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05/24/2010 at 12:05 PM, BOB INZER, CLERK OF COURTS

IN THE SECOND JUDICIAL CIRCUIT
STATE OF FLORIDA

OFFICE OF THE CHIEF JUDGE
ADMINISTRATIVE ORDER # 2010-06

IN RE: **COMPREHENSIVE COURT ENFORCEMENT FOR THE UNIFORM COLLECTION OF COURT ORDERED PAYMENTS OF FINES, COURT COSTS AND OTHER DISPOSITIONAL ASSESSMENTS IN LEON COUNTY**

WHEREAS, Sections 938.30 and 28.246(3), Florida Statutes, provide that court costs, fines, and other dispositional assessments will be enforced by order of the courts, collected by the Clerks of the Circuit and County Courts, and disbursed in accordance with authorizations and procedures as established by general law; and

WHEREAS, the public perception that the courts and judicial system are providing equitable, equal and uniform treatment to all who come before the courts is preserved if all offenders with similar offenses are treated similarly; and

WHEREAS, the legislature of the State of Florida has imposed certain statutorily mandated costs in every criminal case; and

WHEREAS, the assessment and provision for payment of fines and costs directly impacts the uniform and equitable treatment of offenders, limited local resources to defray the costs of prosecution and public defense and the maintenance and operation of the various courts within the Second Judicial Circuit of Florida; and

WHEREAS, pursuant to Section 938.30, Florida Statutes, enacting the Comprehensive Court Enforcement Act, procedures are necessary to improve the assessment and collection of fines and costs in criminal cases; and

WHEREAS, the Circuit and County Courts in Leon County, in cooperation with the Leon County Clerk of Courts have had a Court Ordered Payments/ Collections program since 1997 for the purpose of collecting and disbursing court imposed fines, costs and other dispositional assessments, it is therefore

ORDERED that a partial payment program already implemented in Leon County for the collection of fines, costs, and other dispositional assessments in felony, traffic and misdemeanor cases, court appointed attorney fees, county ordinance violations, and municipal ordinance violations will continue. Monies will be collectively referred to as "fines and costs," excluding county or state probation cases in which the payment of fines and court costs have been ordered as a condition of probation.

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ORDERED as follows:

1. All court costs, fees, fines and other dispositional assessments imposed in misdemeanor, criminal traffic, and felony cases are due upon imposition by the Court. If the defendant cannot pay the fines and costs at sentencing, the defendant will be ordered to the Clerk's Court Ordered Payments (COP) program for collection and reporting on compliance. The sentencing court must determine whether the defendant has the ability to pay costs and fines at time of imposition.

2. If the sentencing court finds the defendant is unable to pay, the court, based on the individual circumstances of the defendant, may:

   A. Waive costs and fines owed, if permitted by law;
   B. Reduce costs and fines owed, if permitted by law;
   C. Provide the defendant with a community service alternative to work off costs and fines. The value per hour for community service work performed will be the same as the policies for valuation in programs administered by the Leon County Probation Division;
   D. Convert unpaid amounts owed to a civil judgment; or
   E. A combination of the options listed in B-D.

3. At sentencing, the clerk will provide to each defendant who is ordered to comply with the COP program a Notice of Court Ordered Payments. The notice will advise the defendant of the following:

   A. The total amount due;
   B. The amount of the monthly payment;
   C. The date the payment is to be made each month until paid in full;
   D. The location where payments are to be made;
   E. Available forms of payment;
   F. The one-time administrative $25 fee for inclusion in the COP program;
   G. The defendant is responsible for keeping a current physical address on file with the Clerk's Office;
   H. The defendant must contact the Clerk's Office to request an adjustment to monthly payment amounts, or appear in collections court, if the defendant's financial circumstances change.
   I. The defendant must stay current with monthly payments. Failure to stay in contact with the Clerk's Office will result in a summons being issued for a mandatory court appearance. If the defendant fails to appear at this mandatory hearing, the court will issue an Order to Show Cause for the defendant's arrest.

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J. Willful failure to comply with the court's order to pay costs and fines may result in the imposition of additional costs, fees, sanctions, and contempt of court penalties.
K. A statutory fee of $40.00 may be assessed if the Sheriff's Office attempts to serve a summons issued to enforce collections pursuant to this order.

4. If the defendant fails to make monthly payments and a summons is issued for a mandatory court appearance, the Leon County Sheriff's Office will serve the summons on the defendant. The statutory rate for service will be assessed by the Clerk's Office, paid by the defendant, and remitted to the Leon County Sheriff's Office.

5. When a summons is served on a defendant, the defendant must appear within 14 days in collections court.

6. If a defendant fails to appear in collections court after being served with a summons, the court may:

   A. Enter a civil judgment for the balance owed; or
   B. Issue a Writ of Bodily Attachment for the defendant's arrest.

7. All defendants arrested on a writ will be scheduled for the first available first appearance docket.

8. The first appearance judge will inquire as to why the defendant failed to appear in collections court and inquire whether the defendant has the present ability to pay the past due balance. If the court finds that the defendant does not have the present ability to pay the past due balance, the defendant will be released from jail and the court will:

   A. Enter a civil judgment for the total amount owed;
   B. Lower the monthly payment amount;
   C. Suspend payments for a period of time not to exceed six months; or
   D. Provide the defendant with a community service alternative to work off costs and fines. The value per hour for community service work performed will be the same as the policies for valuation in programs administered by the Leon County Probation Division.

9. If the first appearance judge finds that the defendant willfully failed to appear and willfully refuses to pay the amount due, the court may schedule the defendant for the next collections court docket and set a purge amount that the defendant is able to pay, or take such other action as the Court deems appropriate as permitted by law.

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10. The Leon County Jail will release any defendant arrested on a blue writ prior to the date of this order, and who has not had a court appearance before a judge subsequent to such arrest, from jail immediately on his/her own recognizance, and the procedures outlined in this order will be followed.

11. This Administrative Order does not prevent the Clerk of Courts from pursuing other legal action, including but not limited to, garnishments and driver license suspensions.

12. This Administrative Order does not prevent the collections judges and/or the sentencing judges from using all remedies noted in Section 938.30, Florida Statutes, including but not limited to reducing only the full amount owed to a civil judgment. Notwithstanding anything ordered herein to the contrary, the order of the presiding judge shall prevail in the event of conflict with the provisions of this administrative order.

13. Restitution is excluded from the procedures set forth in this order. However, if a cash bond is applied to outstanding costs and fines under Section 903.286, Florida Statutes, and monies remain after paying off costs and fines, such monies will be applied to outstanding restitution.

14. The effective date of this order shall be July 19, 2010, so that the Clerk of Court and other interested parties have time to implement its terms.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, on May 21, 2010.

Charles A. Francis

CHARLES A. FRANCIS
CHIEF JUDGE

Copies furnished to:

All Judges, Second Judicial Circuit
Leon County Clerk of Courts
Sheriff, Leon County
Public Defender, Second Judicial Circuit
State Attorney, Second Judicial Circuit

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