

ORIGINAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MARK C. ZEBROWSKI (SBN 110175)
MZebrowski@mofa.com
Morrison & Foerster LLP
12531 High Bluff Drive
San Diego, California 92130-2040
Telephone: 858.720.5100
Facsimile: 858.720.5125

AMY GONZALEZ (SBN 181745)
AGonzalez@san.org
SAN DIEGO COUNTY REGIONAL AIRPORT
AUTHORITY
3225 N. Harbor Dr.
San Diego, CA 92101-1045
Telephone: 619.400.2425
Facsimile: 619.400.2425

Attorneys for Intervenor
SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ENTERPRISE RENT-A-CAR CO. OF LOS
ANGELES, LLC, a Delaware limited liability
company; THE HERTZ CORPORATION, a
Delaware corporation,

Plaintiffs,

v.

SAN DIEGO UNIFIED PORT DISTRICT, a
public corporation existing under the laws of
the State of California; ALL PERSONS
INTERESTED IN THE MATTER OF THE
IMPOSITION OF A USER FEE FOR THE
BENEFIT OF THE SAN DIEGO UNIFIED
PORT DISTRICT, COMMENCING ON MAY
10, 2018, TO BE COLLECTED FROM
CUSTOMERS BY RENTAL CAR
COMPANIES CONDUCTING BUSINESS
ON DISTRICT TIDELANDS ON BEHALF
OF THE DISTRICT AND PAID TO THE
DISTRICT, AT THE RATE OF \$3.50 PER
RENTAL CAR TRANSACTION; and DOES
1-100, inclusive,

Defendants.

[Exempt From Filing Fees
Pursuant to Government Code
Section 6103]

2018 JUL 24 P 3:1

Case No. 37-2018-00028276-CU-MC-CTL

**VERIFIED ANSWER OF INTERVENOR
SAN DIEGO COUNTY REGIONAL
AIRPORT AUTHORITY**

Dept: C-69
Judge: Hon. Katherine Bacal

Complaint Filed: June 8, 2018

FEAXED

1 Intervenor San Diego County Regional Airport Authority ("SDCRAA") hereby answers
2 the Verified Complaint of Plaintiffs Enterprise Rent-A-Car Co. or Los Angeles, LLC and The
3 Hertz Corporation ("Plaintiffs") as follows:

4 INTRODUCTION

5 SDCRAA files this answer in intervention in order to protect its rights in connection with
6 San Diego Unified Port District (the "Port") Resolution No. 2018-065 (the "Resolution") and
7 Ordinance 2030 (the "Ordinance") and the User Fee charged pursuant to those Port actions.
8 Specifically, SDCRAA challenges the ability of the Port to utilize the Resolution of the
9 Ordinance to charge the User Fee for transactions and activities that take place on property
10 controlled by SDCRAA, including but not limited to charging the User Fee for cars rented from
11 facilities located on property controlled by SDCRAA. Any such charge is legally improper and
12 the Resolution and the Ordinance are not valid for such purpose.

13 ANSWER

14 1. SDCRAA admits that Plaintiffs filed this action and the Port adopted the
15 Resolution and enacted the Ordinance. SDCRAA is without sufficient knowledge or information
16 regarding the truth of the remaining allegations of Paragraph 1 of the Complaint, and therefore
17 denies such allegations.

18 2. SDCRAA is without sufficient knowledge or information regarding the truth of
19 the allegations of Paragraph 2 of the Complaint, and therefore denies such allegations.

20 3. SDCRAA is without sufficient knowledge or information regarding the truth of the
21 allegations of Paragraph 3 of the Complaint, and therefore denies such allegations.

22 4. SDCRAA is without sufficient knowledge or information regarding the truth of the
23 allegations of Paragraph 4 of the Complaint, and therefore denies such allegations.

24 5. SDCRAA admits the allegations of Paragraph 5 of the Complaint.

25 6. SDCRAA is without sufficient knowledge or information regarding the truth of the
26 allegations of Paragraph 6 of the Complaint, and therefore denies such allegations.

27 7. SDCRAA is without sufficient knowledge or information regarding the truth of the
28 allegations of Paragraph 7 of the Complaint, and therefore denies such allegations.

1 8. SDCRAA is without sufficient knowledge or information regarding the truth of the
2 allegations of Paragraph 8 of the Complaint, and therefore denies such allegations.

3 9. SDCRAA admits the allegations of Paragraph 9 of the Complaint.

4 10. SDCRAA admits that the Port adopted the Resolution and admits the language set
5 forth in the Resolution. SDCRAA is without sufficient knowledge or information regarding the
6 truth of the remaining allegations of Paragraph 10 of the Complaint, and therefore denies such
7 allegations.

8 11. SDCRAA is without sufficient knowledge or information regarding the truth of the
9 allegations of Paragraph 11 of the Complaint, and therefore denies such allegations.

10 12. SDCRAA admits that rental car companies rent many cars from facilities located
11 on SDCRAA property. SDCRAA is without sufficient knowledge or information regarding the
12 truth of the remaining allegations of Paragraph 12 of the Complaint, and therefore denies such
13 allegations.

14 13. SDCRAA admits that rental car companies rent many cars from facilities located
15 on SDCRAA property. SDCRAA is without sufficient knowledge or information regarding the
16 truth of the remaining allegations of Paragraph 13 of the Complaint, and therefore denies such
17 allegations.

18 14. SDCRAA is without sufficient knowledge or information regarding the truth of the
19 allegations of Paragraph 14 of the Complaint, and therefore denies such allegations.

20 15. SDCRAA is without sufficient knowledge or information regarding the truth of the
21 allegations of Paragraph 15 of the Complaint, and therefore denies such allegations.

22 16. SDCRAA is without sufficient knowledge or information regarding the truth of the
23 allegations of Paragraph 16 of the Complaint, and therefore denies such allegations.

24 17. SDCRAA is without sufficient knowledge or information regarding the truth of the
25 allegations of Paragraph 17 of the Complaint, and therefore denies such allegations.

26 18. SDCRAA admits the content of California Constitution Article 13C, Section 2.
27 SDCRAA is without sufficient knowledge or information regarding the truth of the remaining
28 allegations of Paragraph 18 of the Complaint, and therefore denies such allegations.

1 19. SDCRAA admits the content of Proposition 218. SDCRAA is without sufficient
2 knowledge or information regarding the truth of the remaining allegations of Paragraph 19 of the
3 Complaint, and therefore denies such allegations.

4 20. SDCRAA admits the content of Proposition 218. SDCRAA is without sufficient
5 knowledge or information regarding the truth of the remaining allegations of Paragraph 20 of the
6 Complaint, and therefore denies such allegations.

7 21. SDCRAA is without sufficient knowledge or information regarding the truth of the
8 allegations of Paragraph 21 of the Complaint, and therefore denies such allegations.

9 22. SDCRAA is without sufficient knowledge or information regarding the truth of the
10 allegations of Paragraph 22 of the Complaint, and therefore denies such allegations.

11 23. SDCRAA is without sufficient knowledge or information regarding the truth of the
12 allegations of Paragraph 23 of the Complaint, and therefore denies such allegations.

13 24. SDCRAA admits that a prompt determination of the validity of the User Fee being
14 charged by the Port for transactions and activities that take place on property controlled by
15 SDCRAA, including but not limited to charging the User Fee for cars rented from facilities
16 located on property controlled by SDCRAA is essential. SDCRAA is without sufficient
17 knowledge or information regarding the truth of the remaining allegations of Paragraph 24 of the
18 Complaint, and therefore denies such allegations.

19 25. SDCRAA is without sufficient knowledge or information regarding the truth of the
20 allegations of Paragraph 25 of the Complaint, and therefore denies such allegations.

21 26. SDCRAA incorporates its answer to paragraphs 1-25 of the Complaint.

22 27. SDCRAA is without sufficient knowledge or information regarding the truth of the
23 allegations of Paragraph 27 of the Complaint, and therefore denies such allegations.

24 28. SDCRAA is without sufficient knowledge or information regarding the truth of the
25 allegations of Paragraph 28 of the Complaint, and therefore denies such allegations.

26 29. SDCRAA is without sufficient knowledge or information regarding the truth of the
27 allegations of Paragraph 29 of the Complaint, and therefore denies such allegations.

28

1 30. SDCRAA admits that the Charge, Resolution and Ordinance are invalid and illegal
2 to the extent that User Fees are imposed by the Port for transactions and activities that take place
3 on property controlled by SDCRAA, including but not limited to charging the User Fee for cars
4 rented from facilities located on property controlled by SDCRAA. SDCRAA is without
5 sufficient knowledge or information regarding the truth of the remaining allegations of Paragraph
6 30 of the Complaint, and therefore denies such allegations.

7 31. SDCRAA incorporates its answer to paragraphs 1-30 of the Complaint.

8 32. SDCRAA admits that an actual controversy exists between it and the Port
9 regarding the Port charging User Fees for transactions and activities that take place on property
10 controlled by SDCRAA, including but not limited to charging the User Fee for cars rented from
11 facilities located on property controlled by SDCRAA. SDCRAA is without sufficient knowledge
12 or information regarding the truth of the remaining allegations of Paragraph 32 of the Complaint,
13 and therefore denies such allegations.

14 33. SDCRAA admits that a declaration of the rights and duties of the Port vis-à-vis
15 SDCRAA is appropriate.

16 34. SDCRAA incorporates its answer to paragraphs 1-33 of the Complaint.

17 35. SDCRAA admits that the Port is charging the User Fee for transactions and
18 activities that take place on property controlled by SDCRAA, including but not limited to
19 charging the User Fee for cars rented from facilities located on property controlled by SDCRAA.
20 SDCRAA is without sufficient knowledge or information regarding the truth of the remaining
21 allegations of Paragraph 35 of the Complaint, and therefore denies such allegations.

22 36. SDCRAA is without sufficient knowledge or information regarding the truth of the
23 allegations of Paragraph 36 of the Complaint, and therefore denies such allegations.

24 37. SDCRAA is without sufficient knowledge or information regarding the truth of the
25 allegations of Paragraph 37 of the Complaint, and therefore denies such allegations.

26 38. SDCRAA admits that Plaintiffs seek a writ of mandate. SDCRAA is without
27 sufficient knowledge or information regarding the truth of the remaining allegations of Paragraph
28 38 of the Complaint, and therefore denies such allegations.

1 39. SDCRAA incorporates its answer to paragraphs 1-38 of the Complaint.

2 40. SDCRAA admits that the Port is charging the User Fee for transactions and
3 activities that take place on property controlled by SDCRAA, including but not limited to
4 charging the User Fee for cars rented from facilities located on property controlled by SDCRAA.
5 SDCRAA is without sufficient knowledge or information regarding the truth of the remaining
6 allegations of Paragraph 40 of the Complaint, and therefore denies such allegations.

7 41. SDCRAA is without sufficient knowledge or information regarding the truth of the
8 allegations of Paragraph 41 of the Complaint, and therefore denies such allegations.

9 42. SDCRAA admits that Plaintiffs seek an injunction. SDCRAA is without sufficient
10 knowledge or information regarding the truth of the remaining allegations of Paragraph 42 of the
11 Complaint, and therefore denies such allegations.

12 **AFFIRMATIVE DEFENSES**

13 SDCRAA has not knowingly or voluntarily waived any applicable affirmative defenses
14 and reserves the right to assert and rely on such other applicable defenses as may become
15 available or apparent during discovery. SDCRAA further reserves the right to amend the answer
16 and assert additional affirmative defenses, and/or delete affirmative defenses in the event
17 SDCRAA determines they are not applicable, in the event discovery indicates it appropriate to do
18 so.

19 **WHEREFORE**, SDCRAA respectfully requests:

20 1. The Court determine that the Resolution and the Ordinance are invalid to the
21 extent the Port utilizes them to charge a User Fee for transactions and activities that take place on
22 property controlled by SDCRAA, including but not limited to charging the User Fee for cars
23 rented from facilities located on property controlled by SDCRAA.

24 2. The Court enjoin the Port from charging a User Fee for transactions and activities
25 that take place on property controlled by SDCRAA, including but not limited to charging the
26 User Fee for cars rented from facilities located on property controlled by SDCRAA.

27 3. The Court order the Port to return to SDCRAA all User Fees charged and / or
28 collected for any transactions and activities that take place on property controlled by SDCRAA,

1 including but not limited to charging the User Fee for cars rented from facilities located on
2 property controlled by SDCRAA.

3 4. SDCRAA be awarded its costs of suit and attorneys' fees; and

4 5. All other relief as the Court deems proper.

5
6 Dated: July 24, 2018

MORRISON & FOERSTER LLP

7
8 By: 

Mark S. Zebrowski

Attorneys for Intervenor

SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, Angela Shafer Payne, declare under penalty of perjury under the laws of the State of California that I am the Vice President of Operations for San Diego County Regional Airport Authority, a party to the above-entitled matter, and I am authorized to execute this Verification on its behalf. I have read the foregoing **VERIFIED ANSWER OF INTERVENOR SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY** and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

Executed on July 18, 2018, at San Diego, California.



Angela Shafer Payne

ORIGINAL

1 MARK C. ZEBROWSKI (SBN 110175)
2 MZebrowski@mof.com
3 Morrison & Foerster LLP
4 12531 High Bluff Drive
5 San Diego, California 92130-2040
6 Telephone: 858.720.5100
7 Facsimile: 858.720.5125

8 AMY GONZALEZ (SBN 181745)
9 AGonzalez@san.org
10 SAN DIEGO COUNTY REGIONAL AIRPORT
11 AUTHORITY
12 3225 N. Harbor Dr.
13 San Diego, CA 92101-1045
14 Telephone: 619.400.2425
15 Facsimile: 619.400.2425

16 Attorneys for Intervenor
17 SAN DIEGO COUNTY
18 REGIONAL AIRPORT AUTHORITY

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 COUNTY OF SAN DIEGO

21 ENTERPRISE RENT-A-CAR CO. OF LOS
22 ANGELES, LLC, a Delaware limited liability
23 company; THE HERTZ CORPORATION, a
24 Delaware corporation,

25 Plaintiffs,

26 v.

27 SAN DIEGO UNIFIED PORT DISTRICT, a
28 public corporation existing under the laws of
the State of California; ALL PERSONS
INTERESTED IN THE MATTER OF THE
IMPOSITION OF A USER FEE FOR THE
BENEFIT OF THE SAN DIEGO UNIFIED
PORT DISTRICT, COMMENCING ON MAY
10, 2018, TO BE COLLECTED FROM
CUSTOMERS BY RENTAL CAR
COMPANIES CONDUCTING BUSINESS
ON DISTRICT TIDELANDS ON BEHALF
OF THE DISTRICT AND PAID TO THE
DISTRICT, AT THE RATE OF \$3.50 PER
RENTAL CAR TRANSACTION; and DOES
1-100, inclusive,

Defendants.

[Exempt From Filing Fees Pursuant
to Government Code Section 6103]

2018 JUL 24 P 3:15

Case No. 37-2018-00028276-CU-MC-CTL

PROOF OF SERVICE

Dept: C-69
Judge: Hon. Katherine Bacal

Complaint Filed: June 8, 2018

FAKED

1 I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address
2 is 12531 High Bluff Drive, San Diego, California, 92130-2040. I am not a party to the within
cause, and I am over the age of eighteen years.

3 I further declare that on July 24, 2018, I served a copy of:

4 **VERIFIED ANSWER OF INTERVENOR SAN DIEGO COUNTY REGIONAL**
5 **AIRPORT AUTHORITY**

6 **BY U.S. MAIL [Code Civ. Proc sec. 1013(a)]** by placing a true copy thereof
7 enclosed in a sealed envelope with postage thereon fully prepaid, addressed as
8 follows, for collection and mailing at Morrison & Foerster LLP, 12531 High Bluff
Drive, San Diego, California, 92130-2040 in accordance with Morrison & Foerster
LLP's ordinary business practices.

9 Mardiros H. Dakessian
10 Zareh A. Jaltorossian
11 Ruben Sislyan
12 Dakessian Law, Ltd.
13 445 S. Figueroa Street, Suite 2210
14 Los Angeles, CA 90071
15 Tel: 213-516-5500
16 Fax: 213-516-5502
17 Email: marty@dakessianlaw.com;
18 zareh@dakessianlaw.com;
19 ruben@dakessianlaw.com

20 Attorneys for Plaintiffs

21 Thomas A. Russell
22 Ellen F. Gross
23 Simon M. Kann
24 San Diego Unified Port District
25 Office of the General Counsel
26 3165 Pacific Highway
27 San Diego, CA 92101
28 Tel: 619-686-6219
Fax: 619-686-6444

Attorneys for Defendant

Douglas W. Sullivan
Joshua Thomas Foust
Crowell & Moring, LLP
3 Embarcadero Center, 26th Floor
San Francisco, CA 94111
Tel: 415-986-2800
Fax: 415-986-2827
Email: dsullivan@crowell.com
jfoust@crowell.com


Attorneys for Plaintiffs

Michael G. Colantuono
John L. Jones, II
Aleks R. Giragosian
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Boulevard, Suite 850
Pasadena, CA 91101
Tel: 213-542-5700
Fax: 213-542-5710
Email: mcolantuono@chwlaw.us
jjones@chwlaw.us
agiragosian@chwlaw.us

Attorneys for Defendant

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

Executed on July 24, 2018, at San Diego, California.


Christine Gordon