

**Garfield Heights Municipal Court
Cuyahoga County, Ohio**

GARFIELD HEIGHTS MUNICIPAL COURT
FILED
2024 JAN 22 PM 12:39
ALEXANDER J. GIBB
CLERK OF COURT

IN RE:)
)
AMENDMENT TO LOCAL RULE 36) ORDER
TRAFFIC CAMERA CITATIONS)
)

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

Whereas, exclusive jurisdiction of traffic camera citations are vested in municipal courts; and

Whereas , the Ohio Supreme Court has not provided a Rule of Superintendence governing traffic camera citations;

NOW THEREFORE, IT IS HEREBY ORDERED ADJUDGED AND DECREED that the existing Local Rule 36 of the Garfield Heights Municipal Court be amended to reflect the following Local Rule 36 of the Garfield Heights Municipal Court, which 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 citations. The Clerk shall post this order on the Court website for a period of 30- days for public comment, which may result in a modification hereof.

Rule 36. Traffic Camera Citations

- A. The local authority issuing a traffic camera citation shall be designated as the Plaintiff and the recipient of a traffic camera citation 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 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.

G. If a transfer of liability affidavit is filed, the Clerk shall notify the plaintiff forthwith in accordance with the ORC.

H. The Plaintiff shall serve the traffic camera citation upon the Defendant by ordinary mail pursuant to ORC §4511.093 and shall be required to demonstrate to the Court and litigants that the service was achieved as evidenced by the US Post Office Certificate of Mailing for each traffic camera citation served.

I. 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 citation 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 citation is not made on the Defendant within six (6) months from the date of filing of a citation with the Clerk due to failure of service, the Plaintiff shall pay the filing fee.

J. 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 citation is mailed to the Defendant by the Plaintiff as required in the ORC.

K. If a Defendant fails to exercise the rights set forth in ORC by failing to pay the citation amount, filing a transfer of liability affidavit, or by requesting a hearing, the Plaintiff may move the Court to grant a Default Judgment.

L. 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.

M. 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 citation is dismissed for failure of service, failure to prosecute, or other reason.



Judge Sergio DiGeronimo
Administrative Judge 2024