

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

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**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 court in the 31<sup>st</sup> 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 Daniel J. Kelly** has been appointed by the Michigan Supreme Court as a business court judge. His term expires January 1, 2019.

**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 of 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:**

The judge assigned to the business court or designee shall screen all pleadings in which a party has verified that the case meets the statutory requirements 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 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 adopts a case management policy for business court whereby all cases or contested matters will be set in a manner that minimizes delay for the parties and that reduces the possibility of adjournment of set times.

Cases and contested matters will be continually reviewed to ensure that no case exists for which a future action or review date has not been set by the Court. Scheduling will be done in accordance with time guidelines promulgated by the Michigan Supreme Court.

Pretrial scheduling orders are issued upon filing of an answer or at the initial pretrial conference. Discovery, mediation, and other case specific management matters are included in the order.

The Court promotes the use of alternative means with which to resolve disputes. Case evaluation is utilized as appropriate pursuant to the Mediation Selection and Assignment Plan previously adopted by this court. The court may order a case into facilitation either before or after case evaluation or in place of case evaluation.

Every business court case that is not disposed of through mediation, case evaluation, or other means, will be scheduled for a settlement conference in accordance with MCR 2.401. Persons with authority to settle the case, including the parties to the actions, agents of the parties, representatives of lien holders, or representatives of insurance carriers shall be present at the conference, or with approval of the Court, immediately available at the time of the conference via telecommunications. Trial dates will be set at the settlement conference. To avoid future scheduling conflicts, attorneys must be able to confirm their trial date availability at the conference.

The Court adopts the adjournment policy set forth in MCR 2.503 for business court cases.

6. **Technology:**

The court requires that all counsel, including their clients to have the ability and technological capabilities to use teleconferencing or videoconferencing for appearances with the court.

Parties are encouraged, whenever possible, to perform service pursuant to MCR 2.107 (C)(4).

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 Circuit Court Administrator is the primary contact person for the business court. 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: 6-24-13



Chief Judge