

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
1942 UNITED STATES COURTHOUSE
75 SPRING STREET, S.W.
ATLANTA, GEORGIA 30303

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cc: AM

CHAMBERS OF
WILLIAM C. O'KELLEY
CHIEF JUDGE

February 14, 1992

Honorable Robert M. Parker
Chief United States District Judge
United States District Court
100 U.S. Courthouse
221 West Ferguson
Tyler, Texas 75702

Dear Judge  Parker:

I am writing to you in your capacity as the Chairman of the Committee on Case Management and Court Administration. As one of the ten pilot courts under the Civil Justice Reform Act of 1990 (CJRA), the Northern District of Georgia "implemented" its plan late last year. I have previously provided you a copy of the Court's Civil Justice Expense and Delay Reduction Plan.

In September 1991, the Northern District of Georgia responded to the Special Budget Call for the Implementation of the Civil Justice Reform Act. At that time, the Court was able to project its needs in terms of travel, reporter costs, office expenses, etc. However, the Court was unable to estimate at that time other costs which would be attendant to implementation of CJRA since the Advisory Group was just completing its Advisory Report and the Court had not, therefore, had an opportunity to consider the Advisory Group's recommendations. In November, the Court received an interim allotment to cover most of the costs included in the September request, with the exception of requests for additional positions which, as I understand, have been referred to your Committee.

This Court's Plan provides for two alternative dispute resolution programs: a court-annexed arbitration program and a procedure for the appointment of a special master to conduct evidentiary hearings in very complex cases. Both of these programs were recommended by the Advisory Group. Implementation of these programs was, however, made contingent upon the Court receiving government funding.

The Court has projected the total amount needed to underwrite operation of these two ADR programs for July, August, and September 1992, the three months remaining in Fiscal Year 1992, as being \$241,500.00. I have enclosed a detailed breakdown of the costs associated with each program as well as an explanation of how each entry was determined. The effective date for local rules adopted and amended pursuant to the Plan is July 1, 1992. If funding is provided, the alternative dispute resolution programs would go into effect at that time as well.

It is my understanding that your Committee is reviewing supplemental budget requests made pursuant to CJRA. I am, therefore, directing this request for funding for the Northern District of Georgia to you, but will provide the Court Administration Division with a copy of this request.

The Court would appreciate your review of this request as early as possible, particularly as an early response on the issue of funding will enable the Court to initiate procedures for implementing the ADR programs.

Yours truly,



William C. O'Kelley

Enclosure

cc: Honorable Orinda D. Evans
Chairman, Rules and Bar Committee

Mr. Luther D. Thomas
Clerk of Court

Mr. James W. McCormack
Court Administration Division ✓

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
CIVIL JUSTICE REFORM ACT OF 1990
SUPPLEMENTAL BUDGET REQUEST
FOURTH QUARTER -- FISCAL YEAR 1992
FEBRUARY 14, 1992

COURT ANNEXED ARBITRATION

Arbitrator's Compensation:
75 Cases @ \$500.00 per case (\$250.00 per day) \$ 37,500.00
Arbitrator's Expenses \$ 6,000.00
TOTAL ARBITRATION COSTS \$ 43,500.00

REFERENCE TO SPECIAL MASTERS

Special Master Compensation
11 Cases (1 per judge)
180 Hours per Case (30 days x 6 hours per day)
@ \$100.00 per hour \$198,000.00
TOTAL SUPPLEMENTAL BUDGET REQUEST \$241,500.00

Among mediation, minitrial, and summary jury trial, the ADR devices specifically mentioned in 28 USC §473(a)(6), this Court has the greatest interest in mediation, especially with regard to its complex, Type II civil caseload. However, after deliberate inquiry and study, the Court has concluded that the Advisory Group was correct in its assessment that the Court, its bar, and its litigants will best be served by first gaining experience with a more familiar adjudicatory type of ADR program such as arbitration before turning to a less familiar negotiative procedure such as mediation. The Court also believes that more extensive training is needed to prepare attorneys to become good mediators as opposed to training attorneys to become good arbitrators. It is the Court's opinion that prior experience with arbitration will enable the Court to develop a stronger pool of mediators in the event the Court determines, at a later time, that a mediation program should be established.

B. Reference to Special Masters.

Recommendation 6 of the Advisory Group encourages the Court to adopt a new local rule " . . . authorizing the parties in complex litigation to agree jointly upon the selection, appointment, and payment of a special master . . . [who] would be authorized under a specially tailored Order of Reference to control and manage discovery, conduct a trial of the action, and enter Findings of Fact and Conclusions of Law dispositive of the case and render a decision which would be

binding on the parties. The rulings and findings of a Special Master would be reviewable by the Court and could be reversed if clearly erroneous. Otherwise, the Findings of Fact and Conclusions of Law of the Special Master would be entered as the final judgment in the case." Advisory Report, pp. 47-8. See also Advisory Report, pp. 49-50; 54-5; 71.

The Court adopts this proposal and recommends that it be broadened: (1) to acknowledge the judge's authority, in compliance with the provisions of FR CivP 53, to initiate appointment of a special master in complex cases; and (2) to develop a list of persons qualified to serve as a special master from which the parties could select a special master to be paid out of government funds appropriated for this pilot program. Special masters chosen by the parties from outside this list would be paid by the parties pursuant to prior agreement between them.

New local rules implementing the special master procedure and the court-annexed arbitration program will be prepared when the Court receives confirmation of the presence of funding and statutory authority to support these two new programs.

VII. Voluntary Litigation Techniques (28 USC §473(b)).

Several specific amendments to the Local Rules of Practice of this Court have been incorporated into this Plan in order to implement litigation techniques