

Supreme Court No. 92729-4

COA, Div. III, No. 328368

SUPREME COURT  
OF THE STATE OF WASHINGTON

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JERI MAINER,

Petitioner,

v.

CITY OF SPOKANE,

Respondent.

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Received  
Washington State Supreme Court

E JAN 29 2016  
Ronald R. Carpenter  
Clerk

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ANSWER TO PETITION FOR REVIEW

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TABLE OF CONTENT

	<u>PAGE</u>
I. INTRODUCTION.....	1
II. STATEMENT OF THE CASE.....	2
III. LEGAL ARGUMENT.....	4
A. STANDARD OF REVIEW.....	4
B. MS. MAINER’S CLAIM DOES NOT INVOLVE ANY STATE OR FEDERAL CONSTITUTIONAL ISSUES.....	5
C. THE SUPERIOR COURT DECISION DOES NOT CONCERN ANY ISSUES OF BROAD PUBLIC IMPORTANCE. ....	7
D. TRIAL COURT “ERROR” IS NOT GROUNDS FOR DISCRETIONARY REVIEW; REGARDLESS, THE SUPERIOR COURT DID NOT ERR.....	9
1. The Superior Court properly found that it lacked subject matter jurisdiction.....	9
2. <i>Res judicata</i> barred Ms. Mainer’s claim.....	11
3. The applicable three-year statute of limitations barred Ms. Mainer’s claim.....	13
4. The voluntary payment doctrine barred Ms. Mainer’s claim.....	15
IV. CONCLUSION.....	18
APPENDIX – Certified Copy of Spokane Municipal Court File (copy).....	20

## TABLE OF AUTHORITIES

	<u>PAGE</u>
<b><u>CASES</u></b>	
<i>1000 Va. Ltd. P'ship v. Vertecs Corp.</i> , 158 Wn.2d 566, 146 P.3d 423 (2006) .....	14, 15
<i>Bauman v. Turpen</i> , 139 Wn. App. 78, 160 P.3d 1050 (2007) .....	8
<i>Brundridge v. Fluor Fed. Servs., Inc.</i> , 164 Wn.2d 432, 191 P.3d 879 (2008) .....	6, 14
<i>City of Bremerton v. Spears</i> , 134 Wn.2d 141, 949 P.2d 347 (1998) .....	7
<i>City of Spokane v. County of Spokane</i> , 158 Wn.2d 661, 146 P.3d 893 (2006) .....	9
<i>Civil Serv. Comm'n v. City of Kelso</i> , 137 Wn.2d 166, 969 P.2d 474 (1999) .....	12
<i>Dajani v. Governor &amp; Gen. Assembly</i> , No. Civ.CCB-00-713, 2001 WL 85181, at *2-3 (D. Md. Jan. 24, 2001).....	11
<i>Eckert v. Skagit Corp.</i> , 20 Wn. App. 849, 583 P.2d 1239 (1978) .....	14
<i>Geranios v. Annex Invs., Inc.</i> , 45 Wn.2d 233, 273 P.2d 793 (1954) .....	13
<i>Hawkinson v. Conniff</i> , 53 Wn.2d 454, 334 P.2d 540 (1959) .....	16
<i>Holder v. City of Vancouver</i> , No. C08-5099RBL, 2008 WL 918725, at *3 (W.D. Wash. Apr. 3, 2008).....	11
<i>Kovach v. District of Columbia</i> , 805 A.2d 957 (D.C. Ct. App. 2002) .....	11
<i>Lynch v. Deaconess Med. Ctr.</i> , 113 Wn.2d 162, 776 P.2d 681 (1989).....	16

	<u>PAGE</u>
<i>Miller v. United Pac. Cas. Ins. Co.</i> , 187 Wash. 629, 60 P.2d 714 (1936).....	16
<i>Orwick v. City of Seattle</i> , 103 Wn.2d 249, 692 P.2d 793 (1984) .....	10
<i>Riensch v. Cingular Wireless LLC</i> , No. C06-1325Z, 2007 WL 3407137, at *5 (W.D. Wash. Nov. 9, 2007), <i>vacated on other grounds</i> , 320 F. Appx 646 (9th Cir. 2009).....	16
<i>Speckert v. Bunker Hill Ariz. Mining Co.</i> , 6 Wn.2d 39, 106 P.2d 602 (1940) .....	16, 18
<i>Stevens County v. Futurewise</i> , 146 Wn. App. 493, 192 P.3d 1 (2008).....	11
<i>Telescripps Cable Co. v. Welsh</i> , 247 Ga. App. 282, 542 S.E.2d 640 (2000).....	16
<i>Wash. Sec. Co. v. State</i> , 9 Wn.2d 197, 114 P.2d 965 (1941).....	13
 <b><u>STATUTES</u></b>	
Washington State Constitution, Article 1, Section 3.....	6
United States Constitution, Fourteenth Amendment.....	6
Revised Code of Washington 3.50.020 .....	9
Revised Code of Washington 4.16.080(2) .....	13
Revised Code of Washington 4.16.080(3) .....	13
Revised Code of Washington 9A.72.085 .....	10
 <b><u>COURT RULES</u></b>	
Civil Rule 12(b)(6).....	3, 4, 7
Rules of Appellate Procedure 2.5(a).....	6, 14
Rules of Appellate Procedure 13.4 .....	1, 4, 9
Rules of Appellate Procedure 13.4(b).....	4
Rules of Appellate Procedure 13.4(b)(4) .....	8

## I. INTRODUCTION.

Appellant Jeri Mainer's petition for review<sup>1</sup> should be denied. Failing to concede the trial court's dismissal of her collateral attack on a prior final order—and the Washington Court of Appeals' finding that it lacked jurisdiction to review that dismissal on grounds that it did not rise to the \$200 amount in controversy threshold—Ms. Mainer now seeks review by this Court. The petition, however, fails to provide any basis grounded in RAP 13.4. Indeed, Ms. Mainer's unjust enrichment claim, which is barred by *res judicata*, the applicable statute of limitations, and the voluntary payment doctrine, fails to set forth any constitutional question of law and does not concern matters of substantial public interest. Nor does Ms. Mainer identify a single Washington Supreme Court or Court of Appeals decision that conflicts with the Court of Appeals decision below. As a result, Ms. Mainer's re-argument of the same points she argued unsuccessfully below bear no weight. Even addressing Ms. Mainer's claim on the merits presents no basis for review. Well-settled law precludes Ms. Mainer's claim, both on

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<sup>1</sup> Ms. Mainer filed her request as a "Motion for Discretionary Review." Respondent, the City of Spokane, regards it as a petition for review pursuant to RAP 13.4. The term "petition" is used to reference Ms. Mainer's motion.

jurisdictional and substantive grounds. As such, the petition should be denied.

## II. STATEMENT OF THE CASE.

On December 7, 2010, Ms. Mainer ran a red light in the City of Spokane (the "City"). Petitioner's Appendix (hereinafter "Pet. App.") at 12. This was detected by an automated traffic safety system (red light camera). *Id.* Subsequently, on December 14, 2010, Ms. Mainer received a notice of infraction ("NOI") in the mail related to her traffic infraction. *Id.*; see generally, Respondent's Appendix (hereinafter Resp. App.), attached. In response, and before the Spokane Municipal Court (the "Municipal Court"), Ms. Mainer contested the citation by arguing only that "she was not sure who may have been driving the vehicle at the time of the alleged violation." Pet. App. at 12; Resp. App. at 9. Despite full opportunity to do so, Ms. Mainer did not assert any other challenges to the NOI. *Id.* After considering Ms. Mainer's challenge, the Municipal Court entered a finding that Ms. Mainer had "committed" the infraction. Pet. App. at 12; Resp. App. at 17. Ms. Mainer did not appeal or seek to vacate that order. *Id.* Instead, on March 25, 2011, Ms. Mainer "paid the \$124.00 fine as ordered." Pet. App. at 12; Resp. App. at 18.

More than three years later, Ms. Mainer sued the City in Spokane County Superior Court (the “Superior Court”) in an attempt to collaterally attack the Municipal Court’s final order on her infraction, asserting a new unjust enrichment theory that she failed to raise in the first instance. Pet. App. at 15-16. In response, the City moved to dismiss under CR 12(b)(6) on four separate and independent legal grounds that bar Ms. Mainer’s unjust enrichment complaint: (1) the Superior Court’s lack of subject matter jurisdiction; (2) *res judicata*; (3) the applicable three-year statute of limitations; and (4) the voluntary payment doctrine. The Superior Court granted the City’s motion. Pet. App. at 24-25.

Ms. Mainer appealed the Superior Court’s decision to the Court of Appeals. Upon review, the Court of Appeals issued an unpublished opinion finding it lacked jurisdiction to consider Ms. Mainer’s appeal on account of the fact that the amount in controversy failed to reach the court’s \$200 jurisdictional threshold. Pet. App. 1-8. The Court of Appeals dismissed Ms. Mainer’s appeal accordingly, and Ms. Mainer’s petition for review followed.

### **III. LEGAL ARGUMENT.**

#### **A. STANDARD OF REVIEW.**

Contrary to Ms. Mainer's contentions, the issue before this Court is not whether the Superior Court "properly dismissed" her putative class action complaint under CR 12(b)(6) (Petitioner's Brief, hereinafter "Pet. Br.," at 2), but instead whether the circumstances of that dismissal meet this Court's high threshold for accepting discretionary appellate review. They do not. Under RAP 13.4(b), the Court will only grant a petition for discretionary review:

(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or

(2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or

(3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or

(4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

Ms. Mainer does not even reference RAP 13.4 in her petition.

Regardless, as to (1) and (2), Ms. Mainer does not contend that the Court of Appeals ruling below conflicts with a Supreme Court or other Court of Appeals decision; rather, she submits that the Superior Court "erred" when it purportedly "misapplied relevant

case law.” Pet. Br. at 3. As set forth below, that is neither the standard nor correct. As to (3) and (4), Ms. Mainer fails to demonstrate that her claim raises any significant questions of state or federal constitutional law or that her petition involves issues of substantial public interest requiring the Court’s intervention. Indeed, Ms. Mainer’s claim involves no constitutional questions and no issues of public interest.

**B. MS. MAINER’S CLAIM DOES NOT INVOLVE ANY STATE OR FEDERAL CONSTITUTIONAL ISSUES.**

The underlying basis for Ms. Mainer’s complaint—a \$124 traffic ticket—does not involve a single question of constitutional law, much less a “significant” constitutional issue. In her complaint, Ms. Mainer pled a single claim—unjust enrichment—and cited to no federal or state constitutional provisions, made no allegations arising under federal or state constitutional law, and identified no purported violations of any federal or state constitutional rights. Pet. App. at 9-18.

Failing to have alleged any constitutional issues in her complaint, Ms. Mainer now asserts a previously unraised and unsupported argument, namely, that the dismissal of her unjust enrichment claim deprived her of “life, liberty, or property, without

due process of law” under Article I, Section 3 of the Washington Constitution—as well as under the Fourteenth Amendment to the U.S. Constitution—because the Court of Appeals lacked jurisdiction to consider her appeal. Pet. Br. at 2-3. That argument fails for at least three reasons.

First, Ms. Mainer’s failure to raise her alleged due process claim in the first instance constitutes waiver on appeal. RAP 2.5(a); *see also Brundridge v. Fluor Fed. Servs., Inc.*, 164 Wn.2d 432, 441, 191 P.3d 879 (2008) (“A party who fails to raise an issue at trial normally waives the right to raise that issue on appeal.”). There is no basis for Ms. Mainer’s after-the-fact challenge.

Second, by Ms. Mainer’s own allegations, the City afforded her with due process of law as to the underlying traffic violation at issue in her complaint. Ms. Mainer received a citation, contested the citation by mail, and, after review, the Municipal Court found a violation. Pet. App. at 12; *see also* Resp. App. at 17. Had Ms. Mainer wished to further contest the traffic violation, she could have appealed the Municipal Court’s decision to the Superior Court at that time. She did not. Instead, Ms. Mainer paid the \$124 fine as ordered. Simply put, that is due process of law.

Third, after the Superior Court properly dismissed Ms. Mainer's collateral attack on the Municipal Court's final order, the Court of Appeals correctly found in its unpublished opinion that it lacked jurisdiction to consider the appeal. In doing so, the Court of Appeals also correctly found that "[t]here is no constitutional right to appeal in civil cases." Pet. App. at 4 (quoting *City of Bremerton v. Spears*, 134 Wn.2d 141, 148, 949 P.2d 347 (1998)).

Accordingly, the fact that the Court of Appeals lacked jurisdiction to accept review of the Superior Court's CR 12(b)(6) dismissal was not a deprivation of Ms. Mainer's constitutional right to due process, since Ms. Mainer had no constitutional right to appeal the dismissal. Ms. Mainer cites no authority to the contrary.<sup>2</sup>

For these reasons, Ms. Mainer identifies no significant federal or state constitutional issues involved in this matter.

**C. THE SUPERIOR COURT DECISION DOES NOT CONCERN ANY ISSUES OF BROAD PUBLIC IMPORTANCE.**

Ms. Mainer's unjust enrichment claim—and the Superior Court's dismissal of it—does not concern any matters of substantial public interest. The crux of Ms. Mainer's complaint is a collateral

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<sup>2</sup> In her petition, Ms. Mainer also appears to concede that the Court of Appeals did, in fact, lack jurisdiction to consider her appeal. Pet. Br. at 3.

attack on the final Municipal Court order obligating Ms. Mainer to pay \$124 for a traffic ticket, an order Ms. Mainer declined to appeal and a fine she voluntarily paid. Pet. App. at 6. The only authority Ms. Mainer relies on to support her position is a single trial court opinion and order, (i.e. the “*Wardrop* order”). Pet. Br. at 1; Pet. App. at 11-13, 19-23. The *Wardrop* order has no precedential value. *Bauman v. Turpen*, 139 Wn. App. 78, 87, 160 P.3d 1050 (2007). Indeed, contrary to Ms. Mainer’s contention, the *Wardrop* order applied to only three people, the three named plaintiffs, none of whom was Ms. Mainer. Pet. Br. at 1; Pet. App. at 11-12, 19-23.

That Ms. Mainer framed her unjust enrichment complaint as a putative class action is of no import. Pet. Br. at 9-10; Pet. App. at 13-15. No class was ever certified. Mere allegations of a putative class action do not give rise to “an issue of substantial public interest.” RAP 13.4(b)(4). Even if class certification were appropriate under Ms. Mainer’s allegations—and it is not—*res judicata* would preclude Ms. Mainer from being a class participant and thus disqualify her from being a plaintiff in any such class action, including this action.

As such, the Court should deny Ms. Mainer’s petition.

**D. TRIAL COURT “ERROR” IS NOT GROUNDS FOR DISCRETIONARY REVIEW; REGARDLESS, THE SUPERIOR COURT DID NOT ERR.**

Failing to articulate any significant constitutional issues or matters of public importance under RAP 13.4, Ms. Mainer falls back on simply re-litigating arguments already rejected correctly by the lower courts, but such “error” is not grounds for appeal. Neither the Superior Court nor the Court of Appeals erred in its decision.

**1. The Superior Court properly found that it lacked subject matter jurisdiction.**

Under RCW 3.50.020, a “municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances . . . .” Interpreting that provision, this Court previously held:

If a court has original jurisdiction, an action may be filed there. If it has exclusive original jurisdiction, the action must be filed there and nowhere else. If a court has exclusive original jurisdiction, all that remains to any other court is appellate jurisdiction.

*City of Spokane v. County of Spokane*, 158 Wn.2d 661, 682, 146 P.3d 893 (2006) (emphasis, internal quotation marks, and citation omitted). The Superior Court, therefore, properly held that it did not have original jurisdiction over Ms. Mainer’s claim, which was vested solely with the Municipal Court. For this reason alone, Ms. Mainer’s case was correctly dismissed as a matter of law.

Ms. Mainer's argument that the Superior Court had jurisdiction to hear her claim because it was an equitable claim is misplaced. Pet. Br. at 3-4. The primary authority on which Ms. Mainer relies for that premise—*Orwick v. City of Seattle*, 103 Wn.2d 249, 692 P.2d 793 (1984)—is inapposite here. In *Orwick*, the plaintiffs asserted “claim[s] for injunctive and declaratory relief . . . based on their **rights under a state statute and the state and federal constitutions.**” 103 Wn.2d at 252 (emphasis added). The court concluded that such claims do not “arise under” a municipal ordinance and, therefore, are not within the exclusive jurisdiction of a Municipal Court. *Id.*

Unlike in *Orwick*, Ms. Mainer seeks a refund of the fine she paid to the City pursuant to a City ordinance. She did not assert any claims based on “rights under a state statute and the state and federal constitutions.”<sup>3</sup> Ms. Mainer's claim thus “arises under” the City's municipal ordinance and, as a result, was within the exclusive jurisdiction of the Municipal Court, not the Superior Court.

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<sup>3</sup> While Ms. Mainer does claim that a violation of RCW 9A.72.085 makes her traffic infraction invalid, RCW 9A.72.085 provides no “rights” or cause of action and, as such, reliance on it did not confer jurisdiction on the Superior Court.

**2. *Res judicata* barred Ms. Mainer's claim.**

*Res judicata* prevents a party from re-litigating all claims that were raised, **or that could have been raised**, in an earlier action. See *Stevens County v. Futurewise*, 146 Wn. App. 493, 502, 192 P.3d 1 (2008). The *res judicata* doctrine exists to prevent piecemeal litigation and to ensure the finality of judgments. *Id.* at 502-03. The elements necessary to satisfy the *res judicata* doctrine are well established and preclude claims where a later action has the same (1) parties, (2) subject matter, (3) cause of action, and (4) quality of the persons for or against whom the claim is made, as the original action. *Id.* at 503.

Washington courts, as well as others throughout the country, have applied *res judicata* to preclude actions exactly like Ms. Mainer's unjust enrichment complaint. For example, in *Holder v. City of Vancouver*, No. C08-5099RBL, 2008 WL 918725, at \*3 (W.D. Wash. Apr. 3, 2008), the district court granted the City of Vancouver's motion to dismiss on *res judicata* grounds because the plaintiff there was merely trying to re-litigate a parking infraction.<sup>4</sup>

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<sup>4</sup> See, e.g., *Kovach v. District of Columbia*, 805 A.2d 957, 962-63 (D.C. Ct. App. 2002) (plaintiffs estopped from re-litigating traffic camera tickets); *Dajani v. Governor & Gen. Assembly*, No. Civ.CCB-00-713, 2001 WL 85181, at \*2-3 (D. Md. Jan. 24, 2001)

Here, Ms. Mainer and the City were both parties to the original traffic ticket contest, satisfying the first and fourth *res judicata* elements. The second element is likewise satisfied because Ms. Mainer sought to overturn her traffic ticket in the Municipal Court action and sought to do the exact same thing through her unjust enrichment claim. And the third element<sup>5</sup> is met, as the same traffic citation and fine are at issue in both cases; by her unjust enrichment complaint, Ms. Mainer merely attempted to challenge the citation under a new legal hypothesis but without any new evidence.

Further, Ms. Mainer's class action allegations do not negate application of *res judicata* to bar her underlying claim. Ms. Mainer cannot state her own claim for relief under the facts she has alleged; as a result, Ms. Mainer cannot represent a class seeking such relief.

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(finding that analogous *Rooker-Feldman* doctrine bars re-litigation of municipal court claim in subsequent federal action).

<sup>5</sup> To determine whether two causes of action are the same, Washington courts consider whether "(1) prosecution of the later action would impair the rights established in the earlier action, (2) the evidence in both actions is substantially the same, (3) infringement of the same right is alleged in both actions, and (4) the actions arise out of the same nucleus of facts." *Civil Serv. Comm'n v. City of Kelso*, 137 Wn.2d 166, 171, 969 P.2d 474 (1999).

**3. The applicable three-year statute of limitations barred Ms. Mainer's claim.**

Ms. Mainer concedes Washington law applies a three-year statute of limitations to an unjust enrichment claim. RCW 4.16.080(2) (“[a]n action for taking, detaining, or injuring personal property, including an action for the specific recovery thereof, or for any other injury to the person or rights of another not hereinafter enumerated” shall be commenced within three years); *see also Geranios v. Annex Invs., Inc.*, 45 Wn.2d 233, 273 P.2d 793 (1954) (holding that the three-year statute of limitations applicable to actions on unwritten contracts, RCW 4.16.080(3), applies to an action for unjust enrichment). While Ms. Mainer does not dispute the applicability of the limitations period, she does not accept the reality of when her claim accrued. Ms. Mainer believes, without citation to authority, that the *Wardrop* order—a non-precedential case with a holding strictly limited to the three individual plaintiffs named in the suit—triggered the three-year statutory period applicable to Ms. Mainer. Ms. Mainer is wrong.

An unjust enrichment claim accrues at the time of payment. *See, e.g., Wash. Sec. Co. v. State*, 9 Wn.2d 197, 203, 114 P.2d 965 (1941) (“respondent, immediately upon payment by it to, and

receipt by, the state of the purchase money, could have instituted an action to recover the purchase price paid”); *Eckert v. Skagit Corp.*, 20 Wn. App. 849, 852, 583 P.2d 1239 (1978) (“[T]he cause of action arose, if ever, when [the employer] first made use of the device.”). Here, Ms. Mainer indisputably paid the fine at issue on March 25, 2011, and, three years later, the limitations period expired on March 25, 2014. Pet. App. at 12; Resp. App. at 18. Ms. Mainer filed her unjust enrichment claim on June 13, 2014, and, as a result, her claim is time-barred.

As at the Court of Appeals, Ms. Mainer tries to argue around this clear bar by suggesting the discovery rule tolled the three-year statute of limitations until after the *Wardrop* order issued.<sup>6</sup> Pet. Br. at 7. The discovery rule, however, does not cure Ms. Mainer’s untimeliness. Under that rule, a cause of action accrues when the plaintiff discovers—or should have discovered in the reasonable exercise of due diligence—the elements of her cause of action. *1000 Va. Ltd. P’ship v. Vertecs Corp.*, 158 Wn.2d 566, 575-76, 146 P.3d 423 (2006). “This does not mean that the action accrues

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<sup>6</sup> Ms. Mainer neglected to raise her discovery rule argument in Superior Court, and, accordingly, waived the issue on appeal. RAP 2.5(a); see also *Brundridge v. Fluor Fed. Servs., Inc.*, 164 Wn.2d 432, 441, 191 P.3d 879 (2008) (“A party who fails to raise an issue at trial normally waives the right to raise that issue on appeal.”).

when the plaintiff learns that he or she has a legal cause of action; rather, the action accrues when ***the plaintiff discovers the salient facts*** underlying the elements of the cause of action.” *Id.* at 576 (emphasis added).

Even if Ms. Mainer’s misapplication of the discovery rule were proper—and it is not—the *Wardrop* order, at best, merely informed Ms. Mainer that she ***may*** have a new legal theory; the *Wardrop* order did not change the facts then available—or previously available—to Ms. Mainer regarding the facts and law related to her infraction and fine. Rather, Ms. Mainer had knowledge of all relevant facts underlying any potential cause of action by December 14, 2010, the date she received the NOI. Accordingly, Ms. Mainer’s unjust enrichment claim expired on March 25, 2014, and her claim is time-barred under the statute of limitations.

**4. The voluntary payment doctrine barred Ms. Mainer’s claim.**

Under Washington law, money voluntarily paid under a claim of right to the payment, and with knowledge by the payor of the facts on which the claim is based, cannot be recovered on the ground that the claim was illegal, or that there was no liability to pay

in the first instance. *Speckert v. Bunker Hill Ariz. Mining Co.*, 6 Wn.2d 39, 52, 106 P.2d 602 (1940); see also *Lynch v. Deaconess Med. Ctr.*, 113 Wn.2d 162, 165, 776 P.2d 681 (1989) (holding same); *Riensch v. Cingular Wireless LLC*, No. C06-1325Z, 2007 WL 3407137, at \*5 (W.D. Wash. Nov. 9, 2007) (applying voluntary payment rule to claim for unjust enrichment), *vacated on other grounds*, 320 F. Appx 646 (9th Cir. 2009). “The voluntary payment doctrine imposes upon a person who disputes the appropriateness of a bill the obligation to assert [a] challenge either before or contemporaneously with making payment.” *Riensch*, 2007 WL 3407137, at \*5. Neither a mistake of law nor a claim of legal compulsion is a valid defense to application of the voluntary payment rule. *Miller v. United Pac. Cas. Ins. Co.*, 187 Wash. 629, 640, 60 P.2d 714 (1936); see also *Telescripps Cable Co. v. Welsh*, 247 Ga. App. 282, 285, 542 S.E.2d 640 (2000) (holding that a mistake of law does not prevent application of the voluntary payment rule); *Hawkinson v. Conniff*, 53 Wn.2d 454, 459, 334 P.2d 540 (1959) (holding that a “threat of civil proceedings does not constitute duress if it is made in good faith and without coercion” and, as such, does not defeat the voluntary payment rule).

Applying these principles here, the voluntary payment doctrine bars Ms. Mainer's unjust enrichment claim. By Ms. Mainer's own allegations in her complaint, she challenged her infraction, and, when that challenge failed, she voluntarily paid the fine without asserting unjust enrichment or any other claim. Pet. App. at 12. Indeed, Ms. Mainer's complaint expressly states that "Ms. Mainer paid the fine of \$124.00 as ordered." *Id.*

Attempting to argue around the voluntary payment doctrine, Ms. Mainer claims she "was unaware of [sic] illegality of the citations when she paid her ticket," and points to an exception in cases involving payments made as a result of fraud or deceit.<sup>7</sup> Pet. Br. at 8-9. That argument is easily disposed of for at least three reasons. First, Ms. Mainer never alleged that her payment resulted from fraud or deceit on the City's part or on the part of the Municipal Court. Second, Ms. Mainer ignores prevailing Washington law holding money voluntarily paid under a claim of right to the payment, and with knowledge by the payor of the facts on which the claim is based, **cannot be recovered** on the ground that the claim was illegal or that there was no liability to pay in the first

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<sup>7</sup> As with her discovery rule argument, Ms. Mainer failed to raise the fraud-deceit exception to the voluntary payment doctrine at the Court of Appeals and waived the issue.

instance. *Speckert*, 6 Wn.2d at 52. And, third, Ms. Mainer cannot dispute the facts relevant to the voluntary payment doctrine: She was ordered to pay a fine for her infraction, she challenged it and the Municipal Court ordered her to pay the fine, she neglected to further appeal that final order, and she voluntarily paid the \$124 fine. Pet. App. at 12. Ms. Mainer identifies no other “disputed” facts related to the voluntary payment doctrine and none exist. As a result, the voluntary payments doctrine also bars Ms. Mainer’s unjust enrichment claim.

#### IV. CONCLUSION

For the foregoing reasons, this Court should deny Ms. Mainer’s petition for review.

Respectfully submitted this 28<sup>th</sup> day of January, 2016.



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Attorney for Respondent  
City of Spokane

DECLARATION OF SERVICE

I declare, under penalty of perjury, that on the 28<sup>th</sup> day of January, 2016, I caused a true and correct copy of the foregoing "Answer to Petition for Review," to be delivered to the court and to the parties below in the manner noted:

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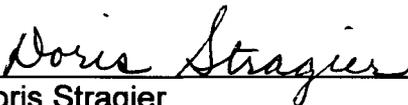
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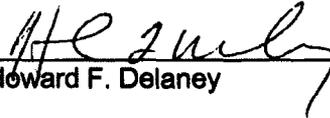
  
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# APPENDIX

RECORD CERTIFICATE

I, Howard F. Delaney, Court Administrator for the Municipal Court of the City of Spokane, in and for the County of Spokane, State of Washington, certify that the attached is the file for Citation #097100111130, consisting of seventeen pages and one video, is a true and correct copy of the original on file and of record in this court.

Dated this 2nd day of July, 2014.

  
Howard F. Delaney





City of Spokane  
 Red Light Photo Enforcement Program  
 PO Box 22091  
 Tempe, AZ 85285-2091

### NOTICE OF INFRACTION

NOTICE #:	0971000111130
PIN:	9918
Pay with your Visa or MasterCard at <a href="http://www.ViolationInfo.com">www.ViolationInfo.com</a>	

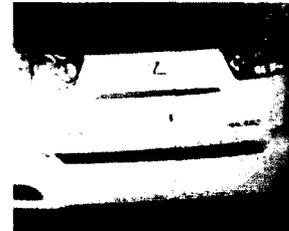
IN THE MUNICIPAL COURT OF THE CITY OF SPOKANE  
 FOR THE DISTRICT OF SPOKANE STATE OF WASHINGTON

I certify that this document is a true and correct copy of the  
 original on file and of record in this court

Date July 2, 2014 Clerk [Signature]

Amount Due: \$124.00  
 Due Date: 01/03/2011

JERI MAINER  
 5635 N FRUIT HILL RD  
 SPOKANE, WA 99217-9669



VIOLATION DATE 12/07/2010		VIOLATION TIME 07:20 PM		PENALTY AMOUNT \$124.00	
VEHICLE PLATE # 111YWC			STATE WA		
YEAR 2006	MAKE LEXUS	MODEL RX330	STYLE UT	COLOR	
LOCATION NB S FREYA ST @ E 3RD AVE, SPOKANE, WA					
REGISTERED OWNER JERI MAINER					
DEFENDANT JERI MAINER					
STREET ADDRESS 5635 N FRUIT HILL RD					
CITY SPOKANE		STATE WA		ZIP 99217-9669	
I certify, as true and correct, under penalty of perjury under the laws of the State of Washington that based upon my review of the photographs and video recording made by an automated traffic camera, as authorized by Spokane Municipal Code 16A.64, I have probable cause to believe, and do believe, that on the date, time, and location indicated above, the operator of the vehicle described was in violation of RCW 46.61.050(1) (Red Light Violation). The photographs and video recording taken together show the vehicle and the license plate, portray a fair and accurate representation of the location listed above and show that the vehicle operator was facing a steady red signal when the operator failed to stop the vehicle at the clearly marked stop line or other stopping point. The registered owner of the vehicle is named above based upon information received from the State of Washington Department of Licensing. Signed at Spokane, Washington.					
OFFICER <u>[Signature]</u>		BADGE# 881		DATE ISSUED 12/14/2010	



This Notice of Infraction is filed in Spokane Municipal Court, 1100 W. Mallon, Spokane, WA 99200, (509) 325-4400.

Pay with your Visa or MasterCard at [www.ViolationInfo.com](http://www.ViolationInfo.com) or mail your check or money order with this coupon to the address below



NAME:	JERI MAINER	DUE DATE:	01/03/2011
NOTICE #:	0971000111130	VERSION:	1 ISSUED: 12/14/2010
PLATE:	111YWC	STATE:	WA TYPE:

You must respond by midnight of the DUE DATE by one of the following methods:

1. Pay the penalty (insert this coupon in the enclosed envelope along with your payment); OR
2. Request a mitigation hearing to explain the circumstances (see Hearing Request form for explanation of hearing); OR
3. Request a hearing to contest the infraction (see Hearing Request form for explanation of hearing); OR
4. Submit an Affidavit of Non-Responsibility (see reverse for instructions)

This Notice of Infraction is a determination that a red light infraction was committed by you. The determination is final unless you respond by the DUE DATE by method 2,3 or 4 above.

AMOUNT DUE: \$124.00

City of Spokane  
 Red Light Photo Enforcement Program  
 P.O. Box 742503  
 Cincinnati, OH 45274-2503



1 0971000111130 000002679918 124005

Resp. App. 000002

Pedestrian accidents and collisions and right-angle vehicle collisions at high speeds often result from running red lights. Studies have shown that such collisions involve more risk of serious injury or death than other kinds of collisions. In an effort to reduce these types of collisions, the State of Washington and the City of Spokane have adopted laws that allow automated camera enforcement of selected traffic safety statutes and ordinances. Spokane Municipal Code 16A 64 220 authorizes the installation and operation of automated traffic safety cameras to enforce the City's stoplight ordinances.

A vehicle registered in your name was photographed during a red light infraction, or the registered owner of the vehicle depicted on this Notice has submitted an Affidavit naming you as the driver of the vehicle at the time of the infraction. This is an infraction of the Revised Code of Washington 46.61.050(1). The notice represents a determination that a photo red light infraction has been committed by the person named on the front of this Notice and the determination shall be final unless you contest it as provided in Chapter RCW 46.63.060. Some images may contain both a steady red signal and a fading yellow signal. In these circumstances, the presence of the yellow signal is due to incandescent bulb afterglow; a review of the violation video will clearly show the light to be red.

If you were making a right hand turn at the time of the incident, the violation video shows that you failed to come to a complete stop before making the turn.

This infraction is a non-criminal offense for which imprisonment may not be imposed as a sanction. No record of this infraction will be sent to your insurance company or to the Department of Licensing if the infraction is paid in full. You must respond within 15 (fifteen) days of the date the infraction was issued; however, if you received the infraction by mail, you must respond within 18 (eighteen) days of the date the infraction was mailed IRLJ2.4(a). Your response must be mailed no later than midnight on the date the response is due. Failure to respond by the due date indicated on the front of this Notice, failure to appear at a requested hearing, or failure to pay the penalty may result in additional monetary penalties, non-renewal of the vehicle license, and loss of the right to a hearing. Unpaid penalties may be assigned to a collection agency.

This infraction is filed in Spokane Municipal Court, 1100 W. Mallon, Spokane, WA 99260, (509) 625-4400

**TO VIEW VIDEO AND IMAGES:** The infraction has been captured on video and is available to view on the internet at [www.ViolationInfo.com](http://www.ViolationInfo.com). You will need the Notice # and PIN printed on the front of this Notice to login.

If you do not have access to a computer, you may view the images and video on computers which are available at the public libraries or in the lobby of the Spokane Municipal Court, 1100 W. Mallon, Spokane, WA, Monday through Friday 8:30 AM to 5:00 PM

**QUESTIONS:** If you have questions, contact Customer Service at 1-866-790-4111, during the hours of 9:00 AM to 5:00 PM, Monday through Friday

**Affidavit of Non-Responsibility, Sold or Stolen Vehicle Prior to Date of Violation:**

It is sufficient evidence under RCW 46.63.170 and Spokane Municipal Code 16A 64 070 that the person registered as the owner of the vehicle was operating the vehicle at the time of the infraction. However, liability of the owner may be removed if an Affidavit of Non-Responsibility is completed and returned by the due date noted on the front of this Notice. An Affidavit of Non-Responsibility may be obtained at [www.ViolationInfo.com](http://www.ViolationInfo.com), or at Spokane Municipal Court Clerk's Office, 1100 W. Mallon, Spokane, WA 99260. You will need the Notice # and PIN printed on the front of this Notice to login

- If the vehicle was sold prior to the date of the violation, please complete an Affidavit of Non-Responsibility and include a copy of the Transfer of Sale.
- If the vehicle or license plate was reported stolen at the time of the violation, please complete an Affidavit of Non-Responsibility and include a copy of the police report.
- If you weren't the driver of the vehicle at the time of the violation, liability may be removed by submitting an Affidavit of Non-Responsibility.

Mail completed affidavit to: Violation Processing Center, PO Box 22091, Tempe, AZ 85285-2091. Affidavits from individuals must be notarized. Failure to include the proper documentation, or the information of the driver at the time of the violation, may result in you remaining the responsible party.

**YOUR PAYMENT OPTIONS ARE:**

1. Send a check or money order in U.S. funds, payable to City of Spokane, for the AMOUNT DUE shown on the front, by the DUE DATE. Please include the coupon with your payment. Write your Notice # and your license plate # on your check or money order. PLEASE DO NOT MAIL CASH.
  2. Pay through the internet at [www.ViolationInfo.com](http://www.ViolationInfo.com). Use your Notice # and PIN printed on the front of this notice to login.
  3. Pay by phone: Call 9:00 AM to 5:00 PM, Monday through Friday, toll free at 1-866-790-4111.
- Payments will not be accepted at the Spokane Municipal Court.



**Hearing Request Form  
Red Light Photo Enforcement Program**

If you would like to have a hearing, you may request a mitigation hearing, mitigate by mail, a contested hearing or contest by mail. Guidelines for each are defined below. Indicate your choice on the hearing coupon below and mail it to the address indicated on the coupon. Your response must be mailed no later than midnight on the date the response is due. The due date is shown on the coupon. Prior to requesting a hearing, please go to [www.ViolationInfo.com](http://www.ViolationInfo.com) and view the video of your violation. If you do not have internet, there is a kiosk available for your use at the Public Safety Building, 1100 W. Mallon, Spokane, in front of the municipal court windows.

**MITIGATION HEARING:** By requesting a mitigation hearing, you are agreeing that you committed the infraction and understand that a monetary penalty will be assessed but want a mitigation hearing to explain the circumstances. In some cases, the court may reduce the penalty. You agree to appear at your scheduled hearing. You can ask witnesses to appear but they cannot be subpoenaed to appear. You will be notified in writing of your mitigation hearing date.

**MITIGATE BY MAIL:** By mitigating by mail, you are agreeing that you have committed the infraction and understand a monetary penalty will be assessed but you want to explain the circumstances. In some cases, the court may reduce the penalty. You are not required to appear at a court hearing. Your statement will be used in lieu of your personal testimony. You must file a Defendant's Statement and Declaration (use the back of the coupon below) and mail the coupon to the address below. The court will review your declaration, the photos/video of the incident and the police officer's sworn statement and render a decision. You will be notified of the court's decision by mail.

**CONTESTED HEARING:** By requesting a contested hearing, you are maintaining that you did not commit the infraction. At a contested hearing, the City of Spokane has the burden of proving by a preponderance of the evidence that the infraction was committed. You can require (subpoena) witnesses, including the officer who wrote the ticket, to attend the hearing. You will be notified in writing of your contested hearing date.

**CONTEST BY MAIL:** By requesting a contested hearing, you are maintaining that you did not commit the infraction. The City of Spokane has the burden of proving by a preponderance of the evidence that the infraction was committed. You are not required to appear at a court hearing. Your statement will be used in lieu of your personal testimony. You must file a Defendant's Statement and Declaration (use the back of the coupon below) and mail the coupon to the address below. The court will review your declaration, the photos/video of the incident, and the police officer's sworn statement and render a decision. You will be notified of the court's decision by mail.

All hearings will be held at the Spokane Municipal Court, Broadway Center Building, 721 N. Jefferson Street, 2nd Floor, Spokane, Washington.

Failure to appear for a requested hearing, or failure to pay a penalty imposed after a hearing will result in additional monetary penalties, non-renewal of the vehicle license, and unpaid penalties will be assigned to a collection agency.

Please view your video and images prior to requesting a hearing. You may view the video and images of this incident online at [www.ViolationInfo.com](http://www.ViolationInfo.com). Use the Notice # and PIN printed on the front of this notice to login.

If you were making a right hand turn at the time of the incident, the violation video shows that you failed to come to a complete stop before making the turn. Prior to requesting a hearing, please go to [www.ViolationInfo.com](http://www.ViolationInfo.com) and view the video of your violation.

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Detach and mail this hearing request coupon; make sure the address is showing through the envelope window

Please select only one of the following options:

- Mitigation Hearing
- Mitigate by mail. My statement is on the reverse.
- Contested Hearing
- Contest by mail. My statement is on the reverse.

If you require an interpreter, please indicate what language:

I promise to appear on the date and at the time set by the Court for my hearing. I understand that if I fail to appear the Court will find me committed and the penalty will be increased and if not paid will be referred to collections

Your Signature \_\_\_\_\_ Date \_\_\_\_\_

Your Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

<b>NAME:</b> JERI MAINER	<b>DUE:</b> 01/03/2011
<b>NOTICE #:</b> 0971000111130	<b>VERSION:</b> 1 <b>ISSUED:</b> 12/14/2010
<b>PLATE:</b> 111YWC	<b>STATE:</b> WA <b>TYPE:</b>

City of Spokane  
Red Light Photo Enforcement Program  
PO Box 22091  
Tempe, AZ 85285-2091



0971000111130

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Detach and mail this hearing request coupon; make sure the address on the reverse side is showing through the envelope window

If you were making a right hand turn at the time of the incident, the violation video shows that you failed to come to a complete stop before making the turn. Prior to requesting a hearing, please go to [www.ViolationInfo.com](http://www.ViolationInfo.com) and view the video of your violation.

**Defendant's Statement and Declaration for mitigation or to contest by mail**

I hereby state as follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I promise to pay the monetary penalty authorized by law or, at the discretion of the court, any reduced penalty that may be set. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing statement is true and correct.

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date and Place

Resp. App. 000005

CITY OF SPOKANE  
 PHOTO ENFORCEMENT PROGRAM  
 PO BOX 22091  
 TEMPE AZ 85285-2091  
 DECLARATION/AFFIDAVIT

Document Number: 0971000111130

Date Created: 1/17/2011 10:56:04 AM



Scheduled Hearing

FEB 17 2011

Hearing Request Form  
 Red Light Photo Enforcement Program

If you would like to have a hearing, you may request a mitigation hearing, mitigate by mail, a contested hearing or contest by mail. Guidelines for each are defined below. Indicate your choice on the hearing coupon below and mail it to the address indicated on the coupon. Your response must be mailed no later than midnight on the date the response is due. The due date is shown on the coupon. Prior to requesting a hearing, please go to [www.ViolationInfo.com](http://www.ViolationInfo.com) and view the video of your violation. If you do not have internet, there is a kiosk available for your use at the Public Safety Building, 1100 W. Mallon, Spokane, in front of the municipal court windows.

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Failure to appear for a requested hearing, or failure to pay a penalty imposed after a hearing will result in additional monetary penalties, non-renewal of the vehicle license, and unpaid penalties will be assigned to a collection agency.

Please view your video and images prior to requesting a hearing. You may view the video and images of this incident online at [www.ViolationInfo.com](http://www.ViolationInfo.com). Use the Notice # and PIN printed on the front of this notice to login.

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Detach and mail this hearing request coupon; make sure the address is showing through the envelope window

Please select only one of the following options:

- Mitigation Hearing
- Mitigate by mail. My statement is on the reverse.
- Contested Hearing
- Contest by mail. My statement is on the reverse.

If you require an interpreter, please indicate what language:

NAME: JERI MAINER	DUE: 01/03/2011
NOTICE #: 0971000111130	VERSION: 1 ISSUED: 12/14/2010
PLATE: 111YWC	STATE: WA TYPE:

I promise to appear on the date and at the time set by the Court for my hearing. I understand that if I fail to appear the Court will find me committed and the penalty will be increased and if not paid will be referred to collections.

*Jeri Mainer*  
 Your Address: 5007 N. Prairie Pl Spokane, WA 99212

City of Spokane  
 Red Light Photo Enforcement Program  
 PO Box 22091  
 Tempe, AZ 85285-2091

Received  
 JAN 03 2011

0971000111130

CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22091  
TEMPE AZ 85285-2091  
DECLARATION/AFFIDAVIT

Document Number: 0971000111130

Date Created: 1/17/2011 10:58:09 AM

Received

JAN 03 2011

Detach and mail this hearing request coupon, make sure the address on the reverse side is showing through the envelope window

If you were making a right hand turn at the time of the incident, the violation video shows that you failed to come to a complete stop before making the turn. Prior to requesting a hearing, please go to [www.ViolationInfo.com](http://www.ViolationInfo.com) and view the video of your violation.

**Defendant's Statement and Declaration for mitigation or to contest by mail**

I hereby state as follows:

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I promise to pay the monetary penalty authorized by law or, at the discretion of the court, any reduced penalty that may be set. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing statement is true and correct.

Your Signature

Date and Place

CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22091  
TEMPE AZ 85285-2091  
DECLARATION/AFFIDAVIT

Document Number: 0971000111130

Date Created: 1/17/2011 10:56:13 AM

Jeri Mainer Ins Agcy Inc  
Jeri Mainer Agent  
3007 North Argonne Road  
Spokane Valley, WA 99217 7141  
Bus 509 926 3600  
jermainer@statefarm.com



SPOKANE WA 992

31 DEC 2010 PM 5 T



Received

JAN 03 2011

0971000111130

\* Lost Envelope

City of Spokane  
Red Light Photo Enforcement Program  
P.O. Box 22091  
Tempe, AZ 85285-2091

85285+2091



CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22091  
TEMPE AZ 85285-2091  
DECLARATION/AFFIDAVIT

Document Number: 0971000111130

Date Created: 1/17/2011 10:56:18 AM

12-29-10

With all due respect to the court, I am contesting this ticket by virtue of the fact I cannot be sure who was driving my vehicle at the time of this infraction. I am in the insurance business which requires my office to inspect properties when we insure them and often times I am not driving my vehicle.

Additionally, I am contracted with the State Of Washington to hire work study students and one of my students is no longer employed here as of Dec 23<sup>rd</sup> 2010. It very well could have been this student who was driving my vehicle.

This infraction has and will forever change the way I do business- I will no longer allow anyone else to drive my vehicle- It is worrisome that someone else can be driving my vehicle and an infraction follows my vehicle.

Respectfully,



Jeri Malner

509 922-0930

Received

JAN 03 2011

0971000111130

CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22091  
TEMPE AZ 85285-2091



## Camera Log Report

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Document #: 0971000111130

Location: NB S FREYA ST @ E 3RD AVE

Event	Date / Time	Status
Deployment Start	12/7/2010 12:00:00AM	Operational Tests Passed
Violation	12/7/2010 7:29:19PM	
Deployment End	12/7/2010 11:59:59PM	Operational Tests Passed

Signs were Posted



CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22081  
TEMPE AZ 85284-2081



Violation Evidence Report

Complaint Number:  
Docket Number:  
Document Number: 0971000111130

Document Information:

Document Type: VIOLATION DATA REPORT  
Version: v 1.0  
Issue Date: 12/14/2010 8:09:12AM  
Appearance Date: 1/3/2011 8:09:12AM

Violation Information:

Violation Date / Time: 12/7/2010 7:29:19PM  
Violation Location: NB S FREYA ST @ E 3RD AVE  
SPOKANE, WA  
Plate No./ State: 111YWC WA  
Make / Model / Year: LEXS / RX330 / 2006  
Registered Owner: JERI MAINER  
Name / Address: 5635 N FRUIT HILL RD  
SPOKANE, WA 99217-9669  
Driver: JERI MAINER  
Name / Address: 5635 N FRUIT HILL RD  
SPOKANE, WA 99217-9669

State Exhibit:

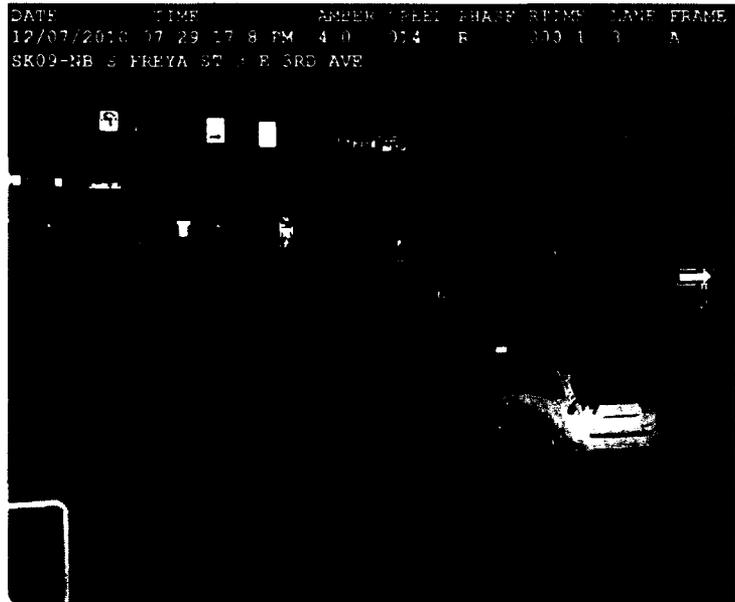


CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22081  
TEMPE AZ 85285-2081



Violation Evidence Report

Complaint Number:  
Docket Number:  
Document Number: 0971000111130



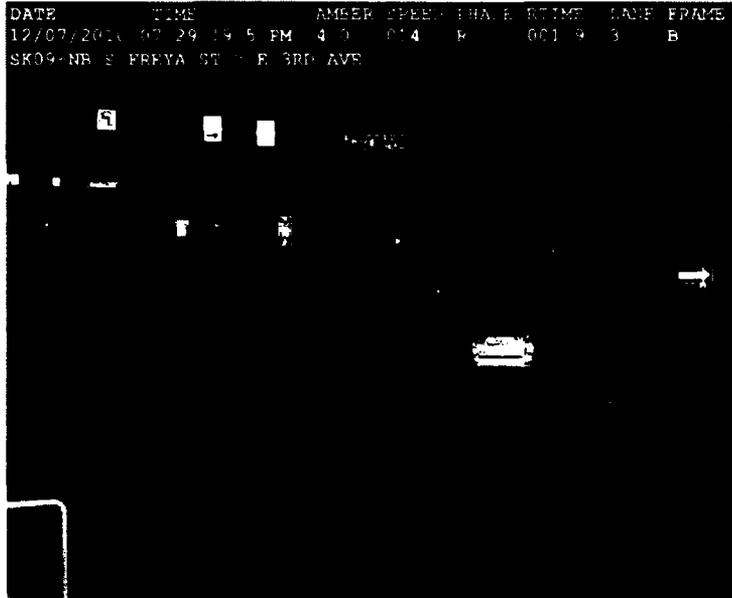
State Exhibit:

CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22091  
TEMPE AZ 85285-2091



Violation Evidence Report

Complaint Number:  
Docket Number:  
Document Number: 0971000111130



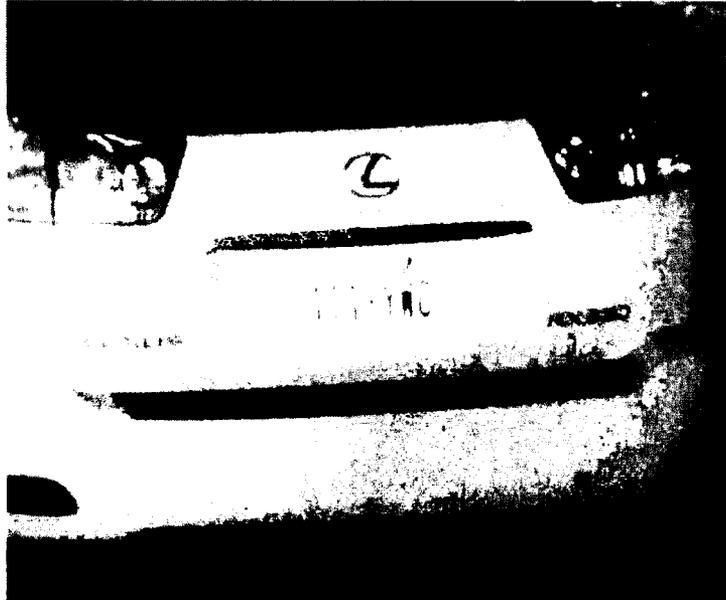
State Exhibit:

CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22081  
TEMPE AZ 85285-2091



**Violation Evidence Report**

Complaint Number:  
Docket Number:  
Document Number: 0971000111130



State Exhibit:



CITY OF SPOKANE  
PHOTO ENFORCEMENT PROGRAM  
PO BOX 22091  
TEMPE AZ 85285-2091



Violation Evidence Report

Complaint Number:  
Docket Number:  
Document Number: 0971000111130

NOTES

Note	Added By	Added Date
Hearing Request Made Previously and Payment Made	SYSTEM	03/25/2011 12:44:18 PM
JERI CALLED IN TO MAKE THE PAYMENT BUT SAID SHE WILL MAIL IT WHEN SHE HEARD OF THE CONVENIENCE FEE.	SWILSON	03/18/2011 08:18:02 AM
JERI MAINER CALLED TO FIND OUT WHY SHE RECEIVED AN NOD AS COMMITTED WHEN SHE WASNT THE DRIVER TOLD HER THAT IT WAS HER CAR THAT COMITTED AND SHE COULDNT NAME THE DRIVER SO SHE IS HELD RESPONSIBLE EXPLAINED THE DIFFERENCE BETWEEN MITIGATED AND CONTESTED HEARING	SAJONES	02/25/2011 11:34:44 AM
Hearing performed ON: 02/17/2011 BY: COMMISSIONER WITH disposition OF: COMMITTED Defendant Reason: CONTESTED	DDAVIS	02/08/2011 03:37:11 PM
Review Scheduled ON: 02/17/2011 AT 09:00 AM	NKNIGHT	01/13/2011 07:10:59 AM

State Exhibit:





City of Spokane Municipal Court  
Red Light Photo Enforcement Program  
1100 West Mallon  
Spokane, WA 99260

**JERI MAINER**  
5635 N FRUIT HILL RD  
SPOKANE, WA 99217-9669

**DATE:** 01/13/2011  
**PLATE:** WA 111YWC

**Notice of Infraction #: 0971000111130**

You requested a contested or mitigation by mail of the above-referenced infraction. The judge will render a decision without your presence after reviewing your statement along with the Notice of Infraction, declaration of the police officer, and photos/video of the incident. You will be notified by mail of the court's decision.



City of Spokane Municipal Court  
 Red Light Photo Enforcement Program  
 1100 West Mallon  
 Spokane, WA 99260

## NOTICE OF FINDING REVIEW

JERI MAINER  
 5635 N FRUIT HILL RD  
 SPOKANE, WA 99217-9669

**REVIEW INFORMATION**

REVIEW DATE: 02/08/2011  
 REVIEW TIME: 9:00 AM  
 REVIEW LOCATION: Spokane Municipal Court

LICENSE PLATE: 111YWC      STATE: WA  
 NOTICE #: 0971000111130  
 PIN #: 9918

FINDING: COMMITTED  
 AMOUNT DUE: \$124.00

The Court has entered a finding in the above-referenced Notice of Infraction of Committed.

**3 Ways to Pay**

**ONLINE**

Go to [www.ViolationInfo.com](http://www.ViolationInfo.com) and logon with your Notice # and PIN # shown above. Click the Pay button.

**BY PHONE**

Call between 8:00 AM and 4:00 PM Toll Free at: 1-866-790-4111.

**BY MAIL**

Mail your check or money order in U.S. funds, payable to **City of Spokane** with the coupon printed below. **DO NOT MAIL CASH.** Be sure to put the Notice # on the face of your payment.

**Failure to pay in full by the due date will result in additional monetary penalties, non-renewal of the vehicle license, and referral to a collection agency.**

If you have any questions, please call Customer Service Toll Free at 1-866-790-4111.

Pay with your Visa or MasterCard at [www.ViolationInfo.com](http://www.ViolationInfo.com) or mail your check or money order with this coupon to the address below



NAME: JERI MAINER	DUE: 03/19/2011
NOTICE #: 0971000111130	ISSUED: 12/14/2010
PLATE: 111YWC	STATE: WA TYPE:

- √ Make your check or money order payable to City of Spokane
- √ DO NOT MAIL CASH
- √ Write the Notice # on the front of your payment
- √ Insert this tear-off coupon in the enclosed envelope with the address (at the right) showing through the window

**AMOUNT DUE: \$124.00**

City of Spokane  
 Red Light Photo Enforcement Program  
 P.O. Box 742503  
 Cincinnati, OH 45274-2503



5 0971000111130 000002679918 124001



SPOKANE, WASHINGTON  
VIOLATION PROCESSING

Account Management

Payments

HOME ACCOUNTS LOGIN LOGOUT

Account Details

Account Details

Account Number: 0971000111130 00002679918

JERI MAINER

5635 N FRUIT HILL RD

SPOKANE WA 99217-9669

Balance Information

Date	Description	Amount	Created By
12/14/2010	Red Light Violation Fine	\$124.00	SYSTEM
03/25/2011	Payment 10852513 Applied	-\$124.00	SYSTEM
<b>Total Amount Due:</b>			<b>\$0.00</b>
<b>ADD PAYMENT</b>			

IN THE MUNICIPAL COURT OF THE CITY OF SPOKANE  
FOR THE DISTRICT OF SPOKANE STATE OF WASHINGTON

I certify that this document is a true and correct copy of the  
original on file and of record in this court

Date June 26 2014 Clerk [Signature]