

Resolution 4

In Support of State Action Plans to Reduce the Costs Associated with the Prosecution and Defense of Ordinary Civil Cases

WHEREAS, there is a growing concern that the aspirations of the civil justice system for a just, speedy and inexpensive resolution of every dispute are not being met; and

WHEREAS, in these unusually difficult fiscal times, state courts would well serve the public by making civil litigation more affordable (both in terms of time and financial costs) for all citizens; and

WHEREAS, the Conference of Chief Justices is committed to improving the administration of justice, procedural rules and methods, and the organization and operation of state courts and to making litigation processes timely and less expensive; and

WHEREAS, the Conference of Chief Justices in fulfilling its leadership role for state judicial systems, has traditionally collaborated with bar associations and legal improvement organizations to develop best-practice models for the management of civil litigation conducted in state courts; and

WHEREAS, the American College of Trial Lawyers and the American Board of Trial Advocates have each advocated that state courts adopt action plans to reduce the costs associated with the prosecution and defense of ordinary civil cases; and

WHEREAS, a number of jurisdictions have already implemented statewide rule changes and pilot projects or case flow management changes designed to achieve a more just, speedy and inexpensive process; and

WHEREAS, the Conference supports and encourages efforts to collect and share data on effective rules and case management solutions;

NOW, THEREFORE, BE IT RESOLVED, that to further these goals, the Conference encourages the following with respect to measurement and sharing data:

- For jurisdictions that have implemented case processing techniques or rule changes (pilot or statewide) designed to address these problems, the Conference encourages them to consult with the National Center for State Courts (NCSC) to design and implement methods to measure and evaluate those changes; and
- The Conference further encourages those jurisdictions to share any information and data collected with the NCSC; and
- NCSC is encouraged to share both the raw data and the reports with bar leaders and relevant legal improvement organizations; and
- NCSC shall report to the Conference regularly on the status of that data collection and evaluation; and

BE IT FURTHER RESOLVED that for jurisdictions interested in contributing to the development of cost-saving solutions, the Conference suggests the following approaches to experimentation:

1. Form a Committee or Task Force: A civil justice reform committee or task force can explore and design solutions that are intended to make the civil justice system less costly and more accessible. To the extent possible, the committee/task force should solicit involvement from a balanced group of judicial leaders, state and local bar leaders, litigant representatives, and representatives from court administrative offices.
2. Compile the Research and Information: At an early stage in the process, the established committee or task force should become acquainted with existing literature and research on the issues of cost and delay in the civil justice system. The Conference encourages the committee/task force to collect state-specific information.
3. Design the Project: The committee or task force should decide whether it wishes to design a pilot project or implement some statewide changes. Attorney and judge education and training programs should also be developed as a part of the package.
4. Publish the Project: It is advisable to seek input from individuals and organizations that have a stake in the civil justice system.
5. Presentations on the Project: Presentations to state and local bar groups, judicial groups and other stakeholders are important both as part of the education and training component and as an effective means through which to gain support for the project. These presentations allow questions and concerns to be voiced and considered—increasing the potential for project acceptance.
6. Design a Measurement Plan and Instruments: The committee or task force or a subset of that group, in conjunction with court administrators and clerks, should develop a measurement process to evaluate whether the project rules and procedures are serving the intended goals. This process could include baseline data collection instruments and end-of-project data collection instruments.
7. Launch the Project: After adequate time for notice and sufficient training, the committee or task force, participating judges and court staff should launch the pilot project, with sufficient notice to garner attention. It may also be advisable to develop and disseminate model timelines and pilot orders and post this information on a sub-site of the court's website.
8. Collect and Share Data: Data collection should be ongoing throughout the life of the project to ensure timely evaluation. A detailed and synthesized evaluation should be shared with the courts and state rulemakers to inform their efforts moving forward. Sharing the data and evaluation with national organizations will further the study of civil rules and procedures and allow for a comparative review.

Adopted as proposed by the CCJ Civil Justice Committee at the 2011 Annual Meeting on August 3, 2011.