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TURO INC.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN FRANCISCO  
13 UNLIMITED JURISDICTION

15 PEOPLE OF THE STATE OF CALIFORNIA,  
acting by and through DENNIS J. HERRERA  
16 AS CITY ATTORNEY OF SAN  
FRANCISCO,

17 Plaintiff,

18 v.

19 TURO INC., and DOES 1-100, inclusive,

20 Defendants.

21 TURO INC.,

22 Cross-Complainant,

23 v.

24 PEOPLE OF THE STATE OF CALIFORNIA,  
acting by and through DENNIS J. HERRERA  
25 AS CITY ATTORNEY OF SAN  
FRANCISCO, and CITY AND COUNTY OF  
26 SAN FRANCISCO,

27 Cross-Defendants.  
28

No. CGC-18-563803

**CROSS-COMPLAINT OF TURO INC. FOR  
DECLARATORY JUDGMENT AND OTHER  
RELIEF AGAINST PEOPLE OF THE STATE  
OF CALIFORNIA, ACTING BY AND  
THROUGH DENNIS J. HERRERA AS CITY  
ATTORNEY OF SAN FRANCISCO, AND  
CITY AND COUNTY OF SAN FRANCISCO**

Dept.: 206  
Judge: Hon. Teri L. Jackson

Action Filed: 01/24/2018  
Trial Date: Not Yet Set

1 Cross-Complainant Turo Inc. (“Turo”) alleges as follows:

2 **PRELIMINARY STATEMENT**

3 1. Turo is a San Francisco-based technology company that provides its community of  
4 users a platform to share cars. As the laws of California make clear, Turo is not a rental car  
5 company. It does not own or rent a fleet of cars. Instead, Turo is a technology company that  
6 provides a website<sup>1</sup> and mobile-device app for its community of users. Owners list their  
7 privately-owned cars on Turo, indicating calendar availability, and stating whether delivery is  
8 available and under what terms. Those in need of a car use Turo to search for available cars in a  
9 desired location. If a user identifies a car that she wants to use, she can book the car with the  
10 owner through Turo’s online platform. The users then meet at the time they selected.

11 2. Turo’s technology has revolutionized short-term car use and benefitted many as a  
12 result. Turo helps a range of car owners, from students to retirees, turn idle cars into a source of  
13 income. Consumers, in turn, love Turo because it gives them access to a wide selection of  
14 privately-owned cars with a superior user experience, often at prices below those charged by  
15 rental car companies. The California legislature embraced this innovative “sharing economy”  
16 model for cars by amending the California Insurance Code to recognize “personal vehicle sharing  
17 program[s]” as a new kind of entity, separate and distinct from rental car companies.<sup>2</sup> Cal. Ins.  
18 Code § 11580.24.

19 3. Some Turo users coordinate with each other through the Turo platform to  
20 exchange cars at or near San Francisco International Airport (“SFO”) with the exchange  
21 sometimes taking place outside the terminal, in a parking lot, or at other locations at or near SFO.  
22 SFO asserts that, in connection with these exchanges at or near the airport, Turo’s users should  
23 have to pay charges designed for rental car companies that operate at the airport. It makes no  
24 sense to apply these charges to Turo.

25 \_\_\_\_\_  
26 <sup>1</sup> Turo’s website can be found at <https://turo.com/>.

27 <sup>2</sup> California is not alone: Oregon and Washington have enacted similar laws to promote peer-to-  
28 peer car sharing and to clarify responsibilities in connection with its operation. *See* Or. Rev. Stat.  
§§ 742.585–742.600; Wash. Rev. Code §§ 48.175.005–48.175.900.

1           4. To start with, SFO demands that Turo’s users pay an \$18 “Transportation and  
2 Facilities Fee” per transaction (the “SFO Facilities Charge”). California law makes clear that this  
3 particular fee can only be charged to rental car companies, which Turo is not. Cal. Gov. Code  
4 § 50474.1. In fact, SFO justifies these charges by stating they are meant to recoup its “costs of  
5 providing AirTrain Service . . . allocable to the rental car industry in conjunction with rental car  
6 patron movement between the Rental Car Center and all domestic and international Airport  
7 terminals.”<sup>3</sup> But Turo does not use the Rental Car Center on SFO’s premises,<sup>4</sup> because Turo is a  
8 technology platform with no presence at SFO at all. As a result, Turo’s users have no reason to  
9 go to the Rental Car Center, by AirTrain or any other means. Imposing this charge on Turo users  
10 is irrational, unfair, and unlawful.

11           5. Worse still, SFO demands that Turo’s users pay a 10% tax on every booking (the  
12 “Gross Receipts Charge”). This is a pure revenue grab and is in no way connected to any service  
13 the airport provides to Turo or its community, or any supposed burden caused by Turo users  
14 exchanging cars at or near the airport. For example, if a Turo user shares her car for \$500 for a  
15 week-long trip and hands over the keys curbside at SFO, the airport demands \$68 (10% of the  
16 total cost of the reservation plus the SFO Facilities Charge). This means that Turo users could  
17 end up paying ten or even twenty times more in charges and taxes than Transportation Network  
18 Companies (“TNCs”) such as Uber and Lyft, who use airport property in virtually the same  
19 manner. Uber and Lyft riders pay \$3.80 per trip and have the same or greater impact on the  
20 airport as Turo users meeting outside the terminal, given that Uber and Lyft are on-demand  
21 services that require a staging area. Limousines and taxis similarly meet passengers curbside and  
22 require a staging area, yet pay pennies on the dollar compared to what SFO would charge Turo  
23 users (limousines also pay \$3.80 per trip and taxis pay \$5). Unlike Turo, rental car companies

24 \_\_\_\_\_  
25 <sup>3</sup> SFO Summary of Airport Charges, Fiscal Year 2017/2018, at 12 (available at  
<https://sfoconnect.com/sites/default/files/SFO%20Summary%20of%20Charges%20FY2018.pdf>.)

26 <sup>4</sup> The SFO Rental Car Center is a five-level structure containing approximately 1.5 million  
27 square feet and 5,000 parking spaces, a rental car operator staging area, rental car fueling and  
28 cleaning facilities, ticket counter space for rental car companies, and administrative offices for  
rental car companies.

1 use SFO parking lots and other infrastructure, including the Air Train and SFO’s Rental Car  
2 Center. Forcing Turo users to pay the same fees as rental car companies while allowing TNCs,  
3 taxis, and limos to pay a mere fraction of this amount is irrational and unjustifiable, as Turo users  
4 cause no more burden on the airport than an Uber driver meeting a rider or limousine picking up a  
5 patron.<sup>5</sup>

6       **6.** Ignoring entirely the minimal burden Turo users actually create, SFO would  
7 impose on Turo and its users a 10% Gross Receipts Charge and an \$18 SFO Facilities Charge just  
8 for meeting at or near the airport. But California voters have passed ballot initiatives that protect  
9 against exactly these kinds of arbitrary taxes. Proposition 26 (commonly known as the “Stop  
10 Hidden Taxes Initiative”), which was enacted in 2010 and amended Article XIII C of the  
11 California Constitution, requires that any “fee” charged by a local government bear a reasonable  
12 connection to the cost of the service covered by the fee. Otherwise, the fee is not really a fee at  
13 all, but a tax that California voters are entitled to approve or reject. But voters have never  
14 approved the Gross Receipts Charge or the SFO Facilities Charge, and it is unlawful for SFO to  
15 try to impose it on Turo and its users.

16       **7.** For similar reasons, the arbitrary nature of these fees and taxes also violates the  
17 “dormant” commerce clause of Article I, Section 8 of the United States Constitution, and the  
18 equal protection clauses of the Fourteenth Amendment to the United States Constitution and  
19 Article I, Section 7 of the California Constitution. These federal and state constitutional  
20 provisions prohibit SFO from: (a) imposing an undue burden on interstate commerce by charging  
21 exorbitant fees or taxes that are not actually related to any benefit provided to or service used by  
22 Turo or its users; and (b) discriminating against Turo and its users by charging fees and taxes that  
23 are dramatically higher than those imposed on businesses that use airport property in the same  
24 manner. SFO has ignored each of these constitutional requirements entirely.

25       **8.** The campaign to misclassify Turo as a rental car company did not start with SFO,  
26 but, rather, with multi-national rental car companies that wield enormous political power and

27 \_\_\_\_\_  
28 <sup>5</sup> Others pick up friends and family curbside without paying any fees at all.

1 influence, including—apparently—over the City of San Francisco, to the detriment of San  
2 Francisco-based companies and San Francisco residents. These rental car companies make  
3 sizable campaign donations, run political action committees, and—as the City freely admits in its  
4 Complaint—pay fees and taxes that make up over 11% of SFO’s annual operating revenue—over  
5 a hundred million dollars a year.<sup>6</sup>

6       **9.** In particular, Enterprise Rent-a-Car, and its parent Enterprise Holdings  
7 (collectively, “Enterprise”), has pressured airports and lawmakers across the country to create  
8 obstacles for Turo and its users.<sup>7</sup> The Enterprise parent company now owns both Alamo Rent a  
9 Car and National Car Rental—collectively, these entities account for 37% of the airport car rental  
10 market.<sup>8</sup> Enterprise exerts its market power and influence as the largest rental car company in  
11 America through hundreds of paid lobbyists, expansive political donations, and even through its  
12 own political action committee, spending millions of dollars buying political influence to advance  
13 its interests at the federal, state, and local levels of government.<sup>9</sup> Through these methods, rental  
14 car companies have secured lavish tax loopholes and favorable regulatory environments.  
15 Enterprise views Turo as an existential threat and aims to use its influence to regulate, tax, or  
16 litigate Turo out of the peer-to-peer car-sharing market.

17       **10.** Unfortunately for the residents of San Francisco, SFO appears happy to oblige.  
18 SFO’s collusion with Enterprise is further evidenced by the fact that, on information and belief,

19 \_\_\_\_\_  
20 <sup>6</sup> The SFO 2015–2016 Annual Operating Budget is available at  
21 <https://media.flysfo.com/media/sfo/about-sfo/annual-operating-budget-fy1415-fy1516.pdf>. In the  
22 2015–2016 fiscal year, “on” and “off” airport rental car company concessions were projected to  
23 contribute \$53,697,000 to airport revenues, rental car facility fees were projected to contribute  
24 \$14,853,000 to airport revenues, and rental car transportation and facilities fees were projected to  
25 contribute \$37,246,000 to airport revenues. *Id.* at 17-18, 24, 26. That is \$105,796,000 in revenue  
26 from rental car companies out of a total of \$852,532,000 projected operating revenue.

27 <sup>7</sup> Enterprise does not even attempt to hide the fact that it has airports doing its bidding. In one  
28 brazen example, representatives of another airport cc’d one of Enterprise’s external lobbyists on a  
cease-and-desist letter sent to Turo.

<sup>8</sup> [https://www.enterpriseholdings.com/en/press-  
archive/2016/11/enterprise\\_national\\_and\\_alamo\\_brands\\_earn\\_top\\_three\\_spots\\_in\\_jd\\_power\\_rental\\_car\\_satisfaction\\_study.html](https://www.enterpriseholdings.com/en/press-archive/2016/11/enterprise_national_and_alamo_brands_earn_top_three_spots_in_jd_power_rental_car_satisfaction_study.html).

<sup>9</sup> <https://www.fec.gov/data/committee/C00219642/>.

1 SFO gave correspondence exchanged with Turo’s in-house lawyer to Enterprise and its lobbyists,  
2 who are currently using the letters to lobby for new legislation that is unfavorable to Turo.

3 **11.** But even though San Francisco residents are footing the bill for their City  
4 Attorney’s lawsuit and accompanying fanfare, they are not the ones who stand to benefit.  
5 Remarkably, the Complaint openly admits that the City has brought this lawsuit to protect  
6 national rental car companies that operate at SFO. That is to say, the City Attorney of San  
7 Francisco is using taxpayer dollars to bring a lawsuit against a San Francisco-based employer and  
8 company, and to the detriment of San Francisco residents that use Turo, to protect the interests of  
9 national rental car conglomerates like Enterprise. Indeed, the City Attorney’s press release  
10 echoes this fact, stating that the lawsuit was brought to stop Turo from “charg[ing] lower prices  
11 than competitor rental car companies[.]”<sup>10</sup>

12 **12.** But contrary to the wishes of Enterprise, SFO does not have authority under the  
13 relevant California statutes, the California and United States Constitutions, or its own rules and  
14 regulations to regulate Turo as if it were a rental car company or to charge Turo and its  
15 community of users what amount to unlawful taxes and fees. Turo is an online platform that  
16 facilitates peer-to-peer car sharing among its community of users. Turo is not a rental car  
17 company and SFO cannot circumvent the law to treat it as such.

18 **13.** Notwithstanding this fact, Turo has always preferred dialogue over litigation and  
19 has long offered to work with SFO to find a reasonable permitting and fee regime. Turo is more  
20 than willing to pay fees and receive a permit akin to those SFO has arranged with Uber and  
21 Lyft—ride-sharing services that make almost identical use of the airport. Even after being sued,  
22 Turo is ready to work with SFO to arrive at a rational arrangement that advances the interests of  
23 the airport and Bay Area residents, rather than those of the rental car companies.

24 **14.** However, given no other choice, Turo brings this Cross-Complaint to protect itself  
25 and its community of users. Specifically, Turo seeks to ensure that its new approach to peer-to-  
26 peer car sharing is not stymied by heavy-handed regulations meant to protect the status quo and

27 \_\_\_\_\_  
28 <sup>10</sup> <https://www.sfcityattorney.org/2018/01/24/herrera-takes-turo-court-cheating-competition-sfo/>

1 the interests of the large national car rental companies, to the detriment of entrepreneurial San  
2 Francisco residents looking to offset the high cost of car ownership in the city by taking  
3 advantage of the economic opportunity created for them by Turo. Turo asks the Court for a  
4 judicial declaration that:

5 (a) Because Turo is not a rental car company, Turo and its users that engage in  
6 personal vehicle sharing (“Users”) cannot be compelled by SFO to pay fees that only apply to  
7 rental car companies or comply with a permit regime that was never intended to cover a  
8 technology platform like Turo;

9 (b) SFO’s attempt to impose an arbitrary and unreasonable 10% tax and an \$18  
10 fee on each booking made on the Turo platform is unlawful as an unauthorized tax in violation of  
11 California Constitution, Article XIII C;

12 (c) SFO has violated the “dormant” commerce clause of the United States  
13 Constitution because the charges that SFO is attempting to extract from Turo and its Users pose  
14 an undue burden on interstate commerce in that they are excessive in relation to the benefits  
15 conferred and are not based on any fair approximation of Turo or its Users’ use of SFO’s  
16 facilities; and

17 (d) SFO has violated the equal protection clauses of the California and United  
18 States Constitutions because it unlawfully discriminates against Turo and its Users by charging  
19 fees and taxes that far exceed the amount SFO recovers from similarly-situated companies and  
20 their users without any rational basis for doing so.

21 15. Turo is a San Francisco-based company that has thrived here in the global center  
22 for innovation. Turo has no desire to fight the City and would happily ask its Users to pay fees to  
23 SFO that reflect and comport with how Turo actually works. But Turo is committed to protecting  
24 its community of Users, including from arbitrary, unfair, and unlawful fees and taxes.

25 **PARTIES**

26 16. Turo Inc., formerly known as RelayRides, Inc., is a Delaware corporation. A  
27 pioneer of the sharing economy, Turo operates a website and mobile apps that match people who  
28 have spare cars with people who are looking for short-term car sharing by the day, week, or

1 longer. Turo is based in San Francisco and employs over 110 people in its headquarters.

2 **17.** The People of the State of California, by and through San Francisco City Attorney  
3 Dennis J. Herrera, brought an action against Turo pursuant to California Business and Professions  
4 Code section 17200 et seq.

5 **18.** The City and County of San Francisco (the “City”) is a consolidated city and  
6 county located in the San Francisco Bay Area. The City owns and operates SFO through the San  
7 Francisco International Airport department and the San Francisco Airport Commission. In this  
8 Complaint, the terms “City” and “SFO” will be used interchangeably.

9 **JURISDICTION AND VENUE**

10 **19.** This case asks the Court to rule on a matter of California law. This Court is  
11 authorized to grant declaratory relief pursuant to section 1060 of the California Code of Civil  
12 Procedure and to grant injunctive relief pursuant to sections 525 and 526 of the California Code  
13 of Civil Procedure.

14 **20.** This Court has personal jurisdiction over the Cross-Defendants.

15 **21.** Venue in San Francisco County is appropriate under California Code of Civil  
16 Procedure § 395.

17 **ADDITIONAL STATEMENT OF FACTS**

18 **Turo Brings Short-Term Personal Car Sharing to the Sharing Economy**

19 **22.** Turo (formerly RelayRides) was founded in April 2009<sup>11</sup> by a Harvard Business  
20 School student named Shelby Clark:

21 It was Thanksgiving Day in 2008, and I needed to rent a Zipcar. It was  
22 snowing, and I had to bike 2 1/2 miles through Boston snow to get to a  
23 car.<sup>12</sup> “I passed hundreds of cars on the road that had clearly not been  
24 driven for weeks, and that was when the light bulb went on. I thought:  
25 ‘Wait a minute! I should be taking one of those cars!’”

26 Clark began planning just after that incident. He researched insurance  
27 and technologies, and surveyed the marketplace to see if there were other

27 <sup>11</sup> Turo did not operate in California before December 2010.

28 <sup>12</sup> <http://www.mercurynews.com/2014/12/05/qa-shelby-clark-executive-director-of-peers/>.



1 people who want and need to share their cars—and would be open to  
2 doing so with complete strangers.

3 In April 2009, Clark founded RelayRides, the first person-to-person car-  
4 sharing service.... Unlike fleet-based services—Zipcar, City CarShare, I-  
5 GO, and others—which maintain their own vehicles, RelayRides relies on  
6 individual car owners to supply the vehicles....<sup>13</sup>

7 Clark conceived of a platform that would pair people who have spare cars with people who are  
8 willing to pay to use them. Every day, hundreds of thousands of cars sit unused in America. In  
9 fact, American cars remain parked for over 95% of their lifetime.<sup>14</sup> The sharing economy  
10 provides an elegant solution to this waste. Turo allows car owners to share their otherwise  
11 dormant cars with would-be drivers for reasonable fees.

12 **23.** Turo itself does not own any fleet of cars. Rather, it is a virtual platform that  
13 provides one basic service: matching car owners with those in need of a car while ensuring that  
14 every car owner in the United States is covered by a generous \$1 million commercial auto  
15 liability policy from Liberty Mutual. Additionally, Turo screens each traveler and provides a 24-  
16 hour emergency customer support to its users. This business model is fundamentally different  
17 from car rental companies that own vast fleets of vehicles, run private networks of airport vans  
18 and shuttle buses, and are immensely profitable because of generous tax breaks from the federal  
19 and state government (including the direct subsidies, bail-outs, the waiver of capital gains taxes  
20 for the purchase and sale of cars, and the pass-through of registration and licensing fees).

21 **24.** Owners that list vehicles on Turo set up a profile and list their privately-owned  
22 cars on Turo by describing the make, model, location and special features of the car, and  
23 indicating availability. Owners may also input more detailed descriptions of the cars and set  
24 guidelines for use, including availability, price, and terms of delivery.

25 **25.** Users, in turn, also set up profiles and can search Turo’s website or app by: (i)  
26 typing a desired location into the search menu on Turo’s main homepage; and (ii) inputting a

27 <sup>13</sup> <https://www.shareable.net/blog/would-you-share-your-car-with-a-stranger>.

28 <sup>14</sup> <http://fortune.com/2016/03/13/cars-parked-95-percent-of-time/>.

1 desired time frame using a drop-down menu. These users then gain access to over 800 makes and  
2 models, and—unlike with rental car companies—drivers can pick the specific make, model, and  
3 color they want from a local car owner. Turo users can pick the exact car that fits the occasion  
4 and their budget and coordinate directly with car owners to either have a car delivered to them or  
5 arrange to pick up the car from a pre-determined location.

6 **26.** On average, car owners who use Turo earn about \$3,000 per year through the  
7 platform. This supplemental earning power helps seniors on fixed incomes,<sup>15</sup> young people  
8 paying off student loans,<sup>16</sup> and car owners that need help making auto-loan and insurance  
9 payments.<sup>17</sup> Indeed, the majority of these car owners report using these earnings to make car  
10 payments, reduce debt, or save for their future. Turo has the potential to provide this extra source  
11 of income to a wide swath of Americans—over 90% of American households own one or more  
12 cars.<sup>18</sup>

13 **27.** Turo lets these households realize income on an otherwise idle asset, all while  
14 helping to reduce environmental impacts by eventually decreasing the number of cars on the road.  
15 In fact, researchers at the University of California Berkeley have found that “shared mobility”  
16 platforms like Turo can create new revenue sources from underused resources, support healthy  
17 lifestyles by reducing driving, and reduce the negative environmental impacts of driving by  
18 encouraging individuals that would otherwise own cars to use public transit and then turn to car  
19 sharing to supplement their transportation options as needed. Likewise, researchers for the  
20 Department of Transportation have observed that members of car sharing programs are more  
21 likely to sell their cars and avoid buying a new car because of car sharing; reductions in car  
22  
23  
24

25 <sup>15</sup> <http://www.miamiherald.com/living/article89813702.html>.

26 <sup>16</sup> <https://studentloanhero.com/featured/turo-review/>.

27 <sup>17</sup> <http://www.baltimoresun.com/business/bs-bz-turo-ride-sharing-growth-20170318-story,amp.html>.

28 <sup>18</sup> See [https://www.rita.dot.gov/bts/publications/passenger\\_travel\\_2015/chapter2/fig2\\_8](https://www.rita.dot.gov/bts/publications/passenger_travel_2015/chapter2/fig2_8).

1 ownership are, in turn, associated with increased public transit ridership, walking, and biking as  
2 well as reduced parking demand.<sup>19</sup>

3 **28.** Turo’s model makes sense for owners and drivers. As the sharing economy grows,  
4 the need for dedicated rental cars, which require expensive overhead to maintain and rent, not to  
5 mention the massive environmental waste they create, is diminishing. Turo is by far the largest  
6 and most successful peer-to-peer car sharing platform provider in the United States and it has  
7 grown substantially in the past several years.

8 **As the California Legislature has Recognized, Turo’s Car-Sharing Model is Legally Distinct**  
9 **from the Rental Car Company Model**

10 **29.** As noted, Turo is a matchmaking website and app. Turo does not own or lease  
11 fleets of cars, so it cannot “rent” them. Just as Kayak and Expedia are not airlines, eBay is not a  
12 memorabilia distributor, StubHub is not a ticket seller, Skype is not a telecom company, and  
13 craigslist is not a secondhand goods retailer, Turo is not a rental car company.

14 **30.** California law is in accord. In 2010, the California legislature passed AB 1871.  
15 The law created the framework for personal vehicle sharing programs by establishing California  
16 Insurance Code § 11580.24. In enacting this law, the California legislature recognized that  
17 personal vehicle sharing programs were distinct from rental car companies (to which an  
18 alternative set of laws apply). Specifically, this law defines a “personal vehicle sharing program,”  
19 such as Turo, as follows: “a legal entity qualified to do business in the State of California engaged  
20 in the business of facilitating the sharing of private passenger vehicles for noncommercial use by  
21 individuals within the state.” Cal. Ins. Code § 11580.24(b)(2). The law explains that cars shared  
22 through a Personal Vehicle Sharing Program like Turo are not commercial vehicles: “No private  
23 passenger motor vehicle insured by its owner pursuant to a policy of insurance subject to Section  
24 11580.1 or 11580.2 shall be classified as a commercial vehicle, for-hire vehicle, permissive use

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25 <sup>19</sup> See, e.g.,  
26 <https://cloudfront.escholarship.org/dist/prd/content/qt8w77044h/qt8w77044h.pdf?t=p2q24m&v=1>  
27 g; UNITED STATES DEPARTMENT OF TRANSPORTATION, Shared Mobility: Current Practices and  
28 Guiding Principles, available at  
<https://ops.fhwa.dot.gov/publications/fhwahop16022/fhwahop16022.pdf>

1 vehicle, or livery solely because its owner allows it to be used for personal vehicle sharing. . . .”  
2 Cal. Ins. Code § 11580.24(a).

3 **31.** As a personal vehicle sharing program, Turo “facilit[ates] the sharing of private  
4 passenger vehicles for noncommercial use” over the Internet; it does not rent cars. Moreover,  
5 under this new law, companies like Turo are responsible for ensuring auto insurance is in place  
6 that covers the vehicle while it is being shared. Id. § 11580.24(c)(1). This relieves the owner of  
7 having to secure expensive additional insurance that would cover the car so it can be shared by  
8 the owner.

9 **32.** The National Resources Defense Council, the Environmental Defense Fund, the  
10 Sierra Club, the City of Sacramento, the American Planning Association, California Chapter,  
11 Community Action to Prevent Asthma, and the Consumer Attorneys of California supported the  
12 passage of this law. Many of these groups touted the environmental or consumer-choice benefits  
13 of car sharing programs like Turo as the basis for their support.

14 **33.** Consistent with this provision of California insurance law, other aspects of  
15 California law also make plain that Turo could not be a rental car company:

16 **(a)** The California Vehicle Code defines a rental car company as follows: “A  
17 ‘rental car company’ is a person or entity in the business of renting passenger vehicles to the  
18 public in California.” Cal. Veh. Code § 11752(e).

19 **(b)** The California Civil Code defines a rental car company as follows:  
20 “‘Rental company’ means a person or entity in the business of renting passenger vehicles to the  
21 public.” Cal. Civ. Code § 1939.01(a).

22 **(c)** The California Insurance code defines a rental car company in nearly the  
23 same manner: “‘Rental car company’ means any person in the business of renting vehicles to the  
24 public.” Cal. Ins. Code § 1758.89.

25 **34.** Turo is not in the business of renting passenger vehicles to the public, as it owns  
26 no fleet of vehicles to rent, and does not fall within these definitions. Turo is instead in the  
27  
28

1 business of providing an online platform that allows people who have spare cars to connect with  
2 people who want to use them.<sup>20</sup>

3 **35.** These statutory provisions make clear that a rental car company is a company that  
4 rents cars to customers and that a personal vehicle sharing program is something distinct—again,  
5 in the words of the California Legislature, a platform that “facilitat[es] the sharing of private  
6 passenger vehicles for noncommercial use.” As such, Turo does not meet the statutory definition  
7 of a rental car company. Indeed, its business model is based on providing consumers with a far  
8 more appealing alternative to rental car companies.

9 **36.** Other governmental and private actors agree. For example, Oregon and  
10 Washington passed similar car sharing laws to California’s. Similarly, credit card companies, and  
11 personal insurance providers that offer protections to users that rent from rental car companies,  
12 regularly deny such coverage to Turo users because Turo is not a rental car company. Moreover,  
13 the United States Department of Transportation has observed that “peer-to-peer carsharing”  
14 programs are distinct from rental car companies.<sup>21</sup>

### 15 **SFO Cannot Treat Turo Like a Rental Car Company**

16 **37.** Consistent with the will of the rental car companies, SFO has demanded that Turo  
17 apply for an “off-airport rental car permit” and pay off-airport rental car fees and taxes. But SFO  
18 cannot require Turo, a website and app, to apply for such a permit, charge such fees, or establish  
19 such taxes.

20 **38.** The California Government Code allows airports to charge fees to rental car  
21 companies, including “off-airport rental car companies.” Critically, these provisions cannot be  
22 forced upon entities that are not rental car companies. See, e.g., Cal. Gov. Code §§ 50474.1;  
23 50474.21.

24 \_\_\_\_\_  
25 <sup>20</sup> Turo’s Users are also not rental car companies. They are instead individuals empowered by  
§ 11580.24 to earn income from an otherwise idle asset without operating as commercial entities.

26 <sup>21</sup> UNITED STATES DEPARTMENT OF TRANSPORTATION, Shared Mobility: Current Practices and  
27 Guiding Principles, *available at*  
<https://ops.fhwa.dot.gov/publications/fhwahop16022/fhwahop16022.pdf> (defining carsharing as  
28 a separate category from “Car Rental”).

1           **39.** In its 2017/2018 “Summary of Airport Charges,” SFO defined the \$18 SFO  
2 Facilities Charge as follows:

3           The SFO Transportation and Facility Fee is collected by the rental car companies  
4 with proceeds remitted monthly to the Airport. The fee is assessed per signed  
5 rental car contract and represents a partial recovery of the associated costs of  
6 providing AirTrain Service (debt service, maintenance & operating expenses)  
7 allocable to the rental car industry in conjunction with rental car patron movement  
8 between the Rental Car Center and all domestic and international Airport  
9 terminals.

10           **40.** This specific fee is authorized by Cal. Gov. Code § 50474.1. That provision reads,  
11 in part:

12           An airport operated by a city and county may require a rental car company, in  
13 writing, to collect a fee from its customers on behalf of the airport for the use of  
14 an airport-mandated common use busing system or light rail transit system  
15 operated for the movement of passengers between the terminal and a consolidated  
16 on-airport rental car facility.

17           **41.** The statute goes on to strictly limit this fee to the amount necessary to recoup these  
18 transit costs. Cal. Gov. Code §§ 50474.1(a)(4) (“Revenues collected from the fee may not exceed  
19 the reasonable costs of providing the busing and light transit service and shall not be used for any  
20 other purpose.”).

21           **42.** But Turo is not a rental car company—it is a website that facilitates peer-to-peer  
22 car sharing, and, as such, the statute plainly does not authorize SFO to charge Turo this fee.  
23 Moreover, Turo and its community of Users do not use the SFO Rental Car Center and do not use  
24 the AirTrain to get to and from the Rental Car Center.

25           **43.** That means that if SFO requires Turo Users to pay the SFO Facilities Charge,  
26 those Users will be financing infrastructure they never benefit from or use. That is manifestly  
27 unjust. Turo has done away with the need for rental car counters and expensive car lots and the  
28 transit infrastructure needed to connect the two—it makes no sense to force Turo Users to pay to  
keep rental car companies in business.

1           **44.** No other California statute authorizes an airport to regulate or charge fees to a  
2 personal vehicle sharing program like Turo, or requires such entities, who do not operate at the  
3 airport, but rather, only online, to pay fees to the airport.

4                               **SFO’s Own Regulations Do Not Suggest Otherwise**

5           **45.** SFO also publishes a set of “Rules and Regulations” of its own design (“SFO  
6 Rules”).<sup>22</sup> These Rules incorporate applicable California statutes, including those referenced  
7 herein. See SFO Rule 3.1.

8           **46.** The SFO Rules specify the types of “Ground Transportation Operators” that must  
9 apply for permits with the airport. Specifically, SFO Rule 4.7 lists “Modes Requiring [] Airport  
10 Permits” as: “(a) Charter buses (b) Courtesy shuttles (c) Limousines (d) Scheduled transportation  
11 operators [] (e) Shared-ride vans and (f) Transportation Network Companies.” Each of these is a  
12 defined term. See SFO Rule 1. Turo does not fall within the definition of any of these categories.

13           **47.** No other SFO Rule serves as a basis for SFO’s claimed authority to require Turo  
14 to apply for a permit or to require that Turo pay fees to SFO.

15           **48.** That means that SFO has never promulgated any rules or regulations that require  
16 Turo, an online platform, to get a permit or that require Turo Users to pay any charges. SFO’s  
17 insistence that Turo comply with an “off-airport rental car permit” regime is nothing more than  
18 mismatch by fiat—and fiat that finds no basis in the Airport Commission Charter, the SFO Rules,  
19 or elsewhere.

20           **49.** Furthermore, SFO Rules state that they are to be applied to the “operation of all  
21 motor vehicles . . . conducting business on Airport premises, including . . . all businesses engaged  
22 in commercial transportation.” SFO Rule 4.0 (emphasis added). However, California Insurance  
23 Code section 11580.24 requires that users sharing their cars in a “Personal vehicle sharing  
24 program” (like Turo) not share their cars for commercial use, but only for personal use. Cal. Ins.  
25 Code 11580.24(a). As such, SFO cannot regulate Turo Users as commercial operators.  
26 Moreover, Turo itself does not “operate” at SFO at all. That Turo Users sometimes meet at SFO

27 <sup>22</sup> The current SFO Rules and Regulations can be found at  
28 [http://media.flysfo.com.s3.amazonaws.com/media/sfo/about-sfo/sfo\\_rules\\_regulations\\_2017.pdf](http://media.flysfo.com.s3.amazonaws.com/media/sfo/about-sfo/sfo_rules_regulations_2017.pdf).

1 does not change this analysis, just as craigslist or Match.com (an online dating app) do not  
2 “operate” wherever their users meet. It would be nonsensical to hold Match.com liable for  
3 misdemeanor trespass if two Match.com users met on SFO property, yet the City Attorney’s  
4 lawsuit intends just that for Turo.

5 **SFO’s Demands Violate Section XIII C of the California Constitution**

6 **50.** SFO demands that Turo apply for an off-airport rental car permit and that Turo and  
7 its Users pay a Gross Receipts Charge of 10% of the total amount of each reservation plus an  
8 SFO Facilities Charge of \$18 to supplement SFO’s budget.

9 **51.** As noted above, Turo and its Users cannot be made to pay this rental car company  
10 Gross Receipts Charge or SFO Facilities Charge because Turo is not a rental car company.

11 **52.** Moreover, the application of the Gross Receipts Charge and SFO Facilities Charge  
12 to Turo and its Users is a violation of Article XIII C of the California Constitution, enacted by  
13 Proposition 218 and amended by Proposition 26.

14 **53.** In 1996, California voters passed Proposition 218, which required local  
15 governments to get voter approval before enacting any new taxes. Over the next two decades,  
16 local governments learned to bypass this requirement by reframing new taxes as “fees” or  
17 “assessments” that did not require voter approval. California’s voters took action to combat this  
18 abuse and to strengthen taxpayer protections, passing Proposition 26 in 2010 (also known as the  
19 Stop Hidden Taxes Proposition).

20 **54.** California voters stated their purpose in the first section of Proposition 26. That  
21 section, labeled “Findings and Declarations of Purpose of the People of the State of California,”  
22 provides as follows:

23 Fees couched as ‘regulatory’ but which exceed the reasonable costs of actual  
24 regulation or are simply imposed to raise revenue for a new program and are not  
25 part of any licensing or permitting program are actually taxes and should be  
26 subject to the limitations applicable to the imposition of taxes. [] In order to  
27 ensure the effectiveness of these constitutional limitations, this measure also  
28 defines a ‘tax’ for state and local purposes so that neither the Legislature nor local  
governments can circumvent these restrictions on increasing taxes by simply  
defining new or expanded taxes as ‘fees.’



1           **55.** Under this new constitutional language, any “levy, charge, or exaction” is treated  
2 as a tax unless it falls within one of seven narrowly defined exceptions. This new regime has  
3 significantly expanded voters’ ability to veto arbitrary taxes. Under Proposition 26, it is the  
4 burden of the taxing authority to prove an exception applies. Any means of raising revenue that  
5 is a tax must be submitted to a vote of the people.

6           **56.** The Gross Receipts Charge as it is applied to Turo and its Users does not fall  
7 within any of the seven exceptions enumerated in Article XIII C, Section 1(e).

8           **57.** Relevant to the present matter, a local government actor needs voter approval to  
9 charge a fee for a “benefit,” “privilege,” “service,” or “product” unless that actor can prove the  
10 fee is (1) “no more than necessary to cover the reasonable costs of the governmental activity” and  
11 (2) “that the manner in which those costs are allocated to a payor bear[s] a fair or reasonable  
12 relationship to the payor’s burdens on, or benefits received from, the governmental activity.”  
13 SFO’s attempt to levy the Gross Receipts Charge on Turo and its Users without voter approval  
14 clearly runs afoul of these requirements.

15           **58.** This is so because the Gross Receipts Charge would far exceed the costs SFO  
16 incurs as a result of Turo Users meeting at the airport. In fact, the Gross Receipts Charge is not  
17 reasonably connected to any cost incurred by the airport to support Turo Users. Turo Users do  
18 not require an expensive Rental Car Center, signage, or counters, and do not need to use the  
19 AirTrain or shuttle buses to get to expansive car lots. For these same reasons, the Gross Receipts  
20 Charge is also not a reasonable or fair approximation of any benefit, service, or good that SFO  
21 provides to Turo or its Users.

22           **59.** Rather, the Gross Receipts Charge would simply be a new stream of revenue for  
23 SFO that comes without additional cost or burden to the airport. Remarkably, the Gross Receipts  
24 Charge would demand of Turo Users exorbitant charges merely for the right to meet at or near the  
25 airport.<sup>23</sup>

26 \_\_\_\_\_  
27 <sup>23</sup> For example, if a Turo host delivers a car to a disembarking passenger at SFO and requests  
28 payment of \$50 per day for ten days, SFO demands \$50 in Gross Receipts Charges (in addition to  
other charges).

1           **60.**     Meanwhile, the payments that SFO demands of other similar entities, including  
2 Transportation Network Companies like Uber and Lyft, are orders of magnitude lower. For  
3 example, Uber and Lyft riders pay \$3.80 each time an Uber and Lyft driver pulls up to SFO. Yet,  
4 SFO would charge ten to twenty fold that much to Turo Users that pose no additional burden to  
5 SFO. Taxis, that are charged \$5 per trip, and limousines, that are charged \$3.80 per trip, similarly  
6 are paying a small fraction of what SFO would charge Turo Users. There is no reason for this  
7 discrepancy, particularly given that taxis require dedicated lanes, staging areas, SFO personnel to  
8 coordinate passenger pickup, and a ticketing booth that tracks rides. Turo and its Users use none  
9 of these airport resources.

10           **61.**     Applying the Gross Receipts Charge to Turo and its Users would create a new tax  
11 that postdates Proposition 26. There is no ordinance, regulation, or SFO practice of charging an  
12 online platform like Turo or its Users a tax of this kind that predates November 2, 2010.

13           **62.**     On information and belief, SFO has not applied the Gross Receipts Charge to  
14 Personal Vehicle Sharing Programs, or any other kind of car sharing programs, before November  
15 2, 2010.

16           **63.**     The application of the Off-Airport Rental Car permit regime to Turo and its Users,  
17 including the accompanying Gross Receipts Charge, constitutes an imposition, extension, or  
18 increase of a tax, and may also constitute a change in methodology with regard to the charging of  
19 a tax. Because these acts took place only after November 2, 2010, they are subject to the  
20 limitations of Article XIII C, Section 2 of the California Constitution.

21           **64.**     SFO has not provided to Turo, and on information and belief Turo alleges SFO has  
22 not conducted, any analysis justifying application of the Gross Receipts Charge to Turo or  
23 assessing the costs allegedly incurred in connection with Turo Users exchanging cars at or near  
24 SFO.

25           **65.**     The City and County of San Francisco has not sought or received voter approval  
26 for these taxes.

1           **66.**     Because SFO has failed to abide by the procedures required by Article XIII C,  
2 Section 2, SFO’s application of the Gross Receipts Charge to Turo and its Users is unlawful.<sup>24</sup>

3           **67.**     Second, in addition to violating the California Government Code, the SFO  
4 Facilities Charge also violates Article XIII C of the California Constitution, enacted by  
5 Proposition 218 and amended by Proposition 26.

6           **68.**     Like the Gross Receipts Charge, the SFO Facilities Charge as it is applied to Turo  
7 and its Users also does not fall within any of the seven exceptions enumerated in Article XIII C,  
8 Section 1(e) of the California Constitution. The charge does not cover any service or privilege  
9 that SFO provides to Turo, and would require Turo and its Users to pay \$18 per-transaction for an  
10 AirTrain system that has no connection to the Turo User experience.

11           **69.**     The SFO Facilities Charge is set every year and, on information and belief, SFO  
12 has not applied the SFO Facilities Charge to Personal Vehicle Sharing Programs, or any other  
13 kind of car sharing programs, before November 2, 2010.

14           **70.**     The application of the Off-Airport Rental Car permit regime to Turo and its Users,  
15 including the accompanying SFO Facilities Charge, constitutes an imposition, extension, or  
16 increase of a tax, and may also constitute a change in methodology with regard to the charging of  
17 a tax. Because these acts took place only after November 2, 2010, they are subject to the  
18 limitations of Article XIII C, Section 2 of the California Constitution.

19           **71.**     SFO has not provided to Turo, and on information and belief, Turo alleges SFO  
20 has not conducted, any analysis justifying application of the SFO Facilities Charge to Personal  
21 Vehicle Sharing Programs like Turo.

22           **72.**     The City and County of San Francisco has not sought or received voter approval  
23 for this tax.

24           **73.**     Because SFO has failed to abide by the procedures required by Article XIII C,  
25 Section 2, SFO’s application of the SFO Facilities Charge to Turo and its Users is unlawful.

26  
27 \_\_\_\_\_  
28 <sup>24</sup> If the Gross Receipts Charge could be termed a fee, it would still be unlawful under California  
law because it is not reasonable, fair, or proportional.

1           **The SFO Facilities and Gross Receipts Charges Violate the Dormant Commerce Clause**

2           **74.**     The SFO Facilities Charge and Gross Receipts Charge also pose an undue burden  
3 on interstate commerce because they are not based on any fair approximation of Turo’s or its  
4 Users’ use of SFO’s services or facilities and are excessive in relation to the benefits conferred on  
5 Turo or its Users by SFO. Thus, these charges violate Article I, Section 8 of the United States  
6 Constitution pursuant to 42 U.S.C. § 1983.

7           **75.**     The majority of Turo’s Users who arrange to meet a Turo car owner at SFO arrive  
8 from out-of-state and have pre-arranged their Turo booking prior to their arrival. Moreover, the  
9 SFO Facilities Charge and Gross Receipts Charge are unlawful and unconstitutional, regardless of  
10 whether they are characterized as a fee or tax.<sup>25</sup> As discussed in detail above, these charges are  
11 not a fair approximation of any benefit, good, or service used by Turo or its Users, but are  
12 specifically designed to benefit rental car companies and construct and maintain facilities that  
13 neither Turo nor its Users benefit from or use in any fashion.

14           **76.**     Moreover, that SFO demands only a fractional amount from TNCs, taxi  
15 companies, and limousine companies that use airport property in virtually the same manner as  
16 Turo only confirms that the SFO Facilities Charge and Gross Receipts Charge are  
17 disproportionate and excessive.

18           **77.**     For these reasons, the SFO Facilities and Gross Receipts Charges constitute an  
19 undue burden on interstate commerce and are unconstitutional pursuant to the dormant commerce  
20 clause.

21           **The SFO Facilities and Gross Receipts Charges Violate the Equal Protection Clause**

22           **78.**     SFO’s demands that Turo and its Users pay exorbitant taxes and fees also violate  
23 their rights to fair and equal treatment under the equal protection clauses of the Fourteenth

24 \_\_\_\_\_  
25 <sup>25</sup> A charge that is characterized as a “fee” for purposes of a commerce clause analysis violates  
26 the dormant commerce clause if it: (i) discriminates against interstate commerce, (ii) is not based  
27 upon a fair approximation of use of the facilities, or (iii) is excessive in relation to the government  
28 benefits conferred on the user. Similarly, a charge that is characterized as a “tax” for purposes of  
this analysis is unconstitutional if it: (i) is not applied to an activity with a substantial nexus with  
the taxing state; (ii) is not fairly apportioned; (iii) discriminates against interstate commerce; or  
(iv) is not fairly related to the services provided by the State.

1 Amendment to the United States Constitution (pursuant to 42 U.S.C. § 1983) and Article I,  
2 Section 7 of the California Constitution. SFO violates these constitutional provisions by  
3 intentionally treating Turo and its Users differently than other similarly situated companies and  
4 their users without a rational basis for doing so.

5 **79.** Specifically, SFO violates Turo’s and its Users’ right to equal protection under the  
6 law by intentionally levying charges on Turo and its Users that are far in excess of the taxes and  
7 fees that it demands from Transportation Network Companies such as Uber and Lyft, whose  
8 users—like Turo—only use SFO property for user pick-ups and drop-offs and do not benefit from  
9 or rely on other airport facilities and services like the AirTrain and Rental Car Center.<sup>26</sup> Like  
10 Turo, these companies are also online matchmaking platforms that allow users to coordinate pick-  
11 ups and drop-offs on or near airport premises via mobile and web-based applications.<sup>27</sup> Despite  
12 these similarities, SFO only charges \$3.80 per trip to Uber and Lyft and their users—a mere  
13 fraction of the \$18 SFO Facilities Charge and 10% Gross Receipts Charge that SFO seeks to  
14 recover from Turo and its Users.

15 **80.** Likewise, SFO also violates Turo’s and its Users’ right to equal protection by  
16 levying charges that are far in excess of the taxes and fees that it demands from taxis and  
17 limousine companies and their users. As described above, taxis and limousines meet users  
18 curbside and require a staging area, yet pay pennies on the dollar compared to what SFO would  
19 charge Turo and its Users (limousines also pay \$3.80 per trip and taxis pay \$5). Indeed, taxis and  
20 their users impose a substantially greater burden on SFO infrastructure than Turo or its Users, as  
21

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22 <sup>26</sup> SFO’s Rules and Regulations (Rule 1.0) adopt the California Public Utilities Commission’s  
23 definition of a TNC as “an organization, whether a corporation, partnership, sole proprietor, or  
24 other form, operating in California that provides prearranged transportation services for  
25 compensation using an online-enabled application (app) or platform to connect passengers with  
26 drivers using their personal vehicles.” SFO Rules and Regulations *available at*  
[http://media.flysfo.com.s3.amazonaws.com/media/sfo/about-](http://media.flysfo.com.s3.amazonaws.com/media/sfo/about-sfo/SFO_Rules_and_Regulations_10-21-17.pdf)

27 <sup>27</sup> <https://www.lyft.com/cities/san-francisco-ca> (“The Lyft app matches you with friendly local  
28 drivers at the tap of a button”); <https://www.uber.com/airports/sfo/> (“How to request Uber at  
SFO”); <https://www.lyft.com/airports/sfo> (similar).

1 SFO provides taxis with dedicated lanes, staging areas, SFO personnel to coordinate passenger  
2 pickup, and a ticketing booth that tracks rides.

3 **81.** SFO can offer no rational basis for this disparate treatment. On the contrary,  
4 SFO's motivations are laid bare in its own Complaint, in which it purports to protect the interests  
5 of large multi-national rental car companies because Turo "has been able to advertise and charge  
6 lower prices" than those companies. (Compl. ¶ 37.) Moreover, SFO's intentions are particularly  
7 suspect given its apparent coordination with lobbyists at Enterprise concerning Turo and this  
8 dispute, described above.

9 **82.** Accordingly, SFO's attempt to impose these disparate fees and taxes on Turo and  
10 its Users violates their state and federal constitutional rights to equal protection under the law.

### 11 **Turo's Willingness to Cooperate with SFO**

12 **83.** SFO cannot lawfully impose fees, taxes, and permitting requirements on Turo in  
13 the manner that SFO has attempted to do so. Despite this fact, Turo has long been willing to  
14 cooperate with SFO to arrive at a new constitutional permitting regime appropriate for the unique  
15 model of personal vehicle sharing programs. Turo has always sought to work with airports  
16 cooperatively to devise a solution that works for its new innovative business model and has never  
17 before sued an airport. Turo does so now (in the form of a cross-complaint) only because SFO  
18 has refused to negotiate in good faith, demanding instead that Turo submit to an unlawful  
19 permitting regime.

20 **84.** In the past, Turo has chosen cooperation over litigation. For example, when Turo  
21 experimented with a business model that it has since terminated, which involved Turo listing cars  
22 on behalf of owners and using the shuttle services of a hotel near SFO, Turo cooperated with  
23 SFO's requests that it seek a permit while Turo sought to negotiate for a more appropriate  
24 permitting regime for car sharing. Turo did not agree then, as it does not now, that SFO could  
25 lawfully compel Turo to comply with SFO's permitting regime, or take any enforcement action  
26 against Turo based on use of the airport by Users of the Turo platform. However, Turo  
27 voluntarily cooperated because Turo prizes its working relationship with SFO. Turo sought, in  
28 vain, to negotiate a more appropriate car sharing permit with SFO, but its efforts were rebuffed at

1 every turn. Turo, ultimately realizing that no cooperation would be forthcoming, cancelled the  
2 pilot experiment and its related permit with SFO, and discontinued its use of airport premises by  
3 way of a hotel shuttle.

4 **85.** In a final effort to avoid litigation, Turo requested an in-person meeting with the  
5 City to discuss possible solutions. The meeting took place on October 4, 2017. Despite Turo’s  
6 continued attempts at cooperation, that meeting once again failed to result in an acceptable  
7 resolution, namely SFO demanded that “Turo must execute and comply with the terms of an off-  
8 airport rental car permit with SFO.”

9 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**

10 **(Declaratory Relief)**

11 **86.** Turo repeats and realleges each and every foregoing allegation contained herein,  
12 as if said allegations were set forth in full.

13 **87.** As alleged herein, an actual and justiciable controversy now exists between Turo  
14 and SFO concerning the authority of SFO to regulate and treat Turo’s Users as a rental car  
15 company and to charge Turo and its Users fees and taxes that apply only to rental car companies.

16 **88.** Turo’s Users are not rental car companies under California law.

17 **89.** SFO has no statutory or regulatory basis for compelling Turo and its Users to  
18 submit to SFO’s “off-airport car rental” permitting scheme or to pay the associated fees and taxes.

19 **90.** This issue is properly resolved by a declaration from this Court.

20 **91.** Turo seeks a declaratory judgment adjudicating this controversy pursuant to  
21 section 1060 of the California Code of Civil Procedure.

22 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS**

23 **(Declaratory Relief)**

24 **92.** Turo repeats and realleges each and every foregoing allegation contained herein,  
25 as if said allegations were set forth in full.

26 **93.** As alleged herein, an actual and justiciable controversy now exists between Turo  
27 and SFO concerning whether SFO’s attempt to levy the Gross Receipts Charge and SFO  
28 Facilities Charge, to the extent the latter is applicable to Turo or Turo’s Users at all, is unlawful in

1 that the Gross Receipts Charge and SFO Facilities Charge constitute taxes not approved by  
2 voters.

3 **94.** SFO cannot charge Turo or its Users these taxes without voter approval.

4 **95.** This issue is properly resolved by a declaration from this Court.

5 **96.** Turo seeks a declaratory judgment adjudicating this controversy pursuant to  
6 section 1060 of the California Code of Civil Procedure.

7 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**

8 **(Declaratory Relief)**

9 **97.** Turo repeats and realleges each and every foregoing allegation contained herein,  
10 as if said allegations were set forth in full.

11 **98.** As alleged herein, an actual and justiciable controversy now exists between Turo  
12 and SFO concerning the “dormant” commerce clause embodied in Article I, Section 8 of the  
13 United States Constitution (pursuant to 42 U.S.C. § 1983), and whether the Gross Receipts  
14 Charge or SFO Facilities Charge that SFO seeks to recover from Turo or its Users constitute an  
15 undue burden on interstate commerce because they are not based on a fair approximation of the  
16 services and facilities used by Turo or its Users and are excessive in relation to the benefits  
17 conferred upon them by SFO.

18 **99.** SFO cannot charge Turo or its Users unconstitutional fees that pose an undue  
19 burden on interstate commerce.

20 **100.** This issue is properly resolved by a declaration from this Court. Turo seeks a  
21 declaratory judgment adjudicating this controversy pursuant to section 1060 of the California  
22 Code of Civil Procedure.

23 **FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

24 **(Declaratory Relief)**

25 **101.** Turo repeats and realleges each and every foregoing allegation contained herein,  
26 as if said allegations were set forth in full.

27 **102.** As alleged herein, an actual and justiciable controversy now exists between Turo  
28 and SFO concerning whether SFO has violated Turo’s and its Users’ rights to equal protection



1 under the equal protection clauses of the Fourteenth Amendment to the United States Constitution  
2 (pursuant to 42 U.S.C. § 1983) and Article I, Section 7 of the California Constitution by  
3 intentionally or purposefully overcharging Turo and its Users as compared to other similarly-  
4 situated Transportation Network Companies, taxi and limousine companies, and their users  
5 without any rational basis for doing so.

6 **103.** SFO cannot intentionally or purposefully subject Turo to disparate treatment  
7 without any rational basis for doing so.

8 **104.** This issue is properly resolved by a declaration from this Court.

9 **105.** Turo seeks a declaratory judgment adjudicating this controversy pursuant to  
10 section 1060 of the California Code of Civil Procedure.

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Turo respectfully requests that this court:

13 **1.** Issue a declaratory judgment that Turo and its Users are not rental car companies  
14 under California law;

15 **2.** Issue a declaratory judgment that Turo and its Users cannot be made to pay fees or  
16 taxes pertinent to rental car companies, including but not limited to those identified in California  
17 Government Code § 50474.1 and § 50474.21;

18 **3.** Issue a declaratory judgment that SFO cannot compel Turo and its Users to be  
19 permitted as “off-airport rental car companies” and further cannot compel Turo and its Users to  
20 pay fees and taxes as off-airport rental car companies;

21 **4.** Issue a declaratory judgment that the imposition of a Gross Receipts Charge on  
22 Turo or its Users would constitute a tax that is unlawful without voter approval;

23 **5.** Issue a declaratory judgment that the imposition of the SFO Facilities Charge on  
24 Turo or its Users would constitute a tax that is unlawful without voter approval;

25 **6.** Issue a declaratory judgment that neither Turo nor its Users need to pay the Gross  
26 Receipts Charge or SFO Facilities Charge pertinent to rental car companies because these charges  
27 constitute an undue burden on interstate commerce and thus violate the “dormant” commerce  
28 clause of the United States Constitution;

1           7.       Issue a declaratory judgment that neither Turo nor its Users need to pay the Gross  
2 Receipts Charge or SFO Facilities Charge pertinent to rental car companies because these charges  
3 violate the equal protection clauses of the Federal and California Constitutions;

4           8.       Grant any and all appropriate injunctive relief, including but not limited to  
5 precluding SFO from compelling Turo to apply for an “off-airport rental car company permit”;

6           9.       Award Turo its fees and costs incurred herein; and

7           10.      Grant such other and further relief as this Court should find just and proper.

8

9 Dated: February 22, 2018

COOLEY LLP

10

11 By:                   /s/ Matthew D. Brown                    
12       Matthew D. Brown

11

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13 Attorneys for Defendant and Cross-Complainant  
14 TURO INC.

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1 **PROOF OF SERVICE**

2 I am a citizen of the United States and a resident of the State of California. I am  
3 employed in San Francisco County, State of California, in the office of a member of the bar of  
4 this Court, at whose direction the service was made. I am over the age of 18 years. My business  
5 address is Cooley LLP, 101 California Street, 5th Floor, San Francisco, California 94111-5800.  
6 My e-mail address is smartinez@cooley.com. On February 22, 2018, I served the following  
7 document on the parties listed below in the manner indicated:

- 8 • **CROSS-COMPLAINT OF TURO INC. FOR DECLARATORY JUDGMENT AND  
9 OTHER RELIEF AGAINST PEOPLE OF THE STATE OF CALIFORNIA, ACTING BY  
10 AND THROUGH DENNIS J. HERRERA AS CITY ATTORNEY OF SAN FRANCISCO,  
AND CITY AND COUNTY OF SAN FRANCISCO;**
- 11 • **SUMMONS ON CROSS-COMPLAINT**

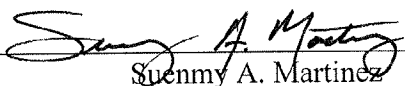
- 12  (BY MESSENGER SERVICE – CCP § 1011) I consigned the document(s) to an  
authorized courier and/or process server for hand delivery on February 23, 2018.
- 13  (BY ELECTRONIC MAIL – CCP § 1010.6(a)(6)) Pursuant to Local Rule 2.11(P),  
14 I caused such documents described herein to be sent to the persons at the e-mail  
15 addresses listed below and using one of the Court-Approved E-Filing Service  
Providers. I did not receive, within a reasonable time after the transmission, any  
electronic message or other indication that the transmission was unsuccessful.

16 Dennis J. Herrera, City Attorney  
17 Yvonne R. Meré, Chief of Complex and Affirmative Litigation  
18 Natalie M. Orr, Deputy City Attorney  
19 Jaime M. Huling Delaye, Deputy City Attorney  
20 Office of the City Attorney of San Francisco  
21 Fox Plaza  
22 1390 Market Street, 6<sup>th</sup> Floor  
23 San Francisco, CA 94102-5408  
24 Tele: (415) 554-3849  
25 Facsimile: (415) 437-4644  
26 E-Mail: Natalie.Orr@sfcityatty.org

27 *Counsel for Plaintiff and Cross-Defendant*  
28 *People of the State of California*

I declare under penalty of perjury under the laws of the State of California that the above  
is true and correct.

Executed on February 22, 2018, at San Francisco, California.

  
Suenmy A. Martinez

27.