

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.: 4.608-4/15

IN RE: INTOXILYZER 8000 LITIGATION

There are cases pending in the County Criminal Divisions in which defendants have filed motions to suppress breath tests for alleged violations of Rule 11D-8.004(2) of the Administrative Code ("Motion to Suppress"). These cases involve similar, related, or identical issues. To promote judicial economy and to assist in the coordination of case management, these cases should be assigned to a single judge for hearing and ruling upon the Motion to Suppress.

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

1. All Driving Under the Influence cases pending or filed in the county court criminal divisions in which a defendant files a Motion to Suppress as defined above and files a Consent to Participate shall be temporarily assigned to County Court Criminal Division "B" for purposes of having the Motion to Suppress, and all matters preliminary thereto, heard and ruled upon. The party filing the Consent to Participate must comply with the requirements in the "Order Granting Motion for Temporary Assignment to Division "B" for Hearing and Ruling on Motion to Suppress" in *State v. Cook*, 2013CT02104 attached hereto as Exhibit A.
2. All cases affected by this Administrative Order shall remain in the County Court Criminal Division to which the case was originally assigned for trial and shall not be designated as a case pending in Division "B." No case shall be set for trial except upon order by the judge presiding in the division to which the case was originally assigned.
3. All pleadings in any case assigned pursuant to this Administrative Order shall bear the following notation: "Intoxilyzer 8000."

DONE and ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida this 15 day of April, 2015.



JEFFREY COLBATH, Chief Judge

EXHIBIT "A"

IN THE COUNTY COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 2013CT021047 - DIVISION "B"

STATE OF FLORIDA

vs.

BRIAN MICHAEL COOK
Defendant.

_____ /

**ORDER GRANTING MOTION FOR TEMPORARY ASSIGNMENT TO
DIVISION "B" FOR HEARING AND RULING ON MOTION TO SUPPRESS**

THIS CAUSE came before the Court on the Defendant's Motion for Temporary Assignment to Division "B" for Hearing and Ruling on a Motion to Suppress Breath Test Due to Violation of Rule 11D-8.004(2) of Administrative Code ("Motion to Suppress"). Motions to Suppress have been filed in cases pending in all of the county court criminal divisions which contain the substantive claims as set forth in the Motion to Suppress filed in the instant action and dated November 21, 2014 (docket entry 134). The State filed on January 21, 2015, two responses to the Motion to Suppress as reflected in docket entry 149 and 152 and has filed an Amended Response to Defendant's Motion for *En Masse* Proceedings, Filings, and Hearing (now referred to as the Motion to Temporary Assignment) and provided the Court with additional case law. After carefully examining and considering the motion, having reviewed the court file and record, as well as the arguments presented by the Parties, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED that the Court **grants** the Defendant's Motion for Temporary Assignment to Division "B" for Hearing and Ruling on the Motion to Suppress. It is further

ORDER AND ADJUDGED that the following procedures shall be followed:

1. The motion to be heard by the Division "B" judge is the Defendant's Motion to Suppress Breath Test Due to Violations of Rule 11D-8.004(2) of the Administrative Code (hereinafter "Substantive Motion") filed on November 21, 2014 in docket entry 134.

2. The hearing will begin on June 3, 2015 at 9:00 a.m. in Courtroom 2E and will continue through June 4, 2015 at 5:00 p.m. subject to change by agreement by the parties or court order.

3. The case of *State of Florida v. Brian Michael Cook*, 2013CT021047 will act as the lead case for those defendants represented by the private defense bar and by the public defender's office.

4. Any party wishing to participate in the proceedings must contact Brian Gabriel, Esq., counsel for the named defendant and lead counsel for the Motion to Suppress. Mr. Gabriel is directed to file a Notice of Consent to Temporary Assignment and a Notice of Adoption of the Substantive Motion on behalf of any party wishing to participate in the proceedings. The documents should be filed under the individual party's respective case number. These documents must be filed no later than April 16, 2015 at 5:00 p.m. Lead counsel for *State v. Cook* will provide copies of the forms to the parties seeking temporary assignment. Failure to file said documents will result in the party being barred from being included under this Order.

5. Cases assigned to Divisions B, C, E, L, M, and P in which a Notice of Consent for Temporary Assignment has been timely filed will be considered part of the proceedings.

6. By April 20, 2015 at 5:00 p.m., Mr. Gabriel will file with the Clerk of Court, under the lead case number, a Master List of all defendants who have opted for the temporary assignment to Division B. The list shall include each defendant's name, case number, and divisional assignment. A courtesy copy of the Master List must also be sent to the chambers of each divisional judge and the Administrative Judge.

7. Any party wishing to participate in the proceedings who is represented by The Office of the Public Defender shall file a Notice of Consent to Temporary Assignment and an Adoption of the Substantive Motion under his or her respective individual case number by April 13, 2015 at 5:00 p.m.

8. By April 20, 2015 at 5:00 p.m., the Officer of the Public Defender will file with the Clerk of Court, under the lead case number, a Master List of all defendants who have opted for the temporary assignment to Division B. The list shall include each defendant's name, case number, and divisional assignment. A courtesy copy of the Master List must also be sent to the chambers of each divisional judge and the Administrative Judge.

9. By agreement of all undersigned Judges, Judge Leonard Hanser will preside over the hearing on the Motion to Suppress and all matters preliminary therefore, and issue an Order on the "substantive motion" that will bind all cases in the class.


10. Any issues relating to the hearing and which need to be addressed prior to the hearing will be filed under the lead case numbers and heard by Judge Leonard Hanser. The parties are directed to contact Judge Hanser's Judicial Assistant for divisional instructions prior to setting any matters for the group.


11. On or before May 18, 2015 at 5:00 p.m., the parties shall submit a joint stipulation of exhibits that will be introduced into evidence.

12. Approximately twenty-one (21) days prior to the scheduled hearing, there will be a Case Management Status Check before Judge Hanser where the parties will update the Court on the state of the case and pending hearing.

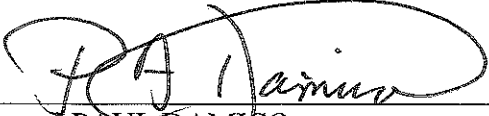
13. All cases made part of the class, and temporarily assigned to Division "B," shall remain in the Criminal Division to which the case was originally assigned for trial and shall not be designated as a case pending in Division "B." No case shall be set for trial except upon order by the judge presiding in the Division to which the case was originally assigned.

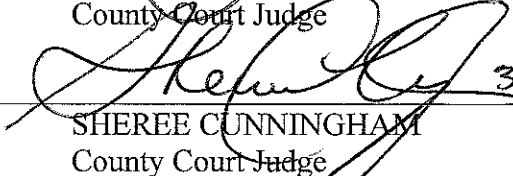
DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida this _____ day of _____, 2015.


LEONARD HANSER
(County Court Judge (Administrative Judge))

 3.13.15
AUGUST BONAVIDA
County Court Judge

 3/18/15
MARNI BRYSON
County Court Judge


PAUL DAMICO
County Court Judge

 3-16-15
SHEREE CUNNINGHAM
County Court Judge

 4/14/15
DALIAH WEISS, COUNTY COURT JUDGE

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