

# Daily Journal

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## Courts up close: Alameda County

By Anne Goyette

There are approximately 300 complex cases and another 200 asbestos cases pending in Alameda County Superior Court. This total excludes multiple cases under single case numbers, such as judicial council coordinated proceedings (JCCP) and consolidated cases. The court recently made two significant changes to streamline the management and resolution of these complex cases.

### Case Management

Up until six months ago, Judge Brad Seligman managed the asbestos calendar for Alameda Superior Court, and across the street, Judge George Hernandez and Judge Wynn Carvill handled civil complex cases. Judge Julia Spain and other direct calendar civil judges heard preferential asbestos cases in the Hayward and Oakland Courthouses.

The Asbestos and Civil Complex Departments then merged.

Judge Winifred Smith took over Judge Carvill's complex cases. Judge Seligman became the supervising judge (complex). He now hears all complex designation motions and assigns all complex and asbestos cases to Department 17 (Judge Hernandez), 21 (Judge Smith) or 30 (Judge Seligman.) All preferential cases have been reassigned to one of these three departments.

Complex cases are assigned to one complex judge for all purposes through trial. Judge Seligman continues to be the gatekeeper for the asbestos cases. As time goes on, he will receive proportionately more complex cases, with the goal that each judge eventually will manage an equal share of asbestos and civil complex cases.

A case management conference is scheduled shortly after a case is designated complex. The judges expect attorneys to meet and confer prior to the conference to develop a game plan for discovery, alternative dispute resolution, dispositive motions and any unusual or difficult issues.

Judge Seligman encourages the parties to use CMCs as opportunities

to efficiently move their case forward. "Lay out the problems in advance. CMCs are very important. This is where most of the work is done. CMCs are the best way to resolve a case."

### Discovery

Counsel must meet and confer in person or by phone before involving the complex court in any discovery dispute. Thereafter, counsel must request an informal conference with their assigned judge before filing any discovery motion. Judge Seligman prefers a short, one to two sentence email request, while Judge Hernandez and Judge Smith requires each party to send a short letter of no more than two pages outlining the dispute. The judge may require the parties to appear in person for the informal discovery conference. This mandatory process has significantly streamlined resolution of discovery disputes.

### Settlement

The court also recently expanded its settlement capabilities by assigning three senior judges to conduct mandatory settlement conferences: Judge Carvill, Judge Brenda Harbin-Forte and Judge Evelio Grillo. Although rare, the parties may stipulate to their complex judge handling settlement discussions. Also, the court will assist parties in scheduling a courthouse MSC before a special master or private mediator upon request.

Generally speaking, carriers are not required to personally attend the first MSC. However, if the attendance of a particular lawyer or carrier representative is needed for meaningful negotiations, the court will issue orders directing that specific person to attend. As trial approaches, the court schedules additional MSCs and the settlement judges may continue to engage the parties in settlement discussions even after trial commences.

### Technology

Since Alameda County Superior Court is on the edge of Silicon Valley, the court relies on the litigants to bring their own technology to the



Alameda County Courthouse

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courthouse instead of providing state-owned obsolete equipment. The court provides a screen for projection and Power Point at trial. The parties jointly may provide additional, shared equipment, such as a video monitor or an Elmo digital document camera. If counsel agree, the court may consider allowing parties to supply 12 iPads for the jury's use during trial.

The complex department efficiently utilizes email and e-filing for case management.

### Trial

The complex judges are setting cases for trial eight to 12 months from the trial setting conference. A trial continuance may be granted only upon a showing of good cause.

Counsel are advised to arrive on the first day of trial ready to proceed. Judge Seligman notes: "It's a mistake to presume that there will be days and days of pre-trial procedure. The complex judges move forward quickly and aim to begin jury selection within two days of the trial date or as soon as possible."

In this regard, some of the complex judges have dramatically limited motions in limine in asbestos cases to five joint motions in limine per side plus two more per defendant; in addition, some judges have 20 standing motions in limine that are deemed granted unless someone objects.

The complex department does not have a similar order for non-asbestos cases. However, Judge Seligman en-

courages the parties to "focus, focus and streamline" before the first day of trial. In a recent case, the judge ordered parties to meet and confer to reduce their voluminous deposition designations before trial, and counsel spent two days culling documents in a room at the courthouse. "Sifting through large amounts of redundant documents simply is not a good use of the court's time."

In short, the merger of the Asbestos and Civil Complex Departments and the expansion of the roster of settlement judges are recent developments at Alameda County Superior Court. With six months completed, the complex department is well on its way to more streamlined management and resolution of hundreds of complex cases.

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