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Ninth National Court Technology Conference

Innovation • Information • Interconnection



Sept. 13-15, 2005

Washington State Convention & Trade Center
Seattle, Washington • www.ctc9.org

Registration is underway for the Ninth National Court Technology Conference (CTC9) scheduled for Sept. 13 to 15 in Seattle, Washington.

CTC9 represents the largest gathering of court-technology decision makers and covers critical and current issues that relate to applying technology to all aspects of court operations. This year's conference expects to host more than 2,500 court and technology professionals, and 100 of the top technology companies in the country are participating as exhibitors.

This year, CTC will focus on **information** sharing among justice system stakeholders, **innovations** in court sys-

tem and courtroom technologies, and the **interconnection** between technology and court systems. More than 2,500 court and technology professionals are expected to attend, and over 100 of the country's leading technology companies are exhibiting.

Since 1984, the National Center for State Courts has hosted CTC to provide courts the latest information and high-tech solutions for improving their operations. CTC also gives court professionals
(see CTC9, page 5)

To register, or for more information, visit the CTC Web site at www.ctc9.org.

They're Here — Realistic Court Performance Standards

Improving the public's trust and confidence in the justice system presents numerous challenges—one of the most daunting has been identifying the responsibilities for which courts can, and should, be held accountable. State and local courts have long needed a balanced and realistic set of performance measures that are cost effective and practical to implement.

They have been developed. In February, the National Center for State Courts released *CourTools*—

Trial Court Performance Measures, which are now open for review by the Conference of Chief Justices and the Conference of State Court Administrators. *CourTools* is available at www.ncsconline.org.

CourTools outlines 10 court performance measures and guides court managers on their use. This new measurement system, in the works for more than 18 months, can help improve the administration of justice. It offers court managers a few core measures that are practical
(see They're Here, page 5)

E-filing Making Headway into Courts

The time is right for courts to push attorneys to accept e-filing, attorney Michael Arkfeld told the audience gathered in Las Vegas for E-Courts 2004. Arkfeld told the crowd not to be afraid of this emerging and important area of law. Borrowing a quote from the founder of Visa International, Arkfeld explained, "The problem is never how to get new, innovative thoughts into your mind, but how to get old ones out."

For the more than 550 court and legal professionals who attended E-Courts in December 2004, there was no shortage of new, innovative ideas presented to replace the outdated ones. Hosted by the National Center for State Courts (NCSC), this year's conference featured sessions on topics from the Open XML Court Interface project to privacy and security concerns to the use of imaging and PDF documents for e-filing. "The conference showed that electronic filing and the development of automated processes are well on their way to adoption by the courts and the legal systems," said Jim McMillan, NCSC's principal court management consultant.

For the first time, the conference took on a dual approach, with the American Bar Association holding its Lawyering Conference in conjunction with E-Courts. "This created a rich educational environment for all the attendees," McMillan said. For conference materials or pictures, go to www.e-courts.org.

Courts Can Tap into Specialized Consultants through NCSC's New "Of Counsel" Program

The National Center for State Courts recently created an "Of Counsel Consulting Program" to expand its expertise and to better meet the needs of the nation's state courts. The program works by having specialized consultants with a high-level of knowledge and expertise in court operations to work more closely with state courts.

The two "Of Counsel" consultants who have reached agreements with the NCSC include former Michigan State Court Administrator John D. Ferry, Jr., and Ingo Keilitz, president of Sherwood Consulting/CourtMetrics



John D. Ferry, Jr.



Ingo Keilitz

and former executive director of NCSC's Institute for Court Management.

Ferry will focus on children and family issues, problem-solving courts, and court leadership. Keilitz will concentrate in the area of court performance.

American Jury Project Sets Standards for Juries

The National Center for State Courts is playing a role in a new American Bar Association initiative—devising new principles and standards to improve the experiences of jurors in our courts nationwide. A second part of the Initiative is the Commission on the American Jury that will help disseminate these principles as part of a national jury outreach effort.

When Robert Grey became president of the American Bar Association last August, he announced the establishment of an American Jury Initiative. As part of that Initiative, the American Jury Project was created and charged with combining and updating the three sets of jury standards produced by the ABA's Criminal Justice Section, Section of Litigation, and Judicial Division. The aim is to combine existing jury standards into a single updated set of standards and principles. The effort is chaired by Patricia Lee Refo, an attorney from the

Phoenix law firm of Snell and Wilmer and last year's chair of the Section of Litigation. One of the experts called to serve on the project is G. Thomas Munsterman, director of the Center for Jury Studies of the National Center for State Courts and a member of ABA's Commission on the American Jury.

The first draft of these new standards was presented through a set of panels at the National Symposium on the American Jury System held at the Washington and Lee School of Law, Lexington, Virginia in October. Grey served as moderator. Attendees asked questions and offered ideas about the standards. Some issues were put to a vote to get a consensus from the attendees. The standards were also sent to numerous organizations not represented on the project or on the Commission on the American Jury.

(see *American Jury Project*, page 7)

Judicial Independence Forum Draws National Attention

The American Judges Association (AJA), with the support of the National Center for State Courts (NCSC), kicked off its 2004 annual conference with a National Forum on Judicial Independence in San Francisco. The October forum, which was the inspiration of then AJA President Michael McAdam of Kansas City Missouri Municipal Court, brought together experts from around the country—and attracted the attention of *Inside the Law*, a national television series carried on PBS stations.

Through a series of panel discussions, the conference focused on judicial independence at the trial court level, exploring the following topics:

- “Is Judicial Independence a Casualty in State and Local Budget Battles?”
- “Judicial Elections: Are Nonpartisan Selection and Retention Plans Endangered?”
- “Problem-Solving Courts: Do They Create Judicial Independence Problems or Opportunities or Both?”
- “Friends of the Court?: The Bar, the Media, and the Public.”
- “Balancing Act: Can Judicial Independence Coexist with Court Accountability?”

AJA set up the discussion with a special issue of its journal, *Court Review*,

and plans to publish follow-up articles and edited transcripts of the panel discussions.

Panel members included Bill Vickrey, administrative director of the California court system; Kevin Burke, former chief judge of the Hennepin County District Court in Minneapolis; Mary McQueen, president of NCSC; Roy Schotland, professor of law and an expert on judicial elections at Georgetown University, Washington, D.C.; and John Russonello, public opinion pollster and consultant.



Inside the Law's Jack Ford and Judge Michael McAdam

The National Forum on Judicial Independence was supported by a grant from the Joyce Foundation, Chicago.

PBS Show Explores Judicial Independence

Inside the Law, a national public television series, produced a one-hour special program, “Judicial Independence . . . The Freedom to Be Fair,” at the National Forum on Judicial Independence. This special, which is hosted by - Emmy-winning journalist Jack Ford, asks several questions about the U.S. judicial system, including “Do Americans get fair and unbiased justice when they go before the courts?” and “Can judges make decisions fairly outside the fray of special interest groups and politics?” This 60-minute special will be released nationally to PBS stations in March 2005. Please contact your local PBS affiliate to learn when the show will be aired in your area.

Several state court leaders participated in the program, including Chief Justice of California Ronald M. George; NCSC President Mary Campbell McQueen; Judge Gayle Nachtigal, of Washington County, Oregon; and Judge Michael McAdam of the Kansas City, Missouri, Municipal Court and past president of AJA.

New CCJ Resolutions

At the midyear meeting of the Conference of Chief Justices, held in New York City in January, the state court chief justices adopted eight new resolutions that range from opposing legislation that would drastically change the traditional state role in determining ethics, jurisdiction and venue rules in state litigation to supporting the 17th Annual Meeting of

the National Consortium on Racial and Ethnic Fairness in the Courts to encouraging all state courts to support judicial education on implementing the full faith and credit provisions to resolve child custody disputes.

To review these and the other resolutions, please click on <http://ccj.ncsc.dni.us>.

Are Jury Trials on the Path to Extinction?

Jury trials are disappearing. The number of jury trials is falling in both state and federal courts and for both civil and criminal cases. Because the number of filings and dispositions in state courts continue to rise, the NCSC is examining this puzzling and divergent trend in jury trials, and helping to foster a dialogue on the larger questions: How does this trend affect state court operations, and what are the consequences for how disputes are resolved in our nation's courts.

Finding answers isn't simple. The first step is documenting what is known about the trend in trials. While federal courts have closely recorded long-term data trends and maintain solid statistics that confirm the jury trial is vanishing, the state courts picture is hazier. Consider, that at the state level—50 states with at least 50 different ways of doing business and 50 different levels of data compilation—accurate and comparable data is much more difficult to compile.

To address this issue and answer these questions, the Court Statistics Project of the NCSC recently created a "State Court Disposition Trends" database. The current analysis examines 27-year trends—from 1976 to 2002—of trials and trial rates for criminal, civil, and felony cases, and 11-

year trends of trials and trial rates for general civil cases. Data are available from about half the states: 23 for criminal and 22 for civil. To date, the primary finding shows that despite substantial increases in the number of dispositions, the number and rate of jury trials have declined, often significantly, during this time period in nearly all states in the analysis.

In November, the NCSC's annual Justice Roundtable in Washington, D.C. presented these findings in a program titled "The Vanishing Trial: Implications for the Bench and Bar." Chief Justice of Wisconsin Shirley S. Abrahamson, chair of the NCSC Board, introduced the topic to the chief justices and bar and business leaders and Mary McQueen, NCSC president, moderated the lively discussion. The Roundtable represented one of the first steps in opening a much-needed dialogue at the state level.

The Court Statistics Project shows the number of criminal juries in state courts dropped 15 percent in 23 states, and civil juries are down 32 percent in 22 states. This decline mirrors what statistics reveal about federal court trends: the number of civil cases resolved by trial fell



Chief Justice Shirley S. Abrahamson (WI)

from 11.5 percent in 1962 to 1.8 percent in 2002, and since the mid-1980s there has been a 60 percent decline in the absolute number of trials.

Possible reasons for the decline include: increased judicial management and settlement opportunities; a shift of judicial conception of the role from presiding at trials

to resolving disputes; greater use of summary judgment; and development and proliferation of alternative dispute resolution forums.

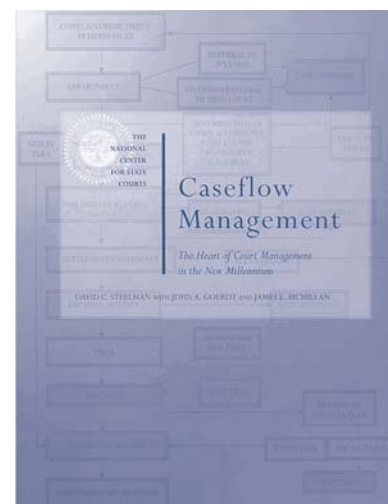
The "State Court Disposition Trends" database is a long-term project, but as more statistics are gathered and analyzed, state courts need to begin considering the potential consequences of the decline in jury trials. These include: effects on precedent and development of public standards for conduct; perceived opportunity for "your day in court"; perceptions of fairness by litigants and by the public; and public education through jury service.

An upcoming issue of the NCSC's *Civil Action* will provide an extended look at "The Vanishing Trial: Implications for the Bench and Bar."

Caseflow Management: The Heart of Court Management in the New Millennium, 2004

NCSC's most in-demand publication, David Steelman's *Caseflow Management: The Heart of Court Management in the New Millennium*, has been revised for a third printing and is now available. The reprint has been redesigned in a user-friendly format, and while the text remains

unchanged, Appendix A has been revised to include the latest version of the Caseflow Management Curriculum Guidelines by the National Association for Court Management. Order *Caseflow Management*, \$27, by calling (888) 228-6272 or by e-mail, ncsc.orders@aidcv.com.



They're Here—Realistic Court Performance Standards

(continued from page 1)

tical and provides a balanced perspective on court operations. *CourTools* is a flexible system for improving court operations, not a method for evaluating judicial performance.

CourTools builds on the Trial Court Performance Standards published in 1990 after three years of work by a 12-member commission of state and local judges, court administrators, an elected clerk of court, and scholars in the area of judicial administration.

Although those 68 standards were a major accomplishment, many courts were overwhelmed by their complexity

and sheer number. For the most part, the standards lacked clear and specific instructions on how to calculate, interpret, and use each measure.

CourTools' 10 measures, by contrast:

- Follow the fundamental mission and vision of the courts in the areas of access and public service, prompt and efficient case administration, and fairness and equality;
- Provide a necessary and important balanced perspective;
- Are outcome focused; and

- Are feasible, practical, and manageable.

In designing the *CourTools*, the National Center integrated the major performance areas defined by the Trial Court Performance Standards with relevant concepts from other successful performance measurement systems used in the public and private sectors. The result is a set of measures that assess the public's access to justice, the fairness and integrity of court processes, caseload management, clerical operations, the enforcement of court orders, jury utilization, the strength of a court's workforce, and the impact that resources have on a court's performance.

The 10 CourTools

- **Access and Fairness** – Ratings of court users on the court's accessibility and its treatment of customers in terms of fairness, equality, and respect.
- **Clearance Rates** – The number of outgoing cases as a percentage of the number of incoming cases.
- **Time to Disposition** – The percentage of cases disposed or otherwise concluded (i.e., resolved, disposed, or concluded) within established time frames.
- **Age of Active Pending Caseload** – The average age of active cases pending before the court, measured as the average number of days from filing until time of measurement.
- **Trial Date Certainty** – The average number of times cases scheduled for trials are rescheduled before they are heard.
- **Reliability and Integrity of Case Files** – The percentage of files that can be retrieved within established time standards, and that meet established standards for completeness and accuracy of contents.
- **Collection of Monetary Penalties** – Payments collected and distributed within established timelines, expressed as a percentage of total fines, fees, restitution and costs ordered by a court.
- **Effective Use of Jurors** – Jury yield is the number of citizens selected for jury duty who are qualified and report to serve, expressed as a percentage of the total number of prospective jurors available. Jury utilization is the rate at which prospective jurors are used at least once in trial or voir dire.
- **Court Workforce Strength** – The percentage of court employees responding positively on workplace survey questions associated with high levels of efficiency, effectiveness, and customer satisfaction.
- **Cost per Case** – The average cost for processing a single case, by the case type.

CTC9

(continued from page 1)

the opportunity to network with some of the world's most innovative thinkers and leading forces in the court technology industry.

CTC9 will feature:

- more than 30 educational sessions on topics from E-filing to integrated justice to how to manage a software development process for court leaders, and more;
- Keynote speakers (to be announced); and
- A portable Courtroom 21, the high-tech courtroom developed by NCSC and the College of William & Mary, which will allow attendees to witness the first courtroom use of fiberoptics connecting all audio, video, and computer technology.

Commitment and Service to Justice System Recognized by NCSC

Profile of Dale Sipes

People don't have to search for words when asked to describe Dale Sipes, formerly of the California Administrative Office of the Courts and NCSC. Committed. Dedicated. Inspirational. A leader. These are just a few of the characteristics that immediately come to people's minds when talking about Sipes.

Sipes and her husband, Larry, recently were recognized for their long-standing service to the justice system by being inducted into the National Center for State Courts' (NCSC) Warren E. Burger Society. The Burger Society recognizes those who have demonstrated an exemplary commitment to improvement in the administration of justice through extraordinary contributions of service or support to the NCSC. Dale and Larry Sipes, along with five other individuals, were inducted into the Burger Society by Supreme Court Justice Anthony Kennedy and Wisconsin Chief Justice Shirley S. Abrahamson, chair of the NCSC Board and president of the Conference of Chief Justices, at the NCSC's Annual Recognition Luncheon in Washington, D.C.

"Dale is an articulate, inclusive, inspirational leader who makes and

implements the tough decisions," said William Vickrey, administrative director of the California courts. "She found the recipe for success early in her life and in her career; she has the perfect combination of ingredients – optimism, intellect, creativity, a sense of fun, and a generous measure of good judgment."

Dale Sipes's work as an NCSC staff attorney and consultant reached courts around the world. She is recognized for her work in caseload management and for her groundbreaking book *On Trial: The Length of Civil and Criminal Trials* (1988). One of her major contributions was helping to establish NCSC's International Program, which has since expanded to offices in eight countries. Linda Caviness, first executive director of the International Program, said, "Dale Sipes was the key to initiating discussions about caseload management, court performance standards, the role of a court administrator, U.S. court structure, funding, and change management with judicial officials around the world. It was her seminal work that is the basis of our program today."

Dale Sipes's commitment to improving justice, however, stretches well beyond her dedication to, and affiliation with, NCSC.

From 1995 to 2001, she was the deputy administrative director of the California Administrative Office of the Courts, which employs 400. In that position, Sipes's responsibilities ranged from Judicial Council governance and secretariat services to statewide trial court strategic planning to the court interpreters program to jury innovation to statewide research services. While at the California AOC, Sipes also served as the assistant division director and managing attorney of the Council and Legal Services Division and as manager of the Trial Court Special Projects Unit.

Vickrey says Sipes contributed greatly to shaping the vision for the AOC. "Dale's strong leadership and personal collaboration with the Chief Justice, with Justice Richard Huffman, chair of the Executive and Planning Committee of the Judicial Council, and with me, were essential in furthering the council's strategic agenda to improve the statewide administration of justice," he said.

The love for the justice system is a Sipes family affair. Her husband, Larry Sipes, is a past NCSC president. In addition to Larry and Dale's substantive, intellectual, and leadership contributions, the Sipeses have generously supported the NCSC with their own personal financial contributions.

Other 2004 inductees into the Warren E. Burger Society include Robert Baldwin, state court executive of Virginia; Michael V. Ciresi of the firm Robins, Kaplan, Miller & Ciresi LLP; William H. Neukom, formerly general counsel of Microsoft Corporation and currently a partner and chair of the Seattle firm of Preston Gates & Ellis LLP; Louise M. Parent, general counsel of American Express; E. Norman Veasey, former chief justice of Delaware and partner with Weil, Gotshal & Manges.



Dale Sipes, U.S. Supreme Court Justice Anthony Kennedy, and Larry Sipes

NCSC's Family Violence Forum Debuts Web Site

A Web site devoted to issues and questions that state courts confront when dealing with family violence is now available at www.ncsconline.org/famviol/index.html.

The Family Violence Forum of the National Center for State Courts developed the Web site to provide state courts one place to go for comprehensive information on all aspects of family violence, including:

- Elder abuse
- Domestic violence
- Workplace domestic violence
- Domestic violence in the military
- Child abuse

- Teen dating
- Bench Book & Tools for Judges
- Multicultural issues
- Protection Orders
- Firearms and domestic violence

The site also provides links to funding opportunities from government and private resources and education and training resources available in the area of family violence. The NCSC Family Violence Forum welcomes your comments, feedback, or suggestions by contacting Madelynn Herman at 800-616-6164 or mherman@ncsc.dni.us.

American Jury Project

(continued from page 2)

According to Munsterman, the format of the 19 standards differs from the previous ones in that each standard is prefaced by a stated principle. Then the standard, using the same number, gives the means by which the principle is achieved or approached. In a few cases, the standard and the principle are the same. "By stating the principle first, the standards are more focused and become the implementation of the higher principle rather than simply a standard that can be viewed as some minimum level of compliance," Munsterman said.

The revised standards were adopted by the ABA House of Delegates at the organization's midyear meeting in Salt Lake City this February.

ABA President Grey also established a Commission on the American Jury, in which Associate Justice Sandra Day O'Connor is honorary chair. The co-chairs include Chief Judge of New York Judith S. Kaye, Manuel Sanchez of Sanchez & Daniels of Chicago, and Oscar Criner, professor at Texas Southern University.

The National Center also is currently undertaking a *National Program to Increase Citizen Participation in Jury Service*, a collaboration that includes the Council for Court Excellence and the Trial Court Leadership Center of Maricopa County (Phoenix). The program works to increase citizen participation in juries in two ways: by bringing forward a series of jury innovations and providing judges, attorneys, and court administrators with the tools and technical assistance needed to implement them, and by promoting public awareness and understanding of jury service. Program members are currently compiling a "state of the states" compendium of jury system requirements and an assessment of the use of jury innovations across the country.



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NINTH NATIONAL
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CONFERENCE



The National Center for State Courts invites you to its Ninth National Court Technology Conference (CTC9).

At CTC9 – the only conference dedicated to court technology – participants will learn how to apply Innovation, Information, and Interconnection in ways that will make their courts operate more efficiently.

Join the more than 2,500 court professionals and over 100 exhibiting companies at the Washington State Convention & Trade Center in Seattle, September 13 - 15, 2005.

For more information and to register go to:

WWW.CTC9.ORG

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Research projects presented in **Center Court** can be found on the National Center for State Courts' Web site at www.ncsconline.org. Locate reports by topic in **CourTopics** or go to the Research Division section and click on Publications.



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Upcoming ICM Courses

March

- 9-11 *Court Performance Standards*, ICM Course, Denver, CO
(satisfies requirement for Phase I of CEDP, CMP)
- 14-16 *Managing Court Financial Resources*, ICM Course, Denver, CO
(satisfies requirement for Phase I of CEDP, CMP)

April

- 13-15 *Managing Technology Projects and Technology Resources*, ICM Course, Williamsburg, VA
(satisfies requirement for Phase I of CEDP, CMP)

May

- 4 *Court Executive Development Program* (CEDP) Phase IV, Washington, DC

For more information, or to register, please call (800) 616-6206 or (757) 259-1809, or click on the NCSC Web site at www.ncsconline.org.

National Program Set for Elected Clerks

Elected clerks of court can explore new ways to manage their office and exchange information at the second National Program for Elected Clerks of Court held by the National Center for State Courts' Institute for Court Management (ICM).

This program is specifically designed for elected clerks of court only. Participants will discuss the duties and responsibilities of the elected clerk of court, trends in court technology, human resource issues, and more. New clerks

will have a unique opportunity to talk with other new clerks in a workshop designed especially for them. A distinguished faculty will include elected clerks from courts across the United States.

The National Program will be held at the NCSC headquarters in historic Williamsburg, Virginia, May 25-27. For more information, call (800) 616-6160. Program registration is available by phone: (800) 616-6206, fax: (757) 564-2100, or e-mail: icmregistrar@ncsc.dni.us.

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