

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

KEVIN T. STOCKER, Individually and
on behalf of other Similarly Suited Individuals

Petitioner(s),

ARTICLE 78
VERIFIED PETITION

vs

Index No. _____

CITY OF BUFFALO, NEW YORK

And

STATE OF NEW YORK

Respondents.

KEVIN T. STOCKER, ESQ., after being duly sworn, deposes and says under the penalties of perjury the following:

1. I am an attorney at law duly licensed to practice before all the courts of New York State.
2. I represent myself, *pro se*, as the Petitioner, as well as the individuals listed in Exhibit "A", and also on behalf of all other Individuals similarly suited (hereinafter "Petitioners").
3. Respondent, CITY OF BUFFALO, NEW YORK (hereinafter the "City"), is the municipal entity with its City Hall located at 65 Niagara Square, Buffalo, New York 14202.
4. Respondent, STATE OF NEW YORK (hereinafter the "State"), is the state government located at The Capitol, Albany, New York 12224, and is included as a party to address the constitutionality of NYS VTL §1180-d.

BACKGROUND

5. The City sought means to generate an annual revenue of approximately \$30 million from school zone speeding tickets (See “Sensys Gatso receives three-year TraaS contract, valued at SEK 30 Million for school zone speed enforcement in Buffalo, New York,” (October 1, 2019), <https://www.sensysgatso.com/investorrelations/press-releases/sensys-gatso-receives-three-year-traas-contract-valued-at-sek-30-million-for-school-zone-speed-enforcement-in-buffalo-new-york>).

6. In pursuit of financial gains, the City entered into a financial fee splitting partnership with Sensys Gatso USA, Inc., a private Swedish owned company who generates massive profits from issuing speeding tickets remotely by camera operated by an out-of-state computer (Rey, Jay, “City to activate new camera system to catch school-zone speeders,” The Buffalo News, January 3, 2020, <https://buffalonews.com/2020/01/03/city-to-activate-new-camera-system-to-catchschool-zone-speeders/>).

7. Questions are raised as to the improprieties of said public-private financial arrangement whereby a foreign private corporation makes money on the infractions and financial incentives for embellishing infractions for profit. In fact, these same improprieties have happened when unnecessary imprisonment happened for financial gain of private prisons.

8. These revenue generators are extremely controversial as to their accuracy, due process protections, fairness and accountability to the residents of the City of Buffalo, WNYers and other drivers who visit our area. Individuals who receive the speeding tickets are unfairly prosecuted and financially punished without fair notice provided, proper due process procedures in place, and the ability to challenge the veracity of the equipment used.

9. Moreover, this policy is extremely offensive given the financial hardship suffered by the City and WNY residents impacted by the current COVID pandemic.

10. There is also a safety issue as cameras in 15-mph school zones cause a more dangerous condition which may impose City to liability for accidents and resulting injuries.

11. Additionally, the use of cameras on schools' grounds which catch the facial features of minors is prohibited due to invasion of privacy concerns. The cameras complained of herein are located on or near school grounds and take photographs which could show children walking on the sidewalks by the school. Thus, this also presents the courts with additional authority with which to strike down the City's speeding camera program given the laws that prohibit taking photographs of minor children.

12. The City and its corporate partner's promulgation and implementation of the speeding camera programs are arbitrary and capricious, and have violated the procedural safeguards set forth in VTL §1180-d, voiding a majority of the tickets. In particular, Petitioner has documented multiple instances of the flawed procedural safeguards caused by the arbitrary and capricious nature of the program, including, but not limited to, the following: (1) failure of City to send out notices within 14 business days after the infractions; (2) City misrepresented the mail date by backdating the notice; (3) tickets missed the statutorily required information, including the camera identification as "null" on numerous tickets; (4) tickets were given when the actual speed was under 25-mph; (5) City failed to provide adequate notice of the school zones and that it was being monitored by a speeding camera; and (6) notice provided a response date which had already passed when ticket received.

13. Therefore, Petitioner herein contends that the City's promulgation and implementation of its speeding camera program is arbitrary and capricious, the program should be prohibited from continuing, any tickets issues should be dismissed and fines paid should be reimbursed, and the statute deemed unconstitutional, for the following reasons:

- a. City's implementation of its speeding camera program is arbitrary and capricious such that Article 78 would support an injunction of the program;
- b. The City has created a dangerous condition in the school zones by violating NYS Safety Regulations;
- c. The speeding camera program and NYS VTL §1180-d is unconstitutional and lacks a rational basis to substantiate the infractions upon individuals' due process rights; and
- d. Speeding cameras are prohibited from use on school grounds due to invasion of minors' privacy pursuant to recent legislation.

14. Petitioner has exhausted all administrative remedies, and the Respondents have waived their objection to same by ignoring letters, telephone calls, and his motion. In particular, Petitioner has repeatedly asked for a hearing for all clients, has sent letters and made telephone calls, and ad met with the commissioner in charge of the program. In response, Respondents have not returned any calls or responded to letters, and still have not scheduled a hearing in regards to the tickets or the motion.

OTHER STATES HELD CAMERA TICKETS AS ILLEGAL OR UNCONSTITUTIONAL

15. Recent trends across the country shows legislatures and courts ruling against speeding camera programs such as the one complained of herein. In fact, the legislatures in eight (8) states have already prohibited the use of school zone speeding ticket traffic cameras (<https://www.ghsa.org/state-laws/issues/speed%20and%20red%20light%20cameras>). The reasoning behind said legislatures prohibiting speeding cameras include: corruption from contracting law enforcement duties to a financially incentivized third party; not constitutional as they invade privacy and fail to offer due process protections; do not account for errors and malfunctions; and that fact that one such program enacted led to a 15% increase in traffic accidents (<https://www.illinoispolicy.org/after-1b-in-tickets-and-4-corruption-indictments-illinois-should-shutter-the-red-light-camera-industry/>; <https://www.foxnews.com/us/red-light-cameras-come-under-fire-at-least-7-states-trying-to-ban-them>; <https://landline.media/traffic-camera-rule-changes-considered-in-seven-states/>)

16. Additionally, the Supreme Court of the State of Missouri has ruled speeding ticket cameras unconstitutional (Tupper v. City of St. Louis, 468 S.W.3d 360 (2015); See, https://www.stltoday.com/news/local/metro/missouri-supreme-court-strikes-down-red-light-ordinances/article_f5967dba-5e9a-5e22-9682-b3cc9ed89f35.html). Moreover, the Fourth Circuit in the case of City of Hollywood v. Arem ruled that Florida's statutory scheme for speeding cameras was illegal (City of Hollywood v. Arem, 154 So. 3d 359 (Florida 4th Dist., 2014)).

17. In Tupper v. City of St. Louis, supra, a statute allowing speeding camera tickets was ruled unconstitutional by the Missouri Supreme Court. Said decision was based upon the statute's illegal

presumption about owner of vehicle being the driver, thereby placing the burden on the defendant to produce sufficient evidence to rebut this presumption. This in kind imposes strict liability on the owner of the vehicle for a ticket of what it terms had a “quasi-criminal” nature of municipal violations. Due to said nature, other violations were determined including a lack of notice as required for probable cause, the notice of right to counsel or assigned, and the inability to test the veracity of the equipment or question the officer, all while placing no burden on city to prove the offense (Id.). Similarly herein, NYS VTL §1180-d includes a rebuttal presumption transferring the evidentiary burden to the owner without redressing the veracity of the equipment, and also imposes fines of a “quasi-criminal” nature for violations which include loss and forfeiture of your vehicle’s registration for these infractions.

18. In City of Hollywood v. Arem, supra, the Fourth Circuit determined that a municipality’s use of ticketing cameras to be illegal as: (1) Florida law did not grant the municipality therein any authority to delegate to a private third-party vendor the ability to issue uniform traffic citations; (2) the city improperly delegated its police powers when it contractually outsourced its statutory obligations to a for-profit, non-governmental corporation; and (3) the process set forth in the contract between the city and the private vendor did not comply with Florida Statutes. This is the exact scheme of the speeding camera program complained of herein as the City has delegated its authority to issue infractions to a private foreign corporation.

19. Similar to the decisions by the legislatures and courts in said states, the City of Buffalo should be required to abandon its current speeding camera scheme, and NYS VYL §1180-d should be declared unconstitutional, as they present an illegal and/or an unconstitutional encroachment on the civil rights of its citizens, violates their 14th Amendment rights against deprivation of life, liberty or property without due process of the law, and also provides unsubstantiated evidence for courts to rely upon.

20. Thus, the speeding camera program herein violates equitable and legal principals of due process and fairness, and are illegal and unconstitutional. In addition, the City’s promulgation and implementation of its speeding camera program also violates these standards as well as being arbitrary and capricious.

FIRST CAUSE OF ACTION**- Injunction Pursuant to CPLR Article 78 -****POINT I: INJUNCTIVE RELIEF IS PROPER AS CITY'S PROMULGATION AND IMPLEMENTATION OF THE STATUTE IS ARBITRARY AND CAPRICIOUS**

21. Article 78 of the CPLR allows Petitioner to seek declaratory and injunctive relief from “arbitrary and capricious” agency determinations (See Peckham v. Calogero, 12 N.Y.3d 424, 429 (2009); see also Era Steel Const. Corp. v. Egan, 145 A.D.2d 795, 798 (3d Dept. 1988)). An agency determination is “arbitrary and capricious” when it lacks a sound basis in reason or regard to the facts therein, thereby preventing it from standing on a “rational basis” (Ward v. City of Long Beach, 20 N.Y.3d 1042, 1043 (2013); Peckham, supra).

22. The following actions by the City in implementing its speeding camera program should be deemed to be “arbitrary and capricious” pursuant to Article 78 of the CPLR: (1) setting the school speed zone limits at 15 mph, in stark contrast of NYS safety regulations (MUTCD) and Federal studies; (2) placing limited and ineffective signage at school zones where the cameras are being used to alert drivers of the approaching reduced speed school zone; (3) allowing the speeding cameras to operate at times when students are not present, including nights, weekends, and while school is being taught virtual; (4) installing school zone cameras at locations with no school aged children present (e.g. at a day care center on Bailey Avenue) and/or no students who walk to school; (5) lighted signals are either malfunctioning or are not being turned on to provide sufficient notice of the upcoming school zone while the speed cameras were working; (6) school zones being operated at different times, including for the opposite direction at some school zones; (7) roads were not marked to identify the beginning of a school zone, and (8) the City’s implementation of the program violating the statute’s procedural safeguards.

23. As to the speed limit at the school zones where the cameras are installed, the NYS Supplement of the Manual on Uniform Traffic Control Devices for Streets and Highways - 2009 Edition (“MUTCD”), sets safety regulations for our roadways in the state.

24. MUTCD is codified into code in New York Code of Rules and Regulations, under Title 17 at Chapter V, which states that a “school speed limit should be approximately 10 MPH below the normally prevailing 85th percentile speed on the highway, or at approximately the actual 85th percentile speed within the zone during school crossing periods (17 N.Y.C.R.R. Chap. V). Speed limits are determined in general by 85th percentile speed for that particular road —the speed at which 85 percent of free-flowing traffic is traveling at or below (https://safety.fhwa.dot.gov/speedmgt/ref_mats/fhwas12004/).

25. The roads complained of herein have a regulatory residential speed limit set at 30 mph, which has been determined to be the 85th percentile for those sections. NYS safety regulation mandates that a school zone speed limit cannot be reduced by greater than 10 mph of the roads legally set speed limit. Therefore, pursuant to the aforesaid NYS safety regulation, a street with a 30-mph speed limit can only be reduced to 20 mph, and not the 15-mph enacted by the City herein. Said 15-mph speed limit is too slow, constitutes a drastic sudden change from the 30-mph limit set, and thereby creates a dangerous condition based upon traffic engineering safety studies. The 15-mph speed zone is ridiculously slow to the point that one cannot press the gas pedal, and other pedestrians can run faster.

26. The NYS Safety Regulations on school speed limits are also in line with a Federal Department of Transportation study, and other studies, which found that a speed change of more than 10 mph, without sufficient notice provided thereof, increases the likelihood of accidents occurring (*Self-Enforcing Roadways: A Guidance Report : CHAPTER 2. RELATIONSHIP BETWEEN SPEED AND SAFETY*, <https://www.fhwa.dot.gov/publications/research/safety/17098/003.cfm>; Penn State, *Crashes increase when speed limits dip far below engineering recommendation*, Science Daily 12/12/2018, <https://www.sciencedaily.com/releases/2018/12/181212135021.htm>). Thus, the City’s implementation of a speed limit against the studies and MUTCD is arbitrary and capricious in addition to causing additional accidents.

27. The aforementioned studies also illustrate the utmost importance of proper signage and sufficient distance for warnings to inform drivers of the reduced school speed limit they are approaching and allow safe reductions in speed. The signage utilized by the City contains only basic signs at first, not flashing signs that attract attention; however, even the flashing signs have been malfunctioning during the City’s hours of enforcement, illustration that the flashing signs are not always working properly.

Additionally, there are no markings on the road to inform a driver of an approaching school zones. Without proper prior notice, drivers will be oblivious to the reduction in speed as well as the presence of children at arrival and dismissal times (17 N.Y.C.R.R. Chap. V).

28. Additionally, the school zones should be in place for a reasonable amount of time of half an hour on the front and back ends of beginning and ending of the school day. Instead, the City has determined that the zones should be in effect continuously from an hour before school starts until an hour after all extracurricular activities end. This continuous time frame is entirely arbitrary and capricious as schools would only be commuting to and from school at the beginning and end of school day. Additionally, Petitioner is aware of tickets which were even given late at night or on the weekend, illustrating that the speeding cameras were active when there was no chance of students being present. Indeed, the safety of the children is not the goal of the program as their safety was already addressed by establishing crosswalks along with the presence of crossing guards at the time when children would be crossing.

29. Petitioner is also aware of speeding cameras having been installed at locations where no school aged children are present, or where all the students are bused in and there was no students who walk to school. First, the location on Bailey Avenue where Respondent installed a camera is an infant day care, not an elementary/middle/high school as required by the statute. Second, the location on Military Avenue where a camera was installed is populated by students bused to the school, not by those walking to said location.

30. Additionally, the City's promulgation and implementation of its speeding camera program is arbitrary and capricious since it violated VTL §1180-d's procedural safeguards. In particular, the program violated the following: (1) notices are not being postmarked within 14 business days after the infractions was allegedly committed; (2) some notices have their mail date misrepresented by backdating the notice; (3) tickets missed the statutorily required information, including the camera identification as "null" on numerous tickets and the city worker who has verified that the machine was calibrated; (4) tickets were given when the actual speed was under 25-mph; (5) City failed to provide adequate notice of the school zones and that it was being monitored by a speeding camera; and (6) notice provided a response date which had already passed when ticket received

31. Therefore, Petitioner should be granted an injunction against speeding tickets herein due to the City's arbitrary and capricious promulgation and implementation of its speeding camera program.

SECOND CAUSE OF ACTION

- NYS VTL 1180-d Ruled Unconstitutional –

POINT I: VIOLATION OF NYS SAFETY REGULATIONS HEREIN CREATES DANGEROUS CONDITION WHICH CITY MAY BE LIABLE FOR ACCIDENTS AND INJURIES RESULTING THEREFROM

32. As aforementioned, MUTCD sets safety regulations for our roadways in the state. Deviations from the MUTCD would make the law/ordinance unsafe to implement, render it subject to being struck down, and make the City subject to civil liability for any resulting traffic accidents and injuries as a result thereof.

33. MUTCD states that a "school speed limit should be approximately 10 MPH below the normally prevailing 85th percentile speed on the highway, or at approximately the actual 85th percentile speed within the zone during school crossing periods (17 N.Y.C.R.R. Chap. V). The municipality is responsible for setting speed limits upon a determined 85th percentile speed for that particular road (https://safety.fhwa.dot.gov/speedmgt/ref_mats/fhwasa12004/).

34. The City has determined the 85th percentile speed for the roads herein is 30 mph. Based upon this standard, MUTCD's safety regulation mandates that a school zone speed limit cannot be reduced by greater than 10 mph of the roads legally set speed limit. Therefore, pursuant to MUTCD, a street with a 30-mph speed limit can only be reduced to 20 mph, and not the 15-mph enacted by the City herein. Said 15-mph speed limit is too slow, constitutes a drastic sudden change from the 30-mph limit set, and thereby creates a dangerous condition based upon traffic engineering safety studies.

35. MUTCD safety Regulations on school speed limits are in line with a Federal Department of Transportation study, and other studies, which found that a speed change of more than 10 mph, without sufficient notice provided thereof, increases the likelihood of accidents occurring (*Self-Enforcing Roadways: A Guidance Report : CHAPTER 2. RELATIONSHIP BETWEEN SPEED AND*

SAFETY, <https://www.fhwa.dot.gov/publications/research/safety/17098/003.cfm>; Penn State, *Crashes increase when speed limits dip far below engineering recommendation*, Science Daily 12/12/2018, <https://www.sciencedaily.com/releases/2018/12/181212135021.htm>).

36. Thus, to deviate from the aforementioned NYS safety regulations would render the zone unsafe by attempting to cut motorists' speed in half, greater than a 10 mph change, without sufficient notice and with insufficient time and distance in order to protect drivers from others who are unaware of the speed change.

37. The deviations from safety regulations complained of herein establishes a dangerous condition created by the City in which it may be held liable, by negligence per se, for accidents and injuries resulting therefrom.

38. School zones are also especially unsafe when they have inadequate prior warnings based upon absence of visual notices and/or insufficient distance from any such notice provided. The road signs herein were insufficient to provide notice because: (1) they did not contain blinking lights to alert motorists and/or said lights were not working, (2) the cameras were on at wrong times or days or not working properly, (3) roads were not marked to identify the beginning of a school zone, (4) the signs present were not far enough in advance to allow for speed changes but were right at the beginning of the school zone, and (5) many signs were also obstructed from the driver's view.

39. An illustrative example of a proper school zone is on Maple Road in Amherst in front of Sweet Home Middle School. Maple Road at this school zone has blinking lights prior to the school zone, visual markings on the road establishing where the school zone begins, a sign thereafter establishing the end of the school zone, and the speed reduction for the zone is reduced only 10-mph in accordance with the aforesaid NYS safety regulations. The Maple Road the speed limit is reduced from 45 mph to 35 mph. Therefore, New York State has deemed Maple Road to be sufficiently slow enough at 35 mph to provide safety for children in the Sweet Home Middle School area.

40. In contrast, none of the aforementioned items are present at the school zones where the speeding ticket cameras are currently in use. Moreover, taxpayer provided crossing guards are present that sufficiently supervise and address the requested safety of our community's children.

41. Therefore, not only do NYS regulations and studies prohibit the sudden drastic speed change as established by the City in the school zones monitored by speeding cameras, but the City also failed to provide adequate prior notice to motorists entering an upcoming school zone. As a result, the City has established school zones that will be more dangerous as a result of increased numbers of motor vehicle accidents.

POINT II: SPEEDING CAMERA TICKETS ARE AN UNCONSTITUTIONAL INFRINGEMENT UPON CIVIL RIGHTS

42. The process of the City and its foreign speed camera monitoring and enforcement agency also present an unconstitutional infringement upon the civil rights of those effected. These individuals are deprived of their personal property without adequate due process.

43. Government laws that regulate and deprive citizens of property, such as their vehicles and money, must pass a balancing test of rights between the governments right to regulate safety and a citizen's constitutional rights to their property.

44. As is violative herein, should one not pay their school zone speeding ticket, NYS may suspend the ticketed vehicle's registration, thereby depriving the owner of said vehicle from using same on the roadway. When laws affect a citizen's property rights, they must meet the "rational basis" test. Particularly disturbing herein is that tickets are issues to the vehicle's owner who is not necessarily the responsible party for the infraction as the driver, not the owner, is the offender. Additionally, this policy disproportionately affects the working poor and middle classes in a discriminatory fashion.

45. The law will be balanced against the intended purpose it was enacted to see if, under the "rational basis test", whether the law is "rationally related" to achieve a "legitimate state end" (City of Cleburne v Cleburne Living Center, 473 U.S. 432, 105 S Ct 3249 (1985); Schweiker v Wilson, 450 U.S. 221, 230 (1981); Vance v Bradley, 440 U.S. 93, 97 (1979); New Orleans v Dukes, 427 U.S. 297, 303 (1976); Pattberg v Pattberg, 130 Misc 2d 893, 896-897 (Sup Ct, Suffolk County 1985)). If the law does not meet said judicial scrutiny tests, then it will be struck down.

46. The statute which allows speeding camera program, as well as the promulgation and implementation being utilized by the City of same, fails to meet the standards for numerous reasons which are set forth below.

a. Speeding Camera Tickets Do Not Service A Rational Purpose

47. The alleged purpose of the speeding camera ticket system is a mere guise for a financial revenue for the City. The president of the Buffalo Common Council has publicly bragged about the high amount of revenue brought into the city, while schools were forced to teach students virtually.

48. Nevertheless, it is anticipated the City will argue that the ordinance is not a “money grab”, but rather designed to promote the safety and welfare of children who go to and from school.

49. As previously discussed, and which will be discussed throughout, the City’s ordinance does not make the school zones safer, but will instead cause an increase in traffic accidents surrounding school zones, due to the sudden drastic decrease in speed limit as well as drivers paying more attention to their speed than their surroundings.

50. There are numerous issues which directly contradict with the City’s position that the purpose of the speeding camera program is child safety. In particular, the following issues evidence fatal flaws in the City’s reasonings:

- a. children were not at City schools but were remotely learning,
- b. lights are not flashing to warn drivers of the speed change,
- c. there is an inadequate prior warning of a future change in speed limit,
- d. the speed is reduced in violation of state and federal safety regulations,
- e. drivers focused on looking down at their speed versus their surroundings, and
- f. streets are not adequately marked as to where the school zone starts and ends.

51. Based upon these multiple reasonings, the actual true rationale for the program is not currently the safety of children, but is instead primarily for financial gain. All reasonable measures

should be taken to promote a children's safety; however, the facts herein show that the City is foregoing many of the simple, most basic actions.

52. The statute's financial impact does not satisfy the constitutional rational basis test in order to be allowed to deprive citizens of their property rights. Particularly, the statute along with Respondent's allowed implementation of same, is flawed and unconstitutional as the fine/tax money is shared with a private, foreign company (private prisons). In fact, said entity is economically incentivized to take any and all actions to maximize the number of tickets without any regard to safety. In contrast, police officers must exert diligence and reasonableness in performing their duties. For this reason, the 4th Circuit held a similar Florida statute illegal (City of Hollywood v. Arem, supra).

53. Thus, the improper financial arrangement and policing of school zones transferred from trained officers to an incentivized company fails to meet the constitutional test for rationality.

b. Speeding Camera Tickets Violated Citizens' Rights To Due Process

54. Moreover, there are numerous infringements on the constitutional rights of citizens or residents being denied due process to challenge property being taken from them without property statutory safeguards. In particular, the following are due process issues present herein:

- a. tickets are issued to owners of vehicles outside the 14-day period authorized under the law, sometimes backdated,
- b. people were not on the road at the stated day and time of the infraction,
- c. tickets issued when school is not in session, including when all classes are remote and on weekends,
- d. the violation is given to the owner of the vehicle rather than the person who committed the infraction,
- e. the person accused of the violation cannot confront the individual/computer who recorded the alleged violation,
- f. the fines are assessed by a company relying upon this revenue for its earnings and not by officials performing a public duty,

- g. no proper evidentiary foundation can be laid at trial or hearing regarding how the equipment was calibrated or whether it was working accurately during said violation,
- h. no proper foundation can be established by digital media which contains the vehicle who was ticketed along with other additional vehicles
- i. no proper evidentiary foundation how the camera isolated this particular driver from others
- j. inability to contest calibration of an accusatory instrument
- k. inability to contest veracity of ticket, including the accuracy of the speed of vehicle, as well as the time and date of infraction, and
- l. inability to contest the accuracy of procedural safeguards when foreign company has shown propensity to misrepresent dates actions taken.

55. Due to these due process issues, the City will be legally unable to lay a proper evidentiary foundation as to equipment accuracy and calibration that is necessary to contest an alleged infraction. Instead, the statute addresses this due process evidentiary problem by establishing a rebuttal presumption for the vehicle's owner, thereby transferring all the City's burden and alleviating it of the inability to substantiate the accusatory instrument. As in Tupper, supra, this transfer of a burden violates the due process rights of those ticketed.

56. Thereby, the facts herein described substantiate and demonstrate beyond a reasonable doubt that the particular statute complained of (VTL §1180-d) violates the constitutional rights of citizens to not be deprived of property without due process, such that the court should strike it down (People v Scalza, 76 NY2d 604, 607 (1990); People v Vital, 54 Misc 3d 1209[A], 2017 NY Slip Op 50073[U] (Crim Ct, New York County 2017); People v Davis, 13 NY3d 17, 23 (2009); Matter of Moran Towing Corp. v Urbach, 99 NY2d 443, 448 (2003); People v Maldonado, 63 Misc 3d 716, 719-721 (Nassau Dist. Ct., 2019)).

57. Thus, Petitioners' constitutional due process rights have been violated due to the numerous infringements involved herein with the City's speeding camera program as their property is being taken from them without property statutory safeguards.

POINT III: SPEEDING CAMERAS SHOULD NOT BE ALLOWED TO BE USED ON SCHOOL ZONES WHERE THE PHOTOGRAPHS WILL INCLUDE MINOR CHILDREN

58. Lastly, the City's speeding camera program produces digital photographs which will include minor children present on the sidewalks within the school zone.

59. Legislation has recently been passed into law which prohibits cameras in or around school grounds for the purpose of identifying students.

60. The speeding cameras at issue herein constitute the same identifying technology which has been prohibited by NYS Education Law §2-e. This statute prohibits the use and any and all identifying technology cameras on or around school grounds, even for security purposes, because of the protection of privacy issues with this technology involving minor children.

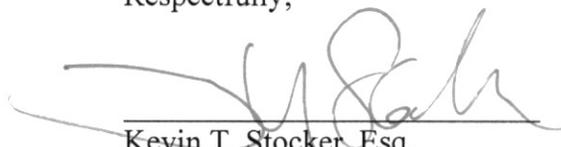
61. The invasion of student privacy issues is a possible civil rights and civil liberties issues which may be violated by this technology.

62. Thus, the City's use of speeding cameras should also be prohibited based upon their photographs and identifying technology being used on school grounds and taking pictures which will include minor children.

WHEREFORE, Plaintiff respectfully requests that the Court grant Petitioner's motion in its entirety for an injunction against the City for the operation of the speeding camera program, to have all the tickets issued dismissed the payment received for said tickets returned to the citizens, and the statute be declared illegal and/or unconstitutional.

DATED: March 15, 2021
Tonawanda, New York

Respectfully,



Kevin T. Stocker, Esq.
Pro-se Attorney for Petitioner(s)
2645 Sheridan Drive
Tonawanda, NY 14150
(716) 832-3006