



ADMINISTRATIVE OFFICE OF THE COURTS  
JUSTICE BUILDING

P.O. Box 2448  
RALEIGH, NC 27602  
(919) 733-7107

JUDGE ROBERT H. HOBGOOD  
DIRECTOR

DAVID F. HOKE  
ASSISTANT DIRECTOR

-- MEMORANDUM --

TO: All Superior Court Judges

FROM: I. Beverly Lake, Jr. *IBL*  
Chief Justice  
Supreme Court of North Carolina

David F. Hoke *DFH*  
Assistant Director  
Administrative Office of the Courts

DATE: March 7, 2001

RE: Guidelines for Assignment of Cases to the North Carolina Business Court

When the North Carolina Business Court was established by amending Rule 2 of the General Rules of Practice for the Superior and District Courts, the Supreme Court had two goals in mind. The first was the establishment of a court where complex business litigation could be handled by one judge from beginning to end, thus reducing the problems of discontinuity created by the normal rotation system. Secondly, the business court was established to generate a body of case law in our State on corporate governance issues. The Supreme Court envisioned that cases arising under Chapter 55 (North Carolina Business Corporation Act), Chapter 55B (Professional Corporation Act), Chapter 57C (North Carolina Limited Liability Company Act), Chapter 59 (Uniform Limited Partnership Act), Chapter 78A (North Carolina Securities Act), Chapter 78B (Tender Offer Disclosure Act), and Chapter 78C (Investment Advisers) would be assigned to the business court so that opinions could be written which would provide uniform guidance on corporate governance issues for North Carolina companies. Antitrust was another area in which the Supreme Court believed a business court would prove beneficial.

This memorandum will explain the policies that the Chief Justice will follow in assigning cases to the business court under Rule 2. In addition, the questions of how cases are assigned to the business court and what criteria should be used in deciding

which cases to recommend for assignment to the business court as a complex business case or as a regular Rule 2.1 case will be addressed.

At the outset, some common misconceptions about the business court may need to be dispelled. First, cases assigned to the business court are tried in the county in which they are filed. They are not moved unless the parties request it. Second, there is no dollar threshold that must be alleged in order to support assignment. Third, right to a jury trial is not eliminated by assignment to the business court. And fourth, although the business court has advanced technology and e-filing capability, attorneys are not required to use the technology.

Rule 2 affords you discretion in recommending cases be assigned as either complex business cases or exceptional cases under Rule 2.1. You may recommend assignment on your own motion or motion of a party; consent is not required. Your recommendation may be made over the objection of one or more parties.

Judge Ben Tennille is currently the only Special Superior Court Judge designated for assignment to complex business cases. With respect to regular Rule 2.1 exceptional case designations, the policy remains the same: In order to obtain exceptional case designation, the parties should secure the prior agreement of a Superior Court Judge to handle the case as exceptional before requesting such designation. Judge Tennille is assigned regular Rule 2.1 exceptional cases in addition to complex business cases.

Based upon current records of complex business case assignments, the Chief Justice holds the opinion that the business court can be more accurately utilized for complex business cases. If there is any uncertainty about the proper classification of a case, the case assignment recommendation may be either complex business or exceptional, and the Chief Justice will determine which classification is appropriate. Normally, cases arising under the chapters of the General Statutes referenced above will be assigned as complex business cases. Additionally, please recommend assignment of any cases involving removal of a director, dissent and appraisal, involuntary dissolution of a corporation, or other corporate governance disputes. Also, Meiselman cases involving disputes in family held businesses are ideal candidates for assignment as complex business cases. Partnership disputes, as well as shareholder derivative actions, are also usually assigned as complex business cases. In order for our judicial system to build a consistent body of case law, these types of cases must be assigned to the business court on a regular basis, and early identification and assignment is preferable.

Other examples of cases that are good candidates for assignment to the business court include: contractual disputes that are motion and paper intensive, involve protracted

Superior Court Judges  
March 7, 2001  
Page 3

trials, and require significant judicial management; antitrust and theft of trade secret cases; and cases involving determination of legal issues that will have an impact on industry or business practices beyond the confines of the case itself. Some, but not all, class actions may be good candidates for assignment, and the decision on assignment should be made before the issue of class certification is decided.

Requests for assignment of cases to the business court should be addressed to the Chief Justice, but sent to the attention of David F. Hoke, Assistant Director, Administrative Office of the Courts, at Post Office Box 2448, Raleigh, NC 27602. The request should include a statement of the nature of the case, the reasons why it should be assigned, whether the parties have consented to assignment, and the names and addresses of counsel for the parties. In lieu of a detailed statement of the reasons for assignment, any pleadings or motions setting forth those reasons may be attached to the request. Any objections to assignment should also be included. To help expedite the process, please send a copy of the recommendation of assignment simultaneously to Judge Tennille at Suite 200, 200 S. Elm Street, Greensboro, NC 27401.

If you have any questions, please do not hesitate to contact Judge Tennille at (336) 334-5252 or Mr. Hoke at (919) 733-7107.