

CASE MANAGEMENT: A MAGIC LAMP IN REDUCING CASE BACKLOGS

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ABSTRACT

Delay in disposing cases hinders justice. Case management can be a way to reduce delay. The caseload management or case management is the conceptual heart of court management in general. In this article, the role of case management in reducing case backlogs will be priorities in the historical background how it emerged and spread on USA, UK, Australia, and New Zealand. The Aim of my research is to study the impact of case management in reducing case backlogs and why it is necessary in the trial court. To do so, I will try to address two key questions, what the purpose of case management should be and how it could be successful in reducing backlogs. Research shows that there are some common features of case management but at the same time it also to be recalled that all features may not be applicable for all courts or even it may not be possible to apply all those features at the same time in one court. It would rather be more flexible to get an effective result. The successes of the case management also depend on the case managers who will apply the case management technique. There is a great debate of who should perform the role of case managers. I have also highlighted on what features can make case management more effective and what would be their future approach. Over the last two decades, the judiciary of developed country has widely accepted the role of case management with respect to reduce the caseload, and they have gotten extraordinary positive result in reducing caseload. The area of this research is limited to the civil courts only. So in Doctrinal Approach, this article will consider how case management is applied in the civil court proceedings, how it works and how it can be a successful tool in reducing backlogs in the light of Australian civil courts.

INTRODUCTION

To dispose a case within scheduled time is one of the basic components to ensure justice. However, Judge Roderick Joyce QC and Dr Berry Zondag speak of justice in the following terms,

Many assumptions underlie the ideal of perfect justice in practice. Those assumptions run something like this: conflicting parties take their dispute to a well-resourced, efficient and capable court system which efficiently and reliably resolves continuous issues of fact and law by application of pertinent legal principles to facts found in the light of relevant and well tested evidence. A safety

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loop is provided in the form of one or more appeal opportunities, which may also serve to elucidate the law itself. The end result is what, somewhat nebulously, we term 'Justice'.¹

The judiciary is an institution accountable to society to administer justice and to organise itself to ensure the resolution of disputes in a way that is not only fair, just and in accordance with the law but also efficient, cost effective and with a high degree of professionalism and skill.²

Delay hinders justice. Delay in court proceedings has been perceived as a problem for long time. But there are ways to reduce the delay. Successful programs can be institutionalised, so that further delays can be prevented or managed. Chief Justice Spigelman clarified that though it is often said that justice delayed is justice denied, at the same time it is to be remembered that not all lapse of time can be called 'delay'.³ The principal driving force for case management was the acceptance of the existence of delays in the court system.⁴ To find out the causes for delay Steelman argues that the pace of civil and criminal litigation is not clearly correlated with the size of the court population of the jurisdiction, composition of the caseload, pre-judge caseloads, or the percentage of cases that proceed to jury trial.⁵ He then explained that on the civil side, implementation by the court of key concepts of caseflow

¹ Judge, Roderick Joyce QC, and Dr. Berry Zondag, 'The Case for Enhanced Case Management and Greater Judicial Clarity' (Paper presented at the New Zealand Bar Association Annual Conference, New Zealand, 2010) available at <http://www.scribd.com/doc/36566675/The-Case-for-Enhanced-Case-Management-and-Greater-Judicial-Clarity>>1

² Judge Colin Doherty Judge Jan-Marie Doogue, Jeff Simpson, 'Accountability for the Administration and Organisation of the Judiciary; How should the Judiciary be accountable for their work beyond the Courtroom?' (Paper presented at the Asia Pacific Courts Conference 2013 'the Pursuit of excellence and innovation in courts and tribunals', Auckland, Newzealand, 2013) available at <http://www.aija.org.au/Asia%20Pacific%202013/Presentations/Doogue%20Doherty.pdf>>1

³ Chief Justice J Spigelman, 'Case Management in New South Wales' (Paper presented at the 'the Judicial Delegation from India' Sydney, 21 September 2009) available at [http://www.awlink.nsw.gov.au/lawlink/Supreme_Court/ll_sc.nsf/vwFiles/spigelman210909.pdf/\\$file/spigelman210909.pdf](http://www.awlink.nsw.gov.au/lawlink/Supreme_Court/ll_sc.nsf/vwFiles/spigelman210909.pdf/$file/spigelman210909.pdf)7

⁴ Chief Justice J Spigelman, 'Case Management in New South Wales' (Paper presented at the 'the Judicial Delegation from India' Sydney, 21 September 2009) available at [http://www.lawlink.nsw.gov.au/lawlink/Supreme_Court/ll_sc.nsf/vwFiles/spigelman210909.pdf/\\$file/spigelman210909.pdf](http://www.lawlink.nsw.gov.au/lawlink/Supreme_Court/ll_sc.nsf/vwFiles/spigelman210909.pdf/$file/spigelman210909.pdf) 7

⁵ David C. Steelman, 'The History of Delay Reduction and Delay Prevention Efforts in American Courts' (Paper presented at the Case Management Conference, Dublin, Ireland, 1997) available at [http://www.courts.ie/courts.ie/library3.nsf/%28WebFiles%29/0170EA45B0ED069380256DA60039EEBC/\\$FILE/working1.pdf](http://www.courts.ie/courts.ie/library3.nsf/%28WebFiles%29/0170EA45B0ED069380256DA60039EEBC/$FILE/working1.pdf) 90

management or case management is strongly correlated with speedy case processing times and reducing delay.

The caseload management or case management is the conceptual heart of court management in general.⁶ Case management is no longer a new concept for judges and court managers in the United States and some other countries. Judges and court managers must be realistic about the implications of case management in making the court proceedings speedy.

BACKGROUND HISTORY

Over the last two decades, the judiciaries of developed countries have widely accepted the role of case management in reducing the caseload and they have got extraordinary positive results in reducing caseload.⁷

A. In the USA

Case management first appeared from a brief review of American court reform efforts in the twentieth century.⁸ In the first half of the twentieth century, the court reform movement was introduced by Roscoe Pound, William Howard Taft and Arthur Vanderbilt.⁹ Among them the father of the court reform in America was Roscoe Pound, who delivered a speech 'The causes of popular dissatisfaction with the administration of justice' to a convention of the American Bar Association in 1906.¹⁰ In his paper he pointed out the causes of dissatisfaction and his inquiry was limited to civil justice. In 1913, Pound first proposed to reform courts through the American Judicature Society.¹¹ The

⁶ David C. Steelman, John A. Goerdt and James E McMillan *Caseload Management The Heart of Court Management in the New Millennium* (National Center for State Courts, 2004)

⁷ See, Chief Justice Spigelman, 'Case Management in New South Wales' (Paper presented at the 'the Judicial Delegation from India' Sydney, 21 September 2009) available at <[http://www.lawlink.nsw.gov.au/lawlink/Supreme_Court/ll_sc.nsf/vwFiles/spigelman210909.pdf/\\$file/spigelman210909.pdf](http://www.lawlink.nsw.gov.au/lawlink/Supreme_Court/ll_sc.nsf/vwFiles/spigelman210909.pdf/$file/spigelman210909.pdf)>

⁸ John A. Goerdt David C. Steelman, and James E Mcmillan *Caseload Management The Heart of Court Management in the New Millennium* (National Center for State Courts, 2004)

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¹⁰ Roscoe Pound, 'The Causes of Popular Dissatisfaction with the Administration of Justice' (Speech delivered at the annual convention of the American Bar Association, 1906) available at <http://law.unl.edu/splash/Roscoe_Pound-Causes_of_Popular.pdf>; see also, David C. Steelman, John A. Goerdt, and James E Mcmillan *Caseload Management The Heart of Court Management in the New Millennium* (National Center for State Courts, 2004) xi; see, Steven W. Hays and Cole Blease Graham Jr. (ed), *Handbook of Court Administration and Management* (United States of America, 1993) 8-11

¹¹ Tobin, Robert, *An Overview of Court Administration in the United States* (National Center for State Courts, 1997)15.