

Reforming the Civil Justice System

The National Center for State Courts

by John H. Pickering

Only a small minority of Americans—seven percent—can find much good to say about how the legal system handles the staggering 15 million civil cases processed in our state courts each year. Civil litigation has become excessive, critics say, driven by merit-less lawsuits and capricious damage awards. In addition, our justice system favors rich individuals and corporate America, at the expense of low- and middle-income people.

Now more than ever, the public's opinion about the justice system is critically important to the integrity of our justice system. And, it is incumbent upon those of us in the legal profession to figure out a way to improve it.

One way that holds the most promise for finding workable solutions is through The National Center for State Courts.

In 2000, The National Center for State Courts (NCSC) launched a Civil Justice Reform Initiative to address the very issues that have contributed to the erosion of the public's trust and confidence in the civil justice system, such as cost, complexity, court delay and lack of predictability of civil procedures. The National Center is an independent, nonprofit organization headquartered in Williamsburg, with the sole mission of improving judicial administration. Founded in 1971 by the chief justices of all our states, and with the support of Chief Justice of the United States Warren E. Burger, The National Center provides research, education and hands-on assistance to the nation's 16,000 state courts.

The National Center's Lawyers Committee is supporting the Civil Justice Reform Initiative by working with the leadership of the bench and bar to identify the problems we believe impact the effectiveness of our current system. Our goal is to provide balanced input that encourages common ground and communicates the concerns of all constituents—litigants, attorneys, judges and the public.

This reform initiative is a multi-year effort that will review case settlement and trial practices, and study ways to improve management of complex litigation and streamline civil court processes. To establish a national agenda for civil justice reform, The National Center is focusing on the following:

- **Discovery**—In cooperation with the Conference of State Chief Justices, The National Center has formed a research strategy to address discovery of data in electronic databases and records. This project will include a study of costs and the development of an educational/training module for national judicial education.
- **Judicial Selection**—In December 2000, The National Center coordinated the landmark national Summit on Improving Judicial Selection, which brought together nearly 100 state chief justices, legislators, judges, members of the bar and court-reform advocates who developed a statement that outlines suggestions to reform the election structure, campaign conduct, voter awareness and campaign finance. The National Center conducted a follow-up conference in 2001, which focused on judicial campaign conduct and the First Amendment.
- **Complex Litigation**—The National Center is evaluating the Centers for Complex Litigation pilot program of the Judicial Council of California to determine its impact on the adjudication of business cases. NCSC staff is also working with the Federal Judicial Center to develop and implement a mass tort curriculum for state and federal judges and to assess the feasibility of using uniform protocols.
- **Jury Reform**—Through its Center for Jury Studies, The National Center is the leading national authority on juries and jury innovation. The National Center

helps state courts expand juror participation and service, improve jury management operations, and improve juror comprehension. Last year, The National Center co-sponsored, with Chief Judge Judith Kaye and the New York State Unified Court System, the first-ever national Jury Summit, which discussed innovations in jury management. The National Center is also conducting a project to identify the most promising technologies for jury management, including juror summoning and qualification and monitoring the makeup of the jury pool.

The Civil Justice Reform Initiative is only one aspect of The National Center's work. In its three decades of service, NCSC has helped state courts reduce backlogs and delay, improve public access, bring technology into courtrooms, improve jury systems, make informed decisions about court operations and understand the demands of management and leadership in the state judicial system. By promoting performance standards, evaluating innovative practices, and providing much-needed comparative information, The National Center for State Courts assists local courts across the country.

Following is a brief look at some of The National Center's projects that could have far-reaching effects:

- The National Center is developing a model policy on public access to court records, which will serve as a blueprint for all state courts as they move to electronic filing of court records.
- The National Center has taken the lead in the area of domestic violence to ensure court orders are recognized across state lines.
- The National Center serves as staff to the Consortium for State Court Interpreter Certification, which maintains tests in numerous languages,

supervises the writing of new tests, and trains members in procedures for proper test administration.

The National Center is essential to improving our civil justice system and to the successful operation of our state courts, where approximately 98 percent of our nation's litigation is handled. To carry on this important work, The National Center needs, and deserves, the support of lawyers throughout the nation.

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To learn more about joining the Law Firm Program, the Lawyers Committee, or to receive the 2001 annual report, contact Barbara Kelly, director of development at 1-800-616-6110, or bkelly@ncsc.dni.us. For more information about NCSC's Civil Justice Reform Initiative, visit www.ncsconline.org.