.

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

In every case, the Court will consider limitations on the number of expert witnesses, the number of fact witnesses and the time given to testify at trial. See Local Rule 16.2(N), attached.

C. Presenting Direct Testimony by Narrative

The Court will permit some witnesses, especially expert witnesses, to present their evidence on direct examination either through a narrative format or through a partial narrative format, after the proposed narrative is first provided in written form to opposing counsel and a fair opportunity to present objections is given.

D. Presenting Testimony by Deposition

If permitted by law, the Court will permit some witnesses, in addition to medical experts, to present their evidence through deposition, even though

that witness may be subject to subpoena.⁹ The court will require opposing counsel to be timely notified if such deposition testimony is contemplated.

E. Exhibits

The Court will expand the present use of exhibit conferences and the preadmission of exhibits and demonstrative aids.

F. Jury Selection

1. Pre-Service Screening Questionnaire

The Court has concluded that the present juror screening questionnaire is adequate in most cases, but realizes that some cases may need a special screening questionnaire. The Court is sensitive to complaints by potential panel members of the intrusive nature of these questionnaires, and therefore declines to routinely expand the use of such questionnaires beyond the present practice.

However, where appropriate, the Court will implement a more extensive pre-service screening questionnaire and expand the present process by which the trial judge permits each lawyer to submit and continue to submit questions for the Court to ask prospective jurors. When used, a copy of such completed pre-service screening questionnaires will be made available to each counsel upon request in advance of the time the jury is called to be examined.

2. Voir Dire

Any district or magistrate judge may consider permitting limited attorney voir dire in appropriate cases to supplement the initial voir dire by the Court.

3. Consecutive Jury Selection

Where appropriate the Court may use separate and consecutive jury

⁹Pursuant to Rule 32(3) of the Federal Rules of Civil Procedure, the deposition of a witness may be used by any party for any purpose if the court finds 1) that the witness is dead; 2) that the witness is at a greater distance than 100 miles from the place of trial or hearing or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; 3) that the witness is unable to attend or testify because of age, illness, infirmity or imprisonment; 4) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or 5) that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony, to allow the deposition to be used. The use of depositions in lieu of live testimony often contravenes the spirit of the Sixth Amendment. Barber v. Page, 390 U.S. 719, 721 (1968). The language of the rule suggests that the court's discretion is not broad and should be exercised carefully. United States v. Mann, 590 F.2d 361, 365 (1st Cir. 1978).

selection at the beginning of the jury docket, rather than selecting a jury when each case commences.

G. Notetaking by Jury

In appropriate cases, jurors may be permitted to take notes and be provided with a trial notebook.

H. Civil/Criminal Conflicts

The Court will endeavor to schedule criminal and other civil matters so as to reduce interruptions during the trial of a civil case.

I. Four-Day Trial Week

In a multi-week trial, the Court will schedule the jury trial for four days a week, rather than five. It is anticipated that this practice will result in fewer interruptions of the trial, as criminal hearings and other civil matters requiring the court's attention can be scheduled on the fifth day of the week.

J. Court-Appointed Experts

In appropriate cases, a Judge may consider using court-appointed independent experts, pursuant to Rule 706 of the Federal Rules of Civil Procedure.

VI. Alternative Dispute Resolution

A. Permanent Case Management and ADR Advisory Committee

The Court will establish a permanent Case Management and ADR Advisory Committee to assist the court in studying and implementing Civil Justice Reform measures generally, including new ADR initiatives. See Local Rule 16.3(K), attached.

B. Existing Alternative Dispute Resolution Programs in the Northern District

1. Pre-trial Settlement Conference

a. Early Conferences Encouraged

The Court will continue to promote settlement efforts at the earliest appropriate time, through the use of pretrial settlement conferences. When a district judge conducts the case

management conference, the district judge will consider suggesting an early settlement conference.

b. ADR Brochure To Be Developed

Upon approval of this Plan, the Case Management and ADR Advisory Committee will develop a brochure on alternative methods of dispute resolution. The court clerk will distribute it to counsel to be provided to and discussed with clients. See Local Rule 16.3(K), attached. Counsel will certify in the joint case management plan, which will be submitted to the Court prior to the case management conference, that they have delivered the ADR brochure to their clients and have discussed ADR with them. See Case Management Plan form and Local Rule 16.1(D), attached.

c. Further Study Contemplated

Upon approval of this Plan, the Case Management and ADR Advisory Committee will develop an assessment questionnaire to be completed by both the attorneys and the litigants at a time in the settlement process deemed appropriate by the committee.

d. Development of Additional Resources

The Case Management and ADR Advisory Committee will be asked to develop 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. To the extent that this may involve a court referral to an outside ADR provider, the committee will also be asked to develop training and/or certification criteria and a program to implement them.

2. Adjunct Settlement Judge Program

a. Program Made Permanent

The Court embraces the Adjunct Settlement Judge Program as part of its Cost and Delay Reduction Plan, and no longer deems the program to be experimental. The program will be maintained at its present level of 25 adjunct settlement judges. The number of adjunct settlement judges may be increased at

the discretion of the Chief Judge, who will have the benefit of advice from the Case Management and ADR Advisory Committee and supervising magistrate judge.

b. Institutionalization

The Court will institutionalize, through the clerk's office and the office of the supervising magistrate judge, the scheduling, space allocation, and assignment of adjunct settlement judges to particular substantive cases. The supervising magistrate judge will also oversee the training of ASJs and remain generally in charge of the administration of the ASJ Program.

c. Special Project Assignments

The supervising magistrate judge may assign an adjunct settlement judge to a case as a special project, on a paid basis, providing the case warrants such treatment. See Local Rule 16.3(G), attached.

d. Liberal Disqualification Policy

In order to preserve the actual and perceived integrity of the ASJ program, ASJs assigned to a particular case will be disqualified upon any colorable challenge to their impartiality. Any party may confidentially contact the supervising magistrate judge and request the disqualification of an assigned ASJ. Such requests will be viewed liberally with a presumption in favor of disqualification. When granted, the supervising magistrate judge will advise the ASJ of the disqualification without revealing the source of, or reason for, the request. ASJs who have suspected or potential conflicts shall disclose the pertinent circumstances to all parties, and advise that any party may forward a request for disqualification directly to the supervising magistrate judge.

e. PACER Access

If practicable, the Court will provide adjunct settlement judges with cost-free access to PACER (Public Access to Computerized Electronic Records) in connection with cases assigned to them for settlement conferences. See Order Permitting Free Access to PACER System for Adjunct Settlement Judges, attached.

3. **Other Alternative Methods of Dispute Resolution**

The Court will continue to experiment with other alternative methods of dispute resolution, including the summary jury trial, minitrial, and executive summary jury trial. See Local Rule 16.3(I), attached.

C. **Court-Annexed Arbitration Considered**

The Court has seriously considered the use of both voluntary and mandatory arbitration, and has concluded that it will not add a court-annexed arbitration program in the Northern District of Oklahoma. The Court is convinced that court-annexed arbitration programs are both more costly and less effective than our existing adjunct settlement judge program, which has been highly successful since its experimental inception in 1988. Both the bar and litigants have expressed a high degree of satisfaction with our existing ASJ program and have resisted the concept of court-annexed arbitration.

D. **Early Neutral Evaluation Considered**

The function provided by ENE takes place where appropriate in the early settlement conferences conducted by magistrate judges and adjunct settlement judges, who use both facilitative and evaluative mediation techniques. The additional administrative burden and cost inherent in a separate ENE program cannot be justified in this district.

E. **ADR Ethical Standards To Be Formalized**

Once this Plan has been approved, the Court will ask the Case Management and ADR Advisory Committee to develop a formal set of written guidelines to institutionalize the ethical standards and principles that now govern our settlement conference and other ADR procedures. See Settlement Conference Order form, attached.

VII. **Need to Increase Personnel**

A. **Magistrate Judges**

The Court has recommended that the number of full-time magistrate judges be increased from two to three. Our magistrate judges have been proficient in both case management and ADR program design and administration. With the anticipated addition of two more district judges, an additional magistrate judge will be needed for case management and ADR purposes and also to handle prisoner, social security, discovery, injunction, civil trial, and civil pro se referrals, as well as preliminary criminal hearings in felony cases and petty

offense and misdemeanor trials.

B. Court Clerk Personnel

If funding is available, the Court will convert the temporary position that was made available through the Civil Justice Reform Act to a permanent position and have the new deputy court clerk assume clerical responsibility for the Adjunct Settlement Judge Program and for using the new computer system and software to monitor and report civil activity.

VIII. Technology

A. Funding Sought

The Court will continue to seek appropriate funds for modern technology to improve the functioning of the clerk's office and chambers and to increase the accessibility of information to the practicing bar.

B. Modernization Approved

As new technology becomes economically feasible, the Court will endeavor to modernize and install advanced information systems or any other technological improvements that will increase the quantity or quality of service rendered by the Court.

C. Better Use of Presently Available Technology

The Court will expand the use of telephone conference calls where practicable and attempt to maximize the use of other available technologies.

IX. Educational Mission

A. Continuing Legal Education

The Court will continue to work with the Oklahoma Bar Association in presenting an annual Continuing Legal Education Program regarding practice in the Northern District of Oklahoma. See program outline for "The Changing Face of the Federal Court", scheduled for December 3, 1993, attached.

B. Judicial Internships

The Court will continue to utilize Judicial Interns from The University of Tulsa College of Law and other ABA accredited law schools.

X. Reforming Local Rules

A. New Rules Adopted

The Court will adopt new Local Rules consistent with the Plan adopted by the Court. See Appendix B -- New Local Rules Implementing Civil Justice Reform, attached.

B. Uniform Rules Desirable

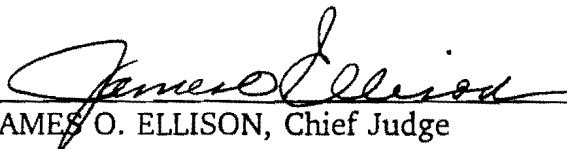
The Court will continue to work with the Chief Judges of the Eastern and Western Districts of Oklahoma to develop local rules that will apply uniformly to the three Oklahoma districts.

XI. Contingent Fee Reform.

The Court has carefully considered the very controversial issue of placing additional limitations on contingent fees, and has particularly studied the Cost and Expense Reduction Plan for the Eastern District of Texas, and the New Jersey experience with statutory limitations on contingent fees. The Court has concluded that it is appropriate to follow local state practice in this regard, and has determined not to place any additional restrictions on contingent fee cases at this time.

However, this matter will also be referred to the Case Management and ADR Advisory Committee for further study and recommendations as to whether contingent fee reform by state legislative or rulemaking processes should be explored.

Approved and adopted this 30th day of November, 1993.



JAMES O. ELLISON, Chief Judge



THOMAS R. BRETT, District Judge

Appendix A
Case Management Forms

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CASE MANAGEMENT PLAN

(Parts I through XIII must be jointly completed by the parties prior to the case management conference pursuant to Local Rule 16.1)

STYLE: _____ v. _____
CASE NO: _____

I. Summary of Claims: _____

II. Summary of Defenses: _____

III. Motions Pending: _____
At Issue Since: _____

IV. Stipulations:
A. Jurisdiction Admitted ___ Yes ___ No Explain _____
B. Venue Appropriate ___ Yes ___ No Explain _____
C. Facts: _____
D. Law: _____

V. Discovery Plan
A. Proposed Cutoff Date: _____
B. Number of Fact Depositions: _____
C. Number of Expert Depositions: _____
D. Documents Exchanged by: _____
E. Voluntary Information Exchanged by: _____
F. Interrogatories and Motions to Produce Served by (must be at least 30 days before discovery cutoff): _____

VI. Parties to be added by: _____
A. _____
B. _____

VII. Claims Dismissed: _____

VIII. Defenses Abandoned: _____

IX. All Parties Consent to Trial before Magistrate Judge?
___ Yes Trial Requested in _____
___ No month/year

X. Settlement Plan
___ Settlement Conference Requested after _____,19
___ Universal Consent to Adjunct Settlement Judge
___ Private Mediation Scheduled in _____,19
___ Other ADR (Explain) _____
Copy of ADR Booklet Provided to Clients? ___ Defendants ___ Plaintiffs

XI. Dispositive Motions Anticipated?
___ No ___ Yes (List) _____

XII. Estimated Litigation Costs

A. Plaintiff

1) Through Discovery Cutoff	\$ _____
2) Discovery Cutoff through Trial	\$ _____
3) Appeal	\$ _____
<u>Total</u>	\$ _____

B. Defendant

1) Through Discovery Cutoff	\$ _____
2) Discovery Cutoff through Trial	\$ _____
3) Appeal	\$ _____
<u>Total</u>	\$ _____

GRAND TOTAL (All Parties) \$ _____

_____ Actual Amount in Controversy
(may be expressed in a dollar range).

XIII. Does this case warrant special case management?
___ Yes ___ No If yes, why? _____

Read and Approved:

Plaintiff

Attorney for Plaintiff

Defendant

Attorney for Defendant

XIV. Scheduling Order (completed by the court at the case management conference)

A. Pretrial Schedule

1. _____ DISCOVERY CUTOFF (Interrogatories and Rule 34 requests must be made 30 days in advance of this date, and written discovery responses must be finally supplemented 10 days in advance of this date.)
- 1a. _____ NUMBER OF FACT WITNESS DEPOSITIONS PERMITTED
- 1b. _____ NUMBER OF EXPERT WITNESS DEPOSITIONS PERMITTED
2. _____ MOTIONS FOR JOINDER OF ADDITIONAL PARTIES &/OR AMENDMENT TO THE PLEADINGS FILED
3. _____ DISPOSITIVE MOTIONS AND MOTIONS IN LIMINE CUTOFF (Attorney meeting to resolve evidentiary issues required before filing in limine motions.)
- 3a. _____ RESPONSES FILED
- 3b. _____ REPLIES FILED
4. _____ EXCHANGE OF WITNESS LISTS (Filed of record)
5. _____ EXPERT WITNESS EXCHANGE (Filed of record)
- 5a. _____ PLAINTIFF'S EXPERT NARRATIVES/REPORTS DUE
- 5b. _____ DEFENDANT'S EXPERT NARRATIVES/REPORTS DUE
6. _____ EXCHANGE OF PREMARKED EXHIBITS
7. _____ SETTLEMENT REPORT (Filed - Include date of meeting, persons present, and prospects for settlement.)
8. _____ REQUEST FOR SETTLEMENT CONFERENCE (Indicate month and year desired). NOTE: Settlement conferences are set separately and a continuation of any date herein will not continue a settlement conference. A separate application is required to continue a settlement conference.
9. _____ ALL PARTIES CONSENT TO ADJUNCT SETTLEMENT JUDGE?
10. _____ DEPOSITION/VIDEOTAPE/INTERROGATORY DESIGNATIONS (Exchanged between counsel.)
- 10a. _____ COUNTER-DESIGNATIONS (Exchanged between counsel.)
- 10b. _____ TRANSCRIPTS ANNOTATED WITH OBJECTIONS & OPTIONAL BRIEFS ON UNUSUAL OBJECTIONS FILED - (Attorney meeting to resolve objections required before filing.)
11. _____ PRETRIAL CONFERENCE AT _____ o'clock ____ .m.

- 12. _____ AGREED PRETRIAL ORDER
- 13. _____ JOINT STATEMENT OF THE CASE
- 14. _____ REQUESTED JURY INSTRUCTIONS AND VOIR DIRE
- 15. _____ PROPOSED FINDINGS OF FACT & CONCLUSIONS OF LAW
- 16. _____ TRIAL BRIEFS

B. Trial Setting

- 1. _____ TRIAL DATE () JURY () NON-JURY at _____ .m.
- 2. _____ ESTIMATED TRIAL TIME

C. Stipulations/additionally ordered: _____

This case management plan will govern the course of this case, and may be altered or amended only by court order, for good cause shown.

Approved and ordered this _____ day of _____, 1993.

 Attorney for Plaintiff

 UNITED STATES DISTRICT JUDGE/
 MAGISTRATE JUDGE
 (Rev. 10-8-93)

 Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

_____)
Plaintiff(s),)
v.) No.)
_____)
Defendant(s).)

Settlement Conference Order

PLEASE READ THIS ORDER CAREFULLY!

Judge _____ has referred this case for a settlement conference and directed the Clerk to enter this Order. _____ will act as a settlement judge who will not be involved in the actual trial of the case and who will assist in an objective appraisal and evaluation of the lawsuit. The following are mandatory guidelines for the parties in preparing for the settlement conference.

1. PURPOSE OF CONFERENCE

The purpose of the settlement conference is to permit an informal discussion between the attorneys, parties, non-party indemnitors or insurers, and the settlement judge of every aspect of the lawsuit. This educational process provides the advantage of permitting the settlement judge to privately express his or her views concerning the parties' claims. The settlement judge may, in his or her discretion, converse with the lawyers, the parties, the insurance representatives or any one of them outside the hearing of the others. Ordinarily, the settlement conference provides the parties with an enhanced opportunity to settle the case, due to the assistance rendered by the settlement judge.

2. FULL SETTLEMENT AUTHORITY REQUIRED

In addition to counsel who will try the case being present, a person with full settlement authority must likewise be present for the conference. This requires the

presence of your client or, if a corporate entity, an authorized representative of your client, who is not a lawyer who has entered an appearance in the case.

For a defendant, such representative must have final settlement authority to commit the company to pay, in the representative's discretion, a settlement amount recommended by the settlement judge up to the plaintiff's prayer (excluding punitive damage prayers in excess of \$100,000.00) or up to the plaintiff's last demand, whichever is lower.

For a plaintiff, such representative must have final authority, in the representative's discretion, to authorize dismissal of the case with prejudice, or to accept a settlement amount recommended by the settlement judge down to the defendant's last offer.

The purpose of this requirement is to have representatives present who can settle the case during the course of the conference without consulting a superior. A governmental entity may be granted permission to proceed with a representative with limited authority upon proper application pursuant to Local Court Rule 17.1A.

3. EXCEPTION WHERE BOARD APPROVAL REQUIRED

If Board approval is required to authorize settlement, attendance of the entire Board is requested. The attendance of at least one sitting member of the Board (preferably the Chairman) is absolutely required.

4. APPEARANCE WITHOUT CLIENT PROHIBITED

Counsel appearing without their clients (whether or not you have been given settlement authority) will cause the conference to be canceled and rescheduled. Counsel for a government entity may be excused from this requirement upon proper application under Local Court Rule 17.1A.

5. AUTHORIZED INSURANCE REPRESENTATIVE(S) REQUIRED

Any insurance company that (1) is a party, (2) can assert that it is contractually entitled to indemnity or subrogation out of settlement proceeds, or (3) has received notice or a demand pursuant to an alleged contractual requirement that it defend or pay damages, if any, assessed within its policy limits in this case must have a fully authorized settlement representative present at the conference. Such representative must have final settlement authority to commit the company to pay, in the representative's discretion, an amount recommended by the settlement judge within the policy limits.

The purpose of this requirement is to have an insurance representative present who can settle the outstanding claim or claims during the course of the conference without consulting a superior. An insurance representative authorized to pay, in his or her discretion, up to the plaintiff's last demand will also satisfy this requirement.

6. ADVICE TO NON-PARTY INSURANCE COMPANIES REQUIRED

Counsel of record will be responsible for timely advising any involved non-party insurance company of the requirements of this order.

7. PRE-CONFERENCE DISCUSSIONS REQUIRED

Prior to the settlement conference, the attorneys are directed to discuss settlement with their respective clients and insurance representatives, and opposing parties are directed to discuss settlement so the parameters of settlement have been explored well in advance of the settlement conference. This means the following:

By _____, 19___, plaintiff must tender a written settlement offer to defendant and the assigned settlement judge.

By _____, 19___, each defendant must make and deliver a written response to plaintiff and the assigned settlement judge. That response may either take the form of a written substantive offer, or a written communication that a Defendant declines to make any offer.

Silence or failure to communicate as required is not itself a form of communication which satisfies these requirements.

8. SETTLEMENT CONFERENCE STATEMENT REQUIRED

One copy of each party's settlement conference statement of each party must be submitted directly to the judge(s) checked below:

United States Magistrate Judge _____
U.S. Courthouse, 333 W. 4th St.
Tulsa, OK 74103

Adjunct Settlement Judge _____

Tulsa, OK _____

Settlement Conference Statements must be directly submitted no later than _____, 19____. They must not be filed.

Your statement should set forth the relevant positions of the parties concerning factual issues, issues of law, damages, and the settlement negotiation history of the case, including a recitation of any specific demands and offers that may have been conveyed. Copies of your settlement conference statement are to be promptly transmitted to all counsel of record.

The settlement conference statement may not exceed five (5) pages in length and will not be made a part of the case file. Lengthy appendices should not be submitted. Pertinent evidence to be offered at trial should be brought to the settlement conference for presentation to the settlement judge if thought particularly relevant.

9. CONFIDENTIALITY STRICTLY ENFORCED

Neither the settlement conference statements nor communications of any kind occurring during the settlement conference can be used by any party with regard to any aspect of the litigation or trial of the case. Strict confidentiality shall be maintained with regard to such communications by both the settlement judge and the parties.

10. CONTINUANCES

Applications for continuance of the settlement conference will not be entertained unless such application is submitted to the settlement conference judge in writing at least **seven (7)** days prior to the scheduled conference. Any such application must contain both a statement setting forth good cause for a continuance and a recitation of whether or not the continuance is opposed by any other party.

11. SETTING

The settlement conference is set on _____, the ____ day of _____, 19 __, at _____ o'clock __.m., in Tulsa, Oklahoma. Parties should report to Magistrate's Courtroom #2 on the Third Floor of the Federal Courthouse.

12. NOTIFICATION OF PRIOR SETTLEMENT REQUIRED

In the event a settlement between the parties is reached before the settlement conference date, parties are to notify the settlement judge immediately.

13. CONSEQUENCES OF NON-COMPLIANCE

Upon certification by the Settlement Judge or Adjunct Settlement Judge of circumstances showing non-compliance with this order, the assigned trial judge may take any corrective action permitted by law. Such action may include contempt proceedings and/or assessment of costs, expenses and attorney fees, together with any additional measures deemed by the court to be appropriate under the circumstances.

Dated this ____ day of _____, 19 ____.

RICHARD M. LAWRENCE, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

By: _____
Deputy Clerk

cc: ALL COUNSEL OF RECORD
Revised 5-5-92

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FORM OF PRETRIAL ORDER

(STYLE OF CASE)

(CASE NUMBER)

Pretrial Order

Following pretrial conference held before the Court, IT IS ORDERED:

- I. This is an action for: (Here state the nature of action, designate the parties and list the pleadings which raise the issues.)
- II. Federal jurisdiction is invoked upon the ground: (Here list the legal authority for jurisdiction and a concise statement of the facts requisite to confer federal jurisdiction.)
- III. The following facts are admitted and require no proof: (Here list each admitted fact, including jurisdictional facts.)
- IV. The reservations as to the facts recited in Paragraph III are as follows: (Here set forth any objection reserved by any party as to the admissibility in evidence of any admitted fact and, if desired by any party, limiting the effect of any issue of fact as provided by Rule 36(b) of the Federal Rules of Civil Procedure, or Admiralty Rule 32(B)(b) as the case may be.)
- V. The following facts, though not admitted, are not to be contested at the trial by evidence to the contrary: (Here list each.)
- VI. The case management conference limitations are: (Here set forth any limitations agreed upon or ordered by the court at or after the case management conference, such as a time limit on the length of trial, limitations on the number of expert or other witnesses a party may call, the use of expert narratives and the length thereof, the time allowed for cross and redirect examination of experts called by narrative, limitations on the length of video depositions, time allowances for attorney voir dire (if any), and time limits for opening statements.)
- VII. The following issues of law, and no others, remain to be litigated upon the trial: (Here set forth a concise statement of each. Attorneys are expected to discuss and agree on which legal issues remain. If agreement cannot be reached after a good faith effort, set out each version in one Pretrial Order.)
- VIII. The following issues of fact, and no others, remain to be litigated upon the trial:

(Here specify each; a mere general statement will not suffice. Attorneys are expected to discuss and agree on which fact issues remain. If agreement cannot be reached after a good faith effort, set out each version in one Pretrial Order.)

- IX. The exhibits to be offered at the trial together with a statement of all admissions by and all issues between the parties with respect thereto are as follows: (Here list all documents and things intended to be offered at the trial by each party, other than those to be used for impeachment, with a description of each sufficient for identification, and a statement of all admissions by and all issues between any of the parties as to the genuineness thereof, and the truth of relevant matters of fact set forth therein or in any legend affixed thereto, together with a statement of objections reserved as to the admissibility in evidence thereof. All exhibits must comply with Local Rule 16.2.).**

- X. The following primary witnesses will be called: (Here list all witnesses that will be called by the parties in their case in chief with a concise statement as to that to which each will testify. Additional primary witnesses will only be considered pursuant to local rule 16.2(L) and will not be allowed to be called to testify, except by order of the court and in the interest of justice.)**

- XI. The following secondary witnesses might be called: (Here list all witnesses that the parties do not expect to call, but wish to reserve their right to call for rebuttal or other unexpected purposes. Include a concise statement as to that to which each can testify. Additional secondary witnesses will only be considered pursuant to Local Rule 16.2(L) and will not be allowed to be called to testify, except by order of the Court and in the interest of justice.)**

- XII. The possibility of settlement of this case has been explored with the following results: (Here set forth whether the case probably will be settled, may be settled, or there is no possibility of settlement.)**

- XIII. The foregoing admissions having been made by the parties and the parties having specified the foregoing issues of fact and law remaining to be litigated, this order shall supplement the pleadings and govern the course of the trial of this cause, unless modified to prevent manifest injustice.**

- XIV. The parties anticipate the estimated total trial time to be _____ days.**

DATED _____, 19__.

Approved as to form and content:

UNITED STATES DISTRICT JUDGE

Attorney for Plaintiff(s)

Attorney for Defendant(s)

(Revised 10-8-93)

Appendix B

New Local Rules Implementing Civil Justice Reform

LOCAL RULE 16.1

CASE MANAGEMENT

A. Case Management Conference. A case management conference will be scheduled in each newly filed civil case within 120 days from the date the case was filed. Every removed case shall be scheduled for a case management conference within 90 days of the filing of the notice of removal. Such conferences will be conducted by a judicial officer. Counsel who will conduct the trial will attend in person or, with prior permission of the court upon written motion, participate by telephone. The court may also require that a party or its representative be present or available by telephone. A one time 30 day continuance may be automatically granted by the clerk in the event any named defendant has not answered or otherwise had an attorney enter an appearance.

B. Exceptions. Case management conferences will ordinarily not be conducted, and early conferences of counsel are not required, in connection with social security appeals, bankruptcy appeals, other administrative review cases, routine governmental foreclosures, student loan cases, or in cases arising from prisoner petitions.

C. Early Conference of Counsel Required. As early as reasonably practicable, but at least fourteen (14) days prior to the case management conference, counsel who will conduct the trial and pro se litigants shall confer and discuss:

1. Whether any additional parties need to be added, or whether any amendments to the pleadings are necessary.
2. The factual basis for alleged claims and defenses and whether any should be dropped. If a lawyer is unable to articulate a factual basis for his or her alleged claim or defense at the case management conference, the court may order it summarily dismissed or stricken.
3. The extent to which issues of fact or law in connection with a claim or defense are admitted or stipulated to. Counsel are expected to admit or stipulate to any factual issue which cannot in good faith be opposed and controverted by arguably admissible evidence, or any legal issue, where the law is uncontroverted.
4. Whether all parties are willing to consent to trial before a magistrate judge.

5. The identification and expected testimony of all known fact and expert witnesses.
6. The extent to which discovery materials and information will be voluntarily and cooperatively exchanged.
7. If formal requests for production of documents and interrogatories are necessary, attorneys should discuss and attempt to agree upon reasonable time and scope parameters. The court may further define those parameters at the case management conference.
8. Whether there is good cause to request the Court to modify the presumptive discovery limits contained in these Local Rules and in the Federal Rules of Civil Procedure.
9. The amount actually in controversy, and the amount of discovery and other pretrial expenditures that can be justified in light of that amount.
10. The identity and availability of individuals to be deposed.
11. The particular subject matter of any proposed 30(b)(6) corporate deposition. Once such a deposition has been requested, the responding attorney should identify the individual(s) who will be designated to testify, detail the subject matter of such testimony, and make known the availability of such witnesses.
12. The time needed to complete discovery.
13. Whether a settlement conference or other alternative dispute resolution mechanism should be employed, the timing of the settlement effort, and whether all parties are willing to consent to the use of an adjunct settlement judge.
14. The logistics of obtaining the required client

approval of the completed joint case management form.

D. Joint Case Management Plan Required. The parties shall jointly submit a case management plan at least four (4) working days prior to the case management conference. A standardized Joint Case Management Plan form is available from the clerk's office and should be used for this purpose. Once approved by the court, the course of the litigation will be governed by the Case Management Plan, which may be altered or amended only by court order, for good cause shown.

E. Responsibility for Preparation. The attorney for plaintiff shall timely initiate and cooperate in preparing the joint case management plan. All opposing attorneys shall cooperate in preparing the Joint Case Management Plan and shall be responsible for initiating its preparation in the event the plaintiff's attorney does not timely do so. If a party is appearing pro se, the first named represented party shall have responsibility for initiating the preparation of the Joint Case Management Plan.

F. Early Judicial Management. At the case management conference the judicial officer may:

1. Rule on pending motions;
2. Set a discovery cutoff date and limit discovery parameters;
3. Set scheduling dates, as the court deems appropriate, pursuant to subsection G of this rule.
4. Explore the need for adopting special procedures for managing difficult or protracted litigation that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;
5. Discuss settlement;
6. Discuss reference of the case to a magistrate judge for trial, upon the consent of the parties;
7. Determine whether mandatory disclosure shall be required in the case, and set the parameters of such disclosure (if any); and

8. Discuss and approve the case management plan, and take any other action which the court deems appropriate to properly manage the case and facilitate the just, speedy, and inexpensive disposition of the action.

G. Continuances and Extensions of Time. No deadline, pretrial conference, or trial date may be continued or extended upon stipulation of counsel alone. Continuances and extensions of case management scheduling dates may be allowed by order of the assigned district judge or magistrate judge, for good cause shown upon proper written motion. Motions to strike or continue a settlement conference will not be considered unless they recite that the settlement judge has been contacted and has no objection to the proposed action.

H. Scheduling Dates. At the case management conference, the court will approve a case management plan and enter a scheduling order which will ordinarily establish the date:

1. to join other parties and to amend the pleadings;
2. to serve and hear motions;
3. to conduct and complete discovery;
4. to supplement discovery responses pursuant to Rule 26(e) of the Federal Rules of Civil Procedure;
5. by which counsel should exchange, in writing, a list of witnesses together with the witnesses' statement of expected testimony, address, and telephone number; said list to include all witnesses, including rebuttal witnesses, if known; and separately identifying those whom the party expects to present and those whom the party may call if the need arises, pursuant to Rule 26(a)(3)(A) of the Federal Rules of Civil Procedure;
6. to file the submissions required by the court, including the agreed pretrial order, motions in limine, proposed voir dire, trial briefs, joint preliminary statements, and factual stipulations;

7. in jury cases, to submit agreed requested jury instructions, and individualized instructions on issues of liability and damages peculiar to the case. (Please note that there is no need to resubmit "stock" instructions, and that in Oklahoma diversity cases, the OUJI-CIV (2d) instructions should be used on substantive legal issues.);
8. in non-jury cases, to submit proposed findings of fact and conclusions of law;
9. to submit exhibit lists, together with any stipulations as to authenticity and admissibility of particular exhibits or alternative objections to particular exhibits, and the basis for those objections; and separately identifying those which the party expects to offer and those which the party may offer if the need arises, pursuant to Rule 26(a)(3)(C) of the Federal Rules of Civil Procedure;
10. to submit expert witness disclosure reports pursuant to Rule 26(a)(2) of the Federal Rules of Civil Procedure;
11. to submit deposition and interrogatory designations, counterdesignations, and objections. See Rule 26(a)(3)(B) of the Federal Rules of Civil Procedure and Local Rule 30.1(I); and
12. of the pretrial conference and trial.

LOCAL RULE 16.2

PRETRIAL

A. Purpose of Agreed Pretrial Order. The purpose of the agreed pretrial order is to condense all material information into one working document that will control the trial of the case.

B. Prior Rulings. The agreed pretrial order must reflect the current status of the case and accurately reflect all prior rulings by the court.

C. Rejected Contentions Omitted. Claims or theories that have been rejected by prior rulings of the court may not be reasserted in the agreed pretrial order.

D. Contents. The agreed pretrial order shall contain the following:

1. A statement of the case, including:
 - a. Brief factual summary.
 - b. Statement of the basis of jurisdiction.
 - c. Remaining contention(s) of the plaintiff.
 - d. Remaining contention(s) of the defendant.
2. Stipulations and admissions.
3. Matters not admitted, but which will not be contested by opposing evidence at trial.
4. Remaining issues to be tried, including:
 - a. Remaining issues of fact.
 - b. Remaining issues of law.
 - c. Remaining issues of mixed law and fact, if any.
5. Whether the case is a jury or nonjury matter.
6. A list of plaintiff's and defendant's primary witnesses, expected to be called in their respective cases in chief, and a separate list of their secondary witnesses, if any, which are not expected to be called except for rebuttal or in the event of unanticipated developments in the trial, which lists shall include:
 - a. Name of each witness (including expert and known rebuttal

- witnesses).
 - b. Address of each witness.
 - c. Phone number of each witness.
 - d. Brief statement fairly summarizing the expected testimony of each witness (whether or not previously deposed).
7. List of premarked plaintiff's and defendant's exhibits, including:
- a. The number of the exhibit.
 - b. A description of the exhibit.
 - c. A statement as to whether any opposing party objects to the exhibit, and if so, the basis for the objection(s), including the specific provision of the Federal Rules of Evidence relied upon. Note: The failure to state an evidentiary objection in the pretrial order waives any objection that could have been stated. If no objection is stated, the exhibit will be admitted into evidence.
 - d. A designation of each exhibit as being primary (i.e. to be offered in the party's case-in-chief) or secondary (i.e. reserved for rebuttal or in the event of unanticipated developments at trial).
8. Statement as to probability of settlement.
9. Estimate of total length of trial.
10. A statement that the pretrial order shall supersede the pleadings and govern the trial of the case, unless departure therefrom is permitted by the court in the interest of justice.

E. Responsibility for Preparation. The attorney for plaintiff shall timely initiate and cooperate in preparing the agreed pretrial order. All opposing attorneys shall cooperate in finalizing the agreed pretrial order. If a party is appearing pro se, the first named represented party shall have responsibility for initiating the preparation of the agreed pretrial order and the pro se party shall cooperate therein.

F. Unprofessional Conduct. Failure of the plaintiff's attorney to timely initiate and/or failure of any attorney in the case to cooperate in the timely preparation of the agreed pretrial order shall be deemed to be unprofessional conduct by the court.

G. Time of Filing. The agreed pretrial order shall be filed seven (7) days in advance of the pretrial conference, unless otherwise ordered by the court.

H. Good Faith Disputes. While all reasonable efforts should be made by counsel and litigants to timely agree on a pretrial order, if, following good faith effort, disputes still remain regarding factual and/or legal issues, such should be noted in the single pretrial order submitted, for ultimate resolution by the court.

I. No Adoption of Pleadings by Reference. Counsel may not adopt pleadings and incorporate them into the pretrial order by reference.

J. Reservation of Rights Not Allowed. No reservation of an asserted right to add additional witnesses or exhibits or to take additional discovery will be allowed in the agreed pretrial order.

K. Late Exhibits. Late exhibits are those not listed in the agreed pretrial order. If late exhibits are discovered, the party desiring to offer them shall immediately mark them for identification and furnish copies to opposing counsel with a statement explaining their late production. If objected to, the sponsoring party must file a written motion requesting permission to supplement the exhibit list.

L. Late Witnesses. Additional witnesses, listed after the witness exchange date, will be permitted to testify only if ordered to prevent manifest injustice and only then, if proper notice is given, under the facts and circumstances of the case, to the other party, and a written motion is immediately filed requesting permission to supplement the witness list.

M. Pro Se Litigants. Pro se litigants and opposing counsel should confer before a pretrial conference and be prepared to discuss at the conference significant disputes relative to issues of fact and law, exhibits, witnesses, evidence, in limine matters, and all matters bearing on an expeditious settlement or trial of the case.

N. Time Limits. The court may set time limits regarding voir dire, opening and closing statements, the number of witnesses (including experts), and the time allowed for presentation of evidence.

O. Experts in Non-Jury Cases. In non-jury cases, expert qualifications and curriculum vitae should be provided to the court in writing as an exhibit prior to the expert witnesses' testimony. This will avoid the necessity of lengthy qualifications testimony.

P. Pretrial Conference. At the pretrial conference, the court may take appropriate action as to any additional matter permitted under Rule 16 of the Federal Rules of Civil Procedure.

Q. Demonstrative Aids, Exhibits, and Summaries. All demonstrative aids, exhibits, and summaries intended to be used for any purpose at trial shall be displayed to opposing counsel at least 48 hours in advance of trial.

LOCAL RULE 16.3

ALTERNATIVE DISPUTE RESOLUTION

A. Settlement Conference. The court may, upon its own initiative or at the request of any of the parties, order a settlement conference at a time and place to be fixed by the court.

B. Settlement Judge Disinterested. A district judge other than the judge assigned to the case, a magistrate judge, or an adjunct settlement judge ("ASJ") designated by the court, will normally preside at the settlement conference. The settlement judge will take no part in adjudicating the case subsequent to the settlement conference.

C. Two-Track Process. Ordinarily, civil cases will proceed simultaneously along separate "case management" and "settlement" tracks. Upon filing, each case is routinely assigned to a district judge and to a magistrate judge. The assigned district judge and assigned magistrate judge will preside over the case management track, and a settlement judge (who may be another federal district judge, another magistrate judge, or an adjunct settlement judge) will independently preside over the "settlement track." Scheduling of settlement conferences or other ADR procedures will not continue, delay, or otherwise interfere with scheduling dates set pursuant to a case management scheduling order. Likewise, any modification of the scheduling dates set at the case management conference will not effect the date of a settlement conference set pursuant to a separate settlement conference order.

D. Fully Authorized Representatives Required. At least one attorney for each of the parties who is fully familiar with the case shall appear for each party. A person or representative with full settlement authority as defined in the court's settlement conference order shall accompany the attorney to the settlement conference. Other interested parties, such as insurers or indemnitors, shall attend through fully authorized representatives and are subject to the provisions of this rule. The settlement judge may, however, with special permission upon prior written application, allow the party having full settlement authority to be telephonically available. The settlement judge presiding over the settlement conference may make such other and additional requirements of the parties as shall be deemed proper in order to expedite an amicable resolution of the case.

E. Confidences Kept. It is expected that the parties, their representatives, and attorneys be completely candid with the settlement judge so that settlement discussions may be properly and productively guided. To encourage candor, the confidential nature of settlement discussions conducted under the auspices of a court-sponsored settlement conference will be absolutely respected by all participants, and strictly enforced by the court. The settlement judge may meet jointly or individually with any participant(s). Statements made in any subconference will not be shared with participants not party to the subconference, unless specific permission of the declarant is obtained. Any statement

made in the context of the settlement conference will not constitute an admission and will not be used in any form in the litigation or trial of the case. The settlement judge will not discuss the substance of the conference with the judge to whom the case is assigned.

F. Adjunct Settlement Judges. Adjunct settlement judges shall be selected by the court from among members of the bar in good standing and chosen based upon their expertise, experience, actual and apparent impartiality, reputation for fairness, training, and temperament. They shall be invited to serve for a term of one year without compensation and commit to conduct one settlement conference per month during that term. Once appointed and trained, they may volunteer to serve additional terms, but shall not be expected by the court to do so. Consent of all parties is a prerequisite to the assignment of their case to an ASJ. No adjunct settlement judge may be called as a witness, except in an action to enforce the settlement agreement. In that instance, the ASJ shall not be deposed, and shall testify as the court's witness.

G. Special Projects. In cases where the settlement effort is expected to be extensive, or in connection with discovery matters, the court may appoint an adjunct settlement judge as a special project settlement or discovery judge, and order the parties to pay for his or her time at a reasonable hourly rate. Such payment shall be apportioned between the parties as agreed, or by the court on an equitable basis.

H. Governmental Entities. In the event a governmental entity which is a party determines that it will be unable to provide a representative with full settlement authority at the settlement conference, the governmental entity shall promptly move for leave to proceed with a representative with limited authority. The motion shall be delivered (not filed) to the settlement judge not later than eleven (11) days prior to the conference and shall contain:

1. The reasons which make it impracticable for a party's representative to appear with full settlement authority;
2. A detailed description of the limited authority to be exercised at the conference; and
3. alternative proposals by which full authority may be exercised at or subsequent to the conference.

The motion need not be transmitted to the opposing parties. Upon consideration of the motion, the settlement judge may allow the governmental entity to appear with limited authority or may, notwithstanding the motion, require appropriate persons to appear as may be necessary to have full settlement authority at the conference. Any ASJ may defer such determination to the magistrate judge or district judge then supervising the ASJ program.

I. Other Alternative Methods. The court may, in its discretion, set any civil case for summary jury trial, mini-trial, executive summary jury trial (summary jury trial where

chief executive officers of corporate parties participate as part of a three judge trial panel), mediation, arbitration, or other method of alternative dispute resolution as the court may deem proper, so long as due process is not abrogated or impaired.

J. Certification of Circumstances. In the event a party, attorney, insurer, or indemnitor fails to comply with the settlement conference order or participate in good faith in any court-sponsored alternative dispute resolution proceeding, the settlement judge may certify such circumstances in writing to the assigned district court judge and recommend appropriate action. All parties shall be served with copies of the certification and be afforded an opportunity to respond. The court may then impose any remedial, compensatory, disciplinary, contempt or sanction measures it deems appropriate under the circumstances certified.

K. Case Management and ADR Advisory Committee. The court has established a permanent Case Management and ADR Advisory Committee. The committee is responsible for monitoring and studying current case management practices and ADR procedures and making suggestions to the court for their modification and improvement. The committee may also, at the court's request, assist in the publication and implementation of new or revised court procedures and ADR initiatives. The committee shall consist of seven (7) voting members, including the chairperson. At least 5 members of the committee shall also be members in good standing of this court's bar. Members of the committee shall be appointed by the Chief Judge and serve at the pleasure of the court. The President of the Oklahoma Bar Association, the President of the Tulsa County Bar Association, and the judicial officer supervising the ASJ program may be asked to serve as ex-officio members of the committee.

LOCAL RULE 26.1

DISCOVERY

A. Form of Certain Discovery Documents. The parties answering, responding, or objecting to written interrogatories, requests for production of documents or things, or requests for admission shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response, or objection thereto. The parties shall also number each interrogatory, request, answer, response, or objection sequentially, regardless of the number of sets of interrogatories or requests.

B. Discovery Material Not to be Filed. Depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the court clerk, unless they are appended to a motion or a response to a motion or are needed for use in a trial or hearing.

C. Extensions of Time. Motions for extensions of time to respond to discovery requests shall include:

1. A statement on the first page of the motion as to whether or not the application is opposed;
2. A recitation that the applicant has conferred in good faith with opposing counsel;
3. A recitation of the discovery cutoff date, pretrial date, and trial date previously set by the court (attaching a copy of the current scheduling order to the motion will satisfy this requirement); and
4. The reasons for the requested extension.

Unopposed applications that present no conflict with discovery cutoff, pretrial or trial dates previously set by the court may be routinely granted by the clerk. All other applications for extensions of time in connection with discovery matters shall be promptly referred to the assigned magistrate judge for disposition.

D. Responses Within Discovery Cutoff Date Required. All discovery requests shall be served on opposing counsel in sufficient time to allow a response prior to discovery cutoff.

E. Mandatory Disclosure. Mandatory disclosure of information regarding fact witnesses, pertinent documents and data compilations, and damages computations may be required by the court at an appropriate time, as determined on a case-by-case basis. Although parties are encouraged to cooperatively exchange materials and information

clearly relevant to disputed facts at the earliest practical time, mandatory disclosure of these items will not be required prior to the case management conference, unless otherwise ordered by the court. (See Local Rule 16.1).

LOCAL RULE 26.2

DISCLOSURE OF INSURANCE AGREEMENTS

A party shall, without awaiting a discovery request, provide any insurance agreement to the other parties under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy such a judgment. Full and complete copies of such insurance agreements shall be served on all other parties along with the disclosing party's first responsive pleading.

LOCAL RULE 26.3

TREATMENT OF THE PROPOSED AMENDMENTS TO RULE 26 OF THE FEDERAL RULES OF CIVIL PROCEDURE¹⁰

A. Rule 26(a)(1)(A), (B), and (C) Opt Out. The court hereby specifically opts out of and declines to apply the provisions of Rule 26(a)(1)(A), (B), and (C) of the Federal Rules of Civil Procedure, concerning initial required disclosures.

B. Rule 26(a)(1)(D) Opt In. The court will apply the provisions of Rule 26(a)(1)(D)¹¹ of the Federal Rules of Civil Procedure requiring early disclosure of insurance agreements.

C. No Stay of Discovery. Discovery shall not be routinely stayed pending the case management conference, unless the court specifically orders otherwise. See Rule 26(d), which the court opts out of to the extent that it is inconsistent with this provision, and otherwise adopts.

D. Remaining Rule 26 Provisions Adopted. The court opts into and adopts the remaining provisions of Rule 26 not specifically addressed in paragraphs A, B, and C of this rule.

¹⁰This rule is predicated upon the language of the proposed amendments to Rule 26 contained in the April 22, 1993 Communication from the Chief Justice of the United States Transmitting Amendments to the Federal Rules of Civil Procedure and Forms, Pursuant to 28 U.S.C. § 2072. As of November 24, 1993 it appears that Proposed Rule 26(a)(1) will not be adopted by Congress.

¹¹The court adopts only the insurance disclosure requirements contained in Rule 26(a)(1)(D), and not the other early disclosure provisions of 26(a)(1) as part of its expense and delay reduction plan under the Civil Justice Reform Act. Proposed Rule 26(a)(1)(D) provides:

[A] party shall, without awaiting a discovery request, provide to the other parties for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

LOCAL RULE 30.1

DEPOSITIONS

A. Reasonable Notice. "Reasonable notice" as contemplated by Rule 30(b)(1), Federal Rules of Civil Procedure, for the taking of depositions, after thirty (30) days from service of summons, shall be five (5) days, subject, however, to an order of the court entered for cause shown enlarging or shortening the time. Rule 6, Federal Rules of Civil Procedure, shall govern the computation of time.

B. Handling. Depositions in pending cases which have been duly filed in the office of the clerk, pursuant to an exception to paragraph B of Local Rule 26.1, may be opened by the court at any time or by the clerk for examination upon oral or written application of any attorney of record in the case.

C. Maintenance. Each attorney or pro se party shall maintain the originals of depositions they notice or initiate by agreement.

D. Certified Copies Substituted. Upon a showing that an original deposition is unavailable, a certified copy may be substituted.

E. Video Depositions. The testimony of any fact or expert witness may be recorded on videotape, provided:

1. All opposing counsel are provided with "reasonable notice" in writing as defined in paragraph A that the deposition will be videotaped;
2. A written record is simultaneously generated by a certified court reporter, unless all parties stipulate otherwise.

F. "Trial" Depositions. In the absence of agreement, videotaped depositions intended to be played at trial shall not commence until opposing parties have had a reasonable opportunity to first depose the witness for discovery purposes. Such depositions must be taken before the discovery cut-off date, unless otherwise ordered by the court.

G. Length of Depositions. No deposition shall extend beyond six hours in length, beyond 5:00 p.m., or be taken on a weekend or holiday without an agreement in writing signed by all interested attorneys or acknowledged on the record by all interested attorneys or an order of the court. Extensions of this time limitation shall be freely given in the event of obstructive or uncooperative conduct on the part of the witness or opposing counsel, or otherwise in the interests of justice.

H. Number of Depositions. No more than ten (10) depositions per side shall be

taken in any case, without an order of the court permitting additional depositions.

I. Procedure for Designation of Deposition Testimony for use at Trial. Deposition designations and counterdesignations should be made by highlighting a copy of the transcript in different colors. No objection to any designation or counterdesignation shall be considered by the court until a good faith effort to resolve such objections by means of a personal meeting between counsel has been conducted. Subsequent to this meeting, any remaining evidentiary objections may be annotated in the margins of the highlighted transcript, so that the court may easily consider them in context.

Objections arising out of the procedural history of a particular case or stemming from the law of the case may be supported by an optional supplemental brief, which may then be submitted to the court with the annotated transcript.

Rulings on objections to designated or counterdesignated testimony will ordinarily be made by the assigned magistrate judge. A high degree of cooperation between counsel is expected to minimize the number of objections.

LOCAL RULE 33.1

INTERROGATORIES

A. Limited to Twenty-Five (25). The number of interrogatories served on a party by another party in any one case shall not exceed twenty-five (25) in number. Interrogatories inquiring as to the existence, location, and custodian of documents or physical evidence shall be construed as one interrogatory. All other interrogatories, including subdivisions of one numbered interrogatory, shall be construed as separate interrogatories. No further interrogatories will be served unless authorized by the court.

B. Additional Interrogatories by Stipulation and Order. If counsel for a party believes that more than twenty-five (25) interrogatories are necessary, then counsel shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional interrogatories. In the event such a stipulation is agreed upon, it shall be filed, together with a proposed order. In the event a written stipulation cannot be agreed upon, the party seeking to submit such additional interrogatories shall file a motion with the court (1) showing that counsel have conferred in good faith, but sincere attempts to resolve the issue have been unavailing, (2) showing reasons establishing good cause for their use, and (3) setting forth the proposed additional interrogatories.

LOCAL RULE 37.1

INFORMAL CONFERENCE TO SETTLE DISCOVERY DISPUTE

A. Conference Required. Regarding all motions relating to discovery pursuant to Rules 26 through 37, Federal Rules of Civil Procedure, the court will refuse to hear any such motion, unless counsel for movant first advises the court in writing that the lawyers have personally met and conferred in good faith, but that, after a sincere attempt to resolve differences has been made, they have been unable to reach an accord. However, no personal conference shall be required where the movant's counsel represents to the court in writing that counsel have conferred by telephone and the distance between counsels' offices renders a personal conference not feasible. An exchange of correspondence alone does not satisfy this requirement.

B. Unprofessional Conduct Exception. A reliable demonstration of counsel's repeated failure to communicate in connection with discovery disputes will be viewed as unprofessional conduct on the part of the attorney. Such a demonstration, deemed sufficient by the court and contained in a motion to compel, will satisfy the requirements of paragraph A.

C. Pro Se and Non-Party Exception. Unless otherwise ordered by the court, the conference and statement requirements in paragraph A do not apply to motions brought by a person appearing pro se or those brought pursuant to Rule 45(d) of the Federal Rules of Civil Procedure by a person who is not a party.

LOCAL RULE 37.2

DISCOVERY ENFORCEMENT

A. Disposition of Discovery Matters by Magistrate Judge. Unless otherwise directed by a district judge, disposition of all discovery matters shall be by order of the magistrate judge. Magistrate judge's orders shall remain in full force and effect as an order of the court until reversed or modified by a district judge. A "clearly erroneous or contrary to law" standard of review shall be applied when reviewing magistrate judge's discovery orders, as provided by 28 U.S.C. § 636(b)(1)(A).

B. Expedited Hearings. A magistrate judge may expedite discovery matters by means of telephone conferences or emergency hearings. Where exigent circumstances are present, verbal or telephonic requests for an expedited hearing may be made through the office of the court clerk or directly to a magistrate judge's office. Ex parte communication with a magistrate judge will not be permitted.

C. Routine Matters. Discovery matters which are not time sensitive or of an emergency nature shall be handled in due course by consideration of appropriate written motions.

D. Form of Discovery Motions. A discovery motion filed pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure shall include, in an attached memorandum, a verbatim recitation of each interrogatory, request, answer, response, and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion.

E. Adjunct Settlement Judges. In appropriate cases adjunct settlement judges (See Local Rule 16.3 (G)) may be appointed on a special project basis to make findings and recommendations to the assigned magistrate judge and/or district judge in connection with discovery matters.

LOCAL RULE 72.1

UNITED STATES MAGISTRATE JUDGE

A. Authorization. Each United States Magistrate Judge appointed by this court is authorized to perform all civil functions permitted by law, including:

1. Civil Consent Trials. Conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case upon the consent of the parties pursuant to 28 U.S.C. § 636(c).
2. Non-dispositive Matters. Hear, determine, and enter an order on any pretrial matter pending before the court as authorized by 28 U.S.C. § 636(b)(1)(A).
3. Injunctions, Class Actions, and Dispositive Matters. Conduct hearings, including evidentiary hearings, and submit to a judge of the court proposed findings of fact and recommendations for the disposition of any motion excepted in 28 U.S.C. § 636(b)(1)(A), of applications for post-trial relief by individuals convicted of criminal offenses, and of prisoner petitions challenging conditions of confinement.
4. Enforcement of IRS Summons. Conduct proceedings, including issuing an attachment or order or other process, to enforce obedience to an Internal Revenue Service summons to produce records or to give testimony. 26 U.S.C. §§ 7402(b), 7406(a) and (b).
5. Hearings on Assets. Conduct examinations of judgment debtors in accordance with Rule 69, Federal Rules of Civil Procedure, and enter necessary orders in aid of the judgment or execution.
6. Pretrial Conferences. Conduct pretrial conferences and enter pretrial orders, upon request of a judge of the court.
7. Special Master. Serve as special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Rule 53, Federal Rules of Civil Procedure. Upon the consent of the parties, a United States Magistrate Judge may be designated by a judge to serve as a special master in any civil case notwithstanding the limitations of Rule 53(b), Federal Rules of Civil Procedure.
8. Jury Selection. Empanel petit juries in civil cases upon request of a judge of the court.

9. Jury Verdicts. Accept petit jury verdicts in civil cases at the request of a judge of the court.
10. Issue Subpoenas and Writs. Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties or witnesses or evidence for court proceedings.
11. Inspection Warrants. Issue administrative inspection warrants.
12. Confirm Sale. Conduct hearings on motions to confirm sale pursuant to 12 O.S. § 686 and Rule 69(a), Federal Rules of Civil Procedure.
13. Additional Duties. Perform such additional duties as are not inconsistent with the Constitution and laws of the United States.

B. Motions to Reconsider. A Motion to Reconsider Decision of U. S. Magistrate Judge, designated as such, may be filed in appropriate circumstances when new law or facts, not previously called to the attention of the magistrate judge, should be fairly considered in making a decision. The magistrate judge shall review the motion and, if it is deemed to be meritorious, shall request the district judge to recommit the matter to the magistrate judge. A motion to reconsider shall not toll the ten-day objection period provided for in Rule 72, Federal Rules of Civil Procedure, unless the district judge orders the matter recommitted to the magistrate judge, in which event the ten-day objection period provided for in Rule 72 shall run from service of the magistrate judge's findings and recommendations upon reconsideration of a dispositive matter or from entry of the magistrate judge's order upon reconsideration of a non-dispositive matter.

C. Consent Procedure.

1. Notice. The court clerk shall notify the parties in all civil cases that they may consent to have a full-time magistrate judge conduct any or all proceedings in the case and order the entry of the final judgment. Such notice shall be handed or mailed to each plaintiff or each plaintiff's representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons to be served. Additional notices may be furnished to the parties at later stages of the proceedings and may be included with pretrial conference notices and instructions.
2. Execution of Consent. The clerk shall not accept a consent form unless it has been signed by all the parties in the case. The plaintiff shall be responsible for securing the execution of a consent form by the parties and for filing such form with the clerk of court.

3. Reference. After the consent form has been executed and filed, the clerk shall transmit it to the judge to whom the case has been assigned for approval and referral of the case to a magistrate judge.

D. Jurisdiction. The jurisdiction of the magistrate judges of the Northern District of Oklahoma shall be district-wide and any magistrate judge may hold court at any place within the district.

E. Alternative Dispute Resolution.

1. Authorization. Magistrate judges may conduct or employ settlement conferences, summary jury trials, mini-trials, executive summary jury trials, or any other ADR proceedings, procedures, or techniques.
2. Supervision and Administration of ADR Programs. One or more magistrate judges may be designated by the court to supervise and administer the Adjunct Settlement Judge Program, the Adjunct Discovery Judge Program, and "Special Project" Adjunct Settlement Judge assignments.
 - a. ASJ Training and Supervision. The magistrate judge(s) so designated shall be responsible for training and supervising Adjunct Settlement Judges selected by the court; for making appropriate assignments to ASJs; for keeping records of ASJ activity; and for certifying circumstances constituting noncompliance with the court's settlement conference order.
 - b. References to Adjunct Discovery Judges. Any magistrate judge may refer all or part of an ongoing discovery dispute to an adjunct discovery judge.
 - c. "Special Project" Assignments. In appropriate cases, the magistrate judge designated to administer the ASJ Program may also assign ASJs on a paid, "special project" basis and determine how they are to be paid.
 - d. ADR Program Design. The magistrate judge(s) serving as ADR Administrator(s) will also assist the permanent Case Management and ADR Advisory Committee in designing, testing, implementing, and monitoring new ADR measures.

Appendix C -- Program Outline

APPENDIX C -- PROGRAM OUTLINE

THE CHANGING FACE OF THE FEDERAL COURT

The OBA Annual "Federal Practice in the Northern District" Seminar

Effective this fall, new rules and new procedures will be changing federal practice in the northern district. These major changes dealing with obligations of counsel, Federal Rules of Civil Procedure and Local Court Rule changes will have substantial impact for attorneys practicing in federal court. In addition, two new members of the court will be introduced at this seminar and share with you their expectations of the Bar.

- DATE & LOCATION:** December 3, 1993
Tulsa Convention Center
Tulsa
- CLE CREDIT:** This course has been approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for 6 hours of mandatory CLE Credit, including .5 hour of ethics. For course approval in other states, contact the CLE Registrar.
- TUITION:** \$110 for preregistrations received at least four full business days prior to the seminar date; \$135 for walk-in registrations and preregistrations received within three full business days of the seminar date. Lunch is included in the registration fee.
- CANCELLATION POLICY:** Cancellations will be accepted at any time prior to the seminar date; however, a \$25 fee will be charged for cancellations made within three days of the seminar date.
- PROGRAM:**
- 8:30 - 9:00 **REGISTRATION**
 - 9:00 - 9:30 **PERSPECTIVES, CHANGES AND TRENDS - A REPORT FROM THE CHIEF JUDGE**
.....The Honorable James O. Ellison
Chief Judge, United States District Court
Northern District of Oklahoma
Tulsa
 - 9:30 - 10:00 **DEVELOPMENTS AND TRENDS IN THE BANKRUPTCY COURT**
.....The Honorable Mickey D. Wilson
Chief Judge, United States Bankruptcy Court
Northern District
Tulsa

10:00 - 10:10 **BREAK**

10:10 - 10:40 **HIGHLIGHTS OF THE MAJOR CHANGES TO THE FEDERAL RULES OF
CIVIL PROCEDURE**
.....The Honorable Jeffrey Scott Wolfe
Magistrate Judge, United States District Court
Northern District of Oklahoma
Tulsa

10:40 - 11:10 **DEVELOPMENTS AND CHANGES IN CRIMINAL PRACTICE AND PROCEDURE**
.....The Honorable H. Dale Cook
Senior Judge, United States District Court
Northern District of Oklahoma
Tulsa

11:10 - 11:40 **A REPORT FROM THE TENTH CIRCUIT**
.....The Honorable Stephanie K. Seymour
Judge, United States Court of Appeals for the Tenth Circuit
Tulsa

11:40 - 12:15 **LUNCH (included in the registration fee)**

12:15 - 12:45 **THE NEW CIVIL JUSTICE REFORM ACT PLAN**
.....The Honorable Thomas R. Brett
Judge, United States District Court
Northern District of Oklahoma
Tulsa

12:45 - 1:15 **CHANGES AFFECTING THE CLERK'S OFFICE AND COMPUTER ACCESS
TO COURT RECORDS**
.....Richard M. Lawrence
Clerk of the Court, United States District Court
Northern District of Oklahoma
Tulsa

1:15 - 1:30 **BREAK**

1:30 - 2:00 **OVERVIEW OF SUBSTANTIAL CHANGES AFFECTING LOCAL COURT RULES**
.....The Honorable John Leo Wagner
Magistrate Judge, United States District Court
Northern District of Oklahoma
Tulsa

2:00 - 3:00 **MEETING THE NEW JUDGES - EXPECTATIONS OF THE COURT**

Appendix D -- Order Permitting Free Access to Pacer System For Adjunct Settlement Judges

**APPENDIX D – ORDER PERMITTING FREE ACCESS TO PACER SYSTEM
FOR ADJUNCT SETTLEMENT JUDGES**

**ORDER PERMITTING FREE ACCESS TO PACER SYSTEM
FOR ADJUNCT SETTLEMENT JUDGES**

The Adjunct Settlement Judge Program has proved to be a viable alternative to assist the court in expediting the disposition of civil cases.

WHEREAS this program while administered by the court uses the talent and expertise of volunteer attorneys; and

WHEREAS it is necessary the attorneys have access in a timely manner to the most current of docket information; and

WHEREAS the most effective avenue to access this information is through the PACER system, a fee-for-time system;

I FIND it to be cost effective to permit those volunteer attorneys free access to the PACER system for purposes of reviewing those cases to which they have been assigned by the court through the Alternative Dispute Resolution Program. The one dollar per minute fee shall be waived on those occasions.

CHIEF UNITED STATES DISTRICT JUDGE

Appendix E -- Standing Order

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SEP 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RE: STANDING ORDER ON)
REFERRALS TO MAGISTRATE JUDGES)


Miscellaneous Order No. M-128-D

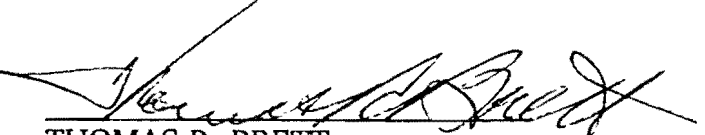
STANDING ORDER

Upon due consideration of the policy of the Committee on the Administration of the Federal Magistrate System of the Judicial Conference of the United States, the court hereby abandons and disallows any procedure that provides for an informal, off-the-record referral to magistrate judges. All referrals to magistrate judges shall henceforth meet the requirements of § 636(b)(1)(B) and (C) of Title 28, United States Code. Referrals to magistrate judges will be made openly and on the record; reports and recommendations will be submitted and copies furnished to the parties; and the parties will have the opportunity to file objections.

It is the policy of this court to fully utilize magistrate judges in accordance with 28 U.S.C. § 636, as interpreted by policy statements originating from the Committee on the Administration of the Federal Magistrate System of the Judicial Conference of the United States.

Dated this 13th day of September, 1993.


JAMES O. ELLISON, CHIEF
UNITED STATES DISTRICT JUDGE


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE