

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

\_\_\_\_\_  
ADDIS GEBRESALASSIE )  
401 12th Street South )  
Arlington, VA 22202 )

and )

EARTHA CLARK )  
2021 Vermont Avenue, NE )  
Washington, DC 20001 )

and )

MOHAMUD SAMANTAR )  
46811 Gunflint Way )  
Sterling, VA 20164 )

and )

IRFAN JAMALI )  
8624 Lagrange Street )  
Lorton, VA 22079 )

and )

ZIENA ABRAHA )  
2013 4th Street NE )  
Washington, DC 20002 )

and )

NESSIBU BEZABEH )  
6121 Summer Park Lane )  
Alexandria, VA 22315 )

and )

WASHINGTON D.C. METRO AREA )  
TAXI OPERATORS ASSOCIATION )  
2120 Bladensburg Road, NE )  
Washington, DC 20018 )

*Plaintiffs,* )

Case No. 1:15-cv-762  
Jury Trial Demanded



these extensive and costly statutory and regulatory requirements.

3. Under District of Columbia law, individuals who do not comply with each and every one of these requirements for providing taxicab services are subject to fines up to \$1,000 and impoundment of their vehicles for any single violation. By and through the District of Columbia Taxicab Commission (the “Commission”), the District of Columbia has aggressively enforced these rules against the Taxicab Service Plaintiffs from 2013 through the present through ticketing and impoundment.

4. Despite heavily regulating taxicab operators, the District of Columbia recently enacted legislation that permits Uber Technologies, Inc. (“Uber”), Lyft, Inc. (“Lyft”), and Sidecar Technologies, Inc. (“Sidecar”)(collectively the “*De Facto* Taxicab Service Providers,”) to engage in the same services as the Taxicab Service Plaintiffs with significantly less costly and restrictive statutory and regulatory requirements.

5. The *De Facto* Taxicab Service Providers operate unlicensed taxicab businesses providing services that are identical in all material respects to the services provided by the Taxicab Service Plaintiffs and other similar businesses and individuals that operate in compliance with District of Columbia law. The District of Columbia, by and through the Commission, has publicly acknowledged that the *De Facto* Taxicab Service Providers and the Taxicab Service Plaintiffs are engaged in the same service. For example, the Commission has stated, with regard to the *De Facto* Taxicab Service Providers’ provision of identical taxicab services, “They’re operating illegally, and we plan to take steps against them.” Benjamin R. Freed, DCist, *Uber Is Hacking Into Washington's Taxi Industry, Linton Says* (Jan 11, 2012), <http://dcist.com/2012/01/uber-is-hacking-into-washingtons-ta.php>

6. By the imposition of the Vehicle-for-Hire Act, the District of Columbia’s unequal

and disparate treatment of Taxicab Service Plaintiffs and the *De Facto* Taxicab Service Providers violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by permitting the *De Facto* Taxicab Service Providers to engage in *de facto* taxicab business without incurring the costs and limitations of complying with applicable law, while compelling the Taxicab Service Plaintiffs and others similarly situated to comply with the extensive and costly framework of statutory and regulatory requirements for providing taxicab services.

7. Further, under the Due Process Clause, the Vehicle-for-Hire Act impermissibly harms the Taxicab Service Plaintiffs' property interests previously created by the District of Columbia. As a result of the License Act of 1932 and the limited means by which the District of Columbia can suspend or revoke taxicab licenses, Plaintiffs have a recognized property interest in their taxicab licenses as the exclusive means for providing taxicab services in the District of Columbia. The District of Columbia is depriving Plaintiffs of this property interest in violation of substantive due process by irrationally allowing the *De Facto* Taxicab Service Providers to provide taxicab services without licenses and other compliance with laws governing taxicab service.

## II. JURISDICTION AND VENUE

8. The subject matter jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S.C. § 1331, as this matter arises under the Constitution of the United States and federal law. This Court has jurisdiction over all matters in law and equity. *Id.*

9. Venue is proper in this court, pursuant to 28 U.S.C. § 1391(b)(1) and (2), as Defendant resides in and the relevant events took place in the District of Columbia.

### III. THE PARTIES

10. Plaintiff Addis Gebresalassie is a taxicab driver in the District of Columbia. Mr. Gebresalassie is a resident of Arlington, VA and has operated a taxicab in the District of Columbia for the last 13 years through the use of his own private vehicle as a vehicle-for-hire.

11. Plaintiff Eartha Clark is a taxicab driver in the District of Columbia. Ms. Clark is a resident of Washington, DC and has operated a taxicab in the District of Columbia for the last 40 years through the use of her own private vehicle as a vehicle-for-hire.

12. Mohamud Samantar is a taxicab driver in the District of Columbia. Mr. Samantar is a resident of Sterling, VA and operates a taxicab in the District of Columbia through the use of his own private vehicle as a vehicle-for-hire.

13. Irfan Jamali is a taxicab driver in the District of Columbia. Mr. Jamali lives in Lorton, VA and operates a taxicab in the District of Columbia through the use of his own private vehicle as a vehicle-for-hire.

14. Ziena Abraha is a taxicab driver in the District of Columbia. Mr. Abraha is a resident of Washington, DC and operates a taxicab in the District of Columbia through the use of his own private vehicle as a vehicle-for-hire.

15. Nessibu Bezabeh is a taxicab driver in the District of Columbia. Mr. Bezabeh is a resident of Alexandria, VA and operates a taxicab in the District of Columbia.

16. Plaintiff Washington DC Metro Taxi Operators Association is a District of Columbia domestic nonprofit corporation that serves as a trade association for District of Columbia taxicab drivers. Plaintiff Association represents over 2,000 taxicab drivers who operate taxicabs in the District of Columbia.

17. The individual Plaintiffs and the members of the Plaintiff Association (collectively,

the “Taxicab Service Plaintiffs”), who are citizens of the District of Columbia or conduct business entirely or primarily within the District of Columbia, have individually suffered, and continue to suffer, injury described herein from the Defendant’s violation of their Constitutional rights by Defendant allowing the *De Facto* Taxicab Service Providers to provide taxicab services without compelling them to comply with the same District of Columbia laws and regulations governing taxicab services.

18. Plaintiff Association has standing to obtain relief on an associational basis because (1) the Association has individual members who would have standing to sue in their own right, (2) the interest Plaintiff Association seeks to protect is germane to Plaintiff’s purpose (representing the interests of District taxicab drivers), and (3) neither the claims asserted nor the relief requested require the individual members to participate.

19. Plaintiffs bring this class action on behalf of themselves and a class of similarly situated District of Columbia taxicab drivers consisting of: (1) all District of Columbia taxicab drivers who are governed by District of Columbia statutory and regulatory law regulating the provision of taxicab services; and (2) all District of Columbia taxicab drivers who hold and are required to hold taxicab licenses, including Face I.D. and H-tag licenses.

20. Plaintiffs state that the class is too numerous to be joined individually as the potential class is over five thousand persons. There are issues of fact and law common to all class members. The claims of the Plaintiffs are typical of claims of the members of the proposed class. Plaintiffs can adequately represent the interests of the class.

21. Defendant District of Columbia is a municipal corporation, organized under the laws of the District of Columbia and the United States. Defendant is authorized to sue and be sued. Mayor Muriel Bowser, in her official capacity, is an agent of Defendant.

#### IV. FACTUAL ALLEGATIONS

##### Taxicab Service Plaintiffs & The Regulation of Taxicab Services

22. The Taxicab Service Plaintiffs constitute a significant portion of the District of Columbia's estimated five thousand taxicab drivers, all of whom must satisfy an intricate framework of statutory and regulatory requirements in order to operate for-hire vehicles that transport passengers, or taxicabs. The Taxicab Service Plaintiffs, and the class of similarly situated taxicab drivers, own and use their own private vehicles for the purpose of serving as vehicle-for-hire, or taxicabs, to the District of Columbia public.

23. The District of Columbia has a long held policy that taxicabs may not operate absent compliance with its reticulated regulatory scheme.

24. The Council of the District of Columbia ("District of Columbia Council" or "Council") has imposed a number of rules on taxicab operators. The most basic of these is the requirement that only individuals and entities bearing special licenses may engage in the business of operating taxicabs. The License Act of 1932 explicitly requires that any person "operating or proposing to operate any vehicle or vehicles not confined to rails or tracks for the transportation of passengers for hire over all or any portion of any defined route or routes in the District of Columbia" undergo training, examination, and licensing. D.C. Code § 47-2829.

25. The Council passed the D.C. Taxicab Commission Establishment Act ("Establishment Act") in 1985. The Establishment Act charges the Commission with the duty to "[e]stablish reasonable rates for taxicab service for the transportation of passengers and their property within the District, including all charges incidental and directly related to the provision of taxicab services." D.C. Code § 50-307(c)(1). The Establishment Act aims to protect the interests of the riding public by "insuring that all rules, regulations, and laws specifically relating

to taxicabs be vigorously and fairly enforced; that discrimination in taxicab passenger service be strictly proscribed and penalized; and that adequate and high quality taxi passenger service be provided to all quadrants and neighborhoods of the District.” D.C. Code § 50-302(a)(1).

Additionally, the Establishment Act authorized the Commission to “maintain a taxicab transportation system which provides owners and operators of taxicabs with reasonable and just compensation for their services...” D.C. Code § 50-302(a)(2).

26. For enforcement of the Commission’s regulations, The Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992 (“Impoundment Act”) authorizes the Commission’s Hack Inspectors to boot, tow, or impound taxicabs from public streets or public spaces in the District of Columbia for lack of proper driver and vehicle licenses or for not have the specific equipment required by the District of Columbia. D.C. Code § 50-331(a)(6); D.C. Mun. Reg. §§ 31-608.2, 31-608.4.

27. Through regulation, the Commission has made any taxicab company and driver who fails to comply with Commission’s regulations subject to fines between \$25 and \$1,000, the impoundment of vehicles, the confiscation of metering equipment, and the suspension, revocation, or the non-renewal of their respective licenses. D.C. Mun. Reg. §§ 31-518, 31-612, 31-825. *See* Exhibit A, Schedule for Fines under D.C. Mun. Reg. § 31-825.2.

28. Commission regulations dating back to 1972 provide that holding a Face Card Operator Identification License (“Face ID”) is the exclusive means to operate a for-hire vehicle to transport passengers:

1000.1 No person shall drive a public vehicle for hire in the District unless he or she has a valid operator identification license (Face Card) issued under the provisions of this chapter. A public vehicle for hire is any passenger vehicle for hire licensed in the District of Columbia including, but not limited to taxicabs and limousines.

1000.2 No owner of a public vehicle for hire shall operate or permit the vehicle to be operated in the District unless a license has been issued for that vehicle under the provisions of this chapter.

D.C. Mun. Reg. § 31-1000.

29. A Face ID may be suspended or revoked only upon a determination of liability, by the Commission's Panel on Adjudication, that a driver violated one of the Commission's rules.

D.C. Mun. Reg. § 31-703.

30. Commission regulations further require any vehicle involved in the for-hire transportation of passengers must bear an H-tag license from the District of Columbia Department of Motor Vehicles. *See, e.g.* D.C. Mun. Reg. § 31-506.

31. Commission regulations provide that operators and vehicles engaged in for-hire passenger transport that lack the proper licensing required by the District of Columbia are subject to a \$1,000 fine and the impoundment of their vehicles for each act engaging in for-hire passenger transportation. D.C. Mun. Reg. § 31-825.2.

32. Through a series of rulemakings in 2013, the Commission adopted regulations that required drivers to equip each vehicle engaged in the for-hire transportation of passenger with a specific dome light, modern taximeter system, credit card processing system, and passenger console. D.C. Mun. Reg. §§ 31-400, 31-603, 31-605. Each of these units must be obtained only from a limited number of retailers pre-approved by the Commission and installed only by a limited number of installers pre-approved by the Commission. These units must be synchronized to each other over a wireless service, which must be provided only by one of eight Payment Service Providers ("PSPs") pre-approved by the Commission with which taxicab drivers must contract.

33. These rulemakings further required taxicab drivers to begin transitioning their vehicles to a uniform color scheme of 3M Controltac Graphic Film Geranium Red 180C-63 and

Pantone Warm Gray 2 to match the D.C. Circulator buses. D.C. Mun. Reg. § 31-503. The uniform color scheme further requires that taxicabs bear on multiple sides large, black decal letters with the name of any company, association, or fleet with which the taxicab is affiliated. *Id.* at § 31-503.3. The regulation further denies taxicab drivers the opportunity to outfit their taxicabs with any other insignia that has not been pre-approved by the Commission. *Id.*

34. Accordingly, between the costs of licensure, required equipment, and enforcement, the Taxicab Service Plaintiffs and similarly situated taxicab drivers incur thousands of dollars in expenses in order to comply with the intricate framework of statutory and regulatory requirements enacted by the Council and Commission for the purposes of public safety and consumer protection. The below schedule sets out the approximate expense of complying with just some of these costly requirements:

Required driver training for license	approx. \$375 - \$400
Criminal background check for license	approx. \$7
Face ID license	approx. \$250, every other year
Fees for late license renewal	approx. \$25-\$150
H-Tag for vehicle	approx. \$140
Vehicle inspection	approx. \$35, twice per year
Airport hang tag	approx. \$40
One Stop fee	approx. \$50
Insurance for commercial vehicles	approx. \$33 per week
Dome light, device and installation	approx. \$450
Uniform Taxi Color Paint Scheme	approx. \$450
Meter, credit card machine, passenger consoles – devices and installation	approx. \$500
Monthly fees to one of the five Payment Service Providers chosen by the Commission	approx. \$30-\$40 per month
Credit card processing fees to one of the five Payment Service Providers chosen by the Commission	approx. 3%-5% of the fare collected
Fines for failing to have all the above equipment or other non-compliance with regulations	approx. \$25 to \$1,000 for each specific regulation not complied with

Towing fees for impoundment ordered by hacking inspector upon any finding of non-compliance	approx. \$120-\$140/day, plus lost revenues
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35. The Taxicab Service Plaintiffs have undertaken compliance with these costly requirements and invested in required equipment in reliance on the District of Columbia's promise that full compliance with these statutory and regulatory requirements is the sole means to provide for-hire passenger transportation in the District of Columbia.

36. Commission regulations also impose a comprehensive fare schedule that prohibits driver autonomy over the pricing of taxicab services. The Commission's fare schedule serves as both a floor and ceiling, denying taxicab drivers both the opportunity to charge more when demand is high and the opportunity to charge less to compete better when demand is low. Effective June 1, 2013, the Commission's current imposed rates for taxicab services are as follows:

Fares:

- First 1/8 mile: \$3.25
- Each additional 1/8 mile: \$0.27
- Wait rate per hour: \$35.00
- Wait time begins five (5) minutes after time of arrival at dispatch location.
- No wait time charged for premature response to a dispatch.
- Wait time charged while taxicab is stopped or slowed to less than ten (10) miles per hour for longer than sixty (60) seconds.
- Wait time charged for delays or stopovers at the direction of the passenger.

Extras:

- Taxicab passenger surcharge, twenty-five cents per trip \$0.25
- Telephone Dispatch, two dollars \$2.00
- Additional passenger, one dollar \$1.00  
(regardless of the number of additional passengers)
- Declared Snow Emergency Fee, fifteen dollars \$15.00
- Group or Shared Riding: as each passenger arrives at his or her destination fare due shall be paid by passenger(s) leaving the cab.

37. This fare schedule requires taxicab drivers to charge passengers a twenty-five cent (\$0.25) surcharge for every cash or credit card fare collected and remit that surcharge to the Commission. D.C. Mun. Reg. §§ 31-400, 31-801.7(b)(2). This surcharge augments the cost of taxicab service to the passenger, thereby making the price of taxicab service less competitive, without providing any additional revenue or benefit to the driver. The collection of this surcharge by the Commission was made possible only by the Commission duly requiring that taxicab drivers outfit their vehicles with a costly modern taximeter system and contract only with a Payment Service Provider preapproved by the Commission for payment processing.

**De Facto Taxicab Service Providers**

38. Since on or about 2011, at least three entities – Uber Technologies, Inc. (“Uber”), Lyft, Inc. (“Lyft”), and Sidecar Technologies, Inc. (“Sidecar”), –have operated for-hire transportation businesses in the District of Columbia.

39. Uber is a corporation organized and existing under the laws of the State of Delaware and maintains its principal place of business at 182 Howard St. #8, San Francisco, California.

40. Uber currently offers four forms of taxicab services in the District of Columbia through a smartphone application – UberX, UberSUV, UberBlack, and UberTaxi.

41. Uber launched UberSUV in the District of Columbia in or about December 2011 and UberX in or about August 2013. UberX and UberSUV operate in a similar fashion. Under the smartphone-based system, a potential passenger uses a smartphone application to ask Uber to send an ordinary, unmarked private vehicle to a designated location. Uber sends the request to a network of affiliated private individuals who have contracted with Uber to accept its dispatches and use their own private vehicles to provide for-hire transportation. Via smartphone application, Uber alerts the potential passenger of a driver interested in taking the fare. If the

operator chooses to accept the dispatch, Uber notifies the passenger of the operator's name, the type of vehicle, and expected time of arrival.

42. Through internet marketing, Uber recruits and contracts with drivers as part of its fleet in order to function as the equivalent of a taxicab company with a fleet of taxicabs. Uber does not require these private individuals to hold licenses issued by the Commission in order to engage in the business of public for-hire passenger transportation. Nor does Uber require the vehicles used by these drivers to comply with the many equipment requirements imposed by the Commission on for-hire vehicles engaged in transporting passengers.

43. On information and belief, Uber allows private individuals to operate as UberX and UberSUV regardless of the color, make, or model of their private vehicle and distinguishes only between SUV and non-SUV size vehicles.

44. Uber drivers adorn their vehicles with the trade dress of the company's signature "glowing U" windshield device and decal stickers in order to be visible and recognizable to customers as a uniform brand providing for-hire passenger transportation service. *See, e.g.,* Uber, *Meet Chris: Operations & Logistics Manager* (January 23, 2014) [http://blog.uber.com/wp-content/uploads/2014/01/glowing\\_u.jpg](http://blog.uber.com/wp-content/uploads/2014/01/glowing_u.jpg), <http://blog.uber.com/meet-kosto>; Karen Gullo, Bloomberg Business, *Uber Driver Charged in 6-Year-Old's Death in Crosswalk* (December 8, 2014) <http://www.bloomberg.com/news/articles/2014-12-09/uber-driver-charged-in-san-francisco-girls-death-in-crosswalk> .

45. The fares charged by drivers for trips operating UberX, and UberSUV vehicles are computed by Uber using information from the smartphone's GPS system, based on distance and time rates set by Uber. The fare is paid to Uber via the passenger's credit card, which must be previously registered with Uber. Upon information and belief, Uber remits 80% of the fare to

the Uber-affiliated driver and keeps 20% as its fee.

46. Uber sets minimum rates for UberX and UberSUV passenger trips on its website but adjusts those rates in real-time by a dynamic pricing program in order to flexibly increase prices during periods of actual or anticipated higher demand. As of May 2015, the minimum standard rates in the District of Columbia for an UberX passenger trip are a \$2.00 base fare, plus 20 cents per minute and \$1.02 per mile. UberX also imposes a minimum fare of \$5.00, a \$1.00 safe ride fee, and a \$5.00 cancellation fee. The minimum rates for a UberSUV passenger trip are a \$14.00 base fare, plus 45 cents per minute and \$3.65 per mile. UberSUV also imposes a minimum fare of \$25.00 and a \$10.00 cancellation fee.

47. Through UberBlack, a passenger uses the smartphone application to ask Uber to send a sedan-class vehicle to a designated location to pick up the passenger. Sample UberBlack vehicles include a Lincoln Town Car, Chrysler 300, or a Cadillac DTS. As of May 2015, the minimum standard rates in the District of Columbia for a passenger trip using UberBlack are a \$7.00 base fare, plus 40 cents per minute and \$3.40 per mile. UberBlack also imposes a minimum fare of \$15.00 and a \$10.00 cancellation fee.

48. During periods of dynamic pricing or “surge pricing,” Uber regularly inflates its minimum rates by factors of two to eight. As explained throughout its website, “[a]t times of intense demand, our rates change over time to keep vehicles available.” Uber has and continues to increase its normal rates from two to eight times its regular minimum rates for holidays, weekend nights, snowy days, and during the aftermath recovery from local natural disasters. *See* Uber Blog, *Clear and Straight-Forward Surge Pricing* (Mar. 14, 2012) <http://blog.uber.com/2012/03/14/clear-and-straight-forward-surge-pricing/>, *Surge Pricing Followup* (Jan. 3, 2012) <http://blog.uber.com/2012/01/03/surge-pricing-followup/>.

49. Through UberTaxi, a passenger uses the smartphone application to ask Uber to send a licensed taxicab to a designated location. Uber sends the request to a smartphone used by a taxicab driver in the area. If the taxicab driver chooses to accept the dispatch, Uber notifies the passenger of the taxicab's number and the expected time of arrival. The fare is calculated based on the Commission's taximeter fare schedule, with the addition of a \$2.00 booking fee and a default 20% gratuity fee. The fare is paid to Uber via the passenger's credit card, which the passenger registers with Uber in advance. Uber remits the fare and gratuity to the taxicab driver, less the booking fee and a credit card processing fee.

50. Lyft is a corporation organized and existing under the laws of the State of Delaware and maintains its principal place of business at 548 Market Street #68514, San Francisco, California. Like Uber, Lyft connects potential passengers with individual drivers through a smartphone application. Lyft sends a potential passenger's request for pickup at a location to a network of affiliated private individuals who have contracted with Lyft to accept its dispatches and use their own private vehicles to provide for-hire transportation.

51. Through internet marketing, Lyft recruits and contracts with drivers as part of its fleet in order to function as the equivalent of a taxicab company with a fleet of taxicabs. Lyft does not require these private individuals to hold licenses issued by the Commission in order to engage in the business of public for-hire passenger transportation. Nor does Lyft require the private vehicles used by these drivers to comply with the many equipment requirements imposed by the Commission on for-hire vehicles engaged in transporting passengers.

52. Lyft's drivers adorn the hoods of their vehicles with the trade dress of the company's signature furry magenta mustache in order to be visible and recognizable to customers as a uniform brand providing for-hire passenger transportation service. *See, e.g.,* Ian

Lovett, The New York Times, *Where Car Is King, Smartphones May Cut Traffic* (July 12, 2013)

<http://graphics8.nytimes.com/images/2013/07/13/us/TAXIS-1/TAXIS-1-articleLarge.jpg>;

<http://www.nytimes.com/2013/07/13/us/In-Los-Angeles-Where-Car-Is-King-Smartphones-May-Cut-Traffic.html>.

53. On information and belief, Lyft allows private individuals to operate as Lyft drivers regardless of the color, make, or model of their private vehicle.

54. On information and belief, Lyft previously provided for driver payment by sending a “suggested donation” to the passenger’s smartphone at the end of a fare. The suggested donation amount could be adjusted upwards or downwards within 24 hours of the ride. Currently, Lyft has established a schedule of minimum rates based on a combination of time and distance, which Lyft can flexibly increase for periods of higher demand. As of May 2015, Lyft’s minimum rates in the District of Columbia are a base rate of \$2.03 for pickup, plus a \$1.50 Trust & Safety fee and 1% fee to be remitted to the District of Columbia, plus \$1.26 per mile and 26 cents per minute. Under these minimum rates, Lyft imposes a \$5.00 minimum and a \$5.00 cancellation fee.

55. Any time that Lyft deems that ride requests from passengers greatly outnumber available Lyft drivers, Lyft turns on its “Prime Time Tips” dynamic pricing program, which adds a mandatory tip percentage to a passenger’s fare. For the 2013 holiday period only, Lyft capped Prime Time Tips at 200%, or a tip of twice the price of the base fare.

56. Sidecar is a limited liability company organized and existing under the laws of the State of Delaware and maintains its principal place of business at 360 Pine Street, Suite 700, San Francisco, California. Sidecar connects potential passengers with individual drivers through a smartphone application that allows passengers to input their pick-up and drop-off locations.

These private individuals contracted with Sidecar to accept its dispatches and use their own private vehicles to provide for-hire transportation.

57. Through internet marketing, Sidecar recruits and contracts with drivers as part of its fleet in order to function as the equivalent of a taxicab company with a fleet of taxicabs. Sidecar does not require these private individuals to hold licenses issued by the Commission in order to engage in the business of public for-hire passenger transportation. Nor does Sidecar require the vehicles used by these drivers to comply with the many equipment requirements imposed by the Commission on for-hire vehicles engaged in transporting passengers.

58. On information and belief, Sidecar allows private individuals to operate as Sidecar drivers regardless of the color, make, or model of their private vehicle.

59. Once a potential passenger inputs his or her starting and ending locations, the Sidecar application will provide the potential passenger with a list of possible drivers, organized by the price. On information and belief, Sidecar previously provided for driver payment by sending a “suggested donation” to the passenger’s smartphone at the end of a fare. The suggested donation amount could be adjusted upwards or downwards within 24 hours of the ride. Currently, Sidecar allows drivers to set their own rates by adjusting their personal prices to be a multiple of its suggested donation rate. Provided they make the price clear up-front, Sidecar drivers are encouraged to set their own prices based on demand, the quality of their vehicle, their income needs and business strategy, and any additional perks they want to offer, like drinks and snacks. On information and belief, Sidecar’s suggested donation takes into account the distance traveled.

**The De Facto Taxicab Service Providers Operate Unlicensed Taxicab Services in Violation of District of Columbia Law**

60. The *De Facto* Taxicab Service Providers - Uber, Lyft and Sidecar - operate unlicensed taxicab businesses providing services that are identical in all material respects to the services offered by the for-hire Taxicab Service Plaintiffs and other similar businesses and individuals that operate in compliance with District of Columbia law. The *De Facto* Taxicab Service Providers do so by providing the following services to the public:

a. Like the Taxicab Service Plaintiffs, the focus of the *De Facto* Taxicab Service Providers' business operations is the provision of for-hire transportation to the public.

b. Like the Taxicab Service Plaintiffs, the individual operators working for the *De Facto* Taxicab Service Providers use their own private vehicles to provide for-hire transportation to the public.

c. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers offer, arrange for, dispatch, and/or provide for-hire transportation services.

d. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers use digital dispatch communications (also known as "digital hailing" or "e-hailing") to connect a driver and vehicle with a customer who requests transportation. The *De Facto* Taxicab Service Providers dispatch drivers over smartphone applications through an electronic wireless system. The Taxicab Service Plaintiffs use both dispatch radio and electronic wireless systems.

e. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers take customer requests over smartphone applications. The Taxicab Service Plaintiffs take customer requests over smartphone applications (including Hailo, Taxi Magic, Curb, Go Fast Taxi, and the upcoming Universal DC taxiapp), telephone, and website reservation systems.

f. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers function through a relationship between one company transmitting dispatches and individual

drivers receiving dispatches and providing service in private vehicles. The Taxicab Service Plaintiffs are affiliated with various taxicab companies, associations, and fleets for this purpose. *See* D.C. Mun. Regs. § 31-500.

g. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers use a metering system based, at least in part, on distance to determine the fare.

h. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers impose and notify the public of their rates in advance of beginning a passenger's transportation. Similarly, like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers do not allow passengers to individually negotiate fares or rates.

i. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers accept credit card payments for the fare and are enabled to provide credit card processing within the vehicle.

j. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers adorn their vehicles with trade dress to promote a uniform brand and make that brand visible and recognizable to customers on the street.

k. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers engage in the commercial use of their vehicles and therefore carry commercial insurance to cover liability for accidents that occur during commercial use. *See, e.g.*, Maya Rhodan, Time, *Uber Expands Insurance for Drivers Amid Criticism* (March 14, 2014) <http://time.com/25397/uber-lyft-sidecar-insurance/>.

l. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers offer services that are the product of an arms-length transaction between virtual strangers. Riders are just as likely to not personally know their Uber driver beforehand as they are their Yellow Cab

driver.

m. Like the Taxicab Service Plaintiffs, the *De Facto* Taxicab Service Providers provide riders with a receipt documenting the total fare and how it was calculated in connection with the predetermined rates for service. Riders may later use this record to dispute a fare as inconsistent with the predetermined rates for service.

### **Vehicle-for- Hire Innovation Amendment Act**

61. On November 18, 2014, the Council enacted the Vehicle-for-Hire Innovation Amendment Act of 2014 (“Vehicle-for-Hire Act”). The Vehicle-for-Hire Act attempts to draw a distinction between a “Private vehicle-for -hire,” which is defined as “a class of transportation service by which a network of private vehicle-for-hire operators in the District provides transportation to passengers to whom the private vehicle-for-hire operators are connected by digital dispatch” and a “Public vehicle-for-hire,” which is defined as “a class of transportation service by motor vehicle for hire in the District, including a taxicab, limousine, or sedan-class vehicle, that provides for-hire service exclusively using driver and vehicles licensed pursuant to this act and D.C. Official Code § 47-2829.” Vehicle-for-Hire Act §16(A), 17. These definitions arbitrarily create a two-tiered regulatory system with different rules and requirements for Taxicab Service Plaintiffs and *De Facto* Taxicab Service Providers. Despite the fact that Taxicab Service Plaintiffs and *De Facto* Taxicab Service Providers provide identical services in all material effects, the rules and requirements for *De Facto* Taxicab Service Providers are significantly less burdensome, restrictive, and expensive.

62. The Vehicle-for-Hire Act encompasses only minimal requirements for *De Facto* Taxicab Service Providers and operators. Specifically, the Vehicle-for-Hire Act requires that companies affiliated with *De Facto* Taxicab Service Providers register with the Commission,

create an application process for the sign-up of drivers, have a website that includes a customer service contact, implement a zero tolerance policy on the use of drugs and alcohol and discrimination, and have procedures for reporting driver complaints. The Vehicle-for-Hire Act, however, only requires self-certification of the company's compliance with these safety and consumer protection standards and limits the Commission's authority to inspect relevant records to "when it has a reasonable basis to suspect non-compliance." Vehicle-for-Hire Act §20j-7(b). Unlike the Taxicab Service Plaintiffs, *De Facto* Taxicab Service Providers' compliance with D.C. law is not subject to daily policing by hack inspectors.

63. The Vehicle-for-Hire Act also establishes minimal individual driver requirements, including that drivers must be at least 21 years old, apply through a private vehicle-for-hire company, pass a background check, use the trade dress established by the company while in service, and have a valid District of Columbia, Maryland, or Virginia driver's license. Unlike the Taxicab Service Plaintiffs, *De Facto* Taxicab Service Providers are not required to undertake the expenses of obtaining, maintaining, and renewing a Face ID license and H-Tag from the Commission.

64. Further, the Vehicle-for-Hire Act fails to mandate adequate commercial insurance coverage for Private vehicle-for-hire operators. The Vehicle-for-Hire Act only requires *De Facto* Taxicab Service Providers to maintain liability insurance policies with a minimum of \$1 million per instance under a primary liability insurance policy. It does not require *De Facto* Taxicab Service Providers to carry commercial insurance, as Taxicab Service Plaintiffs are required under 26-A D.C. Mun. Reg § 801.4.

65. The vehicle requirements under the Vehicle-for-Hire Act are similarly less burdensome and expensive than those required for Taxicab Service Plaintiffs. Motor vehicles

used for *De Facto* Taxicab Service Providers must undertake an initial safety inspection and must pass it within 90 days of being in service. Additionally, the vehicle must only meet very basic requirements, such as a seating capacity of up to 8 passengers, 4 doors, and not be more than 10 model years old at entry into service and not more than 12 years of age while in service. Unlike Taxicab Service Plaintiffs, *De Facto* Taxicab Service Providers are not required to equip their private vehicles with Commission-mandated dome lights, meters, credit card machines and passenger consoles or incur the added expense painting their private vehicles a certain color in order to be permitted to provide for-hire transportation to the public.

66. Additionally, the Vehicle-for-Hire Act does not constrain the fares that can be charged by the *De Facto* Taxicab Service Providers, instead giving them full freedom and flexibility to charge any amount of fare, no fare at all, or ask for generalized donations, provided that any method for calculating a fare is disclosed. Meanwhile, Taxicab Service Plaintiffs are forced to comply with the strict regulated fare rates set by the Commission without flexibility. As documented, this disparate treatment has historically given and continues to give *De Facto* Taxicab Service Providers a government-sanctioned advantage over the Taxicab Service Plaintiffs in the for-hire transportation industry. In August 2014, UberX decreased its base rates to increase its D.C. market share, charging a base fare of \$2.00, plus \$1.25 per mile and \$0.25 per minute. During the same period, Commission rates required that the Taxicab Service Plaintiffs to charge a base fare of \$3.50, plus \$2.16 per mile and \$0.58 cents per minute in stopped or slowed traffic. See Martin Di Caro, WAMU 88.5, *UberX Slashes Prices, Dealing Blow To D.C. Cabs* (August 26, 2014) [http://wamu.org/news/14/08/26/uberx\\_slashes\\_prices\\_dealing\\_blow\\_to\\_dc\\_cabs](http://wamu.org/news/14/08/26/uberx_slashes_prices_dealing_blow_to_dc_cabs). Uber's dynamic pricing model allows it to make up for the lower base rate by charging higher rates during the periods of anticipated or actual higher demand, which the Taxi Service

Plaintiffs are prohibited from doing.

67. The Vehicle-for-Hire Act carves out a narrow exception where taxicab drivers booked through digital dispatch services are no longer required to comply with the Commission's regulated rates. This, however, mandates that Taxicab Service Plaintiffs, who previously owned their own business or affiliated with taxicab companies, to associate with a company that books services through digital dispatch.

68. The *De Facto* Taxicab Service Providers are also not required to collect the \$0.25 surcharge required by the Commission's 2013 regulations of Taxicab Service Plaintiffs. Rather, *De Facto* Taxicab Service Providers only have to collect and submit 1% of gross receipts from all trips that originate in the District of Columbia. Thus, for any individual fare of less than \$25, the *De Facto* Taxicab Service Providers remit substantially less of their collected fares to the District of Columbia than the Taxicab Service Plaintiffs.

69. Finally, while the Vehicle-for-Hire Act prohibits *De Facto* Taxicab Service Providers from accepting street hails, it provides no real enforcement mechanism to the Commission. Rather, the Vehicle-for-Hire Act specifically relieves *De Facto* Taxicab Service Providers from any obligation to provide the Commission with a list of vehicles and prohibits the Commission from requiring private vehicles-for-hire to display a non-removable decal. On information and belief, *De Facto* Taxicab Service Providers are known to the Commission to conduct prohibited street hails.

70. While the Vehicle-for-Hire Act minimally regulates *De Facto* Taxicab Service Providers, the new legislation falls far short of creating an equal playing field between the Taxicab Service Plaintiffs and the *De facto* Taxicab Service Providers. Rather, the Vehicle-for-Hire Act creates a two-tiered regulatory scheme with different rules and requirements for the two

artificially created categories of operators. The different rule and requirements are material as shown in the chart below:

<u>Regulation</u>	<u>Taxicab Service Plaintiffs</u>	<u>De Facto Taxicab Service Providers</u>
Ride Fare	Regulated by the Commission	Not Regulated
Passenger Surcharge	\$0.25 per ride regardless of total ride fare	1% of gross receipts from all trips that originate in D.C.
Commercial Insurance	Required	Not Required
Vehicle Color	Regulated by the Commission	Not Regulated
Meter System	Regulated by the Commission	Not Regulated
Dome Light	Regulated by the Commission	Not Regulated
Credit Card Machine	Regulated by the Commission	Not Regulated
Licensure	Required to have a Face-ID and H-Tags	Only required to have a valid DC, VA, or MD drivers license.

71. These discriminatory regulations have caused and continue to cause harm to the Taxicab Service Plaintiffs in the form of lost wages and compensation. The Vehicle-for-Hire Act allows *De Facto* Taxicab Providers to flood the market, reducing the ability of Taxicab Service Plaintiffs to earn a living. This was done despite the fact that Taxicab Service Plaintiffs spent thousands of dollars to obtain the exclusive right to operate for-hire services in the District. Further, the two-tiered regulatory system allows *De Facto* Taxicab Providers to operate at a fraction of the price.

## V. CLASS ACTION ALLEGATION

72. Class Representatives bring this class action on behalf of themselves and a class of similarly situated District of Columbia taxicab drivers consisting of: (1) all District of Columbia taxicab drivers who are governed by District of Columbia statutory and regulatory law regulating the provision of taxicab services; and (2) all District of Columbia taxicab drivers who hold and are required to hold taxicab licenses, including Face I.D. and H-tag licenses.

73. While the exact number of Class Members is not presently known, on information and belief, it exceeds 5,000 persons. As such, it is so numerous that joinder of individual members in this action is impracticable.

74. Class Members seek to require the District of Columbia to respect their constitutional rights to due process and equal protection under the law.

75. There are common questions of law and fact that relate to and affect Class Members – namely, whether the District of Columbia violated taxicab drivers’ constitutional rights, as set forth in more detail below in Counts I and II of this Complaint.

76. The relief sought is common to all Class Members as set forth below in the section entitled “Prayer for Relief.”

77. The claims of Class Representatives are typical of the claims of all Class Members, namely that the District of Columbia violated taxicab drivers’ constitutional rights to due process and equal protection under the law, in violation of 42 U.S.C. § 1983, the Home Rule Act, and the Equal Protection and Due Process Clauses of the U.S. Constitution. There is no conflict between Class Representatives and any other Class Member with respect to this action.

78. The Class Representatives will fairly and adequately protect the interests of the Class Members. Attorneys for the Class Representatives are experienced and capable in the field

of employment, administrative, and constitutional law.

79. This action is properly maintained as a class action under Federal Rule of Civil Procedure 23(b)(2). The District of Columbia has acted by discrete statutes, regulations, and policies to violate the constitutional rights of all Class Members, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole.

80. Alternatively, this action is maintainable as a class action under FRCP Rule 23(b)(3), as the common questions of law and fact described above predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

81. Alternatively, this action is maintainable as a class action under FRCP Rule 23(b)(1). Because of the common Vehicle-for-Hire Act statute, at issue and challenged here, the prosecution of separate actions by individual members of the class would create a risk of: (i) inconsistent adjudications that would establish incompatible standards of conduct for Defendant, and (ii) adjudications that would be dispositive of the interests of non-party class members or substantially impair such non-party class members' ability to protect their interests.

## **V. STATEMENT OF CLAIMS**

### **COUNT ONE**

#### **Violation of 42 U.S.C. § 1983 and the Equal Protection Clause**

82. Plaintiffs reallege paragraphs 1-81.

83. Count One is brought under 42 U.S.C. § 1983 and the Equal Protection Clause. The District of Columbia's unequal treatment of the Taxicab Service Plaintiffs and the *De Facto* Taxicab Service Providers violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by permitting the *De Facto* Taxicab Service Providers to engage

in *de facto* taxicab business without incurring the same costs and limitations of complying with the extensive and costly framework of statutory and regulatory requirements for taxicab operators described herein.

84. The Vehicle-for-Hire Act is discriminatory on its face in so far as it provides for the unequal treatment of the Taxicab Service Plaintiffs and the *De Facto* Taxicab Service Providers in regard to the requirements, restrictions, and rates for operating taxicab service.

85. Plaintiffs who have undertaken costly efforts to conform to District of Columbia law and whose businesses depend upon a fair D.C. regulatory system as the exclusive means to provide taxicab service constitute a distinct business classification that has been created and supported by long-standing District of Columbia laws, regulations, and practices. Against this historical background, the Vehicle-for-Hire Act violates the equal protection rights of the Plaintiffs because it permits *de facto* taxicab service operations by the *De Facto* Taxicab Service Providers on an uneven playing field and under unequal treatment of law.

86. Defendant has not and cannot offer any rational justification for this unequal application of District of Columbia law. Defendant's decision to apply District of Columbia law unequally is not rationally related to any legitimate governmental interest.

87. Plaintiffs are suffering and will continue to suffer as a result of the Vehicle-for-Hire Act because the market and collateral value of their investments in licensing, specified taxicab equipment, and required PSP contracts are being or will be reduced by the unequal application of District of Columbia law.

88. The Taxicab Service Plaintiffs are suffering and will continue to suffer as a result of the Vehicle-for-Hire Act because the Plaintiffs' revenues derived from their lawful taxicab operations are or will be reduced as a result of the *De Facto* Taxicab Service Providers'

operation of unlicensed taxicabs.

**COUNT TWO**  
**Violation of 42 U.S.C. § 1983 and Substantive Due Process Rights**

89. Plaintiffs reallege paragraphs 1-88.

90. Count Two is brought under 42 U.S.C. § 1983 and the Due Process Clause.

Through the Vehicle-for-Hire Act, the District of Columbia has and continues to arbitrarily and capriciously deprive the Taxicab Service Plaintiffs of their property interests in their taxicab service licenses and in the businesses they operate based upon District of Columbia law.

91. As holders of Face ID licenses and H-tags that may be suspended or revoked only upon a determination of liability for violating one of the Commission's rules, the Taxicab Service Plaintiffs hold a property right in their licenses. Taxicab Service Plaintiffs further hold property rights in all personal property related to taxicab service, including but not limited to, vehicles bearing paint schemes and insignia required by the Commission, dome lights, taximeters, and passenger consoles.

92. Through its statutory and regulatory framework regulating taxicab service, the District of Columbia has affirmed that these licenses and this property had the characteristic of and conferred the sole means to engage in taxicab service in the District of Columbia.

93. By the Vehicle-for-Hire Act, the District of Columbia is allowing *De Facto* Taxicab Service Providers to operate taxicab service without compliance with laws governing taxicab service. Defendant has arbitrarily and capriciously deprived the Taxicab Service Plaintiffs of their property interests in their taxicab service licenses and in the businesses they operate based upon District of Columbia law.

**COUNT THREE**

### **Violation of the Home Rule Act**

94. Plaintiffs reallege paragraphs 1-93.

95. Count Three is brought under the District of Columbia Self-Government and Government Reorganization Act (“Home Rule Act”), Pub. L. No. 93-198, 87 Stat. 774 (1973)(as amended). In enacting legislation in violation of the Constitution, the D.C. Council acted *ultra vires* and in violation of the statutory authority delegated to it by Congress.

96. Pursuant to the Home Rule Act, Congress delegated to the D.C. Council the power to legislate “all rightful subjects of legislation within the District consistent with the Constitution of the United States.” D.C. Code § 1-203.02.

97. The D.C. Council’s violation of the Equal Protection and Due Process Clauses of the U.S. Constitution by enacting the Vehicle-for-Hire Act constitute violations of the Home Rule Act.

### **VI. PRAYER FOR RELIEF**

WHEREFORE, the Taxicab Service Plaintiffs, on behalf of themselves and the Plaintiff Class, respectfully ask this Court to:

A. Declare Defendant violated 42 U.S.C. § 1983 and the Equal Protection Clause by discriminatorily permitting the *De Facto* Taxicab Service Providers to engage in *de facto* taxicab business without incurring the same costs and limitations of complying with applicable law.

B. Declare Defendant violated 42 U.S.C. § 1983 and the Due Process Clause by arbitrarily and capriciously depriving the Taxicab Service Plaintiffs of their property interests in their taxicab service licenses and in the businesses they operate based upon District of Columbia law.

C. Issue an injunction enjoining Defendant from continuing to violate the Equal Protection Clause, the Due Process Clause, and the License Act by allowing the *De Facto*

Taxicab Service Providers to operate *de facto* taxicab service without licensure or compliance with District of Columbia law.

D. Issue an injunction enjoining the Defendant from unequal enforcement of District of Columbia law;

E. Issue an injunction compelling the District of Columbia to revoke its improper exemption of the *De Facto* Taxicab Service Providers from the Vehicle-for-Hire Act and District of Columbia law;

F. Issue an injunction requiring the District of Columbia to enforce the exclusive licensing rules and regulatory requirements contained in District of Columbia law against the *De Facto* Taxicab Service Providers.

G. Award compensatory and/or nominal damages resulting from the Defendant's unequal enforcement of District of Columbia law and Defendant's violations of Plaintiffs' rights;

H. Award attorney's fees and court costs to Plaintiffs where available; and

I. Award any other relief as the Court deems just, equitable, and proper.

## VII. JURY DEMAND

Plaintiffs request trial by jury for each issue so triable.

Dated: May 22, 2015

Respectfully submitted,

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