

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 10 2010

ALAN CARLSON, Clerk of the Court

H. Potter
BY H. POTTER

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APPELLATE DIVISION
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

11 PEOPLE OF THE STATE OF
12 CALIFORNIA,
13 Plaintiff / Respondent,
14 vs.
15 [REDACTED] PARK,
16 Defendant / Appellant.

) Case No.: SA137669PE
) Appellate No.: 30-2009-00329670

) **APPLICATION FOR LEAVE TO FILE**
) **BRIEF AS AMICUS CURIAE**

17
18 CITY OF SANTA ANA,
19 Amicus Curiae.

21 **TO THE HONORABLE JOSEPHINE S. TUCKER, ACTING PRESIDING**
22 **JUDGE:**

23 Pursuant to Rule 8.882(d) of the *California Rules of Court*, the CITY OF SANTA
24 ANA (hereinafter referred to as the "City") hereby requests the permission of the
25 Presiding Judge to file an amicus curiae brief. The proposed brief is attached herewith as
26 Exhibit "1" and incorporated herein by this reference.

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28 ///

1 AMICI CURIAE

2 Applicant for leave to file brief as amicus curiae is the City. Counsel for the City
3 authored the proposed amicus curiae brief in whole. No other person or entity
4 participated in the drafting of the proposed amicus curiae brief or made a monetary
5 contribution intended to fund the preparation or submission of the proposed amicus
6 curiae brief.

7 INTEREST OF AMICI CURIAE

8 The City has a unique interest in this matter because the appeal presents a direct
9 challenge to the legality of the City's automated red light photo enforcement camera
10 system and procedures. As such, any decision by the Court will directly affect the City
11 and its camera system. In fact, the underlying issue in this case is not only of great
12 concern to the City, but also potentially affects other cities operating such systems.

13 NEED FOR FURTHER BRIEFING

14 The City has an interest in ensuring that California's statutory scheme governing
15 red light cameras is properly interpreted and implemented. The California Supreme
16 Court even recognized that the City of Santa Ana Police Department was a Real Party in
17 Interest in a similar automated red-light photo citation case. (*People v. Fischetti; City of*
18 *Santa Ana Police Department, Real Party in Interest*, 2009 Cal. LEXIS 2544 (Cal., Mar.
19 10, 2009), amending *People v. Fischetti*, 2009 Cal. LEXIS 1589 (Cal., Feb. 25, 2009). In
20 *Fischetti*, the California Supreme Court specifically amended its order granting the
21 City's petition for depublication by changing the case title and adding the City of Santa
22 Ana Police Department as Real Party in Interest. (*Id.*)

23 In addition, the City is responsible for enforcement of California laws.
24 Specifically, section 703(d) of the *Santa Ana City Charter* authorizes the City Attorney
25 to prosecute misdemeanor offenses and infractions arising upon violations of the laws of
26 the state on behalf of the people as in his opinion. The District Attorney was the
27 prosecutor for the people in this case, but it is clear that City has a unique interest in the
28 enforcement of these violations.

1 Further, the adversarial system requires briefing and oral argument by more than a
2 single party in order to work properly. However, the District Attorney did not file a brief
3 on behalf of the People in the instant matter. As such, the City's proposed amicus brief
4 can assist the Court in deciding the matter because the City has the unique perspective of
5 being able to present information and arguments directly bearing on these issues.

6 **CONCLUSION**

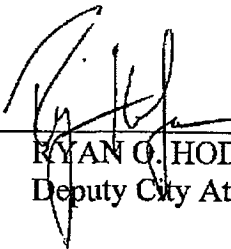
7 Based on the foregoing, the City respectfully requests that the Court grant the
8 City's application for leave to file the proposed amicus curiae brief in the above-
9 captioned matter.

10
11 Respectfully submitted,

12 JOSEPH W. FLETCHER
13 City Attorney

14
15 Dated: March 9, 2010

16 By:



17 RYAN G. HODGE
18 Deputy City Attorney
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EXHIBIT "1"

1 JOSEPH W. FLETCHER (SBN 96813)
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6 Attorneys for Amicus Curiae, CITY OF SANTA ANA

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8 APPELLATE DIVISION
9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

11 PEOPLE OF THE STATE OF
12 CALIFORNIA,

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14 vs.

15 [REDACTED] PARK,

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17
18 CITY OF SANTA ANA,

19 *Amicus Curiae.*
20

) Appellate No.: 30-2009-00329670
) Case No.: SA137669PE

) CITY OF SANTA ANA'S AMICUS
) CURIAE BRIEF

21
22 **TO DEFENDANT / APPELLANT AND THIS HONORABLE COURT:**

23 **PLEASE TAKE NOTICE** that Amicus Curiae, CITY OF SANTA ANA

24 (hereinafter referred to as the "City") hereby submits the following Brief in response to
25 Defendant / Appellant's, [REDACTED] PARK (hereinafter referred to as
26 "Appellant"), Opening Brief, and in advance of any appellate hearing in the above-
27 captioned matter.

28 ///

1 **I. INTRODUCTION**

2 The Appellant in the above-captioned matter was issued a Notice of Traffic
3 Violation and Notice to Appear pursuant to the City's automated traffic enforcement
4 system. The Appellant committed a violation of *Vehicle Code* section 21453(a), failure
5 to stop at a red light, at the intersection of Bristol Street and Segerstrom Avenue in the
6 City of Santa Ana. On May 27, 2009, after being presented with evidence regarding the
7 violation, the court found the Appellant guilty of the alleged violation. Appellant now
8 contends that the City did not comply with the warning notice and public announcement
9 requirements of *Vehicle Code* section 21455.5(b), thus negating the legitimacy of the
10 City's automated traffic enforcement system. However, as detailed below, the City has
11 met each and every requirement, including the issuance of warning notices and public
12 announcements, for its automated traffic enforcement system. Accordingly, the
13 Appellate Division should uphold the reasonable and justified ruling of the underlying
14 court to find the Appellant guilty of failing to stop at a red light.

15 **II. FACTUAL AND PROCEDURAL BACKGROUND**

16 On February 17, 2009, the City's automated traffic enforcement system captured
17 Appellant failing to stop at a red light at the intersection of Bristol Street and Segerstrom
18 Avenue in the City of Santa Ana, in violation of *Vehicle Code* section 21453(a).
19 Subsequently, on February 23, 2009, a Notice of Traffic Violation and Notice to Appear
20 was issued to the Appellant and filed with the Orange County Superior Court.
21 Thereafter, Appellant sent a discovery request to the City, which the City responded to in
22 a writing dated March 19, 2009. A true and correct copy of Appellant's discovery
23 request and the City's response are attached herewith as Exhibit "A" and incorporated
24 herein by this reference.

25 The matter proceeded to a court trial on May 27, 2009, before Commissioner
26 Daniel M. Ornelas in Department C54. Santa Ana Police Department Officer Bell was
27 present in court and testified for the People. After hearing testimony from Officer Bell,
28 the court admitted and received People's Exhibits # 1, 2, 3, 4, 5, 6, 7, and 8 into

1 evidence. In fact, according to the Docket Report, both parties stipulated as to the
2 evidence being introduced and received into evidence. At the conclusion of arguments,
3 the Court reviewed the photographs and video of the incident, and found the Appellant
4 guilty of violating *Vehicle Code* section 21453(a), as charged in the original citation.
5 See, Clerk's Transcript, p. 3-4.

6 After being found guilty at the court trial, the Appellant filed a Notice of Appeal
7 on June 24, 2009. On August 13, 2009, the court held a hearing on the settled statement
8 on appeal. Since Commissioner Ornelas was no longer available at that time, the hearing
9 was held before Judge Erick L. Larsh in Department C55. Appellant did not appear at
10 this hearing. However, Deputy City Attorney Ryan Hodge did appear at this hearing on
11 behalf of the City. At the beginning of the hearing, the City made an oral Motion to
12 Intervene as a Real Party in Interest, which was granted by Judge Larsh. In addition,
13 since the Appellant was not present, Judge Larsh asked the City to prepare a proposed
14 statement on appeal to present to the court, and continued the hearing until August 27,
15 2009. A true and correct copy of the Notice of Ruling and Notice of Continuance of
16 Hearing on Statement of Appeal is attached herewith as Exhibit "B" and incorporated
17 herein by this reference. At the continued hearing on August 27, 2009, Appellant was
18 again not present, so the Court accepted and granted the Real Party in Interest City's
19 proposed statement on appeal.

20 **III. ARGUMENT**

21 *A. VEHICLE CODE SECTION 21455.5(b) DOES NOT REQUIRE 30 DAYS OF* 22 *WARNING NOTICES AND A PUBLIC ANNOUNCEMENT FOR EACH* 23 *INTERSECTION*

24 Before operating an automated traffic enforcement system, a local agency must
25 comply with *Vehicle Code* section 21455.5(b), which states in pertinent part that, "Prior
26 to issuing citations under this section, a local jurisdiction utilizing an automated traffic
27 enforcement system shall commence a program to issue only warning notices for 30
28 days. The local jurisdiction shall also make a public announcement of the automated

1 traffic enforcement system at least 30 days prior to the commencement of the
2 enforcement program.” The City complied with these requirements when it made a
3 public press announcement regarding the system on May 27, 2003, and issued warning
4 notices for 44 days, prior to the inauguration of its automated traffic enforcement system.

5 *i. STATUTORY ANALYSIS CONFIRMS THAT THE 30 DAYS OF WARNING*
6 *NOTICES AND PUBLIC ANNOUNCEMENT ARE ONLY REQUIRED AT*
7 *THE COMMENCEMENT OF THE OVERALL AUTOMATED TRAFFIC*
8 *ENFORCEMENT SYSTEM*

9 It is well accepted law that, “the words of the statute must be construed in context,
10 keeping in mind the statutory purpose, and statutes or statutory sections relating to the
11 same subject must be harmonized, both internally and with each other, to the extent
12 possible.” *Dyna-Med, Inc. v. Fair Employment and Housing Commission* (1987) 43
13 Cal.3d 1379, 1387 (citations omitted).

14 The statutory scheme governing automated traffic enforcement citations makes
15 several references to the “system.” When used in *Vehicle Code* sections 21455.5 and
16 21455.6, the term “system” refers to overall coordination and installation of red light
17 cameras throughout a city’s jurisdiction. For example, *Vehicle Code* section 21455.6
18 states that, “A city council... shall conduct a public hearing on the proposed use of an
19 automated enforcement system...” In addition, *Vehicle Code* section 21455.5(c)
20 provides that, “Only a governmental agency, in cooperation with a law enforcement
21 agency, may operate an automated enforcement system.” Further, *Vehicle Code* section
22 21455.5(d) makes reference to “The activities listed in subdivision (c) that relate to the
23 operation of the system.”

24 In contrast, when referring to individual cameras that together make up the
25 “system,” the statutory scheme uses the term “equipment.” For example, *Vehicle Code*
26 section 21455.5(c)(2)(B) mandates that the “equipment” is regularly inspected. In
27 addition, *Vehicle Code* section 21455.5(c)(2)(C) requires a city to ensure that the
28 “equipment” is correctly installed, calibrated, and working properly.

1 By drawing a distinction between the “system” and “equipment” throughout the
2 statutory scheme, it appears the Legislature intended the word “system” to refer to all the
3 automated enforcement system “equipment” used by the governmental entity. This is
4 consistent with generally accepted definitions of a “system” as “a regularly interacting or
5 interdependent group of items forming a unified whole.” See, Merriam-Webster’s
6 Collegiate Dictionary (10th ed. 1993) pg. 1194. This definition lends support for the
7 position that “system” means the City’s overall plan for the installation of red light
8 cameras at designated intersections within its jurisdiction.

9 *Vehicle Code* section 21455.5(b) specifically requires that, “Prior to issuing
10 citations under this section, a local jurisdiction utilizing an automated traffic enforcement
11 system shall commence a program to issue only warning notices for 30 days. The local
12 jurisdiction shall also make a public announcement of the automated traffic enforcement
13 system at least 30 days prior to the commencement of the enforcement program.” This
14 code section does not state that the warning notice program or public announcement must
15 be implemented when each camera comes on line at a given intersection, but rather only
16 before issuing tickets under this section. In addition, the reference in the code section to
17 the “system” rather than the “equipment,” as analyzed above, is a clear indication that the
18 intent was to require the warning notices at the commencement of the overall automated
19 traffic enforcement system.

20 Nonetheless, Appellant still argues that the equipment at each intersection
21 constitutes a separate system requiring the issuance of warning notices.¹ If Appellant’s
22 logic was accepted, it would require the City to hold a public hearing and make public
23 announcements before each additional intersection in the City could be brought on-line
24 for automated traffic enforcement. However, there is nothing in the statutory language
25

26 ¹ Appellant refers to other unreported rulings of the Appellate Division to support the proposition that *Vehicle Code* section
27 21455.5(b) requires warning notices be issued for a period of 30 days following the installation of each photo enforcement
28 camera in the city rather than a 30 day warning period from installation of the overall automated traffic enforcement system.
However, unreported decisions do not constitute binding precedent. Specifically, *California Rule of Court*, Rule 8.1115(a) states
that, except in situations not relevant here, an opinion of a California Court of Appeal or superior court appellate division that is
not certified for publication or ordered published must not be cited or relied on by a court or a party in any other action.

1 that implies the Legislature intended such multiple hearings and announcements, or
2 intended to require the City to provide warning notices for 30 days at each intersection
3 after installation of an automated enforcement system has commenced. To the contrary,
4 *Vehicle Code* section 21455.5(b) refers to “a public announcement,” which implies a
5 single rather than a series of announcements, hearings, and warning notices.

6 To further exemplify the absurdity of Appellant’s statutory interpretation,
7 according to Appellant’s argument, the City cannot hold one public hearing and execute
8 one contract for the installation of cameras, as authorized by *Vehicle Code* section
9 21455.6(a), but must instead hold as many public hearings and execute as many contracts
10 as there are intersections to be incorporated into a city’s automated traffic enforcement
11 system.

12 As detailed herein, the statutory language clearly refers to the “system” as the
13 overall automated traffic enforcement system, and not the “equipment” found at each
14 intersection. As such, the City is only required to issue a public announcement and
15 warning notices for 30 days after the implementation of the overall system, which the
16 City did. Accordingly, the City complied with the warning notice and public
17 announcement requirements of *Vehicle Code* section 21455.5(b).

18 *ii. THE LEGISLATIVE INTENT IS SATISFIED BY THE ISSUANCE OF*
19 *WARNING NOTICES AND A PUBLIC ANNOUNCEMENT AT THE*
20 *COMMENCEMENT OF THE OVERALL AUTOMATED TRAFFIC*
21 *ENFORCEMENT SYSTEM*

22 The primary goal of the automated traffic enforcement system is to change driver
23 behavior, thereby reducing the number of red light violations, and the resulting number
24 of right angle collisions, injuries, and deaths. The notion that the Legislature intended
25 the public announcement and warning notice program to be implemented over and over
26 again, long after a city has begun operation of the system, would frustrate the legislative
27 purpose, not advance it.

28 ///

1 Appellant argues that the Legislative intent of the warning notice requirement was
2 to educate commuters that the government intends to use automated traffic enforcement
3 technology. However, the warning notices do virtually nothing to provide the general
4 public with additional knowledge of the system because the only people that would even
5 receive that information would be those few motorists who illegally run a red light
6 during those 30 days.

7 *Vehicle Code* section 21455.5(a) also requires that a jurisdiction erect warning
8 signs to alert drivers to the use of automated enforcement within the city. However, this
9 sign requirement allows the city to choose one of two methods to warn motorists of the
10 automated traffic enforcement system. The city will satisfy this requirement if either
11 there are “signs that clearly indicate the system’s presence and are visible to traffic
12 approaching from all directions, or posts signs at all major entrances to the city,
13 including, at a minimum, freeways, bridges, and state highway routes.” Therefore, if a
14 city chooses to post the signs announcing the program at the major entrances to the city,
15 there is no requirement that each individual intersection be marked with signs. If, as
16 Appellant contends, the Legislature intended a public announcement and warning notices
17 to be issued over and over again at each intersection so as to provide to motorists
18 warning of the camera’s presence, then the same Legislature would have required
19 warning signs at each intersection. However, the Legislature allows the posting of signs
20 at major entrances to the city only, which defeats any argument that the Legislature
21 intended that the public be educated as to each individual intersection where automated
22 traffic enforcement equipment may be located.

23 The primary Legislative intent for allowing the implementation of automated
24 traffic enforcement systems was to create safer roads. Such intentions do not mandate
25 the issuance of a public announcement and warning notices at each intersection. Rather,
26 the issuance of a public announcement and warning notices at the implementation of the
27 automated traffic enforcement system only, satisfies the Legislative intent set forth in the
28 subject code sections.

1 iii. *THE REJECTION OF A LEGISLATIVE AMENDMENT DOES NOT*
2 *PROVIDE ANY GUIDANCE ON STATUTORY INTERPRETATION*
3 *BECAUSE THE SPECIFIC REASON FOR REJECTION IS NOT KNOWN*

4 The Legislature's rejection of Senate Bill 780, a proposed 2003 amendment that
5 would have modified the law governing automated traffic enforcement citations issued
6 under *Vehicle Code* section 21455.5, is cited in support of statutory interpretation.
7 However, the Senate Bill 780 Bill Analysis does not shed any light on this warning
8 notice issue. Even if it did, however, it is not possible to determine if the rejection of any
9 proposed language evidenced a Legislative rejection of a link between the grace period
10 and the installation of the city's first automated enforcement system, or alternatively,
11 whether any proposed language was intended as a clarification of existing law which was
12 rejected as unnecessary. Either way, the Legislative history is not dispositive.

13 Therefore, as detailed above, it is clear that the public announcement and 30 day
14 warning period applies only to installation of the first intersection's camera in the overall
15 automated traffic enforcement system. Since the City made a public press announcement
16 regarding the system on May 27, 2003, and issued warning notices for 44 days prior to
17 the initial issuance of actual citations pursuant to its automated traffic enforcement
18 system, the City complied with the public announcement and warning notice requirement
19 of *Vehicle Code* section 21455.5(b).

20 B. *THE EVIDENCE PRESENTED AT TRIAL WAS SUFFICIENT AND*
21 *ADMISSIBLE*

22 During the underlying court trial in the above-captioned matter, Officer Mark Bell
23 of the Santa Ana Police Department provided testimony regarding the City's automated
24 traffic enforcement system, including the operation of the automated traffic enforcement
25 system, posted signs identifying the system's presence, public hearings conducted by the
26 City, public announcements by the City, and the alleged violation captured by the photo
27 enforcement system. Standard Santa Ana Police Officer testimony in these red light
28 camera prosecutions also includes that the officer received classroom and field training

1 detailing the function of the automated system and has been certified to operate the
2 Redflex Smart-Cam System. Further, Officer Bell testified regarding the warning notices
3 that the City issued for 44 days from May 18, 2003, through June 30, 2003, in
4 satisfaction of *Vehicle Code* section 21455.5(b). Officer Bell submitted a document
5 identified as Exhibit 4, which was a particular document regarding the City's automated
6 traffic enforcement system that detailed the warning notices issued by the City.

7 Officer Bell also submitted Exhibit 3, a Declaration of Custodian of Records
8 signed by an employee of Redflex in accordance with California Evidence Code section
9 1280 and Declaration of Technology signed by an employee of Redflex in accordance
10 with Evidence Code section 1561, to lay a foundation for admission of the data obtained
11 from the photo enforcement system. Appellant now makes a vague reference contesting
12 the sufficiency of the testimony, even though the parties stipulated to the evidence being
13 introduced at the time of the trial.

14 Simply put, the court properly admitted this evidence based upon the admissible
15 testimony of the officer, who based on his in-class and field training qualified as an
16 expert on the system pursuant to *Evidence Code* section 801. Therefore, the court had
17 every right to consider his qualifications and determine the weight to be given to his
18 testimony as the foundation for the evidence presented, which established the City's
19 compliance with *Vehicle Code* section 21455.5(b).

20 With respect to the exhibits, even if considered a statement offered for the truth of
21 the matter, and therefore hearsay, the documents qualify for the official records
22 exception to the hearsay rule pursuant to *Evidence Code* section 1280. Evidence
23 admissible under the official records exception is also admissible under *Evidence Code*
24 section 1271, the business records exception. Unlike the business records exception,
25 however, the official records exception permits the court to admit an official record
26 without requiring a declaration or a witness to testify if the court takes judicial notice or
27 if sufficient evidence shows the record was prepared in such a manner as to assure its
28 trustworthiness.

1 The documents were prepared by and within the Santa Ana Police Department in
2 the course and scope of a public employee. In addition, the documents were prepared at
3 or near the time of the introduction of the City's automated traffic enforcement system in
4 order to detail the actions taken by the City to comply with statutory requirements for
5 such a system. Accordingly, the Santa Ana Police Department, a public police agency,
6 serving as the source of information and method and time of preparation confirms the
7 trustworthiness of the documents, and were rightfully admitted into evidence by the
8 underlying court.

9 Specifically focusing on Exhibit 3, this signed declaration was properly admitted
10 under Evidence Code section 1271, the business records exception, and was also
11 admissible under the official records exception pursuant to Evidence Code section 1280.
12 Even though the records were prepared by the City's agent, Redflex, the sources of
13 information and preparation of the documents indicate its trustworthiness. *Evidence*
14 *Code* section 195 defines a public employee as an officer, agent or employee of a public
15 entity, and therefore documents prepared by Redflex may be imbued with the
16 trustworthiness of a public police agency so long as it is functioning as an agent of the
17 government entity. See *Imachi v. DMV* (1992) 2 Cal.App.4th 809, 816-817
18 (trustworthiness indicia supplied by fact that private lab technician, acting on behalf of
19 law enforcement agency, was reporting first hand observations as well as presumption of
20 official duty regularly performed, citing *Evidence Code* section 664). Here, the officer's
21 testimony established Redflex was acting as an agent for the City, and meets the chief
22 foundation of the special reliability granted official and business records: that they are
23 based on first hand observation of someone whose job it is to know the facts recorded.
24 Redflex was acting as an agent for the City, and the admitted records possessed the
25 special reliability granted official and business records. Thus, the evidence was not
26 inadmissible hearsay and was properly admitted by the court.

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1 As detailed herein, the evidence and testimony presented on behalf of the People
2 in the above-captioned matter provided sufficient foundation, and was thus properly
3 admitted into evidence by the underlying court.

4 *C. THERE WAS NO ABUSE OF JUDICIAL DISCRETION*

5 Appellant also makes a veiled reference to a contention that the trial court abused
6 its judicial discretion. However, it is clear that the Court has judicial discretion over the
7 proceedings. In addition, as the ultimate trier of fact in a court trial, Commissioner
8 Ornelas had the power and authority to make rulings regarding the line of questioning
9 and presentation of evidence in the matter. Accordingly, the court did not conduct any
10 judicial misconduct, as a result of making normal rulings in the course of the underlying
11 trial.

12 **IV. CONCLUSION**

13 Appellant does not present any argument that he did not violate *Vehicle Code*
14 section 21453(a) for driving through a red light. Rather, Appellant is attempting to avoid
15 taking responsibility for his actions by presenting technical arguments regarding the
16 City's public announcement and warning notices. However, as detailed herein, the City
17 complied with all of the statutory requirements for the implementation of an automated
18 traffic enforcement system and, regardless, the weight of the evidence proved that
19 Appellant was guilty.

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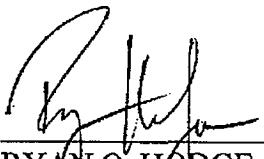
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1 Based on the foregoing arguments, the CITY OF SANTA ANA respectfully
2 requests that the Appellate Division uphold the ruling of the underlying court as
3 reasonable and legitimate by DENYING Appellant's instant appeal of the subject
4 automated traffic enforcement system citation.

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6 Respectfully submitted,

7 JOSEPH W. FLETCHER
8 City Attorney

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11 DATED: March 9, 2010

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13 _____
14 RYAN O. HODGE
15 Deputy City Attorney
16 Counsel for Amicus Curiae,
17 CITY OF SANTA ANA
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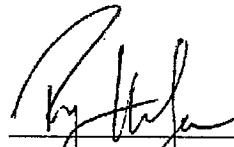
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CERTIFICATE OF WORD COUNT

(Cal. Rules of Court, rule 8.883(b)(1))

The text of this petition consists of 3,240 words, as counted by the Microsoft Office Word 2007 word-processing program used to generate the brief.

DATED: March 9, 2010



RYAN O. HODGE
Deputy City Attorney
Counsel for Amicus Curiae,
CITY OF SANTA ANA

1 **PROOF OF SERVICE**
2 **(C.C.P. SECTION 1013(a), 2015.5)**

3 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

4 I am employed in the aforesaid county; I am over the age of eighteen and not a party to
5 the within action; my business address is 20 Civic Center Plaza, Santa Ana, California 92702.

6 On March 10, 2010, I served the foregoing document described as:

7 **APPLICATION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE**

8 in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

9 [REDACTED] Park

Anthony Rackauckas
Orange County District Attorney
P.O. Box 808
Santa Ana, CA 92701

10 [REDACTED]
11 [REDACTED]
12 Clerk of the Court
13 ORANGE COUNTY SUPERIOR COURT
14 700 Civic Center Drive West
15 Santa Ana, CA 92701
16 Delivery to: Commissioner Daniel Ornelas

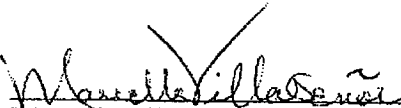
17 I caused to be delivered by courier, such envelope by hand to the office of the addressee(s).

18 I am readily familiar with my employer's practice of collection and processing
19 correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service
20 on that same day with postage thereon fully prepaid at Santa Ana, California in the ordinary
21 course of business. I am aware that on motion of the party served, service is presumed invalid if
22 postal cancellation date or postage meter date is more than one day after date of deposit for
23 mailing in affidavit.

24 The document was transmitted by facsimile transmission and was reported as complete and
25 without error.

26 I declare under penalty of perjury under the laws of the State of California that the
27 foregoing is true and correct.

28 Executed on March 10, 2010, at Santa Ana, California.


Marcella Villaseñor