

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS

The Honorable Deandrea Benjamin, Presiding Circuit Court Judge

Docket No. 2017-CP-40-04199  
Appellate Case No. 2018-001305

John McPartland, ..... Appellant,

v.

State of South Carolina Dept. of Motor Vehicles, ..... Respondents.

RECORD ON APPEAL

February 6, 2019

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S.C. Department of Motor Vehicles  
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STATE OF SOUTH CAROLINA )  
 COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
 FIFTH JUDICIAL CIRCUIT

John McPartland, )

C/A No.: 2017-CP-40-4199

Plaintiff, )

v. )

**ORDER**

South Carolina Department of Motor  
 Vehicles, )

Defendant. )

### INTRODUCTION

This matter came before Judge DeAndrea Gist Benjamin on June 18, 2018 in the Court of Common Pleas for Richland County, South Carolina. The Court presided over a non-jury trial. The issue before the Court was Plaintiff, John McPartland's, request to reinstate his South Carolina driver's license. Counsel for Plaintiff, T. Micah Leddy, Esq. and counsel for Defendant, Brandy A. Duncan, Esq. were both present at the non-jury trial. After reviewing the pleadings, memoranda, and arguments of counsel, the Court issues the following order.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The parties stipulated to the facts of this case that are attached to this order as Exhibit A.
2. Plaintiff's original application to Defendant for a South Carolina driver's license dated June 15, 2000 failed to reveal Plaintiff's active suspended/revoked driving privileges in New York.
3. Plaintiff's renewal application to Defendant dated June 15, 2005 failed to reveal Plaintiff's active/suspended driving privileges in New York.
4. Plaintiff's renewal application to Defendant dated June 11, 2015, failed to reveal Plaintiff's active/suspended driving privileges in New York.

*1/12*

5. Defendant discovered Plaintiff's active suspended/revoked driving privileges in New York on June 11, 2015 due to technological advances made available to Defendant.
6. Defendant promptly notified Plaintiff on June 12, 2015, that the law required it to cancel Plaintiff's South Carolina driver's license, which does not amount to a violation of Plaintiff's due process rights. *See Hipp v. S.C. Dep't of Motor Vehicles*, 381 S.C. 323,325, 673 S.E.2d 416, 417 (2009); *Wilson v. S.C. Dep't of Motor Vehicles*, 419 S.C. 203, 208 796 S.E.2d 541, 543 (2017) (holding the suspension of a license after a lengthy delay following a DUI conviction when neither the driver nor the state were at fault, violates due process).
7. Plaintiff's active suspended/revoked driving privileges in New York preclude Defendant from renewing Plaintiff's South Carolina driver's license. *See S.C. Code Ann. § 56-1-40 (2)*.
8. Defendant has the authority to cancel Plaintiff's South Carolina driver's license as (1) Plaintiff is not entitled to hold a South Carolina driver's license pursuant to S.C. Code Ann. § 56-1-40 (2) and (2) because Plaintiff failed to provide required or correct information in his applications for a South Carolina driver's license pursuant to S.C. Code Ann. § 56-1-240.
9. Plaintiff applied to the New York State Department of Motor Vehicles ("NYDMV") to have his driving privileges reinstated in New York, but the application was denied.
10. Plaintiff appealed the NYDMV's determination to the Appeals Board in New York ("Appeals Board"). On April 25, 2017, the Appeals Board affirmed the NYDMV's decision.
11. The NYDMV informed Plaintiff he may appeal the determination of the Appeals Board to the New York State Supreme Court.
12. Plaintiff has not appealed the decision of the Appeals Board and has failed to exhaust administrative remedies available in New York.

2 

**CONCLUSION**

Plaintiff has failed to exhaust administrative remedies available in New York and the Complaint against Defendant is dismissed with prejudice.

**IT IS SO ORDERED.**



The Honorable DeAndrea G. Benjamin  
Presiding Circuit Judge  
Fifth Judicial Circuit

Columbia, South Carolina  
June 25, 2018

STATE OF SOUTH CAROLINA  
COUNTY OF Richland  
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP4004199

John McPartland  
PLAINTIFF(S)

South Carolina Department Of Motor Vehicles  
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);  
☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
☐ Affirmed; ☐ Reversed; ☐ Remanded;  
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

The Plaintiff's 59(e) Motion to Alter or Amend the Court's June 26, 2018 Order is Denied.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/12/2018 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

---

ELECTRONICALLY FILED - 2018 Jul 13 9:06 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199



**Richland Common Pleas**

**Case Caption:** John McPartland vs South Carolina Department Of Motor Vehicles

**Case Number:** 2017CP4004199

**Type:** Order/Electronic Form 4

So Ordered

s/DeAndrea Gist Benjamin, #2161

Electronically signed on 2018-07-12 16:50:39 page 3 of 3

ELECTRONICALLY FILED - 2018 Jul 13 9:06 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JOHN MCPARTLAND

Plaintiff(s)

vs.

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES

Defendant(s)

Submitted By: T. MICAH LEDDY  
Address: LEDDY LAW FIRM, LLC  
1522 LADY STREET  
SUITE B  
COLUMBIA, SC 29201

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2017-CP - 40- 4199

SC Bar #: 75213  
Telephone #: 803-779-9966  
Fax #: 803-753-0837  
Other:  
E-mail: MICAH@LEDDYLAW.COM

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

**DOCKETING INFORMATION (Check all that apply)**

*\*If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.  
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.  
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.  
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

**NATURE OF ACTION (Check One Box Below)**

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Fraud/Bad Faith (150)<br><input type="checkbox"/> Failure to Deliver/<br>Warranty (160)<br><input type="checkbox"/> Employment Discrim (170)<br><input type="checkbox"/> Employment (180)<br><input type="checkbox"/> Other (199) _____ | <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br>Previous Notice of Intent Case #<br>20 ____ -NI- ____<br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299) _____                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Torts - Personal Injury</b><br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Assault/Battery (370)<br><input type="checkbox"/> Slander/Libel (380)<br><input type="checkbox"/> Other (399) _____                                                                                                                                                           | <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499) _____                                                                                                                                                  |
| <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599) _____                                                                                                                                                                                                                                                                                | <b>Administrative Law/Relief</b><br><input checked="" type="checkbox"/> Reinstatement Drv. License (800)<br>((800/800))<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture-Consent Order (850)<br><input checked="" type="checkbox"/> Other (899)<br><b>Declaratory Judgment</b><br><b>Special/Complex /Other</b><br><input type="checkbox"/> Environmental (600)<br><input type="checkbox"/> Automobile Arb. (610)<br><input type="checkbox"/> Medical (620)<br><input type="checkbox"/> Other (699) _____<br><input type="checkbox"/> Sexual Predator (510)<br><input type="checkbox"/> Permanent Restraining Order (680) | <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured<br>Settlement Payment Rights<br>Application (760)<br><input type="checkbox"/> Confession of Judgment (770)<br><input type="checkbox"/> Petition for Workers<br>Compensation Settlement<br>Approval (780)<br><input type="checkbox"/> Other (799) _____ | <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Comm. (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) _____ |

Submitting Party Signature: T. Micah Leddy

Date: 7/13/17

SCCA / 234 (03/2016)

Page 1 of 2

**Note:** Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.**

**SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.**

**Pursuant to the ADR Rules, you are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.  
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA, )  
 )  
COUNTY OF RICHLAND )  
 )  
JOHN MCPARTLAND )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
S.C. DEPT. OF MOTOR VEHICLES )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS

SUMMONS

FILE NO. 2017-CP-40-

RICHLAND COUNTY  
FILED  
2017 JUL 13 PM 4:15  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

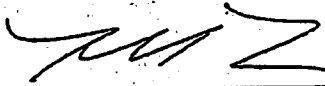
TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

COLUMBIA, South Carolina

Dated: July 13, 2017

Address:

  
Plaintiff/Attorney for Plaintiff  
T. MICAH LEDDY  
LEDDY LAW FIRM, LLC  
1522 LADY STREET  
SUITE B  
COLUMBIA, SC 29201

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
John McPartland )  
Plaintiff, )  
v. )  
South Carolina Department )  
of Motor Vehicles )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
FILE NO: 2017-CP-40-\_\_\_\_\_

COMPLAINT

RICHLAND COUNTY  
FILED  
2017 JUL 13 PM 4:15  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

Plaintiff John McPartland ("Plaintiff") hereby files this Complaint against Defendant South Carolina Department of Motor Vehicles ("Defendant") and alleges as follows:

**PARTIES**

1. Plaintiff is a resident of Greenville County, South Carolina, residing at 782 E. Butler Road, Apt. 1224, Mauldin, S.C. 29662.
2. Defendant South Carolina Department of Motor Vehicles ("SCDMV") is an agency of the State of South Carolina, having its principal place of business located at 10311 Wilson Boulevard - Building C, Blythewood, South Carolina 29016.

**JURISDICTION AND VENUE**

3. Jurisdiction and venue are properly vested with this Court pursuant to S.C. Code §15-77-50 and §15-53-10 *et seq.*

**FACTUAL ALLEGATIONS**

4. Plaintiff has been a resident of South Carolina since 1999. Prior to this, Plaintiff was a resident of New York state.

5. Between 1982 and 1999, while a resident of New York state, Plaintiff was convicted of five alcohol related driving offenses resulting in the revocation of his New York driver's license.
6. Plaintiff moved to South Carolina in 1999 and has resided in South Carolina ever since.
7. Plaintiff obtained a South Carolina driver's license ("SCDL") on June 15, 2000.
8. Plaintiff had his SCDL reissued on June 15, 2005.
9. Plaintiff renewed his SCDL on June 11, 2015.
10. By letter dated August 10, 2015, Defendant SCDMV notified Plaintiff that his renewed license was being cancelled effective October 9, 2015.
11. The letter stated that the SCDMV was cancelling the license based on S.C. Code 56-1-240 because Plaintiff failed to meet licensing requirements.
12. S.C. Code 56-1-240 states that the SCDMV may cancel a license upon determination that the licensee was not entitled to issuance thereof.
13. On information and belief, the failure to meet licensing requirements is due to Plaintiff's license being revoked in New York since 1998.
14. The SCDMV letter instructed Plaintiff to clear his revocation with the state of New York and provided contact instructions.
15. In the time since, Plaintiff has filed numerous petitions and appeals to reinstate his privileges in New York, and all have been denied.
16. Pursuant to S.C. Code 56-1-40 (2), a person whose driver's license or privilege to operate a motor vehicle currently is suspended or revoked in this State or another jurisdiction may not be licensed or have their license renewed.

17. Upon information and belief, the SCDMV has had as standard procedure since 2008 the practice of issuing a renewal license the same day of a renewal application and then performing a nationwide computer check using the Problem Driver Pointer System ("PDPS") that evening.

18. Plaintiff's New York revocation was discovered on his background check and the SCDMV issued a letter to him on August 10, 2015 indicating that his license would be cancelled effective October 9, 2015.

19. Upon information and belief, when Plaintiff first obtained his SCDL in June of 2000, he was ineligible to be licensed pursuant to 56-1-40 (2), which was in effect at the time.

20. Plaintiff has never had any alcohol or drug related arrest in South Carolina and has had an almost perfect driving record in South Carolina with only one speeding ticket in 2014.

21. The SCDMV never notified Plaintiff of the problem or instructed him to clear the New York revocation until 2015.

22. Upon information and belief, Plaintiff could have easily cleared his New York suspension any time between 1999 and 2012. This is because of a change in the law and/or policy of the State of New York, which occurred in 2012.

23. The law in New York in question is 15 NYCRR § 136.5(b)(1), which requires the denial of any application for re-licensure if a review of the applicant's record shows five or more "alcohol or drug-related driving convictions or incidents" within the applicant's lifetime

24. Upon information and belief, this New York law requiring the denial of Plaintiff's application went into effect on September 25, 2012.

25. Upon information and belief, 15 NYCRR § 136.5(d) provides for the New York State Commissioner of Motor Vehicles to have the ability to exercise discretion to grant Plaintiff, and others similarly situated, a license based on extenuating circumstances.

26. Upon information and belief, the percentage of people who have succeeded on a petition to get a license pursuant to this 136.5(d) is so small that the exception for extenuating circumstances is effectively non-existent.

27. Plaintiff has attempted on multiple occasions to get his New York privileges reinstated pursuant to this section by filing petitions and appeals with the NYSDMV Driver Improvement Bureau and its Appeals Board unsuccessfully.

28. Upon information and belief, it is effectively impossible for Plaintiff to clear his revocation in New York.

29. There is no provision of South Carolina statutory law that provides for the SCDMV to exercise discretion in licensing Plaintiff even though he cannot possibly clear his revocation in New York state.

30. Plaintiff has tried all possible avenues of resolution with the SCDMV and has therefore exhausted his administrative remedies.

**FOR A FIRST CAUSE OF ACTION**  
**(Declaratory Judgment)**

31. Plaintiff restates each and every allegation above as if stated verbatim here.

32. Plaintiff has a property interest in his driver's license that the State may not take without providing her due process.

33. Due process is violated when a party is denied fundamental fairness.

34. Plaintiff's license cancellation is fundamentally unfair and constitutes a denial of due process because the SCDMV did not notify the Plaintiff for over 12 years of a need to clear the NY state revocation. To cancel Plaintiff's license so long after issuing it in error is fundamentally unfair.

35. Upon information and belief, the Plaintiff could have easily cleared his suspension in New York by simply paying a reinstatement fee any time from 1999 until 2012 when the New York law changed.

36. Now, Plaintiff has no recourse to clear his suspension in New York and cannot obtain licensure in South Carolina.

37. Plaintiff prays that this Court declare that the Defendant's action of cancelling Plaintiff's license to be violative of due process because it is fundamentally unfair. Alternatively, Plaintiff prays that this Court declare that S.C. Code §56-1-40(2) is unconstitutional as violative of due process where it bars issuance or renewal of a license based on a suspension in another jurisdiction when that suspension cannot possibly be cleared.

**FOR A SECOND CAUSE OF ACTION**  
**(Injunctive Relief)**

38. Plaintiff restates each and every allegation above as if stated verbatim here.

39. Plaintiff has to drive to help care for his elderly mother, and therefore is suffering, and will continue to suffer, damages as a result of the cancellation imposed by Defendant in a manner that violates Plaintiff's due process rights.

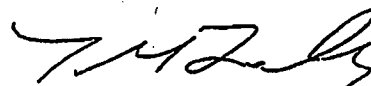
40. Plaintiff does not have a legal remedy sufficient to offset the damages he is suffering as a result of the suspension.

41. Plaintiff therefore prays that this Court enter an order enjoining the Defendant from suspending his license, and that this Court order the Defendant to reinstate Plaintiff's driver's license.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that this Court enter an order holding that:

1. Defendant's cancellation of Plaintiff's driver's license is violative of due process.
2. Defendant's cancellation of Plaintiff's license is therefore null and void.
3. Defendant is hereby enjoined from cancelling Plaintiff's license under these circumstances.
4. Defendant is ordered to reinstate Plaintiff's driver's license.
5. And any further relief deemed reasonable and necessary by this Court.



T. Micah Leddy  
Attorney for Plaintiff

This 13 day of July, 2017.

LEDDY LAW FIRM, LLC  
2008 Lincoln Street  
Columbia, SC 29201  
(803) 779-9966  
(803) 753-0837 (f)  
micah@leddyfirm.com  
SC Bar #75213

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JOHN MCPARTLAND,

PLAINTIFF,

vs.

SOUTH CAROLINA DEPARTMENT  
OF MOTOR VEHICLES,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2017-CP-40-4199

**ANSWER**

The Defendant, South Carolina Department of Motor Vehicles ("SCDMV"), answers the Complaint as follows. Defendant hereby denies any and all claims in the Complaint not specifically admitted, explained, or otherwise qualified herein and demands strict proof of same.

1. Paragraph 1 is denied for lack of information. SCDMV does admit that SCDMV's records show Plaintiff's address of record is 782 E. Butler Rd., Apt. 1224, Mauldin, South Carolina 29662-1677.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Paragraph 4 is denied for lack of information. SCDMV does admit that according to SCDMV's records, Plaintiff held a South Carolina driver's license from June 15, 2000 through August 11, 2015, which would indicate Plaintiff was a South Carolina resident from June 15, 2000 through August 11, 2015.
5. Paragraph 4 is denied for lack of information.
6. Paragraph 6 is denied for lack of information. SCDMV does admit that according to SCDMV's records, Plaintiff held a South Carolina driver's license from June 15, 2000



through August 11, 2015, which would indicate Plaintiff was a South Carolina resident from June 15, 2000 through August 11, 2015.

7. Paragraph 7 is admitted.
8. Paragraph 8 is admitted.
9. Paragraph 9 is admitted.
10. Paragraph 10 is admitted.
11. Paragraph 11 is admitted.
12. Paragraph 12 is admitted with the caveat that S.C. Code §56-1-240 states, in its entirety:

The Department of Motor Vehicles may cancel any driver's license upon determination that the licensee was not entitled to the issuance thereof or that the licensee failed to give the required or correct information in his application or committed any fraud in making such application and for such other causes as may be authorized by law.

Upon such cancellation the license must surrender the license to cancelled by the Department.

13. Paragraph 13 is denied for lack of information. SCDMV does admit that Plaintiff's October 9, 2015 cancellation for Failure to Meet Licensing Requirements is due to a Problem Driver Pointer System ("PDPS") hit from New York State DMV.
14. Paragraph 14 is admitted.
15. Paragraph 15 is denied for lack of information.
16. Paragraph 16 is admitted.
17. Paragraph 17 is admitted with the clarification that the PDPS search is performed in the evening, after SCDMV closes, due to the bandwidth needed for the number of searches that are run each day.
18. Paragraph 18 is admitted with the following clarifications:

- a. SCDMV did not "discover" "Plaintiff's New York revocation." SCDMV got a PDPS hit from New York State DMV and SCDMV did not know what triggered that hit.
- b. SCDMV initially issued Plaintiff a letter on June 12, 2015 informing him that this South Carolina driver's license would be cancelled on August 11, 2015 if he had not cleared up the PDPS hit from New York State DMV (Exhibit A).
- c. Pursuant to a written request from Plaintiff, on August 10, 2015, SCDMV did grant Plaintiff a 60 day extension to resolve the PDPS hi from New York State DMV (Exhibit B).
- d. As a result of that 60 extension, SCDMV issued the August 10, 2015 notice of cancellation (Exhibit C).

19. Paragraph 19 is admitted with the following clarifications:

- a. SCDMV did not have access to the PDPS system in any manner until 1990. At that time it was known as the National Driver Registry.
- b. Beginning in 1990, SCDMV first had the ability to check the PDPS system for issuance of original credentials only. An original credential is the credential that is the very first credential ever issued to a person by SCDMV.
- c. When SCDMV checked PDPS at the time of issuing Plaintiff's original South Carolina credential (the evening of June 15, 2000), no hits came back, indicating that at that time Plaintiff was either not suspended or revoked in another State or, if Plaintiff was suspended or revoked in another State, that State had not entered a pointer into the PDPS system.
- d. When Plaintiff applied for his South Carolina driver's license on June 15, 2000,

Plaintiff lied in response to the question "Is your privilege to drive suspended, cancelled, revoked, or disqualified in any state or county or have you recently surrendered your license or permit in court following a conviction?" Plaintiff answered "No" to this question (Exhibit D).

20. Paragraph 20 is denied for lack of information. SCDMV admits that SCDMV's records reflect that Plaintiff has only been convicted of Speeding 10-mph or less since being issued his South Carolina driver's license.

21. Paragraph 21 is admitted with the following clarifications:

- a. SCDMV did not know Plaintiff was suspended or revoked in another State until after normal business hours on June 11, 2015.
- b. Plaintiff lied on at least four Applications for a Non-Commercial Credential in response to the question "Is your beginner's permit, driver's license, moped license, or privilege to drive suspended, cancelled, revoked, or disqualified in any state?" On each of these four applications, Plaintiff answered "No" to this question (Exhibit D & E).

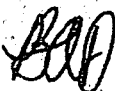
22. Paragraph 22 is denied for lack of information.

23. Paragraph 23 is denied.

24. Paragraph 24 is denied.

25. Paragraph 25 is admitted with the caveat that 15 NYCRR §136.5(d) states, in its entirety:

While it is the Commissioner's general policy to act on applications in accordance with this section, the Commissioner shall not be foreclosed from consideration of unusual, extenuating and compelling circumstances that may be presented for review and which may form a valid basis to deviate from the general policy, as set forth above, in the exercise of discretionary authority granted under sections 510 and 1193 of the Vehicle and Traffic Law. If an application is approved based upon the exercise of such discretionary



authority, the reasons for approval shall be set forth in writing and recorded. If an approval is granted based upon unusual, extenuating and compelling circumstances, the applicant may be issued a license or permit with a problem driver restriction, as set forth in section 3.2(c)(4) of this Title, and may be required to install an ignition interlock device in any motor vehicle owned or operated by such person for a period of five years. The provisions of this subdivision shall not apply to denials under paragraph (6) of subdivision (b) of this section.

26. Paragraph 26 is denied.

27. Paragraph 27 is denied.

28. Paragraph 28 is denied.

29. Paragraph 29 is admitted.

30. Paragraph 30 is denied.

31. In response to Paragraph 31, Defendant repeats and realleges all preceding paragraphs.

32. Paragraph 32 sets forth legal conclusions which can neither be admitted nor denied. Insofar as such allegations attempt to establish liability on the part of Defendant SCDMV, Defendant denies same and demands strict proof thereof.

33. Paragraph 33 sets forth legal conclusions which can neither be admitted nor denied. Insofar as such allegations attempt to establish liability on the part of Defendant SCDMV, Defendant denies same and demands strict proof thereof.

34. Paragraph 34 sets forth legal conclusions which can neither be admitted nor denied. Insofar as such allegations attempt to establish liability on the part of Defendant SCDMV, Defendant denies same and demands strict proof thereof.

35. Paragraph 35 is denied.

36. Paragraph 36 is denied.

37. Paragraph 37 sets forth the relief requested by Plaintiff and as such requires no answer.

5 

Insofar as such allegations attempt to establish liability on the part of Defendant SCDMV, Defendant denies same and demands strict proof thereof.

38. In response to Paragraph 38, Defendant repeats and realleges all preceding paragraphs.

39. Paragraph 39 is denied due to lack of information.

40. Paragraph 40 is denied.

41. Paragraph 41 sets forth the relief requested by Plaintiff and as such requires no answer.

Insofar as such allegations attempt to establish liability on the part of Defendant SCDMV, Defendant denies the same and demands strict proof thereof.

42. The remainder of the complaint sets for Plaintiff's prayer for relief and as such requires no answer. Insofar as such prayer for relief attempts to establish liability on the part of Defendant SCDMV, Defendant denies the same and demands strict proof thereof.

#### **FOR A FIRST DEFENSE**

1. The Complaint fails to state a claim on which relief can be based.

#### **FOR A SECOND DEFENSE**

2. Defendant SCDMV would show that when drivers renew their South Carolina driver's license, SCDMV checks for cancellations, revocations, and suspensions in other states through the Problem Driver Pointer System (hereinafter, "PDPS"). Due to bandwidth volume issues, this search is performed in an overnight "batch" process and takes place after the renewed driver's license is issued to the driver. If this search reveals an unresolved cancellation, revocation, or suspension in another state that bars renewal of the South Carolina driver's license, the SCDMV issues a notice to the driver, advising that if the issue(s) with the out-of-state cancellation, suspension, and/or revocation is not resolved ("cleared") within 60 days, then the driver's license will be cancelled as required by S.C.

Code §56-1-240. Such a notice was sent to Plaintiff in a letter dated June 12, 2015 informing him that his South Carolina driver's license would be cancelled on August 11, 2015 if he had not cleared up the PDPS hit from New York State DMV (Exhibit A). Pursuant to a written request from Plaintiff, on August 10, 2015, SCDMV did grant Plaintiff a 60 day extension to resolve the PDPS hi from New York State DMV (Exhibit B). As a result of that 60 extension, SCDMV issued the August 10, 2015 notice of cancellation (Exhibit C). Defendant SCDMV would further show that Plaintiff did not resolve his issue(s) with New York during either 60-day period.

3. Upon receiving the Complaint, SCDMV ran Plaintiff's information through PDPS again on July 26, 2017 at 10:17 a.m. and received a hit from the State of New York (Exhibit F). This hit shows a status of "NOT" and "NOT" from New York with regard to Plaintiff's driver's license/driver's privilege status and commercial driver's license status, respectively.

#### **FOR A THIRD DEFENSE**

4. Some or all of Plaintiff's claims are barred by the doctrine of res judicata and/or principles of collateral estoppel and/or issue preclusion.

#### **FOR A FOURTH DEFENSE**

5. Plaintiff lacks standing to bring this action.

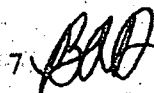
#### **FOR A FIFTH DEFENSE**

6. Plaintiff has failed to exhaust administrative remedies.

#### **FOR AN SIXTH DEFENSE**

7. Plaintiff's claims are not ripe for adjudication.

#### **FOR A SEVENTH DEFENSE (Unclean Hands)**

7. 

8. The Plaintiff is asking this court to order the SCDMV to violate S.C. Code §56-1-40(2) by reissuing a South Carolina driver's license to a person that was never qualified to be issued that license to begin with and to make that reissuance to a person that proactively lied about not meeting the requirements of S.C. Code §56-1-40(2) to have that driver's license issued.

9. As discussed in Straight v. Goss, 383 S.C. 180, 678 S.E.2d 443, 457-58 (Ct. App. 2009):

"The doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant." *First Union Nat'l Bank of S.C. v. Soden*, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct.App. 207\*207 1998). "He who comes into equity must come with clean hands. It is far more than a mere banality. It is a self-imposed ordinance that closes the door of the court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief." *Emery v. Smith*, 361 S.C. 207, 220, 603 S.E.2d 598, 605 (Ct.App.2004) (quoting *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 814, 65 S.Ct. 993, 89 L.Ed. 1381 (1945)).

10. The Plaintiff knew or should have known that his driving privileges were suspended, revoked, or cancelled in New York and he chose to violate South Carolina's law by lying on his SCDMV applications for non-commercial credentials.

11. Having put forth these lies to wrongfully obtain a South Carolina driver's license, Plaintiff cannot now seek equitable relief from any South Carolina court to regain his wrongfully obtained South Carolina driver's license.

WHEREFORE, having fully answered the Complaint of the Plaintiff, Defendants pray that the Complaint be dismissed, for the costs of this action, and for such other and further relief as the Court deems just and proper.

8 



BRANDY A. DUNCAN, SC Bar # 72052

Assistant General Counsel

FRANK L. VALENTA, JR., SC Bar # 5682

General Counsel

PHILIP S. PORTER, SC Bar # 4526

Deputy General Counsel

South Carolina Department of Motor Vehicles

Post Office Box 1498

Blythewood, South Carolina 29016-0020

Telephone: 803.896.9900

Facsimile: 803.896.9901

Email: [hearingsprocessingunit@scdmv.net](mailto:hearingsprocessingunit@scdmv.net)

July 26, 2017

Blythewood, South Carolina

South Carolina  
Department of Motor Vehicles



EXHIBIT A

REDACTED

06/12/2015

MCPARTLAND, JOHN P  
[REDACTED]

CUSTOMER NO: [REDACTED]

FILE NO: [REDACTED]

DL NO: [REDACTED]

OFFICIAL NOTICE

You may not drive commercial or non-commercial motor vehicles.

REASON: Failure to meet licensing requirements.

SECTION OF LAW: 56-1-240

A review of your application for a credential indicates that your driving privileges are cancelled, suspended or revoked in the state listed:

NEW YORK  
NEW YORK STATE DMV  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228  
518-473-5595

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

*A. L. Phelps*

Driver Services Deputy Director

Credential Issue Date 06/11/2015

CANCELLATION BEGINNING DATE: 12:01 AM 08/11/2015

CANCELLATION ENDING DATE: When you receive notice from the Department that this action has been cleared.

SPECIAL DRIVING PRIVILEGES:

There are no special driving privileges available to you. You may not drive until you have done the following:

COMPLIANCE:

You must contact the Department of Motor Vehicles listed above to clear the matter and obtain a letter of clearance. You are required to present this letter of clearance to your local DMV Office or mail it to Driver Records, PO Box 1498, Blythewood, SC 29016-0028.

REINSTATEMENT FEE:

You must pay a \$100.00 reinstatement fee if your clearance letter shows the clearance date on or after the cancellation beginning date listed above. This fee can be paid at any DMV Office, mailed to Driver Records, PO Box 1498, Blythewood, SC 29016-0028 or paid by credit card at [www.scdmvonline.com](http://www.scdmvonline.com). Make checks and money orders payable to SCDMV. Do not send cash through the mail.

Your license must be returned to any DMV Office or mailed to Driver Records if this cancellation is not cleared before the cancellation date listed above.

If you have any further questions, please contact the DMV Customer Service Unit at (803)896-5000.

THIS NOTICE CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

REDACTED

DRIVER RECORDS SCAN INFORMATION SHEETProcess/Clearance Date: 8-10-15

Customer D.L. Number: \_\_\_\_\_

Customer Number: Customer First Name: JohnCustomer Last Name: McPartlandUser Initial: man

Number of pages including: \_\_\_\_\_

Alternative Clearance Method:  
(Check the box that applies)

- ☐ Administrative Clearance
- ☐ Delete Susp/Viol
- ☐ Court Order
- ☐ Modify Viol/Susp

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

A. L. Phelps

Driver Services, Deputy Director

Clearance Reason:

Deleted F4MLR beg 8-11-15  
giving customer extension  
Re-add back to record  
per letters

File # 19442926

[REDACTED]

July 31, 2015

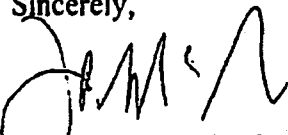
To Whom it may concern:

I am writing in reference to the enclosed notification that I received from the South Carolina Department of Motor Vehicles dated June 12, 2015 (*see enclosed copy*).

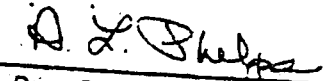
I am requesting an extension of ninety days (90) to the cancellation date on my current South Carolina Drivers License as I have not been able to gather the necessary information. Currently, I am the only member of my household with a valid license and need to remain gainfully employed and available to transport disabled/elderly members of family to appointments.

Thank you in advance for your prompt attention to this matter.

Sincerely,

  
John P. McPartland  
[REDACTED]

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

  
Driver Services, Deputy Director

Mary E. West 7/31/2015

MY COMMISSION EXPIRES  
JUNE 4, 2019

RECEIVED  
AUG 03 2015  
DRIVER RECORDS

EXHIBIT B

Walter R. Hines  
Governor



Kenneth A. Strickland  
Executive Director

State of South Carolina  
Department of Motor Vehicles

REDACTED

06/12/2015

MCPARTLAND, JOHN P

CUSTOMER NO: [REDACTED]  
FILE NO: [REDACTED]  
DL NO: [REDACTED]

OFFICIAL NOTICE

You may not drive commercial or non-commercial motor vehicles.

REASON: Failure to meet licensing requirements.

SECTION OF LAW: 56-1-240

A review of your application for a credential indicates that your driving privileges are cancelled, suspended or revoked in the state listed:

NEW YORK  
NEW YORK STATE DMV  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228  
518-473-5595

Credential Issue Date 06/11/2015

CANCELLATION BEGINNING DATE: 12:01 AM 08/11/2015

CANCELLATION ENDING DATE: When you receive notice from the Department that this action has been cleared.

SPECIAL DRIVING PRIVILEGES:

There are no special driving privileges available to you. You may not drive until you have done the following:

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You must contact the Department of Motor Vehicles listed above to clear the matter and obtain a letter of clearance. You are required to present this letter of clearance at your local DMV Office or mail it to Driver Records, PO Box 1498, Blythewood, SC 29016-0028.

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Your license must be returned to any DMV Office or mailed to Driver Records if this cancellation is not cleared before the cancellation date listed above.

If you have any further questions, please contact the DMV Customer Service Unit at (803)896-5000.

THIS NOTICE CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

RECEIVED

AUG 03 2015

DRIVER RECORDS

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

*A. L. Phelps*  
Driver Services Deputy Director

Post Office Box 1498, Blythewood, South Carolina 29016

NY 515428683

EXHIBIT B

*A. L. Phelps*

Driver Services, Deputy Director



REDACTED

## Complete Internal Record - Departmental Use Only

Customer No: 24618421 Driver License No:  
Name: MCPARTLAND, JOHN P  
Address: [REDACTED] State: [REDACTED] Zip: [REDACTED]  
City: [REDACTED] Customer Status: ACTIVE  
County: [REDACTED]  
SSN: [REDACTED] DOB: [REDACTED] Height: [REDACTED] Weight: [REDACTED] Sex: M Race: WHITE  
Citizen: Y Driver Training: N Special Address: N SR22: Alert: N  
Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

### License Information

| Type    | Class | Function | Issued     | Expires    | First Issued | Rest. | Endor. | Med. | Off. | Clerk      |
|---------|-------|----------|------------|------------|--------------|-------|--------|------|------|------------|
| Current |       |          |            |            |              |       |        |      |      |            |
| DL      | DM    | Renewal  | 06/11/2015 | 06/15/2025 | 06/15/2000   | N     | N      | N    | 0080 | MOORE_MYRA |
| Prior   |       |          |            |            |              |       |        |      |      |            |
| DL      | DM    | Renewal  | 06/15/2005 | 06/15/2015 | 06/15/2000   | N     | N      | N    | 0049 | STEADMAN_T |
| DL      | DM    | Reissue  | 06/15/2005 | 06/15/2015 | 06/15/2000   | N     | N      | N    | 0080 | ALSTON_CAT |
| DL      | DM    | Original | 06/15/2000 | 06/15/2005 | 06/15/2000   | N     | N      | N    | CONV | CONVERSION |

### Address Change -

Date Changed: 02/05/2003

Address: [REDACTED]  
City: [REDACTED]

### Point Summary

Total Current Points: 1  
Driver Credit: -0  
Adjusted Current Points: 1

### CANC: 050 - FAILURE TO MEET LICENSING REQUIREMENTS

Cancellation Beg: 08/11/2015 Cancellation End: INDEFINITE  
Causal: 06/11/2015 Post: 06/12/2015  
Reinstatement Requirements Met: INDEFINITE  
ACD: W00 Withdrawal Loc Ref: Withdrawal Reason Ref:  
Cancellation No: 2 Last Change: 06/12/2015  
Status: ACTIVE Reason:

VIOL: 421 - Speeding 10-mph or less  
Violation: 03/14/2014 Conviction: 04/02/2014  
ACD: S51 Conviction Loc Ref:  
Conviction State: SC  
Violation No: 1  
Status: ACTIVE Last Change: 05/07/2014

Ticket#: G729519  
Recd: 04/21/2014 Post: 05/07/2014  
Conviction Reference:  
Court Type: MAGISTRATE COURT

Violation Points: 2 Current Points: 1

SUSP: 042 - Cancellation of Insurance  
Special Driving Privilege: NONE  
Suspension Beg: 03/21/2005  
Causal: 02/17/2005  
Reinstatement Requirements Met: 02/25/2005  
ACD: D36 Withdrawal Loc Ref:  
Suspension No: 1  
Status: CANCELLED Reason: CLEARED

Suspension End: 02/25/2005  
Post: 02/18/2005

Withdrawal Reason Ref:  
Last Change: 02/25/2005

## PDPS DRIVER HISTORY

Cancel Previous Next Finish

Request Info (58) Response Part 1 (M5) Convictions (M3) Accidents (M4) Withdrawals (M5) --&gt; PRODUCTION ENVIRONMENT &lt;--

SSN:

DL Number:

| Withdrawals  |      |        |     |         |                 |           |                    |             |
|--------------|------|--------|-----|---------|-----------------|-----------|--------------------|-------------|
| Jurisdiction | Type | Reason | Est | Ref     | Withdrawal Date | Elig Date | Reinstatement Date | License#    |
| NY           | 110  | D35    | 3   | D35 297 | 10/6/1998       | 6/18/1999 | 6/18/1999          | C3809210000 |
| NY           | 110  | A21    | 3   | A21 407 | 5/14/1998       | 5/15/1999 |                    | 09805210000 |
| NY           | 110  | A21    | 3   | A21 407 | 6/17/1994       | 2/26/1996 | 2/26/1996          | 09407020000 |
| NY           | 110  | A21    | 3   | A21 407 | 4/2/1986        | 2/26/1996 | 2/26/1996          | 0604070     |
| NY           | 110  | A21    | 3   | A21 407 | 10/24/1983      | 9/19/1985 | 9/19/1985          | A401180     |
| NY           | 110  | A12    | 3   | A12 189 | 3/29/1982       | 6/14/1982 | 6/14/1982          | M204060     |
| NY           | 110  | A12    | 3   | A12 414 | 9/24/1982       | 6/14/1982 | 6/14/1982          | A301180     |

## EXHIBIT B

REDACTED

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with the South Carolina Department of  
Motor Vehicles.



Driver Services Deputy Director

## CUSTOMER CONTACT HISTORY

Cancel Previous Next Finish

---> PRODUCTION ENVIRONMENT <---

Customer #: 24618421      Name: MCPARTLAND, JOHN P      ☐ Paperless      Phone #: [REDACTED]  
 License #: [REDACTED]      Address: [REDACTED]      Fax #: [REDACTED]  
 DOB: [REDACTED]      City/State: [REDACTED]      Email: [REDACTED]

☐ Customer Address Advised      ☐ Mail Received     

Request History      Total Tickets: 2      Ticket Filter: Show All ☒      ☐ Sort Oldest

---

Date: JUL 30, 2015 - 11:31 AM      Agent: EBORN, KADIELEJ      Caller: MCPARTLAND - (844) 449-5003      Ticket #: 415076     

REQUEST: FAILURE TO MEET LICENSING REQUIREMENTS  
 RESPONSE: CUSTOMER STATED HE SPOKE WITH THE STATE THAT IS HOLDING HIM AND THEY ADV IT WILL BE ANOTHER 2 MONTHS BEFORE THEY EVEN TAKE A LOOK AT THIS FILE, CUST WAS REQUESTING AN EXTENSION, I ADV CUST HE CAN SUBMIT A LETTER IN WRITING REQUESTING A EXTENSION BUT NO GUARANTEE

---

Date: JUL 30, 2015 - 11:31 AM      Agent: EBORN, KADIELEJ      Caller: MCPARTLAND - (844) 449-5003      Ticket #: 415076     

REQUEST: FAILURE TO MEET LICENSING REQUIREMENTS  
 RESPONSE: CUSTOMER STATED HE SPOKE WITH THE STATE THAT IS HOLDING HIM AND THEY ADV IT WILL BE ANOTHER 2 MONTHS BEFORE THEY EVEN TAKE A LOOK AT THIS FILE, CUST WAS REQUESTING AN EXTENSION, I ADV CUST HE CAN SUBMIT A LETTER IN WRITING REQUESTING A EXTENSION BUT NO GUARANTEE

---

Date: JUN 19, 2015 - 9:02 PM      Agent: SMITH, TIFFNEYA      Caller: MCPARTLAND      Ticket #: 389907     

REQUEST: FAILURE TO MEET LICENSING REQUIREMENTS  
 RESPONSE: ADV CUST TO NY TO REC'D CLEARANCE

EXHIBIT B

REDACTED

Shortcuts

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 with the South Carolina Department of  
 Motor Vehicles.

*A. L. Phelps*

Driver Services, Deputy Director

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

*A. L. Phelps*

Driver Services, Deputy Director



EXHIBIT B

REDACTED

## Complete Internal Record - Departmental Use Only

Customer No: 24618421 Driver License No:  
Name: MCPARTLAND, JOHN P  
Address: [REDACTED]  
City: [REDACTED] State: [REDACTED] Zip: [REDACTED]  
County: [REDACTED]  
SSN: [REDACTED] DOB: [REDACTED] Height: [REDACTED] Weight: [REDACTED] Customer Status: ACTIVE  
Citizen: Y Driver Training: N Special Address: N Sex: M Race: WHITE  
SR22: [REDACTED] Alert: N  
Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

### License Information

| Type    | Class | Function | Issued     | Expires    | First Issued | Rest. | Endor. | Med. | Off. | Clerk      |
|---------|-------|----------|------------|------------|--------------|-------|--------|------|------|------------|
| Current |       |          |            |            |              |       |        |      |      |            |
| DL      | DM    | Renewal  | 06/11/2015 | 06/15/2025 | 06/15/2000   | N     | N      | N    | 0080 | MOORE_MYRA |
| Prior   |       |          |            |            |              |       |        |      |      |            |
| DL      | DM    | Renewal  | 06/15/2005 | 06/15/2015 | 06/15/2000   | N     | N      | N    | 0049 | STEADMAN_T |
| DL      | DM    | Reissue  | 06/15/2005 | 06/15/2015 | 06/15/2000   | N     | N      | N    | 0080 | ALSTON_CAT |
| DL      | DM    | Original | 06/15/2000 | 06/15/2005 | 06/15/2000   | N     | N      | N    | CONV | CONVERSION |

### Address Change -

Date Changed: 02/05/2003

Address: [REDACTED]  
City: [REDACTED]

### Point Summary

Total Current Points: 1  
Driver Credit: -0  
Adjusted Current Points: 1

### CANC: 050 - FAILURE TO MEET LICENSING REQUIREMENTS

Cancellation Beg: 10/09/2015 Cancellation End: INDEFINITE  
Causal: 06/11/2015 Post: 08/10/2015  
Reinstatement Requirements Met: INDEFINITE  
ACD: W00 Withdrawal Loc Ref: Withdrawal Reason Ref:  
Cancellation No: 3 Last Change: 08/10/2015  
Status: ACTIVE Reason:

### CANC: 050 - FAILURE TO MEET LICENSING REQUIREMENTS

Cancellation Beg: 08/11/2015 Cancellation End: INDEFINITE  
Causal: 06/11/2015 Post: 06/12/2015  
Reinstatement Requirements Met: INDEFINITE  
ACD: W00 Withdrawal Loc Ref: Withdrawal Reason Ref:  
Cancellation No: 2 Last Change: 08/10/2015  
Status: DELETED Reason: ADMIN

### VIOL: 421 - Speeding 10-mph or less

Violation: 03/14/2014 Conviction: 04/02/2014 Ticket#: G729519  
ACD: S51 Conviction Loc Ref: Recd: 04/21/2014 Post: 05/07/2014  
Conviction State: SC Conviction Reference:  
Violation No: 1 Court Type: MAGISTRATE COURT  
Status: ACTIVE Last Change: 05/07/2014 Violation Points: 2 Current Points: 1

## Complete Internal Record - Departmental Use Only

REDACTED

Customer No: [REDACTED]  
Name: MCPARTLAND, JOHN P

Driver License No: [REDACTED]

SUSP: 042 - Cancellation of Insurance  
Special Driving Privilege: NONE  
Suspension Beg: 03/21/2005  
Causal: 02/17/2005  
Reinstatement Requirements Met: 02/25/2005  
ACD: D36 Withdrawal Loc Ref:  
Suspension No: 1  
Status: CANCELLED Reason: CLEARED

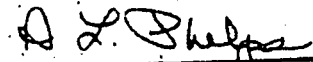
Suspension End: 02/25/2005  
Post: 02/18/2005

Withdrawal Reason Ref:

Last Change: 02/25/2005

**End of Report**

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.



Driver Services Deputy Director

South Carolina  
Department of Motor Vehicles



EXHIBIT C

REDACTED

08/10/2015

MCPARTLAND, JOHN P  
[REDACTED]

CUSTOMER NO: [REDACTED]  
FILE NO: [REDACTED]  
DL NO: [REDACTED]

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SECTION OF LAW: 56-1-240

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NEW YORK  
NEW YORK STATE DMV  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228  
518-473-5595

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

Credential Issue Date 06/11/2015

CANCELLATION BEGINNING DATE: 12:01 AM 10/09/2015

*A. L. Phelps*

Driver Services, Deputy Director

CANCELLATION ENDING DATE: When you receive notice from the Department that this action has been cleared.

SPECIAL DRIVING PRIVILEGES:

There are no special driving privileges available to you. You may not drive until you have done the following:

COMPLIANCE:

You must contact the Department of Motor Vehicles listed above to clear the matter and obtain a letter of clearance. You are required to present this letter of clearance to your local DMV Office or mail it to Driver Records, PO Box 1498, Blythewood, SC 29016-0028.

REINSTATEMENT FEE:

You must pay a \$100.00 reinstatement fee if your clearance letter shows the clearance date on or after the cancellation beginning date listed above. This fee can be paid at any DMV Office, mailed to Driver Records, PO Box 1498, Blythewood, SC 29016-0028 or paid by credit card at [www.scdmvonline.com](http://www.scdmvonline.com). Make checks and money orders payable to SCDMV. Do not send cash through the mail.

Your license must be returned to any DMV Office or mailed to Driver Records if this cancellation is not cleared before the cancellation date listed above.

If you have any further questions, please contact the DMV Customer Service Unit at (803)896-5000.

THIS NOTICE CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

4507075

## South Carolina Department of Public Safety

REDACTED

APPLICATION FOR: ☐ RENEWAL ☒ DRIVER'S LICENSE ☐ LIMITED LICENSE ☐ PROVISIONAL LICENSE ☐ VEHICLE REGISTRATION

EXPIRES 06/15/2008

000125101 06/15/2008

MCARTLAND, JOHN P

REGISTERED TO VOTE

CLASS D.M. HGT 5-08 WGT 165  
ISSUED 06/15/2000 SOL 0  
DOB SEX M

ed to be a true and correct  
the original document on file  
with the South Carolina Department of  
Motor Vehicles.

CODE SOL 0  
FEE \$ 12.50 CASH  
TOTAL TESTS TAKEN  
CUL APPLICATION

DEFLECTIONS NONE

Driver Services Deputy Director

I UNDERSTAND THAT IF MY PRIVILEGE TO DRIVE IS SUSPENDED, CANCELLED OR  
REVOKED OR SUBJECT TO BE SUSPENDED, CANCELLED OR REVOKED IN ANY STATE OR  
COUNTRY, THIS DRIVER'S LICENSE WILL BE CANCELLED AND I WILL BE RESPONSIBLE  
FOR OBTAINING ALL LETTERS OF CLEARANCE.  
NEW RESIDENT: SECTION 23-3-460 OF SC LAWS REQUIRES A PERSON CONVICTED  
ANYWHERE OF AN OFFENSE LISTED IN 23-3-430 MUST REGISTER WITH COUNTY  
SHEETS WITHIN 10 DAYS OF ESTABLISHING SC RESIDENCE. COPIES AVAILABLE

DATE: 6-15-08

NAME: Last First Middle Initial

ADDRESS:

CITY:

SPECIAL MAILING ADDRESS:

Social Security #

Date of Birth

11/15/81

Yes No

- ☐ ☐ 1. Are you a permanent South Carolina Resident?  
☐ ☐ 2. Are you a United States citizen?  
☐ ☐ 3. Have you ever been licensed to drive a motor vehicle? State NYC  
License No. 55428683  
☐ ☒ 4. Is your privilege to drive suspended, cancelled or revoked in any state or county or have you recently surrendered your license or permit in court following a conviction?  
When Last \_\_\_\_\_  
Where \_\_\_\_\_  
Reason \_\_\_\_\_  
☐ ☒ 5. Do you want to be an organ donor?  
If so, ask for and complete the donor card.

Yes No

- ☐ ☒ 6. Do you now have any mental or physical condition that may prevent you from safely operating a motor vehicle?  
☐ ☒ 7. Within the last three years, have you experienced a loss of consciousness, uncharacteristic control of an epileptic seizure?  
☐ ☒ 8. Have you had a heart attack, heart surgery or pacemaker implantation in the past 6 months?  
☐ ☒ 9. Have you had a stroke and not recovered fully, likely to safely operate a motor vehicle?  
☐ ☒ 10. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle?  
☐ ☐ 11. Do you wish to donate \$1.00 to the Gift of Life Fund? Amount \$

Insurance Information: (Check and complete the statement that applies to you.)

- ☐ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the registration period. Company Name Admiral Ind. Co.  
Policy Number 1131570 Company Telephone No. \_\_\_\_\_  
☐ No motor vehicle required to be registered in S.C. is owned by me or any relative residing in my household.

I certify that all information and statements made in this application are true and correct.

Signature of Applicant

Date

Signature of Verifier

Signature of Verifier

RECORD OF EXAMINATION  
THIS SIDE FOR EXAMINER USE ONLY

| ROAD TEST      |            |      |      |
|----------------|------------|------|------|
|                | Year _____ |      |      |
|                | BAD        | FAIR | GOOD |
| Engine Running | 8          | 4    | 0    |
| Engine Stop    | 8          | 4    | 0    |
| Exhaust Fan    | 8          | 4    | 0    |
| Oil Alarm      | 8          | 4    | 0    |
| Oil Pressure   | 8          | 4    | 0    |
| Oil in Grade   | 6          | 3    | 0    |
| Oil in Grade   | 8          | 4    | 0    |
| Oil in Grade   | 6          | 3    | 0    |
| Oil in Grade   | 8          | 4    | 0    |
| Oil in Grade   | 8          | 4    | 0    |
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**South Carolina Department of Motor Vehicles**  
**Application for a Non-Commercial Credential (Class D, E, F, G, M,**  
**Commercial Applicants must complete Form 447-CDL for Class A, B, or C Licenses or P.**

REDACTED

I AM APPLYING FOR A (check any that apply): ☐ Beginner's Permit ☐ Identification Card ☒ Driver's License ☐ Moped

**IF RENEWING BY MAIL:** You may be eligible to renew by mail if you are 65 years old or older and did not renew your driver's license by mail or online the previous renewal period. Licenses issued to international customers cannot be renewed by mail. If mailing application, be sure to include payment (no cash). See our website for driver license fees ([www.scdmvonline.com](http://www.scdmvonline.com)) or call (803) 896-5000.

|                                                                                        |                 |             |                 |
|----------------------------------------------------------------------------------------|-----------------|-------------|-----------------|
| BP/DL/ID NUMBER                                                                        | CUSTOMER NUMBER |             |                 |
| LAST NAME                                                                              | FIRST NAME      | MIDDLE NAME | SUFFIX          |
| McPARTLAND                                                                             | John            | P           |                 |
| RESIDENCE ADDRESS (Must be your current address of residence and cannot be a P.O. Box) |                 |             | COUNTY          |
| [REDACTED]                                                                             |                 |             | [REDACTED]      |
| EMAIL ADDRESS                                                                          |                 |             |                 |
| [REDACTED]                                                                             |                 |             | John Zager ABLE |

I understand the Department will send mail to the residence address above unless I have specified a special or temporary mailing address below.

|                               |                |             |        |      |                                                                          |
|-------------------------------|----------------|-------------|--------|------|--------------------------------------------------------------------------|
| SOCIAL SECURITY NUMBER* (SSN) | DATE of BIRTH  | HEIGHT      | WEIGHT | RACE | GENDER                                                                   |
|                               | Month Day Year | Feet Inches |        |      | <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female |
|                               |                | 3 8         | 165    | W    |                                                                          |

\* Your Social Security number is required for the purposes of identifying you and preparing jury lists pursuant to South Carolina Code of Laws Sections 56-1-90 and 14-7-130. The Driver's Privacy Protection Act of 1994 (DPPA), 18 U.S.C. Section 2721, 2725, the Family Privacy Protection Act of 2002 (FPPA), 30-2-10 et seq., and Section 56-3-545 of the S.C. Code restrict the disclosure of personal information contained in our records.

It is optional to ADD a SPECIAL and/or TEMPORARY mailing address to your file.

|                                                                                                            |  |  |  |                              |          |
|------------------------------------------------------------------------------------------------------------|--|--|--|------------------------------|----------|
| SPECIAL MAILING ADDRESS - Optional (To have your mail sent to an address different from residence address) |  |  |  | COUNTY                       |          |
| CITY or TOWN                                                                                               |  |  |  | STATE                        | ZIP CODE |
| Do you want to DELETE a special mailing address now on file?                                               |  |  |  | <input type="checkbox"/> Yes |          |
| TEMPORARY MAILING ADDRESS - Optional (To have your mail sent to an address for a limited time period)      |  |  |  | EXPIRATION DATE              |          |
| CITY or TOWN                                                                                               |  |  |  | STATE                        | ZIP CODE |
| Do you want to DELETE a temporary mailing address now on file?                                             |  |  |  | <input type="checkbox"/> Yes |          |

|  |                                  |                                                                                         |                                    |
|--|----------------------------------|-----------------------------------------------------------------------------------------|------------------------------------|
|  | <b>ORGAN AND TISSUE DONATION</b> | <input type="checkbox"/> YES, I want to be an organ and tissue donor.                   | Amount of donation \$ <u>0</u> .00 |
|  |                                  | <input type="checkbox"/> YES, I wish to donate \$5.00, more or less, to Donate Life SC. |                                    |

**ORGAN DONOR STATEMENT** - If you marked YES that you want to be an organ and tissue donor upon death, your consent shall serve as a legally binding document as outlined under the South Carolina Uniform Anatomical Gift Act. Except in the case where the donor is under the age of 18, the donation does not require the consent of any other person. For donors under the age of 18, the legal guardian of the donor shall make the final decision regarding the donation.

If you marked "YES," you verify that you have read the organ donor statement and you consent for the SCDMV to send your personal information to the SC Organ and Tissue Donor Registry. A red heart will be printed on the front of your driver's license. If you are currently registered you must check "YES" to have the red heart reprinted on your license.

If you change your decision to consent in the future or wish to be removed from the SC Organ and Tissue Donor Registry, you can go online to [www.DonateLifeSC.org](http://www.DonateLifeSC.org) or contact Donate Life SC at 1-87-PASS-IT-ON. You may also have your name removed from the registry by visiting any SCDMV office or [www.SCDMVonline.com](http://www.SCDMVonline.com) while completing a credential transaction. SCDMV will assess an administrative fee for the change and there may be a 72 hour delay in removing your name from the SC Organ and Tissue Donor Registry.

### VOTER REGISTRATION

\* Must be a United States Citizen and meet requirements to complete a DMV Voter Registration Application.  
 Do you want to register to vote or update your address with the County Registration Board? (check one box)

☐ Yes, I wish to complete a DMV Voter Registration Application to register to vote or update my address with the County Registration Board.  
☐ No, I decline the DMV Voter Registration Application. ☒ No, I have already registered to vote. ☐ No, I am not eligible to vote.

**Sex Offender Registry Notice** - Section 23-3-460 of the S.C. Code of Laws states that a person who has been convicted anywhere of an offense listed in 23-3-430 must register with the county sheriff within 3 days of establishing residency in South Carolina. A copy of the Sex Offender Registry Law is available upon request ([www.scstatehouse.gov/code/23c003.php](http://www.scstatehouse.gov/code/23c003.php)).

D. L. Phelps  
 Driver Services Deputy Director

**QUESTIONS 1 through 12 MUST BE ANSWERED FOR PERMITS AND LICENSES (Only questions 1 - 4 for an Identification card)**

1. Are you a resident of South Carolina? ☒ Yes ☐ No
2. Are you a citizen of the United States? ☒ Yes ☐ No
3. Do you now have or have you ever had a South Carolina identification card, beginner's permit, driver's license, or moped license? If yes, give the number and name if different from number and name given on this application ☒ Yes ☐ No
4. Do you now have or have you ever had an identification card, beginner's permit, driver's license, or moped license from another state or country? If yes, list information from last time issued. State/Country \_\_\_\_\_  
License Number \_\_\_\_\_ and Issue Date \_\_\_\_\_ ☐ Yes ☒ No

**Do not answer the following questions if you are only applying for an Identification Card.**

5. Is your beginner's permit, driver's license, moped license, or privilege to drive suspended, cancelled, revoked or disqualified in any state? If yes, where? \_\_\_\_\_ when last? \_\_\_\_\_ ☐ Yes ☒ No
6. Have you recently surrendered your beginner's permit, driver's license, or moped license in court or to a law enforcement officer? If yes, when? \_\_\_\_\_ Reason \_\_\_\_\_ ☐ Yes ☒ No
7. In the past 12 months, have you experienced a loss of consciousness, muscular control or seizure? ☐ Yes ☒ No
8. a) In the past six months, have you experienced a heart attack or heart surgery? ☐ Yes ☒ No  
b) Has your doctor recommended you not drive or placed restrictions on your driving at this time? ☐ Yes ☒ No  
If the answer to "b" is yes, what are the restrictions? \_\_\_\_\_
9. Have you had a stroke and not recovered sufficiently to safely operate a motor vehicle at this time? ☐ Yes ☒ No
10. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle at this time? ☐ Yes ☒ No
11. Do you have any mental or physical condition preventing you from safely operating a motor vehicle at this time? If yes, please list condition(s): \_\_\_\_\_ ☐ Yes ☒ No
12. Has your doctor recommended you not drive or placed restrictions on your driving at this time? If yes, what are the restrictions? \_\_\_\_\_ ☐ Yes ☒ No

**INSURANCE INFORMATION (Check and complete the statement that applies to you.)**

- ☒ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the issuance period. COMPANY NAME: GEICO
- ☐ No motor vehicle required to be registered in South Carolina is owned by me or any relative residing in my household.

**CONSENT FOR MINOR** - Must be completed for all unemancipated applicants under the age of 18. I am a parent or guardian of the unemancipated minor applicant. (1) If guardian, please provide documentation. (2) Responsible adult must complete Form 447-CM. (3) Emancipated minors must submit one of the following as proof of emancipation (Only the original or certified copies will be accepted):

☐ Court Order ☐ Certificate of Marriage ☐ Active Military Orders

I consent to the issuance of a beginner's permit and/or driver's license. I accept responsibility for the actions of the minor applicant as outlined in Section 56-1-110 of the South Carolina Code of Laws. To be released from this responsibility before the applicant reaches age 18, I understand that I must submit a written request for release to the Department of Motor Vehicles to have this application and the applicant's beginner's permit or driver's license cancelled.

| RELATIONSHIP TO MINOR APPLICANT | PRINTED NAME | SIGNATURE | DATE    |
|---------------------------------|--------------|-----------|---------|
| FATHER'S NAME (PRINT)           | ADDRESS      | ID/DL#    | PHONE # |
| MOTHER'S NAME (PRINT)           | ADDRESS      | ID/DL#    | PHONE # |

I CERTIFY under penalty of perjury that all information and statements made in this application are true and correct as of the date of this application. I also CERTIFY that I do not have a valid driver's license other than the one(s) reported in questions #3 and #4 above and that my privilege to operate a motor vehicle is not now or subject to be suspended, cancelled, revoked or disqualified at the time of this application. I understand that I am receiving a S.C. credential based on the information provided on this application, and that SCDMV will verify all information. I also understand that if my privilege to drive is ever suspended, cancelled or revoked in South Carolina or any other state, my S.C. license will be revoked until I have met all reinstatement requirements in South Carolina and any other states.

PRINTED NAME: John M. [Signature] SIGNATURE: [Signature] DATE: 6-11-15

**FOR DMV OFFICE USE ONLY**

☐ Exchanging Out-of-State Permit for a SC Permit or License STATE: \_\_\_\_\_ DOB BP/DL NO.: \_\_\_\_\_

TYPE: ☐ Duplicate ☐ Modified ☐ Original ☐ Provisional ☐ Re-exam ☐ Reissue ☐ Renewal ☐ Route Restricted ☐ Temporary Alcohol

CLASS: ☒ D ☐ E ☐ F ☐ G (Moped) ☐ ID ☐ M (Motorcycle) RESTRICTIONS: \_\_\_\_\_

IDENTIFICATION SUBMITTED: ☐ Birth Certificate ☐ Passport/Visa ☐ SSN ☐ Proof of Residency

**Knowledge Test**

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

**Skills Test**

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

**Hearing Impaired:** ☐ Deaf ☐ Poor ☐ Good

**Missing Extremities:** ☐ No ☐ Yes

| Vision                  | Right | Left | Both |
|-------------------------|-------|------|------|
| With corrective lens    | 20/   | 20/  | 20/  |
| Without corrective lens | 20/   | 20/  | 20/  |

Office Number: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Driver Services, Deputy Director



# South Carolina Department of Motor Vehicles

## Application for S.C. Credential

REDACTED

BEGINNER PERMIT/DRIVER LICENSE/IDENTIFICATION CARD NUMBER  
CUSTOMER NUMBER

I AM APPLYING FOR (check any that apply):

☐ Beginner's Permit ☒ Driver's License ☐ Commercial Beginner's Permit ☐ Commercial Driver's License ☐ Identification Card ☐ Moped

LAST NAME FIRST NAME MIDDLE NAME SUFFIX  
McPARTLAND John PARRICK

RESIDENCE ADDRESS (Mailing address)

I understand the Department will send mail to the residence address above unless I have specified a special or temporary mailing address below.

SPECIAL MAILING ADDRESS - Optional (To have your mail sent to an address different from residence address)

City or Town State Zip Code County

Do you want to delete a current special mailing address now on file? ☐ Yes

TEMPORARY MAILING ADDRESS - Optional (To have your mail sent to an address for a limited time period)

Expiration Date

City or Town State Zip Code County

Do you want to delete a current temporary mailing address now on file? ☐ Yes

SOCIAL SECURITY NUMBER \* (SSN)

SEX

DATE OF BIRTH

HEIGHT

WEIGHT

RACE

Male ☒ Female ☐

Month Day Year

Feet Inches 5 8

155

W

\* Your Social Security number is required for the purposes of identifying you and preparing jury lists pursuant to South Carolina Code of Laws Sections 16-1-90 and 16-7-130. The Driver's Privacy Protection Act of 1994 (DPPA), 18 U.S.C. Section 2221, 2225, the Family Privacy Protection Act of 2002 (FPPA), 30-3-10 et seq., and Section 16-3-345 of the S.C. Code restrict the disclosure of personal information contained in our records.

MOTOR VOTER (check one box)

☐ Yes, I wish to complete a DMV Voter Registration Application ☒ No, I have already registered to vote. ☐ No, I decline the DMV Voter Registration Application.

ORGAN AND TISSUE DONATION (optional)

☐ Yes, I want to be an organ and tissue donor. (A symbol will be added to your credential if you choose to be an organ donor.) ☒ Yes, I wish to donate \$1.00 or more to Donate Life South Carolina. Amount of donation \$ .00

ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED

- ☒ Yes ☐ No 1. Are you a resident of South Carolina?
- ☒ Yes ☐ No 2. Are you a citizen of the United States?
- ☒ Yes ☐ No 3. Do you now have or have you ever had a South Carolina beginner's permit or driver's license? If yes, give the number and name if different from number and name given on this application
- ☐ Yes ☒ No 4. Do you have or have you had a learner's permit or driver's license from another state or country? If yes, list information from last time issued State/Country license number and issue date
- ☐ Yes ☒ No 5. Is your driver's license or privilege to drive suspended, cancelled, revoked or disqualified in any state? If yes, where? When last?
- ☐ Yes ☒ No 6. Have you recently surrendered your license or beginner's permit in court or to a law enforcement officer? If yes, when? Reason
- ☐ Yes ☒ No 7. In the past 12 months, have you experienced a loss of consciousness, muscular control or seizure?
- ☐ Yes ☒ No 8. a) In the past six months, have you experienced a heart attack or heart surgery? b) Has your doctor recommended you not drive or placed restrictions on your driving at this time? If the answer to "b" is yes, what are the restrictions?
- ☐ Yes ☒ No 9. Have you had a stroke and not recovered sufficiently to safely operate a motor vehicle at this time?
- ☐ Yes ☒ No 10. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle at this time?
- ☐ Yes ☒ No 11. Do you have any mental or physical condition preventing you from safely operating a motor vehicle at this time? If yes, please list condition(s):
- ☐ Yes ☒ No 12. Has your doctor recommended you not drive or placed restrictions on your driving at this time? If yes, what are the restrictions?

NOTE: Section 23-3-460 of the S.C. Code of Laws states that a person who has been convicted anywhere of an offense listed in 23-3-430 must register with the county sheriff within 10 days of establishing residency in South Carolina. A copy of the Sex Offender Registry Law is available upon request.

Examined to be a true and correct copy of the original document on file with the South Carolina Department of Motor Vehicles.

*A. L. Phelps*  
Driver Services Deputy Director

**FOR COMMERCIAL DRIVER'S LICENSE ONLY**

- ☐ Yes ☐ No 13. Have you read and do you understand and meet the qualification requirements under Federal Rule 49 CFR, Part 391 of the Federal Motor Carrier Safety Administration rules to operate a commercial vehicle?
- ☐ Yes ☐ No 14. Are you subject to any disqualification listed in 383.51 of the Federal Motor Carrier Regulations?
- ☐ Yes ☐ No 15. Is the vehicle being operated on the road test representative of the class for which you are applying and intend to operate?
- ☐ Yes ☐ No 16. Do you have a valid D.O.T. medical examiner certificate for a Class A,B,C,E, or F license? Expiration Date \_\_\_\_\_  
You must show the medical certificate as evidence and it must be updated every two years.
- ☐ Yes ☐ No 17. Are you a medically exempt government employee? If yes, give name of agency: \_\_\_\_\_

Any falsification of information on this application may result in a 60-day disqualification of your CDL and/or result in criminal prosecution under state and federal law.

**INSURANCE INFORMATION (Check and complete the statement that applies to you.)**

- ☐ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the issuance period.  
AGENT NAME \_\_\_\_\_ COMPANY NAME \_\_\_\_\_
- ☐ No motor vehicle required to be registered in South Carolina is owned by me or any relative residing in my household.

**CONSENT FOR MINOR (Must be completed for all unemancipated applicants under the age of 18) I am a parent or guardian of the unemancipated minor applicant. (If guardian, please provide documentation.) (Responsible adult must complete Form 447-CM)**

Emancipated minors must submit one of the following as proof of emancipation: ☐ Court Order ☐ Certificate of Marriage ☐ Active Military Orders  
\*Only the original or certified copies will be accepted.

I consent to the issuance of a beginner's permit and/or driver's license. I accept responsibility for the actions of the minor applicant as outlined in Section 56-1-110 of the South Carolina Code of Laws. To be released from this responsibility before the applicant reaches age 18, I understand that I must submit a written request for release to the Department of Motor Vehicles to have this application and the applicant's beginner's permit or driver's license cancelled.

Relationship to Minor Applicant \_\_\_\_\_

Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

I CERTIFY under penalty of perjury that all information and statements made in this application are true and correct as of the date of this application.

I also CERTIFY that I do not have a valid driver's license other than the one(s) reported in questions #3 and #4 and that my privilege to operate a motor vehicle is not now or subject to be suspended, cancelled, revoked or disqualified at the time of this application.

I understand that I am receiving a S.C. credential based on the information provided on this application, and that SCDMV will verify all information. I also understand that if my privilege to drive is ever suspended, cancelled or revoked in South Carolina or any other state, my S.C. license will be revoked until I have met all reinstatement requirements in South Carolina and any other states.

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

John P. McFarland

**FOR OFFICE USE ONLY**

- ☐ Original ☒ Duplicate ☐ Route Restricted ☐ Provisional ☒ Exchanging Out-of-State Permit or License for a SC Permit or License.  
☐ Renewal ☒ Reissue ☐ Temporary Alcohol ☐ Modified State \_\_\_\_\_ Number \_\_\_\_\_

CLASS: ☐ A\* ☐ B\* ☐ C\* ☒ D ☐ E\* ☐ F\* ☐ G (Moped) ☐ M (Motorcycle)CDL: Airbrakes ☐ Yes ☒ No

\*NOTE: CLASSES A, B, C, E, F  
REQUIRE A VALID MEDICAL  
EXAMINER CERTIFICATION.

RESTRICTIONS: \_\_\_\_\_

ENDORSEMENTS: \_\_\_\_\_

IDENTIFICATION SUBMITTED: ☐ Birth Certificate ☐ Passport/Vision☐ SSN \_\_\_\_\_☐ Proof of Residency \_\_\_\_\_

TESTS:

Knowledge

Date \_\_\_\_\_

☐ Passed☐ Failed

Comments \_\_\_\_\_

Date \_\_\_\_\_

☐ Passed☐ Failed

Comments \_\_\_\_\_

Date \_\_\_\_\_

☐ Passed☐ Failed

Comments \_\_\_\_\_

Skills

Date \_\_\_\_\_

☐ Passed☐ Failed

Comments \_\_\_\_\_

Date \_\_\_\_\_

☐ Passed☐ Failed

Comments \_\_\_\_\_

Date \_\_\_\_\_

☐ Passed☐ Failed

Comments \_\_\_\_\_

Hearing

☐ Deaf☐ Poor☐ Good

Missing Extremities

☐ No☐ Yes

Vision

With Glasses

Right

Left

Both

Without Glasses

20/

20/

20/

Office Number 80

Employee Signature

Cathy Carter

Date

2/26/08



# South Carolina Department of Motor Vehicles

REDACTED

## APPLICATION FOR S.C. CREDENTIAL

BEGINNER PERMIT/DRIVER LICENSE/IDENTIFICATION CARD NUMBER  
CUSTOMER NUMBER

I AM APPLYING FOR A (check any that apply):

☐ Beginner's Permit
 ☐ Driver's License
 ☐ Commercial Beginner's Permit
 ☐ Commercial Driver's License
 ☐ Identification Card
 ☐ Moped

LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

McPARTLAND

John

P.

RESIDENCE ADDRESS (Cannot be a P.O. Box)

SPECIAL MAILING ADDRESS - Optional (To have your mail sent to an address different from residence address)

|              |       |          |         |
|--------------|-------|----------|---------|
| City or Town | State | Zip Code | Country |
|--------------|-------|----------|---------|

Do you want to delete a current special mailing address now on file? ☐ Yes

TEMPORARY MAILING ADDRESS - Optional (To have your mail sent to an address for a limited time period)

Expiration Date

|              |       |          |         |
|--------------|-------|----------|---------|
| City or Town | State | Zip Code | Country |
|--------------|-------|----------|---------|

Do you want to delete a current temporary mailing address now on file? ☐ Yes

SOCIAL SECURITY NUMBER \* (SSN)

SEX

DATE OF BIRTH

HEIGHT

WEIGHT

RACE

Male ☒ Female ☐

Month Day Year

Feet Inches

155

White

\*Your social security number is required for the purposes of identifying you and preparing jury lists pursuant to South Carolina Code of Laws Sections 56-1-90 and 14-7-130. The Driver's Privacy Protection Act of 1994 (DPPA), 18 U.S.C. Section 2721, 2725, the Family Privacy Protection Act of 2002 (FPPA), 30-2-10 et seq., and Section 56-3-545 of the S.C. Code restrict the disclosure of personal information contained in our records.

### MOTOR VOTER

☐ Yes, I wish to complete a DMV Voter Registration Application.
 ☒ No, I decline the DMV Voter Registration Application.
 ☐ Non-U.S. Citizen

\*Non-U.S. Citizens can not complete a DMV Voter Registration Application.

### ORGAN DONOR AND GIFT OF LIFE

☐ Yes, I want to be an organ donor. Please see brochure for organ donor card.
 ☐ Yes, I wish to donate \$1.00 or more to the Gift of Life. Amount of donation \$ \_\_\_\_\_.00

### ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED

- ☒ Yes ☐ No 1. Are you a resident of South Carolina?  
☒ Yes ☐ No 2. Are you a citizen of the United States?  
☒ Yes ☐ No 3. Do you now have or have you ever had a South Carolina beginner's permit or driver's license? If yes, give the number and name, if different from number and name given on this application \_\_\_\_\_  
☐ Yes ☒ No 4. Do you have or have you had a learner's permit or driver's license from another state or country? If yes, list information from last time issued State/Country \_\_\_\_\_ license number \_\_\_\_\_ and issue date \_\_\_\_\_  
☐ Yes ☒ No 5. Is your driver's license or privilege to drive suspended, cancelled, revoked or disqualified in any state? If yes, Where \_\_\_\_\_ When last? \_\_\_\_\_  
☐ Yes ☒ No 6. Have you recently surrendered your license or beginner's permit in court, or to a law enforcement officer? If yes, When \_\_\_\_\_ Reason \_\_\_\_\_  
☐ Yes ☒ No 7. Do you have any mental or physical condition that may prevent you from safely operating a motor vehicle?  
☐ Yes ☒ No 8. In the last three years, have you experienced a loss of consciousness, muscular control or seizure?  
☐ Yes ☒ No 9. In the last six months, have you had a heart attack, heart surgery, or pacemaker implantation?  
☐ Yes ☒ No 10. Have you had a stroke and not recovered sufficiently to safely operate a motor vehicle?  
☐ Yes ☒ No 11. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle?  
☐ Yes ☒ No 12. Do you have a permanent medical condition?

Please list condition: \_\_\_\_\_

Certified to be a true and correct copy of the original document on file with the South Carolina Department of Motor Vehicles.

Driver Services Deputy Director

NOTE: Section 23-3-460 of the SC Code of Laws states that a person who has been convicted, anywhere of an offense listed in 23-3-430 must register with the county sheriff within 10 days of establishing residency in South Carolina. A copy of the Sex Offender Registry Law is available upon request.

## FOR COMMERCIAL DRIVER'S LICENSE ONLY

- ☐ Yes ☐ No 13. Are you subject to any disqualification listed in 383.51 of the Federal Motor Carrier Regulations?
- ☐ Yes ☐ No 14. Is the vehicle being operated on the road test representative of the class for which you are applying and intend to operate?
- ☐ Yes ☐ No 15. Are you a medically exempt government employee? If yes, give name of agency. \_\_\_\_\_

You must show as evidence a valid D.O.T. medical examiner certificate for a class A,B,C,E, or F license. Expiration Date \_\_\_\_\_

This medical certificate must be updated every 2 years. Any falsification of information on this application may result in a 60 day disqualification of your CDL and/or result in criminal prosecution under state and federal law.

## INSURANCE INFORMATION (Check and complete the statement that applies to you.)

☒ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the issuance period.

AGENT NAME \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

☐ No motor vehicle required to be registered in South Carolina is owned by me or any relative residing in my household.

I consent to the issuance of a beginner's permit and/or driver's license. I accept responsibility for the actions of the minor applicant as outlined in Section 56-1-110 of the South Carolina Code of Laws. To be released from this responsibility before the applicant reaches age 18, I understand that I must submit a written request for release to the Division of Motor Vehicles to have this application and the applicant's beginner's permit or driver's license cancelled.

Relationship to Minor Applicant \_\_\_\_\_

Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

**CONSENT FOR MINOR** (Must be completed for all unemancipated applicants under the age of 18) I am a parent or guardian of the unemancipated minor applicant. (If guardian, please provide documentation.)

Emancipated minors must submit one of the following as proof of emancipation: ☐ Court Order ☐ Certificate of Marriage ☐ Active Military Orders

\*Only the original or certified copies will be accepted.

Relationship to Minor Applicant \_\_\_\_\_

Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

I CERTIFY under penalty of perjury that all information and statements made in this application are true and correct. Also, I CERTIFY that I do not have a valid driver's license other than shown in questions #3 and #4 and that my privilege to operate a motor vehicle is not now or subject to be suspended, cancelled, revoked or disqualified at the time of this application.

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

6-15-05

John P. McPATLAND

## FOR OFFICE USE ONLY

☐ Original  
☒ Renewal

☐ Duplicate  
☐ Reissue

☐ Route Restricted  
☐ Temporary Alcohol

☐ Provisional  
☐ Modified

☐ Exchanging Out-of-State Permit or License for a SC Permit or License  
State \_\_\_\_\_ Number \_\_\_\_\_

CLASS: ☐ A\* ☐ B\* ☐ C\* ☒ D ☐ E\* ☐ F\* ☐ G (Moped)

☒ M (Motorcycle)

CDL: Airbrakes ☐ Yes  
☐ No

\*NOTE: CLASSES A, B, C, E, F REQUIRE A VALID MEDICAL EXAMINER CERTIFICATION.

RESTRICTIONS: \_\_\_\_\_

ENDORSEMENTS: \_\_\_\_\_

IDENTIFICATION SUBMITTED: ☐ Birth Certificate \_\_\_\_\_

☐ Visa \_\_\_\_\_  
☐ Other \_\_\_\_\_

☐ Passport \_\_\_\_\_  
☐ Other \_\_\_\_\_

## TESTS:

## Knowledge

Date \_\_\_\_\_  
Date \_\_\_\_\_  
Date \_\_\_\_\_

☐ Passed  
☐ Passed  
☐ Passed

☐ Failed  
☐ Failed  
☐ Failed

Comments \_\_\_\_\_  
Comments \_\_\_\_\_  
Comments \_\_\_\_\_

## Skills

Date \_\_\_\_\_  
Date \_\_\_\_\_  
Date \_\_\_\_\_

☐ Passed  
☐ Passed  
☐ Passed

☐ Failed  
☐ Failed  
☐ Failed

Comments \_\_\_\_\_  
Comments \_\_\_\_\_  
Comments \_\_\_\_\_

## Hearing

☐ Deaf

☐ Poor

☐ Good

## Missing Extremities

☐ No

☐ Yes

## Vision

With Glasses  
Without Glasses

Right  
20/  
20/

40

Left  
20/  
20/

Both  
20/  
20/

Certified to be a true and correct copy of the original document on file with the South Carolina Department of Motor Vehicles.

A. L. Phelps  
Driver Services, Deputy Director

Office Number \_\_\_\_\_

49n

Employee Signature \_\_\_\_\_

J. L. Steadman

Phoenix Client for DUNCAN\_BRANDYA at Office 0082-HQ General Inquiry

Phoenix Options Links Help

Phoenix Menu Search Inquiry (PDPS)

## PDPS SEARCH INQUIRY

Cancel Previous Next Finish

### R2 PDPS Response

> PRODUCTION ENVIRONMENT <

| Jurisdiction | DL Number   | Last Name  | First Name | Middle Name | Suffix | State Requested Address                                                        |
|--------------|-------------|------------|------------|-------------|--------|--------------------------------------------------------------------------------|
| NY           | NYS15428683 | MCPARTLAND | JOHN       | P           |        | WAYNE TRAFICANTE DRIVER LICENSING DIV. SWAN STREET BUILDING, ROOM 221 NEW YORK |

### HC PDPS Response

| AKA DL Info   | AKA DOB       | AKA Name      |
|---------------|---------------|---------------|
| No Data Found | No Data Found | No Data Found |

### AKA Address

| Address                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------|
| ROOM 221 EMPIRE STATE PLAZA ALBANY, NEW YORK 12228<br>Wayne Traficante DRIVER LICENSING DIV. SWAN STREET BUILDING, |

### AKA SSN

No Data Found

DL Status: NOT

CDL Status: NOT

Driver Services Deputy Director

Certified to be a true and correct copy of the original document on file with the South Carolina Department of Motor Vehicles.

10:16 AM  
7/26/2017

EXHIBIT F

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JOHN MCPARTLAND,

PLAINTIFF,

vs.

SOUTH CAROLINA DEPARTMENT OF

MOTOR VEHICLES,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

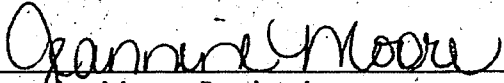
Civil Action No.: 2017-CP-40-4199

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 26, 2017, I served a copy of the Answer and Motion to Dismiss on the Plaintiff, through his attorney, by depositing a copy of same in the United States Mail, postage prepaid, addressed as follows:

T. Micah Leddy, Esquire  
Leddy Law Firm, LLC  
1522 Lady Street, Suite B  
Columbia, South Carolina 29201

Blythewood, South Carolina

  
Jeannine Moore, Paralegal

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|                              |   |                       |
|------------------------------|---|-----------------------|
| STATE OF SOUTH CAROLINA      | ) |                       |
| COUNTY OF RICHLAND           | ) | COURT OF COMMON PLEAS |
|                              |   | 2017-CP-40-04199      |
| John McPartland,             | ) |                       |
| Plaintiff,                   | ) |                       |
| vs.                          | ) | TRANSCRIPT OF RECORD  |
| South Carolina Department of | ) |                       |
| Motor Vehicles,              | ) |                       |
| Defendant.                   | ) |                       |

June 18, 2018  
Columbia, South Carolina

B E F O R E:  
THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

A P P E A R A N C E S:  
T. MICAH LEDDY, ESQ.  
Attorney for the Plaintiff  
BRANDY ANNE DUNCAN, ESQ.  
Attorney for the Defendant

DEBORAH M. McCURDY, RPR  
Official Court Reporter

I N D E X   O F   W I T N E S S E S

(WHEREUPON, no witnesses were called  
during these proceedings.)

E X H I B I T S

PLAINTIFF EXHIBIT 1....DRIVING RECORD.....12

JUNE 18, 2018

THE COURT: This is the case of John McPartland v. South Carolina Department of Motor Vehicles, case Number 17-CP-40-4199. Is that correct?

MS. DUNCAN: Yes, ma'am.

MR. LEDDY: Yes, Your Honor.

THE COURT: And, Mr. Leddy, you represent the Plaintiff?

MR. LEDDY: I do, Your Honor.

THE COURT: All right. And Ms. -- is it Duncan?

MS. DUNCAN: Yes, ma'am. I represent SCDMV. I also have with me Natasha Thomas. She is one of the paralegals in our office and is observing court.

THE COURT: Okay.

All right. And I received the stipulation of facts. If someone wants to give me a brief summary of what this is and what is going on.

MR. LEDDY: Good afternoon, Your Honor.

I just wanted to tell you, I waive my client's presence. He is with his hospitalized mom. His sister passed away last week unexpectedly -- and so he lives with his mom and sister -- and his mom has

1        been in the hospital. And, you know, I even  
2        offered to go up and pick him up -- he lives up  
3        near Greenville -- because he didn't have any other  
4        ride. The case is all about getting him his  
5        driver's license back.

6                And so he got charged and convicted of five  
7        different DUIs, but it was back in the '80s and  
8        '90s. He was living in New York at the time, and  
9        he decided to move down to South Carolina where his  
10       mom resided, I guess. And he obtained a driver's  
11       license in South Carolina in the year 2000. He  
12       renewed it in 2005. He renewed it again in 2015.

13               And in that 15-year period, he got one  
14       speeding ticket. That was the lowest speeding  
15       ticket you can get, below nine miles or less over.  
16       And, otherwise, he had no contact with law  
17       enforcement, that I'm aware of.

18               New York, in the meantime -- when he got his  
19       last DUI, they gave him a one-year revocation of  
20       his license. And he -- it is difficult to  
21       ascertain exactly what his reinstatement  
22       requirements were in New York, but they still list  
23       him as revoked or suspended. They also changed  
24       their rules in 2012 and enacted a policy that if  
25       you had a certain number of alcohol-related

1 convictions, that they were just going to revoke  
2 you forever. And so if you had three or four in a  
3 certain timeframe -- it was a 25-year look-back  
4 period, I believe. It is really a giant net that  
5 they have cast. But a 25-year period, I think if  
6 you have three or four alcohol convictions, then  
7 they will revoke you for an additional five years.  
8 And then you can reapply, but they are under no --  
9 there is no rule that says you have to be able to  
10 get a license.

11 They changed their rule in a way that we would  
12 not structure things in South Carolina, where they  
13 vested case by case discretion in the hands of  
14 their motor vehicle commissioner.

15 And the effect of that has been to say, You  
16 can ask us to get your license back, but the  
17 commissioner doesn't have to give it back. There  
18 is no circumstances where the commissioner has to  
19 give anybody who falls under this policy their  
20 license back. And, you know, the percentage is  
21 less than I think about one-tenth of one percent of  
22 people who ask to get a license are getting a  
23 license.

24 So we only had the numbers from a couple of  
25 years ago, but it was -- it is in the stipulation

1 of facts. How many was it, like 13 out of 1,000?

2 MS. DUNCAN: It was four out of 1,031.

3 MR. LEDDY: Four out of 1,031. So you can  
4 see -- I don't know if you -- you may need to have  
5 multiple family members in the Department of Motor  
6 Vehicles to get that done, but I don't know how  
7 those four people managed to pull it off, but my  
8 client applied for a waiver and asked to get his  
9 license suspension there lifted so he could just  
10 get his South Carolina license back, because we  
11 have a statute that says if you are suspended or  
12 revoked somewhere else, you can't get a license  
13 here, you can't get your license renewed, you can't  
14 get a new license. And I think the obvious reason  
15 that we have had that rule is so that you can't go  
16 to Florida or you can't go to California, get a  
17 ticket, and, you know, just sort of laugh it off  
18 and say, Well, I am never going to pay that ticket  
19 because what are they going to do to me, I'm never  
20 coming back to California.

21 So it gives all the states a way to have  
22 leverage over people who commit offenses in other  
23 states and decide they don't want to pay their  
24 ticket. They have to pay whatever ticket it is  
25 anywhere in order to get their license back in

1 South Carolina.

2 Well, that is fine almost all the time. And  
3 facially the statute doesn't discriminate against  
4 anybody. I don't have any problem with it on its  
5 face. We don't -- so we're not making a facial  
6 challenge. But as applying to Mr. McPartland, he  
7 cannot do anything to clear his license in New  
8 York. So technically there is a waiver process,  
9 but he has applied for it and been denied. And  
10 nobody could ever tell you in New York that there  
11 is any chance that he is ever going to be able to  
12 get his license back in New York.

13 He told them, I don't live there anymore, I  
14 have no interest in coming there, I just am going  
15 to live in South Carolina. I haven't been in  
16 trouble in 20 years. And they still denied it. So  
17 you can see that he is just not going to be able to  
18 get it cleared there.

19 So in order for him to be able to get his  
20 license back in South Carolina, we need an order of  
21 injunction from this Court, which would be akin to  
22 the other injunctions that have been upheld on  
23 appeal recently. And I just happened to work on a  
24 case that was very similar to the Hipp and the  
25 Davis and Wilson cases, and so I knew about this

1 area of law where the courts have said, you know,  
2 "as applied," it is just fundamentally unfair to  
3 impose a suspension hearing.

4 In those cases, it was a little different in  
5 that the courts, where if you had gone to trial and  
6 been convicted or pled guilty to charges that carry  
7 a license suspension, for whatever reason, either  
8 the courts were delinquent in sending the notice of  
9 the conviction to the DMV or an out-of-state court  
10 was slow to send the notice to the South Carolina  
11 DMV. For whatever reason, these people, even  
12 though they knew they had been convicted of  
13 something that carries a suspension, after five or  
14 ten years they get a notice of suspension in the  
15 mail and they challenge it, and our courts say, It  
16 is fundamentally unfair at this point to impose a  
17 suspension. There is not really much rationale  
18 that is given by the courts as to why that is  
19 fundamentally unfair. And I would say it is more  
20 apparent to me that it is unfair for Mr. McPartland  
21 to get suspended by New York 20 years after  
22 something ever happened there when he doesn't even  
23 live there. And it is more unfair for South  
24 Carolina to essentially defer to New York as to  
25 whether or not he can have a license, you know.

1           I do think that at some point before 2012, if  
2           he had known that he still showed up as suspended  
3           or revoked there, and there was something that he  
4           could do to just clear his revocation and cancel  
5           his status with them all together, then of course  
6           we don't suspend people in South Carolina because  
7           they did get a DUI Number 5 in 1997. We don't do  
8           that. It is not our law here. You know, if he had  
9           known to do that, then he would have been able to  
10          do so and he wouldn't have this problem. But right  
11          now he has essentially got a lifetime ban for  
12          driving.

13           And to impose what is essentially in practice  
14          a lifetime ban because of a reinstatement fee in  
15          New York State that is 20 years ago seems  
16          fundamentally unfair to me, and even more so than  
17          in other cases where somebody knew, Hey, I'm  
18          supposed to get suspended.

19           And in some of those cases, you know, they ran  
20          around to the court saying, Hey, I think I'm  
21          supposed to be suspended here, but nothing is  
22          coming up. And they go, Well, nothing is coming  
23          up, what do you want me to do about it? And then  
24          ten years later they get a notice, Hey, you are now  
25          going to be suspended. And, of course, you say,

1 Well, it is unfair.

2 It seems like if you know you are supposed to  
3 be suspended and you just don't get suspended and  
4 then ten years later you get notice of it and you  
5 never served it, that seems less fundamentally  
6 unfair to me than somebody who didn't even do  
7 anything in South Carolina to break the rules and  
8 didn't do anything in another state while he had a  
9 South Carolina license to break the rules.

10 So, anyway, there is no rational reason to not  
11 have Mr. McPartland licensed. If you can drive for  
12 15 years and get one speeding ticket and that is  
13 it, and no record of any kind of problems with  
14 alcohol, then I think that, you know, there is no  
15 justification as far as a public safety standpoint,  
16 but that is really not the debate here. That is a  
17 debate for New York.

18 When they made this change, there were some  
19 people who challenged their policy in New York,  
20 unsuccessfully. The New York -- the highest court  
21 there, the Court of Appeals, rendered a decision  
22 that said, you know, We think it is okay the way  
23 that this was delegated to the commissioner to make  
24 these decisions. And they essentially ignored  
25 that. It is a de facto ban. You know, they said,

1       Technically, you can't get a license. So we don't  
2       think it is an across-the-board rule, which is, you  
3       know, it is kind of ridiculous when four out of  
4       1,000 people can get a waiver is a hard and fast  
5       rule.

6       So that is basically my presentation, Your  
7       Honor. I'm happy to answer any questions of the  
8       Court, or I can yield to Ms. Duncan. I'm sure she  
9       has a response to that.

10      THE COURT: All right. I may ask some  
11      questions after her.

12      MR. LEDDY: Okay. Thank you, Judge.

13      MS. DUNCAN: First off, Your Honor, Mr. Leddy  
14      and I spoke when we first got here today and  
15      realized that we had not included a copy of  
16      Mr. McPartland's, essentially his DMV record from  
17      New York, with the stipulation of facts, so I have  
18      brought a copy of that with me, and we would ask  
19      that that be admitted into the evidence at the  
20      hearing as well.

21      THE COURT: Any objection to Exhibit 1?

22      MR. LEDDY: No objection, Judge.

23      THE COURT: All right. It will be entered  
24      without objection as Exhibit 1.

25      MR. LEDDY: If the Court wants a redacted

1 copy, I have redacted one, but I really don't have  
2 an objection to putting it in.

3 MS. DUNCAN: The certified copy has no  
4 redactions, but I believe his is exactly the same  
5 as this, it is just not certified. So we can do  
6 either copy.

7 THE COURT: I think under the rules you have  
8 to do -- does it have the social security number?

9 MR. LEDDY: It has the last four. It has got  
10 his address, and date of birth.

11 MS. DUNCAN: It does have his date of birth.

12 THE COURT: Well, if you have a redacted one,  
13 let's mark that for the record.

14 (WHEREUPON, Plaintiff's Exhibit No. 1  
15 was marked for identification only.)

16 THE COURT: And I'll take judicial notice that  
17 the other copy was a certified copy.

18 MS. DUNCAN: Thank you, ma'am.

19 So we understand the difficult position that  
20 Mr. McPartland finds himself in in this case. The  
21 problem is, this is not an area which the South  
22 Carolina DMV has any discretion. So when  
23 Mr. McPartland first came to South Carolina and  
24 first got a license in June of 2000, he did not  
25 tell us that he was suspended in New York. When he

1       came in and renewed in 2005, he did not tell us he  
2       was suspended in New York, nor did he even tell us  
3       he had ever been licensed in New York. Then when  
4       he came in 2015, he again did not tell us he was  
5       suspended in New York or that he had ever been  
6       licensed in New York.

7               It seemed in a roundabout way that what  
8       Mr. McPartland is saying is, essentially, When I  
9       applied in 2000, because you didn't have the  
10      technology available to go through this automated  
11      system that is now known as the Problem Driver  
12      Pointer System, or PDPS, because that system didn't  
13      exist yet, because we didn't have the computer  
14      capability yet, that what was supposed to happen  
15      was a DMV staff member was supposed to get on the  
16      phone and call all 49 states, every single  
17      territory, and Washington, D.C., to see if  
18      Mr. McPartland was suspended in those states,  
19      rather than Mr. McPartland being honest with the  
20      DMV and telling us that he had these suspensions  
21      ongoing and that he had been licensed in New York.

22              It is significant that Mr. McPartland did not  
23      reveal these things to us, because they are  
24      required to be revealed by Code Sections 56-1-80,  
25      56-1-240. And the application that somebody makes

1 to the DMV when they get a driver's license is an  
2 application made under penalty of perjury.

3 So Mr. McPartland had an affirmative duty to  
4 notify the Department, Number 1, that he had been  
5 licensed in New York, and, Number 2, that he was  
6 under suspension there at the time that he was  
7 making these applications, and he simply failed to  
8 do so.

9 Additionally, the statute that is really at  
10 issue here, 56-1-40, Subsection (2), that statute  
11 has largely been in place in South Carolina since  
12 1932.

13 Now, in the memorandum of law that Mr.  
14 McPartland submitted earlier this morning, there  
15 was some argument that this statute is essentially  
16 about fees, about trying to get traffic tickets  
17 paid or get reinstatement fees paid, and stuff like  
18 that.

19 The reality is, in South Carolina, at least,  
20 reinstatement fees didn't even become a thing until  
21 1962, so 30 years before this statute ever took  
22 place.

23 The Department takes the position that Section  
24 56-1-40, Sub (2) is actually a recognition of our  
25 requirement to engage in full faith and credit, and

1       therefore recognize that when somebody is suspended  
2       in another state, we can't issue them a driver's  
3       license and say, It is okay for you to go drive in  
4       New York, it is okay for you to go drive in any  
5       state you want to, including South Carolina.

6               Now, we also think it is important to note  
7       that Mr. McPartland has not in any way exhausted  
8       his administrative remedies in New York regarding  
9       this matter. He made one application. And he  
10      appealed the denial of that application to the  
11      first level. He did not appeal the appeal's board  
12      ruling any further, so that -- although there were  
13      at least two additional appellate levels that could  
14      have been sought by Mr. McPartland.

15             Additionally, he had been eligible since  
16      December 13th of 2017 to make a new application.  
17      In fact, he could make a new application today and  
18      put in there these facts relating to his mother  
19      being so ill, for example. The fact that one of  
20      his sisters has now died and so he only has one  
21      sister that is somewhat local to him to assist with  
22      transportation needs for his mother and for him.  
23      These are all things that could be put in that  
24      application to New York.

25             And in that regard, if they denied him again,

1 he would have an opportunity to appeal again at  
2 least three levels up in New York and say, Hey, in  
3 my specific situation this is wrong. The statute  
4 says it is the commissioner's general policy to  
5 essentially deny these applications when somebody  
6 has got five or more DUIs in their lifetime, but  
7 that the commissioner shall not be foreclosed from  
8 consideration of unusual, extenuating, or  
9 compelling circumstances that may be present for  
10 review in which may form a valid basis to deviate  
11 from the general policy.

12 So, yes, while it is the general policy of New  
13 York to say, No, you have five in your lifetime,  
14 you are done, you are not driving anymore, they do,  
15 in certain situations, take into consideration  
16 unusual, extenuating, and compelling circumstances  
17 and go ahead and grant that person the right to  
18 drive again as we have seen in the affidavit that  
19 was included in the stipulation for at least four  
20 drivers prior to September of 2016.

21 We also take the position that this case is  
22 essentially barred by collateral estoppel, initial  
23 preclusion. We believe this matter has been  
24 litigated in New York once already, including that  
25 appeal to the appeal's board. And because

1       essentially -- the complaint really is with New  
2       York, about whether this suspension should continue  
3       or not in New York. And that the argument that,  
4       Well, South Carolina granted him a license for 15  
5       years and then now suddenly they are taking it  
6       back, that is essentially a smoke screen for what  
7       is really going on. The real issue is, New York,  
8       you changed the law. Please clear me.

9               South Carolina obviously can't take any action  
10       on anything we don't know about. Clearly the  
11       Plaintiff has said that he would testify that he  
12       didn't know the suspension was ongoing, but he is  
13       the only party that potentially had any knowledge  
14       that this might be an issue out there. And there  
15       is a general idea in the law -- it is usually used  
16       in the criminal law context -- that you are  
17       supposed to be knowledgeable of the law. So just  
18       because I say, I didn't know this, doesn't change  
19       the fact that I'm still responsible for making sure  
20       that I follow the law.

21              With regard to the Hipp, Davis, Wilson, and  
22       Chavis issues, there is a couple of very  
23       significant factual differences between those cases  
24       and this case.

25              First off, Hipp, Davis, Wilson, and Chavis all

1 already possessed legally valid driver's licenses.  
2 None of them had gotten their driver's licenses  
3 based on fraud or misinformation. So they all  
4 currently possessed truly valid driver's licenses.  
5 And then only once these convictions, these reports  
6 of convictions were coming in was it triggering  
7 suspensions. And it was triggering suspensions for  
8 Hipp, Wilson, and Chavis for DUI, and for -- excuse  
9 me, for Hipp -- yes, Hipp, Wilson, and Chavis for  
10 DUI, and for Davis it triggered a habitual offender  
11 suspension based on a conviction coming in. So  
12 these were all mandatory suspensions that were  
13 obtained based on the late reported conviction  
14 versus somebody who, like in this case, was never  
15 entitled to the license that he got to begin with.  
16 He was just legally never entitled to it. He got  
17 it based on misinformation, whether that was  
18 intentional or not.

19 Additionally, in Hipp, Davis, Wilson, and  
20 Chavis, there are certain statutes that require the  
21 courts or the out-of-state entity, which was  
22 Georgia, to report those convictions to DMV in a  
23 certain timeframe, and they didn't meet those  
24 timeframes. And there was no good explanation for  
25 why they didn't meet it, they just didn't meet it.

1           In this case, there is no requirement for New  
2           York to proactively notify South Carolina about  
3           anything. In fact, nothing requires the problem  
4           driver pointer system to even exist. The states  
5           created it specifically to help us essentially  
6           carry out the functions of statutes like 56-1-40,  
7           Subsection (2) because we realize we are in a much  
8           more mobile society than we have ever been before.  
9           And we finally have that technological capability  
10          to engage in that sort of almost instantaneous  
11          communication with each other.

12          Additionally, in Hipp -- and this is not --  
13          Hipp is kind of the case that sort of blew the lid  
14          off of all these situations initially. There is  
15          some significant factual things that happened with  
16          regard to the prejudice issue in Hipp that aren't  
17          really discussed in the decision, but they are in  
18          the record on appeal, specifically in the trial  
19          record.

20          In Hipp, there was a 12-year delay of a DUI  
21          conviction. Since that first Georgia conviction,  
22          he had been convicted of DUI a second time in South  
23          Carolina, but it was applied to his record as a DUI  
24          first, because DMV didn't know about the one in  
25          Georgia. So then the Georgia one comes in. And

1       this was at a time when we didn't have that ID and  
2       there was just a mandatory one-year suspension,  
3       hard suspension, no special privileges, you just  
4       don't drive for a year.

5             The difference in Hipp between those 12 years  
6       was at the time of his conviction he was a college  
7       student, he was unmarried, he had no kids, and he  
8       had no job. So it would have been very easy for  
9       him to get around campus even if he was suspended  
10      for a year versus the 12 years later when it was  
11      finally reported to DMV and they tried to put that  
12      suspension in place. He was employed, he was  
13      married, he had kids, and he was no longer in  
14      school. It was going to cause a significant  
15      financial difficulty, not just for him, but for his  
16      family for him to not drive.

17            So even though those aren't really in that  
18      Supreme Court decision, we wanted you to be aware  
19      that there is a significant prejudice now, because  
20      it goes on in all theses cases. And you see that  
21      developed more in the Davis case and in the Wilson  
22      case more so than Chavis and Hipp.

23            I would also like to mention that this  
24      argument that this statute is unconstitutional as  
25      applied, the first time that became an issue in

1       this case was at 8:46 this morning when the  
2       memorandum of law came across. It was not raised  
3       in the complaint, it has not been raised in any of  
4       the discovery that has happened, so this is a new  
5       argument that we're seeing today to try to support  
6       the request for injunctive relief.

7       Counsel said that he thinks the issue that is  
8       going on -- or was going on in New York prior to  
9       2012 is that Mr. McPartland owed a reinstatement  
10      fee of some kind.

11      When you review the record from New York that  
12      we put into evidence today, there just doesn't  
13      appear to be any evidence of that. But to the  
14      extent that that was what the issue is -- this is  
15      exactly why this issue is supposed to be litigated  
16      in New York instead of a court in South Carolina.  
17      We shouldn't have to try to speculate or guess as  
18      to why New York will not grant him relief up there.  
19      He is supposed to take that and litigate that there  
20      instead of trying to essentially do an end-run  
21      around New York and get this Court to order the  
22      reinstatement of his driver's license.

23      To the extent that that "as applied" argument  
24      is made, some of the case law talks about that the  
25      idea behind an "as applied" constitutional

1 violation is not that it is going to just basically  
2 sweep the whole statute away, it is just going to  
3 say in this one particular case the way it happened  
4 is not constitutional and so it is not going to be  
5 allowed.

6 The problem with that is, under 56-1-40, that  
7 would essentially take every PDPS hit that DMV gets  
8 and sweep it away and say, Well, we get it. That  
9 suspension took place ten years ago and DMV just  
10 told you today that you have it.

11 So if -- literally, if I went to Georgia  
12 tonight, got a DUI conviction -- right? -- then  
13 I'll report it to DMV that I was suspended in  
14 Georgia and I never clear it. I come to renew my  
15 license nine years from now, and then make this  
16 same argument because I can't get renewed all of a  
17 sudden because I've got this Georgia suspension.  
18 That is essentially the argument that is being made  
19 here is, because there was this big delay, he  
20 should get a pass.

21 So the idea that this is not going to be a  
22 sweeping change to the law in South Carolina is  
23 very inaccurate. It would be a sweeping change.  
24 And, essentially, South Carolina could become the  
25 dumping ground for all of the terrible bad drivers

1 in this country because they would know, All I have  
2 to do is go there, and if I can get through one  
3 time, I'm good. I'm good. Because when I try to  
4 renew later, I can just make this argument and get  
5 my license back.

6 Additionally, with regard to that "as applied"  
7 constitutional argument, unfortunately the memo of  
8 law does not ever actually specifically state what  
9 constitutional violation has ever taken place. It  
10 talks about "as applied" and a constitutional  
11 violation, but it doesn't say what that  
12 constitutional violation is. So it is a little  
13 difficult for me to address that specific issue not  
14 knowing what the issue is.

15 I know that the case, the primary case cited  
16 by counsel was the Doe case that we had recently  
17 regarding CDV and same sex orders of protection,  
18 and that dealt with an equal rights protection  
19 issue and evaluation of our CDV laws regarding  
20 orders of protection taking into consideration  
21 equal rights under a rational basis analysis.

22 Doing that here, when you start looking at  
23 56-1-40, Subsection (2), the purpose of that  
24 particular subsection is to ensure people suspended  
25 out of state are not licensed in South Carolina,

1       which deals with driver safety. So what we don't  
2       want is people who maybe live in Charlotte coming  
3       down to South Carolina, moving to Rock Hill,  
4       getting a license in South Carolina, and so driving  
5       essentially everywhere they already were in North  
6       Carolina on that license.

7               With regard to Part 2 of the rational basis  
8       analysis, anyone who is suspended with an  
9       out-of-state license is going to be treated the  
10      same way under 56-1-40, Subsection (2), no matter  
11      what the reason is for the suspension. It could be  
12      a DUI suspension where they have to take an ADSAP  
13      type class and they haven't done it, it could be a  
14      failure to pay traffic ticket, it could be  
15      anything, but they are all treated the same.

16             And with regard to Part 3 of that rational  
17      basis analysis, it is pretty clear -- to me, at  
18      least -- that the point of 56-1-40, Subsection (2)  
19      and that statute in general, is to promote driver  
20      safety, as well as, quite frankly, the majority of  
21      Title 56 is to try to promote driver safety, and  
22      certainly trying to prevent people who are  
23      suspended out-of-state for various things from  
24      coming into South Carolina and renewing their  
25      license does address that driver safety issue.

1           Finally, I would ask you to take a close look  
2           at two cases that I did not cite in my memorandum  
3           of law that -- one that quite frankly it was just  
4           an oversight that I didn't mention it before, but  
5           another one that I discovered this morning.

6           The first one is Gwin v. Motor Vehicle  
7           Administration. It is a Maryland case. The  
8           citation is 869 A.2d 822. And the analysis that I  
9           think is relevant for this case begins on Page 835.

10          And then we also had a U.S. District Court  
11          case in South Carolina, Thomas Williams v. SCDMV.  
12          And I have a copy of that decision if you would  
13          like me to submit it rather than y'all having to  
14          trial to pull it from Pacer, but the citation for  
15          that one is 4:16-cv-03802-RBH.

16          And basically both of these decisions talk  
17          about that interplay between statutes like 56-1-40,  
18          Subsection (2) and licensing people from out of  
19          state who do in fact have these suspensions. And  
20          in particular the Williams case talks some about  
21          the delay that can take place at times.

22          So we would ask you to take a close look at  
23          those as well in deciding what to do in this case.

24          THE COURT: Do you have a copy of that case?

25          MS. DUNCAN: Yes, ma'am, I do.

1 THE COURT: If you can hand that up.

2 MS. DUNCAN: Yes. And counsel already has a  
3 copy of this already. I think I e-mailed it to you  
4 about a year ago.

5 MR. LEDDY: Right.

6 MS. DUNCAN: It is in an e-mail somewhere.

7 MR. LEDDY: Okay.

8 THE COURT: All right. Yes, sir?

9 MR. LEDDY: Judge, just real briefly. The  
10 reason I just put the "as applied" language into my  
11 brief this morning was because the complaint asked  
12 for an injunction based on a violation of due  
13 process. I didn't get more specific about it  
14 because none of the cases that apply were ever very  
15 specific about it. The Hipp, the Chavis, the  
16 Williams -- the Davis case -- the Wilson and the  
17 Davis case. They just say, if there is something  
18 that is fundamentally unfair, then that can be a  
19 violation of due process. And that is the extent  
20 to which they go into an analysis of it. It is not  
21 anything more than a fundamental fairness question  
22 really.

23 And the reason why the Court is able to set  
24 aside the application of this statute in the  
25 particular cases for people who bring them and make

1 a showing of a violation of their due process is  
2 because it is a constitutional matter. And that is  
3 why, you know, we can't expect the DMV to make this  
4 determination on other cases based on a ruling here  
5 is because they don't have the authority to do  
6 that, being that they are in the executive branch.  
7 The executive branch can't make judgment calls  
8 about constitutionality. That would be a violation  
9 of the separation of powers.

10 And that is why I didn't bring a case in the  
11 Administrative Law Court, because the  
12 Administrative Law Court is in the executive  
13 branch, and they can't opine about the  
14 constitutionality of statutes either.

15 So that is why these cases were brought in the  
16 circuit court and why I brought it here. And I  
17 just made that distinction to express to the Court  
18 that I in no way seek to make a sweeping change of  
19 the rules, that I think this is a very unique  
20 scenario. I don't think we have a lot of people  
21 who came from New York 20 something years ago and  
22 have never gotten in trouble here. It is unusual  
23 for somebody to turn it around so much.

24 But the other thing that I would say is, in  
25 response to the unclean hands arguments, you know,

1 I have spent a lot of my career in magistrate and  
2 municipal court, and I have seen I don't know how  
3 many people who have a driving under suspension  
4 ticket and they just didn't know they needed to pay  
5 a reinstatement fee. So it is a very common thing  
6 that comes up.

7 I bet you that if you were to ask -- you know,  
8 Mr. McPartland, he didn't even ask for a new  
9 license here for more than a year after his  
10 suspension period ended in New York. So it is  
11 not -- if he had come straight from the DUI Court  
12 and moved down to South Carolina and asked for a  
13 license two weeks later and failed to disclose that  
14 he had just been convicted, it would be a lot  
15 easier to infer that he had acted unfairly in his  
16 application. But here, I think that it is very --  
17 it would be very common for people to think, I have  
18 a one-year suspension in New York. Once it is over  
19 with, if I don't need a license there, I am going  
20 to apply in South Carolina. If you were to say,  
21 I'm not suspended there anymore, I don't think that  
22 you could really say that that person was lying.  
23 Most people just wouldn't know that.

24 So that is it, Your Honor. I just think that  
25 it would be really unfair to Mr. McPartland. And I

1 don't think that the DMV is doing anything mean to  
2 him, I think that they are just carrying out the  
3 law as it is written. But as it is applied to him  
4 in his very unique circumstance, it works -- a very  
5 harsh result. And he -- unless New York has a real  
6 change of heart about drunk drivers, which I don't  
7 think is going to happen, then he is never going to  
8 be able to get a license here or any other state  
9 that has a similar rule. And they are pretty much  
10 everywhere.

11 So that is it. Thank you, Your Honor.

12 THE COURT: Thank you.

13 All right. Yes, ma'am?

14 MS. DUNCAN: Did you also want the Maryland  
15 case? I have that one.

16 THE COURT: If you have it, that will be  
17 great.

18 MS. DUNCAN: Okay. It does have highlights.  
19 Do you want to see it before I hand it up?

20 MR. LEDDY: That's okay.

21 MR. DUNBAR: It was the copy I was working off  
22 of. I didn't think to print a clean copy.

23 THE COURT: I will look at these cases and get  
24 you all a decision sometime soon.

25 MR. LEDDY: Thank you, Judge.

1 MS. DUNBAR: Thank you.

2 THE COURT: Thank you.

3 (WHEREUPON, the proceedings were  
4 concluded at 3:18 p.m.)

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25 (END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )

COUNTY OF RICHLAND )

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 18th day of June, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 14, 2018

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR  
Fifth Circuit Court Reporter

|                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| MR. DUNBAR: [1] 29/20<br>MR. LEDDY: [13] 3/6 3/9 3/20 6/2<br>11/11 11/21 11/24 12/8 26/4 26/6<br>26/8 29/19 29/24<br>MS. DUNBAR: [1] 29/25<br>MS. DUNCAN: [12] 3/5 3/12 6/1<br>11/12 12/2 12/10 12/17 25/24 26/1<br>26/5 29/13 29/17<br>THE COURT: [17] 3/1 3/7 3/10<br>3/16 11/9 11/20 11/22 12/6 12/11<br>12/15 25/23 25/25 26/7 29/11<br>29/15 29/22 30/1 | able [7] 5/9 7/11 7/17 7/19 9/9<br>26/23 29/8<br>about [20] 4/4 5/21 7/25 9/23<br>14/16 14/16 17/2 17/10 19/2 19/24<br>21/24 23/10 25/17 25/20 26/4<br>26/13 26/15 27/8 27/13 29/6<br>accurate [1] 31/11<br>across [2] 11/2 21/2<br>across-the-board [1] 11/2<br>acted [1] 28/15<br>action [1] 17/9<br>actually [2] 14/24 23/8<br>additional [2] 5/7 15/13<br>Additionally [5] 14/9 15/15 18/19<br>19/12 23/6<br>address [3] 12/10 23/13 24/25<br>Administration [1] 25/7<br>administrative [3] 15/8 27/11<br>27/12<br>admitted [1] 11/19<br>ADSAP [1] 24/12<br>affidavit [1] 16/18<br>affirmative [1] 14/3<br>after [4] 8/13 8/21 11/11 28/9<br>afternoon [1] 3/21<br>again [5] 4/12 13/4 15/25 16/1<br>16/18<br>against [1] 7/3<br>ago [5] 5/25 9/15 22/9 26/4 27/21<br>ahead [1] 16/17<br>akin [1] 7/21<br>alcohol [3] 4/25 5/6 10/14<br>alcohol-related [1] 4/25<br>all [22] 3/11 3/18 4/4 6/21 7/2<br>9/5 11/10 11/23 13/16 15/23 17/25<br>18/3 18/12 19/14 20/20 22/16<br>22/25 23/1 24/15 26/8 29/13 29/24<br>allowed [1] 22/5<br>almost [2] 7/2 19/10<br>already [5] 16/24 18/1 24/5 26/2<br>26/3<br>also [7] 3/14 4/23 15/6 16/21<br>20/23 25/10 29/14<br>although [1] 15/12<br>am [4] 6/18 7/14 28/19 31/16<br>analysis [5] 23/21 24/8 24/17<br>25/8 26/20<br>ANNE [1] 1/20<br>another [3] 10/8 15/2 25/5<br>answer [1] 11/7<br>any [16] 4/3 7/4 7/11 10/13 11/7<br>11/21 12/22 15/4 15/7 15/12 17/9<br>17/13 21/3 21/13 29/8 31/17<br>anybody [2] 5/19 7/4<br>anymore [3] 7/13 16/14 28/21<br>anyone [1] 24/8<br>anything [8] 7/7 10/7 10/8 17/10<br>19/3 24/15 26/21 29/1<br>anyway [1] 10/10<br>anywhere [1] 6/25<br>apparent [1] 8/20<br>appeal [6] 7/23 15/11 16/1 16/25<br>19/18 31/13<br>appeal's [2] 15/11 16/25<br>appealed [1] 15/10<br>Appeals [1] 10/21<br>appear [1] 21/13<br>appellate [1] 15/13<br>application [9] 13/25 14/2 15/9<br>15/10 15/16 15/17 15/24 26/24<br>28/16<br>applications [2] 14/7 16/5<br>applied [12] 6/8 7/9 8/2 13/9<br>19/23 20/25 21/23 21/25 23/6<br>23/10 26/10 29/3<br>apply [2] 26/14 28/20<br>applying [1] 7/6<br>are [21] 5/8 5/22 6/11 6/19 9/24<br>10/2 13/23 15/23 16/14 16/14 17/5<br>17/16 18/20 19/7 19/17 23/25 | 24/15 24/22 27/6 29/2 29/9<br>area [2] 8/1 12/21<br>aren't [2] 19/16 20/17<br>argument [9] 14/15 17/3 20/24<br>21/5 21/23 22/16 22/18 23/4 23/7<br>arguments [1] 27/25<br>around [4] 9/20 20/9 21/21 27/23<br>as [26] 4/23 7/6 8/2 8/18 8/24<br>9/2 10/15 10/15 11/20 11/24 12/5<br>13/11 16/18 19/23 20/24 21/17<br>21/23 21/25 23/6 23/10 24/20<br>24/20 25/23 26/10 29/3 29/3<br>ascertain [1] 4/21<br>aside [1] 26/24<br>ask [8] 5/16 5/22 11/10 11/18<br>25/1 25/22 28/7 28/8<br>asked [3] 6/8 26/11 28/12<br>assist [1] 15/21<br>Attorney [2] 1/19 1/21<br>authority [1] 27/5<br>automated [1] 13/10<br>available [1] 13/10<br>aware [2] 4/17 20/18<br>away [3] 3/24 22/2 22/8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| '80s [1] 4/7<br>'90s [1] 4/8                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 04199 [1] 1/2                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 1,000 [2] 6/1 11/4<br>1,031 [2] 6/2 6/3<br>1...DRIVING [1] 2/12<br>12 [2] 20/5 20/10<br>12-year [1] 19/20<br>13 [1] 6/1<br>13th [1] 15/16<br>14 [1] 31/19<br>15 [2] 10/12 17/4<br>15-year [1] 4/13<br>17-CP-40-4199 [1] 3/4<br>18 [2] 1/9 3/1<br>18th [1] 31/15<br>1932 [1] 14/12<br>1962 [1] 14/21<br>1997 [1] 9/7                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 20 [4] 7/16 8/21 9/15 27/21<br>2000 [3] 4/11 12/24 13/9<br>2005 [2] 4/12 13/1<br>2012 [3] 4/24 9/1 21/9<br>2015 [2] 4/12 13/4<br>2016 [1] 16/20<br>2017 [1] 15/16<br>2017-CP-40-04199 [1] 1/2<br>2018 [4] 1/9 3/1 31/15 31/19<br>240 [1] 13/25<br>25-year [2] 5/3 5/5                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 30 [1] 14/21<br>3:18 [1] 30/4                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 4                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 40 [8] 14/10 14/24 19/6 22/6<br>23/23 24/10 24/18 25/17<br>4199 [1] 3/4<br>49 [1] 13/16<br>4:16-cv-03802-RBH [1] 25/15                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 56 [1] 24/21<br>56-1-240 [1] 13/25<br>56-1-40 [8] 14/10 14/24 19/6 22/6<br>23/23 24/10 24/18 25/17<br>56-1-80 [1] 13/24                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 8                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 80 [1] 13/24<br>822 [1] 25/8<br>835 [1] 25/9<br>869 [1] 25/8<br>8:46 [1] 21/1                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| A.2d [1] 25/8                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | C                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p><b>C</b></p> <p>can [15] 4/15 5/8 5/16 6/3 7/17<br/>8/25 10/11 11/4 11/8 12/5 23/2<br/>23/4 25/21 26/1 26/18<br/>can't [12] 6/12 6/13 6/13 6/15<br/>6/16 11/1 15/2 17/9 22/16 27/3<br/>27/7 27/13<br/>cancel [1] 9/4<br/>cannot [1] 7/7<br/>capability [2] 13/14 19/9<br/>captioned [1] 31/13<br/>career [1] 28/1<br/>CAROLINA [39]<br/>carries [1] 8/13<br/>carry [2] 8/6 19/6<br/>carrying [1] 29/2<br/>case [31] 3/2 3/4 4/4 5/13 5/13<br/>7/24 12/20 16/21 17/24 18/14 19/1<br/>19/13 20/21 20/22 21/1 21/24 22/3<br/>23/15 23/15 23/16 25/7 25/9 25/11<br/>25/20 25/23 25/24 26/16 26/17<br/>27/10 29/15 31/13<br/>cases [12] 7/25 8/4 9/17 9/19<br/>17/23 20/20 25/2 26/14 26/25 27/4<br/>27/15 29/23<br/>cast [1] 5/5<br/>cause [1] 20/14<br/>CDV [2] 23/17 23/19<br/>certain [5] 4/25 5/3 16/15 18/20<br/>18/23<br/>certainly [1] 24/22<br/>CERTIFICATE [1] 31/1<br/>certified [3] 12/3 12/5 12/17<br/>certify [2] 31/10 31/16<br/>challenge [2] 7/6 8/15<br/>challenged [1] 10/19<br/>chance [1] 7/11<br/>change [6] 10/18 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28/16 28/17 28/21 28/24 29/1 29/2 29/7 29/22</p> <p>thinks [1] 21/7</p> <p>this [51]</p> <p>Thomas [2] 3/14 25/11</p> <p>those [10] 6/7 8/4 9/19 13/18 17/23 18/22 18/23 20/5 20/17 25/23</p> <p>though [2] 8/12 20/17</p> <p>three [3] 5/2 5/6 16/2</p> <p>through [2] 13/10 23/2</p> <p>ticket [9] 4/14 4/15 6/17 6/18 6/24 6/24 10/12 24/14 28/4</p> <p>tickets [1] 14/16</p> <p>time [8] 4/8 7/2 14/6 19/22 20/1 20/6 20/25 23/3</p> <p>timeframe [2] 5/3 18/23</p> <p>timeframes [1] 18/24</p> <p>times [1] 25/21</p> <p>Title [1] 24/21</p> <p>Title 56 [1] 24/21</p> <p>today [5] 11/14 15/17 21/5 21/12 22/10</p> <p>together [1] 9/5</p> <p>told [2] 7/13 22/10</p> <p>tonight [1] 22/12</p> <p>took [2] 14/21 22/9</p> <p>traffic [2] 14/16 24/14</p> <p>TRANSCRIPT [3] 1/6 30/25 31/11</p> <p>transportation [1] 15/22</p> <p>treated [2] 24/9 24/15</p> <p>trial [4] 8/5 19/18 25/14 31/12</p> <p>tried [1] 20/11</p> <p>triggered [1] 18/10</p> <p>triggering [2] 18/6 18/7</p> <p>trouble [2] 7/16 27/22</p> <p>true [1] 31/11</p> <p>truly [1] 18/4</p> <p>try [4] 21/5 21/17 23/3 24/21</p> <p>trying [3] 14/16 21/20 24/22</p> <p>turn [1] 27/23</p> <p>two [3] 15/13 25/2 28/13</p> <p>type [1] 24/13</p> | <p><b>U</b></p> <p>U.S [1] 25/10</p> <p>unclean [1] 27/25</p> <p>unconstitutional [1] 20/24</p> <p>under [9] 5/8 5/19 12/7 14/2 14/6 22/6 23/21 24/10 28/3</p> <p>understand [1] 12/19</p> <p>unexpectedly [1] 3/24</p> <p>unfair [10] 8/2 8/16 8/19 8/20 8/23 9/16 10/1 10/6 26/18 28/25</p> <p>unfairly [1] 28/15</p> <p>unfortunately [1] 23/7</p> <p>unique [2] 27/19 29/4</p> <p>unless [1] 29/5</p> <p>unmarried [1] 20/7</p> <p>unsuccessfully [1] 10/20</p> <p>until [1] 14/20</p> <p>unusual [3] 16/8 16/16 27/22</p> <p>up [11] 4/2 4/2 4/2 9/2 9/22 9/23 16/2 21/18 26/1 28/6 29/19</p> <p>upheld [1] 7/22</p> <p>us [8] 5/16 12/25 13/1 13/2 13/4 13/20 13/23 19/5</p> <p>used [1] 17/15</p> <p>usually [1] 17/15</p> <p><b>V</b></p> <p>valid [3] 16/10 18/1 18/4</p> <p>various [1] 24/23</p> <p>vehicle [2] 5/14 25/6</p> <p>Vehicles [3] 1/7 3/4 6/6</p> <p>versus [2] 18/14 20/10</p> <p>very [11] 7/24 17/22 20/8 22/23 26/14 27/19 28/5 28/16 28/17 29/4 29/4</p> <p>vested [1] 5/13</p> <p>violation [8] 22/1 23/9 23/11 23/12 26/12 26/19 27/1 27/8</p> <p><b>W</b></p> <p>waive [1] 3/22</p> <p>waiver [3] 6/8 7/8 11/4</p> <p>want [6] 6/23 9/23 15/5 24/2 29/14 29/19</p> <p>wanted [2] 3/22 20/18</p> <p>wants [2] 3/19 11/25</p> <p>was [58]</p> <p>Washington [1] 13/17</p> <p>way [8] 5/11 6/21 10/22 13/7 15/7 22/3 24/10 27/18</p> <p>we [37]</p> <p>we're [2] 7/5 21/5</p> <p>week [1] 3/24</p> <p>weeks [1] 28/13</p> <p>well [10] 6/18 7/2 9/22 10/1 11/20 12/12 17/4 22/8 24/20 25/23</p> <p>went [1] 22/11</p> <p>were [15] 2/4 4/22 5/1 8/8 10/18 15/12 18/6 18/12 18/12 24/5 26/14 27/15 28/7 28/20 30/3</p> <p>what [16] 3/20 3/20 4/21 6/19 9/13 9/23 13/7 13/14 17/6 21/14 23/8 23/11 23/14 24/1 24/11 25/23</p> <p>whatever [3] 6/24 8/7 8/11</p> <p>when [18] 4/18 8/22 10/18 11/3 11/14 12/22 12/25 13/3 13/8 14/1 15/1 16/5 20/1 20/10 21/1 21/11 23/3 23/22</p> <p>where [7] 4/9 5/12 5/18 8/1 8/5 9/17 24/12</p> <p>WHEREUPON [3] 2/4 12/14 30/3</p> <p>whether [3] 8/25 17/2 18/17</p> <p>which [8] 7/21 11/2 12/21 16/10 18/21 24/1 26/20 29/6</p> <p>while [2] 10/8 16/12</p> <p>who [13] 5/19 5/22 6/22 10/6 10/19 18/14 24/2 24/8 24/22 25/19 26/25 27/21 28/3</p> <p>whole [1] 22/2</p> | <p>why [9] 8/18 18/25 21/15 21/18 26/23 27/3 27/10 27/15 27/16</p> <p>will [5] 5/7 11/23 21/18 29/16 29/23</p> <p>Williams [3] 25/11 25/20 26/16</p> <p>Wilson [8] 7/25 17/21 17/25 18/8 18/9 18/19 20/21 26/16</p> <p>without [1] 11/24</p> <p>witnesses [1] 2/4</p> <p>work [1] 7/23</p> <p>working [1] 29/21</p> <p>works [1] 29/4</p> <p>would [20] 5/11 7/21 8/19 9/9 11/18 16/1 17/11 20/8 20/23 22/7 22/23 23/1 25/1 25/12 25/22 27/8 27/24 28/14 28/17 28/25</p> <p>wouldn't [2] 9/10 28/23</p> <p>written [1] 29/3</p> <p>wrong [1] 16/3</p> <p><b>Y</b></p> <p>y'all [1] 25/13</p> <p>year [12] 4/11 4/13 4/19 5/3 5/5 19/20 20/2 20/4 20/10 26/4 28/9 28/18</p> <p>years [16] 5/7 5/25 7/16 8/14 8/21 9/15 9/24 10/4 10/12 14/21 17/5 20/5 20/10 22/9 22/15 27/21</p> <p>yes [9] 3/6 3/7 3/13 16/12 18/9 25/25 26/2 26/8 29/13</p> <p>yet [2] 13/13 13/14</p> <p>yield [1] 11/8</p> <p>York [39]</p> <p>you [86]</p> <p>your [10] 3/7 3/10 3/21 5/16 6/13 11/6 11/13 16/13 28/24 29/11</p> |
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New York State DMV - COMPASS

Requestor: CT

Date: 07/21/2017 10:43:11

## SEARCH CRITERIA

Client ID: [REDACTED] Options: Full Record

## LICENSE SYSTEM

Client ID: [REDACTED] Name: MCPARTLAND, JOHN P. DOB: [REDACTED] Gender: MALE  
 Address: [REDACTED] Resident County: OUT-OF-STATE Eye Color: BRN  
 Mailing County: OUT-OF-STATE Height: 5-08  
 Non-Domiciled/Temp NO Military: NO Bad Check: NO Organ Donor: NO  
 Visitor: SSN Last 4: [REDACTED] Verified: Verif Type: Veteran: NO  
 Driving Restrictions: NONE  
 Suspension/Revocation Summary - Total Open: 1 (Open Scofflaws: 0 On: 0 Dates) Judgment \$: 0

## SUMMARY

LICENSE \*\*\*  
 Class: "DM" Expiration: 06/15/2000  
 Privilege: FULL Comm Privilege: NONE  
 Status: REVOKED Comm Status: REVOKED  
 19A Status: NOT APPLICABLE

PERMITS \*\*\*  
 Class: "M" Status: ORIGINAL- LICENSE PRIVILEGE Issued: 02/11/1997 Mailed: 02/25/1997 Exp: 02/11/1998  
 ISSUED

Class: "D" Status: ORIGINAL- LICENSE PRIVILEGE Issued: 03/01/1996 Mailed: 03/13/1996 Exp: 06/15/2000  
 ISSUED

Last Doc Issued: "DM" Issued: 04/18/1997 Mailed: 05/07/1997  
 Type: LICENSE

## LICENSE HISTORY

Lic Class: "DM" Expires: 06/15/2000  
 Endorsements: NONE  
 Batch: 6030800999 Batch Date: 03/08/1996 Terminal Num: 999  
 Driver Rehab: NO Unvalidated Original: NO  
 ID Issued: NO Permit Privilege: YES Duplicate: YES

## PERMIT HISTORY

Permit Class: "M" Applied: 02/11/1997 Mailed: 02/25/1997 Expires: 02/11/1998  
 Permit Status: LICENSE PRIVILEGE ISSUED  
 Permit Pending: NO Coterminous: NO Surrendered: NO  
 Restrictions: NONE  
 Endorsements: NONE  
 Batch: 7021160700 Batch Date: 02/11/1997 Terminal Num: 700  
 Skills Tests Available: 1

Permit Class: "D" Applied: 03/01/1996 Mailed: 03/13/1996 Expires: 06/15/2000  
 Permit Status: LICENSE PRIVILEGE ISSUED  
 Permit Pending: NO Coterminous: YES Surrendered: NO  
 Restrictions: NONE  
 Endorsements: NONE  
 Batch: 6030140699 Batch Date: 03/01/1996 Terminal Num: 699  
 Skills Tests Available: 1

## NON-DRIVER ID HISTORY

Issued: 11/03/1992 Expires: 06/15/1997  
 Batch: 2110300718 Batch Date: 03/08/1996 Terminal Num: 718

## CLASSES

Class: DM Post Date: 04/18/1997  
 Effective: 04/18/1997 Cycle: 03/08/1996 Expiration: 06/15/2000  
 User: CONVERSION-JUNE 2008 Office: Terminal: System: Trans:



Class:D  
Effective:03/06/1996  
User:CONVERSION-MAY 2008

Cycle:03/08/1996  
Office:\*\*\* Terminal:\*\*\*

Post Date:03/08/1996  
Expiration:06/15/2000  
System:\*\*\* Trans:\*\*\*

Class:I  
Effective:11/03/1992  
User:PRD CNVRT-2016-10-12

Cycle:11/03/1992  
Office:ITS Terminal:F17

Post Date:11/03/1992  
Expiration:06/15/1997  
System:LRDS Trans:BLDS

## ACTIVITY (22)

| Activity Type     | Date                                    | Office                      | Additional Info                                                                                                     | Batch                             |
|-------------------|-----------------------------------------|-----------------------------|---------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| RAP               | 11/03/2016                              | DIU                         | Status: DENIED<br>Examiner:WZN Date:12/13/2016<br>Fee Received:\$25<br>Reason:TIME NS<br>Next Reapp Date:12/13/2017 |                                   |
| Image Capture     | 11/03/1992                              |                             | Image:KEPT                                                                                                          |                                   |
| NDR Pointer       | 06/30/1996                              | Action:POINTER ADDED        | Last Mod Date:                                                                                                      |                                   |
| Road Test Results | 03/06/1996                              | Skills Test:RTRS-D<br>Rmvd: | Added:                                                                                                              | 8:9606670000                      |
| Class Change      | 03/08/1996                              | New:"D"                     | Old:PERMIT                                                                                                          | 8:9606802E31                      |
| Road Test Results | 04/18/1997                              | Skills Test:RTRS-M<br>Rmvd: | Added:                                                                                                              | 8:97108F0000                      |
| Class Change      | 04/18/1997                              | New:"DM"                    | Old:"D"                                                                                                             | 8:9710803133                      |
| Case              |                                         |                             |                                                                                                                     |                                   |
| Audit             | 07/03/2015                              | ISB                         | Init:BSR<br>Amount:\$ 25<br>Type:PREV REINSTATEMENT FEE                                                             | Sequence:000<br>Document:3594826F |
| Audit             | 08/10/2015                              | DIU                         | Init:<br>Amount:\$ 0<br>Type:CLEARED PROHIBIT                                                                       | Sequence:000<br>Document:JLARG    |
| Note              | CLOSED CORRES-SENT TO BE IMAGED 8/19/15 |                             |                                                                                                                     |                                   |
| Audit             | 12/28/2015                              | DIU                         | Init:JXL<br>Amount:\$ 0<br>Type:AMENDED NON-SCOFFLAW                                                                | Sequence:123<br>Document:         |
| Compliance        | 05/21/1998                              |                             |                                                                                                                     | E:019980521                       |
| Compliance        | 03/10/1982                              |                             |                                                                                                                     | E:019820310                       |
| Case              |                                         |                             |                                                                                                                     |                                   |
| Audit             | 03/14/2016                              | DIU                         | Init:JML<br>Amount:\$ 0<br>Type:DELETE TRL                                                                          | Sequence:123<br>Document:         |
| Note              | PD 5.121015                             |                             |                                                                                                                     |                                   |
| Note              | D1506852 SENT TO IMAGING 031416 JML     |                             |                                                                                                                     |                                   |
| Note              | H502452 SENT TO IMAGING 031416 JML      |                             |                                                                                                                     |                                   |
| Audit             | 11/07/2016                              | ISB                         | Init:LLR<br>Amount:\$ 25<br>Type:REINSTATEMENT FEE                                                                  | Sequence:000<br>Document:6621506F |
| Note              | PD 5 121316                             |                             |                                                                                                                     |                                   |
| Note              | D15-06852 ADD INFO 051917               |                             |                                                                                                                     |                                   |

## NON SCOFFLAW(S)

C Suspension: 10/06/1998  
L Order Issued:09/21/1998

Reason:INSURANCE LAPSE  
Order:C9809210000

Ticket

|                            |                                                                                                                                                                                                |                                                                                                                                                     |                                                                                                                                        |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| O<br>S<br>E<br>D           | Termination Fee: \$25 PAID<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Plate: [REDACTED]<br>Compl Date: 10/06/1998<br>Clear On: 06/18/1999                                                 | Batch: 8092190000<br>Case Num: [REDACTED]<br>Period: 172 DAYS<br>Term. Date: 06/11/1998<br>Reason: REQUIREMENTS MET                                 | V&T Section: 318.1<br>DDP Eligible: N99<br>Cond Lic Eligible: N99<br>Rest Lic Eligible: N03<br>Term. Ins.: 413<br>New Ins: 000         |
|                            | Revocation: 05/14/1998<br>Order Issued: 05/21/1998<br>Termination Fee: N/A<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Compl Date: 05/14/1998<br>Clear On:<br>Poss. Clear Date: 05/15/1999 | Reason: DRIVING WHILE INTOX<br>Order: D9805210000<br>Batch: N/A<br>Case Num: [REDACTED]<br>Period: 1 YEAR<br>Reason:                                | County: [REDACTED]<br>Ticket: [REDACTED]<br>V&T Section: 1193<br>DDP Eligible: N82<br>Cond Lic Eligible: N82<br>Rest Lic Eligible: N99 |
| C<br>L<br>O<br>S<br>E<br>D | Suspension: 11/18/1997<br>Order Issued: 11/25/1997<br>Termination Fee: N/A<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Clear On: 05/14/1998                                                | Reason: PEND PROS-CT BAC<br>Order: A9711250000<br>Batch: 7112400000<br>Case Num: [REDACTED]<br>Period: ORDER DEPENDENT<br>Reason: REQUIREMENTS MET  | County: [REDACTED]<br>Ticket: [REDACTED]<br>V&T Section: 1193<br>DDP Eligible: N99<br>Cond Lic Eligible: N82<br>Rest Lic Eligible: N99 |
|                            | Revocation: 06/17/1994<br>Order Issued: 07/02/1994<br>Termination Fee: N/A<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Compl Date: 06/17/1994<br>Clear On: 02/26/1996                      | Reason: DRIVING WHILE INTOX<br>Order: D9407020000<br>Batch: N/A<br>Case Num: [REDACTED]<br>Period: 1 YEAR<br>Reason: REAPPLIC. APPROVED             | County: [REDACTED]<br>Ticket: [REDACTED]<br>V&T Section: 1193<br>DDP Eligible: Y00<br>Cond Lic Eligible: N05<br>Rest Lic Eligible: N99 |
| C<br>L<br>O<br>S<br>E<br>D | Suspension: 07/09/1993<br>Order Issued: 07/14/1993<br>Termination Fee: N/A<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Compl Date: 07/09/1993<br>Clear On: 02/26/1996                      | Reason: PEND PROSECUTION-CT<br>Order: A9307140000<br>Batch: 3071412300<br>Case Num: [REDACTED]<br>Period: INDEFINITE<br>Reason: REAPPLIC. APPROVED  | County: [REDACTED]<br>Ticket: [REDACTED]<br>V&T Section: 510<br>DDP Eligible: N99<br>Cond Lic Eligible: N99<br>Rest Lic Eligible: N99  |
|                            | Revocation: 04/01/1986<br>Order Issued: 04/07/1986<br>Termination Fee: N/A<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Compl Date: 04/01/1986<br>Clear On: 02/26/1996                      | Reason: DRIVING WHILE INTOX<br>Order: D604070<br>Batch: 0000003300<br>Case Num: [REDACTED]<br>Period: ORDER DEPENDENT<br>Reason: REAPPLIC. APPROVED | County: [REDACTED]<br>Ticket: [REDACTED]<br>V&T Section:<br>DDP Eligible: N81<br>Cond Lic Eligible: N81<br>Rest Lic Eligible: N99      |
| C<br>L<br>O<br>S<br>E<br>D | Revocation: 10/24/1983<br>Order Issued: 01/18/1984<br>Termination Fee: N/A<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Clear On: 09/19/1985                                                | Reason: DRIVING WHILE INTOX<br>Order: A401180<br>Batch: 4011900000<br>Case Num: [REDACTED]<br>Period: ORDER DEPENDENT<br>Reason: REAPPLIC. APPROVED | County: [REDACTED]<br>Ticket: [REDACTED]<br>V&T Section:<br>DDP Eligible: Y00<br>Cond Lic Eligible: Y95<br>Rest Lic Eligible: N99      |
|                            | Revocation: 03/29/1982<br>Order Issued: 04/06/1982<br>Termination Fee: N/A<br>Class Affected: ALL<br>Civil Penalty: N/A<br>Incident Date: 01/01/1982                                           | Reason: RFSD SUB CHEM TEST<br>Order: H204060<br>Batch: 2040800000<br>Case Num: [REDACTED]<br>Period: ORDER DEPENDENT<br>County: OUT-OF-STATE        | Ticket: [REDACTED]<br>V&T Section: 1194<br>DDP Eligible: Y00<br>Cond Lic Eligible: Y95<br>Rest Lic Eligible: N99                       |

Hearing Date: 00/00/0000  
Clear On: 06/14/1982

Location:  
Reason: REQUIREMENTS MET

C Suspension: 03/24/1982  
L Order Issued: 03/10/1982  
O Termination Fee: N/A  
S Class Affected: ALL  
E Civil Penalty: N/A  
D

Reason: DRVG WHILE IMPAIRED  
Order: A203100  
Batch: 0000003352  
Case Num: [REDACTED]  
Period: 90 DAYS

County: [REDACTED]  
Ticket: [REDACTED]  
V&T Section:  
DDP Eligible: Y00  
Cond Lic Eligible: Y95  
Rest Lic Eligible: N99

Clear On: 06/14/1982

Reason: REQUIREMENTS MET

Rescission Date: 10/26/1998

Case Number: [REDACTED]

Order Number: C9809210010

### CONVICTIONS

Violation Date: 08/27/1997  
Convicted On: 02/25/1998  
Source: TSLED  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: DRIVING WHILE INTOX  
Location: ONONDAGA COUNTY  
Penalty:  
Hazmat: UNKNOWN  
Viol Type: 400 SERIES MANDATORY  
Discharge: N/A

Points: [REDACTED]  
Ticket: [REDACTED]  
Batch: 8051902141

Violation Date: 06/18/1993  
Convicted On: 02/23/1994  
Source:  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: RECKLESS DRIVING  
Location: ONONDAGA COUNTY  
Penalty:  
Hazmat: UNKNOWN  
Viol Type: MISDEMEANOR  
Discharge: CONDITIONAL

Points: 05  
Ticket: [REDACTED]  
Batch: 4063057130

Violation Date: 06/18/1993  
Convicted On: 02/23/1994  
Source:  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: DRIVING WHILE INTOX  
Location: ONONDAGA COUNTY  
Penalty: \$999 FINE  
Hazmat: UNKNOWN  
Viol Type: OTHER  
Discharge: N/A

Points: [REDACTED]  
Ticket: [REDACTED]  
Batch: 4063057140

Violation Date: 06/18/1993  
Convicted On: 02/23/1994  
Source:  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: AGG UNL OP FEL  
Location: ONONDAGA COUNTY  
Penalty: \$500 FINE  
Hazmat: UNKNOWN  
Viol Type: OTHER  
Discharge: N/A

Points: [REDACTED]  
Ticket: [REDACTED]  
Batch: 4063057130

Violation Date: 01/30/1990  
Convicted On: 02/12/1990  
Source: UNKNOWN  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: FLD TO STOP AT SIGN  
Location: ONONDAGA COUNTY, TOWN OF CICERO  
Penalty: \$15 FINE  
Hazmat: UNKNOWN  
Viol Type: OTHER  
Discharge: N/A

Points: 03  
Ticket: [REDACTED]  
Batch: 0050909130

Violation Date: 01/30/1990  
Convicted On: 02/12/1990  
Source: UNKNOWN  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: AGG UNL OP INF  
Location: ONONDAGA COUNTY, TOWN OF CICERO  
Penalty: \$200 FINE  
Hazmat: UNKNOWN  
Viol Type: OTHER  
Discharge: N/A

Points: [REDACTED]  
Ticket: [REDACTED]  
Batch: 0050909130

Violation Date: 12/19/1984  
Convicted On: 01/21/1985  
Source: UNKNOWN  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: DRIVING WHILE INTOX  
Location: ONONDAGA COUNTY  
Penalty: \$500 FINE  
Hazmat: UNKNOWN  
Viol Type: 400 SERIES MANDATORY  
Discharge: N/A

Points: [REDACTED]  
Ticket: [REDACTED]  
Batch: 6040415140

Violation Date: 07/24/1983  
Convicted On: 10/24/1983  
Source: UNKNOWN  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: DRIVING WHILE INTOX  
Location: ONONDAGA COUNTY, TOWN OF CLAY  
Penalty: \$350 FINE  
Hazmat: UNKNOWN  
Viol Type: 400 SERIES MANDATORY  
Discharge: N/A

Points: [REDACTED]  
Ticket: [REDACTED]  
Batch: 3122220138

Violation Date: 01/01/1982  
Convicted On: 02/11/1982  
Source: UNKNOWN  
Comm Veh: UNKNOWN  
Conviction Desc: NORMAL

Violation: DRVG WHILE IMPAIRED  
Location: ONONDAGA COUNTY, TOWN OF CLAY  
Penalty:  
Hazmat: UNKNOWN  
Viol Type: PROBATION VIOLATION ONLY  
Discharge: CONDITIONAL

Points: [REDACTED]  
Ticket: [REDACTED]  
Batch: 2031095333

**ACCIDENTS**

Accident Date: 08/27/1997  
Type: PROPERTY DAMAGE  
Reports: POLICE, OWNER/NONDRIVER  
Fire/Police: NO

County: ONONDAGA

Case: [REDACTED]

Exempt From 3 Accident Re-Exam: YES

**ADDRESS**

Posted: 06/21/2015

Address: [REDACTED]

Country: US

User Id: RPATRICK

Office Code: OCS

Archived:

Type: MAILING

County: OUT-OF-STATE

Status: PASSED VALIDATION

Source: DMV ADDRESS CHANGE CARD

Posted: 02/11/1997

Address: [REDACTED]

Country: US

User Id: MJS

Office Code: SYD

Archived: 02/11/1997

Type: MAILING

County: ONONDAGA

Status: PASSED VALIDATION

Source: LICENSE TP

Posted: 03/01/1996

Address: [REDACTED]

Country: US

User Id: CLA

Office Code: SYD

Archived: 03/01/1996

Type: MAILING

County: ONONDAGA

Status: PASSED VALIDATION

Source: LICENSE TP

Posted: 01/01/1995

Address: [REDACTED]

Country: US

User Id: \*\*\*

Office Code: \*\*\*

Archived: 03/01/1996

Type: MAILING

County: ONONDAGA

Status: PASSED VALIDATION

Source: CONVERSION

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

John McPartland,

Plaintiff,

vs.

South Carolina Department of Motor  
Vehicles,

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2017-CP-40-4199

**STIPULATION OF FACTS**

For the ease of the Court and to minimize litigation time the Plaintiff, John McPartland, and Defendant, South Carolina Department of Motor Vehicles stipulate to the following facts:

- 1) Jurisdiction and venue are properly vested with this Court in this case.
- 2) Between 1982 and 1999, while a resident of New York State, Plaintiff was convicted of five alcohol related driving offenses resulting in the revocation of his New York driver's license. These offenses are:
  - a. Driving Under the Influence in New York State on January 1, 1982 (conviction date February 11, 1982);
  - b. Driving Under the Influence in New York State on July 24, 1983 (conviction date October 24, 1983);
  - c. Driving Under the Influence in New York State on December 19, 1984 (conviction date January 21, 1985);
  - d. Driving Under the Influence in New York State on June 18, 1993 (conviction date February 24, 1994); and
  - e. Driving Under the Influence in New York State on August 27, 1997

(conviction date February 25, 1998).

- 3) Plaintiff held a South Carolina driver's license from June 15, 2000 through August 11, 2015.
- 4) Plaintiff renewed his South Carolina driver's license on June 15, 2005.
- 5) Plaintiff renewed his South Carolina driver's license on June 11, 2015.
- 6) S.C. Code §56-1-240 states, in its entirety:

The Department of Motor Vehicles may cancel any driver's license upon determination that the licensee was not entitled to the issuance thereof of that the licensee failed to give the required or correct information in his application or committed any fraud in making such application and for such other causes as may be authorized by law.

Upon such cancellation the licensee must surrender the license so cancelled by the Department.

- 7) S.C. Code §56-1-40 states, in part:

The Department of Motor Vehicles may not issue a motor vehicle driver's license to or renew the driver's license of a person:...

(2) whose driver's license or privilege to operate a motor vehicle currently is suspended or revoked in this State or another jurisdiction, except as otherwise provided for in this title...

- 8) When a South Carolina driver renews their driver's license in an SCDMV field office, i.e. an in-person renewal (not mail in or online renewals), SCDMV issues the renewed driver's license while the customer is still in the field office and performs a search of the Problem Driver Pointer System ("PDPS") in the evening, after SCDMV closes, due to the bandwidth needed for the number of searches required to be run each day. If SCDMV performed searches of PDPS while customers waited in the field office for their renewal, the volume of searches would overwhelm SCDMV's bandwidth, severely slow down SCDMV's computer system's processing time, and

possibly crash SCDMV's entire computer system. SCDMV's method of performing PDPS searches in the evening allows SCDMV to spread the PDPS searches out over the evening, when SCDMV is closed, to minimize the impact of the PDPS searches on SCDMV's bandwidth and overall customer wait time and experience.

- 9) When SCDMV checked PDPS at the time of issuing Plaintiff's original South Carolina driver's license (the evening of June 15, 2000), no hits came back, indicating that at that time Plaintiff was either: 1) not suspended or revoked in another State; or 2) if Plaintiff was suspended or revoked in another State, that State had not entered a pointer into the PDPS system for Plaintiff.
- 10) When Plaintiff obtained his original South Carolina driver's license on June 15, 2000, Plaintiff was ineligible to be licensed pursuant to S.C. Code §56-1-40(2). On his application for South Carolina driver's license on June 15, 2000, Plaintiff answered "No" to the question "Is your privilege to drive suspended, cancelled, revoked, or disqualified in any state or county or have you recently surrendered your license or permit in court following a conviction?" (Exhibit A). Plaintiff would testify that he believed his license suspension period in New York had expired and that he was no longer suspended in New York.
- 11) When SCDMV processed Plaintiff's application for driver's license renewal on June 15, 2005, SCDMV did not have the capability or infrastructure to check PDPS for driver's license renewals (only original credentials were checked prior to late 2006 – early 2007) and had to rely on drivers answering all questions on the application for a driver's license honestly and accurately to administer S.C. Code §56-1-40(2).
- 12) When Plaintiff obtained his renewed South Carolina driver's license on June 15,

- 2005, Plaintiff was ineligible to be licensed pursuant to S.C. Code §56-1-40(2). On his application for South Carolina driver's license on June 15, 2005, Plaintiff answered "No" to the question "Is your beginner's permit, driver's license, moped license, or privilege to drive suspended, cancelled, revoked, or disqualified in any state?" (Exhibit B). Plaintiff would testify that he believed his license suspension period in New York had expired and that he was no longer suspended in New York.
- 13) SCDMV gained the ability and infrastructure to check PDPS for driver's license renewals in late 2006 – early 2007.
  - 14) When Plaintiff applied for renewal of his South Carolina driver's license on June 11, 2015, he was issued his renewed license in an SCDMV field office.
  - 15) When Plaintiff obtained his renewed South Carolina driver's license on June 11, 2015, Plaintiff was ineligible to be licensed pursuant to S.C. Code §56-1-40(2). On his application for South Carolina driver's license on June 11, 2015, Plaintiff answered "No" to the question "Is your beginner's permit, driver's license, moped license, or privilege to drive suspended, cancelled, revoked, or disqualified in any state?" (Exhibit C). Plaintiff would testify that he believed his license suspension period in New York had expired and that he was no longer suspended in New York.
  - 16) The evening of June 11, 2015, pursuant to the process outlined in #8, above, SCDMV checked PDPS for any hits for Plaintiff. SCDMV received a hit from New York State for Plaintiff. As a result of this PDPS hit from New York State, the June 12, 2015 letter from SCDMV was sent to Plaintiff informing him that his South Carolina driver's license would be cancelled on August 11, 2015, based on S.C. Code §56-1-240, for Plaintiff's failure to meeting licensing requirements due to Plaintiff's

active driver's license revocation in New York State (Exhibit D). This letter also informed Plaintiff that he could clear this cancellation by resolving the PDPS issue in New York State and bring a letter of clearance to SCDMV. *Id.*

- 17) On August 10, 2015, pursuant to a written request from Plaintiff, SCDMV did grant Plaintiff a 60 day extension to resolve the PDPS hit from New York State described in #12, above (Exhibit E). This 60 day extension changed the start date of the cancellation of Plaintiff's driver's license to October 9, 2015. *Id.*
- 18) SCDMV had no further contact with Plaintiff regarding this issue until after October 9, 2015. As a result, Plaintiff's South Carolina driver's license was cancelled on October 9, 2015, as set forth in Exhibit D.
- 19) SCDMV did not know Plaintiff was suspended or revoked in another State, including New York State, until after normal business hours on June 11, 2015.
- 20) Prior to the passage amendments to 15 NYCRR §136.5 on or about December 24, 2012 (via Emergency Rule Making in New York), Plaintiff could have cleared his driver's license suspensions/revocations in New York State by completing all of his reinstatement requirements set out in New York law. Plaintiff did not complete all of his reinstatement requirements in New York prior to December 24, 2012.
- 21) On or about December 24, 2012 New York amended 15 NYCRR §136.5 to state, in relevant part:

(b) Upon receipt of a person's application for relicensing, the Commissioner shall conduct a lifetime review of a person's driving record. If the record review shows that:

- (1) the person has five or more alcohol- or drug-related driving convictions or incidents in any combination within his or her lifetime, then the Commissioner shall deny the application...

(d) While it is the Commissioner's general policy to act on applications in accordance with this section, the Commissioner shall not be foreclosed from consideration of unusual, extenuating and compelling circumstances that may be presented for review and which may form a valid basis to deviate from the general policy, as set forth above, in the exercise of discretionary authority granted under section 510 of the Vehicle and Traffic Law. If an application is approved based upon the exercise of such discretionary authority, the reasons for approval shall be set forth in writing and recorded.

- 22) Sometime prior to December 13, 2016, Plaintiff applied to the New York State Department of Motor Vehicles to have his revocation cleared (Exhibit F, pages 8-9 and 13-14). On December 13, 2016, that application was denied by the New York State Department of Motor Vehicles (Exhibit F, pages 8-9 and 13).
- 23) On February 6, 2017 the Appeals Board in New York received Plaintiff's appeal of the December 13, 2016 denial from the New York State Department of Motor Vehicles (Exhibit F, pages 6-7). On April 25, 2017, the Appeals Board in New York affirmed the determination made by the New York State Department of Motor Vehicles to deny Plaintiff's application to have his suspension in New York State cleared (Exhibit F, pages 3-4). The April 25, 2017 decision of the Appeals Board was mailed to Plaintiff on May 1, 2017 (Exhibit F, page 2). Plaintiff did not appeal the April 25, 2017 decision of the Appeals Board.
- 24) Affirmation of Ida L. Traschen filed as an exhibit on September 28, 2016 in the case *In the Matter of Nicholas A Brunetti a/k/a Nicholas A. Brunetti vs. Barbara J. Fiala, Commissioner of Motor Vehicles of the State of New York* stated that "only four of 1,031 applicants have demonstrated such compelling circumstances" to be granted relicensing under 15 NYCRR §136.5(d) (Exhibit G).

- 25) Plaintiff lives with his mother, Mary McPartland, and prior to her death on June 3, 2018, lived with his sister, Maureen McPartland. Plaintiff has resided at this same location since 1999. Plaintiff's mother is currently hospitalized.
- 26) Plaintiff's mother is 83 years old, is unable to drive, and needs to have Plaintiff drive her to and from hospitals and doctor's appointments.
- 27) Plaintiff has not been formally employed since 1999, but has done some informal work in the wholesale car business assisting licensed dealers from time to time.
- 28) Plaintiff is not financially responsible for any dependents.
- 29) Plaintiff has no debts that he owed in 1999 that are still owed in any amount as of October 2017.
- 30) Plaintiff has one account in collections since 2011 for \$1,397.
- 31) Plaintiff has incurred approximately \$2,500 in credit card debt as of October 2017.
- 32) The only crimes, including driving offenses, that Plaintiff was charged with or convicted of on or after 1999 is one violation for Speeding 10 mph or less. This violation took place on March 14, 2014 in South Carolina and resulted in a conviction.
- 33) Plaintiff has no savings accounts, money market deposit accounts, certificates of deposit, or retirement accounts (401K accounts). Plaintiff has one checking account at Wells Fargo.
- 34) Plaintiff has a sister, Ann Marie Wilhelmi (resident of Fountain Inn, South Carolina), and a brother, Frank McPartland (resident of Arlington, Virginia).
- 35) Plaintiff is the primary care giver for his mother, Mary McPartland.

s/ Brandy A. Duncan

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Attorney for Plaintiff John McPartland

June 12, 2018

Blythewood, South Carolina

4509075

## South Carolina Department of Public Safety

REDACTED

APPLICATION FOR: ☐ RENEWAL ☒ NEW LICENSE ☐ NEW DRIVER'S LICENSE ☐ NEW DRIVER'S LICENSE  
☐ RENEWAL ☒ NEW LICENSE ☐ NEW DRIVER'S LICENSE ☐ NEW DRIVER'S LICENSE

EXPIRES 06/15/2005

REGISTERED TO VOTE

MCARTLAND, JOHN P.  
 782 E BUTLER RD APT 1224  
 MAULDIN SC 29662

Certified to be a true and correct  
 copy of the original document on file  
 with the South Carolina Department of  
 Motor Vehicles.

CODE ADL 0  
 FEE \$ 12.50 CASH  
 TOTAL TESTS TAKEN  
 CIV APPLICATION

CLASS D.M. HGT 5-08 WGT 165  
 ISSUED 06/15/2000 BUL 0  
 DOB SEX M

RESTRICTIONS NONE

Driver Services Deputy Director

I UNDERSTAND THAT IF MY PRIVILEGE TO DRIVE IS SUSPENDED, CANCELLED OR  
 REVOKED OR SUBJECT TO BE SUSPENDED, CANCELLED OR REVOKED IN ANY STATE OR  
 COUNTRY, THIS DRIVER'S LICENSE WILL BE CANCELLED AND I WILL BE RESPONSIBLE  
 FOR OBTAINING ALL LETTERS OF CLEARANCE.  
 NEW RESIDENT, SECTION 23-3-460 OF SC LAWS REQUIRES A PERSON CONVICTED  
 ANYWHERE OF AN OFFENSE LISTED IN 23-3-430 MUST REGISTER WITH COUNTY  
 SHERIFF WITHIN 10 DAYS OF ESTABLISHING SC RESIDENCE. COPIES AVAILABLE

DATE 6-15-00

NAME: McArtland John  
 ADDRESS: 782 E Butler Rd  
Mauldin SC 29662  
 SPECIAL MAILING ADDRESS:

Serial Security # 11571051 Date of Birth 11/5/71

- Yes No
- ☐ ☐ 1. Are you a permanent South Carolina Resident?
- ☒ ☐ 2. Are you a United States citizen?
- ☐ ☐ 3. Have you ever been licensed to drive a motor vehicle? State N.Y.C.  
 License No. 55495083
- ☐ ☒ 4. Is your privilege to drive suspended, cancelled or revoked in any state or country or have you recently surrendered your license or permit is court following a conviction?  
 When Last \_\_\_\_\_  
 Where \_\_\_\_\_  
 Reason \_\_\_\_\_
- ☐ ☒ 5. Do you want to be an organ donor?  
 If so, ask for and complete the donor card.

- Yes No
- ☐ ☒ 6. Do you now have any medical or physical condition that may prevent you from safely operating a motor vehicle?
- ☐ ☒ 7. Within the last three years, have you experienced a loss of consciousness, muscular control or epileptic seizure?
- ☐ ☒ 8. Have you had a heart attack, heart surgery or pacemaker implantation in the past 6 months?
- ☐ ☒ 9. Have you had a stroke and not recovered sufficiently to safely operate a motor vehicle?
- ☐ ☒ 10. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle?
- ☐ ☐ 11. Do you wish to donate \$1.00 to the Gift of Life Fund? Amount \$ \_\_\_\_\_

Insurance Information: (Check and complete the statement that applies to you.)  
☐ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the registration period. Company Name Admiral Ins. Co.  
 Policy Number 1131570 Company Telephone No. \_\_\_\_\_  
☐ No motor vehicle required to be registered in S.C. is owned by me or any relative residing in my household.  
 I certify that all information and statements made in this application are true and correct.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Signature of Person Administering Registration \_\_\_\_\_

Signature of Driver \_\_\_\_\_

1. Expenditures allowed for Class D, E, and F classes  
 2. Expenditures allowed for Class M classes.

DATE: \_\_\_\_\_

100-443887-1231  
Q1078

ONID-SSCPT

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HA

**First**

**Second**

|                                    |                |        |   |   |   |
|------------------------------------|----------------|--------|---|---|---|
| Approach first<br>To Corner Second |                | 2      | 1 | 0 |   |
| Other<br>Sign                      | First          | 2      | 1 | 0 |   |
|                                    | Second         | 2      | 1 | 0 |   |
| Stop<br>Sign                       | First          | 2      | 1 | 0 |   |
|                                    | Second         | 2      | 1 | 0 |   |
| Traffic<br>Signal                  | First          | 2      | 1 | 0 |   |
|                                    | Second         | 2      | 1 | 0 |   |
| Posture                            |                | 4      | 2 | 0 |   |
| Clutch                             |                | 4      | 4 | 0 |   |
| Attention                          |                | 4      | 1 | 0 |   |
| Use of Brake                       |                | 4      | 4 | 0 |   |
| Speed                              |                | 4      | 2 | 0 |   |
| Keeping in lane                    |                | 4      | 2 | 0 |   |
| Following                          |                | 4      | 2 | 0 |   |
| Overtaking                         |                | 4      | 2 | 0 |   |
| Being overtaken                    |                | 2      | 1 | 0 |   |
| Right of way                       |                | 2      | 1 | 0 |   |
| Use of horn                        |                | 2      | 1 | 0 |   |
| LEFT<br>TURN                       | First<br>Turn  | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |
|                                    | Second<br>Turn | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |
|                                    | Third<br>Turn  | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |
|                                    | Fourth<br>Turn | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |
| RIGHT<br>TURN                      | First<br>Turn  | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |
|                                    | Second<br>Turn | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |
|                                    | Third<br>Turn  | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |
|                                    | Fourth<br>Turn | Signal | 4 | 2 | 0 |
|                                    |                | Speed  | 2 | 1 | 0 |
|                                    |                | Lane   | 2 | 1 | 0 |
|                                    |                | Turn   | 2 | 1 | 0 |

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles

*A. L. Phelps*  
Driver Services Deputy Director

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

*A. L. Phelps*  
Driver Services, Deputy Director

|                     |          |          |          |
|---------------------|----------|----------|----------|
| Hearing             | ( ) Deaf | ( ) Poor | ( ) Good |
| Missing Extremities | ( ) Yes  | ( ) No   |          |

| Acuity          | Right | Left | Both |
|-----------------|-------|------|------|
| with glasses    | 20/   | 20/  | 20/  |
| without glasses | 20/   | 20/  | 20/  |



# South Carolina Department of Motor Vehicles

REDACTED

## APPLICATION FOR S.C. CREDENTIAL

BEGINNER PERMIT/DRIVER LICENSE/IDENTIFICATION CARD NUMBER

CUSTOMER NUMBER

I AM APPLYING FOR A (check any that apply):

Beginner's  
PermitDriver's  
LicenseCommercial  
Beginner's PermitCommercial Driver's  
LicenseIdentification  
Card

Moped

LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

McPARTLAND

John

P.

RESIDENCE ADDRESS (Cannot be a P.O. Box)

SPECIAL MAILING ADDRESS - Optional (To have your mail sent to an address different from residence address)

|              |       |          |        |
|--------------|-------|----------|--------|
| City or Town | State | Zip Code | County |
|--------------|-------|----------|--------|

Do you want to delete a current special mailing address now on file? ☐ Yes

TEMPORARY MAILING ADDRESS - Optional (To have your mail sent to an address for a limited time period)

Expiration Date

|              |       |          |        |
|--------------|-------|----------|--------|
| City or Town | State | Zip Code | County |
|--------------|-------|----------|--------|

Do you want to delete a current temporary mailing address now on file? ☐ Yes

SOCIAL SECURITY NUMBER \* (SSN)

SEX

DATE OF BIRTH

HEIGHT

WEIGHT

RACE

☒ Male ☐ Female

(Month) (Day) (Year)

Feet ( ) Inches ( )

155

WHITE

\*Your social security number is required for the purposes of identifying you and preparing jury lists pursuant to South Carolina Code of Laws Sections 56-1-90 and 14-7-130. The Driver's Privacy Protection Act of 1994 (DPPA), 18 U.S.C. Section 2721, 2725, the Family Privacy Protection Act of 2002 (FPPA), 30-3-10 et seq., and Section 56-3-345 of the S.C. Code restrict the disclosure of personal information contained in our records.

MOTOR VOTER

☐ Yes, I wish to complete a DMV Voter Registration Application.☒ No, I decline the DMV Voter Registration Application.☐ Non-U.S. Citizen

\*Non-U.S. Citizens can not complete a DMV Voter Registration Application.

ORGAN DONOR AND GIFT OF LIFE

☐ Yes, I want to be an organ donor. Please see brochure for organ donor card.☐ Yes, I wish to donate \$1.00 or more to the Gift of Life. Amount of donation \$ \_\_\_\_\_ .00

ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED

- |                                         |                                        |                                                                                                                                                                                                                   |
|-----------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | 1. Are you a resident of South Carolina?                                                                                                                                                                          |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | 2. Are you a citizen of the United States?                                                                                                                                                                        |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | 3. Do you now have or have you ever had a South Carolina beginner's permit or driver's license? If yes, give the number and name, if different from number and name given on this application.                    |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 4. Do you have or have you had a learner's permit or driver's license from another state or country? If yes, list information from last time issued State/Country _____ license number _____ and issue date _____ |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 5. Is your driver's license or privilege to drive suspended, cancelled, revoked or disqualified in any state? If yes, Where _____ When last? _____                                                                |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 6. Have you recently surrendered your license or beginner's permit in court, or to a law enforcement officer? If yes, When _____ Reason _____                                                                     |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 7. Do you have any mental or physical condition that may prevent you from safely operating a motor vehicle?                                                                                                       |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 8. In the last three years, have you experienced a loss of consciousness, muscular control or seizure?                                                                                                            |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 9. In the last six months, have you had a heart attack, heart surgery, or pacemaker implantation?                                                                                                                 |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 10. Have you had a stroke and not recovered sufficiently to safely operate a motor vehicle?                                                                                                                       |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 11. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle?                                                                                    |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | 12. Do you have a permanent medical condition?                                                                                                                                                                    |

Phrase list condition: \_\_\_\_\_

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

Driver Services, Deputy Director

NOTE: Section 23-3-460 of the SC Code of Laws states that a person who has been convicted, anywhere of an offense listed in 23-3-430 must register with the county sheriff within 10 days of establishing residency in South Carolina. A copy of the Sex Offender Registry Law is available upon request.

## FOR COMMERCIAL DRIVER'S LICENSE ONLY

- ☐ Yes ☐ No 13. Are you subject to any disqualification listed in 383.51 of the Federal Motor Carrier Regulations?
- ☐ Yes ☐ No 14. Is the vehicle being operated on the road test representative of the class for which you are applying and intend to operate?
- ☐ Yes ☐ No 15. Are you a medically exempt government employee? If yes, give name of agency. \_\_\_\_\_

You must show as evidence a valid D.O.T. medical examiner certificate for a class A,B,C,E, or F license. Expiration Date \_\_\_\_\_

This medical certificate must be updated every 2 years. Any falsification of information on this application may result in a 60 day disqualification of your CDL and/or result in criminal prosecution under state and federal law.

## INSURANCE INFORMATION (Check and complete the statement that applies to you.)

☒ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the issuance period.

AGENT NAME \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

☐ No motor vehicle required to be registered in South Carolina is owned by me or any relative residing in my household.

I consent to the issuance of a beginner's permit and/or driver's license. I accept responsibility for the actions of the minor applicant as outlined in Section 56-1-110 of the South Carolina Code of Laws. To be released from this responsibility before the applicant reaches age 18, I understand that I must submit a written request for release to the Division of Motor Vehicles to have this application and the applicant's beginner's permit or driver's license cancelled.

Relationship to Minor Applicant \_\_\_\_\_

Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

**CONSENT FOR MINOR** (Must be completed for all unemancipated applicants under the age of 18) I am a parent or guardian of the unemancipated minor applicant. (If guardian, please provide documentation.)

Emancipated minors must submit one of the following as proof of emancipation: ☐ Court Order ☐ Certificate of Marriage ☐ Active Military Orders  
\*Only the original or certified copies will be accepted.

Relationship to Minor Applicant \_\_\_\_\_

Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

I CERTIFY under penalty of perjury that all information and statements made in this application are true and correct. Also, I CERTIFY that I do not have a valid driver's license other than shown in questions #3 and #4 and that my privilege to operate a motor vehicle is not now or subject to be suspended, cancelled, revoked or disqualified at the time of this application.

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

6-15-05

John P. McFarland

## FOR OFFICE USE ONLY

☒ Original  
☒ Renewal

☐ Duplicate  
☐ Reissue

☐ Route Restricted  
☐ Temporary Alcohol

☐ Provisional  
☐ Modified

☐ Exchanging Out-of-State Permit or License for a SC Permit or License

State \_\_\_\_\_

Number \_\_\_\_\_

CLASS:

☐ A\*☐ B\*☐ C\*☒ D☐ E\*☐ F\*☐ G (Moped)☒ M (Motorcycle)

CDL:

Airbrakes

☐ Yes  
☐ No

\*NOTE: CLASSES A, B, C, E, F  
REQUIRE A VALID MEDICAL  
EXAMINER CERTIFICATION.

RESTRICTIONS: \_\_\_\_\_

ENDORSEMENTS: \_\_\_\_\_

IDENTIFICATION SUBMITTED:

☐ Birth Certificate  
☐ Visa

☐ Passport  
☐ Other

TESTS:

Knowledge

Date \_\_\_\_\_  
Date \_\_\_\_\_  
Date \_\_\_\_\_

☐ Passed  
☐ Passed  
☐ Passed

☐ Failed  
☐ Failed  
☐ Failed

Comments \_\_\_\_\_  
Comments \_\_\_\_\_  
Comments \_\_\_\_\_

Skills

Date \_\_\_\_\_  
Date \_\_\_\_\_  
Date \_\_\_\_\_

☐ Passed  
☐ Passed  
☐ Passed

☐ Failed  
☐ Failed  
☐ Failed

Comments \_\_\_\_\_  
Comments \_\_\_\_\_  
Comments \_\_\_\_\_

Hearing

☐ Deaf☐ Poor☐ Good

Missing Extremities

☐ No☐ Yes

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

Vision

☒ With Glasses  
☐ Without Glasses

Right 20/ 40  
20/ 40

Left 20/ 40  
20/ 40

Both 20/ 40  
20/ 40

D. L. Phelps  
Driver Services Deputy Director

Office Number 497Employee Signature 98 Steadman



**South Carolina Department of Motor Vehicles**  
**Application for a Non-Commercial Credential (Class D, E, F, G, M, ...)**  
 Commercial Applicants must complete Form 447-CDL for Class A, B, or C Licenses or P

REDACTED

I AM APPLYING FOR A (check any that apply): ☐ Beginner's Permit ☐ Identification Card ☒ Driver's License ☐ Moped

IF RENEWING BY MAIL: You may be eligible to renew by mail if you are 65 years old or older and did not renew your driver's license by mail or online the previous renewal period. Licenses issued to international customers cannot be renewed by mail. If mailing application, be sure to include payment (no cash). See our website for driver license fees ([www.scdmvonline.com](http://www.scdmvonline.com)) or call (803) 896-5000.

|                                                                                        |                 |             |        |
|----------------------------------------------------------------------------------------|-----------------|-------------|--------|
| BP/DL/ID NUMBER                                                                        | CUSTOMER NUMBER |             |        |
| LAST NAME                                                                              | FIRST NAME      | MIDDLE NAME | SUFFIX |
| McPARTLAND                                                                             | John            | P           |        |
| RESIDENCE ADDRESS (Must be your current address of residence and cannot be a P.O. Box) |                 |             | COUNTY |

I understand the Department will send mail to the residence address above unless I have specified a special or temporary mailing address below.

|                               |                |             |        |      |                                                                          |
|-------------------------------|----------------|-------------|--------|------|--------------------------------------------------------------------------|
| SOCIAL SECURITY NUMBER* (SSN) | DATE of BIRTH  | HEIGHT      | WEIGHT | RACE | GENDER                                                                   |
|                               | Month Day Year | Feet Inches |        |      | <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female |

\* Your Social Security number is required for the purposes of identifying you and preparing jury lists pursuant to South Carolina Code of Laws Sections 56-1-90 and 14-7-130. The Driver's Privacy Protection Act of 1994 (DPPA), 18 U.S.C. Section 2721, 2725, the Family Privacy Protection Act of 2002 (FPPA), 30-2-10 et seq., and Section 56-3-545 of the S.C. Code restrict the disclosure of personal information contained in our records.

It is optional to ADD a SPECIAL and/or TEMPORARY mailing address to your file.

|                                                                                                            |       |          |                                                                                             |
|------------------------------------------------------------------------------------------------------------|-------|----------|---------------------------------------------------------------------------------------------|
| SPECIAL MAILING ADDRESS - Optional (To have your mail sent to an address different from residence address) |       |          | COUNTY                                                                                      |
| CITY or TOWN                                                                                               | STATE | ZIP CODE | Do you want to DELETE a special mailing address now on file? <input type="checkbox"/> Yes   |
| TEMPORARY MAILING ADDRESS - Optional (To have your mail sent to an address for a limited time period)      |       |          | EXPIRATION DATE                                                                             |
| CITY or TOWN                                                                                               | STATE | ZIP CODE | COUNTY                                                                                      |
|                                                                                                            |       |          | Do you want to DELETE a temporary mailing address now on file? <input type="checkbox"/> Yes |

|  |                                  |                                                                                         |                                |
|--|----------------------------------|-----------------------------------------------------------------------------------------|--------------------------------|
|  | <b>ORGAN AND TISSUE DONATION</b> | <input type="checkbox"/> YES, I want to be an organ and tissue donor.                   | Amount of donation <u>0.00</u> |
|  |                                  | <input type="checkbox"/> YES, I wish to donate \$5.00, more or less, to Donate Life SC. |                                |

**ORGAN DONOR STATEMENT** - If you marked YES that you want to be an organ and tissue donor upon death, your consent shall serve as a legally binding document as outlined under the South Carolina Uniform Anatomical Gift Act. Except in the case where the donor is under the age of 18, the donation does not require the consent of any other person. For donors under the age of 18, the legal guardian of the donor shall make the final decision regarding the donation.

If you marked "YES," you verify that you have read the organ donor statement and you consent for the SCDMV to send your personal information to the SC Organ and Tissue Donor Registry. A red heart will be printed on the front of your driver's license. If you are currently registered you must check "YES" to have the red heart reprinted on your license.

If you change your decision to consent in the future or wish to be removed from the SC Organ and Tissue Donor Registry, you can go online to [www.DonateLifeSC.org](http://www.DonateLifeSC.org) or contact Donate Life SC at 1-87-PASS-IT-ON. You may also have your name removed from the registry by visiting any SCDMV office or [www.SCDMVonline.com](http://www.SCDMVonline.com) while completing a credential transaction. SCDMV will assess an administrative fee for the change and there may be a 72-hour delay in removing your name from the SC Organ and Tissue Donor Registry.

### VOTER REGISTRATION

\* Must be a United States Citizen and meet requirements to complete a DMV Voter Registration Application.

Do you want to register to vote or update your address with the County Registration Board? (check one box)

- ☐ Yes, I wish to complete a DMV Voter Registration Application to register to vote or update my address with the County Registration Board.  
☐ No, I decline the DMV Voter Registration Application. ☒ No, I have already registered to vote. ☐ No, I am not eligible to vote.

**Sex Offender Registry Notice** - Section 23-3-460 of the S.C. Code of Laws states that a person who has been convicted anywhere of an offense listed in 23-3-430 must register with the county sheriff within 3 days of establishing residency in South Carolina. A copy of the Sex Offender Registry Law is available upon request ([www.scstatehouse.gov/code/23c003.php](http://www.scstatehouse.gov/code/23c003.php)).

*A. L. Phelps*

Driver Services Deputy Director

**QUESTIONS 1 through 12 MUST BE ANSWERED FOR PERMITS AND LICENSES** (only questions 1 - 4 for an identification card)

1. Are you a resident of South Carolina? ☒ Yes ☐ No
2. Are you a citizen of the United States? ☒ Yes ☐ No
3. Do you now have or have you ever had a South Carolina identification card, beginner's permit, driver's license, or moped license? If yes, give the number and name if different from number and name given on this application ☒ Yes ☐ No
4. Do you now have or have you ever had an identification card, beginner's permit, driver's license, or moped license from another state or country? If yes, list information from last time issued. State/Country ☐ Yes ☒ No  
License Number \_\_\_\_\_ and Issue Date \_\_\_\_\_

Do not answer the following questions if you are only applying for an Identification Card.

5. Is your beginner's permit, driver's license, moped license, or privilege to drive suspended, cancelled, revoked or disqualified in any state? If yes, where? \_\_\_\_\_ when last? \_\_\_\_\_ ☐ Yes ☒ No
6. Have you recently surrendered your beginner's permit, driver's license, or moped license in court or to a law enforcement officer? If yes, when? \_\_\_\_\_ Reason \_\_\_\_\_ ☐ Yes ☒ No
7. In the past 12 months, have you experienced a loss of consciousness, muscular control or seizure? ☐ Yes ☒ No
8. a) In the past six months, have you experienced a heart attack or heart surgery? ☐ Yes ☒ No  
b) Has your doctor recommended you not drive or placed restrictions on your driving at this time? ☐ Yes ☒ No  
If the answer to "b" is yes, what are the restrictions? \_\_\_\_\_
9. Have you had a stroke and not recovered sufficiently to safely operate a motor vehicle at this time? ☐ Yes ☒ No
10. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle at this time? ☐ Yes ☒ No
11. Do you have any mental or physical condition preventing you from safely operating a motor vehicle at this time? ☐ Yes ☒ No  
If yes, please list condition(s): \_\_\_\_\_
12. Has your doctor recommended you not drive or placed restrictions on your driving at this time? ☐ Yes ☒ No  
If yes, what are the restrictions? \_\_\_\_\_

**INSURANCE INFORMATION** (Check and complete the statement that applies to you.)

- ☒ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the insurance period. COMPANY NAME: Geico
- ☐ No motor vehicle required to be registered in South Carolina is owned by me or any relative residing in my household.

**CONSENT FOR MINOR** - Must be completed for all unemancipated applicants under the age of 18. I am a parent or guardian of the unemancipated minor applicant. (1) If guardian, please provide documentation. (2) Responsible adult must complete Form 447-CM.

(3) Emancipated minors must submit one of the following as proof of emancipation (Only the original or certified copies will be accepted):

☐ Court Order ☐ Certificate of Marriage ☐ Active Military Orders

I consent to the issuance of a beginner's permit and/or driver's license. I accept responsibility for the actions of the minor applicant as outlined in Section 56-1-110 of the South Carolina Code of Laws. To be released from this responsibility before the applicant reaches age 18, I understand that I must submit a written request for release to the Department of Motor Vehicles to have this application and the applicant's beginner's permit or driver's license cancelled.

| RELATIONSHIP TO MINOR APPLICANT | PRINTED NAME | SIGNATURE | DATE    |
|---------------------------------|--------------|-----------|---------|
| FATHER'S NAME (PRINT)           | ADDRESS      | ID/DL#    | PHONE # |
| MOTHER'S NAME (PRINT)           | ADDRESS      | ID/DL#    | PHONE # |

I CERTIFY under penalty of perjury that all information and statements made in this application are true and correct as of the date of this application. I also CERTIFY that I do not have a valid driver's license other than the one(s) reported in questions #3 and #4 above and that my privilege to operate a motor vehicle is not now or subject to be suspended, cancelled, revoked or disqualified at the time of this application.

I understand that I am receiving a S.C. credential based on the information provided on this application, and that SCDMV will verify all information. I also understand that if my privilege to drive is ever suspended, cancelled or revoked in South Carolina or any other state, my S.C. license will be revoked until I have met all reinstatement requirements in South Carolina and any other states.

PRINTED NAME John M. [Signature] SIGNATURE [Signature] DATE 6-11-18

**FOR DMV OFFICE USE ONLY**

☐ Exchanging Out-of-State Permit for a SC Permit or License STATE: \_\_\_\_\_ DOB BP/DL NO.: \_\_\_\_\_

TYPE: ☐ Duplicate ☐ Modified ☐ Original ☐ Provisional ☐ Re-exam ☐ Reissue ☒ Renewal ☐ Route Restricted ☐ Temporary Alcohol

CLASS: ☒ D ☐ E ☐ F ☐ G (Moped) ☐ ID ☐ M (Motorcycle) RESTRICTIONS: \_\_\_\_\_

IDENTIFICATION SUBMITTED: ☐ Birth Certificate ☐ Passport/Visa ☐ SSN ☐ Proof of Residency

**Knowledge Test**

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_  
Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_  
Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

Continued to be a true and correct copy of the original document on file with the South Carolina Department of Motor Vehicles

Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_  
Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_  
Date: \_\_\_\_\_ ☐ Passed ☐ Failed Comments: \_\_\_\_\_

Hearing Impaired: ☐ Deaf ☐ Poor ☐ Good

Missing Extremities: ☐ No ☐ Yes

| Vision                  | Right | Left | Both |
|-------------------------|-------|------|------|
| With corrective lens    | 20/   | 20/  | 20/  |
| Without corrective lens | 20/   | 20/  | 20/  |

Office Number: \_\_\_\_\_  
Employee Signature: [Signature]

[Signature]  
Driver Services, Deputy Director

South Carolina  
Department of Motor Vehicles

REDACTED

06/12/2015

MCPARTLAND, JOHN P  
[REDACTED]CUSTOMER NO: [REDACTED]  
FILE NO: [REDACTED]  
DL NO: [REDACTED]

## OFFICIAL NOTICE

You may not drive commercial or non-commercial motor vehicles.

REASON: Failure to meet licensing requirements.

SECTION OF LAW: 56-1-240

A review of your application for a credential indicates that your driving privileges are cancelled, suspended or revoked in the state listed:

NEW YORK  
NEW YORK STATE DMV  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228  
518-473-5595

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

Credential Issue Date 06/11/2015

CANCELLATION BEGINNING DATE: 12:01 AM 08/11/2015

*A. L. Phelps*  
Driver Services, Deputy Director

CANCELLATION ENDING DATE: When you receive notice from the Department that this action has been cleared.

## SPECIAL DRIVING PRIVILEGES:

There are no special driving privileges available to you. You may not drive until you have done the following:

## COMPLIANCE:

You must contact the Department of Motor Vehicles listed above to clear the matter and obtain a letter of clearance. You are required to present this letter of clearance to your local DMV Office or mail it to Driver Records, PO Box 1498, Blythewood, SC 29016-0028.

## REINSTATEMENT FEE:

You must pay a \$100.00 reinstatement fee if your clearance letter shows the clearance date on or after the cancellation beginning date listed above. This fee can be paid at any DMV Office, mailed to Driver Records, PO Box 1498, Blythewood, SC 29016-0028 or paid by credit card at [www.scdmvonline.com](http://www.scdmvonline.com). Make checks and money orders payable to SCDMV. Do not send cash through the mail.

Your license must be returned to any DMV Office or mailed to Driver Records if this cancellation is not cleared before the cancellation date listed above.

If you have any further questions, please contact the DMV Customer Service Unit at (803)896-5000.

THIS NOTICE CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

REDACTED

**DRIVER RECORDS SCAN INFORMATION SHEET**Process/Clearance Date: 8-10-15Customer D.L. Number:                     Customer Number:                     Customer First Name: JohnCustomer Last Name: McPartlandUser Initials: manNumber of pages including:                     Alternative Clearance Methods:  
(Check the box that applies)

- ☐ Administrative Clearance
- ☐ Delete Susp/Viol
- ☐ Court Order
- ☐ Modify Viol/Susp

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

D. L. Phelps  
Driver Services, Deputy Director

Clearance Reason:

Deleted F4MLR beg 8-11-15  
giving customer extension  
Re-add back to record  
per Livers

file # 19442926

[REDACTED]

July 31, 2015

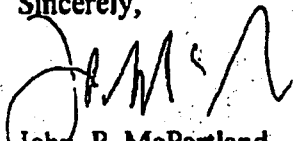
To Whom it may concern:

I am writing in reference to the enclosed notification that I received from the South Carolina Department of Motor Vehicles dated June 12, 2015 (*see enclosed copy*).

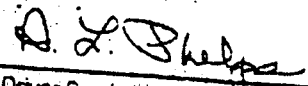
I am requesting an extension of ninety days (90) to the cancellation date on my current South Carolina Drivers License as I have not been able to gather the necessary information. Currently, I am the only member of my household with a valid license and need to remain gainfully employed and available to transport disabled/elderly members of family to appointments.

Thank you in advance for your prompt attention to this matter.

Sincerely,

  
John P. McPartland  
(864) 449-5003

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

  
Driver Services, Deputy Director

Mary S. West 7/31/2015

MY COMMISSION EXPIRES  
JUNE 4, 2019

RECEIVED  
AUG 03 2015  
DRIVER RECORDS

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

EXHIBIT E

Nikki R. Haley  
Governor



Kenneth A. Shreve  
Executive Director

State of South Carolina  
Department of Motor Vehicles

REDACTED

06/12/2015

MCPARTLAND, JOHN P

CUSTOMER NO: [REDACTED]  
FILE NO: [REDACTED]  
DL NO: [REDACTED]

OFFICIAL NOTICE

You may not drive commercial or non-commercial motor vehicles.

REASON: Failure to meet licensing requirements.

SECTION OF LAW: 56-1-240

A review of your application for a credential indicates that your driving privileges are cancelled, suspended or revoked in the state listed:

NEW YORK  
NEW YORK STATE DMV  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228  
518-473-5595

Credential Issue Date 06/11/2015

CANCELLATION BEGINNING DATE: 12:01 AM 08/11/2015

CANCELLATION ENDING DATE: When you receive notice from the Department that this action has been cleared.

SPECIAL DRIVING PRIVILEGES:

There are no special driving privileges available to you. You may not drive until you have done the following:

COMPLIANCE:

You must contact the Department of Motor Vehicles listed above to clear the matter or obtain a letter of clearance. You are required to present this letter of clearance at your local DMV Office or mail it to Driver Records, PO Box 1498, Blythewood, SC 29016-0028.

REINSTATEMENT FEE:

You must pay a \$100.00 reinstatement fee if your clearance letter shows the clearance date on or after the cancellation beginning date listed above. This fee can be paid at any DMV Office, mailed to Driver Records, PO Box 1498, Blythewood, SC 29016-0028 or paid by credit card at [www.scdmvonline.com](http://www.scdmvonline.com). Make checks and money orders payable to SCDMV. Do not send cash through the mail.

Your license must be returned to any DMV Office or mailed to Driver Records if this cancellation is not cleared before the cancellation date listed above.

If you have any further questions, please contact the DMV Customer Service Unit at (803)896-5000.

THIS NOTICE CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

RECEIVED

AUG 03 2015

DRIVER RECORDS

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

A. L. Phelps

Driver Services, Deputy Director

Post Office Box 1498, Blythewood, South Carolina 29016

South Carolina  
Department of Motor Vehicles



EXHIBIT E

REDACTED

08/10/2015

MCPARTLAND, JOHN P

CUSTOMER NO: [REDACTED]  
FILE NO: [REDACTED]  
DL NO: [REDACTED]

OFFICIAL NOTICE

You may not drive commercial or non-commercial motor vehicles.

REASON: Failure to meet licensing requirements.

SECTION OF LAW: 56-1-240

A review of your application for a credential indicates that your driving privileges are cancelled, suspended or revoked in the state listed:

NEW YORK  
NEW YORK STATE DMV  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228  
518-473-5595

Certified to be a true and correct  
copy of the original document on file  
with the South Carolina Department of  
Motor Vehicles.

Credential Issue Date 06/11/2015

CANCELLATION BEGINNING DATE: 12:01 AM 10/09/2015

CANCELLATION ENDING DATE: When you receive notice from the Department that this action has been cleared.

SPECIAL DRIVING PRIVILEGES:

There are no special driving privileges available to you. You may not drive until you have done the following:

COMPLIANCE:

You must contact the Department of Motor Vehicles listed above to clear the matter and obtain a letter of clearance. You are required to present this letter of clearance to your local DMV Office or mail it to Driver Records, PO Box 1498, Blythewood, SC 29016-0028.

REINSTATEMENT FEE:

You must pay a \$100.00 reinstatement fee if your clearance letter shows the clearance date on or after the cancellation beginning date listed above. This fee can be paid at any DMV Office, mailed to Driver Records, PO Box 1498, Blythewood, SC 29016-0028 or paid by credit card at [www.scdmvonline.com](http://www.scdmvonline.com). Make checks and money orders payable to SCDMV. Do not send cash through the mail.

Your license must be returned to any DMV Office or mailed to Driver Records if this cancellation is not cleared before the cancellation date listed above.

If you have any further questions, please contact the DMV Customer Service Unit at (803)896-500C.

THIS NOTICE CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

CASE # D1506852CID 515428683

- **Case is in date order and is prepped for imaging**
- **All staples, post-it notes and stickers have been copied and then discarded**
- **Place this sheet right under the separator sheet**
- **Remember to use the right separator sheet**
  - **SOURCE DOCUMENT - CASE # & CID**
  - **INCOMING DOCUMENT - CASE # & CID**
  - **CLOSED CORRESPONDENCE - CID ONLY**



**Department of  
Motor Vehicles**

**DEBORAH V. OUGAN**  
Chairman

**APPEALS BOARD**  
P.O. BOX 2935 EMPIRE STATE PLAZA ALBANY NY 12220-0935

May 01 2017

**EXHIBIT F**

**JOHN P MCPARTLAND**  
[REDACTED]

**Re NOTICE OF APPEAL DECISION**  
**APPEAL DOCKET NO. 38853**  
**CASE NO. D1506852**

**Dear Appellant**

The Appeals Board decided the above referenced Administrative Appeal on the date indicated on the enclosed Decision of Appeal pursuant to Article 3 A of the Vehicle and Traffic Law

This is a final administrative determination of the Department. Any further appeal of an adverse decision should be made to the New York State Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules

**APPEALS BOARD  
PROCESSING UNIT**

**Enclosure**

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

## EXHIBIT F

**NYS DEPARTMENT OF MOTOR VEHICLES  
ADMINISTRATIVE APPEALS BOARD  
DECISION OF APPEAL**

MCPARTLAND JOHN P

CID 515428683

DRIVER LICENSE DENIAL CASE NO D1506852

DOCKET NO 38853

DECIDED BY BOARD April 25 2017

This is an appeal from a determination upholding the denial of an application for re licensure after appellant's license had been revoked. The application was denied pursuant to Vehicle and Traffic Law (VTL) §§510, 1193, 1194 and Part 136 of the Commissioner's Regulations (15 NYCRR 136) after an evaluation of appellant's driving record.

**APPEAL ARGUMENTS**

- 1 Appellant left New York in 1999 and has no intention of returning. He has been legally driving in South Carolina for the last fifteen years without incident.
- 2 Appellant needs a license in order to care for his elderly mother and disabled sister.
- 3 Appellant does not have access to public transportation.
- 4 These infractions occurred over thirty five years ago and the last one twenty years ago.

**ANALYSIS AND DISCUSSION**

The Commissioner has been granted broad explicit and exclusive administrative authority to issue driver licenses and to adopt and amend rules and regulations to carry out the Department's responsibilities and functions (Vehicle and Traffic Law §215). Following a revocation, only the Commissioner has the authority to reissue a license. Vehicle and Traffic Law §§1193(2)(c)(1) and 1194(2)(d)(1) provide that where a license is revoked as the result of a mandatory revocation arising out of an alcohol or drug related offense or a chemical test refusal, no new license shall be issued except in the discretion of the Commissioner. Vehicle and Traffic Law §1193(2)(b)(12)(b)(ii) provides authority to the Commissioner to refuse to restore a license that has been permanently revoked in the interest of public safety and welfare. Also, Vehicle and Traffic Law §510(5) provides that a driver's license may be restored only by direction of the Commissioner of Motor Vehicles.

Part 136 of the Commissioner's Regulations (15 NYCRR) was promulgated to assist the Commissioner in exercising the broad discretion afforded by law and to help fulfill the responsibility of promoting highway safety by identifying problem drivers. Section 136.5 of the Commissioner's Regulations addresses the inherent danger of relicensing drivers convicted of multiple alcohol and drug related driving offenses in order to protect all those who share the public highways of this State. The Regulation provides objective review criteria which the Department must consider in determining whether the license of someone with multiple alcohol or drug related driving convictions or incidents will be restored after revocation.

After being revoked for Driving While Intoxicated, appellant submitted an application for reissuance of a driver's license to the Department's Driver Improvement Bureau. The Driver Improvement Bureau denied the application by letter dated December 13, 2016 pursuant to Commissioner's Regulations §136.5(b)(1) which requires the Department to deny an application for re licensure if a lifetime review of the applicant's driving record shows that the applicant has 5 or more alcohol or drug related driving convictions or incidents as defined by 15 NYCRR §136.5(a)(1). The Department's review of appellant's driving record showed that appellant had five alcohol or drug related driving convictions or incidents in his lifetime.

Section 136.5(d) of the Commissioner's Regulations provides that in the exercise of discretionary authority granted under VTL §§ 510 and 1193, the Commissioner may consider unusual extenuating

38853 DRIVER LICENSE DENIAL DIB MCPARTLAND JOHN P 38853 D1506852

and compelling circumstances presented for review which may form a valid basis to deviate from the general policy of denying re licensure for those applicants with multiple alcohol or drug related driving convictions or incidents as set forth in Section 136.5. Subsequent to issuance of the denial letter, appellant submitted arguments claiming unusual, extenuating and compelling circumstances to the Driver Improvement Bureau for review. In a letter dated March 2, 2017, the Driver Improvement Bureau determined that the circumstances claimed by appellant were insufficient to justify deviating from the general policy of denying re licensure to applicants with multiple alcohol or drug related convictions or incidents as set forth in Section 136.5.

Vehicle and Traffic Law §510 provides that a license may be issued after revocation in the discretion of the Commissioner. In exercising such discretion, the Department is responsible for providing meaningful safeguards for all users of the public highways of the State (See 15 NYCRR 136.1). Considering appellant's driving history including multiple alcohol (or drug related) driving convictions or incidents and the Department's responsibility to promote highway safety and protect the general public, the March 2, 2017 determination was a reasonable exercise of discretion and had a rational basis.

**DECISION BY THE BOARD** The determination is affirmed. The original decision remains

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Department of  
Motor Vehicles

APPEALS BOARD

P.O. BOX 2835 EMPIRE STATE PLAZA ALBANY, NY 12220-0835

DEBORAH V. SUGAN  
Chairman

February 7 2017

JOHN P MCPARTLAND  
782 E BUTLER RD, APT 1224  
MAULDIN, SC 29662

Re Appeal of Case # D1506852  
Appeal Docket No 38853

Dear Appellant

This is to acknowledge receipt of your appeal form and fee for the above referenced case pertaining to the denial of an application for relicensing.

If the appeal has been submitted in a timely and proper manner pursuant to law you will be notified in writing of the Appeal Board's determination after the appeal has been reviewed and a determination has been made.

APPEALS BOARD  
PROCESSING UNIT

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199



**ADMINISTRATIVE APPEAL FORM (AA-33A)  
VEHICLE AND TRAFFIC LAW ARTICLES 3-A and 12-A  
(THIS FORM IS NOT TO BE USED TO APPEAL TRAFFIC VIOLATION BUREAU TICKETS)**

**038853**

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

**WHAT IS REQUIRED TO FILE AN APPEAL**

You must send this **COMPLETED SIGNED APPEAL FORM** (2 pages) and a **\$10 APPEAL FEE** to the DMV Appeals Board. Read this entire form carefully. **Type or print all information clearly.** You must state your reason for the appeal on page 2 of this form. You must pay a non refundable **\$10 appeal fee** for each **CASE NUMBER** you appeal. **DO NOT SEND CASH.** Appeal fees must be paid by check or money order payable to the Commissioner of Motor Vehicles. Print your case number(s) on your check or money order. A \$35 penalty is charged for dishonored checks.

**DEADLINE TO FILE AN APPEAL**

You must send this **APPEAL FORM** and the **APPEAL FEE(S)** to the DMV Appeals Board **WITHIN SIXTY (60) DAYS OF THE DATE OF THE DEPARTMENT'S ORDER OF SUSPENSION/REVOCATION DECISION LETTER, OR NOTICE.** If you file by mail the USPS postmark will be used to determine if your appeal is timely. If the postmark is illegible the date your appeal is received by the Board will determine timeliness. You should keep copies of your completed appeal form, appeal fee and proof of mailing.

**WHERE TO SEND AN APPEAL**

Mail the appeal form and  
appeal fee(s) to:  
**DMV APPEALS BOARD  
PO BOX 2935  
ALBANY NY 12220-0935**

**WHAT IS THE SUBJECT OF YOUR APPEAL (check the appropriate box)**

- ☐ **CHEMICAL TEST REFUSAL - DMV HEARING HELD**
- ☒ **DENIAL OF APPLICATION FOR DRIVER LICENSE, CERTIFICATE OR PRIVILEGE - NO DMV HEARING HELD**
- ☐ **FACILITY LICENSE OR CERTIFICATE including INSPECTION STATION, INSPECTOR, DEALER, REPAIR SHOP - DMV HEARING HELD**
- ☐ **FATAL ACCIDENT, PERSISTENT VIOLATOR, FALSE STATEMENT - DMV HEARING HELD**
- ☐ **ALL OTHERS - including OTHER DETERMINATIONS MADE WITHOUT A DMV HEARING**

**HEARING TRANSCRIPTS**

If a hearing was held, the Appeals Board may review hearing testimony only if you order and pay for a transcript in a proper and timely manner. The Appeals Board will acknowledge receipt of your appeal form and fee with a letter that will direct you to send a transcript deposit to the designated Transcription company within 30 days of the date of the letter. The Appeals Board does not accept transcript payments. If you do not receive an acknowledgment letter, contact the Appeals Board at (518) 474-1052 or at the address above. The Appeals Board will not review hearing testimony unless all transcript payments are timely and complete.

**IF A HEARING WAS HELD, check the appropriate box below:**

- ☐ **I WANT THE HEARING TESTIMONY REVIEWED BY THE BOARD. I UNDERSTAND THAT I AM REQUIRED TO PAY A TRANSCRIPT DEPOSIT TO THE TRANSCRIPTION COMPANY WITHIN 30 DAYS OF THE DATE OF THE LETTER ACKNOWLEDGING RECEIPT OF THIS APPEAL.**
- ☐ **I DO NOT WANT A TRANSCRIPT OF THE HEARING TO BE PRODUCED. I UNDERSTAND THAT THE BOARD WILL NOT REVIEW HEARING TESTIMONY.**

**REQUESTING A STAY**

- ☐ **I REQUEST THAT THE FINE, SUSPENSION OR REVOCATION BE STAYED (STOPPED) PENDING THE OUTCOME OF THE APPEAL.**  
Stays pending appeals are granted in the discretion of the Board (except for most Article 12-A appeals). The Appeals Board will not grant a stay unless the appeal fee is paid and valid reasons for the appeal and for needing the stay are provided on page 2 of this form. You will be notified whether your request for a stay has been granted or denied.

**REQUIRED APPEAL INFORMATION**

All correspondence for this appeal will be sent to the address(es) supplied on this appeal form. You must notify the Appeals Board in writing immediately of any change of address that occurs after this appeal is filed.

|                                                                       |  |                                                                                 |                                                                                              |                          |                                                                                                                          |
|-----------------------------------------------------------------------|--|---------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Last Name<br><b>McPartland</b>                                        |  | First Name<br><b>John</b>                                                       |                                                                                              | MI<br><b>P</b>           | Type of Appeal (Chemical Test Refusal, License Denial, Inspection Denial, Repair Shop, etc.)<br><b>NY Driver License</b> |
| Date of Birth<br><b>06/15/1962</b>                                    |  | Sex<br><input checked="" type="checkbox"/> Male <input type="checkbox"/> Female | Client ID Number<br><div style="border: 1px solid black; width: 100px; height: 20px;"></div> |                          |                                                                                                                          |
| Corporate Name or USA                                                 |  |                                                                                 |                                                                                              |                          | Facility/Certificate Number                                                                                              |
| Appeal Mailing Address (Street)<br><b>782 EastButlerRoad Apt 1224</b> |  |                                                                                 |                                                                                              |                          | Case Number(s)                                                                                                           |
| City<br><b>Mauldin</b>                                                |  | State<br><b>SC</b>                                                              | Zip Code<br><b>29662</b>                                                                     | Date of Each Hearing     |                                                                                                                          |
| ATTORNEY FOR THIS APPEAL (if any)                                     |  |                                                                                 |                                                                                              |                          | Date of Decision/Order                                                                                                   |
| Attorney Mailing Address (Street)                                     |  |                                                                                 |                                                                                              |                          | Hearing Location(s)                                                                                                      |
| City                                                                  |  | State                                                                           | Zip Code                                                                                     | Administrative Law Judge |                                                                                                                          |

|                    |                                                                 |                                          |                        |      |
|--------------------|-----------------------------------------------------------------|------------------------------------------|------------------------|------|
| DMV<br>USE<br>ONLY | <input checked="" type="checkbox"/> \$10 APPEAL FEE(S) RECEIVED | <input type="checkbox"/> NO FEE RECEIVED | DATE<br><b>7/31/17</b> | STAY |
|                    | <input checked="" type="checkbox"/> CHECK                       | <input type="checkbox"/> MONEY ORDER     |                        |      |

AA-33A (8/13)

YOU MUST COMPLETE PAGE 2 OF THIS FORM

PAGE 1 OF 2

**CID = 515 428 683 Case # D15-06852**



**ADMINISTRATIVE APPEAL FORM (AA 33A)**  
**VEHICLE AND TRAFFIC LAW ARTICLES 3-A and 12-A**  
 (THIS FORM IS NOT TO BE USED TO APPEAL TRAFFIC VIOLATION BUREAU TICKETS)

**EXHIBIT F**

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

**WHAT RECORDS ARE REVIEWED**

Any exhibits submitted at the hearing will become part of the appeal record. The Appeals Board reviews the entire record created at the hearing. The Board will review a transcript of the hearing only if you order it and pay for it in a timely manner. To receive copies of hearing exhibits for personal use, submit a **FREEDOM OF INFORMATION LAW (FOIL)** request to **DMV FOIL OFFICE**, 6 Empire State Plaza, Albany, NY 12228. Information for obtaining DMV records and FOIL forms is available online at [www.dmv.ny.gov](http://www.dmv.ny.gov)

**APPEAL ARGUMENTS**

IN THE SPACE BELOW YOU MUST STATE IN DETAIL THE REASON(S) FOR THIS APPEAL and for needing a stay (if requested). PLEASE TYPE OR PRINT CLEARLY. Attach additional pages if necessary and write your name on every page. Personal appearances and oral arguments are not permitted on appeal. If a transcript is ordered, you will have 30 days to submit additional arguments from the date of the transcript invoice. After the 30 day period, your appeal will be reviewed and decided. You will receive written notification of the outcome of the appeal.

I am stating **EXTENUATING CIRCUMSTANCES** due to the fact

1. These infractions happened over thirty five years ago and the last one twenty years ago
2. I have been a documented **LEGAL** driver in South Carolina for over fifteen-years without incident
3. I am caretaker to my eighty-two year old mother which calls for a lot of doctors appointments
4. I am caretaker to my disabled sister which calls for a lot of doctors appointments
5. I am their sole caretakers requiring much time for errands, groceries, and pharmacies
6. I permanently left New York state in 1999 with no plans of ever returning
7. I contacted Public Transportation (Greenville SC Bus System) and they do not service my area

**SIGN AND DATE YOUR APPEAL**

I affirm under penalty of perjury that all of the information on this form and all supporting documents submitted with this appeal are true, and that no prior appeal has been filed in this matter.

Sign Here

Date

1-30-17

**BE SURE THAT YOU:**

- ☐ Pay the non refundable appeal fee of \$10 for **EACH** case appealed. Enclose a check or money order payable to 'Commissioner of Motor Vehicles'
- ☐ Submit your appeal form and appeal fee(s) to the Appeals Board within 60 days of the date of your order or notice.
- ☐ Provide reasons for your appeal on page two. If requesting a stay, provide reasons for a stay request on page two.
- ☐ Sign and date your appeal form on page two.



# Department of Motor Vehicles

**DRIVER IMPROVEMENT BUREAU**  
6 EMPIRE STATE PLAZA ALBANY NY 12228

December 13 2016

McPartland John P  
[REDACTED]

Re Case # D15 06852

Dear Mr McPartland

Pursuant to the authority contained in Sections 136 5(a)(4) and 136 5(b)(1) of the Regulations of the Commissioner of Motor Vehicles your application for a New York State driver license/privilege is hereby **DENIED**

Section 136 5(a)(4) provides as follows

*Special rules for applicants with multiple alcohol or drug related driving convictions or incidents*

*For the purposes of this section revocable offense means the violation incident or accident that results in the revocation of the person's drivers license and which is the basis of the application for relicensing Upon reviewing an application for relicensing the Commissioner shall review the applicant's entire driving record and evaluate any offense committed between the date of the revocable offense and the date of application as if it had been committed immediately prior to the date of the revocable offense For purposes of this section date of the revocable offense means the date of the earliest revocable offense that resulted in a license revocation for which the revocation has not been terminated by the Commissioner's subsequent approval of an application for relicensing*

Section 136 5(b)(1) provides as follows

*Upon receipt of a person's application for relicensing the Commissioner shall conduct a lifetime review of such person's driving record If the record review shows that*

*the person has five or more alcohol or drug related driving convictions or incidents in any combination within his or her lifetime then the Commissioner shall deny the application*

**RECEIVED**

FEB 02 2017

DMV NY GOV

Initial \_\_\_\_\_

Your record contains convictions accidents and incidents which form the basis of the denial of your application under section 136 5

Although you may submit an application for a new driver license at any time please be aware that a review of any subsequent application will be of the entire driving history and will be based upon the same standards that resulted in the denial of this application Each application is subject to the statutory \$25 fee

You may file an appeal of this denial of your driver license application with the Appeals Board by following the instructions in the enclosed Information About Administrative and Repair Shop Appeals (form VS 500) Any such appeal must be filed **WITHIN SIXTY (60) DAYS OF THE DATE OF THIS DENIAL LETTER** By law the Appeals Board is not authorized to consider an appeal that is filed in an untimely manner

Commissioner's Regulations provide that the Department may consider unusual extenuating and compelling circumstances which warrant withdrawal of the denial of a driver's license application If you believe that you have unusual extenuating and compelling circumstances send a letter describing such circumstances in detail to THE DRIVER IMPROVEMENT BUREAU at the above address **WITHIN SIXTY (60) DAYS OF THE DATE OF THIS DENIAL LETTER** The letter must contain an explanation along with credible documentation to support each circumstance that you describe For example if you need a license because you or a family member have a serious medical condition that requires that you drive to necessary treatment(s) you must explain and provide credible verifiable documentation regarding the condition as well as a statement and documentation showing that there is no other transportation (including affordable private and public transportation) to get to and from the treatment(s) In addition if you submitted documentation of your unusual extenuating and compelling circumstances with your application for a New York State driver license/privilege you must resubmit this documentation with your letter The Driver Improvement Bureau will review all of the documentation that you submit and will notify you of its determination Late submissions will not be considered and the denial of your application will be final

If you choose to submit unusual extenuating and compelling circumstances and the Driver Improvement Bureau upholds the denial of your application information regarding filing an appeal will be provided in the denial letter Please be advised however that the Appeals Board will not conduct a new review of any information submitted as unusual extenuating and compelling circumstances but rather will only consider whether there was a rational basis for the determination rendered by the Driver Improvement Unit

If you do not submit any unusual extenuating and compelling circumstances to the Driver Improvement Bureau you MAY NOT submit any such circumstances to the Appeals Board The Appeals Board is not authorized to accept or review any material or information regarding unusual extenuating and compelling circumstances that has not been previously submitted to and considered by the Driver Improvement Bureau

Sincerely

*Wendy N*

Driver Improvement Examiner  
Driver Improvement Bureau

wmn

Enclosure VS 500

DMV NY GOV

Start Over

Where are you starting?  
380 Miller Rd, Mauldin, SC 296

Where are you going?  
[Redacted]

at  
tions: + Add Stop [Route Settings]

Choose Your Route

Route #1 Route #2

via Corn Rd

34min 1.4mi

Current Traffic: N/A

View Route Directions >

Your route is sponsored by:

hum MEET HUM

702 E Butler Rd Edit

7/28/17 7/30/17

Find a Hotel

hum

Hum is the technology that connects you to your car.

MEET HUM

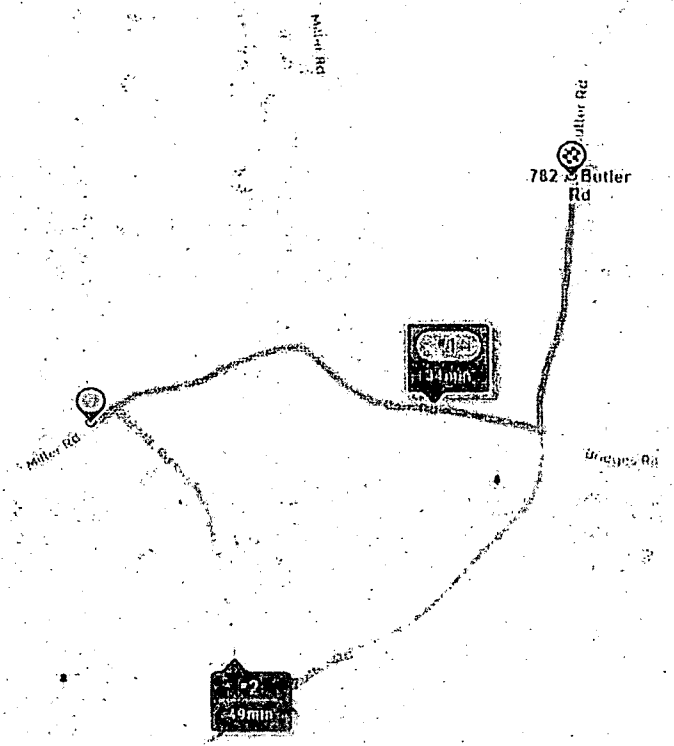


EXHIBIT F

From Nicole McAden <nmcaden@greenvillesc.gov>  
 To [REDACTED] Lorne Brown <lbrown@greenvillesc.gov> James Keel <jkeel@greenvillesc.gov>  
 Subject RE Online Form Submittal Contact  
 Date Wed Jan 11 2017 3:48 pm

John

Unfortunately the closest stop to [REDACTED] 380 Miller Road (which is 1.6 miles from your origin)

I encourage you to use our route planning tool on the website for future assistance planning your Greenlink bus route [http://ridegreenlink.com/1183/Google Transit](http://ridegreenlink.com/1183/Google%20Transit)

Thank you and let me know if I can be of further assistance

Have a great day!  
 Nicole

COG\_Color\_Side

Response from Greenville SC Bus system

Nicole McAden  
 Marketing and Program Specialist | Greenlink  
[nmcaden@greenvillesc.gov](mailto:nmcaden@greenvillesc.gov) | [www.greenvillesc.gov](http://www.greenvillesc.gov)  
 office (864) 298 2758 | fax (864) 487 5006

From donotreply@civicplus.com [mailto:donotreply@civicplus.com]  
 Sent Wednesday January 11 2017 2:05 PM  
 To Lorne Brown <lbrown@greenvillesc.gov> Nicole McAden <nmcaden@greenvillesc.gov> James Keel <jkeel@greenvillesc.gov>  
 Subject Online Form Submittal Contact

## Contact

|                      |            |
|----------------------|------------|
| First Name           | John       |
| Last Name            | MCpartland |
| Email                | [REDACTED] |
| How can we help you? | [REDACTED] |

Email not displaying correctly? View it in your browser



— RICHARDSON PSYCHIATRY —  
 APRIL C RICHARDSON M.D.

January 31 2017

**To Whom It May Concern**

I have been seeing Maureen McPartland (DOB 7/22/1968) since 2014. She is receiving psychiatric treatment and has been stable psychiatrically but her psychiatric conditions have caused permanent functional impairments.

She is receiving medication management treatment from me and she also received therapy from another provider Amber Hollingsworth. She attends follow up visits at my office in Travelers Rest SC at least every three months but sometimes monthly.

She has other medical conditions as well as a severe anxiety disorder that prevent her from feeling comfortable driving a car. This requires her to be driven by family. When I initially started seeing Maureen her mother would drive her to and from appointments but her mother is now suffering from Dementia and cannot drive. Now the only person Maureen has available to drive her is her brother. It is my understanding that he has lost his license due to an order out of the state of New York.

— In my opinion her brother would qualify for an exception to this order as he is the primary caretaker of Maureen McPartland and due to her medical and psychiatric disorders so has limited functioning. Please grant a reinstatement of John Patrick McPartland's SC driver's license to ensure Maureen McPartland can access the psychiatric and medical care she needs to function normally.

Thank you

April Richardson M.D.

50 CENTER STREET  
 TRAVELERS REST SOUTH CAROLINA 29689

OFFICE (864) 466-1127 FAX (864) 544-1770  
 APRIL RICHARDSON MD (A) APRIL.COM  
 APRIL RICHARDSON MD.COM



# Department of Motor Vehicles

**DRIVER IMPROVEMENT BUREAU**  
8 EMPIRE STATE PLAZA ALBANY NY 12226

December 30 2016

John McPartland  
[REDACTED]

Dear Mr McPartland

Your letter addressed to Governor Cuomo received December 19 2016 regarding the reinstatement of your driving privileges has been referred to me for response

As indicated in your denial dated December 13 2016 Commissioner's Regulations provide that the Department may consider unusual extenuating and compelling circumstances which warrant withdrawal of the denial of a request for driving privileges. If you believe that you have unusual extenuating and compelling circumstances send a letter describing such circumstances in detail to THE DRIVER IMPROVEMENT BUREAU at the above address WITHIN SIXTY (60) DAYS OF THE DATE OF YOUR DENIAL LETTER dated December 13 2016. The letter must contain an explanation along with credible documentation to support each circumstance that you describe. For example if you need a license because you or a family member have a serious medical condition that requires that you drive to necessary treatment(s) you must explain and provide credible verifiable documentation regarding the condition as well as a statement and documentation showing that there is no other transportation (including affordable private and public transportation) to get to and from the treatment(s). In addition if you submitted documentation of your unusual extenuating and compelling circumstances with your application for a New York State driver license/privilege you must resubmit this documentation with your letter. The Driver Improvement Bureau will review all of the documentation that you submit and will notify you of its determination. Late submissions will not be considered and the denial of your application will be final.

If you choose to submit unusual extenuating and compelling circumstances and the Driver Improvement Bureau upholds the denial of your application information regarding filing an appeal will be provided in the denial letter. Please be advised however that the Appeals Board will not conduct a new review of any information submitted as unusual extenuating and compelling circumstances but rather will only consider whether there was a rational basis for the determination rendered by the Driver Improvement Unit.

If you do not submit any unusual extenuating and compelling circumstances to the Driver Improvement Bureau you MAY NOT submit any such circumstances to the Appeals Board. The

**www.dmv.ny.gov**

Appeals Board is not authorized to accept or review any material or information regarding unusual extenuating and compelling circumstances that has not been previously submitted to and considered by the Driver Improvement Bureau

I am aware that this is not the information that you were hoping for however if you have any further questions please feel free to contact me directly at (518) 486 4526

Sincerely

*Denise Watson*

Denise Watson  
Supervising Driver Improvement Examiner  
Driver Improvement Bureau

/dmw

[www.dmv.ny.gov](http://www.dmv.ny.gov)

EXHIBIT F

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

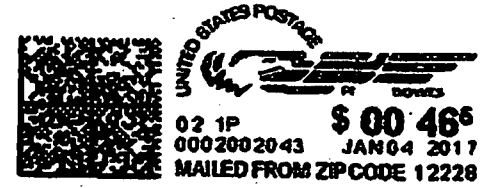
From: [illegible]  
 To: [illegible]  
 Subject: [illegible]

WRITE FIRMLY WITH BALL POINT PEN ON HARD SURFACE TO MAKE ALL COPIES LEGIBLE

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| CUSTOMER USE ONLY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |           |
| FROM (PLEASE PRINT)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | PHONE ( ) |
| John McPartland<br>752 East Bayview Ave<br>Wadley, SC 29682                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |           |
| COMMENTS BY CARRIER (If applicable)<br>USPS Delivery Area M      Fed. Agency Area M      or Post Office M                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |           |
| SIGNATURE REQUIRED (The mailer must check the "Signature Required" box if the recipient's signature is required. If the box is not checked, the Postal Service will assume the mailer is responsible for the delivery of the mail.)<br><input type="checkbox"/> Signature Required (The mailer must check the "Signature Required" box if the recipient's signature is required. If the box is not checked, the Postal Service will assume the mailer is responsible for the delivery of the mail.)<br><input type="checkbox"/> No Signature Required (The mailer must check the "Signature Required" box if the recipient's signature is required. If the box is not checked, the Postal Service will assume the mailer is responsible for the delivery of the mail.)<br><input type="checkbox"/> No Saturday Delivery (delivered next business day)<br><input type="checkbox"/> Sunday/Holiday Delivery Required (additional fee where applicable)<br><input type="checkbox"/> 10:00 AM Delivery Required (additional fee where applicable)<br>Rate by USPS.com      Local Post Office      for electronic |           |
| TO (PLEASE PRINT)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | PHONE ( ) |
| Dept of Motor Vehicles<br>Driver Improvement Bureau<br>At Denise Watson<br>6 Empire State Plaza<br>Albany NY 12228                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |

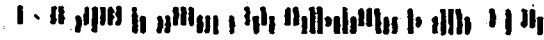
For pickup or USPS Tracking™ visit USPS.com or call 800-822-1011  
 \$1.00 fee insurance included

MV3010AU (8/12)  
NEW YORK STATE  
DEPARTMENT OF MOTOR VEHICLES  
6 EMPIRE STATE PLAZA RM 336  
ALBANY NY 12228



John McPartland

2366281577 0004



Visit us at [www.nysdmv.com](http://www.nysdmv.com)

**Avoid Suspension of your License or Registration.**  
**Immediately turn in your license plates if you drop insurance coverage**

ELECTRONICALLY FILED - 2018 Jun 12 11:21 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4004199

EXHIBIT F



1007



12223

U.S. POSTAGE

PAID

MAULDEN, MA

JAN 31 '17

AMOUNT

\$26.65

R2354H188282 03

EXHIBIT F

FROM: **Mr. McPartland** PHONE: **ART 1114**

TO: **[Redacted]**



EL 467886322 US

UNITED STATES  
POSTAL SERVICEPRIORITY  
\* MAIL \*  
EXPRESS™

IF BY AIR (Priority Mail Express)

Agency Acct. No. or Postal Service Acct. No.

## BY AIR (Priority Mail Express)

FEATURES REQUIRED: Add. The sender must check the "Signature Required" box if the addressee is not a business, or if the addressee is a business, the addressee must check the "Signature Required" box. Add. The sender must check the "Signature Required" box if the addressee is not a business, or if the addressee is a business, the addressee must check the "Signature Required" box.

Signature Required (addressee must sign) ☐ No ☒ Yes

Signature Required (addressee must sign) ☐ No ☒ Yes

Signature Required (addressee must sign) ☐ No ☒ Yes

PT of Motor Vehicles  
LIVV IMPROVEMENT BUREAU  
DENISE WATSON  
EMPIRE STATE PLAZA  
ALBANY NY 12228

## BY AIR (Priority Mail Express)

☐ 1 Day ☐ 2 Day ☐ Next Day ☐ GPO

PD ZIP Code: **29462** Scheduled Delivery Date: **2/1/17** Postage: **26.65**

Date Accepted (MM/DD/YYYY): **1/31/17** Scheduled Delivery Time: ☐ 10:30 AM ☐ 3:00 PM ☐ 12:00 PM

Time Accepted: **1:30** ☐ AM ☒ PM ☐ 10:30 AM Delivery Fee: **\$** ☐ 10:30 AM Delivery Fee: **\$**

Weight: **22** ☐ Pkg. Rate: **\$** Sunday/Mailbox Premium Fee: **\$** Total Postage & Fee: **26.65**

Address: **22** ☐ Pkg. Rate: **\$** Sunday/Mailbox Premium Fee: **\$** Total Postage & Fee: **26.65**

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## SUPREME COURT OF THE STATE OF NEW YORK

## ULSTER COUNTY

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In the Matter of NICOLAS A. BRUNETTI  
a/k/a NICHOLAS A. BRUNETTI,

Petitioner,

Index No. 13/3110

-against-

AFFIRMATION OF  
IDA L. TRASCHENBARBARA J. FIALA, COMMISSIONER OF MOTOR  
VEHICLES OF THE STATE OF NEW YORK,Respondent.  

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IDA L. TRASCHEN, affirms, pursuant to CPLR 2106, as follows:

1. I am First Assistant Counsel with the New York State Department of Motor Vehicles (the DMV) and have been an attorney with the DMV for 22 years.

2. On or about October 24, 2012, the Driver Improvement Unit (DIU) denied petitioner's application for re-licensure based upon the fact that he had five alcohol-related incidents on his driving record. Under section 136.5(d) of the Commissioner's Regulations, if a person is denied under such section, such person may make application for re-licensure based upon unusual, extenuating and compelling circumstances.

3. On or about November 23, 2012, petitioner's attorney, James W. Winslow, made an application for re-licensure based upon unusual, extenuating and compelling circumstances. The DIU denied such application on December 28, 2102.

4. Petitioner has requested a copy of the DS-322 form, "Request for Consideration of Relicensing." A Driver Improvement Unit (DIU) examiner uses the general guidelines set forth on this form to evaluate whether an applicant may be approved for re-licensure based upon unusual, extenuating and compelling circumstances. These broad guidelines are not set in stone. A DIU examiner always has discretion to look at other factors that are not contemplated on the form.

5. The DS-322 form is an internal, intra-agency form that is used only by DIU staff. It has not been used by or shared with any other agency of the State of New York, or with any other person outside of DMV.

6. The DMV believes it would undermine the process of evaluating applications for re-licensure based upon unusual, extenuating and compelling circumstances if the DS-322 form were disclosed to the public. If disclosed, each applicant would attempt to tailor his/her life experiences, challenges, and circumstances into a category set forth on the DS-322 and, if denied, argue that such denial was improper.

7. These are not one size fits all guidelines. They are general guidelines that help staff review the totality of the circumstances and the credibility of documentation submitted by the applicant. Thus, simply making a statement about one's circumstances or presenting a document that might lend credence to such a statement so that the applicant "addresses" each category on the form may serve the illusion of meeting DMV's threshold, while falling short of making a substantive case that the applicant has unusual, extenuating and compelling circumstances.

8. Such an approach fails to account for the DIU examiner's expertise and experience. The examiners review hundreds of these applications and are in the best position to evaluate

what circumstances are truly unusual, extenuating and compelling, and what documentation supports such a contention.

9. As an example, most applicants contend that they have been through alcohol rehabilitation and suffer hardship without a license. This is true of almost any person who has been convicted of multiple alcohol-related offenses—there is nothing unusual, extenuating and compelling about such a situation.

10. In the instant case, petitioner argues that he is the sole supporter of his household and that his daughter does not hold a license and suffers from diabetes. In addition, he states that his grandson needs medical care for burns over much of his body. Petitioner has not submitted proof of these medical needs. In addition, the DMV's records indicate that his daughter obtained a driver's license on 11/16/13 and that she now shares the same address as her father.

11. Petitioner submitted proof that he completed treatment mandated by the Dutchess County Court, but not that he has continued in a treatment program. Similarly, completion of community service was a Court mandate, and does not indicate service to the community beyond this minimal requirement. His submission of a mortgage statement and a business insurance certificate do not translate to unusual, extenuating and compelling circumstances. All persons applying for a license have financial obligations.

12. Unquestionably, the DMV has set the bar high for consideration of an application for re-licensure based upon unusual, extenuating and compelling circumstances. Since the regulations were enacted, only four of 1,031 applicants have demonstrated such compelling circumstances.

13. However, these standards are necessary to prevent recidivist drunk drivers from posing a risk to the State's motorists. Petitioner has been through the criminal justice system several times and should understand the consequences of his actions.

14. Although not having a license is a hardship, this is outweighed by the DMV's need to keep recidivist alcohol offenders off of our highways.

15. In this case, petitioner's request for release of DMV's internal guidelines is a "red herring" designed to detract from the deficiencies in proof provided on his own application, and should be denied.

  
Ida L. Traschen  
First Assistant Counsel

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JOHN MCPARTLAND,

PLAINTIFF,

vs.

SOUTH CAROLINA DEPARTMENT  
OF MOTOR VEHICLES,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2017-CP-40-4199

**SOUTH CAROLINA  
DEPARTMENT OF MOTOR VEHICLE'S  
MEMORANDUM OF LAW**

This Memorandum of Law is provided to the Court to assist the Court in understanding the South Carolina Department of Motor Vehicle's (hereinafter, "SCDMV") legal arguments in this case. Since the parties have stipulated to the relevant facts in this case, this Memorandum of Law refers only to the Stipulation of Facts and relevant legal authorities.

**BASIC FACTUAL BACKGROUND**

Prior to moving to South Carolina the Plaintiff, John McPartland, was convicted of five different offenses for driving under the influence in New York. Stipulation, ¶2. On June 15, 2000, Plaintiff applied for a driver's license in South Carolina and was issued a driver's license. Stipulation, ¶3. Plaintiff renewed his South Carolina driver's license on June 15, 2005 and June 11, 2015. Stipulation, ¶4-5. Plaintiff did not reveal on his South Carolina driver's license applications that his driver's license or driving privileges were suspended/revoked in New York State. Stipulation, ¶10, 12, and 15. Plaintiff would testify that he believed his license suspension/revocation period in New York had expired and that he was no longer suspended/revoked in New York. *Id.*

In the evening of June 11, 2015, the SCDMV first became aware that Plaintiff's driver's license and privilege to drive was actively suspended/revoked in New York State. Stipulation, ¶8, 9,

11, 13, 14, and 16. SCDMV notified Plaintiff, by letter issued on June 12, 2015, that due to this active suspension/revocation in New York State SCDMV would have to cancel Plaintiff's driver's license on August 11, 2015, unless the New York suspension/revocation was cleared and proof of that clearance was provided to SCDMV. Stipulation, ¶16. Pursuant to a written request from the Plaintiff on August 10, 2015, SCDMV granted Plaintiff a 60 day extension to clear up his suspension/revocation issue with New York State. Stipulation, ¶17. SCDMV heard nothing further from Plaintiff regarding this matter and his South Carolina driver's license was cancelled on October 9, 2015. Stipulation, ¶18.

Prior to December 24, 2012, Plaintiff could have cleared his driver's license suspensions/revocations in New York State by completing all of his reinstatement requirements as set out in New York law, but Plaintiff did not complete all of these requirements prior to December 24, 2012. Stipulation, ¶20. On or about December 24, 2012, New York amended a regulation to make it State policy that a person with five or more alcohol or drug related driving convictions during their lifetime shall have their applications to clear their suspensions/revocations denied unless there are unusual, extenuating, and compelling circumstances present that form a valid basis to deviate from this general policy. Stipulation, ¶21. Plaintiff did not apply to have his New York State suspension/revocation cleared until sometime around December 13, 2016, after the amended New York regulation had been placed into effect. Stipulation, ¶22. New York State denied Plaintiff's application to clear his suspension/revocation, Plaintiff appealed that decision to the Appeals Board in New York, but did not appeal the decision of the Appeals Board that upheld Plaintiff's continued suspension/revocation in New York State. Stipulation, ¶22-23.

## ARGUMENT

### **A. S.C. Code §56-1-40(2) Explicitly Prohibits the Relief Sought by Plaintiff**

The Plaintiff is asking this Court to order the SCDMV to violate S.C. Code §56-1-40(2) by requiring SCDMV to reissue a South Carolina driver's license to him when was never qualified to be issued that license to begin with. Specifically, S.C. Code §56-1-40(2)<sup>1</sup> states:

The Department of Motor Vehicles may not issue a motor vehicle driver's license to or renew the driver's license of a person:...

(2) whose driver's license or privilege to operate a motor vehicle currently is suspended or revoked in this State or another jurisdiction, except as otherwise provided for in this title;....

There is nothing in Title 56 that provides an exception to S.C. Code §56-1-40(2) under the facts presented in this case. Further, S.C. Code §56-1-240 provides that the SCDMV "may cancel any driver's license upon determination that the licensee was not entitled to the issuance thereof or that the licensee failed to give the required or correct information in his application or committed any fraud in making such application." This code section applies to Plaintiff's situation because, on the applications Plaintiff completed to obtain his South Carolina driver's licenses, Plaintiff untruthfully, whether intentional or not, answered the question asking whether his privilege to drive was suspended, cancelled, or revoked in any state. Thus, when SCDMV discovered that Plaintiff's driver's license and privilege to drive is currently suspended/revoked in New York State, SCDMV was required, by the interplay between S.C. Code §56-1-40(2) and §56-1-240, to cancel Plaintiff's South Carolina driver's license. For these reasons this case should be dismissed with prejudice due to failure to state claim on which relief can be based.

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<sup>1</sup> Significantly, S.C. Code §56-1-40(2) has been the law in South Carolina, largely in its' current form, since at least 1990 and possibly since 1932. As of the filing of this Memorandum, the

**B. Plaintiff Has Failed to Exhaust His Administrative Remedies**

Plaintiff admits that he did not appeal the April 25, 2017 decision of the Appeals Board in New York, although further levels of appeal were available to him under Article 78 of New York's Civil Practice Law and Rules. Stipulation, ¶23. For this reason alone Plaintiff failed to exhaust his administrative remedies in New York.

Further, the New York Department of Motor Vehicles specifically informed Plaintiff that he may apply for clearance of this suspension/revocation at any time. Exhibit F to *Stipulation of Facts*, page 9: SCDMV understands that according to the correspondence from the New York Department of Motor Vehicles there is a \$25 fee each time Plaintiff makes such an application. *Id.* The point is, however, that Plaintiff had and still has administrative remedies available to him in New York and he has failed to exhaust those administrative remedies. Thus, for these reasons this case should be dismissed with prejudice and Plaintiff should be required to pursue his available administrative remedies.

**C. Plaintiff's Claims are Not Ripe for Adjudication**

Plaintiff's claims are not ripe for adjudication in South Carolina due to Plaintiff's failure to exhaust his administrative remedies in New York State, as outlined above.

**D. Plaintiff's Claims are Barred by the Principles of Collateral Estoppel and/or Issue Preclusion**

Ultimately, Plaintiff's complaint is with New York State, not the SCDMV. New York State is the where Plaintiff's driver's license and driving privileges are suspended/revoked. South Carolina is merely honoring that suspension/revocation as required by S.C. Code §56-1-40(2). Plaintiff engaged in litigation with the New York Department of Motor Vehicles regarding this issue, but, after receiving a negative ruling from the Appeals Board, failed to further appeal the case in New

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undersigned had not be able to locate a copy of the 1932 version of this law.

York. Thus, this matter has already been ruled on by the Appeals Board in New York (Exhibit F to Stipulation of Facts, pages 3-4). The New York Appeals Board held that the denial of Plaintiff's application to clear his New York suspension/revocation was proper and legal. Because Plaintiff failed to appeal that ruling, it is the law of the case and this action against the SCDMV is nothing more than a collateral attack against that New York Appeals Board ruling.

Collateral estoppel, also known as issue preclusion, prevents a party from relitigating an issue that was decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same. *Judy v. Judy*, 383 S.C. 1, 7, 677 S.E.2d 213, 217 (Ct.App.2009). The party asserting collateral estoppel must demonstrate that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment. *Beall v. Doe*, 281 S.C. 363, 369 n. 1, 315 S.E.2d 186, 189-90 n. 1 (Ct.App.1984). Plaintiff's case with the New York Department of Motor Vehicles, attached as part of Exhibit F to the Stipulation of Facts, clearly meets all of the requirements for collateral estoppel to apply. Plaintiff's case with the New York Department of Motor Vehicles regarding his suspension/revocation in New York was litigated and appealed at least one time. Additionally, that litigation directly determined whether Plaintiff's suspension/revocation in New York should continue or be cleared. Finally, the issue of Plaintiff's New York State suspension/revocation should be cleared or not was the sole focus of the litigation and, as a result, was a necessary decision in that litigation. Similarly, Plaintiff, via this litigation, is asking this Court to rule that he can be licensed in South Carolina despite the fact that New York has ruled that his New York State suspension/revocation should continue. For these reasons, the case Plaintiff's has brought against SCDMV, essentially asserting that South Carolina cannot recognize the New York suspension/revocation, should be barred by collateral estoppel.

Additionally, rather than restarting the process in New York, as set forth in the letter to Plaintiff from the New York Department of Motor Vehicles, Plaintiff has elected to sue the SCDMV, collaterally attack the decision of the New York Department of Motor Vehicles and the Appeal Boards' ruling, and attempt to get a Court order that requires SCDMV to ignore S.C. Code §56-1-40(2). It appears that Plaintiff will advance this argument on the basis of an alleged delay in notification to him from SCDMV regarding his active suspension/revocation in New York State and the holdings set forth in cases such as *Hipp v. South Carolina Department of Motor Vehicles*, 381 S.C. 323, 673 S.E.2d 416 (2009), *Davis v. South Carolina Department of Motor Vehicles*, 420 S.C. 98, 800 E.E.2d 493 (2017), and *Wilson v. South Carolina Department of Motor Vehicles*, 419 S.C. 203, 796 S.E.2d 541 (2017). Each of these cases are easily distinguished from this case. First, each of these cases involved a driver's license suspension that was triggered by the report of a criminal conviction that triggered a suspension:

- 1) In *Hipp*, it was a Georgia driving under the influence conviction;
- 2) In *Davis*, it was an in-state driving under suspension conviction that triggered a habitual offender suspension; and
- 3) In *Wilson*, it was an in-state driving under the influence conviction.

This case does not involve a driver's license suspension that is triggered by conviction being reported to SCDMV in a tardy fashion. Rather, this case involves Plaintiff not revealing to SCDMV that he was actively under suspension in another State and, as a result, not entitled to a South Carolina driver's license to begin with. Compounding this issue is the fact that SCDMV did not have the technological capability to discover Plaintiff's untrue statements until he renewed his driver's license in 2015. Second, in the *Hipp*, *Davis*, and *Wilson* cases there were statutes that required Georgia and the courts to report these criminal convictions to SCDMV with a certain

amount of time and in a proactive manner, but Georgia and the courts failed to do so in a timely manner. In this case, there is no statutory requirement for New York to proactively inform SCDMV that Plaintiff was actively under suspension/revocation in their State. Rather, there were statutes that required Plaintiff to truthfully and accurately report his current licensing status on his application for a driver's license in South Carolina. See S.C. Code §56-1-80 and §56-1-240 ("failed to give the required or correct information in his application") and the applications attached in the exhibits for the Stipulation of Facts, ¶ 10, 12, & 15. Moreover, all applications for a driver's license in South Carolina are given under penalty of perjury and state this explicitly on the form just above the applicant's signature block. For these reasons the *Hipp, Davis, and Wilson* cases are substantially dissimilar to this case and provide no guidance to this Court in this case.

#### **E. Plaintiff Has Unclean Hands**

*Straight v. Goss*, 383 S.C. 180, 678 S.E.2d 443, 457-58 (Ct. App. 2009) states:

"The doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant." *First Union Nat'l Bank of S.C. v. Soden*, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct.App. 207\*207 1998). "He who comes into equity must come with clean hands. It is far more than a mere banality. It is a self-imposed ordinance that closes the door of the court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief." *Emery v. Smith*, 361 S.C. 207, 220, 603 S.E.2d 598, 605 (Ct.App.2004) (quoting *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 814, 65 S.Ct. 993, 89 L.Ed. 1381 (1945)).

In this case, Plaintiff is the only party in this case that knew or should have known that his driver's license and driving privileges were still suspended/revoked in New York. Like South Carolina, New York sends drivers a notice when they go under suspension and that notice informs the driver of the steps they must take to fully clear and end that suspension. Thus, even though Plaintiff would testify that he believed this New York suspension/revocation had already ended, Plaintiff was informed of the steps he had to take to achieve such clearance and he knew he had not taken all of those steps.

Essentially Plaintiff is trying to backdoor an argument that he was unaware of the law in New York related to how to clear this suspension/revocation. It is a well-settled concept that ignorance of the law is no defense for a failure to comply with the law. Traditionally this concept is applied in the criminal law context. It seems patently unfair for Plaintiff to use a similar argument to try and seek equitable relief from this Court from a party (the SCDMV) that by Plaintiff's own admission was unaware of the New York State suspension/revocation against Plaintiff. Plaintiff admits that SCDMV had no knowledge of Plaintiff's New York State suspension/revocation until the evening of June 11, 2015. Since Plaintiff knew or should have known that this New York State suspension/revocation was still active, either through a general knowledge of New York law or through the notification sent to him by the New York DMV, it is improper for the Plaintiff to seek equitable relief from any South Carolina court to regain his unlawfully obtained South Carolina driver's license.

### CONCLUSION

For the reasons stated above, SCDMV asserts this case should be dismissed with prejudice.

s/ Brandy A. Duncan  
BRANDY A. DUNCAN, SC Bar # 72052  
Assistant General Counsel  
FRANK L. VALENTA, JR., SC Bar # 5682  
General Counsel  
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Email: [hearingsprocessingunit@scdmv.net](mailto:hearingsprocessingunit@scdmv.net)

June 15, 2018  
Blythewood, South Carolina

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND )

FILE NO. 2017-CP-40-4199

John McPartland )

Plaintiff, )

v. )

**PLAINTIFF'S MEMORANDUM OF LAW**

South Carolina Department  
of Motor Vehicles )

Defendant. )

Plaintiff John McPartland ("Plaintiff"), by and through his undersigned counsel, T. Micah Leddy, hereby files this Memorandum of Law to assist the Court in understanding his arguments in this case. The parties have stipulated to the relevant facts in the case in the filed Stipulation of Facts, which is reincorporated as if restated verbatim here.

**ARGUMENT**

As applied to the Plaintiff, the statutes that the DMV has applied to revoke his license to drive in South Carolina are unconstitutional as violative of substantive and procedural due process.

The two statutes at issue are §56-1-40(2) and §56-1-240. The first statute sets the rule that the DMV may not issue a license to someone "whose driver's license or privilege to operate a motor vehicle currently is suspended or revoked in this State or another jurisdiction, except as otherwise provided for in this title;....". S.C. Code §56-1-40(2). Section §56-1-240 provides that the DMV "may cancel any driver's license upon determination that the licensee was not entitled to the issuance thereof or that the licensee

failed to give the required or correct information in his application or committed any fraud in making such application.” S.C. Code §56-1-240.

This case is based on an as-applied constitutional challenge to the South Carolina statutes in question, not the text of the statutes themselves. The DMV is correct in its interpretation of these statutes and, on their face, the statutes prohibit the DMV from issuing the license to the Plaintiff, which is why this lawsuit had to be filed. Other licensees have brought successful due process challenges where the plain reading of the licensing statutes clearly prohibited licensure. This is because the legislature could not consider every possible factual scenario when it wrote the laws applicable to getting a driver’s license in South Carolina and sometimes the literal application of the laws as written renders a result that is so fundamentally unfair that it violates due process. This is just such a case.

The Plaintiff does not dispute that he was convicted of five separate driving under the influence charges in New York between the years of 1982 and 1998. The Plaintiff thereafter moved to South Carolina to reside with his mother and had a driver’s license in South Carolina from 2000 until October 2015. During these fifteen years, the Plaintiff only had one driving infraction, which was the lowest level of speeding provided for under state law. See Stipulation of Facts at paragraph 32.

The Plaintiff maintains that when he moved to South Carolina in 2000, he believed that he had served out his suspension period in New York and did not know that he had to do anything else to clear his record up in New York. Counsel submits that, in practicing law in municipal and magistrate courts for the last eleven years, it is a common refrain from people who have license suspensions that they were unaware that they must

overtly act to reinstate their license at the end of the applicable suspension period. People routinely operate under the incorrect understanding that the license goes back in place at the end of the suspension period automatically. In this case, the Plaintiff had no reason to want a New York license as he had no intention of ever returning there to live. Nevertheless, his New York driving records indicate that a reinstatement fee was paid in June 1999, so what exactly the Plaintiff lacked in terms of clearing his license is unclear. It is clear, however, that there is no evidence that the Plaintiff acted to intentionally deceive the SCDMV when he applied for a license.

The obvious purpose of South Carolina's very old statute, §56-1-40, which forbids licensure in South Carolina for people suspended out of state, is to make people clear up whatever suspensions they may have, which will invariably lead to the collection of a fee in the other state. This is a reciprocal arrangement that almost all of the states have now become a part of in order to make sure that they can maintain leverage to get fines and fees paid even when the offending party has no intention of returning to their state. It prevents someone from going on vacation to another state, breaking their traffic laws, and then refusing to pay the ensuing fines with impunity because that far-away state has no authority over them. This case, however, is very different from that common scenario that was obviously contemplated when the statute was written.

In this case, it is, in fact, impossible for the Plaintiff to clear his license status in New York because of a change in the law there when they enacted 15 NYCRR 136.5 on or about December 24, 2012. This new law empowers the Commissioner of the New York DMV to deny relicensure to any applicant who, like the Plaintiff, has five or more DUIs on their record. See Stipulation of Facts paragraph 21. The new law gives the New

York Commissioner the power to waive this provision based on unusual, extenuating, or compelling circumstances. In practice, the waiver is so scarcely granted that it effectively does not exist. See Stipulation of Facts at paragraph 24 (showing that only 4 out of 1,031 waivers had been granted as of September 28, 2016). The Plaintiff was denied a waiver when he applied multiple times, even though he has not even lived in New York for close to two decades. See Stipulation of Facts at paragraphs 22 and 23 and Exhibit F. There is no prospect of the Plaintiff getting a clear license status from New York.

When the Plaintiff applied for his original South Carolina license in 2000 and his renewal in 2005, he was apparently not eligible to be given a license, but the SCDMV did not so inform him because of vagaries in the application of technology used to determine out of state suspensions. If the SCDMV had so informed the Plaintiff on either of those occasions, or anytime up until December 2012, then the Plaintiff could have simply done whatever was needed to clear his suspension there, and then relinquish his New York license forever. This would have cleared his out of state suspension and the Plaintiff would be eligible for his license in South Carolina without any issue. Instead, there was a fifteen year delay in the Plaintiff being informed of the problem, which, when coupled with the change in New York law, results in the Plaintiff being given a lifetime ban on driving not only in New York, but in any other state with a law similar to §56-1-40. This is fundamentally unfair and violative of due process.

The Plaintiff is essentially in the same position as the Plaintiff in Hipp v. SCDMV, 381 S.C. 323 (2009). In Hipp, the Plaintiff sued the SCDMV for imposition of a suspension of his SC driver's license twelve years after a conviction for DUI in

Georgia. The Hipp decision states, “[a] person’s interest in his driver’s license is property that a state may not take away without satisfying the requirements of due process. Due process is violated when a party is denied fundamental fairness.” Hipp 381 S.C. at 325 (internal citations omitted). The Hipp opinion referred back to an older case, State v. Chavis, 261 S.C. 40 (1973), which had held that a one year delay in imposition of a license suspension did not violate due process but “allowed that there might be circumstances under which it could be soundly held that the state had no right to suspend a driver’s license after a lengthy delay.” Id. The Hipp opinion characterized a twelve year delay in imposing a suspension as an “extreme circumstance” that violated due process and ordered that the suspension be enjoined. Id. at 325-326.

The facts of this case are even more extreme than the situation Hipp because the Plaintiff here has done nothing that even should result in any suspension under South Carolina law. In Hipp, the petitioner seeking an injunction against his license being suspended had gotten convicted of a DUI in another state, which would require that his license in South Carolina be suspended for the same period of time as if he had been convicted of DUI in South Carolina. In this case, throughout the fifteen years that the Plaintiff had a South Carolina license, he got only one speeding ticket at the lowest level provided for by law. This is important because the DMV has argued in various ways that the suspension should be upheld because the delay in getting the underlying problem resolved is the Plaintiff’s fault and the Hipp court used as part of its ruling the fact that Hipp was not at fault in the delay. See Hipp, 381 S.C. at 325. In the Hipp case, however, the petitioner had been aware for over a decade that he had never served a suspension that he knew he was supposed to serve, and the Supreme Court did not assign him any blame

in causing the delay. Here, the Plaintiff maintains that he was unaware that there was anything further that he needed to do in order to be eligible for licensure in South Carolina, and there was a fifteen year period between the time when the SCDMV could have known that he had an issue and the time when they informed him of the issue.

Imposing a lifetime ban of driving in South Carolina just because New York has decided that it is a good idea is fundamentally unfair. There is simply no rational basis to allow the statutes at issue to stand as applied to the Plaintiff. The Plaintiff does not argue that the statutes are facially unconstitutional, only that in his unique and rare situation they are unconstitutional as applied to him. In an "as-applied" challenge, the party challenging the constitutionality of the statute claims that the "application of the statute in the particular context in which he has acted, or in which he proposes to act, would be unconstitutional." *Ada v. Guam Soc'y of Obstetricians & Gynecologists*, 506 U.S. 1011, 1011, 113 S. Ct. 633, 121 L. Ed. 2d 564 (1992) (Scalia, J., Rehnquist, C.J., and White, J., dissenting), *denying cert.* to 962 F.2d 1366 (9th Cir. 1992). However, "finding a statute or regulation unconstitutional as applied to a specific party does not affect the facial validity of that provision." *Travelscape*, 391 S.C. at 109, 705 S.E.2d at 39; *see Sec'y of State of Md. v. Joseph H. Munson Co.*, 467 U.S. 947, 965, 104 S. Ct. 2839, 81 L. Ed. 2d 786 [\*\*814] (1984) (discussing "as-applied" challenges and stating, "despite some possibly impermissible application, the remainder of the statute covers a whole range of easily identifiable and constitutionally proscribable conduct" (internal quotation marks and citation omitted)). Instead, "[t]he practical effect of holding a statute unconstitutional 'as applied' is to prevent its future application in a similar context,

but not to render it utterly inoperative." *Ada*, 506 U.S. at 1011. Doe v. State, 421 S.C. 490, 503, 808 S.E.2d 807, 813-14 (2017).

The Plaintiff also satisfies any test for prejudice, if there is such a requirement with such a long delay. The Plaintiff resides with his currently hospitalized mother. There is no one else in the household who can drive her to and from doctor appointments and/or the hospital should the need arise. Also there is no one else living with the Plaintiff to take him to and from stores and other basic transportation needs.

In regards to the SCDMV's arguments that are all basically a variation on unclean hands, the Plaintiff does not have unclean hands in this case. The Plaintiff did not apply for a license in South Carolina until June 15, 2000, which was long after the time period when his New York license suspension ended on May 15, 1999. As previously stated, it is very common for people to misapprehend that a license reinstatement fee needs to be paid at the end of a suspension in order to actually clear up the suspension. In order for the Plaintiff to have unclean hands, it would be necessary to show that he knowingly lied on his application or otherwise acted unfairly, and there is no evidence of that in this case.

There is no issue of collateral estoppel in this case under the standard set forth in Beall v. Doe, 281 S.C. 363 (Ct.App. 1984). That case requires that the issue at hand was actually litigated in a prior case. The prior case here would be the appeal to the New York department of motor vehicles of the waiver denial, in which there was no mention of the South Carolina statutes being challenged in this case. Therefore, the argument for collateral estoppel must fail.

### CONCLUSION

It is fundamentally unfair for the Plaintiff to be deprived of his license to drive in South Carolina because of the interplay between an otherwise well-intentioned statutory scheme in South Carolina and a new policy in New York. The Plaintiff was licensed to drive in South Carolina for fifteen years without any incidents. If the Plaintiff had simply been informed that he needed to pay a reinstatement fee in New York, in spite of the fact he had no intention of ever driving there again, then he would have no problem with his license in South Carolina. To uphold the suspension in this case would be no different than permanently banning the Plaintiff from driving in South Carolina for failure to get a New York license reinstated for incidents that took place twenty plus years ago. This would be fundamentally unfair and violative of due process. Plaintiff prays that this Court issue an injunction and order that his South Carolina license be reinstated.

Respectfully submitted,



T. Micah Leddy  
Attorney for Plaintiff

This 8 day of June, 2018.

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|                           |   |                                 |
|---------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA   | ) | IN THE COURT OF COMMON PLEAS    |
|                           | ) |                                 |
| COUNTY OF RICHLAND        | ) | FILE NO. 2017-CP-40-4199        |
|                           | ) |                                 |
| John McPartland           | ) |                                 |
|                           | ) |                                 |
| Plaintiff,                | ) |                                 |
|                           | ) |                                 |
| v.                        | ) | <b>RULE 59(e)</b>               |
|                           | ) | <b>MOTION TO ALTER OR AMEND</b> |
|                           | ) | <b>JUDGMENT</b>                 |
|                           | ) |                                 |
| South Carolina Department | ) |                                 |
| of Motor Vehicles         | ) |                                 |
|                           | ) |                                 |
| Defendant.                | ) |                                 |
|                           | ) |                                 |

Plaintiff John McPartland ("Plaintiff"), by and through his undersigned counsel, T. Micah Leddy, hereby files this RULE 59(e) Motion to Alter or Amend Judgment.

The Plaintiff respectfully submits that the Court erred in ruling that he had failed to exhaust his administrative remedies. As set forth in the record, the Plaintiff applied for a NY license multiple times and appealed the denial of his request for a waiver of the applicable NY policy. Any further litigation in NY would have been futile as evidenced by the tiny percentage of petitioners in NY who were granted a waiver of the revocation policy. Furthermore, the Plaintiff did appeal the matter within the NY DMV and therefore he did exhaust his administrative remedies. Moreover, the Plaintiff has filed an action for declaratory relief in South Carolina, which does not require an exhaustion of administrative remedies prior to availing himself to the Court for relief. See Adamson v. Richland County School Dist. 1, 332 S.C. 121, 125 ("The doctrine of exhaustion of administrative remedies is generally considered a rule of 'policy, convenience and discretion, rather than one of law, and is not jurisdictional.'" (quoting Vaught v. Waites, 300 S.C. 201, 205 (Ct.App. 1989). "Whether administrative remedies must be exhausted is a matter within the trial

judge's sound discretion and his decision will not be disturbed on appeal absent an abuse thereof. An abuse of discretion occurs when: (1) a judge's ruling has no evidentiary support; or (2) the judge makes an error of law." Id. (internal citations omitted). The Plaintiff respectfully requests that the Court reconsider granting dismissal to the SCDMV on the basis of a failure to exhaust administrative remedies.

Plaintiff also requests that this Court issue an order on whether or not S.C. Code §§ 56-1-40(2) and 56-1-240 are unconstitutional as applied to the Plaintiff because they work to impose a fundamentally unfair result. While the Plaintiff understands that the Court granted relief to the Defendant based on the failure to exhaust administrative remedies, the Plaintiff respectfully requests that the Court issue an order holding whether or not the Plaintiff would be entitled to the relief sought in his Complaint if the Court ruled differently on the issue of exhaustion of administrative remedies. The Plaintiff submits that he is entitled to a finding that the statutes, as applied in this case, are violative of his due process rights under the South Carolina Constitution and therefore unconstitutional.

Respectfully submitted,

/s/T. Micah Leddy  
T. Micah Leddy  
Attorney for Plaintiff

This 6<sup>th</sup> day of July, 2018.

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JOHN MCPARTLAND,

PLAINTIFF,

vs.

SOUTH CAROLINA DEPARTMENT  
OF MOTOR VEHICLES,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2017-CP-40-4199

**SOUTH CAROLINA  
DEPARTMENT OF MOTOR VEHICLE'S  
RETURN TO PLAINTIFF'S MOTION  
TO ALTER OR AMEND JUDGMENT**

South Carolina Department of Motor Vehicle's (hereinafter, "SCDMV") here responds to Plaintiff's *Motion to Alter or Amend Judgment* as follows:

**ARGUMENT**

**A. Exhaustion of Administrative Remedies**

Plaintiff asserts that he "applied for a NY license multiple times and appealed the denial of his request for a waiver of the applicable NY policy." Plaintiff further asserts that "further litigation in NY would have been futile." Finally, Plaintiff asserts that he "did appeal the matter within the NY DMV and therefore... did exhaust his administrative remedies." Contrary to these assertions put forth by Plaintiff, the Stipulation of Facts agreed to by both parties in this case demonstrates the following:

- 1) Plaintiff applied only once to the New York State Department of Motor Vehicles to have his revocation cleared. *Stipulation of Facts*, ¶22. That application was denied. *Id.* Thus, Plaintiff's assertion that he "applied for a NY license multiple times..." appears to be a misleading statement. It may be that Plaintiff has had several applications for a driver's license in New York, but according to the record before this Court he has only

made one such application since the revocation at issue in this case was put in place by New York. *Id.*

- 2) Plaintiff appealed the New York State Department of Motor Vehicles' denial of his one application to have his revocation cleared. *Stipulation of Facts*, ¶23. That appeal was made only to the first appellate level, the Appeals Board. *Id.* Plaintiff did not appeal the decision of the Appeals Board, although additional levels of appeal were available to him pursuant to Article 78 of the New York Civil Practice Law and Rules. *Id.* Thus, Plaintiff's assertion that he "did appeal the matter within the NY DMV and therefore... did exhaust his administrative remedies" is a clear misstatement of fact and law. Plaintiff had additional appellate levels available to him and chose not to exercise those appeals. This would be similar to a South Carolina driver appealing a habitual offender suspension to the Office of Motor Vehicle Hearings, receiving an unfavorable result, and then failing to appeal that unfavorable result to the Administrative Law Court, then the Court of Appeals, and then the Supreme Court. By failing to follow through with his additional available appeals, Plaintiff did fail to exhaust his administrative remedies. It appears that Plaintiff elected not to pursue his additional appeals in New York because he did not believe such appeals would be successful in New York. Evidence of this election exists in Plaintiff's assertion that "further litigation in NY would have been futile as evidenced by the tiny percentage of petitioners in NY who were granted a waiver of the revocation policy" and Plaintiff's desire to include the *Affirmation of Ida L. Traschen* in the *Stipulation of Facts*.
- 3) Exhibit 1 at this trial, the New York State DMV Compass printout for Plaintiff (similar to a South Carolina driving record), states that Plaintiff was eligible to reapply to

have his revocation cleared as of December 13, 2017. Exhibit 1, page 2 (first item listed under "ACTIVITY (22)"). There is no evidence in this record that Plaintiff ever made a second application to have this revocation cleared. Since Plaintiff has a current, available application process (and subsequent appeals if the decision does not go in Plaintiff's favor), Plaintiff has also failed to exhaust his administrative remedies in New York for this reason as well.

Plaintiff argues that exhaustion of administrative remedies is not required for him to be granted declaratory relief in South Carolina. Interestingly, the case *Adamson v. Richland County School District 1*, 332, S.C. 121, 503 S.E.2d 752 (Ct. App. 1998), cited by Plaintiff, has an in depth discussion about the exhaustion of administrative remedies in declaratory judgment actions in South Carolina. *Adamson* discusses the issue as follows:

The general rule is that administrative remedies must be exhausted absent circumstances supporting an exception to application of the general rule. *Andrews Bearing Corp. v. Brady*, 261 S.C. 533, 201 S.E.2d 241 (1973); *Ex parte Allstate Ins. Co.*, 248 S.C. 550, 151 S.E.2d 849 (1966). Whether administrative remedies must be exhausted is a matter within the trial judge's sound discretion and his decision will not be disturbed on appeal absent an abuse thereof. *Garris v. Governing Board of South Carolina Reinsurance Facility*, 319 S.C. 388, 461 S.E.2d 819 (1995); *Hyde v. South Carolina Dep't of Mental Health*, 314 S.C. 207, 442 S.E.2d 582 (1994); *Stanton v. Town of Pawley's Island*, 309 S.C. 126, 420 S.E.2d 502 (1992). An abuse of discretion occurs when: (1) a judge's ruling has no evidentiary support; or (2) the judge makes an error of law. *Gooding v. St. Francis Xavier Hosp.*, 326 S.C. 248, 487 S.E.2d 596 (1997).

The requirement of exhaustion of administrative remedies vis-a-vis a court's authority to hear a case involving an agency, where a plaintiff has not asked the agency for relief, is often confused. The doctrine of exhaustion of administrative remedies is generally considered a rule of "policy, convenience and discretion, rather than one of law, and is not jurisdictional." *Vaught v. Waites*, 300 S.C. 201, 205, 387 S.E.2d 91, 93 (Ct.App.1989) (citing *Andrews Bearing Corp.*, 261 S.C. 533, 536, 201 S.E.2d 241, 243); see also *Ex parte Allstate Ins. Co.*, 248 S.C. 550, 151 S.E.2d 849 (1966). The Vaught court, however, noted it expressed "no opinion whether failure to exhaust administrative remedies is jurisdictional under the Administrative Procedures Act. See D. Shipley, South Carolina Administrative Law at 7-42 (1983)." *Vaught*,

300 S.C. at 205 n. 2, 387 S.E.2d at 93 n. 2....

A more recent case with procedural similarities to the instant case is that of *Garris v. Governing Board of South Carolina Reinsurance Facility*, 319 S.C. 388, 461 S.E.2d 819 (1995). Garris, a licensed insurance agent, was issued a notice of a hearing by the board to revoke his status as a designated producer for the facility. Garris filed suit in circuit court seeking declaratory and injunctive relief on the ground that proceeding with the hearing would violate the Administrative Procedures Act. The board filed a motion to dismiss. The circuit court denied Garris's motion for injunction and granted the board's motion to dismiss, finding all issues should be addressed administratively. The Supreme Court affirmed the trial court's requirement that Garris seek relief from the board first, and stated "declaratory relief will ordinarily be refused where another remedy will be more effective or appropriate under the circumstances." *Id.* at 390, 461 S.E.2d at 821.

Thus, even the case law cited by Plaintiff in his *Motion* supports this Court's action of weighing the evidence in this case to determine whether it is more appropriate and effective for Plaintiff to seek administrative relief in New York, rather than a declaratory judgment action in South Carolina. In fact, it appears to SCDMV, that Plaintiff has elected to bring this declaratory judgment action in South Carolina because Plaintiff believes he is not likely to be granted relief in New York. In other words, it appears to SCDMV that Plaintiff is attempting to use this declaratory judgment action to do an end run around New York's decision to deny Plaintiff relief and the New York appeals process.<sup>1</sup> Plaintiff's only arguments that this Court's ruling has no evidentiary support are already discussed in the sections numbered 1-3, above, and are factually incorrect for the reasons set forth above. Beyond the arguments address in sections numbered 1-3, above, Plaintiff cites nothing that indicates a lack of evidentiary support for this Court's June 26, 2018 *Order*. Further, Plaintiff has cited no case law or legal principle that states this Court committed an error of law by finding that Plaintiff should exhaust his administrative remedies in New York. SCDMV is not aware of any case law or legal

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<sup>1</sup> Interestingly, Plaintiff has still not addressed the issue that even if he were successful in this declaratory judgment action, he would not be able to legally drive in any state, except South Carolina.

principle that indicate this Court's June 26, 2018 *Order* and the findings contained therein were made through an error of law. To the contrary, SCDMV believes this Court's June 26, 2018 *Order* is in keeping with the law of South Carolina.

**B. Application of S.C. Code §§56-1-40(2) and 56-1-240 to Plaintiff**

Next, Plaintiff asks this Court to issue an order on whether or not S.C. Code §§56-1-40(2) and 56-1-240 are unconstitutional as applied to the Plaintiff. It appears to SCDMV that these issues were already ruled on in paragraphs 6, 7, and 8 of this Court's June 26, 2018 *Order*. Although this Court did not specifically use the phrase "unconstitutional as applied" or "constitutional as applied" in issuing its' rulings in paragraphs 6, 7, and 8, this Court's findings that SCDMV promptly notified Plaintiff that the law required cancellation of his driver's license under S.C. Code §56-1-40(2) and that SCDMV was doing so pursuant to S.C. Code §56-1-240, is an implicit ruling that this Court found S.C. Code §§56-1-40(2) and 56-1-240 to be constitutional as applied to Plaintiff. Thus, SCDMV believes this issue has already been raised to and ruled on by this Court. Plaintiff provides no arguments in his Motion for why this issue should be reconsidered from this Court's June 26, 2018 *Order*. Rather, Plaintiff simply asserts this issue has not yet been ruled on. As outlined above, SCDMV believes this issue was already ruled on by this Court. Since Plaintiff presents no argument as to why this issue should be reconsidered from this Court's June 26, 2018 *Order*, SCDMV asserts this Court's original ruling on this matter should stand.

**C. Additionally Sustaining Grounds**

SCDMV continues to assert that this Court's June 26, 2018 *Order* should be sustained for all the reasons set forth in SCDMV's *Memorandum of Law* filed on June 15, 2018.

**CONCLUSION**

For the reasons stated above and in SCDMV's *Memorandum of Law* filed on June 15,

2018, SCDMV asserts this Court's June 26, 2018 Order should stand as previously issued.

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s/ Brandy A. Duncan

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July 9, 2018

Blythewood, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS

The Honorable Deandrea Benjamin, Presiding Circuit Court Judge

Docket No. 2017-CP-40-04199  
Appellate Case No. 2018-001305

John McPartland, ..... Appellant,

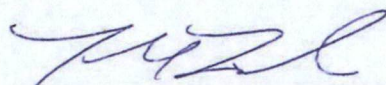
v.

State of South Carolina Dept. of Motor Vehicles, ..... Respondents.

CERTIFICATE OF COUNSEL

I, T. Micah Leddy, attorney for Appellant, hereby certify that the Record on Appeal contains all material proposed to be included by all parties and no other materials.

February 6, 2019



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