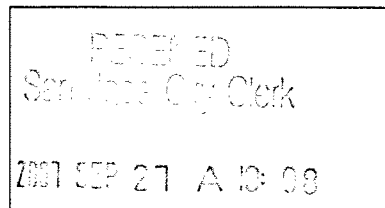


CLAIM AGAINST THE CITY OF SAN JOSE, CA

(For Damages to Persons or Personal Property)

Office of the City Clerk Timestamp



Office of the City Clerk 200 East Santa Clara Street San Jose, CA 95113

Received by: [Signature] Via: U.S. Mail Interoffice Mail Over the Counter [checkmark]

(Please do not write above this line - for City use only)

Generally, a claim against the City of San Jose for damages to persons or personal property must be filed with the City Clerk of the City of San Jose within six months after the incident occurred. See Government Code 911.2. Completed claims must be mailed or delivered to: Office of the City Clerk, City of San Jose, 200 E. Santa Clara Street, San Jose, CA 95113. The Office is located on the second floor of the City Hall Wing, (408) 535-1260. PLEASE PROVIDE THE ORIGINAL AND ONE COPY OF THIS CLAIM FORM. Attach copies of any receipts or other documentation to the original claim form and to the copy.

TO THE CITY CLERK of the City of San Jose, California:

The undersigned respectfully submits the following claim and information relative to damage to persons and/or personal property:

NAME OF CLAIMANT Jorge Luis Ramirez DATE OF BIRTH: 11/16/1967

ADDRESS OF CLAIMANT 1803 Eaglehurst Dr. CITY San Jose STATE CA ZIP CODE 95121

HOME PHONE (408) 771-7516 WORK PHONE () DRIVER'S LICENSE California STATE AND NUMBER U5197581

SEND NOTICES REGARDING THIS CLAIM TO: (List name, mailing address and phone number if not same as above.) Matthew Schechter, McManis Faulkner & Morgan, 50 W. San Fernando St., 10th Fl., San Jose 95113

DATE OF INCIDENT OR OCCURRENCE CAUSING CLAIM see attachment PLACE (Exact and specific location of incident.) see attachment

CIRCUMSTANCES (Specify the occurrence, event, act, or omission which you claim caused the injury or damage for which you are submitting this claim. Where space is insufficient, attach an additional page with the claimant's name on the page.) see attachment

CITY'S ACTION (Specify action by City or its employees which caused alleged damage or injury.) see attachment

CITY EMPLOYEES' NAMES OR CITY DEPARTMENT INVOLVED IN ALLEGED ACCIDENT OR INCIDENT. see attachment

**CLAIM AGAINST THE
CITY OF SAN JOSE, CA**

Page 2

DESCRIPTION OF LOSS (Describe injury, property damage or loss, so far as is known at this time. If there were no injuries, state "NO INJURIES.")

see attachment

OTHER INJURED PERSONS (list names and addresses)

OWNER OF PROPERTY DAMAGED (if different from claimant)

N/A

AMOUNT CLAIMED:

Amount claimed as of this date:	\$ <u>see attachment</u>
Estimated amount of future costs:	\$ _____
Total amount claimed:	\$ _____

Basis for computation of amounts claimed (include copies of bills, invoices, estimates, etc.):

WITNESSES, HOSPITALS, DOCTORS, ETC. (list names and addresses):

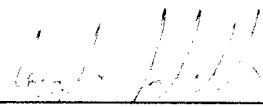
N/A

ADDITIONAL INFORMATION (List any additional information that might be helpful in considering your claim.):

WARNING! IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM (Penal Code Section 72)

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except to those matters stated upon information or belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this 20th day of September, 2021


~~Claimant's Signature~~
Attorney for Claimant

1 JAMES McMANIS (40958)
2 MATTHEW SCHECHTER (212003)
3 McMANIS FAULKNER & MORGAN
4 A Professional Corporation
5 50 West San Fernando Street, 10th Floor
6 San Jose, California 95113
7 Telephone: (408) 279-8700
8 Facsimile: (408) 279-3244
9 E-mail: mschechter@mfmlaw.com

6 Attorneys for Claimant,
7 JORGE RAMIREZ

9 JORGE RAMIREZ, an individual, on behalf
10 of himself and others similarly situated,

10 Claimant,

11 vs.

12 THE CITY OF SAN JOSE, REDFLEX
13 TRAFFIC SYSTEMS, INC., and DOES 1-
14 50 inclusive,

14 Defendants.

No.

CLAIM FOR DAMAGES

16
17 TO THE CITY OF SAN JOSE:

18 Pursuant to California Government Code sections 905, 905.2, 910, and 910.2, and any
19 other applicable provisions, Jorge Ramirez (“Ramirez”) on his own behalf, and on behalf of
20 others similarly situated, hereby presents this claim for damages and other related relief against
21 the City of San Jose (the “City”), Redflex Traffic Systems, Inc. (“Redflex”), and Does 1-50
22 inclusive (collectively “defendants”):

23 1. Claimant’s daytime telephone number is (408) 279-8700.

24 2. Claimant’s e-mail address is jmcm manis@mfmlaw.com and
25 mschechter@mfmlaw.com.

26 3. Claimant’s post office address is: James McManis and Matthew Schechter,
27 McManis Faulkner & Morgan, 50 W. San Fernando Street, 10th Floor, San Jose, California,
28 95113.

History of NASCOP in the City of San Jose

1
2 5. In November, 1995, the San Jose City Council approved an ordinance to authorize
3 the Director of the City’s Department of Transportation (“DOT”) to appoint employees to
4 enforce speeding laws for the limited purpose of implementing a photo radar program known as
5 NASCOP allegedly to enforce posted speeding limits on City streets.

6 6. NASCOP was managed by the DOT.

7 7. The development and implementation of the NASCOP program was coordinated
8 through a NASCOP Task Force led by the DOT. The task force consisted of members from
9 various departments and agencies, including the Santa Clara County Municipal Courts, the
10 California Department of Motor Vehicles (“DMV”), the California State Automobile
11 Association, the San Jose Police Department (“SJPD”), and the San Jose Fire Department.

12 8. NASCOP was utilized as a supplement to police enforcement on residential
13 streets with a speed limit of 25 or 30 miles per hour that allegedly had a documented speeding
14 problem.

15 9. In 1996 and 1997, a pilot photo radar program was in place on twenty (20)
16 residential streets in San Jose.

17 10. In December, 1997, the City Council authorized a permanent NASCOP program.

18 11. In 1998, NASCOP commenced on a full-time basis.

19 12. During the past six years, the NASCOP program expanded from the original
20 twenty residential streets to 177 street segments throughout the City.

21 13. Campbell was the first city in Northern California to use photo radar. It dropped
22 the program in 1998 after eight years because the city found that the state Legislature had not
23 given permission to penalize drivers who ignored the speeding tickets received in the mail.

24 14. Photo radar camera use was also challenged in Southern California in 2000,
25 where the court dismissed a speeding ticket issued to a driver who complained that the state
26 Vehicle Code only allowed camera use for red-light violators. The use of photo radar for
27 speeding violations was dropped in Southern California.

28 ///

1 21. Specifically the contract between the City and Redflex provided that Redflex's
2 duties and compensation were as follows:

- 3 a. Processing Photographs: The NASCOP program utilizes equipment that
4 provides digital photographs. Redflex shall review downloaded
5 photograph images and determine whether the images of the drivers are
6 legible and usable. Redflex will also verify that all of the information
7 such as the infraction date and time, posted speed limit, speed of offending
8 vehicle, frame number for violation image, van number and deployment
9 location contained on the image is accurate.
- 10 b. Processing Notices: Redflex will have online access to the California
11 DMV database. Redflex is to compare the issue date of the notice with the
12 registered owner of the vehicle on file at the DMV to determine the
13 registered owner responsible for the Notice of Responsibility. Upon
14 identifying the registered owner, Redflex will generate and mail the
15 registered owner a notice of the alleged speed violation on a form,
16 approved by the Director of the DOT. Redflex will also be responsible for
17 sending all follow-up notices to alleged speed violators.
- 18 c. Correspondence Processing: Redflex will provide adequate staffing to
19 open, count, log, review, track and process all NASCOP related
20 correspondence received every day.
- 21 d. Processing Drivers License: If a registered owner does not respond to
22 either the 1st or 2nd notice, Redflex shall enter the required registered
23 owner's information into the DMV form INF 254 to request a copy of the
24 registered owner's driver's license.
- 25 e. Setting Photo Review Appointments and Telephone Service: Redflex
26 shall schedule appointments for alleged violators to view the photo images
27 at a facility designated by the Director of the DOT.

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- 1 f. Court Evidence: If requested by the City, Redflex shall provide support
2 materials for court appearances. This material includes certification that
3 the digital images and its data have not been tampered with or altered in
4 any way, appointment date and disposition, and copies of all notices sent
5 to the individual contesting the citation in court. City staff prepares the
6 necessary documents for court appearances. However, occasionally it
7 may be necessary for Redflex to assist if the City's system is not
8 accessible.
- 9 g. Training: Redflex shall train its staff in the use of its system, customer
10 service performance standards set by the City, City policies and
11 procedures, and in State law and local ordinances affecting NASCOP
12 enforcement and processing.
- 13 h. Compensation: For the original term of the contract, the City will pay
14 \$7,020 per month for up to 1,000 violation notifications issued by Redflex,
15 for a total not to exceed \$84,240. For the First option year, the City will
16 pay \$7,371 per month for up to 1,000 violation notifications issued by
17 Redflex, not to exceed \$88,452. For the Second option year, the City will
18 pay \$7,740 per month for up to 1,000 violation notifications issued by
19 Redflex, for a total not to exceed \$92,880. For the Third option year, the
20 City will pay \$8,127 per month for up to 1,000 violation notifications
21 issued by Redflex, for a total not to exceed \$97,524. For the Fourth option
22 year, the City will pay \$8,533 per month for up to 1,000 violation
23 notifications issued by Redflex, for a total not to exceed \$102,396.

24 **NASCOP's Implementation and Operational History**

25 22. The program involves a van with a speed sensing radar unit and cameras that take
26 pictures of vehicle license plates and motorists that are driving faster than a predetermined
27 threshold over the posted speed limit.

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1 28. In 2005 and 2006, bills authored by Senator Sheila Kuehl were introduced in the
2 California State Senate to provide authorization for the use of photo radar equipment to catch
3 speeders. Neither bill made it out of committee.

4 **The City's Knowledge of NASCOP's Violation of the Vehicle Code**

5 29. In a memorandum dated February 13, 2007, from James R. Helmer, the Director
6 of the DOT, and Rob Davis, the Chief of Police, to the Transportation and Environment
7 Committee, it was recommended that the City Council direct the DOT to report back to the City
8 Council as part of the 2007-2008 fiscal year budget process on modifying NASCOP from an
9 enforcement program that issued tickets to violators, to a warning program.

10 30. The February 13, 2007, memorandum referred to the 2000 amendment of Vehicle
11 Code and noted that it had been amended "to clarify that the use of photo radar was not
12 authorized for speed enforcement purposes." It also noted that while Senator Kuehl had twice
13 proposed bills in the State Senate to allow for the use of photo radar to enforce speeding
14 violations, neither bill moved forward in the legislative process.

15 31. In a memorandum dated February 27, 2007, from Mr. Helmer to the City's Mayor
16 and City Council, the modification of the NASCOP program to a warning system was addressed.
17 Mr. Helmer reported that at the Transportation and Environmental Committee Meeting of
18 February 22, 2007, the committee accepted the joint DOT and SJPD report to accept the
19 February 22, 2007, report on the Recommended Modifications to the Photo Radar Speed
20 Enforcement Program; that the DOT be directed to report back to the City Council as part of the
21 2007-2008 fiscal year budget process on modifying the NASCOP program from an enforcement
22 program to a warning program; and that the DOT be directed to work with the City Manager's
23 Office and City Attorney's Office to explore legal options to retain or reinstate NASCOP for the
24 purpose of photo radar enforcement on the City's streets.

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1 DAMAGES

2 Claimant is damaged by the foregoing acts of defendants and each of them, in an amount
3 according to proof at trial. Claimant seeks damages of \$1,000,000.00 or more. Claimant seeks
4 further damages, which include without limitation, the following:

- 5 1. General damages;
- 6 2. Special damages;
- 7 3. Compensatory damages;
- 8 4. Punitive damages as allowed by law;
- 9 5. Attorney's fees as allowed by law;
- 10 6. Costs of suit;
- 11 7. For interest as allowed by law; and
- 12 8. For such other and further relief as the Court may deem proper.

13
14
15 DATED: September 26, 2007

MCMANIS FAULKNER & MORGAN

16 
17 _____
18 JAMES MCMANIS
MATTHEW SCHECHTER

19 Attorneys for JORGE RAMIREZ, on behalf
20 of himself and others similarly situated
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