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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JAY VINCENT SHORE, pro se,
4784 N. LOMBARD ST. B-152
PORTLAND, OR 97203

And for those similarly situated, ex. rel,
Plaintiff(s),

v.

CITY OF PORTLAND, OREGON
Serve on
LINDA MENG, CITY ATTORNEY
1221 SW 4th Ave, Portland, OR 97204,

PORTLAND POLICE BUREAU
Serve on
LINDA MENG, CITY ATTORNEY
1221 SW 4th Ave, Portland, OR 97204,

PORTLAND BUREAU OF
TRANSPORTATION
Serve on
TRACY REEVE, CITY ATTORNEY
1221 SW 4th Ave, Portland, OR 97204,

SERGEANT'S TOWING, INC., in capacity as
agent for CITY OF PORTLAND, and in
capacity as a "private entity"
Serve on
GUYER LAW PC
5895 JEAN RD. LAKE OSWEGO, OR 97035;

Defendants.

3'17 CV 1519-YY

Case No: _____

COMPLAINT

COMPLAINT

1. Plaintiff JAY VINCENT SHORE, absent waiver of rights, alleges the following:

INTRODUCTION

2. JAY VINCENT SHORE, (hereon "Plaintiff"), a qualified individual with a disability pursuant with 42 U.S.C. § 12131(2), brings this complaint against the above named Defendants - CITY OF PORTLAND, OREGON, PORTLAND POLICE BUREAU, and PORTLAND BUREAU OF TRANSPORTATION, (hereon collectively "CITY OF PORTLAND") and additionally a Corporation, SERGEANT'S TOWING, INC., which is believed to be acting upon orders of the City of Portland, under agency. Jointly, SERGEANT'S TOWING, INC. and the CITY OF PORTLAND are referred to as "Defendants" hereon.

Beginning on June 8, 2017, the Defendant CITY OF PORTLAND began a pattern of discrimination against the Plaintiff, by issuing parking violation citations that are absent due process or equal protection, and refusing repeatedly to reasonably accommodate the Plaintiff's disability with requested and reasonable accommodations. Additionally, the Defendants have effected a pattern to coerce, intimidate, threaten, and interfere with Plaintiff's rights under the Americans With Disabilities Amendments Act of 2008. As a result, Plaintiff has been re-traumatized, caused to suffer mental anguish, anxiety, and placed in constant fear of further abusive action from Defendants. Defendants refused to provide reasonable accommodations so that Plaintiff had full and equal access to Defendant's honest services, and the obligations and remedies of law that the

Defendants are alleging to enforce. Moreover, Defendants exploited Plaintiff's disability. As a result of Defendants' discriminatory practices, and exploitation, Plaintiff's auxiliary aids for disability were seized on September 15, 2017, leaving Plaintiff with irreparable harm of permanent fear that Defendants are able to act without accountability to Federally mandated provisions of disability rights.

Defendants' actions, inactions, and omissions here violate Title II of the Americans with Disabilities Act of 1990, as amended ("ADA"), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35; Title III of the Americans with Disabilities Act of 1990, as amended ("ADA"), 42 U.S.C. § 12181 *et seq.*, and its implementing regulation at 28 C.F.R. Part 36; and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

Plaintiff asks the Court to, per *Haines v. Kerner*, 404 U.S. 519 (1972), to hold Plaintiff, who is *pro se*, to a less stringent standard than a lawyer.

3. Plaintiff does not challenge or appeal a State court decision.
4. This matter raises an issue of general public importance.

JURISDICTION AND VENUE

5. This Court has jurisdiction of this action under 28 U.S.C. §1331, and 42 U.S.C. §§12133 and 12188. The Court may grant declaratory and other relief pursuant to 28 U.S.C. § 2201 and 2202. The Court may grant attorney's fees pursuant to 42 U.S.C. §12205.

6. The acts and omissions of Defendants giving rise to this action occurred in Multnomah county, Portland, Oregon. Plaintiff is a transient, and has been situated in Multnomah county, Portland Oregon, in a transient state, since November of 2016, and during this time aggrieved during a substantial portion of the events giving rise to this action, including present unmitigated harm occurring in this District, making venue proper in this Judicial District pursuant to 28 U.S.C. § 1391.
7. Enforcement by the United States Attorney General is invoked pursuant to 42 U.S.C. §§ 12133 and 12188.

THE PARTIES

8. The United States has an interest in this matter.
9. Plaintiff, JAY VINCENT SHORE, is permanently transient, due to disability, and currently is located in the District of Oregon in Portland Oregon, and is with a mailing address of 4784 N. Lombard St. B-152, Portland, Oregon, 97203.
10. Defendant, CITY OF PORTLAND, of Portland, Oregon, including without limitation, PORTLAND POLICE BUREAU, and PORTLAND BUREAU OF TRANSPORTATION, its/their respective departments, agencies, and other instrumentalities, is a unit of government, is a “public entity” within the meaning of 42 U.S.C. § 12131(1), and is subject to the ADA Title II and its implementing regulation. It is responsible for the administration of the “Code of the City of Portland, Oregon”. The Defendant CITY OF PORTLAND is a recipient of federal financial assistance. The term “CITY OF PORTLAND” and the use of the term “Defendant” when referencing either PORTLAND POLICE BUREAU,

PORTLAND BUREAU OF TRANSPORTATION, or CITY OF PORTLAND, may be considered as coextensive, when necessary or expedient to the benefit of the Plaintiff.

11. Defendant, SERGEANT'S TOWING, INC., has a principal place of business located at 2045 NORTH VANCOUVER AVE, PORTLAND OR, 97227, is operating as an agent or instrumentality of Defendant CITY OF PORTLAND, and thus is operating as, is a "public entity" within the meaning of 42 U.S.C. § 12131(1), and is subject to the ADA Title II and its implementing regulation. The Defendant SERGEANT'S TOWING, INC., is also a "private entity" within the meaning of 42 U.S.C. § 12181 and is also subject to ADA Title III and its implementing regulation. It is a recipient of federal financial assistance, either directly, or indirectly as a beneficiary through agency with the Defendant CITY OF PORTLAND.

FACTS

12. Inclusive of and incorporating the foregoing by reference, At all times hereon, Plaintiff JAY VINCENT SHORE is a qualified individual with a disability pursuant with 42 U.S.C. § 12131(2).
13. In December of 2005, Plaintiff lost his home (and 80% equity) to foreclosure that traumatized Plaintiff irreparably. Since that time, Plaintiff has been recovering from or, alternatively coping with recoil relating to that trauma.
14. Plaintiff is with an experiential-based belief, fear, and apprehension (*quia timet*) that the United States justice system, in its entirety, is constructed in a way that

allows that system, and those that regularly use that system, the ability to prey upon the weak and/or poor, and to do so without accountability.

15. In November of 2016, Plaintiff arrived in Portland Oregon, and found a place to transiently locate that was close to friends that have provided a support framework for social interaction, help with emergencies, and generalized friendship. The place that Plaintiff transiently located was and is on North Lombard Street in North Portland, near the intersection of Roberts and N. Lombard, hereon referred to as "The Location".
16. Plaintiff has, for some time, had the use of a converted 1991 school bus "Motorhome" and a 1996 Dodge Neon as auxiliary aids for recovery from disability. Plaintiff's Medical Doctor, in a medical opinion letter attached hereto as "**EXHIBIT A**", (Hereon "Auxiliary Aid Letter") and included hereon fully by reference, confirms that Plaintiff's "vehicles are acting as an auxiliary aid for his recovery from his inguinal hernia repair and his PTSD. Losing access to these vehicles would be detrimental to his overall health and well being." This medical opinion letter is signed by William Korbacher, MD, believed to be in good standing, as a medical doctor in the State of Oregon.
17. The Location, in November of 2016, was absent any restrictive parking regulation posted.
18. On June 5, 2017, Plaintiff had inguinal hernia repair surgery, and was placed on "no activity" by the surgeon that performed the repair surgery.
28. On June 8, 2017, Defendant PORTLAND BUREAU OF TRANSPORTATION ("PBOT") placed a "TOW WARNING" on Plaintiff's Auxiliary Aid, and a true and

correct picture of the same is attached hereto as “**EXHIBIT B**”, and incorporated hereon by reference. This TOW WARNING is representative of each and every TOW WARNING that the Defendant issues, with exclusion to the written-in portions.

29. The TOW WARNING(s) issued by Defendant PORTLAND BUREAU OF TRANSPORTATION state “If this vehicle is not completely removed from the public right of way, it will be towed by order of the City of Portland”.
30. Plaintiff is absent the ability to comprehend how anyone that is with the access to a vehicle that has current tags and insurance is with any duty (or more importantly, the ability) to “completely remove” said vehicle from the “public right of way”.
31. On June 8, 2017, subsequent to the TOW WARNING being placed on Plaintiff’s auxiliary aid Motorhome, an “ADA TITLE II NOTICE” was issued to DAVID GALAT, who is listed as the “ADA Coordinator for the Portland Bureau of Transportation. The ADA TITLE II NOTICE clearly claimed that Plaintiff was affected by the TOW WARNING, and that Plaintiff invoked the ADA right of requesting reasonable accommodation, and the reasonable accommodation that Plaintiff requested was “certified ADAADVOCATE with a specialty in Legal Abuse Syndrome can be obtained for the purpose of assisting JAY V SHORE in communicating face to face with law enforcement, and protecting the rights of one with a disability under ADAADVOCATE” (Americans With Disabilities Amendments Act of 2008).

32. Defendant PORTLAND BUREAU OF TRANSPORTATION, via DAVID GALAT, ADA Coordinator, responded on June 12, 2017 to the registered Vehicle owner, saying “The Portland Bureau of Transportation has received your email correspondence requesting an ADA accommodation. This request is currently under review.”
33. On June 26, 2017, Defendant PORTLAND BUREAU OF TRANSPORTATION, via DAVID GALAT, ADA Coordinator, responded to the registered Vehicle owner, saying “The law requires the registered owner of the vehicle to comply with all parking regulations applicable to the cited street location. The registered owner of the vehicle is not an individual and is not a qualified person with disability. PBOT has reviewed the request for modification. Under the existing process, there is adequate notice and time provided to the registered owner, prior to a potential tow in order, to allow a registered owner to relocate the illegally parked vehicle to a location where parking is permissible. The lawful registered owner of this vehicle, Extramural Church Trust #12, must arrange to remove this vehicle from the public right of way in accordance with the citation in order to not be in violation of the law. We would encourage the registered owner entity to coordinate with Jay V Shore to provide the assistance that may be needed.” That email from DAVID GALAT is attached hereto, incorporated fully hereon by reference, and labeled as “**EXHIBIT C**”.
34. On July 12, 2017, Defendant CITY OF PORTLAND and/or Defendant PORTLAND BUREAU OF TRANSPORTATION, did cause “No Parking” signs to be erected at The Location.

35. On July 13, 2017, Plaintiff issued to DAVID GALAT, ADA Coordinator for Defendant PORTLAND BUREAU OF TRANSPORTATION, a “CEASE AND DESIST” demand, with an attached copy of the Auxiliary Aid Letter, from Plaintiff’s Primary Care Physician. A copy of the CEASE AND DESIST email is attached hereto, labeled as “**EXHIBIT D**”, and incorporated fully hereon by reference.
36. Defendants CITY OF PORTLAND, PORTLAND POLICE BUREAU, and PORTLAND BUREAU OF TRANSPORTATION have never, during any communication, alleged that Plaintiff’s request was “unreasonable.”
37. Defendant’s CITY OF PORTLAND, PORTLAND POLICE BUREAU, and PORTLAND BUREAU OF TRANSPORTATION, have continually, and at all times refused to accommodate Plaintiff.
38. Plaintiff has videos and audio recorded several encounters that display the ambiguity and impossibility of Defendant CITY OF PORTLAND’s enforcement policy and/or code, and Plaintiff will introduce these videos as evidence that Plaintiff has been denied reasonable accommodation, and further that Plaintiff is still with a pattern of threats, intimidation, and coercion, by Defendants, which also interfered with Plaintiff’s rights under the ADA.
39. Defendants, jointly and severally, have denied Plaintiff honest services.
40. Plaintiff, on July 25, 2017, had Plaintiff’s auxiliary aid issued a “PARKING VIOLATION CITATION, numbered HA30896242, by Defendant CITY OF PORTLAND, and said citation conditions access to a court hearing upon pre-

payment of a Bail payment, and specifically states “Your request for a hearing will not be considered without bail.”

41. Plaintiff hereby requests the court to take judicial notice of a document readily available from the United States Department of Justice website, specifically at URL: <https://www.justice.gov/crt/file/832461/download>, (Hereon “USDOJ Document”) dated March 14, 2016, which states: “To help judicial actors protect individuals’ rights and avoid unnecessary harm, we discuss below a set of basic constitutional principles relevant to the enforcement of fines and fees. These principles, grounded in the rights to due process and equal protection, require the following: (3) Courts must not condition access to a judicial hearing on the prepayment of fines or fees;” (See page 2 of the USDOJ Document) This USDOJ Document is incorporated hereon fully by reference.
42. The USDOJ Document goes on to say: “State and local courts deprive indigent defendants of due process and equal protection if they condition access to the courts on payment of fines or fees. *See Boddie v. Connecticut*, 401 U.S. 371, 374 (1971) (holding that due process bars states from conditioning access to compulsory judicial process on the payment of court fees by those unable to pay); *see also Tucker v. City of Montgomery Bd. of Comm’rs*, 410 F. Supp. 494, 502 (M.D. Ala. 1976) (holding that the conditioning of an appeal on payment of a bond violates indigent prisoners’ equal protection rights and “has no place in our heritage of Equal Justice Under Law” (citing *Burns v. Ohio*, 360 U.S. 252, 258 (1959))” (See page 4-5 of the USDOJ Document).

43. The USDOJ Document finally specifies “This unconstitutional practice is often framed as a routine administrative matter. For example, a motorist who is arrested for driving with a suspended license may be told that the penalty for the citation is \$300 and that a court date will be scheduled only upon the completion of a \$300 payment (sometimes referred to as a prehearing “bond” or “**bail**” payment).” Emphasis added. (See page 5 of the USDOJ Document)
44. Plaintiff has 6 total Parking Violation Citations issued in relation with Plaintiff’s auxiliary aids, and these Citations, and their respective case numbers (in Multnomah County Circuit Court) are as follows: HA30896242 case #: 17PK162890, U190046 case #: 17PK142143, U190047 case #: 17PK162889, HA31027025 case #: 17PK179312, HA31027024 case #: 17PK179084, HA30335778 case #: 17PK178679, and every one of these citations conditions access to a court hearing upon pre-payment of bail. A true copy of the front and back of these Citations are attached hereto, incorporated fully hereon by reference, and labeled as “**EXHIBIT E.**”
45. On July 6, 2017, Defendant PORTLAND BUREAU OF TRANSPORTATION did again place a “TOW WARNING” upon Plaintiff’s auxiliary aid, directing that “If this vehicle is not completely removed from the public right of way, it will be towed by order of the City of Portland”.
46. On July 17, 2017, Plaintiff did send via email to DAVID GALAT, ADA Coordinator for Portland Bureau of Transportation, a copy of the attached letter from Equal Access Advocates, that is signed by Dr. Karin Huffer, and which gives evidence that Plaintiff is a qualified individual with a disability, and due

and owed rights under the ADA. (Hereon "EAA Letter" and attached as "EXHIBIT F").

47. Whenever, hereon, Plaintiff alleges that Plaintiff delivered things to DAVID GALAT, Plaintiff also included several others, including email directly to Ted Wheeler, Mayor of Portland, Oregon, and other relevant persons, as is evidenced by the exhibits attached hereto.
48. On July 25, 2017, Defendant, CITY OF PORTLAND, via Sergeant Dave Jackson, alleged to give Plaintiff a "lawful order" to move Plaintiff's auxiliary aid from one point in the public right of way, to another place in the public right of way, by responding when asked where Plaintiff could move, "There's places without no parking signs". Plaintiff has video evidence of this statement being issued by Sergeant Jackson, and that evidence is located for viewing at URL <https://youtu.be/Vt7cwaFikBk?t=1m16s>. The entirety of the video posted at this URL, and any raw footage that it is excerpted from is hereby incorporated hereon fully by reference.
49. On July 25, 2017, Defendant CITY OF PORTLAND, via Avery Hafley, who is with the PORTLAND BUREAU OF TRANSPORTATION, directs verbal communication to Plaintiff and says "You were warned", (more than once) indicating that Plaintiff was directly warned by the TOW WARNING stickers placed upon Plaintiff's auxiliary aid/motorhome, and that evidence is located for viewing at URL <https://youtu.be/Vt7cwaFikBk>. The entirety of the video posted at this URL, and any raw footage that it is excerpted from is hereby incorporated hereon fully by reference.

50. On July 25, 2017, Sergeant Dave Jackson, with Defendant PORTLAND POLICE BUREAU, in video evidence available at URL <https://youtu.be/Vt7cwaFikBk?t=46s> alleges that the city (of Portland, OR) attorney and PBOT avoided giving me reasonable accommodations and/or modifications because I was in a no parking area. The entirety of the video posted at this URL, and any raw footage that it is excerpted from is hereby incorporated hereon fully by reference.
51. Plaintiff's request for reasonable accommodations, as stated, and evidenced by Exhibit C, was refused because Defendant PORTLAND BUREAU OF TRANSPORTATION, via their ADA Coordinator, DAVID GALAT, said that "The registered owner of the vehicle is not an individual and is not a qualified person with disability." While the registered owner of the vehicle was and is not a qualified individual with a disability, the request for reasonable accommodations was made for the behalf of Plaintiff, and 42 U.S.C. § 12203 allows for persons with disabilities to receive assistance from third parties.
52. Further, Defendant PORTLAND BUREAU OF TRANSPORTATION, as shown in EXHIBIT C, connected the demanded movement of the vehicle to the citation, as per DAVID GALAT's words "The lawful registered owner of this vehicle, Extramural Church Trust #12, must arrange to remove this vehicle from the public right of way in accordance with the citation in order to not be in violation of the law."
53. Plaintiff, when Plaintiff located at The Location, was at a place "without no parking signs", and the Defendant, CITY OF PORTLAND decided that, in spite

of Oregon Constitution, Article 1, Section 21, forbidding ex-post-facto laws, and also the United States Constitution, which prohibits ex post facto laws, in Article 1, Section 10, Clause 1. Defendant changed the status of The Location, only after Plaintiff had requested reasonable accommodation to receive equal access to Defendant's honest services.

54. On August 14, 2017, Plaintiff was asked by Sergeant Scott Martin, of the PORTLAND POLICE BUREAU: "Why don't you obey the law and move every so often?" Defendant has this encounter on video, and this specific question is shown at URL <https://youtu.be/Vt7cwaFikBk?t=1m47s>. The entirety of the video posted at this URL, and any raw footage that it is excerpted from is hereby incorporated hereon fully by reference.
55. Plaintiff is unaware of any law or code that prescribes moving "every so often" as a remedy to avoid penalty.
56. On September 15, 2017, Defendants CITY OF PORTLAND, PORTLAND BUREAU OF TRANSPORTATION, PORTLAND POLICE BUREAU and SERGEANT'S TOWING, INC., did collude and act in concert to disconnect Plaintiff's auxiliary aid consisting of a 1996 Dodge Neon, VIN number 1B3ES22C5TD637435, from Plaintiff's Motorhome auxiliary aid, and did, after disconnecting said Dodge Neon auxiliary aid, remove the same from Plaintiff's access, use and enjoyment. Defendants' acts, collectively, in this matter have deprived Plaintiff of honest services of government, deprived Plaintiff of rights under color of law, and have harmed Plaintiff, with the causation of Plaintiff's exponentially elevated mental anguish and anxiety based upon the removal,

theft, and holding hostage of Plaintiff's auxiliary aid. Footage of this event is at URL <https://youtu.be/Vt7cwaFikBk?t=2m21s>, and shows that Notice of the status of auxiliary aid was given additionally to Defendant SERGEANT'S TOWING, INC..

57. Defendants, jointly and severally, have participated in and created a discriminatory, hostile, and unfair environment for Plaintiff.
58. Defendants have re-created Plaintiff's primary adult trauma of having Plaintiff's shelter/auxiliary aid violently and forcefully stolen/seized by those purporting to dispense justice, and have thus caused Plaintiff irreparable harm and further trauma.
59. Defendants, jointly and severally, have stolen/seized Plaintiff's auxiliary aid under the guise of "law enforcement", while simultaneously ignoring their duty, as advertised (on the TOW WARNING) to comply with ADA.
60. Defendants, jointly and severally, stole/seized Plaintiff's auxiliary aid/car maliciously, because on September 15, 2017, they left (did not tow) the other portion of Plaintiff's auxiliary aid/Motorhome in the same exact place (The Location) that they claimed was a "no parking" area.
61. Defendant PORTLAND BUREAU OF TRANSPORTATION, per their ADA coordinator, DAVID GALAT, have failed and/or refused to comply with ADA requirements that mandate that qualified individuals with a disability are entitled to reasonable accommodations and/or modifications.
62. Defendants CITY OF PORTLAND, PORTLAND POLICE BUREAU, and PORTLAND BUREAU OF TRANSPORTATION have created a "move every so

often” ambiguous fear construct, where those who are transient and shelter in an Recreational Vehicle, Motorhome, Car, or other wheeled construct, are in a continual state of fear and running from having their belongings seized arbitrarily and capriciously.

63. A reasonable person test would confirm that those who are in constant fear and always on the run from law enforcement, cannot reasonably sustain a peacefully improved quality of life.
64. Plaintiff’s fear is not from being a criminal. Plaintiff is running from criminals, parading as law enforcement and government of the City of Portland.
65. Defendants CITY OF PORTLAND has repeatedly issued Parking Violation Citations that unfairly eliminate due process access for ALL individuals that are unable to “buy” their way into a court hearing.
66. Defendants, jointly and severally, in violation of 42 U.S.C. § 12203 have repeatedly intimidated, coerced, threatened, and interfered with Plaintiff’s exercise of rights under the ADA.
67. Defendants have failed to mitigate the ongoing harm complained of hereon.
68. Plaintiff includes and labels as “**EXHIBIT G**”, a letter from Plaintiff’s counselors at Western Psychological, to show that Plaintiff is with a diagnosed disability of PTSD.
69. Plaintiff reserves the right to expand these proceedings and/or correct scrivener’s errors.

CAUSES OF ACTION

COUNT I

TITLES II AND III OF THE AMERICANS WITH DISABILITIES ACT

70. Paragraphs 1 through 69 are re-alleged and reasserted as if fully set forth here.
71. JAY VINCENT SHORE is an individual with PTSD, required to have appropriate individualized accommodations and/or modifications necessary to ensure full and equal access to honest services of government; accordingly, he is a qualified individual with a disability as defined by 42 U.S.C. §§ 12102 and 12131(2). PTSD is listed under “predictable assessments” under the ADA and its implementing regulation. Plaintiff’s disabilities must be assessed without regard to mitigating or ameliorating measures.
72. The greatly expanded definition of the ADA Amendments Act of 2008, Final Rule of 2016, and parallel State law changes apply.
73. Plaintiff’s PTSD falls under actual mental impairment/psychiatric injury, which substantially limits one or more major life activities. Plaintiff has records of such impairments.
74. Plaintiff has remained in a virtually constant triggered state of fear, because of Defendants’ joint and several actions.
75. Defendants have failed to mitigate the harm they have done to Plaintiff.
76. Unmitigated harm is a continuing cause of action.
77. Defendants have deprived Plaintiff of Plaintiff’s rights under color of law, in violation of 42 U.S.C. § 1983.

78. Plaintiff has been trying to increase his position on the sustainability scale of society, by pursuing mental health, physical health, and is even enrolled currently in a class at John Jay College of Criminal Justice for certification as an ADA Advocate. Defendants' actions, jointly and severally, have severely inhibited and obfuscated Plaintiff's progress.
79. Title II of the ADA, 42 U.S.C. § 12132, provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."
80. Title III of the ADA, 42 U.S.C. § 12182, provides that: "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."
81. Title III of the ADA, 42 U.S.C. § 12182(b)(1)(A)(ii), provides that: "It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals."
82. Defendants have intentionally discriminated against Plaintiff as a qualified individual with a disability, by claiming that they are only dealing with a vehicle, and not a person that is attached to the vehicle, depriving Plaintiff from

receiving the full and equal opportunity of their services, programs, activities, facilities, privileges, advantages, and accommodations and/or modifications, in violation of Title II of the ADA, as amended, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Parts 35; Title III of the ADA, as amended, 42 U.S.C. § 12181 *et seq.*, and its implementing regulation at 28 C.F.R. Parts 36, by, among other reasons:

- a. denying Plaintiff the opportunity to participate in or benefit from Defendants' services, programs, activities, facilities, privileges, advantages, and accommodations and/or modifications in violation of 28 C.F.R. § 35.130(b)(1)(i); and 28 C.F.R. §§ 36.201, 36.202, and 36.203.
- b. denying Plaintiff an opportunity to participate in or benefit from Defendants' services, programs, activities, facilities, privileges, advantages, and accommodations and/or modifications that is not equal to opportunities afforded to others with disabilities, in violation of 28 C.F.R. § 35.130(b)(1)(ii); and 28 C.F.R. §§ 36.201, 36.202;
- c. limiting Plaintiff in the enjoyment of his rights, privileges, advantages, or opportunities, in violation of 28 C.F.R. § 35.130(b)(1)(i & iii & vii); and 28 C.F.R. §§ 36.201(a), 36.202(a & b);
- d. utilizing criteria or methods of administration that had the effect of subjecting an individual with a disability to discrimination on the basis of disability or that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of Defendants' services, programs, and

activities with respect to individuals with disabilities, in violation of 28 C.F.R. § 35.130(b)(iii); and 28 C.F.R. §§ 36.301(a) and 36.204;

- e. failing or refusing to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, without demonstrating that making the modifications would fundamentally alter the nature of the service, program, or activity, in violation of 28 C.F.R. § 35.130(b)(7)(i); and 28 C.F.R. § 36.302;
- f. failing to administer Defendants' services, programs, and activities in the most integrated setting appropriate to the needs of persons with disabilities, in violation of 28 C.F.R. § 35.130(d); and 28 CFR 36.203;
- g. refusing to offer and provide appropriate individualized treatment and accommodations and/or modifications necessary to ensure full and equal opportunity for Plaintiff to participate in Defendants' programs, services, and activities;
- h. Depriving the Plaintiff of their honest services;
- i. Retaliating against Plaintiff in violation of 28 C.F.R. 35.134 (a & b);
- j. Retaliating against Plaintiff's family in violation of 28 C.F.R. 35.134 (b)
- k. Actually removing Plaintiff's auxiliary aid, after being noticed that Plaintiff, "losing access to these vehicles would be detrimental to [Plaintiff's] overall health and well being."
- l. failing to mitigate the harm that continues through present.

83. As a result of Defendant's actions, Plaintiff continues to experience detrimental loss to Plaintiff's health and well being.

COUNT II

SECTION 504 OF THE REHABILITATION ACT

84. Paragraphs 1 through 83 are re-alleged and reasserted as if fully set forth here.
85. Defendants are recipients of federal financial assistance. To whatever degree Defendant SERGEANT'S TOWING, INC., is operating as an agent/delegated party of the Defendants CITY OF PORTLAND, PORTLAND PARKING BUREAU, and PORTLAND POLICE BUREAU, their acts are binding upon the principal - CITY OF PORTLAND.
86. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, provides that no qualified individual with a disability, solely by the reason of his or her disability, may "be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
87. Plaintiff is a qualified individual with a disability.
88. Defendants have discriminated intentionally against Plaintiff by refusing appropriate individualized treatment and accommodations and/or modifications necessary to ensure full and equal opportunity for Plaintiff to participate in Defendants' programs in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.
89. Defendants, jointly and severally, stole/seized the plaintiff's auxiliary aid.

90. As a result of Defendants' actions and inactions, Plaintiff is a person aggrieved who has been injured and suffered pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, anxiety loss of enjoyment of life, and other non-pecuniary losses.

COUNT III

Due Process Clause of the 14th Amendment to the United States Constitution

91. Paragraphs 1 through 90 are re-alleged and reasserted as if fully set forth here.
92. Plaintiff claims the right of due process, and the right of equal application of the law.
93. Defendants CITY OF PORTLAND, PORTLAND POLICE BUREAU, and PORTLAND BUREAU of TRANSPORTATION have constructed their PARKING VIOLATION CITATION to contain access to a court hearing upon pre-payment of bail. This condition of access to court available only to those who can afford bail, excludes Plaintiff, and every other person that is absent available means to pay a bail to access "justice."
94. The USDOJ Document, signed by Vanita Gupta, in capacity as Principal Deputy Assistant Attorney General, Civil Rights Division of the United States Department of Justice, explains how conditioning access to court violates the due process: "State and local courts deprive indigent defendants of due process and equal protection if they condition access to the courts on payment of fines or fees. *See Boddie v. Connecticut*, 401 U.S. 371, 374 (1971) (holding that due process bars states from conditioning access to compulsory judicial process on the payment of court fees by those unable to pay)" and "This

unconstitutional practice is often framed as a routine administrative matter. For example, a motorist who is arrested for driving with a suspended license may be told that the penalty for the citation is \$300 and that a court date will be scheduled only upon the completion of a \$300 payment (sometimes referred to as a prehearing “bond” or “bail” payment)”

95. The Defendants have thus deprived any and everyone issued one of these PARKING VIOLATION CITATIONS of due process, equal protection, and the ability to trust in the impartiality and fairness of the judiciary. The Defendants hold those who receive PARKING VIOLATION CITATIONS as hostages, demanding ransom for any pretense of fairness.
96. Plaintiff, in captioning ex rel., attempts to be a voice - a third party relator (or next friend)- for all of those others who have been held hostage on the streets of the City of Portland, with ransom demanded before a purported pretense of fairness can be “considered”. (Quoting PARKING VIOLATION CITATION that says ““Your request for a hearing will not be considered without bail.””)
97. Plaintiff, and Plaintiff’s auxiliary aid, are being held hostage, with the ransom demanded absent due process or equal protection of the laws.
98. Plaintiff is with harm from Defendant’s actions in this matter, and is aggrieved, and the harm is ongoing with Plaintiff, and those ex rel.

COUNT IV

42 U.S.C. § 1983

99. Paragraphs 1 through 98 are re-alleged and reasserted as if fully set forth here.
100. Defendants, in all of the foregoing allegations, facts and counts, have acted to deprive Plaintiff of Plaintiff's rights under color of law, in violation of 42 U.S.C. § 1983.

Prayer for Relief

Paragraphs 1 through 100 are re-alleged and reasserted as if fully set forth here.

WHEREFORE, Plaintiff requests that this Court issue judgment and/or action against Defendants for the following:

101. Declare that Defendants have violated Title II of the ADA, 42 U.S.C. §12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, and/or Title III of the ADA, 42 U.S.C. §12181 *et seq.*, and its implementing regulation, 28 C.F.R. Part 36; and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, as applicable; and
102. Declare that any PARKING VIOLATION CITATIONS of Defendants CITY OF PORTLAND, PORTLAND BUREAU OF TRANSPORTATION, and PORTLAND POLICE BUREAU, that conditions access to court or a court hearing upon pre-payment of bail, is unconstitutional in relation with the due process and equal protection provisions of the United States Constitution; and
103. Declare that Defendants, through the acts alleged hereon, have deprived Plaintiff of Plaintiff's rights under color of law, in violation of 42 U.S.C. § 1983.
104. Declare that any and all persons affected by any PARKING VIOLATION CITATIONS of Defendants CITY OF PORTLAND, PORTLAND BUREAU OF

TRANSPORTATION, and PORTLAND POLICE BUREAU, that conditioned or conditions access to court or a court hearing upon pre-payment of bail, are entitled to a full and immediate refund of any and all fees paid for such PARKING VIOLATION CITATIONS; and

105. Enjoin Defendants CITY OF PORTLAND, PORTLAND BUREAU OF TRANSPORTATION, and PORTLAND POLICE BUREAU, their officers, agents and employees, and all other persons in active concert or participation with Defendants, as well as any successors or assigns, from issuing any further PARKING VIOLATION CITATIONS that condition access to court or a court hearing upon pre-payment of bail, to ensure that any alleged violators are with due process and equal protection protections guaranteed per the United States Constitution. **Because Plaintiff is with ongoing harm from Defendant's actions, Plaintiff asks the Court to issue an immediate emergency injunction order concerning this matter, and serve the same upon the Defendants. Plaintiff is with a reasonable likelihood of success on the merits of this case, Plaintiff (and the general public that avail themselves with the public right-of-way) is with increased and irreparable harm each day that this relief is not granted, Plaintiff continues to be exponentially disadvantaged (by Defendant's actions) without this relief, and granting this relief immediately is with a favorable impact upon public interest;** and
106. Enjoin Defendants, their officers, agents and employees, and all other persons in active concert or participation with Defendants, as well as any successors or assigns, from engaging in discriminatory policies and practices against

individuals based on their disabilities, and specifically from failing or refusing to take appropriate steps to ensure compliance with the requirements of Title II of the ADA, 42 U.S.C. § 12131 *et seq.*, and its implementing regulations, 28 C.F.R. Part 35; Title III of the ADA, 42 U.S.C. § 12181 *et seq.*, and its implementing regulations, 28 C.F.R. Part 36, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. **Because Plaintiff is with ongoing harm from Defendant's actions, Plaintiff asks the Court to issue an immediate emergency injunction order concerning this matter, and serve the same upon the Defendants. Plaintiff is with a reasonable likelihood of success on the merits of this case, Plaintiff is with increased and irreparable harm each day that this relief is not granted, Plaintiff continues to be exponentially disadvantaged (by Defendant's actions) without this relief, and granting this relief immediately is with a favorable impact upon public interest;** and

107. Order Defendants, their officers, agents and employees, and all other persons in active concert or participation with Defendants, as well as any successors or assigns, to modify their policies, practices, and procedures as necessary to bring them into compliance with Title II of the ADA, 42 U.S.C. § 12131 *et seq.*, and its implementing regulations, 28 C.F.R. Part 35; Title III of the ADA, 42 U.S.C. § 12181 *et seq.*, and its implementing regulations, 28 C.F.R. Part 36; and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and the due process and equal protection provisions of the United States Constitution; and

108. Restrain Defendants, their officers, agents and employees, and all other persons in active concert or participation with Defendants, as well as any successors or assigns, restrained from further retaliation, intimidation, coercion, threats, or other interference with Plaintiff's exercising of Plaintiff's rights under the ADA, and state that any violation of the Court's restraint is contempt of court. **Because Plaintiff is with ongoing harm from Defendant's actions, Plaintiff asks the Court to issue an immediate emergency restraining order concerning this matter, and serve the same upon the Defendants. Plaintiff is with a reasonable likelihood of success on the merits of this case, Plaintiff is with increased and irreparable harm each day that this relief is not granted, Plaintiff continues to be exponentially disadvantaged (by Defendant's actions) without this relief, and granting this relief immediately is with a favorable impact upon public interest; and**

109. Enjoin Defendants to immediately, and without delay, stop holding Plaintiff's auxiliary aid hostage, and immediately return Plaintiff's auxiliary aid to Plaintiff, in the same or better condition than when Defendants seized Plaintiff's auxiliary aid. **Because Plaintiff is with ongoing harm from Defendant's actions, Plaintiff asks the Court to issue an immediate emergency injunction order concerning this matter, and serve the same upon the Defendants. Plaintiff is with a reasonable likelihood of success on the merits of this case, Plaintiff is with increased and irreparable harm each day that this relief is not granted, Plaintiff continues to be exponentially disadvantaged (by**

Defendant's actions) without this relief, and granting this relief immediately is with a favorable impact upon public interest; and

110. Order the Defendants, their agents and successors in office, and all persons acting in concert with the Defendants to promptly remedy the demonstrated violations of Title II and Title III of the ADA and its implementing regulation, and mitigate harm to Plaintiff and Plaintiff's family, which assists Plaintiff with Plaintiff's disability; and
111. Order that Defendants federal financial assistance, of any and all forms, be immediately terminated, because of their refusal to comply with the Rehabilitation Act, Americans With Disabilities Amendments Act of 2008, and the due process and equal protection provisions of the United States Constitution; and
112. Assess a civil penalty against Defendants as authorized by 42 U.S.C. § 12188(b)(2)(C) to vindicate the public interest; and
113. To order, if applicable, a complete assessment from the United States Department of Justice, assessing the policies and practices of the Defendants CITY OF PORTLAND, PORTLAND POLICE BUREAU, and PORTLAND BUREAU OF TRANSPORTATION, which assessment produces agreements or orders for Defendants, where changes are necessary and expedient to comply fully with Federal law, as claimed here, and other places that the Court may deem prudent to assess and/or change, and at such time when assessments, and/or agreements are in place to ensure that Defendants no longer act absent compliance with Federal law as claimed hereon, then to restore their ability to

receive federal financial assistance. (This is to incentivize Defendant to act in a lawful manner before asking for, or receiving funds, of accord with the Rehabilitation Act).

114. To award compensatory damages to Plaintiff; and
115. To award Plaintiff attorney's fees and costs; and
116. Order such other appropriate relief as the interests of justice require.
- 117. Plaintiff requests that the court order as Sealed, for the viewing only of Parties, and the court, Exhibits "A" (Auxiliary Aid Letter), "C" (6-26-17 email response from DAVID GALAT), "D" (7-13-17 CEASE AND DESIST DEMAND EMAIL TO DAVID GALAT), and "G" (Letter from Plaintiffs counselors at Western Psychological), because these exhibits contain or could contain protected HIPAA information relating to Plaintiff.**

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

To the best of Plaintiff's reasonable information and belief, this complaint is conformable with Rule 11 of the Federal Rules of Civil Procedure. Respectfully submitted on this 27th day of September, 2017



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