

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
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 ATTORNEY FOR (Name): Rubicon Programs, ACLU-NC and Henry Washington

FOR COURT USE ONLY
Endorsed
FILED
 Clerk of the Superior Court
 JUN 15 2016
 D. MCESSY
 By _____
 DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Solano
 STREET ADDRESS: 580 Texas Street
 MAILING ADDRESS:
 CITY AND ZIP CODE: Fairfield, CA 94533
 BRANCH NAME: Old Solano Courthouse

CASE NAME:
 Rubicon Programs et al., v. Superior Court of CA County of Solano et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: *FC 5047212*
 JUDGE: *Kinnicut #3*
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

- | | | |
|--|--|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
<p>Other P/IPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other P/IPD/W/D (23)
<p>Non-P/IPD/W/D (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-P/IPD/W/D tort (35)
<p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (08)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
<p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
<p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
<p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20)
<p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input checked="" type="checkbox"/> Other complaint (not specified above) (42)
<p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Eight
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 14, 2016
 Christine P. Sun
 (TYPE OR PRINT NAME)

[Signature]
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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18 SUPERIOR COURT OF CALIFORNIA
19 COUNTY OF SOLANO

20 RUBICON PROGRAMS,
21 AMERICAN CIVIL LIBERTIES UNION OF
22 NORTHERN CALIFORNIA,
23 HENRY WASHINGTON;

23 Plaintiffs,

24 v.

25 SUPERIOR COURT OF CALIFORNIA
26 COUNTY OF SOLANO,
27 THE HONORABLE ROBERT C. FRACCHIA,
28 Presiding Judge for Solano County Superior
Court;

Defendants.

CASE NO.:

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

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1 Plaintiffs allege as follows:

2 **INTRODUCTION**

3 1. Plaintiffs bring this lawsuit to protect a fundamental principle of our justice system—that
4 a person should not be punished simply for being poor. In California, many thousands of people have
5 had and continue to have their driver's license suspended because they are unable to pay fines and fees
6 related to minor traffic citations and other infractions. These fines and fees are not insignificant: over
7 the past few decades, the fines and fees associated with traffic citations have skyrocketed. What used to
8 be a \$100 violation now costs nearly \$500, as a result of the numerous surcharges and other fees that
9 have been added over the years in order to generate revenue for the operation of the courts and other
10 basic functions of State government. And if a person misses an initial payment deadline, the cost of a
11 ticket can quickly balloon to \$800 or more.

12 2. The consequences for not being able to pay these fines and fees can be severe and life-
13 altering. As in many counties throughout the state, although not required to do so, Defendant Solano
14 County Superior Court ("Superior Court") routinely refers persons, regardless of their indigence or
15 ability to pay, to the Department of Motor Vehicles ("DMV") for nonpayment of traffic fines and fees or
16 a failure to appear on the traffic charges. Upon receiving this referral, the DMV is required by statute to
17 suspend the person's driver license. Vehicle Code § 13365. As of the end of 2015, there were nearly
18 33,000 suspended licenses in Solano County for failure to appear and failure to pay, with approximately
19 14,000 for failure to appear, 11,000 for failure to pay and 7,500 for a combination of the two.

20 3. As both the federal and state supreme courts have recognized, for many, having a driver
21 license is not a luxury, but essential in the pursuit of a livelihood. Many low wage jobs require a
22 license. Lack of adequate public transportation means that being able to legally drive can be necessary
23 in order to work, or to take children to school or to medical appointments, or to care for ill or disabled
24 family members. While those who can afford to pay, do, for those who cannot, the suspension of their
25 license for nonpayment of fines and fees constitutes nothing less than a harsh sanction solely for being
26 poor—a punishment that paradoxically further impairs a person's ability to meet her financial
27 obligations to the courts.
28

1 4. California law neither requires nor permits this result—indeed, the relevant Vehicle Code
2 provision only authorizes courts to refer a person to the DMV for failure to pay when such nonpayment
3 is “willful.” *See Veh. Code § 40509.5.*

4 5. Yet like many counties, Defendant Superior Court acts to suspend the licenses for failure
5 to pay traffic fines and fees without making this necessary finding of willfulness. These actions violate
6 the express terms of § 40509.5 of the Vehicle Code.

7 6. Defendant Superior Court also violates traffic defendants’ due process rights under the
8 California and United States constitutions by routinely acting to suspend driver’s licenses for failure to
9 pay traffic fines and fees, without giving individuals adequate notice and opportunity to be heard on the
10 issue of ability to pay. These due process protections are essential given the increased risk of erroneous
11 suspensions of licenses due to the Superior Court’s pecuniary interest in collecting traffic fines in order
12 to make up the funding shortfall from the State. The result of the Court’s unlawful actions is that low-
13 income and indigent defendants have their licenses suspended even though the nonpayment may not
14 have been willful and instead was due to an inability to pay.

15 7. Because the Superior Court fails to provide adequate notice that individuals are entitled
16 to an ability to pay determination with respect to their traffic fines and fees, many people who are
17 indigent and cannot pay the staggering cost of a typical traffic ticket in California believe that it is futile
18 to appear or otherwise contact the court. Accordingly, Defendants’ practices also violate the due
19 process rights of indigent traffic defendants whose licenses are suspended for failure to appear because
20 they do not have adequate notice that they are entitled to relief based on their financial circumstances.

21 8. In addition, Defendant Superior Court’s practices constitute a system that impermissibly
22 classifies and punishes similarly situated persons on the basis of wealth. Those who can pay traffic
23 tickets do, and thus avoid the extreme sanction of driver’s license suspension. In contrast, those who
24 cannot afford to pay have their licenses suspended, jeopardizing their livelihood, freedom, and ability to
25 care for their loved ones, solely because of their indigency. Such a result violates the guarantee of equal
26 protection under both our state and federal constitutions.

27 9. Not only do Defendant Superior Court’s practices violate the law, but they also are
28 misguided as a matter of public policy. Indeed, in its recently issued guidance, the U.S. Department of

1 Justice urged state and local courts to “avoid suspending driver’s licenses as a debt collection tool”
2 because of the significant harm caused by license suspensions to individuals and families. As noted by
3 the Department of Justice, “[r]esearch has consistently found that having a valid driver’s license can be
4 crucial to individuals’ ability to maintain a job, pursue educational opportunities, and care for families.”

5 10. Defendants here have the power to cure the statutory and constitutional violations
6 described herein. Indeed, some California courts, such as Contra Costa Superior Court and San
7 Francisco Superior Court, in an acknowledgment of the problematic nature of license suspensions for
8 non-safety related reasons, have put a moratorium on license suspension for failure to appear and failure
9 to pay altogether.

10 11. Plaintiffs—Rubicon Programs, the American Civil Liberties Union of Northern
11 California (“ACLU-NC”), and Henry Washington—bring this suit to put an end to this ongoing
12 violation of state law and the California and federal constitutions.

13 JURISDICTION AND VENUE

14 12. This Court has jurisdiction under Article VI, Section 10, of the California Constitution
15 and Code of Civil Procedure § 410.10.

16 13. Venue in this Court is proper because this is an action against the Superior Court for the
17 County of Solano, which located in Solano County. *Id.* at § 395(a). Defendant Robert C. Fracchia
18 performs his duties as the Presiding Judge in Solano County. *Id.* at § 393(b).

19 PARTIES

20 14. Plaintiff Rubicon Programs is a non-profit corporation in the state of California. It has
21 offices in Richmond, Antioch, Berkeley, Oakland and Hayward, California. Rubicon’s mission is to
22 transform East Bay communities by equipping low-income people to break the cycle of poverty. Last
23 year Rubicon provided a mix of employment, career, financial, legal and health and wellness services to
24 more than 3,500 people. Many of Rubicon’s participants need a driver’s license in order to find or keep
25 employment, but have had their licenses suspended due to traffic fines and fees they cannot afford to
26 pay. Rubicon owns property in Richmond, California and is assessed and pays property tax each year.

27 15. Plaintiff ACLU-NC, founded in 1934, is a non-profit corporation with over 40,000
28 members in the state of California. It has offices in San Francisco, Sacramento, and Fresno, and

1 volunteer-led chapters throughout Northern California. The ACLU-NC is one of the largest affiliates of
2 the American Civil Liberties Union, a nationwide nonprofit corporation with over 500,000 members,
3 dedicated to the defense and promotion of the guarantees of individual rights and liberties embodied in
4 the state and federal constitutions. Many of the ACLU-NC's members are assessed and pay taxes each
5 year, including property tax, state income tax and other state and local taxes. Some of the ACLU-NC's
6 members are assessed and pay property taxes in Solano County.

7 16. Plaintiff Henry Washington, a resident of Hayward, California, lost his driver's license as
8 a result of the unlawful actions of the Solano County Superior Court. In 2010, Plaintiff Washington
9 purchased an inexpensive used car in order to help look after his brother, who lived at the time in
10 Fairfield, California. The car, however, was not registered with the DMV, and Mr. Washington soon
11 discovered that he could not register the car because the car could not pass the "smog test." On July 14,
12 2010, Mr. Washington was stopped by a police officer in Vallejo, California for driving the unregistered
13 vehicle. He received a "fix it" ticket, which, on information and belief, required Mr. Washington to
14 either pay a fine, provide proof of registration and pay a reduced fine, or appear in court to contest the
15 citation. Because of his indigency, Mr. Washington could not do any of these things: he was too poor to
16 pay the fine; he could not register the car, because the car could not pass the smog test; and he did not
17 appear in court, because he could not afford the fees and because without the car he did not know how to
18 get to Vallejo.

19 17. On information and belief, after Mr. Washington failed to comply with the terms of his
20 citation, Defendant Solano County Superior Court assessed additional civil penalties against Mr.
21 Washington and notified the DMV to suspend his driver's license. On information and belief, the Court
22 did not notify Mr. Washington that he had a right to demonstrate that he could not afford to pay the fines
23 or fees or that he had a right to demonstrate that he otherwise had good cause for failing to comply with
24 the terms of his citation, nor did the Court provide any opportunity for Mr. Washington to make such a
25 showing. On information and belief, the DMV suspended Mr. Washington's driver's license based on
26 the notice received from the Superior Court.

27 18. As a result of the suspension of his driver's license, Mr. Washington was unable to
28 regularly visit his mother and brother, and cannot assist with transporting his brother to medical

1 appointments. Additionally, Mr. Washington's ability to obtain employment is diminished by his lack
2 of a driver's license. Mr. Washington still does not have a driver's license. Although he is now eligible
3 for reinstatement of his license, his only source of income is a county General Assistance grant, and he
4 cannot afford to pay the reinstatement fee. Furthermore, Defendant Solano County Superior Court
5 continues to contend that Mr. Washington owes fines and fees to the Court.

6 19. When and if he is able to reinstate his driver's license, Mr. Washington will again begin
7 driving to the home of his mother in Solano County, California, and will again be subject to Defendants'
8 unlawful practices as alleged herein.

9 20. Defendant Superior Court for the County of Solano has the authority to adjudicate traffic
10 citations issued in Solano County. It is one of the 58 superior courts that constitute the trial court system
11 for the State of California, and receives funding from the State General Fund. The Superior Court has
12 referred and continues to refer traffic court defendants, such as Plaintiff Washington, to the DMV for
13 license suspension for failure to pay and failure to appear, without providing adequate notice and
14 opportunity to be heard on the issue of the defendant's ability to pay, and without making a
15 determination that the non-payment was willful. The Superior Court expends state taxpayer dollars in
16 performing these functions.

17 21. Defendant The Honorable Robert C. Fracchia is the Presiding Judge of Solano Superior
18 Court and is sued only in his official capacity. As the Presiding Judge, he is responsible for, *inter alia*,
19 leading the court, establishing policies, and allocating resources in a manner that promotes access to
20 justice for all members of the public, provides a forum for the fair and expeditious resolution of
21 disputes, maximizes the use of judicial and other resources, increases efficiency in court operations, and
22 enhances service to the public. Ca. Rule of Court 10.603(a). Defendant Fracchia expends state taxpayer
23 dollars in performing these functions.

24 **FACTS AND STATUTORY BACKGROUND**

25 **A. License Suspensions Drive Low-Income and Indigent Californians Further into**
26 **Poverty**

27 **a. Traffic Fines Are Unaffordable to Many Low Income Individuals**

1 22. The cost of a traffic citation in California has skyrocketed in recent years due to the large
2 number of penalty assessments and surcharges the Legislature has added to a citation's base fine.

3 23. In 2008, California faced an unprecedented budget shortfall due to the economic crisis.
4 Every area of state government was subjected to significant budget cuts, and California's courts were no
5 exception. To partially alleviate the budget cuts, the Legislature authorized even more fees and
6 assessments on tickets. The resulting system is one in which the state attempts to fund its basic
7 operations by charging staggering fees on even the most minor of traffic violations.

8 24. California currently imposes a state penalty assessment of \$10 for every \$10 of the base
9 fine, a state criminal surcharge of 20% on the base fine, a court operations assessment of \$40 fee per
10 fine, a court construction fee of \$5 for every \$10 of the base fine, county fund charge of \$7 for every
11 \$10 of base fine and a DNA fund assessment of \$1 for every \$10 of base fine, among others. *See* Pen.
12 Code §§ 1464, 1465.7, 1465.8; Gov. Code §§ 70372, 76000, 76104.6, 76104.7.

13 25. Thus, for example, a \$100 ticket, which is the base fine for failure to carry evidence of
14 financial responsibility, now carries a penalty of \$490. *See* Judicial Council of California, Uniform Bail
15 & Penalty Schedules (2016) at 16, *available at* <http://www.courts.ca.gov/documents/2016-JC-BAIL.pdf>.
16 A \$35 ticket for failing to signal before changing lanes becomes \$238. *Id.* at 25. A \$20 ticket for using
17 a cell phone while driving becomes \$162. *Id.* at 31.

18 26. Worse, if an individual misses the deadline to pay or appear, a civil assessment of \$300 is
19 often tacked on, bringing the total for that \$100 ticket to \$815, the \$35 ticket to \$538 and the \$20 ticket
20 to \$462. *Id.*; Penal Code § 1214.1.

21 27. With the increasing costs of a single citation in California, more and more people are
22 unable to pay their debts.

23 28. This is particularly true for the approximately 8.9 million people who are living in
24 poverty in California, as well as for those on public assistance, who attempt to survive on as little as a
25 few hundred dollars per month.

26 29. These exorbitant penalty assessments were not implemented for public safety purposes;
27 instead, their purpose is to cover budget shortfalls and fund various state and county programs, including
28 the state court system itself.

1 30. In 2013-14, for example, the state received over half of the collected fines and fees
2 revenue, and two-thirds of those funds were directed to trial court operations and construction in
3 particular.

4 31. Traffic court defendants' inability to pay the exorbitant cost of citations becomes even
5 more problematic in light of the courts' primary tool in collecting outstanding debt: driver's license
6 suspension. As explained in more detail below, the Superior Court causes the DMV to suspend the
7 driver's licenses of people who fail to pay traffic fines, or fail to appear to contest the fines.

8 32. Like many superior courts throughout the state, Defendants utilize driver's license
9 suspension as a means to collect outstanding traffic court debt, even in the absence of any evidence that
10 the person's failure to pay the ticket was willful.

11 **b. License Suspensions For Failure To Pay Citations is Detrimental to an Individual's**
12 **Economic Stability and Does Not Promote Public Safety**

13 30. The loss of a driver's license is a major threat to a person's economic security,
14 particularly for people who already have little or no income.

15 31. Many jobs require a driver's license as a condition of employment. Construction jobs,
16 for example, generally require a valid driver's license as workers often move between job sites or drive
17 machinery on the job. Other fields such as home health care, motor vehicle sales and services, and
18 delivery services all require a valid license as a prerequisite of employment. Even for non-driving jobs,
19 employers often require applicants to have a valid driver's license as an indicator of reliability or
20 responsibility. Indeed, many positions within Solano County government require the possession or
21 ability to obtain a valid California's driver's license as a condition of employment. People with
22 suspended driver's licenses cannot obtain these jobs; if they are currently working, they may lose their
23 jobs.

24 32. Even if not a requirement of the job, many people need a driver's license just to get to
25 work, particularly as jobs are increasingly located outside of public transportation corridors.

26 33. Numerous studies have found a direct correlation between driving and employment,
27 including finding that a high percentage of people lose their jobs as a result of license suspension, that
28 those who lose jobs due to the license suspension have trouble finding new jobs, and that unemployed

1 people are much less likely to have access to a car and a valid driver's license than those who are
2 employed. *See* "Not Just a Ferguson Problem: How Traffic Courts Drive Inequality in California"
3 (2015), p. 17.¹

4 34. In a recent "Dear Colleague" letter, the U.S. Department of Justice advised state and local
5 courts that they must not use license suspensions as a means of coercing the payment of court debt when
6 individuals have not been afforded proper procedural protections.² The letter emphasized that
7 "[r]esearch has consistently found that having a valid driver's license can be crucial to individuals'
8 ability to maintain a job, pursue educational opportunities, and care for families," and concluded that
9 "[a]t the same time, suspending defendants' licenses decreases the likelihood that defendants will
10 resolve pending cases and outstanding court debts, both by jeopardizing their employment and by
11 making it more difficult to travel to court, and results in more unlicensed driving."

12 35. Suspended licenses can trap the working poor in an impossible situation: unable to
13 reinstate their licenses without gainful employment, and unable to work without a license.

14 36. In addition to the harm caused to individuals, license suspension for debt collection rather
15 than public safety reasons negatively impacts public safety.

16 37. Currently, there are millions of Californians who do not present a driving safety risk, but
17 who have been deprived of their licenses for non-safety related reasons of failure to pay or failure to
18 appear. According to the American Association of Motor Vehicle Administrators (AAMVA), non-
19 public safety related suspensions undermine safety, as "[t]he costs of arresting, processing,
20 administering, and enforcing social non-conformance related driver license suspensions create a
21 significant strain on budgets and other resources and detract from highway and public safety priorities."³

22 38. Defendants have the authority—under statutes not challenged here—to suspend the
23 driver's licenses of individuals who actually pose a risk to public safety. *See, e.g.*, Vehicle Code §
24 13200 (permitting suspension for speeding or reckless driving); § 13210 (permitting suspension for

25 ¹ Available at <http://www.lccr.com/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.20.15.pdf>.

26 ² Available at <https://www.justice.gov/crt/file/832461/download>.

27 ³ Available at <http://www.aamva.org/Suspended-and-Revoked-Drivers-Working-Group/>.

1 driver who commits “road rage”); § 13382 (requiring confiscation and suspension of license for driving
2 under the influence); § 12810.5 (permitting suspension for receiving four “points” in a 12 month period
3 and being designated as a “negligent operator”).

4 39. The Court also has available to it other, less punitive options than license suspension to
5 collect any outstanding debt, such as tax interception or wage garnishment.

6 40. Finally, Defendants’ practices compound dramatic racial and socioeconomic disparities
7 in driver’s license suspensions as well as arrests related to unpaid traffic fines and fees. Data from
8 California shows license suspension rates can be as high as five times the state average in communities
9 that are primarily Black and Latino. *See* “Stopped, Fined, Arrested: Racial Bias in Policing and Traffic
10 Courts in California” (2016).⁴ Data also shows that Black drivers have are much more likely to be
11 arrested for driving with a suspended license for failure to pay a fine than their White counterparts. *Id.*

12 **B. Solano County Superior Court Violates State Law and the Constitution by**
13 **Referring Defendants for Suspension for Failure to Pay without Making the**
14 **Determination that the Non-Payment was Willful, Rather than Due to an Inability**
15 **to Pay**

16 **a. The Superior Court May Only Refer an Individual for Driver’s License Suspension**
17 **If a Failure to Pay is Willful**

18 41. The Vehicle Code permits superior courts, including Defendant Superior Court, to notify
19 the DMV of a non-payment violation “[i]f, with respect to an offense described in subdivision (e), a
20 person has *willfully* failed to pay a lawfully imposed fine, or bail in installments ... or to pay a fine
21 pursuant to subdivision (a) of Section 42003.” *See* Veh. Code § 40509.5(b) (emphasis added).

22 42. Once the DMV receives this notice, it is required to suspend the person’s driver’s license.
23 Vehicle Code § 13365(a)(2).

24 43. The term “willfully” implies a “purpose or willingness to commit the act, or make the
25 omission[.]” *See* Cal. Pen. Code § 7; *see also* Vehicle Code § 38392 (“‘Willfully’, as used in this
26 section, has the same meaning as the meaning of that word prescribed in Section 7 of the Penal Code.”).

27
28 ⁴ Available at <http://ebclc.org/backontheroad/problem/>.

1 44. A failure to pay cannot be willful if the person did not in fact have the ability to pay. *See,*
2 *e.g.,* Cal. Pen. Code §7; *see also* Black's Law Dictionary (9th ed. 2009) ("willful" is defined as
3 "voluntary and intentional.")

4 **b. The Superior Court Fails to Notify Traffic Defendants That They Have An**
5 **Opportunity To Be Heard Regarding the Willfulness of Their Failure to Pay**

6 45. As described below, traffic defendants in Solano County do not receive adequate notice
7 that Defendants may only act to suspend a license for failure to pay if the failure is "willful." Neither
8 the initial "Notice to Appear," which is commonly known as the traffic ticket issued by law
9 enforcement, nor the subsequent notices issued by Defendants or their collections agency adequately
10 inform traffic defendants that they have the right to establish inability to pay prior to license suspension.

11 46. A copy of California's Standard "Notice to Appear" form used by law enforcement
12 agencies around the state is attached hereto as Exhibit A. On information and belief, persons who
13 receive traffic citations in Solano County will have been given this form or a form substantially similar
14 to Exhibit A. The "Notice to Appear" form contains numerous warnings and instructions, but does not
15 contain any instruction on what a person may do if she cannot afford to pay the citation amount.

16 47. Specifically, if a person does desire to contest the violation, the Notice to Appear
17 instructs that the two options are: 1) request a court trial or 2) request a trial by written declaration.

18 48. For persons who do not desire to contest the violation, the instructions on the Notice to
19 Appear specify that a defendant has these three options: 1) pay the bail amount; 2) complete traffic
20 school, if applicable; and 3) correct the violation, if applicable.

21 49. The Notice to Appear does not contain any instruction on what a person may do if she
22 cannot afford to pay the citation amount. Nor does the Notice to Appear contain a notification that an
23 individual is entitled to a judicial determination on the individual's ability to pay the citation.

24 50. Although the Notice to Appear contains a warning that a failure to pay, appear or contest
25 the citation may lead to a driver's license being withheld, suspended or revoked, the Notice to Appear
26 does not contain a notification that a person's license may not be suspended for a failure to pay a fine if
27 the person does not have the ability to pay.
28

1 51. The Superior Court also sends a subsequent “courtesy notice” to traffic court defendants
2 notifying them of the amount due on the citation and including instructions on how to clear or contest
3 the citation. This Courtesy Notice, obtained via a public records request in March 2016, is attached
4 hereto as Exhibit B.

5 52. Like the Notice to Appear form, the Courtesy Notice contains numerous instructions and
6 warnings, but does not advise the traffic defendant of her right to a judicial determination on her ability
7 to pay the citation or provide any instructions on how to demonstrate inability to pay to the Court.

8 53. Nor does the Courtesy Notice contain any instructions informing a person what do to if
9 she cannot afford to pay the traffic ticket, such as advising her of the possibility of entering into an
10 installment plan, doing community service, or a getting a reduction in fine.

11 54. Although the Courtesy Notice contains a warning that a failure to address the citation
12 could subject the person to a suspension of her license, the notice does not inform a traffic defendant
13 that a person’s license may not be suspended for a failure to pay a fine if the person does not have the
14 ability to pay.

15 55. According to the Superior Court’s Civil Assessment Collection Program Order (the
16 “Program Order”), if a traffic defendant fails to respond to the Courtesy Notice within 45 days of the
17 original due date, the Court: 1) adds a Failure to Appear (FTA)/Failure to Pay (FTP) misdemeanor
18 charge under Vehicle Code §§ 40508(a) and/or 40508 (b), along with the total “bail” for that charge,
19 which is currently \$280 under the Judicial Council’s Uniform Bail schedule; and 2) sends a license
20 suspension referral to the DMV pursuant to Vehicle Code § 40509.5.

21 56. The Program Order also states that if the traffic defendant does not respond to the Court
22 within 15 days of the Failure to Appear/Failure to Pay violation being added, Defendant Superior Court
23 will revert the FTA/FTP “bail” amount to zero, adds on a \$300 civil assessment fee and refer the case to
24 its collection agency, GC Services.

25 57. The collection agency, GC Services, also sends notices to the traffic defendants, none of
26 which notify the defendants of the right to a judicial determination of the defendant’s ability to pay or
27 how to demonstrate an inability to pay to the Court, and provide no indication of what a defendant may
28

1 do if she cannot pay the fine amount, the possibility of requesting a payment plan, community service or
2 a reduction in fine.

3 58. Nor do GC Services' notices contain any instruction of how a traffic defendant may get
4 back in front of the Court in order to request an ability to pay determination or any other judicial relief
5 once the defendant's case has been referred to collections.

6 **c. Defendant Superior Court Does Not Provide a Meaningful Opportunity to be Heard**
7 **on the Statutory Element of Willfulness Prior to Referral for Suspension for Failure**
8 **to Pay**

9 71. Once a person has failed to pay a traffic fine, Defendants refer the individual to the DMV
10 for suspension under 40509.5(b) through an automated process, without first ensuring that there has
11 been a proper judicial determination regarding willfulness.

12 72. Upon information and belief, this referral results in the DMV suspending the person's
13 driver's license. No hearing is held by the DMV prior to license suspension for failure to pay.

14 73. Because Defendants have not notified individuals of their right to an ability to pay
15 determination, Defendant Superior Court cannot have made an adequate judicial determination that the
16 failure to pay was willful, prior to it acting to suspend a license for failure to pay.

17 74. Moreover, on information and belief, there is no meaningful opportunity to be heard
18 regarding ability to pay at the arraignment stage. Although Defendant Superior Court appears to have a
19 declaration form by which a defendant can request a 3 or 6 month extension to pay the imposed fines
20 and fees, or a "bail" reduction, or community service, on information and belief, this form is not part of
21 the materials mailed to all traffic defendants and it is not offered as a matter of standard practice to
22 traffic defendants at arraignment. Moreover, on information and belief, there are no consistent standards
23 that govern the decision on whether to grant an extension, bail reduction, or community service, because
24 there are no written policies or guidelines concerning the evaluation of the information provided by
25 traffic defendants.

26 75. Because Defendants do not as a matter of practice or policy make a determination of a
27 person's ability to pay, Defendants do not have the information necessary to conclude that the failure to
28 pay was willful, rather than being due to the person's indigency.

1 76. Similarly, because Defendants do not as a matter of practice or policy provide adequate
2 notice that a traffic defendant is entitled to an ability to pay determination with respect to traffic fines
3 and fees, many indigent or low-income people believe that it is futile to appear or otherwise contact the
4 court. Accordingly, Defendants' practices also violate the due process rights of indigent traffic
5 defendants whose licenses are suspended for failure to appear because they do not have adequate notice
6 that they are entitled to relief based on their financial circumstances.

7 **C. Injunctive and Declaratory Relief Is Appropriate and Necessary**

8 77. For all of the above violations, Plaintiffs have no adequate remedy at law because the
9 denial of these fundamental constitutional rights and state rights cannot be remedied fully and
10 adequately through legal relief.

11 78. Unless Defendants are ordered to ensure that they comply with their aforementioned
12 duties, Plaintiff Washington and other similarly situated individuals whose licenses will be or have been
13 suspended due to failures to appear or pay without willfulness and/or notice and opportunity for ability
14 to pay determinations will be irreparably harmed.

15 79. Defendants' wrongful conduct would also harm the public interest by, among other
16 things, causing widespread unemployment and destitution, thereby further burdening public agencies
17 responsible for providing safety net support.

18 80. Unless enjoined by this Court to prevent non-compliance with the various legal
19 obligations raised herein, Defendants will continue to refuse to perform their duties, and Plaintiff
20 Washington and similarly situated individuals whose licenses have been or will be suspended will be
21 injured as a result.

22 81. Although written demand was made upon the Defendants to perform their duties, they
23 have failed and refused to perform them.

24 82. At all times relevant to this action, Defendants have had and continue to have the legal
25 ability to perform their duties but despite demand have failed and refused to do so.

26 83. An actual controversy has arisen and presently exists between Plaintiffs and Defendants.
27 Plaintiffs claim that Defendants are obligated by law to provide timely and meaningful notice and
28 opportunity for willfulness and ability to pay determinations prior to license suspensions based on

1 Vehicle Code § 40509.5. Defendants dispute these contentions and, instead, claim that they have no
2 such obligations or that they have been met.

3 84. A judicial declaration is necessary and appropriate at this time in order that Plaintiffs may
4 ascertain and enforce their rights and duties as set forth above.

5 **FIRST CAUSE OF ACTION**
6 **(VIOLATION OF CALIFORNIA VEHICLE CODE § 40509.5(B))**
7 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

8 85. Plaintiffs incorporate by reference all of the above allegations as though fully set forth
9 herein.

10 86. Vehicle Code § 40509.5(b) authorizes the Court to refer a traffic court defendant to the
11 DMV for failure to pay if that failure was willful.

12 87. A vested driver's license is an important and fundamental interest. Whether a driver's
13 license is required for commuting to work, transporting children or the elderly, meeting medical
14 appointments, attending social or political functions, or any combination of these or other purposes, the
15 revocation or suspension of that license can and often does constitute a severe personal and economic
16 hardship.

17 88. Defendants fail to make a proper determination of willfulness of non-payment, including
18 making a determination on an individual's ability to pay, prior to making the administrative decision to
19 refer a traffic defendant to the DMV for failure to pay under Vehicle Code § 40509.5(b).

20 89. Defendants are violating the express requirements of Vehicle Code § 40509.5(b).

21 **SECOND CAUSE OF ACTION (DUE PROCESS, FAILURE TO PAY)**
22 **(VIOLATION OF CALIFORNIA CONSTITUTION, ARTICLE I, §§ 7, 15—DUE PROCESS)**
23 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

24 90. Plaintiffs incorporate by reference all of the above allegations as though fully set forth
25 herein.

26 91. Article I, Sections 7 and 15 of the California Constitution prohibits the government from
27 depriving any person of life, liberty, or property without due process of law.
28

1 92. Defendants' failure to provide adequate notice of the right to an ability to pay
2 determination prior to referring a traffic defendant to the DMV for driver's license suspension for failure
3 to pay, violates this right.

4 93. Defendants' failure to provide a meaningful opportunity to be heard on the issue of
5 ability to pay prior to referring a traffic defendant to the DMV for driver's license suspension for failure
6 to pay, violates this right.

7 **THIRD CAUSE OF ACTION (DUE PROCESS, FAILURE TO PAY)**
8 **(VIOLATION OF UNITED STATES CONSTITUTION, AMENDMENT 14)**
9 **(ALL PLAINTIFFS AGAINST DEFENDANTS)**

10 94. Plaintiffs incorporate by reference all of the above allegations as though fully set forth
11 herein.

12 95. The Fourteenth Amendment to the United States Constitution prohibits the states from
13 depriving any person of life, liberty, or property without due process of law.

14 96. Defendants' failure to provide adequate notice of the right to an ability to pay
15 determination prior to referring a traffic defendant to the DMV for driver's license suspension for failure
16 to pay, violates this right.

17 97. Defendants' failure to provide a meaningful opportunity to be heard on the issue of
18 ability to pay prior to referring a traffic defendant to the DMV for driver's license suspension for failure
19 to pay, violates this right.

20 **FOURTH CAUSE OF ACTION (EQUAL PROTECTION, FAILURE TO PAY)**
21 **(VIOLATION OF CALIFORNIA CONSTITUTION, ARTICLE I, § 7—EQUAL PROTECTION)**
22 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

23 98. Plaintiffs incorporate by reference all of the above allegations as though fully set forth
24 herein.

25 99. Defendants routinely refer individuals to the DMV for driver's license suspension for
26 failure to pay under Vehicle Code § 40509.5(b) without any determination of their ability to pay or
27 financial circumstances.

28 100. Suspending the driver's license of an indigent person or a person who is unable to pay the
high costs of a traffic ticket for failure to pay serves no legitimate, much less a compelling,
governmental interest.

1 101. Defendants' practice of referring a traffic defendant to the DMV for driver's license
2 suspension for failure to pay regardless of the person's actual financial circumstances constitutes a
3 system that impermissibly classifies and punishes similarly situated persons on the basis of wealth with
4 respect to an interest protected by due process, in violation of the Equal Protection Clause of the
5 California Constitution.

6 **FIFTH CAUSE OF ACTION (EQUAL PROTECTION, FAILURE TO PAY)**
7 **(VIOLATION OF UNITED STATES CONSTITUTION, AMENDMENT 14)**
8 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

9 102. Plaintiffs incorporate by reference all of the above allegations as though fully set forth
10 herein.

11 103. The United States Supreme Court has repeatedly endorsed the principle that punishing a
12 person solely for his or her poverty, rather than willful refusal to pay or make bona fide efforts to
13 acquire the resources to pay, violates principles of fundamental fairness embedded in the Fifth and
14 Fourteenth Amendments of the United States Constitution.

15 104. Defendants' practice of referring a traffic defendant to the DMV for driver's license
16 suspension for failure to pay regardless of the person's actual financial circumstances constitutes a
17 system that impermissibly classifies and punishes similarly situated persons on the basis of wealth with
18 respect to an interest protected by due process, in violation of the Equal Protection Clause of the United
19 States Constitution.

20 **SIXTH CAUSE OF ACTION (DUE PROCESS, FAILURE TO APPEAR)**
21 **(VIOLATION OF CALIFORNIA CONSTITUTION, ARTICLE I, §§ 7, 15—DUE PROCESS)**
22 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

23 105. Plaintiffs incorporate by reference all of the above allegations as though fully set forth
24 herein.

25 106. Article I, Sections 7 and 15 of the California Constitution prohibits the government from
26 depriving any person of life, liberty, or property without due process of law.

27 107. Many people fail to appear or otherwise respond to the notices described above because
28 they cannot pay the imposed fines and fees.

1 108. Accordingly, Defendants' practices also violate the due process rights of indigent traffic
2 defendants whose licenses are suspended for failure to appear because they do not have adequate notice
3 that they are entitled to relief based on their financial circumstances.

4 **SEVENTH CAUSE OF ACTION (DUE PROCESS, FAILURE TO APPEAR)**
5 **(VIOLATION OF UNITED STATES CONSTITUTION, AMENDMENT 14)**
6 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

7 109. Plaintiffs incorporate by reference all of the above allegations as though fully set forth
8 herein.

9 110. The Fourteenth Amendment to the United States Constitution prohibits the states from
10 depriving any person of life, liberty, or property without due process of law.

11 111. Many people fail to appear or otherwise respond to the notices described above because
12 they cannot pay the imposed fines and fees.

13 112. Accordingly, Defendants' practices also violate the due process rights of indigent traffic
14 defendants whose licenses are suspended for failure to appear because they do not have adequate notice
15 that they are entitled to relief based on their financial circumstances.

16 **EIGHTH CAUSE OF ACTION**
17 **TAXPAYER ACTION UNDER CODE CIV. PRO. § 526A TO PREVENT**
18 **ILLEGAL EXPENDITURE OF FUNDS**
19 **(RUBICON PROGRAMS AND ACLU-NC AGAINST DEFENDANTS)**

20 113. Plaintiffs Rubicon Programs and the ACLU-NC incorporate by reference all of the above
21 allegations as though fully set forth herein.

22 114. Defendants are illegally expending public funds by performing their duties in violation of
23 the statutory and constitutional provisions described above.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs respectfully request that the Court:

26 115. Issue a declaration that:

- 27 a. Defendants' failure to make a proper determination on whether a nonpayment was
28 willful prior to referring a traffic court defendant to the DMV for license suspension
for failure to pay violates California Vehicle Code § 40509.5(b);

- 1 b. Defendants' failure to provide adequate notice of a traffic court defendant's right to
2 an ability to pay determination prior to referring the person to the DMV for license
3 suspension for failure to pay, violates the due process clauses of the state and federal
4 constitutions;
- 5 c. Defendants' failure to provide a meaningful opportunity to be heard on ability to pay
6 prior to referring a traffic court defendant to the DMV for license suspension for
7 failure to pay, violates the due process clauses of the state and federal constitutions;
- 8 d. Defendants' practices create an impermissible classification on the basis of wealth
9 with respect to an interest protected by due process, in violation of the equal
10 protection clauses of the state and federal constitutions;
- 11 e. To the extent that Defendants fail to provide adequate notice and a meaningful
12 opportunity to be heard on ability to pay, Defendants' referral of low-income and
13 indigent individuals to the DMV for license suspension for failure to appear violates
14 the due process clauses of the state and federal constitutions;
- 15 f. Plaintiff Washington is entitled to a properly noticed and meaningful ability to pay
16 hearing and determination; and
- 17 g. Defendants' referral of Plaintiff Washington to the DMV for license suspension
18 violated his statutory and constitutional rights.

19 116. Issue a preliminary and/or permanent injunction:

- 20 a. Prohibiting Defendants from referring an individual to the DMV for license
21 suspension for failure to pay without making a proper judicial determination that the
22 nonpayment was willful;
- 23 b. Prohibiting Defendants from referring an individual to the DMV for license
24 suspension for failure to pay or for failure to appear until Defendants provide
25 adequate notice to traffic court defendants, at all stages of traffic court proceedings,
26 that the defendant has the right to an ability to pay determination and that the
27 defendant's ability to pay is a critical factor in determining whether the defendant's
28 license may be suspended for failure to pay;

- 1 c. Prohibiting Defendants from referring an individual to the DMV for license
2 suspension for failure to pay or failure to appear until Defendants provide a
3 meaningful opportunity to be heard on an individual's ability to pay, at all stages of
4 traffic court proceedings;
- 5 d. Prohibiting Defendants from engaging in any practices related to driver's license
6 suspensions that have the effect of penalizing individuals on the basis of wealth,
7 including but not limited to referring an individual to the DMV for license suspension
8 for failure to pay without consideration of indigency or financial circumstances;
- 9 e. Prohibiting Defendants from disallowing reinstatement of licenses, or from imposing
10 or collecting fines and fees to be paid prior to reinstatement, in cases where the
11 licenses were suspended due to failures to appear or pay without a properly noticed
12 determination of willfulness, or properly noticed and meaningful ability to pay
13 hearing and determination;
- 14 f. Prohibiting Defendants and/or their collection agency from attempting to collect
15 outstanding fees related to any failure to pay or appear on a traffic citation by Plaintiff
16 Washington, including but not limited to any fees for reinstatement of his driver's
17 license;
- 18 g. Requiring Defendants to release any DMV hold on Plaintiff Washington's driver's
19 license pending a properly noticed and meaningful ability to pay hearing and
20 determination;
- 21 h. Order Defendants to pay Plaintiffs' attorneys' fees and costs; and
- 22 i. Grant Plaintiffs such further relief as the Court deems just and proper.

23
24 DATED: June 14, 2016

Respectfully submitted,

25
26 By: 

CHRISTINE P. SUN
MICAELA DAVIS
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA

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ELISA DELLA-PIANA
LAWYERS' COMMITTEE FOR CIVIL RIGHTS

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VERIFICATION

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I, Abdi Soltani, am Executive Director for the ACLU of Northern California. I have read this Verified Complaint for Declaratory and Injunctive Relief in the matter of *Rubicon Programs, et al., v. Superior Court of California County of Solano et al.* I am informed, and do believe, that the matters herein are true. On that ground I allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: June 14, 2016


By: 
Abdi Soltani

EXHIBIT A

TRAFFIC/NONTRAFFIC NOTICE TO APPEAR
(Face of Court's Copy)

(NAME OF AGENCY AND JURISDICTION)		<input type="checkbox"/> MISDEMEANOR		(Citation No.)	
NOTICE TO APPEAR		<input type="checkbox"/> Traffic <input type="checkbox"/> Nontraffic			
Date of Violation / /	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Day of Week S M T W T F S		Case No.	
Name (First, Middle, Last)		<input type="checkbox"/> Owner's Responsibility (Veh. Code, § 40001)			
Address					
City		State/Country		ZIP Code E-mail Address	
Driver Lic. No.	State	Class	Commercial <input type="checkbox"/> Yes <input type="checkbox"/> No	Age	Birth Date / /
Sex	Hair	Eyes	Height	Weight	Race <input type="checkbox"/> Juvenile (Phone No.) ()
Veh. Lic. No. or VIN		State	Reg. MO/YR	<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b))	
Yr. of Veh.	Make	Model	Body Style	Color	<input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)
Evidence of Financial Responsibility		CHP/DOI/PUC/IGC			
Registered Owner or Lessee		<input type="checkbox"/> Same as Driver			
Address		<input type="checkbox"/> Same as Driver			
City		State	ZIP Code		
Correctable Violation (Veh. Code, § 40610)		<input type="checkbox"/> Booking Required (see reverse)		Misdemeanor or Infraction (Circle)	
Yes	No	Code and Section	Description		
<input type="checkbox"/>	<input type="checkbox"/>			M	I
<input type="checkbox"/>	<input type="checkbox"/>			M	I
<input type="checkbox"/>	<input type="checkbox"/>			M	I
<input type="checkbox"/>	<input type="checkbox"/>			M	I
Speed Approx.	P.F./Max Spd.	Veh. Lmt.	Safe	Radar	<input type="checkbox"/> Continuation Form Issued
Location of Violation(s)		City/County of Occurrence		W	E
Comments (Weather, Road & Traffic Conditions)		<input type="checkbox"/> Accident		S	
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief.					
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.					
Executed at (place)		Violation Location			
21: Dec. Date	Arresting or Citing Officer		Serial No.	Dates Off	
22: / /	Name of Arresting Officer, if different from Citing Officer		Serial No.	Dates Off	
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.					
23: X Signature					
24: WHEN:	ON OR BEFORE THIS DATE: / /		Time:	<input type="checkbox"/> AM <input type="checkbox"/> PM	
			Time:	<input type="checkbox"/> AM <input type="checkbox"/> PM	
25: WHAT TO DO:	FOLLOW THE INSTRUCTIONS ON THE REVERSE.				
WHERE:	[Name of court(s)] [Section(s) or division(s), room no(s)] [Street address(es)] [Phone No.]				
26: <input type="checkbox"/> To be notified	<input type="checkbox"/> You may arrange with the clerk to appear at a night session of the court.				
FPO Barcode (USS Code 39)				DEFENDANT COPY	
Judicial Council of California Form Rev. 06-26-15 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600; Pen. Code, § 853.9)			SEE REVERSE TR-130		

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

TRAFFIC/NONTRAFFIC NOTICE TO APPEAR (Reverse of Defendant's Copy)

IMPORTANT — READ CAREFULLY

**LOCAL INFORMATION FOR THE CITATION IS AVAILABLE ONLINE
AT [website address]**

WARNING: If you fail to appear in court as you have promised, you may be arrested and punished by 6 MONTHS IN JAIL AND/OR A \$1,000 FINE regardless of the disposition of the original charge. (Veh. Code, § 40508 or Pen. Code, § 853.7.) In addition, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration (in absentia) pursuant to Vehicle Code section 40903(a) upon any alleged infraction, as charged by the arresting/citing officer.

JUVENILE: If you were under age 18 at the time the citation was issued, you must appear in court with your parent or guardian.

COURTESY NOTICE: A courtesy notice may be mailed to the address shown on your citation, indicating the required deposit of money (bail) that may be forfeited instead of your appearing in court. If you do not receive such courtesy notice, you are still required to comply with the items below by the appearance date.

WHAT TO DO

You are required to appear at court for a misdemeanor violation. For all violations, your court date/time/place are on the front of this notice to appear. Have the citation with you when contacting the court. In all infraction cases, you must do one or more of the following for each violation:

- Pay the fine (bail).
- Appear in court.
- Contest the violation.
- Correct the violation (traffic cases, when applicable).
- Request traffic school (traffic cases, when applicable).
- Request trial by written declaration (traffic cases).

If you do not do one of the above actions, then a "failure to appear" charge will be filed against you (Veh. Code, § 40508(a)) and your driver license may be withheld, suspended, or revoked. In some courts you may be charged an amount in addition to the bail amount and the case may be turned over to a collection agency. (Pen. Code, § 1214.1.)

1. If you do NOT contest the violation:
 - a. (Pay the bail amount) Contact the court for bail information. You will not have to appear in court. You will be convicted of the violation, and it will appear on your record at the Department of Motor Vehicles (DMV). A point count may be charged to your DMV record and your insurance may be adversely affected.
 - b. (Traffic school) You may be able to avoid the point count by completing traffic school. You must pay the bail amount, and you may have to pay other fees. Contact the court to request traffic school.
 - c. (Correctable violations) If the "Yes" box is checked on the front of your ticket, the violation is correctable. Upon correction of the violation, have a law enforcement officer or an authorized inspection/installation station agent sign below. (Veh. Code, § 40616.) Registration and driver license violations may also be certified as corrected at an office of the DMV or by any clerk or deputy clerk of a court. The violation will be dismissed by the court after PROOF OF CORRECTION and payment of a transaction fee are presented to the court by mail or in person by the appearance date. Violations of Vehicle Code section 16028 (automobile liability insurance) will be dismissed only upon (1) your showing or mailing to the court evidence of financial responsibility valid at the time this notice to appear was issued, and (2) your payment of a transaction fee.

CERTIFICATE OF CORRECTION (MUST BE RETURNED TO COURT)				
Section(s) Violated	Signature of Person Certifying Correction	Serial No.	Agency	Date

2. If you contest the violation (select a or b):
 - a. (Court trial) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court by the appearance date to request a court trial on a future date when an officer and any witnesses will be present. You may be required to submit the bail amount. Go online or call the court for information on going to court without paying bail. —OR—
 - b. (Trial by written declaration (traffic cases)) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court on or before the appearance date to request a trial by written declaration. Submit the bail amount. You will be given forms to allow you to write a statement and to submit other evidence without appearing in court. An officer will also submit a statement. The judicial officer will consider the evidence and decide the case.
3. Make check/money order payable to **Clerk of the Court**. Write your citation number and driver license number on your check or money order. You may pay in person, by mail, or by phone.
4. If "Booking Required" is checked, you must appear for booking on a weekday prior to your court date at _____ between the hours of _____ and _____ and bring the signed verification to your court appearance. Call _____ for more information.

Booking Verification: I declare under penalty of perjury under the laws of the State of California that _____ was booked on _____

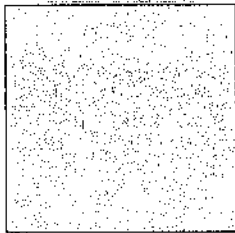
Defendant's name
Date
Officer
Serial No.

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

TRAFFIC/NONTRAFFIC NOTICE TO APPEAR
(Reverse of Court's Copy)

(Circle one)

RIGHT or LEFT
THUMB PRINT



Shaded areas on the form indicate spaces subject
to modification for local or agency requirements.

EXHIBIT B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO

MAILING ADDRESS
 VALLEJO BRANCH
 321 TUOLUMNE STREET
 VALLEJO, CA 94590



MAILING ADDRESS
 FAIRFIELD BRANCH
 P.O. BOX 2463
 FAIRFIELD, CA 94533

COURTESY NOTICE

IMPORTANT: IF YOU APPEAR IN PERSON, YOU MUST BRING THIS NOTICE. IF YOU MAIL BAIL, YOU MUST INCLUDE THIS NOTICE.



APPEARANCE LOCATION
 SUPERIOR COURT
 600 UNION AVENUE
 FAIRFIELD, CA 94533-0246
 707-207-7360, Telephone Hours 8AM – 3PM

YOU WERE CITED FOR THE FOLLOWING VIOLATION(S):

INSTRUCTIONS/COMMENTS:



If above violations are marked '' and all proof of correction(s) are provided, bail is reduced to:
 If you are eligible below for Traffic School, the \$52.00 Traffic School Fee is included in the above amount.

TO CLEAR THIS CITATION:

- 1) If you do not want to appear in court, you may submit bail in full with any required proof of corrections by your appearance date. Make check or money order payable to SOLANO COUNTY SUPERIOR COURT. (Credit cards accepted, see below.) **DO NOT MAIL CASH.**
- 2) Traffic School: See instructions on reverse for Traffic School.
- 3) If you want to appear in court see instructions on reverse.

CITATION NO./ AGENCY	CITATION DATE	DRIVER'S LIC. NO./STATE	VEH. NO./STATE	D.O.B.	DOCKET NO.	APPEARANCE DATE/ TIME
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
MANDATORY APPEARANCE: <input type="checkbox"/>	BAIL FORFEITURE ACCEPTED IN LIEU OF COURT APPEARANCE: <input type="checkbox"/>		TOTAL BAIL: [REDACTED]	ELIGIBLE FOR TRAFFIC SCHOOL <input type="checkbox"/> SEE REVERSE SIDE OF THIS FORM		

I WISH TO:

- FORFEIT BAIL
 - ENROLL IN TRAFFIC SCHOOL
 - PLEAD NOT GUILTY
- (SEE INSTRUCTIONS ON REVERSE SIDE)

WARNING: If you fail to clear this citation by the date listed above, you will be subject to INCREASED BAIL, A MISDEMEANOR "FAILURE TO APPEAR," DRIVER'S LICENSE SUSPENSION, ARREST and/or CIVIL ASSESSMENT of up to \$300.00 and referral to a collection agency.

T O P A Y B Y C R E D I T C A R D



*Fairfield Branch Call 1-800-496-4085
 *Vallejo Branch Call 1-800-687-2069
 -Or Online at: www.solano.courts.ca.gov

*DO NOT USE THIS SERVICE IF ELECTING TRAFFIC SCHOOL, HAVE A PROOF OF CORRECTION, OR WISH TO PLEAD NOT GUILTY. THERE IS A CONVENIENCE FEE FOR USING THIS SERVICE.

READ CAREFULLY BOTH SIDES OF THIS FORM

APPEARANCE - APPROPRIATE BUSINESS ATTIRE REQUIRED

SEE FRONT OF THIS NOTICE FOR APPEARANCE DATE AND LOCATION: You may appear as a "WALK-IN" on your appearance date. When appearing as a "WALK-IN" you must first check in at the Traffic Division Counter. Check in times to Walk-in are: 8:00 to 9:00 a.m. Monday through Friday in Vallejo; 9:00 to 10:00 a.m. Monday through Wednesday in Fairfield. Alternatively, you may request a court appointment by calling the number shown below on or before your appearance date. Telephone hours: 8:00 a.m. to 12:00 p.m. and 1:00 to 3:00 p.m. Office hours: 8:00 a.m. to 3:00 p.m. **Please allow sufficient time for parking and court security screening**
FAIRFIELD: (707) 207-7360 VALLEJO: (707) 561-7860

TRAFFIC SCHOOL:

If you are eligible* you must elect to attend traffic school and post the total bail amount, plus a State-mandated fee of \$52.00 **BEFORE** your appearance date or extended due date. Payment of the total bail plus \$52 fee for traffic school elections can only be done by mail or in person. Bail payments made without \$52 fee will cause your case to close as a bail forfeiture and will not be reopened for traffic school election. If you do not elect to attend traffic school timely, you will be unable to request traffic school at a later date for this citation. A 90-day Traffic School installment payment plan is also available, but you must contact the court and enter into an approved plan prior to your appearance date or extended due date. Any proof of correction must be submitted before signing up for traffic school.

It will be your responsibility to:

- 1) Elect to attend Traffic School and post Traffic School Bail on or before your appearance date or extended due date. Traffic School elections made untimely or without payment of full Traffic School Bail or an approved Traffic School installment payment plan will not be accepted by the Court.
- 1) Select a school and enroll. The traffic school will charge you a separate enrollment fee. If you were charged with multiple violations, contact the court for the amount due.
- 2) Complete a DMV-approved traffic school within 90 days. Upon completion, your violation will be reported to DMV as a confidential conviction.

Failure to complete Traffic School or pay a Traffic School installment plan as ordered will result in the Court converting the fee to bail and declaring it forfeited and reporting the forfeiture as a conviction to DMV.

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance and driving record may be adversely affected. One conviction in any 18-month period will be held confidential. The 18-month period is determined from violation date to violation date. If you complete traffic school when legally ineligible, DMV will remove confidentiality of the conviction from your driving record and the conviction and violation point will appear on your driving record at the DMV.

***TRAFFIC SCHOOL ELIGIBILITY:** You must have a valid driver's license; have not attended or elected to attend traffic school in the past 18 months; have no outstanding "failures to appear"; your citation does not involve any drug or alcohol violations; and you were not speeding more than 25 mph over the posted limit. For Commercial Drivers, please see our website at www.solano.courts.ca.gov.

PROOF OF CORRECTION:

Read the reverse side of this notice carefully. There is space provided on the reverse side of your citation or on the bottom of this form, for certification. If you are appearing in court, bring proof of correction to present in court. If violation is marked P/R this means proof of correction is **required**. You must clear the citation through the court after it is signed off. Proof of correction must be submitted to the Court before signing up for Traffic School. Effective January 1, 2009, there is a \$25 fee imposed for each correctable offense. Full bail amount is required if you were issued a Notice to Correct Violation as opposed to a Notice to Appear citation.

LICENSE and REGISTRATION and certain mechanical violations *may* be certified by any DMV field office.

INSURANCE VIOLATIONS: You must have been insured on the citation date for this violation to be dismissed. Proof must be provided to the court. Law enforcement may not certify this violation.

OTHER VIOLATIONS: You may have these certified by any law enforcement agency or station certified to do so.

NOT GUILTY PLEA:

You may plead NOT GUILTY by any of the following methods:

- a) Request a "court trial" by appearing in court without depositing bail. (See APPEARANCE instructions above.)
- b) Post the amount of bail stated on front of this notice, sign the declaration below, and check the appropriate box below for Court Trial. The court will notify you and the citing officer(s) of the court trial date and time.
- c) Request a "trial by declaration" (court trial by mail) by posting the bail amount stated on the front of this notice, sign the declaration below and check the box for Trial by Declaration. You will be sent a packet of forms to fill out and return to the court within 30 days. (Accident and misdemeanor cases are excluded.) **NOTE:** If you're eligible for Traffic School and wish to attend traffic school if found guilty, you must make an election for traffic school at the time you request a trial by declaration. You must add \$52 to your bail and check the box below for Trial by Declaration with Election for Traffic School. If found not-guilty by trial by declaration, the \$52 fee will be refunded.

DECLARATION

- I hereby declare my intention to plead NOT GUILTY to the charge(s) indicated on the front of this notice.
- I understand full bail must be posted.
- I waive my right to have my trial heard within 45 days*.

Date _____ Signature _____ Daytime Phone # _____

Check applicable box: Court Trial Trial by Declaration Trial by Declaration with Election for Traffic School

*Pursuant to 40519(b) VC, any person using this method shall be deemed to have waived the right to be tried within the statutory period.

Altering this form in any way is not permitted

PROOF OF CORRECTION

SECTION(S)	SIGNATURE OF PERSON CERTIFYING	SERIAL NO.	AGENCY	DATE

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

SUPERIOR COURT OF CALIFORNIA COUNTY OF SOLANO, and
THE HONORABLE ROBERT C. FRACCHIA

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

RUBICON PROGRAMS, AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA, and HENRY WASHINGTON

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

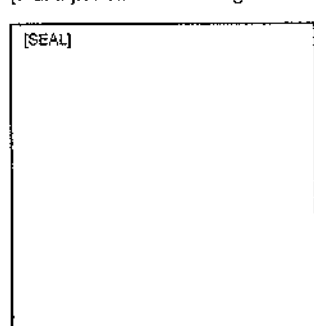
The name and address of the court is:
(El nombre y dirección de la corte es): Old Solano Courthouse
580 Texas Street, Fairfield, CA 94533

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Christine P. Sun, ACLU Foundation of Northern California, 39 Drumm Street, SF, CA 94111; (415) 621-2493

DATE: _____ Clerk, by _____, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):