

STATE OF MICHIGAN
GENESEE COUNTY
7th JUDICIAL CIRCUIT

In Re:
**CREATION OF A
SPECIALIZED
BUSINESS DOCKET**

LOCAL ADMINISTRATIVE
ORDER

2019-02

7th Judicial Circuit Court, 900 S. Saginaw St., Flint, MI 48502 (810) 424-4355

Local Administrative Order 2013 - 03 is hereby rescinded.

**PLAN FOR THE CREATION OF A SPECIALIZED
BUSINESS DOCKET**

IT IS ORDERED:

This local administrative order is issued in accordance with MCL 600.8031 *et seq.* It establishes a plan for a Specialized Business Docket (SBD) in the Seventh Judicial Circuit Court (*Genesee County*) 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 F. Kay Behm has been appointed (MSC ADM File No. 2018-01) by the Michigan Supreme Court as a Specialized Business Docket (SBD) Judge. Her term expires April 13, 2019.

Judge Richard B. Yuille is the alternate SBD Judge, in the absence of Judge Behm.

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 Judge in the Business Court**

- i. 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.
- ii. 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 SBD. The scheduling order will contain the following provisions:

- a. **Initial Pretrial Disclosures.** The parties will make initial pretrial disclosures within the later of 28 days after initial pleadings are concluded or within 28 days after the case is assigned to the SBD. These disclosures must include all of the following, to the extent applicable:
 - i. The name and, if known, address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.
 - ii. A copy, or a 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.
 - iii. A computation of each category of damages claimed by the disclosing party, who must also make available for inspection and copying as under MCR 2.310 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of damages suffered.
 - iv. For inspection and copying under MCR 2.310, any insurance agreement 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.
 - v. Issues that the disclosing party believes are likely to be resolved by motion.
 - vi. Issues that the disclosing party believes are presently ready for resolution.
 - vii. A list of citations to the case law that the disclosing party believes are the most significant cases relevant to the resolution of each issue in the case.
 - viii. Prior decisions from SBD cases applicable to the instant case.

- b. Joint Pretrial Report. The parties will have 28 days to review each other's disclosures and are jointly responsible for preparing and submitting a pretrial report. Contents include:
- i. Description of claims and defenses, including the facts that constitute them, not just the labels.
 - ii. Identification of key witnesses.
 - iii. Anticipated discovery and timetable for completion.
 - iv. Issues with initial disclosures (if any).
 - v. Case law the parties would like the judge to consider.
 - vi. Issues the parties believe are ready for resolution.
 - vii. Prior settlement discussions and current status; existence of arbitration and mediation agreements, if any; ADR possibilities considered and proposed; and barriers to resolution, financial and otherwise.
 - viii. Technological capabilities of counsel to participate in teleconferences with the court, and location of clients and their ability to appear for court conferences.
 - ix. Whether a court-appointed expert would assist resolution.
- c. Initial Court Conference. Thirty-five (35) days after the Joint Pretrial Report is submitted, the SBD judge will hold an initial conference with counsel, with clients attending at their option, and unrepresented parties, to address the following matters:
- i. Whether the case is properly assigned to the SBD.
 - ii. Whether some type of ADR is suitable and, if so, when and what type should be employed.
 - iii. Issues that are ready for resolution by the court.
 - iv. Any issues raised in the joint pretrial report.
 - v. Whether a meeting with the judge attended by clients would be appropriate.
 - vi. Schedule for the litigation.
 - vii. Discovery issues and necessity for any protective orders.
 - viii. Use of technology, service by email, motion hearings and court conferences via conference call or video conference.
 - iv. When counsel expects to be able to report back to the court regarding progress on resolving or litigating the case.
 - x. Whether parties will consent to an expedited motion hearing time (which the court may order on its own initiative pursuant to MCR 2.119).
 - xi. Prior SDB decisions relevant to the case.

xii. In the event a litigant is in pro per, the SBD Judge will discuss with the party his/her ability to proceed on the SBD unrepresented.

6. **Technology:**

The SBD will allow attorneys and parties to attend pre-trials, status conferences and other court events via video conferencing or through telephonic participation, if such participation is arranged in advance.

Personal attendance by counsel and parties, at trial, is required, unless other arrangements have been specifically approved in advance by the SBD Judge.

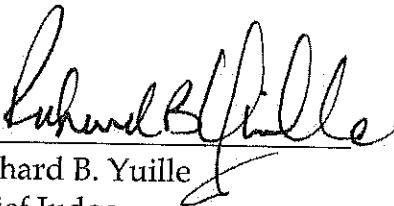
7. **Opinions:**

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:



Richard B. Yuille
Chief Judge
Genesee County Courts

1/4/19
Date