

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MERCER COUNTY – CIVIL PART**

DEVON TYLER BARBER,

Plaintiff

v.

NEW JERSEY MOTOR VEHICLE COMMISSION,

Defendant

Docket No. **MER-L-002371-25**

Civil Action

**NOTICE OF APPLICATION
FOR ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINTS
(R. 4:52-1 *et seq.*; R. 4:69-1 to -6)**

I. INTRODUCTORY STATEMENT

1. Plaintiff, **Devon Tyler Barber**, respectfully submits this **Supplemental Certification of Good Cause, Memorandum of Law, and Certification of Service** in support of an application for **emergent and interim relief** in this action *in lieu of prerogative writs* pursuant to **R. 4:69-3** and **R. 4:52-1 to -2**.
2. This Court has jurisdiction under N.J. Const. art. VI, § 5, ¶ 4 and R. 4:69-1, because Plaintiff seeks review of final or quasi-final administrative action by a State agency.
3. Plaintiff seeks:
 - (a) a stay of the **New Jersey Motor Vehicle Commission's** suspension of his driving privileges under **Suspension Notice No. SUS S0340-00372-001558**;
 - (b) enforcement of the procedural protections afforded by **N.J.A.C. 13:19-1.2**; and

(c) limited declaratory guidance clarifying the constitutional boundaries of the State's authority to impose recurring registration and inspection fees upon private, non-commercial travel.

4. This submission is supported by Plaintiff's sworn certification of facts, the accompanying memorandum of law, and attached exhibits, and is intended to be read together with the **Verified Complaint in Lieu of Prerogative Writs** previously filed in this matter.
5. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 11th, 2025

s/ **Devon Tyler Barber**

DEVON TYLER BARBER

Pro Se Plaintiff

325 E. Jimmie Leeds Rd., Suite 7-333

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II. CERTIFICATION OF GOOD CAUSE

I, **Devon Tyler Barber**, of full age, certify and state:

6. I am the **pro se plaintiff** in the above-captioned matter. This Certification supplements my *Verified Complaint in Lieu of Prerogative Writs* filed **October 29 2025**, and is submitted pursuant to **R. 4:5A-2** and **R. 4:52-1** in support of injunctive and declaratory relief.
7. The **Defendant**, New Jersey Motor Vehicle Commission (“MVC”), issued **Suspension Notice No. SUS S0340-00372-001558**, effective **October 13 2025**, purporting to suspend my driver’s privileges for “driving while suspended” arising from a 2020 municipal-court matter that never resulted in such ticket or order. I received no prior notice or hearing.
8. I have been homeless and indigent throughout 2025. Notice was mailed to an address I could not occupy. I filed a timely **hearing request on October 22 2025** and **formal demand on October 28 2025** pursuant to **N.J.A.C. 13:19-1.2**, which provides that a timely request *stays* the proposed suspension. The MVC failed to acknowledge or docket that request.
9. I filed this prerogative-writ action to compel the MVC to perform its ministerial duty to docket and process the hearing request and to enjoin the unlawful suspension pending review.

The Track Assignment Notice dated **November 10 2025** assigned this case to **Track IV** before **Hon. Robert T. Lougy, J.S.C.**

10. This Certification is limited to factual matters within my personal knowledge. Legal arguments concerning constitutional or statutory interpretation are addressed in the accompanying Memorandum of Law.
11. For purposes of factual background, I note that the recurring registration and inspection fees at issue arise from my ownership of a privately used, non-commercial vehicle. I believe these fees function primarily as revenue measures rather than safety regulations, and I raise this concern for the Court's review.
12. This Certification is made in good faith. All statements are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.
13. This Certification further raises *good cause* to clarify the constitutional boundaries between **private, non-commercial travel**—a fundamental right—and **commercial motor-vehicle regulation**, which is a taxable privilege.
14. New Jersey requires all vehicle owners to pay annual registration, inspection, and plate-renewal fees to the MVC's *Revenue Processing Center*. These exactions function as continuous revenue measures rather than safety regulations, burdening non-commercial people and citizens who merely move about the State.
15. Other States, including **Montana (MCA § 61-3-562)**, have adopted permanent registration for non-commercial vehicles ≥ 11 years old, proving that safety and identification can be maintained without perpetual revenue extraction.
16. The **New Jersey Constitution** restricts taxation and delegation of revenue powers:

(a) **Art. VIII § 1 ¶ 1** – “Property shall be assessed for taxes under general laws and by uniform rules.”

(b) **Art. IV § 6 ¶ 2** – Prohibits special or local revenue laws regulating internal affairs of counties or towns.

Administrative agencies cannot impose recurring revenue obligations beyond legislative appropriation.

17. I respectfully ask this Honorable Court to (a) stay the MVC suspension; (b) declare that recurring registration and inspection fees, as applied to non-commercial private travel, exceed lawful delegation; and (c) urge legislative adoption of a permanent, non-commercial registration option modeled on Montana’s statute.

18. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 11th, 2025

s/ **Devon Tyler Barber**

DEVON TYLER BARBER

Pro Se Plaintiff

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III. MEMORANDUM OF LAW

A. Due Process and Property Interest in a Driver’s License

19. Once issued, a driver’s license constitutes a protected property interest. *Bell v. Burson*, 402

U.S. 535, 539–40 (1971). Suspension without a meaningful pre-deprivation hearing violates

the Fourteenth Amendment. New Jersey’s own precedent echoes this rule: *In re Suspension*

of Heller, 73 N.J. 292 (1977) (MVC must provide notice and hearing); *State v. Szima*, 70 N.J.

196 (1976).

20. Here, MVC imposed a 180-day suspension with no hearing, contrary to **N.J.S.A. 39:5-30** and

N.J.A.C. 13:19-1.2, which mandate an administrative process and stay upon request. This

deprives Plaintiff and the public of both mobility and livelihood without lawful procedure.

New Jersey courts consistently hold that “a driver’s license may not be suspended absent

notice and a fair opportunity to be heard.” *In re Kallen*, 92 N.J. 14, 24 (1983) (invalidating

MVC suspension imposed without adequate findings). Similarly, in *In re Garay*, 89 N.J. 104

(1982), the Court emphasized that even when statutory authority exists, due process requires

written notice specifying the factual basis for suspension and a reasonable chance to contest

it. MVC’s failure to docket Plaintiff’s timely hearing request contravenes those procedural

safeguards and renders the action arbitrary and capricious under *Campbell v. Dep't of Civil Serv.*, 39 N.J. 556 (1963).

B. Fundamental Right to Travel

21. The Supreme Court recognizes freedom of movement as a fundamental right implicit in the Constitution. *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969); *Kent v. Dulles*, 357 U.S. 116, 125 (1958). Although States may regulate for safety, they may not convert the right to locomotion into a perpetual fee-for-use privilege.
22. New Jersey recognizes the constitutional right to intrastate movement as implicit in Article I, Paragraph 1 of the State Constitution, which protects liberty “beyond those rights enumerated in the federal charter.” *Doe v. Poritz*, 142 N.J. 1, 99 (1995) (right to travel among communities is a component of personal liberty). Thus, administrative actions that unduly impede a citizen’s ability to move about the State must satisfy heightened scrutiny and demonstrate a direct nexus to legitimate safety regulation.

C. Constitutional Framework

23. The recurring registration and inspection fees imposed by the MVC raise questions of lawful delegation and revenue authority. The New Jersey Constitution provides that property shall be taxed only “under general laws and by uniform rules” (Art. VIII § 1 ¶ 1) and forbids special or local revenue laws regulating county or municipal internal affairs (Art. IV § 6 ¶ 2). The MVC’s current structure effectively converts regulatory compliance into a continuous revenue mechanism that burdens non-commercial vehicle owners.

D. Commerce Clause and Non-Delegation

24. Commercial motor-vehicle regulation falls within State police power when addressing transportation *for hire*. See *Mackey v. Montrym*, 443 U.S. 1 (1979) (upholding immediate suspension narrowly tailored to highway safety). But applying identical revenue schemes to purely private, non-commercial travel exceeds that purpose and violates **Art. VIII § 1 ¶ 1** of the New Jersey Constitution, which forbids revenue exactions not enacted as general taxation.

25. The non-delegation principle in New Jersey is anchored in *In re Regulation F-22 Office of Admin. Law*, 119 N.J. 341, 351 (1990), which limits agencies to powers “expressly or impliedly granted by the Legislature.” Revenue-raising measures that extend beyond regulatory cost recovery constitute taxation, which must originate in statute. See *City of Camden v. Kenny*, 336 N.J. Super. 557, 566 (App. Div. 2001) (fee impermissible where primary purpose is revenue generation). Here, annual registration and inspection charges are not tied to individualized safety costs but serve as recurring general-fund revenues, exceeding MVC’s delegated rulemaking authority.

E. Black’s Law Dictionary Definitions (5th & 12th edns.)

- **License:** permission by competent authority to do what would otherwise be unlawful.
- **Privilege:** a special legal immunity or benefit.
- **Right:** a power or demand inherent in a person.
- **Tax:** a charge imposed for revenue to public purposes.
- **Commerce:** intercourse or traffic for profit.
- **Traveler:** one who passes from place to place for business, pleasure, or instruction.

26. These definitions confirm the constitutional distinction between *a licensed privilege for commerce* and *a natural right of private travel*.

F. Analogous Authority and Policy Models

- 27.** Montana's permanent registration statute (MCA § 61-3-562) demonstrates a less restrictive, fiscally neutral model that satisfies both administrative identification and citizens' liberty. New Jersey could enact similar reform under its general taxing and police powers without burdening individual rights.
- 28.** Within New Jersey's framework, permanent or multi-year registrations are not foreign concepts: N.J.S.A. 39:3-4(b) authorizes multi-year registration of certain trailers and governmental vehicles, confirming that administrative feasibility already exists. By parity of reasoning, extending that model to non-commercial private vehicles would not undermine the State's safety regime but would relieve citizens of repetitive, non-regulatory fees inconsistent with *Kenny's* revenue-purpose test.

G. Equitable Relief Standard

- 29.** Under *Crowe v. De Gioia*, 90 N.J. 126, 132 (1982), preliminary injunctive relief is warranted when (1) there is a reasonable probability of success; (2) irreparable harm will result; (3) the balance of equities favors relief; and (4) the public interest supports it. Plaintiff satisfies all elements: an unlawful deprivation of liberty, ongoing suspension preventing employment, and a reform request aligned with constitutional governance.
- 30.** See also *Waste Mgmt. of N.J., Inc. v. Union Cnty. Utilities Auth.*, 399 N.J. Super. 508, 520 (App. Div. 2008) (irreparable harm presumed where agency acts ultra vires), and *Brown v. City of Paterson*, 424 N.J. Super. 176, 183 (App. Div. 2012) (balancing of equities favors citizens seeking to prevent continuing constitutional injury). Plaintiff's inability to work or secure housing due to an unlawful suspension readily satisfies these standards.

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IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, **Devon Tyler Barber**, respectfully requests that this Honorable Court:

31. Issue an Order to Show Cause with temporary restraints staying enforcement of

Suspension Notice No. S0340-00372-001558, pending further order of the Court, and

directing the New Jersey Motor Vehicle Commission (“MVC”) to maintain Plaintiff’s driving privileges in active status until a proper hearing is held;

32. Declare that the MVC’s failure or refusal to docket and process Plaintiff’s timely hearing

request, filed pursuant to **N.J.A.C. 13:19-1.2**, constitutes a denial of procedural due process under the **Fourteenth Amendment to the United States Constitution** and **Article I,**

Paragraph 1 of the New Jersey Constitution;

33. Direct the MVC to schedule and conduct a hearing on the suspension notice in accordance

with **N.J.A.C. 13:19-1.2** and the principles of due process set forth in *Bell v. Burson*, 402 U.S. 535 (1971), and *In re Suspension of Heller*, 73 N.J. 292 (1977);

34. Declare, in the alternative, that the MVC’s interpretation and enforcement of recurring

annual registration and inspection fees against private, non-commercial vehicle owners

operate primarily as revenue measures rather than bona fide safety regulations, and therefore

exceed the scope of the Commission's delegated administrative authority under the New Jersey Constitution, while recognizing that legislative clarification or reform may be warranted;

35. Respectfully recommend, should the Court find it appropriate, that the Legislature consider adopting a permanent non-commercial registration framework similar to **Montana Code § 61-3-562**, to balance administrative efficiency with citizens' constitutional rights to property and travel; and

36. Grant such further and other relief as the Court deems just, equitable, and consistent with the interests of justice.

37. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 11th, 2025

s/ **Devon Tyler Barber**

DEVON TYLER BARBER

Pro Se Plaintiff

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V. CERTIFICATION OF SERVICE (Electronic Only)

38. I certify that on **November 11th, 2025**, I served true and correct electronic copies (via email and simultaneous JEDS submission) of the **Verified Complaint in Lieu of Prerogative Writs** and this **Notice of Application for an Order to Show Cause with Temporary Restraints, Supplemental Certification, Memorandum of Law**, and the **Track Assignment Notice** upon the following parties, in compliance with the Track Assignment Notice and pursuant to R. 1:5-2 and R. 1:5-3:

- **Attorney General – Civil Matters:** NJAG.ElectronicService.CivilMatters@law.njoag.gov
- **MVC Driver Management/Suspensions:** mvcSuspensions@dot.nj.gov
- **MVC General Correspondence:** mvc.correspondence@dot.nj.gov
- **OAL Clerk's Office (courtesy copy):** OAL.ClerksOffice@oal.nj.gov via email and simultaneous JEDS submission, in accordance with **R. 1:5-2** and **R. 1:5-3**.

39. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 11th, 2025

s/ **Devon Tyler Barber**

DEVON TYLER BARBER, Pro Se Plaintiff

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VI. CONCLUSION

40. The MVC's present scheme converts a liberty into a taxable privilege. The Constitution draws metes and bounds around State power: the right to travel, to own property, and to move upon public ways cannot depend on annual purchase of permission slips from a revenue center. This Court, acting within its equitable jurisdiction, can halt the immediate harm and call upon the Legislature to restore lawful balance between public safety and individual freedom.

Respectfully submitted,

s/ Devon Tyler Barber

DEVON T. BARBER, Pro Se Plaintiff

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[PROPOSED] ORDER TO SHOW CAUSE WITH TEMPORARY RESTRAINTS

THIS MATTER having been opened to the Court by plaintiff, **Devon Tyler Barber**, appearing *pro se*, seeking an **Order to Show Cause** pursuant to R. 4:52-1 et seq. and R. 4:69-3 to stay enforcement of a driver’s license suspension issued by the New Jersey Motor Vehicle Commission (“MVC”) under Suspension **Notice No. S0340-00372-001558**, and the Court having read and considered plaintiff’s **Verified Complaint in Lieu of Prerogative Writs, Supplemental Certification of Good Cause, Memorandum of Law**, and other papers submitted, and for good cause shown;

IT IS on this ____ day of _____, 2025,

ORDERED as follows:

1. Temporary Restraints.

Defendant, New Jersey Motor Vehicle Commission, together with its officers, agents, servants, employees, and all persons acting in concert or participation with it, is temporarily restrained and enjoined from enforcing Suspension Notice No. S0340-00372-001558, or otherwise treating plaintiff’s New Jersey driving privileges as suspended, pending further order of this Court.

2. Status of Driving Privileges.

Pending the return date of this Order, unless otherwise directed by the Court, defendant MVC shall treat plaintiff's driving record and privileges as active and valid.

3. Return Date / Show Cause.

Defendant MVC shall appear and show cause before this Court on the ____ day of _____, 2025, at _____.m., or as soon thereafter as counsel may be heard, at the Mercer County Civil Courthouse, 175 South Broad Street, Trenton, New Jersey, why an Order should not be entered:

- a. Declaring that MVC's failure to docket and process plaintiff's hearing request violates N.J.A.C. 13:19-1.2 and denies plaintiff procedural due process under the Fourteenth Amendment to the United States Constitution and Article I, Paragraph 1 of the New Jersey Constitution;
- b. Directing MVC to schedule and conduct an administrative hearing on the proposed suspension in accordance with N.J.A.C. 13:19-1.2 and applicable due-process principles;
- c. Declaring that recurring annual registration and inspection fees, as applied to private, non-commercial vehicles, operate primarily as revenue measures and, to that extent, exceed MVC's delegated administrative authority under the New Jersey Constitution;
- d. Respectfully recommending, should the Court find it appropriate, that the Legislature consider adopting a permanent non-commercial registration framework similar to Montana Code § 61-3-562; and
- e. Granting such further and other relief as the Court deems just and equitable.

4. Service.

If plaintiff's pending application to proceed in forma pauperis is granted, the Court or Clerk shall serve a copy of this Order to Show Cause, together with the Verified Complaint in Lieu of Prerogative Writs, Supplemental Certification of Good Cause, Memorandum of Law, and supporting exhibits, upon the New Jersey Motor Vehicle Commission and the Attorney General pursuant to R. 1:5-2 and R. 1:13-7, at public expense.

5. In the interim, plaintiff shall transmit courtesy electronic copies of the same materials to:
- New Jersey Attorney General – Civil Matters:
NJAG.ElectronicService.CivilMatters@law.njoag.gov
 - MVC Driver Management/Suspensions: mvcuspensions@dot.nj.gov
 - MVC General Correspondence: mvc.correspondence@dot.nj.gov
6. Such courtesy transmission by email and JEDS electronic filing, shall be deemed good and sufficient provisional notice pending formal service by the Court, pursuant to R. 1:5-2 and applicable e-service practices.

7. Opposition / Reply Schedule.

Defendant shall file and serve any written opposition to the relief sought on or before the ____ day of _____, 2025. Plaintiff may file and serve any reply on or before the ____ day of _____, 2025.

8. Disposition.

The Court may, in its discretion, decide the application on the papers submitted or after oral argument, as determined by the assigned judge, Hon. Robert T. Lougy, J.S.C.

9. Continuing Effect of Restraints.

The temporary restraints set forth in Paragraph 1 of this Order shall remain in full force and effect pending further order of the Court.

10. Service of Order.

A copy of this Order shall be served upon all parties within one (1) day of entry.

HON. ROBERT T. LOUGY, J.S.C.

Superior Court of New Jersey, Law Division
Mercer County

Opposition due: _____

Reply due: _____

Return date: _____

Barber v. New Jersey MVC (MER-L-002371-25) – Service of Verified Complaint, Notice of Application for OSC, and Track Assignment Notice

From Tylerstead@ProtonMail.com

To NJAG.ElectronicService.CivilMatters@law.njoag.gov, mvcsuspensions@dot.nj.gov,
mvc.correspondence@dot.nj.gov

CC OAL.ClerksOffice@oal.nj.gov

Date Tuesday, November 11th, 2025 at 1:06 PM

Dear Counsel and Representatives,

Pursuant to **R. 1:5-2**, **R. 1:5-3**, and the **Track Assignment Notice** issued November 10, 2025, I hereby serve electronic copies of the following filings in *Barber v. New Jersey Motor Vehicle Commission*, Docket No. **MER-L-002371-25** (Superior Court of New Jersey, Law Division – Mercer County, Track IV):

1. **Verified Complaint in Lieu of Prerogative Writs (filed October 29, 2025)**
2. **Notice of Application for Order to Show Cause with Temporary Restraints, Supplemental Certification, and Memorandum of Law (filed November 11, 2025)**
3. **Track Assignment Notice (issued November 10, 2025)**

These materials are being transmitted **by email and simultaneous JEDS submission** for purposes of service and docket record. Courtesy copy is provided to the Office of Administrative Law.

Please confirm receipt by return email or read-receipt acknowledgment.

Respectfully,

Devon Tyler Barber

Pro Se Plaintiff

325 E. Jimmie Leeds Rd., Suite 7-333

Galloway, NJ 08205

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Attachments:

- DC_PREROGATIVE_WRITS_EF-3743041.pdf
 - Notice_of_Application_for_Order_to_Show_Cause.pdf
 - TrackAssignment.pdf
-

Sent with [Proton Mail](#) secure email.

11/11/25, 1:06 PM

Sent | dTb33@pm.me | Proton Mail

5.51 MB 3 files attached

Notice of Application for Order to Show Cause.pdf 802.48 KB

TrackAssignment.pdf 26.32 KB

DC PREROGATIVE WRITS_EF-3743041.pdf 4.71 MB