Exhibit 1

FREDERICK PHILHOWER
Case No. 2012 TRC 030161

MAY 17, 2012

On May 17, 2012, Defendant Frederick J. Philhower appeared in the Cleveland Municipal Court's Morning Traffic Arraignment Room before Magistrate Jolan B. Vagi and entered pleas of not guilty to the following charges:

CCO 433.01 A1-Driving Under the Influence of Alcohol/Drugs
CCO 433.01 A4-Driving Under the Influence: Breath: 08-.169
CCO 433.03-Maximum Speed/Assured Clear Distance
CCO 433.03A-Maximum Speed Limited: Str/Hgwy
CCO 433.02A- Reckless Operation: Str/Hgwy
CCO431.34A-Operation: Str/Hgwy Failure to Control

(See May 15, 2012 Traffic Citation and May 15, 2012 Affidavit Establishing Probable Cause for Warrantless Arrest reflecting BAC Reading of .132)

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At the time of the arraignment, Magistrate Vagi noted that this was the first DUI within six years and also that there was an Administrative License Appeal.

Defendant Philhower was represented by Attorney Jaime Serrat. At the time of his arraignment, the Magistrate kept the bond which he had previously posted on May 16, 2012.

Thereafter, the case was assigned by the random lottery process to Judge Angela R. Stokes, and Central Scheduling placed the matter on Judge Stokes' docket for the first pretrial on June 19, 2012, at 8:30 a.m. On May 29, 2012, prior to the first scheduled pretrial, Attorney Serrat filed a motion requesting occupational driving privileges on behalf of Defendant Philhower. (See May 15, 2012 Traffic Citation; May 17, 2012 Journal Entry, the Clerk of Court Cleveland Municipal Court Journal, and Defendant's Motion For Driving Privileges)

JUNE 6, 2012

On June 6, 2012, before Defendant Philhower's case was scheduled to appear on Judge Stokes' docket, Attorney Serrat requested that the pretrial of June 19, 2012, be advanced to June 12, 2012, for the purpose of considering the occupational driving privileges motion and the pretrial. Judge Stokes agreed to add Defendant Philhower's case onto that day's docket to document Attorney Serrat's request. Thus, Judge Stokes ordered that the case file be provided to her to address the request. (See June 6, 2012 Judgment Entry requesting the file) Upon reviewing the request by Attorney Serrat to advance the pretrial in consideration of the occupational driving privileges motion to June 12, 2012, and recognizing that an accident had been involved, Judge Stokes requested that the Assistant Prosecutor subpoena the witnesses for the pretrial and motion hearing now set for June 12, 2012. (See Transcript of June 6, 2012 pp. 2-3, and Journal Entry of June 6, 2012) Importantly, the previously scheduled pretrial of June 19, 2012 was continued at the defendant's request to June 12, 2012. Inasmuch as the case was not set for a hearing on June 6, 2012, the Prosecutor, Mr. Jonathan Cudnick, did not have the Prosecutor's file on this case. Thus, Judge Stokes asked Mr. Cudnick whether he could obtain the police report and subpoena the witnesses for the June 12, 2012 hearing. All of this became necessary because of a request by Attorney Serrat on a day when this matter had not been set for any type of a proceeding.

JUNE 12, 2012

On June 12, 2012, Defendant Philhower withdrew his not guilty plea with respect to Count 1, Driving Under the Influence of Alcohol/Drugs, and entered a plea of guilty with a finding of guilt. In addition, he withdrew his plea of not guilty to the minor misdemeanor

Reckless Operation; Str/Hgwy and entered a plea of no contest with a consent to a finding of guilt to the minor misdemeanor. The other four counts were nolled or dismissed. Prosecutor Cudnick indicated to the Court at this time that this was the first lifetime alcohol related offense, which representation was acknowledged by Attorney Serrat. (Transcript of June 12, 2012 pp. 2-3) Before accepting this plea, Judge Stokes reviewed with Defendant Philhower his Criminal Rule 11 rights and potential penalties associated with the offenses involved in the plea. The other four were nolled or dismissed. Judge Stokes noted in her Journal Entry that this was a first OVI conviction within six years. (See June 12, 2012 Journal Entry) Both Attorney Serrat and Defendant Philhower signed the Jury Waiver form (See Jury Waiver Form), and the case was continued at both the Prosecutor's and Defendant's request until June 26, 2012 at 8:30 a.m. for sentencing, and a motion hearing for occupational driving privileges.

Attorney Serrat addressed Judge Stokes and asked whether Judge Stokes would consider sentencing Defendant Philhower at that time, and granting him occupational driving privileges. Judge Stokes declined the request indicating that she would require additional information before being in a position to sentence and grant occupational driving privileges including, but not limited to, the following: referral of Defendant Philhower to the Probation Department to obtain a Presentencing Investigation Report ("PSI") in order to verify, inter alia, Defendant Philhower's completion of an Alternative To Jail Program that Attorney Serrat noted would be attended beginning on June 14, 2012, for which Defendant Philhower had already paid; to allow the Probation Staff time to contact and interview all named victims, and to provide the urinalysis test results based on Defendant Philhower submitting to a urinalysis test on this date, paying for the same. Judge Stokes explained that Defendant Philhower would need to sign a release form in order for the Probation Staff to verify his attendance at the ATJ Program. In addition, Judge

Stokes forwarded a copy of the Accident Report to the Probation Department to assist it in interviewing the victims, having obtained the same from Prosecutor Cudnick, which was then placed in the case file.

In addition, Judge Stokes explicitly indicated, in connection with any request for occupational driving privileges, that specific days and hours requested would have to be verified by the employer on its letterhead and the insurance information must be provided. (See Transcript of June 12, 2012, p. 19) Contrary to the representation of Attorney Serrat, while insurance information had been supplied, no information on the employer's letterhead had been supplied verifying the hours and days of employment in the May 29, 2012 Motion. (See May 29, 2012 Motion For Occupational Driving Privileges; June 12, 2012 Transcript, pp. 19-20; and June 12, 2012 Journal Entry)

Prosecutor Cudnick discussed with Judge Stokes the fact that one of the victims was from Pennsylvania and he did not have a telephone number for that victim. (See Transcript of June 12, 2012 pp. 12-19; June 12, 2012 Journal Entry) Prosecutor Cudnick and Attorney Serrat agreed to the June 26, 2012 date because of the time necessary to contact the victims by the Prosecutor's Office and the Probation Department. Judge Stokes, in connection with the preparation of the PSI Report, expressed her concerns about the point of view of the victims, one being from Pennsylvania, and the fact that they should be subpoenaed for the sentencing hearing, and interviewed, just as Defendant Philhower would be interviewed by the Probation Staff. It is important to note that the Probation Department requests ten days to prepare a PSI Report which accounted for the date agreed to by the Court and the parties. (See Transcript June 12, 2012, pp. 1-21, and June 12, 2012 Journal Entry)

JUNE 26, 2012

On June 26, 2012, this matter had been set for sentencing and a determination of the Motion for Occupational Driving Privileges. From reviewing the PSI Report, Judge Stokes learned that with respect to the first set of victims, Mr. Robert Ruble was operating a Yorga Trucking company truck at the time of the accident, and that Defendant Philhower caused $8,636.77 worth of damage to the truck. In addition, the PSI Report noted that the insurance carrier for Yourga Trucking covered the damages minus the $5000 deductible, and that insurance carrier was in the process of seeking reimbursement from Defendant Philhowers' insurance carrier. Also, Judge Stokes learned from the PSI Report, with respect to the next victim, that Mr. Kenneth Miller's property damage claim had not been resolved, although Mr. Miller had contacted Defendant Philhower's insurance company. Mr. Miller's vehicle had not yet been repaired. (See PSI Report) Prosecutor Cudnick had no additional information in this regard, inquiring of Judge Stokes what the Probation Department determined. Judge Stokes explained that the subpoena for the June 26, 2013 hearing may not have been served on Mr. Miller because a bailiff had written on the subpoena "bad address". Thus, Judge Stokes provided Prosecutor Cudnick the telephone number contained within the PSI, and then posed the alternatives of trying to reach Mr. Miller immediately, via a telephone call, in order to avoid a continuance, or resetting the matter for another day so Mr. Miller he could be subpoenaed at a correct address or if Mr. Miller would prefer to attend by telephone on another day. Thus, Prosecutor Cudnick and Attorney Serrat left the courtroom to contact Mr. Miller by telephone. Thereafter, having reached Mr. Miller, a court reporter came to the personal bailiff's desk where the telephone was, to record the conversation between counsel, Judge Stokes and Mr. Miller. The Defendant was present at this time.

During this conversation, Mr. Miller indicated that he was not in a position to verify that restitution was available for the damage done to his vehicle. Mr. Miller indicated that he would be traveling to South Carolina and not returning to Ohio until the following week before an estimate could be obtained. Mr. Miller was not able to advise Judge Stokes, Attorney Serrat, Defendant Philhower, and Prosecutor Cudnik whether he wanted to seek restitution through the traffic case since he did not know whether Defendant Philhower's insurance company would cover his damages. (See Transcript June 26, 2012, pp. 9-10) Essentially, Mr. Miller wanted to wait until he knew whether Defendant Philhower's insurance company would pay for the damages he outlined on the record. Mr. Miller was educated about the alternatives available to him, those being restitution through the DUI case or as a civil matter. Mr. Miller was advised that in order to be compensated through the DUI matter, if ordered, he would have to fill out a green restitution form and be present at the sentencing for Defendant Philhower which was to take place July 24, 2012 at 8:30 a.m. Mr. Miller assured all present that he would contact Prosecutor Cudnick in connection with the restitution issues before July 24, 2012, as noted in Judge Stokes' Journal Entry, and Judge Stokes notified the Probation Department to follow-up with him as well. (See June 26, 2012 Journal Entry)

Although Attorney Serrat wanted to go forward with sentencing on this date, the outstanding restitution issue with Mr. Miller prevented the same and in addition, because the formal assessment of alcohol and substance abuse issues provided to Judge Stokes by Attorney Serrat, having been completed on June 20, 2012, indicated both alcohol dependency and cocaine dependency, Judge Stokes explained it was appropriate for there to be a continuance of sentencing and a ruling on the occupational driving privileges motion when all the information, including Mr. Miller's decision with restitution matters was obtained by the Probation

Department, and/or Prosecutor Cudnik. The Probation Department was advised to inform Defendant Philhower about continuous alcohol monitoring and/or interlock devices given the information which came to light from the formal assessment including an indication that Defendant Philhower was at risk for a future DUI. (See Transcript of June 26, 2012, p. 18) The counsel and parties were in agreement with the July 24, 2012 sentencing and motion hearing date. (See Transcript of June 26, 2012, p. 1-20; the PSI/Probation Report; and June 26, 2012 Journal Entry)

JULY 24, 2012

On July 24, 2012, in connection with sentencing Defendant Philhower, Judge Stokes gave Defendant Philhower credit for five days including two days for the days he served in jail at the time of his arrest and three days for the time he spent in completing the Alternative To Jail program. Judge Stokes suspended 175 days. Judge Stokes imposed the mandatory minimum fine of $375, and court costs. In addition, Judge Stokes placed Defendant Philhower on three years of active probation with the following conditions: Defendant Philhower was to complete a five week intensive out-patient treatment program, three sessions of which he had already completed with two sessions remaining. In addition, this was to be followed by a twelve week out-patient aftercare program. Thus, a condition of his probation was to complete the intensive out-patient program and out-patient aftercare as recommended in the formal assessment. Also, the conditions of probation included random breathalyzer and urinalysis testing.

At the time of the offense, Judge Stokes noted that Defendant Philhower did have insurance, and the Administrative License Suspension was terminated at the time of sentencing. Judge

Stokes suspended Defendant Philhower's drivers' license May 15, 2012 to May 15, 2015, knowing that this was his second lifetime DUI conviction. Judge Stokes acknowledged that Defendant Philhower appeared to be remorseful, he was apologetic to the victims, he was actively participating in his substance abuse treatment program acknowledging he needed counseling/treatment. (See July 24, 2012 Transcript, pp.6-7) In taking all of the facts and circumstances into consideration, including but not limited to, both victims having been compensated to some degree Judge, Stokes did not impose any jail time.

However, Judge Stokes specifically stated on the record and noted on the July 24, 2012 Journal Entry that 175 days of the sentence were suspended on the condition that Defendant Philhower was required to wear a continuous alcohol monitoring device at least during the time period he was completing the five (5) week intensive outpatient treatment program, and the 12 week outpatient aftercare program. Defendant Philhower agreed to wear the continuous alcohol monitoring device which was to be placed on him on July 24, 2012. In response to Attorney Serrat's inquiry as to how long Defendant Philhower would have to wear the continuous alcohol monitoring device, Judge Stokes noted that consideration for the removal of the device would be appropriate upon Mr. Philhower's successful completion of both treatment programs, and verification that he maintained negative breathalyzer and urinalysis test results. See the July 24, 2012 Transcript, pp. 9-13, and the July 24, 2012 Journal Entry.

On July 24, 2012, Judge Stokes was not able to grant Defendant Philhower's request for occupational driving privileges because Attorney Serrat and Defendant Philhower, still relying on the May 29, 2012 Motion for Driving Privileges, failed to bring verification of the following documentation: the days and hours of Defendant Philhower's employment on the employer's letterhead, and current insurance. Judge Stokes had previously informed Attorney Serrat and

Defendant Philhower, on June 12, 2012, that this specific information would be needed for Judge Stokes to write an Order for occupational driving privileges. See June 12, 2012 Transcript, pp. 19-20, and July 24, 2012 Transcript, p. 16-23. The insurance information provided by Attorney. Serrat was valid only through July 15, 2012. Judge Stokes informed Attorney Serrat and Defendant Philhower that they could have the needed information faxed to her so that Judge Stokes could write the Order upon receipt that day, and another court date would not be needed. However, Attorney Serrat and Defendant Philhower needed additional time to obtain his employer's letter and the current insurance information.

Judge Stokes noted that an interlock device would be a condition of Defendant Philhower having occupational driving privileges taking into consideration his diagnoses of Alcohol and Cocaine Dependency, and the two (2) accident victims. In addition to needing time to obtain the employer's letter and current insurance information, Attorney Serrat and Defendant Philhower also needed more time to discuss the cost of a continuous alcohol monitoring device and an interlock device with Mr. Kevin McGlynn of the Probation Department who was assisting because Mr. Richard Oriti, a supervisor was not available. It should be noted that on June 26, 2012, Judge Stokes had requested the Probation Department Staff to provide Defendant Philhower with all information regarding continuous alcohol monitoring and interlock devices. Defendant Philhower acknowledged on July 24, 2012 that the Probation Department Staff had previously reviewed said information with him, but that he needed further details. See June 12, 2012 Transcript, p. 20; June 26, 2012 Journal Entry; July 24, 2012 Transcript, pp. 11-14.

Thus, at Defendant Philhower's request and to select an interlock company, Judge Stokes requested Defendant Philhower to submit and pay for a current urinalysis test due to his Cocaine

Dependency diagnosis to take into consideration regarding the request for occupational driving privileges. See July 24, 2012 Transcript, pp. 13-29; July 24, 2012 Journal Entry. Judge Stokes advised Defendant Philhower that, at the next hearing, he would be provided a time to pay date recognizing that because he was paying for the interlock device and continuous alcohol monitoring it would be difficult for him to pay the fines and court costs associated with this offense. At Defendant Philhower's request, the matter was continued to July 25, 2012 at 8:30 a.m. so Attorney Serrat and Defendant Philhower could provide the Court with a letter from Defendant Philhower's employer documenting the days and hours of his employment and accurate and up-to-date information regarding insurance. Attorney Serrat had been informed about these requirements as mentioned above on June 12, 2012. (See July 24, 2012 Transcript, pp.1-30)

JULY 25, 2012

Upon his return, on July 25, 2012, Defendant Philhower's occupational driving privileges were granted from July 25, 2012 to January 15, 2013 (the extent of the current insurance coverage) which included permission to drive to and from his employment, AA meetings, his Intensive Outpatient (IOP) and Outpatient (OP) Treatment Programs, to and from probation appointments, as long as he was in compliance with the terms and conditions of probation, including no violations on the continuous alcohol monitoring (cam) device and the interlock device which was installed on his 2012 Chevrolet Camaro. (See July 25, 2012 Transcript, pp. 2-11; July 25, 2012 Journal Entry; and July 25, 2012 Occupational Driving Privileges Order.

In addition to the conditions addressed the day before, Judge Stokes also noted that Defendant Philhower was to attend AA meetings two to three times per week, which were being

attended by Defendant Philhower voluntarily and which had been brought to Judge Stokes' attention during sentencing the day before. (See July 25, 2012 Journal Entry; and Transcript of July 25, 2012, pp. 1-12)

NOVEMBER 6, 2012

On November 6, 2012, Attorney Serrat filed a Motion To Remove SCRAM, Remove The Interlock And Amend Driving Privileges. The Central Scheduling automatically scheduled this motion for review on November 19, 2012, to advise Judge Stokes said Motion had been filed so Judge Stokes could set it for an actual date to be heard on the merits. The case was continued, at Defendant Philhower's request, to December 13, 2012, at 8:30 A.M. for the motion hearing. Judge Stokes advised the Probation Department that an Updated Report would be needed on all conditions of probation, including the SCRAM (continuous alcohol monitoring device), and the interlock device. Judge Stokes also requested a current urinalysis test for which Defendant Philhower was to pay. Judge Stokes held the case file from November 19, 2012 to November 21, 2012, until she was able to reach Attorney Serrat on November 21, 2012 who agreed to the hearing date of December 13, 2012. Judge Stokes also noted on the Journal Entry that Ms. Shari Howell, Defendant Philhower's Probation Officer, and Mr. Richard Oriti, a Probation Officer/Training Coordinator who oversees devices such as continuous alcohol monitoring, interlock, house arrest and GPS, be notified of what was needed for the December 13, 2012 motion hearing. (See November 19, 2012 Journal Entry)

DECEMBER 13, 2012

On December 13, 2012, Judge Stokes noted that she still needed an updated report to include the January 2013 urinalysis test results and ordered that the interlock device remain in effect. On December 13, 2012, Judge Stokes granted the motion to remove the SCRAM device (the continuous alcohol monitoring device), and denied the motion to remove the interlock device. Attorney Serrat explained that Defendant Philhower did not want to drive the 2012 Camaro during the winter months, and wanted the interlock device to be placed on the 2002 Chevrolet. Judge Stokes ordered that the interlock device on the 2012 Camaro should be placed on the 2002 Chevrolet on December 14, 2012. Judge Stokes also specifically noted that without wear a cam device, Defendant Philhower would not have driving privileges to go to and from 5 to 6 AA meetings per week, but that Judge Stokes would reconsider a reduced number of AA meetings, if acceptable to Defendant Philhower, and hopefully he had friends to assist getting to AA meetings in the interim period.

Judge Stokes specifically noted that the case that day was delayed for hours while Dean Jenkins, Deputy Chief Probation Office, graciously was attempting to communicate with the interlock company in order to determine whether there had been any violations. Prior to reaching Mr. Jenkins to assist, Judge Stokes had talked to Chief Probation Officer Jerry Krakowski who stated he would assist with these matters. Mr. Jenkins was investigating why the Probation Officers involved in this matter had no updated information in this respect since the end of September 2012. Therefore, this matter was continued at the Defendant Philhower's since it was his Motion. Due to there being incomplete information, Judge Stokes also continued the case since a probation violation/status hearing would be set. Once Judge Stokes had determined that the probation report had not been updated since late September, she wanted to set a hearing

providing notice that it could be a probation violation hearing or just a status hearing depending on what the incomplete information revealed, so as not to delay progress in the matter. (See Transcript of December 13, 2012).

During the December 13, 2012 motion hearing, Attorney Serrat, as previously mentioned, also requested that Defendant Philhower be allowed to drive to five (5) to six (6) AA meetings per week, and he made reference to the AA verification sheets through October 27, 2012 that were attached to Defendant Philhower's Motion. To provide details needed and clarification, Judge Stokes noted that since the SCRAM device was going to be removed, there were victims involved, and because Probation Officer David Barker failed to verify any of the AA meetings that Defendant Philhower claimed to have attended since October 27, 2012, Judge Stokes was not going to renew driving privileges for attendance of AA meetings, especially 5 to 6 per week. Judge Stokes noted that hopefully a friend could drive Defendant Philhower to and from his AA meetings. In addition, Judge Stokes noted that when Defendant Philhower returned to Court for the next renewal of his occupational driving privileges, she could possibly grant driving privileges for fewer AA meetings, if the AA meetings attended were properly documented. See December 13, 2012 Transcript, pp. 12-15.

Judge Stokes granted occupational driving privileges to commence on December 14, 2012, the date on which Defendant Philhower stated the interlock device would be transferred to the 2002 Chevrolet Van, through January 15, 2013, the date to which his insurance vas valid. This case was continued until January 10, 2013, at Defendant Philhower's request, for a hearing to renew his occupational driving privileges, at which time he was to provide valid insurance beyond January 15, 2013. In addition, Judge Stokes noted that the Probation Department was to provide an updated report on all conditions, including current urinalysis test results. See

December 13, 2012, Transcript, p.19. Attorney Serrat left the courtroom to attend to other business, and Defendant Philhower remained so that he could sign the Order prepared by Judge Stokes, and the interlock company's Order.

Judge Stokes requested that Mr. Oriti come to the courtroom to assist Defendant Philhower in signing the proper paperwork to have the interlock device transferred to the 2002 Chevrolet, and for Judge Stokes to sign the interlock company's Order. When Mr. Oriti arrived, he advised Judge Stokes and Defendant Philhower that there was a problem because the interlock company used by Defendant Philhower had not furnished any interlock reports since September 2012, and Mr. Oriti had been trying to obtain the interlock reports for the last three days with no response from the Interlock Guy Company. The SCRAM and interlock reports were needed to verify Probation Officer David Barker's assertion, in the December 13, 2012 Probation Update Report, with respect to the SCRAM and interlock devices, that "No violations have been reported. All reports are attached to the Record." See December 13, 2012 Probation Update Report. The Probation Report had the current SCRAM report, but the interlock reports from the balance of September, October, November and December, 2012 were not included contrary to Probation Officer Barker's assertions in Probation Update Report. Judge Stokes noted the amount of time this case was taking on the docket due to the necessary information not timely being submitted by the Probation Officers, and that she did not understand how a Probation Supervisor had approved and permitted the Probation Update to come to the courtroom lacking the requested information. See December 13, 2012, Transcript, p. 46. It should be noted that Mr. Peter Roche is the Probation Supervisor who signed and approved Probation Officer Barker's Probation Update Report that was not complete. In addition, Mr. Oriti informed Judge

Stokes that Defendant Philhower had not taken his car to the interlock company to have it calibrated for any days in December, 2012 for a report to be generated.

Defendant Philhower stated that, in November and December 2012, there were two (2) times he was scheduled to attend his probation appointment dates when the interlock device locked him out of his car and he had to obtain a ride from other people. Defendant Philhower claimed that he had not been able to reach any employee at the interlock company regarding these problems. In addition, Defendant Philhower asserted that he shared all of this information with Attorney Serrat who informed him that the courtroom "is not the place to bring that up." Judge Stokes noted that the Probation Update Report did not have any information about Defendant Philhower's problems with the interlock device and him not being able to contact the interlock company's representatives. Also, Judge Stokes informed Defendant Philhower that Attorney Serrat needed to be advised to return to the courtroom in view of all of these unresolved issues. See the December 13, 2012 Transcript, pp. 21-42; Journal Entry of December 13, 2012.

Judge Stokes advised Mr. Oriti that he did not need to remain in the courtroom since Mr. Krakowski was trying to locate the interlock reports, and Mr. Jenkins had been left a message to please assist with these issues. Mr. Jenkins came to the courtroom, and Attorney Serrat returned to the courtroom, both of whom were diligently trying to obtain all of the interlock reports. Eventually, after several hours, Mr. Jenkins was able to obtain interlock reports with the exception of October, 2012. Judge Stokes explained that, in view of all of the circumstances, including the time spent on this matter, and lack of information, she was going to have to void her respective December 13, 2012 Judgment Entries that granted removal of the SCRAM device, and granted occupational driving privileges until the issues could be resolved on another date. Mr. Jenkins offered and did try to contact the interlock company one more time to try to obtain

the October 2012 report. Mr. Jenkins still was not able to obtain the October 2012 interlock report during business hours on December 13, 2012, but he was convinced that the interlock company would fax the missing information during the evening of December 13, 2012, which would be available on December 14, 2012 by 10:00 A.M. Attorney Serrat requested that Defendant Philhower's motion hearing be continued to and added on to the December 14, 2012 docket at 10:00 A.M. Judge Stokes explained that the SCRAM device would remain on Defendant Philhower, and that he did not have any driving privileges pending the motion hearing scheduled for the next day. In addition, Judge Stokes noted that there were already forty-eight (48) cases scheduled for December 14, 2012, but she would add on Defendant Philhower's case, to accommodate him, but if the necessary information was not available, a new date would be given to have all of the information, and not wait hours as had been done that day. (See December 13, 2012 Transcript, pp. 42-52, and 1-54)

DECEMBER 14, 2012

On December 14, 2012, Judge Stokes granted Defendant Philhower's motion to remove the SCRAM device. In addition, Judge Stokes denied Defendant Philhower's motion to have the interlock device removed, but granted occupational driving privileges (for his employment and attending probation appointments) noting that the interlock device was to be removed from the 2012 vehicle, and installed on the 2002 Chevrolet. Judge Stokes denied Defendant Philhower's request to drive to five (5) to six (6) AA meetings per week since he no longer had to wear the SCRAM device, there were two (2) accident victims, and he had two (2) DUI convictions in his lifetime. Judge Stokes noted the efforts of Deputy Chief Dean Jenkins on December 13, 2012 and December 14, 2012 trying to obtain necessary documentation from the interlock company.

Judge Stokes noted that this case was continued at the Defendant's request for a motion to renew driving privileges, and at the Court's request set for a probation violation/status hearing on January 10, 2013 in order to address missing information regarding certain conditions of probation not available from December 13-14, 2012. (See December 14, 2012, Journal Entry; December 14, 2012 Occupational Driving Privileges Order; and the December 14, 2012 Alternative Court Services, LLC Court Order for Ignition Interlock)

JANUARY 9, 2013

On January 9, 2013, during the midst of the remaining cases for that day's docket, Attorney Timothy Kucharski appeared at approximately 4:00 P.M. requesting to address Judge Stokes with respect to Defendant Philhower's case that was actually scheduled for the next day, January 10, 2013. Judge Stokes had to write a Judgment Entry in order to advance and obtain the Philhower case file and a journal entry from the Clerk's Office on January 9, 2013 since it was scheduled for January 10, 2013. This process involves a deputy bailiff taking the January 9, 2013 Judgment Entry to the Clerk's Office to retrieve the case file which then is taken to the Central Scheduling Department to event the case for January 9, 2013, and to print a journal entry for January 9, 2013. Attorney Kucharski knew that it would take time to obtain the case file which was needed to be scanned and addressed in court. See the January 9, 2013 Judgment Entry. Once the case file arrived, Judge Stokes advised Attorney Kucharski that she would recall the case at the end of the docket so that she could conclude the cases of those individuals on the docket, before taking time to address Attorney Kucharski's issues on the Philhower case which was added on to that day's docket.

Attorney Kucharski came to advise Judge Stokes that he was the owner of the interlock company whose device was installed on Defendant Philhower's vehicle, and that it "may appear as he has a positive alcohol testing." In addition, Attorney Kucharski informed Judge Stokes that the readings on the interlock device were "extraordinarily high," but too high to be valid and possibly related to Defendant Philhower painting in an enclosed booth, and smoking while he drives. In addition, Attorney Kucharski noted that he shared this information with Mr. Oriti in the Probation Department. Lastly, Attorney Kucharski informed Judge Stokes that if a probation violation was to take place for Defendant Philhower on January 10, 2013, that Attorney Kucharski and none of his interlock company representatives would be able to be present because he was in trial on January 10, 2013, and his employees were either in the hospital or sick.

Judge Stokes informed Attorney Kucharski that she could not discuss Defendant Philhower's case on the merits since Attorney Serrat was the attorney of record, and that she did not have the benefit of the Probation Report yet because the case was scheduled for the next day. However, Judge Stokes noted that she was surprised that she had not received a blue Probationer Status Form from the Probation Staff to immediately advise her of positive alcohol readings on the interlock device. In addition, Judge Stokes assured Attorney Kucharski that when Attorney Serrat and Defendant Philhower appeared on January 10, 2013, and requested a continuance of the motion hearing and Probation Violation/Status Hearing that Judge Stokes would grant a continuance so that Attorney Kucharski or one of his company representatives would be able to be present. (See January 9, 2013, Transcript, pp. 2-12)

JANUARY 10, 2013

On January 10, 2013, Attorney Serrat appeared in court before Judge Stokes requesting that the PV hearing/status hearing set for that date be continued to January 16, 2013 at 3:00 p.m. Judge Stokes wrote that the case was continued at Defendant Philhower's request and at the Court's request for regarding the Probation Violation/Status Hearing and the Motion hearing for renewal of driving privileges. Judge Stokes indicated in the Journal Entry that a representative from the interlock company needed to be present and advised the Probation Department for an update on the interlock report by January 16, 2013, if possible. In addition, Judge Stokes wrote and stated that Defendant does not have any driving privileges effective January 10, 2013. (See January 10, 2013 Journal Entry; January 10, 2013 Transcript pp. 1-11, and January 10, 2012 Probation Updated Reports)

JANUARY 16, 2013

On January 16, 2013, Attorney Serrat, Defendant Philhower, and Attorney Kucharski appeared for the Probation Violation/Status Hearing and the motion hearing for occupational driving privileges. Attorney Kucharski appeared on behalf of his interlock company to explain all of the failed tests, times when Defendant Philhower failed to re-test and positive alcohol tests allegedly due to a defective fuel cell. However, Attorney Kucharski failed to bring in any documentation to verify that the fuel cell was defective or that it had been removed and replaced as he asserted. Attorney Serrat and Defendant Philhower also addressed the court. After a lengthy hearing, Judge Stokes decided that, in order for him to protect his employment, that she would grant Defendant Philhower occupational driving privileges only on the condition that he either agree to wearing a continuous alcohol device or agree to having an interlock device placed

on his vehicle by another interlock company, and to have the interlock device removed by Attorney Kucharski's company because of an excessive number of alleged mechanical failures. Defendant Philhower noted that he could not afford a continuous alcohol monitoring device, but that he was willing to use another interlock company. Judge Stokes noted that she would ask the Probation Department staff to research if there were any funds to assist Defendant Philhower with a continuous alcohol monitoring device which she would also take into consideration when granting driving privileges. Judge Stokes continued to advise all parties of the length of this hearing, however Attorney Kucharski insisted on trying to justify his company's errors while lacking documentation to substantiate his claims. (See January 16, 2013, Transcript, pp. 2-49)

Attorney Serrat and Defendant Philhower requested to appear in court on January 17, 2013 with documentation of the new interlock company so that Judge Stokes could grant him occupational driving privileges. Attorney Serrat waived his appearance to be in court with Defendant Philhower since the details of the occupational driving privileges had been placed on the record. Due to the length of the hearing, the Probation Department was closed when it concluded, and Defendant Philhower noted that he wanted to go to the Probation Department the next day to sign up with a new interlock company. (See the January 16, 2013 Transcript, pp. 2-49)

JNUARY 17, 2013

Judge Stokes kept the January 16, 2013 Journal Entry which noted on January 16, 2013, Attorney Kucharski appeared on behalf of Alternative Court Interlock Company, and Attorney Serrat appeared. The January 16, 2013 Journal Entry was stamped and used for the January 17, 2013 court date. Judge Stokes noted that Defendant Philhower failed to appear in court on

January 17, 2013, and also she noted the following information on the January 17, 2013 Journal Entry:

"Case held to 1-17-13 for Mr. Philhower to present documentation of new interlock company for a request to continue driving privileges. Mr. Philhower agreed to have "Alternative Court Interlock" device removed on 1-17-13. The interlock device by Alternative Court Company had too many errors and failures. Mr. Philhower failed to appear on 1-17-13. Thus, Driving privileges are revoked effective 1-17-13. Defendant does not have any driving privileges at all. Active probation to continue to July 25, 2015." (See January 17, 2013 Journal Entry)

JANUARY 18, 2013

On January 18, 2013, Defendant Philhower appeared with Attorney Marissa Serrat, the daughter of Attorney Jaime Serrat, who could not be present. Judge Stokes explained that Defendant Philhower was supposed to have been in court on January 17, 2013, and that she had called Mr. Oriti to see if Defendant Philhower had appeared in the Probation Department, and that she held onto his file until 4:55 P.M. waiting to see if Defendant Philhower was going to appear before Judge Stokes submitted the case file to be journalized. Judge Stokes explained that she had revoked Defendant Philhower's driving privileges when he failed to appear. Also, Judge Stokes explained that she would take the necessary steps to add Defendant Philhower's case to the January 18, 2013 docket since he and his counsel were present.

In addition, Judge Stokes advised Attorney Marissa Serrat and Defendant Philhower that Deputy Chief Probation Officer Dean Jenkins and Probation Officer Kevin McGlynn had obtained the name of another interlock company, and that Defendant Philhower did not meet the

financial criteria for any probation funds to be given to him for a continuous alcohol monitoring device. Thus, Mr. Jenkins and Mr. McGlynn needed to have a discussion with Defendant Philhower, and his counsel regarding the cost of a continuous alcohol monitoring company for a time frame of two (2) weeks taking into Defendant Philhower's financial status.

Attorney Marissa Serrat informed Judge Stokes that Defendant Philhower was willing to wear a continuous alcohol monitoring device for two (2) weeks contingent on Judge Stokes granting occupational driving privileges with an interlock device from a new company. Judge Stokes noted that this was necessary in view of the problems with the prior interlock company, and all of the circumstances previously stated on the record on January 16, 2013. Judge Stokes also agreed that if there were no violations with respect to the continuous monitoring device, during the initial two (2) weeks period, that she would terminate the continuous alcohol monitoring requirement, and that Defendant Philhower and his counsel did not need to appear in court for Judge Stokes to take that action upon verification by the Probation Staff.

In addition, Judge Stokes granted occupational driving privileges to Defendant Philhower with an interlock device effective from January 19, 2013 to July 15, 2013. Judge Stokes shared with Attorney Marissa Serrat and Defendant Philhower that, if there were no violations of the probation conditions, that a reasonable time to request a reduction of his license suspension would be on or about July 24, 2013, the one year anniversary of Defendant Philhower being on probation. Judge Stokes explained that often people on probation, in compliance, request a reduction of a license suspension at the one year anniversary of probation.

Probation Officer Kevin McGlynn assured Judge Stokes, Attorney Marissa Serrat and Defendant Philhower that he or one of the Probation Staff would make sure that the SCRAM report was in court on February 1, 2013 for Judge Stokes' review. See January 18, 2013,

Transcript, pp. 24-25. This was important because of the financial cost to Defendant Philhower and Judge Stokes' agreement to rule on the SCRAM motion on February 1, 2013. Thus, on January 18, 2013, Defendant Philhower's case was continued to February 1, 2013 at 1:00 P.M., at his request, for a motion to remove the continuous alcohol monitoring (CAM) device as noted on the Journal Entry. Also, Judge Stokes wrote the following on the Journal Entry:

> If there are no violations regarding the CAM device, the SCRAM device will be removed once Judge Stokes reviews the report on 2-1-13. Mr. Philhower does not need to be present on 2-1-13. The interlock device from Alternative Court Company shall be removed on 1-18-13 and a new interlock device from Ohio Interlock will be installed on the 2002 Chevrolet due to problems with the former company. Active probation continues to 7-24-15 and all other conditions remain in effect. Motion of Defendant for Occupational Driving Privileges granted.

(See January 18, 2013, Transcript, pp. 2-28; January 18, 2013 Journal Entry; and January 18, 2013 Occupational Driving Privileges Order)

FEBRUARY 1, 2013

On February 1, 2013, Judge Stokes granted Defendant Philhower's motion to remove the SCRAM device because there were no violations with respect to said device. However, the Probation Staff did not include any information regarding the interlock device. Thus, Judge Stokes wrote:

> The 2-1-13 Updated Report did not include a report regarding the interlock device which is needed. The SCRAM device has been removed-however it only remains off if the interlock report also reflects no violations.

Judge Stokes continued the case to February 13, 2013 at 2:00 P.M. to receive the Updated Probation Report, noting specifically: "If in full compliance, Mr. Philhower does not need to be present on 2-13-13." Also, Judge Stokes specifically placed the names of the following probation staff on the Journal Entry: (Deputy Chief Probation Officer) Dean Jenkins; (Probation Officer) David Barker; and (Probation Officer) Richard Oriti" to hopefully ensure that a

complete Updated Probation Report would be submitted for the February 13, 2013 court date. Further, Judge Stokes noted that "active probation continues to 7-24-15." (See February 1, 2013 Journal Entry)

FEBRUARY 13, 2013

On February 13, 2013, Judge Stokes wrote that "the Interlock Report was finally submitted by the Probation Staff which includes no violations". Judge Stokes noted that active probation continues to July 24, 2015, and the same conditions apply. Judge Stokes noted that Dean Jenkins assisted David Barker and Richard Oriti in getting the interlock report on February 13, 2013 which should have been in court on February 1, 2013. Judge Stokes noted that the Interlock Report should be submitted to her every 30 days via a blue New Offense/Probationer Status Report form, unless there is a violation at which time the blue form should be submitted to her immediately. (See February 13, 2013, Journal Entry)

APRIL 30, 2013

On April 19, 2013, Judge Stokes received a blue New Offense/Probationer Status Report form from Probation Officer David Barker to notify her that Mr. Philhower had a new DUI case in Parma, Ohio, along with the following offenses of Driving Under Suspension, Seat Belt; Failure to Yield; Right of Way on March 22, 2013 with a pre-trial set for May 7, 2013. Judge Stokes noted on the blue form that a Probation Violation Hearing was scheduled for April 30, 2013 at 8:30 A.M. Judge Stokes requested to be provided with the status of all conditions ordered including, but not limited to, current urinalysis test results, and the Interlock Reports. (See April 17, 2013, New Offense/Probationer Status Report Form)

On April 30, 2013, Mr. Philhower appeared for the scheduled Probation Violation Hearing with new counsel, Attorney Kevin Cafferkey. Attorney Cafferkey's motion to continue the Probation Violation Hearing, at Defendant Philhower's request, to May 6, 2013 at 1:00 P.M. was granted so that the representative from the Ohio Interlock Company could be attendance. Judge Stokes noted that she would accommodate Attorney Cafferkey's request for May 6, 2013, because Deputy Chief Probation Officer Dean Jenkins verified that the technician from the interlock company could be present, per Attorney Cafferkey's request. Also, Judge Stokes advised Attorney Cafferkey that there were morning and afternoon bench trials on that date, and Mr. Philhower's hearing would have to be fitted in on that date, to which Attorney Cafferkey agreed. Judge Stokes noted on the record that the Probation Violation Hearing truly centered on two (2) alleged positive alcohol test results of .036 and .032 on April 17, 2013. Mr. Philhower was taken into custody pursuant to the no bond status imposed by Judge Stokes, and he was ordered to be returned to court on May 6, 2013 from the Cleveland House of Corrections. Judge Stokes referred the case to the Probation Department to receive an Updated Report on May 3, 2013, noting that the interlock representative needed to be present. (See April 30, 2013, Journal Entry and April 30, 2013 Transcript, pp. 2-12)

MAY 6, 2013

On May 6, 2013, Attorney Cafferkey and Defendant Philhower advised Judge Stokes that Defendant Philhower waived his right to have a Probation Violation Hearing, and admitted to the violations of having two (2) positive alcohol readings on the interlock device in the .03 range on April 17, 2013. Defendant Philhower admitted to taking Aleve medication and consuming one-

fifth of Vodka daily since he fell and experienced excruciating back pain in March 2013. Judge Stokes gave Defendant Philhower credit for the seven (7) days he recently served plus the five (5) days credit at the time of sentencing for a total of 12 days. Judge Stokes ordered the balance of 168 days into execution, but stayed execution of the 168 days pending Defendant Philhower attending a new formal alcohol/drug abuse assessment at St. Vincent Hospital's Rosary Hall on May 9, 2013, following all assessment recommendations, following all probation conditions, and to wear a Continuous Alcohol Monitoring (CAM) device that was to be placed on him prior to his release from the Cleveland House of Corrections (CHC) on May 6, 2013. Deputy Chief Probation Officer Dean Jenkins worked very hard that day to schedule the formal assessment appointment for Defendant Philhower, as did Mr. Oriti in getting a SCRAM representative to meet Defendant Philhower at the CHC to place the CAM device that afternoon.

Judge Stokes allowed this plan of action because the Probation Staff was not able to schedule any formal alcohol/drug abuse assessments for Defendant Philhower while he was incarcerated at the CHC, and to allow him another opportunity to protect his employment, and to try to protect him and the community. In addition, Judge Stokes revoked all driving privileges, but ordered that the interlock device had to remain on the 2002 Chevrolet Ventura Van as a safeguard in case he tried to operate that vehicle, and absolutely no more violations. It should be noted that Defendant Philhower's 2012 Chevrolet Camaro was the vehicle noted in the new DUI charge. Defendant Philhower was remorseful, admitting his alcoholism, and willingness to get the treatment needed. Defendant Philhower thanked Judge Stokes for her mercy, efforts, and trust in trying to get him help, protect him from himself and the community from him.

Thus, Defendant Philhower's case was continued until May 21, 2013 at 10:00 A.M., at his request, for a mitigation hearing with respect to whether the stay of the imposition of his 168

days sentence would be lifted and the 168 days re-suspended; or whether the 186 days would be ordered into execution, upon review of the formal assessment recommendations, and all of the conditions of probation, including interlock reports to verify if the vehicle was operated, and if there was any alcohol usage. Defendant Philhower agreed to abide by the recommendations of the formal assessment even if it required him to complete a residential treatment program. In addition, Deputy Chief Probation Officer Dean Jenkins recommended that Defendant Philhower be required to report to his Probation Officer more than once per month which Judge Stokes ordered to be escalated by the Probation Staff, and Defendant Philhower agreed. It should be noted that the CHC bus left the Justice Center prior to it assigned time of 2:30 P.M. Chief Bailiff Gregory Sims made a special exception, in view of the circumstances, and allowed two (2) deputy bailiffs to transport Defendant Philhower to the CHC so he could obtain his personal belongings and be released once the CAM device was placed on him at the CHC. Judge Stokes noted that active probation continues to July 24, 2015, noted bailiffs were to transport Defendant Philhower and that an Updated Probation Report was needed for May 21, 2013 with respect to all of the aforementioned conditions, noting no driving privileges, no consumption of alcohol, the interlock device remains on the 2002 vehicle and the CAM was mandatory. (See May 6, 2013 Transcript, pp. 2-44; May 6, 2013 Journal Entry)

MAY 9, 2013

On May 9, 2013, it was brought to Judge Stokes' attention that Defendant Philhower needed work privileges while on home detention and the SCRAM device. Thus, Judge Stokes advanced the case from May 21, 2013 to May 9, 2013 to obtain the case filed to grant Defendant Philhower's request for work privileges while on home detention and the SCRAM device, also

noting the May 21, 2013 court date would remain in effect. (See Three (3) May 9, 2013 Journal Entries, and May 9, 2013 Transcript, p. 2)

MAY 21, 2013

On May 21, 2013, Judge Stokes granted Attorney Cafferkey's motion to lift the stay with respect to the imposition of the 168 days of Defendant Philhower's sentence imposed on May 6, 2013. Thus, Judge Stokes re-suspended the sentence. Judge Stokes also wrote on the May 21, 2013 Journal Entry that Defendant Philhower was to successfully complete Intensive Outpatient Treatment on Mondays, Tuesdays and Thursdays from 6 P.M. to 9:00 P.M. recommended per the May 9, 2013 formal assessment; that the SCRAM and home detention devices remained in effect; that the interlock device on the 2002 Chevrolet Chevrolet Van was not to be removed; that Defendant Philhower had no driving privileges at all; and he was to remain on active probation to July 24, 2015. Judge Stokes noted, as agreed, that the Probation Officer was to notify her, via a blue form, when it was appropriate for Defendant Philhower to consider attending AA meetings so that information could be included regarding his house arrest order. See May 21, 2013 Transcript, pp.1-28), and May 21, 2013 Journal Entry.

JULY 18, 2013

On July 18, 2013, the Court's Central Scheduling Staff placed Defendant Philhower's case on Judge Stokes' docket for review of his pro se Motion to Remove the Interlock Device from the 2002 Chevy Venture Van which was actually scheduled for hearing on July 30, 2013. However, Defendant Philhower appeared in court on July 18, 2013. In order to accommodate Defendant Philhower because he was present, Judge Stokes ordered the case file, and a journal

entry. Defendant Philhower appeared on his own, waived legal representation which his motion stated that he could no longer afford, and he did not desire legal counsel.

Defendant Philhower stated that he wanted the interlock device removed for the 2002 Chevy, and that he wanted "to forfeit any driving privileges for the remainder" of his sentence. Defendant Philhower stated that he completed Intensive Outpatient Treatment (IOP) on July 15, 2013, which was the second IOP Treatment he had completed while on probation in this case. Judge Stokes granted Defendant Philhower's Motion, and ordered that the interlock be removed from the 2002 Chevy Van. Judge Stokes noted and wrote that Defendant shall continue to wear the SCRAM device, and that all conditions of probation remained in effect while on active probation, including no driving privileges.

Defendant Philhower informed Judge Stokes that "the latest IOP that I did just complete, I will tell you was the most productive and effective. It was a tremendous experience. I learned a lot and I am very, very, very, every morning and every night, I start my day in prayer. Thank you for my freedom form alcohol and jail, and you and your family are included in my prayers." Judge Stokes responded: "Well, thank you." Defendant Philhower stated: "Thank you". (See Defendant Philhower's July 15, 2013 Motion; the July 18, 2013 Transcript, pp. 2-18, and, Two (2) July 18, 2013 Journal Entries)

SEPTEMBER 4, 2013

On September 4, 2013, the Court's Central Scheduling Staff placed Defendant Philhower's case on Judge Stokes' docket for review of his pro se Motion to Remove the SCRAM device. Judge Stokes informed Defendant Philhower that his case was set for review purposes only, meaning that she needed to schedule the actual hearing date, and notify the

Probation Staff so that she could receive an Updated Report regarding the SCRAM report and all conditions ordered. After listening to Defendant Philhower explained all that he had accomplished, Judge Stokes informed Defendant Philhower that she would call Mr. Oriti, who had left early that day due to illness of a family member, on the next day, September 5, 2013 to try to get the SCRAM report to rule on the Motion. Judge Stokes informed Defendant Philhower that if the SCRAM report had no violations that she would grant his motion to remove the SCRAM and the home detention device. In addition, Judge Stokes informed Defendant Philhower that he did not need to return to court for her to rule on the motion, and that Mr. Oriti would call him to advise him of the decision, and arrange for the device to be removed. (See Defendant Philhower's August 12, 2013 Motion; and September 4, 2013 Transcript, pp. 2-9)

On September 6, 2014, Judge Stokes received the SCRAM report from July 24, 2013 to September 5, 2013 which reflected no violations. Thus, Judge Stokes granted Defendant Philhower's Motion to Remove the SCRAM device and the Electronic Monitoring House Arrest Device due to Defendant Philhower's compliance and financial burdens. Judge Stokes wrote on the Journal Entry that the SCRAM company was to be notified as soon as possible. Judge Stokes asked for the Journal Entry to be given to Deputy Chief Probation Officers Dean Jenkin and Kim Oxner, and Probation Officers Richard Oriti and Kevin McGlynn, noting active probation continues to July 24, 2015. See September 6, 2013 Journal Entry.

From a review of Mr. Philhower's case file and Probation Report, Judge Stokes, to the best of her knowledge and belief, states that as of March 14, 2014, the day that Judge Ronald B. Adrine, removed all of Judge Stokes' criminal and traffic cases, via his Administrative orders, Mr. Philhower never appeared on her personal docket again for any purpose, nor was she

provided any information from the Probation Department or the Central Scheduling to review his file.

MARCH 28, 2014

Judge Adrine granted a motion to mitigate sua sponte, terminated probation, and suspended the of the sentence. There is no Transcript of Court Proceedings or DVD of Judge Adrine's actions. (See March 28, 2014 Journal Entry)

AUGUST 29, 2014

On August 29, 2014, Judge Ronald B. Adrine imposed a $50.00 fine which he suspended in full with respect to the minor misdemeanor charge of Reckless Operation; Street/Highway CCO 433.02A. The Clerk's Office may have informed Judge Adrine that Judge Stokes did not impose a fine regarding this charge on the sentencing date of June 12, 2012, per a regular audit of the case files. In reviewing the case file, Judge Stokes inadvertently failed to sentence Mr. Philhower on said charge which was an oversight, and which was not mentioned by Mr. Philhower, his counsel, or the Assistant City Prosecutor. (See June 12, 2012 Transcript; and August 29, 2014 Journal Entry) There is no Transcript of Court Proceedings or DVD for Judge Adrine's actions.