

WESTERN DISTRICT OF OKLAHOMA
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

MINUTES OF MEETING

DATE: June 27, 1996
9:00 A.M.

PLACE: U.S. Courthouse, Oklahoma City, OK
Library of the Honorable David L. Russell

MEMBERS PRESENT: The Honorable David L. Russell, Chief Judge
Joe L. Heaton, Chairman
Ed Abel
Donna Blakely
Dianne Goldschmidt
Melvin Hall
Don Holladay
Guy Hurst
John A. Kenney

Ron Pyle, AUSA, U.S. Attorney Representative

Robert D. Dennis, Reporter and Clerk of Court
Ann D. Marshall, CJRA Assistant/Resource Person

The 1996 Civil Justice Reform Act Advisory Group Meeting was called to order.

Chief Judge David L. Russell welcomed the committee, thanked them for coming and expressed the Court's appreciation for all their assistance. He announced that Robert A. Hodder had resigned from the Advisory Group and that the Judges will be making a new appointment soon. The Judge gave a brief historical overview of the condition of this Court citing statistics and focusing on the changes in caseload and types of cases, appointment of additional judges in the past 15 years, and current decrease in numbers of cases per judgeship.

The Judge stated that the Court continues to be concerned about cost - the high cost of litigation in the Federal Courts. He described the efficiency and speed with which this Court handles its caseload, the awareness of the relationship between speed and cost and that ADR and settlement measures currently in place certainly have helped address these issues. He described the Civil Justice Expense and Delay Reduction Plan of this Court as most helpful in that it continued the case management and the many other good procedures already in place. He would like the Advisory Group to continue its focus on delay reduction but more especially on cost containment.

Joe Heaton, Chair of the CJRA Advisory Group, also welcomed the committee and gave an overview of the Civil Justice Advisory Group's work since 1991, described their initial work that led to this Court's Civil Justice Expense and Delay Reduction Plan and educated the current Advisory Group about its present duties for reviewing the annual assessments of the condition of the court's

docket, consulting with the Court and making recommendations for any additional actions to reduce avoidable cost and delay or other improvements to litigation management in civil practice in the Court.

After explaining that late receipt of statistical information for prior years was why two separate years of annual court assessments had been mailed to the committee prior to the meeting to review, Mr. Heaton called for discussion of the reports. The Annual Assessment of the Condition of the Court for 1994 was approved as mailed. Mr. Heaton made one addition to the 1995 Report by requesting that the Report reflect that the CJRA Advisory Group in late 1995 did review the newly proposed local civil rules and made recommendations to the Court. The Annual Assessment of the Condition of the Court for 1995 was approved as amended.

Joe Heaton next introduced the CJRA Advisory Group Subcommittee's concept for an alternate civil case track that would employ abbreviated procedures in an effort to reduce costs. John Kenney, Subcommittee Chair, gave a brief overview of the subcommittee's ideas for consideration and discussion by the entire Committee. He described an alternate track for civil cases likely to go to trial which could be available to agreeing litigants that would have benefits for both plaintiffs and defendants and might contain specific limits on numbers and/or waiver of certain types of motions, limited discovery, flexible pretrial and trial procedures within certain limits, a cap on liability, etc. John indicated that the subcommittee did not have a formal proposal at this time but if the committee were interested, they would continue to pursue the concept. After a full discussion by the committee, it decided that the subcommittee composed of the following members should move forward, continue its study and make further recommendations to the full CJRA Committee: John Kenny, Chair; Donna Blakely, Don Holladay, Ron Pyle, Dianne Goldschmidt; Robert Dennis, CJRA Reporter and Ann Marshall, CJRA Assistant.

Joe Heaton opened the meeting for additional suggestions. Ed Abel, CJRA Member, stated that since most cases do eventually settle, and with the Settlement Magistrate Judge often busy with cases set for trial, a need for an additional early intervention procedure (in addition to mediation, non-binding arbitration and the early judicial settlement conference) that could be built into the scheduling order whose focus would be cost containment should be studied. Ann Marshall described the process of Early Neutral Evaluation which has been successful in some federal courts and adopted by quite a few others in their CJRA Plans as just such a cost reduction measure. She indicated that the main features of this type of program focus on the areas of highest costs utilizing the assistance a third party neutral with subject matter expertise to give early case evaluation, help the parties clarify the central issues in dispute, and assist in discovery and motion planning in addition to facilitating settlement when requested. After further discussion, the CJRA Committee agreed that it was interested in pursuing this concept further. Ed Abel agreed to chair the subcommittee and Melvin Hall and Guy Hurst agreed to serve along with Robert Dennis, CJRA Reporter and Ann Marshall, CJRA Assistant.

Both subcommittees agreed to be ready to report back to the full CJRA Committee by the early fall of 1996.

Guy Hurst, CJRA Committee member and Chief of the Litigation Department and the State Attorney General's office gave a brief report on the new Prison Litigation Reform Act. Due to our heavy caseload in this area, he indicated that this legislation should have a beneficial effect on the courts. He stated that the Act will necessitate a revision to our Court's newly revised local civil rules.

He recommended the need for a statewide uniform court rule in all federal districts. Bob Dennis and Joe Heaton indicated that this was already being considered by the federal magistrate judges in each district.

Mr. Heaton thanked everyone for their attendance and contributions to the committee and the meeting. Judge Russell would like the continued input and assistance of the Civil Justice Advisory Group and asked the committee to give consideration to continuing its valuable work even after the sunset of the CJRA legislation in 1997.

Judge Russell and Joe Heaton recognized Bob Dennis for the Leadership Award he won from the Administrative Office of the Courts for his tireless work during the aftermath of the bombing of the Alfred P. Murrah Federal Building, across the street from the courthouse, and for getting the courthouse, which itself received significant damage, back in business and open to the public in less than a week. They also thanked Ann Marshall for her work on preparation of the 1994 and 1995 Annual Assessment Reports. Joe thanked Ron Pyle, Guy Hurst and John Coyle and any others for their comments and recommendations for the revisions to the local civil court rules. Joe also thanked the sub-committee composed of John Kenney, Donna Blakely and Ron Pyle for their work and recommendation on the proposed alternate track for civil cases.

The meeting was adjourned at 10:45 A.M.

Robert D. Dennis, CJRA Reporter
Ann D. Marshall, CJRA Assistant