IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SETI JOHNSON and MARIE BONHOMME-DICKS, on behalf of themselves and those similarly situated, and SHAREE SMOOT and NICHELLE YARBOROUGH, on behalf of themselves and those similarly situated,

Plaintiffs,

v.

financial means — claim that it is unconstitutional for the DMV to revoke their driver's licenses for failure to pay fines and costs without first affirmatively determining that they have the ability to pay.

Before the court are the Commissioner's motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) (Doc. 46) and Plaintiffs' motions for class certification pursuant to Rule 23(b)(2) (Doc. 36) and preliminary injunction pursuant to Rule 65 (Doc. 38). For the reasons set forth below, the Commissioner's motion for judgment on the pleadings will be granted in part and denied in part, Plaintiffs' motion for class certification will be granted, and Plaintiffs' motion for preliminary injunction will be denied.

I. BACKGROUND

Like many states, North Carolina has enacted statutes directing the revocation of driver's licenses for failure to pay fines and costs imposed for traffic violations. The statutory scheme works as follows: North Carolina courts "must report" to the DMV the name of a traffic defendant who "fail[s] to pay a fine, penalty, or costs within 40 days of the date specified in the court's judgment." N.C. Gen. Stat. § 20-24.2(a)(2). Upon receipt of this notice, the DMV "must revoke" the traffic defendant's driver's license indefinitely. Id. § 20-24.1(a). Revocation is accomplished through the DMV's issuance of a "[r]evocation

had their licenses revoked, but eventually made the payments sometime thereafter. (Id.) About 63,000 traffic defendants never made their payments, and their licenses remain revoked. (Id.)

On May 30, 2018, Johnson and Smoot initiated this lawsuit. (Doc. 1.) Plaintiffs claim that the DMV's enforcement of section 20-24.1 violates the Fourteenth Amendment in three ways: (1) by violating their equal protection and substantive due process right not to be penalized for non-payment without the State first determining that they were able to pay and willfully refused;

the doctrine too broadly and that it does not apply in this instance.

The Rooker-Feldman doctrine — so named because of the Supreme Court's foundational decisions in Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923), and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983) — states that federal district courts may not sit in review of state court decisions. Although the doctrine was construed expansively in the decades following Rooker, the Supreme Court has since clarified the "narrow"

"asking this Court to prohibit DMV from complying with license revocation orders issued by North Carolina courts." (Doc. 47 at 11.) It is simply untrue that North Carolina courts

judgments." (citation omitted)).[5] Because a ruling for Plaintiffs would not involve this court's "review and rejection" of any state court judgment, Exxon, 544 U.S. at 284, the Rooker-Feldman doctrine does not bar Plaintiffs' claims. See Stinnie, 355 F. Supp. 3d at 523–24; Fowler v. Johnson, No. 17-11441, 2017 WL 6379676, at *3 (E.D. Mich. Dec. 14, 2017) ("Plaintiffs are not . . . challenging the imposition of any fines, costs, or assessments . . . . Instead, Plaintiffs are challenging Defendant's revocation of their driver's licenses for failing to pay their traffic debt without consideration of their willfulness or ability to pay. The Rooker-Feldman doctrine does not extend to Plaintiffs' claims."), appeal filed, No. 17-2504 (6th Cir. Dec. 19, 2017).

[5] The Stinnie court had previously dismissed the plaintiffs' original complaint under the Rooker-Feldman doctrine after finding that the Virginia statute at issue directed "license suspension orders [to be] issued by the state court." Stinnie v. Holcomb, No. 3:16-cv-00044, 2017 WL 963234, at *12 (W.D. Va. Mar. 13, 2017); see Stinnie v. Holcomb, 734 F. App'x 858, 861 n.* (4th Cir. 2018). Even if the Stinnie court had not found Rooker-Feldman inapplicable in its later ruling on an amended complaint, see 355 F. Supp. 3d at 523–24, its former reasoning would be inapposite to the North Carolina statute at issue here, under which state courts do not issue revocation orders. See N.C. Gen. Stat. §§ 20-24.1, 20-24.2. Furthermore, the Commissioner's representation that the Fourth Circuit "affirm[ed] dismissal of [the Stinnie] Complaint on the grounds that Plaintiffs' claims were barred by the Rooker-Feldman doctrine" (Doc. 47 at 9) evinces a fundamental misunderstanding of the Fourth Circuit's ruling. The Fourth Circuit dismissed the appeal for lack of a "final, appealable order," expressly cautioning that its "discussion should not be read to indicate that [it] would hold that the district court's analysis was free from error were [it] to consider the appeal on the merits." 734 F. App'x at 862–63 (internal quotation marks and brackets omitted). Only Chief Judge Gregory reached the Rooker-Feldman issue, not2o446.23 10B0017400700BTe3i0BT Tm -0.046.2 0.48004 rfks399(9.024 Tch)] TJETBT

federally protected constitutional rights" sufficient to satisfy Ex Parte Young. Id. at 628; see also Coakley v. Welch, 877 F.2d 304, 306–07 & n.2 (4th Cir. 1989) (finding that a plaintiff's claim

revoked. Thus, although the DMV is "no longer giving [those Plaintiffs] daily attention," its allegedly unconstitutional license revocations "continue[] to harm" those Plaintiffs by "preventing [them] from obtaining the benefits" they would otherwise enjoy as license-holders. Coakley, 877 F.2d at 807 n.2; see also id. ("Cases from other circuits, as well as [the Fourth Circuit], suggest that few, if any, suits are barred for failure to allege an 'ongoing violation' . . . ."). [6] And the Commissioner's argument that he is not sufficiently connected to the enforcement of section 20-24.1(a)(2) to be a proper defendant under Ex Parte Young is based on the same mistaken argument addressed in the court's Rooker-Feldman analysis above: that "[t]he DMV simply complies with revocation orders issued by state courts." (Doc. 47 at 13–14.) As previously explained, North Carolina courts do not issue driver's license revocation orders for failure to pay traffic

[6] In some senses, the ongoing violation inquiry is merely another way of getting to the prospective relief inquiry. See Coakley, 877 F.2d at 307 n.2. Relief that is truly prospective does not compensate a plaintiff for past harm — it only prevents further harm. Thus, a finding that a plaintiff has requested truly prospective relief from state-caused harm in the present carr1 0o¾spwnhect the pcrn-8(n)4(rt)4(rt)4(ol)4( )122(th)4(et)4( )-

fundamental fairness doctrine does not apply to the statutory scheme at issue in this case, which should be upheld instead under the default rational basis standard.

It has long been black-letter law that, absent the involvement of a suspect classification or fundamental right, statutes challenged under the Fourteenth Amendment's equal protection or substantive due process guarantees are upheld so long as they have a "rational basis." See U.S. v. Caroline Prods. Co., 304 U.S. 144, 152 & n.4 (1938); Healt

Bearden, 461 U.S. at 665–66, 673 (internal quotation marks and brackets omitted). In Bearden itself, the Court applied this inquiry to the question of whether state courts could revoke probation and incarcerate an individual for failing to pay a fine or restitution when the individual made bona fide efforts to pay but could not, ultimately holding that incarceration is "fundamentally unfair" in that context unless the state court determines there are no "alternate measures of punishment

measure."[12]

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requirements set out in Rule 23(a): "(1) numerosity of parties; (2) commonality of factual and legal issues; (3) typicality of claims and defenses of class representatives; and (4) adequacy of representation." Gunnells v. Healthplan Servs., Inc., 348 F.3d 417, 423 (4th Cir. 2003). Next, the putative class must show that it is one of the three types of classes described in Rule 23(b). Here, Plaintiffs assert that "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2).

requirements are met. The named Plaintiffs do not appear to have interests that conflict with those of the class and have each explained their commitment to the litigation. See (Docs. 4, 5, 40, 41, 63). While Plaintiff Smoot appears to have paid her traffic fines and costs, Plaintiff Yarborough has not and can adequately represent the proposed Revoked Class. Plaintiffs' counsel are adequate under Rule 23(a)(4) for the same reasons they satisfy the Rule 23(g) standard, as discussed below. Finally, Rule 23(b)(2) — which "was created to facilitate civil rights class actions," Thorn v. Jefferson-Pilot Life Ins. Co., 445 F.3d 311, 330 n.24 (4th Cir. 2006) — is satisfied because Plaintiffs seek injunctive and declaratory relief and challenge the Commissioner's class-wide enforcement of section 20-24.1(a)(2).

The Commissioner contests numerosity, commonality,

size of classes have been established by the courts"). The Fourth Circuit has previously certified classes of as few as eighteen plaintiffs. See Cypress v. Newport News Gen. & Nonsectarian Hosp. Ass'n, 375 F.2d 648, 653 (4th Cir. 1967); see also Dameron v. Sinai Hosp. of Baltimore, Inc., 595 F. Supp. 1404, 1408 (D. Md. 1984) ("A class consisting of as few as 25 to 30 members raises the presumption that joinder would be impractical.").

In this case, the Commissioner's argument is not so much that any specific number advanced by Plaintiffs is insufficient, but that Plaintiffs' numerosity evidence is too speculative. This argument attacks Plaintiffs' reliance in their opening brief on a September 26, 2017 email from a DMV employee stating that "[t]he total number of Failure to Pay is 436,050" (Doc. 6-9), on the basis that the email "does not explain the time frame of these suspensions, or even if the [number] is referring to individuals" (Doc. 48 at 7). The Commissioner goes on to criticize Plaintiffs for omitting any evidence concerning how many of these failure-to-pay license revocations involve traffic defendants who "are low income individuals." (Id.)

The Commissioner's concerns, however, are allayed by his own evidence. On March 13, 2019, the Commissioner filed the affidavit of a North Carolina Department of Transportation employee stating that in the three years prior to the lawsuit's initiation, 62,788 traffic defendants failed to pay their traffic violation fines and

costs and have therefore had their driver's licenses revoked.[16] (Doc. 62.) This evidence is confined to a relevant timeframe and clearly refers to individual traffic defendants. The Commissioner's protest that Plaintiffs have not supported their "allegation that the proposed Revoked Class members are low income individuals" (Doc. 48 at 7) is an attack on a straw man; Plaintiffs have never made such an allegation. Plaintiffs' proposed classes consist of "all individuals" whose driver's licenses have been or will be revoked under section 20-24.1(a)(2). Even looking only to the Commissioner's evidence, then, Plaintiffs' proposed Revoked Class consists of at least 62,788 individuals. As to the proposed Future Revocation Class, the court may reasonably infer from the size of the Revoked Class that it too is large. See 1 William B. Rubenstein, Newberg on Class Actions § 3:13 (5th ed. 2018) (courts may use available evidence to "make commonsense assumptions regarding the number of putative class members"). This evidence is sufficient to show that Rule 23(a)(1)'s numerosity requirement is met.

2. Commonality

Rule 23(a)(2) "requires the plaintiff[s] to demonstrate that the class members have suffered the same injury" in the sense that

[16] Another 67,809 traffic defendants eventually paid their fines and costs at some point after their license had already been revoked; 55,336 traffic defendants received a revocation order but paid their fines and costs within the 60-day period before the revocation went into effect. (Doc. 62.)

"[t]heir claims . . . depend upon a common contention," the determination of which "will resolve an issue that is central to the validity of each one of the claims." Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338, 350 (2011). "[T]his provision does not require that all the questions of law and fact raised by the dispute be common," just that any "dissimilarities between the claims [do not] impede a common resolution." Wright et al., supra, § 1763.

The Commissioner does not address the seven common questions of law and fact listed in Plaintiffs' opening b ǒ Ǩ lis

While Plaintiffs do provide a litany of additional allegations regarding the personal hardships attendant to license revocation in what may be an attempt to underscore the seriousness and sympathetic nature of their claims, these additional allegations are not the constitutional injury Plaintiffs assert. In the court's view, the DMV's enforcement of section 20-24.1 against the named Plaintiffs and proposed class members provides sufficient common questions of fact and law on which to sustain a constitutional class action.

3. Typicality

Rule 23(a)(3) requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." "The essence of the typicality requirement is captured by the notion that 'as goes the claim of the named plaintiff, so go the claims of the class.'" Deiter v. Microsoft Corp., 436 F.3d 461, 466 (4th Cir. 2006) (quoting Broussard v. Meineke Discount Muffler Shops, Inc., 155 F.3d 331, 340 (4th Cir. 1998)). In order to determine whether a named plaintiff's "claims or defenses" are typical of those of the proposed class, the court will frequently have to undertake some investigation of "the merits of the plaintiff's underlying claim." Dukes, 564 U.S. at 351.

The Commissioner offers four reasons that the court should decline to find the named Plaintiffs' claims typical of the proposed classes.

First, as in the commonality context, the Commissioner argues that Plaintiffs have not shown that the proposed class members are similarly low-income. (Doc. 48 at 11.) As the court pointed out in that context, the constitutional violations Plaintiffs assert are not dependent on whether a given traffic defendant would be able to successfully show inability to pay at an ability-to-pay hearing. It is the alleged lack of notice and a hearing prior to revocation that forms the basis of Plaintiffs' procedural due process claims. See Coe v. Armour Fertilizer Works, 237 U.S. 413, 424 (1915) ("To one who protests against the taking of his property without due process of law, it is no answer to say that in his particular case due process of law would have led to the same result because he had no adequate defense upon the merits.").

Second, the Commissioner argues that "the relief sought by Plaintiffs would require an individualized inquiry into [each] driver's eligibility for reinstatement" (Doc. 48 at 12), the idea being that the driver's licenses of some class members may be revoked on additional bases. Although objections about the contours of any potential relief are more relevant to the Rule 23(b)(2) analysis than to typicality, compare Fed. R. Civ. P. 23(b)(2) (parties must show that "final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole") with Fed. R. Civ. P. 23(a)(3) (parties must show that their "claims or defenses" are typical of the class),

the Commissioner’s concern is illusory in any context. As Plainti

restriction on use . . . occurred upon enactment of the ordinance. No City action since then has added to [the plaintiff's] alleged injury."). As a result, it does not appear that the continuing violation doctrine would save the claims of proposed Revoked Class members whose licenses were revoked more than three years prior to filing.[19] This is a problem for typicality. See Kirkman v. N.C. R.R. Co., 220 F.R.D. 49, 53 (M.D.N.C. 2004).

Nevertheless, as Plaintiffs indicate, there is little reason why a solitary typicality issue applicable to an easily-identifiable and excludable group of proposed class members should preclude certification altogether. Instead, the court will simply exercise its discretion to define the proposed Revoked Class to include only those proposed class members within the three-year limitations period: those drivers whose licenses were revoked on

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act, but merely a reminder of the restriction" imposed at the time of the original alleged violation. Raleigh, 947 F.2d at 1167. Since the DMV's website is not "add[ing] to [Plaintiffs'] alleged injury," each time they view it, it does not evince continuing "separate acts" sufficient to invoke the continuing violation doctrine. Id.

[19] At first glance, the court's conclusion that there is no "continuing violation" in the statute of limitations context may appear in tension with its earlier conclusion that there is an "ongoing violation" for purposes of the Ex Parte Young analysis. See Part II.A.2, supra. But the similarity of these shorthand terms belies a fundamental difference in the underlying doctrines: the "continuing violation" exception to statutes of limitations "is occasioned by continual unlawful acts, not continual ill effects from an original violation," Raleigh, 947 F.2d at 1166, whereas the "ongoing violation" requirement of Ex Parte Young is satisfied by "presently experienced harmful consequences of past conduct." Allen, 134 F.3d at 628.

or after May 30, 2015.[20] See Roman, 550 F.2d at 1348 (noting the district court's broad discretion in how to define a class).

4. Certification

Having resolved the Commissioner's objections, and upon its own investigation of the requirements of Rule 23(a) and (b)(2), the court finds that class certification is warranted. The court will therefore certify the following two classes:

> Revoked Class: All individuals whose driver's licenses were revoked by the DMV on or after May 30, 2015, due to their failure to pay fines, penalties, or court costs assessed by a court for a traffic offense, and whose driver's licenses remain so revoked.[21]
>
> Future Revocation Class: All individuals whose driver's licenses will be revoked in the future by the DMV due to their failure to pay fines, penalties, or court costs assessed by a court for a traffic offense.

As noted, the court's certification of these classes is without determination of the ultimate merits of Plaintiffs' remaining claims.

[20] The Commissioner suggests that the cut-off date should be three years prior to the filing of the amended complaint. (Doc. 47 at 22.) But since the amended complaint asserts claims arising out of the conduct set out in the original complaint, the amended complaint relates back to the original complaint. Fed. R. Civ. P. 15(c)(1)(B).

[21] Although Plaintiffs' proposed class is not expressly limited to those individuals whose licenses remain revoked, Plaintiffs' admission at the hearing that Smoot's claims have been mooted by her successful payment of her traffic fines and fees evinces such an understanding. Moreover, Plaintiffs have not explained how drivers whose licenses have been reinstated would be victims of any "ongoing violation" under Ex Parte Young.

and capable of investing sufficient resources into this case.

The court has reviewed the requirements of Rule 23(g) and concludes that Plaintiffs' proposed class counsel are well qualified to represent the two classes in this case. Accordingly, Plaintiffs' SPLC, NC-ACLU, ACLU, and SCSJ counsel will be appointed class counsel.

C. 3 O D L Q W L Motion for Preliminary Injunction

Finally, Plaintiffs move for preliminary injunction pursuant to Federal Rule of Civil Procedure 65:[23]

Commissioner argues that no such hearing is required.

"Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." Mathews v. Eldridge, 424 U.S. 319, 332 (1976) (internal quotation marks omitted). An individual's property interest in his or her driver's license is protected by the Due Process Clause. See Bell v. Burson, 402 U.S. 535, 539 (1971) ("Once licenses are issued . . . [they] are not to be taken away without that procedural due process required by the Fourteenth Amendment."). "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" Mathews, 424 U.S. at 333 (quoting Armstrong v. Manzo, 380 U.S. 545, 552 (1965)). The question of what form of hearing is required — including the "question . . . of timing," Dixon v. Love, 431 U.S. 105, 112 (1977) — is addressed through consideration of the following three factors:

> First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews, 424 U.S. at 335.

In the instant case, the statute provides that traffic

defendants may "demonstrate[] to the court that [their] failure to pay the penalty, fine, or costs was not willful and that [they are] making a good faith effort to pay or that the penalty, fine, or costs should be remitted." N.C. Gen. Stat. § 20-24.1(b)(4). If a traffic defendant makes such a demonstration, the court notifies the DMV, which "shall . . . delete[]" any pending revocation order or "restore the person's license" if revocation has already become effective. Id. § 20-24.1(b), (c). The statute also lays out a procedure for making this determination: "Upon motion of a defendant, the court must order that a hearing or trial be heard within a reasonable time. Id. § 20-24.1(b1).

In Plaintiffs' view, this procedure is insufficient because it requires traffic defendants to move for hearing, rather than affirmatively mandating that a pre-revocation hearing actually be held in every case. In order to evaluate Plaintiffs' claims that section 20-24.1 fails to provide traffic defendants with due process, the court must determine what process is due.

As to the first Mathews factor — : : .-

appointments, go grocery shopping, and more.

Nevertheless, "the Court has expressly held that the [private] interest [in a driver's license] is not so great as to require departure from the principle that an evidentiary hearing is not ordinarily required prior to adverse administrative action." Tomai-Minogue v. State Farm Mut. Auto. Ins. Co., 770 F.2d 1228, 1235 (4th Cir. 1985) (citing Dixon, 431 U.S. at 113). Moreover, the Supreme Court has stated that courts should consider "[t]he duration of any potentially wrongful deprivation of a property interest" insofar as it relates to the "timeliness of the postsuspension review available to a suspended driver," and that this consideration "is an important factor in assessing the impact of official action on the private interest involved." Mackey, 443 U.S. at 12 (emphasis added); see also Fusari v. Steinberg, 419 U.S. 379, 389 (1975). In the present case, the fact that section 20-24.1(b1) guarantees traffic defendants the opportunity to have a hearing "within a reasonable time" of moving for one lessens "the impact of official action" on Plaintiffs' interests.[25] Mackey, 443 U.S. at 12.

In sum, while the court certainly "do[es] not disparage the

[25] As discussed in footnote 33, infra, Plaintiffs have not provided the court with any way to determine how long "a reasonable time" under section 20-24.1(b1) might be in this context. Since Plaintiffs bear the burden at the preliminary injunction stage of showing they are likely to succeed on the merits, the court will not count this uncertainty in their favor.

The more difficult question is whether the North Carolina legislature's decision to include a provision allowing traffic defendants to avoid or undo license revocation by showing that their "failure to pay . . . was not willful and that [they are] making a good faith effort to pay," N.C. Gen. Stat. § 20-24.1(b)(4), shows that the legislature did not intend license revocation to take place when traffic defendants could not pay, thus making such revocations "erroneous deprivations" under Mathews

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that factor in its prior hearing."[26] Id.; see also Conn. Dep't of Pub. Safety v. Doe, 538 U.S. 1, 8 (2003) ("Plaintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme.").

The Commissioner responds that the better analogue on this factor is Dixon v. Love, 431 U.S. 105 (1977), in which the Supreme Court found that there was little risk of erroneous deprivation absent a pre-deprivation hearing where Illinois suspended driver's

Nevertheless, the question of whether such revocations are actually erroneous is only the threshold inquiry under the second Mathews factor. Having made

pendency of the action and afford them an opportunity to present their objections").

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that additional process be required under the Due Process Clause.

As to the third and final Mathews factor – the governmental interest at stake – the Supreme Court has specifically recognized in the driver's license revocation context that "the substantial public interest in administrative efficiency would be impeded by the availability of a pretermination hearing in every case." Dixon, 431 U.S. at 114; see also Mackey, 443 U.S. at 18 (increasing the number of pre-revocation hearings would "impose a substantial fiscal and administrative burden on the Commonwealth"). This sort of governmental interest "is not a controlling weight" in the

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resources is a factor that must be weighed." Mathews, 424 U.S. at 348.

Together, the substantial public interest at issue and the fact that section 20-24.1(b1) already mitigates the risk of erroneous deprivations by providing an ability-to-pay hearing "within a reasonable time" to anyone who requests it weigh against

> IF YOU HAVE NOT COMPLIED WITH THIS CITATION BY THE EFFECTIVE DATE OF THIS ORDER, YOU WILL NEED TO MAIL YOUR CURRENT NORTH CAROLINA DRIVER LICENSE, IF APPLICABLE, TO THE DIVISION. FAILURE TO DO SO MAY RESULT IN AN ADDITIONAL $50.00 SERVICE FEE.
>
> REINSTATEMENT PROCEDURES:
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> UPON COMPLIANCE WITH THIS CITATION, YOU MAY VISIT YOUR LOCAL DRIVER LICENSE OFFICE. AT SUCH TIME PROPER IDENTIFICATION AND PROOF OF AGE WILL BE NEEDED.
>
> A RESTORATION FEE OF $65.00 AND THE APPROPRIATE LICENSE FEES ARE NEEDED AND HAVE TO BE PAID AT THE TIME YOUR DRIVING PRIVILEGE IS REINSTATED.
>
> THIS ORDER IS IN ADDITION TO AND DOES NOT SUPERSEDE ANY PRIOR ORDER ISSUED BY THE DMV. IF ADDITIONAL INFORMATION CONCERNING THIS ORDER IS NEEDED, PLEASE CONTACT A REPRESENTATIVE OF THE DIVISION AT (919) 715-7000.
>
> DIRECTOR OF PROCESSING SERVICES

(Id.) As Plaintiffs point out, nowhere does the Official Notice mention that traffic defendants can prevent or reverse their license revocation by demonstrating their inability to pay under section 20-24.1(b)(4), nor does it mention the option of requesting an ability-to-pay hearing under section 20-24.1(b1). Instead, it merely directs recipients to "comply with this citation." (Id.)

In Plaintiffs' view, the Official Notice's failure to notify traffic defendants of the statute's ability-to-pay and hearing provisions makes it "critically misleading" and insufficient under the Due Process Clause. (Doc. 39 at 27.) The Commissioner responds that the "North Carolina[] statute provides" notice and that "procedural due process does not require" individualized

to a Virginia license revocation statute because the Virginia statute does not provide for any opportunity to be heard). Plaintiffs make no argument — nor would such an argument be

absent the statute, the Official Notice would not on its own provide sufficient notice, it is not so affirmatively misleading as to destroy the sufficient notice provided by the statute to which it directly cites: "GENERAL STATUTE 20-24.1." (Doc. 35 ¶ 32.)

2. Outcome of Motion for Preliminary Injunction

In conclusion, Plaintiffs have not shown that they are likely to succeed on either of their remaining claims under the Due Process Clause. Because Plaintiffs' failure to satisfy any one of the four preliminary injunction factors is fatal to their motion, the court need not address the remaining factors and the motion will be denied. See Pashby, 709 F.3d at 320 (stating that "each preliminary injunction factor [must] be satisfied" (internal quotation marks omitted)).

III. CONCLUSION

For the reasons