

New Rules for Complex Construction Litigation in New Jersey

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On September 1, 2018, New Jersey's Complex Business Litigation Program ("CBLP") officially took effect and an entirely new set of procedural rules designed to streamline case management, Discovery, and motion practice in complex construction cases became operative. These rules, which are found in a new Chapter XI within Part IV of the New Jersey Rules of Civil Procedure, model the Federal Court Rules. Complex construction cases exceeding \$200,000 in controversy are automatically placed in the CBLP. Each Superior Court Vicinage has designated one or more judges to handle CBLP cases during the pre-trial phase. While the CBLP has left Part IV of the Rules mostly intact, there are notable changes that practitioners should consider.

Initial Disclosures: Litigants in the CBLP must now make certain mandatory disclosures within 14 days after an Initial Conference. These required disclosures require parties to share basic information about the case, such as individuals with knowledge regarding the underlying facts. Notably, the initial disclosures also require litigants to identify documents which may be relevant to the case.

Preliminary Conferences and Discovery Plans: Parties must now meet and confer at least 21 days before a scheduling conference is held or a scheduling order is due. This conference is meant to facilitate discussions regarding anticipated discovery needs and issues, to develop a proposed discovery plan to be submitted to the court. Additionally, CBLP judges must hold an early initial conference and issue an initial Case Management Order within the earlier of 90 days after any Defendant has been served with process or 60 days after any Defendant has appeared. This addition is designed to facilitate more involvement with the assigned CBLP judge.

Presumptive Limitations on Discovery: Unless agreed upon otherwise, all parties are now limited to 10 depositions of no more than 7 hours in duration. Additionally, each party will be limited to 15 interrogatories, unless otherwise stipulated or ordered.

Standard Protective Order: The new rules include a standard confidentiality protective order which may be modified by the parties. This is meant to expedite the negotiation and ultimate entry of any protective cover.

Discovery Motion Practice: While the Rules already required parties to attempt to resolve Discovery disputes prior to motion practice, the CBLP now obligates parties to meet and confer and then, if a resolution cannot be reached, conduct a teleconference with the assigned CBLP judge to attempt to resolve the dispute. Only in the instance, the conference does not resolve the dispute may the party file a motion.

Summary Judgment Motions: Parties are no longer subject to the briefing schedule in R. 4:46-1 for summary judgment motions. Alternatively, the parties are now expected to agree on a briefing schedule for summary judgment motions. After a motion has been brief the party is to advise the court and request the clerk to place the motion on the court's calendar within 30 days of the submission date.

The above summary is by no means exclusive and there are additional rule modifications with respect to Discovery and Case Management. While these rules are designed to streamline Discovery and case management, they model the preexisting rules in that they require cooperation among the parties. Given their relative newness, New Jersey practitioners are advised to fully review the complete CBLP rules, which can be found in Chapter XI within Part IV of the Rules. A complete copy of the newly implemented CBLP rules can be found [here](#).

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(This article was co-authored by Benjamin Hochberg, Esq. and Parker Rothman, Esq.)

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