

ALERTS AND UPDATES

Philadelphia Common Pleas Court Issues General Court Regulation on Mass Tort and Asbestos Programs

February 23, 2012

On February 15, 2012, the Philadelphia Court of Common Pleas issued [General Court Regulation No. 2012-01](#), significantly altering the protocol governing mass tort cases. The order reflects the court's challenge of keeping its case disposition rate in line with American Bar Association (ABA) standards and the recent increase in case-filings, particularly by out-of-state plaintiffs. From 2007 to 2011, 82.2 percent of cases were disposed of within 31 to 36 months, leaving almost one-fifth of the court's caseload pending more than three years from filing. The court's ultimate goal is to eventually reach the ABA standards of resolving at least 40 percent of the mass tort cases within 24 to 25 months of filing. According to the court, "the Asbestos Program was by far the one Mass Tort Program most out of compliance with the standards."

The order addresses the increasing number of out-of-state asbestos filings in Philadelphia. During the early part of 2009, certain members of the court openly invited the filing of asbestos cases from other jurisdictions, unaware that the court's disposition rate was at 42 percent. As a result, the yearly average number of out-of-state filings spiked from approximately 33 percent from 2001 to 2008, to 47 percent in 2011.

Below are the highlights of General Court Regulation No. 2012-01, which the court will revisit in November 2012 to determine if more changes should be made:

- Cases will be tried as "all issues," unless counsel agree to reverse bifurcation;
- Plaintiffs may not pursue punitive damage claims;
- Pro hoc vice counsel shall be limited to no more than two trials per year;
- Cases will be consolidated into groups of eight to 10 cases, using the following criteria: same state's law; same disease; same plaintiff's law firm; and pre- or post-Fair Share Act (*i.e.*, filing date before or after June 28, 2011);
- Pleural mesothelioma and peritoneal mesothelioma cases will not be grouped together;
- A maximum of three cases from a trial group, to be selected by plaintiff's counsel, may proceed to a consolidated trial. The remaining five to seven cases will either be resolved through settlement or regrouped and relisted at a later trial;
- Any side may request mediation, the expense of which will be mutually shared amongst the parties; and

- No expediting of cases for exigent medical or financial reasons, unless agreed to by a majority of the defendants, or until the court has reached an 80-percent resolution rate of cases filed within 24 to 25 months.

Finally, General Court Regulation No. 2012-01 notes that the Hon. Arnold New will join the Hon. Sandra Mazer Moss as a Co-Coordinating Judge of the Complex Litigation Center, effective May 1, 2012. Judge New will then succeed Judge Moss as Coordinating Judge after December 31, 2012, when Judge Moss assumes senior status.

For Further Information

If you have any questions about this *Alert* or would like more information, please contact [Sharon L. Caffrey](#), [Rafael C. Haciski](#), any [member](#) of the [Trial Practice Group](#), any [member](#) of the [Products Liability and Toxic Torts Practice Group](#) or the attorney in the firm with whom you are regularly in contact.

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