

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

**ADMINISTRATIVE MEMORANDUM
No. 21-A AF 24 CA 01**

(Court Administration)

**IN RE: AMENDMENT TO THE
ESTABLISHMENT OF
CERTIFICATION OF JURY TRIAL
READINESS IN THE CIRCUIT CIVIL
DIVISION**

WHEREAS, based upon the *continued* closure of the courthouse due to the COVID-19 pandemic and related safety issues, resulting in the temporary suspension of in-person civil jury trials, it has been determined that the establishment of a means of certifying which cases are ready to go to trial when trial resumes, is necessary to achieve judicial efficiency and manage the backlog of cases resulting from the delay; and

WHEREAS, The Eleventh Circuit recognizes that these are extraordinary measures, which are required by the extraordinary circumstances of the international COVID-19 pandemic. These efforts reflect a need to get cases ready without the ultimate incentive of a trial date where the circuit is not in a position to deliver jury trials until the methodologies and procedures for such jury trials in pandemic conditions are established by the Florida Supreme Court; and

The Court has evaluated the ongoing use of the certification methodology in all cases, as set forth in Administrative Memorandum 20-C 24 AF CA 01. and recognizes that few cases have been certified for trial. As a result, the Circuit is creating two pathways for judges to be assigned jurors and courtrooms: the existing trial ready certification special setting and COVID-updated conventional trial setting.

The methodology used by a judge for a case should take into account the challenges facing the circuit during the pandemic. Judges do not have access to their regularly assigned courtrooms. All regular courtroom assignments are suspended. The courthouse is closed. Trials must be specifically identified and given a courtroom slot and jurors must be advised to report to the courtroom for trial commencement. All those associated with the trial have to be cleared to enter the building. No one who is not associated with the trials, other than employees, are allowed in the building. Start times must be staggered among the cases going to trial in order to assure effective and safe

elevator access. Everyone should plan to accommodate travel in the building at a rate of two people in an elevator at a time.

This will require an extraordinary level of coordination and cooperation among civil judges, clerks, lawyers and parties to get cases for trial. The Administrative Office of the Courts will maintain a schedule of the judges' trial periods and will offer guidance on the number of requests for trial courtrooms on a prospective monthly/weekly basis. Judges are encouraged to attempt to stagger their calendars so as to avoid many judges requesting the same trial periods. As the courthouse remains closed to all except mission critical and trials as they become available, the identification of the trial/s must be provided so that we can assure entry into the building.

The following rules apply to all in-person circuit civil jury trials during the pandemic:

1. Trial can only be held in the assigned courtroom with the ancillary space assigned by the Administrative Office of the Courts. Trials will be individually assigned to the appropriate space based on the social distancing needs of that case, and locations cannot be changed without approval of the Administrative Judge or Associate Administrative Judge.
2. All trials must be conducted in compliance with all CDC guidelines, including masks being worn at all times and social distancing at all times.
3. Pre-qualification of jury venires by Zoom is available and recommended, in order identify and resolve cause challenges in advance of live venire reporting to the courthouse.
4. The venire and subsequently-chosen jury will report directly to the Courtroom. There is no jury pool and inadequate waiting space in lobbies. Parties, witnesses, counsel shall report to their designated ancillary space and shall enter the courtroom with the Court at the commencement of the trial session. All pretrial motions must be resolved prior to trial commencement, and extended legal argument during the trial should occur on juror breaks or before the jury's arrival for the day or after the trial session has concluded for the day and the jury is dismissed. Judges must coordinate trial days with the Administrative Office of the Courts so that juror arrival and departure can be coordinated in a socially distant elevator procedure. Juror time in the courthouse must be spent in trial as opposed to waiting. Everyone involved in the trial must cooperate to assure that the safest and best practices are consistently in use.
5. Methodologies of evidence submission and display must be determined by the court in advance to avoid sharing/handling of exhibits.

6. Extended hours will not be available except in emergency situations due to coordination and staffing issues. All requests for extended hours must be submitted no later than 3 p.m. and approved by the Administrative Judge or Associate Administrative Judge.

The description of the methodologies is below.

Trial Ready Certification special setting:

This methodology can be used for any case but must be used for any case longer than 42 trial hours (roughly 7 days) in order to coordinate courtroom usage. This method is similar to that used to refer cases to the former trial assistance unit (back-up) except that the division judge will try the case¹ and must hear all pretrial matters, including Daubert and jury instructions.

The court must certify that the events below have been completed:

- a. The case is at issue.
- b. Discovery and examinations are completed
- c. All dispositive motions have been filed, heard and ruled upon.
- d. All Daubert motions have been filed, heard and ruled upon
- e. All pretrial motions, including all motions in limine have been filed, heard, and ruled upon.
- f. Jury instructions have been filed, argument heard, and the form and content of jury instructions has been finalized by the Court. Trial days should generally be expected to last approximately 6-7 hours
- g. Estimated trial time from commencement through closings/charging the jury, calculated and stated in number of trial hours as opposed to days. Hours are requested because trial days can vary depending on the judge's approach with calendars.

The Court may certify the case as ready. Signature by counsel is no longer required. Cases that are pending certification will no longer be assigned to inactive status.

The case will be special set in a designated courtroom configuration with a specific number of reporting jurors. Cases anticipated to last more than 10 days will be set approximately 60 days after certification, in order to allow the necessary number of juror summons. Certified Trials will generally start on Mondays.

The certification process is required to be used for any case anticipated to last longer than 7 days or which require more than a standard panel of 22 jurors. It may be used for any case if the presiding judge wishes to use the certification method.

Certified trials may enjoy priority, based on completion of pretrial activities.

¹ The division judge may request trial assistance from the Administrative Judge.

COVID-updated conventional trial setting:

This alternative represents an adaption of the more traditional trial setting method to the limitations placed upon the circuit by the health concerns due to the pandemic, as described above.

Under this alternative, division judges may request a specific trial period. The judge may set a conventional trial calendar during that period with multiple cases on one-hour standby for trial. Judges may be asked to alter their trial periods to assure consistent use across the calendar. Judges may wish to set a rolling calendar in order to assure availability when a trial slot comes open.

The presiding judge must hold a sounding or calendar call sufficiently prior to the commencement of the trial period to allow the completion of all pretrial work as indicated above² prior to the commencement of the trial period, recommended to occur at least 10 days prior. Trial days should generally be expected to last approximately 6-7 hours. Extended hours will not be available except in emergency situations due to staffing issues. Estimated trial time from commencement through closings/charging the jury, calculated and stated in number of trial hours as opposed to days. Hours are requested because trial days can vary depending on the judge's approach with calendars.

Once a judge identifies cases that are ready to go, and that all pretrial work has been completed and jury instructions are ready, the Administrative Office of the Courts will assign a courtroom and secure a standard jury panel of 22 jurors which will report directly to the Courtroom for commencement of trial. The judge will have the assigned jury and courtroom for that day, and is expected to start trial. For that reason, judges may want to have multiple cases ready to go. Trials set under this methodology will generally start on Tuesdays. This will allow a final day for the completion of pretrial work, and allow staggered commencement of trials. No courtroom or jury can be provided to a trial wherein the pretrial work and jury instructions have not been completed as the jury panel will report directly to the courtroom. The morning set for trial to begin, the judge and the lawyers and parties will arrive to a courtroom with jurors sitting in it ready to go. For public health reasons, jurors may not be kept waiting.

If the judge does not commence a trial on Tuesday morning, the next judge on the list will be called in to start trial on Tuesday afternoon with their ready cases. If the first two judges don't start a trial on Tuesday, the next judge on the list will be able to start on Wednesday, and so on. Once the list of judges who have requested trial time during that session is exhausted, the first judge will have an opportunity again to use the courtroom for a trial ready matter, and the list will be exhausted again until the end of the trial period.

² The case is at issue, Discovery and examinations are completed, All dispositive motions have been filed, heard and ruled upon, All Daubert motions have been filed, heard and ruled upon, All pretrial motions, including all motions in limine have been filed, heard, and ruled upon, Jury instructions have been filed, argument heard, and the form and content of jury instructions has been finalized by the Court.

In order to wisely use our court resources, the Circuit anticipates that multiple trials will be set at the same time, given that less than 2% of cases actually go to trial. The Circuit will give priority to statutory expedited cases, and after that, alternate among judges who are ready at the time to try to assure access to all.

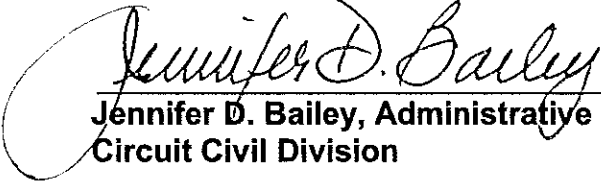
Utilization:

Judges may use both the certification for special set trials and COVID-adjusted conventional trial setting methods combined, recognizing the trial resources will need to be distributed equitably across divisions. Judges should secure calendar coverage when they are in trial so that the jury is not kept waiting, or ensure calendar completion by the appointed trial start time. Juries and venires cannot be kept waiting in an effort to limit the time in the building with others to that expressly needed for trial. Calendar coverage requests should be submitted in advance to the Administrative Judge. If the requesting judge is not in trial, they must cover their calendars.

In order to return to effective trial calendars, the bench and bar must deploy an unprecedented level of cooperation. Respect for safety must be the paramount value. Cases that are going to settle should make real effort to avoid settling at the last minute in order to permit effective utilization of our courtroom resources. We appreciate the efforts of all to assure the availability of trial by jury to the citizens of Miami-Dade County during this pandemic.

This Administrative Memorandum shall take effect on January 25, 2021 and shall remain in effect until further order of court.

DONE and ORDERED in Chambers at Miami-Dade County, Florida, this 21st of January, 2021.


Jennifer D. Bailey, Administrative Judge
Circuit Civil Division

Conformed Copy

JAN 24 2021

Jennifer D. Bailey
Circuit Court Judge