

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR
INDIAN RIVER, MARTIN, OKEECHOBEE, AND ST. LUCIE COUNTIES
STATE OF FLORIDA

ADMINISTRATIVE ORDER 99-09

RE: CIVIL TRAFFIC INFRACTION HEARING OFFICER

WHEREAS, Sections 318.30-318.38, Florida Statutes, and Rule 6.630 of the Florida Rules of Traffic Court, provide for the establishment of a Civil Traffic Infraction Hearing Officer Program for St. Lucie County (hereinafter referred to as "the Program"); and

WHEREAS, the costs necessary to provide the services offered by the Program shall be funded by an assessment of an additional court cost; and

WHEREAS, the Program and the respective funding are necessary for the administration of justice in this circuit to assist in relieving the excessive caseloads on the county courts in St. Lucie County; it is therefore;

ORDERED:

1. **General Provisions.** A Civil Traffic Hearing Officer Program is hereby established for St. Lucie County pursuant to the provisions of Florida law. The Civil Traffic Infraction Hearing Officer ("Hearing Officer") shall be independent contractors appointed by the Chief Judge. The Hearing Officer shall perform under this administrative order as an independent contractor, and nothing contained herein shall in any way be construed to constitute the Hearing Officer as an agent or employee of the court or County. No partner relationship between the Court and Hearing Officer is created or intended by this Administrative Order. The Hearing Officer shall perform their duties and receive their remunerations as set forth in this administrative order.
2. **Qualifications.** The Hearing Officer must:
 - a) be a member in good standing of The Florida Bar;
 - (b) complete a 40 hour education and training program approved by the Supreme Court of the State of Florida;
 - (c) complete 4 hours of continuing education annually;
 - (d) possess any other qualifications the court deems appropriate.

3. **Conflict of Interest.** The Hearing Officer shall avoid practices or occupations that would be a conflict of interest or give the appearance of impropriety. The Hearing Officer is prohibited from representing clients or practicing before any official in any county court traffic matter or from representing any client appealing any county court traffic decision, and from practicing in, or appearing before any county court that the Chief Judge deems, upon review of applicable ethical rules and opinions, to be a conflict of interest or that gives the appearance of impropriety.

4. **Scope of Services.** The Hearing Officer shall:
 - (a) hear and consider all civil traffic infraction proceedings, including parking ticket hearings, except infractions filed in conjunction with a charged criminal traffic offense, and infractions issued in situations in which personal injury is involved in the case;
 - (b) preside over calendars scheduled at traffic court locations throughout St. Lucie County;
 - (c) have the power to accept pleas from defendants, decide whether a defendant has committed an infraction, and adjudicate or withhold adjudication in the same manner as a county court judge. However, the Hearing Officer shall not;
 - (1) have the power to hold any person in contempt of court, but shall be permitted to file a verified motion for order of contempt with appropriate state trial court judge pursuant to Florida Rules of Criminal Procedure 3.840;
 - (2) hear a case involving an accident resulting in injury;
 - (3) hear a criminal traffic offense case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense; or,
 - (4) hear cases transferred to a county judge for disposition pursuant to Section 318.32, Florida Statutes.

5. **Jurisdiction, limitations.** All civil traffic infractions in St. Lucie County shall be heard by the Hearing Officer except:
 - (a) civil infractions involving personal injury or death;
 - (b) civil infractions filed in conjunction with criminal traffic offenses;
 - (c) cases transferred to the County Judge assigned to the Civil Division for

disposition pursuant to Section 318.32(3), Florida Statutes(1997); and,

- (d) cases involving contempt wherein the Hearing Officer shall be permitted to file a motion for order of contempt which shall be heard by the County Judge assigned to the Civil Division of County Court.
- 6. **Appeals.** Decisions of the Hearing Officer are appealable, under the rules of court, to the Appellate Division of the Circuit Court. Appeals shall be based upon the record of the hearing before the Hearing Officer and shall not be hearings de novo. Appellants are responsible for producing the record of the hearing beyond that which normally results from the civil traffic infraction hearing process.
- 7. **Alternate Hearing Officers.** In the absence of a Hearing Officer due to illness or vacation, the St. Lucie County Court Judges shall make every reasonable effort to preside over scheduled hearings in an effort to avoid the necessity of rescheduling.
- 8. **Budget.** The Program's budget shall be established under the St. Lucie County Board of County Commissioners.
- 10. **Billing/Payment of Hearing Officers.** Payment shall be rendered only at the conclusion of each bi-weekly period that services are provided. Payment for services rendered shall be made in accordance with the Florida Prompt Payment Act, on a case by case basis and only after appropriate invoice and documentation of each service period is delivered to court administration.

Unless otherwise directed, the Hearing Officer shall submit the number of hours served and requests for payment of fees to the Office of the Nineteenth Judicial Circuit Court Administrator, c/o Thomas Willis, 229 Courthouse Addition, 218 S. Second Street, Ft. Pierce, FL 34950.

Hearing Officers shall submit invoices to Court Administration bi-weekly for submission to the St. Lucie County Finance and Accounting Department for payment of billable hours for the month, on a bi-weekly basis. Payment shall then be remitted from the Fund to the specified Hearing Officer in accordance with the Florida Prompt Payment Act. The rate of pay shall be \$40.00 per hour.

- 8. **Other Expenses.** Other expenses of the Program as provided in the budget established under paragraph 9 will be paid by St. Lucie County upon approval by the Chief Judge or the Chief Judge's designee.
- 9. **Retention of Funds.** The balance of moneys remaining in the Fund shall not revert to the St. Lucie County Board of County Commissioners at the end of each fiscal year, but shall be rolled over into the same account for the new fiscal year. If at any time the Program is terminated, the balance of the Fund, after payment of

program costs, including the Hearing Officer, shall revert to the St. Lucie County Board of County Commissioners on behalf of the Program.

10. **Code of Judicial Conduct.** The Hearing Officer is subject to the Code of Judicial Conduct in the same manner as part-time judges, except that the Hearing Officer shall be exempt from Canon 6B and C and the first portion of provisions (A)(2) of the compliance section of the Code.

DONE AND ORDERED in quadruplicate at Vero Beach, Indian River County, Florida,

this 1st day of October, 1999.



PAUL B. KANAREK
Chief Judge