

**FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO**

THE HONORABLE DAVID COSS, RAUL AARON LARA MARTÍNEZ, CHARLIE MALDONADO JR., ELIZABETH LARA, EULALIA ROBLES, DRUCILLA HAGER and REYNA CARMONA PÉREZ—all residents of New Mexico on behalf of themselves and individuals similarly situated, and THE NEW MEXICO COALITION TO END HOMELESSNESS and SOMOS UN PUEBLO UNIDO, New Mexico membership-based organizations representing low-income individuals;

Plaintiffs,

vs.

JOHN MONFORTE, in his official Capacity as the acting Secretary of the New Mexico Taxation and Revenue Department, ALICIA ORTIZ, in her official capacity as acting director of the Motor Vehicle Division of the Taxation and Revenue Department; and the NEW MEXICO TAXATION AND REVENUE DEPARTMENT, an executive agency;

Defendants.

No. D-101-CV-2018-00302
District Judge David K. Thomson

STIPULATED ORDER

THIS MATTER comes before the Court upon agreement between the Parties. Plaintiffs filed a Complaint for Injunctive Relief on January 29, 2018. On May 3, 2018, Plaintiffs filed a Motion for a Preliminary Injunction and Temporary Restraining Order. The Court held a hearing on Plaintiffs' Motion for a Temporary Restraining Order on May 11, 2018. On May 14, 2018, the parties filed a Joint Motion for a Stay, pending the outcome of negotiations. The Court

granted the parties' Joint Motion on May 15, 2018. The parties met on May 14, 2018, June 22, 2018, and July 26, 2018. Having been advised of the agreement between the parties, the terms of which are stated herein, the Court FINDS:

1. On June 26, 2018, Defendants published emergency regulations that require MVD to issue a Driving Authorization Card and Identification Card not intended for federal purposes ("non-federally compliant ID card") to applicants who provide proof of New Mexico residency, identity and age.
2. On June 26, 2018, Defendants issued a notice of proposed rulemaking to permanently adopt the regulatory changes implemented on an emergency basis. A public hearing on the regulatory changes was held on August 1, 2018.
3. On June 26, 2018, Defendants provided Plaintiffs with a revised handout for the general public that explains the revised eligibility criteria for DACs and non-federally compliant ID cards, Interim Procedures for Issuing a DAC and non-federally compliant ID cards, and a posting for local offices that explains the right to appeal a denial of a MVD credential. Plaintiffs provided feedback on the materials on June 27, 2018.
4. Within 60 days after the entry of this Order, MVD will exclusively use the documents described in paragraph 3 as the basis for updating all handouts, manuals and other memorandums, along with training MVD staff and contractors on the requirements to issue a DAC or a non-federally compliant ID card. The MVD will post the document in a conspicuous location that explains the right to a fair hearing in all MVD offices and MVD contractor offices that issue DACs and non-federally compliant ID cards. The MVD will provide all materials in English and Spanish.

5. Within 30 days after the entry of this Order, Defendants will implement a revised affirmation that applicants must make under NMSA 1978, § 66-5-9(E). The revised affirmation will state: “I acknowledge that I am applying for a driving authorization card and I understand that a driving authorization card may not be valid for certain federal purposes potentially beginning on October 1, 2020.”
6. Within 60 days after the entry of this Order, Defendants will provide to Plaintiffs’ counsel draft revisions to standard form letters used to notify applicants that they have been denied a DAC or a non-federally compliant ID card on the basis of a fingerprint background check to include: (a) reason for the denial, (b) evidence the applicant can provide MVD to demonstrate the basis of ineligibility has been resolved, and (c) information about how to appeal a denial and the timeframe for doing so. Plaintiffs will provide comments on the draft revisions within two weeks of receiving the proposed notice. Defendants will then implement a finalized notice that includes the elements described above.
7. Within 60 days after the entry of this Order, Defendants will also mail this notice to the address of record of New Mexicans previously denied a DAC or a non-federally compliant ID card on the basis of a fingerprint background check who are still without a DAC or a non-federally compliant ID card.
8. Within 60 days after the entry of this Order, Defendants will remove all information and materials inconsistent with the emergency regulations from its website and local offices.
9. Within 60 days after the entry of this Order, Defendants will provide Plaintiffs with proposed permanent changes to standard form documents used by Defendants to explain the eligibility criteria for DACs or non-federally compliant ID cards, including content on

the MVD website and worker training. Plaintiffs will provide comments on the proposed documents within three weeks of receiving the documents from MVD.

10. Within 60 days after the final regulation is adopted, MVD will train all workers, including state workers and contractors, on the requirements to issue a DAC and non-federally compliant ID card in the final regulations and the right to appeal the denial of any MVD credential, pursuant to NMSA 1978, § 66-2-17(A).
11. Within 60 days after the final regulation is adopted, Defendants will make permanent changes to the MVD IT system—known as Tapestry—to ensure Defendants issue DACs and non-federally compliant ID cards when applicants provide proof of identity and age.
12. Within 30 days after the final regulation is adopted, Defendants will undertake a public information campaign in order to inform the general public about the changes to document requirements for the DAC and the non-federally compliant ID card, along with changes to other policies and procedures. The public information campaign may include PSAs, talk radio, television, English and Spanish-language media and potentially other means to disseminate this information and agreed to share the language and documents used for these purposes with Plaintiffs' Counsel for review.
13. Once the terms of this agreement have been fully implemented by Defendants, the parties will jointly move for dismissal of this action with prejudice.

Accordingly, the Court ORDERS and CONCLUDES:

1. The Court ORDERS the parties to comply with the terms of the agreement as set forth herein.
2. Until Defendants have fully implemented the terms of the agreement between the parties as set forth herein and the parties jointly move for dismissal of this action with prejudice,

the Court shall have continuing jurisdiction over this matter to resolve disputes and enforce the terms of this agreement.

SO ORDERED.



The Honorable David K. Thomson
DDDM

Respectfully submitted by:

/s/ David H. Urias

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