



STATE OF MICHIGAN
17TH JUDICIAL CIRCUIT COURT

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

IN RE: SPECIALIZED BUSINESS DOCKET
OF THE 17th CIRCUIT COURT

LOCAL ADMINISTRATIVE ORDER
2013-04

At a session of said Court, held in the Kent County Courthouse
In the City of Grand Rapids in said County
November 14, 2013

Present: Hon. Donald A. Johnston
Chief Circuit Court Judge

On March 1, 2012, the 17th Circuit Court implemented a Specialized Business Docket as a pilot project. On January 1, 2013, Public Act 333 of 2012 went into effect, requiring courts across the State of Michigan to set up Specialized Business Dockets. Although the pilot project endeavor in the 17th Circuit Court closely resembles the Specialized Business Docket prescribed by Public Act 333, the 17th Circuit Court must make several changes to conform to the new state law. As a result, this administrative order is issued to replace Kent County Administrative Order 2011-05, which put into operation the pilot project. This administrative order is issued in accordance with Kent County Administrative Order 2011-04 (Case Flow Management Plan).

I) Introduction and Purpose

After the 17th Circuit Court implemented a Specialized Business Docket ("SBD") as a pilot project, the Michigan Legislature enacted Public Act 333 of 2012, which requires all circuit courts with three or more judges to set up SBDs. The 17th Circuit Court SBD, like its predecessor pilot project, is designed to: (i) reduce the time required to resolve business-related legal disputes in Kent County; (ii) promote consistency in decisions rendered in business-related cases; (iii) improve the overall efficiency in administering and processing business cases in the 17th Circuit Court; and (iv) develop a body of case law on business-law issues at the trial-court level to provide guidance to the local business community and business-law practitioners. The Michigan Court Rules (hereinafter "MCR") govern all aspects of cases involved in the SBD. The right to trial by jury is preserved and,

if properly demanded, will proceed in the same fashion as in the general Civil Division, as will non-jury trials. Appeals from cases handled by the SBD will be to the Court of Appeals, as with all other Circuit Court cases.

II) Cases to be Assigned to the Specialized Business Docket

A) All of the following types of cases,* whether qualifying by complaint, counterclaim, cross-claim, or third-party complaint, shall be assigned to the SBD:

1. An action in which all of the parties are business enterprises;
2. An action in which at least 1 party is a business enterprise and the other parties are its present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, or competitors and the claims arise from one of those relationships;
3. An action in which at least 1 party is a nonprofit organization and the claims arise out of that party's organizational structure, governance, or finances;
4. An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise;
5. An action involving information technology, software, website development, maintenance, or hosting;
6. An action involving the internal organization of a business entity and the rights or obligations of shareholders, partners, members, owners, officers, directors, or managers;
7. An action arising out of a contractual agreement or other business dealings, including licensing, trade secrets, intellectual property, antitrust, securities, noncompete, non-solicitation, and confidentiality agreements;
8. An action arising from a commercial transaction, including a commercial bank transaction;
9. An action arising from a business or commercial insurance policy;
10. An action involving commercial real estate;
11. An action subject to compulsory arbitration involving any of the above subjects.

B) All of the following types of cases shall be excluded from the SBD:

1. Personal-injury actions including, but not limited to, wrongful death and medical malpractice;
2. Product-liability actions in which any claimant is an individual;
3. Matters within the jurisdiction of the Family Division of the Circuit Court;
4. Proceedings under the Probate Code of 1939 (MCL 710.21 - 712A.32);
5. Proceedings under the Estates and Protected Individuals Code (MCL 700.1101 - 700.8206);

* Assuming such cases meet all other threshold requirements for circuit-court jurisdiction.

6. Criminal matters;
7. Condemnation matters;
8. Appeals from lower courts or administrative agencies;
9. Proceedings to enforce judgments of any kind;
10. Landlord-tenant matters involving only residential property;
11. Land contract or mortgage foreclosure matters involving residential property;
12. Motor-vehicle insurance-coverage cases under the Insurance Code of 1956 (MCL 500.100 - 500.8302), except where 2 or more parties to the action are insurers;
13. Insurance-coverage disputes in which an insured is an individual consumer;
14. Employment-discrimination cases;
15. Civil-rights cases, including claims brought under the Elliott-Larsen Civil Rights Act (MCL 37.2101 - 37.2804), the Persons With Disabilities Civil Rights Act (MCL 37.1101 - 37.1607), and Chapter XXI of the Michigan Penal Code (MCL 750.146 - 750.148);
16. Wrongful-discharge cases, except actions involving corporate officers or directors;
17. Worker's-compensation claims brought under the Worker's Disability Compensation Act (MCL 418.101 - 418.941).

- C) Any case assigned to the SBD shall be subject to removal from the SBD by the SBD judge for good cause to the Civil/Criminal or Family docket, whichever is appropriate, either on motion of a party or *sua sponte*, as provided in paragraph V(B). A newly filed case so removed shall be reassigned by lot to a judge of the appropriate division. A case found to have been inappropriately referred to the SBD by another judge will be reassigned back to that judge.

III) The Specialized Business Docket Judge

- A) By assignment of the Michigan Supreme Court, per letter of April 3, 2013, from Chief Justice Robert P. Young, Jr., Kent County Circuit Court Judge Christopher P. Yates shall serve as the SBD judge for Kent County for a term ending April 1, 2019.
- B) The Chief Judge of the Kent County Circuit Court shall monitor the workload of the SBD judge and shall take steps necessary to balance the workload of the SBD judge with those of the other judges of the Court.
- C) The SBD judge shall attend at least one training program for business-court judges each year, with an emphasis placed upon programs that minimize the cost to Kent County.

IV) Specialized Business Docket Case Management

- A) Initial Status Conference: As promptly as possible after an answer has been filed, the SBD judge shall conduct an initial status conference attended by counsel – either in person or by telephone – for the purpose of establishing a schedule for the case.

- B) Scheduling Order: Following the initial status conference, the SBD judge shall prepare and issue a comprehensive scheduling order setting forth all significant deadlines in the case.
- C) Use of Technology: Parties unable to appear in person for court proceedings may be allowed to participate from remote locations through any available technological means, so long as arrangements are made in advance with the Court.

V) Specialized Business Docket Procedural Mechanisms

- A) Assignment of Cases to the SBD: All cases described in paragraph II(A) shall be assigned to the SBD by the following methods:
1. When an applicable case is filed, the plaintiff shall file a face sheet to the complaint, reciting "Specialized Business Docket requested." If the plaintiff has not done so, and the defendant believes the case meets the eligibility criteria in paragraph II(A), the defendant may file a face sheet to the answer with the same recitation.
 2. When all parties agree to and file a stipulation and order for assignment of the case to the SBD.
 3. When any judge of the Court refers the case for assignment to the SBD, after review and approval by the SBD judge.
- B) Removal of Cases from the SBD: A case may be removed from the SBD through any of the following procedures:
1. Any party may file a motion, without having to pay a motion fee, to remove the case from the SBD to either the Civil/Criminal or Family docket, whichever is applicable, on the ground that the case does not meet the eligibility criteria of paragraph II(A).
 2. The SBD judge may remove a case from the SBD to the Civil/Criminal or Family docket, whichever is applicable, with approval of the Chief Judge
 3. If, for any reason, the SBD judge is recused or disqualified from hearing a case, that case shall be reassigned by lot to a judge of the Civil/Criminal Division, who shall promptly convene a status conference with the parties to establish a schedule for all further proceedings in the case.
- C) Case Tracking: Each case assigned to the SBD shall be assigned a unique docket code that identifies its category as set forth in paragraph II(A), which shall be used for the purposes of case-tracking and statistical analysis.

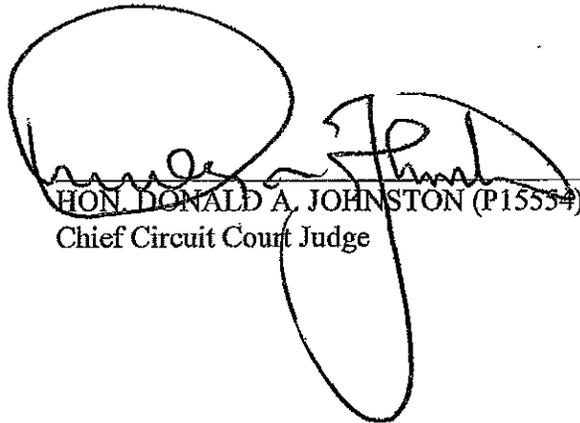
- D) Opinions Issued by the SBD Judge: On each significant matter decided by the SBD judge, the SBD judge shall issue a formal written opinion describing the Court's ruling and post that opinion to the searchable database on the SBD page of the Court's public website.

VI) Oversight and Evaluation of the Specialized Business Docket

- A) Advisory Committee: The Chief Judge shall appoint an advisory committee for the SBD that shall include the SBD judge, the Court Administrator for the 17th Circuit Court, and at least two civil attorneys actively practicing in Kent County. The advisory committee shall meet on an annual basis to assess the progress of the SBD.
- B) Reporting: On an annual basis, the advisory committee shall compile an annual report to be submitted in writing to the Court and the State Court Administrator.

IT IS SO ORDERED.

Dated: November 14, 2013



HON. DONALD A. JOHNSTON (P1555#)
Chief Circuit Court Judge