

# MAINE STATE LEGISLATURE

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## **MEMORANDUM**

**Date:** January 15, 2002

**To:** The Supreme Judicial Court  
The Joint Standing Committee of The Legislature Having  
Jurisdiction Over Judiciary Matters

**From:** The Court Unification Oversight Committee

**Subject:** The Implementation of the Recommendations of the Court  
Unification Task Force

The Court Unification Oversight Committee is pleased to submit its second annual report on the implementation of the recommendations of the Court Unification Task Force.

The introduction restates the recommendations made by the Task Force. It outlines the action taken by the legislature including the establishment of reporting requirements. It also outlines the oversight structure established by Chief Justice Wathen.

The section on Achievements describes the implementation of the statutory changes most of which became effective on January 1, 2001. It further describes rule amendments, policy changes, training, and forms modifications. It goes on to discuss the results of monitoring CUTAF changes for nine months. The section concludes by addressing coordinated scheduling and cross assignment.

There is a section on plans for the future which focuses on Recommendations III and V of the Task Force. There are six specific recommendations in Recommendation V and each of them is discussed. There are also comments on recommendation VII and the appeal process from District Court to the Law Court.

The report concludes with a summary of the progress made to date and we believe that you will agree that the progress has been substantial.

It is important to note that the section of this report dealing with plans for the future, contains recommendations made by the Implementation Team. These recommendations will be taken under consideration by the Supreme Judicial Court later this year.

**REPORT TO THE SUPREME JUDICIAL COURT**

**AND**

**THE JOINT STANDING COMMITTEE OF THE LEGISLATURE**

**HAVING JURISDICTION OVER JUDICIARY MATTERS**

**THE IMPLEMENTATION OF THE RECOMMENDATIONS OF**

**THE COURT UNIFICATION TASK FORCE**

**JANUARY 15, 2002**

Submitted by:  
The Court Unification Oversight Committee

## INTRODUCTION

The Court Unification Task Force was created by Chief Justice Daniel E. Wathen on July 9, 1998 consistent with Chapter 107 of the Resolves of the 118th Legislature. The Task Force studied the issue of court unification for the next eighteen months and on December 8, 1999, the Task Force submitted its final report and recommendations to Chief Justice Wathen. That report was submitted to the Legislature's Judiciary Committee as required by the legislative resolve. The Task Force offered the following eight recommendations in their final report:

**RECOMMENDATION I:** EXCLUSIVE JURISDICTION OVER DIVORCE AND RELATED MATTERS SHOULD BE VESTED IN THE DISTRICT COURT, WITH DIRECT APPEAL TO THE LAW COURT.

**RECOMMENDATION II:** APPELLATE REVIEW BY THE SUPERIOR COURT OF DISTRICT COURT JUDGMENTS AND ORDERS SHOULD BE SUBSTANTIALLY ELIMINATED.

**RECOMMENDATION III:** CIVIL NONJURY ACTIONS SHOULD BE TREATED, TO THE FULLEST EXTENT POSSIBLE, EQUALLY IN THE DISTRICT AND SUPERIOR COURTS, AND THEREFORE THE DAMAGES LIMITATION OF \$30,000 SHOULD BE REMOVED FROM DISTRICT COURT ACTIONS, THE FILING FEES SHOULD BE UNIFORM, AND THE LONGER CIVIL NONJURY TRIALS (THREE HOURS OR MORE) SHOULD BE SUBJECT TO AN UNIFIED RULE 16

PROCESS AND TRIAL IN EITHER THE DISTRICT OR SUPERIOR COURT ON A UNIFIED TRAILING LIST.

**RECOMMENDATION IV:** REMOVAL OF A CIVIL CASE FROM THE DISTRICT COURT TO THE SUPERIOR COURT SHOULD BE PERMITTED ONLY FOR THE DEMONSTRATED PURPOSE OF EXERCISING THE RIGHT TO A JURY TRIAL.

**RECOMMENDATION V:** A PILOT PROJECT SHOULD BE UNDERTAKEN AS SOON AS POSSIBLE TO CREATE A UNIFIED CASE SCHEDULING AND CASE MANAGEMENT SYSTEM FOR MISDEMEANOR CASES TRANSFERRED FROM THE DISTRICT COURT TO THE SUPERIOR COURT FOR JURY TRIAL.

**RECOMMENDATION VI:** THE DISTRICT COURT SHOULD BE VESTED WITH JURISDICTION, CONCURRENT WITH THE SUPERIOR COURT, TO PARTITION REAL PROPERTY BY SALE.

**RECOMMENDATION VII:** THE SUPREME JUDICIAL COURT SHOULD ESTABLISH "ON-GOING GOALS" FOR THE JUDICIAL DEPARTMENT TO TAKE FURTHER STEPS TOWARD UNIFICATION OF THE SUPERIOR AND DISTRICT COURTS FOR THE PURPOSE OF IMPROVING SERVICE TO THE PUBLIC.

**RECOMMENDATION VIII:** THE SUPREME JUDICIAL COURT SHOULD CREATE AN OVERSIGHT GROUP TO SUPERVISE AND MONITOR THE IMPLEMENTATION OF THE PRECEDING SEVEN RECOMMENDATIONS, TO IDENTIFY FROM TIME TO TIME ADDITIONAL ON-GOING GOALS FOR UNIFYING THE DISTRICT AND SUPERIOR COURTS, AND TO REPORT TO THE COURT AT LEAST ANNUALLY ON THOSE ASSIGNMENTS.

**Legislative Action**

Three task force recommendations required statutory changes for implementation, namely:

**RECOMMENDATION I.** THAT THE DISTRICT COURTS BE GIVEN EXCLUSIVE JURISDICTION OVER DIVORCE CASES AND OTHER FAMILY MATTERS;

**RECOMMENDATION II.** THAT MOST DISTRICT COURT CASES BE PROVIDED DIRECT APPEAL TO THE LAW COURT, RATHER THAN TO THE SUPERIOR COURT;

**RECOMMENDATION III.** THAT CIVIL NON-JURY ACTIONS BE TREATED EQUALLY IN THE DISTRICT AND SUPERIOR COURTS AND, THEREFORE, THAT THE \$30,000 DAMAGES LIMIT IN THE DISTRICT COURT BE ELIMINATED.

These recommendations were enacted into law by P.L.1999 Ch.731 Part ZZZ. Task Force Recommendation VI, that the District Court be given the same power to partition real estate by sale as the Superior Court, was enacted as emergency legislation (P.L. Ch. 547).

### **Reporting Requirements**

Section ZZZ-1 of the legislation requires a report by the Court Unification Oversight Committee by January 15, 2001, and annually thereafter, to the Supreme Judicial Court and the joint standing committee of the Legislature having jurisdiction over judiciary matters on:

- A. The implementation of the recommendations of the Court Unification Task Force;
- B. The identification and implementation of additional ongoing goals;
- C. The degree to which the implementation of each of the Court Unification Task Force's recommendations has achieved the intended purpose of better service to the public;
- D. How the implementation has affected the workload of the courts, including the effects on the clerks' offices; and
- E. Any other information the committee determines appropriate.

The legislation also called for the creation of the Court Unification Oversight Committee to supervise and monitor all parts of the Unification Program.

## **Oversight**

On July 3, 2000, Chief Justice Daniel E. Wathen appointed the members of the Court Unification Oversight Committee.

In addition to the Oversight Committee, on July 3, 2000, the Chief Justice appointed the Court Unification Implementation Team. The members of this team are charged with the responsibility of implementing and introducing the changes in practice and procedure made necessary by:

- 1) the grant of exclusive divorce jurisdiction to the District Court with direct appeal to the Law Court,
- 2) the elimination of appellate review in the Superior Court of District Court judgments, and
- 3) the expansion of the civil jurisdiction of the District Court.

In addition, the team was directed to:

- Design and implement the unified procedures for civil nonjury actions, described in Recommendation III of the Court Unification Task Force Report.
- Design and encourage the implementation of the rules changes necessary to eliminate removal of a civil case from the District Court, described in Recommendation IV of the Court Unification Task Force Report.
- Design and pilot a unified case scheduling management system for misdemeanor cases transferred from the District Court to the Superior Court, described in Recommendation V of the Court



Unification Task Force Report.

- Design and implement an abbreviated and updated appeal process from the District Court to the Law Court in appropriate cases, and
- Monitor and report on the resulting changes in workload of the clerks and judges of the District and Superior Court and necessary measures for correcting any imbalance that threatens to impair court services.

### **ACHIEVEMENTS**

Work during 2001 primarily concerned Recommendations III and V of the Court Unification Task Force Report. The portion of Recommendation III not implemented last year proposes a unified trailing docket for civil nonjury matters. Recommendation V deals with the transfer of misdemeanor criminal cases to Superior Court for jury trials. In addition, the changes that went into effect on January 1, 2001 were monitored.

#### **January 1, 2001 Changes**

The statutory provisions that resulted from the CUTAF Report, most of which were effective January 1, 2001, arose from Recommendations I, II, IV, and VI of the CUTAF Report. Recommendation I concerned exclusive jurisdiction of family matters in the District Court. Recommendation II proposed that District Court judgments be directly appealable to the Law Court. Recommendation IV prescribed elimination of the jurisdictional

amount for District Court. Recommendation VI urged concurrent jurisdiction in partition matters.

A. Rules

Rule amendments, proposed by the Team, to both the civil and criminal rules, were promulgated to implement the statutory changes and became effective January 1, 2001. In addition, appellate rules recommended by the Team were promulgated covering appeals to the Law Court from both the District and Superior Courts in civil and criminal matters. These were also effective January 1, 2001.

Additional rule amendments were promulgated, effective July 1, 2001, to make minor changes overlooked in the earlier promulgation. Additional rule amendments will be effective January 1, 2002. The most important of these is the change in the time to file a notice of appeal: twenty-one days from the entry of judgment in both civil and criminal cases. This change had been recommended by the Team in last year's interim report. Statutory revisions were required for these rule changes, and those were enacted.

B. Amendments to the Fee and Document Management Policy

The Team's recommended amendments to the Fee and Document Management Policy, as outlined in last year's interim report, were made and became effective January 1, 2001.

### C. Training

A training session for District Court clerks on the Uniform Interstate Family Support Act (UIFSA) was held in December 2000. The training was necessary because UIFSA cases were previously handled in the Superior Court. Although the Team originally recommended training for judges and CMOs in the processing of UIFSA cases, only the training for CMOs has taken place. The Team no longer feels that a training session for judges devoted to UIFSA is necessary.

### D. Forms

The court forms implicated by the rule amendments and statutory provisions have been modified to reflect the changes.

### E. Monitoring

After nine months of experience with the CUTAF changes, the statistics as of September 30, 2001, demonstrate that there has been a significant increase in general civil filings in the District Court. The filings increased 9.9% over the same period in 2000. The civil case filings in the Superior Court decreased 18.1%. The number of divorce filings increased slightly in the District Court. The caseload of the Law Court increased 16.4%.

It has become apparent that it is very difficult to understand the impact that CUTAF changes have had on caseload fluctuations. Other forces are at work and have a bearing on caseload. Civil filings in the Superior Court have been decreasing for the past decade and, thus, it is difficult to ascertain how much of the decrease this past year has been simply a

continuation of the trend and how much is due to enlarging the jurisdiction of the District Court and eliminating the Superior Court's appellate jurisdiction. Furthermore, caseload increases and decreases in the first year or two of significant changes are not necessarily good indicators of the future. The Team anticipates that another significant change that starts January 1, 2002, totally apart from CUTAF, will have at least a short-term effect on caseload. That change is mandatory alternative dispute resolution in the Superior Court, and the Team suspects that an increase in District Court filings will occur because of lawyers trying to avoid mandatory ADR.

Thus, the statistical picture is a complex one. The Team will continue to monitor the figures as well as the anecdotal evidence of caseload shifts. The Team plans another meeting in the late winter to review the calendar year 2001 statistics.

#### F. Coordinated Scheduling and Cross-Assignment

Recommendation I concerned the exclusive jurisdiction of family matters in the District Court. The CUTAF Report states that "to realize the substantial advantages of this Recommendation within the context of existing resources, there needs to be coordinated scheduling and cross-assignment of judicial personnel between the Superior and District Courts." Report of the Court Unification Task Force 16-17 (1999). The Superior and District Courts have not undertaken coordinated scheduling and cross-assignment of judicial personnel during 2001.

## PLANS FOR THE FUTURE

### A. Recommendation III—Unified Pre-trial Process and Trailing Docket for Civil Cases

A great deal of time and energy was spent in consideration of Recommendation III and trying to devise a workable procedure. Written proposals and draft forms were considered. It became apparent that there was a sharp division on this issue which had the potential to derail work on other recommendations. Chief Justice Wathen decided to postpone the Team's work on Recommendation III until November 2001 when numerical data on filing patterns would be available. Chief Justice Wathen, however, resigned before taking further action. It is anticipated that Chief Justice Saufley will address this issue in the near future.

### B. Recommendation V—Pilot Project for Misdemeanor Cases

The Team turned its focus to Recommendation V which concerns Class D and E criminal offenses that are transferred to the Superior Court and recommends pilot projects in Farmington and Dover-Foxcroft. The Team held conferences with the Clerks of Court from Farmington and Dover-Foxcroft, as well as Judges who sit regularly in those courts. The Team explored with these judges and clerks the current problems that arise from the transfer of Class D and E cases and sought ideas from them as to solutions that might work. The Team also met with Judge Westcott, a former member of both the Team and CUTAF.

The CUTAF report identified the causation of delay and duplicative clerical work as the two primary issues underlying Recommendation V, and alternative solutions were discussed. The CUTAF report recommended the two pilot projects and made six specific recommendations to be part of the pilot projects (pp. 31-32 of the CUTAF Report). As a result of the meetings with judges and clerks described above and subsequent discussions about the cases and alternative solutions, the Team reached the following conclusions about the six specific recommendations contained in Recommendation V:

1. Recommendation 1: Provide that the District Court maintain the docket and files.

The Team has concluded that the premise behind this recommendation is no longer applicable. CUTAF expressed its concern about duplication of clerical work when cases are transferred for jury trial from District to Superior Courts. Although such duplication was a fact at the time CUTAF made its recommendation, the court computer system (MEJIS) has eliminated or greatly reduced the duplication. Thus, there is no longer any need to implement the recommendation that the District Court maintain the docket and files.

2. Recommendation 2: Encourage the flexible use of existing facilities and staff of both courts.

Three of the Regional Court Administrators hold periodic meetings which both Superior and District Court clerks attend. The Team recommends that such meetings take place in all regions.

Among other things, these meetings can be used for avoiding scheduling conflicts between the courts. In the rural counties where there is a scarcity of attorneys willing to take court appointments in criminal and child protection cases, and those attorneys often practice in several courts, it is necessary to attempt to coordinate the schedules of the courts so that scheduling conflicts can be minimized. The periodic meetings with District and Superior Court clerks can also be used to share ideas, solve mutual problems, and foster cooperation. The Team believes that these meetings are the best means of implementing this recommendation.

3. Recommendation 3: Increase the use of cross-assignment of justices and judges and coordinate their scheduling to make overall best use of judicial resources.

Chief Justice Mills, after meeting with the Superior Court judges and the Regional Court Administrators, has designed the 2002 Superior Court calendar so that every county will have at least one, and usually more, judge days per month. The portion of the 2002 Superior Court schedule allocating judge days to the rural counties is attached. At the time of the CUTAF recommendation and up to the present, some counties have had a Superior Court justice for only three or four months per year. This led to long delays. It is the Team's belief that the 2002 schedule will go a long way toward eliminating the delay that gave rise to Recommendation V.

The Team concludes that delay was the primary basis for the recommendation of pilot projects in Franklin/Farmington and Dover/Piscataquis. Because the 2002 Superior Court schedule will significantly reduce delays, the Team recommends that proposed pilot projects not be attempted. The Team plans to monitor the schedule and attempt to determine if the anticipated reduction in delay actually occurs.

The Team has studied the report regarding the West Bath/Sagadahoc unified criminal motion day project and discussed the possibility of recommending similar motion days in other court locations. The Team continues to be interested in that project but for the time being does not recommend its expansion until the impact of the 2002 Superior Court schedule is studied.

4. Recommendation 4: Call the docket of the cases transferred for jury trial, when practicable, in the District Court.

The Team finds that this recommendation is not practical and makes little sense. District Court Judges confirmed that calling the docket in the District Court, unless the jury pool is ready in Superior Court, would not save judicial time or effort because until faced with the prospect of an immediate trial, the State and defendants are often



not ready to make or accept plea offers.

5. Recommendation 5: Separate the functions of the court locations so that bench trials, when practicable, occur in the District Court locations and jury trials in the Superior Court.

The number of jury-waived trials in transferred Class D and E cases is less than twenty-five annually throughout the entire State. Because of this small number, the Team does not believe that it is practical to establish a procedure for having all jury-waived trials in District Court.

6. Recommendation 6: Develop a centralized system with the District Court having responsibility for all post-judgment proceedings involving an individual defendant, including collection of attorney fees, fines, restitution, and probation violations.

The Team concludes that this recommendation is not workable. Numerous modifications would have to be made to MEJIS in order to accomplish this recommendation. The Team was also concerned about the confusion it would cause among defendants whose fine would be imposed in one court, but who would have to appear to pay or get an extension in another court. The Team believes that the 2002

Superior Court schedule will help eliminate the delay in hearings on probation revocation motions. In short, the Team disagrees with this recommendation and believes that it would create more problems than it would solve.

In summary, at the present time the Team does not believe that implementing pilot projects in Franklin/Farmington and Dover/Piscataquis is necessary for four primary reasons: (1) the duplication of clerical work has and is being addressed by MEJIS more effectively than it would be addressed by pilot projects; (2) the delay between arraignment and final disposition in the transferred cases is being addressed by the 2002 Superior Court scheduling changes; (3) the 2002 Superior Court schedule can also address concerns regarding delays in hearing of probation violation motions; and (4) the Team disagrees with the Task Force recommendation to consolidate all fine payments in the District Court.

C. Recommendation VII—Establishment of On-going Goals for the Judicial Branch

Chief Justice Wathen and the SJC decided that Recommendation VII of the CUTAF report should be dealt with by the Oversight Committee. The Team is concerned by the lack of progress with regard to Recommendation VII and suggests that the SJC revisit this issue.

D. Design and Implementation of an Abbreviated Appeal Process for Cases from District to Law Court

The Administrative Order establishing the Team states that one of the tasks of the Team is to design and implement an abbreviated appeal process for cases from the District to the Law Court. Nonetheless, Chief Justice Wathen and the SJC decided that this task should be dealt with by the SJC internally. Accordingly, the Team has done nothing further on this task.

**CONCLUSION**

The Team has attempted, throughout 2001, to study the impact of the CUTAF changes that became effective at the first of the year. The Team's work has been halted on Recommendation III because of division over how to proceed, because of the lack of data earlier in the year, and more recently because of the change in the leadership of the Judicial Branch. With regard to Recommendation V, the Team has rejected the approach of the CUTAF report to the problems related to aspects of the criminal caseload and, instead, has recommended other solutions.

Substantial progress has been made on the implementation of the recommendations that were developed by the Court Unification Task Force and the legislative changes enacted to implement these changes. In particular,

- The District Court now has exclusive jurisdiction over divorces and related matters with direct appeal to the Law Court.

- Appeals of District Court judgment and order to the Superior Court has been substantially eliminated.
- Civil nonjury actions are treated equally in the District and Superior Courts.
- The District Court has the same power as the Superior Court to partition real estate by sale.

The changes resulting from legislation enacted in the last session have been implemented. Efforts will continue in the upcoming year to assess the impact of these changes and to implement additional changes consistent with the recommendations of the Task Force.