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14 OCT 2015 11:59 am

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Civil Administration

Attorney for Plaintiffs

Z&R CAB, LLC
11059 Greiner Road
Philadelphia, PA 19115
and

ZORO, INC.
11059 Greiner Road
Philadelphia, PA 19115
and

RONALD BLOUNT
11 Meadowood Lane
Sicklerville, NJ 08081
and

DEBRA BELL
32 Jacamar Drive
Voorhees, NJ 08043
vs.

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION**

CLASS ACTION

NO. 1394

PHILADELPHIA PARKING AUTHORITY
3101 Market Street, Second Floor
Philadelphia, PA 19104

JUNE TERM 2014

**SECOND AMENDED
CLASS ACTION COMPLAINT
TORT – OTHER**

NOTICE

AVISO

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias, de plazo al partir de la fecha de la demanda y la notificacion. Hace falt asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avlsado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso a notificacion. Ademas, la corte puede decidir a favor del demandante y requere qua usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP

LLEVE ESTA DEMANDA A UN ABOGADO IMMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

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PARTIES

1. Plaintiff **Z&R CAB, LLC** is a Pennsylvania limited liability company which operates a taxicab business pursuant to a medallion issued by the Philadelphia Parking Authority, having its principal place of business at 11059 Greiner Road, Philadelphia, Pennsylvania 19115.

2. Plaintiff **ZORO, INC.** is a Pennsylvania corporation which operates a taxicab business pursuant to three medallions issued by the Philadelphia Parking Authority, having its principal place of business at 11059 Greiner Road, Philadelphia, Pennsylvania 19115.

3. Plaintiff **RONALD BLOUNT** is an adult individual and a citizen of the State of New Jersey, who resides at 11 Meadowood Road, Sicklerville, NJ 08081 and who maintains his business address at 4233 Chestnut Street, Philadelphia, Pennsylvania 19104.

4. Plaintiff **DEBRA BELL** is an adult individual and a citizen of the State of New Jersey, who resides at 32 Jacamar Drive, Voorhees, NJ 08043, and who is the sole assignee the claims of **Olde City Taxicoach Association, Inc.** against defendant in this action.

5. Defendant **PHILADELPHIA PARKING AUTHORITY** (hereinafter "PPA") is an agency, but not an arm, of the Commonwealth of

Pennsylvania, which maintains its principal place of business at Philadelphia Parking Authority 3101 Market Street, Second Floor, Philadelphia, Pennsylvania 19104.

JURISDICTION AND VENUE

6. Jurisdiction is proper in this Court because this is an action seeking money damages, exclusive original jurisdiction of which is not vested in another court of this Commonwealth. 42 Pa.C.S.A §931; *Stackhouse v. Pa. State Police*, 574 Pa. 558 (2003).

7. Venue is appropriate under Pa.R.C.P. 1006 because Defendant is located in this county, and because transactions or occurrences out of which the cause of action arose took place in this county.

GENERAL ALLEGATIONS

8. Plaintiffs **Z&R CAB, LLC** and **ZORO, INC.** hold certificates of public convenience issued by the Pennsylvania Public Utility Commission that authorize them to provide call or demand service in designated areas of Philadelphia and its suburbs.

9. Plaintiff **RONALD BLOUNT** was a taxi driver in the City of Philadelphia during the times at issue in this action, who paid fees to the PPA as described hereinafter.

10. **OLDE CITY TAXICOACH ASSOCIATION, INC.** was a taxi dispatcher company in the City of Philadelphia during the times at issue in this action, which paid fees to the PPA as described hereinafter.

11. Prior to 2004, the Pennsylvania Public Utility Commission was solely responsible for the regulation of taxicab and limousine operations throughout Pennsylvania. In 2004, the Pennsylvania General Assembly transferred the regulation of taxicab and limousine service in Philadelphia to the defendant Parking Authority.

12. Unlike any other Pennsylvania state agency, the Parking Authority set its annual budget, which changed from year to year, without the oversight of either the Pennsylvania Governor or the Pennsylvania General Assembly as a body.

13. From 2004 until approximately February, 2013 the defendant Parking Authority' taxicab and limousine service regulatory functions were funded by the fees assessed by the Parking Authority upon the utilities it regulated.

14. Plaintiffs were required to pay these fees as a condition of maintaining their certificates of public convenience and/or their ability to operate or dispatch taxis and/or limousines. Failure to pay the fees also could result in imposition by

the defendant Parking Authority of fines, penalties, late fees and impoundment of Plaintiffs' vehicles.

15. Plaintiffs could not challenge the fee schedule in a hearing at any stage in the process, either before or after the fee schedule became effective.

16. In 2012 certain taxicab and limousine parties challenged the constitutionality of the Parking Authority's establishment, imposition and enforcement of the fees.

17. On February 14, 2013, in two separate opinions, the Commonwealth Court of Pennsylvania declared that the state statute under which the Parking Authority established and imposed the fees conferred autocratic power upon the Parking Authority to condemn property without due process, thereby offending the due process provisions of the Pennsylvania and United States Constitutions. *MCT Transportation, Inc. v. Philadelphia Parking Authority*, 60 A.3d 899 (Pa.Cmnwlth. 2013) and *The Philadelphia Regional Limousine Association v. Philadelphia Parking Authority*, No. 515 M.D. 2012, 2013 Pa. Commw. Unpub LEXIS 132, 2013 WL 3946215 (Pa.Cmnwlth. 2013).

18. The Parking Authority has maintained records of the sums paid as fees during the period July 16, 2004 – July 9, 2013.

CLASS ACTION ALLEGATIONS

19. Plaintiffs bring this action individually and as a class action pursuant to Pa.R.C.P. 1701 *et seq.* on behalf of an opt-out class defined as follows: All individuals, partnerships, corporations, limited liability companies or other business entities which paid to (or to the use of) the Philadelphia Parking Authority fees assessed by authority of the provisions of 53 Pa.C.S.A. §5707(b), from and including July 16, 2004 until July 9, 2013. Excluded from the class definition are any such individuals or entities which already have received full restitution of their payments.

20. Plaintiffs incorporate by reference the preceding allegations of this complaint.

21. The class is so numerous that joinder of all members is impracticable.

22. Questions of law and fact are common to the class.

23. Plaintiffs' claims are typical of the claims of the class.

24. Plaintiffs will fairly and adequately assert and protect the interests of the class.

25. A class action provides a fair and efficient method for adjudication of the controversy under the criteria set forth in Pa.R.C.P 1708.

26. The Parking Authority has acted on grounds that apply generally to the class, so that final injunctive and declaratory relief is appropriate respecting the class as a whole.

27. Prosecuting separate actions by individual class members would create a risk of adjudications with respect to individual class members that as a practical matter would be dispositive of the interests of the other members not party to the adjudications, or would impair or impede their ability to protect their interests.

CLAIM FOR RELIEF – 42 U.S.C. §1983

28. Plaintiffs incorporate herein by reference the preceding allegations of this complaint.

29. The Parking Authority, as set forth above, deprived Plaintiffs of their property without due process of law, under color of Pennsylvania law.

WHEREFORE Plaintiffs respectfully request this Court to award the following relief:

- a. To order that this action may proceed as a class action in which Plaintiffs act as the class representatives and Plaintiffs' counsel act as class counsel.
- b. To assess, in advance, against the Parking Authority all costs of class notice.

- c. To enter a declaratory judgment that all sums paid to (or to the use of) the Philadelphia Parking Authority under authority of the provisions of 53 Pa.C.S.A. §5707(b), from and including July 16, 2004 until July 9, 2013, were paid in violation of the Constitution of the United States and in violation of 42 U.S.C. §1983, and are due and owing to the Plaintiffs and to each class member.
- d. To award Plaintiffs and each class member all sums paid to (or to the use of) the Philadelphia Parking Authority under authority of the provisions of 53 Pa.C.S.A. §5707(b), from and including July 16, 2004 until July 9, 2013, together with both pre- and post-judgment interest.
- e. To award Plaintiffs costs of this action and reasonable attorneys' fees.

Respectfully submitted:

s/ John K. Weston _____

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s/ Edward Millstein

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VERIFICATION

DEBRA BELL states that she is the sole assignee of all claims of Olde City Taxicoach Association, Inc. against the Philadelphia Parking Authority during the period 2004-2013; that she has read the foregoing complaint; that, to the best of her knowledge, information and belief, the facts set forth therein are true and correct; and that she makes this verification subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Dated: 8/21/2015

A handwritten signature in cursive script, appearing to read "Debra Bell", is written over a horizontal line.

DEBRA BELL