

**U.S. District Court
for the
District of Nebraska**

**CIVIL JUSTICE DELAY
AND EXPENSE REDUCTION
PLAN**

November 1993

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA
CIVIL JUSTICE DELAY AND EXPENSE REDUCTION PLAN

This civil delay and expense reduction plan for the District of Nebraska is being adopted pursuant to the Civil Justice Reform Act of 1990, 28 U.S.C. §§ 471-82. The plan is being adopted after consideration of the report and recommendations of the Advisory Group for the District of Nebraska submitted to the Court on April 16, 1993. The plan includes only those recommendations of the Advisory Group pertaining to action that should be taken by the United States District Court for the District of Nebraska. It does not include the Advisory Group's recommendations to the legislative and executive branches or the Supreme Court of the United States.

II.

The following are the components of the plan:

1. In Omaha, the court will consider the following alternatives to reduce the impact of the criminal docket on the trial and disposition of its civil docket:
 - a) The periodic setting aside of a two or three week period during which certain civil cases that have pretrial orders on file and which the lawyers estimate will take five (5) days or less to try will be placed on one trailing calendar and called for trial.
 - b) The splitting of the criminal and civil dockets, with at least one of the district judges assigned to deal only with the civil docket.
 - c) Including magistrate judges in the civil case assignment rotation with a provision permitting either party to require reassignment of the case to a district judge.

2. The court will consider modifying the use of a trailing docket in Omaha to utilize a method of setting trials which more closely parallels the method used in Lincoln.

3. The court will consider modifying the local rules of practice to provide for automatic discovery between the parties to include

- a) Identification of the issues of fact and issues of law which the party contends are raised by their claims;
- b) The name and address of each witness known to the party;
- c) Identification, location, and name of custodian of documents or records which are relevant to their claims.

4. The court intends that dispositive motions be decided within sixty days after the motion is deemed to be submitted. Generally, motions will be decided in the following order of priority:

- a. Post trial motions;
- b. Pre-answer, dispositive procedural motions;
- c. Pre-answer motions to dismiss on substantive legal grounds;
- d. Motions for judgment on the pleadings;
- e. Motions for summary judgment;
- f. Other motions.

5. Within sixty days after the defendant or defendants have appeared, the court will commence the progression of the case in accordance with Fed. R. Civ. P. 16(b). The court will suggest or solicit progression deadlines in a scheduling letter or conference or will establish

deadlines in a scheduling order subject to amendment. Except in unusual circumstances, the pendency of dispositive motions will not delay the scheduling or progression of the case.

6. The local rules will be amended to provide for a court annexed mediation procedure in cases deemed appropriate for mediation. The procedure to be utilized in referring a matter for mediation, selecting the mediator, and conducting the mediation shall be as directed by a standing order of the district judges or by amendment to the local rules. The court will attempt to utilize the resources of the Nebraska Office of Dispute Resolution in consultation with the practicing bar in drafting the standing order or local rule.

7. In civil actions in which the mediation procedure described in the preceding paragraph is not utilized, a district judge or magistrate judge will consult with the parties and/or counsel early in the progression of the case regarding settlement, and will make a determination as to whether a settlement conference with the court would be likely to assist the parties in resolving their dispute. If the court decides such a conference would likely be helpful, the parties and counsel will be directed to appear at a settlement conference. The local rules may exempt certain categories of cases from the operation of this paragraph.

8. The court will, through amendments to the progression order or otherwise, require the parties to file motions in limine or on before the date of the pretrial conference and will rule, prior to the trial of the case, on those motions in limine which, if granted, would eliminate substantial issues or substantial evidentiary showings at trial.

9. The proposed pretrial order submitted by the parties shall identify any videotape deposition intended to be offered. If there be any objection to any portion of the videotape deposition, a transcript of the deposition shall be presented to the trial court with a list of objections, identifying the applicable page and lines of the transcript. The trial judge will rule on the objections, if possible, at least three working days prior to trial. If rulings are made more than three working days before trial, counsel shall edit the videotape deposition prior to trial to eliminate unnecessary or stricken portions of the deposition.

10. When hearings on pending motions or status conferences are to be convened, consideration will be given to conducting such proceedings by telephone conference call to expedite their disposition.

11. The court will establish a separate multiple defendant case assignment deck for criminal cases involving five or more defendants;

12. When motions for summary judgment are considered by a district judge and are denied on the ground that a genuine issue of material fact exists for trial, the court will issue a short opinion so stating, rather than a lengthy opinion canvassing the materials on file in support of or opposition to the motion.

13. The court will develop uniform procedures for arraignments, sentencings, and changes of pleas in criminal cases in order to reduce or eliminate disparities in the amount of time spent by different judges on these matters.

14. The court will develop a uniform pretrial procedure for criminal cases involving wiretaps that will provide for the editing of tapes and transcripts in order to streamline the trial of criminal actions in which wiretaps are involved.

15. The court has reviewed the Civil Justice Reform Act report submitted by the Committee, and in preparing this plan, has considered the principles and guidelines of litigation management described in 28 U.S.C. § 473.

This Civil Justice Delay and Expense Reduction Plan may be amended by the court at any time. The court will continue to consult with the Advisory Group on the operation of the plan. Information about the operation of the plan or comments and suggestions on the plan should be communicated to:

Advisory Group on Civil Justice Delay and Expense Reduction
Office of the Clerk
United States District Court for the District of Nebraska
P.O. Box 129
Omaha, NE 68101

SCHEDULE FOR IMPLEMENTATION: The provisions of this plan shall be implemented as soon as it practicable, and this implementation shall be completed by July 1, 1994.

DATED this 5th day of November, 1993.

BY THE COURT:

s/s Lyle E. Strom
LYLE E. STROM, Chief Judge

United States District Court

s/s William G. Cambridge

WILLIAM G. CAMBRIDGE, Judge
United States District Court

s/s Richard G. Kopf

RICHARD C. KOPF, Judge
United States District Court