

Declaration of Samuel Brooke

I, Samuel Brooke, state as follows:

1. I am a Deputy Legal Director for the Southern Poverty Law Center (the “SPLC”) and am an attorney for Plaintiffs in this matter. I have knowledge of the facts contained herein.

2. I am admitted to practice in the States of Alabama, Mississippi, Connecticut, and New York; the U.S. Courts of Appeals for the Fourth, Fifth, Sixth, and Eleventh Circuits; the U.S. Supreme Court; and various District Courts. I earned my Juris Doctor Degree, *magna cum laude*, from New York University School of Law in 2006, and was admitted to practice law in the State of Connecticut the same year. Since fall 2008, I have worked as a Fellow/Attorney, Staff Attorney, Senior Staff Attorney, and Deputy Legal Director at SPLC. I also worked as a Staff Attorney for the American Civil Liberties Union Foundation of Connecticut from the fall of 2006 to the fall of 2007; as a Law Fellow with the American Civil Liberties Union Foundation of Alabama from the Fall of 2007 to the Fall of 2008, and clerked for the Honorable Judge Joan B. Gottschall, of the U.S. District Court for the Northern District of Illinois, from the fall of 2008 to the fall of 2009.

3. My colleague and co-counsel Emily Early earned her Juris Doctor degree from Howard University School of Law in 2010, and was admitted to practice law in the State of Georgia the same year and in the State of Alabama in 2017. She is admitted to practice in the U.S. Courts of Appeals for the Tenth and Eleventh Circuits, the Northern and Middle Districts of Georgia, the Eastern and Middle Districts of Louisiana, the Northern District of Alabama, and various other federal district courts. She has worked as

a staff attorney at the SPLC since Spring of 2016. Before joining SPLC, Ms. Early practiced commercial litigation with the law firm Baker Donelson Bearman Caldwell and Berkowitz, P.C., from Fall 2012 to Spring 2016. She also clerked for the Honorable Judge W. Louis Sands of the U.S. District Court for the Middle District of Georgia from Fall 2010 to Fall 2012.

4. My colleague and co-counsel Danielle Davis earned her Juris Doctor degree from Howard University School of Law in 2009, and was admitted to practice law in the State of Maryland the same year. She was admitted to practice law in the District of Columbia in 2010, and in the State of Louisiana in 2018. She has worked as a staff attorney at SPLC since Fall of 2017. Before joining SPLC, Ms. Davis practiced law at a civil rights non-profit, Advancement Project, from Fall 2015 to Summer 2017. She also practiced law as a two-year law fellow and later as an associate at the law firm of Mehri & Skalet PLLC. Ms. Davis also clerked for the Honorable Brian A. Jackson of the U.S. District Court for the Middle District of Louisiana and the Honorable Karen Wells Roby of the U.S. District Court for Eastern District of Louisiana.

5. My colleague and local counsel Kristi Graunke earned her Juris Doctor degree from Yale Law School in 2002. She was admitted to practice law in Georgia in 2003 and North Carolina in 2016. She is a member of the bar of all federal district courts in Georgia and North Carolina, the U.S. District Court for the Northern District of Florida, and the bar of the U.S. Courts of Appeals for the Fourth, Fifth, Sixth, Eighth, Ninth, and Eleventh Circuits. From 2002-2003, she clerked for Judge Marsha S. Berzon of the United States Court of Appeals for the Ninth Circuit. From 2003 to 2005, she worked as a

fellowship attorney at the Farmworker Division of Georgia Legal Services. In 2005, she joined SPLC a staff attorney. She was promoted to senior staff attorney in 2009, and promoted again to senior supervising attorney in 2011.

6. My co-counsel, Nusrat Choudhury, is a senior staff attorney in the American Civil Liberties Union Foundation (“ACLU”) Racial Justice Program. Ms. Choudhury earned her Juris Doctor degree from Yale Law School in 2006 and was admitted to practice law in the State of New York in 2008. She is admitted to practice in the following federal courts: the U.S. District Courts for the Southern District of New York, the Eastern District of New York, and the Eastern District of Wisconsin; the U.S. Courts of Appeals for the Third, Sixth, and Ninth Circuits; and the United States Supreme Court. From 2006 to 2007, Ms. Choudhury served as a law clerk to the Honorable Denis Cote in the U.S. District Court for the Southern District of New York. From 2007 to 2008, she served as a law clerk to the Honorable Barrington D. Parker of the U.S. Court of Appeals for the Second Circuit. Since fall 2008, Ms. Choudhury has worked at the ACLU as a Marvin M. Karpatkin Fellow/Attorney, Staff Attorney, and Senior Staff Attorney.

7. My co-counsel, R. Orion Danjuma, is a staff attorney in the ACLU Racial Justice Program. Mr. Danjuma earned his Juris Doctor degree from Stanford Law School in 2010 and was admitted to practice law in the State of New York in 2011 and in the State of California in 2013. He is admitted to practice in the following federal courts: the U.S. District Courts for the Eastern District of Michigan, Central District of California, and Southern District of New York; the U.S. Courts of Appeals for the First, Seventh, Ninth, and Tenth Circuits; and the United States Supreme Court. From 2010 to 2011, Mr.

Danjuma served as a law clerk to the Honorable Myron H. Thompson in the U.S. District Court for the Middle District of Alabama. From 2011 to 2012, he worked as a law clerk to the Honorable Ann Claire Williams in the U.S. Court of Appeals for the Seventh Circuit. From 2012 to 2014, Mr. Danjuma was a Skadden Fellow with the ACLU Immigrants' Rights Project. From 2014 to 2015, he worked as an associate at Emery Celli Brinckerhoff & Abady LLP in New York City. Since 2015, Mr. Danjuma has worked as a staff attorney at the ACLU.

8. My co-counsel, Christopher A. Brook, has served as the Legal Director of the ACLU of North Carolina since 2012. Mr. Brook earned his Juris Doctor degree from the University of North Carolina at Chapel Hill in 2005 and was admitted to practice law in the State of North Carolina that same year. He is admitted to practice in the following federal courts: the U.S. District Courts for the Eastern, Middle and Western Districts of North Carolina; the U.S. Court of Appeals for the Fourth Circuit; and the United States Supreme Court. From 2005 to 2008, Mr. Brook worked as an associate at the Raleigh, North Carolina law firm of Cranfill, Sumner and Hartzog. From 2008 to 2012, he was a staff attorney at the Southern Coalition for Social Justice in Durham, North Carolina.

9. My co-counsel, Cristina Becker, has worked as the Criminal Justice Debt Fellow at the ACLU of North Carolina since 2016. Ms. Becker earned her Juris Doctor degree from Washington and Lee University School of Law in 2013 and was admitted to practice law in the State of North Carolina in 2014. She is admitted to practice in the U.S. District Court for the Middle District of North Carolina. From 2013 to 2016, Ms. Becker

was an Assistant Public Defender for the State of North Carolina 26th Defender District in Charlotte.

10. My co-counsel, Sneha Shah, has worked a Staff Attorney at the ACLU of North Carolina since 2018. Ms. Shah earned her Juris Doctor degree from Duke University in 2014. She was admitted to practice law in the State of New York in 2015. From 2014 to 2015, she was the Exploitation Intervention Project Law Fellow at the Legal Aid Society of New York. From 2015 to 2018, she was a Staff Attorney at the Center for Family Representation in Queens, New York.

11. During my time with SPLC, I have served as lead counsel or co-counsel for my firm on federal civil rights cases brought by plaintiffs challenging state laws and policies or practices in Alabama, Georgia, Louisiana, Tennessee, South Carolina, and California. This work includes challenges to various practices related to collection of fees and fines without a proper ability to pay assessment in cases captioned Cook v. Black, No. 2:16-cv-11024 (E.D. La. filed June 21, 2016) (class-wide injunctive and damages claims settled), in which Ms. Early was also class counsel; Foster v. City of Alexander City, No. 3:15-cv-00647 (M.D. Ala. filed 2015) (injunctive and class-wide damages claim settled and approved by court); and Cleveland v. City of Montgomery, No. 2:13-cv-00732 (M.D. Ala.) (declaratory claims settled). I also served as lead counsel in a challenge to the use of private probation companies in relation to the operation of municipal courts, in a case captioned Reynolds v. Judicial Correction Services, Inc., No. 2:15-cv-00161 (M.D. Ala.) (settled). I am also counsel in two federal putative class actions challenging the post-arrest detention processes of two state court systems in Alabama, in cases captioned Edwards v.

Cofield, et al., No. 3:17-cv-00321 (M.D. Ala. filed May 18, 2017) and Schultz v. Alabama., No. 5:17-cv-270 (N.D. Ala., motion to intervene granted Mar. 8, 2018 on behalf of plaintiff-intervenor Mr. Hester).

12. I am lead class counsel for a certified class under Rule 23(b)(2) in the matter of Wilson v. Gordon, No. 3:14-CV-01492, 2014 WL 4347585 (M.D. Tenn. Sept. 2, 2014), in which my colleague Ms. Early is also class counsel. Along with another SPLC colleague, I was also lead class counsel for the Rule 23(b)(3) settlement class in the Foster matter. I have also served as class counsel for a certified class under Rule 23(b)(3) in the matter of Mairi Nunag Tanedo, et al. v. East Baton Rouge Parish School Board, et al., No. 8:10-cv-01172 (C.D. Cal. Dec. 12, 2011) (Dkt. No. 232), under the direction of James Knoepp, who is my colleague and was at the time my supervisor at SPLC, and was the lead attorney on the Nunag Tanedo matter. I have also been lead counsel in three cases where certification was sought under Rule 23(b)(2), but these cases were resolved without the need for a ruling on the class certification motions. See Cent. Ala. Fair Housing Ctr., et al. v. Magee, et al., No. 11-cv-982 (M.D. Ala.); Charlene Loder v. Reese McKinney, Jr., No. 11-cv-979 (M.D. Ala.), Reynolds v. Judicial Correction Services, Inc., No. 2:15-cv-00161 (M.D. Ala.).

13. Ms. Early also serves as co-counsel in Harper, et al. v. City of Gardendale, et al. 2:17-CV-1791 (N.D. Ala. 2017)—which originally sought certification of a Rule 23(b)(2) class of persons challenging unconstitutional private probation practices that was resolved through settlement and which currently seeks certification of a Rule 23(b)(3) class, and Ayo, et al. v. Dunn, et al., No. 3:17-cv-526 (M.D. Ala. 2016), which seeks

certification of a Rule 23(b)(3) class of persons challenging unconstitutional pre-trial supervision practices.

14. My firm, SPLC, has been deemed adequate class counsel in more than twenty cases, including: Alexander v. Sandoval, 532 U.S. 275 (2001); Paradise v. Allen, 480 U.S. 149 (1987); Dothard v. Rawlinson, 433 U.S. 321 (1977); Rosiles-Perez v. Superior Forestry Serv., 250 F.R.D. 332 (M.D. Tenn. 2008); Escolastico De Leon-Granados v. Eller & Sons Trees, 2006 U.S. Dist. LEXIS 73781 (N.D. Ga., Sept. 28, 2006); Recinos-Recinos v. Express Forestry, Inc., 233 F.R.D. 472 (E.D. La. 2006); and Salinas-Rodriguez v. Alpha Services, LLC, No. 3:05 CV 440 WHB-AGN (S.D. Miss. 2005); Gaddis v. Campbell, 03-T-390-N (M.D. Ala. 2003); Baker v. Campbell, CV-03-1114-M (N.D. Ala. 2003); S.S. v. Wood, No. 01-M-224-N (M.D. Ala. 2001); Brown v. James, No. 98-T-663-N (M.D. Ala. 1998); Austin v. James, 15 F.Supp.2d 1220 (M.D. Ala. 1998); Harris v. James, 94-1422-N (M.D. Ala. 1994); Southern Christian Leadership Conference v. Evans, 785 F.Supp. 1469 (M.D. Ala. 1992); Bradley v. Haley, No. 92-A-70-N (M.D. Ala. 1992); R.C. v. Fuller, 88-D-1170-N (M.D. Ala. 1988); Nowak v. Foster, 84-0057-P (W.D. Ky. 1984); Pugh v. Locke, 559 F.2d 283 (11th Cir. 1977); Smith v. YMCA, 462 F.2d 634 (5th Cir. 1972); Wyatt v. Sawyer, CV-70-3195 (M.D. Ala. 1970); Nixon v. Brewer, CV-3017-N (M.D. Ala. 1970). I was not counsel in these cases, but many of my colleagues at SPLC were, and these colleagues remain available to consult and assist as needed.

15. Ms. Choudhury of the ACLU has served as lead counsel or co-counsel on federal civil rights cases brought by plaintiffs challenging federal policies and practices, as well as state and local laws and policies or practices in Georgia, Mississippi, New York,

South Carolina, Washington, and Wisconsin. This work includes challenges to various practices related to collection of court-imposed fees and fines without a proper ability to pay assessment in cases captioned: Fuentes v. Benton County, Washington, No. 15-2-02976-1 (Yakima County Super. Ct., filed Wash. Oct. 5, 2016) (class-wide prospective-relief and damages claims settled and approved by court); Brown v. Lexington County, No. 3:17-cv-01426-MBS-SVH (D.S.C., filed Jun. 1, 2017) (proposed class action for prospective relief and damages); Kennedy v. Biloxi, No. 1:15-cv-348 (S.D. Miss., filed Oct. 21, 2015) (proposed class action, prospective-relief and damages claims settled); and Thompson v. DeKalb County, Georgia, No. 15-cv-00280 (N.D. Ga., filed Jan. 29, 2015) (damages claims settled). Ms. Choudhury is also currently a lead counsel in Collins v. City of Milwaukee, No. 2:17-cv-00234-KPS-DEJ (E.D. Wis., filed Feb. 20, 2017), an ongoing, putative class action lawsuit in federal court challenging unlawful stops and frisks by Milwaukee police.

16. Ms. Choudhury currently serves as class counsel for two classes certified under Rule 23(b)(2) in Fuentes v. Benton County, Washington, No. 15-2-02976-1 (Yakima County Super. Ct., Wash. Oct. 5, 2016). She also currently serves as lead counsel in two matters in which class certification has been sought and remains pending. See Brown v. Lexington County, No. 3:17-cv-01426-MBS-SVH (D.S.C., filed Jun. 1, 2017); and Collins v. City of Milwaukee, No. 2:17-cv-00234-KPS-DEJ (E.D. Wis., filed Feb. 20, 2017). Ms. Choudhury has served as lead counsel in one case where certification was sought under Rule 23(b)(2), but the case was resolved without the need for a ruling on the class

certification motions. See Kennedy v. Biloxi, No. 1:15-cv-348 (S.D. Miss., filed Oct. 21, 2015).

17. Mr. Danjuma has served as counsel in federal civil rights cases brought by plaintiffs challenging federal policies and practices, as well as state or local laws, policies, and practices in Arizona, Nebraska, Rhode Island, California, New York, Kansas, Arkansas, and Kentucky. He has worked on Dade v. City of Sherwood, Arkansas, No. 4:16-CV-602 (E.D. Ark. Aug. 23, 2016), a proposed class-action lawsuit challenging practices related to collection of court-imposed fees and fines without a proper ability to pay assessment.

18. Mr. Danjuma has served as counsel for certified or proposed classes in the following actions: Fish v. Kobach, Case No. 16-2105-JAR-JPO (D. Kan. 2016); Roy v. Cty. of Los Angeles, No. CV1209012, 2016 WL 5219468 (C.D. Cal. Sept. 9, 2016) (consolidated with Gonzalez v. Immigration & Customs Enf't, No. 13-cv-04416-BRO-FFM).

19. The ACLU has been deemed adequate class counsel in numerous cases, including: Fuentes v. Benton County, Washington, No. 15-2-02976-1 (Yakima County Super. Ct., Wash. Oct. 5, 2016); Roy v. Cty. of Los Angeles, No. CV1209012, 2016 WL 5219468 (C.D. Cal. Sept. 9, 2016); Ortega-Melendres v. Arpaio, 836 F. Supp. 2d 959, 989–90 (D. Ariz. 2011). Ms. Choudhury and Mr. Danjuma were counsel in all of these cases with the exception of Ortega-Melendres, and they are able to consult to colleagues who litigated that lawsuit as needed.

20. The SPLC has significant experience related to the constitutionality of statutes that revoke or suspend licenses due to a failure to pay fees or fines. As noted above, we are currently litigating similar issues related to other practices to collect unpaid fees and fines, and although we are not actively litigating another license suspension case, I negotiated a settlement with the State of Mississippi on this same issue, which was resolved without litigation and resulted in the State of Mississippi agreeing to cease suspending licenses for non-payment where no pre-deprivation willfulness hearing was conducted. The State of Mississippi is also restoring licenses previously suspended where no such hearing was conducted.

21. The ACLU also has significant experience related to the constitutionality of statutes that revoke or suspend licenses due to a failure to pay fees or fines. Ms. Choudhury and Mr. Danjuma are currently investigating constitutional violations stemming from state practices that involve the widespread revocation of driver's licenses to collect unpaid court fees and fines in states other than North Carolina. Ms. Choudhury and Mr. Danjuma are currently developing litigation and advocacy to challenge such practices and advise state affiliates of the ACLU on how to counter such practices through litigation and legislative and policy advocacy.

22. The SPLC, ACLU, ACLU-NC, and SCSJ have spent substantial time and effort to investigate this case and to understand how N.C.G.S. §§ 20-24.1 and 20-24.2 operate and are implemented by the state courts and the North Carolina Division of Motor Vehicles ("DMV"). This includes reviewing court and DMV records, observing court

proceedings, and speaking with court personnel and court defendants about court and DMV practices.

23. The SPLC, along with the American Civil Liberties Union, American Civil Liberties Union of North Carolina, and Southern Coalition for Social Justice, have sufficient funds available to litigate this case. Plaintiffs' counsel have paid for all costs associated with this litigation to date, and will continue to do so.

24. Attached as **Exhibit A** is a true and correct copy of the United States Census Bureau's website *Quick Facts North Carolina*, as it was accessed on May 29, 2018. This exhibit is also available at <https://www.census.gov/quickfacts/NC>.

25. Attached as **Exhibit B** is a true and correct copy of the web version of Alana Samuel's June 15, 2016 article in *The Atlantic* entitled "No Driver's License, No Job." This exhibit is also available at <https://goo.gl/xQjyLj>.

26. Attached as **Exhibit C** is a true and correct copy of a 2016 report prepared by Stephen Bingham and colleagues for Back On The Road California entitled "Stopped, Fined, Arrested: Racial Bias in Policing and Traffic Courts in California." This exhibit is also available at <https://goo.gl/uLhFfL>.

27. Attached as **Exhibit D** is a true and correct copy of the United States Department of Transportation Bureau of Transportation Statistics publication "NORTH CAROLINA Transportation by the Numbers," published in 2016. This exhibit is also available at <https://goo.gl/eM6NWy>.

28. Attached as **Exhibit E** is a true and correct copy of a November 2012 article by Tazra Mitchell entitled "Connecting Workers to Jobs Through Reliable and Accessible

Public Transport,” part of a “Policy & Progress” series produced by the North Carolina Justice Center. This exhibit is also available at <https://goo.gl/qOF0S>.

29. Attached as **Exhibit F** is a true and correct copy of a 2012 Southern Environmental Law Center report, “Beyond the Bypass: Addressing Rural North Carolinians Most Important Transportation Needs,” prepared by Chandra T. Taylor and J. David Farren. This exhibit is also available at <https://goo.gl/nUVHjG>.

30. Attached as **Exhibit G** is a true and correct copy of the American Association of Motor Vehicle Administrators’ 2013 publication “Best Practices Guide to Reducing Suspended Drivers.” This exhibit is also available at <https://goo.gl/2jtka7>.

31. Attached as **Exhibit H** is a true and correct copy of the Statement of Interest of the United States filed in *Stinnie v. Holcomb*, No. 3:16-cv-00044 (W.D. Va. Nov. 7, 2016). This exhibit is also available at <https://goo.gl/vQWoLY>.

32. Attached as **Exhibit I** is a true and correct copy of an email dated September 26, 2017, from John Brockwell, Communications Director, North Carolina Department of Transportation Division of Motor Vehicles, with subject line “failure to pay.”

I swear under penalty of perjury that the information in this affidavit is true to the best of my memory, knowledge and belief.

EXECUTED on May 30, 2018.



Samuel Brooke

CERTIFICATE OF SERVICE

I certify that arrangements have been made to this day deliver a true and correct copy of the foregoing by hand delivery to the following:

Torre Jessup, Commissioner, or
via Brandon Mattox or Charlotte Hanemann, Designated Agents
Office of the Commissioner
North Carolina Division of Motor Vehicles
3101 Mail Service Center
Raleigh, NC 27699-3101

Formal proof of service will be filed with the Court when completed.

I further certify that arrangements have been made to this day deliver a true and correct courtesy copy of the foregoing to the following, in the manners described below:

Via Certified U.S. Mail, Return Receipt Requested

Josh Stein, Attorney General
Office of the Attorney General
9001 Mail Service Center
Raleigh, North Carolina 27699-9001

Via Electronic Mail

Chuck D. Watts, General Counsel
William A. Marsh, Deputy General Counsel
North Carolina Division of Motor Vehicles
chuckwatts@ncdot.gov
wamarsh@ncdot.gov

DATED this May 30, 2018.

/s/ Kristi L. Graunke

Kristi L. Graunke