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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

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16 CENTER FOR INDEPENDENCE OF
INDIVIDUALS WITH DISABILITIES and
17 JOSEPH DEL AGUILA,

18 Plaintiffs,

19 v.

20 SERRA YELLOW CAB OF DALY CITY,
INC.,

21 Defendants.
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Case No. 3:16-cv-911

**COMPLAINT FOR VIOLATIONS OF
THE AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §§ 12101 *ET SEQ.*; THE
CALIFORNIA UNRUH CIVIL RIGHTS
ACT, CAL. CIV. CODE §§ 51 *ET SEQ.*;
THE CALIFORNIA DISABLED
PERSONS ACT, CAL. CIV. CODE §§ 54
ET SEQ.; AND CALIFORNIA BUSINESS
AND PROFESSIONS CODE §§ 17200 *ET
SEQ.***

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INTRODUCTION

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2 1. This action seeks to put an end to systemic civil rights violations committed by
3 Defendant Serra Yellow Cab of Daly City, Inc. (“Serra”) against people with mobility
4 disabilities. Serra, a for-profit transportation company based in Daly City, California,
5 discriminates against people with mobility disabilities who require an accessible taxi by charging
6 them an arbitrary flat fare of up to four times the amount that Serra charges for a standard taxi
7 fare.

8 2. Serra’s discriminatory and arbitrary flat fare is especially egregious in light of the
9 fact that Serra is the only taxi company in San Mateo County that provides accessible taxi
10 service. Therefore, people with mobility disabilities in San Mateo County who require
11 accessible taxis have no choice but to pay Serra’s exorbitant fare. Equally troubling is that fact
12 that Serra was informed in 2013 that such a practice is illegal, but has continued, regardless, to
13 charge a higher fare to people with mobility disabilities who require accessible taxis.

14 3. Accessible taxis, which provide a ramp or lift into the vehicle, are needed by
15 customers with mobility disabilities who cannot transfer from their wheelchairs to a vehicle seat
16 and by persons with mobility disabilities who cannot stow their wheelchairs in the trunk of a car
17 (such as persons who use power wheelchairs).

18 4. The importance of accessible taxi service should not be underestimated. In
19 passing the ADA, Congress recognized the isolating effects of disability and the need to promote
20 societal integration, and sought to eradicate discrimination in several critical areas, including
21 transportation. 42 U.S.C. § 12101(a)(2),(3). Indeed, transportation is a linchpin to societal
22 integration, providing access to work; to health care, business, and other appointments; and to
23 places of public accommodation, such as restaurants, movie theaters, museums, service
24 establishments, and parks. Accessible taxis are an important transportation option for people
25 with mobility disabilities – often more reliable and flexible than paratransit, a good alternative to
26 owning one’s own vehicle, and a replacement for public transportation that has its own access
27 issues. As a necessary part of transportation in this country, taxi service is covered under the
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1 ADA. Allowing a company to exploit this important service for profit undermines the purposes
2 of the ADA.

3 5. The Americans with Disabilities Act (“ADA”), the California Unruh Civil Rights
4 Act, the California Disabled Persons Act, and the California Business and Professions Code do
5 not permit charging a higher fare to persons with mobility disabilities who require an accessible
6 taxi. In so doing, Serra discriminates against residents of and visitors to San Mateo County with
7 mobility disabilities who require accessible taxis.

8 6. Plaintiffs in this matter are the Center for Independence of Individuals with
9 Disabilities (“CID”) and Joseph Del Aguila. CID is an organization comprised of and serving
10 the interests of individuals with disabilities, including those with mobility disabilities who
11 require accessible taxis. Mr. Del Aguila is an individual with a mobility disability who requires
12 an accessible taxi. Both CID and Mr. Del Aguila have been and continue to be harmed by
13 Serra’s unlawful fares.

14 **JURISDICTION AND VENUE**

15 7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
16 § 1331 and 42 U.S.C. § 12188 for Plaintiffs’ claims arising under the Americans with
17 Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*

18 8. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over
19 Plaintiffs’ pendent claims under the California Unruh Civil Rights Act (California Civil Code §§
20 51 *et seq.*), the Disabled Persons Act (California Civil Code §§ 54 *et seq.*), and California
21 Business and Professions Code §§ 17200 *et seq.*

22 9. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §§
23 1391(b) because the events giving rise to Plaintiffs’ claims occurred in the Northern District of
24 California.

25 **PARTIES**

26 10. Plaintiff CID is an independent living center that advocates for persons with
27 disabilities throughout San Mateo County. CID’s main office is in the city of San Mateo,
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1 California. CID sues on behalf of itself and its constituents who have been charged the unlawful
2 higher fare or have been deterred from using Serra's taxi service due to the unlawful fare.

3 11. Founded in 1979, CID is a consumer-driven, community-based nonprofit
4 corporation that annually helps more than 3,000 people with disabilities through direct and
5 indirect services, as well as through individual and systemic advocacy. The majority of CID's
6 board members, staff, and management are people with disabilities.

7 12. CID's mission is to provide support services, community awareness, and systems
8 change advocacy to promote full and equal community integration and participation for people
9 with disabilities in San Mateo County. To this end, CID helps people with disabilities live and
10 problem-solve independently. Reliable access to modern, publicly-available transportation
11 services is critical to CID and to its constituents. Moreover, other transportation services are
12 often unavailable to persons with mobility disabilities: destinations are not on bus or rail routes;
13 access to private vehicles is not available; ride-sharing vehicles are inaccessible; and/or
14 paratransit requires advance booking. In these and countless other instances, taxi service is the
15 only option. However, when the cost of taxi service is prohibitive for persons with mobility
16 disabilities, they are faced with a choice of paying the increased taxi fare or not fully
17 participating in the activities of their daily life. Thus, securing equal fares for taxi service
18 advances CID's goal of promoting full and equal community integration and participation for
19 people with disabilities by enabling individuals with mobility disabilities to travel by taxi for the
20 same cost as the rest of society.

21 13. Serra's practice of charging higher fares to people with mobility disabilities
22 because, by reason of their disability, they require an accessible taxi frustrates the mission of
23 CID and results in the diversion of CID's resources to address Serra's discriminatory practice. In
24 fact, CID has been monitoring Serra's taxi service since it discovered this discriminatory practice
25 in 2013. To that end, CID staff have taken numerous "test rides" to investigate Serra's rates for
26 accessible vehicles, and CID itself has covered the cost of these rides.

1 14. CID is further harmed by Serra's discriminatory practice because CID staff with
2 mobility disabilities often have to travel throughout San Mateo County for policy advocacy
3 work, client visits, outreach, and a host of other activities at the core of CID's mission. Serra is
4 the only taxi company which provides accessible taxi service in San Mateo County. Therefore,
5 CID staff with mobility disabilities have no choice but to pay Serra's exorbitant fares or to forgo
6 taxi service entirely.

7 15. Similarly, CID's constituents have also been harmed by Serra's discriminatory
8 practice. As discussed above, for a variety of reasons taxi service may, at times, be the only
9 option for transportation. Faced with this option alone, constituents with mobility disabilities
10 who require and who utilize or hope to utilize accessible taxi service must choose whether to pay
11 Serra's exorbitant fares or to forgo taxi service entirely. Serra's increased fares for accessible
12 taxi service make it difficult for CID's constituents to get to meetings, medical appointments,
13 and cultural activities, all of which CID encourages its constituents to attend.

14 16. Plaintiff Joseph Del Aguila is a qualified individual with a disability within the
15 meaning of Title III of the ADA. He uses a power wheelchair and requires an accessible taxi to
16 utilize the transportation services provided by Serra.

17 17. Plaintiff Del Aguila currently resides in San Mateo, California and has used or has
18 desired to use taxis both for work and for leisure. He has been subject to and deterred by Serra's
19 discriminatory higher fare for an accessible taxi.

20 18. The term "Plaintiffs" used in this complaint means both Mr. Del Aguila and CID,
21 on behalf of itself and its constituents with mobility disabilities who require accessible taxi
22 service.

23 19. Defendant Serra is a for-profit transportation company based in Daly City,
24 California. Serra primarily provides on-demand taxi service throughout San Mateo County. It is
25 licensed to provide service in the following cities: Daly City, Colma, Brisbane, Pacifica,
26 Broadmoor, Millbrae, Burlingame, Hillsborough, Foster City, Belmont, San Carlos, Redwood
27 City, San Mateo, and Menlo Park. All of these cities fall within San Mateo County. Serra is also
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1 subcontracted by First Transit, the paratransit provider for San Mateo County, to provide
2 supplemental paratransit services to San Mateo County residents.

3 **FACTS APPLICABLE TO ALL CLAIMS**

4 20. As part of its on-demand taxi service, Serra offers accessible taxis.

5 21. An accessible taxi contains a boarding device such as a lift or ramp, sufficient
6 clearances to permit a wheelchair user to navigate into the taxi, and securement devices to ensure
7 the wheelchair is secured in place during the ride.

8 22. Accessible taxis are needed by persons with mobility disabilities who cannot
9 transfer from their wheelchairs to a vehicle seat (and, with assistance, stow their wheelchairs in
10 the trunk of a car). In addition, accessible taxis are required for power wheelchair users whose
11 wheelchairs cannot be stowed, even if they can transfer.

12 23. On information and belief, Serra provides the only accessible taxi service in San
13 Mateo County. On information and belief, Serra also owns and operates vans that are not
14 accessible (i.e., do not have a lift or ramp) as taxis.

15 24. Serra's customers may obtain a Serra taxi by hailing one on the street or by
16 reserving one via phone call or online request. Customers requesting an accessible taxi by phone
17 must call a different number than customers reserving a standard taxi. Serra's dispatchers inform
18 callers that there is a flat fare for an accessible taxi.

19 25. Riders in standard, non-accessible taxis are charged at "Rate 1." For these Rate 1
20 rides, the meter is on, and the receipts log the time and distance traveled. The standard rate is a
21 \$3.50 drop charge and a \$3.00 fee per mile traveled.

22 26. Receipts from accessible taxi rides show that the rider is charged at "Rate 5." On
23 these Rate 5 rides, the meter does not run. Consequently, Rate 5 receipts do not log the duration
24 of the trip, nor the miles traveled. The amount charged varies from trip to trip. There is no clear
25 policy as to the Rate 5 calculation.

26 27. It is clear from these receipts that Serra charges individuals with mobility
27 disabilities who, by reason of their disability, require an accessible taxi an arbitrary fare of up to
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1 **four times** the regular fare. For example, for two rides of equal distance and duration, a Rate 5
2 accessible taxi ride cost \$35.00, while a Rate 1 non-accessible taxi ride cost \$9.40.

3 28. In June 2013, a guest of CID, who is the head of another independent living
4 center in California, informed CID of Serra's discriminatory charges. She was charged \$41.00
5 for a taxi trip of 1.9 miles. Soon after, CID began conducting "test rides" in Serra's taxis. From
6 these rides and interviews with their constituents, CID has determined that Serra has been
7 routinely overcharging passengers in need of accessible taxis since, at least, 2013.

8 29. Because CID was aware that Serra provides supplemental paratransit by contract
9 with San Mateo County Transit District ("SamTrans"), CID informed the SamTrans Board of
10 Directors and the Paratransit Coordinating Council ("PCC") of Serra's illegal practices in its on-
11 demand taxi service. Even though the illegal practices related to Serra's non-paratransit services,
12 in July 2013, CID, SamTrans, and the PCC confronted Serra CEO Talib Salamin. Mr. Salamin
13 agreed to refund the CID guest for the cost of her ride and to review the relevant ADA
14 requirements with CID staff. Mr. Salamin guaranteed all parties that he would immediately
15 change Serra's fare practices to comply with the ADA and stop overcharging people with
16 mobility disabilities who require accessible taxis.

17 30. CID continued to monitor Serra, and in April 2015, a constituent informed CID
18 that Serra has resumed or continued its illegal practice of charging a higher fare for people
19 requiring accessible taxis. CID, therefore, conducted subsequent test rides with Serra. In August
20 and September 2015, three CID constituents took rides of the same distance and duration. Two
21 test riders traveled via accessible taxi, and one test rider traveled via standard taxi. Both riders
22 who traveled via accessible taxi were charged at Rate 5. Their accessible taxi trips cost between
23 \$40.00 and \$45.00. The rider in the standard taxi was charged at Rate 1, and his standard taxi
24 trips cost \$11.80 and \$17.20. CID's investigation, therefore, unearthed the fact that Serra
25 continues to charge persons with mobility disabilities who require accessible taxis an arbitrary
26 fare that is approximately three to four times the fare of a standard taxi ride.

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1 31. Plaintiff Joseph Del Aguila is a qualified individual with a disability within the
2 meaning of Title III of the ADA. Plaintiff Del Aguila uses a power wheelchair and requires an
3 accessible taxi to utilize the transportation services provided by Serra. Plaintiff Del Aguila
4 regularly uses or desires to use a taxi when he is traveling to and from San Francisco, the airport,
5 or his workplace. Serra provides taxi service to these locations, but Plaintiff Del Aguila has been
6 and is currently deterred from using Serra taxis for such trips.

7 32. Plaintiff Del Aguila first learned of Serra’s exorbitant fares in September 2013,
8 when he was tasked with reviewing Serra’s charges to San Mateo County for trips residents had
9 taken with taxi vouchers. Since this time, Plaintiff Del Aguila has generally avoided using
10 Serra’s taxi service. Unfortunately, because Serra is the only accessible taxi option in San Mateo
11 County, Plaintiff Del Aguila is forced to pay Serra’s exorbitant fare or to find alternative
12 transportation. Instead of using taxi service, Plaintiff Del Aguila often uses his wheelchair for
13 short distances, uses paratransit, takes the train, or asks a friend to drive him to where he needs to
14 go. However, these options are not equivalent to taxi service. His wheelchair can only travel
15 short distances, paratransit requires advance planning, the train line is not always sufficiently
16 close to his destination, and relying on a friend lessens his independence.

17 33. On October 8, 2015, Plaintiff Del Aguila used one of Serra’s accessible taxis to
18 get from work to the mall, in part to determine whether Serra still charged higher fares for
19 accessible taxis. Plaintiff Del Aguila’s ride cost \$35.00. His receipt shows that he was charged
20 at Rate 5. The receipt does not show the miles or the time traveled.

21 34. On November 5, 2015, Plaintiff Del Aguila’s partner took the same ride in a
22 standard Serra taxi. Her ride cost \$9.40. Her receipt shows that she was charged at Rate 1 and
23 logs the miles and the time traveled.

24 35. It is clear from these receipts that for the same 10 minute, 1.5 mile ride, Serra’s
25 accessible taxi fare was roughly four times the amount of a standard taxi fare.

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STATEMENT OF CLAIMS

COUNT I

Violation of Title III of the Americans with Disabilities Act

Discrimination in Specified Public Transportation Services by Private Entity

(42 U.S.C. §§ 12184 et seq.)

Accessible Vans

36. Plaintiffs incorporate by reference each and every allegation contained herein.

37. Title III of the ADA states in relevant part:

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce. 42 U.S.C. § 12184(a).

38. Plaintiffs Joseph Del Aguila and CID’s staff and constituents are qualified individuals with mobility disabilities within the meaning of Title III of the ADA.

39. “Specified public transportation” as referenced in 42 U.S.C. § 12184(a) “means transportation by bus, rail or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.” 42 U.S.C. § 12181(10).

40. Serra provides the general public with general or special transportation via conveyance on a regular and continuing basis. It does so throughout several cities in Northern California in the form of private taxi service. As such, Serra is a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce pursuant to 42 U.S.C. § 12184(a).

41. In addition to the statutory authority of Title III, Congress directed the Secretary of Transportation to issue regulations to implement the Title III transportation provisions, specifically 42 U.S.C. § 12184. See 42 U.S.C. § 12186(a)(1). Pursuant to this mandate, the United States Department of Transportation (“DOT”) promulgated 49 C.F.R. Part 37 and

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1 accompanying guidance, which explains DOT's construction and interpretation of its
2 implementing regulations. 49 C.F.R. pt. 37, app. D.

3 42. The DOT's implementing regulations and guidance further clarify that Serra is
4 subject to § 12184 because it is primarily engaged in the business of transporting people, its
5 operations affect commerce, and it provides specified transportation services. The DOT
6 regulations are explicit that the transportation services subject to Title III include taxi services
7 (49 C.F.R. § 37.29; 49 C.F.R. pt. 37, app. D § 37.29) and that taxi services are private entities
8 primarily engaged in the business of transporting people (49 C.F.R. § 37.29(a)).

9 43. Title III provides that discrimination includes the purchase or lease of a new van
10 with a seating capacity of less than 8 passengers including the driver, which is to be used to
11 provide specified public transportation that is not readily accessible to or useable by individuals
12 with disabilities, including individuals who use wheelchairs. 42 U.S.C. § 12184(b)(5).

13 44. Similarly, the DOT regulations specify the instances when accessible taxi services
14 are legally required, namely "[w]hen a provider of taxi service purchases or leases a vehicle
15 other than an automobile, the vehicle is required to be accessible." 49 C.F.R. § 37.29(b). *See*
16 *also* 49 C.F.R. § 37.103(c) (for demand responsive systems, new vans with seating capacities of
17 less than eight must be accessible); 49 C.F.R. § 37.103(d) (for either fixed route or demand
18 responsive systems, new vans with a seating capacity of fewer than eight must be accessible).

19 45. Serra admits providing van service. Ensuring that their vans are accessible to
20 persons with mobility disabilities, therefore, is not optional, but a measure required under the
21 ADA.

22 46. Upon information and belief, Serra's fleet includes vans which are not readily
23 accessible to or usable by individuals with disabilities. That is, only a portion of Serra's vans
24 are, in fact, accessible.

25 47. Because Serra's discriminatory and wrongful conduct is ongoing, Plaintiffs are
26 entitled to declaratory and injunctive relief. 42 U.S.C. § 12188. Plaintiffs are also entitled to
27 reasonable attorneys' fees and costs incurred in bringing this action. 42 U.S.C. § 12205.
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1 **COUNT II**

2 **Violation of Title III of the Americans with Disabilities Act**

3 **Discrimination in Specified Public Transportation Services by Private Entity**

4 **(42 U.S.C. §§ 12184 *et seq.*)**

5 **Higher Fares**

6 48. Plaintiffs incorporate by reference each and every allegation contained herein.

7 49. DOT regulations further mandate that private entities providing taxi services shall
8 not discriminate by “charging higher fares or fees for carrying individuals with disabilities and
9 their equipment than are charged to other persons.” 49 C.F.R. § 37.29(c).

10 50. DOT regulations more broadly prohibit the imposition of “special charges” on
11 individuals with disabilities, including those who use wheelchairs, by entities providing any
12 transportation services, including taxi services. 49 C.F.R. § 37.5(d).

13 51. Similarly, Department of Justice regulations 28 C.F.R. §§ 36.301-36.306 (with
14 which the DOT requires compliance under 49 C.F.R. § 37.5(f)) prohibit surcharges, in particular
15 to cover the costs of measures required by the ADA to provide individuals with disabilities with
16 nondiscriminatory treatment. 28 C.F.R. § 36.301(c).

17 52. As described above, Serra charges an additional amount for carrying individuals
18 with disabilities, namely those who require accessible taxis, than it charges other persons.
19 Serra’s Rate 5 – whether characterized as a higher fare, special charge, or surcharge – is
20 prohibited. *See* 49 C.F.R. § 37.29(c); 49 C.F.R. § 37.5(d); 28 C.F.R. § 36.301(c). If an
21 individual who can physically access Serra’s standard taxi takes a taxi trip, the individual is
22 charged at Rate 1, i.e. the standard flag drop and per mile rate. However, if an individual with a
23 mobility disability who requires an accessible taxi takes an accessible taxi trip, the individual is
24 charged at Rate 5, which is an arbitrary amount up to four times Serra’s standard fare.

25 53. Persons with mobility disabilities require accessible taxis by reason of their
26 disabilities because they cannot get into a taxi without the use of ramp or lift. Disabled
27 passengers, therefore, pay more for equivalent taxi service than non-disabled passengers because
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1 non-disabled passengers do not require an accessible taxi and do not have to pay the higher Rate
2 5 every time they take a taxi.

3 54. Because Serra's discriminatory and wrongful conduct is ongoing, Plaintiffs are
4 entitled to declaratory and injunctive relief. 42 U.S.C. § 12188. Plaintiffs are also entitled to
5 reasonable attorneys' fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

6 **COUNT III**

7 **Violation of Title III of the Americans with Disabilities Act**

8 **Discrimination in Specified Public Transportation Services by Private Entity**

9 **(42 U.S.C. §§ 12184 *et seq.*)**

10 **Reasonable Modifications**

11 55. Plaintiffs incorporate by reference each and every allegation contained herein.

12 56. It is discrimination under Section 12184(b)(2) to fail to "make reasonable
13 modifications" to policies, practices, or procedures when such modifications are necessary to
14 afford equal goods, services, facilities, privileges, advantages, or accommodations to individuals
15 with disabilities as are afforded to other individuals. 42 U.S.C. § 12184(b)(2)(A). *See also* 28
16 C.F.R. § 36.302(a).

17 57. For time periods in 2013 and 2015, and possibly other times, Serra continued to
18 charge passengers requiring accessible taxis a higher fare using Rate 5. Eliminating the policy of
19 using Rate 5 would be a reasonable modification to Serra's fare structure for individuals who
20 require accessible taxis due to their disabilities. This higher Rate 5 that Serra imposes for
21 accessible taxis should be eliminated because persons with mobility disabilities who require
22 accessible taxi service have no choice but to hire an accessible taxi, which in turn triggers the
23 higher Rate 5 fare. Therefore, in light of this higher rate, persons with mobility disabilities are
24 not afforded full and equal enjoyment of taxi service by reason of their disabilities.

25 58. Because Serra's discriminatory and wrongful conduct is ongoing, Plaintiffs are
26 entitled to declaratory and injunctive relief. 42 U.S.C. § 12188. Plaintiffs are also entitled to
27 reasonable attorneys' fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

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COUNT IV

**Violation of Title III of the Americans with Disabilities Act
Discrimination in Specified Public Transportation Services by Private Entity
(42 U.S.C. §§ 12184 *et seq.*)**

Eligibility Criteria

59. Plaintiffs incorporate by reference each and every allegation contained herein.

60. It is also discrimination to impose “eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided.” 42 U.S.C. § 12184(b)(1).

61. Serra imposes eligibility criteria in the form of a higher fare – Rate 5 – than the standard fare – Rate 1 – for accessible taxi service. This higher fare screens out persons with mobility disabilities who require a lift or ramp to access taxi service by deterring them from using Serra’s services to travel around San Mateo County.

62. Because Serra’s discriminatory and wrongful conduct is ongoing, Plaintiffs are entitled to declaratory and injunctive relief. 42 U.S.C. § 12188. Plaintiffs are also entitled to reasonable attorneys’ fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

COUNT V

**Violation of Title III of the Americans with Disabilities Act
Discrimination by a Public Accommodation
(42 U.S.C. §§ 12182 *et seq.*)**

Higher Fares

63. Plaintiffs incorporate by reference each and every allegation contained herein.

64. Title III of the ADA states in relevant part:

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation. 42 U.S.C. § 12182(a).

1 65. Plaintiffs Joseph Del Aguila and CID’s staff and constituents are qualified
2 individuals with disabilities within the meaning of Title III of the ADA.

3 66. According to 42 U.S.C. § 12181(7), private entities that provide travel service are
4 considered public accommodations subject to Title III of the ADA.

5 67. Serra is a private entity that provides travel service throughout several cities in
6 Northern California in the form of on-demand taxi service. Serra is, therefore, subject to 42
7 U.S.C. § 12182.

8 68. In addition to the statutory authority of Title III, Congress directed the Attorney
9 General to issue regulations to implement Title III of the ADA. 42 U.S.C. § 12186(b). Pursuant
10 to this mandate, the United States Department of Justice (“DOJ”) promulgated 28 C.F.R. Part 36.

11 69. Under Section 12182 and its implementing regulations, it is discrimination for a
12 public accommodation to “utilize standards or criteria or methods of administration . . . that have
13 the effect of discriminating on the basis of disability. . . .” 42 U.S.C. § 12182(b)(1)(D)(i); 28
14 C.F.R. § 36.204.

15 70. Serra administers its accessible taxi service by imposing an arbitrary fare for
16 accessible taxis that is up to four times higher than the fare charged for standard taxis. This Rate
17 5, whether characterized as a higher fare pursuant to 49 C.F.R. § 37.29(c), a special charge
18 pursuant to 49 C.F.R. § 37.5(d), or a surcharge pursuant to 28 C.F.R. § 36.301(c), is illegal and
19 thus has the effect of discriminating on the basis of disability because it is by reason of their
20 disabilities that Plaintiffs require accessible taxi service and have no choice but to pay the higher
21 rate.

22 71. Because Serra’s discriminatory and wrongful conduct is ongoing, Plaintiffs are
23 entitled to declaratory and injunctive relief. 42 U.S.C. § 12188. Plaintiffs are also entitled to
24 reasonable attorneys’ fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

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COUNT VI

Violation of Title III of the Americans with Disabilities Act

Discrimination by a Public Accommodation

(42 U.S.C. §§ 12182 *et seq.*)

Eligibility Criteria

72. Plaintiffs incorporate by reference each and every allegation contained herein.

73. Under Section 12182 and its implementing regulations, a public accommodation is prohibited from imposing eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations being offered. 42 U.S.C. § 12182(b)(2)(A)(i); 28 C.F.R. § 36.301.

74. Serra imposes eligibility criteria in the form of a higher rate – Rate 5 – on persons with mobility disabilities who require accessible taxi service. This higher rate screens out persons with mobility disabilities by deterring them from using Serra’s taxi services to travel around San Mateo County.

75. Because Serra’s discriminatory and wrongful conduct is ongoing, Plaintiffs are entitled to declaratory and injunctive relief. 42 U.S.C. § 12188. Plaintiffs are also entitled to reasonable attorneys’ fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

COUNT VII

Violation of Title III of the Americans with Disabilities Act

Discrimination by a Public Accommodation

(42 U.S.C. §§ 12182 *et seq.*)

Reasonable Modifications

76. Plaintiffs incorporate by reference each and every allegation contained herein.

77. Under Section 12182 and its implementing regulations, a public accommodation must make reasonable modifications to policies, practices, or procedures when such modifications are necessary to afford equal goods, services, facilities, privileges, advantages, or

1 accommodations to individuals with disabilities as those afforded to other individuals. 42 U.S.C.
2 § 12812(b)(2)(A)(ii); 28 C.F.R. § 36.302(a).

3 78. For time periods in 2013 and 2015, and possibly other times, Serra continued to
4 charge passengers requiring accessible taxis a higher fare using Rate 5. Eliminating the policy of
5 using Rate 5 would be a reasonable modification to Serra's fare structure for individuals who
6 require accessible taxis due to their disabilities. This higher Rate 5 that Serra imposes for
7 accessible taxis should be eliminated because persons with mobility disabilities who require
8 accessible taxi service have no choice but to hire an accessible taxi, which in turn triggers the
9 higher Rate 5 fare. Therefore, in light of this higher rate, persons with mobility disabilities are
10 not afforded full and equal enjoyment of taxi service by reason of their disabilities.

11 79. Because Serra's discriminatory and wrongful conduct is ongoing, Plaintiffs are
12 entitled to declaratory and injunctive relief. 42 U.S.C. § 12188. Plaintiffs are also entitled to
13 reasonable attorneys' fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

14 **COUNT VIII**

15 **Violation of the California Unruh Civil Rights Act**

16 **(California Civil Code §§ 51 *et seq.*)**

17 80. Plaintiffs incorporate by reference each and every allegation contained herein.

18 81. The Unruh Civil Rights Act ("the Unruh Act") guarantees, *inter alia*, that persons
19 with disabilities are entitled to "full and equal accommodations, advantages, facilities, privileges,
20 or services in all business establishments of every kind whatsoever" within the jurisdiction of the
21 state of California. Cal. Civ. Code § 51(b).

22 82. Serra provides transportation services to the general public in California, is a
23 business establishment within the jurisdiction of the state of California, and as such is obligated
24 to comply with the provisions of the Unruh Act.

25 83. The Unruh Act provides, *inter alia*, that a violation of the ADA, §§ 12101 *et seq.*,
26 also constitutes a violation of the Unruh Act. Cal. Civ. Code § 51(f).

1 84. Serra's discriminatory conduct alleged herein includes, *inter alia*, the violation of
 2 the rights of persons with disabilities set forth in Title III of the ADA, and therefore also violates
 3 the Unruh Act. Cal. Civ. Code § 51(f).

4 85. Serra's actions are, independently from the ADA, in violation of the Unruh Civil
 5 Rights Act. Plaintiffs have been harmed by Serra's discriminatory practice of charging up to
 6 four times as much for an accessible taxi as for a standard taxi. Serra's actions deny Plaintiff Del
 7 Aguila and Plaintiff CID's staff and constituents full and equal accommodations, advantages,
 8 facilities, privileges, or services in the use of Serra's taxis.

9 86. Therefore, Plaintiffs are entitled to injunctive relief remedying this discrimination
 10 pursuant to California Civil Code § 52. Unless the Court enjoins Serra from continuing to
 11 engage in these unlawful practices, Plaintiffs will continue to suffer irreparable harm.

12 **COUNT IX**

13 **Violation of the California Disabled Persons Act**

14 **(California Civil Code §§ 54 *et seq.*)**

15 87. Plaintiffs incorporate by reference each and every allegation contained herein.

16 88. The California Disabled Persons Act ("DPA") guarantees, *inter alia*, that persons
 17 with disabilities are entitled to full and equal access, equivalent to other members of the general
 18 public, to accommodations, advantages, facilities, and privileges of all "common carriers,"
 19 "motor vehicles," "places of public accommodation," and "other places to which the general
 20 public is invited" within the jurisdiction of California. Cal. Civ. Code § 54.1(a)(1).

21 89. Any violation of the ADA is also a violation of California Civil Code § 54.1. Cal.
 22 Civ. Code § 54.1(d).

23 90. Serra's taxis are common carriers, motor vehicles, places of public
 24 accommodation, or other places to which the general public is invited under California Civil
 25 Code § 54.1(a)(1).

26 91. Serra is violating the rights of Plaintiffs to full and equal access to common
 27 carriers, motor vehicles, places of public accommodation, or other places to which the general
 28

1 public is invited under the DPA by charging people with mobility disabilities who require
2 accessible taxis a higher fare than the standard fare. Serra is also violating the DPA in that its
3 actions are a violation of the ADA. Further, Plaintiffs have been and continue to be harmed by
4 Serra’s discriminatory policy.

5 92. Plaintiffs thus seek declaratory relief based on Serra’s violation of Plaintiffs’
6 rights under Cal. Civ. Code §§ 54-54.3.

7 93. Plaintiffs do not seek relief under California Civil Code § 55.

8 **COUNT X**

9 **Violation of the California Business and Professions Code**

10 **(California Business and Professions Code §§ 17200 et seq.)**

11 94. Plaintiffs incorporate by reference each and every allegation contained herein.

12 95. California’s Business and Professions Code prohibits unfair competition, which
13 includes any unlawful, unfair, or fraudulent business act or practice. Cal. Bus. & Prof. Code
14 § 17200. In acting as alleged herein, Serra – a for-profit corporation – has engaged in a pattern
15 or practice of unlawful discrimination in the operation of its taxi service, and therefore has
16 engaged in acts of unfair competition under Section 17200 of the Business and Professions Code.
17 Cal. Bus. & Prof. Code § 17200.

18 96. In bringing this action, Plaintiffs are acting in the interest of themselves and the
19 general public pursuant to California Business and Professions Code Section 17204.

20 97. Plaintiffs seek injunctive relief ordering Serra to stop its unlawful practices, and
21 seek restitution for CID in the amount of \$6,000.00 for the cost of monitoring Serra’s unlawful
22 practices since 2013 and for Mr. Del Aguila in the amount of \$103.50 for the costs he incurred in
23 using Serra taxis. Cal. Bus. & Prof. Code § 17203.

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DISABILITY RIGHTS ADVOCATES
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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

98. Issue a permanent injunction pursuant to the Americans with Disabilities Act, the Unruh Act, the DPA, and California Business and Professions Code Section 17203, requiring Serra to:

- (a) immediately cease implementation of its policy to impose higher fares for accessible taxis on individuals with mobility disabilities who require a lift or ramp to access taxi service;
- (b) put in writing a new policy (“new policy”) stating that individuals with mobility disabilities who require a lift or ramp to access taxi service will not incur additional charges for the use of such accessible taxis;
- (c) provide immediate training, to continue annually for the next five years, to all employees, including dispatchers and drivers, regarding the new policy;
- (d) agree to testing by an outside agency to ensure that, in the future, staff are adequately trained to implement the new policy and do not impose charges upon individuals with mobility impairments who require accessible taxis.

99. Issue a declaratory judgment that Serra’s policies, procedures, and practices have subjected and continue to subject Plaintiffs to discrimination in violation of Title III of the ADA, the Unruh Act, and the DPA.

100. Retain jurisdiction of this case until Serra has complied with the orders of this Court, and there is a reasonable assurance that Serra will continue to comply in the future, absent continuing jurisdiction;

101. Award Plaintiff CID restitution for monitoring Serra in the amount of \$6,000.00, and Mr. Del Aguila restitution for charges by Serra in the amount of \$103.50 as authorized by Cal. Bus. & Prof. Code § 17203;

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1 102. Award Plaintiffs reasonable attorneys' fees and costs, as authorized by 42 U.S.C.
2 § 12205 Cal. Civ. Code § 52, and Cal. Civ. Code § 54.3; and

3 103. Order any such other and further relief as the Court deems just and proper.
4

5 DATED: February 24, 2016

Respectfully submitted,

6 DISABILITY RIGHTS ADVOCATES

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9 _____
Mary-Lee K. Smith
10 Michelle Iorio
11 Freya Pitts
Attorneys for Plaintiffs

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