



[George Bush](#)

41st President of the United States: 1989 - 1993

Executive Order 12778—Civil Justice Reform

October 23, 1991

Whereas, the tremendous growth in civil litigation has burdened the American court system and has imposed high costs on American individuals, small businesses, industry, professionals, and government at all levels;

Whereas, several current litigation practices add to these burdens and costs by prolonging the resolution of disputes, thus delaying just compensation and encouraging wasteful litigation;

Whereas, the harmful consequences of these litigation practices may be ameliorated by encouraging voluntary dispute resolution, limitations on unnecessary discovery, judicious use of expert testimony, prudent use of sanctions, improved use of litigation resources, and, where appropriate, modified fee arrangements;

Whereas, the United States sets an example for private litigation by adhering to higher standards than those required by the rules of procedure in the conduct of Government litigation in Federal court, and can continue to do so without impairing the effectiveness of its litigation efforts;

Whereas, improving the quality of legislation and regulation to eliminate ambiguities in drafting would reduce uncertainty and unnecessary litigation; and,

Whereas, improving the quality of administrative adjudications would reduce the time and resources expended during the administrative process.

Now, Therefore, I, George Bush, by the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 31 of title 28, United States Code, and section 301 of title 3, United States Code, and in order to facilitate the just and efficient resolution of civil claims involving the United States Government, to encourage the filing of only meritorious civil claims, to improve legislative and regulatory drafting to reduce needless litigation, to promote fair and prompt adjudication before administrative tribunals, and to provide a model for similar reforms of litigation practices in the private sector and in various states, hereby order as follows:

Section 1. Guidelines to Promote Just and Efficient Government Civil Litigation. To promote the just and efficient resolution of civil claims, those Federal agencies and litigation counsel that conduct or otherwise participate in civil litigation on behalf of the United States Government in Federal court shall respect and adhere to the following guidelines during the conduct of such litigation:

(a) Pre-filing Notice of a Complaint. No litigation counsel shall file a complaint initiating civil litigation without first making a reasonable effort to notify all disputants about the nature of the dispute and to attempt to achieve a settlement, or confirming that the referring agency that previously handled the dispute has made a reasonable effort to notify the disputants and to achieve a settlement or has used its conciliation processes.

(b) Settlement Conferences. As soon as practicable after ascertaining the nature of a dispute in litigation, and throughout the litigation, litigation counsel shall evaluate settlement possibilities and make reasonable efforts to settle the litigation. Such efforts shall include offering to participate in a settlement conference or moving the court for a conference pursuant to Rule 16 of the Federal Rules of Civil Procedure in an attempt to resolve the dispute without additional civil litigation.

(c) Alternative Methods of Resolving the Dispute in Litigation. Litigation counsel shall make reasonable attempts to resolve a dispute expeditiously and properly before proceeding to trial.

(1) Whenever feasible, claims should be resolved through informal discussions, negotiations, and settlements rather than through utilization of any formal or structured Alternative Dispute Resolution (ADR) process or court proceeding...