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PATRICK O'SULLIVAN, SAI LEE, GEORGE
HORBAL, ALLIANCE CAB and S.F. TOWN TAXI INC.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

SAN FRANCISCO TAXI COALITION,
PATRICK O'SULLIVAN, SAI LEE,
GEORGE HORBAL, ALLIANCE CAB and
S.F. TOWN TAXI INC.,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN
FRANCISCO; SAN FRANCISCO
MUNICIPAL TRANSIT AGENCY;
EDWARD D. REISKIN, Director of
Transportation; and DOES 1 through 20,

Defendants.

No.

CGC-19-574503

**COMPLAINT FOR DECLARATORY
RELIEF FOR DENIAL OF
SUBSTANTIVE DUE PROCESS AND
EQUAL PROTECTION UNDER CAL.
CONSTITUTION AND 42 U.S.C.
§1983, FOR PRELIMINARY AND
INJUNCTIVE RELIEF, VIOLATION
OF CALIFORNIA ENVIRONMENTAL
QUALITY ACT, VIOLATION OF
PUBLIC UTILITIES CODE
SECTIONS 21690.5, et seq., AND
VIOLATION OF GOVERNMENT
CODE SECTIONS 11135, et seq.**

[CEQA ACTION]

INTRODUCTION

1. The City and County of San Francisco (sometimes "the City"), through its constituent boards and commissions, issues motor vehicle for hire permits

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1 authorizing permit holders to operate taxicabs on City streets and to and from San
2 Francisco International Airport ("SFO"). Motor vehicle for hire permits are often
3 referred to colloquially as "medallions."

4 2. Prior to June 6, 1978, the City issued motor vehicle for hire permits in
5 the name of individuals and corporations, and one person or entity could hold multiple
6 permits. Subject to City agency approval, permit holders were also allowed to
7 transfer medallions to authorized third parties for consideration, i.e., "sell" the permit
8 for an agreed-upon purchase price.

9 3. On June 6, 1978, City voters approved an initiative ordinance commonly
10 known as Proposition K. This measure significantly changed the City's regulatory
11 structure for taxicabs. All outstanding taxicab permits were ordered surrendered and
12 reissued. Under Proposition K, permits were no longer transferable. Only individuals
13 could be issued new permits, and only one permit per person was allowed. The
14 ordinance contained an express formula that over time would eliminate permits held
15 by corporations. Proposition K also provided that individuals holding medallions on its
16 effective date (so-called "pre-K medallions") could retain their medallion(s) for the life
17 of the permit holder. Upon the person's death, the medallion would automatically
18 revert to the City for re-issuance (upon payment of a processing fee) to so-called
19 "post-K" permit holders selected from the top a long list of qualified and experienced
20 taxi drivers. Eventually, for drivers on the list, the wait for a post-K permit exceeded
21 15 years.

22 4. Prior to Proposition K's effective date, the City allowed pre-K permit
23 holders to add names to the permit upon payment of a specified fee. The several
24 names on a pre-K permit were deemed to hold the permit in joint tenancy with rights
25 of survivorship.

26 5. For the next thirty-two years, taxi medallions were governed under the
27 provisions of Proposition K and various implementing ordinances adopted by the City.
28 For example, the City enacted a provision requiring post-K permit holders to

1 personally operate a taxicab for a specific number of hours every year. Pre-K permit
2 holders, grandfathered under Proposition K, were not subject to this "active driving
3 requirement." Instead, pre-K permit holders were allowed to continue the practice of
4 leasing their permits through taxicab management companies (termed "color
5 schemes" by the City) for operation by non-permit holding drivers. A driver typically
6 paid the color scheme a per-shift lease fee (called a "gate") and kept all fares
7 received from passengers during his or her assigned shift. In turn, the color scheme
8 paid the pre-K permit holder a monthly lease fee for the use of the medallion. From
9 and after the enactment of Proposition K, color schemes typically paid pre-K permit
10 holders between a thousand and two thousand dollars a month or more in lease fees.

11 6. Over the course of the decades after passage of Proposition K,
12 hundreds of pre-K permits reverted to the City for reissuance. Changes and
13 contractions in corporate ownership resulted in the surrender of many permits held in
14 corporate form. Immediately prior to the passage of Proposition K in 1978, there
15 were approximately 700 medallions held by individuals and corporations. By 2018,
16 out of a total of approximately 1,800 medallions authorized by the City, fewer than
17 275 were still held by pre-K permit holders, individual and corporate.

18 7. Virtually all current pre-K medallion holders purchased or acquired their
19 permits for consideration prior to 1978. Individual permits typically changed hands for
20 in excess of \$15,000 each, in 1976 dollars. At the time, the average income for a San
21 Francisco family was \$13,500, and a home in the City could be purchased for
22 \$15,000. After 1978, many pre-K permit holders elected to personally operate their
23 medallions to supplement their taxi-related income. However, the passage of time
24 and the infirmities of age now preclude all but a handful of them from safely driving a
25 cab. Instead, the vast majority of pre-K permit holders now rely exclusively on
26 monthly lease payments from color schemes for medallion-derived income.

27 8. As of 2018, almost all the individuals holding pre-K permits are over the
28 age of 70.

PURCHASED MEDALLIONS AND THE CREDIT UNION

1
2 9. In November 2007, City voters approved Proposition A, a Charter
3 amendment. Among other things, Proposition A authorized the vesting of plenary
4 authority over taxicabs in the San Francisco Municipal Transit Agency ("SFMTA").
5 Proposition A provided, in relevant part, that "[o]nce adopted, [SFMTA] regulations
6 shall thereafter supercede (sic) all previously-adopted ordinances governing motor
7 vehicles for hire that conflict with or duplicate such regulations" (Charter section
8 8A.101(b)).

9 10. Starting in 2009, the SFMTA enacted various taxi-related amendments
10 and additions to the San Francisco Transportation Code. With the greater regulatory
11 freedom afforded by Proposition A, the SFMTA could override the non-transferability
12 provisions of Proposition K. Accordingly, to reap potentially millions of dollars in new
13 municipal revenue, the SFMTA formulated and put into operation its Taxi Medallion
14 Transfer Program, Transportation Code sections 1116, *et seq.* ("the Program").

15 11. Under the Program, with certain exceptions, taxi drivers could purchase
16 an existing permit from its then-holder for the sum of \$250,000.00. \$200,000.00 of
17 that sum was retained by the seller. The remaining \$50,000.00 was remitted to the
18 SFMTA. These "Purchased medallions" were themselves transferable, subject to
19 SFMTA approval, creating what the SFMTA believed would be a forward-looking,
20 dynamic taxi medallion marketplace.

21 12. Given the relatively modest means of most taxi drivers, the Program
22 included provisions authorizing "Qualified Lenders" to loan to the buyer up to 95% of
23 the full purchase price of the medallion. In exchange, the lender obtained a security
24 interest in the medallion. The lender furnishing the overwhelming majority of loans to
25 buyers of taxi medallions was the San Francisco Federal Credit Union ("the Credit
26 Union"). From the Program's inception in 2010, the Credit Union financed hundreds
27 of Purchased medallion transactions, extending credit in excess of \$150 million. In
28 turn, the SFMTA received in excess of \$50 million in sales-generated revenue. The

1 Program allowed both pre-K and longtime post-K medallion holders over 65 years of
 2 age (later dropped to 60) to "retire" from the taxi industry by transferring their
 3 medallions to new "Purchased medallion" holders for consideration.

4 13. In 2013, to assist it in exercising its regulatory jurisdiction over taxicabs,
 5 the SFMTA commissioned a study from Hara Associates. The Hara study, entitled
 6 "Best Practices Studies of Taxi Regulation", focused on a number of then-current
 7 issues including meter rates, maximum ceilings on gate charges, needs of the
 8 paratransit community and related matters. In response to the steady increase on
 9 City streets of so-called transportation network carriers ("TNCs") such as Uber and
 10 Lyft, the Hara report referenced an earlier report it had made to the SFMTA entitled
 11 "Managing Taxi Supply" and offered the following advice:

12 **Quantity matters.** The taxi industry's issues will not be
 13 solved by changes to the rate structure alone. *Managing*
 14 *Taxi Supply* found that a significant shortage of taxis has
 15 led to poor taxi dispatch service in San Francisco, and left
 16 an unsatisfied demand that provides fertile ground for the
 17 emergence of competing services. A survey of San
 18 Francisco residents indicated that what most individuals
 19 using these services really want is reliable and easily
 20 available taxi service. A large increase in the number of
 21 taxis was recommended over the period 2013 to 2015

22
 23 An expanded taxi fleet is part of an overall strategy to
 24 better serve the public and improve the health of the
 25 industry. . . (Section 4.1, Principles for Recommended
 26 Strategy).

27 14. The SFMTA implemented a number of the recommendations made in
 28 the Hara study. At the same time as it was "sharing" the transfer price with medallion
 29 sellers under the Program, the SFMTA increased the size of the taxi fleet by issuing
 30 hundreds of "new" medallions to persons on the driver waiting list. The sales price
 31 was initially \$125,000 and then increased to \$250,000. Since the SFMTA was not
 32 obligated to share proceeds from these new medallions with anyone else, it retained
 33 the entire purchase price, eventually amounting to over \$63 million. All or virtually all
 34 of these "new" purchases were financed by the Credit Union.

35 15. By 2015 and 2016, however, the San Francisco taxicab industry was

1 reeling from the economic inroads made by companies such as Uber and Lyft. With
2 the TNCs subsidizing the fares charged their passengers and artificially supporting
3 the income earned by their drivers, a person could take a TNC to or from SFO (or just
4 around town) for a much lower fare than a taxicab would charge. There were also
5 thousands of TNC vehicles plying City streets, swamping the available taxi fleet. As a
6 consequence of competition from these TNC vehicles, the demand for taxi-generated
7 transportation services plummeted. With significantly less demand for taxis, the per-
8 shift gates paid by taxi drivers (the ones who hadn't yet switched over to driving for
9 the TNCs) were perforce dramatically reduced. With taxi drivers paying lower gates,
10 and forgoing unpopular shifts in their entirety, color scheme revenues plunged
11 correspondingly. Some color schemes went out of business, others merged with their
12 competitors and a number stopped paying permit holders any money at all. The taxi
13 business commenced a long downward spiral.

14 16. The downturn in the fortunes of the taxi industry significantly reduced
15 the lease fees being paid to pre and post-K permit holders. As for the holders of
16 Purchased medallions, many could no longer service the Credit Union loans they had
17 received when they acquired their medallions. Well over a hundred medallion holders
18 went into default, and the Credit Union foreclosed on their medallions. Due to the
19 economic stresses being experienced by the taxi industry as a whole, by 2016 the
20 "dynamic market" for Purchased medallions envisioned by the SFMTA had virtually
21 disappeared. No one was interested in acquiring a medallion for \$250,000. The
22 Credit Union was left with scores of non-performing and under-performing loans on its
23 books, and for pre-K and post-K permit holders seeking a way of retiring from the
24 industry, the exit door had closed.

25 17. On March 27, 2018, the Credit Union sued the SFMTA in San Francisco
26 Superior Court (Action No. CGC-18-565325). In its Complaint, the Credit Union
27 alleged that the SFMTA was obligated under the Transportation Code and lender
28 agreements to foster and maintain a vibrant taxicab industry which it had failed to do.

1 The Credit Union alleged that the SFMTA had breached the lender agreements into
2 which it had entered, breached the covenant of good faith and fair dealing, breached
3 mandatory duties under the Transportation Code and engaged in serial
4 misrepresentations, all to the Credit Union's economic detriment. The Credit Union
5 alleged that while the SFMTA had covenanted to repurchase foreclosed medallions, it
6 had failed and refused to commit municipal resources to that end. In its lawsuit, the
7 Credit Union prayed for damages from the SFMTA in an amount exceeding \$31
8 million.

9 2018 "REFORMS"

10 18. Following the collapse of the Program and the economic distress
11 reported by virtually every kind of medallion holder, the SFMTA retained PFM Group
12 Consulting/Schaller Consulting ("Schaller") to review the state of the taxi industry in
13 San Francisco. Schaller was tasked with identifying and recommending ways for the
14 SFMTA to revitalize the taxi industry, including ways to increase driver and medallion-
15 holder income, promote increased taxi use by the general public and supply
16 additional taxi-based support to the paratransit community – essentially mirroring the
17 tasks assigned back in 2013 to Hara Associates.

18 19. In May, 2018 Schaller issued its report. The consultant confirmed that
19 revenues realized by drivers, medallion holders and color schemes had dropped
20 precipitously as a result of the incursion of the TNCs, among other contributing
21 causes. Schaller confirmed that many taxi shifts were going unfilled and many taxis
22 were being "parked" due to a lack of drivers. Confronted with over 40,000 TNC
23 vehicles plying City streets, Schaller's report inexplicably recommended that the
24 SFMTA turn 180 degrees and *reduce* the number of taxis in the City's authorized
25 fleet. Schaller proposed that the SFMTA retire all pre-K permits held by individuals,
26 all permits held by corporations and all "unused" post-K permits. According to the
27 Schaller report, these recommendations were intended to "right-size" the taxi fleet
28 and thereby increase the income of the surviving medallion holders and, in particular,

1 the holders of so-called "Purchased medallions."

2 20. Thereafter, SFMTA staff proposed a number of taxi industry reforms.
3 Proposed reforms included: (a) allowing only Purchased medallion holders to pick up
4 fares at SFO, (b) non-renewing all corporate and pre-K medallions, (c) relieving
5 Purchased medallion holders of the "active driving requirement" still imposed on
6 post-K permit holders, (d) providing for the sale of up to 50 medallions each to
7 "business entities" and (e) providing greater incentives to operators of "ramp taxis"
8 that accommodated wheelchairs in service to the paratransit community.

9 21. In urging the "non-renewal" of corporate and pre-K medallions, SFMTA
10 staff embarked on some homegrown wealth redistribution, employing economic
11 analyses of dubious validity. First, a statement with no support in either history or law
12 was offered:

13 "It is staff's belief that Pre-K and Corporate medallions
14 were intended to transition to Post-K medallions in short
15 order, after the passage of Proposition K. These classes
of medallions have continued to operate until today, and
extract value from the taxi industry."

16 Then, in order to make terminating the income of pre-K permit holders a little
17 more palatable, staff airily observed that:

18 "Staff estimates that over their lifetime, Corporate and
19 Pre-K medallions have earned approximately \$1.6 million,
20 per medallion . . . Because these medallions are generally
not held by working drivers, this is passive income."

21 At the same time, staff recommended changes to the Transportation Code
22 relieving the holders of Purchased medallions of any obligation to actually operate
23 their permits, transforming all their future revenue to "passive income" and giving the
24 permit holders the option of becoming "absentee landlords."

25 22. The principal rationale offered in support of the staff-generated reforms
26 was to increase the income of "Purchased medallion" holders by relieving them of
27 certain competitive pressures. The competitive pressure to be relieved, however,
28 was not the pressure exerted by the TNCs that had taken much of the transportation

1 market away from taxis. Rather, SFMTA staff proposed to relieve Purchased
2 medallion holders from competition by other taxis. Purchased medallion holders
3 would have exclusive pick-up rights at SFO (other taxis could drop fares off at the
4 airport but would then have to deadhead back to the City). Purchased medallion
5 holders would not be required to personally operate a taxi. Corporate interests would
6 be allowed to purchase and operate as many as 50 medallions each. And a total of
7 260 pre-K and corporate medallions would be cancelled on the assumption that
8 service requests distributed among fewer taxis would increase the income of the
9 surviving medallion holders. The staff proposals did not suggest ways to enlarge the
10 market for taxi transportation services. Instead, they proposed that Purchased
11 medallions cannibalize whatever market for taxi transportation was left over after the
12 invasion of the TNCs.

13 23. The staff reform proposals came before the Board of Directors of the
14 SFMTA on October 16, 2018. After hearing from staff and entertaining public
15 comment, the Board adopted a resolution that, among other things, eliminated the
16 active driving requirement for Purchased medallion holders and gave "the Director of
17 Transportation the authority to impose restrictions on the types of medallions
18 authorized to operate a taxicab trip originating at San Francisco International Airport."
19 The Board resolution also eliminated the Transportation Code provision limiting
20 medallion sales to active San Francisco taxi drivers, expressly authorizing sales to
21 individuals, businesses and corporations "up to a maximum of 50 medallions per
22 entity." The staff recommendations to non-renew pre-K and corporate permits and
23 bar post-K permits from picking up a fare at SFO were not adopted by the Board of
24 Directors.

25 24. In furtherance of the Board's October 16, 2018 resolution, on
26 December 27, 2018, SFMTA staff issued a memorandum through defendant
27 Edward D. Reiskin, Director of Transportation, announcing restrictions and limitations
28 to be imposed on "taxicab trips originating at San Francisco International Airport"

1 effective February 1, 2019. Under these "new rules", taxis operating pre-K medallions
2 (along with those operating so-called 8000 series medallions and "spare" taxi
3 vehicles) are prohibited from picking up fares originating at SFO. Purchased ("P")
4 medallion taxis are authorized to pick up fares at the airport with "expedited access"
5 while post-K ("K") taxis will be shunted to a separate taxi lot and dispatched to the
6 terminals for pickups on a ratio that varies from 2 P taxis to 1 K taxi all the way up to 7
7 P taxis for every 1 K taxi. Under certain conditions, wheelchair-accessible vehicles
8 (so-called "ramp taxis") are also given pickup preference over post-K medallions.

9 25. In staff reports to the SFMTA Board also dated December 27, 2018,
10 which were submitted with the memorandum detailing the new pickup rules at SFO, it
11 was expressly confirmed that the first and principal reason for prohibiting pre-K (and
12 other) medallion holders from picking up fares at the airport, and granting pickup
13 preference to Purchased medallions over post-K medallion holders, was to "[s]upport
14 Purchased medallions by prioritizing their pickups at SFO."

15 26. Despite the current economic distress of the taxicab industry in San
16 Francisco, a number of Purchased medallion holders have successfully repaid Credit
17 Union loans such that there is no pending lien interest on their permits. The
18 preferences granted by the SFMTA to Purchased medallion holders, however, do not
19 distinguish between those with and those without Credit Union liens. Those
20 preferences are extended to all Purchased medallion holders regardless of their
21 current economic circumstances.

22 27. One inevitable consequence of barring pre-K medallions from picking up
23 fares originating at SFO is that the utility and value of those medallions will be
24 irreparably reduced if not extinguished entirely. Due to age and disability/incapacity,
25 few if any pre-K medallion holders are able to safely operate a taxicab. For their part,
26 the vast majority of taxi drivers believe that the ability to pick up fares originating at
27 the airport is essential to the profitability of operating a motor vehicle for hire permit.
28 Accordingly, the bar on pre-K permits picking up fares at SFO renders those permits

1 essentially unleaseable. With the permit holder unable to safely operate the permit,
2 and drivers uninterested in leasing a permit burdened with such a restriction, the “new
3 rules” for airport pickups will indirectly accomplish what SFMTA staff sought to directly
4 achieve when it presented its recommendations to the SFMTA Board on October 16,
5 2018 – the elimination of pre-K permits entirely. Instead of those permits being “non-
6 renewed” as of June 30, 2019, as SFMTA staff initially proposed, the adoption of the
7 limitations on SFO pickups means those permits were effectively revoked as of
8 February 1, 2019.

9 28. The “new rules” governing pickups at SFO also reduce the leaseability
10 of post-K permits. With Purchased medallions being given from 2:1 up to 7:1
11 preference for curbside access, drivers are gravitating toward leasing Purchased
12 medallions in order to maximize their revenue potential in this era of TNC ascendancy
13 and depressed taxicab market share. With an already existing shortage of drivers
14 willing to operate a taxicab under any conditions, this will result in even more post-K
15 permits being “parked” by color scheme operators and revenue to the permit holder
16 being reduced even further.

17 29. Color scheme operators will also be adversely affected by the SFMTA
18 limitations on airport pickups. With few if any drivers willing to lease a pre-K
19 medallion, those permits will be returned to the permit holder because the color
20 scheme manager cannot justify the overhead associated with a vehicle that is
21 producing little or no revenue. The same effect is likely with respect to more and
22 more post-K permits as they become less and less desirable for drivers to operate.

23 TAXIS, SFO AND THE ENVIRONMENT

24 30. A further inevitable consequence of the SFMTA’s limitations on which
25 types of medallions may pick up passengers originating at SFO will be an increase in
26 trips to and from the airport by taxicabs. When a taxi with a pre-K medallion taxi
27 transports a passenger to SFO from the City, the taxi will have to deadhead back to
28 the City because it is not allowed to pick up a new passenger at the airport. Similarly,

1 post-K medallion taxis will be subjected to new and increased delays in finding a new
2 passenger at the airport because Purchased medallion taxis will be allowed to jump
3 the waiting queue, discouraging post-K medallion taxis from getting in line and
4 encouraging some significant number of them to simply deadhead back to the City
5 instead. At the same time, Purchased medallion taxis will be encouraged to
6 deadhead from the City to SFO because of their preferred status at the airport when it
7 comes to picking up new fare-paying passengers. The result will be a significant
8 increase in taxicab trips to and from SFO, even if the total number of taxi pickups at
9 the airport remains the same or even declines over time.

10 31. Ignoring the likely prospect of a significant increase in taxi-generated
11 traffic on the roads to and from SFO as a result of imposing limitations on which type
12 of medallions can pick up fares at the airport, on September 20, 2018 the SFMTA
13 itself – without citing or making reference to any evidence or analysis of potential
14 environmental impacts of its then-proposed “taxi medallion reforms” – issued a terse
15 determination (in the form of an actual rubber stamp) that staff’s proposed changes
16 did not amount to a “project” as defined by the California Environmental Quality Act
17 (CEQA) because they would not allegedly result in any physical change to the
18 environment, citing CEQA Guidelines §15378(b). At the time this determination was
19 made, SFMTA staff was assuming that upwards of 275 pre-K permits were going to
20 be non-renewed and a corresponding number of taxis taken off the road.

21 32. For its part, when the SFMTA Board of Directors adopted its
22 October 16, 2018 resolution granting defendant Reiskin the discretion to “impose
23 restrictions on the types of medallions authorized to operate a taxicab trip originating
24 at San Francisco International Airport”, the resolution was expressly premised on a
25 purported Planning Department determination that the reforms were exempt from
26 CEQA under a statutory exemption applicable to changes to “rates, tolls, fares, and
27 other charges by public agencies which are for the purpose of meeting operating
28 expenses, purchasing or leasing supplies, equipment, or materials ...” Not only did

1 the Board's resolution provide no citation to or analysis of evidence linking pickup
2 limitations at SFO to the statutory exemption referenced in the resolution, the
3 Planning Department never made the determination upon which the Board's
4 resolution relied. Indeed, the only environmental "evaluation" underlying the
5 limitations on medallion pickups at SFO was the self-serving conclusion by SFMTA
6 staff that its earlier and more draconian proposed changes would not adversely affect
7 the physical environment.

8 THE PARTIES

9 33. Plaintiff San Francisco Taxi Coalition (sometimes "the Coalition") is a
10 nonprofit corporation composed of entities and individuals with taxi driving, permit-
11 holding and management interests in the San Francisco taxicab industry. The
12 Coalition is dedicated to educating, advocating for and supporting the San Francisco
13 taxi industry and preserving and protecting the rights of all persons holding
14 medallions issued by the SFMTA or its predecessor municipal agencies. Many of the
15 Coalition members are subject to and will be adversely affected by a decision by the
16 City to limit or otherwise prohibit certain taxi drivers from accepting fare-paying
17 passengers traveling from San Francisco International Airport to their desired
18 destinations and to grant certain preferences to medallion holders who purchased
19 medallions as part of the SFMTA's revenue-generating Program.

20 34. Plaintiffs Patrick O'Sullivan and Sai Lee are individuals who hold motor
21 vehicle for hire permits issued by the San Francisco Municipal Transportation
22 Agency. Patrick O'Sullivan holds medallion #619 and Sai Lee holds medallion #387,
23 both of which were issued prior to the effective date in 1978 of Proposition K. Both
24 Plaintiffs O'Sullivan and Sai Lee are or will be adversely affected by the imposition of
25 limitations on their opportunities to transport fare-paying passengers from San
26 Francisco International Airport to destinations in the City or elsewhere and by the
27 grant of preferences to other motor vehicle for hire permit holders transporting
28 passengers from SFO.

1 35. Plaintiffs Alliance Cab and S.F. Town Taxi Inc. are holders of color
2 scheme permits issued by the San Francisco Municipal Transportation Agency. Both
3 Alliance Cab and S.F. Town Taxi Inc. provide taxi-related services to affiliated drivers
4 and medallion holders who enter into contracts with the color scheme for the
5 operation of taxicabs bearing the design or trade dress unique to that color scheme.
6 Both Alliance Cab and S.F. Town Taxi Inc. are profit-making businesses that
7 principally generate revenue from the lease of medallions to drivers who pay per shift,
8 daily or monthly lease fees to the color scheme. In turn, the color schemes pay lease
9 fees to permit holders who, as required by the San Francisco Transportation Code,
10 affiliate with them to ensure continuous operation of the medallion for the public
11 benefit. Both Alliance Cab and S.F. Town Taxi Inc. are or will be adversely affected
12 by the imposition of limitations on SFO transportation opportunities imposed upon
13 medallions affiliated with them.

14 36. Plaintiff George Horbal holds motor vehicle for hire permit #1303 issued
15 by the SFMTA in 2001. Plaintiff Horbal is and will be adversely affected by the
16 imposition of limitations on his opportunities to transport fare-paying passengers from
17 San Francisco International Airport to destinations in the City or elsewhere and by the
18 grant of preferences to other motor vehicle for hire permit holders transporting
19 passengers from SFO.

20 37. Defendant City and County of San Francisco is a political subdivision of
21 the State of California and a Charter city granted specified home rule powers and
22 authority under the Constitution of the State of California.

23 38. Defendant San Francisco Municipal Transportation Agency is and at all
24 relevant times was the department and administrative arm of the City charged under
25 the San Francisco Charter with enforcing and administrating the municipal regulation
26 of motor vehicles for hire, a/k/a taxicabs. The SFMTA has the exclusive authority to
27 enact and amend the San Francisco Transportation Code which provides for the
28 regulation of taxicabs. The SFMTA adopted the Program under which persons were

1 allowed to purchase medallions beginning in 2010. The SFMTA has also authorized
2 and approved the implementation of restrictions on certain medallions limiting their
3 ability to accept fare-paying passengers at SFO. The agency has also granted
4 preferences in accepting passengers at SFO and in permit operation to persons who
5 purchased medallions under the Program.

6 39. Defendant Edward D. Reiskin is the Director of Transportation of the
7 SFMTA. In that capacity, he is the chief executive officer of that agency, subject to
8 the general supervision and overview of the SFMTA Board of Directors, and he is
9 ultimately responsible for the programs and policies challenged herein by plaintiffs.

10 40. Plaintiffs are ignorant of the true names and capacities of defendants
11 sued herein as DOES 1-20 and therefore sue those defendants by those fictitious
12 names. Plaintiffs will amend this complaint to include their true names and capacities
13 when ascertained.

14 41. Plaintiffs are informed and believe, and based thereon assert that in
15 doing the acts and things hereinafter alleged, each DOE defendant acted individually
16 for himself or itself and, in doing the things hereinafter alleged, each was at all times
17 acting within the course and scope of said agency, representation or employment
18 relationship with the advance knowledge, acquiescence or subsequent ratification of
19 each and every other defendant. Plaintiffs are also informed and believe that each
20 DOE defendant is responsible, in whole or in part, for the actions and omissions
21 alleged herein by plaintiffs and that this Complaint will be amended to provide further
22 detail.

23 **DECLARATORY RELIEF ALLEGATIONS**

24 42. There is a justiciable controversy in this action whether the SFO pickup
25 limitations announced by the SFMTA on December 27, 2018 unconstitutionally
26 deprive plaintiffs of their right to be free of irrational and illegitimate regulations
27 affecting their economic interests and/or were adopted in violation of governing law.

28 43. A Declaratory Judgment as to whether the SFO pickup limitations are

1 unconstitutional under the United States and California Constitutions or otherwise
2 contrary to law will clarify the legal relations between plaintiffs and defendants with
3 respect to the enforcement of those limitations. It will also give the parties relief from
4 the uncertainty and insecurity giving rise to this controversy.

5 **INJUNCTIVE RELIEF ALLEGATIONS**

6 44. Plaintiffs have no adequate remedy at law to address the unlawful and
7 unconstitutional consequences and effects of the SFMTA's pickup limitations at SFO.

8 45. There is a substantial likelihood that plaintiffs will succeed on the merits
9 of their constitutional and statutory claims against the City and the SFMTA. The
10 granting of preliminary injunctive relief would also significantly benefit plaintiffs'
11 interests without causing the defendants substantial injury, if any at all.

12 46. All plaintiffs will suffer irreparable injury absent the entry of injunctive
13 relief restraining defendants from further enforcement of the SFO pickup limitations as
14 described herein. Such relief will not impair but rather enhance the public interest.

15 **FIRST CAUSE OF ACTION**

16 (Declaratory Relief – Deprivation of Due Process, Denial of Equal
17 Protection under the California Constitution, Article I, section 7(a))

18 47. Plaintiffs reallege and incorporate herein by reference the allegations
19 set forth in each of the paragraphs set forth above, inclusive, as though fully set forth
20 herein.

21 48. The adoption by the voters of Proposition A in 2007 released the
22 SFMTA from the regulatory limitations of 1978's Proposition K. Upon the adoption of
23 appropriate legislation, the SFMTA would no longer be required to issue medallions
24 solely to individual taxi drivers. Instead, the SFMTA could issue them to corporations,
25 partnerships and other business entities and could issue multiple medallions to a
26 single permit holder. Upon the adoption of appropriate legislation, the SFMTA was
27 also relieved of Proposition K's prohibition against transferability of permits, its implied
28 mandate that permits be issued to a qualified applicant upon payment of related

1 administrative costs and its requirement that the permit holder insure the operation of
2 his or her taxicab on a continuous basis during the year.

3 49. Proposition A also gave the SFMTA the ability to perform a rare
4 municipal feat: generate actual profit. Initially, after amending the Transportation
5 Code, the SFMTA authorized the sale of medallions by pre-K and post-K permit
6 holders where the SFMTA shared in the sales price. Then, after taking the Hara
7 report to heart, the SFMTA issued hundreds of new medallions, selling many for
8 \$250,000 each, with the agency retaining the entire purchase price. In order to
9 generate these funds, the SFMTA willingly partnered with the Credit Union to secure
10 the financing necessary to make medallions affordable to taxi drivers.

11 50. Between 2010 and 2016, the SFMTA authorized the sale of hundreds of
12 medallions. When there were as many willing buyers as sellers of taxi medallions,
13 the SFMTA embraced the recommendations of consultant reports from Hara
14 Associates to issue (and sell) more medallions so that taxis could provide effective
15 competition to the burgeoning numbers of TNC vehicles on City streets. Cutting out
16 the middleman, *i.e.* the permit holder, the SFMTA also leased so-called 8000-series
17 medallions directly to color schemes, receiving monthly lease payments from the
18 color schemes in return. In total, during this period the SFMTA realized revenue from
19 medallion sales and leases in excess of \$50 million.

20 51. Once medallion sales ceased, however, the SFMTA made a radical
21 U-turn in an effort to shield itself from criticism for its inability to foster a healthy taxi
22 industry and to fend off claims by medallion holders and the Credit Union that it had a
23 legal obligation to reimburse persons who, based in large part on promises and
24 forecasts by the SFMTA, had purchased and financed medallions through the
25 Program. The SFMTA embraced the Schaller report and its novel recommendation
26 that the way for taxis to compete with legions of TNCs is to reduce the number of
27 taxis – the regulatory approach which Hara had identified as the substantial cause of
28 the rise of the TNCs in the first place. The SFMTA's regulatory reforms neither

1 mentioned or even considered strategies designed to increase the number of persons
2 using taxis for transportation, except for the unsupportable assumption that by putting
3 SFO off-limits to all pre-Ks, as well as those post-Ks unwilling to spend excessive
4 time in the airport's taxi lots, all those affected medallions (and their soon-to-be
5 phantom drivers) would flood back into the City to fill a rising tide of requests for
6 service.

7 52. In October, 2018, the SFMTA added to its revenue-generating
8 capacities by amending the Transportation Code to delete language limiting medallion
9 sales to natural persons and authorizing the sale of up to 50 medallions each to
10 commercial entities having no history with or connection to the San Francisco taxi
11 industry. This action was followed in December 2018 by the SFMTA staff order
12 limiting which medallion types could pick up passengers originating at SFO with the
13 stated objective of channeling taxi-related revenue to the holders of Purchased
14 medallions.

15 53. The SFMTA performed this regulatory somersault well knowing that
16 (a) virtually every pre-K permit issued to an individual is held by a person older than
17 70 and the average age of post-K permit holders is almost 65, (b) the vast majority of
18 Purchased medallions are held by individuals with an average age under 55, (c) with
19 rare exceptions, pre-K permit holders are incapable of safely operating a taxicab on a
20 regular basis, (d) the overwhelming majority of Purchased medallion holders are
21 capable of regularly operating a taxi and (e) since 2016, the individuals holding pre-K
22 permits had been receiving less and less monthly revenue, if any at all, while getting
23 increasingly older and less capable of finding substitute sources of income.

24 54. The effect of the limitations on SFO pickups adopted by the SFMTA has
25 made pre-K medallions and many post-K permits unleaseable to drivers. This, in turn,
26 is motivating color schemes to decline to manage those permits in order to save on
27 overhead. The end result of these regulatory changes is to indirectly revoke virtually
28 all pre-K permits as of February 1, 2019 rather than their non-renewal as of June 30,

1 2019 as originally proposed by SFMTA staff. The same fate is likely for scores of
2 post-K permits where drivers cannot be found to lease them because of the pickup
3 limitations at SFO.

4 55. The SFMTA supported its decision to sacrifice almost all pre-K permit
5 holders, and many post-K medallion holders as well, on the altar of significantly
6 younger and more able Purchased medallion holders by citing the debt load its own
7 Program sales had imposed on Purchased medallion holders. These regulatory
8 changes were principally motivated by the SFMTA's attempt to avoid liability to the
9 Credit Union in pending civil litigation. In choosing favorites, the SFMTA became a
10 participant in the marketplace it purports to regulate with an even hand. It also
11 positioned itself as a market maker by authorizing sales of up to 50 new medallions
12 each to business entities. The fewer "legacy" permits remaining in operation, the
13 more room for the SFMTA to sell permits into that vacuum.

14 56. The pickup limitations on pre-K medallions, and the increased delays
15 and other obstacles imposed on post-K permit holders, do not rationally serve any
16 impartial public policy purpose. They do not promote any significant ground
17 transportation objectives. Instead, they are premised on the SFMTA's parochial
18 economic interests as an issuer of motor vehicle for hire permits potentially liable to
19 the Credit Union for millions of dollars in damages as a result of the collapse of the
20 Program.

21 57. Imposition and enforcement of the SFO limitations announced by the
22 SFMTA has resulted in the de facto revocation of many if not most of the pre-K
23 permits currently outstanding and a significant reduction (if not elimination) of value of
24 many post-K permits, amounting to a denial of substantive due process to those
25 affected permit holders due to the arbitrary, irrational and capricious bases underlying
26 those limitations.

27 58. Since the imposition and enforcement of the SFO limitations will result
28 in a major reduction in the size of the current taxi fleet, there will be severe reductions

1 in service to the SFMTA's paratransit program which is financed in part by California
2 state funding and whose transportation services are provided in large part by
3 taxicabs.

4 59. The SFO pickup limitations challenged herein are ostensibly adopted for
5 the benefit of Purchased medallion holders but are in reality intended to mitigate the
6 SFMTA's financial exposure to the Credit Union and not for any quantifiable public
7 purpose. Those limitations are not related to and neither address nor relieve the
8 purported economic distress of Purchased medallion holders. Instead, they are likely
9 to increase that distress as the taxi share of passenger pickups at SFO declines even
10 further due to the reduced number of taxis serving the airport.

11 60. The challenged pickup limitations at SFO do not rationally advance a
12 legitimate government interest and are arbitrary.

13 61. The limitations on pickups at SFO establish two classes of motor vehicle
14 for hire permits: all pre-K and post-K permits, on the one hand, and the Purchased
15 medallions on the other. Nowhere in the City's Transportation Code is there a
16 distinction or difference drawn between these two classes of permits with respect to
17 how they serve the public's transportation needs. Each permit holder is associated
18 with a licensed color scheme. Every vehicle associated with each class of medallion
19 is inspected by SFO staff and, after payment of an annual fee, issued an
20 authorization to operate commercially at the airport. Every vehicle is insured up to
21 the limits required by the Transportation Code. And all permit holders, except
22 Purchased medallion holders, pay an annual license fee to the SFMTA.

23 62. By enacting the limitations on pickups at SFO, however, the SFMTA is
24 discriminating between these two similarly-situated classes of permit holders without
25 a valid, legitimate and reasonable basis for doing so. The only distinction alluded to
26 in the October 2018 staff recommendations to the SFMTA Board and the "new rules"
27 announced by SFMTA staff on December 27, 2018 is of the City's own making – the
28 debt load incurred by Purchased medallion holders who made the business decision

1 to invest in a license to operate a taxicab. The only other distinction is one the
2 SFMTA studiously avoids mentioning – the fact that the operation of the Program and
3 the sale of the Purchased medallions has resulted in a lawsuit against the City by the
4 Credit Union which exposes the City to the risk of a damage award amounting to
5 millions of dollars.

6 63. There is no meaningful distinction between the transportation services
7 provided by pre and post-K medallions, on the one hand, and Purchased medallions
8 on the other. To the taxi passenger, these purported medallion classes are
9 indistinguishable. They go to the same places and charge the same rates. Each is
10 required to provide transportation services to the SFMTA's paratransit program in the
11 same manner. To everyone but the SFMTA, they are entirely fungible.

12 64. The SFMTA is arbitrarily and capriciously discriminating against pre and
13 post-K permit holders without any rational basis for doing so. The manner in which
14 defendants have done so is not reasonably tailored to any legitimate municipal or
15 governmental end.

16 WHEREFORE, plaintiffs pray for judgment and relief as hereinafter set forth.

17 **SECOND CAUSE OF ACTION**

18 (Declaratory Relief – Deprivation of Due Process and Denial of Equal
19 Protection under 42 U.S.C. §1983)

20 65. Plaintiffs reallege and incorporate herein by reference the allegations
21 set forth in each of the paragraphs set forth above, inclusive, as though fully set forth
22 herein.

23 66. The pickup limitations imposed on pre and post-K permit holders at SFO
24 are expressly intended to benefit private persons, not the general public. The private
25 benefit accruing to Purchased medallion holders as a result of those pickup limitations
26 far outweighs any conceivable incidental public benefit. Indeed, the only conceivable
27 public benefit flowing from the pickup limitations is to insulate the SFMTA's taxi-
28 related revenues from the demands of the Credit Union and allow the SFMTA to

1 continue as a market maker in the event demand for taxi medallions is somehow
2 miraculously resuscitated.

3 67. The deprivation of Plaintiffs' right to substantive due process and equal
4 protection under the Fourteenth Amendment of the United States Constitution
5 effected by the SFO pickup limitations is occurring under color of state law and
6 violates 42 U.S.C. §1983.

7 WHEREFORE, plaintiffs pray for judgment and relief as hereinafter set forth.

8 **THIRD CAUSE OF ACTION**

9 (Preliminary and Permanent Injunction Enjoining Enforcement of SFMTA's
10 Limitations of Passenger Pick-ups at SFO

11 68. Plaintiffs reallege and incorporate herein by reference the allegations
12 set forth in each of the paragraphs set forth above, inclusive, as though fully set forth
13 herein.

14 69. Through the issuance of Resolution 181016-43 on October 16, 2018,
15 the SFMTA made numerous amendments to Division II of the San Francisco
16 Transportation Code, including specific changes to the San Francisco taxicab
17 medallion system under which taxicabs are authorized to operate in San Francisco
18 and to and from San Francisco International Airport.

19 70. Among the changes authorized by the SFMTA pursuant to Resolution
20 181016-43 was to grant the director of the SFMTA unilateral authority to impose
21 restrictions on the types of medallions that would be authorized to accept a fare
22 originating at SFO.

23 71. As a result of the authority granted to him by the SFMTA, through
24 Resolution 181016-43, the Director of the SFMTA, defendant Edward D. Reiskin, on
25 December 27, 2018, issued a Memorandum Decision, placing restrictions on the
26 types of medallions that could pick up passengers at SFO and the manner in which
27 certain medallions would be given priority for picking up passengers at SFO.

28 Specifically, the December 27, 2008 Memorandum imposed the following

1 requirements on San Francisco taxicab medallions:

- 2 ● P Medallion holders (Purchased medallion holders under the
3 Proposition A reforms) would be permitted to pick up passengers at
4 SFO at all times with expedited access.
- 5 ● Post-K earned medallion holders (issued prior to the Purchased
6 Medallion reforms under Proposition A) would still be permitted to
7 pick up passengers at SFO, but they would have to get into a
8 different waiting area to pick up in which they would be given non-
9 priority status – in other words the Purchased medallions would be
10 given expedited access and the Post-K medallions would have to
11 wait from two to seven times as long to pick up a passenger.
- 12 ● Pre-K medallions issued before the passage of Proposition K in
13 1978 would no longer be permitted to pick up passengers at any
14 time at SFO.

15 72. These restrictions and requirements were imposed by the SFMTA
16 effective February 1, 2019.

17 73. It is well established in the San Francisco taxicab business that most
18 drivers believe it is necessary to be able to pick up fares at SFO, as these fares
19 provide a significant source of a driver's total revenues.

20 74. The effect of the SFMTA's new SFO restrictions and requirements is
21 unfair, in that the pre-K and post-K medallion holders are being unfairly discriminated
22 against, and they are also being severely harmed in that their medallions have lost a
23 significant amount of their value.

24 75. Specifically, with respect to the pre-K medallion holders, the individual
25 holders' average age is in the mid-70s and most of them no longer drive and have not
26 driven taxicabs for the past decade. These pre-K medallion holders instead have
27 been leasing out their medallions to the color schemes who in turn lease the
28 medallions and their vehicles to eligible younger drivers.

1 76. Following the February 1 imposition of the SFMTA's new restrictions
2 and limitations on passenger pick-ups at SFO, many of the drivers who operate taxis
3 for the color schemes have stated that they will only lease Purchased medallions and
4 will refuse to lease pre-K medallions.

5 77. As a result, the color schemes have informed large numbers of pre-K
6 medallion holders that they will no longer manage their medallions because drivers
7 are refusing to lease them.

8 78. The holders of pre-K medallions are therefore being directly harmed
9 because they are no longer receiving revenues from the lease of their medallions,
10 affecting their livelihoods. In many cases, the lease revenues the pre-K medallion
11 holders formerly received from the color schemes was their only source of income
12 other than Social Security, and the loss of this income is seriously impacting their
13 livelihoods.

14 79. In addition to the harm being caused to pre-K medallion holders, post-K
15 medallion holders also are being harmed. Due to the expedited access and priority
16 status afforded to Purchased medallion taxis, drivers operating post-K medallions are
17 required to wait for long periods of time, often several hours, to pick up passengers at
18 SFO. The impact of these long waits is a direct and significant decline in the daily
19 fares drivers using post-K medallions receive.

20 80. A large number of drivers are also telling the color schemes that they no
21 longer intend to operate taxis with post-K medallions. As a result, color schemes
22 have a large number of cars with post-K medallions that are parked and not being
23 used.

24 81. As a result, the color schemes have begun returning post-K medallions
25 to their holders.

26 82. As a direct result of the SFMTA's new SFO restrictions, the color
27 schemes are being harmed because they have vehicles (and related overhead) that
28 are not being used, and they are being forced to reduce the number of medallions

1 they manage.

2 83. As a direct result of the SFMTA's new SFO restrictions, holders of
3 post-K medallions are being harmed because the value of their medallions has been
4 greatly reduced and they can no longer lease them out to the color schemes, thereby
5 causing a loss of income.

6 84. Traffic congestion at SFO has not decreased due to the changes
7 imposed by the SFMTA's hasty and ill-conceived "reforms." The number of TNCs
8 (Uber and Lyft) picking up passengers continues to increase. Moreover, there is a
9 significant increase in the waiting time for the post-K taxicabs waiting in the satellite
10 lots for potential passenger pick-ups as a result of the priority status afforded
11 Purchased medallion taxis. Thus, when the equities are balanced, they weigh
12 strongly in favor of the Plaintiffs.

13 85. Based on the severe harm that the pre-K and post-K medallion holders
14 are suffering and will continue to suffer, and the lack of harm that the SFMTA will
15 suffer if the restrictions are lifted, the balance of equity and hardships weighs strongly
16 in favor of the Plaintiff pre-K and post-K medallion holders and therefore Plaintiffs'
17 requests for preliminary and permanent injunctions should be granted.

18 WHEREFORE, plaintiffs pray for judgment and relief as hereinafter set forth.

19 **FOURTH CAUSE OF ACTION**

20 (Violation of the California Environmental Quality Act)

21 86. Plaintiffs reallege and incorporate herein by reference the allegations
22 set forth in each of the paragraphs set forth above, inclusive, as though fully set forth
23 herein.

24 87. On September 20, 2018, SFMTA staff concluded that the then-pending
25 "taxi reforms" recommended by the same SFMTA staff (including granting exclusive
26 SFO pickup rights to purchase medallions and non-renewing all pre-K medallions as
27 of June 30, 2019) would not result in a direct or indirect physical change to the
28 environment. Accordingly, SFMTA staff concluded the proposed reforms were not a

1 "project" within the meaning of the California Environmental Quality Act ("CEQA"),
2 expressly relying upon CEQA Guidelines sections 15060(c) and 15378(b).

3 88. On October 16, 2018, when the proposed "taxi reforms" came before
4 the SFMTA Board of Directors, however, its resolution referred to CEQA Guidelines
5 section 15273 which exempts from environmental review agency actions establishing,
6 modifying, structuring, restructuring or approving rates, tolls, fares and other charges
7 by the agency to meet, among other things, operating expenses or for the purchase
8 or lease of supplies.

9 89. The amendments to the Transportation Code approved by the Board of
10 Directors on October 16, 2018, and the authorization to the Director of Transportation
11 to formulate pickup limitations for taxis at SFO, had no relation to and did not involve
12 any of the subjects covered by CEQA Guidelines section 15273. The amendments to
13 the Transportation Code and the substantive new restrictions and limitations put forth
14 by defendant Reiskin in his December 27, 2018 directive cannot be construed as
15 CEQA exemptions for "actions establishing, modifying, structuring, restructuring or
16 approving rates, tolls, fares and other charges by the agency to meet, among other
17 things, operating expenses or for the purchase or lease of supplies." As for the
18 changes originally proposed by SFMTA staff in September of 2018, they were
19 substantively different from the "new rules" announced by defendant Reiskin on
20 December 27, 2018.

21 90. The pickup limitations promulgated on December 27, 2018 will have a
22 number of reasonably foreseeable direct and indirect environmental impacts
23 significantly affecting the physical environment. They will encourage and promote
24 hundreds of additional trips on Highway 101 as taxis deadhead to and from SFO to
25 satisfy the pickup limitations. This regulation-induced deadheading is an
26 environmentally unsound inefficiency that undermines the policy supporting
27 Transportation Code section 1106(m) mandating the reduction of greenhouse gas
28 emissions from taxis. The reduced number of taxis authorized to pick up fares

1 originating at SFO will also result in further increases in TNC-related traffic at the
2 airport. With the reduction in pickups at the airport by the mandated "green fleet" of
3 taxicabs, overall fuel consumption will rise and greenhouse gas emissions will
4 increase from unregulated TNC vehicles.

5 91. The SFMTA never conducted or identified any formalized study or
6 review of the potentially significant physical effects that will follow from enforcement of
7 the pickup limitations at SFO. Public health and safety are of great importance to and
8 lie at the heart of the CEQA statutory scheme. The analytical failures of the SFMTA
9 in this regard ignore the potential for significant effects on the environment and,
10 equally important, adverse effects on human beings, "either directly or indirectly",
11 violating, among other provisions of law, Public Resources Code section 21083(b)(3).

12 WHEREFORE, plaintiffs pray for judgment and relief as hereinafter set forth.

13 **FIFTH CAUSE OF ACTION**

14 (Violation of Public Utilities Code sections 21690.5, *et seq.*)

15 92. Plaintiffs reallege and incorporate herein by reference the allegations
16 set forth in each of the paragraphs set forth above, inclusive, as though fully set forth
17 herein.

18 93. Public Utilities Code sections 21690.5 through 21690.10 declare
19 matters of statewide concern and are expressly applicable to charter cities such as
20 the City and County of San Francisco.

21 94. Pursuant to Public Utilities Code sections 21690.5 through 21690.10,
22 the governing bodies of all publicly owned or operated airports in California are
23 granted exclusive jurisdiction to manage airport concessions, including the authority
24 to grant businesses exclusive or limited airport access to promote, inter alia, public
25 safety and convenience, even if such grants otherwise suppress business
26 competition.

27 95. San Francisco Charter section 4.115 declares that the Airport
28 Commission ("the Commission") is the governing body of the San Francisco

1 International Airport. Under the Charter, the Commission is charged with the
2 responsibility of managing, supervising and operating all airport property, including
3 the terminals, parking lots and roadways at SFO.

4 96. The SFMTA has no jurisdiction over or any authority to regulate the
5 businesses granted or denied access to properties under the exclusive authority of
6 the Commission.

7 97. The Commission has issued numerous permits pursuant to Public
8 Utilities Code sections 21690.5 through 21690.10 limiting and setting conditions upon
9 which ground transportation companies can have access to and do business at SFO,
10 including taxicab, limousine and shuttle bus services.

11 98. From and after 2010, the number of TNC vehicles doing business at
12 SFO steadily increased over time. In response, consistent with the authority granted
13 by Public Utilities Code sections 21690.5 through 21690.10, TNCs were for a period
14 of years denied permits to accept fares originating at the airport.

15 99. The Commission has neither adopted nor approved in accordance with
16 its own rules a prohibition on any class of taxicabs picking up fares originating at
17 SFO. Nor are there any current Commission-adopted or approved regulations
18 granting preferred access to airport roadways to some classes of taxicabs and not to
19 others.

20 100. The taxicab access limitations announced by and through defendant
21 Reiskin on December 27, 2018 exceed the SFMTA's Charter-conferred authority and
22 are in derogation of the exclusive authority over airport properties and operations
23 granted to the Commission by Charter section 4.115. The SFMTA's pickup limitations
24 also violate the exclusive authority conferred by Public Utilities Code sections
25 21690.5 through 21690.10 on the Commission to manage access to airport property
26 and determine which terms and conditions shall govern airport concessions in order
27 to serve the public interest.

28 101. The SFMTA's December 27, 2018 policy prohibiting pre-K taxis from

1 picking up fares originating at SFO and severely limiting access of post-K taxis to
2 those same fares exceeds the SFMTA's authority and is void as a matter of law.

3 WHEREFORE, plaintiffs pray for judgment and relief as hereinafter set forth.

4 **SIXTH CAUSE OF ACTION**

5 (Unlawful Age Discrimination in Violation of Government Code
6 sections 11135, *et seq.*)

7 102. Plaintiffs reallege and incorporate herein by reference the allegations
8 set forth in each of the paragraphs set forth above, inclusive, as though fully set forth
9 herein.

10 103. Plaintiffs have an independent right under Government Code
11 sections 11135, *et seq.* to be free from unlawful age discrimination under any
12 program or activity that is conducted, operated or administered by the State of
13 California or that receives any financial assistance from the state. In addition,
14 Government Code section 11135 provides that no person shall be unlawfully denied
15 "full and equal access" to any such program or activity.

16 104. The SFMTA receives state funding, including but limited to, State
17 Transit Assistance funds, for a variety of its transportation programs and activities.

18 105. According to the SFMTA's Schaller Report, "the average age of Pre-K
19 and earned [a/k/a post-K] medallion holders is higher than the overall average of 61,"
20 (sixty one years of age) with the average age for Pre-K medallion holders being
21 seventy four (74) years.

22 106. The SFO pickup limitations announced by the SFMTA on December 27,
23 2018, together with the withdrawal of the active driving requirement for Purchased
24 medallion holders, unlawfully deny the, on average significantly older, non-Purchased
25 medallion holders full and equal access to the benefits of medallions issued and
26 administered by the SFMTA. Moreover, the SFMTA has denied full and equal access
27 to non-Purchased medallion holders knowing that the limitations enacted against
28 them would adversely impact the much older medallion holders.

1 107. Accordingly, Plaintiffs are entitled to injunctive relief per Government
2 Code section 11139.

3 **PRAYER**

4 WHEREFORE, plaintiffs pray for judgment and relief as follows:

5 1. A declaratory judgment that the SFMTA's December 27, 2018 pickup
6 limitations at SFO violate the Due Process and Equal Protection Clauses of the
7 California Constitution on their face and as applied and are therefore invalid and
8 unenforceable;

9 2. A declaratory judgment that the SFMTA's December 27, 2018 pickup
10 limitations at SFO violate the Due Process and Equal Protection Clauses of the
11 United States Constitution on their face and as applied and are therefore invalid and
12 unenforceable;

13 3. A declaratory judgment that the SFMTA's December 27, 2018 pickup
14 limitations at SFO violate the California Environmental Quality Act;

15 4. A declaratory judgment that the SFMTA's December 27, 2018 pickup
16 limitations at SFO violate Public Utilities Code sections 21690.5, *et seq.*;

17 5. A declaratory judgment that the SFMTA's December 27, 2018 pickup
18 limitations at SFO violate Government Code sections 11135, *et seq.*;

19 6. A preliminary injunction enjoining defendants from enforcing or taking
20 further action to enforce the SFMTA's December 27, 2018 pickup limitations at SFO
21 on their face and as applied to plaintiffs and all taxicab permit holders similarly
22 situated;

23 7. A permanent injunction enjoining defendants from enforcing or taking
24 further action to enforce the SFMTA's December 27, 2018 pickup limitations at SFO
25 on their face and as applied to plaintiffs and all taxicab permit holders similarly
26 situated;

27 8. An award to plaintiffs of reasonable attorneys' fees and related expert
28 witness fees for bringing and maintaining this action, including without limitation an

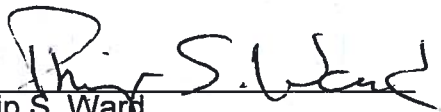
1 award pursuant to 42 U.S.C. §1988;

2 9. An award of costs of suit; and

3 10. Any other and further relief that the Court deems just and equitable
4 under the circumstances of this case.

5 Dated: March 13, 2019

6 HASSARD BONNINGTON LLP

7
8 By: 
Phillip S. Ward

9 Attorneys for Plaintiffs SAN
10 FRANCISCO TAXI COALITION,
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