GUIDE

TO

JUDICIAL

CASE

MANAGEMENT

Best Practices, International Standards,
And Procedures in the United States District Court
For the Northern District of California

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I. Introduction to Judicial Case Management

A. What is judicial case management?

Judicial case management is a set of procedures which judges can employ to handle cases more efficiently and effectively, and to expedite or promote the settlement of legal disputes. It gives judges a more active role in preparing cases for trial, and in making sure that procedural steps take place according to strict schedules. Giving judges a pro-active role in managing the pleadings, the discovery process, evidence and witnesses, and narrowing down the issues in dispute is intended to save court resources and time.

In this sense, judicial case management modifies the traditional paradigm, often still applied to this day, under which judges avoid becoming actively engaged during the initial or pre-trial phases of litigation, unless called upon by the lawyers or litigants to resolve a dispute. Indeed, deferring to lawyers and litigants to take the lead in preparing cases for trial and scheduling the trial is often considered to be an integral characteristic of the adversarial process. Under this model, judges take full charge only when the case is ready for trial, and they must preside over hearings, make rulings, assess evidence, hear witnesses, make findings of fact, and issue a judgment which applies laws to those facts. In short, judges "deliver justice" through trials which are organized with the support of other court personnel when the lawyers and litigants decide that they are ready.

What is the result when judges are not active during the pre-trial phase and/or play a passive role in case management, and lawyers have excessive influence and control over the progress and pace of litigation, up until and even including trial? Experience in numerous jurisdictions shows that giving lawyers too much latitude, particularly in the pre-trial phase but also in preparing for and conducting trials, can lead to a) delays and continuances, b) lack of respect for deadlines, c) wasted time in court, d) increased costs to litigants and the court system, and e) longer duration between case filing and conclusion. In other words, when lawyers manage cases, the wheels of justice may turn more slowly, and litigation may end up consuming more resources.

As a result, many jurisdictions are increasingly recognizing the value of judicial case management for controlling the court docket and administering justice, and are putting in place the legislative and procedural framework for its implementation. Naturally, this is based on and reflects the particular circumstances and traditions in each country or court system. Still, the principles apply to common law and civil law countries alike. While the systemic application of judicial case management has its historical origins in common law countries, most particularly the United States, it offers universal benefits. This is because the key elements of the judicial process, such as organizing and validating the pleadings, narrowing the areas of dispute between the litigants, controlling the identification and presentation of evidence and witnesses (expert and fact), staying on schedule, and streamlining trials are common to all adversarial court systems.

The overall objectives of judicial case management are to make the court system and the handling of court cases more efficient and effective (by allocating resources optimally), and to secure the settlement of cases before trial (when appropriate). Efficiency in this context means the optimal use of both public and private resources. This includes a) material/physical resources (such as court facilities, equipment, and transport vehicles), b) human and managerial resources (including judges, court personnel, and legal professionals), and c) time. These three categories of resources are intricately inter-related. For example, successful time management promotes the efficient use of human resources and physical resources (such as courtrooms). And effective human resource management reduces the amount of time that cases take. Therefore, it is beneficial to establish and apply sound management standards, and monitor and improve them through quality control.

B. To what categories of cases does judicial case management apply?

Generally speaking, judicial case management is more prevalent and more actively applied in civil and commercial cases. Still, some aspects of judicial case management are valuable in criminal cases, particularly when it comes to organizational and scheduling requirements, and securing forensic analysis and witnesses. But additional factors must be considered. Constitutional rights and human rights must be respected, and cannot be compromised or curtailed on the basis of the calendar. In other words, judicial case management in criminal cases must carefully avoid unfair or unconstitutional violations of human rights, and unfair limits on the time allocated to protect these rights. In addition, many aspects of judicial case management in criminal cases are regulated by statute, such as those which require speedy trials (which can only be waived by defendants).

The application of judicial case management in other kinds of cases, such as administrative or family law cases, depends upon their nature. When constitutional rights or financial penalties are implicated, the rationale for and repercussions from judicial case management are affected. Therefore, the scope of judicial case management must be carefully considered.

Pro-se litigation presents special circumstances. In some jurisdictions, a large percentage of civil cases are tried by litigants acting on their own behalf, without professional legal assistance. In serious criminal cases counsel is usually mandatory, under international standards and domestic law. In other kinds of cases the incidence of pro-se litigation varies, and it depends on the jurisdiction. Special care may be required on the part of judges and court staff when cases proceed pro-se. Some courts provide detailed informational materials for pro-se litigants. They are a major resource for guidance on navigating judicial proceedings in certain jurisdictions, such as the United States. They are also a valuable public service that promotes confidence in the court system.

For purposes of clarity concerning the application of judicial case management, we will avoid terms such as “legal case management” and “case flow management”, which are also occasionally utilized. These terms can end up being problematic. They can be conceptualized more broadly, to include the activities of court administrators and personnel, or even lawyers and law firms, when these parties are modernizing and streamlining their case handling procedures, particularly through the use of information technology, software development, and even artificial intelligence. The term “judicial case management”, on the other hand, emphasizes the specific role of judges in the litigation process and in controlling the cases assigned to them.

C. What is the authority for judges to engage in judicial case management?

Generally speaking, judicial case management is inherent to the role and powers of judges to oversee the litigation process and administer/deliver justice in both civil law and common law countries.

The ultimate authority for specific applications of judicial case management in civil cases derives from the powers which judges have to make decisions, rule on motions, and impose sanctions (including if necessary taking disciplinary action against lawyers and litigants). For example, judges can be specifically empowered (by statute or procedural rules) to:

1. Dispose of issues completely, or strike claims which are not authorized by law
2. Narrow the scope of issues in dispute
3. Exclude evidence (physical, documentary, laboratory, etc.)
4. Reject or limit the number of witnesses (expert or fact)
5. Limit the scope or duration of testimony, particularly when it is repetitive or not relevant
6. Impose costs on lawyers or litigants who cause un-necessary expense or delay for their opponents or for the court
7. Impose ethical or contempt charges against lawyers or litigants in cases of misconduct or failure to comply with court rulings

Under the most egregious circumstances, judges can even be empowered to dismiss a case entirely. This can be appropriate if a case is without merit, presented in bad faith, presented for purposes of delay, or has an ulterior motive such as harassment or abuse of process.

Naturally, use of these judicial powers must be legally justified in a written decision or oral decision placed on the record. Furthermore, such decisions are always subject to judicial review upon appeal, as a matter of right. Therefore, judges can be expected to use these powers carefully, thoughtfully, justifiably, transparently, and with due respect for the substantive and procedural rights of all concerned. In most cases, prior warnings are issued and documented, with reference to court rules or case processing procedures. Sanctions are usually imposed gradually and incrementally, allowing multiple opportunities to comply. Throughout this process, judges usually prefer to gain compliance through persuasion, and the minimal appropriate degree of sanction.

In all cases where sanctions are applied, judges must prepare and preserve the records which justify their rulings, and fully facilitate appeal. Judges who abuse their powers, exceed their authority, act in an arbitrary fashion, or fail to sufficiently justify their rulings on the record are subject to both reversal upon appeal and disciplinary action, and jeopardize their professional status/reputation.

Having the above-listed powers gives judges the status and inherent ability to influence the course and development of proceedings in a number of ways. Clearly, they become authorized to exercise considerable latitude in setting the schedule and time-frame for different procedural matters. They can establish procedures and mechanisms which lawyers and their clients must respect and use during the discovery process, motion practice, and when preparing cases for trial. In certain

respects, the power to set dates and deadlines for each activity during the course of litigation is the most straightforward and the most effective tool judges can use to manage their cases.

D. What are the benefits of judicial case management?

Enabling judges to take a more pro-active and less passive approach to oversight and case monitoring generally reduces costs and delays. Thus, it makes good sense. From years of experience, judges know what kinds of problems arise and the stages of litigation where they arise, in different categories of cases. Judges can play an active role in solving these problems before they arise, and in getting lawyers to solve problems by themselves without judicial intervention. Indeed, lawyers are most likely to solve their own issues when they a) know that a judge is about to do it for them, and b) know that the judge will be disappointed in them for not being more pro-active, pragmatic, and cooperative in the first place. Clearly, it is good practice for judges and lawyers to engage in problem-solving at the earliest possible moment.

Schedules, procedural checklists, and guidelines are the most effective tools for making sure that lawyers and litigants take the correct actions at the right time. Deadlines keep cases on track. They make overall case management more effective and efficient, in a transparent fashion that is clear to all. Providing information about the average amount of time each procedure normally takes and tracking the amount of time different procedures actually take alerts lawyers and litigants when they are not moving forward expeditiously. Procedural checklists create a written/electronic record of what has been done and when, and what remains to be done. This serves several valuable purposes, such as monitoring and case tracking, preserving the record for appeal, and justifying the imposition of disciplinary sanctions. Guidelines for handling cases provide highly valuable information for litigants, standardize practice, and reduce uncertainty and excessive discretion.

Judicial case management can serve as a reality check for lawyers. It forces them to focus on the most important aspects of cases, and it brings them "down to earth" regarding the practical tasks which they must perform in order to prevail at trial. It also prevents them from obtaining financial benefit from dilatory or repetitious behavior, that is to say it limits their ability to run up costs for their clients through delays and inefficiencies. Furthermore, it limits the power of lawyers to use delay as a tactical tool to obtain advantage, or as a strategic tool to subvert the cause of justice.

Judicial case management can serve as a reality check for litigants (whether pro-se or represented by counsel). They must learn about and respect/follow the procedures and requirements inherent to the pursuit of remedies through the court system. And they must attentively and promptly attend to the day-to-day realities of litigation. Interestingly, clients often view judicial case management favorably, since they want their lawyers to stay on top of things and aggressively move their case forward. Time is often of the essence for clients, and even when it is not they usually appreciate having regular contact with a lawyer who is aggressively and rapidly handling numerous things.

In addition to helping dispose of cases more expeditiously, judicial case management can also reduce the number of cases which actually go to trial and help identify cases which will not need to go to trial, thereby promoting sound docket management. As lawyers and clients actively prepare their case, they are forced to realistically assess their ability to prove their claims and

prevail, starting at the earliest stage of litigation. This discourages over-optimistic thinking, and forces lawyers and clients to regularly re-evaluate their case, in the light of constant developments. It also encourages serious consideration of the cost of litigation, and how costs will rise as opponents take countermeasures. This encourages settlement, which is a positive outcome of judicial case management, or in the alternative it narrows the scope (and therefore expense) of litigation.

Indeed, the prospects for aggressive judicial case management can discourage litigants from filing cases in the first place, since they will be told by their lawyers about the pressure involved. It can be argued that if judges were unable to significantly reduce the number of cases which require trial during the pre-trial process, they would probably not be able to handle their caseloads in most jurisdictions.

Judicial Case Management can also promote the resolution of disputes on the basis of the merits. It can reduce the opportunities for one side to obtain an unfair advantage through tactical/ procedural mechanisms. It can also partially redress imbalances and disparities between weaker and stronger litigants, which under certain circumstances can be dispositive of a case.

Finally, it is important to understand that many key aspects of judicial administration and the delivery of justice are directly affected by the level of efficiency and the timeliness of proceedings. They include independence of the judiciary, access to justice, impartiality and fairness of the system, competence and integrity of judges and court personnel, the quality of rulings, legal certainty, public trust in the judiciary, and overall transparency. For example, access to justice and public trust are compromised in jurisdictions where cases take too long to resolve. And fairness and integrity are compromised by insufficient judicial control over proceedings.

E. What is the current assessment of the results of judicial case management?

In spite of the benefits cited above, judicial case management is not a panacea, and there is opposition to certain aspects of it. While it is generally acknowledged that judicial case management shortens the timeframe of litigation, some practitioners and scholars contend that it actually increases costs by front-loading activities in cases that might otherwise move slowly and then be settled without much activity. The fact that ninety percent of civil cases are settled before trial in many jurisdictions raises questions concerning how much energy should be devoted to preparing them for trial.

Some experts argue that when judges actively manage cases it exceeds their powers and diminishes the role and status of lawyers, who should be treated as "officers of the court" and respected as honored legal professionals. Under this paradigm, lawyers a) have significant credentials, b) are subject to stringent ethical obligations and rigorous disciplinary procedures, and c) can and should be allowed use their professional judgment to determine and best serve the interests of their clients. Furthermore, questions have been raised regarding the potential for judges to abuse or impose their views upon litigation through procedures which are less formal, less visible, and more discretionary than traditional activities such as holding hearings and deciding motions (which are either public or on the record or both). In this light, it is contended that judges should serve as

guides during the pre-trial process, without excessively imposing upon the professional independence of lawyers and the attorney-client relationship (at least not at the start of litigation, and not without sound justification for doing so).

A number of studies have been conducted to measure the results of judicial case management and test these hypotheses. This is a difficult process, because of the lack of baselines and controls, as well as statistical variability. Generally speaking, the studies indicate that judicial case management shortens the length of proceedings, obliges lawyers to behave more attentively, and discourages frivolous litigation. However, the evidence concerning cost reduction is more equivocal. It appears that judicial case management can front-load expenses for the litigants that might not otherwise occur, including attending conferences and rapidly conducting discovery. Some judges prefer to limit the amount of time they spend in conferences with lawyers and litigants. For an analysis of these issues, see the 1996 Rand Corporation publication "An Evaluation of Judicial Case Management Under the Civil Justice Reform Act".[1]

Nonetheless, moving cases more quickly clearly reduces administrative costs for the court system. Letting cases languish and hopefully eventually settle before being worked-up encourages frivolous litigation and keeping files open. And the prospects for active judicial case management certainly affect calculations of lawyers and clients as they approach litigation and prepare for trial.

Therefore, the overall result of early judicial engagement in the litigation process through case management is generally considered to be better management of the courts, and more dedicated attention to cases on the part of lawyers and clients. This is particularly the case when procedures are automatic, when excessive court hearings/conferences are not required, and when judges have discretion to take account of the specific situation in each case. Designing the judicial case management system to meet the actual challenges and issues prevalent in a jurisdiction increases the chances of such positive results. Carefully considering the categories of cases which would most benefit from judicial case management also enhances the chances of positive results. Accordingly, judicial case management, particularly in civil cases, should be considered an important tool for promoting the speedy, efficient, and just resolution of litigation at reduced overall cost for courts and for litigants.

II. International Standards for Judicial Case Management

The study and application of judicial case management principles and practices is being carried out by numerous international institutions, national professional bodies, and national court systems. It is important and useful to review current developments, and assess a select sample of the initiatives which are underway, before turning to practice in the United States and in Egypt.

It should be understood that the main focus of these initiatives is resource management within the context of fair and sound administration of justice. As mentioned previously, the main categories of resources required by court systems are a) material/physical, b) human, and c) time. The basic objectives, principles and practices of judicial case management are comparable for each of these

[1] https://www.rand.org/pubs/monograph_reports/MR802.html

three categories of resources. They include a) minimizing utilization, b) rationalizing utilization, and c) maximizing output. For example, successful judicial case management systematically minimizes the amount of court facilities, human work, and time required for processing cases.
The following sample should be considered representative, and is not presented in order of significance. The sample starts with international instruments and institutions, continues with transnational bodies and their work, and then looks at selected jurisdictions.

1) The European Convention on the Protection of Human Rights and Fundamental Freedoms. Article 6 (1) of the ECHR imposes a requirement upon the forty-seven member states of the Council of Europe to provide hearings on civil rights and obligations by an independent and impartial tribunal "within a reasonable time". The European Court of Human Rights has repeatedly held that the Convention requires administering justice without delays which might jeopardize effectiveness and credibility. Accordingly, "court inactivity", "judicial inertia in producing evidence", and "inaction of judicial authorities" have been considered violations of the reasonable time requirement (Beaumartin v France, No 15287/89). Factors which may be taken into consideration include the complexity of the case, the nature of evidence required, and the conduct of the litigants. Judges also play a key role in this process (Sürmeli v Germany). For further details, see the "Guide on Article 6 of the European Convention on Human Rights", Pages 62-67.[2] See also the CEPEJ Compendium of "best practices" on time management of judicial proceedings, discussed below.

2) The Council of Europe. In 1984 the Committee of Ministers of the Council of Europe issued Recommendation No. R (84) 5, on "Principles of Civil Procedure Designed to Improve the Functioning of Justice".[3] The Recommendation sets forth a number of powers which judges can exercise to manage and expedite proceedings. Specifically, judges should be empowered to:

- Sanction litigants who do not "take a procedural step within the time limits fixed by the law or the court" (Principle 1)
- Proceed in the absence of witnesses who fail to attend scheduled hearings (Principle 1)
- Issue summary rulings or impose fines in cases which lack merit or when lawyers improperly delay proceedings (Principle 2)
- Call for evidence and control the taking of evidence (Principle 3)
- Make sure that claims, defenses, and evidence are "presented at the earliest possible stage of the proceedings and in any event before the end of the preliminary stage, if there is one" (Principle 5)
- Expedite the handling of certain appropriate kinds of cases through preliminary hearings, restrictions on defenses, appointment of court experts, and "playing an active role… in conducting the case and calling for and taking evidence" (Principle 7)

Principle 3 also calls for judges to "play an active role in ensuring the rapid progress of the proceedings".

[2] http://www.echr.coe.int/Documents/Guide_Art_6_ENG.pdf
[3] https://wcd.coe.int/com.instranet.InstraServlet?Index=no&command=com.instranet.CmdBlobGet&InstranetImage=603496&SecMode=1&DocId=682030&Usage=2

Council of Europe Recommendation No. R (95) 12 "On the Management of Criminal Justice" specifically calls for the application of case differentiation in criminal cases.[4] Point 5 recommends establishing definitions of "criteria for efficient workload management and for the appropriate handling of the different categories of cases". Point 6 further recommends the development of screening techniques "to allow judges and prosecutors, as from the first stages of proceedings, to handle cases in a differentiated manner".

3) The Organization for Economic Cooperation and Development. The Paris-based OECD, founded in 1961, addresses judicial case management in Economic Policy Paper Number 5, entitled "Judicial performance and its determinants: a cross country perspective" (5 June 2013).[5] The term "Case Flow Management" is utilized. Case Flow Management is defined as "the set of actions that a court can take to monitor the progress of cases and make sure that they are managed efficiently". This includes a) setting, monitoring, and enforcing deadlines, b) screening cases to select the most appropriate dispute resolution track, and c) early identification of potentially problematic cases (see page 22). Accordingly, Case Flow Management can be considered a synonym for judicial case management. The potentially important role of court presidents in the exercise of management powers is emphasized.

4) The European Commission for Efficiency of Justice (CEPEJ). The CEPEJ is a judicial body affiliated with the Council of Europe, and led by experts from its forty-seven member states. The CEPEJ has developed a number of standards and assessment tools for measuring different aspects of court performance. It provides extremely valuable comparative information on the practices in member states, gathered from surveys and expert reports.

The CEPEJ began its work in this area with a Compendium of "Best Practices" on Time Management of Judicial Proceedings, adopted on 6-8 December 2006.[6] The Compendium reviews timeframes in significant detail, defining them as "inter-organizational and operational tools to set measurable targets and practices for the timeliness of case proceedings". Section 4.4 covers active case management by judges. Judges are described as the "third impartial player" in a conflict resolution process, and are held responsible for setting the pace of litigation independent of the interests of the litigants. Therefore, "they should have a pro-active role in case management in order to guarantee fair and timely case processing, according to timeframes".

The CEPEJ adopted a Checklist for Promoting the Quality of Justice and the Courts (2-3 July 2008).[7] The following indicators cover aspects of judicial case management:

- I.1.5: Do the courts have defined performance targets?

[4] https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804c07f5
[5] http://www.oecd-ilibrary.org/economics/judicial-performance-and-its-determinants_5k44x00md5g8-en;jsessionid=148s4slk2twsu.x-oecd-live-03
[6] https://rm.coe.int/16807473ab
[7] https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2868121&SecMode=1&DocId=1281474&Usage=2

- II.4.4: Can judges take alternative, yet non-coercive measures to solve conflicts during a pending proceeding?
- II.5.2: Is a court hearing scheduled within some days after having received the case, in cooperation with the counsel of the parties, to decide on the duration of the proceedings and the time needed to prepare for the main court hearing?
- II.5.3: Is there a system for measuring the timely start of hearings?
- II.5.6: Do [judges] control the allocation of the parties' and witnesses' speaking time? Do [judges] control the timetable of the proceeding?
- II.6.1: Is there a policy for setting foreseeable and optimum timeframes?
- II.6.3: Is there a policy for managing case flows preventing delays?
- II.6.5: Is there an active role for the judge in the management of the timeliness of the proceedings?

See also the CEPEJ Time Management Checklist for judiciaries, prepared in 2005.[8]
The CEPEJ has issued "Guidelines in the field of efficiency of justice."[9] Section V on page 23 provides Guidelines for Judges. Under the heading "active case management", they state that:

1. The judge should have sufficient powers to actively manage the proceedings.
2. Subject to general rules, the judge should be authorized to set appropriate time limits and adjust the time management to the general and specific targets as to the particulars of each individual case

Litigants and counsel should participate in the process of establishing the procedural calendar, and should be held accountable for compliance.

5) The CEPEJ SATURN Center for Judicial Time Management was established in 2007 in order to conduct comparative studies in this area and develop tools which ensure that member states comply with the requirements of Article 6 of the ECHR regarding timely case handling.[10]

The SATURN Center developed Guidelines for Judicial Time Management in 2008, most recently revised in 2014.[11] They focus on the duration of cases and the measures which courts can take to expedite and manage hearings.

In 2015 the Saturn Center published "Comments and Implementation Examples".[12] This document presents a wealth of information concerning specific practices in the civil courts of different jurisdictions, and presents excellent comparative analysis. Two of the Guidelines are on point:

[8] https://rm.coe.int/168074767d
[9] https://www.coe.int/t/dghl/cooperation/cepej/textes/Guidelines_en.pdf
[10] https://www.coe.int/t/dghl/cooperation/cepej/Delais/default_en.asp
[11] https://rm.coe.int/16807482cf
[12] https://www.coe.int/t/dghl/cooperation/cepej/delais/2_2015_Saturn_Guidelines_commentsimplementation.pdf

- Guideline 14: Where possible, the judge should attempt to reach agreement with all participants in the procedure regarding the procedural calendar. For this purpose, he should also be assisted by appropriate court personnel (clerks) and information technology.
- Guideline 15: The deviations from the agreed calendar should be minimal and restricted to justified cases. In principle, the extension of the set time limits should be possible only with the agreement of all parties, or if the interests of justice so require.

6) The International Consortium for Court Excellence. The ICCE has prepared an International Framework for Court Excellence, which is designed to serve as a court management tool that can be used to measure and improve the administration and delivery of justice.[13] It includes a model quality management methodology to measure a) court performance and b) the management of court performance. The Framework is used by members of the Consortium, which include courts in many different countries, plus a number of judicial training institutions.

Section 3.1.4 of the Framework assesses court proceedings and processes:

> "Excellent courts review the conduct of proceedings and, based on an analysis and description of work processes, identify aspects of court proceedings for improvement. Timeliness and foresight are crucial."
>
> "The standard operating procedures of an excellent court comprise important elements such as agreed upon time standards, establishment of case schedules in individual cases, the active role of the judge with respect to time management, limitations in the postponement of court sessions, effective scheduling methods for court sessions, and the use of differentiated case management and, if applicable, alternative dispute resolution techniques."

The ICCE has also developed Global Measures of Court Performance.[14] The criteria most relevant for judicial case management are: 1) On-Time Case Processing, and 2) Trial Date Certainty.

On-Time Case Processing (Core Measure Number Four) is defined as "the percentage of cases disposed or otherwise resolved within established timeframes." Information about the length of time which is required to process cases facilitates comparisons with other courts in the same and other jurisdictions, and with international standards. It highlights inefficiencies and serves as an indicator of "certainty, predictability, timeliness, and efficiency of case processing." Expeditious case processing which maintains the necessary standards of justice enhances trust and confidence in the judicial process. The Global Measures present a methodology for making calculations, taking into account the categorization of cases, the operational definition of filing and resolving the different categories of cases, and the establishment of time reference points and benchmarks.

Trial Date Certainty (Core Measure Number Eight) is defined as "the certainty with which important case processing events occur when scheduled expressed as a proportion of trials that are

[13] www.courtexcellence.com
[14] www.courtexcellence.com

held when first scheduled." This indicator quantifies the ability of courts to carry out important case processing events (particularly trials) on their scheduled date, and serves as a tool for evaluating the effectiveness and efficiency of various case management techniques. This includes judges' calendaring and continuance practices. The analysis and application of these criteria shows that setting firm trial dates is directly associated with shorter time-frames for disposing of cases. Like On-Time Case Processing, this measure of performance indicates "certainty, predictability, timeliness, and the efficiency of case processing."

The following section contains a brief description of various aspects of judicial case management in selected countries. Much of the information is compiled from publications of the Saturn Center of the European Commission for the Efficiency of Justice (CEPEJ).

Australia. The movement towards judicial case management in Australian federal courts began in the 1990s, following experience in United States Federal Courts. In a 2014 speech, codified in "Judicial Case Management and the Problem of Costs" (FCA) FedJSchol16,[15] Chief Justice James Alsop stated:

> "The need for judicial management of individual cases is now the received wisdom across Australia. By the end of the 1990s, most Australian courts had implemented case management procedures, which take various guises... Each judge is responsible for the matters in his or her docket. The systems rationale is to promote more active and effective judicial case management in order to streamline processing, encourage early settlement and, overall, to dispose of cases more efficiently. Efficiency in this context denotes the reduction of delays and costs. One of the promised benefits of the new system was cost savings brought about by judges' familiarity with matters in their dockets."

Despite positive aspects of Australian application of judicial case management in federal courts, Judge Alsop admonishes against blind application, and points out that it can lead to increased costs when applied too rigorously. He also calls for sound exercise of professional responsibility on the part of lawyers, and notes that court personnel other than judges can play a positive role in reducing costs and avoiding delays.

For a Circular to Practitioners on Pre-Trial Conferences and Case Management, articles by judges on judicial case management in Australia, and a Case Management Handbook prepared by the Law Council of Australia, see the Bibliography in Section VII below, Points 20, 21, 22, and 23.

Austria. District Courts have a tracking system which issues alerts when there is no activity on a case for three months. Judges and the Head of Courts are notified, and there are procedures for ensuring follow-up.

Canada. The Provincial Court of British Columbia uses Judicial Case Managers who are not full judges to perform judicial case management. They are responsible for

[15] http://www.austlii.edu.au/au/journals/FedJSchol/2014/16.html

> "providing "effective, efficient court scheduling and coordination of all matters within a judicial region. Assigned responsibilities by the Chief Judge, JCMs manage cases and schedule hearings and trials. They may also be required to preside as a justice under the Criminal Code in uncontested, non-adjudicative appearances before trial. JCMs manage the flow of all Provincial Court appearances and ensure that judicial resources are used effectively, in a manner that minimizes court down-time and is consistent with the policies and practices of the Court… JCMs must hold a justice of the peace commission and they act as judicial officers, exercising judicial discretion and authority within their assignment."

It is important to state that in the overwhelming majority of jurisdictions this is not considered a best practice. Full judges have greater authority, and are taken more seriously by lawyers and litigants alike. Furthermore, assigning judicial tasks to anyone other than a full judge raises legal, practical, and ethical issues.

Further information about Judicial Case Managers in British Columbia is available at: http://www.provincialcourt.bc.ca/about-the-court/judicial-officers/justices-peace/judicial-case-managers Information regarding judicial case management in Ontario, Canada is available at: https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/lesage_code/chapter_4.php

Denmark. Judges hold meetings with prosecutors and defense counsel to set the schedule in criminal cases. Preparatory case meetings are now standard practice in different courts.

Estonia. The nationwide court information system KIS permits the on-line monitoring of all cases. Judges and court presidents have real-time access to an overview of the stages of proceedings. The Tallinn Administrative Court has set a goal to handle all cases within 100 days, and has a monitoring system in place to supervise this.

Finland. Courts in Finland keep monthly statistics and produce annual reports indicating the status and duration of cases. Courts in Finland set strict guidelines concerning the duration of cases. In the Turku Regional Administrative Court, all steps in the proceedings of each case are registered in the case management system, and judges are alerted. Litigants receive notice of established deadlines. In the Administrative Courts and the Insurance Court, there is an alarm system with four stages to notify judges of the status of cases and alert them when cases approach their established deadline. In District Courts, judges must meet with lawyers at the start of cases to establish a projected timeline.

Georgia. The Tbilisi Court of Appeals has established strict timelines for proceedings. Information which facilitates monitoring of compliance is available on-line. Indicators from the Time Management Checklist are being utilized.

India. The National Court Management Systems "Baseline Report on National Framework of Court Excellence"[16] states on Page 19 that:

> "Matters can no longer be left to the litigants or the counsel representing them to determine the pace of litigation, but the judges, litigants and their counsel should work as a team to achieve expedition and efficiency in the court proceedings."

This led to the introduction of specific performance measurement indicators recommended by the International Consortium for Court Excellence. However, Indian courts are reputed to have significant problems with backlogs and case long duration.

Ireland. The High Court authorizes and requires judges to use a number of measures to streamline and expedite proceedings. Judges should set timeframes, hold case management conferences (automatically at the start of cases and later at the request of litigants), control discovery, narrow the issues for trial, hold pre-trial conferences to make sure that all steps have been taken to make the trial efficient, and disallow costs when they are unwarranted. The High Court also uses "Call Overs" to make sure that cases are ready for trial, and that no outstanding issues remain. The Dublin Commercial Court moves cases more expeditiously by reducing timeframes, and empowers judges to impose financial penalties/costs for non-compliance with court directions.

Italy. In the Courts of First Instance, judges are expected to meet with litigants to establish a timeframe for each case and to encourage settlement. However, certain legal provisions give the litigants procedural rights that delay proceedings, which judges can not disregard. For example, see Article 183 of the Italian Code of Civil Procedure, regarding pleadings and timeframes. Decree-Law No. 132 of 12 September 2014 (D.L. 132) attempts to reduce backlogs by giving judges a greater role in ADR.

Latvia. Courts started to set strict time limits on the duration of cases in 2014. In the Riga Central District Court, the head of court holds weekly meetings with judges to discuss problems and solutions regarding the timely disposition of cases, and has the power to discipline judges who fail to meet required standards.

Lithuania. The Court Information System LITEKO facilitates electronic monitoring of the disposition of cases and their duration. The Vilnius Regional Administrative Court has set strict time limits for handling cases, in accordance with the Law on Administrative Proceedings, and the average length is now below eight months.

Norway. The national electronic case handling system (LOVISA) monitors the key landmarks in civil litigation, and produces monthly compliance reports which are available to all judges. The landmarks include case planning meetings and holding trial. The Ministry of Justice has set the standard that civil cases should be completed in less than six months. Warnings are issued when cases exceed their allotted duration. Judges hold mandatory case management meetings at the start of civil cases, to discuss claims, evidence, and scheduling.

[16] http://supremecourtofindia.nic.in/pdf/NCMS/National%20Framework%20of%20Court%20Excellence.pdf

New Zealand. The Ministry of Justice issued a Regulatory Impact Statement on Improving Case Management for Civil Cases in the High Court in 2012.[17] The objective of the RIS is to "reduce delays and encourage efficient use of judicial resources". Judicial case management is presumed to be beneficial because courts need to manage cases in order to ensure that resources are used efficiently. In the context of the RIS, case management refers to "the processes whereby judges, supported by court staff, manage the progression of most civil cases through the High Court system." One of the main features of the case management process as set forth in the High Court Rules, is a number of "case management conferences", where lawyers and litigants address issues such as timetabling, and the sufficiency of pleadings before a judge.

The RIS calls for the modification of the system through more efficient use of conferences, enhanced case differentiation, and greater focus on narrowing the issues in dispute at trials. This is expected to save resources by reducing the duration of cases and the length of trials. Reliance upon court staff in the process is not recommended, since they lack the status and legal knowledge of judges, are less effective, would require extensive training, and would need to be monitored through the use of procedural safeguards.

Switzerland. Several cantons have systems for flagging cases which take longer than a defined period of time (such as two years) so that they receive special attention. Judges in many courts are expected to establish concrete schedules for cases, in consultation with the lawyers.

United Kingdom. The Rules of Civil Procedure enable parties to notify the court if the opposing party is not in compliance with required timeframes. Judges of the High Court of Justice are responsible for ensuring compliance with established timeframes, and can impose costs on parties which cannot justify delays.

One of the main protagonists of judicial case management in the United Kingdom was Lord Woolf. He was the architect of the Civil Procedure Act of 1997 and Civil Procedure Rules of 1998. Lord Woolf considered the legal system too rigidly adversarial, and found that it suffered from excessive costs, delays, and complexity, in significant measure due to the way that judges work. As a result, he sought to promote amicable settlement and greater judicial control over pre-trial proceedings.

Lord Woolf introduced measures to enhance judicial responsibility for managing individual cases and for supporting the overall administration of civil courts. The goals of the reforms were to: 1) encourage settlement/avoid litigation, 2) encourage parties to be less adversarial and more cooperative, 3) reduce the complexity of litigation, 4) minimize delays, and 5) reduce costs. Greater and more prompt exchange of information between the parties and narrowing of the issues in dispute, both under the direction of judges, were considered important measures for facilitating the early settlement of cases. For this purpose, the revised procedures include "Pre-action Protocols" covering the actions judges can take to expedite and simplify cases, and promote settlement. They also include case differentiation into one of three tracks (small claims, fast track, or multi-track), with different regimes, depending on the case value or amount of claim.

[17] http://www.treasury.govt.nz/publications/informationreleases/ris/pdfs/ris-justice-icm-dec12.pdf

For further information concerning the reforms introduced by Lord Woolf, see Chapter Three of "*Access to Justice: Inte*rim Report". [18]

Finally, it is interesting to note that a number of institutions and private companies now offer training courses and literature/materials on judicial case management. The courses, which generally range from one to two weeks, are offered on a commercial basis. Some of the courses and materials cover more general topics relating to the role and obligations of judges. Others focus directly on judicial case management. Promotional materials for these courses specifically mentions training judges on how they can:

a) Help improve the case management system
b) Most effectively utilize limited judicial resources
c) Use their management and leadership skills to better handle cases and influence the behavior of others
d) Make use of information technology to support case management
e) Pro-actively monitor progress in cases
f) Set appropriate and challenging performance targets
g) Monitor and evaluate case management performance

The courses are designed for judiciaries which cannot or do not offer such training themselves. Promotional materials for these commercial courses can easily be found on-line.

This brief survey clearly demonstrates that international and comparative practices highlight both beneficial experience and common challenges. Further research, analysis, and training to raise professional qualifications are required in order to improve practice. Careful consideration of what is being done in different jurisdictions and the results achieved through different experiments will contribute to development of standards and best practices, and thereby improve results over time.

III. Judicial Case Management in the United States Federal Courts

The introduction of active judicial case management in United States Federal Courts came about partially in response to a dramatic increase in both the quantity and the complexity of civil litigation during the second half of the twentieth century. In order to accelerate trials (reduce the amount of time between filing and trial), minimize case backlogs, and reduce costs, enhanced/ active judicial case management was combined with increased recourse to ADR and greater utilization of automation and information technology.

Judicial case management was originally applied to handling particularly complicated or protracted litigation, but its use was gradually expanded. The change from a master calendar system (under which judges shared cases and passed them to other judges at different stages) to an individual case assignment system (under which a specific judge handles each case from beginning to end) in the 1960s constituted a major turning point. It made active judicial case management

[18] http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/civil/interim/chap3.htm
And also: https://www.lawteacher.net/free-law-essays/civil-law/woolf-reforms.php

possible. It incentivized judges to take charge of their cases. And it made judges more accountable, by facilitating the collection of statistics on individual performance. Changes to Federal Rule of Civil Procedure 16 in 1983 and 1993 contributed to this process, by giving judges greater powers and by promoting court-annexed ADR in conjunction with and as a part of active judicial case management.

The movement towards active judicial case management took a major step forward in 1983 with additional modifications to the Federal Rules of Civil Procedure which promoted early judicial intervention in the handling of civil cases. Judges were specifically authorized to a) require lawyers and litigants to attend pretrial conferences, b) issue case management and scheduling orders which set time limits for handling various aspects of cases, c) set a specific and firm date for trial, d) work with lawyers and litigants to resolve issues which arise at the earliest possible stage, e) narrow the issues being tried, f) eliminate frivolous claims, and g) sanction lawyers and litigants who undermine or fail to meaningfully participate in the judicial case management process. These practices were codified in Federal Rule of Civil Procedure 16, which is attached as Appendix "E".

In addition, active judicial case management was woven into the civil discovery process. Rule 26(b) was changed in 1983 to require judicial intervention in cases of redundant or disproportionate discovery. Rule 26(f) was amended in 1993 to make discovery planning conferences mandatory. And subsequent amendments to Rules 16 and 26 addressed the increasingly challenging subject of electronic discovery.

The Civil Justice Reform Act of 1990 (Pub. L. No. 101-650, 104 Stat. 5089) obliged the United States Federal Courts to monitor the pace and resolution rates of all court cases and encouraged utilization of a wide range of judicial case management techniques. It required each court to develop and implement a "civil justice expense and delay reduction plan", and establish a case management system. Case management includes "early and ongoing control of the pretrial process through involvement of a judicial officer", whose main tasks include supervising the progress of cases and setting firm dates for each stage of the proceedings, most particularly trial.

The Federal Rules of Civil Procedure were recently amended in 2015. One of the goals of these amendments, according to the Advisory Committee, was to "improve early and active judicial case management". For this purpose:

- Rule 4(m) was amended to reduce the timeframe for service of complaints to 90 days
- Rule 16(b)(2) was amended to decrease the time judges have to issue scheduling orders from 120 to 90 days (from the filing of the answer)
- Rule 16(b)(3)(B) was amended to expand the scope of permitted contents of scheduling orders, and
- Rule 26(b)(1) was amended to strengthen the concept of proportionality in addition to relevance during the discovery process, and thereby limit overbroad or burdensome requests for information

Although these are not considered major amendments, they are being interpreted by Judges as further support for active and early judicial case management.

Active and early judicial case management was increasingly covered and encouraged by the Judicial Conference of the United States, the policymaking body for administration of the federal courts. For example, see the "Civil Litigation Management Manual" of 2010, prepared by its Committee on Court Administration and Case Management.[19] The Manual states on Page 5 that "Establishing early control over the pretrial process is pivotal in controlling litigation cost and delay".

The Manual proposes a series of mechanisms, including initial scheduling orders, case management conferences, case management guidelines, early case screening, differentiated case management, mandatory initial disclosure, case management plans, scheduling orders, discovery management, pre-trial motions, and ADR. Amongst them, control over scheduling is paramount. As stated on Page 13: "The foundation of civil case management is the case schedule, which sets deadlines for both attorney and judicial actions leading to case disposition." By making trial dates meaningful, judicial case management promotes predictability and timely disposition.

As a result of these developments, judicial case management has been increasingly integrated into judicial training programs as well.

Under the legal and regulatory framework described above, the main enforcement powers which judges can exercise in the course of judicial case management include:

- Preventing a disobedient party from presenting or opposing designated claims or defenses
- Striking pleadings or parts thereof
- Staying further proceedings until an order is obeyed
- Ordering the payment of expenses, including lawyer fees, which result from irresponsible or inappropriate conduct, and
- Dismissing all or part of a case

In addition to the general powers listed above, United States Federal Courts can utilize certain very specific case management techniques. They include:

- Scheduling periodic case management conferences, in person or by phone/ videoconference, to monitor the pre-trial process
- Using motion practice to eliminate or narrow areas of dispute and disputed facts
- Encouraging litigants to stipulate/agree to certain matters, relating to facts or evidence
- Ordering disclosure/discovery of information or evidence on specific factual issues (this is a frequent source of dispute between lawyers, particularly electronic discovery)
- Imposing quantitative and qualitative limits on discovery
- Circumscribing the presentation of cases at trial, by limiting the number of witnesses which can be called or the number of exhibits or documents which can be introduced
- Determining the order in which factual or legal issues can be presented at trial
- Consolidating different cases having common issues or facts, for discovery and/or trial

[19] https://www.fjc.gov/sites/default/files/2012/CivLit2D.pdf

Federal judges also have the power to automatically assign cases to court-annexed ADR. This includes court-sponsored mediation or arbitration, or private services (when the litigants so agree). Court-annexed ADR can be before a judge (other than the one assigned to try the case) or it can utilize the services of specially trained and retained individuals (usually lawyers). ADR is discussed in detail in Section IV C below.

It is important to understand that cases are generally handled by both a Federal Judge appointed under Article III of the Constitution and a Magistrate Judge acting on the authority of the Court. The latter usually plays a leading role in the judicial case management process.

Naturally, the utilization of the above-specified case management tools under the Federal Rules of Civil Procedure can and should be tailored to meet the specific requirements of each case. Special factors to consider include the nature of the claim, the level of public interest in the case, the complexity of the issues before the court, the number of litigants, the status and resources available to the different litigants, and specific evidentiary or procedural requirements.

The following sources provide guidance and information concerning the application of judicial case management in United States Federal Courts:

The Benchbook for United States District Court Judges (2013), prepared by the Federal Judicial Center (hereinafter the Benchbook), presents a detailed discussion of the role of federal judges in case management.[20] Section 6.01 highlights the powers and techniques outlined above, and makes a number of important points concerning the application of judicial case management. Most poignantly, the Benchbook emphasizes that judges should be active case managers, stating that "Active judicial case management is an essential part of the civil pretrial process".

Among the key tools which judges can rely upon are Rule 16 case management conferences and case management orders. According to the Benchbook, case management duties are shared by the judge and the lawyers/litigants. Lawyers/litigants have initial responsibility, and exercise first-level control, as the principal managers of their cases. But they perform this task under judicial supervision, and according to the schedule and procedures established by the judge. Therefore, if the lawyers or litigants will not or cannot jointly manage their preparations for trial, or if they engage in dilatory conduct, judges must intervene and take charge. This can be done a) by guiding the lawyers and litigants, or b) by directly exercising judicial authority.

The Benchbook clearly points out that although cases fit into categories, each one is somewhat different. Therefore, a flexible approach is always warranted, and each case must be given individualized attention, under the responsibility of the judge.

The Federal Judicial Center is the research and education agency of the judicial branch of the American government, founded in 1967. It has produced many manuals and guidelines, and makes

[20] https://www.fjc.gov/content/benchbook-us-district-court-judges-sixth-edition-0 or https://www.fjc.gov/sites/default/files/2014/Benchbook-US-District-Judges-6TH-FJC-MAR-2013.pdf

them available in an electronic library at: https://www.fjc.gov/subject/case-management The FJC has materials in Arabic, which are available at: https://www.fjc.gov/content/arabic-العربية
In 2006, the Federal Judicial Center published a second edition of "The Elements of Case Management: A Pocket Guide for Judges".[21] It clearly states on page 1 that" "A small amount of a judge's time devoted to case management early in a case can save vast amounts of time later on… Judges who think they are too busy to manage cases are really too busy not to."

An extremely valuable guide with a library of sample forms and orders which judges can use for different aspects of judicial case management is also available from the Federal Judicial Center.[22]

The Federal Judicial Center also provides materials concerning judicial case management in criminal cases. For example, see its "Manual on Recurring Problems in Criminal Trials" of 2010.[23]

The American Bar Association is one of the largest professional organizations in the world, and provides support for the rule of law and legal reform in more than forty countries through its Rule of Law Initiative. It has supported judicial case management for three decades, and has published extremely useful materials. In 1986 it published a manual entitled "Defeating Delay."[24] The importance of establishing judicial control early in the litigation is highlighted. Key tools include control over the civil discovery process, effective calendaring, date certain scheduling (including firm trial dates), and a strong policy regarding the issuance of continuances. As stated on page 40: "Establishing judicial responsibility for the pace of litigation, combined with active case flow management and the use of techniques for reducing delay and backlog, has reduced delay in many jurisdictions".

In 1992 the American Bar Association Judicial Administration Division published "Standards Relating to Trial Courts"[25]. According to Standard 2.3.1:

> "Judges are responsible for the prompt and just disposition of matters assigned. The bench has the duty to control the movement of cases through the system".

According to Standard 2.50:

> "From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events, is unacceptable and should be eliminated. To enable just and efficient resolution of cases, the court, not the lawyers or litigants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and …maintaining a current docket."

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[21] https://www.fjc.gov/sites/default/files/2012/elemen02.pdf
[22] https://www.fjc.gov/content/civil-litigation-management-manual-second-edition-0
[23] https://www.fjc.gov/sites/default/files/2012/ManRec6th.pdf
[24] https://www.americanbar.org/content/dam/aba/publications/judicial_division/lc_defeating_delay_1986.authcheckdam.pdf
[25] https://www.americanbar.org/content/dam/aba/migrated/divisions/Judicial/MO/MemberDocuments/trialcourtstandards.authcheckdam.pdf

The commentary to Standard 2.50 states that "The court must take the initiative to eliminate the causes of delay". Furthermore, it concludes that "the leading cause of delay has been the failure of judges to maintain control over the pace of litigation". However, it is worth noting that judges do not need to impose control if lawyers and litigants are keeping the pace of litigation under control in the first place.

Standard 2.51 lists several mechanisms for achieving this objective, including time and clearance standards, timeframes for the conclusion of each stage of the litigation process, procedures for identifying cases which are likely to be protracted combined with special measures for their handling, and firm scheduling of trial dates. Court supervision, starting with early planning conferences, is crucial. Differentiated case management makes it possible to handle cases according to their particular characteristics, and to pay special attention to those cases which are likely to cause the most significant problems.

In 2006 the American Bar Association published Standards for Criminal Justice, "Speedy Trial and Timely Resolution of Criminal Cases".[26] Standard 12-1.5 and Standard 12-4.2 concern case flow management systems, and how they can help to ensure the timely handling of criminal cases. Standard 12-4.3 addresses the activities of different parties, such as law enforcement officers and investigators, and how they can take measures to meet and comply with speedy trial requirements.

The American Bar Association Section of Litigation conducted a "Member Survey on Civil Practice" in 2009.[27] On page 3, the report states that:

- 78% of respondents believe that early intervention by judges helps to narrow the issues, and 72% believe that early intervention also helps to limit discovery
- 73% of all respondents believe that when a judicial officer gets involved early and stays involved, the results are more satisfactory to their clients

Support from lawyers is important for the implementation of judicial case management. The survey indicates general acceptance by the bar of the role of judicial case management in litigation.

The American Bar Association has also developed a Model Code of Judicial Conduct. Rule 2.6 B provides that: "A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement."

The National Center for State Courts (NCSC) has developed Trial Court Performance Measures, which are denominated "CourTools".[28] Although they are non-binding, and not directly applicable to United States Federal Courts, they serve as a valuable standard and reference.

[26] https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/speedy_trial.authcheckdam.pdf

[27] http://www.uscourts.gov/sites/default/files/aba_section_of_litigation_survey_on_civil_practice_0.pdf

[28] http://www.courtools.org/Trial-Court-Performance-Measures.aspx

The CourTools cover, inter alia, Time to Disposition and Trial Date Certainty. They closely correspond to the Global Measures of Court Performance issued by the International Consortium for Court Excellence, of which the NCSC is a very active member. Time to Disposition is defined as "the percentage of cases disposed or otherwise resolved within established time frames". The standards include percentages of a variety of different categories of cases which should be completed within strictly specified time limits. Trial Date Certainty is defined as "the number of times cases disposed by trial are scheduled for trial". This is a measure of how many times different categories of cases are continued, despite having received a trial date. It is noted that "credible trial dates require a firm and consistently applied policy to limit the number of trial day continuances".

Experience with active and early judicial case management in the United States Federal Courts indicates that it does oblige judges to allocate additional time and attention to the pre-trial phase, and to conferences with the lawyers and litigants. However, this appears to be an investment which is worthwhile in the long run. Solving problems early and pro-actively usually saves time and ultimately expense. And it incentivizes and reinforces productive approaches on the part of the lawyers and litigants. In other words, lawyers are more likely to engage in sound self-management when they know that in the alternative the judge will be obliged to manage them. As the Benchbook states in Section 6.01: "Active case management promotes justice by focusing the parties and the court on what is truly in dispute and by reducing undue cost and delay".

IV. Judicial Case Management in the United States District Court for the Northern District of California

Like most legal reforms, the movement for greater judicial case management described above has faced resistance from a number of sources, including some judges and lawyers. This is only natural, since all professionals are somewhat reluctant to modify practices which derive from historical traditions and established standards of conduct, particularly when it comes to something as fundamental as the role of the judge. Furthermore, different courts face different kinds of challenges. In other words, specific requirements for judicial case management depend upon a) the type of court or subject matter jurisdiction (specialized or general jurisdiction) b) the territorial jurisdiction (municipal/local, state/regional, national/federal) and c) the level of court or instance (trial court, appellate court, or supreme/cassation court). Issues concerning the respective responsibilities of judges and lawyers and the utility of ADR are additional factors. Consequently, it is only natural to find variations in the nature of the approach and the rapidity of progress.

The customary approach and first step for innovations which face potential resistance in the United States Federal Courts is to initiate a pilot program. Pilot programs engage select judges or courts which are most supportive or which have experience with innovation and business re-engineering (strategically restructuring management, operations, procedures, and the performance of job functions to promote effectiveness and efficiency). This ensures that the principals engaged in the process are committed to making progress, and will take a pragmatic approach to instituting measures which might prove necessary or beneficial (flexible application and innovative modification). This process builds experience, establishes a track record, creates measurable data, and (hopefully) generates momentum for expanding the initiative. When unsupportive or

unconvinced people see positive results, they are more likely to become engaged in the process. Successful pilot initiatives also set the stage for adopting legislation or enabling rules.

Because of its experience handling other similar initiatives, and its reputation for flexibility and innovation, the United States Federal Court for the Northern District of California was selected to implement judicial case management reforms on a pilot basis. What began as a pilot initiative has now developed into standard practice, applied throughout the United States Federal Court system. It is also commonplace to varying degrees in many state courts.

The five key features of judicial case management, as applied in the United States District Court for the Northern District of California, are:

1. Established case management procedures which are applied at each stage of litigation
2. Judicial orders specifying what lawyers and litigants should do, as well as when and how
3. Checklists for standardizing case management and making sure that all preparations for trial take place and are on schedule
4. Informational documents that provide guidance for lawyers/litigants concerning what they need to do and how they should prepare for trial
5. Regular communication between judges and lawyers/litigants to address any issues that arise

Below is a summary of the key aspects of judicial case management in the United States Federal Court for the Northern District of California, at each stage of litigation.

A. Steps taken when a civil case is filed

When a plaintiff or plaintiffs file a new civil case, the court provides them a series of documents designed to organize their activities during the initial stages of the litigation. Key among them is an Initial Case Management Order.

The key elements of an Initial Case Management Order include:

a) A scheduled date for an Initial Case Management Conference, which usually takes place approximately 120 days from the date of filing of the complaint (depending on the schedule of the assigned judge)
b) Information and deadlines for participating in the Alternative Dispute Resolution Multi-Option Program governed by ADR Local Rule 3
c) A deadline for the lawyers to submit a Joint Case Management Statement, usually one week before the Initial Case Management Conference

The dates and timeframes for activities specified in an Initial Case Management Order are for the most part set automatically by computerized programs based on specific parameters established by the presiding judge. A typical sample Initial Case Management Order is attached as Appendix "A". This and similar documents are fully available on the court website, so that interested parties always know what to expect.

B. Steps taken during the first 120 days of civil litigation

During the first 120 days of a case, the lawyers/litigants are required to perform a number of steps which prepare the case for trial. For example, they must:

a) Complete service of the complaint and finalize all pleadings and related documents
b) Participate in the mandatory Alternative Dispute Resolution Multi-Option Program
c) Prepare a Case Management Statement
d) Attend an Initial Case Management Conference which addresses key issues relating to handling the case

In preparation for the Initial Case Management Conference, the attorneys must meet to discuss the nature and basis of their claims and defenses, and consider any prospects for resolution without litigation. As part of this process, they must a) exchange information concerning their cases, such as the identity of witnesses, the kinds of evidence they intend to use, and how damages are being calculated, b) work together to develop a plan for discovery and the exchange of information, c) make arrangements for ADR, d) plan their schedule for moving the case forward, and e) establish an approximate date for trial. The results of their communication are presented to the court in the form of a Joint Case Management Statement.

The requirements for a Joint Case Management Statement are set forth in significant detail in a Standing Order. They include a) an explanation regarding jurisdiction, b) a statement of facts, c) a statement of legal issues, d) information concerning pending motions, d) information concerning evidence and discovery, e) an explanation of the relief which is sought, f) an indication of the prospects for settlement, g) information concerning issues which can be resolved prior to trial, h) information concerning the scheduling of discovery, motions, and trial, i) information concerning the trial, and j) certifications that all attorneys have reviewed the Guidelines for Professional Conduct for the Northern District of California. The latter certification ensures that the requirements for civility and collegiality are understood.

The Standing Order for All Judges of the Northern District of California on the Contents of the Joint Case Management Statement is attached as Appendix "B". Form 35, which is attached as Appendix "C", facilitates carrying out a similar exercise.

The Initial Case Management Conference takes place on the date indicated in the Initial Case Management Order. All litigants and lawyers must appear in court before the judge assigned to their case. The conference has three overriding purposes:

a) Resolve disputes regarding the topics listed in the Initial Case Management Order, or provide guidance on how the court expects the case to proceed
b) Develop a schedule and guidelines for the remaining pretrial proceedings, and
c) Set a date for trial. This will usually be after a period of one year, depending upon the complexity of the case and the number of litigants.

Following the Initial Case Management Conference, the court issues an Order Scheduling Court Trial and Pre-Trial Matters. See Appendix "D" for a sample.

This Order modifies and adopts the Case Management Statements, and establishes guidelines for the pre-trial process. First of all, it establishes firm dates for all key stages of the litigation, including a) trial, b) the Pre-Trial Conference, c) the last day for dispositive motions, d) the last day for each of the various stages of the discovery process, and e) a status conference. In addition, it discusses several issues in considerable detail, such as a) procedures for discovery, b) procedures for motions, c) Alternative Dispute Resolution, and d) preparations for the Pre-Trial Conference. These steps are authorized by Federal Rule of Civil Procedure 16, attached as Appendix "E". A simplified checklist for this process is attached as Appendix "F".

C. Arrangements for Alternative Dispute Resolution (ADR)

Most civil cases are automatically assigned to the court's ADR Multi-Option Program upon filing. The goal of the program is early, cost-effective, and fair resolution of civil cases, by avoiding the time and expense of trial whenever possible. Requirements for ADR are covered in local rules. Information concerning this program is available at: http://www.cand,uscourts.gov/adr The local rules are available at: http://www.cand.uscourts.gov/localrules/ADR

Under the rules, litigants must select one of the three options for ADR. If they are unable to agree on the mechanism, assistance is provided by the court ADR Department. With approval from the presiding judge, the litigants can stipulate to the utilization of an outside or private ADR procedure. In that case, the local rules do not apply.

Under the program, or by direct referral from the assigned judge, the court offers three separate and distinct ADR processes. These include:

a) Early Neutral Evaluation. ENE is designed to enhance direct communication between the litigants about their claims and supporting evidence, provide an assessment of the merits of the case by a neutral expert, provide a "reality check" for clients and lawyers, identify and clarify the central issues in dispute, assist with discovery and motion planning or with an informal exchange of key information, and facilitate settlement discussions (when requested by the litigants).
b) Mediation. The goal of mediation is to reach a mutually satisfactory agreement between the litigants, by resolving all or part of the dispute. Mediation is a flexible, non-binding, confidential process whereby a neutral mediator facilitates settlement negotiations. The mediator can meet with lawyers/litigants jointly or separately. The mediator explores relevant law and evidence, and the underlying interests, needs and priorities of the litigants. The main elements of mediation are improving communication, helping litigants clarify and communicate their interests, helping litigants understand the position and interests of the other side, probing the strengths and weaknesses of the different legal positions, identifying areas of agreement, and facilitating a mutually agreeable resolution.
c) A Settlement Conference with a Magistrate Judge. The goal of the settlement conference is to facilitate efforts to negotiate a settlement of all or part of the dispute. Mediation

techniques can be utilized to probe barriers to settlement and help formulate resolutions. Meetings can be held with the litigants or counsel. No effort is made to coerce a settlement. The magistrate judge remains neutral, and preserves the confidentiality of all communication. It should be noted that judges never preside over a settlement conference in cases which are assigned to them. A different judge is always given this task. Furthermore, this judge must preserve the confidentiality of everything which takes place during the settlement conference. The presiding judge can only be told about the results of the settlement conference (whether it was successful or not).

It is important to note that Early Neutral Evaluation and Mediation are carried out by a volunteer attorney who is a member of the court ENE or Mediation Panels. These attorneys are selected by the court and trained by court staff. Attorneys volunteer their time and treat this as a public service, taking into account that it is actually a prestigious position. They volunteer to spend at least four hours on each case. After four hours, they are entitled to charge the litigants a fee for their services, if the litigants give prior consent. As a result of the ADR process, a substantial number of civil cases are resolved without further participation by the court.

Local ADR Rule 3, summarizing the ADR Multi-Option Program, is attached as Appendix "G". Local ADR Rule 5 covers Early Neutral Evaluation. Local ADR Rule 6 covers Mediation. Local ADR Rule 7 covers Settlement Conferences. All Local Rules are available on-line.

D. Discovery

Discovery is the process whereby litigants exchange information in order to prepare their case for trial. This includes investigating factual circumstances and exchanging details about the evidence and witnesses which will be presented at trial. Discovery in the United States Federal Courts is covered by Federal Rules of Civil Procedure 26 – 37. The principal methods of discovery are taking depositions of the litigants and witnesses (fact and expert), propounding and answering interrogatories (questions), and exchanging documents and other materials. The Rules establish clear procedures and also set limits on certain types of discovery.

Nevertheless, discovery is often the most expensive and time-consuming part of civil cases in the United States Federal Courts. This is because the lawyers (on behalf of their clients) take full charge of the process, and retain their own expert witnesses. Court intervention is only sought when disputes arise. This diverges from the practice in other jurisdictions, where judges play a leading role in organizing discovery (and sometimes have to authorize it in advance), and where judges select pre-approved expert witnesses who are responsible to the court (rather than to the litigant which retains them). In jurisdictions where the judge obtains or must authorize discovery, and where experts serve the court under the supervision of the judge, discovery is usually much more limited in scope, and is not subject to as many disputes between the lawyers. It can be stated that judicial case management over this aspect of litigation is more standard practice.

Judicial intervention is especially necessary a) when lawyers engage in excessive discovery (either to impress their clients or to increase their fees), b) when relatively inexperienced lawyers make requests that are overbroad or seek irrelevant or extraneous information, and c) when lawyers try

to interpret discovery requests very narrowly to avoid providing relevant information to the other side. Timely judicial intervention will often prevent these disputes from getting out of control, and expedite the course of litigation. Judges can also impose a discovery referee, who works at the expense of the litigants, if they are not coordinating and cooperating with each other, or if they are unreasonably imposing upon judicial time and court resources.

As mentioned above, one of the biggest problems courts have encountered in recent years concerns the discovery of electronically stored information. Huge amounts of data and information can now be stored electronically. Email, which has generally replaced letters, memoranda, and telephone conversations as the preferred method of communication, often contain voluminous attachments, and are circulated to multiple recipients. Electronic information can be stored for long periods of time, and can often be retrieved by technical experts even when erased. As a result, searching for and producing electronically stored information can become burdensome and expensive.

In order to streamline the discovery process, the United States District Court for the Northern District of California obliges the lawyers/litigants to develop a discovery plan prior to the Initial Case Management Conference, and seek prompt guidance or rulings on anticipated problems. To support this process, the court has developed Guidelines for the Discovery of Electronically Stored Information, which are attached as Appendix "H". They mandate a cooperative approach to the selection, search, review, and production of electronically stored information. The requirement for proportionality means that due consideration must be given to the importance of the issues at stake, the amount in controversy, the litigants' relative access to relevant information, the litigants' resources, the importance of the discovery, and the relationship between the burden and the benefit.

A series of measures and parameters for dispute resolution are presented. To facilitate these discussions, the court has issued a Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information, which is attached as Appendix "I". These procedures and guidelines streamline and rationalize the discovery process.

E. Motion practice

The Federal Rules of Civil Procedure provide for a variety of motions which any party can present prior to trial. These motions generally attempt to dispose of all or part of the case before the trial even begins. It is often necessary for judges to set parameters for the filing of motions. This can include limiting a) repetitive motions on the same issue, b) re-filing of prior motions, c) motions for reconsideration, and d) untimely motions which could delay the trial. It is best practice to set a cut-off date for filing motions, along with a briefing schedule, to ensure that as many motions as possible can be decided before the final preparations for trial are underway.

Federal Rule of Civil Procedure 11 imposes ethical responsibility upon lawyers for any documents that they file, including pleadings and motions. Under this rule, lawyers certify that they have sound legal grounds for their actions, and that they are not taken for the purpose of causing delay. Lawyers who cannot demonstrate that their actions are based on good faith face sanctions, which are proportionate to the severity of the infraction and the frequency with which it occurs. Ensuring that the senior lawyer signs all motions (particularly those relating to discovery) and subjecting

lawyers to potential sanctions for failure to act in good faith create deterrents, and thereby streamline preparations for trial. In jurisdictions where lawyers are not ethically responsible/ accountable/sanctionable for the pleadings and motions they file, judges lack an important tool for judicial case management.

F. The Pre-Trial Conference

Federal Rule of Civil Procedure 16(d) provides for a final pre-trial conference. The pre-trial conference is designed to address and clarify a variety of issues, so that trials can proceed in a timely and orderly fashion. Accordingly, the pre-trial conference should:

a) Determine the overall length of the trial, and the time required for specific stages of the trial. Judges can specify and/or limit the amount of time which litigants have to present their cases. It can be helpful to discuss the amount of time required in hours rather than days. The time allotted to the litigants does not necessarily have to be equal. The litigant bearing the burden of proof or burden of persuasion can be allocated more time.
b) Limit the issues being addressed at trial, or narrow the issues which can be presented.
c) Identify the witnesses who are expected to testify, clarify the scope of their testimony, and resolve evidentiary issues regarding their testimony. Witnesses who are redundant can be excluded, and the subjects being addressed can be restricted.
d) Identify the documents and exhibits which the litigants expect to introduce as evidence. Issues regarding admissibility, authenticity, and relevance can be resolved by the court in advance in the event of disputes.
e) Ensure that each side exchanges information and exhibits in preparation for trial.
f) Ensure that electronic presentations and audio-visual media are fully functional. This includes setting up and testing the equipment in advance.
g) Prepare stipulations between the litigants, relating to their positions and the facts which are not in dispute.
h) Provide an opportunity for the submission of proposed jury instructions.
i) Address interpretation issues, in the event than anybody (most likely a witness) does not have sufficient knowledge of spoken or written English to communicate effectively or receive a fair trial.

The pre-trial conference makes it possible to prepare a Final Pre-Trial Order, an example of which is attached as Appendix "J".

G. Trial

Successful and effective pre-trial judicial case management can eliminate many of the issues and problems that arise at trial. Naturally, certain issues can only arise at trial itself. For example, most issues regarding juries can only be addressed when a trial by jury commences. This includes the voir dire questioning of potential jurors, where judges can take the lead, and which can take much longer when lawyers are in charge. Evidentiary issues in jury trials can also require judicial management. Many of these issues relate to what lawyers can do before the jury, and how time is utilized. In court trials without a jury, judges can exercise more discretion concerning the timing of activities such as testimony from regular witnesses and expert witnesses. In all cases, judges

can limit testimony, reject evidence which is redundant, alter the order of witnesses, or prevent a lawyer from pursuing a topic which is not relevant or inappropriate. A Checklist for Handling Trials from Section 6.02 of the Federal Judicial Center Benchbook for United States District Court Judges is attached as Appendix "K".

H. Post-Trial

Litigants have the right to present a variety of motions after trial, including requests to set aside or reverse a verdict, requests to reconsider a ruling, requests for costs, requests for attorney fees, etc. Some of these motions are mandatory, in order to preserve specific rights for the appellate process. Time frames for these motions are explicitly specified in the rules, which are very strictly enforced. Therefore, judges deal with these motions in due course, without much leeway associated with judicial case management. However, successful judicial case management which results in focused and well-managed trials significantly simplifies the post-trial process, by creating a clean trial record and by ensuring that only truly salient and important issues are raised on appeal.

V. Conclusion and Recommendations

Judicial case management, in one form or another, is here to stay, and is likely to be expanded in scope in many jurisdictions. Positive results have been obtained in a number of different court systems around the world. Support is being provided by various international institutions and national professional bodies. And substantive knowledge and experience are accumulating. Therefore, it is appropriate for each jurisdiction and court system to consider how judicial case management can be best applied, in order to promote the prompt administration of justice and the efficient use of public and private resources.

As a result of the above, the basic elements of judicial case management can be considered a fundamental duty of every national court system. The courts are responsible for administering justice and resolving disputes in the name of the government and the people, and they are entrusted with the expenditure of significant public funds. Sound overall management and sound case management are not optional.

The justification for judicial case management begins with the fundamental role of the court system. What people do on their own time with their own lawyers can be considered their own business. But a line is crossed when the public court system is involved. Once a case is brought to court, it becomes public business, and the public has a duty to move it towards resolution and disposition. Judicial case management is therefore part of the role of judges. The question is the relative extent to which they should focus on adjudication versus management.

The United States Federal Courts have significant experience with judicial case management. And it is now routinely applied in a number of state courts. American experience utilizing judicial case management procedures and techniques and the results which have actually been achieved to date should be considered by counterparts who are applying or considering the application of judicial case management practices in their jurisdictions.

Practice in the United States Federal Court for the Northern District of California deserves particular attention. It is a pioneer in this area, with more than two decades of experience, starting as a pilot court and experimental laboratory. The specific procedures applied in this court include:

1. A Joint Case Management Statement, filed by the litigants through their lawyers, to document and discuss all key aspects of the litigation, and alert the court to contentious matters from the start of the case
2. An Initial Case Management Conference before the judge, early in the litigation, utilizing the Joint Case Management Statement
3. An Order Scheduling Court Trial and Pre-Trial Matters, following the Initial Case Management Conference, which serves as a blueprint for carrying out many aspects of the litigation
4. Mandatory recourse to ADR, giving litigants a choice between three options supervised by the court (involving a judge or specially trained legal professionals)
5. Guidelines and procedures for conducting the discovery process
6. Motion practice, to resolve disputes which do not require a trial, narrow the scope of the trial, or resolve disputes which arise during preparations for trial
7. A Pre-Trial Conference, to resolve any outstanding final issues, ensure that only necessary witnesses and evidence are presented, and ensure that all preparations for trial are in order
8. A Pre-Trial Order, setting the stage for an efficient trial

In addition to these specific procedures and orders, various procedural guidelines and checklists are available to ensure familiarity with and compliance with the judicial case management process.

The attached appendices, with examples of the above orders and guidelines from the United States District Court for the Northern District of California, are a model for study by other jurisdictions.

In spite of the progress described above, it is necessary to point out that active judicial case management is still in its early stages. It modifies long-standing legal traditions, particularly in countries which follow the common law or have accusatorial systems, where lawyers and litigants have enjoyed significant influence over the pace of litigation and preparations for trial (most notably with regard to obtaining discovery and presenting expert witnesses). It can take time from judges, and it can involve them in the day-to-day activities of cases where there is a) a chance to informally influence the course of litigation and b) less transparency than public hearings and formal rulings on the record. There are differences of opinion concerning how aggressively the courts should promote settlement and Alternative Dispute Resolution procedures. The relative strengths of the parties can become a greater factor during the initial stages of litigation. And it is not always easy to develop statistical analysis which proves how costs and resource utilization are reduced. The Rand Corporation publication "An Evaluation of Judicial Case Management Under the Civil Justice Reform Act", mentioned in the Introduction, discusses many of these issues.

While definitive conclusions on many aspects of the trend towards more active judicial case management cannot be reached, it is still possible to present some preliminary general conclusions:

1) Responsibility of Judges. Judges are responsible for efficiently and effectively managing and utilizing the limited public resources which are available for the court system and for processing litigation, in addition to their fundamental duty to administer justice in a fair, impartial, and transparent manner.

2) Resource Utilization. Judicial case management should take account of the different kinds of resources that are used and expended by the courts, including physical/material resources, human resources, and time. It should aim to reduce the unnecessary utilization of resources, and promote efficiency and effectiveness in the use of resources.

3) Case Management Procedures. A number of different procedures, tools, and techniques are available to judges, in cooperation with other court personnel, when performing judicial case management. They should be analyzed and studied, in order to determine which of them and which combination(s) of them are authorized, appropriate, and most valuable in each jurisdiction.

4) Use of Deadlines. Judicial case management which is based upon and effectively enforces firm deadlines for different stages of litigation, and which includes the setting of firm dates for specific actions, is likely to reduce overall case processing times and thereby minimize delays and case backlogs. On-Time Case Processing and Trial Date Certainty are two key tools/techniques for managing deadlines and keeping cases on schedule. They are also useful indicators for measuring and improving performance and determining appropriate timeframes.

5) Narrowing the Scope of Litigation. Judicial case management which effectively narrows issues in dispute through motion practice or through compromise between the litigants and stipulations of fact can reduce the length of trials by a) reducing the number of witnesses required, b) decreasing the amount of time that witnesses take, and c) limiting the amount of evidence that needs to be presented.

6) Controlling Discovery. Judicial case management which places reasonable limits on the timing, scope, and methods of discovery, and which ensures that discovery is relevant to the issues in dispute and proportional to the interests at stake, is likely to keep cases on schedule and minimize costs.

7) Differentiated Case Management. Differentiated case management, which ensures that cases are categorized and then handled in accordance with their complexity and level of difficulty, is an effective tool for providing greater and more focused judicial attention on those cases which are most likely to fall behind schedule, generate excessive costs, or become unreasonably contentious.

8) Promoting Settlements. Judicial case management can accelerate the settlement of certain categories and types of cases which might otherwise languish while lawyers take their time or focus on other matters.

9) Excessive Procedures. Certain judicial case management procedures and techniques can sometimes increase costs, at least in the short-run, by forcing lawyers and litigants to actively and promptly prepare their cases for trial. Excessive and unproductive hearings, conferences, and

meetings can, under certain circumstances, impose costs which exceed their benefits. They can also excessively involve judges in routine matters which divert them from traditional judicial functions such as holding hearings and issuing judgments.

10) Discouraging Litigation. Judicial case management sends a sobering message to potential and future litigants concerning the rigorous obligations that they will face as soon as they lodge their disputes in the public court system. This can encourage out-of-court settlements that avoid litigation, and oblige lawyers to do more legwork and homework before filing a lawsuit.

11) Judicial Case Management in Civil and Criminal Cases. Judicial case management is more applicable to and useful for civil cases. Judicial case management is still relevant for criminal cases, but it must be applied much more cautiously and judiciously. Judges have some leeway to apply pressure when the financial and property interests of private citizens are before the court. This is not the case when the State engages in prosecution with the goal of deprivation of liberty. Indeed, time pressure can never justify curtailing human rights or violating constitutional guarantees.

12) Judicial Discretion. Judicial case management policies and procedures should leave some discretion to judges, so that they can be applied in a somewhat flexible manner, and be tailored to the specific circumstances of each case. This respects the experience of judges with cases and litigants in their jurisdiction, and allows the administration of justice to be appropriately case-specific.

13) Judicial Record. Judicial decisions regarding case management matters (whether written or oral) must be sound, justified, correctly communicated to the lawyers and litigants, and appropriately documented for the record. All procedural and substantive rights must be preserved, including the right to appeal.

14) Trial. Judicial case management in the final pre-trial stages can make trials shorter and more efficient. It can reduce the amount of time that will be spent on irrelevant or peripheral issues, reduce the amount of evidence is presented, limit the time taken by witnesses (expert and fact), and oblige lawyers to stay on track.

15) Monitoring and Evaluation. Results from the application of judicial case management policies and procedures should be monitored and analyzed over different timeframes. For this purpose, baseline situations should be documented, means for developing and collecting accurate information and statistics should be fashioned, and methodologies for conducting analysis should be devised. During the monitoring and evaluation process, it should be understood that court systems are dynamic by nature. Therefore, scientific precision is unattainable, and both personal experience and anecdotal evidence have a place.

16) Canvassing Key Parties. Monitoring and evaluating the results of judicial case management should take account of the experience and perspectives of all parties who have a role in the litigation process. To the extent appropriate, the parties to be canvassed include a) lawyers, b) prosecutors, c) litigants, d) court personnel, e) ministry officials and civil servants, f) law

enforcement officers, g) law professors, h) legal experts, i) civil society organizations which monitor or engage in litigation, j) journalists who cover litigation, and k) representatives of international institutions and bodies working on legal affairs or familiar with the court system.

17) Learning from Experience. Judges and court personnel should become familiar with and assess the experience and results obtained in other jurisdictions, as they design and modify their own practice. Jurisdictions with similar legal traditions and procedural rules are likely to offer more guidance during this process. However, since every jurisdiction is unique, with its own legal system, traditions, and practices, a realistic and practical approach is required.

18) Comparative Analysis. More comparative studies on judicial case management (including different practices and the results they achieve) should be carried out by international institutions, national professional bodies, professional associations, and scholars, and be made available for review and application on the national level.

Careful review of the experience to date and cooperation between different court systems are crucial for building upon the progress that has been achieved to date, and for molding judicial case management into a valuable tool for promoting efficient and effective administration of justice in as many jurisdictions as possible.

END

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34. The Rand Corporation published an analysis of early results of judicial case management in the United States Federal Courts. “An Evaluation of Judicial Case Management Under the Civil Justice Reform Act” (1996) is available at: https://www.rand.org/pubs/monograph_reports/MR802.html