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CITY AND COUNTY OF SAN FRANCISCO,
8 SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY;
SAN FRANCISCO POLICE DEPARTMENT
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION

12 COALITION ON HOMELESSNESS, a
13 California non-profit corporation,

14 Petitioner,

15 vs.

16 CITY AND COUNTY OF SAN FRANCISCO;
the SAN FRANCISCO MUNICIPAL
17 TRANSPORTATION AGENCY; the SAN
FRANCISCO POLICE DEPARTMENT;
18 TEGSCO LLC dba SAN FRANCISCO AUTO
RETURN,
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20 Respondents.
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Case No. CPF-18-516456

**DECLARATION OF SHAWN McCORMICK
IN SUPPORT OF RESPONDENTS'
OPPOSITION TO MOTION FOR WRIT OF
MANDATE, INJUNCTION, AND
DECLARATORY RELIEF**

Hearing Date: July 22, 2021
Hearing Judge: Hon. Ethan Schulman
Time: 9:30 a.m.
Place: 302

Date Action Filed: December 19, 2018

Attached Documents: Ex. A

1
2 I, SHAWN McCORMICK, declare as follows:

3 1. I am employed by the City and County of San Francisco as Director of Parking
4 Enforcement within the San Francisco Municipal Transportation Agency (“SFMTA”). I have held the
5 position of Director of Parking Enforcement within the SFMTA since April 2017. As Director of
6 Parking Enforcement, my responsibilities include supervising SFMTA’s Parking Enforcement Unit,
7 which is responsible for daily enforcement of San Francisco’s parking laws, including SFMTA’s
8 towing operations.

9 2. I have personal knowledge of the facts stated below, except those stated on information
10 and belief, which I believe to be true.

11 3. The California Vehicle Code authorizes local parking enforcement authorities to tow
12 and impound a vehicle that “has been issued five or more notices of parking violations to which the
13 owner or person in control of the vehicle has not responded within 21 calendar days of notice of
14 citation issuance or citation issuance,” and to retain possession of the vehicle until its owner provides
15 “satisfactory evidence that all parking penalties due for the vehicle” have been cleared.
16 (Cal.Veh.Code § 22651(i).)

17 4. For brevity, in this declaration I refer to these tows as “tows for unpaid and delinquent
18 parking citations.” Also for brevity, I describe a vehicle that meets the above-described statutory
19 criteria (that is, it “has been issued five or more notices of parking violations to which the owner or
20 person in control of the vehicle has not responded within 21 calendar days of notice of citation
21 issuance or citation issuance”) as a vehicle that “has five or more unpaid and delinquent parking
22 citations.”

23 5. SFMTA does not tow vehicles itself, for unpaid and delinquent parking citations or for
24 any other reason. Instead, SFMTA directs that such tows be performed by its towing contractor,
25 AutoReturn.

26 6. During the COVID-19 pandemic, SFMTA ceased directing AutoReturn to perform
27 tows for unpaid and delinquent citations. As the San Francisco is emerging from the pandemic,

1 however, SFMTA has resumed directing that AutoReturn perform such tows – but only under specific
2 circumstances, rather than under all circumstances where such tows would be authorized by the
3 Vehicle Code. These circumstances are described below.

4 **\$2,500 THRESHOLD TO IMMEDIATELY TOW**

5 7. SFMTA parking enforcement officers are equipped with mobile devices that allow
6 those officers, when they encounter a vehicle in the field, to pull up information as to whether that
7 vehicle has five or more unpaid and delinquent parking citations. Those officers then confirm, through
8 their dispatch, whether that vehicle still has five or more unpaid and delinquent parking citations.

9 8. If SFMTA parking enforcement officers confirm that a parked car they encounter has
10 five or more unpaid and delinquent parking citations, and the cumulative amount of money owed on
11 those citations is \$2,500 or less, SFMTA will not at that point direct AutoReturn to tow that vehicle,
12 even though such a tow would be authorized under California Vehicle Code Section 22651(i).

13 9. Instead, the parking enforcement officers will place a boot on one of the car’s wheels to
14 immobilize it, and will affix a bright orange sticker to the window of the car informing the car’s owner
15 that the car has been booted and will be subject to towing if the unpaid and delinquent parking
16 citations are not resolved within three days. (This action is authorized under California Vehicle Code
17 Section 22651.7.). Only if the owner fails to resolve the unpaid and delinquent citations within three
18 days will SFMTA direct AutoReturn to tow the car for unpaid and delinquent parking citations.

19 10. If SFMTA parking enforcement officers encounter a parked car that has five or more
20 unpaid and delinquent parking citations, which the agency has not previously booted, SFMTA will, in
21 the first instance, direct that the car be towed for unpaid and delinquent parking citations only if the
22 amount of money owed on those citations is more than \$2,500.

23 **VEHICLES IDENTIFIED AS BEING USED AS SHELTER ARE NOT BOOTED OR TOWED**
24 **FOR UNPAID AND DELINQUENT PARKING CITATIONS**

25 11. When an SFMTA parking enforcement officer encounters a parked car, it is sometimes,
26 but by no means always, possible for the officer to determine with reasonable confidence that even
27 though there is no one in the car at that moment, the car is being used as shelter by one or more

1 unhoused persons. For example, if a parked car is full of what appear to be personal belongings and
2 the only open seating area is the driver's seat, it may be apparent that the car is being used as shelter.

3 12. Under SFMTA policy, when a parking enforcement officer encounters a parked car that
4 has five or more unpaid and delinquent parking citations, and the officer can identify that the car is
5 being used as shelter, the officer will not place a boot on the car, and also will not direct that the car be
6 towed for unpaid and delinquent parking citations, regardless of the amount of money that is owed on
7 those citations (unless the car is parked in a tow-away zone, in a place that creates a hazard, or in
8 similar circumstances). Instead, if possible, the officer is to refer the vehicle's occupant(s) to
9 SFMTA's offices at 11 South Van Ness Avenue to see if they meet SFMTA's criteria to resolve the
10 outstanding parking citations, such as the available one-time waiver of all parking citations for persons
11 experiencing homelessness.

12 13. I understand that the petitioner in this case has cited deposition testimony from before
13 the pandemic concerning SFMTA's role in assisting in the resolution of homeless encampments.
14 SFMTA does not currently participate in such resolutions. If it did, the policy discussed above would
15 still apply to our activities in connection with the encampment resolution.

16 14 Attached as Exhibit A to this declaration is a true and correct copy of a memorandum
17 that I sent to all SFMTA parking enforcement staff on June 29, 2021, explaining the SFMTA policies
18 discussed in paragraphs 8 through 12, above, concerning the \$2,500 threshold to immediately tow
19 vehicles for unpaid and delinquent parking citations and concerning vehicles that are identified as
20 being used as vehicular shelter. I have also explained these policies to SFMTA parking enforcement
21 staff orally.

22 **WHAT HAPPENS IF A VEHICLE OWNER RETURNS TO HIS OR HER CAR WHILE IT IS**
23 **IN THE PROCESS OF BEING TOWED**

24 15. I understand that the petitioner in this case objects to the fact that if a car owner returns
25 to his or her parked car while the car is in the process of being towed, the car will be let down from the
26 tow truck and released to the owner if the car was being towed because it was "blocking traffic or
27

1 parked dangerously,” but the car will not be released, and will instead be towed, if the car was being
2 towed for unpaid and delinquent parking citations.¹

3 16. The reason for this difference is that if a car is parked in a way that blocks traffic or
4 creates some hazard, or if the car is abandoned (e.g. has not been moved for more than 72 hours), the
5 problem is fixed *simply by releasing the car to its owner so the owner can drive it away*. By releasing
6 the car to its owner and having the owner drive the car away from that location, the problem which
7 had been the reason for the tow is remedied. In contrast, when a car is being towed for unpaid and
8 delinquent parking citations (or, for example, for having registration that expired more than six months
9 earlier), returning the car to its owner so the owner can drive the car away does nothing to remedy the
10 problem that had led to the tow being initiated.

11 **SFMTA DOES NOT “TARGET” LOW-INCOME DRIVERS**

12 17. I understand that the petitioner in this case argues that SFMTA implements its policies
13 with regard to tows for unpaid and delinquent citations in a manner that “targets” San Francisco’s low-
14 income or otherwise vulnerable residents. This claim is false. SFMTA enforces the parking laws, and
15 as part of that enforcement directs that vehicles be towed for unpaid and delinquent parking citations
16 (in accordance with SFMTA’s policies discussed in this declaration), by parking enforcement officers
17 patrolling within different assigned sectors of the City; between them, those sectors include and cover
18 *all* areas of the City. The agency’s enforcement efforts do not focus on or exclude any specific area or
19 neighborhood. Additionally, SFMTA’s parking enforcement efforts are, in part, complaint-driven, and
20 members of the public in any neighborhood of San Francisco can, and do, communicate their
21 complaints of unlawfully parked vehicles to SFMTA. SFMTA does not “target” low-income or

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26 ¹ Regardless of the reason for the tow, if a car is being towed and its owner does not return to
27 the scene until the tow truck and the car have already pulled away from the curb and have entered the
stream of moving traffic on the street, the tow process will continue.

1 otherwise vulnerable persons in its parking enforcement efforts, including in towing cars for unpaid
2 and delinquent parking tickets.

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4 I declare under penalty of perjury under the laws of the State of California that the foregoing is
5 true and correct. Executed this 6 day of July, 2021, in San Francisco, California.

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7 *Shawn McCormick*
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9 SHAWN McCORMICK
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EXHIBIT A
to Declaration of Shawn McCormick

Memorandum



Date: June 29, 2021

To: All Parking Enforcement Staff

From: Shawn McCormick, Sm Director
Parking Enforcement and Traffic

Subject: Vehicles with Expired Registration and Outstanding Unpaid Parking Citations

Last year during the starting months of the pandemic we suspended policies regarding vehicles with expired registration and outstanding unpaid parking citations. After the Governor's order regarding the suspension of enforcement related to unregistered vehicles expired, we resumed expired registration citations and extended the towing for expired registration to one year.

Effective today June 29, 2021:

- Enforcement for expired registration will return to the state law period of "in excess of six months" (6 months and a day)
- Booting and towing vehicles for five (5) or more outstanding unpaid parking citations
 1. Vehicles causing a hazard, in tow away zones, color curb zones etc. will be towed regardless of #2 below
 2. Boot vehicles with \$2500.00 or less in outstanding citations that do not meet #1
 3. Tow vehicles with outstanding parking citations valued at more than \$2500.00
 4. **Any vehicle identified as being used as vehicular shelter will not be towed unless it meets #1 above. If it meets number #1, encourage the individual to move it so it is no longer a hazard. Occupants of these vehicles should be referred to 11 South Van Ness to see if they meet the criteria to address outstanding parking citations.**