

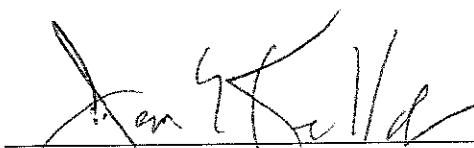
1. Defendant, DMV, issued a Revised Notice of Action license suspension to Plaintiff, Carbone, on April 30, 2010, a copy of which is attached hereto as Exhibit A. Plaintiff, Carbone, may avail himself to any and all of his legal rights to a hearing pursuant to said Revised Notice of Action.

2. Defendant, DMV, sent letters to the approximately 1,621 individuals who previously received a so-called Code 31 Notice of Action license suspension from the DMV during the period of December 1, 2009, through June 4, 2010, and in connection with the DMV's data cleansing initiative. Said letters advised these individuals of the DMV's offer to provide additional information concerning the circumstances surrounding their license suspension and offered them the right to a hearing concerning these matters.
3. Defendant, DMV, agrees that beginning August 4, 2010, all license suspension Notices of Action that were issued have contained and, hereinafter, all such notices to be issued shall contain language as to a "Right To A Hearing" (attached hereto as Exhibit B) and "Hearing Procedures" (attached hereto as Exhibit C). The "Right to a Hearing" language shall appear on the face of the Notice of Action, and the "Hearing Procedures" language shall appear on the reverse side of the Notice of Action.
4. Defendant, DMV, agrees that, upon receipt of any Request for Hearing, it will immediately stay any such suspension until such time as the hearing decision has been rendered.
5. The parties recognize that the impetus for many such Notices of Action come from courts and/or agencies other than the DMV itself. Defendant, DMV, agrees that upon receipt of a request for hearing, it will forward the request to the court or agency that caused the particular Notice of Action to be sent so that the adjudication of that request for hearing will occur in that court or agency.
6. Defendant, DMV, agrees that it will maintain the stay until that court or agency reports back to the DMV with a decision/adjudication on the request for hearing.
7. In the event that the impetus for the issuance of the Notice of Action was the DMV itself, the DMV agrees to issue a stay upon receipt of a request for hearing, and agrees to adjudicate the hearing in accordance within the statutory parameters set forth in §31-11-7 and outlined in Exhibit B.
8. Defendant, DMV, agrees that no later than 2011, its upgraded computer system, RIMS, will produce Notices of Action that comply with Paragraphs two (2) and three (3) above.
9. Defendant, DMV, agrees to pay a counsel fee of \$12,300.00 (\$11,800.00 for legal fees and \$500.00 for costs) to James E. Kelleher, Esq.

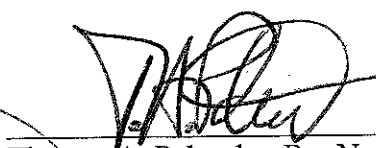
Approved By:

Judge William E. Smith
U.S. District Court for the District of Rhode Island

Presented by:



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Dated: September ____, 2010.

“EXHIBIT A”

Exhibit "A"

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF MOTOR VEHICLES
REVISED NOTICE OF ACTION

0000-000

ORDER DATE 4/30/2010
SUSPENSION DATE 5/01/2010
EFFECTIVE TIME 11:59 p.m.
DATE OF BIRTH 9/03/1958
SOC. SEC. # XXX-XX-0394
FEE DUE: \$70.00

GERALD M. CARBONE
21 BALCOM AVE.
WARWICK, RI 02889

FOR THE REASON(S) SHOWN BELOW, YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION(S)
IN ACCORDANCE WITH THE STATUTORY PROVISIONS OF THE MOTOR VEHICLE LAWS.

ACTION(S): SUSPENSION		REASON FOR ACTION	DATE OF INCIDENT	SUMMONS NO. CASE NO. VOUCHER NO.
LICENSE / REGISTRATION(S)/VINS(S)	PERIOD OF TIME			
9012451	IND.	31-NOT ENTITLED TO LIC. ISSUE 04-FAIL TO APPEAR/PAY SPEED VIO.	11/27/1989	FI1721

IMPORTANT INFORMATION - PLEASE READ
ANY LICENSE, ID, PERMIT, REGISTRATION(S) AND PLATE(S) WHICH IS/ARE WITHDRAWN MUST BE
RETURNED BY THE SUSPENSION DATE AS NOTED ABOVE.
FAILURE TO DELIVER A LICENSE OR REGISTRATION CERTIFICATION AND PLATES TO
DIVISION OF MOTOR VEHICLES, OPERATOR CONTROL
30 HOWARD AVE., BLDG. 58, LOWER LV., CRANSTON, RI 02920
WILL RESULT IN CONTINUED SUSPENSION AND/OR A FINE OF \$500.00

You Will Receive No Further Notice Of This Suspension
A mandatory fee must be paid in order to have your license or operating privilege reinstated by the Division of Motor Vehicles.

REFER INQUIRIES TO:

DIVISION OF MOTOR VEHICLES
OPERATOR CONTROL
30 HOWARD AVE., BLDG. 58, LOWER LV.
CRANSTON, RI 02920
(401) 462-0800

RIGHT TO A HEARING:

You have the right to a hearing by calling
Operator Control at (401) 462-0800 within
ten (10) days of the Order date. By requesting
a hearing, no further action to suspend your
license will be taken until a hearing has been
held and a decision issued. Hearing procedures
are on the reverse side of this Notice of Action.

* "PERIOD OF TIME" INDICATES MINIMUM SUSPENSION PERIOD.

* FINANCIAL RESPONSIBILITY MESSAGE

THE ACTIONS LISTED ARE EFFECTIVE FOR THE TIMES INDICATED AND THEREAFTER UNTIL YOU GIVE PROOF OF FINANCIAL
RESPONSIBILITY FOR THE FUTURE, AND YOU ARE FURTHER NOTIFIED THAT THE ABOVE NUMBERED REGISTRATION(S), AND ALL
OTHER REGISTRATIONS IN YOUR NAME AS OWNER, ARE ALSO SUSPENDED AS OF THE EFFECTIVE DATE UNTIL PROOF OF FINANCIAL
RESPONSIBILITY FOR THE FUTURE IS GIVEN FOR SUCH VEHICLE(S). YOU MUST CONTACT YOUR INSURANCE CARRIER TO ARRANGE
FOR AN SR-22 CERTIFICATE FILING (PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE).

SARA R. STRACHAN
ADMINISTRATOR
DIVISION OF MOTOR VEHICLES

2010/APR/30/RI 03:25 PM DMV OPERATOR CONTROL

FAX NO. 4014620830

P. 002

Exhibit "A"

HEARING PROCEDURES

In accordance with Rhode Island General Laws 31-11-7 (d) thru (f), the Division of Motor Vehicles ("DMV") shall ensure that the hearing procedures provide for the following:

- (1) an opportunity for an in person hearing before a fair and impartial decision-maker;
- (2) the opportunity to produce relevant documents and witnesses;
- (3) the opportunity to ask questions of and otherwise confront and cross-examine witnesses;
- (4) access to all of the evidence upon which the DMV relied in making its suspension decision by calling the Inquiries phone number on the front of this Notice of Action;
- (5) the right to present any and all relevant and admissible evidence.

During the hearing, the DMV shall bear the burden of proof as to the existence of the grounds for the suspension. The DMV may also administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant records, books and papers.

After the hearing, the DMV shall issue a written decision based solely on the hearing evidence and containing the legal and factual basis for the decision. The DMV may either decide against the license suspension, determining that the suspension is not warranted; may continue, modify, or extend the suspension; or may revoke or suspend the license.

2010/APR/30/FRI 03:40 PM DMV OPERATOR CONTROL

FAX No. 4014620830

P. 002

“EXHIBIT B”

RIGHT TO A HEARING

You may have the right to schedule a hearing by sending a written request for a hearing to DMV Operator Control within ten days of the Order date. By requesting a hearing, no further action to suspend your license will be taken until a hearing has been held and a decision issued. Hearing Procedures are on the reverse side of this Notice of Action.

“EXHIBIT C”

HEARING PROCEDURES

In accordance with Rhode Island General Laws 31-11-7 (d) thru (f), the Division of Motor Vehicles ("DMV") shall ensure that the hearing procedures provide for the following:

- (1) an opportunity for an in person hearing before a fair and impartial decision-maker;
- (2) the opportunity to produce relevant documents and witnesses;
- (3) the opportunity to ask questions of and otherwise confront and cross-examine witnesses;
- (4) access to all of the evidence upon which the DMV relied in making its suspension decision by calling the Inquiries phone number on the front of this Notice of Action; and
- (5) the right to present any and all relevant and admissible evidence.

During the hearing, the DMV shall bear the burden of proof as to the existence of the grounds for the suspension. The DMV may also administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant records, books and papers.

After the hearing, the DMV shall issue a written decision based solely on the hearing evidence and containing the legal and factual basis for the decision. The DMV may either decide against the license suspension, determining that the suspension is not warranted; may continue, modify, or extend the suspension; or may revoke or suspend the license.

* * *

You may not be entitled to a preliminary hearing prior to license suspension pursuant to Rhode Island General Laws 31-11-7(a) upon a showing that you have been adjudicated by a court to have:

- (1) committed an offense for which mandatory license revocation or suspension is required upon conviction or adjudication;
- (2) committed offenses against traffic regulations governing the movement of vehicles with such frequency as to indicate a disrespect for the traffic laws and a disregard for the safety of others on the highways;
- (3) been a reckless or negligent driver of a motor vehicle, or permitted an unlawful or fraudulent use of a license;
- (4) committed an offense in another state which, if committed in this state, would be grounds for suspension or revocation; and/or
- (5) committed any offense enumerated by 31-9-1 of the Rhode Island General Laws;

You may also not be entitled to such a preliminary hearing prior to license suspension if you are the subject of an order pursuant to 14-1-67 of the Rhode Island General Laws, following a court's finding that a minor is delinquent or wayward, and/or if you pose an imminent safety risk to the general public as determined by the application of reasonable standards.