

# Ohio Association of Municipal / County Court Clerks

Spring Conference, 2018

*Trust me, I'm a Clerk of Courts:  
Trusteeship, Receivership, and Escrow  
(etc.)*

# Introductions

- ▶ Magistrate Ben Hoelzel
  
- ▶ Magistrate Gene Edwards



FRANKLIN COUNTY MUNICIPAL COURT

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**ENVIRONMENTAL DIVISION**

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JUDGE DANIEL R. HAWKINS



# MISSION OF THE COURT

- ▶ The Ohio General Assembly created the Environmental Division of the Franklin County Municipal Court in 1991
- ▶ Judge Hawkins is the third jurist to preside over the Environmental Division.
- ▶ The Environmental Division can hear cases from across the entire county, and those portions of the City of Columbus that lie outside Franklin County.



# JURISDICTION OF THE COURT

- The Environmental Division has exclusive jurisdiction to enforce civil actions or criminal actions pertaining to the **local building, housing, air pollution, sanitation, fire, zoning, property maintenance or safety codes**, ordinances, or regulations
- The Environmental Division has **concurrent felony jurisdiction** with the Franklin County Court of Common Pleas **in cases relating to the pollution of the air, ground or water**
- The Environmental Division has no monetary limitation as it relates to the case it hears and regularly presides over cases involving multi-million dollar projects.



# TYPES OF CASES

## Environmental Cases

- Hazardous Waste Hauling
- Air pollution
- Land Pollution (Open Dumping/ Littering)
- Open burning
- Water pollution



## Safety Cases

- Overweight trucks
- Over-sized trucks
- Unsecured loads



## Building, Housing, & Zoning Cases

- Vacant and abandoned properties
- Code violations
- Nuisance activity
  - Drug activity
  - Illegal alcohol sales
  - Prostitution
- Zoning appeals





# TOOLS OF THE COURT

## ON-SITE TRIALS/HEARINGS

- ▶ The nature of the Environmental Division docket occasionally requires that a hearing or trial be conducted on the property that is the subject of a lawsuit. The Court will entertain a motion from any party who wishes an on-site trial; or may convene a hearing on-site without a motion.



## EDUCATION & OUTREACH

- The Environmental Division routinely presents its mission and processes to community groups across Franklin County. The Court participates in local events as a way to share information on the issues vital to our neighborhoods.



# SENTENCING STRATEGIES

## INCARCERATION & FINANCIAL SANCTIONS

- The Court has authority to impose penalties for criminal offenses which can include both financial sanctions/fine and incarceration.
  - Verification of Compliance
  - Community Control/Probation
  - Community Service
- In Civil cases the principal tool of the Court is financial fines/penalties, but in exigent circumstances can include incarceration for contempt of Court.







# THE NEXT STEP - COMMUNITY SERVICE

## Franklin County Environmental Court Community Cleanup Crew

- Operates three days a week, 5-15 individuals per workday.
- Used as a sentencing alternative, for plea bargains, as a term of probation, an in lieu of fines/costs.
- Approximately 450 participants assigned to the Community Cleanup Crew in 2017.
- 6,237 hours worked within our communities in 2017.
- 19.16 tons of trash from various cleanups weighed with scale tickets.
- 514 bags of trash from other cleanups
- 24 cubic yards of yard waste recycled.
- 222 tires recycled.



# General Receivership

- ▶ R.C. 2735
- ▶ WHERE?
  - ▶ Not in municipal and county courts
- ▶ WHEN?
  - ▶ Specific situations in statute
- ▶ To do WHAT?
  - ▶ Defined by court order, per statute



- ▶ WHO?

- ▶ Certain restrictions

- ▶ Other requirements

- ▶ Payment

- ▶ Expenses taxed as costs / administrative expense

- ▶ HOW?

- ▶ Role of local court rules

# Special Receivership

- ▶ Municipal court “inherent” authority to enforce judgment
  - ▶ *Malloy v. Malloy Color Lab, Inc.*, 63 Ohio App.3d 434, 436, 579 N.E.2d 248 (10th Dist.1989).
- ▶ Same reasoning applicable to county courts
- ▶ “Inherent authority” issues

# Receivership in Public Nuisance Action

- ▶ R.C. 3767.41
- ▶ WHERE?
  - ▶ Common pleas, municipal court (environmental / housing), county court
- ▶ WHEN?
  - ▶ After owner & interested parties can't abate nuisance
- ▶ WHO?
  - ▶ Financial and construction plan
  - ▶ Statutory qualifications



- ▶ Payment of expenses from property income, or taxed as costs
  
- ▶ To do WHAT?
  - ▶ Take possession/control of property
  - ▶ To abate nuisance
  - ▶ Range of options

# Rent Escrow

- ▶ Landlord statutory duties, R.C. 5321.04
- ▶ Tenant must give written notice
- ▶ Landlord has reasonable time to fix
  - ▶ If not fixed, tenant may escrow rent
- ▶ Tenant must be current in rent
  - ▶ Must continue deposit rent when due

- ▶ Other relief available
  
- ▶ Procedures for release of rent
  - ▶ Landlord applies for release
  - ▶ Landlord must prove problems fixed
  
- ▶ Court holds hearing

# Trusteeship

- ▶ R.C. 2329.70
- ▶ WHO / WHEN?
  - ▶ People who owe money judgments
  - ▶ After received demand letter
- ▶ WHERE?
  - ▶ Apply county court or municipal court where reside
- ▶ WHAT?
  - ▶ To create trustee; to pay amount non-exempt earnings into trust, for trustee to distribute to creditors
  - ▶ Application requirements
  - ▶ Benefits to debtor → protection against collections

# Role of Clerk of Courts

- ▶ Statute requires designation Clerk as trustee
  - ▶ “without additional compensation”
- ▶ No additional bond from Clerk required
- ▶ Clerk calculates amount debtor must pay to maintain trust
- ▶ Details for Clerk provided by local court rules
  - ▶ Franklin County Municipal Court Local Rule 6.02
- ▶ Termination of trust



# Impound / Seizure of Companion Animal

- ▶ R.C. 959.132
- ▶ Law enforcement, humane agent, animal control may seize/impound companion animal
  - ▶ Certain conditions give rise to seizure/impoundment
- ▶ Definition companion animal
- ▶ Unique procedure

- ▶ Hearing within 10 days
  - ▶ Probable cause to seize?
  - ▶ If court finds probable cause → must set amount bond/cash deposit
  - ▶ Factors for determining amount
- ▶ Bond must be renewed periodically
- ▶ Bond forfeited, or returned to defendant
  - ▶ If forfeited → money to impounding agency

# Bond for Cost of Demolition

- ▶ Flexibility of court in civil nuisance abatement cases
  - ▶ Goal → positive outcomes for all involved
- ▶ Federal funding for demolition
  - ▶ Inter-governmental agreements
- ▶ Use it or lose it
  - ▶ Factors that delay abatement, make abatement difficult to achieve
- ▶ Compromise → Role of the Clerk of Courts
  - ▶ Possibility bond forfeited to plaintiff