UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

LINQUISTA WHITE, EMILY BELLAMY, and JANICE CARTER, Plaintiffs, v. KEVIN SHWEDO, in his official capacity as the Executive Director of the South Carolina Department of Motor Vehicles; and RALPH K. ANDERSON III, in his official capacity as the Chief Judge of the South Carolina Administrative Law Court and Director of the South Carolina Office of Motor Vehicle Hearings, Defendants.	Civil Action No. _____ **CLASS ACTION COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** (Violation of Rights Under the Fourteenth Amendment to the U.S. Constitution)

INTRODUCTION

1. Today, South Carolina bars more than one hundred thousand people from driving simply because they cannot afford to pay traffic tickets. The South Carolina Department of Motor Vehicles ("DMV") automatically and indefinitely suspends driver's licenses under South Carolina Code Section 56-25-20 when people are reported for failure to pay monetary penalties for traffic violations, including fines, fees, surcharges, court costs, and assessments (collectively "traffic fines and fees").[1] At no point before indefinitely depriving people of their driver's licenses does the DMV conduct a hearing or inquiry into an individual's ability to pay. In fact, neither the DMV nor the South Carolina Office of Motor Vehicle Hearings ("OMVH")—the

[1] S.C. Code Ann. § 56-25-20 ("Section 56-25-20"). All abbreviations used in the Complaint, such as "DMV," are defined for ease of reference in Appendix A: Glossary.

needed to replace property damaged in a wrongful eviction to pay the traffic ticket and DMV reinstatement fees in order to regain her driver's license. But Ms. White currently faces additional traffic tickets that stem from her limited financial resources, which will likely lead to the imposition of hundreds, if not thousands, of dollars in traffic fines and fees and DMV reinstatement fees that she cannot afford. Ms. White faces a substantial and imminent risk that the DMV will again automatically and indefinitely suspend her driver's license for failure to pay traffic tickets under Section 56-25-20 without providing her a hearing, inquiring into her ability to pay, or determining that she had the resources, but willfully failed to pay.

4. The indefinite suspensions of the driver's licenses of Ms. Bellamy and Ms. Carter are exclusively the result of their lack of financial resources. Without driver's licenses in a state with a dearth of reliable and accessible public transportation, Plaintiffs continue to live in financial hardship, unable to secure better paying jobs and facing impossible choices to pursue their livelihoods, care for themselves and their families, and meaningfully participate in civic life. Ms. Bellamy could pursue higher-paid work in hotel housekeeping or as a home health aide, but both jobs require a valid driver's license to travel to different work sites. Ms. Carter has been offered a higher-paid position as a reentry caseworker, but the offer is contingent on obtaining a valid driver's license. Because Ms. Bellamy and Ms. Carter cannot afford to pay traffic fines and reinstatement fees, their driver's licenses remain suspended, preventing them from securing these jobs and earning needed money. Ms. Bellamy confronts barriers to taking her children to and from health care services and extracurricular activities, traveling to be with her ill mother, participating in a support group that promotes strong families, and engaging in community service activities. Ms. Carter also faces obstacles getting to and from church without a valid driver's license, impeding her ability to worship with her religious community.

Census estimates, one in six South Carolinians—more than 790,000 people—live in poverty.[2] For those who can afford to pay, traffic fines and fees are an inconvenience, but can be satisfied. For those who cannot afford to pay, traffic fines and fees result in the absolute loss of a driver's license, which causes more severe economic and personal consequences. This is especially true in a state like South Carolina, where most counties are rural and lack accessible public transportation.

8. Whenever it receives a report from a court that a defendant has not paid a traffic fine or fee, the DMV indefinitely suspends the defendant's driver's license for failure to pay traffic tickets ("FTPTT") pursuant to the agency's authority under Section 56-25-20 of the South Carolina Code. The DMV does not hold a hearing or otherwise inquire into whether the person is unable to pay or has the ability to pay but is willfully refusing to do so.

9. To the extent a person receives any notice from the DMV of a pending license suspension for failure to pay, the written notice makes clear that the only way to prevent the suspension is to pay the owed traffic fines and fees in full before the date on which the suspension goes into effect, which is usually around three weeks from the date of the notice. The notice also makes clear that once a driver's license is suspended for FTPTT, the only way to secure reinstatement is to pay all traffic fines and fees in full and to pay the DMV a $100 reinstatement fee for each FTPTT suspension on the license. The notice fails to explain or even reference any alternative to full payment that would prevent an FTPTT suspension from going into effect or secure reinstatement of a license suspended for failure to pay traffic tickets.

[2] U.S. Census Bureau, *American Community Survey (2017 5-Year Estimates)*, Table S1701 (Poverty Status in the Past 12 Months)–South Carolina (2017), https://bit.ly/2VKKSJx (reporting 16.6% of South Carolina's population lives below the federal poverty level).

Year 2017-18 do not indicate that the entity has held a single hearing concerning an FTPTT

licenses for nonpayment of reinstatement fees without requiring a hearing or other inquiry into an individual's ability to pay and a determination that nonpayment was willful; (5) an injunction that strikes Section 56-1-390 as unconstitutional, prohibits the DMV from indefinitely suspending driver's licenses solely for nonpayment of reinstatement fees, and orders the DMV to reinstate any driver's licenses that have no other basis for suspension; (6) a declaration that the OMVH's enforcement of Section 56-5-2952 to deny hearings to people seeking to contest driver's license suspensions absent payment of a non-waivable $200 filing fee for each disputed suspension is unconstitutional; and (7) an injunction prohibiting the OMVH from denying a hearing on the DMV's suspension of a driver's license for failure to pay due to nonpayment of a filing fee, absent a finding of willful failure to pay the fee.

PARTIES

17. Plaintiff Emily Beline mepe1]TJ 0 Tc 0 Tw (on)Tj ([(l)7)3(e)4(h di)-2(k2(l)-omt)-2(e)4n(

pay to secure reinstatement of her driver's license by diverting money needed to replace damaged belongings, Ms. White now faces a substantial risk of imminent suspension of her driver's license. Ms. White is unable to pay fines and fees likely to be assessed for three recent traffic tickets that stem from her limited financial resources.

20. Defendant Kevin Shwedo is the Executive Director of the South Carolina Department of Motor Vehicles. In this role, Defendant Shwedo is the final decisionmaker as to the DMV's policies and practices to enforce Section 56-25-20 and the agency's suspension of driver's licenses for failure to pay traffic fines and fees pursuant to Section 56-25-20.[6] He is sued in his official capacity as a state actor for declaratory and injunctive relief only.

21. Defendant Ralph K. Anderson III is the Chief Judge of the South Carolina Administrative Law Court. In this role, Defendant Anderson serves as the Director of the South Carolina Office of Motor Vehicle Hearings and promulgates rules governing OMVH procedure and practice, including the requirements for initiating an administrative action to challenge the DMV's suspension of a driver's license.[7] Defendant Anderson is the final decisionmaker on the assignment of cases to OMVH hearing officers.[8] He is sued in his official capacity as a state actor for declaratory and injunctive relief, and only for conduct undertaken as an administrative policymaker.

JURISDICTION AND VENUE

22. This is a civil rights action arising under 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution. The Court has jurisdiction over this action

[6] *See* S.C. Code Ann. § 56-25-20.
[7] S.C. Code Ann. § 1-23-660(A) ("Section 1-23-660").
[8] *Id.*

pursuant to 28 U.S.C. §§ 1331 (federal question jurisdiction) and 1343(a)(3) (redress for violation of constitutional rights under color of state law).

23. An actual, ongoing controversy exists within this Court's jurisdiction. The Court is therefore authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

24. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district. This case is properly filed in the Charleston Division pursuant to Local Civil Rule 3.01 because a substantial part of the events or omissions alleged herein occurred in Charleston Division counties and because Defendants Shwedo and Anderson do business relating to the events and omissions alleged in this action in the Charleston Division counties.

FACTUAL ALLEGATIONS

A. A driver's license is necessary for economic self-sufficiency, to care for one's self and family, and to meaningfully participate in society.

25. As of May 31, 2019, more than 190,000 people had a South Carolina driver's license under indefinite suspension for failure to pay traffic fines and fees pursuant to Section 56-25-20.

26. Impoverished and low-income people are likely to be unable to pay monetary penalties imposed for traffic violations. Research by the Federal Reserve shows that forty percent of Americans cannot afford to pay a $400 emergency expense or could only cover such an expense by selling something or borrowing money.[9]

27. South Carolina suffers from one of the highest poverty rates in the nation. According to 2017 U.S. Census estimates, South Carolina has the eleventh highest population of people living in poverty in the United States, with 16.6% of South Carolinians earning less than the Federal Poverty Guideline for their household.[10]

28. Even South Carolinians with incomes above the federal poverty level may experience significant day-to-day financial hardship. For example, people are generally eligible for free legal assistance from South Carolina Legal Services, a federally-funded "legal aid" organization, if their household income is at or below 125% of the relevant Federal Poverty Guideline and may be eligible if their income is at or below 200% of the relevant Federal Poverty Guideline.[11] Similarly, food assistance is provided to people whose household income is at or below 130% of the relevant Federal Poverty Guideline.[12]

29. Black and Latinx South Carolinians experience poverty and unemployment at higher rates than white South Carolinians. According to 2017 U.S. Census estimates, 11.2% of non-Latinx white people in South Carolina live below the poverty line, compared to 26.7% of Black people and 28.6% of Latinx people in South Carolina.[13] U.S. Census estimates also show

[10] U.S. Census Bureau, *American Community Survey (2017 5-Year Estimates)*, Table GCT1701 (Percent of People Below Poverty Level in the Past 12 Months (For Whom Poverty Status is Determined)) (2017), https://bit.ly/2mnrDYW.
[11] *Income Guidelines*, South Carolina Legal Services, https://bit.ly/2lHqaMR (last visited October 28, 2019).
[12] *SNAP*, South Carolina

that Black South Carolinians suffer from unemployment at a rate more than double that of white residents.[14]

30.

keep their jobs, take their children to and from school, seek and receive medical care, purchase groceries and basic necessities, go to places of worship, and be with their families and communities.

34. In a 2013 survey of 2,459 South Carolina residents concerning transportation options, 92% of respondents reported using a personal vehicle for travel.[17]

35. The South Carolina Department of Transportation ("SC DOT") estimated in a 2014 report that only 44% of statewide public transit demands were met in fiscal year 2011.[18]

36. In the same 2014 report, the SC DOT recognized that an increase in low-income households presented a need for public transit. The report concluded that South Carolina lacked sufficient public transportation options to serve second- and third-shift workers, lacked "coordinated/scheduled services and coverage" in rural areas, and had "[l]imited scheduled public transit routes outside urban areas."[19] In parts of South Carolina, major employers have openly acknowledged that the lack of public transportation hinders the ability of employees to get to work.[20]

37. For most South Carolinians, driving is necessary to find and maintain paid employment due to the absence of reliable public transportation and lengthy commuting distances. The median commute distance in South Carolina is 7.6 miles each way—the thirteenth longest of any state in the country.[21] According to 2017 U.S. Census estimates, 92%

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[17] *See* CDM Smith, *Charting a Course to 2040: South Carolina Statewide Public Transportation and Coordination Plan*, S.C. Dep't of Transp. 51 (2014), https://bit.ly/2nhxK1j ("CDM Smith").
[18] *Id.* at 66.
[19] *Id.* at 37 (Table 3-1).
[20] Eric Conner, *"I can't stay downtown": Greenville employers say poor transportation threatens jobs*, Greenville News (Apr. 8, 2018), https://bit.ly/2RqaBE8.
[21] *See* Streetlight Data, *Commutes Across America: Where Are The Longest Trips To Work?* 9 (2018), https://bit.ly/2nXpiEL.

on the Craigslist website show that a driver's license is required for many positions, including jobs in housekeeping, cleaning, construction, maintenance, painting, and warehouse staffing. Numerous South Carolina high schools offer driver's education courses, which also demonstrates public recognition of the importance of a driver's license to a successful adult life and career.[28]

39. Research from across the country also underscores the critical link between a person's ability to maintain a valid driver's license and employment and financial stability. The American Association of Motor Vehicles Administrators ("AAMVA") has recognized that "[p]eople who are able to legally drive are more likely to have stable employment."[29] In t.Bd47-4(asd om0 TIp

unable to drive to school; to take their children to school and child care; to attend doctors' appointments; to pick up prescriptions at pharmacies; to make trips to the grocery store and to public benefits offices; to travel to places of worship; and to be with their families.[33] Driver's license suspensions can also hurt the ability of people to secure housing because housing applications often require a copy of the applicant's valid driver's license.[34]

41. The AAMVA has recognized that "[s]uspending a person's driving privilege makes it less likely that fines will be paid if the person is unable to get to work and to pursue other daily activities such as attending school, going to medical appointments, and so on. This is compounded for individuals who live in areas where other transportation options are not readily available."[35]

42. Under South Carolina Code Sections 56-25-20 and 56-1-390, once a driver's license is suspended for failure to pay a traffic ticket, the DMV cannot reinstate the license until the person has paid both the underlying traffic fines and fees and a $100 reinstatement fee in full.[36] If a traffic stop results in multiple tickets and sentences to pay fines and fees, a person who is unable to pay will face a separate, indefinite FTPTT license suspension and a $100 reinstatement fee charged by the DMV for each traffic violation. Thus, when a person is unable

[33] *Id.*
[34] *See, e.g.,* Palmetto State Properties and Associates, *Rental Application Form* 1,

to pay multiple tickets, the combined traffic fines and reinstatement fees can accumulate into hundreds—if not thousands—of dollars in debt.

43. The indefinite suspension of driver's licenses for nonpayment of traffic fines and fees confronts indigent people with an impossible decision: lose their jobs, face barriers to finding employment, and fail to care for themselves and their families, or drive illegally and risk further legal consequences for driving on a suspended license ("DUS"), including fines, fees, jail time, and extension of probation or parole.

44. Faced with such difficult choices, most people whose licenses are suspended continue to drive

or both.[40] A third offense ("DUS-3") carries a $1,000 fine and up to 90 days in either jail or home detention, where the defendant must pay the cost of home detention.[41] The total monetary penalties for each of the DUS offenses is typically about double the fine amount due to the addition of fees and costs. Thus, the total amount of fines and fees typically imposed is around $650 for DUS-1, $1250 for DUS-2, and $2100 for DUS-3. Additionally, when an individual whose license has been suspended is convicted of DUS in South Carolina, the DUS conviction also results in an additional 30-day suspension of the person's driver's license.[42]

47. Under South Carolina law, a person who is convicted of DUS three or more times in three years is designated a "habitual offender."[43] And a person who is convicted of driving on a suspended license while designated a habitual offender may be charged with a felony and face up to five years of incarceration.[44]

48. For these reasons, the indefinite suspension of driver's licenses of people who cannot afford to pay traffic fines and fees may lead to an unrelenting cycle of traffic fines and fees, unemployment, poverty, debt, and continued entanglement in the criminal legal system, with devastating consequences for individuals and their families.

[40] S.C. Code Ann. § 56-1-460(A)(1)(b).
[41] S.C. Code Ann. § 56-1-460(A)(1)(c).
[42] S.C. Code Ann. § 56-1-460(B).
[43] S.C. Code Ann. § 56-1-1020.
[44] S.C. Code Ann. § 56-1-1100.

applies to all South Carolina residents as well as South Carolina driver's license holders, regardless of where they reside.

52. Section 56-25-20 does not require the DMV to suspend driver's licenses. Rather, the statute permits the agency to indefinitely suspend a driver's license if it is notified, within

NRVC-eligible offenses also includes violations that are entirely unrelated to traffic safety, such as “failure to change address/name,” “log book violation,” and disorderly conduct.

56. NRVC procedures are not used when a defendant in a traffic case pays fines and fees at, or before, their court date.

57. The NRVC process begins when the DMV receives a report that an individual has failed to comply with a traffic ticket. Typically, this report is provided to the DMV through the

58. Whether communicated through a Notice of Suspension or an annotated traffic

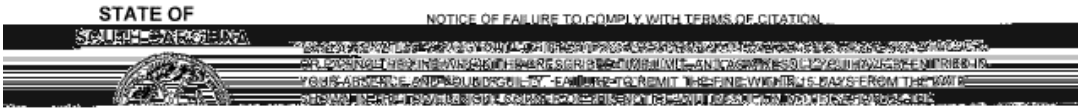
the traffic case, the amount in fines and costs imposed by the court, and the trial date. It also includes the following boil

schedule for the payment of such fine, taking into consideration the income, dependents and necessities of life of the individual."[49] The statute also provides that "[n]o person found to be indigent shall be imprisoned because of inability to pay the fine in full at the time of conviction."[50]

63. In a March 2018 memorandum ("OCA Memo"), the South Carolina Office of Court Administration ("OCA") endorsed the use of TIAs for both NRVC-eligible offenses as well as violations that are not supposed to be handled through the NRVC procedures.[51]

64. The OCA Memo instructs summary court judges to conduct trials in absentia for NRVC-eligible cases "[i]f the citation has not been paid before the court date."[52] If a defendant is found guilty through a trial in absentia, the OCA Memo instructs summary court judges to report the guilty disposition to the DMV at the end of the day.[53]

65. Similarly, the OCA Memo authorizes summary court judges to conduct trials in absentia for uniform traffic tickets that do not involve arrest or a bond hearing, as well as zoning violations, animal control violations, city/county ordinance summonses, and courtesy summonses.[54] If a defendant does not appear in court for these cases, summary court judges are directed to "dispose[] [the case] as TIA" and to send the disposition to the DMV.[55]



68. In practice, however, South Carolina summary courts, out-of-state courts, and motor vehicle departments of other NRVC-participating states rarely, if ever, send the Defendant's Notice or any comparable notice to inform defendants they owe fines and fees imposed in absentia and will be reported to the DMV for noncompliance unless they pay in full. Even if a person receives a Defendant's Notice, the DMV provides no way for that individual to

South Carolina

72. The Official Notice is mailed to the individual's last known address, which usually is the address identified on the traffic citation, several weeks before a pending suspension goes into effect. But many people facing a pending suspension of their driver's license for FTPTT under Section 56-25-20 fail to receive the Official Notice before the suspension goes into effect.

73. The Official Notice provides that there is a pending Section 56-25-20 suspension for failure to pay traffic fines and fees and indicates the individual "may not drive commercial or non-commercial motor vehicles."[57] It states "FAILURE TO PAY TRAFFIC TICKET" as the "REASON" for the suspension and identifies the date of the violation, ticket number, offense, name and address of the court, and beginning date of the suspension.

74. The Official Notice also informs the recipient that the only way to prevent the suspension from going into effect is to "[p]ay the fine for the ticket to the court." The section of the Official Notice instructing recipients on how to prevent the suspension of a driver's license for failure to pay a traffic ticket or to lift a suspension already in effect reads in full:

> COMPLIANCE:
>
> Pay the fine for the ticket to the court. When the fine is paid, the court will give you a compliance notice which shows the description of the violation, the date of the violation, the date the ticket was paid, and the ticket number. YOU MUST BRING THIS COMPLIANCE TO YOUR LOCAL DMV OFFICE OR MAIL IT TO DRIVER RECORDS, POST OFFICE BOX 1498, BLYTHEWOOD, SC 29016-0028. NOTE: IT IS YOUR RESPONSIBILITY TO GIVE THE DEPARTMENT PROOF THAT THIS TICKET HAS BEEN PAID OR THE SUSPENSION MAY REMAIN IN EFFECT.

75. The Official Notice instructs the individual to secure a "compliance notice" from the court and to bring this notice to the DMV in order to prevent the suspension from going into effect or, if the suspension is already in effect, to seek license reinstatement. The Official Notice

[57] *See* Official Notice, *supra* ¶ 71.

also makes clear that if the compliance notice indicates payment of the ticket on or after the suspension date, the individual must also pay a $100 reinstatement fee to the DMV.

76. The only way to secure the compliance notice from the summary court is to pay the traffic fines and fees in full to the court clerk. The Official Notice thus makes clear that the compliance notice will show "the date the ticket was paid" along with a description and date of the violation and the ticket number. The individual must bring the compliance notice to the DMV to prevent an indefinite driver's license suspension for failure to pay traffic tickets before the date the suspension goes into effect. After the indefinite suspension is already in effect, a license holder must provide the DMV with the compliance notice and pay in full the $100 reinstatement fee to the DMV in order to request license reinstatement.

77. The Official Notice fails to notify license holders who cannot afford to pay any way to prevent or contest an indefinite driver's license suspension for nonpayment of traffic fines and fees under Section 56-25-20 other than payment in full. It does not detail any process by which to request a payment plan or waiver or reduction of traffic fines and fees owed to the court. Nor does it describe the availability of such relief for people who are unable to pay. The Official Notice also fails to detail any process by which a driver's license holder can request waiver of the $100 reinstatement fee imposed after the effective date of suspension if the person is unable to pay that fee.

78. The Official Notice also fails to indicate whether the individual can request a

84. The Official Notice does not reference Section 56-1-370 or explain to people facing driver's license suspensions for failure to pay traffic tickets under Section 56-25-20 that there is any possibility of an administrative hearing under Section 56-1-370 to contest the suspension. Nor does it explain the procedures for requesting an OMVH hearing, or even reference the applicable statutes and rules. Rather, the Official Notice presents full pay qia2(h)-10se-2(i)-2(ot5

timely and properly submit a request for an OMVH hearing within a matter of days of receiving the Official Notice, particularly because the notice itself lacks any explanation or reference to these laws, rules, and procedures.

88. Moreover, Defendant Anderson and the OMVH have erected an insurmountable, wealth-based barrier to even the possibility that an indigent person can secure an OMVH hearing to contest an FTPTT suspension under Section 56-25-20 on the basis of inability to pay traffic fines and fees—whether before or after the suspension goes into effect.

89. South Carolina Code Section 56-5-2952 establishes that the filing fee for requesting an OMVH hearing concerning the DMV's suspension of a driver's license is $200 "or as otherwise prescribed by the rules of procedure for the [OMVH]." OMVH Rule 21, in turn, prescribes: "Each request for a contested case hearing before the Office must be accompanied by a filing fee in the amount established by law. A case will not be assigned to a hearing officer until the filing fee has been paid. This fee is not required for contested cases brought by the State of South Carolina or its departments or agencies."[60] OMVH Rules 4(A), 4(C), and 9(A) also reference the requirement to pay the filing fee in order for a contested case hearing to be assigned to a hearing officer.[61]

90. Pursuant to OMVH Rules 21, 4(A), 4(C), and 9(A), even when a person seeking to contest an FTPTT suspension under Section 56-25-20 independently discovers the OMVH appeal process and submits a request for a hearing to contest the DMV's decision, the OMVH refuses to assign a case to a hearing officer unless the requester has paid in full a $200 filing fee for each contested FTPTT suspension. It is therefore impossible for an individual who is unable

[60] Rules of Procedure for the Office of Motor Vehicle Hearings ("OMVH"), Rule 21 (2011), https://bit.ly/2oznlhW

to pay the $200 filing fee to secure a hearing to explain their inability to pay traffic fines and fees, whether to prevent an FTPTT suspension under Section 56-25-20 from going into effect or to secure reinstatement of their driver's license.

91. Defendant Anderson, as the Chief Judge of the Administrative Law Court and Director of the OMVH, has the power under South Carolina Code Section 1-23-660 to propose amendments to OMVH Rule 21 to permit waiver and reduction of the $200 filing fee on the basis of financial hardship. Defendant Anderson also has the power under Section 1-23-660 to propose amendments to OMVH Rules 4(A), 4(C), and 9(A) so that the rules permit the assignment of an OMVH hearing officer to a case even when the applicant is not able to pay the filing fee. Moreover, Defendant Anderson has the authority and discretion under Section 1-23-660 to directly assign OMVH hearing officers to adjudicate appeals from DMV suspensions even if individuals cannot afford to pay the filing fee.

92. An indigent person facing an indefinite driver's license suspension under Section 56-25-20 due to inability to pay a traffic ticket thus faces an impossible situation. The person cannot afford to pay the ticket in order to avert the indefinite suspension of their driver's license. Nor can the person afford to pay for the hearing needed to challenge the indefinite suspension on the basis of their inability to pay.

93. In practice, the OMVH never adjudicates hearings concerning challenges to FTPTT suspensions on the basis of an individual's inability to pay.

94. The OMVH's workload reports for Fiscal Year 2016-17 and Fiscal Year 2017-18

95.

99. In addition to being charged reinstatement fees for each FTPTT suspension, drivers are charged reinstatement fees for traffic offenses that lead to time limited suspensions, such as a six-month suspension for operating an unlicensed vehicle or driving under a suspended license. Thus, an individual who receives multiple traffic tickets can face multiple suspensions, whether for failure to pay a traffic ticket or the related offense of driving on a suspended license. The accumulation of these fees poses a wealth-based barrier to driver's license reinstatement for people who simply cannot pay.

100. There is no statutory or administrative provision for waiving or reducing the DMV's reinstatement fees.

101. The DMV has established a driver's license reinstatement fee payment program, which allows some people to secure a temporary driver's license that would permit them to drive

administrative fee and 15% of the total amount of reinstatement fees owed in order to participate in the program.[66] The program is also limited to drivers who owe at least $300 in reinstatement fees.[67] Drivers who cannot pay these upfront costs or who owe reinstatement fees totaling less than $300 cannot participate in the program. The program thus excludes those who are least able to pay.

104. In the event that a driver in the reinstatement fee payment program is unable to pay off all of the driver's reinstatement fees in the designated six-month period, there is no statutory requirement for an ability-to-pay determination before reactivation of the suspensions that were on hold during this period.

C. Plaintiffs suffer ongoing harm from the absolute and lasting suspension of their driver's licenses because of their inability to pay traffic fines and fees.

i. Ms. Emily Bellamy

105. Plaintiff Emily Bellamy lives in Conway, South Carolina. She is a single mother and primary caregiver to her four children, all of whom are under seven years old. Her driver's license is currently suspended because she cannot afford to pay fines and fees for four traffic tickets and reinstatement fees. Although she works full-time at a children's daycare facility, she is unable to earn enough to support her family. Because her driver's license is suspended for failure to pay traffic tickets and reinstatement fees, Ms. Bellamy is unable to secure higher-paid work in hotel housekeeping or as a home health aide.

106. In 2017, Ms. Bellamy held two part-time jobs to support herself and her children. She was a supervisor for Jani King Services, a housekeeping service for hotels and condominiums in Myrtle Beach, South Carolina. She also worked as a home health aide for

[66] *Id.*
[67] *Id.*

WeCare Homecare and Carolina Health Force. As a home health aide, she assisted disabled and elderly individuals with daily living activities.

107. On February 8, 2018, Ms. Bellamy was ticketed for speeding in Georgetown County while driving to buy supplies to make a celebratory meal for her daughter's birthday.

108. Ms. Bellamy was unable to find someone to cover her at work so that she could attend her court hearing.

109. In February 2018, she called the Georgetown County Central Traffic Court to request a continuance of the hearing. Ms. Bellamy was told that a continuance would be granted and that she would receive notice of the new date in the mail. But, she never received notice of a new court date.

110. On April 17, 2018, the Georgetown County Central Traffic Court tried Ms. Bellamy in her absence. The court found her guilty of speeding and sentenced her to pay $76.50. Ms. Bellamy did not receive notice that she was convicted in absentia and sentenced to pay this amount.

111. On May 29, 2018, while driving from a client's home back to the main office of Carolina Health Force in Horry County, Ms. Bellamy was involved in an accident with multiple vehicles and was issued three traffic tickets. She was ticketed for operating a motor vehicle without a license in possession, operating an uninsured motor vehicle, and following too closely. These tickets totaled $665 in possible fines.

112. The officer who issued these tickets also informed Ms. Bellamy that the DMV had not been able to verify her car insurance. This was the first time Ms. Bellamy learned that there was an issue with her car insurance. Ms. Bellamy had not received notice from the DMV about any lapse in her car insurance.

113. In early 2017, the father of Ms. Bellamy's children had agreed to make payments for her car insurance in lieu of paying child support. He had not made any child support payments for a long time. The father of Ms. Bellamy's children appeared to have kept up with the car insurance payments for over a year, but did not inform Ms. Bellamy that he had stopped paying.

114. Ms. Bellamy's van sustained significant damage in the accident and was towed to an auto body shop.

115. Ms. Bellamy went to the auto body shop on the day after the accident. She learned she was required to pay $305 to retrieve the van. Because she could not pay $305, she left the van at the auto body shop.

116. Ms. Bellamy also visited the doctor's office soon after the accident to check that she had not sustained any internal injuries. During the visit, she was informed that she was pregnant with her fourth child and that the pregnancy was high risk.

117. After the accident, Ms. Bellamy was no longer able to drive to job sites for Jani King Cleaning Services or Carolina Health Force. Although she was able to formally remain a part-time employee of both companies for some time, she was not able to work for the companies because she could not drive and did not receive any income from them.

118. Ms. Bellamy was concerned with how to manage a four-person household without the ability to drive and with three yov11.0Bg0(c)4(hi)-2(l)-2(hr)3(e)n(d a)4(n)a therchil(h)]TJ 0 TJ 19.86 0 Tc

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120. On July 8, 2018, the DMV suspended Ms. Bellamy's driver's license for failure to pay the February 2018 speeding ticket received in Georgetown. The DMV charged her an additional $100 reinstatement fee for this suspension.

121. In August 2018, both Jani King Cleaning Services and Carolina Health Force terminated Ms. Bellamy's employment. Because she had been unable to come to work, both companies had assigned other employees to service Ms. Bellamy's former clients and job sites.

122. On August 29, 2018, the Conway Municipal Court tried Ms. Bellamy in her absence for the three tickets received in May 2018. She was found guilty and sentenced to pay $665. Ms. Bellamy was unaware that she had a court hearing on that date.

123. The DMV placed another two suspensions on Ms. Bellamy's license on August 26, 2018 and on September 25, 2018. These were related to the ticket for operating an uninsured motor vehicle and the lapse in her car insurance, of which Ms. Bellamy only became aware after the car accident in Horry County. The DMV charged Ms. Bellamy at least $905 in reinstatement fees related to these suspensions. She did not receive notice from the DMV about these suspensions and the reinstatement fees.

124. On December 6, 2018, the DMV placed three additional suspensions on Ms. Bellamy's driver's license for failure to pay traffic tickets based on the three tickets received in May 2018. The DMV charged Ms. Bellamy $300 in reinstatement fees related to these suspensions. She did not receive notice from the DMV about these suspensions and the reinstatement fees.

125. By the end of December 2018, Ms. Bellamy was still unable to secure work that did not require driving. Without income, she was barely able to support her family and obtain the medical care needed for her high-risk pregnancy. She was unable to pay the fines on four

traffic tickets, which totaled $741.50, and the DMV reinstatement fees, which totaled at least $1,305.

126. In February 2019, Ms. Bellamy's youngest son, K.B., was born. Although she felt joyful about this new arrival, it also brought additional expenses.

127. K.B.'s doctor was located in Myrtle Beach, approximately 20 miles away from Ms. Bellamy's home in Conway. Without a driver's license and car, Ms. Bellamy had to spend time arranging for transportation provided by Medicaid to take her son to the doctor, which was required six times during his first year.

128. On several occasions, Ms. Bellamy has had to scramble to find transportation to take her children to and from needed medical care.

129. When K.B. was three months old, he contracted a virus, and Ms. Bellamy secured transportation through Medicaid to take him to the doctor. Once Ms. Bellamy and her son were at the doctor's office, however, the Medicaid transportation provider indicated they would need to wait three hours in order to be picked up and taken home. Luckily, Ms. Bellamy was able to secure a ride home from the doctor's office with her cousin.

130. On another occasion, when K.B. was around five months old, he had a high temperature. Ms. Bellamy was able to secure transportation to take him to the doctor's office. Once there, she was instructed to immediately take K.B. to the hospital. Ms. Bellamy called the Medicaid transportation provider, but was informed that the provider could not take her to the hospital. Ms. Bellamy called her mother, who fortunately was able to come to the doctor's office in Carolina Forest and transport Ms. Bellamy and her son to the hospital. In order to return home, Ms. Bellamy had to call her cousin for a ride.

a 30-minute drive from Ms. Bellamy's home to her mother's home and there is no reliable public transportation for this trip.

139. The suspension of her driver's license also affects Ms. Bellamy's ability to ensure that her family has consistent and reliable access to healthcare. The pediatrician for Ms. Bellamy's children is located in Myrtle Beach, South Carolina because she was unable to find a pediatrician in Conway who would accept Medicaid and take new patients. When any of her four children require medical attention, Ms. Bellamy has to rely on rides from friends or family or pay for a car or taxi. With her very limited income, she cannot afford to pay for car or taxi rides to Myrtle Beach, which is located about 16 miles away from Conway.

140. Because her driver's license is suspended, Ms. Bellamy is also unable to take her children to community and extracurricular events. Her six-year-old daughter's school hosts a number of community activities, including school plays and family reading events, which require staying late at school. J.B. cannot participate in these events because Ms. Bellamy does not have a driver's license and cannot bring her daughter home after the events due to inadequate public transportation. Similarly, Ms. Bellamy's sons do not participate in youth football at a local recreational facility because Ms. Bellamy's suspended driver's license makes it difficult to travel to and from that facility.

141. Ms. Bellamy was an active participant in a number of volunteer and community groups before her driver's license was suspended for failure to pay a traffic ticket. This included Family Outreach, a non-profit organization whose goal is to help build strong families by providing support and education for young mothers.

148. Between April 2018 and July 2019, Ms. Carter was only able to secure sporadic, short-term, and part-time work in residential cleaning, marketing, babysitting, and hotel laundry. These positions failed to provide her with sufficient income to meet her basic needs.

149. In 2018, Ms. Carter earned only $5,360—an annual income well below the relevant Federal Poverty Guideline for her household size.

150. In July 2019, Ms. Carter secured part-time work in human resources for A Second

Carter with a substantially higher income, it requires a valid driver's license because case managers must drive to meet ASCRC clients at their homes throughout Berkeley, Dorchester, and Charleston counties.

156. Ms. Carter cannot accept the ASCRC case manager position because her driver's license remains indefinitely suspended for failure to pay traffic fines and fees under Section 56-25-20.

157. Ms. Carter needs a driver's license to reliably get to work, church, and medical appointments. None of her family members, friends, and colleagues are able to consistently transport her to and from work, church, or medical appointments. There is limited public

Ms. Carter's knowledge, the Duval County Court Clerk notified the DMV that she failed to pay the speeding fine. The DMV received this notice on February 26, 2018.

173. The notice to the DMV did not provide any information showing that Ms. Carter willfully failed to pay the speeding fine to Duval County Court.

174. On April 2, 2018, the DMV indefinitely suspended Ms. Carter's driver's license under Section 56-25-20 for failure to pay the fine.

175. Ms. Carter did not receive an Official Notice indicating that her driver's license would be suspended under Section 56-25-20 for nonpayment of a traffic fine to the Duval County Court. As a result, she was unaware of this suspension.

176. On August 15, 2018, Ms. Carter was ticketed in Ravenel, South Carolina, for driving a car with a defective headlight and for driving on a suspended license ("DUS"). The officer who conducted the traffic stop informed Ms. Carter that her license was suspended. This traffic stop was the first time Ms. Carter learned that her driver's license had been suspended.

177. Ms. Carter went to the DMV and asked what could be done to lift the suspensions on her driver's license. A DMV employee informed Ms. Carter that her driver's license was suspended for nonpayment of traffic fines owed for the Yemassee ticket and the Jacksonville, Florida ticket. The DMV employee also informed her that she was required to pay in full the fines and fees for the tickets and to pay the DMV a $100 reinstatement fee for each suspension before the suspensions would be lifted.

178. Ms. Carter was unable to attend her hearing in the Ravenel Magistrate Court on December 20, 2018, because the court is located nearly 25 miles from her home and she was unable to secure a ride to court or to pay someone to drive her there.

179. Ms. Carter's court hearing was scheduled for 9:00 a.m. There is no reliable public transportation between Ms. Carter's home and the Ravenel Magistrate Court that would permit her to arrive in time for a 9:00 a.m. court hearing.

180. Due to her financial hardship, Ms. Carter was unable to pay the $647 fine for the DUS ticket and the $232.50 fine for the defective headlight ticket before her court date in the Ravenel Magistrate Court.

181. The Ravenel Magistrate Court tried Ms. Carter in absentia for the DUS and defective headlight charges on December 20, 2018, and sentenced her to pay $879.50 in fines and fees.

182. The Ravenel Magistrate Court forwarded two Notices of Suspension to the DMV on January 22, 2019, indicating that Ms. Carter had failed to comply with the traffic tickets for DUS and defective headlight ticket. The DMV received the notices on January 25, 2019. The notices did not, however, provide any information showing that Ms. Carter willfully failed to pay.

183. Around January or February 2019, Ms. Carter received two Official Notices dated January 29, 2019 from the DMV. These Official Notices indicated that Ms. Carter's driver's license would be suspended under Section 56-25-20 for failure to pay traffic tickets for the defective headlight and DUS violations.

184. The Official Notices sent to Ms. Carter stated that she must pay the traffic fines and fees in full by February 18, 2019, in order to prevent her driver's license from being suspended for failure to pay traffic tickets.[68]

[68] As described and shown above, the section of the Official Notice instructing Ms. Carter on how to lift the suspension reads in full:

185. On February 18, 2019, the DMV imposed two additional, indefinite suspensions on Ms. Carter's driver's license for failure to pay fines and fees for the defective headlight and DUS violations.

186. Ms. Carter is unable to pay the $1,137.50 she owes in traffic fines and fees. Nor can she afford to pay the additional $400 in reinstatement fees imposed by the DMV for the FTPTT suspensions on her license.

187. Ms. Carter also owes the DMV a $100 reinstatement fee for a 6-month DUS suspension.

188. Because Ms. Carter cannot afford to pay a total of $1,637.50 in traffic fines and reinstatement fees owed to courts and the DMV, the DMV continues to indefinitely suspend her driver's license for failure to pay traffic tickets under Section 56-25-20.

189. Ms. Carter remains unable to accept the case manager position at ASCRC because (a)4(t)-2(u)-4(n1at)-6(h)--D7(')3(s)-1(l)-2(i)-2(c)4(e)4(ns)-1(e)4(s)-1(e)4(m)-6(d6(er)-1(r)-1(em)-16(ai)-6(n)
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to school or other

195. Ms. White has very little money left each month from her paychecks after meeting her household's monthly expenses, which include rent, electricity, phone payments, car payments, groceries, loan payments, childcare, and medical expenses.

196. Because of her financial difficulties, Ms. White has misse

daughter to and from school, school activities, and health care appointments. During this time, Ms. White was the primary caregiver for both her daughter and god daughter.

202. On September 4, 2018, Ms. White was stopped in James Island, South Carolina while driving her god daughter to school. The officer who stopped Ms. White informed her that her driver's license had been suspended due to the DMV's inability to verify her insurance information. She was issued a ticket for driving under a suspended license, first offense ("DUS-1").

203. Between this stop and her first court appearance in October 2018, Ms. White visited the DMV to find out how to lift the insurance-based suspension of her driver's license. A DMV representative informed her that she had to obtain vehicle insurance and pay reinstatement fees to the DMV. Ms. White did not have enough money to pay for insurance or reinstatement

the courthouse, she would be stopped again and would receive additional tickets, fines, and even possibly jail time.

207. The James Island Magistrate Court tried Ms. White in absentia on January 15, 2019, and sentenced her to pay a $647 fine.

208. Without Ms. White's knowledge, the court notified the DMV of her nonpayment of the DUS-1 ticket. The notice does not provide any information showing that Ms. White willfully failed to pay.

209. The James Island Magistrate court did not notify Ms. White that she had been tried in absentia and sentenced to pay $647. Nor did Ms. White receive any notice from the DMV informing her that her driver's license would be suspended for failure to pay a traffic ticket under Section 56-25-20.

210. On March 24, 2019, the DMV indefinitely suspended Ms. White's driver's license under Section 56-25-20 for failure to pay a traffic ticket. The DMV also imposed a $100 reinstatement fee related to this suspension.

211. In March 2019, Ms. White called the James Island Magistrate Court to request a payment plan for the DUS-1 fine. She was informed that the payment plan would not cause her driver's license to be reinstated.

212. While Ms. White's driver's license was suspended, she was the primary financial provider for her daughter and god daughter. During that time, she faced the impossible choice of not driving and failing to get to and from work while also meeting her responsibilities for her family, or driving and risking further penalties, including additional traffic tickets, fines, and potentially jail time for driving on a suspended license. At times, Ms. White drove because she

had no alternative transportation for getting to and from work while also running errands and taking her daughter and god daughter to school, school activities, and health care appointments.

213. On July 15, 2019, Ms. White received three traffic tickets when she was on her way to work after dropping her god daughter off at a relative's house. She was ticketed for a second offense of having an uninsured motor vehicle, which carries a $440 fine; for driving without a driver's license, which carries a $232 fine; and for a second offense of driving under suspension (DUS-2), which carries a $1,270 fine. These three tickets are directly related to Ms. White's limited financial circumstances.

214. In order to resolve the tickets without going to court, Ms. White must pay a total of $1,942 in fines.

215. Throughout her financial struggles in 2018 and 2019, Ms. White sometimes fell behind on paying rent.

216. On August 5, 2019, marshals evicted Ms. White from her apartment based on her landlord's error. Some of her belongings were damaged or stolen as a result of the eviction.

217. In September 2019, Ms. White's landlord paid her some money to compensate her for loss of her personal belongings during the eviction.

218. Although Ms. White needed to replace her damaged belongings, she used a significant portion of the money from her landlord to pay for car insurance, the fines for the traffic ticket that led to the FTPTT suspension on her driver's license, the $100 reinstatement fee, and other debts. The payment was not enough, however, for Ms. White to pay the $1,942 needed to resolve the July 2019 traffic tickets without going to court.

219. Ms. White's court date for the July 2019 traffic tickets was set for September 18, 2019. That hearing date was adjourned because Ms. White's public defender requested a jury trial. Ms. White is awaiting another scheduled court date.

220. If Ms. White is found guilty of the three traffic violations, she faces up to $1,942 in fines and may also be charged fees, including a statutorily mandated three percent collection fee for placement on a payment plan.

221. Because Ms. White is unable to pay the fines and fees associated with the three traffic tickets, she faces an imminent and substantial risk that the DMV will indefinitely suspend her driver's license.

222. Ms. White's job at MUSC is located six miles away from her home. She has no family members, friends, or colleagues who would be able to consistently or reliably transport her to and from work and the grocery store and to take her daughter and god daughter to school, medical appointments, and other activities, if her driver's license is suspended again.

223. There is limited public transportation for Ms. White to get from home to the locations to which she must travel as head of a household, which include her daughter's and god daughter's schools and her own place of employment. Ms. White also cannot afford to pay anyone to drive her to or from work, the grocery store, or medical appointments, or to take her daughter and god daughter to their schools, medical appointments, and other activities.

224. Without a driver's license, Ms. White will be unable to complete her morning commute. Depending on the time of morning, it would take Ms. White around twenty to thirty minutes to walk, or to take a bus and walk, from her home to her daughter's school, which is located approximately two miles away from Ms. White's home. She would then need to take three different buses and to travel for almost two hours (assuming no delays) from her daughter's

228. The OMVH denied Ms. Carter and Ms. White's requests for a hearing on the basis that they failed to pay the $200 OMVH filing fee for each contested driver's license suspension as required by the OMVH Rules and Section 56-5-2952.

229. On July 1, 2019, Ms. Carter submitted a written request to the OMVH for a consolidated contested case hearing concerning the DMV's continued suspension of her driver's license for FTPTT under Section 56-25-20. The submission explained that Ms. Carter was unable to pay fines and fees related to four traffic tickets that led to the FTPTT suspensions. It also included a request for waiver of the $200 OMVH filing fee and a statement providing Ms. Carter's financial information and attestation that she cannot afford to pay the OMVH filing fee.

230. By letter dated July 3, 2019, Ester F. Haymond, Senior Staff Counsel at the OMVH provided Ms. Carter a written denial of her request for an OMVH hearing. The letter stated: "The OMVH filing fee is set by statute and there is not a waiver provision in statute or the OMVH rules. Therefore, a request must be accompanied by the $200 filing fee. Further, we are unable to consolidate suspensions into one contested case hearing. Accordingly, each case must be accompanied by a filing fee." The letter also noted: "Please be advised that pursuant to S.C. Code Ann. Section 56-1-370, a hearing must be filed within ten days of notice of the suspension."

231. On August 19, 2019, Ms. White submitted a written request to the OMVH for a consolidated contested case hearing concerning the DMV's continued suspension of her driver's license for FTPTT under Section 56-25-20. The submission explained that Ms. White was unable to pay fines and fees related to a 2018 traffic ticket that led to the FTPTT suspension. It also included a request for waiver of the $200 OMVH filing fee and a statement providing Ms. White's financial information and attestation that she cannot afford to pay the OMVH filing fee.

232. On August 29, 2019, Ms. Haymond responded to Ms. White's request for a hearing by confirming that the request would not be processed without payment of the associated filing fee.

CLASS ALLEGATIONS

233. Plaintiffs bring this case as a class action on behalf of themselves and all others similarly situated for the purpose of asserting declaratory and injunctive relief claims on a common basis.

234. Plaintiffs seek to certify two separate Classes.

235. Ms. Bellamy, Ms. Carter, and Ms. White seek class certification pursuant to Fed. R. Civ. P. 23(a) and (b)(2) related to Claims One, Two, Four and Five, for which prospective injunctive and declaratory relief is sought. This Class is defined as: "All individuals whose driver's licenses are suspended, or will be suspended, by the South Carolina Department of Motor Vehicles due to their failure to pay fines, fees, surcharges, assessments, or court costs assessed for a traffic offense." This Class is referred to as the "Suspension Class."

236. Ms. Bellamy, Ms. Carter, and Ms. White also seek class certification pursuant to Fed. R. Civ. P. 23(a) and (b)(2) related to Claim Three, for which prospective injunctive and declaratory relief is sought. This class is defined as "All individuals whose driver's licenses are suspended, or will be suspended, by the South Carolina Department of Motor Vehicles due to their failure to pay reinstatement fees." This Class is referred to as the "Reinstatement Fee Class."

237. This action is brought, and may be properly maintained, as a class action under Rule 23(a) and Rule 23(b)(2) of the Federal Rules of Civil Procedure.

238. As set forth below, this action also satisfies the numerosity, commonality, typicality, and adequacy requirements of Rule 23(a).

239. **Impracticability of Joinder due to Numerosity:** The Suspension Class and Reinstatement Fee Class are each sufficiently numerous such that joinder of all members is impracticable.

240. In response to an open records request, the DMV reported that 192,263 people had a driver's license that was suspended for failure to pay a traffic ticket under Section 56-25-20 as of May 31, 2019. Additionally, in response to a different public records request, the DMV reported that it suspended the driver's licenses of 54,077 people for failure to pay a traffic ticket under Section 56-25-20 during the one-year period between March 30, 2018 and March 30, 2019. The Suspension Class thus had approximately 190,000 members in May 2019, and in response to an open records

of unpaid reinstatement fees pursuant to Section 56-1-390, regardless of a person's inability to pay these fees, causing the size of the Reinstatement Fee Class to grow over time.

242. Joinder of members of the proposed Classes is also impracticable because many members are unaware that their rights under the U.S. Constitution have been violated or that they are entitled to seek redress in court. Members of the proposed Classes are also spread out across the state of South Carolina, and they are typically indigent people who lack financial resources to retain an attorney to bring an independent action or to be joined in this action.

243. In response to a public records request, the DMV reported data demonstrating that only 37.6% of the 95,023 people who had a driver's license under suspension for failure to pay a traffic ticket at some point between March 30, 2018 and March 30, 2019, were able to secure license reinstatement during that same year.

244. Putative members of the Classes are thus facing or have experienced the indefinite suspension of their driver's licenses for failure to pay traffic tickets and reinstatement fees precisely because of their limited resources and inability to pay; thus, it is also reasonable to assume they would be unable to afford counsel to bring their own separate action against Defendants.

245. **Commonality:** The relief sought is common to all members of the proposed Classes, and common questions of law and fact exist as to all members of the Classes. All members of the Suspension Class are equally subject to the DMV's enforcement of Section 56-25-20, which involves the indefinite suspension of driver's licenses for failure to pay traffic tickets without any pre-deprivation determination that the individual willfully failed to pay and without providing adequate notice of any hearing to determine ability to pay or opportunity to be heard on the issue of ability to pay. All members of the Suspension Class are also equally

subject to the OMVH's policy and practice of denying hearings to people who cannot pay the $200 filing fee but seek to contest driver's license suspensions under Section 56-25-20 on the basis of inability to pay. Additionally members of the Reinstatement Fee Class are equally subject to Section 56-1-390, which requires payment in full of a $100 reinstatement fee for each driver's license suspension on a driver's record in order for the DMV to lift the suspension when

advance notice of procedures to prevent or contest the suspension on the basis of inability to pay;

d. Whether Section 56-1-390 and the DMV's enforcement of the statute violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment as delineated in *Bearden*, 461 U.S. 660, by mandating the continued indefinite suspension of driver's licenses based on failure to pay reinstatement fees without requiring a hearing or any other inquiry into ability to pay and a determination that nonpayment was willful;

e. Whether the OMVH's enforcement of S.C. Code § 56-5-2952 violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment as delineated in *Bearden*, 461 U.S. 660, by failing to provide a mechanism for waiver, based on inability to pay, of the filing fee for a hearing to contest a driver's license suspension.

247. **Typicality:** Plaintiffs Bellamy, Carter, and White seek the same declaratory and injunctive relief under the same legal theories that all members of the proposed Suspension Class and Reinstatement Fee Class seek.

248. The claims of Ms. Bellamy, Ms. Carter, and Ms. White are typical of the claims of the proposed Suspension Class because all claims arise from the same common policies and practices of Defendants. Ms. Bellamy, Ms. Carter, and Ms. White and the putative Suspension Class members have suffered or will suffer the same direct, irreparable injury of the indefinite loss of their driver's licenses for FTPTT. This injury will continue unless the DMV's enforcement of Section 56-25-20 is declared unconstitutional and the agency is enjoined from

suspending licenses pursuant to that statute, absent the provision of meaningful pre-deprivation notice and opportunity to be heard, and the determination that nonpayment is willful.

249. Further, Ms. Bellamy, Ms. Carter, and Ms. White, and the putative Suspension Class members have suffered, or will suffer, the same direct and irreparable injury of the indefinite loss of their driver's licenses without access to an administrative appeal despite their inability to pay. This injury will continue unless the OMVH's enforcement of Section 56-5-2952 is declared unconstitutional, and the OMVH is enjoined from denying hearings to people seeking to contest driver's license suspensions for FTPTT due to nonpayment of the filing fee.

250. Because Ms. Bellamy, Ms. Carter, and Ms. White, and the proposed Suspension Class challenge the same enforcement of statutes by the DMV and the OMVH, Defendants will likely assert similar defenses against the named Plaintiffs and proposed Suspension Class members. Moreover, the answer to whether the DMV's enforcement of Section 56-25-20 and the OMVH's enforcement of Section 56-5-2952 are unconstitutional will determine the success of the claims of the named Plaintiffs and every other proposed Suspension Class member. If named Plaintiffs succeed on the claim that the DMV's enforcement of Section 56-25-20 and Defendant Anderson's and the OMVH's enforcement of Section 56-5-2952 violate their constitutional rights, that ruling will likewise benefit every other member of the proposed Suspension Class.

251. The claims of Ms. Bellamy, Ms. Carter, and Ms. White are typical of the Reinstatement Fee Class as a whole. Ms. Bellamy, Ms. Carter, and Ms. White, and the putative Reinstatement Fee Class members have suffered, or will suffer, the same direct, irreparable injury of the indefinite loss of their driver's licenses based on outstanding reinstatement fees, without any assessment of the willfulness of nonpayment or hearing at which to contest the

continued suspension on the basis of inability to pay. This injury will continue unless Section 56-1-390 is declared unconstitutional and the DMV is enjoined from maintaining driver's license suspensions pursuant to that statute.

252. Because Ms. Bellamy, Ms. Carter, Ms. White, and the proposed Reinstatement Fee Class challenge Section 56-1-390 on its face, Defendants will likely assert similar defenses against Ms. Bellamy, Ms. Carter, Ms. White, and the proposed Reinstatement Fee Class members. Moreover, the answer to whether Section 56-1-390 is unconstitutional will determine the success of the claims of Ms. Bellamy, Ms. Carter, Ms. White, and every other proposed Reinstatement Fee Class member. If Ms. Bellamy, Ms. Carter, and Ms. White succeed on the claim that Section 56-1-

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deprivation hearing on the issue of ability to pay, adequate notice, and determination of willful failure to pay—that is generally applicable to the proposed Suspension Class.

255. Additionally, the OMVH is enforcing Section 56-5-2952 to maintain an unconstitutional policy and practice of denying administrative hearings to challenge the suspension of driver's licenses for failure to pay traffic tickets under Section 56-25-20 on the basis of nonpayment of the $200 filing fee for securing an OMVH hearing. This policy and practice is generally applicable to the proposed Suspension Class.

256. Finally, Section 56-1-390 applies on its face to any person who owes a DMV reinstatement fee, and therefore requires the DMV to continue the indefinite suspension of the driver's licenses of all members of the proposed Reinstatement Fee Class without holding an ability-to-pay hearing and determining that nonpayment of these fees is willful. Accordingly, Plaintiffs seek on behalf of themselves and the members of both proposed Classes: (a) a declaration that the DMV's enforcement of S1(e)4(2cs)-2(nD)-11e.-6(h)-a6us

fees are paid in full, without requiring a hearing or other consideration of a driver's ability to pay and a determination of willful nonpayment; (e) a declaration that the OMVH's enforcement of Section 56-5-2952 to require that people pay a non-waivable $200 filing fee in order to secure an administrative process by which to contest the DMV's suspension of a driver's license violates the Fourteenth Amendment; (f) an injunction striking Section 56-1-390, requiring the DMV to cease holding driver's licenses under indefinite suspension based solely on outstanding reinstatement fees, and requiring the DMV to reinstate any driver's licenses that have no other basis for suspension; (g) an injunction that prohibits the OMVH from requiring the payment of a filing fee from those who cannot pay before providing a hearing concerning the DMV's suspension of a driver's license for failure to pay traffic tickets; and (h) an injunction that requires Defendant Anderson to amend OMVH Rule 21 to permit waiver and reduction of the $200 filing fee set forth in Section 56-5-2952, and to amend OMVH Rules 21, 4(A), 4(C), and 9(A) to permit the assignment of cases contesting the DMV's suspension of driver's licenses to hearing officers absent payment of any filing fee. These requested forms of relief would benefit every member of the proposed Classes.

257. **Rule 23(g):** The named Plaintiffs are represented by the American Civil Liberties Union Foundation ("ACLU"), the American Civil Liberties Union Foundation of South Carolina ("ACLU-SC"), Terrell Marshall Law Group PLLC ("Terrell Marshall"), the Southern Poverty Law Center ("SPLC"), and South Carolina Appleseed Legal Justice Center ("SC Appleseed"). All counsel are experienced attorneys who have litigated a range of complex lawsuits and have knowledge of the relevant constitutional and statutory law.

258. Plaintiffs' counsel also have extensive knowledge of the widespread constitutional violations occurring throughout South Carolina and outlined in this Complaint

based on more than one year of investigation involving court observations, reviews of public records, and numerous interviews with South Carolina driver's license holders and witnesses.

259. Plaintiffs' counsel at the ACLU, ACLU-SC, SPLC, and Terrell Marshall have served as counsel in similar federal lawsuits bringing constitutional challenges to policies and practices concerning wealth-based driver's license suspension and the collection of court fines and fees in violation of the rights to due process, equal protection, and counsel. *See Brown v. Lexington County*, No. 3:17-cv-01426-MBS-SVH (D.S.C. June 1, 2017) (ACLU as lead, with ACLU-SC and Terrell Marshall); *Johnson v. Jessup*, No. 1:18-cv-00467 (M.D.N.C. May 30, 2018) (SPLC lead with ACLU); *Kennedy v. Biloxi*, No. 1:15-cv-348-HSO-JCG (S.D. Miss. Oct. 21, 2015) (ACLU lead); and *Thompson v. DeKalb Cty.*, No. 1:15-cv-280 (N.D. Ga. Jan. 29, 2015) (ACLU lead). Plaintiffs' counsel at Terrell Marshall served as lead counsel, with the ACLU as co-counsel, in a state lawsuit bringing constitutional claims against the collection of court fines and fees in violation of rights to due process and equal protection. *See Fuentes v. Benton Cty.*, No. 15-2-02976-1 (Wash. Super. Ct., Yakima Cty. Oct. 6, 2015).

260. Plaintiffs' counsel at SC Appleseed have significant experience in complex civil litigation, including class action litigation in federal and state courts. SC Appleseed is currently serving as co-counsel in a class action lawsuit in federal court seeking systemic reform of South Carolina's child welfare system, *Michelle H. v. McMaster*, No. 2:15-cv-00134-RMG (D.S.C. Jan. 12, 2015), and in a class action lawsuit in state court challenging the denial of unemployment benefits to tens of thousands of South Carolinians, *Patterson v. S.C. Dep't of Employment and Workforce*, No. 2013-CP-06-00059 (S.C. Ct. of C.P., Barnwell Cty., Feb. 14, 2013).

261. Plaintiffs' counsel also have the resources, expertise, and experience to prosecute this action. Plaintiffs' counsel know of no conflicts among members of the Classes or between the attorneys and members of the Classes.

CLAIMS FOR RELIEF

CLAIM ONE
FOR DECLARATORY AND INJUNCTIVE RELIEF

Indefinite Suspension of Driver's Licenses for Failure to Pay Traffic Fines and Fees Without Pre-Deprivation Hearing on Ability to Pay and Determination of Willful Failure to Pay (in violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution, as delineated in *Bearden v. Georgia*, 461 U.S. 660 (1983), and 42 U.S.C. § 1983, by all Plaintiffs and the proposed Suspension Class against Defendant Shwedo).

262. Plaintiffs re-allege and incorporate by reference as if fully set forth herein the allegations in all preceding paragraphs.

263. Plaintiffs Bellamy, Carter, and White bring this claim on behalf of themselves and the members of the proposed Suspension Class.

264. The Fourteenth Amendment's Due Process and Equal Protection Clauses prohibit states from "punishing a person for [their] poverty" by imposing sanctions solely due to the person's inability to pay court fines and fees. *See Bearden v. Georgia*, 461 U.S. 660, 671 (1983). Before imposing a sanction for failure to pay traffic fines or fees, the state must first provide a hearing, consider the individual's ability to pay, and determine that the person willfully refused to pay.

265. The DMV exercises its authority under Section 56-25-20 to implement a policy and practice of indefinitely suspending driver's licenses for failure to pay traffic fines and fees without considering ability to pay, ensuring that nonpayment is willful, and determining whether

there are adequate measures besides automatic, indefinite driver's license suspension to accomplish the state's goals. Rather than being based on willful nonpayment, the DMV's indefinite driver's license suspensions under Section 56-25-20 are based exclusively on a report of an individual's failure to pay fines or fees assessed for a traffic violation.

266. In his official capacity, Defendant Shwedo is the final decisionmaker as to the DMV's suspension of driver's licenses for failure to pay traffic tickets under Section 56-25-20 and establishment of policy and practice concerning the indefinite suspension of driver's licenses pursuant to the statute. Defendant Shwedo is therefore responsible for ongoing violations of the rights to due process and equal protection under the law of Plaintiffs Carter, Bellamy, White and members of the proposed Suspension Class.

267. Plaintiffs have a substantial interest in their driver's licenses. A driver's license is a recognized and substantial property interest that is "essential in the pursuit of a livelihood."[69] Stripping people of their interest in a driver's license commonly leads to economic hardship in South Carolina, where the vast majority of people need a driver's license to find and keep paid employment.

268. The DMV's policy and practice of indefinitely suspending licenses for failure to pay traffic fines and fees under Section 56-25-20 without providing a pre-deprivation hearing or consideration of an individual's ability to pay has an extensive and substantial impact on an individual's interest in their driver's license. Under Section 56-25-20, the DMV does not lift an FTPTT suspension until all traffic fines and fees and reinstatement fees—$100 for each suspension—are paid in full. People who are unable to pay traffic fines and fees and

resources that has no clear end date as well as devastating limitations on their ability to care for themselves and their families, to participate in civic life, and to even pay off their fines and fees to the court.

269. Ms. Bellamy and Ms. Carter are unable to pay and have no way to secure reinstatement of their driver's licenses under the DMV's enforcement of Section 56-25-20. Ms. Bellamy continues to live in poverty because she cannot pursue additional, higher-paid part-time work in housecleaning with her former employer because she cannot legally drive between work sites. Ms. Carter continues to experience financial hardship because she cannot accept a higher paying position as a reentry caseworker due to her inability to legally drive to meet clients at their homes, as required for the job. Additionally, without a driver'

forced to choose between not driving to work and risking her family's well-being, or driving and risking further criminalization for not having a valid driver's license.

271. The DMV's policy and practice of indefinitely suspending driver's licenses for nonpayment of traffic fines and fees without determining ability to pay is not rationally related to any legitimate government purpose.

272. While South Carolina does have a legitimate interest in encouraging compliance with the law and collecting fines and fees imposed for violating traffic offenses, punishing a person who cannot pay through no fault of their own does not make payment more likely. In fact, doing so is counterproductive to the state's interest in collecting money, as many people will become even less able to pay following driver's license suspension because they will lose their jobs or be unable to find paid employment due to the suspension itself. This in turn may lead to more traffic law violations for driving under suspension due to the impossible choice confronted by people with suspended licenses: refrain from driving and potentially lose jobs and the ability to care for themselves and their families or drive and risk criminal penalties for driving on a suspended license.

273. The DMV's indefinite suspension of driver's licenses for failure to pay under Section 56-25-20 also does not promote public safety goals. There are numerous other South Carolina statutes that enable the DMV to suspend driver's licenses for legitimate safety reasons, such as driving under the influence.[70]

274. There are ample alternative means for the DMV to effectuate its purpose of collecting traffic fines. The DMV could extend people more time to pay, require the payment of only those traffic fines and fees people can afford, waive DMV reinstatement fees for those

unable to pay, utilize graduated payment plans to collect, or order people to complete reasonable community service or coursework.

275. All people whose driver's licenses were indefinitely suspended by the DMV for failure to pay traffic fines and fees are similarly situated with respect to their right to due process and equal protection under the Fourteenth Amendment. There exists no legitimate governmental reason to indefinitely suspend the driver's licenses of people who are unable to pay the full

282. OMVH Rules 21, 4, and 9 thus require people seeking to prevent or contest a driver's license suspension to pay in full a non-waivable $200 filing fee for each disputed license suspension before the case is assigned to a hearing officer.[74] In practice, the OMVH rejects requests to waive the filing fee, even when supported by documentation of inability to pay the fee, and requires a separate $200 filing fee for each disputed suspension on a driver's license. Thus, due to their inability to pay filing fees that can total hundreds, if not thousands, of dollars, people who seek a hearing to explain to the OMVH that their driver's license should not be suspended under Section 56-25-20 due to inability to pay a traffic ticket cannot even access a hearing to make that argument.

283. Defendant Anderson enforces an OMVH policy and practice of categorically denying requests for waiver of the $200 filing fee and refusing to assign cases to hearing officers until the filing fee is paid in full, as set forth in OMVH Rules 21, 4, and 9.

284.

285. Defendant Anderson's policy and practice of requiring payment of a filing fee to secure administrative appellate review of a DMV suspension thus absolutely deprives people of a critically important benefit—the ability to access justice to prevent or terminate a wrongful deprivation of the property interest in a driver's license.

286. Deprived from the opportunity to argue their case, indigent people are trapped in a cycle of driver's license suspension, job loss, and poverty that increases the likelihood that they will suffer additional economic hardship and will never be able to repay the traffic debt that led to the suspension of their licenses in the first place.

287. The OMVH's policy and practice of depriving people who cannot afford to pay filing fees from accessing the sole possible avenue for redress from an indefinite failure-to-pay license suspension does not reasonably further any legitimate government purpose.

288. OMVH filing fees are used to fund OMVH operations. While the government does have a legitimate interest in raising revenue to fund OMVH operations, depriving people who cannot pay from the only conceivable process for seeking redress from driver's license suspensions based on inability to pay fines and fees does not further this interest.

289. There are ample alternative means to effectuate South Carolina's interest in generating revenue to pay for the cost of operating the OMVH. Defendant Anderson could seek additional funding from the South Carolina legislature to fund the OMVH or could divert resources from another ALC division to permit filing fee reduction or waiver for people who are unable to pay. Moreover, all South Carolina administrative law courts, with the exception of the OMVH, have adopted fee waivers, demonstrating that the OMVH could implement a similar policy and practice of waiving filing fees for people who cannot afford to pay.[75]

[75] *See* S.C. Code Ann. § 1-23-670.

responsible for ongoing violations of the rights to due process and equal protection under the law of Plaintiffs and members of the proposed Classes.

294. The plain text of Section 56-1-390 prohibits the DMV from reinstating or renewing a person's driver's license until "[they]

reinstating their driver's licenses until these reinstatement fees are paid in full, despite their inability to pay.

296. Without valid driver's licenses, Ms. Bellamy, Ms. Carter, and Ms. White will suffer significant hardship. Ms. Bellamy will continue to live in poverty because, without a valid driver's license, she cannot pursue higher-paid, part-time work in housekeeping and home health care to supplement her income as a children's daycare worker. Additionally, because her employer can no longer assist with her morning commute, Ms. Bellamy also faces hurdles, without a valid driver's license, to securing the transportation needed to take her daughter to school and to take herself and her three younger children to the daycare where she works. Ms. Bellamy will also continue to be unable to visit and care for her ill mother, and face barriers to ensuring her children's medical care and her own ability to participate in a support group for families. Additionally, she and her children will remain unable to be with their extended family and to participate in community and extracurricular activities because Ms. Bellamy lacks the valid driver's lice

who cannot pay by continuing to suspend their driver's license until these fees are paid does not reasonably further any legitimate government purpose. The DMV's enforcement of Section 56-1-390 is counterproductive to the state's interest in collecting money, as many people will become even less able to pay due to the continued, indefinite suspension of their driver's licenses. Many people who cannot afford to pay reinstatement fees will either lose their jobs or be unable to find paid employment due to the continued suspension of their driver's licenses under Section 56-1-390. Others will perhaps make the difficult decision to continue driving under suspension and risk additional tickets, fines, and potentially even jail time. There is no rational basis for this continued suspension.

299. There are ample means other than indefinite driver's license suspension for failure to pay reinstatement fees to effectuate South Carolina's interest in recouping the administrative costs of reinstating driver's licenses. The DMV could create a reinstatement fee payment plan that is accessible to all drivers, use civil debt collection procedures to recoup unpaid reinstatement fees, seek public funding to cover these costs, or simply reserve indefinite driver's license suspension only for those who have willfully failed to pay reinstatement fees.

300. All people who owe DMV reinstatement fees are similarly situated with respect to their right to due process and equal protection under the Fourteenth Amendment. There exists no legitimate governmental reason to indefinitely suspend the driver's licenses of people who are unable to pay the full amount of outstanding reinstatement fees for traffic violations, while permitting people who have the financial means to pay reinstate their driver's licenses.

CLAIM FOUR
FOR DECLARATORY AND INJUNCTIVE RELIEF

Indefinite Suspension of Driver's Licenses for Failure to Pay Traffic Fines and Fees Without Pre-Deprivation Ability-To-Pay Hearing
(in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983, by all Plaintiffs and the proposed Suspension Class against Defendants Shwedo and Anderson).

301. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth here.

302. Plaintiffs Bellamy, Carter, and White bring this claim on behalf of themselves and the members of the proposed Suspension Class.

303. The Fourteenth Amendment of the U.S. Constitution prohibits the State of South Carolina from depriving any person of life, liberty, or property without due process of law.

304. The central meaning of procedural due process when a property interest is at stake is notice and a meaningful opportunity to be heard in a meaningful time and in a meaningful manner. *See Fuentes v. Shevin*, 407 U.S. 67, 80 (1972).

305. The right to prior notice and a prior hearing is central to the Constitution's command of due process.[77]

306. Pre-deprivation notice and a hearing on the willfulness of nonpayment before a driver's license is suspended for failure to pay traffic fines and fees is constitutionally required because license suspension under Section 56-25-20 imposes a substantial, indefinite hardship and because reinstatement is only accessible upon payment of all traffic fines and fees and reinstatement fees, which is impossible for a person who is unable to pay.[78]

[77] *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53 (1993).
[78] *See Stinnie v. Holcomb*, 355 F. Supp. 3d 514, 529-31 (W.D. Va. Dec. 21, 2018) (same with respect to Virginia statute); *Thomas v. Haslam*, 329 F. Supp. 3d 475, 495 (M.D. Tenn. 2018),

307. Neither the South Carolina Code, including Section 56-25-20, the DMV, nor the OMVH, mandates a hearing before indefinitely suspending a driver's license for failure to pay traffic fines and fees.

308. Neither the South Carolina Code, including Section 56-25-20, the DMV, nor the OMVH, mandates an inquiry into whether nonpayment was willful before indefinitely suspending a license for failure to pay traffic fines and fees.

309. The DMV's policy and practice of suspending driver's licenses for FTPTT under Section 56-25-20 demonstrates that the goal of the agency's enforcement of the statute is to collect fines and fees for traffic violations owed to South Carolina summary courts and to courts in states that participate in the Non-Resident Violator Compact. Although Section 56-25-20 grants the DMV discretion to suspend driver's licenses for noncompliance with traffic citations or littering summons, in practice, the DMV elects only to indefinitely suspend a driver's license under the statue if the individual fails to pay the fines and fees assessed for a traffic violation before the suspension goes into effect.

310. -

316. To the extent that a pre-suspension hearing would impose some fiscal or administrative burdens on the State, these burdens are outweighed by the driver's substantial interest in maintaining a license and the need to ensure that erroneous suspensions do not occur.

317. There exist no extraordinary circumstances, important governmental or general public interests—including public safety—that justify the absence of an ability-to-pay hearing and willfulness determination before the indefinite suspension of driver's licenses for nonpayment. Indeed, there is no connection between failure to pay and a driver's ability to safely operate a vehicle.

318. Rather, the State's primary interest at stake here is the collection of traffic fines and fees and reinstatement fees charged by the DMV. The State's financial interest in the collection of fines and fees is not advanced by suspending the driver's licenses of those who cannot afford to pay, and thus is not advanced without ensuring pre-deprivation hearings.

319. The suspension of Plaintiffs' driver's licenses for failure to pay traffic tickets and reinstatement fees without a pre-suspension hearing to evaluate their ability to pay and to determine willfulness violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

320. Under Defendant Shwedo's direction, the DMV fails to provide any pre-deprivation ability-to-pay hearings to people reported to the agency for nonpayment of traffic tickets. In his official capacity, Defendant Shwedo could adopt additional procedural safeguards but fails to do so.

321. Under Defendant Anderson's direction, the OMVH denies ability-to-pay hearings due to nonpayment of the filing fee by people who seek to prevent or contest the suspension of a driver's licenses under Section 56-25-20. In his official capacity, Defendant Anderson could

amend OMVH Rules 21, 4, and 9 so that payment of the $200 filing fee under Section 56-5-2952 is not required for a case challenging the DMV's suspension of a driver's license to be assigned to an OMVH hearing officer. In his official capacity, Defendant Anderson could also assign hearing officers to contested cases concerning the suspension of driver's licenses even when filing fees are not paid.

CLAIM FIVE
FOR DECLARATORY AND INJUNCTIVE RELIEF

Inadequate Pre-Deprivation Notice of Procedures to Prevent or Contest
Indefinite Suspension of Driver's Licenses for Failure to Pay Traffic Fines and Fees
(in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983, by all Plaintiffs and the proposed Suspension Class against Defendant Shwedo).

322. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth here.

323. Plaintiffs Bellamy, Carter, and White bring this claim on behalf of themselves and the members of the Suspension Class.

324. The Fourteenth Amendment to the U.S. Constitution prohibits the State of South Carolina from depriving any person of life, liberty, or property without due process of law.

325. The central meaning of due process when a property interest is at stake is notice and a meaningful opportunity to be heard in a meaningful time and in a meaningful manner. *See Fuentes v. Shevin*, 407 U.S. 67, 80 (1972).

326. Notice must be reasonably calculated, under all the circumstances to apprise interested parties of the pendency of the action; to accurately describe legal rights and options available to the parties; and to afford them a timely opportunity to present their objections.

i. violates the Equal Protection and Due Process guarantees of the Fourteenth Amendment to the U.S. Constitution, as delineated in *Bearden v. Georgia*, 461 U.S. 660 (1983), by indefinitely depriving people of their driver's licenses for nonpayment without a pre-deprivation hearing on their inability to pay, an inquiry into whether nonpayment was willful, and a determination that the individual willfully failed to pay;

ii. violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution by depriving people of their driver's licenses without providing any pre-deprivation hearing on their inability to pay and whether nonpayment was willful; and

iii. violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution by depriving people of their driver's licenses without providing adequate pre-deprivation notice of a process to challenge license suspension for failure to pay traffic tickets based on inability to pay.

e. Issue a declaration that Section 56-1-390 violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution as delineated in *Bearden v. Georgia*, 461 U.S. 660 (1983), by requiring the DMV to indefinitely suspend the driver's licenses of people who owe reinstatement fees to the DMV without a pre-deprivation hearing on their ability to pay, an inquiry into whether nonpayment was willful, and a determination that an individual willfully failed to pay.

f. Issue a declaration that the OMVH's enforcement of Section 56-5-2952 to deny hearings to contest a driver's license suspension absent payment of a non-waivable $200 filing fee violates

to prevent or contest the DMV's suspension of a driver's license for failure to pay a traffic ticket under Section 56-25-20.

h. Award attorneys' fees and costs as allowed by law; and

i. Grant such other relief as the Court deems just and appropriate.

DATED this 31st day of October, 2019

Respectfully submitted by,

s/ Susan Dunn

SUSAN K. DUNN (Fed. Bar #647)
e3(843T Qd)-282Tj 19.96 0 6.3

*Applications for pro hac vice admission to be submitted.