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20 SUPERIOR COURT OF THE STATE OF CALIFORNIA
21 COUNTY OF SAN DIEGO, HALL OF JUSTICE

| | | | |
|----|--|---|--------------------------------------|
| 22 | SAN DIEGO TRANSPORTATION |) | GENERAL CIVIL (CEQA) |
| 23 | ASSOCIATION, a California corporation; |) | CASE NO.: 37-2015-00008725-CU-TT-CTL |
| 24 | JOE CIPRIAN, an individual; |) | |
| 25 | JANAN INSURANCE AND FINANCIAL |) | |
| 26 | SERVICES, INC., a California Corporation d/b/a |) | PROSPECTIVE INTERVENORS' |
| 27 | Jaden Express; |) | NOTICE OF MOTION TO INTERVENE |
| 28 | CURTIS BECKER, an individual d/b/a Curtis Cab; |) | AND MEMORANDUM IN SUPPORT; |
| | RONALD HAWKINS, an individual d/b/a Andy's |) | [PROPOSED] ORDER |
| | Cab; |) | Code Civ. Proc. § 387 |
| | SAVATAR SAHOU, an individual; |) | |
| | USA CAB, LTD., a California Corporation, |) | |
| | Petitioners, |) | |
| | vs. |) | |

1 SAN DIEGO METROPOLITAN TRANSIT)
2 SYSTEM, f/k/a San Diego Metropolitan Transit)
3 Development Board, a California public agency;)
4 and DOES 1-100 inclusive,)

5 Respondent,)

6 ABDIKADIR ABDISALAN, an individual; and)
7 ABDULLAHI HASSAN, an individual,)
8 Prospective Intervenors.)

Judge: Hon. Ronald S. Prager
Dept: C-71
Petition Filed: March 13, 2015
Hearing Date: April 28, 2015
Hearing Time: 9:00 a.m.

9 **NOTICE OF MOTION TO INTERVENE**

10 PLEASE TAKE NOTICE that on April 28, 2015 at 9:00 a.m. or as soon thereafter as the
11 matter may be heard, in Department 71 of the Superior Court of the State of California, County of San
12 Diego, Central Division, located at 330 W. Broadway, San Diego, CA 92101, Prospective Intervenors
13 Abdikadir Abdisalan and Abdullahi Hassan will move to intervene in this action under Code of Civil
14 Procedure (“Code Civ. Proc.”) § 387 and seek leave to file their proposed complaint in intervention.
15 The hearing on the motion was set by Judge Ronald S. Prager at the April 14, 2015 hearing on
16 Prospective Intervenors’ ex parte application for leave to intervene. Petitioners and Respondents both
17 appeared at that hearing and waived 16-day notice.

18 Prospective Intervenors are entitled to intervene as of right under Code Civ. Proc. § 387(b)
19 because, as taxicab operators in San Diego, they have a real, immediate, and concrete interest in the
20 taxicab operator permits that are the subject of this litigation; because deciding this action without
21 Prospective Intervenors’ participation would impair their ability to protect their interest in acquiring
22 taxi permits; because the existing parties will not adequately represent that interest; and, because the
23 request to intervene is timely. Alternatively, Prospective Intervenors ask the Court to grant them
24 permissive intervention under Code Civ. Proc. § 387(a), which is liberally construed in favor of
25 intervention, because they have a direct and immediate interest in the action; because their intervention
26 will not enlarge the legal issues; because their reasons for seeking intervention outweigh Petitioners’
27 opposition; and because Prospective Intervenors have followed the proper procedures.
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1 This motion is based on the following memorandum of points and authorities in support of the
2 motion, the supporting declarations, the proposed complaint in intervention, all papers and records
3 filed in this case, and the arguments presented at the hearing.
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5 Dated: April 17, 2015

Respectfully submitted,

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9 Wesley Hottot
10 Attorney for Prospective Intervenors*

11 * Admitted *pro hac vice*
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1 MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

2 INTRODUCTION

3 Prospective Intervenors have a right to intervene in this case to protect their interests. If the
4 Court disagrees, it should nevertheless exercise its discretion to grant them permissive intervention.
5 Indeed, in the days since the hearing on Prospective Intervenors’ ex parte application, another federal
6 court has recognized the right of taxi drivers to intervene in litigation brought by current taxi permit
7 owners seeking to halt the issuance of new taxi permits. (See *Joe Sanfelippo Cabs, Inc. v. City of*
8 *Milwaukee* (E.D. Wis. ordered Apr. 15, 2015) No. 14-CV-1036, at p. 2.)¹ That is the situation in this
9 case, and the Prospective Intervenors should be allowed to participate for the same basic reasons.

10 Prospective Intervenors have a pressing stake in the outcome of this case. They are qualified to
11 own taxi permits under the City’s new permitting policy, they have priority over other permit applicants
12 by virtue of having submitted Permit Applicant Interest Forms, and they have taken numerous concrete
13 steps toward starting their own cab businesses. If Petitioners are successful, however, the Metropolitan
14 Transit System (“MTS”) will be enjoined from carrying out the City’s new permitting policy, and there
15 will be no new permits. The Prospective Intervenors’ hopes of owning permits will be dashed; they will
16 instead continue leasing permits from the current owners at great expense and on unfavorable terms.
17 The current parties will not be prejudiced in any way by Prospective Intervenors’ participation. This
18 motion is timely, and Prospective Intervenors will be the only voice in the case speaking for would-be
19 permit owners. Petitioners represent the interests of *current* permit owners, who are seeking to prevent
20 Prospective Intervenors (and many other taxi drivers) from acquiring permits of their own. MTS
21 represents the interests of the agency and the public generally, not the interests of would-be permit
22 owners specifically. MTS *supports* this motion to intervene, but Petitioners oppose it. Under the
23 circumstances, Petitioners’ opposition is outweighed by Prospective Intervenors’ legal and real-world
24 need to participate in this case. The Court should therefore grant the motion.

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28 ¹ A true and correct copy of the opinion is attached as **Exhibit A**. The Institute for Justice also represents the intervenors in that case.

1 **STATEMENT OF FACTS**

2 Prospective Intervenors Abdikadir Abdisalan and Abdullahi Hassan (“Abdi” and “Abdullahi”)
3 both came to this country from Somalia in the 1990s. They are now United States citizens living and
4 working in San Diego as full-time cab drivers. Abdi has been driving a cab since 2006. He works seven
5 days a week to support his five children and wife, who is in nursing school. Abdullahi started driving a
6 cab in 2008. He works six days a week to support himself, send money to his wife and kids overseas,
7 and save for the day when he can afford to bring his family to San Diego. Both men have sterling
8 driving records and have never been in trouble for violating the City’s taxi rules. (Abdisalan Decl. ¶¶ 3–
9 6, 10; Hassan Decl. ¶¶ 3–8, 20.)

10 But Abdi and Abdullahi have never owned the cab that they drive or the permit that they need to
11 operate a cab on San Diego’s streets. Like many drivers, they lease a permit, and the cab itself, from
12 one of the approximately 500 private owners. The owners—not the drivers—are the ones who enjoy the
13 government’s permission to operate a taxi; drivers lease that right and have few rights of their own.
14 Owners have total freedom to decide who will lease a cab and on what terms. For example, Abdi pays
15 \$400 per week and Abdullahi pays \$300 per week for leasing rights. As independent contractors, they
16 pay for all of their gas, cleaning, and credit-card fees, and they are responsible for their own taxes and
17 administrative costs. (Abdisalan Decl. ¶¶ 7–9; Hassan Decl. ¶¶ 7–12.)

18 For years, Abdi and Abdullahi have dreamed of owning their own permits and starting their own
19 businesses. Owning permits would allow them to better control their work schedules, their personal
20 lives, and their futures. Abdi wants to spend more time with his family, but cannot afford to take off
21 even one day a week because he has to make his \$400 weekly payments whether he is driving or not.
22 (Abdisalan Decl. ¶¶ 17–19.) Every time Abdullahi has gone abroad to see his family, he has lost his
23 lease. The owners from whom Abdullahi has leased permits have taken back his permit and leased it to
24 someone else whenever he leaves for an extended visit. When he comes back to San Diego, he has to
25 spend a month, sometimes two, searching for a new permit to lease, during which time he is out of work.
26 (Hassan Decl. ¶¶ 9–19.)
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1 Petitioners win, the two men will have no hope of owning their own taxi permits. If the Petitioners lose
2 (and they should lose), Abdi and Abdullahi will be able to purchase permits from the government and
3 will begin operating their own taxi businesses, and be their own bosses, without paying large weekly
4 leasing fees.

5 Abdi and Abdullahi were also involved in the “transaction” that gave rise to this case. They both
6 participated in the hard-fought public debate over whether to open up San Diego’s taxi market to more
7 permit owners. And they won. After years of working for an opportunity to even apply for permits,
8 both men have moved swiftly to obtain permits as soon as possible. They have both submitted Taxicab
9 Permit Applicant Forms to MTS and paid the \$50 fee required to secure a place in line to own one of the
10 new permits. Abdi has developed a written business plan and registered his business name—Adam
11 Cab—with San Diego County. He has been visiting car dealerships shopping for a qualifying low-
12 emissions vehicle that he could use as his cab. Abdullahi has also named his company—Kisima Cab—
13 and he has made arrangements to borrow the money to buy a cab. Petitioners want the Court to halt the
14 permitting process and so to nullify all of Prospective Intervenors’ efforts in the political process. This
15 lawsuit is the only thing standing in the way of full implementation of the City’s new permitting
16 policies, and participating in this case is therefore critical to protecting Prospective Intervenors’ interest
17 in obtaining permits.

18 The two remaining factors for intervention as of right—adequacy of representation and
19 timeliness—are easily satisfied. The existing parties do not adequately represent Prospective
20 Intervenors’ interests as would-be permit owners. The Petitioners are *current* permit owners who want
21 to stop anyone else from obtaining a permit—their interests are adverse to Prospective Intervenors’
22 interests. Respondents are government actors; their interest lies in representing the public generally, not
23 Abdi and Abdullahi’s private interests, specifically. Abdi and Abdullahi have a very personal stake in
24 this case—their incomes, their plans for the future, even when they may realistically take time off work,
25 will all be affected—that is distinct from the Respondents’ goals of opening up the taxi market generally
26 to competition. (See, e.g., *Redevelopment Agency of the City of San Marcos v. Commission on State*
27 *Mandates* (1996) 43 Cal.App.4th 1188, 1197–98 (reversing trial court’s denial of intervention and
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1 allowing a state agency with an interest in the litigation to intervene even though another state agency
2 was already a party and even though both agencies agreed on what the outcome should be.) Here, the
3 existing parties cannot and will not adequately represent Prospective Intervenors' private interests.

4 Finally, the request to intervene is timely. This case was filed less than two months ago and
5 remains in its earliest stages. The Respondents have not answered. The Petitioners have not obtained
6 the needed administrative record. The only steps the Petitioners *have* taken are serving MTS, seeking an
7 *ex parte* temporary restraining order, and setting their preliminary injunction request for a hearing. This
8 motion to intervene will be heard at the same time. Intervention at this early stage will in no way
9 prejudice the existing parties or slow the progress of the case. At the same time, if the Court does not
10 permit them to intervene now, Prospective Intervenors will be too late to protect their interests in the
11 critical TRO phase of this case.

12 For these reasons, the Court should grant Abdi and Abdullahi leave to intervene as of right. In
13 fact, federal courts applying a standard “virtually identical” to California’s standard (*Hodge v.*
14 *Kirkpatrick Development, Inc.* (2005) 130 Cal.App.4th 540, 555) have twice recognized the right of taxi
15 drivers to intervene under Federal Rule of Civil Procedure 24 in earlier lawsuits challenging the
16 elimination of caps on taxi permits. Just two days ago, a federal court in Wisconsin granted intervention
17 as of right to two taxicab drivers based on their interest in “removing the permit cap” that previously
18 existed in Milwaukee (*Joe Sanfelippo Cabs, Inc. v. City of Milwaukee* (E.D. Wis. ordered Apr. 15, 2015)
19 No. 14-CV-1036, at p. 2.)³ In 2007, a federal court in Minnesota granted intervention as of right to the
20 holder of a newly issued taxi permit in a substantially similar case challenging Minneapolis’s decision to
21 offer taxi permits to all qualified drivers (*Minneapolis Taxi Owners Coalition, Inc. v. City of*
22 *Minneapolis* (D. Minn. ordered May 24, 2007) No. 07-1789).⁴ Under any standard, taxi drivers like
23 Abdi and Abdullahi have a right to intervene to defend their city’s efforts to increase access to taxi
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25 ³ See **Exhibit A**.

26 ⁴ A true and correct copy of the opinion is attached as **Exhibit B**. The Institute for Justice
27 represented the intervenor in that case, which was later resolved based on his motion to dismiss—a
28 ruling that was later affirmed by the Eighth Circuit. (*Minneapolis Taxi Owners Coalition, Inc. v. City of*
Minneapolis (8th Cir. 2009) 572 F.3d 502.)

1 permits. This is especially true where, as here, those taxi drivers have taken concrete steps toward
2 obtaining permits under the new system.

3 **II. Alternatively, the Court Should Permit Abdi and Abdullahi to Intervene.**

4 If the Court does not grant intervention as of right, it should grant permissive intervention
5 pursuant to Code Civ. Proc. § 387(a). This provision is construed liberally in favor of intervention.
6 (*Lindelli v. Town of San Anselmo* (2006) 139 Cal.App.4th 1499, 1505; *Lincoln Nat. Life Insurance Co.*
7 *v. State Bd. of Equalization* (1994) 30 Cal.App.4th 1411, 1423; *Simpson Redwood Co. v. State of*
8 *California* (1987) 196 Cal.App.3d 1192, 1200.) Trial courts have discretion to allow a party to intervene
9 under Code Civ. Proc. § 387(a) where (1) the nonparty has a direct and immediate interest in the action;
10 (2) the intervention will not enlarge the issues in the litigation; (3) the reasons for the intervention
11 outweigh any opposition by the parties presently in the action; and (4) the proper procedures have been
12 followed. (*Royal Indemnity Co. v. United Enterprises, Inc.* (2008) 162 Cal.App.4th 194, 203.)
13 Prospective Intervenorers satisfy each element of that test.

14 **A. Abdi and Abdullahi have a direct and immediate interest in this case.**

15 For the purposes of permissive intervention, a “direct and immediate interest” exists when “the
16 moving party will either gain or lose by the direct legal operation and effect of the judgment.” (*Lindelli*,
17 *supra* 139 Cal.App.4th at p. 1505 (internal quotation marks omitted).) Case law confirms the intuitive
18 notion that Abdi and Abdullahi have a sufficiently direct and immediate interest to intervene.

19 In *US Ecology, Inc. v. State of California* (2001) 92 Cal.App.4th 113, 119–20, 139–40, the
20 Fourth District Court of Appeal upheld a grant of permissive intervention to environmental
21 organizations who wanted to join the State in defending against a nuclear waste handler’s legal action,
22 which sought to force the State to acquire land from the federal government so that the land could be
23 used as a nuclear waste site. In *US Ecology*, the court held that environmentalists had a direct and
24 immediate interest in defending against the waste handler’s request for relief, as development of a
25 nuclear storage facility would “directly affect” the intervenors’ environmental and safety concerns.
26 (*Ibid.* at 139–40.) In this action, Abdi and Abdullahi’s interests will also be “directly affected” if the
27 outcome is that they are denied access to affordable taxi permits—an interest at least as direct and
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1 immediate to a taxi driver as the interest an environmentalist has in the planet. Like in *US Ecology*, this
2 Court should use its discretion to allow Abdi and Abdullahi “to unite with the defendant [governmental
3 entity] in resisting [Petitioners’] claims.” (*Ibid.* at 139.)

4 And in *Lindelli*, *supra* 139 Cal.App.4th at 1511–12, the First District Court of Appeal held that a
5 law firm’s interest in seeking attorneys’ fees was “sufficiently direct and immediate” to allow
6 intervention in a separate lawsuit that one of the firm’s clients brought after he refused to authorize the
7 firm to seek attorneys’ fees to pay his bills. In *Lindelli*, the court noted that the firm’s interest in a fee
8 award arose directly from Code Civ. Proc. § 1021.5, which entitles attorneys in successful public-
9 interest litigation to fees. (*Ibid.*) Similar to an attorney’s right to pursue a claim to fees under § 1021.5,
10 Abdi and Abdullahi have a right to pursue their claim to permits under the new City and MTS policies.
11 Like in *Lindelli*, Abdi and Abdullahi have a legal right at stake that they could lose if intervention is not
12 granted.

13 In sum, Abdi and Abdullahi’s legal interests turn on the very issue at the heart of this case:
14 whether MTS can or cannot issue new taxi permits. Because their ability to access taxi permits is
15 jeopardized by this lawsuit, Abdi and Abdullahi’s interests qualify for permissive intervention.

16 **B. Abdi and Abdullahi will not enlarge the issues in this case.**

17 Prospective Intervenors will add no new legal issues. Abdi and Abdullahi only wish to contest
18 the Petitioners’ factual allegations and legal claims. They seek no affirmative relief of their own from
19 either party. They seek only the swift defeat of Petitioners’ claims and the ability to get on with starting
20 their new businesses. Their intervention will not, therefore, enlarge the issues.

21 **C. MTS supports Abdi and Abdullahi’s intervention, and their reasons for intervention**
22 **outweigh Petitioners’ opposition.**

23 MTS *supports* intervention and Petitioners’ opposition is substantially outweighed by Abdi and
24 Abdullahi’s pressing interest in intervening. When deciding permissive intervention, courts weigh the
25 parties’ opposition in order to give litigants “freedom to control the scope of litigation they initiate.”
26 (See *Royal Indemnity Co.*, *supra* 162 Cal.App.4th at 212.) For better or worse, Petitioners currently
27 control the scope of this litigation. Control over the issues does not, however, give Petitioners power to
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1 prevent interested parties from contesting their claims. That is all Abdi and Abdullahi want to ensure in
2 this case: The demise of Petitioners' lawsuit.

3 Courts do not recognize one party's opposition as a freestanding basis for denying permissive
4 intervention. For example, in *Reliance Insurance Co. v. Superior Court of Santa Clara County* (2000)
5 84 Cal.App.4th 383, 387–88, the Sixth District Court of Appeal reversed a trial court's denial of
6 permissive intervention due to the opposition of one party. In that case, the plaintiffs sued a moving
7 company for losing about \$2 million worth of their possessions, and the court held that it was reversible
8 error to deny permissive intervention to the moving company's insurer in light of the plaintiffs'
9 objections. The court reasoned that the insurer had a real stake in the controversy because the moving
10 company had its corporate status suspended, lacked the legal capacity to defend the action itself, and
11 was thereby vulnerable to a default judgment, which the insurer might have to pay. And in *Gray v.*
12 *Begley* (2010) 182 Cal.App.4th 1509, 1521–25, permissive intervention in favor of an insurer was
13 upheld over the opposition of *both* parties because the insured defendant attempted to settle with the
14 plaintiff "to the potential detriment of the insurer." These cases reflect the commonsense principle that a
15 direct and immediate interest outweighs the opposition of one party (as is the case here) or even both
16 parties (as was the case in *Gray v. Begley*) when fairness to the intervenor requires it. Here, basic
17 fairness requires that Abdi and Abdullahi be allowed to participate. Their interest in the outcome of
18 Petitioners' claims substantially outweighs Petitioners' request to exclude them from contesting those
19 claims.

20 **D. Abdi and Abdullahi have followed the proper procedures.**

21 Code Civ. Proc. § 387 establishes the procedures for intervention. An intervenor must
22 (1) seek leave of court; (2) submit a proposed complaint in intervention; which (3) states the grounds
23 upon which the intervention rests; and (4) serve the intervention papers on all of the parties who have
24 appeared. (Code Civ. Proc. § 387(a).) Because Prospective Intervenors have followed each of those
25 procedures, the Court can and should grant them permissive intervention.
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1 **CONCLUSION**

2 For the reasons stated above, the Court should grant Prospective Intervenors leave to intervene
3 and grant them leave to file their proposed complaint in intervention.
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5 Dated: April 17, 2015

Respectfully submitted,

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8 By:



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Wesley Hottot
10 Attorney for Prospective Intervenors*

11 * Admitted *pro hac vice*
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF SAN DIEGO, HALL OF JUSTICE
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4 SAN DIEGO TRANSPORTATION)
ASSOCIATION, a California corporation;) GENERAL CIVIL (CEQA)
5 JOE CIPRIAN, an individual;) CASE NO.: 37-2015-00008725-CU-TT-CTL
JANAN INSURANCE AND FINANCIAL)
6 SERVICES, INC., a California Corporation d/b/a)
Jaden Express;) **[PROPOSED] ORDER GRANTING**
7 CURTIS BECKER, an individual d/b/a Curtis Cab;) **LEAVE TO INTERVENE AND FILE**
8 RONALD HAWKINS, an individual d/b/a Andy's) **COMPLAINT IN INTERVENTION**
Cab;)
9 SAVATAR SAHOU, an individual;)
10 USA CAB, LTD., a California Corporation,)
Petitioners,)
11 vs.)
12)
13 SAN DIEGO METROPOLITAN TRANSIT)
SYSTEM, f/k/a San Diego Metropolitan Transit)
14 Development Board, a California public agency;)
and DOES 1-100 inclusive)
15)
16 Respondent,)
17)
18) Judge: Hon. Ronald S. Prager
ABDIKADIR ABDISALAN, an individual; and) Dept: C-71
19 ABDULLAHI HASSAN, an individual,) Petition Filed: March 13, 2015
Intervenors.) Hearing Date: April 28, 2015
20) Hearing Time: 9:00 a.m.
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Prospective Intervenors' Motion to Intervene having been filed and heard, this Court, based on the motion, memorandum and declarations in support, all papers and records filed in this case, and the arguments at the hearing, hereby GRANTS Abdikadir Abdisalan and Abdullahi Hassan leave to intervene in this case and GRANTS them leave to file their proposed complaint in intervention.

IT IS SO ORDERED:

DATED: _____

Hon. Ronald S. Prager, Judge of the Superior Court

Exhibit A

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

**JOE SANFELIPPO CABS INC.,
GCC INC., ROY WMS INC.,
FRENCHY CAB CO INC., and
2 SWEETS INC.,**

Plaintiffs,

v.

Case No. 14-CV-1036

CITY OF MILWAUKEE,

Defendant.

DECISION AND ORDER

In July 2014, the City of Milwaukee adopted ordinances which changed the way it regulated taxicabs. The City established a regulatory scheme for “network companies,” commonly known as rideshare companies, and it removed the cap on the number of taxicab vehicle permits it would issue. Plaintiffs, taxicab companies, objected to the changes and sued the City. Their amended complaint alleges that the new ordinances violate their rights under the Fifth Amendment, asserts various state law claims, and seeks money damages. Before me now is a motion by several cab drivers, Jatinder Cheema and Saad Malik, to intervene as defendants. Movants previously sued the City in state court, and in April 2013, persuaded a circuit court judge that the permit cap violated their rights under the state Constitution. This decision was one of the reasons that the City removed the cap. Plaintiffs oppose the motion to intervene.

Intervention may be as of right or permissive. *Compare* Fed. R. Civ. P. 24(a), *with* Fed. R. Civ. P. 24(b). Under Rule 24(a), movants may intervene if: (1) their motion is timely; (2) they possess an interest related to the subject matter of the action; (3) the

disposition of the action threatens to impair or impede their interest; and (4) an existing party, i.e. the City, inadequately represents their interest. *Wis. Educ. Ass'n Council v. Walker*, 705 F.3d 640, 657–58 (7th Cir. 2013).

Movants' motion is timely. As to their interest in the matter, movants must show a "direct, significant, and legally protectable interest in the question at issue in the lawsuit." *Id.* at 658 (quotations and citation omitted). This "is a highly fact-specific determination, making comparison to other cases of limited value." *Id.* Here, movants show a sufficient interest in the question at issue, the constitutionality of removing the permit cap. Movants' state court judgment declaring the cap unconstitutional gives them a significant legal right, and they have an interest in the enforceability of that judgment. That plaintiffs seek only monetary and not injunctive relief slightly weakens movants' interest in this action but does not eliminate it.

One way for movants to show that their interest may be impaired or impeded by the disposition of this case is to establish that a legal determination would foreclose their rights in a subsequent proceeding. *Shea v. Angulo*, 19 F.3d 343, 347 (7th Cir. 1994). Movants make this showing. If plaintiffs prevail on their claim that lifting the cap violated their Fifth Amendment rights, the decision would conflict with movants' state court judgment that the cap itself was unconstitutional. Moreover, a potential settlement might well affect movants' rights if the City agreed to reinstate a cap as part of the agreement. *See City of Chi. v. Fed. Emergency Mgmt. Agency*, 660 F.3d 980, 986 (7th Cir. 2011) (finding a party has a right to intervene where a party may have a "conflict of interest with the [movants] when it comes to settlement possibilities").

Finally, movants show that the City may not adequately represent their interest. *Walker*, 705 F.3d at 659 (“[I]ntervention requires only a ‘minimal’ showing of inadequate representation.”); *Conservation Law Found. of New England v. Mosbacher*, 966 F.2d 39, 44 (1st Cir. 1992) (“An intervenor need only show that representation may be inadequate, not that it is inadequate.”). Contrary to plaintiffs’ argument, the City’s goal is not identical to movants’. The City’s goal is to avoid paying damages while movants want to ensure that the City does not reinstate a permit cap. Moreover, the City, a governmental entity, must consider an array of political and budgetary pressures in formulating its legal strategy, which may lead it to place other interests above movants’ interests. *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 973–74 (3d Cir. 1998) (“[T]he government represents numerous complex and conflicting interests. . . . [The] interests asserted by intervenors here may become lost in the thicket of sometimes inconsistent governmental policies.”). Finally, movants litigated the permit cap for several years in state court, and their adversarial relationship with the City might make the City less likely to pay careful attention to their interest.

Thus, I conclude that movants have a right to intervene in this litigation under Rule 24(a). Even if I reached a contrary conclusion, I would permit movants to intervene under Fed. R. Civ. P. 24(b). Movants’ motion is timely, their claim or defense shares a common question of law or fact with the main action, and intervention would not unduly delay or prejudice plaintiffs. See Fed. R. Civ. P. 24(b). The inquiry into whether a common claim or defense exists is a broad one. *Bond v. Utreras*, 585 F.3d 1061, 1070 (7th Cir. 2009). Movants contend that removing the cap was constitutional, and plaintiffs claim it was not.

Thus, both plaintiffs and movants raise the same question. My finding that the City may not adequately represent movants' interest as well as movants' state court judgment also support permissive intervention. *Perry v. Proposition 8 Official Proponents*, 587 F.3d 947, 955 (9th Cir. 2009) (stating that a court may consider other factors, such as the nature and extent of the intervenors' interest and whether the intervenors' interests are adequately represented by the other parties, when considering permissive intervention). Further, intervention will not unduly delay or prejudice plaintiffs.

THEREFORE, IT IS ORDERED that movants' amended motion to intervene (ECF No. 24) is **GRANTED**. The Clerk shall file movants' proposed motion to dismiss and memorandum in support (ECF Nos. 25-11, 25-12).

Dated at Milwaukee, Wisconsin, this 15th day of April, 2015.

s/ Lynn Adelman

LYNN ADELMAN
District Judge

Exhibit B

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minneapolis Taxi Owners Coalition, Inc.,
Plaintiff,

Civil No. 07-1789 (JMR/FLN)

v.

ORDER

City of Minneapolis,
Defendant,

A New Star Limousine and Taxi Service, Inc.,
and Blanca Prescott,
Movants.

Lawrence H. Crosby and Jay D. Olson for Plaintiff
Stephen H. Norton and Timothy S. Skarda Defendant
Lee U. McGrath and Nicholas C. Dranias for Movants

THIS MATTER came before the undersigned United States Magistrate Judge on May 21, 2007, on Motion to Intervene by A New Star Limousine and Taxi Service, Inc., and Blanca Prescott [#5]. Movants seek to intervene in a lawsuit brought by the Minneapolis Taxi Owners Coalition, Inc., Plaintiff, versus the City of Minneapolis, Defendant.

Defendant recently adopted amendments to its taxicab licensing regime. Prior to the amendments, taxicab licenses were limited in number and transferrable, thus creating a secondary market and substantial value for the taxicab licenses. The recently adopted amendments increased the taxicab license cap and will eventually remove the cap completely, which would make the secondary market no longer necessary. In its suit, Plaintiff seeks injunctive relief preventing the City of Minneapolis from issuing any new taxi cab licenses and reinstating the taxicab licensing regime to its status prior to the recently enacted amendments.

A New Star Limousine and Taxi Service, Inc., (“A New Star”) is a recipient of twelve

taxicab licenses under the recently enacted amendments. Blanca Prescott is a blind-woman who claims to have suffered under the previous taxicab licensing regime due to poor service and anticipates better service, through competition, as the number of taxicab licenses increases. Both A New Star and Prescott seek leave to intervene in this action.

A New Star holds twelve taxicab licenses that Plaintiff seeks to have revoked. In those licenses, A New Star holds a property interest which is the subject of this action. If Plaintiff is successful in this action, A New Star's ability to protect this interest will be impaired or impeded. The City of Minneapolis does not adequately represent A New Star's interest because A New Star's interests may likely be distinct from the general citizenry.

Prescott claims that Plaintiff's suit threatens to impinge on her interest in better taxicab service. Prescott claims that her interest in better taxicab service will be impeded or impaired if the Plaintiff is successful. Prescott's claim is much too attenuated to permit her to intervene, this lawsuit is not related to taxicab service, but rather to the licensing of taxicabs. Furthermore, there is no evidence that the City of Minneapolis will not adequately represent the interest of Prescott, a member of the general citizenry.

Based on all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that the Motion to Intervene by A New Star Limousine and Taxi Service, Inc., and Blanca Prescott [#5] is **GRANTED** as it pertains to A New Star Limousine and Taxi Service, Inc., and **DENIED** as it pertains to Blanca Prescott. A New Star is granted leave to file and schedule for hearing its Motion to Dismiss and accompanying memorandum.

DATED: May 24, 2007

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge