

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IAN JORDAN, et al.,

Plaintiffs,

v.

THE CITY OF LYNNWOOD, THE  
CITY OF LYNNWOOD POLICE  
DEPARTMENT, NICOLA SMITH,  
the Mayor of the City of Lynnwood in  
her official and personal capacity, and  
TOM DAVIS, Chief of Police of the  
City of Lynnwood in his official and  
personal capacity,

Defendants.

CASE NO. C17-0309 RAJ

ORDER

**I. INTRODUCTION**

This matter comes before the Court on Defendants, the City of Lynnwood, the City of Lynnwood Police Department, Nicola Smith, and Tom Davis' Motions to Dismiss. Dkt. ## 14, 16. Plaintiffs, Ian Jordan, Sarah Anni MacDonald, and Bruce Allen Cunningham, oppose the Motions. Dkt. ## 18, 20. Having considered the submissions of the parties, the relevant portions of the record, and the applicable law, the Court finds

1 that oral argument is unnecessary. For the reasons set forth below, the Court **GRANTS**  
2 Defendant Lynnwood’s Motion to Dismiss (Dkt. # 16) and **DENIES as moot** Defendants  
3 Nicola Smith and Tom Davis’ Motion to Dismiss (Dkt. # 14).

## 4 **II. BACKGROUND**

5 The following is taken from Plaintiffs’ Amended Complaint, which is assumed to  
6 be true for the purposes of this motion to dismiss. *Sanders v. Brown*, 504 F.3d 903, 910  
7 (9th Cir. 2007).

8 Plaintiffs bring this class action against Defendants for alleged violations of their  
9 due process rights under federal and state law. Plaintiffs also bring claims of unjust  
10 enrichment, wrongful prosecution, and negligence against Defendants. Plaintiffs all  
11 received traffic camera tickets issued by Defendant City of Lynnwood (“Lynnwood”) and  
12 paid the resulting fines. Dkt. # 10 ¶¶ 4-6. Lynnwood is a municipal corporation  
13 organized under the laws of the State of Washington. Defendant City of Lynnwood  
14 Police Department (“Lynnwood Police Department”) is the police department organized  
15 and run by Lynnwood. Defendant Nicola Smith is the Mayor of Lynnwood. Tom Davis  
16 is Chief of Police of Lynnwood. Dkt. # 10 ¶ 7.

17 Lynnwood operates traffic enforcement cameras at eleven (11) locations within its  
18 jurisdiction. Dkt. # 10. Lynnwood is authorized to operate traffic enforcement cameras  
19 pursuant to Washington state statute RCW 46.64.170. RCW 46.63.170(a) states that:  
20 “Beginning one year after June 7, 2012, cities and counties using automated traffic safety  
21 cameras must post an annual report of the number of traffic accidents that occurred at  
22 each location where an automated traffic safety camera is located as well as the number  
23 of notices of infraction issued for each camera and any other relevant information about  
24 the automated traffic safety cameras that the city or county deems appropriate on the  
25 city’s or county’s website.” Between June of 2013 and October of 2016, Lynnwood did  
26 not post this information. Dkt. # 10.

1 RCW 46.64.170(b) provides that traffic safety cameras are restricted to  
2 intersections of two arterials with traffic control signals that have yellow change interval  
3 durations, railroad crossings, and school speed zones. Plaintiff Jordan was ticketed at the  
4 intersection of 196th St. SW and 36th Ave W in Lynnwood. Plaintiffs allege that this is  
5 not an intersection of “two arterials” as required by state statute. *Id.* Plaintiffs allege that  
6 Lynnwood did not have the legal authority to operate a traffic camera program because it  
7 was out of compliance with RCW 46.64.170, and that the issuance of traffic camera  
8 tickets while Lynnwood was out of compliance was a violation of Plaintiffs’ federal and  
9 state due process rights. *Id.*

10 After a traffic camera captures a vehicle in an alleged traffic violation, a Notice of  
11 Infraction is issued. Dkt. # 10. The Notice of Infraction sets out the specific fines  
12 imposed and the deadlines for payment. The alleged violator is given the option of  
13 scheduling a mitigation hearing on the infraction, which is conducted by the Lynnwood  
14 Municipal Court. *Id.* After their cases are adjudicated in Municipal Court, they can  
15 either appeal the adjudication to the Superior Court pursuant to RCW 46.64.090(a), or  
16 file a motion to vacate their judgments in the Municipal Court pursuant to IRLJ 6.7(a).  
17 *Doe v. Fife Mun. Court*, 74 Wn. App. 444, 448 (1994).

### 18 **III. LEGAL STANDARD**

#### 19 **A. FRCP 12(b)(1)**

20 Federal courts are tribunals of limited jurisdiction and may only hear cases  
21 authorized by the Constitution or a statutory grant. *Kokkonen v. Guardian Life Ins. Co.*  
22 *of America*, 511 U.S. 375, 377 (1994). The burden of establishing subject-matter  
23 jurisdiction rests upon the party seeking to invoke federal jurisdiction. *Id.* Once it is  
24 determined that a federal court lacks subject-matter jurisdiction, the court has no choice  
25 but to dismiss the suit. *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006); Fed. R. Civ.  
26 P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction,  
27 the court must dismiss the action.”).

1 A party may bring a factual challenge to subject-matter jurisdiction, and in such  
2 cases the court may consider materials beyond the complaint. *PW Arms, Inc. v. United*  
3 *States*, 186 F. Supp. 3d 1137, 1142 (W.D. Wash. 2016) (citing *Savage v. Glendale Union*  
4 *High Sch.*, 343 F.3d 1036, 1039 n. 2 (9th Cir. 2003); *see also McCarthy v. United States*,  
5 850 F.2d 558, 560 (9th Cir. 1988) (“Moreover, when considering a motion to dismiss  
6 pursuant to Rule 12(b)(1) the district court is not restricted to the face of the pleadings,  
7 but may review any evidence, such as affidavits and testimony, to resolve factual disputes  
8 concerning the existence of jurisdiction.”).

9 **B. FRCP 12(b)(6)**

10 Fed. R. Civ. P. 12(b)(6) permits a court to dismiss a complaint for failure to state a  
11 claim. The rule requires the court to assume the truth of the complaint’s factual  
12 allegations and credit all reasonable inferences arising from those allegations. *Sanders v.*  
13 *Brown*, 504 F.3d 903, 910 (9th Cir. 2007). A court “need not accept as true conclusory  
14 allegations that are contradicted by documents referred to in the complaint.” *Manzarek v.*  
15 *St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008). The plaintiff must  
16 point to factual allegations that “state a claim to relief that is plausible on its face.” *Bell*  
17 *Atl. Corp. v. Twombly*, 550 U.S. 544, 568 (2007). If the plaintiff succeeds, the complaint  
18 avoids dismissal if there is “any set of facts consistent with the allegations in the  
19 complaint” that would entitle the plaintiff to relief. *Id.* at 563; *Ashcroft v. Iqbal*, 556 U.S.  
20 662, 679 (2009).

21 A court typically cannot consider evidence beyond the four corners of the  
22 complaint, although it may rely on a document to which the complaint refers if the  
23 document is central to the party’s claims and its authenticity is not in question. *Marder v.*  
24 *Lopez*, 450 F.3d 445, 448 (9th Cir. 2006). A court may also consider evidence subject to  
25 judicial notice. *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003).

1           **IV. DISCUSSION**

2           Plaintiffs argue that one of Defendants’ motions to dismiss be stricken because  
3 they violated Local Rule 7(e)(3). Local Rule 7(e)(3) states: “Absent leave of the court,  
4 parties must not file contemporaneous dispositive motions, each one directed toward a  
5 discrete issue of claim.” However, each individual Defendant in this case is permitted to  
6 file a dispositive motion. Each motion to dismiss was filed by different Defendants and  
7 request different types of relief. Plaintiffs’ request to strike one or both of Defendants’  
8 Motions is **DENIED**.

9           Plaintiffs also argue that Defendants improperly submitted evidence outside of the  
10 pleadings with one of their motions to dismiss and that the motion to dismiss should be  
11 treated as a motion for summary judgment pursuant to Federal Rule of Civil Procedure  
12 12(d). Dkt. # 16. Defendants argue that the evidence in question is central to Plaintiffs’  
13 claims and can be appropriately considered here. When resolving a motion to dismiss  
14 under Rule 12(b)(6), the Court may rely on a document to which the complaint refers if  
15 the document is central to the party’s claims and its authenticity is not in question.  
16 *Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006). Lynnwood submits three exhibits in  
17 support of its argument that Plaintiffs’ claims are barred by the doctrine of *res judicata*.  
18 As detailed further below, the Court did consider that argument at this time. Therefore,  
19 consideration of these exhibits is not necessary and the Court declines to convert the  
20 motion to dismiss into a motion for summary judgment.

21           **A. The Rooker-Feldman Doctrine**

22           Lynnwood first argues that this Court lacks jurisdiction under the *Rooker-Feldman*  
23 doctrine, which instructs that federal district courts do not have jurisdiction to hear direct  
24 appeals from the judgment of state courts. *Cooper v. Ramos*, 704 F.3d 772, 777 (9th Cir.  
25 2012). The doctrine bars a district court from exercising jurisdiction over direct appeals,  
26 as well as the “de facto equivalent” of such an appeal. *Id.* The court must look to the  
27 relief sought by the plaintiff when determining whether an action is a de facto appeal of a

1 state court judgment. It is a de facto appeal under *Rooker-Feldman* when the plaintiff  
2 “complains of a legal wrong allegedly committed by the state court, and seeks relief from  
3 the judgment of that court.” *Id.*

4 Plaintiffs request that Defendants be enjoined from continuing to operate  
5 Lynnwood’s traffic camera program, that the Court enter a declaratory judgment that  
6 Defendants have operated the traffic camera system “illegally and without lawful  
7 authority since at least July 1, 2014”, damages in the form of refunds to individual drivers  
8 who paid fines from these traffic camera infractions, reasonable attorney fees and costs  
9 incurred in connection with this action, and punitive damages. To the extent that  
10 Plaintiffs seek refunds of the traffic camera infraction fines imposed on them, that would  
11 be a de facto appeal of the adjudication of their traffic camera tickets, and they are barred  
12 by the *Rooker-Feldman* doctrine. *See Van Harken v. City of Chicago*, 103 F.3d 1346,  
13 1349 (7th Cir. 1997). To the extent that Plaintiffs seek a declaratory judgment that  
14 Lynnwood’s operation of the traffic camera program and the procedures under which the  
15 tickets were brought against them are unconstitutional, it is not a challenge of a state  
16 court judgment, and they are not barred by *Rooker-Feldman*. *See id.*

### 17 **B. Standing**

18 Lynnwood also argues that, even if the Court finds that Plaintiffs’ claims are not  
19 barred by the *Rooker-Feldman* doctrine, Plaintiffs’ Amended Complaint should be  
20 dismissed because they lack standing. Lynnwood argues that Plaintiffs lack Article III  
21 standing because they have not alleged facts demonstrating that they suffered an injury.  
22 In order to show standing, Plaintiffs must show that they have suffered an “injury in fact”  
23 that is “fairly traceable to the challenged action of the defendant,” and that “will be  
24 redressed by a favorable decision.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61  
25 (1992) (quotations, citations, and alterations omitted). In a class action, standing is  
26 satisfied if at least one named plaintiff meets the requirements. *Bates v. United Parcel*  
27 *Serv., Inc.*, 511 F.3d 974, 985 (9th Cir. 2007). “At least one named plaintiff must satisfy

1 the actual injury component of standing in order to seek relief on behalf of himself or the  
2 class.” *Huynh v. Chase Manhattan Bank*, 465 F.3d 992, 1002 n.7 (9th Cir. 2006)  
3 (quoting *Casey v. Lewis*, 4 F.3d 1516, 1519 (9th Cir. 1993)).

4 Plaintiffs argue that their injury is the “panoply of impacts that result from a red  
5 light camera ticket, including but not limited to the payment of fines to the City.”  
6 Dkt. # 20 at 6. As noted above, to the extent that Plaintiffs seek refunds of the fines  
7 imposed on them by traffic camera tickets, this Court has no jurisdiction to review those  
8 adjudications and those injuries cannot be redressed by a favorable decision. Even if the  
9 Court had jurisdiction over these adjudications, Plaintiffs do not allege facts to show that  
10 these fines are fairly traceable to the challenged action of Defendants. Plaintiffs received  
11 these traffic camera tickets because they ran a red light. They did not receive these  
12 tickets because the process by which the tickets are issued or challenged violated their  
13 due process rights.

14 Plaintiff Jordan also argues that the intersection where he received his traffic  
15 camera ticket was not a permitted location pursuant to the requirements of RCW  
16 46.64.170(b). Dkt. # 10. Even if Plaintiff Jordan argued that he was injured when he  
17 received the ticket and that this ticket was traceable to Lynnwood’s improper placement  
18 of the traffic camera, that injury could not be redressed by a favorable decision. As  
19 previously noted, to the extent that Plaintiff Jordan seeks a refund of the fine from this  
20 particular ticket, the Court does not have the jurisdiction to review that adjudication.  
21 Neither would Plaintiffs’ request for declaratory and injunctive relief satisfy the  
22 requirement of redressability. In this context, Plaintiff Jordan’s injury stems from his  
23 previous ticket, and a declaratory judgment that Lynnwood operated its traffic camera  
24 program “illegally” would not redress that injury.

25 At most, Lynnwood’s action resulted in a failure to report traffic accident and  
26 infraction data on the city’s website. Plaintiffs allege that this data reporting is required  
27 so “citizens and elected officials can together determine whether the traffic cameras are

1 meeting their required goal of enhancing safety, or whether they are merely being used as  
2 a revenue collection device.” Dkt. # 10 at 5. Federal courts have long required a plaintiff  
3 to “show that he ‘has sustained or is immediately in danger of sustaining some direct  
4 injury’ as the result of the challenged official conduct and the injury or threat of injury  
5 must be both ‘real and immediate,’ not ‘conjectural’ or ‘hypothetical.’” *City of Los*  
6 *Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (citations omitted). Though there is no precise  
7 definition for the injury required to prove standing, a “plaintiff must show that he or she  
8 suffered ‘an invasion of a legally protected interest’ that is ‘concrete and particularized’.”  
9 *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548, 194 L. Ed. 2d 635 (2016), as revised (May  
10 24, 2016)(citing to *Lujan*, 504 U.S. at 560). Plaintiffs have not alleged that they are in  
11 danger of sustaining a real and immediate injury due to this lack of data reporting, nor  
12 have they alleged a concrete and particularized harm. As Plaintiffs have failed to  
13 demonstrate that they suffered an “injury in fact” that is traceable to Defendants’ actions  
14 and that can be redressed by a favorable decision by this Court, they do not have the  
15 requisite standing to assert their claims. Defendant Lynnwood’s Motion to Dismiss is  
16 **GRANTED.** Dkt. # 16.

### 17 **C. Supplemental Jurisdiction**

18 A district court “may decline to exercise supplemental jurisdiction” if it “has  
19 dismissed all claims over which it has original jurisdiction.” 28 U.S.C. § 1367(c)(3). “[I]n  
20 the usual case in which all federal-law claims are eliminated before trial, the balance of  
21 factors to be considered under the pendent jurisdiction doctrine—judicial economy,  
22 convenience, fairness, and comity—will point toward declining to exercise jurisdiction  
23 over the remaining state-law claims.” *Sanford v. MemberWorks, Inc.*, 625 F.3d 550, 561  
24 (9th Cir. 2010) (citing *Carnegie–Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n. 7, 108  
25 S.Ct. 614, 98 L.Ed.2d 720 (1988)). Here, Plaintiffs’ federal law claim has been  
26 dismissed for lack of standing. Based on the above factors, the Court declines to exercise  
27 supplemental jurisdiction over Plaintiffs’ remaining state law claims.



1 Defendants Nicola Smith and Tom Davis also filed a Motion to Dismiss Plaintiffs'  
2 due process and punitive damage claims against them pursuant to Federal Rules of Civil  
3 Procedure 12(b)(1) and 12(b)(6). Dkt. # 14. As the Court finds that Plaintiffs do not  
4 have Article III standing to bring their federal claims and declines to exercise  
5 supplemental jurisdiction over Plaintiffs' state law claims, the merits of the second  
6 Motion to Dismiss need not be addressed here. Defendants' Motion to Dismiss is  
7 **DENIED as moot.** Dkt. # 14.

8 **V. CONCLUSION**

9 For the foregoing reasons, the Court **GRANTS** Defendant Lynnwood's Motion to  
10 Dismiss (Dkt. # 16) and **DENIES as moot** Defendants Nicola Smith and Tom Davis'  
11 Motion to Dismiss (Dkt. # 14).

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13 Dated this 22nd day of January, 2018.

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17 The Honorable Richard A. Jones  
18 United States District Judge  
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