

NOTICE TO THE BAR

Contract/Commercial and Civil Assault and Battery Cases -- Revised Presumptive Track Assignments

Pursuant to the Supreme Court's Order of July 27, 2006 adopting amendments to various Rules of Court, including changes to Side 2 of the Civil Case Information Statement, effective September 1, 2006, all contract/commercial cases (case type code 599; now assigned to Track 1 and accorded 150 days of discovery) will be presumptively assigned to Track 2 and provided with 300 days of discovery. Similarly, all civil assault and battery cases (case type code 602; now assigned to Track 2 and accorded 300 days of discovery) will be presumptively assigned to Track 3 and provided with 450 days of discovery. Accordingly, all contract/commercial cases and all assault and battery cases filed on or after September 1, 2006 will be presumptively assigned to Track 2 and Track 3, respectively.

With respect to contract/commercial cases and assault and battery cases previously filed and still pending on September 1, 2006, the Automated Case Management System (ACMS) will be programmed to add 150 days to the original discovery end date ("DED") of these cases. Two examples of how this will work, using the contract/commercial case type and assuming the initial discovery period begins on the date the answer is filed, follow:

- Example 1: A case was filed on January 1, 2006 and answered on February 1, 2006. As a Track 1 case, it was automatically allotted 150 days of discovery, giving it an initial DED of July 1, 2006. Shortly before that DED, the parties requested and received the automatic consensual 60-day extension, thereby moving the DED to August 30. If the case is still pending on September 1, 2006, ACMS will automatically add 150 days to the original DED of July 1, thus giving the case a new DED of November 28, 2006.
- Example 2: If, in the example above, a discovery extension motion were made and granted in mid-August, thereby moving the DED to December 1, no additional discovery will be automatically provided when the case is shifted from Track 1 to Track 2, as the DED at the time of the track shift would already be beyond the 300 days allotted to Track 2 cases.

The Automated Case Management System also will be programmed to generate a notice, to be sent to all active parties in pending cases affected by the track shift, advising of the new track assignment and the new discovery end date.

Please note that the additional 150 days of discovery will be added to the original DED in pending contract/commercial and assault and battery cases regardless of whether the case has been scheduled for arbitration or trial. Requests for adjournments in such cases will be handled locally and on a case-by-case basis.

Please note as well that the change from one track to another does not provide a second, automatic 60-day discovery extension. Rule 4:24-1(c) allows a single consensual extension. If the parties have asked for and received such an extension prior to the track shift, no further consensual extension will be available after the track shift.

Finally, if a Track 1 contract/commercial case or a Track 2 assault and battery case is closed prior to September 1, 2006 - e.g., dismissed for failure to provide discovery - and thereafter reinstated, the court will determine upon reinstatement if a track change and a discovery extension in that particular case are appropriate, and will include its determination in that regard in the order for reinstatement.

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Acting Administrative Director of the Courts
Dated: July 28, 2006