



CIVIL JUSTICE INITIATIVE

Key Steps for Achieving Successful Civil Justice Reform

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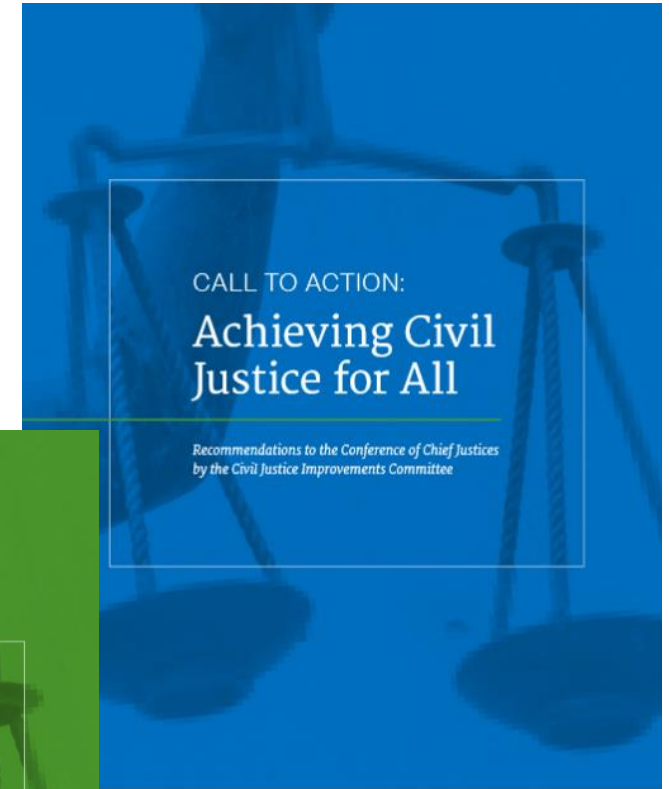
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A Call to Action: Achieving Civil Justice For All

Recommendations to the
Conference of Chief Justices by
the Civil Justice Improvements
Committee



Change is coming. You can be ahead of the curve or behind it. If we make the changes ourselves, we have more control over the outcomes.

JUSTICE THOMAS BALMER, OREGON SUPREME COURT
CHAIR, CIVIL JUSTICE IMPROVEMENTS COMMITTEE



TRANSFORMING OUR CIVIL JUSTICE SYSTEM FOR THE 21ST CENTURY

A ROADMAP FOR IMPLEMENTATION

THE IMPLEMENTATION ROADMAP



LEAD

- Embrace call to action
- Build initial leadership team
- Define initial scope for assessment
- Collaborate and build internal and external support



ASSESS

- Understand your context
- Do your own Landscape of Civil Litigation
- Answer questions designed to help your court broadly define your court's challenges
- Explore local and system-wide issues



DEFINE ISSUES

- Identify and define issues
- Rank them in order of impact and possibility for improvement



CREATE A WORKING GROUP AND ENGAGE STAKEHOLDERS

- Form a Task Force or Committee
- Engage stakeholders
- Think of balance and diversity
- Consider the size of the committee to ensure efficiency but also broad involvement



DEVELOP VISION AND GOALS

- Reassess defined issues
- Develop a vision
- Set goals



DEVELOP TAILORED RECOMMENDATIONS

Recommendations should consider how the court can:

- Exercise ultimate responsibility
- Triage case filings with mandatory pathway assignments
- Strategically deploy court personnel and resources
- Use technology wisely
- Focus attention on high-volume and uncontested cases
- Provide superior access for litigants



TAKE ACTION

- Prioritize recommendations for implementation
- Consider what resources are needed for effective implementation
- Ensure coordination
- Invest in communication and education, within and outside the court

State courts cannot simply rely on past methods to administer justice in the face of these new and pressing realities. The goal is a civil justice system that is accessible, inexpensive, timely, and just. Courts must confront these realities and address them head on to meet these goals in the 21st Century. The recommendations tell state courts “what” they can do to achieve these goals. However, the recommendations adopted by CCJ and COSCA will have no impact if the report merely sits on a shelf. In order to make the recommendations actionable, this roadmap provides a strategy for “how” to get there.

Transforming Our Civil Justice System for the 21st Century: A Roadmap for Implementation



TRANSFORMING OUR CIVIL JUSTICE
SYSTEM FOR THE 21ST CENTURY

THE ROAD TO CIVIL
JUSTICE REFORM





Lead



Define vision
and goals



Assess



Develop tailored
recommendations



Define Issues



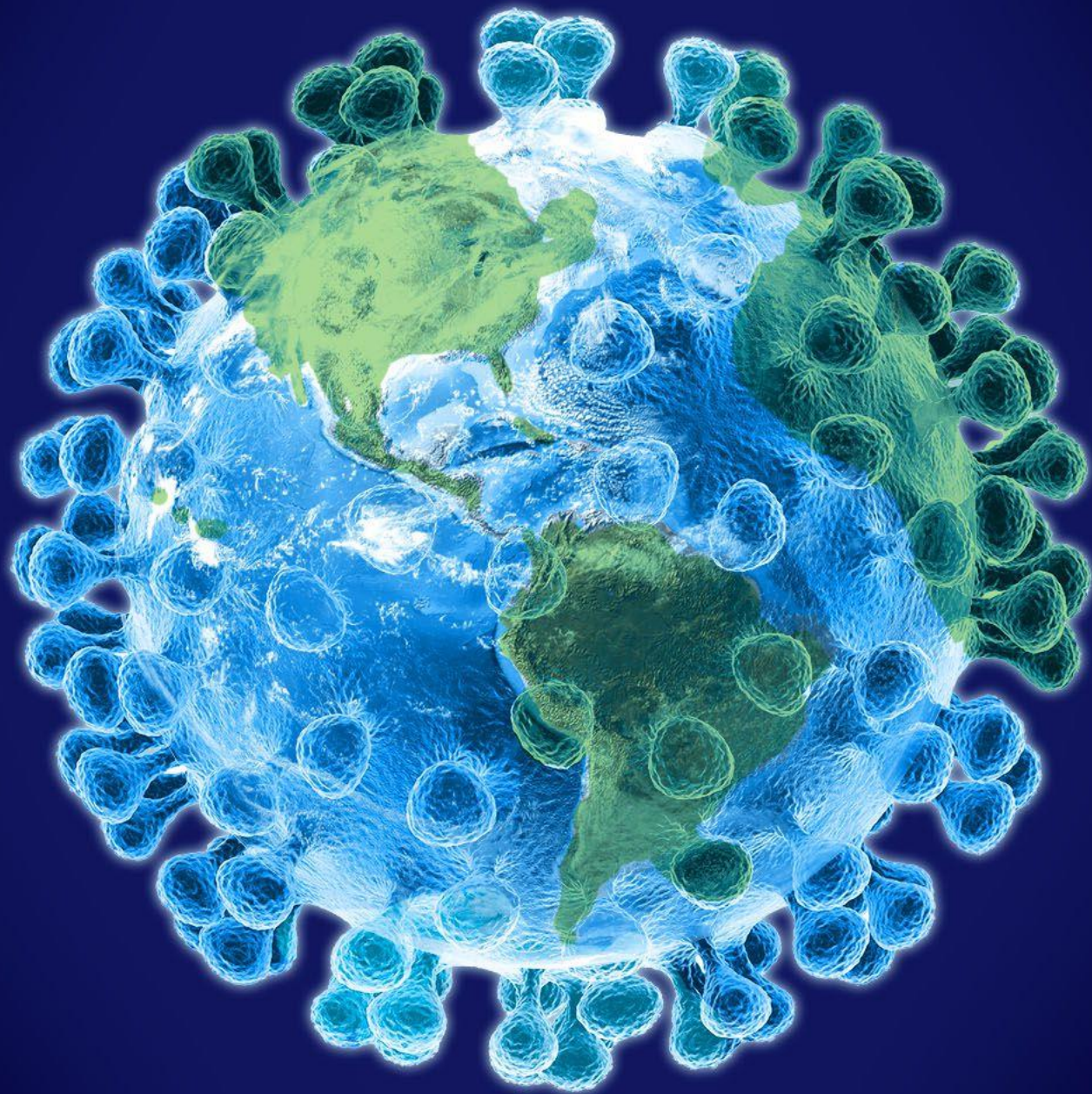
Take action

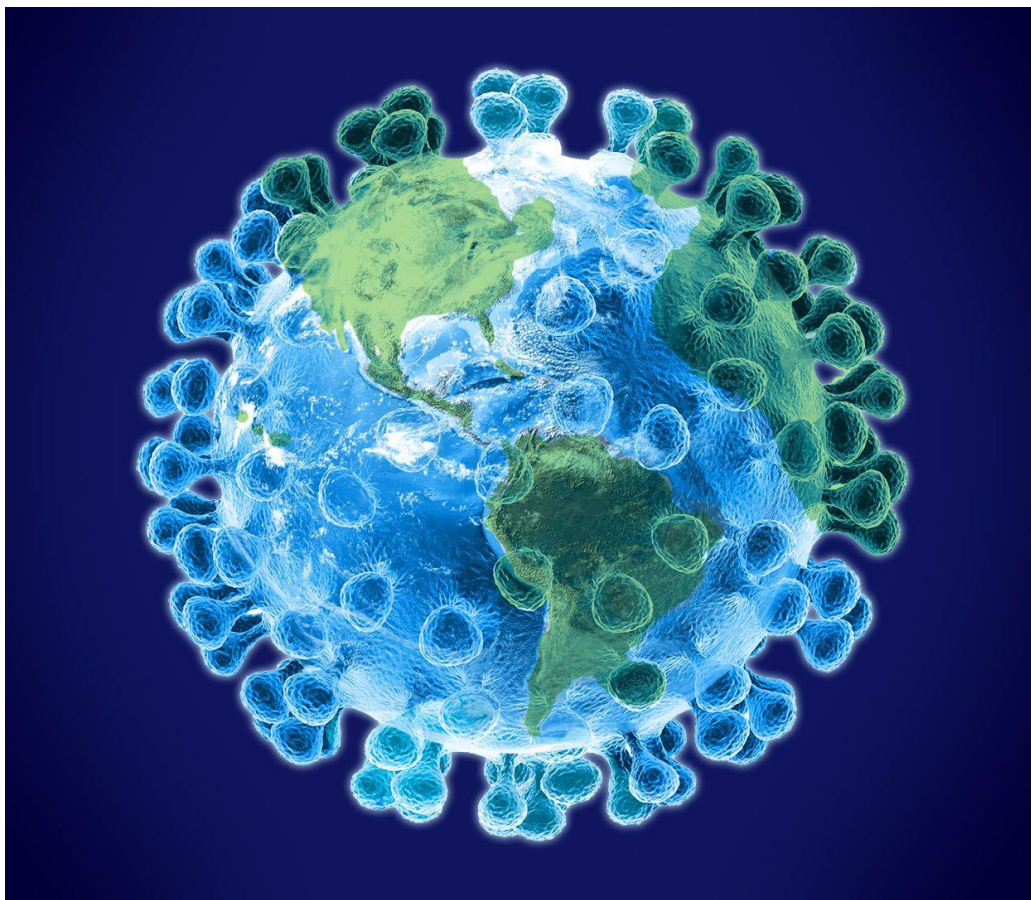


Create a Working Group
and Engage Stakeholders



Evaluate





Tools and Resources

ncsc.org/cji
iaals.du.edu/cji

Civil Justice Initiative: A Guide to Building Civil Case Management Teams

In July 2016, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) endorsed the Report and Recommendations of the CCI Civil Justice Improvements Committee. The 13 recommendations are intended to reduce cost and delay in civil litigation and improve customer service to litigants. Specifically, the recommendations envision a civil justice system in which courts provide active and continuing oversight of civil cases proportionate to case needs.

Recommendation 7 proposes a radically different staffing model for civil case processing that delegates substantial responsibility for routine case management to specially trained professional staff supported by effective case technology. The civil case management team (CCMT) model permits judges to focus on tasks that require uniquely judicial training and expertise. CCMTs also provide additional support and oversight to civil dockets, which can be especially helpful on high-volume dockets such as debt collection, landlord/tenant, and small-claims calendars.

This Guide to Building Civil Case Management Teams (CCMT Guide) describes case management tasks that court staff should be trained and empowered to undertake under the supervision of one or more judicial officers. It provides a checklist of questions for courts to inventory existing staffing and technology resources. It also provides guidance about the necessary training staff will need to function effectively and recommends steps for successful implementation at different levels of the court system and across a wide variety of political and organizational settings. State and local court leaders should use the CCMT Guide to plan and carry out the court's transition to the CCMT model and to develop training modules for judges and court staff.

WHAT IS "CASE MANAGEMENT"?

Case management is much more than simply tracking case files, writing up orders, or scheduling hearings. It is a set of actions that a court takes to monitor and control its disposition, as well as completion of all post-disposition work, to

TRANSFORMING OUR CIVIL JUSTICE SYSTEM FOR THE 21ST CENTURY

A ROADMAP FOR IMPLEMENTATION

ORGANIZATIONAL CHANGE IS A PROCESS, NOT AN EVENT

THE ROADMAP STEPS

- LEAD
- ASSESS
- DEFINE ISSUES
- CREATE A WORKING GROUP AND EMPAGE STAKEHOLDERS

CIVIL JUSTICE INITIATIVE

Assessing Areas for Impact in Civil Justice Reform: A Questionnaire for State Courts

To ensure that state courts adopt policies and procedures appropriate for and responsive to the state's unique circumstances and issues, [Transforming Our Civil Justice System for the 21st Century: A Roadmap for Implementation](#) recommends that state courts begin their civil justice improvement efforts with an assessment. One key aspect of this assessment is for states to undertake their own Landscape of Civil Litigation study, similar to the NCSCLandscape of Civil Litigation in State Courts. That study examined the case characteristics and outcomes for civil cases through a docket study of non-domestic general civil and small claims cases. While an individual study will help to diagnose the volume and characteristics of the state's civil case docket, it also is important for the state court to analyze relevant issues that may not be highlighted through a docket study.

The following Impact Questionnaire is intended to help fill this gap. The Questionnaire provides concrete questions intended to highlight needed areas for reform, as well as potential barriers. The questions parallel the [Recommendations from the Conference of Chief Justices Civil Justice Improvements Committee](#) to ensure courts consider the full scope of the Recommendations. In addition, the following chart calls on courts to gauge how close or far the court is from compliance with the Recommendations, highlighting the investment of time and resources that would be needed to achieve compliance and the payoff from that investment. While the Questionnaire is intended to be comprehensive, the questions are meant as a starting point, not as an end point. In defining the issues to be addressed through reform, the court should consider the culture, case management, technology, process and procedure, and enforcement—both internal to the court and more broadly within the community.

In terms of timing, it is recommended that this analysis occur at the beginning of the civil justice reform efforts as part of the assessment step in the Roadmap for Implementation. Considering these questions from the beginning will naturally lead to the next step, which is to define the issues facing the court. The following questions also will help to identify the stakeholders that should be included in the working group, be it a "task force" or "committee." That said, this Questionnaire should be revisited with the working group, to get broader input and encourage discussion once that group is formed. The completed Questionnaire will also be an important tool at the point that the group develops its own tailored recommendations.

CIVIL JUSTICE INITIATIVE PERFORMANCE MEASURES FOR CIVIL JUSTICE

In July 2016, the Conference of Chief Justices and the Conference of State Court Administrators formally adopted the [report and recommendations of the CCI Civil Justice Improvements Committee](#). The recommendations are intended to reduce cost and delay in civil litigation and improve customer service to litigants. Recommendation 10 focuses on the role of technology to support effective oversight of civil case management, including routine measurement and publication of performance measures. Performance measures are used to assess the extent to which courts are meeting defined objectives. Other than clearance rates and time standards, courts have not developed performance measures specifically for civil justice. This document, which identifies data elements that have been used to evaluate recent civil justice reform efforts, is a preliminary step in that direction.

CIVIL JUSTICE INITIATIVE ASSESSING THE LANDSCAPE OF CIVIL LITIGATION: A DO-IT-YOURSELF GUIDE FOR STATE COURTS

The NCSCLandscape of Civil Litigation in State Courts examined case characteristics and outcomes for civil cases disposed between July 1, 2012 and June 30, 2013 in state courts with civil jurisdiction in 10 urban counties. That study revealed a substantial difference between the beliefs held by judges and lawyers about civil caseloads and actual civil caseloads. Although much of the contemporary debate about civil justice reform is focused on issues related to high-value tort and commercial contract cases, civil caseloads in state courts are predominantly comprised of consumer debt collection, landlord/tenant, lower-value contract, and small claims cases.

There was, however, considerable variation in case characteristics and outcomes among the 10 counties that participated in the study. Most of the variation was due to differences in the organizational structure of the respective courts, especially the monetary thresholds that determine where cases can be filed and the procedural rules governing caseflow management in each court. To ensure that state courts adopt policies and procedures appropriate to their unique circumstances, the CCI Civil Justice Improvements Committee recommends that state courts begin their civil justice improvement efforts by conducting their own Landscape of Civil Litigation study. This document offers guidance on the procedures courts should employ to collect, analyze, interpret, and present data to civil justice stakeholders on civil caseloads.

Compatibility with the NCSCLandscape Study

The NCSCLandscape study focused on non-domestic general civil (primarily tort, contract, and real property) and small claims cases. Appeals from lower courts and administrative agencies, post-judgment enforcement actions, and domestic and criminal-related actions (e.g., civil protection orders, habeas petitions, criminal bond matters) can comprise a sizable portion of the overall civil caseload and should be reflected in the analysis. To ensure comparability with the NCSCLandscape study, however, domestic, probate, and other non-criminal case types should be excluded.

A Landscape study may be most easily accomplished on a statewide basis, particularly in states that routinely use caseload statistics to guide policymaking decisions related to judicial assignment, staffing, facilities, and other resource allocations. A statewide case management system will facilitate this type of research study due to the comparative ease of collecting data and the greater likelihood that court staff will employ a common coding system. In some jurisdictions, however, local courts may also find it useful to undertake a Landscape investigation. If so, they should endeavor to coordinate the research among all courts with jurisdiction over civil cases within a common geographic area (e.g., a single county or a judicial circuit that encompasses multiple counties). As discussed below, the existence of multiple courts in which litigants can file a civil case has an interactive effect on their respective caseloads. For example, numerous studies have documented how plaintiffs may claim an amount in controversy higher or lower than the actual value of the case to take advantage of rules and procedures available in one court but not the other.² Those relationships and their effects on caseload characteristics are easier for courts to visualize, and to predict the likely impact of changes in court rules, procedures, or operational practices, when considered in this larger context.

CCI CIVIL JUSTICE IMPROVEMENTS COMMITTEE RECOMMENDATIONS TO REDUCE COST AND DELAY IN THE OVERSIGHT OF CIVIL JUSTICE. RECOMMENDATION 10: COURTS SHOULD ROUTINELY UNDERTAKE THEIR OWN "LANDSCAPE OF CIVIL LITIGATION" TO DETERMINE WHICH RECOMMENDATIONS IN THIS REPORT ARE APPLICABLE TO THEIR RESPECTIVE STATE COURTS. PAVLA A. HARRIS-SHANKER & WITHA N. G. LEE, WITH IMPACT OF THE REFORMS TO RULE JUDICIAL CLEAR PRACTICE IN THE UTAH DISTRICT COURTS, 2012 (Apr. 2012) (discussing litigation and reform by strategy in order to collect and analyze caseloads); PAVLA A. HARRIS-SHANKER ET AL., THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS: A DO-IT-YOURSELF GUIDE TO COLLECTING AND ANALYZING CASELOAD DATA, 2013 (Mar. 2013) (discussing the impact of multiple courts on caseloads); PAVLA A. HARRIS-SHANKER, REFORMING THE SMALL CLAIMS COURT: A DO-IT-YOURSELF GUIDE TO COLLECTING AND ANALYZING CASELOAD DATA, 2013 (Mar. 2013) (discussing the impact of multiple courts on caseloads).

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