PRESS RELEASE

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Solutions to Address the Problems of America's Ailing Civil Justice System Announced

On March 11, 2009, the Institute for the Advancement of the American Legal System (IAALS) at the University of Denver and the American College of Trial Lawyers (ACTL) Task Force on Discovery released Proposed Principles designed to treat the nation's ailing system of civil justice.

These Proposed Principles were developed in the wake of key findings distributed last fall, which underscored mounting concern about the functionality of the United States civil justice system. In a national survey of Fellows of the ACTL, an invitation only organization of the best of the Trial bar in the U.S. and Canada, alarms were sounded over the impact of disproportionate cost and delay on justice in America.* Survey respondents overwhelmingly concluded that the cost of litigation was impeding the fair resolution of cases and some deserving cases were not being brought because they failed a rational cost-benefit test.

The recommendations included in the *Final Report on the Joint Project of the ACTL Task Force on Discovery and the Institute for the Advancement of the American Legal System* were also informed by comprehensive analysis of previous reform efforts in the U.S. and abroad, existing scholarship, and the extensive experience of civil justice system experts and practitioners associated with the project. The two groups undertook research and developed the Proposed Principles over an 18 month period.

In its *Final Report*, IAALS and the ACTL Task Force on Discovery have proposed a set of 29 Principles that may one day underpin the transformation of civil procedure in federal and state systems throughout the United States. It is expected that their release will provide the platform for an energetic, national debate that may culminate in constructive action. An overview of those recommended Principles follows:

- The traditional "one size fits all" application of uniform rules to all cases, irrespective of nature and scope, no longer works; *flexibility in applying specialized procedures to some cases should be permitted to promote more efficient and affordable outcomes;*

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*In September 2008, the two organizations released the *Interim Report & 2008 Litigation Survey of the Fellows of the American College of Trial Lawyers.* This report is available on the websites of both organizations.

- The current system of pleading fails to provide an efficient mechanism for establishing claims or setting limits on the scope of discovery or trial; *notice pleading should be replaced by fact-based pleading;*

- Discovery costs far too much and has become and end in itself; *discovery should be limited by proportionality, taking into account the nature and scope of the case, relevance, importance to the court's adjudication, expense and burdens;*

- The number of experts and the process for deposing them often significantly drives up costs; *except in extraordinary cases, only one expert witness per party should be permitted for any given issue;*

- Rotating judges managing a single case can undermine clarity and consistency; *a single judicial officer should remain with a case throughout its life cycle.*

The Final Report is available in its entirety on the websites of both organizations.

Next Steps

IAALS and the ACTL Task Force on Discovery are committed to pursuing solutions that will have a real-world impact. The deepening economic crisis adds urgency to our reform efforts as courts across the country are forced to curtail services, just as their dockets are being swamped by recession-related civil cases. In the months ahead, our two organizations will work hard to support implementation of these Proposed Principles through pilot projects in civil justice systems in the United States.

About our organizations:

The Institute for the Advancement of the American Legal System (IAALS) at the University of Denver is a national, non-partisan organization, dedicated to improving the process and culture of the civil justice system. IAALS provides principled leadership, conducts comprehensive and objective research and develops innovative and practical solutions in the pursuit of a more transparent, fair and cost-effective system of justice in the United States. **For more information, visit www.du.edu/legalinstitute.**

The American College of Trial Lawyers is an honorary association comprised of experienced trial lawyers in the United States and Canada who have mastered the art of advocacy and those whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. The College is dedicated to furthering the administration of justice and improving the ethics and standards of the trial profession. The College's Fellowship represents all branches of trial practice, enabling the organization to speak with a balanced voice on important issues affecting the legal profession and the administration of justice.
For more information. visit www.actl.com.