

**Southern District of Florida  
Report of Advisory Group  
Expense and Delay Reduction Plan  
Summary**

**I. Assumptions; Miscellany; and Background**

- A. The district has chosen to be an EID court. It must have a plan in place by December 31, 1991.
- B. The district is geographically diverse. The district has courthouses in five cities.
- C. There are 16 authorized judgeships and three vacancies (2 positions were filled in early October). There are also 3 senior judges and 9 full time and two part-time magistrate judges.
- E. The district conducted a thorough survey of attorneys (and attempted one of litigants) in 153 randomly selected cases.
- F. The advisory group conducted personal interviews with all judges and most magistrate judges in the district.
- G. Several public hearings were held.
- H. An in-depth review was conducted of 250 cases which closed during 1990-1991.

**II. State of the Docket**

- A. General Trends.
  - 1. The district was fourth in the nation in median time from filing to disposition in civil cases.
  - 2. The median time for disposition in civil cases for 1991 was 6 months and has remained constant over the last five years.
  - 3. The median time for disposition of cases which went to trial was 12 months.
  - 4. Only 5% of cases are over three years old.
  - 5. "Life Expectancy" of a case was 15 months for the period between 1985-1989. It is currently slightly higher than the national average of twelve months.
  - 6. The average number of trial settings was 1.7 in a sample of 250 cases.

7. 90% of cases terminated in 1990 were disposed of within 18 months and 94% were disposed of in 24 months.
8. Criminal filings were constant prior to 1989. They have increased markedly since then and, based on forecasts of the U.S Attorney, are expected to increase another 28% by 1995.

B. Causes of negative trends.

1. Judicial vacancies.
2. The impact of criminal cases, including federalization of crime and legislation controlling criminal procedure, on the docket cannot be overemphasized.

### III. Recommendations

A. Within 40 days of filing an answer or 120 of the filing of the complaint (which ever is first) each judge in all civil cases (with some exceptions for certain categories of cases) shall enter a scheduling order including a date for:

1. completion of discovery;
2. filing all pretrial motions;
3. resolution of all pretrial motions;
4. pretrial conference if one is to be held;
5. trial.

B. Counsel for the parties may submit a proposed scheduling order prior to the time prescribed above.

C. The judge in his discretion may hold a scheduling conference prior to entering the scheduling order.

D. All cases will be assigned to either the expedited, standard or complex track based upon:

1. complexity of the issues;
2. number of parties;
3. volume of evidence;
4. problems locating evidence;
5. estimate time for discovery;
6. time required for trial;
7. other factors which might be relevant.

- E. The following discovery periods should be assigned to each track:
1. Expedited 90-179 days.
  2. Standard 180-269 days.
  3. Complex 270-365 days.
- F. It is contemplated that 90% of all cases will fall into the expedited or standard tracks, with the vast majority in the standard track.
- G. It is the goal of the court to set a trial date for all civil cases within 18 months after the complaint is filed.
- H. All discovery motions must contain a certification of good faith effort to resolve the dispute prior to the motion.
- I. Any motion pending for 90 days or longer will be set for hearing upon notice to the Court.
- J. Magistrates Judges.
1. Parties will be encouraged to consent to trial by magistrate judge.
  2. A committee will examine whether criminal cases or certain civil cases or both should be assigned directly to magistrate judges.
  3. Cases will be assigned to magistrate judges with a view towards developing specialized expertise in a particular area of law.
- K. Alternative Dispute Resolution.
1. A committee was appointed to formulate a plan for court annexed mediation.
  2. The committee will deliver a report and plan by April 1, 1992.
- L. The judges have agreed to give at least six months notice, whenever possible, of their decision to take senior status, resign, or in the case of magistrate judges not seek reappointment.
- M. The clerk shall take whatever steps necessary to fully implement ICMS.

#### **IV. The Plan**

##### **A. Differential Case Management. [§473(a)(1)]**

1. Expedited.
2. Standard.
3. Complex.

##### **B. Early Involvement of Judicial Officers. [§473(a)(2)]**

1. Within 40 days of filing an answer or 120 days after filing the complaint each judge enter a scheduling order.
2. Holding the scheduling conference is at the discretion of the judge.
3. The parties must meet within 20 days of filing the answer to exchange documents, witness lists etc. [§473(a)(4)]
4. Certain cases are exempt from this requirement.

##### **C. Discovery Case Management [§473(a)(3)]**

1. Cases will be assigned discovery deadlines dependent on which track (see IV. A.) they have been assigned.
2. All discovery motions will include a statement that a good faith effort was made to resolve the issues raised in the motion. [§473(a)(5)]

##### **D. Alternative Dispute Resolution [§473(a)(6)]**

1. The chief judge will appoint a mediation committee.
2. The committee will consider:
  - a) goals of the mediation program;
  - b) projected budget;
  - c) cost to the users;
  - d) criteria for identifying appropriate cases;
  - e) rules for governing the program;
  - f) whether voluntary or mandatory;
  - g) whether there will be incentives for participation;
  - h) who will serve as mediators; and
  - i) recommendations for other types of ADR.

- E. The court also included in its plan:
1. whatever steps are necessary to fully implement ICMS;
  2. study the feasibility of adjusting the assignment system to allow certain cases to be assigned directly to magistrate judges; and
  3. recommendations to Congress and the Executive Branch regarding more expeditious filling of judicial vacancies.