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City Of West Hollywood

Subject: Certificate of Mailing

This analysis examines the proper mailing procedure for red light camera citations as set forth in Vehicle Code Section 40518(a). This section commands that the US Post Office account for the delivery of red light camera citations on a uniquely specified document called a "Certificate of Mailing". But as straightforward as this section is, numerous agencies use a mailing practice that is contradictory to the authorized instructions.

The method used by some agencies allows for their vendor to account for the mailing of red light camera citations by use of a fictitious certificate of mailing. This fictitious certificate of mailing is implanted on the face of the citation in the form of a written affidavit and signed by an employee of the vendor (Exhibit A). The affidavit is accompanied by two sections from the Code of Civil Procedure (1013(a)3 and 2015.5). These Civil Code sections are given as justification for this method of mailing and therefore satisfying, what they incorrectly believe to be, a required *proof of service*. This practice is not only adverse to written law, but a serious conflict of interest exists.

The focal point of this commentary will be the following excerpt from 40518(a) CVC:

"...and delivered by mail within 15 days of the alleged violation to the current address of the registered owner of the vehicle on file with the department, with a certificate of mailing obtained as evidence of service..."

This excerpt mandates the timeframe, and manner in which, red light camera citations are mailed. The section is very clear and is written in plain language with an unambiguous reference to a specific document and legal procedure that has a definitive definition. In part, the excerpt states, "...with a certificate of mailing obtained as evidence of service....". A certificate of mailing is a noun, not an adjective, and refers to form 3877 that is only provided by the US Post Office (Exhibit B). As stated, 40518(a) CVC specifically requires that this document be "obtained", not created, and further asserts that it be used as *evidence of service*.

There are some who mistakenly believe that *evidence of service* is synonymous with *proof of service*. The conflict is that a *proof of service* is implemented in civil matters whereas red light camera citations are adjudicated in criminal proceedings. Further, a *proof of service* requires that a party to an action be personally served. But, 40518(a) does not require that a defendant be personally served. It is only required that the registered owner is mailed a citation within 15 days of the violation. If personal service were the intention of our State Legislatures, it would have been expressed as it is in other statutes of the Vehicle Code.

On the other hand, *evidence of service* has a different legal definition that applies only to the US Post Office. The definition is found in the United States Code as follows:

39 USC 5205 - Sec. 5205. Evidence of service

A carrier shall submit evidence of its performance of mail transportation service, signed by an authorized official, in such form and at such times as the Postal Service requires. Mail transportation service is considered that of the carrier performing it regardless of the ownership of the property used by the carrier.

The intent of 40518(a)CVC should be apparent. It is clear that the above federal statute only empowers the US Post Office to satisfy the *evidence of service* requirement. In essence, to avoid conflicts of interest, 40518(a) establishes a means through which a neutral party must give an official accounting for the delivery of the red light camera citations; where for-profit vendors are involved the temptation to produce fallacious documentation exists.

In closing, I would like to mention that the use of a fictitious certificate of mailing is probably the most commonly used method through out the State of California. Agencies have been using this method for years as have their respective court jurisdictions accepted these misleading documents. And because of the continuing practice, some make the assumption that this method must be lawful given the presumed credibility of lower courts. But before loaning instant credibility, please be aware of certain courtroom cultures: I find it very odd that I have accumulated approximately 23 decisions from the LA County Court of Appeals whereas many jurisdictions have not one to show for. It is simply not plausible to believe that, in so many jurisdictions, no defendant has ever attempted to adjudicate their matter at the appellate level. The implication of the preceding statement should be self-explanatory and considered when evaluating credibility.

NOTICE OF TRAFFIC VIOLATION

EXH A

City of [REDACTED] Police Services					
NOTICE TO APPEAR Automated Traffic Enforcement [REDACTED]					
DATE OF VIOLATION [REDACTED] 2006	TIME [REDACTED]	DAY OF WEEK [REDACTED]			
NAME (FIRST, MIDDLE, LAST) [REDACTED]					
ADDRESS [REDACTED]					
CITY [REDACTED]	STATE CA	ZIP CODE [REDACTED]			
DRIVER LIC. NO. [REDACTED]	STATE CA	COMMERCIAL <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	CLASS C	AGE [REDACTED]	BIRTH DATE [REDACTED]
SEX M	HAIR Brown	EYES Brown	HEIGHT [REDACTED]	WEIGHT [REDACTED]	
VEH. LIC. NO. [REDACTED]	STATE CA	<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 16210(b)) <input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)			
YR. OF VEH. [REDACTED]	MAKE [REDACTED]	BODY STYLE [REDACTED]			
REGISTERED OWNER OR LESSEE [REDACTED]					
ADDRESS [REDACTED]					
CITY [REDACTED]	STATE CA	ZIP CODE [REDACTED]			
CODE AND SECTION VC 21453(a)		DESCRIPTION Failure to Stop at Red Light			
LOCATION OF VIOLATION City/County of Occurrence					
At [REDACTED] Pkwy (SB) [REDACTED] County					
I VIOLATION WAS NOT COMMITTED IN MY PRESENCE. THE ABOVE IS DECLARED ON INFORMATION AND BELIEF AND IS BASED ON PHOTOGRAPHIC EVIDENCE. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THE FOREGOING IS TRUE AND CORRECT.					
[REDACTED]-06 DATE ISSUED	LANCE CHRISTENSEN DECLARANT	<i>Lance E. Christensen</i> SIGNATURE	1893 ID NO		
YOU MUST RESPOND TO THE COURT ON OR BEFORE:					
WHEN: [REDACTED]-06		Time: Clerk's Office Hours Monday - Friday 7:30 AM - 5:00 PM			
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.					
WHERE: [REDACTED] JUSTICE CENTER - TRAFFIC COURT [REDACTED] [REDACTED] CA [REDACTED] [REDACTED]					
Judicial Council of California Form Rev. 09-20-05 (Veh. Code, § 40518)			SEE REVERSE TR-115		

Certificate of Mailing

I, SANDY ESTRADA of Redflex Traffic Systems Inc., 15020 N 74th Street, Scottsdale, Arizona 85260, do certify that I am over 18 years old and not a party to the above entitled case. On [REDACTED] 2006, 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.

Sandy Estrada

Dated: [REDACTED]-06 SANDY ESTRADA (Code of Civil Procedure 1013a(3), 2015.5)

Certificate of Mailing for 01/29/2008

EXH B

Article Number	Name of Addressee, Street, and Post Office Address	Indicate type of mail: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input type="checkbox"/> COD <input type="checkbox"/> Certified	Return Receipt for Merchandise <input type="checkbox"/> Inlet Recorded Del. <input type="checkbox"/> Express Mail	Check appropriate block for Registered Mail: <input type="checkbox"/> With Postal Insurance <input type="checkbox"/> Without Postal Insurance	Postmark and Date of Receipt	Additional stamp here if issued as certificate of mailing for the additional copies of the bill.		
46		Postage	Handling Charge	Insured Value	Dom. Sender Fee	S. D. Fee	S. D. Fee	Post. Del. Fee
46		0.41	0.35					
47		0.41	0.35					
48		0.41	0.35					
49		0.41	0.35					
50		0.41	0.35					
51		0.41	0.35					
52		0.41	0.35					
53		0.41	0.35					
54		0.41	0.35					
55		0.41	0.35					
56		0.41	0.35					
57		0.41	0.35					
58		0.41	0.35					
59		0.41	0.35					
60		0.41	0.35					

Total Number of Pieces & Labels by Service: **15**

Total Number of Pieces Received at Post Office: _____

Postmaster, Pw (Name of Receiving Employee): _____

see for declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of reconstructed documents under Express Mail document reconstruction insurance shall be limited to \$500 per document. The maximum indemnity payable on Express Mail document reconstruction insurance shall be limited to \$500 per document. For registered mail, see with optional postal insurance. See Domestic Mail Manual (DMM) 532.1 for details on and COD mail. See international MW Manual for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.

PS Form 3877, February 1994

Form Must be Completed by Typewriter, Ink or Ball Point Pen

Los Angeles Office: _____

Court ASCII Dump: _____

U.S. Post Office: _____

Date: **JAN 29 2008**

Signature: _____

