



RULES FOR COMPLEX CIVIL LITIGATION

SUPREME COURT OF PUERTO RICO

RULES FOR COMPLEX CIVIL LITIGATION*

* Adopted by the Supreme Court through Resolution ER-99-7 of June 30, 1999, *In re R. Casos Civ. Litig. Compleja*, 148 DPR 932 [48 PR Offic. Trans. 69] (1999), and amended through Resolution ER-2006-2 of December 29, 2006, *In re Enmda. Rs. Casos Litigación Compleja*, 169 DPR 804 [69 PR Offic. Trans. 44] (2006).

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RULES FOR COMPLEX CIVIL LITIGATION

Rule 1. Title; Legal Basis

These Rules will be known and must be cited as Rules for Complex Civil Litigation. They are adopted under the authority vested in this Court by Article V, Section 4 of the Constitution of the Commonwealth of Puerto Rico, by Civil Procedure Rule 71, by Supreme Court Rule 50, and by virtue of our inherent power to establish the necessary judicial procedures to facilitate the administration of justice.

Rule 2. Purpose, Scope, and Construction

These Rules seek to establish the procedural course for all civil cases filed within the jurisdiction of the Commonwealth of Puerto Rico that are declared complex civil cases. These Rules supplement the Rules of Civil Procedure, the Rules of the Circuit Court of Appeals, and the Rules of the Supreme Court. Nothing provided herein may extend the jurisdictional and strict-compliance terms established by statute or rule. These Rules must be construed in keeping with the purpose of Civil Procedure Rule 1 (32 LPRA App. III) in order to guarantee the just, speedy, and inexpensive determination of all matters related to complex civil cases.

Rule 3. Definitions

Unless otherwise specified in these Rules, the terms used here have the following meaning:

- (a) *Rules* – Rules for Complex Civil Litigation.
- (b) *Complex Civil Cases* – All civil cases whose circumstances require specialized judicial management and are declared complex cases, under Rules 4 and 5, to avoid unnecessary burdens on the litigants or on the court and to allow for an efficient judicial management of the proceedings.
- (c) *Guidelines for Discovery in Complex Cases* – The Proposed Guidelines to Direct the Phase of Discovery in Complex Cases, submitted to the Supreme Court of the Commonwealth of Puerto Rico at the Judicial Conference of May 1988, whose discretionary use by the Court of First Instance was approved by Resolution of the Supreme Court on May 3, 1989.
- (d) *Matter of Common Interest* – Any matter that is not particular or exclusive, but rather shared by a substantial number of plaintiffs, of defendants, or of all.
- (e) *Matter of Particular or Individual Interest* – Any matter that exclusively concerns a party or a reduced number of parties.
- (f) *Steering Committees of Counsel for the Parties* – The group or groups of court-appointed counsel that defend and represent the common interests of the parties in all complex litigation proceedings.
- (g) *Counsel for Individual Parties* – Attorneys who represent an individual party or interest.

(h) *Designated Judge* – Judge of the Court of First Instance designated by the Chief Justice of the Supreme Court to preside over all the proceedings in a complex case.

Rule 4. Determination of Complex Civil Case

(A) *One or More Cases in One Judicial Region*¹

When one or more cases in the same judicial region are involved, a Judge of the Court of First Instance, *motu proprio* or on motion, may request that the case be handled as a complex civil case. The Judge of the Court of First Instance shall refer the matter to the Regional Administrative Judge for a timely determination. Once the determination of complex case is made, the Chief Justice shall designate the Judge of the Court of First Instance who shall handle the case. A designation made by the Regional Administrative Judge upon the adoption of this amendment shall be deemed ratified for all intents and purposes.

(B) *Several Cases in Different Judicial Regions*

When several cases in different judicial regions are involved, the request may be submitted by a Judge of the Court of First Instance, *motu proprio* or on motion. The Administrative Judges shall forward the requests to the Chief Justice. The Chief Justice shall designate an Administrative Judge from any of the judicial regions involved to make a determination of complex case. Once the determination of complex case is made, the Chief Justice shall designate the Judge of the Court of First Instance who shall handle the case.

(C) *Submission of Request or Motion*

Save for exceptional circumstances, all requests to determine whether a case is complex must be submitted before discovery proceedings end.

(D) *Certiorari*

The decision or resolution of the Administrative Judge may be reviewed on certiorari by the Circuit Court of Appeals.

Rule 5. Criteria for Making a Determination of Complex Civil Litigation

The Regional Administrative Judge to whom a request or motion has been referred under Rule 4 shall determine whether a civil case is a complex litigation after summoning the parties to a hearing and weighing the merits of the case in light of the allegations and of the totality of the particular circumstances of the case. The Administrative Judge shall also take into consideration one or more of the following criteria:

- (1) multiplicity of parties;
- (2) multiplicity of allegations or defenses;
- (3) multiplicity of witnesses available for trial;

¹ As amended by Resolution ER-2006-2 of December 29, 2006, *In re Enmienda a Reglas para Casos Civiles de Litigación Compleja*, 169 DPR 804 [69 PR Offic. Trans. 44] (2006).

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- (4) extensive volume of evidence;
- (5) need for expert testimony;
- (6) intricate issues of fact or of law that demand abundant or unusual oral and documentary evidence;
- (7) complex nature of the remedy or remedies sought;
- (8) complexity at the appellate stage;
- (9) cases certified by the Court of First Instance as class actions;
- (10) type of case: product liability cases;
- (11) intensity of activity at the pretrial stage;
- (12) novel issues;
- (13) civil liability actions resulting from natural disasters, atmospheric or catastrophic events, or provoked disasters;
- (14) any other factor that brings about the need for early and organized judicial management to prevent unnecessary burdens and delays to the parties and to the judicial system.

Rule 6. Term for Making a Determination of Complex Civil Litigation

The Administrative Judge of the Court of First Instance shall determine whether a civil case is a complex litigation within thirty (30) days after submission of the request, *motu proprio* or on motion, seeking a determination of complex litigation. Said term must not be extended, except for just cause.

Rule 7. Authority of Designated Judge

Litigation must be conducted under strict judicial control and supervision. The designated judge shall supervise all proceedings and adjudicate the complex case. The designated judge shall play an active role throughout the litigation. He or she shall be creative in formulating the orders needed for an effective case management, and shall promote an environment that fosters the solution of conflicts between the parties. The designated judge may refer the complex case or any of its controversies, at any stage of the proceedings, to a neutral intervenor, in keeping with the Rules for Alternative Dispute Resolution, adopted by the Supreme Court of Puerto Rico on June 25, 1998, or to a special master in keeping with Civil Procedure Rule 41.

Rule 8. Class Actions; consolidation; separate trials

Nothing provided herein may prevent a designated judge from certifying the complex case as a class action in keeping with Civil Procedure Rule 20; consolidating actions that involve common questions of fact or of law in keeping with Civil Procedure Rule 38.1; ordering separate trials of the claims in any pleadings: complaints, cross-claims, counterclaims, third-party complaints, or of any separate issue, in keeping with Civil Procedure Rule 38.2; or issuing orders that are designated to avoid unnecessary expenses or delay of the proceedings.

Rule 9. Steering Committees of Counsel for the Parties: Designation and Compensation

The designated judge of the Court of First Instance shall determine by resolution:

(a) the Steering Committees for plaintiffs and defendants that the designated judge, in his or her sound judgment and discretion, may deem necessary for the adequate legal representation of the common interests of plaintiffs and defendants. In making this determination, the designated judge may request from the parties the information that he or she deems pertinent, and use, at his or her discretion, the Guidelines for Discovery in Complex Cases;

(b) the individual members of the Steering Committees by selecting them from among counsel for the different parties. In making this determination, the designated judge may request from the parties the information that he or she deems pertinent, and he or she shall make sure that the designated counsel reasonably represent the different interests involved in the litigation. The designated judge shall also make sure that the qualifications, organization, resources, and engagements of the designated counsel will allow them to meet their obligations. Except in extraordinary circumstances, each committee must not have more than five (5) members;

(c) the method for assessing and paying compensation to the individual members of the Steering Committees for their professional services and the expenses incurred in the adequate legal representation of the common interests of the parties that constitute their respective groups. The designated judge may impose strict requirements concerning the records of hours worked and expenses incurred by the designated counsel, and establish guidelines, methods or restrictions on the award of attorney's fees. In making this determination, the designated judge may request from the parties the information that he or she deems pertinent. The parties may stipulate with each other the method for assessing and paying compensation to the individual members of the Steering Committees, as long as it is not contrary to law, morals, or public policy. Said agreement is subject to the approval of the court. In any event, the court reserves the faculty to modify by resolution any of the above designations and determinations in those cases it deems appropriate to do so.

(d) Notice of all resolutions issued by the designated judge under this rule must be served on all the parties to the action as provided by the Rules of Civil Procedure in force.

Rule 10. Duty of Steering Committees to Provide Legal Representation

The participation of counsel designated as members of a Steering Committee requires a meticulous performance of their obligations as counsel for the parties that they represent and as officers of the court. Thus, they shall:

(a) Cooperate diligently on any legitimate court request in order to further adequate case management.

(b) Adequately defend the common interests, as defined in these Rules, in all court proceedings. Papers that introduce and advance common interests must be signed only by the members of the Steering Committee. Their signatures certify that they read the paper and that according to their best knowledge, information and belief, it is well grounded and was not filed to cause delay or burden. When a matter is of particular or individual interest, the members of the Steering Committee shall certify this fact to counsel for the concerned parties, who may engage in the judicial prosecution of said matters.

(c) Keep an updated list containing the name and mailing address of counsel for all the parties and of the parties that compose the different groups, and the name and mailing address of unrepresented parties. The Steering Committee shall file this updated list together with its first paper. The Steering Committee shall inform the court of any changes in said list.

Rule 11. Obligations of Counsel for Individual Parties

(a) All counsel in the case shall keep in close communication with their respective Steering Committees and cooperate diligently with all legitimate requests made by the Steering Committees in view of, and to protect the common rights of the individual parties they represent.

(b) When the members of a Steering Committee certify a matter as one of particular or individual interest, counsel for the individual parties will be responsible for the judicial prosecution of said matter.

(c) The court reserves the right to allow, *motu proprio* or on motion, any counsel for an individual party to handle a matter that is not of common interest, but of particular or individual interest to his or her client.

(d) Counsel who file a paper with the court shall promptly inform any possible conflict of interest and include information that may be relevant to the possible recusal of any judge. Motions for recusal must be filed as soon as the members of the Steering Committee learn of the composition of the court.

Rule 12. Conferences

(a) The court shall hold at least three (3) pretrial conferences:

(1) *Initial Conference*

The designated judge shall summon counsel for the parties or the designated Steering Committee to an Initial Conference that will be held within thirty (30) days after the appointment of the designated judge by the Chief Justice.

Counsel shall be prepared to cover the following subjects:

(A) stipulation of facts;

(B) possible consolidation or separation of causes;

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(C) possible joinder of other claims or other parties to the litigation;

(D) discovery plan and schedule;

(E) issuance of protective orders;

(F) possibility of referring some of the causes to neutral intervenors under the Rules for Alternative Dispute Resolution, adopted by the Supreme Court on June 25, 1998; or of appointing a special master under Civil Procedure Rule 41;

(G) designation of Steering Committees for plaintiffs and for defendants (if not previously designated);

(H) document exchange;

(I) list of deponents;

(J) scheduling of subsequent conferences;

(K) any other matter appropriate in the particular circumstances of the case.

(2) *Follow-Up Conference*

It will be held within a reasonable term after the Initial Conference, which term must not exceed six (6) months, except for just cause. At the Follow-Up Conference, the designated judge may follow up on the subjects introduced at the Initial Conference, simplify some controversies, and issue orders to facilitate the efficient management and prompt settlement of the case.

(3) *Final Conference*

This is the last pretrial conference. It must be held as close to the date of trial as allowed under the particular circumstances of the case. At this conference, the parties may formulate a plan for trial, including a program for facilitating the admission of evidence.

(b) These conferences must be attended by counsel for the parties or by the members of each Steering Committee.

(c) The conferences serve the following purposes: establishing early and continuing control by the Judge; thoroughly exploring the litigation, and guiding it to a prompt conclusion; simplifying procedural issues; planning the procedures to be followed in the case; narrowing the substantive issues; and considering matters such as the standing to sue or to be sued, the finality of a decision, or the jurisdiction of the court. At each of the conferences, the designated judge shall set the date of the next conference or the date of trial.

(d) Nothing provided in this rule prevents the Court from setting and ordering, *motu proprio* or on motion, the holding of periodic conferences to monitor and follow up on previously issued orders, to address any matter that may warrant intervention and adjudication by the Court, and to maintain a continuing judicial case management.

Rule 13. Central Document Depository

The designated judge, with the consent of counsel for the parties or of the Steering Committees, may establish, should he or she deem it necessary, a central document depository, if the documents are voluminous.

The court may designate the location or locations it deems appropriate for this purpose, including the possibility of establishing separate depositories. A photocopier must be available at each depository for the use of counsel and their employees or assistants.

A party that produces documents on the formal or informal request of another party shall file them in the pertinent depository in sequential order according to the document number. The documents must be organized in duly identified groups or categories. Documents that cannot be organized as described above must be organized in the best possible manner.

Counsel for the parties and their authorized staff must have reasonable access during business hours to any document filed in the established depository or depositories, and may inspect and copy the documents that they are interested in at their expense. Counsel shall keep an updated log of all persons who enter the depository, and no document may be removed from the depository except by order of the court.

Access to the document depository or depositories is subject to the limitations and requirements of the court order or orders protecting the documents and information classified as confidential.

The court, at its discretion, may impose on the parties the financial burden of establishing and managing the central document depository.

Rule 14. Limited Service of Papers: Form requirements

(a) A party shall serve on all parties any paper it files in keeping with the applicable rules, with the following exceptions:

(1) When a *matter of common interest* is involved, all papers filed by the members of one of the Steering Committees must be served only on the members of the Steering Committee representing the opposite group.

(2) When a *matter of particular interest* to some parties or to an individual party is involved, all papers filed by the parties must be served only on the members of the Steering Committee of the group to which the filing parties or party belong(s), on the members of the Steering Committee representing the opposite group, and on any other concerned party.

(b) Service required under subdivisions (1) and (2) of this rule must be made by personal delivery, by mail or by certified mail, return receipt requested, when so required by the applicable procedural rules. A copy of the paper must be served on each member of the committees or on counsel for the parties. The members of each Steering Committee shall be responsible for giving notice of all filings to each of the

parties that compose their respective groups within forty-eight (48) hours after filing, or being served with the paper, as the case may be. Notice must be given to counsel for all individual parties by motion entitled “Notice of Filing of Papers.” The notice must specify: (1) the exact title and the date of the motion that was filed; (2) the moving party; (3) a literal transcript of the prayer; and (4) that counsel for any of the individual parties may inspect, by appointment, a copy of the paper at the office of any of the members of the Steering Committee of his or her respective group.

(c) Service thus made, and notice thus given, are deemed sufficient for all individual components of the group of parties represented by said committees.

(d) Nothing provided herein may change or extend the jurisdictional or strict-compliance terms prescribed by statute or rule.

Rule 15. Court Notices

(a) All judgments rendered by the court must be served on counsel for all concerned parties included in the updated list prepared by the Steering Committees.

(b) Any interlocutory order or resolution of the court must be served only on the members of the Steering Committees. The members of each Steering Committee shall be responsible for giving notice to each party in their respective group within forty-eight (48) hours after being thus served. Notice must be given to counsel for all individual parties by brief entitled “Notice of Resolution.” The notice must specify: (1) the issuance date of the court resolution; (2) the date of entry of the court notice in the record of the case; (3) a true description of the court order or resolution; and (4) that counsel for any of the individual parties may inspect, by appointment, a copy of the resolution at the office of any of the members of the Steering Committee of his or her respective group.

(c) Service of the notice on the members of the Steering Committee is also deemed made on all individual components of the group of parties represented by said committee.

(d) The court reserves the right to order, *motu proprio* or on motion, that any interlocutory order or resolution be served on any other person it may deem necessary, including counsel for all individual parties or the parties of the concerned group or groups.

Rule 16. Filing of Appeals or Petitions for Certiorari

(a) *In matters of common interest*, the appeals and petitions for certiorari against final judgments and interlocutory resolutions must be filed by the Steering Committee of the aggrieved parties within the terms prescribed by statute, by the Rules of Civil Procedure, by the Rules of the Circuit Court of Appeals, and by the Rules of the Supreme Court.

(b) *In matters of particular interest*, counsel for the individual aggrieved party shall file the appeal or the petition for certiorari within the terms prescribed by

statute, by the Rules of Civil Procedure, by the Rules of the Circuit Court of Appeals, and by the Rules of the Supreme Court.

(c) The parties shall limit the filing of appeals or petitions in the appellate court to final decisions of the court. Petitions for review of interlocutory resolutions must be considered only when the decision or resolution sought to be reviewed:

(1) involves a controlling question of law over which there are significant interpretative differences, and appellate review may simplify the litigation or facilitate judicial case management; or

(2) requires careful consideration for examining the problem, and the stage of the proceeding is the most suitable for consideration; or

(3) may be deemed to put an end to a claim different and separable from others in the litigation; or

(4) concerns an injunction, and it is shown that the court decision might reasonably cause serious and irreparable harm; or

(5) expressly and clearly states that appealing said decision will not cause delay, or that the decision warrants prompt review.

(d) Nothing provided in subdivision C of this rule may prevent the review of interlocutory decisions that affect any substantive right of any of the parties.

Rule 17. Contents of Notice of Appeal or Petition for Certiorari

The contents of the notice of appeal or the petition for certiorari must conform to the provisions of the Rules of the Circuit Court of Appeals or of the Rules of the Supreme Court, as the case may be, with the following exceptions:

(a) *Identification of Complex Civil Case* – The caption of the appeal or the petition must indicate, under the case number, that it is a complex civil case.

(b) *Designation of Parties* – It suffices to include in the caption the names of plaintiff and defendant in the case [or] the names of plaintiff and defendant in the original case, if two or more cases are consolidated, designating them as appellant and appellee or as petitioner and respondent, as appropriate. If the appeal or the petition for certiorari concerns a matter of individual or particular interest, the name of the first party that seeks review must be included. The appearing parties must be described in the opening paragraph, specifying that all plaintiffs or all defendants in the complex case—or in the original case, if two or more cases are consolidated—appear, or specifying the names of the parties that appear, if not all the parties do so.

(c) *Designation of Counsel* – The cover of the appeal or the petition must include the names of counsel in each Steering Committee. If a *matter of particular or individual interest* is involved, the name of counsel for the individual parties must also be included. The address, telephone number, fax number, and bar association number of all the above-mentioned counsel must also be included.

(d) *Number of Pages* – The notice of appeal or petition for certiorari must not exceed thirty-five (35) pages, exclusive of the proof of service, the index, and the

appendix, unless more pages are allowed by the court. The Rules of the Circuit Court of Appeals and the Rules of the Supreme Court regarding the number of pages for notices of appeal and petitions for certiorari are not applicable to these cases.

(e) *Appendix* – The appendix need not include a literal copy of all the pleadings of the parties; it suffices to include a copy of one of the complaints and of one of the answers. The appendix must also include a copy of the court judgment or resolution sought to be reviewed, and of the notice of entry of a copy of the judgment or ruling in the record of the case; of any motion duly stamped by the court, resolution or order necessary to establish that the term for filing the notice of appeal or the petition for certiorari has been interrupted and has resumed, and the notice of entry of a copy of the resolution or order in the record of the case; of any document or paper that is part of the record of the court and that might be pertinent to decide the controversy; and of the updated list prepared by the Steering Committees.

Rule 18. Special Panel Before the Circuit Court of Appeals

(1) To achieve uniformity, safeguard the rights of the parties, and expedite the adjudication of the appeal or petition, the Administrative Judge of the Circuit Court of Appeals shall designate every year a special panel of three (3) judges to hear all appeals and petitions resulting from complex civil litigation. Once the special panel is assigned a complex civil case, the panel shall handle the case until its resolution. Simultaneously, the Administrative Judge shall designate a special substitute panel. The Administrative Judge shall designate [the members of] both special panels in rotation and in keeping with the internal administrative rules of the Circuit Court of Appeals.

(2) The Office of the Clerk of the Circuit Court of Appeals shall notify and publish the composition of the special panel and of the substitute panel as soon as possible.

Rule 19. Effective Date

These Rules are effective immediately.