

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HILDA BRUCKER; JEFFERY
THORNTON; JANICE CRAIG; and
BYRON BILLINGSLEY,

Plaintiffs,

vs.

THE CITY OF DORAVILLE, a Georgia
municipal corporation,

Defendant.

Civil Action No. _____

**PLAINTIFFS' COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Plaintiffs Hilda Brucker, Jeffery Thornton, Janice Craig, and Byron

Billingsley, by their undersigned counsel, allege as follows:

INTRODUCTION

1. This lawsuit is a constitutional challenge to a municipality's policy and practice of using its law enforcement and municipal court system for revenue generation.

2. Courts, prosecutors, and law enforcement are public officials, entrusted with discretion over the cases they adjudicate or prosecute.

3. The U.S. Supreme Court has held that municipal courts cannot have, or appear to have, an independent interest, such as a financial interest, in

obtaining convictions.

4. The U.S. Supreme Court has also stated that the government violates a defendant's constitutional rights when prosecutors and law enforcement have a financial interest in convicting the defendant.

5. Therefore, a municipality may not use, or appear to use, its municipal court, municipal prosecutor, police department, or property code enforcement officers to generate revenue in order to fund the municipality, including those very departments and individuals.

6. But municipalities that budget to receive fines and forfeitures revenue do exactly that: They are using, or appearing to use, their municipal courts, prosecutors, police, and code enforcement officers to generate revenue. Municipalities that rely on such revenues to balance their budgets create financial incentives to ticket, convict, and fine defendants. These financial incentives are unconstitutional.

7. Defendant the City of Doraville budgets to receive millions of dollars from municipal court fines, fees, and forfeitures, which account for anywhere between about a fifth to about a third of its general operating revenues.

8. Doraville's City Council heavily relies on these revenues to balance the City's budget.

9. Therefore, Doraville's municipal court personnel—who serve at the pleasure of Doraville's City Council—have a financial incentive to convict defendants.

10. This financial incentive to convict infects Doraville's municipal court with a bias or an appearance of bias in violation of the U.S. Constitution.

11. Moreover, Doraville law enforcement personnel—who are paid from Doraville's revenues and serve at the ultimate pleasure of its City Council—have an incentive to ticket and prosecute to raise revenue. The same is true of the independent contractor whom Doraville employs to issue code enforcement tickets against property owners.

12. This financial incentive to ticket and prosecute injects an unconstitutional financial bias or an appearance of such bias into law enforcement and prosecutorial discretion.

13. Under the Due Process Clause of the Fourteenth Amendment of the United States Constitution, Doraville's policy and practice of budgeting for fines, fees, and forfeitures revenue, and vigorously ticketing and convicting both residents and passers-through in order to raise revenue, is unconstitutional.

14. Therefore, this lawsuit seeks a declaration and injunction against Doraville's policy and practice of budgeting to receive revenues from fines, fees,

and forfeitures.

15. Plaintiffs also seek a preliminary and permanent injunction restraining the city from acting in furtherance of any policy, practice, or custom that violates Plaintiffs' rights under the Fourteenth Amendment to the U.S. Constitution.

JURISDICTION AND VENUE

16. Plaintiffs bring this civil-rights lawsuit pursuant to 42 U.S.C. § 1983 and the Declaratory Judgments Act, 28 U.S.C. § 2201, for violations of rights, privileges, or immunities secured by the Fourteenth Amendment to the U.S. Constitution. Plaintiffs seek injunctive and declaratory relief against defendant City of Doraville because the City's financial incentive to ticket, convict, and fine plaintiffs, both facially and as-applied, violates plaintiffs' constitutional rights.

17. Accordingly, this Court has jurisdiction over plaintiffs' claims under 28 U.S.C. § 1331 (federal-question jurisdiction) and § 1343 (civil-rights jurisdiction).

18. Venue is appropriate in this Court under 28 U.S.C. § 1391(b)(1) and LR 3.1, NDGa. As described more fully below, the defendant is a municipal corporation residing in DeKalb County, Georgia, which is located in the Northern District of Georgia in the Atlanta Division, 28 U.S.C. § 90(a)(2).

THE PARTIES

I. PLAINTIFF HILDA BRUCKER

19. Plaintiff Hilda Brucker (“Hilda”) resides in Doraville at 3495 Raymond Dr.
20. Hilda owns her home.
21. Hilda has lived in her home for over 27 years.
22. Hilda is an author who works from her home.
23. Hilda owns an automobile and frequently drives in Doraville.
24. Hilda has been ticketed, convicted, and fined by the City of Doraville for the condition of her home.
25. Hilda has paid \$100 in fines to Doraville’s municipal court.

II. PLAINTIFF JEFFERY THORNTON

26. Plaintiff Jeffery Thornton (“Jeff”) resides in Doraville at 3351 Raymond Dr.
27. Jeff owns his home.
28. Jeff’s employer is outside of Doraville and he commutes in his automobile from Doraville every weekday.
29. Jeff has been ticketed, convicted, and fined \$1,000 for the condition of his home.

III. PLAINTIFF JANICE CRAIG

30. Plaintiff Janice Craig (“Janice”) resides in unincorporated DeKalb County.

31. Janice has been ticketed by Doraville police while driving through Doraville.

32. Janice has been found guilty by the Doraville municipal court.

33. Janice has paid \$215 in fines to the Doraville municipal court.

34. Janice now avoids driving through Doraville and has specifically avoided the intersection at which she was ticketed.

35. Janice must drive into Doraville to visit her mechanic. She does so three or four times per year.

IV. PLAINTIFF BYRON BILLINGSLEY

36. Plaintiff Bryon Billingsley (“Bryon”) resides in Atlanta, Georgia.

37. Byron is semi-retired and works at a company located in Doraville.

38. Byron drives through Doraville to reach his place of work.

39. Byron has been ticketed by Doraville police when driving through Doraville.

40. Byron has been convicted by the Doraville Municipal Court.

41. Byron has paid \$100 to the Doraville Municipal Court.

V. DEFENDANT CITY OF DORAVILLE

42. At all times alleged, defendant City of Doraville and its agents have acted under color of state law.

43. The City of Doraville is a Georgia Municipal Corporation operating under home rule as defined by Georgia Code § 36-35-3.

44. The City of Doraville controls, directs, and funds Doraville's police department, code enforcement, prosecutor, and municipal court.

STATEMENT OF FACTS

I. THE CITY OF DORAVILLE'S MUNICIPAL COURT SYSTEM

45. Doraville is a suburb of approximately 8,330 people, built around Buford Highway, a main artery into the Atlanta metropolitan area.

46. As a home rule municipality, Doraville may pass ordinances that criminalize, as misdemeanors, violations of its Code.

47. As a home rule municipality, Doraville has passed ordinances that criminalize, as misdemeanors, violations of its Code.

48. As a home rule municipality, Doraville has created a Municipal Court with jurisdiction to hear all violations of the Doraville Municipal Code, including criminal ones.

49. Doraville's municipal code is enforced by the Doraville Police

Department.

50. Those portions of the code concerning property maintenance are also enforced by Clark Patterson Lee, a private architecture firm.

51. When law enforcement tickets an individual under the Doraville Code, the Doraville law enforcement officer will typically provide the individual with a document, called a “citation/summons,” on which the individual is given a court date.

52. The citation/summons orders the defendant to appear at the Municipal Court for an arraignment on a particular date.

53. If the defendant does not show up for her arraignment, an arrest warrant is issued.

54. At an arraignment, the defendant may plead guilty (or no contest) or elect to go to trial.

55. At Doraville Municipal Court hearings, the Doraville City Attorney acts as the criminal prosecutor.

56. The Doraville Municipal Charter also authorizes the Doraville City Attorney to act as the municipal court judge.¹

57. The Doraville Municipal Court has authority to impose criminal

¹ Doraville Municipal Charter § 2.14.

penalties on violators of Doraville's code.²

58. The standard penalty for any violation of the Doraville Municipal Code is a criminal misdemeanor of up to \$1,000 or six months of imprisonment in Doraville jail.³

59. In 2015, Doraville enacted an ordinance permitting civil citations, as opposed to criminal misdemeanors, "[w]henver a provision of this Code provides for a civil citation to be issued,"⁴ but there do not appear to be any provisions of the code expressly imposing "civil citations."

60. The intent behind this 2015 ordinance was to initiate legal actions in a less costly manner, with less due process, by circumventing requirements such as personal service. However, if the defendant refuses to pay for a civil infraction, the Doraville Municipal Court can institute criminal contempt proceedings.⁵

II. THE CITY OF DORAVILLE HAS A FINANCIAL INCENTIVE TO COLLECT FINES AND FEES REVENUE

61. Doraville is heavily dependent on revenues it derives from law enforcement through its municipal court.

62. A Doraville newsletter released in spring of 2015 boasted that

² Doraville Municipal Code § 9-6.

³ Doraville Municipal Code §1-12.

⁴ Doraville Municipal Code § 1-12(c),

⁵ See Doraville City Council Minutes, April 20, 2015.

“[a]veraging nearly 15,000 cases and bringing in over \$3 million annually, [Doraville’s] court system contributes heavily to the city’s bottom line.”

63. According to its 2015 budget audit, approximately 27 percent of Doraville’s general revenues were municipal court fines and forfeitures.⁶

64. Between August 2016 and August 2017, Doraville’s municipal court assessed approximately \$3.84 million in fines against defendants.

65. According to data reviewed by the U.S. Commission on Civil Rights, Doraville ranked 6th in the country (of cities with greater than 5,000 people) for the amount of fines, fees, and forfeitures revenues it brought in as a proportion of its total revenues.⁷

66. Georgia law requires municipalities, like Doraville, to adopt a balanced budget.⁸

67. Doraville budgets to receive municipal court and law enforcement revenues in order to balance its budget.

68. In the past 5 years, Doraville has budgeted to receive, and has

⁶ City of Doraville, *Annual Financial Report for the Fiscal Year Ending June 30, 2015*, available at <https://goo.gl/ZbWGiL>.

⁷ U.S. Comm’n on Civil Rights, *Targeted Fines and Fees Against Communities of Color: Civil Rights and Constitutional Implications* 20–22 (Sept. 2017), http://www.usccr.gov/pubs/Statutory_Enforcement_Report2017.pdf (citing Dan Kopf, *The Fining of Black America*, PRICEONOMICS, June 24, 2016, <https://priceonomics.com/the-fining-of-black-america/>).

⁸ Ga. Code § 36-81-3(b)(1).

received, anywhere between 17 and 30 percent of its budget through fines, fees, and forfeitures.

III. DORAVILLE’S RELIANCE ON FINES AND FEES REVENUE DRIVES ITS LAW ENFORCEMENT POLICIES AND PRACTICES

69. Doraville’s budgetary reliance on fines, fees, and forfeiture revenues creates an incentive for its law enforcement officials (including officials in its police, code enforcement, and prosecutor departments, and independent contractors serving those departments) to maximize revenue.

70. Doraville has consistently ranked as one of Georgia’s worst “speed traps.”⁹

71. According to a 2014 investigation by the *Atlanta Journal-Constitution*, Doraville’s officers write an average of 40 tickets per day.¹⁰

72. According to the same 2014 investigation, Doraville writes more tickets per capita than any other jurisdiction in the Atlanta area, averaging \$847 per resident.¹¹

⁹ Andria Simmons, *Traffic Tickets: Some Cities Use Interstates as Cash Registers*, ATL. J.-CONST. (Oct. 24, 2015), available at <https://goo.gl/3eDoZx>; Associated Press, *Doraville Tops List of Traffic Fines Per Capita*, WASH. TIMES (Oct. 19, 2014), available at <https://goo.gl/S56fx7>.

¹⁰ Andria Simmons, *Atlanta’s Ticket Traps: Slow Down or Pay Up*, ATL. J.-CONST. (Oct. 18, 2014), available at <https://goo.gl/PcZzYe>.

¹¹ Andria Simmons, *Policing for Profit? Atlanta’s Leading Ticket Traps*, AJC.COM (Oct. 20, 2014), available at <https://goo.gl/xcS6ML>.

73. The *Atlanta Journal-Constitution* investigation added that, “even anecdotally, Doraville appears to be an outlier when it comes to ticket revenue. Doraville collected almost the same amount of total ticket revenue as Roswell, a city with a population nine times larger.”¹²

74. Citing a former Doraville city councilperson, *Governing* magazine reported that “[t]he 46 percent of its budget that Doraville devotes to police is the second-highest among more than two dozen metro Atlanta jurisdictions.”¹³

75. Many of the tickets written by Doraville police are for technical violations that do not involve public health or safety.

76. Between August 2016 and August 2017, nearly \$1 million in fines was assessed for driving without a valid license or without valid registration.

77. Doraville’s municipal code is also enforced by a contractor, Clark Patterson Lee, a for-profit architectural firm that appears to focus on property-code and building-permit enforcement.

78. The ability to seek forfeiture of vehicles and other property provides yet another financial incentive for Doraville law enforcement.

79. Doraville’s budgetary needs create an incentive for Doraville’s

¹² Simmons, *Atlanta’s Ticket Traps*, *supra* note 10.

¹³ Andria Simmons, *Georgia Towns Are Getting Rich off Speeding Tickets*, *GOVERNING* (Oct. 23, 2014), available at <https://goo.gl/S6igvd>.

outsized and prolific law enforcement personnel to devote resources to maximizing revenue instead of spending those resources on public safety.

80. Doraville's budgetary needs create an incentive for Doraville's city prosecutor to exercise prosecutorial discretion in a way that maximizes revenues at the expense of the public interest.

IV. DORAVILLE'S RELIANCE ON FINES AND FEES REVENUE DRIVES THE OPERATION OF ITS MUNICIPAL COURT

81. Doraville's budget is heavily dependent on its municipal court revenues.

82. Doraville can manipulate the operation of its municipal court in order to generate revenue.

83. As noted by a 2015 Doraville City Council report on a requested budget amendment, additional court dates translate into additional revenues: "The addition of more court dates . . . has resulted in increased collections of municipal court fines. . . ." ¹⁴

84. But Doraville's municipal court only collects fine revenue when it finds a defendant guilty.

85. When a defendant represented by counsel pleads not guilty and elects

¹⁴ City of Doraville, *May 2015 Requested Budget Amendment: Summary of Proposed Changes*, available at <https://goo.gl/EPe3CV>.

to go to trial, it is common for the Doraville prosecutor to either drop charges or bind the case to the Georgia state court system, presumably because it would be too inefficient to litigate.

86. This means that Doraville officials have a financial interest, or an apparent financial interest, in convicting defendants.

87. The City's budget is prepared by the City Manager. It can be amended and is ultimately adopted by the City Council.¹⁵

88. The municipal court judge is both selected by, and serves "at the pleasure of," Doraville's City Council.¹⁶

89. This means that the same authority, Doraville's City Council, has ultimate authority over both the City's finances and its municipal court.

90. The City Council's direct control over its municipal court is illustrated by a recent budget report, which states that the City Council formulated an "action plan" to "restore Municipal Court fines and forfeitures to previous levels."¹⁷

91. Therefore, Doraville's budgetary dependence on municipal court revenues leads, or appears to lead, Doraville's municipal court officials, including

¹⁵ Doraville Municipal Code § 2-84.

¹⁶ Doraville Municipal Code § 9-1.

¹⁷ City of Doraville, *FYE 2018 Budget*, available at <https://goo.gl/tUqTKX>.

its judge and its prosecutor, to perform official duties in a way that maximizes revenues at the expense of the public interest.

V. PLAINTIFFS HAVE FIRST-HAND EXPERIENCE WITH DORAVILLE'S TICKETING AND MUNICIPAL COURT SYSTEM

92. Each of the Plaintiffs has been threatened with tickets or ticketed by the City, or both.

93. Each of the Plaintiffs anticipates being threatened with tickets or ticketed by the City in the future.

94. Each of the four Plaintiffs drives through Doraville at least on occasion and does so under the threat of being ticketed by Doraville's law enforcement and convicted by Doraville's municipal court personnel.

95. Plaintiffs Hilda and Jeff live in Doraville, and they and their properties are therefore subject to the jurisdiction of the Doraville municipal court.

96. Plaintiff Janice actively avoids driving through Doraville because of her experience with Doraville's law enforcement and municipal court.

97. Plaintiff Bryon has to drive through Doraville to reach his place of work.

A. Plaintiff Hilda Brucker

98. Plaintiff Hilda Brucker has owned and lived in her Doraville home for over 25 years.

99. In October 2016, Hilda received a call from a Doraville Municipal Court employee informing her of a failure-to-appear violation.

100. Hilda had not received any notices from the Doraville Municipal Court, but the municipal court employee told her that notices had been mailed.

101. Hilda had never received a warning; nor was she given the option to abate the alleged code violation.

102. The municipal court employee told Hilda to come to the municipal court to “clear the ticket.”

103. Hilda drove to court where she was told to stand at a podium in front of the prosecutor as he explained her violations.

104. Hilda was informed by the prosecutor that she had three outstanding violations

105. The prosecutor asked Hilda to explain why she refused to correct them. Hilda explained that she did not know she was in violation.

106. The Municipal Court “suspended” Hilda’s first two citations and she pleaded no contest to the remaining citation. The Municipal Court ordered Hilda to pay a \$100 fine and to serve a 6-month probationary prison term.

107. If Hilda did not pay her fine all at once, and instead chose the monthly payment plan, the total amount due would have grown to \$249, including

probation and other court fees.

108. The non-monetary conditions attached to Hilda's probation included reporting to a probation officer, avoiding alcoholic intoxication, and "cooperating with code enforcement upon request."

109. Violating any condition of probation would subject Hilda to arrest.

110. Hilda was not allowed to pay her fine at the courthouse. She was only allowed to make payment to Doraville's contracted private probation company.

111. In December 2016, Hilda engaged an attorney who filed a motion to vacate her sentence.

112. Hilda's counsel eventually obtained copies of her "citation/summons" from a Doraville code enforcement officer alleging three violations: (1) "Rotted wood on house and chipping paint on fascia boards"; "(2) High weeds in backyard and ivy on tree and vines on house"; and (3) "Driveway in a state of disrepair."

113. Because of Doraville's code enforcement, Hilda obtained a home equity line of credit in order to afford any fixes that might be demanded by the City and to pay for any penalties she incurred.

114. The Municipal Court, though not formally granting the motion, sent Hilda a notice of a "rescheduled" court date. That court date was continued at least four times over a period of six months—Doraville's prosecutor apparently having

no interest in responding to Hilda's motions.

115. In August 2017, Doraville's prosecutor finally dropped the charges against Hilda, and dismissed her case, but only after she had paid her \$100 fine.

116. Hilda was not refunded her fine and there is no paperwork documenting Hilda's dismissal.

117. The point of ticketing Hilda was not to protect public health or safety, it was to collect a fine.

118. Like anyone with an older home, and like anyone with a garden, there potentially could be code violations on her property at any one time that Hilda is not aware of, even while trying to keep her property in order. Doraville could cite her for such violations in the future, just as it has in the past.

119. As a homeowner in Doraville, and (as she owns and drives a motor vehicle) a driver in Doraville, Hilda is subject to the jurisdiction of Doraville's municipal court. She lives under the threat of being ticketed again by Doraville code enforcement and law enforcement and convicted by Doraville's municipal court personnel.

B. Plaintiff Jeffery Thornton

120. In July 2015, Plaintiff Jeff Thornton received a code enforcement warning (an "advisory notice"), stating that his "trailer cannot be in grass—must be

parked on hard surface” and that he should “call about the logs in backyard.”

121. Jeff moved his trailer. He cannot recall whether he called about the wood logs he used for his woodworking hobby.

122. In December 2015, Jeff received another warning about the logs of wood, stating that “wood must be cut for usage [illegible] exactly 4x4x8 sections.”

123. On June 6, 2016, a Doraville code enforcement officer knocked on Jeff’s door and asked that she be permitted to inspect his backyard. Upon inspecting the backyard, the code enforcement officer told Jeff that his wood logs, as well as the firewood he used for camping, must be removed from the yard.

124. On or around July 27, 2016, Jeff received a “notice of arrest warrant” notifying him of a missed court date and a \$100 “failure to appear fee.” Jeff had never received notice of a court date.

125. Jeff later received two “citations/summons” in the mail in an envelope post-dated August 22, 2016. The citations were dated June 8, 2016, and appear to have followed the June 6 inspection of Jeff’s backyard. One citation cites the “large pile of tree logs in backyard” and the other citation cites “[b]oards, buckets, trimmings, and screen against house.”

126. Jeff went to trial on October 10, 2016, for both of the violations. He was found guilty on the wood logs violation. The other violation was “suspended.”

127. Jeff was originally sentenced to a \$1000 fine. After he informed the municipal court judge that he could not afford a \$1000 fine, the court lowered the sentence to \$300 and 12 months of probation.

128. Jeff's probation terms required him to pay a \$40-per-month fee for "pay only" probation to Professional Probation Services, the probation service contracted with the Doraville Municipal Court.

129. Following the Municipal Court's sentencing, Jeff told a Doraville code enforcement official that he could not afford even the \$300 fine. The code enforcement official then told him that the charges would be dropped.

130. In other words, Doraville ceased its ticketing and collection efforts once it was clear that Jeff could not pay. Public health or safety was never the point of its enforcement action against Jeff.

131. Like anyone with an older home, and like anyone with a garden, there potentially could be code violations on his property at any one time that Jeff is not aware of, even while trying to keep his property in order. Doraville could cite him for such violations in the future, just as it has in the past.

132. But as a homeowner in Doraville, and (as he owns and drives a motor vehicle) a driver in Doraville, Jeff is subject to the jurisdiction of Doraville's municipal court. He lives under the threat of being ticketed again by Doraville

code enforcement and law enforcement and convicted by Doraville's municipal court personnel.

C. Plaintiff Janice Craig

133. Plaintiff Janice Craig received a traffic ticket in September 2016, when she was pulled over by a Doraville police officer after changing lanes.

134. Janice was going eastbound on Buford Highway when she realized she was in a turn lane. Janice slowed down to safely exit the turn lane before reaching the intersection.

135. The officer told Janice that she had changed lanes in a way that held up traffic.

136. When Janice protested to the officer, he forcefully told her that it was all on video and he could show her the video if she did not believe that she did anything wrong.

137. Janice was ordered to appear at the Doraville Municipal Court.

138. Janice pleaded guilty at her court date and received a \$215 fine for "failure to obey traffic signs or control."

139. Janice does not live in Doraville and now avoids it because of its law enforcement practices.

140. When driving near Doraville, Janice will sometimes take a circuitous

route around Doraville in order to avoid its law enforcement practices.

141. In fact, since her ticket, Janice has avoided Doraville city streets and remains on I-285 even if doing so may increase her trip's duration.

142. Janice has specifically avoided the intersection at which she was ticketed.

143. Janice is nevertheless forced to drive through Doraville on occasion to reach her mechanic. She does this about three or four times per year.

144. Janice makes trips to her mechanic in fear of once again being ticketed by Doraville's law enforcement and convicted by Doraville's municipal court personnel.

145. As a driver who drives within the city limits of Doraville, Janice lives under the threat of being ticketed again by Doraville law enforcement and convicted by Doraville's municipal court personnel.

D. Plaintiff Byron Billingsley

146. Plaintiff Byron Billingsley received a ticket after changing lanes without using a turn signal.

147. At approximately 12:30 P.M., on July 10, 2017, Byron was driving North on Pleasantdale Road.

148. At the intersection of Pleasantdale and Oakcliff Road, a large truck

was having a difficult time crossing the railroad tracks, moving approximately five miles per hour.

149. Pleasantdale is four lanes at that intersection (two in each direction) so, after waiting a few moments, Byron turned into the unblocked lane and continued.

150. A Doraville officer, from an intersection 1000 feet away, pursued Byron, pulled him over, and wrote him a ticket.

151. Byron hired counsel to appear at his court date and was able to have his ticket reduced to \$100 after pleading guilty.

152. Byron's workplace is located in Doraville and he must drive through Doraville to reach it. He does so several times a week.

153. Byron regularly drives through Doraville under the threat of again being ticketed by Doraville's law enforcement and convicted by Doraville's municipal court personnel.

154. As a driver who drives within the city limits of Doraville, Byron lives under the threat of being ticketed again by Doraville law enforcement and convicted by Doraville's municipal court personnel.

CONSTITUTIONAL VIOLATIONS

FIRST CLAIM FOR RELIEF (Due Process Clause Violation—Biased Adjudication)

155. Plaintiffs reallege and incorporate by reference each and every

allegation set forth in paragraphs 1 through 154 above.

156. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution prohibits judicial officers from having a direct or indirect financial interest in a proceeding, regardless of whether this interest is institutional or personal.

157. Doraville's reliance on its civil and criminal code to raise revenue creates an institutional incentive for the City to ticket, convict, and fine defendants, regardless of the nature of an individual's offense.

158. Doraville's institutional reliance on revenue from fines, fees, and forfeitures creates a conflict between the City's pecuniary interest and the municipal court personnel's obligations to be, and appear, disinterested and to serve the interests of justice. This conflict exists regardless of whether such personnel actually do violate their obligations to be disinterested and serve the interests of justice.

159. Doraville's institutional reliance on revenue from fines and fees creates an appearance of bias that results in a lack of due process of law in the trial of defendants charged before the Doraville Municipal Court.

160. Doraville's institutional pecuniary interest in raising revenue also creates an unconstitutional risk that irrelevant and impermissible factors can

influence the decision to prosecute a defendant or the nature of any plea bargain or negotiated settlement of a civil or criminal enforcement action.

161. Doraville's institutional reliance on revenue from fines, fees, and forfeitures creates a conflict between the City's pecuniary interest and the prosecutor's obligation to be, and appear, disinterested and to serve the interests of justice. This conflict exists regardless of whether the prosecutor actually does violate his or her obligations to be disinterested and serve the interests of justice.

162. Doraville's institutional reliance on revenue from fines, fees, and forfeitures creates a bias or an appearance of bias that results in a lack of due process of law in the trial of defendants charged by the Doraville city government.

163. Because Doraville's policies, practices, and customs have created a situation where prosecutors and municipal court personnel have an incentive to convict and fine defendants, the City has violated, and will continue to violate, the due process rights of Plaintiffs.

164. As a direct and proximate result of the City's actions, Plaintiffs have suffered irreparable injury to their constitutional rights.

165. As a direct and proximate result of Doraville's policy, practice, and custom of administrating its prosecutorial efforts and its municipal court in order to generate revenue, Plaintiffs will suffer irreparable injury to their constitutional

rights.

166. Declaratory and injunctive relief is necessary to remedy Doraville's unconstitutional conduct, or the appearance of the unconstitutional conduct, of ticketing, convicting, and fining defendants in order to generate revenue for the City. Without appropriate declaratory and injunctive relief, Doraville's unconstitutional policies and practices will continue.

SECOND CLAIM FOR RELIEF
(Due Process Clause Violation—Biased Prosecution and Law Enforcement)

167. Plaintiffs reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 166 above.

168. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution requires that criminal prosecutors and law enforcement be neutral and objective.

169. It is a violation of Due Process for prosecutors or law enforcement to have a personal, or institutional, financial stake in the cases they prosecute.

170. Doraville has a massive financial interest in the cases that it brings. The City is largely dependent on obtaining, from the people that it prosecutes, fines, fees, and forfeitures revenues.

171. This financial interest distorts or threatens to distort Doraville's exercise of prosecutorial and law enforcement discretion.

172. This financial interest incentivizes Doraville personnel to obtain convictions at the expense of the public interest.

173. This financial interest incentivizes Doraville personnel to obtain convictions at the expense of the stringent ethical responsibilities of prosecutors.

174. This financial interest incentivizes Doraville's law enforcement personnel to vigorously issue tickets or citations, and prosecute them at the expense of the public interest.

175. Because Doraville's policies, practices, and customs have created a situation where prosecutors and law enforcement have an incentive to convict and fine defendants, the City has violated, and will continue to violate, the due process rights of the named Plaintiffs.

176. As a direct and proximate result of the City's actions, Plaintiffs have suffered irreparable injury to their constitutional rights.

177. As a direct and proximate result of Doraville's policy, practice, and custom of administrating its prosecutorial efforts and law enforcement in order to generate revenue, Plaintiffs will suffer irreparable injury to their constitutional rights.

178. Declaratory and injunctive relief is necessary to remedy Doraville's unconstitutional conduct, or appearance of unconstitutional conduct, of ticketing,

convicting, and fining defendants in order to generate revenue for the City.

Without appropriate declaratory and injunctive relief, Doraville's unconstitutional policies and practices will continue.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

1. For a declaration that Doraville's systemic policy, practice, and custom of budgeting for, and relying on, revenue from fines, fees, and forfeitures generated by its code enforcement, policing, and municipal court systems violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution;

2. For a declaration that Doraville's systemic policy, practice, and custom of budgeting for revenue from fines, fees, and forfeitures imposed for violations of the Doraville Municipal Code, and taking actions in order to meet that budgeted amount, violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution;

3. For issuance of preliminary and permanent injunctions restraining Doraville from acting in furtherance of policies, practices, or customs that violate Plaintiffs' rights under the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution;

4. For an award of nominal damages in the amount of \$1.00;

5. For an award of attorney's fees, costs, and expenses in this action pursuant to 42 U.S.C. § 1988; and

6. For further legal and equitable relief as this Court may deem just and proper.

Dated this 23rd day of May, 2018.

Respectfully submitted,

/s/ Frank B. Strickland

Frank B. Strickland

Georgia Bar No. 687600

STRICKLAND BROCKINGTON LEWIS LLP

Midtown Proscenium, Suite 2200

1170 Peachtree Street NE

Atlanta, GA 30309

Tel: (678) 347-2200

Fax: (678) 347-2210

Email: fbs@sblaw.net

Joshua A. House*

California Bar No. 284856

INSTITUTE FOR JUSTICE

901 N. Glebe Rd., Suite 900

Arlington, VA 22203

Tel: (703) 682-9320

Fax: (703) 682-9321

E-mail: jhouse@ij.org

Anthony Sanders*
INSTITUTE FOR JUSTICE
Minnesota Bar No. 0387307
520 Nicollet Mall, Suite 550
Minneapolis, MN 55402
Tel: (612) 435-3451
Fax: (612) 435-5875
Email: asanders@ij.org

**Pro Hac Vice Applications to be filed*