

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

SETI JOHNSON and, MARIE-
BONHOMME-DICKS on behalf of
themselves and those similarly
situated and SHAREE SMOOT and
NICHELLE YARBOROUGH, on
behalf of themselves and those
similarly situated,
 Plaintiffs,

No. 1:18-CV-00467

v.

TORRE JESSUP, in his official
capacity as Commissioner of the
North Carolina Division of Motor
Vehicles,
 Defendant.

DEFENDANT’S ANSWER TO FIRST AMENDED COMPLAINT

NOW COMES DEFENDANT, Torre Jessup, Commissioner of the North Carolina Division of Motor Vehicles [“DMV”], in his official capacity, [“Defendant”] by and through counsel, Joshua H. Stein, Attorney General, Alexander McC. Peters, Chief Deputy Attorney General, Ann Matthews and Neil Dalton, Special Deputy Attorneys General, and Kathryne E. Hathcock, Assistant Attorney General, and hereby file an Answer to the First Amended Class Action Complaint For Declaratory and Injunctive Relief [“First Amended Complaint”], of Plaintiffs Seti Johnson, Marie Bonhomme-Dicks, Sharee Smoot and Nichelle Yarborough [Plaintiffs] pursuant to Rule 7(a) of the Federal Rule

of Civil Procedure. Defendant responds to the allegations of the First Amended Complaint as follows:

SECTION I
(ENTITLED "PRELIMINARY STATEMENT")

1. In response to the allegations in Paragraph 1 of the First Amended Complaint, it is admitted that DMV entered an order pursuant to state law and in accord with information received from the state court system that would have suspended the driver's license of Plaintiff Seti Johnson effective on or about July 18, 2018 if he did not pay fines and costs, but that the DMV has indicated to Plaintiffs' attorneys and to this Court that the DMV will not suspend Plaintiff Johnson's license while the Motion for Preliminary Injunction is pending. See, Defendant's Motion for Extension of Time to Respond to the original Motion for Preliminary Injunction dated June 15, 2018.

It is admitted that Plaintiff Bonhomme-Dicks may owe fines and costs to the state court system. However, to the extent that the First Amended Complaint implies that Plaintiff Bonhomme-Dicks has received notification of a suspension of her license to drive from DMV, it is denied.

The allegations in Paragraph 1 of the First Amended Complaint are otherwise denied due to lack of sufficient information that would allow Defendant to admit or deny them. To the extent that Paragraph 1 states legal conclusions, they are neither admitted nor denied. Paragraph 1 is otherwise

denied.

2. In response to the allegations in Paragraph 2 of the First Amended Complaint, it is admitted that DMV has entered orders suspending driver's licenses of people pursuant to state law and in accord with information received from the state court system regarding the failure to pay fines and court costs. The allegations in Paragraph 2 of the First Amended Complaint are otherwise denied due to lack of sufficient information that would allow Defendant to admit or deny them. To the extent that Paragraph 2 of the First Amended Complaint states legal conclusions, they are neither admitted nor denied. Paragraph 2 is otherwise denied.

3. In response to the allegations in Paragraph 3 of the First Amended Complaint, it is admitted that over the past twenty-five or so years, DMV has suspended driver's licenses hundreds of thousands of times pursuant to state law and in accord with information received from the state court system regarding failure to pay fines and court costs. Many of these revocations occurred when a driver's license or privilege was already suspended or revoked for failure to pay fines and costs and/or for other reasons. The allegations in Paragraph 3 of the First Amended Complaint are otherwise denied due to lack of sufficient information that would allow Defendant to admit or deny them. To the extent that Paragraph 3 of the First Amended Complaint states legal

conclusions, they are neither admitted nor denied. Paragraph 3 is otherwise denied.

4. In response to the allegations in Paragraph 4 of the First Amended Complaint, it is admitted that DMV, pursuant to state law and in accord with information received from the state court system regarding the failure to pay fines and costs, sends notice to a driver if he/she is reported by the court system for nonpayment of a traffic ticket. The notice directs the motorist to contact the court regarding payment. The driver's license is suspended approximately 60 days later if the fine and or costs are not paid. It is admitted that DMV does not conduct a hearing regarding the driver's ability to pay. Defendant lacks knowledge as to whether the courts conduct such hearings. The allegations in Paragraph 4 of the First Amended Complaint are otherwise denied.

5. In response to the allegations in Paragraph 5 of the First Amended Complaint, it is denied that since N.C.G.S. § 20-24.1 has been in place DMV has suspended the driver license of 436,000 people for failure to pay traffic fines and court costs. As of the time of the filing of the original Complaint, the driver's licenses and/or privileges of approximately 264,000 people had been suspended pursuant to the statute. This number is smaller than the 436,000 number asserted in the First Amended Complaint because some licenses were suspended more than once. It is further denied that 264,000 people's driver's

license or privilege were suspended solely for failure to pay traffic fines and or costs. Also, to the extent the First Amended Complaint implies that all of the suspensions relate to North Carolina licensed drivers, such assertion is denied. Many of the 264,000 suspensions were instituted on drivers from out of state who committed infractions in North Carolina, and many of the suspensions were issued against drivers who never even possessed a North Carolina driver's license. The allegations in Paragraph 5 of the First Amended Complaint are otherwise denied due to lack of sufficient information that would allow Defendant to admit or deny them. To the extent that Paragraph 5 of the First Amended Complaint states legal conclusions, they are neither admitted nor denied. Paragraph 5 is otherwise denied.

6. The factual allegations in Paragraph 6 of the First Amended Complaint are denied due to lack of sufficient information that would allow Defendant to admit or deny them. To the extent that Paragraph 6 of the First Amended Complaint states legal conclusions, they are denied. Paragraph 6 is otherwise denied.

7. The factual allegations in Paragraph 7 of the First Amended Complaint are admitted to the extent that it alleges that Plaintiff Johnson was notified by DMV that he had until July 24, 2018 to pay fines and court costs of \$228 or his driver's license would be suspended. The factual allegations

contained in Footnote 1 are admitted. Paragraph 7 of the First Amended Complaint is otherwise denied.

8. Regarding Paragraph 8 of the First Amended Complaint, Defendant admits he does not inquire into the ability of people to pay fines owed to the courts. Defendant lacks sufficient information to admit or deny the remaining allegations contained in Paragraph 8 of the First Amended Complaint.

9. Regarding Paragraph 9 of the First Amended Complaint, Defendant admits that he was notified by the court system that Plaintiff Yarborough owed fines to the court system that she had not paid and that he complied with the law in sending Plaintiff Yarborough a notice informing her that her driver's license would be suspended if she did not pay the fines. Defendant admits he did not inquire into the ability of Plaintiff Yarborough to pay the fines owed to the court. Paragraph 9 of the First Amended Complaint is otherwise denied.

10. The factual allegations in Paragraph 10 of the First Amended Complaint are admitted to the extent that it alleges that Plaintiff Smoot was convicted of traffic offenses, ordered to pay fines and or costs which she did not pay, and that DMV made no inquiry into her ability to pay or provide her with any other options. Defendant has no knowledge as to any inquiry made by

the court or judge or at what stage an inquiry may have been made or whether the court or judge imposing fines and/or costs against her gave her any other options for payment. The remainder of the factual allegations contained in Paragraph 10 of the First Amended Complaint are denied due to lack of sufficient information that would allow Defendant to admit or deny them. To the extent that Paragraph 10 of the First Amended Complaint states legal conclusions, they are denied.

11. Paragraph 11 of the First Amended Complaint is denied as to its factual allegations and its legal conclusions. To the extent that Paragraph 11 alleges the motivation or desires of the Plaintiffs, the same is denied due to lack of sufficient knowledge.

12. Paragraph 12 of the First Amended Complaint is denied as to its factual allegations and its legal conclusions. To the extent that Paragraph 12 asserts the motivation or desires of the Plaintiffs, the same is denied due to lack of sufficient knowledge.

SECTION II
(ENTITLED "JURISDICTION AND VENUE")

13. Paragraph 13 of the First Amended Complaint states a legal conclusion rather than a factual allegation for which no response is needed. To the extent that Paragraph 13 contains factual allegations, they are denied.

14. Paragraph 14 of the First Amended Complaint is admitted to the

extent that some of the events complained about appear to have occurred in a geographic area which is within the jurisdiction of the District Court for the Middle District of North Carolina. All other factual allegations and legal conclusions contained in Paragraph 14 are denied.

SECTION III
(ENTITLED "PARTIES")

15. Paragraph 15 of the First Amended Complaint is neither admitted nor denied due to lack of knowledge of Defendant.

16. Paragraph 16 of the First Amended Complaint is neither admitted nor denied due to lack of knowledge of Defendant.

17. Paragraph 17 of the First Amended Complaint is neither admitted nor denied due to lack of knowledge of Defendant.

18. Paragraph 18 of the First Amended Complaint is neither admitted nor denied due to lack of knowledge of Defendant.

19. Paragraph 19 of the First Amended Complaint is admitted to the extent that it alleges that Torre Jessup is the Commissioner and the top administrator at DMV. It is admitted that Commissioner Jessup has the authority to suspend driver's licenses in some instances. It is denied that Commissioner Jessup's authority to suspend driver licenses is "exclusive," since for example, in some instances the suspension of driver licenses is mandatory and in some instances it may be done by the court system.

Paragraph 19 is otherwise denied.

SECTION IV
(ENTITLED "STATEMENT OF FACTS")

20. The factual allegations contained in Paragraph 20 of the First Amended Complaint are admitted to the extent they were admitted in Defendant's response to Paragraph 5 of the First Amended Complaint above. Paragraph 20 of the First Amended Complaint is otherwise denied.

21. Paragraph 21 of the First Amended Complaint is denied as to both its factual allegations and to its legal conclusions.

22. The first sentence of Paragraph 22 of the First Amended Complaint is denied as to both its factual allegations and to its legal conclusions. Defendant lacks sufficient knowledge to admit or deny the remainder of Paragraph 22.

23. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 23 of the First Amended Complaint.

24. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 24 of the First Amended Complaint.

25. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 25 of the First Amended Complaint.

26. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 26 of the First Amended Complaint.

27. Paragraph 27 of the First Amended Complaint is denied as to its factual allegations and its legal conclusions.

28. The factual allegations contained in Paragraph 28 of the First Amended Complaint are denied.

29. The factual allegations contained in Paragraph 29, of the First Amended Complaint are denied. *See* response to Paragraph 19 of the First Amended Complaint above. To the extent Paragraph 29 of the First Amended Complaint contains legal conclusions, they are denied.

30. Paragraph 30 of the First Amended Complaint contains only legal conclusions and therefore it is neither admitted nor denied. DMV expressly denies any knowledge of what courts and individual judges might do to try to help motorists make arrangements for payment of traffic fines and court costs.

31. Paragraph 31 of the First Amended Complaint is admitted to the extent that DMV complies with N.C.G.S. § 20-24.1(a) and (b). DMV makes no inquiry into the ability of the motorist to pay fines and costs and has no knowledge of the efforts made by the courts or judges to do so.

32. Paragraph 32 of the First Amended Complaint is admitted.

33. Paragraph 33 of the First Amended Complaint is admitted to the extent that the sample of the notice language contained in Paragraph 33 is typical.

34. Paragraph 34 of the First Amended Complaint is admitted to the extent that the sample of the notice language contained in Paragraph 34 is typical.

35. Paragraph 35 of the First Amended Complaint is admitted.

36. Paragraph 36 of the First Amended Complaint is admitted.

37. Paragraph 37 of the First Amended Complaint is admitted.

38. Paragraph 38 of the First Amended Complaint is admitted.

39. Paragraph 39 of the First Amended Complaint is admitted as to its factual allegations involving DMV. The legal conclusions contained in Paragraph 39 are neither admitted nor denied.

40. Paragraph 40 of the First Amended Complaint contains legal conclusions that are neither admitted nor denied. To the extent Paragraph 40 contains factual allegations, they are denied due to lack of knowledge. Defendant expressly denies any knowledge as to the number of people who requested relief from the courts regarding payment of their traffic fines and costs per N.C.G.S. § 20-24.1.

41. Paragraph 41 of the First Amended Complaint is admitted. Unless DMV receives notice that the statute has been satisfied or other information is received from the court system, DMV will not remove the revocation on its own.

42. Paragraph 42 of the First Amended Complaint is admitted. DMV

lacks knowledge as to whether any inquiry may be made by courts or individual judges.

43. Paragraph 43 of the First Amended Complaint is admitted. DMV follows the statute after receiving information from the court system requiring revocation.

44. To the extent that Paragraph 44 of the First Amended Complaint states or implies that the DMV does not give adequate notice of the revocation process, it is denied. Paragraph 44 is otherwise denied.

45. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 45 of the First Amended Complaint.

46. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 46 of the First Amended Complaint.

47. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 47 of the First Amended Complaint.

48. It is admitted that Plaintiff Johnson has had his driver license suspended in the past. Defendant lacks sufficient knowledge to admit or deny any other factual allegations contained in Paragraph 48 of the First Amended Complaint.

49. It is admitted that Plaintiff Johnson was issued a citation for DWLR in 2017. Defendant lacks sufficient knowledge to admit or deny the

remaining factual allegations contained in Paragraph 49 of the First Amended Complaint.

50. It is admitted that Plaintiff Johnson had his driver license restored in 2017. Defendant lacks sufficient knowledge to admit or deny the other factual allegations contained in Paragraph 50 of the First Amended Complaint.

51. It is admitted that Plaintiff Johnson was issued another citation for DWLR in 2017. Defendant lacks sufficient knowledge to admit or deny the other factual allegations asserted in Paragraph 51 of the First Amended Complaint.

52. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 52 of the First Amended Complaint.

53. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 53 of the First Amended Complaint.

54. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 54 of the First Amended Complaint.

55. The allegations contained in Paragraph 55 of the First Amended Complaint are admitted.

56. It is admitted that Defendant has not been notified that Plaintiff Johnson has paid the \$228 owed to the Court. Defendant lacks sufficient knowledge to admit or deny the remainder of Paragraph 56 of the First

Amended Complaint.

57. The allegations contained in Paragraph 57 of the First Amended Complaint are admitted.

58. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 58 of the First Amended Complaint.

59. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 59 of the First Amended Complaint.

60. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 60 of the First Amended Complaint.

61. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 61 of the First Amended Complaint.

62. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 62 of the First Amended Complaint.

63. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 63 of the First Amended Complaint. Specifically DMV lacks knowledge as to whether Plaintiff Bonhomme-Dicks will pay her fines and what the court might do if she does not.

64. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 64 of the First Amended Complaint.

65. Defendant lacks sufficient knowledge to admit or deny the factual

allegations contained in Paragraph 65 of the First Amended Complaint.

66. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 66 of the First Amended Complaint.

67. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 67 of the First Amended Complaint.

68. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 68 of the First Amended Complaint.

69. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 69 of the First Amended Complaint.

70. As to Paragraph 70 of the First Amended Complaint, it is admitted that the court system notified DMV about the non-payment of fines and costs by Plaintiff Yarborough and that her license to drive was suspended in 2016.

71. The factual allegations contained in Paragraph 71 of the First Amended Complaint are admitted.

72. As to Paragraph 72 of the First Amended Complaint, it is admitted that DMV did not inquire into Plaintiff Yarborough's ability to pay her fines owed to the court. Defendant lacks sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 72.

73. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 73 of the First Amended Complaint.

74. As to Paragraph 74 of the First Amended Complaint, Defendant admits that Plaintiff Smoot's driver license is suspended due to non-payment of fines and costs. Defendant lacks sufficient knowledge to admit or deny the remainder of Paragraph 74.

75. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 75 of the First Amended Complaint.

76. The allegations in Paragraph 76 of the First Amended Complaint are admitted.

77. As to the factual allegations contained in Paragraph 77 of the First Amended Complaint, it is admitted that the Court ordered Plaintiff Smoot to pay \$308. Defendant lacks sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 77.

78. As to the factual allegations contained in Paragraph 78 of the First Amended Complaint, it is admitted that Plaintiff Smoot did not pay the fines and costs. Defendant lacks sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 78.

79. Paragraph 79 of the First Amended Complaint is admitted.

80. As to the factual allegations contained in Paragraph 80 of the First Amended Complaint, Defendant lacks any knowledge as to why Plaintiff Smoot did not pay the fines and or costs assessed against her. Defendant lacks

sufficient knowledge to otherwise admit or deny the allegations contained in Paragraph 80 of the First Amended Complaint.

81. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 81 of the First Amended Complaint.

82. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 82 of the First Amended Complaint.

83. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 83 of the First Amended Complaint.

84. It is admitted that Plaintiff Smoot's driver license was revoked in 2016 for failure to pay fines and costs. Defendant lacks sufficient knowledge to admit or deny any other factual allegations contained in Paragraph 84.

85. As to the factual allegations contained in Paragraph 85 of the First Amended Complaint, it is admitted that Plaintiff Smoot was convicted of DWLR in 2017 and ordered by the court system to pay fines and costs, which she did not pay. Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 85.

86. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 86 of the First Amended Complaint.

87. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 87 of the First Amended Complaint.

88. As to the factual allegations contained in Paragraph 88 of the first Amended Complaint, it is admitted that in 2018 Plaintiff Smoot was sent an additional notice of revocation of her license for failure to pay. To the extent that Paragraph 88 of the First Amended Complaint infers or implies that DMV did not provide adequate notice of the revocation process, the same is denied.

89. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 89 of the First Amended Complaint.

90. As to the factual allegations contained in Paragraph 90 of the First Amended Complaint, it is admitted that the driver's license of Plaintiff Smoot was revoked again in 2018 for failure to pay court fines and costs. Defendant lacks sufficient knowledge to admit or deny any other factual allegations contained in Paragraph 90.

91. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 91 of the First Amended Complaint.

92. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 92 of the First Amended Complaint.

93. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 93 of the First Amended Complaint.

94. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 94 of the First Amended Complaint.

SECTION V
(ENTITLED "CLASS ALLEGATIONS")

95. Paragraph 95 of the First Amended Complaint does not assert allegations of fact to which a response is required. To the extent that Paragraph 95 does make allegations of fact in need of a response, they are denied.

96. Paragraph 96 of the First Amended Complaint does not assert allegations of fact to which a response is required. To the extent that Paragraph 96 does make allegations of fact in need of a response, they are denied.

97. Paragraph 97 of the First Amended Complaint does not assert allegations of fact to which a response is required. To the extent that Paragraph 97 does make allegations of fact in need of a response, they are denied.

98. Paragraph 98 of the First Amended Complaint does not assert allegations of fact to which a response is required. To the extent that Paragraph 98 does make allegations of fact in need of a response, they are denied.

99. Paragraph 99 of the First Amended Complaint contains legal conclusions rather than allegations of fact to which no response is required. To the extent that Paragraph 99 contains allegations of fact to which a response

is required, they are denied.

100. Paragraph 100 of the First Amended Complaint contains legal conclusions rather than allegations of fact to which no response is required. To the extent that Paragraph 100 contains allegations of fact to which a response is required, they are denied.

101. The first sentence of Paragraph 101 of the First Amended Complaint contains legal conclusions rather than allegations of fact to which no response is required. To the extent that Paragraph 101 contains allegations of fact to which a response is required, they are denied.

102. Defendant lacks sufficient knowledge to admit or deny the factual allegations contained in Paragraph 102 of the First Amended Complaint.

103. Paragraph 103 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 103 contains allegations of fact to which a response is required, Defendant lacks sufficient knowledge to admit or to deny them.

104. Paragraph 104 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 104 contains allegations of fact to which a response is required, they are denied.

105. Paragraph 105 of the First Amended Complaint contains legal

conclusions to which no response is required. To the extent that Paragraph 105 contains allegations of fact to which a response is required, they are denied.

106. Paragraph 106 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 106 contains allegations of fact to which a response is required, they are denied.

107. Paragraph 107 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 107 contains allegations of fact to which a response is required, they are denied.

108. Paragraph 108 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 109 contains allegations of fact to which a response is required, they are denied.

109. Paragraph 109 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 109 contains allegations of fact to which a response is required, they are denied.

110. Paragraph 105 of the First Amended Complaint contains legal

conclusions to which no response is required. To the extent that Paragraph 110 contains allegations of fact to which a response is required, they are denied.

111. Paragraph 111 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 111 contains allegations of fact to which a response is required, they are denied.

112. Paragraph 112 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 112 contains allegations of fact to which a response is required, they are denied. DMV complies with N.C.G.S. § 20-24.1.

113. Paragraph 113 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 113 contains allegations of fact to which a response is required, they are denied.

114. Paragraph 114 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 114 contains allegations of fact to which a response is required, they are denied.

SECTION VI
(ENTITLED "FIRST CLAIM OF RELIEF")

115. Defendant re-alleges and incorporates by reference each response contained in the preceding paragraphs as if fully set forth.

116. Paragraph 116 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 116 contains allegations of fact to which a response is required, they are denied.

117. Paragraph 117 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 117 contains allegations of fact to which a response is required, they are denied.

118. Paragraph 118 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 118 contains allegations of fact to which a response is required, they are denied.

119. Paragraph 119 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 119 contains allegations of fact to which a response is required, they are denied.

120. Paragraph 120 of the First Amended Complaint contains legal

conclusions to which no response is required. To the extent that Paragraph 120 contains allegations of fact to which a response is required, they are denied.

121. Paragraph 121 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 121 contains allegations of fact to which a response is required, they are denied.

122. Paragraph 122 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 122 contains allegations of fact to which a response is required, they are denied.

123. Paragraph 123 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 123 contains allegations of fact to which a response is required, they are denied.

124. Paragraph 124 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 124 contains allegations of fact to which a response is required, they are denied.

125. Paragraph 125 of the First Amended Complaint contains legal

conclusions to which no response is required. To the extent that Paragraph 125 contains allegations of fact to which a response is required, they are denied.

SECTION VII
(ENTITLED "SECOND CLAIM OF RELIEF")

126. Defendant re-alleges and incorporates by reference each response contained in the preceding paragraphs as if fully set forth.

127. Paragraph 127 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 127 contains allegations of fact to which a response is required, they are denied.

128. Paragraph 128 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 128 contains allegations of fact to which a response is required, they are denied.

129. Paragraph 129 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 129 states or implies allegations of fact to which a response is required, they are denied.

130. Paragraph 130 of the First Amended Complaint contains legal conclusions to which no response is required.

131. Paragraph 131 of the First Amended Complaint contains legal conclusions to which no response is required. Defendant admits that he does not mandate a deprivation hearing prior to sending notice to people that their license to drive may be suspended for non-payment of fines.

132. Paragraph 132 of the First Amended Complaint contains legal conclusions to which no response is required. Defendant admits that he does not mandate a hearing into a person's "willfulness" prior to sending notice to a person that his or her license to drive may be suspended for non-payment of fines.

133. Paragraph 133 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 133 states or implies allegations of fact to which a response is required, they are denied.

134. Paragraph 134 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 134 states or implies allegations of fact to which a response is required, they are denied.

135. Paragraph 135 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 135 states or implies allegations of fact to which a response is required, they

are denied.

136. Paragraph 136 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 136 states or implies allegations of fact to which a response is required, they are denied.

137. Paragraph 137 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 137 states or implies allegations of fact to which a response is required, they are denied.

138. Paragraph 138 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 138 states or implies allegations of fact to which a response is required, they are denied.

139. Paragraph 139 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 139 states or implies allegations of fact to which a response is required, they are denied.

140. The allegations of Paragraph 140 of the First Amended Complaint are denied.

141. Paragraph 141 of the First Amended Complaint contains legal

conclusions to which no response is required. To the extent that Paragraph 141 states or implies allegations of fact to which a response is required, they are denied.

SECTION VIII
(ENTITLED "THIRD CLAIM OF RELIEF")

142. Defendant re-alleges and incorporates by reference each response contained in the preceding paragraphs as if fully set forth.

143. To the extent that Paragraph 143 of the First Amended Complaint contains allegations of fact to which a response is required, they are denied.

144. To the extent that Paragraph 144 of the First Amended Complaint contains allegations of fact to which a response is required, they are denied.

145. Paragraph 145 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 145 states or implies allegations of fact to which a response is required, they are denied.

146. Paragraph 146 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 146 states or implies allegations of fact to which a response is required, they are denied.

147. Paragraph 147 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph

147 states or implies allegations of fact to which a response is required, they are denied.

148. Paragraph 148 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 148 states or implies allegations of fact to which a response is required, they are denied.

149. Paragraph 149 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 149 states or implies allegations of fact to which a response is required, they are denied.

150. Paragraph 150 of the First Amended Complaint contains legal conclusions to which no response is required. To the extent that Paragraph 150 states or implies allegations of fact to which a response is required, they are denied.

DEFENSES

Defendant asserts the following Defenses:

- I. Plaintiffs' claims on behalf of themselves and the proposed members of the classes are procedurally-barred because the Commissioner is entitled to immunity under the Eleventh Amendment to the United States Constitution.

- II. Plaintiffs' claims on behalf of themselves and the proposed members of the classes are procedurally barred because the Commissioner is not a proper party in that he lacks the statutory authority to grant the relief sought.
- III. Pursuant to the *Rooker-Feldman* doctrine, this Court lacks jurisdiction over the Plaintiffs' claims and requests' for relief.
- IV. Plaintiffs' claims are barred in whole or in part by the applicable Statute of Limitations for 42 U.S.C. § 1983 actions.
- V. Plaintiffs' claims are barred in whole or in part for lack of standing.
- VI. Plaintiffs fail to state a claim as a matter of law.
- VII. N.C.G.S. § 20-24.1 does not violate the Plaintiffs' procedural due process rights under the Fourteenth Amendment of the U.S. Constitution.
- VIII. N.C.G.S. § 20-24.1 does not violate the Equal Protection clause of the Fourteenth Amendment of the U.S. Constitution.
- IX. Defendant reserves the right to amend this Answer as provided by the Federal Rules of Civil Procedure in order to assert additional defenses which might become relevant as this matter progresses.

Wherefore, Defendant prays that this case be dismissed in its entirety,

that all issues triable by jury be tried by jury, that all costs and attorneys' fees be taxed to Plaintiffs, and for whatever relief may be just and proper.

Electronically submitted, this the 21st day of August, 2018.

JOSHUA H. STEIN
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Counsel for Defendant

CERTIFICATE OF SERVICE

I, Kathryn E. Hathcock, Assistant Attorney General, do hereby certify that on this day, I have electronically filed the foregoing **ANSWER** with the Clerk of Court using the CM/ECF system and electronically served Plaintiffs' copy of the foregoing through counsel, as indicated below:

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