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7 District Attorney for the County of Orange

8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 KENNETH J. SCHMIER

12 Plaintiff,

13 v.

14 JUSTICES OF THE CALIFORNIA
15 SUPREME COURT, et al.,

16 Defendants.

NO. CV 09-02740 WHA

DECLARATION OF WILLIAM J.
FECCIA IN SUPPORT OF
DEFENDANT ANTHONY
RACKAUCKAS'S OPPOSITION TO
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

DATE: JULY 17, 2009
TIME: 2:00 P.M.
CTRM.: 9

20 DECLARATION OF WILLIAM J. FECCIA

22 I, William J. Feccia, declare:

23 I have personal knowledge of, and if called and sworn as a witness could and
24 would testify competently to, the following facts:

25 1. I am an attorney-at-law licensed to practice in the State of California and in
26 the Southern and Central federal districts of the State of California. I have been
27 employed by the Orange County District Attorney's Office as an attorney for over
28 thirty (30) years.

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

1 2. I am currently a Senior Assistant District Attorney and have occupied this
2 senior management position for over seven (7) years. I am directly supervised by
3 Defendant Anthony Rackauckas, Orange County District Attorney (the “District
4 Attorney”).

5 3. At all relevant times mentioned herein and at all times covered by the
6 allegations of the Complaint in this action, which I have reviewed, I have been employed
7 by the County of Orange in a senior, managerial position in the Office of the District
8 Attorney.

9 4. I am familiar with the Office’s practices and the manner in which it and its
10 employees carry out the duties, responsibilities and authority of the District Attorney.
11 This knowledge in part forms the basis for my statements in this declaration. In this
12 declaration, the term “District Attorney,” refers to not only the District Attorney himself
13 but also his designees and deputies who carry out his powers and duties.

14 5. The District Attorney prosecutes felonies and misdemeanors in the County
15 of Orange, but does not enforce the Rules of Court, including the Rule of Court regarding
16 the citation of unpublished case opinions, though the District Attorney may object to the
17 citation of unpublished opinion when done in the cases in which he appears.

18 6. The District Attorney does not appear in traffic cases in Orange County,
19 either in the trial courts or appellate department.

20 7. *People v. Fischetti*, (Case No. SA120279PE; Orange County Superior Court
21 Appellate Dept. Case No. 30-2008-00080937), referred to in Plaintiff’s moving papers as
22 “*Fischetti II*,” is the traffic case in which was issued the written opinion of the Superior
23 Court Appellate Dept., subsequently de-published by the California Supreme Court
24 (California Supreme Court Case No. S170231), which de-publication is the primary
25 subject of Plaintiff’s complaint.

26 8. The District Attorney did not appear in either the trial court proceedings, or
27 the Superior Court Appellate Dept. proceedings, of the “*Fischetti II*” case.

28 ///

EXHIBIT "1"

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE

DOCKET REPORT

Case : SA120279PE I A

Name : Fischetti, Thomas James

Date of Action	Seq Nbr	Code	Text
02/12/08	1	FLDOC	Original Citation filed on 02/12/2008 by Santa Ana Police Department.
	2	DFADD	Name recorded: Fischetti, Thomas James
	3	FLCNT	INFRACTION charge of 21453(a) VC filed as count 1. Date of violation: 02/06/2008.
02/14/08	1	NTSNT	Courtesy Notice sent.
03/28/08	1	CLCST	Arraignment set on 03/28/2008 at 08:30 AM in Department C54.
	2	HHELD	Hearing held on 03/28/2008 at 08:30:00 AM in Department C54 for Arraignment.
	3	OFJUD	Officiating Judge: Lyle J. Robertson, Commissioner
	4	OFJA	Clerk: M. Vazquez
	5	OFBAL	Bailiff.: Present
	6	OFREP	Court Reporter: None
	7	APDPP	Defendant present in Court in propria persona.
	8	DFCSR	Defendant provided a copy of the Statement of Rights by the Clerk's Office.
	9	ADASR	Defendant acknowledges reading and understanding the Statement of Rights.
	10	ADAIC	Defendant is formally arraigned and informed of the charges.
	11	PLNGC	To the Original Citation defendant pleads NOT GUILTY to count(s) 1.
	12	CLSET	Court Trial set on 04/30/2008 at 01:30 PM in Department C54.
	13	DFOTR	Defendant ordered to appear.
	14	DSROR	Court orders defendant released on own recognizance.
	15	NTDEF	Notice to defendant issued.
04/30/08	1	CLTRAN	<i>Calendar Line for CT transferred from C54 on 04/30/2008 at 1:30 PM to C52 on 04/30/2008 at 1:30 PM.</i>
	2	HHELD	Hearing held on 04/30/2008 at 01:30:00 PM in Department C52 for Court Trial.
	3	OFJUD	Officiating Judge: Glenn Mondo, Commissioner
	4	OFJA	Clerk: R. Machado
	5	TEXT	CORRECTION
	6	OFJA	Clerk: E. Figueroa
	7	OFBAL	Bailiff: S. M. Kennedy
	8	OFREP	Court Reporter: None
	9	TRSTR	This case came on regularly for trial.
	10	APDPP	Defendant present in Court in propria persona.
	11	APBOT	Office Bell, Law Enforcement Officer, present in court.
	12	TRWST	Witness, Officer Bell, sworn and testified.
	13	TRTXT	Defendant objects to foundation, objection overruled.
	14	MOTBY	Motion by Defense to transfer case to an appellate level
	15	MOTION	Motion denied.

Exhibit 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE

DOCKET REPORT

Case : SA120279PE I A

Name : Fischetti, Thomas James

Date of Action	Seq Nbr	Code	Text
04/30/08	16	TREXI	People's Exhibit # 1 Two Single-sided pages of front and back of citation with 4 color photographs of vehicle and defendant at intersection
			marked for identification.
	17	TRTXT	Defendant objects to exhibit.
	18	TREXI	People's Exhibit # 2 One page Statement of Smartcamred Red Light Camera Technology describing the various processing functions of the red light camera systems marked for identification.
	19	TREXI	People's Exhibit # 3 One page Declaration of Custodian of Records, signed by an employee of Redflex in accordance, with California Evidence Code 1280
			marked for identification.
	20	TREXI	People's Exhibit # 4 Four pages of color photographs showing defendant driving the vehicle committing violation of VC21453 (a) marked for identification.
	21	TRTXT	Defendant objects to exhibit.
	22	TREXI	People's Exhibit # 5 One color Soundex Photo Image Record from the Department of Motor Vehicles along with thumbprint and signature of defendant marked for identification.
	23	TREXI	People's Exhibit # 6 One 12 second video recorded on a CD Rom Media, showing the vehicle committing the violation
			marked for identification.
	24	TRTXT	Defendant objects to exhibit, objection overruled.
	25	TRTXT	The court views the 12 second video in open court.
	26	TREXI	People's Exhibit # 7 One page document Labeled the Posted Speed Limit of 40 MPH on Dyer and Pullman W/B marked for identification.
	27	TREXI	People's Exhibit # 8 One page Memo from Paul M. Walters, City of Santa Ana Chief of Police dated June 18, 2003. marked for identification.
	28	TREXI	People's Exhibit # 9 One page memo from Vinh Nguyen Sr. Civil Engineer re: Yellow Timing at Dyer Rd & Pullman St. dated October 16, 2006 marked for identification.
	29	TREXA	People's Exhibits # 1 through 9 received into evidence.
	30	TRPRS	People rest.
	31	TRWST	Witness, Defendant, Thomas Fischetti, sworn and testified.
	32	TREXI	Defense Exhibit # A Twenty-Two pages re: Agreement between the City of Santa Ana and Redflex Traffic Systems marked for identification.
	33	TREXI	Defense Exhibit # B Two pages re: Video Survey Counts marked for identification.
	34	TREXI	Defense Exhibit # C Four pages re: Dyer and Pullman Posted Speed marked for identification.
	35	TREXI	Defense Exhibit # D Six pages consisting of Posted Speed Surveys marked for identification.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE

DOCKET REPORT

Case : SA120279PE I A

Name : Fischetti, Thomas James

Date of Action	Seq Nbr	Code	Text
04/30/08	36	TREXA	Defense Exhibits # A through D received into evidence.
	37	MOTBY	Motion by Defense to dismiss for lack of evidence
	38	MOTION	Motion denied.
	39	TRWEX	Witness excused.
	40	TRDRS	Defense rests.
	41	TRSUB	Cause is taken under submission.
	42	WVSCT	Defendant agrees to have the traffic court trial taken under submission. Defendant waives the right to be present at the time of adjudication and sentencing. Defendant agrees to accept notification of the court's decision by mail. Defendant waives the right to be present when the court reviews the scene of the incident.
05/13/08	1	TRRSC	In the cause previously taken under submission, the court now rules as follows:
	2	FDCGA	The Court finds the defendant guilty as to all counts as charged in the Original Citation.
	3	SEFIN	As to count(s) 1, pay a FINE of \$100.00 plus penalty assessments.
	4	SESEC	Pay Security Fee(s) pursuant to Penal Code 1465.8 totaling \$20.00.
	5	STALL	Payment of all monies due stayed to 06/20/2008.
	6	NTCSL	Clerk's Office directed to send notice by letter.
	7	TRTXT	Clerk's office is also ordered to mail Notice of Ruling to all parties.
05/15/08	1	FICORD	Correspondence from defendant filed on 05/14/2008.
05/20/08	1	NTMLD	Letter re: Comm. Mondo's decision mailed to Officer Bell and defendant.
05/22/08	1	DMABS	DD1-C sent to DMV. Return Code: 800
05/23/08	1	CLCST	Further Proceedings set on 05/23/2008 at 09:00 AM in Department C54.
	2	HHELD	Hearing held on 05/23/2008 at 09:00:00 AM in Department C54 for Further Proceedings.
	3	OFJUD	Officiating Judge: Glenn Mondo, Commissioner
	4	OFJA	Clerk: E. Figueroa
	5	OFBAL	Bailiff.: Present
	6	OFREP	Court Reporter: None
	7	APDPP	Defendant present in Court in propria persona.
	8	ADLCR	Defendant advised of legal and constitutional rights.
	9	ADTXT	Defendant advised to file an appeal downstairs.
	10	CPGTO	Copy of Ruling given to defendant.
	11	CONAT	No action taken.
	12	FIDOC	Exhibit List of People filed.
	13	FIDOC	Exhibit List of Defense filed.
05/28/08	1	FIAPPL	NOTICE OF APPEAL RECEIVED AND FILED.
06/12/08	1	FIAPLD	Proposed Statement on Appeal filed.
06/16/08	1	FICORD	Correspondence from defendant filed on 06/12/2008.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE
DOCKET REPORT**

Case : SA120279PE I A

Name : Fischetti, Thomas James

Date of Action	Seq Nbr	Code	Text
06/17/08	1	CLCST	Chambers Work set on 06/17/2008 at 06:00 PM in Department C52.
	2	TEXT	Case is on appeal, pending settled statement hearing. Defendant is requesting for a stay of sentence pending appeal. Bail due 6/20/08.
	3	CLVCW	Case referred as Chambers Work on 06/17/2008.
06/18/08	1	HHELD	Hearing held on 06/18/2008 at 09:00:00 AM in Department C52 for Chambers Work.
	2	OFJUD	Officiating Judge: Glenn Mondo, Commissioner
	3	OFJA	Clerk: D. Salcedo
	4	APDNC	Defendant not present in court.
	5	CORCR	The Court has reviewed correspondence and rules as follows:
	6	TEXT	The Court rules as follows: Following trial, defendant appeared ex parte and without notice to the people requesting a stay of sentence pending appeal. The request was denied without prejudice. The defendant subsequently submitted a written request (once again without notice to the people). However, because defendant had in the interim filed a notice of appeal, the trial court lacked jurisdiction to act on the request. Upon the filing of a timely and sufficient notice of appeal, jurisdiction of the cause vests in the appellate court and remains there until determination of the appeal. This means the trial court loses jurisdiction during that period to do anything in connection with the cause that may affect the judgment. People v. Getty (1975) 50 Cal.App.3d 101, 107. Therefore, defendant's request is properly directed to the appellate department pursuant to California Rule of Court 8.312. While the discretion of the trial judge should be exercised in favor of granting a stay where there is room for an honest difference of opinion whether reversible error can be shown, as would appear to be the case here, such relief at this time must come from the appellate department.
	7	NTCSL	Clerk's Office directed to send notice by letter.
06/20/08	1	HHELD	Hearing held on 06/20/2008 at 09:00:00 AM in Department C54 for Further Proceedings.
	2	OFJUD	Officiating Judge: Lyle J. Robertson, Commissioner
	3	OFJA	Clerk: D. Hagan
	4	OFBAL	Bailiff: H. Perez
	5	OFREP	Court Reporter: None
	6	APDPP	Defendant present in Court in propria persona.
	7	TEXT	Defendant appeared ex parte requiring stay on fine. Exparte request denied.
	8	NTDEF	Notice to defendant issued.
06/26/08	1	TEXT	Objection to Defendant's Proposed Statement of Appeal filed
	2	TEXT	Case forwarded to Appeals desk.
07/01/08	1	NTMLD	Letter re: Comm. Mondo's decision mailed to defendant.
07/03/08	1	CLCST	Chambers Work set on 07/03/2008 at 06:00 PM in Department C52.
	2	TEXT	Case forwarded to dept C54 Comm. Mondo, to set Settle Statement Hearing
	3	CLVCW	Case referred as Chambers Work on 07/03/2008.

Name: Fischetti, Thomas James

Case: SA120279PE I A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE
DOCKET REPORT**

Case : SA120279PE I A

Name : Fischetti, Thomas James

Date of Action	Seq Nbr	Code	Text
07/08/08	1	FICOR	Correspondence from defendant filed.
	2	TEXT	Letter forwarded to correspondence desk.
07/10/08	1	CLCST	Chambers Work set on 07/10/2008 at 06:00 PM in Department C52.
	3	TEXT	Defendant re-submitted a Request for Stay of Sentence Pending Appeal.
	4	CLVCW	Case referred as Chambers Work on 07/10/2008.
07/15/08	1	TEXT	Case on appeal forwarded to the West Justice Center, Attention Commisioner Glen Mondo, for Settle Statement Hearing.
	2	TEXT	Chambers Work set on 7/10/08 for a Request for Stay of Sentence Pending Appeal was delivered to C47.
08/13/08	1	HHELD	Hearing held on 08/13/2008 at 04:30:00 PM in Department W1 for Further Proceedings.
	2	OFJUD	Officiating Judge: Glenn Mondo, Commissioner
	3	OFJA	Clerk: R. Flores
	4	OFBAL	Bailiff: A. Lindstrom
	5	APDNC	Defendant not present in court.
	6	APTXT	Defendant making a telephonic appearance.
	7	TEXT	Defendant states that he had sent in an answer/reply from the Appellate Court and it may have been received in Department C47.
			Defendant will resend a copy to the Traffic/Criminal Office at the West Justice Center via facsimile for Commisioner Mondo's review.
			Defendant states he never received a copy of the Commissioner's [Proposed] Settled Statement.
			Commissioner Mondo orders Clerk's Office to send a copy of the [Proposed] Settled Statement to the defendant.
	8	CLSET2	Hearing re: Appeal - Settled Statement set on 08/20/2008 at 03:00 PM in Department W1.
	9	TEXT	Defendant notified of hearing date.
08/14/08	1	CLADD	Case calendared on 08/13/08 at 4:30 PM in W1 for FP.
08/15/08	1	NTMLD	Notice of Hearing on Settlement of Statement on Appeal and Proposed Statement on Appeal mailed to defendant and District Attorney.
08/20/08	1	HHELD	Hearing held on 08/20/2008 at 03:00:00 PM in Department W1 for Hearing Appeal - Settled Statement.
	2	OFJUD	Officiating Judge: Glenn Mondo, Commissioner
	3	OFJA	Clerk: C. Rodriguez
	4	OFBAL	Bailiff: M. Ferris
	5	APDPP	Defendant present in Court in propria persona.
	6	FIAPLD	Engrossed Statement on Appeal filed.
	7	FIAPLD	Certification on Appeal filed.
	8	STAPL	Court orders all fees and fines as to count(s) 1 stayed pending outcome of appeal.
09/29/08	1	NTAPDM	Certification on Appeal forwarded to Appellate.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE

DOCKET REPORT

Case : SA120279PE I A

Name : Fischetti, Thomas James


Date of Action	Seq Nbr	Code	Text
09/29/08	2	NTRFR	Receipt for records and papers on Record on Appeal prepared and forwarded to Superior Court Appellate Division, as listed on receipt.
10/06/08	1	FIARFR	Returned Clerk's Certificate of Record on Appeal and Receipt for Records received from Superior Court Appellate Division, 30-2008-0080937.
01/20/09	1	FIARFR	Returned Clerk's Certificate of Record on Appeal and Receipt for Records received from Superior Court Appellate Division, 30-2008-0080937.
	2	APLREV	Judgment reversed as to count(s) 1.
02/17/09	1	CSCLS	Case closed.
06/22/09	1	TXRFR	Case referred to Comm. Mondo for review.

I hereby certify the foregoing instrument consisting of 6 page(s)
is a true and correct copy of the original on file in this court.



ATTEST (DATE) 7-2-09
ALAN CARLSON, EXECUTIVE OFFICER AND CLERK OF THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

BY *Alan Carlson*, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE JUSTICE CENTER: Central Justice Center Civil Operations - Appellate Division 700 Civic Center Dr. West Santa Ana, CA 92701		FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER DEC 19 2008	
APPELLANT: Fischetti RESPONDENT: People		ALAN CARLSON, Clerk of the Court  BY G GALON	
NOTICE OF FILING OF JUDGMENT/ORDER Appellate Division		APPEAL CASE NUMBER: 30-2008-00080937 TRIAL COURT CASE NUMBER: SA120279PE	

To the above named parties and their attorneys of record:

You are notified that a Judgment in the above entitled matter was filed on: December 18, 2008

A Copy of the Judgment is attached for reference.

CLERK'S CERTIFICATE OF MAILING

Thomas J. Fischetti
345 Pasadena Avenue
Tustin, CA 92780

Anthony Rackauckas
O.C. District Attorney
P.O. Box 808
Santa Ana, CA 92701

By Interoffice Delivery:

Central Justice Center – Traffic – Clarissa Gonzalez

I certify that I am not a party to this action and that this certificate was mailed in accordance with Section 1013a of the Code of Civil Procedure. A copy of this Notice of Filing of Judgment/Order with a copy of the Judgment/Order was deposited in the United States mail, in a sealed envelope with postage fully prepaid addressed as shown above. The mailing and this certification occurred at Santa Ana, California, on December 19, 2008

ALAN CARLSON, Clerk of the Court



G. Galon, Deputy Clerk

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

DEC 18 2008

APPELLATE DIVISION

ALAN CARLSON, Clerk of the Court

SUPERIOR COURT OF CALIFORNIA

D
BY G GALON

COUNTY OF ORANGE

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PEOPLE OF THE STATE OF)
CALIFORNIA,)
)
Plaintiff and)
Respondent,)
)
vs.)
)
THOMAS JAMES FISCHETTI,)
)
Defendant and)
Appellant.)

CASE NO. 30-2008-00080937

JUDGMENT ON APPEAL
from the
SUPERIOR COURT
of
ORANGE COUNTY
CENTRAL JUSTICE CENTER

HON. GLENN MONDO
COMMISSIONER

Based upon evidence obtained via an automated photographic enforcement system, appellant was convicted of failing to stop for a red signal, in violation of Vehicle Code § 21453(a). The record discloses that the City of Santa Ana sought to comply with warning requirements of Vehicle Code § 21455.5(b) by issuing warning notices only for the first photographic enforcement cameras installed within the City.

The trial court's determination that the City complied with § 21455.5(b) is inconsistent with the structure and purpose of the statute as a whole. Because § 21455.5(a) provides that "the intersection" may be equipped with an automated enforcement system, "automated enforcement system" in § 21455.5(b) cannot refer to a municipality's overall automated enforcement plan, but must instead refer to each individual automated system operated at an intersection within the municipal jurisdiction. The

1 "dictionary" definition of the word "system" (e.g., Merriam-
2 Webster's Collegiate Dictionary (10th ed. 1993), p. 1194) does
3 not comport with the trial court's analysis and conclusion, in
4 the absence of any evidence that the sets of equipment located
5 variously at intersections throughout the City are somehow
6 interactive with, or dependent upon, each other - if such
7 systemic interaction were necessary, operation of automated
8 enforcement equipment at a lone intersection would be impossible.
9 From the perspective of the motorists for whom the statutory
10 requirements were intended to provide protection, it would not
11 make sense for the geographic scope of the 30-day warning period
12 to be determined arbitrarily by the size of the municipality
13 operating the automated enforcement system. The Legislature in
14 2003 rejected an amendment to SB 780 which would have expressly
15 provided for the warning period of § 21455.5(b) to occur "during
16 the first 30 days after the first recording unit is installed,"
17 and the omission of this language from the amendments enacted in
18 that year is indicative of a legislative intention to avoid
19 linkage of the 30-day warning period with a municipality's
20 initial installation of automated enforcement equipment. (City of
21 Santa Cruz v. Municipal Court (1989) 49 Cal.3d 74, 88-89.)
22 Because under § 21455.5(b) compliance is required "[p]rior to
23 issuing citations under this section," the City exceeded its
24 jurisdiction by commencing the prosecution of appellant without
25 having complied with the warning requirements.

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The judgment is reversed, with direction that the charge be dismissed.

Steven L. Perk
STEVEN L. PERK

Judge

to evidence from a non-participant and I hereby certify the foregoing is a true and correct copy of the original on file in this case.

ATTEST (DATE) _____
CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE



BY _____ DEPUTY

I hereby certify the foregoing instrument consisting of 4 page(s)
is a true and correct copy of the original on file in this court.

JUL 01 2009



ATTEST: (DATE)
ALAN CARLSON, EXECUTIVE OFFICER AND CLERK OF THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

BY Hector Sierra DEPUTY

HECTOR SIACA

S170231 - PEOPLE v. FISCHETTI

[Edit Case Information](#)

-Other/CR/Depublication Request - Criminal ::: dep-- Status: case closed	Lower Court: Orange County Superior Court - Main Case County: Orange Lower Court Case: 30200800080937
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Docket [Add Docket Event](#) [Docket Sheets](#)

View Type: All Code: All Brief? Search Show Advanced

↓#	↑Date	Code	Description	Due Date	↓Type	Clerk
80	03/10/2009	orf	Order filed The order filed on February 25, 2009, granting depublication is amended to reflect the title above.		D	AAllen
70	02/25/2009	deg	Depublication ordered D1 The request for depublication of the opinion of the Appellate Division of the Orange County Superior Court in this matter is granted. The Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion filed December 18, 2008, and appearing at 170 Cal.App.4th Supp. 1. (Cal. Rules of Court, rule 8.1125.)		D	GGray
60	02/20/2009	rcv	Received: from counsel for City of Santa Ana supplement letter to depublication request filed 2-2-09.		D	AAllen
50	02/17/2009	rcv	Received: from Santa Ana City Atty. copy of letter sent to O.C. Superior Crt. regarding P. v. Thomas James Fischetti		D	AAllen
40	02/17/2009	de2	Request for depublication filed (another request pending) City of West Hollywood John C. Cotti, counsel Private opinion certified for pub. 1-15-2009		D	AAllen
30	02/03/2009	pvn	Private note: Private Private Superior Crt. opinion filed 12-18-08		D	AAllen
20	02/03/2009	csd	Case start date (depublishation request) D1		D	AAllen
10	02/03/2009	dep	Request for depublishation filed (initial case event) City of Santa Ana, resp. Paula Coleman, Deputy City Attorney		D	AAllen

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CERTIFICATION
 I, **FREDERICK K. OHLRICH, CLERK OF THE SUPREME COURT OF THE STATE OF CALIFORNIA** DO HEREBY CERTIFY THAT THE PRECEEDING IS A TRUE COPY OF *the Supreme Court docket sheet* AS SHOWN BY THE RECORDS OF MY OFFICE. WITNESS MY HAND AND THE SEAL OF THE COURT THIS 2nd DAY OF July, 2009
 BY: A. Robinson CLERK
 Deputy CLERK

S170231 - PEOPLE v. FISCHETTI

[Edit Case Information](#)

—Other/CR/Depublication Request - Criminal ::: dep— Status: case closed	Lower Court: Orange County Superior Court - Main Case County: Orange Lower Court Case: 30200800080937
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Disposition Add Disposition

↓#	↓Date	Code	Finality Type
10	<u>02/25/2009</u>	deg - CA opinion decertified	Other

Dispositional Dockets

↓#	↑Date	Code
70	02/25/2009	deg - CA opinion decertified <u>D1</u>

The request for depublication of the opinion of the Appellate Division of the Orange County Superior Court in this matter is granted. The Reporter of

Decisions is directed not to publish in the Official Appellate Reports the opinion filed December 18, 2008, and appearing at 170 Cal.App.4th Supp. 1. (Cal. Rules of Court, rule 8.1125.)

PROOF OF SERVICE

I do hereby declare that I am a citizen of the United States employed in the County of Orange, over 18 years old and that my business address is 333 W. Santa Ana Blvd., Ste. 407, Santa Ana, California 92701. I am not a party to the within action.

On July 9, 2009, I hereby certify that I caused the foregoing **DECLARATION OF WILLIAM J. FECCIA IN SUPPORT OF DEFENDANT ANTHONY RACKAUCKAS'S OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** to be served upon all counsel of record listed below by electronic filing utilizing CM/ECF.


(BY U.S. MAIL) I placed such envelope(s) addressed as shown below for collection and mailing at Santa Ana, California, following our ordinary business practices. I am readily familiar with this office's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

(BY UNITED PARCEL SERVICE (UPS)) I placed such envelope(s) addressed as shown below for collection and delivery by UPS with delivery fees paid or provided for in accordance with this office's practice. I am readily familiar with this office's practice for processing correspondence for delivery the following day by UPS.

(BY FACSIMILE) I caused such document to be telefaxed to the addressee(s) and number(s) shown below, wherein such telefax is transmitted that same day in the ordinary course of business.

(BY PERSONAL SERVICE) I caused such envelope(s) to be hand-delivered to the addressee(s) shown below.

(FEDERAL) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. Executed this 9th day of July, 2009 at Santa Ana, CA.


Eileen Blanton

NAME AND ADDRESS TO WHOM SERVICE WAS MADE

Aaron D. Aftergood, Esq.
The Aftergood Law Firm
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