

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**

JUSTICE CENTER:

- Central - 700 Civic Center Dr. West, Santa Ana, CA 92701-4045
- Harbor-Laguna Hills - 23141 Moulton Pkwy., Laguna Hills, CA 92653-1251
- Harbor-Laguna Niguel - 30143 Crown Valley Pkwy, Laguna Niguel CA 92677-2089
- Harbor-Newport Beach - 4601 Jamboree Rd., Newport Beach, CA 92660-2595
- North - 1275 N. Berkeley Ave., P. O. Box 5000, Fullerton, CA 92838-0500
- West - 8141 13<sup>th</sup> Street, Westminster, CA 92683-4593

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

SEP 23 2009

APPELLANT: [Redacted] Khaled

vs.

RESPONDENT: People of the State of California

**RECEIVED**  
SUPERIOR COURT OF CALIFORNIA  
CENTRAL JUSTICE CENTER

SEP 21 2009

ALAN CARLSON, Clerk of the Court

*H. Potter*  
BY H. POTTER

**RECEIPT FOR RECORDS AND PAPERS**

BY: *H. Potter*

CASE NUMBER: SA128676PE

APPEAL NUMBER: **30-2009**

I hereby certify that the following listed records and papers, are the originals, or if marked "copy" are true copies of the original on file in the above entitled case:

**00304893**

- Clerk's Transcripts - 1 vol.; pp. 1-20
- Certification of Statement on Appeal
- Exhibits 1-7

Date: 9/18/09

Alan Carlson, Clerk of the Court

By

*C. Gonzalez*

C. Gonzalez, Deputy Clerk

**RECEIPT OF RECORD**

I received the above documents, constituting the record on appeal in the above entitled case.

Date: **SEP 23 2009**

Alan Carlson, Clerk of the Court

**30-2009**

By

**HEATHER POTTER**

, Deputy Clerk

**00304893**

**FILED**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
APPELLATE DIVISION**

SEP 23 2009

ALAN CARLSON, Clerk of the Court

BY H. POTTER *[Signature]*

People of the State of California

vs.

Trial Court Case No. SA128676PE

**[Redacted]** Khaled

Appellate Division Case No. \_\_\_\_\_

30-2009

00304893

**APPEAL FROM THE SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE – Traffic Division  
DANIEL ORNELAS, COMMISSIONER**

**CLERK'S TRANSCRIPT**

APPEARANCES

**[Redacted]** Khled

R. Allen Baylis  
9042 Garfield Ave., Ste. #306  
Huntington Beach, CA. 92646

People of the State of California

District Attorney's Office  
401 Civic Center Drive  
Santa Ana, CA. 92701

People of the State of California

City Attorney's Office  
20 Civic Center Plaza, M29  
Santa Ana, CA. 92702

**The People of the State of California**

**vs.**

**██████████ Khaled**

**SA128676PE**

**CHRONOLOGICAL INDEX**

<b>DATE</b>	<b>DOCUMENT TITLE</b>	<b>VOL.#</b>	<b>PAGE #</b>
	Docket	1	1
8/2/2008	Citation	1	6
4/29/2009	Notice of Appeal	1	7
	Notice of Motion and Motion to intervene as real Party in Interest and for Rehearing on Settlement of Statement on Appeal and Declaration	1	8
5/29/2009			

**The People of the State of California**

**vs.**

**██████████ Khaled**

**SA128676PE**

**ALPHABETICAL INDEX**

<b>DATE</b>	<b>DOCUMENT TITLE</b>	<b>VOL.#</b>	<b>PAGE #</b>
8/2/2008	Citation	1	6
	Docket	1	1
4/29/2009	Notice of Appeal	1	7
	Notice of Motion and Motion to intervene as real Party in Interest and for Rehearing on Settlement of Statement on Appeal and Declaration	1	8
5/29/2009			

SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
COUNTY OF ORANGE

**DOCKET REPORT**

Case : SA128676PE I A

Name : Khaled, [REDACTED]

Date of Action	Seq Nbr	Code	Text
08/08/08	1	FLDOC	Original Citation filed on 08/08/2008 by Santa Ana Police Department.
	2	DFADD	Name recorded: Khaled, [REDACTED]
	3	FLCNT	INFRACTION charge of 21453(a) VC filed as count 1. Date of violation: 08/02/2008.
08/10/08	1	DFNPR	Department of Motor Vehicles check returned no assessable priors for this defendant.
08/11/08	1	NTSNT	Courtesy Notice sent.
09/20/08	1	CLIXT	Per online request, citation appearance date has been extended to 11/06/2008.
11/03/08	1	HHELD	Hearing held on 11/03/2008 at 01:30 PM in Department C54 for Arraignment.
	2	OFJUD	Officiating Judge: Lyle J. Robertson, Commissioner
	3	OFJA	Clerk: S. Buchanan
	4	OFBAL	Bailiff: H. Perez
	5	OFREP	Court Reporter: None
	6	APNDC	Defendant not present in Court represented by R. Allen Baylis, Retained Attorney.
	7	WVRAA	Defendant waives reading and advisement of the Original Citation.
	8	PLNGC	To the Original Citation defendant pleads NOT GUILTY to count(s) 1.
	9	CLSET	Court Trial set on 12/10/2008 at 01:30 PM in Department C54.
	10	DSROR	Court orders defendant released on own recognizance.
	11	NTDEF	Notice to defendant issued.
12/05/08	1	FITXT	City of Santa Ana - Office of the City Attorney on 12/05/08 filed.
12/10/08	1	CLTRAN	Calendar Line for CT transferred from C54 on 12/10/2008 at 1:30 PM to C52 on 12/10/2009 at 1:30 PM.
	2	CLTRAN	Calendar Line for CT transferred from C52 on 12/10/2009 at 1:30 PM to C52 on 12/10/2008 at 1:30 PM.
	3	HHELD	Hearing held on 12/10/2008 at 01:30:00 PM in Department C52 for Court Trial.
	4	OFJUD	Officiating Judge: Daniel M Ornelas, Commissioner
	5	OFJA	Clerk: S. Gratrix
	6	OFBAL	Bailiff: Present
	7	OFREP	Court Reporter: None
	8	TRSTR	This case came on regularly for trial.
	9	APNDC	Defendant not present in Court represented by R. Allen Baylis, Retained Attorney.
	10	WVDFP	Defendant's presence is waived pursuant to Penal Code 977(a).
	11	MOTSD	A request for traffic school is granted.
	12	WVTXT	Defendant waives the Court Trial.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
COUNTY OF ORANGE**

**DOCKET REPORT**

Case : SA128676PE I A

Name : Khaled, [REDACTED]

Date of Action	Seq Nbr	Code	Text
12/10/08	13	PLWTH	<b>Defendant's motion to WITHDRAW NOT GUILTY PLEA to count(s) 1 granted.</b>
	14	TSORD	Defendant is ordered to complete In County Traffic Violator School program as to count(s) 1.
	15	TSBFI	Defendant to pay \$100.00 plus penalty assessments plus in-county traffic school fee as to count(s) 1.
	16	TSEXF	Case continued to 01/20/2009 for payment of traffic school fee(s).
	17	SESEC	Pay Security Fee(s) pursuant to Penal Code 1465.8 totaling \$20.00.
	18	STALL	Payment of all monies due stayed to 01/20/2009.
	19	TSCOM	Defendant to complete traffic school program by 02/17/2009.
	20	NTDEF	Notice to defendant issued.
	21	NTDEF	Notice to defendant issued.
	22	NTPRT	Traffic School Notice reprinted.
12/29/08	1	REMRC	Remittance from receipt # 7009375 received in the amount of \$ 423.00.
	3	FSPYR	Credit Card Payment received via telephone.
	4	TSM LD	Traffic school information mailed to defendant.
	5	TSCOM	Defendant to complete traffic school program by 02/17/2009.
02/06/09	1	CLCST	<b>Further Proceedings set on 02/06/2009 at 09:00 AM in Department C54.</b>
	2	CLTRAN	<b>Calendar Line for FP transferred from C54 on 02/06/2009 at 09:00 AM to C52 on 02/06/2009 at 09:00 AM.</b>
	3	HHELD	<b>Hearing held on 02/06/2009 at 09:00:00 AM in Department C52 for Further Proceedings.</b>
	4	OFJUD	Officiating Judge: Daniel M Ornelas, Commissioner
	5	OFJA	Clerk: I. Escobedo
	6	OFBAL	Bailiff: S. DeMaio
	7	OFREP	Court Reporter: None
	8	APNDC	Defendant not present in Court represented by R. Allen Baylis, Retained Attorney.
	9	MOTBY	Motion by Defense to dismiss for lack of jurisdiction.
	10	MOTION	Motion denied.
	11	NTDEF	Notice to defendant issued.
	12	MOTBY	Motion by Defense to withdraw request for traffic school and set for Court Trial.
	13	MOTION	Motion granted.
	14	SVTSBI	\$100.00 Traffic School Bail plus in-county traffic school fee vacated as to counts 1.
	15	SVTSOR	Order to attend and complete TRAFFIC SCHOOL vacated as to count(s) 1.
	16	ADAIC	Defendant is formally arraigned and informed of the charges.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
COUNTY OF ORANGE

**DOCKET REPORT**

Case : SA128676PE I A

Name : Khaled, [REDACTED]

Date of Action	Seq Nbr	Code	Text
02/06/09	17	PLNGA	<b>To the Original Citation defendant pleads NOT GUILTY to all counts.</b>
	18	CLSET	<b>Court Trial set on 04/01/2009 at 01:30 PM in Department C52.</b>
	19	DFOTR	Defendant ordered to appear.
	20	TEXT	Defendant to be released on previous bail posted.
			Case to remain in Department C-52.
	21	NTDEF	Notice to defendant issued.
	22	REMVD	Remittance from Receipt Number 7009375 in the amount of \$ -423.00 voided.
	23	REMRC	Remittance from receipt # 7105350 received in the amount of \$ 423.00.
	24	CBLPST	Cash bail posted in the amount of \$ \$423.00 by Khaled, [REDACTED] Bail is Authorized: Y. Receipt # 7105350.
	25	FSTXT	Application voided and money placed on deposit per the request of the court.
	26	NTPRT	Notice to Defendant printed.
04/01/09	1	HHELD	<b>Hearing held on 04/01/2009 at 01:30:00 PM in Department C52 for Court Trial.</b>
	2	OFJUD	Officiating Judge: Daniel M Ornelas, Commissioner
	3	OFJA	Clerk: M. Vazquez
	4	OFBAL	Bailiff: M. Cruz
	5	OFREP	Court Reporter: None
	6	TRSTR	<b>This case came on regularly for trial.</b>
	7	APBOT	Officer Berg, Law Enforcement Officer, present in court.
	8	APNDC	Defendant not present in Court represented by R. Allen Baylis, Retained Attorney.
	9	WVDFP	Defendant's presence is waived pursuant to Penal Code 977(a).
	10	TRWST	<b>Witness, Officer Berg, sworn and testified.</b>

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
COUNTY OF ORANGE**

**DOCKET REPORT**

Case : SA128676PE I A

Name : Khaled, [REDACTED]

Date of Action	Seq Nbr	Code	Text
04/01/09	11	TEXT	<p>People's Exhibit #1 - Two Single-sided pages of front and back of citation with four color photographs of vehicle and defendant at intersection marked for identification.</p> <p>People's Exhibit #2 - Statement of Smartcamred Red Light Camera Technology describing the various processing functions of the red light camera systems marked for identification.</p> <p>People's Exhibit #3 - Declaration of Custodian of Records, signed by an employee of Redflex in accordance, with California Evidence Code 1280 and Declaration of Technology signed by employee of Redflex in accordance with California Evidence Code 1561 marked for identification. The above form attests to the authentication of the data.</p> <p>People's Exhibit #4 - Two single-sided pages of City of Santa Ana's automated Red Light Enforcement System and its compliance with vehicle code requirements marked for identification.</p> <p>People's Exhibit #5- Four pages of color photographs showing defendant driving the vehicle committing violation of 21453 (a) marked for identification.</p> <p>People's Exhibit #6 - One color Soundex Photo Image Record from the Department of Motor Vehicles along with thumbprint and signature of defendant marked for identification.</p> <p>People's Exhibit #7 - One 12 second video recorded on a CD Rom Media, showing the vehicle committing the violation marked for identification.</p> <p>People's Exhibit #8 - Declaration of Business Record: Intersection Maintenance Log. California Evidence Code Section 1271</p>
	12	TRTXT	The court views the 12 second video in open court.
	13	TRTXT	Defense objects to having the exhibits moved into evidence.
	14	TRTXT	Court orders Officer to retain all exhibit's for 45 day appeal period.
	15	MOTDD	Defense motion pursuant to Penal Code 1118 denied.
	16	FDCGC	Court finds defendant GUILTY as to count 1 as charged in the Original Citation.
	17	CLSET	<b>Sentencing set on 05/01/2009 at 08:30 AM in Department C52.</b>
	18	CLTXT	<b>Court will vacate finding and accept the proof of completion of Traffic School if it is submitted to the Court by 05/01/09.</b>
	19	CLTXT	<b>Clerk's Office may accept proof of Traffic School and submit it to the Court as Chamber's work.</b>
	20	BLPBS	Present bail deemed sufficient and continued.
04/29/09	1	FIAPPL	<b>NOTICE OF APPEAL RECEIVED AND FILED.</b>
	2	FIAPLD	Proposed Statement on Appeal filed.
05/01/09	1	HHELD	<b>Hearing held on 05/01/2009 at 08:30:00 AM in Department C52 for Sentencing.</b>
	2	OFJA	Clerk: C. Simoni

Name: Khaled, [REDACTED]

Case: SA128676PE I A



SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
COUNTY OF ORANGE

**DOCKET REPORT**


Case : SA128676PE I A

Name : Khaled, [REDACTED]

Date of Action	Seq Nbr	Code	Text	
05/01/09	3	OFBAL	Bailiff: M. Cruz	
	4	OFREP	Court Reporter: None	
	5	APNCR	No Court Reporter present at proceedings.	
	6	APDNC	Defendant not present in court.	
	7	BLCFN	Court orders bail posted FORFEITED with NO FURTHER PROCEEDINGS. Receipt # 7105350.	
	8	OFMCD	Minutes entered by J. Lopez on 05/07/2009.	
	05/08/09	1	CLCST	<b>Chambers Work set on 05/08/2009 at 06:00 PM in Department C54.</b>
		2	TEXT	Case forwarded to Dept. C54 to set settle Statement Hearing.
3		CLVCW	Case referred as Chambers Work on 05/08/2009.	
05/13/09	1	NTCFM	Notice of forfeiture of cash bail mailed.	
05/19/09	1	NTAPDM	Notice of Hearing on Settlement of Statement on Appeal mailed to defendant, DA's Office and R. Allen Baylis, Esq..	
05/29/09	1	TEXT	NOTICE OF MOTION AND MOTION TO INTERVENE AS REAL PARTY IN INTEREST AND FOR REHERSING ON SETTLEMENT OF STATEMENT ON APPEAL AND DECLARATION TERESA L. JUDD FILED	
	2	HHELD	<b>Hearing held on 05/29/2009 at 02:30 PM in Department C54 for Chambers Work.</b>	
	3	OFJUD	Officiating Judge: Daniel M Ornelas, Commissioner	
	4	OFJA	Clerk: J. Lopez	
	5	OFBAL	Bailiff: H. Perez	
	6	OFREP	Court Reporter: None	
	7	TEXT	Settled Statement Hearing held.	
	8	APDNC	Defendant not present in court.	
	9	TEXT	Defendant having failed to appear for hearing, Proposed Settled Statement to become Engrossed Settled Statement.	
07/30/09	1	NTRFR	Receipt for records and papers on Record on Appeal prepared and forwarded to Superior Court Appellate Division, as listed on receipt.	
09/15/09	1	NTRFR	Receipt for records and papers on Record on Appeal prepared and forwarded to Superior Court Appellate Division, as listed on receipt.	
	2	NTAPDM	Certification on Appeal mailed to Apellant and Respondent.	


5

# NOTICE OF TRAFFIC VIOLATION

The City of Santa Ana Police Department			
<b>NOTICE TO APPEAR</b> Automated Traffic Enforcement SA128676PE			
DATE OF VIOLATION August 02, 2008		TIME 12:00	
NAME (FIRST, MIDDLE, LAST) ██████████ <b>KHALED</b>			
ADDRESS ████████████████████			
CITY ██████████		STATE CA	ZIP CODE ██████████
DRIVER LIC. NO. ██████████	STATE CA	CLASS C	COMMERCIAL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
SEX M	HAIR ██████████	EYES ██████████	HEIGHT ██████████
VEH. LIC. NO. ██████████		STATE CA	<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b))
YR. OF VEH. 1985	MAKE ██████████	BODY STYLE SEDAN	<input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)
REGISTERED OWNER OR LESSEE ██████████ KHALED			
ADDRESS ████████████████████			
CITY ██████████		STATE CA	ZIP CODE ██████████
CODE AND SECTION VC 21453(a)		DESCRIPTION Failure to Stop at Red Light	
LOCATION OF VIOLATION <b>At 17th St &amp; Tustin Ave</b>			
<p><input checked="" type="checkbox"/> VIOLATION WAS NOT COMMITTED IN MY PRESENCE. THE ABOVE IS DECLARED ON INFORMATION AND BELIEF AND IS BASED ON PHOTOGRAPHIC EVIDENCE.</p> <p>I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THE FOREGOING IS TRUE AND CORRECT.</p>			
8-Aug-08 DATE ISSUED	GARY FRATUS DECLARANT	 SIGNATURE	2087 ID NO
YOU MUST RESPOND TO THE COURT ON OR BEFORE:		<b>Clerk's Office Hours:</b>	
<b>WHEN: 22-Sep-08</b>		Monday - Friday 7:30 AM - 6:00 PM	
		<b>Night Court:</b>	
		First and Third Tuesday of Each Month 4:00 PM - 6:00 PM	
<b>WHAT TO DO:</b> FOLLOW THE INSTRUCTIONS ON THE REVERSE.			
<b>WHERE: The Superior Court of California</b>			
700 Civic Center Dr. West			
Santa Ana, CA 92702			
714-449-8100			
Notice to Appear form approved by the Judicial Council of California Rev. 08-20-06 (Veh. Code, § 4051A)			SEE REVERSE TR-115

**Certificate of Mailing**

I, RYAN MCGAUGHEY of Redflex Traffic Systems Inc., 15020 N 74th Street, Scottsdale, Arizona 85280, do certify that I am over 18 years old and not a party to the above entitled case. On Friday, August 8, 2008, I placed this Notice to Appear in an envelope addressed to the registered owner, lessee, or identified driver as shown above, sealed it, and deposited the envelope in a United States Postal Service receptacle located at the Airpark United States Postal Service office in Scottsdale, Arizona. In the ordinary course of business, the envelope is sealed, affixed with proper postage, and mailed. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Dated: 08-Aug-08 RYAN MCGAUGHEY (Code of Civil Procedure 1013a(3), 2015.5)

██████████ **KHALED**  
████████████████████

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <b>R. Allen Baylis SBN 194496</b> <b>9042 Garfield Ave., Suite 306</b> <b>Huntington Beach, CA 90720</b>  TELEPHONE NO.: <b>714-962-0915</b> FAX NO.: <b>714-962-0930</b> ATTORNEY FOR (Name): <b>[REDACTED] Khaled</b>	FOR COURT USE ONLY  <b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER  <b>APR 29 2009</b> ALAN CARLSON, Clerk of the Court.  BY: <u><i>[Signature]</i></u> DEPUT
NAME OF COURT: <b>Superior Court of California, County of Orange</b> STREET ADDRESS: <b>700 Civic Center Drive West</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Santa Ana, CA 92701</b> BRANCH NAME: <b>Central Justice Center</b>	CASE NUMBER: <b>SA128676PE</b>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT/APPELLANT (Name): <b>[REDACTED] Khaled</b>	
<b>NOTICE OF APPEAL (infraction)</b>	

Defendant/Appellant (Name): **[REDACTED] Khaled** in the above-entitled action hereby appeals to the Appellate Division of the Superior Court in and for the County of (name): **Orange** State of California, from the  judgment and/or  order entered in the above-named trial court on (date): **April 1, 2009**

Date: **April 28, 2008**

R. Allen Baylis .....  
 (TYPE OR PRINT NAME)

*[Signature]*  
 (SIGNATURE OF DEFENDANT/APPELLANT OR ATTORNEY)

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

May CP  
MAR 29 2009

ALAN CARLSON, Clerk of the Court

BY: CP DEPUTY

1 JOSEPH W. FLETCHER (SBN 96813)  
CITY ATTORNEY  
2 TERESA L. JUDD  
DEPUTY CITY ATTORNEY (SBN 233005)  
3 CITY OF SANTA ANA  
20 CIVIC CENTER PLAZA M-29  
4 P.O. BOX 1988  
SANTA ANA, CALIFORNIA 92702  
5 TELEPHONE: (714) 647-5201  
FACSIMILE: (714) 647-6515

6 Attorneys for CUSTODIAN OF RECORDS OF THE  
7 CITY OF SANTA ANA POLICE DEPARTMENT

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

11 PEOPLE OF THE STATE OF  
12 CALIFORNIA,

13 Plaintiff,

14 vs.

15 [REDACTED] KHALED,

16 Defendant.

17  
18 CITY OF SANTA ANA POLICE  
DEPARTMENT,

19 Real Party In Interest.

) Case No.: SA128676PE

) **NOTICE OF MOTION AND**  
) **MOTION TO INTERVENE AS**  
) **REAL PARTY IN INTEREST AND**  
) **FOR REHEARING ON SETTLEMENT**  
) **OF STATEMENT ON APPEAL**  
) **AND DECLARATION TERESA L.**  
) **JUDD**

21 **TO DEFENDANT, COUNSEL FOR DEFENDANT, AND THIS HONORABLE**  
22 **COURT:**

23 PLEASE TAKE NOTICE that the CITY OF SANTA ANA hereby files the  
24 instant Motion to Intervene as Real Party in Interest and for Rehearing on the Settlement  
25 of Statement on Appeal.

26 ///

27 ///

28 ///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The CITY OF SANTA ANA hereby seeks to intervene as a Real Party in Interest  
4 in the case at bar. The City of Santa Ana must be considered a Real Party in Interest to  
5 this case because the appeal presents a direct challenge to the validity of the City of  
6 Santa Ana's automated red light photo enforcement camera system and procedures. As  
7 such, any decision by the Court will directly affect the City of Santa Ana and its camera  
8 system. Accordingly, the City of Santa Ana Police Department is a Real Party in Interest  
9 to the instant matter, and thus has the right to participate in these proceedings.

10 In addition, the City of Santa Ana seeks a rehearing on the Settlement of  
11 Statement on Appeal because the court was presented with only one side of the issues  
12 involving the underlying proceedings, which relate to the City of Santa Ana's automated  
13 photo enforcement system. The City of Santa Ana did not receive any notice or service  
14 of the Notice of Appeal, Appellant's Proposed Statement on Appeal, or the Hearing on  
15 Settlement of Statement on Appeal for this matter, and as a result the City of Santa Ana  
16 was not afforded the opportunity to participate in the hearing. After a review of the  
17 record, it appears that the District Attorney was receiving service of the documents, but it  
18 is unknown whether the District Attorney appeared in this matter.

19 The underlying issue in this case is not only of great concern to the City of Santa  
20 Ana, but also potentially affects other cities operating such systems. As such, the City of  
21 Santa Ana herein petitions to intervene as a Real Party in Interest in this matter and also  
22 moves for a rehearing on the Settlement of Statement on Appeal due to the lack of due  
23 process in the proceedings.

24 **II. THE CITY OF SANTA ANA IS A REAL PARTY IN INTEREST AND**  
25 **SHOULD BE AFFORDED THE OPPORTUNITY TO RESPOND TO**  
26 **APPELLANT'S PROPOSED STATEMENT ON APPEAL**

27 The City of Santa Ana must be considered a real party in interest to this case  
28 because the appeal presents a direct challenge to the validity of the City of Santa Ana's

1 automated red light photo enforcement camera system and procedures. As such, any  
2 decision by the Court will directly affect the City of Santa Ana and its camera system.

3 In addition, the City of Santa Ana made a prior appearance in this matter as a real  
4 party in interest. Specifically, the Santa Ana City Attorney's Office, as counsel for the  
5 Custodian of Records for the Santa Ana Police Department, responded in writing on  
6 November 19, 2008, to the Defendant's informal discovery requests dated November 10,  
7 2008. This response was sent not only to Appellant's counsel but also to the Court. A  
8 true and correct copy of this correspondence is attached herewith as Exhibit "A" and  
9 incorporated herein by this reference.

10 In previous appeals involving the City of Santa Ana's automated photo  
11 enforcement citation system, the City Attorney's office received notice, briefing  
12 schedules and notification of oral argument. Further, and more importantly, the Supreme  
13 Court recognized that the City of Santa Ana Police Department is a Real Party in Interest  
14 in a similar case in which the Court and the ticketed driver simply ceased serving the  
15 City of Santa Ana with notice of an appeal of an automated red-light photo citation.  
16 (*People v. Fischetti; City of Santa Ana Police Department, Real Party in Interest*, 2009  
17 Cal. LEXIS 2544 (Cal., Mar. 109, 2009), amending *People v. Fischetti*, 2009 Cal. LEXIS  
18 1589 (Cal., Feb. 25, 2009). In *Fischetti*, the California Supreme Court specifically  
19 amended its order granting the City's petition for depublication by changing the case title  
20 and adding the City of Santa Ana Police Department as Real Party in Interest. (*Id.*)

21 California Rule of Court Rule 8.901(b) provides that when a notice of appeal of an  
22 infraction is filed, the trial court clerk must promptly mail a notification of the file to the  
23 parties. A review of the Court Docket indicates that on April 29, 2009, Defendant's  
24 Notice of Appeal was received and filed with the Court for the case at bar. The Docket  
25 also indicates that on May 19, 2009, the Notice of Hearing on Settlement of Statement on  
26 Appeal was mailed to Defendant, the District Attorney's Office and defense counsel, but  
27 not to the City of Santa Ana.

28

1 At no time after the trial in this matter was the City of Santa Ana provided notice  
2 of any further proceedings in the case at bar, including the Notice of Appeal, Appellant's  
3 Proposed Statement, or the Hearing on Settlement of Statement on Appeal. Even though  
4 both the Appellant and the Court were aware of the response by the City of Santa Ana as  
5 the Real Party in Interest, all notices and briefs from both the Appellant and the Court  
6 were served on the District Attorney, who never made an appearance, and not the City  
7 Attorney.

8 The prospect that the Appellate Division may decide a case of this nature with  
9 briefing and oral argument by only a single party makes a sham of the adversarial  
10 system. As the United States Supreme Court has noted, the adversarial system is a  
11 bedrock principle of the Anglo-American system of justice. "[Truth], Lord Eldon said,  
12 'is best discovered by powerful statements on both sides of the question.' This dictum  
13 describes the unique strength of our system of criminal justice. 'The very premise of our  
14 adversary system of criminal justice is that partisan advocacy on both sides of a case will  
15 best promote the ultimate objective that the guilty be convicted and the innocent go free.'  
16 *Herring v. New York*, 422 U.S. 853, 862 (1975)." *United States v. Cronin*, 466 U.S. 648,  
17 655 (1984) (footnote omitted).

18 Here, the underlying issue in this case is not only of great concern to the City of  
19 Santa Ana, but also potentially affects other cities operating such systems. In not being  
20 afforded notice of the appeal, Appellant's Proposed Statement on Appeal, or the Hearing  
21 for the same, the City of Santa Ana was denied the opportunity to respond and was  
22 therefore fundamentally denied notice and the opportunity to be heard on an issue that  
23 has potential severe consequences for the City of Santa Ana, as well as other cities  
24 throughout the state. The failure to allow the City of Santa Ana any opportunity to be  
25 heard on the validity of its photo enforcement system is of major character. As such, the  
26 failure to provide any notice to the City service of the Appellant's Notice of Appeal, or  
27 notice of the Hearing on Settlement of Statement on Appeal on the same, deprives the  
28 City of Santa Ana of due process.

1 As such, the City of Santa Ana respectfully requests this Court grants its Motion  
2 to Intervene as a Real Party in Interest in this matter. In addition, the City of Santa Ana  
3 respectfully requests this Court grant its Motion for a Rehearing on the Settlement of  
4 Statement Hearing so that the City may sufficiently respond.

5  
6 Respectfully submitted,

7 JOSEPH W. FLETCHER  
8 City Attorney

9  
10 Dated: May 29, 2009

11 By: 

12 TERESA L. JUDD  
13 Deputy City Attorney  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28





Exhibits

MAYOR  
Miguel A. Pulido  
MAYOR PRO TEM  
Claudia C. Alvarez  
COUNCIL MEMBERS  
P. David Benavides  
Carlos Bustamante  
Michele Martinez  
Vincent F. Sarmiento  
Sal Tinajero



CITY MANAGER  
David N. Ream  
CITY ATTORNEY  
Joseph W. Fletcher  
CLERK OF THE COUNCIL  
Patricia E. Healy

CITY OF SANTA ANA  
OFFICE OF THE CITY ATTORNEY

20 CIVIC CENTER PLAZA M-29 • P.O. BOX 1988  
SANTA ANA, CALIFORNIA 92702  
(714) 647-5201 • Fax (714) 647-6515

November 19, 2008

**SENT VIA U.S. MAIL**

R. Allen Baylis, Esq.  
9042 Garfield Avenue, Suite 306  
Huntington Beach, California 92646

Re: *People v. Khaled*  
Orange County Superior Court Case No. SA128676PE

Dear Mr. Baylis:

The Santa Ana Police Department received your request for discovery pertaining to the above-referenced matter dated November 10, 2008. This letter is provided in response to your request and to inform you of the method by which you may obtain the requested discovery pursuant to *Penal Code* Sections 1054, *et seq.*

I am informed that the Santa Ana Police Department has ordered an evidence package in this matter and it should be received shortly. In addition, *Penal Code* Section 1054.1(a) requires the prosecuting attorney to disclose the names and addresses of persons the People may call as witnesses. The District Attorney's office is charged with prosecution of California *Vehicle Code* violations, however, they do not staff traffic infraction trials in Orange County Superior Court. The City Attorney's office does represent the Custodian of Records for the Santa Ana Police Department. Thus, when a discovery request on a traffic matter is received our office attempts to respond with those items required to be produced under the *Penal Code*. Without question, your requests went beyond the discovery obligation of the agency, however, the Santa Ana Police Department responds and the following disclosure is hereby made:

Officer Mark Bell, 60 Civic Center Plaza, Santa Ana, California 92702  
Officer Gary Fratus, 60 Civic Center Plaza, Santa Ana, California 92702  
Officer Alan Berg, 60 Civic Center Plaza, Santa Ana, California 92702  
Officer James Berwanger, 60 Civic Center Plaza, Santa Ana, California 92702  
Vinh Nguyen, City of Santa Ana, 20 Civic Center Plaza, Santa Ana, California 92702  
Anthony Parrino, Redflex Traffic Systems, Scottsdale, AZ  
Edward Tiedje, Redflex Traffic Systems, Scottsdale, AZ

Ltr. to Mr. Baylis  
*People v. Khaled*  
November 19, 2008  
Page 2 of 5

*Penal Code* Section 1054.1(b)-(f) requires disclosure of any statements of a defendant, all relevant real evidence seized or obtained, the existence of a felony conviction of any material witness (there are none in this instance), and exculpatory evidence, and any relevant written or recorded statements of witnesses the prosecutor intends to call at trial.

All real evidence obtained as part of the Santa Ana Police Department's investigation of the charged offense against your client is available for your inspection. Additionally, you may examine items falling within the categories of documents you requested, if those items exist and are not properly classified as work-product or privileged communications. Should you desire a copy of a certain document the Police Department will provide you with a copy at no charge. Voluminous documents may require a short time period for processing or you may choose to arrange for a copy service to be present at your scheduled appointment time.

Please contact the Photo Enforcement Unit at (714) 245-8240 and indicate that you would like to schedule an appointment to obtain any physical evidence and examine documents. If you intend to have a copy service accompany you to the document examination, please advise the Clerk of this the time you make your appointment.

The following additional items you have requested are hereby responded to or specifically objected to on the following grounds:

Request No. 1

See above.

Request No. 2

See above.

Request No. 3

The Santa Ana Police department is not aware that any affidavits of nonliability were submitted in relation to this case. However, to the extent such documents exist, they would be included in the material available for inspection and copying at the Santa Ana Police Department.

Request No. 4

City of Santa Ana  
Department of Public Works, Traffic Engineering  
20 Civic Center Plaza  
Santa Ana, CA 92702

Ltr. to Mr. Baylis  
*People v. Khaled*  
November 19, 2008  
Page 3 of 5

Request No. 5

All materials that the Santa Ana Police Department intends to offer as evidence at trial are available for inspection and copying at the Santa Ana Police Department.

Request No. 6

All materials that the Santa Ana Police Department intends to offer as evidence at trial are available for inspection and copying at the Santa Ana Police Department.

Request No. 7

A copy of the citation is available for inspection and copying at the Santa Ana Police Department.

Request No. 8

The Santa Ana Police department is not aware of any statements regarding the case other than those set forth in the material available for inspection and copying at the Santa Ana Police Department.

Request No. 9

The Santa Ana Police Department is not aware of any handwritten notes and/or case memorandums regarding this matter. However, all information that the Santa Ana Police Department intends to offer as evidence at trial is available for inspection and copying at the Santa Ana Police Department.

Request No. 10

Digital cameras do not require calibration, nor is there any way to calibrate the camera. Maintenance Job Statistics for the intersection of Seventeenth Street and Tustin Avenue are available for inspection and copying at the Santa Ana Police Department.

Request No. 11

The information requested is available for inspection and copying at the Santa Ana Police Department.

Request No. 12

The information requested is available for inspection and copying at the Santa Ana Police Department.

Request No. 13

The information requested is available for inspection and copying at the Santa Ana Police Department.

Request No. 14

A copy of the citation, all photos, a DMV Soundex, and video are available for inspection and copying at the Santa Ana Police Department.

Request No. 15

Objection. This request is overly broad in that it requests information for a period of 120 days. Without waiving said objections, the Santa Ana Police Department responds as follows: Digital cameras do not require calibration, nor is there any way to calibrate the camera. Maintenance Job Statistics for the intersection of Seventeenth Street and Tustin Avenue and yellow timing information are available for inspection and copying at the Santa Ana Police Department.

Request No. 16

Objection. This request calls for information that is protected from disclosure by the attorney-client and/or work-product privileges. However, without waiving said objection, the Santa Ana Police Department responds as follows: Maintenance Job Statistics for the intersection of Seventeenth Street and Tustin Avenue are available for inspection and copying at the Santa Ana Police Department.

Request No. 17

Objection. Section 21455.5(c)(1) does not require that the guidelines be written. However, without waiving said objection, the Santa Ana Police Department responds as follows: to the extent that there are written guidelines, they are available for inspection and copying at the Santa Ana Police Department.

Request No. 18

Objection. Section 21455.5(c)(2)(A) does not require that the guidelines be written. However, without waiving said objection, the Santa Ana Police Department responds as follows: to the extent that there are written guidelines, they are available for inspection and copying at the Santa Ana Police Department.

Request No. 19

A copy of the contract with Redflex is available for inspection and copying at the Santa Ana Police Department.

Request No. 20

Objection. The Santa Ana Police Department is not the prosecuting agency and is under no obligation to turn over *Brady* material. However, without waiving said objections, the Santa Ana Police Department is not aware of any information or material favorable to the accused, material either to guilt or punishment, or mandated by the United States Constitution.

- a. Objection. The request may call for information protected from disclosure by the attorney-client and/or work-product privileges. However, without waiving said objection, the Santa Ana Police Department responds as follows: The Santa Ana Police Department is not aware of any exculpatory evidence favorable to the defendant in this matter.

Ltr. to Mr. Baylis  
*People v. Khaled*  
November 19, 2008  
Page 5 of 5

- b. Objection. This request assumes facts not in evidence, namely that the photo enforcement program is both selectively and discriminatorily enforced. Without waiving said objection, the Santa Ana Police Department responds as follows: the Santa Ana Police Department has no documents responsive to this request.

Request No. 21


Objection. This request is overly broad in that it requests documents for the last seven years. However, without waiving said objection, the Santa Ana Police Department responds as follows: a copy of the most recent speed survey is available for inspection and copying at the Santa Ana Police Department.

Request No. 22

Objection. The requested information is irrelevant and overly broad. In addition, disclosure of the requested information to a third party would constitute an unwarranted invasion of privacy. Further, the requested information and records are confidential and protected from disclosure by *California Government Code* Section 6254(f) and *California Vehicle Code* Section 20012.

Very truly yours,

JOSEPH W. FLETCHER  
City Attorney

By:   
TERESA L. JUDD  
Deputy City Attorney

TLJ:

Cc: Officer Gary Fratus, Santa Ana Police Department, Photo Enforcement

Orange County Superior Court  
Central Justice Center, Department C54  
Attn.: Clerk – Lodge with Case No. SA128676PE  
700 Civic Center Drive West  
Santa Ana, CA 92701

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

**STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the aforesaid county; I am over the age of eighteen and not a party to the within action; my business address is 20 Civic Center Plaza, 7<sup>th</sup> Floor, Santa Ana, California 92702.

On May 29, 2009, I served the foregoing document scribed as: **NOTICE OF MOTION AND MOTION TO INTERVENE AS REAL PARTY IN INTEREST AND FOR REHEARING ON SETTLEMENT OF STATEMENT ON APPEAL AND DECLARATION OF TERESA L. JUDD** in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

R. Allen Baylis  
ATTORNEY AT LAW  
9042 Garfield Avenue, Suite 306  
Huntington Beach, CA 92646

ORANGE COUNTY DISTRICT ATTORNEY  
700 Civic Center Drive West  
Santa Ana, CA 92701

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

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

Executed on May 29, 2009 at Santa Ana, California.

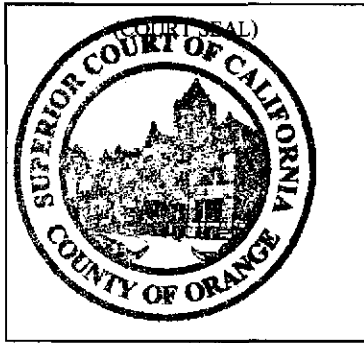
  
\_\_\_\_\_  
JEANETTE M. PALMA



Superior Court Case Number:SA128676PE

Appellate Division Case Number:

I, ALAN CARLSON, CHIEF EXECUTIVE OFFICER AND CLERK OF THE SUPERIOR COURT for the county of Orange, State of California, hereby certify that the foregoing is a true and correct transcript.



ALAN CARLSON, Chief Executive Officer and Clerk

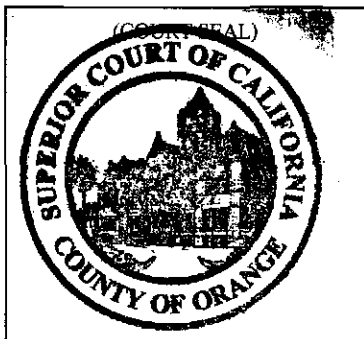
By: \_\_\_\_\_

C. Gonzalez, Deputy Clerk

Pursuant to rule 8.913(d) of the California Rules of Court, I HEREBY CERTIFY the foregoing to be a full, true and correct Transcript on Appeal.

Original Transcript on Appeal to:  
SUPERIOR COURT, APPELLATE DIVISION

DATE:9/15/09



ALAN CARLSON, Chief Executive Officer and Clerk

By: \_\_\_\_\_

C. Gonzalez, Deputy Clerk