

Southern District of Florida

MEMORANDUM

TO: Members of the Civil Justice Advisory Group for the Southern District
FROM: Chesterfield Smith
DATE: February 28, 1991
RE: Proposed Work Plan and Timetable for Civil Justice Advisory Group

1.0 OVERVIEW

Pursuant to the Civil Justice Reform Act of 1990, each United States District Court is required to implement a civil justice expense and delay reduction plan. The purpose of each plan is to "facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and insure just, speedy and inexpensive resolutions of civil disputes." The chief judge of each district court, after consultation with the other judges of the Court, is required to appoint an Advisory Group comprised of attorneys and other persons who represent major categories of litigants to make recommendations for the development of a civil justice expense and delay reduction plan.

1.1 Deadlines for Implementing Plan

Any district that develops and implements a plan by December 31, 1991 will be designated an "early implementation district". An early implementation district will be given priority in receiving supplemental funds for implementing its plan. Congress has authorized but has not as of yet appropriated supplemental funds.

If this Group and the Court do not choose to be an early implementation district, the Act requires plan implementation by December 1, 1993.

1.2 Adoption and Approval of the Plan

After considering the Advisory Group's recommendations, the district court must approve and implement the Plan. The Plan is then submitted to all chief district judges in the Circuit and the Chief Judge of the 11th Circuit, who serve as a committee to review each Court's Plan and suggest revisions. Each Plan is then reviewed by the Judicial Conference which may also make suggestions for amendments to the Plan.

1.3 Development of Plan

The Act requires the advisory group to include in its Plan the following:

An assessment of the state of the Court's civil and criminal dockets including,

- a) the condition of the civil and criminal dockets;
 - b) trends in case filings and in the demands placed on the court's resources;
2. Identify the principal causes of cost and delay in civil litigation;

3. Examine how costs and delays could be reduced by new legislation on the courts;
4. Set forth the basis for the group's recommendations that the district court develop a plan or select a model plan developed by the Judicial Conference of the United States;
5. Recommend measures, rules and programs for reducing costs and delays in the civil system.

In formulating the Plan, the Act requires the advisory group and district court to consider, but not necessarily adopt, the following principles of litigation management:

1. Differential case management (systematically tailoring the level of judicial case management to the needs of the case using criteria such as case complexity, amount of time reasonably needed to prepare the case for trial, and judicial resources required for disposing of the case);
2. Early and ongoing judicial intervention in assessing and planning the progress of the case;
3. Setting early and firm trial dates;
4. Control of discovery;
5. Controlling motion practice (setting at the earliest practical time deadlines for filing motions and timework for their disposition);
6. Alternative means of dispute resolution, including settlement; and
7. Holding final pre-trial conferences.

For a more complete description of the Civil Justice Reform Act of 1990, see the enclosed summary prepared by the Federal Judicial Center dated January 16, 1991.

2.0 PROPOSED WORK PLAN AND SCHEDULE

At our inaugural meeting, we must arrive at a common definition of the mission, work plan and timetables required to develop a Plan by October 31, 1991. I suggest a three-phase approach to development of the plan:

Phase I: Discovery (March 22 through June 17, 1991)

Phase II: Analyze existing and alternative case management programs, rules, and practices (June 1 through August 31, 1991)

Phase III: Develop Plan (September 1 through October 31, 1991)

Below is a draft timetable for discussion:

3.0 PROPOSED WORK PLAN

3.1 Phase I: Discovery (March 22 thru June 17, 1991)

Phase I is intended to be an intensive "discovery period" during which the Advisory Group will develop a fact-based assessment of the current state of the civil and criminal dockets; identify trends in case filings and the demands on the court system; and identify principal causes of delay and expense in civil litigation. In other words, this phase is geared to identifying the strengths and weaknesses of the civil justice system as it relates to delay and costs. During this phase, committee members will share facts and perspectives with the Court, litigants and litigants' attorneys so that the group can begin to develop a consensus for some of the principal causes for costs and delays in civil litigation.

3.2 Implementation:

1. Divide the Advisory Group into four committees with the following responsibilities:
 - a. Oversight Committee - This committee is charged with the responsibility of coordinating and assembling the data to be provided by the other three study groups. In addition, the oversight committee will prepare an overall analysis of the existing condition of the civil and criminal dockets and will catalog existing case management programs and rules in this Court and other Courts. This committee will also assess and evaluate trends in the Court over the past five years.
 - b. Committee A - This committee will make an in-depth study of those terminated cases within the past five years with a lifespan of greater than three years. The case study will include reviewing the docket sheet, diagraming the case on a standardized form, interviewing the Judges, litigants and attorneys.
 - c. Committee B - This committee will study terminated cases within the last five years that have lasted longer than two years but less than three. This committee will proceed along the same format as Committee A.
 - d. Committee C - This committee will study terminated cases within the last five years that had a lifespan of more than one year but less than two. This committee will follow the same methodology as the other two case study committees.
2. Committees A, B and C will have two months to conduct its case studies and submit them to the Oversight Committee for correlation. A full Advisory Group meeting will follow in which the results of these studies will be presented. The Group as a whole will then assess the principal causes for the costs and delays in civil litigation.

3.3 **Phase II: Assess existing and model programs, rules and practices (June 17 thru September 30, 1991)**

Phase II shall be devoted to exploring realistic possibilities and proven experiences in reducing costs and delays in civil litigation. The Group and committees will analyze existing rules, measures, programs and practices in this district, in other districts and in other courts which facilitate the fair and efficient adjudication of civil cases. The group will consider innovative and new solutions to chronic problems. We will examine the impact of federal legislation and the practice of federal legislators and their staff on the costs of delays of civil litigation and recommend measures for reducing those costs and delays. At the end of August, each committee will submit a report regarding each model program, rule, or legislation investigated with recommendations as to whether such measures should be included in the Group's final plan.

3.4 **Phase III: Developing the Plan (September 20 thru October 31, 1991)**

Phase III will draw together the committee reports, recommendations and conclusions from the prior two phases into a Plan. The Plan will be subject to comment and review by the Court, the local Bar and the public.

4.0 **Scheduled Advisory Group Meetings**

Please reserve the following dates for Group meetings. Future Group meetings may be added or cancelled as the need arises.

March 22	9 a.m. - 12 p.m.
June 7	9 a.m. - 5 p.m.
September 13	9 a.m. - 5 p.m.
October 11	

Committee meetings will be held at the time and place announced, in advance, by the Committee chairperson.

5.0 Committee Assignments

Oversight Committee (Catalog programs and rules and identify trends)

Sheldon Schneider, Chairman
Hon. Edward Davis, Vice-Chairman
Randall Berg
Richard Capen
Aaron Podhurst
Charlene Sorrentino
T.G. Cheleotis, Unofficial Member
Chesterfield Smith, Unofficial Member

Committee A (3 year cases and older)

Edward Moss, Chairman
Thomas Scott, Vice Chairman
Robert Coords
James Fox Miller
Ira Kurzban
Ana Barnett
Chesterfield Smith, Unofficial Member

Committee B (2-3 years)

Alan Greer, Chairman
Dean Mary Doyle, Vice Chairman
Henry Latimer
Dexter Lehtinen
Hon. Stanley Marcus
Jack Pastor
Chesterfield Smith, Unofficial Member

Committee C (1-2 years)

William Cullom, Chairman
Robert Dube, Vice Chairman
Elizabeth DuFresne
Robert Krawcheck
Jay Hogan
Raul Rodriguez
Chesterfield Smith, Unofficial Member