

**Task Force for Civil Justice Reform
Steering Committee Minutes
March 22, 2010**

1. Attendance and Introductions.

All members of the steering committee, except for Sharon Greer, were in attendance. In addition, Rebecca Colton, Counsel to the Chief Justice, and David Lindgren, Assistant Counsel to the Chief Justice, were present. Becky and Dave will serve as staff for the steering committee. Also, Steve Davis, Court Communications Officer for the judicial branch, attended the meeting.

Justice Hecht began the meeting with some remarks about the task force's charge. He noted that the impetus for this task force is the realization that good management principles require introspection, reviewing how things are working, and discussing how things can be done better. Justice Hecht mentioned remarks by New Hampshire Chief Justice Broderick, who was the keynote speaker at a 2008 meeting of Midwest supreme courts. Chief Justice Broderick talked about litigants "fleeing" the courts for ADR to avoid the hassle, cost and time involved in litigation.

2. Discuss Process for Identifying Problems with Present Civil Justice System.

Justice Hecht noted that lawyers and judges might agree on the nature of the basic problems (*e.g.*, cost and delay) in the civil justice system. Notwithstanding the likely widespread agreement as to the existence of these problems, should the task force project undertake its own research and conduct surveys to establish whether such problems exist in Iowa's civil justice system. A discussion was had on this topic.

Two schools of thought emerged. The first would accept as true the proposition that litigants and their lawyers believe the pace of litigation is too slow and the process is too expensive. Adherents of this school assert that further research would only confirm what is already commonly understood and accepted, and they tend to believe the task force would waste its time and energy conducting surveys to confirm that which we already know. By skipping surveys, the committee could focus its time and energy on exploring, developing, and vetting solutions to problems. Those cleaving to the second school of thought believe any recommendations for reform recommended by the task force might be better received by lawyers, judges, litigants and representatives of the legislative and executive branches if they are supported by Iowa-specific data as to litigation costs, case processing timelines, case disposition data and other relevant information. Some relevant information might be available from Iowa court administration. The task force could choose to implement surveys of judges, attorneys and other consumers of judicial services.

The discussion seemed to yield broad agreement that the task force should further explore the possibility of surveys, leaving for later the determination of the target groups and topics. The committee also agreed to obtain and review certain reports and data generated by other groups, including the recent survey done by the Iowa Bar Association as part of its court reform study, data recently compiled by the proponents of a new courthouse for Polk County, statistics generated by ICIS for the study of time standards for case processing, ICIS reports regarding case filings and dispositions, and the judicial branch weighted caseload formula. The committee also agreed to consider the IAALS survey done as part of its joint project with the American College of Trial Lawyers' Task Force on Discovery. Finally, in consideration of the need for "buy-in" and transparency, the steering committee decided to investigate the feasibility of placing information about its continuing work on the Judicial Branch's website.

Actions:

- ✓ **The Steering Committee will conduct surveys, the topics and targets of which will be determined at a later date.**
- ✓ **Before the next meeting, committee members will review the IAALS survey and report.**
- ✓ **Staff and committee members will obtain other information, including relevant data developed in connection with the Polk County courthouse project, the results of the survey done by the ISBA reform study task force, judicial branch case statistics, the judicial branch weighted caseload study, and other relevant information.**
- ✓ **The Task Force's operation will be open and transparent, and all of its documents and minutes will be placed on a dedicated page on the Judicial Branch website.**

3. Scope and Topics of Study.

The steering committee discussed a wide range of potential topics for further study and potential reform. They include:

- Specialty courts (business courts, commerce courts, etc.)
- Summary trial procedures
- Court affiliated alternative dispute resolution
- Discovery reform
- Modifying the jurisdictional limits (such as Illinois' intermediate court)
- One-Case, One-Judge case management
- Allowing litigants/attorneys to take cases to counties with available courtroom space and judges
- Expanded use of videoconferencing
- Expert witness reform
- Advocating improvement of courthouses
- Stronger judicial case management (early judge intervention, more effective pretrial conferences, EDMS, etc.)
- Increase small claims jurisdictional amount
- Improving the appellate process (eliminate de novo review)
- Federal Rule 26 mandatory disclosures
- Eliminating local rules
- Examining motion practice, particularly summary judgment motions
- Advocating for increased funding for the courts
- Review the Supreme Court's priorities list
- Promoting and facilitating jury service (increasing jury fees, requiring employers to pay employees for their time off to serve on a jury)
- Streamlining and improving voir dire and jury selection procedures (increased use of jury questionnaire, more active role of judges)
- Control/regulate self-represented litigation so it is less disruptive and time-consuming

Justice Hecht emphasized that this list is not exclusive. He encouraged steering committee members to propose additional topics of study. Each member is requested to rank (in advance of the April 23 meeting) the top seven topics worthy of special study and investigation by the task force. In preparing this list, members are free to combine in a single category multiple topics that are closely related. Please forward your list to Dave Lindgren at: david.lindgren@iowacourts.gov. The ongoing work of the committee will develop and, where appropriate, consolidate these and other topics into manageable categories for further study.

Actions:

- ✓ **Before the next meeting, committee members should continue to think about additional potential topics of study.**
- ✓ **Members should also identify and rank their choices for the top seven areas of the task force's concentration.**

4. Task Force Membership.

As part of this process, the steering committee will recommend and the supreme court appoint a large task force membership of up to 100 members. The steering committee will use the task force to vet ideas and to help build a consensus for reforms. The members of this task force should be a mix of attorneys and lay people. Lay members should bring to the endeavor a broad range of life experiences and represent a broad range of demographic groups using the civil justice system. The steering committee identified the following groups as potential sources for task force members:

- Business, Industry, and Manufacturing
- Plaintiffs' and Defense Bar
- Labor
- Insurance Industry
- Realtors/Landlords
- Legal Aid
- Chamber of Commerce
- Judges
- Court Administration Staff
- Clerks of court
- Bankers/Lenders
- Education
- Legislative Branch
- Executive Branch
- Attorney General's Office
- Judicial Nominating Commission Members
- Court Reporters
- Iowa Association of Counties
- Civil Rights Commission Members
- AARP
- ACLU

Justice Hecht proposed that prior to the next meeting each member of the steering committee nominate ten to twelve people from the various groups mentioned above. The members should send these names to David Lindgren before that meeting. Please include contact information for each nominee, indicate the demographic group each nominee represents, and provide a short statement of why you believe the nominee is a good prospect. Please keep in mind the supreme court's preference to balance committees by gender, race and geography. The ratio of lawyers to non-lawyers on the task force should be approximately 2-to-1.

Actions:

- ✓ **Before the next meeting, committee members should forward by email to Dave Lindgren by April 20, 2010 a list of ten to twelve potential members of the full task force.**

5. Project Schedule.

The committee briefly reviewed two proposed project schedules. Each of the schedules contemplates the completion of the task force's work in eighteen months and concludes with submission of a final report to the supreme court by July 1, 2011. The steering committee members agreed to review the timeline exemplars and discuss them at the next meeting.

Actions:

- ✓ **Members should be prepared to discuss possible schedules and time frames at the next meeting.**

6. Budget Resources and Fundraising.

The Task Force initially will have at its disposal \$13,000, which represents the balance of the funds remaining in the account used for the Iowa Supreme Court Commission on Planning for the 21st Century. As these funds will not go far, the steering committee discussed whether an effort to raise additional funds should be undertaken. It was agreed that any fundraising effort will require a budget detailing how funds will be spent. Staff will prepare drafts of a budget for the steering committee's consideration on April 23.

Actions:

- ✓ **Staff will prepare a draft budget prior to the next meeting to enable any potential fundraising efforts.**

7. Next Meeting

The next meeting of the steering committee will be on Friday, **April 23 at 10:30 a.m.** At that meeting, the committee will work toward agreement on a list of the primary topics of further study, organize the list of nominees for task force membership, and discuss the timeline and procedures for the project. Please bring your calendars to the next meeting.