Civil Justice Expense and Delay Reduction Plan

of the

United States District Court

for the

Western District of New York

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

93 MAY 14 PM 2:01

IN THE MATTER OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN

U.S. DISTRICT COURT
W.D.N.Y.-ROCHESTER

ORDER

The Judges of this Court, having considered the Report and Recommendations of the Advisory Group of the United States District Court for the Western District of New York appointed under the Civil Justice Reform Act of 1990, hereby adopt the attached Civil Justice Expense and Delay Reduction Plan for this Court, effective September 1, 1993.

SO ORDERED.

Dated: May 13, 1993
Rochester, New York

MICHAEL A. TELESCA
Chief Judge, United States District Court

I. INTRODUCTION

In accordance with the provisions of the Civil Justice Reform Act of 1990, the Civil Justice Reform Act Advisory Group for the Western District of New York has submitted to the Court its report on the condition of the Court's docket and its recommendations for the reduction of cost and delay in civil litigation in the District. Having carefully considered the Advisory Group's Report and having concluded that the recommendations contained therein will serve to "facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy and inexpensive resolutions of civil disputes", 28 U.S.C. § 471, as required by the Civil Justice Reform Act, the members of the Court voted to adopt the recommended measures in the Advisory Group's fourteen-point Proposed Cost and Delay Reduction Plan.

In developing its Civil Justice Expense and Delay Reduction Plan, the Court considered each of the principles and techniques of litigation management contained in 28 U.S.C. § 473. All of those case management principles and techniques are incorporated in this Plan except those set forth at 28 U.S.C. § 473(a)(4) and (5).[1] The principles identified in those subdivisions - to encourage the use of voluntary, cooperative discovery and to require discovery motions to be accompanied by the movant's certification that he or she in good faith attempted to resolve the dispute prior to seeking Court intervention - are already included in the Court's Local Rules that were adopted in 1991.

As required by 28 U.S.C. § 472(c), this Plan calls for significant contributions by the

[1]Where particular Plan provisions embody any of the principles and techniques enumerated in 28 U.S.C. § 473, such is noted parenthetically.

Court, counsel and litigants. The members of the Court must actively participate in settlement negotiations and monitor the progress of cases. Additionally, the Plan requires the Judges to endeavor to meet target dates for decisions of motions and bench trials and to report all matters in which the target dates are not met. Counsel are called upon by the Plan to adhere to the schedule set by the Court, to request adjournments only in extraordinary instances, and to enter into earnest settlement discussions as early as possible in the proceedings. Finally, parties are expected to cooperate with their attorneys in complying with Court-established deadlines and to adopt reasonable settlement positions during the early stages of litigation.

The Court's Civil Justice Expense and Delay Reduction Plan will be implemented by way of amendments to the Court's Local Rules. The provisions of the Plan will become effective September 1, 1993, and will apply to all civil matters commenced on or after that date. The effective date of September 1, 1993 was selected in order to permit sufficient time for the giving of public notice and the opportunity to comment necessary to amend local rules as required by Fed. R. Civ. P. 83.

II. THE CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN FOR THE WESTERN DISTRICT OF NEW YORK

1. Upon filing, the Clerk of the Court shall assign every civil case both to a District Judge and to a Magistrate Judge. Pursuant to 28 U.S.C. § 636(b)(1), the District Judge to whom each civil case is assigned shall immediately designate the Magistrate Judge to whom the case is assigned to hear and determine all issues involving discovery and non-dispositive motions. The first two sentences of Local Rule 6(a) are amended to provide as follows:

> Every civil action shall be filed with the Clerk. It shall then be assigned by the Clerk to a Judge of the District and a Magistrate Judge.

2. Within ten days of the filing of a civil action, the Clerk shall notify the litigants in writing of their option to consent to the handling of the entire case (including dispositive motions and trial) by the Magistrate Judge. The parties and their attorneys shall also be advised that, as an alternative, they may consent to referral of only dispositive motions to the Magistrate Judge. This notice shall also include the names of the District Judge and Magistrate Judge to whom the case has been assigned.

3. If the parties consent to the handling of the entire case by the Magistrate Judge, the Magistrate Judge shall be responsible for the efficient handling of the case through disposition; otherwise, the Magistrate Judge shall be responsible for the efficient handling of the case through the close of discovery, and the case shall be referred to the District Judge at that time. If the parties consent, the Magistrate Judge may hear and decide dispositive motions; otherwise, dispositive motions shall be heard and decided by the District Judge. The parties shall be encouraged, in all appropriate cases, to make dispositive motions. Dispositive motions may be

made at any time during the pendency of a case and consistent with the time constraints provided in the case scheduling order pursuant to Fed. R. Civ. P. 16.

4. Local Rule 13, "Pre-trial Procedures in Civil Cases", is amended to provide as follows:

(a) Within sixty days of issue being joined, the Magistrate Judge shall hold a Rule 16 pre-trial discovery conference ("first discovery conference") in all cases except pro se prisoner civil rights, social security and habeas corpus cases, and shall issue an order providing for a discovery cut-off date, a date for a settlement conference ("first settlement conference") to be held before the Magistrate Judge, and a proposed trial date. The order shall also include a time limitation on the joinder of other parties, the commencement of third-party practice, and the filing of all pre-trial motions. No further or additional discovery, joinder, third-party practice, or non-dispositive motions shall be permitted thereafter except by leave of the Court for good cause shown in writing. [28 U.S.C. § 473(a)(2)].

At the first discovery conference, counsel for each party shall present a plan and schedule for discovery and the proposed management of the case. This plan and schedule may be presented orally or in writing, depending on the preference and in the discretion of the Magistrate Judge. [28 U.S.C. § 473(b)(1)].

Unless there is good cause shown in writing, the discovery cut-off date shall not be more than six months from the date of the order setting that date, the initial settlement conference shall be within ninety days after the date of the order, and the proposed trial date shall be no later than twelve months after the discovery cut-off date. A firm trial date will be set by the trial court. [28 U.S.C. § 473(a)(2),(3)].

Additional discovery conferences may be scheduled in the discretion of the Magistrate Judge, sua sponte, or at the request of a party. [28 U.S.C. § 473(a)(4)].

In an appropriate, uncomplicated action, upon issue being joined, any party may request, or the Court on its own motion may provide for, an advanced trial date and limited discovery. In such a case, a scheduling order shall issue providing for abbreviated discovery and a proposed early trial date. [28 U.S.C. § 473(a)(1)].

(b) All non-dispositive pre-trial motions as authorized by 28 U.S.C. § 636(b)(1) shall be made returnable before the Magistrate Judge, and all motion papers shall be filed with the Clerk.

(c) At the first settlement conference, the attorneys shall be present and shall be prepared to state their respective positions to the Magistrate Judge. Each plaintiff shall communicate a demand for settlement to the Magistrate Judge, and each defendant shall be prepared to communicate a response. The attorneys shall have spoken with their respective clients regarding their settlement positions prior to the settlement conference. Likewise, in cases involving insurance coverage, defense counsel shall have spoken with the insurance carrier regarding its position prior to this settlement conference. Each party shall submit in writing, or be prepared

to discuss, the undisputed facts and legal issues relevant to the case, and the legal and factual issues about which the party believes there is a dispute. [28 U.S.C. § 473(b)(2)].

If a settlement is not reached at the first settlement conference, the Magistrate Judge may schedule additional settlement conferences from time to time as appropriate.

Upon notice by the Court, representatives of the parties with authority to bind them in settlement discussions, or the parties themselves, must be present or available by telephone during any settlement conference. [28 U.S.C. § 473(b)(5)].

Each settlement conference is designed to provide a neutral, non-binding evaluation program for the presentation of the legal and factual issues in a case, and the opportunity to present these issues to a judicial officer as early in the process as possible. [28 U.S.C. § 473(b)(4)].

(d) At any subsequent discovery conference held in the discretion of the Magistrate Judge, the attorneys shall provide a status update and a time-table for the remaining discovery to be completed within the discovery period.

(e) No extensions of the discovery period shall be granted, except for good cause shown in writing by order of the Magistrate Judge.

(f) After completion of discovery and motions as set forth in the scheduling order, any case in which the parties have not consented to disposition by the Magistrate Judge under 28 U.S.C. § 636 shall be referred to the District Judge assigned to the case, who shall then be responsible for the further efficient scheduling and disposition of that case; any other case shall remain with the Magistrate Judge, who will retain responsibility for the efficient scheduling and disposition of that case.

(g) Within thirty days after the close of discovery, the District Judge, or if the parties have consented to disposition by the Magistrate Judge, the Magistrate Judge, shall hold a pre-trial conference for the purpose of setting a cut-off date for remaining motions, setting a firm trial date, and discussing settlement. Except for good cause shown in writing, such motion cut-off date shall not be more than ninety days after the date of the discovery cut-off and not less than 120 days prior to the trial date. Nothing contained in this Rule shall be read as precluding or discouraging dispositive motions at any time during the pendency of a case.

(h) Each District Judge or Magistrate Judge conducting a pre-trial conference, shall make an earnest effort to encourage and become involved in settlement negotiations between the parties. If the case is not resolved at such conference, the District Judge or the Magistrate Judge shall schedule further pre-trial conferences for the purpose of discussing settlement, as appropriate.

(i) If the case is not thereafter resolved, counsel for each party, no later than thirty days before the trial date, and in no event later than the final pre-trial conference, shall file with the Court and serve upon counsel for all other parties, a pre-trial statement which shall include the following:

(1) A detailed statement of contested and uncontested facts, and of the party's position regarding contested facts;

(2) A detailed statement as to the issues of law involved and any unusual questions relative to the admissibility of evidence together with supporting authority;

(3) A list of witnesses (other than rebuttal witnesses) expected to testify, together with a brief statement of their anticipated testimony and their addresses;

(4) A brief summary of the qualifications of all expert witnesses, and a concise statement of each expert's expected opinion testimony and the material upon which that testimony is expected to be based;

(5) A list of exhibits anticipated to be used at trial, except exhibits which may be used solely for impeachment or rebuttal;

(6) A list of any deposition testimony to be offered in evidence;

(7) An itemized statement of each element of special damages and other relief sought; and

(8) Such additional submissions as the District Judge or Magistrate Judge directs.

(j) A final pretrial conference shall be held at the direction of the District Judge or the Magistrate Judge within thirty days of the trial date. Trial counsel shall be present at this conference and shall be prepared to discuss all aspects of the case and any matters which may narrow the issues and aid in its prompt disposition, including:

(1) The possibility of settlement;

(2) Motions in limine;

(3) The resolution of any legal or factual issues raised in the pretrial statement of any party;

(4) Stipulations (which shall be in writing); and

(5) Any other matters that counsel or the Court deems appropriate.

(k) Prior to the final pre-trial conference, counsel shall meet to mark and list each exhibit contained in the pre-trial statements. At the conference, counsel shall produce a copy of each exhibit for examination by opposing counsel and for notice of any objection to its admission in evidence. Following the final pre-trial conference, a pre-trial order may be entered as directed by the District Judge or the Magistrate Judge, and the case certified as ready for trial.

(l) Each party shall be represented at each pre-trial, discovery or settlement conference by an attorney who has the authority to bind that party regarding all matters previously identified by the Court for discussion at the conference and all reasonably related matters. [28 U.S.C. § 473(b)(2)].

(m) For purposes of procedural information, copies of standard referral orders used by each Judge in this District are available in the Clerk's office.

(n) A District Judge may also refer to the United States Magistrate Judge any other pre-trial matter as authorized by 28 U.S.C. § 636(b)(1)(A) and (B).

(o) If the Court so directs, a request for an extension of the deadline for the completion of discovery or for the postponement of the trial date shall be signed by both the attorney and the party making the request. [28 U.S.C. § 473(b)(3)].

For purposes of consistency, the Court shall adopt uniform pre-trial scheduling orders for use in conjunction with the procedure set forth above.

5. Local Rule 29(b)(1) is amended to provide that all civil cases shall be assigned by the Clerk to a District Judge and a Magistrate Judge, and that the District Judge to whom the case is assigned shall designate the Magistrate Judge to conduct pre-trial procedures pursuant to Local Rule 13. [28 U.S.C. § 473(a)(2)].

6. Local Rule 15, "Class Actions", is amended to provide as follows:

(a) The title of any pleading purporting to commence a class action shall bear the legend "Class Action" next to its caption.

(b) The complaint (or other pleading asserting a claim for or against a class) shall contain next after the jurisdictional grounds and under the separate heading "Class Action Allegations,":

(1) a reference to the portion or portions of Fed. R. Civ. P. 23 under which it is claimed that the action is properly maintainable as a class action, and

(2) appropriate allegations thought to justify the claim, including, but not necessarily limited to:

(A) the size (or approximate size) and definition of the alleged class;

(B) the basis on which the party or parties claim to be an adequate representative of the class;

(C) the alleged questions of law and fact claimed to be common to the class; and

(D) in actions claimed to be maintainable as class actions under Fed. R. Civ. P. 23(b)(3), allegations thought to support the findings required by that subsection.

(c) Within sixty days after issue having been joined in any class action, counsel for the parties shall meet with a District Judge or Magistrate Judge and a scheduling order shall issue providing for orderly discovery; such order may initially limit discovery only as to facts relevant to the certification of the alleged class. [28 U.S.C. § 473(a)(2)].

(d) Within 120 days after the filing of a pleading alleging a class action, unless this period is extended on motion for good cause filed prior to the expiration of said 120-day period or in the scheduling order, the party seeking class certification shall move for a determination under Fed. R. Civ. P. 23(c)(1) as to whether the case is to be maintained as a class action. The motion shall include, but is not limited to, the following:

(1) a brief statement of the case;

(2) a statement defining the class sought to be certified, including its geographical and temporal scope;

(3) a description of the party's particular grievance and why that claim qualifies the party as a member of the class as defined;

(4) a statement describing any other pending actions in any court against the same party alleging the same or similar causes of actions, about which the party or counsel seeking class action certification is personally aware;

(5) in cases in which a notice to the class is required by Fed. R. Civ. P. 23(c)(2), a statement of what the proposed notice to the members of the class should include and how and when the notice will be given, including a statement regarding security deposit for the cost of notices; and

(6) a statement of any other matters that the movant deems necessary and proper to the expedition of a decision on the motion and the speedy resolution of the case on the merits.

The other parties shall respond to said motion in accordance with the provisions of these Rules.

(e) In ruling upon a motion for class certification, the Court may allow the action to be so maintained, may disallow and strike the class action averments, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary under the circumstances. Whenever possible, where the determination is ordered to be postponed, a date shall be fixed for renewal of the motion before the same Judge.

(f) The burden shall be upon any party seeking to maintain a case as a class action to show that the action is properly maintainable as such. If the Court determines that an action may be maintained as a class action, the party obtaining that determination shall, unless otherwise ordered by the Court, initially bear the expenses of and be responsible for giving such notice as the Court may order to members of the class.

(g) Failure to move for class determination and certification within the time required herein shall constitute and signify an intentional abandonment and waiver of all class action allegations contained in the pleading and the action shall proceed as an individual, non-class action thereafter. If any motion for class determination or certification is filed after the deadline provided herein, it shall not have the effect of reinstating the class allegations unless and until it is acted upon favorably by the Court upon the finding of excusable neglect and good cause.

(h) The attorneys for the parties are governed by the Code of Professional Responsibility of the American Bar Association as adopted by the New York State Bar Association concerning contact with and solicitation of potential class members.

(i) No class action allegation shall be withdrawn, deleted, or otherwise amended without Court approval. Furthermore, no class action shall be compromised without Court approval and notice of the proposed compromise shall be given to all members of the class in such manner as the Court directs.

(j) Six months from the date of issue having been joined and every six months thereafter until the action is terminated, counsel in all class actions shall file with the Clerk a joint case status report indicating whether any motions are pending, what discovery has been completed, what discovery remains to be conducted, the extent of any settlement negotiations that have taken place and the likelihood of settlement, and whether the matter is ready for trial. Counsel shall provide a copy of the case status report to the CJRA Attorney.

(k) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross-claim alleged to be brought for or against a class.

7. In each pro se prisoner civil rights action filed after the effective date of this Plan, the Court will issue an order, within sixty days of issue being joined, setting deadlines for filing

amended pleadings, completing discovery, filing dispositive motions, a trial date, and granting permission to conduct the deposition of the plaintiff at the correctional facility in which he or she is incarcerated. Absent good cause shown in writing, the deadline for filing amended pleadings shall be no later than thirty days from the date of the scheduling order, the deadline for completion of discovery shall be no longer than eight months from the date of the scheduling order (with a deadline one month earlier for filing motions related to discovery disputes), the deadline for filing dispositive motions shall be no later than ninety days after the discovery cut-off date, and the trial date shall be within twelve months of the discovery cut-off date. No modification of the dates set forth in the scheduling order shall be permitted except by leave of Court for good cause shown in writing. [28 U.S.C. § 473(a)(1)].

The Court shall continue the practice of issuing scheduling orders upon filing of petitions seeking habeas corpus relief. Absent extraordinary circumstances, the Court shall endeavor to terminate habeas corpus actions within twelve months of the date on which the initial petition is filed. [28 U.S.C. § 473(a)(1)].

8. The Court recognizes that the active involvement of a judicial officer in settlement negotiations is of paramount importance to the efficient handling of cases. Therefore, District Judges and Magistrate Judges will take an active role in encouraging the settlement of cases by bringing the parties together to discuss settlement in the presence of the Court, will make whatever recommendations the District Judge or Magistrate Judge deems appropriate, and will take any other steps necessary to promote and effect settlement within applicable legal and ethical principles. [28 U.S.C. § 473(a)(3)].

9. Each District Judge and Magistrate Judge shall give serious consideration to the

effective utilization of courtroom personnel, and shall change duties or add assignments as appropriate. More specifically, the Courtroom Deputy in each Court shall immediately assume responsibility for the logistics of all conferences, motions, trial dates, and other appearances in court by the attorneys. This includes: (1) scheduling any attorney appearance; (2) ensuring that attorneys have been notified of all dates and times for trial, oral argument of motions, conferences or other appearances; (3) initial handling of all requests for adjournments; and (4) facilitating all other scheduling or logistical difficulties encountered by the Court or counsel.

10. All pending decisions by a District Judge or Magistrate Judge shall be internally monitored by the Clerk's office and each month a report shall be issued that lists:

(a) All motions that have not been decided within sixty days of the date on which the motion is deemed submitted for decision; and

(b) All bench trials that have not been decided within 120 days of the close of proof, regardless of the submission of legal memoranda, oral argument, re-opening of proof, or other potentially delaying factors.

11. Each motion shall be targeted for decision within sixty days of the date on which the motion is deemed submitted for decision, and each bench trial shall be targeted for decision within 120 days of the close of proof.

12. The position of the Civil Justice Reform Act Attorney ("CJRA Attorney"), originally created to assist the Advisory Group in the preparation of its Report and the Court in developing its Civil Justice Expense and Delay Reduction Plan, shall be a permanent position held by an attorney who has been appointed by, and serves at the pleasure of, the Court. The CJRA Attorney is authorized:

(a) To investigate, and respond to, inquiries by attorneys or litigants regarding the status of a pending motion or bench trial decision; such investigation shall ensure the anonymity of the source and shall be made with the approval of the Chief Judge, and with the

assistance of the Chief Judge or the Chief Judge's office personnel, if necessary;

(b) To assist the Court in monitoring the progress of pending class actions by reviewing the joint case status reports required by Local Rule 15(j) and by serving as the liaison between counsel and the Court when necessary;

(c) To establish and administer court-annexed alternative dispute resolution programs at the direction of the Court and the Clerk of Court;

(d) To serve as an ombudsman to facilitate the implementation and success of the Court's Civil Justice Expense and Delay Reduction Plan. In this regard, the responsibilities of the CJRA Attorney will include, but not be limited to: (1) serving as liaison between members of the bar or litigants and the Court with respect to case status inquiries; (2) responding to requests for information from litigants and their counsel to ensure the efficient handling and disposition of pending civil cases; (3) educating the Court, members of the bar, litigants and other interested individuals about the Civil Justice Reform Act and the Court's Civil Justice Expense and Delay Reduction Plan and their impact on federal court practice; (4) providing information to and soliciting comments from bar associations within the District as to the Court's Civil Justice Expense and Delay Reduction Plan and modifications to the Local Rules and individual judges' practice guidelines occasioned thereby; and (5) making litigants and their attorneys aware of alternative dispute resolution mechanisms or other means of intervention that allow for the prompt disposition of cases;

(e) To conduct settlement conferences, scheduling conferences, or other meetings at the request of a District Judge or Magistrate Judge, and to serve as a Special Master under Federal Rule of Civil Procedure 53 when so appointed;

(f) At the direction of the Magistrate Judges, to screen new civil filings in which Rule 16 conferences will be conducted primarily for the purpose of suggesting to the presiding Magistrate Judge any alternative dispute resolution method or other procedure that might expedite disposition. Inasmuch as the utility and cost-effectiveness of such case screening has not yet been proven, the screening program will be conducted initially as an experiment. New civil filings with selected nature of suit codes will be subject to screening by the CJRA Attorney for three month intervals over a period of twelve months. Upon completion of the twelve month experimental period, the Court and the Clerk will determine the types of civil actions that benefit most from such a procedure. Thereafter, the CJRA Attorney will screen new civil filings bearing nature of suit codes for those case types in which case screening has proven the most effective;

(g) At the direction of the Chief Judge, and in conjunction with the Clerk of the Court, to inquire into the status of all cases pending for more than three years, all motions awaiting decision for more than sixty days, and all bench trials awaiting decision for more than 120 days, including a review of the docket and the questioning of court

personnel, litigants, and/or attorneys;

(h) In conjunction with the Clerk of the Court, to report to the Chief Judge on a monthly basis regarding the status of each case pending for more than three years, each motion awaiting decision for more than sixty days, and each bench trial awaiting decision for more than 120 days;

(i) In conjunction with the Clerk of the Court, to report to the Chief Judge twice yearly with respect to the general condition of the District's docket;

(j) To monitor compliance with the Court's Civil Justice Expense and Delay Reduction Plan on an ongoing basis and report in writing thereupon to the Chief Judge and the Advisory Group for purposes of the annual assessment called for by 28 U.S.C. § 475. The CJRA Attorney shall monitor compliance with the Civil Justice Expense and Delay Reduction Plan by: (1) reviewing monthly reports of motions that have not been decided within sixty days of the date on which the motion is submitted for decision; (2) reviewing monthly reports of bench trials that have not been decided within 120 days of the close of proof; (3) consulting with courtroom deputies regarding individual judges' pending caseload; (4) tracking the proceedings in "test groups" of cases to be designated periodically by the Clerk; (5) reviewing reports of cases that have been pending for longer than three years; (6) reviewing and analyzing workload statistics compiled and published by the Federal Judicial Center and the Administrative Office of the United States Courts; and (7) utilizing any other method as directed by the Court or the Clerk of Court;

(k) To coordinate the annual assessment required by 28 U.S.C. § 475 by providing the Court and the Advisory Group with a comprehensive review of the Court's civil and criminal dockets and a report on compliance with the Court's Civil Justice Expense and Delay Reduction Plan; and

(l) To solicit, receive and process suggestions by attorneys, litigants, court personnel or any interested individuals with respect to increasing the efficiency or decreasing the cost of litigating in the United States District Court for the Western District of New York.

These responsibilities may be modified by the Court or the Clerk of the Court as circumstances require.

13. The position of the Civil Justice Reform Act Management Analyst ("CJRA Analyst") shall be a permanent position held by an individual who is appointed by, and serves at the pleasure of, the Court. The CJRA Analyst shall be authorized:

(a) To assist in coordinating and, to evaluate the effectiveness of, programs established in accordance with the Court's Civil Justice Expense and Delay Reduction Plan;

(b) To furnish semiannual written reports to the Clerk of Court and the CJRA Attorney regarding the utilization and effectiveness of the Court's CJRA programs, along with appropriate recommendations for improved program operations or litigation management techniques;

(c) To act, together with the CJRA Attorney, as the district's liaison with other districts and agencies on CJRA matters;

(d) To support the CJRA Advisory Group and its Executive Committee in the annual assessments called for by 28 U.S.C. § 475. Such support shall include, but not be limited to: (1) scheduling meetings and sending meeting notices at the direction of the Advisory Group Chairman; (2) attending all Executive Committee and Advisory Group meetings; (3) disseminating information to Advisory Group members at the direction of the Court, the Clerk of Court, the Advisory Group Chairman, or the CJRA Attorney; (4) conducting research and studies at the direction of the Advisory Group or the Executive Committee; and (5) drafting meeting reports.

(e) To develop and coordinate the implementation of methodologies to assess cost and delay in-civil and criminal cases;

(f) To review and document case management practices in the District and elsewhere for the purpose of formulating recommendations for improving litigation management and further reducing cost and delay in the processing of civil cases;

(g) To prepare procedural manuals that the Court or the Clerk of Court require in conjunction with the implementation of the Court's Civil Justice Expense and Delay Reduction Plan or as may be required from time to time thereafter; and

(h) To perform such other functions as the Court and the Clerk of Court may deem appropriate in furtherance of the objectives of the Civil Justice Reform Act.

14. Each District Judge and Magistrate Judge shall encourage the use of the Court's voluntary arbitration program as governed by Local Rule 47 or other alternative dispute resolution mechanisms, where appropriate, in order to encourage and facilitate settlement. To complement its voluntary arbitration program, the Court shall establish additional court-annexed programs for alternative dispute resolution. Furthermore, the Court shall make available

information regarding court-annexed and other methods of alternative dispute resolution that litigants and their counsel may pursue to effect early disposition of cases. [28 U.S.C. § 473(a)(6)].

III. CONCLUSION

The Civil Justice Expense and Delay Reduction Plan adopted by the Court responds to each of the problems in the Court's docket identified by the Advisory Group in its Report and Recommendations. The Court will, in conjunction with the Advisory Group, assess the condition of its docket on an annual basis as required by 28 U.S.C. § 475, and in so doing the Court will have the opportunity to discover any further problems that may arise in its docket and take corrective action with respect thereto. The annual assessments shall be made as of the first day of September for 1994 through 1997[2], the anniversary of the Plan's effective date. All annual assessments and Plan revisions will be made in accordance with the recommendations regarding CJRA annual assessments and plan revisions developed by the Court Administration and Case Management Committee of the Judicial Conference of the United States.

The Local Rules for the Western District of New York will be reprinted after they have been revised in accordance with this Plan. Copies of the Local Rules, as well as the Court's Civil Justice Expense and Delay Reduction Plan and the Advisory Group's Report and Recommendations will be available to interested individuals in the Clerk's offices in both Buffalo and Rochester.

Pursuant to 28 U.S.C. § 472(d), copies of the Advisory Group's Report and Recommendations and the Court's Civil Justice Expense and Delay Reduction Plan will be distributed to the Director of the Administrative Office of the United States Courts, the Judicial Council of the Second Circuit, and the Chief Judge of each of the other United States District

[2]The Civil Justice Reform Act of 1990, Title I, Pub. L. 101-650, § 103(b)(2), 104 Stat. 5096, provides that the requirements contained in 28 U.S.C. §§ 471-478 shall remain in effect until December 1, 1997.

Courts located within the Second Circuit.