

CAUSE NO. \_\_\_\_\_

AMEAL WOODS and JORDAN DAVIS, on behalf of themselves all others similarly situated,

*Plaintiffs,*

v.

HARRIS COUNTY; KIM OGG, in her official capacity as Harris County District Attorney; and ANGELA BEAVERS, in her official capacity as Chief of the Asset Forfeiture Division, Harris County District Attorney's Office,

*Defendants.*

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

---

**PLAINTIFFS' ORIGINAL PETITION,  
APPLICATION FOR CLASS CERTIFICATION, AND  
APPLICATION FOR INJUNCTIVE RELIEF**

---

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Plaintiffs Ameal Emmanuel Woods and Jordan Nastassia Davis and file their Original Petition, Application for Class Certification, and Application for Injunctive Relief against Harris County; Kim Ogg, in her official capacity as Harris County District Attorney; and Angela Beavers, in her official capacity as Chief of the Asset Forfeiture Division, Harris County District Attorney's Office. Plaintiffs would show the Court the following:

**INTRODUCTION**

1. This lawsuit challenges the constitutionality of Harris County's property-seizure and civil-forfeiture practices, as well as statewide procedures that deny property owners due process of law.

2. Named Plaintiffs Ameal Woods and Jordan Davis represent a proposed class of similarly situated individuals whose property was seized by Harris County law enforcement without an arrest, criminal charges, or even probable cause to believe that a crime had occurred.

3. As shown below, Harris County law enforcement agencies have a policy and practice of seizing property based on mere suspicion of criminal activity.

4. That policy violates Article I, § 9 of the Texas Constitution.

5. For example, Woods and Davis had \$42,330 seized based on nothing more than the fact that Woods was traveling with a large amount of cash on which a dog allegedly alerted *sometime after the seizure*. As is common in such cases, there was no arrest, no criminal charges, and no probable cause connecting either the money or its owners to criminal behavior.

6. After seizures of this type, Harris County prosecutors have a policy and practice of seeking civil forfeiture based on boilerplate testimony, written by officers who were not at the scene, using forms which have not been updated in five years or more.

7. For those property owners who can somehow endure weeks, months, or years without their car, cash, or other personal effects, the civil-forfeiture case is their first opportunity to go before a judge and contest the legality of the seizure.

8. For example, Woods's and Davis's property was seized by the Harris County Sheriff's Office in May 2019. The Harris County District Attorney's Office filed a civil-forfeiture case in June 2019. Woods and Davis were only served this month. And, as a result, their case is just getting started 27 months after the seizure.

9. Even in judicial proceedings, however, state procedures deny property owners due process of law.

10. First, Texas has no procedure for obtaining a prompt, post-seizure hearing before civil-forfeiture proceedings weeks, months, or even years in the future. As a result, property owners are denied any means of promptly challenging a police officer's probable-cause determination. This is true even where the risk of erroneous deprivation is high and the burden to provide interim hearings is minimal. The lack of an interim-hearing procedure violates the procedural and substantive due process protections of Article I, § 19 of the Texas Constitution.

11. Second, a person who asserts their innocence in civil-forfeiture proceedings is required to prove their own innocence. Under Texas Code of Criminal Procedure § 59.02(c)(1), an innocent person must show by a preponderance of evidence that they are the owner of property, who acquired ownership before the seizure, and both did not know about the act or omission on which forfeiture is based and should not reasonably have known. This "innocent owner burden" violates the procedural and substantive due process protections of Article I, § 19 of the Texas Constitution.

12. Making matters worse, Texas Code of Criminal Procedure § 59.06(c), permits law enforcement agencies and prosecutors to keep, for their own benefit, 100 percent of proceeds from civil-forfeiture cases.

13. From 2018 to 2020, Harris County prosecutors added \$7.7 million to their budgets in this manner.

14. Over the same period, law enforcement agencies in Harris County added \$15.9 million to their budgets. More than \$7.5 million of that money was used to pay salaries and overtime to police officers—the same officers who make decisions about whether to seize property.

15. This law creates a financial incentive for law enforcement to seize property without probable cause and for prosecutors to seek forfeiture without an evidentiary basis for doing so. This financial incentive violates the procedural and substantive due process protections of Article I, § 19 of the Texas Constitution.

16. On behalf of themselves and the proposed class, Named Plaintiffs urge this Court to grant declaratory and injunctive relief striking down Harris County's systematic violation of rights guaranteed by Article I, §§ 9 and 19 of the Texas Constitution and striking down the challenged dimensions of the Texas's civil-forfeiture procedures.

17. And they urge the Court to grant class certification, either based on the provisional motion attached to this Original Petition or, in the alternative, after class discovery and full briefing on a renewed motion for class certification relating back to the provisional motion.

#### **JURISDICTION AND VENUE**

18. This Court has subject-matter jurisdiction based on the Texas Constitution and Uniform Declaratory Judgments Act, Tex. Civ. Prac. & Rem. Code § 37.003.

19. Venue is proper in Harris County under Tex. Civ. Prac. & Rem. Code § 15.002(a)(1)–(3).

#### **PARTIES**

##### ***Named Plaintiffs***

20. Ameal Emmanuel Woods is a lifelong resident of Natchez, Mississippi, and citizen of the United States.

21. Jordan Nastassia Davis is a lifelong resident of Natchez, Mississippi, and citizen of the United States.

22. Ameal and Jordan consider themselves married (although they are not legally married). They are raising two young children together.

***Defendants and Service of Process***

23. Harris County is a political subdivision of the State of Texas charged by the Texas Constitution and state law with prosecuting crimes and civil-forfeiture cases within its jurisdiction on behalf of the state.

24. Kim Ogg is the elected Harris County District Attorney charged with bringing criminal and civil cases on behalf of the State of Texas, supervising county prosecutors, and training police and prosecutors about their legal duties. She is sued in her official capacity.

25. Angela Beavers is the Chief of the Asset Forfeiture Division of the Harris County District Attorney's Office. She is charged with overseeing the county's policies and practices for civil-forfeiture cases, including pre-filing procedures and training police and prosecutors about their legal duties. She is sued in her official capacity.

26. Named Plaintiffs will serve the Texas Attorney General with a copy of this Original Petition and notice of these proceedings. *See* Tex. Civ. Prac. & Rem. Code § 37.006(b).

***Class Members***

27. Named Plaintiffs seek to certify a class of similarly situated individuals under Rule 42 of the Texas Rules of Civil Procedure. The proposed class is defined as follows for Counts 1–5:

All people who own (or partly own) property seized in Harris County between August 30, 2016, and the date of class certification, when all of the following conditions are met: (a) Harris County has filed a civil-forfeiture petition on behalf of the State of Texas; (b) the civil-forfeiture petition incorporates an affidavit that exhibits hallmarks of a form affidavit used by Harris County police and prosecutors or was written by someone who was not present at the time and place of seizure; and (c) the owner (or part owner) of the property has not been criminally charged with a forfeitable offense in connection with the seizure.

See ¶ 165 below.

28. Named Plaintiffs also seek to certify a subclass defined as follows for Count 6:

All people who meet the conditions for membership in the principal class who also meet at least one of the following conditions: (a) the person was not present at the time and place of seizure; or (b) the state's civil-forfeiture petition incorporates an affidavit which, on its face, does not allege the person committed a specific act or omission on which forfeiture can be based.

See ¶ 166 below.

29. In the attached Provisional Motion for Class Certification, Named Plaintiffs explain why this case satisfies Rules 42(a) and (b)(2).

## **FACTUAL ALLEGATIONS**

### *Ameal's plans*

30. In spring 2019, Ameal Woods was working out how he could expand the small trucking business that he operates with his brother, Aalonzo Woods, from one tractor-trailer to two. The way things were going, Ameal would sometimes drive the company truck from Natchez, Mississippi, and other times Aalonzo would drive from Cartersville, Georgia. Ameal knew he wanted to add a second trailer because it would allow him and his brother to load or unload freight in one place while their tractor-trailer was on the road elsewhere.

31. Then Ameal started thinking big: He would gather his savings and borrow from relatives to buy a second tractor, use it to drive the new trailer back to Natchez, and make grow the business in the process. (Otherwise, Aalonzo would pick up the trailer.) With two tractor-trailers, Ameal and Aalonzo could both be on the road, making it possible to handle more business.

32. Ameal researched secondhand tractors and trailers using free magazines available at truck stops. He began circling interesting offers. He found that, near Houston, he could buy a trailer meeting his specifications for between \$3,000 and \$9,000.

33. He also circled tractors for sale, finding a few near Houston that met his specifications for between \$25,000 and \$35,000.

34. In May 2019, Ameal began planning a trip to Houston to look for (and hopefully buy) the right equipment.

35. As far as he knows from being around truckers, secondhand trucking equipment is usually bought and sold in cash.

36. Although there are commercial truck dealerships that accept financing arrangements, they are unlike retail car dealerships. Truck dealerships—the kind that sell commercial tractor-trailers—are few and far between; they cater to corporate customers buying multiple vehicles; and, generally, they only sell new equipment. Ameal could not afford new equipment.

37. By contrast, owner-operators and shipping businesses often sell secondhand equipment at much lower prices. Based on what Ameal was seeing in trucking magazines, secondhand equipment around Houston was going for less than a third of what new equipment costs, at the low end.

38. Some secondhand sellers only accept cash; others accept money orders or other secure forms of payment; but almost everyone prefers cash. Ameal's understanding is that secondhand sellers want payment immediately. It is also his understanding that some are willing to sell for less, provided they are paid, in cash, on the spot.

39. For this reason, Ameal concluded that he needed to bring enough cash with him to Houston to cover the entire purchase price of a tractor and trailer. Without that money, he would greatly decrease his chances of reaching his goal and buying the tractor-trailer combination he so wanted. Without cash, Ameal figured he would come home emptyhanded.

### *Life with no bank*

40. In addition to the advantages of cash when buying trucking equipment, Ameal lives his life almost exclusively based on cash.

41. Natchez, Mississippi, is city of 15,000 roughly three hours from New Orleans by car.

42. Ameal grew up on family land in rural Adams County, 14 miles from Natchez. Ameal's late father owned the land and some of Ameal's siblings still live there, as do a few more distant relatives, in houses they have built around the property. Ameal has a house there that he has been intermittently working on over the years. He still keeps horses there. Living with Jordan and the kids in Natchez has been an adjustment. Ameal considers himself a country boy out of place in the "big" city. He knows his way around Natchez, for sure, but he never feels quite right being away from the family property.

43. By contrast, Jordan grew up in Natchez proper and she is comparatively comfortable navigating her way around, using banks, and engaging in the city's civic life. She handles all the couple's banking and finances.

44. Ameal's father had a keen distrust in banks. As a black man who lived his entire life in Western Mississippi, there were times when he was not treated right. He told Ameal about how he went to take money out of a bank in Natchez one time and the employees pretended he had no account. As Ameal understood it, the bank had stolen his father's money, he never got it back, and there was nothing he could do about it. When his father died, he left real and personal property to several children, but one of Ameal's siblings cheated the others out of their share of a pool of money. Ameal believes that a bank in Natchez was instrumental to this theft of his inheritance.



45. Ameal has inherited his father's aversion to banks. Like his father, Ameal has a practice of cashing any checks he receives and saving his money in cash.

46. For as long as he can remember, Ameal has used banks only when he cannot avoid it.

47. Ameal conceals cash in several places and by several means. Sometimes he hides money around the house. Other times he hides cash in nondescript packaging—for example, a light bulb box—or wraps it in paper and tape. Still other times, he uses a vacuum sealer—like one uses to store meat—to compress cash down, make it small, and seal it against damage before burying it in the ground.

48. These practices have paid off. For example, when Ameal and Jordan's house was robbed a few years ago, the intruders took almost everything of value—including their television, computers, and game systems. Left behind, however, were several vacuum-sealed packages wrapped in tape containing tens of thousands of dollars that were not recognizable as cash.

#### *The seized currency*

49. As he prepared to leave for Houston, Ameal gathered \$42,300 in cash. The largest share—\$22,800—belonged to him. This money was stored in his home and on his land in rural Adams County.

50. He added to this another \$13,000 borrowed from his niece and \$6,500 from his wife Jordan. Both women expected to be paid back, which Ameal had promised to do once he expanded his trucking business.

51. The \$42,300 was legally acquired. Not one dollar represented the proceeds of past illegal activity or was intended for future illegal activity.

52. If any of that money had any connection to illegal activity, at any time, it would have been before it came into the possession of Ameal and Jordan. The couple did not know about any connection between their money and illegal activity, and they had no reason to know about it, even assuming there was some connection between the money and a crime sometime in the past.

53. Ameal's share had been saved over the years from his earnings as a self-employed truck driver, horse trainer, and occasional construction worker. Additionally, his relatives and he sometimes host large public barbeques and parties on their family land. These events, although muted by the pandemic, at one time were a reliable source of cash for Ameal.

54. The cash Jordan gave to Ameal came from her bank account. The money in her bank account, in turn, came from her job at a casino restaurant and from a recent federal income tax refund.

55. On information and belief, the \$13,000 that Ameal borrowed from his niece was withdrawn from her bank account and represented income from her lawful employment.

56. In any event, Ameal and Jordan know their niece well and have no reason to suspect her of any connection to criminal activity of any kind. They also have no reason to think that the \$13,000 that she loaned to Ameal had any connection to criminal activity of any kind—past or present.

57. At no point was any part of the \$42,300 in the vicinity of illegal drugs while in the custody of Ameal and Jordan.

58. If Jordan had believed that Ameal was planning to use any part of the money she loaned him for illegal activities, she would not have lent him the money. Jordan will not put up with criminal behavior by the father of her children. If Ameal were mixed up in illegal activities and she knew about it, she would not endanger her kids by hanging around. She would never

endanger her family's livelihood and happiness by allowing Ameal to go down a path that, in Jordan's view, leads only to prison.

59. Before he left for Houston, Ameal rented a car in Natchez.

60. He bundled together all \$42,300 in a discreet package—both to make it easier to transport and to decrease the risk of theft. He used a vacuum-sealer to compress and seal the cash. He wrapped the sealed package in tape. He placed the taped package in the trunk of his rental car.

61. For his safety, he also brought a loaded gun and tucked it between the driver's seat and center console of his rental. This weapon was legally purchased by Ameal, he is its registered owner, and at all times relevant to this case, he possessed the weapon in compliance with state and local laws.

62. Ameal did not have any illegal drugs.

63. He had no contraband of any kind.

64. He had no intent to buy or sell anything illegal.

65. He had no intention of giving anyone money for anything other than commercial trucking equipment, food, fuel, and lodging.

66. For her part, Jordan had no reason to suspect that Ameal would be doing anything in Houston other than what he said—shopping for an affordable tractor-trailer combination, hopefully purchasing one, and driving home.

### *Unconstitutional stop*

67. On May 14, 2019, Ameal was traveling westbound on Interstate 10 headed to Houston to look at trailers, when a marked patrol car from the Harris County Sheriff's Office ordered him to pull over.

68. Ameal—a black man driving a rental car with out-of-state plates—believes he was following all traffic laws and regulations at the time he was pulled over.

69. On information and belief, the officer who stopped Ameal was Sergeant R. Wade of the Harris County Sheriff’s Office. Another officer was in the patrol car, but Ameal does not know the other man’s name.

70. Sergeant Wade told Ameal he had pulled him over for following a tractor-trailer too closely.

71. Ameal, a truck driver himself, does not recall driving behind a tractor-trailer around the time of the stop. He, in fact, believes that there were no tractor-trailers around when he was pulled over and that, even if he is mistaken and there were a truck nearby, he has no doubt that he would have been observing the legal-minimum following distance.

72. Ameal has a Mississippi commercial driver’s license (and did at the time) authorizing him to operate 53-foot tractor-trailers equipped with airbrakes. To qualify for that type of CDL endorsement, he was trained not to follow tractor-trailers closely and passed driving tests designed to ensure the safety of the public, the driver, and the cargo. Based on his training (and years on the road), Ameal understands the meaning of “assured clear distance,” *see* Tex. Transp. Code § 545.062, and has an unwavering practice of maintaining more than the legal-minimum following distance between himself and all vehicles, especially commercial vehicles.

73. However, Ameal did not argue with Sergeant Wade. Instead, he did his best to cooperate, answer his questions, and get back on the road.

74. For example, Sergeant Wade asked Ameal whether he had any weapons and Ameal immediately told him about the loaded gun tucked between the driver’s seat and center console.

75. At that point, Sergeant Wade asked Ameal to get out of his rental car and speak with him and his partner next to their patrol car.

76. (Much later, in May 2021, Ameal attempted to confirm events by requesting all dash- and bodycam recordings of the encounter from the Harris County Sheriff's Office, under the Texas Public Information Act. He received no response.<sup>1</sup>)

#### *Unconstitutional seizure*

77. As the initial traffic stop transitioned into an investigation into suspected drug proceeds, Ameal answered all the officers' questions. He readily told them about the purpose of his trip and the large amount of cash he was carrying. He explained why he needed so much money, in cash, to shop for trucking equipment.

78. When Sergeant Wade asked, Ameal consented to a search of his car.

79. There was nothing illegal in the car.

80. Sergeant Wade left Ameal's loaded gun between the passenger seat and center console.

81. To Ameal, it looked like the only thing Sergeant Wade was really looking for was that large amount of cash he had just told him about.

82. Sergeant Wade quickly found the package of cash in the trunk and placed it on the hood of his patrol car.

83. At this point, Sergeant Wade directed Ameal to sit in the front-passenger seat of his patrol car. Sergeant Wade sat down in the driver's seat. And his partner moved to the back of the car.

---

<sup>1</sup> However, counsel acknowledges the possibility that Ameal's PIA request may have fallen outside the legally required retention period for such things because it was made nearly two years after the encounter in question.

84. Answering a series of questions, Ameal truthfully told the officers where the money had come from, how much was there, why it was packaged in sealed plastic and tape, and how more than \$6,000 belonged to his wife, Jordan.

85. Jordan was not present. She was in Natchez with the couple's children.

86. Using Ameal's phone, Sergeant Wade called Jordan and asked her whether she really knew Ameal. She told him that he was speaking to Ameal's wife.

87. Sergeant Wade asked Jordan if she had loaned Ameal any money and, if so, how much of what he had belonged to her. Jordan told the officer that she had loaned Ameal \$6,500 to buy equipment for his trucking business.

88. Sergeant Wade asked her whether she had a job. Jordan told him about her job and confirmed that all the money she loaned Ameal had come from her lawful employment and a recent tax refund.

89. Sergeant Wade asked whether she had already received a tax refund in 2019, and she confirmed she had.

90. Sergeant Wade told Jordan that he was going to let Ameal go and that Ameal would call her soon. That ended the call.

91. At no point during the conversation did Sergeant Wade ask Jordan for her contact information.

92. At no point during the conversation did Sergeant Wade tell Jordan he planned to seize any portion of the money in Ameal's trunk.

93. At this point, Sergeant Wade told Ameal that he was seizing all the cash based on its connection to drugs.

94. Sergeant Wade did not identify any specific drug or specific drug crime, he simply said (as Ameal remembers it), "I think this money is connected to drugs."

95. Sergeant Wade seized the entirety of the \$42,300 in cash.

96. Ameal pleaded with Sergeant Wade not to take his money, to no avail.

97. At no point during the stop did Ameal see Sergeant Wade or his partner count his money. They opened the package, apparently to confirm there was cash inside, but they did not (to the best of Ameal's knowledge) bother to count it.

98. Sergeant Wade gave Ameal a "citizen's info card" with the Harris County Sheriff's Office logo prominently featured above contact information for the agency. The body of the card reads (in preprinted type): "You have filed a report for:" followed by (in handwriting) "currency seizure." No amount of currency is specified. The card also identifies the responsible deputy ("Sgt. R. Wade") and his unit number ("40520") and lists a case number ("1905-04603").

99. The case number on the citizen's info card matches the "incident no." on the affidavit in support of the state's petition for forfeiture of Ameal and Jordan's money.

100. Sergeant Wade then told Ameal that he was free to go.

101. Ameal was not arrested.

102. He was not ticketed or cited for anything.

103. Neither Ameal nor Jordan has been charged with a forfeitable crime or other offense in connection with the seizure.

104. Although the officer had pulled Ameal over for allegedly following too closely to a tractor-trailer, he did not give Ameal so much as a warning.

105. Ameal's loaded gun was right where he had left it—tucked between the driver's seat and center console. Sergeant Wade apparently had no concerns about leaving the weapon with Ameal, whom he claimed to suspect of drug crimes.

106. At no time during the stop did Ameal see a dog at the scene. As far as he knows, no dog inspected his cash, let alone alerted to the presence of narcotics.

107. With no money to continue his journey, Ameal turned around and returned to Natchez, wondering what had happened to him and what he could do about it.

***Unconstitutional notice***

108. For more than two years after the seizure, Ameal and Jordan received no communication from Harris County. No letters, no notices, no phone calls, and no emails. Nothing.

109. But just 27 days after the seizure, the Harris County District Attorney's Office filed a civil-forfeiture case against Ameal and Jordan's Money. *See State v. Approximately \$41,680.00*, No. 2019-39625, 152nd District Court, Harris Cnty. (filed Jun. 10, 2019). The petition is support by "Notice of Seizure" for "Incident No. 1905-04603." This notice is in the form of an affidavit written, not by the seizing officer Sergeant Wade, but by "[t]he undersigned peace officer, Gregory Nason."

110. On information and belief, Officer Nason was not at the scene when the money was seized from Ameal.

111. After nearly two years and several failed attempts to serve Ameal with a summons and copy of the forfeiture complaint, the District Attorney's Office successfully petitioned the Court to appoint a guardian ad litem for the purpose of completing service and, in the meantime, representing Ameal's interests.



112. Ameal was not aware of the civil-forfeiture case at the time the guardian ad litem was appointed and was not aware of her appointment until he contacted counsel who were able to review the filings.

113. On information and belief, the order appointing the guardian ad litem was signed by a judge other than the judge assigned to the 152nd Judicial District.

114. The guardian ad litem then contacted Ameal by letter, asking him to get in touch to arrange for service of summons and the complaint.

115. But when Ameal wrote back, the guardian ad litem did not respond.

116. Ameal sent a second letter to the guardian ad litem by certified mail, return receipt requested. The guardian ad litem received this second letter, in which Ameal reiterated his desire to be served and provided contact information. Again, the guardian ad litem did not respond.

117. On May 5, 2021, the guardian ad litem filed a one-page answer to the state's civil-forfeiture petition. The petition includes two paragraphs: a general denial and request for the guardian ad litem's fees and costs.

118. On information and belief, Harris County never made any attempt to serve Jordan with process in the forfeiture case against her money.

119. A few weeks later, in June 2021, undersigned counsel began investigating Ameal and Jordan's case. Counsel made them aware (for the first time) of the county's and guardian ad litem's efforts to serve them. For the first time, Ameal and Jordan were given a copy of the petition and supporting affidavit from Officer Nason.

120. On July 29 or 30, 2021, Ameal and Jordan met with and retained Brandon Masin of Masin Law PLLC to represent them in the forfeiture case.

121. Mr. Masin subsequently communicated with the Harris County District Attorney and accepted service of process on behalf of the couple on August 5, 2021.

122. Today, August 30, 2021, Ameal and Jordan have timely filed their original answer and affirmative defense in the civil-forfeiture case against their money. This, their first involvement in the civil case against their money, began 839 days after their money was seized and 812 days after the petition was filed.

***Named Plaintiffs' experiences are common***

123. On information and belief, what happened to Ameal and Jordan routinely happens to other property owners in Harris County.

124. Counsel for Named Plaintiffs has reviewed 113 civil-forfeiture petitions filed by county prosecutors since 2016. Every one—all 113—was based on a form affidavit written by an officer who was not present at the time and place of seizure.

125. All 113 petitions were based on an affidavit with the notation “Revised 03/22/2016” at the bottom.

126. Affidavits in support of 79 petitions conclude with the same or nearly the same two sentences: “A K-9 Unit gave a positive response for the odor of narcotics on the [property]. Deputies believe that the seized [property] was either used in, intended to be used in or the proceeds from the commission of the offenses of” either “delivery and possession of illegal narcotics,” or, simply “illegal activity.”

127. Eighty petitions were supported by an affidavit from the same peace officer—Gregory Nason—who wrote the affidavit in Ameal and Jordan’s case.

128. Ninety-two petitions involved a dog alert that allegedly was obtained *after* police seized property.

129. Every person whose property is seized by Harris County faces the same lack of any prompt, post-seizure hearing procedure that led Ameal and Jordan to wait at least 27 months with no opportunity to challenge probable cause before a neutral magistrate.

130. Every person who has property seized in Texas is injured by the same statute—Tex. Code Crim. Proc. § 59.06(c)—which financially incentivizes seizures and civil forfeitures based on mere suspicion connecting the property to a crime.

131. Every innocent person whose property is seized in Texas is injured by the same statute—Tex. Code Crim Proc. § 59.02(c)(1)—which places an affirmative burden of proof on people who assert they did not know or have reason to know of the act or omission giving rise to seizure and forfeiture.

#### **INJURY TO NAMED PLAINTIFFS**

132. As a result of Harris County's unconstitutional behavior and the state's unconstitutional laws, Ameal and Jordan have suffered numerous redressable injuries.

133. Without the \$42,300, Ameal has not been able to expand his trucking business.

134. Without her \$6,500, Jordan is no longer financially capable of supporting Ameal's ambition to generate more trucking business.

135. Ameal paid his niece back the \$13,000 she had lent him for his trucking business. As a result, it is Ameal—not his niece—who has an interest in the money and who is injured by its continued seizure and detention over the last 27 months.

136. Because Ameal was not able to expand his trucking business without the seized money, it was more difficult to pay his niece back than it would have been had he had an additional tractor-trailer.

137. Ameal has been unable to pay Jordan back.

138. At the time of seizure, an additional \$620 was taken from Ameal which is now missing and unaccounted for in the county's petition for forfeiture. Ameal does not know when the disputed \$620 went missing—whether it was at the time of seizure or later—or who might be responsible. This uncertainty makes it especially difficult for Ameal and Jordan to recover the full \$42,300.

139. For a time, the seizure of the money sent Ameal into a severe depression that left him sad, unmotivated, and unhelpful to Jordan and their children.

140. Over the last 27 months, Ameal has found few means of supporting himself and his family. If things had gone as planned, he anticipates he would be hauling freight around the country, not filing a lawsuit in Houston.

141. Rather than expanding his owner-operated trucking business, for 27 months, Ameal has cobbled together a living doing odd jobs for other people. This has robbed him of the entrepreneurial spirit that motivated him to work to expand his trucking business.

142. On information and belief, the COVID-19 pandemic has driven up prices for secondhand trucking equipment, as freight businesses have ramped up operations and more and more unemployed people look for self-employment in trucking.

143. If Ameal was to get his money back today, he would not have the same purchasing power to buy trucking equipment that meets his specifications.

144. Harris County's policy and practice of making inadequate efforts to identify, locate, and serve property owners very nearly resulted in Ameal and Jordan unintentionally defaulting in the case against their money. A default hearing was, in fact, scheduled for August 3, 2021. Only days before, Ameal and Jordan met with and retained an attorney who was able to persuade prosecutors to cancel the default hearing and properly serve the couple.

145. It took Harris County 27 months to serve Ameal and Jordan with notice of the state's petition to forfeit their property, causing an extreme delay in the initiation of judicial proceedings.

146. Ameal and Jordan's first opportunity to appear before a judge to contest the seizure of their property still has not come. The 27-month detention of their property continues due to Harris County's extreme delay in serving the petition and the state and county's lack of any prompt, post-seizure hearing procedure.

147. During the 27 months between when the petition was filed and when it was served, Harris County prosecutors successfully petitioned the Court to have a guardian ad litem appointed to represent Ameal's interest without his knowledge or consent.

148. The order appointing the guardian ad litem was signed by a judge other than the judge of the 152nd District Court, where the forfeiture case is pending, depriving the forfeiture court of the opportunity to decline to appoint a guardian ad litem, appoint someone else, or otherwise act to protect Ameal and Jordan's constitutional right to notice and an opportunity to be heard.

149. The guardian ad litem in this case did not respond to Ameal's two attempts to contact her to arrange for service of the petition. The second time Ameal wrote to her, he received a USPS return receipt showing that she received his letter. The guardian ad litem's lack of diligence further delayed the initiation of civil-forfeiture proceedings.

150. The guardian ad litem filed an answer on Ameal's behalf without his knowledge or consent. The answer is only two paragraphs long, just a general denial and request for an award of fees and costs to the guardian ad litem. This fee petition threatens to lessen Ameal and Jordan's recovery of their money.

151. On its face, the petition for forfeiture of Ameal and Jordan's money shows a lack of probable cause to seize the money and lack of probable cause to detain the money for civil-forfeiture proceedings; however, the couple has had no opportunity to challenge the sufficiency of the petition due to the county's extreme delay in serving the petition and the state and county's lack of any prompt, post-seizure hearing procedure.

152. Ameal and Jordan have been left to guess as to the nature of the allegations against them due to Harris County's policy and practice of making vague allegations and using form affidavits from people without personal knowledge.

153. The petition to forfeit Ameal and Jordan's money claims to be based on eight different drug and money-laundering statutes, but it alleges no specific crime and no reasoned connection between a specific amount of money and specific criminal behavior.

154. On its face, the petition to forfeit Ameal and Jordan's property fails to state a claim; and yet, they have been deprived of their money on the basis of its vague allegations, hearsay testimony, and conclusory reasoning.

155. Moreover, the petition in no way suggests that Jordan did anything wrong; and yet, she has been deprived of her portion of the money for 27 months.

156. Ameal and Jordan did not get caught doing something wrong; they got caught up in a system.

157. Harris County has a policy or practice of systematically seizing more property than it has constitutional basis to seize, causing people like Ameal and Jordan to lose control of all of their money even if police and prosecutors only vaguely allege that some of the money is connected to criminal behavior.

158. Harris County's policy and practice of using after-the-fact dog alerts to establish a connection between property and drugs led to the erroneous deprivation of Ameal and Jordan's money, and it is making it harder for them to get their property back.

159. The seizure of Ameal and Jordan's money would not have happened if not for Texas's financial incentive for police and prosecutors to seize property, pursue civil forfeiture, and obtain 100 percent of the proceeds.

160. Harris County's unconstitutional policies and practices have been a source of frustration and confusion for Ameal and Jordan.

161. Eventually this led them to seek out attorneys who could help them navigate (and challenge) the county's seizure and forfeiture program.

162. Even the assistance of *pro bono* lawyers has come at a price. Ameal and Jordan have taken time away from work, family, and personal pursuits to research obscure procedures, seek out lawyers, prepare a defense for the pending forfeiture case, and prepare a motion for class certification. They never would have done any of those things if Harris County had not unconstitutionally seized their property and held it for the last 27 months without judicial review.

### **CLASS ACTION ALLEGATIONS**

163. Named Plaintiffs bring this case on behalf of themselves and all others similar situated and seek to certify a class under Rules 42(a) and (b)(2) of the Texas Rules of Civil Procedure.

164. The county's conduct toward Named Plaintiffs is part of a broader policy and practice under which it seizes property without probable cause (including from innocent owners whom it does not suspect of culpability), fails to provide adequate notice or opportunity to be

heard, and then compels property owners to litigate (at their own expense) based on unconstitutional state procedures.

165. Named Plaintiffs are representative of all others similarly situated under Harris County's unconstitutional policies and practices and the state's unconstitutional procedures. They propose a class with the following definition for Counts 1–5:

All people who own (or partly own) property seized in Harris County between August 30, 2016, and the date of class certification, when all of the following conditions are met: (a) Harris County has filed a civil-forfeiture petition on behalf of the State of Texas; (b) the civil-forfeiture petition incorporates an affidavit that exhibits hallmarks of a form affidavit used by Harris County police and prosecutors or was written by someone who was not present at the time and place of seizure; and (c) the owner (or part owner) of the property has not been criminally charged with a forfeitable offense in connection with the seizure.

This is called the “principal class” below.

166. Named Plaintiff Jordan Davis is also representative of a proposed subclass with the following definition for Count 6:

All people who meet the conditions for membership in the principal class who also meet at least one of the following conditions: (a) the person was not present at the time and place of seizure; or (b) the state's civil-forfeiture petition incorporates an affidavit which, on its face, does not allege the person committed a specific act or omission on which forfeiture can be based.

This is called the “Innocent Owner Subclass” or “subclass” below.

167. Named Plaintiffs and putative class members have faced, or will face, the following pattern of unconstitutional conduct by Harris County: First, county authorities seize and impound their property without a warrant or probable cause to believe a forfeitable crime has occurred. No one is arrested. In many cases, little effort is made to notify the property owner when he or she is someone other than the person from whom the property was seized, and this is true even when the county knows or has reason to know the property owner's identity. Within 30 days of seizure, the Harris County District Attorney's Office routinely begins civil-forfeiture proceedings in the name



of the State of Texas. The county initiates these proceedings by filing a petition composed of boilerplate allegations by prosecutors and boilerplate testimony by officers who were not at the scene, using a form affidavit, which was last revised more than five years ago.

168. That is what happened to Ameal and Jordan. The civil-forfeiture petition filed against their money uses boilerplate allegations from prosecutors and boilerplate testimony from an officer who was not at the scene, using a form affidavit that was last revised in March 2016.

169. The county provides no means of obtaining an interim hearing before a neutral magistrate, and so property owners have no means to challenge the probable-cause determination made by officers on the street.

170. Throughout this process, Named Plaintiffs and putative class members have struggled to overcome the county's inadequate efforts to notify property owners of seizures and civil-forfeiture cases affecting their property rights. This lack of adequate notice has led some putative class members to lose their property by default when they would have otherwise mounted a defense.

171. Named Plaintiffs and putative class members have been, or will be, injured by these policies and practices, which violate Article I, §§ 9 and 19 of the Texas Constitution.

172. Putative class members have suffered the same or similar injuries as those suffered by Named Plaintiffs. *See* ¶¶ 132–62 *above*.

173. As shown below, the proposed class satisfies all requirements for certification set forth in Rule 42(a) of the Texas Rules of Civil Procedure.

174. **Numerosity.** The proposed class and subclass are each so numerous that the individual joinder of all members is impracticable. Including the forfeiture action against the

\$42,300 seized from Ameal, Harris County filed at least 113 similar forfeiture cases since March 2016.

- a. All 113 petitions relied on an affidavit with the notation “Revised 03/22/2016” at the bottom.
- b. Affidavits in support of 79 petitions conclude with the same or nearly the same two sentences: “A K-9 Unit gave a positive response for the odor of narcotics on the [property]. Deputies believe that the seized [property] was either used in, intended to be used in or the proceeds from the commission of the offenses of” either “delivery and possession of illegal narcotics,” or, simply “illegal activity.”
- c. Eighty petitions relied on affidavits from the same peace officer—Gregory Nason—who wrote the affidavit in Ameal and Jordan’s case
- d. All 113 petitions were supported by an affidavit from a peace officer who was not present at the time and place of the seizure.
- e. Ninety-two petitions involved a dog alert that allegedly was obtained *after* police seized property.

175. **Commonality.** Named Plaintiffs raise questions of law and fact common to the proposed class and subclass. Common questions include, but are not limited to:

- a. Do Defendants have a policy or practice of manufacturing probable cause to justify the seizure and detention of property using boilerplate affidavits, inadmissible hearsay, and conjecture?
- b. If Defendants do have such a policy or practice, does it violate Article I, § 9 of the Texas Constitution?

- c. Does the distribution of 100 percent of forfeiture proceeds to prosecutors and the seizing law enforcement agency create a financial incentive to seize and forfeit property in violation of Article I, § 19 of the Texas Constitution?
- d. Does the burden of proof that Tex. Code Crim. Proc. § 59.02(c)(1) places on innocent owners of seized property subject to forfeiture violate Article I, § 19 of the Texas Constitution?

176. **Typicality.** Named Plaintiffs' claims are typical of the claims of the proposed class and subclass.

- a. Named Plaintiffs' claims arise out of the same policies and practices challenged by the proposed class and subclass. Their experiences typify Harris County's unconstitutional and illegal conduct because each putative class member invokes the same statutory and constitutional principles to challenge those policies and practices. Indeed, in many cases the legal and factual basis for forfeiture is virtually identical, alleging many of the same facts, word-for-word, and authored by the same affiant.
- b. Named Plaintiffs' experiences similarly typify Harris County's unconstitutional conduct because each putative subclass member invokes the same constitutional principles to challenge the forfeiture and burden of proof required by statute.
- c. Named Plaintiffs' claims are based on the same legal theories as those of the proposed class and subclass.
- d. The injuries to the proposed class and subclass are the same injuries suffered by Named Plaintiffs.

- e. Named Plaintiffs are seeking the same relief for themselves and the proposed class and subclass.

177. **Adequacy.** Named Plaintiffs will fairly and adequately protect the interests of the proposed class and subclass they seek to represent. Plaintiffs' interests are aligned with the interests of the proposed class and subclass.

- a. Named Plaintiffs are members of the proposed class.
- b. The pending forfeiture of Named Plaintiffs' property is supported by a form affidavit from an officer who was not present at the scene of the seizure, as is true of all putative class members.
- c. Named Plaintiffs have an interest in remedying Harris County's violation of the putative class members' legal and constitutional rights because doing so would allow them to recover property that is rightfully theirs.
- d. Named Plaintiff Jordan Davis is a member of the proposed subclass.
- e. Her property (like that of other members of the subclass) will be subject to forfeiture unless she can prove her own innocence.
- f. She has a substantial interest in remedying Harris County's violation of the putative subclass members' constitutional rights because doing so would allow her to recover property that is rightfully hers.

178. **Ascertainability.** Those belonging to the proposed class and subclass are objectively ascertainable. County records and court records will reflect when property has been seized—whether from its owner or someone else—and subjected to civil forfeiture proceedings. County records and court records will also reflect when, if ever, someone has been charged with a crime in connection with the seizure and civil forfeiture of property.

179. **Class counsel.** The attorneys for Named Plaintiffs will fairly and adequately represent the proposed class. They are represented *pro bono* by Wesley Hottot and Arif Panju, of the Institute for Justice. The Institute is a 501(c)(3) non-profit, public-interest law firm founded in 1991 that litigates constitutional cases nationwide. Since 2008, the Institute has had an office in Austin, Texas. Its lawyers have extensive experience litigating class-action lawsuits around the country, including civil-rights cases involving similar claims litigated in federal courts in Chicago; Detroit; and Philadelphia. One of the attorneys on this case, Wesley Hottot, recently handled a civil-forfeiture case in the U.S. Supreme Court as counsel of record for the petitioner—a case in which he argued and won a unanimous reversal. *See Timbs v. Indiana*, 139 S. Ct. 682 (2019). Institute attorneys, including the undersigned, have litigated dozens of constitutional challenges to seizures and forfeitures across the country. The undersigned attorneys have handled many cases in Texas, including one that resulted in the Texas Supreme Court striking down a statewide economic regulation on constitutional grounds. *See Patel v. Tex. Dep’t of Licensing & Regul.*, 469 S.W.3d 69 (Tex. 2015).

180. **Policy and practice.** The proposed class satisfies the requirements of Rule 42(b)(2) because Harris County has both acted and refused to act on grounds that apply generally to the class, so that declaratory and final injunctive relief is appropriate for the whole class. Constitutional challenges to generally applicable policies and practices are well-suited to certification under Rule 42(b)(2) and especially so in this case.

181. Here, the generally applicable policies and practices suitable for class-wide determination include Harris County’s policy of unreasonably seizing property from people without probable cause connecting the property to a crime.

182. The county has a policy and practice of depriving putative class members—innocent and suspect alike—of procedural and substantive due process.

183. The county has a policy and practice of providing inadequate notice to property owners when their property is seized from someone else, including putative members of the proposed Innocent Owner Subclass who were not present at the time of seizure.

184. The county has a policy and practice of providing inadequate notice to property owners when it begins civil-forfeiture actions against their property. Because the county makes little effort to identify and notify owners of property who were absent at the time of seizure, putative class members sometimes unintentionally default, allowing the county to keep their property with zero judicial involvement.

185. And the county has a policy and practice of compelling property owners to either abandon their property or participate in civil-forfeiture proceedings (at their own expense) based on unconstitutional state procedures.

186. Because the outcome of this case turns on Harris County's seizure and forfeiture policies and practices, litigation of the class claims should be concentrated in Harris County.

187. To the extent this case challenges the constitutionality of state civil-forfeiture procedures, the Texas Attorney General is entitled to notice and an opportunity to be heard. *See* Tex. Civ. Prac. & Rem. Code § 30.006(b).

188. Few (if any) difficulties are likely to arise in managing a class action of this kind in this forum, where all the alleged constitutional violations took place.

## CLASS CLAIMS

### *Count One*

#### **(Tex. Const. art. I, § 9—Unreasonable seizures lacking probable cause)**

189. On behalf of themselves and all others similarly situated, Named Plaintiffs hereby incorporate the allegations in ¶¶ 1–188 *above*.

190. The Texas Constitution commands: “The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches.” Tex. Const. art. I, § 9.

191. When a judicial officer issues a warrant to “seize any person or thing,” she must be persuaded, “by oath or affirmation,” there is probable cause to believe that a specific crime is connected to a specific “person[], house[], paper[] [or] possession[].” *Id.*

192. The same standard applies when a police officer seizes property or stops a person on the side of the road.

193. No matter who decides, to establish probable cause, the decisionmaker must have before him or her a specific crime and specific connection between that crime and the thing being seized.

194. Under Article I, § 9, probable cause requires more than the mere presence of a large amount of cash.

195. Under Article I, § 9, probable cause to seize a car or truck requires a substantial connection between the vehicle and a specific crime.

196. Under Article I, § 9, probable cause to seize a person’s money requires a substantial connection between a specific amount of money and a specific crime. Police may not seize, and prosecutors may not seek to forfeit, 100 percent of a person’s money without probable cause to believe that all 100 percent is connected to criminal behavior.

197. When state actors seize a person's car, cash, home, or other possession, there must be an objective factual basis to believe that the state is entitled to seize the property and ultimately to forfeit it by one mechanism or another.

198. The prolonged seizure of property requires probable cause over time.

199. Put differently, if state actors have a sufficient constitutional basis to seize property on Monday, they must release the property on Tuesday if new information demonstrates there is no constitutional basis for continuing the seizure.

200. On information and belief, the Harris County Sheriff's Office and other police agencies operating in the county have a policy and practice of seizing property based on mere suspicion rather than probable cause.

201. On information and belief, the Harris County District Attorney's Office has an unconstitutional policy and practice of maintaining seizures based on mere suspicion rather than probable cause to believe that a specific crime has occurred and the seized property can be connected to specific criminal behavior.

202. Named Plaintiffs and putative class members have been denied the right against seizures based on less than probable cause to believe a crime has occurred, in violation of Article I, § 9.

203. The probable cause decision that led to the seizure of property belonging to Named Plaintiffs and putative class members was perverted by Texas's financial incentive for police and prosecutors to seize and forfeit property for their own benefit.

204. Law enforcement agencies in Harris County give around \$2.3 million per year from forfeiture proceeds directly to officers, in the form of salary and overtime, including those who make probable-cause determinations.



205. On information and belief, the Asset Forfeiture Division of the Harris County District Attorney's Office is funded in whole or in large part by forfeiture proceeds.

206. If law enforcement agencies could no longer seize property for civil forfeiture, they would have to reduce hours, reduce pay, or reduce the number of officers. This gives police an impermissible personal financial stake in their decisions to seize people's property.

207. If the Harris County District Attorney's Office could no longer seize property to pursue its civil forfeiture, it would be forced to reduce or eliminate the Asset Forfeiture Division.

208. Named Plaintiffs and the proposed class have suffered redressable injuries as a direct and proximate result of the Defendants' systematic violation of Article I, § 9.

***Count Two***  
**(Tex. Const. art. I, § 19—Lack of prompt, post-seizure hearings)**

209. On behalf of themselves and all others similarly situated, Named Plaintiffs hereby incorporate the allegations in ¶¶ 1–188 *above*.

210. The state constitution guarantees that “[n]o citizen of this State shall be deprived of . . . property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.” Tex. Const. art. I, § 19.

211. Procedural due process requires that, before a person can be deprived of property, whether temporarily or permanently, they must be accorded notice and an opportunity to be heard by a neutral decisionmaker

212. Harris County's policies and practices in property-seizure and civil-forfeiture cases deny property owners effective notice.

213. Texas law and Harris County's policies and practices in property-seizure and civil-forfeiture cases deny property owners an opportunity to be heard by a neutral decisionmaker within a reasonable time.

214. The burden on the government to provide a prompt, post-seizure hearing before a neutral magistrate is far outweighed by the risk of erroneous deprivation in the absence of a procedure for property owners to challenge probable cause until the commencement of civil-forfeiture proceedings.

215. Continued possession of one's car, cash, or home is a weighty property interest that cannot be denied without providing meaningful notice and a prompt opportunity to be heard by a neutral magistrate.

216. Losing possession of one's car, cash, or home can have life-altering consequences for property owners.

217. Texas law and Harris County's policies and practices in property-seizure and civil-forfeiture cases cause people—including innocent people—to lose possession of their cars, cash, and even homes by denying effective notice and a prompt opportunity to be heard by a neutral magistrate.

### ***Count Three***

#### **(Tex. Const. art. I, §§ 9 and 19—Petitions based on hearsay testimony)**

218. On behalf of themselves and all others similarly situated, Named Plaintiffs hereby incorporate the allegations in ¶¶ 1–188 *above*.

219. Harris County's policy and practice of relying on hearsay testimony in property-seizure and civil-forfeiture cases violates Article I, §§ 9 and 19 of the Texas Constitution because it is the direct and proximate cause of unconstitutional seizures and continued detentions of property without probable cause.

220. Harris County's policy and practice of relying on hearsay testimony in property-seizure and civil-forfeiture cases denies property owners due process of law, even when their livelihood, means of transportation, or housing may be in jeopardy.

221. Harris County’s policy and practice of relying on hearsay testimony in property-seizure and civil-forfeiture cases leads courts to enter judgments of forfeiture based on deficient pleadings and insufficient evidence.

222. Harris County’s policy and practice of relying on hearsay testimony in property-seizure and civil-forfeiture cases is the direct and proximate cause by which many property owners choose not to contest the seizure and civil forfeiture of their property.

***Count Four***  
**(Tex. Const. art. I, §§ 9 and 19—Petitions based on  
cut-and-paste allegations and testimony)**

223. On behalf of themselves and all others similarly situated, Named Plaintiffs hereby incorporate the allegations in ¶¶ 1–188 *above*.

224. Harris County’s policy and practice of relying on form affidavits and cut-and-paste testimony in property-seizure and civil-forfeiture cases violates Article I, §§ 9 and 19 of the Texas Constitution because it is the direct and proximate cause of unconstitutional seizures and continued detentions of property without probable cause.

225. Harris County’s policy and practice of relying on form affidavits and cut-and-paste testimony in property-seizure and civil-forfeiture cases denies property owners meaningful notice of the allegations and evidence against them.

226. Harris County’s policy and practice of relying on form affidavits and cut-and-paste testimony in property-seizure and civil-forfeiture cases denies property owners due process of law, even when their livelihood, means of transportation, or housing may be in jeopardy.

227. Harris County’s policy and practice of relying on form affidavits and cut-and-paste testimony in property-seizure and civil-forfeiture cases leads courts to enter judgments of forfeiture based on deficient pleadings and insufficient evidence.

228. Harris County’s policy and practice of relying on form affidavits and cut-and-paste testimony in property-seizure and civil-forfeiture cases is the direct and proximate cause by which many property owners choose not to contest the seizure and civil forfeiture of their property.

***Count Five***  
**(Tex. Const. art. I, §§ 9 and 19—Financial incentives)**

229. On behalf of themselves and all others similarly situated, Named Plaintiffs hereby incorporate the allegations in ¶¶ 1–188 *above*.

230. Section 59.06(c) of the Texas Code of Criminal Procedure allows 100 percent of the proceeds of civil-forfeiture cases to go to the law enforcement agency that seized the property and the district attorney’s office that brought a successful forfeiture case to take title to the property.

231. Harris County law enforcement agencies and the Harris County District Attorney’s Office take advantage of this allowance by retaining 100 percent of the proceeds of civil-forfeiture cases.

232. The state constitution guarantees that “[n]o citizen of this State shall be deprived of . . . property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.” Tex. Const. art. I, § 19.

233. At a minimum, procedural due process requires notice and an opportunity to be heard by a neutral decisionmaker.

234. At a minimum, substantive due process requires a real and substantial connection between the real-world operation of a government policy or practices and legitimate public health, safety, or welfare objectives. However, even when such a connection is established, a person’s property rights still may not be unduly burdened in light of the government’s legitimate objectives.

235. Collecting revenue from seizures and civil forfeitures is not a legitimate governmental objective.

236. Texas law and Harris County's policies and practices in property-seizure and civil-forfeiture cases do not have a real and substantial connection to public health, safety, or welfare.

237. Texas law and Harris County's policies and practices in property-seizure and civil-forfeiture cases unduly burden property rights and are, therefore, unconstitutional.

238. Texas law and Harris County's policies and practices in property-seizure and civil-forfeiture cases are not reasonably calculated to benefit the public; rather they incentivize the seizure and forfeiture of property without probable cause and for the financial benefit of the very people who do the seizing and forfeiting.

239. Texas law and Harris County's policies and practices in property-seizure and civil-forfeiture cases distort the probable cause decisions that police officers make on the street (and the litigation decisions made by prosecutors) by adding unconstitutional considerations such as how much money an individual officer, law enforcement agency, or district attorney's office might gain from seizing, detaining, or forfeiting property.

240. Texas law and Harris County's policies and practices in property-seizure and civil-forfeiture cases are the direct and proximate cause of property being forfeited to the county by default, abandonment, and settlement.

241. On information and belief, a substantial majority of seizures result in a distribution of proceeds to Harris County law enforcement agencies and the Harris County District Attorney's Office, without contested judicial proceedings.

***Count Six***  
**(Tex. Const. art. I, §§ 9 and 19—Innocent owner burden)**

242. On behalf of herself and all others similarly situated, Named Plaintiff Jordan Davis hereby incorporates the allegations in ¶¶ 1–188 *above*.

243. Section 59.02(c)(1) of the Texas Code of Criminal Procedure requires a property owner who claiming innocence in civil-forfeiture proceedings to prove his or her own innocence.

244. This Innocent Owner Burden is the direct and proximate cause of unconstitutional seizures without probable cause.

245. The Innocent Owner Burden is also the direct and proximate cause of unconstitutional judgments of forfeiture that deprive innocent people of their full or fractional interest in property.

246. The Innocent Owner Burden is also the direct and proximate cause of Harris County’s policy and practice of making little effort to identify, find, and notify property owners who are not directly connected to the events giving rise to the seizure of property.

247. The Innocent Owner Burden is also the direct and proximate cause of Harris County’s policy and practice of disregarding information in its possession that could be used to identify, find, and notify property owners who are not directly connected to the events giving rise to the seizure of property.

248. It is never constitutional to require a person to prove their own innocence.

249. Even if there were circumstances where it could be constitutional to require a person to prove their own innocence, the facts and circumstances surrounding the property seizures and/or civil forfeitures involving Named Plaintiffs and putative class members objectively show an insufficient basis for interfering with a person’s property rights and possessory interests.

## INDIVIDUAL CLAIMS

### *Count Seven—Ameal Woods*

**(Tex. Const. art. I, § 9—Unreasonable stop & seizure lacking probable cause)**

250. Ameal Woods hereby incorporates the allegations in ¶¶ 189–208 *above*.

251. Sergeant Wade did not have probable cause to stop Ameal.

252. Sergeant Wade did not have probable cause to seize Ameal’s money.

253. Sergeant Wade did not have probable cause to seize Jordan’s money from Ameal.

254. The Harris County District Attorney’s Office did not have probable cause to detain Ameal’s property for 27 months.

255. The Harris County District Attorney’s Office did not have probable cause to file a civil-forfeiture case seeking title to Ameal’s property.

256. The Harris County District Attorney’s Office does not today have probable cause to maintain its civil-forfeiture case seeking title to Ameal’s property.

### *Count Eight—Jordan Davis*

**(Tex. Const. art. I, § 9—Unreasonable seizure lacking probable cause)**

257. Jordan Davis hereby incorporates the allegations in ¶¶ 189–208 *above*.

258. Sergeant Wade did not have probable cause to seize Jordan’s money.

259. The Harris County District Attorney’s Office did not have probable cause to detain Jordan’s property for 27 months.

260. The Harris County District Attorney’s Office did not have probable cause to file a civil-forfeiture case seeking title to Jordan’s property.

261. The Harris County District Attorney’s Office does not today have probable cause to maintain its civil-forfeiture case seeking title to Jordan’s property.

***Count Nine—Ameal & Jordan***  
**(Tex. Const. art. I, § 19—Lack of prompt, post-seizure hearing)**

262. Ameal and Jordan hereby incorporate the allegations in ¶¶ 209–17 *above*.

263. Texas law and Harris County’s policies and practices in property-seizure and civil-forfeiture cases directly and proximately caused Ameal and Jordan to lose possession of their property for at least 27 months without sufficient notice or an opportunity to be heard by a neutral magistrate.

264. If a prompt, post-seizure hearing procedure existed, whether in state law or by virtue of Harris County’s policies and practices, Ameal and Jordan would take advantage of it.

265. If a prompt, post-seizure hearing procedure existed, Ameal and Jordan would contest Sergeant Wade’s probable-cause determination before a neutral magistrate.

266. Given the facts and circumstances that lead Sergeant Wade to seize their property, if a prompt, post-seizure hearing procedure existed, Ameal and Jordan would likely be successful in challenging Sergeant Wade’s probable-cause determination before a neutral magistrate.

267. If a prompt, post-seizure hearing procedure existed, Ameal and Jordan would contest the Harris County District Attorney’s Office’s probable-cause determination before a neutral magistrate.

268. Given the facts and circumstances that lead the Harris County District Attorney’s Office’s to seize their property, if a prompt, post-seizure hearing procedure existed, Ameal and Jordan would likely be successful in challenging the Harris County District Attorney’s Office’s probable-cause determination before a neutral magistrate.



***Count Ten—Ameal & Jordan***  
**(Tex. Const. art. I, §§ 9 and 19—Petition based on hearsay testimony)**

269. Ameal and Jordan hereby incorporate the allegations in ¶¶ 218–22 *above*.

270. The petition seeking civil forfeiture of Ameal and Jordan’s property relies on the hearsay testimony of Officer Gregory Nason.

271. On information and belief, Officer Nason was not present at the time and place of the seizure of Ameal and Jordan’s money.

272. On information and belief, Officer Nason is not a patrol officer; he works in an administrative role with the Harris County Sheriff’s Office.

273. On information and belief, Officer Nason’s main job responsibility is to review other officers’ reports and to compose affidavits based on those reports for use by the Harris County District Attorney’s Office.

274. On information and belief, Officer Nason does no investigation beyond reviewing other officers’ reports. He does not ride along with the officers. He does not review dash- or bodycam footage of encounters that result in the seizure of property. He does not perform dog inspections of property to determine whether drug residue is present. And he does not physically inspect the property that his affidavits attempt to connect to a forfeitable offense.

275. On information and belief, the Harris County District Attorney’s Office’s relied exclusively on Officer Nason’s testimony in making its decision to seek forfeiture of Ameal and Jordan’s property and to seize the property for at least 27 months to allow for civil-forfeiture proceedings.

276. On information and belief, Officer Nason’s position is funded in part (if not entirely) with forfeiture proceeds.

277. On information and belief, Officer Nason provided written testimony in 80 civil-forfeiture cases in a representative set of 113 cases filed between March 2016 and August 2021.

278. All 80 of the affidavits Officer Nason submitted in those cases had been last “Revised 03/22/2016” and all 80 bore indicia of a form affidavit and testimony cut-and-pasted into the form to add a few particulars relevant to a given case.

279. On information and belief, Officer Nason’s affidavits are, for the most part, prewritten by someone else and he simply filled in facts where he could based on other officers’ reports.

280. As a direct and proximate result of Defendants’ unconstitutional reliance on Officer Nason’s hearsay testimony, without personal knowledge, Ameal and Jordan’s property has been unconstitutionally seized without probable cause now for 27 months.

281. As a direct and proximate result of Defendants’ unconstitutional reliance on Officer Nason’s hearsay testimony, without personal knowledge, Ameal and Jordan’s property is now subject to a civil-forfeiture action by the Harris County District Attorney’s Office, which is seeking to take title to the couple’s money based, in part, on Officer Nason’s unreliable and inadmissible affidavit.

***Count Eleven—Ameal & Jordan***  
**(Tex. Const. art. I, §§ 9 and 19—Petition based on  
cut-and-paste allegations and testimony)**

282. Ameal and Jordan hereby incorporate the allegations in ¶¶ 223–28 *above*.

283. The petition seeking civil forfeiture of Ameal and Jordan’s property relies on the commonly repeated allegations and a form affidavit in which Officer Nason has cut and pasted several material allegations, including an allegation that, sometime after the seizure, a dog alerted to the presence of the odor of narcotics on Ameal and Jordan’s money.

284. The very same allegation, in the very same words, appears in 79 of 113 civil-forfeiture cases filed between March 2016 and August 2021.

285. Indeed, supporting affidavits filed in 79 of 113 cases use identical or nearly identical language for their last two sentences. The second-to-last sentence, which alleges a dog alert sometime after seizure, is verbatim identical in all 79. The last sentence is nearly identical, varying only in the illegal behavior deputies “believe” to have occurred.

286. On information and belief, Officer Nason’s affidavits are, for the most part, prewritten by someone else; that person last revised the affidavit more than five years ago; and he simply fills in information where he can, based on other officers’ reports.

287. As a direct and proximate result of Defendants’ unconstitutional reliance on cut-and-paste allegations and form affidavits in civil-forfeiture cases, Ameal and Jordan’s property has been unconstitutionally seized without probable cause now for 27 months.

288. As a direct and proximate result of Defendants’ unconstitutional reliance on cut-and-paste allegations and form affidavits in civil-forfeiture cases, Ameal and Jordan’s property is now subject to a civil-forfeiture action by the Harris County District Attorney’s Office, which is seeking to take title to the couple’s money based, in part, on stock allegations and unreliable and inadmissible testimony.

***Count Twelve—Jordan***  
**(Tex. Const. art. I, §§ 9 and 19—Innocent owner burden in civil forfeiture action)**

289. Jordan hereby incorporates the allegations in ¶¶ 242–49 *above*.

290. Section 59.02(c)(1) of the Texas Code of Criminal Procedure and Harris County’s policies and practices in property-seizure and civil-forfeiture cases directly and proximately caused the unconstitutional seizure and attempted forfeiture of Jordan’s property without probable cause

by placing the burden on the property owner to demonstrate her own innocence by a preponderance of the evidence.

291. Section 59.02(c)(1) of the Texas Code of Criminal Procedure and Harris County's policies and practices in property-seizure and civil-forfeiture cases directly and proximately caused the unconstitutional seizure and attempted forfeiture of Jordan's property without due process of law by placing the burden on the property owner to demonstrate her own innocence by a preponderance of the evidence.

***Count Thirteen—Ameal & Jordan***  
**(Tex. Const. art. I, §§ 9 and 19—Financial incentives)**

292. Ameal and Jordan hereby incorporate the allegations in ¶¶ 229–41 *above*.

293. Section 59.06(c) of the Texas Code of Criminal Procedure and Harris County's policies and practices in property-seizure and civil-forfeiture cases directly and proximately caused the unconstitutional seizure and attempted forfeiture of Ameal and Jordan's property without probable cause by financially incentivizing police and prosecutors to seize and forfeit property for their own benefit and/or the benefit of their departments.

294. Section 59.06(c) of the Texas Code of Criminal Procedure and Harris County's policies and practices in property-seizure and civil-forfeiture cases directly and proximately caused the unconstitutional seizure and attempted forfeiture of Ameal and Jordan's property without due process of law by financially incentivizing police and prosecutors to seize and forfeit property for their own benefit and/or the benefit of their departments.

***Count Fourteen—Ameal & Jordan***  
**(Tex. Const. art. I, § 19—Inadequate notice)**

295. Ameal and Jordan were denied procedural due process as a direct and proximate result of Harris County's inadequate notice of seizure and the initiation of civil forfeiture.

296. Harris County made only halfhearted and constitutionally inadequate efforts to identify, find, and notify the owners of the money seized from Ameal.

297. Jordan, in particular, was denied procedural due process in this case as a direct and proximate result of Harris County's inadequate efforts to identify, find, and notify her of the seizure and forfeiture of her money.

298. Even though Sergeant Wade knew about Jordan and spoke with her on the telephone, and even though she told him that \$6,500 of the money in Ameal's possession at the time belonged to her, still Jordan did not receive timely notice of the civil-forfeiture case against her money and was not made a respondent in the case.

**APPLICATION FOR CLASS CERTIFICATION**

299. Named Plaintiffs respectfully ask the Court to grant them class certification under Rules 42(a) and (b)(2) of the Texas Rules of Civil Procedure based on this Original Petition and the attached Provisional Motion for Class Certification. Alternatively, Named Plaintiffs ask the Court to grant them class discovery and, upon its conclusion, permit them to file a renewed motion for class certification relating back to the provisional motion.

**APPLICATION FOR PERMANENT INJUNCTION**

300. Named Plaintiffs respectfully ask the Court to set their application for permanent injunction for a hearing at an appropriate time after discovery and, following the hearing, to issue a permanent injunction against Defendants based on one or more of this Original Petition's 14 counts.

### **ATTORNEYS' FEES**

301. Named Plaintiffs request reasonable attorneys' fees and costs, as permitted by Section 37.009 of the Texas Civil Practices and Remedies Code.

### **DISCOVERY CONTROL PLAN**

302. Named Plaintiffs intend to conduct Level 2 discovery under Rule 190.3 of the Texas Rules of Civil Procedure.

### **PRAYER**

WHEREFORE, Named Plaintiffs Ameal Woods and Jordan Davis, on behalf of themselves and all others similarly situated, request that the Court render judgment in their favor and grant the following specific relief:

- A. An order certifying this case as a class action under Rules 42(a) and (b)(2) of the Texas Rules of Civil Procedure;
- B. Appointment of Named Plaintiffs as representatives of the class;
- C. Appointment of Jordan Davis as representative of the subclass;
- D. Appointment of the Institute for Justice as class counsel;
- E. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 1, providing that Harris County's policies and practices of seizing and forfeiting property without probable cause violate Article I, § 9 of the Texas Constitution;
- F. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 2, providing that Texas law and Harris County's policies and practices deprive people of their property without due process of law under Article I, § 19 of the Texas Constitution to the extent that neither state law nor local procedure provide for a prompt hearing before a neutral magistrate within 30 days of seizure;

G. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 3, providing that Harris County's policy and practice of relying on hearsay testimony renders the county's probable-cause determinations void under Article I, § 9 of the Texas Constitution and deprives people of their property without due process of law in violation of Article I, § 19;

H. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 4, providing that Harris County's policy and practice of relying on cut-and-paste allegations and testimony renders the county's probable-cause determinations void under Article I, § 9 of the Texas Constitution and deprives people of their property without due process of law in violation of Article I, § 19;

I. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 5, providing that Section 59.06(c) of the Texas Code of Criminal Procedure violates Article I, §§ 9 and 19 of the Texas Constitution by incentivizing seizures and civil forfeitures without probable cause and by denying property owners due process of law; and that Harris County's policies and practices violate Article I, §§ 9 and 19 by financially incentivizing seizures and civil forfeitures without probable cause and by denying property owners due process of law;

J. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 6, providing that Section 59.02(c)(1) of the Texas Code of Criminal Procedure violates Article I, § 19 of the Texas Constitution by placing the burden of proof in civil-forfeiture proceedings on persons asserting their innocence; that Harris County's policy and practice of relying on Section 59.02(c)(1) to seize property without probable cause violates Article I, § 9; and that the county's policy and practice of relying on Section 59.02(c)(1) to provide insufficient notice to property owners who were not present at the time and place of seizure violates Article I, § 19;

K. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 7, providing that Harris County violated Ameal Woods's rights under Article I, § 9 of the Texas Constitution when Sergeant Wade pulled him over without probable cause to believe that Ameal had committed an offense; and that Sergeant Wade's seizure of money from Ameal lacked probable cause to believe that all of the money was connected to a specific forfeitable offense;

L. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 8, providing that Harris County violated Jordan Davis's rights under Article I, § 9 of the Texas Constitution when Sergeant Wade seized \$6,500 from her without probable cause to believe that all of the money was connected to a specific forfeitable offense;

M. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 9, providing that Ameal and Jordan are entitled to a probable-cause hearing before a neutral magistrate; and that procedural due process under Article I, §19 of the Texas Constitution requires that the owners of seized property are entitled to notice and an opportunity to be heard by a neutral magistrate within 30 days of the date of seizure;

N. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 10, providing that Harris County's reliance on the hearsay affidavit of Officer Gregory Nason (filed in support of the civil-forfeiture petition seeking title to Ameal and Jordan's money) violates Article I, § 9 of the Texas Constitution by allowing for long-term seizures of property without probable cause to believe that a crime occurred and that the property can be connected to a specific forfeitable offense; and that it violates the due-process protections of Article I, § 19 to the extent that Officer Nason's position in the Sheriff's Office *depends* on his consistent determination that probable cause exists to seize and forfeit property;



O. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 11, providing that Harris County's reliance on the boilerplate allegations and form affidavit in the civil-forfeiture petition seeking title to Ameal and Jordan's money violate Article I, § 9 of the Texas Constitution by allowing long-term seizures of property without probable cause to believe that a forfeitable crime occurred and the property can be connected to that crime; and that they violate the due-process protections of Article I, § 19 to the extent that people like Ameal and Jordan are deprived of property based on unreliable and formulaic testimony;

P. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 12, providing that Section 59.02(c)(1) of the Texas Code of Criminal Procedure violates Jordan's rights under Article I, § 9 of the Texas Constitution because it allows for the seizure and attempted forfeiture of her property without probable cause connecting her and the property to a specific forfeitable offense; that the statute violates Jordan's right to procedural due process under Article I, § 19 by placing the burden to prove her innocence on her; and that Harris County's policies and practices relying on the statute to justify seizures and attempted forfeitures without probable cause violate Jordan's rights under Article I, § 9;

Q. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 13, providing that Section 59.06(c) of the Texas Code of Criminal Procedure violates Ameal and Jordan's rights under Article I, § 9 of the Texas Constitution to a probable-cause determination free from personal and institutional financial self-interest; and that subjecting people to civil-forfeiture proceedings motivated in whole or in part by financial incentives violates their right to due process under Article I, § 19;

R. A declaratory judgment in favor of Plaintiffs and against Defendants on Count 14, providing that Ameal and Jordan were denied due process under Article I, § 19 when Harris

County made insufficient efforts to identify, find, and notify them of the civil-forfeiture action against their property;

S. A permanent injunction in favor of Plaintiffs and against Defendants requiring them to observe policies and practices consistent with the terms of the Court's declaratory judgment(s);

T. A permanent injunction in favor of Plaintiffs and against Defendants prohibiting them from relying on Tex. Code Crim. Proc. §§ 59.02(c)(1) and 59.06(c) to the extent those provisions violate the Texas Constitution;

U. An award of \$1 in nominal damages for each Plaintiff;

V. An award of reasonable attorneys' fees and costs; and

W. All other legal and equitable relief to which Plaintiffs may be entitled.

RESPECTFULLY SUBMITTED this 30th day of August, 2021.

**INSTITUTE FOR JUSTICE**

/s/ Wesley Hottot

Wesley Hottot (TX Bar No. 24063851)  
600 University Street, Suite 1730  
Seattle, WA 98101  
Tel.: (206) 957-1300  
Fax: (206) 957-1301  
whottot@ij.org

Arif Panju (TX Bar No. 24070380)  
816 Congress Avenue, Suite 960  
Austin, TX 78701  
Tel.: (512) 480-5936  
Fax: (512) 480-5937  
apanju@ij.org

*Attorneys for Plaintiffs*