

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

**CASE NO. 17-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 17-11
(Rescinding AO No. 16-12)**

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

WHEREAS, 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, Section 40 was reaffirmed and certain procedures were modified for assignment and re-assignment 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, pursuant to Administrative Order No. 16-12, entered by this court October 27, 2016, this Circuit implemented 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 Administrative Order No. 16-12, (2) certain causes of action as defined by action code on the civil case cover sheet were 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 was increased to Seven Hundred Fifty Thousand Dollars (\$750,000.00”); and

WHEREAS, the pilot project having concluded, and based upon the Court’s analysis of the current complex business litigation caseload in the Circuit Civil Division, it has been

determined that the previously established procedures for the assignment and reassignment of cases to CBL must be modified to promote the efficient handling of this caseload; and

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.

- (a) Closure of Section 40 and reassignment /transfer of CBL Caseload. The CBL section of the Division (Section 40) shall be closed as of January 1, 2018, and cases assigned to Section 40 shall be reassigned and transferred to Sections 43 and 44, 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 reassigned to the other CBL Judge.
- (b) Closure of Section 35 and reassignment /transfer of Foreclosure Caseload. The Foreclosure section of the Division (Section 35) shall be closed as of January 1, 2018, and cases assigned to Section 35 shall be reassigned and transferred to Sections 20 and 58.
- (c) CBL Caseload and Foreclosure Caseload Distribution.
 - i. The existing and closed caseload in Section 40 shall be redistributed and reassigned to Sections 43 and 44.
 - ii. The existing and closed caseload in Section 35 shall be reassigned to Sections 20 and 58.
 - iii. New CBL cases filed on and after the effective date of this Administrative Order (January 2, 2018) shall be distributed amongst the two CBL Sections by utilizing the current blind-filing system or variation thereof.
 - 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 and all additional newly-filed construction defect claims on related issues. In addition, Section 03 may preside over the other specifically designated matters or when called upon by Section judges to assist.
 - v. The Administrative Judge, 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 Associate Administrative Judge and other section Judges in the Division whenever a temporary suspension of transfers is imposed and lifted.

- (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, the other CBL Judge may provide caseload coverage for the subject judge during the duration of the trial.

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
- C. 101-Construction Defect 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. Assignment for the Benefit of Creditors

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. 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.
- B. The Administrative Judge (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. A matter involving occupational health or safety;
- B. An environmental claim which does not involve the sale or disposition of a business or insurance coverage dispute;
- C. A matter in eminent domain;
- D. An administrative agency, tax, zoning, or other appeal;
- E. A matter required by statute or other law to be heard in some other Court or Court Division;
- F. A case that is appropriately transferred out of a CBL Section;
- G. Tobacco litigation;
- H. Business foreclosures; and
- I. Chinese Drywall related cases.

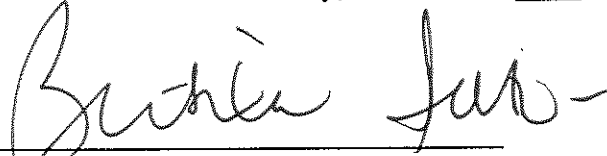
Section 7. Complex Business Litigation Section Procedures.

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. 16-12, entered on October 27, 2016, is hereby rescinded in its entirety and held for naught.

This Order shall take effect on January 2, 2018 and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this 12 day of December, 2017.

A handwritten signature in cursive script, appearing to read "Bertila Soto", written over a horizontal line.

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