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ATTORNEYS FOR PETITIONER  
Coalition on Homelessness

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO  
UNLIMITED CIVIL JURISDICTION

COALITION ON HOMELESSNESS, a  
California non-profit corporation,  
Petitioner,  
v.  
CITY AND COUNTY OF SAN  
FRANCISCO; the SAN FRANCISCO  
MUNICIPAL TRANSPORTATION  
AGENCY; the SAN FRANCISCO  
POLICE DEPARTMENT; TEGSCO LLC  
dba SAN FRANCISCO AUTO RETURN

Case No. **CPF-18-516456**  
**VERIFIED PETITION FOR WRIT OF  
MANDATE, CODE CIV. PROC. §  
1085, COMPLAINT FOR  
DECLARATORY RELIEF; AND  
TAXPAYER COMPLAINT  
PURSUANT TO  
CODE CIV. PROC. §526A**

**ENDORSED  
FILED**  
Superior Court of California  
County of San Francisco

**DEC 19 2018**

**CLERK OF THE COURT**  
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Deputy Clerk

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27 MUNICIPAL TRANSPORTATION  
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CODE CIV. PROC. §526A**

1 **I. INTRODUCTION**

2 1. This action challenges the City of San Francisco’s policy and practice of  
3 towing, impounding, and selling safely parked vehicles without warrant, and without  
4 reasonable notice or opportunity to be heard, just because the owner received five parking  
5 violations and was unable to timely pay the outstanding parking tickets. The City seizes  
6 such cars even when the car is the owner’s only home and shelter or source of livelihood,  
7 and even when the owner is extremely low-income and cannot afford to pay the parking  
8 tickets.

9 **II. PARTIES**

10 2. Petitioner COALITION ON HOMELESSNESS (“Coalition on  
11 Homelessness”) is a California non-profit organization that engages in policy advocacy to  
12 advance the rights of homeless and vehicularly housed individuals in San Francisco.  
13 Within the past year, the Coalition on Homelessness has paid a tax within and to the City  
14 and County of San Francisco.

15 3. Defendant/Respondent CITY AND COUNTY OF SAN FRANCISCO  
16 (“City”) is the public entity overseeing all activities related to towing and impounding  
17 vehicles, which are conducted by City employees, officers, agents, and contractors.

18 4. Defendant/Respondent SAN FRANCISCO MUNICIPAL  
19 TRANSPORTATION AGENCY (“SFMTA”) is the municipal agency that is responsible  
20 for ensuring lawful administration of vehicle tows, impounds, and tow hearings conducted  
21 or authorized by SFMTA within the City of San Francisco.

22 5. Defendant/Respondent SAN FRANCISCO POLICE DEPARTMENT  
23 (“SFPD”) is the public entity that is responsible for ensuring the lawful administration of  
24 vehicle tows, impounds, and tow hearings conducted or authorized by SFPD officers  
25 within the City of San Francisco.

26 6. Defendant/Respondent/Real party in interest TEGSCO, LLC dba SAN  
27 FRANCISCO AUTORETURN (“AutoReturn”) is the exclusive provider of all tow-related  
28 services for the City.



1 fair hearing. City tow hearing officers – who are charged with evaluating the  
2 appropriateness of vehicle tows – are barred from considering any claim that the tow and  
3 impoundment is unconstitutional and unlawful. Tow hearing officers are also prohibited  
4 from taking into consideration whether a vehicle owner can afford to pay the parking  
5 tickets or towing charges. Furthermore, during tow hearings, vehicle owners are not  
6 provided with all the evidence that Respondents consider to justify the tow, and are not  
7 permitted to cross-examine the officer who ordered the tow.

8           12. Pursuant to these unconstitutional and unlawful policies and practices,  
9 Respondents have unlawfully seized more than 4,000 vehicles each year for the purpose of  
10 collecting municipal debt and punishing nonpayment of parking tickets.

11           13. Approximately 78% of Californians need to drive for work or to get to  
12 work. Thus, many San Franciscans lose their jobs when deprived of their vehicles.

13           14. In addition, approximately 1,000 San Franciscans live in their vehicles, and  
14 are forced into shelter or to the streets when deprived of their vehicles.

15           15. If a low-income resident in San Francisco cannot immediately afford to pay  
16 the amounts demanded to retrieve a towed vehicle, Respondents and their agents keep the  
17 vehicle, and, if the vehicle remains unclaimed, sell the vehicle at auction and keep the  
18 proceeds. For low-value cars that are sold at auction for less than the total amount of  
19 tickets and tow charges, the City’s agent, AutoReturn, can sue the vehicle owner for the  
20 remainder of the tow and storage fees. This is salt in the wound for indigent and homeless  
21 San Franciscans, who, after their vehicle is towed, often end up with no car, lost  
22 employment, no shelter, and the burden of additional debt.

23           16. The total amount that a vehicle owner must pay to AutoReturn before she  
24 can retrieve a towed passenger vehicle is, at minimum, \$704.50, which includes: first day  
25 storage fee (\$50.75); city administrative fee (\$283.75); one day of the daily vehicle storage  
26 fee (\$71 per day); towing fee (\$229); and lien fee (\$70 for vehicles valued under \$4,000).  
27 The fees go up each day by at least \$71.

28           17. But four in ten Americans cannot afford an unexpected \$400 expense.

1           18.     In addition to paying the amounts described in paragraph 15, a vehicle  
2 owner must also pay all outstanding parking tickets before she can retrieve a towed  
3 vehicle. The cost of the outstanding parking tickets alone is often hundreds of dollars.  
4 Once a vehicle has been towed, vehicle owners must pay parking tickets immediately and  
5 in full, or they cannot retrieve their vehicle. The City permits some low-income residents  
6 to resolve traffic tickets by signing up for community service or payment plans, which are  
7 extremely limited. Community service plans are no longer available to any driver once a  
8 vehicle has been towed, and payment plans are generally unavailable once a vehicle has  
9 been towed, barring a narrow exception for drivers who qualify for public benefits.

10           19.     In 2018, the City implemented a limited program by which some low-  
11 income vehicle owners can avoid paying *one* of the tow charges. Specifically, if an owner  
12 can show that she receives public benefits, the City will eliminate its \$283.75  
13 administrative tow fee, but that person will still need to pay all other fees to get their car  
14 back. Indeed, even with the fee reduction, low-income drivers in San Francisco cannot  
15 retrieve their vehicles unless they pay tow and storage fees, which may be in the thousands  
16 of dollars.

17           20.     For example, a low-income San Francisco resident whose vehicle is towed  
18 for unpaid parking ticket fines would not be able to retrieve her vehicle from AutoReturn  
19 until after resolving her parking citations with SFMTA. However, with her car currently  
20 impounded, the driver would not be eligible to enroll in SFMTA’s community service plan  
21 or a payment plan unless she also received public benefits. Even if that driver contested  
22 the tow, SFMTA hearing officers rely exclusively on a list of outstanding citations and do  
23 not consider constitutional or other challenges to SFMTA’s tow policy.

24           21.     Low-income individuals who do not receive public benefits are not eligible  
25 the administrative fee reduction.

26           22.     As a result of these City policies and practices, San Franciscans who were  
27 once living in their vehicles have lost them, and are now using City-funded shelter beds, or  
28 on the shelter waiting list and sleeping on the street.



1 Fifteen (15) days after initiating a lien, the City may hold a lien sale for any an impounded  
2 vehicle valued at less than \$4,000. Cal. Civ. Code Sec. 3068.1(b).

3 **B. Article I, Section 13 of the California Constitution Prohibits Unlawful**  
4 **Seizures.**

5 29. Article I, Section 13 of the California Constitution provides that “[t]he right  
6 of the people to be secure in their persons, houses, papers and effects against unreasonable  
7 seizures and searches may not be violated.” This provision provides at least as much  
8 protection as the Fourth Amendment to the United States Constitution.

9 30. Impounding a vehicle constitutes a seizure. *Miranda v. City of Cornelius*,  
10 429 F.3d 858, 862 (9th Cir. 2005).

11 31. Warrantless seizures are “per se unreasonable” subject only to a few  
12 “specifically established and well delineated exceptions.” *Minnesota v. Dickerson*, 508  
13 U.S. 366, 372 (1993).

14 32. No exception to the constitutional warrant requirement permits warrantless  
15 vehicle tows for the purpose of (1) punishing failure or inability to pay parking tickets; or  
16 (2) satisfying a municipal debt.

17 **C. Procedural Due Process, Article 1, Section 7 of the California**  
18 **Constitution.**

19 33. “A person may not be deprived of life, liberty, or property without due  
20 process of law.” Cal. Const. art. I, § 7.

21 34. The process due in any given circumstance “must be analyzed in the  
22 context of the principle that freedom from arbitrary adjudicative procedures is a  
23 substantive element of one’s liberty.” *People v. Ramirez*, 25 Cal. 3d 260, 269 (1979).  
24 Accordingly, California courts presume “that when an individual is subjected to  
25 deprivatory governmental action, he always has a due process liberty interest both in fair  
26 and unprejudiced decision-making and in being treated with respect and dignity.” *Id.*

27 35. In the context of governmental seizures of vehicles for nonpayment of  
28 parking tickets, due process requires, at a minimum, pre-deprivation notice, adequate



1 notice, and a meaningful opportunity to be heard on all matters pertaining to the propriety  
2 of the seizure, including constitutional defects.

3 **D. California Public Policy Favors Permitting Debtors to Remain in Their**  
4 **Homes.**

5 36. In implementing the tow policies described herein, Respondents regularly  
6 tow and sell vehicles in which homeless persons reside. Because homeless and vehicularly  
7 housed vehicle owners typically cannot afford to pay the fines and fees to regain their  
8 vehicles, such tows frequently result in the permanent deprivation of their only residence.

9 37. The California Constitution requires the Legislature to “protect, by law,  
10 from forced sale a certain portion of the homestead and other property of all heads of  
11 families.” Cal. Const. art XX, § 1.5.

12 38. California has enacted several statutes, including Cal. Code Civ. Proc.  
13 sections 704.710, 704.720, and 704.730, to protect people from losing their homes to  
14 creditors.

15 39. California public policy against forced sale of a homestead rationally  
16 extends to protect a person who resides in a motor vehicle.

17 **FIRST CAUSE OF ACTION**

18 **Ordinary Mandamus (CCP § 1085), Unconstitutional Seizure**  
19 **Article 1, Section 13 of the California Constitution**

20 40. Paragraphs 1 through 39 are incorporated herein by reference.

21 41. Article 1, Section 13 of the California constitution provides: “The right of  
22 the people to be secure in their persons, houses, papers, and effects against unreasonable  
23 seizures and searches may not be violated; and a warrant may not issue except on probable  
24 cause, supported by oath or affirmation, particularly describing the place to be searched  
25 and the persons and things to be seized.”

26 42. Respondents have a ministerial duty to conduct vehicle tows in accordance  
27 with Article I, Section 13 of the California Constitution.

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full and fair opportunity to be heard following the vehicle tow.

- 58. For a declaration of rights;
- 59. For an order granting Petitioner's costs and attorneys' fees; and
- 60. For such other relief as is just and equitable.

Dated: December 18, 2018 MANATT, PHELPS & PHILLIPS, LLP

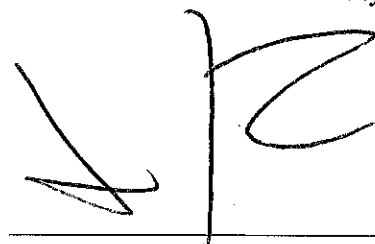
By: B.W. Lee /s.r.  
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*Attorneys for Petitioner*  
COALITION ON HOMELESSNESS

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VERIFICATION

I, Jennifer Friedenbach, am the Executive Director of the Coalition on Homelessness, and I am authorized to execute this Verification. I have read the foregoing **VERIFIED PETITION FOR WRIT OF MANDATE**, and know the contents thereof. The matters stated therein are true and correct to my own personal knowledge, except those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I have executed this verification on the 18th day of December, 2018, at San Francisco, California.



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Jennifer Friedenbach