

Defendant's Name:

Citation No :

Case No :

Pursuant to California Vehicle Code (CVC) 40902, I respectfully submit this Trial By Written Declaration to the Court. I plead Not Guilty to the charge of CVC 22349(a).

As required, I already paid \$332 of bail payment (enclosed is the copy of the receipt – Exhibit 4). Please refund \$332 in the event court finds me not guilty.

On Thursday, Feb 21<sup>th</sup>, 2009, I was driving to San Jose on I-880 south bound at around 10:40 am. The weather and road conditions were near perfect: dry, sunny, with visibility nearly unlimited, and the traffic was very light. Officer Copper (Badge ID #12345678) stopped me within Fremont City and cited me with CVC 22349(a).

Before I was stopped by the officer, I just got out of Mowry Ave exit (On I-880S) on to the freeway. I was driving in #1 lane with a car coming closely behind me and another car next to me in #2 lane(\*See Diagram A). Those were the only cars visible in a 200-300 yard stretch. I noticed the car behind me was coming up faster than I was going, so I attempted to make a lane change to the right lane to let the faster car behind me pass. In order to make a safe right lane change since there was another car in the #2 lane, I temporarily sped up to make the lane change and slowed down to my original speed after I was in lane #2(\*See Diagram B). However, during the course of this action, I never accelerated beyond the legal limits of the highway, and I made sure it was safe for me to have enough distance in front of the car in lane #2 prior to making the lane change.

As the car in #1 lane passed, I made another lane change back from the #2 lane to the #1 lane to avoid having a car behind me since highway conditions were open. I only accelerated to the necessary speed to change lanes again and was never beyond the legal limits of the highway speed.

It is after then, that I saw Officer Copper came up from the shoulder and switching all the way to lane #1 behind me in my rear view and side view mirrors. I then safely changed lanes and eventually pulled into the shoulder after the Dickson Landing Rd exit (On I-880S).

After we're both fully stopped, Officer approached my car and asked for my required paperwork, going through a routine traffic stop. He stated he clocked me at 82 over 65 miles per hour and that he is going to cite me for that, but at no time was I anywhere near that speed, even when accelerating to make safe lane changes. I did not want to make the officer's job any more difficult so I was polite and respectful, deciding against contesting his judgment at the time.

When he came back with the citation for me to sign, I noticed he wrote he used LIDAR to determine the speed at which I was going, however no evidence was shown to me that he used his LIDAR. It was odd to me he stated I was going 82 mph when I was not close to that fast of speed while having a car going clearly faster, passing me. I suspect the LIDAR may have picked up a different vehicle than mine.

I respectfully request to see documentation before and after the date of my citation that the LIDAR unit used by the Officer was calibrated and therefore accurate.

I feel this is a very unfortunate situation and I trust in the Court's fairness. I believe this does not reflect my driving behavior and this citation should be dismissed in the interest of justice.

If the court finds me guilty, I request a Trial de Novo, and an option to attend traffic school level one and have the fine reduced.

In addition, please send me the "Decision and Notice of Decision" (TR-215) by mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

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[name], Defendant in Pro Per

Enclosed are 4 Exhibits:

Exhibit 1: Diagram

Exhibit 2: Photo Copy of Citation

Exhibit 3: Photo Copy of Courtesy Notice

Exhibit 4: Photo Copy of Receipt of Payment

Exhibit 1:

