



2010

ANNUAL REPORT

ADVANCING SOLUTIONS FOR
TOMORROW'S LEGAL SYSTEM



INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



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WELCOME

MESSAGE FROM THE EXECUTIVE DIRECTOR

In 2010, the issues that drive every day of our lives at IAALS became even more important across the nation. As the costs of litigation continued to escalate, the courts that handle that litigation are being starved for funding. Civil case filings went up, but as dollars get tighter and tighter in the courts, the criminal and juvenile cases demand priority and the civil cases risk back-burner treatment, continuances and fewer assigned judicial officers. The cry for a civil justice system that actually produces just, speedy and inexpensive results may be just the ‘cry in the wilderness’ if we do not act soon. Former Chief Justice John T. Broderick, Jr. of New Hampshire (and more recently our Board of Advisors) says that the courts are “in a race to stay relevant.” One of the ways to begin to win that race, in our view, is to revamp the process and rules that apply to civil cases – so that they are less complex and more streamlined. We would like to see more cases go to jury trial, so that citizens have the chance to weigh in on cases and to learn about the courts. We would like to hear litigants who say that win or lose, they felt the process was fair and cost-effective. In this Annual Report, we will tell you the story of our civil justice reform journey to date – we believe we are making progress; we believe that the goals are not just aspirational, but are critical to the functioning of our society – and we will persist. But, we also believe that the road ahead is a long one.

Similarly, judicial selection and performance evaluation are moving to the front burner of the national conversation. The 2010 elections were essentially a vote for the status quo in most states, irrespective of the kind of change proposed – but they were also a harbinger of alarm. More and more money is pouring into judicial elections – and even into retention states. There seems to be rampant dissatisfaction about judicial selection methods, and confusion about what a good judge is and is not. The need for our voice, supporting an impartial AND accountable judiciary has never been more critical.

So, in these pages, you may hear a drumbeat for change that is getting louder and louder. We are passionate about our work, and about the importance of the system that we defend – but we also believe that the best defense is a commitment to growth, change and continuing improvement.

We are honored to be among the organizations nationally that can point the way to those changes. Thank you for your interest in our work.

Rebecca Hale Kowals



“ IN THIS ANNUAL REPORT, WE WILL TELL YOU THE STORY OF OUR CIVIL JUSTICE REFORM JOURNEY TO DATE – WE BELIEVE WE ARE MAKING PROGRESS; WE BELIEVE THAT THE GOALS ARE NOT JUST ASPIRATIONAL, BUT ARE CRITICAL TO THE FUNCTIONING OF OUR SOCIETY – AND WE WILL PERSIST. ”



⌚ CIVIL PROCESS REFORM

THE COVER ART OF THIS 2010 ANNUAL REPORT CAPTURES ARTISTICALLY TWO OF THE INSTITUTE'S DOMINANT CONCERNS ABOUT THE CIVIL JUSTICE SYSTEM.

Cases take too long and they cost too much. In most instances, civil cases never actually see the light of a courtroom – let alone the critical eye of a juror. As the former chief justice of Wyoming observes: “cases are being resolved in the back rooms of Holiday Inns before arbitrators” rather than in courtrooms. The loss to the civil legal system is broad and deep. Its first victim is public trust and confidence in a just, speedy and inexpensive system. But, that is not all. The losses include the absence of important civil case law development; lawyers who never go to court, but who practice their craft exclusively in depositions and motions filings; and judges who think trial of a case, rather than settlement, represents failure. Add to that list a disenfranchised public locked out of having their own cases heard by a jury because they cannot afford to get there, and also locked out of participating in the system as jurors – a fundamental and essential right in our democracy. Cases can languish through the system, and time becomes money to the litigants paying the bills. Someone needs to turn the hourglass on its side, and the Institute is making progress, most notably in the area of civil rules reform.

“ THERE IS GROWING AGREEMENT ON THE NEED TO IMPROVE THE ADMINISTRATION OF JUSTICE BY REDUCING THE EXCESSIVE COSTS AND DELAYS AND IMPROVING THE QUALITY OF JUSTICE OF THE CURRENT SYSTEM. FOR EXAMPLE, A 2009 REPORT BY THE AMERICAN COLLEGE OF TRIAL LAWYERS (ACTL) AND THE INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM CONCLUDED THAT THE CIVIL JUSTICE SYSTEM WAS “IN SERIOUS NEED OF REPAIR” AND LAID THE FOUNDATION FOR SIGNIFICANT REFORM.

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**The Metropolitan
Corporate Counsel**



RESEARCH

The civil rules reform journey for the Institute has been a rapid one. Merely three years ago, IAALS began collecting insights to determine the size and scope of the perceived problems in the civil justice system. As part of that fact-finding, in the spring of 2007, the Institute convened a Civil Justice Reform Summit, featuring Lord Justice Harry Woolf, the man chiefly responsible for restructuring the civil justice system in England and Wales in the late 1990s. He was joined by other distinguished experts who shared international and national reform models, all with the overarching purpose of showing that while change can be difficult, it is also possible. Also in 2007, the Institute partnered with respected plaintiff and defense lawyers from the American College of Trial Lawyers to investigate increasing concerns about delays, complexity and expense in the civil justice system. IAALS surveyed the Fellows of the ACTL across the country. The results from that survey jarred judges and lawyers alike. There was an almost audible gasp, as lawyers in small firms and large, towns and cities, realized that the dissatisfaction they were feeling was – in fact – shared by a vast majority of their colleagues. Following on the heels of that survey, IAALS conducted research on the history of the rules of civil procedure and the various amendments, and synthesized academic literature on the rules and on reform efforts abroad and at home.

In 2008, the ACTL/IAALS partnership then produced a set of 29 Principles designed as solutions to the problems of cost and delay in the system, and intended to guide civil justice reform pilot projects and other efforts around the country. Those Principles formed the basis of the Final Report that IAALS and the ACTL Task Force on Discovery and Civil Justice presented to the Federal Judicial Conference Standing Committee on Rules in early 2009. Also in 2009, the Institute hosted a second Civil Justice Reform Summit: Anecdotes to Action. Invitees to this summit brought specific experience in state and federal courts applying, studying, and enforcing rules of civil procedure. At the broadest level, the gathering offered participants from varied backgrounds a way to synthesize the latest information and expertise on rule making, but at a fundamental level the summit was meant to jump-start empirical data collection and initiate pilot projects that would test and measure proposed rules reforms. Out of this whole process then grew a three-publication Roadmap for Reform: Pilot Project Rules (a joint publication of IAALS and the ACTL); Caseflow Management Guidelines (IAALS); and Measuring Innovation, a protocol for evaluating the success or failure of changes, (a joint project with IAALS and the National Center for State Courts).





2010 CIVIL LITIGATION CONFERENCE

IN PART AS A RESULT OF IAALS SOUNDING THE ALARM, IN MAY OF 2010 THE JUDICIAL CONFERENCE ADVISORY COMMITTEE ON CIVIL RULES TOOK THE EXCEPTIONAL STEP OF SPONSORING A CONFERENCE AT DUKE UNIVERSITY SCHOOL OF LAW TO EXAMINE THE FEDERAL RULES OF CIVIL PROCEDURE.

Conference organizers called it the “first of its kind look at civil litigation in the Federal Courts.” The Conference saw a gathering of luminaries in the judicial and legal professions; individuals who had been involved with rules drafting, rules commentary, and litigation from both sides of the bench for decades. Every participant was there to examine the question of whether the rules continue to serve the needs of litigants in the 21st century. IAALS’ work fueled many of the discussions in Durham, and IAALS contributed three additional papers designed to raise important questions about the operation of the civil justice process, from the pleading stage until the trial:

- **Preserving Access and Identifying Excess: Areas of Convergence and Consensus in the 2010 Conference Materials**
- **Fact-Based Pleading: A Solution Hidden in Plain Sight**
- **Reinvigorating Pleadings**

IAALS Executive Director Rebecca Love Kourlis moderated and participated in two of the panels: one on empirical data and the other on perspectives from the states.

“ COSTS ”

AND

DELAY AND
GAMESMANSHIP
[IN LITIGATION]
ARE THE NORM,
NOT THE
EXCEPTION,

- IAALS Executive Director
Rebecca Love Kourlis



Both leading up to the Conference and thereafter, IAALS has continued its in-depth study of cost and delay in the system and possible solutions. Specifically, IAALS published the following reports in 2010, each of which contributes to the national dialogue:

SURVEY OF THE ARIZONA BENCH AND BAR ON THE ARIZONA RULES OF CIVIL PROCEDURE
Illustrating the impact of changes made to those rules over 15 years ago

SURVEY OF THE OREGON BENCH AND BAR ON THE OREGON RULES OF CIVIL PROCEDURE
Wisdom from a jurisdiction where some of the federal rules were never put into place

CIVIL CASE PROCESSING IN OREGON COURTS: AN ANALYSIS OF MULTNOMAH COUNTY
Comparing state and federal dockets in the same county

CIVIL LITIGATION SURVEY OF CHIEF LEGAL OFFICERS AND GENERAL COUNSEL BELONGING TO THE ASSOCIATION OF CORPORATE COUNSEL
What do in-house lawyers think of the system?

TRIAL BENCH VIEWS: FINDINGS FROM A NATIONAL SURVEY ON CIVIL PROCEDURE
What do the judges think about these issues?

SURVEYS OF THE COLORADO BENCH AND BAR ON COLORADO'S SIMPLIFIED PRETRIAL PROCEDURE FOR CIVIL ACTIONS
Why is Rule 16.1 in Colorado seldom used?

ROADMAP FOR REFORM: MEASURING INNOVATION
Final installment of a three-part series that gives courts willing to try pilot projects a means for empirical evaluation of civil rules reforms and how they should be measured



“ WE NEED ”

TO CHANGE
THE DISCOVERY
PARADIGM
FROM THE
ALL-YOU-CAN-EAT
MODEL TO
YOU GET WHAT
YOU NEED.

- Gordon W. Netzorg,
co-chair, Colorado Civil Access
Pilot Project Rules Committee

PILOT PROJECTS

A fundamental philosophy of the Institute is that it isn't enough merely to talk about reform. Change must take place; and must then be measured and evaluated so as to maximize and share successes. IAALS is delighted to point to pilot projects around the nation that are actually implementing some of the Principles developed by IAALS and the ACTL. The first is the Seventh Circuit Electronic Discovery Pilot Program that began before the 2010 Conference and is now moving into a second phase. It focuses on reducing the costs of electronic discovery for litigants.

States around the country are launching their own pilot projects, again germinated by IAALS' work, the consensus in the profession about the need to address cost and delay, and the joint IAALS/ACTL Principles. Those projects range from one court in one state, to three counties in another; they address specific case types or all case types. States experimenting with rules changes have not only relied on the Pilot Project Rules that IAALS and the ACTL Task Force created, but have also asked IAALS to serve as a clearinghouse for ideas, research, or facilitation.

Counties in three states – New Hampshire, Massachusetts, and Oregon – launched pilot programs in 2010. Pilot projects are under consideration for 2011 in Colorado, Utah, Wyoming, and Federal District Court in the Southern District of New York. Iowa and Minnesota have expressed interest in launching pilot projects.



Massachusetts State House, Boston.

MASSACHUSETTS – This project springs from the Principles catalogued in the Final ACTL/IAALS Report. It involves cases filed in the Business Litigation Session in Boston and implements rules for judicial case management of discovery in accordance with proportionality. The project was extended for another calendar year at the end of 2010.

NEW HAMPSHIRE – The Final Report also shaped the contours of this project. At the urging of then-Supreme Court Chief Justice John T. Broderick, Jr., two Superior Courts in Strafford and Carroll Counties implemented the Pilot Project Rules, effective October 2010, concentrating on five areas of pleading and disclosures. The National Center for State Courts will be monitoring results.

OREGON – Following an order from Oregon Supreme Court Chief Justice Paul DeMuniz in May 2010, Multnomah County began offering an expedited civil jury trial program. Parties to lawsuits may choose to proceed on this track, and if they do, they can expect an initial case management conference early in the process and a trial date no later than four months from the date of the designation order.

ILLINOIS – The Seventh Circuit Electronic Discovery Pilot Program is now in Phase Two of its development and took inspiration from the Final Report, in particular focusing on concerns about the cost and burden of e-discovery. The Federal Judicial Center, the research arm of the federal courts, is measuring results. Phase Two should be completed by 2012.

These pilot projects are what IAALS Executive Director Rebecca Love Kourlis calls “potentially game-changing.” Eventually, together with the National Center for State Courts, IAALS hopes to collect enough empirical data to inform and launch changes to the entire system across the nation.

So, from the spring of 2007, when IAALS first partnered with the American College of Trial Lawyers, to date, the landscape has changed. What was once the stuff of cocktail party grousing or shoulder-shrug admissions of a problem without a solution has now become a national conversation. As a profession, lawyers and judges across the nation are now focusing on reducing cost and delay in the civil justice system: changing the rules, changing the procedures, and trying to elevate the system to meet its promise of a just, speedy and inexpensive resolution of every case. IAALS is very proud that our work has played a role in causing that seismic shift to occur.



CASEFLOW MANAGEMENT

The Institute remains a leader in efforts to reform civil caseload management. The Institute is involved in national discussions about how to engage new interest in caseload principles and to institutionalize and sustain principles of early and consistent judicial intervention. The goals of case management are to tailor the process of the case to the scope and needs of the case, including discovery.

IAALS continues to participate with national organizations such as the National Judicial College on caseload reforms. The Institute is also moving forward with a federal judge in Ohio who offered to open up his docket for IAALS to test recommended caseload guidelines in practice. Further, the opportunity allows IAALS to make recommendations and then measure any changes. This one effort is part of a broader agenda of case studies by IAALS in federal and state courts to refine caseload management guidelines. IAALS expects to undertake similar state docket studies, and to develop templates for judges to use in evaluating their own dockets. All of this work centers around the plea from attorneys in survey after survey that judges take charge of the cases at an early point in the case development, and shepherd it toward a fair and efficient outcome.

“ In a high school class some years ago, the teacher described the prehistoric age in which dinosaurs inhabited the earth, and she described them as enormous, powerful lizards that had no match, no need to fear any other form of life. After class, one boy went up to the teacher and said, ‘You said the dinosaurs were invincible, but there aren’t any more dinosaurs. They’re all gone. My question is, who killed the dinosaurs?’ ‘Nobody,’ she answered. ‘Nobody killed the dinosaurs. The climate changed and they all died.’

Each of us has aspired to be a dinosaur killer. We would like to slay the dinosaur-sized problems of discovery reform. But we haven’t done it, and we’re not going to kill the dinosaurs. We are, however, each one of us, inevitably a part of the climate. We can change the climate – and that’s how you rid the earth of dinosaurs.

- From John W. Reed, “Light-Hearted Thoughts on Discovery Reform.”

Published in the *Review of Litigation* in 1982.



Photo: Wayne Armstrong

JUDICIAL SELECTION

IN 2010, IAALS SUPPORTED EFFORTS TO ASSIST STATES IN MOVING FROM CONTESTED ELECTIONS TO AN APPOINTMENT/EVALUATION/RETENTION ELECTION SYSTEM FOR CHOOSING JUDGES.

The Institute was involved in Nevada where Question 1 on that ballot would have changed the Nevada system to provide gubernatorial appointment of judges based on judicial nominating commission recommendations, thorough judicial performance evaluation, and retention elections. These are the key elements of IAALS' O'Connor Judicial Selection Initiative. Despite assistance from IAALS staff, U.S. Supreme Court Justice Sandra Day O'Connor (Ret.), and Arizona Supreme Court Chief Justice Ruth McGregor (Ret.), Nevadans turned down Question 1 in November. We are not deterred – we are just trying to learn from defeat. We are gathering information, research, post-election polling and national overviews to help us map out future efforts in other states.



In Iowa, a merit selection state, three justices of the Iowa Supreme Court, including the chief justice, were voted off the bench by voters unhappy about a decision invalidating a statutory prohibition against gay marriage. Iowa was the only state in which an organized effort to unseat judges succeeded, but not the only state in which such an effort was launched. IAALS is committed to helping to educate voters about the importance of an impartial, apolitical judiciary and a selection/retention system that encourages those ideals. IAALS will continue to do research on the impact of various selection methods, and act as a clearinghouse for information and speakers on selection issues.

IAALS Executive Director Rebecca Love Kourlis spoke numerous times to national and local media about selection issues in Nevada and Iowa. She also addressed Bar conferences in Indiana, Wyoming, Montana, and other states to tout merit selection.

Our O'Connor Judicial Selection Initiative Advisory Committee remains very active. Late in 2010, Justice McGregor took on a new role as Special Advisor for the Initiative and is leading many of the Advisory Committee efforts.

And in early 2011, Dr. Malia Reddick, an expert in selection formerly with the American Judicature Society, joined IAALS in the newly created position of Director of Judicial Programs. Dr. Reddick too will be devoting her time and expertise to the advancement of selection, evaluation, and retention methods that promote impartiality and public trust and confidence.



OPTIONS FOR FEDERAL JUDICIAL SCREENING COMMITTEES
Providing an overview of committees used by senators in recommending federal judicial nominees and guidance for creating such committees.

(Published June 2010)

JUDICIAL PERFORMANCE EVALUATION (JPE)

SINCE ITS INCEPTION IN 2006, THE INSTITUTE HAS SOUGHT TO PROTECT AND PROMOTE FAIR AND IMPARTIAL JUDICIAL EVALUATION SYSTEMS AROUND THE COUNTRY IN ORDER TO ASSURE THE BALANCE BETWEEN INDEPENDENCE OF THE JUDICIARY AND ACCOUNTABILITY.

One aspect of this work focuses on public education of voters about judicial performance evaluation (JPE) programs and information. Through its work, IAALS has learned that Colorado voters know very little about judicial selection or judicial performance evaluation. As a result, many voters simply skip voting on judges, and an overwhelming percentage of voters say that the biggest reason is because they don't have enough information about judges.

In Colorado this year, IAALS joined with the Colorado Bar Association, the League of Women Voters of Colorado, and the Colorado Judicial Institute on an educational outreach called Know Your Judge. The website and accompanying television/radio public service announcements encouraged voters to find out about their judges. Know Your Judge provided direct links to the Colorado Office of Judicial Performance Evaluation as well as links to all of the websites of our partners in the effort, in order to encourage voters to educate themselves about the performance information related to the judges on their ballots. The announcements aired more than 14,000 times on 270 radio and 35 television stations across Colorado from August through October. Through polling, IAALS discovered that roughly 11% of the total number of people who were exposed to the television/radio announcements visited the website, www.knowyourjudge.com. Hopefully, the joint effort served to link voters to educational information that was useful to them. Kansas and Arizona also initiated similar efforts to inform voters about retention elections and where they could find information about judges on the ballots.

In other areas of IAALS' work with judicial performance evaluation, the Institute continued to host regular telephonic meetings of leaders and administrators involved in JPE around the country so as to assure the sharing of good ideas.

IAALS started a project in 2010 in collaboration with the American Judicature Society to examine whether there is a bias in JPE that might negatively affect women and minorities, and if so, how to scour that bias out of the process. That report will be complete in 2011.

“Businesses believe, as I do, that when you go to court to have an issue resolved, that it be resolved by the people who are qualified, fair and independent.”

– From Justice Sandra Day O'Connor, “Former U.S. Supreme Court justice says appointed judges better for business”. Published October 1, 2010.

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DOMESTIC RELATIONS

AS THE INSTITUTE HAS SEEN IN MANY AREAS OF ITS CORE WORK THIS YEAR, THE MOMENTUM HAS CONTINUED TO BUILD TO CREATE A MUCH MORE FAMILY AND CHILDREN-RESPONSIVE SYSTEM FOR DOMESTIC RELATIONS CASES.

Recognizing how damaging the adversarial process has become for all parties in divorce cases, IAALS has long been interested in exploring reforms in domestic relations case processing, including both divorce cases and also those cases where decisions need to be made about parenting responsibilities for children, even if the parents were never married.

We continue to explore innovative practices nationally and internationally, in particular looking to Australia and British Columbia which are testing out-of-court models for domestic relations disputes. The Institute was represented at two national conferences in June: Families Matter Symposium, sponsored by the American Bar Association Section of Family Law and the Center for Families, Children, and the Courts at the University of Baltimore School of Law, and the Association of Family and Conciliation Courts annual convention held in Denver.

Toward the end of 2010, efforts accelerated in developing a family resource pilot project on the campus of the University of Denver. This pilot project would explore ways in which family issues can be resolved outside the court process, in a way designed to minimize adversarial impact and maximize cost-effectiveness and fairness. We hope to have this project on the ground by mid-2011.

We are also assisting a committee of judges and attorneys in Wyoming who are looking at their process and procedures in domestic relations cases.

Looking ahead, 2011 is going to be a big year for the Institute in the domestic relations area.

“ TOWARD THE END OF 2010, EFFORTS ACCELERATED IN DEVELOPING A FAMILY RESOURCE PILOT PROJECT ON THE CAMPUS OF THE UNIVERSITY OF DENVER. ”



©DU Sturm College of Law (Mike Richmond, photographer)

TRANSPARENT COURTHOUSE®

THIS YEAR, THE TRANSPARENT COURTHOUSE® AWARD WENT TO THREE LEADERS COMMITTED TO MAINTAINING THE INTEGRITY OF THE JUDICIARY. IT WAS THE FIRST TIME IN THE FOUR YEAR HISTORY OF THIS AWARD THAT THE INSTITUTE CHOSE TO HONOR MORE THAN ONE PERSON.

The honorees were Nevada Senator William J. Raggio, Nevada Assembly Speaker Barbara E. Buckley, and Ohio Supreme Court Chief Justice Thomas J. Moyer, posthumously, for their extraordinary efforts to promote merit selection of judges in their states in order to assure that judges remain impartial and not beholden to monied interests in partisan elections. Senator Raggio and Speaker Buckley fought for years for a ballot initiative to change Nevada's system of selecting judges. Chief Justice Moyer was a passionate defender of judicial impartiality whose untimely death in April left a tremendous void. Accepting his award was his wife, Mary Moyer.

This year's keynote speaker was Texas Supreme Court Chief Justice Wallace B. Jefferson, the first African American justice and chief justice in Texas history. He spoke passionately about his personal history and some of the pitfalls of an elective system such as that in Texas, while urging the attendees at the dinner in Denver to continue fighting for changes that would maintain integrity and honor in the judicial branch.

The Institute gave its first Transparent Courthouse® Award to United States Supreme Court Justice Sandra Day O'Connor (Ret.). Other past recipients are Utah Supreme Court Chief Justice Christine Durham and former New Hampshire Supreme Court Chief Justice John T. Broderick, Jr., who is now the Dean of the University of New Hampshire School of Law and a member of the IAALS Board of Advisors. The Institute Board and staff choose recipients of the award based upon their commitment to improving the civil justice system, openness to innovative solutions, and willingness to challenge status quo assumptions.



Chief Justice Wallace B. Jefferson

“ (THE INSTITUTE) HAS CERTAINLY BEEN A VERY POWERFUL ADVOCATE FOR REFORMING OUR METHODS FOR JUDICIAL SELECTION....I'M VERY, VERY HONORED AND HUMBLLED TO BE ONE OF YOUR RECIPIENTS TONIGHT.

-Nevada Senator William J. Raggio

AWARD DINNER



Rebecca Love Kourlis, Mary Moyer (L-R)



Rebecca Love Kourlis, Senator William J. Raggio (L-R)



Photos: Wayne Armstrong

“ I KNOW THIS GROUP SHARES TOM’S PASSION FOR PROTECTING AND ENHANCING THE INSTITUTIONS HE CARED ABOUT SO DEEPLY: THE JUDICIARY AND THE LEGAL PROFESSION. FEW THINGS GAVE TOM MORE PROFESSIONAL SATISFACTION THAN PROGRAMS THAT EXPANDED ACCESS TO THE COURTS AND EFFORTS THAT ENSURED THE JUDICIARY IS FAIR AND IMPARTIAL. -Mary Moyer ”

IAALS STAFF

The Institute team comprises the research division, the communications division, and the O'Connor Judicial Selection Initiative. We have a full-time staff of 10 people, all of whom are gifted and very busy. We also benefit from the work of consultants, graduate student interns and other academic support on campus.

Together, we are committed to conducting extensive, impeccable research; partnering with other entities aligned with our mission; and developing practical, inclusive solutions that we then carry out into the field.



REBECCA LOVE KOURLIS
Executive Director



PAMELA A. GAGEL
Assistant Director



MALIA REDDICK
Director of Judicial Programs



RUTH V. MCGREGOR
Special Advisor – O'Connor
Judicial Selection Initiative



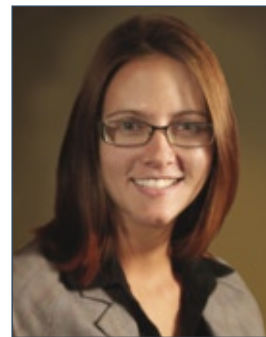
STEPHEN DANIELS
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CORINA GERETY
Research Analyst



NATALIE KNOWLTON
Research Analyst



DAN DRAYER
Director of Marketing
and Communications



ABIGAIL McLANE
Budget Manager



STACEY DAVIS
Executive Assistant



IAALS BOARD OF ADVISORS

This year, two of our Advisory Board members stepped down: Jim Lyons and Colorado Supreme Court Chief Justice Michael Bender. In their place, we welcomed two new members. Richard N. Baer serves as General Counsel and Chief Administrative Officer for Qwest Communications. Previously, he served as chairman of the litigation department at the Denver law firm of Sherman & Howard. John T. Broderick, Jr. is the Dean of the University of New Hampshire School of Law. Previously, he served on the New Hampshire Supreme Court beginning in 1995, and served as chief justice from 2004 until his resignation.

In welcoming these outstanding individuals to our Advisory Board, we celebrate the breadth and distinction of our Board members. We humbly extend our gratitude and thanks to all of them for their significant contributions to our work.

E. Osborne Ayscue, Jr., Counsel, McGuireWoods LLP

Richard N. Baer, Executive Vice President, General Counsel, and Chief Administrative Officer of Qwest

John T. Broderick, Jr., Dean, University of New Hampshire School of Law

Judge Kevin S. Burke, Hennepin County District Court, Minnesota

Robert D. Coombe, Chancellor, University of Denver

Sue K. Dosal, State Court Administrator, State of Minnesota

Daniel Girard, Managing Partner, Girard Gibbs LLP

Tom Gottschalk, Of Counsel, Kirkland and Ellis

Pamela Robillard Mackey, Shareholder, Haddon, Morgan, & Foreman, P.C.

Martin Katz, Dean and Associate Professor, University of Denver Sturm College of Law

Karen Mathis, President and Chief Executive Officer of Big Brothers Big Sisters

John E. Moye, Partner, Moye White LLP; former President of the Colorado Bar Association

William Usher Norwood, III, Partner, Pope, McGlamry, Kilpatrick, Morrison & Norwood, LLP

Daniel L. Ritchie, Chancellor Emeritus, University of Denver

Justice Patricio M. Serna, New Mexico Supreme Court

Dr. Walter Sutton, Associate General Counsel, Walmart Stores, Inc.

Diane Gates Wallach, Executive Vice President, Treasurer and Director, Cody Resources LLP

Russell Wheeler, President, Governance Institute; Visiting Fellow, the Brookings Institution; former Deputy Director, Federal Judicial Center

In addition, **Senior District Judge Richard P. Matsch** of the Federal District Court for Colorado serves as a consultant.

“

OUR VISION FOR AMERICA'S LEGAL SYSTEM IS AN AMBITIOUS ONE. WE WOULD BE HONORED IF YOU WOULD CONSIDER JOINING US ON THIS JOURNEY BY SUPPORTING OUR MISSION AND WORK.

”

MISSION, STRUCTURE & FUNDING

The Institute for the Advancement of the American Legal System (IAALS) is a national, non-partisan organization dedicated to improving the process and culture of the civil justice system in the United States. We provide principled leadership, conduct comprehensive and objective research, and develop innovative and practical solutions—all focused on serving the individuals and organizations who rely on the system to clarify rights and resolve disputes.

Located on the campus of the University of Denver, IAALS opened its doors on January 17, 2006, as the brainchild of the University's Chancellor Emeritus Daniel Ritchie, Denver attorney and Bar leader John Moye and United States District Court Judge Richard Matsch. IAALS Executive Director Rebecca Love Kourlis is also a founding member and previously served for nearly twenty years as a Colorado Supreme Court Justice and trial court judge. IAALS is very proud to be a part of the University of Denver. We have the benefit of an impressive network of staff, faculty and students. All staff work for the University. The Executive Director is employed by the Board of Trustees of the University and is overseen by an Executive Committee consisting of Chancellor Robert Coombe, the Chancellor Emeritus Daniel Ritchie and John Moye. For purposes of daily operations, the Executive Director is governed by University policy and reports to the Provost.

We benefit from gifts donated to the University for the use of IAALS. None of those gifts has conditions or requirements, other than accounting and fiduciary responsibility. All IAALS research and products are supported by pooled grants from individuals, businesses and private foundations.

Our vision for America's legal system is an ambitious one. We are working hard to achieve a transparent, fair and cost-effective civil justice system that is accountable to and trusted by those it serves – including a system of selecting and evaluating judges that fosters the impartiality of judges and the confidence of citizens. It is our hope that this Annual Report has offered some evidence that together, we can make strides toward our goals. We would be honored if you would consider joining us on this journey by supporting our mission and work. Donations from individuals, foundations and businesses are essential to ensure that we maintain the highest standards of excellence in our staff and programs. For more information about how to contribute to IAALS, please contact us. Thank you for your interest.

To learn more about IAALS, please contact us at:

Institute for the Advancement of the American Legal System (IAALS)

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2011: THE ROAD AHEAD

WE ARE GROWING; WE ARE MOVING TO A NEW LOCATION ON CAMPUS; WE ARE HONING IN ON OUR CORE WORK; AND, WE ARE BROADENING OUR REACH TO LEGAL

EDUCATION. Every initiative is solution-oriented, data-driven and pitched under a broad tent. It is our intention to be collaborators, innovators and leaders as we advance a civil justice system that is truly oriented to the needs of the users.

JUDICIAL SELECTION and JUDICIAL PERFORMANCE EVALUATION: In collaboration with the O'Connor Judicial Selection Initiative, we will continue to support judicial selection methods that are transparent and that include apolitical accountability. We are preparing a "tool kit" of information for jurisdictions interested in exploring a move toward a merit selection method. Judicial Performance Evaluation (JPE) programs must be protected but also made more cost-effective. Additionally, we intend to lead a national conversation on appellate judicial selection and its interrelationship with appellate JPE: what do the voters need to know about the appellate judges whose names appear on their ballots and how does that direct selection and JPE methods?

CIVIL PROCESS REFORM: We will advocate for rules changes at the state level, supporting groups exploring and implementing such changes, and then collecting measurement data from across the nation. We will report out on that data preliminarily in late 2012. We will continue to tout caseload management and the benefits of appropriate judicial intervention in discovery planning and execution, and will conduct one federal and one state judge-specific docket study in an effort to highlight changes that a judge can make to improve docket management.

DOMESTIC RELATIONS: We will implement a small on-campus, multi-disciplinary pilot project to study the possible effectiveness of a model that would allow a family to address their dispute outside of a court context. Simultaneously, we will begin a study of an in-court streamlined procedure that was implemented in the Colorado courts in 2005.

LEGAL EDUCATION: Our newest area of focus is legal education: *Educating Tomorrow's Lawyers*. In 2007, the Carnegie Foundation for the Advancement of Teaching published a report that changed the way that some educators and consumers of legal services think about legal education. Specifically, the report envisioned legal education as three formative apprenticeships, all of which are essential to preparing for professional service in the law. The first apprenticeship (cognitive) consists of the intellectual training needed to learn the academic knowledge base important to legal thinking and practice. The second apprenticeship (skills) involves learning to practice law in various professional contexts. The third apprenticeship (professional identity) initiates students into the social roles, ethical standards, and responsibilities that underlie the fundamental purposes of the profession of law.

We would like to build on that foundation to develop better lawyers through better legal education. Toward that goal, we intend to create a network of law schools committed to working and learning together to improve legal education. We will document and publicize exemplary innovations; provide a variety of resources for improving law teaching; and, launch a web-based clearinghouse for professors and law school administrators to learn about and apply their colleagues' innovations. In order to change the orientation of the legal system, we need to begin to sow seeds in the law schools.

“ ANYBODY WITH EVEN A PASSING INTEREST IN THE NATIONAL SCENE IN THE FIELD OF JUDICIAL IMPROVEMENT KNOWS THE WORK OF THE INSTITUTE.”

- Indiana Supreme Court Chief Justice Randall T. Shepard, introducing IAALS Executive Director Rebecca Love Kourlis as keynote speaker at the 2010 Judicial Conference of Indiana on September 21, 2010.



Photo: Wayne Armstrong



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