



1025 Connecticut Avenue, NW, Suite 200
Washington, DC 20036-5425 USA

tel +1 202.293.4103

fax +1 202.293.4701

www.acc.com

May 15, 2013

The Honorable Nancy A. Fuerst
Administrative and Presiding Judge
Cuyahoga County
Court of Common Pleas
1200 Ontario St.
Cleveland, Ohio 44113-1678

*Re: Support of In-House Counsel for Permanently Maintaining the
Commercial Docket*

Dear Judge Fuerst:

The Association of Corporate Counsel (ACC) and its Northeast Ohio Chapter submit this letter to support permanently maintaining a dedicated docket – the “Commercial Docket” – to hear commercial litigation pursuant to Sup.R. 49 through 49.12.

ACC is a global bar association that promotes the common professional and business interests of in-house counsel. With over 30,000 members employed by over 10,000 organizations in more than 75 countries, ACC has advocated across the country to offer the perspective of in-house counsel on statutes, rules, and other policies. Our Northeast Ohio Chapter, which serves Cuyahoga County, has a vibrant membership base of more than 400 in-house counsel.

Representing corporations, many of our members have frequent involvement in or oversight responsibility for commercial cases, both as plaintiffs and defendants. We believe it is important to the corporations located in Cuyahoga County to have their civil commercial cases heard expeditiously and with the attention and expertise that those cases deserve.

The key advantages of the Commercial Docket include speed to dispute resolution, certainty in resolving business disputes and reliable guidance for ongoing conduct. Indeed, a significant reason for the economic success of the United States business model has been our system of laws and protections for parties to contracts and our ability to enforce those contracts effectively in court. It is critical that discovery disputes are thoughtfully addressed and that motion practice – whether it is a request for a temporary restraining order or a motion for summary judgment – is handled attentively and timely.

As repeat players in commercial disputes, in-house counsel benefit significantly from the continuation of the Commercial Docket. Among other things, in-house legal



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departments can reduce the impact of the legal department as a “cost center” thanks to the increased efficiencies of the specialized docket. With increased consistency from the courts, in-house counsel also can improve the reliability of their counsel to clients.

Additionally, when negotiating contracts, venue can be selected and businesses in Cuyahoga County are best served by the ability to choose a local venue with expertise in adjudicating commercial disputes. The Commercial Docket provides such a venue. This also serves the local legal community, as area corporations are likely to retain local area attorneys for matters pending locally, *i.e.*, in the Commercial Docket venue.

We note that specialized dockets have been created for other substantive areas, such as Probate, Juvenile and Domestic Relations, as well as the more recent Mental Health and Drug courts. The specialization of the bench and bar has been a trend in Cuyahoga County (and elsewhere) for a good reason: just as a surgeon who performs the same type of operation hundreds of times becomes an expert in that procedure, to the benefit of the patient, so does a judge who repeatedly handles the same type of cases become an expert in that area, to the benefit of the parties.

In that spirit, we note that it is this expertise that is desired in the Commercial Docket, not particular judges *per se*. Therefore, although the current judges assigned to this Docket have been excellent, ACC and its Northeast Ohio Chapter do not intend to state a position as to whether these same judges should be assigned to the Commercial Docket permanently or for a further period. Indeed, we are confident that a staggered rotation of judges devoted to the Commercial Docket, with the interest, energy and skills to handle these types of matters, would meet the needs of the business community.

It is our members’ experience that the Commercial Docket has been a resounding success for the parties to the cases that have been assigned to it. We hope that a means of continuing this Docket will be found.

Respectfully submitted,

David Slezak
Northeast Ohio Chapter President

Amar Sarwal
Vice President & Chief Legal Strategist

David Stringer
Northeast Ohio Chapter Advocacy Liaison

China Terrell
Senior Counsel & Director of Advocacy

Association of Corporate Counsel



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CC: Dick Ambrose
Michael Astrab
Pamela A. Barker
Janet R. Burnside
Deen R. Calabrese
Maureen E. Clancy
Cassandra Collier-Williams
Brian J. Corrigan
Peter J. Corrigan
Michael P. Donnelly
Carolyn B. Friedland
Stuart A. Friedman
Steven E. Gall
Hollie L. Gallagher
Daniel Gaul
Michael E. Jackson
Lance T. Mason
David T. Matia
Robert C. McClelland
Timothy McCormick
Nancy R. McDonnell
Richard J. McMonagle
John P. O'Donnell
John J. Russo
Joseph D. Russo
Michael J. Russo
Nancy Margaret Russo
Shirley Strickland Saffold
Brendan J. Sheehan
John D. Sutula
Kathleen Ann Sutula
Joan Synenberg
José A. Villanueva