

Prisoner Cases in the District of Arizona



- **41% of all civil cases filed in the District of Arizona in the twelve month period ending June 30, 2014 were filed by prisoners.**
- **1,611 cases were filed by prisoners in that period.**
- **980—25% of the Court's civil caseload—were prisoner civil rights complaints. (The remaining 631 prisoner cases were habeas corpus petitions.)**

(These numbers exclude 3,477 cases filed by a single frequent-filer prisoner.)

Authority to Compel Mediation



We conclude that the district court has broad authority to compel participation in mandatory settlement conference. Such authority arises from at least three different sources. First, Rule 16(c)(1) of the Federal Rules of Civil Procedure provides that “[i]f appropriate, the court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.” Second, the Civil Justice Reform Act of 1990 authorizes a district court to provide for mandatory settlement conferences as part of a civil justice and delay reduction plan. . . . That authority does not exclude cases involving the federal government, though Congress was certainly aware that the government is, by a wide margin, the most frequent litigant in federal court. *See United States v. Mendoza*, 464 U.S. 154, 159 (1984) (“It is not open to serious dispute that the government is a party to a far greater number of cases on a nationwide basis than even the most litigious private entity....”). Third, the district court has inherent power “to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”

United States v. U.S. Dist. Court for N. Mariana Islands, 694 F.3d 1051, 1057-58 (9th Cir. 2012), as amended (Oct. 16, 2012).

Prisoner Mediation



Case Selection & Court Procedures

Selection of Cases for Mediation



- **Nevada**

Random assignment of cases to mediation or non-mediation tracks for Harvard study.

- **Arizona**

Cases elected by the Court's Staff Attorneys.

Case Types



- Medical Care — Eighth Amendment.
- Religion — First Amendment/RLUIPA.
- Conditions of Confinement — Eighth Amendment.
- Failure to Protect — Eighth Amendment.

Other Criteria



- Claims that appear to have some merit.
- Seeking primarily injunctive — not monetary relief.
- Claims that involve recurring policy issues.

Limited Purpose Appointment of Counsel



- Order issued before mediation conference is set.
- Appointment is strictly limited to the mediation process.
- Prisoner is given fourteen days to decline counsel.

Scheduling of Mediation Conference Coordinated by the Court's Staff Attorneys



- Dates about thirty days out coordinated with limited purpose counsel and the Department of Corrections.
- Usually two per day—morning and afternoon.
- Email to mediators asking for volunteers for specific dates/cases.

Order Setting Mediation Conference



- Conference type: in person, videoconference, or hybrid.
- Representatives with full-settlement authority must attend.
- Plaintiff must sign medical records release and waiver in medical cases.
- AG, Corizon attorney, and limited purpose counsel must make a limited appearance.
- 7-page confidential mediation statement—focus on facts.
- 90-day stay.
- Application to proceed in forma pauperis is deferred—plaintiff will not be assessed the filing fee if the case settles.
- If the case does not settle, \$350 filing fee will be assessed and the court will screen the complaint under the PLRA.

Mediation Conferences



- Staff Attorney will attend to assist the mediator.
- The Assistant AG will have boilerplate settlement agreements to be customized, faxed, and signed at the conference.

Outcomes



- Religion Cases—10 mediations—7 settled (70%).
- Medical Cases—15 mediations—3 settled (20%).
 - ✦ Medical care plans changed in the plaintiffs' favor in some cases that did not fully settle.
- Overall—25 mediations—10 settled (40%).
- Settlement is not the only measure of success.