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Ohio Supreme Court test to set aside 'commercial dockets' for biz disputes

Business First of Columbus - by [Kevin Kemper](#)

The Ohio Supreme Court wants to make it easier to litigate business disputes in the state.

The court's seven justices approved a pilot program creating specialized "commercial dockets" in state courts in five Ohio counties. Those courts will set up case schedules composed entirely of fights between businesses.

The intent is to get company lawsuits on a commercial docket that would be handled more quickly and uniformly across the state. Economic development officials, meanwhile, see creation of the dockets helping their corporate recruiting efforts.

"The court's mission here is to create efficiencies in the administration of justice," said state Supreme Court spokesman Christopher Davey. "But it could have a positive impact on economic development in the state at a time when it's sorely needed."

In approving the four-year pilot program, Ohio is joining about 20 other states and cities that have established some specialized business courts or dockets. The gold standard of commercial courts is the Delaware Court of Chancery, established in 1792.

In Ohio's initiative, commercial dockets will include cases involving business creation or liquidation disputes, obligations between business owners and shareholders, trade secrets, employment agreements, director and officer liability issues and other cases. The dockets will not accept lawsuits filed by individuals against businesses, lawsuits between business and government, or discrimination and labor lawsuits.

"We thought it was very important that the commercial docket focus on litigation that is predominantly commercial," said Franklin County Common Pleas Court Judge John P. Bessey. "The effort we're making here is dealing with business-to-business lawsuits filed."

The state's most populous counties - Franklin, Cuyahoga, Hamilton, Lucas and Montgomery - are likely to be the first with commercial dockets.

As it stands, business litigation in those and other larger counties can take years to reach resolution. In Franklin County, for example, trial dates typically are set initially for a year after a lawsuit is filed.

That duration is a problem for businesses, said Bessey, co-chairman of the high court's statewide task force on commercial dockets. In addition to the continued uncertainty over the dispute, businesses have to carry

contingencies on their books that could prevent them from getting credit or investment, he said.

But speeding the process is difficult. Criminal trials take priority over civil disputes because the Sixth Amendment guarantees a speedy trial for those accused by the government of a criminal act.

Specialized knowledge

When business disputes do get to trial, they can land before judges unfamiliar with complex business topics, and that worries executives and lawyers, Bessey said.

"They require a lot of knowledge in a lot of areas that judges don't always come in contact with," he said. "Over 700 judges handle cases across Ohio, and there is some disparity in how cases are handled."

One of the proposed rules for commercial dockets requires that judges go through extra training, said John VanNorman, the Supreme Court's research and policy analyst liaison to task forces.

"We're at early stages of advancing the education," VanNorman said. "We have a hoped-for date to have something running by the end of the year."

The effort would require that decisions from commercial dockets be posted on the Supreme Court's Web site. The hope, Bessey said, is to build an accessible body of case law so businesses and attorneys can determine the likely outcome of their cases.

A secondary benefit of commercial dockets could be increased economic development, said Scott North, a partner at Porter Wright Morris & Arthur LLP in Columbus. North for the past year was Gov. Ted Strickland's special representative on regulatory reform, which required him to work on improving the state's business climate.

The governor's office doesn't necessarily see commercial dockets as a silver bullet for Ohio's economic woes, but North said they can be a weapon in the state's economic development arsenal.

"In my experience," he said, "businesses believe that they are going to be better served by judges that have some experience and knowledge in business matters."

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