

**COMMISSION SURVEY ANALYSIS FOR ENVIRONMENTAL LAW SECTION
N=5**

- 1. Are there court services or administrative activities currently performed at the county level that could be performed either regionally, centrally, or Electronically to improve the efficiency or cost-effectiveness of court operations?**

Responses:

1 Yes. The environmental court should have jurisdiction over property disputes which are related to any matters before it. Now often two cases are filed--the appeal of a municipal's panel's decision in E Court and a boundary/easement or related property claim in the Superior Ct. the E Court will the often waits until the Superior ct action is completed and years of time are wasted

2 See Question #2, answer #2.

3 With courts already placed in logistically appropriate locales, any move to consolidate these will serve to discourage some citizens' use of the courts (as the mountainous geography of the state will act as a bar to convenience.)Franklin residents don't want to drive to Chittenden, for example... The functions of the environmental court are already centrally located in Barre, and with only two judges, it seems unlikely that much efficiency can be gained, by a regional approach to it caseload.

4 Yes. All of VT's county and regionally based trial courts (Superior, Family, District and Probate) should be administered by a single entity at the county level.

- 2. Is there technology that could be introduced into the court system that would make judicial operations more cost-effective or improve access to the court system, while at the same time maintaining the quality of justice services?**

Responses:

1 Encourage more phone conferences.

2 All courts should have modern recording systems which allow parties to have instant copies of the recording--a DVD type system.

3 Electronic filing (as used in federal court) would be a good thing, though the larger volume in the state courts may prohibit it.

4 Internal (usually) customized Case Management systems do exist for "cradle to grave" control of docket entries for the court to use when recording various activities on a

case (such as scheduling, dispositions, status etc.) But, while these are useful, the costs of implementation and training are still relatively high.

5 The courts should allow the filing of documents in electronic form.

3. What can be done to allow more flexibility in the use of judicial resources (people, facilities, dollars), particularly as workloads and funding levels increase and decrease?

Responses:

1 In addition to mediators, the courts should appoint special masters--the statute may need to be changed to allow such use without the consent of the parties but such use would save costs for all.

2 1) For trials, make it clear (and make it desirable) that only parts of depositions may be read into the record when the witness is not testifying. The rule actually contemplates that, and it is the efficient federal practice. As it is, however, judge insists that either the whole deposition is read or none of it. This puts counsel in the untenable position of boring judge and jury to tears or leaving out evidence helpful to the client. Reform of the current practice would shorten trials and improve justice. 2) Early, tight scheduling orders would ultimately reduce burdens on courts and litigants. Standing orders could help, as well. 3) Early dispositive motions should be encouraged, bolstered by the Supreme Court's recent decision in Twombly and its progeny (12(b)(6) standard of decision) and the decision a couple of decades ago in Celotex (on standard of decision for Rule 56 motions)

3 Where the funds are available, hire more attorneys and support staff to work the cases. They are the key to flexibility in the system, because the facilities (and their capacity) are relatively fixed.

4. Are there ways in which the types of cases heard in our various courts (superior, district, family, environmental probate, judicial bureau) could be reallocated in a way that would increase the effectiveness of judicial operations or improve court efficiency?

Responses:

1 Whatever you do, rotating judges through the environmental court should be off the table. That court is working very well. Environmental law is a specialty. It is too costly to train enough judges to do the work to allow rotation. With more judges the decisions will be less predictable increasing the risk of development. Finally, the court system has shown that it cannot by itself appropriately allocate resources to the environmental court so that cases will be resolved in a timely way. Left to manage dockets involving e-court cases and other cases, many/most judges require e-court cases to go to the back of the line behind other cases where family safety or liberty interests are

at stake. This slows down economic growth at a cost to our society that is much larger than any small savings you might claim by not keeping e-court cases separate.

2 Small claims jurisdictional amount should be \$10,000 and increase by \$1000 every two years so that in 10 years it would be \$15, 000. Further there should be an accelerated hearing process for civil claims less than \$25, 000 (again with an escalator.

3 A valid response to this question is (honestly) beyond my experience, but there needs to be a certain level of distinct functionality accorded to each court, based on its jurisdiction. A probate court can't really do much with an environmental case, and vice versa....

5. Please suggest other ideas that would enhance the efficient and effective delivery of judicial services to Vermonters.

Responses:

1 Reduce investment in court officers and security. I don't think it is necessary to have two security officers present for a bench trial where no violence is anticipated as was the case for an environmental court case I had in St. Albans. Eliminate side judges. Consolidate administration of court houses and eliminate as possible.

2 Mandatory pro bono services of at least 25 hours years for all attorneys.

3 Eliminate the office of Assistant Judge. The administrative duties can be handled more efficiently by a staff person (reducing the headcount in the courthouse by 1). The lay-judicial functions are an anomaly in this day and age.

4 Advise the state's lawmakers that cutting Vermont's judiciary spending plan by \$1 million in the next budget cycle is a very shortsighted approach to balancing the budget, especially when current economic realities are threatening to increase criminal activity... Also, the notion of consolidating state and county courts is similarly imprudent; but, if a truly centralized court system is in the future, then it would have to encompass ALL the courts, not only civil and criminal... but I would not like to see this. All vestiges of Vermont's long and storied legal heritage would thus be wiped away.