

In the Supreme Court of Iowa

CLERK SUPREME COURT

In the Matter of the Iowa
Business Specialty Court)
)Amended Memorandum of
Operation**A. Introduction**

In February 2016, after considering two annual evaluations of the Iowa Business Specialty Court pilot program, the supreme court adopted the business court as an ongoing component of the Iowa court system. This Amended Memorandum of Operation incorporates changes to enhance access to, and the operation of, the business court.

B. Purpose

The primary aim of the Iowa Business Specialty Court is to move business and complex commercial litigation cases through the court system more expeditiously, lowering costs for litigants and the court system. Businesses and attorneys benefit from having judges assigned to their cases who have particular experience and expertise in business litigation, resulting in enhanced consistency, predictability, and accuracy of decisions with respect to complex business cases. Judges benefit from the development of specialized judicial expertise to be shared with their judicial colleagues. All Iowans benefit from a more attractive and cost-effective environment for the resolution of complex business disputes. Nonbusiness case dockets benefit from the removal of time-consuming, complex business cases from the general docket. The court system as a whole benefits from the business court's role as an incubator of innovative court practices that may be applied generally across the justice system.

C. Scope

The Iowa Business Specialty Court will maintain a statewide docket comprising business legal disputes that have been assigned or transferred to the business court.

D. Presiding Judges and Venue

At least three Iowa district court judges are selected by the Iowa Supreme Court to serve as judges for the Iowa Business Specialty Court. When a business court judicial vacancy occurs, the State Court Administrator will solicit applications from district court judges to fill the position. A committee chaired

by a supreme court justice reviews the applications and makes a recommendation to the supreme court regarding its final decision on appointment to the business court.

Cases transferred to the business court docket will be heard in the county where they are filed and venued under current Iowa Rules of Civil Procedure.

The State Court Administrator will assign an Iowa Business Specialty Court judge to the business court case.

E. Cases Eligible to be Heard in the Iowa Business Specialty Court

Only cases where compensatory damages totaling \$200,000 or more are alleged or claims seeking primarily injunctive or declaratory relief will be eligible for assignment to the business court docket. In addition, to be eligible a case must satisfy one or more of the following criteria:

(1) Arise from technology licensing agreements, including software and biotechnology licensing agreements, or any agreement involving the licensing of any intellectual property right, including patent rights.

(2) Relate to the internal affairs of businesses (i.e., corporations, limited liability companies, general partnerships, limited liability partnerships, sole proprietorships, professional associations, real estate investment trusts, and joint ventures), including the rights or obligations between or among business participants, or the liability or indemnity of business participants, officers, directors, managers, trustees, or partners, among themselves or to the business.

(3) Involve claims of breach of contract, fraud, misrepresentation, or statutory violations between businesses arising out of business transactions or relationships.

(4) Be a shareholder derivative action or commercial class action.

(5) Arise from commercial bank transactions.

(6) Relate to trade secrets, noncompete, nonsolicitation, or confidentiality agreements.

(7) Involve commercial real property disputes other than residential landlord-tenant disputes and foreclosures.

(8) Be a trade secrets, antitrust, or securities-related action.

(9) Involve business tort claims between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them.

F. Procedure for Transferring a Matter to the Iowa Business Specialty Court

A case may be transferred to the Iowa Business Specialty Court if all parties consent to the transfer and subject to the approval of the State Court Administrator. Alternatively, any party may file a motion to transfer the case to the business court in the judicial district where the case is filed for determination by the chief judge of the judicial district.

(1) *All parties consent to transfer eligible cases.* By consent of all parties, a case may be assigned to the business court docket by submitting a Joint Consent for Case Assignment to the Iowa Business Specialty Court form to the State Court Administrator via regular mail or email. The joint consent must be in a form approved by the supreme court and specifically acknowledge that the allegations of the case meet the criteria set forth in section E of this Amended Memorandum of Operation.

(2) *Any party may move to transfer eligible cases.* Any party may move to transfer a case to the business court docket by filing a Motion to Transfer Case to the Iowa Business Specialty Court with the district court where the case is filed.

a. The motion must be filed within 120 days of filing the petition or thereafter within 30 days of the service of an amended petition that adds claims or new parties. The motion must be in a form approved by the supreme court and specifically address the requirements set forth in section E of this Amended Memorandum of Operation along with any additional considerations the party wishes to include. If the motion is filed with the petition, the motion must be served upon all parties along with the petition and original notice in accordance with Iowa Rule of Civil Procedure 1.302.

b. *Resistance to Motion to Transfer.* Any party resisting a Motion to Transfer Case to the Iowa Business Specialty Court may file a resistance to the motion to transfer within 10 days after the motion has been served or within 20 days after the service of the motion, original notice, and petition upon the party if the motion is filed with the petition. The court may extend the resistance deadline on motion for good cause shown.

c. Ruling on Motion. The clerk of court will transmit the motion and any resistances to the motion to the chief judge of the judicial district where the case is filed. The chief judge decides with or without hearing whether the case will be transferred to the Iowa Business Specialty Court. In determining whether a case will be transferred, the chief judge considers whether the case meets the basic requirements of section E of this memorandum and accomplishes the purposes of section B. The chief judge of the judicial district will rule on the motion within 30 days after its submission or, if the motion is filed with the petition, within 30 days after any defendant has answered or appeared unless the chief judge extends the time for reasons stated of record. The decision is not subject to review or appeal. If the chief judge determines that the case will be transferred to the Iowa Business Specialty Court, the chief judge will enter an order and notify the State Court Administrator, who will assign a business court judge to the case.

(3) *Returning cases to the regular court docket.* Any party in an Iowa Business Specialty Court case may move to transfer the case from the business court docket to the regular court docket of the judicial district where it is filed. The presiding business court judge will determine with or without hearing whether, upon a showing of good cause and lack of unfair prejudice to any other party, the case will be transferred back to the regular docket. This decision is not subject to review or appeal.

(4) *Not admissions.* Joint Consents, motions to transfer to the business court and any resistances, motions to transfer back to the regular court and any resistances, and any orders issued pursuant to this section are not admissions of any factual elements of the case.

G. Application of Iowa Court Rules

Existing Iowa Rules of Civil Procedure, Rules of Evidence, and other applicable Iowa Court Rules apply to Iowa Business Specialty Court proceedings; however, the parties may agree to such streamlined rules of pretrial procedure and discovery as will promote the fair, prompt, and efficient resolution of cases with the approval of the presiding business court judge.

H. Evaluation of Iowa Business Specialty Court

The State Court Administrator will conduct an annual review of the Iowa Business Specialty Court assessing whether the court is achieving its purpose and meeting its goals. The Administrator will report the findings from the annual

review of the business court and make any recommendations for its improvement to the Iowa Supreme Court beginning January 1, 2020.

Dated this 14th day of January, 2019.

The Supreme Court of Iowa

By Mark S. Cady
Mark S. Cady, Chief Justice