

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 22350.

As required, I enclose a check for \$135.00 of bail payment. Please refund \$135.00 in the event the court finds me not guilty.

On Friday 10am, August 20th, a clear sunny day with very little traffic and no pedestrian traffic on the street, I drove from the westbound of E. EL CAMINO REAL onto the southbound of Wolfe Road to connect to the northbound of Hwy 280. I was well rested and drive to work late as usual since my working hour is flexible.

From 1400 S. Wolfe road to Inverness way and to Homestead road intersection there are 3 controlled traffic lights on each intersection. The road is a four-lane divided with two lanes in each direction, and it was straight in my direction so I could see ahead about half mile.

At a controlled intersection with Marion Way (1400 S. Wolfe), I stopped for the traffic light. Meanwhile Inverness Way (1500 S. Wolfe) traffic light was red, it is about 1/4 mile apart. I was on the 2nd lane with no car in front of me but a sedan behind me, a van at the 1st lane. Please refer to diagram #1. After the traffic light turned green, I drove safely and at the middle of Marion way and Inverness Way, the traffic light at the Inverness Way also turned green. Then the van suddenly merged in from the right and was in front of me with an unsafe distance. So I slow down but I knew there was a car tailgating me. Please refer to diagram #2.

To avoid collision I quickly checked and I briefly speeded up to be the 1st one on the right lane. As I was approaching the intersection of Wolfe Road and Homestead Road, the traffic light turned green from red, there was no cross traffic waiting at the intersection. There were no pedestrian either. It was 10:03am in October and most of people are at work already. I noticed the police officer is at the rear right side of my car. Please refer to diagram #3.

The policeman told me that it is unsafe to stop there and instructed me to keep driving to the Cupertino village and I parked at Starbucks parking lot. It is incorrect to states location of violation as 1400 S. Wolfe road. If I did, it must have been briefly speeded up around 1500 S. Wolfe Road to avoid accident.

The Police Officer wrote on the citation for speeding at 48 mph, I can hardly recall since I was full stopped for traffic light at 1400 S. Wolfe Road (Marion Way) with another traffic light after 1/4 mile at 1500 S. Wolfe Road (Inverness Way) then another traffic light after 1/4 mile at 1585 S. Wolfe Road (Homestead Road).

I was driving safely and cautiously to avoid accidents on the road.

Secondly, I sent out an Informational Discovery Request on September 18th and I was hoping to receive a response from the Police Office for a certified copy of

Engineering and Traffic Survey for the location of the citation, which (1) was conducted within the five years preceding the alleged violation and (2) justifies the posted speed limit. By the time I write this declaration, it is already October 9, 2008, and my right has been violated pursuant to California Penal Code Section 1054.5(b) and California Penal Code Section 19.7.

Thirdly, the Palo Alto District Attorney replied my Informational Discovery Request but misled me to Palo Alto Court House for the Engineering and Traffic Survey on October 4, 2008. It turns out Palo Alto Court House doesn't have the traffic survey for Sunnyvale. John Smith, my server has obtained a copy of an eight years ago traffic survey [*1] from Jay Walker, Traffic Engineer of City of Sunnyvale, which indicated the 85 percentile of the speed is 41.8 mph between Marion Way and Homestead Road.

The police officer utilized radar to enforce a prima facie speed limit that is not properly justified by an engineering and traffic survey such enforcement constitutes an illegal speed trap. The relevant definition of an illegal speed trap can be found in Vehicle Code Section 40802(a) and (b), both of which read: [A speed trap is a] ... particular section of a highway with a prima facie speed limit that is provided by this code or local ordinance...if that prima facie speed limit is not justified by an engineering and traffic survey...and where enforcement of the speed limit involves the use of radar.... (See People v. Sullivan (1991) 234 Cal.App.3d 56; People v. Goulet (1992) 13 Cal.App.4th Supp. 1, 1-2.) The California legislature encourages universal adherence to speed laws by maintaining a highly visible law enforcement presence, rather than using clandestine enforcement techniques designed to punish a few motorists for violating the law. Whereas here, the evidence of a speed violation is the fruit of an illegal speed trap, no witness is competent to testify in the case against the defendant, if such testimony is based upon the maintenance of an illegal speed trap. V.C. Section 40804(a).

I believe that this is a very unfortunate situation and it does not reflect my driving behavior. Thank you for your understanding and I wish you could find me not guilty.

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.

*1, enclosed document

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

Date:

M Copper, Defendant in Pro Per