



**Justice at Stake**  
c a m p a i g n

ABA Task Force on Preservation of the Justice System  
February 9, 2011 Atlanta Hearing  
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Introduction

I'm pleased to be here today, and congratulate Mr. Olson, Mr. Boies, ABA President Steven Zack and the members of the Task Force on seeking solutions to the court funding crisis.

I can think of few topics worthy of greater attention. Courts must have the power and funding they need to protect people's rights and provide universal access to a high-quality day in court. Lack of funding is truly becoming a barrier to access to justice. In certain circumstances, it poses threats to the independence of the courts. Every organization that cares about the courts must have a new focus on court funding. If one of our constitutional branches of government is hollowed out from within, our society will be less fair and less free.

Justice at Stake

My organization, Justice at Stake, has traditionally worked to keep courts fair, impartial and independent. We believe that our background and work are relevant to your discussion today. We come together as a broad array of organizations. Our partners include legal leaders like the ABA Standing Committee on Judicial Independence, the National Center for State Courts, and the American Judges Association. But we were created to assemble a broad coalition, including civic groups like the League of Women Voters and business groups like the Committee for Economic Development. Our ranks include plaintiffs and defense attorneys, liberals and conservatives, and Republicans and Democrats. Our board of directors includes the retired Chief Justice of Arizona, the former general counsel for General Motors, and the President Emeritus of the National Center for State Courts.

For the last decade, the majority of our work has focused on judicial selection reform, and we have been pleased to work alongside legal leaders like Ted Olson as we make the case to the Supreme Court and the rest of the country that a new politics of judicial elections is threatening the impartiality of our courts. We have also led efforts to oppose court-bashing, jurisdiction-stripping, impeachment threats and other efforts to intimidate the courts, and we work to promote diversity on the bench.

We have won victories by focusing broad public concern on issues that too often receive too little attention. We've helped our partners enact public financing of judicial elections, defend merit selection systems, and convince the U.S. Supreme Court and state high courts to take recusal more seriously in cases involving big-money campaign supporters. Our opinion surveys and message development have helped change how bar leaders and justices like Sandra Day O'Connor talk about the courts. And our polling and media outreach are helping to stave off efforts to impeach the remaining four Iowa Supreme Court justices over their decision in a marriage case.

### Focusing on Court Budget Issues

I'm here today because we also recognize that cuts in court budgets pose a growing threat to a fair, impartial, and independent judiciary. Justice at Stake, after deliberations among its board of directors and partner organizations, has made advocacy for adequate court funding a new pillar of a broadened strategic plan.

As this task force knows, without adequate resources, courts can be neither effective nor truly independent. People across the country are hurt every day by the court funding crisis. The poor economy has created a flood of pro se litigants. And as debt collection and foreclosures have exploded, more homeowners have wound up in court. The swelling list of people affected by the court funding crisis includes business owners, workers, domestic violence victims, parents facing child custody emergencies and people needing proper translation services. Indeed, underfunded courts hurt all taxpayers, who foot the bill when court proceedings drag and people are wrongly incarcerated. When courts cannot properly deliver justice, becoming a harried assembly line, survey data shows that their public support is undercut.

Court budgets are increasingly hostage to political and economic circumstance. Legislatures set funding for indigent defense and civil legal services, and have demanded that courts raise more of their money through fees and fines. Some courts have even become dependent on new bank foreclosure cases to generate revenue. Judicial decisions involving sentencing and public safety are being driven by budget forces. Too often, fiscal hardship is leading to the outside micromanagement of our courts, which are being treated like agencies instead of a constitutional branch of government.

Because few courts have built a natural public constituency to advocate for funding, the needs of courts are being drowned out, especially in tough financial times.

### Ideas for Moving Forward

Justice at Stake's new court budget project has two goals: (1) to improve public awareness of the court funding crisis, and (2) to help build a broad coalition to maximize public support. We will draw from our core strengths: communications and message development, organizing broad coalitions, strategic planning, and amplifying the work of multiple organizations

We want to add value, and not duplicate work. Our new five-year strategic plan lays out project work in four areas:

- 1. Coalition Building: Work with groups that depend on courts to build a public constituency for necessary court funding.** Many constituencies depend on the courts, including those representing businesses, veterans, seniors, homeowners, law enforcement, disadvantaged populations and the indigent. However, too few of these groups understand that the courts depend on them for public support. There is a tremendous opportunity for JAS, the courts, and for the many groups using courts to greatly broaden fair courts coalitions, so that they include senior judges, key legislators, business and bar leaders, civic organizations and heads of groups that need the courts to serve their constituencies.

This model has been powerfully demonstrated in Colorado, and JAS would draw on lessons learned there in its work elsewhere. JAS and its

partners will work to build broad, active pro-courts coalitions in several states, help them develop more effective communications and advocacy, document successes and failures to develop a “road map” to help other states develop similar coalitions.

**2. Communications: Help judges and courts develop better ways to describe the value of essential court functions to the general public and state and local budget drafters.**

We want to develop a communications manual to provide effective tools for explaining court issues to lawmakers and broader audiences. The product will be based on research, experience and the fruits of conversations among judicial, legislative and executive branch officials. We will disseminate model communications practices to court leaders, drawing on those states with greatest inter-branch cooperation. We will develop media strategies to “humanize” the impacts of inadequate court funding, raising the general public profile of this issue. We will draft monographs that highlight the need for additional resources in our most overworked and underfunded forums, such as immigration courts.

**3. Promoting Effectiveness: Support public awareness and tools that assess court system effectiveness in delivering justice.** We will also promote the use of measurement and indexing systems to establish norms that provide a basis for championing certain essential functions of courts. Many organizations, like the National Center for State Courts, have developed tools to promote better court performance. A JAS partner, the National Center for Access to Justice, is developing the “Justice Index,” a set of performance-based standards to help courts measure and communicate their ability to deliver justice. JAS will help to draw stakeholder coalitions into the process of developing and publicizing it, and work with courts to enlist their cooperation in using it.

**4. Promoting Internal Dialogue: Support more effective internal communication among court systems to spread cost-saving practices.** We will work with court leaders and budget drafters to identify the most successful programs in promoting court efficiencies, and help communicate them to chief judges and court administrators nationally. We will help identify areas where cuts have been harmful, to help courts build the case against false economies.

We appreciate the opportunity to testify, and commend the Task Force on its work. Justice at Stake has a track record of success in bringing public attention to important court issues, and we're eager to help our friends in the court system as they struggle with this issue.