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Superior Court of California  
County of Los Angeles

OCT 01 2019

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<p>10 PEOPLE OF THE STATE OF CALIFORNIA, 11 Plaintiff, 12 V. 13 DEFENDANTS 1 THROUGH 803,388.</p>	<p>PEOPLE'S REQUEST TO DISMISS CITY OF LOS ANGELES INFRINGEMENTS PURSUANT TO PENAL CODE SECTION 1385 AND CALIFORNIA RULE OF COURT 4.335 AND RECALL AND QUASH ASSOCIATED WARRANTS</p> <p>Date: October 1, 2019      Time: 8:30 a.m. Dept.: 100</p>
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16 TO THE HONORABLE SAM OHTA, please take notice that on October 1, 2019 at 8:30 a.m.  
17 the People of the State of California will move the court to dismiss the infraction cases listed in  
18 digital format and attached as Exhibit 1, recall and quash any associated warrants, and suspend  
19 any outstanding balance pursuant to California Penal Code § 1385 and the California Rules of  
20 Court, rule 4.335. The People request this order be stayed for ninety days.<sup>1</sup>

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28 <sup>1</sup> The People request a ninety day stay to give the court staff sufficient time to process the dismissal of cases and recall of the associated warrants prior to the order taking effect.

I.

**INTRODUCTION**

The People move to dismiss the attached cases pursuant to the court’s expansive power under California Penal Code § 1385 and the California Rules of Court, rule 4.335. Dismissal of the instant citations would improve public safety, help stem the tide of poverty and homelessness, and conserve scarce judicial resources.

This proposed action would improve public safety for at least two reasons. First, dismissing these cases would remove perceived hurdles for victims and witnesses who may be reluctant to reach out to law enforcement for fear of further penalties for these unresolved cases. Second, granting this motion would contribute to safer roads by enabling more people to obtain valid driver’s licenses and car insurance. Failing to appear on even a minor traffic violation results in a referral to the Department of Motor Vehicles for license suspension, which may preclude eligibility for car insurance.

The proposed ruling would help stem the tide of poverty and homelessness because, while all the attached violations occurred over five years ago (with 65% occurring at least ten years ago), the defendants are still subject to collateral consequences, including referrals to collections agencies. These collateral consequences can create additional barriers for individuals on the road to self-sustainability, ultimately resulting in higher safety and health costs for the entire community.

Finally, the proposed action would advance judicial economy and efficiency by discharging old citations that currently clog the system with little or no countervailing benefit. New court rules, in addition to Pen. Code § 1385, provide the People as well as the courts with a mechanism to remedy these longstanding concerns. Given its unique role to seek that “justice shall be done,” (*Berger v. United States* (1935) 295 U.S. 78, 88), and its prosecutorial mandate from the American Bar Association “to increase public safety . . . by exercising discretion to *not pursue criminal charges in appropriate circumstances*” (American Bar Association, Criminal Justice Standards for the Prosecution Function, 3-1.2(b) (emphasis added)), the People ask the court to recall and quash any and all outstanding warrants, suspend any outstanding balances,

1 and thereafter dismiss the instant cases. This proactive step would enable law enforcement to  
2 focus on more serious criminal behavior, end the counterproductive cycle of escalating debt, and  
3 efficiently discharge old citations that are clogging the system.

4 **II.**

5 **DISMISSING THE ATTACHED INFRACTIONS FURTHERS SOCIETY’S INTERESTS AS REQUIRED BY**  
6 **PENAL CODE SECTION 1385.**

7 The court has broad “power to dismiss an action under [Penal Code] section 1385.”  
8 (*People v. Orin* (1975) 13 Cal.3d 937, 945.) “The judge or magistrate may, either of his or her own  
9 motion or upon the application of the prosecuting attorney, and in furtherance of justice, order  
10 an action to be dismissed.” (Pen. Code, § 1385a.) A court’s power to dismiss pursuant to Penal  
11 Code § 1385 is guided by the requirement that the dismissal be “in furtherance of justice.”  
12 (*People v. Orin, supra*, 13 Cal.3d 937, 945.) The court must consider both the constitutional rights  
13 of the defendant and the interest of society – represented by the People – in determining  
14 whether a dismissal should be granted. (*Id.* at pp. 945-946.) Appellate courts have upheld orders  
15 granting the People’s motion to dismiss pursuant to Pen. Code § 1385. (*Id.* at p. 946.) Dismissals  
16 “in furtherance of justice” under Penal Code § 1385 may be proper before, during, and after trial.  
17 (*People v. Superior Court of Marin County* (1968) 69 Cal.2d 491, 502-503.)

18 Removing the current backlog of warrants from the system would enable law  
19 enforcement to devote and access more resources for curbing dangerous criminal behavior,  
20 better serving the public interest. For example, nearly 150,000 of the attached citations are in  
21 bench warrant status, but common offenses include petty violations such as, jaywalking, bicycle  
22 offenses, and minor moving violations. Thus seeking to execute on the attached warrants at this  
23 point, “serves no rational purpose, fails to further the legislative intent, and may be  
24 counterproductive” (*People v. Dueñas* (2019) 30 Cal.App.5th 1157, 1167), and the existence of  
25 these warrants in the system distracts law enforcement from more serious violations.

26 In addition, fear of having a warrant on an outstanding infraction citation may discourage  
27 defendants who are victims or witnesses of crime from collaborating with law enforcement or  
28 even gaining access to statewide victim assistance resources to which they are entitled. Thus, the

1 People ask the Court to dismiss the attached citations so that law enforcement may reallocate  
2 resources to focus on serious criminal behavior and may have more success in working with the  
3 community to solve those cases.

4 Resolving the attached citations would also contribute to safer roads for drivers and  
5 pedestrians. Many of the defendants likely have a license suspension because they failed to  
6 appear in court on an attached case. Dismissing that underlying case would enable them to go to  
7 the Department of Motor Vehicles and obtain a valid driver's license. Most Californians report  
8 needing a driver's license to get to work<sup>2</sup> and data shows that having a valid license is more  
9 predictive of sustained employment than having a General Education Development diploma.<sup>3</sup> If  
10 caught driving without a valid license, defendants can face misdemeanor charges pursuant to  
11 Veh. Code § 14601.1 or Veh. Code § 12500, and vehicle impoundment pursuant to Veh.  
12 Code § 14602.6, which quickly escalates the severity of consequences for low-level vehicle code  
13 violations committed several years ago. (*People v. Dueñas, supra*, 30 Cal.App.5th 1157, 1161  
14 (defendant served 51 days of jail for driving with a suspended license due to unpaid juvenile  
15 infraction citations.)) Experts have argued that license suspension for these types of offenses  
16 hampers road safety for all drivers, because it distracts enforcement resources and prevents  
17 drivers from obtaining automobile insurance.<sup>4</sup> The Department of Motor Vehicles levies points  
18 for most offenses on someone's driving record for 39 months,<sup>5</sup> but that date has long passed for

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22 <sup>2</sup> (Lawyers' Committee for Civil Rights of the San Francisco Bay Area, *Paying More for Being Poor: Bias and Disparity*  
23 *in California's Traffic Court System* (2017), at 1, available at <https://www.lccr.com/programs/paying-poor-bias-disparity-californias-traffic-court-system/>.)

24 <sup>3</sup> (Lawyers' Committee for Civil Rights of the San Francisco Bay Area et al., *Not Just a Ferguson Problem, How Traffic*  
25 *Courts Drive Inequality in California* (2015) at p. 17, available at <https://www.lccr.com/not-just-ferguson-problem-how-traffic-courts-drive-inequality-in-california/>.)

26 <sup>4</sup> (Lawyers' Committee for Civil Rights of the San Francisco Bay Area et al., *Not Just a Ferguson Problem, How Traffic*  
27 *Courts Drive Inequality in California* (2015) at pp. 17, 20, available at <https://www.lccr.com/not-just-ferguson-problem-how-traffic-courts-drive-inequality-in-california/>.)

28 <sup>5</sup> (State of California, Department of Motor Vehicles, *How long does a point stay on my driver record?* (accessed Aug.  
29, 2019) available at, [https://www.dmv.ca.gov/portal/dmv/detail/teenweb/more\\_btn6/points/](https://www.dmv.ca.gov/portal/dmv/detail/teenweb/more_btn6/points/).)

1 the attached cases. The People bring this request to dismiss these old cases, which may be  
2 impacting road safety.

3 III.

4 **DISMISSING THE ATTACHED INFRACTIONS IS APPROPRIATE PURSUANT TO C.R.C. 4.335.**

5 In 2017, the Judicial Council of California adopted new California Rules of Court to  
6 standardize procedures for defendants incapable of paying infraction fines, fees, and civil  
7 assessments. (See Cal. Rules of Court, rules 4.106, 4.107, 4.335.) Additionally, in September of  
8 2018, the court created a written ability to pay petition process, which informs defendants of  
9 their right to petition to vacate a civil assessment and their right to seek an ability to pay  
10 determination at any time between the issuance of an infraction citation and its complete  
11 payment. (See *Mata Alvarado et al. v. Superior Court of California* (Los Angeles Superior Court,  
12 Sep. 25, 2018) Case No. FSC050284, Settlement Agreement at pp. 7-9.) Pursuant to  
13 C.R.C. 4.335(c)(4)(D), the court has discretion to offer an alternative disposition for an infraction  
14 case, whether or not the defendant demonstrates an inability to pay.<sup>6</sup>

15 The People now move the court to dismiss the attached cases, which cause a relentless  
16 cycle of escalating debt for defendants. The defendants were issued the aforementioned  
17 citations attached as Exhibit 1<sup>7</sup> over five years ago – and though the matters are unresolved, they  
18 are still subject to collateral consequences. When a defendant does not appear in court, a \$300  
19 civil assessment fee is added, and sometimes a small amount of bail, which can then be referred  
20 to a collections agency. Alternatively, the Court has the authority to find a defendant guilty in  
21 absentia, resulting in the full amount of fines and fees being referred to collections. Court  
22 records indicate that at least 78% of defendants were referred to collections at some point.  
23 Studies show that collections agencies are able to “report[] [outstanding] debt to the major  
24 credit bureaus to appear on an individual’s credit report,” and in some instances “when a debt is  
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27 <sup>6</sup> According to Advisory Committee Comment Subdivision (c)(4), “[e]ven if the defendant has not demonstrated an  
28 inability to pay, the court may still exercise discretion.” (Cal. Rules of Court, rule 4.335(c)(4).)

<sup>7</sup> The People determined eligibility by setting a timeframe for open infraction citations.

1 more than 90 days delinquent” may transfer it to the “state Franchise Tax Board,” which “can  
2 collect debt from individuals by garnishing wages, intercepting tax refunds, or levies against  
3 people’s assets.”<sup>8</sup> As an additional penalty for minor vehicle code violations, defendants are  
4 referred to the Department of Motor Vehicles for license suspension.<sup>9</sup> Given the age of the  
5 attached citations and the fact that the attached defendants did not have access to the ability to  
6 pay petition process at the time of the offense, it is in society’s interest to dismiss these cases at  
7 this time. Continuing to punish those who are unable to pay “will not make [money] suddenly  
8 forthcoming.” (*People v. Dueñas, supra*, 30 Cal.App.5th 1157, 1167.) This counterproductive cycle  
9 harms these defendants and society as a whole, which faces higher public costs as a result.<sup>10</sup>

10 Finally, dismissing the attached cases unburdens the court from a drain on resources. For  
11 the reasons discussed above, collection efforts have been unsuccessful in the past for the  
12 outstanding fees<sup>11</sup> and have steeply fallen for the attached matters. In fact, for the attached  
13 infraction citations that predate October 19, 2000, collections efforts are limited and programs  
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15 8 (Lawyers’ Committee for Civil Rights of the San Francisco Bay Area et al., *Not Just a Ferguson Problem, How Traffic*  
16 *Courts Drive Inequality in California* (2015) at p. 18, available at <https://www.lccr.com/not-just-ferguson-problem-how-traffic-courts-drive-inequality-in-california/>.)

17 9 Governor Brown signed Assembly Bill 103, which eliminated the statutory authority for the Department of Motor  
18 Vehicles (DMV) to suspend a driver’s license when a defendant fails to pay fines and fees for a vehicle code  
19 infraction. (Assemb. Bill. No. 103 (2017-2018 Reg. Sess.) § 24.) The DMV still retains authority to refer licenses for  
suspension when someone fails to appear in court on a vehicle code infraction.

20 10 A recent study showed that healthcare costs were five times higher for adult workers who become persistently  
21 homeless than for their peers who do not become homeless. Justice system costs were nine times higher for this  
22 group. (Economic Roundtable, *Early Intervention to Prevent Persistent Homelessness, Predictive Models for*  
*Identifying Unemployed Workers and Young Adults who become Persistently Homeless* (March 2019) at p. 6,  
<https://economicrt.org/publication/early-intervention-to-prevent-persistent-homelessness/>.)

23 11 While the People currently lack direct data on the recovery of infraction debt, many of the concerns cited here  
24 were recently articulated by the Los Angeles County Board of Supervisors with regard to probation debt. After  
25 reviewing a study that showed a collection rate of less than 1%, the Los Angeles County Board of Supervisors moved  
26 to forgive the outstanding fines and fees for juvenile probation debt that were issued prior to a change in law. A  
27 study showed that this old debt had a counterproductive effect on youth, hurt public safety, increased recidivism,  
28 and called into question the County’s best practices for fiscal responsibility because the cost to administer that  
collection process could outweigh the amount of money recovered. ((Los Angeles County Board Motion,  
*Discontinuing Collection of Outstanding Juvenile Detention Fees*, (October 9, 2018) at pp. 1-2.); see also (Los Angeles  
County Board Motion, *Feasibility Study - Discontinuing Collection of Outstanding Juvenile Detention Fees*, (May 29,  
2018) at pp. 1-2.))

1 may not employ any methods authorized under the Enforcement of Judgments Law. (See Code  
2 Civ. Proc, §680.010, et. seq.) Under the new California rules, if the attached defendants go into  
3 court, they may ask for and are likely to get fine reductions or a suspension of fines. Even if some  
4 defendants could pay some amount, engaging in an individualized analysis for hundreds of  
5 thousands of defendants pursuant to C.R.C. 4.335 will lead to a net drain on court resources,  
6 requiring bench officers to spend countless hours ruling on written and oral petitions. (See Cal.  
7 Rules of Court, rules 4.106, 4.107, 4.335.) This will only intensify over time as defendants learn  
8 about the petition and the new procedures in place. Consistent with Pen. Code § 1385 and  
9 C.R.C. 4.335, society benefits from clearing this large backlog of unresolved cases, ensuring that  
10 no qualifying citation consumes police or court resources to no avail, avoiding the cost of  
11 individualized determinations, and freeing up space in court storage.

12 **IV.**

13 **CONCLUSION**

14 For the reasons stated above, the People request that this court exercise its judicial  
15 discretion under Pen. Code § 1385 and C.R.C. 4.335 to dismiss the attached citations recall and  
16 quash any associated warrants, and suspend any outstanding balance in pursuance of justice.  
17 The People ask for this order be stayed for ninety days to allow the court sufficient time to  
18 process this request.

19 Dated: October 1, 2019

20 Respectfully submitted,  
21 MICHAEL N. FEUER,  
22 City Attorney  
23 ROBERT FRATIANNE,  
24 Assistant City Attorney

25 

26 By  
27 GINA DI DOMENICO  
28 Deputy City Attorney

Attorneys for Plaintiff  
PEOPLE OF THE STATE OF CALIFORNIA

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF LOS ANGELES

9  
10 PEOPLE OF THE STATE OF CALIFORNIA,  
11 Plaintiff,  
12 v.  
13 DEFENDANTS 1 THROUGH 142,526.

PEOPLE'S REQUEST TO SUSPEND FINES AND  
FEES FOR POST-CONVICTION INFRACTION  
CITATIONS PURSUANT TO CALIFORNIA RULE  
4.335

Date: October 1, 2019 Time: 8:30 a.m.  
Dept.: 100

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16 TO THE HONORABLE SAM OHTA, please take notice that on October 1, 2019 at 8:30 a.m.  
17 the People of the State of California will move the court to suspend the fines and fees for the  
18 attached infraction cases listed in digital format and attached as Exhibit 1, pursuant to Cal. Rules  
19 of Court, rule 4.335. The People request this order be stayed for ninety days.<sup>1</sup>

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<sup>1</sup> The People request a ninety day stay to give the court staff sufficient time to process the suspensions of fines and fees prior to the order taking effect.



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I.

**INTRODUCTION**

The People move the court to suspend fines and fees for the attached cases pursuant to its authority under Cal. Rules of Court, rule 4.335. Suspending the attached fines and fees would improve public safety, help stem the tide of poverty and homelessness, and conserve scarce judicial resources.

Suspending these fines and fees would improve public safety by removing perceived hurdles for victims and witnesses who may be reluctant to reach out to law enforcement for fear of further penalties for these unresolved cases. This proposed action would help stem the tide of poverty and homelessness because, while all the attached violations occurred over five years ago (with 25% occurring at least ten years ago), the defendants *still are subject to court action* through referrals to collections agencies, which can result in negative credit reports or referrals to the Franchise Tax Board. These collateral consequences create additional barriers for individuals on the road to self-sustainability, ultimately resulting in higher safety and health costs for the entire community. Finally, suspending the attached fines and fees would advance judicial economy and efficiency by discharging old citations that currently clog the system with little or no countervailing systemic benefit.

The court has discretion to suspend fines pursuant to Cal. Rules of Court, rule 4.335, even where the defendant has not proven an inability to pay – an unlikely scenario in these matters, since the consequences associated with failure to pay far outweigh the cost of paying the fines in the first place. Further, the court has expansive power to dispose of cases in furtherance of justice after balancing the interests of both the defendants and society. (*See People v. Orin* (1975) 13 Cal.3d 937, 945.) Here, this balance strongly militates in favor of suspending these fines and fees, for the reasons stated.

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II.

**SUSPENSION OF THE FINES AND FEES FOR THE ATTACHED INFRACTIONS IS APPROPRIATE  
PURSUANT TO C.R.C. 4.335.**

In 2017, the Judicial Council of California adopted new California Rules of Court to standardize procedures for defendants incapable of paying infraction fines, fees, and civil assessments. (See Cal. Rules of Court, rules 4.106, 4.107, and 4.335.) Pursuant to Cal. Rules of Court, rule 4.335(c)(4)(C) (hereinafter referred to as C.R.C. 4.335), the court has discretion to suspend fines for infraction cases that have been adjudicated and remain unpaid, whether or not a defendant demonstrates an inability to pay.<sup>2</sup> Additionally, in September, 2018, the court created a written ability to pay petition process, which informs defendants of their right to petition to vacate a civil assessment and their right to seek an ability to pay determination at any time between the issuance of a ticket and its complete payment. (See *Mata Alvarado et al. v. Superior Court of California* (L.A. Super. Ct., Sep. 25, 2018) Case No. FSC050284, Settlement Agreement at pp. 7-9.)

The People now move the court to suspend the fines and fees for the attached cases for multiple reasons. First, because some of these defendants may be reluctant to come forward as witnesses or victims of crime out of fear of being further penalized for these old infractions, the proposed ruling would help curb more serious criminal behavior by encouraging productive relationships between community members and law enforcement.

In addition, suspending these fines and fees would eliminate collateral consequences that have burdened these defendants and society as a whole. These defendants received citations years before the new California Rules of Court or the ability to pay petition and may now find themselves in a cycle of escalating debt and related consequences. For example, these defendants are still subject to court action through referrals to collections agencies, which can hamper their ability to achieve self-sustainability. A bad credit report stemming from this referral

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<sup>2</sup> According to Advisory Committee Comment Subdivision (c)(4), “[e]ven if the defendant has not demonstrated an inability to pay, the court may still exercise discretion.” (Cal. Rules of Court, rule 4.335(c)(4)(C).)

1 to collections can make it difficult to secure housing.<sup>3</sup> Nearly all of the attached cases were  
2 referred to collections at some point. As a court recently observed, “[w]hen a minor offense  
3 produces a debt, that debt, along with the attendant court appearances, can lead to loss of  
4 employment or shelter, compounding interest, yet more legal action, and an ever-expanding  
5 financial burden—a cycle as predictable and counterproductive as it is intractable.” (*See People v.*  
6 *Dueñas* (2019) 30 Cal.App.5th 1157, 1163 (citing *Rivera v. Orange County Probation Dept.* (9th  
7 Cir. 2016) 832 F.3d 1103, 1112, fn. 7.)) This counterproductive cycle harms both these  
8 defendants and the broader community, which faces higher public costs as a result.<sup>4</sup> Suspending  
9 the fines and fees would resolve the outstanding debt that has trapped many defendants in a  
10 relentless cycle, and benefit society by reducing the public resources consumed by the collateral  
11 consequences of the unpaid fines and fees.

12 Finally, suspending the outstanding fines and fees for the attached infraction citations  
13 would help alleviate burdens on the court and its calendar, which currently benefit no one.<sup>5</sup>  
14 Collection efforts have been unsuccessful in the past.<sup>6</sup> Over 25% of the cases occurred over ten

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16 3 (Lawyers’ Committee for Civil Rights of the San Francisco Bay Area et al., *Not Just a Ferguson Problem, How Traffic*  
17 *Courts Drive Inequality in California* (2015) at p. 18, available at <https://www.lccr.com/not-just-ferguson-problem-how-traffic-courts-drive-inequality-in-california/>.)

18 4 A recent study showed that healthcare costs were five times higher for adult workers who become persistently  
19 homeless than for their peers who do not become homeless. Justice system costs were nine times higher for this  
20 group. (Economic Roundtable, *Early Intervention to Prevent Persistent Homelessness, Predictive Models for*  
21 *Identifying Unemployed Workers and Young Adults who become Persistently Homeless* (March 2019) at p. 6,  
<https://economicrt.org/publication/early-intervention-to-prevent-persistent-homelessness/>.)

22 5 The People request a permanent discharge of the remaining fines and fees.

23 6 While the People currently lack direct data on the recovery of infraction debt, many of the concerns cited here  
24 were recently articulated by the Los Angeles County Board of Supervisors with regard to probation debt. After  
25 reviewing a study that showed a collection rate of less than 1%, the Los Angeles County Board of Supervisors moved  
26 to forgive the outstanding fines and fees for juvenile probation debt that were issued prior to a change in law. A  
27 study showed that this old debt had a counterproductive effect on youth, hurt public safety, increased recidivism,  
28 and called into question the County’s best practices for fiscal responsibility because the cost to administer that  
collection process could outweigh the amount of money recovered. ((Los Angeles County Board Motion,  
*Discontinuing Collection of Outstanding Juvenile Detention Fees*, (October 9, 2018) at pp. 1-2.); see also (Los Angeles  
County Board Motion, *Feasibility Study - Discontinuing Collection of Outstanding Juvenile Detention Fees*, (May 29,  
2018) at pp. 1-2.))

1 years ago. Seeking to collect at this point “serves no rational purpose, fails to further the  
2 legislative intent, and may be counterproductive” (*Dueñas, supra*, at p. 1167.) In addition, as  
3 stated above, defendants in the attached cases received citations years before the ability to pay  
4 petition process was established. Had that process been in place when the underlying infractions  
5 were originally issued, many of these defendants would have been relieved of these fines long  
6 before now. Their current ability to pursue these petitions, however, is causing a drain on  
7 resources, requiring bench officers to spend hours engaging in individualized analyses for  
8 defendants pursuant to C.R.C. 4.335 before ruling on written and oral petitions. (See Cal. Rules of  
9 Court, rules 4.106, 4.107, 4.335.) This systemic challenge will only intensify over time as  
10 defendants learn about the petition and the new procedures in place. Granting the People’s  
11 request for a suspension of fines and fees in these matters would ensure that no qualifying  
12 citation unnecessarily consumes court resources, avoiding the cost of individualized  
13 determinations, freeing up space in court storage, and clearing a backlog of unresolved debt.

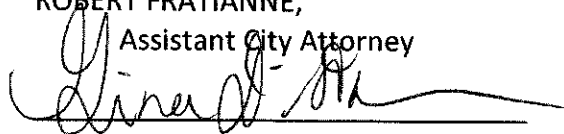
14 **III.**

15 **CONCLUSION**

16 For the reasons stated, the People request that this court exercise its judicial discretion  
17 under C.R.C. 4.335 to suspend the fines and fees for the attached citations in pursuance of  
18 justice. The People request this order be stayed for ninety days to allow the court sufficient time  
19 to process the suspension of the attached fines and fees.

20 Dated: October 1, 2019

21 Respectfully submitted,  
22 MICHAEL N. FEUER,  
City Attorney  
23 ROBERT FRATIANNE,  
Assistant City Attorney

24 

25 By  
26 GINA DI DOMENICO  
Deputy City Attorney

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