

“The Traffic Ticket Manual” Volume 3

By Djehuty Ma’at-Ra

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Inside this manual you will find SAMPLE documents of legal pleadings

that can be filed in traffic court cases and proceedings.

Sample documents include:

Request For Verified Complaint

Affidavit of Poverty (for bail)

Peremptory Challenge (Judge)

Answer & Demurrer to Red Light Photo Ticket

Motion to Dismiss: Lack of Jurisdiction

Motion to Dismiss: Failure to Appear

Trial Brief

Affidavit (General)

Discovery Request (to police officer)

Motion to Dismiss: Speeding

Petition For Writ of Mandate

Trial by Written Declaration

Judicial Notice

Notice of Appeal

Defendant's Opening Appeal Brief

INTRODUCTION

The Traffic Ticket Manual, Volume 3 provides samples of legal pleadings that one may use as a reference when drafting their very own legal pleadings in a traffic court case. It's one thing for someone to tell you what document to file, but another thing to actually type up that document for yourself. I know, because at one point I was there myself.

So this is why I created Volume 3 of the Traffic Ticket Manual – to help people attain knowledge and have an understanding of what a particular document contains or must contain according to one's state's Court Rules or Rules of Civil (or Criminal) Procedure.

As a pro per (and/or pro se) litigant, one has a little leeway in preparing documents, thanks to a well known legal precedent, *Haines vs. Kerner*:

“Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient”... “which we hold to less stringent standards than formal pleadings drafted by lawyers.” *Haines v. Kerner*, 404 U.S. 519 (1972)

“Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.” *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1959); *Picking v. Pennsylvania R. Co.*, 151 F2d 240; *Pucker v. Cox*, 456 F2d 233

In addition to the less stringent standard for legal pleadings, courts will give pro per (and pro se) litigants a little leeway in construing (interpreting) their pleadings, another benefit from the court to the pro per (pro se) litigant.

However, while a pro per (and/or pro se) litigant is entitled to considerable leeway when the Court construes his pleadings, as per *Brazil v. U.S. Department of Navy* (9th Cir. 1995) 66 F.3d 193, 199, cert. denied, 517 U.S. 1103 (1996), a pro se litigant must follow the Rules of Procedure like any other litigant, as per *Ghazail v. Moran* (9th Cir. 1995) 46 F.3d 52, 54; cert. denied, 516 U.S. 838

Despite the above, the pro per (or pro se) litigant wants to file professional looking documents so as to gain a measure of respect from the Court and/or prosecutor (if involved), but more importantly, to create a record should the case needs to be appealed.

Whatever is said on a legal document is the equivalent of being verbally or orally stated on the record, so if a judge shoots down a pleading of yours during a proceeding, you can object to the judge based upon everything in your document (pleading) if you want to, or just a particular point you made in your document or pleading. The particular pleading can also be entered into the Record of Appeal as well.

It's always best to write down (type) all that you have to say rather than depending on verbally expressing it. If a belligerent judge shuts you down in court, i.e. ignores your argument or overrules them, it won't matter. You can just go on to the next phase of the hearing or proceeding simply because you already have grounds for objection. All you have to tell a judge after he or she overrules you (your argument) is that "Your Honor, I object" and then go on to the next phase of the hearing or matter, or move on to the next argument.

Reader, please remember that as every portrait is the signature and reflection of the person who painted it, so is every legal pleading or document. Though a pro per (and/or pro se) litigant is not held to the same stringent standard as attorneys, he/she should strive to present paperwork (legal pleading) on the level and standard of an attorney.

Documents can be typed on regular 8 ½ by 11 white opaque paper, but should be typed on legal pleading paper that is numbered on the left hand side. Legal pleading paper can be purchased at most legal or law bookstores. Software for legal pleading format is also available from office stationary stores as well as legal and law bookstores.

Type up one document (that you will file in your traffic case) and print it from your computer. After you print it, reread it and look for typos and grammatical errors (also use your computer's spell check feature), sign the document and date it in all necessary places and then make a copy.

The court always gets the original document and the defendant/pro per litigant retains the copy. If a prosecutor is involved in the matter, the prosecutor too will retain a copy (which means 2 copies are needed instead of one).

Never mail your documents! Always take them in, in person, and get them

stamped by the clerk of the court. Get your copy (or copies) of all pleadings (document) conformed, or obtain a conformed copy (which means your copy of the documents are stamped by the court clerk and received and filed with the court and serves as proof that you filed your documents with the court should your filed documents with the court strangely disappear).

Make sure your document states “Received”, “Filed”, and/or “Conformed Copy” on it. A document that is stamped “Received But Not Filed” is not filed and thus not a part of the court record like the other three named documents. So make sure all of your documents have stamped “Received”, “Filed”, and/or “Conformed Copy” on them.

Also, make sure every document has a “certificate of service” or “proof of service” page attached to it even if there is no prosecutor (city or district attorney) involved in the matter, which if the case is an infraction, there likely won’t be a prosecutor involved.

Judges use lack of a certificate or proof of service to dismiss documents, especially those that confer a favor on you or that strengthen your case as the defendant, despite the fact that technically no certificate or proof of service is needed as there is no prosecutor involved that needs to be notified of anything. However, do it anyway and take away a tricky judge’s ability to screw you over on a technicality. Leave no stone unturned.

You are on your way to make a big difference in your life – guaranteed! The more you battle (contest your traffic citations) the better you will get and become and the stronger too, not to mention the more legally astute.

Enjoy and good luck!

Sample Document #1: “Request For Verified Complaint”

John Doe
328 West Scenic Dr.
Monrovia, CA. 91016
Telephone: (213) 777-0000

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES
PASADENA COURTHOUSE

In The Matter Of

THE PEOPLE OF THE STATE OF
CALIFORNIA

COMPLAINT

Plaintiff,

(b)

vs.

JOHN DOE,

Defendant.

) Case No.: 000000000

) **REQUEST FOR VERIFIED**

) California Vehicle Code § 40513(a)

) Violations: V.C. 22350

) DATE: September 22, 2008

) TIME: 8:30 a.m.

_____))
TO: THE PRESIDING JUDGE OR COMMISSIONER AND THE PROSECUTION
ON BEHALF OF THE PLAINTIFF (THE PEOPLE OF THE STATE OF
CALIFORNIA)

COMES NOW the Defendant, John Doe, requesting that this and all subsequent pleadings be “liberally construed” pursuant to *Haines v. Kerner*, 404 U.S. 519, and hereby submitting the above-entitled pleading in the above-captioned matter.

PLEASE TAKE NOTICE that on September 22, 2008, at 8:30 a.m., or as soon as Defendant may be heard, in Department “F” of the Superior Court of the State of California for the County of Los Angeles, located at 300 East Walnut, Pasadena, California, Defendant, will and hereby request the filing of a verified complaint by the arresting officer or the District or City Attorney’s Office pursuant to California law at Vehicle Code § 40513(a)(b) which must be filed within 15 days pursuant to California law at Penal Code § 1382(a)(1).

The request to file a verified complaint is based upon the fact that (1) the Defendant will plead “NOT GUILTY” at his/her arraignment, and therefore, (2) in accordance pursuant to State law (Penal Code sec. 859.3; Vehicle Code sec. 40513(a)) a complaint MUST be filed that shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code, which shall be deemed to be an original complaint, when the Defendant pleads OTHER THAN “guilty” or “nolo contendere” and (3) the Defendant WILL NOT and DOES NOT *voluntarily* waive the filing of a verified complaint and electing that the prosecution may proceed upon a written notice to appear.

Absent a real complaint, Defendant does not know:

1. Who the Plaintiff is in this matter
2. What the Statement of facts are in this matter
3. What the cause(s) of action are in this matter
4. What remedies or relief is being sought against the Defendant in this matter.

The traffic ticket (court summons) does not give any notice of the above and thus is violative of the Due Process Clause of U.S.Const.Amend. 14

DATED: September 5, 2008

BY: _____
John Doe, Defendant

MEMORANDUM OF LAW IN SUPPORT OF DEMAND FOR VERIFIED COMPLAINT

1. California law is clear and precise on the matter of a verified complaint being filed in order for a defendant to enter a plea on the record:

“Filing of notice in lieu of complaint.” (a) Whenever written notice to appear has been prepared, delivered, and filed with the court, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead “guilty” or “nolo contendere.” If, however, the defendant violates his or her promise to appear in court or does not deposit lawful bail, **or pleads other than “guilty” or “nolo contendere”** to the offense charged, **a complaint shall be filed that conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code**, which shall be deemed an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear. (b) Notwithstanding subdivision (a), whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed. California Vehicle Code, Section 40513.

2. California law clearly states that if the Notice to Appear is not verified, the defendant may, **at the time of arraignment**, REQUEST that a verified complaint be filed:

If the notice to appear is not verified, the defendant may, at the time of arraignment,

Request that a verified complaint be filed. California Vehicle Code § 40513(a)

3. The charge(s) or alleged Vehicle Code offense(s) the Defendant has been charged with is/are infraction(s), and under California law, all infractions (like misdemeanors), must be prosecuted by written complaint:

“Misdemeanors and infractions; prosecution by written complaint.” Except as otherwise provided by law, **all ...infractions must** be prosecuted by written complaint under oath subscribed by the complainant. Such complaint may be verified on information and belief. California Penal Code § 740

The first pleading on the part of the people in the superior court in a felony case is the indictment, information, or the complaint in any case certified to the superior court under Section 859a. **The first pleading** on the part of the people **in a ... infraction case** is the complaint except as otherwise provided by law. California Penal Code § 949

NOTE: Complainant means “plaintiff” or victim alleging injury, Penal Code § 1275, second paragraph; and is a “natural person”, Penal Code § 959.

4. California law clearly states that the written complaint under oath must be subscribed by the complainant:

“all ... infractions must be prosecuted by written complaint under oath subscribed by the complainant.” California Penal Code § 740

NOTE: “Subscribe.” Literally to write underneath, as one’s name. To sign at the end of a document.

See also Attest; Subscriber; Subscription. Black’s Law Dictionary (1979), 5th edition, pg. 1279

5. California law is also clear in that the written notice to appear that must be subscribed under oath must also be subscribed by the complainant:

“...all ... infractions must be prosecuted by written complaint ... by the complainant.” California Penal Code § 740

6. A police officer or peace officer is a witness for the State and cannot serve as the witness for the State while simultaneously serving as the complainant. A witness is not a complainant. A witness, such as the citing and arresting officer, cannot as a matter of law instigate or initiate prosecution against a suspected person. Only the complainant can instigate or initiate prosecution:

“Complainant.” One who applies to the courts for legal redress by filing complaint (*i.e.* plaintiff). Also, one who instigates prosecution or who prefers accusation against suspected person. Black’s Law Dictionary, 5th edition, pg. 258

7. Without the filing of a formal, verified complaint, the Court lacks subject matter jurisdiction over this case. It is black letter law that the filing of a complaint gives the court subject matter jurisdiction to hear a matter brought before it:

“A court acquires jurisdiction over the subject matter when an action is instituted by the filing of a complaint.” 16 California Jurisprudence, 3rd Series, § 170 (Courts)

“The filing of a complaint is essential to invoke the jurisdiction of the court.” City of San Diego v. Municipal Court, 102 Cal.App.3d 775

“The complaint is the foundation of the jurisdiction of the magistrate.” 22 Corpus Juris Secundum § 303, pages 456, 457

“A trial court’s subject matter jurisdiction is triggered by the filing of information alleging commission of a public offense within the appropriate venue.” 21 American Jurisprudence, 2nd Series, § 480 (Criminal Law)

“A formal accusation which charges some offense known to law is essential for every trial for crime, without which the court acquires no jurisdiction to proceed, even with the consent of the accused.” 22 Corpus Juris Secundum § 167 (Criminal Law)

“Jurisdiction over the subject matter is acquired when an action or proceeding is instituted by the filing of a complaint in a court in the jurisdictional territory competent to hear and determine the particular cause.” People v. Gomper (1984) 160 Cal.App.3d Supp. 1; Sharp v. Johnson (5th Cir. 1997) 107 F.3d 282; St. James Church v. Superior Court (1955) 135 Cal.App.2d 352; Silverman v. Greenberg (1938) 12 Cal.2d 21; Rupley v. Johnson (1953) 120 Cal.App.2d 548; Handy v. Superior Court (1960) 185 Cal.App.2d 21; People v. Kepford (1935) 10 Cal.App.2d 128; City of San Diego v. Municipal Court (1980) 102 Cal.App.3d 775; Burns v. Municipal Court (1961) 195 Cal.App.2d 596; Ex parte Bain (1887) 121 U.S. 1; In re Circosta (1963) 219 Cal.App.2d 777; People v. Agnew (1952) 110 Cal.App.2d Supp. 837

“A formal accusation is essential for every trial for crime, without it the court acquires no jurisdiction to proceed.” 16 Corpus Juris Secundum § 230 (Criminal Law)

8. The Court cannot allege that a written notice to appear is a verified complaint simultaneously because California law at Vehicle Code § 40513(a) clearly states “... *except that a defendant may waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.*”

If a written notice to appear (traffic citation) is a verified complaint, how could a defendant possibly waive the verified complaint and elect that the prosecution proceed upon a written notice to appear? Clearly these two documents are not the same.

9. Lastly, if the Court argues and alleges that a written notice to appear (traffic ticket) is a complaint, for purposes of appellate review, if necessary, Defendant gives the

Court notice that the written notice to appear does not conform to California law at Code of Civil Procedure §§ 422.30, 422.40, and 425.10; and Rules of Court Rule 201 and 501 pertaining to the nature and content of a complaint:

“Caption; contents.” (a) **every** pleading shall contain a caption setting forth: (1) The name of the court and county, and, in municipal courts, the name of the judicial district, in which the action is brought. (2) The title of the action. California Code of Civil Procedure § 422.30

“Names of parties in complaint; names in other pleadings.” In the complaint, the title of the action shall include the names of all the parties; but, except as otherwise provided by statute or rule of the Judicial Council, in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties. California Code of Civil Procedure § 422.40

“Statement of facts; demand for judgment.” A complaint... shall contain both of the following: (a) A statement of the facts constituting the cause of action, in ordinary and concise language. (b) A demand for judgment for the relief to which the pleader claims to be entitled. If the recovery of money or damages be demanded, the amount thereof shall be stated, unless the action is brought in the superior court to recover actual or punitive damages for personal injury or wrongful death. California Code of Civil Procedure § 425.10

“[Size of paper, Pagination, Etc. and Type Style]” All papers shall be typewritten or printed, or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally legible to printing, in type not smaller than 12 points, on opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound weight, 8½ by 11 inches in size. The typeface shall be essentially equivalent to Courier, Times, or Helvetica. The color of print shall be blue-black or black. California Rules of Court, Rule 201(c)

“[Line Spacing and Numbering]” Only one side of the paper shall be used, and lines on each page shall be one and one-half spaced or double spaced and numbered consecutively; but descriptions of real property. Line numbers shall be consecutively numbered beginning with the number 1 on each page. There shall be at least three line numbers for every vertical inch on the page. California Rules of Court, Rule 201(d)

“[Page Numbering and Hole Punching]” Each page shall be numbered consecutively at the bottom. Each paper shall consist entirely of original pages without riders, and shall be firmly bound together at the top. California Rules of Court, Rule 201(e)

“[Format of First Page]” The first page of each paper shall be in the following form: (1) In the space commencing one inch from the top of the page with line 1, to the left of the center of the page, the name, office address [1] or, if none, [2] residence address, [3] telephone number, fax number and e-mail address (if provided), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, of the party if he or she is appearing in person. (2) The first two inches of space between lines 1 and 7 to the right of the center shall be left blank for the use of the clerk. (3) On or below three and one-third inches from the top of the paper line 8, the title of the court. (4) Below the title of the court, in the space to the left of the center of the page, the title of the case. (5) To the right of and opposite the title, the number of the case. (6) Immediately below the number of the case, the nature of the paper, and on all complaints

and petitions, the character of the action or proceeding. California Rules of Court, Rule 201(f)

CONCLUSION

Based upon the foregoing which is buttressed against sound legal precedent, in the interest of justice, the Court should dismiss the case in its entirety against the Defendant for lack of jurisdiction due to lack of filing of a verified complaint as required by State law, OR, in the alternative, compel the Plaintiff to conform to State law and file a verified complaint within fifteen (15) days.

DATED: September 15, 2008

BY: _____
John Doe, Defendant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No. 00000000

I hereby certify that on September 15, 2008, a true and correct copy of the foregoing document or pleading entitled:

REQUEST FOR VERIFIED COMPLAINT

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF PASADENA
600 East Walnut
Pasadena, California 91640

John Doe

Sample Document #2: “Affidavit of Poverty”

John Doe
155 East 105th Street
Los Angeles, California 90003
Telephone: (213) 484-5223

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF
CALIFORNIA;

Plaintiff,

vs.

)
)
)
)
)
)
)

CASE NUMBER: 0000000

AFFIDAVIT OF POVERTY;

California Vehicle Code § 42003

JOHN DOE,)	
)	
Defendant.	)	DATE: February 00,
2009	)	TIME: 8:30 a.m.
	)	DEPT:
))
_____	)	BAIL DATE: Date Unknown

“JOHN DOE”, the Undersigned Affiant, hereinafter “Affiant,” does hereby solemnly affirm, declare, and state as follows:

1. Affiant is competent to state the matters set forth herewith.
2. Affiant has personal knowledge of the facts stated herein.
3. All the facts stated herein are true, correct, and complete to the best of Affiant’s knowledge, information, and understanding, and if called upon to testify as a witness Affiant shall so state.
4. Affiant is the Defendant in the above-captioned case which is Criminal in nature and NOT civil in nature under California law.
5. As the Defendant in a criminal proceeding, Affiant is aware of his/her U.S.Const.Amend.6 and U.S.Const.Amend.14 right to Due Process of Law which means “opportunity to defend and to present evidence in one’s defense,” and hereby on the record claim and exercise this Right in the above-captioned case.
6. Affiant is aware that the Right to Due Process of Law is a Secured Liberty and according to the United States Supreme Court in *Murdock v. Pennsylvania*, 319 U.S. 105, a State may not impose a charge (i.e. bail) for the exercise of a Secured Liberty such as Constitutional Due Process of Law.

7. Affiant is presently financially unable and economically distressed and therefore unable to pay at any time any monies that the Court may compel or order him/her to pay as bail or bond, for charges that are infractions in nature and thus are offenses "...not punishable by imprisonment..." according to State law, California Penal Code § 19.6

8. Affiant would like to contest the charges (Vehicle Code violations) erroneously levied against him/her on the day of the traffic stop under his/her statutory right to a trial for infractions as authorized by the California Vehicle Code § 40901 and/or misdemeanors as provided by law, and more importantly, California Constitution: Article 1 § 7; and U.S.Const.Amend.14, and thus request to be released on O/R (Own Recognizance) as no bail is warranted in this matter which is a NON-JAILABLE offense.

VERIFICATION

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

DATED: February 15, 2009

BY: _____
John Doe, Defendant/Affiant

MEMORANDUM OF POINTS AND AUTHORITIES

“Payment of fines and costs.” (c) In any case when a person appears before a traffic referee or judge of the municipal court or superior court for adjudication of a violation of this code, the court **upon request of the defendant**, shall consider the defendant’s ability to pay. Consideration of a defendant’s ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. The reasonable cost of these services and of

probation shall not exceed the amount determined to be the actual average cost thereof. **The court shall order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of these costs or the court or traffic referee may make this determination at a hearing. At that hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to a written statement of the findings of the court or the county officer.** If the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability; or, with the consent of a defendant who is placed on probation, the court shall order the probation officer to set the amount of payment , which shall not exceed the maximum amount set by the court, and the manner in which the payment shall be made to the county. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

The court may hold additional hearings during the probationary period. If practicable, the court or the probation officer shall order payments to be made on a monthly basis. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

(d) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the pre-sentence investigation, preparing the pre-sentence report, and probation, and includes, but is not limited to, all of the following regarding the defendant: (1) Present financial position. (2) Reasonably discernible future financial position.

In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position. (3) Likelihood that the defendant will be able to obtain employment within the six-month period from the date of the hearing. (4) Any other factors that may bear upon the defendant's financial capability to reimburse the county for the costs. California Vehicle Code § 42003

DATED: February 15, 2009

BY: _____
John Doe, Affiant

AFFIDAVIT OF JOHN DOE

“John Doe”, the Undersigned Affiant, hereinafter “Affiant,” does hereby solemnly affirm, declare, and state as follows:

1. Affiant is competent to state the matters set forth herewith.
2. Affiant has personal knowledge of the facts stated herein.
3. All the facts stated herein are true, correct, and complete to the best of Affiant's knowledge, information, and understanding, and if called upon to testify as a witness Affiant shall so state.

4. Affiant is presently “unemployed.”
5. Affiant is not “self-employed.”
6. Affiant does not receive welfare benefits (AFDC or WIC).
7. Affiant does not receive CSS benefits.
8. Affiant does not receive SSI benefits.
9. Affiant does not receive Social Security benefits.
10. Affiant does not receive State disability benefits.
11. Affiant does not receive State unemployment insurance benefits.

12. Affiant does not receive State general relief benefits.

13. Affiant does not receive Worker's compensation benefits.

14. Affiant is a stay-at-home mother of 2 children, ages 2 and 10 months.

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

DATED: February 15, 2009

BY: _____
John Doe, Affiant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No.: 000000

I hereby certify that on February 16, 2009, a true and correct copy of the foregoing document or pleading entitled:

AFFIDAVIT OF POVERTY

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF GLENDALE
613 E. Broadway, Room 212
Glendale, California 91206

John Doe, Defendant *pro per*

Sample Document #3:

“Peremptory Challenge” (Judge of Commissioner)

John Doe
11393 Kiowand Street #3
Los Angeles, California USA 90049
Telephone: (310) 200-4545

In Propria Persona

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

METROPOLITAN COURTHOUSE

In The Matter Of

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

JOHN DOE

Defendant.

) Case Number: BR0000000

)

) **PEREMPTORY CHALLENGE**

) **(Judge or Commissioner)**

)

) California Code of Civil Procedure §

) 170.6

)

) Date: September 1, 2006

) Time: 8:30 a.m.

) Place: Division 61

TO: THE PRESIDING JUDGE OR MAGISTRATE OF THE COURT

COMES NOW the Defendant, John Doe, stating the following:

The Defendant believes that the judge, court commissioner, or referee before whom this action or proceeding is pending or to whom it is assigned, one RICHARD KEMALYAN, is prejudiced against the Defendant or the interest of the Defendant so that the Defendant believes he/she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee as guaranteed to the Defendant under the Sixth Amendment and therefore moves the Court for a peremptory challenge (recusal).

DATED: August 9, 2006

By _____
John Doe, Defendant

DECLARATION OF JOHN DOE

California Code of Civil Procedure §§ 170.6 (2)(3) and 2015.5

1. Declarant is competent to state the matters set forth herewith.
2. Declarant has personal knowledge of the facts stated herein.
3. All the facts stated herein are true, correct, and complete to the best of Declarant's knowledge and understanding, and if called upon to testify as a witness Declarant shall so state.

4. I, John Doe, Declarant, duly declaring, deposes and says:

5. I am a party to the within action.

6. The presiding Judicial Officer before whom the trial of the aforesaid action is pending (or to whom it is assigned), RICAHARD KEMALYAN, is prejudiced against the party or the interest of the party so that the Declarant believes he or she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee.

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

DATED: February 5, 2006

Signed: _____
John Doe, Declarant

MEMORANDUM OF LAW IN SUPPORT OF PEREMPTORY CHALLENGE

1. Under California law a party/litigant has the right to "recuse" a judicial officer for bias and prejudice:

"Prejudice against party." (1) No judge, court commissioner, or referee of any superior or municipal court of the State of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein that involves a contested issue of law or fact when it shall be established as hereinafter provided that a judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in the action or proceeding. (2) Any party to or any attorney appearing in any such action or proceeding **may establish this prejudice by an oral or written motion without notice supported by affidavit or declaration under penalty of perjury** or an oral statement under oath that the judge, court commissioner, or referee

before whom the action or proceeding is pending or to whom it is assigned is prejudiced against any such party or attorney or the interest of the party or attorney so that the party or attorney cannot or believes that he or she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee. Where the judge, other than a judge assigned to the case for all purposes, court commissioner, or referee assigned to or who is scheduled to try the cause or hear the matter is known at least 10 days before the date set for trial or hearing, the motion shall be made at least five days before the date. If directed to the trial of a cause where there is a master calendar, the motion shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial. If directed to the trial of a cause that has been assigned to a judge for all purposes, the motion shall be made to the assigned judge or to the presiding judge by a party within 10 days after notice of the all purpose assignment, or if the party has not yet appeared in the action, then within 10 days after the appearance. If the court in which the action is pending is authorized to have no more than one judge and the motion claims that the duly elected or appointed judge of that court is prejudiced, the motion shall be made before the expiration of 30 days from the date of the first appearance in the action of the party who is making the motion or whose attorney is making the motion. (3) If the motion is duly presented and the affidavit or declaration under penalty of perjury is duly filed or such oral statement under oath is duly made, thereupon and without further act or proof, the judge supervising the master calendar, if any, shall assign some other judge, court commissioner, or referee to try the cause or hear the matter. In other cases, the trial of the cause or the hearing of the matter shall be assigned or transferred to another judge, court commissioner, or referee of the court in which the trial or matter is pending or, if there is no other judge, court commissioner, or referee of the court in which the trial or matter is pending, the Chair of the Judicial Council shall assign some other judge, court commissioner, or referee to try the cause or hear the matter as promptly as possible. Except as provided in this section, no party or attorney shall be permitted to make more than one such motion in any one action or special proceeding pursuant to this section; and in actions or special proceedings where there may be more than one plaintiff or similar party appearing in the action or special proceeding, only one motion for each side may be made in any one action or special proceeding. California Code of Civil Procedure, Section 170.6

2. A defendant is entitled to an impartial judicial officer:

“A [litigant] is entitled to the cold neutrality of an impartial judge; the law intends that no judge shall preside in a case in which he is not wholly free, disinterested, impartial and independent.” [*emphasis added*] U.S. v. orbiz, D.C. Puerto Rico (1973), 366 F.Supp. 628

“If the judge’s relationships or state of mind come within statutory definitions, the judge must recuse himself. All the statements are premised on the Constitutional Right to have one’s heard by a neutral and detached judge.” Ward v. Village of Monroeville, 409 U.S. 57, 62 (1972)

3. A judicial officer has a mandatory duty to perform judicial duties without bias or prejudice:

“A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias and prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status.” [*emphasis added*] Code of Judicial Ethics, Canon 3(B)(5)

“A judge shall diligently discharge the judge’s administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration.” [*emphasis added*] Code of Judicial Ethics, Canon 3(C)(1)

4. A judicial officer has a mandatory duty to dispose of all judicial matters
FAIRLY:

“A judge shall dispose of all judicial matters, fairly, promptly, and efficiently.” [*emphasis added*] Code of Judicial Ethics, Canon 3(B)(8)

5. Judicial officer has a duty to recuse him/herself when there is an affidavit
supporting bias and prejudice:

“Judge has unavoidable duty to recuse himself when facts are properly verified by affidavit supporting a claim legally cognizable bias or prejudice.” Deal v. Warner, D.C.Mo.1973, 369 F.Supp. 174

“If in fact judge is disqualified by reason of personal bias, timely affidavit of bias should be filed and if not, it is waived.” U.S. v. Hall, D.C.Okl.1975, 424 F.Supp. 508, affirmed 536 F.2d 313

“A judge may be disqualified for bias only on motion supported by written affidavit of fact supporting the claim of bias and a certificate of good faith from the counsel of record and informal request to the court.” Galella v. Onassis, C.A.2 (N.Y.) 1973, 487 F.2d 986

6. The Code of Judicial Ethics applies to all judicial officers of the court:

“The Code of Judicial Ethics apply to judges, magistrates, court commissioner, referee, court-appointed arbitrator, judge of the State Bar Court, temporary judge, super* or special master. The above are all judges within the meaning of the Code.” Code of Judicial Ethics, Canon 6(A)

7. The right to a court and judicial officer free from bias and prejudice is based on
the Due

Process Clause of the Fifth and Fourteenth Amendments:

“The right to a tribunal free from bias or prejudice is based... on due process clause.” U.S. v. Sciuto, C.A.7 (Ill.) 1976, 531 F.2d 842

DATED: August 9, 2006

By _____
John Doe

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Criminal Case No. 0000000

I hereby certify that on August 10, 2006, a true and correct copy of the foregoing document or pleading entitled:

PEREMPTORY CHALLENGE

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF LOS ANGELES
1945 South Hill Street
Los Angeles, CA 90007

**Sample Document #4:
“Answer and Demurrer to Photo
Red Light Citation”**

John Doe
13725 Chadron Boulevard #192
Hawthorne, California 90250
Telephone: (310) 400-7897

In Propria Persona

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

TORRANCE COURTHOUSE

In The Matter Of

THE PEOPLE OF THE STATE OF)
CALIFORNIA)

Citation Number: 0000000

) **ANSWER AND DEMURRER TO**
) **PHOTO RED LIGHT**

CITATION

vs.)

)
JOHN DOE,)

California Code of Civil Procedure § 2015.5

)
Defendant.)

California Constitution, Article 1 § 15

)
U.S. Const, 6th Amendment

)
Court Date: March 5, 2007

TO: THE PRESIDING JUDGE OR MAGISTRATE; PROSECUTION ON
BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA

COMES NOW Defendant JOHN DOE, hereinafter “Declarant”, Appearing
Specially, In propria persona; exclusively reserving all secured rights under the Federal
and State Constitutions; submitting and filing this Declaration and Notice of Reservation
of Right To Not Be Compelled To Be Witness Against Self In Criminal Matter [Photo
Radar].

In support, Declarant states on and for the record, the following:

1. Declarant, expressly and exclusively reserve his/her U.S.Const.Amend.14 Right and California Constitution Article 1 § 15 right to not be compelled to be a witness against him/her self in a criminal cause.

2. Declarant **never** personally SIGNED or EXECUTED a Notice to Appear (NTA) in this instant matter issued by a peace or traffic officer as required by California law.

3. A copy of a mailed Notice to Appear is not a legal substitute for the criminal complaint that is required to initiate prosecution, as per Vehicle Code § 40513 and Penal Code §§ 740 and 853.9.

4. A Notice to Appear is a valid substitute for a complaint ONLY where issued by an officer who observed the alleged violation or issued it as the result of an accident, pursuant to Penal Code § 949 and Vehicle Code §§ 20413 and 40600(d).

5. The Notice to Appear was issued in a situation where only a verified complaint may be used.

6. Declarant hereby demands a verified complaint pursuant to Vehicle Code § 40513(a)(b) in order that this Court may have jurisdiction by which it could compel Declarant to appear in court.

7. This is a photo-radar case in where there was no traffic stop, so that the Notice to Appear procedure in Vehicle Code 40500 through 40502 is inapplicable, and no complaint has been filed.

8. The purported Notice to Appear is NOT approved by the Judicial Council of California for this purpose. It is to be only used in conjunction with an “arrest” in which a citing officer apprehends an alleged violator. It is clear that an officer’s name is typed or machine-printed on the form (NTA), and again, Declarant’s signature does not appear in or on the promise to appear position of the form; and again, no complaint has been filed.

9. Clearly, a trial where there is no witness(es) to exercise one’s right to cross-examine one’s accuser and/or witness(es) and where there is no witness testimony or evidence presented upon which a determination can be made is a violation of Declarant’s

rights granted by both state and federal constitutions (e.g. to examine or question one's accuser and/or witnesses).

10. A warrant issued for failure to appear based upon a mailed copy of a Notice to Appear absent a valid signature by the Declarant promising to appear in court, in addition to no verified complaint being filed, is not adequate defense or justification for the issuance of an arrest warrant for a non-jailable traffic offense ("Infraction," see Penal Code § 19.6), which would subject the issuing judicial officer to amenability in a federal Title 42 U.S.C. § 1983 civil action for deprivation of federal constitutional rights under color of State law (Vehicle Code § 40514), in his/her "official" and "private" capacity. See Rankin v. Howard, 633 F.2d 844; Stump v. Sparkman, 435 U.S. 349

11. The State cannot require as a condition of receiving a "favor" (driver's license, driving privilege) the relinquishment of constitutional rights (e.g. the right to be free from self-incrimination), as per Frost & Frost Trucking Co v. California Railroad Commission (1926) 271 U.S. 583.

12. The Notice of Traffic Violation is declared by a one, **Barbara Murphy**, Declarant, who will be subpoenaed as a witness for purposes of cross-examination on the day of trial if this spurious charge against me is not dismissed.

13. Defendant is ONLY responding to the mailed photo radar ticket absent her signature on a written notice to appear due to economic duress as the Superior Court will issue a "failure to appear" (Veh. Code § 40508) which will show up on Department of Motor Vehicle computer databases and the Department of Motor Vehicles will prevent Defendant from receiving new vehicle registration tags when that time comes.

Defendant declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

VERIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my belief, information and knowledge, so help me God.

DATED: February 18, 2007

By _____
John Doe, *Declarant*

MEMORANDUM OF POINTS AND AUTHORITIES

1. The Declarant has a federal Fifth Amendment right and State of California Constitution Article 1 Section 15 right to be free from compelled self-incrimination:

“No person shall...be compelled in any criminal case to be a witness against himself...”
Fifth Amendment of the Bill of Rights, U.S. Constitution

“Persons may not be...compelled in a criminal cause to be a witness against themselves...” California Constitution (1974) Article 1 § 15

“No person shall be...compelled, in any criminal case, to be a witness against himself...”
Organic Constitution of the state of California (1849)

2. A State statute (*e.g.* Vehicle Code) does not precedent over constitutional provisions:

“The Supreme Court held that state statutes did not take precedent over constitutional law.” James v. Kentucky, 466 U.S. 341; 80 L.Ed 2d 346; 104 S.Ct. 1830 (1984)

“Where statutes conflict with constitutional provisions, the latter must prevail.” Hart v. Jordan (1939) 14 Cal.2d 288, 94 P.2d 808

“The will of the supreme power is expressed primarily by the Constitution, and secondarily by statutes.” California Civil Code § 22.1

3. A signature is needed to authenticate or execute an instrument and attest its validity:

“Sign.” To affix one’s name to a writing or instrument, for the purpose of authenticating or executing it, or to give it effect as one’s act. To make any mark, as upon a document, in token of knowledge, approval acceptance, or obligation. Black’s Law Dictionary (1979), 5th edition, page 1239

“Signature.” The act or putting one’s name at the end of an instrument to attest its validity; the name thus written. Black’s Law Dictionary (1979), 5th edition, page 1239

“A signature is made by use of any name, including any trade or assumed name, upon an instrument, or by any word or mark used in lieu of a writing signature.” Uniform Commercial Code § 3 – 401

4. No provision of the Vehicle Code authorizes or validates a mailed copy of a Notice to appear as a legal substitute for the criminal complaint that is needed to initiate prosecution. A verified complaint is required by law:

“Filing of notice in lieu of complaint.” (a) Whenever written notice to appear has been prepared, delivered, and filed with the court, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead “guilty” or “nolo contendere.” If, however, the defendant violates his or her promise to appear in court or does not deposit lawful bail, or pleads other than “guilty” or “nolo contendere” to the offense charged, a complaint shall be filed that conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code, which shall be deemed an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear. (b) Notwithstanding subdivision (a), whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed. California Vehicle Code, Section 40513.

“Misdemeanors and infractions; prosecution by written complaint.” Except as otherwise provided by law, all misdemeanors and infractions must be prosecuted by written complaint under oath subscribed by the complainant. Such complaint may be verified on information and belief. [*emphasis added*] California Penal Code § 740

“(b) Notwithstanding the provisions of subdivision (a) of this section, whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with magistrate shall constitute to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed.” California Penal Code § 853.9(b)

“The first pleading on the part of the people in the superior court in a felony case is the indictment, information, or the complaint in any case certified to the superior court under Section 859a. The first pleading on the part of the people in a misdemeanor or infraction case is the complaint except as otherwise provided by law.” [*emphasis added*] California Penal Code § 949

5. In a possible or potential photo-radar case where there are or will be no witnesses (let alone no plaintiff) present, it savors violation of constitutional right to question witnesses:

“In all criminal prosecutions, the accused shall enjoy the right to...be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor...” Sixth Amendment, U.S. Constitution

“The defendant in a criminal cause has the right to...compel attendance of witnesses in the defendant’s behalf ...and to be confronted with the witnesses against the defendant.” California Constitution, Article 1 § 15

6. It is black letter law that to move (sue/prosecute/adjudicate) under a “fictitious plaintiff” is a “contempt of court”:

“Fictitious plaintiff.” A person appearing in the writ, complaint, or record as the plaintiff in a suit or proceeding, but who in reality does not exist, or who is ignorant of the suit and of the use of his name in it. It is a CONTEMPT OF COURT to sue, move, or proceed in the name of a fictitious party. Black’s Law Dictionary, 5th Edition, page 562
The plaintiff in this instant matter (The People of the State) – a body politic, is a
FICTION!

7. A warrant for arrest cannot issue for alleged “failure to appear” absent a verified complaint (which lawfully confers jurisdiction) and/or SIGNED promise to appear:

“The record must show affirmatively that the jurisdictional requirements have been satisfied.” Hayman v. L.A., 17 Cal.App.2d. 674

“Jurisdiction may never be assumed, not even by colorable claims or status or black robes or officialdom or appearances, but must be substantively proven by the plaintiff/claimant of said jurisdiction. Once challenged by any proper party the plaintiff/complaint must prove their jurisdiction in a timely manner.” McNutt v. General Motors Acceptance Corp., 56 S. Ct. 502

“If any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed.” Louisville R.R. v. Motley, 211 U.S. 149, 29 S.Ct. 42

“Therefore it is necessary for the record to present the facts establishing the jurisdiction of the tribunal.” People v. Board of Delegates of S.F. Fire Dept., 14 C. 479; Blair v. Hamilton, 33 C. 49; Madera Irrig. Dist., In re. 92 C. 296

“A court cannot act without jurisdiction (verified complaint).” Anger v. Municipal Court (1965), 232 Cal.2d 69, 72

8. A judicial officer who issues a warrant in clear absence of jurisdiction (verified complaint) is subject to civil liability for injuries incurred as a consequence:

“The magistrate abandons their judicial role because there has been no verified complaint pursuant to California Penal Code § 853.9” See Lo-ji Sales, Inc. v. New York (1979), 442 U.S. 319; U.S. v. Harper, 802 F.2d 115

“Magistrates lose their shield from good faith reliance if a bench warrant issues without the filing of a verified complaint. The magistrate or the clerk may be charged with “rubber stamping.” Aguilar v. State of Texas, 378 U.S. 108

“Where a judicial officer acts without jurisdiction or without compliance with jurisdictional requisites, he may be held civilly liable for abuse of process even though his act involved a decision, made in good faith, that he had jurisdiction.” Little v. United States Fidelity & Guaranty Co., 217 Miss. 576 64So 2d 697

“If the magistrate has not such jurisdiction, then he and those who advise and act with him, or execute his process, are trespassers.” Von Kettler et al. v. Johnson (1870) 57 Ill. 109

DATED: February 18, 2007

By _____
John Doe, Defendant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No.:0000000

I hereby certify that on February 19, 2006, a true and correct copy of the foregoing document or pleading entitled:

ANSER AND DEMURRER TO PHOTO RED LIGHT CITATION

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF LOS ANGELES
1945 South Hill Street
Los Angeles, CA 90007

**Sample Document #5:
“Motion To Dismiss (Lack of Jurisdiction)”**

John Doe
11045 Otsego #215
North Hollywood, California 91601
Telephone: (818) 500-1300

In Propria Persona

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES
METROPOLITAN COURTHOUSE

THE PEOPLE OF THE STATE OF)	CASE NUMBER: 0000000000
CALIFORNIA;)
)
Plaintiff,	) MOTION TO DISMISS
JURISDICTION)	) (LACK OF
)
vs.)
	) California <u>Vehicle Code</u> § 40513(a)
JOHN DOE,	) California <u>Code of Civil Procedure</u> §
)
Defendant.)
)
	) DATE: August 26, 2007
	) TIME: 8:30 a.m.
_____	) DEPT: Division 61

TO: THE PRESIDING AND REVIWEING JUDGE OR MAGISTRATE AND THE
PLAINTIFF (PEOPLE OF THE STATE OF CALIFORNIA):

COMES NOW the Defendant, JOHN DOE, submitting this Motion to Dismiss for Lack of Subject Matter Jurisdiction (Verified Complaint) based upon the following grounds:

1. A verified complaint had to first be filed with the court in order for the court to have jurisdiction to proceed in the instant matter.

2. A written notice to appear can only serve as a verified complaint to which a defendant may plead “guilty” or “nolo contendere,” in accordance pursuant to Penal Code § 853.9.

3. The defendant challenged jurisdiction in this instant matter and therefore the Plaintiff had the burden of proof of proving that jurisdiction does in fact exist.

4. A court proceeding absent a verified complaint is a nullity.

The motion is made and based on the accompanying Memorandum of Law in addition to the pleadings on file with the court, and any and all documentary and oral evidence which may be presented at the hearing of this motion.

DATED: August 2, 2007

By _____
John Doe, Defendant

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS

1. When a defendant pleads other than “guilty” or “nolo contendere,” or in other words, “NOT GUILTY,” a verified complaint must be filed with the Court:

“Filing of notice in lieu of complaint.” (a) Whenever written notice to appear has been prepared, delivered, and filed with the court, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead “guilty” or “nolo contendere.” If, however, the defendant violates his or her promise to appear in court or does not deposit lawful bail, or pleads other than “guilty” or “nolo contendere” to the offense charged, a complaint shall be filed that conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code, which shall be deemed an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear. (b) Notwithstanding subdivision (a), whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and

legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed. California Vehicle Code, Section 40513.

2. California law is clear in that a verified complaint must be filed in all infraction and misdemeanor cases:

“Misdemeanors and infractions; prosecution by written complaint.” Except as otherwise provided by law, all misdemeanors and infractions must be prosecuted by **written complaint** under oath subscribed by the complainant. Such complaint may be verified on information and belief. California Penal Code § 740

“Notwithstanding the provisions of subdivision (a) of this section, whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a **verified complaint** be filed.” California Penal Code § 853.9(b)

“The first pleading on the part of the people in the superior court in a felony case is the indictment, information, or the **complaint** in any case certified to the superior court under Section 859a. The first pleading on the part of the people in a misdemeanor or infraction case is the **complaint** except as otherwise provided by law.” California Penal Code § 949

3. A written notice to appear cannot constitute a complaint because the necessary requirements of a complaint are greatly lacking. A complaint must include (1) a caption with the title of the action; (2) the names of ALL parties; (3) a statement of facts and demand for judgment; (4) a court seal; and (5) a clerk’s signature:

“Caption; contents.” (a) **Every pleading** shall contain a caption setting forth: (1) The name of the court and county, and, in municipal courts, the name of the judicial district, in which the action is brought. (2) The title of the action. [*emphasis added*] California Code of Civil Procedure § 422.30

“Names of parties in complaint; names in other pleadings.” In the complaint, the title of the action shall include the **names of all the parties**; but, except as otherwise provided by statute or rule of the Judicial Council, in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties. [*emphasis added*] California Code of Civil Procedure § 422.40

“Statement of facts; demand for judgment.” A complaint... shall contain both of the following: (a) A statement of the facts constituting the cause of action, in ordinary and concise language. (b) **A demand for judgment for the relief to which the pleader claims to be entitled**. If the recovery of money or damages be demanded, the amount thereof shall be stated, unless the action is brought in the superior court to recover actual or punitive damages for personal injury or wrongful death. [*emphasis added*] California Code of Civil Procedure § 425.10

“Complaint.” In criminal law, the complaint is a **written statement** of the essential facts constituting the offense charged. [*emphasis added*] Federal Rules of Criminal Procedure, Rule 3; quoted from Black’s Law Dictionary (1979), 5th edition, pg. 258

“Seal defined.” When the seal of a Court...is required by law to be affixed to any paper, the word “seal” includes an impression of such seal upon the paper alone as well as upon wax or a wafer affixed thereto. California Code of Civil Procedure § 14

Clearly, a written notice to appear lacks on its face the county in which the court is located, the judicial district of the court, the title of the action, the names of all the parties (nowhere on a written notice to appear does it mention the People of the State of California as the Plaintiff or injured party); a demand for judgment for the relief the pleader claims to be entitled; a written statement of facts constituting a cause of action; a court seal, and a clerk’s signature. And clearly, an executive officer (*e.g.* local municipal police officer, who serves as the State’s “witness”) other than a sheriff cannot lawfully effectuate service of process, which is a judicial process.

In addition, a written notice to appear serves as both a summons and complaint on one sheet or form. A summons must be separate from a complaint.

4. A verified complaint must first be filed for a court to have jurisdiction to proceed in the matter:

“A court cannot act without jurisdiction (verified complaint).” Anger v. Municipal Court (1965), 232 Cal.App.2d 69, 72

“The filing of a complaint is essential to invoke the jurisdiction of the court.” City of San Diego v. Municipal Court, 102 Cal.App.3d 775

5. Once challenged, jurisdiction must be proven and not assumed:

“Once challenged, jurisdiction cannot be assumed, it must be proved to exist.” Stuck v. Medical Examiners, 94 Ca2d 751, 211 P2d 389

“Jurisdiction, once challenged, cannot be assumed and must be decided.” Maine v. Thiboutot, 100 S.Ct. 250

“Jurisdiction may never be assumed, not even by colorable claims or status or black robes or officialdom or appearances, but must be substantively proven by the plaintiff/claimant of said jurisdiction. Once challenged by any proper party the plaintiff/complaint must prove their jurisdiction in a timely manner.” McNutt v. General Motors Acceptance Corp., 56 S.Ct. 502

“Therefore it is necessary for the record to present the facts establishing the jurisdiction

of the tribunal.” People v. Board of Delegates of S.F. Fire Dept., 14 C. 479; Blair v. Hamilton, 33 C. 49; Madera Irrig. Dist., In re. 92 C. 296

6. When there is proof that Defendant pleads “not guilty” and does not waive filing of verified complaint and no verified complaint is filed with the court, the Defendant is not lawfully brought within the jurisdiction of the court:

Defendant who was cited for and charged with failure to yield right-of-way and who pleaded not guilty and did not waive filing of complaint was not brought within jurisdiction of court. Anger v. Municipal Court of City and County of San Francisco (App. 1 Dist. 1965) 237 Cal.App.2d 69

Defendant who was charged with traffic offense, pleaded not guilty and did not waive filing of complaint was not brought within jurisdiction of court until filing of verified complaint. Gavin v. Municipal Court of San Diego Judicial Dist. (App. 4 Dist. 1960) 184 Cal.App.2d 712

7. A court proceeding absent the filing of a verified complaint is a NULLITY or VOID *AB INITIO*:

“A universal principle as old as the law, is that a proceeding of a court without jurisdiction is a nullity and its judgment therein without effect either on person or property.” Norwood v. Kenfield, 34 C. 329; 117 C. 573 (49 P. 732)

“Jurisdiction is a fundamental and a judgment rendered by a court that does not have jurisdiction is void *ab initio*”. Re Application of Wyatt, 114 Cal. App. 557 (300 p. 132)

8. The law is clear in that absence of proof of jurisdiction over person and subject matter the matter must be dismissed:

“If any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed.” Louisville R.R. v. Motley, 211 U.S. 149, 29 S.Ct. 42

CONCLUSION

In the interest of justice and based upon the foregoing, the Defendant moves this Court for a dismissal of the charge(s) with prejudice for lack of jurisdiction.

DATED: August 2, 2006

By _____
John Doe, Defendant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe

Case No.: 000000000

I hereby certify that on August 2, 2007, a true and correct copy of the foregoing document or pleading entitled:

MOTION TO DISMISS (LACK OF JURISDICTION)

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF PASADENA
300 East Walnut Street
Pasadena, California 91101

John Doe, Defendant

Sample Document #6: “Motion to Dismiss Charge of Failure to Appear”

John Doe
155 east 105th Street
Los Angeles, California 90003
Telephone: (213) 484-5223

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA;	)	CASE NUMBER: 00000000
)	
CHARGE	)	MOTION TO DISMISS
Plaintiff,	)	OF FAILURE TO
APPEAR)	
)	
vs.)	
)	
JOHN DOE,)	
)	
Defendant.)	
)	
2009	)	DATE: May 11,
a.m.	)	TIME: 8:30
_____	)	DEPT: Division 4

TO: THE PRESIDING AND REVIWEING JUDGE OR MAGISTRATE
AND THE PLAINTIFF (PEOPLE OF THE STATE OF
CALIFORNIA):

PLEASE TAKE NOTICE that on May 11, 2009, at 8:30 a.m., or as soon as Defendant may be heard, in Department “4” of the Superior Court of the State of California for the County of Los Angeles, located at 600 E. Broadway, Glendale, California, Defendant will and hereby does move the Court for an order dismissing the charge of Vehicle Code section 40508 on the following grounds:

1. Vehicle Code § 40508 is unconstitutional (Bill of Attainder) and violates California Constitution, Article 1, section 9
2. Vehicle Code § 40508 is unconstitutional (Bill of Attainder) and violates U.S. Constitution 1:10:1, and U.S.Const.Amend.14

This motion is based upon the Notice of Motion, the Memorandum of Law, the pleadings and records on file with the Court, and any and all documentary or oral evidence that may be presented at the hearing of this motion.

DATED: May 6, 2009

JOHN DOE

BY

John Doe, Defendant

MEMORANDUM OF POINTS AND AUTHORITY IN SUPPORT OF MOTION
TO DISMISS

1. Vehicle Code 40508 is an unconstitutional Bill of Attainder in the form of a Bill of Pains and Penalties in that it automatically finds one guilty of a misdemeanor absent an “OSC” Order to Show Cause” which comports with constitutional “Due Process of Law” which is guaranteed to Defendant in accordance pursuant to California Constitution, Article 1, section 9.

Section 40508 states:

“Any person **willfully** violating his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail **is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested.**”

Absent a hearing (“OSC”) before a judicial officer and/or jury in a court of law to determine “willful” conduct is a violation of California Constitution, Article 1, Section 7 “Due Process” Clause.

Due Process is defined as:

“Due process contemplates opportunity to be fully and fairly heard before impartial decision maker.” Catchpole v. Brannon (App. 1 Dist. 1995) 36 Cal.App.4th 237; 42 Cal.Rptr.2d 440

“The fundamental requisite of due process is opportunity to be heard.” Bradshaw v. Park (App. 2 Dist. 1994) 34 Cal.Rptr.2d 872; 29 Cal.App.4th 1267

Did Defendant “willfully” fail to appear?

In law, “willful” is defined as:

WILLFUL. 1. Proceeding from a conscious motion of the will; voluntary. Intending the result which actually comes to pass; designed; intentional; not accidental or involuntary. 2. An act or omission is "willfully" done, if done voluntarily and intentionally and with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to disobey or to disregard the law. 3. The word [willfully] often denotes an act which is intentional, or knowing, or voluntary, as distinguished from accidental. But when used in a criminal context it generally means an act done with a bad purpose; without justifiable excuse; stubbornly, obstinately, perversely. The word is also employed to characterize a thing done without ground for believing it is lawful or conduct marked by a careless disregard whether or not one has the right so to act." United States vs. Murdock, 290 U.S. 389, 394, 395; Screws vs. United States, 325 U.S. 91, 101

Defendant did not intentionally or voluntarily design to fail to appear at Defendant's initial arraignment date and elucidated the facts for the causation of the "failure to appear" in Defendant's Brief. Please see Brief of Defendant John Doe ("Statement of Facts").

A Bill of Attainder is prohibited by California Constitution, Article 1, Section 9:

"A bill of attainder ... may not be passed."

In addition, a Bill of Attainder is prohibited by U.S.Const. 1:10:1:

"No state shall ... pass any bill of attainder."

A "Bill of Attainder" is defined as:

BILL OF ATTAINDER. Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them with JUDICIAL trial. An act is a "bill of attainder" when the punishment is death and a "bill of pains and penalties" when the punishment is less severe; both kinds of punishment fall within the scope of constitutional prohibition - U.S.Const. Art. 1, Sec. 9, Cl. 3 (as to Congress); Art. 1, sec. 10 (as to state legislatures). United States vs. Brown, 381 U.S. 437, 448-449.

A "Bill of Pains and Penalties" is defined as:

BILL OF PAINS AND PENALTIES. Statutory provision for punishment without judicial determination of guilt similar to a bill of attainder except that punishment is less severe. Prohibited by U.S.Const., Art. 1, Sec. 9, Cl. 3 (Congress), U.S.Const., Art. 1, Sec. 10 (States).

The California Vehicle Code section 40508 is a STATUTORY PROVISION and it finds one guilty of a misdemeanor WITHOUT JUDICIAL DETERMINATION

AFFIDAVIT OF JOHN DOE

“John Doe”, the Undersigned Affiant, hereinafter “Affiant,” does hereby solemnly affirm, declare, and state as follows:

1. Affiant is competent to state the matters set forth herewith.
2. Affiant has personal knowledge of the facts stated herein.
3. All the facts stated herein are true, correct, and complete to the best of Affiant’s knowledge, information, and understanding, and if called upon to testify as a witness Affiant shall so state.

4. Affiant did not intentionally or voluntarily disregard the law “promise to appear” when she failed to appear on the date of the initial arraignment.

5. Affiant relied upon faulty information given on the Superior Court’s case information Inter-net website which stated a court date different from what the court had entered into its computer records.

6. Affiants “failure to appear” was totally accidental and not intentional.

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

DATED: May 6, 2009

JOHN DOE

BY: _____
John Doe, Affiant

CONCLUSION

Based upon the above and in the interest of justice with just cause having been shown within, Defendant JOHN DOE hereby moves the Court for a dismissal of Vehicle Code section 40508 “Failure to appear.”

If the Court denies Defendant's motion to dismiss, Defendant pleads "not guilty" to the offense, and since section 40508 is a misdemeanor, Defendant requests the filing of a verified complaint (giving the court jurisdiction) and pursuant to California Constitution, Article 1, Section 16, request a TRIAL BY JURY:

"In criminal actions in which a **misdemeanor** is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court." California Constitution [1974], Article 1 § 16

California Penal Code section 19.6 is inapplicable to misdemeanors as far as jury trials are concerned and thus Defendant has a right to a jury trial.

DATED: May 6, 2009

JOHN DOE

BY

John Doe, Defendant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No.: 00000000

I hereby certify that on May 6, 2009, a true and correct copy of the foregoing document or pleading entitled:

MOTION TO DISMISS TO CHARGE OF FAILURE TO APPEAR

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF GLENDALE
613 E. Broadway, Room 212
Glendale, California 91206

John Doe, Defendant *pro per*

Sample Document #7: “Trial Brief”

John Doe
2555 W. Sawson Avenue #15
Garden Grove, California 92844
Telephone: (714) 300-3700

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

POMONA COURTHOUSE

THE PEOPLE OF THE STATE OF
CALIFORNIA;

Plaintiff,

)

)

)

)

CASE NUMBER: 00000000

**TRIAL BRIEF OF DEFENDANT
JOHN DOE**

)		
vs.)		
)		
JOHN DOE,)		
)		
Defendant.)		
)		
	)	DATE: June 15,	
2009	)	TIME: 8:30	
a.m.)		
_____	)	DEPT: Division C	

Plaintiff JOHN DOE hereby humbly requests this Honorable Court, in the interest of justice, to “liberally construe” this pleading pursuant to *Haines v. Kerner* (1972) 404 U.S. 519 and *Jenkins v. McKeithen* (1959) 395 U.S. 411, 421. In addition, Plaintiff further requests that this filing be viewed with leniency as to format and general content due to his/her lack of institutionalized legal training.

STATEMENT OF FACTS

On or about October 12, 2008, Defendant was traveling south on the 210 Freeway. Upon seeing the sign for the 57 Freeway (South) where the 57 Freeway, 210 Freeway, and 60 Freeway all meet, as Defendant was coming down the ramp, Defendant drove down the freeway for a few minutes passing several exists and decided to enter the carpool lane.

Defendant safely merged into the carpool lane and passed a few more exits. Shortly thereafter (after entering the carpool lane), Defendant was pulled over and detained by a member of the California Highway Patrol.

The officer could not tell Defendant why s/he pulled Defendant over. The officer walked back and forth to his squad car several times to inquire of his/her partner before

coming back and explaining to Defendant why s/he pulled Defendant over and was detaining Defendant, finally stating that Defendant merged into the carpool lane too early.

In accordance pursuant to California statutory law, Defendant may plead either “guilty”, “no contest (nolo contendere)”, or “not guilty” on the day of arraignment, and Defendant intends to plead “not guilty” on the day of arraignment and request a trial in accordance pursuant to California Vehicle Code § 40901:

“A court, pursuant to this section, may by rule provide for the trial of any alleged infraction involving a violation of this code or any local ordinance adopted pursuant to this code.” C.V.C. 40901

In addition, in accordance pursuant California Vehicle Code § 42003(c), Defendant is presently financially insolvent and unable to pay any money to satisfy payment of “bail” or “bond” and therefore humbly request of the Court to release Defendant on his/her “Own Recognizance”, or in the alternative, schedule a hearing date “before a county officer designated by the court” to consider the Defendant’s ability to pay, in which Defendant has the burden of demonstrating his or her lack of ability to pay, in accordance with the provisions of California Vehicle Section 42003(c).

DATED: May 7, 2009

BY:

John Doe, Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

1. Because defendant disagrees with the citing offer’s allegation of the Vehicle Code citation he charged Defendant with allegedly committing, Defendant opts for her statutory right of a trial:

“A court, pursuant to this section, may by rule provide for the trial of any alleged infraction involving a violation of this code or any local ordinance adopted pursuant to this code.” C.V.C. 40901

DATED: May 7, 2009

JOHN DOE

By: _____
John Doe, Defedant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No.: 0000000

I hereby certify that on May 7, 2009, a true and correct copy of the foregoing document or pleading entitled:

BRIEF OF DEFENDANT JOHN DOE

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF PMONA
505 S. Garey Avenue
Pomona, California 91766

John Doe, Defendant *pro per*

Sample Document #8: “Affidavit”

John Doe
14075 S. Greenwood Avenue #2
Montebello, CA. 90640
Telephone: 323-400-5000

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA;	)	CASE NUMBER: 00000000
)	
	)	AFFIDAVIT OF JOHN DOE
Plaintiff,)	
)	
vs.)	
)	
JOHN DOE,)	
)	
Defendant.	)	DATE: July 23, 2009
	)	TIME: 8:30 a.m.
	)	DEPT:
))
	)	Van Nuys Courthouse
	)	144 Erwin Street Mall
_____	)	Van Nuys, CA 91401

AFFIDAVIT OF JOHN DOE

“JOHNDOE”, the Undersigned Affiant, hereinafter “Affiant,” does hereby solemnly affirm, declare, and state as follows:

1. Affiant is competent to state the matters set forth herewith.
2. Affiant has personal knowledge of the facts stated herein.
3. All the facts stated herein are true, correct, and complete to the best of Affiant’s knowledge, information, and understanding, and if called upon to testify as a witness Affiant shall so state.
4. Affiant was not the driver on the day the traffic ticket for alleged violation of Vehicle Code § 21453(a) was issued.

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

DATED: July 12, 2009

BY: _____
John Doe, Affiant

CERTIFICATE OF SERVICE

People of the State of California vs John Doe
Case No.: 0000000

I hereby certify that on July 12, 2009, a true and correct copy of the foregoing document or pleading entitled:

AFFIDAVIT OF JOHN DOE

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF LOS ANGELES
500 E. Los Angeles Street
200 Main Street
Los Angeles, California
90012

John Doe, Defendant *pro per*

**Sample Document #9:
“Discovery Request”**

John Doe
127 Norwalk Boulevard #185
Norwalk, California 90652
Telephone: (323) 300-9000

In Propria Persona

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

DOWNEY COURTHOUSE

THE PEOPLE OF THE STATE OF)	CASE NUMBER: 00000000
CALIFORNIA;)
)
FOR Plaintiff,	) DISCOVERY REQUEST
	) TRAFFIC CASE
)
vs.)
	) California <u>Penal Code</u> § 1054.1
JOHIN DOE)
)
Defendant.)
)
)
)
_____	) Trial Date: May 27, 2008

PROPOUNDING PARTY: Defendant John Doe

RESPONDING PARTY: Los Angeles Police Officer Larry Sanchez, Serial #445

Defendant JOHN DOE requests that witness for the Plaintiff PEOPLE OF THE STATE OF CALIFORNIA and Respondent, Officer LARRY SANCHEZ, produce for purposes of inspection for preparation of trial, the following [tangible] things and/or documents pursuant in accordance to California Penal Code § 1054.1:

1. His/her personal notes recorded on his/her copy of the ticket, citation #RT00978, issued to Defendant and Propounding Party on the date of issuance.

DEFINITIONS

“Calibration Certificate” refers to certificate issued for completion of successful training in tuning forks course pertaining to tuning forks used for purposes of calibrating radar and/or laser unit used specifically for calculating or gauging speed of vehicles.

“Engineering and traffic survey” refers to a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities and shall include, among other requirements deemed necessary by the department, consideration of all of the following: (1) Prevailing speeds as determined by traffic engineering measurements. (2) Accident records. (3) Highway, traffic, and roadside conditions not readily apparent to the driver. (4) Residential density. (5) Pedestrian and bicycle safety.

“FCC License” refers to license issued by the Federal Communications Commission that authorizes law enforcement agency or agency and agency employees to handle or use communication equipment such as radar and laser machine units for purposes of calculating or gauging speed of vehicles.

“Laser unit” refers to mechanical device which utilizes laser technology for purposes of calculating or gauging speed of vehicles.

“Radar Unit” refers to Radio Detection And Ranging and/or mechanical device which utilizes radar for purposes of calculating or gauging speed of vehicles.

“Radar Training Certificate” refers to a certificate issued by appropriate agency after successful training in the use of radar and/or laser machine unit for purposes of calculating speed of vehicles.

“Ticket” means “written notice to appear”, “written promise to appear”, “notice to appear”, “Traffic Ticket and Complaint”, “Notice of Moving Violation”, and/or “citation” issued by law enforcement officer and/or agency.

“Tuning Fork” refers to actual fork tool used to calibrate radar and/or laser unit used for purposes of calculating or gauging speed of vehicles.

“Video Tape” refers to any video tapping of a traffic arrest by a recording device mounted to or within the vehicle or squad car of a law enforcement agency.

Please provide COPIES of the following at least five (5) days before the date of the trial:

CAVEAT: Failure to provide discovery response(s) shall result in Motion to Dismiss based upon lack of discovery in violation of U.S.Const.Amend.14 Due Process of Law as defendant is unable to prepare for trial in defense of him/herself absent discovery request(s).

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No.: 00000000

I hereby certify that on August _____, 2007, a true and correct copy of the foregoing document or pleading entitled:

DISCOVERY REQUEST FOR TRAFFIC CASE

was delivered and served on officer Larry Sanchez at the following location:

Los Angeles Police Department
Rampart Division
500 Rampart Boulevard
Los Angeles, CA 90053

John Doe, Defendant *pro per*

**Sample Document #10:
“Motion to Dismiss Speeding Ticket”**

PLEASE TAKE NOTICE that on August 3, 2007, at 8:30 a.m., or as soon as Defendant may be heard, in the Traffic Department of the Superior Court of the State of California for the County of Los Angeles, located at 150 West Commonwealth Avenue, Alhambra, California, Defendant JOHN DOE will and hereby does move the Court for an order dismissing this action based on the following grounds:

1. Defendant was cited for allegedly violating the California maximum speed law (V.C. §22349) with the use of radar or police squad car and the Plaintiff has willfully failed to provide discovery responses preventing Defendant from preparing his/her defense in the matter.
2. Defendant's alleged speed in excess of said limit was in harmony with the 85 percentile rule.

This motion is based upon the Notice of Motion, the Memorandum of Points and Authorities, the pleadings and records on file with the Court, and any and all documentary or oral evidence that may be presented at the trial.

DATED: July 29, 2007

BY:

John Doe, Defendant

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION TO DISMISS

I.

THE PLAINTIFF FAILED TO RESPOND TO DISCOVERY REQUESTS
PROPOUNDED WHICH PREVENTS DEFENDANT FROM MAKING A DEFENSE
AT TRIAL

1. California Vehicle Code section 22349 states: “Except as provided in Section 22356, no person may drive a vehicle upon a highway at a speed greater than 65 miles per hour.”

Speed is calculated or gauged two ways (1) radar (or laser) unit; (2) pacing (with officer’s patrol or squad car).

Accuracy of speed gauging predicated upon device or machinery (radar or laser unit or patrol or squad car) is incumbent upon said device and/or machinery working optimally and efficiently, said devices being issued lawfully by proper authority or agency, and the operator of such device and/or machinery being competent in the use of said device and/or machinery and proof of such is by means of certificates (of competency in the education and operation of radar or laser unit), records (i.e. maintenance, calibration), and actual tools (i.e. tuning forks).

To prove the accuracy and optimal functioning of the radar or laser device or patrol or squad car’s speedometer in calculating or gauging the speed of vehicles, certain documents that are issued are necessary for proving such. However, though discovery request for certain specified documents were propounded to the Plaintiff, Plaintiff willfully refused and/or failed to respond to propounded discovery request (See ATTACHMENT A) which prevented Defendant from preparing his/her defense which constitutes grounds for dismissal.

California Penal Code section clearly states: “This chapter [Discovery] shall be interpreted to give effect to all of the following purposes:

- (a) To promote the ascertainment of truth in trials by requiring timely pretrial discovery.
- (b) To save court time by requiring that discovery be conducted informally between and among the parties before judicial enforcement is requested.
- (c) To save court time in trial and avoid the necessity for frequent interruptions and postponements.

Plaintiff’s failure or refusal to respond to propounded discovery request makes the ascertainment of truth for purposes of trial difficult if not impossible for Defendant

Also, U.S.Const.Amend.6 and 14 secures Defendant's right to defend him/herself in a criminal proceeding.

For this Court to find Defendant guilty in light of the fact that Plaintiff failed or refused to provide Defendant propounded discovery request which California law affords at Penal Code § 1054.1 is a violation of Defendant's U.S.Const.Amend.6 and 14 right of defending one's self in a criminal prosecution.

II.

DEFENDANT'S SPEED WAS IN HARMONY WITH 85 PERCENT OF THE DRIVERS ON THE HIGHWAY OR FREEWAY WHICH ACCOUNTED FOR PUBLIC SAFETY

2. The 85% Percentile Rule compelled Defendant to drive at a speed greater than was posted. To drive at a speed any slower would have impeded traffic by slowing down traffic.

There have been studies upon studies done that show most people drive at a speed which is prudent and safe under current conditions, regardless of the speed limit. From these studies come the FHA (Federal Highway Administration) 85th percentile rule.

This rule states that the safest speed is the speed that 85% of the people travel at or below, under normal conditions, on a given road. It is with this rule that traffic engineers set speed limits. FHA (Federal Highway Administration) studies prove that the drivers whose speeds were 10-15 m.p.h. above the speed limit had the lowest accident rate and that 5% of the slowest drivers had the highest accident rate.

The FHA (Federal Highway Administration) study was conducted by transportation engineers Samuel C. Tignor and Davey Warren.

Does it not stand to reason that if a driver is going with the flow of traffic, he/she is safer than if they were not?

If 70% of all motorists (drivers) exceed the speed limit by at least 10 m.p.h. as studies and research show, then they are the flow of traffic and they are traveling at the SAFEST speed and they will have the lowest accident rate according to the Federal Highway Administration.

If speed limits are raised, people will continue to drive as they always have. The only difference is they won't be breaking the law anymore. Accident rates will go down because many of the people who currently obey the speed limits will join the flow of traffic, reducing the number of slow – moving hazards on the road.

CONCLUSION

Based upon the foregoing, in the interest of justice and with just cause having been shown predicated upon the foregoing, Defendant JOHN DOE requests this Honorable Court to dismiss the charge of Vehicle Code § 22349 against him/her with prejudice.

DATED: July 27, 2007

BY:

John Doe, Defendant in pro per

CERTIFICATE OF SERVICE

People vs. John Doe
Traffic Case No. 00000

I hereby certify that on July 27, 2007, a true and correct copy of the foregoing document or pleading entitled:

**NOTICE OF MOTION AND MOTION TO DISMISS VIOLATION OF
VEHICLE CODE 22349**

was delivered and served on the Prosecutor on Behalf of the Plaintiff (People of the State of California) at the following location:

Office of the City Attorney
CITY OF Los Angeles
500 City Hall East
200 N. Main Street
Los Angeles, CA 90012

John Doe, Defendant *pro per*

Sample Document #11

“Petition For Writ of Mandate”

John Doe
1155 North Louise Lane
Glendale, California 91204
Telephone: (818) 484-5000

Proceeding in propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JOHN DOE

Petitioner,

vs.

)
)
)
)
)
)
)

CASE NUMBER: 00000000

**PETITION FOR WRIT OF
MANDATE**

JUDGE RICHARD K. KEMALYAN)
)
 Respondent.)
)
)
)
)
)
 _____)

Trial Date: August 3, 2007

Petitioner JOHN DOE, appearing *in propria persona*, hereby humbly requests this Honorable Court, in the interest of justice, to “liberally construe” this pleading in accordance pursuant to *Haines v. Kerner* (1972) 404 U.S. 519 and *Jenkins v. McKeithen* (1959) 395 U.S. 411, 421.

PRELIMINARY STATEMENT

This is an action for a writ of mandate (or writ of mandamus) against Judge RICHARD J. KEMALYAN who refuses to adhere to and obey state law, California Code of Civil Procedure section 170.6 specifically, that requires him to recuse himself once a peremptory challenge is filed within 30 days before a hearing.

JURISDICTION

The Court has jurisdiction of this action for petition for writ of mandate in accordance pursuant to California Code of Civil Procedure § 1085 and California Constitution, Article 1 §3 ((Right to Petition Government Clause) and § 7 (Due Process of Law).

INTERESTED PARTIES

Petitioner, JOHN DOE, is a Citizen of the United States of America and the State of California and is over the legal age of eighteen (18) years, and is a resident of Los

Angeles County, California, and at all times relevant herein, Petitioner was a resident of Los Angeles County, with a home address of 1155 North Louise Lane Glendale, California 91204

Respondent, RICHARD J. KEMALYAN, is a public official of the State of California and at all times relevant herein is believed to have been a resident of Los Angeles County, with a business address of 111 North Hill Street, Los Angeles, California 90012.

STATEMENT OF FACTS

On December 15, 2007, Petitioner filed a “peremptory challenge” in accordance pursuant to C.C.P. § 170.6 after finding the judge prejudiced and biased to the interests of Petitioner pertaining to the matter of The People of the State of California vs. John Doe, case number TZ0745, tried at the Superior Court of California, Metropolitan Courthouse where Respondent presides in the capacity of judge.

However, at the next proceeding, Respondent said that despite the filing of a peremptory challenge (that is mandatory under state law) he was not removing himself from the case as if he is above the law, which no man is, according to the law.

Petitioner immediately objected on the record and proceeded to file this writ of mandate (or mandamus) to have the matter properly handled and resolved.

MEMORANDUM OF POINTS AND AUTHORITIES

CALIFORNIA LAW REQUIRES A JUDGE TO REMOVE HIM OR HERSELF AFTER THE FILING OF A PEREMPTORY CHALLENGE

The law is clear in that when a peremptory challenge is filed, the presiding judge must recuse him or herself as: “No judge ... shall try any civil or criminal action ... when it shall be established as herein after provided that a judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in the action or proceeding.

“Prejudice against party.” (1) No judge, court commissioner, or referee of any superior or municipal court of the State of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein that involves a contested issue of law or fact when it shall be established as hereinafter provided that a judge or court commissioner is prejudiced against any party or attorney or the interest of any party **or attorney appearing in the action or proceeding.**

CONCLUSION

In the interest of justice and with just cause having been shown herein, Petitioner humbly request the Court to grant Petitioner’s Writ of Mandate and compel Respondent Judge RICHARD J. KEMALYAN to recuse himself or not try this case.

DATED: December 20, 2007

JOHN DOE

BY: _____

John Doe, Defendant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No.: 000000

I hereby certify that on December 20, 2007, a true and correct copy of the foregoing document or pleading entitled:

PETITION FOR WRIT OF MANDATE

was delivered and served on Judge Richard J. Kemalyan at the following location:

Burbank Courthouse
300 East Olive Avenue
Burbank, California 91502

Ahman Dolphin, Defendant *in pro per*

Sample Document #12

“Trial By Written Declaration”

Jane Doe
8650 Norriston Avenue
Sun Valley, California 91352
Telephone: (818) 260-0000

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

BURBANK COURTHOUSE

In The Matter Of

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)

Plaintiff,)

vs.)

JANE DOE,)

Defendant,)

_____)

Case Number: 000000

TRIAL BY WRITTEN DECLARATION

California Vehicle Code 40902(2)(d)

Bail Amount Enclosed: \$131.00

COMES NOW Defendant JANE DOE electing to have a trial by written declaration upon an alleged infraction, in accordance pursuant to Vehicle Code section 40902(2)(d), which states in part: "... the rules governing trials by written declaration may provide for testimony and other relevant evidence to be introduced in the form of ... a written statement or letter signed by the defendant."

DATED: July 21, 2009

By _____
Jane Doe, Defendant *in pro per*

STATEMENT OF FACTS

1. On June 23, 2009 c. 8:45 a.m. while on the phone with her health care provider, Blue Shield of California, to make sure a past mishap situation was cleared up that and she would not be turned away from the doctors office again, which she was in route to

due to an emergency condition, defendant JANE DOE was pulled over by a member of the Burbank Police Officer and cited with an alleged violation of V.C. 23123(a).

2. Defendant kindly attempted to explain the situation to the officer but the officer apparently did not care and issued a defendant a citation and proverbially told her to “tell it to the judge.”

MEMORANDUM OF POINTS AND AUTHORITIES

VEHICLE CODE SECTION 23123 IS INAPPLICABLE TO A PERSON USING A WIRELESS TELEPHONE FOR EMERGENCY PURPOSES TO CALL A HEALTH CARE PROVIDER

The law is clear in that § 23123 does not apply if a person uses a wireless telephone while driving if he/she uses the phone for emergency purposes:

§ 23123. Hand-Held Wireless Telephone: Prohibited Use. (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving. (b) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense. (c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, **health care provider**, fire department, or other emergency services agency or entity.

CONCLUSION

In the interest of justice and with just cause having been shown herein, Defendant humbly motions the Court to dismiss the alleged violation of Section 23123(a) and refund or return her money (i.e. bail, which is required to use the privilege of Trial By written Declaration) in accordance pursuant to V.C. 42201.6(a):

“Refund of bail deposits. (a) A deposit of bail received with respect to an infraction violation of this code, or any local ordinance adopted pursuant to this code, including, but not limited to, a violation involving the standing or parking of a vehicle, shall be refunded by the agency which issued the notice of violation or the court within 30 days of a cancellation, dismissal, or finding of not guilty of the offense charged.”

Dated: July 21, 2009

JANE DOE

By

Jane Doe, Defendant

CERTIFICATE OF SERVICE

People of the State of California vs. Jane Doe
Case No.: 000000

I hereby certify that on July 21, 2009, a true and correct copy of the foregoing document or pleading entitled:

TRIAL BY WRITTEN DECLARATION

was delivered and served on the Superior Court of California Burbank Courthouse at the following location:

Burbank Courthouse
300 East Olive Avenue
Burbank, California 91502

Ernestina C. German, Defendant *pro per*

Sample Document #13
“Judicial Notice”

John Doe
2007 West Cleveland Road
Burbank, California 91502
Telephone: (818) 200-5000

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

BURBANK COURTHOUSE

In The Matter Of

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)

Plaintiff,)

vs.)

JOHN DOE,)

Defendant,)
)
)
_____)

Case Number: E080000

**DEFENDANT’S REQUEST FOR THE
COURT TO TAKE JUDICIAL NOTICE**

California Evidence Code § 451

Court Date:

COMES NOW Defendant JOHN DOE requesting that the Court and prosecution take judicial notice of the following:

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, **health care provider**, fire department, or other emergency services agency or entity. C.V.C. § 23123(c)

MEMORANDUM OF POINTS AND AUTHORITIES

VEHICLE CODE SECTION 23123 IS INAPPLICABLE TO A PERSON USING A
WIRELESS TELEPHONE FOR EMERGENCY PURPOSES TO CALL A HEALTH
CARE PROVIDER

The law is clear in that § 23123 does not apply if a person uses a wireless telephone while driving if he/she uses the phone for emergency purposes:

§ 23123. Hand-Held Wireless Telephone: Prohibited Use. (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving. (b) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense. (c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, **health care provider**, fire department, or other emergency services agency or entity.

CONCLUSION

The law clearly substantiates the defendant's claims and position as well as vindicates the Defendant and as such the Court, in the interest of justice and with just cause having been shown, should dismiss the charge(s) against Defendant.

Dated: July 21, 2009

JOHN DOE

By _____
John Doe, Defendant

CERTIFICATE OF SERVICE

People of the State of California vs. John Doe
Case No.: E080000

I hereby certify that on July 21, 2009, a true and correct copy of the foregoing document or pleading entitled:

JUDICIAL NOTICE

was delivered and served on the Superior Court of California Burbank Courthouse at the following location:

Burbank Courthouse
300 East Olive Avenue
Burbank, California 91502

Jason C. Muhammad, *non-interested party*

Sample Document # 14
“Notice of Appeal”

John Doe
6724 Geraldson Boulevard
Van Nuys, California 91405
Telephone: (818) 400-4500

In propria persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES
SANTA CLARITA COURHOUSE

In The Matter Of

THE PEOPLE OF THE STATE OF)	Case Number: 0000000
CALIFORNIA,)	
Plaintiff,)	NOTICE OF APEAL [INFRACTION]
vs.)	California <u>Rules of Court</u> , Rule 121
JOHN DOE,)	California <u>Penal Code</u> § 1466
Defendant,)	Date Judgment Entered: February 23, 2007
_____)	

COMES NOW Defendant MARTIN CASILLAS, unsatisfied with and disagreeing with the final judgment or court order in the original summary traffic infraction proceeding/trial and hereby submits this Notice of Appeal within the statute of limitations (30 days of date judgment entered) pursuant to California law in order to appeal from the judgment or order with the appellate division of the Superior Court of the State of California..

Defendant believes the presiding judge/commissioner erred pertaining to
“questions of law.”

DATED: February 21, 2009

By _____
Martin Casillas, Defendant *in pro per*

NOTE: Certificate of Service is usually not necessary in a traffic trial case pertaining to submission of Notice of Appeal.

Sample Document #15

“Defendant’s Opening Appeal Brief”

Jane Doe
4600 Don Lorenzo Avenue
Los Angeles, California 90008
Telephone: 310-300-4000

Proceeding *in propria persona*

APPELLATE DIVISION

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

In The Matter of

THE PEOPLE OF THE STATE OF)	Appellate Div. Case No.: BM0000
CALIFORNIA,)	
)	DEFENDANT-APPELLANT’S
Plaintiff,)	OPENING BRIEF
)	
vs.)	Trial Court Case No.: MY30000
)	
JANE DOE,)	
)	
Defendant.)	Brief Due on: June 29, 2009
)	
_____)	Presiding Judge: Patti Jo McKay

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PRELIMINARY STATEMENT

Trial Judge Name: Defendant-Appellant does not remember

Trial Case Number: Metropolitan Courthouse Case # MY30000

Defendant-Appellant JANE DOE appeals the lower court’s order of (on or about) January 16, 2009, finding her guilty of an alleged Vehicle Code violation (“no seatbelt”).

STATEMENT OF SUBJECT MATTER JURISDICTION

This is an appeal by Appellant JANE DOE from a judgment of the Superior Court of the State of California for the County of Los Angeles.

Jurisdiction of the Appellate Division of the Superior Court of the County of Los Angeles is pursuant to California Code of Civil Procedure § 901 and Los Angeles County Court Rules 11.0(b)(1):

“The Appellate Division of the Superior Court has jurisdiction over all appeals arising from all misdemeanor, infraction and limited civil cases in Los Angeles County...”

ISSUES PRESENTED FOR REVIEW

Does not a verified complaint have to be filed when a defendant pleads “not guilty” and “requests a verified complaint” in order to confer jurisdiction on the Court?

Is an officer’s testimony alone sufficient evidence that an offense was actually committed?

STANDARD OF REVIEW

The Standard of Review herein is controlled by the Due Process Clause of Article 1 § 7 of the California Constitution and California Code of Civil Procedure § 1060.

STATEMENT OF THE CASE

The nature of the action or proceeding: Defendant-Appellant JANE DOE was tried and convicted for allegedly violating a provision of the Vehicle Code despite (1) NO VERIFIED COMPLAINT being filed in response to Plaintiff-Appellant's "not guilty" plea at arraignment and requesting the filing of a verified complaint in accordance pursuant to Vehicle Code section 40513(a), and (2) no evidence being presented to corroborate or substantiate the State's witness (a law enforcement officer who is paid to carry out the laws of the State and thus who had a direct interest in the outcome of the case as traffic convictions lead to stiff fines and penalties which goes into state and county government coffers) allegation that Appellant was not wearing a seatbelt at the time of the traffic stop.

The relief sought on appeal: Defendant-Appellant MONIQUE SMITH request the Higher Court to overturn the conviction and to dismiss the charge(s) originally brought against him and refund his money (penalties) if relevant in the matter; or, in the alternative, to grant Defendant-Appellant new trial (*trial de novo*).

STATEMENT OF MATERIAL FACTS

Defendant-Appellant JANE DOE received a photo red light ticket in the mail for allegedly committing a Vehicle Code violation or offense.

At Defendant-Appellant's arraignment, Defendant-Appellant pled "not guilty" and requested the filing of a verified complaint which the original commissioner acknowledged and sent Defendant-Appellant before a Judge who ruled the traffic ticket was in fact a verified complaint.

Because Defendant-Appellant did not plead "no contest" or "guilty," to the offense(s) charged, but instead pleaded "not guilty," in accordance pursuant to California Vehicle Code section 401513(a), second paragraph; and Penal Code § 853.9 (second paragraph), a complaint corresponding with California Rules of Court, Rule 201 and Rule 501; California Penal Code §§ 740, 849, and 949; and California Code of Civil Procedure

§§ 422.30, 422.40, and 425.10 should have been filed in the matter in order to confer proper and lawful jurisdiction on the trial court.

However, on or about January 16, 2009, Defendant-Appellant was given a trial for the Vehicle Code offense(s) and was subsequently found guilty for the offense charged predicated upon sole testimony from the witness-law enforcement officer.

JUDGMENT OR RULING OF THE SUPERIOR COURT

The lower Court found the Defendant-Appellant “guilty” of violating the Vehicle Code despite (1) non-waiver of verified complaint which was requested and never given, and (2) the police officer’s mere statements as evidence of Defendant-Appellant committing a Vehicle Code violation or offense.

ARGUMENT

I.

A VERIFIED COMPLAINT MUST BE FILED WHEN A DEFENDANT PLEADS “NOT GUILTY” AND REQUEST THE FILING OF A VERIFIED COMPLAINT

According to the California Court of Appeals, when a defendant pleads “not guilty” and **does not waive** the filing of a verified complaint, the Court lacks jurisdiction:

Defendant who was cited for and charged with failure to yield right-of-way and who pleaded not guilty and **did not waive** filing of complaint was not brought within jurisdiction of court. *Anger v. Municipal Court of City and County of San Francisco* (App. 1 Dist. 1965) 237 Cal.App.2d 69

Defendant who was charged with traffic offense, pleaded not guilty and **did not waive** filing of complaint was not brought within jurisdiction of court until filing

of verified complaint. *Gavin v. Municipal Court of San Diego Judicial Dist.* (App. 4 Dist. 1960) 184 Cal.App.2d 712

Does a Court have jurisdiction despite a pleading of “not guilty” and non-waiver of a verified complaint?

II.

OFFICER’S TESTIMONY IS INSUFFICIENT TO PROVE THAT AN OFFENSE WAS ACTUALLY COMMITTED

On the day of trial, the peace officer was the sole witness for the People of the State and his/her evidence of the alleged Vehicle Code offense was predicated upon mere statement.

The California Court of Appeal clearly elucidated that an officer’s mere statement alone cannot justify or prove that someone actually committed an offense:

“Police officer’s mere statement that such a traffic “*violation*” was committed or made is **insufficient** to prove that it was actually done.” *People v. Sterritt* (1976) 65 Cal.App.3d Supp. 1; *People v. Ellis* (1995) 33 Cal.App.4th 25; *People v. Earnest* (1995) 33 Cal.App.4th Supp. 18

Is an officer’s mere statements that an offense was committed sufficient evidence to prove that an offense was actually committed?

CONCLUSION

In the interest of justice and with just cause having been shown herein, the decision/judgment of the lower court entered on September 28, 2006, finding Defendant-Appellant’s guilty of committing a Vehicle Code offense should be overturned and Defendant-Appellant’s case should be dismissed; or, in the alternative, Defendant-Appellant should be granted a new trial (*trial de novo*).

The foregoing is Defendant-Appellant's just prayer for relief with this appeal.
May this Court grant Defendant-Appellant's appeal in the great interest of justice.

DATED: June 27, 2009

BY: _____
Monique Smith, Defendant

CERTIFICATE OF COMPLIANCE
California Rules of Court – Rule 13, 15 and 105

Case No. BX0000

JANE DOE

Defendant-Appellant

-vs-

STATE OF CALIFORNIA

Plaintiff-Appellee

Appellant hereby certifies that pursuant to Rule 13, 15, and 105 of the California Rules of Court, the enclosed Appellant's Opening Brief of JANE DOE is produced using 12-point Roman type including footnotes and contains approximately 1004 words, which is less than the total words permitted by the Rules of Court. Appellant relies on the word count of the computer program used to prepare this brief.

Date

Signature of Appellant

PROOF OF SERVICE
California Rules of Court – Rule 105(e)

This certifies that I have on this day of June 26th, 2009 placed a true and exact copy of

DEFENDANT-APPELLANT’S OPENING BRIEF

in the United States Mail, first-class postage prepaid, addressed to:

City Attorney’s Office
CITY OF LOS ANGELES
500 City Hall East
200 North Main Street
Los Angeles, CA 90012

VERIFICATION

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

BY: _____
Ansel Littlejohn, *not an interested party*

PROOF OF DEPOSIT OF COPY FOR TRIAL JUDGE
California Rules of Court – Rule 105(f)

Case No. BX0000

JANE DOE
Defendant-Appellant

-vs-

STATE OF CALIFORNIA
Plaintiff-Appellee

This certifies that I have on this 26th day of June, 2009, deposited one copy of

DEFENDANT-APPELLANT'S OPENING BRIEF

with the Clerk of the Traffic Division of the trial court located at:

Superior Court of California
Los Angeles Metropolitan Courthouse
1945 South Hill Street
Los Angeles, CA 90016

for delivery to the judge who presided at the trial of the case.

BY: _____
Ansel Littlejohn, *not an interested party*

“The End”

Other Books By Djehuty

The Traffic Ticket Manual, Volume 1

The Traffic Ticket Manual, Volume 2

The Parking Ticket Manual

The Pro Per and Pro Se Litigant's Manual

Case Law Goodies, Volumes 1, 2, 3

The Mental Science Manual

The Money, Wealth, and Prosperity manual, Vol. 1

How To Discover Your Life's Higher Purpose

The Love Manual

The Sex Manual, Vol. 1

The Sex Manual, Vol. 2

The Chakras Manual

The Full Body Detox Companion

The Alternative Diet and Lifestyle Manual

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\$150.00

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A law consultation gives you the necessary information (not legal advice) to empower you into making sound decisions regarding your personal legal matter. In law, you have to act, especially if you are served a summons and complaint or subpoena.

Many people are not responding to legal service of process in the form of summons and complaints and end up defaulting and thus causing them great injury and harm in the way of loss of money (judgments, wage garnishments), property, and freedom. In law, ignorance is no excuse for every man and woman in the U.S. are presumed to know the law.

Many people are also being bamboozled into and by sovereignty schemes and scams by so-called religio-political patriot groups, militia groups, legal theorist groups, etc.

Patriot mythology, U.C.C. (Uniform Commercial Code) arguments, tax protester arguments, redemption in law, and expatriation/repatriation processes are NOT the way to go in legal-judicial matters regardless of what you may have heard or even studied.

Also, you cannot get anything for free (free house, car, etc.) in this society nor does the government have a check for thousands of dollars in your name because you were issued a Social Security card. Regardless what any group is saying, this is NOT true and you will end up losing much money, energy, and time with such unproven theories.

Law only consists of: constitutional, statutory, and case-decisional law and these are the tools of your position (defense or offense) in a legal matter.

You have a right under due process of law, U.S.Const.Amend.14, to file appropriate documentation on your behalf as a lawyerless litigant or pro se litigant in your legal action.

Learn the appropriate steps to take in a civil or criminal legal action as well as what statutory-based documentation you need to file on your behalf, i.e. Answer, motion, demurrer, judicial notice, bill of particulars, peremptory challenge, etc.

Because most county legal aid offices are inundated, people (especially poor people) are not receiving viable and solid information for their best interests in legal matters and many legal atrocities and miscarriages of justice are occurring across the country daily.

So if you are faced with the following matters: traffic and/or parking tickets, child support, eviction (unlawful detainer), civil lawsuit, criminal lawsuit, unemployment/disability claims issues, restraining order, etc. and do not know what your course of action is, you may be interested in scheduling a consultation. We use higher law to help guide people in matters pertaining to lower, man-made law. Whatever your personal situation, all law offers remedy and recourse. In order to benefit from the American judicial system, you must use it. There's no other way!

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