

THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 14-1
(Court Administration)

ADMINISTRATIVE ORDER
NO. 14-07 A1
(Superseding and Clarifying AO 14-07)

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

WHEREAS, subsequent to the issuance of Administrative Order No. 14-07 it was deemed necessary to further clarify within the Circuit Civil and Probate Divisions the status of proceedings concerning trusts; and

WHEREAS, accordingly, this Administrative Order seeks to provide such clarification;

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.** Any proceeding arising under or governed by Chapter 736, Florida Statutes (except trust registration) shall constitute an original proceeding and shall be filed with the Clerk of the Probate Division of the Circuit Court and payment of the filing fee prescribed by law for the filing of a civil action.

All assignments will be made by section in accordance with the blind filing system and the applicable Rules of Civil Procedure.

When a proceeding emanates from an estate subject to probate in the Probate Division, it may be assigned by the Administrative Judge of that Division to the Judge who presided over the original estate proceeding or by the Clerk of the Courts based upon the lower case number as authorized by Administrative Order No. 14-09.

- b. **Equitable Claims against an Estate.** Suits involving the personal representative of the estate of a decedent or ward that were wholly cognizable in equity according to former chancery practice shall be commenced as an original proceeding by filing a

complaint with the Clerk of the Probate Division and payment of the filing fee prescribed for the filing of a civil action.

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.

Any claim, improvidently filed, in another Division shall, upon application of the parties to the Administrative Judge of the Circuit Civil Division be transferred to the Probate Judge responsible for the estate or guardianship pending. Such equitable claim shall include by way of illustration rather than limitation, property claimed as being held by the decedent or ward as trustee or in some other fiduciary capacity; or suits involving rescission, cancellation, reformation and specific performance of antenuptial or postnuptial agreements, land sale contracts or other instruments or transactions.

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 (not within the purview of paragraph 1b above) shall be commenced in a court of competent jurisdiction as an independent action and litigated to judgment there.

3. Administrative Order No. 14-07 is hereby superseded by this Administrative Order and held for naught.

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 9th day of July, 2014.

**HONORABLE BERTILA SOTO, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**