

May 12, 2008

Hon. Ann T. Pfau
Chief Administrative Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

Re: Judicial Hearing Officers

Dear Judge Pfau,

I am the Chairperson of the Committee on State Courts of Superior Jurisdiction (the Committee) of the Association of the Bar of the City of New York, and write to you on behalf of the Committee.

The Committee has recently been discussing the use of Judicial Hearing Officers (JHOs), who are appointed to serve in a variety of situations pursuant to section 850(1) of the Judiciary Law and section 122.1 of the Rules of the Chief Administrator. A Subcommittee examining this subject has received useful input from John Werner, the Chief Clerk, Supreme Court, New York County, and other court administrators involved with JHOs.

The Committee believes that JHOs can be a valuable tool to reduce crowded dockets, speed the pace of judicial resolution of disputes, and utilize the extensive experience of retired judges statewide. In New York County, for example, JHOs have proven particularly valuable in managing jury selection and in handling guardianship matters.

The Committee has been made aware, however, of instances in which it has not been made clear to counsel that a case had been referred to a JHO, and/or the status of the JHO hearing a particular matter was not made clear. While these reports are anecdotal, the Committee believes as a general matter that certain safeguards are advisable so that parties and counsel whose cases are assigned to a JHO will be fully cognizant of the circumstances.

Therefore, the Committee suggests that the following measures be considered, to the extent they have not been implemented already:

1. When a matter is sent to a JHO for substantive proceedings, absent a stipulation otherwise, a Judge, Justice or Administrative Judge of the court in which the matter is pending should be designated to provide any necessary review of the JHO activities, and this designation should be disclosed to the participating counsel.
2. JHOs should be clearly identified as such. Such identification should include the notation "Judicial Hearing Officer" on assignments of cases; decisions, orders and opinions issued by the JHO; the identifying nameplates in the JHOs' courtrooms and chambers; business cards, if any; and any other places in which a Judge or Justice ordinarily would be identified as such.
3. Written notice concerning the use of a JHO for substantive proceedings in different types of matters should be developed and implemented as may be appropriate in each situation. With attention to the particular context where necessary, the notice should explain the difference between a JHO and a Judge or Justice and should identify the avenues for having the JHO decisions reviewed.

The Committee believes that the above suggestions will enhance the usefulness and versatility of JHOs.

Respectfully,

Hon. Andrea Masley