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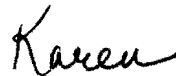
KAREN K. SIEGEL  
CHIEF  
OFFICE OF THE  
JUDICIAL CONFERENCE SECRETARIAT

March 9, 1990

MEMORANDUM TO THE CHAIRMAN AND MEMBERS OF THE EXECUTIVE COMMITTEE

SUBJECT: "The Biden Bill"

Bob Feidler has drafted the attached list of principles on S.2027 which the Executive Committee might consider presenting to the Judicial Conference on Tuesday. Judge Peckham has asked that I provide you with the draft so that you might discuss it at today's 4:00 p.m. teleconference.



Karen K. Siegel

cc: Honorable Wayne D. Brazil

DATE: March 9, 1990  
FROM: *RF* Robert E. Feidler  
SUBJECT: Principles List  
TO: Honorable Robert Peckham

Per your suggestion I have slightly rewritten and consolidated the principles list. As revised it was given to Karen Siegel for dissemination.

*Judge Peckham and  
Robinson, and  
Magistrate Brazil:  
Please discard your  
earlier draft.  
Karen*

## JUDICIAL CONFERENCE GUIDANCE REGARDING S. 2027

The Conference adopts the following principles to be of assistance to the Executive Committee in representing the views of the Judicial Conference concerning S. 2027 "The Civil Justice Reform Act of 1990." They are not meant to be exclusive.

1. Any major reform in the handling of civil cases in the Federal courts should be based upon empirical evidence that a problem exists and the reasons for that problem. Evidence should be produced to demonstrate that any Nationwide initiatives undertaken to improve case management would have a record of working.

2. A 3-year case management demonstration program conducted in several pilot courts should precede any nationally-mandated program and the results of the program should be reported to Congress.

3. A standard as to when a district has a backlog (together with exceptions, such as when there are judicial vacancies or other temporary anomalies have arisen that are not expected to represent a long term problem) should be developed.

4. Model civil justice expense and delay reduction plans should not be required for a district court which does not have a significant civil case backlog, although even such a court might find such a plan useful and might elect to implement such a plan on its own.

5. Contents of delay and expense reduction plans should not be mandated by legislation.

6. Districts which have a civil backlog shall be given greater flexibility in meeting the standards of the criminal Speedy Trial Act.

7. Setting of deadlines early in a case and the monitoring of those deadlines has been demonstrated to be an essential ingredient of good case management. Over the past decade Magistrates have gained extensive experience in the management of civil litigation and the Conference endorses their utilization in this manner. It rejects the limitations on the role of Magistrates found in S. 2027.

8. Early and realistic trial dates should be encouraged.

9. The Conference endorses:

- greater resources of personnel and automation to enhance case management.
- greater training of all personnel in case management techniques.

- further experimentation with ADR to meet the needs determined by each district but reject the necessity of having all procedures available in every court.
- utilization of advisory committees related to civil case management procedures.
- development of a manual for litigation management prepared at the direction of the Conference. The manual shall include a model set of local rules for case management but it need not necessarily be adopted by the local districts.
- internal distribution within each circuit of case management statistics on each judge with the authority reposed within circuit councils to release this data to the public periodically.
- the holding of discovery conferences in suitable cases with an emphasis on limiting discovery to reduce delay and expense and the use of phased discovery when appropriate.
- reduction of the time frame to provide service of process and certain other time frames in the case, especially those related to discovery.
- generally giving the judge more power to run a case efficiently including the power to assess attorney's fees against a party if the party's counsel has not made a good faith effort to resolve a matter prior to filing a motion on the matter.
- judicial involvement in efforts to settle litigation including the power to require parties with settlement authority to be in attendance.

10. The Conference rejects elements of S. 2027 which are deemed intrusive in the internal operation of the Judicial branch and its operations.