

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

N. G. Thomas, G. D. Lenko, W. L. Seepish, and
5806951 Manitoba Association Corporation also known as
The Road Safety Awareness Group,

Plaintiffs

- and -

Affiliated Computer Services Inc. and its Subsidiaries collectively "ACS",
Lockheed Martin Corporation, Lockheed Martin IMS Corp., Gatsometer BV,
The City of Winnipeg, Gordon Steeves, The Chief of the Winnipeg Police Service,
John D. Butcher also known as Jon Butcher, The Attorney General of Manitoba,
The Government of Manitoba,

Defendants

STATEMENT OF CLAIM

Plaintiffs

C/O The Road Safety Awareness Group
1055 Dumas Avenue
Winnipeg, Manitoba
R3T 1W1
Phone No. (204)232-2753

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TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Queen's Bench Rules*, serve it on the plaintiffs' lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiffs, and file it in this court office, WITHIN 20 DAYS after this statement of claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is 40 days. If you are served outside Canada and the United States of America, the period is 60 days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

IF YOU PAY THE PLAINTIFFS' CLAIM, and \$300.00, for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiffs' claim and \$300.00, for costs and have the costs assessed by the court.

Date: _____

Issued by: _____
Registrar

TO: Affiliated Computer Services, Inc. and "ACS" AND TO: Lockheed Martin IMS Corp
ACS Corporate Headquarters 601 13th St NW
2828 North Haskell Washington, DC 20005
Dallas, TX 75204 Attention: President
Attention: Lynn Blodgett

AND TO: Gatsometer BV
P.O. Box 4959
2003 EZ Haarlem
The Netherlands
Attention: President

AND TO: Lockheed Martin Corp.
6801 Rockledge Dr.
Bethesda, Maryland 20819
Attention: Robert J. Stevens

AND TO: The City of Winnipeg
City Clerk's Department,
Main Floor, Council Building
City Hall, 510 Main St
Winnipeg, MB R3B 1B9

AND TO: The Chief of the WPS
151 Princess St.
Winnipeg, MB R3C 2Z7

AND TO: The Government of Manitoba
DEPT OF JUSTICE (CIVIL)
730 - 405 Broadway Avenue
Winnipeg, MB
R3C 3L6
Phone: (204) 945-2832

AND TO: The Attorney General of Manitoba
104 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

AND TO: John D. Butcher aka Jon Butcher
7 Flr-10117 Jasper Ave NW
Edmonton, AB
T5J 1W8

AND TO: Gordon Steeves
135 Willmington Dr.
Winnipeg, MB R3X 1Y2

CLAIM

The Plaintiffs claim against the Defendants, Affiliated Computer Services Inc., and its Subsidiaries, collectively ACS, Lockheed Martin Corporation, Lockheed Martin IMS Corp, Gatsometer BV, John D. Butcher also known as Jon Butcher:

1. a) damages in the amount of \$258,721,600.00;
- b) special damages in an amount not less than \$150 million, to be assessed at trial;
- c) a declaration that the photo radar program is illegal and is contrary to ss. 7 & 11(d) of *the Canadian Charter of Rights and Freedoms*;
- d) a temporary injunction and a permanent injunction be granted against Defendant ACS and Defendant City of Winnipeg to bar all photo enforcement activities;
- e) aggravated and punitive damages in an amount to be determined at trial;
- f) interest in accordance with Part XIV of *The Court of Queen's Bench Act*
- g) costs; and
- h) such further and other relief as this Honourable Court deems just.

The Plaintiffs claim against the Defendants, the City of Winnipeg, Gordon Steeves, the Chief of the Winnipeg Police Service, The Government of Manitoba, The Attorney General of Manitoba:

- i) damages;
- j) costs;

2. The Plaintiffs, N. G. Thomas, G. D. Lenko, W. L. Seepish, are all residents of the City of Winnipeg, in the Province of Manitoba and they are all vehicle owners who have received violation tickets for purportedly speeding using photo enforcement technology and whose respective

personal identifiable information has been collected, evaluated, stored and distributed by a private foreign for-profit company.

3. The Plaintiff, The Road Safety Awareness Group, is a non-profit association incorporated as 5806951 Manitoba Association Corporation under the laws of the Province of Manitoba in Canada. The Road Safety Awareness Group (hereinafter "RSAG") was formed by the aforementioned individual Plaintiffs and other private citizens to promote safer streets and it is dedicated to eliminating the use of automated traffic law enforcement and restoring conventional police traffic enforcement. The RSAG as Plaintiff represents the rights and interests of their members in this action and claims restitution for unlawfully imposed photo traffic fines and penalties and damages for the violation of members' personal privacy and security. RSAG has both individual members and corporate members and the membership continues to grow. The RSAG unofficially represent all citizens of Manitoba that have been cited for purported violations under photo radar systems.

4. The Defendant, Affiliated Computer Services Inc. is a corporation incorporated under the laws of the State of Delaware in the United States of America. Affiliated Computer Services Inc (hereinafter "ACS") is headquartered in Dallas, Texas. The company, which has annual revenues of over \$ 6 billion US, operates in more than 50 countries providing information technology and human resources services. The majority of ACS's business is done in the United States where the company has established somewhat of a specialization in debt collection and privatized law enforcement services. ACS has a wholly-owned subsidiary called ACS Public Sector Solutions, Inc. with its Canadian head office in Edmonton, Alberta. ACS is registered with the United States Securities and Exchange Commission under the *Securities Exchange Act of 1934*, as amended, (the "1934 Act"). Lynn Blodgett is the President and Chief Executive Officer of ACS, he was appointed to these positions in November 2006. ACS operates all aspects of automated traffic enforcement

in the City of Winnipeg, in the Province of Manitoba.

5. The Defendant, Lockheed Martin Corporation, is a multinational aerospace manufacturer, global security and advanced technology company formed in 1995 by the merger of Lockheed with Martin Marietta and is incorporated under the laws of the State of Maryland in the United States of America. It is headquartered in Bethesda, Maryland, in the Washington Metropolitan Area. Robert J. Stevens is the current Chairman, President, and Chief Executive Officer.

6. The Defendant, Lockheed Martin IMS Corp., was a wholly-owned subsidiary of the Defendant Lockheed Martin Corporation at the time relevant to this action. In July 2001, Lockheed completed the sale of the IMS Corporation to Affiliated Computer Services Inc. for \$825 million in cash. The IMS lines of business include Transportation Systems and Services (including Photo and Radar Traffic Enforcement), Children and Family Services, Information Resources Management, Municipal Services, and Welfare and Workforce Services. The businesses are located in 44 states and 250 offices throughout the U.S. and Canada.

7. The Defendant, Gatsometer BV, was founded in 1958 and is an international privately held company headquartered in the Amsterdam area, Netherlands. Gatsometer BV is the world's leading producer of traffic enforcement equipment. The company's core business is the patented development and production of traditional and digital speed and red light camera systems and radar systems. Gatsometer technology is used in the City of Winnipeg's photo enforcement program.

8. The Defendant, the City of Winnipeg, is a corporation constituted by the City of Winnipeg Act, S.M. 1989-1990, c.10 and carries on the functions and duties of municipal government and government services in the City of Winnipeg, in the Province of Manitoba.

9. The Defendant, the Chief of the Winnipeg Police Service, is liable for the damages caused by the actions and conduct of members of the Winnipeg Police Service acting under his direction and control by virtue of the provisions contained within *The Provincial Police Act* and because of his responsibility and duties as the Chief of Police to ensure that the provision of police services is adequate and effective.

10. The Winnipeg Police Service is the police force of the City of Winnipeg. The Winnipeg Police Service (hereinafter “WPS”) derives its authority from the City of Winnipeg Charter and its members are empowered to enforce all pertinent Federal, Provincial and Municipal regulations. The City Council establishes and passes by-laws directing the enforcement activities of the WPS.

11. The Defendant, Gordon Steeves, is a resident of the City of Winnipeg, in the Province of Manitoba. Gordon Steeves (hereinafter “Steeves”) is a Winnipeg City Councilor for the St. Vital Ward, and he is the Chairman of the Standing Policy Committee on Protection and Community Services. This Committee is responsible to oversee the provision of police services in the City of Winnipeg.

12. The Defendant, John D. Butcher also known as Jon Butcher (hereinafter “Butcher”), is a former member of the Winnipeg Police Service and is the former contract administrator for the City of Winnipeg’s photo enforcement program. Butcher currently resides in the City of

Edmonton, in the Province of Alberta. Butcher is employed by ACS as Vice-President of Canadian Operations at the Canadian head office of ACS Public Sector Solutions, Inc. located in Edmonton, Alberta.

13. The Defendants, The Attorney General of Manitoba and The Government of Manitoba, passed legislation authorizing the use of red light camera and photo radar traffic enforcement systems on May 23, 2002. The Government did not exercise due diligence and failed to investigate the claims of the camera vendor as to the safety and effectiveness of automated photo enforcement. The Government chose to implement revenue generating photo cameras that have compromised public safety over intersection safety improvements, traffic engineering standards and best practices.

14. The Attorney General sanctioned using the power of the criminal court against citizens for an improper purpose, namely to confer a financial benefit to a private for-profit foreign corporation. The use of a traffic surveillance camera to prove or enforce a violation of traffic laws is in conflict with procedural and substantive due process and traditional notions of a free society.

15. The Government of Manitoba is liable for the actions of the Manitoba Public Insurance Corporation (hereinafter "MPIC") which is a crown corporation that provides mandatory auto insurance and driver licensing to the residents of Manitoba. MPIC has released personal identifiable data of its customers to Defendant Lockheed and Defendant ACS, private foreign companies.

16. The Winnipeg Police Service (WPS) initially requested a legislative amendment to

permit the use of photo radar in 1994. In 1997, the WPS initiated discussions with the Province of Manitoba to implement photo radar technology. When the program was first promoted by Defendant Lockheed to government officials only red light running intersection cameras were contemplated.

17. There is a national campaign called The National Campaign to Stop Red Light Running that originated in Washington, D.C. The campaign is run by a Washington, D.C., public relations agency that was hired by Lockheed, the nation's biggest operator of traffic surveillance systems at the time. Lockheed set up and bankrolled the entire campaign and used it to secure a major red light camera program contract in Washington, D.C. The current sponsor of this lobbying campaign is ACS.

18. While elected officials and the public generally accept the concept of a photo system to ticket red light runners, the implementation of automated enforcement of speeding offences at intersections and mobile locations was Lockheed and ACS' true goal as it is much more lucrative.

19. In May 2000, Winnipeg City Council formally requested the enactment of provincial legislation to authorize the use of photo enforcement. The Minister of Transportation and Government Services subsequently established a working group to review the issue. The group was tasked with preparing a comprehensive report outlining options and recommendations for the feasibility, development, implementation and evaluation of a photo radar enforcement program in Manitoba. The guiding principle for the program was "the improvement and enhancement of traffic safety for Manitobans".

20. Butcher became involved in developing a proposal for a photo enforcement program

in or about 1999 or 2000 while employed as a Sergeant with the Winnipeg Police Service. Butcher promoted the services of Lockheed. The Plaintiffs say that Lockheed and ACS bought the cooperation of Butcher to secure the photo enforcement contract by promising Butcher financial benefits and a high profile position with ACS.

21. On October 19, 2001, the Winnipeg Police Service (WPS) began a six-month pilot project of photo enforcement technology. A single intersection safety camera (ISC) was installed and monitored. The ISC enforced both red light running and speed enforcement. The data collected during the pilot purportedly documented 15,000 violations. The program was operated by Lockheed. To establish acceptance for the program Lockheed used aggressive lobbying tactics, unduly influenced those in the position to decide whether or not photo radar technology would be implemented, and highly sensationalized public awareness campaigns. This mode of conduct tipped the scales in Lockheed's favour both prior to and during the contract tendering process by effectively eliminating the competition.

22. The Plaintiffs say that the Winnipeg photo enforcement contract tendering process was corrupt and/or the awarding of the contract was unduly influenced by Lockheed and ACS. The request for proposal and the particular wording of the photo enforcement law and regulations contain precise specifications of the only acceptable type of camera film ("wet-film") and equipment to be used that favoured Lockheed and/or ACS. "Wet-film" cameras are regarded in the industry as increasingly obsolete, replaced in many cities by cheaper, more reliable digital technology. Although ACS does offer digital cameras, it is widely known in the industry as the only remaining proponent of wet-film cameras.

23. In or about April 2002, Lockheed and/or ACS entered into a contract with the City of Winnipeg to supply, install and operate the photo enforcement program. Included in the private policing contract was a complete camera and violation processing system designed by Gatso. ACS subsequently installed their proprietary violation processing software called "Citeware". The use of these proprietary systems does not allow the City or Province to determine to any degree of certainty if the number of reported citations is correct and their ability to ascertain the total amount of fines and penalties or control any aspect of the program is severely impeded.

24. Lockheed and ACS conspired to gain access to and collect private citizens' data through the operation of the photo radar scheme and/or by processing of traffic act violations. Under a separate government services contract, particulars of which are unknown, Lockheed and/or ACS developed and installed a proprietary computer system for court services that controls court registry functions including data processing and electronic storage for the criminal and civil courts and data sharing with the justice department. The former executive director of Manitoba Justice Court Services, Brad Janzen, assisted ACS to implement the new system while employed by the government. Brad Janzen is now employed by ACS as a program manager. Janzen has promoted photo radar to smaller municipalities, such as East St. Paul and St. Clements, notwithstanding the fact that the program has not been successful in reducing collisions or improving safety and is a financial fiasco for the City of Winnipeg. ACS is well known in the industry for hiring ex-government officials as executives.

25. As stated, Defendant ACS specializes in debt collection, ACS has major state and city contracts to collect parking tickets, speeding tickets, outstanding court fines and municipal fees. ACS has contracts with over a dozen American States to collect child support payments and has a contract to collect outstanding student loans with the U.S. Department of Education. Defendant ACS offers its

clients the capacity to cross-reference its databases to track down debtors. ACS also buys private data bases, customer lists and subscription lists which gives ACS an extraordinary ability to track people down. The Plaintiffs say that ACS has added all Manitoba motorists' individually identifiable information who have received photo radar tickets to its databases. This private data is very valuable to ACS and their various operations. City and Provincial officials must exercise diligence when dealing with citizens' highly sensitive data.

26. The electronic data that Lockheed and ACS access and store is subject to secret unauthorized disclosure under the USA Patriot Act regardless of the contractual or practical arrangements between the client providing the data and the service provider or its U.S. parent company. A U.S.- located corporation can be ordered to produce records held in Canada that are under the U.S. corporation's control.

27. The Plaintiffs say that Defendant Lockheed and Defendant ACS breached the provisions of the photo enforcement contract in a material way by deliberately providing false safety data and collision statistics to mislead the City of Winnipeg and the Government of Manitoba to believe that photo enforcement was safe and effective. These Defendants used tactics that forcefully appealed to their audience's emotions evoking pity or compassion, such campaigns routinely involve the use of accident victims and their families. Lockheed and/or ACS deliberately manipulated financial projections to ensure their own substantial profits and maliciously put forth their own agenda willfully disregarding the serious impact their conduct had on public safety and security. Lockheed and ACS willfully failed to improve and enhance the traffic safety of Manitobans.

28. The use of automated traffic enforcement in Winnipeg has decimated the police traffic enforcement unit. The lack of active police enforcement in Winnipeg has significantly

increased the number of impaired drivers, traffic related fatalities and serious injuries throughout the years of 2003 – 2009 and continues to increase. A British Government Report associates Gatsometer type speed cameras with a 55 percent increase in injury crashes and credits police patrols with a 27 percent reduction in injury crashes. The Defendant Chief WPS failed to implement plans and procedures to monitor the contract and to ensure compliance with the law. The Chief WPS negligently and recklessly chose to increase traffic cameras notwithstanding the disastrous results, including MPIC data that shows a 60% increase in collisions at traffic signals that are equipped with the cameras, and the fact that overall violent street crime greatly increased due to the lack of adequate active police enforcement and police presence. In study after study, the use of automated traffic enforcement was proven to increase crashes, traffic fatalities and more serious injuries.

29. Winnipeg's photo radar program has generated hundreds of thousands of violation tickets. The breakdown of annual violation tickets issued by Defendant ACS from January 2003 – December 2008, to the extent known, is as follows:

2003 – 178,076	2004 – 135,768
2005 – 117,062	2006 – 150,372
2007 – 136,657	2008 – 168,173

The grand total of violation tickets is 886,108 which equates to approximate revenue of \$177,221,600.00, one hundred and seventy-seven million, two hundred and twenty-one thousand, six hundred dollars. The number of violations for the period of January - June 30, 2009 is not known, however, the estimated numbers as stated by Defendant ACS in the 2007 – 2012 contract is based on issuing 150,000 offences yearly, so a conservative number would be 75,000 which equates to revenue of \$16,500,000.00. The next four years would see another 600,000 violation tickets issued for revenue of about \$150,000,000.00.

30. The Chief WPS has willfully ignored reputable reports authored by those who have nothing to gain financially preferring instead to supply false reports generated by ACS to deliberately misrepresent the program's performance as a success story. The Chief WPS failed to investigate the safety and effectiveness of the program. The Chief WPS breached his duty by failing to provide safe, adequate and effective police enforcement of traffic laws in Winnipeg.

31. The Plaintiffs notified officials from the city and province in January 2006 about the safety risks and that the Edmonton RCMP had charged ACS with several counts of bribery for bribing police officers to secure their help to win a \$90 million dollar no bid contract to provide the province with photo radar traffic enforcement systems. The Chief of the Edmonton Police Service was investigated for accepting hockey tickets and other secret gratuities. The Chief of EPS Baker resigned amid the controversy. The charges were eventually stayed and/or dismissed in November 2007 due to evidentiary concerns. The Plaintiffs say that the City of Winnipeg was negligent in their failure to respond to a public safety risk and in their failure to investigate ACS. The Defendant City failed to implement plans and procedures to monitor the program and to ensure compliance with the law.

32. The Plaintiffs say that they and all other persons charged with red light running and speeding offences in Manitoba under certain sections of the *Highway Traffic Act* have been unlawfully charged and fined by a private company. Defendant ACS issues the summons directly to the accused vehicle owners. Defendant ACS and/or their agent, TriStar Traffic Controls Systems, Inc. is responsible for maintaining the photo radar equipment and conducting all the tests and calibration of the systems. No independent testing is done and there is no supervision by local authorities to verify the accuracy of the tests. ACS manipulates and/or fails to maintain the equipment and misrepresents and/or fails to lawfully certify evidence used against an accused to ensure high

conviction rates and their own profits. A Crown Attorney prosecutes photo offences using the evidence produced by Defendant ACS.

33. ACS has received a commission fee since December 1, 2007 for each ticket issued and/or each successful conviction, these commission fees are in addition to all other operational fees and costs. The Defendant ACS and Defendant City have entered into an impermissible or illicit contract which allows for the sharing of fines. The Defendant City has no statutory authority to enter into a revenue sharing contract. The contract is *ultra vires* and an attempt by the Defendant City to delegate a duty which cannot be delegated under our laws. Defendant ACS exercises powers, delegated by contract, which are traditionally exclusively reserved to Defendant City. The Plaintiffs say that they and Manitoba motorists similarly situated have been harmed by the existence of the contract as the events which they claim to have damaged them are the reasonably foreseeable outcome of a revenue sharing scheme.

34. The prosecution procedure for photo radar violations frustrates and/or interferes with the adjudicative function of the courts in that if a photo ticket is actually justly challenged by an accused, the court must still order costs and surcharges to pay ACS, this constitutes deliberate interference with judicial independence by private foreign interests. The foregoing statement was demonstrated in the prosecution of a Winnipeg senior citizen that was issued a ticket on August 31, 2008 for running a red light with a fine of \$190.50. The senior provided evidence that the yellow phase had been shortened contrary to the city's stated policy of setting the yellow warning phase to last at least 4.0 seconds at every intersection. The violation ticket shows the intersection had been set with a 3.9 second yellow and that she entered the intersection—slowly—just 0.1 seconds after the light turned red. The senior would not have been ticketed if the warning light had not been shortened. The magistrate simply reduced the fine to \$135.00 rather than entering an acquittal and/or directing a stay

of proceedings. There is also evidence that several of the Winnipeg intersection equipped with cameras have a yellow warning phase of less than 3.0 seconds, some as short as 2.1. Defendant ACS and/or agents acting on their behalf shortened the yellow phases at intersections equipped with cameras to increase revenue. The length of the yellow is the single most important factor in determining the financial success of a red light camera enforcement program according to Defendant Lockheed's confidential corporate documents that were publicly released during red light camera litigation in 2001 in San Diego, California.

35. A 2001 report by the Majority Leader of the U.S. House of Representatives found that the changes in yellow signal timing regulations have resulted in inadequate yellow warning times and that these inadequate yellow times are the likely cause of almost 80 percent of red light entries. A 2004 Texas Transportation Institute study found that an increase in the yellow duration of 1.0 seconds is associated with a 40 percent reduction in crashes.

36. The contract and resulting laws and regulations constitute an unconstitutional encroachment upon the judicial branch of government and judicial independence by Defendant City, Defendant Attorney General and Defendant Province.

37. The Plaintiffs seek a Declaratory Judgment that photo enforcement is illegal and contravenes s. 11 (d) of the *Charter*. The Plaintiffs seek a remedy for the contravention and ask that all photo radar tickets, fines, convictions and/or penalties resulting from the Winnipeg photo enforcement contract be set aside or otherwise be declared invalid. All monies paid to Defendants Lockheed and ACS under the contract(s) and all monies that have collected unlawfully from the Plaintiffs and all other similarly situated Manitoba motorists must be repaid by Defendant Lockheed

and Defendant ACS.

38. Defendants Lockheed and ACS must indemnify Defendant City for damages for breach of contract, violation of the covenant of good faith and fraudulent or negligent misrepresentation.

39. A remedy and damages are also sought for the unlawful collection, electronic storage and international and/or other distribution of the Plaintiffs' and Manitoba citizens' personal identifiable data. The private and restricted personal information is now part of ACS's international data banks.

40. The Plaintiffs say that the prosecution of individuals and corporations for photo radar tickets is malicious and an abuse of process because there is no authority to use the power of the state to prosecute citizens for the benefit of a private foreign corporation.

41. The Plaintiffs say that Defendant ACS deliberately set up the program in a manner to ensure that accused violators do not receive a fair trial.

42. The Plaintiff, N.G. Thomas, was the subject of unlawful surveillance by ACS on several occasions in 2006, 2007 and 2008. Several different ACS vehicles parked in front of her family residence in St. Vital after she began requesting officials from the City and Province to investigate ACS citing serious public safety concerns. On February 22, 2006 at 12:25 p.m until 1:37 p.m., a grey Astro van bearing licence plate number DNV 152 equipped with photo radar was parked in front of the Thomas residence and N.G. Thomas observed two males inside. Thomas (hereinafter "Thomas") took pictures that day and on two or three other days. Thomas says that the surveillance actions of ACS were deliberate and intended to intimidate her from opposing the program. Thomas

began investigating Defendant ACS in late 2005 after attending traffic court with G.D. Lenko on November 7, 2005. Thomas discovered information released by the Edmonton RCMP that certain police officers in Edmonton and ACS, had targeted a journalist and accessed information through CPIC with respect to a lawyer, including information about his family, because the journalist and lawyer had challenged the photo radar program and reported activities of ACS, the camera vendor. Thomas says that she has been harmed and that her privacy, security and civil rights have been violated by the placement and operation of photo cameras, further particulars of which will be adduced at trial.

43. Defendant Steeves acted in a conflict of interest and has improperly promoted ACS camera programs to other jurisdictions within Canada. Steeves was advised by Plaintiff Thomas regarding ACS' conduct in other North American jurisdictions and did not act to protect the public. Defendant Steeves had knowledge of a 220- red light camera contract in Toronto prior to Toronto publishing the request for proposal. Defendant Steeves made a statement admitting the photo radar program was all about cash. Steeves told the Winnipeg Sun he is tired of saying otherwise: "We have spent a lot of time over the last five years trying to spin this like photo radar cameras and revenues for city hall are not related. They certainly are related", this was published in the Winnipeg Sun in 2007 or 2008.

44. The Plaintiffs says that Defendant ACS applied for and received an exemption relating to employee stock options from the Manitoba Securities Commission and the Alberta Securities Commission in 2003. While the stock options may form an integral part of their employees' remuneration, the exemption status may allow Defendant ACS to secretly use such options to bribe officials and decision makers. Defendant ACS has been accused by other camera vendors of bid-rigging. In Winnipeg, Defendant Lockheed was accused by Electronic Data Systems Inc. (EDS) of

rigging and/or fixing the award of the photo enforcement contract. The Plaintiffs say that there is evidence that Defendant Lockheed authored Winnipeg's request for proposal (RFP).

45. On or about March 7, 2006 ACS was placed under investigation regarding allegations of backdating employee stock options by the Federal U.S. Securities and Exchange Commission and the U.S. Department of Justice. ACS' CEO and chief financial officer resigned in the wake of the investigation. An internal company probe also implicated former ACS CEO Jeffrey Rich in the scam, Rich resigned from the company in 2005. ACS admitted these executives had improperly backdated the price of options grants during a period from 1994 to 2005, the executives deliberately chose days on which ACS's stock took a dip as the effective date for the options, making them more valuable when exercised. The U.S. Securities and Exchange Commission and U.S. Department of Justice investigation is ongoing in 2009.

46. In 2003, a Florida state audit, relating to ACS's handling of the \$ 50 million US worth of contracts it (ACS) held to run "welfare-to-work" job placement programs in various Florida counties, found that ACS had manipulated its performance figures, either by inflating the wages of the employees it placed or by falsifying placements – claiming to place clients in fictitious jobs. The audit also found evidence that ACS had attempted "to inhibit or unduly influence" local contracting decisions. In 2004, grand juries in Dade County and Pinellas County began investigations into the affair.

47. Defendant ACS did not report any of the aforesaid investigations to the Manitoba Securities Commission. The exemption order requires ACS to continuously disclose this type of information. ACS' failure to do so was an act of bad faith and it denied Manitoba the opportunity to re-evaluate the

company's standing.

48. The City of Winnipeg released an audit of the photo enforcement program in April 2006 finding that the City lost over \$50,000,000.00 dollars of revenue. The Plaintiffs say that Defendants Lockheed and ACS deliberately misrepresented and/or falsified financial projections to the City and Province as a substantial incentive to enter into the contract(s). The Plaintiffs say that according provisions of the contract(s) Defendant Lockheed and/or Defendant ACS committed a material breach of the said contract and seek a declaration that the contract is null and void.

49. The audit also revealed that traffic collision data from two sources, the WPS and MPIC, was contradictory. While the WPS said that collisions decreased by 17%, MPIC data collected from the original 12 intersection safety cameras (ICS) in 2003 – 2004 shows an increase of 58% in the number of traffic collisions compared to the city-wide increase of 7%. An increase in claims was recorded at each level of damage with the largest percentage increase appearing at the highest dollar value. For claims at that level, the city-wide increase was only 4% according to MPIC. Claims increased by 60% at the \$0 – \$5000 level, increased by 87% at the \$5000. – \$10,000 level and increased by 113% at the \$10,000 - \$15,000 level. There is no data for the mobile photo radar (MPR) cameras.

50. The Plaintiff, G.D. Lenko, has received three photo radar tickets and he says that his driver's licence has been wrongfully denied for renewal by the Registrar of Motor Vehicles. G.D. Lenko (hereinafter "Lenko") says that he has been harmed and that his privacy, security and civil rights have been violated by the placement and operation of photo cameras, further particulars of which will be adduced at trial.

51. On November 7, 2005, G.D. Lenko was defending a radar ticket for a friend and a Commissionaire, Graham Stocker, was questioned regarding a requirement that MPR operators must calibrate the photo radar equipment during operations every 30 minutes or 50 violations. G.D. Lenko informed Stocker that the reason for the 30 minutes or 50 violations testing was because the Doppler frequency shift from which the target speed is derived is no longer constant, but will vary with time. This is one disadvantage of the radar system that causes inaccurate readings and/or errors. Stocker testified that he as an ACS supervisor took some magistrates, some judges and some Crown prosecutors out on the road with the Defendant ACS for a two week period and that's where they determined that half an hour or 50 violations was good should there be a problem. Stocker testified that way they would only be wasting 30 minutes or approximately 50 violations. Stocker said he had no knowledge of any other reason for the frequent testing. The Plaintiffs say that the foregoing is evidence that may demonstrate Defendant ACS unduly influenced the judicial system.

52. The Plaintiff, W.L. Seepish, has paid three photo radar fines, was subject to and paid additional fees for placement of a driver's licence hold and says his privacy, security and civil rights have been violated by the placement and operation of these cameras. W.L. Seepish (hereinafter "Seepish") says that he has been harmed and harassed by Manitoba Justice for unpaid fines that were not legally due or owing, through the actions of a collection agency, CBV Collections, Inc. at the behest of Manitoba Justice.

53. The RSAG created a Petition requesting the Minister of Infrastructure and Transportation to consider moving to ban the photo enforcement program in its entirety. As of June 22, 2009 the Petition had registered 2100 hundred supporters. The Petition was forwarded to the Minister, the Premier, the Attorney General and members of the opposition in February 2009 by RSAG executive.

RSAG advised officials that the reasons for the petition are that the current photo radar program is endangering the lives of citizens. RSAG says that comprehensive studies all conclude that photo cameras actually increase crashes and cause severe injuries and fatalities. Photo enforcement has caused substantial harm to Manitoban citizens because it does nothing to stop aggressive, dangerous, and/or impaired drivers. The program has failed to enhance and improve the traffic safety of Manitobans as promised by the camera vendor(s).

54. The Plaintiffs say that the operation of photo enforcement by ACS, a private for-profit foreign corporation, is a serious breach of citizens' privacy and exposes citizens to identity theft.

55. Defendant ACS is subject to United States and foreign jurisdiction laws relating to individually identifiable information, and failure to comply with those laws, whether or not inadvertent, subject ACS to legal action and negative impact of ACS operations. ACS is liable for breaches of its security systems that allow unauthorized access to information systems or by other electronic transmission or through the misdirection, theft or loss of physical media. The Plaintiffs say that privacy is an internationally recognized human right and that Defendant ACS has interfered with their right to privacy.

56. In February 2009, a magistrate decided that nine construction zone tickets would be stayed due to the fact that no workers were present at the time of the alleged violations and because none of the nine vehicles had exceeded the regularly posted speed limit of 80 km. The Crown appealed the decision. In May 2009, the Crown discontinued their appeal citing the fact that the construction zones did not have the proper signage signaling the end of the construction zone and a return to the posted speed limit of 80 km.. Defendant ACS and/or others

acting on their behalf failed to ensure that the MPR units were operating within the parameters of the contract and the law resulting in further harm and unlawful prosecution of innocent motorists.

57. The Crown subsequently stayed approximately 875 outstanding construction zone tickets. The Attorney General initially stated that all 60,000 construction zone tickets would be reviewed to determine if refunds should be issued to motorists. The Attorney General subsequently stated that no refunds would be issued. The Attorney General's stance on the issue of refunds was not well received by the public.

58. The Plaintiff RSAG says that Defendant ACS and/or their agents were also deliberately setting up their MPR vehicles in positions that were before the signage warning motorists to slow down in construction zones and were recording purported speeding offences.

59. The Plaintiffs are entitled to punitive damages for malicious prosecution. Defendant ACS created a serious public safety problem by establishing the photo radar program for the sole purpose of generating a profit. Defendant ACS is responsible for injuring motorists and causing high levels of property and other damage. Defendant ACS knows that a contract that pays commission on a per ticket basis is unlawful. Defendant ACS has exploited motorists and risked their safety by interfering with and unlawfully altering traffic control devices and traffic signal timings.

60. Defendant Lockheed has a *modus operandi* when implementing photo radar technology to ensure that they avoid the risks that public opposition or an adverse court ruling may have on the program. Defendant Lockheed has schemed to unduly influence administrators, police officers and elected officials in several jurisdictions to obtain contracts, further particulars will be adduced at trial.

61. MPIC did not inform their customers that customers' personal identifiable information was and is continuing to be released to Defendant ACS and MPIC failed to request their customers' consent to the said release. In fact, John Douglas, Vice-President of Corporate Public Affairs for MPIC wrote a letter to the editor of The Metro that was published by the community paper on January 11, 2007 stating that MPIC goes to great lengths to ensure customers' private information is handled in a professional and confidential manner by their employees. The letter goes on to state that personal information is not given out without the approval of the customer – with no exception. This letter is misleading to the general public in that no approval or consent is necessary when an official law enforcement agency is authorized by law to request such customer information if it pertains to a legitimate criminal investigation.

62. The Plaintiffs say that Defendant ACS is not an official law enforcement agency. ACS is not authorized by law to carry out vital law enforcement duties. Defendant ACS is not authorized under the common law to perform law enforcement duties or to access private identifiable data. Once MPIC releases confidential customer information to ACS, MPIC has no control or power over what ACS does with the private identifiable data. ACS collects the data and stores it indefinitely.

63. The Government and MPIC have wrongfully and/or acted unreasonably by denying vehicle owners the ability to renew their driver's licences. The Government of Manitoba amended the law and/or regulations in 2005 to punish vehicle owners that purportedly owe photo radar fines by denying the renewal of driver's licences to the said owners. The said vehicle owners are also denied the right to renew their vehicle insurance. This results in unacceptable risk to the owners. MPIC and The Registrar of Motor Vehicles do not provide statutory notice to drivers respecting driver's licence renewal and do not provide reasonable grounds for disallowing the renewal of a driver's licence as is required. The Plaintiffs say that this statutory duty of notification has been improperly delegated to

ACS and that ACS does not notify the driver and/or the vehicle owner except by way of the driver or owner receiving a collection letter saying they owe an amount of \$40.00, from CBV Collections, Inc., a private company. The \$40.00 dollar charge is to pay for the placement of a driver's licence hold which must be paid by the owner before MPIC will renew driver's licences and/or register vehicles for insurance. Plaintiffs, G.D.L. and W.S.L. and 10 members of RSAG say they were denied licence renewal privileges and their right to obtain vehicle insurance and they say and confirm that not one of them was notified.

64. The Attorney General increased fines and surcharges for photo radar offences without legislative debate. These punitive measures have nothing to do with inappropriate driving, fault of the driver or the protection of the public. Photo enforcement charges the owner of the vehicle, not the driver, which is an unequal application of the law. The Plaintiffs say that in many cases the owner of the vehicle is not the driver of the vehicle at the time when the purported offence occurs and that this creates the potential of convicting innocent motorists.

65. The Plaintiffs say that they and all other similarly situated Manitoban motorists have been harmed and have suffered real and substantial injury, economic loss and damages arising from the malicious acts, omissions, unlawful and bad faith conduct by the Defendants, particularly Defendant ACS and Defendant Lockheed. Further particulars of the bad faith will be provided at trial.

66. In the circumstances, Defendant City and Defendant Province are entitled to be indemnified by Defendant ACS and Defendant Lockheed for damages for breach of contract, violation of the covenant of good faith and fraudulent or negligent misrepresentation.

67. In the circumstances, the Plaintiffs are entitled to the relief sought in paragraph 1, above.

Dated this 16th day of July 2009

N.G. Thomas, G.D. Lenko, W.L. Seepish
and 5806951 Manitoba Association Corporation