

THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 14-1
(Court Administration)

ADMINISTRATIVE ORDER
NO. 14-07

IN RE: CLARIFICATION OF
PROBATE-RELATED AND
NON-PROBATE-RELATED
TRUST CASES

WHEREAS, it is necessary to clarify within the Circuit Civil and Probate Divisions the status of proceedings concerning trusts; and

WHEREAS, the prior statute pertaining to trusts, Chapter 737, Florida Statutes, has been repealed, and the current Trust Code is now contained at Chapter 736, Florida Statutes;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215 of the Florida Rules of Judicial Administration, it is hereby **ORDERED** that:

1. The following proceedings shall be deemed Probate-related and shall be commenced as follows:
 - a. **Chapter 736 Proceedings.** As per section 736.0201(1), Florida Statutes, judicial proceedings concerning trusts shall be commenced by filing a complaint and shall be governed by the Florida Rules of Civil Procedure. A trust is not subject to continuing judicial supervision unless ordered by the court. The court may intervene in the administration of a trust to the extent the court's jurisdiction is invoked by an interested person or as provided by law.
 - b. **Testamentary Trusts.** A proceeding for the construction of a testamentary trust may be filed in the probate proceeding for the testator's estate, and this proceeding shall be governed by the Florida Probate Rules.

- c. **Equitable Claims against an Estate.** Suits involving the personal representative of the estate of a decedent or ward that were wholly cognizable in equity shall be commenced as an original proceeding by filing a complaint. After commencement of the suit, it shall be assigned by the Clerk as a companion case to the Probate Judge responsible for the estate or guardianship proceeding from which it emanated.

2. The following proceedings shall not be deemed Probate related cases and shall be commenced as follows:

Creditors' and Personal Representatives' Claims. All claims of creditors against the estate of a decedent or ward and all claims of a personal representative or guardian shall not be deemed Probate-related, and shall be commenced in a court of competent jurisdiction as an independent action and litigated to judgment there.

3. **Blind Filing System.** All assignments will be made by division in accordance with the blind filing system. However, when a proceeding emanates from an estate subject to probate in the Probate Division of the Circuit Court of this Circuit, it may be assigned by the Administrative Judge of that Division to the Judge who presided over the original estate proceeding.

This Administrative Order shall take effect immediately upon execution, and shall remain in effect until further order of the Court.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida, this 29th day of April, 2014.

Honorable Bertila Soto, Chief Judge
Eleventh Judicial Circuit of Florida