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Paul-Erik Veel

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Case Management on the Commercial List: Leveraging the System for Complex Cases

One of the defining features of the Commercial List is the Court's willingness to actively case-manage complex matters. Counsel can obtain relatively quick access to a judge — whether through a 9:30 appointment or a longer case conference — and judges are prepared to both broker solutions and, where necessary, decide procedural disputes.
Used well, this access is a powerful strategic tool. Used poorly, it wastes time and erodes credibility.

How should counsel use case management effectively? The following are 10 principles that tend to distinguish productive use of the system from wasted appearances.

1. Respect the Court's time. Make sure the scope of your request at a case management attendance is commensurate with the amount of time available. You should use a 15-minute attendance at a 9:30 appointment only for scheduling matters or consent matters. More complicated issues belong in a full case conference. Trying to squeeze a substantive dispute into a 15-minute slot risks irritating the Court and having to reschedule the matter.
2. Be strategic about the positions you take at a case conference. The default of the Commercial List is that a single judge case manages a matter. You are likely to appear before the same judge many times. That means the positions you take during one case conference can come back to haunt you later if you are not careful.
3. Align your positions with the Commercial List's core philosophy: cooperation, communication, and common sense. Parties who take practical, solution-oriented positions tend to receive the Court's assistance. Those who default to formalism or obstruction generally do not.
4. Always prepare an Aide Memoire. It allows the Court to understand the issue in advance and makes the conference materially more efficient. Except in unusual circumstances, you should file one.

5. Keep your Aide Memoire short. The three-page limit in the practice direction is not aspirational. If you ground your position in common sense, it should be capable of concise expression.
6. Prepare your materials properly. Comply with the practice direction, upload to Case Center on time, and use effective hyperlinking. Judges deal with high volume under time constraints. Making the record easy to navigate is not a courtesy; it is part of effective advocacy.
7. If you are seeking a case conference to get urgent relief, ensure you follow the practice direction around how to get that urgent relief. Make sure you request relief on an urgent basis only if the matter is truly urgent. Flagging something as urgent when it is not truly urgent can impair your credibility in the eyes of the Court.
8. Use case management to narrow issues, not just resolve procedural disputes. Case conferences can provide an opportunity to simplify the case. Judicial guidance can help streamline the case by clarifying early what matters: which issues can be deferred, what evidence is truly necessary, and what can be agreed. Judges on the Commercial List are often willing to give practical guidance that helps parties focus the case. Counsel who use case management to reduce complexity, rather than escalate it, tend to move their cases forward more efficiently and with greater credibility.
9. Come prepared to cut deals. Before the conference, identify the range of acceptable outcomes and obtain client instructions where necessary. Judges on the Commercial List frequently propose practical solutions. Counsel who reflexively resist those solutions often find themselves at a disadvantage.
10. Finally, if you comply with all the other rules, do not be shy about using case management. The Commercial List expects parties to move matters forward collaboratively but recognizes that procedural disputes may require judicial intervention. The case management system is there, and parties should not be afraid of using it to advance their case.

Used effectively, case management on the Commercial List is not simply a mechanism for resolving procedural disputes; it is a tool for shaping the pace, scope, and direction of a case. Counsel who approach it with preparation, judgment, and a

willingness to engage constructively tend to see more efficient processes and better outcomes. Those who treat it casually, or as a substitute for motion practice without discipline, often achieve the opposite. The difference lies not in access to the system, but in how deliberately counsel use it.