

**Northern District of Florida
Report of Advisory Group
Cost and Delay Reduction Plan
Summary**

I. Assumptions; Miscellany; and Background

- A. The district encompasses 23 counties and is divided into four divisions.
- B. There are 4 authorized judgeships and no vacancies. There are also 2 full-time and 2 part-time magistrate judges. There is also 1 senior judge.
- C. The Advisory Group reviewed data reflecting past case filings, trends in case filings, and the use of court resources. The advisory group also surveyed the members of the Northern District's bar.

II. State of the Docket

- A. Filing Trends.
 - 1. Over a six year period civil cases per judgeship have remained constant. In 1992 there were 388 civil cases per judgeship; in 1987 there were 397.
 - 2. The district has a disproportionate number of prisoner pro se cases. In 1992 they accounted for over 35% of all civil filings.
 - 3. Median time from issue to trial in 1992 was 19 months; in 1987 it was 15 months.
 - 4. Median time from filing to disposition was 9 months in 1992; 8 months in 1987.
 - 5. The percentage of cases over 3 years old has decreased slightly to 3.0% in 1992.
 - 6. The median time from filing to disposition for criminal cases is 5.4 months.
 - 7. Life expectancy of a civil cases is approximately 14 months.
 - 8. The district has a high percentage of criminal cases go to trial. 70% of trials in the district are criminal.
 - 9. The district ranked first in the country in the number of defendants tried by a jury in 1992.

B. Causes of cost and delay.

1. Criminal caseload: Increased federalization of crime; federal sentencing guidelines; speedy trial act; and the policy of the Justice Department not to negotiate a plea absent unusual circumstances.
2. Prisoner petitions.
3. Judicial resources have not kept pace with the increasing caseload.
4. Excess or abuse of discovery.
5. The lack of greater judicial involvement.
6. Delay in ruling on dispositive motions.
7. Inefficient procedures for determining court awards of attorney fees.
8. Lack of a mechanism for establishing early trial dates.

III. Recommendations

A. With the exception of prisoner and administrative cases the district does not warrant DCM.

B. Pretrial Conference

1. There should be an initial pretrial conference where the court meets with the parties prior to issuance of the scheduling order.
2. The parties should confer prior to the conference to discuss:
 - a) the merits of the case;
 - b) chances of settlement; and
 - c) any matters to be addressed in the scheduling order.
3. Where appropriate additional case management conferences should be held.

C. There should be a presumptive time limit for ruling on motions. the clerk should monitor motions to ensure they are expeditiously resolved.

D. The parties and the court should consider phased discovery.

E. Discovery

1. The district should opt-out of Rule 26(a)(1) of the Federal Rules of Civil Procedure. Disclosure relating to expert witnesses should continue. Disclosure pursuant to Rule 26(a)(3) should be required.
 2. Routine use of depositions of experts without court order should be allowed. Video testimony of experts should be considered over live testimony.
 3. The district should continue its 50 interrogatory limit, and no limits on depositions.
 4. Methods for early resolution of discovery disputes should be encouraged. Greater use of sanctions should be made.
- F. The court should address the issue of liability for attorney fees before addressing the issue of appropriateness of the fees charged. Rules regarding the parameters of discovery on attorney fee issues should be developed. Parties should be allowed 30 days for filing cost and fee motions.
- G. Prior to the pretrial conference the parties should attempt in good faith to arrive at an estimated trial date. This date should be included in the scheduling order.
- H. Magistrate Judges
1. The court should seek an additional magistrate judge.
 2. The chief judge should appoint a prisoner pro se counsel committee charged with recommending a pro bono plan to identify counsel willing to represent prisoners, after an initial screening.
 3. The US attorney should initiate discussions with state and military authorities to determine if certain criminal and non-criminal petty offenses could be resolved without involving the magistrate judges.
 4. Magistrate judges should become more involved in the resolution of civil cases. Parties should be encouraged to consent to trial by magistrate judge. Parties should be informed of the trial date they could have before a magistrate as compared with before an Article III judge. The magistrate judge should be present at any court conference where trial dates are likely to be discussed.
 5. More motions, dispositive and non-dispositive should be referred to the magistrate judge. Parties should indicate on the motion whether they object to such a referral.
- I. Alternative Dispute Resolution
1. The court should offer an ADR program consisting of Early Neutral Evaluation (ENE) and mediation. Other mechanisms should be encouraged when appropriate.
 2. The court should designate an ADR administrator.

3. An ADR advisory committee should be formed to measure the success of the ADR program.

IV. Plan

A. With the exception of prisoner and administrative cases, the district does not warrant DCM.

B. Case Management Conference.

1. The current scheduling order will be maintained with minor changes.
2. Attorneys for the parties shall meet within 30 days of entry of the order and shall:
 - a) discuss the nature and basis of their claims, and try to identify the principle factual and legal issues;
 - b) discuss possibility for prompt settlement and whether mediation or other ADR technique would be helpful, either currently or after some discovery;
 - c) discuss proposed time tables and cut-off dates for joinder of parties, amending pleadings, and filing of motions and whether the scheduling order should be amended;
 - d) discuss the respective discovery requirements of the case, and if necessary develop a discovery plan specifically addressing timing and form of discovery, phased discovery, and whether any changes are need to the initial scheduling order, local rules, or FRCP; and
 - e) make a good faith estimate of when the case will be ready for trial. If the estimate is not within 18 months of filing, an explanation must be included.
3. The parties shall disclose core information at this initial meeting.
4. Disclosure of expert witness information shall continue under the current order and as required by the FRCP.
5. Within 14 days of the meeting the parties shall file a joint report addressing each item above. If the parties are unable to agree the report should set out each parties position. The court will promptly consider the report and modify the scheduling order accordingly or call a pretrial conference. Telephone attendance will be permitted. If the court takes no action within 14 days the original scheduling order is in effect.
6. The parties estimated trial date will be the presumptive time the case will be set for final pretrial conference and trial.
7. At all pretrial conferences each party must be represented by an attorney with authority to bind.

C. Motions

1. Rulings on non-dispositive motions will occur within 60 days of the response.
2. Rulings on dispositive motions will occur within 120 days of the response.
3. If oral argument is granted, motions shall be ruled on within these time limits or 30 days after oral argument, whichever is later.
4. The clerk shall monitor motions and notify each judge on a monthly basis of the status of the judge's caseload.

D. Discovery

1. The current limitations on interrogatories will remain in effect.
2. The court will enforce the limitations on depositions in the FRCP and will consider increasing them after a short time.
3. The court will continue its longstanding requirement of certification of a good faith effort to resolve discovery disputes.
4. The court will use magistrate judges to resolve discovery disputes if it appears to be a realistic and practical alternative.

E. The court will address the issue of liability for attorney fees before addressing the issue of appropriateness of the fees charged. The scheduling order will be amended to minimize evidentiary hearings necessary in determining attorney fees.

F. Alternative Dispute Resolution

1. It is the intent of the court to utilize ADR at the most opportune time in each case. The parties joint report will assist the court make this determination.
2. Although ENE may be useful in some cases, a required ENE program does not appear warranted.
3. The existing mediation program is effective; therefore, the formal ADR plan recommended by the advisory group will not be adopted.

G. The court will seek an additional magistrate judge.

H. If the plan conflicts with local rules, the plan prevails. If the plan conflicts with the FRCP the conflict shall be resolved in favor of the plan if the federal rule involved allows opting out or local exception.