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#014

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May 8, 2018



Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts
Attn: Comments on CBLP Rules Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625-0037

Re: Comments on CBLP Rules Hughes Justice Complex

Dear Judge Grant:

I write on behalf of my firm and our clients engaged in the construction industry throughout the State of New Jersey to comment on and suggest a revision to the proposed rules for the Complex Business Litigation Program ("CBLP"), R. 4:102 et seq.

Overall, the proposed CBLP rules are well-drafted and we believe they will serve their intended purpose of creating more predictability and efficiency in the conduct of business litigation. We write to suggest a revision that we believe ensure the proposed rules are consistent with that purpose.

Rule 4:102 sets forth the matter cognizable in the CBLP program and provides, in pertinent part:

(c) ***The CBLP does not include*** matters that are otherwise handled by General Equity, or matters primarily involving consumers, labor organizations, personal injury, condemnation, or ***cases in which the government is a party. (emphasis supplied).***

As written, this rule would exclude complex construction cases involving governmental entities as owners. In our experience, these cases, which are currently assigned to Track IV for individual case management, are some of the most complex, document intensive matters that are litigated in the Superior Court. The construction of roads, bridges, schools, jails, and other government buildings always involves a governmental party. Contract litigation involving such projects usually also involves a

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general contractor and numerous subcontractors, suppliers, and design professionals. These cases can involve literally millions of documents.

While we do not have the capability of conducting a statewide analysis, we believe, based on our experience and that of our clients, that the majority of complex construction cases involve at least one governmental party. Thus, the exclusion of complex construction matters in which the government is a party will defeat the underlying purpose of the CBLP.

Accordingly, we respectfully request the CBLP rules be revised to clarify that complex construction matters involving a governmental party are cognizable in the CBLP.¹

Very truly yours,
Hankin Sandman Palladino & Weintrob



Colin G. Bell, Esquire

CGB/alk

Cc: Daniella Gordon, Esq (Co-Chair NJSBA Construction Law Section via electronic mail)

James McMahon (Co-Chair NJSBA Construction Law Section via electronic mail)

¹ On a far less substantive note, the proposed Rules require answers to interrogatories be provided within 30 days of service and responses to document requests be provided within 35 days of service. In practice, these discovery requests and the responses to them are often served simultaneously. As such, to simplify the tracking of response dates, we suggest that response times be made uniform.