

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

**MEDHIN AYELE**

3800 14th St. NW, Apt. 313E  
Washington, D.C. 20011,

**STEPHANIE CARRINGTON,**

1212 4th St. SE, Apt. 432  
Washington, D.C. 20003,

**SHAWN DARNELL CHEATHAM**

1827 Q Street, S.E., Apt. 2  
Washington, D.C. 20020,

**ANTONIA DIAZ DE SANCHEZ,**

1357 Adams St., NE  
Washington, D.C., 20018,

**KAHSSAY GHEBREBRHAN,**

1220 12th St NW, Apt. 604  
Washington, D.C. 20005,

**FASIKA MEHABE,**

2601 Pakway  
Cheverly, M.D. 20785, and

**HIWET TESFAMICHAEL,**

1451 Sheridan St. NW, Apt. 103  
Washington, D.C. 20011

Plaintiffs,

v.

**DISTRICT OF COLUMBIA,**

1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004

**SHIRLEY KWAN-HUI**, Interim Director of  
the Department of Licensing and Consumer  
Protection, in her official capacity,  
1100 4th Street, SW,  
Washington, DC 20024,

Civil Action No.

Hon.

**JURY TRIAL DEMANDED**

**SHARON LEWIS**, Interim Director of District of Columbia Health, in her official capacity, 899 North Capitol Street, NE, Washington, DC 20002, and

**GLEN LEE**, Chief Financial Officer for the District of Columbia, in his official capacity, 1350 Pennsylvania Avenue, NW Washington, D.C. 20004

Defendants.

### **COMPLAINT**

Plaintiffs Medhin Ayele, Stephanie Carrington, Shawn Darnell Cheatham, Antonia Diaz de Sanchez, Kahssay Ghebrebrhan, Fasika Mehabe, and Hiwet Tesfamichael (“Plaintiffs”) bring this complaint against Defendants District of Columbia, Shirley Kwan-Hui, Sharon Lewis, and Glen Lee (“District” or “D.C.”), and allege as follows:

### **INTRODUCTION**

1. This case challenges a poverty trap the District of Columbia imposes on its most vulnerable and impoverished residents.

2. The District of Columbia prohibits individuals from working in over 125 occupations without first obtaining an occupational license issued by the D.C. government. The District likewise prohibits individuals from starting a small business without first obtaining a Basic Business License issued by the D.C. government.

3. The District benefits from individuals obtaining jobs that require occupational or small business licenses. These activities stimulate economic growth, increase income levels for District residents, and improve quality of life in D.C. communities.

4. Nevertheless, for decades, the District of Columbia has operated a draconian and irrational scheme that bars D.C. residents who are living in poverty from obtaining occupational or small business licenses. The District does so through the “Clean Hands Law.” D.C. Code § 47-2861, *et seq.* This law disqualifies individuals—including the Plaintiffs here—from renewing or obtaining an occupational license, or opening a small business, because they owe the District more than \$100 in aggregated fines or fees of any kind. The circumstances of the debt are irrelevant under this scheme: whether they include a parking or traffic ticket, a late payment fine, a tax deficiency, or any other fine or fee, if the number is over the \$100 threshold, non-renewal and disqualification are automatically triggered. In fact, an individual fined *in error* cannot get an occupational license renewed as long as the error remains unchecked. The individual’s specific circumstances—including his or her ability to pay—do not matter under the current law.

5. For individuals who can afford to pay their outstanding fines, the Clean Hands Law is inconsequential: They typically enter a credit card account number into an online payment portal established by the District, obtain a receipt of payment, and then move on with their lives.

6. For those unable to pay their outstanding tickets, fines, or fees, the Clean Hands Law’s impact is severe and often life-altering. The Clean Hands Law bars them from obtaining an occupational license and, in many cases, entering their chosen field. It can also preclude individuals from fulfilling their dream of opening a small business. The Clean Hands Law imposes these consequences intentionally and rigidly, trapping individuals in poverty and preventing them from securing licenses that will only help them pay back their debts. It pulls the ladder up and away from those most in need of economic opportunity and advancement.

7. The lived experiences of the Plaintiffs in this case confirm the tremendous harm the Clean Hands Law inflicts.

8. One Plaintiff, Shawn Darnell Cheatham, is a military veteran who served as a plumbing specialist in the United States Air Force. While Mr. Cheatham has been diagnosed with post-traumatic stress disorder, he has overcome homelessness and now desires to open a small plumbing and handyman business in D.C. Yet because he owes over \$3,000 in parking and traffic tickets and fines (many of which are from when he was homeless and sleeping in his car), the Clean Hands Law blocks Mr. Cheatham from obtaining a small business license. This is so even though Mr. Cheatham lacks an ability to pay; his only income is a disability payment from the United States Department of Veterans Affairs and food stamps.

9. Another Plaintiff, Stephanie Carrington, diligently worked to meet the numerous educational and training requirements needed to work as a speech pathologist. She did so in pursuit of her goal of working in the District of Columbia, where she resides, to serve her fellow District residents. She also desires to own and operate a small business in the District to pursue this work. But because she owes outstanding debt to the D.C. government that she cannot pay, the Clean Hands Law automatically disqualifies her from obtaining an occupational license or opening a small business. This statute has forced Ms. Carrington to accept employment outside the District, first in Maryland and now in Virginia.

10. The remaining Plaintiffs are street vendors who have maintained occupational licenses and worked in the District for decades, selling hot dogs, beverages, and other items. Street vending is hard work—the Plaintiffs often work 13 or 14 hour days, including in the heat of summer. But vending is these Plaintiffs' chosen profession, and it enables them to financially

support themselves. Each Plaintiff desires to continue vending, including this summer, which is the busiest time of the year for vendors. But because each Plaintiff accrued large outstanding quarterly fees assessed by the District during the Covid-19 pandemic—when the streets were empty and the vending business shut down entirely—the Clean Hands Law has automatically blocked them from renewing their vending licenses. Unable to vend, the Plaintiffs are unable to earn enough money to pay back their debt. Some are also struggling financially themselves or to support their families and other loved ones. Each Plaintiff wants to pay back their debt, and resuming vending is essential to enabling them to do so.

11. The Clean Hands Law also exacts broader societal costs. Through the Clean Hands Law, the D.C. government operates a wealth-based scheme that—by design—almost exclusively impacts individuals with lower-incomes, who are disproportionately people of color. The Clean Hands Law therefore exacerbates racial inequalities. It also disrupts the city’s economy and workforce, driving individuals out of the District. These harms are not offset by any benefits generated by the statute’s application to occupational or small business licenses. By definition, blocking individuals from obtaining these licenses makes it *less likely* they will earn the funds needed to satisfy their debts.

12. The Clean Hands Law’s application here to disqualify Plaintiffs from occupational and small business licenses violates the Constitution in at least five ways. First, it violates the Fifth Amendment’s guarantee of procedural due process by providing Plaintiffs no hearing at all prior to depriving them of their constitutionally protected property interest in an occupational or small business license. Second, it violates the Fifth Amendment at the “convergence” of its due process and equal protection guarantees because this wealth-based scheme deprives Plaintiffs of

their property interest without any inquiry into their ability to pay. Third, it violates equal protection and due process principles because it cannot satisfy rational basis review: No logic can support barring individuals from obtaining an occupational or small business license that, if provided, would *increase* their ability to repay outstanding debt. Fourth, the Law violates equal protection principles because it imposes uniquely harsh consequences on low-income individuals. Finally, it violates the Eighth Amendment's prohibition on excessive fines because the underlying fines here deprive individuals of their ability to earn a living and those individuals lack an ability to pay the fines.

13. Because the District's enforcement of the Clean Hands Law violates these fundamental constitutional protections, Plaintiffs are entitled to both declaratory relief and an injunction barring enforcement of the Law against them.

#### **JURISDICTION AND VENUE**

14. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiffs file this suit under 42 U.S.C. § 1983.

15. Venue is proper in this Court because all wrongful conduct giving rise to this case occurred in, was directed to, or emanated from the District of Columbia.

#### **PARTIES**

16. **Plaintiff Shawn Darnell Cheatham** is a 60 year-old Black military veteran who currently stays in an apartment in Ward 8. Mr. Cheatham desires to open a small plumbing and handyman business. Yet because he owes over \$3,000 in parking and traffic tickets and fines, the Clean Hands Law automatically disqualifies Mr. Cheatham from doing so.

17. **Plaintiff Stephanie Carrington** is a 49-year-old Black District resident who is a fully-licensed speech pathologist in Maryland and Virginia. Ms. Carrington is the sole breadwinner in her household, and is financially responsible for her two children. She has lived in D.C. for over 15 fifteen years, graduated with a Master’s Degree in speech pathology from the University of the District of Columbia, and wishes to work as a speech pathologist in D.C. and open a small business here. But because she has unpaid fines and fees to D.C., the Clean Hands Law is precluding her from both (a) obtaining a Speech Pathology License (“SPL”); and (b) from opening a small business in D.C.

18. **Plaintiff Medhin Ayele** is a 57-year-old Ethiopian District resident of Ward 4. Ms. Ayele emigrated from Ethiopia to the United States over 30 years ago and for most of the time since then has operated a street vending stand in D.C, selling hot dogs, candy, chips, soda, water, and juice. She was a D.C. street vendor between 1992 and 2020, and wishes to continue working as a street vendor, but she has been automatically disqualified due to the Clean Hands Law from renewing her Class A Vending Business License, based on unpaid quarterly street vending fees.

19. **Plaintiff Kahssay Ghebrebrhan** is a 63-year-old Black District resident of Ward 2. Mr. Ghebrebrhan emigrated from Ethiopia to the United States after fleeing civil war, and has been a D.C. resident since 1990 and was a D.C. street vendor from 1991 until 2020. He would like to continue working as a street vendor to support himself, but has been automatically disqualified under the Clean Hands Law from renewing his Class A Vending Business License due to unpaid quarterly street vending fees.

20. **Plaintiff Fasika Mehabe** is a 57-year-old Black Maryland resident. Ms. Mehabe emigrated from Ethiopia to the United States and was a D.C. street vendor from 1996 until 2020.

She wishes to work as a street vendor to support herself, but she has been automatically disqualified under the Clean Hands Law from renewing her Class A Vending Business License due to unpaid quarterly street vending fees.

21. **Plaintiff Hiwet Tesfamichael** is a 71-year-old District resident of Ward 4. She identifies as Eritrean or Black. Ms. Tesfamichael emigrated from Eritrea to the United States and was a D.C. street vendor from 1991 until 2020. She too has been automatically disqualified under the Clean Hands Law from renewing her Class A Vending Business License due to unpaid quarterly street vending fees.

22. **Plaintiff Antonia Diaz de Sanchez** is a 52-year-old Hispanic District resident of Ward 5. Ms. Diaz emigrated from Guatemala to the United States and from 2016-2020 earned a living as D.C. street vendor. Ms. Diaz has been automatically disqualified under the Clean Hands Law from renewing her vending license or obtaining a new professional license due to an outstanding alleged debt owed to the D.C. Government.

23. **Defendant District of Columbia** is a municipal corporation that may be sued under D.C. Code § 1-102 for the acts and omissions of its agents, including agencies such as the Department of Licensing and Consumer Protection (“DLCP”), the District of Columbia Health Department (“DC Health”), and the Office of the Chief Financial Officer (“OCFO”). Through the DLCP, DC Health, and the OCFO, the District enforces the Clean Hands Law.

24. **Defendant Shirley Kwan-Hui** is the Interim Director of the DLCP. Interim Director Kwan-Hui is sued solely in her official capacity. At all times relevant to the events, acts, or omissions alleged in this Complaint, Interim Director Kwan-Hui has acted pursuant to her authority as an official of the District. As the Interim Director of the DLCP, Defendant Kwan-Hui



oversees the issuance, renewal, suspension, and revocation of business and occupational licenses for over 125 professions, including vending and small business licenses. Under Defendant Kwan-Hui, the DLCP enforces the Clean Hands Law as follows: (1) when an applicant applies to the DLCP to obtain or renew an occupational or small business license, they are required to submit a Certificate of Clean Hands, which is a certificate automatically generated by the OCFO, Office of Tax and Revenue (“OTR”), if the applicant does not owe more than \$100 in outstanding debt, fines, or fees to the District; (2) applicants who cannot provide a Certificate of Clean Hands issued by the OCFO’s OTR are automatically ineligible to renew or receive occupational licenses issued by the DLCP without any additional inquiry into the applicant’s ability to pay the outstanding debt and without determining that the failure to pay is willful and not a consequence of the applicant’s poverty.<sup>1</sup>

25. **Defendant Sharon Lewis** is the Interim Director of DC Health. Interim Director Lewis is sued solely in her official capacity. At all times relevant to the events, acts, or omissions alleged in this Complaint, Interim Director Lewis has acted pursuant to her authority as an official of the District. As Interim Director of DC Health, Defendant Lewis oversees the issuance, renewal, suspension, and revocation of occupational licenses for health care professionals, including speech pathologists. Under Defendant Lewis, DC Health enforces the Clean Hands Law as follows: (1) when an applicant applies to the DC Health to obtain or renew an occupational license, they are required to submit a Certificate of Clean Hands, which is a certificate automatically generated by

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<sup>1</sup> The DLCP was created in October 2022 to oversee licensing requirements. Prior to the creation of the DLCP, vending licenses were issued by the Department of Consumer and Regulatory Affairs (“DCRA”).

the OCFO, OTR, if the applicant does not owe more than \$100 in outstanding debt, fines, or fees to the District; (2) applicants who cannot provide a Certificate of Clean Hands issued by the OCFO's OTR are automatically ineligible to renew or receive occupational licenses issued by the DLCP without any additional inquiry into the applicant's ability to pay the outstanding debt and without determining that the failure to pay is willful and not a consequence of the applicant's poverty.

26. **Defendant Glen Lee** is the Chief Financial Officer for the District of Columbia, and the head of OCFO. Mr. Lee is sued solely in his official capacity. At all times relevant to the events, acts, or omissions alleged in this Complaint, Defendant Lee has acted pursuant to his authority as an official of the District. As Chief Financial Officer, Defendant Lee oversees the collection of fines and fees to the District. Under Defendant Lee, OCFO enforces the Clean Hands Law as follows: (1) OCFO maintains up-to-date records of all individuals owing more than \$100 in fines, fees, or debts to the District; (2) applicants for the renewal of occupational licenses or small business licenses through the DLCP and DC Health must apply for a Certificate of Clean Hands through the OCFO's OTR, which automatically generates a Certificate of Clean Hands for qualifying applicants; (3) applicants for occupational licenses who cannot provide a Certificate of Clean Hands are not eligible to obtain or renew occupational licenses issued by DLCP or DC Health.

### **FACTUAL ALLEGATIONS**

#### **A. D.C. Enacts and Enforces a Wealth-Based Classification System for Occupational and Small Business Licenses under the Clean Hands Law**

27. In 1996, the D.C. Council passed the Clean Hands Law. As originally enacted, the law required denial of an application to obtain or renew certain licenses and permits for non-

payment of fines and taxes for littering, illegal dumping, and civil infractions assessed by the Department of Consumer and Regulatory Affairs. Since then, the District has continued broadening the Clean Hands Law to cover more fines and fees and, in turn, prevent more individuals from obtaining occupational or small business licenses.

28. For example, in 2001 the D.C. Council amended and expanded the Clean Hands Law to add parking and moving infractions to the list of violations that trigger penalties. The sole stated purpose of the 2001 amendment was to generate additional revenue for the District. D.C. COUNCIL COMM. ON PUB. WORKS AND THE ENV'T, Comm. Rep. on Bill 13-828, at 5 (2000). And in 2005, D.C. further expanded the law to cover parking fines assessed in other jurisdictions.

29. The Clean Hands Law disqualifies applicants from obtaining or renewing occupational or small business licenses if they owe more than \$100 in fees or fines to the District— with no hearing on inability to pay.

30. The statute provides in relevant part: “Notwithstanding any other provision of law, the District government shall not issue or reissue a license or permit to any applicant for a license or permit if the applicant:” (a) “[o]wes the District more than \$100 in outstanding fines, penalties, or interest assessed pursuant to the following acts or any regulations promulgated under the authority of the following acts,” which includes code sections governing littering, dumping, consumer violations, car insurance laws, and parking and traffic violations; (b) “[o]wes the District more than \$100 in past due taxes”; or (c) “[o]wes the District more than \$100 in outstanding fines, penalties or interest.” D.C. Code § 47-2862(a).

31. The Clean Hands Law imposes payment-based restrictions on occupational licensing despite the sweeping breadth of occupational licensing requirements in the District. For example:

- a. Nearly 12% of the District’s private sector employment is in occupations regulated by an occupational licensing board;
- b. Licensing restrictions apply to over 125 occupations; and
- c. Licensing requirements subject to automatic disqualification under the Clean Hands Law are generally directed to middle- or low-wage jobs accessible to applicants who do not have high levels of education or formal training.

32. Likewise, the Clean Hands Law applies to small business licenses despite the vital and ubiquitous role these businesses play in the District. For example:

- a. Over 75% of establishments in D.C. are small businesses;<sup>2</sup>
- b. Small businesses account for nearly half of the D.C.’s employment and payroll;<sup>3</sup> and
- c. Small businesses invigorate local economies, reduce income inequality—both racial and gender—and increase the quality of life in the communities in which they are located.

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<sup>2</sup> D.C. Policy Center, *2022 State of Business Report: Doing Business Under the New Normal* (Sept. 30, 2022), <https://dcpolicycenter.wpenginepowered.com/wp-content/uploads/2022/09/2022-State-of-Business-report-FINAL.pdf>.

<sup>3</sup> *Id.* at 9.

33. Moreover, because satisfying the Clean Hands Law turns solely on payment of money to the D.C. Government, the Clean Hands Law disproportionately impacts applicants with low or no income.

34. The Clean Hands Law also exacerbates racial inequality because in D.C., statistically speaking, wealth tracks race. Studies show that the per capita wealth (net assets) of white D.C. households is an estimated 81 times greater than the per capita wealth for Black households,<sup>4</sup> and that Black residents in the District are over five times more likely to live in poverty than white residents.<sup>5</sup> In addition, in D.C. White households have 22 times the wealth of Latino or Latina households.<sup>6</sup> The Clean Hands Law thus disproportionately impacts Black and Latino/Latina individuals.

35. This is particularly true for street vendors. “[A]n overwhelming majority of street vendors in D.C. are Latin[o], Indigenous and/or Black.”<sup>7</sup> The application of the Clean Hands Law to street vending licenses thus disproportionately impacts people of color.

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<sup>4</sup> Kilolo Kijakazi et al., *The Color of Wealth in the Nation’s Capital* vii, 58 tbl.12 (2016), [urban.org/sites/default/files/publication/85341/2000986-the-color-of-wealth-in-the-nations-capital.pdf](https://urban.org/sites/default/files/publication/85341/2000986-the-color-of-wealth-in-the-nations-capital.pdf).

<sup>5</sup> Erica Williams & Tazra Mitchell, *Large Black-White Disparities in Poverty and Income Persisted in 2021*, DC Fiscal Policy Institute (Sept. 15, 2022), <https://www.dcfpi.org/all/large-black-white-disparities-in-poverty-and-income-persisted-in-2021/#:~:text=The%20share%20of%20Black%20people,effect%20on%20the%20poverty%20rate>.

<sup>6</sup> Nikki Metzgar, *Latinas in DC Earn 64 Cents For Every Dollar Earned by White, Non-Hispanic Men*, DC Fiscal Policy Institute (Dec. 8, 2022), <https://www.dcfpi.org/all/latin-as-in-dc-earn-64-cents-for-every-dollar-earned-by-white-non-hispanic-men/#:~:text=The%20poverty%20rate%20for%20Latinas,3.3%20percent%20of%20white%20women>.

<sup>7</sup> Geoff Gilbert et al., *Where the Sidewalk Ends Part II: A Vision for Decriminalizing and Investing in DC Street Vendors* 7,

36. Moreover, data indicates that 69.8% of D.C.'s small business are white-owned, compared to just 5.2% that are owned by Black residents.<sup>8</sup> Precluding people of color from obtaining small business licenses entrenches this racial disparity.

37. The Clean Hands Law especially harms D.C. residents with disabilities, with Black residents being over three times more likely to be disabled than white residents.<sup>9</sup> Adults with disabilities are more than twice as likely to experience poverty as adults without disabilities.<sup>10</sup> Thus, District residents with disabilities are disproportionately more likely to lose their ability to obtain or renew an occupational or small business license.

38. The Clean Hands Law also harms employers. Without the ability to obtain or renew the requisite licensing, employees are unable to maintain employment. If an employee loses their job because they can no longer obtain or renew their licensing, their employer must hire and train a new employee and might have to pay unemployment insurance.

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<https://static1.squarespace.com/static/5cf9450e810352000190b4e4/t/637ba6fa9dc5424b0425556c/1669048061149/Where+the+Sidewalk+Ends+Part+II.pdf> (last visited June 15, 2023).

<sup>8</sup> Colleen Grablick, *Economic Inclusiveness Tool Reflects Large Racial Wealth Gap In D.C. Region*, NPR (June 30, 2021), <https://www.npr.org/local/305/2021/06/30/1011757593/economic-inclusiveness-tool-reflects-large-racial-wealth-gap-in-d-c-region>.

<sup>9</sup> Coleen Jordan, *2015 Disability Characteristics Among DC Residents*, District of Columbia State Data Center at 3 (Aug. 2017), <https://planning.dc.gov/sites/default/files/dc/sites/op/publication/attachments/2015%20Disability%20Characteristics%20Among%20DC%20Residents.pdf>

<sup>10</sup> Nanette Goodman et al., *Financial Inequality: Disability, Race and Poverty in America* 12 (2019), <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/02/disability-race-poverty-in-america.pdf>.

39. The statute also harms the District's workforce generally. When individuals are precluded from opening a small business because they owe outstanding debt, they cannot generate additional jobs in the District.

40. The Clean Hands Law exposes applicants to further punishment and penalties. Unauthorized practice of a job without proper licensing may subject the non-compliant worker to criminal and civil punishment. *See, e.g.*, D.C. Code § 37–131.08.

**B. The Clean Hands Law is Precluding Plaintiffs from Obtaining Occupational or Small Business Licenses and Paying Back Their Outstanding Fines**

41. Each Plaintiff wants to obtain an occupational or small business license in D.C. and would obtain an occupational license in D.C. but for the Clean Hands Law. However, each Plaintiff owes money to the District, so the Clean Hands Law precludes them from obtaining an occupational license and working in their chosen profession.

42. In addition, one Plaintiff, Stephanie Carrington, also seeks to open a small business in the District. She cannot do so, however, because she owes outstanding debt. The Clean Hands Law thus precludes her from obtaining a small business license.

43. The harms Plaintiffs have suffered as a result of the Clean Hands Law are emblematic of the harms many applicants have suffered under the statute.

**1. The Speech Pathologist**

44. Under District law, individuals who wish to practice in the speech-language pathology field in the District must have a license issued by the District. D.C. Code §§ 3–1205.01(a)(1); 3–1210.07. DC Health is the agency responsible for issuing occupational licenses to health professionals, including licenses for speech-language pathologists. In order to obtain a license to practice speech pathology, in addition to completing the requisite education and passing

the required examinations, applicants have to complete a “Clean Hands” Self-Certification Form, attesting that they do not owe the District more than \$100 in outstanding debt. D.C. Health Dep’t, <https://dohlicenseinfo.secure.force.com/dchealthrenewals>.

45. **Plaintiff Stephanie Carrington** is a licensed speech pathologist in Maryland and Virginia. Ms. Carrington has a Master’s degree in speech pathology, and is currently working towards a Ph.D. in Speech Pathology from Kean University in New Jersey. Ms. Carrington currently works as a speech pathologist in Virginia.

46. Ms. Carrington wishes to apply for a speech pathology license to pursue her career in D.C., the community where she has lived for over 15 years and where she currently lives. She also wishes to start a small business in the District—a private speech pathology practice—which requires a small business license. Her plans are concrete: In just the past few years, Ms. Carrington filed Articles of Incorporation in D.C. and began making plans to start her small business. Starting a small business also requires obtaining a license from the D.C. government. *See* D.C. Code § 47-2851.02(a).

47. Although Ms. Carrington desires to obtain occupational and small business licenses in D.C., the Clean Hands Law is blocking her from doing so. This is because she has outstanding debt of over \$5,200. Ms. Carrington wants to pay off her debt—and has been doing so incrementally—but she lacks the ability to do so in a large lump sum, as she is financially responsible for her two children.

48. Ms. Carrington’s inability to work as a speech pathologist in the District not only harms her, but also the District itself. Ms. Carrington is Black, so her inability to start a small business in D.C. compounds racial disparities in small business ownership in D.C.



**2. The Plumber**

49. As with opening a speech pathologist practice, opening a plumbing and handyman business requires obtaining a small business license from the District. *See* D.C. Code § 47-2851.02(a). Working as a plumber in the District likewise requires a license issued by the District. *See* D.C. Code § 47-2853.122.

50. **Plaintiff Shawn Darnell Cheatham** is a Black military veteran who previously served as a plumbing specialist in the Air Force. Mr. Cheatham desires to open his own plumbing and handyman business to improve his life. Mr. Cheatham moved to the District in 2015 because, at that time, he had a plumber's job there wanted to receive psychological treatment at the local VA hospital (he has been diagnosed with post-traumatic stress disorder). But Mr. Cheatham was homeless at the time, and he often slept in his car to protect his plumbing tools. This resulted in Mr. Cheatham receiving many parking and traffic tickets, which (including late and doubling fees) now exceed \$3,000.

51. Mr. Cheatham has thankfully overcome the adversity of being unhoused and now has housing and receives a modest disability check from the VA. He wishes to further improve his life by opening a small business in the District, focused on plumbing and handyman services. But the Clean Hands Law is blocking him from doing so due to his over \$3,000 of parking- and driving-related debt, much of which was accrued when he was homeless. This is true even though Mr. Cheatham desires to pay back his debt but simply lacks an ability to do so; his only income is a disability payment from the VA and food stamps.

52. As with Ms. Carrington, Mr. Cheatham's inability to start a small business in D.C. further entrenches racial disparities in small business ownership in D.C.

**3. *The Street Vendors***

53. The remaining Plaintiffs each have served as street vendors in the District for decades and want to continue doing so, but the Clean Hands Law has automatically disqualified them from continuing to work in their chosen profession.

54. To operate a vending cart or food truck in the District, street vendors must obtain a street vending license from DLCP. D.C. Dep't of Licensing and Consumer Protection, *Vending Steps to Licensing* (last visited Apr. 9, 2023), <https://dlcp.dc.gov/node/1619396>. In order to obtain a vending license, street vendors must pay a biennial fee, obtain a health certificate, and have vending carts inspected by DC Health, the Fire and EMS Department ("FEMS"), and the DLCP. *See generally* D.C. Dep't of Licensing and Consumer Protection, *Vending Handbook* (2022), <https://dlcp.dc.gov/sites/default/files/dc/sites/DLCP/publication/attachments/Updated%202022%20Vending%20Handbook.pdf>. In order to obtain a vending license, District law also requires street vendors to obtain a Certificate of Clean Hands verifying that they do not owe any the District any outstanding debts or fines greater than \$100. D.C. Code § 47-2862(a).

55. In addition, Vendors must pay a quarterly street vending fee of \$375 each quarter "in place of collecting and remitting sales tax for the three (3) preceding months." D.C. Office of Tax Revenue, *Street Vendors* (last visited June 14, 2023), <https://otr.cfo.dc.gov/book/other-topics-faqs/street-vendors>.<sup>11</sup>

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<sup>11</sup> The D.C. Code refers to the quarterly street vending fee as a "minimum sales tax." D.C. Code § 47-2002.01(3). For purposes of clarity, this complaint refers to this as a "quarterly street vending fee" per the D.C. Office of Tax and Revenue's guidance. D.C. Office of Tax Revenue, *Street Vendors* (last visited June 14, 2023), <https://otr.cfo.dc.gov/book/other-topics-faqs/street-vendors>.

56. **Plaintiff Medhin Ayele** began street vending decades ago, in 1992, after immigrating to the United States in 1988. She primarily sold hot dogs, candy, chips, and other assorted food items. Due to the Covid-19 pandemic and related District shut down, Ms. Ayele paused her street vending business in 2020. Ms. Ayele's Class A Vending Business License lapsed on September 30, 2020.

57. In 2021 and again in 2022, Ms. Ayele attempted to renew her street vendor license and reopen her business. The Clean Hands Law blocked her from doing so, however, because she owed outstanding quarterly street vending fees—which were imposed even after Ms. Ayele's license had lapsed. Moreover, based on her conversations with D.C. employees, she learned that some of the outstanding debt preventing her from obtaining an occupational license stemmed from fees issued in error.

58. Based on information provided to her by D.C. government employees, Ms. Ayele understands that she currently owes outstanding debt to the District and is in the process of submitting tax returns to determine the precise amount. Because she has not been able to work as a vendor due to the Clean Hands Law, Ms. Ayele is currently unemployed and is unable to pay her debt to the District. Resuming her work as a street vendor would put Ms. Ayele on a path towards repaying her debt.

59. **Plaintiff Kahssay Ghebrebrhan** has also worked for decades as a street vendor in D.C., after fleeing Ethiopia's civil war in 1975 and immigrating to the United States. He first began working as a street vendor in 1991, primarily selling hot dogs. Through his vending business, Mr. Ghebrebrhan was able to support himself and his elderly sister.

60. Due to the Covid-19 pandemic and the related District shut down, Mr. Ghebrebrhan temporarily stopped street vending in March 2020, and his Class A Vending Business License lapsed on September 30, 2020.

61. In September 2021, Mr. Ghebrebrhan attempted to renew his street vendor license, but the Clean Hands Law automatically disqualified him from doing so because of outstanding quarterly street vending fees—which were imposed during the Covid-19 pandemic, after his license had lapsed. Moreover, some of the debt that initially barred Mr. Ghebrebrhan from renewing his vending license was the result of errors made by the OTR. Mr. Ghebrebrhan was able to get those errors corrected and have his debt partially reduced, but the Clean Hands Law is still preventing him from resuming vending.

62. Without the ability to street vend, Mr. Ghebrebrhan is unable to make a living and is currently unemployed. Mr. Ghebrebrhan is also a source of financial support for his sick elderly sister, but without the ability to work as a vendor, he is unable to bring in an income to support his family. Mr. Ghebrebrhan receives public benefits, including food stamps, and does not currently have any other source of income. Resuming street vending is essential to putting Mr. Ghebrebrhan on a path towards repaying his debt.

63. **Plaintiff Fasika Mehabe** first began working as a street vendor in 1996, after immigrating to the United States from Ethiopia. She earned enough money as a vendor to support herself. Due to the Covid-19 pandemic and associated District shutdown, Ms. Mehabe temporarily stopped vending in March 2020. Ms. Mehabe's Class A Vending Business License lapsed on September 30, 2020.

64. In 2022, Ms. Mehabe wanted to renew her vending license so that she could resume working as a vendor. She repeatedly tried to renew her license—including by visiting DCLP multiple times—but the Clean Hands Law is preventing her from doing so. Based on conversations with D.C. government employees, Ms. Mehabe believes her debt is approximately \$4,856.00.

65. Without her vending license, Ms. Mehabe has been unable to work in her chosen profession. While she has picked up various jobs in hotels serving or cleaning dishes, without her work as a street vendor, she cannot pay her Clean Hands debt and remains barred from renewing her vending license.

66. **Plaintiff Hiwet Tesfamichael** first began working as a street vendor in 1991, after immigrating to the United States from Eritrea. As a street vendor, she earned enough to support herself and her family.

67. Due to the Covid-19 pandemic and associated District shut down, Ms. Tesfamichael temporarily stopped vending in April 2020. Ms. Tesfamichael's Class A Vending Business License lapsed on September 30, 2021.

68. When Ms. Tesfamichael attempted to renew her license in 2021 and 2022, DCLP told her she owed the District quarterly vending fees and, therefore, could not renew her license under the Clean Hands Law.

69. Unable to work as a street vendor, Ms. Tesfamichael has been working part time in food preparation at a hospital. But this work produces less income than her street vending work did, and, without being able to serve as a street vendor, she cannot pay her outstanding debt and remains barred from obtaining her vending license. Ms. Tesfamichael's current job is stressful and she does not have the flexibility she had when she was working as a vendor.

70. Further, Ms. Tesfamichael's brother passed away and she supports his two surviving children. Without the income she would have earned from street vending, Ms. Tesfamichael has a hard time providing her brother's children with the financial support they need from her.

71. **Plaintiff Antonia Diaz de Sanchez** is a Hispanic D.C. resident who currently lives in Ward 5. She obtained her food truck vendor license in 2016. Ms. Diaz sold fried and grilled chicken, beef stew, fish, flautas, empanadas, chips, and soda out of her truck, usually to workers near construction sites in Southeast D.C. Because she fell sick with Covid-19 and needed rent money, Ms. Diaz paused her food truck business and sold her truck.

72. In 2020, Ms. Diaz bought a second truck. While test driving this new truck she parked on a corner. A few minutes later a DLCP inspector wrongly issued her a ticket for vending without a license for \$3,000, even though she had no food in her truck.

73. Ms. Diaz has attempted, unsuccessfully, to dispute the ticket. She attempted to do so a few times by calling DLCP and visiting them in-person both by herself and with her children (who are English speakers), but was stymied due to office closures related to the pandemic, as well as her inability to obtain services in her native Spanish.

74. Ms. Diaz has made numerous attempts to contact DLCP to regain her license and explain her inability to pay the debt. However, while she attempted to resolve these issues, her license expired in 2020.

75. Ms. Diaz understands that she currently owes at least \$3,000 in outstanding debt to the District stemming from the vending-related ticket. She is unemployed and unable to pay her

debt to the District without working as a street vendor. This is particularly true because she helps financially support her father, daughter, and three grandchildren.

76. Ms. Diaz desires to obtain a street vending license in order to resume working in the District. The Clean Hands Law precludes her from doing so, however, due to her unpaid debt. Ms. Diaz wants to pay back her debt, and renewing her occupational license is essential for her to be able to do so.

**C. The Clean Hands Law's Application to Occupational and Small Business Licenses is Irrational and Defeats the Law's Purpose**

77. The Clean Hands Law's application to occupational and small business licenses is irrational.

78. The purpose of the Clean Hands Law is to increase revenue to the D.C. government from regressive fines and fees by strengthening the District's ability to collect those fines and fees. Through enactment of the Clean Hands Law, the Council was explicit about its sole stated goal of increasing revenue and more effectively collecting fines issued for littering and other civil infractions. D.C. COUNCIL COMM. ON PUB. WORKS AND THE ENV'T, Comm. Rep. on Bill 11-260, at 1-2 (1995). In 2001, in the wake of Congress placing D.C.'s finances into receivership and creating the D.C. Financial Control Board, the D.C. Council amended the Clean Hands Law to add parking and moving infractions to the list of violations that trigger penalties, again with the sole stated purpose of generating additional revenue for the District. D.C. COUNCIL COMM. ON PUB. WORKS AND THE ENV'T, Comm. Rep. on Bill 13-828, at 5 (2000).

79. The revenue-generation purpose of the Clean Hands Law is not served by the Law's application to occupational and small business licenses when the individuals penalized through

licensed disqualification lack the income or savings to pay their outstanding debt. Individuals, like the Plaintiffs here, obtain occupational and small business licenses in order to earn money, which can be used to repay outstanding fines and, in turn, generate revenue for the District of Columbia. Indeed, over 125 occupations in the District require an occupational license. By barring individuals from renewing or obtaining occupational or small business licenses because of their outstanding fines—even when individuals (like the Plaintiffs here) lack an ability to pay those fines—the Clean Hands Law makes it *less likely* that the fines will be repaid, but certain that those unable to pay will be disqualified from occupational and small business licenses. The Clean Hands Law thus serves no rational purpose. It is a trap that reinforces cycles of poverty.

80. Moreover, it is common sense that withholding occupational or small business licenses from someone who cannot pay their debts to the District will create no incentive to pay. Indeed, in these situations the Clean Hands Law makes it more difficult for applicants to pay down their outstanding debt.

81. Applicants who can afford to pay their debts to the District already have strong incentives to pay apart from the Clean Hands Law. For example, those who do not pay their fines and fees will be unable to renew their vehicle registration,<sup>12</sup> risk D.C. tax refund withholdings, D.C. Code § 47-4431(a), (c)(4), and may experience the stress and anxiety of being subjected to debt collection and credit report concerns.

#### **D. The Clean Hands Law Includes Meager and Insufficient Procedural Protections**

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<sup>12</sup> See Department of Motor Vehicles: Tickets (last visited June 14, 2023), <https://dmv.dc.gov/service/tickets>.



82. The Clean Hands Law does not afford individuals meaningful process before the District can preclude them from obtaining an occupational or small business license. The statute makes this clear: “Notwithstanding any other provision of law, the District government shall not issue or reissue a license or permit to any applicant for a license or permit if the applicant:” (1) “[o]wes the District more than \$100 in outstanding fines, penalties, or interest assessed pursuant to the following [enumerated] acts”; (2) “[o]wes the District more than \$100 in past due taxes”; or (3) “[o]wes the District more than \$100 in outstanding fines, penalties, or interest[.]” D.C. Code § 47-2862(a).

83. Thus, by its plain language, the Clean Hands Law automatically disqualifies applicants from obtaining or renewing occupational or small business licenses if they owe more than \$100 in fines or fees to the District. It does so despite the obvious, inherent importance of the property interest at stake: Occupational and small business licenses enable individuals—including Plaintiffs—to support themselves financially.

84. The District enforces the Clean Hands Law for occupational and small business licenses through DLCP, DC Health, and OFCO. When an applicant applies to DLCP or DC Health to obtain or renew a professional license, they are required to submit a Certificate of Clean Hands which is generated by the OCFO’s OTR after a check that ensures that the applicant does not have any outstanding debts over \$100. If the applicant owes more than \$100, that applicant is not able to obtain the Certificate of Clean Hands and is not eligible to complete the application to renew or obtain a professional license.

85. To make matters worse, the enforcement of the Clean Hands Law does not provide any opportunity for a hearing prior to a resident’s automatic disqualification based on outstanding

debts and fines owed to the District. *See* D.C. Code § 47-2865(c).<sup>13</sup> Non-renewal (or denial) is automatic. There are no meaningful procedural protections, such as a pre-disqualification hearing, or any other inquiry into the source of the outstanding debt, the applicant’s ability to pay that debt, or the accuracy of the outstanding charges. Applicants who do not have the financial capability to pay their debts are disqualified from obtaining or renewing the licenses many of them depend on to earn a living, not because of any willful refusal to pay, but rather because of their poverty.

**E. This Court has Held the Clean Hands Law Likely Violates Procedural Due Process Guarantees in the Closely Related Context of Driver’s Licenses**

86. In *Parham v. D.C.*, No. 22-2481 (D.D.C. Dec. 27, 2022), *vacated* Dkt. 25 (D.D.C. May 15, 2023), this Court addressed a procedural due process challenge to the Clean Hands Law as applied to the automatic disqualification for renewing or obtaining driver’s licenses. *Id.*

87. On the merits, the Court held that the plaintiffs had shown a “likelihood of success” “as to their procedural due process claim.” *Id.* at 21.

88. The *Parham* plaintiffs were a group of District residents unable to pay their fines and fees who were automatically disqualified from renewing their driver’s licenses due to unpaid fines, tickets, or debt owed to the District. *Id.* In *Parham*, this Court found that the plaintiffs had a property interest in the renewal of their driver’s licenses because D.C. law creates “the expectation that renewals will be granted . . . [generating] a legitimate claim of entitlement” to

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<sup>13</sup> The Clean Hands Law provides some limited, post-deprivation process: “[a]ny person whose application is denied pursuant to § 47-2862 may request a hearing within 10 days of the denial on the basis for that denial.” D.C. Code § 47-2865(c). But not only is this a post-deprivation process only, Plaintiffs here received no notice of their ability to request such a hearing and, even if they had, inability to pay would not have been a basis under current D.C. law for a hearing officer to consider.

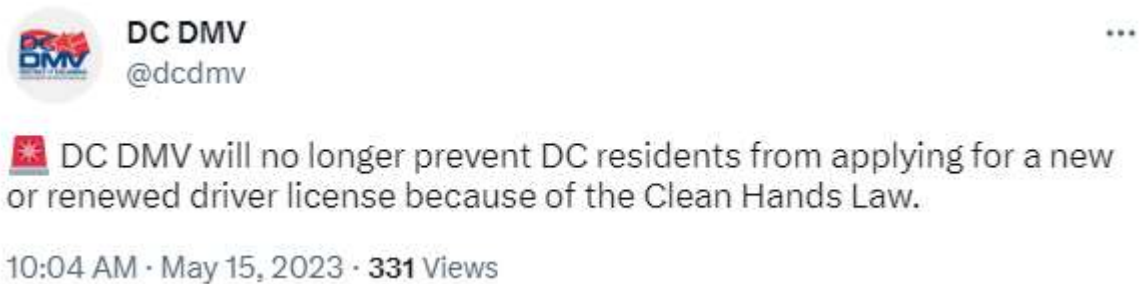
such renewals. *Id.* at 16. Under the Clean Hands Law, the *Parham* plaintiffs were not entitled to any hearing prior to the automatic disqualification, only after, which this Court held to be insufficient procedural protection for the meaningful private interest plaintiffs had in renewing a driver's license. *Id.* at 17, 21.

89. This Court further recognized the risk of an erroneous deprivation of the plaintiffs' interest in the renewal of their driver's licenses without a pre-deprivation hearing. It did so because a simple accounting error on the District's behalf could result in an erroneous rejection, without the applicant having any opportunity to dispute the facts giving rise to the rejection and identify the error. *Id.* at 20.

90. Finally, this Court found the District's "interest to be slight." *Id.* Because of the plaintiffs' "inability to pay the fines and fees assessed," this Court concluded there was no "support regarding how the Clean Hands Law actually achieves [its] goal" of revenue generation. *Id.* at 21.

91. The parties subsequently entered a settlement agreement, which included relief for the plaintiffs and the D.C. government's agreement to change the policy that plaintiffs contended was unconstitutional, and the parties then jointly moved pursuant to that settlement to vacate that decision. *Parham* Docket, ECF No. 24 The Court granted that joint motion and vacated the decision at the parties' request. *Parham* Docket, ECF No. 27. Moreover, in connection with that settlement, the D.C. government announced its new policy on the DMV website homepage, <https://dmv.dc.gov/> (last visited June 15, 2023), that "DC DMV will no longer prevent DC

residents from applying for a new or renewed driver license because of failing to meet the requirements of the Clean Hands Law,” and posted on social media to that effect as well:<sup>14</sup>



92. Even though the Clean Hands Law imposes the exact same licensing prohibitions and procedural process in the occupational and professional context that the District has elected to halt in the driver’s license context, the D.C. Government has provided no relief from the Law’s impact on people who need D.C. occupational and small business license to stay financially afloat.

**F. D.C. Has Recognized the Clean Hands Law’s Harm But Failed to Repeal It as to Occupational and Small Business Licenses**

93. D.C. has recognized the harm the Clean Hands Law inflicts on street vendors and sought to ameliorate it—but only in part.

94. The street vendor Plaintiffs shuttered their businesses in spring 2020, following the Mayor’s issuance of stay-at-home orders and a public health emergency. Not only did the street vendor Plaintiffs not feel safe operating their carts during the pandemic, but there was no business as public and private office buildings closed.

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<sup>14</sup> Twitter, May 15, 2023, <https://twitter.com/dcdmv/status/165811133268471808?cxt=HHwWgMCzic3S5YIuAAAA>.

95. Nevertheless, the D.C. government continued to impose a quarterly minimum fee on vendors during the Covid-19 pandemic, including after street vending licenses were not renewed. As Plaintiffs understand it, the District's position is that the only way to not be charged a quarterly minimum vending fee is to *surrender* your vending license. But doing so means you can no longer simply renew your license and, instead, would need to apply for a new license, paying approximately \$2,000 in license, permit, and certification fees. See BELOVED COMMUNITY INCUBATOR, *Where the Sidewalk Ends: Vendors United and their Efforts to Decriminalize Street Vending in Washington, DC* at 19 (2021), <https://static1.squarespace.com/static/5cf9450e810352000190b4e4/t/63601a50ca464454977058c4/1667242577547/Where+the+Sidewalk+Ends+Full+Report.pdf>. None of the Plaintiff here surrendered their vending licenses. Consequently, they could renew their licenses only if they were able to pay back their outstanding debt (which they cannot do).

96. The D.C. government has recognized these harms from the Clean Hands Act. In 2021, Councilmember Kenyan McDuffie introduced a bill in the D.C. Council that, had it been enacted as introduced, would have significantly reformed the application of D.C.'s Clean Hands Law as to occupational and small business licenses. See D.C. Bill 24-0237, *Clean Hands Certification Equity Amendment Act of 2021* (introduced May 3, 2021) (proposed bill would have “increase[d] the minimum threshold for allowable debt, so that applicants owing \$5,000 or less in certain debts will still be able to obtain Clean Hands certification”). The Council did not move those aspects of the bill forward.

97. In April 2023, after years of advocacy by a coalition of street vendors and community organizers shedding light on the harmful impact the current regulatory scheme has on

street vendors, the D.C. Council passed a bill that, among other reforms, waives vendors' unpaid minimum quarterly vending fees and related licensing fees. D.C. COUNCIL COMM., Comm. Rep. on Bill 25-68, [https://lms.dccouncil.gov/downloads/LIMS/52155/Committee\\_Report/B25-0068-Committee\\_Report1.pdf](https://lms.dccouncil.gov/downloads/LIMS/52155/Committee_Report/B25-0068-Committee_Report1.pdf); see also Vargas, Theresa, *DC street vendors have long worked in fear. That might change*, The Washington Post (April 5, 2023), <https://www.washingtonpost.com/dc-md-va/2023/04/05/dc-street-vendors-decriminalize/>.

98. The Street Vendor Advancement Amendment Act of 2023 forgives “[m]inimum sales tax payments owed pursuant to D.C. Official Code § 47-2002.01 from 2010 to the effective date of [the] act” for all individuals who obtain or register a sidewalk vending license. *Street Vendor Advancement Amendment Act of 2023*, D.C. Bill 25-0068 (2023). There are numerous procedural steps under the D.C. Home Rule Act that must occur in order for this bill to take effect, however, which will take many months to complete. The prospects for final enactment are uncertain and not guaranteed. Even if the bill takes effect in Fiscal Year 2024 (October 1, 2023), it would only provide relief from fines and fees suffered during certain periods of time. And in any event, until this bill continues to become law the vendor Plaintiffs continue to be out of work with limited to no ability to earn income. The law’s time-limited amnesty on minimum sales tax also excludes street vendors who may incur debt after its effective date. Nor does the bill provide any relief to the over 120 other types of occupational licenses—including speech pathologist licenses—to which the Clean Hands Law applies.

**CAUSES OF ACTION**

**COUNT I  
VIOLATION OF FIFTH AMENDMENT RIGHT TO  
PROCEDURAL DUE PROCESS UNDER 42 U.S.C. § 1983  
(AGAINST ALL DEFENDANTS)**

99. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 98.

100. The procedural due process guarantee of the Fifth Amendment of the U.S. Constitution applies to the acts and omissions of the District and its officials.

101. This Fifth Amendment guarantee is enforceable against Defendants through 42 U.S.C. § 1983.

102. Applicants, including Plaintiffs, have a constitutionally protected property interest in retaining or receiving an occupational or small business license.

103. Because of this property interest, the Due Process Clause of the Fifth Amendment requires Defendants to provide individuals with procedural due process before refusing to issue or renew an occupational license.

104. The Clean Hands Law does not provide these constitutionally required protections, however. For instance, under the Law, individuals do not receive a hearing before being disqualified from renewing or receiving an occupational or small business license. Nor does the Law conduct a meaningful inquiry into individuals' ability to pay, or whether the non-payment of the debt is willful, before refusing to renew or issue a license.

105. Defendants' enforcement of the Clean Hands Law with respect to occupational and small business licenses violates procedural due process.

**COUNT II**  
**VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS**  
**AND EQUAL PROTECTION UNDER 42 U.S.C. § 1983**  
**(AGAINST ALL DEFENDANTS)**

106. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 98.

107. The due process and equal protection guarantees of the Fifth Amendment of the U.S. Constitution apply to the acts and omissions of the District and its officials.

108. These Fifth Amendment guarantees are enforceable against Defendants through 42 U.S.C. § 1983.

109. Applicants, including Plaintiffs, have a right, located at the convergence of these Fifth Amendment due process and equal protection guarantees, not to be punished by Defendants because of their poverty.

110. The Clean Hands Law deprives Plaintiffs and other applicants of occupational or small business licenses because of their poverty—and that same consequence is not inflicted on non-impooverished individuals that have an ability to pay. Indeed, the Clean Hands Law deprived Plaintiffs of their property interests without inquiring into their ability to pay their outstanding debt.

111. Defendants' enforcement of the Clean Hands Law with respect to occupational and small business licenses, against individuals like Plaintiffs who lack an ability to pay, thus violates the Fifth Amendment.

**COUNT III**  
**VIOLATION OF FIFTH AMENDMENT RIGHT TO**  
**SUBSTANTIVE DUE PROCESS UNDER 42 U.S.C. § 1983**  
**(AGAINST ALL DEFENDANTS)**

112. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 98.



113. The substantive due process guarantee of the Fifth Amendment of the U.S. Constitution applies to the acts and omissions of the District and its officials.

114. This guarantee is enforceable against Defendants through 42 U.S.C. § 1983.

115. Substantive due process requires that any deprivation of Plaintiffs' and applicants' protected interest in an occupational or small business license under the Clean Hands Law must be rationally related to a legitimate government purpose.

116. The Clean Hands Law's application to Plaintiffs and other individuals seeking to renew or obtain occupational or small business licenses, who lack an inability to pay their outstanding debt, is irrational and serves no legitimate government purpose. To the contrary, the Clean Hands Law undercuts its own ostensible purpose—raising revenue.

117. Defendants' enforcement of the Clean Hands Law against Plaintiffs and other individuals seeking occupational or small business licenses, but who are unable to pay their outstanding debt, violates the Fifth Amendment.

**COUNT IV**  
**VIOLATION OF FIFTH AMENDMENT RIGHT TO**  
**EQUAL PROTECTION UNDER 42 U.S.C. § 1983**  
**(AGAINST ALL DEFENDANTS)**

118. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 98.

119. The equal protection guarantee of the Fifth Amendment of the U.S. Constitution applies to the acts and omissions of the District and its officials.

120. This guarantee is enforceable against Defendants through 42 U.S.C. § 1983.

121. Equal protection principles require invalidating irrational classification systems created by law.

122. The Clean Hands Law’s classification system—allowing individuals that have an ability to repay their debt to obtain occupational and small business licenses, but precluding individuals without an ability to pay their debt from doing so—is irrational and violates equal protection principles.

123. Equal protection guarantees of the Fifth Amendment also prohibit the D.C. government from abusing its power as a debt collector by imposing harsh and discriminatory terms on only certain individuals.

124. Under the Clean Hands Law, however, the D.C. government is employing harsh and discriminatory debt collection practices. That is because the Law has no exception for inability to pay, and it therefore punishes impoverished individuals that desire to pay back their debt but lack an ability to fully do so at the time.

125. Defendants’ enforcement of the Clean Hands Law with respect to occupational and small business licenses, against individuals like Plaintiffs who lack an ability to pay, thus violates equal protection guarantees enshrined in the Fifth Amendment.

**COUNT V  
VIOLATION OF EIGHTH AMENDMENT  
PROHIBITION AGAINST EXCESSIVE FINES  
(AGAINST ALL DEFENDANTS)**

126. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 98.

127. The Excessive Fines Clause of the Eighth Amendment of the U.S. Constitution applies to the acts and omissions of the District and its officials.

128. This Eighth Amendment protection is enforceable against Defendants through 42 U.S.C. § 1983.

129. Plaintiffs have a constitutionally protected right against excessive fines.

130. The Excessive Fines Clause bars the D.C. government from imposing fines that deprive Plaintiffs of their ability to earn a living. It also requires that fines extracted by the government be proportionate to the Plaintiffs' ability to pay.

131. The Clean Hands Law has precluded Plaintiffs from earning a living by blocking them from obtaining the occupational and small business licenses needed to work in their chosen profession. The Law has also imposed this penalty on Plaintiffs without any regard for their ability to pay, and each Plaintiff lacks an ability to pay.

132. Defendants' enforcement of the Clean Hands Law with respect to occupational and small business licenses, against individuals like Plaintiffs who lack an ability to pay, thus violates the Eighth Amendment's prohibition on excessive fines.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- a. Entry of judgment against the Defendants on all Counts;
- b. For the procedural due process claim, a declaration that Defendants' enforcement of the Clean Hands Law with respect to occupational and small business licenses violates procedural due process;
- c. For the remaining claims, a declaration that Defendants' enforcement of the Clean Hands Law with respect to occupational and small business licenses, against individuals like Plaintiffs who lack an ability to pay, is unlawful and violates the Fifth and Eighth Amendments to the United States Constitution, as alleged here;
- d. For the procedural due process claim, preliminary and permanent injunctions prohibiting Defendants, their subordinates, agents, employees,

representatives, and all others acting or purporting to act in concert with them or on their behalf from enforcing the Clean Hands Law with respect to occupational and small business licenses;

e. For the remaining claims, preliminary and permanent injunctions prohibiting Defendants, their subordinates, agents, employees, representatives, and all others acting or purporting to act in concert with them or on their behalf from enforcing the Clean Hands Law with respect to occupational and small business licenses, against individuals like Plaintiffs who lack an ability to pay;

f. An award of attorneys' fees and costs under 42 U.S.C. § 1988; and

g. Such other and further relief as this Court may deem necessary and appropriate.

Dated: June 20, 2023

Respectfully Submitted,

/s/ Andrew Tulumello

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