

RECEIVED

By OIG Agency Clerk at 8:08 am, Mar 19, 2026

IN THE BROWARD COUNTY, FLORIDA, CHARTER SECTION 10.01
ENFORCEMENT HEARINGS FORUM

CASE NO. EH-2026-001

CAROL J. BREECE,
Broward County Inspector General,
Plaintiff,

V.

ABIODUN AJAYI,
Defendant.

RESPONSE TO DEFENDANT’S MOTION TO DISMISS COMPLAINT

COMES NOW the Plaintiff, CAROL J. BREECE, Broward County Inspector General, by and through undersigned counsel, and files her Response to Defendant’s Motion to Dismiss that was filed on February 25, 2026, and in support thereof, states as follows:

The Plaintiff’s Complaint Does Not Allege Violations of the Internal Control Handbook of the Human Resources Division of Broward County

1. As a preliminary matter, Defendant, in her Motion to Dismiss, submits that Plaintiff’s complaint alleges “two violations of Section 26-16(a) of the Broward County Code of Ordinances *and Chapters 4 and 9 of the Internal Control Handbook of the Human Resources Division of Broward County as promulgated by Administrative Order #400 of the*

Broward County, Florida, Administrative Code (“ICH”).” (emphasis added)

2. Defendant’s submission is incorrect. Plaintiff’s complaint does not allege violations of the County’s Internal Control Handbook.
3. Section 10.01 A. (2) of the County Charter limits Plaintiff’s jurisdiction to “misconduct” and “gross mismanagement.” It defines “misconduct” as “any violation of the state or federal constitution, any state or federal statute or code, *any county or municipal ordinance or code*; or conduct involving fraud, corruption, or abuse.” (emphasis added) Accordingly, Plaintiff’s Complaint alleges only violations of the Broward County Code of Ordinances (“County Code”)—specifically, section 26-16(a) of the County Code.

The Plaintiff’s Complaint Alleging Civil Infractions of the County Code is Properly Before This Hearing Officer

4. Substantively, Defendant submits that Plaintiff’s complaint is improperly before this Hearing Officer for two reasons. First, Defendant appears to suggest that section 1-13 of the County Code directs that County code violations, including a violation of section 26-16(a), can only be addressed through a prosecution by the Broward County State Attorney’s Office. This argument must be rejected.
5. Section 162.03(2), Florida Statutes confers upon counties and

municipalities the authority to devise and implement an alternate or supplemental code enforcement system using a code enforcement board or administrative hearing officer. Additionally, sections 162.13 and 162.21(8), Florida Statutes demonstrates the State's intent to allow counties and municipalities discretion on how to enforce its codes and ordinances.

6. Broward County has availed itself of this discretion. Section 1-13 of the County Code indicates that:

In addition to any other penalties, remedies, or other enforcement measures provided by ordinance or law, the following provisions shall be applicable to each violation of a County ordinance:

- (1) Each violation of a County ordinance provision that prohibits a specified act*** or specified acts by a person or persons shall be subject to and ***may be prosecuted*** in the manner authorized by § 125.69, F.S., including any subsequent amendment thereto. Prosecution of a violation of a County ordinance shall be by the state attorney or assistant state attorney of the state court judicial circuit in and for Broward County pursuant to § 27.34(1), F.S., including any subsequent amendment thereto.
- (2) The County may secure enforcement of a County ordinance in any appropriate court or administrative proceeding.***
- (3) The Broward County Sheriff, the Broward County Sheriff deputies, and all other enforcement officers and persons shall have such powers to enforce County ordinances as are lawfully permitted.***

(4) The provisions of this section are deemed remedial and shall be applicable to both prior existing and subsequently adopted County ordinances and any subsequent amendments thereto.

(emphasis added)

7. Thus, the County can direct that certain code violations be addressed as misdemeanors with criminal repercussions prosecuted by the Broward County State Attorney's Office. The County did so, for instance, for violations of section 20-149 of the County Code prohibiting a person from displaying someone else's private detective identification card and section 20-150 of the County Code prohibiting private detectives from wearing or displaying a badge.
8. Likewise, the County can direct that other code violations be addressed in an alternative civil proceeding that do not carry criminal repercussions. It did so in section 10.01 C. of the Broward County Charter. In that section, which is titled *Referral and Prosecution of Misconduct*, the County gave administrative hearing officers designated by the Broward Office of the Inspector General Selection-Oversight Committee the authority to hold hearings and assess fines against violators. Moreover, it established the parameters for "quasi-judicial enforcement proceedings" for civil infractions that are not criminal offenses, state ethics violations, state elections or campaign finance

violations, or offenses for which there is another appropriate agency with jurisdiction. Broward County Charter section 10.01.C (1) and (2). The violations of County Code section 26-16, charged in the instant case, are such civil infractions.

9. The defendant in John W. Scott v. Eric L. Haynes, EH-2015-001, made a similar argument in his administrative proceeding. There, Haynes sought dismissal of Plaintiff Scott's complaint on several grounds, one of which was that the hearing officer did not have jurisdiction to hear the complaint as section 34.01(1)(b) of the Florida Statutes directed that county courts had original jurisdiction of all violations of municipal and county codes. (Composite Exhibit)
10. The hearing officer disagreed. Citing City of Hallandale Beach v. Smith, 853 So.2d 495 (Fla. 4th DCA 2003), the hearing officer determined that Chapter 34 of the Florida Statutes did not specifically preempt the Inspector General from proceeding with the case as local governments were free to establish their own alternative methods of enforcing local ordinances.
11. Because the State legislature has provided counties and municipalities with the ability to address violations of their own codes in a fashion short of criminal prosecution, this basis for dismissal must be denied.

The Charter Does Not Demand the Plaintiff to Ignore Conduct that Represents Violations of the County Code

12. Next, Defendant submits that Plaintiff cannot file a complaint pursuant to section 10.01 C. (1) of the Broward County Charter in instances where the conduct which forms the basis of the civil County code infraction may also violate laws under which other agencies have jurisdiction to prosecute. Thus, Defendant argues that since the civil infraction Plaintiff charged in her complaint is based on conduct that also represents violations of different chapters of the Florida Statutes, Plaintiff's authority is limited to referring the violations of Florida law to those agencies that have jurisdiction to enforce them. Defendant submits that, here, those agencies would be the Florida Elections Commission and the Florida Commission of Ethics. In other words, Plaintiff would have to ignore the conduct that represents a violation of the County Code. Plaintiff submits the Hearing Officer must also reject this argument.
13. To start, contrary to Defendant's suggestion, Plaintiff would not have been able to refer the findings of her investigation to the Florida Commission on Ethics as she would not have had the authority to do so under the Broward County Charter.
14. As correctly noted by Defendant, Florida Statutes section 112.322(1) directs that the Florida Commission on Ethics has the duty to receive and

investigate sworn complaints of violations of the state's code of ethics.

As also noted by Defendant, section 112.313(6) of Florida's code of ethics prohibits the corrupt misuse of public position.

15. Section 10.01 C. of the County Charter directs Plaintiff to refer misconduct that her investigation provided probable cause to believe occurred. The allegations of misconduct in her Complaint are those for which Plaintiff had probable cause to believe occurred. She could not have referred them in a sworn complaint to the Florida Commission on Ethics as they do not include a basis to allege that Defendant acted with corrupt intent.
16. Notwithstanding, Defendant's suggestion that Plaintiff cannot act on fact patterns that constitute a civil infraction of the County Code when the fact patterns also implicate laws enforced by other jurisdictions is without merit. There is nothing in section 10.01 of the County Charter, or in the law for that matter, to support such an interpretation of section 10.01 C. (1). In fact, the first sentence of section 10.01 C. (1) refutes the interpretation.

17. Section 10.01 C. (1) begins:

After completing his or her investigation and determining that there is probable cause to believe misconduct has occurred, the Inspector General shall notify the appropriate civil, criminal, or administrative ***agencies*** charged with

enforcement related to the alleged misconduct.

(emphasis added)

18. The Charter's use of the word "agencies" illustrates the County's intent to have Plaintiff refer its findings to ***all*** agencies in which the conduct amounts to a violation of a law over which the agency has jurisdiction. This includes local agencies. Accordingly, this basis for dismissal must also be denied.

CONCLUSION

Thus, for the reasons set forth herein, Plaintiff respectfully requests that Defendant's Motion to Dismiss be DENIED.

Respectfully submitted this 18th day of March, 2026 by:

/s/ Katherine Y. McIntire
Katherine Yzquierdo McIntire
Florida Bar No. 0521159
General Counsel
Broward Office of the Inspector General
1 N. University Drive, Suite 111
Plantation, Florida 33324
(954) 357-7873

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to Larry S. Davis, Esq., by email to: larry@larrysdavislaw.com on this 18th day of March, 2026.

/s/ Katherine Y. McIntire
Katherine Yzquierdo McIntire
Attorney for Plaintiff

COMPOSITE EXHIBIT

IN THE BROWARD COUNTY, FLORIDA, CHARTER SECTION 12.01
ENFORCEMENT HEARINGS FORUM

JOHN W. SCOTT,
Broward County Inspector General,
Plaintiff,

CASE NO.: EH-2015-001

v.

ERIC L. HAYNES
Defendant.

RECEIVED

OCT 16 2015

OIG Agency Clerk

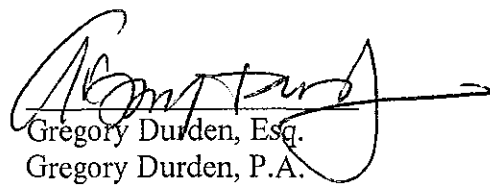
DEFENDANT'S MOTION TO DISMISS

COMES NOW, Defendant, ERIC L. HAYNES, by and through her undersigned counsel and files this Motion to Dismiss and states as follows:

1. To dismiss this action as this suit is based on an alleged violation of a county code. Florida Statute Section 34.01 (1)(b) provides that the County Courts shall have original jurisdiction of all violation of municipal and county ordinances. As such, a hearing officer lacks jurisdiction to proceed further with this matter as jurisdiction pursuant to Florida Statutes rest solely with the County Court of Broward County.
2. To dismiss this action as the Florida Commission on Ethics is given the statutory authority to promulgate rules and regulations as to how public officials are to make financial disclosures. The form created by the County is inconsistent with that created by the Commission of Ethics whose authority is preemptive.
3. To dismiss this complaint because Eric L. Haynes as a member of a LLC is not an employee under State or Federal law. As such the disclosure filed by Eric L. Haynes was proper.

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to via e-mail and US Mail to Carol J. Breece, Counsel for Plaintiff, Broward Office of the Inspector General, 1 N. University Drive, Suite 111, Plantation, FL 33324, cbreece@broward.org, and Mark A. Goldstein, Esq., 141 NE 3rd Avenue, Suite 804, Miami, FL 33132, markgoldsteinattorney@gmail.com, on October 12, 2015.



Gregory Durden, Esq.
Gregory Durden, P.A.
Trial Lawyers Building
633 SE Third Avenue, Suite 4F
Fort Lauderdale, FL 33301
(954) 463-4688
(954) 463-1245 fax
ddg05@bellsouth.net

IN THE BROWARD COUNTY, FLORIDA, CHARTER SECTION 12.01
ENFORCEMENT HEARINGS FORUM

JOHN W. SCOTT,
Broward County Inspector General,
Plaintiff,

CASE NO. EH-2015-001

v.

ERIC L. HAYNES,
Defendant.

PLAINTIFF'S RESPONSE TO
DEFENDANT'S MOTION TO DISMISS

Plaintiff, JOHN W. SCOTT, Broward County Inspector General, by and through the undersigned counsel, hereby files his Response to Defendant's Motion to Dismiss that was filed in the above-captioned cause on or about October 12, 2015. In furtherance thereof, Plaintiff says:

This Court Has Jurisdiction to Hear Violations of the Broward Ethics Code

1. Defendant argues as his first ground that the county courts have sole, original jurisdiction of all violations of county ordinances per Fla. Stat. § 34.01(1)(b) and, thus, "a hearing officer lacks jurisdiction to proceed" in this matter.
2. Florida law has conferred upon Broward County the authority to devise and implement an alternate or supplemental code enforcement system using a code enforcement board or administrative hearing officer.

A charter county, a noncharter county, or a municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances. A special magistrate shall have the same status as an enforcement board under this chapter. References in this

chapter to an enforcement board, except in s. [162.05](#), shall include a special magistrate if the context permits.

Fla. Stat. § [162.03](#)(2). *See also* Fla. Stat. §§ [162.13](#) and [162.21](#)(8), which provide for local governments to obtain compliance with local codes by additional or supplemental enforcement means.

3. In an action seeking a declaration that past (as opposed to ongoing) county code violations must be heard by the county court and not administrative hearing officers, an appellate court affirmed a county's use of hearing officers to entertain code violations as authorized by Fla. Stat. § [162.03](#)(2) and held that the state legislature did not limit the county to using the exact procedures set forth in Fla. Stat. [chapter 162](#). *Verdi v. Metropolitan Dade County*, [684 So. 2d 870](#) (Fla. 3d Dist. Ct. App. 1996). Where a code enforcement board was preexisting and specifically permitted to hear housing code violations, a municipality could properly choose to enforce a housing code violation in either county court or through the board. *Goodman v. County Court in Broward County, Fla.*, [711 So. 2d 587](#) (Fla. 4th Dist. Ct. App. 1998).

4. Defendant's argument would apply to invalidate all of the code enforcement schemes adopted by all of the counties (and municipalities) in Florida. In Broward County these include but are not limited to Broward County Code §§ [4-1 et seq.](#) (Animal Control), [5-571 et seq.](#) (Land Use and Environmental Disputes), [7-1 et seq.](#) (Child Care Facility Licensing), [8 ½-1 et seq.](#) (Code Enforcement), [9-1 et seq.](#) (Certifications of Trade and Occupation Competency), [9-120 et seq.](#) (Uncertified Contractors), [14.254 et seq.](#) (Disciplinary Actions), [20-291 et seq.](#) (Family Child Care Homes), [25.55 et seq.](#) (Potable Water Supply Wellfield Ordinance), [26-81 et seq.](#) (Civil Service), [27.117 et seq.](#) (Farm Claim Determinations), [33.20 et seq.](#) (Blasting Damage Complaints), and [39-130 et seq.](#) (Property Maintenance; Nuisances).

5. Likewise, Broward County Charter § 12.01.C., Referral and Prosecution of Misconduct, gives to administrative hearing officers designated by the Broward Office of the Inspector General Selection-Oversight Committee the authority to hold hearings and assess fines against violators. It establishes the parameters for “quasi-judicial enforcement proceedings” for civil infractions that are not criminal offenses, state ethics violations, state elections or campaign finance violations, or offenses for which there is another appropriate agency with jurisdiction. Broward County Charter § 12.01.C.(1) and (2). Violations of Broward County Code § 1-19 (the Broward County Elected Official Code of Ethics or “the Broward Ethics Code”), charged in the instant case, are such civil infractions.

6. The Court in this matter, the Hearing Officer randomly chosen from the panel of Hearing Officers selected by the Selection-Oversight Committee, has the jurisdiction and authority to hold county code infraction hearings and assess fines in accordance with Broward County Charter § 12.01, and Defendant’s motion should be denied as to this first ground.

State Law Does Not Preempt the Broward Ethics Code

7. Defendant argues as his second ground that the Florida Commission on Ethics has the sole authority to determine how public officials must make financial disclosures, which preempts the county’s ability to do so.

8. In the absence of “clear language” stating the legislature’s intent to preempt a field of law, there is no express preemption of local law. And courts are reluctant to find preemption where it is not expressly provided for – implied preemption can only be found where (1) state law enacts a legislative scheme that is so pervasive that it evidences the intent to preempt local law and (2) there are strong public policy reasons to support preemption. *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1019 (Fla. 2d Dist. Ct. App. 2005).

9. The Florida Code of Ethics for Public Officers and Employees, [part III of chapter 112](#), Fla. Stat., not only does not expressly preempt the Broward Ethics code, it specifically contemplates and approves local government ethics codes that are more stringent than, but do not conflict with, the State Code.

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Fla. Stat. § [112.326](#).

10. In general, where a local ordinance imposes additional requirements to a state statute, this is not a conflict. The two rules conflict when they cannot coexist. *Phantom*, [894 So. 2d at 1020](#) (citing *State ex rel. Dade County v. Brautigam*, [224 So.2d 688](#), 692 (Fla. 1969)). That is, in order to follow the one rule, the other must be violated. *Id.*, [894 So. 2d at 1020](#).

11. The Florida Code of Ethics for Public Officers and Employees, [part III of chapter 112](#), Fla. Stat., requires every person elected to municipal office to file a statement of financial interests on or by July 1 of each year. Fla. Stat. § [112.3145](#)(1)(a) and (2)(b). The requirements of such disclosures are delineated in Fla. Stat. § [112.3145](#)(3) and include all sources of income meeting a dollar or percentage of gross income threshold and all sources of income in excess of 10 percent of the gross income “of a business entity in which the person held a material interest and from which he or she received” in excess of a dollar or percentage of gross income threshold.

12. The Broward Code of Ethics provides in relevant part:

All outside or concurrent employment by an Elected Official, including employment pursuant to contract, as well as any

remuneration received from that employment, must be disclosed on a form created by the Broward County Attorney's Office. The disclosure referenced in the preceding sentence shall be done ... annually by Municipal Officials. The disclosure form must be filed for public inspection.

Broward County Code § [1-19](#) (c)(2)b.

13. Nothing about the Broward Ethics Code requirement to disclose outside employment and remuneration negates or conflicts with the State requirement to disclose income sources; both laws are compatible and are complied with by county and municipal elected officials without apparent difficulty. It is clear that the Broward Ethics Code requires information additional to the State code and does not conflict with it. State law does not preempt the Broward Ethics Code.

It Need Not be Alleged that Defendant was an Employee to State a Cause of Action

14. It is not clear upon what basis Defendant relies to make his third argument for dismissal, writing only, “3. To dismiss this complaint because [Defendant] as a member of a LLC is not an employee under State or Federal law. As such the disclosure filed by [Defendant] was proper.” *Cf.*, Florida Rule of Civil Procedure [1.140](#)(b), which requires that “[t]he grounds on which any of the enumerated defenses and the substantial matters of law intended to be argued shall be stated specifically and with particularity” in such a motion to dismiss.

15. Nonetheless, if this third argument is one based on a failure to state a cause of action, then as a matter of law Defendant admits all pleaded facts as true, as well as the reasonable inferences that may be made from those facts. *Wells v. Wells*, [24 So. 3d 579](#), 582 (Fla. 4th Dist. Ct. App. 2009). The question is whether Plaintiff could prove any set of facts to support the claim, not whether he will prevail at trial. *Rocks v. McLaughlin Engineering Co.*, [49 So. 3d 823](#), 826 (Fla. 4th Dist. Ct. App. 2010). The trial court is bound to accept the material allegations as true and must confine its inquiry to a consideration of the allegations found within the four

corners of the complaint. *Ingalsbe v. Stewart Agency, Inc.*, 869 So. 2d 30, 35 (Fla. 4th Dist. Ct. App. 2004).

16. In order for Plaintiff to prevail in this action alleging a violation of the Ethics Code, it is not necessary for the claim to state that Defendant is or was an employee. There is no definition of “outside or concurrent employment” or “remuneration” contained within or referenced by the Broward Ethics Code, part III of Florida Statutes chapter 112, the Broward County Code of Ordinances, or the Broward County Administrative Code. However, the fact that Defendant was not an employee, if true, does not obviate the utility of this code provision, as evidenced by its applicability to “employment pursuant to contract.” Broward County Code § 1-19(c)(2)b (quoted in Paragraph 10, above).

17. “Employment pursuant to contract” specifically includes work contracted by non-employees. In fact, it necessitates self-employment, whether or not by way of a legally recognized entity such as a partnership. The complaint alleges, at paragraphs 6 through 8, that Defendant received “self-employment earnings” of \$42,217, \$9,969, and \$20,614, all of which he failed to disclose, as alleged at paragraphs 9 through 10.

18. The form or title of the remuneration is irrelevant. The Broward Ethics Code is aimed at the disclosure of the other master(s) elected officials serve and are beholden to, and to what extent. The Code’s drafters clearly contemplated that the disallowance of self-employment would defeat the public’s right to know the source and amount of outside earned income made by Broward’s elected officials.

19. The earnings that Defendant made and failed to disclose were the result of self-employment – and thus employment as intended by the Broward Ethics Code – and the motion to dismiss should be denied on this third ground.

For all the foregoing reasons, Plaintiff urges this Honorable Court to hereby deny Defendant's Motion to Dismiss on all grounds and provide such other relief as is just and proper under the circumstances.

Respectfully submitted this 21st day of October, 2015.

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to Mr. Gregory Durden, ddg05@bellsouth.net, Gregory Durden, P.A., 633 SE 3rd Avenue, Suite 4F, Fort Lauderdale, Florida 33301-3151, by e-mail on October 21, 2015.

/s/

CAROL J. BREECE
Florida Bar Number 869945
Ethics Counsel
Broward Office of the Inspector General
1 N. University Drive, Suite 111
Plantation, Florida 33324
(954) 357-7873
(954) 357-7815 (direct)
(954) 357-7857 (fax)
cbreece@broward.org

RECEIVED

OCT 22 2015

OIG Agency Clerk

IN THE BROWARD COUNTY, FLORIDA CHARTER
SECTION 12.01 ENFORCEMENT HEARINGS FORUM

CASE NO: EH-2015-001

JOHN SCOTT,
Broward County
Inspector General,

Plaintiff,

v.

ERIC L. HAYNES,

Defendant.

ORDER DENYING DEFENDANT'S MOTION TO DISMISS

This cause came before the undersigned Hearing Officer on Defendant's Motion to Dismiss, and having reviewed the Complaint, the Defendant's Motion to Dismiss and the Plaintiff's Response to the Defendant's Motion to Dismiss, and being otherwise fully advised in the premises, it is Ordered as follows:

1. Plaintiff commenced this action by filing a three count Complaint against the Defendant, a former City Commissioner of Lauderdale Lakes. Plaintiff's Complaint alleges that the Defendant failed to make several required disclosures and/or filings during his tenure as a City Commissioner in violation of various provisions of Section 1-19, Broward County Code of Ordinances.

2. Defendant moved to dismiss the Complaint on the grounds that the Hearing Officer lacks jurisdiction as Chapter 34, Fla. Stat. and Chapter 112, Fla. Stat., provide for the exclusive remedies and/or methods of enforcement for the violations alleged in the Complaint. The undersigned finds that these Statutes do not specifically preempt the Inspector General from

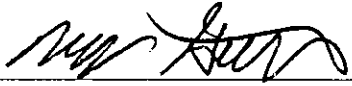
proceeding with this case in this forum as local governments are free to establish their own alternative methods of enforcing local ordinances. See City of Hallandale Beach v. Smith, 853 So.2d 495 (Fla. 4th DCA 2003).

3. Defendant, in his Motion to Dismiss, also argues that he is a member of a limited liability company, not an employee. Firstly, this is a civil action and complaints should not be dismissed for failure to state a cause of action unless the movant can establish beyond any doubt that the claimant could prove no set of facts whatever in support of his claim." Hillman Const. Corp. v. Wainer, 636 So.2d 576, 578 (Fla. 4th DCA 1994); Orlovsky v. Solid Surf, Inc., 405 So.2d 1363, 1364 (Fla. 4th DCA 1981). At this stage, the undersigned cannot conclude that such a standard has been met by Defendant's Motion to Dismiss. Moreover, the Hearing Officer is not convinced that even if Defendant was only a member of a limited liability company and not an employee, that dismissal would be warranted.

4. Based on the foregoing, Defendant's Motion to Dismiss is denied and Defendant shall file his Answer to the Complaint by Friday, November 13, 2015.

5. All filings in this case shall be exclusively via email.

Done and Ordered on this October 22, 2015.


MARK A. GOLDSTEIN
HEARING OFFICER

Copies to:
Carol J. Breece, Esq., Counsel for Plaintiff
Gregory Durden, Esq., Counsel for Defendant