

2012 REPORT

**ANNUAL REPORT OF THE
STUDY COMMITTEE ON COMPLEX LITIGATION
TO THE ILLINOIS JUDICIAL CONFERENCE**

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October 2012

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I. STATEMENT ON COMMITTEE CONTINUATION

The purpose of the Illinois Judicial Conference Study Committee on Complex Litigation ("the Committee") is to make recommendations, through proposed rules or other procedures, to reduce the cost and increase the efficiency of protracted civil and criminal trials, which often involve multiple parties, multiple issues, and/or unique substantive or procedural considerations. Historically, the Committee's work has been focused on updating and revising its manuals for complex litigation (Civil and Criminal), and adding forms to the manual appendices. During the past few Conference years, the Committee also has, at the Supreme Court's request, researched and offered proposed rules, policies and procedures to improve the administration of justice in complex litigation cases. The Committee members include Illinois circuit court and appellate court judges who possess significant civil and/or criminal complex litigation experience.

For Conference Year 2012, the Supreme Court's charge to the Committee carried over the projects/priorities from Conference Year 2011: to make revisions and provide new topics and updates as necessary to the Civil and Criminal Manuals, including the maintenance and updating of forms and links contained within those manuals.

The Committee believes that its work continues to be of great value to the mission of the Conference. Specifically, the completion in 2011 of the fourth edition of the Civil Manual, and the undertaking of several significant revisions, updates and additions to the Criminal Manual, will further the Committee's goal of providing topical, user-friendly references for Illinois judges presiding over complex litigation. As such, the Committee respectfully requests that it be continued as a full standing committee of the Illinois Judicial Conference in order to

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carry on its work on the Civil and Criminal Manuals.

II. SUMMARY OF COMMITTEE ACTIVITIES

The following offers a brief summary of the Committee's work on those projects/priorities carried over from Conference Year 2011 and undertaken in Conference Year 2012.

A. Conference Year 2012 Continued Projects/Priorities

1. Finalize, Publish and Circulate the 4th Edition of the Manual on Complex Civil Litigation

In Conference Year 2011, the Committee largely focused on drafting the remaining chapters of the new fourth edition of the Civil Manual. By the end of 2011, the Committee completed the final, finished product and published the new manual in hard copy and CD-ROM format. The latter affords users the convenience of downloading hyperlink and search capabilities.

A bound copy of the updated Civil Manual was displayed at the 2012 Illinois Judicial Education Conference, allowing judges to review the new edition of the Civil Manual and order copies in the format of their choice. Prior to the 2012 Illinois Judicial Conference, an order form will be sent electronically to all Illinois judges allowing them to order the Civil Manual in their chosen format.

In previous years, the Committee's charge contemplated annual revisions and updates to both the Civil and Criminal Manuals, as well as review the forms contained in the appendices to both manuals. With regard to the Civil Manual, the Committee has made it a priority for members to track changes in the law that would affect the accuracy and timeliness of the

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information, links and forms contained within the Civil Manual, and to identify the necessary revisions.

2. Prepare Revisions, Updates and New Topics as Necessary to the Manual on Complex Criminal Litigation

In Conference Year 2011, the Committee reviewed the Criminal Law and Procedure benchbook created by the IJC Committee on Education in order to identify what revisions, if any, were necessary to ensure the accuracy and relevance of the information in the Criminal Manual. A subcommittee was formed to review and compare the Criminal Benchbook and Criminal Manual to determine the extent of overlap between the resources and content. The subcommittee's efforts were focused on deciding what information would remain in the Criminal Manual and identifying the material that should be removed as duplicative of the Criminal Benchbook. The subcommittee drafted a detailed table of contents for the revised Criminal Manual which was then approved by the full Committee.

In Conference Year 2012, the drafting of the updated Criminal Manual was undertaken in earnest. Thanks to the roadmap created by the subcommittee's revised table of contents, individual chapters were assigned to Committee members to either review and renew the content, or in many cases, introduce topics and content that had not been included in previous editions of the Criminal Manual. Several new Committee members with deep experience in criminal law and procedure accepted the challenge of drafting newly added chapters, while members having less criminal law experience undertook the revisions, editing and redrafting of the content in existing chapters.

The Criminal Manual will be similar in style to the 4th Edition of the Civil Manual. Specifically, the text will be more streamlined, with fewer footnotes, and will include

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downloadable order forms and topic checklists for each chapter.

Several chapters from the previous edition were removed because it was determined that those chapters were better suited to and adequately addressed by the Criminal Benchbook. Other chapters were pared down or consolidated with other chapters of the Criminal Manual. The streamlining of the information within the Criminal Manual will provide judges with an information-rich, yet concise, handbook that can guide a judge in complex criminal matters.

As of the date of this report, the chapters in the forthcoming Criminal Manual are as follows:

Chapter 1 (title to be determined) serves as a primer to the Criminal Manual, explaining and defining notorious, complex and high profile cases. **Chapter 2: Media** will speak to the current issues associated with the interaction between the court and the media arising out of complex or high profile litigation, including planning for media presence, broadcast coverage of the litigation, and jury concerns. **Chapter 3: Security** will offer an updated resource of information on the many logistics of keeping the courtroom, employees, litigants, jurors and observers safe in light of the often dangerous circumstances that can surround criminal trials. This chapter will include information on implementing risk assessment procedures, screening and access to courtrooms, and securing and transporting defendants. **Chapter 4: Special Prosecutors** will deal with the unique situations and procedural implications facing judges in the wake of a request for the appointment of a special prosecutor, including grounds for such an appointment. **Chapter 5: Pretrial Motions** will offer procedural guidance on pretrial motions concerning joinder and severance, and the legal principles that govern those

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procedures. **Chapter 6: Jury Issues** will cover the information and procedures that encompass the selection of jurors in complex criminal cases, including pre-screening prospective jurors, *voir dire*, and issues that arise with jurors during the trial. **Chapter 7: Sentencing Issues** will contain updated information on situations central to the sentencing stage of criminal litigation, including sentencing hearings, extended terms sentencing, and consecutive/concurrent sentencing.

The updated Criminal Manual will contain a Table of Authorities, providing judges an easy reference to the caselaw, statutes and other sources contained within the Manual. It will also contain a selection of forms and checklists essential to the judicial management of complex criminal cases. The Committee anticipates that the revised *Manual on Complex Criminal Litigation* will be completed in late 2013.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the next Conference year, the Committee will be working to complete the comprehensive revision to the Criminal Manual. Additionally, the Committee will track changes in the law to be included in future updates or supplements to the Civil Manual.

IV. RECOMMENDATION

The Committee is making no recommendations to the Conference at this time.