



December 6, 2016

Honorable Alison J. Nathan
United States District Court
Southern District of New York
40 Foley Square, Room 2102
New York, NY 10007

Matter No.: 41900-102

VIA ECF

Re: Melrose Credit Union, et al. v. City of New York, et al., Civil Action No. 15-cv-9042

Dear Judge Nathan:

This law firm represents Melrose Credit Union, Progressive Credit Union, LOMTO Federal Credit Union, Taxi Medallion Owner Driver Association, Inc., League of Mutual Taxi Owners, Inc., KL Motors, Inc., Safini Transport, Inc., White & Blue Group Corp., FIMA Service Co., Inc., Carl Ginsberg, and Joseph Itzchaky (collectively, the “Plaintiffs”), in connection with the above-referenced action. As you may know, on November 22, 2016, this action was administratively transferred to Your Honor from Judge Torres. As a result, in accordance with Rule 1(A) of Your Honor’s Individual Practices in Civil Cases, I am writing in order to respectfully request oral argument on Defendants’ pending *Motion to Dismiss the Amended Complaint*.

By way of background, this dispute arises from the collapse of the regulatory structure governing for-hire transportation in New York City, amidst the government-sanctioned proliferation of smartphone technology being used by companies like Uber Technologies, Inc. (“Uber”), to bypass taxicab medallions and allow passengers to electronically hail a parallel network of on-demand vehicles (“E-Hails”). Plaintiffs allege that Defendants’ deliberate evisceration of medallion taxicab owners’ statutory right to hail exclusivity and ongoing arbitrary, disparate regulatory treatment of the medallion taxicab industry, has and continues to inflict catastrophic harm on this once iconic industry, and on the tens of thousands of hardworking men and women that depend on it for their livelihood. Pursuant to 42 U.S.C. § 1983, Plaintiffs seek injunctive relief ending Defendants’ disparate regulatory treatment of the medallion taxicab industry, reflected in the countless regulatory burdens that medallion taxicabs are alone subjected to, while similarly situated companies like Uber are allowed to compete in the same market free of those burdens. Plaintiffs also seek to recover compensatory damages caused by Defendants’ ongoing

equal protection and due process violations, as well as just compensation for Defendants' illegal taking of Plaintiffs' property interests in the taxicab medallion, and in the statutory right to hail exclusivity that accompanies it, in violation of the Takings Clause of the Fifth Amendment to the United States Constitution and Article I, § 7 of the New York State Constitution. Finally, Plaintiffs seek to recover compensatory damages caused by Defendants' fraudulent misrepresentations and omissions concerning the fair market value of the New York City taxicab medallion, as reflected in the false and misleading monthly "average" medallion transfer prices published each month on the Taxi & Limousine Commission ("TLC")'s website until late 2014, which was used by the TLC to determine the fair market value of the medallion and calculate the 5% transfer tax collected for New York City on every taxicab medallion transfer. Defendants' misrepresentations and omissions artificially inflated medallion prices, further compounding the harm caused to Plaintiffs and the entire taxicab industry.

On November 17, 2015, Plaintiffs commenced this action seeking preliminary and permanent injunctive relief and compensatory damages, as well as declaratory relief. *See Complaint* (Docket No. 1). On March 7, 2016, Plaintiffs filed their *Amended Complaint* (Docket No. 47). Thereafter, on May 2, 2016, Defendants filed their *Motion to Dismiss the Amended Complaint*, along with supporting papers (Docket Nos. 58-59, 61) and on June 6, 2016, Plaintiffs filed their *Memorandum of Law In Opposition to Defendants' Motion to Dismiss the Amended Complaint*, along with supporting papers (Docket Nos. 64-65). On June 24, 2016, Defendants' filed their *Reply Memorandum of Law In Further Support of Defendants' Motion to Dismiss the Amended Complaint* (Docket No. 66). On August 11, 2016, Plaintiffs sought leave to file a sur-reply in order to place before the Court certain admissions made by Meera Joshi, Commissioner and Chairperson of Defendant TLC. *See* Docket No. 67. On August 18, 2016, Defendants opposed Plaintiffs' request to file a sur-reply. *See* Docket No. 70. On August 23, 2016, Judge Torres granted Plaintiffs' request for leave to file a sur-reply, deeming Plaintiffs' August 11th letter as the sur-reply and accepting Defendants' August 18th letter as Defendants' sur-sur-reply. *See* Docket No. 71. On November 22, 2016, this action was administratively reassigned from Judge Torres to Your Honor.

Throughout this dispute, Plaintiffs have repeatedly warned of the catastrophic harm unfolding across the New York City medallion taxicab industry as the direct result of Defendants' evisceration of statutory hail exclusivity and their ongoing disparate regulatory treatment of medallion taxicabs. Defendants' actions have already caused factually indisputable damage to the industry. Plunging taxicab ridership data, collapsed medallion values, massive loan delinquencies, cascading medallion foreclosures, shelved medallions and destroyed livelihoods—all of this has and continues to unfold as each day passes. Plaintiffs recognize that Rule 3(E) of Your Honor's Individual Practices in Civil Cases permits parties to "request oral argument by letter at the time their moving, opposing, or reply papers are filed." However, because this case was just transferred to Your Honor, and because of the complex nature of the

facts and legal issues, Plaintiffs respectfully submit that oral argument may aid in familiarizing the Court with the legal and factual issues and facilitate a prompt resolution of the pending motion practice. In this regard, Plaintiffs also note Your Honor's Rule 3(H), which provides that in the event "a motion is not decided within 60 days of the time that it has become fully briefed, counsel for the movant shall send a letter to alert the Court." Here, Defendants' *Motion to Dismiss the Amended Complaint* was fully submitted in June and it has been more than three months since the filing of permitted sur-reply briefing.

Based on the foregoing, Plaintiffs respectfully request that Your Honor schedule oral argument on Defendants' *Motion to Dismiss the Amended Complaint*.

Respectfully Submitted,



Todd A. Higgins, Esq. (TH7920)

Cc: Michelle Goldberg-Cahn, Esq.
(Via ECF)