

**COMMITTEE OF SEVENTY
PUBLISHES STUDY AND ANALYSIS OF
COMMERCE CASE MANAGEMENT PROGRAM**

*Eric C. Milby**

I Introduction

The Committee of Seventy recently published a study and analysis of the Commerce Case Management Program, the first part of its examination of the Civil Division of the Philadelphia Court of Common Pleas. On the whole, the Committee concluded that the Program is functioning well in its role as the arbiter of business disputes, and that it is quickly becoming a preferred medium for the resolution of such cases.

II History of the Committee of Seventy

The Committee of Seventy was formed in 1904 by community leaders seeking to combat Philadelphia's well-deserved reputation for election fraud. Seventy is a bi-partisan and independent non-profit organization that long ago expanded its mandate to include a broader range of good governance issues. Its Board members are made up of the area's business, professional and academic community leaders. Under its new leadership – Zack Stalberg as its President and CEO, and Ned Dunham as its Board Chair – Seventy has set out to: a) positively change the culture of politics and government as it is practiced in Philadelphia; b) actively work toward honest, open and efficient government and thereby create a climate in which politics will again be seen as a respected calling; and c) create a new, more aggressive Committee that can act as the conscience of the community in driving reform. In addition to monitoring elections, the Committee engages in a number of other good governance and public policy initiatives in the Philadelphia region, including work on education reform, police department procedures and a continuing analysis of the Philadelphia court system.

III History of the Commerce Case Management Program

The Commerce Case Management Program was created in January of 2000 as part of the continued effort that began in the early 1990s to increase the efficiency of the Philadelphia Courts and specifically to facilitate the efficient handling of business disputes. A subcommittee of the Business Law Section's Business Litigation Committee advised the Court in developing the Commerce Case Management rules and procedures. Initially, the Court assigned two judges to the Commerce Program. In March, 2002, a third judge was added to handle the increased case load. Although the Program handled only about fifty cases in the first two months of its existence, the volume of cases has dramatically increased — 1,767 cases were filed between January 1, 2000 and October 25, 2002, and 1,145 of these were disposed.

**Eric C. Milby is an attorney at Lundy Flitter
Beldecos & Berger, P.C.*

THE BUSINESS LAW REPORT

The periodic newsletter of the Business Law
Section of the Philadelphia Bar Association

Ellen Jerrehian, Editor

**BUSINESS LAW SECTION
OFFICERS**

Kathleen M. Shay, Chair
Albert S. Dandridge, III, Vice Chair
William H. Clark, Jr., Treasurer
Stephen M. Foxman, Secretary

**EXECUTIVE COMMITTEE
MEMBERS**

Sandra A. Jeskie
Kim R. Jessum
Eric C. Milby
Barbara T. Sicalides
Brian S. Vargo
Raymond K. Walheim
Frederic M. Wilf

EX OFFICIO MEMBER

Immediate Past-Chair:
Mitchell L. Bach

HONORARY MEMBERS

Andrew A. Chirls
Alan M. Feldman
Merritt A. Cole
Ellen Jerrehian
Kristen Kenney
Walter W. Schanbacher
John B. Wright, II

IV The Committee's Analysis

As the first step in a larger effort to increase efficiency throughout the civil division of the Court of Common Pleas, the Committee undertook an analysis of the Commerce Program. The Committee retained Parente Randolph to survey attorneys and corporate litigants with experience in the Commerce Program. Fifty-six individuals responded to the survey. At the time the survey was taken, the respondents had appeared before a Program judge in an average of six cases. Although some

Continued on page 3

**COMMITTEE OF SEVENTY
PUBLISHES STUDY AND ANALYSIS OF
COMMERCE CASE MANAGEMENT PROGRAM**

Continued from page 2

respondents expressed dissatisfaction with certain facets of the Program, overall, most conveyed that they were satisfied with the Program, and many highly praised its fairness and effectiveness.

The Program's case management process was evaluated by 67% of respondents as very good, while 8% felt that it was unnecessary. Sixty-two percent found the case management conference to be useful, while 24% thought it was not needed. In addition, 95% believed the three management tracks were adequate, and 60% thought the dates set forth by the Case Management Order were suitable.

Of the 42% of respondents who had used the Program's mediation process, 61% found it to be effective. However, only 39% found the assistance of the Pro Tems to be useful in the settlement process, and one respondent suggested that the Program needs to ensure that all Pro Tems abide by a strict set of rules.

The respondents found the Program to be very efficient. Over 96% believed the Program had provided for a quicker disposition of commercial cases, and 84% thought the Program handled commercial cases efficiently. Ninety-six percent of respondents deemed the Program to be either successful or moderately successful overall. Ninety-seven percent of respondents said that, if given a choice of venue, they would direct a case to be heard in the Program.

Most respondents indicated that they were satisfied with the treatment they received from Program courtroom personnel. Seventy-three percent found courtroom personnel to be friendly and courteous, 62% found personnel available to answer questions, 56% thought courtroom personnel were willing to take the time to explain things, and 44% believed personnel were able to adequately answer questions. Of the 96% of respondents who had the opportunity to speak with a Program Judge, 80% said they had been treated very respectfully.

ARTICLES WANTED!

Please send any articles or news that would be of interest to the Business Law Section to:
Ellen Jerrehian at
jerre@ballardspahr.com

The next deadline is May 6, 2005

YLD SPRING FUNDRAISING AUCTION!

Mark your calendar for Wednesday, May 11th for the Young Lawyers Division Spring Fundraising Auction to benefit the Philadelphia Bar Foundation. Details to follow shortly!

Eighty Program decisions have been appealed to either the Superior Court or the Commonwealth Court. Thus far, twenty-four were withdrawn or discontinued, and fourteen were still pending at the time of the evaluation, meaning that forty-two cases have actually reached disposition. Of these forty-two, the appellate court has affirmed twenty-four, or 57.1%. If one omits from the analysis Program appeals that were dismissed or quashed, the affirmance rate of Program decisions was 85.7% and the reversal rate was 7.1%. The Committee found these rates impressive when compared with the Superior Court's overall reversal rate of 13.3%, and saw this as solid evidence that the Program is working well.

Lastly, the Committee evaluated case docketing procedures of the Program by having volunteer law students analyze files from the Prothonotary's Office during the spring of 2004. There were sixty-two available docket reports from cases on record with the Prothonotary's Office. Eight of these, or 12.9%, were not recovered because they were either located off-site or the file system rendered retrieval impossible. The Committee determined that all documents retrieved were well-preserved. Of the fifty-five docket reports retrieved, 61.8% of files included all relevant materials and 38.2% were missing one or more documents.

The Committee concluded that there are direct economic benefits to Philadelphia as a result of the Program. Because parties are increasingly choosing the Program as the venue to litigate commercial disputes, cases that may be brought somewhere else in the country are drawn to Philadelphia. Additionally, businesses often take into consideration the quality of available commercial dispute resolution when deciding on an area in which to locate their headquarters. The Commerce Program adds an additional, positive element to the calculation.

V. Conclusion

In conclusion, the Committee found that the members of the Bar and the Judiciary, as well as litigants, are very pleased with the Program and that it has no bona fide opposition. As long as it continues its record of efficient resolution of business disputes in Philadelphia, its permanence is not likely to be challenged.

The Committee of Seventy has announced its intention of proceeding with an analysis of the remainder of the Civil Division.