

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

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## I. STATEMENT ON COMMITTEE CONTINUATION

The members of the Illinois Judicial Conference Study Committee on Complex Litigation include circuit court and appellate court judges from across the state who possess significant experience in presiding over civil and/or criminal complex litigation cases. The Committee is charged with making 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 and thereby improve the administration of justice in complex cases throughout Illinois. In past Conference years, the Committee has endeavored to create and maintain the *Illinois Manual for Complex Civil Litigation* and the *Illinois Manual for Complex Criminal Litigation* by providing yearly updates and supplements to both volumes. The Committee also has studied and made recommendations on rules, policies and procedures involving complex litigation as requested by the Supreme Court.

For Conference Year 2009, the Court's charge to the Committee contained two continued projects/priorities from Conference Year 2008. First, the Committee was asked to review the IJC Committee on Education *Criminal Law and Procedure Benchbook* and to consider appropriate revisions to the *Manual on Complex Criminal Litigation* so that the two resources remain unique and do not significantly overlap in information. This project was carried over from 2008 and reassigned for Conference Year 2009 as the Committee awaited completion of the Criminal Law and Procedure Benchbook. Additionally, the Committee was asked to revise the ADR chapter in the Civil Manual to add text regarding declaratory judgment cases.

With respect to projects/priorities identified for the current Conference Year, the Committee was charged with (1) drafting text on construction cases for inclusion in the Civil Manual, (2) drafting a Fourth Edition of the Civil Manual, and (3) undertaking any such other projects or initiatives that are consistent with the Committee charge.

The Committee believes that its work continues to be of value to the mission of the Conference and that the Complex Litigation Manuals provide a unique reference for Illinois judges who hear complex cases. As such, the Committee respectfully requests that it be continued as a full standing committee of the Illinois Judicial Conference in order to complete its work on the aforementioned projects.

## II. SUMMARY OF COMMITTEE ACTIVITIES

The following offers a brief summary of the Committee's work on those projects/priorities added in Conference Year 2009, as well as the status of projects/priorities carried over from Conference Year 2008.

**A. Conference Year 2009 Projects/Priorities****1. Draft text on construction cases for inclusion in the Civil Manual**

The Committee engaged in discussions on construction cases and determined this subject would be included in the new edition of the Civil Manual, as discussed below. The Committee concluded that organization and drafting of the new Civil Manual would be the primary focus of the 2009 Conference Year.

**2. Draft a 4<sup>th</sup> Edition of the Civil Manual**

At the beginning of the 2009 Conference Year, the Committee reviewed its prior discussions on the need for a new edition of the Civil Manual on how best to approach this project. The Committee members agreed that, after several years of compiled updates and supplements, the Manual had developed into more of a treatise of substantive law, as opposed to a practical “how to” guide for judges, which was the intent of the original drafters. The members therefore committed to drafting a new edition that redirected the Manual to the original focus. As such, the Fourth Edition will be more condensed, and much of the older informational text, along with some of the substantive discussions on law and procedure considered to be routine today, will be eliminated. For example, the Committee concluded that the current chapter on summary judgment contained very basic information which was not necessary for a complex litigation manual. The Committee agreed that the Manual should assume some level of knowledge on the part of the judge and, in addition, the intent and focus of the Manual should be to provide a unique resource for Illinois complex litigation.

Consistent with its charge, the Committee determined to include a chapter on construction cases, as well as new discussion in the Alternative Dispute Resolution chapter with respect to declaratory judgments. The Committee agreed that the Civil Manual was not lacking in any major subject areas or issues, but the members noted that some sections should be reorganized so that the information flowed more logically.

With respect to planning and process, the Committee determined that the members initially would embark on a collaborative effort to create and finalize a detailed outline for the Manual. Thereafter, subjects from the Civil Manual - and new subjects consistent with the Committee charge - were assigned to each member for outline development. Upon full Committee approval of the proposed chapter outlines, the Professor/Reporter was requested to draft the initial text for the various chapters and forward them to the assigned members for review and editing. The revisions, if any, would then be returned to the Professor/Reporter for inclusion in the draft text. The full Committee would provide a final review to the revised text and, after including any additional changes, the chapter would be finalized.

As part of this discussion, the members considered certain new features which would be helpful to a judge utilizing this type of practical guide when navigating a complex case. The Committee determined that including form orders, which could be downloaded for use by judges, should be included within the chapter pertinent to that subject matter, as opposed to the current use of an appendix. The members also agreed to utilize an “essential elements” section or checklist for the various topics in the Manual, which a judge could review and fill in on a particular case. Additionally, the Committee decided to curtail, or even eliminate completely, the use of footnotes. It was the consensus of the Committee that these new drafting mechanisms would result in a more streamlined, user friendly resource which would allow a judge to more quickly locate and reference information.

As of the drafting of this Report, the Committee had reviewed and approved the draft text of Chapter 1 of the new Civil Manual concerning preliminary problems and pre-trial procedures. The new Chapter 1 conflates and streamlines information currently contained in Chapters 1, 2 and 3 of the 3<sup>rd</sup> Edition. The Professor/Reporter currently is drafting the next chapter on discovery. The Committee hopes to complete much of the Civil Manual during Conference Year 2010.

## **B. Conference Year 2008 Continued Projects/Priorities**

### **1. Review the *Criminal Law and Procedure Benchbook* created by the IJC Committee on Education and consider appropriate revisions to the Criminal Manual**

As part of the Continued Projects/Priorities from Conference Year 2008, the Committee was asked to review the *Criminal Law and Procedure Benchbook* created by the IJC Committee on Education and to consider appropriate revisions to the Criminal Manual. At the initial meeting of this Conference year, the Committee had confirmed that the *Criminal Law and Procedure Benchbook* was still being finalized. As such, the Committee determined that this project would have to be put over to the next Conference year.

### **2. Revise the ADR Chapter in the Civil Manual to Address Declaratory Judgment Cases**

The Committee also was charged with revising the ADR chapter in the Civil Manual to add text regarding declaratory judgment cases. The Committee reviewed the ADR chapter in this regard and determined that it would include the requested text in the revised edition of the Civil Manual discussed above.

In previous years, the Committee was charged with the continuing task to revise and update both the Civil and Criminal Manuals and review the forms contained in the appendixes to both manuals to determine that they are current and remain good law. In light of the fact that the Committee is drafting a new edition of the Civil Manual, no updates were created during Conference Year 2009.

With respect to the Criminal Manual, the Committee anticipates that the IJC Committee on Education *Criminal Law and Procedure Benchbook* will be finalized in the near future and available for review. Upon completion, the Committee will review the benchbook and determine what revisions to the Criminal Manual are necessary to avoid overlap and assure that the Manual remains a unique product. As such, no updates or supplements were created for the Criminal Manual during Conference Year 2009.

Both the Civil and Criminal Manuals will continue to be available in CD-ROM format, which affords users the convenience of downloading with hyperlink and search capabilities.

### **III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

During the next Conference year, the Committee will continue to draft, review and approve chapters on various civil complex litigation issues in order to produce the new Fourth Edition of the Civil Manual. The Committee also anticipates review of the final Committee on Education *Criminal Law and Procedure Benchbook*, when available, in order to make necessary changes to the Criminal Manual and thereby assure that it remains a unique reference for complex criminal litigation, *ie.* a “how to” guide for judges managing complex criminal cases.

The Committee’s new edition of the Civil Manual will include form orders for each chapter and, where appropriate, create uniform orders for use throughout the state. Anticipated revisions to the Criminal Manual also may include creation of uniform orders for utilization statewide.

### **IV. RECOMMENDATION**

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