

NECHAMA KORETZKY, <i>et al.</i>	*	IN THE
Plaintiffs	*	CIRCUIT COURT
v.	*	FOR
AFFILIATED COMPUTER SERVICES, INC, <i>et al.</i>	*	BALTIMORE CITY
Defendants	*	Case No.: 24-C-04-005773
* * * * *		

**MEMORANDUM OF DECISION**

This matter comes before the Court on Defendants Affiliated Computer Services, Inc., and ACS State and Local Solutions, Inc.'s Motion to Dismiss Amended Complaint, the Mayor and City Council of Baltimore's Motion to Dismiss, Plaintiffs' Oppositions to both Motions to Dismiss, and both Defendants' Replies thereto. On June 20, 2005 this Court conducted a hearing on the matter during which all parties presented argument. For reasons set forth in detail below, both Defendants' Motions to Dismiss are hereby granted.

## FACTS

In November 1998 the City of Baltimore contracted with the predecessor in interest of Affiliated Computer Services, Inc. and/or ACS State and Local Solutions, Inc. (collectively "ACS")<sup>1</sup> to install, maintain and provide some level of administrative assistance for a Red Light Camera Enforcement System ("RLCES"). The avowed purpose of RLCES is to enforce state motor vehicle laws and regulations at traffic signals, thereby, hopefully reducing accident rates and increasing safety.

The RLCES currently operates at 47 intersections. At each intersection a camera in conjunction with the traffic signal photographs motor vehicles entering the intersection against a red light. Sensors underneath the road surface at each intersection detect when a vehicle enters the intersection after the traffic signal has turned red triggering the camera to take several photos of the vehicle.

ACS reviews the images generated by the cameras to make at least a preliminary determination as to whether a red light traffic infraction has occurred. It sends the violations to their New Jersey office to obtain registration information and generates citations. ACS then forwards these images and citations to the City of Baltimore to determine whether a citation should be issued. A Baltimore City police officer reviews the images to determine whether a red light violation has occurred, verifies the vehicle information obtained from the images, and signs the citation. The citations then issued are forwarded to ACS for mailing to the registered owner of

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<sup>1</sup> There is some dispute as to the extent of each ACS party's individual involvement. For purposes of this Opinion, those disputes are irrelevant. Therefore, this Court will refer to both ACS parties collectively as "ACS".

the vehicle.<sup>2</sup>

The citation sent to the registered owner imposes a civil penalty of \$75.00. The citation is not a moving violation, assesses no points to the owner's driver's license and the Motor Vehicle Administration does not record the violation on the owner's driving record. Upon receipt of the citation, the person to whom the citation is issued may elect to pay the civil penalty or stand trial for the alleged violation at the appropriate District Court. At trial, no State's Attorney is present; however, a representative from ACS is present to act as an expert witness. Plaintiffs also claim that the ACS representative performs two roles at trial: prosecutor and expert.

Section 21-202.1 of the Transportation Article of the Maryland Annotated Code governs the RLCES, and in particular sets forth certain criteria for the issuance of a citation. Md. Code Ann, Transp. II § 21-202.1. Of central importance to this case is the length of time a traffic control signal displays a yellow light before changing to red. *Id.* at § 21-202.1 (b). If the length of a yellow light does not conform with the requirements of Sect. 21-202.1 (b), the citation would presumably be enforceable. Sect. 21-202.1 (b) states that the yellow light time shall be "set in accordance with regulations adopted by the State Highway Administration consistent with standards or guidelines established by the Federal Highway Administration." *Id.* The Plaintiffs in the present action argue that the citations issued to them were not in accordance with the yellow light time standards. More specifically, Plaintiffs allege that federal guidelines require yellow light times to be

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<sup>2</sup> The precise sequence of events leading up to the mailing of the citation to the registered owner is unclear from the briefs. However, any discrepancies would not effect the decision of this Court.

between three (3) to six (6) seconds depending primarily on speed and grade.

There are three Plaintiffs in this action all of whom received citations under the RLCES: (1) Ari L. Koretzky ("Mr. Koretzky"), (2) Nechama Koretzky ("Mrs. Koretzky"), and (3) Douglas Kukucka ("Mr. Kukucka"). The City of Baltimore issued Mr. Koretzky a citation for a red light violation when a camera photographed a vehicle registered to him but driven by his wife proceeding through an allegedly red light at the intersection of Park Heights and Violet Avenues on March 11, 2004. He contested the citation at the District Court alleging that the citation was based on a yellow light time below three (3) seconds. On May 12, 2004 the District Court dismissed the citation according to Mr. Koretzky because of the yellow light time.

Mr. Koretzky was issued another red light citation when a camera photographed a vehicle registered to him traverse through an allegedly red light at the intersection of Reisterstown Road and Patterson Avenue on April 27, 2004. Again, Mr. Koretzky requested a hearing complaining that the citation was based on a yellow light time below three (3) seconds. The District Court dismissed the citation at the hearing on July 29, 2004.

Finally, a citation was issued to the "Kukucka household"<sup>3</sup> when a camera placed at the intersection of Walther Avenue and Glenmore Road photographed a vehicle driven by Plaintiff Mr. Kukucka pass through an allegedly red light on February 22, 2004. Rather than contest the citation at the District Court as was his right, Plaintiff Mr. Kukucka paid the \$75.00 civil penalty. According to the Complaint, he was unaware that standards "mandated" the yellow light time at

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<sup>3</sup> In fact the citation was issued to Joseph Andrew Kukucka as the registered owner of the vehicle.

that intersection to be four (4) seconds and that the yellow light time upon which the citation was based fell below that required four (4) seconds.

On July 22, 2004 Plaintiffs Mr. And Mrs. Koretzky instituted this action against Affiliated Computer Services, Inc. and the Mayor and City Council of Baltimore. On November 12, 2004 Plaintiffs Mr. And Mrs. Koretzky filed an Amended Complaint now joined by Plaintiff Mr. Kukucka against the same Defendants and ACS State and Local Solutions, Inc.

The Amended Complaint contains eight (8) counts against the defendants: Count I – Maryland Declaration of Rights; Count II – Declaratory and Injunctive Relief; Count III – Unjust Enrichment; Counts IV – Fraud; Count V – Constructive Fraud; Count VI – Negligent Misrepresentation; Count VII – Negligence and; Count VIII – Civil Conspiracy.

### **ANALYSIS**

In considering a motion to dismiss filed pursuant to Maryland Rule 2-322, the Court must assume the truth of all well pleaded relevant and material factual allegations in the complaint as well as any reasonable inferences that might be drawn from those allegations. *Hogan v. The Maryland State Dental Association*, 155 Md. App. 556 (2004) (citing *Allied Inv. Corp. v. Jasen*, 354 Md. 547, 555 (1999) (other citations omitted)). A claim is properly dismissed when the alleged facts and reasonable inferences, if proven, would still fail to afford relief to the plaintiff. *Id.* (citing *Bobo v. State*, 346 Md. 706, 709 (1997); *Morris v. Osmose Wood Preserving*, 340 Md. 519 (1995)). The Court is limited to examining only the sufficiency of the allegations in the pleading and whether it pleads a legally sufficient claim. *Howard County v. Connolley*, 137 Md. App. 99 (2001); *Porterfield v. Mascari II, Inc.*, 374 Md. 402, 414 (2003).

However, when the Court is presented with and considers matters outside the pleadings, pursuant to Maryland Rule 2-322 the Court shall treat the motion as one for summary judgment under Rule 2-501. Accordingly, this Court will treat any arguments contained in Defendants' Motions to Dismiss that require the Court to

consider any matters outside the pleadings as motions for summary judgment.

In deciding a motion for summary judgment, the Court must first decide whether there is a genuine dispute as to any material fact, and if not, then decide whether either party is entitled to judgment as a matter of law. Maryland Rule '5-201; *Vogel v. Touhey*, 151 Md. App. 682, 704 (2003) (citations omitted); *Okwa v. Harper*, 360 Md. 161 (2000). The Court must determine issues of law, but resolve no disputed issues of fact. *Beatty v. Trailmaster Products*, 330 Md. 726, 737 (1993). Although all inferences must be construed in favor of the non-moving party, those inferences must be reasonable. *King*, 303 Md. at 111; *Brown v. Wheeler*, 109 Md. App. 710, 717 (1996); *Beatty*, 330 Md. at 739 (citing *Clea v. City of Baltimore*, 312 Md. 662, 678 (1998)). To defeat a motion for summary judgment, the party opposing the motion must present admissible evidence demonstrating the existence of a dispute of material fact. *Id.*; *Hines v. French*, 157 Md. App. 536 (2004). A material fact is one the resolution of which will somehow affect the outcome of the case. *Vogel*, 151 Md. App. at 704 (citing *King v. Bankerd*, 303 Md. 98, 111 (1985)); *Miller v. Fairchild Indus., Inc.*, 97 Md. App. 324 (1993), *cert denied*, 333 Md. 172 (1993). Mere allegations which do not show facts in detail and with precision are insufficient to prevent summary judgment. *Beatty*, 330 Md. at 738 (citing *Lynx, Inc. v. Ordnance Products*, 273 Md. 1, 7-8 (1974)). Likewise, merely alluding to the "existence of a document and thereby hop[ing] to raise the specter of dispute over a material fact" will not be sufficient to prevent summary judgment. *Id.*

### **1. Plaintiffs Mr. And Mrs. Koretzky Have Not Suffered Legally Cognizable Damages and their Requests for Declaratory and Injunctive Relief Are Non-Justiciable**

Defendants argue that Plaintiffs Mr. and Mrs. Koretzky have not suffered legally cognizable damages and lack standing because the District Court dismissed both of the citations issued to Mr. Koretzky. This Court agrees as the only damages Mr. and Mrs. Koretzky suffered were of the type endured by all citizens to avail themselves of due process. Consequently, they have not been sufficiently aggrieved to confer standing required to seek declaratory and injunctive relief.

The Koretzky's complain that they incurred expenses in contesting the citations such as "losing time from work, and having to hire babysitters to watch their children on the day(s) of their court appearances." Complaint ¶ 18. They

argue that these damages are sufficient to establish a *prima facie* cases for Count I (Violation of Maryland Declaration of Rights), Count IV (Fraud), Count V (Constructive Fraud), Count VI (Negligent Misrepresentation), Count VII (Negligence), and Count VIII (Civil Conspiracy).

Maryland embraces the American Rule whereby each party bears its own expenses regarding litigation costs. "In Maryland, [t]he general rule is that costs and expenses of litigation, other than the usual and ordinary Court costs, are not recoverable in an action for [compensatory] damages." *Hess Const. Co. v. Board of Educ. of Prince George's County*, 341 Md. 155, 159 (1996) (quoting *Collier v. MD-Individual Practice Ass'n*, 327 Md. 1, 11 (1992) (quoting *McGaw v. Acker, Merrall & Condit Co.*, 111 Md. 153, 160 (1909) (internal quotation marks omitted))). Nor does the general rule permit recovery for litigation expenses in a subsequent action. *McGaw*, 111 Md. at 160. Exceptions to this general rule are quite limited: A plaintiff may recover such expenses (1) when there is statutory authority, (2) when the parties have so agreed by contract, (3) when the defendant's wrongful conduct has forced the defendant into litigation with a third party, (4) or in malicious prosecution or abuse of process actions. *Hess*, 341 Md. at 159-160. There are a few other exceptions not applicable in the instant action. *Id.* at 160-162.

The only damages the Koretsky's have sustained are the expenses they incurred in defending against the citation. There is no statutory authority permitting recovery of these expenses. The parties have not so provided by contract. This case has not forced the Koretsky's into litigation with a third party. The only exception that the Plaintiffs argue applies is that this case is akin to a malicious

prosecution or abuse of process action. If these actions were available, then Plaintiffs should have so pled: they have not, and, therefore, they may not avail themselves of the remedies provided by those causes of action. Moreover, Plaintiffs have cited no other cases whereby plaintiffs were entitled to recover the type of damages incurred by the Koretsky's in the actions they did plead.

In short, the type of damages alleged by the Koretsky's are the type that all citizens endure to avail themselves of due process. The damages so incurred are, thus, not legally cognizable. Accordingly, this Court grants the Defendants' Motions to Dismiss Counts I, IV, V, VI, VII and VIII as to Mr. and Mrs. Koretzky.

This Court also grants the Defendants' Motions to Dismiss Count III for Unjust Enrichment as to the Koretzky's. No plausible argument can be made that the Koretsky's unjustly enriched the Defendants: the Koretzky's claims were dismissed and as a result they never tendered any payment to the Defendants.

Plaintiffs in Count II seek declaratory and injunctive relief under Maryland's Uniform Declaratory Judgments Act, Md. Cts. & Jud. Proc. Code Ann., § 3-401 et seq. Under § 3-409 a court may grant such relief if "it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if: (1) An actual controversy exists between contending parties; [or] (2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation...."<sup>4</sup> Moreover, a plaintiff must also have standing to challenge

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<sup>4</sup> Sect. 3-409 also provides that a court may render a declaratory judgment if "(3) A party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it." This alternative basis does not apply to the instant case. No party has asserted any such rights.

government action meaning he or she “is personally and specifically affected in a way different from... the public generally.” *Jones v. Prince George’s County*, 278 Md. 98, 118 (2003) (citations and internal quotation marks omitted). Dismissal is proper when there is no justiciable controversy or the party seeking declaratory relief lacks standing. See *Roper v. Camuso*, 376 Md. 240, 246 (2003); *State v. Burning Tree Club*, 301 Md. 9, 18 (1984); *Broadwater v. State*, 303 Md. 461, 467 (1985); *Hamilton v. McAuliffe*, 277 Md. 336, 340 (1976).

In the instant case the Koretsky’s lack both. First, there is no actual controversy, and, thus no justiciable controversy presently between the parties; nor does litigation appear imminent or inevitable based on present disputes between the parties. The District Court dismissed both citations. Quite simply, the dismissals ceased the actual controversies between the parties. Future litigation is far from inevitable based on the present dispute. As this Court will discuss below, a minimum three (3) second yellow light interval is now required by law, but was not at the time the Koretsky’s received their citations. Furthermore, the Koretzky’s cannot assert that they will inevitably receive another citation arising under the same set of circumstances.

Second, the Koretsky’s lack standing. The only injuries the Koretzky’s incurred, and, thus, the only injuries that could confer standing, are the expenses they incurred in defending the citation. As discussed above these are not legally cognizable damages. Without any injuries arising out of the citations or without any indication whatsoever that they will inevitably receive another citation based on the same set of circumstances, they have experienced no injury different from that

suffered by the public at large (assuming the public has suffered or will suffer any injury). Therefore, this Court grants Defendants' Motions to Dismiss on Count II for Declaratory and Injunctive relief as to Mr. and Mrs. Koretzky.

## **2. Plaintiff Kukucka Waived His Rights By Not Contesting the Citation**

The Defendants assert that Plaintiff Kukucka waived his right to challenge the Defendants' allegedly wrongful conduct when he paid the citation and failed to challenge it at the District Court as was his right. The Defendants further contend that Mr. Kukucka was fully aware of this right, or should have been, as his rights were prominently displayed on the citation he received. Plaintiff Kukucka counters that the issue of waiver is inappropriate to decide on a motion to dismiss because the issue is generally one of fact. This Court believes that Mr. Kukucka did knowingly and intelligently waive his rights by failing to contest the citation at the District Court.

“[W]aiver includes the intentional relinquishment of a known right, or such conduct as warrants an inference of the relinquishment of such right, and may result from an express agreement or be inferred from circumstances.” *Gould v. Transamerican Associates*, 224 Md. 285, 294 (1961).

The enabling statute for the RLCES provides the recipient with two options: he or she may pay the citation or contest it at District Court. Md. Trans. Code Ann. § 21-202.1. The statute permits the registered owner, or driver, to present defenses at the District Court “that the District Court deems pertinent.” *Id.* at § 21-202.1(g)(1)(v). Apparently, the District Court considered the yellow light times, whether mandated by law or not, to be pertinent as evidenced by the District Court's dismissal of the

citations issued to the Koretzky's.

Moreover, the citations clearly notify the recipient of his or her right to challenge the citation. The citation states the recipient's opportunity to contest the ticket in several different places with instructions on how to do so: (1) "Unless you elect to go to court, a civil penalty in the amount of \$75.00 must be paid..."; (2) "WARNING: FAILURE TO PAY PENALTY SHOWN OR CONTEST THE LIABILITY DESCRIBED IN THE NEXT PARAGRAPH MAY RESULT IN THE REFUSAL OR SUSPENSION OF THE MOTOR VEHICLE REGISTRATION"; (3) "If you wish to contest this citation, your request for a court date must be received at least five days prior to the payment due date...", and; (4) "Q: Can I contest this violation?" "A: Yes. You may request to appear in District Court...."

Plaintiff Kukucka failed to avail himself of this right. While Mr. Kukucka was not the recipient of the citation, he is the one who paid the citation, and admits to being the one who drove the vehicle at the time of the alleged violation. If Mr. Kukucka is going to stand in for the person to whom the citation was issued<sup>5</sup>, he is

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<sup>5</sup> An issue of standing is also raised here. The citation was issued to Joseph Kukucka, the registered owner, and not the driver and Plaintiff, Douglas Kukucka. Md. Trans. § 21-202.1 provides for this situation. In short, the registered owner/original recipient is to provide the District Court with evidence that he or she was not the driver at the time of the alleged violation. This is an actual defense to the citation. If the District Court finds that registered owner was not the driver at the time of the violation, the court is to forward to the agency issuing the citation evidence as to who the driver was at the time of the violation. The agency may then issue a new citation to the purported driver of the vehicle at the time of the violation. Here, Joseph Kukucka never challenged the violation, and Douglas Kukucka actually paid the citation issued to Joseph Kukucka. Therefore, at the time he paid the citation, the Plaintiff Douglas Kukucka was under no legal duty to pay the citation and arguably lacks standing to challenge the Defendants' alleged wrongful conduct. However, under general subrogation principles, he may have assumed the rights of Douglas Kukucka when he paid the citation, as he may have had a moral obligation to do so. See *Motor Veh. Sec. Fund v. All Coverage Underwriters, Inc.*, 22 Md. App. 586, 601-06 (1974). This Court will assume without deciding that Douglas Kukucka does in fact have standing.

limited to that person's rights. The recipient received ample notification of his rights to contest the violation. Not only did the recipient have ample notification, but the citation even provided instructions on how to avail oneself of those rights. Mr. Kukucka is imputed with the notices contained in the citation as he paid the penalty. Thus, Mr. Kukucka's payment of the citation is "conduct as warrants an inference of the relinquishment of such right." *Gould*, 224 Md. at 294. He knew, or should have known of his right to contest the citation, but elected instead to pay the citation rather than raising the yellow light time defense when he had a right to do so. Having waived this defense by failing to assert it in the original action, Mr. Kukucka cannot raise it in this subsequent and essentially collateral attack.

Plaintiff Kukucka further argues that he was "**unaware** that [the] alleged violation[ ] [was] **not** in actual violation of the law and [was] **not** enforceable in court." See Plaintiff's Opposition to Defendant Mayor and City County of Baltimore's Motion to Dismiss Amended Complaint p. 16 (emphasis in original). First, as this Court will discuss in greater detail below, the citations issued pursuant to the RLCES were not in actual violation of law and were, therefore, enforceable in court. Second, the same could be said as to any traffic violation. It remains that if the recipient has any doubt about, or is unaware of, the enforceability of a citation, the appropriate forum for contesting it is in court. If one elects to take the more convenient choice of simply paying the citation without researching its enforceability, one does so at one's own peril.

Therefore, this Court finds that Mr. Kukucka knowingly waived his rights by paying the citation rather than contesting it and grants Defendants' Motion to Dismiss as to Mr. Kukucka.

### **3. Defendants Did Not Issue Illegal Citations to the Plaintiffs**

Plaintiffs allege that the Mayor and City Council of Baltimore ("the City") and ACS issued citations to individuals that did not conform to the law for issuing such citations. More Specifically, Plaintiffs argue that Md. Trans. § 21-202.1 required the City to set yellow times "in accordance with regulations adopted by the State Highway Administration consistent with standards or guidelines established by the Federal Highway Administration." The gravamen of Plaintiffs' complaint is that the City and ACS issued citations for violations at intersections with yellow light times that were not in accord with either standards set forth by the Federal Highway Administration or the City's own "standards." The Koretsky's contend that both Federal and City standards required a yellow light time of three (3) seconds for the signals on which their citations were based, when in fact the Defendants issued them citations based on a yellow time below three (3) seconds. Mr. Kukucka contends that both Federal and City standards required a yellow light time of four (4) seconds for the signals on which his citation was based, when in fact the Defendants issued him a citation based on a yellow time below four (4) seconds.

The fundamental and fatal problem with Plaintiffs' allegations is that neither Federal nor City standards required the yellow light times they claim. Therefore, the City and ACS could not, and did not, issue the Plaintiffs illegal citations, and as a matter of law, did not breach any duty to the Plaintiffs, make any false misrepresentations to the Plaintiffs, or take any actions contrary to the rule of law. Nor were they unjustly enriched.

The Federal standards for yellow light times are set forth in the Manual on

Uniform Traffic Control Devices ("MUTCD"). MUTCD, Section 4D.10 Yellow Change and Red Clearance Intervals is presented in two (2) sections: the Standard section and the Guidance section. In MUTCD's Introduction a "standard" is defined as "a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device." "Guidance", on the other hand, is defined as "a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate." The "Standard" section of Section 4D.10 provides that "A yellow signal shall be displayed following circular green or Green Arrow..." and that its duration "shall be predetermined." The "Guidance" section states that "A yellow change interval should have a duration of approximately 3 to 6 seconds. The longer intervals should be reserved for use on approaches with higher speeds."

The Plaintiffs insist that MUTCD somehow mandates a minimum yellow light time of between three (3) to six (6) seconds. This is simply not the case. First, yellow light times set forth by MUTCD are merely guidance. Second, it states what the intervals "should" be. Third, it states that the duration should be "*approximately 3 to 6 seconds.*" (emphasis added). In short, MUTCD requires no three (3) second minimum yellow light interval time.

Plaintiffs further contend that deviations from the three (3) to six (6) second recommended yellow light intervals are only permitted based on "engineering judgment or engineering study." However, this contention is underscored by MUTCD's recommendation that the yellow light intervals "*should*" be "*approximately 3 to 6 seconds.*" Therefore, even if engineering analysis were

required for some deviations, a *de minimus* deviation of say 2.98 or 2.99 (the yellow light intervals on which the Plaintiffs' citations were based) seconds would not require such engineering analysis. Indeed, it is hard to imagine how much more approximate one can come to the guideline of three (3) seconds than 2.99 or 2.98 seconds. For these reasons this Court holds as a matter of law the citations issued to the Plaintiffs were consistent with MUTCD standards.

Nor can Plaintiffs rely on any state law requiring a minimum of a three (3) second yellow light interval. At the time of the incidents giving rise to Plaintiffs' claims (March 11, 2004, April 27, 2004, and February 22, 2004) no statute or regulation required minimum yellow light times. On September 27, 2004, however, COMAR 11.04.14, promulgated by the Department of Transportation, became effective and now does set a minimum yellow light time of three (3) seconds.

Finally, Plaintiffs contend that the City itself set minimum yellow light times at all the intersections at which a RLCES operates. In support thereof, Plaintiff attached a list of intersections with RLCES cameras in place along with accompanying amber times. Apparently, Plaintiffs obtained the yellow light time list from what has become known as the Judge Matthews Report. The report written by Keith E. Matthews, Administrative Judge, District Court of Baltimore City, is actually titled, "Red Light Camera Enforcement System in Baltimore City: *For Revenue or Safety?*" Appended to this report is the same list of intersections and accompanying amber light times as attached to Plaintiffs' Complaint.

Plaintiffs insist that the yellow light times listed in the attachment were the City's standards for the accompanying intersections. Defendants contest whether

these were in fact the City's standards. But, even if they were the City's standards, they fail to carry the force of law. Plaintiff does not allege, nor can they allege, that these standards were ever codified as legislation or even regulation. At best, they were simply general standards for those intersections generated by the Defendants. Again, it bears reiteration that all Md. Trans. Code §21-202.1 required the Defendants to do is to ensure that the yellow light times at which RLCES was operating were consistent with "regulations adopted by the State Highway Administration," (none were in effect at the time the Plaintiffs' citations were issued), and with MUTCD recommendations of "approximately 3 to 6 seconds."

Because the Defendants did not issue illegal citations to the Plaintiffs, as a matter of law the Defendants breached no duties to the Plaintiffs, made no false misrepresentations to the Plaintiffs, took no actions contrary to the rule of law, were not unjustly enriched, and undertook no illegal or tortious activity.<sup>6</sup> Accordingly, this Court, having considered matters outside the pleading, alternatively grants Summary Judgment in both Defendants' favor on all counts.

An Order reflecting the above analysis is attached.

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Date  
Judge

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Kaye A. Allison

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<sup>6</sup> Because this Court holds as a matter of law that the Defendants undertook no wrongful or illegal action, injunctive and declaratory relief in favor of the Plaintiffs is unwarranted.

NECHAMA KORETZKY, <i>et al.</i>	*	IN THE
	*	CIRCUIT COURT
Plaintiffs	*	
v.	*	FOR
	*	BALTIMORE CITY
AFFILIATED COMPUTER SERVICES, INC., <i>et al.</i>	*	
Defendants	*	Case No.: 24-C-04-005773
* * * * *		

**ORDER**

Upon Consideration of on Defendants Affiliated Computer Services, Inc., and ACS State and Local Solutions, Inc.'s (collectively "ACS") Motion to Dismiss Amended Complaint, the Mayor and City Council of Baltimore's ("City") Motion to Dismiss, Plaintiffs' Oppositions to both Motions to Dismiss, and both Defendants' Replies thereto, and after oral argument heard on June 20, 2005, it is this \_\_\_\_\_ day of October, 2005, by the Circuit Court for Baltimore City hereby

**ORDERED** that Defendants ACS's and City's Motions to Dismiss are hereby **GRANTED** for the reasons set forth in the accompanying Memorandum of Decision.

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Kaye A. Allison  
Judge