AMENDMENTS TO THE

RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

 **On February 26, 2013, the Supreme Court of Ohio adopted the following amendments** to the Rules of Superintendence for the Courts of Ohio (new Sup.R. 49 through 49.12 and the repeal of Temp.Sup.R. 1.01 through 1.11) effective July 1, 2013.

**RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

**RULE 49. Definition.**

As used in Sup.R. 49 through 49.12, "business entity" means a for profit or nonprofit corporation, partnership, limited liability company, limited liability partnership, professional association, business trust, joint venture, unincorporated association, or sole proprietorship.

**RULE 49.01. Establishment of Commercial Docket.**

A court of common pleas having six or more general division judges or located in a county having a population of three hundred thousand or more according to the latest federal decennial census may establish and maintain a dedicated docket to hear commercial litigation pursuant to Sup.R. 49 through 49.12. The docket shall be styled a “commercial docket.”

**RULE 49.02. Designation of Commercial Docket Judges.**

**(A) Designation by Chief Justice**

The Chief Justice of the Supreme Court shall designate two or more sitting judges of the general division of each court of common pleas that has established a commercial docket pursuant to Sup.R. 49.01 to hear cases assigned to the docket. The Chief Justice shall not designate a judge unless the judge agrees to participate. Such judges shall be styled “commercial docket judges.”

**(B) Candidate recommendations**

A subcommittee of the Advisory Committee on Case Management shall recommend to the Chief Justice candidates for designation as commercial docket judges and the number of commercial docket judges for each court.

**RULE 49.03. Termination of Commercial Docket.**

If a vacancy in the position of a commercial docket judge occurs and results in a court of common pleas that has established a commercial docket pursuant to Sup.R. 49.01 having only one commercial docket judge and no other judge of the court volunteers to serve and is appointed by the Chief Justice to the commercial docket pursuant to Sup.R. 49.02, the court shall terminate the commercial docket as follows:

(A) The court shall cease assigning cases to the commercial docket;

(B) Commercial docket cases assigned to the remaining commercial docket judge shall remain with the judge until final disposition;

(C) Following final disposition of all commercial docket cases assigned to the remaining commercial docket judge, the commercial docket shall cease to exist.

**RULE 49.04. Commercial Docket Judge Education.**

**(A) Initial orientation and education seminar**

Each commercial docket judge shall complete an orientation and education seminar on Ohio business law and the administration of commercial dockets to be offered or approved by the Supreme Court of Ohio Judicial College. The orientation and education seminar shall be open to non-commercial docket judges.

**(B) Biennial education**

As part of the forty hours of continuing legal education instruction required by Gov.Jud.R. IV, Section 2(A), each commercial docket judge should complete at least twelve hours of commercial docket education.

**(C) Non-commercial docket judges**

Non-commercial docket judges shall be encouraged to attend commercial docket education opportunities.

**RULE 49.05. Cases Eligible for the Commercial Docket.**

Any civil case, including any jury case; non-jury case; injunction, including any temporary restraining order; class action; declaratory judgment; or derivative action, shall be eligible for assignment into the commercial docket of a court of common pleas pursuant to Sup.R. 49.07 if the gravamen of the case relates to any of the following:

(A) The formation, governance, dissolution, or liquidation of a business entity;

(B) The rights or obligations between or among the owners, shareholders, partners, or members of a business entity, or rights and obligations between or among any of them and the business entity;

(C) Trade secret, non-disclosure, non-compete, or employment agreements involving a business entity and an owner, sole proprietor, shareholder, partner, or member of the business entity;

(D) The rights, obligations, liability, or indemnity of an officer, director, manager, trustee, partner, or member of a business entity owed to or from the business entity;

(E) Disputes between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them, including without limitation the following:

(1) Transactions governed by the uniform commercial code, except for consumer product liability claims described in Sup.R. 49.06(B);

(2) The purchase, sale, lease, or license of; a security interest in; or the infringement or misappropriation of patents, trademarks, service marks, copyrights, trade secrets, or other intellectual property;

(3) The purchase or sale of a business entity or the assets of a business entity;

(4) The sale of goods or services by a business entity to a business entity;

(5) Non-consumer bank or brokerage accounts, including loan, deposit, cash management, and investment accounts;

(6) Surety bonds and suretyship or guarantee obligations of individuals given in connection with business transactions;

(7) The purchase, sale, lease, or license of or a security interest in commercial property, whether tangible, intangible personal, or real property;

(8) Franchise or dealer relationships;

(9) Business related torts, such as claims of unfair competition, false advertising, unfair trade practices, fraud, or interference with contractual relations or prospective contractual relations;

(10) Cases relating to or arising under federal or state antitrust laws;

(11) Cases relating to securities or relating to or arising under federal or state securities laws;

(l2) Commercial insurance contracts, including coverage disputes.

**RULE 49.06.**  **Cases Not Eligible for the Commercial Docket.**

A civil case shall not be eligible for assignment into the commercial docket of a court of common pleas pursuant to Sup.R. 49.07 if a labor organization is a party in the case, a governmental entity is other than a nominal party in the case, the case does not relate to any of the topics provided under Sup.R. 49.05, or the gravamen of the case relates to any of the following:

(A) Personal injury, survivor, or wrongful death matters;

(B) Consumer claims against business entities or insurers of business entities, including product liability and personal injury cases, and cases arising under federal or state consumer protection laws;

(C) Matters involving wages or hours, occupational health or safety, workers’ compensation, or unemployment compensation;

(D) Environmental claims, except those arising from a breach of contractual or legal obligations or indemnities between business entities;

(E) Matters in eminent domain;

(F) Employment law cases, except those involving owners as described in Sup.R. 49.05(C);

(G) Discrimination cases based upon the federal or state constitutions or the applicable federal, state, or political subdivision statutes, rules, regulations, or ordinances;

(H) Administrative agency, tax, zoning, and other appeals;

(I) Petition actions in the nature of a change of name of an individual, mental health act, guardianship, or government election matters;

(J) Individual residential real estate disputes, including foreclosure actions, or non-commercial landlord-tenant disputes;

(K) Any matter subject to the jurisdiction of the domestic relations, juvenile, or probate divisions of a court of common pleas;

(L) Any matter subject to the jurisdiction of a municipal court, county court, mayor’s court, small claims division of a municipal court or county court, or any matter required by statute or other law to be heard in some other court or division of a court;

(M) Any criminal matter, other than criminal contempt in connection with a matter pending on the commercial docket.

**RULE 49.07. Assignment of Case to the Commercial Docket.**

Notwithstanding the case assignment requirements of Sup.R. 36(B)(2), the following shall apply when a case is filed with a court of common pleas that has established a commercial docket pursuant to Sup.R. 49.02:

(A) If the case is eligible for assignment to the commercial docket pursuant to Sup.R. 49.05, the attorney filing the case shall include with the initial pleading a notification that it is a commercial docket case. Upon receipt of the pleading and notification, the clerk shall randomly assign the case to one of the commercial docket judges.

(B) If the case is eligible for assignment to the commercial docket pursuant to Sup.R. 49.05, but the attorney filing the case fails to file the notification pursuant to division (A) of this rule and the case is assigned to a non-commercial docket judge, an attorney representing any other party shall file a motion for transfer of the case to the commercial docket with that party’s first responsive pleading. Copies of the motion shall be delivered to the administrative judge.

(C) If the case is eligible for assignment to the commercial docket pursuant to Sup.R. 49.05, but the attorney filing the case does not file the notification pursuant to division (A) of this rule, no attorney representing a party in the case files a motion for transfer pursuant to division (B) of this rule, and the case is assigned to a non-commercial docket judge, the judge shall sua sponte request the administrative judge to transfer the case to the commercial docket. If the judge requests the transfer of the case to the commercial docket one-hundred and twenty days or more after the case was filed, the transfer of the case to the commercial docket shall be at the discretion of the commercial docket judge to whom the case would be assigned.

(D) If the case is not eligible for assignment to the commercial docket pursuant to Sup.R. 49.06, but the case is assigned to the commercial docket, upon motion of any party or sua sponte at any time during the course of the litigation, the commercial docket judge shall transfer the case from the commercial docket.

**RULE 49.08. Review of Transfer to the Commercial Docket.**

**(A) Ruling or decision on transfer**

(1) A non-commercial docket judge shall rule on a party’s motion for transfer of a case to the commercial docket filed pursuant to Sup.R. 49.07(B) no later than two days after the filing of the motion. A party to the case may appeal the non-commercial docket judge’s decision to the administrative judge within three days of the non-commercial docket judge’s decision. The administrative judge shall decide the appeal no later than two days after the filing of the appeal.

(2) An administrative judge shall decide the sua sponte request of a non-commercial docket judge for transfer of a case to the commercial docket made pursuant to Sup.R. 49.07(C) no later than two days after the request is made.

**(B) Review of transfer**

(1) The factors set forth in Sup.R. 49.05 and 49.06 shall be dispositive in determining whether a case shall be transferred to or removed from the commercial docket pursuant Sup.R. 49.07(B) through (D).

(2) The ruling or decision of the administrative judge as to the transfer of a case under division (A) of this rule is final and not appealable.

**RULE 49.09. Commercial Docket Judge Workload.**

**(A) Adjustment of other case assignments**

To promote a fair and equal distribution of cases, for each commercial docket case assigned to a commercial docket judge pursuant to Sup.R. 49.07, a similar non-commercial docket civil case shall be assigned by lot from the docket of the commercial docket judge to a non-commercial docket judge of the court.

**(B) Adoption of local rule reducing workload**

Notwithstanding the case assignment requirements of Sup.R. 36(B)(2), a court of common pleas establishing a commercial docket pursuant to Sup.R. 49.01 shall adopt a local rule of court reducing the number of cases assigned to each commercial docket judge of the court through one or more of the following measures:

(1) Each commercial docket judge receiving no fourth or fifth degree felony cases;

(2) A fifty percent reduction in the number of criminal cases assigned to each commercial docket judge;

(3) A meaningful reduction in the non-commercial docket civil cases assigned to each commercial docket judge.

**RULE 49.10. Dispute Resolution.**

**(A) Referral of case**

A commercial docket judge may refer a commercial docket case to any available dispute resolution process, including but not limited to dispute resolution by a commercial docket judge in another county or a retired or sitting former commercial docket judge with the approval of the judge to whom the case would be referred.

**(B) Compensation**

A sitting, retired, or sitting former commercial docket judge accepting a dispute resolution assignment pursuant to division (A) of this rule shall not be entitled to additional compensation. However, in appropriate circumstances where out-of-county travel, overnight lodging, or other out-of-pocket expenses are reasonably incurred, the judge shall be reimbursed from the court in which the commercial docket case is pending. Such expenses may be taxed as costs.

**RULE 49.11. Rulings on Motions and Submitted Cases.**

**(A) Deadline for motions**

A commercial docket judge shall rule upon all dispositive motions in a commercial docket case no later than ninety days from the completion of briefing or oral arguments, whichever is later, and all other motions no later than sixty days from the completion of briefing or oral arguments, whichever is later.

**(B)** **Deadline for submitted cases**

A commercial docket judge shall issue a decision in all commercial docket cases submitted for determination after a court trial no later than ninety days from the date on which the case was submitted.

**RULE 49.12. Commercial Docket Case Disposition Time Guideline.**

Except for a case designated as complex litigation pursuant to Sup.R. 42, a court shall aspire to dispose of a commercial docket case within eighteen months of the date on which the case was filed. This time guideline is not mandatory, but shall serve as a benchmark and assist courts and commercial docket judges in measuring the effectiveness of commercial docket case management.

**RULE 99. Effective Date.**

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 (CCC) New Sup.R. 49 through 49.12 and the repeal of Temp.Sup.R. 1.01 through 1.11, adopted by the Supreme Court of Ohio on February 26, 2013, shall take effect on July 1, 2013.