

# Jefferson County Business Court Docket Pilot Project



# What is a “business court”?

A designated section or division of a state’s trial courts that handles complex commercial or business litigation cases. Generally, business courts focus on intra- and inter-company disputes.



# Business Courts: A National Trend

- Business courts have been adopted in 24 states:

Alabama	Georgia	Massachusetts	New Jersey	Pennsylvania
Colorado	Illinois	Michigan	New York	Rhode Island
Connecticut	Iowa	Minnesota	North Carolina	South Carolina
Delaware	Maine	Nevada	Ohio	West Virginia
Florida	Maryland	New Hampshire	Oregon	

- Pilot programs are underway in 5 states:

Arizona, California, Indiana, Tennessee, and Wisconsin

- With the exceptions of Cincinnati and Orlando, all business courts that have been created continue to operate.

Source: ABA website, <http://apps.americanbar.org/dch/committee.cfm?com=CL150011>



# Goals of Business Courts

- Improve access to justice for all litigants
  - “Unclog” regular dockets by removing complex commercial cases
  - Give complex commercial cases the focused management they need
- Improve timeliness for all cases
- Improve consistency of results in complex commercial cases
  - Assign cases to judges with experience in pertinent substantive law
  - Reduce reversal rates in appeals for complex commercial cases
- Make state more attractive forum for doing business
- Improve use of ADR in complex commercial cases
- Improve public perception of court system among all litigants



# Business Courts in Kentucky

- The proposal to bring business courts to Kentucky was studied by and recommended to the Supreme Court by the Civil Justice Reform Commission.
- In April 2019, the Supreme Court authorized the Jefferson County Business Court Docket Pilot Project; created the Business Court Docket Advisory Committee (BCDAC); and designated Divisions Four (Judge Bisig) and Ten (Judge Cunningham) of Jefferson Circuit Court for the Business Court Docket.
- The BCDAC, which is comprised of business litigators from Jefferson and Fayette counties, has developed rules of practice for the Business Court Docket and made important recommendations regarding jurisdiction and eligibility.



# Business Courts in Kentucky

What types of disputes generally are ELIGIBLE for assignment to the Jefferson County Business Court Docket? (See BCR 2.1 for complete list):

Breach of contract claim involving a Business Entity	Business tort claims	Business Class Actions not brought by Consumers
Formation, governance, internal affairs, etc. of a Business Entity	Claims of breach of fiduciary duty or statutory violations relating to a Business Entity	Valuation, offering, solicitation, etc. of a Business Entity
Intellectual property, trade secret nondisclosure, etc.	Transactions governed by the UCC	Franchise, distribute, agency, or dealer disputes
Purchase or sale of all or part of a Business Entity	Commercial real estate	Environmental disputes arising between Business Entities



# Business Courts in Kentucky

What types of disputes generally are EXCLUDED from assignment to the Jefferson County Business Court Docket? (See BCR 2.2 for complete list):

Sales or construction of a residence	Insurance coverage relating to a personal injury dispute	Individual Consumer disputes
Consumer class actions	Actions brought by the AG under consumer protection laws	Personal injury disputes and wrongful death claims
Disputes involving wages or hours	Environmental disputes	Eminent domain disputes
Employee/employer disputes	Administrative agency, tax, zoning, and other appeals	Individual residential real estate, including foreclosure



# Business Courts in Kentucky

- Only cases with proper venue in Jefferson County filed after January 1, 2020, will be eligible for the Business Court Docket.
- All cases that fall under BCR 2.1 will be assigned to the Business Court Docket.
- Attorneys will have an opportunity to move for or dispute assignment to the Business Court Docket and judges will have an opportunity to remove or refer cases to the Business Court Docket.



# Business Courts in Kentucky

- Parties will be required to participate in early scheduling and case management conferences that address issues such as scope of discovery; electronically stored information; expert witnesses; confidentiality/protective orders; and mediation.
- The Business Court Docket judges will be encouraged to post all substantive opinions to the KCOJ website.
- Judges and parties will be encouraged to address scheduling and housekeeping matters by telephonic conference and to communicate via email.

