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The Resource Page

AN ONLINE COURSE:
OPINION WRITING
IN CONTROVERSIAL CASES
http://www.ncsconline.org/opinion
writing/

One of the keys to procedural fairness is making sure that a judge's order is understood and the reasons for the decision are understood too. This can be especially difficult in a controversial case in which emotions are running high and understanding may run low.

The National Center for State Courts, working with the Missouri Judiciary, has prepared an online course on "Opinion Writing in Controversial Cases." We all know that trial judges can face high-profile cases that suddenly appear on the docket and explode into the public's interest. The United States Supreme Court's decision in *Kelo v. City of New London*, 545 U.S. 469 (2005) (upholding use of eminent-domain powers for economic development) showed that this is true at the appellate level as well. There actually was a short-term drop in public opinion of the Court after the *Kelo* decision.

This online course discusses *Kelo* as well as more typical cases. The first part of the course is a video discussion between Missouri Chief Justice Laura Stith and Missouri Court of Appeals Judge Ronald Holliger on the changing context in which judicial opinions are being reported in the media, in which judicial opinions feed into economic, political, and social controversies. The second part of the course is a one-hour video lecture from Professor Nancy Wanderer, a law professor at the University of Maine. She presents an approach for writing opinions and orders in controversial, high-profile cases. The third part of the course is a web-based seminar led by Professor Wanderer and retired Washington Superior Court Judge Robert H. Alsdorf; they build on Professor Wanderer's lecture and lead

participants through an interactive critique of judicial opinions in selected cases, including *Kelo*. The final part of the course gives participants an opportunity to practice some of the techniques and even to receive faculty feedback on submitted opinion-writing samples.

There are lots of online materials included with the course, along with the video discussions and lectures, the interactive seminar, and the practice exercises.

CALIFORNIA COURTS WEBSITE ON
PROCEDURAL FAIRNESS
http://www.courtinfo.ca.gov/programs/
profair/

In September 2007, when the American Judges Association unveiled its White Paper on procedural fairness, the California court system simultaneously launched its own procedural-fairness initiative. The AJA and the California courts have shared our work, and we're pleased to note that the California courts have a permanent website devoted to tracking their initiatives in this area and resources that may be helpful to all interested judges.

Douglas Denton's article in this issue (page 44) discusses the work already underway in California. The effort there is ambitious, creative, and ongoing. Denton described the California court system as "one of the most innovative" in the United States; we agree. And certainly no court system is more involved at present in efforts to improve procedural fairness—and the public's perception of fairness—than the California court system is.

California has prepared tools that can be used in judicial workshops, such as the template found on page 50. AJA presenters have used that template in workshops in other states. We suggest you check the California website on procedural fairness periodically to find new resources and updated information on this topic.

RESOURCES ON
PROBLEM-SOLVING JUSTICE
National Center for State Courts
http://www.ncsconline.org/WC/CourTopi
cs/ResourceGuide.asp?topic=ProSol

Center for Court Innovation
http://www.courtinnovation.org/index.cf
m?fuseaction=page.viewPage&pageID=5
05&documentTopicID=31

National Judicial Institute (of Canada)
http://www.nji.ca/nji/Public/documents/J
udgingfor21scenturyDe.pdf

International Network on Therapeutic
Jurisprudence
http://www.therapeuticjurisprudence.org

Whatever difference there may be between what some call problem-solving justice and what others call therapeutic jurisprudence, there is sufficient overlap between those concepts and procedural fairness that anyone interested in any of those topics will find in the websites we list here of interest. The National Center for State Courts has extensive Web-based resources on problem-solving justice, including the Problem-Solving Justice toolkit, an interactive resource for finding solutions to problems your court may face. New York's Center for Court Innovation also has a useful website, full of links, fact sheets, and self-assessment tools.

Professor David Wexler points to two other resources in his article in this issue (page 74). One is a site he updates called the International Network on Therapeutic Jurisprudence. The other is from the National Judicial Institute of Canada: a 61-page monograph titled *Judging for the 21st Century: A Problem-Solving Approach*. This monograph combines much of Professor Wexler's therapeutic jurisprudence material with a discussion of ways in which a judge may improve his or her skills in procedural fairness in areas such as empathy, respect, active listening, positive focus, clarity, avoiding coercion, and avoiding paternalism.