REFLECTIONS FROM THE HOUSE

CONGRESSIONAL REACTION TO THE 1993 AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

*Honorable William J. Hughes**

I. Overview of the Rules Change Process

The United States Judicial Conference (Judicial Conference) has the responsibility under the Rules Enabling Act[1] to "carry on a continuous study of the operation and effect of the general rules of practice and procedure. . . ."[2] It also has the responsibility to recommend to the Supreme Court changes in the Federal Rules to promote "simplicity in procedure, fairness in administration, the just determination of litigation and the elimination of unjustifiable expense and delay. . . ."[3] The Committee on Rules of Practice organizes this activity.[4] This Standing Committee reviews and coordinates the recommendations of five advisory committees.

Pursuant to these responsibilities, changes to the federal rules were initiated by the Honorable Sam C. Pointer, Jr., Chairman of the Advisory Committee on Civil Rules. Most of these proposed amendments were published in August 1991 and hundreds of written comments were received by the Advisory Committee. Public

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1 28 U.S.C. §§ 2071-2077 (1988).

2 28 U.S.C. § 331 (1988).

3 *Id.*

4 The Standing Committee during this period was chaired by the Honorable Robert E. Keeton. All of the members of the Judicial Conferences's advisory and standing committees are appointed by the Chief Justice of the United States Supreme Court. H.R. Doc. No. 103-74, 103d Cong., 1st Sess. 98-99 (1993) [hereinafter H.R. Doc. No. 103-74].

hearings were held in Los Angeles and Atlanta in 1991 and 1992, respectively. The process of rules amendment is thorough and time-consuming because it requires: (1) comprehensive input from judges, lawyers, academics, and the public; and (2) approval by several bodies.[5]

The Rules Enabling Act process is an effective and proper procedure by which the judiciary manages its business. In fact, Congress has only rejected the Court-approved rules on two occasions, once in the early 1970s when the new Federal Rules of Evidence were proposed,[6] and in the early 1980s when a far-reaching change

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[5] The following is a flow chart of the necessary steps and time frames in the rule-making process:

ACTION	DATE
1. Suggestion for a change in the Rules. Submitted in writing to the Secretary of the Standing Committee.	At any time.
2. Referred by the Secretary to the appropriate Advisory Committee.	Promptly after receipt.
3. Considered by the Advisory Committee and its reporter.	Normally at next Advisory Committee meeting.
4. If approved, the Advisory Committee seeks authority from the Standing Committee to circulate to bench and bar for comment.	At the same or subsequent meeting.
5. Public comment period.	Six months from approval.
6. Public hearings.	During the comment period.
7. Advisory committee considers the amendment afresh in light of public comments and testimony at hearings.	Usually about one month after the close of the comment period.
8. Advisory Committee approves amendment in final form and submits it to the Standing Committee.	Normally at same meeting.
9. Standing Committee approves amendment, with or without revisions, and recommends approval by the Judicial Conference.	Normally at June meeting.
10. Judicial Conference approves amendment, with or without revisions, and submits it to the Supreme Court.	Normally at September meeting.
11. The Supreme Court prescribes and transmits amendment to Congress.	By May 1.
12. Congress has a statutory time period in which to enact legislation to reject, modify, or defer the amendment.	By December 1.
13. The amendment to the rules becomes law.	December 1.

H.R. REP. No. 103-319, 103d Cong., 1st Sess. 4-5 (1993) [hereinafter H.R. REP. No. 103-319].

[6] Act of Mar. 30, 1973, Pub. L. No. 93-12, 87 Stat. 5583 (1973).

to Rule 4 dealing with service of process was proposed.[7] As a result of the 1988 amendments to the Rules Enabling Act, Congress required more openness in the rulemaking process.[8] Since then, the Committee on the Judiciary had not found it necessary to modify or reject proposed rule changes, other than to make certain technical changes.

II. The House of Representatives Acts on the Proposed Changes

On April 22, 1993, the Supreme Court transmitted to Congress certain proposed amendments to the Federal Rules of Civil Procedure.[9] Under the mechanism established by Congress under the Rules Enabling Act,[10] the proposals became law on December 1, 1993.[11] Congress, with the cooperation of the President, could have changed them, but for various reasons discussed herein did not.

Indeed, I believe the proposed changes as a whole are commendable. This monumental effort by the judiciary, the academic community and the bar was the result of a long and arduous process that preceded the Supreme Court's action. The resulting 325 page document is a testimonial of both scholarship and hard work. I particularly laud the efforts of the Judicial Conference for its innovative and far-reaching proposals.

While a gallant effort, the rules were not totally supportable, and I believed required some modification. After reviewing the extensive record of these proposed rules and our hearings on June 16, 1993,[12] the consensus was that Congress should make some

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7 Federal Rules of Civil Procedure Amendments Act of 1983, Pub. L. No. 97-462, 96 Stat. 2527 (1983).

8 Pub. L. No. 100-702, 102 Stat. 4650 (1988) (codified at 28 U.S.C. § 2071).

9 The Supreme Court transmitted proposed changes to 40 Federal Rules of Civil Procedure. The Supreme Court also transmitted amendments to federal rules relating to evidence, bankruptcy procedure, criminal procedure and appellate procedure. *See generally* H.R. Doc. No. 103-74, *supra* note 4, at 1 (citing Rules 1, 4, 5, 11, 12, 15, 16, 26, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 50, 52, 53, 54, 58, 71A, 72, 73, 74, 75, 76; Forms 2, 33, 34, 34A; new 4.1 & Forms 1A, 1B, & 35; & abrogation of Form 18-A).

10 28 U.S.C. §§ 2071-2077 (1988).

11 Under the Act, the Congress has a statutory period of seven months to act on the rules. If the Congress does not enact legislation to reject, modify or defer the rules, they would automatically take effect as a matter of law on December 1, 1993. 28 U.S.C. § 2074(a) (1988).

12 On June 16, 1993, the Subcommittee on Intellectual Property and Judicial Administration held a hearing on the proposed amendments to the Federal Rules of

changes. These changes were incorporated in H.R. 2814, a bill I introduced on July 30, 1993.

It was not my intent in H.R. 2814 to in any way limit future innovations by the Judicial Conference. Instead, by adopting these modifications to the proposed changes, the House of Representatives was following recent precedent of interjecting ourselves only intermittently into the rulemaking process, and then only in a limited fashion. H.R. 2814 would have deleted the mandatory disclosure procedure of proposed Rule 26(a)(1). Also deleted was that portion of Rule 30(b) that eliminates the requirement of a court order or stipulation of the parties, allowing a party to unilaterally determine to use sound or sound-and-visual means of recording depositions without also recording by stenographic means.

Subsequent to our June 16 hearing,[13] on August 5, 1993, the Subcommittee marked up H.R. 2814 and ordered it favorably reported without amendment to the full Judiciary Committee.

On October 6, 1993, the Committee on the Judiciary likewise ordered H.R. 2814 favorably reported to the House, without amendment.[14] On November 3, 1993, the House passed the bill.[15]

Civil Procedure and Forms. *See* 139 CONG. REC. H8764 (daily ed. Nov. 3, 1993). Testimony was received from: Honorable Robert E. Keeton, United States District Court, Boston, Massachusetts and Chairman, Committee on Rules of Practice and Procedures, Judicial Conference; Honorable Sam C. Pointer, Jr., Chief Judge, United States District Court, Birmingham, Alabama and Chairman, Advisory Committee on Civil Rules, Judicial Conference; Honorable William W. Schwarzer, Senior Judge, Northern District of California and Director, Federal Judicial Center; John P. Franz, Esq., firm of Lewis Rosa, Phoenix, Arizona; William K. Slate II, President, Justice Research Institute (on behalf of the National Court Reporters Association); Judith W. Pendell, Vice President, Law Regulatory Affairs, Aetna Life and Casualty Company, Hartford, Connecticut (on behalf of the American Insurance Association); Louise A. LaMothe, Chairman, Litigation Section, American Bar Association; James Toll, Esq., firm of Sills Cummis Zuckerman Radin Tischman Epstein Gross, Atlantic City, New Jersey; F. Thomas Dunlap, Vice President and General Counsel, Intel Corporation, Santa Clara, California; Alfred W. Cortege, Jr., Esq., Lawyers for Civil Justice; John J. Higgins, Senior Vice President and General Counsel, Hughes Aircraft Company, Los Angeles, California; and George S. Frazza, Vice President and Counsel, Johnson & Johnson, New Brunswick, New Jersey. H.R. REP. No. 103-319, *supra* note 5, at 1-2.

13 Considerable attention was given to the proposed Rule 11 changes (relating to sanctions for frivolous litigation) at the Subcommittee hearing and markup. The Committee decided to deal with this issue separately with H.R. 2979, a bill introduced by Representative Moorhead on August 6, 1993, as the vehicle. *See* H.R. DOC. No. 103-74, *supra* note 4, at 104-07 (Justice Scalia's critique of the Rule 11 sanctions).

14 *See* H.R. REP. No. 103-319, *supra* note 5.

15 139 CONG. REC. H8747 (daily ed. Nov. 3, 1993).

III. The Rationale Behind H.R. 2814

A. *Rule 26*

Rule 26, which governs most of the federal discovery process, has been the target of widespread criticism. I agree with much of this criticism. The Judicial Conference, in attempting to streamline the discovery process,[16] proposed new Rule 26(a)(1), which calls for mandatory disclosure of matters "pleaded with particularity." The new rule as pertinent states:

> Except to the extent otherwise stipulated or directed by the court, a party shall, without awaiting a discovery request, provide to other parties . . . the name . . . of each individual likely to have discoverable information relevant to disputed facts . . . [and] a copy of, or a description by category and location of, all documents, data compilation, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings. . . .[17]

The end result is the creation of a rule akin to court-ordered interrogatories. The party is charged with making its disclosure based upon "information then reasonably available to it."[18] The party is not relieved from the initial disclosure simply because it has yet to complete its investigation of the case, because it challenges the sufficiency of an adverse party's disclosure or because the adverse party has failed to disclose.[19]

The amendment further provides that, unless stipulated or directed by a court, such disclosures must be made "at or within ten days after the meeting of the parties under [Rule 26(f)]."[20] The amendment to Rule 26(f) provides that the parties, except where exempted by local rule or court order, shall meet as soon as practicable or at least fourteen days prior to the date a scheduling conference is conducted, or a scheduling order is due pursuant to Rule 16(b).[21]

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16 The drafters maintained that "[a] major purpose of the revision is to accelerate the exchange of basic information about the case and to eliminate the paper work involved in requesting such information, and the rule should be applied in a manner to achieve those objectives." H.R. DOC. NO. 103-74, *supra* note 4, at 225.

17 *Id.* at 203-05 (quoting proposed FED. R. CIV. P. 26(a)(1)).

18 *Id.* at 203-05.

19 *Id.*

20 *Id.*

21 *Id.* at 219-20. The parties shall meet to discuss the nature of their claims and defenses, the prospects for prompt settlement, to arrange for or make the (a)(1) mandatory disclosures, as well as to formulate a proposed discovery plan. *Id.*

Advocates of the proposed rule maintain that it will avoid some of the unnecessary expenses that are the hallmark of the discovery process as it stands today. Opponents, however, including the vast majority of those who have commented on the issue, feel that mandatory disclosure is anathema to the adversarial process and will compromise the attorney-client privilege.[22]

Justice Scalia, in his dissent, noted that while this change was promulgated as a means of reducing expense and delay, it would, in fact, add a further layer of discovery.[23] He further opined that it would increase litigation about what is relevant to "disputed facts" and that the proposed rule does not fit well into the adversarial system.[24] Justice Scalia also pointed out that the proposal would oblige counsel to reveal documents that damage the client's interest, thereby undercutting the attorney-client relationship.[25]

Opponents also regard the "pleaded with particularity" standard as too vague, and contend that it will only increase the discovery burdens on the system rather than reducing them. They conclude that a change of this nature should be undertaken only with extreme caution and should await the results of the civil justice reform experi-

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22 Opponents argue that mandatory disclosure undermines the attorney-client privilege:

> The proposed disclosure amendment . . . could damage attorney-client relationships because it requires counsel to disclose to the client's adversary what counsel has learned during his investigation, good or bad, about the client's case. Indeed, the more thorough counsel is and the more information he uncovers, the greater the potential disclosure he must make—perhaps contrary to his client's interest.

Testimony before the Subcommittee on Intellectual Property and Judicial Administration of the House Judiciary Committee, Statement of Business Roundtable Lawyers Committee et al. 18 (June 16, 1993) (transcript on file with the author).

It was also maintained that mandatory disclosure may violate the work-product doctrine because the requirements call upon an attorney to interpret his or her adversary's claim to comply with the mandatory disclosure requirements. *See* H.R. Doc. No. 103-74, *supra* note 4, at 108.

In addition, the changes bring unanswered questions as to their effect on attorney ethical considerations. The duty to interpret relevance and voluntarily disclose information adverse to one's client may violate the attorney's duty of loyalty and zealous representation. *See id.*

23 H.R. Doc. No. 103-74, *supra* note 4, at 107. Justice Scalia maintained that "the proposed radical reforms to the discovery process are potentially disastrous and certainly premature." *Id.*

24 *Id.*

25 *Id.* at 108.

ments.[26] Clearly, many in the legal community did not believe they were in a position to adopt a change that would further aggravate the burdens that discovery creates. The Subcommittee received specific testimony that lengthy litigation could be the result of the specific changes, especially in determining what is "relevant to disputed facts alleged with particularity in the pleadings."

I, and my colleagues on the House Committee on the Judiciary, concluded that these objections had merit.

It also appears to me that this procedure would reward the delinquent advocate rather than the well prepared. For instance, the more diligent an advocate is in ascertaining the totality of his client's case, the more information he must turn over in disclosure. The less he knows, the less he has to produce. This argument is analogous to Justice Scalia's remarks that "[r]equiring a lawyer to make a judgment as to what information is 'relevant to disputed facts' plainly requires him to use his professional skills in the service of the adversary."[27]

We also believed that during the period of local experimentation mandated under the Civil Justice Reform Act of 1990[28] it would be premature to change the Federal Rules of Civil Procedure by establishing any particular method for mandatory, early disclosure. Under section 105(c) of the Civil Justice Reform Act,[29] the Judicial Conference must submit a report to Congress by December 31, 1995, assessing the impact of local expense and delay reduction plans in twenty districts, some of which include provisions for early disclosure.[30] It

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26 Such opponents contend that

> [r]ecognizing the need for experimentation—the freedom to learn by trial and error—Congress created a system of district court "laboratories." This local approach is proving to be an effective method by which the district courts can develop their own unique plans to achieve civil justice reform goals. . . . It would undermine the spirit of that legislation to interfere with the plans now in place, or soon to be implemented, before the empirical results of each court's experiences has been collected.

Testimony before the Subcommittee on Intellectual Property and Judicial Administration of the House Judiciary Committee, Statement of Louise A. La Mothe, Chair, Section of Litigation, American Bar Association 5 (June 16, 1993) (transcript on file with the author). *See also infra* notes 28-31 for a discussion of the Civil Justice Reform Acts' experiments.

27 H.R. DOC. No. 103-74, *supra* note 4, at 108.

28 28 U.S.C. §§ 471-482 (1992).

29 *Id.* § 471.

30 *Id.* The Act required federal district courts around the country to draft plans to experiment with new ideas to try to reduce the costs and delays associated with civil litigation. Ten district courts were designated as pilot districts and were charged with

seemed to us that, depending on its recommendations, the Judicial Conference should then initiate proceedings leading to possible amendment on a national basis.[31] Thus, we believed we should have awaited more empirical data on these procedures as provided for in the Civil Justice Reform Act of 1990. In the interim, the decision as to whether such procedures should be implemented on a local basis ought to be left to each district court.

B. *Rule 30*

Since 1970, Rule 30 has permitted depositions to be recorded by non-stenographic means, but only upon court order or by the written stipulation of the parties.[32] The proposed changes in Rule 30(b) would alter that procedure by eliminating the requirement of a court order or stipulation, affording each party the right to arrange for recording of a deposition by non-stenographic means. Testimony at the June 16, 1993 Subcommittee meeting raised concerns about the reliability and durability of video or audio tape alternatives to stenographic depositions.[33] Additionally, some information submitted suggested that technological improvements in stenographic recording would make the stenographic method more cost-effective in years to come.

Historically, depositions recorded stenographically have pro-

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having costs and delay plans by December 31, 1991. Forty-one districts have their plans already in place and 23 districts' plans include some form of discovery experiment. 139 CONG. REC. H8745 (daily ed. Nov. 3, 1993) (statement of Rep. Brooks).

31 *See* 28 U.S.C. § 471 (1992). The Judicial Conference drafters speculated that some changes in the rules could be required as a result of the report's findings. The drafters conceived the amendments as a temporary measure until Congress had the opportunity to evaluate the reports generated by the Civil Act of 1990. H.R. DOC. NO. 103-74, *supra* note 4, at 226-27.

32 FED. R. CIV. P. 30.

33 Opponents of this amendment assert that

> the 'future' accuracy as related to the long-term life and dependability of tapes is literally unknown. The National Archives and the Library of Congress are studying the issue, but no credible source (the only exception is vendors) is willing to even venture a qualifying estimate of the life of a tape. It is known and documented that tapes become brittle and 'bleed through' unless kept in climate controlled conditions free of dust and humidity. In an earlier study conducted by the Institute, we documented the fact that tapes are usually kept on open shelves or, at best, in metal filing cabinets even when they are stored in courthouses.

Testimony before the Subcommittee on Intellectual Property and Judicial Administration of the House Judiciary Committee, Statement of William K. Slate II, President, Justice Research Institute 3 (June 16, 1993) (transcript on file with the author).

vided an accurate record of testimony that can be conveniently used in both trial and appellate courts. In addition, the certification of accuracy by an independent and unbiased third party is an important component of the present policy on depositions. This is particularly true in situations where there are multi-party litigants attempting to talk at the same time. The Subcommittee also heard testimony from the Justice Research Institute regarding their two studies which concluded that a stenographic court reporter is the qualitative standard for accuracy and clarity in depositions, and that a court reporter using a computer-aided transcription is the least costly method of making a deposition record.[34]

In essence, H.R. 2814 represented the House of Representatives' belief that the case had not yet been made for unilateral decision by one party regarding the use of non-stenographic recordings of depositions.

In this limited fashion, H.R. 2814 as passed by the House of Representatives would have made these two modifications to the proposed rules changes.

IV. Senate Action on the Rules

The Senate's first formal activity on the proposed rules occurred on July 28, 1993, when the Senate Judiciary Subcommittee on Courts and Administrative Practice held a hearing. Testimony at this hearing, as well as the witnesses who testified, were very similar to that of the June 16 hearing before the Subcommittee on Intellectual Property and Judicial Administration of the House Judiciary Committee.[35]

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[34] *Id.* at 5. Mr. Slate further stated that "[t]his is true whether the deposition is taken and the case settles, or whether a transcript is subsequently made of an audiotape or videotape or, even in the rare instance, where an audiotape or videotape is utilized without a transcript in court." *Id.*

[35] The following witnesses testified at the Senate hearing: Honorable Sam Pointer, Jr., Chief Judge, United States District Court for Northern Alabama (on behalf of the Judicial Conference); Honorable William W. Schwarzer, Director, Federal Judicial Center; Honorable Frank Hunger, Assistant Attorney General, Department of Justice, Civil Division; Michael McWilliams, Esq. (on behalf of the American Bar Association); Cornish Hitchcock, Esq. (on behalf of the Public Citizen's Litigation Group); Alfred W. Cortese, Jr., Esq. (on behalf of Business Roundtable Lawyers Committee and other organizations); James F. Fitzpatrick, Esq. (on behalf of the American Institute of Certified Public Accountants and other organizations); Judyth W. Pendell, Aetna Life and Casualty Company (on behalf of the American Insurance Association); Gary M. Cramer, R.P.R. (on behalf of the National Court Reporters Association); and John P.

The main focus was on opposition to proposed Rule 26(a)(1) with some mention of Rule 30(b)(3). Attention was also directed to the proposed Rule 11 changes, particularly by Senator Hank Brown (R-CO).

Thereafter, the Senate Judiciary Committee did not process a separate Senate bill in relation to the rules, preferring instead to await the House of Representatives' action on H.R. 2814. Subsequent to the House passage of H.R. 2814 on November 3, 1993, the Senate informally began to consider the House-passed bill under a procedure which placed it directly on the Senate calendar without further Senate Judiciary Committee action.

Reportedly, plaintiffs and civil rights organizations began at this late date to encourage the Senate to amend H.R. 2814 by adding a provision that would cancel the presumptive limits on depositions and interrogatories in the proposed rules.[36]

This issue was raised and rejected in informal conversations in the House of Representatives in October 1993. Proponents of lifting the limits argued that "an arbitrary number which applies across the board" for a simple negligence action as compared to a complex antitrust suit does not set forth the interests of justice.[37] They argued that it might increase the level of judicial resources expended in a case "by requiring a hearing on whether the 11th or 12th or 13th deposition will be permitted."[38]

I believe, however, that these rules changes are proper when read in context with the provisions allowing for local order or rules changes under Rule 26(b)(2) and Rule 26(f), which requires an early meeting of the parties on discovery issues.

There is no question in my mind that the discovery process is being abused in some cases, and I believe that the parties' agreement under 26(f) and the court's early involvement in the process under Rule 16 is crucial to cost savings and good court management. The basic objective of this rules change is to emphasize that all counsel have a professional obligation to develop a mutual cost-

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Frank, Esq. (on behalf of the Bench-Bar Committee to Revise Civil Procedure Rule 11).

[36] *See* Randall Sanborn, *New Discovery Rules Take Effect*, NAT'L L.J., Dec. 6, 1993, at 3, 40. Proposed rules 30(a)2(A) and 31(a)2(A) had a presumptive cap of 10 depositions and Rule 33(a) had a presumptive cap of 25 interrogatories.

[37] 139 CONG. REC. H8745 (daily ed. Nov. 3, 1993) (statement by Rep. Brooks).

[38] *Id.*

effective plan for discovery in such cases. Consideration of all these factors should be given early at the planning meeting of the parties under Rule 26(f) and at the time of a scheduling conference under Rule 16(b).

I am also influenced by the fact that experience in over half of the district courts has indicated that limitations on the number of interrogatories are useful and manageable. One study in these courts concluded that 73% of the attorneys who responded to the poll in these districts state that limiting interrogatories "exerts worthwhile control on . . . discovery."[39] I would also say that there are similar limitations in many state court systems, including Texas and New Jersey.

The presumptive limits will, in most cases, not be a hindrance, and in complicated cases these limits will bring the parties together to make a constructive, early disposition of the discovery process.

As the first session of the Congress came close to its conclusion,[40] attempts to negotiate a compromise failed. This even included a proposal to defer several of the controversial rules for six months.[41]

On one hand certain Senators wanted to expand or abolish the presumptive limits. Others wanted a vote on Senator Brown's amendment to delay the implementation of Rule 11 changes for a year. The plaintiffs' bar and civil rights groups were adamantly opposed to delaying the Rule 11 changes.

On December 1, 1993, the rules went into effect. Congress could, of course, enact legislation to modify or repeal these rules changes when it reconvenes in January. I do not favor such an action, and do not think it is likely.

V. Conclusion

Congress has devised a procedure pursuant to the Rules Enabling Act that provides everyone an opportunity to be involved in developing proper judicial procedures. Appropriately, the first responsibility is with the Judiciary. We in the Congress then get our

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39 FEDERAL JUDICIAL CENTER, ATTORNEYS' VIEWS OF LOCAL RULES LIMITING INTERROGATORIES 12 (1992).

40 The Senate adjourned on November 24, 1993, and the House of Representatives recessed *sine die* on November 26, 1993.

41 Sanborn, *supra* note 36, at 40.

chance to approve, disapprove or modify proposed rules changes. As noted earlier, I hope we will usually be deferential to the Judiciary and its extensive procedures. Ultimately, if the Congress moved to disapprove or alter the Judiciary recommendations, the President must approve or disapprove whatever action we take.

As in any mortal process, one can often point to flaws. In this case, particularly as it relates to Rule 26(a)(1), almost every lawyer, bar and trade association in this country strongly opposed the change. Circumstances, however, denied H.R. 2814 from becoming law, and revised Rule 26(a)(1) has gone into effect.

There is, however, an alternative for the various district courts. Rule 26(a)(1) provides that each district court may "opt out" of the Rule, either by local rule or court order, and I suspect that this will occur often. For example, the Northern District of Illinois, Eastern District of Pennsylvania and the Southern District of New York have already done so. The Judiciary and the Congress will also review the entire process as part of our examination of the experimentation outlined in the Civil Justice Reform Act of 1990 which will culminate in December 1995.

Hopefully at that time we can come to a consensus as to what a uniform code of federal rules should be in these various areas.