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10 Real Party in Interest City of Daly City

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12 SUPERIOR COURT OF CALIFORNIA – COUNTY OF SAN MATEO

13 The People of the State of California  
14 Plaintiff,

Case No. AD 0

City of Daly City's  
Petition for Rehearing.

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16 v.  
N Lopez  
17 Defendant.

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19 Real Party in Interest, City of Daly City

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21 STATEMENT OF FACTS

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23 Defendant [REDACTED] Lopez was charged with a violation of California Vehicle  
24 Code section 21453(a), an infraction issued by the City of Daly City (the "City") through the use  
25 of a red light camera automated enforcement system. Defendant is accused of failure to stop at a  
26 red light on February 19, 2009 at an intersection in Daly City, California. Defendant requested a  
27 court trial which took place on July 2, 2009. The trial court found Appellant guilty of a traffic  
28 infraction and assessed a fine in the amount of \$436.00. Appellant filed an appeal of the trial

1 court's ruling on October 22, 2009.<sup>1</sup> The City of Daly City, as a real party in interest, filed a  
2 response brief on November 30, 2009. However, the Appellate Department held a hearing on the  
3 matter on November 13, 2009. The Appellate Department reversed the Trial Court's ruling on  
4 December 3, 2009. The City received the Appellate Department's decision on December 8,  
5 2009. The City, on behalf of the Police Department, hereby submits this Petition for Rehearing, as  
6 authorized by California Rules of Court Section 8.889.

7  
8 **ARGUMENT**

9 The Police Department has been prejudiced by the Appellate Division's process in the  
10 handling of traffic court decision appeals. On or around October 30, 2009, the Daly City Police  
11 Department received an unsigned, unendorsed copy of Appellant's Brief. The Police Department  
12 did not receive any official Notice of Appeal from the Appellate Division. The Police Department  
13 did not receive any notification that a hearing had been scheduled in this matter, as required by the  
14 Superior Court of California County of San Mateo Local Court Rules ("LCR"). Under LCR, Rule  
15 1.6., the hearing date will be subject to written notice to the parties at least 20 days prior to the  
16 hearing date. The Daly City Police Department is a party to this Appeal, as the District Attorney  
17 did not represent the People during the Traffic Court trial. Rather, a Daly City Police Department  
18 representative presented the evidence during the Traffic Court trial.

19 The City respectfully submits that the Daly City Police Department should have received  
20 notification prior to the hearing date, to allow a Police Department representative to appear and  
21 submit oral argument and submit the City's response brief for the Appellate Court's consideration.

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27 <sup>1</sup> Appellant mailed a non-conformed, unsigned copy of the Appellant's Opening Brief,  
28 dated October 22, 2009. The Police Department received Appellant's Opening  
Brief on or around October 30, 2009.

CONCLUSION

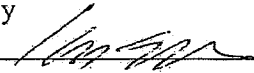
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The Daly City Police Department respectfully requests that the Appellate Division grant this Petition for Rehearing on the grounds that it did not receive adequate notice of the November 13, 2009 hearing. The Daly City Police Department also respectfully requests that as part of granting of this Petition for Rehearing, that the Appellate Division allow the City's Response Brief to be taken under submission and considered in this matter.

Dated: December 10, 2009

Respectfully Submitted,

By Kelly Schott  
Asst. City Attorney



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Attorneys for Real Party in Interest  
City of Daly City