

**SUPERIOR COURT ADMINISTRATIVE DIRECTIVE 24-1:
SUPERIOR COURT BUSINESS LITIGATION SESSIONS**

The Business Litigation Sessions of the Superior Court (BLS) are permanent sessions of the Superior Court located in the Suffolk County Superior Court. The Suffolk County Civil Clerk's Office is the clerk's office for the BLS.

This Administrative Directive governs procedures applicable to the BLS. It rescinds and supersedes Superior Court Administrative Directive 17-1 on the same topic.

Filing the Action

If a plaintiff seeks acceptance of a case into the BLS, the plaintiff shall file the complaint, together with a BLS Civil Action Cover Sheet, with the Suffolk County Civil Clerk's Office. The BLS Civil Action Cover Sheet must explain the nature of the dispute, specify the amount in controversy, and articulate the reasons the plaintiff believes the case should be accepted into the BLS. Failure to file a BLS Civil Action Cover Sheet will cause the case to be assigned to a Suffolk County civil session in accordance with the Court's usual practice. A copy of the completed BLS Civil Action Cover Sheet shall be served on all defendants with the summons and complaint.

Venue Not a Bar to Requesting Acceptance into the BLS

A plaintiff may seek acceptance into the BLS even if venue does not lie in Suffolk County.

Although nothing in this Administrative Directive changes the statutory requirements for venue, the BLS Administrative Justice does not consider venue when determining whether to accept a case into the BLS because improper venue may be waived.

The filing of a complaint in Suffolk County and its acceptance into the BLS does not prevent any party from moving to dismiss or transfer the case for improper venue. Upon such a motion and a determination that venue is improper, the case shall be transferred in accordance with G. L. c. 223.

Failure to file such a motion within the time limits prescribed by Mass. R. Civ. P. 12(h)(1) shall constitute a waiver of improper venue.

Acceptance into the BLS

Once a case has been filed for which the plaintiff seeks acceptance into the BLS, the clerk shall forthwith bring the complaint and BLS Civil Action Cover Sheet to the attention of the BLS Administrative Justice, who will decide whether to accept the case into the BLS.

If a case is accepted into the BLS, a Notice of Acceptance into the Business Litigation Session shall be issued and the case shall be assigned to either BLS1 or BLS2.

If a case is not accepted into the BLS, a Notice of Denial of Acceptance into the Business Litigation Session shall be issued, and the case shall be assigned, or returned (in the case of a transfer request), to a regular civil session.

(a) New Cases Seeking Emergency Relief or a Short Order of Notice

If the plaintiff is seeking immediate relief of some kind, whether on an *ex parte* basis or through a short order of notice, the BLS Administrative Justice will decide if the case is accepted into the BLS and, if so, ensure that the judge in the BLS session to which the case is assigned promptly rules on the request for emergency relief or for a short order of notice. If the case is not accepted into the BLS, then the case will be assigned to a regular Suffolk civil session, and the request shall be handled by the judge assigned to that session.

(b) Factors Relevant to Accepting Cases Into the BLS

Cases that fall within any of the following categories may be accepted into the BLS in the sound discretion of the BLS Administrative Justice, based principally on the complexity of the case and the need for substantial case management:

- a.1 claims relating to the governance and conduct of internal affairs of entities
- a.2 claims relating to employment agreements
- a.3 claims relating to liability of shareholders, directors, officers, partners, etc.
- b.1 shareholder derivative claims
- b.2 claims relating to or arising out of securities transactions
- c.1 claims involving mergers, consolidations, sales of assets, issuance of debt, equity and like interests
- d.1 claims to determine the use or status of, or claims involving, intellectual property
- d.2 claims to determine the use or status of, or claims involving, confidential, proprietary or trade secret information
- d.3 claims to determine the use or status of, or claims involving, restrictive covenants
- e.1 claims involving breaches of contract or fiduciary duties, fraud, misrepresentation, business torts or other violations involving business relationships
- f.1 claims under the U.C.C. involving complex issues
- g.1 claims arising from transactions with banks, investment bankers and financial advisers, brokerage firms, mutual and money funds
- h.1 claims for violation of antitrust or other trade regulation laws, including class actions
- h.2 claims of unfair trade practices involving complex issues, including class actions that do not involve personal injury
- i.1 professional malpractice claims other than claims for personal injury or death
- j.1 claims by or against a business enterprise to which a government entity is a party
- k.1 other claims involving complex issues or that require close case management, including but not limited to insurance coverage or reinsurance, construction, commercial lease disputes, real estate and consumer matters.

Transfers into the BLS

(a) Requests to Transfer into the BLS from Another Suffolk County Superior Court Session

If a plaintiff files an action in Suffolk County and does not seek to have the case accepted into the BLS, any party may file a motion, in compliance with Superior Court Rules 9C and 9A, in the session to which the case is assigned requesting a transfer to the BLS. The motion must explain the nature of the dispute, specify the amount in controversy, and articulate the reasons the party believes the case should be transferred to and accepted into the BLS. If the motion is granted by the judge in the session, the clerk of that session shall promptly bring the case to the attention of the BLS Administrative Justice, who will decide whether to accept the case into the BLS in accordance with the procedure described above.

(b) Requests to Transfer into the BLS from a Superior Court Session Outside of Suffolk County

If a plaintiff files an action outside of Suffolk County, any party may file a motion, in compliance with Superior Court Rules 9C and 9A, in the session to which the case is assigned requesting a transfer to the BLS. The motion must explain the nature of the dispute, specify the amount in controversy, and articulate the reasons the party believes the case should be transferred to and accepted into the BLS. If no party opposes the motion, the failure to oppose shall be deemed a waiver of any defense of improper venue. If the motion is granted by the judge sitting in the session, the Clerk of Courts for that county shall promptly bring the case to the attention of the BLS Administrative Justice, who will decide whether to accept the case into the BLS in accordance with the procedure described above.

(c) Sua Sponte Transfers into the BLS

A case filed in any Suffolk County session may be transferred to the BLS by a *sua sponte* order of (1) the BLS Administrative Justice, or (2) the judge sitting in the session to which the case is assigned after that judge has

consulted with the BLS Administrative Justice as to the propriety of a transfer. Transfer from a regular civil session shall be pursuant to a written Order of Referral coupled with an endorsement by the BLS Administrative Justice accepting or denying the transfer.

A case filed outside of Suffolk County may be transferred to the BLS by a *sua sponte* order of (1) the BLS Administrative Justice, or (2) the judge sitting in the session to which the case is assigned after that judge has consulted with the BLS Administrative Justice as to the propriety of a transfer, as long as either venue lies in Suffolk County or, after consultation with all parties, no objection to venue is made.

Video Conferencing Options for Cases Outside of Suffolk County

Superior Court Standing Order 1-22 identifies matters that presumptively are to be held by video conference in civil actions (including scheduling and case management conferences, discovery motion hearings, and hearings on motions to dismiss or amend), and other matters that presumptively are to be held in-person (including hearings on motions seeking a preliminary injunction or prejudgment security, proceedings involving credibility determinations, summary judgment hearings, *Daubert-Lanigan* hearings, final trial conferences, and trials). It also provides that a judge has discretion to order that hearings that are presumptively designated as in-person be held by video conference where there is good cause to do so. BLS judges thus have discretion to accommodate attorneys and parties located outside of Suffolk County by converting presumptively in-person events to video conference events upon a showing of good cause.

To facilitate the transfer of cases from outside of Suffolk County that are appropriate cases for the BLS, counsel may, when requesting to transfer the case to the BLS, also seek an order, supported by good cause, that identifies and requests that certain pre-trial events that presumptively are to be held in-person be held primarily by video conference instead.

Rule 16 Conference Upon Acceptance into the BLS

After a case has been accepted into the BLS, and as soon as each defendant has filed a responsive pleading or has been defaulted for failure to do so, the parties shall notify the clerk of the assigned BLS session.

In response to such notice, or *sua sponte*, the clerk shall promptly schedule a Rule 16 conference to establish a tracking order appropriate to the case.

The parties shall confer with each other before the Rule 16 conference in an attempt to agree upon, or narrow their differences as to, a proposed tracking order that will allow the case to be litigated and tried as efficiently as possible; shall carefully and fully consider the individual case management techniques outlined in Rule 20 of the Superior Court Rules; and, in advance of the hearing, shall submit a joint filing reflecting agreed or disparate proposals for case management, a tracking order, and an agenda for the conference.

/s/ M. D. Ricciuti

Michael D. Ricciuti
Chief Justice of the Superior Court

Effective: April 5, 2024