

Practice Makes Perfect

Preparing Your Appearance

By Donald P. DeNault, Jr., O'Reilly Rancilio PC



When preparing your appearance or any other case caption involving a civil infraction, the proper “plaintiff” is the municipality, not “the people” of that municipality. In other words, the proper caption is “City of Sterling Heights v Tella Graham.” Don’t use “People of the City of Sterling Heights” because the matter is a civil case, not a criminal prosecution. The “People” of a municipal entity don’t usually sue anyone. They prosecute when the violation is criminal, but they don’t sue for civil concerns.

Of course, there’s always an exception to every rule, and sometimes the exception doesn’t make any sense. If the civil infraction is a violation of the Michigan Vehicle Code (not a local ordinance that adopts the Vehicle Code, nor an ordinance that calls itself a vehicle code, but rather the actual, honest-to-goodness Vehicle Code), then the proper caption is “People v Jay Walker.”

According to MCL 257.741, though, the proper “plaintiff” for civil infraction violations of the Vehicle Code is actually the State. Nevertheless, the rule adopted by the Michigan Supreme Court is to use “People” rather than “State.” This rule completely contradicts the notion that the People don’t sue, but apparently no one ever really thought it through that far.

What to do if your next client is charged with criminal and civil infraction violations? Well, most of us have become accustomed to just using one simple caption, like “People v Noah Lott.” However, the proper approach is probably to prepare two separate captions and treat the cases as separate and distinct. After all, one gets a trial and the other gets a formal hearing, right? But that’s a topic for a future teachable moment....

Source: The Michigan Uniform System of Citation, Section (I)(A)(4)(g). ■