

IN THE CIRCUIT COURT OF THE
13TH JUDICIAL CIRCUIT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

GENERAL CIVIL DIVISION

CASE NO. 13-CA-11087
DIVISION F

THOMAS HALSNIK,
BLACK PEARL LIMOUSINE LLC,
KENRICK GLECKLER, and
DANIEL FAUBION,

Plaintiffs,

vs.

THE HILLSBOROUGH COUNTY
PUBLIC TRANSPORTATION
COMMISSION, and
VICTOR CRIST, in his official
capacity as Chairman of the
Hillsborough County Public
Transportation Commission,

Defendants.

PLAINTIFFS' COMPLAINT

This civil rights lawsuit seeks to vindicate Plaintiffs' fundamental rights under the Florida Constitution to freely bargain for services and to earn an honest living free from unreasonable government restrictions. The Hillsborough County Public Transportation Commission has violated those rights by enacting a rule that requires limousines to charge a minimum of fifty dollars (\$50.00) each time service is rendered, regardless of the distance travelled. This rule directly harms the people of Tampa by requiring limousine drivers to overcharge their customers. It also destroys economic opportunities and job creation by

preventing entrepreneurs from offering better value to their customers. Moreover, the authorization of this rule by Florida statute is similarly unconstitutional.

Therefore, Plaintiffs Thomas Halsnik; Black Pearl Limousine LLC; Kenrick Gleckler; and Daniel Faubion, by and through their undersigned counsel, hereby file this Complaint and sue the Hillsborough County Public Transportation Commission and Victor Crist, in his official capacity as Chairman of the Hillsborough County Transportation Commission, as follows:

PARTIES

1. Plaintiff Thomas Halsnik (“Halsnik”) is a Florida citizen and the sole owner of Plaintiff Black Pearl Limousine LLC, a car service business in Hillsborough County, Florida.
2. Plaintiff Black Pearl Limousine LLC (“Black Pearl”) is a Florida limited liability company located in, and conducting business in, Hillsborough County, Florida.
3. Plaintiff Kenrick Gleckler (“Gleckler”) is a Florida citizen who resides in Hillsborough County, Florida.
4. Plaintiff Daniel Faubion (“Faubion”) is a Florida citizen who resides in Hillsborough County, Florida.
5. Defendant Hillsborough County Public Transportation Commission (the “PTC”) is a commission created by special act of the Florida Legislature, as described in Chapter 2001-299 of the Laws of Florida (the “Enabling Statute”). The PTC has been designated as an independent special district and regulates “vehicles for-hire” in Hillsborough County, Florida.
6. Defendant Victor Crist (“Crist”) is the chairman of the PTC. He is sued in his official capacity.

JURISDICTION AND VENUE

7. At all times pertinent to this action, the acts complained of have occurred in, or are occurring in, Hillsborough County, Florida.

8. This action arises under Article I, Sections 2 (Basic Rights and Equal Protection) and 9 (Due Process) of the Florida Constitution. Accordingly, this Court has subject matter jurisdiction over this action.

9. This Court has jurisdiction over declaratory judgment actions pursuant to Section 86.011, Florida Statutes.

10. Venue is proper in this circuit, as the majority of the parties are located in this circuit and the dispute arose in this circuit.

FACTS

The PTC and the Minimum Fare Rule

11. The PTC's power is derived from the Florida Legislature and the Enabling Statute.

12. The PTC regulates numerous categories of livery services, including but not limited to taxis, luxury taxis and limousines.

13. The territory governed by the PTC consists solely of Hillsborough County, Florida.

14. The Florida Legislature has not created any independent special districts to govern livery services anywhere other than Hillsborough County.

15. The Florida Legislature, through the Enabling Statute, has provided the PTC with the power to "make classifications within each type of service, and fix or approve zones, rates, fares, or charges for each such classification."

16. Through the same Enabling Statute, the Florida Legislature also allowed the PTC to “fix or approve zones, rates, fares and charges for public vehicles other than taxicabs.”

17. Pursuant to that authority, the PTC enacted its minimum fare rule (the “Minimum Fare Rule”), which requires limousine drivers to charge no less than the minimum fare set by the PTC, exclusive of gratuities and other costs, regardless of the distance of the service provided.

18. Over the years, the PTC has increased the amount of the required minimum fare but has never decreased it.

19. Upon information and belief, the Minimum Fare Rule was enacted at the request of certain taxicab and limousine companies.

20. Upon information and belief, the minimum fare amount stated in the Minimum Fare Rule was increased upon the request of certain taxicab and limousine companies.

21. The Minimum Fare Rule’s result is to protect certain large, politically favored companies from price competition by smaller limousine and car service entrepreneurs.

22. The Minimum Fare Rule is currently stated in Rule 1-20.001(4)(a) of the Rules of the Hillsborough County Public Transportation Commission.

23. There is no maximum fare limitation, only a minimum fare limitation.

24. The Minimum Fare Rule does not apply to taxicabs or to luxury taxicabs.

25. Luxury taxis and limousines provide similar services to each other and attempt to compete with each other.

26. Luxury taxis often use makes and models of automobiles that could also qualify as limousines.

27. For many limousine and taxi drivers, the primary difference between luxury taxis and limousines is that luxury taxis use a meter to determine the amount charged to the customer, while limousine customers agree on the amount of the fare prior to the service.

28. The Minimum Fare Rule requires limousine drivers to charge no less than fifty dollars (\$50.00) for each hour of the limousine ride.

29. The Minimum Fare Rule requires limousine drivers to charge the customer for at least one hour, regardless of how short the ride may be.

30. The practical effect of the Minimum Fare Rule is to require limousine drivers to charge at least fifty dollars (\$50.00) per ride, no matter how short the ride may be.

31. Many limousine rides are shorter than one hour.

32. Many limousine rides are short enough that some limousine drivers and limousine companies would choose to offer fares of less than fifty dollars (\$50.00) to customers, if not for the Minimum Fare Rule.

33. Upon information and belief, the Minimum Fare Rule is not related to any legitimate government purpose.

34. Upon information and belief, the Enabling Statute's authorization of the Minimum Fare Rule is also not related to any legitimate government purpose.

Harm to the Public

35. Many cities around Florida and around the country have vibrant taxicab and limousine industries without a minimum fare rule such as the one imposed by the PTC.

36. The Minimum Fare Rule creates a protectionist barrier to competition by forbidding certain car services from offering services to customers at fair market value.

37. The effect of the Minimum Fare Rule is also to reduce the ability of consumers to negotiate lower prices for shorter limousine trips.

38. The PTC's actions in requiring an artificially inflated minimum fare have cost the citizens of Tampa, as well as countless tourists, a substantial amount of money in unnecessary overpayments.

39. The Minimum Fare Rule has also forced businesses and jobs out of Hillsborough County, often in well-publicized fashion.

40. The Minimum Fare Rule prevents those entrepreneurs and limousine companies who continue to provide service in Hillsborough County from being able to operate their businesses in the most profitable, valuable, and successful manner.

41. The Minimum Fare Rule restricts innovation, thereby preventing the citizens of Tampa from reaping the rewards of products and services that would otherwise reduce traffic congestion, increase safety, increase value to consumers, and create additional jobs.

42. There have been unsuccessful efforts to either repeal the Minimum Fare Rule or even dismantle the PTC entirely.

43. The PTC has consistently refused to repeal the Minimum Fare Rule.

Plaintiffs Thomas Halsnik and Black Pearl Limousine

44. Plaintiff Halsnik is a proud Tampa resident and graduated from Tampa's own University of South Florida.

45. Through his personal experiences as a Tampa resident, Plaintiff Halsnik noticed the glaring lack of transportation services available in Hillsborough County.

46. In 2007, Plaintiff Halsnik started Plaintiff Black Pearl to help meet the demand for transportation services.

47. Through hard work and determination, Plaintiff Halsnik built his business, Plaintiff Black Pearl, into a successful business with seven limousine drivers, all operating lawfully in Hillsborough County.

48. Along with being Plaintiff Black Pearl's owner, Plaintiff Halsnik continues to work as a licensed limousine driver for Plaintiff Black Pearl in Hillsborough County.

49. Plaintiffs Halsnik and Black Pearl would like to grow their business by offering lower prices and better values to customers and potential customers, but are prohibited from doing so by the PTC, the Enabling Statute and the Minimum Fare Rule.

50. The lower prices and better values that Plaintiffs Halsnik and Black Pearl would like to have the ability to offer to customers and potential customers include, but are not limited to, off-peak discounted fares, reduced fares for loyal customers, and participation in group-discount programs.

Plaintiff Kenrick Gleckler

51. Plaintiff Gleckler lives in Tampa.

52. Plaintiff Gleckler has hired limousine services in the past and anticipates doing so in the future.

53. Sometimes, Plaintiff Gleckler has hired limousine services for trips related to his work as a real estate agent.

54. Other times, Plaintiff Gleckler has hired limousine services for transportation unrelated to his profession.

55. The limousine services hired by Plaintiff Gleckler included rides of substantially less than one hour.

56. But for the Minimum Fare Rule, Plaintiff Gleckler would have been able to negotiate lower fares for at least some of those trips.

57. Plaintiff Gleckler hires limousine services often enough that he would have been able to negotiate discounted fares based on his repeat usage, but was not able to do so because of the Minimum Fare Rule.

58. Plaintiff Gleckler would have hired limousines more often in the past if not for the Minimum Fare Rule.

59. Plaintiff Gleckler will hire limousine services in the future.

60. The limousine services hired by Plaintiff Gleckler in the future will include rides of substantially less than one hour.

61. But for the Minimum Fare Rule, Plaintiff Gleckler would be able to negotiate a lower fare for those trips in the future.

62. Plaintiff Gleckler will hire limousine services often enough in the future that he would be able to negotiate discounted fares based on his repeat usage, but will not be able to do so because of the Minimum Fare Rule.

63. Plaintiff Gleckler would hire limousine services more often in the future if not for the Minimum Fare Rule.

64. Plaintiff Gleckler has used limousine services for short rides that would have cost less than the fifty dollar (\$50.00) minimum if the Minimum Fare Rule did not exist.

65. When the PTC's Minimum Fare Rule forced Plaintiff Gleckler to overpay for limousine services, the PTC caused financial harm to Plaintiff Gleckler.

66. The Minimum Fare Rule and the Enabling Statute have unreasonably interfered with the right of Plaintiff Gleckler to freely bargain for services.

67. Unless action is taken by this Court, the Minimum Fare Rule and the Enabling Statute will continue to unreasonably and irrationally interfere with the right of Plaintiff Gleckler to freely bargain for services.

Plaintiff Daniel Faubion

68. Plaintiff Faubion lives in Tampa.

69. On or about August 26, 2013, Plaintiff Faubion attempted to hire Plaintiffs Halsnik and Black Pearl for a limousine ride in Hillsborough County.

70. The ride would have been less than two miles long and would have lasted substantially less than one hour.

71. When negotiating the limousine fare, Plaintiff Faubion requested a fare in the range of forty dollars, which Plaintiffs Halsnik and Black Pearl wanted to accept.

72. Due to the Minimum Fare Rule, Plaintiffs Halsnik and Black Pearl were unable to accept the fare amount offered by Plaintiff Faubion.

73. Plaintiff Faubion was unwilling to pay fifty dollars for the short limousine ride.

74. As a direct result of the Minimum Fare Rule, Plaintiff Faubion did not hire Plaintiffs Halsnik and Black Pearl.

75. As a direct result of the Minimum Fare Rule, Plaintiff Faubion has never purchased a limousine ride in Hillsborough County.

76. But for the Minimum Fare Rule, Plaintiff Faubion would have purchased limousine rides in Hillsborough County.

77. Plaintiff Faubion would like to hire limousine services in the future for rides of substantially less than one hour.

78. But for the Minimum Fare Rule, Plaintiff Faubion would be able to negotiate a lower fare for those limousine rides in the future.

79. Plaintiff Faubion would hire limousine services in the future if not for the Minimum Fare Rule.

80. When the PTC's Minimum Fare Rule prevented Plaintiff Faubion from hiring the desired service he would otherwise have been able to obtain, the PTC harmed Plaintiff Faubion.

81. The Minimum Fare Rule and the Enabling Statute have unreasonably interfered with the right of Plaintiff Faubion to freely bargain for services.

82. Unless action is taken by this Court, the Minimum Fare Rule and the Enabling Statute will continue to unreasonably and irrationally interfere with the right of Plaintiff Faubion to freely bargain for services.

Injuries to Plaintiffs Halsnik and Black Pearl Limousine

83. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiffs Halsnik and Black Pearl would have provided services to some of their customers at fares below the Minimum Fare Rule's minimum.

84. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiffs Halsnik and Black Pearl would provide services in the future to some of their customers at fares below the Minimum Fare Rule's minimum.

85. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiffs Halsnik and Black Pearl would have offered lower fares, discounts or promotional fares to customers and potential customers in the past in order to increase customer loyalty and attract additional customers, thereby expanding their business.

86. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiffs Halsnik and Black Pearl Limousine would offer lower fares, discounts or promotional fares in the future to increase customer loyalty and attract additional customers, thereby expanding their business.

Injuries to Plaintiff Gleckler

87. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiff Gleckler would have been charged less money during at least some of the previous times when he hired limousines.

88. Plaintiff Gleckler will hire limousines in the future.

89. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiff Gleckler would be able to negotiate better prices for at least some of those future limousine services.

90. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiff Gleckler would hire limousine services more often than he would with the Minimum Fare Rule in effect.

Injuries to Plaintiff Faubion

91. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiff Faubion would have been able to hire limousine services at the price he offered.

92. As a result of the Enabling Statute and the Minimum Fare Rule, Plaintiff Faubion was unable to hire limousine services at a price that would otherwise have been acceptable to Plaintiffs Halsnik and Black Pearl.

93. Plaintiff Faubion would like to hire limousines in the future.

94. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiff Faubion would be able to negotiate better prices for at least some of those future limousine services.

95. If not for the Enabling Statute and the Minimum Fare Rule, Plaintiff Faubion would hire limousine services more often than he would with the Minimum Fare Rule in effect.

COUNT I – DUE PROCESS

96. All of the Plaintiffs reassert and reallege paragraphs 1 through 95 as if fully stated herein.

97. The Enabling Statute and the Minimum Fare Rule have violated the due process rights of car service customers in Hillsborough County by unreasonably and irrationally interfering with the rights of customers, including Plaintiffs Gleckler and Faubion to freely bargain for services.

98. Although financial damages are not sought by this lawsuit, the Enabling Statute and the Minimum Fare Rule have caused financial harm to all of the Plaintiffs.

99. The harm caused to the Plaintiffs was due to unreasonable and irrational government regulation which violated the due process rights of the Plaintiffs.

100. By unreasonably and irrationally violating the Plaintiffs' rights to freely bargain for services and earn an honest living, the Enabling Statute and the Minimum Fare Rule violate the Due Process Clause located in Article I, Section 9 of the Florida Constitution.

101. The Minimum Fare Rule is neither reasonably nor rationally related to any legitimate government purpose.

102. The Minimum Fare Rule is also oppressive and discriminates against limousine drivers and related businesses.

103. As a result, the Minimum Fare Rule is unconstitutional under the Due Process Clause located in Article I, Section 9 of the Florida Constitution.

104. Similarly, the Enabling Statute's authorization of the Minimum Fare Rule is unconstitutional under the Due Process Clause located in Article I, Section 9 of the Florida Constitution.

Remedies

105. As Plaintiffs believe the Minimum Fare Rule and Enabling Statute are unconstitutional, Plaintiffs seek declaratory relief to determine the extent of their rights in Hillsborough County, Florida.

106. Plaintiffs have incurred costs related to this lawsuit and seek an award of reasonable costs pursuant to Florida Statutes Section 86.081, as it is equitable to do so.

107. Plaintiffs have an inadequate remedy at law for the substantial harm being caused by the Minimum Fare Rule and the Enabling Statute.

108. The Minimum Fare Rule and the Enabling Statute have caused, are causing, and will continue to cause irreparable harm to the Plaintiffs and to the Tampa public.

109. The public interest would be served by enjoining enforcement of the Minimum Fare Rule and entering a declaratory judgment that the Minimum Fare Rule is unenforceable.

110. Similarly, the public interest would be served by enjoining the authorization of the Rule by the Enabling Statute and entering a declaratory judgment that the Enabling Statute's authorization of the Minimum Fare Rule is unconstitutional.

WHEREFORE Plaintiffs respectfully request relief as follows:

- i. a declaratory judgment that the Minimum Fare Rule violates the Due Process Clause located in Article I, Section 9 of the Florida Constitution;
- ii. a declaratory judgment that the Enabling Statute's authorization of the Minimum Fare Rule violates the Due Process Clause located in Article I, Section 9 of the Florida Constitution;
- iii. a permanent injunction against the PTC prohibiting the PTC from enforcing the Minimum Fare Rule or setting a minimum fare for limousine drivers;

- iv. an award of costs; and
- v. any further relief as this Court deems just and proper.

COUNT II – BASIC RIGHTS AND EQUAL PROTECTION

111. Plaintiffs Halsnik and Black Pearl reassert and reallege paragraphs 1 through 95 as if fully stated herein.

112. The Enabling Statute and the Minimum Fare Rule have irrationally and unreasonably interfered with the economic liberty rights of Plaintiffs Halsnik and Black Pearl.

113. Specifically, the Enabling Statute and the Minimum Fare Rule have offended the basic and inalienable rights of these particular Plaintiffs to be rewarded for industry and to acquire, possess and protect property.

114. The Enabling Statute and the Minimum Fare Rule have also violated the equal protection rights of Plaintiffs Halsnik and Black Pearl by imposing an unreasonable restriction on limousine drivers and related businesses which is not imposed on similarly situated competitors.

115. The Minimum Fare Rule imposes a minimum restriction of fifty dollars (\$50.00) on limousine drivers, but does not impose this same restriction against taxis or luxury taxis.

116. Luxury taxis are similarly situated to limousines, and there is no rational basis to protect luxury taxi drivers from competition by limousine drivers.

117. Indeed, the prevention of competition and the refusal to allow certain similarly situated drivers the option of providing a lower price to consumers has substantially harmed the public and will continue to do so.

118. Although financial damages are not sought by this lawsuit, the Enabling Statute and the Minimum Fare Rule have caused financial harm to Plaintiffs Halsnik and Black Pearl by

preventing them from competing with luxury taxi companies for customers who wish to spend less than fifty dollars.

119. As a result, the Minimum Fare Rule is unconstitutional under the Basic Rights Clause located in Article I, Section 2 of the Florida Constitution and the Equal Protection Clause located therein.

120. Similarly, the Enabling Statute's authorization of the Minimum Fare Rule is unconstitutional under the Basic Rights Clause located in Article I, Section 2 of the Florida Constitution and the Equal Protection Clause located therein.

Remedies

121. As Plaintiffs believe the Minimum Fare Rule and Enabling Statute are unconstitutional, Plaintiffs seek declaratory relief to resolve the extent of their rights in Hillsborough County, Florida.

122. Plaintiffs have incurred costs related to this lawsuit and seek an award of reasonable costs pursuant to Florida Statutes Section 86.081, as it is equitable to do so.

123. Plaintiffs have an inadequate remedy at law for the substantial harm being caused by the Minimum Fare Rule and the Enabling Statute.

124. The Minimum Fare Rule and the Enabling Statute are causing, and will continue to cause unless struck down, irreparable harm to the Plaintiffs and to the Tampa public.

125. The public interest would be served by striking down the Minimum Fare Rule and the authorization of the Minimum Fare Rule by the Enabling Statute.

WHEREFORE Plaintiffs respectfully request relief as follows:

vi. a declaratory judgment that the Minimum Fare Rule violates Article I, Section 2 of the Florida Constitution;

- vii. a declaratory judgment that the Enabling Statute's authorization of the Minimum Fare Rule violates Article I, Section 2 of the Florida Constitution;
- viii. a permanent injunction against the PTC prohibiting the PTC from enforcing the Minimum Fare Rule or setting a minimum fare for limousine drivers;
- ix. an award of costs; and
- x. any further relief as this Court deems just and proper.

DATED this 20th day of August, 2013.

Respectfully submitted,

By: 

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***Application for Admission *Pro Hac Vice* filed
concurrently with this document**