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## **STATEMENT OF FACTS**

Your Honor, Pursuant to Cal. Veh. Code § 40902, I respectfully submit this trial by written declaration and I plead not guilty to the charge of violating Cal. Veh. Code § 21453(a). I have provided the following defense.

I request that the court dismiss my case based on the reasons outlined in this defense. Since the burden of proof falls upon the officer, the only way to sustain a conviction is for the officer to prove beyond a reasonable doubt that I am guilty of every element of the alleged violation. In addition, the officer must provide proof beyond a reasonable doubt of foundational information which allows the officer to issue citations in this county.

First, the officer must prove that the violation occurred within the jurisdiction of this courthouse. Secondly, the officer must prove all the elements of my alleged violation were met. The following arguments will show that the People have failed to meet this burden and therefore, my case should be dismissed due to insufficient evidence.

## **SUMMARY OF ARGUMENTS**

### **I. PHOTOGRAPHIC “EVIDENCE” IS INSUFFICIENT TO SHOW A VIOLATION**

**A. CLARITY OF PHOTOGRAPHS DOES NOT ADHERE WITH CAL.VEH. CODE § 210**

### **II. CITATIONS AT THIS INTERSECTION MAY BE INVALID FOR FAILURE TO MEET DOT'S REQUIRED MINIMUM YELLOW INTERVAL TIMING**

### **III. THE CITY MAY NOT HAVE POSTED ADEQUATE NOTICE OF THE AUTOMATED ENFORCEMENT SYSTEM, IN VIOLATION OF CAL. VEH. CODE § 21455.5(a)(1)**

**A. THE ALLEGED SIGN MAY NOT MEET THE MUTCD REQUIREMENTS FOR CLARITY AND LEGIBILITY**

### **IV. CONCLUSION**

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### **I. PHOTOGRAPHIC “EVIDENCE” IS INSUFFICIENT TO SHOW A VIOLATION**

#### **A. CLARITY OF PHOTOGRAPHS DOES NOT ADHERE WITH CAL.VEH. CODE § 210 AS THERE IS NO CLEAR PICTURE OF THE DRIVER AND NO DISTINGUISHING FEATURES CAN BE RECOGNIZED BEYOND A REASONABLE DOUBT**

Cal. Veh. Code § 210 states that a "clear photograph of the driver" of the vehicle is required in the use of an automated enforcement system. I ask this court to examine the entire evidentiary record to determine whether substantial evidence exists such that a rational trier of fact could find the essential elements of the crime beyond a reasonable doubt. (Jackson v. Virginia (1979) 443 U.S. 307, 318-319; People v. Cuevas (Cal.1995) 12 Cal. 4th 252, 260-261.) Substantial evidence is "evidence that reasonably inspires confidence and is 'of solid value.'" (People v. Bassett (1968) 69 Cal.2d 122, 139.)

I move to dismiss this case based on the lack of substantial evidence that identifies myself as the driver.

Here there is only one picture of the alleged driver and it is far from clear. The photo is blurry and lacks distinguishable facial features, which makes it impossible to identify who the driver is. Additionally, when the photo is zoomed in on, the picture becomes highly pixelated, rendering the facial features of the alleged driver unrecognizable to where it can't be identified as the named defendant beyond a reasonable doubt.

### **II. CITATIONS AT THIS INTERSECTION MAY BE INVALID FOR FAILURE TO MEET THE DEPARTMENT OF TRANSPORTATION'S REQUIRED MINIMUM YELLOW INTERVAL TIMING**

For intersections that utilize an automated enforcement system, the automated enforcement system must operate with a minimum yellow light change interval that is established in accordance with the Traffic Manual of the Department of Transportation. (Cal. Veh. Code § 21455.7(a)).

To lay the proper foundation for this case, I request that the officer submit proof to the courts that this intersection adheres to the DOT's minimal yellow light intervals outlined in the Traffic Manual, as published by the Department of Transportation, shown on the following page:

**NEED A COPY OF THIS? HIT FILE > MAKE A COPY****TABLE 4D.I02. MINIMUM YELLOW INTERVAL**

<b>POSTED SPEED or PRIMA FACIE SPEED</b>		<b>MINIMUM YELLOW INTERVAL</b>
<b>mph</b>	<b>km/h</b>	<b>Seconds</b>
<b>25 or less</b>	<b>40 or less</b>	<b>3.0</b>
<b>30</b>	<b>48</b>	<b>3.2</b>
<b>35</b>	<b>56</b>	<b>3.6</b>
<b>40</b>	<b>64</b>	<b>3.9</b>
<b>45</b>	<b>72</b>	<b>4.3</b>
<b>50</b>	<b>80</b>	<b>4.7</b>
<b>55</b>	<b>89</b>	<b>5.0</b>
<b>60</b>	<b>97</b>	<b>5.4</b>

If the officer is unable to prove that the yellow light interval meets the Department of Transportation's required minimum, any citations for violating Cal. Veh. Code § 21453 at this intersection are invalid and I request that my case be dismissed due to lack of foundation.

**III. THE CITY MAY NOT HAVE POSTED ADEQUATE NOTICE OF THE  
AUTOMATED ENFORCEMENT SYSTEM, IN VIOLATION OF CAL.  
VEH. CODE § 21455.5(a)(1)**

For intersections that utilize an automated traffic enforcement system, Cal. Veh. Code § 21455.5(a)(1) mandates that the governmental agency utilizing the system post signs within 200 feet of the intersection. Previously, the signs were allowed to be posted at the major entrances to the city, however as of January 1, 2014, the signs must be at the intersection. These must:

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*“Identif[y] the system by signs posted within 200 feet of an intersection where a system is operating that clearly indicate the system’s presence and are visible to traffic approaching from all directions in which the automated traffic enforcement system is being utilized to issue citations. A governmental agency utilizing such a system does not need to post signs visible to traffic approaching the intersection from directions not subject to the automated traffic enforcement system. Automated traffic enforcement systems installed as of January 1, 2013, shall be identified no later than January 1, 2014.”*

Since the alleged violation occurred after January 1st, 2014, the City is required to have posted signage at each intersection for the directions where the red light cameras are in use. Therefore, the officer or prosecution must provide sufficient evidence that this has occurred in this case.

### ***A. THE ALLEGED SIGN MAY NOT MEET THE MUTCD REQUIREMENTS FOR CLARITY AND LEGIBILITY***

When referring to signs, the Traffic Manual of The Department of Transportation Traffic (found at [www.dot.ca.gov](http://www.dot.ca.gov)) states:

*"No such ordinance shall be effective with respect to a State highway until approved by the Department of Transportation. Option: The Department of Transportation may restrict turning movements on State highways. Refer to Cal. Veh. Code § 21352. Support: A thorough investigation is necessary to determine whether or not the prohibited movements can be satisfactorily made at other locations without undue circuitry of travel."*

The Department of Transportation's Manual on Uniform Traffic Control Devices "MUTCD" details all the requirements this sign must meet in order for the court to take legal recourse for a driver failing to abide by the sign. For any highway sign to have legal ramifications, the sign itself must abide by the MUTCD. MUTCD Section 2B.01 Application of Regulatory Signs requires that:

*"Regulatory signs shall be installed at or near where the regulations apply [...] and shall be designed and installed to provide adequate visibility and legibility in order to obtain compliance."*

**Therefore, in order for a regulatory sign to be legally enforceable, it must provide adequate visibility and legibility in order to obtain compliance. If a driver is unable to read or even see a sign, the purpose of the sign is frustrated and the driver is not put on notice of the prohibitions the sign was designed to announce.**

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If there was a sign giving notice of the automated enforcement system, it was not clearly visible and legible for approaching drivers at the time of my alleged violation. MUTCD Section 2A.06 (04B) Design of signs states that:

*"The basic requirements of a sign are that it be legible to those for whom it is intended and that it be understandable in time to permit a proper response. Desirable attributes include: B. High Legibility (adequately sized letters, symbols or arrows.)"*

Since the sign did not "provide adequate visibility and legibility in order to obtain compliance" at the time of the alleged violation, then the purpose of the sign is frustrated. Therefore, I request that my case be dismissed due to inadequate notice.

### **IV. CONCLUSION**

Your Honor, I move for a dismissal of this case in the interests of justice. The case should be dismissed because the photograph of the driver fails to provide the clarity required under Cal. Veh. Code § 210, rendering the evidence insufficient. If the intersection fails to comply with the Department of Transportation's minimum yellow timing requirements, the citation is invalid and must be dismissed. Finally, failure to provide adequate notice of the red light camera system at this intersection in adherence to the statutory requirements renders the citation invalid.

Additionally, if the arresting officer does not submit a statement to the court for this trial by declaration, I ask that my case be dismissed. Notice and Instructions to Arresting Officer (TR-210) states that the officer must complete, sign, and date an Officer's Declaration (TR-235) and file it with the court by the return date.

Without admitting guilt, if my case is not dismissed, I ask that the court reduce the charge against me to a non-point violation and/or reduce the fine. I am an out of state driver with a clean driving record, and I always strive to drive safely and within the law.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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***XXXX, Defendant in Pro Per***