

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Linquista White, <i>et al.</i> , <div style="text-align: right;">Plaintiffs,</div> <div style="text-align: center;">v.</div> Kevin Shwedo, <i>et al.</i> , <div style="text-align: right;">Defendants.</div>	Civil Action No. 2:19-cv-03083-RMG
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**PLAINTIFFS' SUPPLEMENT TO THEIR
MOTION FOR A SCHEDULING TELECONFERENCE**

Plaintiffs submit this Supplement to their Motion for a Scheduling Teleconference filed on February 27, 2020 (ECF No. 63). Defendant Shwedo did not file a response. Plaintiffs file this Supplement to update the Court on how the Coronavirus Disease 2019 (“COVID-19”) pandemic has underscored the exigency of their request for a scheduling teleconference.

South Carolina and the United States more broadly have been dramatically impacted by the COVID-19 pandemic since the February 27 motion was filed. U.S. President Trump and South Carolina Governor McMaster have declared public health emergencies, and to date, there have been 427,460 confirmed cases of COVID-19 nationwide, and 2,792 in South Carolina. *See Coronavirus Disease 2019 (COVID-19): Cases in the U.S.*, Ctrs. for Disease Control and Prevention, <https://bit.ly/3e8AjZr> (last visited Apr. 10, 2020) (“Cases in the U.S.”); *South Carolina Announces Latest COVID-19 Update*, S.C. Dep’t Health and Env’tl. Control, <https://bit.ly/2RsbkXo> (last visited Apr. 10, 2020) (“DHEC Update”). Of these, 14,696 people have died nationwide, with 67 deaths in South Carolina. *See Cases in the U.S.; DHEC Update*. The Centers for Disease Control and Prevention (“CDC”) has recommended social distancing—including a guideline that people maintain a distance of around six feet from other people—as

the most effective way to slow the spread of the disease. *See Coronavirus Disease 2019 (COVID-19): How to Protect Yourself & Others*, Ctrs. for Disease Control and Prevention, <https://bit.ly/3aPHGCO> (last visited Apr. 9, 2020).

This pandemic has impacted Plaintiffs' claims in two main ways, both of which heighten the urgency of holding a teleconference with the Court concerning the scheduling of Plaintiffs' pending Motion for a Preliminary Injunction (ECF No. 35) and Motion for Class Certification (ECF No. 8).

First, to the extent the Court awaits a decision in *Johnson v. Jessup*, 381 F. Supp. 3d 619 (M.D.N.C. 2019), *appeal docketed*, No. 19-1421 (4th Cir. Apr. 19, 2019), before consideration of Plaintiffs' Motion for a Preliminary Injunction, oral argument in that matter has been postponed to "the next available session of court." *See* Exhibit 1, Order, *Johnson v. Jessup*, No. 19-1421 (4th Cir. Mar. 18, 2020), ECF No. 65. The May 2020 session has been cancelled, and the next regular session is in September 2020.¹ Moreover, even if an argument date in *Johnson* were set to take place at some point in the coming months, it is unclear how long it would take the Fourth Circuit to render a decision. Thus, any decision by this Court to await the resolution of *Johnson* before ruling on Plaintiffs' preliminary injunction motion would create an indefinite delay that would compound the ongoing, irreparable harm to Plaintiffs' ability to earn a living and care for themselves and their families. *See* ECF No. 35-1 at 34–35.

Second, the COVID-19 pandemic has worsened the harm to Plaintiffs from the South Carolina Department of Motor Vehicles' ("DMV") absolute and indefinite suspension of Plaintiffs' driver's licenses for failure to pay traffic tickets ("FTPTT"). *See* Exhibit 2, Second

¹ *See Postponement of Fourth Circuit Oral Argument Session, May 5–8, 2020*, U.S. Court Appeals for Fourth Cir. (Apr. 1, 2020), <https://bit.ly/2VfaCO9>.

Declaration of Emily Bellamy; Exhibit 3, Second Declaration of Janice Carter. As the attached declarations demonstrate, Plaintiffs' inability to legally drive during the COVID-19 outbreak has made safe and accessible travel in order to work, obtain supplies for their families, and access medical care even more difficult. *See, e.g.*, Ex. 3 at ¶¶ 24–28. The lack of a driver's license compels Plaintiffs to either curtail activities necessary to meet basic needs or to use public transportation, pay for rides, or secure rides from friends and family—modes of transportation that make it very difficult, if not impossible, to comply with CDC social distancing guidelines that must be followed to reduce the possibility of contracting COVID-19 or endangering others. *See, e.g.*, Ex. 2 at ¶¶ 14–19.

Public health experts have also recognized that COVID-19 creates and exacerbates harms experienced by people with suspended driver's licenses. *See* Exhibit 4, Declaration of Dr. Edena B. Guimarães, Ph.D, MPH, CHES at ¶ 15. Individuals with driver's licenses suspended for FTPTT are more likely to have to either rely on others for rides in violation of social distancing guidelines or risk the law enforcement contact that may come with driving on a suspended license. *Id.* at ¶¶ 13–14, 17, 20–21. Plaintiffs' counsel raised these concerns with Defendant Shwedo through his attorney in a March 25, 2020 letter. *See* Exhibit 5, Letter from Susan Dunn to Kenneth P. Woodington (March 25, 2020). On March 30, Defendant Shwedo responded through counsel that, if an individual facing FTPTT suspension calls the DMV, the agency will provide a twenty-day extension of time to pay. Exhibit 6, Email from Kenneth P. Woodington to Susan Dunn (March 30, 2020). This opportunity to request a minor extension of time to pay—of which Plaintiffs can find no public announcement and which Defendant Shwedo has not shown is communicated to anyone facing a FTPTT suspension—is a completely inadequate response to the severe economic harm and social upheaval caused by COVID-19. This is particularly true

since current CDC social distancing guidelines will remain in effect at least through April 30, 2020. See Madeline Holcombe & Dakin Andone, *US Coronavirus Cases Top 139,000 As Trump Extends Social Distancing Guidelines Until April 30*, CNN: Health (Mar. 29, 2020, 10:51 PM), <https://cnn.it/2K44H9H>. The length and extent of the pandemic's economic impact is also uncertain, and could easily last much longer. See Jim Tankersley, *U.S. Is Nowhere Close to Reopening the Economy, Experts Say*, N.Y. Times (Apr. 6, 2020), <https://nyti.ms/2V8V1zA>.

Moreover, in addition to the significant changes wrought by COVID-19, on March 31, 2020, the Eleventh Circuit denied en banc review in *Jones v. Governor of Florida*, No. 19-14551 (11th Cir. Nov. 18, 2019). Thus, the February 19, 2020 decision referenced in Plaintiffs' Notice of Supplemental Authority remains the law in the Eleventh Circuit. See ECF No. 66; *Jones v. Governor of Florida*, 950 F.3d 795 (11th Cir. 2020).

Given the dire COVID-19 situation, Plaintiffs respectfully request a teleconference to address the scheduling of Plaintiffs' pending preliminary injunction and class certification motions.

DATED this 10th Day of April, 2020

Respectfully Submitted By,

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