



SLAVE TO THE TRAFFIC LIGHT: A ROAD MAP TO RED LIGHT CAMERA LEGAL ISSUES

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Today, nearly half of all states use automated traffic enforcement.² In these states, cameras record vehicles as they run red lights or exceed the speed limit, and violation notices are later mailed to the registered owner. The use of cameras for automated traffic enforcement presents numerous legal issues.

First, the cameras are subject to highly inconsistent statutory and regulatory schemes: states vary widely in whether or how they regulate these cameras. Second, as more communities begin to install these cameras in more locations, courts will be confronted with more disputed citations generated by the cameras based upon federal, state, and local law, as well as the rules of evidence. Third, these cameras are vulnerable to political challenges as well, and successful challenges often engender additional litigation.

This article is intended as a road map for these legal issues for the numerous stakeholders who are and will continue to be involved in them. Such stakeholders include state and local officials considering whether and how to implement or reform an automated traffic enforcement program, as well as judges and practitioners engaged in litigation resulting from cameras. This article focuses on red light cameras because they are used more widely compared to speed cameras.³ However, the article

¹ B.A., Political Science, University of Delaware (2006); J.D., Rutgers University School of Law – Camden (2011). Special thanks to Professors Eric Gilson and Robert Williams. “See the city, see the zoo, traffic light won’t let me through.” PHISH, *Slave to the Traffic Light*, on A LIVE ONE (Elektra Records 1994).

² *Communities Using Red Light and/or Speed Camera*, INS. INST. FOR HIGHWAY SAFETY, <http://www.iihs.org/laws/cameramap.aspx> (last visited Apr. 20, 2013).

³ *See id.*

does include some discussion of speed cameras: not only does the use of speed cameras present similar legal issues, but the installation of red light cameras is often followed by speed cameras.⁴

This article begins by discussing the various approaches taken by state legislatures and departments of transportation in regulating the use of red light cameras. While some state legislatures have been silent on the use of these cameras or have minimal requirements, most states have a fairly comprehensive statute in place that regulates where and how the cameras can be used and provides procedures for disputing a citation. Next, the article discusses the present case law regarding legal challenges to the use of red light cameras. This section briefly discusses how these challenges in federal court have failed so far, and how defendants have had more success challenging cameras in state court under state and local law. Then, the article describes the political challenges to red light cameras by citizen-lead ballot initiatives and referendums and by officials voting to ban cameras. This section also discusses the financial ramifications of successful political challenges as vendors bring legal action to challenge the validity of the initiatives and referendums as well as breach of contract actions against municipalities. The article concludes with a number of recommendations for the previously described stakeholders.

I. VARYING STATUTORY AND REGULATORY APPROACHES TAKEN BY STATES

In some states red light cameras are, or have been, operated in the absence of explicit authorization of the state legislature. However, most state legislatures have enacted statutes that authorize municipalities to operate red light cameras. The first section discusses the circumstances in which communities are using or have used cameras without permission of the state legislature, and the danger of such operation. The second section distills common characteristics of state red light camera statutes and highlights some key distinctions and unique approaches taken by several states.

⁴ See *infra* text accompanying notes 172–80.

A. CAMERAS USED ABSENT AUTHORIZATION OF STATE LEGISLATURE

Communities in a number of states have operated red light cameras or speed cameras absent authorization from the state legislature. In enacting local red light camera and speed camera ordinances, these communities rely on the home rule authority granted to them under their state constitution.⁵ "Without legislative or judicial guidance as to whether red-light cameras are lawful, the legality of municipalities' authorizing ordinances remains an open question."⁶ Camera programs in these communities are vulnerable to challenges on the basis that state law preempts the local ordinances.⁷

In the absence of action by a state legislature, a state's department of transportation may nonetheless issue policies regulating the use of red light cameras in municipalities across that state. For example, the Louisiana State Legislature has consistently refused to enact legislation authorizing and regulating red light cameras.⁸ However, cameras operated on state highways are subject to regulation by the Louisiana Department of Transportation and Development.⁹ While New

⁵ See *City of Commerce City v. State*, 40 P.3d 1273, 1276 (Colo. 2002); see also *City of Davenport v. Seymour*, 755 N.W.2d 533, 537–38 (Iowa 2008); see also *Titus v. City of Albuquerque*, 252 P.3d 780, 786 (N.M. Ct. App. 2011), cert. quashed, 265 P.3d 718 (N.M. Mar. 22, 2013); see also *Mendenhall v. City of Akron*, 881 N.E.2d 255, 260 (Ohio 2008).

⁶ Joel O. Christensen, Note, *Wrong on Red: The Constitutional Case Against Red-Light Cameras*, 32 WASH. U. J.L. & POL'Y 443, 462 (2010).

⁷ See discussion *infra* Part II.B.

⁸ See, e.g., S. 1059, 2001 Leg., Reg. Sess. (La. 2001); H.R. 1078, 2004 Leg., Reg. Sess. (La. 2004); S. 168, 2005 Leg., Reg. Sess. (La. 2005); H.R. 254, 2009 Leg., Reg. Sess. (La. 2009); H.R. 480, 2009 Leg., Reg. Sess. (La. 2009); H.R. 160, 2010 Leg., Reg. Sess. (La. 2010); H.R. 268, 2010 Leg., Reg. Sess. (La. 2010); H.R. 374, 2010 Leg., Reg. Sess. (La. 2010); H.R. 859, 2010 Leg., Reg. Sess. (La. 2010). Nonetheless, the Louisiana Attorney General concluded in a legal opinion that the cameras are legal under state law. Opinion Letter from Charles C. Foti, Jr., Att'y Gen., State of La., to Skipper M. Drost, City Att'y, City of Sulphur (Sep. 4, 2007), available at <http://www.ag.state.la.us/Shared/ViewDoc.aspx?Type=4&Doc=19013>.

⁹ LA. DEP'T OF TRANSP. & DEV., POLICY FOR TRAFFIC ENFORCEMENT SYSTEMS ON STATE HIGHWAY RIGHTS-OF-WAY (2010), available at

Mexico municipalities may operate cameras without permission of the state legislature,¹⁰ a statute requiring that signs be posted warning of cameras being used at an intersection may indicate that the legislature impliedly consents to their use.¹¹ Nonetheless, the New Mexico Department of Transportation has the authority to ban red light cameras and speed cameras from locations it specifies.¹² Similarly, although there is no state law about red light cameras or speed cameras in Missouri, the Missouri Department of Transportation has issued a policy for the installation and use of these cameras.¹³

After municipalities in Alabama and Florida had already been operating red light cameras, the legislatures of those states authorized their use and made such use retroactive. The use of red light cameras was almost certainly illegal under Florida law absent legislative authorization, since both the Florida Attorney General and the Florida Department of Transportation agreed that the use of red light cameras was not authorized under state law.¹⁴ However, in the end, the Florida legislature came to the rescue by enacting legislation in May of 2010, authorizing and regulating the use of red light cameras.¹⁵ The legality of the use

<http://www.dotd.la.gov/highways/traffic/> (follow “Traffic Control” tab; then follow “Traffic Enforcement Systems Policy” hyperlink).

¹⁰ *Titus*, 252 P.3d at 786.

¹¹ N.M. STAT. ANN. § 66-7-103.1(B) (West 2011).

¹² Crystal Gutierrez, *State Orders Red Light Cameras Removed*, KRQE (Mar. 18, 2010, 5:22 PM), http://www.krqe.com/dpp/traffic/traffic_cams/State-orders-red-light-cameras-removed.

¹³ *Speed and Red Light Camera Laws*, GOVERNORS HIGHWAY SAFETY ASS'N, http://www.ghsa.org/html/stateinfo/laws/auto_enforce.html (last visited Mar. 29, 2013).

¹⁴ Letter from Charlie Crist, Att’y Gen., Fla., to Samuel S. Goren, Att’y, City of Pembroke Pines (July 12, 2005), available at <http://www.myfloridalegal.com/ago.nsf/Opinions/CE01BE293FCEEA208525703C00720344>; Letter from Mark C. Wilson, P.E., Deputy State Traffic Operations Eng’r, Fla. Dep’t of Transp., to Stephen R. Donaldson (Aug. 28, 2007), available at <http://www.thenewspaper.com/rlc/docs/2007/fl-fdotletter.pdf>.

¹⁵ FLA. STAT. ANN. § 316.0076 (West 2013); FLA. STAT. ANN. § 316.008(8)(a) (West 2013).

of the cameras before this legislative action is currently pending before the Florida Supreme Court.¹⁶

On April 1, 2008, Montgomery, Alabama activated its red light camera program, and issued warnings for thirty days, until it began mailing citations on May 1.¹⁷ The program operated for a year without authority from the state, until the Montgomery Red Light Safety Act was signed into law.¹⁸ The Act not only authorized Montgomery's red light camera ordinance, but also made such authorization retroactive.¹⁹ The legislature acted because the city's red light camera program was vulnerable to lawsuits, as it had operated without approval from either the legislature or the courts.²⁰ Senator Larry Dixon, a supporter of the legislation, refused to concede that the cameras were illegal and maintained that the city had the power to enact its red light camera ordinance, but that the city was "acting out of an abundance of caution" in seeking approval of its ordinance from the state.²¹

B. RED LIGHT CAMERA STATUTORY AND REGULATORY PROVISIONS

In the states that have enacted legislation authorizing and regulating red light cameras, there is little consensus, even when

¹⁶ *City of Orlando v. Udowychenko*, 98 So. 3d 589 (Fla. Dist. Ct. App. 2011), review granted, 2012 WL 5991338 (Fla. Nov. 6, 2012) (No. SC12-1471).

¹⁷ Andre Coe, *Red-Light Cameras On Duty Today*, MONTGOMERY ADVERTISER, Apr. 1, 2008, available at 2008 WLNR 26660541; Jill Nolin, *Red-Light Camera Fines Start Today*, MONTGOMERY ADVERTISER, May 1, 2008, available at 2008 WLNR 26662361.

¹⁸ S. No. 356, 2011 Reg. Sess. (Ala. 2011).

¹⁹ *Id.* at § 2.

²⁰ Rick Harmon, *City to Add More Red-Light Cameras*, MONTGOMERY ADVERTISER, May 17, 2009, available at 2009 WLNR 9396634.

²¹ *Red-Light Camera Bill Passes In The Senate*, MONTGOMERY ADVERTISER, Feb. 18, 2009, available at 2009 WLNR 20126769 (internal quotations omitted).

choosing a legislative term to use to define red light cameras.²² Nonetheless, some common provisions can be distilled.

In many states, the state department of transportation must give permission before a red light camera can be installed and used, and municipalities are subject to the department's regulations and policies while using the cameras. Many states require completed traffic engineering surveys before cameras can be used.²³ New Jersey municipalities must also submit three years of traffic citation and crash data.²⁴ Additionally, California and Georgia require public hearings before a contract

²² Compare Ala. Adv. Legis. Serv. 740 (LexisNexis 2009) (“photographic traffic signal enforcement system”), with ARIZ. REV. STAT. ANN. § 28-601(14) (2009) (West) (“photo enforcement system”), with CAL. VEH. CODE § 21455.5 (West 2013) (“automated enforcement system”), with COLO. REV. STAT. ANN. § 42-4-110.5(6) (West 2009) (“automated vehicle identification system”), with DEL. CODE ANN. tit. 21, § 4101(d)(3)(b) (West 2010) (“[t]raffic light signal violation monitoring system”), with FLA. STAT. ANN. § 316.003(87) (West 2013) (“[t]raffic infraction detector”), with GA. CODE ANN. § 40-6-20(f)(1)(C) (West 2008) (“[t]raffic control signal monitoring device”), with 625 ILL. COMP. STAT. ANN. 5/11-208(f) (West 2012) (“automated traffic law enforcement system”), with MD. CODE ANN., TRANSP. § 21-202.1(a)(5) (West 2011) (“[t]raffic control signal monitoring system”), with N.C. GEN. STAT. ANN. § 160A-300.1(a) (West 2011) (“traffic control photographic system”), with N.Y. VEH. & TRAF. LAW § 1111-a(c) (McKinney 2009) (“traffic-control signal photo violation-monitoring system”), with 75 PA. CONS. STAT. ANN. § 3116 (West 2012) (“automated red light enforcement system”), with R.I. GEN. LAWS ANN. § 31-41.2-3(b) (2011) (“automatic traffic violation detection system”), with TENN. CODE ANN. § 55-8-198(a) (West 2011) (“unmanned traffic enforcement cameras”), with TEX. TRANSP. CODE ANN. § 707.001(3) (West 2009) (“[p]hotographic traffic signal enforcement system”), with VA. CODE ANN. § 15.2-968.1(E) (West 2012) (“traffic light signal violation monitoring system”), with WASH. REV. CODE ANN. § 46.63.170(1) (West 2011) (“automated traffic safety camera”).

²³ See TEX. TRANSP. CODE ANN. § 707.003(c) (West 2007) (also lists criteria to consider whether a red light camera should be installed at an intersection); see also VA. CODE ANN. § 15.2-968.1(K) (same); see *supra* note 9 (Louisiana Department of Transportation policy).

²⁴ N.J. STAT. ANN. § 39:4-8.14(a)(2) (West 2009); see also *Application for Red Light Running Automated Enforcement*, N.J. DEP'T OF TRANSP., <http://www.state.nj.us/transportation/refdata/rlr/doc/rlrapprapplication.rtf> (last visited Mar. 29, 2013). Louisiana also requires crash data. See LA. DEP'T OF TRANSP. & DEV., *supra* note 9.

with a vendor can be signed.²⁵ Georgia mandates that the local police chief support the use of cameras.²⁶ A number of states require that a public awareness campaign be conducted before red light cameras can be used to issue citations.²⁷ Additionally, in order to increase the transparency of red light camera programs, statutes commonly require that warning signs be posted ahead of intersections where red light cameras are in use, and impose an annual reporting requirement upon municipalities using the cameras.²⁸

Generally, the registered owner of a vehicle is held liable for a violation detected by a red light camera. States often enact a statutory presumption that the registered owner of the vehicle was operating it at the time the violation occurred.²⁹ New Jersey is unique; the state's statute places joint liability on both the registered owner and the operator at the time the violation occurred.³⁰ New York, New Jersey, and Alabama permit the registered owner to pay the fine and then file a civil action against the operator of their vehicle at the time the violation occurred.³¹

States allow citation recipients to raise a number of common defenses. Registered owners may avoid liability if they rent or

²⁵ CAL. VEH. CODE § 21455.6(a) (West 2004); GA. CODE ANN. § 40-14-21(b) (West 2008).

²⁶ GA. CODE ANN. § 40-14-21(a) (West 2008).

²⁷ See FLA. STAT. ANN. § 316.0776(b) (West 2010); see also N.J. STAT. ANN. § 39:4-8.14(f) (West 2009); see also OR. REV. STAT. ANN. § 810.434(3)(a) (West 2011).

²⁸ See N.J. STAT. ANN. § 39:4-8.14, -8.17 (West 2011).

²⁹ See DEL. CODE ANN. tit. 21, § 4101(d)(9) (West 2010); see also N.Y. VEH. & TRAF. LAW § 1111-a(k)(2) (McKinney 2009); see also OR. REV. STAT. ANN. § 810.436(3) (West 2011); see also TEX. TRANSP. CODE ANN. § 707.013(a) (West 2011). The presumption that a registered owner is the operator of a vehicle extends to search and seizure law as well. The police may stop a vehicle if a check of its license plate reveals that the registered owner's driver's license is suspended. See, e.g., *State v. Donis*, 723 A.2d 35 (N.J. 1998).

³⁰ See, e.g., N.J. STAT. ANN. § 39:4-8.15(b) (West 2009).

³¹ § 39:4-8.15b; § 1111-b(k); 2009 Ala. Adv. Legis. Serv. 740 (LexisNexis).

lease their vehicle to others.³² Similarly, they may also defend by showing that their vehicle or license plates were stolen, or that the vehicle was otherwise used without their consent.³³ While some states allow owners to argue that they were not driving at the time the violation occurred, there is a split as to whether or not they are required to identify the operator.³⁴ Delaware offers defendants a choice to either submit an affidavit that identifies the driver, or to come to court and rebut the presumption that they were driving.³⁵ In several states, one defense is that the vehicle was part of a funeral procession or was yielding to an emergency vehicle.³⁶ Florida and New York have a double-jeopardy provision, which allows one to avoid

³² See 2009 Ala. Adv. Legis. Serv. 740, § 3 (LexisNexis); see also § 4101(d)(3)a; see also MD. CODE ANN., TRANSP. § 21-202.1(a)(3) (West 2011) (excluding rental or leasing company from definition of “owner”); see also N.J. STAT. ANN. § 39:4-8.15c (West 2011); see also § 1111-a(j); OHIO REV. CODE ANN. § 4511.092(B) (West 2011); see also OR. REV. STAT. ANN. § 810.436(6)(b) (West 2011).

³³ DEL. CODE ANN. tit. 21, § 4101(d)(9) (West 2010); FLA. STAT. ANN. § 316.0083(1)(d)(1)(c) (West 2013); MD. CODE ANN., TRANSP. § 21-202.1(g)(1)(ii) (West 2011); N.J. STAT. ANN. § 39:4-8.15b (West 2009); N.Y. VEH. & TRAF. LAW § 1111-a(i) (McKinney 2011); N.C. GEN. STAT. ANN. § 160A-300.1(c)(1)(b) (West 2011); 75 PA. CONS. STAT. ANN. § 3116(f)(2) (West 2012); TENN. CODE ANN. § 55-8-198(e)(3) (West 2011); VA. CODE ANN. § 15.2-968.1(D) (West 2012); WASH. REV. CODE ANN. § 46.63.075(2) (West 2011).

³⁴ Compare COLO. REV. STAT. ANN. § 42-4-110.5(2)(e) (West 2011) (no identification required), and 75 PA. CONS. STAT. ANN. § 3116(f)(1) (West 2012) (no identification required), and OR. REV. STAT. ANN. § 810.436(6)(a) (West 2011) (no identification required), and VA. CODE ANN. § 15.2-968.1(D) (West 2012) (no identification required), and WASH. REV. CODE ANN. § 46.63.075(2) (West 2011) (no identification required), with FLA. STAT. ANN. § 316.0083(1)(d)(2)(a) (West 2013) (requires identification), and MD. CODE ANN., TRANSP. § 21-202.1(g)(3) (West 2011) (requires identification), and N.C. GEN. STAT. ANN. § 160A-300.1(c)(1)(a) (West 2011) (requires identification), and TENN. CODE ANN. § 55-8-198(e) (West 2011) (requires identification). See also TEX. TRANSP. CODE ANN. § 707.013 (West 2011) (rebutting presumption that owner was driving if evidence demonstrates vehicle was being test driven by another person).

³⁵ DEL. CODE ANN. tit. 21, § 4101(d)(9) (West 2010).

³⁶ See *id.*; see also FLA. STAT. ANN. § 316.0083(1)(d)(1)(a) (West 2013); see also 625 ILL. COMP. STAT. ANN. 5/11-208.6(h)(2)(ii) (West 2012); see also MD. CODE ANN., TRANSP. § 21-202.1(g)(1)(i)(2) (West 2011); see also TENN. CODE ANN. § 55-8-198(d)(4) (West 2011).

liability if a police officer stopped and issued a defendant a citation for the same violation captured by a red light camera.³⁷ Alabama offers the most enumerated defenses, listing eight of them.³⁸

Many red light camera statutes have special evidentiary rules in proceedings where a defendant contests their liability for a violation detected by a camera. Some statutes allow for an informal hearing and dispense with the rules of evidence altogether.³⁹ Rhode Island's statute provides that evidence generated by cameras need not be authenticated.⁴⁰ Similarly, Alabama's statute provides that a city may introduce some evidence without laying a foundation.⁴¹ California declares that evidence generated by red light cameras is presumed to be accurate and is not hearsay.⁴²

Statutes often contain provisions that limit the effects of a violation detected by red light cameras, as well as how information collected by the cameras may be used. Statutes generally proclaim that a violation detected by red light cameras imposes a civil, monetary penalty, while precluding a criminal conviction and a moving violation. Furthermore, violations often go unreported on one's driver's license history and may not be used to affect one's motor vehicle insurance.⁴³ Several

³⁷ FLA. STAT. ANN. § 316.0083(1)(d)(1)(d) (West 2013); N.Y. VEH. & TRAF. LAW § 1111-a(b) (McKinney 2009).

³⁸ 2009 Ala. Adv. Legis. Serv. 740, § 6(j) (LexisNexis).

³⁹ DEL. CODE ANN. tit. 21, § 4101(d)(6) (West 2010); 625 ILL. COMP. STAT. ANN. 5/11-208.3(b)(4) (West 2012); 75 PA. CONS. STAT. ANN. § 3116(m)(3) (West 2012).

⁴⁰ R.I. GEN. LAWS § 31-41.2-5 (2005).

⁴¹ 2009 Ala. Adv. Legis. Serv. 740, § 6(f) (LexisNexis).

⁴² CAL. VEH. CODE § 21455.5(e) (West 2013).

⁴³ See COLO. REV. STAT. ANN. § 42-4-110.5 (West 2009); see also DEL. CODE ANN. tit. 21, § 4101(d)(2) (West 2010); see also MD. CODE ANN., TRANSP. § 21-202.1(i) (West 2011); N.J. STAT. ANN. § 39:4-8.15(d) (West 2009); see also N.Y. VEH. & TRAF. LAW § 1111-b(f) (McKinney 2011); see also 75 PA. CONS. STAT. ANN. § 3116(d) (West 2012); see also TENN. CODE ANN. § 55-8-198 (West 2011); see also TEX. TRANSP. CODE ANN. § 707.018 (West 2007); see also WASH. REV. CODE ANN. § 46.63.170(2) (West 2011); see also VA. CODE ANN. § 15.2-968.1F.

statutes prohibit images from red light cameras from identifying the occupants in the vehicle.⁴⁴ A number of states provide that images produced by red light cameras are confidential,⁴⁵ and limit their use to proceedings contesting liability for a violation detected by a red light camera.⁴⁶ However, some states allow for images to be released when presented with a court order.⁴⁷ Additionally, some statutes require the timely destruction of information collected by red light cameras.⁴⁸

Statutes commonly limit how revenue generated by red light cameras may be used. Many states require that the compensation paid to vendors be based on the value of service, rather than the number of tickets issued or the amount of revenue generated.⁴⁹ New Jersey municipalities are permitted to keep all of the proceeds generated by red light cameras.⁵⁰ Of the \$158 fine for a red light camera violation in Florida, thirteen dollars goes to health care costs, and the remainder is divided up between the State's General Revenue Fund and the local government where the camera is located.⁵¹ In Virginia and

⁴⁴ GA. CODE ANN. § 40-14-21(j) (West 2011); ILL. COMP. STAT. ANN. 5/11-208.6(g) (West 2011); N.Y. VEH. & TRAF. LAW § 1111-b(a)2 (McKinney 2011); WASH. REV. CODE ANN. § 46.63.170(d) (West 2011). *See also* 75 PA. CONS. STAT. § 3116(d) (2012) (prohibiting cameras from taking a frontal view recorded image of a vehicle).

⁴⁵ CAL. VEH. CODE § 21455.5(e) (West 2011).

⁴⁶ N.J. STAT. ANN. § 39:4-8.15a (West 2011); OR. REV. STAT. ANN. § 810.435 (West 2011); 75 PA. CONS. STAT. § 3116(e)(3) (2012); TEX. TRANSP. CODE ANN. § 707.006 (West 2011); VA. CODE ANN. § 15.2-968.1H; WASH. REV. CODE ANN. § 46.63.170(g) (West 2011).

⁴⁷ N.J. STAT. ANN. § 39:4-8.15a (West 2011); 75 PA. CONS. STAT. § 3116(e)(2) (2012) (allowing release for use in criminal proceeding); R.I. GEN. LAWS § 31-41.2-7 (2011); VA. CODE ANN. § 15.2-968.1H (allowing release for use in civil or criminal proceeding).

⁴⁸ CAL. VEH. CODE § 21455.5(e) (West 2011); 75 PA. CONS. STAT. § 3116(e)(4) (2012); R.I. GEN. LAWS § 31-41.2-8 (2011); VA. CODE ANN. § 15.2-968.1H.

⁴⁹ *See, e.g.*, 75 PA. CONS. STAT. § 3116(n) (2012). *See also infra* note 104.

⁵⁰ *See* N.J. STAT. ANN. § 39:4-8.20a (West 2011).

⁵¹ FLA. STAT. ANN. § 316.0083(1)(b)3 (West 2013).

North Carolina, the proceeds from red light cameras fund public schools.⁵² Nassau County, New York uses the proceeds from its red light cameras to fund youth and social services programs.⁵³

Few states dedicate proceeds of red light cameras to transportation related projects. In Texas, red light camera revenue is split equally between hospitals and traffic improvement programs.⁵⁴ In Pennsylvania, the money left over from the operation and maintenance of the cameras is deposited with the Transportation Enhancements Grant Program, which funds projects to improve highway safety and mobility.⁵⁵ Philadelphia politicians complained that red light cameras in Philadelphia were being used to fund projects throughout the state.⁵⁶ This situation was addressed when other Pennsylvania cities were permitted to use red light cameras.⁵⁷

It is common for states to provide explicit consequences for individuals who fail to pay the fines stemming from a violation observed by a red light camera. A Philadelphia ordinance permits the booting of vehicles with three or more unpaid parking tickets; an unpaid citation for a red light violation also counts towards this number.⁵⁸ In addition, the agency that

⁵² See VA. CONST. art. VIII, § 8; VA. STAT. ANN. 46.2-112 (West 2011); Shavitz v. City of High Point, 630 S.E.2d 4 (N.C. Ct. App. 2006), *appeal dismissed, review denied*, 648 S.E.2d 845 (N.C. 2007); *Literary Fund Loans*, VA. DEP'T OF EDUC., http://www.doe.virginia.gov/support/facility_construction/literary_fund_loans/index.shtml (last visited Mar. 20, 2013).

⁵³ See NASSAU COUNTY, N.Y., LOCAL LAW no. 12-2009 § 1d, *available at* http://www.nassaucountyny.gov/agencies/Legis/Docs/PDF/LocalLaw_12-2009.pdf.

⁵⁴ TEX. TRANSP. CODE ANN. § 707.008 (West 2011).

⁵⁵ 75 PA. CONS. STAT. ANN. § 3116(l)(2) (West 2011); 67 PA. CODE § 233.3(a) (2011).

⁵⁶ Amy Worden, *Red Light Cameras Stream Green Outside Philly*, PHILLY.COM (Dec. 21, 2011, 10:23 AM), http://www.philly.com/philly/blogs/harrisburg_politics/Red-light-cameras-stream-green-outside-Philly.html.

⁵⁷ 75 PA. CONS. STAT. ANN. § 3117 (West 2011).

⁵⁸ *Red Light Camera Program: Hearing on H.B. 1559 and H.B. 1690 Before the H. Transp. Comm.*, 2007-2008 Reg. Sess. 32-33 (Pa. 2007) (statement of Vincent Fenerty, Executive Director of the Philadelphia Parking Authority).

administers the city's red light program is planning to work together with law firms to conduct collection actions.⁵⁹ In contrast, Colorado prevents vehicle immobilization in retaliation for failing to pay a citation generated by a red light camera.⁶⁰

Delaware has harsher sanctions. If a vehicle owner fails to either pay or respond to a citation, he or she may be unable to renew the registration of the vehicle used to commit the alleged violation.⁶¹ Maryland and Texas take a similar approach, potentially refusing the registration or re-registration if the owner failed to pay a red light camera citation.⁶² The owner's driver's license will be suspended if he/she requests a hearing and fails to appear, or if they refuse to pay after being found guilty.⁶³ However, such sanctions only apply to Delawareans, who are responsible for seventy percent of all red light violations, because there is no way to recover delinquent fines from violators with out of state registrations.⁶⁴ As of the end of 2006, out-of-state violations account for \$458,000 in delinquent fines.⁶⁵ Approximately a third of such violations are from Pennsylvania, another third are from Maryland, and one sixth are from New Jersey.⁶⁶

Illinois leaves all options on the table when dealing with someone who refuses to pay a citation generated by a red light camera. A driver who accumulates and fails to pay five such

⁵⁹ *Id.* at 33.

⁶⁰ COLO. REV. STAT. ANN. § 42-4-110.5 (West 2011).

⁶¹ DEL. CODE ANN. tit. 21, § 4101(d)(7) (2009).

⁶² MD. CODE ANN. § 21-202.1(h) (West 2011); TEX. TRANSP. CODE ANN. § 707.017 (West 2011). Maryland may also suspend the registration of the vehicle involved in the violation. § 21-202.1(h).

⁶³ tit. 21, § 4101(d)(7).

⁶⁴ DEL. DEP'T OF TRANSP., ELECTRONIC RED LIGHT SAFETY PROGRAM "AFTER" ANALYSES SUMMARY 1, 34 (2007), available at http://www.deldot.gov/information/red_light/pdfs/after_analyses_summary.pdf (last accessed November 9, 2009).

⁶⁵ *Id.* at 34.

⁶⁶ *See id.*

citations will have their license suspended,⁶⁷ and their vehicle may be immobilized or towed.⁶⁸ Alternatively, the municipality may refer the matter to a collection agency, or get a civil judgment through the Illinois Circuit Court just like any other outstanding debt.⁶⁹ North Carolina takes a similar approach; a failure to timely respond or pay the fine results in it doubling to \$100, and the municipality can go to a collections agency or sue to recover the debt in a civil action.⁷⁰

Just as there are consequences for motorists who run red lights, there are consequences for local governments that do not abide by state law while operating their red light camera programs. In some states, citations from red light cameras are invalid under certain conditions. A red light citation in Arizona is invalid if the traffic signal involved did not conform to the specifications required under state law.⁷¹ A violation detected by a red light camera in North Carolina cannot be prosecuted if the vehicle's registered owner receives notice of the violation more than ninety days after the alleged violation occurred.⁷² In Ohio, citations are invalid if there are an insufficient number of warning signs posted.⁷³ Similarly, in Tennessee, a citation is invalid if there is no sign posted near the intersection warning that red light cameras are in use.⁷⁴ Rhode Island takes a different approach; its transportation department will not approve additional red light cameras if a municipality does not comply with reporting requirements or if it fails to submit its annual report.⁷⁵

⁶⁷ 625 ILL. COMP. STAT. ANN. 5 / 6-305.5(a) (West 2011).

⁶⁸ 625 ILL. COMP. STAT. ANN. 5 / 11-208.3(c) (West 2011).

⁶⁹ *Id.* at (e), (f).

⁷⁰ See N.C. GEN. STAT. ANN. § 160A-300.1(c) (West 2011).

⁷¹ See ARIZ. REV. STAT. ANN. § 28-1205 (2011).

⁷² See N.C. GEN. STAT. ANN. § 160A-300.1(c)(1a) (West 2011).

⁷³ See OHIO REV. CODE ANN. § 4511.094 (West 2011).

⁷⁴ TENN. CODE ANN. § 55-8-198(c)(2) (West 2011).

⁷⁵ R.I. CODE R. § 61-1-17:4.1, 4.4.1(3), 8.3 (LexisNexis 2011).

Texas is tougher on its local governments, which may not collect fines generated by red light cameras if they do not complete a traffic engineering study prior to installing and operating the camera, or if it compensates the red light camera vendor with a certain percentage or dollar amount of each penalty collected.⁷⁶ Local authorities are subject to a penalty of double the amount of money it wrongfully retains or fails to dispose of as required by law.⁷⁷

Georgia's red light camera statute places a great deal of responsibility on local governments, as well as a great deal of power and discretion in the state's transportation department. Municipalities must cooperate with the transportation department, which can inspect cameras and associated equipment and records regarding revenues from camera use.⁷⁸ The transportation department may investigate complaints regarding red light camera use and operation.⁷⁹ A municipality must test its equipment at regular intervals using procedures recommended by the manufacturer, and if minimal accuracy requirements are not met the camera cannot be used until repaired and calibrated by a trained technician.⁸⁰

Georgia's red light camera statute allows serious punishments for local governments that do not comply with state requirements regarding red light cameras. If a local government's required annual report is late, all the revenue generated after the due date goes to the state, and it may not keep any revenue until the report is filed and accepted by the transportation department.⁸¹ If a state statute or a department rule or regulation is violated, the transportation department can take any action deemed necessary, including denying an application for a permit or suspending or revoking a permit.⁸²

⁷⁶ See TEX. TRANSP. CODE § 707.003(f) (West 2011).

⁷⁷ *Id.*

⁷⁸ GA. CODE ANN. § 40-14-21(k) (West 2011).

⁷⁹ *Id.* at -25(a).

⁸⁰ *Id.* at -22.

⁸¹ *Id.* at -24(b).

⁸² *Id.* at -25(a). Louisiana similarly may revoke a permit for a red light camera that does not comply with state policy. See LA. DEP'T OF TRANSP. & DEV., *supra*

The department can also require that revenue generated during a period of a violation or misconduct be remitted to the state's general fund.⁸³ A municipality must wait three years if its permit is revoked before it may ask the transportation department whether it should be permitted to use red light cameras again.⁸⁴

II. RED LIGHT CAMERA COURT DECISIONS

A. CHALLENGES UNDER FEDERAL LAW

Challenges to red light cameras under federal law have been fruitless so far. While several challenges have invoked the Racketeer Influenced and Corrupt Organizations Act,⁸⁵ most federal challenges to red light cameras have claimed violations of the U.S. Constitution but have proved fruitless. As a threshold issue,⁸⁶ courts have uniformly concluded that the penalties imposed for a violation detected by a red light camera are civil rather than criminal in nature.⁸⁷ Courts look to seven

note 9, at 9. (follow "Traffic Control" tab; then follow "Traffic Enforcement Systems Policy" hyperlink).

⁸³ GA. CODE ANN. § 40-14-25(c) (West 2011).

⁸⁴ *Id.* at -26(b).

⁸⁵ Carlos Sun, *Is Robocop A Cash Cow? Motivations for Automated Traffic Enforcement*, 78 J. TRANSP. L., LOGISTICS, & POL'Y 1 (2011), available at http://www.atsol.com/wp-content/uploads/2012/03/2010_UniversityOfMissouri_IsRobocopACashCow.pdf.

⁸⁶ *Id.* ("One central question affecting other legal issues relating to automated enforcement system traffic law enforcement is whether the violations enforced with the devices are considered civil or criminal.").

⁸⁷ *Bevis v. City of New Orleans*, 686 F.3d 277 (5th Cir. 2012); *Mendenhall v. City of Akron*, 374 Fed. Appx. 598 (6th Cir. 2010); *Shavitz v. City of High Point*, 270 F. Supp. 2d 702 (M.D.N.C. 2003); *Fischetti v. Village of Schaumburg*, 967 N.E.2d 950 (Ill. App. Ct. 2012); *City of Creve Coeur v. Nottebrok*, 356 S.W.2d 252 (Mo. Ct. App. 2011). *But see City of Knoxville v. Brown*, 330 S.W.3d 330, 338 (Tenn. Ct. App. 2008) (applying Tennessee law, holding that a \$50 fine imposed by a red light camera ordinance was civil "for procedural and appellate issues," but that "constitutional protections are triggered.").

factors to make this determination.⁸⁸ This determination is significant because certain constitutional protections are only applicable to defendants in criminal proceedings.⁸⁹ However, even if a violation detected by a red light camera did impose a criminal penalty, it would be unlikely that a court would find a constitutional violation.⁹⁰

The payment or threatened imposition of a monetary penalty under a red light camera ordinance or statute is a property interest protected by the Due Process Clause.⁹¹ Thus, the recipient of a ticket is entitled to “some form of hearing . . . in a meaningful time and a meaningful manner.”⁹² To determine if administrative procedures provided are constitutionally sufficient, courts consider the private interest that will be affected by the official action, the risk of an erroneous deprivation under the procedures provided, and the government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail.⁹³ Claims of procedural due process violations will be barred if one fails to utilize the

⁸⁸ *Hudson v. United States*, 522 U.S. 93, 99–100 (1997) (further citation omitted). Additionally, using the term “guilty,” rather than “liable,” to describe someone who violates a city ordinance authorizing red light cameras is another factor that weighs in favor of finding that the ordinance is criminal in nature. See *Balaban v. City of Cleveland*, No. 1:07-CV-1366, 2010 WL 481283 (N.D. Ohio Feb. 5, 2010).

⁸⁹ *Bevis*, 686 F.3d at 377 (refusing to address the plaintiffs' *Ex Post Facto* Clause claim, because it only applies to criminal sanctions); *Sevin v. Parish of Jefferson*, 621 F. Supp. 2d 372, 378 (E.D. La. 2009) (“[T]he classification of the ordinance determines which procedures are constitutionally required.”) (citation omitted); *Nottebrok*, 356 S.W.2d 252.

⁹⁰ *Sevin*, 621 F. Supp. 2d 372. See also *Gardner v. City of Cleveland*, 656 F. Supp. 2d 751, 763 (N.D. Ohio 2009) (concluding that a civil penalty of \$100 for running a red light is proportionate to the offense and does not violate the Excessive Fines Clause of the Eighth Amendment).

⁹¹ *Ware v. Lafayette City-Parish Consol. Gov't*, No. 08-0218, 2009 WL 5876275, *7 (W.D. La. Jan. 6, 2009) (citing *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976) (further citation omitted)).

⁹² *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976).

⁹³ See *id.* at 335.

procedures available to them, and then later challenges those procedures.⁹⁴

A red light camera ordinance or statute may impose liability using a preponderance of the evidence standard.⁹⁵ A rebuttable presumption that the owner of a vehicle is presumed to have been operating it during the commission of a traffic infraction, observed by a red light camera, does not impermissibly shift the burden of proof to the defendant, in violation of due process.⁹⁶ For rebuttable presumptions created by statute, due process requires a closer connection between the fact proved and the fact presumed if the statute is criminal rather than civil.⁹⁷ “[I]t was rational for the legislature to assume that registered owners commonly drive their own cars.”⁹⁸ Doing away with a rebuttable presumption altogether, holding vehicle owners strictly liable for the violation, and only permitting them to shift responsibility to the actual driver in certain circumstances, does not violate due process.⁹⁹ However, Judge Clay of the U.S. Court of Appeals

⁹⁴ *Williams v. Redflex Traffic Systems, Inc.*, 582 F.3d 617, 620 (6th Cir. 2009); *Gardner*, 656 F. Supp. 2d at 758-60; *Shavitz v. City of High Point*, 270 F. Supp. 2d 702, 708 (M.D.N.C. 2003). Moreover, an individual who fails to contest a citation and chooses to pay it may be unable to recover the money paid in a civil action. *Baker v. Montgomery County*, 50 A.3d 1112, 1122 (Md. 2012) (concluding that Maryland's speed camera statute does not permit a private cause of action).

⁹⁵ See *Gardner*, 841 F.2d at 763.

⁹⁶ *Agomo v. Fenty*, 916 A.2d 181, 193 (D.C. 2007); *State v. Dahl*, 87 P.3d 650, 655 (Or. 2004). This presumption is perhaps the most heavily litigated aspect of red light camera programs. Paul McNaughton, *Photo Enforcement Programs: Are They Permissible Under the United States Constitution?*, 43 J. MARSHALL L. REV. 463, 470 (2010).

⁹⁷ Compare *Leary v. United States*, 395 U.S. 6, 36 (1969) (“[A] criminal statutory presumption...[is] unconstitutional, unless it can at least be said with substantial assurance that the presumed fact is more likely than not to flow from the proved fact on which it is made to depend.”), with *Userly v. Turner Eklhorn Mining Co.*, 428 U.S. 1, 28 (1976) (avoiding a due process violation in a civil case requires only “some rational connection between the fact proved and the ultimate fact presumed, and that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate”) (quoting *Mobile, J. & K. C. R. Co. v. Turnispeed*, 219 U.S. 35, 43 (1910)).

⁹⁸ *Dahl*, 87 P.3d at 656.

⁹⁹ *Mendenhall*, 374 Fed. Appx. at 600; *City of Knoxville*, 284 S.W.3d at 338-39.

for the Sixth Circuit wrote in a dissent that due process is violated if a red light camera ordinance or statute fails to provide vehicle owners with an opportunity to avoid liability by proving that they did not commit the infraction.¹⁰⁰

Focusing on the vendor or on the hearing officer has been a dead-end for litigants. There is no biased adjudication process, and therefore no due process violation, if a red light camera vendor does not determine the liability of those who contest a ticket.¹⁰¹ In addition, a hearing officer's ability to act impartially is not compromised if they are paid \$25 per appeal regardless of outcome.¹⁰² Similarly, it is constitutional for the same individual to both introduce evidence against a defendant and to act as the finder of fact.¹⁰³ A hearing officer's status as an employee of the municipal executive does not offend due process.¹⁰⁴ The large sums of money involved in administering a red light camera program have not created a biased adjudication process because the compensation the vendor receives has no effect on the adjudicative process, since the vendor does not determine liability.¹⁰⁵ Additionally, the hearing offered to those who dispute citations need not adhere to the formal rules of evidence.¹⁰⁶

¹⁰⁰ *Mendenhall*, 374 Fed. Appx. at 600 (Clay, J., dissenting).

¹⁰¹ *Agomo*, 916 A.2d at 195–96; *Sevin*, 621 F. Supp. 2d at 384–85. Due process prohibits a judge from having a financial interest in the outcome of a case. See *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 875–78 (2009) (citing *Turney v. Ohio*, 273 U.S. 510 (1927)).

¹⁰² *Shavitz*, 270 F. Supp. 2d at 720.

¹⁰³ *Gardner*, 656 F. Supp. 2d at 762–63.

¹⁰⁴ *Bevis*, 686 F.3d at 281; see *Agomo*, 916 A.2d at 196.

¹⁰⁵ See *id.* at 194–97. A contract tying the revenue generated by a vendor to the number of tickets issued could be problematic. See *Sun*, *supra* note 85, at 14 ("Because vendors have a financial interest in the success of convictions, a court could question the objectivity of the private vendor testimony.").

¹⁰⁶ *Balaban*, 2010 WL 481283, at *6 (citing *Gardner v. City of Columbus*, 841 F.2d 1272, 1280 (6th Cir. 1988)). The court observed that dispensing with formal evidentiary rules would benefit defendants because it would facilitate a *pro se* party's representation of their case, and most defendants would act *pro*

Courts have rejected claims that red light camera ordinances and statutes violate substantive due process.¹⁰⁷ Chief Judge Easterbrook of the Seventh Circuit concluded both that there was no fundamental right to run a red light to avoid being seen by a camera on a public street and that such a right does not exist in a property interest as modest as the \$90 fine at stake for a traffic infraction.¹⁰⁸ He concluded that it was rational to fine owners rather than drivers.¹⁰⁹ Owners would otherwise point the finger at others and make it difficult to prove.¹¹⁰ Holding owners liable reduces the cost of law enforcement and increases the number of violations detected.¹¹¹ The owner will take greater care before lending their car, and need not bear the loss by demanding that the driver reimburse them if he wants to use the car again or otherwise maintain the friendship.¹¹²

Courts have also rejected challenges to red light cameras under the Equal Protection Clause of the Fourteenth Amendment. Courts have applied rational basis review because of their inability to identify any fundamental right abridged by a red light camera ordinance, statute, or any membership by a plaintiff in a suspect class.¹¹³ Distinguishing between lessors and other types of owners, by holding lessees and the owners of non-leased vehicles liable for violations, does not violate the Equal Protection Clause.¹¹⁴ Lessees are like owners because a lease is akin to a sale with a retained security interest;

se, given the nature of the violation and the cost of hiring an attorney. *Id.* at *7, n.3.

¹⁰⁷ *Idris v. City of Chicago*, 552 F.3d 564, 565–66 (7th Cir. 2009); *Gardner*, 656 F. Supp. 2d at 760–62.

¹⁰⁸ *See Idris*, 522 F.3d at 566.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *See Shavitz*, 270 F. Supp. 2d at 722.

¹¹⁴ *See Idris*, 522 F.3d at 567.

additionally, they have more control over the car than the lessor.¹¹⁵ A Florida appellate court concluded there was no equal protection violation because drivers stopped by an officer for running a red light are situated differently than those photographed doing so.¹¹⁶ However, even if they were similarly situated, there was a rational basis for treating them differently because points are assigned to the driver if stopped by a police officer, but the driver does not receive points if they are photographed by a camera committing a traffic violation.¹¹⁷ Mailing a violation to the vehicle's registered owner does not violate the Equal Protection Clause.¹¹⁸

However, an Ohio appellate court concluded that a failure to enforce an ordinance requirement that signage must warn motorists of speed camera locations results in an equal protection violation.¹¹⁹ The court wrote that a failure to enforce this requirement:

[W]ould create two classes of citizens similarly situated and treat them unequally: those ordinary observant motorists that received no notice that they are approaching an area where a mobile automated camera is monitoring for red light or speed violators and those ordinary observant motorists that received notice that they are approaching an area where a fixed or stationary automated camera is monitoring for red light or speed violators.¹²⁰

¹¹⁵ *See id.*

¹¹⁶ *State v. Arrington*, 95 So. 3d 324, 327 (Fla. Dist. Ct. App. 2012).

¹¹⁷ *Arrington*, 95 So. 3d at 327.

¹¹⁸ *City of Knoxville*, 284 S.W.3d at 339.

¹¹⁹ Steven A. Glazer, *Those Speed Cameras Are Everywhere: Automated Speed Monitoring Law, Enforcement, and Physics in Maryland*, 7 J. BUS. & TECH. L. 1, 8 (2012) (citing *Cleveland Parking Violations Bureau v. Barnes*, No. 94502, 2010 WL 5238601, at *1 (Ohio Ct. App. Dec. 16, 2010)).

¹²⁰ *Barnes*, 2010 WL 5238601 at *5.

Finally, red light camera ordinances or statutes are not susceptible to challenges under the Takings Clause of the Fifth Amendment because “a taking does not occur when [a] statute . . . poses a monetary assessment that does not affect a specific interest in property.”¹²¹

B. CHALLENGES UNDER STATE LAW HAVE HAD MIXED SUCCESS

Challenges to red light cameras have had more success in state court.¹²² For example, a North Carolina appellate court concluded that a municipality violated the state constitution by keeping revenue from red light cameras, because the constitution required that the proceeds collected under a city’s red light camera program be directed to the local public schools.¹²³ The court also held that ninety percent of the revenue generated by red light cameras must be directed to local public schools, because municipalities are only allowed to deduct the actual costs of collecting fines and penalties, up to ten percent of the amount collected.¹²⁴

In the wake of this decision, several North Carolina cities shut down their red light camera programs.¹²⁵ However, Raleigh, Cary, and Wilmington continue to operate red light cameras.¹²⁶ Wilmington decided to extend its program for

¹²¹ *McCarthy v. City of Cleveland*, 626 F.3d 280, 285 (6th Cir. 2010).

¹²² Kevin P. Shannon, *Speeding Towards Disaster: How Cleveland’s Traffic Cameras Violate The Ohio Constitution*, 55 CLEV. ST. L. REV. 607, 617 (2007).

¹²³ *Shavitz*, 270 F. Supp. 2d at 702.

¹²⁴ *Id.*

¹²⁵ These cities included Charlotte, Fayetteville, Chapel Hill, Greensboro, Greenville, and Highpoint. See Dan Bowens, *Raleigh to Expand Red-light Cameras*, WRAL.COM (Aug. 20, 2008), <http://www.wral.com/news/local/story/3407391>.

¹²⁶ *Id.*; Renee Chou, *Study: Red-light Camera Decreasing Wrecks in Cary*, WRAL.COM (Mar. 9, 2009), <http://www.wral.com/traffic/story/4281997>; Patrick Gannon, *Wilmington Expected to Renew Red Light Camera Program*, THE STAR-NEWS (Aug. 3, 2009), <http://www.starnewsonline.com/article/20090803/ARTICLES/908039954>.

another three years after New Hanover County agreed to contribute to the cost of the program.¹²⁷ The county reasoned that it was a good deal because the income to county schools was expected to exceed the amount of the county's contribution. Under the agreement, the county is expected to contribute \$200,000, and expects to receive three times that amount in the first year.¹²⁸

The most common argument in state court is that local governments lack authority to enact ordinances permitting photo enforcement or that the ordinances are preempted by state law.¹²⁹ Preemption arguments based upon similarly worded ordinances may reach different results in different states because of differences in state laws.¹³⁰ These arguments have failed in Iowa, New Mexico, and Ohio, and are currently pending before the Supreme Court of Florida.¹³¹

In contrast, the Minnesota Supreme Court held that a Minneapolis ordinance authorizing the use of red-light cameras was invalid because Minnesota Traffic Regulations ("the Act") preempted the ordinance.¹³² The ordinance featured provisions absent in the Act: it allowed for photo enforcement of red-light violations, it penalized the owner of the motor vehicle, and it contained a rebuttable presumption that the owner was the driver of the motor vehicle.¹³³ The ordinance conflicted with the Act because an owner's liability is greater under the former than the latter. Thus, an owner's liability would be broader in Minneapolis than it would be throughout the state, preventing a

¹²⁷ Gannon, *supra* note 126.

¹²⁸ *Id.*

¹²⁹ McNaughton, *supra* note 96, at 470.

¹³⁰ *Idris*, 552 F.3d at 567.

¹³¹ *City of Orlando v. Udowychenko*, 98 So. 3d 589, 597 (Fla. Dist. Ct. App. 2011), *cert. granted*, No. SC12-1471, 2012 WL 5991338 (Fla. Nov. 6, 2012); *Seymour*, 755 N.W.2d at 541-42; *Titus v. City of Albuquerque*, 252 P.3d 780, 790-92 (N.M. Ct. App. 2011), *cert. quashed*, 265 P.3d 718 (N.M. Mar. 22, 2013); *Mendenhall*, 881 N.E.2d at 255.

¹³² *State v. Kuhlman*, 729 N.W.2d 577, 584 (Minn. 2007).

¹³³ *Id.* at 582.

uniform application of the law.¹³⁴ Finally, the presumption in the ordinance shifted the burden of proof, providing less personal protection than if the defendant was charged with violating the Act.¹³⁵ Therefore, the Supreme Court of Minnesota held the ordinance invalid.¹³⁶ In the wake of this decision, a class action lawsuit was filed against the City of Minneapolis and the city agreed to refund the money it had collected under its red light camera program.¹³⁷

Similarly, the Colorado Supreme Court concluded that a number of local ordinances conflicted with state statutes regulating cameras by rejecting an argument made by a number of cities that the statutes violated the Colorado Constitution by infringing upon their home-rule powers.¹³⁸ The Court noted that there was little uniformity in the programs of the two cities that operated the cameras prior to enactment of the state statutes in question.¹³⁹ For example, one city used automated enforcement only on state highways and never on local streets, while the other used the cameras primarily on local streets.¹⁴⁰ Ninety percent of citations in one city were issued to non-residents, while the figure was about forty percent in the other city.¹⁴¹ While one city would post a warning that automated enforcement was in use at the city's borders, the other city would post a warning 200 feet before a camera.¹⁴²

In March 2010, the Missouri Supreme Court invalidated a city's red light camera ordinance because the procedure it

¹³⁴ *Id.* at 583.

¹³⁵ *Id.* at 583–84.

¹³⁶ *Id.* at 584.

¹³⁷ *Shapira v. City of Minneapolis*, No.CV-06-02190, 2012 WL 1438813, at *1–2 (D. Minn. Apr. 2, 2009) (order granting final judgment).

¹³⁸ *City of Commerce City v. State*, 40 P.3d 1273, 1285 (Colo. 2002).

¹³⁹ *Id.* at 1277.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

provided for motorists to contest their violations conflicted with state statutes.¹⁴³ The city code provided that disputes over red light camera citations be adjudicated in an administrative hearing.¹⁴⁴ The Court concluded that the city's administrative system, where defendants contest red light camera violations before a hearing examiner, conflicts with a state statute that requires violations of a municipal ordinance be heard before a judge in court.¹⁴⁵ The Court vacated the defendant's fine, holding that the administrative hearing that occurred was void because it was inconsistent with Missouri statutes.¹⁴⁶

A successful legal challenge to the red light program in New Orleans brought a halt to that program for several days, until local officials could make the changes necessary for the program to comply with local laws.¹⁴⁷ On October 1, 2010, Judge Paulette Irons issued an injunction preventing the city from issuing tickets based on red light cameras and speed cameras because the program violated the city charter.¹⁴⁸ Under the city charter, the police department had the sole authority to enforce traffic violations; however, the public works department had overseen the cameras.¹⁴⁹ Judge Irons cancelled the injunction several weeks later after the city enacted an ordinance shifting control of the program to the police department.¹⁵⁰

¹⁴³ *City of Springfield v. Belt*, 307 S.W.3d 649, 650 (Mo. 2010) ("This is a \$100 case. But sometimes, it's not the money - it's the principle.").

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 653.

¹⁴⁶ *Id.*

¹⁴⁷ Bruce Egger, *N.O. Speeding Cameras Get Green Light: Judge Cancels Order That Halted Tickets*, NEW ORLEANS TIMES-PICAYUNE, Nov. 17, 2010, available at 2010 WLNR 22869413.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

C. EVIDENTIARY CHALLENGES TO RED LIGHT CAMERAS

Defendants have successfully challenged the evidence generated by red light cameras in Florida and California. Courts in these states have refused to admit this evidence, concluding that the evidence is hearsay or that the evidence could not be authenticated, resulting in an improper foundation.¹⁵¹

Two different panels of a California appellate court have come to opposite conclusions regarding evidence generated by red light cameras. In one case, a panel reversed a motorist's conviction for running a red light, concluding that the trial court erred by admitting photographs and maintenance logs.¹⁵² Since the testifying police officer was unable to authenticate evidence generated by the cameras, an adequate foundation could not be laid for its introduction under the business records exception to the hearsay rule.¹⁵³ However, another panel affirmed a motorist's conviction for running a red light, concluding the prohibition against hearsay did not require the exclusion of such evidence because no foundation is necessary to admit computer data, since such data is not a "statement" under the rule against hearsay.¹⁵⁴ While the appeal from the latter case was pending before the California Supreme Court, the California legislature enacted a statute declaring that evidence generated by red light cameras is presumed to be accurate and is not hearsay.¹⁵⁵

Defendants challenging a citation from a red light camera may be entitled to cross-examine the person who issued the

¹⁵¹ See Logan Neill, *Judge Dismisses Brooksville Red Light Camera Ticket*, TAMPA BAY TIMES, (Oct. 6, 2012), <http://www.tampabay.com/news/publicsafety/judge-dismisses-brooksville-red-light-camera-citation/1255012>; *Fourth California County Rejects Red Light Camera Evidence*, THE NEWSPAPER.COM (Feb. 23, 2011), <http://www.thenewspaper.com/news/34/3411.asp>.

¹⁵² *People v. Borzakian*, 203 Cal. App. 4th 525, 539–48 (Ct. App. 2012), review granted, 280 P.3d 536 (2012).

¹⁵³ *Id.* at 531.

¹⁵⁴ *People v. Goldsmith*, 203 Cal. App. 4th 1515, 1525, review granted, 280 P.3d 535 (2012).

¹⁵⁵ CAL. VEH. CODE § 21455.5-7 (West 2011).

citation after reviewing information from the camera.¹⁵⁶ In *Posner*, a defendant in Ohio was held liable for speeding, based on evidence from a speed camera, at an administrative hearing after he was denied the opportunity to call or subpoena the police officer who issued or reviewed his notice of liability.¹⁵⁷ The defendant appealed to the Court of Common Pleas requesting discovery of additional evidence and included a notice of deposition to the city.¹⁵⁸ When this approach failed, the court denied his motion to compel discovery and affirmed the hearing examiner's decision.¹⁵⁹ The appellate court concluded that the trial court abused its discretion by doing so because Ohio law permits a party to introduce additional evidence in administrative appeals when the party was not permitted to offer evidence or cross-examine witnesses at the administrative hearing.¹⁶⁰

III. POLITICAL CHALLENGES TO RED LIGHT CAMERAS

Red light cameras are perhaps more vulnerable to political challenges than legal challenges. The greatest popular criticism of the cameras is that they are merely a way to generate revenue, rather than to protect public safety.¹⁶¹ Indeed, there is considerable circumstantial and anecdotal evidence to support this criticism.

In 2005, Governor Ehrlich of Maryland vetoed a bill that would have authorized speed cameras, in part over concerns that such programs tend to expand once jurisdictions receive increased revenues and that the rationale for the expansion

¹⁵⁶ A Maryland statute provides that a driver who receives a ticket from a speed camera may request up to 20 days before trial that a speed monitoring system operator testify in court. Glazer, *supra* note 119 (citing MD. CODE ANN. TRANSP. § 21-809(e)(2) and MD. CODE ANN. TRANSP. § 21-810(e)(2)).

¹⁵⁷ *City of Cleveland v. Posner*, 951 N.E.2d 476, 482 (Ohio Ct. App. 2011).

¹⁵⁸ *Id.* at 479.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 485.

¹⁶¹ Sun, *supra* note 85, at 6.

“may be purely monetary.”¹⁶² The Governor pointed to a letter from Washington, D.C. Mayor Anthony A. Williams to the City Council, urging the approval of a contract in order to “ensure the continued . . . collection of District revenues.’ There was no mention of traffic safety in his letter.”¹⁶³ In Virginia, the state legislature—in the same legislative session—authorized the use of red light cameras and created “civil remedial fees” to be assessed against Virginia residents convicted of certain offenses related to motor vehicles or driving, the purpose of which was to generate revenue.¹⁶⁴

In 2009, while New York State faced a \$3–4 billion budget deficit that was forecast to increase to as much as \$50 billion by early 2013, the state legislature granted Nassau and Suffolk Counties, as well as the cities of Buffalo, Rochester, Syracuse, and Yonkers, the authority to operate red light cameras.¹⁶⁵ Nassau County wasted little time, with the installation of cameras at its allocated fifty intersections, commencing in the first week of August 2009.¹⁶⁶ However, its haste led the county to install cameras in several locations where the town and not the county would keep the revenue, leading the county to

¹⁶² Letter from Robert L. Ehrlich, Jr., Governor, Maryland, to Michael E. Busch, Speaker, Maryland House of Delegates (May 20, 2005), available at http://mlis.state.md.us/2005rs/veto_letters/hbo443.htm.

¹⁶³ *Id.*

¹⁶⁴ See 2007 Va. Legis. Serv. 836 (West) and 2007 Va. Legis. Serv. 903 (West) (creating VA. CODE ANN. § 15.2-968.1 (West 2011) (regulating the use of red light cameras)). 2007 Va. Legis. Serv. 896 (authorizing “civil remedial fees”) was repealed by 2008 Va. Legis. Serv. 656 and 657 (West).

¹⁶⁵ Danny Hakim, *Paterson Proposes Cuts Of Billions in Spending*, N.Y. TIMES, Oct. 16, 2009, at A23, available at <http://www.nytimes.com/2009/10/16/nyregion/16budget.html>; 2009 N.Y. Laws 18, § 1 (McKinney 2009); 2009 N.Y. Laws 19, § 3 (McKinney 2009); 2009 N.Y. Laws 20, § 16 (McKinney); 2009 N.Y. Laws 21, § 16 (McKinney); 2009 N.Y. Laws 22, § 16 (McKinney); 2009 N.Y. Laws 23, § 3 (McKinney); 2009 N.Y. Laws 383 (McKinney).

¹⁶⁶ Press Release, American Traffic Solutions, Inc., New York Voters Express Strong Support for Red-Light Cameras (Oct. 1, 2009), available at <http://www.reuters.com/article/pressRelease/idUS103998+01-Oct-2009+BW20091001>.

uninstall these cameras.¹⁶⁷ The county reversed itself, and only decided to reinstall the cameras after a political opponent criticized the county executive, who said that the county's decision "showed that the county was 'less concerned about public safety and more interested in collecting the dollars expected from the red-light cameras program.'"¹⁶⁸ The \$18 million that Nassau County generated in revenue from red light cameras in 2010 was not enough to solve its budget problems; a state oversight board took control over the county's finances in late January of 2011 because of a \$176 million deficit.¹⁶⁹ Barely a month later, although it was too soon to tell whether the red light cameras were effective, the county legislature voted to seek state approval to double the number of cameras in its program from fifty to 100, despite questions from some residents and advocacy groups about whether the program was about traffic safety or about generating revenue for the county.¹⁷⁰

The criticism that red light cameras are more about the generation of revenue than public safety is bolstered when the duration of the yellow light is shorter than required. Glassboro, New Jersey has been forced to issue refunds to motorists when it was discovered that the yellow interval at one intersection was 2.8 seconds, which is more than a full second shorter than the four seconds required in a thirty-five mile-per-hour zone like the one in question.¹⁷¹ A Maryland judge reported that at one

¹⁶⁷ William Murphy, *1 New Red-Light Cam Shut*, NEWSDAY, Aug. 8, 2009, at A10, available at 2009 WLNR 15349973; William Murphy, *3 More Red-Light Cameras Going Into Operation*, NEWSDAY, Aug. 12, 2009, available at 2009 WLNR 15604297.

¹⁶⁸ William Murphy, *Nassau To Reinstall Red-Light Camera*, NEWSDAY, Aug. 12, 2009, available at 2009 WLNR 15619593.

¹⁶⁹ Celeste Hadrick & William Murphy, *Board Votes To Take Over Nassau's Finances*, NEWSDAY, Jan. 26, 2011, at A2, available at <http://www.newsday.com/long-island/nassau/board-votes-to-take-over-nassau-s-finances-1.2639172>; Sid Cassese, *Nassau County: Push for 50 more Red-Light Cameras*, NEWSDAY, Feb. 8, 2011, at A29.

¹⁷⁰ Cassese, *supra* note 169; William Murphy, *Nassau County: Proposal To Expand Red-Light Cameras Debated*, NEWSDAY, Mar. 1, 2011, at A21, available at 2011 WLNR 3941407.

¹⁷¹ Brian Taff, *Fmr. Mayor Fights Traffic Light Ticket*, 6ABC.COM (Oct. 27, 2010), <http://abclocal.go.com/wpvi/story?section=news/local&id=7750280>.

intersection, where the minimum length of the yellow light should have been 3.5 seconds, the duration of the light actually varied from 2.9 to 3.2 seconds.¹⁷² The same judge found that forty percent of 180 citations issued in Baltimore were issued where the yellow light interval was inconsistent overall or inconsistent with the city standard. Ten percent of these 180 citations had yellow light intervals shorter than the three-second federal minimum.¹⁷³

Political challenges to red light cameras may come in the form of elected officials who introduce legislation to restrict or ban the use of the cameras. The cameras are prohibited by statute in a number of states.¹⁷⁴ Cameras have also been banned at the local level by referendum; “[p]hoto enforcement has never survived a public vote.”¹⁷⁵ Voters in the following municipalities have rejected red light cameras or speed cameras: Anchorage, Alaska; Anaheim, California; Sulphur, Louisiana; Sykesville, Maryland; Peoria, Arizona; Batavia, Illinois; Mukilteo, Washington; and a number of municipalities in Texas and Ohio.¹⁷⁶ The referendum in Mukilteo, Washington passed with 71% voter support and requires the voters there to approve the use of red light cameras and speed cameras before such technology can be used.¹⁷⁷

¹⁷² Keith E. Mathews, *Red Light Camera Enforcement System in Baltimore City: For Revenue or Safety?*, HIGHWAYROBBERY (2002), available at <http://www.highwayrobbery.net/redlightcamsJudgeMathewsReport.html>

¹⁷³ *Id.* at 7.

¹⁷⁴ *Fifteen States, Twenty-one Cities Where Automated Ticketing is Banned*, THENEWSPAPER.COM (May 7, 2009), <http://www.thenewspaper.com/news/27/2769.asp>; See also GOVERNORS HIGHWAY SAFETY ASS'N, *supra* note 13.

¹⁷⁵ *Photo Enforcement Has Never Survived*, PHOTOENFORCED (Nov. 3, 2010), <http://blog.photoenforced.com/2010/11/photo-enforcement-has-never-survived.html#.UYWXgyt35c8>.

¹⁷⁶ *Id.*

¹⁷⁷ Chris Grygiel, *Will the State Legislature Eliminate Red-Light Cameras?*, SEATTLEPI (Feb. 3, 2011, 6:16 PM), <http://blog.seattlepi.com/seattlepolitics/archives/238149.asp>; Scott Gutierrez, *Voters Might Get More Say On Red-Light Cameras*, SEATTLEPI (Jan. 30, 2011, 1:34 PM), <http://blog.seattlepi.com/transportation/archives/237554.asp>.

The referendum that ended Houston's red light camera program in November 2010 had a number of unintended consequences. First, it created an immediate \$10 million budget deficit.¹⁷⁸ Second, it set off a string of litigation with the city first filing a preemptive lawsuit asking how it should proceed in the wake of the vote, followed by the vendor filing a countersuit seeking to nullify the referendum.¹⁷⁹ Promoters of the referendum were concerned that the city would do a weak job defending the lawsuit due to the deficit it would create; those concerns grew after a federal judge refused to allow the referendum's supporters to intervene and help defend the referendum.¹⁸⁰ The city settled with the vendor for \$4.8 million.¹⁸¹ Similar events played out in College Station after voters there voted to ban the cameras.¹⁸² The vendor successfully challenged the referendum, and the city council voted to terminate the contract.¹⁸³

IV. CONCLUSIONS

The installation of red light cameras often heralds the increased use of other automated traffic enforcement mechanisms. In 2012, in accordance with a committee's recommendation, Pennsylvania expanded the authorization for

¹⁷⁸ Bradley Olson, *Red Light Camera Issue Gets Hot in Houston*, HOUSTON CHRONICLE (Nov. 30, 2010), <http://www.chron.com/disp/story.mpl/metropolitan/7318259.html>.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*; Bradley Olson, *Judge Puts the Brakes on Red-Light Camera Opponents*, HOUSTON CHRONICLE (Dec. 12, 2010), <http://www.chron.com/disp/story.mpl/headline/metro/7336185.html>. The denial of intervention was reversed on appeal. See *City of Houston v. Am. Traffic Solutions*, 668 F.3d 291 (5th Cir. 2012).

¹⁸¹ *Texas: Federal Appeals Court Defends Anti-Camera Referendum*, THE NEWSPAPER.COM (Jan. 25, 2012), <http://www.thenewspaper.com/news/36/3698.asp>.

¹⁸² Olson, *supra* note 179.

¹⁸³ *Id.*

red light cameras from Philadelphia to other municipalities.¹⁸⁴ The committee also recommended the installation of speed cameras in highway work zones.¹⁸⁵ New York City began using red light cameras in 1993.¹⁸⁶ The state authorized additional cameras in the city in 2006 and in other cities and counties across the state in 2009.¹⁸⁷ Starting in November 2010, the city began using cameras to prosecute drivers that illegally traveled in “bus only” lanes.¹⁸⁸ In January 2010, Governor Paterson suggested putting speed cameras on highways and concentrating them in work zones.¹⁸⁹

Similarly, after Baltimore began to operate red light cameras in February 1999, Maryland now uses speed cameras as well.¹⁹⁰ In 2009, the Delaware House of Representatives passed legislation authorizing the use of speed cameras near schools and construction zones; Delaware has operated red light cameras since 2004.¹⁹¹ In six consecutive years, a bill was

¹⁸⁴ 2012 Pa. Laws 84; *Final Report*, PA GOVERNOR’S TRANSP. FUNDING COMMISSION 26 (2011), available at <ftp://ftp.dot.state.pa.us/public/pdf/TFAC/TFAC%20Final%20Report%20-%20Spread%20Version.pdf>.

¹⁸⁵ *Id.* at 26.

¹⁸⁶ *Traffic Signals*, NYC.GOV, <http://www.nyc.gov/html/dot/html/infrastructure/signals.shtml> (last visited May 4, 2013).

¹⁸⁷ *Id.*

¹⁸⁸ See Jeremy W. Peters, *More Red-Light Cameras on the Way*, N.Y. TIMES (April 7, 2009, 4:37 PM), <http://cityroom.blogs.nytimes.com/2009/04/07/more-red-light-cameras-on-the-way/>; Michael M. Grynbaum, *Smile. You’re on Bus Lane Camera*, N.Y. TIMES (Nov. 22, 2010, 11:55 AM), <http://cityroom.blogs.nytimes.com/2010/11/22/smile-youre-on-bus-lane-camera/>.

¹⁸⁹ Glenn Coin, *State May Rely on Technology to Catch Speeders in Work Zones, Other Dangerous Spots*, SYRACUSE POST-STANDARD (Jan. 26, 2010), http://www.syracuse.com/news/index.ssf/2010/01/state_might_rely_on_technology.html.

¹⁹⁰ INS. INST. FOR HIGHWAY SAFETY, *supra* note 2; See *Transportation/Red Light Camera Program*, CITY OF BALTIMORE, MARYLAND, <http://www.baltimorecity.gov/Government/AgenciesDepartments/Transportation/RedLightCameraProgram.aspx>.

¹⁹¹ See H.B. 197, 145th Gen. Assemb. (Del. 2009); DEL. DEP’T OF TRANSP., *Electronic Red Light Safety Program “After” Analysis Summary 4* (2007),

introduced in the New Jersey General Assembly that would authorize the use of speed cameras.¹⁹² New Jersey authorized red light cameras in 2007.¹⁹³ Shortly after the Alabama legislature authorized the city of Montgomery to operate red light cameras, the city began to consider whether to use speed cameras as well.¹⁹⁴

Public officials who wish to implement a red light camera program are tasked with designing one that is legally sufficient and politically acceptable. In order for a program to be legally sufficient, authorization ought to be secured from the state legislature before municipalities begin to install and operate red light cameras. This statute should require that vendors be compensated by a flat-fee arrangement rather than relying on the number of citations issued. Furthermore, someone other than the vendor should decide whether to issue a citation. If one wishes to challenge a citation, the statute should provide for a hearing before a neutral party, and the defendant ought to be able to call witnesses and request and introduce relevant evidence, including evidence that they were not driving at the time the violation occurred.

In order for a red light camera program to be politically acceptable, it must be administered in a uniform, neutral, and transparent manner, which furthers the goal of transportation safety. Uniformity is achieved by a detailed state statute enacted by the state legislature, which prevents municipalities throughout a state from using red light cameras in inconsistent ways. Transparency may be accomplished by posting signs warning drivers that intersections are monitored by red light cameras, listing these locations on the Internet, and requiring

available at http://www.deldot.gov/information/red_light/pdfs/after_analyses_summary.pdf (last accessed Apr. 21, 2013).

¹⁹² Assemb. No. 1061, 214th Legis. (N.J. 2011); Assemb. No. 805, 213th Legis. (N.J. 2010); Assemb. No. 2064, 212th Legis. (N.J. 2009); Assemb. No. 2369, 211th Legis. (N.J. 2008); Assemb. No. 1627, 210th Legis. (N.J. 2007); Assemb. No. 2045, 209th Legis. (N.J. 2006).

¹⁹³ 2007 N.J. Sess. Law Serv. 348 (West).

¹⁹⁴ *Montgomery Considers High-Tech Help With Speeders Using Red-Light Camera Technology*, MONTGOMERY ADVERTISER, Dec. 16, 2009, available at 2009 WLNR 25305567.

regular reports about the use and effectiveness of red light cameras, including, hopefully, declining accident rates.

Neutrality is achieved by placing the state transportation department in charge of administering and regulating red light cameras. Citizens are more likely to accept decisions made by professional traffic engineers in accordance with accepted professional standards and practices, rather than decisions of elected officials. To that end, the transportation department should decide which intersections should have red light cameras, based upon neutral criteria and the review of a traffic engineering survey, as well as accident and traffic citation data. Cameras should only be approved after exploring alternative means of increasing the safety at intersections, such as improving signage, lighting, signal timing, grade or curvature of the approaching roadway, etc. The department should ensure that the equipment used at intersections with cameras is inspected at regular intervals.

Public support for red light cameras is heavily dependent on a safety justification.¹⁹⁵ The goal of transportation safety is furthered if the proceeds from red light cameras are dedicated to transportation-related improvements. Dividing these proceeds between the state government, for transportation related improvements around the state, and the local communities that operate the cameras, ought to be a politically acceptable compromise. Additionally, cameras ought to be removed if they do not demonstrate a meaningful reduction in collisions. In order to avoid an unexpected budget shortfall if camera use ends due to a successful legal or political challenge or if the cameras are so successful that violations and revenue decrease, public officials ought to avoid relying on red light camera revenue in formulating budgets. If possible, public officials ought to negotiate terms with vendors that limit the financial liability of the state or municipality if camera use ends due to a successful legal or political challenge.

Public officials who seek to use red light cameras should be on notice that the use of the red light camera is not to generate

¹⁹⁵ Cooper J. Strickland, *Lights, Camera...Ticket: Red Light Cameras After Idris v. City of Chicago*, 10 N.C. J.L. & TECH. ONLINE EDITION 119, 130 (2009), available at http://www.ncjolt.org/sites/default/files/Strickland_Cooper_final.pdf.

revenue and that officials should be prepared to defend camera-related litigation.

Individuals who receive a citation ought to take advantage of the procedures available to them to dispute the matter, rather than pay the civil penalty and then attempt to recover it later in a civil action. While legal practitioners challenging red light cameras could bring claims under the U.S. Constitution, they would be wise to focus their efforts on state law claims. Advocates should challenge the admission of evidence from red light cameras, arguing that such evidence is hearsay or that it cannot be authenticated, and therefore lacks a proper foundation for its admission. They should also call and cross-examine the person who issued the citation, as well as obtain documents about the maintenance and operation of the red light camera system and the traffic light system at the intersection in question.

The goal of red light cameras—greater public safety—can only be achieved if the cameras are operated in a legally sufficient and politically acceptable manner. As the cameras become more commonplace, the stakeholders involved in their use should continue to make adjustments in light of legislative action and court decisions, so that these goals may be achieved.