

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**
Case No. _____

BRIAN S. TEWES and MARIA SUAREZ,
individually and on behalf of others similarly-
situated,

Plaintiffs,

v.

XEROX STATE & LOCAL SOLUTIONS,
INC., f/k/a ACS STATE & LOCAL
SOLUTIONS,

Defendant.

CLASS ACTION

COMPLAINT AND JURY DEMAND

Plaintiffs, BRIAN S. TEWES and MARIA SUAREZ, individually and on behalf of others similarly situated, bring this class action against Defendant, XEROX STATE & LOCAL SOLUTIONS, INC., f/k/a ACS STATE & LOCAL SOLUTIONS, INC. (“XEROX”), for unlawfully issuing and collecting fines for red-light traffic violations that were void under Florida law.

NATURE OF THE ACTION

1. XEROX sells, installs, maintains, operates and monitors red-light camera systems, including the issuance and enforcement of notices and citations, for local governments throughout the United States. XEROX provides these services to multiple Florida municipalities.

2. The highly comprehensive services offered by XEROX extract almost complete control from counties and municipalities in the monitoring and enforcement of red-light violations. XEROX’s employees – and not local law enforcement officers – control almost the entire process. Only XEROX employees have access to all images taken by a red-light camera,

and only they review all such images.

3. XEROX determines which cases evidence a possible red-light violation meriting review by the applicable law enforcement official. XEROX then transmits select images to a Traffic Infraction Enforcement Officer (“TIEO”) of the contracting local government. If XEROX unilaterally determines that a particular case does not meet the evidentiary standards sufficient to merit a red-light violation, that case is not processed any further, and the corresponding images are not submitted to the local authority.

4. TIEOs are required to be employees of the sheriff’s department or police department who have “successfully complete[d] instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program[.]” § 316.640(5)(a), Fla. Stat.

5. The TIEO views the images on XEROX’s virtual, private network, which provides the images to the TIEO in a pre-packaged, encrypted format. XEROX also provides training to the TIEO on the use of the network, XEROX’s policies and procedures, and expert witness training.

6. If XEROX transmits an image of an alleged violation through its network, the TIEO may then authorize enforcement. If the TIEO rejects or fails to authorize an otherwise valid violation, XEROX may be entitled to a financial credit from the municipality.

7. XEROX also controls the form, content, printing and mailing of the red-light infractions. Once the TIEO authorizes enforcement, the system generates a Notice of Violation (“NOV”), which includes the TIEO’s digital signature and I.D. number. XEROX then prints and mails the NOV via first-class mail to the registered owner of the vehicle in the recorded image or

video. The NOV instructs the owner that he or she must pay \$158.00 before the specified due date.

8. If the NOV is not paid by the due date, XEROX automatically issues a Uniform Traffic Citation (“UTC”) with the TIEO’s digital signature and I.D. number, exactly as it was in the NOV, but without the TIEO providing any further input or authorization. The penalty associated with the UTC is \$277.00.

9. Other than initially authorizing enforcement at the NOV stage, the TIEO has no involvement whatsoever in the issuance of the UTC: the TIEO does not determine its contents, nor does the TIEO even have an opportunity to review the UTC bearing his or her signature.

10. “In Florida, only law enforcement officers and traffic enforcement officers have the legal authority to issue citations for traffic infractions, which means only law enforcement officers and traffic enforcement officers are entitled to determine who gets prosecuted for a red-light violation.” *City of Hollywood v. Arem*, No. 4D12-1312, 2014 WL 5149159, *4 (Fla. 4th DCA Oct. 15, 2014) (citing Fla. Stat. §§ 316.0083(3), 316.640 (2011)). “[A] traffic enforcement officer in a municipality must: (1) be an employee of the sheriff’s or police department; (2) successfully complete the program as described in the statute; and (3) be physically located in the county of the sheriff’s or police department.” *Id.* (citing Fla. Stat. § 316.640(5)(a)).

11. Although Florida law authorizes counties and municipalities to delegate *initial review* of potential violations captured by a red-light camera, it does *not* authorize them to delegate issuance of NOV’s and UTC’s. XEROX unlawfully conducts and controls almost the entire issuance and enforcement process.

12. XEROX failed to comply with these restrictions of Florida law and assumed police powers reserved to the local governments. XEROX’s issuance of NOV’s and UTC’s

therefore violated Plaintiffs' right to due process of law under the U.S. Constitution.

13. Plaintiffs bring this class action on behalf of themselves and all other similarly-situated individuals (or their guardians or representatives) and entities who received NOVs and/or UTCs pursuant to Defendant XEROX's improper and unlawful conduct and who either paid the statutory fines or still owe said fines.

PARTIES, JURISDICTION, AND VENUE

14. This is a class action for damages that exceed \$5,000,000.00, exclusive of interest and costs.

15. Plaintiff Brian S. Tewes is a citizen of Florida, and a resident of Broward County, who is over the age of eighteen and otherwise *sui juris*.

16. Plaintiff Maria Suarez is a citizen of Florida, and resident of Miami-Dade County, who is over the age of eighteen and otherwise *sui juris*.

17. Defendant Xerox State & Local Solutions, Inc. is a New York corporation with its principal place of business located at 8260 Willow Oaks Corporate Drive, 6th Floor, Fairfax, Virginia. It is one of the largest traffic camera vendors/operators in the United States and conducts significant business in Florida, including the installation and operation of numerous red-light cameras in Florida. XEROX engages in substantial, continuous, systematic, and non-isolated business activity within the State of Florida. It is subject to personal jurisdiction in the State of Florida because it regularly conducts business in the State of Florida and committed the unlawful acts alleged herein in the State of Florida.

18. At all relevant times, XEROX has acted as a contractor to and agent for various Florida municipalities and counties by, among other things, performing red-light camera installation and maintenance, as well as other governmental functions, including but not limited

to issuing NOVs and UTCs to Plaintiffs and Class members.

19. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1332(d), and 28 U.S.C. § 1343.

20. Venue is proper within this District because a substantial part or all of the events giving rise to the claims occurred and continue to occur in this District, given that XEROX has operated and continues to operate red-light cameras in various counties and municipalities in Florida, including the City of Miami Beach.

GENERAL ALLEGATIONS

A. Red-light Traffic Camera Systems and XEROX's Red-light Traffic Enforcement Program

21. Red-light traffic camera systems integrate cameras and sensors that continuously monitor traffic at certain pre-selected intersections. A red-light camera connects to a sensor that monitors traffic flow at a cross-walk or stop line and is connected to another sensor that detects when the traffic light changes color. At a specified time after the traffic light has turned red, the camera automatically photographs any vehicle traveling at a pre-set minimum speed. A digital video camera or cameras are also used to record the entire alleged infraction.

22. XEROX offers privatized, "turnkey" traffic law enforcement solutions designed to detect and enforce red-light traffic infractions. It provides an all-encompassing range of services to local governments for detection and enforcement of traffic infractions, including but not limited to: (1) marketing and training to help gain public support for its products; (2) aiding local governments in pitching the idea to constituents and lawmakers; (3) traffic studies (performed by XEROX) to select appropriate intersections for the installation of its products; (4) the maintenance, repair and installation of its products; (5) training for local government employees, including law enforcement officials; (6) its virtual, private network in encrypted

format, utilized by law enforcement officials to review potential infractions and by courts to receive evidentiary support for challenged cases; (7) expert witnesses to support the prosecution of drivers accused of traffic infractions (and training for TIEO's to provide evidentiary testimony); (8) legal advice and support to assist local governments with implementing and defending the program; (9) the design, printing, mailing and processing of NOVs and UTCs; (10) the collection of fees and penalties from drivers accused of traffic infractions; and (11) a nationwide toll-free number and website listed on all NOVs through which an accused violator is informed of payment options and means by which to contest it.

23. XEROX's program is so comprehensive that a local government need only obtain necessary construction permits, a TIEO capable of reviewing hundreds of images of potential violations per day, and a hearing process to prosecute alleged violators who challenge the issued NOVs or UTCs.

24. The pre-processed infraction data that XEROX initially reviews to determine whether it constitutes a violation is sent to Florida TIEOs in the form of three photos and a very brief video of the alleged infraction. The first photo shows the vehicle before the stop bar with the red light, the second shows the vehicle beyond the stop bar with the red light and the third is a close-up of the vehicle license plate. There is no photo or video identifying the driver of the vehicle. If processed, the address linked to the license plate will receive the violation, regardless of who was driving the vehicle. Because a substantial number of drivers lease their vehicles, the issuance of the NOV in the foregoing manner can create a substantial delay, resulting in the actual driver receiving the NOV much closer to or even after its due date. NOVs of \$158.00 quickly become UTCs of \$277.00 in this manner.

25. TIEOs have limited access to the XEROX virtual, private network for purposes of

reviewing “pre-processed Infraction Data.” Once such data are transmitted, the TIEO has access to the images of the potential violation for only seven days. If the TIEO does not authorize a violation deemed by XEROX to be otherwise valid, including controversial right-turn on red violations, XEROX can charge the municipality \$75 for each such unauthorized violation. This process all but eliminates TIEO discretion and incentivizes increased authorization of dubious violations.

26. In exchange for its products and services, XEROX charges monthly maintenance and service fees. If Xerox participates in the collection of past due fees, it may collect an impermissible fee of as much as 30% of the NOV or UTC.

B. The Mark Wandall Act Governs XEROX’s Business in Florida.

27. In 2010, the Florida Supreme Court held that the local ordinances pursuant to which violations were issued prior to July 1, 2010, were preempted by state law. The Florida legislature responded by passing the Mark Wandall Traffic Safety Act (the “Wandall Act”), which authorized the use of red-light traffic-infraction detectors by local governments and the Florida Department of Highway Safety and Motor Vehicles. The Act went into effect on July 1, 2010. This Complaint addresses only violations issued after July 1, 2010.

28. The Wandall Act grants traffic infraction enforcement officers the power to enforce red-light violations under sections 316.074(1) and 316.075(1)(c)1 of the Florida Statutes. The Wandall Act further authorizes TIEOs to “review . . . information from a traffic infraction detector” before “the traffic infraction enforcement officer” issues a citation for violations. Fla. Stat. § 316.0083(1)(a) (2014).

29. Section 316.074(1) requires drivers to “obey the instructions of any official traffic control device[.]” Section 316.075(1)(c) requires that vehicles “facing a steady red signal . . .

stop [and remain stopped] before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection[.]”

30. The Wandall Act provides, however, that “[a] notice of violation and a traffic citation may not be issued for failure to stop at a red-light if the driver is making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible.” Fla. Stat. § 316.0083(1)(a).

31. When a traffic citation is issued under the Wandall Act, “the *traffic infraction enforcement officer shall provide* by electronic transmission a replica of the traffic citation data to the court having jurisdiction over the alleged offense or its traffic violations bureau within 5 days after the date of issuance of the traffic citation to the violator.” Fla. Stat. § 316.650(3)(c) (2013) (emphasis added).

C. XEROX’s Red-light Traffic Enforcement Program Violates Florida Law.

32. XEROX, through its red-light traffic enforcement program, assumes the duty to monitor and enforce red-light traffic infractions for the municipalities and counties with which it contracts.

33. XEROX reviews recorded images and video from red-light cameras and determines, in its sole discretion, whether the recorded images should be forwarded to a TIEO for review of XEROX’s determination as to whether a violation has occurred. When XEROX determines that no violation has occurred, no information regarding the violation is ever transmitted to the TIEO or the contracting local government.

34. When a TIEO authorizes enforcement of the potential violation, XEROX automatically populates an electronic NOV form, which includes a computer-generated copy of the TIEO’s signature and badge number, prints out the NOV form, and sends it via first-class mail to the registered owner of the vehicle that the camera photographed.

35. Once the registered owner of the vehicle receives the NOV, the owner may either pay the \$158.00 fine or challenge the violation. If the registered owner of the vehicle fails to either pay the fine or challenge the violation before the due date, XEROX automatically generates a UTC with the badge number and signature of the original reviewing TIEO, mails the UTC to the registered vehicle owner, and automatically generates a replica, which XEROX automatically sends to the appropriate clerk of court.

36. The only involvement by a TIEO during this entire process is his or her initial review of the photographic images XEROX forwarded and either authorizing or rejecting the violation. After authorizing, the TIEO never sees the citation bearing his or her digital signature and badge number. The TIEO merely acquiesces in XEROX's decision to issue the NOV. And if the registered owner does not pay the penalty (or elect an option to avoid the penalty) before expiration of the specified due date, XEROX – and not the TIEO – issues a UTC without any involvement by the TIEO. XEROX's issuance of a UTC is significant because unlike an NOV, issuance of a UTC impacts the alleged violator's permanent driving record unless the UTC is successfully challenged and dismissed.

37. Under Florida law, “*only* law enforcement officers and traffic enforcement officers have the legal authority to issue citations for traffic infractions, which means only law enforcement officers and traffic enforcement officers are entitled to determine who gets prosecuted for a red-light violation.” *City of Hollywood*, 2014 WL 5149159, *4 (emphasis added).

38. Additionally, “a traffic [infraction] enforcement officer in a municipality must: (1) be an employee of the sheriff's or police department; (2) successfully complete the program as described in the statute; and (3) be physically located in the county of the sheriff's or police

department.” *Id.* (citing Fla. Stat. § 316.640(5)(a)).

39. XEROX is a private, for-profit vendor, which is not authorized to issue citations. Its employees are not employed by the local sheriff or police department, are not certified under Florida law and, on information and belief, its employees are physically located outside of Florida. The NOV's and UTC's issued by XEROX are thus ineffective and unenforceable as a matter of law.

40. If the accused pays the associated penalty, his or her payment is collected and processed by XEROX, for which XEROX receives an additional fee.

41. If a driver fails to pay the UTC by the due date, the violation goes to collections and the penalty increases substantially. If XEROX or its agent serves as the debt collector, it receives an additional fee.

42. The Wandall Act only authorizes state departments, counties and municipalities to assess and collect penalties from NOV's and UTC's, Fla. Stat. §§ 316.0083(1)(b)2–3, and forbids the receipt of a commission from any revenue collected from red-light camera violations, § 316.0083(1)(b)4.

43. XEROX thus lacks authority to assess and collect penalties. Any fees charged by XEROX in connection with collecting or processing payments have thus been obtained illegally.

44. XEROX's entire business model purports to operate under the specific authority granted by the Florida legislature under the Wandall Act. Yet, more than four years after the Act became effective, XEROX continues to operate in direct violation of certain provisions in the Act and to the detriment of Plaintiffs and others similarly situated.

D. Plaintiff Brian S. Tewes' Experience with XEROX

45. In August, 2014, Plaintiff, Brian S. Tewes, was photographed for alleged “failure

to comply with a steady red signal.” XEROX issued an NOV shortly thereafter. As the registered owner of the vehicle photographed, he received the NOV from XEROX in the amount of \$158.00.

46. The NOV bore the name and badge number of an officer, and included an affirmative representation that “[t]he traffic enforcement officer named above has reviewed the recorded images evidencing the red-light signal infraction, has identified the tag number of the violating vehicle and has found reasonable and probable grounds that a violation has been committed.”

47. Mr. Tewes paid the penalty in the amount of \$158.00, plus a \$4.95 convenience fee assessed by and paid directly to XEROX, on or about September 16, 2014.

E. Plaintiff Maria Suarez’s Experience with XEROX

48. In early September, 2014, Plaintiff, Maria Suarez, was photographed for alleged “failure to comply with a steady red signal” in Miami Beach, Florida. The NOV was issued by XEROX shortly thereafter. As the registered owner of the vehicle photographed, she received the NOV from XEROX in the amount of \$158.00.

49. The NOV bore the name and badge number of an officer, and included an affirmative representation that “[t]he traffic enforcement officer named above has reviewed the recorded images evidencing the red-light signal infraction, has identified the tag number of the violating vehicle and has found reasonable and probable grounds that a violation has been committed.”

50. Ms. Suarez paid the penalty in the amount of \$158.00, plus a \$4.95 convenience fee assessed by and paid directly to XEROX, on November 5, 2014.

F. Plaintiffs and All Class Members Have Been Issued Invalid and Unenforceable Tickets

51. The NOV's sent out by XEROX bear an attestation and affirmance, under color of law, that a TIEO has reviewed the recorded images and identified the license plate number of the allegedly violating vehicle and therefore has found reasonable and probable grounds that an offense has been committed, resulting in the violation charged. UTCs bear similar attestations and affirmances, giving them the imprimatur of being from the municipality or county from which they purport to be issued. In fact, both NOV's and UTCs are initially reviewed and ultimately issued by XEROX.

52. Plaintiffs received NOV's and/or UTCs and did not know that the tickets were issued in a manner inconsistent with statutory requirements. Because of the foregoing unlawful conduct, the tickets were not enforceable and Plaintiffs were wrongfully induced to pay fines.

CLASS ACTION ALLEGATIONS

53. Under Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, Plaintiffs bring this action on behalf of themselves and a Class initially defined as follows:

All individuals and entities who received an NOV and/or UTC based upon an image or video taken from a red-light camera operated in Florida by XEROX from July 1, 2010, through the present and who either paid the statutory penalty and any additional fees in connection therewith or still owe the penalty.

54. Excluded from the Class are XEROX, its employees, officers, directors, legal representatives, successors and wholly or partly owned subsidiaries or affiliated companies; class counsel and their employees; and the judicial officers and their immediate family members and associated court staff assigned to this case.

55. The Class can be readily identified using ticket payment records, issuance records, and other information kept by XEROX, public records or third parties in the usual

course of business and within their control.

56. As there were in excess of approximately 1.1 million red-light traffic UTCs issued in Florida between 2010 and 2013, the number of Class members is great enough that joinder is impracticable. In the City of Miami Beach alone, an estimated 12,300 NOVs were issued in just one year.

57. Plaintiffs' claims are typical of the claims of the Class, as Plaintiff and Class members alike were issued unauthorized NOVs and were harmed in the same way by XEROX's uniform misconduct.

58. Plaintiffs will fairly and adequately protect the interests of the other members of the Class. Plaintiffs' counsel have substantial experience in prosecuting class actions. Plaintiffs and counsel are committed to vigorously prosecuting this action, have the financial resources to do so, and do not have any interests adverse to the Class.

59. There are numerous questions of law and fact the answers to which are common to the Class and predominate over questions affecting only individual members, including the following:

- a) whether XEROX followed a uniform practice in its implementation of its red-light camera traffic-enforcement program throughout the State of Florida;
- b) whether XEROX violated Florida law by designing, printing and/or issuing NOVs and/or UTCs;
- c) whether XEROX's practice of issuing NOVs and/or UTCs is "unfair," "deceptive" or "unconscionable" under the Florida Deceptive and Unfair Trade Practices Act;
- d) whether XEROX's red-light camera traffic-enforcement program deprived

Plaintiffs and Class members of property without due process;

- e) whether Plaintiffs and Class members are entitled to an order enjoining XEROX from continuing to operate the red-light camera program;
- f) whether Plaintiffs and Class members are entitled to disgorgement or restitution of the penalties and other fees wrongfully and unlawfully collected or otherwise obtained by XEROX in connection with its red-light camera program; and
- g) whether XEROX's conduct injured Plaintiffs and Class members and, if so, the extent of the damages.

60. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all the individual Class members is impracticable. Likewise, because the damages suffered by each individual Class member may be relatively small, the expense and burden of individual litigation would make it very difficult or impossible for individual Class members to redress the wrongs done to each of them individually, and the burden imposed on the judicial system would be enormous.

61. The prosecution of separate actions by the individual Class members would also create a risk of inconsistent or varying adjudications for individual Class members, which could also establish incompatible standards of conduct for XEROX. The conduct of this action as a class action presents far fewer management difficulties, conserves judicial resources and the parties' resources, and protects the rights of each Class member.

COUNT I

Violation of Florida Deceptive and Unfair Trade Practices Act (Fla. Stat. §§ 501.201, *et seq.*)

62. Plaintiffs and the Class incorporate by reference paragraphs 1 through 61 as if fully set forth herein, and further allege:

63. XEROX's operation of its red-light camera program, as described above, constitutes an "unfair," "deceptive," and/or "unconscionable" act or practice in violation of Fla. Stat. § 501.204.

64. Specifically, XEROX's red-light camera program is "unfair," "deceptive," and/or "unconscionable" in one or more of the following ways:

- a) XEROX threatens people, including Plaintiffs and the Class, with monetary penalties using unlawfully issued NOV's and/or UTC's, in violation of § 316.0083, Fla. Stat.;
- b) XEROX does not reveal that neither the NOV nor the UTC has been reviewed by a TIEO or other law enforcement officer;
- c) XEROX sends a copy of the UTC to the applicable court, thereby unlawfully initiating a judicial proceeding, when Florida law only allows such transmission to be made by a TIEO (§ 316.650(c), Fla. Stat.); and
- d) as part of its unlawful profit-seeking activity, XEROX also directly collects some of these penalties as well as additional fees incident to the payment of the penalties.

65. As a result of XEROX's unfair, deceptive and/or unconscionable practices, Plaintiffs and all Class members have suffered, or will suffer, actual damages resulting from their payment of the penalties in the NOV's and/or UTC's, as well as any fees they incurred as a direct result of paying those penalties.

66. Plaintiffs and the Class are entitled, pursuant to § 501.211(1), Fla. Stat., to the following non-monetary relief:

- a) a permanent injunction to prevent XEROX from continuing to engage in these unlawful practices, including ceasing all efforts to assist in the collection of unpaid penalties; and
- b) a declaratory judgment that XEROX's above-mentioned conduct violates the FDTUPA.

67. Plaintiffs and Class members are entitled to actual damages and all other relief allowable under FDUTPA, including the recovery of costs and reasonable attorneys' fees in pursuing these claims.

COUNT II

Unjust Enrichment

68. Plaintiffs and the Class incorporate by reference paragraphs 1 through 61 as if fully set forth herein, and further allege:

69. XEROX issued unlawful NOV's and/or UTC's to Plaintiffs and the Class with the intent of inducing Plaintiffs and Class members to pay the listed penalties.

70. Whether Plaintiffs or the Class members subsequently paid the penalties to the local government or directly to an account maintained by XEROX, they still conferred a benefit upon XEROX, which profits from the success of its unlawful red-light camera program.

71. XEROX voluntarily accepted and retained the resulting benefit of the income generated by its unlawful red-light camera program, both in the form of its contractual fees for running the program and additional fees generated by its website that facilitates the collection of these unlawful fines.

72. In light of the foregoing, it would be inequitable for XEROX to be permitted to retain the benefit of its revenue it receives from its unlawful red-light camera program.

73. Accordingly, Plaintiffs and the Class members seek disgorgement and/or restitution of these benefits.

COUNT III

Violation of U.S. Constitutional Rights (42 U.S.C. § 1983)

74. Plaintiffs and the Class incorporate by reference paragraphs 1 through 61 as if fully set forth herein, and further allege:

75. Plaintiffs and the Class bring this claim under 42 U.S.C. § 1983, against XEROX, acting in an official capacity for the contracting counties and municipalities.

76. Plaintiffs and the Class members have a property interest in not being threatened into paying unlawfully issued fines.

77. At all times material, XEROX contracted with counties and municipalities throughout the State of Florida to perform public, governmental functions, including the review of red-light camera photographs and video to make initial determinations (or final rejections) of possible red-light violations, the issuance of NOV's, the issuance of UTC's, and the transmission of UTC's to the applicable state court.

78. When performing these functions, it did so purporting to use the governmental authority delegated to it by the counties and municipalities with which it contracts. The Wandall Act requires that local governments issue NOV's and UTC's. The NOV's and/or UTC's XEROX issued to Plaintiffs and members of the Class pose as official exercises of this police power reposed in the local governments.

79. Consequently, XEROX was acting under color of state law when it performed these functions.

80. Through these actions, XEROX denied Plaintiffs and Class members their rights

to be free from the deprivation of property without due process. Specifically, Florida law confers on drivers within the State of Florida the right not to be fined for a red-light camera traffic infraction unless a TIEO or other duly licensed law enforcement officer issues the NOV and the subsequent UTC.

81. XEROX's usurpation of the statutorily non-delegable functions of issuing NOVs and UTCs has subjected Plaintiffs and the Class to a loss of property interests (the penalties and associated fees) pursuant to a process that was void *ab initio*.

82. As a direct and proximate result of XEROX's violation of 42 U.S.C. § 1983, Plaintiffs have suffered injuries and damages.

COUNT IV

Declaratory Judgment (28 U.S.C. § 2202)

83. Plaintiffs and the Class incorporate by reference paragraphs 1 through 61 as if fully set forth herein, and further allege:

84. Based on the conduct and facts alleged herein, and pursuant to 28 U.S.C. § 2202, Plaintiffs seek a class-wide order for declaratory relief, including a declaratory judgment that XEROX failed to comply with the statutory requirements of Fla. Stat. § 316.0083 by unlawfully issuing NOVs and UTCs and enforcing and collecting fines for same from July 1, 2010 to the present, as well as a declaratory judgment that, owing to these statutory violations, XEROX was not lawfully entitled to issue NOVs or UTCs in Florida during that period of non-compliance, nor to collect fines related to same.

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, hereby demand:

- a) certification of the proposed Class;

- b) appointment of the Named Plaintiffs as representatives of the Class;
- c) appointment of the undersigned counsel as counsel for the Class;
- d) a declaration that Defendant's actions, described fully above, violate § 1983, FDUPTA, the Wandall Act and constitute unjust enrichment;
- e) an order enjoining XEROX and/or related entities, as provided by law, from engaging in the unlawful conduct set forth herein;
- f) an award to Plaintiffs' Class of any monies paid pursuant to the unlawful conduct set forth herein, all damages recoverable under applicable law, pre- and post-judgment interest, attorneys' fees and allowable costs pursuant to Fla. Stat. § 501.211(2) and other applicable law;
- g) an order requiring XEROX to relieve any class members of the obligation to pay any outstanding fines demanded based on the unlawful conduct set forth herein; and
- h) such other relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of this action.

Dated: November 17, 2014.

Respectfully submitted,

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