

COMPLEX CIVIL LITIGATION COURT EVALUATION COMMITTEE

MINUTES

October 23, 2007

Members Present:

Andrew Federhar, Chair
Hon. Mark Aceto

Marcus Reinkensmeyer
William Maledon

Guests:

Hon. Pendleton Gaines
Hon. John Buttrick
Cynthia Puklin
Mark Jensen
David Jacobs
Theresa Barrett

Hon. Janet Barton
Mitch Michkowski
Laurie Thomas
Kenneth Januszewski
Lisa Goodman

Jennifer Greene – Committee Staff

1. Call to Order Approval of the Minutes

The meeting was called to order at 12:05 PM. Judge Gaines introduced Ms. Lisa Goodman, the program's new staff attorney.

The August 2007 meeting minutes were approved without modification.

2. Consideration of refinements to complex case designation and assignment

The members discussed whether to follow California's methods of identifying and assigning cases to its complex litigation programs. Members reviewed the California civil cover sheet and the questionnaire in use in Los Angeles County that the managing judge reviews to determine whether to re-assign a case to the Los Angeles County complex litigation program. California law deems certain types of cases to be "provisionally" eligible and the civil cover sheet (which is a mandatory statewide form) captures information to identify those new filings. Arizona's complex litigation committee decided not to assign provisional eligibility to any particular case type, but the program has remained small in scale, in part as a result of that decision. Judge Aceto reported he has seen less than one motion a month for complex designation.

It was noted that some Arizona lawyers are unaware of the program. There is a national trend favoring establishment of business or complex litigation courts and the trial court in Maricopa County is viewed nationally as a high-quality innovative court and that reputation can be attributed, in part, to the existence of the complex litigation program. Assigning more cases to the program will serve an educational function, as more lawyers will be exposed to the program and will talk with other lawyers about it. Putting something on the civil cover sheet that asks lawyers whether the case is eligible under Rule 8(i) will raise awareness as well.

The types of cases that are deemed provisionally eligible under the California statute -- antitrust/trade regulation, securities litigation, construction defect, mass tort, environmental/toxic tort, and insurance coverage claims arising from these case types -- are not a large percentage of civil cases and would not overwhelm program resources. Another case category warranting extra judicial oversight might be those that are related to other similar cases pending at the court or in other courts. Often an attorney will know of these other similar cases at the point in time when he or she fills out the cover sheet and could be asked to provide pertinent information on the cover sheet.

The consensus was to add some elements to the Maricopa civil cover sheet that will ask attorneys to identify whether their case is complex under Rule 8(i), whether their claim is cognizable under one of the California provisional case type categories, or is related to other pending civil cases. Once the cover sheet is revised, the court will track the number of cases that are identified in this manner for two months to determine the volume of cases that are identified as potentially eligible for complex case designation.

The group also discussed options for processing the cases that are identified on the cover sheet as potentially eligible for the program. The court could call the attorneys and suggest they consider filing a motion for complex designation. The court could ask the attorneys to complete a questionnaire like the one in use in Los Angeles that asks for information about the complex features of the case. The Presiding Civil Judge (or a designee) could review the pleadings and assign the case to the program unilaterally. The volume of potentially eligible cases that are filed may determine what process would work best.

Mitch Michkowski was asked to work on revising the civil cover sheet with the Clerk's Office in sufficient time to allow the committee to review the results of the changes at its next meeting in January.

3. Call to the Public

No response.

Meeting adjourned at 1:05 PM.