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10 Attorneys for Plaintiff,  
11 JORGE RAMIREZ

(ENDORSED)  
**FILED**  
APR 21 2008  
A. I. KIRI TORRE  
Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY \_\_\_\_\_ DEPUTY

12 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

13 JORGE RAMIREZ, an individual, on behalf  
14 of himself and all others similarly situated,  
15  
16 Plaintiffs,  
17  
18 vs.  
19 THE CITY OF SAN JOSE, CALIFORNIA  
20 DEPARTMENT OF MOTOR VEHICLES,  
21 REDFLEX TRAFFIC SYSTEMS, INC., and  
22 DOES 1-50 inclusive,  
23  
24 Defendants.

No. **108CV110886**

CLASS ACTION

**CLASS ACTION COMPLAINT FOR:**

- 1. Conversion
- 2. Unjust Enrichment
- 3. Declaratory and Injunctive Relief

**PLAINTIFFS DEMAND A JURY TRIAL**

OVERVIEW OF ACTION

- 19 1. This is a class action brought by representative plaintiff Jorge Ramirez  
20 (“Ramirez” or “plaintiff”), individually and on behalf of a class of California citizens (“Class  
21 Members”), who received speeding tickets from defendant, the City of San Jose (“the City”),  
22 after allegedly “caught speeding” within the San Jose city limits by a photo radar enforcement  
23 program run by the City in conjunction with defendant Redflex Traffic Systems, Inc.  
24 (“Redflex”).
- 25 2. The City operated the photo radar enforcement system, known as the  
26 Neighborhood Automated Speed Compliance Program (“NASCOP”), even though California  
27 state law expressly prohibited the use of photo radar for speed enforcement purposes.
- 28 ///



1           11. Defendant, the California Department of Motor Vehicles, is, and at all times  
2 herein mentioned was, a state agency duly organized and existing under the laws of the State of  
3 California.

4           **C. Doe Defendants.**

5           12. The true names and capacities, whether individual, corporate, associate or  
6 otherwise, of defendants Does 1 through 50, inclusive are unknown to plaintiff who therefore  
7 sues said defendants by such fictitious names pursuant to Code of Civil Procedure section 474.  
8 Plaintiff further alleges that each of said fictitious defendants is in some manner responsible for  
9 the acts and occurrences herein set forth and participated directly or indirectly as conspirators  
10 and aiders and abettors, and are therefore jointly and severally liable for the actions hereinafter  
11 alleged. Plaintiff will amend this Complaint to show the names and capacities of such Does  
12 when same are ascertained, as well as the manner in which each fictitious defendant is  
13 responsible.

14           **D. Common Enterprise.**

15           13. The defendants, and each of them, pursued a conspiracy, common enterprise and  
16 common course of conduct to accomplish the wrongs complained of herein. The purpose and  
17 effect of the conspiracy, common enterprise and common course of conduct complained of was,  
18 *inter alia*, to perpetrate the wrongful scheme set forth herein in order to obtain the money of  
19 plaintiff and other drivers and to insure concealment and continuation of the scheme which  
20 provided the co-conspirators with large fees and income.

21           14. Defendants accomplished their conspiracy, common enterprise and common  
22 course of conduct by concealing information, and by taking steps and making statements in  
23 furtherance of their wrongdoing and false conduct as set forth below.

24           15. Each defendant was a direct, necessary and substantial participant in the  
25 conspiracy, common enterprise and common course of conduct complained of herein, and was  
26 aware of its/his/her overall contribution to the actions in furtherance of the conspiracy, common  
27 enterprise and common course of conduct. Defendants' acts of conspiracy include, *inter alia*, all  
28 of the acts that each of them is alleged to have committed in furtherance of the wrongful scheme

1 complained of herein, except those relating to the reaching of agreements or understandings  
2 sufficient to characterize their conduct as conspiratorial.

3 **E. Agency/Employee/Aiding and Abetting Allegations.**

4 16. At all times herein mentioned, defendants, and each of them, was an agent,  
5 servant, employee and joint venturer of each of the remaining defendants, and in doing the acts  
6 hereinafter alleged, was acting within the course and scope of said agency, service, employment  
7 and joint venture. Because of the agency, employment and joint venture relationship between  
8 defendants, each defendant had actual and constructive knowledge of the acts of each of the  
9 other defendants. Each defendant ratified, approved, joined in, acquiesced and authorized the  
10 wrongful acts of co-defendants, and each of them, as set forth below, and retained the benefits of  
11 said wrongful acts.

12 17. In performing and failing to perform the acts alleged herein, each defendant aided  
13 and abetted the other defendants; each defendant is or was the employee, agent, joint venturer or  
14 representative of the others, and was acting on their behalf, within the scope of that agency,  
15 employment or joint venture and with their permission and consent; and each defendant acted  
16 both directly and indirectly through agents and employees.

17 **FACTUAL BACKGROUND**

18 18. Since 1996, the City has teamed with Australian camera vendor Redflex to  
19 operate a fleet of white photo radar vans on 177 city streets. Redflex used the vans to mail  
20 expensive tickets to motorists driving just a few miles above the posted speed limit in 25 and 30  
21 mile per hour zones, splitting the revenue subsequently collected with the City.

22 19. In 2006, the City sent out 7,000 violation notices generated through the use of  
23 NASCOP ranging from \$99 to \$350 each.

24 **A. History of NASCOP in the City of San Jose.**

25 20. In November, 1995, the San Jose City Council ("City Council") approved an  
26 ordinance to authorize the Director of the City's Department of Transportation ("DOT") to  
27 appoint employees to enforce speeding laws for the limited purpose of implementing a photo  
28

1 radar program known as NASCOP allegedly to enforce posted speeding limits on City streets.  
2 NASCOP was managed by the DOT.

3 21. The development and implementation of the NASCOP program was coordinated  
4 through a NASCOP Task Force led by the DOT. The task force consisted of members from  
5 various departments and agencies, including the Santa Clara County Courts, the DMV, the  
6 California State Automobile Association, the San Jose Police Department ("SJPD"), and the San  
7 Jose Fire Department.

8 22. NASCOP was utilized as a supplement to police enforcement on residential  
9 streets with a speed limit of 25 or 30 miles per hour.

10 23. A pilot photo radar program was in place on twenty (20) residential streets in San  
11 Jose in 1996 and 1997. The City Council authorized a permanent NASCOP program in  
12 December, 1997, and NASCOP began operating on a full-time basis in 1998.

13 24. Over time, the NASCOP program expanded from the original twenty residential  
14 streets to 177 streets throughout the City.

15 25. In implementing the NASCOP program, the City relied on Penal Code section  
16 836.5, rather than the Vehicle Code, claiming that enforcement by City employees of laws as  
17 part of a photo radar program was permissible following an authorizing ordinance. City  
18 Ordinance Number 25009 was adopted on December 12, 1995, authorizing the use of photo  
19 radar in San Jose. By 2007, however, San Jose was the only city in California using cameras to  
20 catch speeding drivers.

21 **B. The City's Contract with Redflex Traffic Systems, Inc.**

22 26. On November 30, 2004, the City Council approved Resolution No. 72399. The  
23 resolution was entitled: "A Resolution of the Council of the City of San Jose Authorizing the  
24 Director of Transportation to Execute Four One-Year Options to Renew the Agreement with  
25 Redflex Traffic Systems, Inc." The minutes of this meeting state that the Director of  
26 Transportation had the authority to "execute four one-year options to renew without future City  
27 Council action other than the appropriation of necessary funding."

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1           27.     Also on November 30, 2004, the City entered into a contract with Redflex for  
2 Photo Radar Enforcement Notification Processing Services. The agreement was approved as to  
3 form by Mohammed Hill, Deputy City Attorney, and signed by Lee Price, City Clerk, on behalf  
4 of the City, and Karen Finley, Vice President, on behalf of Redflex

5           28.     An overview of the scope of work Redflex was to perform was set forth in the  
6 contract. The contract provided that as the City's primary representative for the Photo Radar  
7 Notification and Processing System, Redflex was responsible for obtaining management services  
8 to perform its duties as well providing timely production of all correspondence, including  
9 photographs, notices and appointments, the accurate processing of DMV transactions, processing  
10 letters to Traffic Court requesting an infraction complaint, the maintenance of records for all  
11 notification and processing activities, and the maintenance of photo radar equipment in the City's  
12 vans. More specifically, the contract between the City and Redflex provided that Redflex's  
13 duties and compensation were as follows:

14           a.     Processing Photographs: The NASCOP program utilized equipment that  
15 provided digital photographs. Redflex was to review downloaded  
16 photograph images and determine whether the images of the drivers were  
17 legible and usable. Redflex would also verify that all of the information  
18 such as the infraction date and time, posted speed limit, speed of offending  
19 vehicle, frame number for violation image, van number and deployment  
20 location contained on the image was accurate.

21           b.     Processing Notices: Redflex would have online access to the California  
22 DMV database. Redflex was to compare the issue date of the notice with  
23 the registered owner of the vehicle on file at the DMV to determine the  
24 registered owner responsible for the Notice of Responsibility. Upon  
25 identifying the registered owner, Redflex would generate and mail the  
26 registered owner a notice of the alleged speed violation on a form,  
27 approved by the Director of the DOT. Redflex would also be responsible  
28 for sending all follow-up notices to alleged speed violators.

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- c. Correspondence Processing: Redflex would provide adequate staffing to open, count, log, review, track and process all NASCOP related correspondence received every day.
- d. Processing Drivers License: If a registered owner did not respond to either the 1st or 2nd notice, Redflex would enter the required registered owner's information into the DMV form INF 254 to request a copy of the registered owner's driver's license.
- e. Setting Photo Review Appointments and Telephone Service: Redflex would schedule appointments for alleged violators to view the photo images at a facility designated by the Director of the DOT.
- f. Court Evidence: If requested by the City, Redflex would provide support materials for court appearances. This material included certification that the digital images and its data had not been tampered with or altered in any way, appointment date and disposition, and copies of all notices sent to the individual contesting the citation in court. City staff prepared the necessary documents for court appearances. However, occasionally it was necessary for Redflex to assist if the City's system was not accessible. In addition, if the ticket was contested, a representative from the DOT would appear in court to testify about the program.
- g. Training: Redflex would train its staff in the use of its system, customer service performance standards set by the City, City policies and procedures, and in State law and local ordinances affecting NASCOP enforcement and processing.
- h. Compensation: For the original term of the contract, the City was to pay \$7,020 per month for up to 1,000 violation notifications issued by Redflex, for a total not to exceed \$84,240. For the First option year, the City was to pay \$7,371 per month for up to 1,000 violation notifications issued by Redflex, not to exceed \$88,452. For the Second option year, the City was

1 to pay \$7,740 per month for up to 1,000 violation notifications issued by  
2 Redflex, for a total not to exceed \$92,880. For the Third option year, the  
3 City was to pay \$8,127 per month for up to 1,000 violation notifications  
4 issued by Redflex, for a total not to exceed \$97,524. For the Fourth option  
5 year, the City was to pay \$8,533 per month for up to 1,000 violation  
6 notifications issued by Redflex, for a total not to exceed \$102,396.

7 **C. NASCOP's Implementation and Operational History.**

8 29. The program involved a van with a speed sensing radar unit and cameras that took  
9 pictures of vehicle license plates and motorists that were driving faster than a predetermined  
10 threshold over the posted speed limit. The photographs were then forwarded to Redflex.  
11 Redflex inserted the information into a Notification of Observed Violation of Speed ("Notice")  
12 that was then mailed to the registered owner of the vehicle.

13 30. The Notice advised the registered owner that he or she, or someone driving his or  
14 her vehicle, was observed driving in violation of the posted speed limit. The registered owner  
15 was provided the opportunity to review the photographs taken when the violation occurred and  
16 could either state his or her innocence by submitting a copy of a driver's license and providing  
17 information on whom he or she believed was driving the vehicle, or acknowledge he or she was  
18 driving the vehicle and submit the "Request to File an Infraction Complaint."

19 31. If the owner acknowledged driving the vehicle, the Santa Clara County Traffic  
20 Court would issue a "Courtesy Notice" advising the owner of the fines due for the traffic  
21 violation. If the registered owner did not respond to the Notice, or responded in writing that he  
22 or she was not driving the vehicle but did not state who might have been the driver, then DOT  
23 staff, with assistance from the SJPd, would obtain a photo of the vehicle's registered owner from  
24 the DMV and compare it to the individual shown in the NASCOP photographs. If the individual  
25 depicted in the DMV photograph were believed to be the same individual in the NASCOP  
26 photograph, all documents would be sent to the Santa Clara County Traffic Court with a request  
27 for an Infraction Complaint to be issued.

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1           **D.     California Vehicle Code.**

2           32.     In 1995, the California Vehicle Code was amended to authorize local jurisdictions  
3 to use an automated enforcement system to enforce red-light running. See Cal. Vehicle Code §  
4 21455.5. Nothing in this section authorized use of photo-radar for enforcement of speed limits.

5           33.     In 2000, the state legislature made its intentions clear by amending Vehicle Code  
6 section 21455.6(b) to read as follows: "The authorization in Section 21455.5 to use automated  
7 enforcement systems does not authorize the use of photo radar for speed enforcement purposes  
8 by any jurisdiction."

9           **E.     The City's Knowledge of NASCOP's Violation of the Vehicle Code.**

10          34.     In a memorandum dated February 13, 2007, from James R. Helmer, the Director  
11 of the DOT, and Rob Davis, the Chief of Police, to the Transportation and Environment  
12 Committee, it was recommended that the City Council direct the DOT to report back to the City  
13 Council as part of the 2007-2008 fiscal year budget process on modifying NASCOP from an  
14 enforcement program that issued tickets to violators, to a warning program. The memorandum  
15 referred to the 2000 amendment of Vehicle Code and noted that it had been amended "to clarify  
16 that the use of photo radar was not authorized for speed enforcement purposes."

17          35.     On March 6, 2007, at the City Council meeting, the City accepted the  
18 transportation and environmental committee recommendation that the City use the NASCOP  
19 program to issues warnings only. The City Council also directed the DOT staff to  
20 "[i]mmediately cease issuing tickets and assessing files for speed violations detected by  
21 NASCOP ..." due to concerns over the legality of such sanctions.

22          **F.     Tickets Received by Ramirez.**

23          36.     On September 19, 2005 at approximately 5:57 a.m., Ramirez was observed by the  
24 NASCOP program going thirty-six (36) miles per hour in a twenty-five (25) mile zone on north  
25 bound Avenida Rotella between Via Serena and Avenida Grande in San Jose. Citation number  
26 ZJ0568939 was issued on September 21, 2005 and informed Ramirez that he violated Vehicle  
27 Code section 22350 and owed a fine in the amount of \$159.00. The DOT witness was Nasario  
28 Flores. An infraction complaint was filed on November 29, 2005, case number 3-05-TR-

1 056263. Ramirez was convicted on May 19, 2006, after which time he paid the fine in full.  
2 Ramirez was assessed one (1) point on his driver's license. Attached hereto as Exhibit A is a  
3 copy of the Final Photo Radar Notification sent to Ramirez and the Infraction Complaint.

4 37. On November 15, 2005 at approximately 4:15 p.m., Ramirez was observed by the  
5 NASCOP program going thirty-five (35) miles per hour in a twenty-five (25) mile zone on south  
6 bound Avenida Rotella between Via Serena and Avenida Grande in San Jose. Citation number  
7 ZJ0569517 was issued on November 18, 2005 and informed Ramirez that he violated Vehicle  
8 Code section 22350 and owed a fine in the amount of \$159.00. The DOT witness was Nasario  
9 Flores. An infraction complaint was filed on December 14, 2005, case number 3-05-TR-065237.  
10 Ramirez was convicted on April 25, 2006, after which time he paid the fine in full. Ramirez was  
11 assessed one (1) point on his driver's license. Attached hereto as Exhibit B is a copy of the  
12 Photo Radar Notification sent to Ramirez and the Infraction Complaint.

13 **G. Government Tort Claim.**

14 38. On or about September 27, 2007, a government tort claim, pursuant to  
15 Government Code sections 905, 905.2, 910, and 910.2, and any other applicable provisions, was  
16 filed with the City. A true and correct copy of the claim is attached hereto as Exhibit C.

17 39. The City issued a Notice of Insufficiency as to the tort claim on October 10, 2007.  
18 A true and correct copy of the Notice of Insufficiency is attached hereto as Exhibit D.

19 40. The City issued a Notice of Rejection of Claim on October 26, 2007. A true and  
20 correct copy of the Notice of Rejection of Claim is attached hereto as Exhibit E.

21 **CLASS ACTION ALLEGATIONS**

22 41. Ramirez brings this action individually and on behalf of all others similarly  
23 situated, which Class is defined as, "all California residents who received and paid a Notification  
24 of Observed Violation of Speed from Redflex and the City of San Jose after having been  
25 observed driving in violation of the posted speed limit in the City of San Jose via the use of a  
26 photo radar enforcement system, beginning from the period of January 1, 1996, through and  
27 including March 31, 2007." This class action is brought pursuant to Code of Civil Procedure  
28 section 382.

1           42.     Ramirez is informed and believes and on that basis alleges that members of the  
2     Class are so numerous that joinder of all members is impracticable. While the exact number of  
3     Class Members is unknown to Ramirez at this time and can only be ascertained through  
4     discovery, Ramirez believes that there are thousands of members of the Class who received  
5     speeding tickets from Redflex and the City after observed driving allegedly in violation of the  
6     posted speed limit in the City of San Jose via the use the NASCOP photo radar enforcement  
7     system.

8           43.     Ramirez's claims are typical of the claims of the Class and Ramirez sustained  
9     damages which arise out of the defendants' wrongful conduct, in violation of California law as  
10    alleged herein.

11          44.     Ramirez is a representative party who will fully and adequately protect the  
12    interests of the Class Members and has retained class counsel who are experienced and  
13    competent in both class and consumer litigation. Ramirez has no interests which are contrary to  
14    or in conflict with those of the Class. The number and identity of the members of the Class are  
15    determinable from the records of defendants. Class Members may be notified of the pendency of  
16    this class action by mail. Ramirez knows of no difficulty to be encountered in the management  
17    of this action which would preclude its maintenance as a class action. Relief concerning  
18    Ramirez's rights under the laws alleged herein, and with respect to the Class as a whole, would  
19    be appropriate.

20          45.     The likelihood of individual Class Members' prosecuting separate claims is  
21    remote and individual members of the Class do not have a significant interest in individually  
22    controlling the prosecution of separate actions. Additionally, the prosecution of separate actions  
23    by individual Class Members would create a risk of inconsistent and varying adjudications  
24    concerning the subject of this action, which adjudications could establish incompatible standards  
25    of conduct for defendants under the law alleged herein.

26          46.     There is a well-defined community of interest in the questions of law and fact  
27    among Ramirez and the Class Members. Questions of law and fact common to the members of  
28    the aforesaid Class predominate over any questions which may affect only individual members,

1 in that defendants have acted in a manner generally applicable to the entire Class. Among the  
2 questions of law and fact common to the Class are:

- 3 a. Whether California law has been violated by defendants as alleged herein;  
4 b. Whether defendants participated in and pursued the course of conduct  
5 complained of herein;  
6 c. Whether defendants engaged in operating a photo radar system for speed  
7 enforcement purposes within the limits of the City of San Jose;  
8 d. Whether the defendants' conduct amounted to wrongful conversion of  
9 property interests;  
10 e. Whether the defendants' conduct resulted in an unjust enrichment of  
11 defendants;  
12 f. Whether members of the Class have sustained damages, and if so, the  
13 proper measure of damages; and  
14 g. Whether members of the Class have received "points" on their driving  
15 records, and if so, the proper method of removing said "points."

16 **FIRST CAUSE OF ACTION**

17 **[Conversion – Against Defendants City of San Jose, Redflex, and Does 1-50 Inclusive]**

18 47. Ramirez incorporates by reference the allegations set forth in paragraphs 1  
19 through 46, inclusive.

20 48. At all times herein mentioned, Ramirez and Class Members were, and still are, the  
21 owner and were, and still are, entitled to the possession of the following personal property,  
22 namely: the monies paid as fines and as traffic school fees after receiving speeding tickets  
23 pursuant to the NASCOP program.

24 49. From on or about December 1997, up through and including March 6, 2007,  
25 defendants took in excess of \$5 million dollars from the possession of Ramirez and Class  
26 Members and converted the same for their own use.

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(b) A declaration, order and judgment that any and all speeding tickets issued under the NASCOP program are void, invalid, ineffective, and unenforceable;

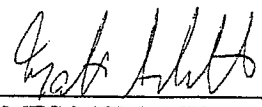
(c) A declaration, order, injunction, and judgment that the DMV remove all points imposed on the licenses of Ramirez and Class Members incurred as a result of a speeding ticket issued pursuant to the NASCOP program;

(d) A declaration, order, injunction, and judgment that the DMV remove all references to any speeding ticket issued as a result of a speeding ticket issued pursuant to the NASCOP program from the driving records of Ramirez and Class Members;

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

DATED: April 18, 2008

MCMANIS FAULKNER & MORGAN



JAMES MCMANIS  
MATTHEW SCHECHTER

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

# **EXHIBIT A**



## FINAL PHOTO RADAR NOTIFICATION OBSERVED VIOLATION OF SPEED

JORGE L RAMIREZ  
[REDACTED]

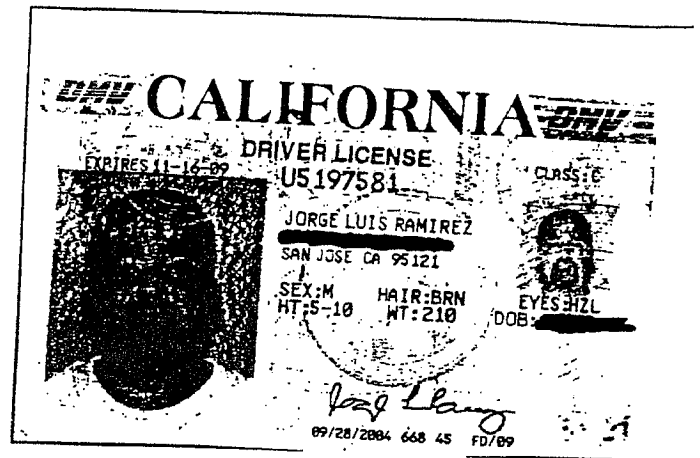
SAN JOSE, CA 95121

Issue Date: 09/21/2005

Notification No. ZJ0568939

Dear, JORGE L RAMIREZ

On 09/21/2005 an "Observed Violation of Speed" notice was mailed to you at the above address. The first notice informed you that a vehicle registered in your name or driven by you, license plate number [REDACTED] was captured using a photo radar system on 09/19/2005 at 05:57 AM travelling 36 MPH on NB AVENIDA ROTELLA between VIA SERENA/AVENIDA GRANDE. The speed limit on NB AVENIDA ROTELLA between VIA SERENA/AVENIDA GRANDE is 25 MPH. This was a violation of California Vehicle Code Section 22350-Basic Speed Limit.



**YOU MUST RESPOND TO THIS NOTICE WITHIN 15 CALENDAR DAYS FROM THE DATE ON THIS NOTICE**

You have received this final notice because:

- \* You have not responded to the first notice or
- \* Because a copy of your driver's license was not submitted or
- \* Because the copy of your driver's license was not clear

Please respond to this notice with your signature on the back of this letter and with a copy of your Drivers License. If you have any further questions regarding this notice, please contact a NASCOP staff person with the City of San Jose Department of Transportation at (408) 794-6215 during weekday business hours.

Sincerely,

Neighborhood Automated Speed Compliance Program (NASCOP)  
City of San Jose, Department of Transportation  
200 E Santa Clara Street  
San Jose, CA 95113

If you have returned the first notice with a copy of your driver's license you may disregard this notice.

**Photo Viewing Schedule**  
Monday - Friday: 10:00AM - 3:00PM  
Call 1-877-636-7231 to schedule an appointment only.

**REQUEST TO FILE INFRACTION COMPLAINT**

IF YOU WERE THE DRIVER at the time the image was captured, and desire to pay the citation; go to traffic school, if eligible; or contest the citation in court - follow the instructions below. Please note, the court requires that the citation be paid under all circumstances.

Sign this form and mail it to the address shown below, along with a photocopy of your driver's license. Make sure your photograph, driver's license number and date of birth show clearly. Please enclose your most current mailing address if different than the one shown on the license.

The above information will be sent to the Superior Court of California, along with an infraction complaint. The Infraction Complaint serves to notify the court to take action upon the identified person. The court will then mail a Courtesy Notice (citation) to the driver of the captured vehicle describing the options available to him/her to clear the speeding violation. IF YOU HAVE READ AND UNDERSTOOD THE ABOVE REQUIREMENTS, PLEASE SIGN BELOW. SIGNING THIS FORM IS NOT AN ADMISSION OF GUILT.

**MAIL THE ENTIRE ORIGINAL FORM AND YOUR DRIVER'S LICENSE PHOTOCOPY TO**  
**City of San José**  
**Department of Transportation, Attn: NASCOP**  
**200 E Santa Clara Street**  
**San José, CA 95113**

Signature: [Handwritten Signature] Date: 11-04-05

**CERTIFICATE OF INNOCENCE**

IF YOU WERE NOT THE DRIVER at the time the image was captured and you are the registered owner of the vehicle described in the attached "Observed Violation of Speed" follow the instructions below.

Sign and date below. Mark the appropriate box on the left side of the form. Provide the requested information on the person who was driving on the right side of the form. Mail the entire form to the address shown below, along with a photocopy of your driver's license. Make sure your photograph, driver's license number and date of birth show clearly. Please enclose your most current mailing address if different than the one shown on the license.

Department staff will compare your driver's license picture with the image of the speeding vehicle. If department staff verifies you were not driving the vehicle, no further action will be taken. If our staff is unable to verify that you were not the driver, you will be contacted by mail and asked to make an appointment to review the photo-radar image in person, at the address below.

Registered Owner's Signature: [Handwritten Signature] Date: 11-04-05

Please check appropriate box:

- I no longer own the vehicle
- A registered co-owner was driving
- Another person was driving

Please provide requested information on the driver:

Driver's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Driver's License #: \_\_\_\_\_ State: \_\_\_\_\_  
Current Address: \_\_\_\_\_  
\_\_\_\_\_

**MAIL THE ENTIRE ORIGINAL FORM AND YOUR DRIVER'S LICENSE PHOTOCOPY TO**  
**City of San José**  
**Department of Transportation, Attn: NASCOP**  
**200 E Santa Clara Street**  
**San José, CA 95113**

Superior Court of California  
Santa Clara County Judicial District

THE PEOPLE OF THE STATE OF CALIFORNIA  
(Plaintiff)

INFRACTION COMPLAINT  
Complaint #: ZJ0568939  
CVC 22350

vs.

JORGE L RAMIREZ

[REDACTED]

SAN JOSE, CA 95121

(Defendant)

The undersigned is informed that:

COUNT ONE

In the County of Santa Clara, State of California, on or about ,09/19/2005 an INFRACTION, to wit was witnessed by NASARIO FLORES, an employee of the City of San Jose: a violation of CALIFORNIA VEHICLE CODE SECTION 22350 was committed by the above-named defendant, as follows to wit: The said defendant did drive a vehicle upon a highway at a speed that was greater than was reasonable and prudent.

Approx. Speed 36

Posted Speed 25

Safe Speed 25

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency, which the undersigned believes establish probable cause for the arrest of defendant for the above listed crime(s).

Complainant therefore requests that the said defendant may be dealt with according to the law.

After reviewing the official reports and documents, I certify under penalty of perjury that the foregoing is true and correct.

Executed on about 11-28-05 in Santa Clara County, California.

[Signature]

CSJ Department of Transportation 408)-794-6216

DEFENDANT INFORMATION:

Name: JORGE L RAMIREZ  
Address: [REDACTED]  
City/State/Zip: SAN JOSE, CA [REDACTED]  
Date of Birth: [REDACTED]

Date of Incident 09/19/2005 Location NB AVENIDA ROTELLA  
Approx. Speed 36 Posted Speed 25 Safe Speed 25  
Drivers License # [REDACTED] State CA Class  
Vehicles License # [REDACTED] State CA  
Jurisdiction San Jose Issued by

**FILED**

NOV 29 2005

KIRI TORRE  
Clerk of Superior Court of Santa Clara  
Superior Court of CA, County of Santa Clara  
BY \_\_\_\_\_ DEPUTY

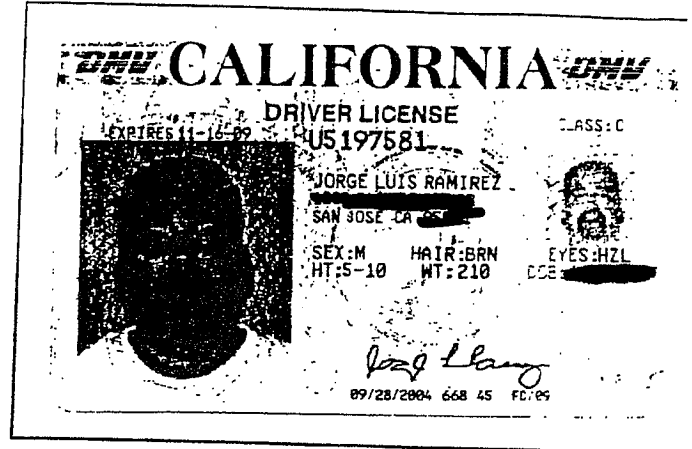
**EXHIBIT B**



PHOTO RADAR NOTIFICATION  
OBSERVED VIOLATION OF SPEED

JORGE LUIS RAMIREZ  
203 [REDACTED]  
SAN JOSE CA 95121

12/17/05



Issue Date: 11/18/2005  
Notification No. ZJ0569517  
Dear Registered Owner or Driver,

A vehicle registered in your name or driven by you, license plate number 6E73939 was captured using a photo radar system on 11/15/2005 at 04:15 PM travelling 35 MPH on SB AVENIDA ROTELLA between VIA SERENA/AVENIDA GRANDE. The speed limit on SB AVENIDA ROTELLA between VIA SERENA/AVENIDA GRANDE is 25 MPH. This was a violation of California Vehicle Code Section 22350-Basic Speed Limit.

**YOU MUST RESPOND TO THIS NOTICE WITHIN 15 CALENDAR DAYS FROM THE DATE ON THIS NOTICE**

**FOLLOW ONE OF THE ACTIONS BELOW:**

If this notice is addressed to you and you were the driver at the time of violation, read and complete the top half of the reverse side of this form entitled "Request to File an Infraction Complaint" and mail the entire original form to the NASCOP address below. Make a copy for your records.

If this notice is addressed to you and you feel that you were NOT the driver of the vehicle at the time of violation, please read and complete the bottom half of the reverse side of this form entitled "Certificate of Innocence" and mail the entire original form to the NASCOP address below. Make a copy for your records.

If this notice is addressed to you and you wish to view the images, you **MUST** make an appointment to view the images by calling toll free 1-877-NFORCE1 (1-877-636-7231) Monday through Friday between the hours of 9 AM and 4 PM (MST), except legal holidays. You will be given a date and time to view the images at the NASCOP office at the address below.

Neighborhood Automated Speed Compliance Program (NASCOP)  
City of San Jose, Department of Transportation  
200 E Santa Clara Street  
San Jose, CA 95113

Notification No. ZJ0569517

**Photo Viewing Schedule**  
 Monday - Friday: 10:00AM - 3:00PM  
 Call 1-877-636-7231 to schedule an appointment only.

**REQUEST TO FILE INFRACTION COMPLAINT**

IF YOU WERE THE DRIVER at the time the image was captured, and desire to pay the citation; go to traffic school, eligible; or contest the citation in court - follow the instructions below. Please note, the court requires that the citation be paid under all circumstances.

Sign this form and mail it to the address shown below, along with a photocopy of your driver's license. Make sure your photograph, driver's license number and date of birth show clearly. Please enclose your most current mailing address if different than the one shown on the license.

The above information will be sent to the Superior Court of California, along with an Infraction Complaint. The Infraction Complaint serves to notify the court to take action upon the identified person. The court will then mail a Courtesy Notice (citation) to the driver of the captured vehicle describing the options available to him/her to clear the speeding violation. **IF YOU HAVE READ AND UNDERSTOOD THE ABOVE REQUIREMENTS, PLEASE SIGN BELOW. SIGNING THIS FORM IS NOT AN ADMISSION OF GUILT.**

**MAIL THE ENTIRE ORIGINAL FORM AND YOUR DRIVER'S LICENSE PHOTOCOPY TO**  
**City of San José**  
**Department of Transportation, Attn: NASCOP**  
**200 E Santa Clara Street**  
**San José, CA 95113**

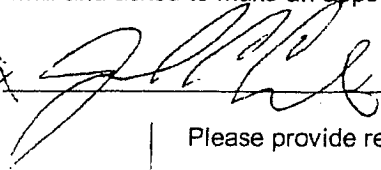
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**CERTIFICATE OF INNOCENCE**

IF YOU WERE NOT THE DRIVER at the time the image was captured and you are the registered owner of the vehicle described in the attached "Observed Violation of Speed" follow the instructions below.

Sign and date below. Mark the appropriate box on the left side of the form. Provide the requested information on the person who was driving on the right side of the form. Mail the entire form to the address shown below, along with a photocopy of your driver's license. Make sure your photograph, driver's license number and date of birth show clearly. Please enclose your most current mailing address if different than the one shown on the license.

Department staff will compare your driver's license picture with the image of the speeding vehicle. If department staff verifies you were not driving the vehicle, no further action will be taken. If our staff is unable to verify that you were not the driver, you will be contacted by mail and asked to make an appointment to review the photo-radar image in person, at the address below.

Registered Owner's Signature:  Date: 11/3/05

- Please check appropriate box.
- I no longer own the vehicle
  - A registered co-owner was driving
  - Another person was driving

Please provide requested information on the driver:

Driver's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 Driver's License #: \_\_\_\_\_ State: \_\_\_\_\_  
 Current Address: \_\_\_\_\_

3-10-11-065237  
 TOLAN Ramirez  
 12:19pm  
 TRFCLK221064  
 Negative Officer

**MAIL THE ENTIRE ORIGINAL FORM AND YOUR DRIVER'S LICENSE PHOTOCOPY TO**  
**City of San José**  
**Department of Transportation, Attn: NASCOP**  
**200 E Santa Clara Steet**  
**San José, CA 95113**

Superior Court of California  
Santa Clara County Judicial District

THE PEOPLE OF THE STATE OF CALIFORNIA  
(Plaintiff)

INFRACTION COMPLAINT  
Complaint # ZJ0569517  
CVC 22350

vs.

JORGE RAMIREZ  
[REDACTED]

SAN JOSE, CA [REDACTED]

(Defendant)

**FILED**

DEC 15 2005

KIRI TORRE  
Clerk of the Superior Court  
Superior Court of CA, County of Santa Clara  
BY \_\_\_\_\_ DEPUTY

The undersigned is informed that:

**COUNT ONE**

In the County of Santa Clara, State of California, on or about ,11/15/2005 an INFRACTION, to wit was witnessed by NASARIO FLORES, an employee of the City of San Jose: a violation of CALIFORNIA VEHICLE CODE SECTION 22350 was committed by the above-named defendant, as follows to wit: The said defendant did drive a vehicle upon a highway at a speed that was greater than was reasonable and prudent.

Approx. Speed 35

Posted Speed 25

Safe Speed 25

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency, which the undersigned believes establish probable cause for the arrest of defendant for the above listed crime(s).

Complainant therefore requests that the said defendant may be dealt with according to the law.

After reviewing the official reports and documents, I certify under penalty of perjury that the foregoing is true and correct.

Executed on about 12-17-05 in Santa Clara County, California.

CSU Department of Transportation (408)-794-6216

**DEFENDANT INFORMATION:**

Name **JORGE RAMIREZ**  
Address [REDACTED]  
City/State/Zip **SAN JOSE CA [REDACTED]**  
Date of Birth [REDACTED]

Date of Incident **11/15/2005** Location **SB AVENIDA ROTELLA**  
Approx Speed: **35** Posted Speed **25** Safe Speed **25**  
Drivers License # [REDACTED] State **CA** Class  
Vehicles License # [REDACTED] State  
Jurisdiction **San Jose** Issued by



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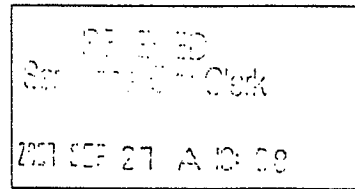
# **EXHIBIT C**



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 [checked]

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

Generally, a claim against the City of San José for damages to persons or personal property must be filed with the City Clerk of the City of San José 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 José, 200 E. Santa Clara Street, San José, 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 José, 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: [Redacted]

ADDRESS OF CLAIMANT [Redacted] CITY San Jose STATE CA ZIP CODE [Redacted]

HOME PHONE (408) [Redacted] WORK PHONE ( ) DRIVER'S LICENSE California STATE AND NUMBER [Redacted]

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

[Empty lines for additional information]

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

[Empty lines for additional information]

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 11/11 day of November, 2007

[Signature]  
-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

10 Attorneys for Claimant,  
11 JORGE RAMIREZ

12 JORGE RAMIREZ, an individual, on behalf  
13 of himself and others similarly situated,

14 Claimant,

15 vs.

16 THE CITY OF SAN JOSE, REDFLEX  
17 TRAFFIC SYSTEMS, INC., and DOES 1-  
18 50 inclusive,

19 Defendants.

No.

**CLAIM FOR DAMAGES**

20 TO THE CITY OF SAN JOSE:

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

26 1. Claimant's daytime telephone number is (408) 279-8700.

27 2. Claimant's e-mail address is [jmcmanis@mfmlaw.com](mailto:jmcmanis@mfmlaw.com) and  
28 [mschechter@mfmlaw.com](mailto:mschechter@mfmlaw.com).

3. Claimant's post office address is: James McManis and Matthew Schechter,  
McManis Faulkner & Morgan, 50 W. San Fernando Street, 10<sup>th</sup> Floor, San Jose, California,  
95113.

CLAIM FOR DAMAGES



1 History of NASCOP in the City of San Jose

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

**NASCOP's Implementation and Operational History**

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

///



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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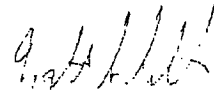
DAMAGES

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

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

DATED: September 26, 2007

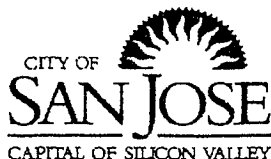
MCMANIS FAULKNER & MORGAN



\_\_\_\_\_  
JAMES MCMANIS  
MATTHEW SCHECHTER

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

# **EXHIBIT D**



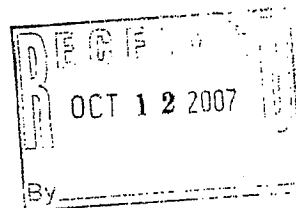
Office of the City Attorney

RICHARD DOYLE, CITY ATTORNEY

**NOTICE OF INSUFFICIENCY**

October 10, 2007

Matthew Schechter, Esq.  
McManis, Faulkner & Morgan  
50 West San Fernando Street, 10th Floor  
San Jose, California 95113



Re: Claim No.: C-12718-07  
DOI: Unknown  
Claimant: Jorge Luis Ramirez

NOTICE IS HEREBY GIVEN that the claim which you presented to the City Clerk on 9/26/2007, fails to comply substantially with the requirements of California Government Code Sections 910 and 910.2, or is otherwise insufficient for the following reasons:

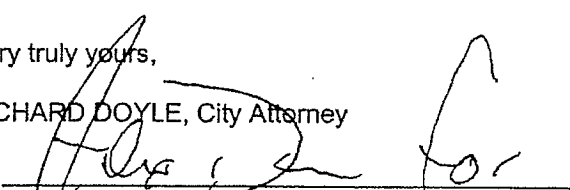
- The claim fails to state the date, place and other circumstances of the occurrence or transaction which allegedly gave rise to the claim asserted. In particular, the claim fails to state the exact dates that the claimant, Jorge Luis Ramirez, received the citations and the exact dates that Ramirez paid the fines. In addition, the claim fails to provide sufficient information to identify and make ascertainable all claimants that are allegedly "similarly situated " to Jorge Luis Ramirez.

Your claim may be amended pursuant to Government Code Section 910.6. Any amended claim must be in writing and filed with the City Clerk before the expiration of the period designated in Government Code Section 911.2 or before final action thereon taken by the City of San José, whichever is later.

Very truly yours,

RICHARD DOYLE, City Attorney

By

  
Cinda McCann  
Investigator

**PROOF OF SERVICE BY MAIL**

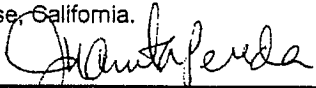
I am a citizen of the United States, over 18 years of age, employed in Santa Clara County, and not a party to the within action. My business address is 200 East Santa Clara Street, San Jose, California 95113-1905, and is located in the county where the service described below occurred. I caused to be served a copy of the above notice by MAIL, by depositing it into a sealed envelope, with postage fully prepaid, and causing the envelope to be deposited for collection and mailing on the date indicated below. I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service.

Said correspondence would be deposited with the United States Postal Service that same day in the

200 East Santa Clara Street, San José, CA 95113-1905 tel (408) 535-1900 fax (408) 998-3131

ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 10/10/07 at San Jose, California.



---

Juanita Pereda

# **EXHIBIT E**



*Office of the City Attorney*  
RICHARD DOYLE, CITY ATTORNEY

## NOTICE OF REJECTION OF PURPORTED CLAIM

October 26, 2007

McManis, Faulkner & Morgan  
Mr. Matthew Schechter  
A Professional Corporation  
50 West San Fernando Street, 10th Floor  
San Jose, California 95113

Re: Claim No.: C-12718-07  
Claimant: Jorge Luis Ramirez

NOTICE IS HEREBY GIVEN that you failed to amend the purported claim which you presented to the City Clerk of the City of San José on 9/26/2007. The Notice of Insufficiency sent to you on or about October 10, 2007, indicates why you have failed to file a legally sufficient claim.

Since it may be judicially determined that your purported claim substantially complies with the requirements of the Government Code (see Section 910.6(b)), notice is hereby given, without waiving your claim's insufficiency, that it was rejected by operation of law on October 26, 2007.

### WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the United States mail to file a court action on the stated causes of action contained within this purported claim. See Government Code Section 945.6.

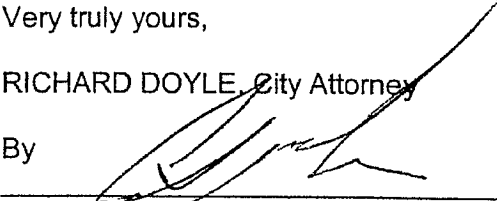
NOTICE OF REJECTION OF PURPORTED CLAIM  
October 26, 2007  
Page 2

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Very truly yours,

RICHARD DOYLE, City Attorney

By

  
\_\_\_\_\_  
Cinda McCann  
Investigator

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**PROOF OF SERVICE BY MAIL**

I am a citizen of the United States, over 18 years of age, employed in Santa Clara County, and not a party to the within action. My business address is 200 East Santa Clara Street, San Jose, California 95113-1905, and is located in the county where the service described below occurred. I caused to be served a copy of the above notice by MAIL, by depositing it into a sealed envelope, with postage fully prepaid, and causing the envelope to be deposited for collection and mailing on the date indicated below. I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. Said correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 10/26/07, at San Jose, California.

  
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Juanita Pereda