

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 16-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 16-12
(Rescinding AO No. 14-14)**

**IN RE: REAFFIRMATION OF THE
CREATION OF COMPLEX BUSINESS
LITIGATION IN THE CIRCUIT CIVIL
DIVISION OF THE ELEVENTH
JUDICIAL CIRCUIT OF FLORIDA;
DESIGNATION OF CBL SECTIONS;
AND MODIFICATION OF
PROCEDURES FOR THE
ASSIGNMENT AND REASSIGNMENT
OF CASES TO CBL SECTIONS**

WHEREAS, pursuant to Administrative Order No. 06-40, entered by this Court on November 29, 2006, Section 40 was created and dedicated as the Complex Business Litigation Section (“CBL”) within the General Jurisdiction (n/k/a the Circuit Civil Division) of this Circuit (hereinafter referred to as “Section 40”); and

WHEREAS, pursuant to subsequent Administrative Orders entered by this Court on Section 40 has been reaffirmed and certain procedures were modified for the assignment and reassignment of cases to this Section; and

WHEREAS, since its creation, the Court has continued to study and consider the nature and volume of complex business litigation cases filed in the Complex Business Litigation Section; and

WHEREAS, based upon the Court’s analysis of the current complex business litigation caseload in the Circuit Civil Division, it has been determined that certain changes appear necessary to promote the efficient handling of this caseload; and

WHEREAS, specifically, this Circuit will implement three significant changes as a pilot project, to include (1) increasing the number of judges (from one to three full time judges, with the Administrative Judge of the Circuit Civil Division serving part time on a limited caseload), exclusively assigned to hear the Circuit’s complex business litigation as defined by this Administrative Order, (2) certain causes of action as defined by action code on the civil case cover sheet shall be assigned to the Complex Business Litigation sections on a mandatory basis, and (3) the required minimum amount in controversy to

be assigned to one of the CBL sections has been increased to Seven Hundred Fifty Thousand Dollars (\$750,000.00”) for a one year period (“Pilot Project”); and

WHEREAS, accordingly, the previously established procedures for the assignment and reassignment of cases to CBL must be modified;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida under Rule 2.215, Florida Rules of Judicial Administration, it is hereby **ORDERED** that the creation of complex business litigation sections (“CBL”) is reaffirmed and will continue within the Circuit Civil Division of this Court (“Division”).

It is further **ORDERED** that the following procedures shall be followed as to the assignment and reassignment of cases with respect to CBL:

Section 1. Pilot Project Criteria.

(a) Reestablishment and Expansion of Complex Business Litigation. In addition to maintaining the existing CBL section of the Division (Section 40) and the judge assigned thereto, the CBL will be reestablished by reassigning one trial assistance (“back-up”) section and another judicial section in the Division to CBL; thereafter, assigning two (2) additional judges for a total of three (3) judges (“CBL Judges”) exclusively assigned to hear complex business litigation matters as defined below . The CBL Judges will serve as a “back-up” judge to each other, if the need arises. Further, in the event a CBL Judge is unable to preside over a CBL case due to recusal or disqualification, such case will be blind-filed to another CBL Judge.

(b) Establishment of Additional CBL Sections. Within forty-five (45) days of the date of this Administrative Order, the Clerk of the Courts (“Clerk”) is hereby authorized and directed to establish two (2) additional CBL Sections to be populated as set forth below.

(c) CBL Caseload Distribution and Retention of Foreclosure Caseload.

- i. The existing caseload in Section 40 shall be retained by the CBL Judge currently assigned thereto.
- ii. New CBL cases filed on and after the effective date of this Administrative Order (January 2, 2017) shall be distributed amongst the three CBL Sections by utilizing the current blind-filing system or variation thereof.
- iii. Section Judges in the Division will be able to request up to ten (10) cases to be transferred to the CBL which fall into the mandatory or discretionary action code. The Administrative Judge of the Division will review the transfer request to determine if such cases meet the

CBL eligibility criteria. If so, the case(s) will be blind-filed into one of the two new CBL Sections.

- iv. The Section 03 Judge shall continue to preside over the current complex business litigation cases involving a specific set of similar construction defect claims regarding fire suppression systems and all additional newly-filed construction defect claims regarding this specific issue.
 - v. The Administrative Judge of the Division, in consultation with the CBL Judges, is hereby authorized to temporarily suspend the transfer of any complex business litigation case to the CBL Sections based on the number and complexity of the cases in the CBL Sections. The Administrative Judge shall notify the Administrative Judges and other section Judges in the Division whenever a temporary suspension of transfers is imposed and lifted.
 - vi. The CBL Judges shall retain their regular judicial sections in the Division for the sole purpose of handling their current foreclosure caseloads and other foreclosure cases that may be blind-filed to such sections prospectively. Non-foreclosure cases in the CBL Judges' regular judicial section shall be distributed to other regular judicial sections in the Division.
- (d) Caseload Coverage During Trial. Each CBL Judge will be expected to try his/her own cases, regardless of its anticipated duration. However, if a particular trial is protracted, thereby potentially delaying the timely disposition of other CBL cases, another CBL Judge may provide caseload coverage for the subject judge during the duration of the trial.
- (e) Assessment of Pilot Project. In order to periodically assess the effectiveness of the Pilot Project, CBL Judges will meet regularly, to include addressing problems with case flow, case assignment and coordination. At the end of the one year term of the Pilot Project, an overall assessment of the Pilot Project will be conducted by the Chief Judge, Administrative Judge of the Division, and the CBL Judges to determine the effectiveness and efficiency of the CBL whereupon the CBL will be structured as deemed appropriate.
- (f) Staffing. As there are no funds for additional staff, staffing will remain at the current levels, to include the amount of staffing provided by the Administrative Office of the Courts and the Office of the General Counsel to the CBL. However, the personal staff of the CBL Judges will be specially trained and required to assist in case management functions.

Section 2. General Information.

A. Definition of Complex Business Litigation. Rule 1.201(a), Florida Rules of Civil Procedure, provides the definition of complex litigation. In furtherance thereto, for purposes of the CBL Sections, a “complex business case” is defined as one involving complex legal and case management issues requiring extensive judicial management in order to expedite the case, to promote effective decision making by the Court, counsel and parties, and to keep costs reasonable.

B. CBL Designations. The Clerk shall assign to the CBL Sections all newly filed cases that have been identified as subject to mandatory filing to CBL as hereinafter designated. Recognizing that cases may be subject to multiple action codes, but only one action code will be accepted by the Clerk/Portal, Counsel are advised to carefully and thoughtfully prepare their civil cover sheets to identify action codes that are appropriate for assignment to CBL.

C. Final CBL Determination. The Administrative Judge (or designee) shall ultimately determine whether an action meets a substantial number of the criteria in order to qualify for assignment to the CBL, or will otherwise place an undue burden on a regular Circuit Civil section due to the complexity and extended time management issues involved. Those cases which meet the definition of complex business litigation, or qualifying in the interests of judicial economy and the overall administration of justice, will be assigned to the CBL.

Section 3. Cases Subject to Mandatory Assignment to the Complex Business Litigation Sections Pursuant to Action Code.

Cases which are filed under the following action codes are subject to mandatory assignment to the CBL Sections, subject to confirmation of amount in controversy is in the amount of or greater than Seven Hundred Fifty Thousand Dollars (\$750,000.00), exclusive of interest, costs and attorney’s fee:

- A. 003-Breach of Contracts and indebtedness. If parties are filing a breach of contract action, they must file a complaint which sets forth the required amount in controversy as opposed to simply pleading “in excess of Fifteen Thousand Dollars (\$15,000.00).
- B. Negligence-Other
 - i. 097-Business Governance
 - ii. 098-Business Torts
 - iii. 101-Construction Defect

- C. Professional Malpractice
 - i. 094-Malpractice-Business
 - ii. 096-Malpractice-Other Professional

- D. Other
 - i. 121-Business Transactions
 - ii. 124-Corporate Trust
 - iii. 129-Shareholder Derivative Action
 - iv. 130-Securities Litigation
 - v. 131-Trade Secrets

E. International Commercial Arbitration (pursuant to AO No. 13-08)

Section 4. Discretionary Case Assignment to the Complex Business Litigation Sections

The principles set forth below shall guide the parties and the Court in the assignment and reassignment of cases to the CBL Sections, if such cases meet the minimum amount in controversy of Seven Hundred Fifty Thousand Dollars (\$750,000.00) and may result in:

- A. Numerous pre-trial motions raising difficult or novel legal issues, or legal issues inextricably intertwined and time consuming;
- B. Management of large numbers of separately represented parties on main actions, cross claims, counterclaims, third party claims;
- C. Management of large amounts of documents, both paper and electronic, during the pendency of the matter and at trial;
- D. Protracted trial;
- E. Management of large numbers of expert witnesses;
- F. Multiple claims resulting in consolidation of numerous individual actions;
- G. Potential of significant impact on the parties' business, whether from a monetary or corporate governance standpoint;
- H. A high degree of case management, including the handling of discovery disputes and motion practice;
- I. Due to the complexity of the case, the services of a Special or General Magistrate would be beneficial.

Section 5. Assignment of Cases in and out of CBL Sections

- A. Judges assigned to the Circuit Civil Division Civil Division may submit a request in the form of a judicial motion to transfer to the Administrative Judge (or designee) of the Circuit Civil Division to assign/transfer a pending case that meets the criteria of CBL.
- B. Parties who wish to be assigned to CBL must either identify their case upon filing as a mandatory case or file a Motion to Transfer to CBL at time of filing if their case is subject to discretionary review for assignment. Defendants who wish to seek assignment to CBL must file a Motion to Transfer within fifteen (15) days of their first filing in the case.
- C. The Administrative Judge of the Division (or designee) shall resolve any controversy which may arise concerning the assignment/transfer of any case to or from a CBL Section.

Section 6. Cases not subject to CBL Sections.

The following types of matters shall not be assigned to the Complex Business Litigation Section absent special circumstances:

- A. Assignment for the benefit of creditors will no longer be assigned to CBL; however, the current caseload will be completed;
- B. A matter involving occupational health or safety;
- C. An environmental claim which does not involve the sale or disposition of a business or insurance coverage dispute;
- D. A matter in eminent domain;
- E. An administrative agency, tax, zoning, or other appeal;
- F. A matter required by statute or other law to be heard in some other Court or Court Division;
- G. A case that is appropriately transferred out of a CBL Section;
- H. Tobacco litigation;
- I. Business foreclosures; and
- J. Chinese Drywall related cases.

Section 7. Complex Business Litigation Section Procedures.

In furtherance of Rules 1.200 and 1.201, Florida Rules of Civil Procedure, and this Administrative Order, the Complex Business Litigation Procedures for the Eleventh Judicial Circuit, will be revised and published on the Circuit's website, and will be available for review on each CBL Section web page.

Administrative Order No. 14-14, entered on May 7, 2014, is hereby rescinded in its entirety and held for naught.

This Order shall take effect on January 2, 2017 and shall remain in effect until January 2, 2018 unless revised by order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this 27th day of October, 2016.

**Bertila Soto, Chief Judge
Eleventh Judicial Circuit of Florida**