

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER  
NO.: 2003-17-1**

**AMENDED ORDER CREATING SPECIALIZED BUSINESS COURT  
SUB-DIVISION OF THE CIVIL DIVISION OF THE CIRCUIT COURT**

**WHEREAS, specialization is common in almost every profession including the law and it is increasingly common for lawyers to narrow and focus their practices and increase their mastery of distinct substantive areas of the law; and**

**WHEREAS, specialization within the legal profession has resulted in the more efficient delivery of high quality legal services in complex matters; and**

**WHEREAS, this Circuit has long recognized the need for specialized courts to deal effectively with diverse matters including criminal law, juvenile justice, domestic relations, probate and drugs; and**

**WHEREAS, the litigation and resolution of complex business, corporate and commercial disputes has become an area of specialization within the legal profession; and**

**WHEREAS, a court that consistently hears business, corporate and other commercial disputes can be expected to develop expertise, experience and knowledge enabling it to perform its functions more proficiently, rapidly and confidently; and**

**WHEREAS, a business Court will provide consistency and predictability to litigants and counsel;**

**WHEREAS, these cases often require a high degree of case management including the handling of discovery disputes and motion practice wherein the services of a Special Master would be beneficial; and**

**WHEREAS, the more efficient handling of these cases will free judicial resources to handle other important matters; and**

**WHEREAS, the decisions in these cases oftentimes impact not only the litigants but numerous persons throughout our community including employees, shareholders, partners, creditors and suppliers; and**

**WHEREAS, the establishment of a Business Court may become one more factor in helping our community to attract new businesses that are looking to re-locate; and**

**WHEREAS, the need for a Business Court has been studied by the Ninth Judicial Circuit Business Court Committee and it has passed its resolution urging the establishment of a Business Court; and**

**WHEREAS, a review of the current case load in the Civil Division of the Circuit Court in Orange County, Florida indicates that there are more than 3,000 cases currently pending that are suited for referral to a Business Court;**

**NOW, THEREFORE, I, Belvin Perry, Jr., pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.050, order that:**

**I. Business Court Established. Effective January 2, 2004, the Business Court Sub-Division of the Civil Division of the Circuit Court of the Ninth Judicial**

**Circuit of Florida is hereby established to hear complex business cases, as hereinafter defined.**

**II. Cases Subject to Business Court. The principles set out below shall guide the parties and the Court in the designation of cases for the Business Court. Notwithstanding anything to the contrary in any prior general Administrative Order or Court procedure, all jury, non-jury, injunction and class action cases filed on or after December 1, 2003 shall be assigned to the Business Court if they are among the following types of actions:**

**A. Actions relating to the internal affairs or governance, dissolution or liquidation rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees, or members or partners functioning as managers) of corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises;**

**B. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises, including the following examples:**

- 1. Uniform Commercial Code transactions;**
- 2. Purchases or sales of businesses or the assets of businesses;**
- 3. Sales of goods or services by or to business enterprises;**
- 4. Non-consumer bank or brokerage accounts, including loan, deposit, cash management and investment accounts;**
- 5. Surety bonds;**

**6. Purchases or sales or leases of, or security interests in, commercial, real or personal property; and**

**7. Franchisor/franchisee relationships;**

**C. Actions relating to trade secret or non-compete agreements;**

**D. "Business torts," such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;**

**E. Actions relating to intellectual property disputes;**

**F. Actions relating to securities, or relating to or arising under the state securities laws or antitrust;**

**G. Shareholder derivative actions and class actions based on claims otherwise falling within these types, and consumer class actions other than personal injury and products liability claims;**

**H. Actions relating to corporate trust affairs;**

**I. Malpractice claims involving business enterprises and attorneys, accountants, actuaries, architects, or other professionals in connection with the rendering of professional services to the business enterprise;**

**J. Declaratory judgment actions brought by insurers, and coverage disputes and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a commercial general liability policy;**

**K. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the**

underlying dispute would otherwise be assigned to the Business Court, not including claims where the underlying dispute is principally a personal injury claim; and

L. Such other cases where the primary issue(s) are commercial in nature.

All of the above types of actions may involve individuals named as parties, in addition to business enterprises, so long as all other criteria are met and the essential nature of the litigation is a business dispute. For example, a dispute over a commercial loan may include individual guarantors as either plaintiffs or defendants, as the case may be, but such a lawsuit would still be a commercial dispute.

III. Cases Not Subject to the Business Court. The following types of matters are not ordinarily to be assigned to the Business Court:

- A. Appeals from the County Court;
- B. Personal injury, survivor or wrongful death matters;
- C. Individual (non-class) consumer claims against businesses or insurers, including products liability and personal injury cases;
- D. Matters involving occupational health or safety;
- E. Environmental claims not involved in the sale or disposition of a business and other than those addressed in Business Court types II (J) or (K) above;
- F. Matters in eminent domain;
- G. Malpractice claims, other than those brought by business enterprises against attorneys, or accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise;

**H. Employment law cases, other than those referenced in Business Court type II (C) above;**

**I. Administrative agency, tax, zoning and other appeals;**

**J. Petition actions in the nature of change of name, mental health act, guardianship, or government election matters;**

**K. Individual residential real estate and non-commercial landlord-tenant disputes;**

**L. Suits to collect professional fees;**

**M. Cases seeking a declaratory judgment as to insurance coverage for a personal injury or property damage action;**

**N. Proceedings to enforce a judgment regardless of the nature of the underlying case;**

**O. Actions by insurers to collect premiums or rescind policies;**

**P. Domestic relations matters, and actions relating to distribution of marital property, custody or support;**

**Q. Any matter required by statute or other law to be heard in some other Court or Division;**

**R. Any criminal matter other than criminal contempt in connection with a Business Court action;**

**S. Such other cases which are appropriately transferred out of the Business Court pursuant to Section V of this Order.**

**IV. Assignment of Cases to Business Court.**

**A. Effective August 1, 2003, the Civil Cover Sheet shall include an additional line and box with which the party or attorney signing the Civil Cover Sheet must certify whether the action is appropriate for assignment to the Business Court. A "Business Court Addendum to Civil Cover Sheet," a sample of which is attached as Exhibit "A," is hereby required to be filed with all initial filings which meet the Business Court criteria and which are filed on or after August 1, 2003. The filing party or attorney shall indicate on the Business Court Addendum the applicable type or types of action which make the case appropriate for assignment to the Business Court. A party's or an attorney's signature on the Civil Cover Sheet shall constitute certification that the matter is or is not subject to the Business Court, as indicated on the Civil Cover Sheet and Addendum. A copy of the Civil Cover Sheet and Business Court Addendum shall be served with the original process served on all parties.**

**All actions designated into the Business Court pursuant to the Business Court Addendum shall be assigned to the Business Court and to the individual calendar of the Business Court Judge effective December 1, 2003.**

**B. Cases meeting the criteria to qualify as Business Court cases pursuant to this Administrative Order shall be assigned to Subdivision 32 in the Circuit Civil Division in Orange County.**

**C. Effective October 1, 2003, the Clerk of Court shall cease assigning any newly filed cases to Subdivision 32 and instead, the Clerk of Court shall begin randomly and equally assigning all newly filed cases to the other Subdivisions 33, 34, 35, 37, 39, and 40 in the Circuit Civil Division.**

**D. The pending cases currently assigned to Subdivision 32 which were filed prior to October 1, 2003 shall remain assigned to Subdivision 32 and the Business Court Judge will continue to handle these cases.**

**E. Effective December 1, 2003, the Clerk of Court shall begin assigning all newly filed cases which meet the criteria as Business Court cases to Subdivision 32.**

**F. The Judges assigned to the other Subdivisions in the Circuit Civil Division and/or litigants may initiate and submit a request to the Administrative Judge of the Circuit Civil Division that a pending case which meets the criteria of the Business Court be re-assigned/transferred to Subdivision 32 per the Administrative Judge's discretion.**

**G. Controversies which may arise concerning the re-assignment/transfer of any cases in the Circuit Civil Division, including, but not limited to, Business Court cases, shall be resolved by the Administrative Judge of the Circuit Civil Division.**

**V. Disputes Arising From the Civil Cover Sheet Designation. If any party disagrees with the designation or lack of designation of a case into the Business Court, that party shall file with the initially-assigned Judge a "Motion to Transfer Divisions" and the motion will be resolved by the Administrative Judge of the Circuit Civil Division in accordance with the Ninth Judicial Circuit Administrative Procedures for case re-assignment.**

**VI. Case Management Procedures. Unless otherwise ordered by the Business Court Judge these procedures will apply to all cases which are assigned to the Business**



**Court. Those existing cases which are transferred to the Business Court will be subject to these procedures at the discretion of the Business Court Judge.**

**A. The Case Management Conference. Typically, notice of a Case Management Conference ("CMC") will be sent to counsel and unrepresented parties sixty days after filing of the Complaint, scheduling the CMC for approximately ninety days after filing. In certain circumstances, the CMC may be scheduled through the Business Court Judge. Prior to the CMC, it shall be the obligation of the parties to confer concerning all of the following matters, for the purposes of reaching agreements. The following subjects, along with other appropriate topics including those set forth in Fla R. Civ. P. 1.200 (a), will be discussed at the CMC:**

- 1. Pleadings issues, including service of process, venue, joinder of additional parties, theories of liability, damages claimed and applicable defenses;**
- 2. Timing and potential forms of Alternative Dispute Resolution (ADR);**
- 3. Scheduling dispositive motions and scheduling limited-issue discovery in aid of early dispositive motions;**
- 4. The possibility of settlement;**
- 5. Preparation and issuance of a Case Management Order ("CMO"), which will set forth a target trial date, deemed the earliest trial date;**
- 6. A discovery plan and schedule based on the CMO date for the completion of discovery; and**

**7. Anticipated areas of expert testimony, timing for identification of experts, responses to expert discovery, exchange of expert reports (reference to the CMO).**

**The Business Court Judge, in his/her discretion, may, upon application of any party or upon his/her own initiative, modify these procedures. The Business Court Judge may establish any informal procedures to achieve expeditious resolution of discovery disputes and other non-dispositive issues.**

**B. Case Management Order. After the CMC, the Business Court Judge shall issue a Case Management Order ("CMO") setting forth dates for mediation and for a pretrial conference (with pretrial statements typically to be filed in advance), and for trial. The CMO will also address the other matters discussed or developed at the CMC, including cut-off dates for completion of discovery, for the service of expert reports and for the filing of motions.**

**Based upon the nature and complexity of the case, the Business Court Judge, with input from the parties at the CMC, shall assign the case to a track. The Business Court shall typically employ the following management tracks: Business Expedited (Target Trial Date within 13 months of Complaint) and Business Standard (Target Trial Date within 18 months of Complaint). Only exceptionally complicated cases should be designated Business Complex (Target Trial Date within Two Years of Complaint). In the latter instance, the Business Court Judge may schedule status conferences at six month intervals or at any other times upon application of the parties, if appropriate.**

**The Business Expedited Track shall consist of matters in which minimal discovery is needed and legal issues are anticipated to be routine. Examples of such actions, in the absence of complicating factors, are actions relating to commercial loans, and contract, UCC and foreclosure matters. Other matters should presumptively be designated Business Standard. Actions in which preliminary injunctive relief is sought may be appropriate for any of the tracks depending upon the circumstances.**

**C. Pretrial Conference. A Pretrial Conference shall be held in all Business Court actions pursuant to this Order and Fla R. Civ. P. 1.200 (b). The pretrial conference will typically be set approximately sixty (60) days prior to the target trial date. The Business Court shall exercise its best efforts to try the matter as soon after the target trial date as practicable.**

**Typically, the CMO will require the filing of pretrial statements in advance of the pretrial conference. Prior to the pretrial conference, principal trial counsel shall confer on the matters set forth in Fla R. Civ. P. 1.200 (b), and attempt to reach agreement on such matters.**

**Following the pretrial conference, the Business Court Judge shall enter a Pretrial Order pursuant to Fla R. Civ. P. 1.200 (b), identifying the date by which the matter should be prepared for trial and otherwise controlling the conduct of trial. The Pretrial Order may further provide specific dates for such matters as:**

- 1. Exchange of proposed stipulations and filing of stipulations to facts and issues of law about which there can be no reasonable dispute;**
- 2. Pre-marking and exchanging copies of all documents or other exhibits to be offered in evidence at trial;**

3. Service and filing of written objections to any documents or other exhibits as to which a party intends to object at trial, together with the legal basis for such objections;

4. Identification in writing of all deposition testimony, by page and line number, intended to be read into the record at trial, followed by counter-designations and objections to deposition designations;

5. Exchange of trial briefs and proposed findings of fact and conclusions of law (nonjury) or proposed jury instructions; and

6. Such other matters as the Court deems appropriate.

At such time prior to trial as may be fixed by the Court, it shall rule on all matters placed in issue under this procedure. In addition, the Court may establish procedures consistent with the requirements of each case to ensure close interaction with the parties in order to minimize trial time.

## **VII. Appointments.**

A. The Honorable Renee A. Roche currently assigned to Subdivision 32 in the Circuit Civil Division shall remain assigned to Subdivision 32 and is designated the Business Court Judge until further order.

B. The Chief Judge may appoint a Business Court Special Master to hear all matters referred to him or her by the Judge of the Business Court Sub-Division pursuant to Fla. R. Civ. P. 1.490, and to make recommendations and proposed findings of fact and conclusions of law for the Judge's consideration. The Special Master's

compensation and source of funding shall be addressed in future Orders of the Chief Judge.

VIII. Administrative Order No. 2003-17 dated June 26, 2003 and Administrative Order No. 2003-25 dated September 25, 2003 are vacated and set aside.

DONE AND ORDERED at Orlando, Orange County, Florida this 26<sup>th</sup> day of November, 2003. Nunc pro tunc to August 1, 2003.

/s/ Belvin Perry, Jr.  
Belvin Perry, Jr.  
Chief Judge

**Copies to:**

All Circuit and County Judges, Ninth Judicial Circuit of Florida  
State Attorney's Office, Ninth Judicial Circuit  
Public Defender's Office, Ninth Judicial Circuit  
General Counsel, Orange County Sheriff's Office  
Orange County Attorney's Office  
Osceola County Attorney's Office  
Orange County Corrections  
Orange County Bar Association  
Bar Briefs, Orange County Bar Association  
Paul C. Perkins Bar Association  
Hispanic Bar of Central Florida  
Central Florida Association for Women Lawyers  
Clerk of Courts, Orange County  
Clerk of Courts, Osceola County  
The Osceola County Bar Association  
The Osceola County Law Library  
The Osceola County Sheriff's Office  
Director, The Osceola County Department of Corrections  
Office of the Statewide Prosecutor  
Central Florida Criminal Defense Attorneys Association  
Executive Director of the Florida Bar  
Official Records, Orange County Comptroller

Administrative Order No.: 2003-17-1

**CIVIL COVER SHEET  
BUSINESS COURT ADDENDUM  
PARTY OR ATTORNEY FILING ACTION MUST SELECT WHICH  
APPLIES**

**Cases Subject to Business Court.** The principles set out below shall guide the parties and the Court in the designation of cases for the Business Court. Notwithstanding anything to the contrary in any prior general Administrative Order or Court procedure, all jury, non-jury, injunction and class action cases shall be assigned to the Business Court if they are among the following types of actions. These actions may involve individuals named as parties, in addition to business enterprises, so long as the essential nature of the litigation is a business dispute. For example, a dispute over a commercial loan may include individual guarantors as either plaintiffs or defendants, as the case may be, but such a lawsuit would still be a business dispute:

- ± **A. Actions relating to the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees or members or partners functioning as managers) of corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises;**
- ± **B. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:
  - 1. Uniform Commercial Code transactions;
  - 2. Purchases or sales of businesses or the assets of businesses;
  - 3. Sales of goods or services by or to business enterprises;
  - 4. Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;
  - 5. Surety bonds;
  - 6. Purchases or sales or leases of, or security interests in, commercial, real or personal property; and
  - 7. Franchisor/franchisee relationships.**
- ± **C. Actions relating to trade secret or non-compete agreements;**
- ± **D. Business torts, such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;**
- ± **E. Actions relating to intellectual property disputes;**
- ± **F. Actions relating to securities, or relating to or arising under the state securities laws or antitrust;**
- ± **G. Shareholder derivative actions and class actions based on claims otherwise falling within these types, and consumer class actions other than personal injury and products liability claims;**
- ± **H. Actions relating to corporate trust affairs;**

- ± **I. Malpractice claims involving business enterprises and attorneys, accountants, actuaries, architects, or other professionals in connection with the rendering of professional services to the business enterprise;**
- ± **J. Declaratory judgment actions brought by insurers, and coverage disputes and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a commercial general liability policy, and;**
- ± **K. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be assigned to the Business Court, not including claims where the underlying dispute is principally a personal injury claim.**

***NOTE:*** A copy of the Civil Cover Sheet and Addendum must be served with the Complaint for all Business Court cases. See Administrative Order No. 2003-17-1 for further Business Court requirements.

**EXHIBIT "A"**