

**LUCAS COUNTY COMMON PLEAS COURT
CASE DESIGNATION**

TO: Bernie Quilter, Clerk of Courts

CASE NO. _____

G-4801-CI-0202002400-000

Judge

JUDGE _____

LINDA J. JENNINGS

The following type of case is being filed:

Professional Malpractice

Legal Malpractice (L)

Medical Malpractice (M)

Product Liability (B)

Other Tort (C)

Workers' Compensation

State Funded (D)

Self Insured (K)

Administrative Appeal (F)

Commercial Docket

By submitting the complaint, with the signature of the Attorney, the Attorney affirms that the name of person with settlement authority and his/her direct phone number will be provided upon request to a party or counsel in this matter

Other Civil

Consumer Fraud (N) Forfeiture

Appropriation (P) Court Ordered

Other Civil (H) Certificate of Title

Copyright Infringement (W)

This case was previously dismissed pursuant to CIVIL RULE 41 and is to be assigned to Judge _____, the original Judge at the time of dismissal. The previously filed case number was CI _____.

This case is a civil forfeiture case with a criminal case currently pending. The pending case number is _____, assigned to Judge _____.

This case is a Declaratory Judgment case with a personal injury or related case currently pending. The pending case number is _____, assigned to Judge _____.

This case is to be reviewed for consolidation in accordance with Local Rule 5.02 as a companion or related case. This designation sheet will be sent by the Clerk of Courts to the newly assigned Judge for review with the Judge who has the companion or related case with the lowest case number. The Judge who would receive the consolidated case may accept or deny consolidation of the case. Both Judges will sign this designation sheet to indicate the action taken. If the Judge with the lowest case number agrees to accept, the reassignment of the case by the Administration Judge shall be processed. If there is a disagreement between the Judges regarding consolidation, the matter may be referred to the Administrative Judge.

Related/companion case number _____ Assigned Judge _____

Approve/Deny _____

Date _____

Approve/Deny _____

Date _____

Attorney

ANDREW R. MAYLE

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PERRYSBURG OH 43552

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ORIGINAL

2020 JUN 25 PM 4: 04

G-4801-CI-0202002400-000

SAM JODKA, on behalf of himself)
and those similar situated,)
5570 Bristol Parkway)
Dublin, Ohio 43017)

Case No. _____ Judge
LINDA J. JENNINGS

Class Action Complaint

Plaintiff,)

vs.)

CITY OF TOLEDO)
1 Government Center, Suite 2250)
Toledo, Ohio 43604)

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Defendant.)

1. Plaintiff Sam Jodka is a resident of Franklin county.
2. Defendant City of Toledo is an Ohio municipality in Lucas county.
3. Jodka seeks relief on behalf of himself and those similarly situated respecting the so-called "traffic-camera ordinance" codified at Toledo municipal code §313.12.
4. §313.12 is invalid, in whole or part, in violation of Ohio Const. Art. IV, Sec. 1 and R.C. 1901.20 as amended effective July 3, 2019.
5. Defendants conduct under §313.12 toward Jodka is virtually identical to its conducts to thousands of others similarly situated to Jodka.

Toledo's misconduct under Toledo Municipal Code §313.12

6. The underlying ordinance purports to enable the city to cite motorists using stationary cameras.

7. Citations are then produced by a private company commonly called "RedFlex".
8. A citation is often called a "Notice of Liability."
9. But no procedure for disputing liability in municipal court exists even though the Toledo municipal court has exclusive jurisdiction under R.C. 1901.20, as amended effective July 3, 2019.
10. Rather, Toledo flips the burden of proof by requiring motorists to "appeal" to a hearing officer appointed by Toledo.
11. No rules for an "appeal" exist in the ordinance.
12. No discovery is permitted.
13. No rules of evidence apply.
14. No statutory privileges apply.
15. No subpoena power applies.
16. And, under its plain language, the ordinance does *not* enable the use of a "handheld" mobile device to generate a "Notice of Liability".
17. Yet Toledo sent Jodka a "Notice of Liability" derived from a handheld or mobile device for conduct alleged to have occurred on September 12, 2019.
18. Before Jodka's citation, Toledo was aware of, and a party to, a decision from Lucas county common pleas court Judge Lindsay Navarre that Toledo cannot use "mobile" or "handheld" devices to issue citations under §313.12—as the ordinance does not enable it do so.

19. Toledo did not appeal that ruling.
20. But it has since issued a Notices of Liability, purportedly under §313.12, to Jodka and thousands of other motorists through the use of such devices.
21. These citations are legal nullities; as is the underlying ordinance.
22. Toledo's conduct under §313.12 toward plaintiffs and those similarly situated was uniform in nature after the July 3, 2019 amendment to R.C. 1901.20, which was recognized indisputably binding by the unanimous Supreme Court of Ohio in *State ex. rel. Magsig v. City of Toledo* on June 24, 2020. Toledo continued issuing citations even after an alternative writ was issued in *Magsig* several months ago.
23. Toledo has used §313.12 to put its thumbs on the scales of justice to extract millions of dollars from motorists through a subversion of the judicial system, threats of increased fines and impoundment, illegitimate lawsuits, and forcing motorist to "appeal" to a kangaroo court "hearing officer" and, if unsuccessful, pay more than the cost of the penalty to appeal to a common pleas court.
24. Always, Toledo placed the burden on the cited motorists to prove non-liability through an "appeal" to a "hearing officer" without any lawful jurisdiction.
25. Multiple cited motorists besides Jodka sent Toledo correspondence objecting to citations after July 3, 2019 on the grounds of R.C. 1901.20 and the municipal court's exclusive jurisdiction.

26. However, Toledo took the calculated stance that it would *not* file in municipal court despite the plain language of R.C. 1901.20 and forced motorists to either (a) appeal to an unlawful "hearing officer" without jurisdiction or (b) risk additional fines and consequences.
27. By disregarding Ohio law, Toledo leveraged its status as a major governmental entity and one of the largest municipalities in Ohio to render any potential objections futile and to essentially extort money from motorists.
28. The city deliberately took a uniform, aggressive stance towards all motorists that the city was *not* bound by R.C. 1901.20 as amended; nor by Judge Navarre's decision and that its ordinance was 100% lawful.
29. It did this knowing that it may have to make restitution to potential class; but that its exposure would likely be limited to restitution.
30. Any objection by Jodka (or those similarly situated) to the unlawfulness of the ordinance or its "hearing officer" system would be futile.
31. Toledo took advantage of its position of power or dominance over individual motorists in order to enrich itself.
32. Under the circumstances, the most economically rational option for Jodka and all others similarly situated was to pay the monies demanded because the only other options were (a) do nothing and risk collateral negative consequences or

(b) subject themselves to an illegal scheme involving a "hearing officer" who lacked jurisdiction. Jodka in fact paid the monies he now demands returned.

33. Toledo cannot be left to retain the pecuniary benefit of its premeditated approach. Otherwise, it would benefit from willfully violating Ohio law.

34. So, Jodka now seeks restitution on behalf of himself and the putative class.

35. Toledo has retained the benefit of the fines collected under §313.12 under circumstances such that it would be unjust to retain it any longer without making restitution.

Class Treatment

36. The putative class is so numerous that joinder of all members is impractical.

37. The questions of law or fact are common to the class.

38. The claims of Jodka are typical of the claims of the class.

39. Jodka will fairly and adequately represent the class and has selected counsel with extensive complex governmental litigation experience.

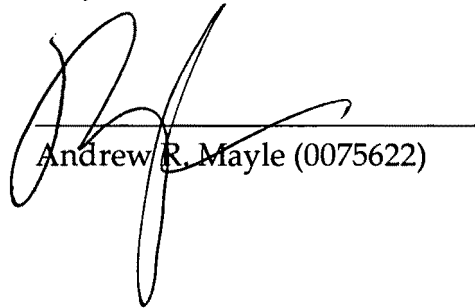
40. This court should define a class that includes, *inter alia*, all persons who defendant Toledo sent a citation under color of §313.12, whether using a stationary or handheld device, for conduct alleging to occur on or after July 3, 2019 and who paid a monetary sanction under that ordinance.

41. The court may exclude class members as it deems fair and just.

42. The remedy sought is restitution of monies paid.

43. *Wherefore*, plaintiff requests this court to declare the ordinance invalid, certify an appropriate class, name Jodka as the class representative and his counsel as class counsel, and order defendant to make restitution to plaintiff and the class as defined by this court. Plaintiff also requests all other relief to which he and the class may be entitled.

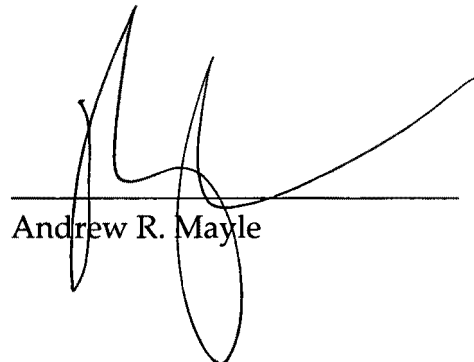
Mayle LLC



Andrew R. Mayle (0075622)

To the clerk: In addition to serving defendant City of Toledo, please serve the Ohio attorney general by certified mail, return-receipt requested as follows:

Dave Yost
Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215



Andrew R. Mayle