

Mass Tort Program Changes – Philadelphia CCP

Thursday, February 16, 2012

We were going to blog about something else today, but we received what Judge Herron of the Philadelphia Court of Common Pleas has entitled “General Court Regulation No. 2012-01 In re: Mass Tort and Asbestos Programs.” Here’s [a copy](#). The Regulation makes some significant changes in the Court’s mass tort program.

First off, Judge Moss is taking senior status, so there will be a new Coordinating Judge of the Philadelphia Complex Litigation Center and Mass Tort program – Judge Arnold New. It’s been a number of years, but once Judge New granted judgment n.o.v. in one of Bexis’ cases. On appeal that case became Schindler v. Sofamor, Inc., 774 A.2d 765 (Pa. Super. 2001).

A lot of the order is specific to asbestos cases, where those defendants remain uniquely disadvantaged. As the regulation indicates, “[i]n January and again in March, 2009, certain Court leadership invited the filing of asbestos cases from other jurisdictions.” Id. at 1. As a result, the asbestos backlog is back – the reason given for retaining consolidated trials in those actions.

But for drug and device, the news is better:

- Reverse bifurcation is gone – “unless agreed upon by all counsel involved.”
- Consolidated trials (except in asbestos cases) are gone “absent an agreement of all parties.” We doubt that will happen often, if at all. Consolidation is not something the defense side likes. Our big [consolidation post](#) gives our reasons.
- “All punitive damage claims in mass tort claims shall be deferred.” We’ll be interested to see what “deferred” means.
- Plaintiffs who come to Philly, can expect to do their discovery in Philly. “[A]ll discovery shall take place in Philadelphia” unless defense counsel agree otherwise.
- A “special panel of former judges” has been created for mediation in mass torts cases (this doesn’t appear to be limited to asbestos). These mediators are: Hons. Jane Cutler Greenspan, G. Craig Lord, James R. Melinson, Russell Nigro, and Diane M. Welsh.
- No out-of-state lawyer – plaintiff or defense – can try more than two cases in a year. After all, the Pennsylvania bar exam isn’t all that hard.
- No leapfrogging. “Expediting” cases for medical or financial reasons is abolished.