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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

DESHAWN BRIGGS AND
MARK PASCALE,
on behalf of themselves and all others
similarly situated, and
TAJA COLLIER,

Plaintiffs,

v.

BILL MONTGOMERY, in his official
capacity as County Attorney of Maricopa
County, Arizona;
MARICOPA COUNTY, ARIZONA;
and
TREATMENT ASSESSMENT
SCREENING CENTER, INC.;

Defendants.

Case No. _____

**CLASS ACTION COMPLAINT
AND JURY TRIAL DEMAND**

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* Admitted solely to practice law in New York; not admitted in the District of Columbia. Practice is limited pursuant to D.C. App. R. 49(c)(8), with supervision by Premal Dharia and Alec Karakatsanis, members of the D.C. Bar.

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PRELIMINARY STATEMENT

1. The Maricopa County Attorney's Office (MCAO) and the Treatment Assessment Screening Center (TASC) jointly operate a possession of marijuana diversion program¹ that penalizes the poor because of their poverty.

¹ This diversion program is referred to in this Complaint as "the MCAO-TASC marijuana diversion program," "the marijuana diversion program," and at times, simply "the program."

2. In a “diversion” program, participants undergo a period of supervision and must meet certain requirements to avoid criminal prosecution and conviction.

3. The programs are “a functional equivalent of a sentence to pretrial probation . . . and [are] staffed with paraprofessionals overseeing individuals in what [is] in effect a probationary-type of supervision and control.”²

4. In principle, the programs are “intended to relieve overburdened courts and crowded jails, and to spare low-risk offenders from the devastating consequences of a criminal record.”³

5. But in Maricopa County, they serve another purpose: to make money for those who operate the program, including the Maricopa County Attorney’s Office.⁴

6. In the past decade, MCAO has received 15 million dollars in revenue from diverting threatened prosecutions to TASC.

7. The length of time a person spends in the diversion program and whether the person ultimately completes the program and avoids felony criminal prosecution depends on how much money she has.

2 S. Rep. No. 93–1021, at 36–37 (1974) (cited by *United States v. HSBC Bank USA, N.A.*, 863 F.3d 125, 143 (2d Cir. 2017) (Pooler, J., Concurring)).

3 Shalia Dewan & Andrew W. Lehren, *No Money, No Mercy: After a Crime, the Price of a Second Chance*, N.Y. Times (Dec. 12, 2016), <https://www.nytimes.com/2016/12/12/us/crime-criminal-justice-reform-diversion.html>.

4 See Megan Cassidy, *If Prop. 205 passes, Maricopa County Attorney’s Office Funds From Marijuana Diversion Program Would Dry Up*, The Republic (Nov. 2, 2016), <https://www.azcentral.com/story/news/local/phoenix/2016/10/26/prop-205-marijuana-diversion-tasc-dry-up-county-attorney-bill-montgomery-millions/92795924>; Ray Stern, *If Prop 205 Passes, the Maricopa County Attorney’s Budget is Likely to Take a Hit*, Phoenix New Times (Oct. 31, 2016), <https://www.phoenixnewtimes.com/news/if-prop-205-passes-the-maricopa-county-attorneys-budget-is-likely-to-take-a-hit-8782184>; Ray Stern, *Potential Marijuana Legalization in Arizona Threatens TASC DRUG Treatment Firm’s Funding*, Phoenix New Times (Jan. 26, 2016), <https://www.phoenixnewtimes.com/news/potential-marijuana-legalization-in-arizona-threatens-tasc-drug-treatment-firms-funding-7999610>.

8. Participants in the marijuana diversion program must pay a substantial fee of \$950 or \$1,000, as well as \$15 or \$17 for drug and alcohol tests up to four times each week, in order to complete the program and avoid felony criminal prosecution.

9. The program is two-tiered: people who meet program requirements—completing a three-hour drug education seminar and routine drug and alcohol testing—and are wealthy enough to pay the program fees complete the program in 90 days and are no longer subject to felony criminal prosecution.

10. But participants who cannot pay the program fees are forced to stay in the program for at least six months or until they can pay off the money owed to MCAO and TASC, even if they have satisfied every program requirement other than payment.

11. During the “pay-only”⁵ period, participants are subject to all the requirements of the diversion program.

12. This includes reporting to a TASC location, as often as three to four times per week, so that their urine can be collected and tested.

13. Participants who remain on diversion solely because of their inability to pay program fees must also continue to pay \$15 or \$17 each time they are required to submit to a drug and alcohol test.

14. The perverse result is that poor people are ultimately charged more money—potentially hundreds of dollars more—than are similarly-situated participants who can afford to pay to finish the program in three months.

⁵ “Pay-only” refers to a period of criminal supervision during which the person is supervised only because she has not paid all of her debt. This “extremely muscular form of debt collection,” which masquerades as supervision, is becoming increasingly common. Human Rights Watch, *Profiting From Probation: America’s ‘Offender Funded’ Probation Industry* (2015), <https://www.hrw.org/report/2014/02/05/profitting-probation/americas-offender-funded-probation-industry>; see also Lee Romney, *Private Diversion Programs are Failing Those Who Need Help the Most*, *Reveal* (May 31, 2017), <https://www.revealnews.org/article/private-diversion-programs-are-failing-those-who-need-help-the-most>.

15. They also remain subject to felony criminal prosecution during the additional time they are forced to remain on the diversion program.

16. In addition, participants are not allowed to complete certain program requirements if they cannot afford to pay for them.

17. For example, if a participant cannot pay the \$15 or \$17 fee for a drug and alcohol test, she is not allowed to take the required test at all.

18. Therefore, if a participant reports for a drug and alcohol test without the required fee, she will be turned away and can be referred for felony prosecution for failing to complete a mandatory drug and alcohol test.

19. In other words, an unpaid drug and alcohol test is a failed test.

20. If a participant misses too many drug and alcohol tests—even if she missed them solely because she could not afford to pay for them—she will be failed out of the diversion program and prosecuted for felony possession of marijuana.

21. MCAO and TASC enforce these policies even when they know that diversion participants are poor or even homeless, and even when they know that participants are sacrificing basic necessities to pay fees.

22. Diversion participants who alert TASC employees that they cannot afford the required fees are told that they will be failed from the program if they do not pay and to do whatever it takes to get the money.

23. For example, Plaintiff Marc Pascale is a 60-year-old man with degenerative disc disease, which has left him physically unable to work.

24. TASC refused to waive his program and drug and alcohol testing fees even after he repeatedly told them that he could not afford to pay the fees.

25. Mr. Pascale's case manager repeatedly told to borrow money to pay the fees or else he would fail the program, lose the money he already paid in program and drug and alcohol testing fees, and be prosecuted for felony criminal possession of marijuana.

26. Plaintiff Taja Collier emailed her case manager at TASC to tell her that she was homeless and could not afford to pay for drug and alcohol testing.

27. Ms. Collier's case manager responded that if she did not test, she would be violated and her case would be sent back to court, where she would be prosecuted for felony criminal possession of marijuana.

28. As a result, Ms. Collier sold her plasma to pay for drug and alcohol tests.

29. Plaintiffs bring this civil rights action pursuant to 42 U.S.C. § 1983 to redress violations of named Plaintiffs' and class members' rights under the Fourth and Fourteenth Amendments of the United States Constitution.

30. Named Plaintiffs Deshawn Briggs and Mark Pascale, as well as the class members whose interests they represent, seek monetary damages against Defendants for violation of these rights.

31. Plaintiff Taja Collier seeks monetary damages and injunctive relief on her own behalf.

PARTIES

Plaintiffs

32. Plaintiff **Deshawn Briggs** is a 28-year-old African American man. He is a resident of Maricopa County, Arizona. Mr. Briggs spent six months in Defendants' pretrial diversion program solely because he was unable to pay the program fees within 90 days. He represents himself and a class of similarly situated people subject to Defendants' diversion program.

33. Plaintiff **Marc Pascale** is a 60-year-old white man. He is a resident of Maricopa County, Arizona. Mr. Pascale spent seven and a half months in Defendants' pretrial diversion program solely because he was unable to pay the program fees in three months. He represents himself and a class of similarly situated people subject to Defendants' diversion program.

34. Plaintiff **Taja Collier** is a 21-year-old African American woman. She is a resident of Maricopa County, Arizona. Ms. Collier was willing to meet all diversion

requirements, but she could not afford to pay for drug and alcohol testing, particularly during a month when she was homeless and sleeping in parks. After Ms. Collier could not afford to pay for several drug and alcohol tests, she failed diversion and was prosecuted for felony possession of marijuana. Once this prosecution resumed, Ms. Collier was once again diverted into Defendants' program. Ms. Collier brings this suit on her own behalf.

Defendants

35. Defendant **Bill Montgomery** is the elected County Attorney for Maricopa County, Arizona. Defendant Montgomery is the chief official responsible for the enforcement and prosecution of felonies within Maricopa County. Defendant Montgomery is also responsible for the operating and administering the deferred prosecution programs in Maricopa County. Defendant Montgomery is the final policymaker for Maricopa County on matters relating to diversion programs. He is sued in his official capacity.

36. Defendant **Maricopa County, Arizona** is a political subdivision formed and designated as such pursuant to Title 11 of the Arizona Revised Statutes. Defendant Maricopa County can sue and be sued in its own name. Maricopa County is liable for the practices and policies of Defendants Montgomery and TASC. The County has and continues to acquiesce in the administration of the TASC drug diversion program, as described in this Complaint.

37. Defendant **Treatment Assessment Screening Center** ("TASC") is a private, non-profit, 501(c)(3) corporation headquartered in Phoenix, Arizona. Defendant TASC has and continues to contract with Maricopa County to operate, administer, and supervise the marijuana drug diversion program. Defendant TASC supervises all people whose prosecution for simple possession of marijuana has been diverted. Defendant TASC acts under the color of law in its administration and supervision of the County's marijuana drug diversion program.

JURISDICTION

38. This action arises under 42 U.S.C. § 1983 and the Constitution of the United States. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.

39. Venue is proper under 28 U.S.C. § 1391(b). All Defendants' official places of business are located within this District. A substantial part of the events or omissions giving rise to the claims occurred in this District.

STATEMENT OF FACTS

I. Defendants' Unlawful Policies

Marijuana Possession Prosecutions in Maricopa County

40. In Arizona, possession of any amount of marijuana—even trace amounts—can be prosecuted as a felony.⁶

41. Defendant County Attorney Bill Montgomery has aggressively opposed legalization measures as well as efforts to reduce simple possession of marijuana to a misdemeanor.

42. In 2016, Defendant Montgomery successfully advocated against the passage of Proposition 205, a ballot initiative that would have made recreational marijuana use legal in Arizona.

43. Montgomery wrote a number of opinion articles and participated in public debates attacking the initiative and advocating for its failure.

44. During a public debate on marijuana legalization, Defendant Montgomery told a Vietnam veteran, who admitted to using medical marijuana for back pain and occasional recreation use, "I have no respect for you. [Y]ou're an enemy."⁷

45. Defendant Montgomery has also worked to narrow Arizona's medical marijuana laws.

⁶ Arizona is the strictest state in America in terms of enforcing marijuana possession: It is the only state in the country where any amount of marijuana can draw a felony charge on the first offense.

46. For example, when Defendant Montgomery learned that doctors were able to stop a five-year-old's seizures by using a marijuana extract, he threatened the child's parents with felony prosecution, arguing that extracts were not covered by the state's medical marijuana allowance.⁸

47. Drug possession charges represent an overwhelming proportion of the charges filed by MCAO. Although drug related arrests make up only 11.73 percent of all arrests, drug possession charges account for 45.43 percent of all charges filed by the MCAO.

48. Possession of marijuana is the third most commonly prosecuted offense in Maricopa County, and it amounts to fifteen percent of total prosecutions there.⁹

49. Possession of drug paraphernalia—including marijuana paraphernalia, which can result in referral to the MCAO-TASC diversion program—was the most commonly prosecuted offense in Maricopa County, making up 22.7 percent of prosecutions.¹⁰

50. Defendants Montgomery and MCAO have made more 15 million dollars in the past decade from diverting threatened prosecutions to TASC—and more than three-quarters of cases referred to TASC were diverted from threatened felony prosecutions of marijuana possession.

The Possession of Marijuana Diversion Program

51. For most people who are arrested in Maricopa County for simple possession of marijuana, the only way to avoid a felony criminal prosecution is to complete a diversion program offered by MCAO.

⁸ Evan Wyloge, "Court rules medical marijuana patients can use extracts," *Arizona Capitol Times* (Mar. 22, 2014), <https://azcapitoltimes.com/news/2014/03/22/az-medical-marijuana-patients-can-use-cannabis-extract-court-rules-bill-montgomery>.

⁹ See Maricopa County Attorney's Office, 2015 Annual Report XYZ, *available at* cite.

¹⁰ *Id.*

52. To operate, administer, and supervise participants in the program, MCAO has contracted with TASC, a private non-profit company.

53. People arrested for simple possession of marijuana or marijuana paraphernalia can enter the diversion program in two ways: before or after criminal charges are filed.

54. People who enter into the marijuana diversion program “post-filing” have charges filed against them prior to enrolling in the program.

55. The charges are suspended while the person completes the program.

56. If the person successfully completes the program, MCAO dismisses the case.

57. If the person fails to complete the program, MCAO reinstates prosecution.

58. People can also enter the program “pre-filing” or before any criminal charges are filed in court.

59. People who enter the marijuana diversion program “pre-filing” are sent a letter from MCAO.

60. The letter informs the person that she is facing class 6 felony charges and offers two options: criminal prosecution or the TASC marijuana diversion program.

61. The letter warns, “If convicted of a class 6 felony, you could receive a maximum sentence of 2 years in prison and a maximum fine of \$150,000 plus 80% surcharge.”

62. The letter also warns that a class 1 misdemeanor conviction could result in “a maximum sentence of six months in jail and a maximum fine of \$2,500.00 plus 80% surcharge.”

63. The threats in this letter are false.

64. Proposition 200, an Arizona law passed in 1996, prohibits the possibility of jail or prison time for the first or second offense of simple possession of marijuana.

65. Instead, the law requires drug treatment and a maximum penalty of probation for any person convicted of a first or second offense.

66. According to MCAO’s policy and custom, the pre-filing diversion program generally only includes people with no prior convictions.

67. After delivering these warnings, the letter then explains the basic requirements of the marijuana diversion program and provides a deadline and contact information to sign up for the program.

68. If a person in the “pre-filing” category completes the diversion program, MCAO will not file charges against her.

69. Failing the program results in criminal prosecution.¹¹

70. Participants who do not complete the diversion program and whose cases are prosecuted have little hope of avoiding felony criminal prosecution and conviction because people who enroll in the marijuana diversion program—whether pre- or post-filing—are first required to sign a statement admitting their guilt.

71. A TASC employee tells participants exactly what to write in the statement of facts.

72. The following information must be written into the statement:

- a. Date and location of the offense;
- b. The full name of the substance possessed;
- c. That the participant possessed a usable amount of the substance;

and

- d. The facts of the offense, which must read, “the [name of the drug] was found in [where the drug was found] in my possession.”

73. The admission in the statement of facts can be used against a person if she fails to complete the marijuana diversion program and is criminally prosecuted. *See State v. Gill*, 242 Ariz. 1, 391 P.3d 1193 (2017) (holding that written admission contained in statement of facts and obtained by TASC representative is admissible at trial).

¹¹ When a person in the pre-filing group fails diversion, the prosecutor will file charges in the case. When a person in the post-filing group fails diversion, the prosecutor will move to reinstate the prosecution.

The Cost of Avoiding Prosecution

74. Once enrolled in the marijuana diversion program, the requirements for the pre- and post-filing participants are the same.
75. And for both groups of participants, avoiding prosecution costs money.
76. To complete the program, participants must:
 - a. Pay program fees—\$950 or \$1,000—in full;
 - b. Pay for and pass routine drug and alcohol tests for 90 days; and
 - c. Complete a three-hour drug education seminar.
77. The mandatory \$950 or \$1000 program fee includes:
 - a. \$150 admission fee;
 - b. \$650 “drug fund” fee;
 - c. \$150 TASC fee; and
 - d. \$50 booking fee, which applies only to participants who were arrested and booked.
78. All of these fees must be paid in person by debit card or with a money order; participants are not allowed to pay by any other means, including with credit or cash.
79. Defendants require that participants pay the \$150 admission fee at the program orientation.
80. If a participant is unable to pay the \$150 admission fee at orientation because she cannot afford it, Defendants allow her to pay \$75 at orientation and the other \$75 during the program.
81. If a participant is allowed to attend orientation without making a payment up front, she may be told to return with the money the same day or be failed from the program and face felony prosecution.
82. In addition to the \$950 or \$1,000 in fees, participants must pay to take drug and alcohol tests at TASC.

83. Each drug and alcohol test costs \$15 or \$17, depending on the method of payment.

84. Participants are called to drug test at least once—and often multiple times—each week.

85. Records obtained as part of the preliminary investigation for this lawsuit revealed that participants may be required to test as many as nine times per month.

86. Thus, on top of the \$1,000 in program fees, diversion participants pay at least \$60—but up to \$135—each month for drug and alcohol tests.

87. Participants who complete the three program requirements—including full payment of fees—within 90 days are deemed to have successfully completed the program and upon completion are no longer subject to felony criminal prosecution.

88. However, a matter of policy, practice, and custom, people who cannot afford to pay the program fees in full within three months are not released from the program—even if they meet program requirements and have never tested positive for marijuana (or any other drug, including alcohol).

89. Instead, they must remain in the supervision program for a minimum of six months.

90. If they are not able to pay the program fees by the end of six months, they must remain in the program until they do.

91. Defendants do not assess a person's ability to pay before refusing to consider her for program completion after three months solely because she has not finished paying the required fees.

92. Nor do Defendants assess a person's ability to pay before it requires her to remain on diversion until all fees are paid.

93. People who are forced to stay on diversion solely because they cannot afford to pay program fees must continue to submit to one or more drug and alcohol tests weekly—under the threat of criminal prosecution.

94. They must also complete all of the requirements attendant to those tests.

95. For example, these participants must call TASC every day—or check a phone application—seven days a week, to determine whether they are required to report to a TASC location during a certain time period that day so that TASC can collect and test their urine.

96. If a participant does not call daily, this can be counted as a missed drug and alcohol test and she can be sanctioned, which could potentially result in felony prosecution.

97. Participants are also not permitted to drink “excessive amounts of fluids,” since this can dilute a urine sample.

98. People who remain on diversion because they cannot afford to pay program fees are also still forced to pay \$15 or \$17 for each drug and alcohol test.

99. As a result, these participants may ultimately have to pay hundreds of dollars more than people wealthy enough to pay the \$950 or \$1,000 program fee within three months—in addition to remaining subject to felony criminal prosecution for months longer.

Defendants’ Refusal to Waive Fees for the Poor

100. As a matter of policy, practice, and custom, Defendants do not reduce or waive the \$950 or \$1,000 program fee for any person, regardless of financial circumstance.

101. Defendants contend that they allow for reductions of drug and alcohol testing fees to \$7 instead of \$15 per test for participants who cannot afford them—but these reductions are almost never granted in practice.

102. At the outset, Defendants do not assess participants’ ability to pay before charging them in full for tests.

103. But even when Defendants are aware that a participant is indigent and unable to pay without sacrificing basic necessities, Defendants require the participant to pay the full \$15 or \$17 to test.

104. One TASC employee interviewed by investigators for undersigned counsel stated that reduced drug and alcohol testing fees are reserved for people who can demonstrate that they have basically zero income.

105. Another TASC employee explained that fee reductions are “very difficult” to get and that “it rarely happens.”

106. As one TASC employee explained, drug and alcohol testing is “strictly fee for service.”

107. When participants tell TASC case managers that they are struggling to pay, the case managers recommend they borrow money from friends or family because they will be failed from the program and prosecuted if they do not pay.

Defendants Do Not Allow Participants to Complete Program Requirements Unless They Pay for Them

108. As a matter of policy, practice, and custom, Defendants do not allow participants to complete certain program requirements unless they can afford to pay for them.

109. For example, Defendants will not allow participants to take mandatory drug and alcohol tests unless they can pay for it at the time of the test.

110. Because of these policies, poor people are forced to extend their time on the program for failing to fulfill program requirements—solely because they could not afford to pay for them.

111. People who cannot afford to complete these requirements also fail the program altogether.

112. For example, missed drug and alcohol tests are counted as “violations”—even when a person only missed the test because she could not afford to pay for it.

113. A person who accrues too many of these violations will be failed by TASC and referred to the MCAO for prosecution.

114. When this happens, a person faces felony prosecution solely because of her inability to pay.

115. No one at TASC assesses a person's ability to pay before referring her for prosecution because she did not pay for drug and alcohol tests.

116. Nor does anyone at MCAO assess ability to pay before prosecuting people who have failed diversion solely because of their inability to pay.

The "User-Funded" Model

117. Defendants MCAO and TASC advertise the diversion program as "user-funded."

118. According to MCAO "user-funded" means that "the [person entering the program] typically bears the costs of the initial assessment and the assigned treatment."

119. MCAO's brochure notes that "defendants ... bear the costs of the program."

120. Defendant TASC's website notes that the diversion program "is fully funded by the clients we serve."

121. Defendant TASC is responsible for collecting fees from the people enrolled in the diversion program.

122. Defendant TASC keeps a portion of the money it collects.

123. The \$650 "drug fund fee" that Defendant TASC collects from each participant is deposited to MCAO.

124. MCAO has discretion to use this money to administer its deferred prosecution programs. *See* Ariz. Rev. Stat. § 11-363.

125. MCAO, however, does not publicly disclose how it spends the money it receives from the program.

126. In addition to collecting fees, the Contract between Defendants MCAO and TASC makes Defendant TASC responsible for most of the day-to-day operation of the possession of marijuana diversion program.

127. This includes administering drug and alcohol tests, tracking participants' attendance and participation, and determining whether a participant has completed the required program requirements.

128. MCAO's duties under the Contract are to assess the appropriateness of referrals to the program and to send qualified participants to Defendant TASC.

129. The Contract does not require the MCAO to pay Defendant TASC any money.

130. Instead, the Contract provides that the program's participants alone will pay Defendant TASC, and "no public monies will be expended pursuant to [the Contract]."

131. The Contract does provide that, "[a]t his option, the County Attorney may utilize monies accumulated in the Drug Diversion Fund to Satisfy the costs associated with the agreement if the participant is indigent and unable to pay the costs associated with the [diversion program]."

132. But there is no requirement that the MCAO make such payments.

133. The contract states that, "under no circumstances is the County liable for any fees or costs related to [the] Contract."

134. MCAO collected nearly \$15 million in fees from participants in the marijuana diversion program between 2006 and 2016.

135. MCAO does not, however, disclose how much money it receives from the marijuana diversion program yearly and does not release an itemized list of how it spends the money it receives from the Program.

136. Defendant TASC has also benefited financially from operating the marijuana diversion program.

137. Defendant TASC's net assets were approximately \$18 million in 2016.

138. In 2015, TASC paid its CEO \$281,165 and its former CEO \$963,358.

139. In 2016, TASC paid its CEO \$308,720.

Plaintiffs

Class Representatives Deshawn Briggs and Mark Pascale

140. Class representatives Deshawn Briggs and Mark Pascale were both required to remain in the pretrial diversion program for more than double the time required of similarly situated participants solely because they were unable to pay program fees.

141. **Plaintiff Deshawn Briggs** was arrested for simple possession of marijuana in December 2015.

142. Mr. Briggs had no prior criminal record.

143. After his arrest, a police officer told Mr. Briggs that he would receive a letter in the mail from Maricopa County Attorney's Office.

144. On or around January 13, 2016, Mr. Briggs received a letter from MCAO.

145. The letter stated that he had two options with respect to his marijuana arrest: he could face prosecution and conviction with a punishment of two years in jail, plus a fine of up to \$150,000 or he could participate in the TASC pretrial diversion program, which would cost less than the fine he would have to pay if convicted.

146. Mr. Briggs chose to participate in the pretrial diversion program because he did not want to go to jail and thought the diversion program was the only way to avoid incarceration for two years.

147. However, the claims in the letter Mr. Briggs received were false.

148. Because this was Mr. Briggs' first offense, under Arizona law, he could not receive jail or prison time if convicted of simple possession of marijuana.

149. Mr. Briggs did not know that he could not receive jail time for conviction of marijuana possession since it was his first offense.

150. Mr. Briggs followed the instructions given in the letter and contacted TASC to enroll in the program.

151. A TASC employee told Mr. Briggs to appear for orientation and bring a \$150 intake fee.

152. At the orientation, a TASC employee informed Mr. Briggs of the program requirements and fees.

153. The TASC employee told Mr. Briggs that he would have to submit to and pass random drug and alcohol tests for 90 days, complete a three-hour drug education class, and pay his program fees of \$1,000 in full within that 90-day period.

154. The TASC employee told Mr. Briggs that the program would either be 90 days or six months.

155. The employee told him that if he tested clean, attended the class, and paid his program fees in full, then he would complete the program in 90 days.

156. If he did not complete any of the three requirements in the first 90 days, including payment of fees in full, he would have to stay in the program for an additional three months or be prosecuted for a felony.

157. The TASC Employee did not ask Mr. Briggs whether he would be able to pay the program and drug and alcohol testing fees.

158. Mr. Briggs was told to sign a “statement of facts” as a condition of entry into the program.

159. The statement of facts stated that Mr. Briggs possessed a usable quantity of marijuana.

160. Mr. Briggs did not consult with an attorney before signing the statement because he could not afford one.

161. Because of this, Mr. Briggs believed that if he failed to meet the program’s requirements—including paying the necessary fees—he would go to jail.

162. Mr. Briggs passed all of his drug tests during the first 90-days of the program.

163. During that time period, Mr. Briggs was required to report for urinalysis two to three times each week.

164. Each time he reported for a drug and alcohol test, Mr. Briggs was forced to pay \$15 or \$17, even though he was struggling to meet the basic necessities of life.

165. Mr. Briggs also completed the required three-hour drug education seminar during his first 90 days on the program.

166. However, in that first three months, Mr. Briggs could not afford to pay the \$1,000 fee.

167. At the time, Mr. Briggs worked part time at a Walmart, where he made \$10 an hour.

168. His monthly pay was less than \$1,000.

169. Mr. Briggs also has disabilities caused by spinal meningitis that limit his ability to work.

170. Because of this, Mr. Briggs was also receiving federal disability benefits.

171. During the first 90 days of the program, Mr. Briggs was only able to pay \$421 toward the \$1,000 balance.

172. Mr. Briggs made those payments in small installments.

173. He paid one \$75 installment toward his \$150 orientation fee on February 29, 2016.

174. He paid the second installment on April 14, 2016.

175. On that same date, Mr. Briggs paid another \$95 toward his balance.

176. On May 5, 2016, Mr. Briggs paid \$170 toward his balance.

177. On May 11, 2016, he paid another \$16.

178. During that same time period, Mr. Briggs paid \$195 for drug and alcohol tests.

179. Despite meeting all other program requirements, Mr. Briggs was not considered for program completion because he had not paid the \$1,000 fee in full.

180. Instead, Mr. Briggs was required to remain on diversion, and remained subject to felony criminal prosecution.

181. Mr. Briggs was also required to report to drug and alcohol testing once or twice each week.

182. After the first 90 days on the program, Mr. Briggs reported for drug and alcohol testing 15 times.

183. Mr. Briggs reported to and passed each of the drug and alcohol tests.

184. The drug and alcohol tests cost Mr. Briggs an additional \$225.

185. He also continued to make payments against his balance.

186. On June 16, 2016, Mr. Briggs paid \$170.

187. On July 14, 2016, he paid \$70.

188. On August 18, 2016, he paid \$50.

189. Finally, on August 25, 2016, Mr. Briggs paid a final installment of \$275.

190. When Mr. Briggs made this final payment, a TASC employee told Mr. Briggs that had successfully completed the program and that he should return to the TASC office the next day to receive his certificate of completion.

191. On the following day, Mr. Briggs returned to the TASC officers and received a certification of completion from TASC.

192. **Plaintiff Mark Pascale** is a 60-year-old man.

193. Ms. Pascale lives in Maricopa County, Arizona with his 15-year-old son, for whom he is the sole provider.

194. Mr. Pascale is disabled; he suffers from degenerative disc disease in his neck and back.

195. To manage his symptoms, Mr. Pascale takes morphine; an anti-epileptic drug, and an anti-convulsant every day.

196. Because of his illness, Mr. Pascale has been physically unable to work since 2008.

197. That year, Mr. Pascale filed for bankruptcy.

198. Mr. Pascale's only stable source of income comes from federal disability benefits.

199. Mr. Pascale also receives nutritional assistance benefits and, in the past, he has received assistance from government programs to pay his utility bills.

200. In May 2017, a police officer found a small amount of marijuana in Mr. Pascale's car.

201. Mr. Pascale was not arrested, but he received a criminal summons in the mail in October 2017, stating that he was being charged with possession or use of marijuana, a class 6 felony.

202. At his first court appearance, Mr. Pascale agreed to enroll in the marijuana diversion program.

203. Mr. Pascale attended an orientation for the program on November 21, 2017.

204. Mr. Pascale could not afford to pay the \$150 application fee that TASC requires at orientation.

205. A TASC employee agreed to allow Mr. Pascale to pay \$75 up-front instead of \$150 to attend the orientation.

206. The remaining \$75 was added to Mr. Pascale's bill, and he was required to pay it before he could complete the diversion program.

207. During the orientation, a TASC employee told Mr. Pascale that he could complete the program in three months if he did not fail any urinalysis exams and paid all required fees in full.

208. When Mr. Pascale reported for his first mandatory urinalysis, he told his case worker at TASC that he could not afford to pay the \$950 in program fees.¹²

209. He also told her he could not afford to pay \$15 for urinalysis weekly or multiple times each week.

¹² Because Mr. Pascale was not arrested, he did not have to pay the \$50 booking fee.

210. Mr. Pascale's case worker told him that there was no way to waive or reduce the program fees.

211. However, she explained, his urinalysis fees could potentially be reduced to \$7 per test instead of \$15 per test.

212. The case worker gave Mr. Pascale a financial information form to complete.

213. On the form, Mr. Pascale marked that he was disabled and worked zero hours per week.

214. He listed his income as \$920 per month, explaining that he receives disability benefits and occasionally sells things on eBay.

215. The case worker told Mr. Pascale that he did not qualify for reduced urinalysis fees because he owned a computer and was making monthly internet payments, which are "luxuries."

216. Mr. Pascale therefore had to pay the full \$15 for each required urinalysis. These payments out of his disability income caused extreme hardship in meeting the basic necessities of life, including food, shelter, medication, and clothing.

217. Mr. Pascale was tested at least once per week, but as often as three times per week.

218. At least once each month, Mr. Pascale would be asked to submit to additional urinalysis because he had tested positive for opiates due to the prescription medications he takes.

219. Mr. Pascale had provided his case worker with information and documentation about the prescription narcotics that he took for his medical condition, but even so, she ordered the extra testing and corresponding payments to TASC for each test.

220. Mr. Pascale had to pay for these additional tests as well.

221. Mr. Pascale frequently emphasized to his case worker that he did not have the money to pay for urinalysis.

222. The case worker told Mr. Pascale that he had to pay in order to be drug tested and suggested he borrow money.

223. Mr. Pascale often skipped paying bills and other necessities to keep up with the fees.

224. Mr. Pascale also struggled to pay the \$950 in program fees.

225. After 90 days had passed, Mr. Pascale had met all program requirements and had never failed a drug and alcohol test.

226. He had not, however, finished paying the program fees.

227. As a result, he was required to remain on diversion until all of the fees were paid.

228. During this time, Mr. Pascale was still required to submit to and pay for urinalysis up to three times each week.

229. Mr. Pascale made his final payment—and submitted to and purchases his final urinalysis exam—on June 29, 2018, more than seven months after he had entered the program.

230. When Mr. Pascale told his case worker that he had paid his program fees in full, she told him that he had successfully completed the program and issued a certificate of completion, dated July 5, 2018.

Individual Plaintiff Taja Collier

231. Plaintiff Taja Collier is a 21-year-old African American woman.

232. On October 7, 2016, Ms. Collier was riding in a car when friends when the car was pulled over by a police officer for making an improper turn.

233. The officer searched the car's occupants and found a small cylinder in Ms. Collier's purse that contained trace amounts of marijuana.

234. The amount of marijuana in the container was so small that the police officer did not weigh it.

235. Ms. Collier was placed under arrest for possession of marijuana.

236. Ms. Collier had never been arrested before.

237. She had never been charged with or convicted of any crime.

238. In early Spring 2017, Ms. Collier received a letter from MCAO.

239. The letter gave her two choices: she could face felony charges for marijuana possession, or she could agree to participate in the TASC diversion program.

240. The letter warned Ms. Collier that if convicted, she could be sentenced to two years in jail plus a fine of up to \$150,000.

241. These threats were not true; because this was Ms. Collier's first offense, under Arizona law, she could not receive jail or prison time if convicted of simple possession of marijuana.

242. Ms. Collier decided to enroll in the TASC diversion program because she did not want to go to jail.

243. At the time of her arrest, Ms. Collier was a sophomore at Central Arizona College, where she studied social work.

244. Central Arizona College is located in Casa Grande, Arizona, which is almost an hour away from Phoenix, Arizona.

245. When Ms. Collier learned that the TASC diversion program required drug testing in Phoenix multiple times each week, she decided she could not go back to college while she was on the TASC program.

246. Ms. Collier did not have a car or money to make such a long trip so frequently.

247. She decided to stay in Phoenix instead of returning to school so that she could complete the diversion program.

248. Ms. Collier was told that in order to start the program, she would need to pay \$150 at the orientation.

249. She planned to start the program on June 22, 2017.

250. That week, however, Ms. Collier realized she would not be able to come up with the \$150 required to start the program.

251. Ms. Collier had recently started a job working part-time at a Target.

252. Ms. Collier made around minimum wage and worked approximately 16 hours per week.

253. However, she not yet received her first paycheck.

254. Ms. Collier called TASC's main office to tell them she couldn't afford to pay.

255. No one called her back.

256. At 6:51 AM on the morning her orientation was set to begin, Ms. Collier sent an email to the general email address for the possession of marijuana diversion program.

257. The email read, "Hi, my name is Taja Collier. I called the office to reschedule my appointment 2 days ago and have not received a call back. I left a message for the corporate office and nod [sic] I'm sending this email. I had an appointment today at 8:45 and I do not have 150 because I get my first check next week. I do not want my file sent back to the court system."

258. Later the same day, Ms. Collier reached a TASC employee by phone and rescheduled her orientation for July 6, 2017.

259. Several days later, however, on June 25, 2017, Ms. Collier learned that she would not be paid until after July 9, 2017.

260. Ms. Collier wrote again to the email address for the possession of marijuana diversion program and informed TASC that she needed to reschedule the orientation for after she got paid.

261. A TASC employee rescheduled Ms. Collier's orientation for July 13, 2017.

262. The employee did not tell her that she could start the program even if she did not pay.

263. The employee also did not tell her that she could apply for a fee waiver or a fee reduction.

264. On July 13, 2017, Ms. Collier paid \$150 to TASC and attended the mandatory orientation.

265. Shortly after her orientation, Ms. Collier learned that she was unable to attend TASC's mandatory drug seminar on the date it was scheduled.

266. TASC charged Ms. Collier a \$65 fee to reschedule the seminar.

267. Ms. Collier could not afford the \$65 fee, and so she did not reschedule the seminar, and planned to do so when she could afford it.

268. Around the same time, Ms. Collier was informed by the case manager that had been assigned to her that she had to submit to a drug test and that she had to pay for the drug test in order to take it.

269. Ms. Collier was willing to take the mandatory test, but she could not afford the \$15 fee to pay for it.

270. Ms. Collier again emailed the address for the possession of marijuana diversion program.

271. In her email, Ms. Collier pleaded: "I won't be able to come up with the fee money until next Friday. I keep calling her to figure out what my next steps should be. Is there anyway [sic] I can change case managers or get some assistance?"

272. No one responded to the email.

273. Nor did anyone call Ms. Collier to follow up.

274. Ms. Collier did not take the test.

275. To pay for her drug tests going forward, Ms. Collier began to sell her own blood plasma whenever she was called to test.

276. Whenever Ms. Collier would learn that she had a drug test, she would schedule a blood plasma sale so that she could pay for the test.

277. Ms. Collier made \$20 to \$35 each time she sold her blood plasma.

278. However, according to the plasma donation center's rules, donors are only allowed to give plasma twice each week.

279. Therefore, weeks when Ms. Collier is called to drug test more than twice were especially difficult for her to manage.

280. After she sold her blood plasma, Ms. Collier often felt fatigued and dizzy, like she couldn't breathe or might black out.

281. But she continued to sell her blood plasma because it was the only way she could pay for the drug tests.

282. Ms. Collier told her case manager at TASC that she sold plasma to pay for drug tests.

283. The case manager never told her that she could take the tests without paying for them.

284. The case manager also never told her that she could apply for a reduced fee.

285. At times, even after selling her blood plasma, Ms. Collier could not afford to take drug tests at TASC.

286. When this happened, Ms. Collier could not take required drug and alcohol tests because she was not allowed to test if she could not pay for it.

287. Instead, Ms. Collier would contact her case manager to tell her that she could not take a drug test because she could not afford to pay for it.

288. Frequently, her case manager would not answer her phone or respond to emails, and Ms. Collier would try to reach her by calling TASC's corporate office.

289. In September, 2017, Ms. Collier became homeless.

290. She remained homeless for approximately one month.

291. While she was homeless, Ms. Collier slept in public parks.

292. On September 20, 2017, Ms. Collier emailed her case manager.

293. She explained, "I have been homeless for the passed [sic] week so money has been really tight. ... It has been really tough."

294. Ms. Collier also told her case manager in the email that she planned to start Job Corps and that once she started, she would be able to pay for tests.

295. Ms. Collier's case manager responded five days later.

296. In her email, the case manager replied: "Sorry to hear that you are going through this. I am hoping things get better for you. I also noticed that since you are on your FINAL NOTICE, any missed test past this point will result in program termination. So I am happy to hear that you are going to do whatever is possible to test next time you are required to test. Good Luck and hope everything works out for you."

297. Again, the case manager did not suggest that Ms. Collier could take the tests without paying for them.

298. Nor did she invite her to apply for a reduced fee.

299. Shortly after this exchange, Ms. Collier was issued another violation because she did not take drug tests solely because she could not afford to pay for them.

300. On October 10, 2017, TASC reported to MCAO that Ms. Collier had failed the diversion program.

301. In its reasons for failing Ms. Collier, TASC listed that Ms. Collier had not submitted to mandatory drug and alcohol tests.

302. As described above, Ms. Collier did not take these tests solely because she could not afford to pay for them.

303. TASC also stated that Ms. Collier was being failed because she had not paid the required TASC fee and had not paid the required drug fund assessment fee.

304. In addition, TASC listed that Ms. Collier had not attended the mandatory seminar, which Ms. Collier had not completed solely because she could not afford to pay the \$65 rescheduling fee.¹³

¹³ The only other reason TASC provided for failing Ms. Collier was that she did not respond to a non-compliance letter she received on August 7, 2017. Ms. Collier was in contact with her case manager after receiving this letter and explained that she could not afford to pay for drug and alcohol tests. In addition, TASC does not have a policy or custom of failing diversion participants who do not respond to a single letter.

305. On December 8, 2017, MCAO filed felony charges against Ms. Collier for possession of marijuana.

306. Ms. Collier's preliminary hearing was on January 22, 2018.

307. On that same date, Ms. Collier agreed to re-enroll in the TASC possession of marijuana diversion program.

308. Ms. Collier's prosecution was suspended for two years to allow her to complete TASC.

309. Ms. Collier knew that she would struggle to pay for diversion.

310. But she decided to re-enroll because—based on the false threats in the letter she received before she initially agreed to the terms of the diversion program—she believed that she would go to jail if she did not complete diversion.

311. To re-enter the program, Ms. Collier was again required to pay the \$150 admissions fee.

312. She paid \$148 toward that amount on March 13, 2018.

313. Ms. Collier paid the remaining \$2 on May 24, 2018.

314. Since that time, Ms. Collier has made payments of between \$8 and \$20.

315. Ms. Collier still must pay \$667 to TASC before she can complete the program.

316. Ms. Collier is still required to submit to urinalysis—at \$15 per test—one to three times each week.

317. TASC still will not allow Ms. Collier to complete drug and alcohol tests unless she pays for it.

318. Ms. Collier therefore continues to sell her plasma whenever she knows she is going to be drug tested so that she can pay for urinalysis.

319. On August 17, 2018, Ms. Collier sent an e-mail to her case manager.

320. Ms. Collier wrote:

“Tasc has really been putting a big strain on my pockets. ... I am very concerned that I will end up homeless again trying to sacrifice rent for tasc as this is putting Me [sic] in a bad space. I

have been donating plasma whenever I have to test to get the money I need to pay for it, but I am afraid it is affecting my health. I am willing to test whenever I'm required but I cannot afford the fees. Is there anyway [sic] that I can test without having to pay for it?"

321. Ms. Collier's case worker replied, "You have to pay for the program in order to complete the program. I understand that this is cost effective but in order for you to have you [sic] felony dismissed with prejudice you will have to complete all program requirement which includes paying all fees associated with the program."

322. ¹⁴CLASS ACTION ALLEGATIONS

323. The named Plaintiffs bring this case as a class action pursuant to Rules 23(a), 23(b)(2), and rule 23(b)(3) of the Federal Rules of Civil Procedure.

324. The class is defined as: All people who, since August 23, 2016, and until the trial of this case, (1) were enrolled in the marijuana diversion program operated by Defendants TASC and MCAO; (2) satisfied all program requirements in the first 90 days of the program other than payment of program fees; and (3) were not considered for successful completion after 90 days solely because they were unable to pay the required fees.

325. The class members are readily ascertainable: the names and relevant records of the class members are in Defendants' possession.

326. **Numerosity: Fed. R. Civ. P. 23(a)(1)**

327. On information and belief, the class includes at least several hundred members.

328. During the 2017 fiscal year (July 1, 2016 through July 30, 2017), there were 2,687 admittances to the possession of marijuana diversion program.

329. The marijuana diversion program has maintained similar numbers of admittances in its last several years of operation.

330. Therefore, there were likely at least 2500 admittances in the 2018 fiscal year.

331. Thus, if even a small percentage of the people admitted to TASC since August 23, 2016 meet the requirements for the class, the class would number in the hundreds.

¹⁴ In her response, the case worker also suggested that Ms. Collier could apply for insurance to alleviate the costs of one of the mandatory treatment classes. This, of course, would do nothing to relieve the costs of program fees or the fees for drug and alcohol tests.

332. Moreover, on information and belief, a large majority of those arrested and prosecuted for marijuana possession in Maricopa County are deemed indigent for the purposes of appointment of counsel.

333. **Commonality: Fed. R. Civ. P. 23(a)(2)**

334. The class members' claims raise common issues of fact and law.

335. Those common questions include:

a. Whether Defendants have a policy, practice, and custom of refusing to consider diversion participants for program completion after 90 days and beyond solely because they cannot afford to pay the required fees and without inquiring into those participants' ability to pay;

b. Whether Defendants have a policy, practice, and custom of requiring diversion participants who have not paid the required fees to remain on diversion supervision until they have done so, without inquiring into those participants' ability to pay;

c. Whether Defendants' diversion extension policies violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution;

d. Whether Defendants have a policy, practice, and custom of requiring diversion participants who remain on diversion solely due to inability to pay to continue to submit to random drug and alcohol tests;

e. Whether Defendants' policy of continuing mandatory drug and alcohol testing for participants who remain on the diversion program solely due to inability to pay violates the Fourth Amendment to the U.S. Constitution;

336. **Typicality: Fed. R. Crim. P. 23(a)(3)**

337. The named Plaintiffs' claims are typical of the claims of the members of the class, and they have the same interests in this case as all other members of the class that they represent.

338. The determination whether the Defendants' scheme of policies, practices, and customs is unlawful in the ways alleged will determine the claims of the named Plaintiffs and every other class member.

339. **Adequacy: Fed. R. Crim. P. 23(a)(4)**

340. Named Plaintiffs are capable of fairly and adequately protecting the interests of the Plaintiff class because Named Plaintiffs do not have any interests antagonistic to the class.

341. There are no known conflicts of interest among class members, all of whom have a similar interest in vindicating the constitutional rights to which they are entitled.

342. Plaintiffs' counsel are experienced in civil rights litigation and have successfully litigated a number of civil rights class action cases.

343. Many of those cases, like this one, involve unconstitutional penalties based solely on wealth status.

344. **Fed. R. Crim. P. 23(b)(3)**

345. Class treatment under Rule 23(b)(3) is appropriate because the common questions of law and fact overwhelmingly predominate in this case.

346. For every named Plaintiff, as well as for the members of the class, this case turns on what the Defendants' policies and practices are and on whether those policies are lawful.

347. The common questions of law and fact listed above are dispositive questions in the case of every member of the class.

348. Moreover, the question of liability can therefore be determined on a class-wide basis.

349. To the extent that individual damages will vary, they will vary depending in large part on the amount of time that a person was subjected to the unlawful scheme and the amount of money coerced from them.

350. Determining damages for individual class members can thus typically be handled in a ministerial fashion based on easily verifiable records in the Defendants' possession.

351. If need be, individual hearings on class member specific damages based on special circumstances and particular hardships endured as a result of Defendants' scheme can be held after class-wide liability is determined.

352. **Claims for Relief**

353.

354. **Count One: Wealth-Based Discrimination in Violation of the Fourteenth Amendment**

355.

356. *Brought under 42 U.S.C. § 1983 by Named Plaintiffs DeShawn Briggs and Mark Pascale on behalf of themselves and all others similarly situated against all Defendants for damages; and by Plaintiff Taja Collier on her own behalf against all Defendants for damages and injunctive relief.*

357. Defendants, acting in concert under color of state law, enacted and enforced a policy, practice, and custom of subjecting diversion participants to longer terms of diversion supervision, which include in-person reporting, drug and alcohol testing requirements, and increased payments, solely because of their inability to pay fees associated with the program.

358. The policy and custom of penalizing individuals based solely on wealth status violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution.

359. As a direct and proximate cause of Defendants' unlawful policy and custom, Plaintiffs have suffered violations of their constitutional rights and thus are entitled to compensatory damages for their injuries.

360. Defendant TASC's actions were willful, deliberate, and malicious, and involved reckless or callous indifference to Plaintiffs' constitutional rights.

Accordingly, Plaintiffs are entitled to recover punitive damages—in addition to compensatory damages—against Defendant TASC.

361. Defendants have forced Plaintiff Taja Collier to remain on diversion solely because she was unable to pay required program fees and fees for requirements necessary to complete the diversion program.

362. Plaintiff Collier seeks to enjoin Defendants from forcing her to remain on diversion solely because she cannot afford to pay required program fees and/or because she cannot afford to pay for certain program requirements.

363.

364. **Count Two: Unreasonable Searches and Seizures in Violation of the Fourth and Fourteenth Amendments**

365.

366. *Brought under 42 U.S.C. § 1983 by Named Plaintiffs DeShawn Briggs and Mark Pascale on behalf of themselves and all other similarly situated against all Defendants; and by Plaintiff Taja Collier on her own behalf against all Defendants for damages and injunctive relief.*

367. Defendants, acting in concert under color of state law, enacted and enforced a policy and custom of requiring urinalysis to test for drug and alcohol consumption for individuals who remain on the marijuana diversion program solely because they were unable to pay the required fees.

368. This policy and custom violates the right to be free from unreasonable searches and seizures under the Fourth Amendment to the U.S. Constitution.

369. As a direct and proximate cause of Defendants' unlawful policy and custom, Plaintiffs have suffered violations of their bodily liberty and integrity and are entitled to compensatory damages for their injuries.

370. Defendant TASC's actions were knowing, willful, deliberate, and malicious, and involved reckless or callous indifference to Plaintiffs' constitutional right. Accordingly, Plaintiffs are entitled to recover punitive damages—in addition to compensatory damages—against Defendant TASC.

371. Defendants required Plaintiff Taja Collier to remain on diversion solely because she was unable to pay required program fees and fees for requirements necessary to complete the diversion program, and Defendants still require her to take mandatory drug and alcohol tests.

372. Plaintiff Collier therefore requests that this Court enjoin Defendants from requiring her to take drug and alcohol tests.

373.

374. **Count Three: Wealth-Based Discrimination in Violation of the**

375. **Fourteenth Amendment**

376.

377. *Brought under 42 U.S.C. § 1983 by Plaintiff Taja Collier on her own behalf against all Defendants for damages and against TASC for injunctive relief.*

378. Defendants, acting in concert under color of state law, enacted and enforced a policy, practice, and custom of not allowing Plaintiff Taja Collier to complete diversion program requirements because she could not afford to pay for them and subsequently failing her from the marijuana diversion program and referring her for felony criminal prosecution.

379. The policy, practice custom penalized Plaintiff Collier based solely on her wealth status in violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution.

380. As a direct and proximate cause of Defendants unlawful policies and customs, Plaintiff Collier suffered violations of her constitutional rights and thus is entitled to compensatory damages for her injuries.

381. Defendant TASC's actions were willful, deliberate, and malicious, and involved reckless or callous indifference to Plaintiff Collier's constitutional rights. Accordingly, she is entitled to recover punitive damages—in addition to compensatory damages—against Defendant TASC.

382. Plaintiff Collier is still a participant in Defendants' diversion program and cannot afford to pay the required fees for mandatory drug tests or any other program requirements that cannot be completed without payment.

383. Plaintiff Collier therefore seeks to enjoin Defendants from refusing to allow her to complete the requirements solely because she is unable to pay for them.

384. Plaintiff Collier also seeks to enjoin Defendants from terminating her from the diversion program because she did not complete program requirements solely because she could not afford them.

385. **REQUEST FOR RELIEF**

386. WHEREFORE, the Plaintiffs demand a jury trial for all issues so appropriate and request this court to issue the following relief:

A. That this action be certified as class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, declaring Named Plaintiffs Deshawn Briggs and Mark Pascale as representatives of the Class and Named Plaintiffs' counsel as counsel for the Class;

B. A judgment compensating the Plaintiffs and the Class of similarly-situated individuals for the damages that they suffered as a result of the Defendants' unconstitutional and unlawful conduct in an amount to be determined at trial;

C. A judgment granting the punitive damages authorized by statute based on the Defendant TASC's willful and egregious violations of the law;

D. A judgment enjoining Defendants from further unconstitutional conduct against Plaintiff Taja Collier;

E. An order and judgment granting reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and 18 U.S.C. § 1964; and

F. Such other and further relief as the Court deems just and proper.

387. Respectfully Submitted,

388. DATED this 24th day of August, 2018,

389.
390.
391.

A. Dami Animashaun
Katherine Chamblee-Ryan

/s/Joshua Bendor
Joshua Bendor

392.

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