



September 2, 2020

To the lawyers and litigants with cases pending in the Eleventh Circuit Civil Division:

The Circuit Civil judges have worked diligently during the COVID shut down, holding more than 17,000 remote hearings and bench trials over the past five months. As we continue to work to deliver justice under the limitations imposed by the pandemic, it is encouraging to see COVID-19 cases on the decline in Miami-Dade County. We are hopeful that the decline in cases will continue, allowing us to enter Phase 2 under the Florida Supreme Court's Administrative Orders and our Pandemic Recovery Plan. We do not know at this time when jury trials will resume, but we want to be prepared.

We know there are many cases waiting to be tried. We also recognize our obligation to assure compliance with CDC Guidelines, Miami-Dade County Internal Services Department rules, and the best science available to assure the safety of everyone involved in a case and the safety of our court employees and other staff.

In order to begin to consider the delivery of live jury trials in these constraints, we need to marshal a list of cases that will require a jury trial to resolve, as opposed to settlement or dispositive motion. As you are all aware, upwards of 98% of cases resolve without a jury trial. In order to limit number of people in the building, to ensure safe movement through the building, and to keep our jurors in the building for only that amount of time required to try the case, we need every lawyer and party to assure that they have exhausted all efforts at settlement and their case is trial ready and going to go. What does this mean? It means that everything is done. A trial date will be an event. In these days, a trial date can no longer serve as a tool to coerce settlement at that moment while a jury waits downstairs. If you are going to settle, you need to settle before we call in a jury. Jurors will not be kept waiting, even socially distanced, while lawyers and judges resolve outstanding motions, debate deposition designations, or settle jury instructions. All pretrial work must be completed before cases can be identified as potentially ready for a live jury trial.

Once a case is ready, it will be placed on inactive until we can reach it, allowing for the possibility of a brief 60-day reopening for update discovery should it be appropriate to the case, which can be adjusted by the court depending on the circumstances.

We have issued a new Administrative Memorandum specifying the procedures to be followed to secure a jury trial during the pandemic, once public health permits us to restart trials. Lawyers and judges are required to certify that all pretrial work is done, and to estimate in real terms the amount of time the trial will take. The instructions are contained in the AM and the associated form. This will give us a

working list of our trial backlog and allow us to allocate resources to move through this backlog as efficiently, safely and justly as possible. Remember, CDC guidelines will still limit the number of live jury trials that can be safely held, so by no means is this a return to “normal.” This will, however, allow us to continue to provide the constitutional right to trial by jury in civil court in Miami. Thank you for your consideration and compliance with these new requirements. We look forward to seeing you in court.

*Judge Jennifer D. Bailey*

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