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May 8, 1997

The Honorable Anne C. Williams
United States District Court For The Northern District of Illinois
219 South Dearborn Street, Room 2050
Chicago, IL 60604

Re: CJRA--Cost Study On DCM
Federal District Court For The Northern District of Ohio

Dear Judge Williams:

I am writing to you at the suggestion of Ms. Donna Stienstra of the Federal Judicial Center. Donna indicated that you were actively involved in the preparation of the Report of the Federal Judicial Conference concerning the effectiveness of reforms mandated by the Civil Justice Reform Act.

Enclosed you will find a report of the Study conducted by the Advisory Committee for the Northern District. Our study measured lawyer time as an objective surrogate for cost and compared pre-DCM and DCM periods. The results were strikingly similar to Rand's conclusions. There was no significant cost savings as measured by lawyer hours from either DCM or ADR. Since our data broke the lawsuit down, our conclusion enhances the Rand conclusions in which there was criticism of some courts not having fully implemented the program. Not only was our program fully implemented, the data demonstrates the results of that implementation in reduced time in formal discovery and increased time in ADR. However, it also demonstrates that this time appears to have been offset in substantial part by increases in time in informal discovery and decreases of time in informal settlement.

If I can answer any questions or be of further help, please do not hesitate to call me at (216) 423-6918.

Very truly yours,

Lawrence A. Salibra, II
Senior Counsel

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Enclosure

A Study of the Differentiated Case Management Implemented Pursuant to the Civil Justice Reform Act of 1990 in the Federal District Court for the Northern District of Ohio

Conducted by:
THE ADVISORY COMMITTEE OF THE FEDERAL COURT
FOR THE NORTHERN DISTRICT OF OHIO
SUBCOMMITTEE ON COST STUDY
Lawrence A. Salibra, II, Subcommittee Chairman
Geri Smith, Clerk of the Court
Christopher Malumphy, Chief Deputy Clerk of the Court

INTRODUCTION

In 1990 Congress enacted the Civil Justice Reform Act, whose stated purpose was to require each United States District Court to implement a civil justice expense and delay reduction plan. The purpose of each plan was 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." Although each of the enumerated objectives of the Act could be viewed as an independent objective on its own, it was understood that the primary objective was to seek a means of reducing the cost of civil litigation. Controlling discovery, case management and increasing the speed in which cases were resolved all had, as their ultimate objective, the reduction in litigation costs.

The United States District Court for the Northern District of Ohio ("Northern District") under the leadership of its former Chief Judge, the Honorable Thomas Lambros was committed to exploring improvements to the existing structure of the civil justice system. The judges of the Northern District in concert with the Advisory Group which had been appointed as required by the Act (see attached list of initial Advisory Group) implemented a "Differential Case Management System" ("DCM") on January 1, 1992 (see attached "Rules of DCM"). The purpose of the DCM system was to identify the nature of a case early on and then place the case on a track that was appropriate for its disposition. The hope was that by putting a case on a track appropriate to the nature of the issues involved in the case, the case would be resolved as quickly and inexpensively as possible.

However, the Advisory Committee and the Judges of the Northern District were intent on doing more than simply adopting a new procedure with the best of intentions. They were committed to undertaking a comprehensive, systematic and scientifically credible analysis of the DCM system as both time and resources permitted. The objective was not merely to obtain scientifically valid data on the performance of the DCM system, but to set an example as to the manner in which future modifications to the judicial system should be conducted to insure that the changes delivered the benefits anticipated. In addition, it was the belief of the Advisory Committee that if more hard data was developed concerning the impact of changes in case management procedures, the more likely future changes would be formulated in a manner that would maximize their potential benefit and minimize negative impacts.

Another benefit that could be anticipated from developing a database on the impact of judicial management procedures is a growing understanding on what courts can and cannot do in terms of improving civil justice efficiency. There is little doubt that an unarticulated but significant premise underlying the Act was an expectation that the judiciary was in a pivotal position to control what the public perceived to be an unacceptable escalation in the costs associated with civil litigation. However, costs associated result from a complex set of social and economic forces that may well be outside the ability of courts to affect.[1] Similarly,

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[1]See Galanter and Palay, *Tournament of Lawyers--The Transformation of the Big Law Firm*, University of Chicago Press (1991), in which Professors Galanter and Palay describe the social mechanism by which large law firms grew regardless of the fact that there was no demand for their services. This phenomenon suggests that these firms had to create more and more work to support an ever growing body of lawyers.

social and economic forces outside the control of the judiciary could result in reduced costs to the civil justice system participants regardless of judicial action. A comprehensive database on the effect of judicial management changes on the costs associated with the civil justice system can, in the long run, help courts maximize their effectiveness in reducing costs to system participants while at the same time debunking unrealistic expectations as to what the courts are capable of doing. In the short run, even a modest database can guide decision makers towards changes that are more likely to have the intended effect.

In interpreting this database, it is important to recognize its limits. This study focused exclusively on "user" costs; that is, the costs of litigants. The data was not designed to evaluate other costs or benefits of the DCM system which may or may not exist, such as impacts on judicial efficiency, administration, or quality of adjudicative results.

It is the hope of the Judges and the Advisory Group of the Northern District that its efforts will inspire others to apply sound scientific principles in both implementing and evaluating changes to the civil justice system.

PREFACE

The study we attempted has to our knowledge never been attempted by any other court engaged in the modifications of its rules. If the Act has any lasting impact on the civil justice system, that impact will almost certainly be the fact that both lawyers and their clients who use the system were asked to become active participants in evaluating its effectiveness. Too often courts adopt new rules with

good intentions, only to create significant levels of dissatisfaction among many classes of users--some of whom may even complain that the new rules exacerbated an existing problem rather than solved it. Unfortunately, in these situations meaningful discussions are impossible because there is no objective reference frame around which to conduct a dialogue.

This study is also distinguishable in its effort to reformulate legal thinking. Lawyers, of course, are renown for their preoccupation with rules. It has been suggested by some that virtually all problems in life could be solved if the matter was only addressed by rules.[2] Courts enunciate rules as the basis of legal doctrine and practitioners of the common law are quick to search for and cite these pre-existing rules as a basis for resolving various disputes. Law schools generally speaking train legions of aspiring lawyers to identify and apply rules of law, often as some critics have suggested to the degree that the rules distort the reality.[3] We hope that our efforts will go a little way in directing those who instruct law students about the importance of evaluating the consequences of rules and the importance of understanding the relationship between the disciplines of mathematics and sciences to the work of lawyers.

As is so often the case, many people contributed invaluable support and help to our efforts. Some, however, deserve special recognition. Foremost among those is the former Chief Judge Thomas Lambros, whose enthusiasm for the objectives of

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[2]See Howard, Philip K., *The Death of Common Sense, How Law is Suffocating America,* Random House, New York (1994).

the study was unwavering and whose support was instrumental in assuring access to data from lawyers who are characteristically protective of their files. Louis Paisley, Chairman of the Advisory Group, and David Weiner, Chairman of the DCM Task Force, were especially significant to this project in its incipient stages when it was most vulnerable and needed strong, active support.

Holly Bakke, Maureen Soloman, and Robert Roper of Court Management Consultants, Inc. were instrumental in taking the generalized notions of what our subcommittee wanted to do and turning them into operational concepts that could be incorporated into a test instrument. Another important role these consultants played was to help us understand how to develop our data in a manner that would permit the data to reveal relationships that may well have been unanticipated at the outset. It was, in large part, through their efforts that we attempted to get detailed data that allowed us to look "inside" the lawsuit rather than simply rely on gross observations.

We owe a special debt of gratitude to two people without whom this study would simply not have moved forward--Gerri Smith, Clerk of the Northern District and Chris Malumphy, Chief Deputy Clerk. Their efforts were key in every aspect of this study from its initial conceptualization to its final completion. They managed the details of every aspect, from funding and data collection to the ultimate presentation. They were committed to this project's realization and completion. It

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[3]See Posner, Richard A., *Overcoming Law*, Harvard University Press, Cambridge, Massachusetts (1995), at 339, for the proposition that "The [legal] formalist forces the practices of business and lay persons into the mold of existing legal concepts, viewed as immutable, such as 'contract'."

was their unrelenting tenacity that kept this project moving through some desperate periods.

Finally, we want to thank the present Advisory Group and in particular its chairman, Jeffery Friedman, under whose auspice the final report was completed. I met with Jeff as he assumed the role as chairman of the new group and explained our objectives. Jeff gave us the support we needed to complete our task, and we are indebted to him for that support. Finally, we want to express our appreciation to Chief Judge George White, as well as other judges of the District Court, who appreciated the value of the Advisory Group and supported its continual vitality.

Lawrence A. Salibra, II
Chairman of the Subcommittee on DCM Evaluation
Cleveland, Ohio
December, 1996

THE STUDY

A. METHODOLOGY

1. Introduction

Under the Civil Justice Reform Act of 1990, the United States District Court for the Northern District of Ohio served as a demonstration district for an experiment with Differentiated Case Management ("DCM"). As part of the Court's implementation of its DCM Plan, the district conducted a multi-year study to determine the effects, if any, of the new Differentiated Case Management and its wide menu of Alternative Dispute Resolution options on litigation costs. The study was undertaken upon the recommendation of the district's original CJRA Advisory Group, chaired by Attorney Louis Paisley of the law firm of Weston, Hurd, Fallon, Paisley & Howley; the special Task Force on Differentiated Case Management, chaired by Attorney David C. Weiner of the law firm of Hahn Loeser & Parks; and the Advisory Group Cost Subcommittee, chaired by Lawrence A. Salibra, II, Senior Counsel for Alcan Aluminum Corporation.

2. Background

In the spring of 1991, then Chief Judge Thomas D. Lambros appointed an advisory group pursuant to the congressional mandate set forth in Title I of The Judicial Improvements Act of 1990, the Civil Justice Reform Act of 1990 (the "CJRA"). Pursuant to CJRA, Congress designated that the Northern District of Ohio would be a "demonstration district" for the implementation of a Differentiated Case Management Plan. In considering the cost and delay factors,

the Advisory Group and its Task Force on Differentiated Case Management noted that "[a]ttempts to examine civil litigation costs . . . are frustrated by a shortage of empirical data. The general notion that costs are rising rapidly is based on opinion and is not documented by hard data." Report and Recommendations at pp. 19-20 (November 20, 1991). Although there was no "hard data" to substantiate the perception that the cost of litigation was rising, the Advisory Group recognized the "widespread" opinion that civil litigation costs were rising. Id. at 20. Against this backdrop, the Advisory Group felt that "the DCM management techniques (providing discovery control, encouraging the use of Alternate Dispute Resolution ("ADR") programs, streamlining motion practice and establishing firm trial dates) will help reduce the costs of litigation." Id.

The Advisory Group also felt that DCM would bring benefits to the Court and litigants other than a reduction in cost. The Advisory Group recognized the critical role the Clerk's office had in case management in the past, and the increased role and responsibilities that would be placed on the Clerk's office under DCM. Id. at pp. 14-15. Since implementation of DCM, the Clerk's office has developed into a very efficient case management resource for the Court. Under DCM, the skills of the Clerk's office in case intake, organization, management, and statistical analysis has grown. The purpose of each plan was 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." Although each of the enumerated objectives of the Act could be viewed as an independent objective on its own, it was understood

that the primary objective was to seek a means of reducing the cost of civil litigation. Controlling discovery, case management, and increasing the speed with which cases were resolved all had as their ultimate objective the reduction in litigation costs.

3. Hours as a Surrogate for Dollars

The study compares the **number of hours** lawyers typically spend on various aspects of litigation for samples of cases filed both prior to and following DCM implementation. The study used **hours**, rather than actual **dollars billed**, as a surrogate for costs to avoid problems comparing different lawyer billing practices: hourly rates, contingency fees, fixed fees, preferential billing rates for important clients and various rates for partners, associates and others. Using hours also helped protect the confidentiality of lawyer billing rates and practices which presumably increased overall response rate. Moreover, it avoided the difficulties caused by inflation when trying to compare dollar amounts from different years.

4. Sample

The pre-DCM sample included cases filed from January I through June 30, 1990 that were terminated by December 31, 1991. The DCM sample included cases filed from January 1, 1993 through June 30, 1993 that were terminated by December 31, 1994. The study excluded cases that are invariably decided on the pleadings, such as reviews of social security appeals, since the new case management system did not change the manner in which those cases are processed. In addition, the study was limited to non-diversity cases with a venue

of Cleveland in order to permit data collectors to have ready access to the primary attorneys in each case and the factual data that the study sought to obtain. Cases filed in other venues within the district (Toledo, Akron, Youngstown) were thus excluded from the study. It should be noted, however, that half of the district's judges reside in Cleveland and about half the cases filed within the district have a venue of Cleveland. In addition, cases with a venue of Cleveland that were assigned to judges at other locations remained in the study.

5. Survey Development and Testing

Case management consultants (Maureen Solomon, Holly Bakke and Robert Roper), Advisory Group members and court personnel worked together to develop the survey instrument which focused on obtaining information on the time spent on the key areas of the litigation process likely to be effected by the new case management system. The data collection form was tested by several counsel representing both plaintiffs and defendants on non-sample cases to ensure that the data requested would be available and that the results could be analyzed. Refinements to the data collection form were made following the test phase.

Entering the survey test phase, there was deep concern that the factual data needed to make the study meaningful either would not be available or would be considered confidential by counsel or the attorneys and thus not be provided. The test phase revealed that defense firms, both large and small, typically had billing or time records that provided the factual data that was desired. Frequently, however, time and billing records for older cases were

archived or destroyed which revealed that, in at least some instances, the Court would need to rely on the attorney's recollection for the number of hours spent on a case. The test phase also revealed that plaintiff firms, governmental agencies, and in-house corporate attorneys typically do not maintain the type of detailed time records kept by defense firms, again making it necessary for the Court to rely on attorney recollections for the number of hours spent on a case.

Because the survey sought factual data and since funding for data collection was continuously placed in doubt, the study concentrated on obtaining data from defendants whom the test study showed were most likely to have time and billing records for the case. Data collectors, therefore, contacted and attempted to obtain information from all defendants in the sample. The study relied upon data predominately provided by defendants since it was generally more available. In addition, we hypothesized that variations in time spent on a case resulting from DCM would generally affect both plaintiffs and defendants in the same manner and with the same magnitude. Nevertheless, a sub-sample of plaintiffs were also surveyed to ensure that this hypothesis was not erroneous, as well as to ensure that all party types were represented in the study.

6. Confidentiality

The concern that litigants might withhold information on the time spent working on a case never materialized, presumably because all respondents were promised that the information they provided would remain confidential,

that the names of law firms and clients would not be disclosed, and that only aggregate figures would be reported.

7. Data Collection

Prior to the start of the study, a news release announcing the study and seeking the cooperation of the bar was sent to the *Daily Legal News*, other media, bar associations and the Advisory Group. A letter from the Chief Judge was also sent to each of the attorneys in the sample cases, encouraging them to participate in the study and ensuring confidentiality of information they were asked to provide.

Data was collected during 1993 and 1994 for pre-DCM cases and during 1994 and 1995 for DCM cases by part-time data collectors, typically Cleveland area law and graduate students who had received special training in the Court's case management process, data collection forms and time/billing records typically used by law firms. The data collectors made appointments and visited participating attorneys at their offices to assist them in completing the data collection form and to ensure that all information was collected in a reliable, and standardized manner. Occasionally, the data collectors took information over the phone or by mail when attorneys were located outside the Cleveland area or were otherwise unavailable for in-house visits.

8. Funding

Funding for the cost study was provided through the annual Civil Justice Reform Act budget allocation process. Under that system, funding cannot be carried over from one fiscal year to another. Delays in the funding process for

fiscal years 1993 and 1994 caused data collection to be halted for several months and may have affected the overall response rate.

B. ANALYSIS

Data from the study was collated for each of the total sample populations and each of the 24 categories. In each time category data was separated into three classes: partners, defined as those lawyers having an equity interest in the legal practice; associates, defined as lawyers who were employees of the legal practice;[1] and non-attorneys. This latter category included the recorded and billed time of any non-lawyer active in the lawsuit. Generally speaking, these would be paralegals, whose time is recorded and billed, but not clerical help, which may be significant but is generally unrecorded and included in the overall practice overhead.

Within each class an average number of hours was recorded for all cases in each class for both pre- and post-DCM cases, regardless of whether a lawyer actually reported anytime in that class. In addition, the total number of lawyers reporting time for each category was reported, percentage reporting, and average time of those lawyers reporting time was also calculated. The later calculations were viewed as important for two reasons. First, as cases reached resolution or were resolved, the time invested would cease. Thus, this data would give us an indication of the speed of case resolution and where cases were being resolved in the process. Second, if cases resolved themselves earlier

[1]Attorneys who were full time employees of the litigant were placed into partner or associate class based on the level of responsibility for a case. The lawyer that had primary responsibility

in post- or pre-DCM periods, the number of hours actually spent in subsequent categories would be understated.

In a later section of this report we separately treat the statistical significance of the data. Our observations will be based on the numbers reported and we will not necessarily qualify them in the discussion based on whether a variation is statistically significant or not. It is not our intention to mislead, but because we see this as merely a preliminary study we think that the pure numbers raise issues for consideration in further studies. However, the reader is cautioned that not all observations will be based on statistically significant data, and the section on statistical significance should be reviewed in detail to understand what numbers reflect a scientifically valid result and those observations which might be suggested by the data but for which the present study offers no statistically valid confirmation.

DISCUSSION

The overall data does not support the conclusion that DCM results in reduced overall hours spent on cases. In fact, the average hours per case appears to slightly increase for DCM cases; however, the difference is not statistically significant. Equally interesting is the actual average time on cases, which was not deemed to be unusual, around 85 hours.[2]

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had his or her time included in he parties' class. Lawyers with secondary responsibility were included in the associate class.

[2]Assuming a blended billing rate across large and small firms for litigation in the Cleveland area of $150 per hour, an average lawsuit costs around $12,750 in legal fees. This average cost is not an insignificant amount but, on the other hand, it does not support the view that high litigation costs are a systemic problem.

Another interesting observation from the data is the shift in hours. Partner hours appears to be stable in both pre- and post-DCM periods, with a slight statistically insignificant increase in the DCM period. However, there appears to be a reduction in associate hours with a significant increase in non-attorney hours. There is no obvious explanation as to why DCM would account for such a shift. It may well be that this shift was a result of economic forces in the legal community generally to reduce expenses and the pressure to move essentially clerical or quasi-legal activities from more expensive lawyers to para-professionals. This phenomenon is a general trend affecting many professions such a medicine.

DCM also appears to increase administrative expenses. Category 23 attempts to quantify administrative elements of a case. Although one would not expect things such as billings and general file organization to be affected by DCM, DCM procedures might well be expected to increase administrative activities in order to comply with the rules. Each class reporting hours shows an increase in the percentage of attorneys representing administrative time under DCM. Partners showed the largest increase in the percentage whose time was associated with administrative tasks. The overall increase for the category was 8%. Although there maybe a learning curve associated with these increases, that is, that as the system becomes more familiar to participants the amount of time complying will decrease somewhat, the fact remains that the DCM system does have more procedural requirements requiring more administrative time.

This observation appears to be consistent with the data in Categories 1, 2, 4 and 5, which exhibit appreciable increases of time in the DCM system. The burden also appears to affect plaintiffs more than defendants. Categories 1 and 2, that is pre-filing activities and preparation and filing of the complaint, which are generally associated with plaintiffs, show increases of 8% and 12%, respectively. The time to answer a complaint shows no significant change (1% decrease in the DCM system). However the initial case conference and the status conference again show notable increases of 8% respectively. This would be consistent with our expectations that a significant amount of effort would be required to establish cases on their tracks.

One apparent positive result of the DCM system is that it increased the efforts expended in researching the legal and factual basis for claims. The 8% increase in attorneys' reporting time spent in this category is at least in part attributable to the fact that attorneys had to gain a more comprehensive understanding of the nature of their case earlier in order to make informed judgments as to the appropriate track on which to place the case. Unfortunately this effort did not appear to translate into ultimate client savings, as one would have hoped.

One of the most controversial areas of litigation that has received the most blame for litigation costs is discovery. In this respect the Task Force Report "Justice For All" attempted to deal with what it felt was discovery abuse by Procedural Recommendation Number 4, which asked courts to set time guidelines for the completion of discovery. The theory was that the time guidelines would

require the parties to narrow inquiries to those which they truly believed were necessary to prosecute their case.[3] Our data suggests that the impact of DCM had mixed results.

First, discovery abuse does not appear to be a systematic problem. The average time for all discovery, formal and informal, as well as related motions is merely 23.01 hours pre-DCM and 19.32 hours post-DCM. Although DCM appears[4] to have had some impact, discovery pre-DCM does not appear to be out of proportion to the rest of the time in a lawsuit.

Although discovery does not appear to be systematic problem, a review of the numbers as average of those reporting discovery time is another issue. If one looks at partner time reported Categories 8, 9 and 10, the three formal discovery methods defined in the federal rules, it appears that discovery is an issue in 34% of the cases and, where it is an issue, discovery is a major factor in the total time involved in the lawsuit. For example, the total average time for these three categories in the pre-DCM period is 49.82 hours. Total pre-DCM discovery is 71.19 hours as compared with the average case time of 84.14. Presumably, cases which report high discovery time also report increased time in other areas so the overall time of these cases is much higher.

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[3]This Task Force Report describes the discovery abuse problem as a creation of litigants and their attorneys. Such a description is a charitable characterization of lawyers who are really the only ones to gain from such an abuse in the context of hourly billings. It is doubtful that the litigants themselves are really the source of any serious discovery problem if one exists.

[4]The difference does not appear to be statistically significant. Moreover, changes in federal rules adopted by the Northern District requiring certain mandatory disclosure during the sample period could have accounted for any difference.

Comparing these numbers with those in DCM cases is very telling. First, total discovery hours in DCM cases is 69.04. Although there is a reduction in total hours and in the three federal rule discovery categories (43.94), the effect of DCM is clearly not uniform. For example, time involved in the requests for documents decreased in the DCM period as well as time involved in interrogatories, average time in depositions increased slightly. What is perhaps most interesting is the apparent inverse relationship with informal discovery. Informal discovery increased by over 10% in the DCM period. As we indicated earlier, changes in the federal rules other than the DCM system could have accounted for these variations; however, two pieces of data strongly suggest that discovery abuse was never the problem imagined. First, to the extent that DCM is effective in limiting discovery to those relevant issues in a case, since both the pre-DCM and DCM percentages of cases reporting time in the formal discovery area are essentially the same, that strongly suggests that lawyers were always focusing discovery on the relevant issues. Second, average time spent on depositions remained essentially unchanged. Requests for production of documents seem to be the biggest beneficiary of the DCM period, where time decrease almost 37% overall. It is difficult to determine how much of this was related to focusing on discovery or how much was related to the change in Federal Rule 26, mandating formal disclosure in connection with the filing of a case merely transferred time from the formal request for discovery category into the activities involved in preparing for and filing the complaint.

One thing is clear from our data. There is simply no support for the existence of systemic discovery abuse, nor any data supporting the notion that DCM remedied that problem.[5] In fact to the extent that there seems to be an inverse relationship to informal discovery, the data appears to suggest that artificial restraints on discovery may actually limit valuable discovery to the extent that lawyers are forced to use informal means. Our numbers are only a partial reflection of the real costs to clients of informal discovery since they usually generate expenses substantially in excess of lawyer time such as time spent on private investigators.

The institutionalization of ADR in the DCM protocol was also seen as being a potential solution to litigation costs. The Task Force Report was more skeptical about the potential benefits of ADR and suggested that further investigation needed to be developed before conclusions could be reached concerning the benefits of ADR. Our Task Force Subcommittee was enthusiastic about the ADR program in the Northern District, and that enthusiasm apparently reflected some successful solutions using the process. However, our data suggests that these successes may well be exceptions rather that the rule.

The institutionalization of ADR did result in more time spent in ADR, since the percentage of parties reporting time in ADR increased 2% to 17%. However, this was not without a cost. In part, some of the time devoted to ADR

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[5]The Task Force report notes a Harris Poll that cited discovery abuse as an adversarial tactic to raise the stakes of opponents. This report is based on impression rather than hard data. Our data suggests that to the extent that such a phenomena exists it appears to be relatively infrequent. Moreover, there are numerous ways of responding to this phenomenon without the

appears to have come at the expense of informal settlement which showed a decrease in the percentage of reporting time from 60% to 52%, as well as a 28.7% decrease in the average time spent. Another point worth further inquiry is the reduction in overall average time spent on settlement under DCM. Average time in both ADR and informal settlement are both lower in the DCM period. However, the number reporting time before DCM suggest that the data could be skewed by a few cases.

The most significant piece of data concerning the cost impact of ADR is in Category 21, which records time spent immediately before trial. If ADR is effective in reducing cost, then one would expect informal case resolution would be reflected in fewer cases reporting time immediately preceding trial since more cases would get resolved earlier in the process. In fact, the number does not support that expectation. Slightly higher percentage of attorneys' report time, 12% in DCM versus 11% pre-DCM, in Category 21 and the average time reported is almost exactly the same--37.53 and 37.92 hours respectively.

This result is further supported by the number of cases actually being tried with both pre-DCM and DCM reporting 3%. What is interesting is the significant difference in trial time. The average time in the DCM period is about twice as long as the trial in the pre-DCM. There does not appear to be an obvious explanation for this variation, except the small sample size reporting time could result in one extraordinarily long case distorting the result.

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need to depend on the federal rules: See *International Financial Law Review,* How A Small Law Department Brought Litigation in House, Salibra, Lawrence A. (August, 1986).

DCM does appear to have a beneficial impact in case management to the extent that there seems to be a appreciable reduction in unclassifiable time. This fact might be accounted for by a more thorough analysis of the case early on. This fact may have hidden cost savings for clients in terms of third party expenses not reflected by our study which exclusively focuses on lawyer time. This potential might be considered in another study.

It is also worth noting the comparative allocation of time between partners, associates and para-professionals. The percentages reporting time does not vary substantially; however, para-professionals almost double the average time spent in a case from 17.58 to 32.60 hours. In part that increase appears to be at the cost of associate lawyers whose average hourly time decreases. The observation, however, cannot necessarily be attributed to DCM since, as we noted earlier, there have been well known trends in the legal market to move work into lower cost para-professionals. Moreover, the reduction in associate time could be a reflection of this phenomenon as well.

Our data also distinguishes between plaintiffs and defendants. However, it should be noted that the sample sizes are not equivalent. This reflects the fact that hourly billing is not common place in plaintiffs' practice and, therefore, reliable sources of data were limited. At the same time, cost of litigation to the client did not have a direct relationship to time spent, since the lawyer was compensated as a percentage of the recovery. The size of the relative sample and the difficulty in accurately measuring plaintiff time should be kept in mind in evaluating our review of the data.

The first significant observation relates to the effect of DCM on the pre-filing and filing time. When we looked at the gross numbers (Statistic Significance Summary), we concluded that DCM had increased the time in these two categories and that that was most likely a burden felt by plaintiffs. The refined data leads to the opposite conclusion that the increased time in pre-filing and filing is associated with defendants. Both the percentage of those reporting time and the average time appreciably increase in the DCM period. The average time for plaintiffs and the percentage reporting time in these categories remains essentially the same.

What appears to, in fact, happen is that DCM procedures do not require plaintiffs to do more than they did prior to DCM. Whereas, contrary to many popular beliefs, defendants are now required to do more than they did in early evaluation of a case. For example, it may be that the simple general denial no longer appears to be satisfactory early in the case. The most notable increase for defendants is apparently when they first learn about the potential for the lawsuit. The data suggests that the requirements of having to circumscribe the nature of the dispute early in the case appears to increase pre-filing activity.

Category 6--Case Investigation--appears to suggest that evaluation is more pronounced for plaintiffs then defendants when the data is broken down. First, there appears to be an increase in both the average time and number of respondents reporting time for plaintiffs. The same is true for defendants only to a smaller extent.

In the context of discovery, the overall evaluations appear to be consistent with the data for plaintiffs and defendants individually with two notable changes. Informal discovery appears to become more widespread for plaintiffs since the percentage of respondents reporting time almost triples, although the average time decreases. The number of defendants reporting time increased, but not as dramatically. However, it should be noted that more than twice the percentage of defendants' reported time in informal discovery before DCM. For defendants, the average time on informal discovery significantly increased as well.

The only other notable distinction between plaintiffs and defendants is with respect to the difference in time allocation between partners, associates and non-lawyers. It appears that plaintiffs show a dramatic increase in average time spent by non-lawyers, up over 700%. There does not appear to be an obvious statistical anomaly that accounts for this result, nor is than anything in DCM that would account for this result. At present it appears to be unexplained. Although the study did not focus of the time to resolution, our data did not show any increase in average time to resolution between pre-DCM and post-DCM periods.

C. STATISTICAL SIGNIFICANCE OF THE RESULTS

The basic research question that this study sought to answer was whether the Differentiated Case Management Plan adopted by the Northern District of Ohio caused a change in the average number of hours reported for each category of case activity in the pre- and post-DCM samples reflect

meaningful differences in the overall population of cases, the Court ran two-tailed t-tests to determine the level of statistical difference between the associated means using SPSS (the Statistical Package for the Social Sciences). Typically, social scientists use significance levels of 95% or greater to determine that a research hypothesis should be accepted; lower significance levels lead to a rejection of the hypothesis.

In this study, the basic research hypothesis can be stated as "The number of hours spent litigating cases pre- and post-DCM is different." The statistical test rejects that hypotheses and leads to the conclusion that the slight change in the average number of hours reported between the pre- and post-DCM samples is unlikely to reflect a meaningful difference in the hours spent (and presumably the cost of) litigating cases.

While the statistical test leads to the conclusion that DCM had no affect on the total hours spent litigating cases, individual tests show that DCM was likely to have had an impact on various aspects of litigation, including:

a) reducing the number of hours spent on:

- Answers, Counter Claims and Cross Claims (prepare, file, service, review, etc.)--Cost Category 3,
- Discovery Motions (prepare, respond to, argue, review motions to compel, etc.)--Cost Category 14, and
- Informal Settlement Activity (out of court only)--Cost Category 17; and

b) and increasing the number of hours spent on:

- Alternative Dispute Resolution (prepare for, attend, review mediation, arbitration, summary jury trial, etc., whether court supervised or not)--Cost Category 19.

It should also be noted that there was an increase in the amount of time spent on Informal Discovery (e.g., phone calls, letters--anything for which there is no formal request) that approached, but did not quite meet, the 95% level of statistical significance.

The increased time spent on ADR and Informal Discovery was not unexpected in that the Court's goal when it adopted the DCM plan was to shift some case activity away from more costly aspects of litigation and into these areas. The increased number of hours spent on ADR was offset for the most part, however, by a decrease in the number of hours spent in Informal Settlement Activity, another area where costs are presumably low.

OVERALL CONCLUSION

As we stated earlier, it is difficult both because of the limitations in the sample size and duration as well as the numerous uncontrolled variables to make precise cause and effect relationships about the effect of the DCM program in the Northern District. However, it is interesting how closely our results track a number of the findings of the Rand Corporation Study involving the pilot districts. In addition, our study supplements the Rand Study in one important respect--Rand's data was hampered by the fact that many districts in its sample had not fully implemented the DCM system. The Northern District did effectively implement DCM, and the data demonstrated the effectiveness of implementation by significant anticipated shifts in attorney time. Nonetheless, our conclusions and Rand's are consistent.

Although the DCM system did have some effect in reducing lawyer time, particularly in the area of formal discovery, overall the program did not have an impact on lawyer time. In part this appears to reflect the fact that the average time associated with the cases in our study was not excessive in the first instance. Using a blended overall rate for Cleveland trial firms of $150/hr., the average case in federal court cost about $12,700 both before and during DCM.

DCM appears to have reduced hours devoted to formal discovery, our data suggests that there did not appear to be systematic abuse. We included a category of informal discovery to determine if the limitations on formal discovery merely shifted time into another area. Our data supported the notion that that is what took place to some degree.

Both the shift and the fact that discovery prior to the DCM period did not appear to be out of proportion to the case as a whole led us to observe that discovery abuse, where it exists, does not appear to be a general problem. Our data suggested that lawyers were on the whole focusing on the information necessary to resolve the case.

The DCM system, along with the ADR protocol, did not appear to be associated with faster case resolution in terms of the litigation process. The same percentage of cases appeared to reach the last stage of the pretrial process and the same percentage appeared to settle immediately before trial.

Like the Rand Study, we found no significant impact from the ADR regime on overall lawyer time, although the time devoted to it had increased. The institution of ADR was not without cost, since it appears that time spent on ADR

was in substantial part taking time from informal settlement activities. This suggests further research is necessary to evaluate when the additional costs, which appear to be associated with ADR, are related. This will require a more systematic evaluation of benefits associated with ADR, if any, and any costs associated with those benefits so that a cost-benefit analysis can be completed.

As indicated, our study, due to budget limitations, only involved cases that resolved themselves within one and one-half years. If one looks at the cases three years or older in the Northern District prior to DCM and those after, there is a dramatic decrease; however, it is difficult to associate that decrease with DCM since these cases would not have been placed tracks. For example, prior to 1991 there were 399 cases three or more years old in 1991. This number decreased to 177 in 1992, 144 in 1993, 178 in 1994 and 163 in 1995. Although there was an initial decrease in 1992, the first year of DCM, there is no way that tracking a case could account for such a decrease. Thereafter, cases three years or longer remained at about around 150.

The most likely explanation for the large decrease in 1992 was the institution of the public reporting of cases that were three years or older. This requirement encourages judges to review dockets and formally close cases that otherwise were close to final disposition, but might have otherwise lingered.

When our results are evaluated in conjunction with the results obtained by Rand certain conclusions seem plausible. First, the cost of the litigation process as a general rule does not appear as expensive as had first been thought. This is not to say that there may not be examples where the cost of the

process might not be troubling; however, those cases do not appear to be a fundamental and inevitable consequence of the existing process such that modification of the process is the most effective solution, or even a potential solution to those problems.

It may well be that the concerns about excessive litigation costs reflect concerns expressed by a unique subset of system participants. This hypothesis is supported by a review of the participants in the Brookings Task Force which generated the report. Except for representatives from academia and other similar organizations, it appears that the members of the task force who would have the key practical experience that would define the problem reflect large corporate business activities or law firms whose primary client base is large corporate business enterprises. These participants are perhaps describing a phenomenon which reflects legal market conditions unique to them that are not caused by the legal process and not reflected in the bulk of the litigation process.

Our data certainly suggests that more detailed research is necessary to precisely define the existence of any problem of excessive costs associated with litigation and to determine whether that cost is associated with problems with the legal system, which it makes sense for the courts to attempt to address. Investing the judiciary with management responsibility that goes beyond the fair adjudication of a dispute runs the risk of adding incentives in the system which could advantage one party over another or create a bias in the judge for

a particular resolution of a dispute independent of its merits because the outcome satisfies a judge's management goals.

Further research also should examine the cost structures of legal services provided to large corporations. Although this area has been a matter of substantial debate in recent years, little sophisticated research has examined the economic relationships in this area. The little research that has been done suggests that there are potentially strong incentives to create legal expenses that are unrelated to the nature of the legal problem *per se* and instead reflect strong social forces. In particular, Professors Galanter and Palay, in their study *Tournament of Lawyers--The Transformation of the Big Law Firm*, conclude that large law firms, which have traditionally serviced large corporate clients, have strong internal pressure that results in growth unrelated to a demand created by actual legal needs. This growth, conclude Galanter and Palay, is created by strong social forces that are part of the tournament to become partner. It would not be unusual for this growth to create incentives to generate legal billings beyond the actual requirements of the legal issue.

DCM RULES

Correlation Table[1]

FORMER NUMBER	NEW NUMBER	TITLE
7:6.3	16.9(c)	Procedural Considerations
7:7.1	16.10	Other ADR Procedures
8:1.1	16.1(a)	DCM--Purpose and Authority
8:1.2	1.2; 16.1(b)	Definitions
8:1.3	16.1(c)	Dates of DCM Application
8:1.4	16.1(d)	Conflicts
8:2.1	16.2(a)	Differentiation of Cases
8:2.2	16.2(b)	Evaluation and Assignment of Cases
8:3.1	3.13(b)	Case Information Statement
8:4.1	16.3(a)	Notice of Track Recommendation
8:4.2	16.3(b)	Case Management Conference
8:5.1	16.3(d)	Status Hearing
8:5.2	16.3(e)	Final Pretrial Conference
8:6.1	16.4(e)	ADR
8:7.1	26.1	Discovery
8:7.2	26.2	Preliminary Discovery
8:7.3	33.1	Interrogatories
8:7.4	37.1	Discovery Disputes
8:8.1	7.1(b)-(k)	Motions - General Information
8:8.2	7.2	Dispositive Motions
8:8.3	7.3	Rulings on Motions

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Rule 1.2 Definitions[2]

(a) "United States Attorney," unless otherwise indicated, shall also mean the Assistant United States Attorneys and Department of Justice Attorneys assigned to a case.

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[1]The designation LR refers to Local Civil Rules. The designation LCRR refers to Local Criminal Rules. If no designation appears, the new number refers to a Local Civil Rule.

[2](See LCRR 1.2)

(b) Reference in these Rules to an "attorney" or "counsel" for a party is in no way intended to preclude a party from proceeding pro se, in which case reference to attorney or counsel applies to the pro se litigant.

(c) "Clerk" shall be interpreted to include the Clerk of the District Court and any Deputy Clerk. The Clerk of the Bankruptcy Court will be referred to as the "Bankruptcy Clerk."

(d) "Judicial Officer" is either a United States District Judge or a United States Magistrate Judge.

(e) "Judge" shall be interpreted to mean all Judicial Officers, including District Judges and Magistrate Judges, unless specifically limited or the subject is directed to one of these Judicial Officers.

(f) "Court" means any United States District Judge, United States Magistrate Judge, or Clerk of Court personnel to whom responsibility for a particular action or decision has been delegated by the Judges of the United States District Court for the Northern District of Ohio.

* * * *

Rule 3.13 Commencement of Action

(a) Civil Cover Sheet. The Clerk is authorized and instructed to require a complete and executed AO Form JS 44, Civil Cover Sheet, which shall accompany each civil case to be filed, as well as a Case Information Statement, as described in subsection (b).

(b) Case Information Statement. The initial document filed by each party shall be accompanied by a Case Information Statement (CIS) which shall be in the form prescribed by the Court and which shall be served on each other party to the litigation. In an action removed from state court, the defendant's CIS shall be filed with the removal petition, and the plaintiff's CIS within ten (10) days thereafter. The CIS shall not be assible in evidence and shall not be deemed to constitute jurisdictional requirement.

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CHAPTER III
PLEADINGS AND MOTIONS

Rule 7.1 Motions

(a) Motions Governed by Case Management Plan. All motions are governed by the Case Management Plan adopted pursuant to the Civil Justice Reform Act of 1990.

(b) Motion Day. Part or all of a day shall regularly be set on a monthly or more frequent basis to hear and determine civil motions the disposition of which, in the judgment of the Judicial Officer, can thereby be expedited. Such motion day shall be published to the Bar by each Judicial Officer, and notice given to counsel of the date upon which a motion as to which they arc the moving or opposing party is to be

heard. The establishment of a general motion day does not preclude the Judicial Officer from exercising the discretion to set a motion for hearing on any other day.

(c) Motions to be in Writing. All motions, unless made during a hearing or trial, shall be in writing and shall be made sufficiently in advance of the trial to avoid any delay in trial.

(d) Memorandum by Moving Party. The moving party shall serve and file with it's motion a memorandum of the points and authorities on which it relies in support of the motion.

(e) Memorandum in Opposition. Each party opposing a motion shall serve and file a memorandum in opposition within ten (10) days after service of the motion, excluding intermediate Saturdays, Sundays, and legal holidays.

(f) Reply Memorandum. The moving party may serve and file a reply memorandum in support of its motion within five (5) days after service of the memorandum in opposition, excluding intermediate Saturdays, Sundays, and legal holidays.

(g) Length of Memoranda. Without prior approval of the Judicial Officer for good cause shown, memoranda relating to dispositive motions shall not exceed ten (10) pages in length for expedited cases, twenty (20) pages for administrative, standard and unassigned cases, thirty (30) pages for complex cases, and forty (40) pages for mass tort cases. Every memorandum related to a dispositive motion shall be accompanied by an affidavit specifying the track, if any, to which the case has been assigned and a statement certifying that the memorandum adheres to the page limitations set forth in this section. In the event that the page limitations have been modified by order of the Judicial Officer, a statement to that effect shall be included in the affidavit along with a statement that the memorandum complies with those modifications. Failure to comply with these provisions may be sanctionable at the discretion of the Judicial Officer. Memoranda relating to all other motions shall not exceed fifteen (15) pages in length. All memoranda exceeding fifteen (15) pages in length, excepting those in Social Security reviews, shall have a table of contents, a table of authorities cited, a brief statement of the issue(s) to be decided, and a summary of the argument presented. Appendices of evidentiary, statutory or other materials are excluded from these page limitations and may be bound separately from memoranda.

(h) Hearings. The Judicial Officer may rule on unopposed motions without hearing at any time after the time for filing an opposition has expired. The Judicial Officer may also rule on any opposed motion without hearing at any time after the time for filing a reply memorandum has elapsed.

(i) Attendance at Hearings. Any party may waive oral argument by giving notice of such waiver to the Judicial Officer and all counsel of record at least three (3) days in advance of the hearing. If all parties waive and if such waiver is accepted by the Judicial Officer, the oral hearing shall be cancelled. Unless oral argument is waived, the moving party and all parties filing an opposition to the motion shall attend the hearing. The Judicial Officer may hear oral argument on any motion by telephone conference. The Judicial Officer may impose sanctions for failure by any party to attend the hearing, as appropriate in the particular case.

(j) Untimely Motions. Any motion (other than motions made during hearings or at trial) served and filed beyond the motion deadline established by the Court may be denied solely on the basis of the untimely filing.

(k) Sanctions for Filing Frivolous Motions or Oppositions. Filing a frivolous motion or opposing a motion on frivolous grounds may result in the imposition of appropriate sanctions including the assessment of costs and attorneys' fees against counsel and/or the party involved.

Rule 7.2 Dispositive Motions

(a) Motions that dispose of any claim or defense shall usually be heard and determined by the District Judge assigned to the case. When such Judge concludes that final adjudication of such motion will be expedited if it is referred to a Magistrate Judge for report and recommendation, such motion may be referred to the Magistrate Judge, whose report and recommendation shall be filed consistent with the provisions of Local Rule 7.3(b).

(b) In those cases in which a summary judgment motion has been pending for more than ninety (90) days, the Judicial Officer shall consider scheduling the case for oral argument within the next (30) days. When oral argument is scheduled, and unless otherwise ordered, the following procedure shall apply:

(1) The Clerk will notify counsel of record as to the date for the oral argument.

(2) The moving party shall file a certificate at least five (5) working days before the hearing declaring that there is no genuine issue as to any material fact. Failure to file the certificate will constitute just cause for denying the motion.

(3) Any party opposing the motion for summary judgment shall file a certificate within three (3) working days of the oral hearing identifying the genuine issues as to any material fact and identifying the documents in the record in the context of Fed.R.Civ.P. 56(e) that support the claim of a material fact in dispute.

(4) In those cases where the parties agree that there is no genuine issue as to any material fact, but rather that the issue is one of law on the undisputed facts, the parties shall file a certificate summarizing the undisputed facts and identifying the questions of law. That certificate shall be filed at least three (3) working days before the scheduled hearing. Failure to comply with the provisions of this section will be deemed sanctionable at the discretion of the Judicial Officer.

Rule 7.3 Ruling on Motions

(a) At any oral hearing, the Judicial Officer may announce his or her intended preliminary ruling and rationale or grounds for such decision at the outset of the hearing on a motion, and that the parties will be asked to limit their oral arguments to the reasons why the preliminary ruling is correct or incorrect. In that event, the party which stands to lose on the motion if the preliminary ruling is entered will be invited to argue first, followed by the party in whose favor the preliminary

ruling has been made. In all cases, the moving party will be entitled to have the final opportunity, if desired, to address the Court at the hearing. It is to be expected that the Judicial Officer will then rule from the bench.

(b) Unless exigent circumstances are preclusive thereof, the Judicial Officer shall render a ruling on any nondispositive motion within thirty (30) days of the time the motion comes at issue, and shall rule on any dispositive motion within sixty (60) days of the time the motion comes at issue or briefing is concluded on exceptions/objections to a recommended decision on such motion submitted by a Magistrate Judge.

(c) A list of motions not ruled upon within the time limits set forth in this Rule shall be made available to the public for its viewing in all of the Clerk's Offices throughout the district once a month by noon of the first business day after the fifteenth of the month. The list shall include the case caption, the name of the Judicial Officer, and the type of motion pending. Each Judicial Officer shall be provided with a copy of the list. Upon motion and order, discovery may be suspended during the pendency of any such motions beyond the time limits set forth in this Rule, and track deadlines may be adjusted accordingly a request of a party where the interests of justice so require.

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Rule 16.1 Differentiated Case Management

(a) Purpose and Authority. The United States District Court for the Northern District of Ohio ("Northern District") adopts Local Rules 16.1 to 16.3 in compliance with the mandate of the United States Congress as expressed in the Civil Justice Reform Act of 1990 ("CJRA" or "Act"). These Rules are intended to implement the procedures necessary for the establishment of a differentiated case management ("DCM") system.

The Northern District has been designated as a DCM "Demonstration District." The DCM system adopted by the Court is intended to permit the Court to manage its civil docket in the most effective and efficient manner, to reduce costs and to avoid unnecessary delay, without compromising the independence or the authority of either the judicial system or the individual Judicial Officer. Thc underlying principle of the DCM system is to make access to a fair and efficient court system available and affordable to all citizens.

(b) Definitions.

(1) "Differentiated case management" ("DCM") is a system providing for management of cases based on case characteristics. This system is marked by the following features: the Court reviews and screens civil case filings and channels cases to processing "tracks" which provide an appropriate level of judicial, staff, and attorney attention; civil cases having similar characteristics are identified, grouped, and assigned to designated tracks; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case.

(2) "Case Management Conference" is the conference conducted by the Judicial Officer where track assignment, Alternative Dispute Resolution ("ADR"), and discovery are discussed and where discovery and motion deadlines, deadlines for amending pleadings and adding parties, and the date of the Status Hearing are set. Such conference shall, as a general rule, be conducted no later than thirty (30) days after the date of the filing of the last permissible responsive pleading, or the date upon which such pleading should have been filed, but not later than ninety (90) days from the date counsel for the defendant(s) has entered notice of appearance, regardless of whether a responsive pleading has been filed by that date.

The Court may, upon motion for good cause shown or *sua sponte,* order the conference to be held before such general time frame. Unless otherwise ordered, no Case Management Conference shall be held in any action in which the sole plaintiff or defendant is incarcerated and is appearing *pro se.*

(3) "Status Hearing" is the mandatory hearing which is held approximately midway between the date of the Case Management Conference and the discovery cut-off date.

(4) "Case Management Plan" ("CNP") is the plan adopted by the Judicial Officer at the Case Management Conference and shall include the determination of track assignment, whether the case is suitable for reference to an ADR program, the type and extent of discovery, the setting of a discovery cut-off date, directions regarding the filing of discovery materials, deadline for filing motions, deadlines for amending pleadings and adding parties, and the date of the Status Hearing.

(5) "Dispositive Motions" shall mean motions to dismiss pursuant to Fed.R.Civ.P. 12(b), motions for judgment on the pleadings pursuant to Fed.R.Civ.P. 12(c), motions for summary judgment pursuant to Fed.R.Civ.P. 56, or any other motion which, if granted, would result in the entry of judgment or dismissal, or would dispose of any claims or defenses, or would terminate the litigation.

(6) "Discovery cut-off" is that date by which all responses to written discovery shall be due according to the Federal Rules of Civil Procedure and by which all depositions shall be concluded. Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule, and discovery requests that seek responses or schedule depositions after the discovery cut-off are not enforceable except by order of the Court for good cause shown.

(c) Date of DCM Application. Local Rules 16.1 to 16.3 shall apply to all civil cases filed on or after January 1, 1992 and may be applied to civil cases filed before that date if the assigned Judge determines that inclusion in the DCM system is warranted and notifies the parties to that effects

(d) Conflicts with Other Rules. In the event that Local Rules 16.1 to 16.3 conflict with other Local Rules adopted by the Northern District, Local Rules 16.1 to 16.3 shall prevail.

Rule 16.2 Tracks and Evaluation of Cases

(a) Differentiation of Cases.

(1) Evaluation and Assignment. The Court shall evaluate and screen each civil case in accordance with subsection (b) of this Local Rule, and then assign each case to one of the case management tracks described in subsection (a)(2).

(2) Case Management Tracks. There shall be five (5) case management tracks, as follows:

(A) Expedited--Cases on the Expedited Track shall be completed within nine (9) months or less after filing, and shall have a discovery cut-off no later than one hundred (100) days after filing of the CMP. Discovery guidelines for this track include interrogatories limited to fifteen (15) single-part questions, ten (10) requests for production of documents, ten (10) requests for admissions, no more than one (1) non-party fact witness deposition per party (in addition to party depositions) without prior approval of the Court and such other discovery, if any, as may be provided for in the CMP.

(B) Standard--Cases on the Standard Track shall be completed within fifteen (15) months or less after filing, and shall have a discovery cut-off no later than two hundred (200) days after filing of the CMP. Discovery guidelines for this track include interrogatories limited to thirty-five (35) single-part questions, twenty (20) requests for production of documents, twenty (20) requests for admissions, no more than three (3) non-party fact witness depositions per party (in addition to party depositions) without prior approval of the Court, and such other discovery, if any, as may be provided for in the CMP.

(C) Complex--Cases on the Complex Track shall have the discovery cut-off established in the CMP and shall have a case completion goal of no more than twenty-four (24) months.

(D) Administrative--Cases on the Administrative Track, except actions under 28 U.S.C. § 2254 and government collection cases in which no answer is filed, shall be referred by Court personnel directly to a Magistrate Judge for a report and recommendation. See Local Rule 72.2(b). Discovery guidelines for this track include no discovery without prior leave of Court, and such cases shall normally be determined on the pleadings or by motion. Administrative Track cases shall be exempt from the procedures specified in Local Rule 16.3, unless otherwise ordered by a Judicial Officer, and shall be controlled by scheduling orders issued by the Judicial Officer.

(E) Mass Torts--Cases on the Mass Torts Track shall be treated in accordance with the special management plan adopted by the Court.

(b) Evaluation and Assignment of Cases. The Court shall consider and apply the following factors in assigning cases to a particular track:

(1) Expedited:

(A) Legal Issues: Few and clear

(B) Required Discovery: Limited

(C) Number of Real Parties in Interest: Few

(D) Number of Fact Witnesses: Up to five (5)

(E) Expert Witnesses: None

(F) Likely Trial Days: Less than five (5)

(G) Suitability for ADR: High

(H) Character and Nature of Damage Claims: Usually a fixed amount

(2) Standard:

(A) Legal Issues: More than a few, some unsettled

(B) Required Discovery: Routine

(C) Number of Real Parties in Interest: Up to five (5)

(D) Number of Fact Witnesses: Up to ten (10)

(E) Expert Witnesses: Two (2) or three (3)

(F) Likely Trial Days: Five (5) to ten (10)

(G) Suitability for ADR: Moderate to high

(H) Character and Nature of Damage Claims: Routine

(3) Complex:

(A) Legal Issues: Numerous, complicated and possibly unique

(B) Required Discovery: Extensive

(C) Number of Real Parties in Interest: More than five (5)

(D) Number of Witnesses: More than ten (10)

(E) Expert Witnesses: More than three (3)

(F) Likely Trial Days: More than ten (10)

(G) Suitability for ADR: Moderate

(H) Character and Nature of Damage Claims: Usually requiring expert testimony.

(4) Administrative: Cases that, based on the Court's prior experience, are likely to result in default or consent judgments or can be resolved on the pleadings or by motion.

(5) Mass Tort: Factors to be considered for this track shall be identified in accordance with the special management plan adopted by the Court.

Rule 16.3 Track Assignment and Case Management Conference

(a) Notice of Track Recommendation and Case Management Conference.

(1) The Court may issue a track recommendation to the parties in advance of the Case Management Conference, or may reserve such determination for the Case Management Conference. If the notice of Case Management Conference does not contain a track recommendation, counsel shall confer to determine whether they can agree to a track recommendation, which shall be subject to the Judicial Officer's approval at the Case Management Conference.

The track recommendation shall be made in accordance with the factors identified in Local Rule 16.2(b).

(2) In any action in which the defendant (or all defendants in any action with multiple defendants) is in default of answer, no track recommendation will be made and no Case Management Conference held so long as such default continues. In such a case the plaintiff shall go forward and seek default judgment within one hundred and twenty (120) days of perfection of service (or of sending of a request for a waiver of service under Fed.R.Civ.P. 4(d)), or show cause why the action should not be dismissed for want of prosecution. If such default occurs and the party/parties in default is/are thereafter granted leave to plead, issuance of a track recommendation and scheduling of the Case Management Conference shall proceed in accordance herewith, based upon the date set for the filing of the responsive pleading.

(b) Case Management Conference.

(1) The Judicial Officer shall conduct the Case Management Conference. Lead counsel of record shall participate in the Conference and parties shall attend unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone.

(2) The agenda for the Conference shall include:

(A) Determination of track assignment;

(B) Determination of whether the case is suitable for reference to an ADR program;

(C) Determination of whether the parties consent to the jurisdiction of a Magistrate Judge pursuant to 28 U.S.C. §636(c);

(D) Disclosure of information that may be subject to discovery, including key documents and witness identification;

(E) Determination of the type and extent of discovery;

(F) Setting of a discovery cut-off date;

(G) Setting of a deadline for joining other parties and amending the pleadings;

(H) Setting of deadline for filing motions; and

(I) Setting the date of the Status Hearing, which shall be on a date approximately midway between the date of the Case Management Conference and the discovery cut-off date.

(3) Counsel for all parties are directed to engage in meaningful discussions regarding any track recommendation issued by the Court and each of the other agenda items established by the Court with the goal of timely filing with the Clerk for submission to the Court at least two working days before the Conference a written stipulation agreed to by all parties with respect to each agenda item. This discussion shall also be generally guided by the provisions of Fed.R.Civ.P. 26(f). It shall be the responsibility of counsel for the plaintiff(s) to

arrange such pre-Conference discussions sufficiently in advance of the Conference so that, in the event of disagreement about any agenda item, each party may, if it chooses, file and serve a brief written submission of its position on each such disputed item not later than three (3) days prior to the Conference. The Court shall provide forms to counsel for all parties for indicating the parties' positions regarding all such agenda items when it issues its track recommendation.

(4) At the conclusion of the Case Management Conference, the Judicial Officer shall prepare, file, and issue to the parties an order containing the Case Management Plan governing the litigation.

(c) Notification of Complex Litigation.

(1) Definitions.

(A) As used in this Rule, "Complex Litigation" has one or more of the following characteristics:

(i) it is related to one or more other cases;

(ii) it arises under the antitrust laws of the United States;

(iii) it involves more than five (5) real parties in interest;

(iv) it presents unusual or complex issues of fact;

(v) it involves problems which merit increased judicial supervision or special case management procedures.

(B) As used in this Rule, a "case" includes an action or a proceeding.

(C) As used in this Rule, a case is "related" to one or more other cases if:

(i) they involve the same parties and are based on the same or similar claims;

(ii) they involve the same property, transaction or event or the same series of actions or events; or

(iii) they involve substantially the same facts.

(2) Notice Identifying Complex Litigation. An attorney who represents a party in Complex Litigation, as defined above, shall, with the filing of the complaint, answer, motion, or other pleading, serve and file a Case Information Statement which briefly describes the nature of the case, identifies by title and case number all other related case(s) filed in this and any other jurisdiction (federal or state) and identifies, where known, counsel for all other parties in the action who have not yet entered an appearance. (See Local Rule 3.13(b).)

(3) Manual For Complex Litigation. Counsel for each of the parties receiving notice of a Case Management Conference shall become familiar with the principles and suggestions contained in the Manual for Complex Litigation, Second ("MCL 2d").

(4) Case Management Conference. (See subsection (b).) In preparation for the Case Management Conference, at least seven (7) days prior

to the date of the conference counsel for each party shall file and serve a proposed agenda of the matters to be discussed at the conference. At the Case Management Conference, counsel for each party shall be prepared to discuss preliminary views on the nature and dimensions of the litigation, the principal issues presented, the nature and extent of contemplated discovery, and the major procedural and substantive problems likely to be encountered in the management of the case. Coordination or consolidation with related litigation should be considered. Counsel should be prepared to suggest procedures and timetables for the efficient management of the case.

(5) Determination By Order Whether Case to be Treated as Complex Litigation. At the conclusion of the Case Management Conference, the Court shall prepare, file, and issue an order containing the Case Management Plan which shall set forth whether the case thereafter shall be treated as Complex Litigation pursuant to orders entered by the Court consistent with the principles and suggestions contained in MCL 2d. An order under this subdivision may be conditional and may be altered and amended as the litigation progresses.

(6) Subsequent Proceedings.

(A) Once the Court has determined by order that an action shall be treated as Complex Litigation, thereafter the Court take such actions and enter such orders as the Court deems appropriate for the just, expeditious and inexpensive resolution of the litigation. Measures should be taken to facilitate communication and coordination among counsel and with the *CJRA*.

(B) Throughout the pendency of a case which has been determined to be treated as Complex Litigation, counsel for the parties are encouraged to submit suggestions and plans designed to clarify, narrow and resolve the issues and to move the case as efficiently and expeditiously as possible to a fair resolution.

(d) Status Head. The parties, each of whom will have settlement authority, and lead counsel of record shall participate in the Status Hearing. The parties shall participate in per-son unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Status Hearing. At the Status Hearing the Judicial Officer will:

(1) review and address:

(A) settlement and ADR possibilities;

(B) any request for revision of track assignment and/or of the discovery cut-off or motion deadlines; and

(C) any special problems which may exist in the case;

(2) assign a Final Pretrial Conference date, if appropriate; and

(3) set a firm trial date.

If, for any reason, the assigned Judicial Officer is unable to hear the case within one week of its assigned trial date, the case shall be referred to the Chief Judge for reassignment to any available District Judge or, upon consent of the parties, Magistrate Judge for prompt trial.

(e) Final Pretrial Conference. A Final Pretrial Conference, if any, may be scheduled by the Judicial Officer at the Status Hearing. The parties and lead counsel of record shall be present at the conference. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Final Pretrial Conference. The Final Pretrial Conference shall be scheduled as close to the time of trial as reasonable under the circumstances. The Judicial Officer may, in the Judicial Officer's discretion, order the submission of pretrial memoranda.

(f) Video and Telephone Conferences. The use of telephone conference calls and, where appropriate, video conferencing for pretrial and status conferences is encouraged. The Court, upon motion by counsel or its own instance, may order pretrial and status conferences to be conducted by telephone conference calls. In addition, upon motion by any party and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the conduct of pretrial and status conferences by video conference equipment.

Rule 16.4 Alternative Dispute Resolution

(a) Purpose. The Court adopts Local Rules 16.4 to 16.10 to make available to the Court and the parties a broad program of court-annexed dispute resolution processes designed to provide quicker, less expensive, and generally more satisfying alternatives to continuing litigation.

It is not contemplated that all of these processes--early neutral evaluation, mediation, arbitrator, summary jury trial, and summary bench trial--will be suitable for every case.. Rather, the Judges of the Court believe that the careful selection of processes to fit the cases will result in the efficient preparation and resolution of those cases, to the benefit of the parties, their counsel, and the Court.

(b) Definitions.

(1) "Arbitration" is an adjudicative process by which a neutral person or persons (the arbitrator(s)) decide the rights and obligations of parties. The arbitration process described in Local Rule 16.7 is court-annexed, in that it is arranged and administered by the Court. It is also consensual, in that the parties consent to participate, and non-binding.

(2) The "assigned Judge" is the Judge to whom the case is assigned. If the Judge has referred the matter to a Magistrate Judge, the Magistrate Judge is the assigned Judge under Local Rules 16.4 to 16. 1 0 with respect to actions or decisions which are to be made by the assigned Judge.

(3) "Early Neutral Evaluation" ("E.N.E.") is a pre-trial process involving a neutral evaluator who meets with the parties early in the course of the litigation to help them focus on the issues, organize discovery, work expeditiously to prepare the case for trial, and, if possible, settle all or part of the case. The neutral evaluator ides the parties with an evaluation of the legal and factual issues, to the extent possible, at that early stage of the case.

(4) "Mediation" is a non-binding settlement process involving a neutral mediator who helps the parties to overcome obstacles to effective negotiation. Thee mediation process described in Local Rule 16.6 is court-annexed.

(5) "Summary Jury Trial" is a court-annexed, non-binding process in which the parties briefly present their case to a jury with a Judicial Officer presiding and then use the decision of the jury and information about the jurors' reaction to the legal and fact arguments as an aid to settlement negotiations.

(6) "Summary Bench Trial" is a court-annexed pretrial procedure intended to facilitate settlement consisting of a summarized presentation of a case to a Judicial Officer whose decision and subsequent factual and legal analysis serves as an aid to settlement negotiations.

(c) The ADR Administrator. The "ADR Administrator" is the person appointed by the Court with full authority and responsibility to direct the programs described in this Section. The ADR Administrator shall be a person with training and experience in the administration of ADR Programs. The ADR Administrator shall:

(1) Administer the selection, training, and use of the Federal Court Panel;

(2) Collect and maintain biographical data with respect to members of the Federal Court Panel to permit assignments commensurate with the experience, training, and expertise of the panelists and make the list of panelists and the biographical data available to parties and counsel;

(3) Prepare applications for funding of the ADR Program by the United States government and other parties;

(4) Prepare reports required by the United States government or other parties with respect to the use of funds in the operation and evaluation of the program;

(5) Develop and maintain such forms, records, docket control, and data as may be necessary to administer and evaluate the program;

(6) Periodically evaluate, or arrange for outside evaluation of, the ADR Program and report on that evaluation to the Court, making recommendations for changes in these Rules, if needed; and

(7) Develop, and make available upon request, lists of private or extra-judicial ADR providers.

Decisions of the ADR Administrator, acting within the authority conferred in these Rules, shall be orders of the Court for purposes of enforcement and sanctions.

(d) Federal Court Panel. There is hereby authorized the establishment of a Federal Court Panel consisting of persons who, by experience, training, and character, are qualified to act as evaluators, mediators, arbitrators, or other neutrals in one or more of the processes provided for in these Rules.

(1) Appointment to the Panel. The Federal Court Panel shall consist of persons nominated by the Court's Advisory Group and confirmed by the Judges of the Court.

(2) Qualifications and Training.

(A) Panelists shall be lawyers who have been admitted to the practice of law for at least five (5) years and are currently either members of the bar of the United States District Court for the Northern District of Ohio or members of the faculty of an accredited Ohio law school. The Court may waive these requirements to appoint other qualified persons with special expertise in particular substantive fields or experience in dispute resolution processes.

(B) All persons selected as panelists shall:

(i) undergo such dispute resolution training as the Court may prescribe;

(ii) Take the oath set forth in 28 U.S.C. § 453; and

(iii) Agree to follow the provisions of these Rules.

Each person shall be appointed as a Federal Court Panelist for a period of three (3) years. Appointment may be renewed upon a demonstration of continued qualification.

(3) Compensation of Panelists.

(A) Mediators and evaluators shall receive no compensation for the first four and one half (4-1/2) hours of services. Thereafter the parties shall be equally responsible for the panelist's compensation at the rate of $150 per hour. A compensation schedule for arbitrators shall be published by the court.

(B) No panelist may be assigned in one calendar year to more than one case which falls within the Complex Case Track (See Local Rule 16.2 and 16.3(c)), nor to a total of more than five (5) cases, without the consent of the panelist.

(e) Referral to ADR. Parties are encouraged to use the provisions of these Rules regarding ADR, and the Judicial Officer shall direct the parties to an appropriate ADR program when, in the judgment of the Judicial Officer, such referral is warranted. In the event it is a case referred to a Magistrate Judge for case management only, any reference to ADR may be made only with the approval of the District Judge to whom the case was assigned. ADR hearing dates shall not be modified without leave of Court.

* * * *

CHAPTER V
DISCOVERY

Rule 26.1 Discovery--General

The parties are encouraged to cooperate with each other in arranging and conducting discovery, including discovery involved in any ADR program. Discovery shall be conducted according to limitations established at the Case Management Conference, based generally on the guidelines set forth in Local Rule 16.2(a), and confirmed in the Case Management Plan. Absent leave of court, the parties shall have

no authority to modify the limitations placed on discovery by these rules or by court order. Attorneys serving discovery requests shall have reviewed them to ascertain that they are applicable to the facts and contentions of the particular case. Form discovery pleadings containing requests that are irrelevant to the facts and contentions of the particular case shall not be used.

Rule 26.2 Preliminary Discovery

Prior to the Case Management Conference, the parties may conduct only such formal discovery as is necessary and appropriate to support or defend against any challenge to jurisdiction or claim for emergency, temporary, or preliminary relief that may be presented. The parties are encouraged to limit preliminary discovery to critical issues and to expedite the process without seeking court intervention. This limitation on preliminary formal discovery 'm no way operates as a limitation on any mandatory disclosure required either by Fed.R.Civ.P. 26(a)(1) or by order of a Judicial Officer.

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Rule 33.1 Interrogatories

(a) Interrogatories shall be so arranged that after each separate question, there shall appear a blank space reasonably calculated to enable the answering party to have his or her answer to the interrogatory typed in. Each question shall be answered separately in the space allowed. If the space allowed is insufficient for the answer, the answering party may insert additional pages or retype pages, repeating each question in full, followed by the answer in such manner that the final document shall have each interrogatory immediately succeeded by the separate answer thereto. Unless otherwise permitted by the Court, for good cause shown, interrogatories propounded by a party shall be limited according to the Case Management Track assigned pursuant to Local Rule 16.2(a).

(b) No interrogatory may contain subparts, or a compound, conjunctive, or disjunctive question, except those interrogatories seeking the identity of persons or documents.

(c) Answers and objections to interrogatories shall set forth each question in full before each answer or objection. Each objection shall be followed by a concise statement of the reasons and bases therefor. No interrogatory shall be left unanswered merely because an objection is being interposed with respect to another interrogatory. If an interrogatory contains subparts permitted by this Rule, when objection is made to one subpart the remaining subparts of the interrogatory shall be answered at the time the objection is made.

(d) If the initial set of interrogatories propounded by a party does not exhaust the limitation on the total number of interrogatories established by the Case Management Plan, the remaining number of interrogatories may be propounded in subsequent sets. Unless the Court orders to the contrary, no party need respond to any interrogatories served that are in excess of the limit set forth in the Case Management Plan, as numbered sequentially from the beginning of any set, if that party objects to answering the excess interrogatories on the ground that the limit has been exceeded. On stipulation or motion, for good cause shown, the Court may grant leave to a party to propound interrogatories in excess of the number specified in the

Case Management Plan. The Court may direct the party requesting the additional discovery to set forth the additional proposed interrogatories and the reasons they are necessary in its memorandum in support of any such motion or stipulation.

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Rule 37.1 Discovery Disputes

Discovery disputes shall be referred to a Judicial Officer only after counsel for the party seeking the disputed discovery has made, and certified to the Court the making of, sincere, good faith efforts to resolve such disputes. The Judicial Officer shall attempt to resolve the discovery dispute by telephone conference. In the event the dispute cannot be resolved by the telephone conference, the parties shall outline their respective positions by letter and the Judicial Officer shall attempt to resolve the dispute without additional legal memoranda. If the Judicial Officer still is unable to resolve the dispute, the parties may simultaneously file their respective memoranda in support of and in opposition to the requested discovery by a date set by the Judicial Officer, who will also schedule a hearing on the motion to compel to be held within three (3) days after the date the parties are to file their memoranda. No discovery dispute shall be brought to the attention of a Judicial Officer, and no motion to compel may be filed, more than ten (10) days after the discovery cut-off.

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PRIMARY TABLE

(Partner, Associate, Non-Attorney)

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Average Hours By Class
(Partner, Associate, Non-Attorney)

Respondents for 1990–Pre DCM 323
Respondents for 1993–DCM 396

Cost Category	Response	Partner Pre DCM	Partner DCM	Associate Pre DCM	Associate DCM	Non-Attorney Pre DCM	Non-Attorney DCM	Total Pre DCM	Total DCM	Change	Statistical Significance
1. PREFILING OF LAWSUIT (client meetings, investigation, etc.; does not include activities in preparation of complaint)	Overall	1.62	2.87	1.22	1.39	0.05	0.33	2.89	4.59	1.70	79%
	N	61	96	39	68	9	19	84	133		
	Pct.	19%	24%	12%	17%	3%	5%	26%	34%		
	Avg.	8.57	11.84	10.13	8.11	1.66	6.87	11.11	13.68		
2. COMPLAINT (prepare, file, serve, review complaint and amended complaint, notice of removal, etc.)	Overall	1.27	0.83	1.27	1.41	0.04	0.11	2.58	2.35	-0.23	38%
	N	107	159	82	127	12	14	154	238		
	Pct.	33%	40%	25%	32%	4%	4%	48%	60%		
	Avg.	3.84	2.08	5.01	4.39	1.00	3.05	5.42	3.91		
3. ANSWER, COUNTER CLAIMS AND CROSS CLAIMS (prepare, file, service, review, etc.)	Overall	1.67	1.25	1.97	1.10	0.08	0.10	3.72	2.44	-1.28	99%
	N	152	185	123	125	22	24	214	258		
	Pct.	47%	47%	38%	32%	7%	6%	66%	65%		
	Avg.	3.55	2.67	5.17	3.49	1.17	1.60	5.61	3.75		
4. INITIAL CASE CONFERENCE (If conducted within 9 months of filing; prepare for, attend, review)	Overall	0.80	1.01	0.52	0.54	0.01	0.01	1.33	1.57	0.24	75%
	N	94	141	67	89	1	5	131	199		
	Pct.	29%	36%	21%	22%	0%	1%	41%	50%		
	Avg.	2.74	2.85	2.51	2.42	3.50	0.92	3.27	3.12		
5. STATUS OR MISCELLANEOUS CONFERENCES (prepare for, attend, review)	Overall	0.68	0.80	0.43	0.40	0.00	0.05	1.11	1.25	0.14	39%
	N	48	89	41	54	1	5	72	120		
	Pct.	15%	22%	13%	14%	0%	1%	22%	30%		
	Avg.	4.54	3.56	3.40	2.93	0.20	4.08	4.97	4.13		
6. CASE INVESTIGATION (legal and factual research)	Overall	3.19	2.92	4.66	5.51	1.01	3.45	8.86	11.88	3.02	77%
	N	122	162	105	163	33	51	178	250		
	Pct.	38%	41%	33%	41%	10%	13%	55%	63%		
	Avg.	8.46	7.14	14.34	13.38	9.85	26.78	16.08	18.82		
7. INFORMAL DISCOVERY (e.g. phone, letters--anything for which there is no formal request)	Overall	0.37	0.90	0.37	0.59	0.01	0.20	0.75	1.68	0.93	94%
	N	37	70	28	46	1	9	51	100		
	Pct.	11%	18%	9%	12%	0%	2%	16%	25%		
	Avg.	3.19	5.08	4.32	5.09	2.00	8.62	4.72	6.67		
8. REQUEST FOR ADMISSIONS/ INTERROGATORIES (prepare, answer, review, etc.)	Overall	0.90	1.09	2.08	1.37	0.27	0.23	3.25	2.69	-0.56	61%
	N	70	99	70	82	9	17	109	139		
	Pct.	22%	25%	22%	21%	3%	4%	34%	35%		
	Avg.	4.16	4.35	9.62	6.63	9.54	5.30	9.63	7.66		
9. DEPOSITIONS (noticing, scheduling, preparing for, conducting, reviewing)	Overall	4.68	5.12	4.57	3.52	0.47	0.36	9.72	9.00	-0.72	29%
	N	78	89	72	74	20	20	116	124		
	Pct.	24%	22%	22%	19%	6%	5%	36%	31%		
	Avg.	19.40	22.80	20.49	18.82	7.64	7.19	27.08	28.76		
10. REQUESTS FOR DOCUMENTS (prepare, respond to, review)	Overall	1.32	1.11	2.48	1.39	0.67	0.31	4.46	2.81	-1.65	87%
	N	71	98	70	94	13	26	110	148		
	Pct.	22%	25%	22%	24%	4%	7%	34%	37%		
	Avg.	6.00	4.49	11.43	5.86	16.60	4.70	13.11	7.52		
11. GENERAL DISCOVERY (discovery related activity not otherwise classifiable in questions 8, 9 and 10)	Overall	1.05	0.75	1.33	0.98	0.09	0.47	2.48	2.19	-0.29	33%
	N	51	78	61	61	9	13	91	99		
	Pct.	16%	20%	19%	15%	3%	3%	28%	25%		
	Avg.	6.68	3.95	7.06	6.34	3.16	14.23	8.79	8.77		
12. CASE PLANNING/ EVALUATION (review files and orders, conferences with client/co-counsel not otherwise classifiable)	Overall	3.96	3.54	2.86	3.78	0.17	0.64	6.99	7.96	0.97	43%
	N	179	212	121	156	16	27	219	282		
	Pct.	55%	54%	37%	39%	5%	7%	68%	71%		
	Avg.	7.15	6.60	7.63	9.60	3.41	9.36	10.31	11.17		
13. INFORMAL EFFORTS TO RESOLVE DISCOVERY DISPUTES (includes discovery related stipulations)	Overall	0.24	0.10	0.31	0.19	0.00	0.04	0.55	0.33	-0.22	82%
	N	26	20	28	21	1	2	45	36		
	Pct.	8%	5%	9%	5%	0%	1%	14%	9%		
	Avg.	2.99	2.04	3.58	3.54	0.73	8.65	3.98	3.68		

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Average Hours By Class
(Partner, Associate, Non-Attorney)

Respondents for 1990–Pre DCM 323
Respondents for 1993–DCM 396

Cost Category	Response	Partner Pre DCM	Partner DCM	Associate Pre DCM	Associate DCM	Non-Attorney Pre DCM	Non-Attorney DCM	Total Pre DCM	Total DCM	Change	Statistical Significance
14. DISCOVERY MOTIONS (prepare, respond to, argue, review motions to compel, etc.)	Overall	0.67	0.13	1.07	0.45	0.06	0.05	1.80	0.62	-1.18	99%
	N	49	25	53	29	11	7	74	41		
	Pct.	15%	6%	16%	7%	3%	2%	23%	10%		
	Avg.	4.43	1.98	6.52	6.12	1.72	2.60	7.86	5.98		
15. DISPOSITIVE MOTIONS (prepare, respond to, argue, review motions to dismiss, for summary judgment, etc.)	Overall	3.19	4.50	7.14	7.63	0.58	0.39	10.91	12.52	1.61	49%
	N	96	133	92	127	22	30	148	194		
	Pct.	30%	34%	28%	32%	7%	8%	46%	49%		
	Avg.	10.73	13.39	25.07	23.79	8.52	5.15	23.81	25.55		
16. OTHER MOTIONS (prepare, respond to argue, etc.–includes non-discovery motions and other post argument activity)	Overall	1.53	1.13	2.22	1.52	0.02	0.08	3.77	2.74	-1.03	74%
	N	58	95	63	74	6	16	98	128		
	Pct.	18%	24%	20%	19%	2%	4%	30%	32%		
	Avg.	8.53	4.72	11.68	8.15	0.91	2.04	12.42	8.47		
17. INFORMAL SETTLEMENT ACTIVITY (out of court only)	Overall	3.86	2.16	2.29	1.65	0.13	0.07	6.28	3.88	-2.40	99%
	N	147	151	101	106	8	12	194	206		
	Pct.	46%	38%	31%	27%	2%	3%	60%	52%		
	Avg.	8.48	5.68	7.33	6.16	5.27	2.25	10.46	7.46		
18. JUDICIALLY ASSISTED SETTLEMENT ACTIVITY	Overall	0.49	0.43	0.26	0.35	0.00	0.02	0.75	0.80	0.05	15%
	N	33	39	24	41	0	1	47	70		
	Pct.	10%	10%	7%	10%	0%	0%	15%	18%		
	Avg.	4.77	4.34	3.51	3.37	0.00	7.75	5.14	4.50		
19. ALTERNATIVE DISPUTE RESOLUTION (prepare for, attend, review ENE, med., arb, SJT, etc. whether court supervised or not)	Overall	0.24	1.29	0.03	0.81	0.00	0.02	0.28	2.12	1.84	99%
	N	5	55	1	37	0	5	6	69		
	Pct.	2%	14%	0%	9%	0%	1%	2%	17%		
	Avg.	15.75	9.30	11.00	8.68	0.00	1.78	14.96	12.19		
20. PRE-TRIAL CONFERENCES (prepare for, attend, review)	Overall	0.58	0.50	0.42	0.43	0.05	0.00	1.05	0.93	-0.12	31%
	N	40	52	28	39	1	1	57	74		
	Pct.	12%	13%	9%	10%	0%	0%	18%	19%		
	Avg.	4.71	3.82	4.79	4.33	15.75	1.50	5.94	4.99		
21. PREPARE FOR TRIAL (includes trial briefs, memos, etc.)	Overall	1.56	1.84	2.19	2.51	0.43	0.34	4.18	4.69	0.51	23%
	N	22	34	26	33	7	9	36	49		
	Pct.	7%	9%	8%	8%	2%	2%	11%	12%		
	Avg.	22.88	21.47	27.22	30.07	19.99	15.09	37.53	37.92		
22. CONDUCT TRIAL	Overall	0.33	0.57	0.19	0.38	0.00	0.00	0.52	0.96	0.44	57%
	N	7	7	3	5	1	0	9	10		
	Pct.	2%	2%	1%	1%	0%	0%	3%	3%		
	Avg.	15.14	32.49	20.67	30.24	1.00	0.00	18.78	37.86		
23. ADMINISTRATIVE (organize files, prepare and review billing records, etc.)	Overall	0.12	0.30	0.23	0.15	0.31	1.05	0.66	1.49	0.83	74%
	N	26	52	24	35	15	25	50	90		
	Pct.	8%	13%	7%	9%	5%	6%	15%	23%		
	Avg.	1.43	2.25	3.09	11.65	6.73	16.65	4.24	6.57		
24. OTHER/UNKNOWN (activities not otherwise classifiable such as those related to bankruptcy, appeals, transfers, etc.)	Overall	2.29	1.66	2.67	1.77	0.30	0.24	5.25	3.67	-1.58	62%
	N	47	33	34	29	9	8	59	46		
	Pct.	15%	8%	11%	7%	3%	2%	18%	12%		
	Avg.	15.73	19.94	25.34	24.12	10.71	12.08	28.76	31.61		
Total	Overall	36.61	36.81	42.79	39.81	4.74	8.56	84.14	85.18	1.04	7%
	N	252	302	201	262	87	104	323	396		
	Pct.	78%	76%	62%	66%	27%	26%	100%	100%		
	Avg.	46.93	48.27	68.77	60.17	17.58	32.60	84.14	85.18		
Categories 1-4–Case Opening	Overall							10.51	10.96	0.45	21%
Categories 5-13–Discovery	Overall							38.17	39.80	1.63	20%
Categories 14-16–Motions	Overall							16.48	15.87	-0.61	15%
Categories 17-19–Settlement	Overall							7.31	6.80	-0.51	36%

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Average Hours By Class
(Partner, Associate, Non-Attorney)

Respondents for 1990–Pre DCM	323
Respondents for 1993–DCM	396

		Partner		Associate		Non-Attorney		Total			Statistical
Cost Category	Response	Pre DCM	DCM	Pre DCM	DCM	Pre DCM	DCM	Pre DCM	DCM	Change	Significance
Categories 20-22–Trial	Overall							5.75	6.58	0.83	29%
Categories 23-24–Other/Unknown	Overall							5.91	5.17	-0.74	28%

Overall = average hours reported (includes respondents reporting 0 hours)
N = respondents reporting greater than 0 hours for the category
PCT = percentage of respondents reporting greater than 0 hours for the category
Avg. = average hours of respondents reporting greater than 0 hours for the category

STATISTIC SIGNIFICANCE SUMMARY

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Statistical Significance

Cost Category	Average Hours Pre DCM	DCM	Change	Statistical Significance
Total All Categories	84.14	85.18	1.04	7%
Partner	36.61	36.81	0.20	3%
Associate	42.79	39.81	-2.98	34%
Non Attorney	4.74	8.56	3.82	72%
1. PREFILING OF LAWSUIT	2.89	4.59	1.70	79%
2. COMPLAINT	2.58	2.35	-0.23	38%
3. ANSWER, COUNTER CLAIMS	3.72	2.44	-1.28	99%
4. INITIAL CASE CONFERENCE	1.33	1.57	0.24	75%
5. STATUS OR MISCELLANEOUS	1.11	1.25	0.14	39%
6. CASE INVESTIGATION (legal	8.86	11.88	3.02	77%
7. INFORMAL DISCOVERY	0.75	1.68	0.93	94%
8. REQUEST FOR ADMISSIONS/	3.25	2.69	-0.56	61%
9. DEPOSITIONS (noticing,	9.72	9.00	-0.72	29%
10. REQUESTS FOR	4.46	2.81	-1.65	87%
11. GENERAL DISCOVERY	2.48	2.19	-0.29	33%
12. CASE PLANNING/	6.99	7.96	0.97	43%
13. INFORMAL EFFORTS TO	0.55	0.33	-0.22	82%
14. DISCOVERY MOTIONS	1.80	0.62	-1.18	99%
15. DISPOSITIVE MOTIONS	10.91	12.52	1.61	49%
16. OTHER MOTIONS (prepare,	3.77	2.74	-1.03	74%
17. INFORMAL SETTLEMENT	6.28	3.88	-2.40	99%
18. JUDICIALLY ASSISTED	0.75	0.80	0.05	15%
19. ALTERNATIVE DISPUTE	0.28	2.12	1.84	99%
20. PRE-TRIAL CONFERENCES	1.05	0.93	-0.12	31%
21. PREPARE FOR TRIAL	4.18	4.69	0.51	23%
22. CONDUCT TRIAL	0.52	0.96	0.44	57%
23. ADMINISTRATIVE	0.66	1.49	0.83	74%
24. OTHER/UNKNOWN	5.25	3.67	-1.58	62%

PLAINTIFF/DEFENDANT SUMMARY

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Average Hours By Plaintiff/Defendant

	Total	Plaintiffs	Defendants
Respondents for 1990–Pre DCM	323	57	266
Respondents for 1993–DCM	396	64	332

Cost Category	Response	Plaintiff Pre DCM	Plaintiff DCM	Defendant Pre DCM	Defendant DCM	Total Pre DCM	Total DCM	Change	Statistical Significance
1. PREFILING OF LAWSUIT	Overall	10.17	11.23	1.33	3.31	2.89	4.59	1.70	79%
(client meetings, investigation, etc.;	N	37	45	47	88	84	133		
does not include activities in	Pct.	65%	70%	18%	27%	26%	34%		
preparation of complaint)	Avg.	15.67	15.97	7.51	12.50	11.11	13.68		
2. COMPLAINT (prepare, file,	Overall	7.75	7.03	1.47	1.45	2.58	2.35	-0.23	38%
serve, review complaint and	N	54	55	100	183	154	238		
amended complaint, notice of	Pct.	95%	86%	38%	55%	48%	60%		
removal, etc.)	Avg.	8.18	8.18	3.92	2.63	5.42	3.91		
3. ANSWER, COUNTER CLAIMS	Overall	0.74	1.33	4.35	2.66	3.72	2.44	-1.28	99%
AND CROSS CLAIMS (prepare,	N	15	23	199	235	214	258		
file, service, review, etc.)	Pct.	26%	36%	75%	71%	66%	65%		
	Avg.	2.83	3.69	5.82	3.76	5.61	3.75		
4. INITIAL CASE CONFERENCE	Overall	1.16	1.42	1.36	1.60	1.33	1.57	0.24	75%
(If conducted within 9 months of	N	18	29	113	170	131	199		
filing; prepare for, attend, review)	Pct.	32%	45%	42%	51%	41%	50%		
	Avg.	3.67	3.12	3.21	3.12	3.27	3.12		
5. STATUS OR MISCELLANEOUS	Overall	1.81	2.11	0.96	1.08	1.11	1.25	0.14	39%
CONFERENCES (prepare for,	N	14	16	58	104	72	120		
attend, review)	Pct.	25%	25%	22%	31%	22%	30%		
	Avg.	7.38	8.45	4.38	3.46	4.97	4.13		
6. CASE INVESTIGATION (legal	Overall	6.76	12.86	9.31	11.69	8.86	11.88	3.02	77%
and factual research)	N	22	35	156	215	178	250		
	Pct.	39%	55%	59%	65%	55%	63%		
	Avg.	17.52	23.51	15.88	18.05	16.08	18.82		
7. INFORMAL DISCOVERY	Overall	0.14	0.23	0.88	1.97	0.75	1.68	0.93	94%
(e.g. phone, letters—anything	N	4	13	47	87	51	100		
for which there is no formal	Pct.	7%	20%	18%	26%	16%	25%		
request)	Avg.	2.00	1.12	4.95	7.50	4.72	6.67		
8. REQUEST FOR ADMISSIONS/	Overall	2.17	3.80	3.48	2.47	3.25	2.69	-0.56	61%
INTERROGATORIES (prepare,	N	13	19	96	120	109	139		
answer, review, etc.)	Pct.	23%	30%	36%	36%	34%	35%		
	Avg.	9.51	12.79	9.65	6.84	9.63	7.66		
9. DEPOSITIONS (noticing,	Overall	5.33	11.73	10.67	8.48	9.72	9.00	-0.72	29%
scheduling, preparing for,	N	17	16	99	108	116	124		
conducting, reviewing)	Pct.	30%	25%	37%	33%	36%	31%		
	Avg.	17.87	46.94	28.66	26.06	27.08	28.76		
10. REQUESTS FOR	Overall	6.49	4.49	4.03	2.49	4.46	2.81	-1.65	87%
DOCUMENTS (prepare,	N	16	19	94	129	110	148		
respond to, review)	Pct.	28%	30%	35%	39%	34%	37%		
	Avg.	23.14	15.12	11.40	6.40	13.11	7.52		
11. GENERAL DISCOVERY	Overall	2.53	3.46	2.46	1.95	2.48	2.19	-0.29	33%
(discovery related activity not	N	11	13	80	86	91	99		
otherwise classifiable in questions	Pct.	19%	20%	30%	26%	28%	25%		
8, 9 and 10)	Avg.	13.10	17.02	8.19	7.53	8.79	8.77		

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Average Hours By Plaintiff/Defendant

	Total	Plaintiffs	Defendants
Respondents for 1990--Pre DCM	323	57	266
Respondents for 1993--DCM	396	64	332

Cost Category	Response	Plaintiff Pre DCM	Plaintiff DCM	Defendant Pre DCM	Defendant DCM	Total Pre DCM	Total DCM	Change	Statistical Significance
12. CASE PLANNING/ EVALUATION (review files and orders, conferences with client/co-counsel not otherwise classifiable)	Overall	7.59	13.71	6.86	6.85	6.99	7.96	0.97	43%
	N	29	44	190	238	219	282		
	Pct.	51%	69%	71%	72%	68%	71%		
	Avg.	14.92	19.94	9.61	9.55	10.31	11.17		
13. INFORMAL EFFORTS TO RESOLVE DISCOVERY DISPUTES (includes discovery related stipulations)	Overall	0.82	0.41	0.50	0.32	0.55	0.33	-0.22	82%
	N	5	5	40	31	45	36		
	Pct.	9%	8%	15%	9%	14%	9%		
	Avg.	9.30	5.20	3.31	3.43	3.98	3.68		
14. DISCOVERY MOTIONS (prepare, respond to, argue, review motions to compel, etc.)	Overall	2.24	0.66	1.71	0.61	1.80	0.62	-1.18	99%
	N	8	6	66	35	74	41		
	Pct.	14%	9%	25%	11%	23%	10%		
	Avg.	15.95	7.02	6.88	5.81	7.86	5.98		
15. DISPOSITIVE MOTIONS (prepare, respond to, argue, review motions to dismiss, for summary judgment, etc.)	Overall	7.76	12.04	11.58	12.61	10.91	12.52	1.61	49%
	N	27	28	121	166	148	194		
	Pct.	47%	44%	45%	50%	46%	49%		
	Avg.	16.38	27.52	25.47	25.22	23.81	25.55		
16. OTHER MOTIONS (prepare, respond to argue, etc.--includes non-discovery motions and other post argument activity)	Overall	2.55	1.08	4.03	3.06	3.77	2.74	-1.03	74%
	N	15	15	83	113	98	128		
	Pct.	26%	23%	31%	34%	30%	32%		
	Avg.	9.70	4.61	12.91	8.98	12.42	8.47		
17. INFORMAL SETTLEMENT ACTIVITY (out of court only)	Overall	7.86	5.82	5.95	3.51	6.28	3.88	-2.40	99%
	N	37	39	157	167	194	206		
	Pct.	65%	61%	59%	50%	60%	52%		
	Avg.	12.10	9.55	10.07	6.98	10.46	7.46		
18. JUDICIALLY ASSISTED SETTLEMENT ACTIVITY	Overall	0.25	0.52	0.86	0.85	0.75	0.80	0.05	15%
	N	4	7	43	63	47	70		
	Pct.	7%	11%	16%	19%	15%	18%		
	Avg.	3.58	4.71	5.29	4.47	5.14	4.50		
19. ALTERNATIVE DISPUTE RESOLUTION (prepare for, attend, review ENE, med., arb, SJT, etc. whether court supervised or not)	Overall	0.25	1.39	0.28	2.27	0.28	2.12	1.84	99%
	N	1	13	5	56	6	69		
	Pct.	2%	20%	2%	17%	2%	17%		
	Avg.	14.50	6.85	15.05	13.43	14.96	12.19		
20. PRE-TRIAL CONFERENCES (prepare for, attend, review)	Overall	3.11	0.65	0.61	0.99	1.05	0.93	-0.12	31%
	N	9	10	48	64	57	74		
	Pct.	16%	16%	18%	19%	18%	19%		
	Avg.	19.69	4.17	3.36	5.11	5.94	4.99		
21. PREPARE FOR TRIAL (includes trial briefs, memos, etc.)	Overall	2.05	4.93	4.64	4.65	4.18	4.69	0.51	23%
	N	4	11	32	38	36	49		
	Pct.	7%	17%	12%	11%	11%	12%		
	Avg.	29.25	28.70	38.56	40.59	37.53	37.92		
22. CONDUCT TRIAL	Overall	0.00	0.02	0.64	1.14	0.52	0.96	0.44	57%
	N	0	1	9	9	9	10		
	Pct.	0%	2%	3%	3%	3%	3%		

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Average Hours By Plaintiff/Defendant

	Total	Plaintiffs	Defendants
Respondents for 1990--Pre DCM	323	57	266
Respondents for 1993--DCM	396	64	332

Cost Category	Response	Plaintiff Pre DCM	Plaintiff DCM	Defendant Pre DCM	Defendant DCM	Total Pre DCM	Total DCM	Change	Statistical Significance
	Avg.	0.00	1.50	18.78	41.90	18.78	37.86		
23. ADMINISTRATIVE	Overall	0.64	2.22	0.66	1.35	0.66	1.49	0.83	74%
(organize files, prepare and	N	7	18	43	72	50	90		
review billing records, etc.)	Pct.	12%	28%	16%	22%	15%	23%		
	Avg.	5.17	7.91	4.09	6.24	4.24	6.57		
24. OTHER/UNKNOWN	Overall	7.72	4.61	4.73	3.49	5.25	3.67	-1.58	62%
(activities not otherwise classifiable	N	9	15	50	31	59	46		
such as those related to	Pct.	16%	23%	19%	9%	18%	12%		
bankruptcy, appeals, transfers, etc.)	Avg.	48.91	19.65	25.14	37.40	28.76	31.61		
Total	Overall	87.89	107.75	83.35	80.85	84.14	85.18	1.04	7%
	N	57	64	266	332	323	396		
	Pct.	100%	100%	100%	100%	100%	100%		
	Avg.	87.90	107.73	83.34	80.83	84.14	85.18		
Partner	Overall	44.76	37.99	34.87	36.58	36.61	36.81	0.20	3%
	N	41	45	211	257	252	302		
	Pct.	72%	70%	79%	77%	78%	76%		
	Avg.	61.23	54.03	43.95	47.26	46.93	48.27		
Associate	Overall	40.71	47.82	43.24	38.27	42.79	39.81	-2.98	34%
	N	34	51	167	211	201	262		
	Pct.	60%	80%	63%	64%	62%	66%		
	Avg.	68.24	60.00	68.87	60.21	68.77	60.17		
Non-Attorney	Overall	2.43	21.93	5.23	5.98	4.74	8.56	3.82	72%
	N	17	21	70	83	87	104		
	Pct.	30%	33%	26%	25%	27%	26%		
	Avg.	8.14	66.83	19.87	23.94	17.58	32.60		
Categories 1-4--Case Opening	Overall					10.51	10.96	0.45	21%
Categories 5-13--Discovery	Overall					38.17	39.80	1.63	20%
Categories 14-16--Motions	Overall					16.48	15.87	-0.61	15%
Categories 17-19--Settlement	Overall					7.31	6.80	-0.51	36%
Categories 20-22--Trial	Overall					5.75	6.58	0.83	29%
Categories 23-24--Other/Unknown	Overall					5.91	5.17	-0.74	28%

Overall = average hours reported (includes respondents reporting 0 hours)
N = respondents reporting greater than 0 hours for category
PCT = percentage of respondents reporting greater than 0 hours for category
Avg. = average hours of respondents reporting greater than 0 hours for category

COST STUDY PRESS RELEASE

UNITED STATES DISTRICT COURT
Northern District of Ohio
CLEVELAND, OHIO 44114-1201

THOMAS D. LAMBROS
Chief Judge

(216) 522-2080
FTS 942-2080

July 1, 1993

PRESS RELEASE

**UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OHIO**

ANNOUNCES

STUDY TO DETERMINE WHETHER NEW DIFFERENTIATED CASE MANAGEMENT SYSTEM HAS BEEN SUCCESSFUL IN REDUCING LITIGATION COSTS

The United States District Court for the Northern District of Ohio is about to begin a long-term research study to discover the effect of its experimental differentiated case management system on the costs of civil litigation. The outcome of the study could determine whether the case processing techniques developed here will be adopted on a nationwide basis.

In 1990, Congress responded to the growing public concern that civil litigation in the United States takes too long and costs too much by enacting the Civil Justice Reform Act (CJRA). The Act mandated that every federal district court develop and implement a delay and cost reduction plan by the end of 1993. Under the Act, the Northern District of Ohio was selected to serve as a demonstration district for an experiment with a new form of case processing called Differentiated Case Management (DCM).

Chief Judge Thomas D. Lambros appointed a broad coalition of attorneys, legal scholars and members of the community to a CJRA Advisory Group shortly after the Court was selected as a demonstration district. Attorney Louis Paisley, of the law firm of Weston, Hurd, Fallon, Paisley & Howley, serves as Advisory Group chairman and Attorney David C. Weiner, of the law firm of Hahn Loeser & Parks, heads a special Task Force on Differentiated Case Management. The Advisory Group recommended,

and the Court adopted, new local rules incorporating the DCM system effective January 1, 1992.

"While we now have more than a year's worth of experience under the DCM system, our job is not yet complete," said Paisley. "Congress has mandated that the Advisory Group review the Court's progress annually through 1995. The cost study is an important part of the review process."

The study seeks to discover whether the system has reduced litigation costs. To make that determination the Court will ask area law firms to review their billing records on selected cases and tally the number of hours spent on various aspects of the litigation such as pre-trial preparation, discovery and motion practice. The Court will then compare the results of cases litigated under the new system with similar cases resolved prior to the advent of DCM. To protect the rights of the law firms and their clients the anonymity of responses will be assured.

A cost subcommittee within the Advisory Group, chaired by Lawrence A. Salibra, II, Senior Counsel at Alcan Aluminum Corporation, is working with nationally recognized court management experts to design and implement the study.

"Our primary goal is to obtain empirical data that will help us realistically evaluate the new system," said Salibra. "We are focusing on hard data, rather than anecdotal evidence, to ensure that the results we obtain are scientifically defensible. To our knowledge no similar study of litigation costs has ever been conducted."

Chief Judge Lambros urges the legal community to give the project its full cooperation. "The potential benefits of this study to the community are immense," the Chief Judge said. "While we firmly believe that our DCM system will become the model for providing fair, timely and cost efficient justice, we can only be confident our efforts are properly directed if we have the data to demonstrate our successes and failures. The cooperation of the entire legal community is essential to these efforts."

CONTACT: Geri M. Smith, Clerk of Court, (216) 522-7668 or
Chris Malumphy, Staff Attorney/DCM Administrator, (216) 522-7579

DATA COLLECTION FORM

(Reduced Size)

U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO
LITIGATION COST STUDY DATA COLLECTION FORM

Case Study Identification Number:

Case Caption:

Court Case Number:

Date Case Filed:

First Activity Date:

Law Firm:

Lawyer Name:

Client Name:

Data Source:

Firm Data Collector:

Project Data Collector:

Date Data Collected:

INSTRUCTIONS: PLEASE CODE THE NUMBER OF HOURS LOGGED FOR EACH OF THE PARTICIPANTS BY EACH OF THE COST CATEGORIES. DO NOT ROUND THE NUMBER. RECORD THE PRECISE FIGURE AND CIRCLE EACH LOG ENTRY THAT YOU ENTER IN EACH OF THE FOLLOWING CELLS. FILL UP EACH CELL WITH AS MANY LOG ENTRIES AS POSSIBLE BEFORE USING ADDITIONAL SHEETS. DO NOT TOTAL IN THE INDIVIDUAL COLUMNS OR USE THE TOTAL COLUMN.

COST CATEGORY	PARTNER	ASSOCIATE	NON-ATTORNEY
1. PRE-FILING (client meetings, investigation, etc.)			
2. COMPLAINT (prepare, file, serve, review complaint and amended complaint, notice of removal, etc.)			
3. ANSWER, COUNTER CLAIMS AND CROSS CLAIMS (prepare, file, service, review, etc.)			
4. INITIAL CASE CONFERENCE (if conducted within 9 months of filing; prepare for, attend, review)			
5. STATUS OR MISC. CONFERENCES (prepare for, attend, review)			
6. CASE INVESTIGATION (legal and factual research)			
7. INFORMAL DISCOVERY (e.g., phone, letters--anything for which there is no formal request)			
8. REQUEST FOR ADMISSIONS/INTERROGATORIES (prepare, answer, review, etc.)			
9. DEPOSITIONS (noticing, scheduling, preparing for, conducting, reviewing)			
10. REQUESTS FOR DOCUMENTS (prepare, respond to, review)			
11. GENERAL DISCOVERY (discovery related activity not otherwise classifiable in numbers 8, 9 and 10)			

COST CATEGORY	PARTNER	ASSOCIATE	NON-ATTORNEY
12. CASE PLANNING/EVALUATION (review files and orders, conferences with client/co-counsel not otherwise classifiable)			
13. INFORMAL EFFORTS TO RESOLVE DISCOVERY DISPUTE (includes discovery related stipulations)			
14. DISCOVERY MOTIONS (prepare, respond to, argue, review motions to compel, etc.)			
15. DISPOSITIVE MOTIONS (prepare, respond to, argue, review motions to dismiss, for summary judgment, etc.)			
16. OTHER MOTIONS (prepare, respond to argue, etc.—includes non-discovery motions and other post argument activity)			
17. INFORMAL SETTLEMENT ACTIVITY (out of court only)			
18. JUDICIALLY ASSISTED SETTLEMENT ACTIVITY			
19. ALTERNATIVE DISPUTE RESOLUTION (prepare for, attend review mediation, arbitration, summary jury trial, etc. whether court supervised or not)			
20. PRE-TRIAL CONFERENCES (prepare for, attend, review)			
21. PREPARE FOR TRIAL (includes trial briefs, memos, etc.)			
22. CONDUCT TRIAL			
23. ADMINISTRATIVE (organize files, prepare and review billing records, etc.)			
24. OTHER/UNKNOWN (activities not otherwise classifiable such as those related to bankruptcy, appeals, transfers, etc.			
TOTAL (COURT USE ONLY)			

PLEASE DESCRIBE THE ACTIVITIES INCLUDED IN COST CATEGORY #24--OTHER/UNKNOWN:

PLEASE ATTACH ADDITIONAL DATA ENTRY SHEETS AS REQUIRED. BE SURE TO LABEL EACH ADDITIONAL SHEET BY CASE STUDY IDENTIFICATION NUMBER, COURT CASE NUMBER, AND PAGE NUMBER.

INFORMAL SETTLEMENT ACTIVITY

U.S. District Court for the Northern District of Ohio
Litigation Cost Study Data Summary
Statistical Significance

Cost Category	Average Hours 1990	1993	Change	Level of Statistical Significance
Total All Categories	84.14	85.18	1.04	7%
1. Prefiling of Lawsuit	2.89	4.59	1.70	79%
2. Complaint	2.58	2.35	-0.23	38%
3. Answer, Counter Claims and Cross Claims	3.72	2.44	-1.28	99%
4. Initial Case Conference	1.33	1.57	0.24	75%
5. Status or Miscellaneous Conferences	1.11	1.25	0.14	39%
6. Case Investigation	8.86	11.88	3.02	77%
7. Informal Discovery	0.75	1.68	0.93	94%
8. Requests for Admissions/Interrogatories	3.25	2.69	-0.56	61%
9. Depositions	9.72	9.00	-0.72	29%
10. Requests for Documents	4.46	2.81	-1.65	87%
11. General Discovery	2.48	2.19	-0.29	33%
12. Case Planning/Evaluation	6.99	7.96	0.97	43%
13. Informal Efforts to Resolve Discovery Disputes	0.55	0.33	-0.22	82%
14. Discovery Motions	1.80	0.62	-1.18	99%
15. Dispositive Motions	10.91	12.52	1.61	49%
16. Other Motions	3.77	2.74	-1.03	74%
17. Informal Settlement Activity	6.28	3.88	-2.40	99%
18. Judicially Assisted Settlement Activity	0.75	0.80	0.05	15%
19. Alternative Dispute Resolution	0.28	2.12	1.84	99%
20. Pre-trial Conferences	1.05	0.93	-0.12	31%
21. Prepare for Trial	4.18	4.69	0.51	23%
22. Conduct Trial	0.52	0.96	0.44	57%
23. Administrative	0.66	1.49	0.83	74%
24. Other/Unknown	5.25	3.67	-1.58	62%