

Jefferson County Business Court Docket Pilot Project

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Eligible BCD Disputes – BCR 2.1

- Jurisdiction governed by BCR 2
- BCR 2.1 – Eligible Disputes

Any Civil Case with proper venue in Jefferson Circuit Court shall be assigned to the Business Court Docket if the Gravamen of the dispute relates to any of the following:

- Enumerated in BCR 2.1 – Examples

- Breach of contract involving business entity
- Business tort claims against a business entity
- Corporate governance of a business entity
- Commercial real estate
- Breach of fiduciary duty relating to a business entity

- Catchall – BCR 2.1(q) *q. Claims involving a Business Entity or Business Interest not included above, or excluded under BCR 2.2 below, that otherwise should be considered eligible for assignment to the Business Court, in the discretion of the Business Court.*



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Excluded BCD Disputes – BCR 2.2

- BCR 2.2 – Excluded
- BCR 2.2 Excluded Disputes

A Civil Case shall not be assigned to the Business Court Docket if the Gravamen of the case relates to any of the following:

- Enumerated in BCR 2.2 – examples
 - Residential construction
 - Consumer class actions
 - Employment claims
 - Insurance coverage disputes
 - Personal injury
 - Required by statute to be heard in another court

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Nuts and Bolts of Assignment Plaintiff Initially Identifies

- BCR 3.1 – Assignment to the Business Court Docket
 - A Civil Case having a subject matter falling within the scope of BCR 2.1, subject to the exceptions in BCR 2.2, shall be identified by any plaintiff as appropriate for assignment to the Business Court Docket.*
 - A case identified by any plaintiff as appropriate for assignment to the Business Court Docket shall be filed electronically in the Kentucky Court of Justice eCourts system. The complaint shall clearly identify in the style of the case that the matter is filed in the Jefferson Circuit Court Business Court Docket.*
- Plaintiff required to identify whether appropriate for BCD if meets BCR 2.1 and not excluded by BCR 2.2
 - Should include in caption that filed in Business Court
 - Must electronically file

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Nuts and Bolts of Assignment (cont.)

Removal from Initial Assignment

- BCR 3.1(c – g)
- If the defendant objects to assignment,
 - Defendant must file an objection within CR 12.01 time-frame
 - No more than 5 pages
 - No response to objection allowed
 - Objection does not stay any other filing obligations
 - Must still file answer or responsive pleading
 - Business Court Judge has 15 days after the objection is filed to decide the issue (retains jurisdiction until reassigned)
 - If removed from BCD, goes back to general civil assignment
 - Business Court Judge can decide to remove from the BCD *sua sponte*

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Nuts and Bolts of Assignment (cont.)

Not Originally BCD but Defendant Believes Should be BCD

- BCR 3.2(a) - Defendant should attempt agreement for reassignment
 - If parties agree, should submit an agreed order on Form AOC-BCD-1 identifying what falls within BCR 2.1
 - Upon entry, Clerk reassigns the case to BCD
- BCR 3.2(b) - If no agreement, defendant must file motion for reassignment on Form AOC- BCD-2
 - No more than 5 pages
 - Filed within CR 12.01 time-frame
 - No response permitted
- BCR 3.2(c) - Motion for Reassignment submitted to Chief Circuit Judge
 - If Chief Circuit Judge also Business Court Judge, motion submitted to Supreme Court Justice for District

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Nuts and Bolts of Assignment (cont.)

Not Originally BCD but Defendant Believes Should be BCD

- BCR 3.2(d) - Filing of the Motion to Reassign is not a stay of obligations (i.e., responsive pleading)
- BCR 3.2(e)- Ruling within 15 days after Motion to Reassign is filed
- Ruling on Form AOC-BCD-4
- If reassigned, Clerk will assign in same manner as if had been originally filed in BCD
- BCR 3.2(f) - Original Circuit Court Judge retains jurisdiction unless reassigned to the BCD

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Nuts and Bolts of Assignment (cont.)

When a Counterclaim Creates Eligibility

- BCR 3.3(a) – Counterclaimant required to attempt agreement for reassignment to BCD
 - If agreement is reached, file an AOC-BCD-1 identifying subject matter of counterclaim that falls within BCR 2.1
 - Upon entry of AOC-BCD-1, case is reassigned to BCD
- BCR 3.3(b) – If no agreement, counterclaimant shall file motion for reassignment on Form AOC-BCD-2
- BCR 3.3(c) - Counterclaim defendant must file objection within CR 12.01 time-frame
 - No more than 5 pages
 - No response to objection allowed

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Nuts and Bolts of Assignment (cont.)

Sua Sponte Referral

- BCR 3.4 Referral of Case to the Business Court Docket
 - a. *A judge of the Jefferson Circuit Court may, sua sponte, refer a Civil Case to the Business Court Docket if he or she finds that the Gravamen of the case falls within the scope of BCR 2.1, subject to the exceptions in BCR 2.2.*
- Judge may *sua sponte* refer to BCD
- BCR 3.4(b) - Referral reviewed by Chief Circuit Judge
 - If Chief Circuit Judge is Business Court Judge, then Supreme Court Justice for District decides
 - 15 days to decide

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Nuts and Bolts of Assignment (cont.)

Misc.

- BCR 3.5 Assignment or Reassignment to the Business Court Docket by Other Means
 - BCR 3.1, 3.2, 3.3 and 3.4 are the only methods for assignment or reassignment of a case to the Business Court Docket.
- BCR 3.6 Recusal or Disqualification of Business Court Docket Judge
 - a. *Upon recusal or disqualification of a Business Court Docket judge, the case shall be assigned to the other Business Court Judge. If both Business Court Docket judges are ineligible to preside, then the case shall be returned to the Office of the Circuit Court Clerk for general civil assignment among the remaining eleven divisions of the Jefferson Circuit Court.*
 - b. *The judge to whom the Court Clerk for general civil case is assigned is encouraged to use the Jefferson County Business Court Docket Rules of Practice to resolve the case.*

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Case Management

Case Assigned to BCD



Within 45 days of assignment, all counsel shall attend Case Management Meeting



At the case management meeting, call the Court and schedule the Case Management Conference



Within 15 days of the Case Management Meeting, parties shall file a Case Management Report (Appendix 1)(first named plaintiff drafts)



Within 60 days of the Case Management Meeting, Court shall hold the Case Management Conference



Court will enter a Case Management Order

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Case Management of BCD Case Management Meeting

BCR 4.1 Case Management Protocol

- Work in good faith
- Efficient and just resolution of case

BCR 4.2 Case Management Meeting

- Case Management Meeting
- Within 45 days of assignment
 - May file motion to deviate but must be supported with good cause
 - Response within 7 days
 - No replies
- Counsel for first named plaintiff responsible for scheduling meeting

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Case Management of BCD (cont.) Case Management Meeting

- Must be prepared to discuss
 - Initial motions
 - Scope of discovery
 - Discovery topics and timing (i.e., number of depositions, length, etc.)
 - Electronically Stored Information (“ESI”)

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Case Management of BCD (cont.) Case Management Meeting

- Must be prepared to discuss (cont.)
 - Amendment of pleadings or adding parties
 - Expert witness reports
 - Timing to identify
 - Responses to expert discovery
 - Exchange of expert reports
 - Timing of motions to exclude discovery
 - Dispositive motions (including briefing schedules)
 - Trial dates (including anticipated length)
 - Confidentiality / protective orders (covered in BCR 5.7)

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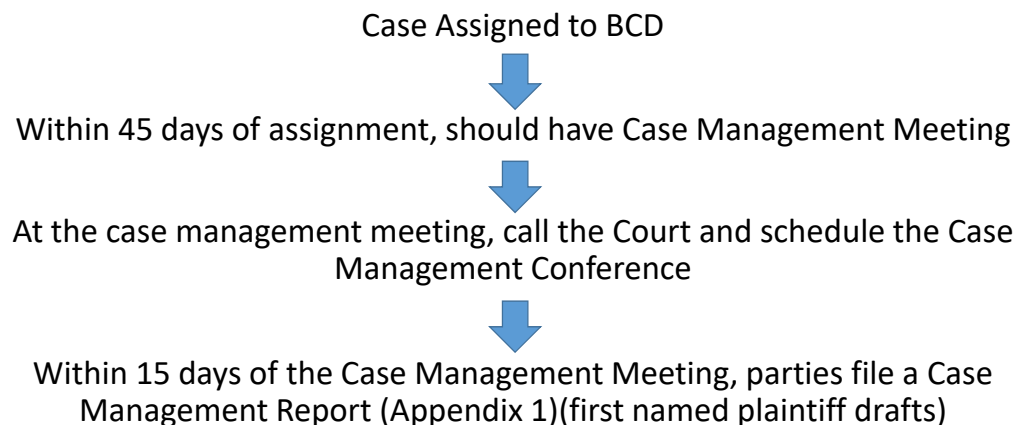
Case Management of BCD (cont.)

Case Management Meeting

- Must be prepared to discuss (cont.)
 - Choice of law
 - Mediation or ADR (timing, deadlines, possible mediators)
 - Frequency of future case management conferences
 - Special master or referee
 - Party participation (i.e., should parties attend the case management conference?)
 - Dates to conduct Case Management Conference
- At end of Case Management Meeting, all counsel should call the Court to schedule Case Management Conference
- Discovery can be conducted
 - If served prior to Case Management Meeting, deemed served day after such meeting

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Case Management Report



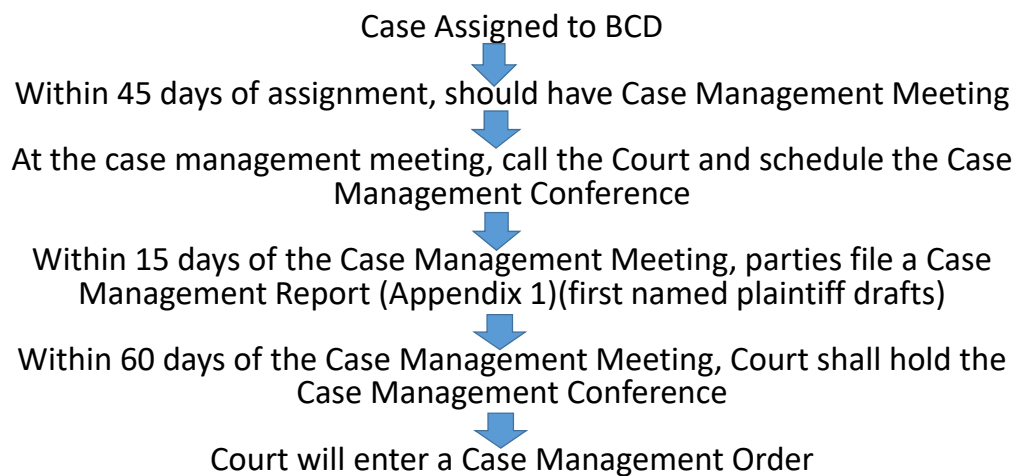
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Case Management Report (cont.)

BCR 4.3 Case Management Report

- Must file within 15 days of Case Management Meeting
 - First named plaintiff responsible for initial draft, incorporating changes, finalizing and filing
 - Use template – Appendix 1 – to include
 - Brief summary of the case (each counsel writes own)
 - No more than 250 words each party
 - Whether any party plans to file early stage motions (i.e., motion to dismiss)
 - Deadlines for amendments to pleadings
 - Discovery (proposed schedule, ESI protocol, limits on discovery, privilege log agreements, claw back, and expert discovery)
 - Confidentiality matters
 - Mediation (counsel encouraged to discuss costs and savings of early mediation and name of mediator)
 - Special circumstances (i.e., class allegations, derivative, related proceedings)
 - Special master or discovery referee

Case Management



Case Management of BCD (cont.)

Case Management Conference

- BCR 4.4 Case Management Conference
 - Business Court Judge shall schedule and conduct within 60 days of Case Management Meeting
 - May require party representatives to attend
 - Court will not hear substantive motions unless otherwise orders
- BCR 4.5 Case Management Order
 - Court will enter order addressing issues from Conference and anything else deems appropriate
 - Only after consultation with all other parties may party move to modify order for good cause

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Miscellaneous Rules – BCR 5

- BCR 5.1 – Special Master or Discovery Referee
 - Appendix 2 includes Guidelines
- BCR 5.2 – Encouraged to post opinions and dispositive orders on-line
- BCR 5.3 – No standing motion hour unless Business Court Judge chooses
 - Can rule without hearing or oral argument on motions not requiring testimonial evidence
 - Hearings may be by telephone
- BCR 5.4 – Unopposed motions for enlargement of deadlines may be filed by proposed order only
 - No need to file motion
 - Court can grant or deny
 - Cannot use BCR 5.4 to expand substantive pretrial and trial deadlines (ie, trial date, disposition motion deadline, etc.)

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Miscellaneous Rules – BCR 5

- BCR 5.5 – Liberal use of Telephone Conferences with adequate notice
- BCR 5.6 – Encouraged to use emails to request scheduling and to advise of housekeeping matters
 - Must copy all counsel
- BCR 5.7 – Confidentiality / Protective Orders
 - Should presume all documents are publicly available
 - Should limit filing under seal
 - Should file proposed Order
 - After meet and confer
 - Does not limit Business Court Judge's power for future orders