

## CASE MANAGEMENT PROCEDURES

1. **Authority Over Commerce Program Status:** When there is a dispute whether the case is properly assigned to the Commerce Program, the decision will be made by the Administrative Judge. If the Civil Case Manager conducting a case management conference or any party objects to the Commerce Program assignment, the Case Manager will forward the dispute to the Administrative Judge.

2. **Alternative Procedures Available:** The Commerce Program Judge, in his/her discretion, may, upon application of any party or upon his/her own initiative, modify these procedures. Requests for changes in these procedures will be made by filing a Petition for Extraordinary Relief (which Petition calls for a ten-day response time).

3. **The Case Management Conference:** Typically, notice of a Case Management Conference ("CMC") will be sent to counsel and unrepresented parties (sixty days after filing) scheduling the CMC for approximately ninety days after filing. In certain circumstances, the CMC may be scheduled through the Commerce Program Judge.

a. **Presiding Officer:** Unless otherwise ordered, the CMC shall be conducted by a Civil Case Manager designated by the Court, acting on behalf of the assigned Commerce Program Judge.

b. **Issues to be Addressed:** The following subjects, along with other appropriate topics, such as service of process, venue, pleadings, discovery, possible joinder of additional parties, theories of liability, damages claimed and applicable defenses ( see also Pa.R.C.P. 213.3), will be discussed.

(1) **Means for Early Disposition**

a. **Timing and potential forms of Alternative Dispute Resolution (ADR).** The case manager will make available the list of Commerce Program Judges **Pro Tempore** (as provided by the Business Litigation Committee of the Philadelphia Bar Association).

b. **Scheduling pre-discovery dispositive motions, only if oral argument is needed.** (Whether to hear oral argument is up to the Commerce Program Judge). The Commerce Program Judge will likely have a half day set aside for hearing Motions and Rules.

- c. **Scheduling limited-issue discovery in aid of early dispositive motions. The Case Manager will advise counsel of the half day Discovery Program set up for that Commerce Program Judge.**

**(2) Schedules and Deadlines**

- a. **Assignment to a Case Management Track and issuance of a Case Management Order ("CMO"), which will set forth a target trial date, deemed the earliest trial date pursuant to Pa.R.C.P. 212.1.**
- b. **A discovery plan and schedule based on the CMO date for the completion of discovery.**
- c. **Anticipated areas of expert testimony, timing for identification of experts, responses to expert discovery, exchange of expert reports (reference to the CMO).**

**(3) Potential Use of a Commerce Court Judge Pro Tempore**

- a. **On stipulation of all parties for supervision of discovery.**
- b. **For mediation.**
- c. **Identification of a particular Commerce Program Judge Pro Tempore acceptable to all parties.**
- d. **The choice of a particular Judge Pro Tempore for these purposes must be approved by the Court.**
- e. **Use of a Pro Tempore Judge for purposes of discovery of mediation cannot affect the deadlines set forth in the CMO.**

**The Commerce Program Judge may establish any informal procedures to achieve expeditious resolution of discovery disputes and other non-dispositive issues. Prior to the CMC, it shall be the obligation of the parties to confer concerning all of the above matters, for the purposes of reaching agreements.**

**Case Management Order: At the CMC, the case manager shall issue a Case Management Order ("CMO") setting forth dates for a Settlement Conference and for a Pretrial Conference (with Pretrial Statements typically to be filed in advance), and for Trial. The CMO will also address cut-off dates for completion of discovery, for the service of expert reports and for the filing of Motions.**

Based upon the nature and complexity of the case, the case manager with input from the parties at the CMC shall assign the case to a track. The Commerce Program shall typically employ the following management tracks: Commerce Expedited (Target Trial Date within 13 months of Complaint) and Commerce Standard (Target Trial Date within 18 months of Complaint). Only exceptionally complicated cases should be designated Commerce Complex (Target Trial Date within Two Years of Complaint). In the latter instance, the Commerce Program Judge may schedule status conferences at six month intervals or at any other times upon application of the parties, if appropriate.

The Commerce Expedited Track shall consist of matters in which minimal discovery is needed and legal issues are anticipated to be routine. Examples of such actions, in the absence of complicating factors, are actions relating to commercial loans, and contract, UCC and foreclosure matters. Other matters should presumptively be designated Commerce Standard. Actions in which preliminary injunctive relief is sought may be appropriate for any of the tracks depending upon the circumstances.

A suggested form Case Management Order is attached as Exhibit "C." A grid of time standards that will be employed depending upon the applicable Track Case Management Order is attached as Exhibit "D."

**Motion Practice and Discovery Motions.** The Commerce Program Judge to whom the action is assigned will hear all pretrial motions, including discovery motions, except that, to the extent that scheduling or other concerns so require, a Commerce Program Judge may make arrangements for certain discovery and other pretrial motions to be heard by another Commerce Program Judge. All motions (except discovery motions) shall be filed in Motion Court with a designation on the Motion Court Cover Sheet of the assigned Commerce Program Judge. Procedures of the Discovery Court should generally be followed, and filings processed through room 287. In some instances, the Commerce Program Judge may direct further briefing of complex discovery motions. Any Notice of Management Program Dispute that is pending or is being filed contemporaneously with the Motion filing, should be noted in the Motion Court Cover Sheet. Oral argument is at the discretion of the Commerce Program Judge.

A Commerce Program Discovery List for each Commerce Program Judge shall be established so that discovery matters ordinarily will be heard by that Judge on a particular day of the week. Each Judge may also schedule hearings on non-discovery motions on the discovery day, or at such other times as the Court deems appropriate.

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