

DEVON TYLER BARBER, Pro Se
3536 Pacific Avenue, Apt. A5
Atlantic City, NJ 08401
(609) 862-8808 | info@Tillerstead.com

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MERCER COUNTY

DEVON TYLER BARBER,

Plaintiff,

vs.

NEW JERSEY MOTOR VEHICLE COMMISSION,

Defendant.

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

NOTICE OF MOTION TO PROCEED IN
FORMA PAUPERIS, FOR FEE WAIVER

AND FOR NUNC PRO TUNC

ACCEPTANCE OF PRIOR FILINGS

(R. 1:13-2; R. 1:1-2; R. 4:69-1)

Return Date: _____, 2025 (per **R. 1:6-3**)

TO: Mercer County Civil Division / Clerk

TO: Office of the Attorney General – MVC Unit

TO: Counsel of Record for MVC – Jennifer Jaremback via Jennifer.Jaremback@law.njoag.gov

PLEASE TAKE NOTICE that on the earliest return date permitted under R. 1:6-3, Plaintiff

Devon Tyler Barber, pro se, will move before the Superior Court for an Order:

1. Granting leave to proceed **In Forma Pauperis** pursuant to;
2. **Waiving** all past and future filing fees in this matter;
3. **Directing** the Clerk to accept all previously submitted filings nunc pro tunc, restoring

rejected submissions to the docket;

4. **Finding** that Plaintiff's underlying prerogative-writ claims against MVC are colorable, meritorious, and entitled to judicial review;

5. **Granting** any further equitable relief necessary to preserve access to the courts and prevent prejudice.

Pursuant to **R. 1:6-2(d)**, Plaintiff requests oral argument if the Court believes it will assist in the resolution of this Motion.

A Proposed Form of Order is attached.

Respectfully submitted,

/s/ Devon Tyler Barber

Plaintiff, Pro Se

Date: 12/04/2025

SUPERIOR COURT OF NEW JERSEY

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Plaintiff,

vs.

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Defendant.

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

[PROPOSED]

ORDER GRANTING IFP

**ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS & ACCEPTING
FILINGS NUNC PRO TUNC**

This matter having been opened to the Court by Plaintiff **Devon Tyler Barber**, pro se, and good cause appearing:

IT IS ORDERED:

1. Plaintiff's Motion to Proceed In Forma Pauperis is **GRANTED** under **R. 1:13-2**.
2. All filing fees are **WAIVED**.
3. All submissions previously rejected for non-payment shall be **restored to the docket nunc pro tunc** as of their original dates of submission.
4. Plaintiff may proceed without payment of costs.
5. The Clerk shall process all pending motions accordingly.

SO ORDERED.

Dated: _____

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

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LAW DIVISION – MERCER COUNTY

DEVON TYLER BARBER,

Plaintiff,

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Defendant.

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

*CERTIFICATION OF INDIGENCY &
PROCEDURAL HISTORY*

(Pursuant to R. 1:4-4 and R. 1:13-2)

I, **Devon Tyler Barber**, of full age, hereby certify pursuant to **R. 1:4-4**:

1. **I am the Plaintiff in this matter, appearing pro se.** I submit this Certification in support of my renewed Motion to Proceed In Forma Pauperis pursuant to **R. 1:13-2(a)**.
2. Pursuant to **N.J. Const. art. VI, §3, ¶4** and **R. 4:69-1**, this Court has original jurisdiction over my prerogative-writ challenge to unlawful, arbitrary, and capricious State-agency action by the New Jersey Motor Vehicle Commission (“MVC”).
3. Venue is proper in **Mercer County** pursuant to **R. 4:3-2(a)(1)** because MVC’s principal office is located in Trenton, New Jersey.

A. Indigency and Financial Hardship

4. I certify that I am indigent. I currently receive:

- **Emergency Assistance (EA)**
- **General Assistance (GA)**
- **Supplemental Nutrition Assistance Program (SNAP)**

I have **no savings, assets, vehicle, or income** beyond these survival-level benefits.

5. I am experiencing ongoing housing instability, and at the time of the incident described below, I was **in the process of moving into stable housing after a period of homelessness.**

B. The November 29, 2025 Incident and Resulting Hardship

6. On **November 29, 2025**, my vehicle was **seized and impounded** by officers who identified themselves as **Hamilton Township Police (Atlantic County)**. I was transporting essential belongings and tools necessary for my licensed home-improvement work.
7. Any alleged administrative issues — registration, inspection, insurance, or license status — were **civil, correctable, and non-criminal**, and **did not justify escalation, confiscation of my shelter, or denial of my request for an alternate arrangement**. I was fully compliant, non-violent, and attempting to regain lawful compliance after homelessness.
8. As a direct result of the impoundment, I suffered:
 - **Loss of access to my work tools**, essential to my NJ HIC-licensed trade
 - **Interruption of my move into stable housing**
 - **Wrist and shoulder injuries** from excessively tight handcuffs
 - **Obstruction of medical access**
 - **Inability to attend court proceedings and required appointments**
 - **Loss of transportation necessary for employment, medical care, and daily survival**

C. The MVC Suspension Is Legally “Downstream and Derivative”

9. The MVC’s suspension action is **procedurally and causally downstream** from the November 29, 2025 police stop and impound. Even if MVC’s notice bears an earlier issue date, its enforcement depends entirely on the municipal event, the data entered by officers, and the consequences of the impound.

10. The State **cannot lawfully treat the MVC suspension in isolation** while the underlying triggering incident remains disputed and subject to judicial review in municipal and superior court.

D. Inability to Pay Filing Fees & Constitutional Concerns

11. The combined effects of:

- the vehicle impound,
- loss of tools,
- medical hardship,
- housing transition,
- and inability to work

have made it **impossible** for me to pay any filing fees.

12. Without IFP approval, I am **completely barred** from accessing the courts, which violates:

- **Boddie v. Connecticut**, 401 U.S. 371 (1971)
- **Crispin v. Volkswagenwerk AG**, 96 N.J. 336 (1984)
- **Payne v. Twp. of Woodbridge**, 221 N.J. Super. 76 (App. Div. 1987)
- **N.J. Const. art. I, ¶1** (due process & equal protection)

E. New Evidence Not Considered in Prior Denial

13. The Court's prior denial of indigency (11/13/25) occurred **before** I had submitted:

- EA eligibility documentation
- medical hardship evidence
- proof of impound + accumulating fees
- documentation of my transition into stable housing
- updated bank statements
- downstream MVC suspension evidence

14. This newly supplied evidence is essential to a fair indigency determination.

F. Request for Relief

15. I respectfully request that the Court:

- **grant leave to proceed In Forma Pauperis,**
- **waive past and future filing fees, and**
- **accept all filings nunc pro tunc** to their original dates of submission.

16. Denying access to the courts solely based on inability to pay would operate as a constructive dismissal, contrary to law and fundamental fairness.

Certification

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

/s/ Devon Tyler Barber
Dated: December 2, 2025

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Docket No.: MER-L-002371-25

CERTIFICATE OF SERVICE

(Pursuant to R. 1:5-1 and R. 1:5-3)

I, **Devon Tyler Barber**, certify that on **December 4, 2025**, I served true and correct copies of the following filings:

- Notice of Motion to Proceed In Forma Pauperis
- Certification of Indigency
- Brief in Support
- Proposed Form of Order
- Motion for Reconsideration
- Certification in Support of Reconsideration
- Emergent Application for Stay and Immediate Vehicle Release
- Certification of Damages
- All attached Exhibits

Service was made as follows:

A. Office of the Attorney General – MVC Unit

Attn: **Deputy Attorney General Jennifer Jaremback**

Email: Jennifer.Jaremback@law.njoag.gov

Method: Email service, consistent with R. 1:5-1(a) for State defendants

B. Hamilton Township Police Department

Records Division – htpd.records@hamiltonatlnj.gov

Internal Affairs – HTPD.ia@hamiltonatlnj.gov

Method: Email service; no paper service available due to indigency and emergent nature (R. 1:1-2)

C. Dirkes Used Auto Parts & Towing, LLC

Email: sales@dirkesautoparts.com

Method: Email service notifying them of court filings and preservation obligations

D. eCourts / JEDS Filing

All documents uploaded and filed electronically with the Superior Court of New Jersey through JEDS/eCourts in compliance with statewide submission requirements.

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

/s/ Devon Tyler Barber

Date: December 4, 2025

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Atlantic City, NJ 08401

(609) 862-8808

info@Tillerstead.com New Jersey Court email: dTb33@PM.Me

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**BRIEF IN SUPPORT OF MOTION FOR
 INDIGENCY**

(R. 1:13-2; R. 1:1-2; R. 4:69-1)

POINT I

Indigency Is Mandatory Where the Litigant Cannot Pay and the Claim Is Colorable**

Authorities:

- R. 1:13-2
- *Crispin v. Volkswagenwerk AG*, 96 N.J. 336 (1984)
- *Payne v. Twp. of Woodbridge*, 221 N.J. Super. 76 (App. Div. 1987)

Under **R. 1:13-2**, the Court *must* grant IFP status where a litigant is demonstrably unable to pay and the claim is “not frivolous.”

In **Crispin**, the Supreme Court held that a court may not deny IFP where a claim presents a **colorable basis** and the litigant’s financial condition is verified.

Payne further confirms that access to judicial review of governmental action cannot be conditioned on the ability to pay filing fees.

A prerogative-writ action challenging **MVC administrative suspension** is inherently colorable because New Jersey courts strictly scrutinize State-agency decisions affecting driving privileges, mobility, livelihood, and property rights. The merits threshold for IFP is **very low**, and Plaintiff easily satisfies it.

POINT II

Denying IFP Where Access to the Courts Is Essential Violates Due Process**

Authorities:

- *Boddie v. Connecticut*, 401 U.S. 371 (1971)
- N.J. Const. art. I, ¶1
- R. 1:1-2 (relaxation to prevent injustice)

Under **Boddie**, indigent litigants cannot be denied access to court processes when those processes are the *exclusive avenue* for relief from government deprivation.

New Jersey's due-process and fundamental-fairness doctrine (art. I, ¶1) imposes the same requirement.

Here, Plaintiff cannot challenge MVC's action or protect property rights *except* through the courts. Denying IFP would operate as a substantive dismissal based solely on poverty — a result New Jersey law forbids.

POINT III

Jurisdiction, Venue, and Procedural Requirements Are Fully Satisfied**

Jurisdiction:

The Superior Court has **original jurisdiction** over prerogative-writ actions against statewide agencies under N.J. Const. art. VI, §3, ¶4 and R. 4:69-1.

Venue:

Venue in **Mercer County** is mandatory under R. 4:3-2(a)(1) because the New Jersey Motor Vehicle Commission is headquartered in Trenton.

Procedure:

The renewed Motion cures all earlier defects and includes:

- Notice of Motion under R. 1:6-2
- Certification under R. 1:4-4

- Exhibits supporting indigency, hardship, and procedural posture
- Proposed Order
- Brief with controlling authority

The Court now has all information necessary to rule on indigency.

POINT IV

Nunc Pro Tunc Acceptance of Prior Filings Is Required to Prevent Injustice**

Authorities:

- R. 1:1-2 (relaxation of rules “to secure a just determination”)
- R. 1:13-2
- Court’s inherent equitable authority

New Jersey courts routinely employ **nunc pro tunc** acceptance to prevent the loss of rights where procedural barriers arise from indigency. Denying Plaintiff’s filings solely because he lacked the ability to pay would effectively extinguish substantive rights and prevent judicial review of State action.

Relaxation under **R. 1:1-2** is appropriate here because:

- The prior denial was based on an incomplete record;
- The renewed motion now supplies the necessary documentation;
- The interests of justice require restoration of Plaintiff’s filings.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court:

1. Grant leave to proceed **In Forma Pauperis**;
2. Waive all past and future filing fees; and
3. Accept all previously submitted filings **nunc pro tunc**.

Respectfully submitted,
/s/ Devon Tyler Barber
 Plaintiff, Pro Se