

Garfield Heights Municipal Court

Cuyahoga County, Ohio

IN RE:

Adoption of Local Rule 36
Re Traffic Camera Tickets

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Order

ALEXANDER F. GREGG
CLERK OF COURT

2023 JAN -4 AM 10:55

GARFIELD HEIGHTS MUNICIPAL
FILED

Whereas Ohio Revised Code 4511.093 through 4511.0914 (hereinafter "ORC") governs the operation of traffic cameras in the State of Ohio; and


Whereas, exclusive jurisdiction of traffic camera tickets is vested in municipal courts; and
Whereas, the Ohio Supreme Court has not provided a Rule of Superintendence governing traffic camera tickets;

NOW THEREFORE, IT IS HEREBY ORDERED ADJUDGED AND DECREED that the following Local Rule 36 of the Garfield Heights Municipal Court is hereby adopted and shall remain in effect unless modified by the Court or until such time as the Ohio Supreme Court promulgates a Rule of Superintendence for traffic camera tickets. The Clerk shall post this order on the Court website for a period of 30 days for public comment, which may result in modification hereof.

- A. The local authority issuing a traffic camera ticket shall be designated as the Plaintiff and the recipient of a traffic camera ticket shall be designated as the Defendant.
- B. The Ohio Rules of Civil Procedure shall apply to all traffic camera cases except where the Rules conflict with the ORC, whereupon the ORC shall take precedent over the Rules.
- C. The Ohio Rules of Evidence shall apply to all traffic camera cases except where the Rules conflict with the ORC, whereupon the ORC shall take precedent over the Rules.
- D. The Ohio Criminal and Traffic Rules do not apply to traffic camera cases as these cases are deemed civil actions under the ORC.

- E. The litigants should take notice that Supreme Court held that the provision of ORC §4511.093 requiring the presence of a law enforcement officer at each camera is unconstitutional. *Dayton v. State*, 151 Ohio St. 3rd, 2017-Ohio-6909 (2017). The Court of Appeals for the Second Appellate District has held that subsequent amendments to ORC §4511.093 did not change the ruling by the Ohio Supreme Court so that the requirement of the presence of a law enforcement officer at each camera is still unconstitutional. *Dayton v. State*, 2021 Ohio-975 (2021).
- F. The Clerk shall collect \$11.00 on each traffic camera ticket filed with the Clerk and remit the same to the State of Ohio pursuant to Ohio Revised Code Section 1901.26(C). This fee is in addition to any other filing fee required by the Court.
- G. The Clerk shall provide to court users, on the Court website and at the Clerk's Office, forms approved by the Presiding Judge suitable to effectuate the purposes of ORC.
- H. If a transfer of liability affidavit is filed, the Clerk shall notify the plaintiff forthwith in accordance with the ORC.
- I. If the traffic camera ticket which was mailed by the Plaintiff to the Defendant is returned to the Clerk for failure of service by the US Post Office, the Clerk shall notify the Plaintiff forthwith.
- J. The Plaintiff shall pay the filing fee for each traffic camera case in advance of the date of filing but not later than the actual date of the filing of the traffic camera ticket with the Clerk, except for traffic camera cases arising in a school zone as prescribed by the ORC.
 - 1) In school zone cases, the Clerk shall collect the filing fee from the party which loses at trial.
 - 2) In the event the Plaintiff dismisses the school zone case, the Plaintiff shall pay the filing fee.
 - 3) When service of the school zone ticket is not made on the Defendant within six (6) months from the date of filing of a ticket with the Clerk due to failure of service, the Plaintiff shall pay the filing fee.
- K. The Plaintiff shall provide each Defendant with a form, prescribed by the Court and which sets forth the rights of the Defendant, at the time notice of the ticket is mailed to the Defendant by the Plaintiff as required in the ORC.
- L. If a Defendant fails to exercise the rights set forth in ORC by failing to pay the ticket amount, filing a transfer of liability affidavit, or by requesting a hearing, the Court shall enter a default judgment in the amount claimed by the Plaintiff.
- M. If the Defendant requests a hearing, the Clerk shall set the case for pretrial forthwith and shall provide for remote and in-person appearance. If the case is not resolved at the pretrial or prior thereto, the Clerk shall set the case for trial forthwith.
- N. All traffic camera cases shall be concluded within six (6) months from the date of filing with the Clerk of Court. A traffic camera citation case shall be deemed concluded if one of the following apply:

- 1) The Defendant pays the full penalty amount
- 2) The Defendant files a transfer of liability affidavit
- 3) The Defendant files a request for hearing and a final judgment is entered thereon
- 4) The Defendant takes no action and a default judgment is entered thereon
- 5) The ticket is dismissed for failure of service by the Plaintiff



Judge Deborah J. Nicastro
Presiding and Administrative Judge 2023