

IN THE COUNTY COURT IN AND FOR
BROWARD COUNTY, FLORIDA

TRAFFIC DIVISION

CITY OF FT. LAUDERDALE
(STATE OF FLORIDA)

FILE NO: 14-032655TI20A

vs.

WELSH WESOLOWSKI, MARY
_____ /

**ORDER ON RED LIGHT CAMERA CASES
LOCATED IN FORT LAUDERDALE, FLORIDA**

On February 13, 2015 a Trial was held in which this court heard testimony, examined exhibits and heard argument from attorney BRAD WEISMANN, on behalf of the City of Fort Lauderdale and attorney TED HOLLANDER, on behalf of the Defendant MARY WELSH WESOLOWSKI, were present and the court being otherwise fully informed it is;

FINDINGS OF FACT:

1. The procedure for handling Red Light Camera violations in the City of Fort Lauderdale is governed by its contract with American Traffic Solutions, (hereinafter referred to as "ATS") which was in full force and effect at the time of the alleged violation in the case before this court.
 - a. The City of Fort Lauderdale's Amendment to the contract with ATS, was admitted into evidence as Defense Exhibit "1".
 - b. In addition, further procedures are delineated in a 25 page document commonly referred to as the "Business Rules Questionnaire," which was admitted into evidence as State/Fort Lauderdale's Exhibit 3.

Transmission of Red Light Camera Video to the City

2. Testimony was presented by representatives of the Red Light Camera Vendor, ATS, clearly established the fact that ATS uses its sole unfettered discretion in sending camera footage to the City of Fort Lauderdale Police Department. *See State/Fort Lauderdale's Exhibit 3 Sections 4.1, 4.2, 4.3, 4.4, 4.7, 6.2 and 6.5.*
3. From the testimony presented, it is clear that not ALL readable and viewable footage is sent to the City of Fort Lauderdale Police Department for it to determine in its sole discretion which images evidence a violation and should receive a Notice of Violation, which if not paid by the alleged violator, becomes a Uniform Traffic Citation, as required by Florida Statute 316.0083 and *City of Hollywood v. Arem*, 2014 WL 5149159 (Fla. 4th DCA 2014).

Determination of a Red Light Violation

3. The uncontroverted testimony at trial was that a representative of the City of Fort Lauderdale's Police Department views the images/video sent to the City by ATS for violations. If the representative of the City of Fort Lauderdale Police Department determines that a violation has occurred he or she presses the "accept button" as discussed in the *Arem id.* decision.

Creation and Issuance of a Uniform Traffic Citation

4. ATS gathers all "accepted" entries on any given day and sends a Notice of Violation to the alleged violator. If the violator does not pay the Notice of Violation and does not contest it with the City, the City informs ATS.

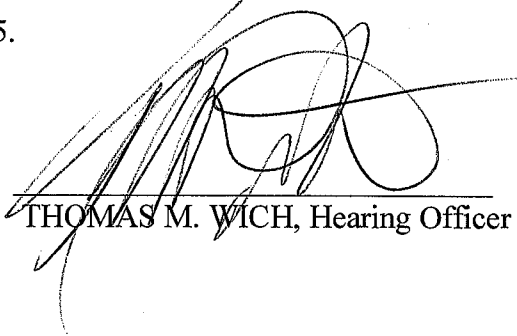
5. ATS then converts the information contained in the Notice of Violation for that particular “accepted” entry into a Uniform Traffic Citation and the City’s representative/officer’s signature and corresponding badge number are digitally attached to the citation in Arizona, the home state/place of business of ATS.
 - a. Testimony was given that indicated that the City representative/officer does see all the alleged pertinent information or data prior to the Notice of Violation being converted to a Uniform Traffic Citation.
 - b. The testimony presented confirmed that the representatives/officers of the City of Fort Lauderdale Police Department never see an actual copy of the ATS generated Uniform Traffic Citation unless the matter goes to trial in the County Court.
6. ATS next submits the batched Uniform Traffic Citations to the Broward County Clerk of Court.
 - a. There is no direct interaction between the City of Fort Lauderdale Police Department and the Clerk of Court’s Office with regard to the creation and delivery of the Uniform Traffic Citation.
7. Upon the close of testimony, the Defendant citing the *City of Hollywood v. Arem*, 2014 WL 5149159 (Fla. 4th DCA 2014) presented an ore tenus Motion to Dismiss stating among other arguments that the City of Fort Lauderdale Police Department had improperly delegated its police powers to ATS in its enforcement of violations of F.S. 316.0083.
- 8.

CONCLUSIONS OF LAW

IT IS HEREBY ADJUDGED as follows:

Based upon the testimony and evidence presented this Court finds that the procedures used by the City of Fort Lauderdale in accordance with its contract with ATS violate the requirements of F.S. 316.0083 in that the City's representative does not actually create or issue the Uniform Traffic Citation and pursuant to the Business Rules Questionnaire the City has given ATS unfettered discretion in determining who receives a citation, in direct violation of F.S. 316.0083 and the holding in the *City of Hollywood v. Arem*, 2014 WL 5149159 (Fla. 4th DCA 2014). As such, the Defendant's Motion to Dismiss is **GRANTED** and this case is **DISMISSED**.

ORDERED this 23rd day of February 2015.



THOMAS M. WICH, Hearing Officer

Copies provided:

BRAD WEISMANN, on behalf of the City of Fort Lauderdale/State

TED HOLLANDER on behalf of the Defendant MARY WELSH WESOLOWSKI