

IN THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 8.03

CIVIL TRAFFIC INFRACTION HEARING OFFICER

WHEREAS, Sections 318.30 through 318.38, Florida Statutes, and Florida Rule of Traffic Court 6.630 provide for the establishment of a Civil Traffic Infraction Hearing Officer Program (hereinafter referred to as “the Program”); and

WHEREAS, the costs necessary to provide the services offered by the Program shall be funded by the assessment of an additional court cost and a Legislative appropriation administered by the Office of State Court Administrator (OSCA); and

WHEREAS, the Program and the respective funding streams for the Program are necessary for the administration of justice in this Circuit to assist in relieving the excessive caseloads on the County Courts; It is therefore

ORDERED:

1. **GENERAL PROVISIONS**

A Civil Traffic Infraction Hearing Officer Program is established pursuant to the provisions of Florida law. A Civil Traffic Infraction Hearing Officer (“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 any county. No partner relationship between the Court and hearing officer is created or intended by this Administrative Order. The hearing officer shall perform duties and receive compensation as set forth in this Administrative Order and as required by the Florida Traffic Rules and the Judicial Code of Ethics.

2. **QUALIFICATIONS**

A hearing officer must:

- A. Be a member in good standing of the Florida Bar;
- B. Complete the required initial 40-hour education course;
- C. Remain current with the continuing education requirements; and
- D. Possess any other qualifications the Court would deem 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. With respect to the hearing officer's activities within any county of the Eighth Judicial Circuit, the hearing officer is prohibited from representing clients within the same Circuit before any official in any County Court traffic matter and 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**

Except as provided in Section 5, Jurisdiction, the hearing officer shall:

- A. Hear and consider all civil traffic infraction proceedings, including county and municipal parking ordinance violations.
- B. Preside over traffic infraction hearings scheduled at traffic court locations throughout Alachua County. In the future, the hearing officer may be able to hear and address similar matters for the other five (5) counties within the Eighth Judicial Circuit, provided there is adequate funding, and the Chief Judge expressly assigns the civil traffic infractions hearing officer to preside over proceedings in one or more of these additional counties.

- 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 an affidavit stating the essential facts constituting criminal contempt with the appropriate State Trial Court judge pursuant to Florida Rule of Criminal Procedure 3.840 (a);
 - (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) Hear municipal or county ordinance violation or civil infractions of Florida Statutes not related to traffic matters unless otherwise provided by law.
- D. Until further funding is available to provide secretarial support, the civil traffic infraction hearing officer shall be responsible for the performance of all secretarial tasks related to the position of civil traffic infraction hearing officer.

5. **JURISDICTION**

All civil traffic infractions shall be heard by the hearing officer EXCEPT:

- A. Civil traffic infractions involving personal injury or death;
- B. Civil traffic infractions filed in conjunction with criminal traffic offenses;
- C. Cases transferred to a County judge for disposition pursuant to Section 318.32 of

the Florida Statutes. Contempt matters and cases falling under the exception set forth in 5(A) or 5(B) shall be heard by a County Court judge and assigned by division.

6. **APPEALS**

Decisions of the hearing officer are appealable under the Florida Rules of Appellate Procedure to the Circuit Court and will be assigned to the Appellate Division. Appellants are responsible for producing the record of any hearings beyond those which normally result from the civil traffic infraction hearing process.

7. **ALTERNATE HEARING OFFICER**

In the absence of a hearing officer due to illness, unavailability, or vacation, the Alachua County Court judges shall make every reasonable effort to preside over scheduled hearings or designate an alternate hearing officer in an effort to avoid the necessity of rescheduling. Any change in designating a Civil Traffic Infraction Hearing Officer shall be reported to the Clerk of the Court.

8. **FIRST CONTINUANCE**

The Clerk of Court is authorized to grant one continuance each for the defendant and the law enforcement officer(s). The request must be made in writing to the Clerk at least five (5) days before the hearing date. The Clerk shall then reschedule and notice the case for the next available docket.

9. **ADDITIONAL CONTINUANCE**

Additional requests for continuances shall be made in writing and filed with the Clerk at least five (5) days before the hearing date. The request must state with particularity the reasons for the requested continuance. The Clerk shall refer the request to the hearing officer who shall make a ruling, whereupon the Clerk's office shall notice the parties or

their attorneys, the citing officers, or their attorneys. The parties shall be responsible for notifying any witnesses they have subpoenaed of the continuance.

10. **MOTIONS FOR CONTINUANCE NOT FILED WITHIN FIVE (5) DAYS OF THE HEARING DATE, OR EMERGENCY MOTION FOR CONTINUANCE**

Requests for continuances not filed with the Clerk within five (5) days of the hearing date pursuant to Sections 8 and 9 are considered untimely, and the Clerk of Court shall refer the written motion to the assigned hearing officer who will consider the motion. If a stated emergency precludes any party from filing a written motion within five (5) days of the hearing date, in accordance with Sections 8 and 9, a written request for continuance with an explanation of the emergency shall be made by e-mail to the Alachua County Traffic Bureau, traffic@alachuaclerk.org and jgp@alachuaclerk.org. The Clerk shall refer the verbal request to the assigned hearing officer who will consider the motion.

11. **BUDGET**

The Program's budget shall be established by the Office of the State Court Administrator (OSCA) and the Florida State Legislature.

12. **COMPENSATION**

The hearing officer shall be paid an hourly rate for work and all services performed under this Administrative Order. Payment shall be rendered at the conclusion of each documented period that services are provided, as requested by the hearing officer. Payment of 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 the financial division of the Court Administrator, c/o Mary Lou Gardner, 201 East University Avenue, Gainesville, Florida 32601. Hearing officers shall submit invoices to Court Administration bi-weekly for submission to OSCA. Payment shall then be remitted by the State to the specified hearing officer bi-weekly for billable hours submitted.

13. **CONTRACT EVALUATION**

When reasonably convenient for all parties and during the month of May each year, the Administrative Judge of the County Court, in consultation with the Court Administrator or his designee, shall meet with the civil traffic infraction hearing officer and evaluate the year-end performance of the hearing officer. This annual meeting and evaluation shall determine whether the professional contractual relationship shall be recommended to the Chief Judge for renewal for the upcoming year.

14. **CODE OF JUDICIAL CONDUCT**

All traffic hearing officers are subject to the Code of Judicial Conduct.

15. **OUT-OF-COURT COMMUNICATION**

Requests for civil traffic hearings may be made in writing, by telephone, or in person at the Traffic Bureau. A first request for continuance made to the Clerk of the Court and all requests to a hearing officer, including requests to set aside, modify, or extend the time for compliance with penalties, and additional requests for continuance shall be in writing and filed with the Clerk of the Court. Emergency motions shall be handled pursuant to Section 10.

16. **DISMISSAL**

No civil traffic infraction shall be dismissed except pursuant to speedy trial expirations or as otherwise provided by law. With the exception of speedy trial expirations or where otherwise provided by law, all other adjudications shall result in a finding of guilty or not guilty.

Any request from a law enforcement agency to “dismiss” a citation prior to hearing shall be made by written request to the hearing officer to find the defendant not guilty. A copy of

the request will be provided to the defendant by the hearing officer and the original filed with the Clerk's Office. The request will be docketed for status review on the next available court date. The hearing officer will review the request in court following the regular traffic infraction docket and announce on the record whether the request should be granted or set for a hearing. If the dismissal request is set for hearing, the Clerk of Court will provide notice to the defendant and law enforcement. The notice will indicate that if dismissal request is denied, the defendant will have thirty (30) days from the hearing date to make the statutory elections.

17. **DISPOSITIONS**

All dispositions, whether based upon a plea of guilty, not guilty, or no contest shall be of record in open court. Accordingly, in any matter where a defendant or a law enforcement agency requests a disposition other than as provided for in Section 318.14, Florida Statutes, regarding civil penalties and elections, the case shall be set for hearing to be heard by the hearing officer, with the disposition being announced in open court.

In cases where the defendant has entered a plea of no contest or has admitted guilt, but where the defendant has requested a specific disposition, the matter shall be set on the docket for a disposition hearing and the defendant shall be noticed of the hearing.

18. **IN-CAMERA REVIEW**

Written requests from defendants and/or the State may be considered by the hearing officer in camera.

19. **CASE REASSIGNMENT**

If a defendant or hearing officer requests a recusal from a case, the hearing officer shall file a Notice of Reassignment with the Clerk of the Court. The Clerk will then assign the case to the appropriate Civil Division County Court Judge or alternate hearing officer, pursuant to Administrative Order.

20. Execution of this Order and all duties/responsibilities of the hearing officer shall be in full conformity with Administrative Order No. 8.02(v2), dated May 21, 2013, and with any further revisions thereof.

This order supersedes Administrative Order No. 8.03(v1), entitled "Civil Traffic Infraction Hearing Officer" and shall become effective immediately upon its execution.

ORDERED ON this 21st day of May, 2013.



Robert E. Roundtree, Jr., Chief Judge