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The ELD Rule authorizes warrantless searches to uncover evidence of criminal violations in violation of Article I, Section 12, *supra* Part I. And, as described above, *supra* Part II, the ELD Rule's procedures do not sufficiently protect privacy interests to serve as the warrant substitute required by the administrative search exception. Thus, Petitioners have alleged that Defendants' ELD searches violate Article I, Section 12 and have therefore stated a claim for a facial constitutional violation.

**CONCLUSION**

This Court consistently recognizes the importance of New York's Constitution and its role as foremost protector of individual rights in the state. But the Department's incorporation of the ELD Rule stands as yet another example of the state government ignoring the state Constitution and the rights it protects and paying attention instead only to policy goals (goals not advanced by the ELD Rule) and its access to federal funding. The Department, in its bid to safeguard the flow of federal highway dollars, rubber stamped the federal government's search regime without regard to whether it comported with the essential state constitutional obligations that protect individuals' privacy rights or whether the Department's substantial privacy intrusions yield any increase in highway safety.



