WHAT'S NEW
2019 Edition

This 2019 edition of the Annotated Manual for Complex Litigation updates the Federal Judicial Center’s work, last revised by the FJC in 2004. The FJC Manual continues to have tremendous value for judges and litigants involved in complex litigation—indeed, it has proven to have value for even less-than-complex cases. It has also proven valuable to state court actions. It has become, however, less than current. Most of what it says is still valid and reflects the distilled wisdom of judges with vast experience—since 2004, however, much has changed in how cases are brought and how judges handle them. This Annotated Manual attempts to incorporate these more recent developments—either in reported cases or in articles or other secondary materials on the subject.

This Annotated Manual is just that—the FJC’s invaluable compendium annotated to include some of the more recent developments that affect the issues arising in complex-case litigation and reflecting how judges deal with them. It is tethered to the FJC’s format, content, and special role. It is not an authoritative treatise—it is a collection of resources that may be of use to judges and lawyers challenged with resolving complex litigation problems. Like the FJC’s product, it is intended to share the received wisdom of scores of judges amassing decades of years of experience. This work is constrained to some degree by its format—it annotates the FJC’s Manual, and retains its structure. Many developments can be added to the discussion of similar issues that existed in 2004. Some have to be shoe-horned in because they just weren’t on the radar screen in 2004.

This new edition includes coverage of scores of new cases and articles spanning the full breadth of complex litigation. A few of these developments include:

- Analysis of the 2018 amendments to Fed. R. Civ. P. 23 and their impact on several key aspects of class action practice
- The steady and continuing development of clearer standards and requirements for class certification, including the “ascertainability” requirement applied by many courts and the challenges of establishing predominance of common issues in many class actions
Many new cases dealing with approval of class action settlements and distribution of proceeds, including unclaimed settlement funds and so-called “cy pres” distributions

Increasing concern about the use of litigation financing arrangements in complex litigation

His publisher is pleased to observe that Author David Herr received the Francis McGovern Writing Award from the Academy of Court-Appointed Masters at its 2017 Annual Meeting, with specific reference to the Annotated Manual for Complex Litigation - Fourth

This Annotated Manual is a companion to the author’s Multidistrict Litigation Manual (Thomson Reuters 2019 ed.), which addresses decisions of the Judicial Panel on Multidistrict Litigation and practice before the panel. The Panel is involved in the majority of the complex cases addressed by the Manual for Complex Litigation, and its decisions are discussed, albeit necessarily in a less comprehensive way, in this Annotated Manual.