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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

American Traffic Solutions, Inc.,)	No. CV 08-2051-PHX-FJM
Plaintiff,)	ORDER
vs.)	
Redflex Traffic Systems, Inc.,)	
Defendant.)	

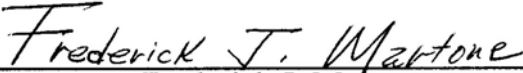
The court has before it defendant’s “Motion for Reconsideration of the Court’s April 30, 2010 Bench Decrees Denying Redflex’s *Daubert* Motions”. (Doc. 293). Defendant contends that its motions were not motions in limine and therefore not subject to the page limits in the Rule 16 Scheduling Order.

Under our Rule 16 order, the parties were required to disclose expert testimony back in August 2009. Yet Redflex waited until April 20, 2010, ten days before the final pre-trial conference, to file its Ingberman motion(doc. 249), and April 26, 2010, four days before the final pre-trial conference, to file its Keeling motion (doc. 257). This was so late, plaintiff had no opportunity to respond under LRCiv 7.2(c) before the conference. If a party is serious about a *Daubert* issue, that is, above and beyond a garden variety objection under Rule 702, Fed. R. Evid., its motion should be filed and heard long before the final pre-trial conference, with an opportunity for the opposing party to respond, an opportunity for a reply and a chance for the court to read, consider the matter, and hold an evidentiary hearing if

1 necessary. Redflex chose a different path. It chose to treat its motion as one in limine under
2 the court's Rule 16 order, and thus was subject to the abbreviated procedures set forth in the
3 order. Its motions were thus too long, too late, and not within the letter and spirit of the Rule
4 16 order. They were an ambush of the court and counsel. They were thus properly denied
5 as motions in limine. Counsel will simply have to make his objection at trial.

6 Accordingly, it is ORDERED DENYING Redflex's Motion for Reconsideration.
7 (Doc. 293).

8 DATED this 6th day of May, 2010.

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12 Frederick J. Martone
13 United States District Judge
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