

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order No. 2017-35-Civ

**AMENDED ADMINISTRATIVE ORDER ESTABLISHING
PROCEDURES FOR DIRECT FILING OR
REASSIGNMENT OF CIRCUIT CIVIL CASES TO A COMPLEX
BUSINESS OR COMPLEX TORT DIVISION**

(a) Florida Rule of Judicial Administration 2.215 (b) (3) states the chief judge “shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.”

(b) In accordance with the authority vested in the chief judge by Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED**:

(1) Florida Rule of Civil Procedure 1.201 shall govern the designation of a case as complex and thereafter the management of the case to final disposition.

(2) A case may be directly filed or reassigned/transferred to a complex litigation division (business or tort) only as set forth in this Administrative Order.

(3) **DIRECT FILING OF NEW CASES INTO A COMPLEX BUSINESS OR COMPLEX TORT DIVISION.** Any party seeking to direct file an original complaint meeting the criteria as set forth in this Administrative Order, into a complex business or tort division, shall complete form “B” and e-file same with the Clerk of the Courts at the time of filing. The Clerk of the Courts shall thereafter randomly assign the case to a complex business or tort division as set forth in this Administrative Order. (See Form “B” attached). Any case directly filed into a complex litigation division not meeting the criteria set forth in this Administrative Order may be reassigned by the Administrative Judge of the Circuit Civil Division or the Chief Judge presently assigned to Division (07).

(4) **REASSIGNMENT OF PENDING CASES TO A COMPLEX BUSINESS OR TORT DIVISION.** A party seeking to reassign a **tort case** to a complex litigation division shall file a motion and set a hearing before the assigned division judge. The division judge, on his or her own motion, may also request the case be reassigned to a complex litigation division. The division judge, at the time of the hearing, will determine if the case meets the requirements of this Administrative

Order for reassignment to a complex litigation division. In cases involving complex **tort** matters, if the division judge has sufficient time and resources to handle the matter, he or she may keep the case and not recommend transfer to a complex **tort** division. Upon a recommendation by the division judge to transfer a case to a complex litigation division, the Chief Judge presently assigned to Division (07) may reassign the case consistent with criteria set forth in this Administrative Order.

As it pertains to **business cases**, a party seeking to transfer a case to the complex business division shall set a hearing before the Chief Judge presently assigned to Division (07) on the Court's transfer calendar which will be on Wednesday mornings at 8:45 a.m. Requests for scheduling a business case for transfer shall be made through the Court's judicial assistant. A form (Form "A") as attached to this Administrative Order shall accompany any motion to transfer/reassign a case to a complex litigation division. All requests to transfer **business** cases to a complex business division shall be set on the Court's transfer calendar. A motion to transfer/reassign a **tort** case shall be transferred as set forth above.

Upon the denial of a request for transfer of a **tort** case to a complex division, any party may request a hearing before the Chief Judge presently assigned to Division (07) for final consideration as to whether the matter meets criteria for transfer to a complex litigation division. Any such request for a hearing shall be accompanied by use of (Form "A") and scheduled on the Court's transfer calendar on Wednesday mornings at 8:45 a.m.

Factors to be considered regarding a dispute over the transfer to a complex litigation division include: (1) the length of time needed for trial; (2) number of times the case has been set or reset for trial; (3) age of the case; (4) number of parties in the case; (5) complexity of the subject matter of the case; (6) availability of the division judge to hear the case; and (7) any prejudice that might inure to a party if the case is transferred.

(5) The Chief Judge presently assigned to Division (07) or the Administrative Judge of the Circuit Civil Division may decline reassignment of a case to a complex litigation division. If such a situation arises, the case will remain assigned to the division randomly determined at the time of filing.

(6) A case may be directly filed or reassigned/transferred to a complex **business** division based on a number of factors including: (1) the nature of the case; (2) complexity of the issues; (3) complexity of the discovery; (4) number of parties in the case; **and** (5) if the subject matter of the case meets one or more of the following:

- (a) the amount in controversy exceeds \$150,000.00 and is a Uniform Commercial Code non-consumer related transaction;
- (b) the amount in controversy exceeds \$500,000.00 and arises from the purchase and sale of a business or the assets of a business (including non-consumer contract disputes, commercial foreclosures which are accompanied by requests/motions for appointment of receiver or assignment of rents);
- (c) the amount in controversy exceeds \$150,000.00 and involves the sale of goods or services by or to business entities;
- (d) the amount in controversy exceeds \$150,000.00 and involves non-consumer bank or brokerage accounts (including loan, deposit, cash management, and investment accounts);
- (e) the amount in controversy exceeds \$150,000.00 and arises from the purchase, sale, or lease of commercial real or personal property or security interests;
- (f) the amount in controversy exceeds \$500,000.00 and relates to construction litigation (non-personal injury);
- (g) the amount in controversy exceeds \$150,000.00 and is a franchisee/franchisor dispute;
- (h) the amount in controversy exceeds \$150,000.00 and concerns professional malpractice of non-medical professionals in connection with rendering services to a business entity;
- (i) the amount in controversy exceeds \$150,000.00 and relates to the internal affairs, governance, dissolution, liquidation rights, or obligations between or among owners of a business entity (shareholders, partners, members);
- (j) the amount in controversy exceeds \$150,000.00 and concerns the liability or indemnity of officers, directors, managers, trustees, members or partners functioning as managers of a business entity;
- (k) the amount in controversy exceeds \$150,000.00 and relates to trade secrets;
- (l) the amount in controversy exceeds \$150,000.00 and relates to non-compete agreements;
- (m) the amount in controversy exceeds \$150,000.00 and is an intellectual property claim; or
- (n) the amount in controversy exceeds \$150,000.00 and arises under state securities laws or antitrust statutes.

Further, the following **business** cases described in A-H below, meeting the criteria as set forth in this Administrative Order, **shall** be directly filed or reassigned/transferred to the complex business division:

- A) All UCC non-consumer claims which exceed \$150,000.00;
- B) All commercial foreclosure cases exceeding \$500,000.00 which are accompanied by a request/motion for appointment of a receiver or assignment of rents;
- C) All cases in which the subject matter is an Assignment for the Benefit of Creditors;
- D) All business dissolutions and related shareholder/partnership/limited liability company disputes;
- E) Any business case where the subject matter relates to trade secrets where the amount in controversy exceeds \$150,000.00;
- F) All business cases involving Non-Competition Agreements or disputes where the amount in controversy exceeds \$150,000.00;
- G) Disputes involving the confirmation of non-consumer arbitration awards;
- H) All shareholder derivative actions where the amount in controversy exceeds \$150,000.00.

(7) Post-judgment matters and proceedings supplementary are generally not subject to transfer to a complex litigation division absent approval from the Chief Judge presently assigned to Division (07).

(8) Personal injury cases, construction claims with personal injuries, eminent domain, professional negligence, and class action cases that meet either the time duration or complexity criteria as set forth in this Administrative Order may qualify for transfer to a complex litigation division. Personal injury or other tort related cases seeking transfer to a complex litigation division, meeting the criteria above, must require a minimum of (10) days for trial.

(9) Class Actions: Class Actions may be subject to assignment/reassignment to a complex business division subject to the following limitations:

- a) the amount in controversy regarding the class action exceeds \$250,000.00 exclusive of claims for attorney fees;
- b) a class action has been previously certified by the division judge and the matter will take substantial judicial management of the class or issues relating to the class;
- c) any other class action in which the division judge, Chief Judge presently assigned to Division (07), and the Administrative Judge of the Circuit Civil Division agree meet the criteria for transfer to a complex litigation division.

(10) The division judge and counsel of record should strive to make an early determination as to whether a case may qualify for transfer to a complex litigation

division and make a timely motion to transfer. Factors to be considered regarding a dispute over transfer to a complex division include: (1) the length of time needed for trial; (2) number of times the case has been set or reset for trial; (3) age of the case; (4) number of parties in the case; (5) complexity of the subject matter of the case; (6) availability of the division judge to hear the case; and (7) any prejudice that might inure to a party if the case is transferred.

(11) Cases subject to transfer to a complex litigation division pursuant to this Administrative Order shall be reassigned to a particular complex litigation division based on the nature, type, duration, complexity of the case, workload of the judges serving in the complex litigation divisions, and any other factor(s) within the discretion of the Chief Judge presently assigned to Division (07) and Administrative Judge of the Circuit Civil Division.

(12) Should a judge presiding over a case in a complex litigation division be disqualified or enter an order of recusal, the matter shall be reassigned by the Chief Judge presently assigned to Division (07) or the Administrative Judge of the Circuit Civil Division utilizing the criteria set forth in this Administrative Order.

(13) Requests for direct filing or reassignment to a complex litigation division shall be accompanied by a notice/motion utilizing the forms attached to this Administrative Order.

(14) The Clerk of the Courts is directed to furnish each judge assigned to a complex litigation division a list of newly filed or assigned cases each month.

(15) This Administrative Order vacates and supersedes Administrative Order 2014-16-Civ.

DONE AND ORDERED in Chambers, Fort Lauderdale, Broward County, Florida, this 28th day of July, 2017.

/s/ Jack Tuter
Jack Tuter, Chief Judge

FORM "A"

(To be utilized only when seeking to reassign or transfer a pending case into a complex business or tort division)

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

Case Number xx-xxxxxxx CACE (xx)

Plaintiff(s)

v.

Defendant(s).

**MOTION REQUESTING TRANSFER OF BUSINESS CASE OR TORT CASE FROM
GENERAL CIVIL DIVISION TO A COMPLEX LITIGATION DIVISION**

The undersigned seeks transfer of the above entitled case to a complex litigation division (business or tort) and certifies this action is appropriate for assignment/reassignment to a complex litigation division (business or tort), and complies with Administrative Order 2017-35-Civ in that:

The case meets the criteria for one or more of the following categories:

the amount in controversy exceeds \$150,000.00 and is a Uniform Commercial Code non-consumer related transaction

the amount in controversy exceeds \$500,000.00 and arises from the purchase and sale of businesses or the assets of a business (including non-consumer contract disputes, commercial foreclosures which are accompanied by requests/motions for appointment of receiver or assignment of rents)

the amount in controversy exceeds \$150,000.00 and the sale of goods or services by or to business entities

the amount in controversy exceeds \$150,000.00 and involves non-consumer bank or brokerage accounts (including loan, deposit, cash management, and investment accounts)

the amount in controversy exceeds \$150,000.00 and arises from the purchase, sale, financing, or lease of commercial real or personal property or security interests

the amount in controversy exceeds \$150,000.00 and relates to construction litigation (non-personal injury) and/or surety bonds

the amount in controversy exceeds \$150,000.00 and is a franchisee/franchisor dispute

the amount in controversy exceeds \$150,000.00 and concerns professional malpractice of non-medical professionals in connection with rendering services to a business entity

the amount in controversy exceeds \$150,000.00 and involves non-competition agreements

the action involves confirmation of a non-consumer arbitration award that exceeds \$150,000.00

this action is a shareholder derivative action and the amount in controversy exceeds \$150,000.00

this is an action predicated on an assignment for the benefit of creditors

the amount in controversy exceeds \$150,000.00 and is an insurance coverage dispute, bad faith litigation, or a third party indemnity action against insurers arising under policies issued to a business entity

personal injury claims, construction claims with personal injury, eminent domain, professional negligence and class action cases that meet either the time duration or complexity requirements (Personal Injury cases must exceed 10 days for trial)

Is this a class action case where the amount in controversy exceeds \$250,000.00?

Yes NO

[Attorney Signature Block]

CERTIFICATE OF SERVICE

FORM "B"

(To be utilized when filing an original complaint)

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA**

**NOTICE OF INTENT TO FILE NEW CASE IN THE
COMPLEX BUSINESS OR TORT DIVISION**

THIS ACTION IS APPROPRIATE FOR ASSIGNMENT TO A COMPLEX BUSINESS OR TORT DIVISION AND COMPLIES WITH REQUIREMENTS FOR FILING IN SUCH COMPLEX LITIGATION DIVISION AS SET FORTH IN ADMINISTRATIVE ORDER 2017-35-Civ.

Is this a **tort** case which meets the criteria of Administrative Order 2017-35-Civ?

YES _____

NO _____

Is this a **business** case which meets the criteria of Administrative Order 2017-35-Civ?

YES _____

NO _____

Is this a class action case?

YES _____

NO _____

I CERTIFY the information herein is accurate and this case meets the criteria pursuant to Administrative Order 2017-35-Civ for filing in the complex business or tort division of the Seventeenth Judicial Circuit.

Signature of attorney _____

Florida Bar #

Name, Address and Phone Number