IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

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NIL GOVIND DAS, SAED GULED, STEFFANI MOWAT, ROSARIO JUAREZ ALEGRIA, VICTOR ESCOBEDO, and JORGE ROSILLO ZARAGOZA, on behalf of themselves and others similarly situated,	Civil Action No.
Plaintiffs,	COMPLAINT—CLASS ACTION
V.	
BERT BRANTLEY, in his official capacity as Commissioner of the Georgia Department of Driver Services,	
Defendant.	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

NATURE OF THE ACTION

1. This action challenges a policy of the Georgia Dterpent of Driver Services ("DDS") which discriminatorily denies deir's licenses to certain noncitizens living in Georgia on the basis of theire abge and which usurps the federal government's exclusive authority to determinimigration status and to classify non-citizens' immigration status.

2. DDS policy dictates that non-citizens who have **cour** lawful status within the meaning of the federal REAL ID Act aned feral employment authorization based on their pending applications djust status to lawful permanent resident—but who are unable to demoest carttinuous past authorized presence in the United States—are categorically ine exclusive authority to make immigration status **silis** ations. The individually named Plaintiffs bring this action on behalf of **rthe** and a class of all others similarly situated to obtain preliminary and permetation preliminary and permetation that DDS' policy violates the Fourter Atmendment and is preempted by federal law.

4. DDS' policy is subjecting thousands of Georgians, uding Plaintiffs and members of the proposed class, to irreparatorie by depriving them of the vital ability to drive. DDS policy sharply curtaits ability of Plaintiffs and class members to drive their children to school and medippointments, to attend religious services, to seek and maintain employment stablish and run small businesses, and to otherwise participate in theolifthe communities in which they seek permanent residence.

5. If the individuals affected by this policy do driviteey are subject to criminal prosecution for driving without a Geor**gia**ense. Penalties range from a minimum of a \$500 fine and from two days to up tyzear imprisonment for the first offense, with penalties rising to a maximufrfizze years in prison and a \$5,000 fine for the fourth (or subsequent to therefor) offenseSeeGa. Code Ann. §§ 40-5-20(a), 40-5-121(a). A conviction for driginvithout a Georgia Iraxee mhax rivoin g w6dtolr,

121(b)(1), and could negatively impact future **df**do obtain immigration relief. See, e.g.8 U.S.C. § 1182(a)(2)(B) (making inadmissiblet are raliens convicted of multiple offenses).

6. Plaintiffs and members of the proposed class willtimue to suffer serious and irreparable harm if DDS' policy is **eot**oined.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction overs that tion pursuant to 28 U.S.C. § 1331 because this action arises undeduntited States Constitution and laws of the United States, and pursuant to £80U § 1343 because this action seeks to redress the deprivation, under colorate staw, of Plaintiffs' and class members' civil rights and to secure equitable oneotrelief for the violation of those rights.

8. Plaintiffs seek declaratory, injunctive and othepropriate relief, pursuant to 28 U.S.C. §§ 2201 and 2202; FederadsRoftCivil Procedure 23, 57, and 65; and 42 U.S.C. § 1983.

9. Venue is proper under 28 U.S.C. § 1391(b) and LRcde 3.1.

Plaintiffs applied for driver's licenses are locateithin this Division, and all such offices are located within this District. DDS is fursing to issue driver's licenses to Plaintiffs pursuant to a policy that was generated is administered by DDS' headquarters in Conyers, Georgia, which is located in this District and this Division. Ga. Comp. R. & Regs. R. 375-1-1-.01(2).

PARTIES

Plaintiffs

Plaintiff Nil Govind Das was born in India and is not a U.S. citizen.
He currently resides in Atlanta, Georgia.

11. Das has filed a form I-485 application for adjustment fragment resident based on his marriageutos. citizen. That application is pending with United States Citizenship and Immaning Services ("USCIS"). USCIS granted Das work authorization and issued him

his presence in the United States was continuoaustly orized prior to filing his application for adjustment of status.

12. DDS had granted Das a driver's license in previge ars based on his pending application for adjustment of status. Ibr Earry 2016, however, DDS denied his application to renew his driver's license of a new DDS policy, DDS staff informed Das that he is not eligible follicense because they believe he lacked lawful immigration status before applying for a fault to lawful permanent resident. DDS staff further informed Drast he is ineligible for a driver's license until his application to adjustise is granted.

13. As a result of DDS' decision to deny him a licen Beas has experienced significant disruption to his ability steek and maintain employment, especially because he is no longer able to work is inprevious capacity as an Uber driver. Das is also unable to volunteer at his the maintain depend on his spouse, who has a license, for basic transport atiends such as going to work and shopping for groceries.

14. Plaintiff Saed Guledwas born in Somalia and is a citizen of Canada. He is not a U.S. citizen. Guled resides in Stone Main, Georgia.

15. Guled has filed a form I-485 application to adjuststus to lawful permanent resident based on his marriage to a U.S.

and supervise projects has been substantially curta

23. In February 2016, DDS denied Juarez Alegria's **applib** to renew her driver's license. When Juarez Alegria told DSDAFf, in response to a question, that she had entered the United States without an attribution, DDS staff told her that she would not be eligible for a driver's lisenuntil she got her green card, also known as a permanent residency card. With **dritve**r's license, it is very difficult for Alegria Juarez to commute to her **ja**ba carpet factory, where she works an early morning shift, and to transport **cheil** dren to their appointments and activities.

24. Plaintiff Victor Escobedowas born in Mexico and is not a U.S. citizen. Escobedo currently resides in Kennesavor **Ga**.

25. Escobedo has filed a Form EOIR 42B Application Characellation of Removal and Adjustment of Status for Certain Nomperent Residents. That application is currently pending with the ImmigratiCourt in Atlanta.

26. USCIS granted Escobedo work authorization and **idshire** an EAD showing his federal classification as non-citizeithwan application to cancel removal and adjust status to permanent residen**csyupat** to 8 C.F.R. § 274a.12(c)(10). The EAD authorizes him to workhie United States until September 15, 2016 and is eligible for renewal evhils application for cancellation of removal and adjustment of statues. Escobedo cannot

prove that his presence in the United States watsincously authorized prior to his applying for adjustment of status.

27. DDS had previously granted Escobedo a driver's bie ebased on his pending application for cancellation of removal **andij**ustment of status. In February 2016, however, DDS denied Escobedo's **captipin** to renew his driver's license. At that time, DDS staff told Escobedo **that** is ineligible for a license because DDS believes he lacks legal status in **thise dU**States. DDS staff also told Escobedo that he will not be eligible for **caeh** is until his application to adjust status is approved.

28. Without a driver's license, it is impossible forded bedo to both comply with the law and do his job as a handymanic law requires him to drive long distances throughout Georgia and to otheestat work in customers' homes and businesses. Escobedo's income supports hisawide hree U.S. citizen children.

29. Plaintiff Jorge Rosillo Zaragozawas born in Mexico and is not a U.S. citizen. Rosillo Zaragoza currently reside **Fonest** Park, Georgia.

30. Rosillo Zaragoza has filed a Form EOIR 42B Applicatfor Cancellation of Removal and Adjustment of StatusCiertain Nonpermanent

Residents. That application is currently pendinthwhile Immigration Court in Atlanta.

31. USCIS granted Rosillo Zaragoza work authorization is sued him an EAD showing his federal classification as notize in with an application to cancel removal and adjust status to permanentenessic pursuant to 8 C.F.R. § 274a.12(c)(10). The EAD authorizes him to work in United States until November 25, 2016 and is eligible for renewal while application for cancellation of removal and adjustment of status is Zaragoza also needs a license to drive his blinud lotter home from work and

of Naturalization," U.S. Const. art. I, § 8, cl.ahd to "regulate Commerce with foreign Nations," U.S. Const. art. I, § 8, cl. 3.

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period of authorized stay. However, he may latequize lawful permanent resident status by a means approved by Congressexetomple, through marriage to a U.S. citizenSee8 U.S.C. § 1255 (2016). Another person might ethter United States without authorization from the fedgeavernment, but later become eligible to cancel removal proceedings institutgeliast her by the federal government and adjust status to lawful permanesideeat—for example, based on a showing that her United States citizen spousschild would suffer exceptional and extremely unusual hardship if she were removed the United StatesSee8 U.S.C. § 1229b(b) (2016).

39. With the federal REAL ID Act, Congress set standator the issuance of state driver's licenses that federahaiges will accept for official purposes, such as accessing federal facilitiesbaadding federally regulated aircraft. Pub. L. No. 109-13, § 201(3), 119 Stat1,2313 (codified at 49 U.S.C. § 30301 note).

40. The REAL ID Act provides that the Secretary of Holeannel Security shall determine whether a state is meeting their resource of the REAL ID Act based on certifications made by the state to the Secret of Homeland Security. Pub. L. No. 109-13, § 202(a)(2). A state may received eral grant money to assist it in complying with the ActId. § 204(a).

41. Georgia, along with at least 21 other states aedDibtrict of Columbia, has agreed to comply with REAL ID, they reposuring that its residents may use their Georgia driver's licenses to enter fall facilities and board commercial domestic flight's.

42. To issue a REAL ID-compliant driver's license to appplicant, a state must require documentary evidence that the applicass "lawful status," as defined by the REAL ID ActId. § 202(c)(2)(B).

43. The REAL ID Act establishes nine categories of **pess**who have "lawful status," as required to receive a REAL **IDro**pliant driver's license: (1) citizens or nationals of the United States; (2) radi lawfully admitted for permanent or temporary residence in the United States; (3) aliens with conditional permanent resident status in the United States; (3) who have an approved application for asylum in the United States or vembered into the United States in refugee status; (5) aliens with a valid, unexpined immigrant visa or nonimmigrant visa status for entry into the United States; (6) aliens with a pending application for asylum in the United States; (7) radi with a pending or approved application for temporary protected status in the states; (8) aliens with

² Press Release, Gov. Nathan Deal, Office of the Growr, Homeland Security Determines Georgia Compliant with Real ID (Dec. **201**2), https://gov.georgia.gov/press-releases/2012-1262164 and-security-determines-georgia-compliant-real-id.

approved deferred action status; and (9) alients avpending application for adjustment of status to that of an alien lawfullymatted for permanent residence in the United States or conditional permanent restiditatus in the United States. Pub. L. No. 109-13, § 202(c)(2)(B), 119 Stat. 23/13 (codified at 49 U.S.C. § 30301 note); 6 C.F.R. § 37.3 (2016).

44. A person who is not a U.S. citizen and is physycallesent in the United States may be eligible to adjust statuated and a specific criteria, such as her marriage to a UitSzen or her status as an asylee, refugee, or a victim of certain crimes. This apattion is accomplished by filing USCIS Form I-485, titled "Application to RegisteenPhanent Residence or Adjust Status."

45. A person who has filed an I-485 application to **adjutate** to lawful permanent resident may apply for USCIS authorizatio work lawfully in the United States. 8 C.F.R. § 274a.12(c)(9) (2016) SCIS grants work authorization, it issues that person an EmploynAction Document

46. A non-citizen who is in removal proceedings in **ligra**tion Court, has been physically present in the United Stateatfleeast ten years, can show good moral character during his residence, and tass. citizen or lawful permanent resident parent, child or spouse who dwsuffer exceptional and extremely unusual harm if the non-citizen were needbmay also apply to adjust status to lawful permanent reside Stee U.S.C. § 1229b(b) (2016). To accomplish this, the non-citizen must file a for fol R-42B application for cancellation of removal and to adjust status before immigration judge.

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who has applied for cancellation of removal and addition of status, USCIS issues that person an EAD. The EAD is coded to **sthat** whe recipient is in category (c)(10) (shorthand for 8 C.F.R. § 274ac)(20)), a category comprised of people with pending EOIR-42B applications to complement and adjust status

51. An applicant can demonstrate that he has a pending

under federal immigration law" or "[v]erificationf dawful presence as provided by Code Section 40-5-21.2.Ga. Code Ann. § 40-5-21.1(a).

55. Under Georgia law, a temporary license issued by DD'valid only during the period of time of the applicant's authed stay in the United States or five years, whichever occurs first." Ga. Code A§r40-5-21.1(a).

56. DDS does not uniformly treat people who are deemed

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clerk refused to issue him a driver's license, **nath**er gave Das a letter saying that his application would be reviewed by the DDS Officted nvestigative Services ("OIS"), and that he should call that office afteree business days.

65. About one week later, Das called OIS. Investig Stater at OIS asked Das when and how he had entered the United Stand he asked Das to send his I-94 for frand a copy of his application for residency to ODS then emailed Investigator Slater various documents uitide copies of his Indian passport, his R-1 visa, his I-94 form reflecting admission into the United States

67. Around March 3, 2016, Das received a letter from DD pying that his previous driver's license had been cancelled.

68. On or about March 22, 2016, Das visited OIS in **prenand** gave the following documents to a clerk: (1) a copy of hism in I-797C reflecting receipt of his application to adjust status to lawful permatrices ident; (2) a printout of his Case Status from the USCIS web[§] ite flecting that the last action by USCIS on his pending application to adjust status was arriving with USCIS in March 2012; (3) a copy of his current EAD; (4) a copyhisf Social Security card; and (5) two documents with his name and home address.

69. A few days later, Das called OIS and asked to speakwestigator

ineligible for a driver's license if he cannot peocontinuous authorized presence in the United States prior to filing an applicationadjust status.

72. As a result of DDS' decision to cancel Das's lice, nB as risks losing his job as a night clerk at a gas station becature response or tation difficulties related to not having a driver's license.

73. As a result of DDS' decision to cancel Das's lice, nB as has also lost income. Das worked as an Uber driver for approximitathree months until his driver's license expired. Without his license, has lost this extra income on which his family relied.

74. DDS' decision to cancel Das's license has also **figured** with his religious practice. Before DDS canceled Das's **licente** for the regularly volunteered at a Hindu temple in Atlanta, cooking and serving **refet** the community. This

77. Guled is married to a U.S. citizen. Guled and hife wave four U.S. citizen children, all under ten years old.

78. In October 2012, Guled applied to USCIS to adjust that to lawful permanent resident based on his marriage. His lapperication for adjustment of status is pending.

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82. Several days later, when Guled called OIS, a **dbdd** him to submit to that office all the documents that he had **sould** SCIS when he applied to adjust status to lawful permanent resident.

83. Guled went to the OIS office in Conyers, Georgiad presented the documents that he had submitted to USCIS when pliced to adjust status to lawful permanent resident. An OIS employee madepay of these documents.

84. In or around late February 2016, Investigator Beofolism OIS called Guled and said she needed proof of the date where dentered the United States. Guled returned to OIS and showed Investigator Bedroik passport and a document he received from Customs and Border Priotewhen he entered the United States from Canada in 2006. Investigator Bescasked him when he got married. When Guled told her, Investigator Brookied she had overstayed his "visa." She said she would review Guled's applicatiand call him back.

85. When Investigator Brooks called Guled, she saide Gulould not be eligible for a driver's license until he receive is breen card.

86. In late February 2016, Guled received a letter for S saying that his license had been cancelled, effective as of fur any 16, 2016.

87. On March 9, 2016, Guled went to the DDS OIS office onyers and gave the following documents to Investigator McG atiecause Investigator

Brooks was not in the office: (1) a copy of his find F797C, reflecting USCIS' receipt of his application to adjust status to lawpfermanent resident; (2) a printout of his Case Status from USCIS, which rettlethat the last action that USCIS took on his pending application to adjustustavas to schedule an interview for August 8, 2013; (3) a copy of his EA(24) a copy of his Social Security card; and (5) two documents showing histenand residential address. Investigator McClain told Guled to call her backsieveral days.

88. Several days later, Guled called OIS and askeptetaksto Investigator McClain. He was told that Investigat/torClain was not in the office that day, but that he should call back the follog/vineek and speak to Investigator Brooks.

89. Guled called OIS and left a message for Investigatooks. Guled has not heard back from Investigator Brooks sihee.t

90. The office of Georgia Representative Henry C. "Handshnson, Jr. sent an inquiry to DDS about Guled, after Guled potationed to Rep. Johnson's office. On March 28, 2016, DDS responded by encode Rep. Johnson's office: "Investigative Services has spoken with this cuseto and informed the customer that the information provided did not show law ftalts."

91. Guled currently lacks a valid Georgia driver's **hse**.

92. Guled meets all the eligibility requirements for Georgia driver's

being reviewed by the OIS, and that she should **trat** loffice after three business days.

100. Soon after, Mowat called OIS and spoke to an inigrator. The investigator told her to send additional documetortshat office. Mowat mailed OIS a copy of her Social Security card, a copyeorf EAD, several forms that she received from USCIS, two documents with her name harme address, a copy of her Canadian passport, and a copy of her Ontarioa Ca driver's license.

101. Soon after Mowat sent these documents, Investigizatoris from OIS called Mowat and asked her when she had last **enthee**U.S. and what visa she had applied for. Mowat asked Investigator Davisator her immigration lawyer, Edivette Lopez-Benn, and gave her Ms. Lopez-Bephosne number.

102. Investigator Davis and Ms. Lopez-Benn spoke sotter, *a*fh early February 2016. Investigator Davis asked Ms. LopezrBto send the I-94 Arrival/Departure Record issued to Mowat when shrieved in the United States, as well as the receipts that USCIS issued to Motovrater immigration petition related to the domestic violence she had sufferend, her I-485 application to adjust status to lawful permanent resident. Ms.elzeBenn faxed these documents to Investigator Davis.

103. Later in the month of February 2016, Investigatarv B told Ms. Lopez-Benn that Mowat would not qualify for a ligenunless she 79

113. Juarez Alegria has an EAD from USCIS which allowes to work in the United States from February 3, 2016 to Febr2a2017. Juarez Alegria's EAD reflects that she is in category (c)(9), indice that she has a pending I-485 application for adjustment of status.

114. Shortly after she received her U visa in March 20/L@arez Alegria applied for and was granted a four year drivecentise from DDS. That license will expire on April 29, 2016.

115. In late February 2016, Juarez Alegria went to the Soloffice in Calhoun to renew her Georgia driver's license. Des representative did not renew her license, instead giving Juarez Alegrietter that said that her application would need to be reviewed by OIS and the should call OIS to follow up.

116.

nothing that her immigration attorney could do besee until Juarez Alegria got her green card, she could not get a license.

118. About two weeks later, Juarez Alegria went to DMDeS office in Dalton, Georgia to again apply to renew her lice Schee brought her Social Security card, her old EAD, her new EAD, passportd expiring driver's license. A DDS representative informed Juarez Alegria th Description of give her a driver's license until she obtained her green card.

119. Juarez Alegria meets all the eligibility requirentsefor a Georgia driver's license. Juarez Alegria would be grantedesorgia driver's license if not for DDS' unlawful policy of determining that a perswith a pending application to adjust status is ineligible for a driver's license for a driver's license authorized presence in the United States prioiting fan application to adjust status.

120. The imminent expiration of her driver's license **ess**ignificant problems for Juarez Alegria. The carpet factory **refise**he works to support herself and her two children is located about 15 miles filtern home. Public transportation is not available for this commute.

121. Without a driver's license, Juarez Alegria canaovtfully transport her children to and from appointments and schotovities, drive to medical

appointments and the grocery store, and run other berrands essential to her family life.

122. Plaintiff Victor Escobedolives in Kennesaw, Georgia. He works as a handyman and does remodeling work throughout Georgid in other states.

123. Escobedo is a Mexican citizen. He has lived in **Ulh**eted States since 1990.

124. In 2008, Escobedo was arrested for driving with examplined license. He was subsequently referred to immigration autiles; who asserted that he was here without legal authorization and instituted overal proceedings against him. Escobedo filed a Form EOIR 42B Application for Cellination of Removal and Adjustment of Status for Certain Nonpermanent Restiction October 2008. Escobedo's EOIR 42B application is still pending.

125. Since he filed his EOIR 42B application, Escobe**ds heceived** several one-year EADs from USCIS. Escobedo nowahas AD from USCIS which allows him to work in the United States from the performance of the several of the several one-year EADs from USCIS. Escobedo's EAD reflects the the several of the several one-year tender of status.

126. Escobedo has received Georgia driver's licensescinious years. His most recent Georgia driver's license expireduly 2014. Escobedo obtained that license from DDS after presenting his EAD, Stoccial Security card, and documents showing his Georgia residency.

127. On or around February 2, 2016, Escobedo applied foriver's license at the DDS office in Kennesaw. He presents dEAD, passport, Social Security card, and documents showing his Georgialeecy. A DDS clerk refused to issue a license, instead giving Escobedo a ptapestated that his application needed to be reviewed by OIS, and that he should the ad office.

128. Soon after, Escobedo called OIS and spoke to **ligzeter** Heard. Investigator Heard asked him to fax or bring to **QIIS** he immigration documents that Escobedo has. Escobedo then brought the **follood** ocuments to OIS: his EAD, his Social Security card, his Mexican passpoord several documents that he had received from USCIS, including the Form **7**-**Q9** effecting receipt by USCIS of his application for cancellation of rembared adjustment of status. A woman at OIS made copies of these documents.

129. Soon after, Investigator Heard called Escobedosaind that he was reviewing Escobedo's documents.

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130. On or around February 15, 2016, Escobedo wentet DDDS office in Cartersville, Georgia to again attempt to renewlibies need. He was given a paper notifying him that his license had been suspended, that he should call OIS.

131. Escobedo called OIS and spoke to Investigator Helavelstigator Heard told Escobedo that he is not eligible forized's license because according to DDS — he does not have lawful statutse United States. Investigator Heard said Escobedo will not be eligibor a driver's license until he receives his green card.

132. Escobedo received in the mail a letter from DDS fying him that his driver's license has been cancelled as of Farly rus, 2016.

133. Escobedo currently lacks a valid Georgia driveidentse.

134. Escobedo meets all the eligibility requirements a Georgia driver's license. Escobedo would be granted a Georgia disivieense if not for DDS' unlawful policy of determining that a person with pending application for cancelation of removal and adjustment of status eligible for a driver's license if he cannot prove continuous authorized presended by hited States prior to filing an application for cancellation of removal and removal and adjustment of status.

135. Escobedo's work requires him to drive. He is settiple by ed and performs work at his customers' homes and busitsets be ughout Georgia and in

other states, including Alabama, Tennessee and Bldrlis work involves painting, roofing, and pressure washing, amongratizets, and he needs to drive a 0.7267425()--0.97636(s)n15.6766(h)-9.12464(p)-18.2514(r)4.77425(i)1n6.3997(o)-0..25

not for DDS' unlawful policy of determining thatpærson with a pending application for cancelation of removal and adjustme

149. On or about March 27, 2016, Rosillo Zaragoza receiver summons for driving without a valid Georgia license, in **tait**ion of Ga. Code Ann. § 40-5-20. Rosillo Zaragoza paid a \$550 fine, whischpiproximately one week's income for him. He is scheduled to appear in counthis charge in May 2016.

CLASS ACTION ALLEGATIONS

150. Plaintiffs bring this action on behalf of themselvernd all those similarly situated pursuant to Federal Rules of *ICPv*ocedure 23(a), 23(b)(1)(A) and 23(b)(2).

153. Questions of law and fact are common to the classlyding (1) whether Defendant's policy violates the Equal Problem Clause by discriminating between groups of non-citizens whom federal lawards as having "lawful status" for the purpose of establishing eligibility driver's licenses; and (2) whether Defendant's policy is preempted becausized to make immigration classifications independent from those ognized by the federal government and inconsistent with federal law.

154. Plaintiffs' claims are typical of the claims of tblass. Defendant has a policy of refusing to issue driver's licensespecople with pending applications for adjustment of status when such individualsumable to show to DDS' satisfaction that they had authorized presencelforeriods in which they were physically present in the United States. This postipplies with equal force to all members of the proposed class.

155. Plaintiffs will fairly and adequately represent **the**erests of all members of the proposed class because they size from ebehalf of the class as a whole and have no interests antagonistic to other breas of the class. Plaintiffs, like members of the proposed class, cannot obtained licenses as a result of Defendant's unlawful policy and seek to have the drive icenses for which they are

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eligible under federal and state law.

156. Plaintiffs are also fairly and adequately representity their counsel. The Southern Poverty Law Center specializes in dig/ints litigation and has substantial expertise in class action litigation diffication to vindicate the civil rights of immigrants. The Law Offices of Justin Whaney, LLC specializes in immigration law, and has substantial experiencessing individual noncitizens in challenging DDS' refusal to issue drised icenses.

157. Under state law, if any person believes that DD®risngfully refusing to grant her a drin's license, she has a right to seek review of that decision in the superior court for the County iniom/hshe residesSeeGa. Code Ann. § 40-5-66(a). Prosecution of separate actions ggrieved class members within various jurisdictions throughout Georgia shcreates a risk of inconsistent or varying adjudications with respect to individuates members that would establish incompatible standards of conduct foreDefant in the future.

158. Defendant has acted and will act on grounds gelyæraplicable to the class in creating and implementing the unif**porticy** of denying driver's licenses to people with pending applications fojrustednent of status as a result of DDS' determination that such individuals cannot **dest**rate continuous authorized presence prior to filing for adjustmentstatus. Therefore, final relief declaring this policy unlawful and enjoining itsfercement is appropriate with respect to the class as a whole.

CAUSES OF ACTION

COUNT ONE

FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE;

42 U.S.C. § 1983

159. The foregoing allegations are repeated and inc**atpd**ras though fully set forth herein.

160. Plaintiffs assert a claim pursuant to 42 U.S.C9§31for violation of the Equal Protection Clause of the Fourteenth Armend to the U.S. Constitution.

161. The Fourteenth Amendment to the United States **Cotist** provides: "No State shall . . . deny to any perwithin its jurisdiction the equal protection of the laws."

162. Defendant has and enforces a policy of denyinged is vicenses to non-citizens who have currently pending application adjustment of status where such persons cannot prove to DDS that the theory of their past presence in the United States was authorized. 163. During all relevant times, including in the promation and enforcement of this policy, Defendant has actedeucodlor of state law.

164. Defendant's policy impermissibly discriminates argatiPlaintiffs and class members — all of whom are currently authorize the federal government to stay and work in the United States — on the states afstheir alienage.

165. Defendant's policy impermissibly discriminates between Plaintiffs and other categories of non-citizens, such as rebeferation recipients, who are issued driver's licenses in Georgia even if they use to prove prior continuous authorized presence.

166. Defendant's policy also impermissibly discriminabees ween noncitizens who are classified identically under feed deaw.

167. Defendant's policy denies Plaintiffs and class mershequal protection of the laws in violation of the Fourter Amendment to the United States Constitution.

COUNT TWO

CLAIM FOR EQUITABLE RELIEF TO ENFORCE THE SUPREMACY CLAUSE AND ENJOIN STATE ACTION PREEMPTED BY FEDERAL IMMIGRATION LAW

168. The foregoing allegations are repeated and incatpdras though

- c. Appoint counsel as class counsel pursuant to R3(lg)2
- d. Declare that DDS' policy of refusing to issue drivedicenses to people currently classified by the federal government acting to 8 C.F.R. § 274a.12(c)(9) or (c)(10), based on DDS' determinathat such persons cannot prove continuous prior authorized presevices the Equal Protection Clause of the Fourteenth Amendmented Unhited States Constitution;
- e. Declare that DDS' policy of refusing to issue drisedicenses to people classified by the federal government according @B.R. § 274a.12(c)(9) or (c)(10), based on DDS' determinathat such persons cannot prove continuous prior authorized presevioletes the Supremacy Clause of the United States Constitution preempted by federal law;
- f. Issue a preliminary injunction, later to be made pe

g. Issue a preliminary injunction, later to be madenpeenent, enjoining

Justin W. Chaney (GA Bar No. 120681) Law Offices of Justin W. Chaney, LLC 1801 Peachtree St. NW, Suite 110 Atlanta, GA 30309 Tel: (404) 475-1616 Fax: (678) 686-8473 jchaney@lawchaney.com