

Business Court Begins

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Oakland County Circuit Court Administrator*

On June 3 the business court docket in the Oakland County Circuit Court will be implemented. The creation of a business court was required by Public Act 333 of 2012. The purpose of the business court is to establish best practices for the resolution of business cases; to improve the efficiency of the courts; to utilize technology in managing business court cases; and to enhance the accuracy, consistency and predictability of decisions in business and commercial cases.

All 17 circuit courts in Michigan (those with at least three judges) must create a business court and have them up and running by July 1. The Supreme Court assigned Judges Wendy Potts and James Alexander to our business court. All business court cases filed on and after June 3 will be assigned by blind draw to either Judge Potts or Judge Alexander. All non-business court general civil cases will be assigned by blind draw to the remaining 11 judges in the Civil/Criminal Division of the Circuit Court.

At the time this article is being written, the Supreme Court is expected to consider a proposed court rule that will require the filing party to give written notice, with the initial pleading, that the case qualifies for the business court. The proposed court rule may be viewed at http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Court%20Rules/2012-36_2013-02-06_formatted%20proposed.pdf. Please keep in mind that by the time this article is published, the proposed court rule may have been adopted, revised or rejected by the Supreme Court.

All business court cases must be eFiled. Assuming the court rule is adopted, the filer must give written notice that the case qualifies for the business court. We strongly encourage

parties to complete a write-enabled, PDF form entitled *Notice of Assignment to the Business Court* . You can type in the form and save it to your computer. We ask that you attach the PDF to the initial complaint when you eFile. This form will enable the Clerk's Office to correctly assign the case using the business court blind draw. The form may be viewed at <http://www.oakgov.com/courts/businesscourt/Documents/ocbc01.pdf>.

A case must be assigned to the business court if the amount in controversy is greater than \$25,000 **and** all or part of the action includes a business or commercial dispute. A business or commercial dispute is any of the following:

1. An action in which all of the parties are business enterprises.
2. An action in which one or more of the parties are business enterprises and the other parties are their present or former:
 - a) Owners
 - b) Managers
 - c) Shareholders
 - d) Members
 - e) Directors
 - f) Officers
 - g) Agents
 - h) Employees
 - i) Suppliers
 - j) Competitors

NOTE: The claim must arise out of any of the above relationships.

3. An action in which one of the parties is a nonprofit organization and the claims arise out of the party's organizational structure, governance or finances.
4. An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance or finances of a business enterprise.

Examples of the types of actions that will be included in the business court are:

- those involving information technology; software; or website development, maintenance or hosting
- those involving the internal organization of business entities and the rights or obligations of shareholders, partners, members, owners, officers, directors or managers
- those arising out of contractual agreements or other business dealings, including licensing, trade secret, intellectual property, antitrust, securities, noncompete, nonsolicitation and confidentiality agreements if all administrative remedies are completely exhausted
- those arising out of commercial transactions, including commercial bank transactions
- those arising out of business or commercial insurance policies
- those involving commercial real property.

Examples of the types of actions that are expressly excluded from the business court are listed in MCL 600.8031(3).

The business court judges have worked to create uniformity in regard to their forms, orders, scheduling orders and case management policies. The business court judges will meet regularly to discuss the state of the business court, review its progress, and identify the most

efficient and effective case management strategies. Parties should expect that there may be tweaks in the manner in which the business court is operated and managed as experience is gained.

To that end, the Circuit Court designed a business court web page that will provide updates and information about new developments. The page also contains other information such as the governing statute, our local administrative order, forms, and policies and procedures enacted by the business court judges. You may view the business court Web page at <http://www.oakgov.com/courts/businesscourt/Pages/default.aspx>.

We are excited about this new venture and believe the business court will be effective in meeting the needs of parties in business or commercial disputes. Please remember to visit the business court Web page for more information and the latest developments.

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