

INITIATIVE LEGAL GROUP APC  
1800 CENTURY PARK EAST, SECOND FLOOR, LOS ANGELES, CALIFORNIA 90067

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11 Atto [redacted] laintiffs [redacted] Plumleigh  
12 and [redacted] Hazard [redacted]

13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA

15  
16 [redacted] UMLEIGH d  
[redacted] HAZARD [redacted]  
17 and on behalf of other  
18 members of the general public  
similarly situated,

19 Plaintiffs,

20 vs.

21 CITY OF SANTA ANA; PAUL M.  
22 WALTERS; JOSEPH W.  
FLETCHER; REDFLEX TRAFFIC  
23 SYSTEMS (CALIFORNIA), INC., a  
California corporation; REDFLEX  
24 TRAFFIC SYSTEMS, INC., a  
Delaware corporation; and DOES 1  
25 through 10, inclusive,

26 Defendants.  
27  
28

Case No.: SACV10-1332-CJC (RNBx)

FIRST AMENDED CLASS ACTION

- (1) Violation of title 42, United States Code, section 1983 (Civil Rights Act of 1871);
- (2) Violation of article I, section 19(a) of the California Constitution (Inverse Condemnation);
- (3) Unjust Enrichment—for Violation of California Vehicle Code, section 21455.5(b) (Traffic Camera Warning Notice); and
- (4) Violation of California Business & Professions Code, sections 17200 *et seq.*

**Jury Trial Demanded**

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1 Plaintiffs, individually, and on behalf of all other members of the public  
2 similarly situated, allege as follows:

3 **INTRODUCTION**

4 1. In 2002, Defendant CITY OF SANTA ANA partnered with private  
5 contractors, Defendants REDFLEX TRAFFIC SYSTEMS (CALIFORNIA), INC.  
6 and REDFLEX TRAFFIC SYSTEMS, INC., to install and operate automated  
7 traffic cameras at intersections throughout the City of Santa Ana. Defendants  
8 CITY OF SANTA ANA, JOSEPH W. FLETCHER and PAUL M. WALTERS  
9 then worked with REDFLEX TRAFFIC SYSTEMS (CALIFORNIA), INC. and  
10 REDFLEX TRAFFIC SYSTEMS, INC. to unlawfully issue thousands of traffic  
11 citations, using approximately twenty (20) automated traffic cameras at as many  
12 as sixteen (16) different intersections.<sup>1</sup>

13 2. When an automatic traffic camera is installed at any particular  
14 intersection, the California Vehicle Code requires local jurisdictions to institute  
15 thirty (30) day warning notice periods for each such intersection, before traffic  
16 citations may be issued at that intersection. During these warning notice periods,  
17 only warnings, not citations, may be issued.

18 3. Defendants, however, did not comply with the requisite thirty (30)  
19 day warning notice period at as many as sixteen (16) intersections with automated  
20 traffic cameras, located throughout the City of Santa Ana, until more than six (6)  
21 years after they were required to do so. Instead of complying with the warning  
22 notice period requirement, Defendants immediately began issuing traffic citations  
23 at these intersections.

24 4. As a result of Defendants' unlawful issuance of traffic citations,  
25 Plaintiffs and members of the putative class suffered injury in fact and lost money  
26

27 <sup>1</sup> Defendants installed more than one automated traffic camera at some  
28 intersections.

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1 or property. Accordingly, Defendants’ failure to comply with the mandatory  
2 thirty (30) day warning notice period forms the basis of this action.

3 **JURISDICTION AND VENUE**

4 5. This Court has jurisdiction over the above-captioned action under  
5 title 28 United States Code, section 1331. This First Amended Complaint also  
6 alleges violations of the California Constitution and Vehicle Code. This Court has  
7 jurisdiction over those claims under title 28 United States Code, section 1367 and  
8 the principals of supplemental jurisdiction. The federal and state law claims arise  
9 out of a common nucleus of operative facts and the entire lawsuit commenced by  
10 this complaint would ordinarily be tried in one judicial proceeding. The exercise  
11 of supplemental jurisdiction will avoid duplication and a multiplicity of action and  
12 will promote the interests of judicial economy and fairness.

13 6. Venue is proper in this district because Defendants are located in  
14 Orange County, California and Defendants’ unlawful policies and practices were  
15 applied and executed there. Defendant CITY OF SANTA ANA is located in  
16 Orange County. Defendants PAUL M. WALTERS and JOSEPH W. FLETCHER  
17 are employed by Defendant CITY OF SANTA ANA and applied and executed its  
18 policies and practices at all relevant times. Defendants REDFLEX TRAFFIC  
19 SYSTEMS (CALIFORNIA), INC. and REDFLEX TRAFFIC SYSTEMS, INC.  
20 operated Defendant CITY OF SANTA ANA’s automated traffic camera system,  
21 mailed citations to drivers and applied and executed Defendant CITY OF SANTA  
22 ANA’s policies and practices.

23 **THE PARTIES**

24 7. Plaintiff [REDACTED] Plumleigh is and was, at all relevant times, a resident  
25 of Orange County, California. Plaintiff Plumleigh brings this suit on behalf of  
26 himself and all similarly situated individuals pursuant to Federal Rule of Civil  
27 Procedure 23.

28 8. Plaintiff [REDACTED] Hazard [REDACTED] is and was, at all relevant times, a

1 resident of Orange County, California. Plaintiff Hazard brings this suit on behalf  
2 of himself and all similarly situated individuals pursuant to California Code of  
3 Civil Procedure section 382 and Federal Rule of Civil Procedure 23.

4 9. Defendant CITY OF SANTA ANA is a municipality in Orange  
5 County, California. Defendant CITY OF SANTA ANA collects revenue from  
6 automated traffic camera citations issued by the Santa Ana Police Department and  
7 mailed to drivers by Defendants REDFLEX TRAFFIC SYSTEMS  
8 (CALIFORNIA), INC. and REDFLEX TRAFFIC SYSTEMS, INC.

9 10. Defendant PAUL M. WALTERS is the Chief of Police of the Santa  
10 Ana Police Department. By and through Defendant PAUL M. WALTERS, the  
11 Santa Ana Police Department enforces traffic law violations within the City of  
12 Santa Ana and issues automated traffic camera citations. Defendant PAUL M.  
13 WALTERS is hereby sued in his individual and personal capacity for damages  
14 and other relief.

15 11. Defendant JOSEPH W. FLETCHER is the City Attorney of Santa  
16 Ana. By and through Defendant JOSEPH W. FLETCHER, the Office of the City  
17 Attorney enforces the municipal code of Santa Ana. Defendant JOSEPH W.  
18 FLETCHER is hereby sued in his individual and personal capacity for damages  
19 and other relief.

20 12. Defendant REDFLEX TRAFFIC SYSTEMS (CALIFORNIA), INC.  
21 was and is, upon information and belief, a California corporation doing business in  
22 Orange County, California, who, together with other Defendants in this action,  
23 designed, installed, and operated Defendant CITY OF SANTA ANA's automated  
24 traffic camera system.

25 13. Defendant REDFLEX TRAFFIC SYSTEMS, INC. was and is, upon  
26 information and belief, a Delaware corporation doing business in Orange County,  
27 California, who, together with other Defendants in this action, designed, installed,  
28 and operated Defendant CITY OF SANTA ANA's automated traffic camera

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1 system.

2 14. Plaintiffs are unaware of the true names or capacities of the  
3 Defendants sued herein under the fictitious names DOES 1 through 10, but pray  
4 for leave to amend and serve such fictitiously named Defendants once their names  
5 and capacities become known.

6 15. The term “City Defendants,” as used in this complaint, refers to  
7 Defendants CITY OF SANTA ANA, PAUL M. WALTERS and JOSEPH W.  
8 FLETCHER.

9 16. The term “Redflex Defendants,” as used in this complaint, refers to  
10 Defendants REDFLEX TRAFFIC SYSTEMS (CALIFORNIA), INC. and  
11 REDFLEX TRAFFIC SYSTEMS, INC.

12 17. At all relevant times, Defendants, and each of them, ratified each and  
13 every act or omission complained of herein. At all relevant times, Defendants,  
14 and each of them, aided and abetted the acts and omissions of each and all the  
15 other Defendants in proximately causing the damages herein alleged.

16 18. Plaintiffs are informed and believe, and thereon allege, that each of  
17 said Defendants is in some manner intentionally, negligently, or otherwise  
18 responsible for the acts, omissions, occurrences, and transactions alleged herein.

19 **CLASS ACTION ALLEGATIONS**

20 19. Plaintiffs bring this action on their own behalf, as well as on behalf of  
21 each and all other persons similarly situated, for claims alleged herein which arise  
22 under California and federal law.

23 20. Plaintiffs seek relief authorized by California and federal law, and  
24 thus, seek class certification under Rules 23(a), 23(b)(2) and 23(b)(3) of the  
25 Federal Rules of Civil Procedure of the following subclasses:

26 Section 1983 Subclass:

27 All persons to whom City Defendants issued non-  
28 warning traffic citations after City Defendants’  
automated traffic cameras photographed those persons’

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1 license plates, and who paid such citations, thereby  
2 earning dismissals, from two years prior to the filing of  
3 this complaint until November 25, 2009.

3 Inverse Condemnation Subclass:

4 All persons to whom City Defendants issued non-  
5 warning traffic citations after City Defendants'  
6 automated traffic cameras photographed those persons'  
7 license plates, and who paid such citations, thereby  
8 earning dismissals, from five years prior to the filing of  
9 this complaint until November 25, 2009.

8 Unjust Enrichment Subclass:

9 All persons to whom Defendants issued non-warning  
10 traffic citations after Defendants' automated traffic  
11 cameras photographed those persons' license plates,  
12 and who paid such citations, thereby earning dismissals,  
13 from two years prior to the filing of this complaint until  
14 November 25, 2009.

12 Unfair Competition Subclass:

13 All persons who were issued non-warning traffic  
14 citations in the City of Santa Ana, California after the  
15 Redflex Defendants' automated traffic cameras  
16 photographed those persons' license plates, and who  
17 paid such citations, thereby earning dismissals, from  
18 four years prior to the filing of this complaint until  
19 November 25, 2009.

17 21. Plaintiffs reserve the right to establish additional subclasses as  
18 appropriate.

19 22. There is a well-defined community of interest in the litigation and the  
20 class is readily ascertainable:

21 (a) Numerosity: The members of the class (and each subclass, if  
22 any) are so numerous that joinder of all members would be  
23 unfeasible and impractical. The membership of the entire  
24 class is unknown to Plaintiffs at this time; however, the class  
25 is estimated to be greater than one hundred (100) individuals  
26 and the identity of such membership is readily ascertainable  
27 by inspection of Defendants' records.

28 (b) Typicality: Plaintiffs are qualified to, and will, fairly and

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adequately protect the interests of each class member with whom they have a well defined community of interest, and Plaintiffs’ claims (or defenses, if any) are typical of all class members’ as demonstrated herein.

(c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately, protect the interests of each class member with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs acknowledge that they have an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiffs’ attorneys, the proposed class counsel, are well-versed in the rules governing class action discovery, certification and settlement. Plaintiffs have incurred, and throughout the duration of this action, will continue to incur costs and attorneys fees that have been, are and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. Class action will achieve economies of time, effort and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

23. There are common questions of law and fact with respect to the class members on the whole that predominate over questions affecting only individual members, including but not limited to:

(a) Whether Defendants installed and/or operated automated traffic cameras at intersections in Santa Ana and began

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issuing non-warning traffic citations prior to implementing the thirty (30) day warning notice period required under California Vehicle Code, section 21455.5(b);

(b) Whether Defendant CITY OF SANTA ANA, while acting under the color of state law, violated Plaintiffs’ Constitutional rights, guaranteed by the Takings Clause of the Fifth and Fourteenth Amendments to the United States Constitution, by using automated traffic cameras to enforce the Santa Ana municipal code and California Vehicle Code prior to implementing the requisite thirty (30) day warning notice period;

(c) Whether Defendants PAUL M. WALTERS and JOSEPH W. FLETCHER, while acting in their personal capacity and under the color of state law, violated Plaintiffs’ Constitutional rights, guaranteed by the Takings Clause of the Fifth and Fourteenth Amendments to the United States Constitution, by enforcing the Santa Ana municipal code and California Vehicle Code against persons who had been issued citations by automated traffic cameras located at intersections in the City of Santa Ana prior to implementation of the required thirty (30) day warning notice period;

(d) Whether Defendants CITY OF SANTA ANA, PAUL M. WALTERS and JOSEPH W. FLETCHER violated the Takings Clause of the California Constitution by collecting fines from non-warning traffic citations issued for alleged traffic violations recorded by automated traffic cameras located at intersections in the City of Santa Ana;

(e) Whether Defendant CITY OF SANTA ANA and the Redflex



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1 Defendants were unjustly enriched by the collection of fines  
2 from non-warning traffic citations issued for violations  
3 recorded by automated traffic cameras located at intersections  
4 in the City of Santa Ana;

5 (f) Whether the Redflex Defendants engaged in unfair or  
6 unlawful business practices in violation of California  
7 Business & Professions Code, sections 17200 *et seq.*;

8 (g) Whether Defendants’ conduct was wilful or reckless; and

9 (h) The appropriate amount of damages and restitution resulting  
10 from Defendants’ violations of federal and California law.

11 **GENERAL ALLEGATIONS**

12 24. At all relevant times set forth herein, Defendants installed automated  
13 traffic cameras at intersections in the City of Santa Ana and issued traffic citations  
14 to Plaintiffs and other similarly situated persons.

15 25. California Vehicle Code, section 21455.5(b) provides:

16 Prior to issuing citations under this section, a local  
17 jurisdiction utilizing an automated traffic enforcement  
18 system **shall commence a program to issue only  
19 warning notices for 30 days.** The local jurisdiction  
20 shall also make a public announcement of the automated  
21 traffic enforcement system at least 30 days prior to the  
22 commencement of the enforcement program. (Emphasis  
23 added).

24 This warning period shall be referred to hereinafter as the “thirty (30) day warning  
25 notice period.”

26 **Background**

27 26. As early as 2002, Defendant CITY OF SANTA ANA decided to  
28 install automated traffic cameras at intersections throughout the city.

27 27. Rather than installing and operating the automated traffic cameras by

1 itself, Defendant CITY OF SANTA ANA entered into an agreement with a private  
2 contractor, REDFLEX TRAFFIC SYSTEMS, INC., who specializes in the design,  
3 installation, and operation of municipal automated traffic enforcement systems.

4 28. Defendant CITY OF SANTA and REDFLEX TRAFFIC SYSTEMS,  
5 INC. entered into an agreement on December 2, 2002 (the “Agreement”). Section  
6 1 of the Agreement defines the term of the Agreement to be five (5) years, with  
7 options to extend the term for two (2) additional one (1) year periods. The  
8 Agreement was extended in February 2008. *See People v. Murray*, Superior Court  
9 of the State of California County of Orange (2009),  
10 <http://www.thenewspaper.com/rlc/docs/2009/ca-santana.pdf>.

11 29. Section 3 of the Agreement provides that REDFLEX TRAFFIC  
12 SYSTEMS, INC. will install twenty (20) automated traffic cameras at  
13 intersections throughout the city by August 1, 2003.

14 30. Section 5 of the Agreement provides:

- 15 Violations shall be processed as follows:
- 16 a. All Violations Data shall be stored on the Redflex System;
  - 17 b. The Redflex System shall process Violations Data . . .  
18 gathered from the Designated Intersection Approaches into  
19 a format capable of review by an Authorized Office via the  
20 Redflex System;
  - 21 c. The Redflex System shall be accessible by Authorized  
22 Officers through a virtual private network in encrypted  
23 format by use of a confidential password on any computer .  
24 . . . ;
  - 25 d. [REDFLEX TRAFFIC SYSTEMS, INC.] shall provide  
26 Authorized Officers with access to the Redflex System for  
27 the purposes of reviewing the pre-processed Violations  
28 Data . . . ;
  - e. The City with reasonable best effort shall cause an  
Authorized Officer to review the Violations Data daily . . .  
and to determine whether a citation shall be issued . . . ;

1           31. Section 2.a. of the Agreement defines an “Authorized Officer” as  
2 “such individual(s) as the Police Chief shall designate to review Potential  
3 Violations and to authorize the Issuance of Citations.”

4           32. Section 5.f. of the Agreement provides that “[w]ith respect to each  
5 Authorized Violation, [REDFLEX TRAFFIC SYSTEMS, INC.] shall print and  
6 mail a Citation” to cited violators, except that “during the Warning Period,  
7 warning violations notices shall be issued in respect of all Authorized Violations.”

8           33. Section 5.g. of the Agreement provides that “[REDFLEX TRAFFIC  
9 SYSTEMS, INC.] shall provide a toll free number for the purposes of answering  
10 inquiries from cited violators, responding to complaints and scheduling  
11 appointments during which recipients of Citations may view the applicable  
12 Violations Data.”

13           34. Section 6.a. of the Agreement provides that the Redflex Defendants  
14 “shall provide training for up to fifteen (15) personnel of the City, including but  
15 not limited to Authorized Officers . . . with respect to the Redflex System and its  
16 operations, strategies for presenting Violations Data in court and judicial  
17 proceedings and a review of the Enforcement Documentation.”

18           35. Section 10.a. of the Agreement provides that REDFLEX TRAFFIC  
19 SYSTEMS, INC. shall be compensated with “[a] monthly fee . . . for each  
20 functioning approach containing an operational system within the City. A system  
21 shall be deemed to have a functioning approach and be operational for purposes of  
22 [the] Agreement when the Santa Ana Police Department determines that the  
23 system is then issuing Citations.”

24           36. Section 26.a. of the Agreement is a Negotiable Fee Provision. It  
25 provides that “if the City determines it is unable to recover it’s [sic] costs incurred  
26 in the Operation of the Redflex System . . . the City shall have the option to  
27 renegotiate the Compensation amount [.]”

28           37. Section 2.z. of the Agreement defines “Warning period” as “the

1 period of thirty (30) days after the Installation Date of the first intersection  
2 approach.” Section 2.j. defines “Installation date” as “the date on which the City  
3 issues Final Acceptance for at least one intersection approach.”

4 38. The Agreement was signed by Defendant CITY OF SANTA ANA  
5 and REDFLEX TRAFFIC SYSTEMS, INC., and was approved by Defendant  
6 JOSEPH W. FLETCHER and recommended for approval by Defendant PAUL M.  
7 WALTERS.

8 39. The first automated traffic camera was installed in May 2003 at the  
9 intersection of Harbor Boulevard and McFadden Avenue. *See People v. Murray*,  
10 Superior Court of the State of California County of Orange (2009),  
11 <http://www.thenewspaper.com/rlc/docs/2009/ca-santana.pdf>.

12 40. Beginning on May 18, 2003, a thirty (30) day warning notice period  
13 went into effect for an automated traffic camera at the intersection of Harbor and  
14 McFadden.

15 41. According to Defendants, the initial thirty (30) day warning notice  
16 period that went into effect at the intersection of Harbor and McFadden on May  
17 18, 2003 also constituted a warning period for any intersection at which  
18 Defendants subsequently installed automated traffic cameras.

19 42. Specifically, at a May 2003 press conference at the intersection of  
20 Harbor and McFadden, Santa Ana’s Police Chief, Defendant PAUL M.  
21 WALTERS stated that “[t]hey’ll [sic] be a one month period and the subsequent  
22 ones, if they’re within that one month period, they’ll [sic] be a warning. If not, if  
23 they’re after the first month of warning, then they’ll be issued citations unless we  
24 decide otherwise. Administratively we could, but technically by the law after the  
25 first month warning then any that we install we can issue citations right from the  
26 start [sic].” *See People v. Murray*, Superior Court of the State of California  
27 County of Orange (2009), [http://www.thenewspaper.com/rlc/docs/2009/ca-](http://www.thenewspaper.com/rlc/docs/2009/ca-santana.pdf)  
28 [santana.pdf](http://www.thenewspaper.com/rlc/docs/2009/ca-santana.pdf).

1           43. During the same May 2003 press conference at the intersection of  
2 Harbor and McFadden, Defendant PAUL M. WALTERS engaged in the following  
3 exchange:

4                   [Defendant PAUL M. WALTERS]: ‘The other thing  
5 you have to remember is, these are not permanent; these  
6 can be moved. If we determine that this is no longer a  
7 high accident location, in a year or two we’ll move it to  
8 another site. But we have 20 systems that we can move  
9 to wherever the need is in the city; the whole idea again  
10 is to change the way people behave.’

11                   QUESTION: ‘So basically, the key here that’s different  
12 is that you have a floating red light camera program?’

13                   [Defendant PAUL M. WALTERS]: ‘Yes, very much  
14 so.’

15           *See People v. Murray*, Superior Court of the State of California County of  
16 Orange (2009), <http://www.thenewspaper.com/rlc/docs/2009/ca-santana.pdf>.

17           44. Plaintiffs are informed and believe, and thereon allege, that  
18 approximately twenty (20) automated traffic cameras were installed at as many as  
19 sixteen (16) intersections in the City of Santa Ana by the end of 2007.

20           45. Defendants’ automated traffic cameras issued hundreds and possibly  
21 thousands of citations each month. For instance, during 2009, Defendants’  
22 automated traffic cameras issued approximately a thousand five hundred (1,500)  
23 citations each month.

24           46. On December 18, 2008, the Appellate Division of the Superior Court  
25 of California, Orange County, held that Defendant CITY OF SANTA ANA  
26 “exceeded its jurisdiction by commencing the prosecution of appellant without  
27 having complied with the warning requirements” of California Vehicle Code,  
28 section 21455.5(b). *See People v. Fischetti*, 170 Cal. App. 4th Supp. 1, 3 (2008).  
The Court held that “[b]ecause section 21455.5(a) provides that ‘the intersection’  
may be equipped with an automated enforcement system, the term ‘automated  
traffic enforcement system’ in section 21455.5(b), cannot refer to a municipality's

1 overall automated enforcement plan, but must instead refer to each individual  
2 automated system operated at an intersection within the municipal jurisdiction.”  
3 *See id.* at 2.

4 47. On November 25, 2009 – over six (6) years after installing its first  
5 automated traffic camera – Defendant CITY OF SANTA ANA finally instituted  
6 warning notice periods for about sixteen (16) intersections with previously  
7 installed automated traffic cameras throughout the City of Santa Ana. The  
8 warning notice periods last until December 28, 2009.

9 48. On July 23, 2010, the Appellate Division of the Superior Court of  
10 California, Orange County, again held that Defendant CITY OF SANTA ANA  
11 failed to comply with the warning notice requirements of California Vehicle Code,  
12 section 21455.5(b) by instituting a single, blanket warning notice period after  
13 installing the first automated traffic camera at Harbor and McFadden in May  
14 2003. *See People v. Park*, 187 Cal. App. 4th Supp 9, 11, 15, (2010). In *Park*, the  
15 plaintiff was issued a citation after a February 17, 2009 failure-to-stop violation.  
16 *See id.* at 10-11. Defendant CITY OF SANTA ANA argued that the plaintiff’s  
17 conviction was valid because it had issued “warning notices during a 44-day  
18 period when the first automated enforcement equipment was activated at a  
19 different intersection in 2003.” *Id.* at 11. The Court disagreed, and held that

20 It would make little sense for the scope of the 30-day  
21 warning period to be limited temporally and to be  
22 defined arbitrarily by the geographic size of the local  
23 jurisdiction, inasmuch as the legislatively stated purpose  
24 of the warning requirement is to deter red light  
25 violations. This purpose is best achieved by the issuance  
26 of new warnings and announcements to proximate users  
27 each time automated enforcement equipment  
28 commences operation at an intersection.

*See id.* at 15.

49. Plaintiffs are informed and believe, and thereon allege, that prior to  
November 25, 2009, Defendants installed automated traffic cameras at

1 intersections in Santa Ana and used those cameras to issue non-warning traffic  
2 citations to Plaintiffs and class members without first issuing warnings for the  
3 thirty (30) day period required by California Vehicle Code, section 21455.5(b).

#### 4 **Plaintiffs' Experiences**

5 50. Plaintiffs are informed and believe, and thereon allege, that  
6 Defendants enforced and collected fines from non-warning automated traffic  
7 camera citations issued prior to November 25, 2009.

8 51. Plaintiffs are informed and believe, and thereon allege, that prior to  
9 November 25, 2009, Defendants issued citations to Plaintiffs and class members.  
10 City Defendants reviewed Redflex Defendants' violations data. Redflex  
11 Defendants then mailed citations to Plaintiffs and class members.

12 52. Plaintiffs are informed and believe, and thereon allege, that prior to  
13 November 25, 2009, the Redflex Defendants collected monthly fees from  
14 Defendant CITY OF SANTA ANA in return for operating Defendant CITY OF  
15 SANTA ANA's automated traffic cameras.

16 53. Defendants issued Plaintiff Plumleigh a non-warning, automated  
17 traffic camera citation in February or March 2008 regarding a right turn allegedly  
18 made during a red light. As a result of Defendants' conduct, Plaintiff was forced  
19 and required to pay a fine and pay for a traffic safety course in order to obtain a  
20 dismissal. Specifically, on March 17, 2008, he was forced and required to pay a  
21 fine of four hundred twenty-three dollars (\$423) and received a receipt, Receipt  
22 Number 6334360, from the Superior Court of California, County of Orange. He  
23 was also forced and required to pay a fee of fifty seven dollars (\$57) for a required  
24 traffic safety course. The allegations regarding Plaintiff Plumleigh's automated  
25 traffic camera citation were dismissed.

26 54. Defendants issued Plaintiff Hazard a non-warning, automated traffic  
27 camera citation on December 17, 2008 regarding an alleged failure to stop at a  
28 limit line or cross-walk. As a result of Defendants' conduct, Plaintiff was forced

1 and required to pay a fine and attend a traffic safety course, for a total of over four  
2 hundred dollars (\$400). The allegations regarding Plaintiff Hazard's automated  
3 traffic camera citation were dismissed.

4 **FIRST CAUSE OF ACTION**

5 **Violation of 42 U.S.C. § 1983**

6 **(Civil Rights Act of 1871)**

7 **(By Plaintiff Hazard and Section 1983 Subclass**

8 **Against City Defendants)**

9 55. Plaintiff Hazard incorporates by reference and re-alleges as if fully  
10 stated herein the material allegations set out in paragraphs 1 through 54.

11 56. At all relevant times, title 42 United States Code, section 1983  
12 provides:

13 Every person who, under color of any statute,  
14 ordinance, regulation, custom, or usage, of any State or  
15 Territory or the District of Columbia, subjects, or  
16 causes to be subjected, any citizen of the United States  
17 or other person within the jurisdiction thereof to the  
deprivation of any rights, privileges, or immunities  
secured by the Constitution and laws, shall be liable to  
the party injured in an action at law, suit in equity, or  
other proper proceeding for redress[.]

18 57. At all relevant times, title 42 United States Code, section 1983 was  
19 applicable to Defendants PAUL M. WALTERS and JOSEPH W. FLETCHER,  
20 named as persons in their individual and personal capacities pursuant to *Hafer v.*  
21 *Melo*, 502 U.S. 21 (1991), and the CITY OF SANTA ANA, named as a person  
22 pursuant to *Will v. Michigan Department of State Police*, 491 U.S. 58 (1989).

23 58. At all relevant times, the Fifth Amendment to the United States  
24 Constitution provides “[n]o person shall be . . . deprived of life, liberty, or  
25 property, without due process of law; nor shall private property be taken for public  
26 use, without just compensation.”

27 59. At all relevant times, the Fifth Amendment was incorporated and  
28 applied to the State of California and local government under the Due Process



1 clause of the Fourteenth Amendment to the United States Constitution.

2 60. During the relevant time period, under color of state law, City  
3 Defendants deprived Plaintiff Hazard and class members of property without due  
4 process of law. Specifically, City Defendants issued non-warning automated  
5 traffic camera citations and collected traffic fines for those citations prior to  
6 instituting the thirty (30) day warning notice period required under California  
7 Vehicle Code, section 21455.5(b). Plaintiff Hazard was forced and required to  
8 pay a fine and attend traffic school in order to obtain a dismissal, incurring out of  
9 pocket costs of more than four hundred dollars (\$400).

10 61. During the relevant time period, under color of state law, City  
11 Defendants took Plaintiff Hazard's and class members' private property for public  
12 use. Specifically, City Defendants issued non-warning automated traffic camera  
13 citations and collected traffic fines for those citations prior to instituting the thirty  
14 (30) day warning notice period required under California Vehicle Code, section  
15 21455.5(b). Plaintiff Hazard was forced and required to pay a fine and attend  
16 traffic school in order to obtain a dismissal, causing him to incur out of pocket  
17 costs of more than four hundred dollars (\$400).

18 62. During the relevant time period, under color of state law, City  
19 Defendants took Plaintiff Hazard's and class members' private property for public  
20 use without just compensation. Specifically, City Defendants have not reimbursed  
21 the fines that they forced and required Plaintiff Hazard pay, despite their having  
22 issued the non-warning automated traffic camera citations to Plaintiff Hazard prior  
23 to instituting the thirty (30) day warning notice period required under California  
24 Vehicle Code, section 21455.5(b).

25 63. During the relevant time period, under color of state law, City  
26 Defendants subjected Plaintiff Hazard and class members to, or caused Plaintiff  
27 Hazard and class members to be subjected to, deprivation of their rights secured  
28 by the Due Process and Takings clauses of the Fifth and Fourteenth Amendments,

1 in violation of title 42 United States Code, section 1983.

2 64. Under title 42 United States Code, section 1983, Plaintiff Hazard and  
3 class members are entitled to recover punitive damages from Defendants PAUL  
4 M. WALTERS and JOSEPH W. FLETCHER, sued in their personal capacities.

5 65. Pursuant to title 42 United States Code, section 1983, Plaintiff  
6 Hazard and class members are entitled to declaratory relief.

7 66. Pursuant to title 42 United States Code, section 1983, Plaintiff  
8 Hazard and class members are entitled to recover damages and restitution from  
9 City Defendants, plus costs and attorneys fees pursuant to title 42 United States  
10 Code, section 1988(b).

11 **SECOND CAUSE OF ACTION**

12 **Violation of article I, section 19(a) of the California Constitution**

13 **(Takings Clause)**

14 **(By Plaintiffs and Inverse Condemnation Subclass**

15 **Against City Defendants)**

16 67. Plaintiffs incorporate by reference and re-allege as if fully stated  
17 herein the material allegations set out in paragraphs 1 through 66.

18 68. At all relevant times, article I, section 19(a) of the California  
19 Constitution provides that “[p]rivate property may be taken or damaged for a  
20 public use and only when just compensation, ascertained by a jury unless waived,  
21 has first been paid to, or into court for, the owner.”

22 69. During the relevant time period, City Defendants took Plaintiffs’ and  
23 class members’ private property for public use. Specifically, City Defendants  
24 issued non-warning automated traffic camera citations and collected traffic fines  
25 for those citations prior to instituting the thirty (30) day warning notice period  
26 required under California Vehicle Code section 21455.5(b). Plaintiff Plumleigh  
27 was forced and required to pay a fine of four hundred twenty-three dollars (\$423).  
28 Plaintiff Hazard was forced and required to pay a fine and attend traffic school, for

1 a total of over four hundred and dollars (\$400).

2 70. During the relevant time period, City Defendants took Plaintiffs' and  
3 class members' private property for public use without just compensation  
4 ascertained by a jury. Specifically, City Defendants have not reimbursed the fines  
5 that they forced and required Plaintiffs pay, despite having issued the non-warning  
6 automated traffic camera citations to Plaintiffs prior to instituting the thirty (30)  
7 day warning notice period required under California Vehicle Code, section  
8 21455.5(b).

9 71. During the relevant time period, City Defendants violated Plaintiffs'  
10 and class members' rights under the Takings Clause of the California Constitution  
11 by taking Plaintiffs' and class members' private property for public use without  
12 just compensation ascertained by a jury.

13 72. Plaintiffs and class members are entitled to recover damages and  
14 restitution.

15 **THIRD CAUSE OF ACTION**

16 **Unjust Enrichment—Violation of California Vehicle Code**

17 **section 21455.5(b)**

18 **(Traffic Camera Warning Notice)**

19 **(By Plaintiff Hazard and the Unjust Enrichment Subclass against Defendant**

20 **CITY OF SANTA ANA and Redflex Defendants)**

21 73. Plaintiffs incorporate by reference and re-allege as if fully stated  
22 herein the material allegations set out in paragraphs 1 through 72.

23 74. At all relevant times, under California case law, *see, e.g., California*  
24 *Federal Bank v. Matreyek*, 8 Cal. App. 4th 125 (1992), one who is unjustly  
25 enriched by benefits conferred at the expense of another is required to make  
26 restitution to the other.

27 75. At all relevant times, under California case law, *see, e.g., Lucky Auto*  
28 *Supply v. Turner*, 244 Cal. App. 2d 872 (1966), if one obtains benefits from

1 another without authority, the law, independently of express contract, will compel  
2 restitution or compensation.

3 76. During the relevant time period, Defendant CITY OF SANTA ANA  
4 and Redflex Defendants received benefits from Plaintiff Hazard and class  
5 members. Specifically, Defendant CITY OF SANTA ANA and Redflex  
6 Defendants collected fines from Plaintiff Hazard and class members for non-  
7 warning automated traffic camera citations.

8 77. During the relevant time period, Plaintiff Hazard and class members  
9 conferred benefits upon Defendant CITY OF SANTA ANA and Redflex  
10 Defendants. Specifically, Plaintiff Hazard and class members paid fines for non-  
11 warning automated traffic camera citations to Defendant CITY OF SANTA ANA,  
12 who in turn, paid Redflex Defendants.

13 78. During the relevant time period, Defendant CITY OF SANTA ANA  
14 and Redflex Defendants have unjustly retained the benefits conferred upon them  
15 by Plaintiff Hazard and class members. Specifically, Defendant CITY OF  
16 SANTA ANA and Redflex Defendants collected fines for non-warning automated  
17 traffic camera citations in violation of the California Vehicle Code, or, in other  
18 words, prior to implementing the required thirty (30) day warning notice period  
19 required by California Vehicle Code, section 21455.5(b).

20 79. During the relevant time period, Defendant CITY OF SANTA ANA  
21 and Redflex Defendants were unjustly enriched because they received benefits  
22 from Plaintiff Hazard and class members in the form of fines and unjustly retained  
23 those benefits at the expense of Plaintiff Hazard and class members, in violation of  
24 the California Vehicle Code.

25 80. Under California case law, Plaintiff Hazard and class members are  
26 entitled to recover damages and restitution.

27  
28

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**FOURTH CAUSE OF ACTION**

**Violation of California Business & Professions Code §§ 17200 *et seq.*  
(By Plaintiffs and Unfair Competition Subclass  
Against Redflex Defendants)**

81. Plaintiffs incorporate by reference and re-allege as if fully stated herein the material allegations set out in paragraphs 1 through 80.

82. Redflex Defendants' conduct, as alleged herein, has been unfair, unlawful, and harmful to Plaintiffs, other class members, and to the general public. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

83. Redflex Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code, sections 17200 *et seq.*

84. A violation of California Business & Professions Code, sections 17200 *et seq.* may be predicated on the violation of any state or federal law or upon any unfair business act. Here, Defendant REDFLEX TRAFFIC SYSTEMS (CALIFORNIA), INC.'s and Defendant REDFLEX TRAFFIC SYSTEMS, INC.'s policies and practices of collecting fees for the operation of cameras that issued non-warning traffic citations prior to institution of the required thirty (30) day warning notice violated the Vehicle Code and was unlawful and unfair.

85. As a result of the Redflex Defendants' conduct, including, but not limited to, as discussed above, failing to comply with their agreed upon contractual obligations and California law, Plaintiffs and class members have been harmed by Redflex Defendants' unlawful and unfair business acts and practices as alleged herein, including but not necessarily limited to suffering injury in fact and the loss of money and property.

86. Under California Business & Professions Code, sections 17200 *et seq.*, Plaintiffs and class members are entitled to damages and restitution during a

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1 period that commences four years prior to the filing of this complaint; an award of  
2 attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and  
3 other applicable laws; and an award of costs.

4 **REQUEST FOR JURY TRIAL**

5 Plaintiffs request trial by jury.

6 **PRAAYER FOR RELIEF**

7 Plaintiffs, and on behalf of all others similarly situated, pray for relief and  
8 judgment against Defendants, jointly and severally, as follows:

- 9 1. That this action be certified as a class action;
- 10 2. That Plaintiff Hazard be appointed as the representative of the  
11 Section 1983 subclass;
- 12 3. That Plaintiffs be appointed representatives of the Inverse  
13 Condemnation, Unjust Enrichment and Unfair Competition subclasses; and
- 14 4. That counsel for Plaintiffs be appointed as Class Counsel.

15 **As to the First Cause of Action**

- 16 5. That the Court declare, adjudge and decree that City Defendants  
17 violated title 42 United States Code, section 1983 by, under color of state law,  
18 subjecting Plaintiff Hazard and class members to, or causing Plaintiff Hazard and  
19 class members to be subjected to, deprivation of their rights secured by the Due  
20 Process and Takings clauses of the Fifth and Fourteenth Amendments;
- 21 6. For punitive damages from Defendants PAUL M. WALTERS and  
22 JOSEPH W. FLETCHER in their personal capacities;
- 23 7. For all actual, consequential and incidental losses, restitution and  
24 damages, according to proof; and
- 25 8. For such other and further relief as the Court may deem equitable and  
26 appropriate.

27 **As to the Second Cause of Action**

- 28 9. That the Court declare, adjudge and decree that City Defendants

1 violated article I, section 19(a) of the California Constitution by taking Plaintiffs'  
2 and class members' private property for public use without just compensation  
3 ascertained by a jury;

4 10. For all actual, consequential, and incidental losses, restitution and  
5 damages, according to proof; and

6 11. For such other and further relief as the Court may deem equitable and  
7 appropriate.

8 **As to the Third Cause of Action**

9 12. That the Court declare, adjudge and decree that Defendant CITY OF  
10 SANTA ANA and Redflex Defendants were unjustly by retaining non-warning  
11 automated traffic camera citations fines issued to and paid by Plaintiff Hazard and  
12 class members in violation of California Vehicle Code, section 21455.5(b);

13 13. For all actual, consequential, and incidental losses, restitution and  
14 damages, according to proof; and

15 14. For such other and further relief as the Court may deem equitable and  
16 appropriate.

17 **As to the Fourth Cause of Action**

18 15. That the Court declare, adjudge and decree that Redflex Defendants  
19 violated California Business and Professions Code, sections 17200 *et seq.* by  
20 collecting fees for the operation of cameras that issued non-warning traffic  
21 citations prior to institution of the required thirty (30) day warning notice;

22 16. For damages and restitution of the costs of non-warning traffic  
23 citations to Plaintiffs and all class members and prejudgment interest from the day  
24 such amounts were due and payable;

25 17. For the appointment of a receiver to receive, manage and distribute  
26 any and all funds disgorged from Defendants and determined to have been  
27 wrongfully acquired by Defendants as a result of violations of California  
28 Business & Professions Code, sections 17200 *et seq.*;

1 18. For reasonable attorneys' fees and costs of suit incurred herein  
2 pursuant to California Code of Civil Procedure section 1021.5; and

3 19. For such other and further relief as the Court may deem equitable and  
4 appropriate.

5 Dated: October 12, 2010

Respectfully submitted,

Initiative Legal Group APC

7  
8 By: /s/ Mark P. Pifko  
9 Gene Williams  
10 Mark P. Pifko  
11 Theodore O'Reilly

The Aftergood Law Firm  
Aaron D. Aftergood

12 Atto [redacted] Plaintiffs [redacted] Plumleigh  
13 and [redacted] Hazard [redacted]

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