

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

**MARSHA ROBYN WALLEN, PATRICK
ANDERT, PATRICK FOX, KNEESHE
PARKINSON, UBER USA, LLC, and
RASIER LLC,**

Plaintiffs,

v.

**ST. LOUIS METROPOLITAN TAXICAB
COMMISSION,**

**Serve at: 2628 Delmar Blvd.
St. Louis, MO 63103,**

EYASU ASFAW,

**Serve at: 2628 Delmar Blvd.
St. Louis, MO 63103,**

LOUIS P. HAMILTON,

**Serve at: 2628 Delmar Blvd.
St. Louis, MO 63103,**

DAVE McNUTT,

**Serve at: 2628 Delmar Blvd.
St. Louis, MO 63103,**

BASIL RUDAWSKY,

**Serve at: 2628 Delmar Blvd.
St. Louis, MO 63103,**

AIRPORT BEST TAXI SERVICE, L.L.C.,

**Serve at: c/o Eyasu Asfaw (Reg. Agent)
6780 Southwest Ave.
St. Louis, MO 63143**

**AIRPORT BEST TAXI SERVICE (2),
L.L.C.,**

**Serve at: c/o Eyasu Asfaw (Reg. Agent)
6780 Southwest Ave.
St. Louis, MO 63143**

Case No. 4:15-cv-1432

JURY TRIAL DEMANDED

**AIRPORT BEST TRANSPORTATION
LLC,**

**Serve at: c/o Eyasu Asfaw (Reg. Agent)
6780 Southwest Ave.
St. Louis, MO 63143**

**GATEWAY TAXI MANAGEMENT
COMPANY, D/B/A LACLEDE CAB
COMPANY,**

**Serve at: c/o Stephen J. Smith (Reg. Agent)
825 Maryville Centre Dr., Suite 300
St. Louis, MO 63017,**

**ST. LOUIS COUNTY AND YELLOW CAB
COMPANY,**

**Serve at: c/o Basil Rudawsky (Reg. Agent)
9930 Meeks Blvd.
St. Louis, MO 63132,**

**BEST TRANSPORTATION, INC., D/B/A
BEST TRANSPORTATION OF ST. LOUIS,**

**Serve at: Deborah Rudawsky (Reg. Agent)
8531 Page Ave., Suite 160
St. Louis, MO 63114,**

BEST BLACK CAR, LLC,

**Serve at: Deborah Rudawsky (Reg. Agent)
8531 Page Ave., Suite 160
St. Louis, MO 63114,**

BEST SEDAN SERVICES, LLC

**Serve at: Deborah Rudawsky (Reg. Agent)
8531 Page Ave., Suite 160
St. Louis, MO 63114,**

Defendants.

VERIFIED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiffs Marsha Robyn Wallen, Patrick Andert (the “Rider Plaintiffs”), Patrick Fox,
Kneeshe Parkinson (the “Driver Plaintiffs”), Uber USA, LLC, and Rasier LLC (the “Uber

Plaintiffs” and, together with Uber Technologies, Inc., “Uber”), by and through their attorneys, hereby seek injunctive and monetary relief, alleging as follows:

NATURE OF THE ACTION

1. The City and the County of St. Louis is the largest major metropolitan area in the United States that does not permit ridesharing companies to operate even though these companies are operating safely and efficiently in every State of the Union (except South Dakota) and in over 60 countries across six continents. The Rider/Driver Plaintiffs and the Uber Plaintiffs bring this antitrust action to put an end to the anticompetitive conduct of Defendant St. Louis Metropolitan Taxicab Commission (the “MTC”) and several of its commissioners (the “Commissioner Defendants”), many of whom are active market participants in the very market that the MTC regulates. Acting under the control of these market-participant members, the MTC, which is vested with the authority to regulate vehicles for hire, their drivers, and vehicle-for-hire companies in the City of St. Louis and St. Louis County, has abused its authority in order to stifle competition. Instead of fulfilling its mandate to serve the riding and driving public, the MTC has acted to protect the entrenched taxicab industry from its greatest perceived threat: the entry of ridesharing request services like Uber in St. Louis, and the desires of thousands of diverse riders and drivers who want Uber in the market as a safe, efficient, and affordable local transportation request option. Through their concerted activities, the MTC and its market-participant members have destroyed competition, thereby depriving consumers in the St. Louis market of a transportation request option that has proven wildly popular worldwide.

2. For the reasons explained below, the concerted conduct of the MTC, the Commissioner Defendants and the taxi/limo company Defendants that the Commissioner Defendants own or operate (the “Defendant Taxi/Limo Companies”) is illegal, will cause

irreparable harm to the Rider/Driver Plaintiffs, St. Louis, the Uber Plaintiffs, and others, and should be enjoined. Among other harms, the MTC's and Commissioner Defendants' conduct has, and will continue to, increase transportation prices, prevent the creation of thousands of new opportunities for drivers to earn a living, and reduce the availability of transportation options for all St. Louis residents.

3. The Rider/Driver Plaintiffs and the Uber Plaintiffs bring this suit as a last resort. Despite public opinion in St. Louis strongly supporting the introduction of ridesharing request services like uberX, and Uber's many and varied attempts to comply with the ever-changing demands of the MTC, the MTC has refused to permit Uber to launch uberX, Uber's most popular and affordable service. Just as Uber has done in cities all across the world, in St. Louis, Uber has attempted to work with the MTC to create sensible regulations that ensure a reliable, safe, and affordable transportation request service *and* provide an equal chance to compete with traditional taxicab and livery companies. As Uber attempted to comply with the MTC's ever-higher hurdles to uberX's launch, however, the MTC simply constructed newer, more onerous barriers to entry, finally settling on a series of requirements that the MTC knew were fundamentally at odds with Uber's innovative new business model. The MTC's pretext for these barriers to entry was "public safety"—but the true purpose of the MTC's conduct was to bar entry by Uber (and other TNCs) into the marketplace and halt Uber's competitive model while protecting the entrenched taxi industry, which, along with the Commissioner Defendants and their Defendant Taxi/Limo Companies, have united against Uber.

4. Once it became clear that neither the public demand for Uber, nor Uber's attempts to work with the MTC, would result in the MTC permitting uberX's entry into St. Louis, the Rider/Driver Plaintiffs and Uber Plaintiffs were left with no choice but to seek redress in this

Court. The facts presented by this lawsuit are unique; it is no accident that St. Louis is the largest metropolitan area left in the United States in which uberX is unavailable. The reason for that is because the MTC, by law, is controlled by the traditional taxicab industry; it is the proverbial fox guarding the henhouse. The MTC's market-participant makeup provides strong financial incentives for MTC members to use their authority to prevent competition in St. Louis from potential new products and services such as those provided through uberX.

5. The MTC functions as a cartel in part by statute, and does so without any meaningful supervision by the state. State law requires the MTC to include as voting members four active market participants in the very industry that the MTC is charged with regulating. In other words, two taxicab company owners or operators, one commissioner who must be a taxi driver (that position is currently vacant), and a fourth commissioner from either group, possess virtually unchecked power to regulate their industry as voting members of the MTC. This voting bloc, comprised of the Commissioner Defendants herein—and bolstered by the MTC Chairman, Defendant Louis P. Hamilton, who, upon information and belief, himself has close ties to the traditional taxicab and livery industry—controls the exercise of the MTC's regulatory authority. Acting in concert through their participation in the MTC, Defendants have constructed impossibly high and ever-shifting barriers to entry to foreclose competition in St. Louis in the relevant market for the provision of passenger motor vehicle transportation services. Not only is such protectionist and anticompetitive conduct of the MTC unlawful, but it also harms the public and prevents hundreds of thousands of St. Louis residents from gaining equal access to adequate transportation in chronically underserved areas, or from earning a living as drivers.

6. For example, Plaintiffs Marsha Robyn Wallen and Patrick Andert are among the thousands of St. Louis residents who—but for the Defendants' anticompetitive conduct—would

use the services of uberX in St. Louis. Plaintiff Marsha Robyn Wallen is legally blind and cannot drive. Outside of friends and family, she is entirely dependent upon taxis or paratransit services to travel around St. Louis, and these options do not meet her needs. Paratransit services require one to three days' advance reservation. Taxis are not always dependable near her home and often do not show up, are costly, and often require long and unpredictable wait-times. Wallen has spent hours outside a grocery store waiting for a taxi, has been late to work because of taxi delays, and has spent hours stranded at malls and restaurants unable to secure a ride home. Because she is legally blind, street hailing a taxi is particularly difficult for her.

7. Plaintiffs Patrick Fox and Kneeshe Parkinson are among the thousands of residents of the St. Louis metropolitan area who, but for the MTC's unlawful conduct, would partner with Uber in the coming months as drivers and earn income by providing transportation services through the Uber platform. Indeed, as of the date of the filing of this Complaint, thousands of drivers are already on the uberX platform in the St. Louis metropolitan area and more are signing up every day.

8. Defendants' anticompetitive conduct prevents single mothers like Plaintiff Parkinson from working as part time drivers who can care for their families while working on a flexible schedule afforded by the Uber platform. The MTC is protecting the entrenched taxi industry, which excludes countless individuals in Parkinson's position—an industry that explicitly imposes financial and scheduling demands that make it virtually impossible for Parkinson and similarly situated individuals to provide transportation services in the St. Louis area, despite being completely qualified to do so. The MTC's conduct prevents Parkinson from engaging in her chosen profession as a driver-partner with Uber in St. Louis, even though she has

a driver's license, a clean driving record, insurance, has passed Uber's extensive background check, and otherwise meets all requirements to provide for-hire vehicle services.

9. The MTC and the Commissioner Defendants' conduct constitutes an illegal combination in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The United States Supreme Court recently confirmed that where, as here, a state has not expressly authorized a body to engage in anticompetitive behavior, or where active market participants control a nominally public body like the MTC and no independent governmental agency or official actively supervises its conduct, that body's conduct is not immune from antitrust liability. *See N. Carolina State Bd. of Dental Examiners v. F.T.C.*, 135 S. Ct. 1101 (2015); *F.T.C. v. Phoebe Putney Health Sys., Inc.*, 133 S. Ct. 1003 (2013). Accordingly, as further described below, Plaintiffs are entitled to both monetary and injunctive relief to redress the antitrust injury that the MTC and its market-participant members (acting on behalf of the Defendant Taxi/Limo Companies) have caused.

JURISDICTION AND VENUE

10. This complaint is filed under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent and/or restrain violations of Section 1 of the Sherman Act, 15 U.S.C. § 1, and for damages under Section 4 of the Clayton Act, 15 U.S.C. § 15. The Court has exclusive jurisdiction over the federal antitrust law claims alleged herein under 28 U.S.C. §§ 1331, 1337, 2201 and 2202.

11. Venue is proper in this District under 28 U.S.C. § 1391 and 15 U.S.C. §§ 15, 22 and 26. Defendants are subject to personal jurisdiction in this District and should reasonably expect to be sued in court in this District due to the acts alleged herein. The acts complained of

occurred in this District and have had, and will have, substantial anticompetitive effects in this District.

PARTIES

12. Plaintiff Marsha Robyn Wallen is a resident of St. Louis County, Missouri. She is legally blind and unable to drive herself, and is waiting for uberX to be available in St. Louis County so that she finally has a reliable transportation alternative to the nightmares she has experienced with taxis.

13. Plaintiff Patrick Andert is a native St. Louisan and current resident of Maplewood, Missouri. He has used uberX as a rider in other cities, and finds it much more affordable and reliable than St. Louis taxicabs. He also finds it to be a significant detractor to drunk driving. He hopes for the day when he can use uberX in his hometown as well.

14. Plaintiff Patrick Fox is a resident of St. Charles, Missouri. He has already registered to become a driver on Uber's platform. He works full time but would like to supplement his income. He used to supplement his income by working for the Make-A-Wish Foundation of Missouri, but now that his position there has been outsourced, he sees driving with Uber as another way to both supplement his income and provide a public service to his community.

15. Plaintiff Kneeshe Parkinson is a single mother who works full time as a treatment adherence counselor at Washington University in St. Louis and drives with uberX in East St. Louis, Illinois (where TNC regulations make uberX viable). She must drive 30 minutes to reach East St. Louis, and she hopes that uberX will be available in St. Louis, so that she can drive more often and more significantly supplement her modest income while still having time to care for her teenage daughter.

16. Plaintiff Uber USA, LLC (“Uber USA”) is a Delaware LLC whose sole member is Uber Technologies, Inc. (“UTI”), a citizen of Delaware (its state of incorporation) and California (its principal place of business). Uber USA enters into agreements with riders who use the Uber software application to request transportation services in the United States, as well as with licensed livery drivers who use the Uber software application to receive transportation requests in the United States. Uber USA, in conjunction with various affiliates, is a technology company that has developed a cutting-edge software platform (the “Uber App”) that allows users who have established an account with Uber to request rides from independent, third-party drivers who wish to provide transportation services.

17. Plaintiff Rasier LLC (“Rasier”) is a Delaware LLC whose sole member is UTI. Rasier licenses the Uber App to drivers on the uberX platform, who then pay Rasier a fee for use of the software and services. Unless otherwise indicated, Uber USA, UTI, and Rasier are collectively referred to in this Complaint as “Uber.” Uber is often referred to as a transportation network company (“TNC”).

18. Defendant St. Louis Metropolitan Taxicab Commission (“MTC”) is a creature of Missouri statute. It is organized and exists pursuant to Mo. Rev. Stat. § 67.1800, *et seq.* This statute purports to give the MTC authority to regulate vehicles for hire, their drivers, and vehicle-for-hire companies operating in the City of St. Louis and St. Louis County. The MTC’s principal place of business is located in St. Louis, Missouri.

19. Defendant Louis P. Hamilton is the chairperson and a voting member of the MTC Board of Commissioners. He is a resident of this District. He is on the board of the International Association of Transportation Regulators (IATR) trade association, which, upon information and belief, is devoted to protecting the interests of the traditional taxi industry.

20. Defendant Basil Rudawsky is a voting member of the MTC Board of Commissioners and the President of Defendant St. Louis County and Yellow Cab Company. He is a resident of this District.

21. Defendant St. Louis County and Yellow Cab Company (“County Cab”) is the largest taxi company in St. Louis. The company was started 80 years ago by the grandfather of Defendant Basil Rudawsky’s wife. The company includes a fleet of 260 vehicles with nearly 300 licensed drivers, accounting for market share of approximately 34% of on-call taxicabs in St. Louis. The company also operates a mobile software application that has approximately 30,000 active users; 50,000 downloads; and 190,000 fares dispatched through it.

22. Defendants BEST Transportation, Inc., d/b/a Best Transportation of St. Louis, Best Black Car, LLC, and Best Sedan Services, LLC, are, upon information and belief, co-owned by Defendant Basil Rudawsky’s wife and sister-in-law.

23. Defendant Dave McNutt is a voting member of the MTC Board of Commissioners and the owner of Defendant Gateway Taxi Management Company, d/b/a Laclede Cab Company. He resides in this District.

24. Defendant Gateway Taxi Management Company, d/b/a Laclede Cab Company (“Laclede”) is the second largest taxi company in St. Louis. The company began in 1946 and operates with over 160 licensed drivers, accounting for approximately 23% market share of on-call taxicabs in St. Louis. Laclede also operates under the name Gateway Taxi Service, Inc. The company takes a 10% cut on rider credit card transactions and books 20% of its rides through a mobile software application.

25. Defendant Eyasu Asfaw is a voting member of the MTC Board of Commissioners and the owner of Defendants Airport Best Taxi Service, L.L.C., Airport Best Taxi Service (2),

L.L.C., and Airport Best Transportation LLC. He is a resident of this District. These Defendants represent approximately 2% market share of on-call taxicabs, with 14 licensed drivers.

26. The various taxicab companies that the market-participant members own, or in which they have a financial interest or act as high-level executives, collectively have at least a 59% market share in the market for taxicab transportation in St. Louis.

FACTUAL ALLEGATIONS

Uber's Revolutionary Ridesharing Request Service

27. Riders join the Uber online community by downloading the Uber App, providing identification and payment information, creating an account, and agreeing to Uber's Terms & Conditions.

28. Drivers wishing to use Uber's App to receive transportation requests must first pass a background check, produce vehicle registration and proof of insurance (in addition to coverage held by Rasier), and meet other requirements before gaining access to the Uber platform. These drivers are not Uber employees but independent contractors who use the Uber App to receive transportation requests from rider members of Uber's online community.

29. Rasier licenses the Uber App to drivers who then pay Rasier a fee for use of the software and services. In exchange for this licensing fee, the drivers are able to receive transportation requests through the Uber App from nearby members of the Uber online community who are requesting rides.

30. Uber offers several different transportation request options through its App. Uber's most popular and low-cost service is uberX, which enables drivers, using their own late-model private vehicles, to receive requests for transportation from rider users of the Uber App. UberXL is similar to uberX but is limited to larger vehicles, like SUVs, that can accommodate

more passengers. UberSELECT also is like uberX but is limited to somewhat nicer cars. Unless otherwise indicated, when used herein, “uberX” refers to the uberX, uberXL, and uberSELECT request services, collectively.

31. In some markets, including St. Louis City and County, Missouri, Uber offers the UberBLACK request service, which is limited to licensed livery drivers. These are the traditional professional chauffeurs who drive high-end vehicles like Lincoln Town Cars and charge higher prices than drivers using uberX. In other markets, Uber also offers the UberTAXI service, which is limited to licensed taxi drivers.

32. The Uber App helps registered drivers and riders with Uber accounts locate each other. Riders use the App to request transportation by sending a transportation request through Uber’s servers to the nearest driver who is logged into the system.

33. Once a driver accepts the transportation request, the App provides the rider the driver’s name, photograph, and a description of the vehicle, including license plate number. The App then provides the driver directions on a map to the rider’s location, and also displays the driver’s location on a map on the rider’s phone, allowing the driver and rider to find one another easily. Riders and drivers can also contact each other by anonymous phone call or text message to facilitate finding each other while ensuring rider and driver privacy. Once a trip is complete, the Uber App facilitates payment from the rider to the driver.

34. User safety—for both drivers and riders—is a high priority for Uber. To that end, Uber’s model incorporates many safety features that simply are not available with a traditional taxicab service. For example, Uber knows the identity and profile of the rider and driver and is able to provide limited information about the rider and driver to each other. Uber also knows the location of the vehicle for the duration of the trip. Moreover, the automated, credit-card-based

billing process means that drivers do not need to carry cash in their vehicles, reducing incentives for others to threaten or rob drivers. Also, a widely used App-based feedback mechanism allows riders and drivers to rate each other immediately after a trip, which encourages good behavior on both sides, and enables safety concerns to be communicated more promptly, more efficiently and more frequently than is the case with traditional taxi and livery operations. This allows Uber to quickly follow up with the driver or rider to address any such concerns that may arise. Another feature, called “Share my ETA,” allows riders to share their current GPS location and Estimated Time of Arrival to anyone they choose.

35. Uber also provides insurance coverage for any rides requested on the uberX platform. Indeed, at all times while drivers on the uberX platform are transporting passengers, Uber has \$1 million in coverage, as compared to the \$200,000 in insurance that the MTC requires taxicabs to carry. Uber also has uninsured and under-insured coverage in the amount of \$1 million, while taxicabs are not required to carry *any* uninsured and under-insured coverage by the MTC. In short, any “safety” concerns asserted by the MTC are purely pretextual.

36. Average fares for rides requested through the uberX service (especially uberX as distinguished from uberXL or uberSELECT) are typically much less than fares for the same ride in a St. Louis taxicab.

37. UberX is available in more than 150 cities in the United States, and in over 330 cities in 60 countries worldwide, but not in the St. Louis area. In fact, St. Louis is the largest metropolitan area in the United States that does not have uberX available throughout the majority of the metropolitan area. (UberX is available in the metropolitan part of East St. Louis, Illinois, which is outside of the MTC’s jurisdiction. Illinois has already enacted statewide TNC regulations allowing TNCs to enter markets throughout that state.)

The MTC Is, By Design, a Pro-Taxi Body

38. By statute, the MTC is comprised of eight members and an additional voting chairperson. *See* Mo. Rev. Stat. § 67.1806. Four members are appointed by the mayor of the City of St. Louis, and four members are appointed by the chief executive of St. Louis County. The chairperson is alternately appointed by the city and the county. *See id.*

39. Missouri Law requires that four members of the MTC always be active participants in the taxicab industry. Mo. Rev. Stat. § 67.1806.

40. One such member must be an owner or designated assignee of a taxicab company which holds between 1 and 100 taxicab licenses. Mo. Rev. Stat. § 67.1806. The current member holding this seat is Defendant Eyasu Asfaw, who is the owner of Airport Best Taxi Service, L.L.C. and Airport Best Taxi Service (2), L.L.C. In 2010, wielding his power with the MTC to save himself money, Asfaw requested that his fellow commissioners on the MTC consider lowering the fees for license holders with fewer than 25 licenses (such as his own company) to \$100/license instead of \$2500/license.

41. Asfaw also owns Airport Best Transportation, LLC, under which 5 drivers hold a license. Asfaw was awarded permits to operate Airport Best Transportation by lottery, while other new business applicants were left empty handed.

42. Another such market-participant member of the MTC must be an owner or designated assignee of a taxicab company which holds at least 100 taxicab licenses. Mo. Rev. Stat. § 67.1806. Upon information and belief, the current market-participant member holding this seat is Defendant Dave McNutt (“McNutt”), who is the owner of Laclede Cab Company, the second largest taxicab company in St. Louis. McNutt’s son, Adam McNutt, is president of Laclede Cab Company.

43. Another such member of the MTC must be a taxicab driver who is not an employee or independent contractor of a company currently represented on the MTC. Mo. Rev. Stat. § 67.1806. This seat is currently vacant, but was held by Adebabay Gidey, an airport taxi driver, until on or about January 2014.

44. The fourth statutorily required market-participant member of the MTC (who is not required to have any particular characteristics other than being an active market participant) is, upon information and belief, Defendant Basil Rudawsky (“Rudawsky”). Rudawsky is the President of St. Louis County and Yellow Cab Company, the largest taxicab company in St. Louis. Rudawsky’s wife, Debbie Rudawsky, is a co-owner of BEST Transportation, Inc., d/b/a Best Transportation of St. Louis, and affiliated entities such as Best Black Car, LLC and Best Sedan Services, LLC. BEST Transportation is the largest premium sedan/limo operator in St. Louis. With MTC-imposed limitations on the availability of MTC permits, Defendant Rudawsky has leased out MTC permits to third parties on behalf of these entities at a profit of up to seven times the cost of the permits. Collectively, County Cab and BEST Transportation generate \$7 million in revenue annually.

45. Defendant Rudawsky’s sister-in-law, Kim Garner, also is a co-owner of BEST Transportation, Inc., Best Black Car, Inc., and Best Sedan Services, LLC. After returning from a show hosted by the National Limousine Association (NLA), a concerned Garner lobbied fellow operators in the black car industry to join the MTC, and the taxi industry, in working together to protect their entrenched interests in the debate over statewide TNC legislation in Missouri. In her email, attached as Exhibit A, Garner wrote:

- a. “Every operator . . . were [sic] discussing the challenges with UBER X, LYFT, and the other TNCs that have begun operating in their markets. We heard numerous stories about companies losing chauffeurs, declining rates”

- b. “Uber and Lyft are trying to do an end around the MTC and have their TNC (or rideshare) services become licensed through [the Missouri Department of Transportation]. . . . We are running out of time”
- c. “The result [of uberX] in other cities is that people shift around their method of transportation and the bottom line is that less people are using black car as a result of it. Those of you that attend the national shows, or read any of the trade magazines know what a threat TNCs are to our industry. . . . This is rapidly becoming a serious threat to all of our sedan operators here in St. Louis and across the state.”
- d. **“My brother-in-law Basil Rudawsky, has been working with a group of taxi operators in St. Louis (and now expanding statewide) to form a coalition** I strongly feel that we [limousine operators] need to do the same thing. . . . Another voice that is in unison with the voice of the taxi industry and with the MTC may go a long way to sway the legislators not to take action to create minimal statewide TNC laws.”

Exh. A (emphasis supplied).

46. Indeed, Garner, her brother-in-law Defendant Rudawsky, and their livery and taxicab industry leaders rightfully feared losing drivers to a better product—uberX—if and when it came to St. Louis. On average, and similar to medallion systems in other jurisdictions, taxi drivers have to pay a \$75 daily “pro” six days per week in order to operate the taxi. In other words, unlike a driver on the uberX platform, taxi drivers in St. Louis start their day in the red before ever picking up a passenger. In contrast, the Uber model provides flexibility for a driver on the uberX platform to work when, and for how long, he or she desires.

47. The four current “at-large” MTC members are W. Thomas Reeves, Larry Satz, J. Kim Tucci, and Chris Sommers.

48. The current MTC chairman, in that position since 2005 and also a voting MTC member, is Defendant Louis P. Hamilton. Upon information and belief, Hamilton has served as a lobbyist representing taxicab companies. Upon information and belief, Hamilton has close personal relationships with a number of active participants in the vehicle-for-hire market.

49. Hamilton is also one of nine members of the board of directors of the International Association of Transportation Regulators (IATR), an organization with a history of anti-TNC advocacy and strong ties to taxi incumbents. Before deleting his personal Twitter account, Hamilton posted derogatory comments about Lyft, asserting that “[t]he LYFT model = Hitch hiking with Snidely Whiplash. Trust Wall Street guys ... they will take care of you.”

50. Accordingly, at all times, the MTC is structured such that four seats must by statute be filled with representatives of the very industry that the MTC is charged with regulating. These market-participant members are financially incentivized to block TNCs from operating in St. Louis.

51. Currently, a fifth pro-taxi vote is held by chairman Hamilton, who, upon information and belief, as described above, has strong ties to the traditional taxicab industry.

52. Pursuant to the MTC’s enabling act, a majority vote is necessary for any MTC action. *See* Mo. Rev. Stat. § 67.1810(4). A quorum of five members is all that is necessary for the MTC to act at its meetings, and when four members constitute a majority, a vote of four (including two county appointees and two city appointees) is all that is necessary for MTC action. The MTC has, in fact, taken action pursuant to a majority vote of four members.

53. Attendance by MTC members is spotty, and vacated seats remain empty for months at a time. Since January 2013, only one MTC meeting (out of 30) has been attended by all nine members.

54. On four occasions since January 2013, the market-participant members in attendance (not including Hamilton) have constituted a majority of MTC members present for the meeting.

55. On one such occasion, April 23, 2013, when the MTC first adopted a regulation targeting TNCs, only five MTC members were present, three of whom were taxi representatives, and a fourth was Hamilton.

56. On five additional occasions since January 2013, market-participant members (not including Hamilton) constituted half of the members present, meaning that the market-participant members controlled the ability to block any MTC action that would allow TNCs to operate.

57. Moreover, on at least 14 occasions since January 2013 (including some of the occasions listed above), based on the attendance at the meeting, at least one favorable market-participant member vote was needed to take any MTC action, given the MTC enabling act's requirement that any majority must include at least two city appointees and two county appointees.

58. Accordingly, in about half of the MTC meetings since January 2013, the market-participant members (not including Hamilton) have controlled the MTC's exercise of its powers, as either (1) market-participant members (not including Hamilton) constituted a majority of members present, or (2) at least one market-participant member's vote (not including Hamilton's) was necessary before the MTC could take any action. That is, the market-participant members, acting as a group, have frequently had the absolute power to enact restrictions or to block any attempted repeal of restrictions.

59. The MTC's enabling act, Mo. Rev. Stat. §§ 67.1800-67.1822, creates the MTC for the purpose of "recognizing taxicab service as a public transportation system, improving the quality of the system, and exercising primary authority over the provision of licensing, control and regulations of taxicab services within the district." Mo. Rev. Stat. § 67.1804. The MTC's powers are limited to those expressly granted to it in the enabling act. *See id.* The enabling act

does not grant the MTC power to engage in anticompetitive acts or promulgate rules or regulations that have anticompetitive effects.

60. The MTC's enabling act grants the MTC power to take actions without supervision or authorization from any independent state or local governmental officer or agency. The MTC, in fact, takes actions without any active supervision or authorization from any independent state or local government officer or agency.

The Relevant Product Market and Geographic Market

61. The relevant product market is the market for passenger motor vehicle transportation services (the "Transportation Market"). In this market, consumers purchase point-to-point transportation services as riders. Competitors in this market include individuals and entities that offer or could offer point-to-point transportation services to consumers, such as taxicab companies, livery companies, and independent drivers using TNCs or associations of independent drivers who share dispatch services.

62. Except for the fact that the MTC has restrained competition, as further alleged below, consumers would view all of these competitors as offering services that are reasonably interchangeable substitutes. There is a high cross-elasticity of demand among these competing services, such that, for example, an increase in the price of traditional taxi services will result in a relatively high increase in demand for drivers using the uberX platform.

63. The relevant geographic market associated with the relevant Transportation Market is the local market and, specifically, may be defined as the City of St. Louis and St. Louis County. Generally speaking, consumers seeking point-to-point passenger motor vehicle transportation services seek them from drivers who are located in the immediate area, as summoning a driver from a distant location would involve a substantial wait time. And drivers

likewise prefer to provide transportation services in the immediate vicinity, as otherwise they incur uncompensated time and expenses in travelling to the rider's location. On information and belief, the majority of trips via passenger motor vehicle transportation services that originate in the City of St. Louis or St. Louis County also terminate in the City of St. Louis or St. Louis County, and vice-versa, with some trips ending across the river and state lines in East St. Louis, Illinois. Further, market boundaries are limited by the MTC's jurisdiction, which extends to the City of St. Louis and St. Louis County.

64. The MTC, through the joint and concerted conduct of the active market-participant members as further set forth below, restrains competition in the Transportation Market, thereby reducing the availability of for-hire vehicle transportation providers in the geographic market, and correspondingly raising the cost and otherwise reducing the consumer benefits available to potential riders in that geographic area.

The FTC and the Antitrust Agencies of Other Nations Warned Against the Very Type of Conduct Engaged in by the MTC

65. Uber has proven wildly popular worldwide, with its services in use in over 330 cities and 60 countries across six continents. In these many markets around the world, Uber has improved competition and has served the public interest in the process. The United States Federal Trade Commission ("FTC") has recognized the contribution to competition that the sharing economy provides, and has specifically warned against transportation industry incumbents conspiring to preclude such innovation from entering markets and fairly competing. As the FTC has noted, ridesharing services "can spur competition by providing consumers with new ways to more easily locate, arrange, and pay for rides, as compared to traditional commercial methods such as hailing a taxi on the street or calling a taxi dispatcher." *See*

<https://www.ftc.gov/news-events/blogs/competition-matters/2014/04/getting-around-town-share-economy>.

66. On March 28, 2014, FTC Chairwoman Edith Ramirez told the American Bar Association's Antitrust Spring Meeting that the FTC was looking at ways to help consumers by removing local government restraints on smartphone applications. FTC Commissioner Joshua Wright stated that removing restraints is "low-hanging fruit" and would yield important consumer benefits. In June 2015, FTC Commissioner Maureen K. Ohlhausen emphasized that "consumers pay the price for actions that favor narrow special interests over the broader public good. The sharing economy, pitting a number of long-established business models against aggressive new entrants, appears a particularly fertile ground for such mischief." *See* https://www.ftc.gov/system/files/documents/public_statements/671141/150609sharingeconomy.pdf. "[I]t [is] inappropriate for existing competitors to exercise control over the firms they compete with. In all too many situations, we at the FTC encounter these 'Brother May I?' scenarios." *See id.* (emphasis supplied). "Whether through effective control of state regulatory boards or by obtaining protectionist legislation, incumbent firms can place themselves in a position to determine who they must compete with." *See id.* (emphasis added).

67. Indeed, it is no secret that the traditional taxicab industry and livery industry are working together to prevent TNCs from competing with them and have protested Uber's entry into the market in cities around the globe, sometimes violently. *See, e.g.,* <http://www.bloomberg.com/news/articles/2015-03-11/inside-big-taxi-s-dirty-war-with-uber>.

68. Nevertheless, competition enforcement authorities from numerous countries, including Brazil, Canada, Denmark, the European Union, the United Kingdom, and several others have publicly commented that Uber brings more competition, including lower prices,

greater convenience and better service quality to cities. Accordingly, competition agencies from around the world have worked to protect new market entrants—TNCs—from the anticompetitive behavior of incumbents.

The MTC's History of Anticompetitive Behavior

69. The concerns that the FTC and these competition-law enforcers have raised regarding efforts to block Uber from the market have proven all too true in St. Louis. The MTC, controlled by the concerted actions of the market-participant members, has demonstrated a history of anticompetitive behavior designed to protect traditional taxicab and livery companies against perceived competition from Uber and other TNCs.

70. For example, the MTC has interpreted its rules to require that any driver who desires to receive transportation requests via Uber or any other TNC must obtain a traditional taxicab or livery permit from the MTC. Yet the MTC, despite having no relevant statutory or MTC rule-based mandate, has severely limited the number of available MTC vehicle permits, most of which are already held by existing traditional taxicab or livery companies. Indeed, upon information and belief, a majority of available permits are held by the taxicab and limousine companies named as defendants herein.

71. On October 31, 2014, the MTC made available only 26 new limousine permits. On May 18, 2015, the MTC made available only an additional 26 new limousine permits.

72. The MTC made these new permits available pursuant to a lottery system which limited new permit allocations to three per company. Despite this limitation, BEST Transportation of St. Louis, which is co-owned by MTC member Rudawsky's wife, obtained nine permits in one lottery (having established three separate entities to maximize her chances and obtain three each). BEST Transportation then leased some of these permits to vehicle

owners who entered but did not win the lottery, charging approximately seven times the original permit cost to BEST Transportation. Defendant Rudawsky and his wife have profited and continue to profit handsomely from their connections to both the MTC and the taxi industry.

73. The business model of Uber and other similar TNCs requires that hundreds or thousands of drivers in a market be available to accept transportation requests through uberX. Unlike traditional taxicabs, which during times of low demand often wait in line at hotels or drive around city streets with no particular direction seeking street hails or waiting for a dispatcher's call, drivers who receive requests through uberX respond in real time to rider demand and often go online with uberX only during rush hour or other times demand is high. Moreover, drivers who use uberX often do so part-time, while taxi drivers often work full time. Thus, the uberX business model requires a large number of drivers who can cover a market adequately through each driver's individual decision on when to choose to go online.

74. Upon information and belief, Defendants are specifically aware of this business-model requirement and have sought to impose restrictions to impair it. Upon information and belief, McNutt and Rudawsky have told traditional taxicab and/or livery drivers that Uber cannot survive in the St. Louis area with only 26 available permits, so that drivers should not waste their time using UberBLACK to receive ride requests.

75. Uber welcomes reasonable regulation of TNCs in the St. Louis area, but Defendants have refused to enact any such regulations. Defendants have instead passed rules designed to force TNCs and TNC drivers to abide by preexisting regulations intended for traditional taxicab and livery companies that do not work for this new business model. Defendants have also attempted to enact new regulations specifically targeting TNCs that

likewise will make market entry impossible, and stonewalled attempts to create rules and regulations that make TNCs viable in St. Louis.

76. For example, in April of 2013, at a meeting at which market-participant members constituted a majority (McNutt, Rudawsky, and Asfaw; Hamilton and Satz also attended), the MTC adopted a series of rules requiring “dispatch services” to obtain a certificate of convenience. In September 2013, Hamilton described these rule changes as having been “specifically designed for companies such as Uber.” *See* Brian Feldt, “Google-powered Uber fights taxi companies in St. Louis, St. Louis Business Journal” (Sept. 26, 2013).

77. The MTC had proposed the definition of “dispatch service” at the March 18, 2013 meeting (attended by seven of the nine members, including all four industry representatives), but the matter was tabled. The definition adopted in April 2013 added the phrase “or entity” after “person.”

78. In October 2013, the definition of “dispatch service” was amended in an attempt to make abundantly clear that it applied to companies like Uber. While the former definition defined dispatch service as “[a]ny person or entity that acts as an intermediary of any sort for a fee in the provision of transportation for hire,” the new definition states that dispatch service includes “the use of any electronic communication . . . for the connection of any communication between passenger and driver of agent thereof.” Eight members were present at the October 2013 meeting, including all four market-participant members on the MTC at that time.

79. Throughout 2012 and 2013, while they were enacting their own restrictions on Uber services in St. Louis, on information and belief, Defendants also were conspiring with two trade associations to impose similar restrictions across the country. The International Association of Transportation Regulators (IATR) and the Taxicab, Limousine and Paratransit

Association (TLPA), in coordination with Defendants Hamilton and Rudawsky, jointly developed proposed restrictions that were designed to make it impossible for smartphone applications to operate in cities that adopted the restrictions. The trade associations described Uber as a “rogue app” and participants in the trade association who collaborated with the president of the IATR Matthew Daus complained that Uber is “providing discount transportation.” The restrictions were expressly designed to preserve the historical transportation market in which there were only taxi and luxury vehicle operators, to ensure that “each sector has a defined role in the for-hire industry” and that there is only “limited overlap between the taxicab and limousine industries” so that “these transportation modules will not directly compete with each other” and keep prices high.

80. At all relevant times, Defendant Hamilton was a member of the board of directors of the IATR. At the annual meeting of the IATR in September 2013, which was held in St. Louis, Defendant Rudawsky participated in the session where the final restrictions were adopted. The express purpose of that meeting was “to coordinate a national and international strategy for implementation of regulations to bring order to the app universe – with actual drafting, commitments and dedicated resources being devoted to action and advocacy.”

81. On information and belief, Defendants had two reasons for seeking to prevent Uber’s entry into markets outside St. Louis. First, because the smartphone app entrants have national (indeed global) scope and consumers benefit when they travel by having access to the service in more cities, a multi-city prohibition is more effective at both slowing consumer adoption and denying the app developer the economies of increasing scale. Second, the political discipline that might otherwise correct anti-consumer regulation is weakened if regulators can point to other cities that also have restricted smartphone apps. At the meeting with Defendant

Rudawsky in September 2013, IATR President Matthew Daus reportedly wanted to “get a critical mass of cities buying into the restrictions, to adopt them, so there would be safety in numbers.”

82. Further seeking to reinforce its stranglehold on competition, in April of 2014, the MTC filed suit in the Circuit Court of St. Louis County, Missouri, seeking and obtaining a temporary restraining order and preliminary injunction blocking Lyft, another TNC, from offering its services within the MTC’s jurisdiction, based on the MTC’s assertion that Lyft and drivers on its platform fell within the scope of regulations designed for traditional taxicab and livery companies.

83. In addition, in advance of the July 4, 2015 holiday weekend, Uber asked the MTC to allow drivers on the uberX platform in St. Louis to provide their services to riders *for free*, for the purpose of reducing drunk driving. UberX’s impact on reducing drunk driving has been well-documented. For example, this summer, the *Los Angeles Times* reported on “new independent research” indicating that ride-sharing companies “could reduce the rate of drunk driving related deaths by as much as 3.6%,” noting that, while “the introduction of more expensive transportation services ... had little effect on alcohol-related fatalities,” uberX “made a noticeable difference.” (July 31, 2015 article by Tracy Lien in the *Los Angeles Times*, “Low-cost ride-hailing services could reduce drunk driving deaths, research finds.”). Mothers Against Drunk Driving (“MADD”), which has partnered with Uber, similarly has recognized the “life-saving” impact of Uber’s services, including its “revolutionary app,” which “connects users with safe, reliable rides at the touch of a button ..., so that people never have to get behind the wheel drunk” (*see* July 3, 2014 column by Travis Kalanick, Founder and CEO of Uber, and Jan Withers, President of MADD, in *USA Today*, “Uber gets MADD about drunk

driving.”). The *USA Today* column notes that “DUI arrests in Seattle decreased by more than 10% after Uber started serving riders and drivers in the city” (*id.*).

84. Uber sought to bring the same benefits to St. Louis, and to do so over the Fourth of July weekend without riders being charged for the services of drivers using its platform. Nevertheless, Defendant Hamilton, through the MTC’s attorney, warned Uber that no driver could use uberX during the holiday weekend, even at no cost to riders, unless Uber overcame, on an unreasonably short timeframe, a number of impossible barriers to entry. Defendant Hamilton declared that uberX could not launch—even for free—unless, among other requirements, (1) Uber disclosed a list of all drivers involved and provided copies of all drivers’ licenses, insurance cards, and Uber background checks, and (2) all drivers involved separately registered with the MTC and submitted to additional background checks, including fingerprinting and cheek swabs. Upon information and belief, Defendant Hamilton and other Defendants imposed these requirements (less than two days before the holiday weekend began) with full knowledge that Uber could not satisfy them on the shortened timeframe available, thereby effectively barring drivers on the Uber platform from providing services free of charge in the market.

85. Indeed, lists of drivers using uberX in a given market are carefully protected for the sake of drivers’ privacy and because such customer lists are valuable trade secrets for Uber. Moreover, because fingerprinting and cheek swab results would not have been available by the holiday weekend in any event (as the MTC knew, having previously provided limo drivers with a 30-day period in which to obtain fingerprint results), the purported benefit of these restrictions would not have been realized in any event. These MTC restrictions meant that drivers on the uberX platform could not provide their services to riders for free, as it would have been impossible to comply with those onerous restrictions in the shortened timeframe.

86. MTC at-large member Chris Sommers (“Sommers”), who has supported adopting regulations that would make TNCs viable in St. Louis, posted tweets on his personal Twitter account critical of the MTC’s de facto blocking of Uber’s free holiday weekend offer. In response, MTC Chairman and Defendant Hamilton responded to Commissioner Sommers via a public tweet: “Chris you are an insufferable douche. If you don't like it take your toys and go home.”



87. MTC Commissioner Kim Tucci has joined in his colleagues’ anti-TNC rhetoric and fear mongering. In radio interviews, Tucci ranted that Uber “want[s] to be able to just grab drivers off the street and throw them in their cars,” and encouraged listeners to search Google for “bad Uber stories.”

88. When thousands of St. Louis residents protested the MTC’s conduct by signing a petition in favor of Uber and sending emails to various politicians, the MTC sought to silence public opinion. Chairman and Defendant Hamilton announced at an MTC meeting that the MTC would not accept any emailed or electronically submitted public comment regarding TNCs; rather, any public comment on the issue must be delivered by mail, hand-delivery, or fax. Upon information and belief, the MTC never has limited its receipt of public comments in this manner

regarding any other issue, and this draconian requirement was enacted in an effort to ensure that few, if any, residents would comment.

89. Later in July 2015, with St. Louis residents demanding that the MTC pass regulations that allow for TNCs and expecting the MTC to pass such regulations during its regular monthly meeting on July 29, 2015, the MTC instead attempted to pass new regulations that included poison-pill requirements that would again *prevent* Uber or any similar TNC from entering the market.

90. For example, the proposed rules required, among other things, that before gaining access to a TNC's online platform to receive ride requests, a driver must (1) apply for and obtain a separate license from the MTC, (2) additionally obtain a Missouri class-E chauffeur's license or Missouri commercial driver's license, (3) pass background checks beyond Uber's own stringent background checks (and beyond the levels of background checks often required for in-home caregivers on sites like Care.com or UrbanSitter or shared housing site Airbnb, for example), (4) submit to fingerprint identification, (5) provide a statement from a physician regarding the driver's personal health including ability to carry passenger luggage, and (6) publicly disclose the driver's personal landline, mobile telephone numbers, and personal email address. Insurance requirements in the proposed rules did not reflect TNC industry standards agreed upon by 98% of the property and casualty market, nor did they reflect provisions passed in 22 states in recent legislative sessions, which had been provided as reference to the MTC in advance of the July 29 meeting. (And, in any event, as noted above, Uber already carries far more insurance than the MTC requires for taxicabs.) These are just some of the numerous barriers to entry that the MTC has constructed to keep TNCs from operating in St. Louis.

91. In addition, the proposed rules mandated that TNC drivers may not deviate from rates that TNCs file with the MTC at least 2 days in advance, a requirement that would prohibit Uber's dynamic pricing model, which is tied to supply and demand and fluctuates frequently, as well as potentially delay offering temporary promotional rate discounts. On information and belief, the MTC was aware that Uber's pricing model is dynamic and expressly proposed this rule in an effort to restrict Uber from entering the market.

92. In the weeks leading up to this June 29, 2015 meeting, Uber was in communication with the MTC and St. Louis city officials, attempting to work together to propose viable TNC regulations. Nonetheless, despite Defendant Hamilton's promise to post a draft of the MTC's proposed rules for public review by July 24, 2015, MTC members—upon information and belief, including the Commissioner Defendants in this action—ultimately acted in concert to devise these poison-pill regulations in secret, providing the public no advance copy of the proposed rules.

93. Upon information and belief, the St. Louis Mayor's office, which had been involved in communications with TNCs regarding viable TNC regulations, did not receive a copy of the proposed rules until shortly before the meeting. The MTC, acting under the control of the market-participant members, never provided Uber with an opportunity to review or offer feedback on the draft proposed rules before they were introduced at the July 29, 2015 MTC meeting. On information and belief, Commissioner Sommers, the MTC member in favor of regulations that allow TNCs to operate in St. Louis, never received a copy of the proposed rules until the meeting itself.

94. Upon information and belief, the market-participant members of the MTC were pushing for an immediate vote to pass the poison-pill requirements because they knew the requirements were barriers to entry preventing uberX from ever entering the market.

95. Ultimately, the MTC's poison-pill regulations did not come to a vote.

96. When the time came for the MTC's next monthly meeting, in August 2015, at which time residents again expected that TNC-favorable rules finally would be adopted, the MTC simply did not meet at all, ignoring its statutory duty to meet at least once a month. *See* Mo. Rev. Code §§ 67.1810(3).

97. This conduct caused Commissioner Sommers to write a letter to the FTC seeking an opinion as to whether the MTC's conduct violates antitrust laws. The letter is attached as Exhibit B.

98. Left with no choice, and realizing that the market-participant-controlled MTC would never enact regulations that would permit uberX to operate in St. Louis, Uber launched uberX within the MTC's jurisdiction on the day this Complaint was filed.

99. Upon information and belief, the MTC will likewise seek a court order similar to the one it previously sought against Lyft as part of its ongoing pattern of efforts to block uberX from operating in the St. Louis area.

Harm to Plaintiffs

100. The anticompetitive conduct described above has prevented the Driver and Rider Plaintiffs, the Uber Plaintiffs, other TNCs, and other TNC drivers and riders from providing and accessing rideshare request services within the MTC's jurisdiction, thereby protecting entrenched taxicab and livery services (the very businesses in which the MTC's market-

participant members have financial interests) from this competition, all to the detriment of the citizens of St. Louis.

101. For example, Plaintiff **Patrick Andert** (“Andert”) is a native St. Louisan and current resident of Maplewood, Missouri. Andert was a frequent user of taxicabs in the St. Louis area until he became disenchanted with the poor service typical of the St. Louis taxicab experience. He has used uberX in cities like Chicago, Boston, and New Orleans, and strongly prefers using uberX over hailing or calling for taxicabs. Andert prefers the affordability, reliability, and the personalized experience that uberX offers. He appreciates the ability to track drivers’ whereabouts and estimated time of arrival, and the ability to receive up-front pricing information. Most importantly, he appreciates the safety that comes with GPS tracking of vehicles using uberX. Andert finds that St. Louis taxicabs are not able to confer these many benefits on their riders. Andert is so dissatisfied with St. Louis taxicabs that he declines to use them in situations where he would otherwise request transportation through uberX without hesitation. As a result, he has incurred parking costs he would not have incurred had uberX been available to him. Moreover, on occasion, after going out with friends and deciding it would not be safe to drive, he has been forced to stay the night at friends’ homes when taxicabs failed to show up to take him home.

102. Plaintiff **Marsha Robyn Wallen** (“Wallen”) is legally blind and has depended on others to provide transportation her entire life, including transportation to and from work, doctor’s appointments, the grocery store, and every other need that draws her from her home. Currently, when she is unable to secure transportation through a friend or family member, her options are limited to paratransit services offered by Metro Call-A-Ride or taxicabs. These options impose serious burdens on Wallen’s everyday life. Paratransit reservations must be

arranged 1-3 days in advance and taxicab availability is not always dependable or predictable near her home, especially for short rides. In the past, Wallen has spent three hours outside her local grocery store waiting for a taxicab while her perishable food sat on the sidewalk beside her. She has been late to work and received a demerit as a result of a taxicab showing up 45 minutes late for a pre-arranged pickup. She has spent hours stranded at malls and restaurants unable to secure a ride home. Wallen has used uberX while visiting other cities and was amazed at the affordable price, freedom, and accommodating atmosphere the drivers using the service provided. Having recently lost her job due to a medical procedure, the availability of drivers using uberX as a low-cost alternative to waiting for taxicabs takes on increased importance, especially as it would afford her the opportunity to take spontaneous short trips that are often difficult or impossible to arrange with taxi companies. Because of Defendants' anticompetitive conduct, Wallen is forced to navigate her daily life while depending on unreliable, unaccommodating, expensive taxicabs when a better alternative exists in every large metropolitan city but her own.

103. Plaintiff **Patrick Fox** ("Fox") is a St. Charles resident who attended college at the University of Missouri-St. Louis and has worked in and around St. Louis for his entire adult life. Fox works full time at a local arts and cultural organization, and until August 31, 2015, when his position was outsourced, he supplemented his income by working ten hours per week at the non-profit Make-A-Wish Foundation of Missouri. In light of the recent changes to his employment status and financial security, Fox is in search of a flexible part time opportunity that would allow him to supplement his current income, keep up with his student loan payments, and provide the St. Louis community with a service that it wants and needs, while maintaining the freedom and flexibility his former position at the Make-A-Wish Foundation afforded him. Fox has already

registered to receive transportation requests on the uberX platform, passed a background check, submitted his insurance information and vehicle registration, and attended an informal meeting for people interested in driving on the uberX platform. In undertaking these proactive steps to become a driver on the uberX platform, Fox is motivated in part by personal incentives, but, in addition, Fox sees uberX as a service that will enrich his community, will allow many people to earn primary or supplemental income where they do not currently have the opportunity, and will provide St. Louis residents and visitors with additional transportation options. The MTC's anticompetitive conduct is blocking Fox from pursuing this option.

104. Plaintiff ***Kneeshe Parkinson*** ("Parkinson") is a St. Louis County resident. Parkinson is a single mother of a teenage daughter. She currently works full time as a treatment adherence counselor at Washington University in St. Louis. In addition, she supplements her income by using uberX as a driver on weekend nights in East St. Louis. She must travel at least 30 minutes to reach this area, so she is not able to use uberX as a driver as frequently as she would be able to if uberX was available in St. Louis. Parkinson has witnessed first-hand the positive impact uberX can have on a community. As a counselor at Washington University dealing with terminally ill patients, she has first-hand knowledge of the hardships faced by many St. Louis residents who struggle to get by while receiving their necessary treatments. One of the largest hurdles these individuals must clear is securing reliable, affordable transportation. Parkinson finds that uberX can meet these patients' transportation needs in ways that taxicabs cannot. At different points in her life, she has worked up to 100 hours per week just to make ends meet and provide for her daughter. In addition to working at Washington University, she has worked second jobs at grocery stores, hotels, and as a school bus driver. Parkinson is very proud of the fact that she does not collect government assistance, as many single mothers are

forced to do, but she is still a person of very modest means. The absence of uberX in St. Louis deprived Parkinson of the opportunity to supplement her income in an impactful way while maintaining the ability to be an active part of her teenage daughter's life.

105. Without temporary, preliminary, and permanent injunctive relief, Plaintiffs will continue to suffer irreparable injury. Each day that Plaintiffs are excluded from providing or using TNC services in the St. Louis area, they suffer irreparable harm due to Defendants' concerted anticompetitive behavior. First, the Rider Plaintiffs suffer lost opportunity to benefit from the better, lower-cost transportation options that TNCs make available. This lost opportunity is especially severe at peak traffic and ride demand times and in certain neighborhoods, when taxis are simply very difficult or impossible to find. The impact of this loss is neither easily ascertainable nor fully compensable with later money damages. Second, the Driver Plaintiffs and Uber suffer lost revenue, income, and goodwill that they otherwise would have earned but for the anticompetitive behavior. Indeed, as of the date of the filing of this Complaint, thousands of drivers are already on the uberX platform in the St. Louis metropolitan area and more are signing up every day. This lost revenue, income, and good will is not easily measured after the fact, as it is difficult to ascertain how many riders would have chosen to request transportation via the uberX service instead of using the traditional taxicabs and livery companies that are currently benefitting from the Defendants' concerted anticompetitive behavior.

106. Injunctive relief is thus warranted because this threatened injury outweighs any damage that an injunction would cause the Defendants. Defendants have no legitimate interest in protecting their own incumbent traditional taxicab companies from competition. Although the

MTC has asserted that its blocking of TNCs is motivated by public safety concerns, as detailed above, Uber's product is inherently safe.

107. An injunction would serve the public interest. Citizens within the MTC's jurisdiction have overwhelmingly called for the MTC to allow uberX in the St. Louis area, and for good reason. UberX is a safe, reliable, and affordable transportation request option—an option that assists in reducing traffic, preventing drunk driving, and providing transportation for the disabled and elderly, among other public benefits. Moreover, citizens within the MTC's jurisdiction deserve regulation of the Relevant Market by a public body that is not controlled by those who actively participate in the very market they regulate, and who thus have an incentive to focus on their own financial interests, rather than the public's interest.

COUNT I: VIOLATION OF THE SHERMAN ACT

108. Plaintiffs hereby adopt and incorporate by reference all preceding paragraphs in this Complaint.

109. Section 1 of the Sherman Act, 15 U.S.C. § 1, provides that “[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.”

110. The Relevant Market for purposes of this Sherman Act claim is the Transportation Market as set forth above.

111. Within the MTC's jurisdiction, for-hire transportation service providers (including dispatch and/or TNC services that are used to arrange such for-hire transportation services) directly compete with one another. In the Transportation Market, riders who hail taxicabs from the street may instead use the Uber App to arrange for transportation, and vice-

versa. Similarly, riders who call taxicab or livery vehicle dispatchers to arrange for taxicab or livery vehicle rides may instead use the Uber App to arrange for transportation, and vice-versa.

112. Defendants engaged in concerted activity as part of a conspiracy to prevent full and fair competition in the Relevant Market. Upon information and belief, each of the anticompetitive actions described herein was taken pursuant to an illegal agreement by and among the Defendants. That unlawful agreement is evidenced by, among other things, the economic interests of Defendants Asfaw, McNutt, Rudawsky, their family members, and their companies (Defendants Airport Best Transportation Limousine and Taxi Service, Laclede, and County Cab, respectively); the close relationships among the Defendants, including the close personal relationships that Defendant Hamilton has with many of the Defendants, the IATR, and other active participants in the vehicle-for-hire market; Defendants' concerns about the competitive threat that Uber and its affiliates posed to the Defendants; the history and anticompetitive practices of the MTC; Defendant Rudawsky's efforts to form a coalition of taxi operators in St. Louis to prevent TNC competition; and the timing of various anticompetitive actions taken by the MTC with respect to regulations targeting TNCs.

113. Pursuant to their conspiracy and unlawful agreement, Defendants have engaged in *per se* anticompetitive behavior, or, alternatively, anticompetitive behavior without procompetitive justification, that has unreasonably restrained trade in violation of Section 1 of the Sherman Act. This anticompetitive behavior, as set forth above, includes but is not limited to:

- requiring that any driver using the Uber App to receive transportation requests must first obtain an MTC license and vehicle permit, while at the same time severely restricting the number of available permits, effectively precluding TNCs (and TNC drivers) from entering the Relevant Market, and precluding

the Driver Plaintiffs and other similarly-situated persons from offering for-hire transportation in competition with incumbent transportation providers;

- enacting rules designed to ensure that services such as uberX must comply with existing regulations governing traditional taxicabs and livery companies that do not work with Uber's (or other TNCs') business model, thereby precluding Uber and Driver Plaintiffs from competing in the Relevant Market;
- enacting the requirement that Uber (and other TNCs) obtain a "certificate of convenience" to operate the newly defined "dispatch services";
- conspiring to restrict Uber's entry into transportation markets outside of St. Louis;
- seeking and obtaining injunctive relief against Lyft, a TNC competitor of Uber's, precluding Lyft (and any driver who would use Lyft) from competing in the Relevant Market, upon the assertion that Lyft and drivers using Lyft must comply with regulations designed for traditional taxicab and livery companies;
- proposing, after secret drafting that excluded relevant stakeholders and even one MTC member, additional MTC rules specifically targeting TNCs and including additional onerous requirements that would effectively preclude TNCs (and TNC drivers) from entering the Relevant Market; and
- despite a statutory requirement to meet at least monthly, refusing to hold a monthly meeting in August 2015, effectively delaying the enactment of any regulations that would make TNCs viable in the Relevant Market, and thereby effectively precluding TNCs (and TNC drivers) from entering the Relevant Market.

114. This anticompetitive behavior substantially affects interstate commerce. As just one example, the eastern border of the MTC's jurisdiction is coterminous with the Missouri-Illinois border, and on a daily basis the anticompetitive behavior prevents would-be riders from using uberX to request travel across this state line for business or retail purposes.

115. Defendants' concerted action has prevented Uber and other TNCs from participating in the Relevant Market, and has prevented drivers and riders from providing or using transportation services involving TNCs in the Relevant Market.

116. Defendants' conduct has damaged competition in the Relevant Market, increasing prices and reducing competition for transportation services, all to the detriment of riders, drivers and TNCs in the Relevant Market. For example, the driver Plaintiffs and Uber have all lost revenue that they otherwise would have generated by participating in the Relevant Market, and riders in the City of St. Louis and St. Louis County have paid higher prices for transportation services than they would have but for the MTC's anticompetitive conduct.

117. None of Defendants' anticompetitive practices was reasonably necessary for the proper functioning of the vehicle-for-hire industry in St. Louis. Any benefits that Defendants claim are achieved by these restraints of trade can be accomplished by means that are less harmful to competition. Even if these restraints have any competitive benefit, their anticompetitive effects vastly outweigh any such benefit.

118. Even if, counterfactually, the MTC's regulations have some legitimate rationale, those objectives could be realized through less restrictive means. The MTC's rules offer no procompetitive justification to offset the anticompetitive harm caused by the conduct detailed in this Complaint. Indeed, Uber has functioned successfully without the MTC's rules in hundreds of markets in the United States and internationally. Defendants' intent in enacting the rules is to enable the MTC to fix vehicle-for-hire prices at levels above what could be sustained in a competitive market which includes Uber.

119. Plaintiffs are suffering additional damages in the form of destruction of business in the St. Louis market, loss of goodwill, and loss of business reputation. The loss of goodwill includes: (a) loss of goodwill with St. Louis residents when they travel to other cities where Uber is available; (b) loss of goodwill with existing customers who travel to St. Louis; and (c) the total destruction of Uber's market within St. Louis.

120. Pursuant to *N. Carolina State Bd. of Dental Examiners v. F.T.C.*, 135 S. Ct. 1101 (2015), and *F.T.C. v. Phoebe Putney Health Sys., Inc.*, 133 S. Ct. 1003 (2013), Defendants are not immune from antitrust liability by virtue of their organization as a governmental entity. As detailed above, the MTC is controlled by active market participants in the very occupation the MTC regulates. As detailed above, the State of Missouri has not articulated a clear policy to allow any anticompetitive conduct, including the anticompetitive conduct described herein. As detailed above, no state or local independent government agency or official provides active supervision of the anticompetitive conduct described herein.

121. Neither the Commissioner Defendants nor the Defendant Taxi/Limo Companies have immunity from liability for money damages under the Local Government Antitrust Act of 1984, 15 U.S.C. § 35, *et seq.* In undertaking concerted anticompetitive conduct as members of a board that is controlled by active market participants, the Commissioner Defendants were not “acting in an official capacity.” *See* 15 U.S.C. §§ 35(a), 36(a). Likewise, in undertaking their concerted anticompetitive conduct, the Commissioner Defendants were not taking “official action directed by a local government.” 15 U.S.C. § 36(a). Moreover, the Defendant Taxi/Limo Companies are not officials or employees of local government, and their unlawful and anticompetitive conduct was not based on any official action directed by a local government, or official or employee thereof acting in an official capacity.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

- a. grant temporary and preliminary injunctive relief allowing Plaintiffs to make available and/or use the uberX service within the jurisdiction of the MTC;
- b. grant temporary, preliminary, and permanent injunctive relief prohibiting Defendants, or any other market-participant member of the MTC, from engaging in any of the anticompetitive behavior described herein;

- c. grant permanent injunctive relief requiring the restructuring of the MTC to prevent active market participants in the occupation that the MTC regulates from controlling the MTC;
- d. award Plaintiffs treble damages, reasonable attorneys' fees, and costs; and
- e. grant any other relief that the Court deems just and proper.

Dated: September 18, 2015

Respectfully submitted,

By: /s/ James F. Bennett

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JURY TRIAL DEMAND


Plaintiffs hereby demand a trial by jury on all counts so triable.

/s/ James F. Bennett

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that to the best of my knowledge the factual allegations set forth in this Complaint are true and correct.

Executed on: 9/18/2015



Sagar Shah
General Manager, Uber Technologies, Inc.