

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

STANFORD MILLER, CESAR SALAS
VALDEZ, FABION LEWIS, GEORGE
NUMFOR, and ELIJAH SMITH, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

CITY OF NEW YORK, DAVID DO, in his
official capacity as Commissioner of the New
York City Taxi and Limousine Commission, and
ROSIANA HINDS, KAREEM
ABDURRAHMAN, MANUEL CHUVA
GALARZA, SHAWANDA RICHARDSON,
GURJEET SAHOTA, PARTHA NATH, HONG
LIANG LUO, GANESH RAMLALL, EDWARD
HILTON, and OFFICERS JOHN DOE 1–6, sued
in their individual capacities and official capacities
as officers of the Taxi and Limousine
Commission,

Defendants.

**FIRST AMENDED CLASS
ACTION COMPLAINT**

Jury Trial Demanded

Case No. 23-cv-65-PKC-RML

PLAINTIFFS STANFORD MILLER, CESAR SALAS VALDEZ, FABION LEWIS, GEORGE NUMFOR, and ELIJAH SMITH, on behalf of themselves and all others similarly situated, through counsel, allege as follows against Defendants CITY OF NEW YORK, DAVID DO, in his official capacity as Commissioner of the New York City Taxi and Limousine Commission (“TLC”), and TLC Officers ROSIANA HINDS, KAREEM ABDURRAHMAN, MANUEL CHUVA GALARZA, SHAWANDA RICHARDSON, GURJEET SAHOTA, PARTHA NATH, HONG LIANG LUO, GANESH RAMLALL, EDWARD HILTON, and JOHN DOES 1–6:

INTRODUCTION

1. The Plaintiffs bring this proposed class action seeking declaratory, injunctive, and monetary relief to remedy deprivations of their rights under the United States Constitution.

2. Under the guise of public safety, the TLC, a New York City agency and quasi-law enforcement agency, has long engaged in a pattern and practice of utilizing undercover TLC officers (“decoys”) to run sting operations at LaGuardia Airport and John F. Kennedy Airport (“JFK Airport”), as well as at other locations across New York City. These operations are designed to entrap innocent individuals into violating N.Y.C. Admin. Code § 19-506(b) (the “Street Hail Law”), which, *inter alia*, prohibits street hails without the appropriate TLC license and penalizes the drivers and owners of the vehicles who allegedly violate the law. Almost all violations of the Street Hail Law result in an unconstitutionally excessive penalty of \$1,500 for a first offense, and for a second offense, a 60-day suspension of a driver’s license, a \$2,000 penalty, and/or TLC’s seizure of the person’s vehicle.

3. But the TLC’s abusive undercover operations do not stop at merely entrapping innocent individuals and issuing excessive fines. For years, the TLC has intentionally targeted non-white and Hispanic people (collectively, “people of color”) in these operations, especially immigrants and people with limited English proficiency who—like the Plaintiffs—have just dropped off family members or friends (or, in a minority of cases, rideshare passengers) at the airport.

4. Because of the TLC’s intentional and discriminatory selective enforcement of the Street Hail Law, people of color have received an estimated 86.5% of the Street Hail Law summonses that the TLC issued through its undercover operations at JFK and LaGuardia Airports, even though people of color are estimated to be only 56% of the people who drop off passengers

at those airports. By contrast, white, non-Hispanic people (“white people”) received only an estimated 13.5% of the Street Hail Law summonses that the TLC issued through its undercover operations at JFK and LaGuardia Airports, even though white people are estimated to be 44% of the people who drop off passengers at those airports.

5. The TLC operates this pattern and practice through having decoys entrap drivers by inventing sob stories to beg and grovel for rides, exploiting drivers’ compassion and repeatedly badgering and cajoling drivers who initially reject the decoys’ entreaties.

6. TLC officers also often fabricate details in the summonses that they issue to the sting operations’ targets, including the essential detail that the targets agreed to drive them for some amount of money, or, at best, the officers misunderstand their conversations with drivers who have limited English proficiency or who speak English with heavy non-American accents. Even where individuals targeted in these sting operations do not agree to drive the decoy anywhere, much less for money, in some cases the undercover TLC officers will still issue them a summons for violating the Street Hail Law.

7. The TLC’s policy and practice of targeting drivers in their undercover airport operations was and is motivated by discrimination based on race, ethnicity, color, and/or national origin.

8. Upon information and belief, the TLC’s policy or pattern of discrimination based on race, ethnicity, color, and/or national origin stems from and/or reflects myriad biases, stereotypes, and assumptions about people of color and communities of color, including that:

- a. People of color will be more willing than white drivers to agree to violate the Street Hail Law when approached by an undercover officer, especially when the undercover officer is also a person of color;
- b. The TLC can more easily exploit mutual aid traditions of immigrant communities and communities of color helping fellow community members;

- c. People of color are more likely than white drivers to be low-income and in need of the extra cash allegedly offered by undercover officers;
- d. People of color are less likely than white drivers to have the resources to defend or challenge the violations;
- e. People of color are more likely to lack English proficiency and therefore are more likely to misunderstand what the undercover officer, who always speaks English, is seeking or asking;
- f. People of color will be more likely than white drivers to quickly settle due to a lack of English proficiency, less familiarity with the legal system, and/or concern about the impact of a potential violation on their immigration status;
- g. People of color are more likely than white drivers to quickly settle because they do not have the means to risk imposition of the maximum statutory penalty.

9. The TLC operates this abusive and discriminatory undercover entrapment scheme as a revenue-raising operation on the backs of low-income New Yorkers who can least afford to fill the TLC's coffers. Because of this scheme, ordinary New Yorkers who set out to drop off family members or friends at the airport to catch a flight and who have no motive or interest in violating the law or predisposition to do so often leave the airport with a summons to pay a \$1,500 civil penalty. Since 2017, based on publicly available data, the TLC has collected over \$5 million from individuals for Street Hail Law violations, while issuing summonses with a face value of more than triple that amount.

10. The TLC's practices violate the United States Constitution in two ways: first, the penalties that the TLC imposes are "excessive fines" that violate the Eighth Amendment; and second, the TLC has selectively enforced the Street Hail Law against people of color in violation of the Equal Protection Clause of the Fourteenth Amendment.

11. The Excessive Fines Clause of the Eighth Amendment prohibits the government from imposing "excessive fines" on individuals. Because the TLC's imposed fines bear no

relationship to the alleged harm caused by these Street Hail Law violations or the law's stated purposes, the penalties imposed by the TLC violate the Excessive Fines Clause.

12. The civil penalties at issue in this case are unquestionably fines or punishments within the meaning of the Eighth Amendment, because they serve a deterrent purpose.

13. Street Hail Law violations were initially punishable by a fine of \$200 to \$500 after a criminal court conviction. But the City of New York and the TLC have sharply raised the financial penalty, while lowering the bar for imposing the fines by permitting administrative prosecutions before the New York City Office of Administrative Trials and Hearings (“OATH”), rather than through criminal trials. *See* N.Y.C. Admin. Code § 19-506(e)(1)–(3).

14. In 2012, New York City increased the civil penalty for a first violation by more than a factor of seven—increasing the minimum fine for a first offense from \$200 to \$1,500. The City's justification for raising the minimum civil penalty amount from \$200 to \$1,500 primarily rested on so-called public safety concerns and a desire to deter unregulated and unlicensed drivers from engaging in human trafficking.

15. But the TLC's airport sting operations, targeting individuals who have just dropped off family members or friends, who have no predisposition to engage in an unlicensed street hail, and whose violations are unconnected to any other criminal activity, fail to serve these ends.

16. For these reasons, the fines resulting from TLC's abusive undercover sting operations are grossly disproportional and bear no relationship to the alleged harms, causes, or stated purposes of the Street Hail Law.

17. Through this scheme, the City of New York and the TLC have reaped more than \$5 million in revenues since 2017, extracting punitive payments from thousands of drivers and

vehicle owners who have been unfairly and improperly subjected to the City's unconstitutionally excessive fines.

18. The TLC's conduct also violates the Equal Protection Clause of the Fourteenth Amendment. Because the TLC and its officers have selectively enforced the Street Hail Law through its undercover sting operations against people of color based on their race, color, ethnicity, and/or national origin, the Defendants have intentionally discriminated against drivers of color in violation of the Equal Protection Clause. In addition, the TLC has applied this Street Hail Law enforcement policy with discriminatory motivation based on race, ethnicity, color, and/or national origin.

19. Upon information and belief, since at least 2012, the TLC has selectively enforced the Street Hail Law against people of color. This has caused people of color to receive a grossly disproportionate share of TLC summonses for Street Hail Law violations compared to white drivers and a far greater share of summonses than people of color would have received in the absence of the TLC's intentionally discriminatory enforcement of the Street Hail Law.

20. Although Plaintiffs estimate that 56% of the people who drop off passengers at JFK and LaGuardia Airports are people of color, an estimated 86.5% of the summonses that the TLC issued at JFK and LaGuardia Airports through its undercover operations from 2019 to 2022 were given to people of color. In contrast, while Plaintiffs estimate that 44% of the people who drop off passengers at the airport are white and non-Hispanic, white people received only 13.5% of the summonses that the TLC issued at JFK and LaGuardia Airports through its undercover operations from 2019 to 2022. These stark disparities in enforcement of the Street Hail Laws based on race, color, ethnicity, and/or national origin are extremely statistically significant at a high degree of certainty.

21. Moreover, in a troubling development that post-dates the initial Complaint in this action, the TLC has made a policy change that additionally burdens many of the low-income people who receive a summons for violating the Street Hail Law due to the TLC's discriminatory enforcement. Previously, the TLC had permitted individuals to execute a settlement agreement to resolve a § 19-506(b)(1) summons **and** pay the settlement amount within 30 days. Two weeks after the initial Complaint in this action, the TLC instituted a policy change so that individuals are required to pay such settlement amounts immediately upon signing the settlement agreement. And any failure to make the payment now results in the immediate suspension of an individual's DMV License and vehicle registration without further notice until the settlement amount is paid. It appears that the TLC implemented this new settlement policy in retaliation for drivers seeking to hold TLC accountable for its abusive, unconstitutional conduct.

JURISDICTION AND VENUE

22. The Court has subject matter jurisdiction over the Plaintiffs' federal claims under 28 U.S.C. § 1331. The Plaintiffs' federal law claims arise under 42 U.S.C. § 1983 and the United States Constitution.

23. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391(b), because the Defendants are subject to personal jurisdiction in this District and because a substantial part of the events and omissions giving rise to the claims alleged herein occurred in this District. JFK and LaGuardia Airports, the airports where the TLC primarily conducts its sting operations and where the Plaintiffs and members of the class were aggressively solicited by undercover TLC officers, are both located in this District.

PARTIES

24. Plaintiff Stanford Miller is a resident of Queens County, New York. Mr. Miller received a summons for an alleged violation of N.Y.C. Admin. Code § 19-506(b)(1) stemming from TLC's undercover airport decoy operations. Upon information and belief, Mr. Miller was targeted by Defendant TLC Officers Rosiana Hinds, Kareem Abdurrahman, and John Doe 1 pursuant to the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin.

25. Plaintiff Cesar Salas Valdez is a resident of Bronx County, New York. Mr. Valdez received a summons for an alleged violation of N.Y.C. Admin. Code § 19-506(b)(1) stemming from TLC's undercover airport decoy operations. Upon information and belief, Mr. Valdez was targeted by Defendant TLC Officers Manuel Chuva Galarza, Shawanda Richardson, and John Doe 2 pursuant to the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin.

26. Plaintiff Fabion Lewis is a resident of Queens County, New York. Mr. Lewis received a summons for an alleged violation of N.Y.C. Admin. Code § 19-506(b)(1) stemming from TLC's undercover airport decoy operations. Upon information and belief, Mr. Lewis was targeted by Defendant TLC Officers Gurjeet Sahota, Partha Nath, and John Does 3 and 4 pursuant to the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin.

27. Plaintiff George Numfor is a resident of Bronx County, New York. Mr. Numfor received a summons for an alleged violation of N.Y.C. Admin. Code § 19-506(b)(1) stemming from TLC's undercover airport decoy operations. Upon information and belief, Mr. Numfor was targeted by Defendant TLC Officers Hong Liang Luo, Ganesh Ramlall, and John Doe 5 pursuant

to the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin.

28. Plaintiff Elijah Smith is a resident of Suffolk County, New York. Mr. Smith received a summons for an alleged violation of N.Y.C. Admin. Code § 19-506(b)(1) stemming from TLC's undercover airport decoy operations. Upon information and belief, Mr. Smith was targeted by Defendant TLC Officers Manuel Chuva Galarza, Edward Hilton, and John Doe 6 pursuant to the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin.

29. Defendant City of New York ("City") is a municipality duly incorporated pursuant to the laws of the State of New York. The TLC is an administrative agency of the City, created by New York City Charter § 2300 for the continuance, further development, and improvement of taxi and limousine services in the City of New York. The TLC is empowered by the City Charter to act by a majority vote of its members. The TLC is further governed by the Administrative Code of the City of New York, enacted by the City Council, and by the TLC rules, enacted by a majority vote of the TLC.

30. Defendant David Do ("Do") is Commissioner and Chair of the TLC. Eight of the nine members of the TLC commission are unsalaried. Defendant Do, as head of the agency, is the one salaried commissioner and carries executive responsibilities, including implementing and overseeing the policies of the TLC and ensuring that its personnel obey the Constitution and laws of the United States and the State of New York. Defendant Do is being sued in his official capacity.

31. Defendants Gurjeet Sahota, Partha Nath, Rosiana Hinds, Kareem Abdurrahman, Manuel Chuva Galarza, Shawanda Richardson, Hong Liang Luo, Ganesh Ramlall, and Edward Hilton are current or former TLC Officers who engaged in the TLC's sting operations at JFK

and/or LaGuardia Airports and directly participated in the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin.

32. Officer Does 1 through 6 are additional TLC officers who, to the extent that named Defendants above were not the decoy or undercover officers who targeted Plaintiffs, are named as the decoy or undercover officers who targeted Plaintiffs and otherwise directly participated in the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin, as described herein.

STATUTORY FRAMEWORK

N.Y.C. Administrative Code § 19-506(b)

33. In New York City, the Street Hail Law makes it unlawful to knowingly operate or allow another to operate a vehicle for hire without the appropriate license to do so from the TLC. Subsection (b)(1) of the Street Hail Law provides that "any person who shall permit another to operate or who shall knowingly operate or offer to operate for hire any vehicle as a taxicab, coach, wheelchair accessible van, commuter van, HAIL vehicle or for-hire vehicle in the city, without first having obtained or knowing that another has obtained a license for such vehicle . . . shall be guilty of a violation." N.Y.C. Admin. Code § 19-506(b)(1).

34. A violation of subsection (b)(1) may be enforced in criminal court, punishable upon conviction by a fine of \$1,000 to \$2,000 or up to a 60-day term of imprisonment, or both. *Id.*

35. Alternatively, or additionally, a violation of subsection (b)(1) may be subject to a civil penalty of \$1,500 for a first violation and \$2,000 for a second violation. N.Y.C. Admin. Code

§ 19-506(e)(1), (e)(3).¹ In addition to the civil penalty, the second offense also often results in the TLC seizing the person's vehicle. *Id.* § 19-506(h)(1), (h)(2).

36. The TLC is authorized to prosecute civil violations through administrative proceedings and generally elects to do so before OATH. Guilty violations following OATH hearings may be enforced as if they are money judgments. N.Y.C. Admin. Code § 19-506(e)(1).

37. In 1989, the New York City Council doubled the range of fines for unlicensed operation for hire, from a prior range of \$200 to \$500 to a new range of \$400 to \$1,000, while maintaining the penalty of up to 60 days of imprisonment. N.Y.C. Local Law No. 87 of 1989, Council Int. No. 541-A, § 1 (Nov. 17, 1989). The City Council also empowered the TLC to seize and forfeit unlicensed vehicles. N.Y.C. Local Law No. 90 of 1989, Council Int. No. 957-A, § 1 (Nov. 22, 1989). The increased penalties were imposed to “reduce the large number of illegally operating vehicles, compel compliance with the commission's licensing and other requirements, and to assure that the public is served by vehicles meeting the legal requirements for service, safety and insurance.” *Id.*

38. In 1992, the City Council imposed an alternative civil penalty range for unlicensed operation for hire of \$100 to \$500. N.Y.C. Local Law No. 12 of 1992, Council Int. No. 738-A, § 3 (Jan. 8, 1992).

¹ N.Y.C. Admin. Code § 19-506(b)(2), by contrast, covers the use of a TLC-licensed vehicle for activity beyond that permitted by the TLC license. For example, if a vehicle has only a for-hire-vehicle (“FHV”) license (which permits it to be dispatched by a base such as Uber or Lyft to pick up passengers at a particular location), it may not be used to solicit or accept street hails. The penalties under this section are imposed on the owner of such vehicle, or the operator, if different. *Id.* The penalty amount under § 19-506(b)(2) ranges from a fine of \$400 to \$1,000 and imprisonment of up to 60 days, though in practice when prosecuted administratively, the first offense carries a fine of \$200 to \$1,500. *Id.* § 19-506(e)(2)–(3).

39. In 1996, the City Council increased the range of civil fines for unlicensed operation for hire to \$200 to \$1,500. N.Y.C. Local Law No. 51 of 1996, Council Int. No. 347-A, § 3 (June 21, 1996).

40. In 2012, City Council again increased the range of criminal fines for unlicensed operation for hire to \$1,000 to \$2,000 and increased the civil penalties for the same violations to the current penalties—\$1,500 for a first violation and \$2,000 for a second violation. N.Y.C. Local Law No. 32 of 2012, Council Int. No. 735-A, §§ 2–3 (June 20, 2012). The penalties were purportedly raised to “crack[] down on an illegal segment of the for-hire industry in general” and to address broader concerns about sex trafficking, an industry that “flourishes on, even relies upon, the use of both legal and illegal for-hire vehicles.”²

41. Despite the TLC’s general election to seek civil penalties via OATH, the statute still carries the penalty of potential imprisonment for a period of up to 60 days. N.Y.C. Admin. Code § 19-506(b)(1).

42. A violation of § 19-506(b)(1) may also result in a 60-day suspension of both the driver’s New York State Department of Motor Vehicles license and vehicle registration. N.Y. Veh. Traf. Law § 510(2-a)(a). Drivers of means may pay a \$50 termination fee to clear the license suspension prior to the close of the 60-day period, but only the completed payment of the imposed fine will restore the driver’s vehicle registration. *Id.* § 503(2)(j).

² Hearing on Proposed Int. 0735-2011 and 0725-2011 by Committees on Transportation & Women’s Issues at 6:5-7; 8:23-25, 9:2-3. (Dec. 14, 2011), *available at*: <https://legistar.council.nyc.gov/View.ashx?M=F&ID=1691952&GUID=57C64EC0-FC92-429C-9B20-609D13FB4005>.

FACTUAL ALLEGATIONS

Plaintiff Stanford Miller

43. Mr. Miller is a 49-year-old Black, Jamaican-American resident of Queens, New York.

44. Mr. Miller works in the construction and food service industry.

45. On or about August 17, 2021, Mr. Miller dropped off two family members at JFK Airport. After his family members exited the vehicle, Mr. Miller was approached by an unknown woman who asked Mr. Miller where he was going. When Mr. Miller said he was going to Queens, the woman asked for a ride. Mr. Miller noticed that this woman appeared older, seemed desperate for a ride, and was struggling with her luggage. Because he felt sympathy for the woman and because he was already driving back to Queens—the woman’s purported destination—Mr. Miller agreed to drive her.

46. Mr. Miller did not request or accept any payment in exchange for driving the woman to Queens.

47. Upon information and belief, the woman who approached Mr. Miller and initiated the conversation was, in fact, Defendant TLC Officer Rosiana Hinds, an undercover decoy. Although Mr. Miller did not accept or request any payment for a ride, Officer Hinds claimed that Mr. Miller agreed to drive her to her requested destination for a \$40 fare.

48. Officer Hinds issued Mr. Miller a summons for operating for hire without the required TLC license in violation of N.Y.C. Admin. Code § 19-506(b)(1). Defendant TLC Officer Kareem Abdurrahman is listed as an assisting officer on the summons and participated in the targeting of Mr. Miller. To the extent that neither Defendant Hinds nor Defendant Abdurrahman

was the undercover officer who targeted Mr. Miller, Plaintiffs allege that TLC Officer John Doe 1 was the TLC undercover officer who targeted Mr. Miller.

49. The TLC elected to administratively prosecute this summons before OATH.

50. Mr. Miller had never received a Street Hail Law summons before.

51. The summons stated on its face that the maximum penalty was \$2,000.

52. On or about November 22, 2021, Mr. Miller challenged the summons at a hearing before OATH without the benefit of any recording (whether audio or video) of the operation or any third-party witnesses. The OATH hearing official considered the testimony of Mr. Miller and Officer Hinds and ruled in favor of the TLC.

53. The TLC imposed a \$1,500 fine against Mr. Miller for the alleged violation of the Street Hail Law.

54. This single incident for which Mr. Miller received a fine is the only time that Mr. Miller is alleged to have violated the Street Hail Law. Neither the TLC nor the City of New York has alleged that Mr. Miller's single alleged violation of the Street Hail Law was connected to any other crime or criminal activity.

Plaintiff Cesar Salas Valdez

55. Mr. Valdez is a 42-year-old Latino-American resident of the Bronx, New York. Mr. Valdez's primary spoken language is Spanish. He has limited English proficiency.

56. Mr. Valdez works as a building superintendent.

57. On or about July 19, 2022, Mr. Valdez dropped off his father at JFK Airport. After his father exited the vehicle, Mr. Valdez was approached by an unknown man who asked if he was a taxi driver. The man spoke to Mr. Valdez in a mix of English and fragmented Spanish. Mr. Valdez repeatedly confirmed that he was not operating a taxi.

58. Mr. Valdez was eager to return to his building in the Bronx where electricians were remedying a power outage. After Mr. Valdez explained that he needed to return to the Bronx, the man claimed he needed a ride to Yankee Stadium—which is in the Bronx—and insisted that Mr. Valdez give him a ride there. The man would not leave Mr. Valdez alone, repeatedly cajoling and attempting to guilt him until Mr. Valdez finally relented and offered to drive the man.

59. Mr. Valdez agreed to provide a ride in exchange for payment only after the man badgered him and eventually wore Mr. Valdez down.

60. Upon information and belief, the man who approached Mr. Valdez and initiated the conversation was, in fact, Defendant TLC Officer Manuel Chuva Galarza, an undercover decoy. Defendant Chuva Galarza claims that Mr. Valdez offered to drive him to the Bronx for \$60.

61. Defendant Chuva Galarza issued Mr. Valdez a summons for operating for hire without the required TLC license in violation of N.Y.C. Admin. Code § 19-506(b)(1). Defendant TLC Officer Shawanda Richardson is listed as an assisting officer on the summons and participated in the targeting of Mr. Valdez. To the extent that neither Defendant Chuva Galarza nor Defendant Richardson was the undercover officer who targeted Mr. Valdez, Plaintiffs allege that TLC Officer John Doe 2 was the TLC undercover officer who targeted Mr. Valdez.

62. The TLC elected to administratively prosecute this summons before OATH.

63. Mr. Valdez had never received a Street Hail Law summons before.

64. The summons stated on its face that the maximum possible penalty was \$2,000.

65. On or about November 22, 2022, Mr. Valdez settled the summons with the TLC for \$500 to avoid the time and stress of an OATH hearing and the risk of the maximum penalty being imposed against him.

66. This single incident for which Mr. Valdez received a fine is the only time that Mr. Valdez is alleged to have violated the Street Hail Law. Neither the TLC nor the City of New York has alleged that Mr. Valdez's single alleged violation of the Street Hail Law was connected to any other crime or criminal activity.

Plaintiff Fabion Lewis

67. Mr. Lewis is a 38-year-old Black, Jamaican-American resident of Queens, New York.

68. Mr. Lewis is currently a TLC-licensed Uber driver and runs his own small business.

69. On or about January 5, 2020, Mr. Lewis dropped off an Uber passenger from Westchester County at JFK Airport. Before he was able to pull away from the curb and leave the airport, an unknown Black man approached Mr. Lewis. The man, who appeared to speak with a Haitian accent, was accompanied by an unknown Black woman. Neither the man nor the woman was wearing a jacket, despite it being a cold day in January. The man claimed that he and his wife were stranded at the wrong airport and needed a ride to LaGuardia Airport to catch their flight. Mr. Lewis declined to help them and explained to the couple that he could receive a TLC fine if he picked them up without the trip being pre-arranged through Uber. The man insisted that Mr. Lewis would not receive a fine because Mr. Lewis is an Uber driver. Mr. Lewis stood firm and explained again that he was prohibited from picking up passengers at JFK Airport without a TLC license that permits the operator to accept street hails.

70. Mr. Lewis then rolled up his car windows so that he could leave but the stranger continued to plead for Mr. Lewis' help. Mr. Lewis felt compassion for the couple, whom he believed were stranded at JFK Airport without winter jackets in January and desperately feared missing their flight. Mr. Lewis finally relented and agreed to drive the couple to LaGuardia; he

opened his trunk for their luggage, and they entered his vehicle. Almost immediately, a uniformed TLC officer then appeared and issued Mr. Lewis a Street Hail Law summons.

71. Mr. Lewis only agreed to drive the couple because the man had begged and pleaded for a ride, despite Mr. Lewis' multiple refusals.

72. The individuals who approached Mr. Lewis were, in fact, undercover TLC officers, whose names are unknown to the Plaintiffs but who are named here as Defendant TLC Officers John Doe 3 and John Doe 4. The TLC officer who issued the summons, Defendant Officer Gurjeet Sahota, claimed in the summons to have observed Mr. Lewis open his trunk for the undercover officers' luggage and allow the undercover officers to enter his vehicle. Defendant Officer Sahota also claimed in the summons that according to his undercover colleague, Mr. Lewis agreed to drive the couple to LaGuardia Airport for \$50.

73. Although Defendant Officer Sahota did not personally witness Mr. Lewis agree to drive the undercover officers for payment, he issued Mr. Lewis a summons for operating for hire without the required TLC license in violation of N.Y.C. Admin. Code § 19-506(b)(1). Defendant TLC Officer Partha Nath is listed as the assisting officer on the summons and participated in the targeting of Mr. Lewis.

74. The TLC elected to administratively prosecute this summons before OATH.

75. Mr. Lewis had never received a Street Hail Law summons before.

76. The summons stated the maximum possible penalty was \$2,000.

77. On or about November 19, 2020, Mr. Lewis settled the summons with the TLC for \$500 to avoid the time and stress of an OATH hearing and the risk of the maximum penalty being imposed against him.

78. This single incident for which Mr. Lewis received a fine is the only time that Mr. Lewis is alleged to have violated the Street Hail Law. Neither the TLC nor the City of New York has alleged that Mr. Lewis' single alleged violation of the Street Hail Law was connected to any other crime or criminal activity.

Plaintiff George Numfor

79. Mr. Numfor is a 41-year-old African-American resident of the Bronx, New York.

80. Mr. Numfor currently holds a for-hire-vehicle license with the TLC, which permits him to be dispatched by a base in New York City (*e.g.*, an Uber or Lyft or a black car base) to pick up passengers. At the time of the incident described below, however, Mr. Numfor had not yet obtained a TLC license.

81. On or about March 1, 2022, Mr. Numfor picked up an Uber passenger in Westchester County and dropped the passenger off at JFK Airport. After the passenger exited the vehicle, Mr. Numfor was approached by an unknown man who asked Mr. Numfor if he was a taxi driver. Mr. Numfor explained he was not a taxi driver or otherwise licensed by the TLC. The individual nonetheless insisted on a ride to LaGuardia Airport.

82. Mr. Numfor, who speaks English with a pronounced accent, explained that he was legally prohibited from picking up passengers at the airport. At that point, the individual asked if “they” take credit card or cash, which Mr. Numfor understood to be a general question about cabs at the airport. The individual also asked Mr. Numfor how much it would cost to get to LaGuardia Airport from JFK Airport, which Mr. Numfor also assumed was a general informational question, not a specific question about how much Mr. Numfor would charge to drive the man to LaGuardia Airport. To be helpful, Mr. Numfor told him that he estimated that such a ride would be \$20 to \$30, but advised he was not certain.

83. Mr. Numfor did not agree to drive this unknown individual, either in exchange for payment or for free.

84. On information and belief, the man who approached Mr. Numfor and initiated the conversation was, in fact, Defendant TLC Officer Hong Liang Luo, an undercover decoy. Although Mr. Numfor did not accept or request any payment for a ride, Defendant Luo claimed that Mr. Numfor agreed to drive him for a \$30 fare.

85. Defendant Luo issued Mr. Numfor a summons for operating for hire without the required TLC license in violation of N.Y.C. Admin. Code § 19-506(b)(1). Defendant TLC Officer Ganesh Ramlall is listed as the assisting officer on the summons and participated in the targeting of Mr. Numfor. To the extent that neither Defendant Luo nor Defendant Ramlall was the undercover officer who targeted Mr. Numfor, Plaintiffs allege that TLC Officer John Doe 5 was the TLC undercover officer who targeted Mr. Numfor.

86. The TLC elected to administratively prosecute this summons before OATH.

87. Mr. Numfor had never received a Street Hail Law summons before.

88. The summons stated on its face that the maximum possible penalty was \$2,000.

89. On or about April 11, 2022, Mr. Numfor settled the summons with the TLC for \$500 to avoid the time and stress of an OATH hearing and the risk of the maximum penalty being imposed against him.

90. This single incident for which Mr. Numfor received a fine is the only time that Mr. Numfor is alleged to have violated the Street Hail Law. Neither the TLC nor the City of New York has alleged that Mr. Numfor's single alleged violation of the Street Hail Law was connected to any other crime or criminal activity.

Plaintiff Elijah Smith

91. Mr. Smith is a 27-year-old African-American resident of Central Islip, New York.

92. Mr. Smith is currently a TLC-licensed Uber driver, but in June 2022, when he was targeted by Defendants, he did not have a TLC license.

93. On or about June 21, 2022, Mr. Smith picked up an Uber passenger on Long Island and dropped the passenger off at JFK Airport. Mr. Smith then paused to check his phone because he was on his way to pick up another passenger. While his vehicle was stopped, Mr. Smith was approached by a Black man who asked Mr. Smith for a ride. When Mr. Smith hesitated, the man claimed that he and his family were stranded and repeatedly begged for a ride. Feeling sympathy for him and his alleged family, Mr. Smith agreed to drive the man and accepted a fare of \$25 in exchange.

94. The man who approached Mr. Smith and initiated the conversation was a TLC undercover decoy, whose name is unknown to Plaintiffs, but who is named here as Defendant TLC Officer John Doe 6. The TLC officer who issued the summons, Defendant Officer Manuel Chuva Galarza, claimed in the summons to have observed Mr. Smith have a conversation with the undercover TLC decoy.

95. Based on the alleged statement of his unnamed undercover colleague, Defendant Officer Galarza issued Mr. Smith a summons for operating a vehicle for hire without the required TLC license in violation of N.Y.C. Admin. Code § 19-506(b)(1). Defendant TLC Officer Edward Hilton is listed as the assisting officer on the summons and participated in the targeting of Mr. Smith.

96. Mr. Smith had never received a Street Hail Law summons before.

97. The summons stated the maximum possible penalty was \$2,000.

98. The TLC elected to administratively prosecute this summons before OATH.

99. On or about October 20, 2021, Mr. Smith challenged the summons at a hearing before OATH without the benefit of any recording (whether audio or video) of the operation or any third-party witnesses. The TLC rested on the narrative on the face of the summons. Mr. Smith did not dispute that he agreed to drive the undercover inspector for \$25, but argued he was entrapped—he only agreed to take the individual after he insisted several times that he and his family needed a ride.

100. The OATH hearing official improperly held, however, that the entrapment defense was only available in criminal proceedings (and not administrative proceedings) and found Mr. Smith guilty.

101. The OATH hearing official sustained the imposition of a \$1,500 fine against Mr. Smith for the alleged violation of the Street Hail Law.

102. On or about November 21, 2022, Mr. Smith paid a \$1,500 fine to TLC.

103. This single incident for which Mr. Smith received a fine is the only time that Mr. Smith is alleged to have violated the Street Hail Law. Neither the TLC nor the City of New York has alleged that Mr. Smith's single alleged violation of the Street Hail Law was connected to any other crime or criminal activity.

The TLC's Revenue-Raising Street Hail Law Entrapment Scheme

104. Since January 1, 2020, the TLC has imposed more than \$8 million in civil penalties from approximately 5,500 summonses issued for alleged violations of the Street Hail Law and has collected at least \$1 million in revenue from such alleged violations.

105. More than 50% of these Street Hail Law summonses were issued in and around JFK and LaGuardia Airports, generating close to \$5 million in civil penalties imposed and

approximately \$700,000 in revenue collected. The TLC relies on undercover sting operations using decoys to generate at least approximately 65% of these alleged Street Hail Law violations in and around JFK and LaGuardia Airports, and accordingly, the majority of TLC's revenue from alleged Street Hail Law violations at JFK and LaGuardia Airports derives from such undercover operations.

106. Upon information and belief, most of the people who receive Street Hail Law summonses through the TLC's undercover operations at and around JFK and LaGuardia Airports are not professional drivers—such as Uber or Lyft or other “black car” drivers—but instead are ordinary people who are dropping off their friends or family at the airport when they are approached by undercover officers.

107. The TLC, in a one-page document, claims that it utilizes undercover decoy or street hail operations “to detect drivers who are ready, willing and able to commit street hail violations [under § 19-506(b)].”

108. The TLC further claims that it instructs its officers not to be “overly persuasive, pre-emptive, or pressuring when acting as decoys.” Specifically:

[i]f a driver refuses an inspector's street hail solicitation, there should be no further attempts to engage the driver in for-hire activity. Inspectors should not resort to persuasive or pre-emptive tactics such as begging, pleading, crying, offering an unusually high fare, putting luggage on or in the vehicle, etc. in order to entice a driver to accept a street hail that he/she otherwise would not have accepted. Inspectors should merely provide drivers with an opportunity to commit a street hail violation—not convince them to commit one.

109. The TLC's claims about its conduct are a cruel farce. Undercover TLC officers explicitly, intentionally, and routinely use every possible “persuasive and pre-emptive tactic[]” to manufacture Street Hail Law violations, either by aggressively convincing the driver to commit

the violation or by simply fabricating the key fact—the drivers’ oral agreement to drive the undercover decoy for money—that forms the basis for the violation.

110. The TLC’s primary motivation for engaging in this pattern and practice of manufacturing Street Hail law violations is its own revenue generation, as opposed to detecting people who seek to operate unlicensed vehicles for hire or are engaged in related criminal activities like human trafficking, and the TLC selectively targets people of color when manufacturing those violations.

111. After receiving Street Hail Law summonses, drivers, and vehicle owners (“respondents”) lack any meaningful opportunity to contest the summonses and avoid the hefty civil penalties. Respondents who seek to challenge Street Hail Law summonses before OATH must do so without an objective record of the incident, because the TLC has a policy of not requiring its inspectors to record undercover operations, even with audio. OATH has furthermore improperly determined that the entrapment defense is unavailable as a matter of law to contest a Street Hail Law summons.

112. Because of the TLC’s aggressive undercover sting operations, the TLC’s decision to steer these Street Hail violations toward OATH, which TLC relies on to reject any entrapment defense as a matter of law (unlike a criminal court where TLC could enforce the same violation), the lack of meaningful due process for respondents to challenge such charges before OATH, and the potential penalty of \$1,500 for a first violation, the TLC can expect to recoup at least \$500 for each Street Hail Law violation that it generates through undercover sting operations.

113. The TLC generally does not settle with respondents for less than \$500, no matter the specific circumstances, and the TLC has offered payment plans to help ease the burden of the penalty only to TLC-licensed drivers. If the respondent does not settle and either defaults or loses

at a hearing, the TLC seeks to collect the full \$1,500 for a first offense or the full \$2,000 for a second offense.

The TLC Has Intentionally Discriminated Against Drivers of Color When Enforcing the Street Hail Law

114. Upon information and belief, since at least 2012 the City, the TLC, and TLC officers have intentionally discriminated against people of color based on race, color, ethnicity, and/or one national origin when enforcing the Street Hail Law. This intentional discrimination violates the Equal Protection Clause in two ways.

115. First, although the Street Hail Law is a facially neutral law, the TLC has applied the Street Hail Law in an intentionally discriminatory manner by targeting people based on their race, color, ethnicity, and/or national origin. Second, although the TLC's policy of relying on undercover sting operations to enforce the law is facially neutral, the TLC's policy is motivated by discriminatory animus against non-white and Hispanic people due to their race, color, ethnicity, and/or national origin, and the policy has an adverse effect on people of color.

116. When operating its undercover sting operations, the Defendants have selectively focused their enforcement efforts on people of color by having undercover officers seek rides from drivers of color at a far higher rate than those officers seek rides from white drivers, despite the fact that the drivers who drop off passengers at JFK and LaGuardia Airports are about equally likely to be drivers of color as they are likely to be white, non-Hispanic drivers.

117. Upon information and belief, since at least 2012 the TLC and its officers have intentionally focused their sting operations at JFK and LaGuardia Airports on drivers of color rather than white drivers. This practice stems from and/or reflects stereotypes, assumptions and/or beliefs about people of color and communities of color that (1) people of color will be more willing than white, non-Hispanic drivers to agree to violate the Street Hail Law when approached by an

undercover officer, especially when the undercover officer is also a person of color, (2) TLC officers can exploit mutual aid traditions of immigrant communities and communities of color helping fellow community members, (3) people of color are more likely than white, non-Hispanic drivers to be low-income and in need of extra cash; (4) people of color are less likely than white, non-Hispanic drivers to have the resources to mount legal challenges to the violations, (5) people of color are more likely to lack English proficiency and therefore more likely to agree to commit or misunderstand whether they are agreeing to commit a Street Hail Law violation; (6) people of color will be more likely than white, non-Hispanic drivers to quickly settle or pay the penalties assessed by the TLC due to a lack of English proficiency, less familiarity with the legal system, and/or concern about the impact of a potential criminal violation on their immigration status, and (7) people of color are more likely than white, non-Hispanic drivers to quickly settle because they do not have the means to risk imposition of the maximum statutory penalty.

118. Due to the same set of assumptions and beliefs, the TLC and its officers have intentionally targeted drivers of color at a far higher rate than similarly situated white drivers who are dropping off passengers at JFK and LaGuardia Airports when conducting their sting operations.

119. There are no material differences between the drivers of color and the white drivers who drop off passengers at JFK and LaGuardia Airports that are relevant to whether those drivers are violating or likely to violate the Street Hail Law. And drivers of color are no more likely than white drivers to have a predisposition to violate the Street Hail Law.

120. The TLC and its officers have been aware that some portion of drivers of all backgrounds (including race, color, ethnicity, and national origin) will violate the Street Hail Law when approached by an undercover TLC officer. But they have intentionally, purposefully, and

knowingly approached drivers of color at a higher rate than white drivers, with the intent, purpose, and knowledge that doing so will result in people of color receiving a highly disproportionate share of Street Hail Law violations and paying a disproportionate share of the resulting penalties relative to their respective distribution of people who drop off passengers at JFK and LaGuardia Airports.

121. Because the TLC has intentionally focused its undercover sting operations on people of color, the vast majority of drivers who have received violations for the Street Hail Law as part of those sting operations were people of color, and such individuals have received a highly disproportionate share of such violations relative to white drivers.

122. Based upon FOIL data on the people who received Street Hail Law summonses, including their full names and the zip codes where they lived, obtained from the TLC on Street Hail Law violations for the period of January 2019 to December 2022, the Plaintiffs conducted an analysis to identify the likely race and/or ethnicity of the people who received TLC summonses for violating the Street Hail Law, and compared those numbers to an estimate of the racial and ethnic distribution of people who are likely to drop off passengers at JFK and LaGuardia Airports.

123. To assign race and/or ethnicity, the Plaintiffs utilized several methods, including surname analysis by reference to U.S. Census data, geocoding by reference to U.S. census data, and a manual review of names by reference to the global distribution of surnames and forenames, as well as social media and LinkedIn searches. A surname analysis estimates a person's likely race or ethnicity based on the racial and ethnic demographics of people who reported the same name to the U.S. Census. A geocoding analysis estimates a person's likely race or ethnicity based on the racial and/or ethnic demographics of people who live in the same geographic area as that person. Here, the Plaintiffs' geocoding analysis relied on the zip code in which each person lived, the only data point that the TLC was willing to provide in FOIL data about where each person who

received a Street Hail Law violation lives. The global distribution of surnames and forenames indicates the absolute and relative numbers of people with those forenames and/or surnames in each country where at least one person with that forename or surname was born.

124. Utilizing these methods to analyze Street Hail Law violations that the TLC issued from 2019 through 2022 at JFK and LaGuardia Airports, the Plaintiffs were able to estimate a race or ethnicity of the people who received the 3,444 summonses where the TLC engaged in undercover operations. In this data set of 3,444 summonses, 13.5% of the summonses were issued to people who were white and non-Hispanic, 11.3% to people who were Asian Pacific Islander, 25.4% to people who were Black, and 42.6% to people who were Hispanic. In sum, a total of 86.5% of the summonses were issued to people of color (*i.e.*, non-white or Hispanic). (Excluded from these figures are a small percentage of all relevant summonses that were issued to a corporation and not a natural person).

125. The Plaintiffs also estimated the race and ethnicity of people who drop off passengers at JFK and LaGuardia Airports. These estimates derive from three reasonable sources. First, a recent study by the New York City Department of Transportation shows that among the people who have access to a car in New York City, 38% are white and non-Hispanic, and 62% are non-white or Hispanic.³ Second, based on U.S. Census data for the New York/New Jersey/Pennsylvania Metropolitan Area, the geographic area served by the JFK and LaGuardia Airports, 44% of the people in this area are white and non-Hispanic, while 56% are non-white or

³ New York City Department of Transportation Citywide Mobility Survey 2018 at 96, available at: <https://www.nyc.gov/html/dot/downloads/pdf/nycdot-citywide-mobility-survey-report-2018.pdf>.

Hispanic.⁴ Third, based upon even casual observation of the departure terminals at LGA and JFK, individuals of all races and ethnicities regularly drop friends and families off to catch flights, and individuals of all races and ethnicities drop regularly passengers off through rideshare platforms such as Uber and Lyft, as well as through yellow or green taxis.

126. Based on this information, the Plaintiffs estimate that approximately 44% of the people who drop off passengers at those airports are white and non-Hispanic, and 56% are non-white or Hispanic, including 15% Black, 25% Hispanic, 12% Asian Pacific Islander, and 3% two or more racial categories, and that no less than 38% of the people who drop off passengers at JFK and LaGuardia Airports are white and that no more than 62% are people of color, including 22% Black, 24% Hispanic, and 13% Asian Pacific Islander.

127. The Plaintiffs' analysis revealed significant racial and ethnic disparities between white and non-white people who receive Street Hail Law summonses through undercover operations at the airports. This disparity stands in stark contrast to how white drivers are nearly as likely as people of color to drop off passengers at the airports. While white drivers are estimated to be 44% of the people who drop off passengers at JFK and LaGuardia Airports, white drivers received only 13.5% of the Street Hail Law summonses that TLC issued through its undercover operations at the airports. In contrast, drivers of color are estimated to be 56% of the people who drop off passengers at JFK and LaGuardia Airports, but drivers of color received 86.5% of the Street Hail Law summonses that the TLC issued through its undercover operations at the airports.

128. The stark differences between the racial and ethnic demographics of people who received Street Hail Law summonses at JFK and LaGuardia Airports from 2019 to 2022 and the

⁴ Census Reporter, 2020-2021 ACS Data, available at: <https://censusreporter.org/profiles/31000US35620-new-york-newark-jersey-city-ny-nj-pa-metro-area/>.

racial and ethnic demographics of the people who dropped off passengers at those airports are extremely statistically significant.

129. When applying a chi-square test to measure the difference between the percentage of violations that would be expected for drivers of color based on their estimated percentage of the people dropping off passengers at JFK and LaGuardia Airports and the actual percentage of violations that were received by drivers of color, the two-tailed P value is less than 0.0001, which is extremely statistically significant. This means that it is extremely unlikely that when enforcing the Street Hail Law through undercover sting operations the TLC randomly selected people to approach, and instead it is extremely likely that the TLC intentionally targeted people of color to approach.⁵

130. Each of the named TLC Officer Defendants directly participated in both targeting Plaintiffs based on their race, ethnicity, color, and/or national origin, as well as the Defendants' pattern or practice of selectively targeting people of color for enforcement of the Street Hail Law based on their race, ethnicity, color, and/or national origin. For the summonses that were issued by the nine named TLC Officer Defendants as part of an undercover airport operation and for which the Plaintiffs were able to identify the race of the recipient, the Plaintiffs found that:

- Officer Partha Nath participated in issuing 6 summonses, of which 0% were issued to white drivers and 100% were issued to drivers of color;
- Gurjeet Sahota participated in issuing 22 summonses, of which only 13.6% were issued to white drivers and 86.4% were issued to drivers of color;
- Rosiana Hinds participated in issuing 370 summonses, of which only 13.4% were issued to white drivers and 85.6% were issued to drivers of color;

⁵ Even if white drivers were 20% of the total drivers who drop off passengers at JFK and LaGuardia Airports, when applying a chi-square test the two-tailed P value would still be less than 0.0001, an extremely statistically significant value.

- Kareem Abdurrahman participated in issuing 184 summonses, of which only 15.8% were issued to white drivers and 84.2% were issued to drivers of color;
- Manuel Chuva Galarza participated in issuing 321 summonses, of which only 8.1% were issued to white drivers and 91.9% were issued to drivers of color;
- Shawanda Richardson participated in issuing 13 summonses, of which only 7.7% were issued to white drivers and 92.3% were issued to drivers of color;
- Hong Liang Lo participated in issuing 48 summonses, of which only 10.4% were issued to white drivers and 89.6% were issued to drivers of color;
- Ganesh Ramlall participated in issuing 31 summonses, of which only 4% were issued to white drivers and 96% were issued to drivers of color; and
- Edward Hilton participated in issuing 302 summonses, of which only 17.5% were issued to white drivers and 82.5% were issued to drivers of color.

CLASS ALLEGATIONS

131. The named Plaintiffs bring this action as a proposed class action under Rule 23 of the Federal Rules of Civil Procedure on behalf of the two following classes (collectively, “Class Members” or “Classes”):

The Excessive Fines Class

All individuals who, from January 5, 2020 through the date of trial, have received or will receive a summons for a violation of N.Y.C. Admin. Code § 19-506(b)(1) for the first time through a TLC operation that uses a decoy or undercover officer, and have (a) had a fine of \$1,500 imposed upon them after a hearing or default, (b) paid or agreed to pay a fine of at least \$200 to settle such a violation, or (c) will have a fine of \$1,500 imposed upon them after a hearing or default or will pay or agree to pay a fine of at least \$200 to settle such violation.

The Equal Protection Class

All non-white and Hispanic individuals who, from June 21, 2012, through the date of trial, have received or will receive a summons for a violation of N.Y.C. Admin. Code § 19-506(b)(1) through a TLC operation that uses a decoy or undercover officer, and have had or will have a fine imposed upon them or have paid or agreed to pay, or will pay or agree to pay, a fine to settle such a violation.

132. The Class Members in each Class are so numerous that joinder of all members is impracticable. Based upon FOIL data produced by the TLC, the Plaintiffs estimate that there are approximately 2,000 individuals in the Excessive Fines Class and that the Equal Protection Class is at least three times the size of the Excessive Fines Class. The Class Members may be notified of the pendency of this action by email and/or mailed notice.

133. There are questions of law and fact common to the Class Members in each of the Classes, and these questions predominate over any questions affecting only individual members.

Common legal and factual questions include:

- a. For the Excessive Fines Class, whether the Defendants have violated and continue to violate the Excessive Fines Clause of the Eighth Amendment by imposing grossly disproportional fines against drivers and vehicle owners for alleged violations of the Street Hail Law stemming from the TLC's undercover decoy operations;
- b. For the Excessive Fines Class, whether the Defendants' violations of the Eighth Amendment were willful, reckless, or indifferent;
- c. For the Equal Protection Class, whether the Defendants' have violated and continue to violate the Equal Protection Clause of the Fourteenth Amendment by intentionally targeting and discriminating against drivers of color when enforcing the Street Hail Law stemming from the TLC's undercover decoy operations;
- d. For the Equal Protection Class, whether the Defendants' violations of the Fourteenth Amendment were willful, reckless, or indifferent;
- e. For both Classes, what injunctive and declaratory relief are warranted regarding the Defendants' conduct;
- f. For both Classes, what compensatory or nominal damages are warranted under 42 U.S.C. § 1983; and
- g. For both Classes, what attorney's fees and costs are warranted under 42 U.S.C. § 1988(b).

134. For the Excessive Fines Class, the Plaintiffs' claims are typical of the claims of the class they seek to represent, because in the relevant period: (1) the Plaintiffs were drivers or owners

of vehicles; (2) the Plaintiffs were targeted by TLC officers in undercover decoy operations; (3) the Plaintiffs were approached by undercover TLC officers who initiated any conversation about obtaining a ride; (4) the Plaintiffs were issued a summons for allegedly violating N.Y.C. Admin. Code §19-506(b)(1) or (b)(2); and (5) the Plaintiffs have paid or must pay a civil penalty of at least \$1,500 after a hearing or default or have paid or agreed to pay a fine of at least \$200 to settle such violation. Accordingly, the Plaintiffs' claims arise from the same pattern or practice or course of conduct that forms the basis of the Class Members' claims. In addition, the Plaintiffs bring the same Excessive Fines Clause claim based on the same legal theory.

135. For the Equal Protection Class, the Plaintiffs' claims are typical of the claims of the class they seek to represent, because in the relevant period: (1) the Plaintiffs are people of color; (2) the Plaintiffs were drivers or owners of vehicles; (3) the Plaintiffs were targeted by TLC officers in undercover decoy operations because of their race, color, ethnicity, or national origin; (4) the Plaintiffs were issued a summons for allegedly violating N.Y.C. Admin. Code §19-506(b)(1) or (b)(2); and (5) the Plaintiffs have paid or must pay a civil penalty or have paid or agreed to pay a fine to settle such violation. Accordingly, the Plaintiffs' claims arise from the same pattern or practice or course of conduct that forms the basis of the Class Members' claims. In addition, the Plaintiffs bring the same Equal Protection Clause claim based on the same legal theory.

136. There is no antagonism between the interests of the Plaintiffs and those of the Class Members in each of the Classes. The Plaintiffs' injuries, including the excessive fines assessed or paid, and the time and expense of disputing the summonses or settling with the TLC, are injuries similar to the injuries that all of the members of the Excessive Fines Class have suffered. Likewise, the Plaintiffs' injuries, including being assessed a fine or paying a fine due to the TLC's

discriminatory selective enforcement, and the time and expense of disputing the summonses or settling with the TLC, are injuries similar to the injuries that all of the members of the Equal Protection Class have suffered.

137. The Plaintiffs will fairly and adequately represent the Classes. There is no conflict between the Plaintiffs' claims and those of the members of the Classes. The Plaintiffs have retained counsel skilled in complex civil rights class actions who will vigorously prosecute this litigation.

Rule 23(b)(2) certification is appropriate.

138. Class certification is appropriate for the proposed Classes under Rule 23(b)(2), because the Defendants have acted or refused to act on grounds generally applicable to the Classes, making declaratory and injunctive relief appropriate with respect to the Plaintiffs and the Classes. Specifically, the Plaintiffs and the Excessive Fines Class Members will seek a declaration that any fine greater than or equal to \$200 for an alleged violation of § 19-506(b)(1) or (b)(2), stemming from an undercover decoy operation in which the undercover officers initiate the request for a ride, is unconstitutionally excessive, and they will seek to enjoin the Defendants from issuing any summonses for violations of § 19-506(b)(1) or (b)(2) through an undercover decoy operation with a fine greater than or equal to \$200.

139. In addition, the Plaintiffs and the Equal Protection Class Members will seek a declaration that the Defendants violated the Equal Protection Clause of the Fourteenth Amendment by intentionally discriminating against them based on race, color, ethnicity and national origin, and they will seek to enjoin the Defendants from issuing any summonses for violations of § 19-506(b)(1) or (b)(2) through an undercover decoy operation that targets people of color for enforcement. In addition, the monetary relief sought by the Plaintiffs and the Class Members is

incidental to the declaratory and injunctive relief sought, because the amounts owed to each Class Member can be calculated in a simple, objective, and mechanical manner.

Rule 23(b)(3) certification is appropriate.

140. Class certification is appropriate for the proposed Classes under Rule 23(b)(3). As described above, common questions of fact and law predominate over any questions affecting only individual Class Members, including whether the Defendants violated and continue to violate the Eighth Amendment's Excessive Fines Clause, whether the Defendants violated and continue to violate the Equal Protection Clause of the Fourteenth Amendment, and what relief that the Plaintiffs and the Class Members seek.

141. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. First, the Class Members do not have an interest in individually controlling the prosecution of separate actions, because their individual damages are unlikely to be large enough to warrant pursuing individual litigation in court or to obtain counsel to pursue an individual action, and because the cost of litigating the action will far exceed any potential benefit for individual Class Members. The prosecution of separate actions by individual Class Members would also impose heavy burdens upon the courts and would create a risk of inconsistent or varying adjudications of the questions of law and fact common to the proposed Classes, including the key legal question of whether the Defendants are violating the Excessive Fines Clause of the Eighth Amendment and the Equal Protection Clause of the Fourteenth Amendment.

142. A class action, on the other hand, would achieve substantial economies of time, effort, and expense, and would assure the uniformity of decision with respect to persons similarly situated without sacrificing procedural fairness or bringing about other undesirable results. In addition, to date there has not been any litigation by the Class Members regarding the practice

challenged in this action. Finally, there will be no difficulties in managing this case as a class action.

FIRST CLAIM FOR RELIEF

42 U.S.C. § 1983

**Violation of the Eighth Amendment to the United States Constitution
On Behalf of the Excessive Fines Class Against
the City of New York and TLC Commission David Do**

143. The Plaintiffs, on behalf of themselves and the Excessive Fines Class Members, incorporate by reference all proceeding paragraphs.

144. The City of New York and Commissioner Do have engaged in a pattern, practice, and/or custom of imposing civil penalties under N.Y.C. Admin. Code § 19-506(b)(1) and (b)(2) in a manner that violates the Excessive Fines Clause of the Eighth Amendment to the United States Constitution.⁶

145. The City of New York and Commissioner Do have violated the Excessive Fines Clause by imposing excessive civil penalties on individuals who were approached or solicited for rides by undercover TLC officers, as part of the TLC's undercover sting operations.

146. The Eighth Amendment to the United States Constitution provides that “[e]xcessive bail shall not be required, nor excessive fines imposed[.]”

147. These constitutional provisions prohibit the Defendants from imposing a fine or punishment that is grossly disproportionate to the relevant offense.

⁶ Although the Defendants' conduct also violates the analogous Excessive Fines Clause to the New York State Constitution, Art. I, § 5, the Plaintiffs reserve their right to bring such a state constitutional claim as there is no private right of action under the New York State Constitution to the extent the same remedies are available in a section 1983 action challenging an analogous provision of the U.S. Constitution. *Hershey v. Goldstein*, 938 F. Supp. 2d 491, 520 (S.D.N.Y. 2013).

148. The civil penalties imposed for violations of the Street Hail Law are fines or punishments within the meaning of the Excessive Fines Clause, because they serve a deterrent purpose and are not solely intended to serve a remedial purpose. They are referred to as “penalties” in the statute, and the Street Hail Law’s legislative history, described above, demonstrates that the large amount of those penalties—and the exponential increase of the minimum civil penalty of \$200 in 2012 to the current minimum civil penalty of \$1,500—was intended by the City Council to deter human and sex trafficking and people from driving unlicensed cars for hire.

149. The City of New York and Commissioner Do have imposed these fines to maximize revenues for the TLC and not to protect the public.

150. The civil penalties for violating the Street Hail Law are unconstitutionally excessive. In the Second Circuit, a four-part test determines when fines or punishments are unconstitutionally excessive, the so-called “*Bajakajian* factors,” which the U.S. Supreme Court set forth in *United States v. Bajakajian*, 524 U.S. 321 (1998). Those factors are (1) the essence of the crime of the defendant and its relation to other criminal activity, (2) whether the defendant fits into the class of persons for whom the statute was principally designed, (3) the maximum sentence and fine that could have been imposed, and (4) the nature of the harm caused by the defendant’s conduct. *See id.* at 337–40 ; *U.S. v. Viloski*, 814 F.3d 104, 110 (2d Cir. 2016).

151. In this case, each of the *Bajakajian* factors supports the conclusion that the civil penalties the Defendants have imposed on the Plaintiffs and the Class Members violate the Excessive Fines Clause.

152. First, the essence of the Excessive Fines Class Members’ violations is minor and there is no relation whatsoever between those violations and other criminal activity. The Plaintiffs and the Excessive Fines Class Members lacked a predisposition to engage in an unlicensed street

hail. Instead, after dropping off family, friends, or rideshare passengers, they merely responded, often in human terms, to aggressive solicitations, deceit, and persuasion from undercover TLC officers who badgered them for rides. The Plaintiffs and the Excessive Fines Class Members did not commit these violations in conjunction with any other criminal activities.

153. Second, the Plaintiffs and the Excessive Fines Class Members do not fit within the class of people whom the Street Hail Law was principally designed to regulate. The statutory provision and its stiff penalties were intended by the City Council to prevent people from operating unlicensed taxi services without insurance or engaging in unlicensed operation for hire as part of human or sex trafficking schemes. In contrast, the Plaintiffs and the Excessive Fines Class Members insured the vehicles they own or drove and were not engaging in or contemplating engaging in human or sex trafficking. The Plaintiffs and Excessive Fines Class Members are ordinary people who merely dropped off their friends or family members (or rideshare passengers) at the airport and were solicited by aggressive undercover officers to provide them rides for money.

154. Third, in every case of an alleged Street Hail Law violation, the Defendants have imposed the maximum fine that could have been imposed on the Plaintiffs and the Excessive Fines Class Members, which is \$1,500 for the first offense and \$2,000 for the second offense.

155. Fourth, the Plaintiffs' and Excessive Fines Class Members' conduct did not cause harm to anyone. No one experienced physical, personal, or economic harm when the Plaintiffs and the Excessive Fines Class Members responded to undercover officers' aggressive requests to provide them rides for money.

156. The City of New York, Commissioner Do, and their agents, including the TLC officers, undertook this pattern, practice, and custom, under the color of law, and caused damages

to the Plaintiffs and Excessive Fines Class Members by issuing them civil penalties of at least \$1,500 for alleged violations of the Street Hail Law.

157. As a direct result of the City of New York's and Commissioner Do's acts and omissions, the Plaintiffs and the Excessive Fines Class Members have suffered damages, and/or are entitled to restitution, in an amount to be proven at trial.

158. The City of New York's and Commissioner Do's actions were deliberate, reckless, and indifferent to the Plaintiffs' and Excessive Fines Class Members' constitutional rights.

159. The Plaintiffs seek their costs and attorney's fees related to this lawsuit and the Defendants' constitutional violations under 42 U.S.C. § 1988.

SECOND CLAIM FOR RELIEF

(42 U.S.C. § 1983)

**Violation of the Fourteenth Amendment to the United States Constitution
On Behalf of the Equal Protection Class Against All Defendants**

160. The Plaintiffs, on behalf of themselves and the Equal Protection Class Members, incorporate by reference all proceeding paragraphs.

161. The City of New York, Commissioner Do, and other Defendants, including the TLC Officer Defendants named in the complaint and Does 1 through 6, have engaged in a pattern, practice, and/or custom of selectively enforcing N.Y.C. Admin. Code § 19-506(b)(1) and (b)(2) against people of color in a manner than violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.⁷

⁷ Although the Defendants' conduct also violates the analogous Equal Protection Clause of the New York State Constitution, Art. I, § 11, the Plaintiffs reserve their right to bring such a state constitutional claim as there is no private right of action under the New York State Constitution to the extent the same remedies are available in a section 1983 action challenging an analogous provision of the U.S. Constitution. *Hershey v. Goldstein*, 938 F. Supp. 2d 491, 520 (S.D.N.Y. 2013).

162. The Fourteenth Amendment to the United States Constitution provides that, “No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

163. The Equal Protection Clause prohibits the government and government officials from denying people equal treatment based on their race, color, ethnicity, and/or national origin.

164. The Equal Protection Clause prohibits facially neutral laws that are applied in an unlawfully discriminatory manner.

165. Although the Equal Protection Clause prohibits laws or policies that expressly classify people based on protected statuses, such as race, color, ethnicity, or national origin, such an express classification is not needed to establish an Equal Protection violation. Nor is it necessary to show that similarly situated persons of a different race, color, ethnicity, or national origin were treated better than the plaintiffs when the government’s adverse treatment of a group of people is motivated by such protected statuses.

166. The Defendants have violated the Equal Protection Clause in two separate ways. First, the Street Hail Law is a facially neutral law that the TLC has applied in an intentionally discriminatory manner—i.e., by focusing its enforcement of the law against people of color because of their race, color, ethnicity, and/or national origin. Second, the TLC’s policy of conducting undercover sting operations to enforce the City’s Street Hail Law (including a policy of badgering and cajoling targets, not using body cams, etc.) is, though facially neutral, motivated by TLC’s discriminatory animus against people of color due to their race, color, ethnicity, and/or national origin.

167. The TLC and its officers, when enforcing the Street Hail Law through undercover sting operations, intentionally discriminated against the Plaintiffs and Equal Protection Class Members on the basis of their race, color, ethnicity, and/or national origin, by intentionally

approaching drivers of color at a far higher rate than white drivers and, in turn, issuing violations to drivers of color at a far higher rate than to white drivers.

168. Because of this intentional discrimination, drivers of color received a highly disproportionate share of TLC summonses for Street Hail Law violations compared to white drivers and a far greater share of summonses than people of color would have received in the absence of the TLC's intentionally discriminatory enforcement of the Street Hail Law.

169. Although Plaintiffs estimate that approximately 56% of the people who drop off passengers at the airport are people of color, 86.5% of the summonses that the TLC issued at JFK and LaGuardia Airports through the TLC's undercover operations from 2019 to 2022 were given to drivers of color. In contrast, while Plaintiffs estimate that 44% of the people who drop off passengers at the airport are white, only 13.5% of the summonses that the TLC issued at JFK and LaGuardia Airports during the same time period through the TLC's undercover operations were given to white drivers. These stark disparities in enforcement of the Street Hail Laws based on race, color, ethnicity, and/or national origin are extremely statistically significant at a high degree of certainty.

170. The City of New York, Commissioner Do, their agents, and the named and Doe Defendant TLC Officers, undertook this pattern, practice, and custom, under the color of law, and caused damages to the Plaintiffs and Class Members by selectively enforcing the Street Hail Law against them and, in turn, issuing them civil penalties of at least \$1,500 for alleged violations of the Street Hail Law.

171. As a direct result of the Defendants' acts and omissions, the Plaintiffs and the Class Members have suffered damages, and/or are entitled to restitution and punitive damages, in an amount to be proven at trial.

172. The Defendants' actions were deliberate, reckless, and indifferent to the Plaintiffs' and Class Members' constitutional rights.

173. When the named and Doe Defendant TLC Officers selectively targeted the Plaintiffs and other drivers of color because of their race, color, ethnicity, and/or national origin, a reasonable person would have known that they were violating clearly established rights under the Equal Protection Clause of the United States and New York Constitutions.

174. The Plaintiffs seek their costs and attorney's fees related to this lawsuit and the Defendants' constitutional violations under 42 U.S.C. § 1988.

PRAYER FOR RELIEF

175. WHEREFORE, the Plaintiffs and the Class Members pray for relief as follows:

- (i) A declaratory judgment that the Defendants' pattern, practice, or custom violates the Excessive Fines Clause of the Eighth Amendment to the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment;
- (ii) A preliminary and permanent injunction against the Defendants barring them from collecting any penalties under the circumstances at issue in this case and ordering the Defendants to vacate any record of a violation by the Plaintiffs and the Class Members;
- (iii) Certification of the case as a class action under Fed. R. Civ. P. 23(b)(2) and/or (b)(3);
- (iv) Designation of the Plaintiffs as the representatives of the Class;
- (v) An order forbidding the Defendants from engaging in further unlawful conduct in violation of the Eighth Amendment or the Fourteenth Amendment to the United States Constitution;
- (vi) An award of actual, real, and/or statutory damages for the Defendants' conduct, as well as punitive damages for the conduct of the Defendant TLC Officers;
- (vii) Reasonable attorney's fees and costs incurred herein to the extent allowable by law;

- (viii) Pre- and post-judgment interest, as provided by law;
- (ix) Payment of a reasonable service award to the Plaintiffs, in recognition of the services they have rendered and will continue to render to Class Members, and the risks they have taken and will take; and
- (x) Such other and further equitable relief, including nominal damages, as this Court deems necessary, just, and proper.

JURY DEMAND

176. Plaintiffs demand a jury trial.

Dated: May 17, 2023
Washington, DC

Respectfully submitted,

PETER ROMER-FRIEDMAN LAW PLLC

By: /s/ Peter Romer-Friedman
Peter Romer-Friedman

Peter Romer-Friedman
1629 K Street, NW
Suite 300
Washington, DC 20006
Tel: (202) 355-6364
Fax: (202) 888-7792
Email: peter@prf-law.com

MOBILIZATION FOR JUSTICE, INC.

By: /s/ Belinda Luu
Belinda Luu

Michael N. Litrownik
Bernadette Jentsch
Belinda Luu
Zachary Mason
100 William Street, 6th Floor
New York, NY 10038
Tel: (212) 417-3866
Fax: (212) 417-3890
Email: bluu@mfjlegal.org

POLLOCK COHEN LLP

By: /s/ Christopher K. Leung
Christopher K. Leung

Christopher K. Leung
111 Broadway, Suite 1804
New York, NY 10006
Tel: (917) 985-3995
Email: chris@pollockcohen.com

GUPTA WESSLER PLLC

By: /s/ Robert Friedman
Robert Friedman

Robert Friedman*
2001 K Street, NW
Suite 850 North,
Washington, DC 20006
Tel: (202) 888-1741
Fax: (202) 888-7792
Email: robert@guptawessler.com

*application for admission *pro hac vice* forthcoming

Attorneys for Plaintiffs and the Proposed Classes