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By Email

John W. McConnell, Esq.
Counsel
Office of Court Administration
25 Beaver Street, 11th Floor
New York, NY 10004

Re: New York City Bar Comments on the Proposed Large Complex Case List in the Commercial Division

Dear Mr. McConnell:

The New York City Bar Association supports, with the reservations expressed below, the proposal by the Commercial Division Advisory Council for a pilot program that would establish a Large Complex Case List to provide enhanced case management procedures for certain cases.¹

We recommend that the touchstone of eligibility for the List be complexity, not an arbitrary monetary threshold.² As the Proposal recognizes, cases involving ostensibly modest monetary stakes may present issues of sufficient complexity and importance to benefit from enhanced case management tools. Conversely, cases in which the amount in controversy exceeds \$50 million might very well present straightforward issues that do not require enhanced management.

Adopting more nuanced criteria for eligibility would have several benefits. First, it will help ensure that the List is not perceived as a group of cases receiving special privileges and

¹ These comments reflect the input of the City Bar's Council on Judicial Administration, Committee on State Courts of Superior Jurisdiction and Committee on Litigation.

² Of course, amount in controversy can be a factor in determining complexity, but it should not be the sole controlling factor.

attention only on the basis of amount in controversy. Second, litigants would be discouraged from alleging inflated damages to secure a place on the List. Third, resources supporting the List will be better allocated to the cases that truly need them, and cases not on the List will be less likely to suffer from the diversion of resources.

In addition, the Proposal does not explicitly discuss sources of funding for the various enhanced procedures and tools. Although we recognize that funding may not be addressed in detail until the budget process begins, committee members raised a concern that the Proposal ultimately could result in a diversion of resources from other Commercial Division cases or from courts outside the Commercial Division. And, while we recognize the efforts being made to enhance efficiencies in the Commercial Division, we believe that courts throughout the State would benefit from additional resources and enhanced tools. Therefore, we urge the Office of Court Administration to ensure that the Large Complex Case List is not run at the expense of other courts.

We hope our suggestions and observations prove to be helpful. We stand ready to provide further comments upon request.

Very truly yours,

Hon. Carolyn E. Demarest (Ret.)
Chair, Council on Judicial Administration

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Chair, Committee on State Courts of
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