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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF THURSTON

DANIELLE PIERCE, AMANDA
GLADSTONE, JANIE COMACK, and
LACY SPICER,

Plaintiffs,

v.

DEPARTMENT OF LICENSING, a
Washington state agency, and TE-
RESA BERNTSEN, in her official ca-
pacity as Director of the Department of
Licensing

Defendants.

NO.

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

Plaintiffs bring this complaint for declaratory and injunctive relief on behalf of themselves and allege as follows:

I. Introduction

1. Plaintiffs in this lawsuit are Washington residents who have suffered indefinite suspension of their driver’s licenses because, like thousands of other people in Washington, they cannot afford to pay fines imposed for moving violations, especially when those fines are compounded with interest, additional fees and charges. Unfortunately, the consequences of being unable to pay can be severe and life-altering.

1 2. These consequences arise from Washington’s statutory regime that re-
2 quires license suspension—revocation of a driver’s ability to legally drive—to punish
3 drivers who fail to pay a fine or default judgment for a moving violation. This in turn
4 can trigger a cascading set of adverse consequences.

5 3. For those unable to pay, suspension of their driver’s license is auto-
6 matic and mandatory upon default. Courts are *required* to give notice of default to
7 the Department of Licensing (DOL), and may do so after only 15 days, if the indi-
8 vidual receives a traffic infraction notice and either fails to pay the fine or, upon
9 failing to appear in court, fails to pay the resulting default judgment. No statute
10 requires the court to consider whether the driver’s conduct is due to contumacy,
11 which the court may constitutionally punish, or poverty, which the court may not.
12 And once DOL receives the court’s notice, it is statutorily *required* to suspend an
13 individual’s driver’s license – again without a hearing to determine whether the
14 failure to pay was due to contumacy or an inability to pay the fine – in as few as 45
15 days.

16 4. As a result of these statutory requirements, hundreds of thousands of
17 Washingtonians have lost their licenses because they are simply too poor to pay a
18 ticket for a moving violation. It is estimated that at least 190,000 Washington resi-
19 dents have licenses that are suspended under this statutory scheme.¹

20 5. This effectively deprives drivers of lawful transportation needed to
21 take their children to school and to care for family members. It also prohibits these
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24 ¹ WASHINGTON STATE ATTORNEY GENERAL BOB FERGUSON, CONSOLIDATING TRAF-
25 FIC-BASED FINANCIAL OBLIGATIONS IN WASHINGTON STATE: RECOMMENDED PLAN AND
26 PROGRAM 33-34 (2017) (noting number of suspensions under RCW 46.20.289 was approxi-
 mately 190,000 in 2017).

1 drivers from driving to work to earn the very income they need to meet their finan-
2 cial obligations to the courts.²

3 6. License suspensions for those unable to pay fines, fees, and default
4 judgments for moving violations are not about public safety; individuals with means
5 retain their license even though they are guilty of the exact same infractions. Nor
6 do these suspensions arise from willful refusal to pay a fine; neither the court nor
7 DOL has found such willful or contumacious misconduct. Finally, this case does not
8 involve mandatory license suspensions for people convicted of driving under the in-
9 fluence or being habitual traffic offenders. Rather, the plaintiffs challenge the loss
10 of their driver's licenses because they were too poor to pay traffic fines, and therefore
11 lost their licenses while those able to pay fines for the same offenses retained theirs.

12 7. This statutory scheme—which requires the automatic suspension of a
13 driver's license for failing to pay a fine or judgment without an inquiry into the
14 driver's ability to pay—violates article I, section 3 of the Washington State Consti-
15 tution, which expressly states, “no person shall be deprived of life, liberty, or prop-
16 erty, without due process of law.”

17 8. According to a Department of Justice “Dear Colleague” Letter:

18 If a defendant's driver's license is suspended because of failure to pay
19 a fine, such a suspension may be unlawful if the defendant was de-
20 prived of his due process right to establish inability to pay. *See Bell v.*
21 *Burson*, 402 U.S. 535, 539 (1971) (holding that driver's licenses “may
22 become essential in the pursuit of a livelihood” and thus “are not to be
taken away without that procedural due process required by the Four-
teenth Amendment”). Accordingly, automatic license suspensions
premised on determinations that fail to comport with *Bell* and its prog-
eny may violate due process.³

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25 ² *Id.* at 13-14.

26 ³ UNITED STATES DEP'T OF JUSTICE, CIVIL RIGHTS DIV., OFF. FOR ACCESS TO JUS-
TICE, DEAR COLLEAGUE LETTER (Mar. 14, 2016), available at <https://bit.ly/3c7QhCx>.

1 26. If, on the other hand, the driver fails to respond to the notice of infrac-
2 tion or fails to appear at a requested hearing, a default judgment will be entered
3 that imposes prescribed fines and fees.

4 27. Once the driver is in default, RCW 46.63.070(6) provides that the court
5 “shall notify” DOL to suspend all driving privileges. The driver may avoid this out-
6 come, even after failing to appear or respond to an infraction, if the driver pays the
7 fine or default judgment in full, or, if available, enters into a payment plan.

8 28. When DOL receives notice from a court that a person has failed to re-
9 spond, failed to appear for a scheduled hearing, or failed to follow requirements im-
10 posed by the notice of infraction, including failure to pay fines and fees, RCW
11 46.20.289 provides that DOL “shall suspend all driving privileges” of the person.
12 The driver may avoid this outcome, simply by paying the fine or default judgment.
13 If a payment plan is available, a driver unable to pay the fine in full may also avoid
14 suspension by entering into such a plan.

15 29. DOL provides the driver 45 days advance written notice of the suspen-
16 sion, generally via U.S. mail. The driver is not entitled to a pre-suspension hearing.
17 The driver may request an administrative review within 15 days of receiving the
18 suspension notice, but absent a request for an interview by the driver, this review
19 is statutorily limited to an internal review of DOL records. Whether the adminis-
20 trative review is done through an interview or a paper review, RCW 46.20.245(2)(b)
21 limits the administrative review to two issues: whether the records identify the cor-
22 rect person and whether the information transmitted by the court accurately de-
23 scribes the action taken by the court or any other reporting agency. DOL’s review
24 procedures do not permit an inquiry into a driver’s ability to pay. In effect, ability to
25 pay is assumed, and contumacious misconduct is presumed . . . and punished.

1 30. Post-suspension review is similarly limited. To obtain judicial review
2 of the suspension, the driver must file a petition in superior court within 30 days of
3 the suspension to review the final order of revocation just as they would file an ap-
4 peal. RCW 46.20.308(9). However, the court is directed not to grant a stay or other
5 temporary relief “unless the court finds that the appellant is likely to prevail in the
6 appeal and that without a stay the appellant will suffer irreparable injury.” RCW
7 46.20.245(2)(e). Post-suspension review is merely a review of the administrative rec-
8 ord and addresses only whether the records relied on by the department identified
9 the correct driver. Ability to pay is not addressed in this proceeding.

10 31. In sum, once a court provides a notice of default or failure to pay, DOL
11 must automatically suspend the license without any consideration of a driver’s abil-
12 ity to pay at either a pre- or post-deprivation hearing.

13 **B. The State may not unconstitutionally punish the non-payment**
14 **of fines by those who are unable to pay them, and has a vari-**
15 **ety of tools at its disposal for assessing a driver’s ability to**
16 **pay.**

17 32. An ability-to-pay analysis is constitutionally required before the State
18 may impose sanctions for nonpayment of fines or fees. *See State v. Blank*, 131 Wn.2d
19 230, 242, 930 P.2d 1213 (1997); *State v. Curry*, 118 Wn.2d 911, 829 P.2d 166 (1992).

20 33. Without an inquiry into ability to pay, suspending a license to punish
21 the driver’s failure to pay necessarily rests on an assumption that the driver’s failure
22 to pay was intentional and contumacious. Any license suspension to punish or to
23 compel compliance with a judgment, if ordered without a hearing to determine
24 whether non-compliance was willful or, instead, was compelled by the driver’s gen-
25 uine inability to pay, violates the due process clause.

26 34. Yet DOL does not—indeed, may not—inquire into a driver’s ability to
pay when called on to suspend a license. Instead, DOL is statutorily required to

1 punish all failures to pay the same: as if they were willful. This violates the due
2 process rights of drivers who are unable to pay, and unconstitutionally punishes
3 them for their poverty.

4 35. There are many methods to assess an individual's ability to pay that
5 are available to DOL. In civil cases, people receiving various forms of needs-based,
6 means-tested public assistance – at any stage of a court proceeding – all qualify as
7 indigent and may obtain waiver of court fees. Washington Court Rules, General
8 Rule 34. Those with a household income, after taxes, of less than 125% of the federal
9 poverty guideline are considered per se indigent. Individuals with a household in-
10 come that exceeds 125% of the federal poverty guideline can still qualify as indigent
11 where basic living expenses render them unable to pay for court-related fees. *Id.*
12 Indigence is similarly determined when considering whether an individual needs
13 public defense. RCW 10.101.010(3). This shows that not only is there a need to de-
14 termine a driver's ability to pay before suspending a license, but that the state is
15 also capable of conducting a uniform ability-to-pay analysis.

16 **C. DOL has suspended the licenses of tens of thousands of drivers**
17 **whose failure to pay traffic fines was due not to willful or con-**
18 **tumacious misconduct, but to an inability to pay.**

19 36. Those who lack the means to pay fines for moving violations when the
20 fine is imposed are disproportionately subjected to Washington's mandatory and au-
21 tomatic license suspension laws.

22 37. Though a driver is entirely free of any willful or contumacious intent
23 to disregard a fine, financial reasons may nonetheless prevent the driver from mak-
24 ing timely, adequate payments. These include unemployment, temporary layoffs,
25 inconsistent or variable income, care-giving responsibilities, medical expenses, lim-
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1 ited income under needs-based, means-tested public assistance, the dramatic in-
2 crease in the total amount of the debt as interest and additional charges accrue,
3 incarceration, or a combination of some or all of these and other factors.

4 38. Some drivers whose financial situation prevents timely payment of the
5 fine may fail to appear in court altogether because they know that they are unable
6 to pay the infraction. Others may fail to appear in court because they are unable to
7 take time off from work, arrange childcare, or are in a position of instability due to
8 housing issues or mental or physical health issues.

9 39. Even drivers with a steady income may be living paycheck to paycheck
10 due to other financial needs or obligations—including rent, car payments, utilities,
11 healthcare, childcare, and food—and thus are unable to pay a moving violation fine
12 within the required fifteen days before they are in default and their license is sus-
13 pended. For those who must look to their next paycheck to cover a fine, fifteen days
14 is barely enough time if one is paid biweekly. Fifteen days is insufficient for those
15 who are paid monthly or who are on a fixed income such as social security.

16 40. If the driver is unable to pay the moving violation ticket before the li-
17 cense suspension, only rarely do changed circumstances make payment feasible
18 later. Even drivers whose finances improve enough to pay the original fine may face
19 additional fees and interest that preclude paying the total debt. For some drivers,
20 fees and interest increase the driver's total debt to the point that paying it off be-
21 comes essentially impossible. This difficulty is greatly compounded for those who
22 lose their freedom to commute to the workplace.

1 **D. Because court-ordered payment plans are often unavailable or**
2 **inadequate, they have failed to prevent DOL from punishing**
3 **drivers who are genuinely unable to pay fines for moving vio-**
4 **lations.**

5 41. The legislature by statute allows courts to provide some form of pay-
6 ment plans for traffic debt. For a number of reasons, this does not protect drivers
7 from the unconstitutional deprivation of their licenses.

8 42. First, there is wide discrepancy in the availability of payment plans.
9 Plans are available only “*if the court determines, in its discretion, that a person is*
10 not able to pay a monetary obligation in full.” RCW 46.63.110(6) (emphasis added).
11 Moreover, the Office of the Attorney General in Washington has found that about
12 half of courts do not offer any public information on payment plans.⁴

13 43. Even where payment plans are offered, their terms and conditions vary
14 widely between jurisdictions, and there is no requirement that they be affordable.
15 In fact, many courts and their agents, collection companies, require down payments
16 on accumulated traffic fines that are simply too large for many drivers to afford
17 thereby rendering payment plans inaccessible.

18 44. Moreover, rights under a payment plan are easily lost. If the driver
19 falls behind on payments and “is in noncompliance of any existing or prior payment
20 plan,” RCW 46.63.110(6) provides only that “the court may, *at its discretion, imple-*
21 ment a payment plan.” (Emphasis added.) And if a driver fails to pay on an existing
22 payment plan, DOL must suspend their privilege to drive. RCW 46.20.289.

23 ⁴ WASHINGTON STATE ATTORNEY GENERAL BOB FERGUSON, CONSOLIDATING TRAF-
24 FIC-BASED FINANCIAL OBLIGATIONS IN WASHINGTON STATE: RECOMMENDED PLAN AND
25 PROGRAM, COUNTY PROFILES, app. 2 (2017) (74 of 142 county and municipal courts appear
26 to provide payment plans in some form, although terms and conditions vary widely. The
 report authors could locate no publicly available information regarding the availability of
 a payment plan in the remaining courts.)

1 45. Further, if the driver “has previously been granted a payment plan,”
2 or if a driver incurs an additional moving violation, there is no statutory require-
3 ment that a court provide a payment plan for the subsequent ticket.

4 46. Likewise, there is no requirement that multiple jurisdictions coordi-
5 nate payment plans in order to make compliance with all of a driver’s financial re-
6 quirements possible. If a driver has debt in more than one jurisdiction, a common
7 situation, then to avoid license suspension the driver must make multiple competing
8 monthly payments in order to comply with multiple payment plans, assuming plans
9 are even offered. The failure to pay in any jurisdiction will likely result in license
10 suspension, even if the driver has paid or is on a payment plan in all other jurisdic-
11 tions.

12 47. Some jurisdictions offer relicensing programs that help individuals
13 consolidate their moving violation fines from multiple jurisdictions and waive col-
14 lection fees. But these programs often condition participation upon the driver’s pay-
15 ment of yet more fees.⁵

16 48. In sum, there is no statutory mandate that a court provide an individ-
17 ual more than one opportunity to comply with a payment plan, no requirement that
18 a plan be modified if changed financial circumstances warrant, and no mechanism
19 to consolidate traffic debts from multiple jurisdictions into a single, affordable, pay-
20 ment plan.

21 49. If a driver who successfully enters into a payment plan falls behind on
22 payments, the court remains under its statutory obligation to notify DOL, which
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24 ⁵ For example, the Relicensing Program in Spokane helps individuals consolidate
25 their traffic offense fines from multiple jurisdictions and waives collection fees. However,
26 eligible individuals are assessed a \$100 administrative fee. *See* [https://my.spokane-
city.org/courts/prosecutor/relicensing/](https://my.spokane-city.org/courts/prosecutor/relicensing/)

1 remains under its statutory mandate to suspend the driver's license without a hear-
2 ing regarding the driver's ability either to pay the original fine or to make payments
3 under a payment plan.

4 **E. License suspension can, and often does, lead to a cascading se-**
5 **ries of escalating financial obligations that punishes and per-**
6 **petuates poverty.**

7 50. Once a driver's license is suspended for failure to pay even though the
8 person is unable to pay, the court may turn over unpaid traffic debt to collection
9 agencies. Collection agencies are permitted to charge 12 percent interest annually,
10 RCW 19.52.020, plus a contingency fee up to 50 percent of the principal. RCW
11 19.16.500.

12 51. DOL will not reinstate a driver's license absent receipt of a certificate
13 from the court that the case has been adjudicated. This means one of three things:
14 the court eliminated the debt, the driver paid the debt, or the driver entered into a
15 payment plan.

16 52. Meanwhile, those whose circumstances force them to drive without a
17 valid license are often charged with driving while license suspended or revoked in
18 the third degree (DWLS3). Unlike higher degrees of this offense, which require a
19 license suspension tied to public safety concerns such as driving under the influence
20 and habitual offenses, DWLS3 requires only driving with a suspension for failure to
21 pay or appear in court for a prior moving violation. RCW 46.20.342(1)(c)(iv).

22 53. DWLS3 is a misdemeanor and is the most commonly charged crime in
23 Washington State.⁶ DWLS3 carries a maximum penalty of 90 days in jail and a

24 ⁶ ACLU WASHINGTON FOUNDATION, DRIVEN TO FAIL: THE HIGH COST OF WASHING-
25 TON'S MOST INEFFECTIVE CRIME-DWLS III, 4, 20 (Feb. 21, 2017), [https://www.aclu-](https://www.aclu-wa.org/docs/driven-fail-high-cost-washingtons-most-ineffective-crime)
26 [wa.org/docs/driven-fail-high-cost-washingtons-most-ineffective-crime](https://www.aclu-wa.org/docs/driven-fail-high-cost-washingtons-most-ineffective-crime). "When comparing
DWLS III charges to arrest data, it's apparent that there were more DWLS III filings in
2015 (37,754) than arrests for the most commonly cited crimes in 2015 - DUI (23,485),
Larceny (22,912), Simple Assault (21,015). Arrest data retrieved from WASHINGTON ASS'N

1 \$1,000 fine. RCW 46.20.342(1)(c)(iv). Of course, those unable to pay the initial in-
2 fraction which led to the original license suspension are invariably unable to pay
3 this second fine, typically larger than the initial infraction. If the driver is compelled
4 to continue to drive by financial or other circumstances, such as the need to commute
5 to work, the imposition of this second fine operates as a further hurdle that prevents
6 restoration of the driver's license. This in turn raises the prospect of further DWLS
7 arrests, further fines, further interest, a cascading set of fees and penalties so high
8 that no one of limited means has any realistic prospect of ever paying them.

9 54. Thus, under this scheme, drivers who are unable to pay traffic fines for
10 moving violations disproportionately face license suspensions, higher payments for
11 the same traffic violation compared to their peers, and criminal charges for driving
12 without a license, even when essential or emergency needs compel them to drive.

13 55. As a result, automatic license suspension traps tens of thousands of
14 drivers in a cycle of accumulating moving violation fines, fees, interest, and court
15 debts that they are increasingly unable to pay, effectively depriving them indefi-
16 nitely of the ability to legally drive.

17 56. License suspension disproportionately affects the poor because the rea-
18 son most drivers do not pay their traffic fine within the necessary time frame is that
19 they cannot afford to do so. A 1999 study of 187 individuals with a suspended license
20 in Seattle found that the average person had \$2,095 in unpaid fines, but a monthly
21 income of only \$810.⁷

22 _____
23 OF SHERIFFS AND POLICE CHIEFS, 2015 CRIME IN WASHINGTON ANNUAL REPORT 54, re-
24 trieved Nov. 22, 2016 at [http://www.waspc.org/assets/ CJIS/crime%20in%20washing-
ton%202015.small.pdf](http://www.waspc.org/assets/CJIS/crime%20in%20washing-
ton%202015.small.pdf).

25 ⁷ Task Force on Race and the Criminal Justice System, *Preliminary Report on Race*
26 *and Washington's Criminal Justice System*, 2011, [http://law.seattleu.edu/Documents/kore-
matsu/race%20and%20criminal%20justice/preliminary%20report%20-%20final%20re-
lease%20march%201%202011%20for%20printer%202.pdf](http://law.seattleu.edu/Documents/kore-
matsu/race%20and%20criminal%20justice/preliminary%20report%20-%20final%20re-
lease%20march%201%202011%20for%20printer%202.pdf).

1 57. This happens in large part because of the escalating series of fees,
2 charges, and interest that are tacked on to the original fine. For example, under this
3 statutory scheme, a \$136 moving violation infraction will increase due to the nu-
4 merous fees added. A \$52 “Failure to Appear or Respond” fee brings the debt to
5 \$188.⁸ With the added 50% contingency fee for the collection agent, the debt in-
6 creases to \$282. The additional 12% interest the collections agency would add brings
7 the total to \$315.84 after just one year. As this example shows, those unable to pay
8 their initial infraction can quickly end up with a payment obligation that is more
9 than double that of those who have the means to timely pay.

10 58. If the driver is able to pay off the debt over time and then attempts to
11 reinstate their license, the driver must also pay an additional \$75 “reissue fee” to
12 DOL. RCW 46.20.311(e)(i). This would bring the example \$136 moving violation up
13 to \$390.84, almost three times the amount a driver who could afford to pay the ticket
14 right away would pay.

15 59. This calculation does not account for the impact of work or life circum-
16 stances that force someone to drive.

17 60. If out of necessity the individual then drives with a suspended license
18 and is charged with DWLS3, the consequences often include up to a \$1,000 fine, plus
19 a \$43 conviction fee and a number of days in jail.⁹ Incarceration frequently spells
20 the end of employment and the jailed driver generally fails to pay fines due to incar-
21 ceration.

24 ⁸ Washington Courts, JIS Link Codes, [https://www.courts.wa.gov/jislink/pub-](https://www.courts.wa.gov/jislink/public/codes/CLJ/costfee.htm)
25 lic/codes/CLJ/costfee.htm

26 ⁹ Washington Courts, JIS Link Codes, [https://www.courts.wa.gov/jislink/pub-](https://www.courts.wa.gov/jislink/public/codes/CLJ/costfee.htm)
lic/codes/CLJ/costfee.htm

1 61. Thus, drivers who were initially charged with a simple moving viola-
2 tion and a \$136 fine, time and again find themselves overwhelmed with over a thou-
3 sand dollars of debt and still further away from reinstating their licenses.

4 62. According to the Washington Center for Court Research, in 2006 and
5 2007 only 43 percent of individuals charged with DWLS3 made any payments on
6 their fines, while 80 percent of individuals charged with negligent driving were able
7 to pay.¹⁰ This suggests that a significant portion of those charged with DWLS3 lost
8 their license in the first instance due to their inability to pay, and that those indi-
9 viduals who can pay their fines do.

10 63. In response to a Public Records Act request, DOL indicated that be-
11 tween approximately September 2018 and December 2019, of 336,389 notices of sus-
12 pension for failure to appear, pay, or comply with a moving violation, 126,423 of
13 those suspensions did not go into effect.¹¹ This suggests that those who are able to
14 pay do so upon receiving notice of a suspension in order to avoid the suspension.

15 64. The COVID-19 public health emergency has only made the economic
16 impacts of not having a valid driver's license worse. As the Washington Supreme
17 Court reported – in an order authorizing courts to delay reporting license suspen-
18 sions to DOL during the public health emergency – the “limited ability of in-person
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22 ¹⁰ WASHINGTON STATE CENTER FOR COURT RESEARCH, COLLECTION OF PENALTY
23 AND FEES: COMPARING DWLS 3 AND NEGLIGENT DRIVING CASES, prepared for a presenta-
24 tion to a committee of the Washington's District and Municipal Court Judges' Association,
25 2009. Hard copy on file with ACLU of Washington.

26 ¹¹ Washington Department of Licensing Public Records – Email Correspondence
 December 2019 – “Since September 2018, DOL has issued 336,389 notices of suspension
 for failure to appear, pay, or comply. 126,423 of those sanctions did not go into effect.”

1 proceedings to address matters relating to license suspensions for non-criminal mat-
2 ters has had a negative economic impact on individuals across the state.”¹²

3 65. DOL’s violation of the constitutional rights of Plaintiffs and other driv-
4 ers thus has significant adverse consequences. By punishing poverty, DOL perpet-
5 uates poverty.

6 **F. The automatic suspension of driver’s licenses harms liveli-
7 hoods.**

8 66. The harms of license suspension are not limited to the fines and other
9 penalties that are imposed on a driver. Because a driver’s license is very often es-
10 sential to meet basic life needs such as gainful employment, familial responsibilities,
11 and access to food and medical care, the suspension of a license has other financial
12 and emotional impacts.¹³

13 67. A car and the ability to drive it legally are often critical to getting and
14 keeping a job. For example, having a driver’s license is a very common requirement
15 for opportunities in construction, manufacturing, security, and plumbing.¹⁴

16 68. The Census’ 2010 American Community Survey found that 72.3 per-
17 cent of Washingtonians drive alone to get to work, whereas only 9.1 percent use

20 ¹² Order Authorizing Delayed Reporting to Department of Licensing of Failures to
21 Appear, No. 25700-B-640, (Wash. Sep. 10, 2020), available at <https://bit.ly/32D9Sr5>.

22 ¹³ See, e.g., Robert Cervero, et al., *Transportation as a Stimulus of Welfare-to-Work:
23 Private versus Public Mobility*, 22 J. PLAN. EDUC. & RES. 50 (2002); Alan M. Voorhees,
24 et al., *Motor Vehicles Affordability and Fairness Task Force: Final Report*, at xii (2006),
25 available at https://www.state.nj.us/mvc/pdf/about/AFTF_final_02.pdf (a study of sus-
pended drivers in New Jersey, which found that 42% of people lost their jobs as a result of
the driver’s license suspension, that 45% of those could not find another job, and that this
had the greatest impact on seniors and low income individuals).

26 ¹⁴ Alana Semuels, *No Driver’s License, No Job*, THE ATLANTIC, June 15, 2016,
<https://www.theatlantic.com/business/archive/2016/06/no-drivers-license-no-job/486653/>

1 public transportation or walk.¹⁵ In Seattle, 91 percent of the employed population
2 has a valid driver’s license, compared to just 67 percent of the unemployed popula-
3 tion.¹⁶

4 69. The loss of a driver’s license often results in hardship for individuals
5 and their families. Without a license, dropping children off at school, attending doc-
6 tors’ appointments, and buying groceries become significantly more difficult.¹⁷
7 These difficulties may preclude the very employment needed to earn the money re-
8 quired to pay a court fine.

9 70. Many of these harms are magnified during the current COVID-19 pan-
10 demic. Even where public transportation is available, people—especially those at
11 high risk—may feel unsafe on public conveyances. It can be unsafe to drive any dis-
12 tance with other people, so asking for rides can be risky as well. The need for a
13 license is even greater in light of these dangers. The Washington Supreme Court
14 acknowledged these impacts in its order authorizing courts to delay reporting li-
15 cense suspensions to DOL during the public health emergency, stating that “access
16 to public transportation is limited and where available, may pose an increased risk
17 to some populations and there are many populations for whom the utilization of a
18 vehicle is the only means of transportation for employment, medical needs, and es-
19 sential services.”¹⁸

21 ¹⁵ United States Census Bureau, 2010 American Community Survey,
22 <https://www.census.gov/programs-surveys/acs/>.

23 ¹⁶ Margy Waller, Jennifer Doleac, and Ilsa Flanagan, *Driver’s License Suspension*
Policies, Brookings Institution, June 2005, p. 116, [http://www.aecf.org/m/re-](http://www.aecf.org/m/re-sourcedoc/AECFdriverslicensesuspensionpolicies-2005.pdf)
24 [sourcedoc/AECFdriverslicensesuspensionpolicies-2005.pdf](http://www.aecf.org/m/re-sourcedoc/AECFdriverslicensesuspensionpolicies-2005.pdf).

25 ¹⁷ Meghan Keneally, ‘It’s not America’: 11 million go without a license because of
unpaid fines, ABC News, Oct 25, 2019, [https://abcnews.go.com/US/vicious-cycle-11-mil-](https://abcnews.go.com/US/vicious-cycle-11-million-live-drivers-license-unpaid/story?id=66504966)
26 [lion-live-drivers-license-unpaid/story?id=66504966](https://abcnews.go.com/US/vicious-cycle-11-million-live-drivers-license-unpaid/story?id=66504966)

¹⁸ See note 12.

1 71. In *City of Redmond v. Moore*, the Washington Supreme Court recog-
2 nized that revocation of a license imposes a significant financial hardship on indi-
3 gent individuals. 151 Wn.2d 664, 91 P.3d 875 (2004).

4 72. In rural Washington, if public transportation even exists, the nearest
5 public transportation stop is often many miles away, so public transportation is fre-
6 quently not an option. With a suspended license in a rural area such as Suncrest,
7 Mount Rainier, or Mead, driving is the only option to go to school, grocery shop, and
8 attend doctor's appointments.¹⁹

9 73. Drivers with disabilities in rural areas face additional layers of hard-
10 ship. Getting to a doctor's appointment may require a roundtrip journey of many
11 dozens of miles, which is nearly impossible to undertake without a car and a license.
12 For someone with physical complications, such as a degenerative disc disease, walk-
13 ing to the bus stop daily is an extra challenge.²⁰

14 74. Many drivers whose licenses are suspended for failure to pay must
15 make the difficult choice to forgo basic necessities in an effort to pay off their debt
16 and reinstate their license. Many drivers forgo paying for food and groceries, utili-
17 ties (including electricity, gas, and water bills), rent, and even other court fines in
18 an effort to get their license back.²¹

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21
22
23 ¹⁹ CENTER FOR JUSTICE, VOICES OF SUSPENDED DRIVERS 6.

24 ²⁰ *Id.* at 7.

25 ²¹ Karin D. Martin, *Mitigating and Understanding the Nature, Extent, and Harms*
26 *of Criminal Justice Debt in Pierce County*, Report to the West Coast Poverty Center (May
15, 2019), p 5.

1 **G. The automatic suspension of driver’s licenses for failure to**
2 **pay a moving violation fine without determining the driver’s**
3 **ability to pay the fine disproportionately harms people of**
4 **color.**

5 75. The impacts of license suspensions on those who genuinely cannot af-
6 ford to pay traffic fines are disproportionately borne in communities of color.

7 76. People of color are disproportionately cited for traffic violations. In
8 2012, a Washington State task force on race and criminal justice found that minority
9 drivers are cited more frequently and charged with more serious offenses than white
10 drivers.²² In 2000, the Seattle Times reported that Black drivers in the city had
11 twice the risk of getting a ticket over white drivers.²³ More recent data from 2017
12 showed that the disparity has only worsened and that Black drivers are issued 2.6
13 times more traffic infractions per capita than white drivers, while Latinx drivers
14 are subject to 1.7 times as many traffic infractions as compared to white drivers.²⁴

15 77. Additionally, people of color are assessed higher amounts than their
16 white peers and are more likely to face criminal charges for driving with a sus-
17 pended license. In Pierce County, according to research from the University of
18 Washington, “race is also a significant driver for the LFO amount owed for traffic
19 infraction offenses...being Black or Native American is associated with owing

21 ²² Task Force on Race and Criminal Justice, *Racial Disparity in Traffic Stops*,
22 [https://law.seattleu.edu/Documents/korematsu/race%20and%20criminal%20jus-](https://law.seattleu.edu/Documents/korematsu/race%20and%20criminal%20justice/Handout,%20Traffic%20Stops.pdf)
23 [tice/Handout,%20Traffic%20Stops.pdf](https://law.seattleu.edu/Documents/korematsu/race%20and%20criminal%20justice/Handout,%20Traffic%20Stops.pdf)

24 ²³ Andrew Garber, Seattle blacks twice as likely to get tickets, THE SEATTLE TIMES,
25 June 14, 2000, [http://community.seattletimes.nwsour.com/ar-](http://community.seattletimes.nwsour.com/archive/?date=20000614&slug=4026674)
26 [chive/?date=20000614&slug=4026674](http://community.seattletimes.nwsour.com/archive/?date=20000614&slug=4026674)

²⁴ Laura Bliss, *The Disparate Financial Impact of the American Justice System*,
 Bloomberg, August 11, 2020, [https://www.bloomberg.com/news/articles/2020-08-11/seattle-](https://www.bloomberg.com/news/articles/2020-08-11/seattle-fines-and-fees-hit-black-residents-harder)
 [fines-and-fees-hit-black-residents-harder.](https://www.bloomberg.com/news/articles/2020-08-11/seattle-fines-and-fees-hit-black-residents-harder)

1 \$61.22 and \$167.82 more, respectively, compared to being White.”²⁵ A recent study
2 of financial sanctions imposed by the Seattle Municipal Court found that “[p]eople
3 of color have a higher likelihood than white people to be charged with a DWLS3
4 following a Seattle Municipal Court legal financial obligation sentence. This is es-
5 pecially pronounced for Black Seattle drivers.”²⁶

6 78. Communities of color are also disproportionately impoverished in
7 Washington as compared to their white peers. In Seattle, white households have a
8 median net worth of around \$450,000 while Black households net worth is only
9 about \$23,000.²⁷ Thus, not only do the racial disparities in the enforcement of Wash-
10 ington’s laws and the heightened assessment of their fines make people of color more
11 likely to face court debt, but Washington’s racial wealth divide means that people of
12 color are more likely to face the harsh punishments placed upon those who cannot
13 afford to pay.

14 79. The evidence tracks this logic, confirming that disproportionate pun-
15 ishment and poverty lead to disproportionate license suspensions for people of color.
16 Analysts for the City of Seattle observed that the default rate for traffic infractions
17 among African Americans between 2000 and 2005 was 62 percent compared to 32

20 ²⁵ Karin D. Martin, *Mitigating and Understanding the Nature, Extent, and Harms*
21 *of Criminal Justice Debt in Pierce County*, Report to the West Coast Poverty Center (May
15, 2019), on file with the ACLU of Washington.

22 ²⁶ Frank Edwards and Alexis Harris, *An Analysis of Court Imposed Monetary*
23 *Sanctions in Seattle Municipal Courts, 2000-2017*, pg. 6, Report Prepared for The City of
24 Seattle, Office of Civil Rights, July 28, 2020, available at <https://osf.io/pre-prints/socarxiv/ajpqc/>.

25 ²⁷ Gene Balk, *Seattle household net worth ranks among top in nation – but wealth*
26 *doesn’t reach everyone*, THE SEATTLE TIMES, February 19, 2019, <https://www.seattletimes.com/seattle-news/data/seattle-household-net-worth-ranks-among-top-in-nation-but-wealth-doesnt-reach-everyone/>

1 percent for white drivers.²⁸ Consequently, African Americans disproportionately
2 suffered license suspensions for failure to pay. Between 2000 and 2009, African
3 American drivers accounted for between 37 and 46 percent of DWLS3 cases in Se-
4 attle Municipal Court, although they comprised less than 8 percent of the city’s pop-
5 ulation.²⁹

6 80. In its Order authorizing courts to delay reporting license suspensions
7 to DOL during the public health emergency, the Washington Supreme Court has
8 acknowledged these disparate impacts. Specifically, the Court took notice that “li-
9 cense suspension for non-criminal reasons disproportionately affects historically
10 marginalized communities.”³⁰

11 81. Suspending licenses as a punishment for debt not only disproportion-
12 ately harms people of color, but also harms people of color to a greater extent than
13 their white peers.

14 **H. Washington’s automatic license suspension policy is unsafe**
15 **and counterproductive.**

16 82. Failing to pay for a moving violation under Washington’s License-for-
17 Payment scheme is not a safety issue and should not be treated the same way that
18 impaired driving and habitual offenders are treated – by suspending licenses. After
19 all, a driver with an identical moving violation but with the ability to pay the ticket
20 is allowed to stay on the road; it is only drivers who do not or cannot pay the ticket
21 who have their license suspended.

22
23 ²⁸ City of Seattle, Office of Policy and Management, *Memorandum, re - DWLS and*
24 *Traffic Infraction Revenues*, June 28, 2005, p. 2. Hard copy on file with ACLU of Washing-
25 ton

26 ²⁹ City of Seattle, Office of Policy and Management, *SMC Traffic Cases*, PPT
Presentation, November 2009, slide 9. Hard Copy on File with ACLU of Washington.

³⁰ See note 12.

1 83. Moreover, there is no evidence that jurisdictions that suspend licenses
2 are safer than those that don't. National rankings show that the states that have
3 "decriminalized" the failure to pay fines—such as Indiana, Maine, New Jersey, Or-
4 egon, Vermont, and Wisconsin—have comparable or better records than Washing-
5 ton when it comes to uninsured driver rates ³¹ and traffic fatality rates.³²

6 84. In fact, suspending driver's licenses for unpaid debts ends up costing
7 police, DOL, and the courts significant resources, thus diverting resources away
8 from addressing conduct that truly affects public safety. In 2013, when Washington
9 instituted an amnesty program for drivers with suspended licenses, it saved an es-
10 timated 4,500 hours of patrol officers' time.³³

11 85. Furthermore, without a license, a driver cannot qualify for car insur-
12 ance. Automatic driver's license suspension for unpaid fines likely increases rather
13 than decreases the number of unlicensed, uninsured drivers on the road.

14 86. Lastly, research has consistently found that having a valid driver's li-
15 cense can be crucial to individuals' ability to maintain a job, pursue educational
16

17
18 ³¹ Richie Bernardo, Wallet Hub, *2015's Most and Least Risky State for Driver's Wal-*
19 *lets*, January 14, 2015, retrieved November 22, 2016 at [https://wallethub.com/edu/most-](https://wallethub.com/edu/most-and-least-risky-states-for-driverswallets/9446/)
20 [and-least-risky-states-for-driverswallets/9446/](https://wallethub.com/edu/most-and-least-risky-states-for-driverswallets/9446/). ("Safety Rank" based on liability insurance
21 requirements, or types of insurance required, and estimated percent of uninsured drivers:
22 Indiana – Tie 36, Maine – 1, New Jersey – 18, Oregon – Tie 7, Vermont – Tie 50, Wisconsin
23 – Tie 27, Washington Tie 42).

24 ³² Michael Sivak, *Road Safety in the Individual US States: Current Status and Re-*
25 *cent Changes*, July 2014, retrieved November 22, 2016 at [https://deep-](https://deep-blue.lib.umich.edu/bitstream/handle/2027.42/108252/103020.pdf?sequence=1)
26 [blue.lib.umich.edu/bitstream/handle/2027.42/108252/103020.pdf?sequence=1](https://deep-blue.lib.umich.edu/bitstream/handle/2027.42/108252/103020.pdf?sequence=1). Rankings –
"Fatality rates per distance driven in the individual states, 2012. (Calculated from infor-
mation in NHTSA [2014] and FHWA [2014].)": Indiana – 15, Maine – 26, New Jersey – 6,
Oregon – 19, Vermont – 21, Wisconsin – 20, Washington 5.

³³ Shaila Dewan, *Driver's License Suspensions Create Cycle of Debt*, N.Y. Times
(Apr. 15, 2015). [https://www.nytimes.com/2015/04/15/us/with-drivers-license-suspensions-](https://www.nytimes.com/2015/04/15/us/with-drivers-license-suspensions-a-cycle-of-debt.html)
[a-cycle-of-debt.html](https://www.nytimes.com/2015/04/15/us/with-drivers-license-suspensions-a-cycle-of-debt.html)

1 opportunities, and care for families. Without a license, drivers cannot work to pay
2 their court fines, making the practice of suspension counterproductive.³⁴

3 **I. Plaintiffs have each suffered the deprivation of their driver's**
4 **licenses due to their failure to pay fines they were unable to**
5 **pay.**

6 **1. Plaintiff Danielle Pierce**

7 87. Danielle Pierce is a 33-year-old resident of Everett who driver's license
8 has been suspended for almost nine years for failing to pay traffic fines. Ms. Pierce
9 has been unable to pay fines and fees from moving violations due to substance ad-
10 diction and poverty.

11 88. In 2010, Ms. Pierce had surgery and was prescribed opioids for pain
12 management. Like so many Americans, she became addicted to the opioid medica-
13 tion. As a result, Ms. Pierce struggled with addiction to controlled substances,
14 mostly heroin and methamphetamine, for 8-9 years.

15 89. In 2011, while she was suffering from drug addiction, Ms. Pierce re-
16 ceived a \$175 speeding ticket, which is a moving violation.

17 90. She was unemployed at the time and living in her car. She could not
18 afford to pay the ticket, so she did not pay it.

19 91. As a result, her driver's license was suspended on March 18, 2012, for
20 failure to pay the ticket amount in addition to a \$52 failure to respond fee which the
21 court added when she failed to pay. No determination of Ms. Pierce's ability to pay
22 was made prior to the suspension.

23 ³⁴ See, e.g., Robert Cervero, et al., *Transportation as a Stimulus of Welfare-to-Work:*
24 *Private versus Public Mobility*, 22 J. PLAN. EDUC. & RES. 50 (2002); Alan M. Voorhees,
25 et al., *Motor Vehicles Affordability and Fairness Task Force: Final Report*, at xii (2006),
26 available at http://www.state.nj.us/mvc/pdf/About/AFTF_final_02.pdf (a study of sus-
pended drivers in New Jersey, which found that 42% of people lost their jobs as a result of
the driver's license suspension, that 45% of those could not find another job, and that this
had the greatest impact on seniors and low income individuals).

1 92. Over the next several years, Ms. Pierce struggled with addiction and
2 was unemployed and homeless.

3 93. She also received several additional traffic tickets, as well as five
4 DWLS3 convictions. Many of the tickets and all of the DWLS3 charges stemmed
5 from her license suspension for failure to pay the moving violation. Ms. Pierce re-
6 ceived tickets for operating a vehicle without insurance, but she could not purchase
7 insurance because a license is required to purchase insurance.

8 94. Many of these tickets and convictions resulted in additional license
9 suspensions when Ms. Pierce failed to pay the judgment amounts.

10 95. These additional license suspensions also occurred without a determi-
11 nation of Ms. Pierce's ability to pay the fines.

12 96. At no point was Ms. Pierce able to pay for the original ticket and have
13 her license reinstated, nor could she afford to pay any of the subsequent tickets.

14 97. In 2017, Ms. Pierce was charged with unlawful possession of a con-
15 trolled substance. This experience was a wakeup call for her, and she was afraid she
16 was going to die because of her addiction. This motivated her to enter drug court,
17 which she successfully completed in June 2019.

18 98. Ms. Pierce has been clean and sober since January 13, 2018.

19 99. In September 2018, Ms. Pierce got a job at Angel of the Winds Arena
20 in the cleaning department and worked her way up to the Operations department.
21 Her hours depended on the schedule at the arena, ranging from 25-65 hours a week,
22 at \$16 an hour.

23 100. Ms. Pierce needs a driver's license to transport herself to and from her
24 employment.

25 101. With assistance from the Everett Housing Authority, Ms. Pierce was
26 able to secure housing in March of 2019.

1 102. As she was nearing the end of the drug court program, Ms. Pierce sub-
2 mitted a letter to the court requesting relief from the original moving violation based
3 on her financial circumstances. Upon review, the judge waived the fine and closed
4 the case on May 1, 2019.

5 103. But by this time, Ms. Pierce still owed approximately \$17,000.00 on
6 other traffic tickets and the DWLS3 convictions. This total included over \$9,500 in
7 court costs, collection fees, and interest. Ms. Pierce also has medical debts and other
8 legal financial obligations.

9 104. Ms. Pierce's traffic tickets originated in multiple courts: Marysville
10 Municipal, Everett Municipal, and Snohomish County District Courts. The original
11 ticket amounts imposed totaled approximately \$10,787.00.

12 105. The ticket fines were sent to a collections agency, AllianceOne Receiv-
13 ables Management, Inc. ("ARMI"), when Ms. Pierce was unable to pay.

14 106. Due to added collections fees, garnishment costs, and interest, the prin-
15 cipal balance on the traffic tickets ballooned to approximately \$17,486.

16 107. At no point was Ms. Pierce able to pay this amount.

17 108. Ms. Pierce has a fifteen-year old daughter. After Ms. Pierce's housing
18 and employment were stable, her daughter came to live with her in September 2019.
19 Before that, Ms. Pierce's daughter had lived with Ms. Pierce's sister for one year and
20 then her father for several months.

21 109. Ms. Pierce needs a driver's license to transport her daughter to and
22 from school, and to other activities. Prior to COVID-19, her daughter was going to
23 school outside the school district and Ms. Pierce had to drive her to school daily.

24 110. On or about April 3, 2019, and November 27, 2019, ARMI filed two
25 separate garnishment actions against Ms. Pierce to collect the traffic infraction debt.
26

1 The garnishment amounts ranged from \$238 to \$300 per paycheck, depending on
2 the size of her paycheck.

3 111. After ARMI began garnishing her wages on the first garnishment ac-
4 tion, Ms. Pierce was able to work with ARMI to set up a payment plan. In exchange,
5 ARMI agreed not to renew the first garnishment action. The lowest monthly plan
6 ARMI would give Ms. Pierce required a \$250 payment each a month. At that time,
7 Ms. Pierce's monthly income averaged approximately \$2,500-3,000 a month, and her
8 monthly rent alone was \$1,113. After rent and living expenses, as well as other
9 debts, a \$250 a month payment plan was more than she could afford, but she had
10 no choice but to agree to the plan in order to stop her wages from being garnished
11 in an even greater amount.

12 112. In February 2020, ARMI began garnishing her wages under the second
13 garnishment action for approximately \$710 a month. Combined with the payment
14 plan for the first garnishment action, Ms. Pierce paid approximately \$1,000 to ARMI
15 to satisfy traffic infraction debt.

16 113. Ms. Pierce had attempted to negotiate a payment plan with ARMI for
17 all her tickets, rather than having multiple payment plans and wage garnishments.
18 ARMI would only allow her to have one payment plan for all of her tickets if she
19 made a \$4,000 down payment and agreed to a \$300 monthly payment plan. Ms.
20 Pierce did not have the funds for the down payment, so ARMI denied her a single
21 payment plan and began garnishing her wages shortly thereafter.

22 114. In Ms. Pierce's experience, it was only after ARMI began garnishing
23 her wages that they were willing to work with her to get on a payment plan.

24 115. Only a portion of Ms. Pierce's tickets resulted in driver's license sus-
25 pensions. ARMI does not allow her to prioritize paying off those tickets that resulted
26 in suspension in order to reinstate her driver's license.

1 116. In late March 2020, Ms. Pierce temporarily lost her job due to
2 COVID-19. She was unemployed until early June 2020. She is now working close
3 to full time and has received a raise to \$20 an hour. Her take-home pay for July
4 through September ranged from approximately \$2,500 to \$2,548 (excluding two
5 wage refunds she received from the Washington Department of Revenue because
6 they has previously garnished her wages in excess of the amount she owed to that
7 agency).

8 117. On April 16, 2020, in response to a motion for relief filed by the North-
9 west Justice Project (NJP) on Ms. Pierce's behalf and based on Ms. Pierce's inability
10 to pay, the Everett Municipal Court entered an order recalling the traffic infraction
11 fines from collections, waiving interest and fees, and reducing the principal amount
12 owed from \$2,104 to \$1,000. The court authorized a payment plan in the amount of
13 \$15 a month or community service in the amount of 74 hours.

14 118. On July 7, 2020, in response to a motion for relief filed by NJP on Ms.
15 Pierce's behalf and based on Ms. Pierce's inability to pay, the Marysville Municipal
16 Court entered an order recalling the traffic infraction fines and legal financial obli-
17 gations from collections, waiving interest and fees, and reducing the principal. The
18 court reduced the total amount owed on the traffic infractions from \$3,447.48 to
19 \$632.05. The court authorized a payment plan in the amount of \$20 a month for the
20 traffic infractions and legal financial obligations.

21 119. Ms. Pierce still owes approximately \$10,481 on the traffic tickets filed
22 in the Snohomish County District Court. The principal balance she owes is approx-
23 imately \$5,318. Ms. Pierce cannot afford to pay this amount. Yet due to many of
24 these tickets, Ms. Pierce's driver's license remains suspended.

25 120. Ms. Pierce accepts responsibility for the underlying traffic infractions
26 she has been charged with and has not disputed. But she needs a workable payment

1 plan and her license back in order to be able to work to pay her tickets, and to take
2 care of her daughter. Due to the additional \$5,163 in fees, interest, and collections
3 costs – incurred due to her inability to pay them – the amount Ms. Pierce owes is so
4 high that with her current assets and income she has no real hope of paying off the
5 debt and getting her driver’s license back.

6 121. Ms. Pierce remains dependent on car transportation to meet many of
7 her needs. She fears getting another DWLS3 charge and fine, which would only
8 serve to place her driver’s license further out of reach and add to her insurmountable
9 debts.

10 122. Ms. Pierce also fears using public transportation due to the ongoing
11 COVID-19 pandemic.

12 123. Ms. Pierce has worked extremely hard to put her life back together over
13 the last few years. She is afraid that these inflated traffic debts or another ticket
14 could take everything away that she worked so hard for.

15 **2. Plaintiff Amanda Gladstone**

16 124. Plaintiff Amanda Gladstone is 29 years old. She has never had a
17 driver’s license because she has lived in poverty since she was of driving age. For 11
18 years, her driving privileges have been suspended due to fines and fees incurred for
19 traffic infractions and driving while license suspended.

20 125. Ms. Gladstone is an enrolled Nooksack Tribal member and a single
21 mother of three young children, ages 11, 7, and 4. She lives on the Nooksack reser-
22 vation in eastern Whatcom County, where public transportation options are limited.

23 126. In October 2009, when she was 18 years old, Ms. Gladstone received
24 her first ticket, for driving without a license, insurance, or vehicle registration. The
25 ticket was for \$460. Whatcom County District Court entered into a payment plan
26

1 with Ms. Gladstone, and Ms. Gladstone paid \$50 towards her fine. When she de-
2 faulted on the payment plan, the court assigned the debt to a collection agency.

3 127. For about six months in 2009, Ms. Gladstone was in a work program
4 that also assisted her in getting her GED. Through the program, she made \$7 an
5 hour working part-time. Given Ms. Gladstone's minimal income and resources, she
6 was not able to pay the ticket. Due to her inability to the pay the ticket, DOL sus-
7 pended her driver's privilege and therefore her ability to get a driver's license. No
8 determination of Ms. Gladstone's ability to pay was made prior to the suspension.

9 128. Over the years, the amount of the ticket increased due to additional
10 fees, costs, and interest.

11 129. Ms. Gladstone was predominately unemployed from 2010 to 2018. For
12 a period of time, she received tribal TANF cash assistance in the amount of \$415 a
13 month. At no time was Ms. Gladstone able to pay the ticket or related fees and costs
14 in order to regain her driving privilege.³⁵

15 130. Because she was unable to get her driving privileges reinstated, Ms.
16 Gladstone has four unpaid traffic infractions and one DWLS3 that relate to her not
17 having a driver's license. She has no citations for driving under the influence, reck-
18 less driving, or any safety-related criminal driving violations.

19 131. Some of the additional tickets and conviction resulted in additional li-
20 cense suspensions when Ms. Gladstone failed to pay the judgment amounts.

21 132. Only a portion of Ms. Gladstone's traffic infractions suspend her driving priv-
22 ileges. Currently, Ms. Gladstone has three unpaid moving violations that have re-
23 sulted in suspension of her driving privilege and have prevented her from getting
24

25 _____
26 ³⁵ The debt for this ticket has reached the 10-year statute of limitations for collec-
tion and has been dismissed.

1 her driver's license. She also has three non-moving violations that occurred prior to
2 2013 that suspend her driving privileges.

3 133. Ms. Gladstone's traffic tickets originated in multiple jurisdictions: She
4 currently owes the courts a total of \$3,853 in connection with the traffic tickets,
5 excluding additional fines, fees, and collections costs assessed by the collection
6 agency: \$239 to the Snohomish County District Court; \$2,737 to the Whatcom
7 County District Court; and \$877 to the Everson-Nooksack Municipal Court. Each of
8 the courts allowed Ms. Gladstone to enter into payment plans one time; however,
9 she was unable to afford a separate monthly payment with each court and has de-
10 faulted. All but one of these fines have been assigned to ARMI.

11 134. In July 2018, Ms. Gladstone started a part-time job with the Nooksack
12 Tribal Health Department as a janitor. She was earning \$13.39 an hour, which re-
13 sulted in an income of approximately \$388 a week. This placed her household income
14 at approximately 97% of the Federal Poverty Guidelines.

15 135. In November 2018, Ms. Gladstone contacted ARMI to arrange a pay-
16 ment plan. On June 12, 2019, seven months later, ARMI responded with a state-
17 ment attempting to collect the \$10,706.94 unpaid balance of all fines assigned to
18 ARMI, but failed to respond to the request to set up a payment plan.

19 136. Ms. Gladstone also contacted the Whatcom County District Court in
20 2018 and was told it was the court's policy that she would have to pay 50 percent of
21 the amount she owed – \$3,219 – to the court before the court would remove her fines
22 from collection. Ms. Gladstone could not afford to pay \$3,219. Now, because the debt
23 from some of the tickets have been dismissed as time-barred, the court is requiring
24 her to pay \$740 to remove the tickets from collections, which is still more than she
25 can afford.

1 137. In September 2019, more than a year after her initial request, ARMI
2 responded to Ms. Gladstone's request for a payment plan, requesting \$200 per
3 month. After paying her basic living expenses, including rent and childcare, a \$200
4 per month payment plan was more than she could afford.

5 138. Ms. Gladstone has been a capable and reliable employee, and has
6 moved up to a full-time job, which requires a valid Washington State driver's license.
7 Her position is probationary until she obtains a driver's license. She now earns
8 \$16.58 an hour. After taxes, this places her household income at approximately
9 138% of the Federal Poverty Guidelines.

10 139. Ms. Gladstone needs a driver's license to transport herself and her fam-
11 ily to tribal cultural events like Canoe Journey and to exercise her treaty fishing
12 rights.

13 140. Ms. Gladstone cannot afford to pay the fines and fees that are prevent-
14 ing her from getting a driver's license, and therefore to gain security in her job to
15 provide for her family.

16 **3. Plaintiff Janie Comack**

17 141. Janie Comack is a 31-year-old resident of Sedro Woolley, Washington
18 and is an enrolled member of the Upper Skagit Tribe. Her driving privileges have
19 been suspended for ten years due to fines and fees incurred for traffic infractions
20 and driving while license suspended. As of September 28, 2020, she owes approxi-
21 mately \$8,000 in traffic fines and costs.

22 142. Ms. Comack grew up in Sedro-Woolley and was very close with her
23 mother and grandparents. When Ms. Comack was 15, her grandparents helped pay
24 for her to take driver's education classes so she could get her driver's license. She
25 got her driver's license when she turned 16.
26

1 143. When she was about 18 years old, her grandfather had a stroke and
2 went from being able to live his life independently to needing a lot of care. Ms.
3 Comack was living with her grandparents and helped them a lot, including driving
4 them places they needed to go.

5 144. As her grandparents' health continued to decline, Ms. Comack quit her
6 job at Dairy Queen in order to care for them full-time.

7 145. When she turned 21, Ms. Comack's driver's license expired. She did not
8 have the money to pay to renew it, and therefore did not renew it.

9 146. Ms. Comack continued to drive in order to take care of her grandpar-
10 ents and take care of her daily living needs. Public transportation was not a viable
11 option where she lived.

12 147. While driving to her grandparents' house approximately three months
13 later, on July 27, 2010, Ms. Comack was pulled over and charged with driving with-
14 out a valid license and insurance. Ms. Comack could not afford to pay the ticket.

15 148. Ms. Comack's inability to pay the ticket resulted in DOL suspending
16 her ability to get her driver's license back. DOL did not evaluate her ability to pay
17 the ticket prior to the suspension.

18 149. Ms. Comack received a ticket for failure to wear a safety belt in May
19 2011, for \$124, as well as a DWLS3 charge that was amended to driving without a
20 license, for \$550. She was still caring for her grandparents and was not working,
21 and she could not afford to pay the ticket.

22 150. The unpaid ticket for failure to wear a seatbelt resulted in DOL sus-
23 pending her driver's privilege.³⁶ At no point did DOL assess whether Ms. Comack
24 could afford to pay the ticket.

25 ³⁶ RCW 46.20.289 used to require suspension of driving privileges for failure to pay
26 "traffic infractions." In March 2012, the legislature amended RCW 46.20.289 to limit sus-
pensions to "traffic infractions *for moving violations*," which took effect on June 1, 2013.

1 151. Ms. Comack currently owes \$2,304 to the Sedro-Woolley Municipal
2 court for the tickets, not including fees, interest, and collections costs. She owes
3 Skagit County District Court \$1,380 in traffic tickets, again, not including fees, in-
4 terest and collections costs.

5 152. Ms. Comack's main source of income is her annual tribal per capita
6 payment. She occasionally helps with caregiving for people in her community for
7 pay. She also receives food stamps.

8 153. Ms. Comack has limited financial means and does not have the money
9 to pay the approximately \$8,000 in traffic fines, interest, and collection costs.

10 154. Ms. Comack and her boyfriend started a daily treatment program for
11 substance abuse in Summer 2019. When she and her boyfriend moved, her inability
12 to drive made it very difficult to access her treatment. The clinic has since arranged
13 for transportation for them every day, but having a driver's license would allow
14 Ms. Comack to continue her treatment should the clinic no longer be able to pay for
15 taxi transportation.

16 155. Ms. Comack also needs a driver's license so that she can obtain stable
17 employment and take care of her basic needs.

18 4. **Plaintiff Lacy Spicer**

19 156. Lacy Spicer is a 45-year-old resident of Marysville whose driver's li-
20 cense has been suspended for eight years. Ms. Spicer has been unable to pay fines
21 and fees from moving violations due to health and family issues. She lives with her
22 17-year-old daughter.

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25 See <http://lawfilesexternal.wa.gov/biennium/2011-12/Pdf/Bills/Session%20Laws/Senate/6284-S2.SL.pdf?cite=2012%20c%2082%20C2%A7%204>. Because Ms. Comack's non-
26 moving violation traffic infraction occurred prior to this change, it resulted in suspension
of her driving privileges.

1 157. Lacy Spicer's driver's license was originally suspended on May 3, 2012,
2 for failing to comply with the terms of a speeding ticket she received on February
3 15, 2012. A few weeks after receiving the speeding ticket she underwent back sur-
4 gery and did not to respond to the ticket. Ms. Spicer was also going through family
5 difficulties during this time. She has been unable to reinstate her license ever since.

6 158. Ms. Spicer was forced to move several times between 2012 and 2014,
7 largely as the result of a separation and eventual divorce from her husband. These
8 moves prevented her from receiving notice that her driver's license had been sus-
9 pended, which eventually resulted in a 2014 DWLS3 offense. Ms. Spicer felt she had
10 no other choice but to drive, because she wanted to ensure her daughter could con-
11 tinue attending school in Snohomish, WA, despite commuting from Gold Bar, WA.
12 She has also acted as the guardian for her 98-year-old grandmother since 2014. Pub-
13 lic transportation was not a viable option.

14 159. Due to Ms. Spicer's health challenges, which included a battle with
15 pancreatic cancer and a diabetes diagnosis, it has been difficult for her to earn a
16 living to address the traffic debt and thus reinstate her driver's license.

17 160. Between 2012 and 2014, Ms. Spicer received two additional speeding
18 tickets. She also fell out of compliance with the terms of a contested 2011 moving
19 violation for failing to obey a traffic signal in 2012 because she could not afford a
20 payment plan. Her license is now suspended for failure to pay these traffic infrac-
21 tions.

22 161. At no point since her license has been suspended has Ms. Spicer's abil-
23 ity to pay been examined by a court or the DOL.

24 162. As of late 2019, Ms. Spicer's health has stabilized, but she continues to
25 suffer the consequences of a suspended license. Despite on and off jobs as a dental
26 office manager, she has been unable to hold steady employment, especially since

1 COVID-19 hit. Notably, she was offered a well-paying job in September 2020 to help
2 manage dental practices in Marysville and Snohomish. But before she could start,
3 she learned that a valid driver's license was required. She had to alert the employer
4 about her situation, and she lost the position. As a result, Ms. Spicer remains un-
5 employed. Meanwhile, her license suspension has made it difficult for her to obtain
6 automobile liability insurance for her daughter.

7 163. Ms. Spicer has no criminal history other than a 2014 charge for
8 DWLS3.

9 164. Ms. Spicer contacted ARMI around June 2020 in an effort to get her
10 license back. She was informed that she owes over \$12,000 in fines and fees – over
11 \$8,500 more than the original ticket amounts. ARMI offered her a payoff amount of
12 around \$8,000, but to get on a payment plan she would have needed to put at least
13 \$2,000 down and commit to an unspecified monthly payment. Ms. Spicer could not
14 afford the down payment, and absent any commitment by ARMI to a specific
15 monthly payment, no payment plan was put in effect.

16 165. Ms. Spicer currently has limited income. She receives child support for
17 the care of her daughter and is currently receiving unemployment in the amount of
18 \$352 a week, although the amount has fluctuated and will expire at some point. She
19 lives with her daughter in Marysville, WA. She has no savings. She does not have
20 the money to pay the thousands of dollars in traffic fines, fees, interest, and collec-
21 tion costs that have been imposed on her.

22 166. Ms. Spicer is very eager to get her driver's license back. She wants to
23 work.

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V. First Claim for Relief
Violation of Article I, Section 3 of the Washington Constitution
(Lack of Procedural Due Process)

167. Plaintiffs repeat and reallege and incorporate by reference each allegation set forth above as if set forth in full herein, and further allege as follows.

168. Under article I, section 3 of the Washington Constitution, no person may be deprived of life, liberty, or property, without due process of law.

169. Possession of a driver's license is an important property interest and a person cannot be deprived of a driver's license without due process of law. *City of Redmond v. Moore*, 151 Wn.2d 664, 670-71, 91 P.3d 875 (2004).

170. The elements considered in a procedural due process claim are (1) the private interest; (2) the risk of an erroneous deprivation of the interest and the probable value, if any, of additional or substitute procedural safeguards; and (3) the State's interest. *City of Redmond v. Moore*, 151 Wn.2d at 670 (citing *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893, 47 L. Ed.2d 18 (1976)).

171. The private interest in this case is the substantial property interest in the possession of a driver's license. *Id.*

172. Due process requires an ability-to-pay inquiry before sanctions can be imposed for failure to comply with a court-ordered fine. *See State v. Blank*, 131 Wn.2d 230, 242, 930 P.2d 1213 (1997); *State v. Curry*, 118 Wn.2d 911, 829 P.2d 166, 169 (1992). The deprivation of the substantial property interest of a driver's license as a sanction for failure to pay a traffic fine cannot be imposed consistently with due process if the driver does not have the ability to pay the fine. To prevent erroneous deprivation of the property right to a driver's license, the State must evaluate whether the individual has the ability to pay the fine at issue.

1 DATED this 7th day of October, 2020.

2
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