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Red-light camera fight escalates with Florida lawsuit

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GRANT JEFFERIES/gjefferies@bradenton.com A camera to capture red light runners at the intersection of Manatee Avenue and First Street in Bradenton.

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In the wake of an appeals court shooting down how red-light camera tickets are issued, two South Florida motorists are headed to court with this demand: We want our money back.

They're leading what soon could be a very long line of drivers also snared by the controversial cameras.

The two men, one ticketed in Miami-Dade County and the other in Broward, on Tuesday filed a federal

class-action lawsuit against American Traffic Solutions, or ATS, the Arizona company that operates most of the video systems across Florida.

The lawsuit stems from a Broward appeals court two weeks ago that found the the city of Hollywood illegally allowed ATS, rather than police officers, to effectively issue the citations to motorists who supposedly ran red lights.

The drivers who filed suit Tuesday are Marwa Moussa, who paid \$158 for a violation in April 2012 in Cutler Bay, and Christopher Parker, who paid the same amount for allegedly running a light in Davie in December 2012.

“Our clients have been harmed. Their rights have been infringed upon,” said Palm Beach Gardens lawyer Theodore Leopold, who filed the suit along with a group of other attorneys. “They are entitled to full restitution.”

The group of lawyers say “hundreds of thousands” of motorists who have been subjected to fines and traffic tickets since July 2012 are eligible to join the lawsuit.

The lawsuit against the company is the latest salvo in what figures to be a protracted legal battle to protect the validity of hundreds of thousands of red-light camera tickets issued across the state since since July 2010. So far, no cities have been named in the lawsuits.

Hollywood City Attorney Jeffrey P. Sheffel said lawsuits are not unexpected, but that Oct. 15 appeals court ruling has not been finalized as lawyers appeal the ruling.

“It’s absolutely premature,” Sheffel said of Tuesday’s lawsuit.

Red-light cameras have been a divisive issue since cities began installing cameras at intersections, then mailing violations to surprised drivers. Supporters insisted that the program was designed to enhance safety on the roads, while critics say they are blatant money grabs.

Between 2008 and July 2010, red-light camera violations were not state traffic tickets but city “code violations.” In Aventura, which created the county’s first red-light camera program, motorists contesting violations had to go to hearings at City Hall — which they claimed were biased and unfair.

A slew of lawsuits followed. In February 2010, a Miami-Dade judge ruled that Aventura’s enforcement system circumvented state traffic laws. A Miami appeals court overturned the judge’s decision, saying the program was indeed lawful.

This past June, the Florida Supreme Court ruled that cities such as Aventura had indeed overstepped their authority in creating the code-violation hearings.

Motorists who received tickets between those years can now seek their money back. ATS has paid at least \$1.2 million as part of settlements involving many of lawsuits for offenses before July 2010.

In response to the uproar about the programs, the Florida Legislature passed a new law that made red-light camera infractions a state violation. The statute went into effect July 1, 2010, and violations are now heard in front of traffic court magistrates.

But that didn’t stop the legal attacks. In the case of motorist Eric Arem, his legal team challenged the authority of ATS, which was hired by Hollywood to operate its camera program.

The system works like this: Company representatives view video footage, stored on a computer, and forward any supposed red-light camera violations to the city. If a city police employee agrees the footage shows a violation, they click a digital “accept” button and the company prints and issues a “notice of violation” to the motorist.

If the motorist fails to pay the fine, then ATS issues a citation on behalf of the city, featuring a digital signature of the law enforcement officer.

In this month's opinion, Broward's Fourth District Court of Appeals said "for all practical purposes," the private company was the one deciding which cases get prosecuted.

"Florida law does not grant the city any authority to delegate to a private third-party vendor the ability to issue uniform traffic citations," the judges ruled.

The company, and the cities that hire it, disagree.

"ATS does not have the authority to decide whether or not a violation is issued," spokesman Charles Territo said Tuesday. "That decision is entirely in the hands of the customer."

The decision, so far, is not technically final because Hollywood is asking the court to reconsider — or ask that the issue be "certified," which would pave the way for the Florida Supreme Court to weigh in.

But the ruling has already put in limbo thousands of pending cases in Miami-Dade, which last year saw 123,440 red-light citations issued.

Lawyer Mark Gold, of The Ticket Clinic, which represents Arem, said ATS operates its computer system in the same way across Florida and in Miami-Dade.

"Dade County is going to have to be dismissing all of these cases, as far as I'm concerned," Gold said Tuesday.

The ripple effect of the ruling will be seen statewide as legal challenges mount, said Orlando attorney Steven D. Kramer, who also handles red-light camera tickets.

The latest legal setback in the courts should force cities, while enjoying the stream of revenue from motorists, to rethink their commitment to the red-light camera programs, he said.

"It doesn't do the cities any good if three or four years from now to have pay all this money back," Kramer said.

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