

## **Busy Mass Tort Court Revamps Procedures**

February 23, 2012 by [Sean Wajert](#)

Our readers recognize that Philadelphia (home base for *MassTortDefense*) is a hot-bed of mass tort activity, administering those cases through a Complex Litigation Center. Now comes important news that the Honorable John W. Herron, Administrative Judge of the Trial Division of the Philadelphia Court of Common Pleas, recently issued an order that will alter and impact the handling of mass tort cases in this busy jurisdiction.

General Court Regulation No. 2012-01 represents the first general overhaul of the Complex Litigation Center's practices in many years. The [order](#) will revise and streamline the conduct of mass tort litigation in Philadelphia in a number of ways. More on that in a minute. What is also significant is the reason for the changes. The order notes the pronounced upward trend in mass tort filings in this court, and the fact that the court's disposition rate has not kept pace with filings; thus, a significant backlog has developed. The order notes the impact of past policy which invited the filing of cases from other jurisdictions. A "dramatic increase in these filings" occurred after the court's leadership invited claims from other jurisdictions. In 2009, when published comments were offered encouraging the filing of claims in Philadelphia, out-of-state filings rose to 41%, and in 2011 reached 47%.

So, in response, Judge Herron's order:

- ends reverse bifurcation in all mass tort cases,
- significantly limits the consolidation of non-asbestos cases, unless agreed by all parties,
- requires the deferral of all punitive damage claims,
- requires, except upon showing of exigent circumstances, all discovery to take place in Philadelphia,
- re-emphasizes mediation of cases,
- limits expediting of cases based on exigent medical or financial reasons until the backlog of pending cases has been resolved, unless otherwise agreed by a majority of the defendants.

The Honorable Arnold New will be reassigned as a Coordinating Judge of the Complex Litigation Center. Judge New is an experienced and respected member of the Philadelphia

Court of Common Pleas, having served on the bench for more than 20 years. He currently administers another of the Court's innovative programs, the Commerce Program. To ensure a smooth transition, Regulation No. 2012-01 provides that Judge New will act as Co- Coordinating Judge of the Complex Litigation Center, sitting in tandem with the Honorable Sandra Mazer Moss. Judge Moss will assume senior status as of December 31, 2012, at which time Judge New will thereupon serve as the sole Coordinating Judge of the Complex Litigation Center and its Mass Tort Program.

The order advises that the court will entertain additional suggestions from the bar, and will open a comment period in November, 2012, to allow interested parties the opportunity to address the new procedures and to suggest any further changes that may be needed. More observations on that [here](#).

There is little doubt that this court's Complex Litigation Center faces a daunting task in handling a large number of cases involving complex and sophisticated claims and defenses, while seeking to resolve them both fairly and efficiently. Time will tell, but the new procedures ordered by Judge Herron should improve the functioning of the Complex Litigation Center, and the ongoing process of review and comment invited by the order will allow interested parties the opportunity to see that the Center keeps moving in the right direction.

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