

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA**  
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In re:

ADMINISTRATIVE ORDER  
GOVERNING RETENTION OF  
SPECIAL COUNSEL IN  
CONSUMER PROTECTION CASES

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Administrative Order  
FLMB-2019-3

**ADMINISTRATIVE ORDER GOVERNING RETENTION  
OF SPECIAL COUNSEL IN CONSUMER PROTECTION CASE**

To better administer the large number of Consumer Protection Cases<sup>1</sup> filed with the Court, the Court has determined that additional due diligence at the beginning of the case will be required for approval of an application to retain special counsel. *See In re Gonzalez*, Case No. 8:12-bk-19213-RCT (Doc. 359).

It is therefore **ORDERED**:

1. Declaration Required. An attorney seeking to be retained to represent a Chapter 7 Trustee for a Consumer Protection Case will be required to declare that he or she has listened to the debtor's recorded 341 meeting and has performed some additional investigation before seeking to be retained. The declaration may be included in the affidavit of disinterestedness required under Fed. R. Bankr. P. 2014(a), or it may be in a separate document. The failure to include this

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<sup>1</sup> **Consumer Protection Cases** are those cases filed under the following (and similar) federal and state statutes:

- Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*
- Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*
- Florida Consumer Collection Practices Act ("FCCPA"), Fla. Stat. § 559.55 *et seq.*

declaration will result in denial of the application to employ special counsel, without prejudice.

2. Additional Investigation Explained. For purposes of the above declaration, additional investigation may be but is not limited to: (i) an interview with the debtor(s); (ii) a letter to the creditor from the Chapter 7 Trustee seeking call logs or other records that has gone unanswered for 14 days; (iii) a review of the debtor's telephone records; or (iv) some other form of due diligence.

3. Limited Exceptions. If time does not permit additional diligence, for example due to the impending expiration of the statute of limitations, the attorney may so indicate in the declaration. If the nature of the additional diligence is protected by work product privilege, special counsel also may so indicate and not disclose the nature of the diligence.

4. Nunc Pro Tunc Appointment. Because the required additional investigation necessarily will be done before the application for employment is filed, the Court will entertain *nunc pro tunc* applications that reflect when the attorneys' work began; provided, the application references this Administrative Order.

5. Multipurpose Appointments. If the purpose of retaining special counsel includes the pursuit of consumer protection claims, this Administrative Order shall apply, even if other causes of actions are also to be pursued. However,

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• Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. §§ 501.201–501.213.

the additional disclosure requirements shall not apply to the non-consumer protection claims.

DATED: August 1, 2019.

A handwritten signature in black ink that reads "M G Williamson". The signature is written in a cursive style with a large initial "M" and "G".

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Michael G. Williamson  
Chief United States Bankruptcy Judge