

**IN THE THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER S-2008-105
(Supersedes Administrative Order S-2007-004)**

COMPLEX BUSINESS LITIGATION DIVISION

Specialization is common in almost every profession including the law. It is increasingly common for lawyers to narrow and focus their practices and increase their mastery of distinct substantive areas of the law. Specialization within the legal profession has resulted in the more efficient delivery of high quality legal services in complex matters. This circuit has long recognized the need for specialized courts to deal effectively with diverse matters including criminal law, juvenile justice, domestic relations and drugs.

The litigation and resolution of complex business, corporate and commercial disputes has become an area of specialization within the legal profession. A specialized division 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.

Complex business cases often require a high degree of case management including the handling of discovery disputes and motion practice. The more efficient handling of these cases will free judicial resources to handle other important matters. The decisions in these complex business cases often times impact not only the litigants, but numerous persons throughout our community.

And so, a Complex Business Litigation Division became operational in January 2007 to provide consistency and predictability to litigants and counsel. Since its creation, the court has studied and considered the nature and volume of complex business litigation cases filed in this division. Due to the volume of these cases, it is necessary for the proper and efficient administration of these cases to modify some of the procedures for the assignment of cases to the Complex Business Litigation Division.

By the power invested in me under Florida Rule of Judicial Administration 2.215(b)(2), it is therefore **ORDERED**:

1. Division "L"

General Civil Division "L" continues as the Complex Business Litigation Division to hear complex business cases, as defined in this administrative order.

2. Eligible Cases

If the Complex Business Litigation Division is open for admission of new cases (see section 6 of this administrative order), every case shall initially be assigned to the Complex Business Litigation Division if it is among any of the following types of actions:

A. Amount in Controversy Greater Than \$150,000

Where the amount in controversy is greater than \$150,000, any claim arising from, related to or involving:

- i. Non-consumer UCC related transactions;
- ii. Purchases and sales of businesses or the assets of a business, including contract disputes, commercial landlord-tenant claims, and business torts;
- iii. Non-consumer sale of goods or services by or to business enterprises;
- iv. Non-consumer bank or brokerage accounts, including loan, deposit, cash management, and investment accounts;
- v. Purchase, sale, lease of commercial (real or personal) property or security interests therein;
- vi. Commercial surety bonds;
- vii. Franchisee / franchisor relationships and liabilities;
- viii. Malpractice against professionals, except health care providers, in connection with rendering services relating to a business enterprise;
- ix. Business torts, including unfair competition, breach of fiduciary duty, and tortious interference with contracts;
- ix. Complex construction litigation, other than consumer home construction disputes, unless a court determines that the home construction dispute is business-related and complex. For a home construction dispute claim to be business-related and complex, it 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; or
- xi. Insurance coverage, bad faith litigation, and third party indemnity actions against insurers arising under policies issued to businesses, such as claims arising under a commercial general liability policy, commercial property policy, or title insurance policy, not including claims where the underlying dispute is a personal injury claim, unless a court determines that the personal injury insurance claim is business-related and complex. For a personal injury insurance claim to be business-related and

complex, it 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.

B. Any Amount in Controversy

Regardless of the amount in controversy, any action or claim arising from, related to or involving:

- i. 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;
- ii. Trade secrets and non-compete agreements;
- iii. Intellectual property;
- iv. Securities or state securities laws;
- v. Antitrust statutes;
- vi. Shareholder derivative actions and related class actions; or
- vii. Corporate trust affairs or director and officer liability.

3. Ineligible Cases

The following types of matters should not be assigned to the Complex Business Litigation Division:

- A. Personal injury, survivor or wrongful death;
- B. Individual and class action consumer claims;
- C. Occupational health or safety;
- D. Environmental claims which do not involve the sale or disposition of a business;
- E. Eminent domain;
- F. 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;
- G. Employment law, other than those relating to trade secrets and non-

compete agreements;

- H. Administrative agency, tax and review of zoning decisions;
- I. Government elections;
- J. Individual residential real estate and non-commercial landlord-tenant disputes;
- K. Collection of professional fees;
- L. Proceedings to enforce a judgment regardless of the nature of the underlying case; and
- M. Actions by insurers to collect premiums or rescind policies.

4. Civil Cover Sheet & Addendum

The Civil Cover Sheet, Form 1.997 of the Florida Rules of Civil Procedures, shall include an additional box where the party or attorney signing the Civil Cover Sheet must indicate whether the action is eligible for assignment to the Complex Business Litigation Division. If the Complex Business Litigation Division is open for admission of new cases (see section 6 of this administrative order), an “Addendum to Civil Cover Sheet” shall be filed with all initial filings which meet the criteria of section 2 of this administrative order. The Civil Cover Sheet and Addendum can be found at www.fljud13.org.

The filing party or attorney shall indicate on the Addendum the applicable type or types of action which make the case eligible for assignment to Division “L.” A party’s or an attorney’s signature on a Civil Cover Sheet which indicates the action is subject to assignment to the Complex Business Litigation Division shall constitute certification that the matter is eligible for initial assignment to the Division. If the Complex Business Litigation Division is open for admission of new cases (see section 6 of this administrative order), a copy of the Civil Cover Sheet and Addendum shall be served with the original process served on all parties.

5. Complexity Determination

Cases initially filed in Division “L” pursuant to section 2 of this administrative order may remain in the division if the case is determined to be a “complex business case.” A “complex business case” is defined as an eligible case involving complex legal and case management issues requiring extensive judicial management in order to expedite the case, to promote effective decision making by the court, counsel and parties, and to keep costs reasonable.

In determining whether an eligible action qualifies as a complex business case, the court should consider whether the matter will likely involve:

- (A) Numerous pretrial motions raising difficult or novel legal issues, or legal

issues inextricably intertwined and time consuming;

- (B) Management of large numbers of separately represented parties on main actions, cross claims, counterclaims and third party claims;
- (C) Management of large amounts of documents, both paper and electronic, during the pendency of the matter and at trial;
- (D) Management of large numbers of expert witnesses;
- (E) Multiple claims resulting in consolidation of numerous individual motions;
- (F) Potential of significant impact on the parties' business, whether from a monetary or corporate governance standpoint; and
- (G) A high degree of case management, including the handling of discovery disputes and motion practice, in which the services of a special or general magistrate would be beneficial.

The presiding judge of Division "L" shall determine if an eligible action meets enough of the foregoing "complex business case" factors to warrant the case remaining in the Complex Business Litigation Division. The court should make the complexity determination no later than the initial case management conference. Only a case which meets the definition of a complex business case will remain assigned to Division "L." If a case originally assigned to the Complex Business Litigation Division is determined not to meet the definition of a complex business case (or not to meet the eligibility criteria of section 2 of this administrative order), the presiding judge of Division "L" will enter an order directing the clerk to reassign the case to another General Civil Division by a random, equitable distribution system.

6. Caseload Cap

The administrative judge of the General Civil Division will have the discretion to close admission of new cases into the Complex Business Litigation Division if the number of pending cases in Division "L" exceeds 300. While admission of new cases to Division "L" is closed, cases normally assigned to the Complex Business Litigation Division under section 2 of this administrative order will be assigned to another General Civil Division by a random, equitable distribution system. Based on the pending caseload in Division "L," the Complex Business Litigation Division will be closed for admission of new cases on the effective date of this administrative order.

The administrative judge of the General Civil Division, in consultation with the presiding judge of Division "L," will determine when the Complex Business Litigation Division will be re-opened for admission of new cases. Once Division "L" is re-opened for admission of new cases, parties may seek admission into the Complex Business Litigation Division via initial filing pursuant to section 2 of this administrative order or via Motion to Transfer pursuant to section 7 of this administrative order.

7. Transfer of Cases

If the Complex Business Litigation Division is open for admission of new cases and if a case pending in any division other than Division "L" meets the eligibility criteria for a Complex Business Litigation Division case, a party may file a "Motion to Transfer Case to the Complex Business Litigation Division." The motion must explain how the action meets the definition of a "complex business case" under the factors listed in section 5 of this administrative order. Any such motion shall be considered by the judge presiding in Division "L." If the presiding judge grants such a motion, the clerk shall transfer the case to Division "L."

If the Complex Business Litigation Division is open for admission of new cases, any judge presiding in the General Civil Division may refer a case to the presiding judge in Division "L" for consideration of transfer to the Complex Business Litigation Division. A case may be transferred from a General Civil Division to the Complex Business Litigation Division only by an Order of Transfer issued by the presiding judge of Division "L."

8. Case Management Procedures

The presiding judge in Division "L" may establish specific case management procedures for the Complex Business Litigation Division.

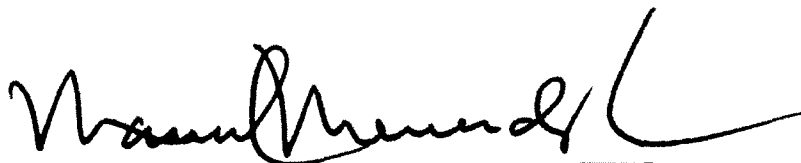
9. Previous Administrative Order Superseded

This administrative order supersedes Administrative Order S-2007-004 (*Complex Business Litigation Division*).

10. Effective Date

This administrative order is effective August 18, 2008.

DONE AND ORDERED in Tampa, Hillsborough County, Florida on this 30th day of July, 2008.



Manuel Menendez, Jr., Chief Judge

Original to: Pat Frank, Clerk of the Circuit Court
Copies to: All General Civil Division Judges