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**INITIAL ORDER, APPELLATE DIVISION OF
THE SUPERIOR COURT STATE OF
CALIFORNIA, COUNTY OF LOS ANGELES
(AUGUST 28, 2025)**

APPELLATE DIVISION OF THE
SUPERIOR COURT STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

BARRY W. ROSEN,

Defendant and Appellant.

No. 24APIN00053

Inglewood Trial Court No. 215975HA

Before: GUILLEMET, RICCIARDULLI, Judges,
P. McKAY, Presiding Judge.

ORDER

Upon review of the briefs and the record, and for the purpose of determining whether the September 10, 2022 Notice to Appear was “issued by a peace officer or by a qualified employee of a law enforcement agency” as required in order to constitute a valid accusatory pleading (Veh. Code, § 40518, subd. (a)),

this court intends to take judicial notice of the following:

- (1) Hawthorne Municipal Code section 10.20.000.
- (2) Hawthorne Municipal Code section 2.32.020.
- (3) "City of Hawthorne Parking Enforcement Officer II Classification Specification" document, which was an exhibit to defendant's August 6, 2024

The parties are afforded an opportunity to file a written response to this order. (Evid. Code, §§ 452, subds. (b), (d), 459, subd. (d).) Any response must be filed before noon on September 3, 2025, and shall be limited to 1,500 words including footnotes. Unless otherwise ordered by this court, the oral argument hearing will remain on the September 4, 2025 calendar, at 9:00 a.m.

/s/ Guillemet

Judge

/s/ Ricciardulli

Judge

/s/ P. McKay

Presiding Judge

MUNICIPAL ORDINANCES INVOLVED

City of Hawthorne, CA, Code of Ordinances § 10.20.000

Mun. Ord. § 10.20.000. Definitions.

Whenever in this chapter the following terms are used, they shall have the meaning respectively ascribed to them in this section:

Alley. A public way without sidewalks which does not exceed twenty-five feet in width between property lines.

Barrier. Shall be deemed to include any lumber, boards, rope or other material placed or stretched across any portion of such street, avenue, alley, sidewalk or other highway, which shall be plainly visible at a distance of not less than one hundred feet in the daytime and which shall be illuminated at night with a red lighted lantern or other lighting or reflection device.

Bus. Means any motor bus, motor coach, trackless trolley coach, or passenger stage used as a common carrier of passengers.

Device. a sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of the City.

Holidays. Those days designated as holidays in Section 6700 of the Government Code.

Loading zone. That place adjacent to a curb reserved for the exclusive use of vehicles during the loading and unloading of passengers or materials.

No parking. Prohibited parking means no standing of a vehicle, except when occupied to load or unload passengers or materials, or necessary to avoid conflict with other vehicles, or to comply to directions of a police officer or traffic control device.

Official time standard. Whenever certain hours are named herein, they mean the time as may be in current use in this city.

Parking. To stop or allow to stand any vehicle whether occupied or not, otherwise than in obedience to official traffic control devices or by direction of a police officer.

Parking control officer. Means a member of the police department authorized by the chief of police to make arrests and issue citations for violations of parking prohibitions and regulations and whose chief duties are to patrol designated areas of the city to discover violations of parking restrictions and regulations and to generally enforce parking regulations and do the related work required in accordance with the class specification of this position.

Parkway. That remaining portion of a right-of-way set apart or dedicated for public travel other than a roadway or a sidewalk.

Passenger loading zone. Space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Police officer. Every sworn member of the police department or any employee of the city authorized by

the chief of police to direct or regulate traffic or to make arrests for violations of the traffic regulations.

Sign. any traffic control device that is intended to communicate specific information to road users through a word, symbol, and/or arrow legend. Signs do not include highway traffic signals, pavement markings, delineators, or channelization devices. (California MUTCD 2014 Edition Page 81)

Stop. When required means complete cessation of movement.

Stop or stand. When prohibited means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

Vehicle code definitions. In addition to the definitions set forth above, all definitions of words and phrases set forth in the Vehicle Code as amended, of the state of California are incorporated in this title as though set forth in full herein. (Ord. 2175 § 2, 2019)

**City of Hawthorne, CA, Code of Ordinances
§ 2.32.010.**

Mun. Ord. § 2.32.010. Positions not included.

The following positions shall not be within the classified service:

A. Elected/Appointed City Officials.

1. City council members;
2. City clerk;
3. City treasurer;

4. City attorney;
5. City manager;
6. Zoning and planning commission members;
7. Civil service commission members;
8. Parks and recreation commission members;
9. Fine arts commission members.

B. Employment Classifications.

1. Accounting manager;
2. Administrative analyst;
3. Administrative associate-CDBG;
4. Administrative associate section 8;
5. Administrative clerk I (HUD);
6. Administrative clerk II (HUD);
7. Administrative services director;
8. Airport manager;
9. Assistant city attorney;
10. Assistant director of recreation and community services;
11. Cable television administrator;
12. Cable television production coordinator;
13. CDBG/home coordinator;
14. Chief of general services and public works;
15. Chief of police services;
16. Code enforcement officer;
17. Code enforcement and graffiti supervisor;

18. Customer service representative;
19. Deputy city attorney;
20. Director of housing;
21. Director of job training and development;
22. Director of licensing and code enforcement;
23. Director of planning and community development;
24. Economic development director;
25. Employee relations officer;
26. Employment development account clerk;
27. Employment development administrative aide I;
28. Employment development administrative aide II;
29. Employment development administrative assistant;
30. Employment development administrative intern;
31. Employment development administrative secretary;
32. Employment development assistant I;
33. Employment development assistant II;
34. Employment development auditor;
35. Employment development data communications technician;
36. Employment development data control clerk;
37. Employment development fiscal

coordinator;

38. Employment development office supervisor;
39. Employment development program assistant I;
40. Employment development program assistant II;
41. Employment development programmer I;
42. Employment development programmer II;
43. Employment development senior account clerk;
44. Employment development senior administrative analyst;
45. Employment development specialist;
46. Employment development typist clerk I;
47. Employment development typist clerk II;
48. Employment operations manager;
49. Employment services manager;
50. Finance manager;
51. Fraud investigator;
52. Graffiti lead worker;
53. Graffiti worker;
54. Housing administrator;
55. Housing assistant;
56. Housing inspector;
57. Housing rehabilitation specialist;
58. Housing specialist (HUD);

59. Human resources manager;
60. Information systems manager;
61. Section 8 housing inspector;
62. Senior employment development program specialist;
63. Senior employment development specialist;
64. Senior financial clerk;
65. Senior human resources analyst;
66. Senior planner;
67. Senior typist clerk I;
68. Sewer service technician;
69. Stenographer (HUD);
70. Director of building and safety.

(Ord. 1411 § 2, 1987; Ord. 1443 § 1, 1988; Ord. 1457 § 2, 1989; Ord. 1903 § 1, 2007; Ord. 1952 § 1, 2009; Ord. 2234 § 2, 2022)

Mun. Ord. § 2.32.020. Positions Included.

There are created within the classified service the following positions and classes:

1. Account clerk;
2. Accountant;
3. Accountant I;
4. Administrative aide I;
5. Administrative aide II;
6. Administrative assistant;
7. Airport office manager;

8. Animal control officer;
9. Assistant engineer;
10. Assistant recreation supervisor;
11. Associate engineer;
12. Automated enforcement officer;
13. Building inspector;
14. Building maintenance crew leader;
15. Billing and collections assistant;
16. Building permit technician;
17. Business license inspector;
18. Business license/code enforcement supervisor;
19. Business license technician;
20. Buyer;
21. City maintenance worker;
22. Clerk typist;
23. Community liaison officer;
24. Construction inspector;
25. Crew leader;
26. Custodian;
27. Deputy city clerk;
28. Deputy city treasurer;
29. Electrician;
30. Engineering technician;
31. Equipment mechanic I;
32. Equipment mechanic II;

33. Equipment mechanic III;
34. Gang analyst;
35. Heavy equipment operator;
36. Human resources technician;
37. Identification technician;
38. Information support technician;
39. Information systems analyst;
40. Information systems specialist;
41. Intermediate clerk-typist;
42. Legal assistant;
43. Legal secretary;
44. License-permit technician;
45. Maintenance aide;
46. Maintenance worker I;
47. Master mechanic;
48. Parking enforcement officer;
49. Payroll technician;
50. Personnel analyst;
51. Plan check engineer;
52. Planning analyst;
53. Planning assistant;
54. Planning associate;
55. Police administrative technician;
56. Police captain;
57. Police lieutenant;

58. Police officer;
59. Police records clerk;
60. Police records supervisor;
61. Police sergeant;
62. Police service officer;
63. Public risk manager;
64. Public works maintenance superintendent;
65. Recreation supervisor;
66. Secretary;
67. Secretary to the chief of police services;
68. Senior account clerk;
69. Senior administrative assistant;
70. Senior administrative clerk;
71. Senior animal control officer;
72. Senior building inspector;
73. Senior citizen program specialist;
74. Senior engineer;
75. Senior engineer specialist;
76. Senior police records clerk;
77. Senior public works inspector;
78. Senior structural plan check engineer;
79. Senior transportation engineer;
80. Skilled city maintenance worker;
81. Supervisor-maintenance;
82. Supervisor-park maintenance;

83. Traffic specialist;
84. Tree trimmer;
85. Warehouse clerk.

(Ord. 1421 § 2, 1987; Ord. 1457 § 4, 1989; Ord. 1952 § 1, 2009; Ord. 2234 § 2, 2022)

Mun. Ord. § 2.32.030. Legal staff qualifications.

The city attorney and all his or her assistants or deputies shall be admitted to practice law in all of the courts of the state and shall be members in good standing of the California Bar.

(Ord. 1271 § 2, 1982)

Mun. Ord. § 2.32.040. Required civil service status.

All officers and employees who are regularly and continuously employed in the services of the city shall be members of the classified service except as excluded in Section 2.32.010.

(Ord. 1271 § 2, 1982)

Mun. Ord. § 2.32.050. New positions.

All officers and employees who are regularly and continuously employed in the services of the city shall be members of the classified service except as excluded in Section 2.32.010. No elective officer in the city shall be qualified to hold a civil service position while service as such officer under the laws of the state or under city ordinance provisions.

(Ord. 1275 § 11, 1982)

Mun. Ord. § 2.32.060. Department complements.

The city council shall establish by resolution or budget the complement of each department.

(Ord. 1271 § 2, 1982)

**CITY OF HAWTHORNE PARKING
ENFORCEMENT OFFICER II
CLASSIFICATION SPECIFICATION**

**CITY OF HAWTHORNE
PARKING ENFORCEMENT OFFICER II
Classification Specification
(*Classified*)**

Job Summary

The Parking Enforcement Officer II-although not a sworn position, reports to and receives guidance and direction from the Watch Commander and/or the Watch Commander's designated assistants. Under general supervision, patrols assigned areas in the enforcement of all parking laws and regulations as per department rules and regulations.

Essential Duties and Responsibilities

The following is a list of typical duties assigned to the Parking Enforcement Officer II position. The duties included on this list are examples and are not intended to be all-inclusive or restrictive.

- Under general supervision to patrol an assigned area and to enforce all parking laws and regulations;
- Gives directions and information;
- Issues parking citations;
- Due to the uniqueness of the position, the incumbent is required to perform at a high level of service with very little supervision;

- Maintains effective working relationships with the general public, supervisors and subordinates;
- Performs other work as assigned.

Minimum Qualifications

Education, Training and Experience

Graduation from high school OR GED and;

Six (6) months or more of experience working as a Parking Enforcement Officer for a Public Agency is highly desirable.

Licenses, Certificates and/or Special Requirements:

Must possess a valid California Class C driver's license and an acceptable driving record.

Knowledge, Skills and Abilities

- Follow written and oral instructions;
- Acquire a working knowledge of criminal and vehicle codes and differentiate between crimes and torts;
- Obtain information through interview and observations;
- Write clear, concise reports;
- Analyze situations quickly and objectively;
- Cope with emotional situations firmly, courteously and tactfully;
- React quickly and calmly to emergency situations;

- Communicate concisely orally and in writing; be able to maintain accurate records;
- Operate computer terminal and typewriter;
- Knowledge of all laws, ordinances and regulations pertaining to parking of vehicles on public and private property;
- Ability to meet and deal with the general public in a courteous manner;
- Ability to learn city streets, addresses and vehicle parking areas;
- Operate vehicle during working hours;
- Be able to sit for up to 2 hours at a time;
- Be able to lift 15lbs;
- Be able to exit vehicle many times during the course of job;
- Be able to stand and walk during the course of job;
- Be able to hand operate tagging equipment during the course of job;
- Be able to bend, and squat during the course of job;

Physical Demands

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodation may be made to individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee may frequently drive to specific locations, and is frequently required to walk, stand, stoop, kneel and use arm, legs, and back to occasionally lift and/or move up to 15 pounds. Will use arms to reach and carry, and use hands to operate, finger, handle object and controls. Vision abilities required by this job include close vision, depth perception, night vision, and the ability to adjust focus. Must be able to accurately perceive sound.

Working Conditions

The employee works mainly outdoors and may be exposed to variable weather conditions. The noise level in the work environment is usually moderate to loud.

FLSA Status: Non-Exempt

Bargaining Unit: HMEA

Civil Service Status: Classified

Revised: November 2020

CSC Approved: November 2020

**THE PEOPLE OF THE STATE OF
CALIFORNIA'S RESPONSE TO AUGUST 28,
2025 ORDER REGARDING JUDICIAL NOTICE
(SEPTEMBER 2, 2025)**

HAWTHORNE CITY ATTORNEY'S OFFICE

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APPELLATE DIVISION OF THE
SUPERIOR COURT STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

BARRY W. ROSEN,

Defendant and Appellant.

Case No. 24APIN00053

[Exempt from filing fees pursuant to Govt. Code § 6103]

**THE PEOPLE OF THE STATE OF
CALIFORNIA'S RESPONSE TO AUGUST 28,
2025 ORDER REGARDING JUDICIAL NOTICE**

The People of the State of California (People) hereby submits this response to the Order dated August 28, 2025 (Order), regarding this Court's intention to take judicial notice of the City of Hawthorne Municipal Code (HMC) sections 2.32.020 and 10.20.000 and "City of Hawthorne Parking Enforcement Officer II Classification Specification" document (PEO II). It is proper and necessary for the Court to take judicial notice of these materials. (Evid. Code § 459, subd. (a).)

First, the above HMC provisions are subject to judicial notice as "[r]egulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States." (Evid. Code § 452, subd. (b); *see also City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1077, fn. 5 [taking judicial notice of a local ordinance regarding medical marijuana dispensaries]; *Madain v. City of Stanton* (2010) 185 Cal.App.4th 1277, 1280, fn. 1 [granting city's request for judicial notice of relevant portions of its municipal code].) Appellant Barry Rosen, alleges, among several things, that the City's parking enforcement officers are not authorized to review and approve citations pursuant to Vehicle Code section 21455.5(c)(2)(F). HMC sections 2.32.020 and 10.20.000 are relevant to demonstrate the City of Hawthorne's (City) classification of a parking enforcement officer.

Second, this Court may take judicial notice of the PEO II document as a record of a "court of this state" as it was attached as "Exhibit 2" to Appellant's Motion in Limine No. 3, filed in Case No. 215975HA on or

about August 6, 2024. (Evid. Code § 452, subd. (d)(1).) Further, the PEO II document contains “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (Evid. Code § 452, subd. (h).) The PEO II document can be found posted on the City’s website under the “Full Time” positions tab at the following link: <https://www.cityofhawthorne.org/departments/human-resources/job-descriptions>. This document is relevant to establish the expectations and duties of the City’s parking enforcement officers and will assist this Court in determining whether the September 10, 2022 Notice to Appear was issued “by a qualified employee of a law enforcement agency.” (Veh. Code § 40518, subd. (a).)

Therefore, the Court is within the bounds of its authority and should take judicial notice of the materials specified in the Order.

Dated: September 2, 2025

HAWTHORNS CITY ATTORNEY’S OFFICE

ROBERT KIM

DAVID CACERES

By: /s/ David Caceres

Attorneys for Plaintiff and Respondent
The People of the State of California

**APPELLANT'S RESPONSE BRIEF PURSUANT
TO THE COURTS AUGUST 28, 2025, ORDER
PER EVIDENCE CODE 459(D)
(SEPTEMBER 3, 2025)**

SUPERIOR COURT OF THE STATE OF
CALIFORNIA COUNTY OF LOS ANGELES
APPELLATE DIVISION

THE PEOPLE,

Plaintiff and Respondent,

v.

BARRY WOLFE ROSEN,

Defendant and Appellant.

Appeal Case No. 24APIN00053

Trial Court Case No. 215975HA

On Appeal from the Superior Court of California –
County of Los Angeles Honorable Emily T. Spear, Judge

For Defendant/Appellant:

Barry W. Rosen
136 S. Clark Dr. #5
Los Angeles, CA 90048
Telephone: 323-653-2043

Defendant/Appellant in Propria Persona

INTRODUCTION

Evidence Code section 459 permits an appellate court to take judicial notice of any matter specified in Evidence Code section 452 (Evid. Code, § 459, subd. (a)). Appellant Barry w. Rosen now asks this Court to exercise its discretion and to take judicial notice of: (1) Hawthorne Municipal Code section 10.20.000; (2) Hawthorne Municipal Code section 2.32.020; and (3) “City of Hawthorne Parking Enforcement Officer II Classification Specification” as they are relevant and judicially noticeable under 452 subds. (b) and (d) to demonstrate that the September 10, 2022 Notice to Appear criminal infraction accusatory pleading was wholly deficient as it was not issued by a trained sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, but instead was issued by Alan Valle, an untrained, non-sworn civilian without any police powers whatsoever and without any statutory authority to even file such an accusatory pleading with the court (Penal Code § 853.9(a)) and which thereby deprived the court of jurisdiction.

A qualified employee of law enforcement would only, be a trained sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code. The documents subject to judicial notice would support the criminal infraction citation at issue here does not constitute a valid accusatory pleading charging a public offense (aka complaint).

It appears undisputed the statutory job category for City of Hawthorne civilian (non-sworn) parking enforcement employees, is purely limited to the

issuance of *stationary civil penalty parking citations* (emphasis added) and not for the issuance of criminal infraction moving traffic violations, as they lack prerequisite police powers.

MEMORANDUM OF POINTS AND AUTHORITIES

A. Citations For Moving Traffic Violations, Require Issuance by a Trained Sworn Peace Officer

Moving traffic violations under Vehicle Code section 21453 are public offense Infractions, which are classified as crimes (Penal Code, § 16, subd. (3)). When an accusatory pleading (aka “notice to appear” or “citation”) is issued for violations under Vehicle Code section 21453, based on an alleged violation . . . recorded by an automated enforcement system (ATES) pursuant to Vehicle Code Section 21455.5, subd (c)(2)(F) of the statute, specifically requires as part of statutory authorization of the use of the system, that “only those citations that have been reviewed and approved by **law enforcement** are delivered to violators” (emphasis added) (*see People v. Goldsmith* (2014) 59 Cal.4th 258, 262-264).

When the statutory requirement under Vehicle Code Section 21455.5(c)(2)(F) is reconciled with the fact that a violation of Vehicle Code section 21453 is a criminal infraction, the issuance of a valid accusatory criminal infraction pleading (aka Complaint) pursuant Vehicle Code section 40518, subd. (a) (which is analogous context of Penal Code, § 853.9), would require that it be issued only by a Police Officer Standards and Training (P.O.S.T) certified trained sworn

peace officer, acting in their express capacity as an employee of a law enforcement agency. A civilian non-sworn parking employee simply does not fulfill this requirement.

This situation also calls into question how any non-sworn civilian (such as Alan Valle) would ever have any legal authority to either issue a criminal infraction traffic citation or to be able file it with the court, when under Penal Code § 853.9(a) (which is analogous context of Vehicle Code, § 40518(a)) which makes it clear that only a peace officer or the prosecutor can perform such a filing with the court. The record clearly reflects that the criminal infraction traffic citation at issue was not issued by sworn peace officer, and thus, could not lawfully be filed with the court, thereby depriving it of jurisdiction. “If a judgment is rendered by a court which did not have jurisdiction to hear a cause, such judgment is void ab initio” (*Ralph v. Police Court of City of El Cerrito, Contra Costa County*, (1948) 84 Cal.App.2d 257, 260)

A question also exists as to whether the citation at issue here, was ever actually issued by Valle? It appears that Redflex may have placed his signature on the citation in much the same manner that they placed inconsistent proofs of service on the copies improperly filed to the court and sent to appellant (See Appellants, Motion in Limine 2 record at 53-72). Moreover, as mentioned in Appellants opening brief, the record here is clear that appellant sought formal discovery on this issue. but was never afforded such discovery as the record reflects that the motion was lost by the clerk (see augmented record exhibits H and I) and never considered by the court. These issues are relevant to claims II, IV in Appellants opening brief

and the never considered Trial Motions in Limine Numbers 2 and 3 also at issue in this Appeal.

The legislative intent for citation issuance under Vehicle Code section 21453 is clear and can easily be ascertained by Vehicle Code section 21453 subd. (e) which specifically states, “A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.” Further confirmation of the legislative intent regarding moving traffic violations requiring complaints issued by sworn trained peace officers can be found in 2008 California State Senate Bill (SB) 1325 (introduced by Kuhl) which specifically discusses the use of trained police officers related to the use of automated traffic equipment for the issuance of automated speed citations.

Here, it is undisputed the statutory job category and job description for the (non-sworn) civilian (Alan Valle) who allegedly issued the defective accusatory pleading, is purely limited to the issuance of stationary civil penalty (parking) citations. He had no training or statutory authority to ever issue criminal infraction moving traffic violations. Thus, such an accusatory pleading issued by any such civilian, would be wholly defective and does not constitute a complaint charging a public offense, and thereby deprives the court of jurisdiction and the judgment is void *ab initio* (*Ralph v. Police Court of City of El Cerrito, Contra Costa County*, (1948) 84 Cal.App.2d 257, 260).

The simple litmus test for the court, is to determine whether issuer of a citation, would have the police power to stop and cite a motorist for a criminal infraction traffic offense, if they were actually on site and witnessed the offense in person.

B. Appellant Was Denied His Sixth Amendment Right Of Confrontation

Even if the non-sworn civilian (Alan Valle) who allegedly issued citation 215975HA were authorized by law to do so, (which he is not), the doctrine of the law of the case dictates that he would still have to appear in court at trial to both testify why a determination was made to issue a citation and then be confronted by defendant during cross examination. The record contained in the minute orders (record at 89-91) erroneously claims that Valle appeared, while the record contained in the actual trial transcript(s) demonstrates that he did not appear and that Appellants' due process rights of confrontation under the sixth amendment were violated, because the civilian (Alan Valle) who allegedly signed the citation, did not appear in court (*see Melendez Diaz v. Massachusetts* (2009) 557 U.S. 305, *People v. Winters* (2012) 208 Cal.App.4th Supp. 8, Appellate Division, Superior Court, San Bernardino County), improperly shifting the burden of proof. Instead, The sole testifying witness (Officer Jimenez) was not the person who issued the citation and was never noticed to defendant under Penal Code § 1054.1. *Winters* is also exactly on point with numerous other issues presented in this appeal, including but not limited to both the Sixth Amendment and Hearsay Objections related to a never noticed witness under Penal Code § 1054.1.

CONCLUSION

It is undisputed the statutory job category for civilian (non-sworn) parking enforcement officers is purely limited to the issuance of stationary civil penalty (parking) citations and not criminal infraction moving traffic violations. Only a sworn P.O.S.T certified law enforcement (peace officer), as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code is authorized issue such criminal infraction citations for moving traffic violations. Thus, the issuance of criminal infraction citation by an unauthorized non-sworn civilian, renders such defective accusatory pleading as null and void ab initio and thereby deprives the court of jurisdiction. This Court may rely upon *Ralph v. Police Court of City of El Cerrito, Contra Costa County*, (1948) 84 Cal.App.2d 257, 260 to confirm the accusatory pleading is a nullity because Valle could not issue the citation as a qualified employee of the City of Hawthorne under Vehicle Code section 21455.5(c)(2)(F).

/s/ Barry Wolfe Rosen

Defendant/Appellant in Propria Persona

Dated: September 3, 2025

**NEW (TENTATIVE) RULING, APPELLATE
DIVISION OF THE SUPERIOR COURT STATE
OF CALIFORNIA, COUNTY OF LOS ANGELES
(SEPTEMBER 4, 2025)**

APPELLATE DIVISION

Case Number: 24APIN00053

Hearing Date: September 4, 2025

ROSEN

PANEL:

Judge Guillemet, Judge P. McKay and Judge Ricciardulli

REVERSE:

On the record before this court, the notice to appear was invalid as it was issued by a parking enforcement officer who was not “a peace officer or [] a qualified employee of a law enforcement agency” as required to initiate a prosecution for an automated traffic enforcement violation. (Veh. Code, § 40518, subd. (a); *see also Beasley v. Superior Court* (2025) 111 Cal.App.5th Supp. 1, 7.)

**MINUTE ORDER, APPELLATE DIVISION OF
THE SUPERIOR COURT STATE OF
CALIFORNIA, COUNTY OF LOS ANGELES
(SEPTEMBER 4, 2025)**

SUPERIOR COURT STATE OF CALIFORNIA,
APPELLATE DIVISION
Central District, Stanley Mosk Courthouse

24APIN00053

Trial Court Case Number: 215975HA

THE PEOPLE OF THE STATE OF CALIFORNIA
vs BARRY W. ROSEN

September 4, 2025, 9:00 AM

Judge: Honorable Kimberley Baker Guillemet
Honorable Patti Jo McKay
Honorable Alex Ricciardulli

CSR: None

ERM: None

Deputy Sheriff: R. Cisneros

Judicial Assistant: A. Barton

NATURE OF PROCEEDINGS:

Hearing - Oral Argument

Matter is called for hearing.

The appellant submits.

The court takes the matter under submission.

Notice is deemed waived.