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Case Management Is an Overlooked Necessity

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It is no accident that chancery, matrimonial and federal courts enlist a case management system to move their dockets.

This is precisely because it is a highly efficient way of monitoring and moving along a case that has been too often neglected for the majority of matters. Because it involves a continual case review by one judge leading generally to reasoned and informed decision-making by one potential tier of fact, case management is the most effective route.

We have all experienced cases in which it seems that every motion is assigned a different judge, with no one really monitoring or managing the case to determine the best course of conduct. Case management works because a judge or trier of fact determines an internal logic for each case so discovery, document production, depositions and expert reports, if required, are economically handled.

At present, there are fewer judges to deal with more cases than ever before in my 31-year career. Some would argue there are not enough judges for case management, but the contrary is true. Case management breeds efficiency that ultimately will relieve the docket of cases earlier.

Case management also provides the judge with an opportunity to limit and target discovery so it is meaningful and incisive. It is infinitely easier for a judge or magistrate who is monitoring a case to harness discovery in a productive way and limit excessive discovery. For example, a closely monitored case may mean that the judge will avoid the necessity of both parties securing experts until all fact discovery is taken on an expedited basis. That may well preclude the need for expert reports at all, especially if mediation and/or alternate dispute resolution is imposed before discovery has begun.

A judge or magistrate can encourage mediation or ADR at a critical and often early point, making the process more efficient and less expensive — to the client's benefit. Most cases settle even if mediation or ADR is not undertaken. New Jersey courts have actually engaged in early mediation with some frequency, unlike most states that are not as progressive in this respect. However, the process would be vastly improved if case management were used in all cases.

Best Practices was an attempt to manage cases, but not a very successful one, as it does not take into account the internal logic of each case. It was a systematic approach that largely failed because it imposes stricture at times when there should be flexibility. It just created an overlay of more rules, rather than a critical path to expedite a result.

Case management provides a way of monitoring every case in a productive, targeted and sensible way. Judges can apply common sense to discovery issues and deal with them before they become motions and major sticking points. We as lawyers need to rethink the way we do business and adjust to changing times. Although around for a while, the case management system is a concept that has been sadly neglected by the bench and bar for far too long. •

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