

**MANDATORY DISCLOSURE**

Mark D. Shapiro, Attorney [CAD]  
202/FTS 633-6221

A review of the thirty-four Civil Justice Reform Act Cost and Delay Reduction Plans adopted by Pilot, Demonstration, and Early Implementation District (EID) courts last year reveals that twenty-one have some form of mandatory disclosure provisions. A chart listing these courts and outlining their mandatory disclosure provisions is included on pages 25-27.

The high percentage of courts electing mandatory disclosure provisions is noteworthy because the CJRA neither requires nor suggests their use, although Section 473(a)(4) does call for "encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through cooperative discovery devices." The plans, however, go much further than this requirement.

A possible explanation for the interest shown in mandatory disclosure is the Preliminary Draft of Proposed Amendments to the Federal Rules of Civil Procedure and the Federal Rules of Evidence which contains a provision requiring mandatory disclosure in all cases unless exempted by local rules or judicial action. Rule 26 *Fed. R. Civ. P* as proposed would require that "each party shall without awaiting a discovery request, provide to every other party:

(A) the name and, if known, the address and telephone number of each individual likely to have information that bears significantly on any claim or defense identifying the subjects of the information;

(B) a copy of, or description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are likely to bear significantly on any claim or defense;

*Core discovery*  
*BASIC INFO*  
*to rule away*  
*for PHASED*  
*DISCOVERY*  
*INS. INFO*  
*DAMAGES INFO*

(C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and

(D) for inspection and copying as under rule 34 any insurance agreement under which any person carrying 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.

The Plans do not all use this exact language but most use language substantially similar; several have explicitly fashioned their mandatory disclosure provisions after proposed Rule 26. Plans which are experimenting with mandatory disclosure are indicated. The list contains only courts which have included mandatory disclosure as part of their respective Cost and Delay Reduction Plans pursuant to CJRA. The list does not include courts which merely encourage voluntary disclosure or courts which had mandatory disclosure provisions prior to CJRA, unless that fact was stated in their Plans.

**CJRA SEMINAR, SOUTHERN DISTRICT OF ILLINOIS**

Mark D. Shapiro-Attorney [CAD]  
202/FTS 633-6221

*CJRA*  
*EDUCATION*

The Civil Justice Reform Act (CJRA) will change the way civil litigation is practiced in federal courts. The Southern District of Illinois made arrangements to instruct attorneys to reorient their federal litigation practices for compliance with the Civil Justice Delay and Expense Reduction Plan adopted by the court.

The Illinois Institute for Continuing Legal Education (IICLE) will present a one-day workshop at two locations within the district. The three-hour workshops will feature Chief Judge James L. Foreman, Judge William L. Beatty, and

Judge William D. Stiehl. Presentations also will be made by Donald E. Weihl, Chair of the Advisory Group, Dean Harry J. Haynsworth, Reporter, and Stuart J. O'Hare, Clerk of the Court.

The format includes a "Background" presentation on the CJRA and the Advisory Group Report followed by an "Overview of the District's Civil Justice Delay and Expense Reduction Plan." A "Structured Question and Answer" period, designed to address the most commonly asked questions with regard to the Plan, will follow. The final portion of the program will be a "Panel Discussion" allowing the audience to ask questions and raise issues of concern to them.

Seminar materials include copies of the court's Civil Justice Delay and Expense Reduction Plan, including the revised local rules, samples of new uniform orders, notices and instructions, and specially designed flow charts of the new Plan. Recognizing the importance of support staff, another feature of the workshop allows each attending attorney to bring one non-lawyer secretary, paralegal, or other staff member to the seminar free of charge.

This type of Bar education is vital to effective implementation of the CJRA Plans. If your district is planning a similar seminar, please let us know if the Court Administration Division can be of any assistance.

---

### **SPRING MEETING OF JUDICIAL CONFERENCE CONVENES**

News Release, March 16, 1992  
Contact: David Sellers  
202/FTS 633-6040

At its March 16, 1992 meeting, the Judicial Conference:

(1) Amended its existing recall regulations to provide for the extended recall of bankruptcy judges for a fixed period of three years. Previous regulations allowed for the recall to service for a term not to exceed one year. This short time frame deterred many retired bankruptcy judges

from considering this option and made it difficult to recruit and retain the necessary supporting personnel. An increased use of recalled bankruptcy judges would help the bankruptcy courts cope with their record setting caseload. The number of filings in the U.S. bankruptcy courts is expected to exceed one million in 1992. The Conference already has endorsed legislation to establish 32 additional bankruptcy judgeships. The bill, S. 646, has passed the Senate and has been the subject of House hearings.

(2) Reaffirmed its concern with the serious space shortage that exists in the federal courthouse in Brooklyn, New York. In September 1989 the Conference declared that a "judicial space emergency" exists in the courthouse for the U.S. district Court for the Eastern District of New York in Brooklyn. No significant progress has been made toward resolving this problem. Within the next several months, four of the active judges on the court become eligible to take senior status. If they do so, no courtrooms or chambers will be available for these judicial officers.

(3) Received a status report on its experiment with cameras in the courtroom. The limited experiment, which began on July 1, 1991, is for civil cases only. Since the experiment began, spot coverage of courtroom proceedings has been broadcast during news programs in 15 cases, with six cases receiving more extended coverage on cable service. Media organizations submitted requests to cover proceedings in 45 civil matters, and received approval for 37.

---

### **DISTRICT OF COLUMBIA MEDIATION PROGRAM MILESTONE**

Nancy Stanley, Director  
Mike Terry, Deputy Director  
Dispute Resolution Programs in the D.C. Circuit  
202/FTS 535-3250

On February 20, 1992 the District of Columbia Mediation Program accepted its 500th case—a statistic they feel is a tribute to the hard work of their neutrals and the continuing popularity of the