

IN THE SUPREME COURT OF FLORIDA

LUIS TORRES JIMENEZ,

CASE NO.: SC16-1976

Petitioner,

Lower Case Nos.: 3D15-2303
3D15-2271

vs.

STATE OF FLORIDA, ETC.,
ET. AL.,

Respondent.

AMICUS CURIAE BRIEF OF FLORIDA LEAGUE OF CITIES, VILLAGE OF BAL HARBOR, CITY OF COCOA BEACH, TOWN OF CUTLER BAY, CITY OF DORAL, VILLAGE OF KEY BISCAYNE, CITY OF MIAMI GARDENS, VILLAGE OF PALM SPRINGS, CITY OF SUNRISE, CITY OF WEST PARK, TOWN OF CAMPBELLTON, CITY OF CLERMONT, CITY OF CORAL SPRINGS, VILLAGE OF EL PORTAL, CITY OF GREEN COVE SPRINGS, CITY OF HIALEAH GARDENS, CITY OF HOLLY HILL, TOWN OF JUNO BEACH, CITY OF LAUDERDALE LAKES, CITY OF MIAMI SPRINGS, CITY OF MILTON, NORTH BAY VILLAGE, CITY OF OLDSMAR, CITY OF OPA-LOCKA, TOWN OF ORANGE PARK, CITY OF PALATKA, CITY OF PALM COAST, CITY OF SURFSIDE, CITY OF SWEETWATER, CITY OF TAMARAC, CITY OF WEST MIAMI, AND CITY OF PEMBROKE PINES (“LOCAL GOVERNMENTS”)

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Identity and Interest of Amici

The Florida League of Cities (“League”) is a voluntary, statewide organization whose membership consists of more than 400 municipalities and other units of local government rendering municipal services in the State of Florida. It represents the interests of Florida’s municipal governments and promotes self government. Under its Charter, the League’s purpose is to work for the general improvement and efficient administration of municipal government, and to represent its members before various legislative, executive, and judicial branches of government on issues pertaining to their general and fiscal welfare.

The Local Governments are all municipalities that operate similar red-light camera programs to the one operated by Respondent, City of Aventura (“Aventura”). The Local Governments contracted with the same private vendor, American Traffic Solutions, Inc. (“ATS”), after the legislature enacted the Mark Wandall Traffic Safety Act (the “Wandall Act” or “Act”). Pursuant to the contracts, ATS provided the Local Governments with intersectional safety cameras, vehicle sensors, and other equipment to capture video recordings and photographic images of motor vehicles involved in red-light violations. Like Aventura, each Local Government provides ATS with a business rules questionnaire (“BRQ”) which establishes a unique set of criteria instructing ATS as to the types of data, images, and videos the Local Government

would like its own government traffic infraction enforcement officer (“TIEO”) to consider in deciding whether to issue traffic infractions.

Like Aventura, the Local Governments use automated red light enforcement programs to enhance the safety of their motorists at roadway intersections. The Local Governments’ programs focus on changing driver behavior at red light intersections through comprehensive efforts involving engineering, education, and enforcement.

In addition, the Local Governments are all defendants in a class action lawsuit currently pending in the Southern District of Florida before Judge Federico A. Moreno (Parker, et al v. American Traffic Solutions, Inc., Case No. 14-24010-CIV-FAM).¹ In that class action, the plaintiffs sued the Local Governments seeking to invalidate local government red light camera programs throughout the state and to obtain refunds of all fines paid pursuant to those programs.

The class action is currently under a stay while this appeal proceeds. In the joint motion to stay, the parties specifically recognized the potential impact of this Court’s decision on the class action:

Given the pendency of the panel’s decision in Trinh, and the certification of issues of great public importance in Jimenez, the law in Florida remains in flux as it pertains to the use of red-light vendors to assist local governments with their traffic safety programs.

¹Petitioner’s counsel, Stephen F. Rosenthal, also represents the plaintiffs in the class action lawsuit.

Moreover, it is likely that the Florida Supreme Court will be called upon in the near term to address whether the features of a red-light camera program at issue in this lawsuit comply with Florida law.

In light of these unresolved cases, all of which bear directly on core liability issues in this case, the parties jointly request that this Court continue the stay currently in place pending final resolution of the Jimenez and Trinh state appellate court proceedings.

Id. at DE 386.

Should this Court rule in Jimenez's favor, the Local Governments might, subject to certain defenses, be ordered to refund some or all of the monies they collected via the Wandall Act. Such a refund would have a catastrophic effect on the Local Governments' public treasury, would severely impact their ability to reduce red-light violations and improve traffic safety, and would wreak havoc on the ordinary administration of government. The League and the Local Governments urge this Court to find that Aventura's use of a BRQ to have ATS review and sort captured events is consistent with the Wandall Act and not preempted and to approve the Third District's decision below in its entirety.

SUMMARY OF ARGUMENT

This Court should approve the Third District's decision below in its entirety. The Florida Legislature expressly approved the use of red-light camera programs and third-party vendors when it passed the Wandall Act, which created generalized standards for the use of cameras for the purposes of traffic enforcement.

Red-light camera programs like the one utilized by Aventura -- and all of the Local Governments -- have proven to be effective in controlling the specific problem that the Wandall Act was enacted to address. That is, the Florida Legislature passed the Wandall Act after it determined that red-light cameras were effective in reducing red light violations and preventing fatal crashes. Since their implementation, red-light camera programs like Aventura's have resulted in increased traffic safety. The vast majority of motorists ticketed by a red-light camera were found not to have committed another red light violation in the same year.² The Florida Department of Highway Safety and Motor Vehicles conducted a study of local agencies who operate red light camera programs and found that 56.2% of those agencies experienced a reduction in crashes at intersections where red light cameras had been installed by the controlling

² Department of Highway Safety and Motor Vehicles Red Light Camera Summary Report, revised January 8, 2014, *available at* www.flhsmv.gov/reports/redlightcameraanalysis2013.pdf (95% of motorists who received a notice of a red-light camera violation in 2013 were not captured again on red-light camera committing a red light violation).

governmental agency.³

As provided for explicitly in the Wandall Act, Aventura and the Local Governments contracted with vendors like ATS to acquire the technology and related software services needed for an efficient red light camera safety program. Pursuant to the contracts, ATS installs the red light camera equipment, services that equipment, and conducts an initial review of the data captured by the equipment located at the signal intersections. ATS sorts the captured data into queues for subsequent review by the Local Governments' TIEOs. One queue includes potential violations that must be reviewed for probable cause and the other queue includes non-violations that do not need to, but may, be reviewed for probable cause.

The contracts between the Local Governments and ATS do not delegate any discretion to ATS in the initial sorting process. Instead, as permitted by the Act, each Local Government provides ATS with a BRQ which establishes the criteria ATS must follow in determining the types of data, images, and videos that should be forwarded to that government's TIEO to consider in deciding whether to issue traffic infractions. ATS, in return for providing those services -- and again, as permitted by the Act -- is compensated for capturing the data, sorting it, and providing the requested

³ Department of Highway Safety and Motor Vehicles Red Light Camera Program Analysis, December 28, 2012, *available at* <http://www.flhsmv.gov/pdf/cabinetreports/redlightcameraanalysis2012.pdf>

information to each TIEO, who ultimately decides whether a traffic infraction has occurred. ATS is compensated also for providing access to software that facilitates local governments' ministerial tasks of printing, mailing, and transmitting notices of violation ("NOV") and uniform traffic citations ("UTC").

The Local Governments' use of a BRQ in their red-light camera programs establishes a cost-efficient way for governmental entities to address the problem of red-light violators. As explained by a sergeant in Aventura's police department, Aventura's red-light cameras capture thousands of images each month. Of those, approximately 5,000 are forwarded into a working database and 3,000 are sorted into a non-working database. (R. 1520, 1522). The record evidence established that Aventura's police department would be burdened if it was forced to review every image captured by a camera without using ATS to conduct an initial review of the images pursuant to the BRQ. (R. 1520).

Notwithstanding the fact that the red-light camera programs operated by Aventura and the Local Governments are effective in increasing traffic safety and support the strong public policy considerations which lead to the Act's enactment in the first instance, Jimenez seeks to undo the state's progress in making its roads safer by engaging in a tortured analysis of the statutory language and advancing a preemption argument that the Third District did not expressly address. Jimenez

argues that Aventura's provision of a BRQ to ATS that limits the scope of the data that must be reviewed by its TIEO in determining whether a violation was committed somehow was preempted by Florida law. Jimenez posits that ATS's actions in conducting the initial sorting of the images and video is somehow preempted by Florida law. Jimenez failed to identify any specific provision in the Wandall Act that conflicts with ATS's actions in conducting an initial sorting of the images and video pursuant to the BRQ. Neither the Wandall Act nor any other provision of Chapter 316 preempts or conflicts with Aventura's (and the Local Governments') use of a BRQ to instruct ATS how to review events captured by that agency's cameras.

ARGUMENT

A. The Wandall Act

1. Legislative History

The Mark Wandall Traffic Safety Act (the “Wandall Act” or “Act”), passed by Florida’s Legislature in 2010, was named after the victim of a collision caused by a red light violation. City of Orlando v. Udowychenko, 98 So. 3d 589, 597 n.10 (Fla. 5th DCA 2012), review granted, 114 So. 3d 933 (Fla. 2012) (“The Act was named in honor of Mark Wandall, who was killed by a red-light runner when his wife was nine months pregnant.”). In the Act, the Florida Legislature provided for the use of sophisticated technology to enforce the State’s red light laws, combat drivers who ignore and run red lights, and increase road safety.

The legislative history for the Wandall Act reveals a clear purpose behind the Act: to promote public welfare and safety by reducing the amount of drivers who run red lights, which in turn, reduces the amount of both fatal and injury crashes. According to the Act’s accompanying committee report, 76 individuals in Florida were killed by drivers running red lights in 2008. See House of Representatives Staff Analysis, at p. 2, CS/CS/HB 325 (April 19, 2010).⁴ This number represented

⁴ House of Representative Staff Analysis (April 19, 2010), *available at* <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0325e.FTC.doc&DocumentType=Analysis&BillNumber=0325&Session=2010>

approximately 3% of all fatal accidents that year, which was the sixth highest cause of traffic fatalities. Id. at pg. 2. The Staff Analysis also cited an Insurance Institute for Highway Safety review of international red light camera studies which found that red light cameras reduce red light violations by 40-50 percent and reduce injury crashes by 25-30 percent. Id. Similarly, a 2005 study of red light camera programs in seven metropolitan communities conducted by the Federal Highway Administration concluded that there was a 25 percent reduction in right-angle collisions. Id. Additional detailed statistics reflecting similar data from various communities were relied upon as a crucial basis to implement the Act. Id. at pg. 3.

2. Operation of Red Light Programs Under the Wandall Act

The Wandall Act authorizes local governments to use cameras to capture red light violations, and creates a procedure by which resulting traffic fines are imposed against the responsible parties. See §§ 316.008(8)(a), 316.0083, Fla. Stat. The Act explicitly permits local governments to contract with private entities, like ATS, for the installation of red light cameras. See § 316.008(8)(b), Fla. Stat. As recognized in the Initial Brief, ATS is a private entity that contracts with local governments in Florida like Aventura to provide services related to the installation and operation of red light camera safety programs. (I.B., pp. 5-6). The Wandall Act expressly allows ATS to review information captured by red light cameras. § 316.0083(1)(a), Fla. Stat. (“This

paragraph does **not** prohibit a review of information from a traffic infraction detector by an authorized . . . agent . . . **before** issuance of the traffic citation by the traffic infraction enforcement officer.”) (emphasis added).

Once images and video are captured by a red light camera, that information is forwarded to a local government’s TIEO who decides whether a violation was committed.⁵ Enforcement then proceeds in two steps: (1) an administrative infraction called a NOV; and (2) a noncriminal traffic infraction called a UTC. Within 30 days of the violation, a NOV is sent to the registered owner of the vehicle involved in the infraction. § 316.0083(1)(b)1.a., Fla. Stat. The NOV provides access to the photographs and video captured by the camera, and the recipient may view these materials online. § 316.0083(1)(b)1.b., Fla. Stat. The NOV also informs the registered owner that he or she has 60 days to elect one of the following options: (1) pay the \$158 fine, (2) request an administrative hearing, or (3) submit an affidavit establishing one of five statutory exemptions from liability. § 316.0083(1)(b)1.a., Fla. Stat. If the owner pays the fine or submits an affidavit, there is no further enforcement.

⁵ Here, the trial court specifically found “[t]he officer then reviews the images for each potential violation to make a determination whether there is probable cause to believe that an infraction has occurred. The officer uses the same decision making process in determin[ing] whether an infraction has occurred when viewing the red light camera images as would be used when issuing an infraction roadside. Of the images reviewed by the City’s police officers, only between sixty-five percent (65%) and seventy percent (70%) are approved as a violation.” R. 1523. The Local Governments’ programs all operate in a similar fashion.

If the owner requests an administrative hearing, a local hearing officer reviews the photographic and video evidence of the infraction and may hear testimony from witnesses. § 316.0083(5)(d), Fla. Stat. The images and videos of the infraction create a rebuttable presumption that the owner of the vehicle is liable. §§ 316.0083(1)(c)2, 316.0083(1)(e), Fla. Stat. At the administrative hearing, the “[f]ormal rules of evidence do not apply, but due process shall be observed.” § 316.0083(5)(d), Fla. Stat. “At the conclusion of the hearing, the local hearing officer shall determine whether a violation under this section has occurred, in which case the hearing officer shall uphold or dismiss the violation.” § 316.0083(5)(e), Fla. Stat. The losing party may appeal the outcome of an administrative hearing to the Florida circuit court. §§ 162.11; 316.0083(5)(f), Fla. Stat.

If the owner fails to respond to the notice of violation within 60 days, the statute provides that a UTC “shall be issued” to the vehicle owner. § 316.0083(1)(c)1.a, Fla. Stat. The owner is afforded a second chance to either pay the fine or submit an affidavit establishing an exemption. § 316.0083(1)(d), Fla. Stat. Alternatively, the owner may choose to dispute the infraction at a hearing in traffic court. § 318.14, Fla. Stat. With the inclusion of fees, surcharges, and court costs, a UTC carries a modest increase in the fine amount from the initial NOV. § 318.18, Fla. Stat.

3. Research Demonstrating Red-Light Camera Benefits

The Insurance Institute for Highway Safety conducted a recent study regarding the effectiveness of red light camera programs in 79 large cities.⁶ The study concluded that red light cameras saved nearly 1,300 lives through 2014. The study also concluded that shutting down such programs costs lives. This study limited its primary analyses to 14 cities that turned cameras off during 2010-2014 and compared trends in the 14 cities with those in 29 regionally matched cities with continuous programs to generate results showing the impact red-light safety cameras have. Id. The study concluded that cities that turned off their red-light safety camera programs experienced a 30 percent increase in fatal red-light running crashes and a 16 percent increase in fatal crashes of all types at signalized intersections. Id. By comparison, cities with active red-light camera programs experienced 21 percent fewer fatal red-light running crashes, and 14 percent fewer fatal crashes of all types at signalized intersections. Id.

Similarly, the Florida Department of Highway Safety and Motor Vehicles' Annual Report for 2015-2016 that was released on December 31, 2016, also found

⁶ IIHS News, *Turning off red light cameras costs lives, new research shows* (July 29, 2016), <http://www.iihs.org/iihs/news/desktopnews/turning-off-red-light-cameras-costs-lives-new-research-shows>

that the red-light camera programs were benefitting the governmental agencies.⁷ The

Annual Report established that:

- Red-light cameras reduced red-light running crashes, the most dangerous type of intersection crash, by more than 3 percent, according to 28 reporting jurisdictions.
- Red-light cameras provided the greatest safety benefit to pedestrians, bicyclists and other non-motorists, with a nearly 20 percent decrease in crashes involving non-motorists, according to 28 reporting jurisdictions.
- Jurisdictions overwhelmingly used red-light safety camera footage for police work other than red-light running. 94 percent of 59 reporting jurisdictions used footage for crash investigation; 92 percent used footage for criminal investigations; 22 percent used footage for missing persons and other investigations.
- All intersection type crashes measured in this report are significantly lower than the 33 percent increase in crashes statewide, ranging from 6 percent below statewide average to 55 percent lower than statewide average; even though crash counts were higher this year due to refined reporting methodology.

Id. Many other recent studies and articles establish the effectiveness of red-light camera systems on intersection safety.⁸

⁷ Florida Highway Safety and Motor Vehicles Red Light Camera Summary Report Fiscal Year 2015-2016 (December 31, 2016) *available at* <http://www.flhsmv.gov/pdf/cabinetreports/redlightcameraanalysis2016.pdf>

⁸ See, e.g., Bryan E. Porter, Kristie L. Johnson, Johnnie F. Bland, *Turning off the cameras: Red light running characteristics and rates after photo enforcement legislation expired* (January 2013), <http://www.sciencedirect.com/science/article/pii/S0001457512003053>; Texas Transportation Institute, *An Empirical Bayes Analysis of Photographic Traffic Enforcement Systems in Texas* (August 2012), *available at* http://ftp.dot.state.tx.us/pub/txdot-info/trf/red_light/empirical_analysis_photo_enforce.pdf; Pennsylvania State Transportation Advisory Committee, *Evaluating The Automated Red Light Enforcement Program (ARLE) Final Report* (October 2011), *available at*

4. Efforts to Repeal

Since its enactment in 2010, the Wandall Act has been amended by the Legislature four times. Laws of Fla., Chs. 2012-174, §§ 3, 74; 2012-181, § 43; 2013-15, § 5; 2013-160. And every year there have been futile attempts to repeal the Wandall Act. In fact, at least seven bills have been filed seeking the repeal of red light cameras since the use of the cameras was legalized in 2011.⁹ Despite the repeated

<http://www.dvrpc.org/Transportation/Safety/Toolbox/pdf/ARLE-October2011-FinalReport.pdf>;
Troy D. Walden, Ph.D, *Evaluation of Photographic Traffic Signal Enforcement Systems in Texas* (June 2011), available at
<https://static.tti.tamu.edu/tti.tamu.edu/documents/TTI-2011-4.pdf>;
IIHS News, *Camera enforcement in 14 large cities reduces rate of fatal red light running crashes by 24 percent* 9 (February 1, 2011),
<http://www.iihs.org/iihs/news/desktopnews/camera-enforcement-in-14-large-cities-reduces-rate-of-fatal-red-light-running-crashes-by-24-percent>;
Richard A. Retting, Susan A. Ferguson, Charles M. Farmer, *Reducing red light running through longer yellow signal timing and red light camera enforcement: Results of a field investigation*, received in revised form June 20, 20017, available at
<https://pdfs.semanticscholar.org/ed62/528413995c8d3b759040bb053d6dc56dd8ef.pdf>.

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See, e.g., C.S./H.B. 4087, 2011 Leg. (Fla. 2011), available at
<https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=h4087c.APC.DOCX&DocumentType=Analysis&BillNumber=4087&Session=2011>

S.B. 672, 2011 Leg. (Fla. 2011), available at
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H.B. 4177, 2012 Leg. (Fla. 2012), available at
<https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=h4177.EAC.DOCX&DocumentType=Analysis&BillNumber=4177&Session=2012>

H.B. 4011, 2013 Leg. (Fla. 2013), available at
<https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=h4011a.EAC.DOCX&DocumentType=Analysis&BillNumber=4011&Session=2013>

C.S./S.B. 168, 2016 Leg. (Fla. 2016), available at

efforts to eliminate the Act by its opponents, the Act has remained in full force and effect. The unsuccessful attempts to repeal the Act underscore the statewide importance and success of the Act.

B. The Local Governments' Use of a BRQ is Not Preempted and Does Not Conflict With the Act

Jimenez abandoned the arguments he presented to the trial court and the Third District about purported unlawful delegation of police powers. Jimenez instead relies on this Court's prior decision in Masone v. City of Aventura, 147 So. 3d 492 (Fla. 2014) and a strained analysis of the text of the Wandall Act to argue that Aventura's (and the Local Governments') use of a BRQ is preempted by Florida law. As explained in Aventura's Answer Brief, that is wrong. (A.B., pp. 15-44). The Wandall Act explicitly states:

This paragraph does **not** prohibit a review of information from a traffic infraction detector by an authorized employee or agent of the department, a county, or a municipality before issuance of the traffic citation by the traffic infraction enforcement officer.

<https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=2016s016.tr.DO CX&DocumentType=Analysis&BillNumber=0168&Session=2016>

H.B. 4027, 2016 Leg. (Fla. 2016), *available at* <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=h4027c.APC.D OCX&DocumentType=Analysis&BillNumber=4027&Session=2016>

H.B. 6007, 2017 Leg. (Fla. 2017), *available at* <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=h6007e.GAC.D OCX&DocumentType=Analysis&BillNumber=6007&Session=2017>

(all last visited August 23, 2017).

§ 316.0083(1)(a), Fla. Stat. (Emphasis added).

Jimenez interprets that statute as a mere authorization for an agent like ATS to review the captured photographs and video “for the limited purpose of ensuring their completeness and usability.” (I.B., p. 15). And that “[a]ll the Legislature permitted was the use of an agent to review the evidence to screen it for deficiencies in the camera’s capture of the raw photographic ‘information’ required for the issuance of a citation.” (I.B., p. 24). That is, Jimenez posits that the Act only permits an agent to review the images to see if the equipment worked properly and a photograph or video actually exists.

As this Court has explained, “[w]hen a statute is susceptible of and in need of interpretation or construction, it is axiomatic that courts should endeavor to avoid giving it an interpretation that will lead to an absurd result.” Tampa-Hillsborough County Expressway Authority v. K.E. Morris Alignment Service, Inc., 444 So. 2d 926, 929 (Fla. 1983). Jimenez’s interpretation would absolutely lead to such an improper and “absurd result.”

The Florida Legislature chose broad language describing an agent’s “review of information” before issuance of the traffic citation by the traffic infraction enforcement officer.” § 316.0083(1)(a), Fla. Stat. As discussed in Aventura’s Answer Brief, the Legislature knew of the existence of municipal red light camera programs --

and the involvement of vendors like ATS in operating those programs -- when it enacted the Wandall Act. (A.B., pp. 25-34). With that knowledge, the Legislature expressly authorized agents' "review" of events captured by the cameras before the issuance of a red light citation by a TIEO. Had the Legislature wanted to clearly limit the scope of such a review to mere "completeness and usability," it would have done so.

Moreover, the Third District below and the Second District in Trinh both rejected similar arguments challenging the scope of permissible review under § 316.0083(1)(a), Fla. Stat. In Jimenez, the Third District found:

For the reasons explained below, we reject Jimenez's arguments. In particular, we hold that the review of red light camera images authorized by section 316.0083(1)(a) allows a municipality's vendor, as its agent, to review and sort images to forward to a police officer where, as here, (1) the vendor's decisions in this regard are strictly circumscribed by contract language, guidelines promulgated by the municipality, and actual practices, such that the vendor's decisions are essentially ministerial and non-discretionary; (2) these ministerial decisions are further limited by an overarching policy of automatically passing all close calls to the police for their review; (3) it is the police officer that makes the actual decision whether probable cause exists and whether a notice and citation should issue; and (4) the officer's decision that probable cause exists and a citation issues consists of a full, professional review by an identified officer who is responsible for that decision and does not merely acquiesce in any determination made by the vendor.

State ex rel. City of Aventura v. Jimenez, 211 So. 3d 158, 160 (Fla. 3d DCA 2016).

In Trinh, the Second District likewise determined that ATS’s initial screening was permitted by the Wandall Act:

Undoubtedly, section 316.0083(1)(a) permits “a review of information from a traffic infraction detector by an authorized ... agent of ... a municipality before issuance of the traffic citation by the [TIEO].” And, like the Third District in *Jimenez*, we conclude that the screening function performed by the ATS processors falls within the “review” permitted by the statute.

City of Oldsmar v. Trinh, 210 So. 3d 191, 206 (Fla. 2d DCA 2016).

In sum, pursuant to the BRQs, ATS conducts an initial screening of the recorded events on behalf of Aventura and the Local Governments to sort those events in accordance with local police allocation of enforcement resources. The BRQs save the Local Governments money and the TIEO’s time in reviewing and sorting events local police have determined do not merit further enforcement consideration. Jimenez has not cited any provision of the Wandall Act that conflicts with ATS’s limited “review” of the images and videos (and none exists). The use of the BRQ to have ATS “review” and sort the images and videos is consistent with the Wandall Act and not preempted.

CONCLUSION

The Florida League of Cities and the Local Governments join with the City of Aventura in urging the Court to approve the decision of the Third District in its entirety.

DATED this 30th day of August, 2017.

Respectfully submitted,

/s/E. Bruce Johnson

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing brief complies with the font and spacing requirements of Rules 9.100 and 9.210, Florida Rules of Appellate Procedure.

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I HEREBY CERTIFY that a true and correct copy of the foregoing motion for leave to file an amicus curiae brief was served by **E-Portal** to all counsel listed below this 30th day of August, 2017.

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