

CHANGING Venues

A PLACE TO TURN WHEN CASES GET COMPLICATED

Complex Litigation courts feature knowledgeable judges and clerks

By **MICHAEL P. BERMAN**

Complex Litigation courts and procedures provide great advantages and some disadvantages, none of which should discourage the litigation practitioner from utilizing these courts. These courts are spread throughout the state in Hartford, New Britain, Waterbury, Middletown, Stamford and Tolland.

It is easy to see that the great benefit to getting a case moved onto the Complex Litigation Docket is that, like federal court, an attorney deals with the same judge as long as that judge is sitting on the Complex Litigation Docket. The judge learns the case, sees the attorneys, can readily deal with motions that come before her or him, knows what happened before, and knows whether there has been compliance with her or his orders. This is both efficient and refreshing.

Furthermore, orders are issued more quickly because the docket is limited and the judge already

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knows a lot of what occurred in the case.

Complex Litigation cases are not limited to commercial cases, although commercial cases fit the mold very nicely.

The Complex Litigation judge also knows that the case is before him or her because it is "complex." Therefore, the judge is aware that there may be thousands or perhaps millions of pages of documents in discovery, and that discovery may involve more out-of-state parties, witnesses and deponents than a typical state court case.

One also learns the judge's approach to certain motions, especially if they involve discovery disputes. The judge may sternly advise the attorneys to work it out, or the judge may well appreciate the frustration of one of the parties in trying to get the other party to produce what should be produced.

Another extremely advantageous part of Complex Litigation is the judge's law clerk. Invariably, the law clerk knows and learns the

Pellegrino provided a web-link notice to attorneys regarding the Complex Litigation Docket.

The notice, among other things, provided guidelines to supplement the Practice Book Sections 23-13 through 23-15. Most importantly, the notice states that a case may be considered for the Complex Litigation Docket if, at any time, the judge or a party in the proceedings requests that the matter be designated as a

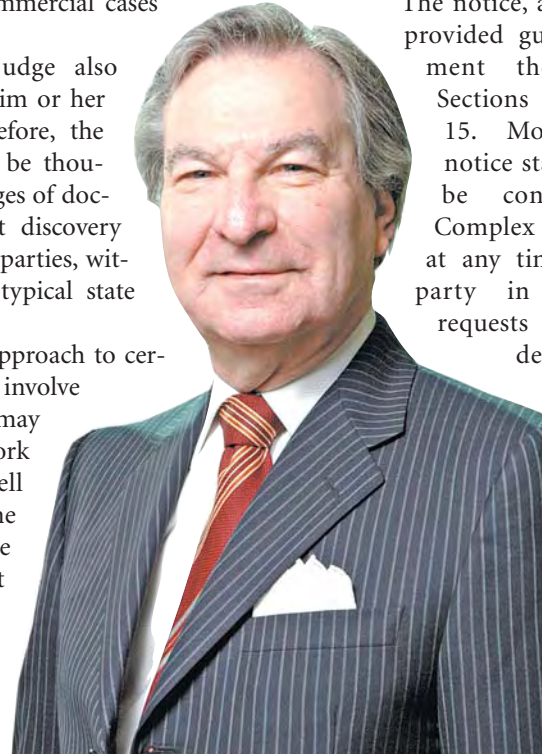
Complex Litigation Case. The notice states that the Complex Litigation Docket manages cases involving multiple litigants, legally intricate issues, lengthy trials, and claims for damages that could total millions of dollars.

The notice provides the caveat that Complex Litigation Docket cases are subject to all existing Connecticut Practice Book Rules. The procedure stated in this notice recites that requests for Complex Litigation Case status be filed utilizing form JD-CV-39. Among other things, the form encourages a brief statement as to why the case should be moved to the Complex

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Litigation Docket. This part of the form should be given very careful attention. Following the description of complex litigation type cases stated in the notice, the narrative should include why the cases are lengthy, or complex, as well as the estimated number of documents involved, and the estimated amount of dollars involved.

The notice provides that if the chief administrative judge of the Civil Division orders the case to be designated as a Complex Litigation case, it will be transferred to a Complex Litigation Docket. The parties then have 15 calendar days to object to such a determination. If an objection is filed, the chief administrative judge will rule on whether the case moves to the



case as well as any of the attorneys involved. Equally important, the law clerk remains the common denominator when a Complex Litigation judge's term is up and a new judge comes in to handle the case.

Getting On The Docket

The procedure for moving cases from the standard venue judicial district to a Complex Litigation docket derives from Connecticut General Statute, §51-347b, which allows the court to order a case to be moved from one judicial district to another. From there, the attorney looks to Practice Book Sections 23-13, 23-14 and 23-15.

Practice Book Section 23-13 provides that a group of cases that have many parties and common questions of law or fact may be designated as Complex Litigation cases and assigned to a single judge for pretrial, trial or both. In 2002, then-Chief Court Administrator Joseph H.



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Complex Litigation Docket or remains on the regular Superior Court Docket. The form also permits the applicant to designate the preferred location for the case.

Once the case is moved to a Complex Litigation Docket, it is assigned a new docket number with a prefix for the judge who has been assigned the case, together with the letter "X". All pleadings are then filed with the new court. Whether the pleadings get filed with the regular civil court clerk's office at the new court or with the complex litigation clerk handling the case has not yet been uniformly decided.

Few Disadvantages

The most glaring disadvantage is that

the same judge may be sitting on two or three related cases which may be tried at different times and not consolidated for trial. While this would seem to be an advantage because the judge knows the parties and the issues, it may well prove to be a disadvantage because the judge, having heard a trial, may approach the next trial with certain pre-formed opinions.

This is less an issue in a jury trial, but can be a very significant issue in successive bench trials. Obviously, a judge may have heard testimony in one trial which would be inadmissible in a second trial.

Another disadvantage is that as the docket builds up, since a case cannot be readily moved from judge to judge, an individual judge's availability may be curtailed.

Judges seem to be able to manage their docket and this does not appear to be a problem to this point.

In short, the system is working well, at least from an attorney participation point of view. ■

For more information about Complex Litigation procedures

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TRACKING THIEVES

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with intent to defraud, accesses a protected computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value...."

The far more common basis for a criminal trade secret case, however, is the Economic Espionage Act of 1996. It criminalizes the theft of a trade secret by an employee who knew the information was proprietary; acted for the economic benefit of a third person, such as a new employer; and knew or intended to injure the owner of the trade secret, all provided that the trade secret "is related to or included in a product that is produced for or placed in interstate or foreign commerce." The statute provides penalties of up to 10 years in prison, and substantial monetary penalties.

If the facts of your case are sufficiently troubling, consider these "criminal options" in addition to, or instead of, your civil options. In our experience, federal authorities have shown an increased interest in investigating and prosecuting the theft of trade secrets.

Conclusion

Naturally, the best measures to take are preventative. As an employer, establish appropriate safeguards for corporate secrets, limiting access to those with a need to know, protecting electronic information with passwords, and implementing appropriate employment policies and agreements.

Employee policies related to corporate ownership of and access to information on company computers can discourage theft and facilitate its detection. And employment agreements concerning ownership of corporate know-how, confidentiality, remedies in the event of misappropriation, and non-competition both deter wrong-doing and enhance civil remedies.

But when and if the worst comes to pass, you should know and consider all your options. ■

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