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CASE NO. ACRAS 900155  
APPELLATE DIVISION  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff/Respondent

v.

**[REDACTED]** MACIAS,  
Defendant/Appellant

Superior Court Case No. V016329 BJM

The Honorable Commissioner Patrick L. Singer

**[REDACTED] MACIAS' OPENING BRIEF; SERVED CONCURRENTLY  
WITH A TRANSCRIPT PREPARED FROM THE OFFICIAL  
ELECTRONIC RECORDING UNDER CALIFORNIA COURT RULE  
8.917 as ALLOWED UNDER CRC 8.910 (a)(2)**

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**[REDACTED] MACIAS' OPENING BRIEF**

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**I. RELIEF SOUGHT: MACIAS SEEKS TO OVERTURN HIS PHOTO ENFORCEMENT BASED CONVICTION UNDER VEHICLE CODE §21453(A)**

MACIAS (hereafter "MACIAS") was mailed on January 10, 2009 a "Notice of Traffic Violation" by Chrisi Stampley of Redflex Traffic Systems, Inc. (Hereafter "Redflex"), an Arizona-based corporation [CT 4-7].

It is alleged (and denied by MACIAS) by Redflex and the People that MACIAS allegedly violated California Vehicle Code 21453(A) [CT-1-2].

**II. GROUNDS FOR THE APPEAL & STANDARD OF REVIEW**

Redflex, the alleged capturer of inculpatory images of defendant herein, is not licensed nor bonded with the State of California as a private investigator (and therefore not eligible to "testify" as to any infraction its technology may have alleged captured) in violation of California Business & Professions Code § 7521 et seq [CT-4-7, 16-19]. The standard of review is both de novo and abuse of discretion for this ground.

The law enforcement representatives at trial did not see the actual violation, just the computer images sent by an out of state business by the name of Redflex. The enforcement agency's testimony and conviction resulting therefrom relies on inadmissible hearsay. While CVC 21455.5 is not mentioned in the hearing except for the general reference by Commissioner Singer that "it's a statutory scheme developed by the State of California." [which allows the use of the video feed] [Oral Transcript, p 1, lines 24-27], the evidence which disqualified the testimony at trial under the statute was adduced through cross-examination and argued. The standard of review for this ground is abuse of discretion.

The issues were raised in the trial court below in a written motion [CR 4-64] and ruled upon as inapplicable based on a Vehicle Code section the trial officer did not identify [CR 79-80, 89-90, Court's Settled Statement] and did not wish to discuss any of the issues raised in the written motion except to advise MACIAS that the motion was

denied [Oral Transcript, p 1, line 20 thru p 2, line 5]

**III. THE LOCAL COURT RULE IF USED TO BAR USE OF THE ACTUAL RECORD OF THE HEARING, VIOLATES MACIAS' PROCEDURAL DUE PROCESS VIOLATION, IF THE ATTACHED PRIVATELY GENERATED TRANSCRIPT IS NOT ALLOWED [OR ALTERNATIVELY THE COURT SHOULD LISTEN TO THE CD OF THE HEARING]**

MACIAS requested that a copy of the electronically recorded trial be produced as record as is allowed under California Rule of Court 8.917c, but due to a local rule which prohibits use of the electronic record (which MACIAS contends deprives him of his right to an accurate record of the proceeding and the local rule is objected to on that constitutional due process basis), the CD was not prepared by the clerk and sent to this reviewing court.

Instead an order was made directing the "transcript to be prepared and paid for by the appellant" (which was privately done, and a copy is attached as Exhibit "1" to this brief with the corresponding minutes the testimony appeared at). Even though the transcript was shown to the underlying trial officer (Commissioner Singer), it was not factored into any changes in the Court's Proposed Settled Statement despite the transcript and MACIAS' written objections based on numerous factual errors/omissions in the Settled Statement (CT-81-86, 89).

Among the errors or omissions in the Settled Statement are the following:

1. Officer Baker testifies that one of the pictures shown by MACIAS depicts MACIAS' vehicle stopped behind the limit line with brake lights on, but tries to minimize that record by saying that was but one frame/still [Oral Transcript at p. 10, lines 5-19];
2. Officer Baker admits the record submitted is not the original record, does not know if it is complete or accurate from his personal knowledge or investigation-- the original digital record was not shown in court [Oral Tr, p 19, 1.28-1.19, p 20];

3. The testifying Officers [did not review the original video feed captured by Redflex, had no idea what was reviewed by Redflex before the video was sent to Victorville, made no effort to certify the accuracy of the of the Redflex pictures sent apart from receiving a hearsay declaration [Oral Transcript, p 16, lines 8-22], which is curiously missing from the record! For some reason, despite the Court's and MACIAS' request to provide the declaration and make the copy of same a part of the record, it didn't happen, or it did and someone removed it (the Redflex Declaration was to be made a part of the record -- e.g. an Exhibit "C" to the defendants record, but for some reason did not make it [Oral Transcript, p 21, l. 10 thru line 5 on p 22] or it did, and someone removed it from the file!

4. The testifying Officers did not know if the video sent by Redflex and attested to by the hearsay declaration of people presumably employed by Redflex as a true and correct copy, was in fact a true and correct copy of what Redflex received from the video camera [Oral Transcript at p. 15, line 13, through p 17, line 4]; the sole basis for the Officers' confidence in the accuracy of the digital feed is based on a declaration that is now missing from the Court file, which is signed by people they do not know, have never met and have no idea what their qualifications may be [Oral Transcript at p 18, lines 16 thru line 25 on p. 20]

5. CVC § 21455 was NOT referred to at trial nor was there any attempt by the People to put evidence on that showed compliance with the statutory prerequisites for the use of photo enforcement technology as the sole basis for citing a citizen[CT 82, line 14-24, Oral Transcript at p. 1, line 25 thru p 2, line 10]—had the Court cited the statute (which might have happened had the court not cut MACIAS off; with the testimony and further argument, there would have been sufficient to support a dismissal of the citation;



6. Under CVC § 21455.5, the action should have been dismissed because Redflex conducts the timing studies from Arizona [CT 82, line 24-27, Oral Transcript at p 6, line 21 thru p 7, line 27] and the testifying officer had no idea when the photo enforcement unit had last been calibrated [CT 82, line 28 thru line 1 on CT 83, Oral Transcript at p 8, lines 1-6]; had the Court cited the statute, the argument, with the testimony would have been sufficient to support a dismissal of the citation;

**IV. THE MISSING EVIDENCE IN THE CLERK'S RECORD APPEARS TO CREATE A PRESUMPTION OF INNOCENCE IN ANY EVENT**

For some reason, despite the Court's and MACIAS' request to include the Redflex declaration as a part of the record, it vanishes (the Redflex declaration was to be made a part of the record, e.g. an Exhibit "C" to the defendants record, but for some reason was not in the Court file) [Oral Transcript, p 21, l. 10 thru line 5 on p 22].

Since the Judge and MACIAS made a record of their efforts to include the record and the Clerk would have no reason to not include the full record, the only rational inference, from the record which shows a reluctance by the Officer to include the declaration, is that the "evidence" has been wilfully suppressed, which creates a rebuttable presumption that the evidence if produced would have demonstrated the innocence of MACIAS and that the Officer's testimony concerning that evidence may be biased. Penal Code §413, People v Medina (1990) 51 C.3d 870,894.

Even with a non-malicious destruction of evidence, the trier of fact is entitled to consider that the failure to preserve material evidence "contributed to the uncertainty of proof at trial" Albers v Greyhound Corp (1970) 4 CA 3d 463,475.

**V. CALIFORNIA BUSINESS & PROFESSION CODE Sec 7521(e) REQUIRES REDEFLEX TO BE A CALIFORNIA LICENSED PRIVATE INVESTIGATOR IN ANY EVENT**

"Under California Business & Professions Code § 7521:

“A private investigator within the meaning of this chapter is a person...who, for any consideration...engages in business or accepts employment to furnish or agrees to furnish, or agrees to make, or makes any investigation for the purpose of obtaining, information with reference to:

....  
(e) Securing evidence to be used before any court, board, officer or investigating committee.”

## **VI. REDFLEX IS NOT LICENSED AS A PRIVATE INVESTIGATOR**

Attached as Exhibit “B” to Macias’ trial motion are copies of the California Department of Consumer Affairs Bureau of Security and Investigative Services website print outs on an inquiry made as to Redflex Traffic Systems, Inc (CR 53-56)

## **VII. IT IS ILLEGAL UNDER CALIFORNIA BUSINESS & PROFESSIONS CODE § 7520 FOR REFLEX TO BE OPERATING AS A GATHERER OF FACTS TO BE PRESENTED IN A COURT IN CALIFORNIA WITHOUT BEING LICENSED**

Under Business & Professions Code § 7520:

“No person shall engage in a business regulated by this chapter;”

## **VIII. IT WAS AN INFRACTION FOR REDFLEX TO FILE A NOTICE TO APPEAR AND TESTIFY VIA THEIR ABSENTEE DECLARANT**

Under Business & Professions Code §7520.1(a)”

“Notwithstanding any other provision of law, any person engaging in a business as a private investigator who violates section 7520 is guilty of an infraction...under either of the following circumstances:

(1) A complaint or written notice to appear in court ...is filed in court charging the offense as an infraction....”

Under subpart “c” of § 7520.1, a violation of § 7520 & 7521 is punishable by a fine of \$1,000 per violation.

The “Notice of Traffic Violation” send to defendant Macias stated [CR-1]:

“I, Christi Stampley, of Redflex Traffic Systems Inc, 23751 N. 23<sup>rd</sup> Avenue, Suite 150, Phoenix, Arizona 85085-1854, do certify I am over 18 years old and not a party to the above entitled case. On Saturday, February 14, 2009, I placed the Notice to Appear in an enveloped addressed to the registered owner, lessee, or identified owner as shown above, sealed it, and deposited the envelope in a United States Postal Service receptacle located in the United States Post Office in Phoenix, Arizona. ...”

The law has been violated. Under Business & Professions Code § 7520.1, the fine

has to be paid. The fine can only be suspended for a time the court considers reasonable for Redflex to produce evidence of licensure. The People had the burden to introduce competent and admissible evidence in compliance with California law , which the Court below did not do and by not requiring Redflex's compliance, has encouraged interstate corporate lawlessness and caused a potential significant loss in revenue of upwards of \$1,000 per Redflex violation.

## **IX. THE SO-CALLED VIDEO EVIDENCE IS IMPERMISSIBLE HEARSAY**

### **A. THE HEARSAY RULE PRESENTS A PROBLEM GENERALLY**

At the core of MACIAS objection to the admission of hearsay evidence resulting from Redflex's camera, is his inability to determine if it passes the "adequate indicia of reliability" test.

The Sixth Amendment's Confrontation Clause provides that, "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him." We have held that this bedrock procedural guarantee applies to both federal and state prosecutions. *Pointer v. Texas*, 380 U. S. 400, 406 (1965).

"In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him. We have held that this bedrock procedural guarantee applies to both federal and state prosecutions." *Pointer v. Texas*, 380 U. S. 400, 406 (1965)

Confrontation Clause applies to "witnesses" against the accused — in other words, those who "bear testimony." 2 N. Webster, *An American Dictionary of the English Language* (1828). "Testimony," in turn, is typically "[a] solemn declaration or affirmation made for the purpose of establishing or proving some fact." *Ibid.*

In *Crawford v Washington* (2004) 541 U.S. 36, the Court held that using a

recording of the accused without the opportunity to cross examine, was not sufficient to satisfy constitution. The State's use of Sylvia's pretrial statement (Sylvia like MACIAS did not testify at his trial) violated the Confrontation Clause because, where testimonial statements are at issue as the only indicium of reliability sufficient to satisfy constitutional demands is confrontation. *Id.*, at 42-69.

Under *Ohio v. Roberts*, 448 U. S. 56, the confrontation right does not bar admission of an unavailable witness's statement against a criminal defendant if the statement bears "adequate `indicia of reliability,'" a test met when the evidence either falls within a "firmly rooted hearsay exception" or bears "particularized guarantees of trustworthiness." *Id.*, at 66.

In the case before the Court, the People did not establish unavailability of Redflex's original video data, nor the person or persons who received and processed it . The People's officers admit that the camera is the witness to the infraction (Oral Tr. p. 19, lines 22-24), that original digital data that was recorded by the camera was not presented in court (Oral Tr. p 19, line 28 thru line 2, p 20), Officer Rose testifies she believes the people in the Redflex declaration saying that the video was a true correct copy of what Redflex received and resent to Victorville & Redflex "reviews the same video we do" but testifies (as does Officer Baker) that they don't know for sure if that is the case (Oral Tr. p 15, l. 13 thru l. 18 on p 16).

Officers Rose & Baker have no idea what records were reviewed by the

Redflex declarants before they certified the authenticity of the pictures or video (Oral Tr. p. 16, lines 8-18).

Officer Rose made no effort to certify the accuracy of the Redflex pictures sent apart from receiving the hearsay declaration of 3 people in Arizona working for Redflex (Oral Tr. p 14, lines 17-24), which neither officer knows anything about (Oral Tr. p. 18, line 25 thru line 7 on page 19)

Officer Baker admits he does not know if the data is compressed & uncompressed, how it is stored, how it is retrieved (noting there was a 6+ week delay from violation to citation).

#### **B. THE STATUTORY EXCEPTION DOES NOT CURE THE PROBLEM**

First, while nowhere in the recorded hearing was there a reference to CVC 21455 et seq (apart from Commissioner Singer's first reference to it in the proposed settled statement), there was more than amply evidence to point to the unreliability of the Redflex and Victorville show(-ing):

CVC 21455.5, subpart c, prohibits Redflex from operating the red light photo enforcement system; under CVC 21455 subpart (d) states in substance even if the operation of the system is contracted out, Victorville needed to maintain overall control of the system (which it did not) and in no event could Victorville contract out the establishment or changes of signal phases and the timing thereof and maintaining the controls necessary to assure that those citations have been reviewed

and approved by law enforcement are delivered to violators.

*First*, the Notice of Traffic Violation [CR-1] is prepared and sent by REDFLEX, not the local law enforcement agency.

*Second*, the evidence shows that Redflex conducts the timing studies involving the yellow light and video feed daily remotely from Arizona (Oral Tr.p 6, line 21 thru 27 on p 7) and not locally as per the statute.

*Third*, Officer Baker had no idea the last time the Redflex system was calibrated as shooting 12 frames per second (Oral trp 8, lines 1-26)

Generally speaking, where a violation has taken place, and it is observed by an officer or there is an investigation which leads to a report being prepared ,where officer is available to testify about recorded unlawful activity, the court properly can exclude admission of recording itself. People v Johnson 39 CA 3d 749( 1974)

Redflex's video preparer and reviewer should have testified (and be available to cross examine) to attest to the reliability of the system and data gathered because the testing which makes the system reliable, if that can be proved, was NOT done locally as per the statute so that a local witness could testify as to the system's maintenance, testing and resulting reliability (if any).

**C. EVEN IF THE REDFLEX WITNESS SHOWED UP, THERE WOULD HAVE BEEN A PROBLEM GETTING HER TESTIMONY IN**

Expert opinions are not proper when offered by a lay witness and since the declarant who is on "Notice of Traffic Citation" prepared by an Arizona corporation

makes no attempt to qualify herself as an expert, Evidence Code § 800 applies. See generally, *Jambazian v. Borden* (1994) 25 Cal.App.4th 836, 848. Examples of inadmissible lay opinion evidence include testimony on causation [*Stickel v. San Diego Elec. Ry. Co.* (1948) 32 Cal.2d 157, 165], legal conclusions [*Osborn v. Mission Ready Mix* (1990) 224 Cal.App.3d 104, 113-144] and matters beyond common experience [*People v. Williams* (1992) 3 cal.App.4th 1326, 1332-33]. This would include a statement by that the video or a photographs “fairly and accurately depicted” what it (the camera saw) that day, because it cannot.

If we make the Redflex machine the witness, we don’t know what it saw, nor did the testifying officers. If we make the Redflex declarants the witness(-es), we don’t know what they saw coming off the machine, what they did with the data, if it was corrupted or complete, edited or lost and or only in part used.

#### **D. AN OFFICER CAN’T MAKE UNRELIABLE HEARSAY ADMISSIBLE**

While an expert may base his opinion on reliable hearsay, such as medical records, he may not testify to the content of the hearsay; i.e. he may not under the guise of reasoning bring before the trier of fact incompetent hearsay evidence.

*Continental Airlines v. McDonnell Douglas Corp.* (1989) 216 Cal.App.3d 388, 415;  
*Korsack v. Atlas Hotels* (1992) 2 Cal.App.4th 1516, 1525.

#### **1. BUSINESS RECORD EXCEPTION FAILS TO CIRCUMVENT THE HEARSAY OBJECTION**

While a record prepared as a part of a normal business activity may be

admissible under the "business records exception", it is so only if it records (and is offered to prove) an act, condition or event (or the absence thereof) in the ordinary course of business. Writings (or images) reporting only conclusions are not made admissible by Evidence Code §§ 1271 and 1272 simply because they appear in a business record. *People v. Reyes* (1974) 12 Cal.3d 486, 503; *Taggart v. Super Seer Corp.* (1995) 33 Cal.App.4th 1697, 1708. The logic is as follows:

“a conclusion is neither an act, condition or event; it may or may not be based upon conditions, acts or events observed by the person drawing the conclusion; it may or may not be founded upon sound reason; the person who has formed the conclusion recorded may or may not be qualified to form it and testify to it. Whether the conclusion is based upon observation of an act, condition or event or upon sound reason or whether the person forming it is qualified to form it and testify to it can only be established by the examination of that party under oath. . . .” *People v. Reyes*, supra, 12 Cal.3d at 503 (internal citations omitted)

The business record exception does require someone to testify that the record was made in the regular course of a business, that the record was made at or near of the time of the event, “...AND THERE IS A CUSTODIAN OR OTHER QUALIFIED WITNESS TESTIFIES TO ITS IDENTITY AND THE MODE OF ITS PREPARATION (emphasis added). Evidence Code § 1271.

The chief foundation of the special reliability of business records is the requirement that they must be based upon the FIRST HAND KNOWLEDGE of someone whose job it is to know the facts recorded the record must be based on the



report of an informant having the business duty to observe and report. McCormick, Evidence §286 at 602(1954) as quoted in MacLean v City & County of San Francisco (1957) 151 C A 2d 133,143. The People fail to meet that exception.

## 2. THE OFFICIAL RECORD EXCEPTION FAILS TO CIRCUMVENT THE HEARSAY OBJECTION

Under Evidence Code §1280, the official record exception cannot apply as the first prong is not met – that it was “...MADE BY AND WITHIN THE SCOPE OF DUTY OF A PUBLIC EMPLOYEE (emphasis added)”. The report was prepared by Redflex, an Arizona corporation, not a public employee.

The third prong is problematic as well under § 1280 – the “.... SOURCES OF INFORMATION AND METHOD AND TIME OF PREPARATION WERE SUCH AS TO INDICATE TRUSTWORTHINESS (emphasis added)”. The foundational and overall gaps in what was not known by the Officers was too much to overcome from the discussion above and incorporated herein by reference.

## X. CONCLUSION

MACIAS’ conviction should be overturned, the DMV notified of the fact of the conviction being overturned and the fine refunded.

By: 

ROBERT D. CONAWAY  
Attorney for  MACIAS

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 MACIAS’ OPENING BRIEF

WORD COUNT DECLARATION

I, Robert Conaway, do declare under penalty of perjury of the laws of the State of California, that by using WordPerfect© software, I counted the number of words in this brief and not counting the table of authorities, table of contents and cover page and the total word count came to 3,438.

Date: December 1, 2009



\_\_\_\_\_

ROBERT D. CONAWAY

1 0:05 BAILIFF: PLEASE REMAIN SEATED AND COME TO ORDER COURT IS  
2 NOW IN SESSION  
3 0:08 COMMISSIONER SINGER: GOOD MORNING LADIES AND GENTLEMEN  
4 0:09 COURT ROOM: GOOD MORNING YOUR HONOR  
5 0:14 COMMISSIONER: SEE OFFICER'S WELL, NO, MY OFFICERS, NOT HERE  
6 0:15 [UNKNOWN]: HE'S ON HIS WAY  
7 0:19 COMMISSIONER: PARDON  
8 0:21 COMMISSIONER: OFFICER OWAD  
9 0:24 COMMISSIONER: OFFICER SNYDER  
10 0:29 COMMISSIONER: OFFICER JANSKE  
11 0:34 COMMISSIONER: AND THE BALANCE OF THE CASE IS HERE'S OFFICER  
12 BAKER THE REST ARE OUT  
13 0:58 COMMISSIONER: OKAY, ████████ MACIAS  
14 1:06 ROBERT CONAWAY: GOOD MORNING YOUR HONOR  
15 1:07 COMMISSIONER: MORNING  
16 1:08 MR. CONAWAY: BOB CONAWAY FOR THE DEFENDANT  
17 1:09 COMMISSIONER: MISTER CONAWAY, YOU'RE MISTER MACIAS, WE ASK THE  
18 FOLKS NOT TO HAVE THEIR HANDS IN THEIR POCKETS  
19 THANK YOU MR. MACIAS THANK YOU.  
20 1:15 COMMISSIONER: UH, MISTER CONAWAY I'VE REVIEWED THE MOTION, UM  
21 AND THE MOTIONS, UH ARE AND THE MOTION TO  
22 SUPPRESS IS DENIED AND WE'LL GO AHEAD PROCEED  
23 WITH THE CASE SIR.  
24 1:25 COMMISSIONER: INTERESTING ARGUMENTS BUT, UH IT'S A STATUTORY  
25 SCHEME DEVELOPED BY, UM THE STATE OF CALIFORNIA  
26 THE IN ANY EVENT THE MOTION IS DENIED GO AHEAD  
27 AND PROCEED WITH THE CASE.  
28

1 1:33 MR. CONAWAY: AND I WOULD HAVE AN OPPORTUNITY TO ADDRESS SOME  
2 OF THE POINTS IN THE CONCLUSION --  
3 1:38 COMMISSIONER: -- NOT -NOT IN THE MOTION ITSELF BUT CERTAINLY  
4 YOU CAN CROSS EXAMINE AND ASK ANY QUESTIONS THAT  
5 YOU FEEL ARE APPROPRIATE, YEAH  
6 1:44 MR. CONAWAY: OKAY, ALRIGHT,  
7 1:46 COMMISSIONER: I'VE GOTTA READ EACH OF THE POINTS IN THE MOTION  
8 AND ON EACH OF THE POINTS THE MOTION IS DENIED  
9 SIR  
10 1:56 COMMISSIONER: OKAY, MR. MACIAS GO AHEAD  
11 1:57 MR. CONAWAY: TO, TO, TO MISTER MACIAS, YOU MEAN THE PEOPLE?  
12 2:00 COMMISSIONER: I'M SORRY?  
13 2:01 MR. CONAWAY: THE PEOPLE?  
14 2:02 COMMISSIONER: OFFICER BAKER RIGHT  
15 2:03 OFFICER BAKER: THANK YOU YOUR HONOR  
16 2:06 MR. CONAWAY: TO ASSIST ME IN WRITING CAN I SIT YOUR HONOR?  
17 2:08 COMMISSIONER: UM, NORMALLY WE ONLY ALLOW THAT IF THERE'S A  
18 MEDICAL ISSUE BUT BUT CERTAINLY IF YOU WANT TO DO  
19 THAT GO AHEAD COUNSEL GO AHEAD  
20 2:16 COMMISSIONER: MR. MACIAS KINDLY REMAIN STANDING WOULD YOU  
21 2:22 COMMISSIONER: OKAY GO AHEAD  
22 2:23 OFFICER BAKER: THANK YOU YOUR HONOR. THIS CITATION WAS ISSUED AS  
23 A RESULT OF EVIDENCE COLLECTED BY THE AUTOMATED  
24 TRAFFIC ENFORCEMENT SYSTEM THIS INCIDENT OCCURRED  
25 ON SOUTHBOUND HESPERIA ROAD AT BEAR VALLEY ROAD  
26 IN THE CITY OF VICTORVILLE ON SATURDAY JANUARY  
27 10<sup>TH</sup> AT 2009 AT APPROXIMATELY 15:56 HOURS  
28

1 2:41 OFFICER BAKER: PHOTO NO 1 SHOWS THE DEFENDANTS VEHICLE  
2 SOUTHBOUND IN THE NUMBER FOUR LANE  
3 2:48 OFFICER BAKER: THE VEHICLE SPEED IS APPROXIMATELY 16 MILES AN  
4 HOUR THE LIGHT HAS BEEN RED FOR POINT THREE SIX  
5 SECONDS  
6 2:55 OFFICER BAKER: PHOTOGRAPH NUMBER TWO IS THE UH LAST  
7 PHOTOGRAPH TAKEN  
8 2:58 OFFICER BAKER: THE LIGHT HAS BEEN RED FOR 1.79 SECONDS  
9 THE ELAPSED TIME WAS 1.43 SECONDS  
10 PHOTOGRAPHS 3 AND 4 ARE IDENTIFIER  
11 PHOTOGRAPHS ACTUALLY PHOTOGRAPH 3 IS TAKEN  
12 SECOND AND PHOTOGRAPH 4 IS TAKEN  
13 SIMULTANEOUSLY WITH THE LAST PHOTOGRAPH  
14 PHOTOGRAPH ONE SHOWS THE DEFENDANTS VEHICLE  
15 NORTH OF THE SIDEWALK I'M SORRY OF THE  
16 CROSSWALK LIMIT LINE AND PHOTOGRAPH NUMBER  
17 TWO SHOWS THE DEFENDANTS VEHICLE IN THE  
18 INTERSECTION PAST THE FIRST LINE  
19 3:38 OFFICER BAKER: IN ADDITION TO THAT THERE IS A 5<sup>TH</sup>  
20 PHOTOGRAPH A DMV PHOTOGRAPH OF THE REGISTERED  
21 OWNER OF THIS VEHICLE AND LAST THERE IS A 12  
22 SECOND VIDEO TAKEN OF THIS INCIDENT  
23 3:52 COMMISSIONER: OKAY MISTER CONAWAY AND MACIAS OFFICER MAVES  
24 IS GOING TO SHOW YOU SOME ENLARGEMENTS  
25 THEY'RE ENLARGEMENTS OF THE PHOTOGRAPHS THAT  
26 WERE RECEIVED IN THE PACKAGE THAT WAS MAILED  
27 TO MISTER MACIAS  
28

1 4:06 COMMISSIONER: ALL I'M GOING TO LOOK AT IN THE PACKAGE ARE THE  
2 PHOTOGRAPHS NOT ANYTHING ELSE  
3 4:29 COMMISSIONER: MISTER CONAWAY HAS YOUR CLIENT SEEN THE VIDEO  
4 4:32 MR. CONAWAY: I BELIEVE HE HAS YES  
5 4:33 COMMISSIONER: OKAY, THEY'RE GOING TO SHOW IT AGAIN ONLY  
6 BECAUSE I WANT TO LOOK AT IT THIS MORNING, SO  
7 4:40 MR. CONAWAY: THIS IS THE ONE THAT'S ON THE WEBSITE  
8 AVAILABLE?  
9 4:42 COMMISSIONER: RIGHT  
10 4:43 OFFICER BAKER: YES SAME ONE SAME ONE  
11 4:44 COMMISSIONER: SAME ONE  
12 4:45 OFFICER BAKER: CAN YOU SEE THE SCREEN?  
13 4:46 COMMISSIONER: THERE'S ONLY ONE THAT'S MADE, YEAH  
14 4:46 MR. CONAWAY: YEAH, YES I CAN SEE THE SCREEN YES I'M SORRY  
15 4:51 OFFICER BAKER: IT'S NUMBER 40 {INAUDIBLE}  
16 5:03 OFFICER BAKER: LOOKS LIKE THE DEFENDANT'S VEHICLE  
17 5:09 OFFICER BAKER: AGAIN?  
18 5:10 MR. CONAWAY: SURE.  
19 5:26 OFFICER BAKER: OKAY?  
20 5:27 MR. CONAWAY: OKAY.  
21 5:28 COMMISSIONER: TAKE A LOOK AT THAT THEN WE'LL START THE  
22 CROSS-EXAMINATION  
23 5:50 COMMISSIONER: OKAY.  
24 5:55 COMMISSIONER: MISTER CONAWAY CROSS  
25 5:56 MR. CONAWAY: YES, I MISSED YOUR NAME, OFFICER  
26 6:01 COMMISSIONER: BAKER  
27 6:01 OFFICER BAKER: BAKER, B-A-K-E-R  
28

1 6:03 MR. CONAWAY: YOU'RE WITH THE SAN BERNARDINO COUNTY  
2 SHERIF'S DEPARTMENT  
3 6:05 OFFICER BAKER: THAT'S CORRECT  
4 6:06 MR. CONAWAY: OKAY, WHAT UNIT ARE YOU WITH THAT IS  
5 AFFILIATED WITH THE IN CONJUNCTION WITH THESE  
6 UH THE AUTOMATED TRAFFIC SYSTEM?  
7 6:10 OFFICER BAKER: WE'RE WITH THE TRAFFIC DIVISION  
8 6:13 MR. CONAWAY: AND WHERE IS THAT TRAFFIC DIVISION BASED  
9 6:17 OFFICER BAKER: OUT OF THE VICTORVILLE SUBSTATION 14200 AMARGOSA  
10 ROAD  
11 6:22 MR. CONAWAY: RIGHT, AND ARE YOU ASSIGNED TO THIS AUTOMATED  
12 TRAFFIC ENFORCEMENT PROGRAM  
13 6:29 OFFICER BAKER: YES  
14 6:30 MR. CONAWAY: AND HOW MUCH OF YOUR TIME IS SPENT TESTIFYING  
15 ON TRAFFIC SIGNAL CASES  
16 6:37 MR. CONAWAY: APPROXIMATELY  
17 6:37 OFFICER BAKER: PROB--APPROXIMATELY AN HOUR AND A HALF TO TWO  
18 HOURS PER WEEK  
19 6:41 MR. CONAWAY: OKAY. IN THIS PARTICULAR SYSTEM WHAT TYPE OF  
20 TRAINING HAVE YOU RECEIVED FROM RED FLEX ON  
21 THEIR TRAFFIC SYSTEMS ON THEIR SYSTEM  
22 6:48 OFFICER BAKER: WELL BEFORE THE SYSTEM WAS INITIALIZED THERE  
23 WAS A SIXTEEN TWENTY HOUR COURSE GIVEN IN AT  
24 RED FLEX'S HEADQUARTERS REGARDING THE  
25 MECHANICS HOW IT WORKS  
26 7:03 MR. CONAWAY: AND THIS HEADQUARTERS IS IN ARIZONA, CORRECT  
27 7:05 OFFICER BAKER: THAT'S CORRECT  
28

1 7:06 MR. CONAWAY: AND WAS THE TRAINING LOCAL, REMOTELY OR WAS  
2 IT ACTUALLY IN ARIZONA  
3 7:09 OFFICER BAKER: IT WAS IN ARIZONA AT THEIR FACILITY  
4 7:11 MR. CONAWAY: FROM THE STANDPOINT OF THIS FACILITY WERE YOU  
5 GIVEN ANY INSTRUCTIONS ON HOW MANY FEET PER  
6 SECOND THIS SYSTEM RECORDS  
7 7:21 OFFICER BAKER: NO THE FEET PER SECOND IS BASED ON THE SPEED  
8 LIMIT AT THE TIME IS WHAT IT WOULD BE  
9 7:27 MR. CONAWAY: OKAY, NO I UNDERSTAND YOUR ANSWER I GUESS MY  
10 QUESTION IS IS THIS VIDEO SYSTEM GENERATES  
11 HOW MANY FEET PER SECOND OF ACTUAL IMAGING IS  
12 IT  
13 7:37 OFFICER BAKER: IT -- 12 SECONDS OF IMAGING  
14 7:39 MR. CONAWAY: 12 SECONDS  
15 7:40 OFFICER BAKER: IT IS APPROXIMATELY 2.5 AS I RECALL FRAMES  
16 PER SECOND  
17 7:44 MR. CONAWAY: OKAY. NOW DO YOU KNOW WHAT THE SPEED OF THIS  
18 PARTICULAR VIDEO THAT'S TAKEN IN THE ORIGINAL  
19 CAMERA  
20 7:52 OFFICER BAKER: NO I HAVE NO IDEA.  
21 7:54 MR. CONAWAY: OKAY. DO YOU KNOW WHAT THE SPEED OF THE VIDEO  
22 THAT'S BEING DEPICTED HERE IN THE IMAGRY IS  
23 IF IT'S DIFFERENT THAN WHAT'S TAKEN IN THE  
24 CAMERA  
25 8:02 OFFICER BAKER: IF I UNDERSTAND QUESTION CORRECTLY THIS IS  
26 REAL TIME THIS IS WHAT THE CAMERA TAKES ON  
27 THIS VIDEO  
28



1 8:10 MR. CONAWAY: AND THAT UNDERSTANDING IS BASED UPON WHAT HOW  
2 DO YOU KNOW THAT IT'S REAL TIME  
3 8:14 OFFICER BAKER: FROM THE INSTRUCTION I RECEIVED IN AND YOU  
4 CAN TIME THE LIGHTS THE YELLOW PHASE WHICH IS  
5 SET BY STATE STATUTE AND UH GET A TIMING ON  
6 THAT IT'S JUST A WAY TO DO IT AND TO VERIFY  
7 8:26 MR. CONAWAY: OKAY AND DO YOU KNOW THAT THAT WAS VERIFIED  
8 AND TIMING STUDY DONE ON THE LIGHTS TO VERIFY  
9 THAT THIS IS A 12 FRAMES PER SECOND PROGRAM  
10 8:36 OFFICER BAKER: NO. I KNOW THAT THEY PERIODICALLY CHECK THE  
11 SYSTEM BUT NO I DON'T KNOW  
12 8:42 MR. CONAWAY: DO YOU KNOW WHEN THE LAST TIME THE SYSTEM WAS  
13 CHECKED TO VERIFY THAT IT IS RUNNING AT 12 FRAMES  
14 PER SECOND  
15 8:47 OFFICER BAKER: THEY DO IT EVERY MORNING WAS MY UNDERSTANDING  
16 8:50 MR. CONAWAY: WHO'S THEY  
17 8:50 OFFICER BAKER: UH RED FLEX  
18 8:52 MR. CONAWAY: SO RED FLEX REMOTELY FROM ARIZONA MONTIORS AND  
19 MAINTAINS THESE CAMERA SYSTEMS  
20 8:56 OFFICER BAKER: WELL NO THERE'S A TECH HERE IF SOMETHING THAT  
21 NEEDS TO BE HAND SON THE TECH HERE WILL HANDLE IT  
22 9:02 MR. CONAWAY: BUT THE DAILY CHECKING OF THESE CAMERA  
23 SYSTEMS IS THAT DONE SOMETHING LOCALLY  
24 9:09 OFFICER BAKER: NO THAT'S ALL DONE AT THE HEADQUARTERS FOR  
25 RED FLEX  
26 9:10 MR. CONAWAY: AND YOU DON'T KNOW WHO THAT PERSON IS  
27 9:12 OFFICER BAKER: NO I HAVE NO IDEA.  
28

1 9:14 MR. CONAWAY: DO YOU KNOW WHO THE PERSON WAS THAT LAST  
2 CALIBRATED THIS TO VERIFY THAT THIS 12  
3 SECONDS -- 12 FRAMES PER SECOND OF ACTUAL  
4 FOOTAGE TAKEN AT THE TIME OF ALLEGED  
5 VIOLATION  
6 9:25 OFFICER BAKER: NO I DO NOT  
7 9:26 MR. CONAWAY: YOU DON'T HAVE ANY WHAT THE FRAMES PER SECOND  
8 WERE AT THE TIME THIS VIDEO WAS PRODUCED TO  
9 BRING HERE TO THIS COURT ROOM  
10 9:35 OFFICER BAKER: NO  
11 9:38 MR. CONAWAY: NOW DID YOU AS PART OF YOUR TRAINING RECEIVE  
12 AND INSTRUCTION ON THE FACT THAT IF A  
13 PARTICULAR VIDEO WAS SPED UP THAT MIGHT  
14 DISTORT THE ACTUAL STOPPING PATTERN OR THE  
15 FACT THAT AN INDIVIDUAL MAY OR MAY NOT HAVE  
16 STOPPED  
17 9:51 OFFICER BAKER: I'VE NEVER SEEN ONE THAT WAS DISTORTED AS FAR  
18 AS I'VE SEEN THEY HAVE ALL BEEN ACCURATE  
19 9:57 MR. CONAWAY: OKAY THE QUESTION I'M ASKING IF FOR EXAMPLE  
20 IF YOU HAD A 12 FRAMES PER SECONDS PROGRAM  
21 AND ASSUME THAT'S LOADED INTO THE COMPUTER IF  
22 A PERSON DOES COME TO A FULL STOP BUT THAT  
23 FRAME IS SPED UP DOES THAT TEND TO NOT MAKE  
24 THE PERSON LOOK LIKE THEY DIDN'T STOPPED --  
25 TENDS TO MAKE THEM LOOK LIKE THEY RAN THE  
26 LIGHT  
27 10:18 OFFICER BAKER: I'VE NEVER SEEN IT SO I CAN'T ANSWER THE  
28

1 QUESTION YES OR NO

2 10:23 MR. CONAWAY: SO YOU HAVE NO KNOWLEDGE AS TO WHAT THE  
3 EFFECT OF CHANGING THE FRAMES PER SECOND  
4 SPEED WOULD BE ON A PARTICULAR VIOLATION

5 10:32 OFFICER BAKER: UM WELL COULD YOU REPHRASE AND ASK IT A  
6 DIFFERENT WAY MAYBE I CAN

7 10:37 MR. CONAWAY: SURE. LET ME BUT IT INTO A CONTEXT I'M  
8 LOOKING I THINK AT ONE OF THE PHOTOS YOU HAVE  
9 IN YOU'RE YOUR PACKAGE THERE I'LL SHOW IT TO  
10 YOU I THINK IT'S FRAME FIFTEEN TIME 15:56:43  
11 I'LL MARK THIS AS DEFENDANTS ONE SHOW THIS TO  
12 THE WITNESS AND

13 10:54 OFFICER BAKER: THE FRAME NUMBER YOU REFER TO IS AN INCIDENT  
14 ACTUALLY IS AN INCIDENT NUMBER AND THIS FRAME  
15 IS THE FIFTEENTH INCIDENT THAT WAS FILMED  
16 SINCE MIDNIGHT ON THE DAY THAT THIS CITATION  
17 ON THE DAY THAT INCIDENT OCCURRED SO FROM

18 MR. CONAWAY: I'M SORRY GO AHEAD

19 OFFICER BAKER: SO FROM 0001 TILL THE TIME THAT THIS WAS TAKEN  
20 THERE WERE 15 VIOLATIONS THAT'S WHAT 15 SAYS

21 11:18 MR. CONAWAY: 15 VIOLATIONS RECORDED BY THE CAMERA CORRECT

22 11:21 OFFICER BAKER: THAT'S CORRECT

23 11:21 MR. CONAWAY: NOW FOR IDENTIFICATION I GUESS I WANTED TO  
24 POINT YOU TO THE TIME THE TIME WOULD BE THE  
25 WAY TO IDENTIFY THIS PARTICULAR FRAME THAT  
26 WAS TAKEN FOR THIS VIOLATION NUMBER 15  
27 THIRTEEN

1 11:32 OFFICER BAKER: UM THIS IS MORE, THIS IS A CLOCK OF IT AS  
2 FAR AS I KNOW THERE IS NO TIME ATTACHED TO  
3 THIS FRAME THIS IS OF THE TIME OF THE  
4 INCIDENT OCCURRED  
5 11:43 MR. CONAWAY: OKAY. LET ME ASK IT THIS WAY, WHAT WE MARKED  
6 AS DEFENDANTS "A" THIS IS PART OF THE PACKAGE  
7 THAT YOU SHOWED ME A FEW MINUTES AGO CORRECT  
8 11:49 OFFICER BAKER: THAT'S CORRECT  
9 11:50 MR. CONAWAY: AND THIS IS AN ACCURATE DEPICTION OF A PORTION OF  
10 THE TRAFFIC MOTIONS OF ALLEGEDLY MR. MACIAS THAT  
11 WERE DOCUMENTED BY THE RED FLEX SYSTEM CORRECT  
12 11:59 OFFICER BAKER: YES, TO THE BEST OF MY KNOWLEDGE, YES  
13 12:01 MR. CONAWAY: OKAY, NOW THIS PARTICULAR PHOTOGRAPH SHOWS THAT  
14 THE VEHICLE IS STOPPED BEHIND THE LIMIT LINE  
15 CORRECT?  
16 12:08 OFFICER BAKER: WELL YES IT'S A STILL PHOTOGRAPH SO IT WOULD SHOW  
17 IT STOPPED BEHIND THE LINE.  
18 12:11 MR. CONAWAY: RIGHT, AND IT ALSO SHOWS BRAKE LIGHTS CORRECT?  
19 12:13 OFFICER BAKER: THAT'S CORRECT.  
20 12:15 MR. CONAWAY: OKAY, SO IF A PARTICULAR PHOTOGRAPH WERE SPED UP  
21 THAT WOULD MINIMIZE THE ACTION OF A VEHICLE IT  
22 WOULD SHOW THAT IT'S TENDING TO MOVE AS OPPOSED  
23 TO STOPPING, THAT WOULD BE YOUR EXPERIENCE?  
24 12:28 OFFICER BAKER: LIKE I'VE SAID I'VE NEVER SEEN ONE THAT'S BEEN  
25 ACCELERATED SO I CAN'T, I CAN'T HONESTLY ANSWER  
26 THAT.  
27 12:34 MR. CONAWAY: OKAY, DID YOU DISCUSS IN YOUR TRAINING ANY OF  
28

1 THIS, THE EFFECT OF CHANGING THE SPEED ON A  
2 PLAYBACK OF A VIDEO DOCUMENTATION OF A TRAFFIC  
3 ACTION OR MOTION.

4 12:45 OFFICER BAKER: NO. WE DID NOT DISCUSS ANY OF THAT, TO THE BEST  
5 OF MY KNOWLEDGE THIS IS NOT A PIECE OF TAPE IT'S  
6 A DIGITAL RECORDING ON A CHIP AND THAT'S HOW IT'S  
7 RECORDED

8 12:55 MR. CONAWAY: AND DO YOU KNOW HOW THIS DATA IS TRANSFERRED TO  
9 RED FLEX?

10 13:01 OFFICER BAKER: IT'S ALL OVER THE INTERNET

11 13:03 MR. CONAWAY: OKAY, ALRIGHT, SO THAT'S, THAT'S WHAT I WANTED TO  
12 GET. SO THE RED FLEX SYSTEM RECORDS ON A DIGITAL  
13 CHIP THE IMAGERY OF THIS VEHICLE COMING TO THIS  
14 INTERSECTION STOPPING OR NOT STOPPING, I  
15 UNDERSTAND THAT MUCH SO FAR.

16 13:16 OFFICER BAKER: THAT'S MY UNDERSTANDING

17 13:18 MR. CONAWAY: AND AT SOME POINT THAT DATA IS TRANSMITTED HOW TO  
18 RED FLEX

19 13:25 OFFICER BAKER: VIA THE INTERNET AND VIA SECURE LINES, SECURE  
20 TRANSMISSION LINES

21 13:31 MR. CONAWAY: OKAY, AND WHEN YOU SAY BY THE INTERNET WE'RE  
22 TALKING ABOUT IS THIS HARDWIRED TO SOME LOCATION  
23 AT THE VICTORVILLE SUB-STATION OF THE SHERIF'S  
24 DEPARTMENT OR IS IT TRANSMITTED BY--BY AIR, BY  
25 WI-FI OR SOMETHING SIMILAR TO THAT

26 13:46 OFFICER BAKER: I HAVE NO IDEA HOW IT'S TRANSMITTED

27 //

1 13:48 MR. CONAWAY: DO YOU KNOW IF THE DATA IS COMPRESSED BEFORE IT'S  
2 TRANSMITTED  
3 13:51 OFFICER BAKER: NO I DO NOT  
4 13:52 MR. CONAWAY: DO YOU KNOW IF THE DATA IS ENCRYPTED TO ANY  
5 EXTENT BEFORE IT'S TRANSMITTED  
6 13:57 OFFICER BAKER: NO I DO NOT  
7 13:58 MR. CONAWAY: DO YOU KNOW HOW THE DATA IS RECEIVED AND STORED  
8 AT RED FLEX BEFORE THEY GENERATE THE VIDEO FEED  
9 THAT YOU'VE SHOWN US HERE TODAY  
10 14:06 OFFICER BAKER: TO MY UNDERSTANDING IT'S RECEIVED AND RECORDED ON  
11 --ON CHIPS IN A DIGITAL FASHION  
12 14:13 MR. CONAWAY: AT RED FLEX?  
13 14:14 OFFICER BAKER: YES.  
14 14:15 MR. CONAWAY: SO THE DATA IS RECORDED ONTO A CHIP, IT'S  
15 TRANSMITTED TO RED FLEX, TO YOUR BEST  
16 UNDERSTANDING AND THEY STORE IT AGAIN ON ANOTHER  
17 MEDIUM OF SOME SORT  
18 14:24 OFFICER BAKER: I DON'T, I DON'T HAVE ANY IDEA HOW THEY STORE IT  
19 14:25 MR. CONAWAY: OKAY. DO YOU KNOW HOW THAT DATA IS RETRIEVED AT  
20 RED FLEX  
21 14:30 OFFICER BAKER: RETRIEVED BY RED FLEX?  
22 14:31 MR. CONAWAY: YES.  
23 14:32 OFFICER BAKER: NO I DO NOT, DON'T KNOW HOW THEY STORE IT, I  
24 DON'T KNOW HOW IT'S RETRIEVED  
25 14:34 MR. CONAWAY: NOW WE'VE ATTACHED I GUESS TO THE BRIEF YOUR  
26 HONOR I JUST FOR THE SAKE OF MARKING AS NEXT IN  
27 ORDER IT I'D LIKE TO FOR COMPARISON IF I COULD  
28

1 OUR COPY IS EXHIBIT "A" BUT IT'LL BE "B" OF THE  
2 DEFENDANT THE NOTICE OF THE TRAFFIC VIOLATION

3 14:51 COMMISSIONER: OKAY

4 14:53 MR. CONAWAY: AND YOU KNOW WE CAN CERTAINLY MARK YOU KNOW THE  
5 PEOPLE'S VERSION BUT THIS WILL DO FOR OUR  
6 PURPOSES IF THAT'S ACCEPTABLE TO THE PEOPLE AND  
7 THE --

8 15:00 OFFICER BAKER: I HAVE NO PROBLEM WITH THAT

9 15:01 MR. CONAWAY: NOW THIS PARTICULAR NOTICE OF TRAFFIC VIOLATION A  
10 NOTICE IS SENT OUT BY CRISTY STAMPLEY OF RED FLEX  
11 TRAFFIC SYSTEMS INCORPORATED

12 15:08 OFFICER BAKER: THAT'S CORRECT

13 15:09 MR. CONAWAY: OKAY DO YOU HAVE ANY IDEA IF CHRISTLY STAMPLEY OR  
14 ANYBODY AT RED FLEX TRAFFIC SYSTEMS INCORPORATED  
15 IS A LICENCED PRIVATE INVESTIGATOR IN CALIFORNIA

16 15:17 OFFICER BAKER: NOT THAT I'M AWARE OF -- NO -- TO ANSWER  
17 YOUR QUESTION I DON'T KNOW

18 15:20 MR. CONAWAY: OKAY AND CRISTLY STAMPLEY DO YOU HAVE ANY IDEA  
19 WHAT HER BACKGROUND IS?

20 15:25 OFFICER BAKER: NONE.

21 15:25 MR. CONAWAY: OKAY, NOW I NOTICED HERE ALSO ON THE MID SECTION  
22 OF THIS NOTICE OF TRAFFIC VIOLATION THERE IS A  
23 CHECK BOX THAT SAYS VIOLATION WAS NOT COMMITTED  
24 IN MY PRESENCE THE ABOVE IS DECLARED ON  
25 INFORMATION AND BELIEVE AND IS BASED UPON  
26 PHOTOGRAPHIC EVIDENCE UM AND APPEARS TO BE BY A  
27 DECLARANT BY THE NAME OF S. ROSE IS THAT SOMEONE  
28

1 AT THE SHERIF'S DEPARTMENT

2 15:46 OFFICER: YES

3 15:48 MR. CONAWAY: AND YOU'RE NOT S. ROSE AND THE COMPANION THAT YOU  
4 HAVE HERE FROM THE SHERIFF'S DEPARTMENT IS NOT S.  
5 ROSE RIGHT?

6 15:52 OFFICER BAKER: YES

7 15:52 OFFICER S. ROSE: I AM S. ROSE

8 15:54 MR. CONAWAY: OH YOU ARE S. ROSE OKAY

9 15:56 MR. CONAWAY: WOULD IT BE A FAIR AND ACCURATE STATEMENT THAT  
10 THE ONLY BASIS OF THIS MOVING VIOLATION IS THE  
11 FACT THAT THERE IS A PHOTOGRAPHIC EVIDENCE THAT  
12 WAS GATHERED BY RED FLEX THAT WAS SENT BACK TO  
13 THE SHERIF'S DEPARTMENT

14 16:08 OFFICER BAKER: YES

15 16:10 COMMISSIONER: JUST A SECOND, SIR DON'T LEAN AGAINST THE  
16 SIDEWALL PLEASE, SIR, I'M SORRY, GO AHEAD

17 16:19 MR. CONAWAY: NOW WHAT EFFORTS BEFORE COMING HERE TODAY, UM, I  
18 CAN ADDRESS THE QUESTION TO EITHER YOU AND THEN  
19 SECONDLY TO TO MISS ROSE, TO SHERIF ROSE, TO  
20 DEPUTY SHERIF ROSE HAVE YOU MADE TO AUTHENTICATE  
21 THAT THIS IS IN FACT A TRUE AND CORRECT COPY OF  
22 THE DIGITAL DATA RECORDED BY RED FLEX CAMERA ON  
23 THE ALLEGED DATE OF THE VIOLATION

24 16:42 OFFICER S. ROSE: THIS IS CERTIFIED BY RED FLEX

25 16:45 MR. CONAWAY: OKAY

26 16:46 OFFICER BAKER: WHEN WE GET THE INFORMATION IT'S THERE'S A COPY  
27 OF THE CERTIFICATION IN THAT PACKET

28



1 16:51 MR. CONAWAY: OKAY CERTIFICATION OF WHAT, I'M SORRY  
2 16:54 OFFICER BAKER: THE ACCURACY, THE TIMES, THE DATES OF THE  
3 RECORDS KEEPERS THAT KEEPS RECORDS ET CETERA  
4 17:01 OFFICER BAKER: IT'S THE PEOPLE'S --  
5 17:02 OFFICER S. ROSE: IT'S IN THE PACKET  
6 17:05 MR. CONAWAY: AND THE COURT INDICATED DID NOT WANT TO MARK THAT  
7 17:07 COMMISSIONER: UM, NO WE ALWAYS RETURN WE DON'T KEEP THESE  
8 COUNSEL  
9 17:11 MR. CONAWAY: I THINK IT'S IMPORTANT TO GET A COPY AND MARK IT  
10 17:18 COMMISSIONER: I ASSUME THAT'S THE PAGE YOU'RE TALKING ABOUT  
11 17:22 OFFICER BAKER: YES.  
12 17:22 OFFICER S. ROSE: YES THAT'S --  
13 17:24 MR. CONAWAY: OKAY, AND THIS CUSTODIAN OF RECORDS AND I'LL SHOW  
14 IT TO YOU, YOU PROBABLY KNOW THE NAMES, BUT UH  
15 THERE'S A BILL HARPER A JENNIFER DWIGGINS AND A  
16 ROBERT SALCEDO.  
17 17:37 OFFICER BAKER: NO I'M NOT FAMILIAR WITH ANY OF THOSE PEOPLE  
18 17:39 MR. CONAWAY: OKAY, SO  
19 17:41 OFFICER BAKER: THEY'RE EMPLOYEES OF RED FLEX  
20 17:42 MR. CONAWAY: WAS ANY EFFORT MADE TO CONTACT MR. HARPER OR  
21 JENNIFER DWIGGINS TO EVEN DETERMINE IF THESE  
22 PEOPLE WERE OR WERE NOT CONVICTED FELONS  
23 17:52 OFFICER BAKER: NO.  
24 17:52 OFFICER S. ROSE: NOT BY OFFICER BAKER OR I  
25 17:56 MR. CONAWAY: OKAY SO AT THIS POINT THESE ARE PEOPLE THAT HAVE  
26 SIGNED--LET ME ASK THE QUESTION SO HAVE YOU MET  
27 //

1 BILL HARPER OR JENNIFER DIGGINS, WIGGINS AT ANY  
2 TIME

3 18:06 OFFICER S. ROSE: NO.

4 18:07 OFFICER BAKER: NO.

5 18:08 MR. CONAWAY: HOW ABOUT ROBERT SALCITO

6 18:08 OFFICER S. ROSE: NO.

7 18:08 OFFICER BAKER: NO.

8 18:10 MR. CONAWAY: SO THESE ARE PEOPLE THAT SIGNED A DECLARATION UM  
9 THAT SENT THIS TO YOU BY MAIL, UM, INDICATING OR  
10 AT LEAST YOU BELIEVE THEY INDICATED THAT THIS WAS  
11 A TRUE AND CORRECT COPY OF WHAT RED FLEX  
12 RECEIVED, CORRECT

13 18:24 S. ROSE: YES.

14 18:24 OFFICER BAKER: YES.

15 18:25 MR. CONAWAY: BUT YOU HAVE NO PERSONAL KNOWLEDGE OF THAT

16 18:27 OFFICER BAKER: NO.

17 18:28 MR. CONAWAY: THAT WOULD BE CORRECT OFFICER ROSE?

18 18:29 OFFICER S. ROSE: YES.

19 18:30 MR. CONAWAY: ALRIGHT, AND FROM THE STAND POINT OF THESE  
20 INDIVIDUALS DO YOU HAVE ANY IDEA WHAT RECORDS THEY  
21 REVIEWED BEFORE PREPARING THIS DECLARATION

22 18:40 OFFICER BAKER: NO I HAVE NONE

23 18:41 MR. CONAWAY: OFFICER ROSE?

24 18:43 OFFICER S. ROSE: MEANING RECORDS THEY REVIEWED I DON'T  
25 UNDERSTAND THE QUESTION

26 18:45 MR. CONAWAY: ANY VIDEOGRAPHIC RECORD OR DIGITAL RECORD THAT  
27 MAY EXIST AS A RESULT OF THIS ALLEGED TRAFFIC  
28 VIOLATION

1 18:51 OFFICER S. ROSE: I BELIEVE THEY REVIEW THE SAME VIDEO WE DO  
2 18:53 MR. CONAWAY: OKAY YOU DON'T KNOW THAT DO YOU?  
3 18:56 OFFICER S. ROSE: NOT FOR SAYING  
4 18:56 OFFICER BAKER: NO.  
5 18:58 MR. CONAWAY: YOUR HONOR ON SPECULATION GROUNDS YOU KNOW AND ON  
6 HERESAY GROUNDS I WOULD ASK THAT THE COURT STRIKE  
7 THE TESTIMONY SIMPLY BECAUSE THERE'S NO THERE'S  
8 NO CHAIN OF ANY EFFORT TO AUTHENTICATE THE VIDEO  
9 FEED THAT'S HERE  
10 19:13 MR. CONAWAY: ALSO I HAVE A PROBLEM WITH AN OFFICER THAT  
11 DOESN'T REVIEW THE EVIDENCE UNDER CALIFORNIA  
12 EVIDENCE CODE 20013 ANY REPORT AND SINCE THIS  
13 ENTIRE TRANSACTION CONSISTS OF A VIDEO FEED  
14 REPORT GENERATED BY A PRIVATE CONTRACTOR IS  
15 INADMISSIBLE THE REPORT ITSELF IS BEING THE USED  
16 IS THE BASIS FOR ANY POTENTIAL CONVICTION OF MY  
17 CLIENT SO I THINK UNDER VEHICLE CODE 20013 I  
18 THINK IT'S FOR IN ADDITION TO HERESAY AND  
19 AUTHENTICATE GROUNDS I THINK THE REPORT AS  
20 SUBMITTED WITHOUT MORE NEED TO BE STRICKEN  
21 19:47 COMMISSIONER: THAT'S DENIED GO AHEAD COUNSEL  
22 19:55 COMMISSIONER: YOU HAVEN'T ESTABLISHED THAT IT WASN'T REVIEWED  
23 HERE YOU DIDN'T ASK THAT QUESTION  
24 19:57 MR. CONAWAY: OKAY, WAS, WAS ANY OF THIS REPORT MATERIAL THAT  
25 WE'VE JUST BEEN DESCRIBING THE DECLARATION AND  
26 THE VIDEO FEED DO YOU KNOW IF ANY OF THESE THREE  
27 INDIVIDUALS HAVE REVIEWED THE VIDEO FEED OR THE  
28 DIGITAL RECORD--

1 20:12 COMMISSIONER: COUNSEL, COUNSEL, WHAT I'M GETTING AT IS YOU SAID  
2 THAT NO ONE HERE AT VICTORVILLE REVIEWED IT, YOU  
3 DIDN'T ASK THAT QUESTION IF THEY'VE REVIEWED THIS  
4 BEFORE PRIOR TO THE CITATION BEING ISSUED

5 20:21: MR. CONAWAY: OKAY, THAT QUESTION?

6 20:22 COMMISSIONER: MAKING A STATEMENT

7 20:22 MR. CONAWAY: THAT QUESTION?

8 20:23 OFFICER BAKER: YES WE REVIEW THEM.

9 20:23 OFFICER S. ROSE: YES.

10 20:24 MR. CONAWAY: OKAY.

11 20:23 OFFICER S. ROSE: WE REVIEW ALL.

12 20:27 MR. CONAWAY: WHAT IS IT THAT YOU'D REVIEWED

13 20:28 OFFICER S. ROSE: WE REVIEWED THERE'S A VIOLATION THAT DOES OCCUR  
14 AND AND S. ROSE IS THERE BECAUSE I AFFIRM THERE  
15 IS A VIOLATION

16 20:36 MR. CONAWAY: AND THAT REVIEW WAS BASED SOLELY ON THE VIDEO NOT  
17 THE VIDEO BUT THE DIGITAL FEED YOU RECEIVE FROM A  
18 PRIVATE CONTRACTOR OUT OF THE STATE CORRECT?

19 20:45 OFFICER S. ROSE: THAT'S CORRECT

20 20:56 MR. CONAWAY: SO THAT THE RECORD IS CLEAR NEITHER ONE OF YOU  
21 SAW THE VIOLATION APART FROM THE DIGITAL FEED  
22 THAT WAS GIVEN TO YOU BY RED FLEX, THAT'S CORRECT

23 21:05 OFFICER BAKER: THAT'S CORRECT.

24 21:06 OFFICER S. ROSE: THAT'S CORRECT.

25 21:11 MR. CONAWAY: DO YOU HAVE ANY IDEA OF WHAT THE BACKGROUND OF  
26 THE--I KNOW THAT YOU'VE NEVER MET BILL HARPER,  
27 JENNIFER DWIGGINS, OR ROBERT SALCITO, DO YOU HAVE

28 //

1 ANY IDEA WHAT THEY'RE BACKGROUND IS IN  
2 VIDEOGRAPHIC EVIDENCE

3 21:23 OFFICER BAKER: NO.

4 21:23 OFFICER S. ROSE: NO.

5 21:25 MR. CONAWAY: DO YOU KNOW ANYTHING ABOUT THEIR BACKGROUND WHAT  
6 THEIR EXPERIENCE OR KNOWLEDGE MIGHT BE

7 21:30 OFFICER S. ROSE: NO.

8 21:30 OFFICER BAKER: NOTHING.

9 21:31 MR. CONAWAY: SO YOU COME HERE ASSUMING THEY HAVE KNOWLEDGE OF  
10 KNOWING WHAT THEY ARE LOOKING AT IS TRUE AND  
11 CORRECT

12 21:36: OFFICER BAKER: YES THERE IS A CONTRACTUAL AGREEMENT THAT THE  
13 CITY SIGNED GOING INTO THIS THAT THAT THEY'LL  
14 HAVE COMPETENT PEOPLE DOING THEIR REVIEW FOR US  
15 AND WE TAKE IT UPON OURSELVES THAT THEY ARE  
16 COMPETENT PEOPLE VIEWING IT AND THAT'S ALL ABOUT  
17 WE CAN DO

18 21:56 MR. CONAWAY: WHEN YOU SAY COMPETENT PEOPLE REVIEWING IT DO YOU  
19 HAVE ANY IDEA WHAT THOSE QUALIFICATION  
20 REQUIREMENTS ARE

21 22:00 OFFICER BAKER: NO.

22 22:08 MR. CONAWAY: SO AS FAR, SO THAT I'M CLEAR AS FAR AS THE ACTUAL  
23 WITNESS TO THE ALLEGED INFRACTION IS WHO

24 22:17 OFFICER: THE CAMERA

25 22:19 MR. CONAWAY: OKAY AND --

26 22:20 OFFICER BAKER: THERE IS NO PERSONAL VIEWING OF THAT VIOLATION,  
27 IT IS ALL RECORDED ELECTRONICALLY

28 22:28 MR. CONAWAY: OKAY DO YOU HAVE WITH YOU HERE TODAY THE ORIGINAL

1 DIGITAL DATA THAT WAS RECORDED BY THAT CAMERA  
2 22:34 OFFICER BAKER: NO  
3 22:35 MR. CONAWAY: DOES ANYBODY  
4 22:38 OFFICER BAKER: I'M WOULD ASSUME --WE DON'T HAVE IT AT OUR  
5 STATION THAT'S ALL I WOULD ASSUME IT'S AT RED  
6 FLEX BUT I CAN'T SAY POSITIVELY THAT'S WHERE IT  
7 IS  
8 22:47 MR. CONAWAY: SO THE ORIGINAL DATA CAN'T BE EXAMINED BY ME  
9 TODAY FOR EXAMPLE LOOKING AT FRAMES PER SECOND  
10 TO SEE IF THEY'RE ALL THERE  
11 22:55 OFFICER BAKER: THE ORIGINAL DATA, UH, NO, THE ORIGINAL THIS DISC  
12 IS A COPY OF THE DATA THAT THEY HAVE THAT WE JUST  
13 SHOWED YOU  
14 23:03 MR. CONAWAY: AND HOW DO YOU KNOW THAT THAT IS A COPY OF WHAT  
15 THE CAMERA TOOK ON THE DAY OF THE ALLEGED  
16 INFRACTION  
17 23:07 OFFICER BAKER: UH, THE AFFIDAVITS THAT, UH, THAT ARE THERE THAT  
18 WERE TAKEN THAT SAYS, THAT SAYS THAT THIS IS WHAT  
19 IT IS  
20 23:15 MR. CONAWAY: AND THE PEOPLE THAT YOU'VE NEVER MET THAT YOU  
21 HAVE NO IDEA WHAT THEIR QUALIFICATIONS ARE THE  
22 MISTER HARPER THE JENIFFER DWIGGINS AND ROBERT  
23 SALCITO  
24 23:22 OFFICER S. ROSE: CORRECT.  
25 23:22 OFFICER BAKER: THAT'S CORRECT.  
26 23:24 MR. CONAWAY: YOUR HONOR I JUST RENEWED THE MOTIONS TO STRIKE  
27 AND TO BASICALLY DISMISS THE ACTIONS AND THAT I  
28 DON'T HAVE A WITNESS HERE TO CROSS EXAMINE

1 23:33 COMMISSIONER: I UNDERSTAND, UH, MR. CONAWAY, UH, WE ASK THE  
2 FOLKS NOT TO HAVE THEIR HANDS IN THEIR POCKETS  
3 COUNSEL IT'S A --  
4 23:37 MR. CONAWAY: VERY WELL  
5 23:37 COMMISSIONER: -- IT'S A SECURITY ISSUE THANK YOU, UM, AND  
6 THAT'S DENIED COUNSEL, ANY FURTHER CROSS  
7 23:47 MR. CONAWAY: UM, NOPE, NOTHING  
8 23:49 COMMISSIONER: I ASSUME THERE WASN'T ANY DISCOVERY REQUEST THAT  
9 HEADED HIGH  
10 23:54 COMMISSIONER: OKAY, DO YOU HAVE ANY AFFIRMATIVE EVIDENCE  
11 23:55 MR. CONAWAY: UH, THOSE TWO ITEMS "A" AND "B" I ASK THAT THEY  
12 BE MOVED INTO EVIDENCE  
13 24:00 COMMISSIONER: THEY WILL BE ADMITTED, I UH, I NEED THE PHOTO  
14 THAT YOU ACTUALLY HAD, AND IF, I DON'T NEED THE  
15 WHOLE PACKAGE JUST SEPARATE OUT THE ONE PAGE THAT  
16 HAS THE AUTHENTICATION  
17 24:10 MR. CONAWAY: ACTUALLY IT WOULD BE A, B, IT WOULD BE C, B IS  
18 THE EXHIBIT A I N THE BRIEF THEN C WOULD BE THE  
19 AFFIDAVIT THAT'S IN THE OFFICER'S PACKET  
20 24:20 COMMISSIONER: OKAY  
21 24:21 OFFICER BAKER: THIS, THIS ONE HERE  
22 24:22 MR. CONAWAY: CORRECT, --  
23 24:23 COMMISSIONER: RIGHT  
24 24:23 MR. CONAWAY: -- I GUESS THEY'LL MAKE A COPY OF THAT, YEAH  
25 24:24 COMMISSIONER: I JUST NEED THAT, YEAH, THAT ONE PAGE OUT OF  
26 THERE, AND THAT ONE I NEED THAT ONE --  
27 24:30 BAILLIFF: THIS IS YOURS  
28 //

?

1 24:31 COMMISSIONER: YEAH, YEAH, I UNDERSTAND BUT HE MOVED THAT THAT  
2 PIECE OF PAPER, I NEED, I NEED, NO I NEED IT  
3 24:41 COMMISSIONER: SO IT WAS INTENDED FOR BECAUSE YOU IDENTIFIED  
4 THIS AS ONE, YOU INTENDED THAT ONE BE THIS COPY  
5 24:46 MR. CONAWAY: CORRECT  
6 24:48 COMMISSIONER: OKAY THIS CONTAINED YOUR MOTION OKAY SO ONE WILL  
7 BE YOUR EXHIBIT A OF COUNSEL'S MOTION TO WILL BE  
8 A PHOTO, THEN 3 WILL BE THE DECLARATION, OKAY  
9 THOSE ARE ADMITTED, UH, NOW ANY AFFIRMATIVE  
10 EVIDENCE  
11 25:15 MR. CONAWAY: WE'VE INTRODUCE WHAT WE HAVE, I JUST --  
12 25:18 COMMISSIONER: IS THERE ANY TESTIMONY IS WHAT I GUESS I'M ASKING  
13 25:19 MR. CONAWAY: NO, THERE'S NO TESTIMONEY  
14 25:22 COMMISSIONER: SUBMIT COUNSEL?  
15 25:23 MR. CONAWAY: I'D LIKE A UH, JUST A BRIEF, BRIEF ARGUMENT I  
16 MEAN VERY BRIEF BRIEF, LIKE LESS THAN A MINUTE  
17 25:26 COMMISSIONER: SURE  
18 25:28 MR. CONAWAY: ONE OF THE REASONS I WENT INTO THE LINE OF  
19 QUESTIONING CONCERNING THE PHOTO, THE IMAGE, AND  
20 THE DIGITAL IS THE FACT THAT THE VIDEO DOES JUMP  
21 AND ONE OF THE INDICIA OF A DISTORTED VIDEO OR  
22 MISSING FRAMES IS WHEN YOU HAVE WHEN YOU HAVE  
23 JUMPED TO MISSING IMAGES AND I'D ASK THE COURT TO  
24 TAKE THE OPPORTUNITY TO REVIEW IT ON THE WEBSITE,  
25 25:48 MR. CONAWAY: I BELIEVE IT'S THE SAME AS WHAT'S BEEN PRESENTED  
26 HERE ON THE COMPUTER TODAY BY THE OFFICER BAKER  
27 AND OFFICER ROSE IS THE FACT THAT THERE IS A JUMP  
28 IN THE IMAGE WHEN YOU HAVE A JUMP IN THE IMAGE



1 THAT MEANS THAT THERE IS A SPEED UP OR SLOW DOWN  
2 OF THE FRAMES PER SECOND ONE OF THE THINGS AND  
3 CERTAINLY I'M NOT I DON'T PROFESS TO BE AN EXPERT  
4 THIS IS SOMETHING THAT CAN BE JUDICIALLY NOTICED,  
5 26:07 MR. CONAWAY: MOST OF THE FRAMES PER SECOND IN THE REAL TIME IS  
6 30 FRAMES PER SECOND, TELEVISION IS 29.7 FRAMES  
7 PER SECOND WHICH IS AN FCC REQUIREMENT, INTERNET  
8 VIDEO TYPICALLY 30 FRAMES PER SECOND HERE WE HAVE  
9 12 FRAMES PER SECOND I BELIEVE THE LOWER FRAMES  
10 PER SECOND CREATES A DISTORTION POTENTIAL

11 26:32 MR. CONAWAY: AND CREATES THE ILLUSION THAT AN INDIVIDUAL MAY  
12 NOT BE MAKING A STOP AND THAT'S THE REASON THAT  
13 WAS RAISED AND I THINK THE FOUNDATIONAL ARGUMENTS  
14 IN THE ADMISSIONS OF THE OFFICERS ARE TRUTHFUL  
15 ADMISSIONS THE FACT THAT THEY HAVE NOT TALKED  
16 WITH ANYBODY THEY HAVE NOT AUTHENTICATED ANYTHING  
17 AS TO WHAT WAS ACTUALLY BEING FED

18 26:43 MR. CONAWAY: I THINK IT IS IMPORTANT BECAUSE IF YOU LOOK AT  
19 THE VIDEO THERE ARE JUMPS AND THE JUMPS WHEN  
20 YOU'RE LOOKING AT THAT PARTICULAR PHOTOGRAPH  
21 WHICH SHOWS THE VEHICLE WITH TURN SIGNAL AND  
22 BRAKE LIGHT ON, WOULD DOCUMENT A STOP, OBVIOUSLY  
23 THEIR ARGUMENT IS THAT NO IT'S A ROLLING STOP BUT

24 27:00 MR. CONAWAY: WHEN YOU HAVE A SPEED UP OR SLOW DOWN OF A VIDEO  
25 YOU CAN CREATE THAT DISTORTION AND I BELIEVE THAT  
26 DISTORTION IS DEPICTED IN THE WEB SITE VERSION OF  
27 THIS UH, RED FLEX DOCUMENTED, ALLEGED DOCUMENTED  
28 VIOLATION

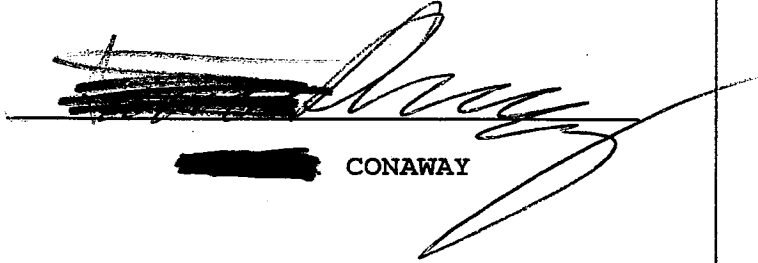
1 27:15 COMMISSIONER: SUBMIT?  
2 27:16 MR. CONAWAY: THAT'S IT.  
3 27:17 COMMISSIONER: THANK YOU MR. CONAWAY. UH, MR. MACIAS YEAH IT'S  
4 A RIGHT TURN ON RED, WHICH IS FINE BUT YOU HAVE  
5 TO STOP BEFORE YOU MAKE THE TURN, THE COURT HAS  
6 REVIEWED THE DOCUMENTS INCLUDING THE STILL  
7 PHOTOGRAPHS AND THE VIDEO IT APPEARS TO THE COURT  
8 AND I'M SATISFIED BEYOND A REASONABLE DOUBT  
9 27:35 COMMISSIONER: THAT THE ONLY ISSUE I HAVE TO DECIDE IS WHETHER  
10 MACIAS FAILED TO STOP AT THE STOP LIGHT AND I  
11 FIND THAT HE DID SO I FIND YOU GUILT OF THE CODE  
12 SECTION THE FINE WILL BE TWO HUNDRED DOLLARS  
13 DOLLARS TO BE PAID WITHIN 60 DAYS, OKAY, THANK  
14 YOU FOLKS.  
15 27:46 MR. CONAWAY: DOES HE HAVE AN OPTION FOR TRAFFIC SCHOOL YOUR  
16 HONOR?  
17 -END OF AUDIO  
18  
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1 I, [REDACTED] Conaway, transcribed this document from an audio compact  
2 disc recorded received from the Court for proceedings in department V-  
3 14 before Commissioner Singer on May 26<sup>th</sup>, 2009, for case name PEOPLE  
4 VS. MACIAS Case No. V016329BJM to the best accuracy of my knowledge  
5 and abilities. Portions which were too difficult to make out, hear, or  
6 were inaudible are labeled as {inaudible}.

7 I declare under penalty of perjury, under the laws of the State  
8 of California, that the above is true and correct.

9 Executed on September 1, 2009, at Barstow, California.

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[REDACTED] CONAWAY

PROOF OF SERVICE (1013A, 2015.5 C.C.P.)

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 222 East Main Street, Suite 105, Barstow CA 92311 (mailing address PO Box 865, Barstow CA 92312-0865).

On December 2, 2009, I served by mail [REDACTED] MACIAS' OPENING BRIEF; SERVED CONCURRENTLY WITH A TRANSCRIPT PREPARED FROM THE OFFICIAL ELECTRONIC RECORDING UNDER CALIFORNIA COURT RULE 8.917 as ALLOWED UNDER CRC 8.910 (a) (2)

DISTRICT ATTORNEY  
APPELLATE SERVICES UNIT  
412 HOSPITALITY LANE, 1<sup>st</sup> Floor  
San Bernardino, CA 92415-0042

COMMISSIONER PATRICK SINGER  
SAN BERNARDINO SUPERIOR COURT  
14455 CIVIC DRIVE  
VICTORVILLE, CA 92392

{X} (BY MAIL) I placed such envelope with postage thereon fully prepaid for collection and processing in the United States mail at Barstow, California.

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

Executed on December 2, 2009 at Barstow, California.

  
[REDACTED] CONAWAY