



Taking care of business

Commercial docket celebrates first birthday

Faster outcomes in complex cases. Oversight from a group of professionals with expertise in often-arcane areas of the law. And only a few misconceptions.

Those are among the results lawyers have seen so far with the state's new business court. The court, which has been operating for a little over a year, is now being tested out in select parts of Wisconsin: Waukesha County and the Eighth Judicial District, which encompasses Marinette, Oconto, Door, Kewaunee, Brown, Outagamie and Waupaca counties. Two judges from Waukesha County and five from the judicial district preside over the court's docket, in addition to overseeing their ordinary case load.

The docket lets certain complex business disputes, primarily those between two business entities, get resolved before a judge with a background in civil litigation. Many of the lawyers who have gone before the court have been happy with the results, although the experience has left some admittedly bewildered.

The lawyers involved in the first case assigned to Wisconsin's experimental business court don't usually handle complex business litigation. The case the two are working on was filed in Waukesha County and involves an alleged breach of a non-compete agreement by a former employee who had left a company and started his own business.

Al Seneczko, who is representing the plaintiff in the case, seldom takes on complex business litigation

in his work for the Oconomowoc office of the Illinois-based firm Wessels Sherman Joerg Liszka Laverty Seneczko.

And he was happy with his encounter with the business court.

"I certainly don't have any complaints or issues or anything as a participant," Seneczko said. "I think as time goes on the value of it will be more self-evident."

But Jill Hartley, who is representing the defendant in the first case to go before the court and who practices at the Milwaukee office of The Previant Law Firm, felt a little out of place in the court. Rather than litigating complex business cases, she more often finds herself representing employees and labor unions.

"This was kind of a little bit of a different case than I normally find myself involved in," Hartley said. "I'm not sure I'll be in this court again."

Both Seneczko and Hartley noted that one of the big differences in business court is that status conferences are held more often than in regular court.

The Wisconsin Supreme Court voted in November 2016 to start the three-year pilot project in July 2017. The project is scheduled to end in 2020.

From its start to the end of July this year, 32 cases have been taken up in the court. Of those, 12 are closed and 20 are still pending.

The experiment was proposed by a committee that Chief Justice Pat Roggensack had given the task of studying the proposal. That committee is

being led by Waukesha County Circuit Court Judge Michael Arahamian, as well as James Morrison, Marinette County Circuit Court Judge and chief of the Eighth Judicial District.

Morrison said the court has been received well and that he and the other judges will be meeting later in the month to reflect on the past year.

"What we're trying to do with respect to these cases is move them along quickly and expeditiously so that business can go on and jobs are not in jeopardy," Morrison said.

Some of topics they will be discussing include ways to tell more lawyers about the court. They'll also be looking at whether they should add to the types of cases that the docket takes. Morrison noted that their initial plan made no provision for handling receivership cases, which is something certain lawyers have since said the court should do.

Yet another possibility up for discussion is whether the court should take cases outside of Waukesha County and the Eighth Judicial District.

"I think we are amenable to doing that," Morrison said. "Just logistically we have to see how to do it."

David Peterson of Reinhart Boerner Van Dueren said his experience has been good so far. Unlike Hartley and Seneczko, Peterson specializes in commercial litigation.

Peterson is representing one of the defendants involved in a complex lease dispute. The plaintiffs filed a request for a temporary injunction in May.



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Even before the month was over, Judge Tammy Jo Hock had issued an oral decision in the case.

“I think it’s fair to say the parties really appreciated the speed with which the court got right to the issues,” he said. “What’s nice about the business docket is, in a case like this — where it was about complex lease disputes and complex lease terms — I think it was nice to have a court who’s familiar with business issues and complex business disputes.”

Peterson says he’d recommend that his colleagues at least consider filing their cases directly into the commercial docket or petitioning to have their case transferred to the business court.

“I hope it continues and we get more cases so we can see more results,” he said.

All this is not to say there aren’t misconceptions, Morrison said. Some lawyers, for instance, seem to think they don’t have to designate their cases.

Morrison noted that a majority of the cases in the docket were being assigned by a clerk’s office or a judge rather than identified by a plaintiff. Morrison said cases would get to the docket faster if parties would always take time, before filing, to fill out the short cover sheet provided on the court system’s website.

Another misconception is the idea that the court somehow favors businesses, Morrison said.

“That is not the case,” he said. “We have all sorts of specialty dockets that we’ve invented or that we’ve adopted in Wisconsin: Drug court, mental health court, juvenile court, misdemeanor court, felony court — where we have scheduling and expertise that are particular to those kinds of needs. The business court simply recognizes that there are needs for speedy resolution and there’s a need or some expertise on the part of judges so we can all do the job better.”



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