

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

Kellean K. Truesdell, individually  
and on behalf of others  
similarly situated,

Plaintiffs

v.

Clayton Thomas, *individually*;  
Chris Blair, *individually and in his official  
capacity as the Marion County Sheriff*;  
Julie L. Jones, *in her official capacity as the  
Executive Director of the Department of  
Highway Safety and Motor Vehicles*; Gerald  
M. Bailey, *in his official capacity as  
Commissioner of the Florida Department of  
Law Enforcement*,

Defendants.

\_\_\_\_\_ /

CASE NO.:

CLASS REPRESENTATION  
INJUNCTIVE RELIEF SOUGHT  
DEMAND FOR JURY TRIAL

**CLASS ACTION COMPLAINT  
AND DEMAND FOR JURY TRIAL**

Plaintiff, Kellean Truesdell, on behalf of herself individually and on behalf of a class of similarly situated persons who have had their personal, confidential and private information unlawfully obtained, disclosed, and/or used by Defendants, sues Clayton Thomas, Chris Blair, Julie L. Jones and Gerald M. Bailey, alleging as follows.

**INTRODUCTION**

1. This is an action for injunctive relief and money damages under the Driver's Privacy Protection Act of 1994, 18 U.S.C. §§ 2721-2725 ("DPPA"); 42 U.S.C. § 1983; and,

state laws to recover damages for Defendants' disregard for and invasion of the Plaintiffs' personal privacy rights and interests.

2. To protect United States citizens' fundamental right to privacy under the United States Constitution and federal law, Congress has adopted a strict approach to the protection of privacy interests, particularly in the past twenty years. The Driver's Privacy Protection Act of 1994 ("DPPA") is one such safeguard of this right to privacy. DPPA protects the people against states and state officials obtaining, using, and disclosing citizens' highly personal information, which states and state officials gather and retain in connection with the regulation of drivers' licenses. DPPA protects all United States citizens against improper access to, and disclosure and use of, citizens' personal information by law enforcement personnel.

3. This case involves the disclosure of the personal information and highly restricted personal information of Plaintiff Truesdell and the putative class of similarly situated persons by the Marion County Sheriff's Office ("MSCO"), for which Defendant Chris Blair is responsible, Florida Department of Highway Safety and Motor Vehicles ("DHSMV"), for which Defendant Julie L. Jones ("Jones") is responsible, and the Florida Department of Law Enforcement ("FDLE"), for which Defendant Gerald M. Bailey ("Bailey") is responsible, to Defendant Clayton Thomas ("Thomas"), without any permissible reason to do so. Thus, this case also involves the obtaining and/or use of Plaintiffs' personal information and highly restricted personal information by Defendant Thomas, without any permissible reason to do so.

4. The obtaining, use, and disclosure of Plaintiffs' personal information and highly restricted personal information occurred from at least January 1, 2010 through July of 2013, and probably before that, throughout the time that Defendant Thomas was employed by the Marion County Sheriff's Office. During that time, DHSMV disclosed and Defendant Thomas obtained and/or used the personal information and highly restricted personal information of an estimated 42,000 persons, each of whom is a member of the putative class of plaintiffs, without any permissible reason to do so.

5. Each unauthorized access of a plaintiff's private information, made while acting under the color of state law, violated that plaintiff's federal civil rights and constituted behavior prohibited by federal statutes, Florida law, and agency and departmental regulations prohibiting some or all of the conduct engaged in by Defendants in this case.

6. Plaintiffs are entitled to a determination that their rights have been violated, to an order enjoining further violations, and to monetary damages for these violations of federal and state laws.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over Plaintiffs' claims pursuant to 18 U.S.C. § 2721 *et seq.* (the Driver Privacy Protection Act); 42 U.S.C. §§ 1983 and 1988; and, 28 U.S.C. §§ 1331 (federal question jurisdiction) and § 1343(a)(3). This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

8. Venue in this District satisfies the requirements of 28 U.S.C. §1391(b)(2) because a substantial portion of the events and occurrences giving rise to the claim occurred in this District.

9. All conditions precedent to the maintenance of this action, including those which may relate to notice, have occurred, or have been performed or waived.

**THE PARTIES**

10. Plaintiff Kellean Truesdell (“Truesdell”) is and at all material times has been a resident of Marion County, Florida and a citizen of the United States of America.

11. Defendant Clayton Thomas (“Thomas”) was at all material times, upon information and belief, a resident of the State of Florida and a citizen of the United States. At material times, Thomas was duly appointed and employed by the Marion County Sheriff’s Office (“MCSO”) as a sergeant, employee, agent and authorized representative.

12. Defendant Chris Blair (“Blair”) is and at all material times was a resident of Marion County, Florida and a citizen of the United States. Blair is and at material times was the duly elected Marion County Sheriff.

13. Defendant Julie L. Jones (“Jones”) is and at all material times was a resident of the State of Florida and a citizen of the United States, and was duly appointed and acting in her capacity as the Executive Director of the Department of Highway Safety and Motor Vehicles (“DHSMV”).

14. Defendant Gerald M. Bailey (“Bailey”) is and at all material times was a resident of the State of Florida and a citizen of the United States, and was duly appointed

and acting in his capacity as Commissioner of the Florida Department of Law Enforcement ("FDLE").

### **FACTUAL ALLEGATIONS**

15. "Personal information" is defined in 18 U.S.C. § 2725(3) thus:

Information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.

16. "Highly restricted personal information" is defined in 18 U.S.C. § 2725(4) thus:

An individual's photograph or image, social security number, medical or disability information.

17. MCSO uses a variety of databases and systems for criminal investigations and intelligence. One such database is the Driver and Vehicle Identification Database ("DAVID").

18. DAVID permits law enforcement personnel to search Florida driver licenses, identification cards, and license plate (tags) as well as other private and highly-restricted personal information.

19. Access to the DAVID system is limited and approved by the DHSMV, under the direction of Defendant Jones, and the FDLE, under the direction of Defendant Bailey.

20. DHSMV, under the direction of Defendant Jones, maintains and updates DAVID.

21. FDLE and DHSMV provided access to DAVID to MCSO for strictly protected law enforcement and investigative purposes.

22. Defendant Thomas was employed by the Marion County Sheriff's Office for many years, as a bailiff at the Marion County Courthouse. In this role, Thomas' duties did not encompass any functions for which police investigation or DAVID-based inquiries would be necessary or appropriate. Even so, no protections were in place to prevent Thomas from accessing the DAVID system, and he did so routinely throughout his employment.

23. Over the course of at least three years, from 2010 through about July of 2013, Defendant Thomas' routine and unrestricted use of DAVID allowed him to access the confidential personal information of at least 42,000 persons. The information which was made available by DHSMV, FDLE and MCSO to Defendant Thomas for viewing included (but was not necessarily limited to) each person's home address, color photograph or image, social security number, date of birth, state of birth, detailed vehicle registration information and description, prior and current home and mailing addresses, driving record, insurance carrier, emergency contacts and those contacts' personal information, and other highly-restricted personal information.

24. During or about July, 2013, MCSO conducted an investigation into the use of DAVID by Defendant Thomas.

25. MCSO's investigation revealed that on or about June 8, 2011, Defendant Thomas accessed Plaintiff Truesdell's personal information and highly restricted personal information, for no proper purpose. At all times, Thomas' access to Plaintiff Truesdell's personal information and highly restricted personal information was for personal, non-law enforcement purposes.

26. On August, 2, 2013, Blair on behalf of MCSO sent a letter to Plaintiff Truesdell and to at least dozens of other persons which disclosed that an unnamed MCSO employee had engaged in unauthorized DAVID searches in the confidential personal information of the addressee. A copy of Blair's letter is attached as Exhibit A.

27. Upon information and belief, that MCSO employee was Defendant Thomas. For unknown reasons, MCSO limited its investigation into Thomas' unauthorized use of DAVID to only the preceding three years, during which unauthorized access to 42,000 persons' private information occurred. The number of persons whose information was improperly accessed prior to 2010 was not determined.

28. Upon information and belief, Thomas' routine and unlawful use of the DAVID system was uniformly for the purpose of accessing information relating to female citizens, and all addressees of Blair's August 2, 2013 letter were women.

29. Other employees of MCSO have also unlawfully accessed DAVID for no proper purpose.

30. FDLE, DHSMV and MCSO each had the duty and ability to control access to DAVID, and to ascertain that confidential personal information such as driver's license information, was being accessed by individuals who would have no proper purpose for doing so, such as Defendant Thomas. Each was specifically in the position of contemporaneously determining that the confidential personal information of Plaintiff Truesdell and other similarly-situated persons was being improperly accessed for no permissible purpose.

31. FDLE, DHSMV and MCSO each consistently failed to prevent unauthorized access to the database including access to Plaintiff's personal information.

32. During the period that Defendant Thomas was using DAVID to undermine the confidentiality and protections afforded to the personal information of 42,000 persons, FDLE, DHSMV and MCSO each learned that state employees were gaining access to DAVID for improper purposes, yet no remedial measures were taken and no safeguards were put into place to prevent the continuing injustice.

33. By turning a blind eye to this activity, FDLE, DHSMV and MCSO became Thomas' enabler, and each authorized, directed, ratified, approved, acquiesced in, committed and/or participated in the disclosure of Plaintiff's confidential personal information.

34. The policy of the State of Florida is to uphold the provisions of the law, both state and federal, and to protect and safeguard the privacy rights of Florida's citizens and inhabitants, including its drivers' privacy rights, and including those rights as are required to be protected by federal law, and in particular, it is the policy of the State of Florida to comply with the provisions and requirements of the DPPA, 18 U.S.C. § 2721, et. seq.

35. FDLE, DHSMV and MCSO each knowingly disclosed Plaintiff's and other similarly-situated persons' driver's license and other confidential and personal information and violated applicable law by devising and implementing a database that failed to uphold the privacy rights of Plaintiff Truesdell and others similarly situated as protected by the DPPA. Defendants thereby exposed Plaintiff Truesdell's and other similarly-situated persons' information to impermissible accesses by various persons, including Defendant

Thomas, constituting a knowing disclosure of her information and the information of others similarly situated within the meaning of the DPPA.

36. FDLE, DHSMV and MCSO each knowingly implemented DAVID in such a way as to both permit and encourage accesses by police officers, state employees, and others that failed to comply with state policy of protecting privacy rights and complying with the DPPA.

37. FDLE, DHSMV and MCSO each:

- a. Failed to set rules for protecting the privacy rights of Florida citizens whose confidential personal information is stored in DAVID;
- b. Permitted and on occasions actively promoted, accessing of DAVID from centrally-located computers which were and are accessible to various individuals without regard for their law enforcement duties or job description;
- c. Permitted regular access to DAVID from particular user stations which did not and do not require a password-protected log in by the users;
- d. Permitted regular access to DAVID under such circumstances that users who had gained access to confidential personal information of Florida citizens could not even be identified as having done so;
- e. Specifically opted for convenient access to DAVID and its content even though doing so undermined the privacy rights of Florida citizens.

38. Even if FDLE, DHSMV and MCSO had no actual knowledge of the impermissible uses of DAVID, each was reckless and grossly negligent in its supervision of their own employees who were permitted to access DAVID for no proper purpose.

39. At all material times, MCSO had a duty to monitor the use of DAVID, to prevent improper access to DAVID, and to stop unauthorized uses which it discovered. MCSO failed to do so, in every respect.

40. According to Section 119.0712(2)(c), Florida Statutes:

Without the express consent of the person to whom such emergency contact information applies, the emergency contact information contained in a motor vehicle record may be released only to law enforcement agencies for purposes of contacting those listed in the event of an emergency.

41. Under the agreement among FDLE, DHSMV and MCSO for implementation of DAVID, “[t]he Requesting Party must immediately notify the Providing Agency and the affected individual following the determination that personal information has been compromised by an unauthorized access, distribution, use, modification, or disclosure.”

42. MCSO agreed and was further required to:

- a. Conduct quarterly quality controls on user accounts;
- b. Regularly monitor access of information; and
- c. Conduct annual audits to ensure proper use and dissemination.

43. For any discovered breach of privacy through improper access to DAVID, MCSO had a duty to submit to DHSMV, and DHSMV had a duty to require from MCSO, at least the following information:

- a. Brief summary of incident on agency letterhead;
- b. Outcome of review;

- c. Number of records compromised;
- d. Whether the individual victims were or would be notified;
- e. A description of disciplinary action following the improper use of DAVID;
- f. A description of preventive measures MCSO intended to implement to prevent further breaches;

44. FDLE, DHSMV and MCSO each failed to properly train their personnel to prevent breaches of privacy through DAVID. This inadequate training permitted employees of MCSO, including Defendant Thomas and others, to access the confidential personal information of Florida residents for improper purposes. Thomas' access to Plaintiffs' information is a precise manifestation of this failure to adequately train subordinates and employees.

45. FDLE, DHSMV and MCSO have maintained, and continue to maintain, no protections or inadequate protections against improper use of DAVID, and have uniformly demonstrated lax policies or lax enforcement of policies that would otherwise be designed to prevent improper breaches and intrusions. They have uniformly failed to create or carry out any meaningful method of ascertaining and controlling access to individuals' private information by their personnel to prevent breaches of Florida citizens' privacy rights.

46. Plaintiff and other similarly-situated persons never waived the protections of the DPPA, nor did they ever consent to FDLE's, DHSMV's and MCSO's giving of access to their personal information or highly restricted personal information to Defendant Thomas, nor did they ever consent to Thomas' access to such information.

47. Plaintiff Truesdell and others similarly situated do not have criminal histories, nor have they been the subject of any law-enforcement investigation which might ever have given Defendant Thomas a proper purpose for accessing their confidential personal information, even if Defendant Thomas had ever occupied a role for MCSO which would reasonably have given him investigative duties, which he did not.

### **CLASS ACTION ALLEGATIONS**

48. Plaintiff brings this suit as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf of herself and the Class.

#### **Class Definition**

49. The Class includes all persons who at any time had their personal information or highly restricted personal information accessed, viewed, disclosed, obtained, or used by Defendant Thomas.

50. Plaintiff Truesdell is a member of the Class and the putative Class Representative.

#### **Numerosity**

51. The Class includes at least 42,000 persons whose personal information and highly restricted personal information was accessed, viewed, disclosed, obtained, or used by Defendant Thomas.

52. The Class is so numerous that joinder of all members of the Class in a single action is impracticable. The precise number and identities of Class members are unknown to Plaintiffs, but are known to Defendants and can be ascertained through reasonable discovery and appropriate notice.

#### **Commonality**

53. There are numerous common questions of law and fact that predominate over any questions affecting only individual members of the Class. Among these common questions of law and fact include at least the following:

- a. Whether DHSMV knowingly disclosed personal information and/or highly restricted personal information from Class Members' motor vehicle records without any permissible reason to do so;
- b. Whether DHSMV knowingly enabled the disclosure by others of personal information and/or highly restricted personal information from Class Members' motor vehicle records without any permissible reason to do so;
- c. Whether FDLE knowingly disclosed personal information and/or highly restricted personal information from Class Members' motor vehicle records without any permissible reason to do so;
- d. Whether FDLE knowingly enabled the disclosure by others of personal information and/or highly restricted personal information from Class Members' motor vehicle records without any permissible reason to do so;
- e. Whether MCSO knowingly disclosed personal information and/or highly restricted personal information from Class Members' motor vehicle records without any permissible reason to do so;
- f. Whether MCSO knowingly enabled the disclosure by others of personal information and/or highly restricted personal information

from Class Members' motor vehicle records without any permissible reason to do so;

- g. Whether Thomas knowingly obtained personal information and/or highly restricted personal information from Class Members' motor vehicle records without any permissible reason to do so.
- h. Whether the Defendants or any of them is required to pay damages for knowingly obtaining and/or using Class Members' personal information or highly restricted personal information;
- i. Whether FDLE, DHSMV or MCSO, or any of them, should be enjoined from their current practices of disclosing and permitting the disclosure by others of personal information and/or highly restricted personal information in the absence of any permissible reason to do so;
- j. Whether FDLE, DHSMV or MCSO, or any of them, should be enjoined to create safeguards to prevent the disclosure of personal information and/or highly restricted personal information in the absence of a permissible reason to do so.

**Typicality**

54. Plaintiff's legal claims are typical of the claims of other members of the Class. Plaintiff has the same legal interests as other members of the Class and has no interests antagonistic to members of the Class she seeks to represent.

55. Plaintiff Truesdell's personal information and highly restricted personal information which Defendant Thomas unlawfully obtained and/or used was the same type of information which Thomas accessed in relation to other members of the Class.

**Adequacy of Representation**

56. Plaintiff is an adequate representative of the Class, and together with legal counsel, will fairly and adequately protect the interests of the Class. Plaintiff has no conflict with the Class she seeks to represent, is committed to the vigorous prosecution of this action and has retained competent counsel experienced in litigation of this nature to represent herself and the Class. Plaintiff anticipates no difficulty in the management of this litigation as a class action. Moreover, the Class Representative's interests are aligned with the Class Members and there exists no reason to believe there will be any divergence of viewpoint.

57. Undersigned counsel is competent and experienced in class action litigation and representation, will adequately and capably represent the Class, and will fairly and adequately protect the interests of the class.

**Rule 23(b)(3) Requisites**

58. Questions of law and fact common to the Class Members predominate over questions affecting only individual Members, if any such questions exist, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. This is especially true since the action presents overarching issues which need only be litigated once for the consistent adjudication of the rights of all victims, including but not limited to:

- a. Whether FDLE, DHSMV and/or MCSO disclosed Plaintiffs' personal information and/or highly restricted personal information without a permissible reason to do so;
- b. Whether Thomas obtained Plaintiffs' personal and/or highly restricted personal information without a permissible reason to do so;  
and
- c. Whether FDLE, DHSMV and/or MCSO enabled Thomas' access to Plaintiffs' personal information and/or highly restricted personal information without a permissible reason for such access.

59. Should individual Class Members be required to bring separate actions, this Court and courts throughout Florida would be confronted with a multiplicity of similar lawsuits. Such a multitude of suits would burden the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis in which inconsistent results will magnify the delay and expense to all parties and the court system, this class action presents far fewer management difficulties while providing for a single adjudication, economies of scale and comprehensive supervision by a single Court.

60. The members of the Class are known to the Defendants, or they are ascertainable, identifiable and verifiable through reasonable diligence and appropriate notice.

61. The common questions set forth above predominate over Class Members' individual issues.

62. A class action is superior to other methods of dispute resolution in this case. The Class members have an interest in class adjudication rather than individual adjudication because it is highly desirable to concentrate the resolution of these claims in this single forum, as it would be difficult and highly unlikely that the affected Class members would protect their rights on their own without this class action case. Management of the class will be efficient and far superior to the management of thousands of individual lawsuits.

63. This action seeks injunctive relief. The State of Florida will benefit by having its agencies and employees become subject to a single injunction rather than to potentially inconsistent standards of conduct which might otherwise be imposed by injunctive relief which might be awarded in disparate courts around the state.

64. As a result of the Defendants' deprivation of Plaintiff's federally-protected rights, Plaintiff has been required to retain the undersigned counsel to represent her and the Class, and has agreed to pay counsel a reasonable attorneys' fee and to reimburse his costs which are reasonably incurred in connection with this claim.

**COUNT I: 18 U.S.C. § 2721, et seq.**

**Violation of the Driver's Privacy Protection Act**

*Against All Defendants*

*Liquidated Damages, Punitive Damages, Injunctive Relief, Attorneys' Fees and Costs*

65. Plaintiff realleges and incorporates the allegations of the above paragraphs 1 through 64.

66. The Driver's Privacy Protection Act, 18 U.S.C. § 2721, *et seq.*, provides:

- (a) Cause of Action.**— A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to

the individual to whom the information pertains, who may bring a civil action in a United States district court.

**(b) Remedies.**— The court may award—

- (1)** actual damages, but not less than liquidated damages in the amount of \$2,500;
- (2)** punitive damages upon proof of willful or reckless disregard of the law;
- (3)** reasonable attorneys' fees and other litigation costs reasonably incurred; and
- (4)** such other preliminary and equitable relief as the court determines to be appropriate.

67. Plaintiffs provided information to the DHSMV, including their home address, color photograph or image, social security number, date of birth, state of birth, detailed vehicle registration information and description, prior and current home and mailing addresses, emergency contacts and those contacts' private and highly-restricted personal information, in part, for the purpose of acquiring and using a Florida driver's license.

68. The DHSMV maintains Plaintiff's driving record and that information is made available to others via the DAVID system.

69. At no time did Plaintiff Truesdell or any of those plaintiffs similarly situated provide their consent for FDLE, DHSMV and/or MCSO to share their information with Defendant Thomas or make their information available to him, nor did they ever consent to Thomas actually obtaining, disclosing or using their private information for anything but official law enforcement business.

70. At no time did Thomas have a lawful or permissible reason for accessing Plaintiff Truesdell's or any similarly-situated person's personal information or highly restricted personal information.

71. Each Defendant has invaded the legally protected interests under the DPPA of Plaintiff Truesdell and all those similarly situated by disclosing, using, or obtaining their personal information and highly restricted personal information for no permissible purpose under the DPPA.

72. Defendant Thomas obtained and/or used Plaintiffs' personal information and/or highly restricted personal information for purposes not permitted under the DPPA.

73. Thomas acted within the course and scope of his or her employment when he obtained, disclosed or used Plaintiffs' personal information from DAVID for an impermissible purpose.

74. Plaintiffs have suffered and continue to suffer emotional harm, humiliation, embarrassment, and fear as a result of the impermissible disclosure, use, and obtaining of their personal information and, especially, their highly restricted personal information.

75. Plaintiffs have suffered and continue to suffer the risk of economic harm, unwanted solicitations and/or identity theft by virtue of the increased risk associated with having their personal information and/or highly restricted personal information obtained and potentially retained and used without any legitimate purpose.

76. The Plaintiffs' injuries are precisely the harms that Congress sought to prevent by enacting the DPPA and its statutory remedies.

77. The Defendants knew or should have known that their actions related to Plaintiffs' personal information were in violation of the DPPA.

78. Plaintiffs are entitled to a monetary award of liquidated damages equal to \$2,500 for each violation of the DPPA. 18 U.S.C. § 2721(b)(1).

79. Each Defendant willfully and recklessly disregarded the law, entitling Plaintiffs to punitive damages under the DPPA. 18 U.S.C. § 2721(b)(2).

80. Plaintiffs are entitled to recover their attorneys' fees and costs reasonably and necessarily incurred in bringing this action. 18 U.S.C. § 2721(b)(3).

81. Each Defendant should be equitably enjoined to prevent further disclosures and injustices in the future. They should be ordered to create and enforce policies which protect the Class Members' personal information and/or highly restricted personal information from unlawful disclosure, and to meaningfully train and supervise their employees regarding such policies.

WHEREFORE, Plaintiff Kelleen K. Truesdell, on behalf of herself and all others similarly situated asks this Honorable Court to enter an award and order which:

- Certifies the Plaintiff Class under Rule 23, with express findings that:
  - The Class is sufficiently numerous to support certification; and
  - The claims alleged in this Complaint are common among Plaintiff and the Class Members; and
  - Plaintiff's claims are typical of the Class Members' claims; and
  - Plaintiff Truesdell is an adequate and proper Representative of the Class, and her undersigned counsel is adequate to represent Plaintiff and the Class; and
  - The Class Members' common claims predominate over any individual claims, and the class action vehicle is the superior method of adjudicating the Class Members' claims;

- Finds the Defendants to have acted in violation of the Driver's Privacy Protection Act;
- Determines the number of violations to which each Defendant contributed, and enters judgment for damages for the Class in the liquidated amount of \$2,500 per violation;
- Finds the Defendants' violations to have been willful or in reckless disregard for the Driver's Privacy Protection Act, and enters judgment for punitive damages;
- Enjoins the Defendants to create and enforce policies which will eliminate the risk of similar injustices occurring in the future;
- Awards to Plaintiffs the reasonable and necessary attorneys' fees and costs incurred in successfully prosecuting this action; and
- Awards such other relief as may be just and equitable.

**COUNT II: 42 U.S.C. § 1983**

**Violation of Plaintiffs' Civil Rights**

*Defendant Thomas*

*Actual Damages, Punitive Damages, Attorneys' Fees and Costs*

82. Plaintiff realleges and incorporates the allegations of above paragraphs 1 through 64.

83. The DPPA creates an individual right to privacy in a person's driver's license information, and in information which is assembled by the State of Florida in connection with its database of driver's license information. Each citizen of the state, including Plaintiff and the Class Members, enjoy the right to have such information protected from

disclosure for any purpose not associated with legitimate law enforcement functions and investigation.

84. Defendant Thomas, acting under the color of state law, violated and deprived Plaintiff and the Class Members of their clearly established and well-settled civil rights under the DPPA.

85. Defendant Thomas, acting under color of state law, knew or should have known that his actions violated and deprived Plaintiff and the Class Members of their clearly established statutory rights under the DPPA.

86. At all times, Defendant Thomas acted in reckless disregard for the civil rights of Plaintiff and the Class Members under the DPPA, and further targeted them because of their gender.

87. As a direct and proximate result of the acts and omissions of Defendant Thomas, Plaintiff and the Class Members have suffered economic and non-economic damages.

WHEREFORE, Plaintiff Kelleen K. Truesdell, on behalf of herself and all others similarly situated asks this Honorable Court to enter an award and order which:

- Certifies the Plaintiff Class under Rule 23, with express findings that:
  - The Class is sufficiently numerous to support certification; and
  - The claims alleged in this Complaint are common among Plaintiff and the Class Members; and
  - Plaintiff's claims are typical of the Class Members' claims; and

- Plaintiff Truesdell is an adequate and proper Representative of the Class, and her undersigned counsel is adequate to represent Plaintiff and the Class; and
- The Class Members' common claims predominate over any individual claims, and the class action vehicle is the superior method of adjudicating the Class Members' claims;
- Finds Thomas to have violated Plaintiff's rights under the Driver's Privacy Protection Act, and enters judgment for damages under 42 U.S.C. § 1983;
- Finds Thomas' violations to have been willful or in reckless disregard for Plaintiff's rights under the Driver's Privacy Protection Act, and enters judgment for punitive damages;
- Awards to Plaintiffs the reasonable and necessary attorneys' fees and costs incurred in successfully prosecuting this action, under 42 U.S.C. § 1988;
- Provides for due and proper notice to the Class; and
- Awards such other relief as may be just and equitable.

**COUNT III: 42 U.S.C. § 1983**

**Violation of Plaintiffs' Civil Rights**  
*Against Defendant Blair, in his Official Capacity*  
*Injunctive Relief, Attorneys' Fees and Costs*

88. Plaintiff realleges and incorporates the allegations of above paragraphs 1 through 64.

89. Thomas' conduct as alleged in this Complaint, including his numerous violations of the DPPA, are the result of MCSO having acted as Thomas' enabler in allowing

the course and scope of Thomas' employment to encompass whimsical and unlawful encroachments into the protected data contained within DAVID.

90. Thomas' conduct as alleged in this Complaint, including his numerous violations of the DPPA, is not unique but is only an example of MCSO's institutional tolerance and empowerment of its personnel to violate the DPPA by accessing private driver's license information of persons without having any legitimate or permissible reason for doing so.

91. Many articles have been published regarding law enforcement officers' unlawful use of law enforcement databases as a form of social media, using them to look up friends and acquaintances, and in some other less benign cases, using it to plan or commit crimes. Such studies document the risk which agencies like MCSO face, of depriving the public of their civil rights under the DPPA and applicable law, when they allow their employees unfettered access to databases like DAVID. Such studies are or should be known to Blair, in that his position and leadership require him to remain abreast of such trends and risks in the law enforcement community.

92. The unfettered access to DAVID which the MCSO has given to Thomas and other employees in the course and scope of their employment and which has resulted in the widespread deprivation of Floridians' civil rights, was and is so common within the MCSO that giving such unfettered access and tolerating widespread violations of the DPPA constitutes an official custom or practice well known to Blair.

93. Upon information and belief, MCSO employees engaged in impermissible searches of DAVID and similar private drivers' license information for such a duration and

to such an extent, with knowledge, acquiescence, and inaction by supervisors, that permitting MCSO employees to engage in such conduct must be deemed a customary practice and policy of the MCSO.

94. To the extent the customs and practices of MCSO's employees which violate the DPPA are a deviation from written rules set down by Defendant Blair, these formal rules are widely and intentionally disregarded.

95. Given Defendant Blair's failure to monitor and enforce appropriate rules relating to DAVID, the aforementioned customs and practices are attributable to Defendant Blair.

96. Defendant Blair knew or should have known of Defendant Thomas' unlawful access to personal information and highly restricted personal information, and knew that Thomas had no legitimate reason for accessing such information.

97. The prevalence of this custom, the lack of monitoring regarding these access practices and the failure to take action to stop or prevent these practices, demonstrate that Defendant Blair is deliberately indifferent to the federal statutory and constitutional rights of the citizens and persons, including Plaintiffs, whose information has been wrongfully and unlawfully accessed.

98. Defendant Blair, in his official capacity, should be enjoined to adopt and carry out proper restrictions to prevent unfettered access to DAVID and the resulting widespread unlawful access to citizen's driver's licenses information.

- Certifies the Plaintiff Class under Rule 23, with express findings that:
  - The Class is sufficiently numerous to support certification; and

- The claims alleged in this Complaint are common among Plaintiff and the Class Members; and
- Plaintiff's claims are typical of the Class Members' claims; and
- Plaintiff Truesdell is an adequate and proper Representative of the Class, and her undersigned counsel is adequate to represent Plaintiff and the Class; and
- The Class Members' common claims predominate over any individual claims, and the class action vehicle is the superior method of adjudicating the Class Members' claims;
- Finds Blair to have violated Plaintiff's rights under the Driver's Privacy Protection Act, and to have enabled and sanctioned violations of Plaintiff's rights under the Driver's Privacy Protection Act by others, violations which he is charged by law with restraining and preventing;
- Enjoins Blair to create and enforce policies which will eliminate the risk of similar injustices occurring in the future;
- Awards to Plaintiffs the reasonable and necessary attorneys' fees and costs incurred in successfully prosecuting this action, under 42 U.S.C. § 1988;
- Provides for due and proper notice to the Class; and
- Awards such other relief as may be just and equitable.

**COUNT IV: 42 U.S.C. § 1983**

**Violation of Plaintiffs' Civil Rights**

*Against Defendant Blair, in his individual Capacity*

*Actual Damages, Punitive Damages, Injunctive Relief, Attorneys' Fees and Costs*

99. Plaintiff realleges and incorporates the allegations of above paragraphs 1 through 64 and 83 through 87.

100. At all material times, Blair possessed actual and constructive knowledge of widespread violations of the DPPA by Thomas and others of his subordinates, and Blair failed or refused to institute any process for monitoring and preventing such conduct. He did so with deliberate indifference to the federally-protected rights of those persons, including the Plaintiffs, whose information has been and continues to be wrongfully accessed.

101. Defendant Blair failed to train, monitor, supervise, and properly discipline his subordinates who were routinely improperly and unlawfully accessing the private driver's license information of citizens, including Plaintiff, without a proper, lawful, permissible, justifiable purpose for doing so. Defendant Blair's deliberate indifference toward the civil rights of citizens is evidenced by the length of time Defendant Thomas was able to continuously use DAVID as a personal search engine and the vast number of persons whose personal information and highly restricted personal information Defendant Thomas was able to access, even while Defendant Blair had assigned Defendant Thomas to a position which justified no access to DAVID at all.

102. Defendant Blair's lack of concern evidences his deliberate indifference both to the problem of unauthorized access, and to its deprivation of citizens' federally-

protected rights, who would often be unaware that Blair's subordinates were accessing their information.

103. In short, Blair knew about the victimization but the victims did not. Defendant Blair's lack of concern is evidenced by his failure to inform the vast majority of the persons whose personal information and highly restricted personal information was unlawfully accessed by Defendant Thomas, and by his failure to provide redress and assurances to those persons or Plaintiff Truesdell.

104. There can be little expectation that Defendant Blair will take sufficient action to cause law enforcement personnel to cease accessing personal information and highly restricted personal information without a justifiable, permissible basis given the manner in which the investigation into Defendant Thomas's DAVID abuses was handled by the Defendant Blair and the recent history of numerous such cases of DAVID abuses.

105. To the best of Plaintiffs' knowledge, no system has been established by the Defendant Blair to monitor the regular access of the DAVID system by MCSO employees.

106. The damage to Plaintiffs, as well as the knowledge that this activity is not merely unlawful but a federal crime, should have been enough to ensure that Plaintiffs' concerns listed in the preceding paragraphs were addressed by the Defendants in a substantive fashion. Holding Defendant Thomas criminally accountable would have been an important step in eliminating this custom and practice of permitting the widespread illegal accessing of Plaintiffs' information; yet nothing meaningful in this regard has been accomplished, and no prosecution has been initiated to the best of Plaintiffs' knowledge.

107. As a direct and proximate result of the acts and omissions of Defendant Blair, Plaintiffs have suffered damages and are exposed to continued damages.

108. Defendant Blair's indifference to his personnel's deprivations of Floridians' civil rights was and is so reckless and in such callous disregard for the rights of the Plaintiff and the Class that punitive damages should be assessed against him and in favor of Plaintiff and the Class.

109. Defendant Blair's conduct must be enjoined to prevent further encroachment into the privacy rights of citizens throughout the state of Florida.

WHEREFORE, Plaintiff Kelleen K. Truesdell, on behalf of herself and all others similarly situated asks this Honorable Court to enter an award and order which:

- Certifies the Plaintiff Class under Rule 23, with express findings that:
  - The Class is sufficiently numerous to support certification; and
  - The claims alleged in this Complaint are common among Plaintiff and the Class Members; and
  - Plaintiff's claims are typical of the Class Members' claims; and
  - Plaintiff Truesdell is an adequate and proper Representative of the Class, and her undersigned counsel is adequate to represent Plaintiff and the Class; and
  - The Class Members' common claims predominate over any individual claims, and the class action vehicle is the superior method of adjudicating the Class Members' claims;

- Finds Blair to have violated Plaintiff's rights under the Driver's Privacy Protection Act, and to have enabled and sanctioned violations of Plaintiff's rights under the Driver's Privacy Protection Act by others, violations which he is charged by law with restraining and preventing, and enters judgment for damages under 42 U.S.C. § 1983;
- Finds Blair's violations to have been willful or in reckless disregard for Plaintiff's rights under the Driver's Privacy Protection Act, and enters judgment for punitive damages;
- Enjoins Blair to create and enforce policies which will eliminate the risk of similar injustices occurring in the future;
- Awards to Plaintiffs the reasonable and necessary attorneys' fees and costs incurred in successfully prosecuting this action, under 42 U.S.C. § 1988;
- Provides for due and proper notice to the Class; and
- Awards such other relief as may be just and equitable.

#### **COUNT V**

##### **Common Law Negligent Supervision**

*Against Defendant Blair, in his individual Capacity  
Actual Damages, Punitive Damages, Injunctive Relief, Costs*

110. Plaintiff realleges and incorporates the allegations of above paragraphs 1 through 64 and 83 through 87.

111. At all material times, Blair possessed actual and constructive knowledge of widespread violations of the DPPA by Thomas and others of his subordinates, and Blair failed or refused to institute any process for monitoring and preventing such conduct. He

did so with deliberate indifference to the federally-protected rights of those persons, including the Plaintiffs, whose information has been and continues to be wrongfully accessed.

112. Defendant Blair failed to train, monitor, supervise, and properly discipline his subordinates who were routinely improperly and unlawfully accessing the private driver's license information of citizens, including Plaintiff, without a proper, lawful, permissible, justifiable purpose for doing so. Defendant Blair's deliberate indifference toward the civil rights of citizens is evidenced by the length of time Defendant Thomas was able to continuously use DAVID as a personal search engine and the vast number of persons whose personal information and highly restricted personal information Defendant Thomas was able to access, even while Defendant Blair had assigned Defendant Thomas to a position which justified no access to DAVID at all.

113. Defendant Blair's lack of concern evidences his deliberate indifference both to the problem of unauthorized access, and to its deprivation of citizens' federally-protected rights, who would often be unaware that Blair's subordinates were accessing their information.

114. In short, Blair knew about the victimization but the victims did not. Defendant Blair's lack of concern is evidenced by his failure to inform the vast majority of the persons whose personal information and highly restricted personal information was unlawfully accessed by Defendant Thomas, and by his failure to provide redress and assurances to those persons or Plaintiff Truesdell.

115. There can be little expectation that Defendant Blair will take sufficient action to cause law enforcement personnel to cease accessing personal information and highly restricted personal information without a justifiable, permissible basis given the manner in which the investigation into Defendant Thomas's DAVID abuses was handled by the Defendant Blair and the recent history of numerous such cases of DAVID abuses.

116. To the best of Plaintiffs' knowledge, no system has been established by the Defendant Blair to monitor the regular access of the DAVID system by MCSO employees.

117. The damage to Plaintiffs, as well as the knowledge that this activity is not merely unlawful but a federal crime, should have been enough to ensure that Plaintiffs' concerns listed in the preceding paragraphs were addressed by the Defendants in a substantive fashion. Holding Defendant Thomas criminally accountable would have been an important step in eliminating this custom and practice of permitting the widespread illegal accessing of Plaintiffs' information; yet nothing meaningful in this regard has been accomplished, and no prosecution has been initiated to the best of Plaintiffs' knowledge.

118. As a direct and proximate result of Blair's failure to supervise Thomas and other employees, Plaintiff and the Class Members have suffered damages and are exposed to continued damages.

119. Defendant Blair's indifference to his personnel's deprivations of Floridians' civil rights was and is so reckless and in such callous disregard for the rights of the Plaintiff and the Class that punitive damages should be assessed against him and in favor of Plaintiff and the Class.

120. Defendant Blair's conduct must be enjoined to prevent further encroachment into the privacy rights of citizens throughout the state of Florida.

WHEREFORE, Plaintiff Kellean K. Truesdell, on behalf of herself and all others similarly situated asks this Honorable Court to enter an award and order which:

- Certifies the Plaintiff Class under Rule 23, with express findings that:
  - The Class is sufficiently numerous to support certification; and
  - The claims alleged in this Complaint are common among Plaintiff and the Class Members; and
  - Plaintiff's claims are typical of the Class Members' claims; and
  - Plaintiff Truesdell is an adequate and proper Representative of the Class, and her undersigned counsel is adequate to represent Plaintiff and the Class; and
  - The Class Members' common claims predominate over any individual claims, and the class action vehicle is the superior method of adjudicating the Class Members' claims;
- Finds Blair to have negligently supervised Thomas and other MCSO employees who were permitted unfettered access to DAVID for the employees' own improper or twisted purposes, and enters judgment for damages state law;
- Finds Blair's violations to have been willful or in reckless disregard for Plaintiff's rights under applicable law, and enters judgment for punitive damages;

- Enjoins Blair to create and enforce policies which will eliminate the risk of similar injustices occurring in the future;
- Provides for due and proper notice to the Class; and
- Awards costs and such other relief as may be just and equitable.

**COUNT VI: 42 U.S.C. § 1983**

**Violation of Civil Rights**

*Against Defendants Jones and Bailey, in their Official Capacities  
Injunctive Relief, Attorneys' Fees and Costs*

121. Plaintiff realleges and incorporates the allegations of above paragraphs 1 through 64.

122. Defendant Jones became the Executive Director of the Department of Highway Safety and Motor Vehicles on September 29, 2009 and presently serves in that role.

123. Defendant Bailey became the Commissioner of the Florida Department of Law Enforcement on December 5, 2006 and presently serves in that role.

124. Defendant Jones as the Executive Director of DHSMV and Defendant Bailey as Commissioner of the FDLE were and are responsible for creating, maintaining, and providing access to DAVID, the database that includes the driver's license information of Plaintiff and the Class Members.

125. Defendants Jones and Bailey also had and have the ability to determine whether unauthorized access was and is occurring, and to prevent such unauthorized access to the database, including, of Plaintiffs' driver's license information, and have an ongoing duty to prevent such unauthorized accesses.

126. Defendants Jones and Bailey failed to prevent unauthorized access to the database, including Plaintiffs' driver's license information.

127. The actions of Defendants Jones and Bailey, as alleged, violate the rights of the Plaintiffs under the DPPA.

128. On information and belief, Defendants Jones and Bailey, created or oversaw the creation and maintenance of a database and system that was intended to prevent unauthorized access to driver's license information. Their efforts have been woefully insufficient to meet the intended goals and to protect Plaintiff's information from wanton disclosure.

129. Defendants Jones and Bailey have sanctioned violations of federal law by Defendant Thomas and others through their failure to remedy the policy, custom, and practice of officers' and employees' unfettered and unauthorized access to DAVID.

130. Defendants Jones and Bailey have been grossly negligent in supervising subordinates responsible for implementing a law enforcement database that prevents unauthorized access to private, personal information.

131. On information and belief, Defendants Jones and Bailey failed to monitor and prevent unauthorized access to private, personal information even though they knew or should have known such unlawful acts were occurring.

132. Defendants Jones and Bailey, acting under the color of state law, were deliberately indifferent to Plaintiffs' federal statutory rights to be free from the accessing of their personal information and their highly restricted personal information without a permissible purpose.

133. Defendants Jones and Bailey, in each of their official capacity, should be enjoined to adopt proper rules and restrictions, and to enforce them as a matter of official policy, to prevent widespread unlawful access to citizens' driver's license information, personal information, and highly restricted personal information.

WHEREFORE, Plaintiff Kellean K. Truesdell, on behalf of herself and all others similarly situated asks this Honorable Court to enter an award and order which:

- Certifies the Plaintiff Class under Rule 23, with express findings that:
  - The Class is sufficiently numerous to support certification; and
  - The claims alleged in this Complaint are common among Plaintiff and the Class Members; and
  - Plaintiff's claims are typical of the Class Members' claims; and
  - Plaintiff Truesdell is an adequate and proper Representative of the Class, and her undersigned counsel is adequate to represent Plaintiff and the Class; and
  - The Class Members' common claims predominate over any individual claims, and the class action vehicle is the superior method of adjudicating the Class Members' claims;
- Finds Jones and Bailey to have enabled and sanctioned violations of the rights of Plaintiff and the Class Members under the Driver's Privacy Protection Act, violations which they are charged by law with restraining and preventing;

- Enjoins Jones and Bailey to create and enforce policies which will eliminate the risk of similar injustices occurring in the future;
- Awards to Plaintiffs the reasonable and necessary attorneys' fees and costs incurred in successfully prosecuting this action, under 42 U.S.C. § 1988;
- Provides for due and proper notice to the Class; and
- Awards such other relief as may be just and equitable.

**JURY DEMAND**

Plaintiffs demand a jury trial as to all issues which are so triable.

Dated: \_\_\_\_\_

11/11/13

**DOGALI LAW GROUP, P.A.**



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Secondary Email: reception@dogalilaw.com  
*Attorneys for Kelleen K. Truesdell, Plaintiff, and  
others similarly situated*



MARION COUNTY

SHERIFF'S OFFICE

August 2, 2013

Kellean Truesdell  
200 NW 52<sup>nd</sup> Avenue  
Ocala, Florida 34482

Dear Ms. Truesdell:

The Marion County Sheriff's Office (MCSO) uses a variety of databases and systems for criminal investigative and intelligence purposes. MCSO members are restricted in their right of access to those systems and are obligated to use them only as authorized and for official law enforcement purposes only.

MCSO has recently determined that one of its members violated agency policy and restrictions by using his right of access to investigative databases for personal purposes. Access to an individual's information for any non-investigative and non-law enforcement purpose is strictly prohibited by the MCSO. While the unauthorized access is troubling, on the positive side, MCSO has conducted a detailed internal investigation into this matter and that investigation has produced no indication that the member conveyed the information to others, attempted to "sell" the information, or that the member otherwise used the information for any identity theft or other criminal purpose. Our investigation of this matter reveals that the member apparently accessed the information out of personal curiosity and no personal identification information was transmitted or shared with any person other than the recipient. His access motivation and actual actions were shown to be purely personal in nature.

However, as a result of this internal investigation, MCSO has determined that your personal information contained in such databases (e.g., your driver license information maintained in the Florida Department of Highway Safety and Motor Vehicles database) appears to have been inappropriately accessed by the member on **June 8, 2011**, in that he accessed it for personal rather than investigative, law enforcement purposes.

MCSO considers its obligations to control access to data in which personal information is stored to be a very important duty. When situations such as this member's unauthorized and inappropriate access occur, MCSO takes a significant response. Upon verifying this unauthorized access, which was admitted to by the member during our investigation, MCSO immediately began an action to terminate the employment of this individual and he is no longer employed by the MCSO.

EXHIBIT

A

Chris Blair, Sheriff

FL 34478-1987 • Main Office: (352) 732-8181 • Civil: (352) 620-3606 • Emergency Management: (352) 369-8100 • Jail: (352) 351-8077

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August 2, 2013

At the same time, MCSO believes it is appropriate to promptly let you know about the apparent inappropriate access. Recognizing that any inappropriate access to your personal information is unsettling, MCSO sincerely apologizes for this matter. Let me again emphasize that a thorough investigation has produced no indication that your information was materially compromised beyond the member's personal unauthorized access. Furthermore, there is no indication that your personal information was used criminally or otherwise utilized with the intention of causing harm.

While Florida law only *requires* notice to an individual where a compromise of information may cause harm to the individual, we have opted to provide this notice to you out of an abundance of caution and to provide you a point of contact within MCSO to call with any questions or concerns you may have after receiving this correspondence. MCSO has designated Major Don Maines in the Office of Professional Compliance to be available to you and we would encourage you to contact him if you have any questions regarding this matter. Major Maines can be reached at (352) 369-6747 or by email at [dmaines@marionso.com](mailto:dmaines@marionso.com). Please do not hesitate to contact us with any questions you may have.

Sincerely,



CHRIS BLAIR  
Marion County Sheriff