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BY CERTIFIED MAIL

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August 2, 2018

Herb Barbot
Deputy Commissioner for Operations and
Customer Service
Department of Motor Vehicles
6 Empire State Plaza
Albany, New York 12228

Chief Thomas M. Chan
Chief, Transportation Bureau
New York City Police Department
One Police Plaza
New York, New York 10038

RE: Miscoding, Unlawful Surcharges and Points for Bicycling Summonses

Dear Deputy Commissioner Barbot and Chief Chan:

It has come to our attention that since the NYPD switched to a tablet-based system for generating moving violation summonses earlier this year, significant numbers of cyclist summonses have been mis-coded as motorist summonses. This has resulted in the DMV unlawfully subjecting cyclists to motorist-only surcharges and penalty points on their operator licenses. As explained in greater detail below, the current rate of mis-coding is unacceptable, easily avoidable, and imposes an unfair burden on cyclists that must be promptly corrected.

Applicable Law. Moving violations by cyclists are not subject to surcharges or penalty points. The surcharge to be paid in connection with traffic violations pursuant to Sections 1809 and 1809-e of the Vehicle and Traffic Law applies only to motorists, and not to “violations by pedestrians or bicyclists.” Similarly, the DMV point system for operator licenses specifically provides that there shall be no point value assigned to “any pedestrian or bicycle violation.” 15 CRR-NY 131.3(b)(7)(v).

Miscoding of Cyclists’ Summonses. Nonetheless, numerous cyclists have approached this office complaining that when attempting to enter a plea online on the DMV’s website to a moving violation, the website indicated that the cyclist would be required to pay a surcharge and accept penalty points if s/he sought to enter a guilty plea. Screen prints demonstrating this mis-coding of cyclist summonses and consequent unlawful surcharges and penalty points are attached as Exhibit 1. *The attached screen prints reflect only a small sample of the much larger number of mis-coded cyclist moving violations that have come to our attention.*

DMV’s History of Miscoding Cyclist Summonses. In 2014, this firm filed a class action complaint, styled Cohen v. State of New York, No. 14 cv 7496 (PAC) in the Federal District

Court for the Southern District of New York, alleging that the DMV systematically miscoded cyclists' summonses, which resulted in unlawful surcharges and penalty points. As a result, the DMV identified hundreds of cyclists' summonses that had been mis-coded as motorist violations. See Letter of DMV Commissioner Barbara Fiala to State Senator Brad Hoylman (Sept. 22, 2014) (attached as Exhibit 2).

As a defense to liability in the Cohen action, the DMV maintained that the mis-coding was due to "data entry errors" by NYPD officers who, according to the DMV, failed to adequately identify the summons as cycling summonses by entered a "B" for "bicycle" in the "Vehicle Type" box of the summons form. As a result of the lawsuit, the DMV redesigned its summons form and issued written guidance to the NYPD concerning the use of the "vehicle type" box on the form. Id.; see also Declaration of Ida L. Traschen in Cohen v. State of New York (Jan. 15, 2015) (attached as Exhibit 3), at 5-8.

Resumption of Miscoding with the Tablet Entry System. The NYPD's new tablet-based entry system for traffic summonses should have eliminated the possibility of data entry error. When an issuing officer codes a summons as a cycling summons, that coding should remain constant through the processing of the summons and should govern the penalties applied by the DMV's automated ticket processing systems.

This is evidently not the case. As shown in Exhibit 1, summonses in which the "vehicle type" was accurately coded — digitally — as "bicycle," nonetheless appear in the DMV's online "Plead and Pay" system as motorist summonses, to which surcharges and points apply. For example, in the case of [REDACTED], it appears instead that officer Rosado issued four summonses for violation type of "NYC REDLIGHT" (which signifies in the DMV system a *motorist* violation) instead of "NYC BIKE/SKATE RDLGT" (the cyclist version of this violation code), even though the summonses all clearly indicate a vehicle type is "bicycle." In another case, [REDACTED] received two summonses at the same time from the same officer, one was coded as a cyclist violation ("NYC BIKE/SKATE RDLGT") and the second was for a motorist violation ("FLD YIELD PEDEST NYC"), for which points and a surcharge have been applied. In the case of [REDACTED], he paid the appropriate penalty for a summons issued for failing to stop at a stop sign while cycling (\$50.00), only to receive a notice that he owed the surcharge amount.

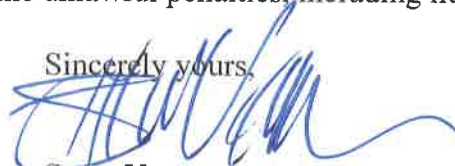
To prevent the unlawful application of surcharges and license points to cyclists, the tablet-based platform or application that NYPD officers use to enter moving violations should be programmed so that once the vehicle type is digitally entered by the issuing officer as "bicycle," only coding for violations recognized by the Plead and Pay system as cyclist violations can be entered into the violation fields of the form. The entit(ies) responsible for developing the programming for the tablet-based summons system — either the DMV, the NYPD, or both — must take this reasonable step to end the unlawful imposition of surcharges and points on cyclists.

Proposed Resolution. We request that the DMV and the NYPD promptly take the following actions to remedy past miscoding and prevent future miscoding:

- Generate a list of all summonses issued since the institution of the NYPD's tablet-based summons issuance system with a "vehicle type" of "bicycle," and review the violation field data for those summonses (at a minimum, the "ADJ VT CODE" and the "ADJ VIO DESCRIP" fields) to determine whether the codes are cycling summons codes by the DMV's Plead and Pay system for purposes of applying surcharges and penalty points;
- Re-code the violation fields of miscoded summonses identified as above;
- Issue written notices to the recipients of mis-coded summons, explaining the re-coding, along with refunds of any surcharges paid, and notice of the lifting of any penalty points erroneously applied;
- Issue notices to any automobile insurer who received information that penalty points were applied to any operator's license for a cycling violation, to the effect that the points were in error and have been rescinded *nunc pro tunc*;
- Revise the programming of the tablet-based summons entry system so that the record entrant's input choices in the ADJ VT CODE" and the "ADJ VIO DESCRIP" fields are constrained to only those violations that are recognized as cycling violations by the DMV Plead and Pay system;
- After revising the programming of the system as above, run a second search as in the first point above to identify mis-coded summonses issued during implementation of the remedial program, and remedy those miscoded summonses as above.
- Issue a public statement detailing the problem and DMV's remedial program so that cyclists not identified through the DMV's program as above will be on notice of the possibility they have been unlawfully penalized and of the opportunity to seek redress.

Thank you for your prompt attention to this matter. Please contact me directly to discuss this matter further. Your failure to do so will result in this firm pursuing other avenues of redress on behalf of New York City cyclists affected by the unlawful penalties, including litigation.

Sincerely yours,



Steve Vaccaro

cc: Timothy B. Lennon, General Counsel, New York State Department of Motor Vehicles
Lawrence Byrne, Deputy Commissioner for Legal Matters, NYPD
New York State Senator Brad Hoylman

Exhibit 1

Exhibit 2



STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES
6 EMPIRE STATE PLAZA
ALBANY, NEW YORK 12228
(518) 486-9786

BARBARA J. FIALA
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

September 15, 2014

Honorable Brad Hoylman
New York State Senate
322 Eighth Avenue, Suite 1700
New York, NY 10001

Dear Senator Hoylman:

Thank you for giving me the opportunity to respond to your letter of September 2, 2014, regarding tickets issued to bicyclists and returnable to the Traffic Violations Bureaus (“TVB’s”).

On or about August 13, 2014, we became aware that some bicyclists had incorrectly been assigned points and/or had surcharges incorrectly imposed for certain bicycle related violations of the Vehicle and Traffic Law. As your letter correctly indicates, such violations should not result in the assessments of points or the imposition of mandatory surcharges.

As a result, we reviewed TVB convictions on our records for the last 25 years in an attempt to identify the bicycle tickets on our records that contained erroneous point assessments and/or mandatory surcharges. After completing that review, we issued 84 refunds and removed points from 222 records. In addition, we found 570 pending tickets that would have resulted in improper surcharges/point assessments had the motorist plead to or been found guilty of the offense.

Our review of those tickets did not discover any systemic issues in either the “plead and pay” application or the TVB database in general, or, as your letter suggests, any “practice” of “unlawfully” charging surcharges and/or levying points. Instead, it appears that the errors are caused by improper data entry. This can be caused by carelessness of the data entry operator in recognizing that the ticket was issued to a bicyclist and/or the failure of the police to clearly or uniformly report the facts. In fact, over 50,000 bicycle tickets have been recorded into our system over the past 5 calendar years. As you can see, the percentage of data entry errors, while regrettable, is relatively small.

In addition to the correction of errors and issuance of refunds, our investigation of the issue has revealed some opportunity for improvement in the manner in which bicycle tickets are completed and recorded.

First, and most importantly, we will soon be issuing a memo to all law enforcement agencies covering the proper and uniform way to write tickets to bicyclists so that TVB staff can easily and quickly identify such tickets and distinguish them from those issued to vehicle operators. We have also changed our internal procedures to identify and segregate such tickets earlier in the process.

We will also be adding language to the next and subsequent print run(s) of tickets to alert bicyclists that bicycle violations are not subject to a mandatory surcharge.

Finally, we will include a statement on our plead and pay website to clarify that bicycle violations are not surchargeable, nor do they result in the assessment of points on a driver's record.

In the meantime, if any other errors are brought to our attention, we will expeditiously correct records and issue refunds as appropriate.

I can assure you that we take this matter very seriously. We have corrected all of the errors we have been able to identify, and have taken a number of steps to proactively minimize the likelihood of any such errors in the future, and we will continue to monitor the situation to assess whether our efforts have been successful.

Please feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Barbara J. Fiala".

Barbara J. Fiala

BJF:klb:#676-14

Exhibit 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RANDY COHEN, et al.,

Plaintiffs,

No. 14-cv-07496 (PAC)

-against-

THE STATE OF NEW YORK, et al.,

Defendants.

**DECLARATION OF
IDA L. TRASCHEN**

IDA L. TRASCHEN hereby declares as follows:

1. I am the First Assistant Counsel of the New York State Department of Motor Vehicles (the "DMV"). I have been an attorney in the Office of Counsel of the DMV for 22 years and have held my current position for seven years. I make this declaration, in support of defendants' motion to dismiss, based on my personal knowledge and my review of records maintained by the DMV in the ordinary course of its business.

Relevant DMV Regulations and Procedures

2. Plaintiffs in this case were issued police summonses returnable to the DMV's Traffic Violations Bureau (the "TVB"). The TVB, which was established pursuant to Article 2-A of the New York Vehicle and Traffic Law (the "VTL"), adjudicates traffic offenses, i.e. violations of the VTL that do not involve parking or pedestrians and which are not misdemeanor or felony offenses.

3. Approximately 1.2 million summonses returnable to the TVB are issued every year. Approximately 94% of these summonses, including those received by plaintiffs, are issued in New York City.

4. The DMV's Traffic Violations Division (the "TVD") is a subset of the TVB. Specifically, the TVD is the administrative unit that is responsible for entering police summonses returnable to the TVB into the DMV's adjudicatory system, i.e. the dedicated computer system that tracks all police summonses returnable to the TVB.

5. The TVD has one office, which is located in Albany, New York. There are 101 staff members in this office, including 42 data entry clerks who routinely enter summonses into the adjudicatory system as part of their job responsibilities. Another ten TVD staff members (the Help Desk staff and non-data entry supervisors) occasionally enter summonses into the system as necessary.

6. After issuing a traffic summons, the police department is responsible for forwarding a copy to the TVD. There is generally a lag of 7-10 days between the time a summons is issued by a police officer in New York City and the time the summons is received by the TVD staff in Albany.

7. It is the responsibility of the data entry clerks at the TVD to enter all of the information in each summons into the adjudicatory system records. Among the data fields included in each summons are "VEH. TYPE" (vehicle type) and "DESCRIPTION/NARRATIVE." When a summons is issued to a person operating a bicycle at the time of the violation, the police officer, in accordance with DMV instructions, must write "B" in the VEH. TYPE box and/or "bicycle" or "bike" in the "DESCRIPTION/NARRATIVE" box.

8. TVD data entry clerks are similarly, in accordance with DMV instructions, required to enter a vehicle code for all summonses they process. When a summons indicates that a bicycle was involved in the violation at issue, DMV procedures provide that the data entry clerk must make an entry in the adjudicatory system noting that fact.

9. A person who receives a police summons returnable to the TVB can respond in one of two ways: (i) plead guilty; or (ii) plead not guilty and request a hearing before an administrative law judge. The back of the summons informs recipients of both of these options (as does the DMV's website).

10. A guilty plea means that the recipient of the summons agrees to pay all surcharges and assessments and accept all penalties associated with the violation at issue.

11. There are four ways to enter a plea: (i) by mailing the plea to the TVD; (ii) by calling the TVD or the DMV's Call Center to enter the plea by telephone; (iii) by using the "plead or pay" application on the DMV's website; or (iv) by entering the plea in-person at a TVB office.

12. The TVB has ten offices (eight in New York City, one in Rochester and one in Buffalo), which employ a total of approximately 130 motor vehicle representatives. On any given day, approximately 50 of these representatives are assigned to the service counters in their respective offices for at least part of the day.

13. It is these representatives, when assigned to service counters, who are responsible for handling in-person pleas. In the event that such a plea is made before the TVD has entered the summons into the adjudicatory system, the TVB representative must enter the summons him or herself (including the vehicle code).¹

14. If a person is convicted – via guilty plea or after a hearing – of a charge that has been entered into the DMV's adjudicatory system as a bicycle violation, no points are to be recorded on his/her driving record and no surcharge imposed. That is because bicycle violations are not subject to mandatory surcharges or record points. See VTL § 1809(1)(c) and 15 NYCRR § 131.3(b)(7)(v).

15. Thus, the consequence of a guilty plea is entirely dependent on the accuracy of the data entered into the DMV's adjudicatory system. As long as the police officer has indicated on the summons that the vehicle involved in the violation was a bicycle, and the data entry clerk and/or motor vehicle representative has entered the vehicle code as bicycle, no points should be recorded and no surcharge imposed.

Pre-Litigation Communications

16. On or about August 13, 2014, Steve Vaccaro, plaintiffs' attorney, sent Deputy Commissioner and Counsel Neal Schoen a letter advising the DMV that he had been retained by

¹ This is not an issue with online or telephone pleas, because they can only be entered if the summons is already in the system.

two persons who had committed violations while operating a bicycle and had points recorded on their driving records and surcharges imposed. Mr. Vaccaro correctly noted that bicycle violations are not subject to mandatory surcharges or record points. He asked that the DMV correct the records of and issue refunds to his two clients. A copy of Mr. Vaccaro's letter to Mr. Schoen is attached hereto as Exhibit A.

17. Mr. Vaccaro's letter was received by the DMV on August 18, 2014 and forwarded to me. I replied by letter dated August 20, 2014, acknowledging our error and stating that the DMV had corrected his clients' records and refunded any surcharges owed to his clients. A copy of my letter is attached hereto as Exhibit B.

18. I also called Mr. Vaccaro on or around August 20 and suggested that if he had other clients who needed records corrected or surcharges refunded, he could send me their names. He declined my offer and stated that he was contemplating a class action lawsuit. I informed him that in light of his threat of litigation, we could not continue the conversation.

19. Mr. Vaccaro followed up with a letter to me, dated August 20, 2014, in which he acknowledged my offer to correct the records and/or refund the surcharges of any other clients he might have. He confirmed that he did have other clients in need of such action but failed to identify them. He also listed two steps he said the DMV would "need" to take in order to prevent similar errors in the future. A copy of Mr. Vaccaro's letter to me is attached hereto as Exhibit C.

20. Mr. Vaccaro then sent me another letter, dated August 25, 2014, reiterating his intention to seek judicial relief on the grounds that DMV "has been unable to modify" its practices. A copy of Mr. Vaccaro's second letter to me is attached hereto as Exhibit D.

21. On or around September 2, 2014, New York State Senator Brad Hoylman wrote a letter to DMV Commissioner Barbara Fiala regarding reports of people receiving surcharges and

points on their driving records for violations committed while operating bicycles. A copy of Senator Hoylman's letter to Commissioner Fiala is attached hereto as Exhibit E.

22. Commissioner Fiala responded by letter dated September 15, 2014, outlining the DMV's plan to correct such errors and prevent similar errors from occurring in the future. She also noted that the DMV had reviewed its records and determined that the instances described by Senator Hoylman represented a small percentage of traffic tickets and resulted from data entry errors. A copy of Commissioner Fiala's letter to Senator Hoylman is attached hereto as Exhibit F.

23. Senator Hoylman has not submitted any further correspondence regarding this issue to the DMV.

Corrective Measures

24. The DMV has a duty and responsibility to ensure that surcharges and record points are imposed properly and according to all applicable rules and regulations. As a result, the DMV has a corresponding duty and responsibility to correct any erroneous surcharges or record points of which it is made aware.

25. Upon receipt of Mr. Vaccaro's initial letter, on or about August 20, 2014, the DMV galvanized its clerical staff to commence the process of trying to identify bicycle violations that may have been processed incorrectly.

26. For example, the TVD staff reviewed all tickets issued in 2014 for violations of VTL § 1111(d)(1), passing a red light, VTL §1127, proceeding the wrong way on a one way street, New York City Traffic Rule ("NYCTR") 403(a)(1), failure to yield to a pedestrian, and NYCTR 403(c)(1), failure to yield to pedestrian at a green light. These violations represent the most common violations committed by bicyclists. A comparison was done of the actual ticket issued against the data entered in DMV's systems. If the reviewer found that points and/or surcharges were imposed

for a violation committed by the operator of a bicycle, the record was corrected by removing the points and the surcharge was refunded.

27. The TVD staff reviewed several additional samples of potentially erroneous bicycle tickets from the past 25 year period. If the reviewer found that points and/or surcharges were imposed for a violation committed by the operator of a bicycle, the record was corrected by removing the points and the surcharge was refunded. A review of potentially erroneous pending tickets was also conducted. If the reviewer found that points and/or surcharges were going to be imposed for a violation committed by the operator of a bicycle, the records were corrected prior to the disposition of the summonses. The TVD staff is continuing to review DMV records to try to identify errors related to bicycle violations.

28. These reviews did not uncover any systemic issues in either the “plead or pay” application or the adjudicatory system in general, much less any practice of incorrectly charging surcharges and/or levying points in connection with bicycle violations. The errors were caused by improper data entry, arising from the failure of the data entry operator to recognize that the ticket was issued to a bicyclist and/or the failure of the police to clearly or uniformly report that the vehicle type was a bicycle.

29. At no time was it DMV policy or procedure to issue surcharges or record points for bicycle-related violations. At no time was it DMV policy or procedure to enter summonses for bicycle-related violations into the adjudicatory system as motor vehicle violations.

30. Any person whom the DMV learns has paid a surcharge and/or received record points for a bicycle-related violation has or will receive a refund and/or record correction.

Proactive Measures

31. In addition to identifying and correcting past errors as described above, the DMV initiated several steps to improve the way that bicycle-related summonses are handled in the future.

32. On August 20, 2014, the decision was made to segregate bicycle summonses received in the TVD into a separate processing basket. Since all summonses placed in this basket indicate that a bicycle was involved in the violation, this will reduce the occurrence of data entry errors. Four data entry clerks have been assigned to handle these bicycle-related summonses exclusively.

33. In late August and early September 2014, a series of meetings were held with TVD staff regarding the proper handling of bicycle-related summonses, including the fact that they are not subject to surcharges or record points. TVB representatives were similarly advised of the proper way to handle such summonses.

34. On September 15, 2014, the DMV issued a "P" memorandum to remind police agencies about the proper and uniform way to note a bicycle related violation on a summons, so that TVB/TVD staff can easily and accurately identify such tickets and distinguish them from those issued to motor vehicle operators. "P" memoranda are periodically issued by the DMV to advise the law enforcement community about new laws, policies, and procedures, and to issue reminders about policies and procedures. A copy of the P memorandum is attached hereto as Exhibit G.

35. In late August or early September 2014, the DMV redesigned the traffic summons to add language stating that bicycle violations are not subject to a mandatory surcharge. A copy of the redesigned summons is attached hereto as Exhibit H. The order for the new summons was placed on October 9, 2014, and the new summonses were received by the DMV on November 28, 2014. They will be issued to NYPD precincts as they need replenishment of their ticket stock.

36. To deal with those summonses issued prior to such replenishment, the DMV designed a supplement – to be issued by the police officer along with the summons – which states that bicycle violations are not subject to a mandatory surcharge. A copy of the supplement is attached hereto as Exhibit I. The supplement was ordered on October 28, 2014, received by the

DMV on November 5, 2014, and mailed to the NYPD for distribution on or about December 16, 2014.

37. On October 2, 2014, the DMV added language to the “plead or pay” application on its website which states that bicycle violations are not subject to a mandatory surcharge or driving record points. The new language is highlighted in Exhibit J.

The Tickets At Issue

38. Randy Cohen. Mr. Cohen was issued summons AAX6218192 on August 26, 2014, for failure to yield while operating a bicycle. It was correctly entered into the DMV’s adjudicatory system as a bicycle ticket. On September 18, 2014, he entered a guilty plea on the “plead or pay” system and paid the required fine of \$50. No surcharge was assessed, and no points were assigned to his driving record.

39. Hani Mansourian. Mr. Mansourian received summons AAN1320115 on May 14, 2011 for passing a red light while operating a bicycle. It was correctly entered into the DMV’s adjudicatory system as a bicycle ticket. He pled not guilty and requested a hearing via the “plead or pay” system. He was found guilty at trial by the administrative law judge on July 20, 2011 and assessed a \$190 fine (which did not include any surcharges). He paid the \$190.00 fine on July 20, 2011. No surcharge was assessed, and no points were assigned to his driving record.

40. Braeden Rogers. Mr. Rogers was issued summons AAT4711755 on July 3, 2012 for passing a red light while operating a bicycle. It was correctly entered into the DMV’s adjudicatory system as a bicycle ticket. He entered a guilty plea on the “plead or pay” system on September 22, 2012 and paid the required fine of \$190.00. No surcharge was assessed, and no points were assigned to his driving record.

41. Andreas Cohrssen. Mr. Cohrssen was issued summons AAX4761470 on July 13, 2014 for passing a red light while operating a bicycle. It was incorrectly entered into the DMV’s

adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$190 plus an \$88 surcharge. He mailed a guilty plea and payment for the fine in the amount of \$190 to the TVD (without the surcharge). The guilty plea was entered on July 30, 2014, and three points were added to his driving record. The DMV subsequently sent him a notice stating that he owed the \$88 surcharge, which he did not pay. The DMV cancelled the surcharge and removed the points from his record on August 18, 2014.

42. Robert Rakowitz. Mr. Rakowitz was issued summons AAX5164456 on July 11, 2014 for failure to yield to a pedestrian while operating a bicycle. It was incorrectly entered into the DMV's adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$50 plus an \$88 surcharge. He entered a guilty plea on the "plead or pay system" on August 8, 2014, paid the fine and surcharge in the amount of \$138.00, and three points were added to his driving record. The DMV removed the points from his record on August 18, 2014, and refunded the surcharge on August 21, 2014.

43. Nicholas Gray. Mr. Gray was issued summons AAX3140653 on March 29, 2014 for going through a red light while operating a bicycle. It was incorrectly entered into the DMV's adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$190 plus an \$88 surcharge. He entered a guilty plea on the "plead or pay" system on April 17, 2014, paid the fine and surcharge in the amount of \$278.00, and three points were added to his driving record. The DMV removed the points from his record on September 18, 2014, and refunded the surcharge on September 19, 2014.

44. Daniel Kohn. Mr. Kohn was issued summons AAX5976143 on July 29, 2014 for failure to yield to a pedestrian while operating a bicycle. It was incorrectly entered into the DMV's adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$50 plus an \$88 surcharge. He entered a guilty plea on the "plead or pay" system on August 11, 2014,

paid the fine and surcharge in the amount of \$138.00, and three points were added to his driving record. The DMV removed the points from his record on September 18, 2014, and refunded the surcharge on September 19, 2014.

45. Madeline Matsson. Ms. Matsson was issued summons AAX4763393 on July 31, 2014 for failure to obey a traffic control device while operating a bicycle. It was incorrectly entered into the DMV's adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$50 plus an \$88 surcharge. She entered a guilty plea on the "plead or pay" system on August 20, 2014, paid the fine and surcharge in the amount of \$138.00, and two points were added to her driving record. The DMV removed the points from her record on September 18, 2014, and refunded the surcharge on September 19, 2014.

46. Sharon Kliegman. Ms. Kliegman was issued summons AAX5156793 on August 8, 2014 for failure to yield to a pedestrian while operating a bicycle. It was incorrectly entered into the DMV's adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$50 plus an \$88 surcharge. She mailed a guilty plea and payment for the fine in the amount of \$50 to the TVD (without the surcharge). The guilty plea was entered on August 28, 2014, and three points were added to her driving record. The DMV subsequently mailed her a notice stating that she owed the \$88 surcharge, which she paid on September 19, 2014. The DMV removed the points from her record on September 25, 2014, and refunded the surcharge on September 29, 2014.

47. Chris Scarafile. Mr. Scarafile was issued summons AAX6827203 on July 22, 2014 for passing a red light while operating a bicycle. It was incorrectly entered into the DMV's adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$190 plus an \$88 surcharge. He entered a guilty plea on the "plead or pay" system on August 12, 2014, paid the fine and surcharge in the amount of \$278, and three points were added to his driving

record. The DMV removed the points from his record on September 25, 2014, and refunded the surcharge on September 29, 2014.

48. Noah Wildman. Mr. Wildman was issued summons AAT6899594 on January 16, 2013 for passing a red light, and summons AAT7631050 on April 24, 2013 for failure to yield to a pedestrian, both while operating a bicycle. They were incorrectly entered into the DMV's adjudicatory system as non-bicycle summonses. As a result, the amount of the fine assessed for summons AAT6899594 was \$190 plus an \$80 surcharge, and the amount of the fine assessed for summons AAT7631050 was \$50 plus an \$80 surcharge. He entered a guilty plea on the "plea or pay" system for summons AAT7631050 on May 20, 2013, and paid the fine and surcharge in the amount of \$130. He entered a guilty plea on the "plea or pay" system for summons AAT6899594 on August 27, 2013, and paid the fine and surcharge in the amount of \$270.00. Three points were added to his driving record for each violation. The DMV subsequently sent him a notice of Driver Responsibility Assessment in the amount of \$300, which he paid on October 2, 2013. The DMV removed the points from his record on September 25, 2014, refunded the assessment on September 26, 2014, and refunded the surcharges on September 29, 2014.

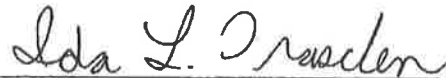
49. Abby Haywood. Ms. Haywood was issued summons AAP6348543 on May 18, 2011 for passing a red light while operating a bicycle. It was incorrectly entered into the DMV's adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$190 plus an \$80 surcharge. She entered a guilty plea on the "plead or pay" system on July 8, 2011, paid the fine and surcharge in the amount of \$270.00, and three points were added to her driving record. The DMV removed the points from her record on November 17, 2014, and refunded the surcharge on November 18, 2014.

50. Scott Trudeau. Mr. Trudeau was issued summons AAS4635013 on March 1, 2013 for passing a red light while operating a bicycle. It was incorrectly entered into the DMV's

adjudicatory system as a non-bicycle summons. As a result, the amount of the fine assessed was \$190 plus an \$80 surcharge. He entered a guilty plea on the "plead or pay" system on July 9, 2014, paid the fine and surcharge in the amount of \$270.00, and three points were added to his driving record. The DMV removed the points from his record on November 17, 2014, and refunded the surcharge on November 18, 2014.

51. As of January 15, 2015, none of the plaintiffs has an open traffic ticket pending at the DMV (in connection with a bicycle-related violation or otherwise).

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed by me in Albany, New York on this 15th day of January 2015.

A handwritten signature in cursive script that reads "Ida L. Traschen". The signature is written in dark ink and is positioned above a horizontal line.

Ida L. Traschen