

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**BARRY SEVIN, JR. and
EDWIN T. BERNARD**

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CIVIL ACTION

VERSUS

CASE No.: 08-802

**THE PARISH OF JEFFERSON,
JEFFERSON PARISH COUNCIL, and
REDFLEX TRAFFIC SYSTEMS, INC.**

SECTION R

MAGISTRATE 1

SECOND SUPPLEMENTAL AND AMENDING COMPLAINT – CLASS ACTION

The Second Supplemental and Amending Class Action Complaint of the plaintiffs, Barry Sevin, Jr., Edwin T. Bernard, persons of the full age of majority and residents of Louisiana, and of the Putative Class Plaintiff listed below, is brought pursuant to the Fifth, Sixth and Fourteenth Amendments of the United States Constitution, 42 U.S.C.A. §1983 and 28 U.S.C.A. §1332(d), and the Constitution of the State of Louisiana of 1974, as follows:

1.

Putative Class Plaintiffs herein include:

Barry Sevin, Jr., Edwin T. Bernard, Brian Abney, Chaudry Aftab, Cecile Andry, Jerald Andry, Frank Angelica, Nicholas Angelica, David Arroyo, Rayna Atzenhoffer, Ashton Audibert, Clyde Bel, Jr., Rochell Billings, Brett Bonin, Thomas Bostic, Judy Boudreaux, Josh Brandner, Colleen Brodt, Brad Burke, Kelly Burke, Sandra Callero, Kent Caluda, Elaine Cancienne, Aprille Casey, Angie Christina, Esq., Adrian Colon, Jack Dagostaro, Louis D'Angelo, Harry Dekay, Jr., Ling DeKay, Catherine Devane, Joseph Deynoodt, Sarah Dhane, Ronnie Dorvin, Tracey Dorvin, Dennis Dunkin, Anthony Fascio, Lynda Hannie

Favret, Carmen Fiedler, Sid Galloway, Craig Gibbs, Esq., Rick Glancey, William Graffia, William Gram, Michael Gretchen, Garic Grisbaum, John Guidry, Troy Hagstette, Barbara Harris, Kristina Hauck, Kelly Hess, Margaret Israel, Ronald Jacob, Garry Jules, Laura Kambur Parsons, James G. Kambur, Esq., Frank Kerr, Stephen Kreller, Christopher Laine, Sandra Landry, Lana Lapara, Donna Lassalle, George LeGrand, Esq., Pierre Legrand, Esq., Kathy Leonard, Patricia Locure, Postene Louisjeune, Andrew Lukinovich, Jr., Bill Luscyc, Esq., Fred Mancheski, Dennis McAuley, Benjamine Mccollister, Ajenenne McDonald, Kristy McKinzie, George Miller, III, Jonathan Miller, Jerry Moody, Valerie Moore, Norris-Samade Muhammad, Wayne Muller, Debbie Mustian, Raymond Nagele, Margaret Napoli, Brian J. Naquin, Alexis Navarro, Kenny Obrien, Esq., Shirley O'dwyer, Larry Oestrieher, Mona Oestrieher, J. Geoffrey Ormsby, Esq., Charles Pace, Paul Paciera, Jr., Ronald Palazotto, Jane Patty, Brandon Perez, Allison Pinkney, David Pitfield, Patricia Polkey, Glenda Quave, David Reis, Joseph Riley, Esq., Richard Rios, Al Robinson, Michael Sampson, Linda Savage, Jake Schnapp, Deborah Scott, Linda Segari, Jeffrey Servat, Linda Simpson, Maria Slusher, Josie Smith, Joan Sockwell, Kathleen Stassi, Joan Stouder, Henry Suthon, Alexis Thibodeaux, Richard Vanderbrook, M.D., Paul Villemarette, Roger Wahven, Christine Wenturine, and Leona White

2.

Made defendants herein are:

1. **The Parish of Jefferson**, a political sub-division of the State of Louisiana;
2. **Jefferson Parish Council**, the legislative body of the Parish of Jefferson, comprised of seven elected council members; and
3. **Redflex Traffic Systems, Inc.**, a foreign company incorporated in Delaware, with its principal place of business in Scottsdale, Arizona.

3.

Jurisdiction is proper in this Court pursuant to 28 U.S.C.A. §1331 and §1367.

4.

Venue is proper in this Court pursuant to 28 U.S.C.A. §1391(b).

COUNT 1: FEDERAL CLAIMS

5.

Defendants, acting under color of law, have violated the rights of the Putative Class Plaintiffs that are protected by the Fifth, Sixth and Fourteenth Amendments of the United States Constitution, as well as their due process rights and civil rights, by enacting and enforcing Chapter 36, Article XI of the Jefferson Parish Code of Ordinances, known as the Automated Traffic Signal Enforcement (“ATSE”) ordinance, comprised of Sections 36-307 through 36-326, as follows:

6.

Upon information and belief, in 2007 the Jefferson Parish Council contracted with the company Redflex Traffic Systems, Inc. (“Redflex”), for the installation of red light traffic cameras to be installed at various locations throughout Jefferson Parish. Pursuant to said contract, it is believed that Redflex was not only tasked with the installation of the traffic cameras, but also with the administration of the “civil” ticket collections on behalf of the Parish of Jefferson that would result from the operation of the red light cameras.

7.

On 20 June 2007, the Jefferson Parish Council adopted a final form of the ATSE ordinance, which was later signed into effect by the President of Jefferson Parish. The ATSE ordinance, as established by Chapter 36, Article XI, of the Jefferson Parish Code of Ordinances, Section 36-308, provides:

A. When the violation is issued pursuant to the ordinance for an alleged violation the vehicle owner is the person responsible for the payment of the fine. There shall be a rebuttable presumption that the person whose name the vehicle is registered was the operator of the vehicle at the time

the alleged violation was committed. Additionally, any operator of a vehicle who is not the Vehicle Owner, but who uses or operates the vehicle with the permission of the owner, express or implied, shall be considered the agent of the owner to receive the violation required to be sent to the Vehicle Owner. When the Vehicle Owner appears to have violated this ordinance, he/she will be issued a notice of violation that will include both the Recorded Image and Sub Image. Before the notice is sent to the Vehicle Owner, the violation will be reviewed by both the company that owns the enforcement equipment and the Jefferson Parish Sheriff's Office to ensure that the violation is accurately recorded.

B. The Vehicle Owner will have thirty (30) days to respond to the violation notice by either paying the fine or contesting the fine.

C. Failure to perform by paying the fine or contesting the fine will result in a second notification to the Vehicle Owner, and an additional late payment penalty of a minimum of twenty-five dollars (\$25.00)

D. If after the second notification the Vehicle Owner fails to pay the fine or contest the fine, then the violation will be sent to the Jefferson Parish First and Second Parish Courts, and processed for review by the Jefferson Parish District Attorney's Office to be handled in a manner consistent with that of a parking violation.

Chapter 36, Article XI, of the Jefferson Parish Code of Ordinances, Sections 36-308(A), (B), (C) and (D).

8.

On 24 October 2007, defendants began enforcing the ATSE ordinance, pursuant to its provisions, by mailing, or causing the mailing of, "civil" tickets, entitled Photo Red Light Enforcement Program Notice of Violation ("Notice of Violation"), to citizens whose vehicles were photographed at various intersections by automated traffic cameras that captured images of said vehicles during alleged violations of red light traffic signals. The front page of ATSE Notice of Violation informed each class member:

Jefferson Parish has a photo red light enforcement program in effect to reduce the number of red light running violations. As you can see from

the photos to the right, a vehicle registered in your name and described below has been photographed running a red light.

Jefferson Parish, Louisiana Photo Red Light Enforcement Program Notice of Violation, p. 1.

9.

Upon information and belief, more than 60,000 such Notices of Violation have been mailed to individuals to date, pursuant to the ATSE ordinance, and the actual number of those persons who have either sent in payments to satisfy the “civil” tickets, or fought against said tickets in court and lost, or received citations and have yet to respond, is within the defendants’ knowledge.

10.

The Putative Class Plaintiffs, as registered owners of automobiles, each received a Notice of Violation, directly or indirectly, by mail from the defendants for “Proceeding Into Intersection on a Red Light Signal” in alleged violation of the ATSE ordinance. According to each Notice of Violation, these alleged traffic violations took place at “system locations” within the Parish of Jefferson and, hence, provided for the “civil” liability assessed against the named plaintiffs.

At the time of this filing, the following list of Putative Class Plaintiffs paid their fines under the ATSE ordinance by sending money to the defendants:

Barry Sevin, Jr., Brian Abney, Chaudry Aftab, Cecile Andry, Jerald Andry, Frank Angelica, Nicholas Angelica, Rochell Billings, Thomas Bostic, Judy Boudreaux, Harry Dekay, Jr., Ling DeKay, Sarah Dhane, Ronnie Dorvin, Lynda Hannie Favret, Craig Gibbs, Esq., Rick Glancey, William Graffia, Michael Gretchen, Kristina Hauck, Ronald Jacob, Frank Kerr, Christopher Laine, Sandra Landry, Postene Louisjeune, Andrew Lukinovich, Jr., Fred Mancheski, Dennis McAuley, Benjamine Mccollister, Kristy McKinzie, Jonathan Miller, Valerie Moore, Norris-Samade Muhammad, Wayne Muller, Debbie Mustian, Brian J. Naquin, Alexis Navarro, Larry Oestriecher, Mona Oestriecher, Allison Pinkney, David Pitfield, Patricia Polkey, Joseph Riley, Esq., Richard Rios, Michael Sampson, Linda Savage, Jake Schnapp, Joan Stouder, Richard Vanderbrook, M.D., Paul Villemarette, Roger Wahven, and Leona White

At the time of this filing, the following list of Putative Class Plaintiffs requested and/or attended hearings to contest their fines under the ATSE ordinance:

Edwin T. Bernard, Ashton Audibert, Kent Caluda, Louis D'Angelo, Tracey Dorvin, Sid Galloway, William Gram, Garic Grisbaum, John Guidry, Kelly Hess, Shirley O'dwyer, J. Geoffrey Ormsby, Esq., Charles Pace, Paul Paciera, Jr., Jeffrey Servat, Joan Sockwell, Kathleen Stassi, Alexis Thibodeaux and Christine Wenturine

At the time of this filing, the following list of Putative Class Plaintiffs received citations under the ATSE ordinance but have yet to respond:

David Arroyo, Rayna Atzenhoffer, Clyde Bel, Jr., Brett Bonin, Josh Brandner, Colleen Brodt, Brad Burke, Kelly Burke, Sandra Callero, Elaine Cancienne, Aprille Casey, Angie Christina, Esq., Adrian Colon, Jack Dagostaro, Catherine Devane, Joseph Deynoodt, Dennis Dunkin, Anthony Fascio, Carmen Fiedler, Troy Hagstette, Barbara Harris, Margaret Israel, Garry Jules, Laura Kambur Parsons, James G. Kambur, Esq., Stephen Kreller, Lana Lapara, Donna Lassalle, George LeGrand, Esq., Pierre Legrand, Esq., Kathy Leonard, Patricia Locure, Bill Luscy, Esq., Ajenenne McDonald, George Miller, III, Jerry Moody, Raymond Nagele, Margaret Napoli, Kenny Obrien, Esq., Ronald Palazotto, Jane Patty, Brandon Perez, Glenda Quave, David Reis, Al Robinson, Deborah Scott, Linda Segari, Linda Simpson, Maria Slusher, Josie Smith and Henry Suthon

11.

The Putative Class Plaintiffs intend to represent the class of all automobile owners ticketed by the defendants for violating the ATSE ordinance since its inception who have either 1) paid the fines directly, 2) contested the fines, lost and paid, or 3) not yet paid or contested the fines. As required by Rule 23(a) of the F.R.C.P., the class of automobile owners ticketed by the defendants since the enactment of the ATSE ordinance would be so numerous that joinder of all class members would be impracticable. Also, as required by Rule 23(a), questions of law or fact are common to the class, and the claims asserted by the Putative Class Plaintiffs would be the same as the claims

typically available to the class. Further, as required by Rule 23(a), the Putative Class Plaintiffs would fairly and adequately protect the interests of the class.

12.

In addition, Rule 23(b)(1) permits class certification because the prosecution of separate actions by individual class members would create the risk of adjudications that, as a practical matter, would be dispositive of the interests of other class members not bringing this lawsuit. Also, Rule 23(b)(2) permits class certification because the defendants have acted or refused to act on grounds generally applicable to the class of automobile owners prosecuted, so final injunctive relief and corresponding declaratory relief for the entire class would be appropriate.

13.

The Putative Class Plaintiffs would be adequate representatives of the class because they have no conflict of interests, either among themselves or with the class as a whole. Indeed, the Putative Class Plaintiffs simply received ATSE Notices of Violations that, on an individual basis, exposed each plaintiff to a possible civil fine of \$175.00 for each alleged violation, plus possible court costs. Some plaintiffs paid the fines, others contested and others still have time to choose either option, but every member of the class faced or faces this same potential for liability. Also, each member of the class, including the Putative Class Plaintiffs, faced the prospect of prosecution by the Jefferson Parish District Attorney if he or she failed to pay the “civil” fines imposed by ATSE ordinance.

14.

The ATSE ordinance violates the plaintiffs’ right against self-incrimination protected by the Fifth Amendment because the ordinance immediately assumes a plaintiff guilty, or liable, of

running a red light simply because the plaintiff is the registered owner of the vehicle photographed. The ATSE ordinance then impermissibly places the burden of proving innocence upon the plaintiff, who must either submit an affidavit as to the identity of the offending driver or appear in court to contest the ticket, where the ordinance provides that photographs are already *prima facie* proof of the guilt of the vehicle owner. In a criminal case, the plaintiff could plead “not guilty” and then remain silent, forcing the prosecution to prove the state’s case. Under the provisions of the ATSE ordinance, however, the photographs already count as *prima facie* proof of the violation under a “preponderance of the evidence” rule, thus remaining silent under the Fifth Amendment would do nothing to convince the court that the prosecution has not carried its burden of proof. The ATSE ordinance therefore is an impermissible attempt by the defendants to shift the burden of proof onto the plaintiffs, using a “civil” scheme, in a manner calculated to destroy plaintiffs’ Fifth Amendment rights otherwise available during both civil and criminal prosecution. This violation of plaintiffs’ civil rights is enforced by the defendants while acting under color of law, in violation of 42 U.S.C.A. §1983.

15.

The ATSE ordinance violates the plaintiffs’ right against double jeopardy protected by the Fifth Amendment because the very real possibility exists that a plaintiff could be photographed at a “system location” and receive a “civil” ticket for running a red light, while at the same time be stopped by, and receive a citation from, a police officer for violating LSA-R.S. §32:232. In this circumstance, the plaintiff’s one action could result in both a “civil” fine and a criminal fine, in violation of his constitutional rights. Likewise, if a plaintiff chooses to pay the ATSE fine as demanded in the Notice of Violation, the very real possibility exists that such payment of the “civil”

violation could be used as evidence of an admission of a violation of LSA-R.S. §32:232, further violating the plaintiff's Fifth Amendment rights. The enforcement of the ATSE ordinance therefore is an impermissible violation of plaintiffs' Fifth Amendment rights. This violation of plaintiffs' civil rights is enforced by the defendants while acting under color of law, in violation of 42 U.S.C.A. §1983.

16.

The ATSE ordinance violates the plaintiffs' right to confront the prosecution's witnesses, as protected by the Sixth Amendment, because the "witnesses" are automated devices, and the penal ordinance is disguised as "civil" in nature. The ATSE ordinance therefore is an impermissible attempt by the defendants to suppress the plaintiffs' Sixth Amendment rights otherwise available during criminal prosecution. This violation of plaintiffs' civil rights is enforced by the defendants while acting under color of law, in violation of 42 U.S.C.A. §1983.

17.

The ATSE ordinance violates the Putative Class Plaintiffs' constitutional rights to procedural due process protected by the Fourteenth Amendment because the ATSE ordinance immediately assumes a plaintiff guilty, or liable, of running a red light simply because the plaintiff was the registered owner of the photographed vehicle. The ATSE ordinance then impermissibly shifts the burden of proving innocence onto the plaintiff, who may not have been the actual driver. Under this scheme, should the plaintiff, who received a Notice of Violation by mail, fail to take affirmative action to prove his or her innocence, or fail to pay the "civil" ticket within thirty days, he or she would face more fines and possible prosecution by the Jefferson Parish District Attorney's office. The ATSE ordinance is an impermissible attempt by the defendants to transform an existing

criminal law, LSA-R.S. §32:232(3) into a “civil” violation, in a manner calculated to destroy plaintiffs’ procedural due process rights otherwise available during criminal prosecution of a violation of §32:232(3). This violation of plaintiffs’ civil rights is enforced by the defendants while acting under color of law, in violation of 42 U.S.C.A. §1983.

18.

Every Putative Class Plaintiff who paid his or her fine directly under the ATSE ordinance, and every Putative Class Plaintiff who contested their ticket and lost and paid their fine plus costs, suffered direct property deprivation caused by the defendants’ enactment and enforcement of the ATSE ordinance that violated plaintiffs’ rights under the Fifth Amendment and Sixth Amendment, and plaintiffs’ due process rights under the Fourteenth Amendment, and a favorable decision herein for the Putative Class Plaintiffs would redress this wrong.

Likewise, every Putative Class Plaintiff who has requested a hearing or has one scheduled, or has yet to choose between payment or contest, faces the very imminent threat of property deprivation caused by the defendants’ enactment and enforcement of the ATSE ordinance in violation of their Fifth, Sixth and Fourteenth Amendment rights, and a favorable decision herein for the Putative Class Plaintiffs would redress this wrong.

COUNT II: STATE CLAIMS

The Putative Class Plaintiffs re-assert, re-allege and adopt all previous allegations of fact and conclusions of law set forth in Paragraphs 1 through 19, above, as if copied herein *in extenso*.

20.

Defendants, acting under color of law, have violated the rights of the Putative Class Plaintiffs that are protected by the Constitution of the State of Louisiana of 1974, as well as their due process rights and civil rights, by enacting and enforcing the ATSE ordinance as set forth below. Likewise, the ATSE ordinance violates several Louisiana statutes and the Louisiana Highway Regulatory Act, as follows:

21.

The ATSE ordinance is invalid, as it lacks enabling legislation from the Louisiana State Legislature. In 2001, 2003 and 2005, enabling legislation was introduced by law makers in Baton Rouge to either amend LSA-R.S. §32:1 *et seq.*, to allow for criminal traffic camera enforcement, to create “civil” traffic camera enforcement and/or to allow certain parishes to adopt traffic camera enforcement.¹ In each instance, the legislation was either roundly defeated by vote or withdrawn. As it stands, the Louisiana State Legislature has **never** passed enabling legislation allowing individual parishes or municipalities to adopt ordinances enforcing traffic laws using camera systems, therefore the ATSE ordinance is invalid on its face.

22.

By enacting and enforcing the ATSE ordinance, defendants have violated the rights of all of the Putative Class Plaintiffs who have paid the “civil” ATSE fines or hearing costs, because Article I, §4(D) of the Constitution of the State of Louisiana of 1974 limits the taking of personal property to be forfeited at a “civil” proceeding to personal property directly involved in the sale, use,

exchange, manufacture, etc., of contraband drugs. These violations of the Putative Class Plaintiffs' civil rights were enforced by the defendants while acting under color of law, in violation of 42 U.S.C.A. §1983.

23.

The ATSE ordinance violates the rights of the Putative Class Plaintiffs protected by Article VI, §9(A) of the Constitution of the State of Louisiana of 1974, because the ordinance impermissibly alienates the police power of Jefferson Parish via contract with a private entity, Redflex. Upon information and belief, the contract between the Parish of Jefferson and Redflex provides that the collection of fines for traffic violations will be conducted by Redflex. Proof of this allegation is contained in the ordinance, which states in Sec. 36-311(A):

The owner of the enforcement equipment provided to Jefferson Parish is responsible for the administration of notification and collection of the initial fines paid by the Vehicle Owner.

Chapter 36, Article XI, of the Jefferson Parish Code of Ordinances, Section 36-311(A).

Upon information and belief, pursuant to the provisions of its contract with the Parish of Jefferson, Redflex is contractually obligated to interact with court and judicial personnel in an impermissible exercise of police power by developing the citation and subpoena process, controlling the photographic evidence, maintaining and controlling the photographic equipment, controlling the coordination between the defendants and their agents, and collecting and holding fines, all of which is an impermissible exercise of police power by Redflex and an unconstitutional delegation of governmental authority. The effect of this delegation is to allow a private company,

¹ See <http://www.legis.state.la.us>- Regular Session, 2001, Senate Bill No. 1059: Result- Rules suspended; Regular Session, 2004, House Bill No. 1078: Result- yeas 24, nays 71; Regular Session, 2005, Senate Bill No. 168: Result-

with a prime economic interest in enforcement (Redflex's share of profit derived from the ATSE ordinance is based on the amount of money paid by citizens who received citations), to control the access of information to the court, and the presentation of that information to the court. A blatant conflict of interest exists between the Parish of Jefferson and the profit motives of the private company Redflex.

Further proof of Redflex's improper fine collection is found in the Notice of Violation received by each Putative Class Plaintiff, which provides that fines or affidavits be mailed to addresses in Tampa, FL, or Scottsdale, AZ, which happens to be the principal business address of Redflex, as listed on the Louisiana Secretary of State's Corporations database webpage.

Defendants, acting under color of law, have illegally authorized Redflex to exercise police power over Louisiana citizens and deprive their civil rights, in violation of 42 U.S.C.A. §1983, and all fines and monies paid by the class members to the defendants, including Redflex, must be returned.

24.

Defendants' enactment and enforcement of the ATSE ordinance violates the rights of the Putative Class Plaintiffs protected by Article VI, §9(B) of the Constitution of the State of Louisiana of 1974, because the "civil" ATSE ordinance impermissibly attempts to govern civil relationships.

25.

The ATSE ordinance violates Louisiana law because its provisions conflict with the uniform provisions of the Louisiana Highway Regulatory Act, LSA-R.S. §32:1 *et seq.*, including but not limited to §32:393, §32:398, §32:398.1, §32:398.10, and §32:414(E)(1). Defendants' enactment

and enforcement of the ATSE ordinance, and the Parish of Jefferson's contract with Redflex, also violate several existing Louisiana statutes, including but not limited to LSA-R.S. §13:2561.8 and §13:2562.8. Defendants' passage and enforcement of the ATSE ordinance, which attempts to preempt Louisiana state law in a manner that violates the plaintiffs' civil and constitutional rights, was enforced by the defendants while acting under color of law, in violation of 42 U.S.C.A. §1983.

26.

The ATSE ordinance violates established Louisiana procedural due process because its provisions allow service of a "civil" complaint and citation upon the plaintiffs through the U.S. mail, which violates the provisions of the Louisiana Code of Civil Procedure, Arts. §1232 and §1234, regarding citation and personal service of process in civil cases, in a manner that violates the plaintiffs' civil and constitutional rights, as enforced by the defendants while acting under color of law, in violation of 42 U.S.C.A. §1983.

27.

The Federal Highway Administration's 2003 Manual on Uniform Traffic Control Devices (MUTCD) Edition was adopted by Louisiana in 2005 through the Chief Engineer for the Louisiana Department of Transportation and Development; Louisiana adopted the MUTCD with no State supplement and no exceptions. Chapter 4D, Section 4D.10 of the MUTCD, entitled "Yellow Change and Red Clearance Intervals," provides in part:

A yellow change interval should have a duration of approximately 3 to 6 seconds. The longer intervals should be reserved for use on approaches with higher speeds.

Upon information and belief, defendants have calibrated and/or re-calibrated the timing of traffic lights at "system locations" throughout the Parish of Jefferson so as to shorten the duration of

the yellow caution lights from their previous settings, and/or as listed in the MUTCD, with the primary intention of causing more vehicles to be photographed violating the red lights at said “system locations,” in violation of public policy, the Constitution of the State of Louisiana, and the MUTCD as adopted by Louisiana. Defendants’ deleterious conduct herein, the primary purpose of which was to separate citizens from their property via “civil” citations, was committed under color of law, in violation of 42 U.S.C.A. §1983.

28.

The application and enforcement of the ATSE ordinance violates La. C.E. Art. 505, regarding the spousal witness privilege.

29.

Every Putative Class Plaintiff who paid his or her fine directly under the ATSE ordinance, and every Putative Class Plaintiff who contested their ticket and lost and paid their fine plus costs, suffered direct property deprivation caused by the defendants’ enactment and enforcement of the ATSE ordinance that violated plaintiffs’ rights under the Constitution of the State of Louisiana of 1974, and plaintiffs’ due process rights protected by Louisiana law, and a favorable decision herein for the Putative Class Plaintiffs would redress this wrong.

Likewise, every Putative Class Plaintiff who has requested a hearing or has one scheduled, or has yet to choose between payment or contest, faces the very imminent threat of property deprivation caused by the defendants’ enactment and enforcement of the ATSE ordinance in violation of their rights under the Constitution of the State of Louisiana of 1974, and plaintiffs’ due process rights protected by Louisiana law, and a favorable decision herein for the Putative Class Plaintiffs would redress this wrong.

The aforementioned actions of the defendants, in concert, have caused the Putative Class Plaintiffs actual property deprivation as certain plaintiffs listed above have paid the “civil” fines, others have risked prosecution by refusing to pay, others have gone to court to fight the fine only to be assessed administrative and/or court costs on top of the fines. All of the putative class members share the same issue of law and fact, i.e., the ATSE ordinance is invalid, and its enactment and enforcement by defendants violates plaintiffs’ constitutional rights and procedural due process rights as set forth above, and defendants, acting in concert, have violated these constitutional and civil rights while acting under the color of law. Defendants have also violated several Louisiana laws by enacting and enforcing the ATSE ordinance. Therefore, plaintiffs are seeking all actual monetary damages they incurred and paid as a result of receiving a Notice of Violation under the ATSE ordinance, whether said money is in the possession of the Parish of Jefferson, the Jefferson Parish Council, Redflex or any other entity or agent under these defendants’ control, all damages allowed under 42 U.S.C.A. §1983, including punitive damages, the striking of the ATSE ordinance as unconstitutional and/or in violation of Louisiana law, and any and all other relief available in justice and equity.

WHEREFORE, Barry E. Sevin, Jr., Edwin T. Bernard and the Putative Class Plaintiffs pray that the defendants be duly cited to appear and answer this Second Supplemental and Amending Complaint and after all legal delays and due proceedings had, that there be judgment rendered herein in favor of the plaintiffs and against the defendants, Jefferson Parish Counsel, the Parish of Jefferson and Redflex Traffic Systems, Inc., together *in solido*, in a full and true sum reasonable under the circumstances for all damages, general, special and punitive, together with

legal interest thereon from the date of judicial demand, until paid, and for all costs of these proceedings and all general and equitable relief required or necessary in the premises.

Respectfully submitted,

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was sent to all counsel of record via ECF, telefax and/or U.S. Mail, this 2 April 2008.

/s/ Anthony S. Maska

/s/ Anthony S. Maska
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