



**VERDICT ON AMERICA'S CIVIL COURTS: HIGH COSTS,  
UNDUE DELAY 'SHOULD NO LONGER BE TOLERATED'**

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Members of a Brookings Task Force, led by Brookings Senior Fellow Robert E. Litan, and Mark Gitenstein, executive director of the Foundation for Change, will discuss Justice for All: Reducing Costs and Delay in Civil Litigation on Wednesday, October 25, at 11 a.m. at the Washington Court Hotel, 525 New Jersey Avenue NW. If you plan to attend this book briefing, please notify the Brookings Public Affairs Office at 202/797-6105 by Monday, October 23.

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When a civil suit is brought in America's court system, the resulting process often consumes years of legal wrangling, postponements and heavy financial costs. At the end, many litigants, judges and lawyers question whether justice has been efficient or even fair.

A new report by a task force of legal experts focuses on the flaws in the federal civil justice system -- and calls for broad reforms that would reduce the size of bloated court dockets and lessen the demand for ever more litigious confrontations.

The task force, initiated at the suggestion of Senator Joseph R. Biden, Jr. (D Delaware), chairman of the Senate Judiciary Committee, grew out of his concern about the costs and delays in litigation and the way these problems restrict access to the courts. The group included private attorneys for plaintiffs and defendants, general counsels of major corporations, attorneys representing civil and women's rights and consumer and environmental organizations, representatives of the insurance industry, and former judges and law professors.

This consensus on wide-ranging reforms has never before been reached by individuals with such diverse, and often adverse, courtroom interests.

"Civil litigation costs too much and takes too long," the report states. "At a time when many citizens and groups are turning to the courts to redress what they believe to be serious wrongs or injustices, cases must move as quickly and inexpensively as possible."

The 36-member study group believes that the civil justice system can be made to work better. "Excessive cost and delay associated with litigating civil cases in America should no longer be tolerated and can be forcefully addressed through procedural reform, more active case management by judges, and better efforts by attorneys and their clients to control cost and delay," the report notes.

Senator Biden strongly praised the task force report. "This is a landmark report," said Biden. "The Senate Judiciary Committee will give a high priority to civil justice reform. These recommendations are an important and encouraging start."

#### Settling Cases "Quickly and Inexpensively"

"There is broad consensus within the legal community that meaningful reforms can reduce the expenses and delay involved in civil litigation," the task force reports. "Procedural rules can be changed to provide much stronger incentives to parties and their attorneys to bring to court only those matters that cannot be resolved through other means and, once in court, to resolve those disputes, whether by settlement or trial, more quickly and inexpensively."

Three key areas must undergo structural changes, the task force concludes. Among their recommendations:

- Congress should require each federal district court to develop its own "Civil Justice Reform Plan" that should include, among other

things, provisions for assigning cases of differing degrees of complexity to different "tracks;" mandatory initial conferences to schedule discovery and trial and to explore alternatives for dispute resolution.

- Judges should take a more active role in managing their cases, ending the practice in some courts of delegating to magistrates functions that are in fact better performed by judges. At the same time, the federal judiciary must be given more resources to do its job.

- The professional bar and clients should place much greater emphasis on reducing litigation costs and delay and take measures to accomplish this objective.

Although the task force focused primarily on problem of federal courts, its members believe their proposals will have important application in state and local courts.

#### Consensus for Reform Has Emerged

The task force acknowledges that many of its recommendations have been advocated previously by other experts. However, the report concludes that "it is precisely because a consensus about meaningful reform measures appears to have emerged that we believe the time is ripe for more systematic efforts to be undertaken by Congress, the judiciary, and the legal community and its clients to reduce costs and delay in our legal system."

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