

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

SETI JOHNSON and SHAREE SMOOT,
on behalf of themselves and those
similarly situated,

Plaintiffs,

v.

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

Defendant.

Case No.

(CLASS ACTION)

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

COME NOW Plaintiffs Seti Johnson and Sharee Smoot and move the Court, pursuant to Rule 23(a), (b)(2), and (g) of the Federal Rules of Civil Procedure, for certification of two classes. In support of this Motion, Plaintiffs state as follows:

1. Mr. Seti Johnson moves for certification of and seeks to represent a class referred to as the **Future Revocation Class**, which is proposed to be defined as:

All individuals whose drivers' licenses will be revoked in the future by the DMV due to their failure to pay fines, penalties, or court costs assessed by a court for a traffic offense.

2. Ms. Sharee Smoot moves for certification of and seeks to represent a class referred to as the **Revoked Class**, which is proposed to be defined as:

All individuals whose drivers' licenses have been revoked by the DMV due to their failure to pay fines, penalties, or court costs assessed by a court for a traffic offense.

3. Certification is appropriate under Rule 23(a)(1) because joinder is impracticable. Each class represents hundreds of thousands of individuals who are spread across the state, are low-income, and would not have the ability to litigate their claims individually.

4. Certification is appropriate under Rule 23(a)(2) because the claims of the classes are common. The legal and factual issues causing injury to both classes derive from the mandate of N.C.G.S. § 20-24.1, as well as the DMV's uniform practice of revoking driver's licenses for failure to pay a fine, penalty, and/or court costs without any meaningful notice, pre-deprivation hearing, or determination of ability to pay.

5. Certification is appropriate under Rule 23(a)(3) because Plaintiffs Mr. Johnson's and Ms. Smoot's claims are typical of those of the putative Class members. The statutes and challenged practices equally apply to the named Plaintiffs and all other putative members of both Classes.

6. Certification is appropriate under Rule 23(a)(4) and 23(g) because Plaintiffs Mr. Johnson and Ms. Smoot can adequately represent the Future Revocation Class and the Revoked Class, respectively, and are represented by competent counsel. They have no conflicts with the putative class members, are willing and able to lead the litigation, and have experienced counsel.

7. Certification is appropriate under Rule 23(b)(2) because the DMV has acted on grounds generally applicable to members of the both Classes through the challenged practices and pursuant to Section 20-24.1. The ongoing violation of the constitutional rights of Plaintiffs and the putative members of both Classes can be resolved through class-

wide declarations and class-wide injunctions. Specifically, Mr. Johnson seeks an injunction on behalf of himself and the Future Revocation Class that would enjoin the DMV's enforcement of, and revocation of drivers' licenses under, Section 20-24.1(a)(2) and (b)(3)-(4). Ms. Smoot seeks an injunction on behalf of the Revoked Class that would mandate that the DMV lift current license revocations entered pursuant to Section 20-24.1(a)(2), reinstate licenses without charging a reinstatement fee if exists no reason other than nonpayment to continue the revocation, and provide notice to license-holders of this change. Plaintiffs also seek a declaration that both Section 20-24.1 and the DMV's enforcement of the statute are unconstitutional.

8. Plaintiffs respectfully request the Court grant this Motion based on the foregoing; the accompanying Memorandum of Law in Support; the declarations of Mr. Johnson, Ms. Smoot, and Mr. Brooke and the Exhibits appended thereto; and any other matters presented to the Court.

Dated May 30, 2018.

Respectfully submitted,

/s/ Kristi L. Graunke

Kristi L. Graunke

On behalf of Counsel for Plaintiffs

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**Appearing by Special Appearance
pursuant to L.R. 83.1(d)*

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Counsel for Plaintiffs

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
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Via Electronic Mail

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DATED this May 30, 2018.

/s/ Kristi L. Graunke

Kristi L. Graunke