

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

WENDY BECKER
Plaintiff,

VS.

P.C. NO: 08- 6870

THE STATE OF RHODE ISLAND;
And CHARLES F. DOLAN, in his
Official Capacity as Registrar of
Motor Vehicles
Defendants

COMPLAINT

Now comes the Plaintiff and hereby states for her cause of action as follows:

I. NATURE OF THE ACTION

This is an action for declaratory and mandatory injunctive relief to redress deprivation, under color of law, of rights, privileges, and immunities secured to the Plaintiff by the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Section 2 of the Constitution of the State of Rhode Island.

II. JURISDICTION

The jurisdiction of this Court is invoked pursuant to 41 U.S.C. §§1983 and 1988 as well as this Court's jurisdiction over questions of state constitutional law.

III. PARTIES

1. Plaintiff, Wendy Becker, is now and at all times pertinent hereto has been a citizen and resident of the State of Rhode Island and of the United States of America.

2. Defendant, The State of Rhode Island, is a body politic and a sovereign state within and among the United States of America.

3. Defendant, Charles Dolan, who is sued herein in his official capacity, is now and at all times pertinent hereto has been the Registrar of Motor Vehicles for the State of Rhode Island and, as such, is responsible for the administration and enforcement of Rhode

Rhode Island General Laws, Section 31-10-1 et seq., entitled "Operators and Chauffeurs' Licenses", and more specifically, enforcement of Section 31-10-30 governing the expiration and renewal of licenses.

4. The Defendants were at all times complained of herein acting under color of state law.

IV. FACTS

5. Beginning in 1984, Plaintiff has been licensed by the State of Rhode Island, Division of Motor Vehicles (hereinafter "DMV"), to operate a motor vehicle.

6. Plaintiff's operator license is set to expire February 17, 2008.

7. On or after January 1, 2008, Plaintiff received an application for renewal of her license (a copy of which application is annexed hereto and marked as Exhibit A).

8. Unlike all prior applications for renewal, the application in question indicated a new requirement, that is, presentation of an original Social Security card.

9. There is no statutory authorization, under either federal or state law, for any such requirement.

10. On or about August 1, 2007, the DMV adopted and promulgated "Rules of Practice and Procedure for the Division of Motor Vehicles".

11. Section 4.1.3 of the Rules of Practice and Procedure states as follows:

"All applicants must provide an official social security card or must provide verification that the individual is not eligible for a social security account number ... Laminated or metal social security cards are not acceptable."

12. Rhode Island General Laws, Section 31-10-1 et seq. sets forth the statutory law governing the issuance and renewals of operator licenses within the State of Rhode Island. No requirement regarding the presentation of a social security card can be found

explicitly or implicitly in any of the subsections of Rhode Island General Laws, Section 31-10.1 et seq.

13. On or about February 8, 2008, Plaintiff appeared at the DMV with the intention of having her driver's license renewed.

14. Despite satisfying all statutory requirements for eligibility, Plaintiff's application for renewal was denied due to her failure to provide her social security card, the whereabouts of which is unknown to Plaintiff.

15. Section 4.1.3 of the Rules of Practice and Procedure for the Division of Motor Vehicles is ultra vires and of no legal effect whatsoever.

16. Plaintiff has a cognizable property interest in her operator license.

17. Insofar as the DMV social security card requirement is ultra vires and works to deprive Plaintiff of her property interest, the same is violative of the due process clauses of the state and federal constitutions and, as such, Plaintiff has a substantial likelihood of success on the merits and a very clear right to the relief sought in the instant complaint.

18. Plaintiff has no adequate remedy at law to redress her constitutional claims or to redress the unconstitutional deprivation of her property interest in the said license.

19. The Plaintiff has a cognizable irreparable harm as a consequence of Defendants effort to enforce an ultra vires and unconstitutional rule insofar as Plaintiff will suffer an immediate irreparable harm, and in light of the constitutionally protected property right in question, Plaintiff avers that there is great urgency to the issuance of injunctive relief.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

20. For her first cause of action, Plaintiff adopts by reference the foregoing paragraphs 1 through 19, inclusive, and alleges that Section 4.1.3 of the Rules of Practice and Procedure for the Division of Motor Vehicles works to deprive Plaintiff of her property without due process of law, in violation of the Fifth and Fourteenth Amendment of the United States Constitution.

SECOND CAUSE OF ACTION

21. Plaintiff adopts by reference the foregoing paragraphs 1 through 20, inclusive, and alleges that Section 4.1.3 of the Rules of Practice and Procedure for the Division of Motor Vehicles works to deprive Plaintiff of her property without due process of law, in violation of Article I, Section 2 of the Constitution of the State of Rhode Island.

WHEREFORE, Plaintiff prays that this Honorable Court:

1. Declare that Section 4.1.3 of the Rules of Practice and Procedure for the Division of Motor Vehicles is ultra vires and of no effect.
2. Declare that Section 4.1.3 of the Rules of Practice and Procedure for the Division of Motor Vehicles is unconstitutional to the extent that it works to deprive a recognized property right in reliance on a "requirement" with no legal viability, in violation of the Fifth and Fourteenth Amendments to the United States Constitution.
3. Declare that Section 4.1.3 of the Rules of Practice and Procedure for the Division of Motor Vehicles is unconstitutional to the extent that it works to deprive a recognized property right in reliance on a "requirement" with no legal viability, in violation of Article 1, Section 2 of the Constitution of the State of Rhode Island.

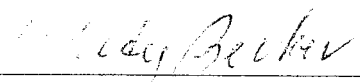
4. Preliminarily and permanently restrain and enjoin the Defendants, their agents, employees, and all persons acting under or in concert with them, from enforcing provisions of Section 4.1.3 of the Rules of Practice and Procedure for the Division of Motor Vehicles.

5. Restrain and enjoin the Defendants from denying Plaintiff's application for renewal, provided that she meet all other legal and lawful requirements for same.


6. Award Plaintiff reasonable attorneys fees and costs, pursuant to provisions of 42 U.S.C. §1988.

7. Award such other and further relief as this Court deems just and proper.

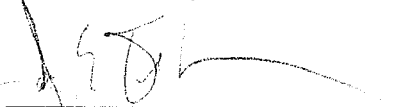
I have read the foregoing information and it is accurate and true to the best of my knowledge.


Wendy Becker

Subscribed and sworn to before me this 13th day of February, 2008.


Notary Public
My Commission Expires: 11-26-2008

Plaintiff,
Wendy Becker
By her attorneys


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