20030037808 RECORDED IN PUBLIC RECORDS LEON COUNTY FL BK: 2850 PG: 449,
04/22/2003 at 10:18 AM, BOB INZER, CLERK OF COURTS

IN THE COUNTY COURT, IN AND
FOR LEON COUNTY, FLORIDA

TRAFFIC DIVISION
92-1

ORDER ON NOTICE TO CIVIL INFRACTION WITNESSES

It has been made to appear to this court, on its own motion, that the Clerk of Court has, as a courtesy to the court and under its direction, been researching Uniform Traffic Citations and ordering accident reports when applicable, all for the purpose of sending notices to possible witnesses of the date of an impending evidentiary hearing in a civil infraction case.

In order to accomplish this task the clerk must research the records and make an independent, unassisted determination of the names of persons who should be sent a notice of the hearing as witnesses.

It appears to this court that selection and summoning of witnesses based on a determination of their possible knowledge of the case may well constitute the practice of law and be accomplished only the court, a member of the Bar, or a pro se party in his or her own behalf.

In State v. Johnson, 345 So2d 1069 (1977), the Supreme Court, among other things, held these infractions need not be prosecuted by the State Attorney. In a writ of prohibition in Morrison v. McClamma, Cir Ct Leon #77-957 (1977), this court was prohibited from forcing prosecution by the State of Florida. Therefore, since these aforementioned proceedings, there has been no prosecutorial presence in contested infraction hearings.

With the thanks of the court to the clerk for their efforts to facilitate the conduct of these hearings without a prosecutor, nevertheless, it appears that such action by the clerk is

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not provided for by the rules or statutes relating to the noticing, summoning or subpoenaing of witnesses. It is therefore

ORDERED AND ADJUDGED that under the authority of Rule 6.100(a) of the Florida Traffic Court Rules the Clerk of Court of Leon County shall cease sending notices to possible witnesses based on their research of documents relating to any case. In lieu thereof, the clerk shall send to each Leon County law enforcement agency, by U. S. Mail or messenger, a copy of each infraction hearing calendar as it is closed out, but no less than three (3) week prior to the scheduled hearings relating to that calendar. A copy of this order or any message prepared by the clerk to inform the agency that it is their responsibility to research the calendar to determine the calendaring of cases of interest to their agency shall accompany each calendar. Each agency shall then be governed accordingly. Each agency may confer with the Leon County Data Center or the Clerk of Court to ascertain if a method of facilitating the identity of cases arising under the efforts of each police agency is available.

DONE AND ORDERED in Chambers, Tallahassee, Leon County, Florida this 31 day of December, 1991.

COUNTY JUDGE

Copies to:

County Judges
Judge Hood
Tom Long
Law Enforcement Agencies

Approved 1-6-92

LC-28

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