

Vermont Commission on Judicial Operation Meeting June 11, 2009

Chittenden County Bar Association

Facilitator: Bob Paolini

Note Taker: Elise Milne

Bob Paolini asserted that the order of the day would be to discuss the survey previously sent out, and the four questions it addressed via a roundtable discussion.

Chief Justice Reiber introduced the theme of the meeting to be a brainstorming session on the restructuring of the court system. This address requires not only a re-evaluation of the fiscal state of the courts system, but also the awkward and cumbersome structure it has fallen into. Centralized authority is required for this restructuring to take place. The Chief Justice acknowledged the problem to require political action; the hope is to have legislative motion by October towards this restructuring.

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

Centralization was extensively discussed with regards to a potential e-filing system. A centralized e-filing system could eliminate the inefficiencies of various autonomous filing practices in counties across the state. The notion of uniformity across the state was central to the discussion.

The issue with physical regionalization discussed was accessibility; if a lawyer had to drive very far to get to court, at what point does it become not worth it for the client with a small to medium sized case?

It was suggested that the very small rural courts not be closed, but be limited to fewer opening hours.

It was noted that until consolidation at the trial level has been reached, further innovation would be disadvantaged.

They also felt that some buildings are not used to their full potential. Mending this problem could fix extra expenditure.

Question 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?

The consensus across the group was that e-filing was a good idea. Easily accessible documents, audio and video were also discussed. It was noted that there is an issue with uniformity across the county filing systems. A centralized e-filing system was concluded to be an appropriate step forward. Furthermore, with particular regards to family law, a certain professionalization and institutionalization of the filing system to limit the information which might be filed

The use of technology was furthermore discussed with regards to video testimonials and so forth. Specifically, cutting down on transportation costs and minimizing expert fees. There is currently only one courtroom in the state of Vermont that is fully equipped with video technology. It was suggested that a limited number of courtrooms equipped as such be set up across the state.

Appropriate technology must be bought; there is no need to be purchasing videotapes on which to document.

The group also felt that audio recording might be lacking. It fails to communicate all of the non-verbal aspects of human expression.

Question 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?

The overall consensus seemed to be that the best way to combat a fluctuating environment is with a unified court system so as to address issues as a united front.

The group felt that cases being brought to trial quickly took precedence over the judge being from the county. Thus, a traveling core of judges might be considered. The issue with this which was discussed was that a certain case might be tried differently by a judge from an extremely conservative district than it would be by a judge from the district which would traditionally have tried the case.

Complaints that were made included how long it might take civil cases to come to trial. It was also noted that some cases, such as divorce cases, might benefit from taking longer to come to trial. Thus it would be impractical to apply a six-month limit on cases across the board, for example. Perhaps limits could be put on how long cases could take, or how many questions might be asked.

A “horizontal” approach was proposed towards uniting the various courts across the state as an alternative to regionalization. It would be possible to create divisions within these state-wide courts.

One argument made against regionalization was that with regards to elder law in particular, it is impractical and inconvenient. As the Vermont population ages, this is something to keep in mind.

Question 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?

The group was most divided on this point. Some felt that the current system is satisfactory with regards to this matter, others felt that specialization judges were a good idea, well others still questioned the effectiveness of specialization.

It was noted that from the point of view of elder law, it makes sense to keep the probate court autonomous.

Summation

Something has to be done about the current state of the court system. As it is, rational choices cannot be made. The transition will be a difficult one to achieve. The desired end is a constitutional, unified and just court system for the state of Vermont. This will most easily be achieved via a grassroots movement. The movement however, must be unified and lead by the Vermont Bar Association.