

**ACTL JUDICIARY COMMITTEE –
RESOURCES RE STATE COURT REVISIONS OF CIVIL RULES**

What is in this One Drive folder?

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Or

<https://www.actl.com/home/committees/general-committees/judiciary-committee/resources-state-court-revisions-of-civil-rules/>

To: ACTL Judiciary Committee Members.

This One Drive folder contains a few selected reports, some research and useful information and materials. We believe these can be of use to you for your own information and to be shared with Supreme Court and other judicial committees who are tasked with considering revisions to your rules of civil procedure. These efforts are generally designed to allow trial courts to increase access to the judicial system by assisting in the process of making cases less expensive and more prompt in reaching resolution.

Below is a listing of the enclosed materials with some brief explanations of their usefulness where their focus is not apparent from their title. A few relevant entities are designated by the following initials:

CCJ/CJI – Counsel of Chief Justices/Civil Justice Improvements Committee

IAALS – Institute for the Advancement of the American Legal System;

NCSC – National Center for State Courts;

SJI – State Justice Institute

Because of limitations on the number of characters allowed to identify some of the documents, the following list does contain the documents' full titles, which may be a little longer than the lists you will see when you proceed into the other sections of this One Drive folder.

I. Leading Suggestions for Improvements.

CCJ-CJI – *Call to Action: Achieving Justice for All* – (2016) – Report by Council of Chief Justices urging reform and methods of improving policies and procedures for reform. This report was unanimously approved by the states' Chief Justices.

ACTL-IAALS - *Reforming Our Civil Justice System - A Report on Progress and Promise* – (2015) – Second Final Report with “24 Principles” for reform. This Report was revised following a review of pilot projects undertaken by a number of individual trial courts around the country. The pilot projects were performed to test some of the theories and practices advocated in the initial “Final Report.”

IAALS, ACTL - *Final Report on the Joint Project of the ACTL Task Force on Discovery and IAALS* (2010) – This is the initial Final Report resulting from extensive discussions and debate among members of the ACTL Task Force on Discovery and Civil Justice and IAALS. This version contains the initial set of “29 Principles” proposed for reforming civil adjudication. It was revised in 2015 by *Reforming Our Civil Justice System - A Report on Progress and Promise*.

IAALS - *Creating the Just, Speedy, and Inexpensive Courts of Tomorrow: Ideas for Impact from IAALS’ Fourth Civil Justice Reform Summit* – (2016). This document reports ideas from a conference attended by a substantial, selected group of judges, academics, civil trial lawyers and court personnel to discuss and analyze the status of the civil justice reform efforts of the preceding decade.

II. Preparation for Reform and Fact Gathering.

IAALS, ACTL - *Survey of Experienced Litigators Finds Serious Cracks in U.S. Civil Justice System; Survey* (2008). Published in *Judicature*, Vol. 92, No. 2, September-October 2008. Report of initial extensive survey of ACTL members. This is the report of the initial survey of Fellows of the American College of Trial Lawyers concerning their understandings and concerns about the state of civil justice litigation throughout the country. In many respects, this was the match that lit the wildfire of judicial reform.

IAALS - *Managing Toward the Goals of Rule 1* (2009). A Federal Courts Law Review article discussing the ACTL Survey and lessons to be drawn therefrom about improved judicial case management.

IAALS, NCSC, SJI, - *Transforming Our Civil Justice System: A Roadmap for Reform* – A brief outline of steps and methods of generating and managing reforms.

IAALS – *Change the Culture, Change the System: Top 10 Cultural Shifts Needed to Create the Courts of Tomorrow* (2015).

NCSC – *Civil Justice Initiative – A Questionnaire for State Courts* (2016). A list of issues that may be considered by a state to assist in evaluating policies and procedures appropriate for that state.

NCSC/SJI – *Civil Justice Initiative – the Landscape of Civil Litigation in State Courts* (2014). A national overview of the types of “civil” litigation and their relative sizes or amounts in controversy and the types of courts of limited jurisdiction in each state.

III. Legal and Factual Research.

IAALS - *Rule Reform, Case Management, and Culture Change: Making the Case for Real and Lasting Reform* (2015) – Law review article written by Rebecca Kourlis, former Justice of the Colorado Supreme Court and Executive Director of IAALS and Brittany Kauffman, Director of IAALS' *Rule One Initiative*.

IAALS – *Summary of Empirical Research on the Civil Justice Process – 2008-2013* (2014) – An extensive listing of empirical research on many aspects of civil litigation including pleadings, case management conferences, disclosures, discovery, motion practice, trials, and case differentiation, among others.

IV. Rules, Policies and Practices

Federal Rules of Civil Procedure, Rule 26 and 2015 Comments, effective Dec. 1, 2015. These rules and comments made significant changes to the breadth of allowable civil case discovery and elevate the importance of proportionality in dealing with the scope of discovery.

Colorado Rules of Civil Procedure, Amendments, effective July 1, 2015. One state's efforts to reform its civil rules. Following a four-year pilot for business related civil cases (Civil Access Pilot Project – CAPP), Colorado adopted rules based on the results of the pilot that were positively received and dropped parts that did not prove to be effective. New rules require additional information be provided before initial case management conferences and adopt most federal rules changes to Rule 26 relating to disclosures and discovery.

R. Holme, - *Proposed New Pretrial Rules for Civil Cases [Colorado] – Part I: A New Paradigm* (2015). This article discusses reasons rule revisions are needed, explosion of pilot projects and national efforts at rules reforms, impact of CAPP, and widespread interest in improving access to justice

R. Holme, - *New Pretrial Rules for Civil Cases [Colorado] – Part II: What is Changed* (2015). This article details the specific rules changes and their impact on litigation.

R. Holme – *Back to the Future – New Rule 16.1 [Colorado] – Simplified Procedure for Cases up to \$100,000* (2004). This rule would have sharply curbed pretrial discovery for most smaller dollar, but was rarely used for other than collection cases because it was voluntary. A newly revised and mandatory simplified procedure rule is presently pending before the Colorado Supreme Court.

IAALS, ACTL - *Working Smarter, Not Harder: How Excellent Judges Manage Cases* (2015) – Summary of personal interviews with 27 state and federal trial judges from across the country about their practices and policies for moving cases faster and with less cost to litigants. Their discussions include early assessment of cases and initial case management, streamlined motion practice, and emphasis on collegiality and civility.

R. Holme – “*No Written Discovery Motions*” *Technique Reduces Delays, Costs and Judge’s Workloads* (2013). In collaboration with four trial judges, this article explains the substantial benefits of requiring personal discussions of discovery motions with the judge before written motions are allowed. This was also a substantial theme in “Working Smarter,” above, and now most Colorado trial judges and a substantial number of judges around the country have adopted this practice and are enthusiastic supporters of the requirement.

NCSC – *Civil Justice Initiative – Utah: Impact of the Revisions to Rule 26 on Discovery Practice in the Utah District Courts* (2015). The NCSC undertook a review of cases to examine the effect of the 2011 revisions to Utah’s Rule 26, including reviews of case dockets and files, and interviews with lawyers and judges.

Commission on the Future of California’s Court System: *Report to the Chief Justice* (2017). Contains a series of recommendations for Civil cases; Criminal and Traffic cases; Family and Juvenile cases; Fiscal and Court Administration matters; and Technology enhancements. This One Drive site only includes the Civil Recommendations. (The remaining recommendations consist of more than 200 pages, and are available on the California Judicial Branch web site.)