

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

The Honorable LISA TORRACO and
the Honorable DANIEL A. IVEY-SOTO,
in their individual and official capacities
as New Mexico State Senators,

Plaintiffs,

v.

CITY OF ALBUQUERQUE,

Defendant.

Civil Action No. _____

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE
RELIEF**

INTRODUCTION

1. In 2014, the City of Albuquerque’s vehicle forfeiture program seized over 1,200 cars and brought in over \$1.2 million in revenue.¹ Between 2010 and 2014, the program seized over 8,300 cars—approximately one car for every 66 residents in the City—and collected over \$8.3 million.²

2. Property owners caught in this forfeiture machine are forced to navigate a maze of procedural obstacles and to surmount a lopsided legal standard that plainly favors the City. Even property owners who eventually succeed in recovering their cars can be charged significant towing and storage fees—fees that mount with every day that property owners seek to fight the forfeiture.

¹ See Ryan Boetel, *City’s Vehicle Seizure Law: You Don’t Have To Be Driving To Lose Your Car*, Albuquerque Journal, Apr. 30, 2015 (compiling data from Albuquerque Police Department public reports).

² *Id.*; see also U.S. Department of Census, Quick Facts: City of Albuquerque, <http://quickfacts.census.gov/qfd/states/35/3502000.html>.

3. Many of the people caught in this machine have done nothing wrong. Because Albuquerque takes property using *civil* forfeiture—as opposed to *criminal* forfeiture—the City is not required to convict anyone of a crime. It is sufficient that the City has probable cause to suspect a crime has occurred. Moreover, this “probable” crime need not have been committed by the property owner. The City frequently seizes cars because of suspected crimes allegedly committed by friends, relatives, or acquaintances of the vehicle owners.

4. Notably, when Albuquerque police and prosecutors take property through civil forfeiture, the resulting revenue funds the budget—and pays the salaries—of the very police and city prosecutors doing the forfeiting. This creates a powerful financial incentive for the individuals charged with administering the law.

5. The issue of civil forfeiture came to the public’s attention in late 2014, when video of an obscure legal conference surfaced on the internet and was subsequently reported in the *New York Times*. The event, the Santa Fe Vehicle Forfeiture Conference, was a gathering for attorneys involved in Albuquerque’s forfeiture program and other copycat programs across the State. Stanley Harada, the Chief Hearing Officer for Albuquerque’s program, spoke extensively.

6. Comments by attorneys at the Santa Fe Conference revealed the profit incentive that underlies civil forfeiture and ignited a firestorm of public outrage. For instance, one attorney, charged with running a vehicle forfeiture program in Las Cruces, was captured on video stating that “we always try to get, every once in a while, like maybe a good car” and recounting how the city had seized “a 2008 Mercedes, brand new, just so beautiful.”³ That same

³ Video: Santa Fe Vehicle Forfeiture Conference (Sept. 10, 2014), at 1:03:05, *available at* <https://www.youtube.com/watch?v=HHrgsda5g3c> (hereinafter “Santa Fe Video”).

attorney suggested that, using civil forfeiture: “We could be czars. We could own the city. We could be in the real estate business.”⁴

7. New Mexico’s state legislators were spurred by these and other remarks at the Santa Fe Conference to take a close look at the issue of civil forfeiture. Legislators concluded that civil forfeiture creates an inappropriate financial incentive to seize and provides inadequate protection to property owners.

8. So, in March 2015, the State Legislature unanimously passed landmark reforms abolishing the practice of civil forfeiture in New Mexico. *See* An Act Relating to Forfeiture, House Bill 560 (2015) (hereinafter, “Forfeiture Reform Law”). This legislation was intended to “ensure that *only criminal forfeiture* is allowed in this state.” NMSA 1978, § 31-27-2(A)(6) (2015) (emphasis added).

9. In other words, in order to end abuses associated with civil forfeiture, the Forfeiture Reform Law codified the fundamental principle that all people are presumed innocent until their guilt is proven beyond a reasonable doubt in a criminal trial.

10. Even though concern about municipal forfeitures motivated the enactment of the Forfeiture Reform Law, the City of Albuquerque, along with several other jurisdictions across New Mexico, has steadfastly ignored the reform. Following the law’s effective date, Albuquerque has continued to take property using civil forfeiture without requiring that anyone—much less the property owner—be convicted of a crime.

11. Albuquerque’s continued pursuit of civil forfeiture is contrary to the manifest intent of the Forfeiture Reform Law. Because the continued operation of Albuquerque’s civil forfeiture program “would circumvent and thereby frustrate the Legislature’s intent” to abolish

⁴ *Id.* at 1:22:40.

civil forfeiture in the State, *ACLU v. City of Albuquerque*, 1999-NMSC-044, ¶ 13, 128 N.M. 315, Albuquerque's program should be enjoined.

JURISDICTION AND VENUE

12. This Court has jurisdiction of the subject matter of this action pursuant to New Mexico Constitution Article VI, Section 13 and NMSA 1978, Section 38-3-1 (1988).

13. Venue is proper in this Court pursuant to NMSA 1978, Section 38-3-1 (1988), because Defendant City of Albuquerque is located within this county.

THE PARTIES

14. Plaintiff Lisa Torracco is a New Mexico State Senator representing District 18 in Bernalillo County. Senator Torracco, a Republican, was elected to the Legislature in 2012. She was instrumental in the passage of the Forfeiture Reform Law: She advocated extensively for its passage to her colleagues in the Senate, and she was the original Senate floor sponsor for the bill. When the law was presented for vote in the Senate, it was closely associated with Senator Torracco's name.

15. Plaintiff Daniel A. Ivey-Soto is a New Mexico State Senator representing District 15 in Bernalillo County. Senator Ivey-Soto, a Democrat, was elected to the Legislature in 2012. He was likewise instrumental in the passage of the Forfeiture Reform Law. He also advocated for its passage to his colleagues in the Senate. When professional commitments kept Senator Torracco from being present on the Senate floor, Senator Ivey-Soto stepped into her place as the Senate floor sponsor and presented the bill for final passage.

16. Defendant City of Albuquerque is a municipal corporation organized under the laws of the State of New Mexico.

PUBLIC INTEREST STANDING

17. Plaintiffs have standing under the public interest standing doctrine, under which a court may confer standing “on the basis of the importance of the public issues involved.” *State ex rel. Clark v. Johnson*, 1995-NMSC-048, ¶ 15, 120 N.M. 562.

18. Specifically, this case raises a fundamental question concerning the relationship between New Mexico municipalities and the State Legislature. The State Legislature has commanded that all forfeitures in the State shall proceed as *criminal* forfeitures following a criminal conviction, yet the City of Albuquerque continues to use *civil* forfeiture to take property without convicting anyone of a crime. Other municipalities across the State are also openly defying the Forfeiture Reform Law. A decision from this Court, affirming that municipal governments in New Mexico must adhere to the intent of the State Legislature as it is expressed in the Forfeiture Reform Law, will “contribute to the State’s definition of itself as sovereign.” *Clark*, 1995-NMSC-051, ¶ 15.

19. Notably, the preemptive effect of the Forfeiture Reform Law is a pure question of law that can be decided by this Court without any need for a fact-intensive inquiry into the particular circumstances of a forfeiture case. This is *not* the type of question that would benefit from consideration in a more concrete factual setting.

20. The State Legislature has a significant interest in obtaining a speedy resolution of this legal question. Municipalities across the State are violating the Forfeiture Reform Law, and the State Legislature has an interest in bringing that ongoing defiance to a close. That important interest will not be served if the issue is instead left to be resolved in the context of individual cases, which may be settled or otherwise resolved on a host of other grounds without providing a definitive resolution of this important legal question.

21. Plaintiffs, as State Senators, are appropriate parties to litigate this issue. Both Plaintiffs were instrumental in the passage of the Forfeiture Reform Law and have a direct interest in seeing that the law is effectively implemented.

ALBUQUERQUE’S VEHICLE FORFEITURE PROGRAM

22. The City of Albuquerque operates a massive vehicle forfeiture program, which seizes over 1,000 cars and brings in over \$1 million in revenue every year.

23. This program operates using *civil* (as opposed to *criminal*) forfeiture. This means that property owners do not have to be convicted of a crime to lose their property. Instead, Albuquerque can forfeit property based only on a showing of “probable cause” to believe a crime has occurred. Revised Ordinances of Albuquerque (ROA) 1994, § 7-6-2(D). Moreover, the alleged crime need not be committed by the person who owns the vehicle: Albuquerque can take property based on a crime allegedly committed by another person entirely, so long as the vehicle was somehow involved in the offense. ROA 1994, § 7-6-2(D).

24. Albuquerque’s vehicle forfeiture program is commonly associated with DWI offenses, but, in fact, the program encompasses a broader spectrum of alleged violations of the criminal laws, including any “felony offense” that was “perpetrated by the use of a firearm.” ROA 1994, § 7-9-3; *see also* § 7-14-2 (prostitution offenses).

25. When property is seized through Albuquerque’s forfeiture program, the proceeds are used to fund the program’s budget—including the salaries of the very city attorneys who seek the forfeitures. *See* ROA 1994, §§ 7-6-2(E); 7-9-3(F); 7-14-5(F). Money collected through the forfeiture program is distributed to other purposes only if there is any surplus left over after paying the expenses of the forfeiture program.

26. The City of Albuquerque plans for vehicle forfeitures in its annual budget. The City's 2016 budget, for instance, includes as a "performance measure" for the upcoming year a target to conduct 1,200 vehicle seizure hearings, to release 350 vehicles under agreements with the property owners, to immobilize 600 vehicles, and to sell 625 vehicles at auction.⁵

27. The City also specifically plans for salaries to be paid out of the proceeds of vehicle forfeitures. The City's 2016 budget, for instance, anticipates that \$512,000 will be transferred from the fund that receives vehicle forfeiture revenues to pay the salaries of "two paralegals, two attorneys, two DWI seizure assistants and one DWI seizure coordinator."⁶ This arrangement creates a serious appearance of impropriety, as well as a direct financial incentive for city officials to seize property even in marginal cases.

28. Albuquerque's program is designed to deprive people of their property quickly and efficiently. Stanley Harada, the program's Chief Hearing Officer, explained at the Santa Fe Vehicle Forfeiture Conference that he had been hired by the City in the 1990s to overhaul the program and that he was selected for the job because he had "been with a high volume personal injury law firm for a number of years" and because Albuquerque's higher-ups "knew that I knew how to deal with high volume systems."⁷

29. To prevent forfeiture of their property, owners have only a few days following the seizure and notice of forfeiture to submit an initial request for an administrative hearing. In DWI and prostitution cases, this period is ten days. ROA 1994, §§ 7-6-2(D)(7); 7-14-5(D)(7). In cases involving a firearm felony offense, this period is only four days. § 7-9-3(C)(7).

⁵ See City of Albuquerque, Fiscal Year 2016 Approved Budget (July 2015), at 181, *available at* <http://documents.cabq.gov/budget/fy-16-approved-budget.pdf> (hereinafter "2016 Budget").

⁶ 2016 Budget, at 53.

⁷ Santa Fe Video, *supra* note 3, at 1:49:30.

30. In order to request an administrative hearing, an owner is required to pay a \$50 fee to the City. ROA 1994, §§ 7-6-2(F); 7-14-5(G).

31. Prior to a hearing, property owners generally meet with a city attorney who will attempt to settle the case. Many property owners are offered the immediate return of their property, but only if they sign an agreement to have the car immobilized for a period of weeks or months and to pay hundreds or even thousands of dollars to the City. *See* Exhibit A. In these agreements, property owners agree to “waive any future innocent owner defense” in the event that the car or “any vehicle Owner owns” is seized in the future. *Id.*

32. At an administrative hearing, an administrative hearing officer is charged to “determine whether the law enforcement officer had probable cause to seize the vehicle” and whether the property owner has established an “innocent owner” defense. ROA 1994, § 7-6-5(D)(8). Hearing officers are selected by the mayor; they can be either employees or individuals hired on a contract basis. § 2-7-8-5. Either way, the hearing officer’s salary is paid by the City.

33. One of these hearing officers—Albuquerque’s Chief Hearing Officer—has been a prominent defender of the City’s forfeiture program. Speaking to the *Albuquerque Journal*, for instance, he was quoted saying that the program is designed to send a message to property owners “to get your head out of your ass.”⁸

34. At the Santa Fe Vehicle Forfeiture Conference, the Albuquerque Chief Hearing Officer made clear that he approaches hearings with the presumption that the individuals involved are guilty until proven otherwise. He stated that a hearing “allows the offender to challenge the constitutional sufficiency of the stop and the arrest and more importantly it allows

⁸ Boetel, *supra* note 1.

the alleged innocent owners—and I say alleged, until they go through the hearing they are considered ‘alleged’—to have their opportunity to make their case very quickly.”⁹

35. The Chief Hearing Officer also stated that he sees it as his role to anticipate and respond to arguments of property owners. He stated that “there’s going to be a certain number of defense lawyers involved,” as well as “non-lawyer claimants” who “wander in with their own prepared motions trying to argue like a lawyer,” and that in his view a hearing officer should be “able to articulate the theory and counterarguments.”¹⁰ Notably, the Chief Hearing Officer did not mention any need to anticipate or respond to the arguments presented by the City’s attorneys.

36. At an administrative hearing, the City need only establish “probable cause” to believe a crime has occurred. ROA 1994, §§ 7-6-2(D); 7-9-3(C); 7-14-5(E). Because hearings are “informal” and not subject to the rules of evidence, the City can satisfy this burden using evidence that would not be admissible in a court of law. § 7-6-2(D).

37. At the Santa Fe Vehicle Forfeiture Conference, Albuquerque’s Chief Hearing Officer stated that—in the more than seven years he has worked as a hearing officer—he has found that the government lacked probable cause *only twice*.¹¹

38. While the City need only establish probable cause to believe that a crime has occurred, an individual whose car was used by a third party to commit an alleged offense faces a higher burden of proof to establish a so-called “innocent owner” defense. A property owner must “demonstrate[] by a *preponderance of the evidence* that the owner or co-owner could not have reasonably anticipated that the vehicle could be used” in the commission of the offense. ROA 1994, § 7-6-7 (emphasis added). Only after the owner has made this showing by a preponderance

⁹ Santa Fe Video, *supra* note 3, at 2:43:33.

¹⁰ *Id.* at 3:13:00.

¹¹ *Id.* at 3:07:15.

of the evidence does the burden shift to the City to rebut that showing of innocence. *Id.*; *see also* §§ 7-9-3(G); 7-14-7(A).

39. Even if the hearing officer finds in *favor* of the property owner on an innocent owner defense, the City can still impose substantial fees. For instance, in a DWI case, the City will impose a tow fee so long as the hearing officer “finds probable cause to seize.” ROA 1994, § 7-6-2(D). In addition, “storage fees shall be waived or imposed at the discretion of the hearing officer.” *Id.* In other words, an owner who did nothing wrong and who prevails at the hearing may still be charged hundreds or even thousands of dollars in towing and storage fees to recover his or her property at the conclusion of this process.

40. Storage fees accumulate at a rate of \$10 per day throughout the proceedings. At the Santa Fe Vehicle Forfeiture Conference, Albuquerque’s Chief Hearing Officer stated that he uses this fact to pressure property owners not to seek a continuance of the hearing until after their underlying criminal trial: “I also tell them that \$10 a day is accumulating, so if they want to wait for six months or a year until their felony case goes to trial”¹²

41. If the hearing officer finds against the owner at the conclusion of the hearing, the City will initiate civil forfeiture proceedings in the Second Judicial District Court. *See* ROA 1994, §§ 7-6-2(D), 7-9-3(C), 7-14-5(E). The owner must then affirmatively intervene as a claimant in those judicial proceedings to protect his or her property interest. If the property owner fails to intervene, the property will be forfeited by default.

42. When the City of Albuquerque initiates a judicial forfeiture proceeding, it files a document captioned as a “Forfeiture Complaint.” *See* Exhibit B. These complaints name, as the defendant, the vehicle that is alleged to be subject to forfeiture. The complaints then allege that

¹² *Id.* at 3:06:25.

an individual committed a criminal offense while driving the vehicle and that the vehicle is subject to forfeiture for this reason. The complaints request a judgment “that any right, title or interest in the [vehicle] be forfeited to the City of Albuquerque Police Department.”

43. If an owner intervenes in a judicial forfeiture proceeding and prevails in the District Court, Albuquerque’s ordinance for DWI cases provides that the owner shall be charged a tow fee so long as the court finds that there was probable cause to seize the vehicle and that “[r]easonable storage fees may be assessed by the District Court.” ROA 1994, § 7-6-7(E). In other words, a claimant who fights the City all the way to the end of the process and prevails in a court of law *still* may be forced to pay significant fees.

NEW MEXICO’S FORFEITURE REFORM LAW

44. Earlier this year, the State of New Mexico enacted historic legislation to end the practice of civil forfeiture in the State. *See* An Act Relating to Forfeiture, House Bill 560 (2015). The law—referred to here as the Forfeiture Reform Law—was passed by a unanimous House of Representatives on March 17, 2015, and by a unanimous Senate on March 21, 2015. Governor Susana Martinez signed the bill into law on April 10, 2015.

45. The Legislature’s unanimous endorsement of the Forfeiture Reform Law was motivated by widespread outrage at the practice of civil forfeiture in New Mexico. This outrage was spurred, in large measure, by comments at the Santa Fe Vehicle Forfeiture Conference, which were captured on video and widely reported in the press.¹³

¹³ *See, e.g.,* Shaila Dewan, *Police Use Department Wish List When Deciding Which Assets to Seize*, N.Y. Times, Nov. 9, 2014; James Staley, *Critics Hammer La Cruces City Attorney For Forfeiture Comments*, Las Cruces Sun-News, Nov. 11, 2014; James Stanley, *Las Cruces City Attorney on Leave After Controversial Comments Emerge*, Albuquerque Journal, Nov. 20, 2014.

46. Then-Las Cruces City Attorney Harry “Pete” Connelly stated at the Santa Fe Conference that, in administering his city’s DWI forfeiture program, “we always try to get, every once and a while, like maybe a good car,” and he recounted a story where a man “drives up in a 2008 Mercedes, brand new, just so beautiful. I mean, the cops were undercover and they were just like, ‘Ahhh.’”¹⁴ According to Mr. Connelly: “We thought, damn. We got a 2008 Mercedes Benz. This is going to go to auction. This is going to be great. We can put all our junk out there and this will be the big seller.”¹⁵

47. Mr. Connelly also expressed admiration that the City of Philadelphia had seized \$4 million in one year through civil forfeiture and stated, “Just think what you could do as a legal department [with that much money]. We could be czars. We could own the city. We could be in the real estate business.”¹⁶

48. News reports about the Santa Fe Conference also relayed the response of Albuquerque’s Chief Hearing Officer to a question about how much revenue is generated by the City’s forfeiture program. The Chief Hearing Officer stated that “I think [city officials] would rather not talk about those numbers because then it starts becoming more of a bullet-point for people that are trying to fight the program.”¹⁷

49. Comments from the Santa Fe Conference were revealing for the public because they pointed to the profit motive inherent in civil forfeiture. Under civil forfeiture, law enforcement agencies keep the property that they seize and can use that property to fund their

¹⁴ Santa Fe Video, *supra* note 3, at 1:03:12.

¹⁵ *Id.* at 1:04:00.

¹⁶ *Id.* at 1:22:53.

¹⁷ See, e.g., Capitol Report New Mexico, A ‘Gold Mine’ or a Civil Liberties Outrage? (Nov. 14, 2014), <http://www.capitolreportnewmexico.com/category/news/>; see also Santa Fe Video, *supra* note 3, at 2:32:50.

operations. *See, e.g.*, ROA 1994, § 7-6-2(E). This financial arrangement—paired with weak protections for innocent owners—creates a powerful incentive for government to take property from people who have done nothing wrong.¹⁸

50. News reports have, in fact, detailed numerous instances in which Albuquerque city attorneys have sought to forfeit vehicles owned by individuals who are not guilty of any crime.¹⁹ For instance, the City forfeited a car owned by a woman named Claudeen Crank after she left her car with a mechanic and it was taken by a drunk driver without her permission. Similarly, the City initiated proceedings to forfeit a car owned by a man named Marcial Gonzales after the man’s friend drove the car—unbeknownst to Marcial—on a license that only allowed him to drive cars with an interlock device. The City ultimately returned Marcial’s car, but only after Marcial agreed to pay an \$850 fee.

51. In order to address abuses associated with civil forfeiture, the Forfeiture Reform Law abolishes civil forfeiture in New Mexico; requires that all forfeitures occur after a *criminal* conviction; and ends the profit incentive inherent in civil forfeiture by requiring that proceeds from forfeitures be deposited in the state’s general fund.

Ending Civil Forfeiture In New Mexico

52. The Forfeiture Reform Law prominently declares that one of its purposes is to “ensure that *only criminal forfeiture* is allowed in this state.” NMSA 1978, § 31-27-2(A)(6) (2015) (emphasis added).

¹⁸ *See, e.g.*, Bart J. Wilson and Michael Preciado, *Bad Apples or Bad Laws?* (Sept. 2014), available at <http://ij.org/report/bad-apples-or-bad-laws/> (conducting empirical analysis and determining that “[w]hen civil forfeiture puts people in a position to choose between benefitting themselves or the overall public, people choose themselves”).

¹⁹ *See* Boetel, *supra* note 1.

53. In order to achieve this purpose, the Forfeiture Reform Law extensively amended New Mexico's Forfeiture Act, NMSA 1978, Sections 31-27-1 to -11 (2002, as amended through 2015).

54. The Forfeiture Reform Law added a new section to the Forfeiture Act setting the conditions under which "[a] person's property is subject to forfeiture." NMSA 1978, § 31-27-4(A) (2015). Specifically, the Forfeiture Reform Law states that a person's property is "subject to forfeiture" only if "the person was arrested for an offense to which forfeiture applies" *and* "the person is convicted by a criminal court of the offense." § 31-27-4(A)(1)-(2).

55. The Forfeiture Reform Law not only requires that the government obtain a criminal conviction, but also requires that the crime have been committed by *an owner* of the property. When the government initiates forfeiture proceedings, the government is required to prove "by clear and convincing evidence" that "the criminal prosecution of the owner of the seized property resulted in a conviction." NMSA 1978, § 31-27-6(G)(2) (2015). If the government fails to show that the person who committed the offense is "an owner of the property," then the property "shall be delivered to the owner" and "the owner shall not be subject to any charges by the state for storage of the property or expenses incurred in the preservation of the property." § 31-27-6(E).

56. In cases where property is owned *both* by a person convicted of a crime and by a second person, the Forfeiture Reform Law provides that the co-owner may likewise avoid forfeiture of the property if she can demonstrate that she "holds a legal right, title or interest in the property" and either "held an ownership interest in the seized property at the time of the illegal conduct . . . or was a bona fide purchaser for fair value." NMSA 1978, § 31-27-7.1(B) (2015). The government may defeat the claim of a co-owner only by showing by clear and

convincing evidence that she “had actual knowledge of the underlying crime giving rise to the forfeiture.” § 31-27-7.1(D).

57. The Forfeiture Reform Law also provides that a complaint for forfeiture shall be “ancillary” to the related criminal proceedings. NMSA 1978, § 31-27-5(A) (2015). The forfeiture proceeding shall be held before the same judge overseeing the criminal case and shall “begin after the conclusion of the trial for the related criminal matter.” § 31-27-6(C).

Eliminating Policing For Profit

58. Prior to the enactment of the Forfeiture Reform Law, law enforcement agencies were allowed to keep money that they seized through civil forfeiture and to use that money to directly fund their operations. This arrangement gave law enforcement agencies a powerful financial incentive to take property using civil forfeiture.

59. The Forfeiture Reform Law eliminates this financial incentive. At the conclusion of forfeiture proceedings, the Forfeiture Reform Law provides that the forfeited property shall be disposed of at public auction and that proceeds from the auction shall be “deposited in the [state’s] general fund.” NMSA 1978, § 31-27-7(B) (2015).

The Law’s Remedial Purpose

60. By ending the practice of civil forfeiture—and its attendant financial incentive—the Forfeiture Reform Law seeks to achieve a remedial purpose. Specifically, the law is intended to “protect the constitutional rights of persons whose property is subject to forfeiture and of innocent owners holding interests in property subject to forfeiture” and to “protect against the wrongful forfeiture of property.” NMSA 1978, § 31-27-2(A)(2), (5) (2015).

APPLICATION OF THE FORFEITURE REFORM LAW TO MUNICIPAL FORFEITURE PROCEEDINGS

61. The Forfeiture Reform Law created a comprehensive scheme to govern forfeiture in New Mexico. Following the enactment of the Forfeiture Reform Law, all forfeitures of lawfully-owned property in the State of New Mexico must occur subsequent to a criminal conviction and must afford property owners the procedural protections set forth in the Forfeiture Act. That comprehensive legislative scheme preempts contrary municipal forfeiture ordinances.

62. The Legislature's statement of purpose confirms that the Forfeiture Reform Law was intended to apply to *all* forfeiture actions in New Mexico. The Forfeiture Reform Law was intended to "ensure that *only criminal forfeiture* is allowed in this state." NMSA 1978, § 31-27-2(A)(6) (2015) (emphasis added). That purpose would not be achieved if cities could circumvent the Forfeiture Act by pursuing civil forfeiture under a municipal ordinance.

63. The Forfeiture Reform Law also lists as a purpose to "make uniform the standards and procedures for the seizure and forfeiture of property subject to forfeiture." NMSA 1978, § 31-27-2(A)(1) (2015). The Forfeiture Reform Law advances that purpose by providing a comprehensive scheme to govern the forfeiture of property in New Mexico.

64. The comprehensive nature of the Forfeiture Reform Law is confirmed by the law's amendments to provisions governing the scope of the Forfeiture Act.

65. Prior to enactment of the Forfeiture Reform Law, the Forfeiture Act authorized municipalities to depart from state forfeiture law. The Forfeiture Act stated that its provisions applied to "seizures, forfeitures and dispositions of property subject to forfeiture pursuant to laws that specifically apply the Forfeiture Act," as well as to "seizures, forfeitures and dispositions of property pursuant to *other laws*; but *only to the extent* that the procedures in the Forfeiture Act for seizing, forfeiting or disposing of property *are consistent with* any procedures specified in

those laws.” NMSA 1978, § 31-27-2(B) (2002, before 2015 amendment) (emphasis added). Because the Forfeiture Act only applied where it was “consistent” with “other laws,” municipalities had scope to enact forfeiture ordinances that were inconsistent with the Forfeiture Act.

66. The Forfeiture Reform Law repealed the language that authorized municipalities to depart from state forfeiture law. Specifically, the Forfeiture Reform Law repealed the provision stating that the Forfeiture Act applied to “other laws . . . only to the extent that the procedures in the Forfeiture Act for seizing, forfeiting or disposing of property are consistent with any procedures specified in those laws.” NMSA 1978, § 31-27-2(B) (2002, before 2015 amendment).

67. In place of the repealed language, the Forfeiture Reform Law enacted a single, narrow exception to the scope of the Forfeiture Act. As amended, the Forfeiture Act “does not apply to contraband, which is subject to seizure pursuant to applicable state laws, but is not subject to forfeiture pursuant to the Forfeiture Act.” NMSA 1978, § 31-27-2(B)(2) (2015). The Forfeiture Reform Law defines “contraband” as “goods that may not be lawfully imported, exported or possessed, including drugs that are listed in Schedule I, II, III, IV or V of the Controlled Substances Act and that are possessed without a valid prescription.” § 31-27-3(C). This narrow exception for forfeitures of contraband is the *only* exception contemplated by the Forfeiture Reform Law.

68. The Forfeiture Reform Law also made various conforming amendments to other sections of the New Mexico Statutes in order to clarify that forfeitures under those provisions must proceed in accordance with the Forfeiture Act. *See* NMSA 1978, §§ 18-6-11(E), 18-6-11.2(B), 30-16B-8, 30-31-34 (2015). These amendments confirm that forfeiture in New

Mexico—with the sole exception of forfeitures of contraband—must proceed in conformance with the Forfeiture Act.

69. At the time the Forfeiture Reform Law was enacted, it was well understood that the law would put an end to the practice of civil forfeiture in New Mexico—including at the municipal level. In the Fiscal Impact Report accompanying House Bill 560, the Department of Public Safety stated that the law’s restriction on the use of forfeiture proceeds to fund law enforcement “would have a negative fiscal impact to the state’s general fund *as well as the operating budgets of each NM county and municipality.*”²⁰ In her signing statement, Governor Martinez likewise referenced the Forfeiture Reform Law’s expected fiscal impact on municipalities, stating that, “[w]ith this legislation, it is more critical than ever that *every county and municipality*, as well as the state legislature, makes a stronger commitment to fully fund our law enforcement agencies.”²¹

ALBUQUERQUE’S CONTINUED OPERATION OF ITS VEHICLE FORFEITURE PROGRAM

70. The Forfeiture Reform Law became effective on July 1, 2015, yet the City of Albuquerque continues to operate its vehicle forfeiture program.

71. Albuquerque officials have publicly stated that they do not believe they are bound by the Forfeiture Reform Law.²² Indeed, in the wake of the Forfeiture Reform Law, the City approved \$2.5 million in new bonds to purchase a larger parking lot to hold all the cars the City

²⁰ Fiscal Impact Report, H.B. 560, at 4 (2015), *available at* <http://www.nmlegis.gov/Sessions/15%20Regular/firs/HB0560.PDF> (emphasis added).

²¹ House Executive Message No. 25, at 1 (2015), *available at* <http://www.governor.state.nm.us/uploads/FileLinks/11a0326a344f4283b63b3f88c21627c4/HEM25.pdf> (emphasis added).

²² *See, e.g.,* Ryan Boetel, You Drink, You Drive, You Still Lose Your Car, *Albuquerque Journal*, Sept. 28, 2015 (quoting Deputy Chief William Roseman and reporting that “Albuquerque police are so confident the city’s DWI seizure program is here to stay the department is seeking to buy land to create a complex to store seized vehicles”).

expects to seize; the “revenue source to pay the bonds will be revenues generated by the DWI Seizure program.”²³

72. Albuquerque has continued to conduct administrative hearings under its civil forfeiture ordinance. For instance, on Thursday, November 4, 2015, the City held hearings involving six separate cars. *See Exhibit C.* In three cases, the property owners signed papers waiving any right to contest the forfeitures. In one case, the property owner signed an agreement to immobilize the car for 60 days and pay \$1,000. And in two cases the hearing officer entered a decision in favor of the City.

73. Albuquerque has also continued to file civil forfeiture actions in District Court in the wake of the Forfeiture Reform Law. These actions are captioned as civil forfeiture actions: They name as the defendant the property allegedly subject to forfeiture, and they are filed as judicial actions seeking a judgment of forfeiture. *See Exhibit B.*

74. Albuquerque has continued with its vehicle forfeiture program notwithstanding that the program is contrary to the entire scheme for asset forfeiture established by the Forfeiture Reform Law. Under the Forfeiture Reform Law, all forfeitures in New Mexico must proceed as *criminal* forfeitures, yet Albuquerque has continued to operate its program of *civil* forfeiture. This distinction has numerous concrete consequences, including:

- a. Under the Forfeiture Reform Law, a property owner cannot lose his or her property unless *the owner* is found guilty of a crime. Albuquerque, however, has continued to seek forfeiture of property without first obtaining a criminal conviction of *anyone*—much less a criminal conviction of the property owner.

²³ *See Cover Analysis for City of Albuquerque Council Bill 0-15-64 (2015), available at <https://cabq.legistar.com/View.ashx?M=F&ID=4055597&GUID=DAADAEBBA-2109-4F7A-AD63-66908750FC79>.*

b. Under the Forfeiture Reform Law, the government bears the burden to initiate criminal proceedings and then bring an ancillary proceeding to forfeit property. By contrast, when Albuquerque seizes property, the burden rests with the property owner to timely request a hearing (at a cost of \$50) to avoid an automatic forfeiture.

c. Under the Forfeiture Reform Law, if the government seeks to forfeit property that is owned by a person other than the individual who has been convicted of a crime, the government must return that property without any financial penalty. Under Albuquerque's ordinance, by contrast, the government may continue to seek the forfeiture of such property and may condition its return on payment of significant fees.

d. Under the Forfeiture Reform Law, if the government seeks to forfeit property that is co-owned by a convicted criminal and a third party, the government must prove by clear and convincing evidence that the third party had "actual knowledge of the underlying crime giving rise to the forfeiture." By contrast, under Albuquerque's ordinance, the third party bears the initial burden to prove by a preponderance of the evidence that he or she "could not have reasonably anticipated that the vehicle could be used" to commit the offense.

75. Albuquerque has also taken no steps whatsoever to curb the profit incentive inherent in its vehicle forfeiture program. The Forfeiture Reform Law seeks to eliminate the profit incentive associated with civil forfeiture by requiring that the proceeds of forfeitures be deposited in the state's general fund. By contrast, when Albuquerque forfeits property, the proceeds from the sale of the property are then used to fund the operation of the vehicle forfeiture program—including the salaries of the city attorneys who pursue the forfeitures.

**CAUSE OF ACTION:
VIOLATION OF THE FORFEITURE REFORM LAW**

76. Paragraphs 1-75 are hereby incorporated by reference.

77. Notwithstanding Albuquerque's home rule authority, Albuquerque ordinances are preempted by state law, and therefore invalid, where a state "statute evinces an intent to negate the municipality from enacting a particular ordinance." *Prot. and Advocacy Sys. v. City of Albuquerque*, 2008-NMCA-149, ¶ 48, 145 N.M. 156.

78. Here, the continued enforcement of Albuquerque's civil forfeiture ordinances "would circumvent and thereby frustrate the Legislature's intent" in the Forfeiture Reform Law to end the practice of civil forfeiture in the State of New Mexico. *ACLU*, 1999-NMSC-044, ¶ 13.

79. Revised Ordinances of Albuquerque 1994, Chapter 7, Article 6 is preempted by the Forfeiture Reform Law because, among other things, it authorizes forfeiture without requiring that the owner of the forfeited property be convicted of a crime; forces the property owner to take affirmative action and pay a \$50 fee to avoid automatic forfeiture of the property; places the burden on the property owner to prove his or her innocence in order to avoid forfeiture; authorizes the imposition of significant fees on property owners who are not even alleged to have committed any crime; and creates an improper profit incentive by allowing police and prosecutors involved in the operation of the forfeiture program to retain the proceeds of forfeitures to fund the continued operation of the program.

80. Accordingly, Plaintiffs are entitled to declaratory and injunctive relief as set forth in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. Declare Revised Ordinances of Albuquerque 1994, Chapter 7, Article 6 preempted by the Forfeiture Reform Law (2015's House Bill 560);
- B. Permanently enjoin Albuquerque from applying Revised Ordinances of Albuquerque 1994, Chapter 7, Article 6 to forfeit property;
- C. Award Plaintiffs their attorney fees; and
- D. Enter such other legal or equitable relief as the Court may deem proper.

Dated: November 18, 2015

Respectfully submitted,

/s/ Brad Cates

Brad Cates
C. Brad Lane-Cates, Attorney
NM Bar 3717
P.O. Box 592
Fairacres, NM 88033
Tel: (505) 342-1846
Fax: (575) 647-1997
Email: Brad@bradcates.com

/s/ Robert Everett Johnson

Robert Frommer*
Robert Everett Johnson*
INSTITUTE FOR JUSTICE
901 North Glebe Road, Suite 900
Arlington, VA 22203
Tel: (703) 682-9320
Fax: (703) 682-9321
Email: rjohnson@ij.org

** Pro Hac Vice Pending*

EXHIBIT A

CITY OF ALBUQUERQUE, EX REL.,
ALBUQUERQUE POLICE DEPARTMENT,
Plaintiff,

ID # 24900

vs.

ONE (1): 2003 HONDA, SILVER

VIN: 1HGCM66523A020970

NEW MEXICO PLATE NO.: 247SLC

Defendant,

2015 APR 16 AM 9:45

RECEIVED
ALBUQUERQUE POLICE DEPT

Owner/Offender agrees to pay fee no later than 04/20/15. If fee is not paid by this date storage will accrue at \$10.00 per day. If fee is not paid within thirty (30) days from the date of this agreement, subject vehicle will be considered abandoned and deemed forfeited to City/APD.

Owner initials

Paul

30 DAY VEHICLE IMMOBILIZATION & RELEASE AGREEMENT

THIS AGREEMENT is approved and entered into this 16 day of APRIL, 2015, by and between the **CITY OF ALBUQUERQUE, EX REL., ALBUQUERQUE POLICE DEPARTMENT** (hereinafter "APD"), and **PAULAMARIE HERBERT** ("Owner").

1. APD seized the above-referenced vehicle ("subject vehicle") from **SHERMAN HENRY** ("Offender") on or about 04/06/2015, because he/she was arrested and charged with driving while under the influence of intoxicating liquor or drugs (DWI) and/or driving on a revoked driver's license.

2. Owner acknowledges the following facts: (Please Initial all)

- A. Offender was operating the subject vehicle. *Paul*
- B. Offender was arrested and charged with DWI and/or driving on a revoked driver's license. *Paul*
- C. Offender has at least one at least one prior DWI conviction or arrest. *Paul*
- D. Offender's driver license is revoked OR may become revoked as a result of this incident. If Offender's driver license is revoked, Owner acknowledges that Offender's license must be properly reinstated by the Motor Vehicle Division after the revocation period in order to be valid and/or have a valid interlock license and functioning ignition interlock in any vehicle Offender drives. *Paul*
- E. Owner acknowledges that he/she has a right to an Administrative Hearing and a District Court trial on this matter and by signing this agreement, thereby

knowingly waives that right. Owner can voluntarily disclaim his/her interest in subject vehicle after execution of this agreement for no costs or fees. PmH

3. APD agrees to return subject vehicle to Owner under the following terms and conditions: **(PLEASE INITIAL ALL)**

A. APD will follow Owner or designated licensed driver and place a boot on the subject vehicle at Owner's residence and Owner agrees to allow APD to place an immobilization device ("Boot") on the subject vehicle for a period not less than **30 days**.

The 30 day time period will commence on the day required fees are paid to APD. PmH

B. Owner agrees to pay **\$850.00** for storage, tow, processing and Boot fees. Fees must be paid in full directly to APD before APD will Boot the vehicle.

C. APD will remove the Boot within a reasonable time period following the 30 days of immobilization of the subject vehicle. PmH

D. Owner agrees to take reasonable steps to protect the Boot and further agrees not to paint, cover, block, deface, or in any way change or obscure the Boot. PmH

4. Owner acknowledges the subject vehicle was seized because Offender was arrested for DWI and/or driving while his/her driver's license was revoked or suspended from a DWI offense. Because Owner is now aware of the basis of the seizure of the subject vehicle, Owner agrees to voluntarily surrender ownership of the subject vehicle if Offender or anyone else is again arrested for DWI and/or for driving on a revoked or suspended driver's license while operating the subject vehicle. PmH

5. Owner further agrees to waive any future innocent owner defense if Offender or another person is again arrested for DWI or driving on a revoked driver's license in any vehicle Owner owns. PmH

6. Owner agrees to accept the subject vehicle "as is". PmH

7. Owner further agrees to expressly waive and relinquish any and all claims, whether known or unknown, Owner has or may have against the State of New Mexico, City of

Albuquerque, and APD, their agents and employees which result from or might result from the seizure of the subject vehicle. Paul

8. Owner acknowledges this settlement Agreement is a final disposition in this vehicle seizure case. Failure to comply with the terms of this Agreement within thirty (30) days from the date entered will result in the subject vehicle being forfeited to City/APD, unless any extension to comply with this agreement is requested by Owner and is approved at the discretion of

City/APD. Paul

Paula-Marie Herbert Telephone No. 505 801 6061
Owner

Address: _____
(property location where vehicle will be immobilized)
(must be within City of Albuquerque)

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

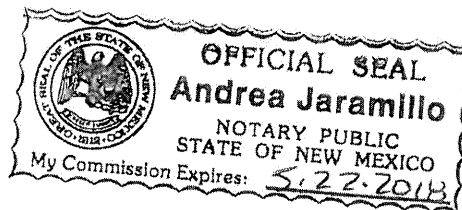
SUBSCRIBED TO before me by PAULAMARIE HERBERT this 16 day of APRIL
2015. Andrea Jaramillo
Notary Public

My Commission Expires: 5.22.2018

STIPULATED AND AGREED TO:

CITY OF ALBUQUERQUE
Jenica L. Jacobi
Interim City Attorney

Kyle Hibner
Kyle Hibner
Assistant City Attorney
P.O. Box 2248
Albuquerque, NM 87103
(505) 768-4500



CITY OF ALBUQUERQUE, EX REL.,
ALBUQUERQUE POLICE DEPARTMENT, 2015 APR 15 11:21:19 ID # 24897
Plaintiff,

vs.

ONE (1): 1987 BMW, TAN

VIN: WBAAA1308H8250356

NEW MEXICO PLATE NO.: NFM717

Defendant,

Owner/Offender agrees to pay fee no later than 04/20/15. If fee is not paid by this date storage will accrue at \$10.00 per day. If fee is not paid within thirty (30) days from the date of this agreement, subject vehicle will be considered abandoned and deemed forfeited to City/APD.

Owner initials MG

30 DAY VEHICLE IMMOBILIZATION & RELEASE AGREEMENT

THIS AGREEMENT is approved and entered into this 15 day of APRIL, 2015, by and between the **CITY OF ALBUQUERQUE, EX REL., ALBUQUERQUE POLICE DEPARTMENT** (hereinafter "APD"), and **MARCIAL GONZALES** ("Owner").

1. APD seized the above-referenced vehicle ("subject vehicle") from **CHRISTIAN MIKE** ("Offender") on or about 04/04/2015, because he/she was arrested and charged with driving while under the influence of intoxicating liquor or drugs (DWI) and/or driving on a revoked driver's license.

2. Owner acknowledges the following facts: **(Please Initial all)**

- A. Offender was operating the subject vehicle. MG
- B. Offender was arrested and charged with DWI and/or driving on a revoked driver's license. MG
- C. Offender has at least one at least one prior DWI conviction or arrest. MG
- D. Offender's driver license is revoked OR may become revoked as a result of this incident. If Offender's driver license is revoked, Owner acknowledges that Offender's license must be properly reinstated by the Motor Vehicle Division after the revocation period in order to be valid and/or have a valid interlock license and functioning ignition interlock in any vehicle Offender drives. MG
- E. Owner acknowledges that he/she has a right to an Administrative Hearing and a District Court trial on this matter and by signing this agreement, thereby

knowingly waives that right. Owner can voluntarily disclaim his/her interest in subject vehicle after execution of this agreement for no costs or fees. MB

3. APD agrees to return subject vehicle to Owner under the following terms and conditions: **(PLEASE INITIAL ALL)**

A. APD will follow Owner or designated licensed driver and place a boot on the subject vehicle at Owner's residence and Owner agrees to allow APD to place an immobilization device ("Boot") on the subject vehicle for a period not less than **30 days**.

The 30 day time period will commence on the day required fees are paid to APD. MB

B. Owner agrees to pay \$850.00 for storage, tow, processing and Boot fees. Fees must be paid in full directly to APD before APD will Boot the vehicle.

C. APD will remove the Boot within a reasonable time period following the 30 days of immobilization of the subject vehicle. MB

D. Owner agrees to take reasonable steps to protect the Boot and further agrees not to paint, cover, block, deface, or in any way change or obscure the Boot. MB

4. Owner acknowledges the subject vehicle was seized because Offender was arrested for DWI and/or driving while his/her driver's license was revoked or suspended from a DWI offense. Because Owner is now aware of the basis of the seizure of the subject vehicle, Owner agrees to voluntarily surrender ownership of the subject vehicle if Offender or anyone else is again arrested for DWI and/or for driving on a revoked or suspended driver's license while operating the subject vehicle. MB

5. Owner further agrees to waive any future innocent owner defense if Offender or another person is again arrested for DWI or driving on a revoked driver's license in any vehicle Owner owns. MB

6. Owner agrees to accept the subject vehicle "as is". MB

7. Owner further agrees to expressly waive and relinquish any and all claims, whether known or unknown, Owner has or may have against the State of New Mexico, City of

Albuquerque, and APD, their agents and employees which result from or might result from the seizure of the subject vehicle. MC

8. Owner acknowledges this settlement Agreement is a final disposition in this vehicle seizure case. Failure to comply with the terms of this Agreement within thirty (30) days from the date entered will result in the subject vehicle being forfeited to City/APD, unless any extension to comply with this agreement is requested by Owner and is approved at the discretion of City/APD. MC

[Signature]
Owner

Telephone No. 505 3574617

Address: _____

(property location where vehicle will be immobilized)
(must be within City of Albuquerque)

STATE OF NEW MEXICO)

) ss.

COUNTY OF BERNALILLO)

SUBSCRIBED TO before me by CHRISTIAN MIKE this 15 day of APRIL, 2015.

[Signature]
Notary Public

My Commission Expires: 5.22-2018

STIPULATED AND AGREED TO:

CITY OF ALBUQUERQUE

Jenica L. Jacobi

Interim City Attorney

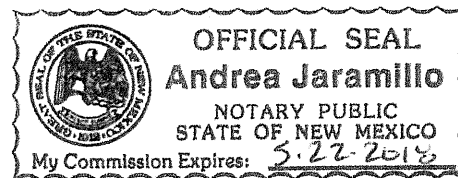
[Signature]
Kyle Hibner

Assistant City Attorney

P.O. Box 2248

Albuquerque, NM 87103

(505) 768-4500



APPROVED:

Attorney for _____

Albuquerque, NM _____

(505) _____

WILLARD H. DAVIS, JR.

Willard H. Davis Jr.

City Administrative Hearing Officer

EXHIBIT B

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

FILED IN MY OFFICE
DISTRICT COURT CLERK
10/1/2015 10:35:10 AM
James A. Noel
Chris Peck

NO. D-202-CV-2015-07637

CITY OF ALBUQUERQUE, EX REL.,
ALBUQUERQUE POLICE DEPARTMENT,
Plaintiff,

vs.

ONE (1) 2002 SUZUKI MC BLUE,
V.I.N. JS1GR7HA122101544,
NEW MEXICO LICENSE NO. NO PLATE,
Defendant.

FORFEITURE COMPLAINT

COMES NOW the City of Albuquerque, ex rel., Albuquerque Police Department, pursuant to City Ordinance 7-6-1 et seq., ROA 1994, as amended, and alleges the following:

1. Plaintiff, the City of Albuquerque, is a Municipal Corporation, duly organized under the laws of the State of New Mexico.
2. JOSEPH ALVAREZ and DANIEL KEULEN were, at all times material hereto, residents of the State of New Mexico.
3. On May 25, 2015, JOSEPH ALVAREZ was stopped by officers for traffic violations at 245 Pennsylvania St., NE, in Albuquerque, New Mexico. (A.P.D. Report #150046143).
4. JOSEPH ALVAREZ was driving a 2002 SUZUKI MC BLUE, V.I.N. JS1GR7HA122101544, New Mexico License No. NO PLATE, registered to DANIEL KEULEN, with a(n) expired New Mexico registration. JOSEPH ALVAREZ claims current ownership of the subject vehicle.
5. Through investigation, Albuquerque Police Department officers found JOSEPH ALVAREZ to be driving on a revoked or suspended license as a result of an arrest or conviction for Driving While Intoxicated in violation of Section 8-2-1-8 R.O.A. 1994 or Section 66-8-102 N.M.S.A. 1978.
6. The Albuquerque Police Department has conducted an investigation and determines that the parties who may claim ownership or a security interest in the aforementioned vehicle are:
 - a) JOSEPH ALVAREZ, 1135 Broadway NE, Albuquerque, NM 87101, or c/o Metropolitan Detention Center, 100 Deputy Dean Miera Drive SW, Albuquerque, NM 87151; and

b) DANIEL KEULEN, 8200 Bridge BLVD SW, Albuquerque, NM 87121.

7. JOSEPH ALVAREZ operated the aforementioned motor vehicle while his driver's license was suspended or revoked as a result of an arrest or conviction for Driving While Intoxicated in violation of Section 66-8-102, N.M.S.A. 1978, as amended. Pursuant to the provisions of City Ordinance 7-6-1 et seq., ROA 1994, as amended, the operation of the aforementioned vehicle by JOSEPH ALVAREZ constitutes a public nuisance.


8. In accordance with City Ordinance 7-6-1 et seq., ROA 1994, as amended, the aforementioned vehicle is in the custody of the Albuquerque Police Department, subject only to the orders and decrees of the District Court of the Second Judicial District, Bernalillo County, New Mexico.

WHEREFORE, the Albuquerque Police Department prays for a judgment in its favor, that any right, title or interest in the aforementioned 2002 SUZUKI MC BLUE, V.I.N. JS1GR7HA122101544, New Mexico License No. NO PLATE, be forfeited to the City of Albuquerque Police Department and that the City receive the costs of this action and any such other and further relief as the Court may deem just and reasonable.

Respectfully Submitted,

CITY OF ALBUQUERQUE

Jessica M. Hernandez
City Attorney

/s/ Seth V. Grant 
Seth V. Grant
Assistant City Attorney
P.O. Box 2248
Albuquerque, New Mexico 87103
(505) 768-4500

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

FILED IN MY OFFICE
DISTRICT COURT CLERK
10/13/2015 1:50:45 PM
James A. Noel
Catherine Chavez

NO. D-202-CV-2015-07881

CITY OF ALBUQUERQUE, EX REL.,
ALBUQUERQUE POLICE DEPARTMENT,
Plaintiff,

vs.

ONE (1) 1992 FORD P/U BLUE,
V.I.N. 1FTCR14U0NPB02449,
NEW MEXICO LICENSE NO. MXF477,
Defendant.

FORFEITURE COMPLAINT

COMES NOW the City of Albuquerque, ex rel., Albuquerque Police Department, pursuant to City Ordinance 7-6-1 et seq., ROA 1994, as amended, and alleges the following:

1. Plaintiff, the City of Albuquerque, is a Municipal Corporation, duly organized under the laws of the State of New Mexico.
2. ROGER NELSON was, at all times material hereto, a resident of the State of New Mexico.
3. On 9/6/15, ROGER NELSON was stopped by officers for traffic violations at 6800 Southern Ave. SE, in Albuquerque, New Mexico. (A.P.D. Report #15-0082114).
4. ROGER NELSON was driving a 1992 FORD P/U BLUE, V.I.N. 1FTCR14U0NPB02449, New Mexico License No. MXF477, registered to GENE ROWLAND THOMAS, with a(n) current New Mexico registration.
5. Through investigation, Albuquerque Police Department officers found ROGER NELSON to be driving on a revoked or suspended license as a result of an arrest or conviction for Driving While Intoxicated in violation of Section 8-2-1-8 R.O.A. 1994 or Section 66-8-102 N.M.S.A. 1978.
6. The Albuquerque Police Department has conducted an investigation and determines that the parties who may claim ownership or a security interest in the aforementioned vehicle are:
 - a) ROGER NELSON, 820 Louisiana Blvd. SE, #424, Albuquerque, NM 87108, or c/o Metropolitan Detention Center, 100 Deputy Dean Miera Drive SW, Albuquerque, NM 87151, and

b) GENE ROWLAND THOMAS, 8400 Trotter Rd. SW, Albuquerque, NM 87121.

7. ROGER NELSON operated the aforementioned motor vehicle while his driver's license was suspended or revoked as a result of an arrest or conviction for Driving While Intoxicated in violation of Section 66-8-102, N.M.S.A. 1978, as amended. Pursuant to the provisions of City Ordinance 7-6-1 et seq., ROA 1994, as amended, the operation of the aforementioned vehicle by ROGER NELSON constitutes a public nuisance.

8. In accordance with City Ordinance 7-6-1 et seq., ROA 1994, as amended, the aforementioned vehicle is in the custody of the Albuquerque Police Department, subject only to the orders and decrees of the District Court of the Second Judicial District, Bernalillo County, New Mexico.

9. GENE ROWLAND THOMAS has signed a disclaimer relinquishing his rights and interest in the vehicle which is the subject of this complaint which does not make him a party to this complaint.

WHEREFORE, the Albuquerque Police Department prays for a judgment in its favor, that any right, title or interest in the aforementioned 1992 FORD P/U BLUE, V.I.N. 1FTCR14U0NPB02449, New Mexico License No. MXF477, be forfeited to the City of Albuquerque Police Department and that the City receive the costs of this action and any such other and further relief as the Court may deem just and reasonable.

Respectfully Submitted,

CITY OF ALBUQUERQUE

Jessica M. Hernandez
City Attorney

/s/ Mark Welliver
Mark Welliver
Assistant City Attorney
P.O. Box 2248
Albuquerque, New Mexico 87103
(505) 768-4500

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

FILED IN MY OFFICE
DISTRICT COURT CLERK
10/22/2015 4:57:04 PM
James A. Noel
Chris Peck

No. D-202-CV-2015-08106

CITY OF ALBUQUERQUE, EX Rel.,
ALBUQUERQUE POLICE DEPARTMENT,

Plaintiff,

vs.

ONE (1) 2009 FORD UT SILVER,
VIN: 1FMCU03719KA22726,
NEW MEXICO LICENSE # KTX139,

Defendant.

FORFEITURE COMPLAINT

COMES NOW the City of Albuquerque, ex rel., Albuquerque Police Department, pursuant to City Ordinance 7-6-1 et seq., ROA 1994, as amended, and alleges the following:

1. Plaintiff, the City of Albuquerque, is a Municipal Corporation, duly organized under the laws of the State of New Mexico.
2. JENNIFER SAUNDERS and WRENNE SAUNDERS were, at all times material hereto, residents of the State of New Mexico.
3. On 9/30/2015, JENNIFER SAUNDERS was stopped by officers for traffic violations at 610 Washington St. NE in Albuquerque, New Mexico. (A.P.D. Case #15-0090470).
4. JENNIFER SAUNDERS was driving a 2009 FORD UT SILVER, VIN: 1FMCU03719KA22726, New Mexico License No. KTX139 which is registered to WRENNE SAUNDERS with a(n) current New Mexico registration.
5. Through investigation, Albuquerque Police Department officers found JENNIFER SAUNDERS to be intoxicated and placed her under arrest on the offense of Driving While Intoxicated in violation of Section 8-2-1-8 R.O.A. 1994 or Section 66-8-102 N.M.S.A. 1978.

6. The Albuquerque Police Department has conducted an investigation and determines that the parties who may claim an interest in the aforementioned vehicle are:

- a) JENNIFER SAUNDERS, 3100 Tahiti NE, Albuquerque, NM 87111 or c/o
Metropolitan Detention Center, 100 Deputy Dean Miera Drive SW, Albuquerque, NM
87151 and
- b) WRENNE SAUNDERS, 20 Rivendell Lane, Los Lunas, NM 87031.

7. JENNIFER SAUNDERS operated the aforementioned motor vehicle while intoxicated in violation of Section 8-2-1-8 R.O.A. 1994 or Section 66-8-102 N.M.S.A. 1978. Pursuant to the provisions of City Ordinance 7-6-1 et seq., ROA 1994, as amended, the operation of the aforementioned vehicle by JENNIFER SAUNDERS constitutes a public nuisance.

8. In accordance with City Ordinance 7-6-1 et seq., ROA 1994, as amended, the aforementioned vehicle is in the custody of the Albuquerque Police Department, subject only to the orders and decrees of the District Court of the Second Judicial District, Bernalillo County, New Mexico.

WHEREFORE, the Albuquerque Police Department prays for a judgment in its favor, that any right, title or interest in the aforementioned 2009 FORD UT SILVER, VIN: 1FMCU03719KA22726, New Mexico License No. KTX139 be forfeited to the City of Albuquerque Police Department and that the City receive the costs of this action and any such other and further relief as the Court may deem just and reasonable.

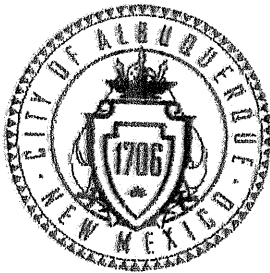
Respectfully Submitted,

CITY OF ALBUQUERQUE

Jessica M. Hernandez
City Attorney

/s/ Seth Grant
Seth Grant
Assistant City Attorney
P.O. Box 2248
Albuquerque, New Mexico 87103
(505) 768-4500

EXHIBIT C



REQUEST FOR VEHICLE SEIZURE HEARINGS

Please attach a copy of the Vehicle Seizure form to this request and hand-deliver to the Office of Administrative Hearings (600 2nd Street NW, 7th Floor, Albuquerque, NM 87102, Telephone Number (505-768-4700). You must pay a \$50.00 hearing fee. Payments accepted, Cash, Credit, certified cashier's check or money order payable to the "City of Albuquerque".

2008 Isuzu Maria Year, Make, Model and Color of Vehicle
1 GBCS199788701998 (VIN) Vehicle Identification Number
14352C License Plate Number
9/18/15 Date of Seizure/Arrest
Patrick T. Sanchez Name of person Arrested (Offender)

PERSON REQUESTING HEARING

Patrick T. Sanchez Name
11800 Montgomery Apt 2062 Address
Albuquerque, N.M. 87111 City, State, Zip code
505-508-5412 Phone Number

Are you the registered/title owner of the vehicle ☒ YES ☐ NO

If you are not the registered owner please state why you are requesting a hearing.

Reason for seizure: ☒ DWI ☐ Revoked Driver's License ☐ Prostitution ☐ Handgun Offense

Are you the offender? ☒ YES ☐ NO

If you are not the offender, please state your relationship to the offender.

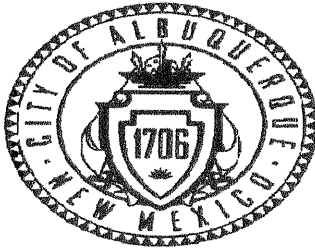
Please state how the offender obtained the vehicle

Has the vehicle ever been involved in any prior DWI arrests of offender? ☐ YES ☒ NO

Please write a short statement why the City should order the vehicle released to you.

I need my vehicle to go to work and
support my family. Also for medical purposes
as I am a mental Health patient.

Patrick T. Sanchez
Signature



OFFICE OF ADMINISTRATIVE HEARINGS
P.O. BOX 1293
ALBUQUERQUE, NM 87103

VEHICLE SEIZURE

IN THE MATTER OF:

VIN:

CLAIMANT:

This matter came for hearing on 11-4-2015 before City Administrative Hearing Officer:

Claimant appeared personally ☒ and with attorney: Jack M. Lujan, esq.

Failed to appear ☐

City of Albuquerque/ Albuquerque Police Department (APD) appeared through:

FINDING OF FACT

1. The Hearing Officer has jurisdiction over the subject matter and parties herein.
2. APD seized the subject vehicle on: 9-19-2015
3. Subject vehicle was being operated/ controlled by: Patrick Sanchez ("Offender").
4. Owner(s) of the subject vehicle are: Patrick Sanchez
5. Offender was arrested for : ☒ DWI 2nd or subsequent; and or ☒ Driving on a revoked license [66-8-122(G)].
6. City/ APD presented sufficient evidence to establish probable cause to
Seize the subject vehicle ☒ YES ☐ NO
7. Owner is an innocent owner ☐ YES ☒ NO
8. _____

ORDER/CONCLUSION:

☒ City/ APD shall proceed to forfeiture proceeding in District Court

☐ City/ APD shall release subject vehicle to: _____

☐ Tow

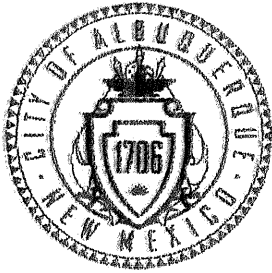
☐ Storage \$ _____

City of Albuquerque

Administrative Hearing Officer

Distribution:

Jack M. Lujan, esq.
Mark Welliver, esq.



REQUEST FOR VEHICLE SEIZURE HEARINGS

Please attach a copy of the Vehicle Seizure form to this request and hand-deliver to the Office of Administrative Hearings (600 2nd Street NW, 7TH Floor, Albuquerque, NM 87102, Telephone Number (505-768-4700). You must pay a \$50.00 hearing fee. Payments accepted, Cash, Credit, certified cashier's check or money order payable to the "City of Albuquerque".

2008 Chevy Impala Year, Make, Model and Color of Vehicle Silver
2G1wb55K489101953 (VIN) Vehicle Identification Number
0066GS License Plate Number
10-20-15 Date of Seizure/Arrest
Cynthia M Barrett Name of person Arrested (Offender)

PERSON REQUESTING HEARING

Cynthia M Barrett Name
206 Spring Rd SE Address
Rio Rancho, NM 87124 City, State, Zip code
505-304-8657 Phone Number

Are you the registered/title owner of the vehicle [☒ YES] [] NO

If you are not the registered owner please state why you are requesting a hearing.

Reason for seizure: [☒ DWI] [] Revoked Driver's License [] Prostitution [] Handgun Offense

Are you the offender? [☒ YES] [] NO

If you are not the offender, please state your relationship to the offender.

Please state how the offender obtained the vehicle

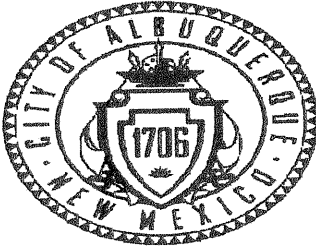
Purchased

Has the vehicle ever been involved in any prior DWI arrests of offender? [] YES [☒ NO]

Please write a short statement why the City should order the vehicle released to you.

① I work in outside Sales for the Albuquerque Journal
② Take Care of Elderly Mother - Dr. S Visits

Cindy Barrett
Signature



OFFICE OF ADMINISTRATIVE HEARINGS
P.O. BOX 1293
ALBUQUERQUE, NM 87103

VEHICLE SEIZURE

IN THE MATTER OF: One (1) 2008 Chevy Impala Silver
VIN: 01953
CLAIMANT: Cynthia Barrett

This matter came for hearing on 11-4-2015 before City Administrative Hearing Officer:
STANLEY HARDA

Claimant appeared personally ☒ and with attorney: Mark Keller, esq.
~~Failed to appear~~ ☐

City of Albuquerque/ Albuquerque Police Department (APD) appeared through:
Mark Welliver, esq.

FINDING OF FACT

1. The Hearing Officer has jurisdiction over the subject matter and parties herein.
2. APD seized the subject vehicle on: 10-20-2015
3. Subject vehicle was being operated/ controlled by:
Cynthia Barrett ("Offender")
4. Owner(s) of the subject vehicle are: Cindy Barrett or Carmen Johnson
5. Offender was arrested for : ☒ DWI 2nd or subsequent; and or
☐ Driving on a revoked license [66-8-122(G)].
6. City/ APD presented sufficient evidence to establish probable cause to
Seize the subject vehicle ☒ YES ☐ NO
7. Owner is an innocent owner ☐ YES ☒ NO
8. _____

ORDER/CONCLUSION:

☒ City/ APD shall proceed to forfeiture proceeding in District Court
☐ City/ APD shall release subject vehicle to: _____

☐ Tow

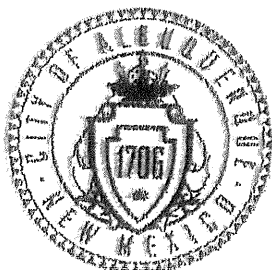
☐ Storage \$ _____

City of Albuquerque

[Signature]
Administrative Hearing Officer

Distribution:

Mark Keller, esq.
Mark Welliver, esq.



REQUEST FOR VEHICLE SEIZURE HEARINGS

Please attach a copy of the Vehicle Seizure form to this request and hand-deliver to the Office of Administrative Hearings (600 2nd Street NW, 7th Floor, Albuquerque, NM 87102, Telephone Number (505-768-4700). You must pay a \$50.00 hearing fee. Payments accepted, Cash, Credit, certified cashier's check or money order payable to the "City of Albuquerque".

2004, VW, Beetle, Blue Year, Make, Model and Color of Vehicle
10593 (VIN) Vehicle Identification Number
msu935 License Plate Number
August 19, 2015 Date of Seizure/Arrest
Name of person Arrested (Offender)

PERSON REQUESTING HEARING

Kailea Greig Name
12604 Copper Ave NE Apt. 2B Address
Albuquerque, NM 87123 City, State, Zip code
(505) 382-7993 Phone Number

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ALBUQUERQUE CITY OFFICE

2015 OCT -5 PM 3:28

Are you the registered/title owner of the vehicle ☒ YES ☐ NO
If you are not the registered owner please state why you are requesting a hearing.

Reason for seizure: ☒ DWI ☐ Revoked Driver's License ☐ Prostitution ☐ Handgun Offense

Are you the offender? ☒ YES ☐ NO

If you are not the offender, please state your relationship to the offender.

Please state how the offender obtained the vehicle

I bought my car

Has the vehicle ever been involved in any prior DWI arrests of offender? ☒ YES ☐ NO

Please write a short statement why the City should order the vehicle released to you.

although I do have a history with one pending dwi case prior to this one, I am sober and otherwise a safe driver.

Kailea Greig
Signature

10-6-15 - Request approved -
Time waived - Reschedule ->
next available.

CITY OF ALBUQUERQUE, EX REL.,
ALBUQUERQUE POLICE DEPARTMENT,
Plaintiff,

VS.

ONE (1): 2004 VW, BLUE
VIN: 3VWCD31Y24M310593
NEW MEXICO LICENSE PLATE NO. MSY935
Defendant,

RECEIVED
2015 NOV -4 AM 9:35
S. MONTROSE CIVIC CENTER

DISCLAIMER

Claimant **KAILEA GREIG** disclaims any interest in the property, which is the subject matter of the above captioned case. This action may proceed without further notice to claimant provided no costs or fees are assessed against him/her. Claimant acknowledges that this is a final disposition of the case and thereby, knowingly waives his/her right to a hearing or trial on this matter.


Kailea Greig
KAILEA GREIG
Address: 12604 Copper Ave NE
Albuquerque, nm 87123

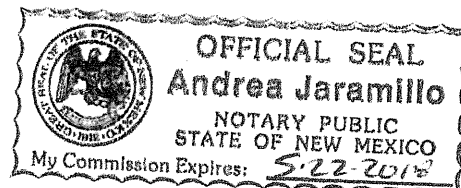
[illegible]

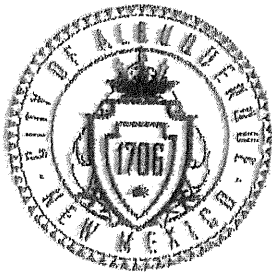
SUBSCRIBED TO before me by **KAILEA GREIG** this 4th day of NOVEMBER, 2015.

My Commission Expires:

5. 22. 2018


Notary Public





REQUEST FOR VEHICLE SEIZURE HEARINGS

Please attach a copy of the Vehicle Seizure form to this request and hand-deliver to the Office of Administrative Hearings (600 2nd Street NW, 7th Floor, Albuquerque, NM 87102, Telephone Number (505-768-4700). You must pay a \$50.00 hearing fee. Payments accepted, Cash, Credit, certified cashier's check or money order payable to the "City of Albuquerque".

1996 Honda Accord Silver Year, Make, Model and Color of Vehicle
1HGCD5693TA277309 (VIN) Vehicle Identification Number
NKB002 License Plate Number
10/2/15 Date of Seizure/Arrest
Manuel Dominguez Name of person Arrested (Offender)

PERSON REQUESTING HEARING

Manuel Dominguez Name
1217 Pearl S.W. Address
Albuq. N.M. 87121 City, State, Zip code
(505) 610-4117 Phone Number

Are you the registered/title owner of the vehicle ☒ YES [] NO
If you are not the registered owner please state why you are requesting a hearing.

Reason for seizure: ☒ DWI [] Revoked Driver's License [] Prostitution [] Handgun Offense

Are you the offender? ☒ YES [] NO
If you are not the offender, please state your relationship to the offender.

Please state how the offender obtained the vehicle

Owner of vehicle

Has the vehicle ever been involved in any prior DWI arrests of offender? [] YES ☒ NO

Please write a short statement why the City should order the vehicle released to you.

I use it for work and to support my
Children and Family

Signature

ID # 25427

CITY OF ALBUQUERQUE, EX REL.,
ALBUQUERQUE POLICE DEPARTMENT,
Plaintiff,

vs.

ONE (1): 1996 HONDA, SILVER
VIN: 1HGCD5693TA277309
NEW MEXICO LICENSE PLATE NO. NKB002

Defendant,

DISCLAIMER

Claimant **MANUEL DOMINGUEZ** disclaims any interest in the property, which is the subject matter of the above captioned case. This action may proceed without further notice to claimant provided no costs or fees are assessed against him/her. Claimant acknowledges that this is a final disposition of the case and thereby, knowingly waives his/her right to a hearing or trial on this matter.


MANUEL DOMINGUEZ

Address: 1217 Pearl S.W.
Albuz N-m. 87121

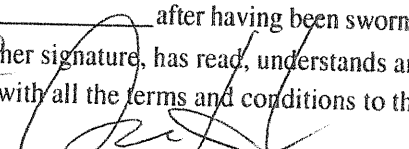
STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

SUBSCRIBED TO before me by **MANUEL DOMINGUEZ** this ___th day of
NOVEMBER, 2015.

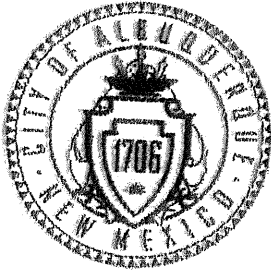
My Commission Expires:

Notary Public

THIS 4 day of Nov 2015
Manuel after having been sworn
attests to his/her signature, has read, understands and
will comply with all the terms and conditions to this
agreement.



City Administrative Hearing Officer



REQUEST FOR VEHICLE SEIZURE HEARINGS

Please attach a copy of the Vehicle Seizure form to this request and hand-deliver to the Office of Administrative Hearings (600 2nd Street NW, 7th Floor, Albuquerque, NM 87102, Telephone Number (505-768-4700). You must pay a \$50.00 hearing fee. Payments accepted, Cash, Credit, certified cashier's check or money order payable to the "City of Albuquerque".

2002, Acura TL5 - Blue Year, Make, Model and Color of Vehicle
194UA56892A004863 (VIN) Vehicle Identification Number
125 PPY License Plate Number
10-7-15 Date of Seizure/Arrest
JEANNE BOGUE Name of person Arrested (Offender)

PERSON REQUESTING HEARING

DAVID BOGUE Name
4300 Estancia dr. n.w. Address
Albuquerque, N.M. 87120 City, State, Zip code
(505) 249-3717 Phone Number

Are you the registered/title owner of the vehicle? ☒ YES ☐ NO
If you are not the registered owner please state why you are requesting a hearing.

Reason for seizure: ☐ DWI ☒ Revoked Driver's License ☐ Prostitution ☐ Handgun Offense

Are you the offender? ☐ YES ☒ NO

If you are not the offender, please state your relationship to the offender.
HUSBAND

Please state how the offender obtained the vehicle

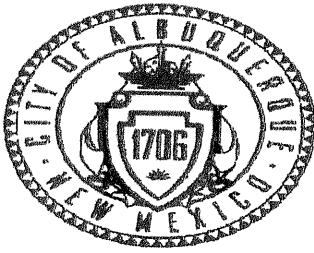
FROM OUR HOME

Has the vehicle ever been involved in any prior DWI arrests of offender? ☒ YES ☐ NO

Please write a short statement why the City should order the vehicle released to you.

IT IS my Vehicle and my only source of Transportation
to work, church and every day needs. ALSO To get to
my DOCTOR'S Appointments.

[Signature]
Signature



OFFICE OF ADMINISTRATIVE HEARINGS
P.O. BOX 1293
ALBUQUERQUE, NM 87103

VEHICLE SEIZURE

IN THE MATTER OF: 2002 Acura TL5/Blue
VIN: 19VVA56892A004863
CLAIMANT: David Begre

This matter came for hearing on Oct 22 2015 before City Administrative Hearing Officer:
Willard H Davis, Jr.

Claimant appeared personally ☒ and with attorney: _____
Failed to appear ☐

City of Albuquerque/ Albuquerque Police Department (APD) appeared through:
Seth Grant Esq.

FINDING OF FACT

1. The Hearing Officer has jurisdiction over the subject matter and parties herein.
2. APD seized the subject vehicle on: _____
3. Subject vehicle was being operated/ controlled by: _____ ("Offender").
4. Owner(s) of the subject vehicle are: _____
5. Offender was arrested for : ☐ DWI 2nd or subsequent; and or
☐ Driving on a revoked license [66-8-122(G)].
6. City/ APD presented sufficient evidence to establish probable cause to
Seize the subject vehicle ☐ YES ☐ NO
7. Owner is an innocent owner ☐ YES ☐ NO
8. will be continued.

ORDER/CONCLUSION:

- ☐ City/ APD shall proceed to forfeiture proceeding in District Court
☐ City/ APD shall release subject vehicle to: _____
☐ Tow
☐ Storage \$ _____
- X only Hearing will be continued at City's request.
must be held before City of Albuquerque
before Nov. 6, 2015.

Willard H Davis, Jr.
Administrative Hearing Officer

Distribution: City of Abq - Seth Grant Esq.
David Begre

CITY OF ALBUQUERQUE, EX Rel.,
ALBUQUERQUE POLICE DEPARTMENT,
Plaintiff,

ID #25437

vs.

ONE (1) 2002 ACURA, BLUE/PURPLE
VIN: 19UUA56892A004863
NEW MEXICO LICENSE # 125PPY
Defendant.

RECEIVED
ALBUQUERQUE CITY OF PM

2015 NOV -4 AM 10:49

DISCLAIMER

Claimant DAVID BOGUE disclaims any interest in the property, which is the subject matter of the above captioned case. This action may proceed without further notice to claimant provided no costs or fees are assessed against ~~him~~ ^{him} ~~her~~ ^{us} Claimant acknowledges that this document is a final disposition of the case and thereby, knowingly waives her/his/their rights to a hearing on the matter.



DAVID BOGUE

4300 ESTANCIA Dr. n.w. Albuq. n.m.
Address 87120

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

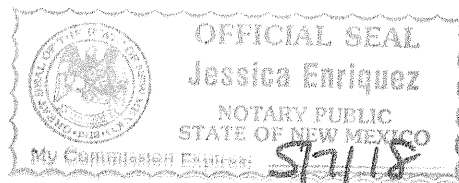
SUBSCRIBED TO before me by DAVID BOGUE this 4TH day of November, 2015.



Notary Public

My Commission Expires:

5/7/18





Notice of Vehicle Seizure

Date: October 11, 2015

ID#: 8888.25443

Seized Vehicle

2004, CHEV, 4DR,
1G1ND52F04M676576
NNG124, White

TO: Owner: PRICE LORI LYNN
Address: 7708 JACOBO DR NE
ALBUQUERQUE, NM, 87109

TO: Lienholder:

The above listed vehicle was seized by the Albuquerque Police Department on October 11, 2015 in the City of Albuquerque. The vehicle was seized and impounded for violations of City Ordinance.

The vehicle is currently impounded by the Albuquerque Police Department. You may obtain further information regarding the seized vehicle by calling:

APD DWI Seizure Office (property appointment): (505) 761-4089

City Hearing Office (to request a hearing): (505) 768-4700

City Attorneys Office (call only after a hearing is requested): (505) 768-4500

Storage fees will be assessed in addition to the towing charge, until disposition of the vehicle has been determined pursuant to the Ordinance. The Registered Owner only has a right to challenge the impoundment by requesting a hearing in writing using the Request for Hearing Form and hand delivering to: Office of Administrative Hearings, 600 2ND Street NW, Plaza Del Sol Building, 7th floor, Suite 720, Albuquerque, NM 87102 or by mailing to: City Hearing Officer, PO Box 1293, Albuquerque, New Mexico, 87103.

A \$50.00 hearing fee in the form of a certified check or money order (no personal checks) made payable to the "City of Albuquerque" must be included with this Request.

The request must be made no later then the close of business _____ 20 _____. (10 days from the date of this Notice of Seizure).

CITY OF ALBUQUERQUE, EX REL.,
ALBUQUERQUE POLICE DEPARTMENT,
Plaintiff,

ID # 25443

vs.

ONE (1): 2004 CHEVY, WHITE

VIN: 1GND52F04M676576

NEW MEXICO PLATE NO.: NNG124

Defendant,

2015 NOV -4 AM 10:46

RECEIVED
ALBUQUERQUE CITY CLERK

Owner/Offender agrees to pay fee no later than 11/17/2015. If fee is not paid by this date storage will accrue at \$10.00 per day. If fee is not paid within thirty (30) days from the date of this agreement, subject vehicle will be considered abandoned and deemed forfeited to City/APD.

Owner initials

LP

60 DAY VEHICLE IMMOBILIZATION & RELEASE AGREEMENT

THIS AGREEMENT is approved and entered into this 4TH day of NOVEMBER, 2015, by and between the **CITY OF ALBUQUERQUE, EX REL., ALBUQUERQUE POLICE DEPARTMENT** (hereinafter "APD"), and **LORI PRICE** (hereinafter "Owner/Offender").

1. APD seized the above-referenced vehicle ("subject vehicle") from Owner/Offender on or about 10/10/2015 because he/she was arrested and charged with Driving While Under the Influence of Intoxicating Liquor or Drugs (DWI) and/or driving on a DWI revoked driver's license.

2. Owner/Offender acknowledges the following facts: **(Please initial all)**

A. Owner/Offender was operating the subject vehicle when arrested. LP

B. Owner/Offender was arrested and charged with DWI and/or Driving on a Revoked License. LP

C. Owner/Offender has at least one prior DWI conviction or arrest. LP

D. Owner/Offender's driver's license may become revoked as a result of this incident. Owner/Offender acknowledges that if driver's license is revoked, Owner/Offender's driver's license must be properly reinstated by the New Mexico Motor Vehicle Division and/or have a valid interlock license and functioning ignition interlock in each vehicle he/she drives. LP

E. Owner/Offender acknowledges that he/she has a right to an Administrative Hearing and a District Court trial on this matter and by signing this settlement agreement, thereby knowingly waives that right. Owner/Offender can voluntarily disclaim his/her interest in subject vehicle after execution of this agreement for no costs or fees. LP

3. APD agrees to return subject vehicle to Owner/Offender under the following terms and

Conditions: **(Please initial all)**

A. APD will place the subject vehicle at Owner/Offender's residence and Owner/Offender agrees to allow APD to place an immobilization device ("Boot") on the subject vehicle for a period not less than 60 days. The 60 day time period will commence on the day required fees are paid to APD. WP

B. Owner/Offender agrees to pay \$1000.00 for storage, tow, processing and Boot fees.

Fees must be paid in full directly to APD before APD will Boot the vehicle. WP

C. APD will remove the Boot within a reasonable time period following the 60 days of immobilization of the subject vehicle. WP

D. Owner/Offender agrees to take reasonable steps to protect the Boot and further agree not to paint, cover, block, deface, or in any way change or obscure the Boot. WP

4. Owner/Offender acknowledges the subject vehicle was seized because Owner/Offender was arrested and charged with driving while his driver's license was revoked and/or while DWI.

Owner/Offender agrees not to allow anyone to operate the subject vehicle illegally after APD removes the Boot from the vehicle. Because Owner/Offender is now aware of the basis of the seizure of the subject vehicle, Owner/Offender agree to voluntarily surrender ownership of the subject vehicle if he/she is again arrested for DWI or for driving on a revoked driver's license while operating the subject vehicle. WP

5. Owner/Offender further agrees to waive any future innocent owner defense if anyone is again arrested for DWI or driving on a revoked driver's license in any vehicle Owner/Offender owns. WP

6. Owner/Offender agrees to accept the subject vehicle "as is". WP

7. Owner/Offender further agrees to expressly waive and relinquish any and all claims, whether known or unknown, Owner/Offender has or may have against the State of New Mexico, City of Albuquerque, and APD, their agents and employees which result from or might result from the seizure of the subject vehicle. WP

8. Owner/Offender acknowledges this settlement Agreement is a final disposition in this vehicle seizure case. Failure to comply with the terms of this Agreement within thirty (30) days from the date

entered will result in the subject vehicle being forfeited to City/APD, unless any extension to comply with this agreement is requested by Owner and is approved at the discretion of City/APD. AMP

Lori Price
Owner/Offender

Telephone No. 702.501.0135

Address: 7708 Jaco30 DR NE AIBQ NM 87109
(property location where vehicle will be immobilized)
(must be within City of Albuquerque)

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

SUBSCRIBED TO before me by LORI PRICE this 4TH day of NOVEMBER, 2015.

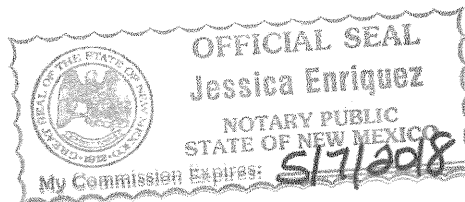
Jessica Enriquez
Notary Public

My Commission Expires: 5/7/18

STIPULATED AND AGREED TO:

CITY OF ALBUQUERQUE
JESSICA M. HERNANDEZ
City Attorney

Mark Welliver
MARK WELLIVER
Assistant City Attorney
P.O. Box 2248
Albuquerque, NM 87103
(505) 768-4500



APPROVED:

Attorney for _____
Albuquerque, NM _____
(505) _____
Staver Arado
City Administrative Hearing Officer