

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

MICHAEL TOCK, individually, and )  
on behalf of others similarly situated, )  
 )  
Plaintiffs, )  
vs. )  
 )  
VILLAGE OF STONE PARK, an Illinois, )  
Municipal Corporation, )  
 )  
Defendant. )

No. 2021 CH 05781

**NOTICE OF MOTION**

To: *Robert W. Fioretti, Richard F. Linden, Peter V. Bustamante, 17 North State Street, Suite 1550, Chicago, IL 60602, [rwf@rothfioretti.com](mailto:rwf@rothfioretti.com); [lindenlaw@gmail.com](mailto:lindenlaw@gmail.com); [pvbust@bustamantelaw.com](mailto:pvbust@bustamantelaw.com)*

On **January 5, 2022 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, we shall appear before the **Honorable Neil H. Cohen** or any Judge sitting in his stead by Zoom video or telephone conference, using the following meeting ID and password: ID No. 940 2402 4757, and Password: 739301, and present the attached *Defendant, Village of Stone Park's motion to Dismiss Plaintiffs' Complaint Pursuant to 735 ILCS 2-610.1.*

Respectfully submitted,

By: *Dominick L. Lanzito*  
Attorney for the Village of Stone Park

Dominick L. Lanzito (Firm No. 42316)  
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**PROOF OF SERVICE**

Under penalties as provided by law, pursuant to 735 ILCS 5/1-109, the undersigned certifies that a true and accurate copy of this notice and referenced document was served upon the parties of record identified above in the above cause by email.

*/s/ Dominick L. Lanzito*

FILED DATE: 12/29/2021 12:34 PM 2021CH05781

12-Person Jury

12-Person Jury

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

FILED  
12/29/2021 12:30 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH05781  
Calendar, 5  
16106903

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APPEARANCE

The undersigned, PETERSON, JOHNSON & MURRAY CHICAGO, LLC, enters the  
Appearance for the Defendant, Village of Stone Park, as attorney of record, in the above-captioned  
matter.

Respectfully submitted,

By: Dominick L. Lanzito  
Attorney for the Village of Stone Park

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FILED DATE: 12/29/2021 12:30 PM 2021CH05781

**PROOF OF SERVICE**

I, Kathleen McCrae, a non-attorney, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, certifies that the foregoing was served by email to the attorneys on record, on December 29, 2021.

*/s/ Kathleen McCrae*

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOI  
COUNTY DEPARTMENT, CHANCERY DIVISION**

MICHAEL TOCK, individually, and )  
on behalf of others similarly situated, )

Plaintiffs, )

vs. )

**No. 2021 CH 05781**

VILLAGE OF STONE PARK, an Illinois, )  
Municipal Corporation, )

Defendant. )

**DEFENDANT VILLAGE OF STONE PARK’S MOTION TO DISMISS PLAINTIFFS’  
COMPLAINT PURSUANT TO 735 ILCS 2-619.1**

NOW COMES Defendant, VILLAGE OF STONE PARK, ILLINOIS, by and through its attorneys, Peterson, Johnson & Murray Chicago LLC, and moves this Court to dismiss Plaintiffs’ Complaint pursuant to 735 ILCS 5/2-619.1, and in support thereof, states:

**Introduction**

Plaintiff, Michael Tock (“Plaintiff”), brings this putative class action on behalf of himself and others who are allegedly “similarly situated”. This lawsuit arises out of a red-light camera citation that was issued to Plaintiff at the intersection of Mannheim Road and Lake Street. Plaintiff claims that he “came to a complete stop and did not enter the intersection”, however, Plaintiff has misrepresented his conduct that was captured on the video recording that was used during the administrative hearing. The video recording from the red-light camera violation demonstrates that Plaintiff did not come to a complete stop. That point aside, the citation was dismissed without any fine being levied against Plaintiff. As such, there is no case in controversy and Plaintiff lacks standing to seek Declaratory Relief (Count I) or Injunctive Relief (Count II). As such, Plaintiffs’ Complaint should be dismissed with prejudice.

### Legal Standard

The Village of Stone Park's motion to dismiss is brought pursuant to section 2-619.1 of the Code of Civil Procedure, which allows a party to move for dismissal under both sections 2-615 and 2-619. 735 ILCS 5/2-619.1. A section 2-615 motion to dismiss attacks the legal sufficiency of a complaint. *Carr v. Koch*, 2012 IL 113414, ¶ 27, 981 N.E.2d 326, 331. A motion brought pursuant to section 2-619 admits the sufficiency of the complaint, but asserts an affirmative defense or other matter that avoids or defeats that claim. *Id.* An exhibit attached to a complaint becomes part of the pleading for every purpose, including the decision on a motion to dismiss. *Wysocki v. Bedrosian*, 124 Ill.App.3d 158, 162, , 463 N.E.2d 1339, 1343 (2d Dist. 1984); *see also Brunette v. Vulcan Materials Co.*, 119 Ill.App.2d 390,395-96, 256 N.E.2d 44, 46 (1st Dist. 1970) (affirming the dismissal of a complaint for specific performance where the plaintiff failed to adequately plead the existence of an oral contract because exhibits to the complaint showed that the parties intended to subsequently formalize their agreement in writing, but did not do so). Where an exhibit contradicts the allegations in a complaint, the exhibit controls. *In re Estate of Casey*, 222 Ill.App.3d 12, 19, 583 N.E.2d 83, 88 (1st Dist. 1991) (citing *Outboard Marine Corp. v. James Chisholm & Sons, Inc.*, 133 Ill. App.3d 238, 245, 478 N.E.2d 651, 656 (2d Dist. 1985))

In ruling on such a motion, only those facts apparent from the face of the pleadings, matters of which the court can take judicial notice, and judicial admissions in the record may be considered. *Mt. Zion State Bank & Trust v. Consolidated Communications, Inc.*, 169 Ill.2d 110, 115, 660 N.E.2d 863, 867 (1995). Generally, courts may take judicial notice of public documents which are included in the records of other courts and administrative tribunals. *May Department Stores Co. v. Teamsters Union Local No. 743*, 64 Ill.2d 153, 159, 355 N.E.2d 7, 9(1976).

A motion to dismiss based on the immunity conferred by a statute is appropriately raised in a section 2-619(a)(9) motion. *Wright Development Group, LLC v. Walsh*, 238 Ill.2d 620, 641, 939 N.E.2d 389, 401 (2010). When ruling on the motion, the court should construe the pleadings and supporting documents in the light most favorable to the nonmoving party. *Czarobski v. Lata*, 227 Ill.2d 364, 369, 882 N.E.2d 536, 539 (2008).

### Facts

On July 2, 2021, Plaintiff was recorded via a red-light camera at the intersection of Mannheim Road and Lake Street in the Village of Stone Park, Illinois. (Ex. A, Plaintiff's Class Action Complaint, para. 4). Plaintiff was operating his Honda Pilot southbound on Mannheim Road at Lake Street at approximately 10:13 a.m. that day. *Id.* at para. 13. Plaintiff avers that he approached the intersection to make a right turn, "came to a complete stop and did not enter the intersection, although he stopped past the white stop line. *Id.* Plaintiff received a red-light violation citation in the mail on or about September 7, 2021. *Id.* at para. 14. Plaintiff contested the ticket, and on September 28, 2021, he appeared at the Village of Stone Park's Police Station for an in-person hearing. *Id.* at para. 17. The administrative hearing officer reviewed the video for the red-light camera violation and dismissed the citation. *Id.* at para. 17.

Although Plaintiff's Complaint references the video (paragraph 17) of the red-light violation, he fails to provide a copy of the same. Attached hereto is Exhibit B, Affidavit of Chief Pavini. See Exhibit 2 to C. Pavini's Affidavit, a true and accurate copy of the video. The video of the red-light violation is approximately 20 seconds long and Plaintiff's vehicle does not come to a complete stop at any time. *Id.* Although Plaintiff almost comes to a complete stop, his wheels are moving the entire time. *Id.* The area outside of the video frame, to the right side of the video,

is considered the intersection of Mannheim Road and Lake Street. (Ex. 2, Affidavit of Chief C. Pavini, paras. 6-9).

**Argument**

**I. Plaintiff's Complaint fails to state a cause of action pursuant to 2-615.**

Plaintiff's putative class action fails to state a cause of action upon which a class action can be maintained. First and foremost, the Complaint alleges that Section 11-208.6 of the Illinois Vehicle Code requires that the driver of the vehicle must come "to a complete stop". (Comp., para. 12)(quoting 625 ILCS 5/11-208.6(c-5). Plaintiff avers that his citation was dismissed after he had a hearing, but the claims pertaining to other putative class members are opaque. On the one hand, Plaintiff argues that if a motorist contests the red-light citation where the motorist comes to a complete stop before entering the intersection, then "Stone Park dismisses the ticket." (*Id.* at para. 3). However, the very next sentence states that the vast majority of motorists, do not contest the ticket and just pay a \$100.00 fine. *Id.* Plaintiff has brought only two counts for the putative class action, but even as alleged, Plaintiff does not state a cognizable cause of action.

As of September 28, 2021, Plaintiff no longer had a citation pending against him for the red-light citation and he does not allege that he is subjected to a *pending* red light citation. Count I of his Complaint seeks a declaratory judgment that the alleged practice for issuing red-light citations runs afoul of the Illinois Vehicle Code, and specifically, 625 ILCS 5/11-208.6(c-5). Setting aside the fact that the record, including the video recording of the red-light violation, establishes that Plaintiff's arguments are patently false and a misrepresentation of Plaintiff's conduct, Plaintiff cannot meet the pleading requirements for claims seeking injunctive relief. Count II seeks injunctive relief to stop the Village of Stone Park from exercising discretion in the enforcement of the laws and issuing red-light camera violations. However, assuming Plaintiff's

allegations are accurate, which they are not, injunctive relief is reserved only for those situations where there exists no adequate legal remedy. Where money damages provide adequate remedy, injunctive relief is not proper. *Allstate Amusement Co. of Illinois, Inc. v. Pasinato*, 96 Ill.App.3d 306, 308, 421 N.E.2d 374, 376 (1st Dist. 1981.)

The Complaint does not allege that Plaintiff was found liable and issued a fine. Rather, his only personal damages relate to attending an administrative hearing. Although some individuals were fined \$100.00, Plaintiff is not seeking damages on their behalf, rather the only compensation sought is “reasonable attorneys’ fees and costs”, which is telling. If Plaintiff’s damages relate to the time he spent going to the hearing, then his “damages” would relate to that issue. Plaintiff has not sought financial remuneration (although he would not be entitled to monetary compensation).

The Complaint seeks “an order requiring Stone Park to refund all fines, penalties and interest paid by such motorists who fit the above criteria. (Complaint, para. 35). This allegation sounds the death knell for Plaintiff’s putative class action complaint for two reasons. First, it establishes that damages could be an adequate remedy for putative class member, assuming *arguendo* they are entitled to relief. Second, Plaintiff cannot state a cause of actions for a putative class action, as there are NOT questions of fact or law common to the class and Plaintiff cannot represent the putative class members’ interests. 735 ILCS 5/2-801 (2) and (3). Both Counts I and II maintain that Plaintiff and Putative Plaintiffs lack an adequate remedy at law. (Comp., paras 32 and 37). However, these paragraphs are inconsistent with the claim that Stone Park should refund all fines, penalties and interest paid by motorists. Therefore, the Complaint makes clear that there is an adequate remedy at law so injunctive relief is not available. It is clear that Plaintiff did not seek compensatory damages because he is not entitled to such relief. Similarly, he cannot represent

a putative class where he did not suffer damages in the form of fines and penalties. Therefore, Count II of Plaintiff's Complaint should be dismissed.

**Plaintiff fails to state a claim for a Due Process Violation under 2-615.**

Count I seeks, among other relief, a declaration that the red light citation process does not ensure fairness, is unlawful, and violates due process. (Count I, prayer for relief, subpart e). Plaintiff fails to identify whether he is claiming this is a violation of Substantive or Procedural Due Process, or whether this Court is to declare that this is a federal due process violation. Nonetheless, the entirety of the red-light camera hearing process provided Plaintiff with everything required to protect his procedural due process rights. For a federal procedural due process claim, federal courts have followed two-step process. First, the court must determine if the plaintiff has been deprived of a liberty or property interest. Second, the court must determine if the plaintiff was provided constitutionally sufficient process. *Grant v. Trs. of Ind. Univ.*, 870 F.3d 562, 571 (7th Cir. 2017). Although Plaintiff makes a passing reference to due process in his prayer for declaratory relief, “[t]he cornerstone of due process is notice and the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Id.* (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)).

Here, Plaintiff received both notice and the right to be heard at an administrative hearing. Plaintiff seeks relief for a due process violation, without allegations that he was denied notice or the right to be heard. As held in *Knutson v. the Village of Lakemoor*, the Seventh Circuit, in affirming the dismissal of the plaintiffs’ putative class action lawsuit stemming from the use of red-light cameras, found that there was no due process violation where the plaintiffs had an opportunity to contest the violation before a hearing officer at an administrative hearing and the violation notices explained in detail how to request such a hearing. *Knutson, et al., v. Village of Lakemoor*, 932 F.3d 572, 576-79 (7th Cir. 2019).

In addition, if Mr. Tock was found liable for the violation, then he had further due process rights to appeal pursuant to 735 ILCS 5/3-103, which allows for an appeal to a circuit court in Illinois within 35 days of the administrative ruling. Given the allegations, Plaintiffs cannot establish that they are entitled to any relief for a purported Due Process Violation and that portion of Count I should be dismissed with prejudice.

**II. Plaintiff lacks standing under 2-619.**

Assuming that Plaintiff has stated a cause of action, Plaintiff's Complaint still fails because he lacks standing to bring such claims, including putative class claims. Although Plaintiff was cited for a red-light violation, his citation was dismissed by the hearing officer on September 28, 2021. Second, and more troubling, is Plaintiff's disregard for the record and his own actions. Plaintiff maintains that he came to a "complete stop" before the intersection. (Ex. 2 to C. Pavini's Affidavit, Video recording of violation) However, the video recording of his red-light violation demonstrates that his wheels never came to a complete stop. (Video recording of violation attached to Affidavit of Chief C. Pavini and attached as Ex. 2). To the extent that Plaintiff argues that he claims that he came to a complete stop outside of the view of the camera, said area is the convergence of traffic on Westbound Lake Street, *i.e.*, the intersection of traffic. (Ex. 2, Affidavit of Chief Pavini, paras. 6-9; Ex. 3, Photograph of Intersection attached to Affidavit of Chief C. Pavini). Thus, Plaintiff has misrepresented material facts in order to concoct a cause of action. Nonetheless, there is no red-light administrative action involving Plaintiff, and as a result, Plaintiff lacks standing to bring these claims because there is no case in controversy.

It has long been held that lack of standing is an affirmative defense in Illinois. *Greer v. Illinois Housing Development Authority*, 122 Ill.2d 462, 494, 524 N.E.2d 561, 575 (1988). However, standing may appropriately be raised by a motion for involuntary dismissal under section 2-619. *In re Custody of McCarthy*, 157 Ill.App.3d 377, 380, 510 N.E.2d 555, 556 (2d.

Dist. 1987). Per the well-established precedent, a party must have an injury in fact to a “legally cognizable interest” has standing to bring a claim for that injury. *Village of Chatham v. County of Sangamon*, 216 Ill.2d 402, 419, 837 N.E.2d 29, 39 (2005). The injury, threatened or actual, must be “(1) distinct and palpable; (2) fairly traceable to defendant’s actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief.” *Wexler v. Wirtz Corp.*, 211 Ill.2d 18, 23, 809 N.E.2d 1240, 1243 (2004).

First, Plaintiff has no injury, nor has the Village threatened any further red-light citations. Plaintiff may argue that he “could” be cited for another red-light violation, but that would be predicated upon him violating the Illinois Vehicle Code, which states in pertinent part,

Except as provided in paragraphs 3 and 3.5 of this subsection (c), vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, but if there is no such stop line, before entering the crosswalk on the near side of the intersection, or if there is no such crosswalk, then before entering the intersection, and shall remain standing until an indication to proceed is shown.  
625 ILCS 5/11-306(c)(1).

Essentially, Plaintiff would have to violate the Illinois Vehicle Code by not stopping at the “clearly marked stop line” in order to conjure up a case in controversy.

Next, to have standing for the declaratory judgment sought, there are two requirements for standing to bring an action for declaratory relief. First, there must be an “actual controversy.” *Greer*, 122 Ill.2d at 493, 524 N.E.2d at 575. See, 735 ILCS 5/2-701(a). ‘Actual’ in this requires a showing that the underlying facts and issues of the case are not moot or premature, so as to require the court to pass judgment on mere abstract propositions of law, render an advisory opinion, or give legal advice as to future events. *Underground Contractors Ass’n v. City of Chicago*, 66 Ill.2d 371, 375, 362 N.E.2d 298, 300 (1977). The case must, therefore, present a concrete dispute admitting of an immediate and definitive determination of the parties’ rights, the resolution of which will aid in the termination of the controversy or some part thereof. 735 ILCS 5/2-701(a).

The second, and somewhat related requirement, is that the party seeking the declaration must be ‘interested in the controversy.’ 735 ILCS 5/2-701(a). ‘Interested’ means the party seeking relief must possess a personal claim, status, or right which is capable of being affected. *Underground Contractors Ass’n*, 66 Ill.2d at 375-76, 362 N.E.2d at 301. The dispute must, therefore, touch the legal relations of parties who stand in a position adverse to one another. *Exchange National Bank of Chicago v. County of Cook*, 6 Ill.2d 419, 422, 129 N.E.2d 1, 3 (1955).

Per the plain language of the declaratory relief statute and the applicable case law, Plaintiff does not have standing because there is no case in controversy. Moreover, Plaintiff does not have standing because there was *never* a case in controversy. Plaintiff never came to a “complete stop”, nor did he stop before entering the intersection. Plaintiff’s case in controversy ended when he was found not liable for a red-light violation citation after going before the hearing officer. (Ex. C, Transcript of Proceeding, p. 22). Therefore, he has no standing to seek the declaratory relief on his behalf and on behalf of other putative plaintiffs.

In addition, it is abundantly clear that Plaintiff does not have standing to bring a claim for injunctive relief. Setting aside the fact that if there were damages, a remedy in law would eviscerate this injunctive relief claim; to establish standing in a suit seeking injunctive relief, the plaintiff must establish that he has a “clearly ascertainable right or interest which needs protection.” *Village of Lake in the Hills v. Laidlaw Waste Systems, Inc.*, 143 Ill. App. 3d 285, 292, 492 N.E.2d 969, 974 (2d Dist. 1986). The party must claim injury to a “substantive interest he possesses which is recognized by statute or common law.” *Id.* (citing *Glazewski v. Coronet Ins. Co.*, 108 Ill. 2d 243, 254, 483 N.E.2d 1263, 1268). The injury for which the injunction is sought to prevent must directly impact his property or rights and cannot be abstract. *Id.* “The doctrine is

designed to ensure that the courts are accessible to resolve actual controversies between parties and not address abstract questions, **moot issues, or cases brought on behalf of others who may not desire judicial aid.**” *Id.* (citing *Illinois Municipal League v. Illinois State Labor Relations Board*, 140 Ill. App. 3d 592, 598, 488 N.E.2d 1040, 1044 (4th Dist. 1986)) (emphasis added).

As stated, Plaintiff’s claims do not revolve around “actual controversies” between he and the Village, but rather some potential future red-light citation where he will claim that he stopped his car after the designated stop line, but before the intersection (in his assessment). Thus, the matter with Plaintiff is not only moot, any future alleged violation by the Village of the Illinois Vehicle Code is not ripe and would present an abstract question for this Court to rule upon. Therefore, Plaintiff lacks standing to bring the claims for declaratory and injunctive relief and Counts I and II of Plaintiff’s Complaint should be dismissed with prejudice.

WHEREFORE Defendant Village of Stone Park, respectfully request that this Court grant this motion in its entirety, award fees and costs for defending this lawsuit, and for any other relief that this Court deems necessary and just.

Respectfully submitted,

By: *Dominick L. Lanzito*  
Attorney for the Village of Stone Park

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Hearing Date: No hearing scheduled  
Location: <<CourtRoomNumber>>  
Judge: Calendar, 5

FILED  
12/29/2021 12:30 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH05781  
Calendar, 5  
16106903

FILED DATE: 12/29/2021 12:30 PM 2021CH05781

# EXHIBIT A

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
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MICHAEL TOCK, individually, and on behalf )  
of all others similarly situated, )  
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Plaintiffs, )  
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v. )  
 )  
VILLAGE OF STONE PARK, an Illinois )  
Municipal Corporation, )  
 )  
Defendant. )

No. 2021CH05781

**CLASS ACTION COMPLAINT**

Plaintiff, Michael Tock (“Tock”), individually, and on behalf of all others similarly situated, by and through their attorneys, Robert W. Fioretti, Richard Linden and Peter V. Bustamante, complain of the Village of Stone Park (“Defendant” or “Stone Park”) as follows:

**SUMMARY OF CLAIMS**

1. Plaintiff and at least thousands of other individuals and entities received automated traffic law violations (“Red Light Camera Tickets”) from Stone Park for allegedly violating traffic control signals in the Village of Stone Park including but not limited to traffic control signals at the intersection of Lake Street and Mannheim Road. The Red Light Camera Tickets complained of are illegal, invalid and violate 625 ILCS 5/11-208.6.

2. 625 ILCS 5/11-206.6 (c-5) expressly prohibits Stone Park and other municipalities from using “automated traffic law enforcement systems” (“Red Light Cameras”) to issue violations in instances where the motor vehicle comes to a complete stop and does not enter the intersection even if the motor vehicle stops at a point past a stop line or crosswalk where a driver is required to stop, unless one or more pedestrians or bicyclists are present.

3. It has been, and upon information and belief currently is, Stone Park’s illegal

FILED DATE: 2/23/2022 11:30 AM 2021CH05781

practice to issue Red Light Camera Tickets when a vehicle stops past the stop line or crosswalk even though the motor vehicle comes to a complete stop before entering the intersection. If the motorist contests the Red Light Camera Ticket, Stone Park dismisses the ticket. Upon information and belief, in the vast majority of such instances, the motorist does not contest the Red Light Camera Ticket but instead pays the \$100.00 fine to Stone Park.

4. On July 2, 2021, Plaintiff Tock, was a victim of Stone Park’s illegal practices when he received a Red Light Camera Ticket at the intersection of Mannheim Road and Lake Street in the Village of Stone Park (a copy of Tock’s “Second Notice of Red Light Violation” is attached hereto as Exhibit 1).

5. Plaintiff, individually and on behalf of all others who received a Red Light Camera Ticket when their motor vehicle came to a complete stop before entering the intersection where the vehicle stopped past the stop line or crosswalk, with no pedestrians or bicyclists present, seek a declaration that these tickets are invalid and unenforceable. Plaintiffs also seek an order requiring Stone Park to refund all fines paid by such motorists who fit the above criteria, including penalties for late payment and interest.

6. Plaintiffs also ask the Court to enjoin Stone Park from issuing any further Red Light Camera Tickets to motorists when their motor vehicle comes to a complete stop before entering the intersection, with no pedestrians or bicyclists present, even though the vehicle stops past the stop line or crosswalk.

***PARTIES, JURISDICTION AND VENUE***

7. At all relevant times, Plaintiff Tock was a resident and citizen of Cook County, Illinois.

8. At all relevant times, Defendant Stone Park was an Illinois municipal corporation

located in Cook County, Illinois.

9. Jurisdiction over Stone Park is proper under 735 ILCS 5/2-209 in that the events complained of and Plaintiffs' causes of action arose in the State of Illinois, and because Defendant resides in Illinois for jurisdictional purposes.

10. Venue is proper under 735 ILCS 5/2-101 in that the events complained of and Plaintiffs' causes of action arose in Cook County, and because Defendant resides in Cook County.

**FACTS COMMON TO ALL COUNTS**

11. The Illinois Vehicle Code [625 ILCS 5/1-100, *et seq.*] sets forth requirements for traffic control devices including automated red light cameras.

12. Section 11-208.6 of the Illinois Vehicle Code regulates and imposes requirements for Red Light Cameras. Section 11-208.6(c-5) provides:

A county or municipality, including a home rule county or municipality, may not use an automated traffic law enforcement system to issue violations in instances where the motor vehicle comes to a complete stop and does not enter the intersection, as defined by Section 1-132 of this Code, during the cycle of the red signal indication unless one or more pedestrians or bicyclists are present, even if the motor vehicle stops at a point past a stop line or crosswalk where a driver is required to stop, as specified in subsection (c) of Section 11-306 of this Code or a similar provision of a local ordinance.

(625 ILCS 5/11-208.6(c-5)).

13. On July 2, 2021, at approximately 10:13 a.m., Tock was operating his Honda Pilot motor vehicle southbound on Mannheim Road at Lake Street ("the Intersection"). When he approached the Intersection to make a right turn, he was in the right turn lane. Tock came to a complete stop and did not enter the Intersection during the cycle of the red signal indication. No pedestrians or bicyclists were present (*see*, Photo #1, Exhibit 1). Tock's vehicle stopped past the white stop line (*Id.*).

14. The red light camera at the intersection activated and on or about September 7,

2021, Tock received notice of Red Light Violation with a \$100.00 fine (Exhibit 1). The Notice of Red Light Violation reads:

This Notice of Violation depicts a Red Light Violation as shown in this photographic record obtained by a traffic control monitoring device. The recorded images have been reviewed and approved by a law enforcement officer of the municipality or county and have been found to show evidence of a violation of a red light signal and/or law pertaining to 'Right Turn on Red.' Please note, all individuals appearing on the vehicle's registration, lessees, or renters, if applicable, are legally responsible for this violation. You may visit [www.payonlineticket.com](http://www.payonlineticket.com) to view this violation or to pay by credit card.

(Exhibit 1).

15. The Notice of Red Light Violation gave Tock until September 22, 2021 to pay or contest the violation.

16. The first photograph depicted on Exhibit 1 shows Tock's vehicle at a complete stop in the right turn lane, past the white stop line, but before entering the intersection.

17. On September 28, 2021, Tock appeared at the Village of Stone Park's Police station for an "In-Person Hearing." The hearing officer looked at the video and photos and immediately said "dismissed." Tock did not have to say a word or argue.

18. Tock had to use his personal time and resources to attend the "In-Person Hearing."

19. Plaintiff brings this action on behalf of himself and all other similarly situated persons. Plaintiff's proposed class consists of all persons who were issued a Red Light Camera Ticket where a vehicle comes to a complete stop past the white stop line, but before entering the intersection, with no pedestrians or bicyclists present.

20. Plaintiff has satisfied the requirements and prerequisites for the maintenance of a class action under Section 2-801 of the Illinois Code of Civil Procedure [735 ILCS 5/2-801].

21. Plaintiff's proposed class is so numerous that joinder of all members is impracticable.

22. There are questions of fact or law common to Plaintiff's proposed class, which common questions predominate over any questions affecting only individual members.

23. Plaintiff's claims are typical of the claims of the proposed Class. Plaintiff will fairly and adequately represent and protect the interests of the proposed Class. Plaintiff does not have any interests antagonistic to those of the Class. Plaintiff has retained competent counsel experienced in the prosecution of this type of litigation. The questions of law and fact common to the Class members predominate over any questions affecting only individual Class members.

24. A class action is an appropriate method for the fair and efficient adjudication of the controversy. A class action is superior to other available methods for fairly and efficiently adjudicating this controversy because, among other things, (a) joinder of all members of the Class is impracticable, (b) the vast majority of the Class cannot vindicate their rights by individual lawsuits because in many cases their damages are relatively small relative to the burden and expense of litigating individual actions; and (c) a class action will eliminate the risk of inconsistent rulings and judgments. Upon information and belief, the precise size, identity and contact information of the Class can be readily determined from documents and records maintained by the Defendant.

#### **COUNT I (DECLARATORY RELIEF)**

25. Plaintiff realleges and incorporates by reference paragraphs 1-24 as if fully set forth herein.

26. Plaintiff and the putative Plaintiffs are entitled to a declaration that Red Light Camera Tickets issued where a vehicle comes to a complete stop past the white stop line, but before entering the intersection, with no pedestrians or bicyclists present, are invalid and unenforceable.

27. Plaintiff and the putative Plaintiffs are entitled to a declaration that the review of Red Light Camera Tickets by the Village of Stone Park is fundamentally flawed in that hundreds of motorists are being illegally ticketed where a vehicle comes to a complete stop past the white stop line, but before entering the intersection, with no pedestrians or bicyclists present.

28. Plaintiff and the putative Plaintiffs have a legal tangible interest in the controversy and have an interest in being free from receiving invalid Red Light Camera Tickets when they were obeying the law.

29. Defendant Stone Park has opposing interests in the controversy.

30. An actual controversy exists between the parties concerning such interests, a resolution of which will assist in the ultimate resolution of the dispute between the parties.

31. Plaintiff and the putative Plaintiffs have a clear right to the relief requested.

32. Plaintiff and the putative Plaintiffs lack an adequate remedy at law.

**WHEREFORE**, Plaintiff, Michael Tock, on behalf of himself and all members of the class, requests the following relief against Defendant, Village of Stone Park:

- a. An order certifying the Class as defined above;
- b. An order designating Plaintiff Michael Tock as representative of the Class and his undersigned counsel as Class counsel.
- c. A declaration that Red Light Camera Tickets issued where a vehicle comes to a complete stop past the white stop line, but before entering the intersection, with no pedestrians or bicyclists present, are invalid and unenforceable.
- d. A declaration that the review of Red Light Camera Tickets by the Village of Stone Park is fundamentally flawed in that motorists are being illegally ticketed where a vehicle comes to a complete stop past the white stop line, but before entering the intersection, with no pedestrians or bicyclists present.
- e. A declaration that Stone Park's failure to have a ticket review procedure that ensures fairness is unlawful and violates due process.
- f. An award of reasonable attorneys' fees and costs; and,

- g. Any other relief the Court deems appropriate.

**COUNT II (INJUNCTIVE RELIEF)**

33. Plaintiff realleges and incorporates by reference paragraphs 1 through 32 as if fully set forth herein.

34. Plaintiff and the putative Plaintiffs are entitled to injunctive relief enjoining Stone Park from issuing any further Red Light Camera Tickets to motorists when their motor vehicle comes to a complete stop before entering the intersection even though the vehicle stops past the stop line or crosswalk, with no pedestrians or bicyclists present.

35. Plaintiff and the putative Plaintiffs also seek an order requiring Stone Park to refund all fines, penalties and interest paid by such motorists who fit the above criteria.

36. Plaintiff and the putative Plaintiffs have a clear and ascertainable right to the injunctive relief requested.

37. Plaintiff and the putative Plaintiffs lack an adequate remedy as law.

38. Plaintiff and the putative Plaintiffs would suffer irreparable injury if an injunction is not granted.

**WHEREFORE**, Plaintiff, Michael Tock, on behalf of himself and all others similarly situated, requests the following relief against Defendant, Village of Stone Park:

- a. An order certifying the Class as defined above;
- b. An order designating Plaintiff Michael Tock as representative of the Class and his undersigned counsel as Class counsel.
- c. An order enjoining Stone Park from issuing any further Red Light Camera Tickets to motorists when their motor vehicle comes to a complete stop before entering the intersection even though the vehicle stops past the stop line or crosswalk with no pedestrians or bicyclists present.

- d. An order enjoining Stone Park to refund all fines, penalties and interest paid by motorists that received Red Light Camera Tickets to motorists when their motor vehicle comes to a complete stop before entering the intersection even though the vehicle stops past the stop line or crosswalk, with no pedestrians or bicyclists present.
- e. An award of reasonable attorneys' fees and costs; and,
- f. Any other relief the Court deems appropriate.

**MICHAEL TOCK**

/s/ Richard F. Linden  
One of his attorneys

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Hearing Date: No hearing scheduled  
Location: <<CourtRoomNumber>>  
Judge: Calendar, 5

FILED  
12/29/2021 12:30 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH05781  
Calendar, 5  
16106903

FILED DATE: 12/29/2021 12:30 PM 2021CH05781

# EXHIBIT B

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOI  
COUNTY DEPARTMENT, CHANCERY DIVISION**

MICHAEL TOCK, individually, and	)	
on behalf of others similarly situated,	)	
	)	
Plaintiffs,	)	
vs.	)	<b>No. 2021 CH 05781</b>
	)	
VILLAGE OF STONE PARK, an Illinois,	)	
Municipal Corporation,	)	
	)	
Defendant.	)	

**AFFIDAVIT OF CHRISTOPHER PAVINI**

I, Christopher Pavini, being first duly sworn upon oath, depose and state that if called to testify in the above-captioned matter, I could competently and on personal knowledge, testify to the following facts:

1. I am currently employed by the Village of Stone Park and serve as the Chief of Police. I have served as the Chief of Police for 8 years.
2. As the Chief of Police, I am familiar with the red light camera administrative hearings and the intersections at which the red light cameras are located in the Village of Stone Park.
3. A true and accurate copy of the audio recording for the September 28, 2021 red light camera hearings is attached as Exhibit 1 to this affidavit.
4. A true and accurate copy of the video recording for the July 2, 2021 that led to Michael Tock’s red light camera citation is attached as Exhibit 2 to this affidavit.
5. The July 2, 2021 captured the entire incident involving Mr. Tock’s vehicle.
6. Mr. Tock’s vehicle went from southbound Mannheim Road and made a right turn on to westbound Lake Street, Stone Park, Illinois.
7. Michael Tock’s vehicle is seen making the right turn and then driving out of the red light camera’s video frame on the right side of the video.

- 8. The area that is outside of the righthand side of the red light camera video frame is considered to be the intersection of Mannheim Road and Lake Street, Stone Park, Illinois.
- 9. Even if Michael Tock stopped his vehicle outside of the righthand side of the video frame of the red light camera, Mr. Tock would have been stopped after his vehicle entered the intersection of Mannheim Road and Lake Street, Stone Park, Illinois.
- 10. Exhibit 3 truly and accurately depicts the area outside of the righthand side of the red light camera on southbound Mannheim Road where is intersects with westbound Lake Street.

FURTHER AFFIANT SAYETH NOT.

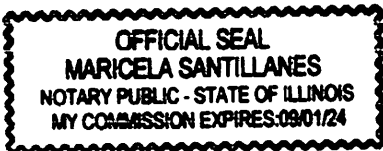
CHRISTOPHER PAVINI



SUBSCRIBED AND SWORN TO BEFORE ME

THIS 20<sup>th</sup> DAY OF December, 2021.

Maricela Santillanes  
Notary Public



**EXHIBIT 1**  
**September 28, 2021**  
**Administrative Hearing**  
**Audio Recording**

EXHIBIT 2  
July 2, 2021  
Video Recording

FILED DATE: 12/29/2021 12:30 PM 2021CH05781

# Tock v. Stone Park

Exhibit 3

Legend



Google Earth

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