

Senneff, Angie

From: Parsons, Carol on behalf of Babcock, Chip
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To: Senneff, Angie
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From: Jeff.Boyd@tklaw.com [mailto:Jeff.Boyd@tklaw.com]
Sent: Friday, December 01, 2006 5:09 PM
To: SCAC_Legislative_Mandates_Subcommittee%TKPC@tklaw.com
Cc: Babcock, Chip
Subject: SCAC - Rocket Docket issue

To Members of SCAC Subcommittee on Legislative Mandates:

I have gathered and (very quickly) reviewed a number of articles re: Rocket Dockets and other "fast-track" systems throughout the country.

My initial reaction is to note the irony that rocket dockets were created (as early as 1962 in the E.D. Virginia) to address a perceived problem with too much litigation ("congested dockets," and a "litigaton crisis"), and now we're being asked to consider them to address a perceived problem with too little litigation ("vanishing jury trials").

In any event, I'm attaching a list of the materials I've gathered so far. The articles are listed in chronological order of publication dates, from 1981 through 2006. I will follow with seperate emails attaching six of the articles on this list (those that I've numbered 8, 12, 15, 17, 18, and 21). (I will send them each by separate email to hopefully avoid overloading any of your systems, or mine.) These six articles are not necessarily the "best" ones on the list, and the list obviously does not contain all the articles that will be helpful, but these six should provide a good start before our meeting next week. I have copies of all of the others on the list, so let me know if you want me to send you any of those.

Also, last year the South Texas Law Rev. published an article by Justice Hecht that I should have read by now but still haven't pulled up; and that volume also had one by Brister. Their cites, in case you want to pull them up yourselves, are:
 - Hecht, The Vanishing Civil Jury Trial . . . , 47 S. Tex. L. Rev. 163 (2005)
 - Brister, The Decline in Jury Trials . . . , 47 S. Tex. L. Rev. 191 (2005).

As you skim through these materials, you may want to take notes (or mental notes) of what you read regarding the following issues, which may be the focus of our discussions during the coming meetings:

1. What is a Rocket Docket?

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2. What courts have adopted a Rocket Docket?
 - E.D. Virginia
 - E.D. Texas
 - N.D. California
 - S.D. California
 - N.D. Georgia
 - W.D. Wisconsin
 - W.D. Pennsylvania
 - E.D. Oklahoma
 - W.D. Oklahoma
 - W.D. Arkansas
 - D. Maine
 - Vermont State Courts (appellate)
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3. What rules & procedures do Rocket Dockets use?
 - Early setting of a fixed and immutable trial date.
 - Resolution w/in 6-8 months (Va.)
 - Short discovery period, which begins soon after filing/answer.
 - 4-5 months (Va).
 - Short period for pleading amendments and dispositive motions
 - No Continuances
 - Central docket, rather than individual dockets
 - Mediation/settlement conferences occur in parallel with discovery.
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4. What else does it take to have a Rocket Docket?
 - Judges committed to speedy resolutions and willing to work hard
 - Magistrate or pro tem judges?
 - Commitment of the practicing bar.
 - Plaintiffs must research and prepare their cases before they file them.
 - Leaders (among judges and the bar) who will promote it from the beginning.
5. How can a court transform its system into a Rocket Docket?
6. What are the benefits/downsides of a Rocket Docket?
 - Limits time and cost to resolve disputes.
 - Tends to favor the (well-prepared) plaintiff.
 - Requires local counsel with experience with that docket.
7. Other thoughts and issues?
 - Types of cases: civil, criminal, family?
 - Trial courts vs. appellate courts? (Vermont)
 - Mandatory vs. optional track?
 - State imposed or encouraged locally?

Again, the attachment to this email is the list of materials gathered so far. Separate emails will follow with copies of the six articles attached.

Happy reading, and I look forward to visiting on Weds at 2:00 p.m.

Jeff

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"Rocket Docket" (aka Fast Track System, Delay Reduction) Materials

Articles

1. Analyzing Court Delay-Reduction Programs: Why Do Some Succeed?, 65 Judicature 58 (Aug. 1981)
2. State Trial Court Delay: Efforts at Reform, 31 Am. U. L. Rev. 213 (1982)
3. Creating a Fast-Track Alternative Under the Federal Rules of Civil Procedure, 60 Notre Dame L. Rev. 431 (1985)
4. Fast Track Reduces Trial Court Delay, 2 J. Contemp. Legal Issues 135 (1989)
5. The Fast Track System: A Yellow Brick Road to Speedier Trials?, 2 J. Contemp. Legal Issues 221 (1989)
6. Fast Track: Are We on the Right Track?, 2 J. Contemp. Legal Issues 229 (1989)
7. Point and Counterpoint—The San Diego Fast Track Experience, 2 J. Contemp. Legal Issues 251 (1989)
8. "Fast Track": Its Evolution and Future, 21 Ariz. St. L. J. 219 (1989)
9. Case Management in the Eastern District of Virginia, 26 U.S.F. L. Rev. 445 (Spring 1992)
10. Fast Track: A Panacea for a Delayed and Cluttered Court System?, 1 San Diego Just. J. 443 (1993)
11. Divergence in the Age of Cost and Delay Reduction: The Texas Experience with Federal Civil Justice Reform, 25 Tex. Tech L. Rev. 261 (1994)
12. Lonesome Docket: Using the Texas Rules to Shorten Trials and Delay, 46 Baylor L. Rev. 525 (1994)
13. Mandatory Disclosure and Equal Access to Justice: The 1993 Federal Discovery Rules Amendments and the Just, Speedy and Inexpensive Determination of Every Action, 67 Temple L. Rev. 179 (1994) (relevant portion of article only)
14. Patent Litigation in the Eastern District of Virginia, 35 IDEA 361 (1994-95)
15. The Rocket Docket, 22 Litigation 48 (Winter 1996)
16. Rocket Dockets: Reducing Delay in Civil Litigation, 85 Cal L. Rev. 225 (1997)

- 17 The Eastern District of Virginia: A Working Solution for Civil Justice Reform, 32 U. Rich. L. Rev. 799 (1998)
- 18 Judicial Management of Patent Litigation in the United States: Expedited Procedures and Their Effects, 9 Fed. Cir. B.J. 541 (1999-2000)
- 19 To Expediency and Beyond: Vermont's Rocket Docket, 4 J. App. Prac. & Process 277 (2002)
- 20 Trials in "Rocket Dockets": More Than Just a Legal Strategy, Washington Legal Foundation Legal Opinion Letter, Oct. 17, 2003
- 21 How Much Justice Can We Afford?: Defining the Court's Roles and Deciding the Appropriate Number of Trials, Settlement Signals, and Other Elements Needed to Administer Justice, 2006 J. Disp. Resol. 213 (2006)
- 22 The Eastern District of Texas: A Magnet for Patent Litigation, Metropolitan Corporate Counsel, Sept. 2006

Court Rules and Plans

- 23 Local Rules for the U. S. District Court, Eastern District of Virginia (effective Aug. 1, 2006) (relevant portion only)
- 24 Local Rules for the U.S. District Court for the Eastern District of Texas with Appendix M—Rules of Practice for Patent Cases (as of Oct. 27, 2006)
- 25 San Diego County Superior Court Rules (revised July 1, 2006) (relevant portion only)
- 26 Civil Justice Expense and Delay Reduction Plan Pursuant to the Civil Justice Reform Act of 1990, 9 Ga. St. U. L. Rev. 99 (1992) (Plan for the U.S. District Court for the Northern District of Georgia dated December 17, 1991)