

# NOTICE TO THE BAR

## Complex Business Litigation Program

The Supreme Court has approved implementation of the Complex Business Litigation Program (the Program) for the handling of complex business, commercial and construction cases. The Court's November 13, 2014 order authorizing the Program accompanies this notice. The Program is based on the report and recommendations of the Supreme Court Working Group on Business Litigation, which report was published for comment by April 10, 2014 notice to the bar.

The Program will begin on January 1, 2015 for such complex cases filed on or after that date that fulfill the program eligibility criteria as set forth below. It will feature the designation of Complex Business Litigation Judges in each vicinage, with those designated judges receiving over time extensive specialized training in all areas relating to business litigation. The list of designated Complex Business Litigation Judges also accompanies this notice.

The details of the Program are as follows:

- **Threshold Damages Amount** – The amount in controversy must be at least \$200,000 for inclusion in the Program unless the court determines in a particular situation that a case with a lesser amount in controversy is appropriate for inclusion.
- **Self-Designation as Complex Business Litigation** – The attorneys or parties will designate a matter as complex business litigation by indicating on the Civil Case Information Statement that the matter is either case type 508 (complex commercial) or case type 513 (complex construction). Those case types are defined as follows:

**Complex Commercial (508):** Defined as claims by, against, and among parties that arise out of business or commercial transactions and involve parties' exposure to potentially significant damage awards; or where the business or commercial claim involves complex factual or legal issues; a large number of separately represented parties; potential numerous pre-trial motions raising difficult or novel legal issues; case management of a large number of lay and expert witnesses or a substantial amount of documentary evidence (including electronically stored information); substantial time required to complete the trial; significant interpretation of a business or commercial statute; or involves other contentions of a complex business – commercial nature.

**Complex Construction (513):** Defined as claims by, against, and among owners, contractors, subcontractors, fabricators and installers, architects, engineers, design and construction consultants, and other similar parties

associated with a construction project that involves parties' exposure to potentially significant damage awards because of claimed design and construction defects, or facility delivery delay claims or where the construction claim involves complex factual or legal issues; a large number of separately represented parties; potential numerous pre-trial motions raising difficult or novel legal issues; case management of a large number of lay and expert witnesses or a substantial amount of documentary evidence (including electronically stored information); substantial time required to complete the trial. Complex construction does not include construction and professional payment and billing claims, change order claims, wrongful termination, quantum merit, construction lien or mechanics lien claims, unless associated with a complex construction claim as herein described.

- **Other Suitable Actions:** Actions to establish a constructive trust or impose an equitable lien to satisfy damages are also cognizable in the Complex Business Litigation Program, as are cases primarily seeking legal relief in which ancillary injunctive relief is sought.
- **Excluded Actions** – The Program does not include matters that are handled by General Equity or matters primarily involving consumers, labor organizations, personal injury, or condemnation, or cases in which the government is a party.
- **Jury and Non-Jury Matters** – The Program encompasses both jury and non-jury matters.
- **Opt-in/Opt-out** - Parties may file a motion with the Complex Business Litigation Program judge for inclusion in the Program where the amount in controversy is less than \$200,000. Parties may also move for removal from the Program on the grounds that the action does not meet the eligibility criteria.
- **Review of Cases in Program** – The Assignment Judge or his/her designee may initially conduct a review of the case to determine if it is appropriate for the Program. The Program judge may also review actions presumptively assigned to the Program to determine if the case is appropriate for inclusion. If after review, a judge determines that the complex nature of the action or the threshold damages claim amount is not established, the case may be removed from the Program. Cases removed from the Program will be reassigned to the appropriate track for case management.
- **Complementary Dispute Resolution** – Cases in the Program are not part of the court's mandatory civil mediation and arbitration programs. However, the Complex Business Litigation Program Judge in each vicinage, as part of case management, should encourage the parties to engage in mediation.

- **Opinions** – Each Complex Business Litigation Judge will be expected to issue a minimum of two written opinions per year in order to develop a body of case law on issues relating to business litigation.

Questions concerning the Complex Business Litigation Program may be directed to Kevin M. Wolfe, Esq., Assistant Director for Civil Practice, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, New Jersey 08625-0981; telephone (609) 292-8470; email address [kevin.wolfe@judiciary.state.nj.us](mailto:kevin.wolfe@judiciary.state.nj.us).



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Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts

Dated: November 13, 2014

## SUPREME COURT OF NEW JERSEY

It is ORDERED that, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, effective January 1, 2015 and until further order, the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to authorize implementation of the Complex Business Litigation Program, the details of which program shall be provided on behalf of the Court by the Administrative Director of the Courts through a comprehensive notice to the bar.

For the Court,

A handwritten signature in black ink, appearing to read "S. P. ...", is written over a horizontal line.

Chief Justice

Dated: November 13, 2014

### DESIGNATED COMPLEX BUSINESS LITIGATION JUDGES

Vicinage	Complex Business Litigation Judge(s)
1. Atlantic/Cape May	Judge J. Christopher Gibson (primary) Judge James P. Savio (backup)
2. Bergen	Judge Robert C. Wilson
3. Burlington	Civil Presiding Judge Marc M. Baldwin
4. Camden	Judge Michael J. Kassel
5. Essex	Judge James S. Rothschild, Jr.
6. Hudson	Judge Barry Sarkisian
7. Mercer	General Equity Presiding Judge Paul Innes
8. Middlesex	Assignment Judge Travis L. Francis
9. Monmouth	Judge Katie A. Gummer
10. Morris/Sussex	General Equity Presiding Judge Stephan C. Hansbury
11. Passaic	Judge Thomas J. LaConte
12. Union	Judge Thomas J. Walsh
13. Somerset/Hunt/War	Assignment Judge Yolanda Ciccone
14. Ocean	Civil Presiding Judge Craig L. Wellerson
15. Cumberland/Glou/Sal	Judge Richard J. Geiger