

A MESSAGE FROM THE CHIEF JUSTICE

There is a true cost of justice – the risk associated with a governmental system lacking fair and impartial courts. At a time when the benefits afforded by the courts' role in enforcing legal protections are most critically needed, our courts face serious challenges undermining their ability to enforce the rule of law. When Vice President Joe Biden spoke to the Conference of Chief Justices during its meeting in Wilmington, Delaware in 2012, he referred to “American Exceptionalism,” observing that “the truly exceptional aspect of our American democracy is our deep commitment to the rule of law in our courts.” He further commented that “until nations embrace the rule of law where a business can be sure that its intellectual property will be protected and its citizens are free to speak their minds, those nations will never fully realize their true potential.”

The risks appear even greater when we consider the enormous value that our courts bring to our governmental system and society. Besides the courts' role as protector of the rule of law, Delaware courts offer the practical reward of the substantial revenue brought to the State of Delaware by business entities, and the related economic activity generated because business leaders choose Delaware Courts for determination of business disputes. Including income and franchise taxes and fees from business entities, UCC filings, and abandoned property, it is estimated that more than \$1.5 billion in FY 2012, representing 40% of the State's operating budget, can be attributable to the Delaware Judiciary. In addition, the Delaware Courts contributed another \$13.5 million in state revenue in FY 2012 through filing fees and costs paid by litigants. An important resource to ensure compliance with court orders is the Office of State Court Collections Enforce -

“Although recent fiscal challenges have placed enormous strains on the Delaware courts and they have suffered setbacks, they remain undaunted, nimbly adjusting court practices and approaches to achieve efficiencies and keep cases moving.”

Chief Justice Myron T. Steele

ment. In FY 2012, OSCCE collected \$3.6 million in outstanding court obligations. Recently, OSCCE installed payment kiosks, starting with probation and parole offices, which offer users easy access to make payments on outstanding judgments. Steps are being taken to expand access to kiosks to other sites.

Problem-solving courts provide a clear example of courts' efforts to re-engineer approaches for better solutions. These

specialized courts involve courts, government entities, and community organizations to reduce recidivism by holding defendants accountable while making sure they have access to necessary services. Starting 18 years ago with the creation of the Superior Court Drug Court, the Courts in Delaware opted for coordinated approaches to addressing specialized needs. With limited funding to support these courts, growth has been carefully directed to meet the highest needs. Today the 15 problem-solving courts in Delaware focus on a myriad of special needs. The newest problem-solving courts include Superior Court's first Diversionary Veterans' Treatment Court, which Resident Judge and retired Delaware Army National Guard Colonel, William L. Witham, Jr., oversees, to serve veterans with mental illness involved in the court system, the Court of Common Pleas' trauma-informed probation court to impact high recidivism rates for prostitutes and others who have experienced trauma and violence, and the expansion of the Court of Common Pleas' Mental Health Court statewide. In recognition of the important work of those courts, Governor Jack Markell proclaimed May 2012 as Problem-Solving Court Month in the State of Delaware. In addition, the Justice of the Peace Court is exploring establishing a community court in the City of Wilmington, representing a collaboration between the court and the community to provide better access to public resources, and the Court of Common Pleas is fo-



Honorable Myron T. Steele

cusing on creating a DUI court to address alcohol abuse issues for those charged with driving under the influence in that court.

Other court initiatives have worked to ensure access to justice in Delaware for individuals and for small, as well as large, businesses. Courts focus on projects to expedite the processing of cases, such as CCP's SPEED docket for expediting civil litigation, its new court procedures for consumer debt collection litigation, and the Justice of the Peace Court's access to justice initiatives. The Justice of the Peace Court's Prosecution Project has helped decrease time to disposition in traffic cases, with data showing that 43% fewer traffic cases are being transferred from the Justice of the Peace Court to the Court of Common Pleas as a result of this initiative. The Justice of the Peace Court's interactive forms online have been applauded by users for simplifying the process of filling out court forms.

The Family Court recently implemented a statewide call center so that all calls to that Court are addressed in an informed and timely manner. And it did so without additional resources – by reengineering its approach to responding to phone calls. It has augmented its online resources by establishing a resource center offering a collection of Court FAQ's, instruction packets, and official forms online. In addition, the Family Court established a new database, making Delaware the first state to collect statewide information on national dependency and neglect performance measures.

Ongoing interbranch initiatives focusing on system improvements in FY 2012 included the Racial Justice Improvement Project, led by Justice Henry duPont Ridgely and Chief Judge Alex Smalls, which focuses on enhancing racial and justice fairness in the criminal justice system, the Delaware Supreme Court Task Force on Criminal Justice and Mental Health, also chaired by Justice Ridgely, which continues its work on improving criminal justice outcomes for persons with mental illness. A new conflict counsel structure was implemented in November 2011, to provide benefits to the justice system by centralizing conflict services under a single agency – the Public Defender's Conflict Counsel Office. The new structure supports the coordination of service providers and eliminates potential ethical issues that arise when judges are involved in contracting with conflict attorneys and approving their fees and expenses in cases before them.

We worked closely with the Public Defender's office to ensure that the transition to the new structure was smooth and acclaim the Public Defender's thoughtful

and diligent implementation of the program.

Delaware Courts, and their judges, continue to be recognized for their vital roles and contributions on a national and international level. For example, the Delaware Supreme Court and Court of Chancery have retained positions, for six years in a row, on the list of the *Directorship's* top 100 most influential players in corporate governance. The *Directorship*, a leading magazine for public company board directors, recognized the Delaware Courts for their influential leadership and commitment to upholding the highest standards and best practices in corporate governance. I was honored to receive the 2012 United States Chamber Institute of Legal Reform Judicial Leadership Award and accepted that award on behalf of all of the women and men in the Delaware Judicial Branch, who work with limited resources and take enormous pride in their work product. I am also privileged to serve as the president of the Conference of Chief Justices, which is comprised of the chief justices from all states, and the Chair of the National Center for State Courts Board of Directors during 2012 – 2013, supporting efforts to promote the effectiveness of state judicial systems.

Delaware was honored to host the Conference of Chief Justices's meeting in January, 2012. Chief Justices, spouses, and others from across the country enjoyed an enlightening educational program on "Commercial and Business Law", and experienced some of Delaware's finest attractions during their visit to Wilmington, Delaware.

The Court of Chancery, under the leadership of Chancellor Leo E. Strine, Jr., is focused on enhancing operational efficiencies and services provided to litigants in that court. Recent Court of Chancery rule changes enhance public access to case filings and improve the process for modifying trusts by consent and related to guardianship proceedings.

Delaware Courts, with the focus on Superior Court processes, were recently recognized, for the ninth consecutive time, as the best in the country by the U.S. Chamber of Commerce Institute for Legal Reform. Delaware ranked number one overall and in categories such as judges' impartiality and competence. In addition, the Superior Court recently celebrated 20 years of e-filing. In 1991, the Superior Court established the first electronic docketing and filing system for civil cases in the United States. The Superior Court's Pro-

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ject Rightful Owner has disbursed \$5.25 million since its inception in 2007.

Delaware Courts have continued to use their limited resources as effectively as possible. Through the Courts and the Administrative Office of the Courts, we have worked hard to enhance branch wide coordination and efficiencies. There is a point, however, no matter how creative we are, that the resources fail to meet demand. Judges and court staff continue to amaze me in their ability to find ways to keep the courts moving forward, despite the fiscal challenges that the Delaware Courts have faced in recent years. We cannot, however, continue to manage growing caseloads — up close to 20% overall for Delaware Courts in the last 10 years — without additional resources to address unmet needs. The new resources available to the Courts in FY 2013, most importantly, the critically needed two new Superior Court judges and staff in new Castle County, will help us begin to fill the deepening chasm between court resources and needs. We are extremely grateful for the support of the members of the Delaware State Bar Association, the Joint Finance Committee, and Representative Melanie Smith, in particular, for their commitment to funding the new judges.

Recent salary increases for state employees – Judicial Branch employees received a 2% increase in January 2012 (the first pay increase since 2007) and a 1% increase in July 2012 – represent a small step towards addressing rising inflation and benefit costs. Delaware judges' national standing based upon judicial compensation comparisons with other states that compete with us as a center for business disputes resolution has

fallen – as a result of minimal pay increases for all judges since 2005 when the last Delaware Compensation Commission issued a report. When inflation and increases during that period are factored in, judges' pay has eroded by more than \$22,000 per judge. Compensation has been further eroded by rising benefit costs, with health care contributions paid by individual employees increasing around 60%, on average, between FY 2007 and FY 2012. It is our fervent hope that the Delaware Compensation Commission, when it meets in FY 2013, will conduct an objective assessment of salaries and make progress in addressing fairly both past pay inadequacies and future financial growth implications.

During the times when Hurricane Sandy closed down state government in Delaware in October 2012, an expedited appeal was filed with, and decided by, the Supreme Court. The Justice of the Peace Court kept a court facility open in each county 24 hours a day during that weather emergency to meet the public's and law enforcement's needs. Courts offer core state services that dramatically impact the lives of Delawareans, and others, every day and especially in times of emergencies. There is a true cost of justice – one with serious consequences on individuals and businesses alike – if courts, through stagnant funding, are stripped of their ability to manage their operations effectively and to enforce legal protections.



SUPREME COURT WATER DAMAGE

On the weekend of November 30 through December 2, 2012, the Supreme Court in Dover suffered major water damage from a broken water pipe. The damage was discovered in the early morning of Monday, December 3, 2012. Despite the damage, heroic efforts were made to ensure that Supreme Court oral arguments could be held in the Court that week. Repairs are continuing and anticipated to be completed in early 2013.