

AMENDED ADMINISTRATIVE ORDER GOVERNING BUSINESS COURT

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to the chief judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the chief judge is required to exercise direction, *see* Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and

WHEREAS, the Ninth Judicial Circuit started the first business court in the State of Florida in 2003; and

WHEREAS, this specialty subdivision handled a reduced caseload due to the complexity of the cases and the specialized knowledge and training required to preside over such a subdivision; and

WHEREAS, for more than a decade, workloads in other divisions of the Court have increased dramatically, but no additional judicial resources had been provided to the Ninth Judicial Circuit despite the Court qualifying for those resources; and

WHEREAS, in 2018 the workload in other court divisions increased to the breaking point, necessitating the closing of business court to reallocate overtaxed resources to serve the immediate needs of children and families in the Ninth Circuit; and

WHEREAS, the Governor of the State of Florida approved the funding of one additional Judge for the Ninth Judicial Circuit as allocated by the Florida Legislature at the close of the Legislative Session on May 3, 2019, representing the first expansion of the judicial workforce in thirteen years; and

WHEREAS, due to the concerted efforts of many, the Ninth Judicial Circuit hereby reestablishes a business court subdivision which provides a case management structure that facilitates more timely, effective, and predictable resolution of complex business cases thereby improving the efficiency of the courts, which benefits all litigants;

NOW, THEREFORE, I, Donald A. Myers, Jr., in order to facilitate the efficient operation of the administration of justice, and pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, hereby order, **effective immediately**, to continue until further order and superseding any provisions in prior Administrative Orders which may be inconsistent:

Subdivision 43-2 (Business Court) in the Circuit Civil Division is hereby re-activated and shall begin operation on **October 21, 2019**. An initial caseload shall be established via separate order.

Effective **October 21, 2019**, the Honorable Dan Traver shall be assigned to Subdivision 43-2 in the Circuit Civil Division until further order.

The following procedures and criteria shall govern the assignment of cases to the Business Court Subdivision in the Circuit Civil Division of this Court, Orange County:

I. Cases Subject to Business Court.

The principles set out below shall guide the parties and the Court in the assignment of cases to 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 Business Court, if they are among the following types of actions:

A. Any of the following where the amount in controversy is \$500,000.00 or more:

1. Claims arising from U.C.C. related transactions;
2. Claims arising from the purchases and sales of businesses or the assets of a business, including contract disputes and business torts;
3. Claims involving the sale of goods or services by or to business enterprises;
4. Claims involving non-consumer bank or brokerage accounts, including loan, deposit, cash management, and investment accounts;
5. Claims arising from the purchase or sale of commercial real or personal property or security interests therein;
6. Claims related to surety bonds;
7. Franchisee/franchisor relationships and liabilities;
8. Malpractice claims of non-medical professionals in connection with rendering services to a business enterprise;
9. Insurance coverage disputes, bad faith suits, and third party indemnity actions against insurers arising under policies issued to businesses, such as claims arising under a commercial general liability policy or commercial property policy; and

10. Other complex disputes of a commercial nature, excluding those listed in Section II, below. Cases eligible under this category will normally have four or more parties, multiple claims and defenses, third party, cross or counterclaims, complex factual or legal issues, or other unusual features warranting assignment to Business Court. The Court may accept commercial foreclosure and landlord-tenant cases if the case meets amount in controversy requirements and if the case has a complex nature that differentiates it from ordinary foreclosure and landlord-tenant disputes.

11. **For all cases listed in section I., paragraph A. of this Order, the parties must file a complaint which sets forth the actual amount in controversy as opposed to simply pleading “in excess of Five Hundred Thousand Dollars (\$500,000.00).**

B. Any of the following without regard to the amount in controversy:

1. Actions relating to the internal affairs or governance, dissolution or liquidation rights 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;

2. Actions relating to trade secrets and non-compete agreements;

3. Intellectual property claims;

4. Actions relating to securities or relating to or arising under the state securities laws or antitrust statutes;

5. Shareholder derivative actions and class actions involving claims that are subject to Business Court, pursuant to this Order; and

6. Actions relating to corporate trust affairs or director and officer liability.

II. Cases Not Subject to Business Court.

The following types of matters are not ordinarily to be assigned to Business Court:

- A. Appeals from the County Court;
- B. Personal injury, survivor, or wrongful death matters;
- C. All individual and class action consumer claims;
- D. Matters involving occupational health or safety;
- E. Environmental claims which do not involve the sale or disposition of a business or the claims addressed in Section I., paragraphs 8. and 9., above;
- F. Matters in eminent domain;
- G. Malpractice claims, other than those brought by business enterprises against attorneys, accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise;
- H. Employment law cases, other than those addressed in Section I., paragraph B. 2., 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 court division;

R. Any criminal matter, except 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 IV. of this Order.

III. Assignment of Cases to Business Court.

A. Effective immediately, the Civil Cover Sheet shall include an additional line and box where the party or attorney signing the Civil Cover Sheet must certify whether the action is appropriate for assignment to Business Court. A “Business Court Addendum to Civil Cover Sheet” (“Addendum”), a sample of which is attached hereto as Exhibit “A,” is hereby required to be filed with all initial filings that meet the Business Court criteria and which are filed on or after the date of this Order. The filing party or attorney shall indicate on the Addendum the applicable type or types of action that qualify the case for assignment to Business Court. A party’s or an attorney’s signature on the Civil Cover Sheet shall constitute certification that the matter is appropriate for Business Court. A copy of the Civil Cover Sheet and Addendum shall be served on all parties.

B. Cases meeting the criteria to qualify for Business Court, pursuant to this Administrative Order, shall be assigned to Subdivision 43-2 in the Circuit Civil Division, Orange County, by the Clerk of the Court. If the amount in controversy is less than \$500,000.00, the Clerk of the Court shall randomly assign the case to a general Circuit Civil Subdivision.

C. Judges assigned to other subdivisions in the Circuit Civil Division and/or litigants may submit a request to the Administrative Judge of the Circuit Civil Division to assign/transfer a pending case that meets the criteria of Business Court to Subdivision 43-2.

D. The Administrative Judge of the Circuit Civil Division may transfer complex commercial cases to Business Court or to a general Circuit Civil Subdivision as deemed appropriate regardless of the criteria as stated herein. However, nothing herein shall prevent the Chief Judge, the Administrative Judge of the Circuit Civil Division, or a designated judge in the absence of all of the foregoing from transferring any case in the interest of judicial economy.

E. Controversies which may arise concerning the assignment/transfer of any case in the Circuit Civil Division, including Business Court cases, shall be resolved by the Administrative Judge of the Circuit Civil Division.

F. Any deadlines established by an existing Case Management Order, other than trial or pretrial dates, remain in effect unless modified by subsequent court order.

IV. Disputes Arising from the Civil Cover Sheet Designation.

If any party disagrees with the assignment or lack of assignment of a case to Business Court, that party may file a “Motion to Transfer Divisions” with the Judge in the assigned subdivision, 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.

Administrative Orders 2019-08 and 2018-08 are vacated and set aside except to the extent that each has been incorporated and/or amended herein. Vacating an Administrative Order that vacates a prior Order does not revive the prior Order.

DONE AND ORDERED at Orlando, Florida, this 4th day of October, 2019.

_____/s/_____
Donald A. Myers, Jr.
Chief Judge

Copies provided to:

Clerk of Court, Orange County
Clerk of Court, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>

EXHIBIT “A”

[CIVIL COVER SHEET BUSINESS COURT ADDENDUM]

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 assignment of cases to Business Court. All jury, non-jury, injunction and class action cases shall be assigned to Business Court if they are among the following types of actions:

- A. Any of the following where the amount in controversy is **\$500,000.00 or more**:
- 1. Claims arising from U.C.C. related transactions;
 - 2. Claims arising from the purchases and sales of business or the assets of a business including contract disputes and business torts;
 - 3. Claims involving the sale of goods or services by or to business enterprises;
 - 4. Claims involving non-consumer bank or brokerage accounts, including loan, deposit, cash management, and investment accounts;
 - 5. Claims arising from the purchase, sale, lease of real or personal property or security interests therein, excluding commercial landlord tenant claims;
 - 6. Claims related to surety bonds;
 - 7. Franchisee/franchisor relationships and liabilities;
 - 8. Malpractice claims of non-medical professionals in connection with rendering services to a business enterprise;
 - 9. Insurance coverage disputes, bad faith suits, and third party indemnity actions against insurers arising under policies issued to businesses, such as those claims arising under a commercial general liability policy or commercial property policy; and
 - 10. Other complex disputes of a commercial nature, excluding those listed in Section II of Administrative Order Number 2019-08-01. Cases eligible under this category will normally have four or more parties, multiple claims and defenses, third party, cross or counterclaims, complex factual or legal issues, or other unusual features warranting assignment to Business Court.

B. Any of the following without regard to the amount in controversy:

___ 1. 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;

___ 2. Actions relating to trade secrets and non-compete agreements;

___ 3. Intellectual property claims;

___ 4. Actions relating to securities or relating to or arising under the state securities laws or antitrust statutes;

___ 5. Shareholder derivative suits and class actions involving claims that are subject to Business Court, pursuant to Administrative Order Number 2019-08-01; and

___ 6. Actions relating to corporate trust affairs or director and officer liability.

NOTE: A copy of the Civil Cover Sheet and this Addendum must be served with the Complaint for all Business Court cases. See Administrative Order Number 2019-08-01 for further Business Court requirements.