

Iowa Business Specialty Court Pilot Project
Initial Evaluation
August 2014

I. Introduction

In March 2012, the Iowa Civil Justice Reform Task Force recommended in its final report the implementation of a business specialty court pilot program in Iowa. The supreme court has initiated a three-year pilot program for a business specialty court, which began accepting cases in May 2013. The supreme court also directed state court administration (SCA) to provide annual evaluations to monitor the progress and effectiveness of the pilot program.

1. *Goals of the business court pilot program.* The primary goal of the business court is to move complex business litigation through the court system more expeditiously with lower costs for litigants and the court system. Other potential benefits include:

- Development of a published body of business court case law to provide guidance for fair and cost-effective resolution of business litigation.
- Removal of complex and time consuming business litigation from regular district court dockets.
- Development of innovative court practices and uses of court technology that could be applicable across the justice system.

2. *Eligibility criteria for assignment to the business court pilot program.* Eligible cases for the business court pilot program must involve a claim for at least \$200,000 in compensatory damages or must seek primarily injunctive or declaratory relief, and the case must also involve one or more of the following types of claims:

- a. Technology licensing agreement
- b. Internal affairs of a business
- c. Breach of contract, fraud, or misrepresentation arising out of business transactions
- d. Shareholder derivative or commercial class action
- e. Commercial bank transactions
- f. Trade secrets, non-compete clause in a contract, or confidentiality
- g. Commercial real property
- h. Anti-trust or securities
- i. Business tort claims between or among two or more business entities

3. *Presiding judges and venue:* The supreme court appointed three district court judges to preside over cases assigned to the business court: Judge Michael Huppert (District 5), Judge Annette Scieszinski (District 8), and Judge John Telleen (District 7). During the pilot period, cases assigned to the business court will be heard by one of these three judges in the county where the cases were originally filed. Current Iowa venue rules apply.

4. *Procedure for designating a matter for the Iowa Business Court Pilot Program:* A case may be assigned to the business court pilot project if all parties agree to the assignment. The parties must file a Joint Consent for Assignment to the Business Court Pilot Program with the state court administrator asserting eligibility of the case for assignment to the business court.

The state court administrator assigns eligible cases to one of the three business court judges. Case assignments are generally random, although the state court administrator maintains an even distribution of cases among the three judges. For each business court case, the state court administrator assigns a primary judge to handle all litigation issues and a second judge to handle settlement negotiations.

5. *Eligibility Criteria in Current Business Court Cases:* Ten cases have been assigned to the business court pilot program since May 2013. The cases have met a variety of criteria for eligibility in the pilot program.

<i>Must meet one or both threshold criteria:</i>	<u># of cases</u>
a. Damages over \$200,000, or	8
b. Injunctive or declaratory relief sought	5
<i>AND must meet one or more of these criteria:</i>	
a. Technology licensing agreement	1
b. Internal affairs of a business	6
c. Business transactions—e.g., breach of contract	7
d. Shareholder derivative or commercial class action	1
e. Commercial bank transactions	1
f. Trade secrets, non-compete, confidentiality	2
g. Commercial real property	0
h. Anti-trust or securities	0
i. Business tort claims	7

Eight of the ten business court cases met the threshold criterion of claims for damages of more than \$200,000, while five cases met the threshold criterion of seeking injunctive or declaratory relief. Cases must also meet at least one of several additional criteria to qualify for assignment to the business court. Seven cases involved disputed business transactions (e.g., breach of contract), seven involved business tort claims, and six involved disputes regarding the internal affairs of a business.

II. **Current Status of Business Court Cases**

As of August 7, 2014, seven of the ten cases have settled. The court is waiting for final settlement and dismissal documents in two of those cases. Three business court cases remain active and are scheduled for trial during 2014 (one case) or the first two months of 2015 (two cases).

III. **Judges' Time on Business Court Cases**

Two important aspects of the pilot program evaluation are to determine the amount of judge time generally required to manage these types of complex business litigation and whether the program imposes an undue burden on any judicial districts where a business court judge resides.

1. *Judicial work time on business court cases.* The three judges spent 471 hours working on the 10 cases, which is approximately 24% of a full-time equivalent (FTE) judge. Judge Scieszinski spent 232 hours (12% of an FTE judge), Judge Huppert spent 136 hours (7% of an FTE judge), and Judge Telleen spent 105 hours (5% of an FTE judge) on business court cases. The three judges spent an average of 47 judge hours per business court case; the actual number of judge hours per case ranged from 13.5 hours to 95 hours.

2. *Business court judges' time spent on training, administration, and promotion of the business court pilot project.* The business court judges attended three meetings for planning and evaluating the pilot program. They also addressed meetings of state and local bar groups, educating attorneys about the business court. In addition, Judges Huppert and Telleen attended a business courts training program at the National Judicial College (NJC), and Judge Scieszinski attended an E-Discovery Summit at the NJC. Finally, the judges attended at least one training session on the use of Court Call, a video conference system and service that is used in many courts throughout the U.S. The Court Call system will be installed and available for use by the three business court judges for their business court cases and their regular district court cases, as appropriate.

IV. **Attorney Evaluation of the Business Court Pilot Program**

Each attorney who has represented a party in a business court pilot program case will receive a survey at the conclusion of the attorney's case. Because only one case had been concluded by the end of June 2014, there were not enough responses from attorneys to report meaningful data from attorneys. This will be a more substantial component of the 2015 annual report on this pilot program.

V. **Business Court Judge Assessment of the First Year of the Pilot Program**

In June 2014, the business court judges met and discussed the status of the business court pilot program. A summary of their observations, assessments, and recommendations is set forth below.

1. *Assignments of cases to judges.* The process the state court administrator uses to assign cases to the three judges works well. There has been a fair allocation of cases and types of assignments (primary judge, settlement judge) to each of them. Because Judge Telleen's former law firm in Scott County has been involved in a few of the business court cases, and because he continues to recuse himself from cases involving that law firm, he has received fewer business court assignments than the other two judges. The strategy of assigning a separate business court judge to handle settlement negotiations works very well.

2. *Management of cases outside the business court judges' own districts.* This has not been a problem for the judges or the attorneys involved in the cases, according to the judges.

3. *Need for a video conference system for business court cases.* A goal of the business court pilot project is to efficiently and effectively leverage the use of technology. State court administration has agreed to pilot test services provided by Court Call, Inc., for the business specialty court. Court Call will provide all of the equipment necessary for its coordination and initiation of conference calls in pending business court cases. There is no cost to the judicial branch for the equipment or services Court Call provides during the pilot test, but the participating parties will pay a fee for each conference call. Attorneys and parties may recoup some or all Court Call fees by saving on travel time and expenses through the use of this technology. Court Call will work with each judge and with court administration staff in delivering and installing the necessary equipment in Polk County (Judge Huppert), Monroe County (Judge Scieszinski), and Scott County (Judge Telleen). It is expected that the Court Call systems will be operational for use sometime in August 2014.

4. *Promotion of the business court pilot program.* Attracting 10 cases to the pilot project within the first year is a successful start to the pilot program. As business court cases are brought to a successful conclusion, it is anticipated that the program will be promoted by attorneys who have experienced its benefits. Additional effort should be made to actively promote the business court among attorneys who may not be aware of the business court option. SCA staff will prepare an informational article about the program and its progress in the near future and offer it for publication in the *Iowa Lawyer* or other publication with broad circulation in the legal community. Chief Judges in the judicial districts might be encouraged to review the dockets in their districts and, where appropriate, recommend assignment of suitable cases to the business court docket.