Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, and RASIER, LLC *Plaintiffs*, v. CITY OF SEATTLE *et al.*, *Defendants*.	Case No. 17-cv-00370-RSL **PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO PERMIT DISCOVERY** **NOTING DATE: April 26, 2019**

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ARGUMENT

Seattle's motion to permit discovery raises two legal arguments disguised as discovery requests. The arguments are wrong as a matter of law. As a result, the facts on which Seattle seeks discovery are immaterial, and Seattle's requested discovery is unnecessary.

Seattle's first legal argument is that the statutory labor exemption from federal antitrust law applies not just to employee unions, but also to independent contractors who are "primarily involved in selling their labor." Disc. Mot. at 8 (Doc. 103). Based on that legal argument, Seattle requests discovery into whether the drivers covered under the ordinance are "primarily involved in selling their labor," or are instead primarily operating "entrepreneurial businesses." *Id.* But the relevant statutes, Supreme Court precedent, and Seattle's own cited authorities all make clear that the statutory exemption applies only to common law employees, who (Seattle concedes) are not covered by the ordinance. Thus, the exemption would not apply here *even if* discovery showed that the independent-contractor drivers "sell their labor" to driver coordinators.

Seattle's second legal argument is that the *per se* rule for boycotts and price fixing does not apply to drivers who use the Uber and Lyft apps because coordinated driver activity is essential if for-hire transportation services are to be available at all. *Id.* at 10–11. Based on that legal argument, Seattle requests discovery into the necessity of driver coordination "to the usefulness and appeal of those applications" to passengers. *Id.* at 11. But Seattle's theory erroneously focuses on a different market (the provision of transportation to passengers) than the one regulated by the ordinance (the contractual relationships between drivers and driver coordinators), and the cases on which Seattle relies are facially inapplicable here.

Importantly, this Court must decide these two disputed legal questions now, before allowing discovery to proceed. A court "shall" grant summary judgment unless there are "material" facts in dispute, and may defer a decision only if discovery is needed to uncover facts "essential" to the non-movant's opposition. Fed. R. Civ. P. 56(a), (d). If Seattle's arguments fail as a matter of law even on the facts Seattle hopes to prove—and they do—then those facts are neither material

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nor essential, and it would be improper (not to mention an enormous waste of time and resources) to permit discovery before resolving those arguments.

I. AS A MATTER OF LAW, THE STATUTORY ANTITRUST EXEMPTION FOR EMPLOYEE UNIONS DOES NOT APPLY TO INDEPENDENT CONTRACTORS COVERED BY SEATTLE'S ORDINANCE

Seattle first argues that it needs discovery to determine whether the statutory labor exemption from federal antitrust law applies to the ordinance. No discovery is needed on that issue, however, because the statutory exemption does not apply to independent contractors. And, as Seattle concedes (Disc. Mot. at 6), the ordinance *by its terms* covers only drivers who are independent contractors. Seattle's contention that the labor exemption also applies to a subset of independent contractors who "sell their labor"—a novel and unsupported argument concocted by a law professor in an amicus brief in this case (*see* Disc. Mot. at 7)—is contradicted by the relevant statutes, Supreme Court precedent, and Seattle's own cited authorities.

A. The statutory exemption does not apply to independent contractors

The statutory labor exemption is based on four provisions: sections 6 and 20 of the Clayton Antitrust Act (1914), 15 U.S.C. § 17; 29 U.S.C. § 52; and sections 1 and 13 of the Norris-LaGuardia Act (1932), 29 U.S.C. §§ 101, 113. The Supreme Court has interpreted these interlacing statutes as a cohesive unit. *See H.A. Artists & Assocs., Inc. v. Actors' Equity Ass'n*, 451 U.S. 704, 713–16 (1981). The text of these provisions, along with Supreme Court precedent applying them, draws a simple and consistent line based on the common law distinction between independent contractors and employees.

First, section 6 of the Clayton Act exempts "labor … organizations" from the antitrust laws. 15 U.S.C. § 17. The term "labor organization" refers to an organization of employees, not an organization of independent contractors. Thus, the Supreme Court has repeatedly held that "a party seeking refuge in the statutory exemption must be a bona fide labor organization, and not an independent contractor or entrepreneur." *Artists*, 451 U.S. at 717 n.20 (citing cases and scholarship).

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Second, section 20 of the Clayton Act implements the labor exemption by restricting courts from issuing injunctions in cases "between employers and employees." 29 U.S.C. § 52. The Supreme Court has explained that where (as here) a statute "use[s] the term 'employee' without defining it, ... Congress intend[s] to describe the conventional master-servant relationship as understood by common-law agency doctrine." *Nationwide Mut. Ins. Co. v. Darden*, 503 U.S. 318, 322–23 (1992). The use of the term "employee" in section 20 also underscores that "labor organizations" in section 6 refers to organizations of employees.

Third, the Norris-LaGuardia Act further implements the statutory exemption by restricting courts from issuing injunctions in cases "involving or growing out of a labor dispute." 29 U.S.C. §§ 101, 113(c). Here as well, the Supreme Court has held that the "critical element" in determining whether a controversy involves a "labor dispute" is whether an "employer-employee relationship [is] the matrix of the controversy." *Jacksonville Bulk Terminals, Inc. v. Int'l Longshoremen's Ass'n*, 457 U.S. 702, 712 (1982) (quoting *Columbia River Packers Ass'n v. Hinton*, 315 U.S. 143, 147 (1942) (alteration in *Jacksonville*)). In *Columbia River Packers*, for example, the Court held that no "labor dispute" existed because the union members at issue were independent contractors ("independent fishermen"), while "the attention of Congress was focussed upon disputes affecting the employer-employee relationship." 315 U.S. at 144–45.

All of these cases rely on the ubiquitous common law distinction between employees and independent contractors as the "critical element" in applying the statutory labor exemption. *Jacksonville Bulk Terminals*, 457 U.S. at 712. None of these cases even hint at rejecting the common law meaning of "employee" and "independent contractor," nor do they suggest that the statutory exemption applies to some subset of independent contractors who are "primarily involved in selling their labor." Disc. Mot. at 8. *See also, e.g.*, *Burlington Northern Santa Fe. Ry. Co. v., Int'l Broth. of Teamsters Local 174*, 203 F.3d 703, 709–11 & n.11 (9th Cir. 2000) (applying the "matrix" test and discussing common law factors with respect to whether milk vendors in a prior Supreme Court case "were independent contractors"); *Conley Motor Express, Inc. v. Russell,*

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500 F.2d 124, 125–27 (3d Cir. 1974) (applying "matrix" test and rejecting labor exemption because the truck drivers "were independent contractors and not employees" under the common law test applied to those drivers by the National Labor Relations Board).[1]

B. Seattle's attempt to expand the statutory exemption to independent contractors conflicts with binding Supreme Court precedent

In the face of this well-settled authority, Seattle argues that the "common law … distinction between independent contractors and employees" is irrelevant. Disc. Mot. at 7. According to Seattle, even though the drivers are independent contractors, "the relevant question … is whether the drivers are primarily involved in selling their labor." *Id.* at 8. But Seattle has fabricated this "primarily selling their labor" standard out of thin air. Seattle cites not a single case embracing this test, and Seattle's arguments in support of its novel theory go from bad to worse.

The City first points to the final clause in the Norris-LaGuardia Act's definition of "labor dispute" (Disc. Mot. at 7), which states that a "labor dispute" includes "any controversy concerning terms or conditions of employment …, *regardless of whether or not the disputants stand in the proximate relation of employer and employee*," 29 U.S.C. § 113(c) (emphasis added). This "proximate relation" clause does not abandon the distinction between employees and independent contractors; it just broadens the range of *employee-based* disputes that qualify for the labor exemption. Congress added the clause to override judicial holdings that had restricted the labor exemption "to trade union activities directed against an employer by *his own* employees." *United States v. Hutcheson*, 312 U.S. 219, 230 (1941) (emphasis added). Under the expanded definition, the labor exemption applies to a wider range of employee-based disputes, such as "internecine

[1] The only time the statutory exemption applies to disputes involving independent contractors is when an employees' union combines with independent contractors in some way and there is "job or wage competition or some other economic interrelationship affecting legitimate union interests between the union members and the independent contractors." *Artists*, 451 U.S. at 718; *see also Am. Fed'n of Musicians v. Carroll*, 391 U.S. 99, 106 (1968). Seattle does not contend that the contemplated unions for independent-contractor drivers fit within the rule established by these cases, nor could it, since there are no *employees'* unions (or *employees*) involved in the conduct covered by the ordinance.

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struggle[s] between two unions seeking the favor of the same employer," *id.* at 232, and activities directed against an employer by *someone else's* employees (commonly known as secondary activity), *see Burlington N. R.R. v. Bhd. of Maint. of Way Emps.*, 481 U.S. 429, 438–40 (1987). But the Supreme Court has squarely held that the "proximate relation" clause "does not expand the application of the Act to include controversies upon which the employer-employee relationship has no bearing." *Columbia River Packers*, 315 U.S. at 147. Some "employer-employee relationship" must still form "the matrix of the controversy." *Id.*

Seattle next relies heavily on a case that Congress abrogated by statute and the Supreme Court then overruled: *NLRB v. Hearst Publications*, 322 U.S. 111 (1944). Disc. Mot. at 7–8. Just as Seattle seeks to do here with the Clayton Act, *Hearst* rejected the common law meaning of the term "employee" under the National Labor Relations Act (NLRA), and adopted a broader test that included "newsboys"—independent contractors who primarily sold their labor. *Id.* at 124–25. But Congress emphatically rejected *Hearst* with the Taft-Hartley Act, which amended the NLRA to exclude from the definition of "employee" "any individual having the status of an independent contractor." Pub. L. No. 80-101, § 101 (1947), 29 U.S.C. § 152(3). And, contrary to Seattle's unsupported assertion (Disc. Mot. at 8 n.4), Congress made clear that Taft-Hartley was not a change to the original NLRA, but was instead a clarifying amendment. As the House Report emphasized: "In the law, there has always been a difference, and a big difference, between 'employees' and 'independent contractors.'" H.R. Rep. No. 80-245, at 18 (1947). The amendment therefore restored the common law meaning of employee in the NLRA that Congress intended "when it passed the act." *Id.*; *see also NLRB v. United Ins. Co. of Am.*, 390 U.S. 254, 256 (1968) (expressly applying the "common law agency test" after Taft-Hartley).

Not only did Congress abrogate *Hearst*'s holding, but the Supreme Court then overruled *Hearst*'s reasoning. *Darden*, 503 U.S. at 322–23. *Darden* interpreted the term "employee" in ERISA as bearing its common law meaning. Like Seattle here, the court of appeals in *Darden* had relied on *Hearst* to reject the common law meaning of "employee" and interpret the term "in the

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light of the mischief to be corrected and the end to be obtained." *Id.* at 324 (quoting *Hearst*, 322 U.S. at 124). The Supreme Court reversed. It explained that Congress had twice amended statutes to restore the common law meaning of "employee" in response to judicial decisions, including *Hearst*, that incorrectly gave the term a broader meaning. *Id.* at 324–25. The Court thus overruled *Hearst*'s reasoning and confirmed its "abandonment" of construing the term "employee" "in light of the mischief to be corrected." *Id.* at 325. It held that "when Congress has used the term 'employee' without defining it, … Congress intended to describe the conventional master-servant relationship as understood by common-law agency doctrine." *Id.* at 322–23. Thus, under *Darden*, when Congress used the terms "employee" and "employer" in the Clayton Act and the Norris-LaGuardia Act, 29 U.S.C. §§ 52, 113(a)–(c), it "intended to describe the conventional master-servant relationship as understood by common-law agency doctrine." *Id.* *Darden* leaves no room for Seattle's reliance on *Hearst* to abandon the common law distinction between independent contractors and employees in the Clayton and Norris-LaGuardia Acts. Yet Seattle does not even cite *Darden*.

Seattle next turns to *New Prime, Inc. v. Oliveira*, 139 S. Ct. 532 (2019), a case interpreting the phrase "contracts of employment" in the Federal Arbitration Act (1925). Far from supporting Seattle, *New Prime* confirms that "employee" in the Clayton Act and Norris-LaGuardia Act carries the common law distinction between independent contractors and employees. *New Prime* relied on historical evidence to hold that "contracts of employment" encompassed "not only agreements between employers and employees but also agreements that require independent contractors to perform work." *Id.* at 539. But the Court carefully distinguished the term "contracts of employment" from the term "employee," emphasizing that "employees" or "servants" would have been the "natural choices" if Congress meant to "address[] them alone" without including independent contractors. *Id.* at 541. More to the point here, the Court explained that Congress used "employee" as a synonym for "servant" "when drafting legislation to regulate burgeoning industries and their labor forces in the early 20th century." *Id.* This early 20th century labor

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legislation, of course, refers to statutes such as the Clayton Act, the Norris-LaGuardia Act, and the NLRA, all of which—unlike the Federal Arbitration Act—do use the word "employee."

Lacking any affirmative support, Seattle attempts to distinguish six cases that denied the statutory exemption to independent contractors, claiming these cases involved independent contractors who were "operating independent, entrepreneurial businesses," rather than "primarily selling their labor." Disc. Mot. at 8–9 & n.6. But, as described in the bullet list below, each of these cases used words like "employee," "independent," "contractor," or "independent contractor," and the analysis in each case shows that the court based its decision on the common law meaning of these terms. Indeed, the independent contractors in several of these cases were primarily engaged in selling their labor, including truck drivers, pilots, clothing stitchers, and physicians:

- *United States v. Women's Sportswear Mfrs. Ass'n*, 336 U.S. 460, 463–64 (1949) (independent "stitching contractors" who "furnishe[d] chiefly labor");
- *American Med. Ass'n v. United States*, 317 U.S. 519, 536 (1943) (association of "independent physicians" "were not an association of employees in any proper sense of the term," but were instead "individual practitioners" providing medical services);
- *Columbia River Packers*, 315 U.S. at 144–47; (exemption does not apply to "controversies upon which the employer-employee relationship has no bearing," such as to a group of "independent fishermen");
- *L.A. Meat & Provision Drivers Union v. United States*, 371 U.S. 94, 96–98 (1962) ("grease peddlers" were "independent contractors," "distinct from the … employee members" of a union); *see also id.* at 108–09 (Douglas, J., dissenting) (acknowledging that the majority had relied on the common law meaning of independent contractors, and arguing for the "approach" the Court took in *Hearst*, which rejected "common-law standards");
- *Conley,* 500 F.2d at 125–27 (exemption did not apply to truck drivers because the NLRB had previously applied the common law test to conclude that the truck drivers at issue "were independent contractors and not employees");
- *Spence v. Southeastern Alaska Pilots' Ass'n*, 789 F. Supp. 1007, 1009, 1013 (D. Alaska 1990) (exemption did not apply to pilots because they were "independent contractors").

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In short, Seattle lacks any basis for its unprecedented "selling their labor" standard. No court has ever adopted it; this court should not be the first to do so in a case on remand from the Ninth Circuit. Thus, as a matter of law, the labor exemption does not apply because Seattle's ordinance covers only drivers who are independent contractors.

II. AS A MATTER OF LAW, *PER SE* RULES APPLY TO THE CONDUCT AUTHORIZED BY SEATTLE'S ORDINANCE

Seattle next argues that the *per se* rule against boycotts and price fixing would not apply to the ordinance if discovery shows that "for-hire transportation services provided through the Uber or Lyft applications" are products in which "restraints on competition are essential if the product is to be available at all." Disc. Mot. at 10 (quoting *Am. Needle, Inc. v. NFL*, 560 U.S. 183, 203 (2010)). Seattle alleges that the Uber and Lyft "applications enable drivers to engage in parallel and coordinated conduct with respect to the prices charged for each ride or the driver who will be dispatched for a particular ride request." Disc. Mot. at 11. Therefore, Seattle says, horizontal coordination among drivers is "essential" for making the Uber and Lyft apps available to the public. *Id.*

Seattle's argument is wrong as a matter of law for at least two reasons. *First*, like its state-action immunity defense rejected by the Ninth Circuit, Seattle's theory erroneously focuses on a different market (the provision of transportation to passengers) than the one regulated by the ordinance (the contractual relationships between drivers and driver coordinators). *Second*, even accepting Seattle's focus on the provision of transportation to passengers, the cases on which Seattle relies are facially inapplicable.

To begin with, the Supreme Court has held in "unequivocal terms" that "the Sherman Act, so far as price-fixing agreements are concerned, establishes one uniform rule applicable to all industries alike." *Arizona v. Maricopa Cnty. Med. Soc'y*, 457 U.S. 332, 349 (1982). The same is true of "group boycotts," which like price fixing are *per se* illegal. *Arizona*, 457 U.S. at 344 n.15. Any "argument that the *per se* rule must be rejustified for every industry that has not been subject

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to significant antitrust litigation ignores the rationale for *per se* rules," which is in part to avoid "an incredibly complicated and prolonged economic investigation" into the relevant industry. *Id.* at 351; *see also United States v. Joyce*, 895 F.3d 673, 678 (9th Cir. 2018) ("the per se rule is applicable to price-fixing agreements … regardless of the industry in which the conduct occurred").

Seattle relies on two inapposite cases in which the Supreme Court applied the rule of reason rather than the *per se* rule. In *BMI v. CBS*, 441 U.S. 1 (1979), thousands of artists and publishers joined BMI, an association that sold broadcasters a "blanket license" covering the collective works of all its members at a single price—a product that no individual member could offer. CBS (not individual artists) challenged BMI's pricing, and the Court held that the *per se* rule against price fixing did not apply to BMI's blanket license, primarily because "[a] middleman with a blanket license was an obvious necessity if the thousands of individual negotiations, a virtual impossibility, were to be avoided." *Id.* at 20. *BMI* thus applies only where there are insurmountable inefficiencies to marketing a product on an individual basis because of the small size and large number of individual producers.

In *NCAA v. Board of Regents of University of Oklahoma*, 468 U.S. 85, 101 (1984), the Court held that league rules restricting football broadcasting were subject to the rule of reason, rather than the *per se* rule. The Court recognized that the *per se* rule was inappropriate because the product—"competition itself"—could not exist unless competing teams come together to present games. *Id.* at 101. In other words, "horizontal restraints on competition are essential if the product is to be available at all." *Id.*; *see also Am. Needle*, 560 U.S. at 203 (applying *NCAA* to the NFL). The Ninth Circuit has repeatedly rejected requests to extend *BMI* and *NCAA* beyond circumstances where horizontal coordination was essential to create a new product that could not otherwise exist. *See, e.g.*, *Freeman v. San Diego Ass'n of Realtors*, 322 F.3d 1133, 1150–51 (9th Cir. 2003) (refusing to extend to online real-estate listing service); *United States v. A. Lanoy Alston, D.M.D., P.C.*, 974 F.2d 1206, 1209 (9th Cir. 1992) (refusing to extend to "health-care market" where group of dentists had fixed prices by collectively negotiating with prepaid dental plans).

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In attempting to rely on these cases, Seattle's theory incorrectly focuses on prices charged to *passengers*. According to Seattle, *per se* rules do not apply here because the "usefulness of the [Uber and Lyft] applications *to consumers* … depend[s] upon the immediate availability of numerous drivers" who have agreed to "uniform pricing formulas" for rates charged to passengers. Disc. Mot. 11 (emphasis added). Seattle's desired discovery therefore relates to the provision of rides to passengers. *See* Leyton Decl. ¶ 9, Doc. 103-1 (requesting discovery on "the cost" passengers must pay for "each ride," "the manner in which drivers are dispatched to provide rides to particular riders," and the "features" that make ride-referral services "appealing and valuable to consumers").

But the operation of the Uber and Lyft apps with respect to rates for passengers has nothing to do with whether *per se* rules apply to the restraints that Plaintiffs challenge: the unions' setting of prices and other terms in contracts between drivers and ride-referral services. *BMI* and *NCAA* provide no support for relying on the alleged necessity of coordination in one market (*e.g.*, the provision of transportation services to passengers) to determine whether coordination in a different, upstream market (*e.g.*, transactions between drivers and driver coordinators) is exempt from *per se* rules. Under Seattle's theory, *BMI* would shield from *per se* scrutiny musicians who fix prices for their business purchases, such as buying pianos or studio time. But *BMI* said nothing about those different transactions, and instead discussed only the price set by BMI for the sale of the blanket license, a license that no individual musician had the ability to offer.

Seattle does not even attempt to explain how collective action *by drivers in their transactions with driver coordinators* is analogous to the blanket license in *BMI*, let alone to the sports leagues in *NCAA* or *American Needle*. Nor could it. Those cases applied the rule of reason to concerted activity among competitors where efficiencies of scale made unilateral activity a "virtual impossibility," *BMI*, 441 U.S. at 20, and where concerted activity was "essential if the product is to be available at all," *NCAA*, 468 U.S. at 101. For-hire drivers are currently contracting with ride-referral companies in Seattle and throughout the country without ever having joined a

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union or collectively bargained with anyone. What was a "virtual impossibility" for the artists in *BMI* is right now being done by for-hire drivers everywhere; driver unions are hardly "essential" for these transactions to occur.

Seattle has tried this ploy before. Seattle argued that this Court should apply state-action immunity to the ordinance by wrongly focusing on state-law authorization of anticompetitive regulation of "for hire transportation services" *to passengers*. Defs.' Reply Supp. Mot. Dismiss at 3, Doc. 56; *see also* Order Granting MTD at 9, Doc. 66 (holding that state law authorizes anticompetitive regulation "in the for-hire transportation sphere"). On appeal, however, the Ninth Circuit definitively rejected Seattle's effort to leverage an immunity bestowed in one market into a separate, upstream market, explaining that the state statute "centers on the provision of privately operated for hire transportation services" to the public, whereas the ordinance regulates different transactions, namely "the contractual payment arrangements between for-hire drivers and driver coordinators for use of the latter's smartphone apps or ride-referral services." *Chamber of Commerce v. Seattle of Seattle*, 890 F.3d 769, 784 (9th Cir. 2018) (citation and quotation marks omitted). Just as Seattle was wrong to blur the line between these two discrete markets in seeking state-action immunity, Seattle is wrong to blur that line here in seeking exemption from *per se* scrutiny. The Ninth Circuit's holding cannot be so easily evaded.

Seattle's reliance on *Meyer v. Kalanick*, 174 F. Supp. 3d 817 (S.D.N.Y. 2016), further underscores that Seattle is erroneously focused on the wrong restraint. Disc. Mot. 11. *Meyer* concerned an alleged conspiracy among Uber and its drivers to fix the rates for transportation services sold to *passengers*. 174 F. Supp. 3d at 824. Here, by contrast, Plaintiffs' claims concern the prices and other terms in upstream contracts between drivers and driver coordinators. Accordingly, whether *BMI* or *NCAA* applies to the claim in *Meyer*—a question that was not even presented in that case—is a fundamentally different question than whether *BMI* or *NCAA* applies to Seattle's ordinance. And as explained above, *BMI* and *NCAA* cannot conceivably extend to the transactions between drivers and driver coordinators at issue under Seattle's ordinance.

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Even accepting Seattle's red-herring focus on the provision of rides to *passengers*, *BMI* and *NCAA* are facially inapplicable. As discussed above, in those cases, horizontal coordination was needed to offer a product (blanket licenses and sports competition) that would not otherwise be available. Here, by contrast, the Uber and Lyft applications do not exist as the result of independent drivers coming together and coordinating with each other to create a new product that would otherwise not be available. To the contrary, it is undisputed that Uber and Lyft respectively created the Uber and Lyft apps, and that these companies enter into vertical contracts with individual drivers who use those products.

Similarly, Seattle makes no allegation that driver coordination on prices charged to passengers is an "obvious necessity if the thousands of individual negotiations, a virtual impossibility, were to be avoided." *BMI*, 441 U.S. at 20. And horizontal coordination through the Uber and Lyft apps is obviously not a necessity, as transportation services were being provided to passengers for decades before Uber and Lyft came around. Seattle does not allege that every taxicab operation or car service necessarily relies on horizontal restraints between independent contractors. So the transportation industry cannot be the type of industry in which horizontal restraints between independent contractors are "essential if the product is to be available at all." *NCAA*, 468 U.S. at 10.

CONCLUSION

For the foregoing reasons, Seattle's legal arguments are wrong, and thus the facts it hopes to establish, even if true, would not shield the ordinance from either the antitrust laws generally or from *per se* scrutiny. Accordingly, those facts are immaterial to the pending motion for summary judgment, and discovery is unnecessary. The Court should therefore deny Seattle's motion for discovery and proceed with adjudication of Plaintiffs' motion for summary judgment.

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Dated: April 12, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties who have appeared in this case.

DATED: April 12, 2019 at Seattle, Washington.

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