

**IN THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY,  
FLORIDA**

**ADMINISTRATIVE MEMORANDUM  
NO. 22-A 24 AF CA01**

**(Court Administration)**

**IN RE: PROCEDURES FOR COVID  
BACKLOG TRIAL PROJECT IN THE  
CIRCUIT AND COUNTY CIVIL  
DIVISIONS**

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**WHEREAS**, Administrative Order No. 22-01 approved the Covid Backlog Trial Project ("CBTP") to assist in reducing the backlog in civil trials related to COVID.

**WHEREAS**, pursuant to Administrative Order No. 22-01, the Administrative Judge of the Civil Circuit Division or designee is authorized to establish CBTP procedures by Administrative Memorandum.

**NOW, THEREFORE**, this Administrative Memorandum sets forth CBTP procedures for reducing the backlog of trial cases in the Circuit and County Civil Divisions that resulted from Covid-induced delays:

**A. Covid Backlog Trial Project (one year project) February 2021-February 2022**

Project team:

Section 03 Judge Bailey [Admin. Judge/Circuit Civil, 03 CBL docket, and trials]

Section 59 Judge Walsh [Appellate Admin. Judge + Assoc. Admin. Judge/Circuit Civil Appeal docket, Civil Section 59 docket. Section 47 International Arbitration docket, and trials]

Section 02, 21 Judge Thomas [Section 02 Docket and trials]

**Objective: To reduce accumulated backlog of trial cases in the Circuit and County Civil Divisions that resulted from delays associated with Covid by assisting division judges**

As a result of court closures and reduced operations resulting from the Public Health Crisis related to Coronavirus SARS-CoV2 (Covid 19) our courts have not been able to provide

all the usual services and capacity related to jury trials. This has resulted in an accumulated backlog of Trial cases in both the Circuit and County Civil Divisions. As a result, the Circuit Civil Division is establishing a Covid Backlog Trial Project that will consist of a team of judges to assist with trials. The purpose of the unit is to handle trials, so division judges should handle as much pretrial work as possible for the CBTP judges to maximize trial time.

**B. Referral Criteria for CBTP:**

1. From division judges: The CBTP will accept cases from both Circuit Civil and County Civil Divisions. The CBTP will take all cases of whatever length, including long trials that may adversely affect division efficiency. They may come as a direct referral of a long case, or during the trial calendar for cases of any length to prevent reset/rollover.
2. From parties: A request for a CBTP assignment may be made jointly or by either party. Agreement between the parties is not required, and the procedure for requests is set forth below at section C3. (A party or parties making a request must utilize form II). If the request is opposed, the procedure is listed below at section C3(b) (A party opposing a request must utilize form III). The request forms are exhibits to this memorandum. For a case to be eligible for a request by a party, it must meet the following criteria:
  - a. Circuit Civil case is ready for trial and has been rolled over or reset at least two times (not continued at party request); or
  - b. case has been noticed at issue for trial for more than a year and has not been set for trial
3. Each case must have either a trial order or a case management order setting out all pretrial deadlines, and all deadlines need to have expired. This means:
  - a. all discovery is completed. Completed discovery means the discovery deadline has expired and any discovery disputes ruled upon.
  - b. all deadlines set by order for filing the items listed below have expired, and are either filed or subject to waiver as deadlines will be enforced:
    - i. Summary Judgments
    - ii. Motions in limine
    - iii. Jury instructions and Verdict Form
    - iv. Daubert Motions, memos, and responses
    - v. Exhibit and Witness lists
    - vi. Objections to Exhibits and Witnesses
    - vii. Deposition designations, counter-designations, and objections to designations
4. All outstanding matters under advisement with the division judge must be ruled upon prior to any judicial referral. Regarding a request by a party, if the judge

has a matter under advisement for more than 90 days, the party must identify the matter under referral, the dates of argument and submission and same shall not impede referral to CBTP.

5. Regarding Summary Judgment motions, division judges are urged to set a hearing to hear summary judgment motions as soon as they are filed, as resolution of these motions frequently influences settlements.
  - a. Upon the filing of the motion, a briefing schedule should be set even if referral to CBTP is anticipated so that the motion will be ready for resolution.
  - b. The CBTP judges will hear summary judgment motions if they are fully briefed if the division judge does not have hearing time available to hear them; however, it is important for the division judge to rule on these motions wherever possible, as the CBTP should be focused on trials.
  - c. Late filed or last-minute summary judgments will not be entertained by CBTP.
6. The CBTP will not entertain further pleading motions upon referral, including motions to amend affirmative defenses. Division judges should ensure pleadings are closed.
7. The CBTP judges will rule on all pending Daubert motions, motions in limine and jury instructions/verdict forms. Daubert motions will be ruled upon through paper submissions unless the CBTP determines a hearing is necessary.
8. Sections 03, 59, and 02 are closed to incoming cases beginning upon establishment of the project. The Chief Judge has the discretion to extend the program beyond 1 year if it is deemed necessary and appropriate.

**C. Cases for trial are accumulated by:**

1. **For long cases exceeding 7 days:** Referral from judges: see form attached
2. **For cases on a division judge's current trial calendar:** if a judge is in trial, the CBTP judges will take the next case up in order or where efficiency benefits, to avoid rollovers. If the CBTP takes a case, it is reasonable to expect the division judge to be in trial. The case will be transferred to the CBTP judge upon acceptance, and the CBTP will try the case and handle the post-trial motions with the exclusion of motions for attorney's fees, which shall be sent back to the division judge for resolution unless specifically requested by the CMTJ judge.
3. **Direct request from Lawyers/Parties:** a request for a CBTP assignment may be made jointly or by either party and should be submitted to the Administrative Judge, Judge Bailey. Agreement between the parties is not

required, and the procedure for request is below at section a. If the request is opposed, the procedure is listed below at section b.

- a. To be eligible, the case must meet the following criteria:
    - i. Pretrial/CMO deadlines have passed, ready for trial subject to ruling on the pretrial matters, and the case has been reset at least two times (not continued, but rolled over or reset by court)
    - ii. CMO deadlines have passed, the case has been noticed at issue for trial for more than a year and has not been set for trial
  - b. Procedure for Request: Parties must meet and confer about using CBTP prior to request. Use the Party Request form (attached). If opposed, the opposition must execute the opposition form (attached) within 5 days of request. Assignment will be based on written submission or, only if required and set by the Administrative Judge, argument at a hearing.
    - i. Written submissions should be factually based and reflect the facts that support CBTP referral. Judicial preference, whether for the division judge or CBTP, is not a recognized basis, nor are allegations of forum-shopping.
4. Referrals falling outside of these criteria will be considered in the interests of justice by submission of the request form with a written explanation of the circumstances. A hearing may be set at the Administrative Judge's discretion.
9. 5. The Administrative Judge (or designee) will handle administration and trial assignments:
- A. Long cases will be assigned on a rotating basis
  - B. Short cases will be taken in order of referral alternating among judges based upon availability and prioritized by age and where the needs of justice require adjustment
  - C. Hotel California rules: "you can check out any time you like, but you can never leave." Once a case is accepted on the calendar, it stays with the CBTP until trial or resolution. Once on the CBTP docket, the case will either be set or immediately tried, and will remain on a rolling trial calendar. The CBTP will endeavor to give as much notice as possible but given the goal to try as many cases as possible, once CBTP takes a case, it subject to being called for trial with 1/2 day notice. Long cases which are special set in CBTP will not be moved except in extraordinary circumstances.
    - a. A division judge may request a case back for immediate trials, which will be handled by the Administrative Judge
    - b. Cases may be sent back to the Division Judge where unique circumstances interfere with "trial ready" status.

- c. Cases will be transferred to CBTP divisions upon acceptance to assure CourtMAP access.
  - d. Trial subpoenas should utilize the following address for report: 73 W. Flagler St., Room 635 (Judge Bailey's office) for directions to the applicable courtroom, and subpoenas will reissue on a monthly cycle until the case is resolved.
  - e. After the case and post-trial motions, motions for fees are returned to division for hearing and ruling with a fee discovery order.
  - f. Emergency continuances will be handled by the CBTP judge. Continuances are disfavored.
- D. If capacity is reached, then the CBTP unit may temporarily close to new referrals.

This Administrative Memorandum shall take effect immediately and remain in effect until further order of the Court.

**DONE AND ORDERED** in Chambers at Miami-Dade County, Florida, this sh day of February, 2022.

  
**Jennifer Bailey, Administrative Judge**  
**Circuit Civil Division**

CC: TCA Lonergan, ATCAs Garcia and Wooley-Larrea, Circuit Civil Division Director Maria Harris, County Civil Division Director Mikaela Koons-Velazquez, Program Coordinator Lisette Sanabria

## REQUIREMENTS FOR REQUESTS:

### **I. Requirements for CBTL Judicial Request:**

Case style and number:

Case type (insurance claim, product liability, auto negligence, breach of contract, etc.)

Party and association attorneys for trial, email addresses and phone numbers:

Number of days estimated for trial:

Reason for referral: (long case, repeated trial settings/rollover, etc.)

Requesting Judge/JA:

### **II. Requirements for CBTL Assignment Party Request: (serve all parties and submit to Administrative Judge at CBTP@jud11.flcourts.org)**

Case style and number:

Case type (insurance claim, product liability, auto negligence, breach of contract, etc.)

Party and association attorneys for trial, email addresses and phone numbers:

Agreed or Opposed:

Number of days estimated for trial:

Reason for request: check which one applies:

- a. Where a Circuit Civil case is ready for trial and has been reset at least two times (not continued, rolled over or reset by court)
  - i. Please list dates of prior trial settings
- b. case has been noticed at issue for trial for more than a year and has not been set for trial

Outstanding matters under advisement:

List of Outstanding matters requiring ruling pretrial (please list by name, docket index number, and date of filing for purposes of docket review):

Requested Trial period (after assuring witness availability and consulting with opposing counsel):

Division Judge:

### **III. Requirements for CBTL Assignment Party Opposition: Must be submitted within 5 days of request at (serve all parties and submit to Administrative Judge at CBTP@jud11.flcourts.org)**

Case style and number:

Case type (insurance claim, product liability, auto negligence, breach of contract, etc.)

Party and association attorneys for trial, email addresses and phone numbers:

Agreed or Opposed:

Number of days estimated for trial:

Outstanding matters under advisement:

List of Outstanding matters requiring ruling pretrial (please list by name, docket index number, and date of filing for purposes of docket review):

Factual basis for opposition: please do not simply argue forum-shopping. Please include facts as to why the case does not meet criteria. If a party opposes on the basis that the case is not ready for trial, please specify what case management deadlines have been set and whether they have been complied with. If not complied with, please submit the plan for compliance to get the case to trial. As a reminder, the criteria for party request are:

Requested Trial period (after assuring witness availability and consulting with opposing counsel):

Division Judge: