

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS



OFFICE OF THE CHIEF,
JUDICIAL CONFERENCE SECRETARIAT

TO: Judge Murphy

Here's the draft
we discussed.

I very much
enjoyed our conversa-
tion this morning.

Karen Siegel

DRAFT
April 25, 1990

SEC. 3. CIVIL LITIGATION COST AND DELAY REDUCTION.

(a) In General.--(1) Title 28, United States Code, is amended by adding at the end of part I the following new chapter:

"CHAPTER 23--CIVIL LITIGATION COST AND DELAY REDUCTION

"Sec.

"471. Findings.

"472. District court assessment.

"473. District court action.

"474. Review of district court action.

"475. Information on litigation management and cost and delay reduction.

"476. Training programs.

"477. Automated case disposition information.

"§ 471. Findings

"Congress makes the following findings:

"(1) The problems of cost and delay in civil litigation in any United States district court must be addressed in the context of the full range of demands made on the district court's resources by both criminal and civil matters.

"(2) The court, the litigants, and the litigants' attorneys share responsibility for cost and delay in civil litigation.

"(3) The solutions to problems of cost and delay must include significant contributions, not only by the court, but also by the litigants and their attorneys.

"§ 472. District court assessment

"(a) At least once every three years each United States district court shall assess the condition of the court's criminal and civil dockets with a view to determining appropriate actions

which may be taken by the court to reduce cost and delay in civil litigation and to improve the case management practices of the court.

"(b) The chief judge of each district court shall convene an advisory group, appointed in accordance with subsection (e) of this section, to assist the court in conducting each assessment under subsection (a) of this section.

"(c)(1) In conformance with guidelines which the Judicial Conference shall prescribe, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets.

"(2) In performing the assessment for a district court, the advisory group shall--

"(A) determine the condition of the criminal and civil dockets;

"(B) identify trends in the case filings and in the demands being placed on the court's resources;

"(C) identify the principle causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which the litigants and their attorneys approach and conduct litigation; and

"(D) develop recommendations for actions by the district court which, in the opinion of the advisory group, would reduce cost and delay in civil litigation in the district court.

"(3) In developing its recommendations to the district court, the advisory group shall--

"(A) take into account--

"(i) the particular needs and circumstances of the district court, litigants in such court, and the litigants' attorneys; and

"(ii) the findings set out in section 471 of this title; and

"(B) ensure that the recommended actions are balanced to provide for significant contributions toward reducing such cost and delay to be made by the court, litigants in the court, and the litigants' attorneys.

"(d) Upon completion of the assessment by the advisory group of a United States district court, the advisory group shall submit to the court a report containing--

"(1) the matters referred to in subparagraphs (A) through (C) of subsection (c)(2) of this section; and

"(B) any recommended actions developed pursuant to subparagraph (D) of such subsection.

"(e)(1) The chief judge of each United States district court shall appoint, after consultation with the other judges of such court, an advisory group for the purposes of this section.

"(2) The advisory group of a district court shall include attorneys and other persons that are representative of major categories of litigants in such court, as determined by the chief judge of such court.

"(3) The members of the advisory group of a district court shall serve at the pleasure of the chief judge of such court but in no event longer than nine years.

"§ 473. District court action

"(a) Each United States district court shall--

"(1) carefully consider each report made by the court's advisory group under section 472(d) of this title; and

"(2) implement those recommendations contained in the report which the court determines are feasible and constructive and may be implemented in accordance with section 2071 of this title.

"(b) The chief judge of the district court shall transmit a copy of each report referred to in subsection (a) of this section and a report on the actions taken by the district pursuant to such subsection to--

"(1) the Judicial Conference of the United States;

"(2) the judicial council of the circuit in which the district court is located; and

"(3) the chief judge of each of the other United States district courts located in such circuit.

"§ 474. Review of district court action

"(a) The chief judges of each United States district court in a circuit shall, as a committee--

"(1) review each report submitted to such chief judges by a district court pursuant to section 473(b)(3) of this title; and

"(2) make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation in the district court.

"(b) The Judicial Conference of the United States--

"(1) shall review each report submitted by a district court pursuant to section 473(b)(1) of this title; and

"(2) if the Judicial Conference determines that the district court has not adequately responded to the conditions relevant to the criminal and civil court dockets of the court or to the report of the district court's advisory group, may request the district court to take additional action.

"§ 475. Information on litigation management and cost and delay reduction

"(a) The Judicial Conference of the United States shall prepare, periodically revise, and transmit to the United States district courts a document that contains and explains a wide range of various actions that a district court could take to resolve civil litigation cost and delay problems, including various approaches to case management, cost containment, and alternative dispute resolution.

"(b) The Judicial Conference of the United States shall develop and transmit to the United States district courts two or more model sets of actions that a district court could take to resolve civil litigation cost and delay problems.

"(c) Every three years, the Judicial Conference of the United States shall prepare a comprehensive report on all reports received pursuant to section 473(b)(1) of this title during the three years, including--

"(1) a description of the current conditions and trends in the district courts, as identified pursuant to section 472(c)(2) of this title; and

"(2) the actions recommended and taken under section 473(a)(2) of this title in response to such conditions and trends.

"(d) The Judicial Conference of the United States shall, on a continuing basis--

"(1) study ways to improve case management and dispute resolution services in the district courts; and

"(2) make recommendations to the district courts on ways to improve such services.

"(e)(1) The Judicial Conference of the United States shall prepare and periodically revise a manual for litigation management and cost and delay reduction.

"(2) The manual shall be developed after careful evaluation of as many of the actions taken by the United States district courts under section 473(a)(2) of this title as is practicable and the results of such litigation management and cost and delay reduction demonstration programs as the Judicial Conference may conduct.

"(3) The manual shall contain a description and analysis of the litigation management and cost and delay reduction techniques and programs considered most effective by the Judicial Conference.

"§ 476. Training programs

"The Judicial Conference of the United States, through the Director of the Administrative Office of the United States Courts and the Director of the Federal Judicial Center, shall develop and conduct comprehensive education and training programs to ensure that all judicial officers, clerks of court, courtroom deputies, and other appropriate court personnel are thoroughly familiar with the most recent available information and analyses about case management and other techniques for reducing cost and expediting the resolution of civil litigation.

"§ 477. Automated case disposition information

"The Director of the Administrative Office of the United States Courts shall ensure that the automated docket of each United States district court has the program capability readily to retrieve information about (1) the status of each case in such court, and (2) the court resources necessary to dispose of that case."

(2) The table of chapters at the beginning of such part is amended by adding at the end thereof the following new item:
"23. Civil litigation cost and delay reduction".

(b) Implementation.--(1) The first assessment under section 472 of title 28, United States Code (as added by subsection

(a)(1)), shall be completed not later than _____, 199__.

(2) The first action by each United States district court under section 473(a)(2) of such title shall be completed not later than _____, 199__.

SEC. 4. DEMONSTRATION PROGRAM.

(a) Program Required.--(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a demonstration program in not more than five district courts that are located in districts of various sizes and have various docket conditions.

(2) The Judicial Conference of the United States may provide for the participation of a United States district court in the demonstration program only if a majority of the judges of such district court volunteer the court for participation in such program.

(b) Experimental Cost and Delay Reduction Methods.--The demonstration program shall provide for district courts to experiment with various methods of reducing cost and delay in civil litigation, including alternative dispute resolution programs.

(c) Study of Results.--The Judicial Conference of the United States shall study the experience of the district courts under the demonstration program.

(d) Report.--Not later than March 31, 1995, the Judicial Conference of the United States shall transmit to the Committees

on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 5. AUTHORIZATION.

(a) Civil Litigation Cost and Delay Reduction.--There is authorized to be appropriated not more than \$10,000,000 for the implementation of chapter 23 of title 28, United States Code, as added by section 3.

(b) Demonstration Program.--There is authorized to be appropriated not more than \$5,000,000 to carry out section 4.