

July 26, 2013

The Honorable Timothy J. McGinty
Cuyahoga County Prosecuting Attorney
The Justice Center
Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

SYLLABUS:

2013-025

1. R.C. 2949.093 requires a municipal court to impose the additional court cost established by a board of county commissioners per moving violation adjudicated or otherwise processed by the court in a case when a person is convicted of, or pleads guilty to, more than one moving violation in a case. (2007 Op. Att'y Gen. No. 2007-030, approved and followed.)
2. Whether a municipal court or municipal court clerk is civilly liable for damages for failing to collect the additional court cost established by a board of county commissioners pursuant to R.C. 2949.093 is a question that cannot be answered by means of an Attorney General opinion.



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OPINION NO. 2013-025

The Honorable Timothy J. McGinty
Cuyahoga County Prosecuting Attorney
The Justice Center
Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

Dear Prosecutor McGinty:

You have requested an opinion about the collection of court costs by a municipal court. Specifically, you ask:

1. Is the additional court cost established by a board of county commissioners pursuant to R.C. 2949.093 to be imposed by a municipal court per moving violation or per case?
2. Is a municipal court or municipal court clerk liable for failing to collect the additional court cost established by a board of county commissioners pursuant to R.C. 2949.093?

Use of Court Costs to Fund a County's Participation in a Criminal Justice Regional Information System

R.C. 2949.093(A) authorizes a county to participate in a criminal justice regional information system:¹

A board of county commissioners of any county containing fifty-five or more law enforcement agencies by resolution may elect to participate in a criminal justice regional information system, either by creating and maintaining a new criminal justice

¹ The term "criminal justice regional information system," as used in R.C. 2949.093, means a "governmental computer system that serves as a cooperative between political subdivisions in a particular region for the purpose of providing a consolidated computerized information system for criminal justice agencies in that region." R.C. 2949.093(H)(3).

regional information system or by participating in an existing criminal justice regional information system.² (Footnote added.)

To fund its participation in a criminal justice regional information system, a county may establish “an additional court cost not exceeding five dollars to be imposed for moving violations that occur in that county.”³ R.C. 2949.093(C). The amount of the additional court cost is established by resolution adopted by the board of county commissioners. *Id.* Once the amount is established, the board gives “written notice to all courts located in that county that adjudicate or otherwise process moving violations that occur in that county of the county’s election to participate in the system and of the amount of the additional court cost.” *Id.* When a court receives the notice, the court is required to impose the amount established by the board of county commissioners “as an additional court cost for all moving violations the court adjudicates or otherwise processes, in accordance with divisions (D) and (E) of [R.C. 2949.093].” *Id.*

Collection of Court Costs under R.C. 2949.093

Your first question asks whether the additional court cost established by a board of county commissioners pursuant to R.C. 2949.093 is to be imposed by a municipal court per moving violation or per case. R.C. 1901.20 authorizes a municipal court to adjudicate or otherwise process moving violations. *See State ex rel. Brady v. Howell*, 49 Ohio St. 2d 195, 360 N.E.2d 704 (1977) (a municipal

² A county may not participate in a criminal justice regional information system unless its board of county commissioners has created a criminal justice regional information fund in the county treasury. R.C. 2949.093(B). *See generally* R.C. 305.28 (a board of county commissioners that elects to participate in a criminal justice regional information system as provided in R.C. 2949.093 must create in its county treasury a criminal justice regional information fund). Moneys deposited into a criminal justice regional information fund are to be used “only to pay the costs [a county] incurs in creating and maintaining a new criminal justice regional information system or to pay the costs [the county] incurs in participating in an existing criminal justice regional information system,” unless the board of county commissioners determines that there is a surplus in the fund. R.C. 2949.093(G)(1); *see* R.C. 2949.093(G)(2); *see also* R.C. 305.28 (all moneys deposited into a criminal justice regional information fund “shall be used only as provided in [R.C. 2949.093]”). When a board of county commissioners determines that there is a surplus in the criminal justice regional information fund, “[t]he county may expend the surplus only to pay the costs it incurs in improving the law enforcement computer technology of local law enforcement agencies located in that county.” R.C. 2949.093(G)(2).

³ For purposes of R.C. 2949.093, the term “moving violation” means a “violation of any statute or ordinance, other than [R.C. 4513.263] or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles.” R.C. 2949.093(H)(1). The term does not, however, “include the violation of any statute or ordinance that regulates pedestrians or the parking of vehicles.” *Id.*

court may hear traffic cases). This means that, upon receipt of a notice that a county has established an additional court cost pursuant to R.C. 2949.093, a municipal court located in that county must impose this cost when “any person is convicted of or pleads guilty to any moving violation that occurs in [the] county ... as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender.” R.C. 2949.093(D)(1); *see also* R.C. 2949.093(C) (the additional court cost established by a board of county commissioners under R.C. 2949.093 is to be imposed in accordance with R.C. 2949.093(D)-(E)); R.C. 2949.093(E) (“[w]henever a person is charged with any offense that is a moving violation and posts bail, the court shall add to the amount of the bail the set sum required to be paid by [R.C. 2949.093(D)(1)]”).

As explained in your letter, one of my predecessors concluded that “[t]he additional court cost established by a board of county commissioners pursuant to R.C. 2949.093 is to be charged per moving violation adjudicated or otherwise processed by a municipal court in a case when a person is convicted of or pleads guilty to more than one moving violation in a case.” 2007 Op. Att’y Gen. No. 2007-030 (syllabus). To reach this conclusion, the opinion first summarized the general principles a municipal court must follow when imposing court costs. In this regard, the opinion stated:

Court costs are fees and charges required by law to be paid to the courts for services provided during the course of a criminal or civil proceeding.... A court thus may not impose a charge or fee as a court cost unless the authority to do so has been expressly granted to the court....

....

Because the power to impose a charge or fee as a court cost must be statutorily granted to a court, *the specific language of the statute authorizing the court to impose the charge or fee controls how the charge or fee shall be imposed*. In other words, the manner in which a court imposes a court cost is determined from the statute authorizing that particular court to impose a specific charge or fee as a court cost. (Emphasis added.)

Id. at 2-312 through 2-314.

The opinion applied these principles to R.C. 2949.093 and stated that, insofar as R.C. 2949.093(C) explicitly requires a municipal court to impose the sum established by a board of county commissioners as an additional court cost for “all moving violations” the court adjudicates or otherwise processes, the statute conveys a legislative intent to have a municipal court impose the additional court cost whenever the court adjudicates or otherwise processes a moving violation. *Id.* at 2-316 and 2-317. The opinion then asserted that no language in the Revised Code prohibits a municipal court from imposing the additional court cost of R.C. 2949.093 “more than once in a case when the court adjudicates or otherwise processes multiple moving violations in the case.” *Id.* at 2-317. And finally, the opinion acknowledged that when the General Assembly intends for a court cost to be imposed on a per case basis, “it has clearly conveyed that intention.” *Id.* *See generally* 1991 Op. Att’y Gen. No. 91-022 at 2-118 (“[t]he language of R.C. 2743.70(A)(1) and R.C. 2949.091(A)(1) ... unambiguously discloses that the General Assembly’s intention in enacting these sections was to provide for the imposition of a specific sum of money as costs *in any case* in which a person is

convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation”).

On the basis of the foregoing, the opinion determined that R.C. 2949.093 “conditions the imposition of the additional court cost established by a board of county commissioners upon the number of moving violations a municipal court adjudicates or otherwise processes in a case.” 2007 Op. Att’y Gen. No. 2007-030 at 2-318. In other words, the specific language of R.C. 2949.093 requires a municipal court to impose the additional court cost established by a board of county commissioners per moving violation adjudicated or otherwise processed by the court in a case when a person is convicted of, or pleads guilty to, more than one moving violation in a case.

We continue to agree with the conclusion set forth in 2007 Op. Att’y Gen. No. 2007-030, as the General Assembly has not amended the language of R.C. 2949.093 since the issuance of the opinion and no Ohio court has reached a contrary conclusion with respect to how the additional court cost of R.C. 2949.093 is to be imposed. It also is significant that the opinion’s analysis of R.C. 2949.093 is supported by *City of Middleburg Heights v. Quinones*, 120 Ohio St. 3d 534, 2008-Ohio-6811, 900 N.E.2d 1005 (2008).

The court in *Quinones* considered “whether R.C. 1901.26(B) authorizes [a] municipal court to assess court costs for each [criminal] offense” charged in a case.⁴ *Id.* at ¶5. In its analysis of this question, the court explained that “R.C. 2947.23(A)(1) imposes a mandatory obligation on trial judges in all criminal cases to include in the sentence the costs of prosecution and to render a judgment therefor.⁵ It does not specifically authorize imposition of these costs for each offense committed.” *Id.* at ¶9 (footnote added). The court then determined that, while a municipal court has an obligation to render a judgment for costs of prosecution on a per case basis under R.C. 2947.23, the specific language of R.C. 1901.26(B) nevertheless vests the court with authority to charge a fee to pay for special projects of the court on a per offense basis. *Id.* at ¶¶10-14. The court in *Quinones* thus

⁴ R.C. 1901.26(B) authorizes a municipal court to charge a fee to pay for special projects of the court on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

⁵ When the Ohio Supreme Court accepted jurisdiction in *City of Middleburg Heights v. Quinones*, 120 Ohio St. 3d 534, 2008-Ohio-6811, 900 N.E.2d 1005 (2008) to consider whether the court cost of R.C. 1901.26(B) is to be imposed on a per case or per offense basis, R.C. 2947.23(A)(1)(a) provided, in part, that “[i]n all criminal cases ... the judge or magistrate shall include in the sentence the costs of prosecution and render a judgment against the defendant for such costs.” 2003-2004 Ohio Laws, Part V, 8384, 8412 (Am. Sub. S.B. 71, eff. May 18, 2005). See generally *City of Middleburg Heights v. Quinones*, 116 Ohio St. 3d 1474, 2008-Ohio-153, 879 N.E.2d 782 (2008) (appeal accepted for review on Jan. 23, 2008).

determined that the specific language of a statute establishing a court cost controls the manner in which a municipal court is to impose the cost.⁶

Like the court in *Quinones*, my predecessor in 2007 Op. Att’y Gen. No. 2007-030 applied the well-established principles governing the imposition of court costs to reach his conclusion. Further, as the language of R.C. 2949.093 continues to require a municipal court to impose the sum established by a board of county commissioners as an additional court cost for “all moving violations” the court adjudicates or otherwise processes, we approve and follow 2007 Op. Att’y Gen. No. 2007-030. Accordingly, R.C. 2949.093 requires a municipal court to impose the additional court cost established by a board of county commissioners per moving violation adjudicated or otherwise processed by the court in a case when a person is convicted of, or pleads guilty to, more than one moving violation in a case.

⁶ Some municipal court officials have advocated that insofar as the General Assembly did not use language similar to that used in R.C. 1901.26(B), the General Assembly did not intend for a municipal court to impose the additional court cost of R.C. 2949.093 each time a person is convicted of, or pleads guilty to, a moving violation in a case. *See generally* R.C. 1901.26(B)(1) (the *fee* imposed under R.C. 1901.26(B) is charged “on the filing of *each criminal cause*” (emphasis added)); R.C. 1901.26(B)(2)(a) (as used in R.C. 1901.26(B), a “criminal cause” is “a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint”). It is the opinion of these court officials that, absent language expressly authorizing a municipal court to impose the additional court cost of R.C. 2949.093 “as a fee” for “each criminal cause,” a municipal court may not impose the cost per moving violation in a case.

We do not agree that the difference in the language used in R.C. 2949.093 and R.C. 1901.26(B) evinces a legislative intent that a municipal court may impose the additional court cost of R.C. 2949.093 only on a per case basis. As previously explained, the specific language of a statute establishing a court cost controls the manner in which a municipal court is to impose the cost. *See City of Middleburg Heights v. Quinones*, 120 Ohio St. 3d 534, at ¶¶10-14; 2007 Op. Att’y Gen. No. 2007-030 at 2-316 through 2-319. Because R.C. 2949.093(C) explicitly requires a municipal court to impose the sum established by a board of county commissioners as an additional court cost for “all moving violations” the court adjudicates or otherwise processes, the General Assembly has unequivocally provided in R.C. 2949.093 that the additional court cost of R.C. 2949.093 is to be imposed per moving violation in a case. For this reason, the use of different language in R.C. 2949.093 and R.C. 1901.26(B) to impose an additional court cost does not indicate that the additional court cost of R.C. 2949.093 must be imposed on a per case basis. *See generally State v. Smorgala*, 50 Ohio St. 3d 222, 223, 553 N.E.2d 672 (1990) (“[w]here the words of a statute are free of ambiguity and express plainly and distinctly the sense of the lawmaking body, the courts should look no further in their efforts to interpret the intent of the General Assembly”).

R.C. 2947.23 Does Not Require the Additional Court Cost of R.C. 2949.093 to Be Imposed Only Once in a Case

Municipal court officials have suggested that R.C. 2947.23 prevents a municipal court from imposing the additional court cost of R.C. 2949.093 per moving violation in a case. R.C. 2947.23 provides, in relevant part:

(A)(1)(a) In all criminal *cases*, including violations of ordinances, the judge or magistrate shall include in the sentence the costs of prosecution, including any costs under [R.C. 2947.231], and render a judgment against the defendant for such costs....

....

(D) As used in this section:

(1) “Case” means *a prosecution of all of the charges* that result from the same act, transaction, or series of acts or transactions and that are given the same case type designator and case number under [Sup. R. 43] or any successor to that rule. (Emphasis added.)

It is the contention of the municipal court officials that the sum established by a board of county commissioners pursuant to R.C. 2949.093(C) is a “cost of prosecution” for purposes of R.C. 2947.23 that may be imposed only once in a case even though a person may be convicted of, or plead guilty to, more than one moving violation in the case. *See generally City of Middleburg Heights v. Quinones*, 120 Ohio St. 3d 534, at ¶9 (under R.C. 2947.23, costs of prosecution in a criminal case are not to be imposed “for each offense committed”). As support for this proposition, the court officials assert that the additional court cost of R.C. 2949.093 is a fee for the computer services rendered by the county in the prosecution of a case. *See generally Centennial Ins. Co. v. Liberty Mut. Ins. Co.*, 69 Ohio St. 2d 50, 50-51, 430 N.E.2d 925 (1982) (court “costs” are “the statutory fees to which officers, witnesses, jurors and others are entitled for their services in an action ... and which the statutes authorize to be taxed and included in the judgment” (quoting *State ex rel. Comm’rs of Franklin Cnty. v. Guilbert*, 77 Ohio St. 333, 338-39, 83 N.E. 80 (1907))); 2012 Op. Att’y Gen. No. 2012-020 at 2-168 and 2-169 (same as the previous parenthetical); 2007 Op. Att’y Gen. No. 2007-030 at 2-312 and 2-313 (same as the first parenthetical). Because the additional court cost of R.C. 2949.093 is a fee for services rendered in a case, the municipal court officials claim that R.C. 2947.23 prevents a municipal court from imposing the additional court cost of R.C. 2949.093 each time a person is convicted of, or pleads guilty to, a moving violation in a case.

Although R.C. 2947.23 “does not specifically authorize imposition of [court] costs for each offense committed” in a case, it does not bar a municipal court from imposing pursuant to another statute a court cost per violation in a case. *City of Middleburg Heights v. Quinones*, 120 Ohio St. 3d 534, at ¶9. In *Quinones*, the Ohio Supreme Court declared that “while trial judges are obligated to render a judgment for costs of prosecution on a per case basis, although they may be made up of a number of charges or ‘causes,’ we also understand that the General Assembly has specifically vested the judges of the municipal courts with authority to impose special-project fees in addition to court costs.” *Id.* at ¶10. The court in *Quinones* thus held that R.C. 2947.23 does not prevent a municipal

court from imposing a fee or court cost per violation in a case when another statute provides the court with the authority to do so.⁷ *See generally* R.C. 1.51 (if a conflict between a special and general statute is irreconcilable, the special statute prevails as an exception to the general statute unless the general statute is enacted later and the manifest intent is that the general statute prevail).

Evidence that R.C. 2947.23 does not control the imposition of the additional court cost of R.C. 2949.093 also appears in R.C. 2746.02, which concerns the payment of court costs in general. R.C. 2746.02 states, in part:

A court of record of this state shall tax as costs or otherwise require the payment of fees for the following services rendered, as compensation for the following persons, or as part of the sentence imposed by the court, or any other of the following fees that are applicable in a particular case:

....
(B) In any criminal case, the costs of prosecution, as provided in [R.C. 2947.23];

....
(K) In a case in which a person is convicted of or pleads guilty to a moving violation or in which a child is found to be a juvenile traffic offender for an act which, if committed by an adult, would be a moving violation, additional costs and bail, if applicable, as provided in [R.C. 2949.093 and R.C. 2949.094], but subject to waiver as provided in [R.C. 2949.092.]

The language of R.C. 2746.02 indicates that the additional court cost of R.C. 2949.093 is not a cost of prosecution for purposes of R.C. 2947.23. The additional court cost of R.C. 2949.093 is instead a separate court cost that a municipal court may impose in a case each time a person is convicted of, or pleads guilty to, a moving violation. Consequently, the additional court cost of R.C. 2949.093 is not to be treated in the same manner as costs of prosecution. Nor does R.C. 2947.23 prohibit a municipal court from imposing the additional court cost of R.C. 2949.093 more than once per case when a person is convicted of, or pleads guilty to, more than one moving violation in a case.

Imposition of the Additional Court Cost of R.C. 2949.093 Is Not Contingent upon Computer Usage

It also has been suggested that extrinsic evidence may compel the conclusion that the additional court cost of R.C. 2949.093 is to be imposed by a municipal court on a per case basis, rather than per moving violation. As explained on page two of your letter:

⁷ It is well settled that the term “court costs,” in the sense the word is generally used by Ohio courts, includes fees charged for services rendered. *Centennial Ins. Co. v. Liberty Mut. Ins. Co.*, 69 Ohio St. 2d 50, 50-51, 430 N.E.2d 925 (1982); 2012 Op. Att’y Gen. No. 2012-020 at 2-168 and 2-169; 2007 Op. Att’y Gen. No. 2007-030 at 2-312 and 2-313.

It is my understanding that certain [municipal] courts have expressed the opinion that Ohio law somehow limits the imposition of additional [criminal justice regional system (CRIS)] court costs based upon the number of searches performed on the system by law enforcement personnel. . . . Under this argument, it is assumed that a police officer generally accesses the CRIS system when they pull over drivers for moving violations. *Since a police officer generally makes only one computer search per traffic stop, it follows that the court which later adjudicates or otherwise processes the moving violations may only charge one five dollar (\$5.00) court cost for the court cases occasioned by that arrest, no matter how many . . . charges arise out of the stop that are later adjudicated by the court.*⁸ The rationale for this conclusion is that: “The police perform one computer transaction for each offender and additional moving violations do not cause additional computer transactions.” (Emphasis and footnote added.)

The argument of the municipal court officials is premised on the supposition that the additional court cost of R.C. 2949.093 is imposed each time a law enforcement officer conducts a computer search using the criminal justice regional information system. Thus, if only one computer search is conducted in a case, a municipal court may impose the additional court cost of R.C. 2949.093 only once in the case even though a person may be convicted of, or plead guilty to, more than one moving violation in the case.

Nothing in the language of R.C. 2949.093 or elsewhere in the Revised Code conditions the imposition of the additional court cost established by a board of county commissioners upon the number of times a law enforcement officer conducts a computer search in a case. Instead, R.C. 2949.093 expressly conditions the imposition of the additional court cost upon the number of moving violations a person is convicted of, or pleads guilty to, in the case. *See* 2007 Op. Att’y Gen. No. 2007-030 at 2-318. Given that the specific language of a statute establishing a court cost controls the manner in which a municipal court is to impose the cost and the General Assembly has prescribed in R.C. 2949.093 the exact manner in which the additional court cost is to be imposed, we are not persuaded that the General Assembly conditioned the imposition of the additional court cost of R.C. 2949.093 on the number of times a law enforcement officer conducts a computer search in a case. *See City of Middleburg Heights v. Quinones*, 120 Ohio St. 3d 534, at ¶¶10-14; 2007 Op. Att’y Gen. No. 2007-030 at 2-316 through 2-319. *See generally Hubbard v. Canton City Sch. Bd. of Educ.*, 97 Ohio St. 3d 451, 2002-Ohio-6718, 780 N.E.2d 543, ¶14 (2002) (“where the language of a statute is clear and unambiguous, it is the duty of the court to enforce the statute as written, making neither additions to the statute nor subtractions therefrom”); *State v. Taniguchi*, 74 Ohio St. 3d 154, 156, 656 N.E.2d 1286 (1995) (“[a] court should give effect to the words actually employed in a statute, and should not delete words used, or insert words not used, in the guise of interpreting the statute”).

⁸ Pursuant to R.C. 2949.093, Cuyahoga County has established an additional court cost of five dollars to fund its participation in a criminal justice regional information system. *See* 2007 Op. Att’y Gen. No. 2007-030 at 2-315 n.5.

Liability for Failing to Collect Court Costs Imposed under R.C. 2949.093

Your second question asks whether a municipal court or municipal court clerk is liable for failing to collect the additional court cost established by a board of county commissioners pursuant to R.C. 2949.093. As the prosecuting attorney for Cuyahoga County, you have no duty to provide legal advice or representation to the municipal courts located in the county or the officials thereof.⁹ *See* Cuyahoga County Charter art. IV, § 4.01 (setting forth the duties of the Cuyahoga County Prosecuting Attorney); 1992 Op. Att’y Gen. No. 92-070 at 2-295 (as the judges and clerks of a municipal court that exercises jurisdiction throughout a county are not county officers for purposes of R.C. 309.09, “the responsibility to provide legal representation to the judges and clerk in their official capacity does not rest with the prosecuting attorney”); *see also* 2012 Op. Att’y Gen. No. 2012-026 at 2-225 n.2 (“[t]he Attorney General will advise a county prosecuting attorney in a matter relating to his official duties. R.C. 109.14.... [A] county prosecuting attorney has no duty to provide legal advice to municipal corporations or their officials”); 1995 Op. Att’y Gen. No. 95-011 at 2-56 n.1 (“a county prosecuting attorney has no duty to provide legal advice to municipal corporations or their officials”). As you have no duty to advise or represent the municipal courts located in Cuyahoga County or their officials, we have no authority to determine whether a municipal court or municipal court clerk is liable for failing to collect the additional court cost of R.C. 2949.093. *See generally* 1993 Op. Att’y Gen. No. 93-003 at 2-21 n.1 (“[s]ince a county prosecuting attorney has no duty to advise municipal corporations or their officials, the Attorney General is not authorized to determine the responsibilities of city police officers with respect to the transportation from a city police station to the county jail of an individual arrested by a city police officer” (citations omitted)); 1990 Op. Att’y Gen. No. 90-076 at 2-326 (“[a]s the prosecuting attorney has no duty to represent municipal corporations, R.C. 309.09, the Attorney General has no authority to opine on a municipal corporation’s use of a rotation system for the dispatch of towing services”).

Moreover, it is beyond the opinion-rendering function of the Attorney General “to resolve questions of fact regarding the lawfulness of actions taken in the past or the rights or liabilities of particular individuals or governmental entities.” 2013 Op. Att’y Gen. No. 2013-010 at 2-90. Resolution of these issues in the context of court costs that were not imposed and collected by a municipal court in the past thus exceeds the scope of this opinion. *See id.*; 2005 Op. Att’y Gen. No. 2005-043 at 2-456. Instead, these issues should be addressed by the parties involved or the judiciary. *See generally* 2009 Op. Att’y Gen. No. 2009-033 at 2-229 (“the Attorney General cannot definitively predict the approach that the courts may take in deciding whether or not to impose personal liability in any particular case, as that is a matter solely for the judiciary”); 2005 Op. Att’y Gen. No. 2005-002 at 2-12 (“[w]e are not able, by means of this opinion, to make findings of fact or to determine the rights of particular parties”); 2003 Op. Att’y Gen. No. 2003-037 at 2-311 (“[q]uestions of liability are decided by the courts, in particular contexts and with consideration of specific facts”); 2000 Op. Att’y Gen. No. 2000-021 at 2-136 (“[q]uestions of liability are resolved by the courts and cannot be determined by means of an opinion of the Attorney General”). Hence, whether a municipal court or

⁹ Cuyahoga County does not have a county-operated municipal court. *See* R.C. 1901.03(F).

municipal court clerk is civilly liable for damages for failing to collect the additional court cost established by a board of county commissioners pursuant to R.C. 2949.093 is a question that cannot be answered by means of an Attorney General opinion.

Conclusions

Based on the foregoing, it is my opinion, and you are hereby advised as follows:

1. R.C. 2949.093 requires a municipal court to impose the additional court cost established by a board of county commissioners per moving violation adjudicated or otherwise processed by the court in a case when a person is convicted of, or pleads guilty to, more than one moving violation in a case. (2007 Op. Att'y Gen. No. 2007-030, approved and followed.)
2. Whether a municipal court or municipal court clerk is civilly liable for damages for failing to collect the additional court cost established by a board of county commissioners pursuant to R.C. 2949.093 is a question that cannot be answered by means of an Attorney General opinion.

Very respectfully yours,

A handwritten signature in blue ink that reads "Michael Dewine". The signature is written in a cursive, flowing style.

MICHAEL DEWINE
MICHAEL DEWINE
Ohio Attorney General