

LAW WEEK

COLORADO

Lawyers Of The Year 2011

Rule Makers

NEW STATE COURT RULES to fast-track business litigation take effect next month thanks in large part to the work of Ann Frick and Skip Netzorg.

Frick, a Denver District Court judge, and Netzorg, a trial lawyer with Sherman & Howard, were instrumental in creating the rules for the Civil Access Pilot Project, which aims to keep the time and money spent on pretrial discovery proportionate with the amount at stake. For the next two years, the pilot rules will apply to business-dispute lawsuits in five metro-area counties.

"Skip and Ann took this all the way from conception to implementation," said Rebecca Love Kourlis, director of the Institute for the Advancement of the American Legal System, or IAALS, at the University of Denver. "They have been phenomenally generous with their time and energies. I bet they've donated in excess of 1,000 hours each to this project."

Frick and Netzorg first got involved in 2007 as members of the American College of Trial Lawyers' task force on discovery, which worked with IAALS to find solutions to excessive delays and expense in civil litigation. Frick was vice chair of the 17-member group.

After a year and a half of intense work, the task force and IAALS released a set of principles for streamlining discovery. Frick and Netzorg's next step was to apply those principles at home as leaders of the Colorado Pilot Project Committee. They co-chaired a subcommittee to tailor rules specifically to business lawsuits. The Colorado Supreme Court decided in June to adopt the rules starting in January in Denver, Boulder, Jefferson, Adams and Arapahoe counties.

There was another subcommittee that proposed changes to medical-malpractice cases, which the court chose not to enact.

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Skip Netzorg, above, and Denver District judge Ann Frick, right, were instrumental in creating the rules for the Civil Access Pilot Project, which aims to keep the time and money spent on pretrial discovery proportionate with the amount at stake. | LAW WEEK PHOTOS SARAH OVERBECK, JAMIE COTTEN

some substantial modification," Frick said. "It's just way too expensive, it takes way too long, and people who have legitimate cases and grievances that should be heard in the judicial system just can't afford it."

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what you need' model," Netzorg said earlier this year.

Judges will make an early assessment to identify and narrow the scope of the dispute to determine what is truly needed in discovery. The rules seek to cut down discovery time and costs by compelling

disclosure of meaningful information early in the process.

"The hope is that the rules are going to free up judicial resources to try cases, because judges are not going to be immersed in discovery battles," he said.

Whenever possible, a single judge will be assigned to a case. There are also limits

on expert witnesses, among other changes.

Frick brought a unique perspective when crafting the final versions of the rules. She began working on the pilot project when she was a litigator with Jacobs Chase, but she was appointed to the bench midway through the process.

"Having become a judge and now meeting with other judges about this, it's just been an eye-opener," she said. "Now that we're really going to implement it, there are a lot of specific situations and questions about it that I hadn't previously thought of."

While drafting the rules' text, Frick regularly communicated with other metro judges to make sure they cover as many eventualities as possible. She also composed the appendix that defines exactly which "business actions" are covered by the pilot project. For instance, construction defects and employment cases do not fall under the pilot rules. Medical malpractice cases aren't covered, but legal malpractice cases are.

Data from the pilot project will be evaluated at the end of two years to see if it has achieved its goal of streamlining business lawsuits. Whether or not the project is the perfect solution to the problems facing civil courts, Kourlis said, is a vital first step. •

— Matt Masich, MMasich@CircuitMedia.com

— Ann Frick