

REPORT
OF THE ILLINOIS
JUDICIAL
CONFERENCE
2013



2013 REPORT OF THE ILLINOIS JUDICIAL CONFERENCE

2013 REPORT

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MEMBERSHIP OF THE JUDICIAL CONFERENCE OF ILLINOIS

The following are members of the Judicial Conference of Illinois during the 2013 Conference year.

SUPREME COURT

Hon. Thomas L. Kilbride
Chief Justice
Third Judicial District

Hon. Charles E. Freeman
Supreme Court Justice
First Judicial District

Hon. Rita B. Garman
Supreme Court Justice
Fourth Judicial District

Hon. Anne M. Burke
Supreme Court Justice
First Judicial District

Hon. Robert R. Thomas
Supreme Court Justice
Second Judicial District

Hon. Lloyd A. Karmeier
Supreme Court Justice
Fifth Judicial District

Hon. Mary Jane Theis
Supreme Court Justice
First Judicial District

Appellate Court

Hon. James Fitzgerald Smith
Chairman, Executive Committee
First District Appellate Court

Hon. Michael J. Burke
Presiding Judge
Second District Appellate Court

Hon. Vicki Wright
Presiding Judge
Third District Appellate Court

Hon. Robert J. Steigmann
Presiding Judge
Fourth District Appellate Court

Hon. Stephen L. Spomer
Presiding Judge
Fifth District Appellate Court

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APPOINTEES

Hon. Adrienne W. Albrecht
Circuit Judge
Twenty-First Judicial Circuit

Hon. James J. Allen
Circuit Judge
Twelfth Judicial Circuit

Hon. Robert J. Anderson
Circuit Judge
Eighteenth Judicial Circuit

Hon. Thomas R. Appleton
Appellate Court Judge
Fourth District Appellate Court

Hon. Dinah J. Archambeault
Associate Judge
Twelfth Judicial Circuit

Hon. Patricia Banks
Circuit Judge
Circuit Court of Cook County

Hon. John A. Barsanti
Circuit Judge
Sixteenth Judicial Circuit

Hon. Jennifer H. Bauknecht
Circuit Judge
Eleventh Judicial Circuit

William J. Becker
Associate Judge
Fourth Judicial Circuit

Hon. William S. Boyd
Associate Judge
Circuit Court of Cook County

Hon. Kathy Bradshaw Elliott
Circuit Judge
Twenty-First Judicial Circuit

Hon. Liam C. Brennan
Associate Judge
Eighteenth Judicial Circuit

Hon. George Bridges
Circuit Judge
Nineteenth Judicial Circuit

Hon. Mary M. Brosnahan
Circuit Judge
Circuit Court of Cook County

Hon. Elizabeth M. Budzinski
Associate Judge
Circuit Court of Cook County

Hon. Diane Gordon Cannon
Circuit Judge
Circuit Court of Cook County

Hon. Robert L. Carter
Appellate Court Judge
Third District Appellate Court

Hon. Mark H. Clarke
Chief Judge
First Judicial Circuit

Hon. Cynthia Y. Cobbs
Circuit Judge
Circuit Court of Cook County

Hon. Mary Ellen Coghlan
Circuit Judge
Circuit Court of Cook County

Hon. Neil H. Cohen
Associate Judge
Circuit Court of Cook County

Hon. Maureen E. Connors
Appellate Court Judge
First District Appellate Court

Hon. Joy V. Cunningham
Appellate Court Judge
First District Appellate Court

Hon. Thomas M. Donnelly
Associate Judge
Circuit Court of Cook County

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Hon. Frank R. Fuhr
Circuit Judge
Fourteenth Judicial Circuit

Hon. Chrystel L. Gavlin
Associate Judge
Twelfth Judicial Circuit

Hon. Robert G. Gibson
Associate Judge
Eighteenth Judicial Circuit

Hon. Mark S. Goodwin
Associate Judge
Fifth Judicial Circuit

Hon. Robert E. Gordon
Appellate Court Judge
First District Appellate Court

Hon. Shelvin Louise Marie Hall
Appellate Court Judge
First District Appellate Court

Hon. Katherine Gorman Hubler
Circuit Judge
Tenth Judicial Circuit

Hon. David E. Haracz
Associate Judge
Circuit Court of Cook County

Hon. Bobby G. Hardwick
Circuit Judge
Eighth Judicial Circuit

Hon. Kimbara G. Harrell
Associate Judge
Second Judicial Circuit

Hon. LaGuina Clay-Herron
Associate Judge
Circuit Court of Cook County

Hon. Thomas E. Hoffman
Appellate Court Judge
First District Appellate Court

Hon. Janet R. Holmgren
Circuit Judge
Seventeenth Judicial Circuit

Hon. William H. Hooks
Circuit Judge
Circuit Court of Cook County

Hon. David A. Hylla
Chief Judge
Third Judicial Circuit

Hon. Michael B. Hyman
Appellate Court Judge
First District Appellate Court

Hon. Julie K. Katz
Associate Judge
Twentieth Judicial Circuit

Hon. Richard P. Klaus
Associate Judge
Sixth Judicial Circuit

Hon. Robert G. Kleeman
Circuit Judge
Eighteenth Judicial Circuit

Hon. Kimberly G. Koester
Circuit Judge
Fourth Judicial Circuit

Hon. Paul G. Lawrence
Circuit Judge
Eleventh Judicial Circuit

Hon. Marjorie C. Laws
Circuit Judge
Circuit Court of Cook County

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Hon. Joseph G. McGraw
Chief Judge
Seventeenth Judicial Circuit

Hon. William A. Mudge
Circuit Judge
Third Judicial Circuit

Hon. Leonard Murray
Associate Judge
Circuit Court of Cook County

Hon. Jeffrey W. O'Connor
Chief Judge
Fourteenth Judicial Circuit

Hon. David K. Overstreet
Circuit Judge
Second Judicial Circuit

Hon. Michael Panter
Associate Judge
Circuit Court of Cook County

Hon. Barbara N. Petrungaro
Circuit Judge
Twelfth Judicial Circuit

Hon. Kenneth L. Popejoy
Circuit Judge
Eighteenth Judicial Circuit

Hon. Joan E. Powell
Circuit Judge
Circuit Court of Cook County

Hon. Lorna E. Propes
Circuit Judge
Circuit Court of Cook County

Hon. Carolyn Quinn
Associate Judge
Circuit Court of Cook County

Hon. Elizabeth A. Robb
Chief Judge
Eleventh Judicial Circuit

Hon. Heinz M. Rudolf
Associate Judge
Twentieth Judicial Circuit

Hon. Colleen F. Sheehan
Circuit Judge
Circuit Court of Cook County

Hon. Mitchell K. Shick
Circuit Judge
Fifth Judicial Circuit

Hon. Christopher C. Starck
Circuit Judge
Nineteenth Judicial Circuit

Hon. Carolyn Bailey Smoot
Circuit Judge
First Judicial Circuit

Hon. Domenica A. Stephenson
Associate Judge
Circuit Court of Cook County

Hon. Carl Anthony Walker
Circuit Judge
Circuit Court of Cook County

Hon. Lisa Holder White
Appellate Court Judge
Fourth District Appellate Court

Hon. Thaddeus Wilson
Circuit Judge
Circuit Court of Cook County

Hon. Lori M. Wolfson
Associate Judge
Circuit Court of Cook County

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MEMBERSHIP OF THE EXECUTIVE COMMITTEE

Hon. Thomas L. Kilbride, Chairman
Chief Justice
Third Judicial District

Hon. James J. Allen
Circuit Judge
Twelfth Judicial Circuit

Hon. Robert L. Carter
Appellate Court Judge
Third District Appellate Court

Hon. Mark H. Clarke
Chief Judge
First Judicial Circuit

Hon. Mary Ellen Coghlan
Circuit Judge
Circuit Court of Cook County

Hon. Neil H. Cohen
Associate Judge
Circuit Court of Cook County

Hon. Lynn M. Egan
Circuit Judge
Circuit Court of Cook County

Hon. Timothy C. Evans
Chief Judge
Circuit Court of Cook County

Hon. Robert G. Gibson
Associate Judge
Eighteenth Judicial Circuit

Hon. Shelvin Louise Marie Hall
Appellate Court Judge
First District Appellate Court

Hon. William H. Hooks
Circuit Judge
Circuit Court of Cook County

Hon. Julie K. Katz
Associate Judge
Twentieth Judicial Circuit

Hon. Elizabeth A. Robb
Chief Judge
Eleventh Judicial Circuit

Hon. Christopher C. Starck
Circuit Judge
Nineteenth Judicial Circuit

Hon. Lisa Holder White
Appellate Court Judge
Fourth District Appellate Court

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OVERVIEW OF THE ILLINOIS JUDICIAL CONFERENCE

The Supreme Court of Illinois created the Illinois Judicial Conference in 1953 in the interest of maintaining a well-informed judiciary, active in improving the administration of justice. The Conference has met annually since 1954 and has the primary responsibility for the creation and supervision of the continuing judicial education efforts in Illinois.

The Judicial Conference was incorporated into the 1964 Supreme Court Judicial Article and is now provided for in Article VI, Section 17, of the 1970 Constitution. Supreme Court Rule 41 implements section 17 by establishing membership in the Conference, creating an Executive Committee to assist the Supreme Court in conducting the Conference, and appointing the Administrative Office as secretary of the Conference.

In 1993, the Supreme Court continued to build upon past improvements in the administration of justice in this state. The Judicial Conference of Illinois was restructured to more fully meet the constitutional mandate that “the Supreme Court shall provide by rule for an annual Judicial Conference to consider the work of the courts and to suggest improvements in the administration of justice and shall report thereon annually in writing to the General Assembly.” The restructuring of the Conference was the culmination of more than two years of study and work. In order to make the Conference more responsive to the mounting needs of the judiciary and the administration of justice (1) the membership of the entire Judicial Conference was totally restructured to better address business of the judiciary; (2) the committee structure of the Judicial Conference was reorganized to expedite and improve the communication of recommendations to the Court; and (3) the staffing functions were overhauled and strengthened to assist in the considerable research work of committees and to improve communications among the Conference committees, the courts, the judges and other components of the judiciary.

The Judicial Conference, which formerly included all judges in the State of Illinois, with the exception of associate judges (approximately 500 judges), was downsized to a total Conference membership of 82. The membership of the reconstituted Conference includes:

| | |
|--|-----------|
| Supreme Court Justices | 7 |
| Presiding judges of downstate appellate districts and chair of First District Executive Committee | 5 |
| Judges appointed from Cook County (including the chief judge and 10 associate judges) | 30 |
| Ten judges appointed from each downstate district (including one chief judge and 3 associate judges from each district) | <u>40</u> |
| Total Conference Membership | 82 |

The first meeting of the reconstituted Conference convened December 2, 1993, in Rosemont, Illinois.

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A noteworthy change in the Conference is that it now includes associate judges who comprise more than a quarter of the Conference membership. In addition to having all classifications of judges represented, the new structure continues to provide for diverse geographical representation.

Another important aspect of the newly restructured Conference is that the Chief Justice of the Illinois Supreme Court presides over both the Judicial Conference and the Executive Committee of the Conference, thus providing a strong link between the Judicial Conference and the Supreme Court.

The natural corollary of downsizing the Conference, and refocusing the energies and resources of the Conference on the management aspect of the judiciary, is that judicial education will now take place in a different and more suitable environment, rather than at the annual meeting of the Conference. A comprehensive judicial education plan was instituted in conjunction with the restructuring of the Judicial Conference. The reconstituted judicial education committee was charged with completing work on the comprehensive education plan, and with presenting the plan for consideration at the first annual meeting of the reconstituted Judicial Conference. By separating the important functions of judicial education from those of the Judicial Conference, more focus has been placed upon the important work of providing the best and most expanded educational opportunities for Illinois judges. These changes have improved immensely the quality of continuing education for Illinois judges.

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2013 ANNUAL MEETING OF THE ILLINOIS JUDICIAL CONFERENCE Holiday Inn Mart Plaza Hotel ~ Chicago, Illinois

Thursday, October 24, 2013

- 7:30 - 9:00 a.m. **Buffet Breakfast & Registration**
- 9:00 - 9:15 a.m. **Judicial Conference Address**
Honorable Thomas L. Kilbride, Chief Justice, Supreme Court of Illinois
- 9:15 - 9:30 a.m. **Presentation**
Honorable Michael B. Hyman, Justice, Illinois Appellate Court
- 9:45 - 11:45 a.m. **Committee Meetings (Strategic Goals/Objectives)**
- *Alternative Dispute Resolution Coordinating Committee*
 - *Automation and Technology Committee*
 - *Committee on Criminal Law and Probation Administration*
 - *Committee on Discovery Procedures*
 - *Committee on Education*
 - *Study Committee on Complex Litigation*
 - *Study Committee on Juvenile Justice*
 - *Committee on Strategic Planning*
- 12:00 – 1:00 p.m. **Luncheon**
- 1:15 – 3:30 p.m. **Committee Meetings (Strategic Goals/Objectives)**
- 3:45 – 5:00 p.m. **Follow-up from Committee Meetings**
- 5:00 p.m. **Adjourn**

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Annual Report to the General Assembly on 2013 Judicial Conference

Article VI, section 17, of the Illinois Constitution mandates that the Illinois Supreme Court convene an annual judicial conference to consider the work of the courts and to suggest improvements in the administration of justice. Illinois Supreme Court Rule 41 implements this constitutional mandate by defining the duties and the membership of the Illinois Judicial Conference. The Conference is composed of judges from every level of the judiciary and represents Illinois' five judicial districts. The Chief Justice of the Supreme Court of Illinois presides over the Conference, and the other Justices serve as members.

An Executive Committee acts on behalf of the Conference when it is not in session. The Executive Committee consists of fourteen judges, with six from the First Judicial District (Cook County) and two each from the Second, Third, Fourth, and Fifth Judicial Districts. The Executive Committee previews the written reports of the Conference committees and submits an annual meeting agenda for the Supreme Court's approval.

Eight standing committees carry out the work of the Conference throughout the year. These committees are: the Alternative Dispute Resolution Coordinating Committee, the Automation and Technology Committee, the Study Committee on Complex Litigation, the Committee on Criminal Law and Probation Administration, the Committee on Discovery Procedures, the Committee on Education, the Study Committee on Juvenile Justice, and the recently added Committee on Strategic Planning. The committees' membership includes appellate, circuit, and associate judges who also serve as members of the Judicial Conference. Their work is aided by judges, law professors, and attorneys appointed by the Supreme Court as associate members or advisors. Senior level staff of the Administrative Office of the Illinois Courts serve as liaisons to support the committees' activities.

On October 24, 2013, the Illinois Judicial Conference convened its annual meeting in Chicago, Illinois, which was concentrated into one full day of meetings, rather than being spread out over several days, thereby minimizing the judges' time away from the bench and managing costs more effectively.

Chief Justice Thomas L. Kilbride convened the meeting. In his opening remarks, Chief Justice Kilbride welcomed those in attendance and thanked them for their hard work during the Conference year. He also recognized the current members of the Supreme Court, as well as the retired Supreme Court Justices in attendance. Concluding his introductions, Chief Justice Kilbride recognized Michael J. Tardy, Director of the Administrative Office of the Illinois Courts, and thanked the Director and his staff for their work in preparing for the Annual Meeting of the Conference.

With his three-year term as Chief Justice of the Supreme Court of Illinois concluding, Chief Justice Kilbride remarked that he had observed countless accomplishments by the judiciary during his term. For example, several circuit courts had implemented pilot projects for extended media coverage,

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allowing cameras in the courtroom in selected cases. In addition, several circuits implemented e-filing of court documents in civil cases. Both of these initiatives are being expanded throughout the state. He also acknowledged the enthusiastic commitment and dedication of judges statewide.

Chief Justice Kilbride noted the work of the Commission on Access to Justice including its advancement of fundamental issues relating to access to justice and the development of a plan to ensure greater access to justice in Illinois.

The Commission has focused its first efforts in three areas: (1) court guidance and training, (2) language access, and (3) standardized forms. Chief Justice Kilbride lauded the work of the Commission in exploring strategies for legal services for unrepresented litigants, enhancing interpreter services for individuals with limited proficiency in English, and developing standardized forms to create uniformity in court proceedings across the State.

Chief Justice Kilbride also noted the promulgation of statewide standards and new and amended Supreme Court Rules that allow all Illinois circuit courts to begin electronically filing court documents in civil cases. He commented that uniform standards allow all circuit courts to benefit from e-filing's greater efficiency and long-range cost savings as well as provide a more modern way of doing business. Chief Justice Kilbride expressed his hope that the Illinois judiciary will continue to advance e-business practices and encouraged the circuit courts to implement e-filing.

Chief Justice Kilbride noted that the Supreme Court continues to advance its goal to restructure and reframe the Illinois Judicial Conference to create a more robust, active, and energized body. A number of structural changes have been introduced into the Conference during 2013. The most significant change has been altering the focus of the annual meeting from a retrospective report of the past year's activities to the prospective setting of goals and priorities for the coming year. Additional changes will be implemented during the 2014 Conference Year. These reorganization efforts are designed to revitalize the Illinois Judicial Conference by fostering partnership and collaboration, with the overarching goal of creating an evolving strategic plan to improve the administration of justice in Illinois. As the constitutional entity charged with considering the work of the courts and suggesting improvements in the administration of justice to the Supreme Court, the Illinois Judicial Conference must be organized to meet the challenges of a changing society and constantly evolving technology so that the people of Illinois will be served by a more responsive, efficient, and accessible judicial system.

In closing, Chief Justice Kilbride encouraged Conference members to continue to reflect on ways to enhance the accessibility, productivity, and responsiveness of Illinois' courts because their work is the foundation for improving our justice system. He noted that the Judicial Conference offers an opportunity to examine existing judicial practices and to recommend adjustments and improvements to the court system. Thus, committee charges and deliberations should be open to all ideas that might enable the judiciary to adapt to meet changing demands.

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After the Chief Justice concluded his remarks, Conference members met to focus on strategic planning. Discussion centered on objectives and outcomes identified at the April 2013 “*Shaping the Future of the Illinois Courts Conference.*”

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CONSENT CALENDAR

The Consent Calendar includes memorials for deceased judges, biographies for retired judges and a listing of new judges for the period August 1, 2012 through August 31, 2013.

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RESOLUTION

IN MEMORY OF

THE HONORABLE CHARLES A. ALFANO

The Honorable Charles A. Alfano, former associate judge for the Circuit Court of Cook County, passed away August 24, 2013.

Judge Alfano was born January 11, 1926. He was appointed a circuit judge for the Circuit Court of Cook County December 1, 1971. Judge Alfano remained in that position until retiring June 30, 1991.

The Illinois Judicial Conference extends to the family of Judge Alfano its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE JOSEPH F. BEATTY

The Honorable Joseph F. Beatty, former circuit judge for the Fourteenth Judicial Circuit, passed away April 14, 2013.

Judge Beatty was born November 10, 1948. He was elected a circuit judge for the Fourteenth Judicial Circuit in 1984, and retained that position until his retirement December 31, 2007.

The Illinois Judicial Conference extends to the family of Judge Beatty its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE JOHN J. BOWMAN

The Honorable John J. Bowman, appellate judge for the Second District, passed away September 26, 2012.

Judge Bowman was born January 13, 1930, in Oak Park, Illinois. He received his law degree from The John Marshall Law School in 1959, and was admitted to the bar that same year. Judge Bowman was in private practice from 1959 – 1973, while also serving as an assistant DuPage County Public Defender. From 1973 – 1976 he served as the DuPage County State's Attorney. Judge Bowman was elected a circuit judge for the Eighteenth Judicial Circuit in 1976. Since 1990, he served on the appellate court for the Second District. He remained in this position until the time of his death.

The Illinois Judicial Conference extends to the family of Judge Bowman its sincere expression of sympathy.

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RESOLUTION
IN MEMORY OF
THE HONORABLE JEROME T. BURKE

The Honorable Jerome T. Burke, former circuit judge for the Circuit Court of Cook County, passed away February 27, 2013.

Judge Burke was born October 17, 1936, in Chicago, Illinois. He received his law degree from IIT/Chicago-Kent College of Law, and was admitted to the bar in 1964. Judge Burke became an associate judge for the Circuit Court of Cook County in 1973, and was appointed a circuit judge in 1979. He retired from the bench September 30, 1997.

The Illinois Judicial Conference extends to the family of Judge Burke its sincere expression of sympathy.

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RESOLUTION
IN MEMORY OF
THE HONORABLE JOSEPH D. CHRIST

The Honorable Joseph D. Christ, associate judge for the Twentieth Judicial Circuit, passed away March 10, 2013.

Judge Christ was born December 1, 1963, in Lebanon, Illinois. He received his law degree from Thomas Cooley Law School, and was admitted to the bar in 1994. Judge Christ served as an assistant State's Attorney for St. Clair County his entire legal career. He was appointed an associate judge for the Twentieth Judicial Circuit February 27, 2013, and was serving in that position at the time of his death.

The Illinois Judicial Conference extends to the family of Judge Christ its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE ROSALAND CRANDELL

The Honorable Rosaland Crandell, former associate judge for the Circuit Court of Cook County, passed away December 21, 2012.

Judge Crandell was born February 1, 1923. She was appointed an associate judge for the Circuit Court of Cook County June 14, 1982, and remained in that position until retiring December 18, 1998.

The Illinois Judicial Conference extends to the family of Judge Crandell its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE ROBERT CUSACK

The Honorable Robert Cusack, former circuit judge for the Circuit Court of Cook County, passed away May 22, 2013.

Judge Cusack was born May 9, 1917, in Chicago, Illinois. He received his law degree from the University of Michigan Law School, and was admitted to the bar in 1942. Judge Cusack was in private practice when he was appointed an associate judge for the Circuit Court of Cook County in 1973. He became a circuit judge in 1977, retaining that position until retiring December 1, 1996. He was immediately recalled and served in that position until his retirement March 31, 2005.

The Illinois Judicial Conference extends to the family of Judge Cusack its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE JOHN W. DAY

The Honorable John W. Day, former associate judge for the Third Judicial Circuit, passed away August 10, 2013.

Judge Day was born January 6, 1919 in Hamburg, Illinois. He received his law degree from Washington University School of Law in St. Louis, Missouri, and was admitted to the bar in 1950. Judge Day was appointed an associate judge for the Third Judicial Circuit on July 1, 1975, and remained in that position until retiring June 30, 1983.

The Illinois Judicial Conference extends to the family of Judge Day its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE ROBERT DEMPSEY

The Honorable Robert Dempsey, former circuit judge for the Circuit Court of Cook County, passed away January 10, 2013.

Judge Dempsey was born November 30, 1929. He served as an associate and circuit judge for the Circuit Court of Cook County, until resigning from the bench June 19, 1986.

The Illinois Judicial Conference extends to the family of Judge Dempsey its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE JAMES R. EDWARDS

The Honorable James R. Edwards, former associate judge for the Sixteenth Judicial Circuit, passed away November 18, 2012.

Judge Edwards was born August 10, 1934. He received his law degree from The John Marshall Law School in 1958, and was admitted to the bar that same year. Judge Edwards served in both the public and private sectors prior to joining the bench in 1999. He was appointed an associate judge for the Sixteenth Judicial Circuit March 1, 1999, and held that position until his retirement February 28, 2005.

The Illinois Judicial Conference extends to the family of Judge Edwards its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE ROGER EICHMEIER

The Honorable Roger Eichmeier, former associate judge for the Sixteenth Judicial Circuit, passed away March 2, 2013.

Judge Eichmeier was born May 15, 1932, in Freeport, Illinois. He received his law degree from Northwestern University School of Law in 1957, and was admitted to the bar that same year. Judge Eichmeier served solely in the private sector prior to joining the bench in 1987. He was appointed an associate judge for the Sixteenth Judicial Circuit July 9, 1987, and remained in that position until his retirement July 31, 2000.

The Illinois Judicial Conference extends to the family of Judge Eichmeier its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE SHELDON C. GARBER

The Honorable Sheldon C. Garber, former associate judge for the Circuit Court of Cook County, passed away September 3, 2012.

Judge Garber was born July 19, 1938. He was appointed an associate judge for the Circuit Court of Cook County June 17, 1985, and held that position until retiring July 31, 2012.

The Illinois Judicial Conference extends to the family of Judge Garber its sincere expression of sympathy.

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IN MEMORY OF

THE HONORABLE SHELDON GARDNER

The Honorable Sheldon Gardner, former circuit judge for the Circuit Court of Cook County, passed away June 1, 2013.

Judge Gardner was born May 27, 1928, in Chicago, Illinois. He received his law degree from IIT/Chicago-Kent College of Law in 1953. Judge Gardner served in both the public and private sectors from 1960 – 1988. He was appointed an associate judge for the Circuit Court of Cook County June 17, 1988, and elected a circuit judge December 7, 1992. Judge Gardner retained that position until retiring December 5, 2004, but was immediately recalled. His final retirement was November 6, 2008.

The Illinois Judicial Conference extends to the family of Judge Gardner its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE ALBERT GREEN

The Honorable Albert Green, former circuit judge for the Circuit Court of Cook County, passed away January 8, 2013.

Judge Green was born April 14, 1924. He was elected a circuit judge for the Circuit Court of Cook County December 6, 1976. Judge Green retired December 3, 2000, but was immediately recalled. His official retirement date was October 31, 2001.

The Illinois Judicial Conference extends to the family of Judge Green its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE CALVIN H. HALL

The Honorable Calvin H. Hall, former associate judge for the Circuit Court of Cook County, passed away November 27, 2012.

Judge Hall was born April 27, 1924. He was appointed an associate judge for the Circuit Court of Cook County August 6, 1984. Judge Hall retired June 30, 1999, but was immediately recalled. His official retirement was June 30, 2000.

The Illinois Judicial Conference extends to the family of Judge Hall its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE MOSES W. HARRISON, II

The Honorable Moses W. Harrison II, former Supreme Court justice, passed away April 25, 2013.

Justice Harrison was born March 30, 1932, in Collinsville, Illinois. He received his law degree from Washington University School of Law in St. Louis, Missouri in 1958. Justice Harrison was appointed a circuit judge in 1973 for the Third Judicial Circuit, serving two terms as chief judge. He served as an appellate court judge for the Fifth District from 1979, until being elected to the Supreme Court in 1992. Justice Harrison served as Chief Justice of the Supreme Court from January 1, 2000, until retiring from the bench September 4, 2002.

The Illinois Supreme Court extends to the family of Justice Harrison its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE THOMAS HETT

The Honorable Thomas Hett, former circuit judge for the Circuit Court of Cook County, passed away August 1, 2012.

Judge Hett was born September 21, 1935. He was elected a circuit judge for the Circuit Court of Cook County in 1980. Judge Hett retired March 31, 2000.

The Illinois Judicial Conference extends to the family of Judge Hett its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE LORENZO K. HUBBARD

The Honorable Lorenzo K. Hubbard, former circuit judge for the Seventh Judicial Circuit, passed away April 30, 2013.

Judge Hubbard was born April 24, 1916. He was appointed a circuit judge of the Seventh Judicial Circuit September 1, 1976. Judge Hubbard retired from the bench January 10, 1983.

The Illinois Judicial Conference extends to the family of Judge Hubbard its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE THOMAS JANCZY

The Honorable Thomas Janczy, former circuit judge for the Circuit Court of Cook County, passed away October 19, 2012.

Judge Janczy was born January 27, 1921. He was appointed an associate judge for the Circuit Court of Cook County March 17, 1971. Judge Janczy was elected a circuit judge in 1976, and remained in that position until his retirement November 30, 1987.

The Illinois Judicial Conference extends to the family of Judge Janczy its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE AUBREY KAPLAN

The Honorable Aubrey Kaplan, former circuit judge for the Circuit Court of Cook County, passed away May 28, 2013.

Judge Kaplan was born October 9, 1926. He was appointed a circuit judge for the Circuit Court of Cook County June 16, 1973. Judge Kaplan retained that position until his retirement October 9, 2001.

The Illinois Judicial Conference extends to the family of Judge Kaplan its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE JOHN C. LAYNG

The Honorable John C. Layng, former circuit judge for the Seventeenth Judicial Circuit, passed away March 21, 2013.

Judge Layng was born September 8, 1921. He was appointed an associate judge for the Seventeenth Judicial Circuit in 1970, and elected a circuit judge in 1972. Judge Layng served as chief judge of the Seventeenth Judicial Circuit from December 4, 1986 until retiring December 1, 1989.

The Illinois Judicial Conference extends to the family of Judge Layng its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE GAY LLOYD LOTT

The Honorable Gay Lloyd Lott, former circuit judge for the Circuit Court of Cook County, passed away January 19, 2013.

Judge Lott was born March 12, 1937. He was appointed a circuit judge for the Circuit Court of Cook County November 15, 1995, and retained that position until retiring August 31, 2007.

The Illinois Judicial Conference extends to the family of Judge Lott its sincere expression of sympathy.

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RESOLUTION

IN MEMORY OF

THE HONORABLE SARAH M. LUMPP

The Honorable Sarah M. Lumpp, former associate judge for the Sixteenth Judicial Circuit, passed away May 23, 2013.

Judge Lumpp was born November 14, 1933. She was appointed an associate judge for the Sixteenth Judicial Circuit in 1965, and held that position until resigning from the bench April 30, 1979.

The Illinois Judicial Conference extends to the family of Judge Lumpp its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE JOSEPH M. MACELLAIO

The Honorable Joseph M. Macellaio, former associate judge for the Circuit Court of Cook County, passed away March 31, 2013.

Judge Macellaio was born September 2, 1942. He was appointed an associate judge for the Circuit Court of Cook County July 1, 1983, and retained that position until retiring August 4, 2003.

The Illinois Judicial Conference extends to the family of Judge Macellaio its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE ROBERT E. MANNING

The Honorable Robert E. Manning, former circuit judge for the Tenth Judicial Circuit, passed away July 22, 2013.

Judge Manning was born November 16, 1931 in Peoria, Illinois. He received his law degree from Notre Dame Law School in 1960, and was admitted to the bar that same year. Judge Manning served in both the public and private sectors from 1960 – 1977. He was appointed an associate judge for the Tenth Judicial Circuit September 1, 1977, and appointed a circuit judge February 1, 1979. Judge Manning served as chief judge of the Tenth Judicial Circuit from 1989 – 1992. He retired August 31, 1997.

The Illinois Judicial Conference extends to the family of Judge Manning its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE JOHN T. McCULLOUGH

The Honorable John T. McCullough, appellate judge for the Fourth District, passed away October 30, 2012.

Judge McCullough was born June 15, 1931, in Streator, Illinois. He received his law degree from the University of Illinois College of Law in 1955, and was admitted to the bar that same year. Judge McCullough was in private practice until being elected to the Logan County court in 1962. He was elected a circuit judge for the Eleventh Judicial Circuit in 1972, serving as Chief Judge from 1974 until 1984, when he was elected to the Fourth District Appellate Court. Judge McCullough served in that position at the time of his death.

The Illinois Judicial Conference extends to the family of Judge McCullough its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE MARTIN McDONOUGH

The Honorable Martin McDonough, former associate judge for the Circuit Court of Cook County, passed away June 4, 2013.

Judge McDonough was born July 15, 1934. He was appointed an associate judge for the Circuit Court of Cook County May 7, 1981, and retained that position until his retirement October 10, 2011.

The Illinois Judicial Conference extends to the family of Judge McDonough its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE MARY ANN McMORROW

The Honorable Mary Ann McMorrow, former Supreme Court justice, passed away February 23, 2013.

Justice McMorrow was born January 16, 1930, in Chicago, Illinois. She received her law degree from Loyola University School of Law in 1953, and was admitted to the bar that same year. Justice McMorrow served in the private sector from 1954 to 1955. From 1955 to 1976, she was an assistant State's Attorney, where she was the first woman to prosecute major criminal cases for the Circuit Court of Cook County. She was elected a circuit judge for the Circuit Court of Cook County in 1976, and remained in that position until being assigned to the First District Appellate Court in 1985, and elected to that position in 1986. In 1992, she was elected to the Illinois Supreme Court. Justice McMorrow was the first woman to hold a position on the Illinois Supreme Court, and became the first woman Chief Justice in 2002. She retired July 5, 2006.

The Illinois Judicial Conference extends to the family of Justice McMorrow its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE MICHAEL J. MURPHY

The Honorable Michael J. Murphy, appellate judge for the First District, passed away October 1, 2012.

Judge Murphy was born June 20, 1941, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1971, and was admitted to the bar that same year. Judge Murphy served as an assistant Illinois Attorney General, special assistant U. S. Attorney and Executive Director of the South East Chicago Commission, before joining the bench in 1985, as an associate judge for Cook County. He was elected a circuit judge in 1992, and assigned an appellate judge for the First District in 2005, and elected to that position in 2006. Judge Murphy was serving in that position at the time of his death.

The Illinois Judicial Conference extends to the family of Judge Murphy its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE JOHN L. NICKELS

The Honorable John L. Nickels, former Supreme Court justice, passed away June 24, 2013.

Justice Nickels was born January 16, 1931. He received his law degree from DePaul University College of Law, and was admitted to the bar in 1961. Justice Nickels was elected a circuit judge in 1982 for the Sixteenth Judicial Circuit. He was elected an appellate judge for the Second District in 1990, and elected to the Illinois Supreme Court in 1992. Justice Nickels retired December 31, 1998.

The Illinois Judicial Conference extends to the family of Justice Nickels its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE MICHAEL E. O'BRIEN

The Honorable Michael E. O'Brien, former circuit judge for the Sixteenth Judicial Circuit, passed away March 1, 2013.

Judge O'Brien was born March 28, 1937, in Joliet, Illinois. He received his law degree from The John Marshall Law School in 1963, and was admitted to the bar that same year. Judge O'Brien was appointed an associate judge for the Sixteenth Judicial Circuit May 1, 1981, and appointed a circuit judge April 1, 1985. He was elected in 1986, and remained in that position until retiring December 3, 1995.

The Illinois Judicial Conference extends to the family of Judge O'Brien its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE D. ADOLPHUS RIVERS

The Honorable D. Adolphus Rivers, former circuit judge for the Circuit Court of Cook County, passed away September 6, 2012.

Judge Rivers was born February 2, 1928. He received his law degree from The John Marshall Law School in 1951, and was admitted to the bar that same year. Judge Rivers was appointed an associate judge for the Circuit Court of Cook County January 9, 1984, and a circuit judge November 15, 1995. He retired December 1, 1996, was recalled and retired December 31, 1998.

The Illinois Judicial Conference extends to the family of Judge Rivers its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE HARVEY SCHWARTZ

The Honorable Harvey Schwartz, former circuit judge for the Circuit Court of Cook County, passed away August 4, 2013.

Judge Schwartz was born April 19, 1929. He was appointed an associate judge for the Circuit Court of Cook County July 2, 1987, and a circuit judge March 5, 1995. He remained in that position until retiring December 1, 1996.

The Illinois Judicial Conference extends to the family of Judge Schwartz its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE VICTOR SPRENGELMEYER

The Honorable Victor Sprengelmeyer, former circuit judge for the Fifteenth Judicial Circuit, passed away November 17, 2012.

Judge Sprengelmeyer was born December 25, 1942, in Dubuque, Iowa. He received his law degree from the University of Iowa College of Law, and was admitted to the bar in 1967. Judge Sprengelmeyer was mainly in private practice, except for serving as Public Defender for JoDaviess County from 1970 – 1972, and State's Attorney for JoDaviess County from 1972 – 1976. He became an associate judge for the Fifteenth Judicial Circuit in 1991, and appointed a circuit judge July 3, 2007. Judge Sprengelmeyer retired July 3, 2008.

The Illinois Judicial Conference extends to the family of Judge Sprengelmeyer its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE JAMES B. VINCENT

The Honorable James B. Vincent, former circuit judge for the Fifteenth Judicial Circuit, passed away June 6, 2013.

Judge Vincent was born August 22, 1926. He was elected a circuit judge for the Fifteenth Judicial Circuit in 1974. Judge Vincent resigned from the bench in 1977.

The Illinois Judicial Conference extends to the family of Judge Vincent its sincere expression of sympathy.

2013 REPORT

RESOLUTION

IN MEMORY OF

THE HONORABLE STEPHEN E. WALTER

The Honorable Stephen E. Walter, former circuit judge for the Nineteenth Judicial Circuit, passed away April 14, 2013.

Judge Walter was born October 14, 1947, in Evergreen Park, Illinois. He received his law degree from Northwestern University School of Law in 1973, and was admitted to the bar that same year. Judge Walter was appointed an associate judge for the Nineteenth Judicial Circuit in 1985, and elected a circuit judge in 1990. He retired from the bench October 31, 2006.

The Illinois Judicial Conference extends to the family of Judge Walter its sincere expression of sympathy.

2013 REPORT

RETIRED JUDGES

ANDERSON, Allen M. was born December 17, 1945, in Evanston, Illinois. He received his law degree from The John Marshall Law School in 1972, and was admitted to the bar that same year. Judge Anderson served in the private sector while simultaneously working as a part-time assistant Public Defender for Kane County. He was appointed an associate judge for the Sixteenth Judicial Circuit in 1999, and remained in that position until his retirement December 31, 2012.

BARON, Robert J. was born September 21, 1939, in Chicago, Illinois. He received his law degree from Northwestern University School of Law in 1964, and was admitted to the bar that same year. Judge Baron served solely in the private sector until being appointed an associate judge for the Twelfth Judicial Circuit in 2000. He remained in that position until his retirement July 5, 2013.

BILLIK, Richard J., Jr. was born November 13, 1952, in Chicago, Illinois. He received his law degree from Southern Methodist University Dedman School of Law, and was admitted to the bar in 1977. Judge Billik worked as a trial attorney with the U. S. Department of Justice, and while in Washington D.C., as an assistant district attorney. Immediately prior to being elected a circuit judge for the Circuit Court of Cook County, Judge Billik was in private practice. He retired from the bench December 31, 2012.

BORDEN, Stuart was born November 23, 1951, in Peoria, Illinois. He received his law degree from Southern Illinois University School of Law in 1977, and was admitted to the bar that same year. Judge Borden served as the State's Attorney in Stark County from 1984 – 1991. He was in private practice prior to becoming an associate judge for the Tenth Judicial Circuit in 1991. Judge Borden served as chief judge of the Tenth Judicial Circuit from August 2007 through December 2010. He retired December 2, 2012.

BROWN, Michael was born March 12, 1955, in Chicago, Illinois. He received his law degree from IIT/Chicago-Kent College of Law in 1987, and was admitted to the bar that same year. Judge Brown worked with the State's Attorney's Office on two separate occasions while also in private practice. He became an associate judge for the Circuit Court of Cook County in 1999. Judge Brown retained that position until his retirement July 2, 2013.

CONDON, Joseph P. was born October 6, 1946, in Chicago, Illinois. He received his law degree from Loyola University School of Law, and was admitted to the bar in 1972. Judge Condon spent his entire legal career, prior to joining the bench, as a trial attorney. He was appointed an associate judge for the Nineteenth Judicial Circuit in 1998. Judge Condon was elected a circuit judge in the newly formed Twenty-Second Judicial Circuit in 2006, and remained in that position until retiring December 2, 2012.

2013 REPORT

CUETO, Lloyd A. was born April 13, 1951, in East St. Louis, Illinois. He received his law degree from St. Louis University School of Law, and was admitted to the bar in 1990. Judge Cueto was the chief assistant Public Defender and an assistant state's attorney for St. Clair County. Immediately prior to being elected a circuit judge for the Twentieth Judicial Circuit in 1994, he was in private practice. Judge Cueto retired November 30, 2012.

DANNER, Edward R. was born July 1, 1954, in Canton, Illinois. He received his law degree from Loyola University School of Law, and was admitted to the bar in 1979. Judge Danner served in both the public and private sectors prior to being appointed a circuit judge for the Ninth Judicial Circuit in 2006. Judge Danner remained in that position until his retirement July 4, 2013.

DONOVAN, James K. was born August 12, 1952, in East St. Louis, Illinois. He received his law degree from St. Louis University Law School in 1977, and was admitted to the bar that same year. Judge Donovan began his legal career as an assistant St. Clair County State's Attorney and later as the St. Clair County Public Defender, while also engaging in private practice. He became an associate judge for the Twentieth Judicial Circuit in 1983, and later a circuit judge. In 2002, he was assigned to the Fifth District Appellate Court, and elected to that position in 2004. Judge Donovan retired December 2, 2012.

DOODY, John T., Jr. was born January 15, 1945, in Evergreen Park, Illinois. He received his law degree from The John Marshall Law School in 1974, and was admitted to the bar that same year. Judge Doody served in both the public and private sectors prior to joining the bench. In 2002, he was elected a circuit judge for the Circuit Court of Cook County, a position he retained until retiring January 25, 2013.

DUNN, Wallace B. was born November 28, 1940, in Chicago, Illinois. He received his law degree from DePaul University College of Law in 1965, and was admitted to the bar that same year. Judge Dunn served in both the public and private sectors, before being appointed an associate judge in 1986, for the Nineteenth Judicial Circuit. He retained that position until retiring November 2, 2012.

EGAN, James D. was born September 20, 1950, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1975, and was admitted to the bar that same year. Judge Egan served as an assistant Cook County Public Defender from 1976 – 1986 and as an assistant Cook County State's Attorney from 1986 – 1988. He became an associate judge for the Circuit Court of Cook County in 1988 and a circuit judge in 1994. Judge Egan retired from the bench September 30, 2012.

EGAN, James E. was born August 29, 1945, in Chicago, Illinois. He received his law degree from IIT/Chicago-Kent College of Law in 1973, and was admitted to the bar that same year. Judge Egan served solely in the private sector prior to being appointed an associate judge for the Twelfth Judicial Circuit in 2006. He remained in that position until his retirement October 30, 2012.

2013 REPORT

FLETCHER, Kenneth was born July 11, 1947, in Chicago, Illinois. He received his law degree from IIT Chicago-Kent College of Law in 1976, and was admitted to the bar that same year. Judge Fletcher served in various public and private sectors prior to being appointed a circuit judge for the Circuit Court of Cook County in 2007. He remained in that position until retiring December 30, 2012.

FREESE, Chris was born September 23, 1952. He received his law degree from the University of Louisville Law School, and was admitted to the bar in 1978. Judge Freese served in the private sector and also as a State's Attorney and Public Defender for Moultrie County. He became an associate judge for the Sixth Judicial Circuit in 1999, and retained that position until retiring December 2, 2012.

GOLDEN, Patricia Piper was born June 7, 1950. She received her law degree from Syracuse University College of Law in 1975, and was admitted to the bar that same year. Judge Golden has served as an assistant Kane County State's Attorney and as the Carroll County State's Attorney prior to joining the bench. She was appointed an associate judge for the Sixteenth Judicial Circuit in 1996. Judge Golden retired from the bench January 29, 2013.

HATCH, Dennis G. was born September 12, 1953, in East St. Louis, Illinois. He received his law degree from St. Louis University School of Law, and was admitted to the bar in 1986. Judge Hatch began his legal career as an assistant St. Clair County State's Attorney. From 1992 – 1997 he was the Washington County State's Attorney. He was appointed an associate judge for the Twentieth Judicial Circuit in 1998, and retained that position until retiring November 30, 2012.

IOSCO, Anthony A. was born September 15, 1949, in Chicago, Illinois. He received his law degree from Northern Illinois University College of Law in 1978, and was admitted to the bar that same year. Judge Iosco spent several years as an assistant Illinois Attorney General and immediately prior to becoming a judge, was in private practice. He was elected a circuit judge for the Circuit Court of Cook County in 2000, where he remained until retiring December 2, 2012.

JANES, Robert L. was born March 21, 1949. He received his law degree from DePaul University College of Law in 1974, and was admitted to the bar that same year. Judge Janes served as an assistant Kane County Public Defender, and immediately prior to joining the bench was in private practice. He became an associate judge for the Sixteenth Judicial Circuit in 1996, and retained that position until his retirement October 1, 2012.

KAWAMOTO, Lynne was born June 13, 1950. She received her law degree from DePaul University College of Law in 1981, and was admitted to the bar that same year. Judge Kawamoto began her legal career in the Cook County State's Attorneys office. She became an associate judge for the Circuit Court of Cook County in 1991, and retained that position until retiring August 7, 2013.

2013 REPORT

KILEY, Michael P. was born June 1, 1951, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1977, and was admitted to the bar that same year. Judge Kiley was a private practitioner while simultaneously serving as an assistant State's Attorney for Shelby County from 1977 – 1980, a special assistant Illinois Attorney General from 1982 – 1984, and as the State's Attorney for Shelby County from 1984 – 1992. He was elected a circuit judge for the Fourth Judicial Circuit in 1992, and retained that position until retiring from the bench December 2, 2012.

KLEIN, Kurt P. was born September 30, 1943, in Chicago, Illinois. He received his law degree from DePaul University College of Law in 1972, and was admitted to the bar that same year. Judge Klein served as an assistant State's Attorney in both DeKalb and Cook Counties during his legal career. Immediately prior to joining the bench he was in private practice. He was appointed an associate judge for the Sixteenth Judicial Circuit in 1996, and became a circuit judge in 2001. He retained that position until retiring October 4, 2012.

LUCAS, Timothy M. was born December 4, 1953, in LaSalle, Illinois. He received his law degree from The John Marshall Law School in 1981, and was admitted to the bar that same year. Judge Lucas has served as an assistant State's Attorney and assistant Public Defender in both Tazewell and Marshall Counties. Immediately prior to being appointed an associate judge for the Tenth Judicial Circuit he was in private practice. Judge Lucas was appointed a circuit judge in 2011, and remained in that position until his retirement December 2, 2012.

MALLON, Michael T. was born April 6, 1948, in Rockford, Illinois. He received his law degree from The John Marshall Law School, and was admitted to the bar in 1977. Judge Mallon served solely in the private sector prior to being appointed an associate judge for the Fifteenth Judicial Circuit in 1998. He became a circuit judge in 2002, serving as chief judge from 2008 – 2010. He retired December 4, 2012.

McCLINTOCK, Gregory K. was born January 25, 1950, in Middletown, New York. He received his law degree from the University of Illinois College of Law in 1975, and was admitted to the bar that same year. Judge McClintock served as an assistant State's Attorney for Warren County from 1975 – 1977, was in private practice from 1977 – 1984 and served as the State's Attorney for Warren County from 1984, until becoming an associate judge for the Ninth Judicial Circuit in 1995. He became a circuit judge in 2006, serving as chief judge from 2009 until his retirement December 2, 2012.

McDUNN, Susan was born August 8, 1955, in Chicago, Illinois. She received her law degree from DePaul University College of Law in 1980, and was admitted to the bar that same year. Judge McDunn served mainly in the private sector until being elected a circuit judge for the Circuit Court of Cook County in 1992. She retained that position until retiring November 9, 2012.

MILLS, Martha A. was born May 11, 1941, in Lansing, Michigan. She received her law degree from the University of Minnesota Law School, and was admitted to the bar in 1970. Immediately prior to being appointed a circuit judge for the Circuit Court of Cook County in 1995, she was in private practice. Judge Mills retired November 30, 2012.

2013 REPORT

MITCHELL, Richard T. was born in 1948. He received his law degree from The John Marshall Law School in 1976, and was admitted to the bar that same year. Judge Mitchell served in both the public and private sectors until being appointed a circuit judge for the Seventh Judicial Circuit in 2002. He served as chief judge from 2010 – 2012. Judge Mitchell retired January 2, 2013.

O'NEAL, William D. was born May 8, 1938. He received his law degree from IIT/Chicago-Kent College of Law in 1972, and was admitted to the bar that same year. Judge O'Neal served as an assistant Cook County Public Defender, and immediately prior to joining the bench was in private practice. He was elected a circuit judge for the Circuit Court of Cook County December 7, 1992, and retained that position until his retirement November 30, 2012.

PERIVOLIDIS, Arthur C. was born November 1, 1941, in Oak Park, Illinois. He received his law degree from Northwestern University School of Law in 1967, and was admitted to the bar that same year. Judge Perivolidis served solely in the private sector until being appointed an associate judge in 1977 for the Circuit Court of Cook County. He retired from the bench July 1, 2013.

PRESTON, Lee was born February 6, 1944, in Chicago, Illinois. He received his law degree from DePaul University College of Law in 1972, and was admitted to the bar that same year. Judge Preston served as legislative counsel and administrative assistant to Lt. Governor Neil F. Hartigan from 1974 – 1976. He was a member of the House of Representatives from 1979 – 1993. Immediately prior to joining the bench he was in private practice. He was elected a circuit judge for the Circuit Court of Cook County in 1994, and remained in that position until retiring December 31, 2012.

RICHARDSON, Marzell J., Jr. was born August 8, 1954, in Joliet, Illinois. He received his law degree from the University of Illinois College of Law and was admitted to the bar in 1980. Judge Richardson was in private practice while simultaneously serving as a part-time Will County assistant Public Defender. He was selected to serve as an associate judge for the Twelfth Judicial Circuit in 2001. Judge Richardson retired December 31, 2012.

ROMANI, Charles V. Jr., was born July 23, 1947, in Litchfield, Illinois. He received his law degree from St. Louis University School of Law in 1974, and was admitted to the bar that same year. Judge Romani was an assistant State's Attorney for Madison County from 1974 – 1976, and the Bond County State's Attorney from 1976 – 1983. Judge Romani became an associate judge for the Third Judicial Circuit in 1983, and a circuit judge in 1989. He remained in that position until retiring November 7, 2012.

ROSEBERRY, Michael R. was born June 12, 1954, in Rushville, Illinois. He received his law degree from Washington University School of Law, and was admitted to the bar in 1979. Judge Roseberry served in both the public and private sectors prior to joining the bench. He became a circuit judge for the Eighth Judicial Circuit in 1990, and remained in that position until retiring December 2, 2012.

2013 REPORT

SALONE, Marcus R. was born April 28, 1949, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1981, and was admitted to the bar that same year. Judge Salone served as an assistant State's Attorney for Cook County from 1981 – 1983, and was in private practice until joining the bench in 1991. He served as an associate judge for the Circuit Court of Cook County until 2011, when he was appointed to the First District Appellate Court. He remained in that position until his retirement December 2, 2012.

SHELDON, Timothy Q. was born December 8, 1946, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1975, and was admitted to the bar that same year. Judge Sheldon served solely in the private sector until becoming an associate judge for the Sixteenth Judicial Circuit in 1986. He became a circuit judge in 1996, and retained that position until his retirement December 1, 2012.

SMITH, Terence Blair was born December 23, 1957. He received his law degree from IIT/Chicago-Kent College of Law, and was admitted to the bar in 1984. Judge Smith served as an assistant Cook County Public Defender until being appointed an associate judge for the Circuit Court of Cook County in 2001. He retired December 31, 2012.

SOUK, James E. was born July 5, 1945, in Beckley, West Virginia. He received his law degree from the University of Illinois College of Law in 1974, and was admitted to the bar that same year. Judge Souk served in both the public and private sectors until being appointed an associate judge for the Eleventh Judicial Circuit in 1997. He became a circuit judge in 2002, and retained that position until his retirement November 30, 2012.

STEELE, John O. was born July 14, 1946, in New York, New York. He received his law degree from DePaul University College of Law and was admitted to the bar in 1980. Judge Steele served in both the public and private sectors until being appointed an associate judge for the Circuit Court of Cook County in 1997. He was elected to the First District Appellate Court in 2008, becoming presiding justice of the third division in 2011. Judge Steele retired December 31, 2012.

STENGEL, Charles H. was born September 21, 1953, in Rock Island, Illinois. He received his law degree from DePaul University College of Law, and was admitted to the bar in 1983. Judge Stengel served as an assistant State's Attorney and an assistant Appellate Prosecutor in Rock Island County, prior to joining the bench. He was elected a circuit judge for the Fourteenth Judicial Circuit in 1996, where he remained until retiring December 31, 2012.

STERBA, David P. was born September 27, 1957, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1984, and was admitted to the bar that same year. Judge Sterba served as an assistant State's Attorney for Cook County from 1985 – 1990. Immediately prior to joining the bench he was in private practice. Judge Sterba was elected a circuit judge for the Circuit Court of Cook County in 1996. He was assigned to the First District Appellate Court in 2011, and remained in that position until retiring July 1, 2013.

2013 REPORT

STOVERINK, David F. was born September 10, 1950, in Cape Girardeau, Missouri. He received his law degree from the University of Missouri Law School in 1977, and was admitted to the bar that same year. Judge Stoverink served solely in the private sector until being appointed an associate judge for the Ninth Judicial Circuit in 1997. He was elected a circuit judge in 1998, and retained that position until his retirement December 2, 2012.

SUTTON, Thomas H. was born January 27, 1948. He received his law degree from the University of Illinois College of Law in 1973, and was admitted to the bar that same year. Judge Sutton was in private practice from 1973 – 1975. He served as the White County State's Attorney from 1975 – 1988. He was elected a circuit judge for the Second Judicial Circuit in 1988, serving as chief judge from 1993 – 1997. Judge Sutton retired December 2, 2012.

VANTREASE, E. Kyle was born September 21, 1951, in Christopher, Illinois. He received his law degree from IIT/Chicago-Kent College of Law in 1976, and was admitted to the bar that same year. Judge Vantrease served in both the public and private sectors prior to joining the bench. He was appointed a circuit judge for the Second Judicial Circuit in 1995, and served as chief judge from 2006 – 2011. Judge Vantrease retired from the bench November 30, 2012.

VEAL, Pamela E. Hill was born June 28, 1953. She received her law degree from DePaul University College of Law, and was admitted to the bar in 1988. Judge Hill-Veal served in both the public and private sectors prior to joining the bench in 2004. She became a circuit judge for the Circuit Court of Cook County, and retained that position until her retirement December 31, 2012.

WEBSTER, Hollis L. was born June 15, 1955, in Elmhurst, Illinois. She received her law degree from Loyola University School of Law in 1982, and was admitted to the bar that same year. Judge Webster served mainly in the private sector prior to being appointed an associate judge for the Eighteenth Judicial Circuit in 1991. She became a circuit judge in 1995, and retained that position until her retirement December 31, 2012.

WHARTON, Milton S. was born September 20, 1946, St. Louis, Missouri. He received his law degree from DePaul University College of Law and was admitted to the bar in 1975. Judge Wharton served as an assistant Public Defender from 1975 – 1976, when he became an associate judge for the Twentieth Judicial Circuit. He became a circuit judge in 1988, and retained that position until retiring December 2, 2012.

WILLIAMS, Walter was born June 13, 1939, in Yazoo City, Mississippi. He received his law degree from The John Marshall Law School, and was admitted to the bar in 1970. Judge Williams served solely in the private sector until being appointed an associate judge for the Circuit Court of Cook County in 1986. He became a circuit judge in 2005, and retired from that position November 30, 2012.

2013 REPORT

WISE, William was born October 17, 1940, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1965, and was admitted to the bar that same year. Judge Wise served as an assistant State's Attorney for Cook County from 1965 – 1972. Immediately prior to joining the bench he was in private practice. He was appointed a circuit judge for the Circuit Court of Cook County in 1995. Judge Wise retired November 30, 2012.

ZOPP, Gerald M., Jr. was born November 15, 1945, in Indianapolis, Indiana. He received his law degree from the University of Illinois College of Law in 1970, and was admitted to the bar that same year. Judge Zopp served solely in the private sector until becoming an associate judge for the Nineteenth Judicial Circuit in 1995. He served in that position, transitioning to the Twenty-Second Judicial Circuit in 2006, until retiring December 31, 2012.

2013 REPORT

NEW JUDGES

Ahern, Gregory E., Jr. – Circuit Judge, Circuit Court of Cook County
Bennett, Allen F. – Circuit Judge, Fourth Judicial Circuit
Bishop, Christen L. – Associate Judge, Nineteenth Judicial Circuit
Bloodworth, Ralph R., III – Associate Judge, First Judicial Circuit
Bovard, Mark E. – Associate Judge, Fifth Judicial Circuit
Boyd, Carl B. – Circuit Judge, Circuit Court of Cook County
Broch, Richard L., Jr. – Associate Judge, Sixth Judicial Circuit
Buford, Andrea M. – Circuit Judge, Circuit Court of Cook County
Carlson, David M. – Associate Judge, Twelfth Judicial Circuit
Cates, Judy Lynn – Appellate Judge, Fifth Appellate District
Cherry, David R. – Circuit Judge, Seventh Judicial Circuit
Christ, Joseph D. – Associate Judge, Twentieth Judicial Circuit
Clark, Rodney G. – Circuit Judge, Ninth Judicial Circuit
Cocozza, Jean M. – Circuit Judge, Circuit Court of Cook County
Cruz, Rene – Associate Judge, Sixteenth Judicial Circuit
Cusack, Timothy – Associate Judge, Tenth Judicial Circuit
Dalton, John G. – Circuit Judge, Sixteenth Judicial Circuit
Degan, Daniel R. – Circuit Judge, Circuit Court of Cook County
Downs, Christine A. – Associate Judge, Sixteenth Judicial Circuit
Ehrlich, John H. – Circuit Judge, Circuit Court of Cook County
Embil, Diana L. – Circuit Judge, Circuit Court of Cook County
Emge, Daniel J. – Circuit Judge, Twentieth Judicial Circuit
Finson, William Hugh – Circuit Judge, Sixth Judicial Circuit
Flood, Elizabeth – Associate Judge, Sixteenth Judicial Circuit
Gallagher, John T. – Circuit Judge, Circuit Court of Cook County
Gamboney, William G. – Circuit Judge, Circuit Court of Cook County
Garcia, David – Associate Judge, Twelfth Judicial Circuit
Gavlin, Chrystel L. – Associate Judge, Twelfth Judicial Circuit
Goldrick, John B. – Associate Judge, Eleventh Judicial Circuit
Gomric Julia R. – Associate Judge, Twentieth Judicial Circuit
Harmon, Christopher M. – Associate Judge, Twenty-Second Judicial Circuit
Hayes, Elizabeth M. – Circuit Judge, Circuit Court of Cook County
Holland, Troy – Circuit Judge, Thirteenth Judicial Circuit
Jarz, Theodore J. – Associate Judge, Twelfth Judicial Circuit

2013 REPORT

Keith, Thomas A. – Circuit Judge, Tenth Judicial Circuit
Kelley, Martin C. – Circuit Judge, Circuit Court of Cook County
Kievlan, Patricia H. – Associate Judge, Twentieth Judicial Circuit
Kolker, Christopher T. – Associate Judge, Twentieth Judicial Circuit
Krentz, Stephen L. – Associate Judge, Twenty-Third Judicial Circuit
Kubasiak, Daniel J. – Circuit Judge, Circuit Court of Cook County
Lawler, Christopher E. – Circuit Judge, Circuit Court of Cook County
Lewis, Kimberly D. – Circuit Judge, Circuit Court of Cook County
Lund, Cory D. – Associate Judge, Twelfth Judicial Circuit
MacCarthy, Aicha – Circuit Judge, Circuit Court of Cook County
MacKay, Jeffrey S. – Associate Judge, Eighteenth Judicial Circuit
Maloney, Edward M. – Circuit Judge, Circuit Court of Cook County
Marino, Lisa Ann – Circuit Judge, Circuit Court of Cook County
McCartney, John Frank – Circuit Judge, Eighth Judicial Circuit
Meyerson, Pamela McLean – Circuit Judge, Circuit Court of Cook County
Mullen, Michael T. – Circuit Judge, Circuit Court of Cook County
Nader, Mary H. – Associate Judge, Twenty-Second Judicial Circuit
O'Brien, Jessica A. – Circuit Judge, Circuit Court of Cook County
O'Malley, Karen L. – Circuit Judge, Circuit Court of Cook County
O'Shea, Patrick J. – Circuit Judge, Eighteenth Judicial Circuit
Pavlus, Paul S. – Circuit Judge, Circuit Court of Cook County
Ramirez, Cynthia – Circuit Judge, Circuit Court of Cook County
Redington, John C. – Associate Judge, Fifteenth Judicial Circuit
Reif, Christopher E. – Circuit Judge, Seventh Judicial Circuit
Rochford, Elizabeth M. – Associate Judge, Nineteenth Judicial Circuit
Roe, John B., IV – Circuit Judge, Fifteenth Judicial Circuit
Salvi, Joseph V. – Associate Judge, Nineteenth Judicial Circuit
Santiago, Beatriz – Circuit Judge, Circuit Court of Cook County
Schroeder, Neil T. – Associate Judge, Third Judicial Circuit
Simon, John B. – Appellate Judge, First Appellate District
Sowinski Fix, Patricia – Circuit Judge, Nineteenth Judicial Circuit
Standard, James R. – Circuit Judge, Ninth Judicial Circuit
Thompson, Linnea E. – Circuit Judge, Fourteenth Judicial Circuit
Tracy, Alice C. – Associate Judge, Sixteenth Judicial Circuit
Villa, Robert K. – Associate Judge, Sixteenth Judicial Circuit
Waller, Bradley J. – Associate Judge, Twenty-Third Judicial Circuit
Webb, T. Scott – Circuit Judge, Second Judicial Circuit
Weber, Johannah B. – Circuit Judge, Second Judicial Circuit

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**ANNUAL REPORT
OF THE
ALTERNATIVE DISPUTE RESOLUTION
COORDINATING COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. David E. Haracz, Chair

Hon. Patricia Banks
Hon. William S. Boyd
Hon. Cynthia Y. Cobbs
Hon. LaGuina Clay-Herron
Hon. Mark S. Goodwin

Hon. John J. Laurie, Ret.
Mr. Kent Lawrence, Esq.
Hon. James Fitzgerald Smith
Hon. Carl Anthony Walker

October 2013

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I. STATEMENT ON COMMITTEE CONTINUATION

Since the 2012 Annual Meeting of the Illinois Judicial Conference, the Alternative Dispute Resolution Coordinating Committee ("Committee") has found that the climate for alternative dispute resolution ("ADR") remains favorable and the legal community continues to be receptive to the various ADR processes. This Conference year, the Committee was busy with many activities, including presenting a report to the Court detailing the results of the participant satisfaction survey, and formulating a plan to accomplish the projects and priorities set forth by the Court for Conference Year 2013.

As part of the Committee's charge, court-annexed mandatory arbitration programs, operating in sixteen counties, continued to be monitored throughout the Conference year. Madison County, in the Third Judicial Circuit, which commenced an arbitration program in July 2007, is the last county to request authorization to operate such a program under the auspices of the Supreme Court.

In the area of mediation, the Committee monitored the activities of the court-annexed major civil case mediation programs operating in eleven judicial circuits pursuant to Supreme Court Rule 99 including: 1) investigating whether or not Rule 99 requires expansion or clarification to standardize the formula for Court approval of mediation programs; 2) developing a standardized data collection and reporting methodology; 3) considering the development of standardized forms for use in Rule 99 mediation programs; and 4) considering the perception of judges and attorneys concerning assignment of cases to civil mediation. During the 2014 Conference Year, it is anticipated that the Committee will continue to monitor court-annexed mandatory arbitration programs, oversee and facilitate the improvement and expansion of civil mediation programs, consider proposed amendments to Supreme Court Rules for mandatory arbitration, and continue to study and evaluate other alternative dispute resolution options. The Committee also

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will continue to work on the projects and priorities delineated by the Court and stand ready to accept new projects for Conference Year 2014.

Because the Committee continues to provide service to arbitration practitioners, make recommendations on mediation and arbitration program improvements, facilitate information to Illinois judges and lawyers, and promote the expansion of court-annexed alternative dispute resolution programs in the State of Illinois, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

Conference Year 2012 Continued Projects/Priorities

Project 1: Finalize a Comprehensive Report to the Court on the Participant Satisfaction Survey

In 2009, the Committee was charged with "developing a statewide arbitration program participant satisfaction survey." Between Conference Year 2009 and Conference Year 2011, the Committee collected survey instruments from arbitration jurisdictions that had conducted program participant satisfaction surveys in the past. The Committee workgroup assigned to this project developed survey instruments for arbitrators, attorneys, and litigants; finalized the survey instrument; and disseminated the survey to all arbitration programs for circulation to the targeted arbitration program constituents, specifically, arbitrators, attorneys, and the parties. During Conference Year 2012, the Committee tabulated the responses to the Survey and created a detailed report on the survey results. As stated at the 2012 Judicial Conference, the Committee would be submitting a comprehensive report to the Court at a later date. During Conference Year 2103, the Hon. Carl Walker finished drafting the comprehensive report. After further discussion and amendment, the Committee approved a final version for submission. The report was presented to the Court in July of this year.

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Project 2: Consider the Perceptions of Judges and Attorneys Surrounding Assignment of Cases to Civil Mediation.

The Committee received this charge for Conference Year 2012. After initial discussion of this charge, the Committee concluded there are two perceptions: the first perception was that parties in civil cases were being forced into mediation even after the parties had determined mediation was not feasible; the second perception was if the parties had agreed to mediation but could not choose a mediator, the trial judges were either appointing or strongly recommending use of particular mediators. Based on information received, the Committee concluded that the perceptions contained in each issue were unfounded. Once it was determined the two perceptions were false, the Committee began discussion on how to create a positive perception of the use of mediation in Illinois. The discussion has ranged from standardizing mediation processes to the feasibility of a mandatory mediation program similar to the current mandatory arbitration system. The Committee was requested to continue to explore this topic in 2013.

During Conference Year 2013, the Committee again discussed how to address this charge. As a result, a survey was drafted and approved which will be sent to judges who preside over cases that are subject to mandatory mediation pursuant to Illinois Supreme Court Rule 99 (Mediation Programs) and Illinois Supreme Court Rule 99.1 (Mortgage Foreclosure Mediation Programs). The survey seeks to gather first-hand information from Illinois judges about how they view civil mediation, the frequency of its use, and the methodology of its implementation. The survey was distributed in July of 2013. It was anticipated that survey replies would be ready for review by the end of August 2013. Additionally, the Committee is drafting a survey for attorneys who practice in this area so as to understand their views and perceptions in this area. The Committee believes that the survey results will not only provide insight into this charge but will

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also provide insight into the Conference Year 2013 charges of examining Supreme Court Rule 99 (Mediation Programs) to determine if the rule needs expansion or clarification and developing uniform methodology of statistical data collection and reporting.

Conference Year 2013 Projects/Priorities

Project 1: Examine Supreme Court Rule 99 (Mediation Programs) to Determine if the Rule Needs Expansion or Clarification to Standardize the Formulation of Requesting a New Mediation Program and the Day to Day Operation of Existing Mediation Programs.

The Committee believes that, in order to fully address this charge, the data collected from the mediation survey discussed above needs to be analyzed. In particular, the frequency of mediation use, whether or not there is an adequate number of mediators available, how are the mediators trained and whether or not mediator compensation should be set by rule. Therefore, the Committee will be in a better position to answer this charge at the end of Conference Year 2014.

Project 2: Develop a Uniform Methodology of Statistical Reporting for all Mediation Programs.

In order to fully address this charge, the data collected from the mediation survey discussed above will need to be analyzed. In particular, it will be important to discover the number of cases sent to mediation in a calendar year (as well as the overall percentage of cases therein that were sent to mediation in the same time period). Therefore, the Committee will be in a better position to answer this charge at the end of Conference Year 2014.

Project 3: Develop Standardized Forms for Use by Mediation Programs.

A sub-committee began work on this charge by requesting each circuit to provide any forms used in Rule 99 and Rule 99.1 mediation programs. Multiple forms have been received and are being analyzed for similarities and differences which will be used as a basis for drafting forms. The Committee will continue to address this charge in Conference Year 2014.

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III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

The Committee requests to continue its work toward completing the projects and priorities outlined for Conference Year 2013 and other initiatives as directed by the Court.

During Conference Year 2014, the Committee will continue to monitor and assess court-annexed mandatory arbitration programs, suggest broad-based policy recommendations, explore and examine innovative dispute resolution techniques and continue studying the impact of rule amendments. In addition, the Committee will continue to study, draft and propose rule amendments in light of suggestions and information received from program participants, supervising judges and arbitration administrators. The Committee will continue to study the projects/priorities and other assignments delineated by the Court for the upcoming Conference year.

The Committee plans to facilitate the improvement and expansion of major civil case mediation programs. The Committee would like to continue discussion on the resistance to mediation in Illinois and to formulate ideas and suggestions on how to reduce that resistance.

IV. RECOMMENDATIONS

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

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**ANNUAL REPORT
OF THE
AUTOMATION AND TECHNOLOGY COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Adrienne W. Albrecht, Chair

Hon. F. Keith Brown
Hon. Katherine Gorman Hubler
Hon. David A. Hylla
Hon. Douglas L. Jarman
Hon. William A. Mudge

Hon. Lorna E. Propes
Hon. Carolyn Bailey Smoot
Hon. Thaddeus L. Wilson
Hon. Vicki Wright

October 2013

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I. STATEMENT ON COMMITTEE CONTINUATION

For Conference Year 2013, the Supreme Court charged the Automation and Technology Committee (Committee) with the development of guidelines which promote the effective and efficient use of technology and automation in the trial courts including recommendations for statewide standards, protocols, or procedures. The Committee's work also includes the review of technology applications and their impact on court operations, making recommendations on protocols to resolve security issues which may affect the use of technology, and the review and evaluation of e-Business processes and their impact on the operation and workflow of the courts. In working with the Special Supreme Court Committee on E-Business, the Committee is also charged with representing the judges' standpoint for the development and implementation of e-Business applications in the Illinois Court system.

Because of the judiciary's wide divergence in both, the availability of resources and uses of technology, and that the Committee consists of both trial and appellate court judges from the entire State, the Committee respectfully requests that it be continued in the 2014 Conference Year and that it continue its role as a liaison to other groups charged with transitioning to and facilitating the use of electronic records and processes in Illinois' courts.

II. SUMMARY OF COMMITTEE ACTIVITIES

Electronic Filing and Records in the Courts

The high cost of receiving, processing, and storing paper documents is evident throughout the State of Illinois. From Cook County, where warehousing paper costs millions of dollars a year, to Woodford County, where structural damage from the weight of files stored on the second floor of the courthouse prompted the county board to close a portion of the building

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until the files could be moved, the need to convert to electronic media is apparent. Furthermore, transporting paper is expensive, both in time and money. In response, the Supreme Court has taken steps in the past year to advance electronic filing and prepare for the evolution to electronic records.

Recognizing the wide divergence in size, resources, and need for technology throughout the judiciary, the Illinois Supreme Court expanded the opportunity for trial courts to implement electronic filing in a manner and at a speed suitable for each individual county when it filed M.R. 18368 on October 24, 2012. It approved Guidelines for Electronic Filing of Civil Cases in the Circuit Courts which enabled chief circuit judges to apply for, and implement, electronic filing. Currently, Cook, DuPage, Madison, and St. Clair Counties have successfully converted their pilot projects into electronic filing programs; McHenry and Montgomery have been given permission to implement electronic filing; and Will County has continued its pilot program pending selection and implementation of a new case management system. The Illinois Supreme Court website includes a section on the e-Business activities throughout the state, including hyperlinks to the local rules in each of the approved counties (www.illinoiscourts.gov/ebus_online.asp). In addition, the Supreme Court has implemented and expanded electronic filing in its Court and in matters before the Attorney Registration and Disciplinary Commission.

As a corollary to electronic filing, the Supreme Court has approved standards for an electronic case record and a process of authorizing public access to court files over the Internet (Electronic Record Standards and Principles). Because of the privacy issues associated with broad access to court documents over the internet, the Supreme Court has amended Rule 138 to

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impose on the parties the responsibility of safeguarding private identifying information. Furthermore, many of the individual circuit courts more fully address privacy issues in their local rules governing electronic filing.

The circuit courts in Illinois are still at the rudimentary stages of electronic filing. The goals for electronic filing include increased access, particularly for indigent and disabled litigants, efficiency, and convenience. As the cost of creating, processing and storing paper records continues to escalate, there is increased pressure to use technology to decrease cost. However, the process of transitioning from paper to electronic media is frequently frustrating, difficult and painful. This Committee has been charged with working with the Chief Circuit Judges, the AOIC, and other participants in the court system to recommend to the Supreme Court methods and protocols to ease that transition. One significant source of information in the past year has been the "Future of the Courts" conference in which members of this Committee participated, many in pivotal roles. In addition, the Committee is gathering input from lawyers and judges in order to identify and address impediments to broader and more successful adoption of technology.

Having conferred with the Conference of Chief Circuit Judges' Technology Committee and reviewed the report of the Automation Committee of the Future of the Courts Conference, this Committee concurs with and supplements their recommendations.

Illinois Courts Need to Adopt Uniform Exchange Standards

There is a mechanism for implementing technical standards so that electronic records can be accessed, transmitted, and mined throughout the court system. The National Information

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Exchange Model, (NIEM), described at www.neim.gov, is a process for exchange of government data. Following that process, the National Center for State Courts participated in a committee of OASIS, (Organization for the Advancement of Structured Information Standards) that adopted Electronic Court Filing (ECF) Version 4.1. In Illinois, with elected circuit clerks charged with receiving and maintaining court records and locally controlled funding for those offices, that process and those standards are even more important than in states with a unified court system.

ECF 4.1 provides a framework; however, filling in that framework requires the collaboration of technical personnel from counties, courts, and vendors throughout the State. Although it is important for judges and justices to shepherd the process, they lack the technical expertise to deal with the detailed decisions and descriptions that this process demands. The efforts of the Chief Circuit Judges and experience at the Future of the Courts Conference suggest that adoption of technical specifications for exchange and access to data in the courts requires direction from the Supreme Court. This is a matter of some urgency because the process takes time and many counties are in the process of replacing their case management systems.

The need for standardization is also apparent with regards to document format. In surveying the different local rules, as well as Supreme Court guidelines, the Committee has noticed variances with regard to documents. Fortunately, the technology exists and the United States Courts have pushed for, and obtained, an archival document standard called PDF/A, which is now mandated for all federal courts. It is a format designed to be readable a century from now, regardless of the software, because everything that is needed to view the text of the document is contained within each document (i.e., the document font). It is also designed to be non-modifiable. However, even this standard is subject to change as more options, such as

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spreadsheets and data, are included. Unless the Supreme Court imposes some guidelines with regard to document format, it is possible that older .pdf files in one county will not be viewable with the software and equipment in another.

Therefore, this Committee concurs with the recommendation that the Supreme Court create an ongoing committee consisting of individuals with technical expertise to enact, monitor, and modify technical standards as needed for data exchange and access.

Survey of Users

Thus far, electronic filing is not widespread in the state. Even in counties in which it is available, the numbers of litigants employing e-filing is low. Without widespread use of electronic filing, the circuit clerks' offices must use their own staff and equipment to scan and index documents filed in paper form and to print paper versions of documents filed electronically. It is difficult to imagine how they can save money under these conditions. Therefore, the Committee has chosen to survey lawyers in order to identify barriers to widespread acceptance and use of e-filing. In order to accomplish this without incurring additional cost, the Committee has, and plans to enlist the assistance of bar associations. Furthermore, the Committee has solicited observations from those venues where electronic filing has been in place for an extended period of time.

Anecdotally, lawyers have reported a lack of awareness of the availability of electronic filing. In addition, they have pointed out that filing documents electronically when the opposing party has not agreed to accept them by e-mail, does not provide them with any additional convenience. Furthermore, the limitations on types of cases eligible for electronic filing may be

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a barrier to widespread use.

Involvement of Judges

Judges are another key part of the automation of the court system. As court records are automated, judges need the ability to access and use them. In this profession, built on historic precedent, re-thinking the very processes that courts have used for centuries remains a challenge. In order to facilitate that process, judges need to be involved at every step. Involvement requires that they have the equipment, knowledge, training and willingness to use computers. It also means that their needs are considered when equipment and software are purchased. The challenge is to anticipate and describe what judges need when using electronic court records without them ever having used them.

Some guidance comes from the National Center for State Courts. For example, computer monitors need not be positioned vertically, so as to block a judge's view of the courtroom or positioned completely horizontal so that it takes up all of their workspace. They can be set at an angle. The experience and advice from legal technology experts is also helpful. For example, most lawyers would benefit from dual computer monitors in order to work in a paperless environment. Advances in technology and equipment, such as touch screens, tablets, and gesture devices will also help.

The judicial interface is a feature of case management systems that has evolved. The system, which started as one designed for the clerks to use, has now evolved into one designed for a multitude of uses. Only recently have the needs of the judges begun to be addressed. For example, a judge needs ready and easy access to pleadings. They are also required to review the

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minute entries made by the clerks and easily monitor the ages of their cases and time constraints by generating reports. Relying on the electronic record alone will frequently require that the judge have three or four screens open at once. The system should accommodate those needs. Having judges who can articulate those needs and participate with the clerks and technical staff could benefit everyone in the collaborative process of transition.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

The Committee remains willing and able to fulfill the Court's mandate, and will respond to any directions from the Supreme Court with regard to specific areas of work and inquiry.

IV. RECOMMENDATIONS

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

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**ANNUAL REPORT
OF THE
COMMITTEE ON CRIMINAL
LAW AND PROBATION ADMINISTRATION
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Leonard Murray, Chair

Hon. Thomas R. Appleton
Hon. John A. Barsanti
Hon. Diane Gordon Cannon
Hon. John E. Childress
Hon. Neil H. Cohen
Hon. Kathy Bradshaw Elliott
Hon. Chrystel L. Gavlin

Hon. Janet R. Holmgren
Hon. William G. Hooks
Hon. Paul G. Lawrence
Hon. Marjorie C. Laws
Hon. Mitchell K. Shick
Hon. Domenica A. Stephenson

October 2013

2013 REPORT

I. STATEMENT ON COMMITTEE CONTINUATION

The purpose of the Criminal Law and Probation Administration Committee, (Committee), of the Illinois Judicial Conference is to review and make recommendations on matters affecting the administration of criminal law and monitor, evaluate and provide recommendations on issues affecting the probation system, including legislative, case law and proposed Supreme Court Rule changes.

Since its inception, the Committee has addressed a number of critical issues related to criminal law and probation administration. Over the years, this Committee has been instrumental in recommending amendments to Supreme Court Rules which were subsequently adopted by the Supreme Court, including Rule 605(b) and Rule 430. Finally, the Committee has previously prepared and presented to the Conference a pre-sentence investigation report format incorporating the principles of Evidence Based Practices (EBP). Along with the EBP report format, the Committee prepared and presented to the Conference a one page EBP bench guide and a similar document created for use by probation officers, supervisors, and managers.

During the current Conference year, the Committee finalized an update to the 2007 Specialty Court Survey. The Committee has continued to discuss and formulate recommendations concerning the reliability of eye witness testimony in the Illinois trial courts. Further, at the request of the Supreme Court Rules Committee, the Committee continued its consideration of a proposed rule amendment which would authorize the use of conditional pleas similar to the methodology detailed and authorized in Federal Rule of Criminal Procedure 11. Also, the Court asked the Committee to examine and comment on

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the concerns raised by the dissent to the amendments to Rule 402(d)(1), specifically whether constitutional due process required the defendant's presence during the conditional plea discussions.

In 2012, the Committee completed the charge to examine the feasibility of the use of video conference technology in criminal cases by proposing a rule which mirrors the existing statute for defendant's appearance by closed circuit television and video conference. During discussion of the proposed rule at the December 2012, Supreme Court Rules Committee Public Hearing, several concerns were raised concerning the use of video conferencing, which led the Court to charge the Committee to further study this issue by compiling and analyzing data on past and current use of video conferencing and to determine the reasons some courts discontinued utilization of video conference technology.

Effective July 1, 2011, the death penalty was abolished in Illinois pursuant to Public Act 96-1543. In response, the Court charged the Special Supreme Court Committee on Capital Cases, (Capital Cases Committee), to prepare and submit a comprehensive report, descriptive of the Capital Cases Committee's work and chronicling its activities and include recommendations on the Illinois Supreme Court Rules specific to capital cases. The Capital Cases Committee's final report included a minority position that argued further discussion was warranted regarding whether a rule similar to the language contained in Rule 416(f), (g) and (h) should be drafted and made applicable to all felony cases. The Court agreed with the minority and in 2012 charged the Committee to examine the feasibility of applying Rules 416(f), (g) and (h) to other felony cases.

In April of 2013, Illinois Supreme Court Justice Mary Jane Theis posed a query to the

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Committee regarding whether an amendment to Rule 402(d) would reduce claims of ineffective assistance of counsel as a result of the United States Supreme Court decisions in *Missouri v. Frye*, 132 S. Ct. 1399 (2012) and *Lafler v. Cooper*, 132 S. Ct. 1376 (2012).

The Committee is requesting to continue addressing matters affecting criminal law and procedure and the administration of probation services.

II. SUMMARY OF COMMITTEE ACTIVITIES

Conference Year 2011 Continued Projects/Priorities

Project 1: Update the 2007 Specialty Court Survey.

In 2010, the Committee began to undertake an update of the 2007 Specialty Court Survey. Due to the in-depth nature of this charge, the Administrative Office of the Illinois Courts (AOIC), in conjunction with the Committee's subcommittee, developed an initial assessment for the purpose of determining the nature and extent of problem solving courts in each judicial circuit. This initial assessment was sent to all of the chief judges and the trial court administrators for each judicial circuit. The initial assessment sought to elicit the following: the types of specialty courts in each circuit; the inception date of each specialty court; and, the repository of data for such specialty court.

After the responses contained in the initial assessment were analyzed, the Committee, again in conjunction with the AOIC, developed a survey instrument capable of providing the Conference with a more comprehensive overview of the work of specialty courts in Illinois. The survey was designed to capture the following information: titles of all persons involved; whether the presiding judge is an associate or circuit judge; the number of successful participants since inception; number of successful participants who received sanctions; the

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nature and type of sanctions available; number of sanctions allowed before a participant is terminated; number of persons who left the program before completion whether voluntarily or involuntarily; and how frequently the court convenes. During the summer of 2012 the detailed survey was e-mailed to the trial court administrators for data collection.

The following highlights some of the findings from the detailed assessment:

- All one-hundred and two (102) counties responded.
- There are ninety-four (94) problem solving courts in Illinois.
- There are fifty-two (52) drug courts in Illinois.
- There are twenty-four (24) mental health courts in Illinois.
- There are twelve (12) veterans' courts in Illinois.
- There are six (6) other types of specialty courts in Illinois.

The Committee is in the process of preparing a summary detailing the results of the update to the 2007 specialty court survey. The Committee is confident the summary will be completed by the end of 2013.

Conference Year 2012 Projects/Priorities

Project 1: Study, examine and report on Supreme Court Rules as they relate to criminal procedure and court process.

In October 2011, a letter was forwarded to the Committee on behalf of the Supreme Court Rules Committee seeking comment on a proposal to add paragraph (g) to Supreme Court Rule 402. The proposed amendment would authorize a defendant, in the absence of an objection by the court and the prosecution, to enter a plea of guilty conditioned upon his or her ability to have the adverse pretrial suppression motion reviewed by an appellate court. Proposal 11-07 is drawn directly from Federal Rule of Criminal Procedure 11, and is commonly known as a "conditional plea".

A subcommittee was formed to examine this proposed rule. During discussions of

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the proposed rule, a consensus was reached that conditional pleas are not a feasible option in Illinois for the following reasons:

- Rule Proposal 11-07 does not improve or enhance the current methodology of appealing denials of a motion to suppress. Specifically, if the reviewing court finds that the trial court erred in denying the motion to suppress, the case will be returned to the trial court and a request to withdraw the plea may be made at that time.
- Rule Proposal 11-07 might create additional basis for claims of admonishment errors which, in turn, could increase post conviction proceedings.
- Rule Proposal 11-07 might increase the filing of motions to suppress, whether or not meritorious, which, in turn, could increase the number of cases appealed.

Effective July 1, 2011, the possibility of a sentence of death was abolished in Illinois pursuant to Public Act 96-1543. In response, the Court charged the Special Supreme Court Committee on Capital Cases, (Capital Cases Committee), with preparing and submitting a comprehensive report descriptive of the Capital Cases Committee's work and chronicling its activities to date. The Court specifically requested the final report include commentary regarding recommendations on Supreme Court Rules concerning capital cases. As part of the Capital Cases Committee's final report, a minority opinion was incorporated which argued further discussion was warranted regarding whether a rule similar to the language contained in Rule 416(f) (case management) and Rule 416(g) and 416(h) (certificates of readiness) should be incorporated into other types of felony cases, in particular cases where a natural life is the only sentencing option, Class X felonies, and cases where extended term sentencing is applicable.

The Court agreed with the minority and in April 2012 requested that the Committee examine the feasibility of applying those rules to other felony cases. After much discussion and conversations by Committee members with sitting criminal court judges, the Committee has

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reached a consensus that the capital cases rules were unique requirements to insure all required due process in death penalty cases was met, and agreed with the majority on the Capital Cases Committee that these rules should not be applied to other felonies. Primarily because trial court judges have sufficient guidance and latitude to conduct appropriate case management for each felony case.

Project 2: Discuss and make recommendations on possible actions concerning the reliability of the current method used by Illinois trial courts for determining admissibility of eyewitness testimony.

The Committee examined case law from Illinois, other state and federal case law and scientific treatises on the reliability of eye witness testimony. Special attention was paid to the New Jersey Supreme Court case in *State v. Larry Henderson*, 27 A.3d 872 (2011), the United State's Supreme Court decision in *Manson v. Brathwaite*, 432 U.S. 98 (1977), our Supreme Court decisions in *People v. Manion*, 67 Ill.2d 564, (1977), and *People v. Slim*, 127 Ill.2d 302 (1989) as well as the New Jersey Attorney General Photo Identification guidelines. After lengthy discussions, the Committee has reached a tentative consensus that the process in Illinois provides adequate guidance to trial courts to determine the reliability of eye witness testimony. The Supreme Court will be advised of the Committees rationales and recommendations later in 2013.

Conference Year 2013 Projects/Priorities

Project 1: Study, examine and report on Supreme Court Rules as they relate to criminal procedure and court process.

Previously, the Committee was charged with recommending whether or not Supreme Court Rule 402(d) should be amended to provide better guidance for trial judges in

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connection with a plea negotiation. In April 2011, the Court adopted the Committee's recommendation. However, two justices filed a dissent wherein concern was expressed that the amendment denied due process by not requiring that the defendant appear during the negotiations. In October 2012, the Committee was charged with examining and addressing the due process concerns raised by the dissenting opinion. After considerable deliberation by the Committee, discussions with judges who participate in plea negotiations, and a review of case law, the Committee has reached a tentative consensus that constitutional due process requirements do not require the presence of a defendant during such negotiations. The Supreme Court will be advised of the Committee's rationales and recommendations later in 2013.

In 2012, the Committee completed its charge to examine the feasibility on the use of video conference technology in criminal cases by proposing a rule which mirrors the existing statute for defendant's appearance by closed circuit television and video conference. The Committee's proposed rule follows the provisions of 725 ILCS 5/106D, and provides that the chief judge of the circuit would retain the option to implement video conference technology in criminal cases. The proposed rule appeared on the agenda of the December 2012, Supreme Court Rules Committee Public Hearing. At that hearing, several concerns were raised concerning the use of video conference technology in criminal cases specifically: loss of effective attorney-client communication; depersonalization of the accused; reduction in the judge's ability to assess a defendant's state of mind; and technical problems.

Because of these concerns, the Court charged the Committee to further study this

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charge and requested that the Committee compile and analyze data on past and current use of video conferencing and determine the reasons some courts discontinued its use. A subcommittee was formed to examine this charge and is working diligently towards resolution. Due to the nature and timing of this charge, the Committee will make its findings and recommendations at a later date.

Finally, in April 2013, the Committee received a memorandum from Illinois Supreme Court Justice Mary Jane Theis. In her memorandum Justice Theis requested that the Committee address concerns over the potential increase in ineffective assistance of counsel claims as a result of the United States Supreme Court decisions in *Missouri v. Frye*, 132 S. Ct. 1399 (2012) and *Lafler v. Cooper*, 132 S. Ct. 1376 (2012). In particular Justice Theis queried whether Illinois Supreme Court Rule 402 should be expanded to require that all plea offers be written and whether a prosecutor should be required to inform the trial court and defendant of the possible sentencing range of any charge to which a defendant is considering a plea of guilty. Due to the nature and timing of this charge, the Committee will make its findings and recommendations concerning this charge at a later date.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

While the Committee made significant progress in addressing its charge for the current Conference year, much of the work is ongoing and developing. The Committee is requesting to continue its work to address the Court's concerns about the use of video conference technology in criminal cases and to address Justice Theis' concerns about whether Rule 402(d) should be amended to address ineffective assistance of counsel claims based on the United States Supreme Court decisions in *Missouri v. Frye* and *Lafler v. Cooper*.

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As well, the Committee would like to continue to review and make recommendations on matters affecting the administration of criminal law and the probation system and to continue to study, examine and report on proposed Supreme Court Rules as they relate to criminal procedure and court process. The Committee is dedicated to serving the Court in meeting the assigned projects and priorities, and producing quality information and a work product useful to courts and beyond.

IV. RECOMMENDATIONS

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

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**ANNUAL REPORT OF THE
COMMITTEE ON DISCOVERY PROCEDURES
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Maureen E. Connors, Chair

Hon. William J. Becker
Hon. Frank R. Fuhr
Hon. Kimbara G. Harrell
Hon. Jeffrey W. O'Connor
Hon. Michael Panter

Hon. Barbara N. Petrunaro
Hon. Kenneth L. Popejoy
Mr. Joseph R. Marconi, Esq.
Mr. David B. Mueller, Esq.
Mr. Eugene I. Pavalon, Esq.

Prof. Marc D. Ginsberg, Reporter

October 2013

2013 REPORT

I. STATEMENT OF COMMITTEE CONTINUATION

The purpose of the Committee on Discovery Procedures (Committee) is to review and assess discovery devices used in Illinois. It is the goal of the Committee to propose recommendations that expedite discovery and eliminate any abuses of the discovery process. To accomplish this goal, the Committee researches significant discovery issues and responds to discovery-related inquiries. The Committee therefore believes that it provides valuable expertise in the area of civil discovery. For this reason, the Committee requests that it be permitted to continue its work in Conference Year 2014.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Committee Charge

The Committee is charged with studying and making recommendations on the discovery devices used in Illinois. The Committee also is charged with investigating and making recommendations on innovative means of expediting pretrial discovery and ending any abuses of the discovery process so as to promote early settlement discussions and encourage civility among attorneys. Finally, the Committee's charge includes reviewing and making recommendations on proposals concerning discovery matters submitted by the Supreme Court Rules Committee, other committees, or other sources.

In conjunction with its charge, the Committee considered a proposal that was forwarded to it from the Supreme Court Rules Committee.

Supreme Court Rule 208 (Fees and Charges; Copies)

The Committee considered correspondence from the Illinois State Bar Association to amend paragraph (d) of Supreme Court Rule 208 to give the trial court discretion to award a

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successful party: (1) fees charged by a physician who testifies as an independent expert witness; (2) fees charged by a videographer and court reporter for an evidence deposition used at trial; and (3) fees charged by an interpreter used to translate witness testimony used at trial. After some preliminary discussions regarding whether the trial court may want to know how to exercise the proposed discretion, the Committee decided to defer discussion of this issue until the next Conference year.

B. Conference Year 2012 Continued Projects/Priorities

The following subjects represent the projects/priorities assigned by the Supreme Court to the Committee for consideration in Conference Year 2012, which were extended into Conference Year 2013.

During Conference Year 2013, the Committee primarily discussed the issue of e-Discovery. The Court requested that the Committee draft proposed amendments to select Supreme Court Rules, which may be modeled on the federal amendments, as well as guidelines to assist trial court judges in addressing e-Discovery issues. After surveying other state and federal discovery rules, examining case law and discussing articles on the subject of e-Discovery in prior Conference years, the Committee finalized its proposed amendments and pertinent committee comments to select Illinois Supreme Court Discovery Rules. (See Exhibit A). The proposed amendments address the scope of electronic discovery, proportionality, limitations on discovery of ESI, production of ESI, and pretrial case management conference, most of which parallel to some extent the 2006 amendments to the Federal Rules of Civil Procedure.

Highlights of the proposed e-Discovery amendments are as follows. The proposed amendments to Supreme Court Rule 201 set forth a definition for electronically stored

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information (ESI). The proposed amendments also limit the discovery of certain categories of ESI unless ordered by the court. The proposed amendments further permit the trial court to examine the likely burden or expense of producing ESI and thereby empower trial courts to apply a proportionality principle when considering protective orders. The proposed amendments to Supreme Court Rule 214 address the format for the production of ESI. The proposed amendments to Supreme Court Rule 218 require early discussion of issues involving ESI and preservation at the pretrial case management conference so as to reduce the potential for discovery abuse and delay.

As a final matter, the Committee decided not to propose amendments to Supreme Court Rule 219 with respect to the issue of when the duty to preserve ESI arises and potential sanctions. The Committee determined that the current rule as well as case law sufficiently covers sanctions for the loss or destruction of ESI.

Pending with the Committee is the related project of drafting guidelines to assist trial court judges in addressing e-Discovery issues. Also pending with the Committee is consideration of the feasibility of a rule requiring mandatory disclosure of relevant documents similar to the federal rules, which require mandatory disclosure irrespective of written requests. The Committee continues to discuss this issue since it would result in a fundamental change for the Illinois discovery rules.

Next, the Committee considered whether business records produced by a party should be presumptively admissible during discovery absent foundation testimony. This issue has been discussed by the Committee periodically over the past few years. The Committee concluded that

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such an amendment was not necessary. Therefore, the Committee determined that further discussion on this issue was not warranted.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2014 Conference year, the Committee requests that it be permitted to address pending projects continued from the prior Conference year. Specifically, the Committee seeks to complete its project on e-Discovery by presenting to the Court for its consideration proposed guidelines that will act as a roadmap for trial judges addressing the various issues surrounding e-Discovery. The Committee also will address the proposal from the ISBA regarding Supreme Court Rule 208(d). Finally, the Committee will review any additional proposals submitted by the Supreme Court Rules Committee.

IV. RECOMMENDATIONS

The Committee recommends to the Conference that it forward to the Court for its consideration the Committee's aforementioned proposed amendments and committee comments to noted Illinois Supreme Court Discovery Rules as set forth in Exhibit A.

EXHIBIT A

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EXHIBIT A

PROPOSED AMENDMENTS TO SUPREME COURT DISCOVERY RULES

Rule 201. General Discovery Provisions

(a) Discovery Methods.

Information is obtainable as provided in these rules through any of the following discovery methods: depositions upon oral examination or written questions, written interrogatories to parties, discovery of documents, objects or tangible things, inspection of real estate, requests to admit and physical and mental examination of persons. Duplication of discovery methods to obtain the same information should be avoided.

(b) Scope of Discovery.

(1) *Full Disclosure Required.* Except as provided in these rules, a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking disclosure or of any other party, including the existence, description, nature, custody, condition, and location of any documents or tangible things, and the identity and location of persons having knowledge of relevant facts. The word "documents," as used in these rules, includes, but is not limited to, papers, photographs, films, recordings, memoranda, books, records, accounts, communications ~~and all retrievable information in computer storage~~ and electronically stored information as defined in Rule 201(b)(4).

(2) *Privilege and Work Product.* All matters that are privileged against disclosure on the trial, including privileged communications between a party or his agent and the attorney for the party, are privileged against disclosure through any discovery procedure. Material prepared by or for a party in preparation for trial is subject to discovery only if it does not contain or disclose the theories, mental impressions, or litigation plans of the party's attorney. The court may apportion the cost involved in originally securing the discoverable material, including when appropriate a reasonable attorney's fee, in such manner as is just.

(3) *Consultant.* A consultant is a person who has been retained or specially employed in anticipation of litigation or preparation for trial but who is not to be called at trial. The identity, opinions, and work product of a consultant are discoverable only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject matter by other means.

(4) *"Electronically Stored Information.* ("ESI") shall include any writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations in any medium from which electronically stored information can be obtained either directly or, if

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necessary, after translation by the responding party into a reasonably usable form.

(c) Prevention of Abuse.

(1) *Protective Orders.* The court may at any time on its own initiative, or on motion of any party or witness, make a protective order as justice requires, denying, limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression.

(2) *Supervision of Discovery.* Upon the motion of any party or witness, on notice to all parties, or on its own initiative without notice, the court may supervise all or any part of any discovery procedure.

(3) *Proportionality.* When making an order under this Section, the court may determine whether the likely burden or expense of the proposed discovery, including electronically stored information, outweighs the likely benefit, taking into account the amount in controversy, the resources of the parties, the importance of the issues in the litigation, and the importance of the requested discovery in resolving the issues.

(d) Time Discovery May Be Initiated. Prior to the time all defendants have appeared or are required to appear, no discovery procedure shall be noticed or otherwise initiated without leave of court granted upon good cause shown.

(e) Sequence of Discovery. Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery shall not operate to delay any other party's discovery.

(f) Diligence in Discovery. The trial of a case shall not be delayed to permit discovery unless due diligence is shown.

(g) Discovery in Small Claims. Discovery in small claims cases is subject to Rule 287.

(h) Discovery in Ordinance Violation Cases. In suits for violation of municipal ordinances where the penalty is a fine only no discovery procedure shall be used prior to trial except by leave of court.

(i) Stipulations. If the parties so stipulate, discovery may take place before any person, for any purpose, at any time or place, and in any manner.

(j) Effect of Discovery Disclosure. Disclosure of any matter obtained by discovery is not conclusive, but may be contradicted by other evidence.

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(k) Reasonable Attempt to Resolve Differences Required. The parties shall facilitate discovery under these rules and shall make reasonable attempts to resolve differences over discovery. Every motion with respect to discovery shall incorporate a statement that counsel responsible for trial of the case after personal consultation and reasonable attempts to resolve differences have been unable to reach an accord or that opposing counsel made himself or herself unavailable for personal consultation or was unreasonable in attempts to resolve differences.

(l) Discovery Pursuant to Personal Jurisdiction Motion. (1) While a motion filed under section 2–301 of the Code of Civil Procedure is pending, a party may obtain discovery only on the issue of the court’s jurisdiction over the person of the defendant unless: (a) otherwise agreed by the parties; or (b) ordered by the court upon a showing of good cause by the party seeking the discovery that specific discovery is required on other issues. (2) An objecting party’s participation in a hearing regarding discovery, or in discovery as allowed by this rule, shall not constitute a waiver of that party’s objection to the court’s jurisdiction over the person of the objecting party.

(m) Filing Materials with the Clerk of the Circuit Court. No discovery may be filed with the clerk of the circuit court except upon leave of court or as authorized or required by local rule or these rules.

(n) Claims of Privilege. When information or documents are withheld from disclosure or discovery on a claim that they are privileged pursuant to a common law or statutory privilege, any such claim shall be made expressly and shall be supported by a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege which is being claimed.

(o) Filing of Discovery Requests to Nonparties. Notwithstanding the foregoing, a copy of any discovery request under these rules to any nonparty shall be filed with the clerk in accord with Rule 104(b).

(p) Asserting Privilege or Work Product Following Discovery Disclosure. If information inadvertently produced in discovery is subject to a claim of privilege or of work-product protection, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, each receiving party must promptly return, sequester, or destroy the specified information and any copies; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the receiving party disclosed the information to third parties before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must also preserve the information until the claim is resolved.

(q) Specific Limitations on Discovery of Electronically Stored Information. The following categories of ESI generally are not discoverable, unless ordered by the court; (A) "deleted," "slack," "fragmented," or "unallocated" data on hard drives; (B) random access memory (RAM) or other ephemeral data; (C) on-line access data; (D) data in metadata fields that are frequently

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updated automatically; (E) backup data that is substantially duplicative of data that is more accessible elsewhere; (F) legacy data; (G) information whose retrieval cannot be accomplished without substantial additional programming or without transforming it into another form before search and retrieval can be achieved; and (H) other forms of ESI whose preservation or production requires extraordinary affirmative measures.

Committee Comments

(Revised ____2013)

Paragraph (b)

Paragraph (b), subparagraph (1) was amended to conform with the definition in newly added paragraph (b), subparagraph (4) and complies with the Federal Rules of Civil Procedure.

Paragraph (b), subparagraph (4) was added to provide a definition of electronically stored information that comports with the Federal Rule of Civil Procedure 34 (a)(1)(a) and is intended to be flexible and expansive as technology changes.

Paragraph (c)

Paragraph (c), subparagraph (3) was added to address the production of materials when benefits do not outweigh the burden of producing especially in the area of electronically stored information.

Paragraph (p)

This provision is referred to as the "clawback" provision and comports with the new Code of Ethics requirement that if an attorney receives privileged documents, he or she must notify the otherside.

Paragraph (q)

The Committee modeled this new provision after the Seventh Circuit's Principle 2.04(d).

(Revised June 1, 1995)

Paragraph (a)

Paragraph (a) of this rule sets forth the four discovery methods provided for and cautions against duplication. The committee considered and discarded a provision requiring leave of court before a party could request by one discovery method information already obtained through another. The committee concluded that there are circumstances in which it is justifiable to require answers to the same or related questions by different types of discovery procedures but

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felt strongly that the rules should discourage time-wasting repetition; hence the provision that duplication should be avoided. This language is precatory but in the application of the medical examination rule, and in the determination of what is unreasonable annoyance under paragraph (c) of this rule, dealing with prevention of abuse, such a phrase has the beneficial effect of drawing particular attention to the question whether the information sought has already been made available to the party seeking it so that further discovery should be curtailed.

Paragraph (b)

Paragraph (b), subparagraph (1), sets forth generally the scope of discovery under the rules. The language "any matter relevant to the subject matter involved in the pending action" is the language presently employed in Federal Rule 26. The Federal rule also contains the sentence: "It is not ground for objection that the testimony will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." The Joint Committee Comments that accompanied former Illinois Rule 19--4 indicate that a similar sentence appearing in the pre-1970 Federal rule was deliberately omitted from the Illinois rule and suggest that perhaps the language "relating to the merits of the matter in litigation" was intended to limit discovery to evidence. This language was not construed in this restrictive fashion, however. (See *Monier v. Chamberlain*, 31 Ill. 2d 400, 202 N.E.2d 15 (1964), 66 Ill. App. 2d 472, 213 N.E.2d 425 (3d Dist. 1966), *aff'd*, 35 Ill. 2d 351, 221 N.E.2d 410 (1966); *People ex rel. Terry v. Fisher*, 12 Ill. 2d 231, 145 N.E.2d 588 (1957); *Krupp v. Chicago Transit Authority*, 8 Ill. 2d 37, 132 N.E.2d 532 (1956).) The only other effect the term "merits" could have would be to prevent discovery of information relating to jurisdiction, a result the committee thought undesirable. Accordingly, the phrase "relevant to the subject matter" was substituted for "relating to the merits of the matter in litigation" as more accurately reflecting the case law.

The phrase "identity and location of persons having knowledge of relevant facts," which appears in both former Rule 19--4 and Federal Rule 26, was retained. This language has been interpreted to require that the interrogating party frame his request in terms of some stated fact rather than simply in the language of the rule, because the use of the broad term "relevant facts" places on the answering party the undue burden of determining relevancy. See *Reske v. Klein*, 33 Ill. App. 2d 302, 305-06, 179 N.E.2d 415 (1st Dist. 1962); *Fedors v. O'Brien*, 39 Ill. App. 2d 407, 412-13, 188 N.E.2d 739 (1st Dist. 1963); *Nelson v. Pals*, 51 Ill. App. 2d 269, 273-75, 201 N.E.2d 187 (1st Dist. 1964); *Grant v. Paluch*, 61 Ill. App. 2d 247, 210 N.E.2d 35 (1st Dist. 1965).

The definition of "documents" in subparagraph (b)(1) has been expanded to include "all retrievable information in computer storage." This amendment recognizes the increasing reliability on computer technology and thus obligates a party to produce on paper those relevant materials which have been stored electronically.

The first sentence of subparagraph (b)(2) is derived from the first sentence of former Rule 19--5(1). The second sentence was new. It constituted a restatement of the law on the subject of

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work product as it had developed in the cases decided over the previous decade. See *Monier v. Chamberlain*, 35 Ill. 2d 351, 221 N.E.2d 410 (1966), *aff'g* 66 Ill. App. 2d 472, 213 N.E.2d 425 (3d Dist. 1966); *Stimpert v. Abdnour*, 24 Ill. 2d 26, 179 N.E.2d 602 (1962); *Day v. Illinois Power Co.*, 50 Ill. App. 2d 52, 199 N.E.2d 802 (5th Dist. 1964); *Oberkircher v. Chicago Transit Authority*, 41 Ill. App. 2d 68, 190 N.E.2d 170 (1st Dist. 3d Div. 1963); *Haskell v. Siegmund*, 28 Ill. App. 2d 1, 170 N.E.2d 393 (3d Dist. 1960); see also *City of Chicago v. Harrison-Halsted Building Corp.*, 11 Ill. 2d 431, 435, 143 N.E.2d 40 (1957), and *City of Chicago v. Shayne*, 46 Ill. App. 2d 33, 40, 196 N.E.2d 521 (1st Dist. 1964). The final sentence of this subparagraph was new and is intended to prevent penalizing the diligent and rewarding the slothful.

Discovery of consultants as provided by Rule 201(b)(3) will be proper only in extraordinary cases. In general terms, the "exceptional circumstances" provision is designed to permit discovery of consultants only when it is "impracticable" for a party to otherwise obtain facts or opinions on the same subject. Discovery under the corresponding Federal provision, Rule 26(b)(4)(B) of the Federal Rules of Civil Procedure, has generally been understood as being appropriate, for example, in cases in which an item of physical evidence is no longer available because of destructive testing and the adversary's consultant is the only source of information about the item, or in cases in which all the experts in a field have been retained by other parties and it is not possible for the party seeking discovery to obtain his or her own expert.

Paragraph (c)

Subparagraph (c)(1) covers the substance of former Rule 19--5(2). That rule listed a number of possible protective orders, ending with the catchall phrase, "or *** any other order which justice requires to protect party or deponent from annoyance, embarrassment, or oppression." Subparagraph (c)(2) substitutes the language "denying, limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression." The list of possible discovery orders was deleted as unnecessary in view of the broader language of the new rule. The change in language is by way of clarification and was not intended to effect any change in the broad discretion to make protective orders that was provided by former Rule 19--5(2). See *Stowers v. Carp*, 29 Ill. App. 2d 52, 172 N.E.2d 370 (2d Dist. 1961).

Subparagraph (c)(2), like subparagraph (c)(1), is designed to clarify rather than change the Illinois practice. The committee was of the opinion that under certain circumstances it might be desirable for the trial court to direct that discovery proceed under its direct supervision, and that this practice might be unusual enough to call for special mention in the rule. The language was taken from section 3104 of the New York Civil Practice Act.

Paragraph (d)

Paragraph (d) of this rule makes it clear that except by order of court discovery procedures may not be initiated before the defendants have appeared or are required to appear. Former Rule 19--1 provided that depositions could not be taken before the defendants had appeared or were required to appear, and former Rule 19--11 made the time requirements for

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taking depositions applicable to the serving of interrogatories. The former rules, however, left the plaintiff free to serve notice at any time after the commencement of the action of the taking of a deposition, just as long as the taking was scheduled after the date on which the defendants were required to appear, a practice which the bar has found objectionable.

Paragraph (e)

Paragraph (e), as adopted in 1967, provided that unless otherwise ordered "depositions and other discovery procedures shall be conducted in the sequence in which they are noticed or otherwise initiated." The effect of this provision was to give the last defendant served priority in discovery, since he could determine the date of his appearance. In 1978, this paragraph was amended to adopt the practice followed in the Federal courts since 1970, permitting all parties to proceed with discovery simultaneously unless the court orders otherwise. While empirical studies conducted preliminary to the proposals for amendment of the Federal discovery rules adopted in 1970 indicate that both defendants and plaintiffs are so often dilatory in beginning their discovery that a race for priority does not occur very frequently, affording a priority based on first notice in some cases can result in postponing the other parties' discovery for a very long time. (See Advisory Committee Note to Fed. R. Civ. P. 26.) In most cases it appears more efficient to permit each party to proceed with its discovery, whether by deposition or otherwise, unless in the interests of justice the establishment of priority seems to be called for. The amended rule reserves to the court the power to make such an order. In most instances, however, problems of timing should be worked out between counsel. See paragraph (k).

Paragraph (f)

Paragraph (f) of this rule is derived from the last sentence of former Rule 19--1. The language is unchanged except that it is made applicable to all discovery proceedings.

Paragraph (g)

Paragraph (g) of this rule is a cross-reference to Rule 287, which provides that discovery is not permitted without leave of court in small claims cases, defined in Rule 281 as actions for money not in excess of \$2,500, or for the collection of taxes not in excess of that amount.

Paragraph (h)

Rule 201 was amended in 1974 to add paragraph (h) and to reletter former paragraphs (h) and (i) as (i) and (j). Paragraph (h) extends to ordinance violation cases the principle applicable to small claims that discovery procedures under the rules may not be used without leave of court.

Paragraph (i)

Paragraph (i) of this rule makes the provisions of former Rule 19--3, dealing with stipulations for the taking of depositions, applicable to discovery in general. As originally adopted this paragraph was (h). It was relettered (i) in 1974, when the present paragraph (h) was added.

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Paragraph (j)

Paragraph (j) of this rule is derived from the last sentence of former Rule 20. The language is unchanged. As originally adopted, this was paragraph (i). It was relettered (j) when present paragraph (h) was added in 1974.

Paragraph (k)

Paragraph (k) was added in 1974. Patterned after the practice in the United States District Courts for the Eastern and Northern Districts of Illinois, it is designed to curtail undue delay in the administration of justice and to discourage motions of a routine nature.

Paragraph (k) was amended to remedy several problems associated with discovery. Language has been added to encourage attorneys to try and resolve discovery differences on their own. Also, committee members cited the problem of junior attorneys, who are not ultimately responsible for cases, perpetuating discovery disagreements. It was agreed that many discovery differences could be eliminated if the attorneys responsible for trying the case were involved in attempts to resolve discovery differences. Reasonable attempts must be made to resolve discovery disputes prior to bringing a motion for sanctions. Counsel responsible for the trial of a case are required to have or attempt a personal consultation before a motion with respect to discovery is initiated. The last sentence of paragraph (k) has been deleted, as the consequences of failing to comply with discovery are discussed in Rule 219.

Paragraph (l)

Paragraph (l) was added in 1981 to negate any possible inference from the language of section 20 of the Civil Practice Act that participation in discovery proceedings after making a special appearance to contest personal jurisdiction constitutes a general appearance and waives the jurisdictional objection, so long as the discovery is limited to the issue of personal jurisdiction.

Paragraph (m)

Paragraph (m) was added in 1989. The new paragraph allows the circuit courts to adopt local rules to regulate or prohibit the filing of designated discovery materials with the clerk. The identity of the affected materials should be designated in the local rules, as should any procedures to compel the filing of materials that would otherwise not be filed under the local rules.

Paragraphs (n) and (o)

Regarding paragraph (n), any claim of privilege with respect to a document must be stated specifically pursuant to this rule. Pursuant to paragraph (o), all discovery filed upon a nonparty shall be filed with the clerk of the court.

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(March 28, 2002)

Paragraph (l)

The words “special appearance,” which formerly appeared in paragraph (1) of Rule 201(l), were replaced in 2002 with the word “motion” in order to conform to changes in terminology in section 2–301 of the Code of Civil Procedure (735 ILCS 5/2–301 (West 1998)).

Since the amendment to section 2–301 allows a party to file a combined motion, it is possible that discovery could proceed on issues other than the court’s jurisdiction over a party’s person prior to the court ruling on the objection to jurisdiction. While the court may allow discovery on issues other than the court’s jurisdiction over the person of the defendant prior to a ruling on the defendant’s objection to jurisdiction, it is expected that in most cases discovery would not be expanded by the court to other issues until the jurisdictional objection is ruled upon. It sometimes may be logical for the court to allow specific, requested discovery on other issues, for example, where a witness is about to die or leave the country, when the party requesting the additional discovery makes a *prima facie* showing that the party will suffer substantial injustice if the requested discovery is not allowed.

Paragraph (2) recognizes that discovery may proceed on other than jurisdictional issues before the court rules on the objecting party’s motion objecting to jurisdiction. Participation in discovery by the objecting party does not constitute a waiver by the objecting party’s challenge to jurisdiction.

(October 24, 2012)

Paragraph (m) was amended in 2012 to eliminate the filing of discovery with the clerk of the circuit court absent leave of court granted in individual cases based on limited circumstances. The rule is intended to minimize any invasion of privacy that a litigant may have by filing discovery in a public court file.

Rule 204. Compelling Appearance of Deponent

(a) Action Pending in This State.

(1) *Subpoenas*. Except as provided in paragraph (c) hereof: (i) the clerk of the court shall issue subpoenas on request; or (ii) subpoenas may be issued by an attorney admitted to practice in the State of Illinois who is currently counsel of record in the pending action. The subpoena may command the person to whom it is directed to produce documents or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted under these rules subject to any limitations imposed under Rules 201(c), and (g).

(2) *Service of Subpoenas*. A deponent shall respond to any lawful subpoena of which the deponent has actual knowledge, if payment of the fee and mileage has been tendered. Service of

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a subpoena by mail may be proved prima facie by a return receipt showing delivery to the deponent or his authorized agent by certified or registered mail at least seven days before the date on which appearance is required and an affidavit showing that the mailing was prepaid and was addressed to the deponent, restricted delivery, return receipt requested, showing to whom, date and address of delivery, with a check or money order for the fee and mileage enclosed.

(3) *Notice to Parties, et al.* Service of notice of the taking of the deposition of a party or person who is currently an officer, director, or employee of a party is sufficient to require the appearance of the deponent and the production of any documents or tangible things listed in the notice.

(4) *Production of Documents in Lieu of Appearance of Deponent.* The notice, order or stipulation to take a deposition may specify that the appearance of the deponent is excused, and that no deposition will be taken, if copies of specified documents or tangible things are served on the party or attorney requesting the same by a date certain. That party or attorney shall serve all requesting parties of record at least three days prior to the scheduled deposition, with true and complete copies of all documents, and shall make available for inspection tangible things, or other materials furnished, and shall file a certificate of compliance with the court. Unless otherwise ordered or agreed, reasonable charges by the deponent for production in accordance with this procedure shall be paid by the party requesting the same, and all other parties shall pay reasonable copying and delivery charges for materials they receive. A copy of any subpoena issued in connection with such a deposition shall be attached to the notice and immediately filed with the court, not less than 14 days prior to the scheduled deposition. The use of this procedure shall not bar the taking of any person's deposition or limit the scope of same.

(b) Action Pending in Another State, Territory, or Country. Any officer or person authorized by the laws of another State, territory, or country to take any deposition in this State, with or without a commission, in any action pending in a court of that State, territory, or country may petition the circuit court in the county in which the deponent resides or is employed or transacts business in person or is found for a subpoena to compel the appearance of the deponent or for an order to compel the giving of testimony by the deponent. The court may hear and act upon the petition with or without notice as the court directs.

(c) Depositions of Physicians. The discovery depositions of nonparty physicians being deposed in their professional capacity may be taken only with the agreement of the parties and the subsequent consent of the deponent or under a subpoena issued upon order of court. A party shall pay a reasonable fee to a physician for the time he or she will spend testifying at any such deposition. Unless the physician was retained by a party for the purpose of rendering an opinion at trial, or unless otherwise ordered by the court, the fee shall be paid by the party at whose instance the deposition is taken.

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(d) Noncompliance by Nonparties: Body Attachment.

(1) An order of body attachment upon a nonparty for noncompliance with a discovery order or subpoena shall not issue without proof of personal service of the rule to show cause or order of contempt upon the nonparty.

(2) The service of the rule to show cause or order of contempt upon the nonparty, except when the rule or order is initiated by the court, shall include a copy of the petition for rule and the discovery order or subpoena which is the basis for the petition for rule.

(3) The service of the rule to show cause or order of contempt upon the nonparty shall be made in the same manner as service of summons provided for under sections 2–202, 2–203(a)(1) and 2–203.1 of the Code of Civil Procedure.

Committee Comments

(Revised June 1, 1995)

Paragraph (a) of this rule was revised effective June 23, 1967, to divide it into three subparagraphs and add the material contained in subparagraph (a)(2), dealing with service of subpoenas.

The first sentence of the subparagraph (a)(2) states existing law. (*Chicago and Aurora R.R. Co. v. Dunning* (1857), 18 Ill. 494.) The second sentence simplifies proof of actual notice when service is made by certified or registered mail. It was amended in 1978 to conform its requirements to presently available postal delivery service. See Committee Comments to Rule 105.

Subparagraphs (a)(1) and (a)(3), without their present subtitles, appeared as paragraph (a) of Rule 204(a) as adopted effective January 1, 1967. New at that time was the provision now in subparagraph (a)(1) making an order of the court a prerequisite to the issuance of subpoena for the discovery deposition of a physician or surgeon. Also new in the 1967 rule was the use of the term "employee" instead of the former "managing agent" in what is now subparagraph (a)(3). The phrase "and no subpoena is necessary" which appeared in former Rule 19--8(1) (effective January 1, 1956), on which Rule 204(a) was based, was placed there to emphasize a change in practice to which the bar had been accustomed by 1967, and it was deleted in the 1967 revision as no longer needed.

Subparagraph (4) of paragraph (a) sets forth the procedures to be followed in those instances where the production of documents or tangible things by an individual may obviate the need for taking that person's deposition. The rule recognizes that subpoenas must be directed to individuals, not inanimate objects. Existing law regarding privilege and permissible discovery in a given case is unaffected by the rule. (See *Lewis v. Illinois Central R.R. Co.*, 234 Ill. App. 3d

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669 (5th Dist. 1992).) The rule requires disclosure to all parties with prompt and complete production of all materials received, regardless of whether materials in addition to those specified are furnished by the deponent.

Paragraph (b) was not affected by the June 23, 1967, amendment. It was derived from former Rule 19--8(2) as it stood before 1967.

In 1985 paragraph (a) was amended and paragraph (c) was added to regulate the practice of compelling physicians and surgeons to appear to be deposed in their professional capacity and to set guidelines concerning professional fees which may, by agreement, be paid to physicians and surgeons for attending such depositions. Traditionally, expert witnesses are in the same position as other witnesses with respect to their fees. (*In re Estate of James* (1956), 10 Ill. App. 2d 232.) Physicians and other experts subpoenaed to testify may not refuse to do so on the ground that they are entitled to be paid some additional fee on the basis of being an expert. (*Dixon v. People* (1897), 168 Ill. 179.) Expert witnesses, like other witnesses, normally are entitled only to \$20 per day and 20 cents per mile of necessary travel. (*Falkenthal v. Public Building Com.* (1983), 111 Ill. App. 3d 703.) As a practical matter, however, physicians and surgeons usually do request a professional fee, in addition to the statutory witness fee, to reimburse them for the time they spend testifying at depositions, and the party at whose instance the physician or surgeon is subpoenaed is normally loathe to refuse. This rule is intended to regulate this practice. A party may agree to pay a reasonable professional fee to a physician or surgeon for the time he or she will spend testifying at any deposition. The fee should be paid only after the doctor has testified, and it should not exceed an amount which reasonably reimburses the doctor for the time he or she actually spent testifying at deposition. Unless the doctor was retained for the purpose of rendering an expert opinion at trial, or unless otherwise ordered by the court, the party at whose instance the deposition is being taken would be responsible for paying the professional fee, as well as other fees and expenses provided for in Rule 208.

Rule 204(c) implies that the trial court will exercise discretion in ordering the issuance of a subpoena upon a physician or surgeon and will refuse to do so unless there is some preliminary showing of good cause, regardless of whether there has been an objection by opposing counsel. At a minimum the moving party must be able to show that he has received the medical records available in the case and nevertheless has good reason to believe that a deposition is necessary. If appropriate, the court may require that such a showing of good cause be accomplished by an affidavit accompanying the motion.

Paragraph (c) was amended in 1989 to provide that a party "shall pay," rather than "may agree to pay," a reasonable fee to a physician or surgeon for the time the physician or surgeon will spend testifying at any such deposition. This change will clarify the responsibility of parties to not intrude on the time of physicians and surgeons without seeing to it that the physicians or surgeons receive reasonable compensation for the time they spend undergoing questioning on deposition.

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The reference in paragraph (c) to "surgeons" has been stricken because it is redundant. Moreover, paragraph (c) is made applicable only to "nonparty" physicians. The protection afforded a physician by paragraph (c), including the payment of a fee for time spent, has no application to a physician who is a party to the suit. Such protection should likewise be unavailable to nonparty physicians who are closely associated with a party, such as physicians who are stockholders in or officers of a professional corporation named as a defendant, or a physician who is a respondent in discovery.

Rule 214. Discovery of Documents, Objects, and Tangible Things--Inspection of Real Estate

(a) Any party may by written request direct any other party to produce for inspection, copying, reproduction photographing, testing or sampling specified documents, including electronically stored information as defined under Rule 201 (b)(4), objects or tangible things, or to permit access to real estate for the purpose of making surface or subsurface inspections or surveys or photographs, or tests or taking samples, or to disclose information calculated to lead to the discovery of the whereabouts of any of these items, whenever the nature, contents, or condition of such documents, objects, tangible things, or real estate is relevant to the subject matter of the action. The request shall specify a reasonable time, which shall not be less than 28 days except by agreement or by order of court, and the place and manner of making the inspection and performing the related acts.

(b) With regard to electronically stored information as defined in Rule 201 (b)(4), if a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(c) One copy of the request shall be served on all other parties entitled to notice. A party served with the written request shall (1) ~~produce the requested documents~~ identify all materials in the party's possession responsive to the request and copy or provide reasonable opportunity for copying or inspections. Production of documents shall be as they are kept in the usual course of business or organized and labeled to correspond with the categories in the request, ~~and all retrievable information in computer storage in printed form~~ or (2) serve upon the party so requesting written objections on the ground that the request is improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be complied with. Any objection to the request or the refusal to respond shall be heard by the court upon prompt notice and motion of the party submitting the request. If the party claims that the item is not in his or her possession or control or that he or she does not have information calculated to lead to the discovery of its whereabouts, the party may be ordered to submit to examination in open court or by deposition regarding such claim. The party producing party documents shall furnish an affidavit stating whether the production is complete in accordance with the request. Copies of identifications, objections and affidavits of completeness shall be served on all parties entitled to notice.

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(d) A party has a duty to seasonably supplement any prior response to the extent of documents, objects or tangible things which subsequently come into that party's possession or control or become known to that party.

(e) This rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon real estate.

Committee Comments

(Revised ____2013)

Paragraphs (a) and (b)

The Committee reorganized Rule 214 as well as creating new paragraph (b), which is modeled after Federal Rule of Civil Procedure 34(b).

Paragraph (c)

The Committee's intent was to assist in the area of electronically stored information by allowing for identification of materials.

(Revised June 1, 1995)

As originally promulgated Rule 214 was patterned after former Rule 17. It provided for discovery of documents and tangible things, and for entry upon real estate, in the custody or control of any "party or other person," by moving the court for an order compelling such discovery. In 1974, the rule was amended to eliminate the requirement of a court order. Under the amended rule a party seeking production of documents or tangible things or entry on real estate in the custody or control of any other party may serve the party with a request for the production of the documents or things, or for permission to enter upon the real estate. The party receiving the request must comply with it or serve objections. If objections are served, the party seeking the discovery may serve a notice of hearing on the objections, or in case of failure to respond to the request may move the court for an order under Rule 219(a).

The request procedure may be utilized only when discovery is sought from a party to the action. Discovery of documents and tangible things in the custody or control of a person not a party may be obtained by serving him with a subpoena *duces tecum* for the taking of his deposition. The last paragraph of the rule was added to indicate that the rule is not preemptive of an independent action for discovery in the nature of a bill in equity. Such an action can be employed, then, in the occasional case in which a party seeks to inspect real estate that is in the custody or control of a person not a party to the main action.

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The first paragraph has been revised to require a party producing documents to produce those documents organized in the order in which they are kept in the usual course of business, or organized and labeled to correspond with the categories in the request. This revision requires the party producing documents and that party's attorney to make a good-faith review of documents produced to ensure full compliance with the request, but not to burden the requesting party with nonresponsive documents.

The failure to organize the requested documents as required by this rule, or the production of nonresponsive documents intermingled among the requested documents, constitutes a discovery abuse subject to sanctions under Rule 219.

The first paragraph has also been amended to require a party to include in that party's production response all responsive information in computer storage in printed form. This change is intended to prevent parties producing information from computer storage on storage disks or in any other manner which tends to frustrate the party requesting discovery from being able to access the information produced.

Rule 201(b) has also been amended to include in the definition of "documents" all retrievable information in computer storage, so that there can be no question but that a producing party must search its computer storage when responding to a request to produce documents pursuant to this rule.

The last sentence of the first paragraph has also been revised to make mandatory the requirement that the party producing documents furnish an affidavit stating whether the production is complete in accordance with the request. Previously, the party producing documents was not required to furnish such an affidavit unless requested to do so.

The second paragraph is new. This paragraph parallels the similar requirement in Rule 213 that a party must seasonably supplement any prior response to the extent that documents, objects or tangible things subsequently come into that party's possession or control or become known to that party. A party who has knowledge of documents, objects or tangible things responsive to a previously served request must disclose that information to the requesting party whether or not the actual documents, objects or tangible things are in the possession of the responding party. To the extent that responsive documents, objects or tangible things are not in the responding party's possession, the compliance affidavit requires the producing party to identify the location and nature of such responsive documents, objects or tangible things. It is the intent of this rule that a party must produce all responsive documents, objects or tangible things in its possession, and fully disclose the party's knowledge of the existence and location of responsive documents, objects or tangible things not in its possession so as to enable the requesting party to obtain the responsive documents, objects or tangible things from the custodian.

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Rule 216. Admission of Fact or of Genuineness of Documents

(a) Request for Admission of Fact. A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request. A copy of the request for admission shall be served on all parties entitled to notice.

(b) Request for Admission of Genuineness of Document. A party may serve on any other party a written request for admission of the genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

(c) Admission in the Absence of Denial. Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 28 days after service thereof, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party cannot truthfully admit or deny those matters or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission. If good faith requires that a party deny only a part, or requires qualification, of a matter of which an admission is requested, the party shall specify so much of it as is true and deny only the remainder. Any objection to a request or to an answer shall be heard by the court upon prompt notice and motion of the party making the request. The response to the request, sworn statement of denial, or written objection, shall be served on all parties entitled to notice.

(d) Public Records. If any public records are to be used as evidence, the party intending to use them may prepare a copy of them insofar as they are to be used, and may seasonably present the copy to the adverse party by notice in writing, and the copy shall thereupon be admissible in evidence as admitted facts in the case if otherwise admissible, except insofar as its inaccuracy is pointed out under oath by the adverse party in an affidavit filed and served within 28 days after service of the notice.

(e) Effect of Admission. Any admission made by a party pursuant to request under this rule is for the purpose of the pending action and any action commenced pursuant to the authority of section 13–217 of the Code of Civil Procedure (735 ILCS 5/13–217) only. It does not constitute an admission by him for any other purpose and may not be used against him in any other proceeding.

(f) Number of Requests. The maximum number of requests for admission a party may serve on another party is 30, unless a higher number is agreed to by the parties or ordered by the court for good cause shown. If a request has subparts, each subpart counts as a separate request.

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(g) Special Requirements. A party must: (1) prepare a separate paper which contains only the requests and the documents required for genuine document requests; (2) serve this paper separate from other papers; and (3) put the following warning in a prominent place on the first page in 12-point or larger boldface type: **“WARNING: If you fail to serve the response required by Rule 216 within 28 days after you are served with this paper, all the facts set forth in the requests will be deemed true and all the documents described in the requests will be deemed genuine.”**

Committee Comments

(Revised July 1, 1985)

This rule is derived from former Rule 18. Despite the usefulness of requests for admission of facts in narrowing issues, such requests seem to have been used very little in Illinois practice. The committee was of the opinion that perhaps this has resulted in part from the fact that they are provided for in the text of a rule that reads as if it relates primarily to admission of the genuineness of documents. Accordingly, it has rewritten the rule to place the authorization for request for admission of facts in a separate paragraph. No change in the substance of former Rule 18 was intended.

Subparagraph (e) was amended in 1985 to resolve an apparent conflict about whether admissions are carried over into subsequent cases between the same parties, involving the same subject matter, as are the fruits of other discovery activities (see Rule 212(d)). Relief from prior admissions is available to the same extent in the subsequent action as in the case which was dismissed or remanded.

(October 1, 2010)

Paragraphs (f) and (g) are designed to address certain problems with Rule 216, including the service of hundreds of requests for admission. For the vast majority of cases, the limitation to 30 requests now found in paragraph (f) will eliminate this abusive practice. Other noted problems include the bundling of discovery requests to form a single document into which the requests to admit were intermingled. This practice worked to the disadvantage of certain litigants, particularly pro se litigants, who do not understand that failure to respond within the time allowed results in the requests being deemed admitted. Paragraph (g) provides for requests to be contained in a separate paper containing a boldface warning regarding the effect of the failure to respond within 28 days. Consistent with *Vision Point of Sale Inc. v. Haas*, 226 Ill.2d 334 (2007), trial courts are vested with discretion with respect to requests for admission.

Rule 218. Pretrial Procedure.

(a) Initial Case Management Conference. Except as provided by local circuit court rule, which on petition of the chief judge of the circuit has been approved by the Supreme Court, the court shall hold a case management conference within 35 days after the parties are at issue and in no event more than 182 days following the filing of the complaint. At the conference counsel familiar with the case and authorized to act shall appear and the following shall be considered:

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- (1) the nature, issues, and complexity of the case;
- (2) the simplification of the issues;
- (3) amendments to the pleadings;
- (4) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (5) limitations on discovery including:
 - (i) the number and duration of depositions which may be taken;
 - (ii) the area of expertise and the number of expert witnesses who may be called; and
 - (iii) deadlines for the disclosure of witnesses and the completion of written discovery and depositions;
- (6) the possibility of settlement and scheduling of a settlement conference;
- (7) the advisability of alternative dispute resolution;
- (8) the date on which the case should be ready for trial;
- (9) the advisability of holding subsequent case management conferences; and
- (10) any other matters which may aid in the disposition of the action including but not limited to issues involving electronically stored information and preservation.

(b) Subsequent Case Management Conferences. At the initial and any subsequent case management conference, the court shall set a date for a subsequent management conference or a trial date.

(c) Order. At the case management conference, the court shall make an order which recites any action taken by the court, the agreements made by the parties as to any of the matters considered,

and which specifies as the issues for trial those not disposed of at the conference. The order controls the subsequent course of the action unless modified. All dates set for the disclosure of witnesses, including rebuttal witnesses, and the completion of discovery shall be chosen to ensure that discovery will be completed not later than 60 days before the date on which the trial court reasonably anticipates that trial will commence, unless otherwise agreed by the parties. This rule is to be liberally construed to do substantial justice between and among the parties.

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(d) Calendar. The court shall establish a pretrial calendar on which actions shall be placed for consideration, as above provided, either by the court on its own motion or on the motion of any party.

Committee Comments

(Revised ____2013)

Paragraph (a)

Paragraph (a), subparagraph (10) is intended to encourage parties to use the case management conference to resolve issues concerning electronically stored information early in the case.

(Revised June 1, 1995)

This rule is former Rule 22.

Rule 218 has been substantially modified to implement the objective of early and ongoing differential case management. The former rule contemplated a single pretrial conference which could be held at the discretion of the court. The new rule mandates an initial case management conference which must be held within 35 days after the parties are at issue or in any event not later than 182 days after the complaint is filed. The principal goal of the initial case management conference is to tailor the future course of the litigation to reflect the singular characteristics of the case.

The new rule recognizes that each case is a composite of variable factors including the nature, number and complexity of the substantive and procedural issues which are involved, the number of parties and potential witnesses as well as the type and economic value of the relief sought. Less complex cases with limited damages and fewer parties require less discovery and involve less time to prepare than do cases with multiple complex issues involving numerous parties and damages or other remedies of extraordinary economic consequence. By focusing upon each case within six months after it is filed, the court and the parties are able to formulate a case management plan which avoids both the potential abuses and injustices that are inherent in the previous "cookie cutter" approach.

At the initial case management conference the court and counsel will consider the specific matters which are enumerated in subparagraphs (a)(1) through (a)(10). Chief among these are those which require early recognition of the complexity of the claim in order to regulate the type of discovery which will follow and the amount of time which the court and counsel believe will be required before the case can be tried. In less complex cases, subparagraphs (a)(5)(i) and (a)(5)(ii) contemplate limitations on the number and duration of depositions and restriction upon the type and number of opinion witnesses which each side may employ. This type of management eliminates discovery abuse in smaller cases without inflexibly inhibiting the

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type of preparation which is required in more complex litigation.

The new rule also recognizes a number of the uncertainties and problems which existed under the prior scheduling provision of former Rule 220. It attempts to eliminate those difficulties by requiring the court, at the initial management conference, to set deadlines for the disclosure of opinion witnesses as well as for the completion of written discovery and depositions. Amendments to Supreme Court Rules 213 and 214 impose a continuing obligation to supplement discovery responses, including the identification of witnesses who will testify at trial and the subject matter of their testimony. Consequently, the trial of cases should not be delayed by the late identification of witnesses, including opinion witnesses, or by virtue of surprise because the nature of their testimony and opinions is unknown. In this regard, paragraph (c) provides that deadlines established by the court must take into account the completion of discovery not later than 60 days before it is anticipated that trial will commence. For example, opinion witnesses should be disclosed, and their opinions set forth pursuant to interrogatory answer, at such time or times as will permit their depositions to be taken more than 60 days before trial.

Paragraph (a) also enumerates the other matters which the court and counsel are to consider, including the elimination of nonmeritorious issues and defenses and the potential for settlement or alternative dispute resolution. Except in instances where the case is sufficiently simple to permit trial to proceed without further management, the rule contemplates that subsequent case management conferences will be held. The Committee believes that useless or unnecessary depositions should not take place during the discovery process and that no deposition should be longer than three hours unless good cause is shown. Circuits which adopt a local circuit court rule should accomplish the purpose and goals of this proposal. Any local circuit court rule first must be approved by the Supreme Court.

Paragraph (b) reflects the belief that case management is an ongoing process in which the court and counsel will periodically review the matters specified in subparagraphs (a)(1) through (a)(10). As additional parties are added, or amendments are made to the complaint or defenses, it may be necessary to increase or further limit the type of discovery which is required. Consequently, paragraph (c) provides that at the conclusion of each case management conference, the court shall enter an order which reflects the action which was taken. That order will control the course of litigation unless and until it is modified by a subsequent case management order. A separate road map will chart the course of each case from a point within six months from the date on which the complaint is filed until it is tried. By regulating discovery on a case-specific basis, the trial court will keep control of the litigation and thereby prevent the potential for discovery abuse and delay which might otherwise result.

Paragraph (c) controls the subsequent course of action of the litigation unless modified and should ensure that the disclosure of opinion witnesses and discovery will be completed no later than 60 days before the date on which the matter is set for trial.

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(May 31, 2002)

This rule is amended to conform to the changes in terminology made in Supreme Court Rule 213.

(October 4, 2002)

The rule is amended to clarify that case management orders will set dates for disclosure of rebuttal witnesses, if any, and that parties may agree to waive or modify the 60-day rule without altering the trial date.

Rule 219. Consequences of Refusal to Comply with Rules or Order Relating to Discovery or Pretrial Conferences

(a) Refusal to Answer or Comply with Request for Production. If a party or other deponent refuses to answer any question propounded upon oral examination, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. Thereafter, on notice to all persons affected thereby, the proponent of the question may move the court for an order compelling an answer. If a party or other deponent refuses to answer any written question upon the taking of his or her deposition or if a party fails to answer any interrogatory served upon him or her, or to comply with a request for the production of documents or tangible things or inspection of real property, the proponent of the question or interrogatory or the party serving the request may on like notice move for an order compelling an answer or compliance with the request. If the court finds that the refusal or failure was without substantial justification, the court shall require the offending party or deponent, or the party whose attorney advised the conduct complained of, or either of them, to pay to the aggrieved party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and the court finds that the motion was made without substantial justification, the court shall require the moving party to pay to the refusing party the amount of the reasonable expenses incurred in opposing the motion, including reasonable attorney's fees.

(b) Expenses on Refusal to Admit. If a party, after being served with a request to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter of fact, the requesting party may apply to the court for an order requiring the other party to pay the requesting party the reasonable expenses incurred in making the proof, including reasonable attorney's fees. Unless the court finds that there were good reasons for the denial or that the admissions sought were of no substantial importance, the order shall be made.

(c) Failure to Comply with Order or Rules. If a party, or any person at the instance of or in collusion with a party, unreasonably fails to comply with any provision of part E of article II of

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the rules of this court (Discovery, Requests for Admission, and Pretrial Procedure) or fails to comply with any order entered under these rules, the court, on motion, may enter, in addition to remedies elsewhere specifically provided, such orders as are just, including, among others, the following:

- (i) That further proceedings be stayed until the order or rule is complied with;
- (ii) That the offending party be debarred from filing any other pleading relating to any issue to which the refusal or failure relates;
- (iii) That the offending party be debarred from maintaining any particular claim, counterclaim, third-party complaint, or defense relating to that issue;
- (iv) That a witness be barred from testifying concerning that issue;
- (v) That, as to claims or defenses asserted in any pleading to which that issue is material, a judgment by default be entered against the offending party or that the offending party's action be dismissed with or without prejudice;
- (vi) That any portion of the offending party's pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to that issue; or
- (vii) That in cases where a money judgment is entered against a party subject to sanctions under this subparagraph, order the offending party to pay interest at the rate provided by law for judgments for any period of pretrial delay attributable to the offending party's conduct.

In lieu of or in addition to the foregoing, the court, upon motion or upon its own initiative, may impose upon the offending party or his or her attorney, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred as a result of the misconduct, including a reasonable attorney fee, and when the misconduct is wilful, a monetary penalty. When appropriate, the court may, by contempt proceedings, compel obedience by any party or person to any subpoena issued or order entered under these rules. Notwithstanding the entry of a judgment or an order of dismissal, whether voluntary or involuntary, the trial court shall retain jurisdiction to enforce, on its own motion or on the motion of any party, any order imposing monetary sanctions, including such orders as may be entered on motions which were pending hereunder prior to the filing of a notice or motion seeking a judgment or order of dismissal. Where a sanction is imposed under this paragraph (c), the judge shall set forth with specificity the reasons and basis of any sanction so imposed either in the judgment order itself or in a separate written order.

(d) Abuse of Discovery Procedures. The court may order that information obtained through abuse of discovery procedures be suppressed. If a party wilfully obtains or attempts to obtain information by an improper discovery method, wilfully obtains or attempts to obtain information

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to which that party is not entitled, or otherwise abuses these discovery rules, the court may enter any order provided for in paragraph (c) of this rule.

(e) Voluntary Dismissals and Prior Litigation. A party shall not be permitted to avoid compliance with discovery deadlines, orders or applicable rules by voluntarily dismissing a lawsuit. In establishing discovery deadlines and ruling on permissible discovery and testimony, the court shall consider discovery undertaken (or the absence of same), any misconduct, and orders entered in prior litigation involving a party. The court may, in addition to the assessment of costs, require the party voluntarily dismissing a claim to pay an opposing party or parties reasonable expenses incurred in defending the action including but not limited to discovery expenses, expert witness fees, reproduction costs, travel expenses, postage, and phone charges.

Committee Comments

(Revised _____, 2013)

The Committee believes that the rule is sufficient to cover sanction issues as they relate to electronic discovery. The rulings in *Shimanovsky v. GMC*, 181 Ill. 2d 112 (Ill. 1998) and *Adams v. Bath and Body Works*, 358 Ill.App.3d 387 contain detailed discussion of sanctions for discovery violations for the loss or destruction of relevant evidence and for the separate and distinct claim for the tort of negligent spoliation of evidence.

(Revised June 1, 1995)

Paragraphs (a) and (b)

Paragraphs (a) and (b) of this rule were derived from former Rules 19--12(1) and (2). In 1974, Rule 214 was amended to provide for a request procedure in the production of documents and tangible things and inspection of real estate, eliminating the requirement that the party seeking such discovery obtain an order of court. Paragraph (a) of Rule 219 was amended at the same time to extend its coverage to cases in which a party refuses to comply with a request under amended Rule 214.

Paragraph (c)

Paragraph (c) is derived from former Rule 19--12(3). The paragraph has been changed to permit the court to render a default judgment against either party. This is consistent with Federal Rule 37(b)(iii), and makes effective the remedy against a balky plaintiff. The remedy was previously limited to dismissal (although it is to be noted that in former Rule 19--12(3) nonsuit and dismissal were both mentioned), and the plaintiff could presumably bring his action again, while in case of the defendant the answer could be stricken and the case decided on the complaint alone. The sanctions imposed must relate to the issue to which the misconduct relates and may not extend to other issues in the case.

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Subparagraph (c) was amended in 1985 to make it clear that the sanctions provided for therein applied to violations of new Rules 220 and 222, as well as any discovery rules that may be enacted in the future. Subparagraph (c) was further amended in 1985 to recognize the trial court's continuing jurisdiction to enforce any monetary sanctions imposed thereunder for any abuse of discovery in any case in which an order prescribing such sanctions was entered before any judgment or order of dismissal, whether voluntary or involuntary (see *North Park Bus Service, Inc. v. Pastor* (1976), 39 Ill. App. 3d 406), or to order such monetary sanctions, and enforce them, in any case in which a motion for sanctions was pending before the trial court prior to the filing of a notice or motion seeking a judgment or order of dismissal, whether voluntary or involuntary. This change in no way compromises a plaintiff's right to voluntarily dismiss his action under section 2--1009 of the Code of Civil Procedure (Ill. Rev. Stat. 1983, ch. 110, par. 2--1009). It simply makes it clear that a party may not avoid the consequences of an abuse of the discovery process by filing a notice of voluntary dismissal.

Paragraph (c) has been expanded to provide: (1) for the imposition of prejudgment interest in those situations where a party who has failed to comply with discovery has delayed the entering of a money judgment; (2) the imposition of a monetary penalty against a party or that party's attorney for a wilful violation of the discovery rules; and (3) for other appropriate sanctions against a party or that party's attorney including the payment of reasonable expenses incurred as a result of the misconduct together with a reasonable attorney fee.

Paragraph (c) is expanded first by adding subparagraph (vii), which specifically allows the trial court to include in a judgment, interest for any period of pretrial delay attributable to discovery abuses by the party against whom the money judgment is entered.

Paragraph (c) has also been expanded to provide for the imposition of a monetary penalty against a party or that party's attorney as a result of a willful violation of the discovery rules. See *Safeway Insurance Co. v. Graham*, 188 Ill. App. 3d 608 (1st Dist. 1989). The decision as to whom such a penalty may be payable is left to the discretion of the trial court based on the discovery violation involved and the consequences of that violation. This language is intended to put to rest any doubt that a trial court has the authority to impose a monetary penalty against a party or that party's attorney. See *Transamerica Insurance Group v. Lee*, 164 Ill. App. 3d 945 (1st Dist. 1988) (McMorrow, J., dissenting).

The last full paragraph of paragraph (c) has also been amended to give greater discretion to the trial court to fashion an appropriate sanction against a party who has violated the discovery rules or orders. The amended language parallels that used in Rule 137. This paragraph has also been amended to require a judge who imposes a sanction under paragraph (c) to specify the reasons and basis for the sanction imposed either in the judgment order itself or in a separate written order. This language is the same as that now contained in Rule 137.

Paragraph (d)

Paragraph (d) is new. It extends the sanctions provided for in the new rule to general abuse of the discovery rules.

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Paragraph (e)

Paragraph (e) addresses the use of voluntary dismissals to avoid compliance with discovery rules or deadlines, or to avoid the consequences of discovery failures, or orders barring witnesses or evidence. This paragraph does not change existing law regarding the right of a party to seek or obtain a voluntary dismissal. However, this paragraph does clearly dictate that when a case is refiled, the court shall consider the prior litigation in determining what discovery will be permitted, and what witnesses and evidence may be barred. The consequences of noncompliance with discovery deadlines, rules or orders cannot be eliminated by taking a voluntary dismissal. Paragraph (e) further authorizes the court to require the party taking the dismissal to pay the out-of-pocket expenses actually incurred by the adverse party or parties. This rule reverses the holdings in *In re Air Crash Disaster at Sioux City, Iowa, on July 19, 1989*, 259 Ill. App. 3d 231, 631 N.E.2d 1302 (1st Dist. 1994), and *Galowich v. Beech Aircraft Corp.*, 209 Ill. App. 3d 128, 568 N.E.2d 46 (1st Dist. 1991). Paragraph (e) does not provide for the payment of attorney fees when an action is voluntarily dismissed.

(March 28, 2002)

This rule is amended to conform to the changes in terminology made in Supreme Court Rule 213.

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**ANNUAL REPORT
OF THE
COMMITTEE ON EDUCATION
TO THE ILLINOIS JUDICIAL CONFERENCE**

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October 2013

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I. STATEMENT ON COMMITTEE CONTINUATION

Consistent with the purpose and provisions of the Supreme Court's *Comprehensive Judicial Education Plan for Illinois Judges*, the Committee on Education was established to identify the educational needs of the Illinois judiciary and design educational programs to meet those needs. In conjunction with the general charge to the Committee, the Court provided the following list of Conference Year 2013 projects and priorities:

- ✓ Complete the 2012 Illinois Judicial Benchbook projects – post, print and distribute hard copies and CDs of Benchbooks to Illinois judges, and pursue vendor relationship to improve benchbook functionality.
- ✓ Initiate 2013 Illinois Judicial Benchbook projects.
- ✓ Plan two presentations of *Education Conference 2014*.
- ✓ Deliver and evaluate the *January 2013 New Judge Seminar*.
- ✓ Plan the *December 2013 New Judge Seminar*.
- ✓ Deliver and evaluate the spring 2013 regional seminar, *Upholding Rights While Enforcing Legal Obligations: An Appropriate Judicial Response to Financial Matters in the Courtroom*.
- ✓ Deliver and evaluate the *May 2013 DUI/Traffic Seminar*.
- ✓ Deliver and evaluate the *2013 Advanced Judicial Academy*.
- ✓ Deliver and evaluate the *2013 Faculty Development Workshop*.
- ✓ Continue the commitment to recruit diverse faculty reflective of the geographic, racial, ethnic, gender and cultural differences in the Illinois judiciary.
- ✓ Undertake any such other projects or initiatives that are consistent with the Committee charge.

The Committee achieved each of the above Conference Year 2013 projects and met 2013 priorities set by the Court. In Conference Year 2014, the Committee, in partnership with the Administrative Office of the Illinois Courts, will continue to deliver judicial education programs

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for new and experienced jurist that reflect upon substantive and procedural matters, and ethical and professional areas of significance to members of the Illinois judiciary.

The 2013 Conference Year began with the presentation of the *New Judge Seminar*, January 28 – February 1, 2013, followed by the presentation of a two day seminar, *Upholding Rights*, March 6 – 7, 2013, a multidisciplinary *DUI/Traffic Seminar*, May 7 – 8, 2013, the seventh biennial *Advanced Judicial Academy*, June 10 – 13, 2013, a *Faculty Development Workshop*, September 17 – 18, 2013, in addition to the planning of two presentations of *Education Conference 2014*, and the *December 2013 New Judge Seminar*.

II. SUMMARY OF COMMITTEE ACTIVITIES

New Judge Seminar

New Judge Seminar is a week long seminar for judges who have recently transitioned to the bench. Over the course of a week, judicial ethics and conduct, as well as a diverse range of emerging legal and procedural subject matters are presented and discussed by experienced judicial faculty. Faculty presentations will continue to focus on the need to assist new judges in developing the skills of successful, effective, and knowledgeable jurists. This curriculum approach encourages faculty to include question and answer sessions, role playing and problem solving scenarios whenever possible. Informational kiosks continue to be a popular option. These brief, practical information sessions allow judges to gain insight on topics not otherwise addressed in seminars. *New Judge Seminar* was last presented January 28 – February 1, 2013 to 65 new judges and received an overall rating of 4.8 out of 5.0, and will be presented again December 9 – 13, 2013.

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Faculty Development Workshop

Faculty development provides an opportunity for prospective Education Conference faculty to meet in person, in small groups and engage in a day and a half of sessions meant to improve facilitation and presentation skills, and allow Conference faculty to meet in person, and hear an overview of Education Conference faculty expectations. Workshop presentations, learning activities and discussions are designed to improve peer presentations, including goals, objectives, content, and delivery, in addition to the effective use of technology. The last workshop was held September 15 – 16, 2011 and was attended by 110 faculty, receiving an overall rating of 4.6 on a 5.0 scale. The next workshop will be held September 17 – 18, 2013.

Faculty Recruitment

The Administrative Office maintains a database of members of the Illinois judiciary who have indicated their interest in serving as faculty, or members of a Benchbook writing team. Faculty and benchbook volunteer forms are posted on the Supreme Court's website under judicial education, on the judicial portal, and provided at each judicial education event. Judge's interested in serving as faculty, or as a member of the benchbook writing team, should submit a volunteer form to the Administrative Office which maintains a database of volunteers for the Committee and its Workgroups to consider when contemplating potential faculty for various judicial education events.

2013 – 2014 Seminar Series

The Committee on Education seminar series is generally composed of one day mini seminars and two day regional seminars hosted in either Chicago or Springfield. The seminar

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series offers judges the opportunity to present a broad range of topics of major significance to members of the Illinois judiciary worthy of in-depth review and discussion. In this regard, the Committee presented two regional seminars: *Upholding Rights While Enforcing Legal Obligations: An Appropriate Judicial Response to Financial Matters in the Courtroom*, March 6 – 7, 2013, attended by 62 judges, with a rating of 4.5 on a 5.0 scale, and a multidisciplinary, two day DUI/Traffic Issues seminar May 7 – 8, 2013, attended by 93 judges, probation officers and treatment providers, with an overall rating of 4.6 on a 5.0 scale.

Illinois Judicial Benchbooks

The Illinois Judicial Benchbooks continue to be a valuable resource for judges in chambers and on the bench. *Civil Law and Procedure*, *Criminal Law and Procedure*, *Domestic Violence*, *DUI/Traffic*, *Evidence* and *Family Law and Procedure* are updated annually and new editions will be released each year and made available to Illinois judges in hard copy and CD formats, in addition to postings on the Illinois Judicial Portal. The hard copy Benchbook format has changed – the six Benchbooks noted above will no longer be distributed in black binders, but will be printed and bound in a soft-cover format, much like the Illinois Court Rules and Procedure. We are planning for the distribution of over 4,000 Benchbooks this Conference year, while also exploring options to increase the electronic viability of the Benchbooks.

Non-Judicial Conference Judicial Education Programs and Providers

Request for approval of non-judicial conference judicial education credit hours should be submitted prior to the event. Forms are available on the Supreme Court website under the

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hyperlink for judicial education. While Illinois judges achieve thirty hours of judicial education credit through attendance at the biennial meeting of Education Conference, when request for approval of non-judicial conference judicial credit hours are made, the Committee on Education, through its workgroup, reviews each request on its merits and based upon criteria set forth in the *Comprehensive Judicial Education Plan*, and makes recommendations to the Court to approve either the program or provider.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

The Committee proposes to continue activities in Conference Year 2014 related to the activities noted below:

Seminar Series

During the 2014 – 2015 Seminar Series, the Committee will present the annual regional DUI/Traffic seminar in May of 2014, and will consider over the next months whether to present additional seminars.

New Judge Seminar

New Judge Seminar will be presented December 9 – 13, 2013 and not again until January 2015. In 2013, the seminar agenda was amended to add sessions on technology, including an exploration of the Supreme Court's website and the Illinois Judicial Portal, the management of mental health issues in the courtroom, and an *Access to Justice* session on *Limited English Proficiency* (LEP), at the request of the Supreme Court. The Committee will continue to engage in the evaluation, curriculum review and planning of New Judge Seminars to ensure the delivery

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of seminars consistent with the Court's *Statement of Expectations* and emerging topics that impact the judiciary, judicial decision making and courtroom management.

Advanced Judicial Academy

The seventh biennial *Advanced Judicial Academy* was held June 10 – 13, 2013 at the University of Illinois College of Law in Champaign and was attended by 71 trial court and appellate court judges from across the state, justices of the Supreme Court and the Administrative Director of the Administrative Office of the Illinois Courts. The theme, *Reason, Emotion and the Psychology of Judgment*, was further explored during optional writing activities and small discussions held throughout the week, allowing judges to contemplate the intersection of the disciplines of law, ethics, and the social sciences in a casual and collegial learning environment. Judges are nominated to attend the Academy by their chief circuit judge or in the case of appellate judges, the presiding justice of the appellate district, or in the first appellate district, the Chair of the Executive Committee.

Faculty Development Workshop

The Committee will present a Faculty Development Workshop, for Education Conference 2014 faculty, September 17 – 18, 2013. The Workshop themed, *Engaging Education: Creating an Active Learning Environment*, will be presented by faculty of the National Judicial College (NJC) and supported in part by a grant from NJC from the Crown Scholarship Fund. The Committee anticipates approximately 100 participants, who will engage in one and half days of hands-on, interactive learning activities, and Education Conference faculty meetings by track. The workshop often serves as the first, and in some cases only,

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opportunity for 2014 Education Conference faculty to meet in person as they prepare for Conference presentations. Conference faculty will also be addressed by Education Conference 2014 co-chairs regarding faculty responsibilities and expectations.

Education Conference

In August 2012, the Committee began planning Education Conference 2014. All Conference sessions and the Schedule-at-a-Glance have been determined and session planning will continue as necessary. Beginning in 2014, the Committee concluded, with the Court's consent, to discontinue the printing of four inch blue binders for each Illinois judge attending Education Conference. Instead, Conference materials which are meant to serve as reference material, but not necessary to the session presentation, will be posted on the Illinois Judicial Portal in advance of the first session of Education Conference. The electronic access to these materials via the Portal will allow all Illinois Judges the flexibility of reviewing reference materials for all sessions, regardless of their Conference registration, in advance of the Conference and post-Conference. Wi-fi capabilities at the Conference site will also allow judges to access materials electronically during the Conference from their personal smart devices, PDAs or laptops. *PowerPoint* presentations, and other documents germane to each Conference presentation will be provided on site in hard copy. Small empty binders will be available for judges interested in creating their own personalized binder.

Illinois Judicial Benchbooks

The Committee, through the work of the Project Benchbook Editorial Board, will continue efforts to review and update the *Civil Law and Procedure*, *Criminal Law and*

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Procedure, Domestic Violence, DUI/Traffic, Evidence and Family Law and Procedure
Benchbooks, and enhance their user friendliness and functionality.

IV. RECOMMENDATIONS

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

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

Hon. Carolyn Quinn, Chair

Hon. Dinah J. Archambeault

Hon. Mary Margaret Brosnahan

Hon. Michael J. Burke

Hon. Robert L. Carter

Hon. Joseph G. McGraw

Hon. Joan E. Powell

Hon. Steven L. Spomer

Hon. Christopher C. Starck

Hon. Robert J. Steigmann

Hon. Michael J. Sullivan

Hon. Thaddeus L. Wilson

Prof. Martha A. Pagliari, Reporter

October 2013

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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. The Committee members include Illinois circuit court and appellate court judges who possess significant civil and/or criminal complex litigation experience.

For Conference Year 2013, the Supreme Court's charge to the Committee carried over the projects/priorities from Conference Year 2012. Chiefly, to continue revising, updating and simplifying the Manual on Complex Criminal Litigation (Criminal Manual). The Criminal Manual has not been fully revised or updated since 2005. Accordingly, during Conference Year 2013, the Committee reviewed existing content within the Criminal Manual in order to identify material in need of revision or removal. The goal is to provide criminal trial judges with an updated statement of the current law and procedures associated with complex criminal litigation. Also carried over from Conference Year 2012 was the task of tracking and identifying changes to Illinois civil law and procedure that would necessitate updates or revisions to the Manual on Complex Civil Litigation, revised most recently in 2011.

The Committee believes that its work will continue to play an important role in the mission of the Conference. Specifically, the completion of the revised Criminal Manual will

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further the Committee's goal of providing topical, efficient reference guides 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 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 2012 and undertaken in Conference Year 2013.

Conference Year 2012 Continued Projects/Priorities

1. Finalize Review of the 2005 Edition of the Manual on Complex Criminal Litigation

In Conference Year 2012, the Committee was largely focused on examining the 2005 edition of the Criminal Manual with one goal in mind: identifying outdated, redundant and duplicative information and material. A subcommittee was formed to compare the 2005 Manual to the Criminal Procedure Benchbook and suggest ways to streamline the Criminal Manual and avoid duplication of content already in the Benchbook. As seven years had passed since the last update to the Criminal Manual, the subcommittee also identified areas of the law which had changed by case law or statute. The subcommittee offered its recommendations to the Committee, which voted to remove and/or update the content of the Criminal Manual as suggested.

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In addition, the subcommittee was tasked with suggesting fresh content incorporating current trends in complex criminal litigation that would be well suited for the revised Criminal Manual. These topics included chapters dedicated to media issues and jury issues. These suggested additions were also approved by the Committee.

After the edits, updates and additions were approved, the subcommittee prepared a proposed table of contents incorporating the revisions and additions to the Manual. The Committee approved the proposed table of contents, which paved the way for the undertaking of the revision process.

2. Revising, Updating and Drafting Chapters for the Manual on Complex Criminal Litigation

Revisions to the Criminal Manual began in 2012 and continued throughout Conference Year 2013. Thanks to the roadmap created by the subcommittee's revised table of contents, individual chapters were assigned to Committee members to either review and update the content, or to draft content on those topics which had not been included in previous editions of the Criminal Manual. Conference Year 2013 saw the appointment of several new Committee members with a strong background in criminal law, and their presence was invaluable to the Committee's efforts. The new Committee members accepted the challenge of drafting the newly added chapters, while members having less criminal law experience undertook revision of the content in existing chapters. Significant progress was made during Conference Year 2013. As of the date of this report, all but one chapter of the revised Criminal Manual have been distributed, reviewed and approved by the Committee.

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The revised Criminal Manual will offer judges a more concise, user-friendly and streamlined reference guide than its predecessor. The revised Criminal Manual has been edited to provide a less text-heavy treatise, and more of a procedural, guideline-rich handbook that includes sample orders and checklists for each chapter.

As of the date of this report, the chapters in the revised 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** speaks to issues associated with the interaction between the court and the media in the coverage of criminal litigation proceedings. **Chapter 3: Security** discusses issues associated with keeping the courtroom, employees, litigants, jurors and observers safe in the wake of the potentially dangerous situations that can arise during criminal trials. The chapter includes information on risk assessment procedures, screening, courtroom access and the securing and transporting of defendants. **Chapter 4: Special Prosecutors** addresses the unique circumstances and procedural implications raised by a request for the appointment of a special prosecutor, including grounds for such an appointment. **Chapter 5: Pretrial Motions** provides procedural guidance on pretrial motions concerning joinder and severance, and the legal principles that govern those procedures. **Chapter 6: Jury Issues** covers the information and procedural aspects associated with the selection and handling of jurors in complex criminal cases, including pre-screening prospective jurors, *voir dire*, and issues that can arise with jurors during trial. **Chapter 7: Sentencing Issues** contains updated information on situations central to the sentencing stage of criminal litigation, including sentencing hearings, sentences for extended terms, and consecutive/concurrent

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sentencing.

The updated Criminal Manual contains a Table of Authorities to provide judges with an easy reference to the case law, statutes and other sources cited within the Criminal Manual. It also contains a selection of sample orders and checklists related to topics that are essential to the judicial management of complex criminal cases.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During Conference Year 2014, the Committee will complete the latest edition of the Criminal Manual. Additionally, the Committee will continue to track changes in the law to be included in future updates or supplements to both the Civil Manual as well as the Criminal Manual, and will work to maintain the accuracy and viability of links and forms contained within those Manuals.

IV. RECOMMENDATION

The Committee makes no recommendations to the Conference at this time.

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**ANNUAL REPORT OF THE
STUDY COMMITTEE ON JUVENILE JUSTICE
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Elizabeth A. Robb, Chair

Hon. James J. Allen

Hon. Jennifer H. Bauknecht

Hon. George Bridges

Hon. Cynthia Y. Cobbs

Hon. Bobby G. Hardwick

Hon. Richard P. Klaus

Hon. Robert G. Kleeman

Hon. Kimberly G. Koester

Hon. Patricia M. Martin

Hon. David K. Overstreet

Hon. Colleen F. Sheehan

Hon. Lori M. Wolfson

Prof. Lawrence Schlam, Reporter

October 2013

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I. STATEMENT OF COMMITTEE CONTINUATION

It is the function of the Study Committee on Juvenile Justice (Committee) to review and assess practices related to the processing of juvenile delinquency, abuse, neglect, and dependency cases. The Committee's stated purpose is to provide judges with current developments in the processing of juvenile court cases through up-dating and distributing the *Illinois Juvenile Law Benchbook*.

The Juvenile Law Benchbook, which consists of Volumes I and II, is designed to provide judges with a practical and convenient guide to procedural, evidentiary, and substantive issues arising in juvenile court proceedings. Each volume is organized transactionally, whereby issues are identified and discussed in the order in which they arise during the course of a case. In general, the discussions begin with an examination of how a case arrives in juvenile court and end with post-dispositional matters such as termination of parental rights proceedings, termination of wardship, and appeal. The appendix in each volume contains procedural checklists and sample forms that can be used or adapted to meet the needs of each judge and the requirements of a particular county/circuit. Each volume is intended to provide judges with an overview of juvenile court proceedings, to direct them to relevant statutory provisions and case law, to highlight recent amendments, and to identify areas that present special challenges. Historically, the Committee has focused its attention on creating and updating this benchbook, each volume of which is updated every other year.

The Committee therefore believes that its work in providing instruction on the continually developing area of juvenile law is a valuable source of information for judges who

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preside over juvenile matters in Illinois. For this reason, the Committee requests that it be permitted to continue its work in Conference Year 2014.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Committee Charge

The Committee is charged with studying and making recommendations on the processing of juvenile delinquency, abuse, neglect, and dependency cases. The Committee also is charged with preparing supplemental updates to the juvenile law benchbook for distribution to judges presiding over juvenile proceedings. Finally, the Committee's charge includes making recommendations regarding training for juvenile court judges on emerging issues of juvenile law identified during the course of the Committee's work on the benchbook or during Committee meetings. This charge provides the framework to guide the Committee's work during the Conference year.

Consistent with its charge, during this Conference year, the Committee will complete its update of Volume I of the Juvenile Law Benchbook. Volume I, published in 2000 and most recently updated in 2011, addresses proceedings brought in juvenile court that involve allegations of delinquency, addicted minors, minors requiring authoritative intervention (MRAI) and truant minors in need of supervision. It also addresses confidentiality and juvenile court records. In preparing the update to Volume I, the Committee researched statutory changes and relevant case law through June 2013. The Committee reasonably anticipates that its update to Volume I will be available following the New Judge Seminar in December 2013.

B. Conference Year 2012 Continued Projects/Priorities

The following subject represents the project/priority assigned by the Supreme Court to

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the Committee for consideration in Conference Year 2012, which was extended into Conference Year 2013.

The Court requested that the Committee study the issue of truancy and the lack of adequate measures to address it in the court system under the Juvenile Court Act. During Conference Year 2013, the Committee studied this issue at length. The Committee believes that, under the current statutory system in Illinois, there is little that a judge and the juvenile court system can do to address truancy issues. The Committee acknowledges and supports the recommendation that, if an individual judge wishes to participate in the community or with school districts addressing these issues, there are numerous resources and publications that can assist a judge in developing programs to address truancy issues within his/her community. Those websites and articles include: *National Leadership Summit Report, Keeping Kids in School and Out of Court* (March 2012): *Updated Literature Review on Truancy: Key Concepts, Historical Overview, and Research Relating to Promising Practices*, published by Center for Children & Youth Justice; *Truancy Reduction: Research, Policy & Practice*, published by Center for Children & Youth Justice (www.ccyj.org). The Committee therefore believes that no further study of this issue would be productive.

C. Conference Year 2013 Projects/Priorities

The following subjects represent the projects/priorities assigned by the Supreme Court to the Committee for consideration in Conference Year 2013.

1. Length of Judicial Assignment

The Court requested that the Committee research the Committee's 2012 recommendation that judges should be assigned to juvenile court for a significant amount of time, including

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identified best practices for length of time for juvenile court assignment and rationale. With respect to the length of judicial assignments in juvenile justice and child welfare cases, the Committee reviewed the National Council on Juvenile and Family Court Judges Technical Assistance Brief, "*Key Principles for Improving Court Practice in Juvenile Delinquency Cases*," which recommends "six continuous years as the minimum time for a judge to spend on the juvenile delinquency court bench." The Committee recognizes that, in many jurisdictions, a six year assignment to the juvenile delinquency call is not realistic. However, the Committee recommends that chief circuit judges try to assign judges who are genuinely interested and committed to juvenile justice issues and attempt to retain those judges in the call on a long term basis.

With respect to juvenile abuse and neglect cases, the National Council of Juvenile and Family Court Judges recommends judges who hear these cases "be interested in the juvenile court's work and be prepared to remain in the court for at least three years." It has encouraged jurisdictions to adopt a "one judge, one family" approach in case assignments so that one judge presides over all of the cases involving the family. It also recommends that to the extent possible one judge hear an abuse or neglect case from the initiation of the case to its termination. The Committee noted that Cook County asks judges to volunteer for a minimum three-year commitment to the abuse and neglect cases.

In conjunction with assigning judges to longer terms in juvenile court, the Committee has discussed the need to provide specialized training to judges who hear juvenile delinquency and abuse & neglect cases. The Committee has studied and recommends the following training curriculum: *Toward Developmentally Appropriate Practice: A Juvenile Court Training*

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Curriculum, developed by National Juvenile Defender Center in partnership with the Juvenile Law Center; *Ten Things Every Juvenile Court Judge Should Know About Trauma and Delinquency Technical Assistance Bulletin*, published by the National Council of Juvenile and Family Court Judges.

2. Proposed Legislative Amendments

Next, the Court requested that the Committee analyze the Committee's 2012 recommendation for proposed legislative changes to select provisions of the Juvenile Court Act and the Sex Offender Registration Act, including any support and impediments for the proposed amendments.

Increase post-disposition detention time available to judges.

The Committee researched all 50 states to determine the length of post-disposition detention time available to be imposed. A significant number of states, twenty, do not permit post disposition sentences to local detention centers. Some prohibit such sentences altogether, and some permit it in the limited circumstances of the delinquent minor awaiting placement or as a sanction for a probation violation. The information from the other states is set forth below.

The following states prohibit such sentences: Alaska, Connecticut, Delaware, Florida, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, North Dakota, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia and West Virginia. The following five states set a more restrictive time frame than Illinois for post disposition detention: Iowa (2 days), Montana (3 days), New Mexico (15 days), North Carolina (5 days), and Oregon (8 days). The following six states have the same 30-day limitation: Georgia, Maine, Nevada, Rhode Island, Utah and Washington. Colorado permits post disposition detention of up to 45 days. New Jersey permits post disposition detention for up to 60 days. The following seven states have some form of a 90-day limitation: Arkansas, Idaho, Indiana, Kentucky, Mississippi, Ohio and South Dakota. Wisconsin and Wyoming permit post disposition detention for up to 180 days. Alabama and Arizona permit post disposition detention for up to 364 days. California, Hawaii, Tennessee and Vermont allow post disposition detention consistent with maximums set out for adult criminal convictions. Louisiana allows post disposition

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detention, and limitations appear to be handled on a local jurisdictional basis.

After a review of the other state laws regarding the use of dispositional detention, the Committee determined that it will make no recommendations regarding a change to the statute in Illinois.

Sex Offender Registration Act

The Committee continues to study the Sex Offender Registration Act requirements. A new report was recently published by the Human Rights Watch and discusses the negative impact on juveniles who are required to register as sex offenders. The Committee also awaits other pending reports on this issue. The Committee therefore deferred further discussion regarding whether to recommend legislative changes to the next Conference Year.

Mandatory Five Year Probation Term for Forcible Felonies

The Committee attempted to research the legislative history to determine why a minimum five year term of probation was required for forcible felonies. No legislative history on this issue was found. The Committee, however, has been monitoring legislation that has been introduced to eliminate the five year minimum term of probation; however, the bill was not moved forward during the May 2013 session. The Committee recommends that a legislative change be pursued but believes that there are several juvenile advocacy groups actively seeking to accomplish this result in Illinois such that the Committee need not continue its study of this issue.

Court Supervision

The Committee has supported a change in the continuance under supervision provisions of the Juvenile Court Act to allow a judge the discretion to impose a continuance under supervision without the agreement of the State's Attorney. Public Act 98-0062, effective January

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1, 2014, addresses this issue by authorizing a judge to impose court supervision without the State's Attorney's agreement if the court finds certain conditions are met.

3. Sharing of Information

As a final project, the Court requested that the Committee study the procedural and legal barriers to the sharing of information among schools, law enforcement, and the courts – review and recommendations could include an assessment of whether school conduct should be shared with the courts and the appropriate links to records between schools and community law enforcement. In furtherance of this project, the Committee has obtained copies of a standing order from the Superior Court of California, County of Bernardino, which authorizes information sharing among agencies and school districts for children in the child welfare system and an intergovernmental agreement between all of the school districts and the police agencies in McLean County, Illinois, which permits the sharing of information among those agencies. The Committee deferred further discussion on this issue until the next Conference year.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2014 Conference Year, the Committee seeks to update Volume II of the *Illinois Juvenile Law* Benchbook, which addresses proceedings brought in juvenile court that involve allegations of abused, neglected and dependent minors. The Committee requests that it be permitted to address pending projects continued from the prior Conference year. Specifically, the Committee seeks to continue discussing whether to recommend legislative changes to the Sex Offender Registration Act. The Committee also requests that it be permitted to continue its study of the procedural and legal barriers to the sharing of information among schools, law enforcement and the courts. The Committee further requests that, to address the issue of

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diversion of juveniles from the juvenile court system as discussed at the Shaping the Future of the Illinois Courts Conference, it be permitted to examine the Illinois Judicial Canons to consider amendments allowing judges to more actively participate in developing community based programs for diversion and participate more actively in statutorily created Juvenile Justice Councils.

IV. RECOMMENDATIONS

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

2013 REPORT

**ANNUAL REPORT OF THE
COMMITTEE ON STRATEGIC PLANNING
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Michael B. Hyman, Chair

Ms. Carla L. Bender, Clerk
Mr. Timothy L. Bertschy, Esq.
Hon. F. Keith Brown
Hon. Robert L. Carter
Hon. Mark H. Clarke
Hon. Mary Ellen Coghlan

Hon. Neil H. Cohen
Mr. J. Timothy Eaton, Esq.
Hon. Robert G. Gibson
Hon. Shelvin Louise Marie Hall
Hon. Elizabeth A. Robb
Hon. S. Gene Schwarm

October 2013

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I. STATEMENT OF COMMITTEE CONTINUATION

The mission of the Committee on Strategic Planning (Committee) is to initiate, develop, describe, and catalyze strategic goals and objectives that strengthen and improve the operation and work of the Illinois courts, the functioning and efficiency of the judiciary, and the public's perception of and confidence in the Illinois justice system. In this way, the Committee functions as an advisory "think tank" for the Supreme Court in its oversight of the integrity and vitality of the judicial process. Strategic planning is a continuum nurtured by constant attention. The Committee provides a structured approach to the future—both long term and immediate—and allows the Supreme Court to better plan and address any number of challenges posed by a complex social and governmental environment in which there are limited availability of financial and human resources.

For this reason, the Committee requests that it be permitted to continue its work in Conference Year 2014.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Committee Charge

The Committee is cognizant of the Supreme Court's vital roles as protector of individual rights, guardian of the public interest, and supervisor of the state's legal establishment, and how these various roles interplay with the Court's responsibility to provide an impartial, accessible, and efficient forum for the resolution of criminal and civil disputes. By spotting emerging trends and issues affecting the delivery of justice, and by advancing specific objectives and actions to address each trend and issue, the Committee assists the Court to act rather than react to problems,

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complaints, opportunities and risks that are or may soon impact or influence the administration of the Illinois courts.

B. Conference Year 2013 Projects/Priorities

The following subjects represent the projects and priorities assigned by the Supreme Court to the Committee for consideration in Conference Year 2013:

The Court requested that the Committee initiate plans to address issues and solutions regarding the nine strategic areas discussed by the small groups at the October 2012 Annual Meeting of the Illinois Judicial Conference. The structure of the strategic discussion at the October 2012 Annual Meeting was the work of the Committee, and was held only weeks after the Committee was officially recognized by the Court. The reaction of the attendees was extremely positive and the Court requested that the Committee coordinate with stakeholders on planning a Future of the Courts Conference.

The Conference was formally titled: *Shaping the Future of the Illinois Courts Conference: Vision, Values & Strategies*. It was held on April 16, 2013 at the Westin Hotel in Lombard. In assisting the Court with planning the Conference, the Committee reviewed the reports from the small group discussions at the October 2012 Annual Meeting of the Judicial Conference. The Committee combined those discussions into six subject areas (Technology & Automation, Civil Justice, Judicial & Court Performance, Court Funding & Organization, Criminal Justice and Juvenile Justice) and established co-chairs for each topic from the members of the Committee. With the guidance of Justice Michael B. Hyman, J. Timothy Eaton (incoming President of the CBA) and Paula Hudson Holderman (incoming President of the ISBA) acting as co-chairs of the Conference, the Committee assisted the Court with planning the agenda for the

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Conference, which included dividing each of the six topical areas into two or three breakout groups so as to allow more engagement by the participants to discuss objectives and strategies for improvements in each of those topics. Materials relating to each of the six topics were gathered by the Committee and distributed to Conference participants before the event to encourage enriched discussion on each topic during the breakout groups. The Committee also assisted in preparing a survey consisting of statements about each of the six topical areas that was distributed to Conference participants, who were asked to what extent they agree or disagree with the statement. Finally, the Committee offered suggestions to the Court with respect to the invitee list, which included about 277 stakeholders from the judiciary, legal community, representatives from local government as well as state government, bar associations, and non-profit organizations.

Following the Conference, each of the six topical breakout group's summary of objectives and strategies was forwarded to the chairs of the related subject matter Illinois Judicial Conference Committees for consideration and determination of concrete next steps. The Committee reviewed the reports submitted by the other Judicial Conference Committees and submitted its report of next steps to the Executive Committee.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2014 Conference year, the Committee requests that it be permitted to derive strategic plans regarding the following:

1. **Goal:** A realistic, reliable, and comprehensive funding of state courts.
Outcome: Equitable and stable funding of Illinois court system.
2. **Goal:** Illinois court system free of bias and prejudice and sensitive to cultural diversity and needs of *pro se* litigants.

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Outcome: Members of public perceive the Illinois courts as fair and even-handed in its operation.

3. **Goal:** Efficiently and effectively operated court system that maximizes its available resources.

Outcome: Through legislation, restructure current decentralized structure of court system based on 102 counties and 24 circuits.

4. **Goal:** Establish seamless, integrated technology system.

Outcome: e-Filing and e-Records systems usable and readable by any authorized user anywhere in Illinois without regard to differences in software of local e-Filing and e-Records vendors.

5. **Goal:** Improved perception of, and confidence in, courts and judicial system.

Outcome: Public appreciates the work of the judiciary and understands how it operates.

6. **Goal:** Judiciary that is transparent and accountable to public.

Outcome: Greater public confidence and trust in the judiciary.

7. **Goal:** Educate public about the problem and gain public support for enhanced court funding.

Outcome: Public supports adequate and consistent court funding.

8. **Goal:** Judicial competence with technology.

Outcome: Judges use, and are more efficient in their work, due to available technology.

IV. RECOMMENDATIONS

The Committee recommends to the Conference that it forward to the Court for its consideration:

1. In coordination with the Administrative Office, restructure the committees of the Illinois Judicial Conference. Committees should address legal and policy issues in a more comprehensive and coordinated fashion. The Executive Committee would be comprised

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of one of the chairs of each substantive committee and members at large. Its duties would include its present duties as well as serve as the Standing Committee on Court Funding and Organization. Other standing committees would be: Civil Justice, Criminal Justice, Juvenile Justice, Education and Judicial Performance, ADR, Technology & Automation, Strategic Planning, and Equality (See below).

2. Creation of the Illinois Judicial Conference Standing Committee on Equality. This Committee would look at the broad topic of bias and fairness and ways to address any inequities that exist in the legal system and its administration. Today, in America, in Illinois, in our courtrooms, the issue of bias persists. And it is something we the courts should be vigilant in pursuing because it goes to the heart of what justice is all about. Decades ago, many states, including Illinois, formed task forces to look at gender, ethnic, and racial bias. Reports were issued, and then years passed. But old issues remain unrepaired, and new issues have surfaced. We are a multicultural nation, and consequently, we need to ensure the absence of bias in our legal system based on race, gender, sexual orientation, ethnicity, age, disability, and financial status. An IJC Standing Committee on this topic gives the issue the weight it deserves and the attention it needs to make systemic advances.

2013 REPORT

ALTERNATIVE DISPUTE RESOLUTION COORDINATING COMMITTEE

CONFERENCE YEAR 2013

Statement of Purpose:

The Committee shall examine the range of civil dispute resolution processes utilized in other jurisdictions, convene alternative dispute resolution program administrators for the purpose of facilitating informational exchanges to promote program efficacy, and monitor the progress of all court-sponsored alternative dispute resolution programs.

General Charge:

The Committee shall examine the range of civil dispute resolution processes utilized in other jurisdictions and make recommendations regarding programs and various types of dispute resolution techniques suitable for adoption in Illinois, including methods for ongoing evaluation. The Committee shall develop recommendations for implementing and administering dispute resolution programs that remain affordable, appropriate, and provide an efficient alternative to protracted litigation. The Committee shall monitor and assess on a continuous basis the performance of circuit court mandatory arbitration programs and mandatory mediation programs approved by the Supreme Court and make regular reports regarding their operations. The Committee shall develop uniform reporting requirements for circuit courts in the collection and monitoring of statistical information for mandatory arbitration and mandatory mediation cases. The Committee will also examine and develop training programs in ADR techniques and practices to promote consistency in ADR services. The Committee shall also explore the feasibility of expanding ADR into other courts.

COMMITTEE ROSTER

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Hon. Cynthia Y. Cobbs
Hon. Mark S. Goodwin

Hon. David E. Haracz
Hon. LaGuina Clay-Herron
Hon. James Fitzgerald Smith
Hon. Carl Anthony Walker

Associate Members

None

Advisors

Hon. John G. Laurie, Ret.

Kent Lawrence, Esq.

COMMITTEE STAFF LIAISON: B. Paul Taylor

2013 REPORT

COMMITTEE ON AUTOMATION & TECHNOLOGY

CONFERENCE YEAR 2013

Statement of Purpose:

The Automation and Technology Committee shall provide consultation, guidance, and recommendations regarding standards, policies and procedures relating to the use of technology and automation within the judicial branch.

General Charge:

The Committee shall develop general guidelines which promote the effective and efficient use of technology and automation in the trial courts including recommendations for statewide standards, protocols, or procedures. The Committee shall analyze and develop recommendations related to rules and statutory changes that will manage the use of technology within the courts. The Committee's work also includes the review and evaluation of technology applications and their impact on the operation and workflow of the court. The Committee will also research and recommend response protocols to resolve security issues which may affect the use of technology. The Automation and Technology Committee, working in conjunction with the Special Supreme Court Committee on E-Business, shall represent the judges' standpoint for the development and implementation of e-business applications in the Illinois court system, including but not limited to e-filing. The Automation and Technology Committee shall develop general guidelines and statewide standards, protocols, or procedures on the use of e-business in the trial courts, the Appellate Court, and the Supreme Court; analyze applicable rules and statutes and develop recommendations for any changes necessary for the use of e-business within the courts; and review and evaluate e-business applications and impact on the operation and workflow of the courts.

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| Hon. F. Keith Brown | Hon. Douglas L. Jarman |
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Advisors – None

COMMITTEE STAFF LIAISON: Skip Robertson

2013 REPORT

COMMITTEE ON CRIMINAL LAW & PROBATION ADMINISTRATION

CONFERENCE YEAR 2013

Statement of Purpose:

To advise the Judicial Conference in matters affecting criminal law and procedures and the administration of probation services.

General Charge:

The Committee shall review and make recommendations on matters affecting the administration of criminal law and shall monitor, evaluate and provide recommendations on issues affecting the probation system. The Committee will review, analyze and examine new issues arising out of legislation and case law that impact criminal law and procedures and probation resources and operations.

COMMITTEE ROSTER

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| Hon. John E. Childress | Hon. Leonard Murray |
| Hon. Neil H. Cohen | Hon. Mitchell K. Shick |
| Hon. Chrystal L. Gavlin | Hon. Domenica A. Stephenson |

Associate Members

None

Advisors

None

COMMITTEE STAFF LIAISON: B. Paul Taylor

2013 REPORT

COMMITTEE ON DISCOVERY PROCEDURES

CONFERENCE YEAR 2013

Statement of Purpose:

The Committee on Discovery Procedures shall review and assess discovery devices used in Illinois, with the goal of making recommendations to expedite discovery and to eliminate any abuses of the discovery process.

General Charge:

The Committee shall study and make recommendations on the discovery devices used in Illinois including, but not limited to, depositions, interrogatories, requests for production of documents or tangible things or inspection of real property, disclosures of expert witnesses, and requests for admission. The Committee shall investigate and make recommendations on innovative means of expediting pretrial discovery and ending any abuses of the discovery process so as to promote early settlement discussions and to encourage civility among attorneys. The Committee will also review and make recommendations on proposals concerning discovery matters submitted by the Supreme Court Rules Committee, other Committees or other sources.

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Associate Members

None

Advisors

Marc D. Ginsburg, Professor, Reporter
Joseph R. Marconi, Esq.

David B. Mueller, Esq.
Eugene I. Pavalon, Esq.

COMMITTEE STAFF LIAISON: Jan B. Zekich

2013 REPORT

COMMITTEE ON EDUCATION

CONFERENCE YEAR 2013

Statement of Purpose:

Consistent with the purpose and the provisions of the Supreme Court's *Comprehensive Judicial Education Plan for Illinois Judges*, the Committee shall identify the educational needs for the Illinois judiciary and design educational programs that address those needs.

General Charge:

The Committee shall develop and recommend a "core" judicial education curriculum for Illinois judges which identifies the key judicial education topics and issues to be addressed through the judicial education activities each Conference year. This will include identifying emerging legal, sociological, cultural, and technical issues that may impact decision making and court administration by Illinois judges. Based on the core curriculum, the Committee shall recommend and develop programs for new and experienced Illinois Judges. To do so, the Committee shall recommend topics and faculty for the annual New Judge Seminar and Seminar Series, and, in alternate years, the Education Conference and the Advanced Judicial Academy. The Committee in coordination with the Administrative Office will also assess the judicial education needs, expectations and program participation of Illinois judges. The Committee shall also review and recommend judicial education programs, offered by organizations and entities other than the Supreme Court, to be approved for the award of continuing judicial education credits.

COMMITTEE ROSTER

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| Hon. Kathleen O. Kauffmann | Hon. Scott A. Shore |
| | Hon. Ronald D. Spears |

Advisors – None

SUPREME COURT LIAISON: Hon. Mary Jane Theis

COMMITTEE STAFF LIAISON: Cyrana Mott

2013 REPORT

COMMITTEE ON COMPLEX LITIGATION

CONFERENCE YEAR 2013

Statement of Purpose:

The Study Committee shall make recommendations, through proposed rules or other procedures, to reduce the cost and delay attendant to lengthy civil and criminal trials with multiple parties or issues. The Committee shall provide updates as necessary to its Manual for Complex Litigation (Civil and Criminal).

General Charge:

The Committee shall prepare revisions, updates, and new topics as necessary, for the Manual for Complex Litigation, including the maintenance of forms and links to forms provided throughout the Manual.

COMMITTEE ROSTER

Conference Members

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| Hon. Joan E. Powell | |

Associate Member

Hon. Michael J. Sullivan

Advisor

Martha A. Pagliari, Professor, Reporter

COMMITTEE STAFF LIAISON: Jennifer Donahue

2013 REPORT

COMMITTEE ON JUVENILE JUSTICE

CONFERENCE YEAR 2013

Statement of Purpose:

The Study Committee on Juvenile Justice shall review and assess practices related to the processing of juvenile delinquency, abuse, neglect, and dependency cases. The Committee shall provide judges with current developments in the processing of juvenile court cases through up-dating and distributing the juvenile law benchbook (Volumes I and II).

General Charge:

The Committee shall study and make recommendations on the processing of juvenile delinquency, abuse, neglect, and dependency cases; prepare supplemental updates to the juvenile law benchbooks for distribution to judges reviewing such proceedings brought in juvenile court; and, make recommendations regarding training for juvenile court judges on emerging issues of juvenile law identified during the course of the Committee's work on the benchbook or during Committee meetings.

COMMITTEE ROSTER

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Associate Members

None

Advisors

| | |
|-------------------------|--------------------------------------|
| Hon. Patricia M. Martin | Lawrence Schlam, Professor, Reporter |
|-------------------------|--------------------------------------|

COMMITTEE STAFF LIAISON: Jan B. Zekich

2013 REPORT

COMMITTEE ON STRATEGIC PLANNING

CONFERENCE YEAR 2013

Statement of Purpose:

The Committee on Strategic Planning shall provide consultation, guidance and recommendations regarding long-range planning for the Illinois courts.

General Charge:

The Committee will assist the Supreme Court in advancing its goal of an impartial, accessible and efficient justice system by identifying emerging trends and issues affecting the delivery of justice and developing specific objectives, and actions to address each trend and issue. As such, the Committee would also function as an advisory "think tank" to research and offer tactical responses to such matters as future trends, economics, and public policies that will impact the future of courts.

COMMITTEE ROSTER

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Advisors

Carla L. Bender, Clerk
Timothy L. Bertschy, Esq.

J. Timothy Eaton, Esq.

COMMITTEE STAFF LIAISON: Jan B. Zekich

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