

Enhancing Communications, Collaboration and Collegiality in State Intermediate Appellate Courts

*An examination of the widespread use of
communications technology and its impact on the
appellate court environment*



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Introduction

“Collegiality is a *process* that helps to create the conditions for *principled* agreement, by allowing all points of view to be aired and considered. ... [it] ... plays an important part in *mitigating* the role of partisan politics and personal ideology by allowing judges of differing perspectives to communicate with, listen to, and ultimately influence one another in constructive and law-abiding ways.” (italics included)¹

Judge Harry T. Edwards, United States Court of Appeal, D.C. Circuit

The Council of Chief Judges of the State Courts of Appeal (CCJSCA) was formed in 1980 when judicial leaders of state appellate courts around the nation recognized the need to have a body for consultation and education “concerning the improvement of the administration of justice, rules and methods of procedure, and the organization and operation of state intermediate appellate courts.” Membership is open to current and past chief judges of state courts of appeal.

Early in 2018, the CCJSCA created a Task Force of members from Kansas, Texas, California, Florida, Massachusetts, and New Jersey to consider a variety of trending issues affecting the intermediate appellate courts (IACs) and suggest one or more as the topic for an in-depth study. While a number of subjects were discussed and evaluated, the Task Force selected the intertwined issues of communication, collaboration, and collegiality.

It is no surprise that the Task Force focused on this topic. A chief judge, as leader of the court, is in a unique position to shape the culture of the court, for better or worse. Cultural norms within the court organization “define what is encouraged, discouraged, accepted, or rejected within the group.”² A court’s culture is often anchored in unspoken behaviors, mindsets, and social patterns. A caring organization is one that “focuses on relationships and mutual trust. The work environment is warm, collaborative, and a welcoming place where people help and support one another.”³ Mutual trust is a critical component of a caring culture. Studies have found that employees in high-trust organizations are more productive and collaborate better with their colleagues. They also suffer less from stress. Corporate leaders understand the stakes, with 55% of CEOs surveyed reporting that lack of trust was a threat to their organization.⁴

¹ Harry T. Edwards, *The Effects of Collegiality on Judicial Decision Making*, 151, U. PA. L. REV. 1645 (May 2003).

² Groysberg, Lee, Price, and Cheng, “The Leader’s Guide to Corporate Culture,” *Harvard Business Review*, January-February 2018, 4 <https://www.spencerstuart.com/~media/pdf%20files/research%20and%20insight%20pdfs/the-leaders-guide-to-corporate-culture.pdf>.

³ *Id.*, 5.

⁴ Zak, “The Neuroscience of Trust,” *Harvard Business Review*, January-February 2017, 1-2 <https://hbr.org/2017/01/the-neuroscience-of-trust>.

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All court leaders should strive for and foster a trusting and caring culture, but nowhere is that more important than in the appellate courts where these qualities are at the heart of the decision-making process.

In contrast to trial court judges, appellate judges make most of their case-related decisions in panels or *en banc* and must work collaboratively to achieve consensus. Collegiality has long been recognized as one of the critical hallmarks of high-performing intermediate appellate courts. A collegial environment has been associated with improved appellate court efficiency with respect to the timely review and issuance of opinions as well as the enhancement of public trust and confidence in their decisions.

This study was undertaken by the CCJSCA to achieve the following objectives:

- provide intermediate appellate court leaders with a framework for recognizing problems affecting collegiality, specifically with respect to the impacts of the increased use of communication technologies;
- identify resources or strategies to enhance appellate communications and collegiality; and
- produce a compendium describing best practices pertaining to appellate court communication, collaboration, and collegiality.

Collegiality in Intermediate Appellate Courts (IACs)

Collegiality applies to many institutions other than courts and can be defined simply as the “cooperative relationship of colleagues.”⁵ In the literature regarding collegiality in the context of appellate courts, the use of the term takes on a much greater depth. Federal Judge Deanell Reece Tacha of the Tenth Circuit Court of Appeals offered the following definition:

[C]ollegiality on an appellate court is knowing my fellow judges so well, and respecting their intellects and work patterns so much, that I am willing to listen and consider carefully their perspectives on each legal issue that we confront. It is a personal understanding that transcends political backgrounds, personal idiosyncrasies, and the natural tendency to adhere unyieldingly to one's personal opinions. . . . Collegial judges in conference are not advocates of a position but students of an issue—comparing, contrasting, and weighing each other's viewpoints and rationales.⁶

Similarly, First Circuit Judge Frank M. Coffin defined collegiality as:

The deliberately cultivated attitude among judges of equal status and sometimes widely differing views working in intimate, continuing, open, and noncompetitive relationship with each other, which manifests respect for the strengths of the others, restrains one's

⁵ Merriam-Webster Dictionary online; <https://www.merriam-webster.com/dictionary/collegiality>.

⁶ 10th Circuit Judge Deanell Reece Tacha, *The "C" Word: On Collegiality*, 56 Ohio St. L.J. 585, 587 (1995).

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pride of authorship, while respecting one's own deepest convictions, values patience in understanding and compromise in nonessentials, and seeks as much excellence in the court's decision as the combined talents, experience, insight, and energy of the judges permit.⁷

Through the course of this study, we used a definition more closely aligned with Judges Tacha and Coffin than with Merriam-Webster. Because the study addresses the intersection of collegiality, collaboration, and communication, especially with respect to the use of technology, much of the data that we collected from the state IACs focuses on that point. Collegiality in an intermediate appellate court both results from and contributes to clear, effective, and open communications. As a result, collegial interactions and effective communication practices feed one another to support the inherently collaborative appellate process.

Like many courts at all levels, IACs have embraced the application of various communication technologies in the case review and decision-making phases of their operations as well as in fulfilling all manner of administrative responsibilities. Among the IACs, the rate of adoption of these technologies varies widely among courts in one state and individual judges in a single court.

Chief judges of appellate courts believe in the benefits of cultivating a collegial environment. During the course of this study, we presented our findings and gathered additional ideas and suggestions as a part of the 2019 CCJSCA Annual Conference.⁸ In a brainstorming session, the chief judges associated judicial collegiality with a better work environment, timelier opinions, fewer separate opinions, enhanced opinion quality, and teamwork during difficult times. The judges also said that the characteristics of a court that lacks collegiality include poor staff morale, lack of trust, delay in resolving cases, confusion for new judges, broadcasting internal conflicts to the practicing bar (which puts the credibility of the court front and center), and overall job dissatisfaction. They agreed with the concept that "[c]ollegiality needs attention, exercise, and development. It is a dynamic, not static, state. Because it is so fragile and delicate, anything which might affect collegiality need be viewed with caution."⁹

But the chief judges in our brainstorming session recognized a delicate balance between collegiality and fostering a culture of agreeing to agree, i.e., abandoning independent thinking in the name of collegiality¹⁰. This is commonly known as 'groupthink', which is defined as follows:

Groupthink occurs when a group of well-intentioned people make irrational or non-optimal decisions that are spurred by the urge to conform or the discouragement of

⁷ *On Appeal: Courts, Lawyering, and Judging*, First Circuit Judge Frank M. Coffin, 215 (1994).

⁸ The 2019 CCJSCA Annual Conference was held from October 15-19 in Denver, Colorado.

⁹ "Collegiality and Technology," 2 J. APP. PRAC. & PROCESS 455, 457 (Summer 2000), Judge Michael R. Murphy, United States Court of Appeals for the Tenth Circuit

¹⁰ See William M. Richman & William L. Reynolds, "Elitism, Expediency, and the New Certiorari: Requiem for the Learned Hand Tradition", 81 CORNELL L. REV. 273, 324 (1996) ("Judges who know, like, and depend on each other might be less likely to risk their relationship by disagreeing on matters of importance to one or the other. Over time, colleagues might accumulate debts of deference on key issues, and subtle, unarticulated vote trading could occur.").

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dissent. This problematic or premature consensus may be fueled by a particular agenda or simply because group members value harmony and coherence above rational thinking. In a groupthink situation, group members refrain from expressing doubts and judgments or disagreeing with the consensus. In the interest of making a decision that furthers their group cause, members may ignore any ethical or moral consequences.¹¹

Collegiality thrives in an environment and culture in which all points of view can be safely aired with the common goal of getting a decision right. Federal D.C. Circuit Judge Harry T. Edwards provides an example related to the preparation of dissenting opinions:

On a collegial court, if there is to be a dissent in a case, judges will help one another to make dissenting opinions as effective as possible. Dissents become more precise, focused, and useful to the development of the law. In a collegial environment, a dissenting judge can more effectively identify and articulate what exactly bothers him or her about the majority position, because other judges on the panel participate in playing that out.¹²

Judge Edwards also found the benefit of a diverse bench can be fully realized through collegiality.

[I]n a judicial environment in which collegial deliberations are fostered, diversity among the judges makes for better-informed discussion. It provides for constant input from judges who have seen different kinds of problems in their pre-judicial careers and have sometimes seen the same problems from different angles. A deliberative process enhanced by collegiality and a broad range of perspectives necessarily results in better and more nuanced opinions—opinions which, while remaining true to the rule of law, over time allow for a fuller and richer evolution of the law.¹³

Even the highest court in the land has recognized the need for a culture of collegiality. For over a hundred years, justices on the United States Supreme Court have shaken hands before embarking on oral argument and private conferences. "Chief Justice Melville W. Fuller instituted the practice as a reminder that differences of opinion on the Court did not preclude overall harmony of purpose."¹⁴ The Chief Judge must take the lead in promoting collegiality by reducing tensions. Chief Justice Taft valued maintaining relationships with his colleagues. He wrote to one of his sons concerning an altercation with Justice James McReynolds—who he called a "grouch"—that "the best way to get along with people with whom you have to live always is to restrain your impatience and consider that doubtless you have peculiarities that try other people."¹⁵

¹¹ <https://www.psychologytoday.com/us/basics/groupthink>. This term first was coined by Irving L. Janis in his book *Victims of Group Think: A Psychological Study of Foreign-Policy Decisions and Fiascoes*, 1972, Houghton Mifflin Company. Preface, iv.

¹² "Collegiality and Judicial Decision Making" by Judge Harry T. Edwards. 151 U. PA L. REV. 1688-89 (May 2003).

¹³ Harry T. Edwards, "Race and the Judiciary", 20 YALE L. & POL'Y REV. 325, 329 (2002).

¹⁴ <https://www.supremecourt.gov/about/traditions.aspx>.

¹⁵ See fn. 45, *supra*, WRIGHTSMAN, p. 102.

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Few studies have been conducted regarding collegiality in appellate courts and its impact on judicial decision making. One study questioned "whether collegiality on a court causes the judges to be more influenced by each other, or whether open-mindedness in general leads to collegiality on a court."¹⁶ It concluded that the two phenomena are probably mutually reinforcing. As the judges in the study explained, "collegial decision making is a 'dynamic process' of 'give and take' where they 'listen very closely' with 'respect' and 'readily share opinions.'¹⁷ They noted the importance of "face-to-face time with the other justices," "both formally and informally," such as "at dinner . . . in the capitol."¹⁸ Other commentators have noted that "collegiality requires a familiarity with other judges, which occurs only with regular face-to-face contact."¹⁹

Yet the concept of collegiality has proven difficult to measure. Judge Edwards has opined that "the ability of scholars to study the qualitative aspects of judging on a collegial court may have some significant limits. If scholars cannot directly access the deliberations that would generate qualitative data, how successful can their studies be?"²⁰ Although researchers can interview judges about collegiality on their courts, as we have here, it is not a foolproof scientific method.

The fundamental principle of collegiality is the recognition that judging on the appellate bench is a group process. Too often researchers ignore the fact that appellate judges sit in panels of three and decide cases together through deliberation. A model that takes each appellate judge as an atomized individual casting a purely individual vote in any given case will not produce a good explanation of how judges decide cases. The appellate courts are courts of collective decision, and appellate judges act collectively as a court in disposing of cases.²¹

The Intersection of Collegiality and Communication

"The single biggest problem in communication is the illusion that it has taken place."

- **George Bernard Shaw**

One should never assume that people fully understand the message that you wish to convey. This is especially applicable when communication takes place in a text-based environment which has become the most used and, in certain instances such as non-argued cases, may be the only

¹⁶ "Judicial Perceptions of Voting Fluidity on State Supreme Courts," by Rick A. Swanson, *The Justice System Journal*, Vol. 28, No. 2, 199, 202 (2007).

¹⁷ *Id.*, at 210.

¹⁸ *Id.*

¹⁹ "Collegiality and Technology," 2 *J. App. Prac. & Process* 455, 458-59 (Summer 2000) Judge Michael R. Murphy, United States Court of Appeals for the Tenth Circuit. Cf. Judge Frank M. Coffin, *On Appeal: Courts, Lawyering, and Judging* 216 (W.W. Norton 1994).

²⁰ "Collegiality and Judicial Decision Making" by Judge Harry T. Edwards. 151 *Univ. of Pennsylvania L.Rev.* 1651 (May 2003).

²¹ *Id.*, at 1656.

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method of communication in appellate courts. A 1975 study, long before the explosion in digital communications, found that “[t]he only collegial feature of cases decided without oral argument can be found in the communications network linking judges to each other, and linking judges and their law clerks with central staff.”²² With the pervasive use of communications technologies in the present day, this observation has become commonplace.

As a part of this study, we consulted with University of Nevada-Reno Communications Professor Emeritus Gordon Zimmerman, who continues to make presentations at judicial seminars all over the country regarding collegiality. He believes that collegiality clearly affects job satisfaction and quality of work life; however, less is known about its impact on decision making, particularly when coupled with communications technology and remote working arrangements.

I am not sure one can define “collegiality” in a remote electronic world. It doesn’t exist in a written context...unless you have a pre-existing face to face relationship of trust and credibility. Collegiality is really defined by behaviors: how do we act when we interact with other people. Generally, the only two disciplines in which the written word is considered most persuasive is in scientific literature (where it is only the data that matters) and in appellate legal persuasion by lawyers, because they have no other choice. But that is uniquely lawyer to judge communication. Listening to a point of view and reading a point of view are very different. It is hard to emphasize in writing the same things you emphasize in oral communication with inflection, how strongly you feel about things, etc. In addition, judges may display more candor in face to face private meetings versus written communication that may end up in the public domain, albeit unintentionally, or may be “thrown back” at someone in a later written communication because it is “on the record.” Face to face communication seems to provide for a deeper understanding of individual positions--personal influence is stronger.²³

Even less is known about the impacts that remote working arrangements have on the quality of the interaction between judges and their research staff. For example:

- Do remote working arrangements have an effect on the job satisfaction of law clerks or research attorneys, who invariably have hopes of learning from an experienced judge who they now communicate with primarily through electronic media?
- How effectively do judges supervise remote staff through primarily electronic communications?
- What are the effects of remote working arrangements on judicial and staff productivity?

Due to the lack of direct court-related research, we found it necessary to turn to other disciplines for guidance.

Physical scientists have recognized the importance of consensus in the development of new scientific research and conclusions. Although scientists relentlessly pursue the truth, their work

²² Flanders & Goldman, “Screening Practices and the Use of Para-Judicial Personnel in a U.S. Court of Appeals: A Study in the Fourth Circuit”, 1 JUST. SYS. J. 1, 11 (1975).

²³ Interview with Prof. Gordon Zimmerman February 8, 2019.

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in the laboratory and scientific research — in which their methodologies and hypotheses are constantly challenged by others — involves reliance on consensus and the ability to trust and review scientific concepts from another perspective.²⁴ Even in the highly precise field of physics, "[p]ure objectivity is tacitly recognized as impossible; but error can be estimated and minimized. The means by which this is accomplished is peer review, or collective surveillance; the final degree of order comes from human institutions."²⁵ During this process, oral communications serve a distinct and crucial role. Specialized physicists meet frequently at conferences, know a great deal about their colleagues' lives, and quickly exchange information about their projects. This collegiality greatly enhances their status in the professional community and adds richness to their final work product.²⁶

Social scientists have long recognized the difference in the richness of communication based upon its form. How we relay information impacts how well it is understood.

Face-to-face is the richest form of information processing because it provides immediate feedback. With feedback, understanding can be checked, and interpretations corrected. The face-to-face medium also allows the simultaneous observation of multiple cues including body language, facial expression, and tone of voice which convey information beyond the spoken message.²⁷

In conventional, audio-only telephonic communication, feedback is fast but visual cues are not available, only audio cues.

Written communications are less rich still. Feedback is slow. Only the information that is written down is conveyed so visual cues are limited to what is on the paper. Audio cues are absent, although natural language can be utilized.²⁸

Researchers have also found that the relative complexity of the task at hand demands different levels of communication. While solving simple tasks or issues may not show differences in outcome based on the richness of the communication method, highly complex tasks necessitate using the most rich communication methods, the richest of which remains face-to-face discussion.²⁹ Although written communication can now be facilitated more quickly than ever, it remains below the top of the communications pyramid, especially for complex discussions. These studies suggest that in the judicial world, the more complex and unique the case, the more likely it will be that communication that takes place in the written electronic world will be less effective than face-to-face discussions.

²⁴ Benjamin Freedman, "Equipose and the Ethics of Clinical Research", 317 NEW ENG. J. MED. 141, 144 (1987) (assuming that progress in medicine relies on consensus, and stating that individual clinical judgments, even when based on evidence, lack a privileged status).

²⁵ Sharon Traweek, BEAMTIMES AND LIFETIMES: THE WORLD OF HIGH ENERGY PHYSICISTS 125 (1988).

²⁶ *Id.*, 122-23.

²⁷ "Information Richness: A New Approach to Managerial Behavior and Organizational Design," Richard L. Daft and Robert H. Lengel, *Research in Organizational Behavior*, Vol. 6, 191-233, 196-198 (1984).

²⁸ *Id.*, 198.

²⁹ *Id.*, 204-05.

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Educational institutions have also examined the sense of isolation that many faculty members experience. Researchers have found that new university faculty members commonly feel isolated and crave support from their colleagues.³⁰ Their research has concluded that social events contribute significantly to successful socialization of new faculty members within the institution.³¹ The application of this rule to judges is clear; judges also experience isolation when they first ascend to the appellate bench. In one of our interviews, a federal circuit judge indicated that when she was new to the court, the isolation could feel overwhelming, and the formality worried her. "It is intimidating to sit down to conference cases with judges you have never met, haven't practiced around in your 'lawyering' life and know very little about."³² But she said the chief judge made a point to arrange various opportunities for all judges to meet in casual settings and get to know each other. This made it easier to communicate in writing and fosters what she describes as a very collegial working environment.

Collegiality and Remote Working Arrangements

Appellate court leaders can learn from the research that businesses have been conducting for several years on the impact that telecommuting and remote virtual teams have on the quality of work product and work-life balance. We know that, at its core, collegiality is built upon the existence of trusting relationships. Social integration helps to build and sustain trusting relationships.³³ Face-to-face contact is also critical to creating familiarity and camaraderie.³⁴ So, for example, as more and more judges and appellate staff telecommute, opportunities for social integration are reduced and thus, collegiality may suffer.

Telecommuters miss three types of developmental activities that occur frequently in a conventional workplace: (1) interpersonal networking with others in the organization; (2) informal learning that enhances work-related skills and information distribution; and (3) mentoring from colleagues and superiors. By working off-site for at least a portion of the work-week, telecommuters ... perceived that they did not have the same degree of access to these informal development opportunities.³⁵

In 2007, researchers at the University of Pennsylvania examined the positive and negative effects of telecommuting. They found there was an upside in terms of perceived autonomy, work-family conflict, job satisfaction, performance, turnover intent, and stress. But the

³⁰ "Academics Telecommuting in Open and Distance Education Universities: Issues, challenges, and opportunities," Cheuk Fan Ng, *The International Review of Research in Open and Distributed Learning*, Vol. 7, No. 2, (2006), 5.

³¹ *Id.*, 7.

³² Interview with the Honorable Nancy Moritz, judge, U.S. Court of Appeals, Tenth Circuit, March 29, 2019.

³³ "Telecommuting, professional isolation, and employee development in public and private organizations," Cecily D. Cooper and Nancy B. Kurland, *J. Organiz. Behav.* 23, 511, 525 (2002).

³⁴ *Id.*, 520.

³⁵ *Id.*, 519.

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downside was that it seemed to send coworker (but not supervisor) relationships in a harmful direction. The researchers referred to this phenomenon as “relational impoverishment”.

The reduction in face-to-face interactions, the lower frequency and richness of communication between telecommuters and other organization members and, thus, the diminished social presence telecommuters has weakened the interpersonal bonds they have with their coworkers or supervisors. These negative consequences are likely to be especially severe for individuals who work away from their central work location for the major portion of their work week.³⁶

To address these effects, they recommended that employers designate one day per week as co-located, during which they schedule face-to-face meetings, working lunches, and informal social activities with the telecommuter’s work group.

In April 2010, RW³ Culture Wizard, a business consulting group, randomly surveyed employees of multinational corporations to get their feedback regarding the strengths and weaknesses of virtual teams (team members scattered around the world working on one common project). Not surprisingly, they found that the “negatives” of virtual teams and telecommuting remain constant.

The greatest personal challenges respondents faced were inability to read non-verbal cues (94%), absence of collegiality (85%), difficulty establishing rapport and trust (81%), difficulty seeing the whole picture (77%), reliance on email and telephone (68%), and a sense of isolation (66%).³⁷

And what about supervising one's staff remotely? Businesses are starting to examine that dynamic as well. Early studies indicate that remote workers reach out less to their supervisor or others than those who work in the office.³⁸ The studies continue to emphasize that effective electronic communication can only take place once personal relationships have been formed and trust established.³⁹ In terms of appellate law clerks or research attorneys, one could conclude that remoteness and isolation sacrifice the richness of discussion and learning that can take place in a face-to-face interactive environment.

As leaders of IACs, chief judges must be vigilant about nurturing opportunities for judges and staff to meet face-to-face and interact with one another to establish the trust and camaraderie that the research identifies as the heart of collegiality.

³⁶ "The Good, the Bad, and the Unknown About Telecommuting: MetaAnalysis of Psychological Mediators and Individual Consequences," Ravi S. Gajendran and David A. Harrison, 92 *Journal of Applied Psychology* 1524, 1530 (2007).

³⁷ "The Challenges of Working in Virtual Teams: Virtual Teams Survey Report 2010" ©2010 RW3 LLC; http://www.communicationcache.com/uploads/1/0/8/8/10887248/the_challenges_of_working_in_virtual_teams.pdf.

³⁸ "Social support in the workplace between teleworkers, office-based colleagues and supervisors," Alison M. Collins, Donald Hislop, and Susan Cartwright, 161 *New Technology, Work and Employment* 31:2 <https://onlinelibrary.wiley.com/doi/full/10.1111/ntwe.12065>.

³⁹ *Id.*, at 164.

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Impact of technology on the IAC work environment

The various communication technologies introduced in IACs include, but are not limited to:

- Electronic filing and electronic trial court records/transcripts
- Electronic mail
- Speech-to-text dictation software
- Remote panel conferencing
- Remote oral argument
- Digital opinion/decision circulation
- Simultaneous collaboration and editing tools
- Mobile devices, e.g., notebook computers, tablets and smartphones

These technologies have resulted in near-elimination of the need for vast spaces dedicated to the storage of appellate files and trial court records, allowed conversion of judicial assistant (aka judge's secretary) staffing to law clerk positions and moved appellate courts ever-closer to the concept of a "paperless" operation. Technology applications have also enabled IAC judges and staff to perform their work responsibilities and immediately communicate with one another any time of day or night, seven days a week, from anywhere with an Internet connection. In turn, use of these technologies has allowed IAC judges and staff to build more flexibility into their individual working schedules, and use remote work locations that are better suited to their individual needs and preferences.

Until recently, appellate judges and staff were in the courthouse on a daily basis. Judges interacted with one another, chambers personnel, and other staff about both case-related and ordinary social matters on a regular basis. While appellate judging has traditionally included a great deal of solitary time for research of the law and case-related issues, there were also frequent opportunities for personal meetings and conversation. "Face-time" with colleagues, however, is now rapidly being replaced with "screen-time" and evolving toward "as-needed" communications.

This study seeks to expand our understanding of how the widespread use of communications technologies and the evolutionary changes in the typical appellate working environment can impact appellate court collegiality. As defined previously, collegiality in an appellate court includes characteristics such as knowing one another well, listening and carefully considering differing opinions, and building relationships. Because developing and strengthening these characteristics will likely require thoughtful and intentional action, this report provides examples of "best practices" that have been employed in some IACs to ensure that collegiality is maintained and enhanced when a court implements new technologies.

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Data Collection for this Study

To gather information related to the topics of communication, collaboration, and collegiality in the state courts of appeal, we began by developing an extensive list of survey questions. Owing to the nature of many survey questions, we concluded it would be beneficial to distribute the surveys not only to the chief judges of the state courts of appeal but also to the clerks of those courts, suggesting that the chief judges and clerks work together to prepare a joint response. A set of data tables showing compiled responses to the survey is included in Appendix A.

By the close of the survey, 38 IACs in 27 states had submitted responses. Many of the survey questions related to the issues of quality of communications, level of collegiality, and how the use of technology has impacted them. Other questions provided insights with respect to differences among various coworker groups and the depth of relationships among judges.

Selected data and summarized responses from the survey data are described below.

Quality of Communication

Chief judges were asked to describe the quality of communications in their court among three coworker groups using a numerical scale. Respondents were asked to assess the quality of communications among judges, between judges and chambers staff, and between judges and other court staff (e.g., clerk's office, central staff attorneys, court administration). The numerical scale ranged from 1 to 5, with 1 being "Very Poor," 2 "Poor," 3 "Adequate," 4 "Good," and 5 "Excellent". A weighted average of responses was calculated to provide a composite score.

- Quality of Communication Among Judges

Of the 38 respondent courts, none described the quality of communications as very poor or poor. Five reported that the quality of communications was adequate, 11 as good and 22 as excellent. The weighted average score was 4.29. The responses indicate a very high rating for the quality of communications among judges, with almost 87% of respondents describing it as either good or excellent.

When asked whether the quality of communication among judges had changed over the past 3 to 5 years, 15 (39%) reported that it had while 23 (61%) reported that it had not. Of the 15 respondents who reported that the quality of communications had changed, 5 described it as having gotten worse while 10 described it as having gotten better.

- Quality of Communication Between Judges and Chambers Staff

None of the respondents described the quality of communications between these coworker groups as very poor or poor. One respondent reported the quality of communications as adequate, 15 as good and 22 as excellent. The weighted average score was 4.55. These responses indicate a very high rating for the quality of communications between judges and

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chambers staff, even higher than among judges. 97% of respondents described the quality of communications between these coworker groups as either good or excellent.

When asked whether the quality of communication between judges and chambers staff had changed over the past 3 to 5 years, 9 (24%) reported that it had while 29 (76%) reported that it had not. Of the nine respondents who reported that the quality of communications had changed, two described it as having gotten worse, seven as having gotten better.

- Quality of Communication Between Judges and Other Court Staff

One respondent described the quality of communications between these coworker groups as very poor while none reported it as poor. Six respondents reported the quality of communications as adequate, 15 as good, and 16 as excellent. The weighted average score was 4.18. While the ratings were lowest between these coworker groups, the responses still indicate a high rating for the quality of communications between judges and other court staff. Eighty-one percent of respondents described the quality of communications between these coworker groups as either good or excellent.

When asked whether the quality of communication between judges and other court staff had changed over the past 3 to 5 years, 17 (45%) reported that it had while 21 (55%) reported that it had not. Of the 17 respondents who reported that the quality of communications had changed, 4 described it as having gotten worse, while 13 described it as having gotten better.

The survey also asked chief judges whether they would attribute any changes in the quality of communication to the use of communications technologies, remote working arrangements, or other reasons. The survey design did not require all respondents to answer this question, and respondents could select one or more of the choices. Ten chief judges selected communications technologies, 5 selected remote working arrangements and 11 selected other reasons. Among the reasons given for their selections were:

Communications Technologies

- Retirements and the influx of more technology-driven judges
- Technological advances have given us more options to communicate efficiently so everyone can send ideas freely as the situation requires. More technology means there is an option that suits everyone's style.
- There is less and less face-time communication. People are more apt to say things via electronic communication that they would not say to another in person.

Remote Working Arrangements

- Since we started getting all records in digital format, and legal research and editing can be done on line and since one of our judges decided to office 2 hours away (which the judge is allowed to do, although no one had ever done it before) judges started working from home a lot. Some only come in a few times a month, some 4-5 days a week, but the norm is 1-2 days per week.

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Other Reasons

- Additional focus on walking the halls and inter-personal, face-to-face communications, including community outreach
- Personnel; specifically, appellate court administrators with better collaborative and communication skills
- More time to be social and get to know one another. Education program/Effort/Leadership by our Chief Justice. Judges are adapting to many of their colleagues working remotely by using technology more/better. Use of email and cellphones to connect with other judges and staff has become more acceptable.
- Overturn of judges due to political partisan sweep.

Level of Collegiality

These questions used the same numerical rating scale and coworker groups as were used in the previous section. In this section, a weighted average of responses was calculated so as to provide a composite score.

- Level of Collegiality Among Judges

Of the 38 respondent courts, none described the level of collegiality as very poor or poor. Four reported that the level of collegiality was adequate, 10 as good, and 24 as excellent. The weighted average score was 4.53. These responses indicate a very high rating for the level of collegiality among judges, with over 89% of respondents describing it as either good or excellent.

When asked whether the level of collegiality among judges had changed over the past 3 to 5 years, 15 (39%) reported that it had, while 23 (61%) reported that it had not. Of the 15 respondents who reported that the level of collegiality had changed, 5 described it as having gotten worse, while 10 described it as having gotten better.

- Level of Collegiality Between Judges & Chambers Staff

None of the respondents described the level of collegiality between these coworker groups as very poor or poor. One respondent reported the quality of communications as adequate, 12 as good, and 25 as excellent. The weighted average score was 4.63. These responses indicate a very high rating for the level of collegiality between judges and chambers staff, even higher than among judges. 97% of respondents described the level of collegiality among these coworker groups as either good or excellent.

When asked whether the level of collegiality between judges and chambers staff had changed over the past 3 to 5 years, 9 (24%) reported that it had while 29 (76%) reported that it had not. Of the nine respondents who reported that the level of collegiality had changed, three described it as having gotten worse while six described it as having gotten better.

- Level of Collegiality Between Judges & Other Court Staff

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One of the respondents described the level of collegiality between these coworker groups as very poor, while two reported it as poor. Two respondents reported the level of collegiality as adequate, 12 as good, and 21 as excellent. The weighted average score was 4.32. While the ratings were lowest among these coworker groups, the responses still indicate a high rating for the level of collegiality between judges and other court staff. 87% of respondents described the level of collegiality among these coworker groups as either good or excellent.

When asked whether the level of collegiality between judges and other court staff had changed over the past 3 to 5 years, 14 (37%) reported that it had, while 24 (63%) reported that it had not. Of the 14 respondents who reported that the level of collegiality had changed, 3 described it as having gotten worse while eleven described it as having gotten better.

The survey also asked chief judges whether they would attribute any changes in the level of collegiality to the use of communications technologies, remote working arrangements, or other reasons. The survey design did not require all respondents to answer this question and respondents could select one or more of the choices. Seven chief judges selected communications technologies, 4 selected remote working arrangements, and 15 selected other reasons. Direct quotes from the respondents giving the reasons for their selections were:

Communications Technologies

- Change in the bench as well as more focus on information sharing, education, and interaction.
- Communications primarily by email has had a negative effect on collegiality. Rather than working together and visiting together during normal working hours, email communication permits judges to work from home at unusual hours thereby lessening collegiality.

Remote Working Arrangements

- Fewer personal interactions

Other Reasons

- We intentionally work on collegiality as a core value.
- Greater emphasis on collegiality by court leaders has resulted in greater collegiality.
- Our new chief judge has focused on improving the quality of interactions between judges and among judges and support staff.
- The change is attributable to the fact the Court has placed an emphasis on increasing the level of collegiality.

Depth of Judicial Working Relationships

The next series of survey questions addressed the depth of the working relationships among judges and how it is perceived to impact an appellate judge's productivity. Because we did not ask directly about specific individual relationships among judges, emotional attachments, or

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friendships, we used several proxies as indicative of opportunities to work together and build an effective working relationship.

In terms of addressing an appellate judge's productivity, the survey questions focused on one judge's trust and confidence in another judge's work product, the average time spent reviewing written material from another judge, and the readiness to reach consensus with another judge. Each of the questions was asked with respect to seven scenarios.

The numerical scale ranged from 1 to 5, with 1 being "Very Poor," 2 "Poor," 3 "Adequate," 4 "Good," and 5 "Excellent". A weighted average of responses was calculated so as to provide a composite score.

The questions asked were:

- Is your level of trust and confidence affected when draft opinions/orders are submitted by a judge?
- Is the average time and effort spent reviewing draft opinions/orders affected when they are submitted by a judge?
- Is your readiness to reach consensus or agreement affected when collaborating with a judge?

Respondents were asked to answer these questions considering each of the following scenarios:

- With whom you have been empaneled repeatedly in the past?
- With whom you are chambered in the same courthouse?
- Whom you have gotten to know well?
- With limited experience on the appellate court? (Experience was defined as less than five years, five to ten years, and longer than ten years)

Our observations and findings are described briefly in the following sub-sections; more complete data gathered from the survey responses is included in the appendices. The weighted averages of the ratings from 38 respondents for the answers to each scenario are provided in the following table.

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Weighted Average Scores re: Depth of Working Relationships⁴⁰			
	Is your level of trust and confidence affected when draft opinions/orders are submitted by a judge:	Is the average time and effort spent reviewing draft opinions/orders affected when they are submitted by a judge:	Is your readiness to reach consensus or agreement affected when collaborating with a judge:
with whom you have been empaneled repeatedly?	3.47	2.82	3.21
chambered in the same courthouse?	3.34	3.00	3.13
whom you know well?	3.74	2.92	3.37
with limited experience on the appellate court:			
less than 5 years	2.61	3.37	2.79
5-10 years	3.45	3.08	3.08
Longer than 10 years	3.63	2.95	3.24

- Trust and Confidence

The survey responses indicate that trust and confidence in an appellate judge’s colleagues are positively influenced by having had opportunities to work with one another and interact regularly. For example, the responses suggest that being empaneled together repeatedly may provide a 32% (12/38) likelihood of higher levels of trust and confidence; being chambered in the same courthouse may provide a 24% (9/38) likelihood of higher levels of trust and confidence; and knowing one another well may provide a 50% (19/38) likelihood of higher levels of trust and confidence. In addition, the more experience a colleague has, the higher a judge’s level of trust and confidence is in that colleague. The number of respondents who reported higher levels of trust and confidence in their colleagues were as follows: 2 respondents indicated a higher level of trust and confidence in another judge with less than 5 years of experience on the appellate court; 13 when the other judge had 5 to 10 years of experience; and 17 when the other judge had over 10 years of experience.

⁴⁰ These weighted averages correspond to the numerical scale descriptions presented above. An average of 3.0 indicates no difference; less than 3.0 indicates a reducing effect and greater than 3.0 indicates an increasing effect. Improvements to productivity and collegiality would result from a weighted average greater than 3.0 for the trust and confidence and the readiness to reach consensus questions and a weighted average less than 3.0 on the time and effort question.

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- Average Time Reviewing Written Material

The survey responses indicate that the average time and effort that an appellate judge spends reviewing draft opinions and orders from colleagues is reduced by having had opportunities to work with one another and interact regularly. Interestingly, being chambered in the same courthouse makes virtually no difference but being empaneled together and getting to know one another do have positive impacts, albeit small. These two scenarios each suggest an 18% (7/38) likelihood of reduced time and effort reviewing drafts. A more significant effect is seen as the experience of the colleague judge increases, where the reported likelihood of spending greater time and effort declines from 42% (16/38) to about 11% (4/38).

It is significant to note that the perceived impacts of these factors on an appellate judge's productivity are notably smaller than those dealing with trust and confidence, and readiness to reach consensus. This may be explained, at least in part, by a judicial obligation to dedicate sufficient time and effort to each decision, regardless of a colleague judge's years of appellate experience, to ensure an independent review of the case.

- Readiness to Reach Consensus

The survey responses indicate that a judge's readiness to reach consensus or agreement when collaborating with a colleague is positively influenced by having had regular opportunities to interact with one another. For example, the data suggests that being empaneled together repeatedly may provide a 21% (8/38) likelihood of increased readiness to reach consensus; being chambered in the same courthouse may provide a 13% (5/38) likelihood of increased readiness to reach consensus; and knowing one another well indicates a 32% (12/38) likelihood of increased readiness to reach consensus.

Consistent with the responses to the other productivity questions, the data suggests that a colleague judge's length of experience correlates with a clear and significant increasing effect on a judge's readiness to reach consensus or agreement.

The responses to each of the productivity-related questions show the positive impact of increased opportunities for appellate judges to interact with one another and build effective working relationships. Increased interaction most greatly impacts establishing trust and confidence among their colleagues, followed by readiness to reach consensus or agreement, then in the average length of time reviewing a colleague's written products.

Impact of Communications Technologies

The next section of the chief judge survey consisted of seven questions that addressed the direct impact of the use of communications technologies on the productivity measures discussed above, as well as the ability to mentor new members of the court, the ability to supervise and mentor law clerks, the inclination to consult a colleague for advice about a legal issue, and effects on courtesy, mutual respect, and morale among judges. The responses were

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based on a 5-point numerical scale, with 1 being "Definitely Lower", 2 being "Somewhat Lower," 3, "No Difference," 4 "Somewhat Higher," and 5, "Definitely Higher".

Below is a summary of the specific questions and compiled responses is below.

- A. How has the use of e-mail, "track change" editing, videoconferencing, and other communications technologies affected your level of trust and confidence in the work of your fellow judges?

The responses suggest that use of the various communications technologies increases the level of trust and confidence in the work of fellow judges. Twenty-one percent of respondents reported that trust and confidence is "somewhat higher" or "definitely higher"; however, about 5% reported the effect as "somewhat lower".

- B. How has the use of communications technologies affected the amount of time and effort you tend to spend reviewing draft opinions and orders submitted to you by other judges?

The responses suggest that use of the various communications technologies decreases the amount of time spent reviewing drafts from other judges. Forty-five percent of respondents reported that time and effort is "somewhat lower" or "definitely lower"; about 13%, however, reported the effect as "somewhat higher".

- C. How has the use of communications technologies affected the ability to achieve agreement or consensus on the outcome or wording of an opinion or order in a difficult case?

The responses suggest that use of the various communications technologies increases the ability to achieve agreement or consensus on the outcome or wording of an opinion or order in a difficult case. Forty-two percent of respondents reported that the ability to achieve consensus is "somewhat higher" or "definitely higher"; however, just over 10% reported the effect as "somewhat lower".

- D. How has the use of communications technologies affected the ability to mentor newer judges on your court?

The responses suggest that use of the various communications technologies increases the ability to mentor newer judges. Thirty-nine percent of respondents reported that the ability to mentor newer judges is "somewhat higher" or "definitely higher"; over 18%, however, reported the effect as "somewhat lower" or "definitely lower".

- E. How has the use of communications technologies affected the ability to supervise and mentor law clerks?

The responses suggest that use of the various communications technologies increases the ability to supervise and mentor law clerks. Forty-two percent of respondents

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reported that the ability to supervise law clerks is "somewhat higher" or "definitely higher"; however, over 16% reported the effect as "somewhat lower".

- F. How has the use of communications technologies affected your inclination to consult a colleague for advice about a legal issue?

The responses suggest that use of the various communications technologies increases a judge's inclination to consult a colleague for advice about a legal issue. Eighteen percent of respondents reported that the inclination to consult a colleague is "somewhat higher" or "definitely higher"; however, over ten percent reported the effect as "somewhat lower" or "definitely lower".

- G. How has the use of communications technologies affected the courtesy, mutual respect, or morale among the judges of your court?

The responses suggest that use of the various communications decreases the courtesy, mutual respect, or morale among the judges. Twenty-four percent of respondents reported that the courtesy, mutual respect, or morale is "somewhat lower" or "definitely lower," while 8% of respondents reported the affect as "somewhat higher".

Based on these responses, the use of communications technologies appears to have beneficial impacts on judicial productivity; the ability to provide mentoring to new members of the court, and to supervise and mentor law clerks; and a judge's inclination to consult a colleague regarding a legal issue. However, communications technologies clearly seem to have a negative impact with respect to the courtesy, mutual respect, and morale among the judges.

It is difficult to reconcile the survey responses suggesting that the use of communications technologies, which has been steadily increasing in appellate courts for 20 years or more, decreases courtesy, mutual respect, and morale among judges with the many other suggestions in the data that these same technologies improve a judge's productivity, the ability to mentor new judges, supervision of law clerks, and other judicial functions. In addition, a large majority of survey respondents indicated that the quality of communications and the level of collegiality is very good or excellent in their own court. Among the possible explanations for this apparent discrepancy are that one or more of the three attributes listed (courtesy, mutual respect, morale) may have been perceived as disengaged from the concept of collegiality. It may also be possible that respondents from courts that are experiencing collegiality issues may be attributing too much of this to the technologies when other contributing factors are also in play. Finally, because this was not a scientifically controlled data-collection process, but relied very heavily on self-reporting, it is possible that communications and collegiality problems are more widespread than what was reported through the survey.

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Protocols and Expected Norms

The survey was also designed to gather some information regarding certain organizational protocols, collaborative practices and expected norms that could affect communications and collegiality in appellate courts. Summaries of the responses to questions pertaining to these organizational protocols and expected norms are provided below.

- Remote Working Arrangements

Some appellate courts have allowed, or were created with an allowance for, remote working arrangements for their judges. It may be long-standing tradition, or even specific statutory provisions that establish such arrangements, particularly if judges are elected from designated districts across a state. For example, Nebraska statutes provide that judges may maintain their offices in the district from which they are appointed, but do not require them to maintain offices at the state capitol where the administrative staff and primary courtroom is located. However, the culture of many appellate courts encourages, either implicitly or explicitly, judges to maintain their chambers at an appellate courthouse. As a result, in a large number of courts, the cultural expectations may clash with the functional capabilities inherent to technology and result in situations where some judges work remotely while others do not. The extent to which they work remotely is frequently left to the judge's discretion. The wide range of practice is made clear in the survey responses.

- a. Do all judges and chambers staff have their primary office in a single location?
YES – 31 NO – 7
- b. Are remote work arrangements permitted for judges?
YES – 35 NO – 3
- c. Are remote work arrangements permitted for law clerks?
YES – 23 NO – 15
- d. Is there an official court policy addressing remote working arrangements?
YES – 10 NO – 28
- e. How many judges work remotely?

These responses ranged from zero to all, with some including an estimated percentage of the judges. Additionally, some responses pointed out that judges may work remotely all the time, several days a week, or sporadically.

- f. How many law clerks work remotely?

These responses also ranged from zero to all, with many pointing out that this is left to the supervising judge's discretion. One response indicated that "pre-approval is required," although it is not clear whether approval is from the supervising judge or the chief judge.

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- Duration of Merits Panels

All intermediate appellate courts establish panels of judges to review and decide cases on the merits;⁴¹ a large majority of courts use panels consisting of three judges. It is also common for many courts to have a stated goal of rotating panel membership such that each judge sits with every other judge during a certain period of time. However, there is a wide range in the duration of merits panels from one court to another. A summary of the survey responses to these questions follows.

a. Does the court establish merits panels that sit together for a fixed period of time or on a case-by-case basis?

YES – 30 NO – 8

b. If a fixed period – how long?

These responses ranged from “day to day” to a full year. No majority duration was reported but the most common lengths were three months, four months, and monthly. Other responses included, “one session – up to 18 cases”; “45 cases”; “weekly”; and “two weeks”.

c. Many courts have an established goal for each judge to be assigned to a merits panel with every judge on the court on a regular basis. Does your court have such a goal?

YES – 21 NO – 17

d. If yes, how frequently?

The most common response was once per year; other durations included every 2 years, 2 ½ years, 18 months, 6 months, “continuously”, and “as nearly as practicable, each judge serves a proportionate time with every other judge.”

Best Practices in Building and Maintaining Collegiality

This section provides a compilation of best practices that have been proven effective and can help intermediate appellate courts build and maintain a collegial working environment.

a. Commitment of Court Leadership

Every chief judge has responsibility for dealing with a myriad of administrative matters on a regular and ongoing basis. These run the gamut from internal matters such as budget and financial issues, facility maintenance, and personnel to external issues like representing the court at the state bar association, the legislature, or the state judicial administrative office. These matters are primarily handled by the chief judge and court executive staff, and other

⁴¹ Some IACs also establish multi-judge panels to decide certain types of motions if they are filed prior to the assignment of the case to a merits panel.

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judges and staff members may or may not be involved. The survey responses and follow-up discussions revealed a wide range of approaches to managing the court's administrative matters.

In some courts, the chief judge and court executive staff deal with all administrative matters with little, if any, involvement of other judges and staff. Administrative decisions may or may not be routinely communicated throughout the court. In other courts, judges have regularly scheduled administrative conferences, typically once per month, during which the chief judge and court executive provide updates and solicit input from the full bench. Often, various associate judges are appointed as head of administrative working committees such as budget, employee relations, and technology. Within this framework, there are different models of communicating administrative issues and decisions, as well as varying degrees of participation from judges and other staff in the investigation of administrative matters and the decision-making process.

As identified in the research cited previously, collegiality and trust in an organization are strengthened when people are aware of and have the opportunity to participate or provide input regarding how to deal with matters or organizational concern. At a minimum, IACs should strive to establish an administrative structure that gives judges and staff opportunities to participate in and be aware of administrative decisions that impact the court. Realistically, such a structure would distinguish routine, day-to-day types of matters from those with broad organization-wide impact. Principally, the structure should be designed to support effective communications and collegiality within the culture of the individual court.

b. Emphasize Collegiality

It is a well-accepted principle that in order for collegiality to grow and thrive in a court, the leadership team, especially the chief judge, must emphasize it intentionally and repeatedly. This focus is essential for instilling any value within the organizational culture. Two examples of courts, and a professional organization, placing a direct emphasis on collegiality as an organizational value are described below.

- The Colorado Court of Appeals undertook an effort to identify a series of organizational core values. After identifying these values as collegiality, excellence, integrity and service, the chief judge formed a Collegiality Committee that included judges, staff attorneys, law clerks, the reporters of decisions, and staff from the clerk's office. The committee worked through an iterative process to draft a Collegiality Statement which was then submitted to all the judges at a full court conference. Once the judges approved it, it was rolled out to all staff at a court-wide meeting. The Colorado Court of Appeals Collegiality Statement can be found in Appendix B.

In describing the process, Chief Judge Steven Bernard said:

Collegiality is one of our four core values. The other three are excellence, integrity, and service. We are presently going through the same process to draft an integrity

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statement, and we will, within fairly short order, do the same thing to produce excellence and service statements.⁴²

Court Executive Polly Brock said that the Collegiality Statement is now being incorporated into the court's training curriculum, and that a law clerk mentor emails the statement to incoming law clerks before they begin their term. Large-size printed copies of the Statement are posted in conspicuous places around the courthouse, especially in the offices of key leaders and managers. It has also been included as a feature in the Court's first-ever newsletter.

- As another example, the Finnish Nurses Association developed a set of Collegiality Guidelines which are included in Appendix C.
- Another way in which an appellate court places an emphasis on collegiality is to assign responsibility for planning and coordinating special events to one or more of the judges. For a number of years, the California 1st District Court of Appeal has designated one of its judges as the "Collegiality Czar". While specific duties and tasks may vary, use of a specially designated title can denote the importance of collegiality to the court.

c. Establish Norms for Communication

Communication in a digital world is different than face-to-face communication. As Professor Zimmerman noted, "it is hard to emphasize in writing the same things you emphasize in oral communication with inflection, how strongly you feel about things etc. In addition, judges may display more candor in face to face private meetings versus written communication."⁴³

To address this, some IACs have made it a priority to have discussions and presentations on effective digital communication. Because email etiquette is something many judges are unfamiliar with, it is important that judges become familiar with the rules.⁴⁴ Chiefs around the country have taken various approaches to communication:

- One chief sent a reminder to judges and staff to assume that feedback isn't negative and to read it as a positive rather than negative.
- Some chiefs have actually adopted etiquette policies or guidelines regarding the timing of communications, e.g., encouraging colleagues to strive to review and comment on draft opinions they receive from other chambers within a limited number of business

⁴² Email from Colorado Court of Appeals Chief Judge Steven Bernard to Judge Karen Arnold-Burger, Chief Judge Kansas Court of Appeals on October 21, 2019.

⁴³ See fn. 23, *supra*, Prof. Gordon Zimmerman interview, February 8, 2019.

⁴⁴ "Best Practices for Professional Email", by Natalie Lundsteen, February 5, 2018.

<https://www.insidehighered.com/advice/2018/02/05/tips-clear-and-professional-electronic-communication-job-opinion>. cf, "Don't Reply All: 18 Email Tactics That Help You Write Better Emails and Improve Communication with Your Team", by Hassan Osman, 2015.

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days, or asking that the authoring judge be notified if the reviewing judge needs more time than expected.

- Another indicated that the court’s “unwritten rule” is that a judge is expected to set aside his or her own work in order to respond as quickly as possible when receiving a draft from a colleague.
- One chief suggested setting a standard that, unless the matter is urgent, judges should not expect responses or action on emails they have sent after business hours or on weekends or court holidays until the end of the next business day. Late night email exchanges should be discouraged, for reasons of work-life balance.
- The Michigan Court of Appeals has established the following internal rule 2.3.2, “tailored to both our own judges and how we write about trial court judges, with the belief that the tone we set in our opinions may impact how others - lawyers and judges - write and treat each other.”⁴⁵

2.3.2 Civility in Opinions and Orders.

All opinions and orders of this Court should be written with civility. Judges should take care when drafting opinions and orders to avoid personal criticism regarding the motives, character, or competence of a judge of this Court or a trial court. Identifying a trial court judge by name in an opinion or order should be avoided, and should only be done if (1) it is necessary because more than one judge of the same court handled matters that are now on appeal, or (2) the judge’s work that is subject to the appeal was so exemplary that mentioning him or her by name is warranted. (6/17/19 Judges approved by e-mail vote.)

The promulgation of operational rules, whether informal, like several of the above, or more formal institutional rules, help to establish the acceptable communication norms within the court. They can facilitate cooperation among judges by creating an institutional mission. When they are promulgated by the members of the court, the judges have a stake in their enforcement. For example, the random assignment of cases and the rule that each judge sit with every other judge on the court periodically allows judges to get to know all members of the court and may prevent the formation of like-minded groups of judges. The practice promotes familiarity and good working relationships, and also relays a perception of fairness to the public. Other examples that some IACs utilize include court rules regarding deliberations and circulation of opinions (e.g., who speaks first, who signs the opinion, time standards for circulation of opinions, time standards for review and comments on draft opinions, rules to expedite dissenting or concurring opinions so as not to delay the majority opinion).⁴⁶ Such rules establish a common routine or norm for behavior on the court. New judges should be advised of these

⁴⁵ Interview with Michigan Court of Appeals Chief Judge Chris Murray, October 2019.

⁴⁶ The Michigan Court of Appeals has an internal policy about the priority given to responding to opinions circulated from a colleague, stating simply “that each judge should give first priority to opinions of other judges.”

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standards and their importance to the workings of the court prior to the judge's first official day on the court.

Promoting good communication practices must also include safeguards to avoid groupthink. As we have learned, for constructive thinking to go on, a group must have a fairly high degree of like-mindedness about basic values and mutual respect. The members must forego trying to score points in a power struggle or obtain ego gratification by deflating rivals. These basic conditions are not likely to be created until the policy-making group becomes at least moderately cohesive, but then the quality of the group's deliberations may deteriorate as a result of the concurrence-seeking tendency that gives rise to the symptoms of groupthink.⁴⁷

The Kansas Court of Appeals has addressed the issue through training, particularly focusing on the Abilene Paradox.⁴⁸ Judges will remind each other during deliberations or court decision-making to stop and ask if they are collectively headed to Abilene when no one really wants to go there. The same court asks research attorneys, once they have finished a prehearing memo in select cases, to write a petition for review of two to three pages, outlining how the proposed decision or approach is wrong. This makes everyone take stock of the weaknesses in the court's approach. Both are efforts to avoid group think—one of the traps that a highly collegial court must avoid.

d. Create Opportunities for Face-to-Face Communication

As technology allows judges to prepare for argument and write decisions while working remotely – with equivalent or even greater efficiency than enjoyed in chambers – many courts have found it important to create opportunities for judges to come together as a group for purposes other than daily work. A few examples are described below.

i. Regularly Scheduled Judges Meetings

This entails judges gathering periodically to discuss a combination of administrative and substantive matters of mutual concern. IACs that have successfully adopted this practice stress that the meetings should be frequent enough that the agenda is of manageable length, but not so frequent as to become either tedious or too light on content.

ii. Daily or Monthly Group Lunches

Some courts gather daily for a brown bag lunch in a conference room, without an agenda, simply for casual conversation and companionship. It is important that a sufficient number of those "on site" on any particular day participate, so that the setting does not itself create a clique of the "regulars" at which "occasionals" feel

⁴⁷ See fn. 11, *supra*, Janis, p. 207.

⁴⁸ "The Abilene Paradox: The Management of Agreement" by Dr. Jerry B. Harvey. *Organizational Dynamics*, Summer 1988, pp. 17–43. © 1988 by the American Management Association, New York.
http://web.mit.edu/curhan/www/docs/Articles/15341_Readings/Group_Dynamics/Harvey_Abilene_Paradox.pdf.
Also, see accompanying training video at: <https://www.coursera.org/lecture/social-psychology/assigned-video-4-1-the-abilene-paradox-iYTZw>

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unwelcome. One court hosts a monthly PBJ (pizza by judges) where judges buy pizza and cake for all who can attend. A slide show is presented related to the people who had a birthday that month. The celebrants also get a questionnaire with very neutral fun questions to fill out in advance. For example, in October, questions included: What is your favorite Halloween candy? How old were you when you stopped trick or treating? Who is the scariest movie villain? The answers are shared with the group in a funny format. The lunch ends with a drawing from the names of all birthday celebrants that month for three prizes, which are little things like a can of diet coke or a miniature puzzle, with the grand prize usually being a \$5 Target gift card. Fun is had by all.

iii. Periodic Educational Lunches Unrelated to Law

The Massachusetts Appeals Court has established a periodic series of "arts & letters" brown bag lunches, open to judges and staff, at which a local author is invited to talk about a recently published book. Examples include Stephen Puleo, author of *The Caning*, sportswriter Dan Shaughnessy, author of *Francona: The Red Sox Years*, Stephen Kurkjian, author of *Master Thieves: The Boston Gangsters Who Pulled off the World's Greatest Art Heist*; New York Times bestselling author Joseph Finder, author of *Judgment*; and Harvard Professor Danielle Allen, author of *Our Declaration: A Reading of the Declaration of Independence in Defense of Equality*. These events give judges a reason to gather, bring them together with staff, and expose all to topics outside the day-to-day doctrine.

iv. Judges Learn from Retired Judges

Following a period of multiple retirements (with a concomitant large influx of new judges), one IAC hosted a series of brown bag "Lunches with the Legends," at which several retired judges who served on the court for decades returned to reminisce about their experiences for the benefit of newly appointed judges who had grown up in the profession viewing the retirees as icons. In addition to introducing the retired judges to the new ones, it offered a sense of institutional history to the new judges as they began their time on the court, while letting them know that the challenges they face are much the same as those faced by those who came before them.

v. Cocktail Reception

A cocktail reception, with heavy hors d'oeuvres, has emerged as a more manageable alternative to an annual or semi-annual dinner of judges in large courts. At the reception, current and retired judges can mingle and get to know one another in an informal social setting.

vi. Friendly Competitions Between Chambers or Judges

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Another method to increase interaction is to introduce fun and friendly competitions to increase interaction. In Kansas each year, the Chief Judge of the Court of Appeals and the Chief Justice of the Supreme Court host "Burgers with the Chiefs," a lighthearted competition to see who has the best grilling prowess and provide a free lunch for all judges and staff. A humorous video introduces the event each year.⁴⁹ Cupcake-baking competitions and chili cook-offs also get everyone involved in displaying their talents or judging the entries. For many years, the Massachusetts Appeals Court has hosted an annual Trivia Bowl, where teams of four or five members (comprised of a mix of judges, law clerks, and staff) compete through three rounds of trivia questions.

vii. Miscellaneous and Sundry Celebrations

Many IACs have a standing social committee (comprised of judges, staff, and law clerks) which plans, decorates, and arranges refreshments for a variety of social occasions during the course of each court year, including events such as start of term party in September, a holiday party in December, and a staff appreciation party in June (at the end of the court's ordinary term). Other occasions include the ceremonial induction and first sitting of a new judge, a memorial approximately one year after the death of a judge (with remembrances by the attorney general, a former colleague, and a former law clerk presented and placed in the bound reports of the court). The number and variety of possible social events is too varied to inventory, but the presence of a standing committee helps to ensure that the events occur.

e. Provide Court-Wide Communications to Judges and Staff to Keep Them Engaged

A chief judge also must find ways to communicate to the entire court staff in ways that are effective given any unique challenges faced in his or her court and that encourage cooperation. For example, are judges and staff members in different facilities, do they work from home often or just occasionally, are they technologically savvy? Staff want to know what's going on and feel like they are part of a court family. Chief judges have found one way to address those challenges by using blogs and newsletters.

Blogs and newsletters have proven to be a useful tool to increase information flow and familiarity in several IACs. Using SharePoint technology, Indiana Court of Appeals Chief Judge Nancy Vaidik developed, with the assistance of the Information Technology Department, a series of blogs called Appealing News for judges and staff of the court. Any staff member or judge can post on the blog. Posts include Monthly News by Chief Judge Vaidik; Obnoxious Bluebook Rule of the Month; state news; "What's for lunch?"; recipes; weekly Case Clips and Hand Downs; About Town

⁴⁹ One of the videos distributed promoting Burgers with the Chiefs can be viewed at: https://www.youtube.com/watch?v=dbfnuD37N_c&feature=youtu.be.

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(listing fun events happening in the area); a rotating highlight post of different employees; “Get to know your colleagues,” focusing on new employees; technology tips; and traveling oral argument recaps.

Chief Judge Vaidik is constantly examining ways to update and improve the blog. She makes it a point to share information about awards received, assorted good news, and writing tips. Court staff have posted seasonal recipes, vacation photos, new babies, and other information about their personal lives. The blog has been an effective method for staff from various chambers to get to know each other and share information in a positive collaborative environment. See an example of the Appealing News blog in Appendix D.

Similarly, in Kentucky, Chief Judge Denise Clayton oversees the monthly publication of a newsletter for the court's 15 judges and staff located in different areas of the state. Staff members are highlighted, awards announced, and tips provided. As she explained:

“The newsletter was developed in response to comments from staff across the state feeling both uninformed and detached from their colleagues. The newsletter as well as our annual Court of Appeals Education Conference encourage and promote collegiality among the staff. The conference includes judges, staff attorneys, case managers (also known as secretaries), and clerks.”⁵⁰

See an example of the Kentucky Court of Appeals Quarterly Brief in Appendix E.

f. Develop an Effective On-Boarding Process for New Judges

New judges must learn the culture of the court to operate effectively within it. Ensuring that they are welcomed on-board and shown the communication methods and expected norms that allow the court to remain a collegial and caring institution is important. IACs usually hold ceremonial events when a new judge is officially sworn in to the court. In addition, there are typically some meetings with the chief judge and the court executive to take care of administrative issues, show the new appointee his or her assigned office, and address other employment matters. Some appellate courts have developed a formal on-boarding program to ensure that the new appointee has an opportunity to meet most of the judges and many staff members and minimize the stress of beginning a new judicial position.

Experience has shown that the first several months of a newly-appointed judge’s tenure are critical in shaping his or her expectations and work habits, as well as introducing the judge to the culture of the court.

⁵⁰ Email from Kentucky Court of Appeals Chief Judge Denise Clayton to Chief Judge Karen Arnold-Burger, Kansas Court of Appeals, October 28, 2019.

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i. Pre-investiture “get acquainted” Meetings

Like many appellate courts, Division One of the Arizona Court of Appeals went through a long period without experiencing any judicial vacancies. However, during the period from 2013 to 2017, the Court had seven new appointments. Anticipating this oncoming turnover in judges, the Court developed a program for effectively onboarding the new judges that included the following components:

- Upon being named, the judicial appointee is assigned two mentor judges, one sitting judge and one retired judge.
- The chief judge and the vice-chief judge schedule a lunch meeting with the new appointee to get acquainted and discuss key administrative matters.
- The court executive schedules opportunities for the new appointee to meet with staff.

ii. Provide Educational Material and Assign a Mentor for New Judges

The Massachusetts Appeals Court also has developed a number of resources and practices to help onboard new judges. Prior to arrival, the new judge receives a written manual for new judges, designed to introduce the judge to the practical and normative aspects of working at the court. Upon arrival, the mentor judge walks the new judge around the court to introduce him or her to judicial colleagues and staff, and familiarize the judge with the physical layout of the court's space. Hands-on, one-on-one training is administered on the use of the court's technology systems and applications. If the new judge did not previously serve as a trial judge, the judge also receives training on how to operate within the confines of the code of judicial conduct, particularly as it regulates personal activities and affiliations outside of work.

Upon confirmation, each new judge is assigned a mentor judge. Ideally, the selection of a mentor judge should take into account the experience level and good habits of the mentor as well as the strength and weaknesses of the new judge. Not only should personalities be compatible, but a mentor should be able to uniquely assist a new judge who may be lacking in particular experience. Mentors provide feedback, access to both official and unofficial networks within the court, and emotional support. They act as role models, encourage new behaviors, provide feedback, counsel, and facilitate informal exchanges of information about work culture and non-work experiences.

The mentor judge sits on a panel with the new judge in each of the new judge's first three months, along with one other judge each month to round out the three-judge panel. The mentor judge and the third judge are chosen with an eye toward modeling preferred behaviors. They are typically senior colleagues who routinely are well prepared for argument, treat advocates and colleagues with respect, discuss substantive issues in each case thoroughly and thoughtfully at consultation, prepare and circulate their own draft opinions promptly after argument, and comment thoroughly and respectfully on drafts they review.

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During the first three months of service, while they are on the panel together, the mentor judge reviews, and edits extensively, all of the new judge's draft opinions before they are circulated to the other panel member. The mentor judge also serves generally as a resource, confidant, and guide for the new judge, for any questions the new judge may have, or for any advice or other support the new judge may need during the introductory period, and often for a substantial period beyond.

Finally, new Massachusetts judges are generally precluded from serving on any court committees or taking on other non-case related duties for one year following arrival on the court to allow them to focus on their caseload without competing obligations.

g. Begin a Tradition of Holding Judicial Retreats

Some states have conducted full-court educational conferences or retreats as a method of promoting collegiality. For instance, since 2015, New Jersey's 32-member Appellate Division has held a full-day annual educational program at a centrally located conference hotel. The gathering occurs after Labor Day during the week preceding the start of the annual court term, before opinions are due and the rapid tempo of weekly case calendars begins. The gathering is preceded by an optional dinner at the conference hotel the night before.

The annual conference has provided a useful opportunity for the New Jersey judges to prepare for the upcoming term in a relaxed atmosphere that encourages the exchange of ideas, innovations, and "best practice" tips.

Each session is opened with remarks from the Chief Justice of the New Jersey Supreme Court. The judges then hear presentations by outside speakers. The speakers have included an expert on effective legal writing, a Harvard researcher who provided training on effective communication, a law professor who authored a book on Oliver Wendell Holmes, a social scientist who helped develop a criminal risk-assessment empirical instrument used in New Jersey, and a speaker on writing in the digital age. The New Jersey program also has included talks by retired appellate judges who offered useful tips on opinion-writing and time management.

"Breakout sessions" in the afternoon are an important and well-received component of New Jersey's annual gathering. The small groups engage in a dialogue on a wide range of subjects, such as how opinions are assigned, how to prepare for upcoming cases, how to best use law clerks and administrative staff, how to explore poorly briefed legal issues without getting trapped in a research "rabbit hole," and how to keep pace with opinion writing. The small-group conversations have been especially helpful in providing the judges with an informal setting to pose questions and make suggestions. All of this has fostered collegiality with the court.

Massachusetts' appellate court likewise has successfully held three annual off-site conferences since 2017 to help promote collegiality and good will among its members. The conferences span two days, requiring an overnight stay that includes a dinner (and an optional "after party"). At each of those conferences (typically held in April or May),

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at least one segment has been devoted to how the justices on the court collaborate and communicate with one another. Several outside speakers and consultants have been instrumental in that endeavor, including a renowned psychiatrist who has studied judges and collaborative decision-making, an expert on effective communications, and a psychologist who focused on methods of enhancing a positive internal culture within the court. Two of those outside speakers gathered information from individual members of the court before the conference, which gave them insights that were helpful in shaping the dialogue during the sessions.

Quite apart from the substantive content of the program, the conference is one of the very few occasions during the year when all 25 judges are under the same roof for 2 consecutive days, since many judges work remotely (at least on occasion) when reading to prepare for argument or writing draft opinions. Much of the beneficial informal interaction and relationship building takes place in between sessions or at the dinner.

Like the New Jersey experience, the Massachusetts sessions have been very beneficial in cultivating a collegial atmosphere within the court. As the court's Chief Justice, the Honorable Mark Green, observed, there is value in a facilitated discussion that can take place only in a retreat setting, as compared to substantive educational topics that can be conducted in programs during the regular year.⁵¹

Additional Research Opportunities

This CCJSCA-commissioned white paper represents the organization's initial effort to study collegiality in the state intermediate appellate courts and the effects of their growing reliance on technology in communications and collaborative activities. This paper also develops and describes a set of best practices for maintaining good communication, collaboration, and collegiality in this era of digital technology. It is CCJSCA's intent that chief judges can study these best practices and adapt them to the needs and culture of their own to improve and sustain an effective collegial environment. However, this white paper does not comprehensively address all issues with respect to digital technologies and collegiality. As a result, it can also serve as a starting point for other research projects. Some issues that we identified as appropriate for further research are:

1. Is there a measurable impact on collegiality, productivity, and decision-making in appellate courts as a result of judges working remotely?
2. How does the level of collegiality affect judicial productivity, measured either quantitatively or qualitatively?
3. Do remote working arrangements have an effect on the job satisfaction of law clerks or research attorneys, who invariably have hopes of learning from an experienced judge who they now may communicate with primarily through digital technologies?
4. How effectively do judges supervise remote staff through primarily electronic communications?

⁵¹ Interview with the Massachusetts Appeals Court Chief Justice Mark Green on October 28, 2019.

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Enhancing Communication, Collaboration & Collegiality

Conclusion

"[A] court must have a leader who values collegiality and who takes steps to nurture it in order to bring about a more collegial court."⁵² As summarized by Dr. Isaiah Zimmerman, clinical psychologist and frequent lecturer at the National Judicial College, the goal of fostering collegiality in an intermediate appellate court is best supported by a chief justice who assiduously builds and promotes positive group interaction and pride of membership by, among other things, providing:

- Clear support for individual growth and development, totally apart from legal theory and political positions;
- Sensitivity to individual issues as they arise, and a culture of respect for privacy;
- Active promotion of interaction/clash of ideas among all members of the court within the culture of respect for privacy; and
- Promotion/cultivation of an historical base of how our court has developed legal theory and its application through the years, i.e., a sense of "our court's history".⁵³

Chief Judges and judicial scholars clearly see the value in fostering a collegial court culture, and many of those we interviewed and those who responded to our survey have created innovative and effective ways to reach that goal. We also learned, however, that such a culture does not just happen on its own and cannot simply be imposed by fiat. Chiefs need to develop a strategy to build a foundation of trust, the key building block of collegiality. They must cultivate an appreciation for differences in opinion and style, while valuing civility and camaraderie. This is no easy task, but it is central to effective leadership and the resulting high performing appellate court.

⁵² "Collegiality and Judicial Decision Making" by Judge Harry T. Edwards. 151 Univ. of Pennsylvania L.Rev. No. 5 1673 (May 2003); Cf. Lawrence S. Wrightsman, "Judicial Decision Making: Is Psychology Relevant?" 85-87 (1999) Kluwer Academic/Plenum Publishers, New York, N.Y. (discussing the ideal leadership qualities of a Chief Justice: willingness and ability to work hard, intellectual capability, sensible assignment of opinions, running an organized ship, sensitivity to others, development and maintenance of a collegial atmosphere, and spirit of conciliation).

⁵³ Email from Dr. Isaiah Zimmerman to Massachusetts Appeals Court Chief Justice Mark Green, January 29, 2019.

**Council of Chief Judges of the State Courts of Appeal & the National Center for State Courts
Enhancing Communication, Collaboration & Collegiality**

Appendices

- A. DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALLY**
- B. COLORADO COURT OF APPEALS COLLEGIALLY STATEMENT**
- C. FINNISH NURSES ASSOCIATION COLLEGIALLY GUIDELINES**
- D. INDIANA COURT OF APPEALS NEWLETTER – APPEALING NEWS**
- E. KENTUCKY COURT OF APPEALS NEWLETTER - THE QUARTERLY BRIEF**

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALLY

Does your court use the following technological applications (please select all that apply):		
Remote Panel Conferencing (telephone or video)	16	42.11%
Remote Oral Argument (telephone or video)	16	42.11%
Simultaneous Collaboration & Editing Tools	11	28.95%
Digital Opinion/Decision Circulation	24	63.16%
Speech to Text Dictation software	4	10.53%
Other Technologies (please specify):	7	18.42%

Does the court establish merits panels that sit together for a fixed period of time or on a case-by-case basis?		
Fixed period - how long?	30	78.95%
Case-by-case	8	21.05%
Total	38	100.00%

Do all judges and chambers staff have their primary office in a single location?		
Yes	31	81.58%
No	7	18.42%
Total	38	100.00%

Are remote work arrangements permitted for:		
Judges (please indicate how many work remotely)	35	92.11%
Law Clerks (please indicate how many work remotely)	23	60.53%
Total	38	100.00%

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALITY

Is there an official court policy addressing remote working arrangements?		
Yes	10	26.32%
No	28	73.68%
Total	38	100.00%

Please describe the quality of communication in your court:	1 - Very Poor	2 - Poor	3 - Adequate	4 - Good	5 - Excellent
Among judges	0	0	5	11	22
Between judges and chambers staff:	0	0	1	15	22
Between judges and other staff (e.g. clerk's office, central staff attorneys, court administration):	1	0	6	15	16

Has the quality of communication among judges changed in the past 3 - 5 years?		
Yes	15	39.47%
No	23	60.53%
Total	38	100.00%

Has it gotten:		
Better	10	66.67%
Worse	5	33.33%
Total	15	100.00%

Has the quality of communication between judges and chambers staff changed in the past 3 - 5 years?		
Yes	9	23.68%
No	29	76.32%
Total	38	100.00%

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALLY

Has it gotten:		
Better	7	77.78%
Worse	2	22.22%
Total	9	100.00%

Has the quality of communication between judges and other staff (e.g. clerk's office, central staff attorneys, court administration) changed in the past 3 - 5 years?		
Yes	17	44.74%
No	21	55.26%
Total	38	100.00%

Has it gotten:		
Better	13	76.47%
Worse	4	23.53%
Total	17	100.00%

To the extent that the quality of internal communications has changed in the past 3 - 5 years, can that change be attributed to the use of the following? (please select all that apply)		
Communications technology	10	26.32%
Remote work arrangements	5	13.16%
Other (please identify the other application)	11	28.95%

Please describe the level of collegiality in your court:	1 - Very Poor	2 - Poor	3 - Adequate	4 - Good	5 - Excellent
Among judges	0	0	4	10	24
Between judges and chambers staff:	0	0	1	12	25
Between judges and other staff (e.g. clerk's office, central staff attorneys, court administration):	1	2	2	12	21

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALLY

Has the level of collegiality among judges changed in the past 3 - 5 years?		
Yes	15	39.47%
No	23	60.53%
Total	38	100.00%

Has it gotten:		
Better	10	66.67%
Worse	5	33.33%
Total	15	100.00%

Has the level of collegiality between judges and chambers staff changed in the past 3 - 5 years?		
Yes	9	23.68%
No	29	76.32%
Total	38	100.00%

Has it gotten:		
Better	6	66.67%
Worse	3	33.33%
Total	9	100.00%

Has the level of collegiality between judges and other staff (e.g. clerk's office, central staff attorneys, court administration) changed in the past 3 - 5 years?		
Yes	14	36.84%
No	24	63.16%
Total	38	100.00%

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALITY

Has it gotten:		
Better	11	78.57%
Worse	3	21.43%
Total	14	100.00%

To the extent that the level of collegiality has changed in the past 3 - 5 years, can that change be attributed to the use of the following? (please select all that apply)		
Communications technologies	7	18.42%
Remote work arrangements	4	10.53%
Other (please identify the other application):	15	39.47%

Is your level of trust and confidence affected when draft opinions/orders are submitted by a judge:	1 - Definitely Lower	2 - Somewhat Lower	3 - No Difference	4 - Somewhat Higher	5 - Definitely Higher
with whom you have been empaneled repeatedly in the past?	0	0	26	6	6
with whom you are chambered in the same courthouse?	0	0	29	5	4
whom you have gotten to know well?	0	0	19	10	9
with limited experience on the appellate court:					
less than 5 years	2	15	19	0	2
5-10 years	0	0	25	9	4
Longer than 10 years	0	0	21	10	7

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALLY

Is the average time and effort spent reviewing draft opinions/orders affected when they are submitted by a judge:	1 - Definitely Lower	2 - Somewhat Lower	3 - No Difference	4 - Somewhat Higher	5 - Definitely Higher
with whom you have been empaneled repeatedly in the past?	2	5	29	2	0
with whom you are chambered in the same courthouse?	0	2	34	2	0
whom you have gotten to know well?	0	7	27	4	0
with limited experience on the appellate court:					
less than 5 years	0	6	16	12	4
5-10 years	0	2	31	5	0
Longer than 10 years	0	7	27	3	1

Is your readiness to reach consensus or agreement affected when collaborating with a judge:	1 - Definitely Lower	2 - Somewhat Lower	3 - No Difference	4 - Somewhat Higher	5 - Definitely Higher
with whom you have been empaneled repeatedly in the past?	0	0	30	8	0
with whom you are chambered in the same courthouse?	0	0	33	5	0
whom you have gotten to know well?	0	0	26	10	2
with limited experience on the appellate court:					
less than 5 years	1	7	29	1	0
5-10 years	0	1	33	4	0
Longer than 10 years	0	0	30	7	1

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALITY

Please answer the following:	1 - Definitely Lower	2 - Somewhat Lower	3 – No Difference	4 - Somewhat Higher	5 - Definitely Higher
How has the use of e-mail, "track change" editing, videoconferencing, and other communications technologies affected your level of trust and confidence in the work of your fellow judges?	0	2	28	6	2
How has the use of communications technologies affected the amount of time and effort you tend to spend reviewing draft opinions and orders submitted to you by other judges?	2	15	16	5	0
How has the use of communications technologies affected the ability to achieve agreement or consensus on the outcome or wording of an opinion or order in a difficult case?	0	4	18	14	2
How has the use of communications technologies affected the ability to mentor newer judges on your court?	1	6	16	14	1
How has the use of communications technologies affected the ability to supervise and mentor law clerks?	0	6	16	14	2
How has the use of communications technologies affected your inclination to consult a colleague for advice about a legal issue?	1	3	27	4	3
How has the use of communications technologies affected the courtesy, mutual respect, or morale among the judges of your court?	1	8	26	3	0

DATA TABLES – CCJSCA SURVEY ON COMMUNICATIONS & COLLEGIALLY

Overall, has the use of the following communications technologies had a positive or negative effect on your work?	Positive	Negative
Email	36	2
Track-change editing	35	3
Videoconferencing	29	9
Remote work arrangements	28	10

During the on-boarding process, does your court provide specific opportunities designed for new judges to be introduced to the court family, learn the court’s culture, and establish trust and familiarity with colleagues?		
Yes	25	65.79%
No	13	34.21%
Total	38	100.00%

Does your court take specific actions specifically designed to improve or maintain a collegial environment, particularly when judges tend to work remotely?		
Yes	28	73.68%
No	10	26.32%
Total	38	100.00%

COLLEGIALLY

Collegiality at the Colorado Court of Appeals is a community culture that promotes shared responsibility for excellence and integrity in the pursuit of justice. It must be deliberately and continuously nurtured.

To preserve and promote this culture:

We are generous with our time and expertise;

We listen actively with an open mind;

We collaborate and treat each other with respect and dignity, even when we disagree;

We create an atmosphere of trust, kindness, and courtesy;

We let the Court's mission guide our interactions and work;

We recognize excellence in others and in the organization, and we celebrate individual and collective success;

We embrace diversity;

We accept our coworkers' differences, and we enable them to do their best work.



Nurses' Collegiality Guidelines

The purpose of Collegiality Guidelines is to support collegiality among nurses^{*)} in their daily work. The guidelines obligate us to work collegially with one another.

Our collegiality as nurses is an equal and reciprocal relationship between members of the profession. It supports our professional work, and aims to achieve a common objective – the best patient care possible. Collegiality influences the profession's internal cohesion and status in society.

Collegiality is based on professional ethics

- We respect and esteem our colleagues.
- We treat our colleagues fairly.
- We trust our colleagues and are trustworthy ourselves.
- We comprise a unified profession.

Communication is collegial

- We speak about our colleagues and to our colleagues respectfully and politely.
- Communication between us is open, honest and confidential.
- We give and receive constructive feedback.
- We defend and support colleagues in unfair or difficult situations.
- As nurses, we create a working community in which grievances and conflicts can be dealt with.

Cooperation strengthens skills

- We recognise and acknowledge our colleagues' skills.
- We consult with our colleagues on a reciprocal basis.
- We share responsibility, decision-making and duties equally and fairly.
- We support our colleagues in work tasks and decision-making.
- It is our responsibility as nurses to intervene in a colleague's actions, if they pose a threat to patient safety.

Everyone is responsible for collegiality

- We are responsible by our own example for the collegiality of the profession in and outside the workplace.
- Our nursing managers are responsible for creating structures that support collegiality.
- Our profession is responsible for teaching and fostering collegiality.

^{*)} The term nurse is used to refer to a registered nurse, public health nurse, midwife or paramedic (with bachelor's degree).



www.nurses.fi/collegiality

FINNISH NURSES ASSOCIATION 2014*

2019
10/15

October News by Chief Judge Vaidik

by Reed, Ashley at 4:34 PM in Judge Vaidik's Monthly Column

Dear All,

I apologize for the tardiness of this newsletter particularly to those who celebrate their birthdays and anniversaries this month. But, to say the least I have been busy. As has the court. In October, 10 oral arguments are scheduled. And our traveling oral arguments are in full swing. By the end of this year, the Court will have traveled to all 92 counties to hold arguments since the inception of the program. We are, by far, leading the nation's appellate courts in holding traveling oral arguments.

By now, everyone should have received a "save the date" for the COA Holiday Luncheon – December 18, at 11:30am. Judge Brown and chambers are planning a very fun event. Stay tuned. Also, Judge Baker's annual party is December 6 from 10 am -noon.

All law clerks, judges, and senior judges will shortly be receiving a Save the Date from my office for a Judicial Workshop put on by the Supreme Court on November 18 from 1-4 pm. The topic is Law and Corpus Linguistics. Justice Slaughter has arranged for an expert in the area, Professor Heilpern, to come to Indiana to speak to the Supreme Court and their clerks. And the Court has graciously invited us to attend. More information will be forthcoming.

Most of the happenings this month have already passed. But note, I am in time with this newsletter to remind everyone of Boss's Day tomorrow. Unfortunately, many of us will be gone to the ISBA annual meeting or the Chief Judge's conference. Darn! Alas, we all should be back in time for Cranky Co-Worker's Day. (Not that any of us are ever cranky.)

Happenings this month

- 2 Fall Bar Admission Ceremony
- 3 ISBA Evening with the Appellate Judges
- 3-5 Annual GAL/CASA Conference
- 4 Pretrial Summit, Indianapolis
- 10 IndyBar Applied Professionalism Course
- 14 Columbus Day, office closed
- 16 Boss's Day
- 16-18 ISBA Annual Meeting
- 27 Cranky Co-Workers' Day
- 31 Halloween

Birthdays for the month are:

- Ann Goodwin 1
- Judge John Baker 4
- Matt Fisher 6
- Bob Drew 8
- Susan Hinkle 8

2019
9/3

Obnoxious Bluebook Rule of the Month--Justice Massa Thinks the Bluebook is Obnoxious Too

by Warner, Jon at 11:29 AM in [Legal Writing](#)

By Jon Warner (Law Clerk for Judge Najam)

Happy September everyone! Over the summer, Justice Massa wrote two opinions for our Supreme Court that made something very clear: he thinks the Bluebook is obnoxious. Hear, hear, Justice Massa.

First, on June 27 the Court handed down its opinion in *Horner v. Curry*. In footnote 6 on page 10 of that opinion, Justice Massa writes: "While some states may not have recognized public standing, there was 'a decided preponderance of American authority in favor of the doctrine, that private persons may move for a mandamus to enforce a public duty.' *Union Pacific R.R. Co. v. Hall*, 91 U.S. (1 Otto) 343, 355 (1875)."

Justice Massa tips his hand with the "(1 Otto)" parenthetical in his *Union Pacific* citation. Bluebook Rule 10.3.2 on page 103 of the current edition of the Bluebook says:

Early American reporters were often named after their editors rather than after the courts whose cases they reported. Subsequently, official editor-named series have been combined into jurisdiction-named series with continuous volume numbering. Such reporters are not generally cited by the official series name and number only; the name of the reporter's editor is omitted

But for United States Supreme Court reporters through 90 U.S. (23 Wall.) . . . , give the name of the reporter's editor and the volume of that series. . . .

As Rule 10.3.2 makes clear, citations to opinions of the Supreme Court of the United States through the *ninetieth* volume of the United States Reports ("U.S.") includes an abbreviation for the name of the reporter's editor.

Justice Massa's footnote 6, however, cites to the *ninety-first* volume of the United States Reports, which would mean no separate parenthetical for the editor would be required by Rule 10.3.2. Yet, Justice Massa includes the parenthetical for *Mr. William T. Otto*, a Hoosier buried in anonymity by Rule 10.3.2's obnoxious arbitrariness.

Second, on August 7, the Court handed down its opinion in an LWOP case called *Cardosi v. State*. As quick background, in my [July 2018 edition of the Obnoxious Bluebook Rules](#) I complained about Rule 1.5(b) and its instructions on the number and sequence of secondary parentheticals when used to clean up long quotes. In particular, I said: "When many of us draft a block quote, we often make multiple changes simply for the sake of readability." Rule 1.5(b), however, prohibits us from having just "one parenthetical" that is also readable and instead imposes multiple secondary parentheticals to your citation to specify each and every change you might have made to the quoted language.

Justice Massa is not a fan of Rule 1.5(b). On pages 13 and 14 of *Cardosi*, the Court has a lengthy block quote from the Supreme Court of the United States on testimonial statements for Confrontation Clause purposes. Following that quote is this citation: "*Id.* at 51-52 (cleaned up)." The Court adds this in a footnote accompanying that citation:

The parenthetical "(cleaned up)" signifies that the author "has removed extraneous, nonsubstantive material like brackets, quotation marks, ellipses, footnote reference numbers, and internal citations; may have changed capitalization without using brackets to indicate that change; and affirmatively

affirmatively represents that the alterations were made solely to enhance readability and that the quotation otherwise faithfully reproduces the quoted text." Jack Metzler, *Cleaning Up Quotations*, 18 J. App. Prac. & Process 143, 154 (2017).

I love this parenthetical, which I had never heard of before, and as far as I am concerned there is now binding precedent to disregard Bluebook Rule 1.5(b)'s obnoxious instructions.

👍 10 Unlike Comment ...

KENTUCKY COURT OF APPEALS

Issue 5
October 2019

THE QUARTERLY BRIEF



Welcome Becky Lyon & Wesley Deskins to their new positions!

INSIDE THIS ISSUE:

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Rebecca Combs Lyon is the Clerk of the Kentucky Court of Appeals. "My parents valued family, education, and public service, and my husband of 38 years shares the same priorities. I'm fortunate to have supported the exceptional work of the Kentucky Court of Appeals for over thirty years...[it] is a privilege, and I am humbled and honored to be appointed its Clerk."

Becky was born in Frankfort to Paul Combs, the Public Relations Director for the Kentucky Easter Seals Society, and Lottie Combs, an elementary public-school teacher. She and husband Jim have three children and two precious granddaughters. They live in Lexington with their son and not nearly enough rescue dogs. Jim and Becky are members of Second Presbyterian Church. "Sam Givens's encyclopedic

knowledge of appellate practice and history of the Court will be missed." She looks forward to working with the Court and its dedicated staff including the Central Office management team. She also looks forward to building better bridges with the AOC.

Becky passionately believes in the Court's mission to provide a reasoned, deliberate, and efficient review of trial court decisions for the citizens of the Commonwealth of Kentucky. "Our work directly impacts peoples' lives, families, and freedom -- we should never forget the trust placed in us."

Wesley Deskins has worked for the Court of Appeals since 2005, when he served as a staff attorney for Judge Michael L. Henry. He subsequently served as a staff attorney for then-Chief Judge Sara Combs (for whom he had clerked in law school) before moving to Central Office in 2008 to assist



with the Court's senior judge program.

Following the end of that program, Wes became the Court's "one-judge" procedural motions attorney. He served in that role until being named Counsel to the Clerk of the Court, where he assisted former Clerk Sam Givens in managing the day-to-day operations of the Clerk's office. Wes began serving as Chief Staff Attorney on October 1, 2019, following Sam's retirement and the appointment of former Chief Staff Attorney Becky Lyon as Clerk. He hopes not to break anything.

2020 COA Educational Conference

- Chief Judge Clayton and the Education Committee are pleased to announce the 2020 Kentucky Court of Appeals Conference will be held on April 16-17 in Frankfort.
- Please send any ideas you may have for topics, sessions, activities, etc. to the link below.

• [AWESOME IDEAS!](#)

2019 State of the Judiciary Address



FRANKFORT, Ky., Sept. 13, 2019 – Chief Justice of Kentucky John D. Minton Jr. gave the legislature an update today on how the Judicial Branch is "combining new approaches with tried and true methods" to improve how the courts serve the public.

Civil Justice Reform, Business Courts and Court Efficiency: The Supreme Court has launched a civil justice reform initiative to address concerns about the cost, delay and complexity of civil litigation. Deputy Chief Justice Lisabeth Hughes chairs the Civil Justice Reform Commission, which has recommended that the Supreme Court approve a pilot Business Court Docket in two divisions of Jefferson Circuit Court.

Judicial Redistricting Continues with New Caseload Study: "Work continues on judicial redistricting as we prepare for the second weighted caseload study, which will be conducted in 2020," Chief Justice Minton said. "Regular caseload studies ensure that we base any proposals for judicial redistricting or reallocation on current data."

Strong Progress on Move to Electronic Court Records: KYeCourts is a massive effort to improve and streamline court operations through updated technology. A critical part of this initiative is a new case management system called KY3, which launched this year in eight pilot counties. KY3 lets circuit clerks store digital images and court case data electronically...and moves the court system closer to its goal of maintaining an all-electronic case record.

Early Results from Open Courts Pilot Project: For the first time in Kentucky, some child protection cases are being opened to the public under a four-year pilot project taking place from 2018-2021. While child protection cases are normally closed due to confidentiality, the 2016 Kentucky General Assembly passed legislation requiring the Supreme Court to look at whether it's beneficial to open cases involving child dependency, neglect and abuse, and termination of parental rights.

ADC Changes Organizational Structure Based on Audit Recommendations: The ADC has implemented a new organizational structure in response to recommendations from the recent audit by the Kentucky Auditor of Public Accounts and from Deloitte, a consulting company the ADC engaged to advise on how best to implement the audit recommendations. The new structure went into effect in May 2019 and will bring the ADC's administrative and financial operations up to industry standards after years of doing business much the same way.

Imbibing drams and the Appeals: (No, this is not a singing group)

Recent Published Opinions

Page 2

*“Our decision herein is consistent with and guided by the Supreme Court of Kentucky’s recent holding in Maggard v. Kinney, ___ S.W.3d ___, 2019 WL 2462878 (Ky. June 13, 2019) (to be published). The Court held that an interlocutory appeal was unauthorized, reasoning “[a] privilege is not synonymous with or equivalent to immunity because it does not relieve the holder of the burdens of litigation or even, necessarily, the imposition of liability.” Id. at *1. This is similar to the application of KRS 413.241 in the instant case... “A claim of sovereign or governmental immunity satisfies the criteria [for use of the collateral order doctrine] but many other theories couched as immunity will not.” Id. (emphasis added).*

- Judge Nickell in *Recbar LLC v. Drake*, pgs. 6-7.

[More Published Case Summaries](#)

[Recbar, LLC v. Drake, ___ S.W.3d ___ \(Ky. App. 2019\).](#) Opinion and Order dismissing by Judge Nickell; Judges Acree and Taylor concurred. Released for publication.

Appellant filed an appeal from a denial of a motion for summary judgment. The motion was filed pursuant to KRS 413.241, Kentucky’s Dram Shop Act, on the basis that the statute does not permit “first-party” claims against dram shops. Appellee moved to dismiss the appeal on the grounds that it was interlocutory. In response, appellant argued that a defense under KRS 413.241 is similar to “claims of governmental immunity or workers’ compensation immunity,” two circumstances in which it is recognized that an interlocutory appeal may be had. The Court of Appeals disagreed and dismissed the appeal, holding that KRS 413.241 does not guarantee dram shop owners absolute immunity from suit but, rather, provides a liability defense. Because of this, an interlocutory appeal was not authorized and dismissal was merited.

[Barnett v. White, ___ S.W.3d ___ \(Ky. App. 2019\).](#) Opinion by Judge K. Thompson; Judges Combs and Nickell concurred. Motion for

As a matter of first impression, the Court of Appeals affirmed a custody decree in which Father was denied equal timesharing with Child after the amended version of KRS 403.270(2) went into effect. This provision adds a rebuttable presumption in favor of joint custody and equal parenting time. The Court emphasized that under both versions of the statute, the trial court is given a wide amount of latitude in deciding the best interest of the child as to custody and timesharing, stating: “While the new version of KRS 403.270(2) puts a finger on the scale in favor of joint custody and equal timesharing by requiring only a preponderance of evidence to overcome, such a preference is a slight burden and the trial court continues to possess broad discretion in determining the best interest of the child as to who should have custody and where the child shall live.” Because the parents’ inability to get along here would have been a valid basis for granting sole custody, it was also an appropriate consideration supporting the trial court’s decision to deviate from equal parenting time.

[Commonwealth v. Morgan, ___ S.W.3d ___ \(Ky. App. 2019\).](#) Opinion by Chief Judge Clayton; Judges Maze and Nickell concurred.

This matter was before the Court of Appeals upon discretionary review of an order reversing and remanding a district court order denying appellee’s motion to suppress the results of his breathalyzer test. Appellee argued that the arresting officer failed to comply with the provisions of KRS 189A.105(4), which requires that a person who submits to a requested alcohol and substance test be given a second warning concerning his or her right to have an independent blood test performed. In this case, the police officer failed to give the second warning. As to the issue of suppressing evidence when no constitutional rights have been violated, the Court noted that *Commonwealth v. Bedway*, 466 S.W.3d 468 (Ky. 2015) holds that suppression may be warranted upon the violation of a statutory right if there is prejudice to the defendant or if there is evidence of deliberate disregard of the statute. Here, the arresting officer did not testify that he forgot to give the warning. Further, the officer marked “no” on the informed consent form to the specific question of whether appellee sought an independent blood test. Therefore, the Court of Appeals agreed with the circuit court that the officer had deliberately disregarded the statutory mandate and that suppression of the breath test evidence was proper.

REAL ID Kentucky Update

from drive.ky.gov



The Transportation Cabinet, in partnership with Circuit Court Clerks, recently began a phased pilot program to rollout REAL ID-compliant credentials in specific counties, prior to making the credential available in all 120 counties. The pilot approach was necessary to understand any issues with the new credentialing system and has allowed KYTC to significantly

improve system performance and to monitor operations. The pilot program identified staffing and workload increases in Circuit Court Clerk offices that are not sustainable both in the short and long term.

In partnership with the Circuit Court Clerks and the Administrative Office of the Courts, the proposed approach is for Circuit Court

Clerks to continue to issue standard, non-REAL ID driver's licenses while the Transportation Cabinet works with the legislature to consider implementing a network of regional offices to issue the optional REAL ID-compliant cards. The Cabinet believes this is the fastest and most efficient path forward to make REAL ID-compliant cards available statewide before the federal deadline of October 2020.

Arrivals and Departures

Arrivals

Several new staff members have joined the Court since the last newsletter. Please join us in wishing these new colleagues a warm welcome!

- Zachary Epperson, Staff Attorney – Judge Acree

- Courtney Moran, Case Manager – Judge Jones
- Ashley Powell, Staff Attorney, Central Office
- Jessie Smith, Staff Attorney – Judge Spalding
- Brenden Sullivan, Staff Attorney – Central Office

Departures

We say “see you soon” to our colleagues who are no longer

with this Court and wish them success in their future endeavors!

- Jessica Schellenberger, Family Law Specialist – Central Office
- Sam Givens, Chief Clerk of Clerk – Central Office

Proofreading Tips

Westlaw Issues

1. Copied citations from Westlaw frequently use en dashes instead of hyphens for page number ranges. Rendered opinions use hyphenated page ranges. For example, N.L. v. W.F., 368 S.W.3d 136, 146–47 (Ky. App. 2012), the page range should actually be “146-47.” (It’s a nitpicky thing, but it’s something we correct with some frequency.)
2. If you choose to cite Kentucky opinions from 1951 or earlier,

the usual format is to use Kentucky Reports and the South Western Reporter in a string citation. No “Ky.” is necessary before the year, because the Kentucky Reporter already tells you what state you’re in. Example: *McGowan v. Wells’ Trustee*, 184 Ky. 772, 213 S.W. 573, 575 (1919). If you cite Kentucky cases older than 1879, then the name of the court reporter at the time becomes part of the citation: (1 Bush), (1 Duv.),

etc. See Bluebook Table T1 for more information.

3. Prescription drugs have a trade or brand name (e.g., OxyContin) and a nonproprietary or generic name (e.g., oxycodone). Trade names are capitalized, but generic names are not. In addition, as a stylistic matter, it’s probably better to be consistent when you list prescription drugs and use either all trade names or all generic names in the series.

HOW ARE WE DOING?

- Feel free to use the link below to provide feedback.

▪ [Suggestions?](#)

C-Track – The new case management system of Kentucky!
 ...with positive results and functionality from the COA Central Office,
C-Track is projected to go-live in the summer of 2020!

Birthdays This Quarter

Latisha Jones	Oct. 3	Mindy Furr	Nov. 19
Michelle Hurley	Oct. 8	Natasha Coates	Nov. 22
Tammy Sword	Oct. 10	Alicia Palmer	Nov. 22
Milissa Copeland	Oct. 14	Tonya Smith	Nov. 23
Judge Jones	Oct. 18	Ron Phillippi	Nov. 27
Becky Lyon	Oct. 22	Carole Pearlman	Nov. 27
Judge Kramer	Oct. 25	Carol Ullerich	Dec. 3
Ralaina Hunley	Oct. 28	Tina Royse	Dec. 5
Judge J. Lambert	Nov. 3	Lisa Hubbard	Dec. 6
Leslie Berry	Nov. 5	Judge L. Thompson	Dec. 11
Kerry Hines	Nov. 7	Conchita Everman	Dec. 15
Heather Hodgson	Nov. 11	Doris Griffith	Dec. 19
Jessie Smith	Nov. 12	Zachary Epperson	Dec. 28

Oct 2019						
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6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

* The above information is from lists provided by the field offices and central office. If any names should be added please contact Aisha Omar.

Upcoming Events



- **October 17-18** [Louisville](#)
- **October 31-November 1** [London](#)
- **November 21-22** [Ashland](#)
- **December 5-6** [Lexington](#)

Nov 2019						
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

State Holidays This Quarter

- **November 11** → Veterans Day
- **November 28-29** → Thanksgiving
- **December 24-25** → Christmas
- **December 31-January 01** → New Year's Day

Dec 2019						
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AOC CONTACTS

Technology Service Desk
800-860-4262

Accounting and Purchasing
Sonya Conway
Ext. 50831
sonyaconway@kycourts.net

Library
Jennifer Frazier
502-564-4848
jenniferfrazier@kycourts.net

Leased Equipment
502-573-2350

Helpful Links

[Internal Case Information Site](#)

[KCOJ Employee Handbook](#)

[KCOJ Homepage](#)

[Kentucky Deferred Comp](#)

[Kentucky Retirement Systems](#)

[KHRIS](#)

[SharePoint Site](#)

[Timesheet](#)

[Travel Reimbursement Form](#)

We're on the Web!
[Court of Appeals](#)

Staff Spotlight: Danny Coleman

Q. Position with COA?

A. Counsel to the Clerk

Q. Who were you hired by and when?

A. I was hired by Judge Kramer when she was Chief Judge a few days after I took the Ohio bar exam in August 2016. I started as her Case Manager, then became Staff Attorney. In that role, I had the pleasure to work for Judge Kramer and now Chief Judge Clayton.

Q. What does your job involve?

A. I am still very much learning all the many duties Wes had over the years! My biggest duties are to make legal determinations of documents for processing in the Clerk's office; supervise employees; run weekly reports, identify procedural problems and draft orders to correct those problems; draft orders for all Court of Appeals judges as needed; assign cases to the merits panels in accordance with our Supreme Court rules; and help the Clerk with any other "as needed" tasks.

Q. Favorite part of your job?

A. First of all, the people.

I love working with all you folks! Second, doing work for the Commonwealth. I was born and raised in Kentucky and have a deep love for it. I am honored to work hard for the people of Kentucky and show them that the system is working.

Q. Advice to new staff attorneys on the Court?

A. Just to listen and do not be afraid to ask questions. And remember that the work you are doing is very important.

Q. Favorite movie(s) and/or book(s)?

A. Big Star Wars nerd here. I love the movies and have read countless Star Wars books as well. Many of which are not canon anymore and I may or not be upset about that.

Q. What is your wish for your family, friends, and/or the world?

A. Just for more kindness out there. There is enough ugliness in the world.

Q. Spare time activities?

A. I love spending time with my wife, Kelcie, and pug, Louie. We frequent dog-friendly patios with good eats and drinks.



I also love to golf, play basketball, and ping-pong. On Sunday, you will find me yelling at the TV watching my Steelers play.

Q. Favorite travel spot?

A. My wife and I went on a Disney Cruise for our honeymoon and loved it! Although, we are trying to get to Europe next summer, so, I will report back after that.

Q. Go-to meal after a long day?

A. Wings. Spicy ones

Q. Anything else you would like the Court to know?

A. I will always rep my hometown of Ashland when given the chance. So, stop by there on your way down I-64E sometime. It's small, to be sure, but there are some good things going on there right now!