

2018 | ANNUAL REPORT

JUSTICE FOR ALL



IAALS

INSTITUTE for the ADVANCEMENT of the
AMERICAN LEGAL SYSTEM



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OUR MISSION

IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, is a national, independent research center dedicated to facilitating continuous improvement and advancing excellence in the American legal system. Our mission is to forge innovative and practical solutions to problems within the American legal system.

FROM THE EXECUTIVE DIRECTOR

“Justice for all.” It is a promise of American democracy and enshrined in our Pledge of Allegiance. But is that promise being kept?

“Justice for all” should be more than just a phrase our children learn to recite in school—it should be a reality, and IAALS is making that possible. We recognize that the legal process is often costly and unnecessarily complex—whether you are a person who needs a lawyer but cannot find or afford one, a person who goes to court without any lawyer at all, a small business litigating a case that can cost more than the amount at issue, or a large business that sinks millions of dollars into procedural wrangling. Everyone is frustrated and, in different ways, boxed out.

Our legal system is complex and, for many, beyond reach. Courts, with their dense rules and processes, were developed in a different era. Today, many litigants are deserting the system for other alternatives. Those who do come to the courthouse doors increasingly enter the system without the help of a lawyer only to find frustration where they should find resolution. Often underfunded and overburdened, our courts struggle to reform these processes and implement new technologies that can help people. And generations of lawyers are educated and trained in a way that often fails to put clients at the center of legal practice, and the regulatory framework of the legal system can stifle innovation and the ability to provide legal services when and where clients need them.

In these places—where real reform is hard but essential—IAALS does its work.

In this Annual Report, you will read more about our work to enhance public trust in the legal system by listening to those who seek justice and finding pathways to get them there. Highlights for the year include:

- Bringing together self-represented litigants with court stakeholders as part of our Court Compass project to collectively develop not only models to improve access to family justice but a model for all courts to engage the public in reform efforts.
- Publishing a number of recommendations to help align court services with the expectations of those using the courts—to make courts more technologically advanced and accessible and to help judges better manage the cases before them.
- Working with several law schools across the country to translate our Foundations for Practice survey results into actionable learning outcomes and hiring rubrics—so that the next generation of lawyers is better equipped to serve their clients.

With the help of our dedicated staff, along with our network of partners, donors, consultants, and collaborators nationwide, IAALS is helping to make “justice for all” a reality—for the people, through the courts, and with the legal profession.



Rebecca Hale Kowlis

JUSTICE FOR ALL

FOR THE PEOPLE



What good is the promise of justice for all, if costs, complexity, and inaccessibility make that impossible for so many? And how effective can reform really be if the people who need access to our legal system are left out of the conversation? At IAALS, we bring not only research and analytics to understanding the challenges people face—we also bring those people to the table. Our system is designed to serve the people, so IAALS places them at the center of all we do.

COURT COMPASS

Our justice system was built on the assumption that people would be represented by lawyers when they have to go to court, but that is no longer the reality, and many people seeking help from the courts now feel forgotten and alone—particularly in the realm of family justice. IAALS’ Court Compass project—funded by a generous gift from the Bohemian Foundation—has two areas of focus: simplifying the divorce process itself and identifying ways technology can help achieve that and empower more people.

In that pursuit, we partnered with experts at Stanford Law School’s Legal Design Lab, Northeastern University School of Law’s NuLawLab, and the University of Maine School of Law to conduct in-person workshops in Massachusetts, Iowa, North Carolina, and Colorado. In each state, we spoke with dozens of people who represented themselves in their divorces or separations, and we invited them to be a part of these “design sprint” workshops—because changing the divorce process can’t be effective without including those who have gone through it.

Each workshop also included court system insiders—such as judges, court staff, legal aid representatives, attorneys, and others—so they could hear first-hand the issues that real people experience in the courts and work alongside them to test and refine new court services and processes in real time, based on user experiences and feedback. The legal system representatives left the workshops armed with vetted ideas for changing the way they do business, and those who had gone through the court process left feeling heard and a part of the solution.

More states were interested in participating than IAALS could accommodate, but the success of the Court Compass workshop series has led to the creation of a new guide, *Listen > Learn > Lead*, that all states can use to replicate the process. Our experience through these design sprints proves that when courts and the people they serve work together, real change is possible.

“I AM INCREDIBLY GRATEFUL TO IAALS FOR ALLOWING ME TO PARTICIPATE IN THEIR DESIGN SPRINT, AND I AM ENCOURAGED THAT THEIR WORK WILL HELP CHANGE THE DIVORCE PROCESS FOR THE BETTER.” – Laura Storovich, Design Sprint Participant



THINK LIKE A CLIENT

The legal profession has also long existed on an assumption: that lawyers always know what their clients want. But do they really? What is it that clients value in and want from their lawyers? The answers to that question are key to understanding how to improve the quality and types of legal services that the public is provided—and our Think Like a Client project has uncovered them.

By tapping into more than 800,000 reviews and ratings provided by clients about their lawyers on Avvo, a leading online legal services marketplace, IAALS researchers have captured the clients' voice and have cataloged what it is they are saying about their legal representation. The story they are telling is not terribly surprising—but the data supporting their story is new and provides the legal profession with a stark reflection and concrete ways to improve.

Clients want lawyers who...

- ...are effective communicators, providing prompt responses to questions, explanations, and options in terms they can understand.
- ...demonstrate integrity, honesty, professionalism, and a sense of ethics.
- ...are honest and flexible when it comes to cost and billing.
- ...demonstrate they can apply thorough legal knowledge and expertise throughout their advocacy.
- ...put clients first and work hard to achieve their goals, treating them with kindness, empathy, courtesy, and respect.

Lawyers rarely have the opportunity to see things through the eyes of a client in this way. It is not just about winning or billing. It is about people—and it is imperative for the legal profession to realign its services with what clients want and to anchor all legal consumers at their core.

As we consider the best models for legal education, for legal regulation, and for the broader legal system, one thing is clear: there is no perspective that matters more than the individuals that the system is meant to serve.

"I LEARNED FROM [MY LAWYER] THAT A GREAT LAWYER IS NOT JUST ONE WHO ALWAYS DOES HIS OR HER JOB, BUT ALSO IS THE ONE WHO KNOWS HOW TO RESPECT HIS OR HER CLIENTS."

– Avvo Reviewer



CHANGING COURTS AND MINDS

Public trust and confidence in our legal system—in our courts, in our judges, and in our profession—is low. This is not an assumption, but rather it is based on studies and polling done by IAALS and others over the last several decades. But just knowing that it is low is not enough. We must ask ourselves: Why? Why is the public dissatisfied with our justice system? What are their concerns? To improve public trust and confidence, we must shed light on these answers.

Traditional surveys often just scratch the surface of this issue, and IAALS set out this year to get more in-depth answers. Beginning with several focus groups in diverse cities around the country, followed by dozens of one-on-one interviews with members of the public, our research team defined critical areas that contribute to mistrust: the role of money in the system, judges' perceived biases, and a lack of transparency about the system.

Our research highlighted that people understand more about the civil legal system than we in the profession might think—but they want more information about how the

system works in order to counteract the feeling that lawyers and other insiders withhold it at the public's expense. Without further transparency, gaps in knowledge will continue to be filled by other sources—like television—that are often less than reliable.

Courts can help fill this gap in people's narratives by actively engaging the general public, providing information on the services they provide and how to use them. Courts can then cast light on areas in which they are doing well—and highlight areas where they are working to improve.

What does the public want in the legal system? Through this research, IAALS has begun to understand that question better—and we will continue to dive deeper. Because without understanding what the people want, it is impossible to answer: Are we delivering it?

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THROUGH THE COURTS

Courts designed hundreds of years ago don't work today. Litigants who have a choice often opt out of using our courts altogether—and those who do go to court often choose to do so without a lawyer. Modern technologies that greet and assist consumers in nearly every other industry and arena are often not available in our courts. At IAALS, we're identifying innovations that make the court system easier to navigate for everyone, from individuals to businesses, while also helping courts increase efficiency and transparency, reduce their procedural complexity, and make the most of the often limited resources they have.

IMPROVING COURT TECHNOLOGY

In all aspects of daily life, people are used to—and demand—services that are available online. People go online to do everything, from banking to buying homes, and they do so easily, independently, and whenever it is convenient for them. However, it is not nearly so easy for most people to navigate our courts—let alone represent themselves. Technology is a huge missing piece of the court's puzzle, and IAALS has proposed a series of technological solutions that will help courts provide more modern, customer-focused services.

In *Eighteen Ways Courts Should Use Technology to Better Serve Their Customers*, we examine how existing and readily available technology tools can be used to improve court services, including:

- Court appearances by phone or video conference.
- Online options for scheduling hearings, paying fines and fees, and filling out and filing forms.

- Automated messaging and reminders about next steps and court dates.
- Internal technologies for courts to triage cases better, enable online dispute resolution, and implement a more robust case management system.

The vendors who create court technologies also must be mindful of these broader issues and needs. Traditional court management systems are single-provider, monolithic solutions that don't easily facilitate integration of litigant-facing tools. It is incumbent upon vendors to build these services in a creative, component-based way so courts can easily acquire them and uniformly provide them.

The benefits to courts from these innovations will be tangible and measurable. Filed documents will be more complete; hearings will take less time, freeing up resources to deal with difficult cases; judgments and orders will be generated faster after hearings; and self-represented litigants will have a better understanding of the process—and better access to it.

“USING TECHNOLOGY MORE WISELY THROUGHOUT OUR COURTS TO ENHANCE THE COURT USER EXPERIENCE IS A MAJOR STEP TOWARD REBUILDING TRUST IN OUR SYSTEM.” – John M. Greacen, Principal, Greacen Associates, LLC

EFFICIENCY IN MOTION

The protracted and expensive discovery process has been a flash point for civil justice reform efforts over the last decade, but lawyers and judges agree: dispositive motions are also a critical area for reform. In a process where courts can rule on some or all of the issues in a case without going to trial, summary judgment motions can drive down the costs and wasted time of litigation when used appropriately. But, such motions also can be filed reflexively, which creates the opposite effect. IAALS is focused on creative ways to improve the process for all.

Our efforts began with a docket study of ten federal district courts around the country, published in May. Based on this research we dug deeper with a Working Group of judges and attorneys from around the country to develop a set of best practices for state and federal courts alike—with the goal of advancing and amplifying the national conversation regarding the cost and delay of current dispositive motions practice.

Our recommendations are captured in *Efficiency in*

Motion: Recommendations for Improving Dispositive Motions Practice in State and Federal Courts, in which we define principles that should guide dispositive motions practice, as well as concrete ways of getting there, including:

- Creating more effective communication between parties, attorneys, and the court.
- Promoting prompt rulings by judges, and more active and engaged case management throughout the process.
- Expediting the processes that guide—and sometimes hinder—motions practice in general.

With these recommendations, and through the support of the Sturm Family Foundation, IAALS is helping realign the goals of civil litigation with the pursuit of justice. And, we are calling on the bench and bar to do their part and get more actively engaged in improving the process—with the goal of better outcomes for all.

“I AM ALREADY IMPLEMENTING MANY OF THE REFORMS OUTLINED IN THE REPORT IN MY COURTROOM, AND THEY ARE HAVING A DEFINITE IMPACT ON TIME AND EXPENSE FOR ALL INVOLVED. THESE REFORMS ARE CRITICAL TO AVOIDING MONTHS, OR EVEN YEARS, OF DELAY AND MOUNTING COSTS.” – Judge Jack Zouhary, U.S. District Court for the Northern District of Ohio, Western Division



CIVIL JUSTICE INITIATIVE

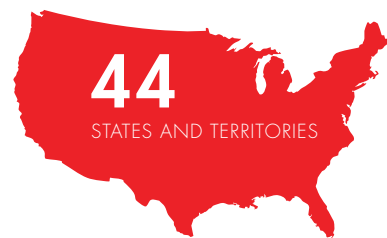
Change is hard, and changing a long-established organization like our state courts is even harder. However, change they must—and the people who work within the courts are key to making that change successful. Judges, lawyers, and court administrators cannot simply be handed new rules to follow; they also must be a part of changing the broader culture, norms, and values of our courts. Through the Civil Justice Initiative Implementation Plan—a three-year project funded through the State Justice Institute—IAALS and the National Center for State Courts have led the charge to see that the 13 recommendations for civil justice reform adopted by the Conference of Chief Justices and Conference of State Court Administrators in 2016 take hold.

In the past year, we completed a series of regional summits that gave state leaders the opportunity to develop plans for reform inspired by the national

recommendations. Over forty states and territories participated, and we are excited to see their plans turn into action over the next few years. Following up on the success of the summits, we have launched a series of webinars to reach an even broader audience.

We have also celebrated the success of trailblazing states such as Arizona, which has led the way with reforms that went into effect in July. And, we have continued our partnerships with Idaho, Maine, Missouri, and Texas as they implement broad changes to rules, procedures, and culture. Their leadership has brought other states into the fold, and we are excited to work with jurisdictions on reform efforts from New York to Guam.

It is far easier to talk about change than to actually make it happen, but these states have set an example for others that change is indeed possible.



JUDICIAL DISCIPLINE SYSTEMS

No one is above the law, not even our judges. The public must have confidence that judges who misbehave in office, who abuse their power, or who undermine the justice system will be investigated seriously and punished appropriately. How can we ensure that happens and uphold high standards for judges, particularly in the #MeToo era? The answer is strong, independent, and transparent systems for judicial discipline—and IAALS has defined new best practices for improving them.

With the support of El Pomar Foundation and the Sturm Family Foundation, IAALS brought together judicial discipline commission members and directors, judges, lawyers, and academics to consider

how judicial discipline systems can and should be employed. Informed by that collaboration and our own research, IAALS published *Recommendations for Judicial Discipline Systems*, which is designed to help those who run, participate in, or observe judicial discipline systems provide a process that balances transparency with accountability and confidentiality with trustworthiness. The recommendations include:

- Better ways of establishing discipline commissions and how they operate, including independence, funding, and rulemaking, as well as how members are appointed, removed, and recused.

REDEFINING CASE MANAGEMENT

For decades, judges, courts, and attorneys have recognized that case management is an essential element in helping cases reach a fair, efficient, and cost-effective resolution. While there has been significant reform in recent years aimed at keeping the courts more knowledgeable, accessible, and engaged, case management is still not the norm. Why? IAALS spent the last year investigating the causes—and developing strategies for improvement.

Our research shows that case management works and is more important than ever—but the concept needs to be broadened, re-envisioned, and ultimately redefined for our rapidly evolving legal system. And, the court system as a whole must take responsibility for strong case management as a way to better serve everyone who walks through their doors. In *Redefining Case Management*, IAALS draws on conversations with national experts in the field to breathe new life into these long-standing principles and propose a new strategy for anchoring case management into our system:

- Case management must be collaborative among judges, court staff, attorneys, and parties, with judges strategically driving the process.
- Adoption of a full array of sanctions for judges—from admonishment to suspension to removal or more—and processes for investigating complaints and reaching a resolution.
- Strategies for educating the public about how the discipline process works, as well as statistics about the commission's work.

At the end of the day, protecting our courts and the public is why judicial discipline systems exist in the first place. They are essential to a trusted and trustworthy court system. Absent that assurance, the system can appear self-serving, protectionist,

- Systematization is essential to help allocate judge time and court resources to the cases that need them most.
- Collecting data on the process is key to helping courts evaluate their strengths and weaknesses.

We also set forth an updated set of civil case management guidelines that courts should follow to put these strategies into action.

Ultimately, case management works—and new strategies, technologies, and staffing models can make it work even better. The people whose cases come before the court feel as though someone is actually in charge of driving their case toward a resolution. Lawyers are kept on track and forced to keep to a firm schedule and to minimize inefficiencies. And the court keeps responsibility for it all, helping to ensure that the overall legal process is more efficient and effective.



and even corrupt. Through these recommendations, IAALS has identified concrete ways to improve public confidence in the judiciary.

JUSTICE FOR ALL

WITH THE LEGAL PROFESSION



Greater access to justice for more people is possible only if the legal profession evolves to put client and consumer needs at the center of the work. That begins with rethinking how we train lawyers; modern legal education does not adequately prepare students to be modern lawyers—including the plethora of new ways that lawyers can assist those with legal issues. At IAALS, we're helping law schools learn to better educate the lawyers of tomorrow while also rethinking the way legal services can and should be delivered so they are more available and responsive to all.

BETTER ACCESS THROUGH UNBUNDLING

These days, it is the norm—not the exception—that people are navigating our legal system without lawyers. For most, hiring a lawyer is simply too expensive, even though they want and need one. How can lawyers help bridge this gap and increase access to justice for more people? Providing unbundled legal services is a huge step in the right direction, and IAALS continues to advocate for its adoption around the country.

Unbundling, also called limited scope representation, is an innovative business model that allows people to hire a lawyer only for certain legal tasks, instead of the entire case. In this way, more people can afford the legal help they need, and lawyers can grow a new client base with people who would not (or could not) otherwise hire them.

The model, however, has yet to be widely adopted, and our 2017 Better Access through Unbundling Conference was designed to change that reality. This

year, we published a report with strategic plans and recommendations to advance the model in every jurisdiction, whether or not they have embraced unbundling to this point.

To make unbundling successful for both lawyers and the public, we detail ways for all stakeholders to get involved, including rulemakers, regulatory bodies, court systems, court service providers, professional organizations, law schools, technology providers, and community organizations.

All these justice system stakeholders must be committed to ensuring that everyone who needs access to our legal system has it. And, unbundled practitioners are on the frontlines of fulfilling this commitment. We applaud those who are paving the way, we commend those who are following in their footsteps, and we support those who are just discovering how alternative legal service models can truly change people's lives.

“UNBUNDLING IS ONE OF THE FEW LEGAL SERVICES DELIVERY MECHANISMS THAT BENEFITS LAWYERS, CONSUMERS, AND COURTS. IT IS A WIN-WIN-WIN MODEL FOR IMPROVING ACCESS TO AFFORDABLE LEGAL SERVICES.”

– William Hornsby, Former Staff Counsel,
American Bar Association Standing Committee on the Delivery of Legal Services

FOUNDATIONS FOR PRACTICE

Clients need lawyers who can hit the ground running. But what does a practice-ready—or client-ready—lawyer look like? Through our Foundations for Practice project, which surveyed more than 24,000 lawyers in all 50 states, we now know. Successful new lawyers need a blend of legal skills along with professional competencies and characteristics. But how do we ensure every lawyer is a “whole lawyer?” It will take broad change within both legal education and legal hiring, and IAALS continues to foster it.

In the second phase of the project, we crisscrossed the country and worked collaboratively with law schools and legal employers—and attendees of our annual Educating Tomorrow’s Lawyers Conference—to develop strategies for instilling the foundations of the “whole lawyer” within law students and new lawyers. As a first step, we partnered with four schools:

- Columbia Law School
- University of Denver Sturm College of Law
- Northwestern Pritzker School of Law
- Seattle University School of Law

Through a series of workshops, each school recruited employers in their region to participate in the creation of new learning outcomes and foundations-based hiring protocols. As a result, our model learning outcomes not only provide schools a way to instill and measure what’s important for new lawyers, but they also help employers identify worthy candidates for hire.

Each school walked away with learning outcomes tailored to the needs and values of the school and its employers, and IAALS walked away with a set of model learning outcomes, which are grouped into five categories:

- Lawyer as Practitioner
- Lawyer as Professional
- Lawyer as Communicator
- Lawyer as Problem-Solver
- Lawyer as Self-Starters

We continue to see the incredible impact that Foundations for Practice has on law schools and the profession. Professors are incorporating our foundations into their classrooms, law schools are embedding foundations-based learning outcomes across their curriculum, and employers have better criteria by which to hire new lawyers. The end result is a profession of lawyers better equipped to serve their clients.



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**"IAALS' WORK TO MAINTAIN
THE RULE OF LAW IS CRITICAL.
I SUPPORT IAALS AND AM PROUD
TO BE A PART OF ITS WORK"**

– Sam Walker, Donor and Member of
IAALS' Board of Advisors

REBUILDING JUSTICE AWARD DINNER

At our 11th Annual Rebuilding Justice Award Dinner, IAALS celebrated and honored the leadership and work of the Conference of Chief Justices to improve America's civil and family courts. Chief Justice Maureen O'Connor of Ohio, then President of the CCJ, accepted the award on behalf of the organization.

One of the evening's highlights was a fireside chat with several attending Chief Justices, which was moderated by IAALS Executive Director Rebecca Love Kourlis. The Chiefs discussed the issue of public trust and confidence in the judiciary, including sources of distrust and what the bench and bar can do to stem the tide.



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CLOSING REMARKS

During my time as a judge, I witnessed a system increasingly under attack from outside forces—and a system that was often failing to deliver the justice I swore to uphold. Today, through the work of IAALS, I see a brighter future for our courts, for our legal profession, and for the everyday people who rely on them.

Since IAALS was founded in 2006, I have witnessed its growth from a fledgling idea to a nationally recognized force for change and evolution on the legal landscape. We have spanned ideological divides, brought together diverse and divergent participants, used empirical data rather than conjecture, and formulated real solutions to real problems within the American legal system. I am so proud of our accomplishments—and of our committed and talented staff and partners who have helped get us there. Building IAALS has been the most rewarding professional pursuit of my career.

However, there is much still to be done.

In September, I will retire as Executive Director and leave the next chapter of IAALS to be written by Chief Justice Scott Bales of the Arizona Supreme Court, who will be leaving that position and coming to IAALS. IAALS and our legal system could not be in more capable hands. We share a vision of an accessible, fair, reliable, efficient and accountable system—one that inspires trust. I know that IAALS will thrive under his leadership, and he will lead IAALS into even greater impact across the country and across the legal system.

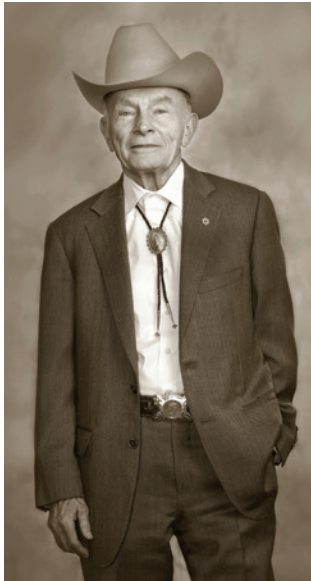
Thank you for your support over the years—and thank you for your continued support of IAALS into the future. There is no other organization doing the work that we do, and the work is needed now more than ever.

Rebecca Hale Kowlis



HISTORY

Located on the campus of the University of Denver, IAALS opened its doors on January 17, 2006, and was founded by the University's Chancellor Emeritus Daniel Ritchie, Denver attorney and bar leader John Moye, business leader and philanthropist Charles C. Gates, and IAALS Executive Director Rebecca Love Kourlis.



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