

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOE SANFELIPPO CABS, INC.,
G.C.C., INC.,
ROY WMS, INC.,
FRENCHY'S CAB COMPANY, INC.,
2 SWEETS, LLC.,

Plaintiffs,

v.

Case No. 14-CV-1036

CITY OF MILWAUKEE,

Defendant.

COMPLAINT

NOW COMES Plaintiffs Joe Sanfelippo Cabs, Inc., et al., through their attorneys, for their complaint against Defendant, City of Milwaukee, and allege and show the Court the following:

I. INTRODUCTION

1. A recently enacted Milwaukee City public passenger ordinance creates an irrational, two-tiered regulatory system that unconstitutionally harms the economic property interests of taxicab permit holders. The ordinance, the second such change to taxicab regulations in a matter of months, allows “network” based service providers to operate in an essentially free market system with little or no oversight, while continuing to subject traditional taxicab drivers to antiquated, economically oppressive regulations. In particular, the Milwaukee ordinance allows “network” based drivers to use practically any vehicle and charge any fare while requiring taxicab drivers to use specific vehicles, charge City-set rates, and incur multiple City-mandated

expenses. Thus, for example, a network-based driver, using a tablet or cell phone app, may pick up a rider at a downtown Milwaukee hotel using a private vehicle and charge practically any price. If a taxicab driver, using a similar app, picks up that same customer, the taxicab driver must be in a City-approved vehicle, with specific colors, markings and inspection. The taxicab driver must charge the passenger no more than a City-approved rate (often significantly less than what network-based drivers charge), regardless of supply or demand for such rides. This irrational economic disparity violates the Equal Protection Clause of the 14th Amendment of the United States Constitution.

2. A connected, but separate and distinct harm arises because the new ordinance is unconstitutionally vague under the Due Process Clause of the 14th Amendment. By failing to lawfully distinguish between identical app-based activities of network providers and traditional taxicabs, the City's new ordinance improperly operates as a trap for the unwary and gives the City improper discretion in imposing substantial fines against taxicab owners.

3. Finally, also under the Due Process Clause, the new Ordinance impermissibly harms the taxicab property interests previously created by the City by eliminating entirely any cap on the number of taxicab permits and prohibiting the transfer of taxicab permits. Having previously limited the number of taxicab permits and required taxicab owners to go to a secondary market and spend thousands of dollars (sometimes tens or hundreds of thousands of dollars) to obtain a City permit, the City now has irrationally destroyed all value of those permits. This action was taken mere months after the Court upheld a 2013 Ordinance that said no further changes to the cap would be made without further study. The current Ordinance was enacted in arbitrary and capricious fashion, without further study, with specific intent to cause economic harm to current taxicab permit holders.

4. The Plaintiffs seek declaratory and injunctive relief and monetary damages.

II. PARTIES

5. Plaintiffs are as follows:

a) Joe Sanfelippo Cabs, Inc., 646 South 2nd St., Milwaukee, WI 53204.

Sanfelippo Cabs holds 115 taxicab permits issued by the City of Milwaukee.

b) G.C.C. Inc., 646 South 2nd St., Milwaukee, WI 53204. GCC holds 23 taxicab permits issued by the City of Milwaukee.

c) Roy Wms, Inc., 646 South 2nd St., Milwaukee, WI 53204. Roy Wms holds 11 taxicab permits issued by the City of Milwaukee.

d) Frenchy's Cab Company, Inc., 646 South 2nd St., Milwaukee, WI 53204. Frenchy's holds 10 taxicab permits issued by the City of Milwaukee.

e) 2 Sweets, LLC, 646 South 2nd St., Milwaukee, WI 53204. 2 Sweets holds 3 taxicab permits issued by the City of Milwaukee.

6. Combined, Plaintiffs currently hold 162 taxicab permits issued by the City of Milwaukee.

7. Each Plaintiff is a party directly and detrimentally impacted by the new Ordinance.

8. Defendant City of Milwaukee is a Wisconsin municipal corporation with its principal place of business located at City Hall, 200 East Wells Street, Room 706, Milwaukee, WI 53202. The City is the legal entity that is responsible for the implementation and enforcement of the ordinance at issue.

III. JURISDICTION AND VENUE

9. This action arises under the Fourteenth Amendment to the United States Constitution and Title 42, United States Code, § 1983. The Court has jurisdiction pursuant to Title 28, United States Code, §§ 1331 and 1343(a)(3) and (4). Pursuant to Title 28, United States Code, § 1391(b), venue is proper in the Eastern District of Wisconsin because it is the judicial district in which the Defendant City of Milwaukee is located (“resides”); and because it is the judicial district in which a substantial part, if not all, of the events and omissions giving rise to the claim occurred.

10. In addition, because this matter arises under 42 U.S.C. § 1983, the notice requirements of Wis. Stat. § 893.80 are not applicable. *See Thorp v. Town of Lebanon*, 235 Wis. 2d 610, 624-25, 612 N.W.2d 59, 68 (2000).

IV. FACTUAL ALLEGATIONS

A. THE CITY'S CREATION OF A TAXICAB PERMIT CAP AND THE PROPERTY INTERESTS OBTAINED THEREIN BY PLAINTIFFS.

11. Pursuant to Wisconsin statutes, the City has the authority to regulate the operation of taxicabs within City limits. Section 349.24(1)(c), Wis. Stats., provides as follows:

(1) The council of any city and every village or town board may:

...

(c) Prohibit any person from operating any motor vehicle for taxicab purposes upon the highways of the city, village or town unless the person is licensed as a chauffeur and operator and unless the taxicab business is licensed by the licensing of each taxicab. . . .

12. Section 100-50(1)(b) of The City of Milwaukee Public Passenger Vehicle Regulations (the "Taxicab Regulations") provides as follows:

No person shall operate a public passenger vehicle for hire upon the streets of the city without the vehicle owner or lessee first obtaining for the vehicle a permit. . . .

13. Prior to January 1, 1992, section 100-5 of the Taxicab Regulations provided as follows:

Any change in the number of permits granted to operate public passenger vehicles shall require a common council finding that the public welfare, safety, convenience and necessity require the operation of a different number of vehicles.

14. In 1990, several taxicab permit holders retained the law firm of Adelman, Adelman & Murray, S.C. to lobby for changes to the Taxicab Regulations to place a cap on the number of taxicab permits to be issued and to allow for the transferability of taxicab permits. On August 1, 1990 Attorney Jeffrey S. Hynes of that law firm sent a letter to Alderman Michael J. Murphy advocating for those changes and stating that such changes would be beneficial to the City and taxicab permit holders in a number of ways, including the following:

The advantages may be summarized as follows:

. . .

3. The proposed program would completely eliminate the antagonistic, chaotic and time consuming debate which occurs each October as cab drivers make a frenzied scramble for any available permits. . . .

. . .

6. Since the [] system allows drivers to freely transfer their businesses to qualified purchasers, it provides an incentive for each driver to provide effective and high quality service in an effort to develop a reputation and loyal customer base which may later be sold for value.

7. The [] approach also serves [the] goal of administrative policy consistency. In particular, the Department currently permits licenses for other businesses, such as taverns, to be readily transferred under certain administrative requirements. The

issuance of cab permits would thus not stand out as an exception to an otherwise consistent and cost effective approach for the transfer of rights to operate local businesses.

8. The [] approach would . . . allow drivers who are financially responsible and motivated to obtain cab permits in an open market system. . . .

15. The City ultimately agreed with the position advocated by the law firm of Adelman, Adelman & Murray. Effective January 1, 1992, the City repealed section 100-5 of the Taxicab Regulations and created a new section 100-50(3)(a) to provide that no new taxicab permits may be issued by the City, thereby creating a cap on the number of taxicab permits in existence, and to provide for the transferability of taxicab permits. The cap was effectively set at 354 taxicab permits, as that was the number of taxicab permits then in existence, although the cap could decrease in number if permit holders failed to renew their permits. Effective January 1, 1992, section 100-50(3)(a) of the Taxicab Regulations was created to provide as follows:

(a) Effective January 1, 1992, no new public passenger vehicle permits for taxicabs may be issued, except under either of the following conditions:

(a-1) When a permittee applies to change his or her form of business such as by incorporating or forming a partnership.

(a-2) When a permittee applies to transfer a permit to another person.

16. As a result of this change to the Taxicab Regulations, if a person wanted to obtain a taxicab permit after January 1, 1992, he or she had to purchase one from an existing taxicab permit holder. As then Alderman Tom Nardelli explained at the time the new legislation was created:

What we are doing is we are freezing applications at the current level. So, whatever the current level is is the current level, and there will be no more than that. There could be less, I suppose, if somebody decided they didn't want to sell their business and just

get out of it. That's their business, I suppose. But it affords everyone who now currently holds a permit to be able to negotiate that as a business arrangement with somebody who's interested in securing it. . . . Right now as to the passage of this, if it were to pass, there would be no new taxicab permits issued by the City. Anybody who wanted one would have to seek that from another owner.

See Transcript of City of Milwaukee Utilities & Licensing Committee Meeting, Dec. 9, 1991, at 13-15. Alderman Nardelli further explained at the time the new legislation was created that it "requires somebody that wants to buy a taxicab business to go to somebody who currently owns a permit; no different than what people do today in wanting to buy a tavern." *See Transcript of City of Milwaukee Common Council Meeting, Dec. 20, 1991, at 20.*

17. The City was not alone in creating a cap on the number of taxicab permits it would issue. A large number of cities throughout the country, both big and small, have done the same thing. Examples include the following:

<u>CITY</u>	<u>PERMIT CAP</u>
New York City	13,237
Atlanta (Ga.)	1,600
San Francisco (Cal.)	1,500
Baltimore (Md.)	1,151
Seattle (Wash.)	850
Nashville (Tenn.)	705
Cleveland (Ohio)	700
Kansas City (Mo.)	500
Columbus (Ohio)	433
Portland (Or.)	382
Toledo (Ohio)	300
Burbank (Cal.)	130
Cedar Grove (N.J.)	15

18. Various legitimate reasons have been put forth for enacting taxicab permit caps, including the following:

a. Capping the number of taxicab permits gives the permit holders an asset to sell so as to provide them with retirement funds.

b. Capping the number of taxicab permits encourages permit holders to invest in their vehicles so as to keep them in good condition, because if their permit is revoked for failing to do so, a valuable asset is lost.

c. Capping the number of taxicab permits reduces traffic congestion, minimizes the practice of only accepting longer rides and refusing shorter rides, and prevents long taxi lines at upscale hotels.

d. Capping the number of taxicab permits allows taxicab operators to earn a decent living and thus ensures that the City will have an adequate supply of taxicabs for its residents and visitors.

19. By creating new legislation in 1991 precluding the issuance of any additional taxicab permits, effective January 1, 1992, the City created a property interest in the existing permits. As then Alderman John Kalwitz stated at the time the new legislation was created:

[W]hat we're doing, essentially, is taking a public license that you pay a nominal fee for and creating a property interest in that license. . . . [W]e are, in fact, creating a property right in a public license. . . .

See Transcript of City of Milwaukee Common Council Meeting, Dec. 20, 1991, at 24-25.

20. Collectively, the plaintiffs own 162 taxicab permits. Of those taxicab permits, six were obtained directly from the City, and the remaining 156 were obtained by purchasing them in the free market from other taxicab permit holders, some for as much as \$142,857.14 each, just as the City said had to be done. At \$100,000 to \$150,000 per taxicab permit, the value of the plaintiffs' 162 taxicab permits, prior to February 1, 2014, was approximately \$16 to \$24 million. The City's intentional manipulation of the permit prices was acknowledged by Alderman Ashanti Hamilton to the *Shepherd Express*, as reported in an article published in the July 10-16, 2014 edition of that newspaper, "We kind of created that value by

artificially limiting the number of permits."

21. The plaintiffs have a property interest in their taxicab permits, as Alderman Kalwitz acknowledged in 1991 when he stated that, by enacting the taxicab permit cap, the City was "creating a property interest in that license." More recently, on June 17, 2013, Grant F. Langley, the City Attorney for the City of Milwaukee, reaffirmed that a holder of a taxicab permit has a property right in the permit, including its transferability, stating:

A taxicab license is a protectable property interest. . . .

. . .

Currently, there are 320 taxicab permits in the City of Milwaukee. . . . [B]oth the United States and Wisconsin Constitutions protect the property interests of persons who have received and relied upon a license to operate a regulated business. . . .

Current taxicab permittees in the City have a property right in their license. . . .

Current taxicab permittees enjoy the economic benefit of a downward floating cap in the number of permits on the market due to their ability to transfer these permits on the secondary market without City oversight or involvement (but for administrative paperwork) and the ability to lease these permits to licensed drivers. . . .

It may be reasonably argued by permittees that they have a property right not only in their permit but also in a right to transfer or lease that permit. . . .

See Letter to City of Milwaukee Common Council from Grant F. Langley and Adam B. Stephens, June 17, 2013, at 5-6.

22. More recently, on March 12, 2014, the Honorable Charles N. Clevert, Jr. held, in the context of a hearing in *Badwan v. City of Milwaukee*, Case No. 14-CV-179 (E.D. Wis.), that the plaintiffs have a property interest in their taxicab permits:

The court does hasten to add, so that it is reasonably clear, that its finding that the plaintiffs have a property interest in their taxi licenses is limited to concluding that the city's treatment of the permits and the permittees' expectations when acquiring and/or holding the taxi operating permits created an expectation that is protectable.

It also -- in making this finding the Court is also simply finding that the plaintiffs are entitled to assert a substantive due process claim respecting the treatment of their permits by the City of Milwaukee.

See Transcript of Decision in Badwan, March 12, 2014, at 7-8.

B. MILWAUKEE COUNTY LITIGATION.

23. On September 27, 2011 Ghaleb Ibrahim, Jatinder Cheema and Amitpal Singh filed a lawsuit against the City in Milwaukee County Circuit Court, State of Wisconsin, Case No. 11-CV-15178, seeking an order declaring that the taxicab permit cap set forth in section 100-50(3)(a) of the Taxicab Regulations violates their guarantees of equal protection and due process under the Wisconsin Constitution.

24. On June 18, 2013 the Milwaukee County Circuit Court entered a Final Judgment Order declaring that the taxicab permit cap is unconstitutional and enjoining the City from enforcing section 100-50(3)(a) of the Taxicab Regulations. The Final Judgment Order provided, however, that "the execution and enforcement of this judgment is stayed pending appeal."

25. On July 31, 2013 the City appealed the Final Judgment Order, and the appeal was subsequently fully briefed by the parties and numerous amicus curiae parties. In its principal brief on appeal, the City argued that it "lawfully capped the number of taxicab permits issued by it when it forbade the issuance of new permits after January 1, 1992 and allowed the sale of the existing permits on a secondary market subject to subsequent municipal approval," and requested that the Final Judgment Order entered on June 18, 2013 be reversed. *See City's*

C. 2013 AMENDED ORDINANCE.

26. In December 2013, while the *Ibrahim* appeal was pending, the City amended section 100-50 of the Taxicab Regulations, effective February 1, 2014, to provide that it will issue up to 100 additional taxicab permits. Section 100-50(4)(a-3) of the Taxicab Regulations, provides as follows:

Not more than 100 new taxicab permits shall be issued prior to November 1, 2014. . . . The total number of permitted taxicab vehicles shall not exceed 420. Additional taxicab permits shall only be issued on and after November 1, 2014, if the total number of permitted vehicles is less than the number of vehicles permitted on January 1, 2014, plus 100. The total number of taxicab vehicle permits authorized for issuance shall be reviewed annually by the licensing committee.

27. Section 100-50(11)(i) of the Taxicab Regulations provided that any further increase in the number of taxicab permits issued beyond the 100 shall be based on an annual review of need:

(i) The legislative reference bureau shall provide a report to the common council annually on or before July 1 which addresses issues relating to the issuance of public passenger vehicle permits including:

(i-1) The numbers of public passenger permit applications made and numbers of permits issued for all classes of public passenger vehicles.

(i-2) The numbers of public passenger permits issued for taxicabs and information on any factors that present a risk that the total number of permitted taxicabs may not be sufficient to meet the needs of the public.

...

(i-5) Review of the experience of comparable municipalities related to availability, accessibility, efficiency and safety of public passenger vehicles and emerging best practices in regulation and operation. . . .

28. On February 19, 2014, a group of 25 taxicab permit holders, which included the plaintiffs in this action, brought suit in this Court challenging the increase in taxicab permits. See *Badwan v. City of Milwaukee*, Case No. 14-CV-179 (E.D. Wis.). In connection with the City's defense of that action, Adam B. Stephens, Assistant City Attorney for the City, represented to the Court that the issuance of any additional taxicab permits beyond the 100 would be based on accumulated data indicating a need:

So I think, moving forward, any movement in how many permits should or should not be issued going forward would necessarily be tied to some kind of data saying there was a need for it or a lack of need for it.

See Transcript of Hearing in Badwan, March 11, 2014, at 108.

29. On February 4, 2014, three days after the new ordinance went into effect, the City dismissed its appeal in the *Ibrahim* case.

30. On March 12, 2014 this Court denied the plaintiff's motion for a preliminary injunction in the *Badwan* action, thereby enabling the 100 new taxicab permits to be issued. This Court also denied the City's motion to dismiss, ruling that "the plaintiffs are entitled to assert a substantive due process claim respecting the treatment of their permits by the City." See *Transcript of Decision in Badwan*, March 12, 2014, at 8. Thereafter, on April 7, 2014 the parties in the *Badwan* action jointly agreed to dismiss the action, without prejudice.

D. 2014 AMENDED ORDINANCE.

31. On February 19, 2014 the City of Milwaukee Public Works Committee held a meeting at which it decided to conduct "an investigation of the operation of taxicabs in the City by Uber." Uber is a Smartphone app-based system whereby a passenger electronically requests a ride from Point A to Point B, is given a price for that ride, accepts the price, and pays the price by credit card or PayPal prior to arrival of the Uber vehicle. As Assistant City Attorney

Adam B. Stephens told the Committee at that meeting, "it appears that [Uber] would fall under our taxicab definition" and, because Uber is being operated by drivers who are not licensed by the City and are operating vehicles without taxicab permits, its operation is illegal. *See Transcript of City of Milwaukee Public Works Committee Meeting*, Feb. 19, 2014, at 10. Uber is currently operating without a City-conducted background check on its drivers, without the Uber vehicles being inspected by the City, without proof of liability insurance, and without regulation as to the fare charged for the ride, as required of all taxicab drivers operating in the City.

32. As Chairman Robert J. Bauman stated at that meeting, requiring Uber to comply with the Taxicab Regulations is not only necessary to protect the health, safety and welfare of the public, but ensures the "same level playing field" for all taxicab operators, regardless of whether the rides are being generated by telephone, hailing a taxicab on the street, or use of an internet app-based system. *See Transcript of City of Milwaukee Public Works Committee Meeting*, Feb. 19, 2014, at 6. In Chairman Bauman's words:

[A]ll that competition should be on the same playing field, the same level playing field.

If we allow an unregulated operator to go into business, it's unfair to the other taxi drivers across the city who have, who do comply with our regulations. . . .

Id. at 6-7.

33. The City of Milwaukee Public Works Committee referred the matter for further investigation to the City of Milwaukee Public Transportation Review Board. On May 9, 2014 -- now freed of the *Badwan* lawsuit -- the City of Milwaukee Public Transportation Review Board did an about-face and not only discussed regulating "a new class of public passenger operation enabled by internet and telephone networks," but also discussed eliminating the taxicab permit cap altogether. At the meeting, members of the Committee and others discussed the

historical purpose of the taxicab permit cap. Assistant City Attorney Adam B. Stephens stated as follows on that subject:

[H]istorically the, the basis for having taxicab ca[p]s was exactly that, to protect the industry from collapse, meaning there was historically, and we are going back many, many decades, a thought that if there was insufficient business, that the entire industry would just collapse and then you wouldn't have any taxicabs.

So that there was at least an argument or a philosophy that the cap was necessary to keep enough demand and enough money to be made so that the industry would continue. . . .

So one example is the other basis for having the cap was because we set maximum rates. So in a sense, it was a trade-off. If the municipality or the regulator was going to max, was, was going to set a ceiling at how much money a company could make, the trade-off, if you will, would be to limit the amount of competition that the company had to fight for those fares.

See Transcript of City of Milwaukee Public Transportation Review Board Meeting, May 9, 2014, at 34-35.

34. Michael Murphy, the President of the City of Milwaukee Common Council, stated at that meeting that he disagreed with the taxicab permit cap from its inception:

Historically, I have not supported a cap, though. Back when this legislation was originally drafted in the nineties, early nineties, I, I didn't support it. I, I don't think it should be government's place to create monopolies. . . .

. . .

So I do believe there's certainly a role in licensing, but we should not create a system in place which basically created a monopoly and allowed for basically a few individuals to become fairly wealthy at the expense of many others. . . .

See Transcript of City of Milwaukee Public Transportation Review Board Meeting, May 9, 2014, at 39-40.

35. Chairman Bauman freely acknowledged at that meeting that eliminating

the taxicab permit cap altogether will completely destroy the value of the existing permits:

[I]f one can just get a permit by coming down to city hall without any limitation on the number of permits, there essentially would be no market for the sale or assignment of permits, I would assume. Who in their right mind would buy a permit if they can come down to city hall and just pay the standard fee, right?

See Transcript of City of Milwaukee Public Transportation Review Board Meeting, May 9, 2014, at 13.

36. President Murphy concluded his comments at the meeting by stating that, if the City's Ordinances are to be amended, the new legislation must create an "even playing field" for all taxicab operators, whether traditional or app-based, thereby mimicking the earlier comments of Chairman Bauman:

It's a matter of having an even playing field for all the licensees in our city who are using public passenger transportation.

See Transcript of City of Milwaukee Public Transportation Review Board Meeting, May 9, 2014, at 44.

37. On June 13, 2014, the City of Milwaukee Public Transportation Review Board held another meeting at which it discussed amending the Taxicab Regulations. At the meeting, Chairman Bauman, the Principal Sponsor of the new legislation, explained the impetus for the amendment:

That new ordinance was in fact passed back in November, I believe, of 2013.

...

And that ordinance basically created for an increase in the cap of 100 and some other modifications and reforms. And then as time went on, some new technology entered the field primarily in the form of Smartphone-aided contract carriers, Uber, Lyft, some other companies that exist performing this kind of service. And in light of their entrance into the market and the fact that, you know,

at least from the perspective of the City of Milwaukee and the City of Milwaukee attorney's, city attorney's office, it was our conclusion that they are indeed operating a taxi service and, therefore, are subject to our taxicab ordinance.

But understanding the merits of new technology and the benefits of competition . . . we figured, well, let's take a shot at, at revising our ordinance once again to this time basically eliminate the cap entirely, let the market determine the number of taxis that would be operating on the streets of Milwaukee and modify some of our definitions and some of our practices to in fact permit the operation of the Smartphone-assisted contract carriers where basically arrangements are made for a cab ride via the Internet in advance, agreement as to price or at least price range, agreement as to destination, agreement as to who's going to pick you up and agreement as to who the customer is going to be, basically all agreed to in advance, which if somebody wants to pay three, three or four times the amount a standard taxi charges, that's their choice, as long as they know ahead of time.

See Transcript of City of Milwaukee Public Transportation Review Board Meeting, June 13, 2014, at 3-4. At the conclusion of the meeting, the Committee decided to recommend the proposed new legislation to the City of Milwaukee Public Works Committee.

38. On June 18, 2014 the City of Milwaukee Public Works Committee held a meeting at which it considered the recommendation of the City of Milwaukee Public Transportation Review Board to enact the proposed new legislation. At the conclusion of the meeting, the Committee recommended its passage to the City of Milwaukee Common Council.

39. On June 24, 2014 the City of Milwaukee Common Council held a meeting at which it considered the proposed new legislation. During that meeting, Alderman Bauman told the Common Council that, contrary to what the City represented to this Court in the *Badwan* action, the amended ordinance which became effective February 1, 2014 was actually an "interim measure to sort of modulate the, the increase, in taxicabs:"

[I]n November of 2013, we do pass a, a new law that basically provides for a, a, that we would increase the cap on taxicabs by

100 through a lottery system. We did it as, as an interim measure to sort of modulate the, the increase in, in taxicabs, with I think the ultimate intent of everyone is that eventually we would go to having no cap whatsoever. . . .

See Transcript of City of Milwaukee Common Council Meeting, June 24, 2014, at 5.

40. Alderman Bauman also told the Common Council at that meeting that it is essential that taxicab operators and app-based vehicle operators be subject to the same standards and regulations, or else the City will face serious legal problems:

If you have one set of drivers that aren't require to comply with the same standards as traditional taxi drivers, the traditional taxi industry is going to have one more argument if and when they sue us, which is highly likely that we are going to be involved in litigation, that somehow they're being treated unfairly and in fact in a punitive way while we're clearing the decks and easing the provision for these other drivers to get into the business. . . .

See Transcript of City of Milwaukee Common Council Meeting, June 24, 2014, at 10-11.

41. Alderman Bauman went on to state at that meeting that treating taxicab operators and app-based vehicle operators differently "creates a double standard and uneven playing field and raises serious equal protection issues in any litigation that may come down the road. So we need a level playing field." *See Transcript of City of Milwaukee Common Council Meeting, June 24, 2014, at 16.* At the conclusion of the meeting, the Common Council decided to study the matter further before voting on it.

42. On July 22, 2014 the City of Milwaukee Common Council met again to consider the proposed new legislation. At the conclusion of the meeting, the Common Council voted to enact the proposed new legislation, effective September 1, 2014. The new legislation not only authorizes the issuance of unlimited taxicab permits in the City, but prohibits taxicab permit holders from transferring their permits to others. Following the Common Council meeting, Alderman Bauman accurately described the new ordinance as a "revolutionary change."

See Transcript of Interview of Alderman Bauman by Dustin Weis, July 22, 2014, at 6.

43. Alderman Bauman has repeatedly stated that the intent of the new legislation is to create a level playing field between taxicab operators and app-based vehicle operators:

a. On February 19, 2014 he told the City of Milwaukee Public Works Committee that "all that competition should be on the same playing field, the same level field." *See Transcript of City of Milwaukee Public Works Committee Meeting, Feb. 19, 2014, at 6.*

b. On June 24, 2014 he told the City of Milwaukee Common Council that "we've got to have an equal playing field, just [on] equal protection grounds," "we need a level playing field" and, if the new legislation creates a "two-tiered system . . . that's the unequal playing field, the equal protection concern that will raise serious legal challenges down the road when, when and if we do get sued by the incumbent taxicab companies." *See Transcript of City of Milwaukee Common Council Meeting, June 24, 2014, at 10, 16, 55.*

c. He stated in an interview on July 22, 2014, immediately following the meeting of the City of Milwaukee Common Council during which the new legislation was enacted, that "[w]e wanted a level playing field. Everyone who wants to engage in the business of transporting the public for hire plays by the same minimal rules. . . ." *See Transcript of Interview of Alderman Bauman by Dustin Weis, July 22, 2014, at 14.*

d. He cited in an interview with the *Shepherd Express*, reported in the July 10-16, 2014 edition of that newspaper, that the amended ordinance "would level the playing field so that taxicab drivers and those working for ridesharing services would be treated the same. . . ."

44. In actuality, the new legislation falls far short of creating an equal playing field between taxicab operators and app-based vehicle operators. The amended ordinance creates a two-tiered regulatory scheme with different rules and requirements for taxicab operators and app-based vehicle operators (classified as "Network Vehicles" in the new

legislation). The different rules and requirements between the two categories of operators are very material, as this chart indicates:

<u>REGULATION</u>	<u>TAXICAB</u>	<u>NETWORK VEHICLE</u>
Ride Fare	Regulated by Ordinance	Not Regulated
Vehicle Age	No Older than 10 Years	Not Regulated
Vehicle Interior	Must have 32" Leg Room in Backseat	Not Regulated
Vehicle Color	Color Assigned by City	Not Regulated
Vehicle Markings	Word "Milwaukee" and Permit Number Must be Posted on Both Sides of Vehicle	None Required
Complaint Placard	Must be Posted in Backseat	Not Required
Vehicle Interior	Dome Light Required	Not Required
Vehicle Owner	Permit Holder Must Own, Cannot Lease, Vehicle	Permit Holder May Own or Lease Vehicle
Passengers	Cannot Refuse Service to Orderly Passenger	Can Refuse Service to Anyone
Timeliness	Must Respond to Ride Request within 30 Minutes	No Such Requirement
Multiple Passengers	Multiple Passengers Prohibited Unless Agreed to by First Passenger	No Such Restriction

45. As the above chart makes clear, app-based vehicle operators are not required to spend any money painting their vehicles a certain color or placing markings on their vehicles; can refuse any passenger they wish, for any reason whatsoever; can drive any vehicle they want, regardless of age or passenger compartment leg room; and can charge whatever ride fare they wish. Conversely, taxicab operators are strictly governed by City regulations in all of those areas. As Chairman Bauman stated at the Public Transportation Review Board meeting on June 13, 2014, if a passenger of an app-based vehicle "wants to pay three, three or four times the amount a standard taxi charges, that's their choice." *See Transcript of City of Milwaukee Public Transportation Review Board Meeting*, June 13, 2014, at 4. Taxicab operators, however, do not have the same opportunity to financially prosper, as they are prohibited from charging more than the regulated ride fare schedule. No explanation has ever been presented, nor is there any proper justification, for this disparity.

46. Persons violating the Taxicab Ordinances are subject to substantial fines and potential imprisonment. Under the new legislation, if taxicab operators violate the Taxicab Ordinances, they shall be fined between \$50 and \$750 and, if the fine is not timely paid, may be imprisoned. *See* § 100-62(1) of the Taxicab Ordinances.

47. Thus, if a taxicab operator decides to charge a passenger a ride fare comparable with that being charged by an app-based vehicle operator, so as to place themselves on equal playing fields, and gets caught, the taxicab operator will be fined and/or imprisoned. This irrational economic disparity between similarly situated operators for hire violates the Due Process and Equal Protection clauses of the 14th Amendment of the United States Constitution.

48. Most taxicab operators in the City contract for dispatch services through American United Taxicab Company, Inc. or Yellow Cab Cooperative. Those dispatch services receive requests for rides from two sources: telephone calls, or app-based systems similar to those utilized by Uber and Lyft. The new legislation does not properly specify whether taxicab operators providing passenger rides pursuant to app-based system requests through their dispatch services are governed by regulations regulating taxicab operators, or regulations regulating Network Vehicle operators. As such, the Plaintiffs, as well as all other taxicab operators, are left to the City's unfettered discretion to determine which portions of the Ordinance apply. For those rides generated by app-based systems, are the taxicab operators required to charge the regulated ride fare as required of taxicab operators, or can they charge whatever ride fare they wish as permitted by Network Vehicle operators? The new legislation does not answer that question, and thus creates confusion and uncertainty, thereby allowing the City to discriminatorily enforce the new legislation whenever it chooses.

49. In discussing the new legislation following its enactment, Alderman

Bauman acknowledged that if it creates an unequal playing field between taxicab operators and app-based vehicle operators, it violates equal protection:

I might add, that was another concern with some of these demands that Uber and Lyft were making, and they were demands. They, they've been actually very arrogant and very heavy in the way they began dealing with us at the end of the game. Again, very disappointing.

But had we adopted some of their suggestions, we would have actually exposed ourselves to the existing cab companies on equal protection grounds. They could have very likely succeeded in a lawsuit arguing that we were giving some sort of preferential treatment to one set of participants in the market which we were not providing to the other set of participants in the market.

See Transcript of Interview of Alderman Bauman by Dustin Weis, July 22, 2014, at 13-14. In an interview with the *Shepherd Express*, reported in its July 10-16, 2014 edition, Alderman Bauman further "predicted that the owners would file a lawsuit," but stated that "they don't have much of a case if the city treats taxicab drivers and ridesharing drivers the same." The new legislation, however, falls far short of doing that.

50. The City has never conducted an annual review of the need for additional taxicabs, as the 2013 changes to the Taxicab Regulations required. Instead, a mere few months after those changes took effect on February 1, 2014, the City eliminated the taxicab permit cap altogether. Worse yet, it established a two-tier regulatory scheme which makes things easy and inexpensive for app-based vehicle operators, while making things difficult and expensive for taxicab operators. The effect of the new legislation is to do precisely what the City said it needed to avoid -- it creates a decidedly unequal playing field between taxicab operators and app-based vehicle operators.

51. As Assistant City Attorney Adam B. Stephens told the City of Milwaukee Public Transportation Review Board on May 9, 2014, a *quid pro quo* of having a taxicab permit

cap was that the taxicab operators would be regulated by a ride fare schedule established by the City. As Mr. Stephens stated, that was a "trade-off" -- the taxicab permit holders were given a cap on the number of taxicabs permitted on the streets, but in consideration thereof were required to charge passengers pursuant to a set ride fare schedule established by the City. *See Transcript of City of Milwaukee Public Transportation Review Board Meeting, May 9, 2014, at 35.* The City has now eliminated the cap, but retained the ride fare schedule, but only for taxicab operators. App-based vehicle operators can charge their passengers whatever they want. As a result, the *quid pro quo* for the regulated ride fare schedule no longer exists, but the ride fare schedule nonetheless remains in effect for taxicab operators.

52. Assistant City Attorney Adam B. Stephens further argued to this Court in *Badwan* that the 2013 new legislation, which authorized issuance of an additional 100 taxicab permits, did not violate the permit holders' constitutional property rights because it did not impact their ability to transfer their taxicab permits. As Mr. Stephens argued:

The plaintiffs have a property right in their permit. The city is not changing that which they understood their permits to mean -- meaning they could lease their permits to other people, they could transfer them.

See Transcript of Hearing in Badwan, March 11, 2014, at 88. Under the new legislation, effective September 1, 2014, however, that is no longer the case. As the new legislation states, it also "eliminates provisions related specifically to the transfer of taxicab vehicle permits."

53. Elimination of the taxicab permit cap, coupled with prohibition against transferring such permits, has completely destroyed the value of taxicab permits, making their value plummet from approximately \$150,000 to zero. As Alderman Bauman so accurately told the City of Milwaukee Public Transportation Review Board on May 9, 2014, "Who in their right mind would buy a permit if they can come down to city hall and just pay the standard fee, right?"

See Transcript of City of Milwaukee Public Transportation Review Board Meeting, May 9, 2014, at 13.

54. Taxicab permit holders seek to engage in the identical conduct as network-based providers, but fear financial penalties (and jail) if they do so.

55. The Milwaukee Ordinance at issue improperly delegates to City officials the discretion to determine which identical app-based conduct is taxicab-based and which is network-based. Such unfettered discretion violates the Due Process clause.

COUNT ONE: DECLARATORY JUDGMENT

56. The allegations set forth above are re-alleged and incorporated herein.

57. Milwaukee City Ordinance Chapter 100, both in whole and in part, including as referenced and excerpted above, is unconstitutional in that the Ordinance violates the Due Process and Equal Protection clauses of the Fourteenth Amendment of the United States Constitution.

58. Milwaukee City Ordinance Chapter 100, in whole and in part, including as referenced and excerpted above, is invalid, null and void to the extent the Ordinance infringes the constitutional rights of the Plaintiffs.

59. The rights, duties, and legal privileges of the Plaintiffs are affected, impaired, and threatened because Milwaukee City Ordinance Chapter 100 has become effective.

60. Plaintiffs are entitled to a declaratory judgment to determine the validity of Milwaukee City Ordinance Chapter 100 and specifically to obtain a declaration that Milwaukee City Ordinance Chapter 100, in whole and in part, is invalid.

61. There exists a substantial, present, and justiciable controversy between the Plaintiffs and the Defendant with respect to the validity of the excerpted portions of Milwaukee City Ordinance Chapter 100.

COUNT TWO: INJUNCTIVE RELIEF

62. The allegations set forth above are re-alleged and incorporated herein.

63. Because Milwaukee City Ordinance Chapter 100 is invalid, the City must be permanently enjoined from enforcing Chapter 100, in whole and in part, including those portions specifically referenced above.

COUNT THREE: MONETARY DAMAGES

64. The allegations set forth above are re-alleged and incorporated herein.

65. In the absence of appropriate and timely injunctive relief, Plaintiffs are entitled to compensatory and special damages in an amount which will fairly and reasonably compensate them for the harm caused by the Defendant, in an amount to be determined at a trial of this matter.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in favor of Plaintiffs as follows:

A. Declare the Milwaukee City Ordinance Chapter 100, in whole and in part, unconstitutional in violation of the Due Process and Equal Protection clauses of the Fourteenth Amendment of the United States Constitution;

B. Issue a temporary injunction enjoining the City of Milwaukee from enforcing Milwaukee City Ordinance Chapter 100, either in whole or in part;

C. Issue a permanent injunction enjoining the City of Milwaukee from enforcing Milwaukee City Ordinance Chapter 100, either in whole or in part;

D. Grant Plaintiffs compensatory and special damages in an amount which will fairly and reasonably compensate them for the harm caused by the Defendant, in an amount to be determined at a trial of this matter.

E. Provide Plaintiffs an award of attorneys' fees and costs pursuant to applicable law for successfully obtaining the relief requested herein;

F. Grant Plaintiffs any and all such other legal and equitable relief as the Court deems just and appropriate.

A jury trial is demanded.

Dated this 25th day of August, 2014.

Respectfully submitted,
s/Steven M. Biskupic
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Attorneys for the Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Place an "X" in the appropriate box (required): Green Bay Division Milwaukee Division

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLICING

JUDGE

APPLICING

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.