

Civil Justice Initiative: A Guide to Building Civil Case Management Teams

In July 2016, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) endorsed the Report and Recommendations of the CCJ Civil Justice Improvements Committee. The 13 recommendations are intended to reduce cost and delay in civil litigation and improve customer service to litigants. Specifically, the recommendations envision a civil justice system in which courts provide active and continuing oversight of civil cases proportionate to case needs.

Recommendation 7 proposes a radically different staffing model for civil case processing that delegates substantial responsibility for routine case management to specially trained professional staff supported by effective case technology. The civil case management team (CCMT) model permits judges to focus on tasks that require uniquely judicial training and expertise. CCMTs also provide additional support and oversight to civil dockets, which can be especially helpful on high-volume dockets such as debt collection, landlord/tenant, and small-claims calendars.

This *Guide to Building Civil Case Management Teams (CCMT Guide)* describes case management tasks that court staff should be trained and empowered to undertake under the supervision of one or more judicial officers. It provides a checklist of questions for courts to inventory existing staffing and technology resources. It also provides guidance about the necessary training staff will need to function effectively and recommends steps for successful implementation at different levels of the court system and across a wide variety of political and organizational settings. State and local court leaders should use the *CCMT Guide* to plan and carry out the court's transition to the CCMT model and to develop training modules for judges and court staff.

RECOMMENDATION 7

Courts should develop civil case management teams consisting of a responsible judge supported by appropriately trained staff.

7.1 Courts should conduct a thorough examination of their civil case business practices to determine the degree of discretion required for each management task. These tasks should be performed by persons whose experience and skills correspond with the task requirements.

7.2 Courts should delegate administrative authority to specially trained staff to make routine case management decisions.

WHAT IS "CASE MANAGEMENT" UNDER THE CCMT MODEL?

Case management is much more than simply tracking case filings, clearance rates, or time to disposition. It refers to the entire set of actions that a court takes to monitor and control the progress of cases, from initiation through trial or other disposition, as well as completion of all post-disposition work, to ensure that justice is done promptly and cost-effectively.

Implementation Tips

1

Change can be frightening, especially when people's jobs are at stake. It is important first to ensure that the long-range vision and the more immediate goals and objectives of the CCMT implementation process are clearly communicated to the affected court staff. The CCMT model is not an exercise in downsizing the workforce, but is focused on building the capacity of the workforce to perform more effectively, and ultimately enhancing the respect and dignity of their role in the judicial process. Constructively engaging staff in the process from the beginning, and incorporating their relevant input, will help the court develop a better plan and will reduce opposition or resistance from key stakeholders.

2

Inventory the existing administrative resources that will become the building blocks for reengineering how the court manages civil cases.

3

Develop a comprehensive plan that identifies policies and business practices specifying the scope of responsibility for each tier in the CCMT model, identifying technology tools to support the CCMT model, and developing the curriculum for judicial and staff training. Statewide rules should provide sufficient flexibility to accommodate workforce considerations in local courts.

4

Fashion a judicial leadership structure to oversee implementation to ensure that appropriate policies are developed and implemented, and goals met.

5

Implement the CCMT model incrementally across the civil docket. Developing technology tools and business practices for discrete case types (e.g., small claims, landlord/tenant) or case characteristics (e.g., uncontested cases) allows judges and court staff to develop confidence in their respective roles and to establish productive working relationships before moving forward with more complex case types and case management.

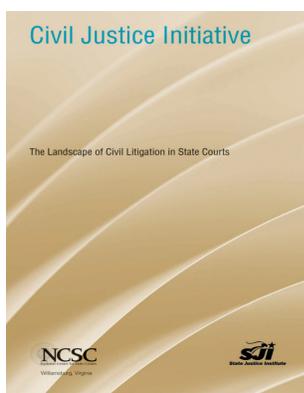
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Develop a compensation structure that matches new, higher skill levels as the court retrains its existing workforce. As the implementation process gets underway, ensure that state and local policymakers recognize and begin to plan for increased compensation for court staff. At the same time, as the use of technology increases, plan for staff reductions through attrition. Develop a reduction-in-force communication plan for internal personnel and external stakeholders.

Conduct an Inventory of Administrative Resources

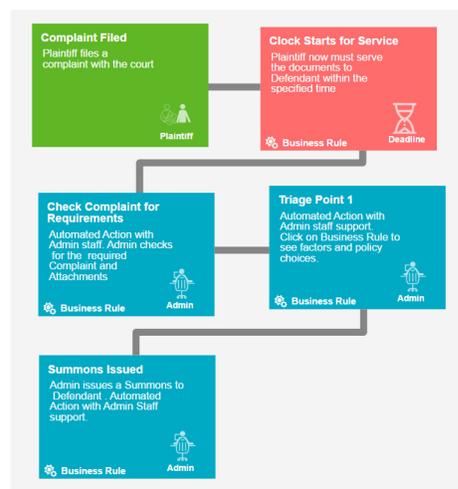
Courts do not have the luxury of scrapping their entire administrative and technological infrastructure and designing a new one from scratch. Instead, courts should view existing court staff and technology as the basic framework for building a more effective civil justice system. Most courts will need to allocate resources toward improvements in both areas to achieve the desired results of the CCMT model. Conducting an inventory of the existing administrative infrastructure will help guide courts toward making the most effective investments. This inventory should also take account of characteristics of the existing civil caseload and of the court's governance and operational structure, both of which will affect the ease with which improvements can be introduced.

WHAT IS THE CIVIL CASELOAD AND HOW IS IT CURRENTLY MANAGED?



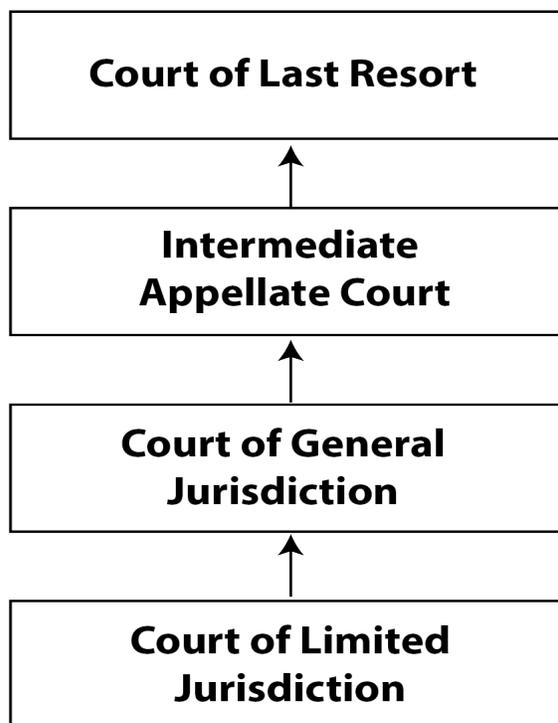
A necessary first step in the CCMT implementation process should be assessing the court's existing civil caseload and how the court currently manages that docket. The court's jurisdiction over civil cases will certainly be a substantial factor in the specific tasks that administrative staff will need to assume under the CCMT model. For example, a limited-jurisdiction court with exclusive jurisdiction over small-claims and landlord/tenant cases will involve different case management needs than a general-jurisdiction court with jurisdiction over tort and real-property cases or a specialized commercial or complex-litigation court managing high-value business cases. Documenting the composition of the civil

caseload and key characteristics, such as time to disposition, the representation status of litigants, and the manner of disposition, will help the court identify specific tasks that staff could undertake to improve civil case processing. Similarly, courts operating under a master calendar will have different case management needs than courts operating under individual calendars. Documentation of the rules and business practices that the court employs to manage civil cases will identify specific stages in the litigation process in which targeted attention from the court would most reduce cost and delay in civil litigation. Detailed instructions and tools to assist in these assessments are available at www.ncsc.org/civil.



HOW WILL THE COURT'S GOVERNANCE STRUCTURE AFFECT THE CCMT IMPLEMENTATION MODEL?

Key questions include whether administrative staff are state or local employees; whether they are funded and are ultimately accountable to judicial leadership or to an independently elected clerk of court; and whether those positions are subject to civil-service protections or organized-labor contracts. When supervisory authority over court administration is diffused across multiple segments of the court system, implementation of the CCMT model will necessarily involve additional time and resources to effectively engage relevant stakeholders in the process. However, by engaging all stakeholders in creating a systemic response, new opportunities for efficiency and engagement in the courts' work may emerge from the various viewpoints that had previously operated independently and with limited consultation.



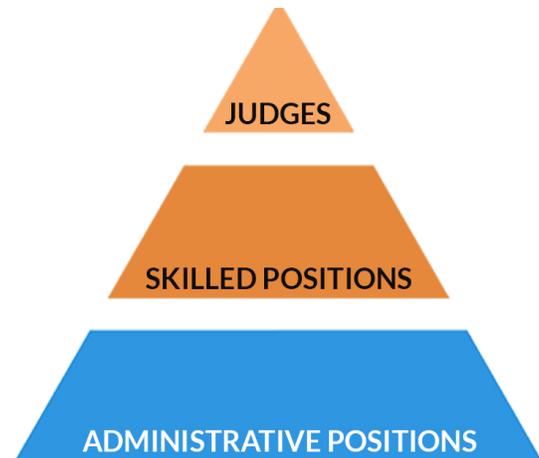
WHICH JOB POSITIONS IN THE COURT'S ADMINISTRATIVE STRUCTURE COULD BE EASILY AND EFFECTIVELY ASSIGNED RESPONSIBILITY FOR PERFORMING CASE MANAGEMENT TASKS?

Court staff perform a wide range of tasks, including case initiation and file management; clerical operations; communication with attorneys and self-represented litigants; legal research; in-court support; and even court security. As technology becomes more robust, especially for tasks related to case initiation, file management, and clerical operations, the CCMT model envisions court staff taking a greater role in case management. A thorough assessment of the core responsibilities of relevant court staff positions will enable courts to identify the positions that can best assume that role. In conducting this assessment, it is important to recognize opportunities to improve processes and procedures through technology and restructuring, as opposed to simply replicating existing processes. To that end, it is important to have all users/stakeholders involved in this assessment. The assessment should document the existing educational and work-experience requirements for each position, compare compensation and benefits to similar positions in government or private employment, and appraise the educational and professional qualifications of the existing workforce from which courts can identify competent staff. Descriptions of key case management tasks for administrative and skilled court staff are provided on the following pages.



Tiers of Case Management Responsibility

The CCMT model consists of distinct tiers of responsibility over civil case management. Trial judges inhabit the topmost tier, performing tasks that require their unique skills and legal expertise, such as conducting trials and hearings, deciding and entering court orders in response to contested motions, and providing oversight and guidance to lawyers and parties in complex cases that need individualized attention. Skilled and administrative court staff perform routine case management tasks based on established rules and business practices under the direction and guidance from judges.



ADMINISTRATIVE TIER

Court staff employed in the administrative tier of the CCMT should be assigned case management functions that are not or cannot be automated, but involve limited discretion and are guided by clear, objective decision-making criteria, such as:

- Scheduling cases for trials or other court hearings;
- Making preliminary pathway assignments for new cases;
- Monitoring case compliance with established deadlines and generating the appropriate response when deviations occur;
- Reviewing cases in preparation for court hearings to ensure that judges have complete information on which to make decisions;
- Communicating with lawyers and parties to verify compliance with meet and confer requirements;
- Preparing court orders for judicial signature and delivery; and
- Gathering, documenting, and sharing relevant information with skilled court staff and judges.

COMMON JOB TITLES FOR ADMINISTRATIVE TIER POSITIONS:

Court clerk	Judicial secretary
Judicial assistant	Court bailiff

Qualifications for entry-level administrative positions should include a college degree (BA/BS) or equivalent work experience; more senior-level administrative positions require demonstrated skills and knowledge of case management.

SKILLED TIER

Court staff employed in the skilled tier of the CCMT should be assigned case management functions that involve greater discretion or require more specialized legal knowledge or training, such as:

- Reviewing and acting upon case management issues raised by administrative staff;
- Reevaluating initial case triage assignments based on changed circumstances;
- Investigating and making recommendations concerning uncontested motions (e.g., extension of time);
- Drafting case management orders based on the joint case management report and judge's references;
- Generating standard court orders and developing case management plans based on identified case types or case management issues;
- Reviewing substantive or dispositive motions, highlighting legal issues for judicial attention, and drafting court orders and options.
- Developing a case management plan based on identified case types and/or case management issues;
- Monitoring docket-wide compliance with established standards/expectations based on case triage (e.g., making sure that the majority of cases go to trial on the scheduled trial date);
- Ensuring the quality and accuracy of information entered onto CMS or judicial dashboards, analyzing information to identify case management trends, and communicating information the CCMT members to improve civil case processing; and
- Assessing civil case processing on an ongoing basis for continual improvement.

COMMON JOB TITLES FOR SKILLED TIER POSITIONS:

Case manager	Law clerk
Court program specialist	Staff attorney
Court services officer	

Qualifications for skilled tier positions should include a college degree (BA/BS), a strong preference for individuals with paralegal training or a law degree, and demonstrated skills and knowledge of case procedures and management.

USE OF VOLUNTEERS AND TEMPORARY STAFF

Some courts supplement their workforce with interns, law clerks, and volunteer attorneys, who are assigned a variety of case management tasks to match their respective education and expertise. These resources can provide helpful support for civil case management, but because most of the individuals in these positions are highly transitory and may consume significant training resources while compromising consistency, courts should not rely on them to become the permanent infrastructure for civil case management.

THE ROLE OF AN EFFECTIVE CASE MANAGEMENT SYSTEM (CMS)

The CCMT model is premised on the existence of CMS technology that accurately captures and reports on case information and status with sufficient specificity to alert judges and court staff when cases require targeted attention, what the specific issue is, and what action may be required to move the case toward final resolution. Implementing that level of functionality in the CMS allows courts to utilize the full array of talents and expertise of court staff. The [CJI Automated Civil Triage and Caseflow Management Requirements](#) provides a detailed description of optimal technology requirements at the current time for Civil CMS automation (available at www.ncsc.org/civil).

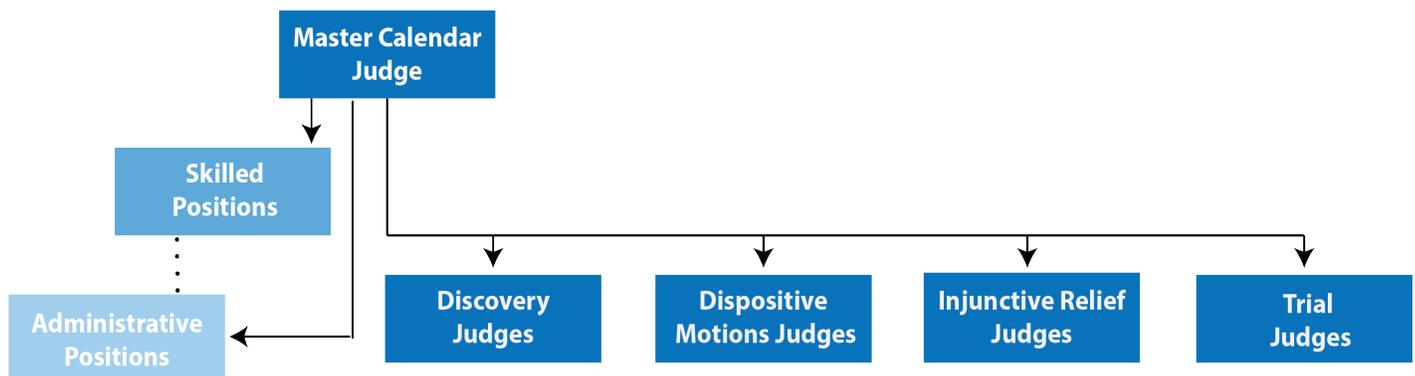
Organizational Structure

Courts employ many different organizational structures to meet the unique demands of managing civil caseloads. The relative size and characteristics of the civil caseload are also important factors. As a general rule, the focus of the skilled and administrative tiers of the CCMT should ensure that the case continues to move toward final resolution, allowing the judge to focus on discrete decision points in the life of the case that require the judge's unique skills and expertise.

The descriptions and organizational charts below illustrate some of the most common structures, but these are intended to be suggestive rather than determinative. Likewise, these illustrations do not provide specific guidance on the appropriate ratio of administrative to skilled positions, or skilled positions to judges. That ratio should be based on the scope of responsibility for each position. That is, if the scope of responsibility is extremely broad, the court will need more of those positions in relation to other positions on the CCMT. Conversely, if the scope of responsibility is fairly narrow, the court will need fewer such positions. As a practical matter, the supply of qualified individuals for administrative positions is likely to be considerably greater than that for skilled positions, and the costs commensurately lower, which suggests that administrative positions will ultimately outnumber skilled positions.

MASTER CALENDAR COURTS

Many courts, especially those in urban areas with comparatively large civil caseloads, employ a master calendar system. A master calendar judge serves in a screening and triage capacity, assessing motions as they are filed in court, and directing them to the judge assigned to hear those types of motions (e.g., discovery, dispositive, pretrial, etc.). Depending on the volume of cases, one or more administrative and skilled positions are assigned to the master calendar judge to ensure that all relevant information is available before the master calendar judge assigns a case out for decision on a motion or for trial. The CCMT assigned to the master calendar judge also monitors cases to ensure they are progressing according to schedule.



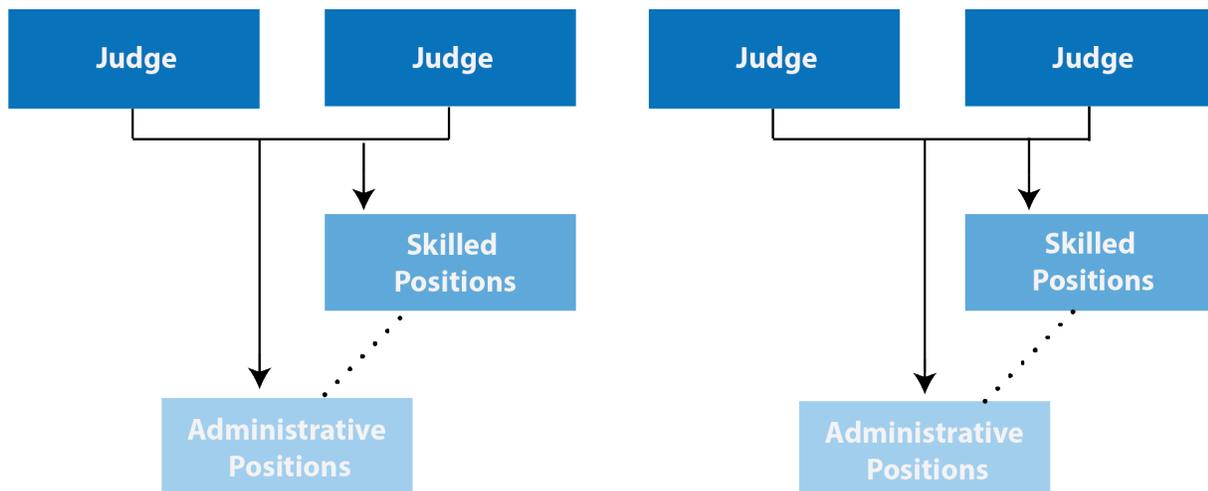
HIGH-VOLUME CALENDARS

Debt-collection, landlord/tenant, and small-claims cases comprise more than half of civil caseloads nationally and share several common characteristics. They typically involve relatively uncomplicated claims that require little discovery or formal motion practice. Comparatively large proportions of these cases are uncontested. The vast majority of defendants are unrepresented by counsel. Most courts assign these cases to specialized “high-volume” calendars. Ironically, a larger proportion of these cases are disposed by trial, which tend to be extremely brief and highly repetitive events. Judges assigned to these calendars spend more time on the bench and commensurately less time in chambers deciding motions, writing opinions, or engaging in case management tasks with individual cases. In these courts, the CCMT would be responsible for ensuring that uncontested cases make steady, timely progress to resolution and were reviewed for compliance with substantive requirements for the relief sought, assuring that judges have sufficient and accurate information on which to make decisions during hearings or in response to default or summary-judgment motions.



INDIVIDUAL CALENDAR COURTS

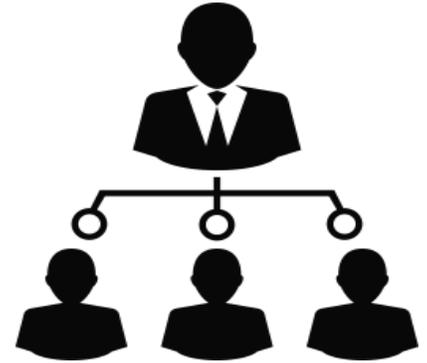
Courts that employ an individual calendar system assign cases at filing to an individual judge for the life of the case. In this system, the CCMT would typically consist of a skilled position supporting multiple judges. An administrative position would be assigned to each judge, and would work closely with the respective skilled position. One disadvantage of this model is the tendency of CCMT members being perceived (and perceiving themselves) as the judge’s personal staff, which can result in inconsistent case management practices across the civil division. Some courts have addressed this problem by tasking skilled positions with managing specific stages of litigation (e.g., pleadings, uncontested, contested). A well-designed systemic approach that takes full advantage of technology ensures consistency and continuity across individual calendars while still affording individual judges the discretion required for judicial decision making. This approach also offers the benefit of cross-training for administrative and skilled positions.



CCMT SUPERVISION WITHIN THE ORGANIZATION STRUCTURE

Courts with a comparatively larger CCMT workforce should provide sufficient supervision to skilled and administrative positions. Individuals employed in supervisory positions would not necessarily be directly involved in managing cases or parties, but instead would be tasked with the following responsibilities:

- Ensure consistency in procedures among administrative and skilled positions;
- Provide training to administrative and skilled positions;
- Serve as liaison between the CCMTs and the IT division to ensure meaningful feedback on CMS automation;
- Develop workload priorities based on observed caseload trends; and
- Participate in hiring, performance reviews, and disciplinary action for CCMTs.



Qualifications for supervisory positions should include the required qualifications for the positions under supervision, training or expertise in human resource management, and demonstrated supervisory experience.

CCMT Training

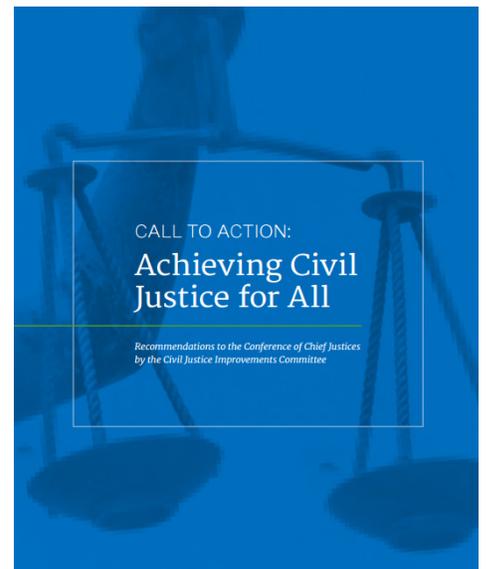
Courts should provide individual and team-based training to persons in administrative and skilled positions. The primary objectives of this training are ensuring that court staff have the requisite skills and knowledge about effective and consistent case management to perform essential job responsibilities and providing training for staff to advance to more senior CCMT positions. A primary goal is to transform the staff orientation from a task-focused to a case-focused viewpoint, and ultimately to a docket-focused viewpoint. Cross-training for administrative and skilled positions develops a more robust workforce, helps identify staff skill sets, and encourages innovation. Training modules should be developed addressing three discrete areas of staff responsibility:

- **Jurisdiction-specific training**, such as CMS functionality and mandatory reports and procedures;
- **Case-specific training** about filing requirements for specific case types and motions (in many jurisdictions, courts can develop checklists for staff to consult when performing case-related tasks); and
- **General training** on the fundamentals of civil procedure, case management, team-based management, supervisory skills, and ethical standards for court staff.

Trial judges are an integral part of the CCMT model and should also receive training to ensure a smooth transition. **Judicial training** should include fundamentals of civil case management and strategies for effective team management. Investments in judicial training can also help prevent judges from introducing idiosyncratic practices that undermine the consistency and effectiveness of the underlying framework the court is trying to implement.

In July 2016, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) adopted 13 recommendations designed to secure the fair, speedy and inexpensive resolution of civil cases in state courts. The recommendations present a comprehensive framework that features:

- A Pathway Approach based on the concept of proportionality in which both civil rules and court resources are matched to the unique needs of each case;
- A radically different staffing model for civil case processing that delegates substantial responsibility for routine caseload management to specially trained professional staff, supported by effective case automation, permitting judges to focus on tasks that require their unique training and expertise; and
- A renewed focus on high-volume calendars that comprise the vast majority of contemporary civil caseloads, especially improved access for self-represented litigants, and greater attention to uncontested cases and greater scrutiny of claims to ensure procedural fairness for litigants.



Background and Acknowledgments

With generous support by the State Justice Institute, the National Center for State Courts and the Institute for the Advancement of the American Legal System are partnering on a three-year project to implement the CJI Recommendations. The CJI Implementation Plan is a multipronged effort that includes assistance in strategic planning for state judicial leadership; education and technical assistance for state and local courts; evaluation of demonstration pilot projects to document the impact of best practices; and the development of practical tools and instructions on effective implementation efforts.

This ***Guide to Building Civil Case Management Teams*** was developed by the NCSC with assistance from Judge Jennifer Bailey (Administrative Judge, Circuit Civil Division, Eleventh Circuit Court of Florida), Rob Parkes (Human Resources Director, Utah Administrative Office of the Courts), and Kevin Wolfe (Assistant Director, Civil Practice Director, New Jersey Administrative Office of the Courts). The NCSC is grateful for their willingness to provide time and expertise to this project.



For more information about the CJI Implementation Plan, visit www.ncsc.org/civil or contact the Project Director, Paula Hannaford-Agor, at phannaford@ncsc.org.

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