

**IN THE COURT OF CLAIMS OF OHIO**

**KELLIE MADYDA**, as legal representative  
for E.M., a minor child  
866 Murle Lane  
Loveland, Ohio 45150

AND

**DAVID CORNELIUS**  
4432 Festive Court  
Cincinnati, OH 45245

AND

**AARON HOYT**  
1234 Cribb Street #10  
Toledo, OH 43612

AND

**CAITLIN RADER**  
1348 St. Charles Avenue  
Lakewood, OH 44107

Plaintiffs, individually and on  
behalf of all others similarly  
situated,

v.

**OHIO DEPARTMENT OF PUBLIC  
SAFETY, BUREAU OF MOTOR  
VEHICLES**  
1970 West Broad Street  
Columbus, Ohio 43223

Defendant.

Case No.

**CLASS ACTION COMPLAINT**

Plaintiffs Kellie Madyda as legal representative for E.M., a Minor Child, David Cornelius, Aaron Hoyt, and Caitlin Rader (collectively, "Plaintiffs"), individually, and on behalf of all others similarly situated, by and through counsel, and for their Class Action Complaint

against Defendant Ohio Department of Public Safety, Bureau of Motor Vehicles (“BMV” or “Defendant”), state as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff E.M. is a minor and a natural person residing with Plaintiff Alexander Madyda and Kellie Madyda. Plaintiff E.M.’s Claims are being brought on her behalf by her mother, Kellie Madyda who is a natural person residing in the City of Loveland, County of Clermont, State of Ohio.

2. Plaintiff David Cornelius is a natural person residing in the Township of Union, County of Clermont, State of Ohio.

3. Plaintiff Aaron Hoyt is a natural person residing in the City of Toledo, County of Lucas, State of Ohio.

4. Plaintiff Caitlin Rader is a natural person residing in the City of Lakewood, County of Cuyahoga, State of Ohio.

5. Defendant is a state agency established pursuant to O.R.C. § 4501.02 and has the authority to administer the provisions of the Ohio Driver’s License Law (“Driver’s License Law”)—codified as O.R.C. §§ 4507, *et seq.*—pursuant to O.R.C. § 4507.01(B).

6. Jurisdiction and venue are appropriate in the Ohio Court of Claims pursuant to O.R.C. § 2743.02 and O.R.C. § 2743.03.

**BASIS OF THE CLAIM**

7. Pursuant to O.R.C. § 4501.02(A), the BMV is “administered by a registrar of motor vehicles” (the “Registrar”), who is responsible for administering, *inter alia*, “the laws of the state relative to the registration of and certificates of title for motor vehicles.” Pursuant to

O.R.C. § 4507.01(B), the Registrar “has the same authority” to administer the Driver’s License Law “as is conferred...by” O.R.C. § 4501.02.

8. O.R.C. § 4507.01(B) also permits the Registrar to “appoint such deputy registrars in each county as are necessary” (“Deputy Registrars”), and provides that “any act of an authorized Deputy Registrar of motor vehicles under direction of the Registrar is deemed the act of the Registrar.”

9. Pursuant to the Driver’s License Law, Deputy Registrars, acting on behalf of the Registrar, are required to issue “driver’s licenses” and other types of licenses which permit the holder to operate motor vehicles—such “motorized bicycle licenses”—(collectively, “Licenses”), as well as “identification cards” (“ID Cards”) to applicants who meet the relevant criteria for issuance of such Licenses and ID Cards. *E.g.*, O.R.C. § 4507.01(A) (defining Licenses and ID Cards); O.R.C. § 4507.21(D) (providing for issuance of driver’s licenses); O.R.C. § 4507.50(A) (providing for issuance of ID Cards).

10. Prior to July 2, 2018, individuals were able to visit Deputy Registrars’ offices and immediately obtain Licenses or ID Cards. Upon providing proof to a Deputy Registrar that a particular individual had satisfied the necessary prerequisites for issuance of a License or ID Card, the Deputy Registrar would then create, print, and laminate a License or ID Card on-site and provide it to that individual.

11. In order to compensate Deputy Registrars for the service of creating, printing, and laminating Licenses and ID Cards, O.R.C. § 4507.23(F) and O.R.C. § 4507.50(A) permitted Deputy Registrars to collect a \$1.50 lamination fee (“Lamination Fee”). A schedule of the various fees Deputy Registrars were permitted to collect in connection with the issuance of Licenses and ID Cards, including the Lamination Fee, is attached hereto as Exhibit A.

12. Beginning on July 2, 2018, the BMV changed the procedures associated with obtaining Licenses and ID Cards in order to comply with the requirements imposed by the federal Real ID Act of 2005 (Public Law 109–13). As part of those changes, Deputy Registrars stopped creating, printing, and laminating Licenses and ID Cards on-site before issuing those Licenses and ID Cards to individuals. Instead, Licenses and ID Cards are mailed to individuals “about 10 business days after visiting a Deputy Registrar agency.”<sup>1</sup>

13. Despite the fact that “a BMV vendor—not [a Deputy Registrar]—has produced and mailed the [Licenses and ID Cards] since July 2,” Deputy Registrars have nevertheless continued to charge individuals the \$1.50 Lamination Fee.<sup>2</sup>

14. As such, individuals—such as Plaintiffs and members of the Class defined below—have paid a Lamination Fee to Deputy Registrars purportedly for a service that Deputy Registrars are not performing.

### **LOCATION AND DATE OF INJURY TO PLAINTIFFS**

#### **Plaintiff E.M.**

15. On December 1, 2018, Plaintiff E.M. accompanied by her mother, Kellie Madyda went to the Deputy Registrar office located at 641 Loveland Madeira Road, Loveland, Ohio 45140 for purposes of obtaining her temporary instruction permit as defined by ORC 4507.05.

16. E.M. was seeking her learner’s permit as she passed the required driving test on November 30, 2018. Kellie Madyda, on behalf of E.M. paid the Deputy Registrar \$23.00 by personal check on December 1, 2018. The \$23.00 included the \$1.50 lamination fee.

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<sup>1</sup> Ohio BMV, *Ohio’s New Driver License and Identification Card*, available at: <https://www.bmv.ohio.gov/NEWDL-ID/new-card-compare.aspx>.

<sup>2</sup> The Columbus Dispatch, *Ohioans Paying Driver’s License Fee to Registrars for Service No Longer Performed*, available at: <https://www.dispatch.com/news/20190312/ohioans-paying-drivers-license-fee-to-registrars-for-service-no-longer-performed>.

17. E.M. did not receive her Learner's Permit that day as the Deputy Registrar only processed his application and did not provide any other service.

**Plaintiff David Cornelius**

18. On February 20, 2019 Plaintiff David Cornelius went to the Deputy Registrar office located at 7743 Five Mile Road, Cincinnati, Ohio 45255 for purposes of renewing his "Driver's License" as defined by ORC 4507.01.

19. Mr. Cornelius was seeking a renewal of his driver's license and paid the Deputy Registrar \$28.70 via debit card on February 20, 2019. The \$28.70 fee included the \$1.50 lamination fee and was for the "non-federal" driver's license.

20. Mr. Cornelius did not receive his Driver's License that day as the Deputy Registrar only processed his application and did not provide any other service.

**Plaintiff Aaron Hoyt**

21. On August 6, 2018 Plaintiff Aaron Hoyt went to the Deputy Registrar office located at 3034 Navarre Avenue, Oregon, OH 43616 for the purposes of obtaining an "Identification Card" as defined by ORC 4507.01.

22. Mr. Hoyt was seeking a renewal of his Identification Card and paid the Deputy Registrar \$16.25 in cash on August 6, 2018 which included the \$1.50 lamination fee.

23. Mr. Hoyt did not receive his Identification Card that day as the Deputy Registrar only processed his application and did not provide any other service.

**Plaintiff Caitlin Rader**

24. On September 14, 2018, Plaintiff Caitlin Rader went to the Deputy Registrar office located at 6901 Rockside Rd, Cleveland, OH 44131 for purposes of renewing her "Driver's License" as defined by ORC 4507.01.

25. Ms. Rader was seeking a renewal of her driver's license and paid the Deputy Registrar \$28.70 via debit card on or about September 14, 2018. The \$28.70 fee included the \$1.50 lamination fee and was for the "federal" driver's license.

26. Ms. Rader did not receive her Driver's License that day as the Deputy Registrar only processed his application and did not provide any other service.

### **CLASS ACTION ALLEGATIONS**

27. **Class Definition:** Plaintiffs bring this action pursuant to Ohio Rule of Civil Procedure 23 on behalf of a class of similarly situated individuals (the "Class"), defined as follows:

All individuals who paid a Lamination Fee to a Deputy Registrar for the State of Ohio on or after July 2, 2018.

28. **Numerosity:** Upon information and belief, the Class consists of millions of members. According to a recent news article, the state of Ohio issued 2.6 million Licenses and 448,000 ID Cards in 2018, which is an average of 254,000 Licenses and ID Cards per month.<sup>3</sup> Using this average monthly total, approximately 2,159,000 individuals paid the Lamination Fee in the 8½ months since Deputy Registrars stopped laminating Licenses and ID Cards. Accordingly, the Class is so numerous that joinder of all members is impractical. Although the exact number and identities of Class members is presently unknown, that information can be ascertained through discovery. Class members can easily be identified through Defendant's records, as Class members necessarily provided Defendant with their identifying information when they obtained their Licenses and ID Cards.

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<sup>3</sup> The Columbus Dispatch, *Ohioans Paying Driver's License Fee to Registrars for Service No Longer Performed*, available at: <https://www.dispatch.com/news/20190312/ohioans-paying-drivers-license-fee-to-registrars-for-service-no-longer-performed>.

29. **Commonality and Predominance:** All members of the Class have been subject to and affected by a uniform course of conduct: specifically, being charged a Lamination Fee by Deputy Registrars despite the fact that Deputy Registrars no longer perform such a service. There are questions of law and fact common to the proposed Class that predominate over any individual questions.

30. **Typicality:** Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and Class members were all erroneously charged Lamination Fees, and were all damaged as a result.

31. **Adequacy:** Plaintiffs will adequately represent the interests of the Class and do not have adverse interests to the Class. Plaintiffs have retained competent counsel who have extensive experience litigating class actions such as this one.

32. **Superiority:** A class action is the superior method for the quick and efficient adjudication of this controversy. If individual Class members prosecuted separate actions it may create a risk of inconsistent or varying judgments that would establish incompatible standards of conduct.

**COUNT ONE**  
**(VIOLATION OF OHIO CONSTITUTION)**  
**(On Behalf of Plaintiffs and the Class)**

33. Plaintiffs repeat and reallege paragraphs 1 through 36 with the same force and effect as though fully set forth herein.

34. Article 1, Section 16 of the Ohio Constitution guarantees that every person injured in his or her "lands, goods, person, or reputation shall have remedy by due course of law." "Though it uses slightly different language, Article 1, Section 16 of the Ohio Constitution provides the same" due process rights afforded by the United States Constitution. *In re Adoption of H.N.R.*, 145 Ohio St. 3d 144, 150 (2015).

35. Consistent with these due process requirements, “an administrative agency can exercise only those powers that are expressly conferred upon it by the Ohio General Assembly.”

*E.g., Ohio Fresh Eggs, L.L.C. v. Boggs*, 183 Ohio App. 3d 511, 518 (2009).

36. Under the Driver’s License Law, only “a Deputy Registrar laminating” a License or an ID Card is permitted to retain the “fee charged for lamination.” O.R.C. § 4507.23(F); O.R.C. § 4507.50(A).

37. As of July 2, 2018, Deputy Registrars stopped laminating Licenses and ID Cards, but nevertheless continued to charge the Lamination Fee for a service that they were not performing.

38. Accordingly, Deputy Registrars—acting on behalf of the BMV—exceeded their statutory authority with respect to the collection of Lamination Fees since July 2, 2018.

39. The BMV’s continued collection of Lamination Fees violated the Ohio Constitution’s guarantee of “due course of law” because it imposed a fee on Plaintiffs and Class members in excess of what is statutorily authorized.

40. Plaintiffs and Class members were harmed as a result of the BMV’s abuse of power because they were required to pay Lamination Fees to Deputy Registrars in connection with a service that Deputy Registrars no longer perform.

**COUNT TWO**  
**(EQUITABLE RESTITUTION/UNJUST ENRICHMENT)**  
**(On Behalf of Plaintiffs and the Class)**

41. Plaintiffs repeat and reallege paragraphs 1 through 36 with the same force and effect as though fully set forth herein.

42. “The purpose of an unjust enrichment claim is not to compensate the plaintiff for loss or damage suffered by the plaintiff, but to enable the plaintiff to recover the benefit he has

conferred on the defendant under circumstances in which it would be unjust to allow the defendant to retain it.” *Barrow v. Vill. of New Miami*, 104 N.E.3d 814, 818 (Ohio Ct. App. 2018); *San Allen, Inc. v. Buehrer*, 11 N.E.3d 739, 781 (Ohio Ct. App. 2014). Equitable “restitution is the remedy for the unjust enrichment of one party at the expense of another.” *Id.*

43. “To prevail on a claim for unjust enrichment, a plaintiff must demonstrate that: (1) he conferred a benefit upon the defendant, (2) the defendant had knowledge of the benefit, and (3) the defendant retained the benefit under circumstances where it would be unjust to do so without payment.” *Id.*

44. Plaintiffs and Class members conferred a benefit on Deputy Registrars—acting on behalf of the BMV—in the form of the monies paid to satisfy the Lamination Fee.

45. The BMV had knowledge of that benefit, as the Lamination Fee is reflected on the schedule of fees published by the BMV. *See, Exhibit A.*

46. The BMV’s retention of monies Plaintiffs and Class members paid in connection with a Lamination Fee would be unjust because those Lamination Fees were imposed in connection with a service that Deputy Registrars no longer perform.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs E.M, David Cornelius, Aaron Hoyt, and Caitlin Rader individually, and on behalf of the Class, pray for an Order as follows:

- A. Finding that this action satisfies the prerequisites for maintenance as a class action and certifying the Class defined herein;
- B. Designating Plaintiffs as representatives of the Class and their undersigned counsel as Class Counsel;
- C. Entering judgment in favor of Plaintiffs and the Class and against Defendant;

- D. Awarding Plaintiffs and the Class the amounts they paid in connection with erroneously charged Lamination Fees, plus interest;
- E. Awarding Plaintiffs and the Class attorneys' fees and costs, including interest thereon, as allowed or required by law; and
- F. Granting all such further and other relief as this Court deems just and appropriate.

Respectfully Submitted,

/s/ Marc E. Dann

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