

**DISTRICT COURT, EL PASO COUNTY, COLORADO (ORDER 2006-2)**

**ORDER RE: COMMERCIAL DOCKET (DISTRICT COURT CIVIL)**

TO: ALL ATTORNES AND PRO SE LITIGANTS:

In consideration of the interests of just, speedy, and economic resolution of disputes, a docket subdivision is created within the civil cases filed in this district as of March 1, 2007. The new subcategory of civil cases will be referred to as the "Commercial Docket."

**I. Scope Of Commercial Docket**

The Commercial Docket is established as a subset of the existing Civil Docket to address disputes that require expeditious handling in order to avoid direct negative impacts on the community beyond the named parties. The Commercial Docket is intended to include cases that meet this standard. Generally, cases appropriate for the Commercial Docket fall within one of the following three categories:

1. Cases involving requests for equitable relief affecting members of the community other than the named parties—for example, the employees, customers or creditors of a business incapacitated by a corporate control dispute for which injunctive relief is sought or third party tenants of a building for which a receiver is sought.
2. Cases in which the continued existence of the dispute obstructs or negatively impacts members of the community other than the direct parties to the dispute—for example, the

third party suppliers to or future tenants of a construction project disrupted by a dispute between the owner and the project contractors.

3. Cases involving unusually complex commercial issues that require active early court management to help identify and resolve one or more critical issues at the outset of the case and thereby reduce the overall private and judicial resources devoted to the litigation.

## **II. Procedure For Opting In To Commercial Docket**

### **A. Cases Filed On Or After March 1, 2007**

Any party to a case that believes in good faith that the case should be included within the Commercial Docket may designate the case for inclusion in the party's first appearance in the case by preceding the caption of the pleading with the words "COMMERCIAL DOCKET," for example "COMMERCIAL DOCKET—COMPLAINT," "COMMERCIAL DOCKET—ANSWER," "COMMERCIAL DOCKET—MOTION TO DISMISS," or "COMMERCIAL DOCKET—ENTRY OF APPEARANCE." The party seeking to have the case included in the Commercial Docket will also include in the first appearance pleading a paragraph at the beginning of the pleading stating the basis for including the case in the Commercial Docket and specifically identifying which of the 3 categories listed above applies to the case. All subsequent pleadings filed in the case shall include at the beginning of the caption the words "COMMERCIAL DOCKET" until and unless the Court directs otherwise.

A party that fails to designate a case for inclusion in the Commercial Docket in its first appearance may subsequently request leave from the judge handling the case to so designate the

case. However, such a request may be permitted only upon a showing of good cause and must be made no later than 20 days after the party's first appearance.

**B. Cases Filed Prior To March 1, 2007**

The judge previously assigned to any case filed prior to March 1, 2007 shall have the sole option of referring the case for inclusion in the Commercial Docket. The decision whether to refer such a case for inclusion in the Commercial Docket shall be in the sole discretion of the previously assigned judge guided by considerations of the most efficient means of resolving the case.

A party to such a case may request a referral from the judge assigned to the case no later than May 31, 2007. The judge originally assigned to the case may extend this deadline for good cause. The request shall concisely state the reason for inclusion and shall not exceed one page in length, exclusive of case caption and signature block. This procedure does not contemplate the need for more than one party to file a request for a referral or the filing of an opposition to such a request absent extraordinary circumstances. The judge receiving such a request will decide whether to make a referral as expeditiously as practical.

**C. Procedure Following Designation For Inclusion**

Whether a case shall be included in the Commercial Docket is within the sole discretion of the judges assigned to handle Commercial Docket cases. The judge's discretion shall be guided by the interests of efficient dedication of judicial resources to resolving the case. This Order and its procedures do not create any right in the parties to inclusion in or exclusion from the Commercial Docket.

Upon receipt of the first pleading designating a case for the Commercial Docket under II.A or a judicial referral under II.B., the Clerk of the Court shall assign (or re-assign if necessary) the case to one of the district court judges designated by the Chief Judge to handle Commercial Docket cases. Within 45 days of (i) such assignment or (ii) the filing of the first pleading requiring direct court action, whichever is later, the judge assigned to the case shall review the case and determine if the case is properly included in the Commercial Docket. If the judge decides the case is not appropriate for inclusion in the Commercial Docket, the judge shall advise the parties within the time limit stated and return the case to the originally assigned division or have the Clerk of Court randomly assign the case.

### **III. Commercial Docket Pre-Trial Procedures**

The judges assigned to handle the Commercial Docket by the Chief Judge shall jointly develop uniform pre-trial procedures for the efficient and expeditious handling of cases assigned to the Commercial Docket within the parameters of the existing Colorado Rules of Civil Procedure. These pre-trial procedures will be published to litigants by the most efficient means available. Parties to any case assigned to the Commercial Docket shall familiarize themselves with these procedures and comply with them.

Done this 21 day of November, 2006

  
\_\_\_\_\_  
GILBERT A. MARTINEZ  
CHIEF JUDGE