

SHAKER HEIGHTS MUNICIPAL COURT

COVID-19 BINDER

COVID-19 PROCEDURES/FORMS GUIDE

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Appendix:

- Docket Key

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Monday, April 6, 2020 01:33 PM
To: Tomaszewski, Steve
Cc: Tuzon, Dane K; Sheppard, Jerome
Subject: Notice for cases set for sentencing or change of plea to be conducted telephonically

How's this...Please edit:

CASE NUMBER:
DEFENDANT NAME:
DATE:

DEF NAME
ADDRESS

This case is set for [sentencing][a change of plea] at the Shaker Heights Municipal Court on _____ at _____ a.m. **This court date is NOT being continued.** In order to keep you safe during the health crisis, the court will conduct the [sentencing][change of plea] TELEPHONICALLY FROM THE COURTROOM AND ON THE RECORD. **You and your attorney must appear by telephone for your court date by answering the phone number the court has on file (999-999-9999) on _____ between 8:30 a.m. and 11:30 a.m.** The court will conference both defendant and counsel into the call as well as the prosecutor, when necessary.

If you need to change your phone number before your telephonic court date **you must call the clerk's office at 216-491-1300** between 8:30 and 4:30 to update your phone number at least **7 days before your court date!!** If you are counsel, please be sure the court has a good phone number for your client and you!

The court will call you that morning. If you (and your lawyer) do not answer your phone call at the time of your telephonic appearance you will be ordered to appear in court **in person. Failure to appear by telephone or in person may result in contempt proceedings for missing court which could include the issuance of a warrant or a driver's license block.**

STATE OF OHIO
CUYAHOGA COUNTY

)
) SS:
) IN THE SHAKER HEIGHTS MUNICIPAL COURT

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/16/2020

JOHN TEST
456 MAIN ST
MAIN , OH 44444

*Sentencing/COP
Telephone Date*

This case is set for ARRAIGNMENT at the Shaker Heights Municipal Court on 04/03/2020 at 01:30 PM. **This court date is NOT being continued.** In order to keep you safe during the health crisis, the court will conduct the ARRAIGNMENT TELEPHONICALLY FROM THE COURTROOM AND ON THE RECORD. **You and your attorney must appear by telephone for your court date by answering the phone number the court has on file (999-999-9999) on 04/03/2020 between 8:30 a.m. and 11:30 a.m.** The court will conference both defendant and counsel into the call as well as the prosecutor, when necessary.

If you need to change your phone number before your telephonic court date **you must call the clerk's office at 216-491-1300** between 8:30 a.m. and 4:30 p.m. to update your phone number at least **3 days before your court date!!**. If you are counsel, please be sure the court has a good phone number for your client and you!

The court will call you that morning. If you (and your attorney) do not answer your phone call at the time of your telephonic appearance you will be ordered to appear in court **in person**. **Failure to appear by telephone or in person may result in contempt proceedings for missing court which include the issuance of a warrant or a driver's license block.**

DATE: 04/16/2020



Judge K.J. Montgomery

Slunski, Kristina

From: Montgomery, K.J.
Sent: Friday, April 17, 2020 02:03 PM
To: Bailiff Department; Keiler, Anne; Tuzon, Dane K; Tomaszewski, Steve; Chaplin, Haley; Smith, Kelly; Frost, Brenda; Jagels, Patricia A.; Amaddio, Mike
Cc: Muster, Danielle; Casselberry, Matt; Probation Department; Slunski, Kristina
Subject: What to do for telephone traffic arraignments unanswered calls

All:

When we are telephoning our Wednesday traffic arraignment dockets, we are unable to reach some defendants. Normally with a no-show at traffic court, the bailiffs prep a summons entry and the clerks office then sends out a notice for another date to appear.

Due to the telephone process the following procedure has been decided:

1. No answer on the telephone arraignments will be set for an in-person appearance date in July/August.
2. The bailiff completing the summons entry will now have a box on the form that notes the appearance was to have been TELEPHONIC.
3. The clerks will then send out the notice called "Waiver Missed Phone Arraignment." That form will still permit the defendant the choices of:
 - i. Paying the waiver in full
 - ii. Paying the waiver in \$40 payments
 - iii. Coming to court in person at the summer date assigned.
4. Note: The total owed on the waiver will be increased by \$25 representing that the summons had to be issued.

I do not know for how long we will do telephonic arraignments but this should help us for the duration! Thank you, all.

A POST SCRIPT FOR PROBATION AND BAILIFFS: The "no show" form will be the same form you have always used when your probationer failed to appear or someone failed to show for pretrial. But now, IF THE APPEARANCE WAS TO BE TELEPHONIC please mark the 'TELEPHONIC' box with a check. You won't be able to miss it!

Thank you all and hang in there!!!! kj

Slunski, Kristina

From: Gogala, Joe
Sent: Friday, April 17, 2020 02:21 PM
To: Keller, Anne; Montgomery, K.J.; Bailiff Department; Tuzon, Dane K; Tomaszewski, Steve; Chaplin, Haley; Smith, Kelly; Frost, Brenda; Jagels, Patricia A.; Amaddio, Mike
Cc: Muster, Danielle; Casselberry, Matt; Probation Department; Slunski, Kristina
Subject: RE: What to do for telephone traffic arraignments unanswered calls

I believe we were not calling a second time

-----Original Message-----

From: Keller, Anne <akeller@shakerheightscourt.org>
Sent: Friday, April 17, 2020 2:19 PM
To: Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>; Bailiff Department <BailiffDepartment@shakerheightscourt.org>; Tuzon, Dane K <dtuzon@shakerheightscourt.org>; Tomaszewski, Steve <steve@shakerheightscourt.org>; Chaplin, Haley <hchap@shakerheightscourt.org>; Smith, Kelly <ksmith@shakerheightscourt.org>; Frost, Brenda <bfrost@shakerheightscourt.org>; Jagels, Patricia A. <pjagels@shakerheightscourt.org>; Amaddio, Mike <mamaddio@shakerheightscourt.org>
Cc: Muster, Danielle <dmuster@shakerheightscourt.org>; Casselberry, Matt <mattc@shakerheightscourt.org>; Probation Department <ProbationDepartment@shakerheightscourt.org>; Slunski, Kristina <kslunski@shakerheightscourt.org>
Subject: Re: What to do for telephone traffic arraignments unanswered calls

Judge:

Works for me. Just want to confirm this means that we are not scheduling the defendants who did not answer on Wednesday for a second telephone arraignment in May? Or will this be done after our second attempt to call them?

Thanks,
Annie

From: Montgomery, K.J.
Sent: Friday, April 17, 2020 2:02:51 PM
To: Bailiff Department; Keller, Anne; Tuzon, Dane K; Tomaszewski, Steve; Chaplin, Haley; Smith, Kelly; Frost, Brenda; Jagels, Patricia A.; Amaddio, Mike
Cc: Muster, Danielle; Casselberry, Matt; Probation Department; Slunski, Kristina
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Thank you all and hang in there!!!! kj

**IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

In accordance with Criminal Rule 46 and R.C. 2937.222, **the following bond schedule is adopted** and court ordered for all traffic and criminal cases in the Shaker Heights Municipal Court when the person has been arrested. **Prior to release on any type of bond** – unsecured, personal recognizance, or money bond, **the arrested person shall be fingerprinted by law enforcement.** Once fingerprinted, there shall be a presumption of pretrial release by the least restrictive means necessary to reasonably assure appearance in court and promote public safety.

There shall be no scheduled money bond and the judge or designated magistrate shall set bond for the following charges:

1. All felonies
2. The following misdemeanor charges whether charged under Ohio Revised Code, local ordinance or other statutory provisions:
 - a. **Domestic Violence**
 - b. **Assault**
 - c. **Violation of any:**
 - i. Criminal or civil **protection order**, or
 - ii. Condition of community control /probation **prohibiting contact** with specified persons or places, or
 - iii. **Pretrial no contact orders.**
 - d. **Aggravated menacing**
 - e. **Menacing by stalking**
 - f. **Menacing**
 - g. **Aggravated trespass**
 - h. Any other misdemeanor offense of the 1st, 2nd, 3rd or 4th degree when the police, prosecutor or a victim is **seeking a protection order, restrictions with no contact or other conditions of bond**
 - i. Any offense in which the misdemeanor charge is a **sexually oriented offense** as defined by R.C. 2950.01

- j. Any other misdemeanor offense of the 1st, 2nd, 3rd or 4th degree when, based upon the circumstances of the case, **the prosecutor or police request a bond or conditions of bond.**

There shall be a presumption of a money bond for the following misdemeanor offenses subject, as always, to a different bail decision or different conditions of bail based upon the circumstances of a particular case:

1. Any offense in which the misdemeanor charge involves a **deadly weapon, firearm, or dangerous ordnance** as defined by R.C. 2923.11 for which bond shall be \$10,000, 10%, cash or surety and a condition of bond shall be that the weapon must be placed with the arresting agency for safekeeping as a condition of release on bond.
2. **Operating a vehicle under the influence of alcohol or drugs (OVI)** wherein the bond shall be \$10,000, 10%, cash or surety for a first offense in 10 years, and \$15,000, 10%, cash or surety for a second or third offense in 10 years.
3. Any misdemeanor offense upon which the offender was **originally** issued an unsecured bond, personal recognizance bond or money bond but for which the **arrested person has failed to appear** on the case as ordered or whose conduct has violated court ordered conditions or for whom a new warrant on the case has been issued. (Examples: Failure to appear for arraignment, pretrial or trial dates.)

Except as set forth above, there shall be a presumption that the arrested person may be released upon an unsecured bond or personal recognizance bond for all misdemeanor offenses unless, based on the circumstances of the case, the prosecutor or police request a bond or condition of bond. The arrested person may be released on an unsecured or recognizance bond **after being fingerprinted** as the situation requires:

1. On his/her own if the arrested person is not a danger to self or others,
2. To the appropriate governmental agency if there is an outstanding warrant in another municipality unrelated to the charges at hand, or

3. To a sober adult person who police deem is appropriate and so long as the arrested person is not a danger to him/herself or others based upon intoxication, drug use or mental illness.

When a monetary bond is set, a surety bond may be posted by any surety approved by the Clerk of the Shaker Heights Municipal Court at that time.

In addition to the amount of a monetary bond or unsecured bond, **bonds shall include additional statutory fees** of \$54 for misdemeanor bonds and \$85 for felony bonds.

When a judge or magistrate has previously set a bond in a case or has ordered a new bond in its last capias or warrant entry, the new bond shall apply until/unless modified by the court. Such bond will supersede the above bond schedule.

If a person is arrested for two or more offenses, the bond set by the court may apply to all charges unless a different bond is requested by police or the prosecutor.

In order to overcome the presumption of an unsecured bond or personal recognizance bond, as well as to assist the court in setting bond in those categories that are exceptions to the presumption of personal bond listed above, **the police and/or the prosecutor shall provide the court information** in accordance with Criminal Rule 46, R.C. 2937.222 and R.C.2919.251 for domestic violence related offences:

- 1.) **Record of criminal conviction** for any:
 - A. Offenses of violence as defined by R.C. 2901.01,
 - B. Criminal cases within the past five (5) years other than minor misdemeanors,
and
 - C. Major traffic offenses as defined by Traffic Rule 13(B),
- 2.) If the arrested person is on **community control supervision/probation, parole or post-release control** and the name of the court,
- 3.) The nature and circumstances of the offense charged, which may include the **police report and witness statements**, including:
 - A. Injury to victim and/or damages to property,

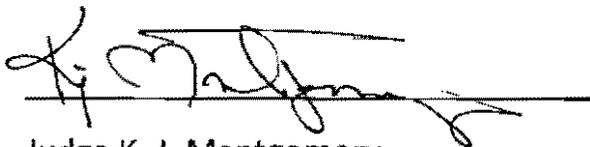
- B. Use of weapon in offense, possession, ownership, or access to a firearm, or whether the defendant has a CCW permit,
- C. Alcohol or drug related or involved,
- 4.) Active **warrants** with verification for pickup,
- 5.) Active **protection orders** against the arrested person in effect at the time of arrest,
- 6.) Known **medical, mental health, and/or substance abuse issues**,
- 7.) **Booking screening information** if arrested, or if arrested with no booking screen information, an explanation for its absence,
- 8.) Known occupation or source of **income/support** (the court's financial information forms),
- 9.) **DA-LE** when used, and

Any other information requested by the judge or presented by the government based on the circumstances of the case.

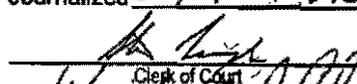
To assist law enforcement in gathering these materials, law enforcement is encouraged to complete the court's information cover checklists and supply those materials to the court within 48 hours. The prosecution must show a bona fide emergency or other extraordinary circumstances for a delay of more than 48 hours from time of arrest.

This bond schedule is effective on March 20, 2020, 2020 for all cases filed in the Shaker Heights Municipal court and supersedes any previous bond schedules.

So ordered.


 Judge K. J. Montgomery

March 17, 2020
 Date

Journalized 3-17-2020

 Clerk of Court
 By 
 Deputy Clerk

STATE OF OHIO
CUYAHOGA COUNTY

) IN THE SHAKER HEIGHTS MUNICIPAL COURT
) SS:
)

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/16/2020

JOHN TEST
456 MAIN ST
MAIN , OH 44444

*Sentencing/COP
Telephone Date*

This case is set for ARRAIGNMENT at the Shaker Heights Municipal Court on 04/03/2020 at 01:30 PM. **This court date is NOT being continued.** In order to keep you safe during the health crisis, the court will conduct the ARRAIGNMENT TELEPHONICALLY FROM THE COURTROOM AND ON THE RECORD. **You and your attorney must appear by telephone for your court date by answering the phone number the court has on file (999-999-9999) on 04/03/2020** between 8:30 a.m. and 11:30 a.m. The court will conference both defendant and counsel into the call as well as the prosecutor, when necessary.

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DATE: 04/16/2020



Judge K.J. Montgomery

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Monday, April 6, 2020 01:33 PM
To: Tomaszewski, Steve
Cc: Tuzon, Dane K; Sheppard, Jerome
Subject: Notice for cases set for sentencing or change of plea to be conducted telephonically

How's this...Please edit:

CASE NUMBER:
DEFENDANT NAME:
DATE:

DEF NAME
ADDRESS

This case is set for [sentencing][a change of plea] at the Shaker Heights Municipal Court on _____ at _____ a.m. **This court date is NOT being continued.** In order to keep you safe during the health crisis, the court will conduct the [sentencing][change of plea] TELEPHONICALLY FROM THE COURTROOM AND ON THE RECORD. **You and your attorney must appear by telephone for your court date by answering the phone number the court has on file (999-999-9999) on _____ between 8:30 a.m. and 11:30 a.m.** The court will conference both defendant and counsel into the call as well as the prosecutor, when necessary.

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**IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO, CITY OF _____)
)
 Plaintiff)
)
 vs.)
 _____)
)
 Defendant)

CASE NO.
 JUDGE K.J. MONTGOMERY
WAIVER OF RIGHT TO BE
 PHYSICALLY PRESENT IN COURT

I, the defendant herein, pursuant to Crim.R. 43(A)(3), hereby waive my right to be physically present for all arraignment, bond, plea, sentencing, and other hearings, but not a jury trial, to be held in the above-captioned matter, and I consent to participate by remote contemporaneous video and/or audio.

I understand each of the following:

- (a) The video and audio arrangements will allow me to hear the proceeding.
- (b) The video and audio arrangements will allow me to speak and be heard by the court and all parties.
- (c) The court will make provision to allow for private communication between counsel and me, if I have counsel. In such case, the court will inform me on the record how to, at any time, communicate privately with my counsel. My counsel will be afforded the opportunity to speak to me privately and personally. My counsel will be permitted to appear with me at the remote location if my counsel and I request it.
- (d) I consent to the proceeding involving sworn testimony that is subject to cross examination by my counsel.

The undersigned defendant declares to the court that he/she understands the right to be physically present at the above mentioned hearing, understands the terms of the within waiver, and the defendant has advised the Court that he/she agrees to waive this right and appear via remote contemporaneous video and/or audio.

X _____
 Defendant (sign)

 Date

X _____
 Witness (sign)

X _____
 Attorney for Defendant (sign)

 Defendant Phone (or Attorney Phone)

JUDGMENT ENTRY

The court finds the defendant understands his/her right to be physically present. The above waiver is accepted and the defendant is hereby granted leave to appear via remote contemporaneous video and/or audio.

 Date

 JUDGE K.J. MONTGOMERY

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Friday, April 10, 2020 12:49 PM
To: Court; Michael Cicero; Nathalie Supler; Randy Keller; Stephanie Scalise; Thomas M. Hanculak
Subject: Changes in protocol for community service work

Dear staff and prosecutors:

With COVID-19 complications, many worksites are not accepting defendants needing to work off fines and costs. There is a continuing danger of introducing people to work together with distancing in place. Additionally, the struggle for funds is driving more people to the Cleveland Food Bank.

As a result, and until further notice from the court (me), community service WILL BE the bringing of 30 cans of food to the Cleveland Food Bank or a location of defendant's choice that accepts food donations. The probation department has created an information form for defendants advising of the Food Bank's hours, location and favorite donation items. The 30 can/item requirement will apply to every community service case regardless of balance due. Defendants will furnish to the court in such manner as probation directs a receipt for the items donated.

Prosecutors, I have included you on this email *not* so that you will offer community service instead of payments or a payment plan, but so that you will know how this uniform community service will be conducted until further notice.

Thank you! Kj

Montgomery, K.J.

Cc: Supervisors <Supervisors@shakerheightscourt.org>; pkrouse@cleveland.com; Tuzon, Dane K <dtuzon@shakerheightscourt.org>; Ertel, Phillip P <ppertel@shakerheightscourt.org>; Keller, Anne <akeller@shakerheightscourt.org>

Subject: Shaker Court Closed with Certain Exceptions

The Shaker Heights Municipal Court declared an emergency due to COVID-19 on March 16, 2020, and put into effect certain conditions. That order was supplemented on March 23, 2020. As a result, the following conditions are in effect:

Shaker Heights Municipal Court has **cancelled court appearances** from Tuesday, March 24, 2020 through Monday, April 13, 2020 for

- Traffic and Criminal Arraignments
- Hearings
- Trials
- Probation Appointments
- Civil matters including mediations, evictions, motion hearings, and move-outs
- Weddings
- Jury Trials
- MADD Meetings
- In The Neighborhood

Remaining as scheduled will be

- Criminal Pretrials to be conducted telephonically

The court **WILL conduct** (via video conference when possible)

- Felony First Appearances
- Bond Hearings
- Protection Order Hearings
- Preliminary Hearings
- Such matters as the Judge deems time sensitive and for which the need for prompt addressing outweighs the damage/danger inflicted by postponing such matters.

The court will remain open to

- **Accept filings** of new traffic, criminal, and civil cases and motions
- **Accept and Receipt Bonds**
- **Take Payplan Payments**
- **Accept Phone Calls** (216-491-1300 in the court)

For those cases reset from March 24, 2020 to and including April 13, 2020, the rescheduled court dates can be found on the court's website at www.shakerheightscourt.org.

The court's original order of March 16, 2020 declaring an emergency is attached for your information.

Please feel free to contact me with any questions at 216-491-1324. Thank you for your assistance. K. J. Montgomery

Reply | Delete | Junk | ...



Summary of meeting re: April dockets/scheduling

Keller, Anne

Reply |

Thu 4/2, 4:05 PM

Montgomery, K.J.; Tomaszewski, Steve; Keller, Anne; Sheppard, Jerome; Gogala, Joe

Inbox



Action Items



Hi everyone:

If you have changes please let me know and I will edit this summary. I have tried to note every task that we gave to a specific person/group. Thanks!!

Summary of To-Do list for April Dockets:

- Small claims will be reset to July and new cases to be scheduled in July (Annie to work with Amy to handle)
 - Annie will email Wendy to mediate some of the cases by phone and parties to receive order re: telephonic mediation
- Evidentiary hearings/trial scheduled outside of daily dockets:
 - 4/16 am – mtg to vacate is done by telephone and Trial moved to July/Aug (Annie)
 - 4/16 pm – Suppressions (Joe to call Nathalie and have her call attys to settle – otherwise will move to July)
 - 4/23 – theft trials remain set (we think it will resolve)
 - 4/24 – civil am motion hearing will be telephone and trial to remain set (Annie)
 - 4/30 – suppressions am (Pepper Pike case to go forward, Joe to make the same call to Nathalie to try to resolve her case)
 - 4/30 – civil am motion hearing by telephone (Annie)
- Payment hearings for non-warrant get reset (clerks)
- Payment hearings with warrant and none or one contempt (Bailiffs to do order to cancel warrant and reset payment plan)
- Payment hearings with warrant and multiple contempt charges get registration block – (Bailiffs to do order)
- Wednesday afternoon traffic arraignment docket:
 - Waivers will be paid in advance or Defs know that their arraignment is by phone due to recent notice for waiver tickets (clerks sending out notices now)
 - Non-waivers will get a notice that their arraignment will be by phone on the scheduled date. (Annie to draft, clerks to send out)
 - If someone shows up we will address them from the window or have them come into court if needed or wait in hallway for tele call (Bailiff needed)
 - No shows will be set for July
- Wednesday afternoon COP docket
 - Annie to contact Randy/Kim and ask them to contact the defendant's and let them know they will get an invoice in the mail (applies to 4/15, 4/22, 4/29)
- Monday afternoon DUS docket:
 - 4/20 is continued to 6/1 (clerks)
 - 4/27 is continued to 6/8 (clerks)

Montgomery, K.J.

From: Byrne, Cornelia
Sent: Tuesday, April 21, 2020 04:27 PM
To: Montgomery, K.J.; Tomaszewski, Steve; Civil Department
Cc: Keller, Anne; Sheppard, Jerome
Subject: "Relaxing" Regulations

Hi All:

A quick review of the latest e-mail regarding civil matters brings up the following points:

- 1) All civil trials and motion hearings except for motions for default judgments should be cancelled and re-set in August and later.
- 2) The magistrate will set and send notices indicating pretrial dates.
- 3) After the deputy clerk files an eviction complaint and assigns a trial date for the first cause, the chief magistrate will review the docket for that date and determine if it is appropriate for the first cause to proceed.

We will be looking at how to best handle garnishment hearings going forward. Stay tuned. Thanks, Connie

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Friday, March 27, 2020 03:52 PM
To: Court; Michael Cicero; Nathalie Supler; Randy Keller; Stephanie Scalise; Thomas M. Hanculak
Subject: Just thinking out loud.

1. IF we are unable to hear cases due to COVID-19 in April, I intend to do the following: We will utilize the following 3 days, working all day, to reset those cases: Wednesday, July 15, Thursday, July 16 and Friday, July 17. We will address the nature of those cases and set them appropriately.
2. In the meantime, prosecutors will continue telephonic pretrials. That includes telephonic pretrials with pro se defendants. After 2 missed telephonic dates, the person will be set for an in-court hearing. A no show at that time will result in a warrant. Prosecutors, please keep track for us!!!
3. More changes are coming but my concern is for your health and safety. I highly recommend that you go to Youtube and type in PSA Safe Grocery Shopping in Covid-19 pandemic. It has some excellent instructions.

More to follow next week. Please stay safe and healthy. kj

Slunski, Kristina

From: Montgomery, K.J.
Sent: Tuesday, April 21, 2020 03:47 PM
To: Court
Cc: Michael Cicero; Nathalie Supler; Randy Keller; Stephanie Scalise; Thomas M. Hanculak
Subject: "Relaxing" Regulations?

Dear Staff:

Shaker Heights Municipal Court will *continue* current practices for the entire month of May. I have grave concerns that if commerce is able to open even in stages in May that we will see a spike in COVID-19. The last thing I want to do is to ramp up these labor intensive and expensive mailing procedures for a second time. It is my intension to stay the course (complete with nice looking dress down every day) until I feel sure that we are out of the Corona Virus woods.

By May 15, I will determine the fate of June.

What does this mean for you?

Criminal:

- Probation will continue to make phone calls to advise traffic tickets holders that their arraignment will be by telephone
- Probation will continue to make phone calls to advise change of pleas and sentencings will be by telephone
 - Probation will continue to send to defense attorneys
- The clerk will continue to send the "3 choice" letter to waiverable ticket holders (Waive, \$40/mo plan or appear telephonically)
- Anne Keller will continue to mark all criminal dockets to advise if any traffic cases should be transferred to the Monday afternoon dockets
- Bailiffs will continue to set all not guilty cases for telephonic pretrials at the normal pretrial slots for our prosecutors
 - The notice of telephonic pretrial will be given or mailed to the defendant
- Wendy will conduct the Monday dockets until further notice.
 - Annie and Wendy: I am not sure if this group of defendants would benefit from receiving phone calls in advance of their date. Let's discuss.
- Defendants needing to attend DIP will be given 6 months to complete with a "status date" set for court at 8:30 6 months out.
- The AA requirement will be virtual AA or the requirement will be eliminated in the jurist's discretion.
- Expungments will be done without requiring defendants' attendance.
- Probation appointments will be telephonic. Use snail mail/email/phone pics to exchange documents.
- Trials not resolved will be set in July and August on designated "make up" trial dates.
- There shall be no trials conducted in May.
- Scheduled jail will be about 6 months out.
- Housing cases will be held on the morning dockets for Shaker and U.H.
 - Status reports will be telephonic with the judge involved and a JE documenting what happened and the next step.
 - The prosecutor will advise those cases which should be concluded due to an inability to inspect interiors.
- Required hearings will be set on a case by case basis by the judge.

Civil:

- All pretrials and mediations will be conducted telephonically.
 - The clerks office shall send notice indicating that these dates are telephonic and the court will call the parties.

- RITA cases will be conducted telephonically. (RITA has been calling defendants in advance to try to settle the cases!)
- All mediations shall be conducted telephonically.
 - Clerks shall notify the parties that the mediation will be telephonic.
- Defaults shall be telephonic.
 - Clerks shall notify parties that the matters are telephonic.
 - Default cases in which answers were due after 3/9/20 cannot result in a default judgment until after 7/30/20.
- Evictions shall be reviewed and the parties contacted by the Chief Magistrate who will determine when the case shall be set.
 - The Chief Magistrate will inquire regarding CARES Act concerns.
 - The Chief Magistrate will review payment histories, complaint attachments, etc.
- Small Claims cases shall not be set in May.

All court visitors:

- Bailiffs shall ensure visitors are properly screened.
- When disposable thermometers arrive, each visitor shall use one and it shall be disposed of properly
- Bailiffs will control court entry seating visitors, having them wait in cars, etc.

Staff:

- Staff shall continue to temp test
- Anyone exposed to CoVID -19 shall use a mask and advise staff of the exposure

There is more to follow. Let's hang in there and get through this!!!! Thank you ALL for your efforts!!!! kj

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

In re:) Judge K. J. Montgomery
ORDER DECLARING A JUDICIAL EMERGENCY)
AND CONTINUITY OF OPERATIONS OF THE) JOURNAL ENTRY
COURT DUE TO COVID-19

The Judge of the Shaker Heights Municipal Court makes the following findings of fact:

1. The Center for Disease Control and Prevention (CDC) is responding to an outbreak of respiratory disease caused by a new coronavirus that was first detected in China and which has now been detected in more than 100 locations internationally, including in the United States. The virus has been named "SARS-CoV-2" and the disease it causes has been named "coronavirus disease 2019" (abbreviated "COVID-19").
2. On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization (WHO) declared the outbreak a "public health emergency of international concern." On January 31, 2020, Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. On March 11, 2020, WHO publicly characterized COVID-19 as a global "pandemic" requiring "urgent and aggressive action" to control the spread of the virus.
3. According to the CDC, more cases of COVID-19 are likely to be identified in the United States in the coming days, including more instances of community spread. It is likely that at some point, widespread transmission of COVID-19 in the United States will occur. Widespread transmission of COVID-19 would translate into large numbers of people needing medical care at the same time. Schools, childcare centers, and workplaces may experience more absenteeism. Mass gatherings may be sparsely attended or postponed. Public health and healthcare systems may become overloaded, with elevated rates of hospitalizations and

deaths. Other critical infrastructure, such as law enforcement, emergency medical services, and sectors of the transportation industry may also be affected. Healthcare providers and hospitals may be overwhelmed. At this time, there is no vaccine to protect against COVID-19 and no medications approved to treat it. Non-pharmaceutical interventions would be the most important response strategy.

4. The United States government has taken steps to respond to the coronavirus and protect the health and safety of Americans. The U.S. government has cautioned that Americans should be prepared for the possibility of a COVID-19 outbreak in their community. The community can take measures to reduce the spread of COVID-19. Until a vaccine or drug is available for COVID-19, community-based interventions such as school dismissals, event cancellations, social distancing, and creating employee plans to work remotely can help slow the spread of COVID-19. Individuals can practice everyday prevention measures like frequent hand washing, using sanitizers on hands and surfaces, staying home when sick, and covering coughs and sneezes. Decisions about the implementation of community measures will continue to be made by local and state officials, in consultation with federal officials as appropriate, and based on the scope of the outbreak and the severity of illness. Implementation requires extensive community engagement, with ongoing and transparent public health communications.
5. On March 9, 2020, Ohio Governor Mike DeWine issued Executive Order 2020-01 D, "Declaring a State of Emergency," in response to the growing COVID-19 public health crisis. Governor DeWine and public health officials urged people to avoid large, indoor gatherings to minimize close-contact and potential exposure to the coughs or sneezes of others. Many Ohio colleges are utilizing online learning and extending spring breaks to keep students out of classrooms. Governor DeWine ordered that all Ohio schools take an extended 3-week spring break beginning Monday, March 16, 2020. Sporting events are canceled, including OHSM, NBA, MAC, Big Ten, NCAA, and Lake County, Cleveland, Columbus, and Akron professional sports teams. Many local attractions are closed, including Playhouse Square, the Cleveland Orchestra, concerts, shows, museums, and other events. On March 12, 2020, Governor DeWine and Ohio Department of

Health Director Amy Acton, M.D., MPH signed an order prohibiting mass gatherings in Ohio. Mass gatherings are defined as any event or convening that brings together 100 or more persons in a single room or single space at the same time such as an auditorium, stadium, arena, large conference room, meeting hall, theater, or any other confined indoor or outdoor space.

6. Shaker Heights Municipal Court consulted with city and county officials, the Supreme Court of Ohio, and other local and state agencies, and upon recommendations obtained from the foregoing, including the U.S. government, hereby declares an emergency and makes the following orders regarding the continuity of operations of the court.
7. This court is mindful that it must follow all laws and procedures even with the current emergency situation.
8. Based upon the above findings of fact, the Shaker Heights Municipal Court has developed a continuum of flexible responses in case the public health crisis escalates to be in effect until such time as the response to the COVID-19 local health crisis has resulted in control of the spread of the disease or otherwise until further order of the court. The continuum of responses is intended to protect public health, to maintain essential court functions, and to continue to protect the rights of all individuals subject to the authority of the court.

THEREFORE, IT IS HEREBY ORDERED:

The courthouse shall have three states of opening, use, and operations, as follows, as declared by the Judge:

- A. "Open" means normal operations with full, healthy staffing on hand, and full hearings and trials, both civil and criminal, jury and bench, to the extent possible under the circumstances.
- B. "Open with Restrictions" means essential judicial, court, and clerk personnel shall be on duty in the courthouse, including sufficient bailiffs. All court matters shall be open to only the litigants, their attorneys, and witnesses. All other family, friends, children, etc. shall not be permitted to remain in the building.

Limited media may be admitted upon request subject to such health screening as the Judge requires with exclusion based upon the results of such screening.

Law enforcement shall use email, fax and other telephonic means to conduct court business. Law enforcement shall come to the court for business reasons only such as the filing of cases, obtaining warrants and responding to subpoenas. During such times, law enforcement shall practice social distancing and use sanitizers available to them before interacting with court staff.

C. "Closed" means the courthouse is closed for all operations, in which instance, all filings are preserved to the next business day that the courthouse is not closed, and all trials, hearings, and appearances are postponed unless the same can be conducted electronically.

1.) The local rules of court may be temporarily adapted to allow the court flexibility, within constitutional limits, in response to the public health emergency.

2.) The court's security policies may be temporarily amended or supplemented to protect public health while maintaining essential court functions.

3.) The court's, and the city of Shaker Heights' (to the extent that it affects court employees) employee handbooks and human resource provisions may be temporarily adjusted to maintain essential court operations and functions.

4.) The court authorizes the use of audiovisual devices and technologies for as many court actions and proceedings as is practicable.

5.) This public health emergency is considered to be a finding of "just cause" for continuances deemed necessary by the Judge or court magistrates on a case-by-case basis. The Judge will rule upon any Ohio Supreme Court case time guidelines on a case by case basis weighing the prejudice or time potential violation against the severity of the public health emergency.

6.) The court has lawful authority, within constitutional limits, to do and direct to be done all things necessary to ensure the orderly and efficient administration of justice for the duration of the declared public health emergency.

7.) All visitors to the courthouse shall pass through the magnetometer and shall use a sanitizing wipe or spray as provided by the

court before entering. Visitors to the clerk's window shall also utilize sanitizing products provided by the court before being assisted by the court staff. The court reserves the right to have cases rescheduled for those who come to court exhibiting signs of illness. Visitors may be turned away and sent a new court date by mail. In such case, they shall sign a mailing address verification and then leave the building. They may also be issued a mask to wear while at the courthouse. This court space is severely limited and the court cannot control the number of cases filed. However, the following practices shall be employed to protect staff and visitors:

- The Judge has the right to remove anyone from the court who is suspected of being infected or ill. The Judge may also order individuals to wear a protective mask.
- The bailiffs will limit the number of people entering the courtroom at one time. For large dockets, defendants may be divided into groups entering the courtroom at staggered intervals.
- Defendants will be asked to return to their cars and return to the Court after a certain number of minutes so that the population in the courtrooms can be reasonable in number.
- Bailiffs may also direct visitors to the police lobby or hallways to await their cases in order to lessen crowding in the courtrooms as dockets are called.
- Criminal pretrials which include the exchange of physical information shall be conducted in open areas of the building. The court encourages prosecutors to conduct as many pretrials by telephone as possible and mail materials that are to be exchanged. Civil pretrials shall be conducted by phone as much as possible. If scheduled pretrials cannot proceed telephonically, then they shall be held at the court as scheduled.
- Building and housing case arraignments shall be held as scheduled. Compliance hearings/status hearings in which repairs are scheduled may be conducted telephonically and may be communicated in a joint writing by city and defendant. The writing shall be received by the court within 24 hours of the scheduled court date. The writing shall indicate items corrected and approved and those to be corrected for the next scheduled court date. The court may then adopt these findings into a court order. If compliance is not achieved, parties shall appear on the scheduled court date. Building

and housing arraignments and trials shall proceed as scheduled.

- Probation officers shall meet with clients in open spaces such as Courtroom II or the hallways. Scheduled probation clients shall be contacted by phone or electronic means like email in order to reduce the population coming into the court building.
- The Clerk's Office has normally reset matters for a date two weeks ahead. Until further notice, those routine matters shall be set for dates four weeks ahead. The Judge and magistrates shall note in journal entries that the longer postponement of court business is due to the judicial emergency caused by COVID-19.
- Staff shall work to encourage all matters that can be handled remotely to be conducted in this fashion until further notice including waiving tickets and meeting telephonically.
- Cashiers and staff accepting money or documents at the clerk's office window shall wear protective gloves provided by the court and dispose of same appropriately.
- When appropriate, the Judge shall order jail sentences to commence at a date in the future in order to avoid overcrowding jail facilities with nonviolent offenders at this time. Those dates may be revisited from time to time as this judicial emergency situation progresses.
- Parties to court proceedings shall request continuances if they or family members are ill. For the months of March and April 2020, any filing fees normally associated with continuance requests shall be waived.
- Continuances: Defendants that would like to contest their case can avoid coming to the courthouse for their arraignment by filing a not guilty plea prior to their arraignment. Defendants can download a Not Guilty Plea form from the Court's website, fill it out and file it with the Clerk of Court prior to their arraignment date. The Not Guilty Plea form also gives Defendants the option to waive their right to a speedy trial and permit the Court to set their next court date further out into the future. A printed copy of the Not Guilty Plea form is also available at the Clerk's office window.
- While the Court will continue to accept filings at the window, it also accepts filings of 15 pages or less by facsimile and by mail. The Court's fax number is 216-491-1314. Any civil pleading can be filed

by facsimile as long as the Court's Civil Fax Credit Card Payment Form is utilized for the filing fee. The Civil Fax Credit Card Payment Form is available on the Court's website. Pleas of Not Guilty can be filed by facsimile or mailed to The Shaker Heights Municipal Court, Clerk of Court at 3355 Lee Rd., Shaker Heights, Ohio 44122.

- All trials and hearings not specifically referenced in this order shall proceed as scheduled.
- The Judge will encourage adaptation of additional health precautions by supplementing this order from time to time.
- All weddings are cancelled until further order of the court.

8.) Court staff, attorneys, witnesses, jurors, and security personnel who exhibit signs of illness shall contact the court by telephone or email and shall not come into the courthouse or report for duty unless specifically instructed to do so by the Judge.

9.) Court staff may be subject to health screening or testing, when screening or testing is available, and exclusion from admission based upon the results of such screening or testing.

10.) All court staff shall enter through the back door of the court and swipe into the court's timeclock as currently required. Additionally, staff as they enter for the first time in the morning shall utilize the court-supplied thermometer to check their temperature. After the no-touch forehead temperature check is complete, the employee shall wipe the thermometer with the sanitizing wipes provided and return it to position for the next staff member to use upon entering.

If the employee records a temperature of 100.4 or more, the employee shall be required to leave work and return home and quarantine for 14 days unless otherwise directed by the Judge. The employee should seek medical attention as quickly as possible.

All staff whenever returning to the courthouse at other times of day shall wipe their hands with a sanitizing wipe or spray as provided by the court.

All staff shall practice good hygiene and social distancing as much as possible. The court will provide guidelines as they become available from reliable sources. Among the most important guidelines are proper handwashing, not touching faces with hands and disinfecting before eating. Staff shall not eat while working. While eating at desks is permitted once cleaned, food shall be consumed and then work resumed.

11.) The court shall attempt to minimize the amount of travel and social interaction of litigants, attorneys, witnesses, jurors, law enforcement personnel, and judicial personnel by continuing non-essential proceedings or conducting proceedings, as far as practical, by remote video or telephonic means (electronically). However, any matters requiring to be recorded for preservation shall be conducted in Courtrooms 1 or 2 through the use of the courtrooms' recording equipment and speaker phones or videos.

If recording is for any reason not available or accessible and a record is desired or necessary, the court and the parties shall jointly craft a statement in lieu of transcript of the proceedings in accordance with appellate rules.

12.) The clerk's office shall conduct business with essential personnel only, as determined by the clerk, and may determine to conduct the receipt of filings or other transactions only through the clerk's windows or by email. This shall include the filing of cases by law enforcement.

13.) Criminal arraignments, pretrials and motion hearings shall be conducted by video from area detention facilities whenever technically possible.

14.) Unless the Ohio Rules of Criminal Procedure require, no jury trials shall be conducted during the months of March, April or May, 2020.

15.) Employees of the court not on duty in the courthouse shall work, to the extent possible, remotely, and in accordance with the directives of the Judge. All judicial employees are deemed essential, even if working remotely from home, and shall be paid their regular salaries.

16.) When a court employee is determined to be unable to work or required to be quarantined due to COVID-19, the employee shall not be required to use sick leave and shall be compensated as regularly paid.

The court will further follow salary, sick leave and employment guidelines as established by the city of Shaker Heights during this judicial emergency.

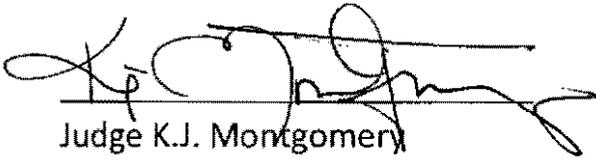
17.) This emergency order may be amended and supplemented from time to time in order to address this public emergency.

At this time, Shaker Heights Municipal Court is "Open with Restrictions" and the above provision applicable. When the emergency subsides, the court shall enter an order declaring an end to the emergency and returning the court to a simply "Open" state with resumption of

normal operations.

18.) This "Temporary Order" is ordered to be served on the Supreme Court of Ohio, the municipalities of this court district (their mayors, prosecutors and law directors), Ohio Judicial Conference, and the media.

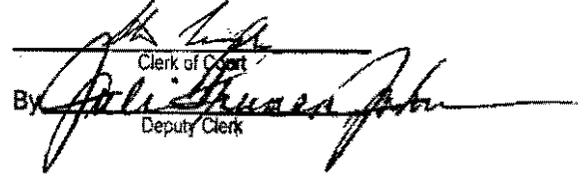
So ordered.

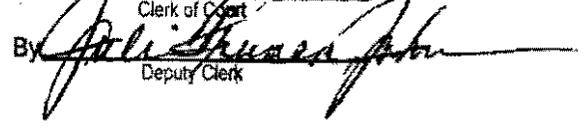


Judge K.J. Montgomery

March 16, 2020
Date

Journalized 3-16-2020



Clerk of Court
By 

Deputy Clerk

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

In re:

SUPPLEMENTAL ORDER OF COURT) Judge K. J. Montgomery
DURING JUDICIAL EMERGENCY AND)
CONTINUITY OF OPERATIONS OF) JOURNAL ENTRY
THE COURT DUE TO COVID-19

On March 16, 2020, this court declared a judicial emergency due to COVID-19. The court declared that it would develop a continuum of flexible responses to protect the public, the court community and the court's employees while properly addressing court proceedings.

There is a need to amend and supplement the court's order during this time as the court continues to operate in a state of "Open with Restrictions."

THEREFORE, IT IS HEREBY ORDERED:

1. **All court cases with dates set from Tuesday, March 24, 2020 through and including Monday, April 13, 2020 for arraignment, hearing, trial, civil pretrial, probation or other court proceeding are hereby continued for three weeks. Each matter is now reset for the same time, before the same judicial personnel or staff and for the same purpose, three weeks into the future. A schedule with exact dates of the continuances is attached hereto as Exhibit A.**
 - A. **Exceptions shall be:**
 - Traffic and criminal pretrials which shall be held telephonically on the dates and times currently set.
 - The Pepper Pike and Hunting Valley dockets which shall be reset from April 1, 2020 to May 6, 2020.
 - The RITA docket shall remain set on April 15, 2020 which docket shall be conducted telephonically.

2. The Clerk's Office shall remain open during the hours of 8:30 a.m. to 4:30 p.m. Monday - Friday for:
 - The receipt and posting of bonds
 - The filing of cases, motions, pleadings, etc.
 - Payments
 - Phone reception and for leaving messages.

3. The court shall remain open for:
 - Felony first appearances and bond hearings
 - Protection order hearings
 - Preliminary hearings
 - Such matters as the Judge deems time sensitive and for which the need for prompt addressing outweighs the damage/danger inflicted by postponing the matter.

Those proceedings shall be conducted with the utmost precaution in light of COVID-19 and by video or telephonic means when possible. Those hearings shall be conducted by the Judge or Magistrates from the courtroom using the court's case recording system. All orders written as a result shall be processed in accordance with law.

4. The court staff shall report to work from day to day as ordered by the Judge.

5. For all other purposes, the court shall be closed starting Tuesday, March 24, 2020 through and including Monday, April 13, 2020 subject to further order of court. The court will not permit or handle the following:
 - MADD meetings
 - In The Neighborhood
 - License reinstatement program
 - Weddings
 - Jury trials

6. For criminal matters in which the right to a speedy trial has not been waived, the court finds that for all the foregoing reasons set forth in this order as well as the court's previous order of March 16, 2020, that extending that speedy

trial deadline by three weeks does not unduly burden or damage the defendant's constitutional or procedural rights to due process.

7. For small claims cases which are to be set within 40 days, the court finds that for all the foregoing reasons set forth in this order as well as the court's previous order of March 16, 2020, that extending that hearing deadline by three weeks does not unduly burden or damage the defendant's constitutional or procedural rights to due process. No small claim cases shall be set before April 15, 2020.
8. The court defers to the Police Departments and Prosecutors of this court district as to the date they will set for arraignment of traffic matters except that no new court dates shall be set before April 14, 2020.
9. Telephone information shall be included for all cases filed from this date forward in order to facilitate proceedings being conducted telephonically. Email shall be included whenever available.
 - The court asks that police request a working cell phone number from all alleged traffic offenders and that the number be readable on the UTT.
 - All cases, motions, pleading, etc., filed with the court shall contain both telephone and email contact information.

This order shall be amended and supplemented from time to time pursuant to this court's emergency order of March 16, 2020.

So ordered.

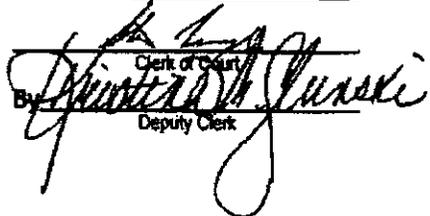


Judge K. J. Montgomery

March 23, 2020

Date

Journalized 3-23-2020

By 
Clerk of Court
Deputy Clerk

SUPPLEMENTAL ORDER OF COURT
DURING JUDICIAL EMERGENCY AND
CONTINUITY OF OPERATIONS OF
THE COURT DUE TO COVID-19

Exhibit A

All court matters set for the dates of Tuesday, March 24, 2020 through and including Monday, April 13, 2020 are reset as follows:

Tuesday, March 24, 2020 is reset for Tuesday, April 14, 2020
Wednesday, March 25, 2020 is reset for Wednesday, April 15, 2020
Thursday, March 26, 2020 is reset for Thursday, April 16, 2020
Friday, March 27, 2020 is reset for Friday, April 17, 2020

Monday, March 30, 2020 is reset for Monday, April 20, 2020
Tuesday, March 31, 2020 is reset for Tuesday, April 21, 2020

Wednesday, April 1, 2020 morning times are reset for Wednesday, May 6, 2020
Wednesday, April 1, 2020 afternoon times are reset for Wednesday, April 22, 2020

Thursday, April 2, 2020 is reset for Thursday, April 23, 2020
Friday, April 3, 2020 is reset for Friday, April 24, 2020

Monday, April 6, 2020 is reset for Monday, April 27, 2020
Tuesday, April 7, 2020 is reset for Tuesday, April 28, 2020
Wednesday, April 8, 2020 is reset for Wednesday, April 29, 2020
Thursday, April 9, 2020 is reset for Thursday, April 30, 2020
Friday, April 10, 2020 is reset for Friday, May 1, 2020.

Monday, April 13, 2020 is reset for Monday, May 4, 2020.

**THESE MATTERS ARE RESET FOR THE SAME TIME OF DAY AND BEFORE THE
SAME JUDICIAL OFFICER OR STAFF AS ORIGINALLY SCHEDULED.**

Questions should be directed to 216-491-1300.

Journalized

3-23-2020

[Handwritten Signature]
Deputy Clerk

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

In re:

SUPPLEMENTAL ORDER OF COURT) Judge K. J. Montgomery
DURING JUDICIAL EMERGENCY AND)
CONTINUITY OF OPERATIONS OF) CONFIDENTIAL JOURNAL ENTRY
THE COURT DUE TO COVID-19

On March 16, 2020, this court declared a judicial emergency due to COVID-19. The court declared that it would develop a continuum of flexible responses to protect the public, the court community and the court's employees while properly addressing court proceedings.

There is a need to amend and supplement the court's order during this time as the court continues to operate in a state of "Open with Restrictions."

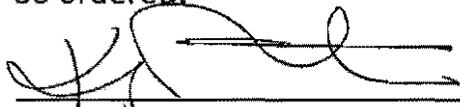
THEREFORE, IT IS HEREBY ORDERED: (Due to emergency circumstances, this list is not prioritized)

- No fee for continuances shall be charged until further order of court
- All summons notices shall set the next court date for 30 days out
- No warrants shall be issued for failure to appear until April 15, 2020
- No warrants shall be issued for failure to make a pay plan payment. They shall be reset for the following pay date.
- No payment ability hearings shall be set before April 15, 2020
- No court community service shall be located at University Heights or Shaker Heights
- All pretrial conferences shall be telephonic
- All mediations shall be telephonic
- All evictions shall be considered for mediation and alleged grounds shall be reviewed in order to determine an appropriate date for them to be set on a case by case basis.
- Employees shall not report to work except per departmental order.
- Employees shall be compensated and insured as if present at the court working a normal schedule.

- Prosecutors continuing to conduct pretrials by phone shall follow normal protocol and not set repeated pretrial discussions before a trial date is set.
- Until further notice, employees shall continue temperature taking upon entering work and follow all sanitation procedures.
- After April 14, 2020, it is anticipated that the court will return to work half-staff for one week at a time until further court order.
- Every employee shall receive an updated telephone chart for private phone numbers. If the employee on duty in the court finds that one of their department has received an unanswered voicemail, they shall contact that person. Employees must be available to assist in this manner.
- Employees shall daily call into the court to check emails and respond to them as soon as possible.
- Dress down continues.
- Employees are not to put food to share in the kitchen.
- Regarding illness, employees will advise their supervisor if they exhibit symptoms of COVID-19 and shall return home. Sick time will not be used for a quarantine period. Absence from court of other types of illness will require the use of sick time.

This internal order is subject to change.

So ordered.



K. J. Montgomery, Judge

3-24-2020

Date

Journalized 3/24/2020



Clerk of Court

By Deputy Clerk

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Monday, April 13, 2020 03:07 PM
To: Court
Cc: Michael Cicero; Nathalie Supler; Randy Keller; Stephanie Scalise; Thomas M. Hanculak
Subject: Emergency First Offender Program Procedures

Emergency Interim First Offender Program procedures:

If a defendant appears to qualify for the Court's FOP program and the Prosecutor recommends such consideration, the defendant will be issued the FOP requirements document to review and sign. The defendant will be given a telephonic date "to return" and be heard on the record in court.

Once signed, probation will determine eligibility.

If the defendant is eligible, probation will contact the defendant and ask if they waive a court appearance and agree to plead no contest on the case. If they agree, probation will assign a telephonic probation date. At that appointment, probation can lay out the requirements and a timeline for accomplishing same. Probation can be very mindful of limitations produced as a consequence of COVID-19 and schedule requirements accordingly. Jail can be set for October, November (late in the year)...dates for work service or classes can be similarly remote. HOWEVER, IT IS IMPERATIVE THAT DATES BE SET FOR THE PERFORMANCE OF FOP CONDITIONS. Otherwise, these cases will linger without resolution. SET DATES!!!!!!!

All probation appointments thereafter can be telephonic regardless of COVID-19 as long as they are made and completed on a scheduled probation "appearance" date. This may work with some defendants and not with others.

Upon FOP completion, the dismissal paperwork shall be generated and given to the bailiffs to be read on the record in open court.

Reminder: In every case of FOP eligibility determination conversations, probation shall confirm with defendant:

- Valid phone
- Current address for mailing forms, etc.
- Email, if available
- Work phone, address, information if we are otherwise unable to locate them.
- Such other information as probation deems relevant.

I recommend that when the defendant reads the FOP requirements and signs them, that they update info....Perhaps Probation gives them a form to complete with the info above....I suggest the form be created by probation officers.

We will follow this procedure until further notice. KJ

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Montgomery, K.J.

From: Montgomery, K.J.
Sent: Monday, April 13, 2020 03:39 PM
To: Court
Cc: Michael Cicero; Nathalie Supler; Randy Keller; Stephanie Scalise; Thomas M. Hanculak
Subject: RE: Emergency First Offender Program Proceedres

One added criteria: When the person says they will plead no contest and probation (often times, Phil) receives this information, not only will he give them their telephonic report date, he will do a journal entry that says:

Defendant agrees to enter plea of no contest. Referred to FOP. First telephonic probation appointment set for _____ at _____ at which time probation will contact defendant telephonically at (_____) _____.

I will sign the order and it will become part of the court's and probation's file. KJ

From: Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>
Sent: Monday, April 13, 2020 3:07 PM
To: Court <Court@shakerheightscourt.org>
Cc: Michael Cicero <cicero@nicola.com>; Nathalie Supler <Nathalie.Supler@beachwoodohio.com>; Randy Keller <randy.keller@shakeronline.com>; Stephanie Scalise <sscalise@universityheights.com>; Thomas M. Hanculak <tmhanculak@aol.com>
Subject: Emergency First Offender Program Proceedres

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From: Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>

Sent: Monday, April 13, 2020 3:07 PM

To: Court <Court@shakerheightscourt.org>

Cc: Michael Cicero <cicero@nicola.com>; Nathalie Supler <Nathalie.Supler@beachwoodohio.com>; Randy Keller <randy.keller@shakeronline.com>; Stephanie Scalise <sscalise@universityheights.com>; Thomas M. Hanculak <tmhanculak@aol.com>

Subject: Emergency First Offender Program Proceedres

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IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

- Shaker Heights)
- University Heights)
- Pepper Pike)
- Beachwood)
- Hunting Valley)

vs.)

Case No. _____

Judge K. J. Montgomery

ORDER FOR FOP INFORMATION TO

BE PROVIDED BY ____/____/____

Defendant's Name

Defendant is being considered for placement on the court's First Offenders Program. For the court to complete its considerations, the prosecutor is hereby *ordered* to provide the following copies on/or before the above date.

Copies of Police Report, supplementals and witness statements to leave at the court.

CCH Indicate here if defendant has no CCH: No CCH

LEADS

Video or Photos, if any

Whether defendant has holders and where: _____

Costs for services rendered by Police, EMS, Fire, etc. Attach documentation and proof of amount due, if any.

Costs of restitution. Attach estimate or bill for damage repair, if any.

SO ORDERED THIS _____ DAY OF _____, 20__.

Judge

In accordance with the judge's order, the undersigned has gathered and submitted the above items on this _____ day of _____, 20__.

Name _____ Title _____ Phone _____

Court Staff Reminder: Write date on outside of file

~~Donna Jackson~~

FOP

SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

Plaintiff
-vs-

Defendant

) CASE NOs. _____
) _____
)
) ORDER PERMITTING DEFENDANT
) TO PARTICIPATE IN FIRST
) OFFENDERS' PROGRAM

Defendant in court,

- With counsel.
- Without counsel, counsel having been waived in writing.
- Defendant has reviewed and agreed by signing and dating in the presence of witnesses that defendant will perform such terms of the FOP as may be required through probation including, but not limited to the potential of serving up to five (5) jail days.

Prosecutor recommends defendant for FOP and defendant appears to meet the statutory requirement of FOP.

- Withdraws previously entered plea of not guilty.
- Enters a plea of no contest and consents to a finding of guilty to the charge(s) of:

On motion of prosecution due to plea the following charges are dismissed:

Defendant placed on First Offender's Program and referred to probation. FOP program includes but is not limited to:

- Performing CSW
- Serving _____ days in jail (Jail to be scheduled through probation)
- Consuming no alcohol or illegal drugs
- Being banned from/having contact with: _____

Such other conditions as ordered by probation and to which defendant agreed to by requesting placement in FOP.

Date: _____ Judge _____

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Friday, April 10, 2020 12:31 PM
To: Court; Stephanie Scalise; Lisa Gold-Scott (lisa.gold-scott@shakeronline.com); Randolph Keller (randolph.keller@shakeronline.com)
Cc: 'Keith Williams'
Subject: Changing building/housing case dates

Hi everyone. One of the changes brought about by COVID-19 is a drop in the number of building and housing cases being filed. Additionally, for those cases filed and served, enforcement through the court has become problematic. Interior inspections pose dangers to the inspectors and occupants of properties. I believe that Shaker Heights has stopped routine property inspections which will also cause a lowering of the number of cases brought to court. In examining April's housing dockets set on Tuesday afternoon, there remain one....maybe 2 cases. It makes no sense to constrain the magistrate's and bailiff's times for these dockets. As a result, future cases will be handled as follows:

For University Heights, I believe Stephanie has been doing well with housing arraignments, pretrials and trials set for her standard Wednesday dockets. This eliminate the need for her to be at the court on Tuesday for one or two matters. Staff is reminded that for ALL pretrials set for the foreseeable future, we shall use the telephonic notice.

For Shaker Heights,

- Arraignments will be set at 10:00 a.m. on the first Wednesday of the month....the Pepper Pike/Hunting Valley day. If a case is to be served very early in the month, it may also be set for arraignment at 10:00 a.m. on any Shaker docket day.
- Pretrials will continue to be telephonic and will be set on Tuesday afternoons. Lisa will continue to pretry those cases from work or home as she is currently doing.
- Pretrial sheets will be needed. Be sure there is a case number on the pretrial sheet, a description of what has transpired and the suggested next steps. Please also be sure to indicate with whom the agreement was made.
- Change of pleas and sentencings should generally be set at 9:30 a.m. on the first Wednesday of the month...the PP/HV day. However, Shaker court docket days may be used, as needed.
- Status hearings will be dealt with on a case by case basis. When weather and circumstances permit, frequent dates may be required and these will be Shaker docket days when the PP/HV docket day is too remote.
- Trials will be set at 11 a.m. on the first Wednesday of the month.

Staff and prosecutors: Please keep in mind that photos can be extremely useful to show property conditions and corrections. Everyone needs to be on the lookout for phone numbers. Bailiffs and Mike Maharidge, we will need to have the housing journal entry forms available on housing dates. Jerome, please advise Tim Ward of changes at your earliest opportunity.

If case filings dramatically increase in the future, we may again need a dedicated housing docket. Time will tell!!!

Thanks, all! kj

Keller, Anne

From: Montgomery, K.J.
Sent: Wednesday, April 29, 2020 02:36 PM
To: Maharidge, Michael; Lisa Gold-Scott (lisa.gold-scott@shakeronline.com); Stephanie Scalise; hbbabbit8736@wowway.com; Thomas M. Hanculak
Cc: Casselberry, Matt; Moore, Gail; Keller, Anne; Randolph Keller (randolph.keller@shakeronline.com); Amaddio, Mike; Bailiff Department
Subject: Building and housing cases currently set for various types of appearances on the dockets from now through Jun 2020

Hello Mike and Prosecutors Lisa and Stephanie,

As we all know, COVID-19 unexpectedly and severely impacted our building and housing cases. When cases are placed on the dockets after being served, they show up as arraignments, change of pleas and status reports. These appearances tend to fall into categories....Examples:

1. Arraignment: If a NG plea is forthcoming, a pretrial is set on the prosecutors' pretrial dockets. If a plea of NC or G comes in, there will frequently be a finding of guilty. With that finding, the judge will generally have the following questions that will need to be addressed:
 - a. What issues existed with the case which led to its filing?
 - b. What has been corrected since the filing of the case?
 - c. If the status of violation correction is not known, the court will want an updated inspection of the cited violations to determine what has been corrected. This will be an issue the prosecutor needs to deal with COVID-19...will you inspect with proper PSP??? Are there outside issues in the list of violations that can be first addressed. If the city cannot approve attempts at code compliance, how can the case proceed? These are your prosecutions so the court will be looking for a way to satisfy the city. If nothing can be inspected, do you want the case dismissed since we can make no progress at this time?
 - d. A compliance plan will be required. The court will give parties a couple of weeks to list out on the court's compliance forms (or a similar form you design) that lists each numbered violation remaining to be corrected and dates for the stages of that correction. For example, a concrete pour may require 3 estimates with start dates as a first step. So the plan is more than saying that defendant will have new drive on Sept. 1 or be punished by the court.
 - e. The court will be very clear with the defendants that it is up to them to contact the city before coming back to court on any correction....because nothing is corrected until the city says it is....
2. Status hearings: These tract the above statements. With a compliance plan, the court will issue in its order EVERY TIME there is an appearance (telephonic or otherwise) what is due to be repaired and approved for the next court date. This will be stated with specificity so the defendant cannot claim surprise.
 - a. At that follow up date, PROBATION will provide for the court before calling the case the disposition order of the court (the finding of guilt/pass for sentence/the sentence).
 - b. The court will ask where we stand as far as compliance with the order for that date and will take items, if numbered, in order.
 - c. The court will then listen to reasons for unfinished items with an eye toward extending time or imposing punishment as justice requires.
 - d. A specific order will be written for the next date just as explained above.
3. When all violations are corrected, the court will do a final entry. Note: We do not CLOSE cases...that term is a legal nullity. If sentenced the court can indicate that violations presented in the case were corrected and the

case moves to inactive probation status where suspended penalties might only be imposed for similar and subsequent violations.

This approach can be tailored, of course, for failing to obtain permits, etc. Failures to obtain inspections will result in the court ordering the inspection that was missed unless the cities want something different to happen. I need to remind everyone that these are criminal charges and I am confined by time requirements to get these cases done. Defendant need to file motions to reset that the court will consider. Mayors are not prosecutors. I rely on the prosecutors to respond to requests where appropriate. Example: I received a letter, not a motion, with which the prosecutor was NOT copied that simply says the Mayor says I can have till fall....(!)

That said: **Mike, I have asked Matt to provide a list of every building/housing case set from now through June for you. He will try to ID phone numbers for the prosecutors' convenience. I am asking you to pull up the cases and review with the prosecutors the status of each case on the docket. I expect you to fill me in when going into court with such info as whether the defendant is cooperative, what the city plans to do next, whether inspections are being made, etc.**

As we approach the work season, we will need to try to achieve compliance for defendants/contractors/inspectors safely. If this cannot be done, the court suggests that cases not be filed at this time. The desired result is to hire contractors now, repair in the summer and conclude cases before cold weather returns.

Thanks, all!!! kj

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

Dear Defendant in Housing Court: CASE NO. _____

In light of the current pandemic and its implications for public health and safety, by order of the Shaker Heights Municipal Court Judge, your pretrial proceedings will be conducted with the _____ Housing Court Prosecutor or a designee via telephone and not in person.

While you are not required to personally appear in court for your scheduled pretrial, your participation in this telephone pretrial process is not optional. It is, in fact, a court order and your personal participation is required. (The prosecutor is under no obligation to conduct this pretrial with anyone other than YOU or a licensed Ohio attorney who is representing you.)

Your failure to participate could result in your being held in contempt of court and expose you to additional fines, costs or jail!

***Your telephone pretrial is set for _____ at _____ a.m./p.m.* This date and time will NOT be changed without you filing a timely request with the court and the Judge granting your request for a new pretrial date and time.**

During your telephone pretrial, you will have an opportunity to discuss:

1. A plea to the charges you are facing and the potential consequences;
2. Amendment of your housing/criminal offense to another agreed upon offense;
3. Any defense(s) to the charges that you might believe are appropriate;
4. How to lawfully exchange information with the Prosecutor's Office;
5. What occurs if you and the Prosecutor's Office are unable to reach an agreement that resolves your matter including the scheduling of your trial;
6. The court's process on addressing your ability to pay fines and costs.

When you call in, please be patient and courteous recognizing that circumstances may necessitate your leaving a message and the receipt of a timely, return call from the Prosecutor or a designee to conduct your telephone pretrial.

The meaningful and serious cooperation by the parties in this telephonic pretrial process will further the court's business in a manner close to in-person participation but with regard to the public safety during this challenging time.

Date

K.J. Montgomery, Judge

PROSECUTORS

SHAKER HEIGHTS

LISA GOLD-SCOTT, Assistant City Prosecutor
3400 Lee Road
Shaker Heights, Ohio
(216) 491 1446
Lisa.Gold-Scott@shakeronline.com

UNIVERSITY HEIGHTS

STEPHANIE B. SCALISE
2300 Warrensville Center Road
University Heights, Ohio 44118
(216) 906-0269
sscalise@universityheights.com

BEACHWOOD

NATHALIE SUPLER
25325 Fairmount Boulevard
Beachwood, Ohio 44122
(216) 714-3778
nathalie.supler@beachwoodohio.com

PEPER PIKE

THOMAS M. HANCULAK
1360 SOM Center Road
Cleveland, Ohio 44124
(440) 442-6800

HUNTING VALLEY

MICHAEL CICERO
Nicola Gudbranson & Cooper LLC
25 West Prospect Ave., Suite 1400
Cleveland, Ohio 44115-1066
(216) 621-7227
cicero@nicola.com

SHAKER HEIGHTS MUNICIPAL COURT

Case # _____

Proof of Insurance

Yes _____ Unknown _____

MESSAGE

Due to COVID-19 emergency conditions, you may plead guilty to your case and a bill will be mailed for you to pay fines and costs. If you would like to do this, please read and sign below.

BE SURE WE HAVE YOUR CURRENT ADDRESS AND PHONE NUMBER.

I want to plead guilty to my charges in this case. I understand that I will get _____ points on my driving record. I understand that I will be found guilty and the court will send me a bill for the money I owe. I understand I will have to pay \$40.00 per month until I have paid my fines and costs in full.

Date

Signature

Name: _____

Current Address: _____

Ohio _____

Current Phone: _____

Email: _____ @ _____

DO NOT WRITE BELOW THIS LINE

So Ordered.

Date

Judge

SHAKER HEIGHTS MUNICIPAL COURT

Internal Procedure for Exchange of Documents with Prosecutors and Police Personnel

1. Prosecutors and police personnel should contact 216-491-1300 on their way to the court to advise deputy clerks that they are coming to the court to deliver or retrieve documents.
2. Upon arrival, prosecutors and police personnel should go to the civil filing window where they will be assisted by a deputy criminal clerk. If that window is occupied, documents can be exchanged at the traffic window.
3. The deputy criminal clerk will provide the prosecutor or police personnel with any items in their mailbox.
4. The deputy clerk who receives the package must wipe off the package and use sanitizer when done.

[REDACTED]

From: Montgomery, K.J.
Sent: Wednesday, April 8, 2020 09:58 AM
To: Tomaszewski, Steve; Tuzon, Dane K
Cc: Probation Department; Keller, Anne; Byrne, Cornelia; Muster, Danielle; Casselberry, Matt
Subject: RE: Laptops for Probation and VPN

It appears now that everyone is on board and Frank is authorizing the help that we need in order to have some folks be able to work from home. Does that sound right, Dane????

Secondly, it is my understanding that for the 5 probation officers, they will have court laptops already programmed with the VPN software. Will they need training? Is this something Matt or Danielle might help with since they are young and brilliant? 😊😊

Finally, what is our timeline? Is it still by Friday? I will want the probation officers in the office to pick up their court phones and their laptops, if that is appropriate.

Regarding phones: I'll send an email to the firechief to see if they showed up. We will need someone – maybe a bailiff-to go and get them. If there is any set up involved with those – again, maybe lawclerks can help.

Annie and Connie are on the list to get VPN connections, too. Details coming in the future. kj

From: Tomaszewski, Steve <steve@shakerheightscourt.org>
Sent: Wednesday, April 8, 2020 8:09 AM
To: Tuzon, Dane K <dtuzon@shakerheightscourt.org>; Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>
Subject: RE: Laptops for Probation and VPN

Thanks Dane!

From: Tuzon, Dane K <dtuzon@shakerheightscourt.org>
Sent: Tuesday, April 7, 2020 5:43 PM
To: Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>
Cc: Tomaszewski, Steve <steve@shakerheightscourt.org>
Subject: Laptops for Probation and VPN

Just to update,

Joe D'Onofrio guided me through the process of configuring the laptops over the phone, this afternoon, and I wanted to make sure they were ready to go by tomorrow, so I brought 5 machines home with me to work on, tonight. I will show the probation officers how to operate the remote desktop when I come in, tomorrow.

We have a few more laptops that can be configured for the bailiffs and magistrates, but I suspect most of those who are left will already have personal laptops. They can bring those in to the court and I will configure the proper settings to get them up and running, and then give the remainder court-issued laptops.

I tried logging into NetExtender (the VPN program) with your credentials, Judge, and wasn't able to connect, so I need to see what Frank recommends we try (it might only be a simple setting that needs to be changed). In his latest email, he suggested we just use GoToMyPC to access our desktops, but as you stated,

Judge, that program gave you problems and we want to try something different, this time around. I will respond to him appropriately by reiterating that.

As for the VPN logins, we will need to provide IT with usernames and passwords, so I'm going to give Frank our existing usernames and create passwords that are user-specific, yet still secure.

Enjoy the great weather!

-Dane

Slunski, Kristina

From: Montgomery, K.J.
Sent: Monday, April 6, 2020 08:53 AM
To: Court
Cc: Jeri Chaikin; John Potts
Subject: During Emergency Scheduling: Working from Home verses Furlough

Dear staff:

It now appears that emergency scheduling of work days will remain in place for all of April and perhaps May. As a court, we are somewhat limited to the type of work tasks that we can perform from home. Some departments are excruciatingly busy and others are not.

It is important to note that this is not vacation time. IF YOU ARE ABLE TO WORK FROM HOME, IT IS EXPECTED THAT YOU WILL DO SO. Examples might be conducting telephonic pretrials/probation appointments/housing status reports. You might be able to check with attorneys and prosecutors regarding the status of cases. Through email, you may be able to receive required documents from defendants and examine photographic evidence, reports, evaluations and more. With that information, you may be able to reach out and find services.

Again, if your job is not one that is busy at this time and cannot be conducted from home, your days off may become furlough days. This would allow you to receive unemployment compensation for the days you are not scheduled to work.

Due to home quarantines, it is expected that you are available EVERY DAY during normal work hours unless you have requested vacation and been granted that vacation. Other classifications of being off continue with the same benefits: If required to isolate due to COVID-19 restrictions, you will not be required to use sickleave and will receive your normal compensation. Other illness/doctor appointments/etc., will require the use of your sickleave time.

Although this is uncharted territory, there is no question that the court's revenues will plunge. I cannot afford workers on payroll if you have a position that has no work at this time. I will be reviewing this situation in the coming week and will advise supervisors of any decisions that I make in this regard.

Supervisors: I need your input on tasks that can be performed by your staff from home.

Thank you. kj

From: Montgomery, K.J.
Sent: Friday, May 1, 2020 12:54 PM
To: Court
Subject: May - June COVID-19 Considerations

Dear staff:

Now that it is May and the Governor and others continue to address health concerns, I wanted to give you a brief update on my thoughts:

1. We will continue all the video/telephonic procedures for the entire month of May. By mid-May, I will let you know about June.
2. We are looking to July as "catch-up" month with many extra docket dates and bench trial/motion hearing slots already filled. August will be used if needed.
3. We are going to experience a huge economic hit...To that end, the following will occur:
 - a. There will be no merits until further notice.
 - b. Current vacancies will remain unfilled unless the position is essential to day-to-day court operations.
 - c. We will most likely begin to take one furlough day per pay period through the end of the year. I WILL PROVIDE YOU MORE INFORMATION ON THIS NEXT WEEK AS I REALIZE THIS WILL CREATE HARDSHIP.
4. We will continue splitting work days as it works from department to department. Supers, please provide the court a schedule so we know who is present.
5. Due to split schedules, there should not be weeklong vacations approved until further notice. Supers, please see me with any questions.
6. Beginning on Monday, May 4, masks will be required when you are away from your station, office or desk as a courtesy to others. Courtroom staff and security shall continue to use all precautionary equipment available.
7. Temperature testing will continue and we need to continue to practice all good hygiene.
8. Casual clothing will continue to be permitted. One reason for this is to permit you to shed and wash clothes (and leave shoes at the door) when you return to your families. The virus can live on clothing, boxes, bags.....I don't want you bringing illness to your homes.
9. Please advise me if you or a family member experience or are diagnosed with COVID-19 in order that we can stay as safe as possible.
10. I will keep you up to date on developments or procedures. We are presently completing a court binder of our procedures as they have developed. Information will be added as time goes on.

I thank each and every one of you for your amazing work during these unusual times. Things will eventually return to a new normal and I anticipate some of our technological advances will remain in place. This has been an enormous team effort!!!! Thank you!!!! kj

**SHAKER HEIGHTS MUNICIPAL COURT
EMERGENCY JAIL PROCEDURE AND ORDER
DUE TO COVID-19**

On this date, _____ reported to serve scheduled jail days at:
printed name

- | | |
|-----------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Beachwood Jail | <input type="checkbox"/> Pepper Pike Jail |
| <input type="checkbox"/> Bedford Heights Jail | <input type="checkbox"/> Shaker Heights Jail |
| <input type="checkbox"/> County Jail | <input type="checkbox"/> Solon Jail |
| <input type="checkbox"/> Geauga County Jail | <input type="checkbox"/> University Heights Jail |
| <input type="checkbox"/> Hunting Valley Jail | <input type="checkbox"/> _____ |

Due to emergency circumstances, you are not able to serve your jail days at this time. This does not mean that your jail days are excused. **YOU STILL MUST SERVE YOUR JAIL DAYS!!!**

CONTACT YOUR PROBATION OFFICER within 48 hours to reschedule your jail days. When you call, your probation officer will:

- Give you your new date to report to jail
- Mail/email/fax you (1) a paper showing your new date to report to jail, and (2) the paper you need to take with you when reporting to jail the next time.

Probation Officers:

- | | |
|------------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Sandra Blue (216) 491-3190 | <input type="checkbox"/> Mike Maharidge (216) 491-1311 |
| <input type="checkbox"/> Phil Ertel (216) 491-1307 | <input type="checkbox"/> Gail Moore (216) 491-1386 |
| <input type="checkbox"/> Jean Panter-Graham (216) 491-1306 | <input type="checkbox"/> _____ |

If you fail to call your probation officer or fail to obtain a new jail date, you will not have satisfied your probation terms and could be accused of violating probation.

_____ I have received a copy of this order and understand what I must do.
Initials

_____ Witness/Officer #	_____ Defendant signature _____ _____ Mailing address _____ Email address _____ Phone
----------------------------	---------------------------------------------------------------------------------------------------------------

I faxed (216)-491-1314, a copy of this order to Shaker Court on ___/___/___ _____
Witness/Officer #

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Tuesday, March 17, 2020 04:11 PM
To: dschilling@cuyahogacounty.us; William Mason; Cole John; 'Chief Dustin Rogers'; 'Chief Gary Haba'; 'Chief Jeffrey DeMuth '; 'Chief Joe Mariola'; 'Chief Michael Cannon'; Michael Cicero; Nathalie Supler; Randy Keller; 'Stephanie Scalise'; Thomas M. Hanculak
Cc: Probation Department; Slunski, Kristina; Freeman-Johnson, Juli; Tomaszewski, Steve
Subject: What the jails should do if a defendant from Shaker Court reports to serve jail days
Attachments: Emergency Jail Procedure Order COVID-19.docx; Emergency Jail Procedure Order COVID-19 - GENERIC.docx

Dear Chiefs, Sheriff Schilling, Mr. Mason and Prosecutors:

This court frequently schedules defendants to report to jail at a future date (accommodating work, child care needs, etc.). Some defendants may report over the next weeks before my staff has been able to reschedule or otherwise address their jail days.

When this occurs, and if your facility cannot accept the defendants, we ask that you helps us as follows:

1. Have the intake officer/jailer complete with the reporting defendant the Emergency Jail Procedure Order which is attached. It advises defendant to contact probation for jail rescheduling/reconsideration.
2. Have the intake officer/jailer sign the form as witness.
3. Have the intake officer/jailer FAX a copy of the completed form to Shaker court as instructed on the form. (216-491-1314)
4. Have the intake officer/jailer provide the reporting defendant a copy.

I can only ask that busy folks assist us in this fashion. The inconvenience for officers caused by having to complete and fax the form will inform our court that different arrangements are required for the reporting defendant.. As we all know, some jail sentences are mandatory under the law. We can hopefully work together to solve issues such as these. Between receiving the fax from jail and hearing from the defendants, we will be able to address issues of jail scheduling efficiently.

P.S. Sheriff and other – I have also attached a GENERIC form that could be used for defendants from other courts.

Please let me know if you see any issues in using the form and I thank you!!!! K.J.

SHAKER HEIGHTS MUNICIPAL COURT
EMERGENCY JAIL PROCEDURE AND ORDER
DUE TO COVID-19

On this date, _____ reported to serve scheduled jail days at:
printed name

- | | |
|-----------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Beachwood Jail | <input type="checkbox"/> Pepper Pike Jail |
| <input type="checkbox"/> Bedford Heights Jail | <input type="checkbox"/> Shaker Heights Jail |
| <input type="checkbox"/> County Jail | <input type="checkbox"/> Solon Jail |
| <input type="checkbox"/> Geauga County Jail | <input type="checkbox"/> University Heights Jail |
| <input type="checkbox"/> Hunting Valley Jail | <input type="checkbox"/> _____ |

Due to emergency circumstances, you are not able to serve your jail days at this time. This does not mean that your jail days are excused. **YOU STILL MUST SERVE YOUR JAIL DAYS!!!**

CONTACT YOUR PROBATION OFFICER within 48 hours to reschedule your jail days. When you call, your probation officer will:

- Give you your new date to report to jail
- Mail/email/fax you (1) a paper showing your new date to report to jail, and (2) the paper you need to take with you when reporting to jail the next time.

Probation Officers:

- | | |
|------------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Sandra Blue (216) 491-3190 | <input type="checkbox"/> Mike Maharidge (216) 491-1311 |
| <input type="checkbox"/> Phil Ertel (216) 491-1307 | <input type="checkbox"/> Gail Moore (216) 491-1386 |
| <input type="checkbox"/> Jean Panter-Graham (216) 491-1306 | <input type="checkbox"/> _____ |

If you fail to call your probation officer or fail to obtain a new jail date, you will not have satisfied your probation terms and could be accused of violating probation.

Initials I have received a copy of this order and understand what I must do.

Witness/Officer #

Defendant signature

Mailing address

Email address

Phone

I faxed (216)-491-1314, a copy of this order to Shaker Court on ___/___/___ _____
Witness/Officer #

_____ MUNICIPAL COURT
EMERGENCY JAIL PROCEDURE AND ORDER
DUE TO COVID-19

On this date, _____ reported to serve scheduled jail days at:
Printed name

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> _____ Jail | <input type="checkbox"/> _____ Jail |
| <input type="checkbox"/> _____ Jail | <input type="checkbox"/> _____ Jail |
| <input type="checkbox"/> _____ Jail | <input type="checkbox"/> _____ Jail |

Due to emergency circumstances, you are not able to serve your jail days at this time. This does not mean that your jail days are excused. YOU STILL MUST SERVE YOUR JAIL DAYS!!!

CONTACT YOUR PROBATION OFFICER within 48 hours to reschedule your jail days. When you call, your probation officer will:

- Give you your new date to report to jail
- Mail/email/fax you (1) a paper showing your new date to report to jail, and (2) the paper you need to take with you when reporting to jail the next time.

Probation Officers:

- | | |
|------------------------------------------------------------------|------------------------------------------------------------------|
| <input type="checkbox"/> _____
Probation Officer\Phone Number | <input type="checkbox"/> _____
Probation Officer\Phone Number |
| <input type="checkbox"/> _____
Probation Officer\Phone Number | <input type="checkbox"/> _____
Probation Officer\Phone Number |
| <input type="checkbox"/> _____
Probation Officer\Phone Number | <input type="checkbox"/> _____
Probation Officer\Phone Number |

If you fail to call your probation officer or fail to obtain a new jail date, you will not have satisfied your probation terms and could be accused of violating probation.

_____ I have received a copy of this order and understand what I must do.
Initials

Witness/Officer #

Defendant signature

Mailing address

Email address

Phone

I faxed () _____, a copy of this order to _____ Court on __/__/__

Witness/Officer #

_____ MUNICIPAL COURT
EMERGENCY JAIL PROCEDURE AND ORDER
DUE TO COVID-19

On this date, _____ reported to serve scheduled jail days at:
Printed name

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> _____ Jail | <input type="checkbox"/> _____ Jail |
| <input type="checkbox"/> _____ Jail | <input type="checkbox"/> _____ Jail |
| <input type="checkbox"/> _____ Jail | <input type="checkbox"/> _____ Jail |

Due to emergency circumstances, you are not able to serve your jail days at this time. This does not mean that your jail days are excused. **YOU STILL MUST SERVE YOUR JAIL DAYS!!!**

CONTACT YOUR PROBATION OFFICER within 48 hours to reschedule your jail days. When you call, your probation officer will:

- Give you your new date to report to jail
- Mail/email/fax you (1) a paper showing your new date to report to jail, and (2) the paper you need to take with you when reporting to jail the next time.

Probation Officers:

- | | |
|------------------------------------------------------------------|------------------------------------------------------------------|
| <input type="checkbox"/> _____
Probation Officer\Phone Number | <input type="checkbox"/> _____
Probation Officer\Phone Number |
| <input type="checkbox"/> _____
Probation Officer\Phone Number | <input type="checkbox"/> _____
Probation Officer\Phone Number |
| <input type="checkbox"/> _____
Probation Officer\Phone Number | <input type="checkbox"/> _____
Probation Officer\Phone Number |

If you fail to call your probation officer or fail to obtain a new jail date, you will not have satisfied your probation terms and could be accused of violating probation.

_____ I have received a copy of this order and understand what I must do.
Initials

Witness/Officer #

Defendant signature

Mailing address

Email address

Phone

I faxed () _____, a copy of this order to _____ Court on ___/___/___

Witness/Officer #

**IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

State of Ohio/City of _____) Case No. _____
Plaintiff)
vs.) Judge K. J. Montgomery
)
_____) **EMERGENCY FURLOUGH ORDER**
Defendant)

The Defendant was booked into the _____ City Jail on _____, On _____, at _____ PM/AM, Defendant requested to be furloughed from custody of the _____ Police Department for the purpose of: _____ (i.e., medical treatment).

This Defendant is ordered to be conditionally and temporarily released from jail for the sole purpose stated above. **Upon completion of the stated purpose such as release from hospital/medical/rehabilitation facility, the Defendant is hereby ordered to return to the _____ City Jail** for the furtherance of justice and/or for the completion of their sentence.

Failure to comply with the provisions of this furlough may result in additional criminal charges, being held in contempt of this Court or being subject to arrest for failure to comply with this order.

SO ORDERED. _____ / ____ /20 ____

Judge K.J. Montgomery

Time: _____

Approved: _____ / ____ /20 ____

Shift Commander

I understand that the Judge of the Shaker Heights Municipal Court has released me as provided in the Court's Order above. **I understand that I must return to the _____ City Jail upon completion of treatment.**

I understand that I am responsible for any and all expenses related to my medical, hospital and physician treatment. I agree to provide the hospital and any physicians with insurance and financial information required by them and to sign any related documents.

I hereby authorize any medical personnel and hospital or medical provider at which I am receiving medical treatment to contact _____ Jail/law enforcement officers by calling () _____ upon completion of treatment, and to disclose to them all information related to my medical conditions/discharge/transfer/admission. This shall include any related personal health information including, but not limited to, documents involving post visit instructions and medication prescribed.

I also release the medical personnel/hospital and their representatives from any and all liability related to providing the Jail/law enforcement officers with such medical and discharge information.

_____ / ____ /20 ____
Defendant's Signature

Witness

IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
CUYAHOGA COUNTY, OHIO

FILED
2020 MAR 31 P 1:40

CLERK OF COURTS
CUYAHOGA COUNTY

In Re:)
)
ORDER REGARDING CONTINUITY OF OPERATIONS) JOURNAL ENTRY
AT A REDUCED DOCKET OF THE COURT)
DUE TO COVID-19 PANDEMIC)

The Judges of the Cuyahoga County Court of Common Pleas-General Division make the following findings of fact:

1. The findings of fact enumerated in the March 16, 2020, Order Declaring a Judicial Emergency and Continuity of Operations of the Court Due to COVID-19 Pandemic remain in effect and are incorporated herein by reference.
2. As the virus continues to spread and impact Court operations, the health and safety of all employees and the community remains at risk.

THEREFORE, IT IS HEREBY ORDERED:

1. The Judges of the Court will implement a reduced docket, with a focus on incarcerated individuals and emergency matters before the Court.
2. The Court remains "Open with Restrictions" pursuant to the March 16, 2020, Administrative Order.
3. The Judges of the Court agree that any Judge on assignment during the reduced docket period can preside over any proceeding of another Judge, except for the imposition of sentence.
4. Pursuant to Opinion No. 2020-002, issued by Attorney General Dave Yost on March 18, 2020, courts may suspend jury trials to prevent the spread of the novel coronavirus, and they may do so consistent with state and federal speedy-trial obligations. Although tolling speedy-trial time by suspending jury trial activity is an extraordinary step, it is lawful—and responsible—to do so during a pandemic emergency.
5. Further, the March 27, 2020, Tolling of Time Requirements order issued by the Ohio Supreme Court indicates the time requirements imposed by the rules of the Court and set to expire during the term of the order shall be tolled.

6. The period of reduced dockets, originally set to expire on April 10, 2020, at midnight shall be extended to May 8, 2020, at midnight. The Court will evaluate the effectiveness of the reduced dockets and may extend the period by further order if the COVID-19 pandemic remains.

7. This Order shall be served on the Supreme Court of Ohio, Ohio Judicial Conference, Municipal Courts in Cuyahoga County, Cuyahoga County Clerk of Courts, Cuyahoga County Adult Probation Department, Cleveland Metropolitan Bar Association, Cuyahoga County Prosecutor's Office, Cuyahoga County Public Defender's Office, Cuyahoga County Criminal Defense Lawyer's Association, Cuyahoga County Sheriff, Cuyahoga County Board of Health, Cuyahoga County Executive, Cuyahoga County Council, the website of this Court, and distributed to the media.

IT IS SO ORDERED.

CUYAHOGA COUNTY COMMON PLEAS COURT-GENERAL DIVISION


HON. BRENDAN J. SHEEHAN
ADMINISTRATIVE & PRESIDING JUDGE

March 31, 2020
DATED

- III. **Recap of Taskforce Goals** *Ext to 5/18* Judge Brendan Sheehan
- IV. **Court Initiative** Judge Brendan Sheehan
- Extended Administrative Order
 - Mediation Day
- V. **Issues Facing Prosecutors & Public Defenders** Michael O'Malley
Mark Stanton
- VI. **Open Dialogue**

A. Questions Submitted to the CMBA in advance of the discussion:

1. Should this task force proceed as a full group or break into smaller practice specific workgroups? Consider:
 - Domestic Relations
 - Juvenile
 - Probate
 - Court of Appeals
 - Municipal
 - Common Pleas Civil Dockets
 - Common Pleas Criminal Dockets
2. Has the former juvenile detention center on 22nd and Community College Drive been considered for use in housing inmates who have tested positive for COVID-19?
3. Should juvenile practitioners move the Court to release lower level, non-violent and/or increased risk juveniles from the detention center as was done in the adult county jail?
4. How will judges handle trials that are scheduled shortly after the court closures cease when the lawyers are unable to adequately prepare under the current conditions? Will the trials remain in order or simply commence as currently scheduled?
5. Should law firms invest in virtual equipment for use after COVID-19 concludes?
6. Will audio and virtual appearances be permitted by all courts and/or judges after COVID-19 concludes?
7. What can practitioners do from home to assist the court and litigants during this health crisis?
8. What information, science and/or data are the courts relying upon in determining administrative orders?
9. Can this Task Force petition the Chief Justice to adopt uniform e-filing and/or fax filing protocols for all courts?

B. Questions from Attending Practitioners

All

Slunski, Kristina

From: Montgomery, K.J.
Sent: Tuesday, March 31, 2020 05:18 PM
To: Rosett, Wendy S; Court
Subject: Re: Procedure for Mediation Notices

Hi Wendy!

Please turn this into a numbered procedure and be sure it works for everyone. If you will create a draft others can weigh in! Thank you. kj

From: Rosett, Wendy S
Sent: Tuesday, March 31, 2020 5:10 PM
To: Court
Subject: Procedure for Mediation Notices

Dear All:

As we are now conducting Mediations by telephone, I have changed the Blue Sheet that is sent out with all first Mediations and added a Green Sheet to be included, as well. The new Blue Sheet is in its usual place in the Clerk's office by Dane's/Kelly's office. It is two-sided, the Guidelines on one side and the Structure I use on the back. That's a handout I use and this way it goes to all litigants. Please send it to not only to the attorneys but to the litigants, as well. The Green Sheet is titled 'Mediation Procedures.' It lets the litigants know that we are conducting the Mediation *via* telephone and directs them to provide a good contact telephone number by the Friday prior to the Tuesday Mediation. Please send the Green Sheet with the Blue Sheet. It is in the same cubby hole as the Blue Sheet.

Also, when I send a Notice, paper or pc, I add "This Mediation will be conducted *via* telephone." to the Notice so that all are aware that this is not being conducted at the court but by telephone.

I will have a formal procedure out to all next week.

Any questions, call or email. I'm checking my email and phone messages daily.
Also, you are welcome to call my cell phone: (216) 533-4139.

Thanks.
Stay safe.
Wendy

Wendy S. Rosett
Magistrate and Mediator
Shaker Heights Municipal Court
3355 Lee Road
Shaker Heights, Ohio 44120

Shaker Heights Municipal Court

K.J. MONTGOMERY, JUDGE

MEDIATION GUIDELINES

Your case has been referred to Mediation in the Shaker Heights Municipal Court. Whether you are an attorney, a party, or a *pro se* litigant, the following guidelines should help to explain the mediation process and what you can expect at the Shaker Court.

The purpose of mediation is to resolve of your case without resorting to a trial. Your case has been selected as it involves circumstances that the court believes are conducive to the mediation process. Although you *must* attend the mediation session(s), you are not forced to come to a resolution that you do not agree with. Mediation is not based in the law. It is an effort to come to an agreement that is fair and equitable in terms of what each person is willing to do or not to do and still be satisfied with the result. Mediation is confidential. Even though the mediator at the Shaker Court is also a magistrate, if we don't resolve your case in mediation, the mediator will not hear the matter in court. Further, she will not share any confidences disclosed during the mediation process with the other side, the magistrate, or the judge.

Each mediation is different so it is difficult to tell you exactly what will happen. At the beginning, the mediator usually explains the process and then asks each person involved to explain his or her viewpoint. There are very few ground rules: mostly that only one person speaks at a time and that all are given an opportunity to voice their concerns and respond to the concerns and/or comments of the others involved. Sometimes the mediator meets with parties individually. This is known as a caucus. Facts revealed during a caucus are not shared with the other side without your permission.

Mediation is all about people. So, if there is a person(s) who was involved personally, you should bring that person along. Please understand that unless a person is personally involved in the matter s/he will not be part of the mediation process. If you are the only person directly involved and are coming to the mediation alone, you may have one other adult with you during the mediation. As this is not a hearing or a trial, you do not need to bring witnesses and/or evidence to the mediation unless you think it would be helpful to the mediation.

****One note about children:** If you bring minor children with you to the mediation, please bring someone to watch the children as children *are not* permitted at the mediation. It is very difficult for children to be quiet and still and the distraction is disruptive and interferes with the mediation process. Your understanding is appreciated.

The mediation process is sometimes difficult for attorneys as this is, for the attorneys, a virtually non-participatory process. During a mediation, an attorney is more like a security blanket; there for the comfort of the client but unable to actively participate. If you are an attorney, we ask that you allow the mediator to work with your client(s) in order to facilitate a resolution of the issues.

Last, it is important to remember that the parties' attendance and participation in an appropriate manner are REQUIRED. Failure to appear may result in being cited for contempt of court.

If you have any questions about the mediation or the process, or you would like information regarding how an attorney may assist in the mediation process, you may call **Wendy S. Rosett, Mediator and Magistrate**, at (216) 491-1317, Tuesdays & Fridays between the hours of 8:30am and 5:00pm.

Introduction

Problem Determination

Summarization

Issue Identification

Options/Alternatives

Selection of
Appropriate Alternatives

Conclusion

Shaker Heights Municipal Court

K.J. MONTGOMERY, JUDGE

MEDIATION PROCEDURES

Judge Montgomery and the entire Shaker Heights Municipal Court Staff are committed to providing a safe environment for all who come into the Court. To that end, your Mediation will be conducted *via* telephone. Parties **MUST** be available by telephone at the time specified in the Notice received.

Please provide the best contact telephone number for the Mediation. You may call the Mediator and leave a message on voice mail or provide the information by email, fax or regular mail. We must have the telephone number you wish us to use no later than the Friday prior to your Tuesday Mediation date.

Please provide your direct telephone number or cell phone number.

If you have questions, please feel free to call or send an email to the Mediator, Wendy Rosett. Although Ms. Rosett is at the Court on Tuesdays and Fridays, she checks her voice mail and email regularly.

Wendy S. Rosett
Magistrate and Mediator
Shaker Heights Municipal Court
3355 Lee Road
Shaker Heights, Ohio 44120
Direct: (216) 491-1317
Facsimile: (216) 491-1314
wrosett@shakerheightscourt.org

Thank you for your anticipated cooperation.

Montgomery, K.J.

From: Tomaszewski, Steve
Sent: Wednesday, April 29, 2020 09:49 AM
To: Keller, Anne; Montgomery, K.J.
Subject: RE: New language - for second sentence in our notices going out today and UNTIL FURTHER NOTICE!!!!

Done!

CASE NUMBER: 06TRD01456
DEFENDANT: JOHN TEST
DATE: 04/29/2020

You are scheduled to appear in court on
05/03/2020 at 08:30 AM.

To protect visitors and staff, all persons
entering the Shaker Heights Municipal Court
MUST wear a mask. You must bring your own
mask to court.

FROM:
Shaker Heights Municipal Court
3355 Lee Rd.
Shaker Heights, OH 44120-3453

TO:

From: Keller, Anne <akeller@shakerheightscourt.org>
Sent: Wednesday, April 29, 2020 9:38 AM
To: Tomaszewski, Steve <steve@shakerheightscourt.org>; Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>
Subject: RE: New language - for second sentence in our notices going out today and UNTIL FURTHER NOTICE!!!!

Can it say "you must bring your own mask to court." Instead of you must bring your own to court?

Anne W. Keller
Magistrate
Shaker Heights Municipal Court
3355 Lee Road
Shaker Heights, OH 44120
216.491.1323
akeller@shakerheightscourt.org

From: Keller, Anne <akeller@shakerheightscourt.org>
Sent: Wednesday, April 29, 2020 9:38 AM
To: Tomaszewski, Steve <steve@shakerheightscourt.org>; Montgomery, K.J. <kimontgomery@shakerheightscourt.org>
Subject: RE: New language - for second sentence in our notices going out today and UNTIL FURTHER NOTICE!!!!

Can it say "you must bring your own mask to court." Instead of you must bring your own to court?

Anne W. Keller
Magistrate
Shaker Heights Municipal Court
3355 Lee Road
Shaker Heights, OH 44120
216.491.1323
akeller@shakerheightscourt.org

From: Tomaszewski, Steve <steve@shakerheightscourt.org>
Sent: Wednesday, April 29, 2020 9:13 AM
To: Montgomery, K.J. <kimontgomery@shakerheightscourt.org>
Cc: Keller, Anne <akeller@shakerheightscourt.org>
Subject: RE: New language - for second sentence in our notices going out today and UNTIL FURTHER NOTICE!!!!

Third iteration, see below.

CASE NUMBER: 06TRD01450
DEFENDANT: JOHN TEST
DATE: 04/29/2020

You are scheduled to appear in court on
05/03/2020 at 08:30 AM.

To protect visitors and staff, all persons
entering the Shaker Heights Municipal Court
MUST wear a mask. You must bring your own
to court.

FROM:
Shaker Heights Municipal Court
3355 Lee Rd.
Shaker Heights, OH 44120-3453

TO:

From: Montgomery, K.J. <kimontgomery@shakerheightscourt.org>
Sent: Wednesday, April 29, 2020 8:47 AM
To: Tomaszewski, Steve <steve@shakerheightscourt.org>

Montgomery, K.J.

From: Tuzon, Dane K
Sent: Wednesday, April 29, 2020 10:30 AM
To: Tomaszewski, Steve
Cc: Montgomery, K.J.; Keller, Anne; Civil Department
Subject: RE: New language - for second sentence in our notices going out today and UNTIL FURTHER NOTICE!!!!

The notice is ready to be used. The name is listed on the right-hand side of the screenshot.

The screenshot shows a legal notice form on the left and a configuration panel on the right. The form contains the following text:

CASE NUMBER: [CASENUM]
DATE: [TODAYDT]
[PLAINTIFF]
VS
[DEFENDANT]
You are scheduled to appear in court on [CTDATE] at [CTTIME].
To protect visitors and staff, all persons entering the Shaker Heights Municipal Courts MUST wear a mask. You must bring your own mask to court.
[RECLN1]
[RECLN2]
[RECLN3]
[RECLN4]
[RECLN5]

The configuration panel on the right includes the following fields:

- Case Type: Civil
- Notice Type: POSTCARDS CV
- Notice Name: PC-BRING MASK
- Name: PC-BRING MASK
- Description: PC-BRING MASK
- Write To Books
- Use Envelope
- Next

From: Tomaszewski, Steve <steve@shakerheightscourt.org>
Sent: Wednesday, April 29, 2020 10:27 AM
To: Tuzon, Dane K <dtuzon@shakerheightscourt.org>
Subject: FW: New language - for second sentence in our notices going out today and UNTIL FURTHER NOTICE!!!!

From: Tomaszewski, Steve
Sent: Wednesday, April 29, 2020 10:13 AM
To: Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>; Keller, Anne <akeller@shakerheightscourt.org>
Cc: Civil Department <CivilDepartment@shakerheightscourt.org>
Subject: RE: New language - for second sentence in our notices going out today and UNTIL FURTHER NOTICE!!!!

Dane,

ORC Ann. 3113.31

Current with Legislation passed by the 132nd General Assembly and filed with the Secretary of State through file 84 (HB 213).

Page's Ohio Revised Code Annotated > Title 31: Domestic Relations — Children (Chs. 3101 — 3127) > Chapter 3113: Neglect, Abandonment, or Domestic Violence (§§ 3113.01 — 3113.99) > Domestic Violence (§§ 3113.31 — 3113.32)

§ 3113.31 Definitions; jurisdiction; petition; hearing; protection orders; consent agreements. [Effective July 6, 2018]

(A)As used in this section:

(1)"Domestic violence" means any of the following:

(a)The occurrence of one or more of the following acts against a family or household member:

(i)Attempting to cause or recklessly causing bodily injury;

(ii)Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code;

(iii)Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code;

(iv)Committing a sexually oriented offense.

(b)The occurrence of one or more of the acts identified in divisions (A)(1)(a)(i) to (iv) of this section against a person with whom the respondent is or was in a dating relationship.

(2)"Court" means the domestic relations division of the court of common pleas in counties that have a domestic relations division and the court of common pleas in counties that do not have a domestic relations division, or the juvenile division of the court of common pleas of the county in which the person to be protected by a protection order issued or a consent agreement approved under this section resides if the respondent is less than eighteen years of age.

(3)"Family or household member" means any of the following:

(a)Any of the following who is residing with or has resided with the respondent:

(i)A spouse, a person living as a spouse, or a former spouse of the respondent;

(ii)A parent, a foster parent, or a child of the respondent, or another person related by consanguinity or affinity to the respondent;

(iii)A parent or a child of a spouse, person living as a spouse, or former spouse of the respondent, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the respondent.

(b)The natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent.

(4)"Person living as a spouse" means a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the respondent within five years prior to the date of the alleged occurrence of the act in question.

ORC Ann. 3113.31

(5) "Victim advocate" means a person who provides support and assistance for a person who files a petition under this section.

(6) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(7) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

(8) [Added by HB 1, File No. 59, 132nd General Assembly] "Dating relationship" means a relationship between individuals who have, or have had, a relationship of a romantic or intimate nature. "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

(8) [Added by HB 49, File No. 14, 132nd General Assembly] "Expunge" has the same meaning as in section 2903.213 of the Revised Code.

(9) "Person with whom the respondent is or was in a dating relationship" means an adult who, at the time of the conduct in question, is in a dating relationship with the respondent who also is an adult or who, within the twelve months preceding the conduct in question, has had a dating relationship with the respondent who also is an adult.

(B) The court has jurisdiction over all proceedings under this section. The petitioner's right to relief under this section is not affected by the petitioner's leaving the residence or household to avoid further domestic violence.

(C) A person may seek relief under this section on the person's own behalf, or any parent or adult household member may seek relief under this section on behalf of any other family or household member, by filing a petition with the court. The petition shall contain or state:

(1) An allegation that the respondent engaged in domestic violence against a family or household member of the respondent or against a person with whom the respondent is or was in a dating relationship, including a description of the nature and extent of the domestic violence;

(2) The relationship of the respondent to the petitioner, and to the victim if other than the petitioner;

(3) If the petition is for protection of a person with whom the respondent is or was in a dating relationship, the facts upon which the court may conclude that a dating relationship existed between the person to be protected and the respondent;

(4) A request for relief under this section.

(D)

(1) If a person who files a petition pursuant to this section requests an ex parte order, the court shall hold an ex parte hearing on the same day that the petition is filed. The court, for good cause shown at the ex parte hearing, may enter any temporary orders, with or without bond, including, but not limited to, an order described in division (E)(1)(a), (b), or (c) of this section, that the court finds necessary to protect the family or household member or the person with whom the respondent is or was in a dating relationship from domestic violence. Immediate and present danger of domestic violence to the family or household member or to the person with whom the respondent is or was in a dating relationship constitutes good cause for purposes of this section. Immediate and present danger includes, but is not limited to, situations in which the respondent has threatened the family or household member or person with whom the respondent is or was in a dating relationship with bodily harm, in which the respondent has threatened the family or household member or person with whom the respondent is or was in a dating relationship with a sexually oriented offense, or in which the respondent previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for an offense that constitutes domestic violence against the family or household member or person with whom the respondent is or was in a dating relationship.

(2)

(a) If the court, after an ex parte hearing, issues an order described in division (E)(1)(b) or (c) of this section, the court shall schedule a full hearing for a date that is within seven court days after the ex

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parte hearing. If any other type of protection order that is authorized under division (E) of this section is issued by the court after an ex parte hearing, the court shall schedule a full hearing for a date that is within ten court days after the ex parte hearing. The court shall give the respondent notice of, and an opportunity to be heard at, the full hearing. The court shall hold the full hearing on the date scheduled under this division unless the court grants a continuance of the hearing in accordance with this division. Under any of the following circumstances or for any of the following reasons, the court may grant a continuance of the full hearing to a reasonable time determined by the court:

(i) Prior to the date scheduled for the full hearing under this division, the respondent has not been served with the petition filed pursuant to this section and notice of the full hearing.

(ii) The parties consent to the continuance.

(iii) The continuance is needed to allow a party to obtain counsel.

(iv) The continuance is needed for other good cause.

(b) An ex parte order issued under this section does not expire because of a failure to serve notice of the full hearing upon the respondent before the date set for the full hearing under division (D)(2)(a) of this section or because the court grants a continuance under that division.

(3) If a person who files a petition pursuant to this section does not request an ex parte order, or if a person requests an ex parte order but the court does not issue an ex parte order after an ex parte hearing, the court shall proceed as in a normal civil action and grant a full hearing on the matter.

(E)

(1) After an ex parte or full hearing, the court may grant any protection order, with or without bond, or approve any consent agreement to bring about a cessation of domestic violence against the family or household members or persons with whom the respondent is or was in a dating relationship. The order or agreement may:

(a) Direct the respondent to refrain from abusing or from committing sexually oriented offenses against the family or household members or persons with whom the respondent is or was in a dating relationship;

(b) With respect to a petition involving family or household members, grant possession of the residence or household to the petitioner or other family or household member, to the exclusion of the respondent, by evicting the respondent, when the residence or household is owned or leased solely by the petitioner or other family or household member, or by ordering the respondent to vacate the premises, when the residence or household is jointly owned or leased by the respondent, and the petitioner or other family or household member;

(c) With respect to a petition involving family or household members, when the respondent has a duty to support the petitioner or other family or household member living in the residence or household and the respondent is the sole owner or lessee of the residence or household, grant possession of the residence or household to the petitioner or other family or household member, to the exclusion of the respondent, by ordering the respondent to vacate the premises, or, in the case of a consent agreement, allow the respondent to provide suitable, alternative housing;

(d) With respect to a petition involving family or household members, temporarily allocate parental rights and responsibilities for the care of, or establish temporary parenting time rights with regard to, minor children, if no other court has determined, or is determining, the allocation of parental rights and responsibilities for the minor children or parenting time rights;

(e) With respect to a petition involving family or household members, require the respondent to maintain support, if the respondent customarily provides for or contributes to the support of the family or household member, or if the respondent has a duty to support the petitioner or family or household member;

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(f) Require the respondent, petitioner, victim of domestic violence, or any combination of those persons, to seek counseling;

(g) Require the respondent to refrain from entering the residence, school, business, or place of employment of the petitioner or, with respect to a petition involving family or household members, a family or household member;

(h) Grant other relief that the court considers equitable and fair, including, but not limited to, ordering the respondent to permit the use of a motor vehicle by the petitioner or, with respect to a petition involving family or household members, other family or household members and the apportionment of household and family personal property;

(i) Require that the respondent not remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the petitioner;

(j) Authorize the petitioner to remove a companion animal owned by the petitioner from the possession of the respondent;

(k) Require a wireless service transfer in accordance with sections 3113.45 to 3113.459 of the Revised Code.

(2) If a protection order has been issued pursuant to this section in a prior action involving the respondent and the petitioner or, with respect to a petition involving family or household members, one or more of the family or household members or victims, the court may include in a protection order that it issues a prohibition against the respondent returning to the residence or household. If it includes a prohibition against the respondent returning to the residence or household in the order, it also shall include in the order provisions of the type described in division (E)(7) of this section. This division does not preclude the court from including in a protection order or consent agreement, in circumstances other than those described in this division, a requirement that the respondent be evicted from or vacate the residence or household or refrain from entering the residence, school, business, or place of employment of the petitioner or, with respect to a petition involving family or household members, a family or household member, and, if the court includes any requirement of that type in an order or agreement, the court also shall include in the order provisions of the type described in division (E)(7) of this section.

(3)

(a) Any protection order issued or consent agreement approved under this section shall be valid until a date certain, but not later than five years from the date of its issuance or approval, or not later than the date a respondent who is less than eighteen years of age attains nineteen years of age, unless modified or terminated as provided in division (E)(8) of this section.

(b) With respect to an order involving family or household members, subject to the limitation on the duration of an order or agreement set forth in division (E)(3)(a) of this section, any order under division (E)(1)(d) of this section shall terminate on the date that a court in an action for divorce, dissolution of marriage, or legal separation brought by the petitioner or respondent issues an order allocating parental rights and responsibilities for the care of children or on the date that a juvenile court in an action brought by the petitioner or respondent issues an order awarding legal custody of minor children. Subject to the limitation on the duration of an order or agreement set forth in division (E)(3)(a) of this section, any order under division (E)(1)(e) of this section shall terminate on the date that a court in an action for divorce, dissolution of marriage, or legal separation brought by the petitioner or respondent issues a support order or on the date that a juvenile court in an action brought by the petitioner or respondent issues a support order.

(c) Any protection order issued or consent agreement approved pursuant to this section may be renewed in the same manner as the original order or agreement was issued or approved.

Supplemental Questions from Prior Webinars

Prepared by Hon. Patrick Carroll, *Lakewood Municipal Court*

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All: This is well done
by Judge Pat. K.J.

I. H.B. 197 and Supreme Court Administrative Order.

What is not tolled?

- Anything controlled and/or superseded by either the U.S. or Ohio Constitution.
- Any statutory time limit that is not considered “a deadline.”
- Community control supervision/probation
- Intervention in lieu of conviction.

While both community control supervision and intervention in lieu of conviction have a statutory maximum 5 year period, the term is generally imposed by court order, not the statutory period. If the period of either will expire during the tolling period, the court must still proceed with the notice of violation and hearing to extend the time period prior to its expiration.

Is a general order tolling all cases sufficient without individual orders on each case?

What about a general order to stay response time to all civil motions?

The better course of action is a specific order on each case, informing counsel or the parties of any new court hearing dates or time to file or respond to pending motions.

II. Video conferencing.

Is it limited to essential matters?

No. If the purpose of the stay provisions is due to inaccessibility to in-person hearings, video conference should be used for all hearings if there is no Covid-19 impact. Also, it is consistent with the Supreme Court's Administrative Order Sec (C).

Is a plea by telephone a valid mechanism?

The Supreme Court's Administrative Order Sec (C) permits technology may be allowed “if it sufficiently guarantees the integrity of the proceedings and protects the parties' interests and rights.” While this does not prohibit a telephone plea, I would be very wary of using it.

- Have not found any case permitting a telephone plea.
- Telephone has been approved in limited, emergency purposes for search warrant.

- Opens the court to a later appeal, especially if the trial court is not able to see the defendant and determine the plea is knowingly, voluntarily and intelligently made.

Does H.B. 197 override a defendant's constitutional right for a personal appearance?

In Ohio the right of personal appearance is governed by Criminal Rule 43, not the Ohio Constitution. Therefore, it would be within the scope of the Supreme Court's Administrative Order as long as the defendant's constitutional rights can be safeguarded by the court.

Can a defense counsel file a written waiver of a preliminary hearing on behalf of the defendant without the defendant present?

No. The defendant must waive the preliminary hearing, in-person or by video conference, on the record. The court has the obligation to make sure the waiver is knowingly, voluntarily, and intelligently made.

III. Requires immediate attention

Who determines immediate attention?

Any situation involving the immediate safety or threat of harm to persons or property requires immediate attention. The courts are required to remain open and conduct business as much as possible during this public health crisis without risking the safety of court staff, attorneys, litigants and other persons. The court is ultimately responsible for determining what requires immediate attention. It should be done on a case by case basis, reviewing the potential health risks, impact on the parties, ability for counsel or parties to prepare their case and other factors.

Can the parties request it by motion?

Yes. If there is a need to advance a case that is not apparent from the record or a prior finding by the judge, counsel or parties should file a motion requesting that the case requires immediate attention. This may include the nature of the claims raised, prior delays, whether an in-person hearing is required, current availability of witnesses, non-Covid-19 impact, and other factors that a court would normally consider to advance a case. What may be considered a routine case by a judge can be of immediate concern to the litigants. The court should consider:

- Type of case and issues involved,
- Impact of public health crisis,
- Grounds/reason set out in record or parties' motions, and
- Impact on parties.

Do the parties have a right to have the case tolled, even if the court wants to move the case, even if not covid-19 related?

Parties or counsel have a right to raise an objection or request a delay/continuance, but the decision lies with the court's exercise of reasonable discretion. As the court noted in *State v. Bossitic*, 4th. Dist. Ross, No. 18CA3671, 2019-Ohio-1935, it is a well-established principle that a court has the right to control its own docket. (Note: The court in *Bossitic* affirmed an order of restitution in a criminal case when the defendant did not appear, finding no prejudice to the defendant when his counsel was present to adequately represent the defendant's interest. See also, *State v. Walling*, 12th. Dist. Butler, No. CA2018-06-130, 2019-Ohio-2490, finding defendant's appearance not essential in criminal restitution hearing.)

May courts require responsive pleadings, motions, or briefs if there is no immediate health impact?

Generally, if there is no apparent Covid-19 issue from the record and either not raised by the parties or raised, considered, and overruled, the court could proceed with moving the case along while there is available time and to avoid the rush of litigation when the public health situation subsides.

Does a court need to make a finding that the case requires immediate attention for

- Briefing schedule
- Discovery schedule
- In-person hearing.

A specific finding that the case is one that requires immediate attention is important if there is any objection by the parties/counsel to proceeding with the case. An absence of any timely objection would be a waiver. Also, the need for "immediate attention" will be greater for an in-person hearing, as opposed to a briefing or discovery schedule, when the mere presence in court could create an issue for someone, whether attorney, party, or witness, has a concern of being required to appear in a public building. Liberal continuances or extensions of time should be considered due to the overall impact of the public health situation on our legal system.

Note: Although H.B. 197 Sec. 22 (A) (7) includes discovery and completion of discovery, this tolling provision is limited to any statutory proceedings with separate discovery provisions. Discovery in civil actions, criminal cases, and juvenile proceedings is governed by the Ohio Rules of Civil, Criminal, and Juvenile Procedure and the tolling provision is within the scope of the Supreme Court's Administrative Order of March 27, 2020.

May courts require responsive pleadings, motions, or briefs if there is no immediate health impact?

The Supreme Court's Administrative Order provides discretion to the court. The fact that the time limits are stopped does not mean they must be stopped during the tolling period. By analogy, numerous motions made by a defendant in a criminal case will toll the speedy trial time. Although the speedy trial time is no longer running, providing the court and counsel for more time, it does not prohibit a court from scheduling a case for trial while the tolling motion is pending.

What is the extent of impact of Covid-19?

It is important to note that a reason for delay may be Covid-19 related without an immediate health impact on the counsel or parties. The impact could also include:

- Taking care of a house bound elderly parent,
- Home schooling children due to school closure,
- Lack of office clerical assistance,
- Being home if a spouse/family member is a medical service provider, first responder, or other person directly involved in the current public health situation.
- Absence from office due to building closure,
- Personal/family mental health reasons
- Other reasons that would impair the attorney's ability to comply with the court order.

IV. Garnishment

For garnishment order issued prior to March 9, 2020,

- Is a stay mandatory or discretionary by the court?
- Is a motion to stay required or can the court do it on its own?

A court should proceed with caution to automatically stay all garnishment orders in effect prior to March 9, 2020 without notice or opportunity to respond to the order by the plaintiff/creditor. It is an adversarial system and judges are the neutral parties. A court can be liberal in granting a motion to stay a garnishment order based on the grounds raised in light of the current health situation, but wary about automatically doing it in all cases when the defendant does not seek it.

Is the notice of intent to garnish with defendant given 15-45 days to respond tolled by H.B. 197?

Yes. The notice requirement under R.C. 2716.02 is statutorily required and is within the scope of the tolling provision of H.B. 197. Unless the individual court determines that the notice of intent is a statutory deadline and exempt from the mandatory tolling provisions of H.B. 197 as a statutory prerequisite to a garnishment order it effectively stays any garnishment proceedings filed on or after March 9, 2020.

V. Temporary protection orders.

Is the 24 hour/next business day under R.C. 2919.26(C) (1) tolled by H.B. 197?

Yes, but the safety of the victim must be considered, especially in light of Art. I, Sec. 10a (Marsy's Law).

Also, a no contact/no return to premises order could be issued as a condition of bond for a short term scheduling issue.

VI. Eviction issues.

Forcible entry and detainer (eviction) cases are statutory proceedings that may include a civil action complaint for monetary damages.

Time limits for eviction cases.

- 3 day notice. R.C. 1923.04.
- Termination of tenancy. R.C. 5321.17(B). Periodic tenancy (30 day notice) (residential only).
- Minimum time of 7 days from date service of summons and complaint to proceed to trial. R.C. 1923.06.
- Tenant to post bond if trial continued more than 8 days. R.C. 1923.08.
- 10 day move out when writ is issued. R.C. 1923.14.
- 14 day time for objections to magistrate's order. Civil Rule 53.

Is a motion needed to stay a writ of restitution (move out order) required?

The 10 day statutory move out period could be stayed by the court by motion of the defendant, agreement of parties, or on its own motion court upon review of the record. The tolling provision of H.B. 197 applies to the 10 day move-out period. The court has discretion to condition the stay by a bond or other reasonable related conditions.

What is an essential matter requiring the court's immediate attention in an eviction case?

- Risk of harm to persons, including co-tenant, other tenants or landlord.
- Risk of damage to rental premises.
- Health code violations.
- Owner occupied rental premises (Landlord lives in double with tenant in other half of same house.)

Is the three (3) day notice served after March 9, 2020 and required by R.C. 1923.04 stayed?

No. It would be considered a "deadline" and exempt from H.B. 197. The 3 day notice is jurisdictional and if it was within the scope of H.B. 197, it would effectively halt all eviction cases, both residential and commercial, until the tolling period ends and prevent any eviction case from going forward, regardless of the circumstances.

Impact of the C.A.R.E.S. Act on evictions.

(Coronavirus Aid Relief and Economic Security) C.A.R.E.S. Act

- Imposes a stay of 120 days from March 27, 2020 (expires July 25, 2020)
- When 120 days expire, the landlord may file a 3 day notice to vacate under R.C. 1923.04, but there is a minimum 30 day period before the tenant is required to vacate. It is not clear from the Act if the 3 day and 30 day period run concurrently. Most likely, the earliest date of August 29, 2020.
- Limited to residential tenancy.

The C.A.R.E.S. Act prohibits:

- Serve notice to vacate
- Filing eviction complaint for non-payment of rent.
- Charging late fees.

The C.A.R.E.S. Act does not prevent:

- Accrual of unpaid rent.
- Serving a 3 day notice and filing an eviction complaint for reasons other than non-payment of rent. This would include:
 - threat of harm to person or property,
 - non-compliance with terms of rental agreement, or
 - Non-compliance with health or sanitary codes. It is unclear from the Act if an eviction could proceed for termination of a periodic tenancy lease if not rent related.

Covered properties include most federally subsidized rental units (such as H.U.D. supported or Sec. 8 housing) or any rental property with a federally backed mortgage or first or subordinate lien on the property. Normally, the type of mortgage that is on a rental property is not an issue in an eviction case, but because of the statutory language of the C.A.R.E.S. Act which prohibits the case from going forward, it would appear to be jurisdictional in nature and therefore, the trial court is required to make an inquiry on this issue.

A qualifying landlord may be eligible for forbearance on the mortgage payment if the landlord can show that the landlord is experiencing a financial hardship due to non-payment of rent as a result of the current public health situation.

VII. Magistrate's report and recommendation.

Is the 14 day period to object to a magistrate's report and recommendation automatically tolled?

The court has discretion by the Supreme Court's Administrative Order to toll or not to toll the time for response to any action by a magistrate under both the Civil and Criminal Rules of Procedure. The court's decision should be based upon whether the party's ability to file a motion or objections is impacted by the current public health situation. It is important to journalize an order so the parties know when objections or cross objections need be filed.

Civil Rule 53 (D) (2) and Criminal Rule 19 provide:

- A 10 day period of time to file a motion to set aside a magistrate's order, Crim. R. 19(D)(2)(b) and
- A 14 day period to file objections to the magistrate's report and recommendation. Crim. R. 19 (D) (3) (b).

Both Civil Rule 53(D) (3) and Criminal Rule 19(D) (3) also provide an extension of the 14 day period to file objections:

- If findings of fact and conclusions of law are requested by a party, the 14 day period is automatically stopped.
- If a party objects to a factual finding by the magistrate, a transcript is required. The court should grant time upon motion of the party to supplement the record with a transcript of at least 30 days and additional time to file supplement objections after the transcript is filed with the court.

VIII. Civil motions.

If the time to file an answer to a complaint lapsed prior to March 9, 2020, can the court proceed with a motion for default judgment?

Yes. Neither H.B. 197 nor the Supreme Court's Administrative Order would prevent a court from granting the motion for default judgment.

Should a clerk of court accept a motion for default judgment filed after March 9, 2020?

Yes. The clerk's obligation is to accept all filings and refer any motion to the judge for review and determination. Neither H.B. 197 nor the Supreme Court's Administrative Order prevent a clerk from accepting a motion for filing within the tolling period:

How to address a motion for default judgment if the time to respond under Civil Rule 12(A) is tolled by the Supreme Court's Administrative Order.

Civil Rule 12(A) requires a defendant to serve the answer within 28 days of service of the summons and complaint. If the time to respond occurs after March 9, 2020, the time to respond to the complaint is stayed until the expiration of the tolling period. Normally, when a motion for default judgment is filed prior to the time for the defendant to respond, the motion should be overruled as premature.

With the current situation, the court could either:

- 1) overrule the motion with the plaintiff permitted to renew/re-file after the tolling period has ended and the remainder of the defendant's time to respond has lapsed, or
- 2) Defer ruling on the motion until after the tolling period has ended and the remainder of the defendant's time to respond has lapsed.

On a motion for summary judgment (usually pro se defendant), is the time to respond to requests for admissions under Civil Rule 36 stayed?

The Supreme Court's Administrative Order would apply to the time to respond to request for admissions and be an exception to the requirement that the failure to respond within the time set out in Rule 36 is an admission.

IX. General traffic and misdemeanor issues.

What is the proper procedure when the initial appearance has been continued and the notice to the defendant is returned by mail?

The best course of action is to request the police when writing a traffic or criminal citation to include an email address or cell phone number. The Supreme Court of Ohio recently approved a revision to the Multiple Uniform Traffic Ticket (MUTT), effective July 1, 2020, which includes on the face of the citation text notification ability. Although many defendants are transient, which causes a constant problem in municipal /county courts, a defendant, once served, also has the responsibility to notify the court of a change of address.

The court always has the option to issue an arrest warrant, but caution should be used during this time due to limited police resources and increasing the jail population for low end traffic offenses. The court may also order a driver's license forfeiture, but generally only effective if the defendant has a valid driver's license.

When a police officer gives a court date far in advance due to the court's avoiding mass gatherings, is this sufficient to toll the speedy trial time?

If there is a general court order that sets out an initial court date for traffic and criminal misdemeanor court appearance, it should be sufficient to toll any speedy trial time until that court date. Section (G) of the Supreme Court's Administrative Order requires courts to strive to be in uniform compliance with all directives from the Director of the Ohio Department of Public Health, which may result in delaying traffic appearance dates due to the number of people involved.

In addition, R.C. 2945.72(G) extends the time for trial for any period during which trial is stayed pursuant to an express statutory requirement or pursuant to an order of another court competent to issue such order. (Emphasis added) Both H.B. 197 and the Supreme Court's Administrative Order provides adequate grounds to delay the initial appearance. If additional time is needed because the public health situation has not subsided, the better course of action would be to put an entry on each case, citing the reasons for the continuance. This would also be consistent with R.C. 2945.72(H).

Finally, Traffic Rule 8(C) permits an appearance and not guilty plea by the defendant's attorney without the defendant or written plea delivered to the clerk of court or mailed to the court, which would include electronic filing. While less clear, Criminal Rule 10(B) permits the waiver of the defendant's appearance for arraignment with the defendant's written consent and approval of the prosecutor. Criminal Rule 10(B) is not limited to misdemeanors.

X. Suppression issues.

Is the time limit for a motion to suppress tolled?

A motion to suppress is required to be filed the earlier of 35 days after arraignment or 7 days before trial. Crim. R. 12(D). The Supreme Court's Administrative Order would toll this time period, especially if a defense counsel could not obtain sufficient discovery to determine that a motion is applicable.

Should the time to file a motion to suppress be set out in each specific case or by general order?

In light of the tolling language in the Supreme Court's Administrative Order the time to file a motion to suppress would be tolled unless otherwise ordered by the court. If the court decides on setting a time for the motion during the tolling period, the time period should be set out in the court's order for each case. It is suggested that the order also consider and state that the time for the motion to suppress requires immediate attention under the circumstances of the case (e.g. defendant unable to post bond).

Can a defense counsel file a written waiver of a preliminary hearing on behalf of the defendant without the defendant present?

No. The defendant must waive the preliminary hearing, in-person or by video conference, on the record. The court has the obligation to make sure the waiver is knowingly, voluntarily, and intelligently made.

Is the notice of intent to garnish with defendant given 15-45 days to respond tolled by H.B. 197?

Yes. The notice requirement under R.C. 2716.02 is statutorily required and is within the scope of the tolling provision of H.B. 197, unless the individual court determines that the notice of intent is a statutory deadline and exempt from the tolling provisions of H.B. 197.

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

In re:

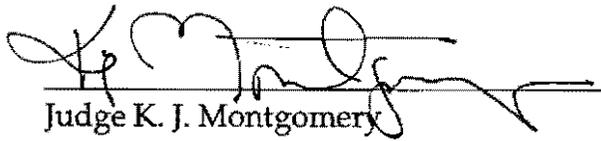
SUPPLEMENTAL ORDER OF THE COURT) Judge K. J. Montgomery
DURING JUDICIAL EMERGENCY AND)
CONTINUITY OF OPERATIONS OF) JOURNAL ENTRY
THE COURT DUE TO COVID-19)

Procedure for Telephonic Pretrials of Criminal Cases

1. First pretrials shall be set by the court and the court shall utilize the Notice of Telephone Pretrial which can be found at <http://www.shakerheightscourt.org/forms/Notice%20of%20Telephone%20Pretrial.pdf>. The Prosecutor shall call the defendant at such number as the defendant supplies. Calls are also to be made to defense counsel when appropriate. The back of the form shall also include business phone numbers for the Municipal Prosecutors in each jurisdiction.
2. All pretrials will be conducted by telephone at the date and time scheduled. The first pretrial will be set by the court.
3. Prosecutors should complete a Pretrial Agreement Form after each pretrial detailing any actions to be taken or recommendations agreed to as well as the next/final pretrial date or court date. Pretrial Agreement Forms can be downloaded from <http://www.shakerheightscourt.org/forms/Pretrial%20Agreement%20Form.pdf>.
4. There should be no more than three pretrial conferences. After the first conference occurs on the date set by the court, the prosecutor may set a second and/or a final pretrial, as needed.
 - a. Second pretrials/final pretrials should be set two to three weeks later.
 - b. If the case requires additional pretrials or needs a longer time between pretrials, please state the reason on the Pretrial Agreement Form. (Example: Just hired attorney or attorney in capital trial.) Extraordinary situations will need the court's approval.
5. Discovery shall be exchanged by mail/email/fax between parties. Videos/body and dash cams should be put into a format that can be mailed. The exchange shall take place in a timely fashion and in such matter as to facilitate discussion between the parties at pretrial.
6. Prosecutors should complete a Pretrial Agreement Form after *every* pretrial. The prosecutor should note on the signature space that the prosecutor and defendant/defense counsel participated in the conference, when appropriate. If a plea agreement is reached, the prosecutor should note that both parties have agreed to the resolution to be proposed to the court.
7. Pretrial Agreement Forms can to be faxed to the court 216-491-1314 or delivered

- through the clerk's office filing window.
8. The court will promptly review the Pretrial Agreement Forms and send out notices for second pretrials, final pretrials, change of pleas, motions hearings or trials, as appropriate.
 9. If the Prosecutor cannot reach a party by phone, this should be noted on the Pretrial Agreement Form. Failure of a party to participate in two telephonic pretrials will likely result in the scheduling of an in-court pretrial. Failure to appear for that pretrial may result in contempt proceedings which could include the issuance of a warrant.
 10. The First Offenders' Program (FOP) continues. Standard conditions apply and any jail will be scheduled in the future. The law states that the prosecutor is the party recommending a defendant be placed on FOP. Such recommendation should be stated on the Pretrial Agreement Form. Prosecutors should share with the defendant by mail/fax/email or by reading the possible FOP terms with which the defendant must agree. Prosecutor can refer Defendant to read FOP Agreement Form which is available at <http://www.shakerheightscourt.org/forms/First%20Offenders%27%20Program%20Agreement.pdf>. Prosecutors must also review with the defendant the court's typical FOP conditions for theft offenses. If the defendant agrees, then the Pretrial Agreement Form should so state and the Prosecutor can recommend the defendant. The court will then screen the defendant to be sure the defendant qualifies to participate based upon the charge and whether defendant has any prior criminal history. If the defendant qualifies, the court will send the defendant a notice to appear for COP. At the COP hearing, the defendant will be referred to a Probation Officer for assistance in completing FOP. It is recommended that the COP date be set no earlier than June, 2020.
 11. The court appointed attorney packet is available online at the court's website (<http://www.shakerheightscourt.org/forms/Public-Defender-Packet.pdf>).
 12. The court remains open to facilitate the pretrial process. Frequently used phone numbers include:

Judge K. J. Montgomery 216-491-1324
 Magistrate Anne Keller 216-491-1323
 Chief Bailiff Jerome Sheppard 216-491-1321
 Bailiff Joe Gogala 216-491-1329
 Criminal Deputy Clerk Patti Jagels 216-491-1310
 Criminal Deputy Clerk Mike Amaddio 216-491-1301
 Main number 216-491-1300.


 Judge K. J. Montgomery


 Date
 94

By 
 Deputy Clerk


 Clerk of Court

Journalized
 4-1-2020

Shaker Heights Municipal Court

Procedures for pretrials conducted by telephone:

1. All pretrials will be conducted by telephone at the date and time they are scheduled by the court.
2. Discovery be exchanged by mail/email/fax between parties. Videos should be put into a format that can be mailed.
3. Prosecutors should complete a Pretrial Agreement Form after each pretrial.
4. Future pretrials, final pretrials, and change of plea hearings can be scheduled by Prosecutors for June or July.
 - a. If your case requires additional pretrials, please state the reason on the Pretrial Agreement Form. Example: just hired attorney.
 - b. Future pretrials/final pretrials should be set two weeks later absent permission from the Court.
5. If you cannot reach a party by phone, please indicate this on your Pretrial Agreement Form. Failure of a party to participate in two telephonic pretrials will likely result in the scheduling of an in-court pretrial and then contempt proceedings which could include the issuance of a warrant.
6. Pretrial agreement forms can to be faxed to the court 216-491-1314 or delivered through the clerk's office filing window.
7. The court will then review your information and send out notices for future pretrials, final pretrials, change of plea, or schedule the matter for suppression hearing or trial as is appropriate.
8. The court appointed attorney packet is available online at the court's website (<http://www.shakerheightscourt.org/forms/Public-Defender-Packet.pdf>).
9. FOP will continue. Standard conditions apply and any jail will be scheduled in the future. If a defendant wishes to apply for FOP, the Pretrial Agreement Forms shall state that the Defendant needs to be screened for FOP prior to the change of plea date scheduled by the Prosecutor in June or July.

Montgomery, K.J.

From: Keller, Anne
Sent: Thursday, April 16, 2020 04:16 PM
To: Nathalie Supler; Randolph Keller; Kimberly Rood; Michael Cicero; Stephanie Scalise; T.M.Hanculak, Esq.,
Cc: Montgomery, K.J.; Muster, Danielle; Casselberry, Matt
Subject: Shaker Court Telephone pretrial info
Attachments: First Offender OVI.pdf

Good afternoon Prosecutors:

A few updates related to your telephone pretrials:

1. Attached is the Court's first offense packet for OVI cases. This will be posted on the court's website tomorrow too. It is up to you if you would like to email this document to the Defendant or direct them to the website.
2. Please start scheduling all OVIs for a change of plea in May (and June as time goes on). The change of plea hearings will be done over the phone. This will allow the court to dispose of the case and have probation officer Sandra Blue work with them over the phone to get their requirements completed.
3. Our law clerks are going to call all counsel/pro se defendants who are set for pretrials next week and let them know that their pretrial will be by telephone. If the defense attorney or the pro se defendant provide an updated phone number our law clerks will email you that information. After next week this responsibility will be handled by the probation department.
4. FOP Eligibility hearings are going to be conducted by telephone so that the court can take a no contest plea on the phone.

Thank you for your efforts to make these telephone pretrials work during this difficult time. Stay safe!
Annie

Anne W. Keller
Magistrate
Shaker Heights Municipal Court
3355 Lee Road
Shaker Heights, OH 44120
216.491.1323
akeller@shakerheightscourt.org

From: Freeman-Johnson, Juli <jfjohnson@shakerheightscourt.org>
Sent: Thursday, April 16, 2020 2:30 PM
To: Keller, Anne <akeller@shakerheightscourt.org>
Subject: First Offender OVI

Attached

Juli Freeman-Johnson
Administrative Manager, CCE
Shaker Heights Municipal Court
3355 Lee Road
Shaker Heights, Ohio 44120
(216)491-1325
(216)491-1314 Fax
jfjohnson@shakerheightscourt.org

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

Dear Traffic or Criminal Defendant: CASE NO. _____

In light of the current pandemic and its implications for public health and safety, by order of the Shaker Heights Municipal Court Judge, your pretrial proceedings will be conducted with the _____ Chief Prosecutor or a designee via telephone and not in person.

While you are not required to personally appear in court for your scheduled pretrial, your participation in this telephone pretrial process is **not optional**. It is, in fact, a court order and your personal participation is **required**. (The prosecutor is under no obligation to conduct this pretrial with anyone other than YOU or a licensed Ohio attorney who is representing you.)

Your failure to participate could result in your being held in contempt of court and expose you to additional fines, costs or jail!

Your telephone pretrial is set for _____ at _____ a.m./p.m. This date and time will NOT be changed without you filing a timely request with the court and the Judge granting your request for a new pretrial date and time.

During your telephone pretrial, you will have an opportunity to discuss:

1. A plea to the charges you are facing and the potential consequences;
2. Amendment of your traffic offense to a zero point violation, where applicable;
3. Amendment of your criminal offense to another agreed upon offense;
4. Any defense(s) to the charges that you might believe are appropriate;
5. How to lawfully exchange information with the Prosecutor's Office;
6. What occurs if you and the Prosecutor's Office are unable to reach an agreement that resolves your matter including the scheduling of your trial;
7. The court's process on addressing your ability to pay fines and costs.

When you call in, please be patient and courteous recognizing that circumstances may necessitate your leaving a message and the receipt of a timely, return call from the Prosecutor or a designee to conduct your telephone pretrial.

The meaningful and serious cooperation by the parties in this telephonic pretrial process will further the court's business in a manner close to in-person participation but with regard to the public safety during this challenging time.

Date

K.J. Montgomery, Judge

CASE NUMBER: [CASENUM]
DATE: [TODAYDT]

[PLAINTIFF]
- vs -
[DEFENDANT]

NOTICE OF TELEPHONIC PRETRIAL

This case is set for telephonic pretrial on [CTDATE] at [CTTIME]. ATTORNEYS and UNREPRESENTED PARTIES are required to be available by phone at the numbers on your file. Attorneys shall be able to reach their clients regarding settlements.

If the court lacks a current phone number for an attorney/party, you are required to call (216) 491-1300 to provide valid telephone/contact

For pretrial, the court will call the attorneys/parties. If not available, the pretrial will still proceed and the case will be set for trial.

FROM:
Shaker Heights Municipal Court
3355 Lee Rd.
Shaker Heights, OH 44120-3453

TO:
[RECLN1]
[RECLN2]
[RECLN3]
[RECLN4]
[RECLN5]

Slunski, Kristina

From: Montgomery, K.J.
Sent: Friday, April 3, 2020 11:08 AM
To: Slunski, Kristina; Freeman-Johnson, Juli
Subject: The civil order...

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

In re: EMERGENCY PROCEDURE) Judge K. J Montgomery
FOR TELEPHONIC PRETRIALS)
IN CIVIL CASES) JOURNAL ENTRY

On March 16, 2020, this court declared an emergency due to COVID-19. Due to this health emergency, the court will conduct all CIVIL PRETRIALS by telephone as follows:

1. Pretrial dates and times shall be set by the court.
2. Parties and their counsel, if any, shall be notified by postcard of the date and time of the pretrial.
3. If a party or their counsel is unable to attend the telephonic pretrial at the time scheduled by the court, they shall file a motion to continue the pretrial date at least 7 days before the scheduled telephonic pretrial date in accordance with the civil rules of procedure. The court will then rule upon the motion and the pretrial date **may** in the court's discretion be reset by the court and a new notice sent.
4. At the designated pretrial date and time, the Magistrate will contact the parties/counsel at the phone number the court has on the case file.
5. If the parties have not provided a telephone contact number, the parties/counsel shall contact the court at 216-491-1339 to provide current contact information.
6. If the court is without telephone contact information, a notice will be sent requiring the party/counsel to appear for the pretrial in person. Health measures will be strictly followed.
7. While parties/counsel are not required to personally appear in court for a scheduled pretrial, **participation in the telephonic pretrial conference is not an option but rather an order of this court. If one or more of the parties/counsel fail to be available for telephonic pretrial, the pretrial shall go forward and the case will be set for a future trial date chosen by the court.** An exception to this procedure may be made upon the court's finding of good cause and a second telephonic pretrial set.

CASE NUMBER: 19CVG01673

DATE: 04/21/2020

GOLDBERG COMPANIES, INC

- vs -

SPENCER MEADS

NOTICE OF TELEPHONIC PRETRIAL

This case is set for telephonic pretrial on **04/29/2020** at **09:45 AM**. **ATTORNEYS** and **UNREPRESENTED PARTIES** are required to be available by phone at the numbers on your file. Attorneys shall be able to reach their clients regarding settlements.

If the court lacks a current phone number for an attorney/party, you are required to call (216) 491-1300 to provide valid telephone/contact

For pretrial, the court will call the attorneys/parties. If not available, the pretrial will still proceed and the case will be set for trial.

FROM:

Shaker Heights Municipal Court
3355 Lee Rd.
Shaker Heights, OH 44120-3453

TO:

SPENCER MEADS
16 BAYBERRY AVE., UNIT #6
KENNEBUNK, ME 04043

TEMPORARY PROBATION PROCEDURES FOR COURT HEARINGS DURING COVID 19

PLEASE BE PREPARED WITH GLOVES AND A MASK FOR ALL COURT HEARINGS DEFENDANTS WILL BE PRESENT IN SOME CASES. MAINTAIN SOCIAL DISTANCE. PLEASE PLACE ALL COURT INFO IN THE BLACK SLOTTED FILE ORGANIZER ON MY DESK IN THE APPROPRIATE FOLDER WITH PO'S NAME.

MORNING DOCKETS: BEACHWOOD, SHAKER, UH, PPIKE/HV

PROBATION PRESENT IN COURT ROOM FOR CHANGE OF PLEAS, SENTENCING, ARRAIGNMENT, ETC.

SENTENCINGS

1. PO RESPONSIBLE FOR MAKING SURE THE PSI IS SCANNED INTO, TR/CR, PROBATION AND SENT TO THE ATTORNEY (NOT TO PRO SE DEF) AND ALL PERTINENT INFO SHOULD BE AVAILABLE REGARDING THE CASE FOR COURT
2. PO TO PREPARE SENTENCING ENTRY ALONG WITH GREEN APPT SHEET WITH NEW DATE. IF VIA PHONE CONTACT DEF IMMEDIATELY AND GIVE NEW DATE, (ALSO MAIL TO DEF)
3. SET UP PAY PLAN **DUE 30 DAYS FROM COURT DATE**, VERIFY DEF INFO, GIVE PAPERWORK TO CLERKS OFFICE, ADVISE PAY PLAN WILL BE MAILED TO DEF

NEW CASES/FOP/OTHER

1. PO IN COURT IS RESPONSIBLE FOR DISSEMINATING NEW CASES ASSIGNED TO PROBATION AND OBTAINING DEF'S INFO & OTHER PERTINENT INFO, POLICE REPORTS, ETC.
2. GIVE NEW REPORTING DATE IF VIA PHONE PREDETERMINED BY EACH OFFICER TO BE LATER MAILED TO DEF. BY THE ASSIGNED PO

MONDAY DUS DOCKET – POSTPONED TO 6/8/20

WEDNESDAY TRAFFIC DOCKET PROBATION PRESENT FOR TELEPHONIC AND/OR IN PERSON HEARINGS

PAY PLANS

1. VIA PHONE CONTACT DEF IMMEDIATELY AFTER RECEIVING PAPERWORK W/IN 15 MIN.
2. COMPLETE PAY PLAN, OBTAIN CORRECT DEF INFO, PAY PLAN **DUE 30 DAYS FROM COURT DATE**
3. GIVE COMPLETED PAPERWORK TO CLERK'S ADVISE CLERKS WILL MAIL PAY PLAN TO DEF
4. IN PERSON HEARINGS COMPLETE STEP 2-3, CLERKS WILL MAIL PAY PLAN TO DEF.

FOOD DRIVE – DEF'S UNEMPLOYED OR RECEIVING NO INCOME DUE TO COVID 19

1. DEF'S ALLOWED TO DONATE 30 CANS OR 25 POUNDS OF FOOD TO THE CLEVELAND FOOD BANK OR NON-PROFIT CHURCH/ORGANIZATION OF THEIR CHOICE.
2. PO TO COMPLETE TOP OF THE FOOD DRIVE FORM, OBTAIN CORRECT DEF INFO, FILL OUT DUE DATE, TO BE **COMPLETED BY 30 DAYS FROM COURT DATE**, PO & DEF TO SIGN FORM
3. **ADVISE THAT FORM WITH RECEIPT TO BE RETURNED TO THE COURT/ S. BLUE**
4. MAKE 2 COPIES OF THE FORM: ORIGINAL-DEF, COPY-PO BLUE, COPY- CLERKS OFFICE WITH TOTAL OWED PAPERWORK
5. VIA PHONE COMPLETE STEPS 1-4 DEF COPY IS MAILED IMMEDIATELY WITH RETURN ENVELOPE (SEE CWS FOOD DRIVE PACKETS MADE BY S. BLUE)

PROBATION CLIENT ACTION REPORT INSTRUCTIONS

Due to the COVID-19 emergency conditions, the court is trying to have employees alternate dates to work from home and the office at about half staff. This results in an inability to verify work being conducted from home by employees. Additionally, because the Probation Department Officers have varying responsibilities, it is difficult for the Judge to know just how much work each officer has to perform on a daily basis. As a result, officers are asked to complete the Probation Client Action Report on a daily basis from this point forward. These are the instructions:

1. Make copies of the Probation Client Action Report sheets, as needed.
2. When you begin to work, check the box identifying your name and insert the date.
3. For each client you need to work with on that day, record the following:
 - Case Number
 - Client's First Initial and Last Name
 - If the telephonic meeting is to simply determine that the client is compliant with terms of probation, simply put an "x" or check mark in the box marked "Compl."
 - Note in Progress Notes small indicators such as:
 - In the hospital, reset
 - No answer 3 times. Send notice to appear.
 - Bad phone #. Send notice to appear.
 - Unable to do DIP. Extend time.
 - Unsatisfactory. Gave last chance.
 - Unsatisfactory. Set for PV.
 - Note: The Progress Notes space IS NOT A SUBSTITUTE for the detailed notes you write in the Prob. Computer Module!!!! Those notes are critical and need to be timely entered.
 - Write the next date in the Follow Up Date space.
 - Note: Complete necessary paperwork for the court i.e. notice, journal entry, etc.
 - Put an "x" or checkmark in the "Entered Into Probation Module" box WHEN YOU HAVE ENTERED THE INFO INTO THE COMPUTER!
4. Turn all Probation Client Action Reports into Gail no less than weekly.
5. Gail will check and date Report when received.

STATE OF OHIO
CUYAHOGA COUNTY

)
) SS: IN THE SHAKER HEIGHTS MUNICIPAL COURT
)

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/16/2020

JOHN TEST
456 MAIN ST
MAIN , OH 44444

*Sentencing/COP
Telephone Date*

This case is set for ARRAIGNMENT at the Shaker Heights Municipal Court on 04/03/2020 at 01:30 PM. **This court date is NOT being continued.** In order to keep you safe during the health crisis, the court will conduct the ARRAIGNMENT TELEPHONICALLY FROM THE COURTROOM AND ON THE RECORD. **You and your attorney must appear by telephone for your court date by answering the phone number the court has on file (999-999-9999) on 04/03/2020** between 8:30 a.m. and 11:30 a.m. The court will conference both defendant and counsel into the call as well as the prosecutor, when necessary.

If you need to change your phone number before your telephonic court date **you must call the clerk's office at 216-491-1300** between 8:30 a.m. and 4:30 p.m. to update your phone number at least **3 days before your court date!!**. If you are counsel, please be sure the court has a good phone number for your client and you!

The court will call you that morning. If you (and your attorney) do not answer your phone call at the time of your telephonic appearance you will be ordered to appear in court **in person**. **Failure to appear by telephone or in person may result in contempt proceedings for missing court which include the issuance of a warrant or a driver's license block.**

DATE: 04/16/2020



Judge K.J. Montgomery

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, CITY OF _____)	CASE NO.
Plaintiff)	JUDGE K.J. MONTGOMERY
vs.)	<u>WAIVER OF RIGHT TO BE</u>
_____)	<u>PHYSICALLY PRESENT IN COURT</u>
Defendant)	

I, the defendant herein, pursuant to Crim.R. 43(A)(3), hereby waive my right to be physically present for all arraignment, bond, plea, sentencing, and other hearings, but not a jury trial, to be held in the above-captioned matter, and I consent to participate by remote contemporaneous video and/or audio.

I understand each of the following:

- (a) The video and audio arrangements will allow me to hear the proceeding.
- (b) The video and audio arrangements will allow me to speak and be heard by the court and all parties.
- (c) The court will make provision to allow for private communication between counsel and me, if I have counsel. In such case, the court will inform me on the record how to, at any time, communicate privately with my counsel. My counsel will be afforded the opportunity to speak to me privately and personally. My counsel will be permitted to appear with me at the remote location if my counsel and I request it.
- (d) I consent to the proceeding involving sworn testimony that is subject to cross examination by my counsel.

The undersigned defendant declares to the court that he/she understands the right to be physically present at the above mentioned hearing, understands the terms of the within waiver, and the defendant has advised the Court that he/she agrees to waive this right and appear via remote contemporaneous video and/or audio.

X _____
Defendant (sign)

Date

X _____
Witness (sign)

X _____
Attorney for Defendant (sign)

Defendant Phone (or Attorney Phone)

JUDGMENT ENTRY

The court finds the defendant understands his/her right to be physically present. The above waiver is accepted and the defendant is hereby granted leave to appear via remote contemporaneous video and/or audio.

Date

JUDGE K.J. MONTGOMERY

Montgomery, K.J.

From: Montgomery, K.J.
Sent: Friday, March 27, 2020 02:07 PM
To: Cole John; Chief Dustin Rogers; Chief Gary Haba; Chief Jeffrey DeMuth ; Chief Joe Mariola; Chief Michael Cannon
Cc: Court; David Weiss; Martin Horwitz; Michael D. Brennan; Richard Hollington, Jr.; Richard M. Bain; Michael Cicero; Nathalie Supler; Randy Keller; Stephanie Scalise; Thomas M. Hanculak
Subject: NEW WAIVER TICKET POLICY!!!!!!!
Importance: High

Good afternoon, Chiefs!

In light of COVID-19, the court will be trying to have more tickets paid by mail and conducting more court business by phone and text.

Therefore, effective immediately:

1. All traffic and criminal offenses which are waiverable, **SHALL NOW BE WAIVERABLE REGARDLESS OF THE NUMBER OF PAST CONVICTIONS** on a person's LEADS!!!! Example: 4th stop sign violation in a year – the new stop sign violation is still waiverable.
2. Please have the officers emphasize the importance of getting **legible and valid phone numbers** from the defendants so that we may make future contact with them to change their appearance dates, conduct pretrials or otherwise get them information.

I wanted you to have this information as quickly as possible. In the next week, I will ask my Magistrate Ann Keller and my super law clerks (by copy of this email) to get to you list of all waiverable offenses. We hope that this will enable more defendants to avoid a trip to the courthouse and face to face contact with staff.

Please give me an email or call with any questions!!!!

Also, please thank your amazing officers and civilian staff for keeping us safe in this difficult time. Kj

STATE OF OHIO) IN THE SHAKER HEIGHTS MUNICIPAL COURT ¶
.....) SS: ¶
CUYAHOGA COUNTY ¶

¶
¶
→ → → CASE NUMBER: [CASENO] ¶
→ → → DEFENDANT NAME: [DEFNAME] ¶
→ → → DATE: [TODAYS DATE] ¶

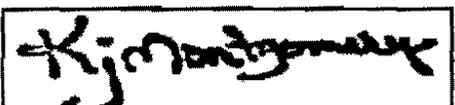
¶
[RECLN1] ¶
[RECLN2] ¶
[RECLN3] ¶
[RECLN4] ¶
[RECLN5] → → → ¶

¶
¶
¶
PAY YOUR CASE BY MAIL
¶

→ You have been charged with [CHARGES] in this case. In order to avoid needing to appear in court and due to the COVID-19 emergency conditions, you may do the following: This case may be treated as a waivable ticket if you agree to plead guilty and pay the fine of \$150.00 plus the costs of [TOTAL COSTS] for a total of \$[TOTAL DUE]. You must sign the enclosed form pleading guilty and return it to the court with payment in full within 30 days ¶

¶
→ If you do not choose to plead guilty and pay \$[TOTAL DUE] in full within 30 days, then you are ordered to appear in court to address your case. **Your new court date is Friday, July 1, 2020 at 10:00a.m. No continuances will be granted.** ¶

¶
→ Failure to resolve your case in one of these ways may result in contempt proceedings which could include the issuance of a warrant or a driver's license or vehicle registration block. ¶

¶
¶
¶
¶
DATE: [DATE] → → → →  →

STATE OF OHIO)
) SS: IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY)

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/17/2020

1. PAYMENT PLAN OPTION

You have been charged with one or more traffic offenses in the Shaker Heights Municipal Court. You may enter a plea of guilty in writing and be placed on a payment plan by returning the attached document (written plea of guilt form). If you enter a guilty plea in writing, you will not have to appear in court. By signing and returning this document you will be automatically placed on a \$40 per month payment plan. The total amount you will owe for your ticket is **\$295.00**. Your monthly payment date will be mailed to you once the Court receives your guilty plea.

If you wish to enter a guilty plea, please return the completed written plea of guilt form through the mail: Shaker Heights Municipal Court, 3355 Lee Road, Shaker Heights Ohio, 44120 or by fax: 216-491-1314. You must return the attached document 7 days before your court date.

ADDITIONAL OPTIONS:

2. You may pay the waiver ticket in full prior to the court date. The total amount you will owe for your ticket is **\$295.00**. Tickets may be paid online (www.shakerheightscourt.org) or by mail.

OR

→ 3. If you do not choose Options 1 or 2 above, you **MUST** appear in person on your court date on **May 03, 2020 at 08:30 AM**. You will have the opportunity to plead guilty, not guilty or no contest on that date.

You must chose options 1, 2 or 3. Failure to resolve your case in one of these ways may result in contempt proceedings which could include the issuance of a warrant and a driver's license block and registration block.

DATE: 04/17/2020



Judge K.J. Montgomery

109
SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY

STATE OF OHIO) IN THE SHAKER HEIGHTS MUNICIPAL COURT
) SS.
CUYAHOGA COUNTY)

¶
¶

→ → → CASE NUMBER: {CASE NO}
→ → → DEFENDANT NAME: {DEFNAME}
→ → → DATE: {TODAYS DATE}

¶

{RE CLN1}
{RE CLN2}
{RE CLN3}
{RE CLN4}
{RE CLN5} → →

1. PAYMENT PLAN OPTION

→ You have been charged with one or more traffic offenses in the Shaker Heights Municipal Court. You may enter a plea of guilty in writing and be placed on a payment plan by returning the attached document (written plea of guilt form). If you enter a guilty plea in writing, you will not have to appear in court. By signing and returning this document you will be automatically placed on a \$40 per month payment plan. The total amount you will owe for your ticket is \${WAVE AMT}. Your monthly payment date will be mailed to you once the Court receives your guilty plea.

¶

→ If you wish to enter a guilty plea, please return the completed written plea of guilt form through the mail: Shaker Heights Municipal Court, 3355 Lee Road, Shaker Heights Ohio, 44120 or by fax: 216-491-1314. You must return the attached document 7 days before your court date.

¶

ADDITIONAL OPTIONS:

2. You may pay the waiver ticket in full prior to the court date. The total amount you will owe for your ticket is \${WAVE AMT}. Tickets may be paid online (www.shakerheightscourt.org) or by mail.

¶

OR

3. If you do not choose Options 1 or 2 above, you MUST appear by telephone for your court date by answering the phone number that the court has on file ({DEFPHONE}) on {HEARINGDT} between 1:30 p.m. and 4:30 p.m. If you need to change your phone number before your telephonic court date you must contact the clerk's office at 216-491-1300 to update your phone number. The court will call you that afternoon. You will have the opportunity to plead guilty, not guilty or no contest. If you do not answer your phone call at the time of your telephone appearance you will be scheduled to appear in person.

¶

You must choose options 1, 2 or 3. Failure to resolve your case in one of these ways may result in contempt proceedings which could include the issuance of a warrant or a driver's license block or registration block.

¶

sk: [Signature]

From: Montgomery, K.J. <kjmontgomery@shakerheightscourt.org>
Sent: Tuesday, April 14, 2020 3:48 PM
To: Tomaszewski, Steve <steve@shakerheightscourt.org>
Subject: RE: Sample

How about the one for waivers who might need pay plan...she could combine those 2 perhaps.

Pay By Mail

2

SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY

STATE OF OHIO/CITY OF)	CASE NO. 06TRD01456
<u>SHAKER HEIGHTS</u>)	
Plaintiff)	
)	
-vs-)	
)	
<u>JOHN TEST</u>)	<u>Written Plea of Guilt for Traffic Offense</u>
Defendant)	
)	

By signing this document, I agree to plead guilty to the charges listed above in the Shaker Heights Municipal Court. I understand that I will be placed on a payment plan and will be required to pay \$40.00 per month until the bill is paid in full. I also understand that I can pay online at shakerheightscourt.org. I understand that failure to comply with this agreement could result in contempt proceedings.

Signature: _____

Date: _____

Phone Number: _____

Email Address: _____

Current Mailing Address:

STATE OF OHIO
CUYAHOGA COUNTY

) IN THE SHAKER HEIGHTS MUNICIPAL COURT
) SS:
)

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/16/2020

JOHN TEST
456 MAIN ST
MAIN , OH 44444

Pay By Mail

PAY YOUR CASE BY MAIL

You have been charged with MISC 0 POINTS in this case. In order to avoid needing to appear in court and due to the COVID 19 emergency conditions, you may do the following: This case may be treated as a waivable ticket if you agree to plead guilty and pay the fine of \$150.00 plus the costs of \$310.00 for a total of \$300.00. You must sign the enclosed form pleading guilty and return it to the court with payment in full within 30 days

If you do not choose to plead guilty and pay \$300.00 in full within 30 days, then you are ordered to appear in court to address your case. **Your new court date is Friday, July 17, 2020 at 10:00a.m. No continuances will be granted.**

Failure to resolve your case in one of these ways may result in contempt proceedings which could include the issuance of a warrant or a driver's license or vehicle registration block.

DATE: 04/16/2020



Judge K.J. Montgomery

Waiver Notice

①

STATE OF OHIO)
CUYAHOGA COUNTY)

) IN THE SHAKER HEIGHTS MUNICIPAL COURT
) SS:
)

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/16/2020

JOHN TEST
456 MAIN ST
MAIN , OH 44444

1. PAYMENT PLAN OPTION

You have been charged with one or more traffic offenses in the Shaker Heights Municipal Court. You may enter a plea of guilty in writing and be placed on a payment plan by returning the attached document (written plea of guilt form). If you enter a guilty plea in writing, you will not have to appear in court. By signing and returning this document you will be automatically placed on a \$40 per month payment plan. The total amount you will owe for your ticket is **\$300.00**. Your monthly payment date will be mailed to you once the Court receives your guilty plea.

If you wish to enter a guilty plea, please return the completed written plea of guilt form through the mail: Shaker Heights Municipal Court, 3355 Lee Road, Shaker Heights Ohio, 44120 or by fax: 216-491-1314. You must return the attached document 7 days before your court date.

ADDITIONAL OPTIONS:

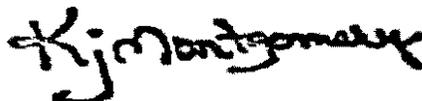
2. You may pay the waiver ticket in full prior to the court date. The total amount you will owe for your ticket is **\$300.30**. Tickets may be paid online (www.shakerheightscourt.org) or by mail.

OR

3. If you do not choose Options 1 or 2 above, you **MUST** appear by telephone for your court date by answering the phone number that the court has on file (999-999-9999) on 04/03/2020 between 1:30 p.m. and 4:30 p.m. If you need to change your phone number before your telephonic court date you must contact the clerk's office at 216-491-1300 to update your phone number. The court will call you that afternoon. You will have the opportunity to plead guilty, not guilty or no contest. If you do not answer your phone call at the time of your telephone appearance you will be scheduled to appear in person.

You must chose options 1, 2 or 3. Failure to resolve your case in one of these ways may result in contempt proceedings which could include the issuance of a warrant or a driver's license block or registration block.

DATE: 04/16/2020



Judge K.J. Montgomery

STATE OF OHIO
CUYAHOGA COUNTY

) IN THE SHAKER HEIGHTS MUNICIPAL COURT
) SS:
)

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/16/2020

JOHN TEST
456 MAIN ST
MAIN , OH 44444

Payment Plan Cancelled

Your payment hearing set for 04/03/2020 has been cancelled. A new payment plan is enclosed with your new payment dates. Your next payment is due on 04/02/2020. It is recommended that payments be made online at shakerheightscourt.org or by mail. The Clerk's office will also accept payments during business hours.

Shaker Heights Municipal Court
3355 Lee Rd.
Shaker Heights, Ohio 44120-3499
(216) 491-1300

STATE OF OHIO
CUYAHOGA COUNTY

) IN THE SHAKER HEIGHTS MUNICIPAL COURT
) SS:
)

CASE NUMBER: 06TRD01456
DEFENDANT NAME: JOHN TEST
DATE: 04/16/2020

JOHN TEST
456 MAIN ST
MAIN, OH 44444

Non-Waiverable Notice

You have been charged with one or more traffic offenses in the Shaker Heights Municipal Court. In order to keep you safe during the health crisis, the Court will conduct traffic arraignments by telephone. You **MUST appear by telephone for your court date by answering the phone number that the court has on file (999-999-9999) on 04/03/2020** between 1:30 p.m. and 4:30 p.m. If you need to change your phone number before your telephonic court date you must contact the clerk's office at 216-491-1300 between 8:30 a.m. and 4:30 p.m. to update your phone number at least **7 days before** your court date. The court will call you that afternoon. You will have the opportunity to plead guilty, not guilty or no contest. If you do not answer your phone call at the time of your telephone appearance you will be scheduled to **appear in person**.

Failure to appear by telephone or in person may result in contempt proceedings which could include the issuance of a warrant or a driver's license block or registration block.

DATE: 04/16/2020



Judge K.J. Montgomery



- Judge's Bio
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SHAKER HEIGHTS MUNICIPAL COURT

SHAKER COURT CLOSED WITH CERTAIN EXCEPTIONS - FIND YOUR RESCHEDULED DATE BELOW

The Shaker Heights Municipal Court declared an emergency due to COVID-19 on March 16, 2020, and put into effect certain conditions. That order was supplemented on March 23, 2020. As a result, the following conditions are in effect:

Shaker Heights Municipal Court has **cancelled court appearances** from Tuesday, March 24, 2020 through Monday, April 13, 2020 for

- Traffic and Criminal Arraignments
- Hearings
- Trials
- Probation Appointments
- Civil matters including mediations, evictions, motion hearings, and move-outs
- Weddings
- Jury Trials
- MADD Meetings
- In The Neighborhood

Remaining as scheduled will be

- Criminal Pretrials to be conducted telephonically

The court WILL conduct (via video conference when possible)

- Felony First Appearances
- Bond Hearings
- Protection Order Hearings
- Preliminary Hearings
- Such matters as the Judge deems time sensitive and for which the need for prompt addressing outweighs the damage/danger inflicted by postponing such matters.

The court will remain open to

- **Accept filings** of new traffic, criminal, and civil cases and motions
- **Accept and Receipt Bonds**
- **Take Payplan Payments**
- **Accept Phone Calls**

All court matters set for the dates of Tuesday, March 24, 2020 through and including Monday, April 13, 2020 are reset as follows:

Tuesday, March 24, 2020 is reset for Tuesday, April 14, 2020

Wednesday, March 25, 2020 is reset for Wednesday, April 15, 2020

Thursday, March 26, 2020 is reset for Thursday, April 16, 2020

Friday, March 27, 2020 is reset for Friday, April 17, 2020

Monday, March 30, 2020 is reset for Monday, April 20, 2020

Tuesday, March 31, 2020 is reset for Tuesday, April 21, 2020

Wednesday, April 1, 2020 **morning times** are reset for Wednesday, May 6, 2020

Wednesday, April 1, 2020 **afternoon times** are reset for Wednesday, April 22, 2020

Thursday, April 2, 2020 is reset for Thursday, April 23, 2020

Friday, April 3, 2020 is reset for Friday, April 24, 2020

Monday, April 6, 2020 is reset for Monday, April 27, 2020

Tuesday, April 7, 2020 is reset for Tuesday,
April 28, 2020

Wednesday, April 8, 2020 is reset for
Wednesday, April 29, 2020

Thursday, April 9, 2020 is reset for Thursday,
April 30, 2020

Friday, April 10, 2020 is reset for Friday, May 1,
2020.

Monday, April 13, 2020 is reset for Monday,
May 4, 2020.

**THESE MATTERS ARE RESET FOR THE
SAME TIME OF DAY AND BEFORE THE
SAME JUDICIAL OFFICER OR STAFF AS
ORIGINALLY SCHEDULED.**

Questions should be directed to 216-491-
1300.

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

Dear Traffic or Criminal Defendant: CASE NO. _____

In light of the current pandemic and its implications for public health and safety, by order of the Shaker Heights Municipal Court Judge, you pretrial proceedings will be conducted with the _____ Chief Prosecutor or a designee via telephone and not in person.

While you are not required to personally appear in court for your scheduled pretrial, your participation in this telephone pretrial process is not optional. It is, in fact, a court order and your personal participation is required. (The prosecutor is under no obligation to conduct this pretrial with someone other than YOU or a licensed Ohio attorney who is representing you.)

Your failure to participate could result in your being held in contempt of court and expose you to additional fines, costs or jail!

Your telephone pretrial is set for _____ at _____ a.m./p.m. This date and time will NOT be continued without a timely request filed with the court for a continuance AND the granting of that continuance by the Judge.

During your telephone pretrial, you will have an opportunity to discuss:

1. A plea to the charges you are facing and the potential consequences;
2. Amendment of your traffic offense to a zero point violation, where applicable;
3. Amendment of your criminal offense to another agreed upon offense;
4. Any defense(s) to the charges that you might believe are appropriate;
5. How to lawfully exchange information with the Prosecutor's Office;
6. What occurs if you and the Prosecutor's Office are unable to reach an agreement that resolves your matter;
7. The court's process on addressing your ability to pay fines and costs.

For your pretrial, the Prosecutor will contact you at the phone number the court has on file. Please be patient and courteous recognizing that circumstances may necessitate the Prosecutor or a designee contacting you at a later time than is scheduled to conduct your telephone pretrial. If you do not receive a phone call from the Prosecutor or a designee on the day that you are scheduled for a pretrial, it is your responsibility to contact the Prosecutor on the next business day. Contact information for Prosecutors is on the back of this form.

The meaningful and serious cooperation by the parties in this telephonic pretrial process will further the court's business in a manner close to in-person participation but with regard to the public safety during this challenging time.

Date

K.J. Montgomery, Judge

PROSECUTORS

BEACHWOOD

NATHALIE SUPLER
25325 Fairmount Boulevard
Beachwood, Ohio 44122
(216) 714-3778
nathalie.supler@beachwoodohio.com

UNIVERSITY HEIGHTS

STEPHANIE B. SCALISE
2300 Warrensville Center Road
University Heights, Ohio 44118
(216) 906-0269
sscalise@universityheights.com

HUNTING VALLEY

MICHAEL CICERO
Nicola Gudbranson & Cooper LLC
25 West Prospect Ave., Suite 1400
Cleveland, Ohio 44115-1066
(216) 621-7227
cicero@nicola.com

PEPPER PIKE

THOMAS M. HANCULAK
1360 SOM Center Road
Cleveland, Ohio 44124
(440) 442-6800

SHAKER HEIGHTS

C. RANDOLPH KELLER
3400 Lee Road
Shaker Heights, Ohio 44120
(216) 491-1443
randolph.keller@shakeronline.com

IN THE SHAKER HEIGHTS MUNICIPAL COURT

CUYAHOGA COUNTY, OHIO

_____ CASE NO. _____

v.

JUDGE K.J. MONTGOMERY

_____ REQUEST/MOTION FOR COURT
APPOINTED COUNSEL

The undersigned hereby requests/moves that counsel be appointed by this court so that she/he may be represented by counsel in this case. I have completed and filed any necessary paperwork which is attached.

(Signature)

(Date signed)

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO

CASE NO. _____

Plaintiff

vs.

JUDGE K. J. MONTGOMERY

Defendant

MOTION FOR WAIVER OF APPLICATION FEE

Now comes the Defendant/Affiant, and pursuant to §120.36(A) of the Ohio Revised Code, moves this Court to waive the \$25.00 application fee due to the indigency, financial hardship or the inability of affiant to pay said amount. A Memorandum in Support is included.

X _____
Defendant/Affiant's Signature

MEMORANDUM IN SUPPORT

The undersigned, being duly sworn, deposes and states:

1. I am an indigent person entitled to legal representation in the above case.
2. Pursuant to the Ohio Revised Code §120.36(A), I respectfully request a waiver of the application fee for legal representation because I am unable to pay an application fee of \$25.00 or said payment will subject me to undue hardship. The reason I am unable to pay is as follows:

Wherefore, the Affiant prays that this Court issue an order waiving the \$25.00 application fee set out in O.R.C. §120.36.

X _____
Defendant/Affiant's Signature

Sworn to and subscribed before me
this _____ day of _____, 20 ____.

Notary Public / Deputy Clerk / Individual authorized to administer oaths & title

(Do not write below this line)

_____. Judge

**Instructions for completing form OPD-206R,
the Financial Disclosure / Affidavit of Indigency form,
as revised January 2012**

Section I. Personal Information

Complete this section with the applicant's name, contact information, and case number. If the person who will be represented by court-appointed counsel is a juvenile, also include the juvenile's name in the box marked "Person Represented's Name (if juvenile)."

Section II. Other Persons Living in Household

Complete this section with the names of those with whom the applicant lives, who either have a duty to support the applicant or for whom the applicant has a duty to support, such as a spouse or dependent children. Do not include information about persons who share a household with the applicant but with whom the applicant shares no duty to support, such as roommates.

Section III. Presumptive Eligibility

If the applicant is currently receiving assistance from any of the governmental assistance programs listed in this section, check the line(s) next to the name of the program(s). Since that applicant has already been screened and deemed eligible for assistance by another government agency, you may presume the applicant's eligibility for court-appointed counsel. An applicant who is committed to a public mental health facility or who is incarcerated in a state penitentiary at the time of application may be presumed to be indigent and eligible for court-appointed counsel. All juveniles are presumed indigent and eligible for court-appointed counsel. Information in Sections IV – VI does not need to be collected for a juvenile who is requesting court-appointed counsel. (However, an adult requesting court-appointed counsel in a juvenile proceeding, such as a parent in an A/D/N case, must complete Sections IV – VI.) See Ohio Administrative Code section 120-1-03 (C).

Section IV. Income and Employer

Complete this section with the gross monthly income and other financial support received by the applicant, including the name and contact information of their employer. If the applicant indicated in Section III that the applicant receives assistance from any of the listed programs, include the amount of monthly assistance received through that program in the second box of this section, which includes "other types of income."

- Compare the dollar amount in the box labeled Total Income in this section to OPD's Indigent Client Eligibility Guidelines. If the applicant's Total Income falls at or below

187.5% of the federal poverty guidelines on this chart, the applicant must be given court-appointed counsel. See OAC 120-1-03 (B). See Section V instructions below for potential ineligibility.

Section V. Liquid Assets

Complete this section with information about the applicant's liquid assets. An applicant's liquid assets can make an applicant ineligible for court-appointed counsel, even if his or her income falls below the guidelines. See OAC 120-1-03 (D)(2)-(3).

Section VI. Monthly Expenses

OAC 120-1-03 states that the "pivotal issue in determining indigency is not whether the applicant ought to be able to employ counsel but whether the applicant is, in fact, able to do so." Therefore, an applicant whose gross monthly income falls above 187.5% of the federal poverty guidelines may still qualify for court-appointed counsel. If an applicant whose income exceeds 187.5% believes he or she is financially unable to employ counsel, complete this section with information about the applicant's basic monthly expenses.

Section VII. Determination of Indigency

If the applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

Applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines can be subject to recoupment.

If the applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied *if the applicant can employ counsel using those liquid assets*.

If the applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but is financially unable to employ counsel after paying the monthly expenses in Section VI, counsel must be appointed.

VIII. \$25.00 Application Fee Notice

This section provides notice to the applicant that he or she will be assessed a non-refundable \$25 application fee when submitting this form, unless that fee is waived or reduced by the court. No applicant may be denied counsel based upon failure or inability to pay this fee. See ORC 120.36 (B).

IX. Affidavit of Indigency

Here, the applicant must swear to the truth of the information contained in this form, and this section must be signed by the applicant and witnessed by a person authorized to give an oath (e.g. notary public, clerk of court, etc.). The person witnessing should complete the "Title" line of this section with the authority by which that person can administer an oath, which will not necessarily be the same as that person's job title.

X. Judge Certification

If the applicant is unable to complete this form (e.g. minor, incarcerated person, etc.), in this section, the judge may determine the applicant is eligible for court-appointed counsel and should provide a brief description of why the applicant is unable to complete the form.

XI. Notice of Recoupment

This section provides notice to the applicant that if his or her gross monthly income falls at or above 125% of the federal poverty guidelines, he or she may be subject to recoupment. See ORC 120.03 (B)(6)–(8), OAC 120-1-05, and ORC 2941.51 (D).

Attorneys' fees and expenses cannot be taxed as part of the costs charged in a case. However, through recoupment, if the indigent client or juvenile's parent(s) has, or reasonably may be expected to have the means to pay some **part** of the costs of services rendered, the indigent client or juvenile's parent(s) can be required to pay the county an amount that person reasonably can be expected to pay. See ORC 2941.51 (D).

XII. Juvenile's Parents' Income

If the respondent/defendant is a juvenile, complete this section with the income information of that juvenile's custodial parent(s). Because financial information was not collected about the parent(s) in Sections IV and V, information collected in this section is used to determine whether the parent(s) of the juvenile will be subject to recoupment.

- Compare the dollar amount in the box labeled Total Income in this section to OPD's Indigent Client Eligibility Guidelines. If the parents' Total Income falls below 125% of the federal poverty guidelines on this chart, they cannot be subject to recoupment. See OAC 120-1-03 (C)(1). If the parents' Total Income falls at or above 125%, they can be subject to recoupment. See OAC 120-1-03 (B).
- Because recoupment is limited to "an amount that the person reasonably can be expected to pay" (ORC 2941.51 (D)), you may choose to also collect information about the parents' monthly expenses in Section VI of this form.

FINANCIAL DISCLOSURE / AFFIDAVIT OF INDIGENCY
 (\$25.00 application fee may be assessed—see notice on reverse side)

I. PERSONAL INFORMATION

Applicant's Name	D.O.B.	Person Represented's Name (if juvenile)	D.O.B.
Mailing Address		City	State Zip Code
Case No.	Phone ()	Cell Phone ()	

II. OTHER PERSONS LIVING IN HOUSEHOLD

Name 1)	D.O.B.	Relationship	Name 3)	D.O.B.	Relationship
2)			4)		

III. PRESUMPTIVE ELIGIBILITY

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an "X"

Ohio Works First / TANF: SSI: SSD: Medicaid: Poverty Related Veterans' Benefits: Food Stamps:

Refugee Settlement Benefits: Incarcerated in state penitentiary: Committed to a Public Mental Health Facility:

Other (please describe): _____ Juvenile: (if juvenile, please continue at Section VIII)

IV. INCOME AND EMPLOYER

	Applicant	Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small>	Total Income
Gross Monthly Employment Income			\$0.00
Unemployment, Worker's Compensation, Child Support, Other Types of Income			\$0.00
TOTAL INCOME			\$ 0.00

Employer's Name: _____ Phone Number: _____
 Employer's Address: _____

V. LIQUID ASSETS

Type of Asset	Estimated Value
Checking, Savings, Money Market Accounts	\$
Stocks, Bonds, CDs	\$
Other Liquid Assets or Cash on Hand	\$
Total Liquid Assets	\$ 0.00

VI. MONTHLY EXPENSES

Type of Expense	Amount	Type of Expense	Amount
Child Support Paid Out		Telephone	
Child Care (if working only)		Transportation / Fuel	
Insurance (medical, dental, auto, etc.)		Taxes Withheld or Owed	
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member		Credit Card, Other Loans	
Rent / Mortgage		Utilities (Gas, Electric, Water / Sewer, Trash)	
Food		Other (Specify)	
EXPENSES	\$ 0.00	EXPENSES	\$ 0.00

VII. DETERMINATION OF INDIGENCY

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.
 For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.
 If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.
 If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

VIII. \$25.00 APPLICATION FEE NOTICE

By submitting this Financial Disclosure / Affidavit of Indigency Form, you will be assessed a non-refundable \$25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within seven (7) days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

IX. AFFIDAVIT OF INDIGENCY

I, _____ (applicant or alleged delinquent child) being duly sworn, state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

Affiant's signature

Date

Notary Public / Individual duly authorized to administer oath:

Subscribed and duly sworn before me according to law, by the above named applicant this ____ day of _____, at _____, County of _____, State of Ohio.

Signature of person administering oath

Title (example: Notary, Deputy Clerk of Courts, etc.)

X. JUDGE CERTIFICATION

I hereby certify that above-noted applicant is unable to fill out and / or sign this financial disclosure / affidavit for the following reason: _____. I have determined that the party represented meets the criteria for receiving court-appointed counsel.

Judge's signature

Date

XI. NOTICE OF RECOUPMENT

ORC §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for part of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

XII. JUVENILE'S PARENTS' INCOME* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL

	Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim)	Total
Employment Income (Gross)		
Unemployment, Workers Compensation, Child Support, Other Types of Income		
	TOTAL INCOME	\$ 0.00

*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.

WARNING

**IF YOU GIVE FALSE INFORMATION ON THIS FORM, YOU ARE COMMITTING A CRIME,
PUNISHABLE BY UP TO 180 DAYS IN JAIL AND/OR A \$1000.00 FINE.**

WARNING TO DEFENDANT
READ CAREFULLY

If you have told the court that you are having money problems and cannot pay the money you owe to get out of jail, to pay your fines, or to hire a lawyer, you must complete this form. Fill it out carefully and completely. Then sign your name at the end.

By signing this report, you promise and certify that the information you provide on this form about your income is true and correct. You must answer every question and fill in all the blanks accurately and truthfully!!! ***Putting false information in this report is a crime, punishable by up to 180 days in jail, a fine of up to \$1,000.00, or both!*** Ohio Revised Code § 1931.13.

This form will be reviewed for errors and discrepancies. ***If you spend more than your income, you will be asked to explain the difference. If the court discovers that you provided false or misleading information, you may be charged*** with the crime of providing false information.

By signing this report, you acknowledge and understand that the judge, probation officers, clerks, and other court officials will rely on your information in the performance of their official functions.

If you have any questions with regard to the questions on this report, please ask a probation officer or bailiff.

**SHAKER HEIGHTS MUNICIPAL COURT
PRISONER INFORMATION FORM**

I. General Information

Name: _____

Date of Birth: _____ Age: _____ SS#: _____

Mailing address: _____

Phone: _____ How long have you lived at this address? _____

Do you stay at this address? Yes No If no, list address where you stay now: _____

_____ Phone # at this address _____

I am am not married. Number of children: _____

How many people live/stay with you? _____ LIST THEIR NAMES BELOW:

- | | | | | |
|----------|----------------|-----------|-----------------|----------------------------------------------------|
| 1. _____ | Relation _____ | Age _____ | Employed? _____ | Yes <input type="radio"/> No <input type="radio"/> |
| 2. _____ | Relation _____ | Age _____ | Employed? _____ | Yes <input type="radio"/> No <input type="radio"/> |
| 3. _____ | Relation _____ | Age _____ | Employed? _____ | Yes <input type="radio"/> No <input type="radio"/> |
| 4. _____ | Relation _____ | Age _____ | Employed? _____ | Yes <input type="radio"/> No <input type="radio"/> |

Number of people you pay for or support (Including yourself): _____

Are you under an order to pay child support or support to your wife? Yes No

II. Employment Information

Are you employed? Yes No Are you self-employed? Yes No

Name of the company where you work: _____

Job address: _____

Phone number where you can be reached at work: _____

How many hours per week do you work? _____

Shift hours _____ Position _____ Length of time at this job _____

I am paid (Circle One): [by the day] [by the week] [every two weeks]
 [once a month] [twice a month] [by the job]

Amount of take home pay per pay date: _____

If you are out of work now, where was your last job? _____

Why did you leave that job? _____

Does your spouse work? Yes No If yes, complete the following:

Place of work _____ Phone _____

Position _____ Length of time at this job _____

III. Income Information

EVERY MONTH, I receive the following amounts of money:

Employment Income (take home pay) _____
Spouse's Income (take home pay) _____
Money from anyone else (parent, fiancé, etc.) _____
Child support received _____
Alimony received _____
Social Security _____
S.S.I. _____
Unemployment _____
Welfare _____
Food Stamps _____
Pension _____
Worker's Compensation _____
Disability _____
Other (Describe) _____
Total monthly money received: \$ _____ **0.00**

IV. Expense Information

EVERY MONTH, I spend the following amounts of money:

Rent/Mortgage _____
Food _____
Clothing _____
Electric _____
Gas/Heating Oil _____
Telephone (cell phone and/or land line) _____
Cable _____
Water/Sewer (per month) _____
Car Payments _____
Other Loan Repayments _____
Credit Card Payments _____
Charge Card Payments _____
Taxes _____
Child Support Payments _____
Alimony _____
Healthcare (insurance and medical bills) _____
Insurance of Car _____
Other Insurance Payments _____
Other (Jewelry, Boat, etc: Please Describe) _____
Total Month Money Spent: \$ _____ **0.00**

If you have no income, how are you buying food and paying bills? Is your family helping you? Please explain:

V. Assets/Property Owned

Cash on Hand when arrested _____
Cash Available to You _____
Checking Account Balance _____
Savings Account Balance _____
Do you own (by yourself or with others) a residence? Yes No
Estimated Value of Residence \$ _____
Stocks/Bonds/CD's _____
Do you own a car? Yes No How much do you owe on the car? \$ _____
If yes, list year, make and model _____
Estimated Car Value \$ _____
Other Assets (describe) _____
Total Value of Assets: \$ _____

Court Case Information

Are you in jail for contempt of court? Yes No
Do you have a case you failed to appear on? Yes No
If yes, why didn't you appear? _____
Were you on a payment Plan? Yes No Did you get behind in payments? Yes No
If yes, why did you not pay? _____
Were you doing community service? Yes No
If yes, did you fail to complete your service? Yes No
If yes, why did you fail to complete your community service? _____
Why are you in trouble with the court (in contempt) now? _____
Why haven't you made bond? _____
How much can you pay today toward your court case if money is due? _____
If your friends/family are trying to make your bond, when are they trying to come to court to post the money for you? _____
Do you have health problems that would prevent you from doing community service? If so, describe _____
Is there anything else that you want to tell the Judge or think that the Judge should know? _____

SHAKER HEIGHTS MUNICIPAL COURT

REQUEST FOR PLACEMENT IN THE FIRST OFFENDER'S PROGRAM

I am a defendant in a criminal case and would like to be considered for placement on the court's First Offender's Program (FOP). I understand that I am eligible for FOP only if I have never been convicted of another criminal offense and have never completed an FOP program in the past.

To be placed onto the program, I must plead "no contest" to the charge thereby indicating that the facts stated in the charge against me are true. I must accept responsibility for the fact that I have violated/broken the law with which I have been charged. I understand that FOP will last one (1) year unless otherwise specified by the court. For high school and college students, FOP will last at least through the end of the current academic school year.

I also understand that FOP is an extraordinary opportunity because upon completing FOP requirements with proper attitude and respect for the process, the criminal charge will be dismissed. I will NOT be convicted of a criminal offense. However, if I fail to complete FOP properly I will be found guilty, have a criminal conviction placed onto my record and be sentenced to appropriate criminal penalties which could include jail by the court.

By entering FOP, I understand that I will be required to do ALL of the following:

1. Report to my Probation Officer (PO) as often as weekly. The reporting requirements will be determined by my PO.
2. Obey all local, state, and federal laws. I will contact my PO within 24 hours if I am arrested, convicted or contacted by a law enforcement agency (or by campus security if I am a college student). I will not incur new criminal charges during FOP.
3. Consume NO alcohol or non-prescriptive drugs. If requested by my PO, I will submit to a breath, urine or blood sample to test for the presence of these substances in my system. I understand that failure to timely and properly submit to such tests will cause my removal from this program.
4. Remain in Ohio unless I receive permission to leave from my PO.
5. Perform such community service work as directed by my PO. For the community service work, I will be on time, dress appropriately, display a positive attitude and perform good quality work on which I will be graded by the work supervisor.
6.
 - a) Pay the First Offender's Program costs in addition to court costs.
 - b) Pay police response costs (see 13) and restitution (see 11), if applicable.
 - c) Pay costs to erase or seal my records about this case.Total costs are estimated to be \$600-\$800 (including police response costs – see #10 and restitution – see #11, if applicable). As a participant in FOP, I agree to pay installments of a minimum of \$50 per month.

7. Not purchase, own, possess, use, or have under my control any deadly weapon, dangerous ordnance or firearm as defined in the Ohio Revised Code.
8. Attend 0 to 7 AA/NA meetings per week, if required by my PO.
9. Follow all FOP terms and court orders generally or specifically pertaining to my case. I acknowledge that this may include evaluation, testing and treatment for substance abuse, mental health, anger management, domestic violence, parenting or special classes at an educational facility. It may also include taking medication or attending counseling. If asked, I will authorize the release of medical information to my PO and the court.
10. Pay any and all charges incurred by the municipality that charged me with this offense including the costs of police response, as permitted by law, if applicable.
11. Make restitution for damages done in connection with my criminal charge in an amount determined by my PO and based upon proof of repair costs, if applicable.
12. **SERVE AS MANY AS 5 JAIL DAYS TO BE SCHEDULED WITH MY PO.**
13. Attend a class about stealing if I am charged with a theft or receiving stolen property offense.
14. Complete the process to seal or erase my arrest records concerning this case.
15. OTHER: _____

I acknowledge that I have read or had read to me this information about the First Offender's Program. I understand the requirements of FOP and, if chosen for FOP, I am willing and able to complete these requirements including jail days, if required. I will perform what is expected of me with sincere effort and with respect for the court and this legal process. I understand that placement into FOP is an opportunity and not a right.

I hereby request that the prosecutor recommend to the judge my placement into the Shaker Heights Municipal Court First Offender's Program.

Date _____

 Defendant Signature

 Daytime Telephone Number Where I Can Be Reached

 Case Number

 Defendant (printed name)

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