

FEDERAL PRACTICE COMMITTEE
Minutes of Meeting
October 14, 1997
Cornhusker Hotel - Lincoln, NE

Those present: Judge Lyle E. Strom, Magistrate Judge David L. Piester, Magistrate Judge Kathleen A. Jaudzemis, Magistrate Judge Thomas D. Thalken, Bart McLeay, Roger W. Kirst, Mark Christensen, John Guthery, Sandra L. Dougherty, John A. Gale, Gail S. Perry, David R. Stickman, Mark Weber, Bob Rossiter, Pat Barrett, Ed Hotz, John G. Sennett, and Norbert H. Ebel.

APPROVAL OF MINUTES

The first item was the approval of minutes. A motion was made, seconded, and carried.

LAWYER APPOINTMENT SUBCOMMITTEE

Ed Hotz reported that he and Pat Barrett have been working on a letter to go to 39 firms of 5 attorneys and more requesting their cooperation. He also stated that they are working on the maintenance of sample pleadings and briefs. It was suggested that they check with the magistrate judges and the clerk for sample pleadings. It is intended to put together a book containing sample pleadings in discovery matters and case progression - substantive materials - prepared by the end of the year. This would be available to new attorneys that get these cases.

It was suggested that experienced attorneys give advice to less experienced and Ed said this would be figured out. Ed and Pat have a list of 100 attorneys who have agreed to take cases. A copy will be sent to the magistrate judges showing the name, address and telephone number. The list must be updated periodically.

TECHNOLOGY SUBCOMMITTEE

The Minneapolis automated courtroom and a state courtroom in Kansas City were mentioned. A meeting was had with the U.S. Attorney regarding ELMO or DOAR equipment. There is a need to move forward. The equipment obtained must be portable and training will be required to operate such equipment. By the next meeting, we hope to have acquired some of this equipment. There was a plan to charge members to use this equipment, but this was further discussed and it is now the feeling that members should be allowed to use it without a charge.

RULES SUBCOMMITTEE

Professor Whitten was not present. The Chair brought out the fact that rules have been proposed for this Committee. The length of Committee appointments has not been determined. Some operating guidelines have been drafted and approved. Chief Judge Cambridge wanted to distribute the rules among the judges first and get their input. The rules provide that a member cannot be on the Committee over three years except for ex-officio members.

NORTH PLATTE COMMITTEE

John Sennett stated that it appears the North Platte office is being used more than in previous years. If there is something that can be done to increase the usage, he would like to see it done. The district judges are using the space for trials in May and October. Cases have now been assigned to judges and magistrates permanently and it is possible to have more than one judge go out in each trial session. The same judge who prepared the case will be the judge that tries the case. Senior Judge Strom is now in North Platte trying the cases that were scheduled for October. Bankruptcy has been using the facility periodically. The magistrate judges will also hear consent cases in North Platte.

The U.S. Attorney plans to have an assistant U.S. attorney located in North Platte and criminal cases will be scheduled in North Platte.

SEMINAR SUBCOMMITTEE

David Stickman stated that a seminar is scheduled today in conjunction with the Nebraska State Bar meeting. Magistrate Judge Piester and Magistrate Judge Jaudzemis have graciously volunteered to present topics at this seminar. One hundred notebooks have been prepared and 70 people, to date, have registered. A question was asked about a full day seminar being planned, and this must be planned far ahead. We have had many seminars at the Bar Association meetings, but we have not had day-long seminars. It was suggested that the mini-seminars continue, but that a full seminar could be planned.

It was also suggested that those who attend the seminar today be given a survey form so they could check what they would like to have presented. Get input. It was also brought out that Gail Perry would be receiving the Pro Bono Award at this fall meeting.

ADR/MEDIATION SUBCOMMITTEE

It was stated that the subcommittee has not met recently. A inquiry was made as to whether the evaluation form had been revised. More and more, people are getting experience with mediation

and can comment. The Federal program has a 30 to 40 case settlement rate. Cases have been also mediated privately that we do not know about. The Omaha Bar Association mediation program is off to a slow start and there is an Omaha group of private mediators that have been organized and soon to be in competition with the Omaha Bar Association program.

Magistrate Judge Piester advised that two meetings have been held with the mediators. A number of changes have been proposed in the Plan. They were adopted at the last judges' meeting. We have had declining participation in mediation - less referrals. Discussion of operating guidelines will be carried over to the next meeting.

DISCUSSION OF MINNESOTA LOCAL RULE 7

This rule originated in New Jersey and was then introduced in Minnesota. It was stated that the purpose was to make sure that the Court does not see case disposition motions until the pros and cons of the case are ironed out. Too many motions have been filed that were not meritorious. This rule makes lawyers talk to each other. It was stated that the Northern District of Illinois has a similar rule because hearing were always had on motions, but hearings are not always had on motions in our district. The Minnesota rule did cause later trial dates.

It was suggested that the practicing attorneys would have a better feeling as to whether motions are being handled fairly, and unless the Bar is upset, the motion practice should be let alone. We might look at the conditions in New Jersey and Minnesota before the rules were changed. Contact could be made with attorneys in those districts.

This matter was brought up at the judges' meeting in September and Chief Judge Cambridge asked that it put on the agenda of the Federal Practice Committee for discussion.

APPOINTMENT OF NEW CHAIR

This will be done by Chief Judge Cambridge. A new Chair begins on January 1, 1997.

Respectfully submitted,

Norbert H. Ebel