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THE ABILITY TO PAY COURT FINES, INCLUDING JAIL AND PRISON FEES, has remained an issue since Michigan first authorized the imposition of correctional fees in 1846.1 Today, many courts order excessive fees for misdemeanors or infractions. As a result, defendants are paying for services that were traditionally provided at no cost — indigent defense, room and board, probation and parole supervision fees, electronic monitoring devices, healthcare, haircuts, treatment programs, and psychological assessments. When the defendant cannot pay, the punishment can grow exponentially. Higher fees, jail time, or driver’s license revocation are often assessed when a defendant cannot pay the initial fine. These penalties are compounded by ancillary losses, such as the inability to provide for one’s family, which accompanies employment and transportation losses resulting from a revoked driver’s license. These measures serve as punishment not for the initial offense, but as a penalty for one’s inability to pay.2 The poor, African-Americans, and Latinos are disproportionately affected.3

In Bearden v. Georgia, 461 U.S. 660 (1983), the Court held that a court can only impose jail time for a defendant’s failure to pay a fine if the defendant could have paid the fine but “willfully” chose not to. As a result, courts must first inquire as to a defendant’s ability to pay a fine before ordering jail time. The 2015 U.S. Department of Justice’s (“DOJ”) report on Ferguson, Missouri’s system of imposing fines and fees reported, however, that Ferguson and other jurisdictions fail to hold hearings to determine a defendant’s ability to pay.5 This report sparked a renewed awareness and interest in systematic imposition of fines and fees in judicial systems nationwide.

These fines and fees fund court systems, jails, and prisons. Some judges, prosecutors, and law enforcement officers believe such fees make defendants accountable. Others say they overpenalize defendants by inflating the initial fine with interest and late fees and by imposing jail and license revocation.

In 2016, DOJ warned local courts about imposing fines that violate “due process, equal protection and sound public policy.”6 One such policy consideration: Who is responsible for funding courts and jails — the legislature, other local governing bodies, or convicted defendants? In response to the DOJ report, Missouri lowered fines for tickets, and other states provided amnesty to defendants with massive debt from fees. Judges must take affirmative responsibility to set best practices in the issuance of fines and fees, ensuring the linkage to access to justice.

This edition of Judicature further explores this important issue through a thoughtful roundtable discussion by a rousing group of chief justices, led by former jurist and current Dean of Duke Law School, David F. Levi, who discuss how courts can be responsive to the disparately punitive effects of excessive fines and fees. We also include an article analyzing alternative sentencing as a means of addressing an indigent defendant’s inability to pay fines and fees, as well as a review of the book American Prophet and several other excellent articles discussing discovery and evidentiary issues. Thank you for reading.

Cheri Beasley, Justice, Supreme Court of North Carolina

1 Lauren-Brooke Eisen, Paying for Your Time: How Charging Inmates Fees Behind Bars May Violate the Excessive Fines Clause, BRENNAN CTR. FOR JUST. (July 31, 2014).
2 Joseph Shapiro, As Court Fees Rise, The Poor Are Paying the Price, NPR.org (May 19, 2014).
BRIEFS

from THE NATIONAL CENTER FOR STATE COURTS

Disorder in the courts
The varied ways states establish and oversee courts presents challenges for reform

Limited jurisdiction courts are coming under new scrutiny and criticism amid calls for criminal justice reform. The Department of Justice’s report on police and court practices in the city of Ferguson, Missouri – issued after the 2014 police shooting death of Michael Brown, an African American man – pointed to the courts as a factor in the deep mistrust between minority communities and the criminal justice system and an accomplice in a system that disproportionately levies fees and fines on poor and minority citizens.

As the Missouri judiciary grappled with its state’s court structure in Ferguson’s wake, a question arose: How many municipal courts were there, and where were they located? The answers were surprisingly hard to find. Legislation passed in 2015 reformed some municipal courts practices and required that the existence, creation, and abolishment of all such courts be reported to the clerk of the supreme court.

Pennsylvania also recently had cause to revisit its court structure. The state’s constitution had simply provided for “traffic courts in the City of Philadelphia.” When several judges of that court were charged with corruption, the statutory authorization for the court was repealed in 2013. However, constitutional references to the court weren’t removed by voters until 2016.

Of course, not all entities exercising the judicial power of the state are called “courts,” and some entities in the executive branch are referred to as “courts.” Therefore, before we examine court structures among the states, a functional definition of “court” should be offered. Here, a “court” is any
entity created or authorized by the judiciary article of the state’s constitution that exercises the judicial power of the state or such entity that is created by the legislature under the authority granted it under the judiciary article.

Authority to establish courts
With that definition of courts in mind, we can look at the limitations on court creation in a state’s constitution. In this respect there are three types of general court structures within the states: restricted, mixed, and open-ended.

**Restricted states:** This means the constitution definitively spells out the trial court types. California, for example, provides that the judicial power of that state is vested in two appellate courts and the Superior Court; prior references to justice courts and municipal courts were repealed in 1994 and 2002, respectively.

**Mixed states:** Here, the constitution provides for some trial courts by name or reference, but then explicitly grants the state legislature the power to name others. Indiana’s constitution, for example, names its circuit courts, but then provides for “such other courts as the General Assembly may establish.”

**Open-ended states:** In these states, the constitution’s judiciary article provides for no trial court by name or reference, leaving the matter to the legislature. This appears to be limited to only a few states, such as Virginia (“The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish.”).

How to create a court?
Regardless of whether the court type is named or not in a state’s constitution, a specific court’s existence typically relies on some type of legislative activity; either a state statute or local ordinance creates the Superior Court for the County of X, or the 32nd District Court, or the Municipal Court of the City of Z. However, because different constitutions give different levels of latitude and power to the state legislature and local government, why a particular court exists in a particular county/district/circuit/city varies — even, on occasion, within a state. Generally speaking, there are seven types of specific court-creation mechanisms:

- **Court type is explicitly in the constitution, as are specific geographical terms.** For example, article VI, section 6, of the Florida Constitution provides for County Courts “in each county.”

- **Court type is explicitly in the constitution but specific geographical terms are left to be defined by legislature.** Perhaps the most common configuration, in these instances the court’s existence is authorized by the state’s constitution but the legislature is free to set the geography. For example, Section 109 of Kentucky’s constitution provides for the vestment of the state’s judicial power in “a trial court of limited jurisdiction known as the District Court.”

- **Court type is explicitly in the constitution; specific court is created by local ordinance without state statute.** Particularly common in states with strong home-rule provisions in their constitution, this court-creation mechanism provides a power that may be exercised directly by a particularly named locality or local government. For example, Colorado’s constitution has two provisions (Art. VI, Sec. 1 & Art. XX, Sec. 6) that grant cities and towns the ability to create municipal and police courts via local ordinance alone. Nothing in the Judiciary Article (Art. VI) authorizing the state’s other trial courts “shall be construed to restrict or diminish the powers of home rule cities and towns granted under article XX, section 6 of this constitution to create municipal and police courts.”

Any effort to reform the courts must begin with an understanding of the chain of authority — who is responsible for the establishment of courts and who has the authority to implement change.

(continued from previous page)
such court at any time. (Art. VI, Secs 1 & 17) The legislature has then given by statute every village the option to create a village court “by resolution or local law, subject to a permissive referendum.” (N.Y. Village Law sec. 3-301(2))

- **Court type is not explicitly in the constitution, and the specific court is created by state statute.** For example, the South Dakota constitution provides that the state’s judicial power may be vested in “courts of limited original jurisdiction as established by the Legislature . . . . Courts of limited jurisdiction consist of all courts created by the Legislature having limited original jurisdiction.” (Art. V, Secs. 1 & 4) Under this authority, the state’s legislature created a Magistrate Court in each judicial circuit. (SDCL § 16-12A-2.2)

- **Court type is not explicitly in the constitution, and the specific court is created by local ordinance authorized or required by state statute.** For example, the New Jersey constitution makes no mention of municipal courts, but does provide that judicial power may be placed in “courts of limited jurisdiction. The other courts and their jurisdictions may from time to time be established, altered or abolished by law” (Art. VI, Sec. 1). Under this authority, state law provides that “[e]very municipality shall establish a municipal court.” (N.J. Stat. § 2B:12-1(a)) Contrast this with Indiana where the state’s legislature permits, but does not require, localities to create either a city or town court by ordinance; “during 2006 and every fourth year after that, a second or third class city or a town may by ordinance establish or abolish a city or town court.” (I.C. § 33-35-1-1(a))

- **“Held over” from previous constitution.** This situation occurs where a new constitution is adopted with a provision that a specific court remains in place until it is altered or eliminated by the state legislature. For example, Louisiana’s 1974 constitution provides that parish, city, or magistrate courts existing on the effective date of the new constitution are retained until abolished. (Art. V, Sec. 15)

Any effort to reform the courts must begin with an understanding of the chain of authority – who is responsible for the establishment of courts and who has the authority to implement change. Clearly, the answers to such questions differ dramatically depending on where you live. As proponents of court and criminal justice reform continue to push for change, these varied structures promise to present significant challenges – and, potentially, tremendous opportunities for improvement.

– **WILLIAM E. RAFTERY** is the author of Gavel to Gavel, a National Center for State Courts blog that reviews state legislation affecting the courts. Find it at gaveltogavel.us.
THE U.S. SUPREME COURT’S 2009 DECISION IN CAPERTON V. A.T. MASSEY COAL CO., 556 U.S. 868 (2009) WAS SUPPOSED TO BE A WAKE-UP CALL FOR STATE COURTS. The overturning of a decision of a state’s highest court because a justice of that court should have disqualified himself should have prompted the states to take action reaffirming their commitment to judicial impartiality. (In Caperton, reversing a decision of the West Virginia Supreme Court of Appeals, the Court had held that, where campaign contributions from the principal of one of the parties “had a significant and disproportional influence” on the election of one of the justices on the state court, the risk of actual bias was “sufficiently substantial” to require that justice’s disqualification under the Due Process Clause of the U.S. Constitution.)

The Conference of Chief Justices, for example, adopted a resolution urging “its members to establish procedures that incorporate a transparent, timely, and independent review for determining a party’s motion for judicial disqualification/recusal.” See Conference of Chief Justices Resolution 8 at http://ccj.ncsc.org/~Imedia/Microsites/Files/CCJ/Resolutions/01292014-Urging-Adoption-Procedures-Deciding-Judicial-Disqualification-Recusal-Motions.ashx.

States haven’t taken the hint. Despite the U.S. Supreme Court’s direction in Caperton that due process requires an objective analysis of impartiality given “the difficulties of inquiring into actual bias, and the fact that the inquiry is often a private one,” some judges and entire courts insist that as long as the judge subjectively feels impartial (like the justice
in Caperton), the judge can preside regardless of what others objectively may think. See, e.g., Adams v. State of Wisconsin, 822 N.W.2d 867 (Wisconsin 2012). In addition, only about 15 states have adopted standards that specifically address the issue of disqualification based on campaign contributions. See Judicial Disqualification Based on Campaign Contributions at http://www.ncsc.org/~/media/Files/PDF/Topics/Center20for20Judicial20Ethics/Disqualificationcontributions.ashx. And, with at most a couple of exceptions (one discussed below), states have not reformed their disqualification procedures or even reviewed them to consider possible improvements.

Thus, predictably, the U.S. Supreme Court had to step in again. In June, the Court held that the participation of a justice of the Pennsylvania Supreme Court in a decision denying post-conviction relief to a prisoner sentenced to death when that justice as the district attorney had approved seeking the death penalty violated due process. Williams v. Pennsylvania, 136 S. Ct. 1899 (2016). The Court concluded that “under the Due Process Clause there is an impermissible risk of actual bias when a judge earlier had significant, personal involvement as a prosecutor in a critical decision regarding the defendant’s case.” The majority emphasized:

Pennsylvania did and does have such a “stringent and detailed” rule; the state code of judicial conduct provides that a judge shall disqualify himself if he “served as a lawyer in the matter in controversy . . . .” and if he “served in governmental employment, and in such capacity participated personally and substantially as a lawyer . . . . concerning the proceeding . . . .” However, when the prisoner filed a motion for the former-district-attorney-now-justice to recuse himself or refer the recusal motion to the full court, the justice denied the motion – “without explanation” as the U.S Supreme Court noted.

There are ways of preventing such appearances. For example, in Tennessee, rules require both trial and appellate judges (including supreme court justices) who are the subject of a motion to disqualify to promptly grant or deny the motion and explain a denial in writing. A trial court judge’s denial can be appealed in an accelerated interlocutory appeal as of right or raised in an appeal following final judgment. If an appellate judge or justice denies a motion to disqualify himself, the movant has 15 days to file a motion for review “by the remaining justices upon a de novo standard of review.” Tennessee Supreme Court Rule 10B (http://www.tsc.state.tn.us/rules/supreme-court/10b).

The federal courts cannot step in every time a state court judge or justice sits in a case in which she should not. Nor should they have to. Correctly interpreted, the standards of disqualification in the state codes of judicial conduct exceed due process minimums, and effectively implemented, those standards eliminate the need for federal intervention. State courts should be the primary protectors of state judicial impartiality and should demonstrate their willingness to fulfill that role by adoption of clear, effective, and comprehensive disqualification rules and procedures.

An expeditious, objective method of resolving issues of judicial disqualification promises to bring clarity and certainty for judges, litigants, attorneys, and the public. It would decisively dispel unwarranted claims of judicial bias and create caselaw on when disqualification is necessary and when a motion to disqualify is unjustified – while also demonstrating that the judiciary takes impartiality seriously both in a specific case and as a general principle.

— CYNTHIA GRAY is the director of the Center for Judicial Ethics at the National Center for State Courts. Follow her blog at NCSCJudicialEthicsBlog.org.
How the states avoid supreme stalemates

State high courts avoid tie votes in a variety of ways, some more juris-prudent than others.

JUSTICE ANTONIN SCALIA’S PASSING PORTENDS A SEISMIC REALTERING OF SUPREME COURT’S IDEOLOGICAL BALANCE. Unsurprisingly, political stalemate over his successor has yielded judicial stalemate, with the court deadlocked 4-4 in some cases. The Supreme Court, unlike a tennis court, is tiebreaker-free, meaning the lower-court ruling stands without any high-court guidance. The Scalia-less court has evenly divided multiple times, sometimes pleasing liberals (aiding public-sector unions in Friedrichs v. California Teachers Association) and sometimes conservatives (thwarting President Obama’s immigration plan in United States v. Texas).

Most American justice, however, is dispensed in state courts. Every state supreme court is odd-numbered (five, seven, or nine justices), but because of recusals, unfilled vacancies or prolonged absences, each court occasionally dips below full strength, thus raising the specter of supreme stalemate.

How do the 50 states handle high-court deadlock? Turns out, when it comes to impasse resolution, the laboratories of democracy offer innovations galore. Sixteen states emulate the high court’s “ties happen” approach, though interestingly, lack of a decision doesn’t always mean lack of guidance. Some courts, like Iowa’s, list each individual justice’s vote. Justices in Pennsylvania and Massachusetts even issue dueling opinions explaining their views of the deadlocked case.

The other 34 states have a substitute-justice procedure to avert or break legal logjams. State-by-state details vary widely, but some approaches are plainly more juris-imprudent than others.
These 34 anti-stalemate states differ in three important ways:

**When are temporary appointments made?** Twenty-three states aim to bypass impasse, assigning substitute judges on the front end to avert stalemate, rather than on the back end to break it. Hole-filling happens as soon as the court is short-staffed. Many states favor front-loaded appointments to avoid charges of court-packing or gamesmanship to secure a favored result. The other 11 states, however, name a tiebreaking justice only after the court is dead-locked. The substitute is The Decider.

**Who does the appointing?** In 22 states, the chief justice names the pinch hitter; in seven, the court does so; and in four, the governor picks. (In Nevada, the governor and chief justice share power.) Roughly 85 percent of states with tiebreaking, or tie-avoiding, systems keep selection wholly within the judicial branch. Sometimes, though, the court clerk is deputized to do the picking, to curb accusations that the chief justice or court is stacking the legal deck.

**How much discretion does the appointer have?** In some states, the pick isn’t a “pick” at all – fill-in justices are chosen alphabetically, randomly, or rotationally from eligible appointees. In Louisiana, for example, the court clerk plucks names from a plastic Halloween Jack-o’-Lantern. Washington state, a bit more urbane, uses an elegant chalice.

At the opposite end of the spectrum, states like South Dakota give the chief justice unfettered discretion. But sometimes unchecked power checks itself. California’s chief justice, for example, has unbounded latitude, but old charges of cherry-picking led more-recent chief justices to opt for alphabetical appointments. Similarly, Hawaii’s chief justice has wide-open discretion but uses a rotational system.

In New Mexico, where pro tem assignments happen frequently, the current chief justice simply goes down the list of appellate judges in seniority order. In North Dakota and Utah, the first lower-court judge to volunteer gets the gig – like Uber, but for judges.

New Hampshire is the only state where randomness is required by law, the result of an impeachment scandal involving abuse of temporary assignments. Today, the state’s supreme court draws names from an envelope.

Five states, including my home state of Texas, give the governor a role in picking substitutes. But the Lone Star State is the only state where the governor unilaterally names a tiebreaker post-deadlock, knowing which case has stymied the court. Put another way, the governor of Texas – fully informed about the tie-causing issue and the judicial philosophies of eligible appointees – can vicariously decide the case by deciding who decides the case.

My proposal for Texas: Before each term, have the Supreme Court collectively name five potential appointees, and if deadlock arises, draw a name randomly from a 10-gallon Stetson.

Bush v. Gore tied 4-4, with President Bill Clinton wielding the singular power to decide by proxy whether his vice president succeeds him. What president could resist putting an anvil on the scale by picking a justice who would vote the “right” way?

The American Revolution produced a revolutionary design. How might the Framers – so persnickety about separating, not integrating, power – have responded to a president-picks tiebreaker? One can almost see James Madison scribbling in his debate notes: “Pure applesauce!”

As with judicial selection generally, there’s no glitch-free mechanism for impasse resolution, just varying degrees of imperfection. That said, here’s one proposal for Texas: Before each term, have the Supreme Court collectively name five potential appointees, and if deadlock arises, draw a name randomly from a 10-gallon Stetson.

Of course, that proposal accepts the premise that every tie needs breaking. Rabid football fans would self-immolate outside NFL headquarters if the Super Bowl ended in a soulless tie. The first U.S. Supreme Court, however, was a six-member court (later growing to 10), before Congress settled on nine in 1869.

State high courts have an irreplaceable function: to be supreme and to speak supremely about what their state’s laws prescribe and proscribe. A super-majority of states reject the Supreme Court model of nonprecedential affirmance. But the substitution systems differ immensely, each with its own virtues and vices.

Supreme Court stalemates in the post-Scalia era dominate the spotlight. But deadlock dramas in state high courts – and how ties get untied – merit public attention, too.

DON WILLETT is a justice on the Supreme Court of Texas. This essay is an summary of his Duke Law Master of Judicial Studies thesis paper. It was previously published in The Wall Street Journal.
LINDA TUCCI TEODOSIO, a judge on the Summit County Juvenile Court in Ohio, was honored with the Thomas J. Moyer Award for Judicial Excellence at the annual meeting of the Ohio Judicial Conference for her commitment to community and innovative programs for local youth and families.

ROBERT LEE, a judge in Broward County Florida, received the Chief Justice Award for Judicial Excellence from Florida Chief Justice Jorge Labarg, who recognized Lee’s efforts to mentor new judges and compile resource materials for his colleagues.

J. CLIFFORD WALLACE, a judge on the U.S. Court of Appeals for the Ninth Circuit, received the A. Sherman Christensen Award from the American Inns of Court. The award recognizes those who advance the organization’s values of professionalism, ethics, civility, and legal skills.

Chief Judge JEROME B. SIMANDLE of the U.S. District Court for the District of New Jersey and Chief Justice STUART RABNER of the Supreme Court of New Jersey received the Brennan Award from the Association of the Federal Bar of New Jersey. The award is one of the most prestigious legal honors given in New Jersey.

PETER B. SWANN, a judge on the Arizona Court of Appeals, received the Judge of the Year Award from the Arizona Supreme Court and Administrative Office of the Courts for his efforts to improve public trust and confidence in the state courts.

MARIA D. HERNANDEZ, a judge on the Orange County Superior Court in California, received the California Judicial Council’s Distinguished Service Award for her dedication and commitment to the juvenile justice system. In 2015, she organized the first Orange County Juvenile Justice Summit, which brought together more than 400 professionals to discuss improvements to the juvenile justice system.

Judge CATHERINE PEEK MCEWEN of the U.S. Bankruptcy Court for the Middle District of Florida was honored with a University of South Florida Alumni Award, which recognizes outstanding university graduates for professional achievements. A former sports reporter, McEwen was the first female appointed to the Tampa Division of the U.S. Bankruptcy Court.

Mandy White-Rogers, an Orange County Court judge in Texas, received a Distinguished Alumni Award from her alma mater, Little Cypress-Mauriceville High School. The award recognizes distinguished graduates of the school.

ANN LAMAR, a justice on the Mississippi Supreme Court, was recognized with the Chief Justice Award in recognition of her 32 years of public service, including nine years on the state’s highest court.

BARBARA HARCOURT, senior judge for the Indiana Supreme Court, received the Distinguished Service Award from the National Center for State Courts for her work with the NCSC’s Institute for Court Management.

Chief Judge JEROME B. SIMANDLE of the U.S. District Court for the District of New Jersey and Chief Justice STUART RABNER of the Supreme Court of New Jersey received the Brennan Award from the Association of the Federal Bar of New Jersey. The award is one of the most prestigious legal honors given in New Jersey.

ROBERT VANDEHEY, a judge on the Grant County Circuit Court in Wisconsin, was honored with the 2016 Bench and Bar Judge of the Year Award from the State Bar of Wisconsin.

MARK I. BERNSTEIN, a judge of the First Judicial District of Pennsylvania, received the Philadelphia Bar Association’s Justice Willam J. Brennan Jr. Distinguished Jurist Award, which recognizes a jurist who adheres to the highest ideals of judicial service. Bernstein retired in September after almost 30 years of service on the Court of Common Pleas.

THERESA DELLICK, a judge on the Mahoning County Juvenile Court in Ohio, was recognized with the Sandy Hook Promise Champion Award for her commitment to and achievements in creating safe and healthy communities.

Jonathan Lippmann, the retired former Chief Judge of the New York Court of Appeals, was honored with the American Bar Association’s John Marshall Award in recognition of his efforts to improve the administration of justice.
JUDICATURE

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DUKE LAW’S CENTER FOR JUDICIAL STUDIES HAS TAKEN OVER EDRM (ELECTRONIC DISCOVERY REFERENCE MODEL), a well-known organization that develops standards, guidelines, and professional resources for e-discovery. The acquisition positions Duke Law to facilitate new partnerships among law firms, technology vendors, government agencies, and members of the judiciary who are interested in the study of e-discovery and information governance issues.

EDRM, cofounded in 2005 by Minnesota attorneys George Socha and Tom Gelbmann, has built an extensive network of e-discovery professionals. The iconic EDRM e-discovery diagram, which illustrates the conceptual framework for the various stages of e-discovery, is widely acclaimed and used, and the EDRM website, EDRM.net, is a leading source of e-discovery standards, glossaries, guides, data sets, and other resources.

“This agreement sets the stage for an expansion of EDRM efforts in industry education and standards,” said Dean David F. Levi. “E-discovery is a major component of today’s litigation practice, and EDRM provides valuable resources to educate not only experienced practitioners, but also law students and new lawyers about practical discovery problems they will encounter. This is also an important step in Duke’s continued efforts to bring together the judiciary, legal practitioners, educators and government organizations to advance the understanding of the judicial process and improve the complex processes in the administration of justice.”

The partnership also gives EDRM an institutional home with the reputation, stability, and creativity needed to ensure the program’s continued vitality.

“We are proud of the significant impact EDRM has made on education and practices in electronic discovery and information governance since 2005,” said Socha. “EDRM’s achievements are a direct result of the hard work of many legal and technology practitioners whose efforts and expertise have improved e-discovery and information governance practices and ultimately the judicial process. This arrangement will provide the growing EDRM community – working groups, sponsors, providers, and legal professionals – a connection with a greatly admired and respected organization. I am personally excited about the opportunity to work with the Center of Judicial Studies staff at Duke.”

Socha will remain with EDRM after the acquisition. EDRM co-founder Tom Gelbmann plans to work with Duke Law for the transition of EDRM programs, and will retire later this year. Thomas Hnatowski, former chief of the Magistrate Judges Division of the Administrative Office of the United States Courts, has joined the Duke Law Center for Judicial Studies to manage the day-to-day operation of EDRM at Duke. Hnatowski’s experience working with magistrate judges, the front-line judicial officers who handle discovery issues on a daily basis, will bring a unique perspective to the Center for Judicial Studies and to EDRM, said John Rabiej, director of the Center for Judicial Studies.

“Rapid data growth challenges our ability to deliver – to borrow a phrase – just, speedy and inexpensive resolutions in litigation,” said Hnatowski. “In the face of rapid change, it’s critical that we foster education and cooperation between judges, attorneys, and e-discovery technology and service providers. One of my goals with EDRM is to increase interaction between judges, litigators, and e-discovery experts in order to advance standards and guidelines that will lead to more efficient administration of justice.”

– Thomas Hnatowski
Director, Duke Law EDRM

One of my goals with EDRM is to increase interaction between judges, litigators, and e-discovery experts in order to advance standards and guidelines that will lead to more efficient administration of justice.”

Get involved with EDRM

EDRM member organizations and individuals work together to develop standards, educational materials, guidelines, and other resource materials that help shape the growth and direction of e-discovery and information governance. New areas of focus include cross-border discovery and predictive coding. To join or learn more about the benefits of membership, visit EDRM.net or email EDRM@law.duke.edu.