

JUSTICE WE CAN BELIEVE IN

2019 | **ANNUAL REPORT**



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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

People look to our justice system for relief in matters that affect their rights, their businesses, and the most intimate aspects of their lives. But, for too long and for too many, the courthouse doors seem closed. Rooted in another era, the legal system has remained stagnant, failing to innovate, change, and adapt as other industries passed it by. The reality today is that people from all walks of life must seek other paths to justice—or forgo it entirely—when an overly expensive and complex system blocks their way.

How can we remove these obstacles, rebuild the trust we've lost, and create a modern and inviting legal system? How can we ensure that everyone has access to justice we can believe in?

It starts by focusing on those the system is meant to serve. We must work together to nurture the system so that it grows to meet the needs of all Americans. And by listening to them, we can better understand how to meet their needs. That is at the core of IAALS' mission.

In this Annual Report, you will read more about how our work is transforming the legal landscape and placing the people at the center of reform. Highlights for the year include:

- Launching a first-of-its-kind survey to assess the diverse justice needs of Americans and their businesses, with an eye toward providing new real-world solutions to improve access to justice for all.
- Publishing practical guides to help courts create more effective self-help information, offer problem-solving approaches for families, and better work with self-represented litigants.
- Partnering with Utah to implement a new way of regulating legal services to encourage innovation while offering the public more choices and greater access to legal help.

Over the years, IAALS has planted the seeds for change, which are now flourishing. When everyone is invested in cultivating a better way forward, our system will thrive. And with your help, justice we can believe in is within reach.



A handwritten signature in black ink, appearing to read "Eric Lipton". The signature is fluid and cursive, with a large, sweeping "E" and a stylized "L".



JUSTICE WE CAN BELIEVE IN **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.

JUSTICE NEEDS IN THE UNITED STATES

Justice is a complicated concept. It's not just about courts and laws. What constitutes justice can vary across individuals, situations, and cultures. Whether civil or criminal, whether family- or business-related, or whether urban or rural, the types of problems Americans face in their daily lives must be understood before broader societal changes can address them. We know we have an access to justice problem, but how do we fully measure the scope of justice needs within the United States? In partnership with HiiL, The Hague Institute for Innovation of Law, and with funding from Bohemian Foundation, IAALS is working to shed greater light on the issues—and new solutions—through our *US Justice Needs* project.

Not only those with low income have difficulty accessing our expensive, complicated, and outdated legal system. People of all socioeconomic backgrounds face problems every day with unclear paths to resolution, as do business owners. The *US Justice Needs* project is the first ever study to assess the needs of people of all income levels and across all regions of the

country, as well as entities such as small, mid-size, and large businesses.

Through a series of national surveys, we will capture the voices of the people and better understand the problems they face, whether and how they seek to resolve them, and the justice outcomes they do or don't get. In the end, this research will be vital in the fight to close the justice gap and provide real-world solutions tailored to the array of problems that Americans and their businesses encounter in their pursuit of justice, no matter where they reside and no matter how much they earn.



“THERE IS A COMMON MISCONCEPTION THAT MOST ACCESS TO JUSTICE ISSUES AFFECT DEVELOPING COUNTRIES. IN FACT, OFTEN TIMES THE MORE DEVELOPED A NATION IS, THE MORE JUSTICE NEEDS EXIST IN THE POPULATION, AND THE GREATER THE CHALLENGE OF ACCESS TO JUSTICE FOR ALL.” – Dr. Martin Gramatikov, Measuring Justice Director, HiiL



JOHN
MOYE
HALL

WELKOM
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PUBLIC TRUST AND CONFIDENCE

Our court system was designed to ensure accountability in American society—to determine innocence or guilt, to resolve disputes, to provide just outcomes—and to ensure that laws are applied to everyone equally, fairly, and independently. But does the American public think that courts are achieving these promises? The answer is often no, and low trust and confidence in our courts undermine this key pillar of our democracy. While many surveys have been conducted over the years to gauge the public's perceptions of our legal system, IAALS has dived deeper by conducting in-depth, qualitative research with members of the public one-on-one.

While our research participants were diverse in terms of gender, age, income, education, race and ethnicity, and political perspectives, they have shared goals for courts. People want a court system that protects individuals and communities, maintains the rule of law, and provides

justice without prejudice. People want judges who are fair, just, and upstanding members of their community. And, people want more understanding about the legal system and procedures, more transparency from courts, and more proactive efforts to inform the public.

IAALS also solicited papers from thought leaders across the country, asking them to explore what low public confidence in the legal system means and how concerned we should be about its potential effects. Are we at a boiling point? The writers—Professor Benjamin Barton, Chief Justice Chase Rogers, Stacy Guillon, and James Lyons—gave us thoughtful, and often conflicting, answers. What remains clear, though, is the public's ideal court system—one tied to an overall sense of justice—remains elusive. And it is incumbent upon all of us to ensure our system is both trusted and trustworthy.

“PEOPLE ONLY GO TO [COURT] RELUCTANTLY WHEN THERE’S AN ISSUE . . . SO, IT’S NEVER A PLEASANT EXPERIENCE. . . . [PEOPLE] JUST FEAR THE COURTS. . . . [A] LACK OF UNDERSTANDING OF THE GOOD THAT A COURT DOES IS A HUGE HINDRANCE FOR THEM. THEY’RE NOT GETTING THE FULL BENEFIT OF OUR SOCIETY.” – Research Participant





“I’M HONORED TO BE A PART OF THIS [DESIGN SPRINT]. THE FACT THAT YOU’RE EVEN TAKING LITIGANTS INTO CONSIDERATION . . . AND THEIR OPINIONS, AND THEIR VALUES, AND WHAT THEY GO THROUGH, AND NOT JUST THE BEHIND THE SCENES [COURT] PEOPLE WHO DEAL WITH IT, IS CRUCIAL.” – Design Sprint Participant



REDESIGNING DIVORCE

Family courts around the country have been at the forefront of efforts to improve the delivery of justice. However, those efforts often fail to include arguably the most important voices at the table: the people who have been through the court process, and particularly those who have done it without a lawyer. Their feedback is critical to the reform process, and IAALS’ *Court Compass* project is all about filling that gap through user-centric design.

With support from Bohemian Foundation, IAALS conducted a series of interactive design sprint workshops in four states—Massachusetts, Iowa, North Carolina, and Colorado—that brought family court litigants, court staff, and other system stakeholders together to develop potential solutions in the divorce and separation process. Through these workshops, we

gained a deeper understanding of the problems and issues that litigants face in family court—and, most importantly, participants brainstormed, prototyped, and tested real-world solutions to address them. From out-of-court resource agencies and court concierges to mobile apps and divorce vans, the workshops provided valuable insights into the services families need and how courts and communities can think about delivering them.

Our report *Redesigning Divorce* details the results of our design sprints and pairs with our how-to guide, *Listen > Learn > Lead*, which any court can use to replicate the process in their community. By engaging and empowering litigants in creating solutions, we can also improve their trust and confidence in a system that has often not listened to their needs.



JUSTICE WE CAN BELIEVE IN

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. At IAALS, we're identifying innovations that make the court system easier to navigate for everyone, from individuals to families to businesses, while also helping courts increase efficiency, reduce procedural complexity, and make the most of the often limited resources they have.

A BETTER RECOVERY PROCESS IN DISASTER CASES

When disasters hit—whether by hurricane, tornado, earthquake, or fire—the aftermath is more than the physical destruction. The road to recovery and being whole again is an arduous one for victims, and the impacts extend far beyond the immediate recovery. As natural disasters continue to increase in both number and severity, so do their costs—on victims and on courts, which get bogged down by mounting property damage insurance disputes. But it doesn't have to be this way.

IAALS, with funding from the American College of Trial Lawyers, has led a new initiative to hasten the recovery process for everyone involved—the victims, the insurance industry, and the legal system. Together with nationally renowned experts from all perspectives—including plaintiff and defense, FEMA, the Texas U.S. Attorney's office, and state and federal judges—IAALS has taken lessons learned from past

disaster litigations to develop better protocols for judges to guide and expedite the discovery process in insurance cases arising from disasters, both natural and man-made.

After a disaster, courts are often inundated with a large volume of cases filed in a short period of time. The new protocols set expectations of both property owners and their insurers to exchange information and documents early in the case to avoid formal discovery requests, which often exacerbate delays and costs. Judges have already begun using the protocols in courts across the country impacted by recent natural disasters—and they are seeing real improvements. When cases start off on the right foot, it helps set them on a better path toward a swift resolution. And when parties work together, we can achieve a fairer and more effective legal process—and better support the recovery process for our communities.

"IT IS IMPERATIVE THAT OUR COURTS HAVE BETTER TOOLS TO MANAGE THE INFLUX OF CASES THAT ARISE FROM NATURAL DISASTERS. I HAVE USED THESE PROTOCOLS TO MANAGE CASES FLOWING FROM HURRICANE HARVEY, AND I'M CONVINCED IT WORKS BETTER FOR EVERYONE INVOLVED, PARTICULARLY THOSE WHO ARE SEEKING TO REBUILD THEIR LIVES."

– Chief Judge Lee H. Rosenthal, U.S. District Court for the Southern District of Texas, Houston Division



FAMILY JUSTICE INITIATIVE

Divorce, separation, and custody are where most people will experience our court system, and the process leaves many of them broken. Instead of empowering families to forge new lives and co-parent their children, the go-to adversarial court process can make a difficult situation even worse. We must do more to refocus family courts on problem solving and facilitating cooperation, which is at the heart of the Family Justice Initiative. Modeled on the Civil Justice Initiative, the project launched in 2018 with the backing of the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), funding from the State Justice Institute (SJI), and with support from IAALS, the National Center for State Courts (NCSC), and the National Council of Juvenile and Family Court Judges.

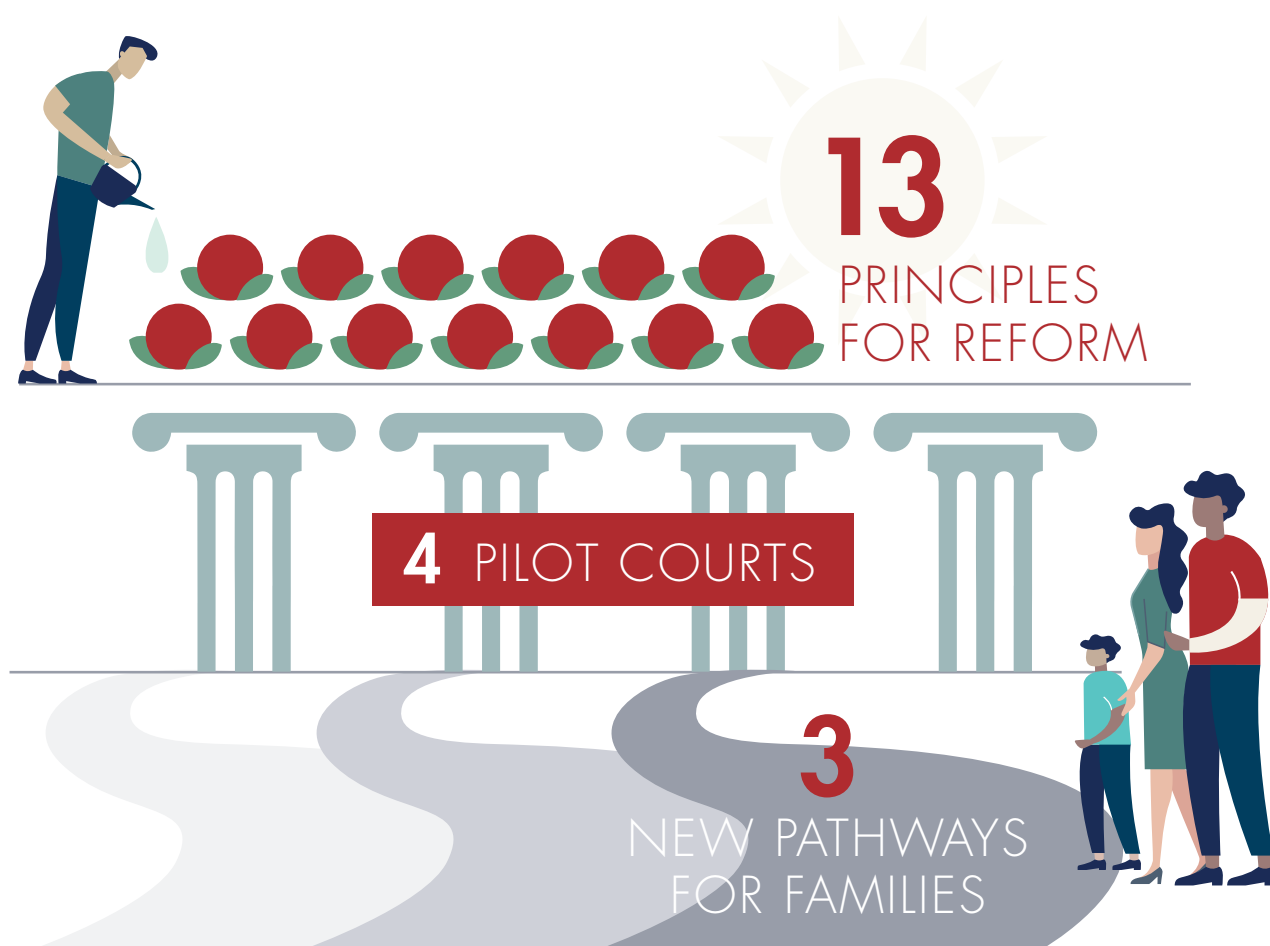
The project began with a seminal report on the landscape of domestic relations cases in state courts, including data IAALS collected from interviewing those who work within family courts. From this research, 13 Principles for Family Justice Reform were developed—and approved by CCJ in early 2019—to help courts create collaborative approaches to resolving disputes,

triage family cases based on their unique situations and needs, use technology to improve the process, and provide better services overall for families.

Since then, we have worked closely with four visionary family courts that have taken up the mantle of the Family Justice Initiative Principles:

- Pima County, Arizona
- King County, Washington
- Cuyahoga County, Ohio
- Miami-Dade County, Florida

IAALS and our partners are working with these jurisdictions to prioritize the Principles based on individual state needs, identify the steps needed for implementation, and prepare the court and its staff for change. As these courts model the future of family justice, more courts can learn from their successes and make a renewed commitment to those who walk through their doors.



CIVIL JUSTICE INITIATIVE

Our state courts are the frontlines of justice in the United States, handling 83 million cases in 2017—representing 95 percent of all cases filed nationwide. It is critical that they fortify those frontlines, innovate, and keep pace with the needs of the public to ensure access to justice. States around the country have begun to recognize this need and embrace the Civil Justice Initiative’s 13 Recommendations for civil justice reform adopted by CCJ and COSCA in 2016. In partnership with NCSC and with funding from SJI, IAALS has led the effort to transform our state courts and help them adopt right-sized case management and tailored pathways based on the needs of the case, and strategically deploy court personnel and technology to provide superior access for all.

In the last year, IAALS has worked closely with four pioneering states that have begun examining their court rules and procedures in light of the Recommendations.

Idaho, Maine, Missouri, and Texas are working closely with IAALS to get technical assistance in the change process as they work through our seven-step *Roadmap for Implementation* guide. Our report on these states’ progress shows their deep commitment to better serving the public—and offers successes and lessons learned for other states looking to join their leadership.

The Recommendations also call for courts to devote special attention to high-volume dockets, which typically include debt collection cases. Americans are drowning in debt, and consumer debt accounts for nearly a quarter of all civil cases filed in state courts. Beginning with a study of New York’s consumer debt litigation processes, IAALS and NCSC published a white paper assessing how these cases are currently handled around the country and proposing a model for reforming the debt collection court process.

PRACTICAL GUIDANCE FOR IMPROVING CIVIL AND FAMILY COURTS

As momentum continues to build for changing the way our civil and family courts do business, it is difficult for courts to know where to start. Even when they understand the need for change, getting buy-in is hard, and actually making change happen is harder still when funding and resources are tight. In the last year, IAALS has developed new practical guides to help civil and family courts embrace high-impact reform recommendations, stemming from our work in the Family and Civil Justice Initiatives and funded by Bohemian Foundation.

Self-represented litigants face a variety of challenges navigating the legal process without help, and each court—and its staff—has an obligation to provide them direct guidance at every phase of the court process. While many courts develop self-help materials, not all are created equal. Our *Guidelines for Creating Effective Self-Help Information* provides recommendations to help courts improve existing self-help materials and develop new materials that empower people with

information—and an understanding of what to do with that information—on their legal journey.

Additionally, trial judges must be able to modify traditional courtroom practices to make it possible for people who represent themselves to present their cases and receive just outcomes. In *Ensuring the Right to Be Heard*, we summarize effective courtroom practices that judges should use in cases that include one or more self-represented litigants.

Finally, what does it look like to actually move family courts away from their default adversarial approach? It means a focus on new ways to support families in addressing underlying problems collaboratively—and providing them with the tools to resolve disputes in the future. Our *Guidance on Developing Problem-Solving Approaches for Families in Court* is designed to assist family courts in building robust alternative dispute resolution processes that can alleviate tensions and protect children from parental conflict.



JUSTICE WE CAN BELIEVE IN

WITH THE LEGAL PROFESSION



Fostering justice that we can believe in is possible only if the legal profession evolves to put client and consumer needs at the center of its work. That begins with rethinking how we train and license lawyers, but also extends to how we regulate legal services generally. 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.

UNLOCKING LEGAL REGULATION

Our legal profession is at a crossroads. The vast majority of Americans cannot access legal help—let alone representation from lawyers—and many instead must face their legal problems alone. This reality is unsustainable for both the public and the profession. We cannot continue to expect people to confront legal problems without legal advice, but lawyers can't close that gap alone. For legal services to meet the needs of the people, we must expand their reach and reimagine how they can be provided. That is what IAALS' *Unlocking Legal Regulation* project is all about.

We are taking a bold step forward and laying the foundation for a consumer- and people-centered regulatory system that opens the door for more service providers, more legal services, and more sustainable practices in the marketplace. As part of the project,

IAALS is partnering with the state of Utah to develop and pilot test a risk-based regulation system—based on the model we created—which ensures high-quality services but doesn't restrict those services to just lawyers. New providers will be allowed to enter the market to assist those with unmet needs. IAALS will evaluate how it's working over time, with the hope that more states can get on board in the near future.

As more and more states and organizations join us in this conversation, our online Legal Regulation Knowledge Center will also be an invaluable resource with updates on what's happening around the country and the world. The tipping point is here. By unlocking legal regulation, we will be unlocking the potential for new jobs, for increased services, and for better legal outcomes for every American who needs access to justice.

"ACCESS TO LEGAL REPRESENTATION IS THE FOUNDATION OF ACCESS TO JUSTICE. WE CANNOT AFFORD TO FAIL THOSE WHO CANNOT AFFORD LEGAL REPRESENTATION. AND WE CANNOT AFFORD THE CONTINUED DECAY OF THE JUSTICE SYSTEM TO THE DETRIMENT OF THE AMERICAN CITIZENRY." – Andrew Arruda, Co-Founder and CEO, ROSS Intelligence



BUILDING A BETTER BAR

The bar exam is an exhausting test of legal knowledge and reasoning that has remained largely unchanged for the last 50 years. But does it accurately test whether the next generation of lawyers has what it takes to practice law? And does the exam actually protect the public from unqualified lawyers? We don't know those answers because state regulators have never defined the "minimum competence" lawyers need to practice law—the very thing that the bar exam is supposed to measure. In an effort to develop that critical, missing information, IAALS has launched a new national research project: *Building a Better Bar*.

With funding from AccessLex Institute and The Ohio State University Moritz College of Law, and in partnership with Professor Deborah Merritt, the project is beginning to develop an evidence-based definition of minimum competence that will help ensure the efficacy

and validity of the bar exam going forward. Through a series of focus groups conducted in 12 states, *Building a Better Bar* will stitch together diverse viewpoints to provide a rich picture of minimum competence.

Focus groups will primarily tap into the perspectives of new lawyers, but the project will also hold focus groups with the lawyers who supervise them. Other specialized groups will focus on women, people of color, solo practitioners, and those in rural areas, whose perspectives are essential but are often unacknowledged. With this diverse input, we can form a robust working definition of minimum competence, which will in turn help shape the future of the bar exam and lawyer licensing in the United States, as well as efforts in legal education to align admissions, curriculums, and licensure.

**"IN THE END, WE WILL PROVIDE CONCRETE DATA THAT
STATE REGULATORS CAN USE TO IMPROVE LICENSING,
PROTECT THE PUBLIC, AND ADVANCE JUSTICE FOR ALL."**

— Professor Deborah Merritt, The Ohio State University Moritz College of Law

FOUNDATIONS FOR PRACTICE

For years, graduating practice-ready lawyers has been a paramount goal for law schools. But what does practice-ready really mean? What do new lawyers need to be successful in their careers, for their employers, and—most importantly—for their clients? Through a first-of-its-kind effort, IAALS' *Foundations for Practice* project has clarified what it takes for new lawyers to hit the ground running. Over 24,000 lawyers in all 50 states weighed in through our survey and called for new lawyers to be “whole lawyers”—balancing a critical set of legal skills, professional competencies, and personal characteristics.

We then partnered with four innovative law schools at Columbia, the University of Denver, Northwestern, and Seattle University to develop a model set of learning outcomes that every school can use to ensure they instill and measure these important whole lawyer

foundations, and also to help legal employers identify worthy candidates for hire who are best suited to serve their clients.

Next, our *Think Like a Client* project bridged the gap between what lawyers think they need to succeed and what people actually want from their lawyers. After analyzing a sample of client reviews from Avvo, our findings tell the story from the client's perspective—and how the qualities they seek are reflected in the whole lawyer.

The future of *Foundations for Practice* kicks off in 2020 and will focus on building the whole lawyer foundations into the core of the legal profession. We are working toward a future where law schools graduate better lawyers, legal employers hire better lawyers, and clients are better served by their lawyers.



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* Gift to the Campaign Honoring Becky Kourlis

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"I AM PROUD TO SUPPORT IAALS' WORK AND I KNOW MY INVESTMENT IS CONTRIBUTING TO THE GREATER GOOD."

– R. Stanton Dodge, Donor and
Chief Legal Officer, DraftKings Inc.

REBUILDING JUSTICE AWARD DINNER

At our 12th Annual Rebuilding Justice Award Dinner, IAALS celebrated and honored the William and Flora Hewlett Foundation for its generous support of our *Foundations for Practice* project, and our four partner law schools for their leadership in bringing the project to life.

Kathryn Reilly, Partner at Wheeler Trigg O'Donnell, delivered the keynote address and made the case for law firm hiring to change in line with our *Foundations* recommendations. The successes her firm has seen truly represent the impact of our work on the future of the legal profession.



THANKS TO BECKY

After more than 13 years of growing IAALS from a fledgling idea to a nationally recognized force for change, Becky Kourlis retired as our Founding Executive Director in September. Over the years, Becky worked tirelessly to advance our mission, increase our impacts, and build our extraordinary network of partners, who in turn helped us raise over \$250,000 last year in support of our campaign to honor Becky's vision and the future of IAALS.

No other organization tackles the scope of legal problems that IAALS does. By placing people at the center of reform, listening to diverse perspectives, and building consensus, IAALS has made extraordinary advances under Becky's leadership. We thank her for all she has done and for championing her employees as fiercely as the legal system. We said farewell at our Pass the Gavel Dinner sendoff, knowing that Becky has left us with a thriving organization that will continue to advance the American legal system long into the future.



"BECKY IS SOMEONE WHO DOES NOT STAND ON THE SIDELINES. SHE SAW PROBLEMS WITH THE AMERICAN LEGAL SYSTEM AND BUILT AN ORGANIZATION DESIGNED TO FIX THEM. WE OWE BECKY A DEBT OF GRATITUDE FOR HER VISION AND HER COMMITMENT. THERE CANNOT BE ANYTHING MORE CRITICAL TO OUR COUNTRY THAN A LEGAL SYSTEM THAT PROVIDES ACCESS TO TRUE JUSTICE FOR ALL WHO NEED IT."

– Daniel L. Ritchie, IAALS Co-Founder and
Chancellor Emeritus, University of Denver



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SCOTT BALES

Executive Director



JANET DROBINSKE

Senior Legal Assistant



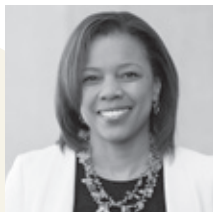
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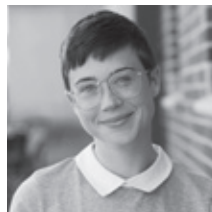
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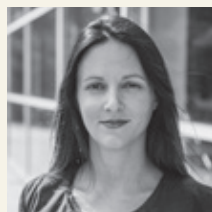
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REMEMBERING ALLI

IAALS lost one of its own this year with the passing of Senior Director Alli Gerkman. There are no words that can adequately convey who Alli was—and who she was to us. Alli was a force of nature. She was a captivating presence and was remarkable in her ability to connect with others. Alli knew how to get things done and how to make things work. She knew what it meant to work hard and to laugh harder. She was a teammate and a friend. And she has left an incredible legacy.

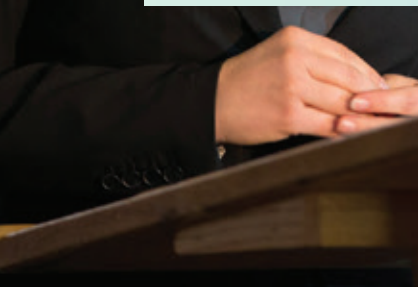
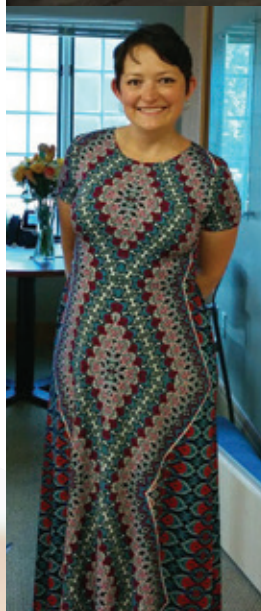
Through her work, Alli transformed the way our nation thinks about legal education and the role lawyers play in our society. She was a leader in envisioning a better system where new lawyers could better serve clients and the public had better access to justice. She spent years challenging the status quo—and changing it.

Alli had much work left to do, but we carry it forward now with even deeper purpose and even deeper resolve. Our mission takes on greater meaning, because we now have to live up to the standard that she set for us as well. We can't take no for an answer. Change is hard, and the fight is tough, but it is possible. Alli never saw obstacles; she only saw opportunities. And she was tireless in their pursuit.



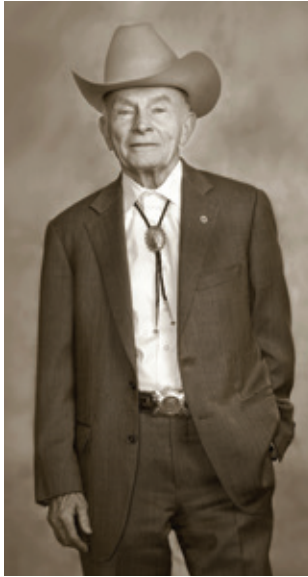
"YOU ARE ALIVE. AND WHILE YOU ALMOST CERTAINLY WILL HAVE NO SAY IN HOW YOU DIE, YOU DO GET TO CHOOSE IN EVERY SINGLE MOMENT OF THIS BEAUTIFUL, BEAUTIFUL LIFE, JUST HOW YOU WILL LIVE."

– Alli Gerkman



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 Founding Executive Director Rebecca Love Kourlis.



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