

Denise Kruger

From: Region5 Info
Sent: Monday, January 23, 2017 1:30 PM
To: Mariettiwi@co.muskegon.mi.us; stevenser@co.muskegon.mi.us; Sandra Vanderhyde
Cc: Region5 Info
Subject: C14 2017-04 Specialized Business Court - Approved

C14 2017-04 Specialized Business Court - Approved
Rescinds C14 2013-11

This is to advise that we have reviewed the above referenced administrative order and find that it conforms to the requirements of MCR 8.112(B). This order is being accepted and filed until advised by your court of any change.

Jill Booth
Region V Administrator
P.O. Box 30048
Lansing, MI 48909
517-373-8679

This message has been prepared on computer equipment and resources owned by the Michigan Supreme Court. It is subject to the terms and conditions of the Court's Computer Acceptable Use Policy.

IT IS ORDERED:

This local administrative order is issued in accordance with MCL 600.8031 *et seq.* It establishes a plan for continuation of a specialized business court in the Muskegon County 14th Circuit Court for the purposes outlined in MCL 600.8033(3). The business court has jurisdiction over business and commercial disputes as defined in MCL 600.8031(1)(c) in which the amount in controversy exceeds \$25,000.

1. Judicial Resources/Services:

Judge Timothy G. Hicks has been appointed by the Michigan Supreme Court as a business court judge. His term expires December 31, 2022.

2. Cases Eligible for Assignment to the Business Court:

- a. Cases eligible to be assigned to the business court are identified in MCL 600.8031(2). They are defined as business or commercial disputes, and include any off the following:
 - i. Cases in which all of the parties are business enterprises.
 - ii. Cases in which one or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, or competitors, and the claims arise out of those relationships.
 - iii. Cases in which one of the parties is a nonprofit organization and the claims arise out of that party's organizational structure, governance, or finances.
 - iv. Cases involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise.
- b. Business or commercial disputes also include, but are not limited to, the following types of cases:
 - i. Cases involving information technology, software, or website development, maintenance, or hosting.
 - ii. Cases involving the internal organization of business entities and the rights or obligations of shareholders, partners, members, owners, officers, directors, or managers.

- iii. Cases arising out of contractual agreements or other business dealings, including licensing, trade secret, intellectual property, antitrust, securities, non-compete, non-solicitation, and confidentiality agreements if all available administrative remedies are completely exhausted, including, but not limited to, alternative dispute resolution processes prescribed in the agreements.
- iv. Cases arising out of commercial transactions, including commercial bank transactions.
- v. Cases arising out of business or commercial insurance policies.
- vi. Cases involving commercial real property.

3. **Judicial Review of Pleadings:**

A judge assigned to the business court shall review all pleadings in which a party has filed a notice of eligibility for assignment to the business court. Cases that are excluded by MCL 600.8031(3) may be assigned to the business court if the assigned judge determines that it meets the statutory requirements of MCL 600.8035(3). Upon motion of a party, the chief judge of the judicial circuit may review assignments under MCL 600.8035(7) to the business court docket. The ruling of the chief judge under this section is not appealable

4. **Case Assignment to Judges in the Business Court**

- i. Cases shall be assigned to a business court judge by blind draw, pursuant to the court's case assignment local administrative order.
- ii. A case assigned to a business court judge may be reassigned by blind draw to another judge if the action ceases to include a business or commercial dispute.
- iii. A case that does not initially include a business or commercial dispute but that subsequently includes a business or commercial dispute as a result of a cross-claim, counterclaim, third-party complaint, amendment, or any other modification of the action, shall be reassigned by blind draw to a business court judge.

5. **Docket Management:**

The Court will issue a scheduling order pursuant to MCR 2.401(B)(2) when a case is assigned to the business court. The scheduling order shall contain the following provisions:

a. Initial Pretrial Disclosures.

- 1. The parties will make initial pretrial disclosures within twenty-eight (28) days after initial pleadings are concluded or within twenty-eight (28) days after the case is assigned to the business court. These disclosures must include all of the following, to the extent applicable:

2. The name and, if known, address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment. Such disclosure shall include a general description of the subject of that information.
3. A copy, or description by category and location, of all documents, electronically stored information and tangible things that the disclosing party has in its possession, custody or control and may use to support its claims or defenses, unless the use would be solely for impeachment.
4. A computation of each category of damages claimed by the disclosing party, the documents or other evidentiary material¹ on which each computation is based, including materials bearing on the nature and extent of damages suffered.²
5. Any insurance agreement³ under which an insurer may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.
6. Issues that the disclosing party believes are likely to be resolved by motion.
7. Issues that the disclosing party believes are presently ready for resolution.
8. A list of citations to case law that the disclosing party believes represents the most significant cases relevant to the resolution of each issue in the case.
9. Prior decisions from the business court cases applicable to the instant case.

b. Joint Pretrial Report.

Counsel⁴ will have twenty-eight (28) days to review each other's disclosures and are jointly responsible for preparing and submitting a pretrial report, the contents of which shall include:

1. A description of claims and defenses, together with the facts which support them, and not merely the labels.
2. Identification of key witnesses.
3. Anticipated discovery, and a timeline for its completion.

¹ Unless such material is privileged or otherwise protected from disclosure.

² To be made available for inspection and copying pursuant to MCR 2.310.

³ To be made available for inspection and copying pursuant to MCR 2.310.

⁴ All references to "counsel" in this Order shall apply to (i) counsel for represented parties, and (ii) the parties themselves if unrepresented. This terminology shall not be construed as implying that an unrepresented party is somehow disadvantaged or limited by the specialized business court Court. Such party shall be treated as any *pro per* party is otherwise treated in the Civil Division of the Circuit Court.

4. Issues with the initial disclosures, if any.
5. Case law the parties would like the specialized business court Judge to consider.
6. Issues the parties believe are ready for resolution.
7. Identification of the existence of prior settlement discussions, if any, and their current status; existence of arbitration and mediation agreements, if any; alternative dispute resolution (“ADR”) possibilities considered and proposed; and known or anticipated barriers to resolution, financial and otherwise.
8. Whether a court-appointed expert would assist resolution.

c. Initial Court Conference.

Approximately sixty (60) days after the Answer has been filed,⁵ the business court Judge will hold an initial conference which shall be attended by counsel (attendance of the parties optional) to address the following matters:

1. Whether the case is properly assigned to the specialized business court.
2. Whether some type of ADR is suitable and, if so, when and what type should be employed.
3. Issues ripe for resolution by the Court.
4. Any issues raised in the Joint Pretrial Report.
5. Whether a meeting with the specialized business court Judge attended by the parties would be appropriate.
6. Schedule for the litigation.
7. Discovery issues and necessity for any protective orders.
8. Use of technology, service by mail, and motion hearings and court conferences via conference call or video conference.
9. When counsel expect to be able to report back to the Court regarding progress on resolving or litigating the case.
10. Whether the parties will consent to expedited motion hearing time.⁶
11. Prior specialized business court decisions relevant to the case.

d. Case Management Plan.

Following the Initial Court Conference, the business court Judge shall prepare a detailed case management plan based on the conference discussions. The plan will include

⁵ Or, if the case is not immediately referred to the specialized business court upon commencement, such other time as the specialized business court Judge reasonably determines is appropriate.

⁶ Which the Court reserves the right to order on its own initiative pursuant to MCR 2.119.

requirements for interim pretrial reports by counsel and status conferences with the Court.

6. **Technology:**

Parties unable to appear for Court proceedings may be permitted to participate from remote locations through technological means, if advance arrangements are made with the Court.

7. **Opinions:**

All opinions shall be e-mailed to the State Court Administrative Office for publication on an indexed website.

8. **Local Administrative Staff:**

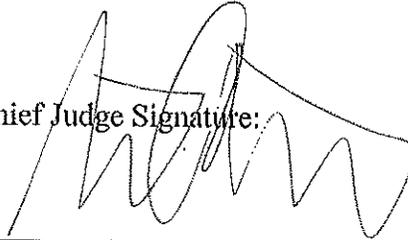
The court has provided the State Court Administrative Office with the name of a local staff person who has been designated as the primary contact for the business court.

Effective Date:

Date:

1/18/17

Chief Judge Signature:



A handwritten signature in black ink, appearing to be 'M. J. ...', written over a horizontal line.

