



New Jersey Launches Complex Business Litigation Program

Client Advisories

11.21.2014

The Supreme Court of New Jersey has announced that the Judiciary will begin accepting cases into the newly established Complex Business Litigation Program effective January 1, 2015. The new program will provide a forum for the resolution of complex business, commercial and construction cases that meet the \$200,000 threshold amount for damages.

The Complex Business Litigation Track will establish a core of experienced, knowledgeable judges who can efficiently and effectively manage business litigation. A continued concentration in business cases will enable judges to quickly grasp complex case facts and examine them within the broader legal context. This action has the potential to lower costs for companies engaged in expensive and time-consuming litigation by expediting a prompt resolution and settlement.

Designated judges in each county will be assigned, by the Supreme Court, to provide individualized case management to these complex business, commercial and construction cases meeting the program criteria. The standards for including cases within the program provide flexibility for counsel and the court, and they include both jury and non-jury matters. Attorneys and/or the parties will designate their cases as a complex business litigation matter on the civil case information statement upon initial filing, and they may move for inclusion in or removal from the program.

While the program requires that cases shall have a minimum of \$200,000 in controversy, the program allows for exceptions to the amount in controversy threshold where the court determines that the case is appropriate for inclusion due to significant complex factual or legal issues. **Complex commercial cases** are defined as involving claims by, against and among parties that arise out of business or commercial transactions and involve exposure to potentially significant damage awards, or where the business or commercial claim involves complex factual or legal issues, a large number of separately represented parties, potential numerous pre-trial motions raising challenging or novel legal issues, case management of numerous witnesses or substantial documentary evidence, substantial time required to complete the trial, significant interpretation of a business or commercial statute, or other complex business or commercial contentions. **Complex construction cases** are defined as claims by,

against and among owners, contractors, subcontractors, fabricators and installers, architects, engineers, design and construction consultants and other similar parties involving exposure to potentially significant damages awards due to claimed design and construction defects, or facility delivery delay claims, or where a construction claim involves similar complex factors listed for a complex commercial claim.

Excluded from the program are cases assigned to the Superior Court's General Equity part and those that primarily involve consumers, labor organizations, personal injury or condemnation, or in which the government is a party. Cases in the program are excluded from the mandatory civil mediation and arbitration programs, but the Complex Business Litigation Program Judges are encouraged to recommend that the parties engage in mediation as a part of case management.

The Complex Business Litigation Program is likely to substantially improve and streamline the litigation of complex business, commercial and construction disputes in the New Jersey courts. Individualized case management of complex business, commercial and construction cases is likely to allow for a more efficient handling of matters, as the same judge will handle the case and address issues consistently from start to finish. Also, a goal of the Complex Business Litigation Program is the development of a body of New Jersey business litigation case law that will be published on the New Jersey courts website, with each designated Complex Business Litigation Program Judge expected to issue a minimum of two written opinions per year. This may be a considerable benefit to parties and the courts in providing additional guidance in the handling and resolution of New Jersey-based business disputes.

Announcement from New Jersey Courts

The issue of a business court in New Jersey has been the subject of spirited debate for more than a decade ("**Don't Drop the Ball a Third Time in Trying to Create a Business Court**" and "**Odd Man Out**") and this program is an attempt to bring New Jersey in line with neighboring states of Pennsylvania, Delaware, and New York which have formed and successfully utilized business courts (**Business, Commercial, and Complex Court Links**).

For further information concerning New Jersey's Complex Business Litigation Program, please contact **Robert T. Egan**, Chair of Archer's **Business Litigation Practice Group** or the attorney in the firm with whom you regularly conduct business.

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