

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

_____)	
ADRIAN FOWLER and KITIA HARRIS,)	
on behalf of themselves and)	
others similarly situated,)	
)	
Plaintiffs,)	
)	Case No. 17-11441
v.)	
)	CLASS ACTION
RUTH JOHNSON, in her official capacity)	Hearing Requested
as Secretary of State of the Michigan)	
Department of State,)	
)	
Defendant.)	
_____)	

PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Plaintiffs Adrian Fowler and Kitia Harris hereby move the Court to issue a Preliminary Injunction enjoining Defendant Secretary of State Ruth Johnson from suspending the driver’s licenses of people who are unable to pay their court debts. In support of this motion, Plaintiffs rely upon the enclosed brief. Plaintiffs request a hearing on this motion.

Respectfully submitted,

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**PLAINTIFFS' BRIEF IN SUPPORT OF THEIR
MOTION FOR PRELIMINARY INJUNCTION**

I. Introduction

This case is about the Michigan Department of State running a wealth-based driver's license suspension scheme that traps some of the state's poorest residents in a cycle of poverty. The Secretary of State automatically and indefinitely suspends the driver's licenses of people who owe court-ordered fines, costs, fees, and assessments, even if they simply cannot afford pay. Without driver's licenses, people already facing the harsh realities of owing court debt while living in poverty face additional hurdles of being unable to drive to and from work, get their children to daycare, keep medical appointments, and care for their family members.

Although Michigan's automatic suspension of driver's licenses is designed to coerce payment, for people who are *unable* to pay, Michigan's practice will never accomplish its intended goal; no incentive or punishment will increase the likelihood of a person paying a debt if she does not have the money. Penalizing people for being unable to pay court debts violates the Equal Protection Clause of the Fourteenth Amendment, the Due Process guarantee of fundamental fairness, Plaintiffs' right to intrastate travel, and longstanding Supreme Court precedent. Michigan has trapped Plaintiffs in an inescapable cycle of poverty by suspending their licenses, thereby narrowing or eliminating their job opportunities and impeding their ability to take care of their children and obtain necessary medical treatment. Plaintiffs therefore respectfully ask this Court to issue a preliminary injunction prohibiting the Secretary of State from suspending licenses of people who cannot afford to pay their court debts.

II. Statement of Facts

A. Michigan Suspended Plaintiffs' Driver's Licenses Because They Were Unable to Pay Their Court Debts

Named Plaintiffs Adrian Fowler and Kitia Harris are residents of Detroit, Michigan, who received tickets for minor traffic offenses. Because they cannot afford to pay this debt, the Secretary of State has suspended their driver's licenses indefinitely.

i. Adrian Fowler

Adrian Fowler is a 31-year-old resident of Detroit, Michigan. Exhibit 1, Fowler Decl. She has a three-year-old daughter, for whom she is the sole caretaker. *Id.* Ms. Fowler currently works at X-Men Security for 20 hours each weekend, earning Michigan's minimum wage of \$8.90 per hour, or about \$712 per month.¹ *Id.*

Ms. Fowler is originally from Michigan, but she lived in Cobb County, Georgia, from 2008 to 2012. *Id.* Ms. Fowler currently owes \$2,500 in Georgia for three traffic infractions, which she has not been able to pay. *Id.* Because she owed tickets in Georgia, the Secretary of State suspended her Michigan driver's license. *Id.*

In the winter of 2013, Ms. Fowler's then-infant daughter developed a fever of 103 degrees during an ice-storm. *Id.* Fearing severe delays if she waited for an ambulance, Ms. Fowler drove her baby to the hospital even though her license was suspended. *Id.* In her haste to get her daughter to the emergency room, she was stopped for speeding in Ferndale (part of the Detroit metropolitan area). *Id.* The officer allowed her to continue driving to the hospital but cited her both for speeding and driving with a suspended license (DWLS). The fines totaled almost \$600. *Id.*

When Ms. Fowler went to the Ferndale courthouse to explain that she did not have \$600 and to seek a payment plan or some other accommodation, the employee in the clerk's office told her that if she did not pay the full amount in three weeks, a warrant would be issued for her arrest. *Id.* Furthermore, if she returned with a partial payment after the three-week grace period, she

¹ *Dep't of Licensing and Regulatory Affairs*, http://www.michigan.gov/lara/0,4601,7-154-11407_32352-140972--,00.html (last visited May 4, 2017).

would be arrested. *Id.* When Ms. Fowler did not meet the payment deadline, Ferndale issued a warrant for her arrest which carries with it an additional fee of \$500. *Id.*

Ms. Fowler currently owes at least \$2,121 in fines, court costs, warrant fees, and license reinstatement fees. *Id.* Because of Michigan's punitive license suspension scheme, Ms. Fowler cannot get a higher-paying job so that she could both support herself and her child as well as pay her debt to Michigan. Most of the retail jobs for which Ms. Fowler would be qualified are in the suburbs, and she has no means of getting there. *Id.* In fact, Ms. Fowler was forced to turn down a sales and marketing job that paid \$12.50 an hour at Blue Chip Endeavors, because she would have had to travel throughout the Detroit metro area, which is impossible to do without a car because of Detroit's limited and unreliable public transportation system. *Id.*; *see also* Exhibit 4, Herson-Hord Decl.

ii. Kitia Harris

Kitia Harris is a 25-year-old resident of Detroit. *See* Exhibit 2, Harris Decl. She is a single mother with an eight-year-old daughter. *Id.* In November of 2014, Ms. Harris was diagnosed with interstitial cystitis, a chronic medical condition that prevents her from working. *Id.* She was most recently employed at Blue Cross Blue Shield in Rochester Hills, Michigan, but since losing that job in December 2015, she has been unable to work. *Id.* She qualified for disability assistance in July 2016 and receives a total of \$1,218 per month in disability benefits (\$938 for herself and \$280 for her daughter). *Id.*

On October 26, 2016, Ms. Harris was cited for "impeding traffic" in Ferndale, Michigan. *Id.* She was charged a total of \$150, which she could not pay. *Id.* Her license was suspended on January 4, 2017, for non-payment. *See* Exhibit 3, Driving Records. Ms. Harris cannot get her license back because she still owes \$276 (\$150 for the original ticket, \$81 in penalties accrued for

nonpayment, and a \$45 license clearance fee). Exhibit 2, Harris Decl. Ms. Harris pays \$600 per month in rent for the apartment that she shares with her daughter. *Id.* She pays approximately \$400 for utilities, phone, clothes for her daughter, and other basic necessities. *Id.*

Ms. Harris needs her driver's license to attend her regular medical appointments, usually every two weeks and sometimes more often. *Id.* Her doctor's office is a 30-minute drive from her home. *Id.* If she tried to take public transportation, the last bus she could catch leaves her neighborhood at 5:32 am and arrives at 7:40 am, which would not get her home in time to get her daughter ready for school. Even if Detroit's bus system were a viable means for Ms. Harris to get to her appointments, her disability prevents her from standing for more than a few minutes, so she must pay people she knows to drive her where she needs to go. *See* Exhibit 2, Harris Decl. Thus, the money that she could use to pay her court debt if she had her driver's license must go to private drivers since she cannot forego medical treatment for several months while she saves money to pay the fine, costs, and reinstatement fee.

B. Michigan's Wealth-Based Driver's License Suspension Scheme

Experiences like Plaintiffs' are all too common in Michigan, where a simple traffic infraction can lead to a downward spiral: Those who cannot afford to pay their tickets incur late fees and driver's license suspensions, which bring additional reinstatement fees, daily transportation hardships, and decreased financial stability. Pressures of daily survival can lead to being charged with driving with a suspended license (DWLS), a misdemeanor that carries an additional \$125 reinstatement fee as well as a Driver Responsibility Fee that — depending on when the DWLS occurred — can cost up to \$1,000 over two years. *Mich. Comp. Laws Ann.* § 257.732a(2)(b)(iii). Michigan automatically suspends the license of anyone who fails to pay court debts within a specific time period, making no inquiry into whether nonpayment is willful or

whether the person is unable to pay. By penalizing people who are poor solely for their inability to pay, Michigan's suspension scheme amounts to wealth-based discrimination.

i. Michigan's Fines, Fees, Costs, Interest, and Penalties Structure

Plaintiffs represent all Michigan residents who were, or will be, unable to pay court-ordered fines, fees, costs, or assessments and had, or will have, their driver's licenses suspended because of their inability to pay. Plaintiffs Adrian Fowler and Kitia Harris owe court debt initiated by traffic civil infractions — violations of the Michigan Vehicle Code for which the penalty does not include a jail sentence or an automatic license suspension because of safety concerns (*e.g.*, driving while intoxicated or vehicular manslaughter).²

Committing a traffic civil infraction is expensive, triggering assessment of significant costs and fees that can dwarf the original fine. For each civil infraction, a judge can order costs of up to \$100, and, in the majority of cases, must also impose a mandatory justice system assessment of \$40. *Mich. Comp. Laws* §§ 257.907(4) and (13). Any fine, cost, or fee that remains unpaid 56 days after it is due incurs a penalty fee of 20 percent. *Mich. Comp. Laws* §§ 600.4801, 600.4803. For instance, driving 6–10 miles over the speed limit is a civil infraction that carries a fine of \$135, which increases to \$175 after 14 days. The judge then adds an additional \$40–\$140 dollars in costs and fees, so that after 15 days, the initial \$135 fine has grown to as much as \$315. After 56 days, that same \$135 has increased to \$378. These amounts are imposed without considering a person's financial resources, other obligations, or the hardships timely payment will impose upon the person or the person's family. In other words, ability to pay plays no role in the calculation of escalating fees.

In the meantime, the court notifies the person after 28 days that if she fails to pay within

² "Traffic and Nontraffic Civil Infraction Matters," Michigan Courts, <http://courts.mi.gov/self-help/center/casetype/pages/infraction.aspx> (last visited Apr. 13, 2017).

another 14 days, the Secretary of State, Defendant Johnson, will suspend her license. *Mich. Comp. Laws* § 257.321a(2). Two weeks later, if payment is not made, the Secretary of State automatically suspends the license without any further communication, even if nonpayment is not willful. Furthermore, anyone who fails to pay their court-ordered fines, costs, fees, and assessments is guilty of a misdemeanor. *Mich. Comp. Laws* § 257.321a(1). In order to get her license reinstated, the person must pay a \$45 driver license clearance fee for each unpaid ticket or cost in addition to the underlying debt. *Mich. Comp. Laws* § 257.321a(5). A hypothetical person who is caught driving six miles over the speed limit ends up with a criminal record and loses her driving privileges until she can pay \$423 — more than three times the initial fine and a minimum of \$148 more than someone with the means to pay immediately.

If the person is then caught driving on a suspended license, she faces a second misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$500 or both for the first violation, and, for subsequent violations, up to one year's imprisonment or a fine of up to \$1000 or both. *Mich. Comp. Laws Ann.* § 257.904. In addition to these penalties, a person who drives with an indefinitely suspended license is subject to a mandatory additional 30-day suspension unless it is the first such offense in the person's lifetime. *Mich. Comp. Laws Ann.* §§ 257.904(11) and (18). Anyone who receives an additional suspension due to a DWLS must pay a reinstatement fee of \$125 to the Secretary of State before her license can be reinstated. *Mich. Comp. Laws Ann.* § 257.320e(1). Anyone whose license has been suspended due to a DWLS violation must also pay a Driver Responsibility Fee of up to \$1000 over two years. *Mich. Comp. Laws Ann.* § 257.732a(2)(b)(iii).³ A Driver Responsibility Fee imposed for a DWLS violation cannot be paid

³ These Driver Responsibility Fees are being phased out by statute, but fees will still be imposed for all offenses that occur before October 1, 2019:

- For violations that occurred before October 1, 2015, the Driver Responsibility Fee for DWLS is \$500 per year for two years.

in community service. *Mich. Comp. Laws Ann.* § 257.732a(4). In the end, the hypothetical indigent driver who is caught once driving while suspended faces an additional fine of \$500. If she is caught twice, she receives an additional 30-day suspension, up to \$1000 in fines, a \$125 reinstatement fee, and a \$500 Driver’s Responsibility Fee, for a grand total of \$2,048 or more than seven times what a person of average means would pay.

ii. Detroit’s Public Transportation System

Plaintiffs’ daily hardships of not being able to drive legally are dramatically exacerbated by the lack of adequate public transportation in Detroit. The City’s public transit system is notoriously inadequate, providing only 11.3 transit rides per capita, by far the lowest compared to other cities with comparable populations. Reuben Fischer-Baum, “How Your City’s Public Transit Stacks Up,” *FiveThirtyEight* (July 31, 2014).⁴ Detroit’s bus system is completely unreliable as a means of regular commute to and from work. In many cases, getting to or from work can be a 90-minute to two-hour process if transfers are involved. *See* Exhibit 4, Herson-Hord Decl. The buses run very infrequently, and a single transfer can add up to an hour of waiting to the trip. *Id.* People living in Detroit who must take the bus to work frequently lose their jobs because they cannot consistently arrive on time, as buses are often late and sometimes do not arrive at all. *Id.*; *see also* Exhibit 5, Simmons Decl.

Detroit’s education system further complicates transportation for people with children. More than half of the city’s schools are charter schools that provide no coordinated transit for their

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- For violations that occurred on or after October 1, 2015, and before October 1, 2016, the Driver Responsibility Fee for DWLS is \$500 for the first year and \$250 for the second year.
 - For violations that occur on or after October 1, 2016, and before October 1, 2018, the Driver Responsibility Fee for DWLS is \$500 for the first year only.
 - For violations that occur on or after October 1, 2018, and before October 1, 2019, the Driver Responsibility Fee for DWLS is \$250 for the first year only.

Mich. Comp. Laws Ann. § 257.732a(11).

⁴ <https://fivethirtyeight.com/datalab/how-your-citys-public-transit-stacks-up/>.

students. *See* Exhibit 4, Herson-Hord Decl. The increase in charter schools has resulted in the closure of many neighborhood public schools, so parents often have to transport their children to schools in areas of the city that are far from their homes. *Id.* For parents with children who are too young to ride the public buses on their own, getting their children to school without a car is extremely difficult. *Id.*

The inadequacy of Detroit Metro's public transportation system imposes a disproportionate hardship on people with disabilities, like Kitia Harris. While existing buses are compliant with the Americans with Disabilities Act, there are not enough to meet the needs of people with mobility limitations. *Id.* People who cannot walk the distance to the nearest bus stop must make arrangements through a private company several days in advance, and they often have to wait two to four hours beyond their requested pickup or drop-off time. *Id.*

III. Discussion

Michigan's policy of suspending the licenses of those who are too poor to pay their court fees harms everyone. But automatically and indefinitely suspending licenses of people who are not able to pay their court debt is not only bad policy, it is unconstitutional.

Ms. Fowler and Ms. Harris request that this Court enjoin the Secretary of State from continuing to operate this wealth-based suspension scheme for four reasons: (A) Plaintiffs are highly likely to succeed on the merits of their claims because taking people's driver's licenses without determining their ability to pay violates the Due Process and Equal Protection Clauses; (B) without injunctive relief, Plaintiffs will continue to be hindered from finding meaningful employment and receiving adequate medical care; (C) an injunction will not harm Defendant because automatic suspension does not increase the likelihood that people who cannot pay their debt will do so; and (D) an injunction will serve the public interest by ending Michigan's policy

of driving people further into poverty by removing their access to viable transportation. *See Liberty Coins, LLC v. Goodman*, 748 F.3d 682, 689–90 (6th Cir. 2014).

A. Plaintiffs Are Highly Likely to Succeed on the Merits Because Michigan’s Policy of Suspending Driver’s Licenses for Non-Willful Failure to Pay Violates Plaintiffs’ Constitutional Rights Under Both Due Process and Equal Protection

Plaintiffs are highly likely to succeed on the merits because Michigan violates their constitutional rights under the Due Process and Equal Protection Clauses by suspending their driver’s licenses simply because they are too poor to pay court debts. Michigan’s wealth-based suspension scheme is unconstitutional for three reasons: (i) it violates Plaintiffs’ substantive Due Process and Equal Protection rights by infringing upon fundamental fairness, the fundamental right to intrastate travel, and the protection against wealth-based discrimination; (ii) it violates Plaintiffs’ Equal Protection rights by exercising extraordinary collection methods; and (iii) it violates Plaintiffs’ procedural Due Process rights by suspending driver’s licenses without an ability-to-pay hearing or an opportunity to be heard.

i. Michigan’s Policy of Suspending Driver’s Licenses of Poor People to Coerce Payment Violates Fundamental Fairness and Disregards Fundamental Rights

Michigan’s policy of suspending residents’ driver’s licenses when they fail to pay fines or court fees violates the constitutional rights of those who are unable — rather than merely unwilling — to pay. Because Michigan does not distinguish between residents with means who do not pay and residents living below the poverty level who cannot pay, the system unlawfully discriminates on the basis of wealth. This violates the constitutional rights of people who are poor for three reasons: (a) suspending the driver’s licenses of people who cannot afford to pay the debt to the state constitutes punishment that violates substantive Due Process and fundamental fairness; (b) Michigan’s policy of taking away people’s driver’s licenses because they cannot afford to pay their

debts violates their right to intrastate travel; and (c) Michigan's suspension scheme lacks any rational basis.

a. Michigan's Wealth-Based Suspension Scheme Is Fundamentally Unfair

Michigan violates Due Process by suspending Plaintiffs' driver's licenses because penalizing people for failing to pay court debts that they cannot afford is fundamentally unfair. Fundamental fairness is the "touchstone of due process," *Gagnon v. Scarpelli*, 411 U.S. 778, 790 (1973); *see also Aguilera-Enriquez v. Immig. and Naturalization Serv.*, 516 F.2d 565, 568 (6th Cir. 1975). The fundamental fairness doctrine applies where a penalty is imposed upon an indigent person for failure to pay a fine or cost without any inquiry into the person's ability to pay. *See, e.g., Bearden v. Georgia*, 461 U.S. 660, 660 (1983) (holding that it is fundamentally unfair to revoke probation because a probationer is unable to pay fines and restitution); *Griffin v. Illinois*, 351 U.S. 12, 18 (1956) (holding that it is fundamentally unfair to deny access to an appeal solely because of inability to pay court costs); *Tate v. Short*, 401 U.S. 395, 395 (1971) (holding that it is fundamentally unfair to jail a person for inability to pay a fine); *Williams v. Illinois*, 399 U.S. 235, 240–41 (1970) (holding that it is fundamentally unfair to imprison a person beyond the maximum period fixed by statute solely because he cannot pay fines or court costs). Michigan cannot lawfully suspend driver's licenses without first determining whether the nonpayment was willful or whether the person was simply unable to pay due to indigence. *See, e.g., Powers v. Hamilton County Public Defender Com'n*, 501 F.3d 592, 608 (6th Cir. 2007) (holding that the automatic incarceration of an arrestee due to his failure to pay a fine violates due process if it is not preceded by a hearing to determine his ability to pay).

Fundamental fairness prohibits Michigan from penalizing people solely because of their inability to pay, but that is exactly what the state is doing. Ms. Fowler and Ms. Harris have lost

their licenses not because they are unsafe drivers but because their limited income prevents them from paying the state the significant sums it is seeking for minor traffic offenses. *See Bearden*, 461 U.S. at 673 (holding that fundamental fairness requires a court to inquire into whether a criminal defendant is able to pay a fine before imposing additional penalties for failure to pay); *see also Alkire v. Irving*, 330 F.3d 802, 816 (6th Cir. 2003) (“[T]he constitutional right against imprisonment for failure to pay a debt is well established under both the Thirteenth and Fourteenth Amendments.”).

Michigan’s driver’s license suspension scheme is fundamentally unfair because it penalizes people who are simply too poor to pay their court debt by depriving them of the ability to drive. Although Michigan may penalize willful non-payers, its lack of safeguards ensures that it will also penalize countless individuals who are unable to afford their court debt, including Plaintiffs. Michigan’s failure to distinguish between willful non-payers and those simply too poor to pay adds to the fundamental unfairness of its scheme. *See Bearden*, 461 U.S. at 668 (“[The] distinction [between] the reasons for nonpayment is of critical importance.”). Like other state-ordered consequences, driver’s license suspension may not hinge on a person’s wealth-status. *Id.* at 668–69 (“[I]f [a person] has made all reasonable efforts to pay the fine or restitution, and yet cannot do so through no fault of his own, it is fundamentally unfair to revoke probation automatically without considering whether adequate alternative methods of punishing the defendant are available.”). Because Michigan’s wealth-based suspension scheme does not consider ability to pay, automatic suspensions will necessarily penalize individuals based on their wealth-status and therefore violate the principles of Due Process and fundamental fairness.

Fundamental fairness prohibits Michigan’s practice of converting a fine into a more serious penalty when nonpayment is not willful. *See Tate*, 401 U.S. at 398 (“[T]he Constitution prohibits

the State from . . . automatically converting [a fine] into a jail term solely because the defendant is indigent and cannot forthwith pay the fine in full.”). By converting a relatively modest penalty (e.g., a \$135 traffic fine) into a serious deprivation (an indefinitely suspended driver’s license), Michigan unfairly penalizes people who are poor simply for being poor. *See Bearden*, 461 U.S. at 672–73 (“[To] deprive [a] probationer of his conditional freedom simply because, through no fault of his own he cannot pay [a] fine . . . would be contrary to the fundamental fairness required by the Fourteenth Amendment.”).

By attempting to coerce Plaintiffs and others similarly situated to pay, Michigan is punishing them for being poor. Suspending driver’s licenses to collect debt may not be stated as punitive, but for Plaintiffs and others living in poverty, suspension has an undeniably punitive effect. *Sanders v. Allison Engine Co., Inc.*, 703 F.3d 930, 945 (6th Cir. 2012) (“In order to determine if the effects . . . are punitive in purpose or effect, we may consult as useful guideposts the factors set forth in *Kennedy v. Mendoza–Martinez*, although the factors are not exhaustive or dispositive of the inquiry.”) (citing *Kennedy v. Mendoza–Martinez*, 372 U.S. 144, 168–69 (1963)).

Under the *Mendoza-Martinez* analysis, Michigan’s driver’s license suspension scheme is a punishment because three key questions must be answered affirmatively: “[whether] the sanction involves an affirmative disability or restraint . . . whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned.” *Sanders*, 703 F.3d at 945. First, a driver’s license suspension for failure to pay court debt is an affirmative restraint because it is an indefinite revocation of a previously-earned state authorization that is essential for carrying out adult responsibilities. Second, Michigan’s excessive penalties bear no rational relation to the supposed regulatory purpose because eliminating transportation undercuts any ability to maintain gainful employment

and increases transportation and other living expenses, thereby making it harder to pay court debts. Finally, the penalties in Michigan's scheme are excessive when compared to the regulatory purpose; as much as Michigan may want to collect court debts from indigent debtors, stripping such debtors of any practical means of transportation only increases the pernicious cycle of poverty.

Our justice system rejects wealth-based penalties — whether civil or criminal, whether regulatory or punitive — as fundamentally unfair, and Michigan's scheme is an extreme example. No adverse consequences may befall individuals in our justice system solely because they cannot pay a debt. *See, e.g., Griffin v. Illinois*, 351 U.S. 12 (1956) (holding that states cannot deny access to an appeal — a consequence not generally recognized as a punishment — solely because of inability to pay court costs). Even non-punitive acts cannot be conditioned on wealth-status; Michigan's punitive consequence of driving suspension is fundamentally unfair because it penalizes people for being poor.

b. Michigan's Wealth-Based Driver's License Suspension Scheme Deprives Plaintiffs of Their Fundamental Right to Intrastate Travel Without Being Narrowly Tailored to a Compelling Government Interest

Michigan's policy of depriving Plaintiffs of their driver's licenses because they are too poor to pay their traffic fines strips them of their mobility, implicating their constitutional right to travel, which is "a virtually unconditional personal right, guaranteed by the Constitution to us all." *Saenz v. Roe*, 526 U.S. 489, 498 (1999) (quoting Stewart, J., in concurrence) (citations omitted). Although there is no fundamental right to drive, the Supreme Court has guaranteed freedom of movement to people who are poor as well as to the rich. Allowing states to limit the movement of those who are indigent "would also introduce a caste system utterly incompatible with the spirit of our system of government." *Edwards v. People of State of California*, 314 U.S. 160, 181 (1941)

(Douglas, J., concurring). The right to intrastate travel is also constitutionally protected. *Johnson v. City of Cincinnati*, 310 F.3d 484, 495 (6th Cir. 2002) (holding that the Due Process Clause of the Fourteenth Amendment protects the “right to travel locally through public spaces and roadways.”); *see also Cole v. City of Memphis*, 839 F.3d 530, 535 (6th Cir. 2016). Michigan’s suspension scheme infringes on these basic constitutional rights by removing Plaintiffs’ ability to travel.

Michigan in general, and Detroit in particular, has made a policy choice not to support robust public transportation. The result is that the car is the only viable method of transportation. *See* Exhibit 4, Herson-Hord Decl. Suspending driver’s licenses of those too poor to pay court debts makes it virtually impossible for such individuals to maintain employment, get medical care, or raise a family, creating the underclass that Justice Douglas warned against in *Edwards*.

Michigan’s suspension scheme unconstitutionally violates Plaintiffs’ fundamental due process right to intrastate travel because it is not narrowly tailored to a compelling government interest. Because the right to intrastate travel is “deeply rooted in this Nation’s history and tradition, and implicit in the concept of ordered liberty,” it is a fundamental right that requires strict scrutiny. *Johnson*, 310 F.3d at 489. Michigan’s suspension scheme infringes Plaintiffs’ fundamental right to intrastate travel because they live in a region with no reliable public transportation, and they cannot afford other means of local travel. Plaintiffs’ “right to travel locally through public spaces and roadways — perhaps more than any other right secured by substantive due process — is an everyday right, a right [they] depend on to carry out [their] daily life activities. It is, at its core, a right of *function*.” *Id.* at 498 (emphasis added).

Although Plaintiffs are not expressly prohibited from traveling, taking away their driver’s licenses because they cannot afford to pay fines is the functional equivalent of a travel ban. Public

transportation in the Detroit metropolitan area is woefully inadequate. *See generally* Exhibit 4, Herson-Hord Decl. Travel between Detroit and the surrounding suburbs, where most of the higher-paying jobs are located, is virtually impossible without a car. *Id.* The Detroit metropolitan area has two bus systems: DDOT operates buses within the city limits, and SMART services the suburbs and runs into the city primarily to make stops in midtown and downtown Detroit — the city’s wealthiest areas. *Id.* With only a few exceptions at certain times of day, SMART buses do not pick up or drop off riders in the city of Detroit outside the downtown and midtown locations. *Id.* This system makes public transportation an unrealistic option for meeting life’s basic needs, especially for single mothers like Plaintiffs.

Plaintiffs do not have access to other modes of transportation. Taxis and car services are prohibitively expensive for everyday use, and Michigan’s harsh winters make walking and biking impractical and even dangerous on some days. Furthermore, both Plaintiffs have young children, which makes walking or biking to school or to run errands outside the immediate neighborhood impractical. Thus, Plaintiffs “depend on” driving “to carry out [their] daily life activities,” *Johnson*, 310 F.3d at 498, and Michigan’s suspensions infringes on their fundamental rights.

Because Michigan’s wealth-based driver’s license suspension scheme is so comprehensive, it must be analyzed under the strictest scrutiny for restrictions on intrastate travel. *See Cole*, 839 F.3d at 537 (noting that strict scrutiny is appropriate where an intrastate travel restriction imposes a broad prohibition). By suspending Plaintiffs’ driver’s licenses, Michigan has imposed a functional ban on their intrastate travel that constitutes far more than a restriction on travel that lasts a few hours or only covers a few blocks. *Id.* Rather, it forecloses all travel because driving is Plaintiffs’ only practical means of transport. Unlike in *Cole v. City of Memphis* — which involved an ordinance that was limited geographically to a specific radius and limited in time to

specific two-hour periods, *id.* — Michigan’s suspension scheme creates broad prohibitions on all driving in all locations at all times in all circumstances for an indefinite period and is therefore subject to strict scrutiny. *See Johnson*, 310 F.3d at 502 (“broad prohibition . . . requires that we apply strict scrutiny”).

Michigan’s suspension scheme cannot survive strict scrutiny because it is not “the least restrictive means to accomplish the [State’s] goal” of court debt collection. *Id.* at 503. Michigan’s indiscriminate policy of suspending the license of every driver who fails to pay court debt — even for those who would pay but cannot afford it — is not narrowly tailored to any goal. Instead, it is an across-the-board, blanket penalty that takes no account of non-willfulness. *Id.* (“[I]f there are other, reasonable ways to achieve those goals with a lesser burden on constitutionally protected activity, a State may not choose the way of greater interference. If it acts at all, it must choose less drastic means.”) (quoting *Dunn v. Blumstein*, 405 U.S. 330, 343 (1972)). Michigan could allow those who are indigent to request a waiver before suspension or seek conversion to community service. *See, e.g.*, TCA 40-24-105(b)(3)(A) (Tennessee statute allowing a request to the presiding court to stop license suspension for inability to pay); *see also Bearden*, 461 U.S. at 672. People who cannot afford to pay their court debts will have an even more difficult time without a license, as they will no longer be able to commute to and from work to earn the money to satisfy their debts. While suspending licenses of willful non-payers may be appropriate, taking away the licenses of those who are simply too poor to afford court debts is not narrowly tailored to Michigan’s goal of debt collection and infringes on the fundamental right to intrastate travel.

c. Michigan’s Driver’s License Suspension Scheme Discriminates Against Poor People Without Any Rational Connection to a Legitimate Government Interest

In addition to failing any heightened scrutiny analysis, Michigan’s wealth-based

suspension scheme fails even rational basis review. *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997) (holding that a challenged law must “be rationally related to legitimate government interests”). Michigan’s wealth-based suspension is irrational because it assumes a person who is *unable* to pay will become more likely to pay after her driver’s license is suspended. But a license suspension only makes things worse. The suspension itself makes a debtor less able to earn money and carry out her everyday obligations, thereby making it unlikely that she will ever be able to pay her court debts. In this way, Michigan’s suspensions actually subvert their intended objective.

The substantial financial costs of a suspended driver’s license — especially for people living in poverty — illustrate the irrationality of Michigan’s scheme. Even once their court debt is paid in full, Plaintiffs must pay driver’s license clearance fees of \$45 for each earlier failure to pay before Michigan will reinstate their licenses. *Mich. Comp. Laws Ann.* § 257.321a(5). If an emergency forces a Plaintiff to drive while her license is still suspended — as was the case when Adrian Fowler had to rush her infant daughter to the hospital with a temperature of 103 degrees Exhibit 1, Fowler Decl. — she risks being charged with driving with a suspended license (DWLS). This is a misdemeanor that requires an additional reinstatement fee of \$125 as well as a Driver Responsibility Fee, currently capped at \$500. *Mich. Comp. Laws Ann.* § 257.732a(11)(b)(ii).

Michigan’s scheme makes it more difficult for the people who owe the state money to find or maintain employment, which irrational undercuts the state’s goal of debt collection. Having a driver’s license “is a very common requirement for the sorts of job that can actually lift people out of poverty.” Alana Semuels, “No Driver’s License, No Job,” *The Atlantic* (June 15, 2016).⁵ One study of New Jersey drivers found that 42% of drivers lost their jobs after their driving privileges were suspended. Jon A. Carnegie, Ian M. Voorhees Transportation Center, Rutgers, The State

⁵ <https://www.theatlantic.com/business/archive/2016/06/no-drivers-license-no-job/486653/>.

University of New Jersey, *Driver's License Suspensions, Impacts and Fairness Study* 56 (2007).⁶ Of those drivers, 45% were unable to find new employment. *Id.* This evidence highlights what is already obvious: taking away transportation options makes it harder to pay court debts and is thus directly contrary to any rational interest.

Adrian Fowler's experience illustrates the irrationality of Michigan's scheme. Ms. Fowler was offered a job that had a substantially higher hourly wage, yet she could not take it because it required her to drive to work and to the various client sites. *See* Exhibit 1, Fowler Decl. Ironically, Michigan's decision to suspend Ms. Fowler's license is lowering the chance that she will ever be able to pay her full debt. Thus, suspension is not rationally related to the goal of debt collection. It is, in fact, entirely counterproductive to achieving that interest.

ii. Michigan's Wealth-Based Driver's License Suspension Scheme Is an Extraordinary Collection Effort that Violates the Equal Protection Clause

When Michigan suspended Plaintiffs' driver's licenses, it used its unique state powers to coerce Ms. Fowler and Ms. Harris into paying their court debts, thus violating their Equal Protection rights under the doctrine of extraordinary collection. The Equal Protection Clause ensures that (a) Plaintiffs cannot be treated differently as debtors to the state than they would be treated as civil debtors, and (b) Plaintiffs' ability to afford basic necessities and make a living must be protected. *See James v. Strange*, 407 U.S. 128 (1972). Michigan's wealth-based suspension scheme fails under both these requirements.

In *James v. Strange*, the Supreme Court struck down a Kansas statute that, like Michigan's, gave the state additional tools to collect debts not available to private creditors.⁷ *Id.* at 131. The

⁶ <http://www.nj.gov/transportation/refdata/research/reports/FHWA-NJ-2007-020-V1.pdf>.

⁷ The statute provided that: "If the sum remains unpaid after the 60-day period, a judgment is docketed against defendant for the unpaid amount. Six percent annual interest runs on the debt from the date the expenditure was made. The debt becomes a lien on the real estate of defendant and may be executed by garnishment or in any other manner

Kansas statute stripped indigent defendants of an “array of protective exemptions,” leading the Court to conclude that the state may not “impose unduly harsh or discriminatory terms merely because the obligation is to the public treasury rather than to a private creditor.” *Id.* at 131, 138. Michigan has unlawfully given itself recourse not afforded to private creditors (the power to suspend driver’s licenses). Michigan’s “unduly harsh” treatment of those too poor to pay court debts ignores the “hopes of indigents for self-sufficiency and self-respect.” *Johnson v. Bredesen*, 624 F.3d 742, 749 (6th Cir. 2010) (citing *Strange*, 407 U.S. at 135). Michigan’s law is particularly egregious because it undercuts Plaintiffs’ ability to make a living. *Strange*, 407 U.S. at 139; *contra, Fuller v. Oregon*, 417 U.S. 40, 46 (1974) (upholding state recoupment scheme under *James* because “[d]efendants with no likelihood of having the means to repay are not put under even a conditional obligation to do so.”).

Michigan residents who owe private debts do not face automatic driver’s license suspension to coerce them into paying. Michigan’s wealth-based driver’s license suspension scheme violates Equal Protection because it subjects indigent court debtors to “more severe collection practices than the ordinary civil debtor.” *Alexander v. Johnson*, 742 F.2d 117, 124 (4th Cir. 2005). Additionally, the extreme coercion wrought by Michigan’s scheme leaves individuals like Plaintiffs in an impossible situation: they must choose between basic necessities or losing their license and entering a cycle of poverty. Michigan’s lack of protection for the basic needs of life is exactly what the Supreme Court identified as unconstitutional in Kansas’s extraordinary collection efforts, and single mothers like Plaintiffs who live below the federal poverty are excessively punished for being poor in Michigan.

iii. Michigan’s Wealth-Based Driver’s Suspension Scheme Violates Due Process Because It Does Not Guarantee an Opportunity to Be Heard

provided by the Kansas Code of Civil Procedure. The indigent defendant is not, however, accorded any of the exemptions provided by that code for other judgment debtors except the homestead exemption.”

Michigan suspends driver's licenses automatically without considering whether people such as Plaintiffs have the financial resources to pay their fines. This oversight ignores the importance of a driver's license in modern society and deprives Plaintiffs of procedural Due Process because "continued possession [of the license] may become essential in the pursuit of a livelihood." *Bell v. Burson*, 402 U.S. 535, 539 (1971). Because Plaintiffs have a property interest in their driver's licenses, an ability-to-pay hearing is required. *Id.* at 535 (1971); *see also Sanderson v. Village of Greenhills*, 726 F.2d 284, 286 (6th Cir. 1984) ("[A] driver confronting cancellation of his license . . . possesses a clear, legitimate claim to . . . [the] license In such cases, the property right [cannot] be removed without due process.") (citation omitted). In Michigan's indiscriminate scheme, no ability-to-pay hearing occurs.

Both Ms. Fowler and Ms. Harris were "in jeopardy of serious loss" when their licenses were suspended and therefore should have been given an opportunity to be heard before their suspensions took effect. *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976); *see also Bell*, 402 U.S. at 542. But conspicuously lacking from Michigan's wealth-based driver's license suspension scheme is an opportunity for people who owe court debts to be heard before their licenses are suspended. The state may not suspend a driver's license to coerce payment of a debt. Rather, "except in emergency situations (and this is not one)[,] due process requires that when a State seeks to terminate an interest such as that here involved, it must afford notice and opportunity for hearing appropriate to the nature of the case before the termination becomes effective." *Bell*, 402 U.S. at 542 (internal quotation marks omitted); *see also Dixon v. Love*, 431 U.S. 105, 114 (1977) (stating that a pre-deprivation hearing is required when the "only purpose" of license suspension is to obtain monetary security); *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) ("[T]he Constitution requires some kind of a hearing before the State deprives a person of liberty or property.").

Michigan's automatic suspension lacks any hearing whatsoever and thus violates procedural Due Process.

Even if failure to pay is undisputed, the debtor must be given an opportunity to be heard if she contends that she cannot afford to pay. *Bearden*, 461 U.S. at 672 (“We hold, therefore, that in revocation proceedings for failure to pay a fine or restitution, a sentencing court must inquire into the reasons for the failure to pay.”). A hearing that fails to consider an essential element, such as willfulness — and, necessarily, ability to pay — is not meaningful. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004) (“It is . . . fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner.”) (internal citations and quotation marks omitted); *see also Bell* 402 U.S. at 541–42. For failure-to-pay violations, any meaningful hearing necessarily must include an ability-to-pay determination before a suspension, but Michigan's system lacks any hearing of any kind.

Defendant violated Plaintiffs' procedural Due Process rights by suspending their driver's licenses without any hearing, let alone an opportunity to show that their failure to pay was solely due to their inability to pay and thus not willful.

B. Plaintiffs Will Suffer Irreparable Harm If the Preliminary Injunction Does Not Issue

Without intervention from this Court, Plaintiffs' driver's licenses will remain suspended indefinitely and they will suffer the continuing cycle of poverty caused by Michigan's wealth-based driver's license suspension scheme. Every day that their licenses are suspended, Plaintiffs face irreparable harm. *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 506–07 (1959). The harm that Plaintiffs suffer from not having a driver's license is not merely monetary but affects their quality of life. Ms. Harris receives inadequate medical care because she cannot always afford to get to her medical appointments. Exhibit 2, Harris Decl. If she cannot get a free ride, she has to

use the money she could set aside to pay her court debts to pay someone to drive her. *Id.* Ms. Fowler is limited to a part-time, minimum-wage job because it is the only employment she can get to without a car. Exhibit 1, Fowler Decl. She had to turn down a job offer for a higher-paying job because the duties required her to have a license. *Id.* As long as their licenses are suspended, Plaintiffs will suffer the serious and irreparable harm of an inescapable cycle of poverty as well as the continued violation of their constitutional rights under the Due Process and Equal Protection Clauses.

C. Defendant Will Not Be Harmed If the Preliminary Injunction Does Issue

Defendant will not suffer any harm if a preliminary injunction is granted. Because the relief Plaintiffs' seek only applies to those unable to pay, the state will not be losing money from an injunction. But even if Michigan collected less money from those who are constitutionally indigent, as long as injunctive relief ends a constitutional violation, there is no harm "even though accompanied by a substantial ancillary effect on the state treasury." *Papasan v. Allain*, 478 U.S. 265, 278 (1986). An injunction in this case would only prevent Michigan from penalizing those who are unable to pay court debts; because no incentive or punishment can force a person to do something she is incapable of doing, the requested injunction will not affect the state's rate of collections. *See Bearden*, 461 U.S. at 670 (1983) ("Revoking the probation of someone who through no fault of his own is unable to make restitution will not make restitution suddenly forthcoming."). Piling on penalty after penalty does not increase Michigan's ability to collect money from those too poor to pay, and enjoining such penalties will not lessen Michigan's collections efforts. Indeed, Plaintiffs seek nothing that would prevent Michigan from collecting court debts from those who are able to afford it. Thus, enjoining Defendant from suspending the licenses of people who are unable to pay will not result in any financial loss for Defendant.

D. An Injunction Will Serve the Public Interest by Halting Discrimination Based on Wealth-Status

Issuing a preliminary injunction stopping Defendant from enforcing Michigan's unconstitutional wealth-based driver's license suspension scheme will benefit the public interest. The protection of Plaintiffs' constitutional rights is in the public interest. *See, e.g., Liberty Coins, LLC v. Goodman*, 748 F.3d 682, 690 (6th Cir. 2014) (“[I]t is always in the public interest to prevent the violation of a party's constitutional rights.”) (internal citation omitted).

Many thousands of Michigan residents have their licenses suspended each year for failure to pay court debts. In 2010 alone, the Secretary of State suspended 397,826 licenses for failure to pay and failure to appear. *Am. Assoc. of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers* 65 (2013).⁸ It can be assumed that a significant percentage of those 397,826 people had their licenses suspended specifically because they were too poor to pay their court debts.

Suspending people's driver's licenses simply because they are too poor to pay their debts is contrary to the public interest. People who cannot afford their court debts already face significant barriers to caring for themselves and for their families. Removing their only viable means of transportation compounds the financial hardships they already endure — and adds to the debt they already are unable to pay. Communities cannot thrive when the state is unnecessarily and uselessly placing additional burdens on already-disadvantaged residents. Insurmountable debt coupled with an inability to earn a living and meet one's other financial, personal, and familial obligations is a recipe for recidivism and entrenched multigenerational poverty. Therefore, enjoining Defendant from suspending the driver's licenses of those who cannot afford their court debt would serve the public interest.

⁸ <http://www.aamva.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3723&libID=3709>.

IV. Conclusion

Plaintiffs respectfully request that this Court enjoin Defendant from enforcing its wealth-based driver's license suspension scheme because it violates Plaintiffs' substantive Due Process and Equal Protection rights, is fundamentally unfair, deprives Plaintiffs of their fundamental right to intrastate travel, is not rationally related to a legitimate government objective, constitutes an extraordinary collection effort, and violates Plaintiffs' procedural Due Process rights.

The balance of harms weighs heavily in Plaintiffs' favor because Michigan has deprived them of legal transport and impeded basic life necessities. Michigan will not be harmed — and would in fact benefit — from an injunction because restoring driving rights to Michigan's poorest residents will help break the cycle of poverty. Finally, an injunction would serve the public interest because it would restore Plaintiffs' constitutional rights and allow them, and similarly-situated individuals, to live, work, and travel freely within their communities.

For all of these reasons, Plaintiffs respectfully request that this Court preliminarily enjoin Defendant Johnson from suspending licenses of those unable to pay and reinstate those licenses unconstitutionally suspended without an ability-to-pay inquiry.

Respectfully submitted,

/s/ Phil Telfeyan

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/s/ John C. Philo

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Attorneys for Plaintiffs

DECLARATION OF ADRIAN FOWLER

I, Adrian Fowler, state and declare as follows:

1. My name is Adrian Fowler, and I am a 31-year-old resident of Detroit, Michigan.
2. I have a three-year-old daughter, for whom I am the sole caretaker.
3. I work for X-Men Security, earning \$8.90 per hour. I work about 20 hours each week, earning a total of about \$712 per month.
4. From 2008 to 2012, I lived in Cobb County, Georgia. While I was living there, I acquired three tickets for traffic civil infractions. I have not been able to pay any of the fines or costs for these tickets, and I have not paid.
5. In 2012, after moving back to Michigan, I tried to renew my Michigan driver's license and discovered that it had been suspended because I had not paid my Georgia court debts.
6. In the winter of 2013, during an ice storm, my then-infant daughter developed a fever of 103 degrees while I was at work. I feared that it would take too long for an ambulance to arrive because of the ice storm. Because my daughter's life was in danger, I drove home to take her to the hospital even though my license was suspended. I was stopped by a police officer for speeding in Ferndale. He let me go because it was an emergency, but he cited me for driving while my license was suspended as well as issuing me a speeding ticket. The total cost was almost \$600.
7. When I went to the Ferndale courthouse to tell them that I would not be able to pay the \$600, they told me that if I did not return in three weeks with the full amount, a warrant would be issued for my arrest. I was told that even if I did return, I would be arrested unless I had the full amount ready to pay.
8. I believe I have three current warrants out for my arrest in Ferndale, Eastpointe, and Oak Park for missed court dates. I owe fees for these warrants of \$500 (Ferndale), \$800 (Eastpointe), and \$800 (Oak Park).
9. As of May 3, 2017, I owe \$666 in fines and fees in Ferndale, \$752 in Eastpointe, and \$703 in Oak Park.
10. I believe that the total cost of getting my license reinstated would be at least \$2,121.
11. I pay \$850 per month in rent and an additional \$500 to \$600 monthly for utilities, groceries, and other everyday needs for myself and my daughter. I do not anticipate being able to pay off my court debt to get my license back in the foreseeable future.
12. My ability to find employment has been severely hampered by my license suspension.
13. Because I cannot drive legally, I cannot take any job that is located outside the city of Detroit in the suburbs. The jobs I have seen available in the suburbs tend to be higher-paying than the city jobs.

14. In my most recent job search in April of 2017, I struggled to find a job in the city that pays well, and I ended up with a minimum-wage, part-time position that does not even cover my basic monthly expenses.
15. I was offered a position with Blue Chip Endeavors that paid a wage of \$12.50 per hour, but I had to turn it down because it would have required me to travel throughout the metropolitan area, which I cannot do without a valid license because there is no viable public transportation option that runs between the city and the suburbs.

I declare under penalty of perjury that the statements above are true and correct. Executed on this 03 day of May, 2017.

A handwritten signature in cursive script that reads "Adrian Fowler" followed by the date "05/03/17".

Adrian Fowler

DECLARATION OF KITIA HARRIS

I, Kitia Harris, state and declare as follows:

1. My name is Kitia Harris, and I am a 25-year-old resident of Detroit, Michigan.
2. I have an eight-year-old daughter, and I am her sole caretaker.
3. I am not currently working.
4. I am unable to work due to a physical disability, interstitial cystitis, which I was diagnosed with in November of 2014.
5. I was most recently employed at Blue Cross Blue Shield in Rochester Hills, Michigan. I was fired after working there for about four months because my medical condition was interfering with my job performance. I was fired in December of 2015, and I have not had a job since then.
6. I was approved for disability benefits in July of 2016. I receive \$938 per month in disability benefits, plus an additional \$280 for my daughter, and \$350 in food stamps. This is my only income.
7. In or around October of 2016, a police officer stopped me in Ferndale, Michigan, and gave me a ticket for “impeding traffic.” I was charged a total of \$150 for the ticket. I did not pay the \$150, as I was not able to pay.
8. About a month later, after receiving notices that my payment was due and being unable to pay, I received a notice in the mail that my driver’s license had been suspended.
9. I currently owe a total of \$276 to get my license reinstated.
10. I pay \$600 per month in rent, \$350 for food, and an additional \$400 per month for utilities, phone, in addition to other living expenses for both of us. I also must pay my landlord \$100 each month to build up a security deposit. Any other income goes to reducing my medical debt, buying clothing and school supplies for my daughter.
11. Because of my medical condition, I have regular medical appointments, usually every two weeks and sometimes more often. My doctor’s office is a 30-minute drive from my home.
12. I am unable to ride the bus because my medical condition makes it unsafe for me to stand for more than a few minutes. Instead, I have to pay people to drive me where I need to go.
13. Because I cannot drive myself, I am frequently late for my medical appointments, and I often have to cancel or reschedule appointments at the last minute when no one is available to drive me, which has a negative impact on my health.
14. My daughter would like to take part in a gymnastics program but is not able to because I cannot afford to get her to the practice venue.

15. I declare under penalty of perjury that the statements above are true and correct.
Executed on this 4 day of May, 2017.

A handwritten signature in cursive script, reading "Kitia Harris", written over a horizontal line.

Kitia Harris

Michigan Department of State
BUREAU OF BRANCH OFFICE SERVICES
Request Report

Exhibit 3

A SOS 3676 05/03/2017 12:22:27 IP10_42_144_70/HCT084CPTSPC927.
45;7;F460031564615.

TRANSACTION PROCESSING FOR THIS RECORD CAN BE PERFORMED EITHER ON BOS OR BAM

F-460-031-564-615 EXPIRED LIC OUT-OF-STATE:GA
ADRIAN LYNN FOWLER [REDACTED] F IMAGE
[REDACTED] R-OPER 01/23/2007 08/06/2010

03/20/2014	SUSPENSION	****	12/06/2013 FCJ #13FE17005A FERNDALE IMPEDED TRAFFIC
03/20/2014	SUSPENSION	****	12/06/2013 FAC #13FE17005B FERNDALE DROVE WHILE LICENSE EXPIRED
02/27/2015	EASTPOINTE		01/14/2015 PROHIBITED TURN -PA
		****	03/02/2015 ADDITIONAL SUSPENSION FROM 03/19/2015 THROUGH MIDNIGHT OF 04/18/2015, FROM VIOLATION OF 01/14/2015, PROGRAMMATIC MANDATORY ADDITIONAL, REINSTATEMENT FEE NOT REQUIRED - OUT OF STATE, FAC/FCJ
04/16/2015	SUSPENSION	****	01/14/2015 FAC #15EA00246A EASTPOINTE DROVE WHILE LICENSE SUSP/REV/DENIED
04/16/2015	SUSPENSION	****	01/14/2015 FCJ #15EA00246B EASTPOINTE PROHIBITED TURN
10/28/2016	OAK PARK		10/05/2016 DISOBEYED STOP SIGN -PA
		****	10/31/2016 ADDITIONAL SUSPENSION FROM 11/17/2016 THROUGH MIDNIGHT OF 12/17/2016, FROM VIOLATION OF 10/05/2016, PROGRAMMATIC MANDATORY ADDITIONAL, REINSTATEMENT FEE NOT REQUIRED - OUT OF STATE, FAC/FCJ
12/16/2016	SUSPENSION	****	10/05/2016 FCJ #16OP02689 OAK PARK DISOBEYED STOP SIGN
12/16/2016	SUSPENSION	****	10/05/2016 FAC #1601231OP OAK PARK FAILED TO DISPLAY A VALID LICENSE

3

***** END OF RECORD HISTORY *****

Michigan Department of State
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LICENSE NOT VALID: OUT-OF-STATE AND EXPIRED
DRIVING STATUS: INELIGIBLE

03/20/2014 SUSPENSION **** 12/06/2013 FAC #13FE17005B FERNDALE
DROVE WHILE LICENSE EXPIRED
03/20/2014 SUSPENSION **** 12/06/2013 FCJ #13FE17005A FERNDALE
IMPEDED TRAFFIC
04/16/2015 SUSPENSION **** 01/14/2015 FCJ #15EA00246B EASTPOINTE
PROHIBITED TURN
04/16/2015 SUSPENSION **** 01/14/2015 FAC #15EA00246A EASTPOINTE
DROVE WHILE LICENSE
SUSP/REV/DENIED
12/16/2016 SUSPENSION **** 10/05/2016 FAC #1601231OP OAK PARK
FAILED TO DISPLAY A VALID
LICENSE
12/16/2016 SUSPENSION **** 10/05/2016 FCJ #16OP02689 OAK PARK
DISOBEYED STOP SIGN

(ELECTRONICALLY CERTIFIED IN COMPLIANCE WITH MCL 257.204A,
AS OF RECORD RUN DATE INDICATED ABOVE.)

MI SOS (PREPARED IN COMPLIANCE WITH MCL 257.733)

Michigan Department of State
BUREAU OF BRANCH OFFICE SERVICES
Request Report

A SOS 9495 05/02/2017 15:18:23 IP10_42_47_247/HCS084CPTSPC928.
42;9;H620469098913.

TRANSACTION PROCESSING FOR THIS RECORD CAN BE PERFORMED EITHER ON BOS OR BAM

H-620-469-098-913

KITIA BRIANTAE HARRIS



[REDACTED] F 5-03 152 BRO IMAGE
D-OPER 10/11/2016 11/30/2020
82 VOTER ***-**-*****

* THIS DRIVER HAS NO PRIOR 904 MANDATORY ADDITIONAL VIOLATIONS OF
* SUSPENSION/REVOICATION OR 625 ALCOHOL RELATED CONVICTIONS WITHIN THE
* TIME FRAMES REQUIRING PLATE CONFISCATION.

ACCIDENT 03/05/2012 018-4622 DEARBORN PD
2 VEH/UNIT 0 INJ 0 KILLED
V01 X4 PA
06/06/2012 DEARBORN 03/05/2012 LIMITED ACCESS SPEED 56/55
-PA
06/06/2012 DEARBORN 03/05/2012 NO PROOF OF INSURANCE
-COMPUTER SAME INCIDENT -PA
**** 08/23/2012 DRIVER RESPONSIBILITY FEE
NOTIFICATION FOR QUALIFYING
CONVICTION, FROM ACTIVITY OF
06/06/2012 ASSESSMENT:
TP78084
**** DRIVER RESPONSIBILITY FEE
SUSPENSION FROM 01/02/2013
THROUGH *INDEFINITE* ,
ASSESSMENT: TP78084. LICENSE
NOT VALID UNTIL
REINSTATEMENT FEE PAID, FROM
ACTIVITY OF 08/23/2012
**** TERMINATED DRIVER
RESPONSIBILITY FEE
SUSPENSION 02/04/2013 ,
ASSESSMENT: TP78084 .
LICENSE NOT VALID UNTIL
REINSTATEMENT FEE PAID, FROM
ACTIVITY OF 01/02/2013
**** 02/04/2013 REINSTATEMENT FEE PAID
02/04/2013, FEE PAID TO
TREASURY WITH DRF ASSESSMENT
**** 08/29/2013 DRIVER RESPONSIBILITY FEE

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NOTIFICATION FOR QUALIFYING
CONVICTION, FROM ACTIVITY OF
06/06/2012 ASSESSMENT:
TY06568

11/07/2013	SUSPENSION	****	08/12/2013	FCJ #13WC03318	WAYNE
03/31/2014	SUSP TERMINATED			SPEED 45/40	
09/05/2013	WAYNE		08/12/2013	SPEED 45/40 -PA	
		****		DRIVER RESPONSIBILITY FEE	
				SUSPENSION FROM 01/08/2014	
				THROUGH *INDEFINITE* ,	
				ASSESSMENT: TY06568. LICENSE	
				NOT VALID UNTIL	
				REINSTATEMENT FEE PAID, FROM	
				ACTIVITY OF 08/29/2013	
		****		TERMINATED DRIVER	
				RESPONSIBILITY FEE	
				SUSPENSION 07/25/2014 ,	
				ASSESSMENT: TY06568 .	
				LICENSE NOT VALID UNTIL	
				REINSTATEMENT FEE PAID, FROM	
				ACTIVITY OF 01/08/2014	
07/01/2014	OHIO		06/20/2014	FOLLOWED TOO CLOSELY -NC	
		****	08/06/2014	DRIVER IMPROVEMENT WARNING	
				LETTER PH	
		****		REINSTATE DRIVER	
				RESPONSIBILITY FEE	
				SUSPENSION OF 01/08/2014 .	
				SUSPENSION EFFECTIVE	
				09/15/2014 THROUGH	
				INDEFINITE , ASSESSMENT:	
				TY06568. LICENSE NOT VALID	
				UNTIL REINSTATEMENT FEE	
				PAID, FROM ACTIVITY OF	
				08/29/2013	
		****		TERMINATED DRIVER	
				RESPONSIBILITY FEE	
				SUSPENSION 02/19/2015 ,	
				ASSESSMENT: TY06568 .	
				LICENSE NOT VALID UNTIL	
				REINSTATEMENT FEE PAID, FROM	
				ACTIVITY OF 09/15/2014	
03/18/2015	MONROE		02/27/2015	LIMITED ACCESS SPEED 80/70	
				-COMPUTER SAME INCIDENT -PA	
05/15/2015	SUSPENSION	****	02/27/2015	FCJ #15X577829A	MONROE
08/04/2016	SUSP TERMINATED			LIMITED ACCESS SPEED 80/70	
05/15/2015	SUSPENSION	****	02/27/2015	FAC #15X577829B	MONROE

Michigan Department of State
BUREAU OF BRANCH OFFICE SERVICES
Request Report

07/28/2016	SUSP TERMINATED		DROVE WHILE LICENSE EXPIRED	
07/28/2016	MONROE	02/27/2015	DROVE WHILE LICENSE EXPIRED	
			-PA	2
		**** 08/04/2016	REINSTATEMENT FEE PAID	
			08/04/2016	
10/27/2016	SUSPENSION	**** 08/27/2016	FCJ #16FE08109 FERNDALE	
11/03/2016	SUSP TERMINATED		REGISTRATION AND/OR PLATE	
			VIOLATION	
01/04/2017	SUSPENSION	**** 10/12/2016	FCJ #16FE09579 FERNDALE	
			IMPEDED TRAFFIC [2670]	

***** END OF RECORD HISTORY *****

LICENSE VALID
DRIVING STATUS: INELIGIBLE

01/04/2017	SUSPENSION	**** 10/12/2016	FCJ #16FE09579 FERNDALE
			IMPEDED TRAFFIC [2670]

(ELECTRONICALLY CERTIFIED IN COMPLIANCE WITH MCL 257.204A,
AS OF RECORD RUN DATE INDICATED ABOVE.)

MI SOS (PREPARED IN COMPLIANCE WITH MCL 257.733)
(FOR GOVERNMENTAL OR INDIVIDUAL DRIVERS USE ONLY)

DECLARATION OF MASON HERSON-HORD

I, Mason Herson-Hord, state and declare as follows:

1. My name is Mason Herson-Hord, and I am over 18 years old. I live and work in Detroit, Michigan.
2. I understand that I am giving this declaration in support of the civil rights lawsuit against Michigan's Secretary of State, filed in federal court in the Eastern District of Michigan.
3. I am an organizer for Motor City Freedom Riders, a non-profit that advocates for fixing the inadequate public transportation system in Metro Detroit. Through this work, I have developed extensive knowledge of the inadequacies of the area's transit system and the ways in which its many failures affect people who rely on the system for their everyday transportation needs.
4. The Detroit metropolitan area, or Metro Detroit, is a major metropolitan area in southeast Michigan made up of the city of Detroit and its surrounding suburbs, covering parts of Wayne, Macomb, and Oakland Counties.
5. Metro Detroit is serviced by two main bus service providers: the Detroit Department of Transportation (DDOT) and the Suburban Mobility Authority for Regional Transportation (SMART). These two service providers have a non-compete agreement and do not duplicate one another's service.
6. DDOT services the city of Detroit and does not run in the suburbs or between the city and suburbs.
7. SMART services the suburbs and runs into the city only to make stops in midtown and downtown Detroit — the city's wealthiest areas. SMART buses do not pick up or drop off riders in the city of Detroit outside the downtown and midtown locations.
8. Both DDOT and SMART buses run infrequently and have had recent service cutbacks.
9. The bus system in Metro Detroit is regarded as a last-resort option; the only people who ride the buses are those who have no other choice.
10. Several large employers — most notably Quicken Loans — have their own bus systems so that their employees can travel to and from work in a timely manner, as the public buses run infrequently and are unreliable. The Quicken Loans shuttle service primarily runs between midtown and downtown Detroit, the city's wealthiest neighborhoods.
11. Detroit's bus system is completely unreliable as a means of regular commute to and from work. In many cases, getting to or from work can be a 90-minute to 2-hour process if transfers are involved. The buses run very infrequently, so a single transfer can add up to an hour of waiting to the trip.

very infrequently, so a single transfer can add up to an hour of waiting to the trip.

12. There are many obstacles for Detroit residents to reach jobs in the suburbs using public transportation. Detroiters who live outside the greater downtown generally cannot take SMART buses into the suburbs without first getting to the downtown or midtown pickup locations or waiting for a long period at the edge of the city on 8 Mile Road and enduring multiple transfers. In coordination with the Regional Transit Authority (RTA), DDOT and SMART operate express routes on Woodward and Gratiot that do not require riders to transfer (called the Reflex service), but these are even less frequent due to lack of funding and have limited stops.
13. Moreover, many poor Detroiters who work in the suburbs have service-industry jobs that require irregular hours outside the typical nine-to-five workday. Both DDOT and SMART have scaled back their services outside regular rush hours due to budget cuts, which results in extremely infrequent service for people who need to travel to and from work at irregular hours. Weekend service also runs on a low-frequency schedule, further complicating the transportation options for people who must work weekend hours.
14. People living in Detroit who must take the bus to work frequently lose their jobs because they cannot consistently arrive on time. The bus schedule acts as more of a suggestion than a reality; buses are often late and occasionally do not arrive at all. This makes it almost impossible to plan a route to work that will guarantee an on-time arrival.
15. Detroit's education system further complicates transportation for people with children. More than half of the city's schools are charter schools that provide no coordinated transit for their students. The increase in charter schools has resulted in the closure of many neighborhood public schools, so parents often have to transport their children to schools in areas of the city that are far from their homes. For parents with children who are too young to ride the public buses on their own, getting their children to school without a car and then arriving to work on time is extremely difficult.
16. The inadequacy of Metro Detroit's public transportation system imposes a disproportionate hardship on people with disabilities. While DDOT and SMART buses are compliant with the Americans with Disabilities Act, there is not enough service to meet the needs of people with mobility limitations. People who cannot walk the distance to the nearest bus stop must make paratransit arrangements several days in advance, and they often have to wait two to four hours beyond their requested pickup or drop-off time.

I declare under penalty of perjury that the statements above are true and correct. Executed on this 4th day of May, 2017.



Mason Herson-Hord

Staff Organizer, Motor City Freedom Riders

DECLARATION OF DELPHIA SIMMONS

I, Delphia Simmons, state and declare as follows:

1. My name is Delphia Simmons, and I am over 18 years old. I live and work in Detroit, Michigan.
2. I understand that I am giving this declaration in support of the civil rights lawsuit against Michigan's Secretary of State, filed in federal court in the Eastern District of Michigan.
3. For the past two years, I have been the Director of the Passport to Self-Sufficiency™ Program at the Coalition On Temporary Shelter (COTS), located in Detroit, Michigan. Before that, I was a Quality Improvement Director (2012-2014) and the Director of the Homeless Prevention and Rapid Rehousing Program (2009-2012). COTS was founded in 1982 to serve Detroit's most vulnerable populations. In addition to providing emergency, temporary, and longer term housing we assist families in reaching their housing, economic, health, education, and career goals through coaching, mentorship, and support as they strive to overcome homelessness and break the cycle of poverty for the next generation and beyond.
4. In 2011, I founded Thrive Detroit, a low-profit limited liability company that publishes a newspaper that vulnerably housed and people experiencing homelessness can sell to gain some income. In addition, we promote participation in other micro-businesses, such as windshield repair, to help our clients find meaningful and steady employment.
5. I was a Family Specialist at the Michigan Department of Human Services from 1988-2001.
6. I have a Master's of Science in Business Administration from Madonna University.
7. I oversee COTS' theory of change, our two-generation approach whereby we partner with families using a coaching modality to support their movement from poverty, to stability, to upward mobility, decreasing the likelihood of a return to homelessness. I am therefore aware of the burden that having a suspended driver's license places on those who are trying to build lives for themselves and their families.
8. In 2015, COTS provided 47,000 client-days of shelter. At any given time, I estimate that between 60-70% of our clients have or have had their driver's license suspended because they could not afford to pay traffic fines, court costs, or other fines and fees.
9. Not having a valid driver's license causes loss of and limits employment opportunities, makes it harder to receive adequate medical care, and makes it difficult for clients' children to remain in their original schools or get to a new school (despite McKinney Vento) because clients have no reliable means of transportation.

10. Public transportation in Detroit is not a viable alternative because it does not service suburban areas where most jobs are located and because it is fragmented and unreliable, meaning that parents cannot be sure to get to work or pick up their children on time.
11. For instance, over the years that I've worked in human services, I have encountered clients who had to turn down jobs—or were fired—because they had no way to get to their workplace reliably. I've also known of clients who had to pay late fees or pull their children out of daycare because public transportation could not get them to the location to pick up their children in a timely manner. Every week clients miss, or are late for, classes or coaching sessions because they are stranded when the bus does not come. Home visits are one solution to this barrier, but is not sustainable or feasible for the long-term. Families miss out on opportunities to participate in programs and resources beyond our own programs because transportation is an issue.
12. Trying to travel on Detroit's buses with small children is difficult and/or not safe in some areas before and after daylight.
13. Ending the practice of suspending driver's licenses for inability to pay fines, court costs, and fees would remove a significant barrier and assist in getting numerous families on their feet by opening up employment and educational opportunities.
14. The ability to drive strengthens families by reducing the time and difficulty of running errands, obtaining medical care, buying groceries and leaving more time for parents to spend quality time with their children reading, doing activities, or helping with schoolwork.

I declare under penalty of perjury that the statements above are true and correct. Executed on this 4 day of May, 2017.

A handwritten signature in red ink, appearing to read "Delphia Simmons", written over a horizontal line.

Delphia Simmons

Director of the Passport to Self-Sufficiency
Program

Coalition of Temporary Shelter (COTS)



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

Exhibit 6

April 19, 2017

Catherine Sevckenko, Legal Director
Equal Justice Under Law
400 7th Street NW
Suite 602
Washington, D.C. 20004

Freedom of Information Act Notice

Dear Ms. Sevckenko:

The Michigan Department of State (Department) acknowledges receipt of your request for information under the provision of the Michigan Freedom of Information Act (FOIA), 1976 PA442, MCL 15.231 et seq. dated April 11, 2017.

You have requested the following:

1. The total number of driver's license suspensions the Secretary of State has issued in the three most recent years for which information is available (e.g. 2013-2016), broken down by year.
2. The total number of driver's license suspensions the Secretary of State has issued during the same three-year period for failure to pay court fines, fees, costs, or assessments, broken down by year.
3. The total number of people who currently have suspended licenses because they have not paid court fines, fees, costs or assessments.

Requests 1 thru 3:

There are no reports available. The driver license status can change in real time based upon new entries or record corrections and any query would reflect the status at the time of the inquiry, and not what it was in the mentioned year. The Department can determine the number of various convictions sent in by court for a calendar year, but the driver license status would not be indicative of that year, but rather what it is current. We are including a Detailed Itemization of Fees document outlining the cost to provide such information.

CUSTOMER RECORDS DIVISION

SECONDARY COMPLEX • 7064 CROWNER DRIVE • LANSING, MICHIGAN 48918

www.Michigan.gov/sos

Freedom of Information Act Notice

April 19, 2017

Please submit a check made payable to the State of Michigan – Cashier Unit in the amount of \$5,558.00 and mail to 7064 Crouner Drive, Lansing, MI 48918, if you require the information for Items 1 thru 3 noted above.

4. The total number of people who have been cited for driving with a suspended license for reasons not related to reckless driving (e.g. drunk driver) during the same three-year period broken down by year.

Response:

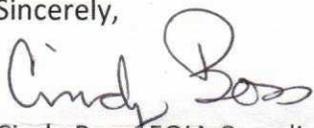
Code	Offense Code Description	FY2013	FY2014	FY2015	FY2016
3200	Drove While License Suspended/Revoked/Denied (DWLS)	41,817	41,666	40,826	38,829
3205	Drove CMV While License Suspended/Revoked/Denied/Cancelled	5	3	8	5
3235	Drove While License Suspended/Causing Death	19	10	10	23
3245	DWLS Causing Serious Injury	20	15	17	21

5. The total amount of Driver’s Responsibility Fees currently outstanding (latest figure) incurred for driving with a suspended license. Response:

Driver Responsibility Fee Assessment Counts for Fiscal Years 2013 - 2016		FY2013		FY2014		FY2015		FY2016	
Code	Offense Code Description/Amount (\$500 Assessments)	Assessed	Collected	Assessed	Collected	Assessed	Collected	Assessed	Collected
3200	Drove While License Suspended/Revoked/Denied (DWLS)	\$41,499,500.00	\$23,310,924.63	\$41,897,500.00	\$23,310,924.63	\$41,435,500.00	\$26,027,397.40	\$40,428,500.00	\$26,689,362.00
3235	Drove While License Suspended/Causing Death	\$14,000.00	\$4,141.50	\$13,000.00	\$5,329.00	\$10,500.00	\$4,551.00	\$15,500.00	\$3,074.00
3245	DWLS Causing Serious Injury	\$23,500.00	\$4,124.05	\$18,500.00	\$4,314.00	\$16,000.00	\$5,395.35	\$20,000.00	\$11,347.00
		\$41,537,000.00	\$23,319,190.18	\$41,929,000.00	\$23,320,567.63	\$41,462,000.00	\$26,037,343.75	\$40,464,000.00	\$26,703,783.00

If you have any questions, please contact me at (517) 636-0287.

Sincerely,



Cindy Boss, FOIA Coordinator
Michigan Department of State
Records Activity Unit

Enclosures

LIST OF EXHIBITS

Exhibit 1	Fowler Declaration
Exhibit 2	Harris Declaration
Exhibit 3	Driving Records
Exhibit 4	Herson-Hord Declaration
Exhibit 5	Simmons Declaration
Exhibit 6	FOIA Report