

NJ Judiciary's Business Court Program Going Statewide

Michael Booth, New Jersey Law Journal

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The New Jersey judiciary will expand its nearly two-decade-old Complex Business Litigation Program statewide beginning Jan. 1, Chief Justice Stuart Rabner has announced.

The program, which has been operating in Bergen and Essex counties since 1996, is designed to handle complex commercial and construction cases that have the potential for \$200,000 or more in damages, Rabner said in a statement and order released on Nov. 13.

"Litigants in these cases and the court system overall will benefit from having a core group of dedicated judges manage complex business disputes," Rabner said in his statement. "We also expect that this new approach will help to continue to develop a body of authoritative case law that will aid all parties in business litigation."

The accompanying order says that each judge assigned to the program will be expected to issue a minimum of two written opinions every year so as to develop that body of complex business case law.

Lawyers who focus in complex litigation welcome the move.

"It's a good step in the right direction," said Edward Kole, who handles complex corporate and commercial litigation at Wilentz, Goldberg & Spitzer in Woodbridge, N.J.

"These disputes are far different than the typical matter that might be heard in the Law Division," he said. "The complexity of some of these matters requires different handling with respect to discovery and raise questions of law that warrant special training."

Thomas Herten is a veteran of the pilot program in Bergen County.

"It's proven to be successful," said Herten, of the Hackensack, N.J., office of Archer & Greiner. "The purpose is to have a sophisticated judge with knowledge of complex commercial areas of law."

Another positive aspect of the program is that cases are assigned to a judge from the beginning, he said. Cases filed in the Law Division may have multiple judges deciding motions before being assigned to a judge for trial.

In the Complex Business Litigation Program, "the judge gets a feel for the case," Herten said. "The judge has the case from womb to tomb."

The decision to expand the program statewide was made in response to the Supreme Court's Working Group on Business Litigation's recommendation last year, Rabner said in his statement.

Tamara Kendig, a spokeswoman for the judiciary, said the court system will use its existing resources, and additional funding will not be necessary.

Last year, she said, 199 complex commercial litigation cases and 71 complex construction litigation cases would have been deemed qualified for the program.

Parties in cases in which the damages are estimated at less than \$200,000 may make a motion to have their matters transferred into the program if there are compelling issues

to be resolved in matters involving discovery, large numbers of parties or witnesses, or a significant interpretation of a business or commercial statute, Rabner said.

Cases in the program will not be subject to the judiciary's mandatory mediation and arbitration programs, although judges can encourage the parties to use alternate dispute resolution services if they believe they would be appropriate, he said.

The program, according to the order, will not include matters handled by general equity judges, or matters involving consumers, labor organizations, personal injury or condemnation, or cases in which the government is a party.

If no settlements are reached in cases in the program, both jury trials and bench trials will be available, the order said.

At present, there are 27 other states with some form of specialized business courts, according to Jarret Hann, an analyst with the National Center for State Courts in Williamsburg, Va.

Judges assigned to the program are J. Christopher Gibson and James Savio in Atlantic, Robert Wilson in Bergen, Marc Baldwin in Burlington, Michael Kassel in Camden, James Rothschild Jr. in Essex, Barry Sarkisian in Hudson, Paul Innes in Mercer and Travis Francis in Middlesex.

Katie Gummer will be the program judge in Monmouth, and other judges are Stephan Hansbury in Morris and Sussex; Thomas LaConte in Passaic; Thomas Walsh in Union; Yolanda Ciccone in Somerset, Warren and Hunterdon; Craig Wellerson in Ocean; and Richard Geiger in Cumberland, Salem and Gloucester.

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