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May 22, 2015

Hon. Mary C. Jacobson, AJSC
Superior Court of New Jersey
Criminal Courthouse
400 South Warren Street
Trenton, NJ 08650-0068

Re: Kavadas, et al v. Martinez, et el
Docket No. MER-L-1004-15

Dear Judge Jacobson:

It has been brought to my attention that the attachments to the brief contain certain personal identifiers and that the complaint lacks certifications on this and other *pro forma* issues.

As no responsive pleading has yet been filed, I do not believe that leave of the court to amend the documents is required pursuant to Rule 4:9-1, which states, in relevant part:

A party may amend any pleading as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is to be served, and the action has not been placed upon the trial calendar, at any time within 90 days after it is served.

Accordingly, I am submitting to civil case management an amended complaint. A revised brief containing the redacted attachments is also being filed. The revised complaint also corrects two typos, however there are no substantive changes.

I thank the Court for its consideration in this matter. Please feel free to contact me at the above email address or telephone number if there are any questions.

Respectfully,



David Perry Davis, Esq.

Cc: Shana Bellin, DAG, Esq.
Named plaintiffs (Via PDF)

The Law Office of

David Perry Davis
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Attorney ID: 047451996
Attorney for plaintiff class

Andreana Kavadas, Alisha : SUPERIOR COURT OF NEW JERSEY
Grabowski, LaQuay Dansby, Paulo : LAW DIVISION – MERCER COUNTY
Arede, individually and on : DOCKET NO. MER-L-1004-15
behalf of all persons similarly :
situated, :

Plaintiffs :

vs. :

Civil Action

Raymond P. Martinez, in his :
official capacity as Chief :
Administrator of the New Jersey :
Motor Vehicle Commission, and :
The New Jersey Motor Vehicle :
Commission, :

**AMENDED VERIFIED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

John Jay Hoffman, Esq., in his :
official capacity as Acting :
Attorney General of the State :
of New Jersey, and The State of :
New Jersey, :

Natasha Johnson, in her :
official capacity as Director :
of the Department of Human :
Services, Division of Family :
Development, Office of Child :
Support Services, and the :
Department of Human Services, :
Division of Family Development, :
Office of Child Support :
Services, :

Defendants

I. PRELIMINARY STATEMENT

1. Plaintiffs are parents ordered to pay child support ("obligors") and who are in arrears under child support orders due to an inability (not unwillingness) to comply. Plaintiffs are facing or have already incurred a suspension of their driver's licenses through procedures which deprive them of rights

guaranteed by the Constitutions of the United States and the State of New Jersey, and by Federal and State statutes. The named plaintiffs are representative of a class of persons who are similarly situated.

2. This complaint requests declaratory and injunctive relief pursuant to 42 U.S.C. §1983 and the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 against the named defendants to prevent them from engaging in practices which abridge the statutory, substantive and procedural constitutional rights of plaintiffs and all those similarly situated.

II. JURISDICTION AND VENUE

3. Jurisdiction is conferred on this Court by Article 6 §1.2 of the New Jersey Constitution.

4. Venue is appropriate in Mercer County under Rule 4:3-2(a) as defendants are located or reside in this judicial district, and the alleged events giving rise to the claim occurred in this judicial district.

III. PARTIES

Plaintiffs

5. Plaintiff Andreana Kavadas is a citizen of the United States and a resident of the State of New Jersey. She is under obligations pursuant to orders entered in FD-05-000080-05 and FD-18-000123-08 to pay child support in the amount of \$64 per week plus \$24 per week toward arrears. She has been unable to

remain current with this obligation and currently is in arrears.

6. Ms. Kavadas has been subjected to enforcement proceedings. She was not notified of her right to counsel at any point in the process, and was not provided with an attorney in spite of being subjected to a consequence of magnitude. Pursuant to orders issued through the Superior Court, Chancery Division, Family Part, she is on "two week bench warrant status", meaning that her driver's license can be suspended without further notice or process if she fails to make two or more weekly support payments. She has had her driver's license suspended pursuant to procedures that violate the statutes and constitutions of the State of New Jersey and is at risk of having this occur again. She has been unable to remain current with this obligation and currently has arrears that exceed the amount due for two weeks support.

7. Ms. Kavadas adopts by reference the factual allegations contained in the certification in support of plaintiffs' application for an order to show cause being filed with this complaint.

8. Plaintiff Alisha Grabowski is a citizen of the United States and a resident of the State of New Jersey. She is under an obligation pursuant to an order entered in FM-11-192-04 to pay child support in the amount of \$100 per week plus \$50 per week toward arrears. She has been unable to remain current with this obligation and is currently in arrears. She has been unable to remain current with this obligation and currently has arrears

that exceed the amount due for two weeks support.

9. Ms. Grabowski has been subjected to enforcement proceedings. She was not notified of her right to counsel at any point in the process, and was not provided with an attorney in spite of being subjected to a consequence of magnitude. Pursuant to Family Part orders, she is on "two week bench warrant status", meaning that her driver's license will be suspended without further notice or pursuant to procedures that violate the statutes and constitutions of the State of New Jersey and is at risk of having this occur again.

10. Plaintiff LaQuay Dansby is a citizen of the United States and a resident of the State of New Jersey. He is under an obligation pursuant to an order entered in FM-11-504-11K to pay child support in the amount of \$105 per week plus \$30 per week toward arrears. He has been unable to remain current with this obligation and currently has arrears that exceed the amount due for two weeks support.

11. Mr. Dansby has been subjected to enforcement proceedings. Pursuant to Family Part orders, he is on "two week bench warrant status", meaning that his driver's license may be suspended at any time and without further notice. He was not notified of his right to counsel prior to January of 2014, and prior to January of 2014 was not provided with an attorney in spite of being indigent and subject to a consequence of magnitude. Mr. Dansby has had his driver's license suspended pursuant to procedures that violate the statutes and

constitutions of the State of New Jersey and is at risk of having this occur again.

12. Plaintiff Paulo Arede is a citizen of the United States and a resident of the State of New Jersey. He is under an obligation pursuant to an order entered in FM-09-2326-06 to pay child support in the amount of \$155.00 per month plus \$20.00 per month toward arrears. He has been unable to remain current with this obligation and currently has arrears.

13. Mr. Arede has been subjected to enforcement proceedings. He was not notified of his right to counsel at any point in the process, and was not provided with an attorney in spite of his being indigent subjected to a consequence of magnitude. Pursuant to Family Part orders, he is on "two week bench warrant status", meaning that his driver's license will be suspended without further notice or process if he fails to make two or more weekly support payments. Mr. Arede has had his driver's license suspended pursuant to procedures that violate the Constitution of the State of New Jersey and is at risk of having this occur again. He has been unable to remain current with this obligation and currently has arrears that exceed the amount due for two weeks support.

Defendants

14. Defendant Raymond P. Martinez is the Chief Administrator of the New Jersey Motor Vehicle Commission. He is a State Actor. As a state actor generally, and specifically pursuant to N.J.S.A. 39-2-2, he has a duty to uphold the Constitution of the United

States and of the State of New Jersey. His duties include suspending and reinstating driver's privileges.

15. John Jay Hoffman, Esq. is the Acting Attorney General for the State of New Jersey. He is a State Actor. As a state actor generally, and specifically pursuant to N.J.S.A. 45:17A-21, he has a duty to uphold the Constitution of the United States and of the State of New Jersey. His duties include acting as the state's chief law enforcement officer and legal advisor, and is responsible for the management and administration of the Division of Law.

16. Natasha Johnson is the Director of the Department of Human Services, Division of Family Development, Office of Child Support Services. She is a State Actor and, as such, has a duty to uphold the Constitution of the United States and of the State of New Jersey. Her duties pursuant to 45 C.F.R. §302.10 and N.J.A.C. 10:81-11.7 and 110-1.2 include ensuring that the state's Child Support Program is operating constitutionally, properly, efficiently, effectively and that all of its agents are in compliance with all aspects of federal law under the State Plan.

IV. CLASS ACTION

17. The named plaintiffs bring this suit individually and, pursuant to Rule 4:32-1(a) and 4:32-1(b) of the Rules Governing the Courts of the State of New Jersey, on behalf of all residents of the State of New Jersey who: (1) have been, currently are, or will in the future be under support orders issued by the Chancery

Division, Family Part of the Superior Court as a result of their alleged inability to comply; (2) have been, are now, or may in the future be in arrears under these support orders; (3) are at risk of having their driving and other licenses suspended via procedures that violate their constitutional and statutory rights.

18. This is a proper class action under Rule 4:32-1(a) and 4:32-1(b) of the Rules Governing the Courts of the State of New Jersey in that, as to the class: (1) the persons affected are so numerous that joinder of all parties is impracticable; (2) there are common questions of law and fact; (3) the claims and defenses of the representative plaintiffs are representative of those of the class; (4) the representative plaintiffs will fairly and adequately protect the interests of the class; and (b)(2) the parties opposing the class plaintiffs have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief to the class as a whole.

V. CAUSE OF ACTION

19. Plaintiffs assert a cause of action pursuant to N.J.S.A. 10:6-2 (the "New Jersey Civil Rights Act) as to all violations of State substantive and statutory rights. Defendants have violated these rights, are violating these rights, and, unless enjoined from doing so by the court, there is a great likelihood that the constitutional rights of plaintiffs and all those similarly situated will again be violated by defendants.

20. Plaintiffs assert a cause of action 42 U.S.C. §1983 as to all violations of Federal substantive, procedural, and statutory rights. Defendants have violated these rights, are violating these rights, and, unless enjoined from doing so by the court, will continue to violate these rights.

21. At all relevant times, the defendants herein acted under color of statute, ordinance, regulation, custom, or usage of the State of New Jersey when they subjected, or caused to be subjected, the plaintiff and all those similarly situated to the deprivation of their rights, privileges, or immunities secured by the Constitution and laws of the United States of America and of the State of New Jersey.

22. Plaintiffs' rights to procedural and substantive due process, which rights arise under the Constitution of the State of New Jersey and the Constitution of the United States have been violated by defendants' actions as more fully set forth in the memorandum of law in support of plaintiffs' application for a preliminary injunction being filed herewith. Plaintiffs adopt by reference the factual and legal allegations contained therein.

23. Plaintiffs additionally allege violations of specific provisions of N.J.S.A. 2A:17-56.44 insofar as defendants have failed to provide the required delay between the entry of a license suspension order and its implementation.

WHEREFORE, plaintiffs and all those similarly situated pray that this Court enter a judgment in their favor:

1. Declaring that the suspension of the driver's licenses of plaintiffs and all those similarly situated via the procedures complained of herein have violated plaintiffs' substantive and procedural due process rights under the New Jersey Constitution, and statutory rights arising under the laws of the State of New Jersey;

2. Declaring that the suspension of the driver's licenses of plaintiffs and all those similarly situated via the procedures complained of herein have violated plaintiffs' substantive and procedural due process rights under the Constitution of the United States, and statutory rights arising under the laws of the United States;

3. Enjoining Chief Administrator Raymond Martinez and the New Jersey Motor Vehicle Commission from acting on any illegal or unconstitutional orders to suspend drivers' licenses;

4. Restraining Chief Administrator Raymond Martinez and the New Jersey Motor Vehicle Commission from suspending any driver's license in violation of the provisions of N.J.S.A. 2A:17-56.44;

5. Compelling Chief Administrator Raymond Martinez and the New Jersey Motor Vehicle Commission to rescind the

suspensions of all members of the plaintiff class imposed via illegal or unconstitutional procedures;

6. Compelling Chief Administrator Raymond Martinez and the New Jersey Motor Vehicle Commission to remove all record of license suspensions from all members of the plaintiff class imposed via illegal or unconstitutional procedures;

7. Enjoining Acting Attorney General John Jay Hoffman, Esq. and The State of New Jersey from enforcing any laws or regulations that violate the rights of plaintiff class as set forth herein;

8. Enjoining Acting Attorney General John Jay Hoffman, Esq. and The State of New Jersey from prosecuting any member of plaintiff class for driving while suspended when such suspension was entered via procedures that violated plaintiffs' rights as set forth herein;

9. Compelling Natasha Johnson and the Department of Human Services, Division of Family Development, Office of Child Support Services to ensure that the state's Child Support Program is operating constitutionally, properly, efficiently, effectively and that all of its agents are in compliance with all aspects of federal law under the State Plan;

10. Certifying the plaintiff class pursuant to Rule 4:32-1;

11. For counsel fees and costs pursuant to N.J.S.A.
10:6-2(f).

12. For counsel fees and costs pursuant to 42 U.S.C. §1988.

Certification pursuant to R. 1:38-7(c) personal identifiers

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Notice of Other Actions

I hereby certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding nor is any other such action or arbitration proceeding is contemplated

Certification pursuant to Rules 4:28 and 4:29 (joinder)

I hereby certify that no non-party should be joined in the action pursuant to R. 4:28 or who is subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same transactional facts except that a potential claim against the Treasurer of the State of New Jersey exists as to the refund of license restoration fees paid by plaintiff class.

Designation of Trial Counsel

David Perry Davis, Esq., is hereby designated as trial counsel.

Respectfully submitted this 21st day of May, 2015



David Perry Davis, Esq.

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I thank the Court for its consideration in this matter. Please feel free to contact me at the above email address or telephone number if there are any questions.

Respectfully,

David Perry Davis, Esq.

Cc: Attorney General of New Jersey, Esq.
Named plaintiffs (Via PDF)

VERIFICATION OF ANDREANA KAVADAS

I, Andreana Kavadas, of full age hereby certify that I have read and understood the Verified Complaint.

1. The allegations of the Verified Complaint are true to my personal knowledge.

2. Those allegations which are not to my personal knowledge are true to the best of my knowledge, information and belief.

I am aware that if any of the statements above are wilfully false, I am subject to punishment.


Andreana Kavadas

DATED: 4-29-15

VERIFICATION OF ALISHA GRABOWSKI

I, Alisha Grabowski, of full age hereby certify that I have read and understood the Verified Complaint.

1. The allegations of the Verified Complaint are true to my personal knowledge.

2. Those allegations which are not to my personal knowledge are true to the best of my knowledge, information and belief.

I am aware that if any of the statements above are wilfully false, I am subject to punishment.


Alisha Grabowski

DATED: 9-29-15

VERIFICATION OF LAQUAY DANSBY

I, LaQuay Dansby, of full age hereby certify that I have read and understood the Verified Complaint.

1. The allegations of the Verified Complaint are true to my personal knowledge.

2. Those allegations which are not to my personal knowledge are true to the best of my knowledge, information and belief.

I am aware that if any of the statements above are wilfully false, I am subject to punishment.

La'Quay Dansby

LaQuay Dansby

DATED: 4/29/2015

VERIFICATION OF PAULO AREDE

I, Paulo Arede, of full age hereby certify that I have read and understood the Verified Complaint.

1. The allegations of the Verified Complaint are true to my personal knowledge.

2. Those allegations which are not to my personal knowledge are true to the best of my knowledge, information and belief.

I am aware that if any of the statements above are wilfully false, I am subject to punishment.

Paulo Arede

Paulo Arede

DATED: 4-29-15