

(“Named Plaintiffs”) are five LEP New Yorkers who have disabilities, or minor children with disabilities, and who seek to use the Access-A-Ride system. The Named Plaintiffs have experienced barriers, delays, denials, and discrimination in their applications for, or their use of, Access-A-Ride as a result of NYC Transit’s blatant refusal and failure to provide its services in a language they can understand. As a result, Named Plaintiffs have been denied equal access to public transportation and suffered emotional harm.

2. Access-A-Ride is a federally mandated paratransit system for people who cannot use the public transportation system due to their disabilities. The Access-A-Ride vans travel throughout the five boroughs of New York City every day, transporting New Yorkers with disabilities where they need to go, just as nondisabled people rely on subways and buses to move about.

3. Access-A-Ride is vital to the tens of thousands of people with disabilities who rely on it to function in their daily lives, for example, to attend medical appointments, maintain employment, buy groceries, or visit relatives.

4. In order to become eligible, applicants for this critical service are required to undergo a rigorous application process that involves extensive written and oral communication. After applicants are deemed eligible, they must also read and understand written notices as well as call Access-A-Ride frequently by phone to schedule, cancel, or report problems with rides. As of today, both the application process and the processes for communicating with Access-A-Ride by phone and in writing are largely inaccessible to LEP individuals.

5. For years, and as recently as December 2014, NYC Transit has maintained an affirmative, unlawful written policy of discriminating against LEP individuals who wish to apply for and use the Access-A-Ride services. This policy is prominently displayed on the cover letter

that NYC Transit sends to each and every applicant for Access-A-Ride services: “**NYC Transit does not provide language translators. You must bring your own language translator, if needed.**” Consistent with this policy, LEP individuals who have arrived at their Access-A-Ride eligibility interviews without an interpreter have been turned away and instructed to return only if they bring someone to interpret for them. Other LEP individuals have had no choice but to struggle through the complex interview in English, despite their inability to understand the interview questions or explain their disabilities and medical conditions. Additionally, as of even December 2014, NYC Transit fails to provide application materials or correspondence, such as eligibility and appeals information, in any language other than English, leaving many LEP individuals struggling to understand their rights and responsibilities in the Access-A-Ride system.

6. More than 1.8 million New York City residents—or one quarter of the overall population—are LEP. Approximately 340,000 New York City residents both have a disability and are LEP. In egregious violation of its legal obligations, NYC Transit has knowingly maintained a policy and practice of refusing and failing to provide critical language services such as interpretation and translation, which would allow LEP individuals with disabilities to equally access Access-A-Ride. As a result, NYC Transit has discriminated, and continues to discriminate, against Named Plaintiffs and the tens of thousands of other similarly situated individuals who are otherwise eligible for its services.

7. Named Plaintiffs seek injunctive and declaratory relief, on behalf of themselves and others similarly situated, to redress Defendants’ violations of their rights under the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

et seq.; and the New York City Human Rights Law, N.Y.C. Admin. Code § 8-101 *et seq.* Named Plaintiffs seek an injunction requiring NYC Transit to immediately create a comprehensive system to provide equal access for LEP applicants and riders of Access-A-Ride. Named Plaintiffs also seek individual damages for the discrimination and harm they have suffered.

JURISDICTION

8. This action is brought pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, and regulations promulgated thereunder; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*, and regulations promulgated thereunder; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and regulations promulgated thereunder; and the New York City Human Rights Law (“NYCHRL”), N.Y.C. Admin. Code § 8-101 *et seq.*

9. This Court has jurisdiction over this Rule 23(b)(2) class action pursuant to 28 U.S.C. § 1331 as a case arising under the laws of the United States and 28 U.S.C. § 1343(a) for actions under laws providing for the protection of civil rights. This Court has supplemental jurisdiction over the NYCHRL claim pursuant to 28 U.S.C. § 1367.

10. Declaratory and injunctive relief are sought under 28 U.S.C. §§ 2201-02, 42 U.S.C. § 12133, 29 U.S.C. § 794a, and N.Y.C. Admin. Code § 8-502(a).

11. Venue in the Southern District of New York is proper under 28 U.S.C. § 1391, as it is the judicial district in which a substantial portion of the events or omissions giving rise to the claims herein occurred.

PARTIES

Plaintiffs

12. Plaintiff Josefa Jorge is an individual with disabilities who resides in New York, New York. Her primary language is Spanish, and she is limited English proficient.

13. Plaintiff Nyuk Siem Yap is the mother of C.L. and D.L., two minor, non-verbal children with disabilities, and resides in Elmhurst, New York. Her primary language is Cantonese, and she is limited English proficient.

14. Plaintiff Siewling Lum is the mother of A.W., a minor, non-verbal child with disabilities, and resides in Queens, New York. Her primary language is Cantonese, and she is limited English proficient.

15. Plaintiff Annette Padrò is an individual with disabilities who resides in New York, New York. Her primary language is Spanish, and she is limited English proficient.

16. Plaintiff Doris Rodriguez is an individual with disabilities who resides in Forest Hills, New York. Her primary language is Spanish, and she is limited English proficient.

17. Plaintiff Rosa Valdès is an individual with disabilities who resides in New York, New York. Her primary language is Spanish, and she is limited English proficient.

Defendants

18. Defendant New York City Transit Authority (“NYC Transit”) is a public transit provider that operates the subway, bus, and paratransit systems in New York City. Its paratransit system is Access-A-Ride. NYC Transit is a public entity covered by Title II of the ADA, 42 U.S.C. § 12131(1); a program or activity receiving federal financial assistance that is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*, and Title VI of the Civil

Rights Act of 1964, 42 U.S.C. § 2000d *et seq*; and a place or provider of public accommodation covered by the NYCHRL, N.Y.C. Admin. Code § 8-102(9).

19. Defendant Thomas Prendergast is the Chairman and Chief Executive Officer of NYC Transit. He is sued in his official capacity. Defendant Prendergast is responsible for NYC Transit's executive and administrative functions and powers pursuant to N.Y. Pub. Auth. Law § 1201 (McKinney 2014).

20. Defendant Carmen Bianco is the President of NYC Transit. He is sued in his official capacity. Defendant Bianco is responsible for NYC Transit's day-to-day management and operations.

JURY DEMAND

21. Named Plaintiffs demand trial by jury in this action on every one of their claims.

FACTS

Paratransit in New York City – Access-A-Ride

22. Access-A-Ride is a critical transportation service for thousands of people with disabilities in New York City who need and rely on it. Without access to transportation, people with disabilities are unable to participate fully or live independently in society.

23. NYC Transit operates the subway and bus system in New York City, which is a “fixed route” system of public transportation as defined in 42 U.S.C. § 12141(3) of the ADA. As a public entity operating a fixed route system, NYC Transit is subject to Title II, Part B of the ADA.

24. The ADA requires NYC Transit to provide a complementary paratransit service for people with disabilities that is comparable to the fixed route system. 42 U.S.C. § 12143(a); 49 C.F.R. § 37.121(a).

25. In order to meet the ADA's requirement that the paratransit system be "comparable" to the fixed route system, NYC Transit "shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by . . . [a]ny operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons." 49 C.F.R. § 37.131(f).

26. In New York City, however, language barriers in the Access-A-Ride system isolate thousands of LEP people with disabilities by blocking their access to the only kind of public transportation that is accessible to them. This is particularly true for numerous low-income individuals who lack access to alternate means of transportation such as taxis.

NYC Transit's Well-Established Duty to Provide Language Access to Paratransit Services

27. Federal and local laws, and their implementing regulations, require that entities such as NYC Transit provide language access services, such as interpretation and translation, to LEP individuals so that they have equal access to their services.

28. Census data establishes that New York City residents of foreign national origin are far more likely to be limited English proficient than residents born in the U.S. Only 6.5 percent of U.S. born New Yorkers are LEP, while 50 percent of foreign born New Yorkers are LEP. Only 2.5 percent of U.S. born residents have extremely limited English language skills, while 29.7 percent of foreign born residents are so classified.

29. As a recipient of federal financial assistance, NYC Transit is subject to Title VI of the Civil Rights Act of 1964 ("Title VI"), which prohibits discrimination on the basis of, *inter alia*, ethnicity and national origin, including discrimination on the basis of limited English proficiency. 42 U.S.C. § 2000d.

30. NYC Transit is a place or provider of public accommodation covered by the NYCHRL. N.Y.C. Admin. Code § 8-102(9). The NYCHRL prohibits discrimination on the basis of, *inter alia*, ethnicity and national origin, which includes discrimination on the basis of limited English proficiency. N.Y.C. Admin. Code § 8-107(4)(a).

31. Federal, New York State, and New York City Executive Orders also require that public agencies create and implement detailed language access policies.

32. Upon information and belief, as a condition of its receipt of federal monies, NYC Transit is required to execute agreements with the federal government in which NYC Transit confirms that it will provide language access services to LEP individuals, and thus not discriminate on the basis of federal law.

33. NYC Transit has long known of the very substantial need and demand for language access services in the Access-A-Ride system, as evidenced by NYC Transit's choice to affirmatively inform all Access-A-Ride applicants in its initial application cover letter that it will not provide such a service, by stating "**NYC Transit does not provide language translators. You must bring a language translator, if needed.**" Attached as Appendix A is a copy of this letter.

34. NYC Transit has also known that it must provide language access services to riders with disabilities as a result of press and individual inquiries about its policies. For example, in May 2013, a news reporter contacted the Metropolitan Transportation Authority (MTA) about the language barriers in the Access-A-Ride system. The MTA reportedly claimed that these barriers would be remedied. Yet, despite the 18 months that have elapsed since that time, NYC Transit still maintains the same discriminatory policy and practice.

35. As a result of this longstanding, well-established network of federal and local laws, regulations, and Executive Orders, and through individual and press inquiries and other avenues, NYC Transit has known of both the need for, and its obligation to provide, language access services to limited English proficient individuals. Yet, it has still refused and failed to provide these services.

NYC Transit Has Denied the Five Named Plaintiffs Equal Access to its Paratransit Services

Plaintiff Josefa Jorge

36. Josefa Jorge is a 59-year-old, limited English proficient woman from the Dominican Republic. Her primary language is Spanish.

37. Ms. Jorge has multiple physical disabilities, including herniated disc syndrome and sciatic neuralgia, which severely limit her ability to walk and travel. Without Access-A-Ride services, she is forced to rely on taxis, which result in excessive and unsustainable personal cost, particularly given her limited fixed income. She is often unable to travel to visit friends or run personal errands. For example, she missed the funerals of two of her closest friends solely because she could not travel there.

38. Ms. Jorge has been denied equal access to Access-A-Ride services due to NYC Transit's failure to provide language access services such as interpretation or translation.

39. To apply for Access-A-Ride services, an individual must first call Access-A-Ride to request an application. After receiving a request for an application, NYC Transit then mails a cover letter and a 10-page application to the applicant. The cover letter provides information about the applicant's appointment for a functional assessment and personal interview. Through the application and interview, the applicant must demonstrate their eligibility by proving that their disabilities prevent them from using the subway or bus system. The functional assessments

and personal interviews are administered by entities that contract with NYC Transit for the specific purpose of making Access-A-Ride eligibility determinations on behalf of NYC Transit.

40. Ms. Jorge first became eligible for Access-A-Ride in or about 2001, and she was then recertified for the service in 2005 and 2008.

41. For her 2005 recertification, Ms. Jorge requested a Spanish version of the 10-page application. However, NYC Transit provided it to her in English. Ms. Jorge was unable to complete the application on her own, and was forced to ask acquaintances to help her. As a result, she was prevented from independently and fully explaining her conditions. The cover letter to the application also stated clearly that **“NYC Transit does not provide language translators. You must bring a language translator, if needed.”**

42. After struggling to complete the application in 2005, Ms. Jorge arrived at her functional assessment appointment alone because she had no one to accompany her. The receptionist asked her if she could speak English, and Ms. Jorge indicated she could speak only very limited English. A bystander in the waiting room who was waiting with another applicant identified herself as bilingual and offered to assist Ms. Jorge by acting as an interpreter. With limited options before her, Ms. Jorge accepted this offer. However, throughout the interview, Ms. Jorge was doubtful as to whether this stranger fully relayed the information she was trying to provide to the assessor. Having to rely on this stranger compromised Ms. Jorge’s ability to communicate fully and accurately with the Access-A-Ride assessor.

43. For her 2008 recertification, NYC Transit again sent the application packet in English only. Just as in 2005, Ms. Jorge was unable to complete the application on her own, and was forced to rely on acquaintances to help her. The cover letter to the application again clearly stated that **“NYC Transit does not provide language translators. You must bring a language**

translator, if needed.” Similar to 2005, because Ms. Jorge had no one to accompany her, she attended her functional assessment alone, but a bilingual bystander in the waiting room offered to act as an interpreter for her. Although using this stranger as an interpreter compromised Ms. Jorge’s communication with Access-A-Ride because of the questionable reliability and accuracy, she was left with no choice—but for this individual’s assistance, Ms. Jorge would have been left to struggle through the interview in her limited English.

44. In the spring of 2013, Ms. Jorge underwent recertification for Access-A-Ride services. Again, because NYC Transit failed to provide the application in Spanish, Ms. Jorge struggled to complete it and had to ask family members to assist her. She was limited in her ability to independently answer questions about her medical conditions and disabilities. NYC Transit included with the application packet a cover letter that stated in bold, **“NYC Transit does not provide language translators. You must bring a language translator, if needed.”** Because Ms. Jorge had no one to accompany her, Ms. Jorge attended the functional assessment alone.

45. When Ms. Jorge attended her functional assessment appointment in the spring of 2013, the assessor was judgmental and dismissive of Ms. Jorge because of her limited English proficiency. The assessor criticized her for not speaking English and noted that she was supposed to bring someone with her who could speak English. Because of her limited English proficiency, Ms. Jorge was unable to explain various medical conditions she needed to explain to support her application. Although she tried, the assessor indicated that he did not understand her. Although she was applying for full, door-to-door service for all trips, she was instead certified with limited “conditional eligibility” for only those trips that would require the use of stairs.

46. For reasons unknown to Ms. Jorge, and although her existing services were not set to expire for five years, NYC Transit required her to complete another recertification in the fall of the same year, 2013. Just as she had before, Ms. Jorge struggled to complete the application form because NYC Transit failed to provide it in Spanish. Ms. Jorge had to ask for help from family members, and was again prevented from independently explaining her conditions.

47. For the functional assessment appointment in the fall of 2013, Ms. Jorge brought her daughter along with her. The same assessor from the prior appointment disparagingly reiterated to Ms. Jorge, “you are supposed to speak English in America” and “you are not living in your country.” He also made clear that for any appointments with Access-A-Ride, she was required to bring someone with her who could speak English. Again, Ms. Jorge was unable to adequately articulate her need for Access-A-Ride services. Although her daughter could speak English, the Access-A-Ride assessor did not allow her daughter to communicate fully on behalf of her mother. After this appointment, Ms. Jorge’s eligibility was reduced to only one year of Access-A-Ride services, despite the fact that NYC Transit had granted her five-year eligibility just a few months earlier.

48. In November 2014, Ms. Jorge requested an Access-A-Ride application because her one-year eligibility expired. NYC Transit sent her an application packet, which, like all the other applications Ms. Jorge had received before, included a cover letter that stated in bold, **“NYC Transit does not provide language translators. You must bring a language translator, if needed.”** NYC Transit mailed this packet to Ms. Jorge on December 1, 2014.

49. Ms. Jorge has never been able to understand any correspondence NYC Transit has sent to her, including eligibility letters. She has requested Spanish translations numerous times

but NYC Transit has failed to provide a single translated document to her. Because of NYC Transit's failure to provide translated versions of correspondence or notices, Ms. Jorge has been forced to rely on someone else to explain documents to her, and has therefore been unable to independently manage her Access-A-Ride services.

50. Similarly, Ms. Jorge has struggled to use Access-A-Ride's phone system. Over the last few years, as she has tried to select the Spanish option on Access-A-Ride's phone system, she has experienced only limited success. Because of Ms. Jorge's limited English proficiency, NYC Transit employees have placed her on hold for indefinite amounts of time leading to disconnection. On some occasions, Ms. Jorge asked someone who speaks English to call on her behalf, but on other occasions she has been forced to forego the call altogether—even if that meant she would not schedule the trip she needed to take.

51. Ms. Jorge must apply for Access-A-Ride services in the near future, but she faces the same language barriers due to NYC Transit's policy of denying language access services such as interpretation and translation.

52. NYC Transit's refusal and failure to provide language access services such as interpretation or translation have left Ms. Jorge feeling humiliated, emotionally distraught, and discriminated against because of her ethnicity and national origin. Because of NYC Transit's failure to provide language access services, she has faced, and continues to face, ongoing and significant obstacles in applying for and using the Access-A-Ride system, and she remains concerned about further communications with NYC Transit and whether she will be able to access transportation in the future.

Plaintiff Nyuk Siem Yap

53. Nyuk Siem Yap is a 41-year-old, limited English proficient woman from Malaysia. Her primary language is Cantonese.

54. Ms. Yap's sons, D.L. and C.L., both require Access-A-Ride services because they have autism, are non-verbal, and have very limited cognitive abilities, all of which prevents them from independently using public transportation.

55. D.L. is 17 years old and C.L. is 14 years old. Because both D.L. and C.L. are minors, and because neither child has the capacity or communication skills to apply for or arrange for the use of Access-A-Ride, Ms. Yap is responsible for doing so on their behalf.

56. Ms. Yap, D.L., and C.L. have been denied equal access to Access-A-Ride services due to NYC Transit's failure to provide language access services such as interpretation or translation.

57. In or about March 2013, Ms. Yap learned from a friend who had attended a workshop by a social services agency that her sons would be eligible for Access-A-Ride due to their autism. A friend of Ms. Yap later gave her the phone number for Access-A-Ride.

58. On April 25, 2013, Ms. Yap called the Access-A-Ride phone line to request applications for her sons. She immediately heard an automated recording of menu options and prompts, but could not understand because it was all in English. Ms. Yap pressed a random number and was connected to an operator. She tried to tell the person that she needed to apply for Access-A-Ride but was transferred to another agent.

59. Ms. Yap told the second agent that she did not understand what he was saying and asked if there was anyone who could speak to her in Chinese. The agent told her no. Eager to get Access-A-Ride services for her sons, Ms. Yap continued to attempt to speak to the agent in

her limited English. The agent said several things to her—the conversation lasted 10-15 minutes—but Ms. Yap could not understand a large part of what was said because it was all in English.

60. On or about one week later, Ms. Yap received two applications for her sons in the mail. Ms. Yap could not understand or complete the documents because they were in English. Instead, she was forced to ask her sons' tutor to explain the questions and fill in the answers for her. As a result, Ms. Yap was prevented from independently explaining her sons' conditions and ensuring that the answers she provided were correct.

61. Ms. Yap also could not read or understand the cover letter to the application, including the language that stated, **“NYC Transit does not provide language translators. You must bring a language translator, if needed.”** However, she had been told by friends who had applied for the service that she would not receive an interpreter or a bilingual staff member at the functional assessment.

62. Although the cover letter explained that Access-A-Ride provides transportation to and from the in-person functional assessment, Ms. Yap could not understand the letter because it was in English. As a result, Ms. Yap was forced to make her own arrangements for her and her sons' transportation to the assessment on May 10, 2013. Only recently did Ms. Yap learn from a friend that Access-A-Ride provides applicants with transportation to and from the appointment.

63. Ms. Yap could not find a friend or relative who spoke English well enough to assist her at the appointment. She was forced to attend the appointment without an interpreter. Throughout the appointment, in the absence of an interpreter or bilingual staff, Ms. Yap was unable to ask questions and did not have an opportunity to explain her sons' needs due to their autism.

64. During the appointment, Ms. Yap was given a letter that explained her sons would be entitled to interim Access-A-Ride services if it took longer than 21 days to issue an eligibility determination. Ms. Yap could not read or understand the letter because it was in English. If someone tried to explain it to her, she did not know because all of the conversations at the functional assessment were in English. Thus she did not know she was entitled to interim services when NYCTA took almost two weeks longer than permitted to issue its decision.

65. After the appointment Ms. Yap received several documents, including an eligibility letter for each of her sons stating that they had been approved for Access-A-Ride services. She also received more than 20 pages of rules, policies, and instructions for Access-A-Ride ridership, as well as a separate 50-page guide to Access-A-Ride services. Ms. Yap has not been able to read and/or understand these documents because they are all in English. Because of Access-A-Ride's failure to provide translated versions of such correspondence and guidance, Ms. Yap does not understand her and her sons' rights and responsibilities with regard to Access-A-Ride services.

66. Ms. Yap has been unable to use Access-A-Ride at all to travel with her sons because of the difficulty in communicating with Access-A-Ride by phone in the absence of interpreters or bilingual staff. Ms. Yap wishes she could use Access-A-Ride, especially to travel to her sons' medical appointments.

67. NYC Transit's refusal and failure to provide language access services such as interpretation or translation have left Ms. Yap feeling frustrated and discriminated against because of her ethnicity and national origin. Because of NYC Transit's failure to provide language access services, Ms. Yap and her sons have faced ongoing and significant obstacles in applying for and using the Access-A-Ride system, and Ms. Yap remains concerned about further

communications with NYC Transit and whether she will be able to access the transportation for her sons in the future.

Plaintiff Siewling Lum

68. Siewling Lum is a 35 year-old, limited English proficient woman from Malaysia. Her primary language is Cantonese.

69. Ms. Lum's son, A.W., requires Access-A-Ride services because he has autism and Attention Deficit Hyperactivity Disorder (ADHD), is non-verbal, and has very limited cognitive abilities, all of which prevents him from independently using public transportation.

70. A.W. is 8 years old. Because he is a minor, and because he lacks the capacity or communication skills to apply for or arrange for the use of Access-A-Ride, Ms. Lum is responsible for doing so on his behalf.

71. Ms. Lum and A.W. have been denied equal access to Access-A-Ride services due to NYC Transit's failure to provide language access services such as interpretation or translation.

72. Although Ms. Lum knew for several years that her son might qualify for Access-A-Ride services, she did not apply for these services because she knew from others in her community that Access-A-Ride's application process was provided solely in English. Ms. Lum was deterred and effectively prevented from applying for the services.

73. In or about October 2014, Ms. Lum was working with her son's social worker, who agreed to help her apply for Access-A-Ride services. Because of Ms. Lum's limited English proficiency, Ms. Lum was unable to independently call Access-A-Ride to request an application. The social worker had to join the call to provide interpretation assistance.

74. Ms. Lum could not understand or independently complete the application form because it was in English. Instead, she was forced to ask her 9-year-old daughter to complete the

application for her. However, her 9-year-old daughter could only assist her with the simplest questions. For the bulk of the application, which asked more complex questions, Ms. Lum was forced to ask her son's social worker to complete the form. As a result, Ms. Lum was prevented from independently explaining her son's conditions and ensuring that the answers she provided were correct.

75. Ms. Lum also could not read or understand the cover letter to the application, dated October 27, 2014, including the language that stated, "**NYC Transit does not provide language translators. You must bring a language translator, if needed,**" because it was in English. She was forced to rely on Google Translate to attempt to understand the letter. Even with Google Translate, Ms. Lum was forced to guess much of the meaning of the letter because Google Translate did not account for many of the grammatical and syntactical differences between English and Chinese.

76. Ms. Lum called Access-A-Ride to try to schedule a ride to A.W.'s functional assessment. However, she was unable to do so because no one spoke Cantonese on the phone, and the Access-A-Ride representative did not understand Ms. Lum's limited English. Ms. Lum was forced to have her 9-year-old daughter call Access-A-Ride back and arrange the ride.

77. Ms. Lum asked her son's social worker to accompany her to the appointment. However, because the social worker was unavailable and because Ms. Lum had no other options, she was forced to attend the appointment without an interpreter.

78. When she arrived at the appointment with her son on or about November 17, 2014, Ms. Lum sat in the waiting room along with several other people. The receptionist made an announcement—in English—to everyone in the waiting room that the functional assessment center did not provide interpreters.

79. Ms. Lum also overheard the receptionist indicating to another applicant that if they planned to ask questions during the appointment, they would have to return with an interpreter. The receptionist then told that other applicant that if they did not plan to say much, the process would be simple and the assessor would rely solely on the medical documentation submitted. Although the receptionist did not say this directly to Ms. Lum, Ms. Lum understood this to apply to her as well. Ms. Lum, while LEP, was able to understand the gist of what the receptionist said because she can understand some basic spoken English. Ms. Lum is most limited in her ability to read, write, and speak English.

80. Once A.W.'s appointment began, the assessor began asking A.W. questions, at which point Ms. Lum tried to interject. The assessor stopped her, indicating instead that the questions were intended only for A.W. Ms. Lum then indicated that A.W. has autism and ADHD and is non-verbal, at which point the assessor stopped asking questions and only looked at the medical documents Ms. Lum provided. In the absence of an interpreter, Ms. Lum was unable to say what she wished to say or ask any questions.

81. After the appointment, Ms. Lum waited several weeks for an eligibility determination letter. While she was waiting, she wished to call Access-A-Ride to ask about the status of the determination, but she could not do so because of the language barriers on Access-A-Ride's phone system. After some time, Ms. Lum received several documents in the mail, including an eligibility letter for her son stating that he had been approved for Access-A-Ride services. She also received more than 20 pages of rules, policies, and instructions for Access-A-Ride ridership. Ms. Lum has not been able to read and/or understand these documents because they are all in English. Because of Access-A-Ride's failure to provide translated versions of

such correspondence and guidance, Ms. Lum does not understand her and her son's rights and responsibilities with regard to Access-A-Ride services.

82. Ms. Lum has hardly been able to use Access-A-Ride to travel with her son because of the difficulty in communicating with Access-A-Ride by phone. Ms. Lum has wished to use Access-A-Ride at least once a week, especially to travel to her son's medical appointments. However, because Access-A-Ride's phone system has been inaccessible to her, Ms. Lum has had to rely on others to call Access-A-Ride for her. In particular, she has relied on one of her son's home health aides to call Access-A-Ride for her, but this aide works for her son only once a week, so Ms. Lum has had to wait up to several days to request a trip. When no one has been available to make the call, Ms. Lum has altogether foregone requesting trips.

83. NYC Transit's refusal and failure to provide language access services such as interpretation or translation have left Ms. Lum feeling frustrated, helpless, and discriminated against because of her ethnicity and national origin. Because of NYC Transit's failure to provide language access services, Ms. Lum and her son have faced ongoing and significant obstacles in using the Access-A-Ride system. Ms. Lum remains concerned about further communications with NYC Transit and whether she will be able to access the transportation for her son in the future.

Plaintiff Annette Padrò

84. Annette Padrò is a 52-year-old, limited English proficient woman from Puerto Rico. Her primary language is Spanish.

85. Ms. Padrò has multiple physical disabilities that limit her mobility, such as osteoarthritis in her knees, morbid obesity, and asthma. Ms. Padrò, who lives on limited, fixed income, particularly relies on Access-A-Ride for transportation, as she cannot afford other means

of transportation such as taxis. Without Access-A-Ride services, she is unable to travel to places she would like to go, such as church.

86. Ms. Padrò has been denied equal access to Access-A-Ride services due to NYC Transit's failure to provide language access services such as interpretation or translation.

87. Ms. Padrò first became eligible for Access-A-Ride services in 2011. When she requested the application, NYC Transit sent it to her in English, with a cover letter that stated in bold, **"NYC Transit does not provide language translators. You must bring a language translator, if needed."** She was unable to complete the application on her own because it was in English. One of the assessors at her in-person appointment happened to be bilingual and—against explicit NYC Transit policy—communicated with Ms. Padrò in Spanish, including by helping her fill out her otherwise incomplete application. Ms. Padrò's ability to communicate in Spanish on this occasion allowed her to express the necessary information. She was certified as eligible for Access-A-Ride.

88. However, in August 2014, Ms. Padrò tried to recertify for Access-A-Ride services. NYC Transit again sent her an application packet in English, which included a cover letter that stated in bold, **"NYC Transit does not provide language translators. You must bring a language translator, if needed."**

89. Because the cover letter was in English, Ms. Padrò had to ask an acquaintance to explain it to her. Similarly, because the application was in English, Ms. Padrò had to have a mere acquaintance complete the application on her behalf, despite the fact that the application asked for detailed and personal information about her medical conditions and disabilities. She was prevented from independently and fully explaining her conditions.

90. When Ms. Padrò arrived at her functional assessment appointment, she was told that if she did not speak English, she must bring someone to interpret for her. With no viable options for such assistance, Ms. Padrò was compelled to proceed with the functional assessment that day. She was unable to understand the interviewer's questions, and was unable to explain her medical conditions and disabilities to support her application.

91. NYC Transit denied her application and mailed her a denial letter with information about filing an appeal. However, this letter and appeal information was also only in English, so Ms. Padrò was unable to understand it.

92. Ms. Padrò must apply for Access-A-Ride services in the near future, but she faces the same language barriers due to NYC Transit's policy of denying interpretation or translation.

93. As a result of NYC Transit's policy of denying language services, Ms. Padrò felt emotionally distraught and discriminated against. Because of NYC Transit's failure to provide interpretation and translation, she has faced significant and ongoing obstacles in applying for and using the Access-A-Ride system, and she remains anxious about further communications with NYC Transit and whether she will be able to access transportation in the future.

Plaintiff Doris Rodriguez

94. Doris Rodriguez is a 74-year-old, limited English proficient woman from Ecuador. Her primary language is Spanish.

95. Ms. Rodriguez has multiple disabilities, including serious cardiovascular conditions, which prevent her from independently using public transportation. Ms. Rodriguez, who lives on limited, fixed income, particularly relies on Access-A-Ride for transportation, as she cannot afford other means of travel such as taxis. During the time that she was incorrectly

deemed ineligible for Access-A-Ride services, she was unable to travel for even the most basic and personal purposes such as church or visiting her family.

96. Ms. Rodriguez has been denied equal access to Access-A-Ride services due to NYC Transit's failure to provide language access services such as interpretation or translation.

97. Ms. Rodriguez first became eligible for Access-A-Ride services in 2006. Because NYC Transit failed to provide a Spanish translation of the application, Ms. Rodriguez was forced to have her case worker complete the application for her. This limited her ability to understand and respond to the detailed application questions.

98. In 2010, Ms. Rodriguez was required to recertify for Access-A-Ride services in order to continue receiving services. Because NYC Transit again failed to provide a Spanish translation of the application, Ms. Rodriguez was forced to have a friend complete her application for her. Again, this limited her ability to understand and respond to the detailed application questions.

99. In 2011, although already eligible, Ms. Rodriguez recertified for Access-A-Ride services, because the level of services she was getting was insufficient to match her needs. When she received her application packet in the mail, she called NYC Transit to ask for a Spanish version; however, NYC Transit denied this request. Ms. Rodriguez also asked her home attendant to call and request a Spanish version of the application; however, NYC Transit again denied the request. Because NYC Transit failed to provide a Spanish translation of the application, Ms. Rodriguez was forced to have a mere acquaintance complete her application for her. This compromised her ability to understand and respond to Access-A-Ride's detailed application questions.

100. Because the letter that accompanied the application was also only in English, Ms. Rodriguez did not understand that Access-A-Ride would arrange a ride for her to get to the in-person assessment. As a result, Ms. Rodriguez unnecessarily paid for a taxi despite her limited, fixed income.

101. NYC Transit denied Ms. Rodriguez's application in 2011. Ms. Rodriguez then tried to reapply for services in 2012. At that point, desperate for assistance with the application, Ms. Rodriguez contacted her Council Member's office, which then completed her application for her. She was then certified for Access-A-Ride eligibility.

102. A few months later, realizing that she needed the assistance of a Personal Care Attendant ("PCA") while using Access-A-Ride, Ms. Rodriguez reapplied for Access-A-Ride services in the hopes of adding a PCA to her eligibility. She was again forced to rely on her Council Member's office to help her complete the application, because NYC Transit failed to have a Spanish version of it. NYC Transit denied her application.

103. Throughout Ms. Rodriguez's various applications, NYC Transit has consistently sent a cover letter with her application packet which stated in bold, "**NYC Transit does not provide language translators. You must bring a language translator, if needed.**"

104. Because of NYC Transit's explicit policy of denying interpretation or translation, each time Ms. Rodriguez tried to apply or recertify for Access-A-Ride services in 2006, 2010, 2011, and 2012, she was forced to bring a friend from church to facilitate the communication at her functional assessment, though none of her friends is qualified to interpret. This compromised Ms. Rodriguez's ability to understand the interview, particularly as it related to her disabilities and medical conditions.

105. On or about October 7, 2013, she tried to call Access-A-Ride to schedule a ride to her in-person assessment and request a Spanish interpreter. She was unable to connect with a Spanish-speaker. Instead, an English-speaking Access-A-Ride representative hung up on her, telling her only “English, English.” On or about October 9, 2013, Ms. Rodriguez called Access-A-Ride again, in attempt to schedule a ride to her in-person assessment. The Access-A-Ride representative hung up on her again. Ms. Rodriguez then asked her home health attendant, who understands limited English, to call Access-A-Ride on her behalf. Her home health attendant called, and the Access-A-Ride representative told her that Ms. Rodriguez needed to bring someone who could speak English with her to the in-person assessment.

106. The following year, on or about October 23, 2014, through her attorneys, Ms. Rodriguez submitted a written request for a Spanish interpreter for her in-person assessment. NYC Transit never replied to this letter. As a result, Ms. Rodriguez’s attorneys were forced to hire an interpreter on her behalf, so that she could understand and communicate at her in-person assessment. NYC Transit denied Ms. Rodriguez’s application.

107. Through her attorneys, Ms. Rodriguez filed an administrative appeal, which was also denied. She then, through her attorneys, filed an Article 78 proceeding in state court to challenge the denial. She was ultimately successful in obtaining Access-A-Ride services.

108. While trying to deal with the various communication barriers in the Access-A-Ride system, Ms. Rodriguez has been left emotionally frustrated and dejected. Because of NYC Transit’s failure to provide interpretation and translation, she has faced ongoing and significant obstacles in applying for and using the Access-A-Ride system, and she remains concerned about further communications with NYC Transit.

Plaintiff Rosa Valdès

109. Rosa Valdès is a 63-year-old, limited English proficient woman from Puerto Rico. Her primary language is Spanish.

110. Ms. Valdès's mobility impairments prevent her from independently using public transportation.

111. Ms. Valdès has been denied equal access to Access-A-Ride services due to NYC Transit's failure to provide interpretation or translation.

112. Ms. Valdès first tried to apply for Access-A-Ride services in August 2014.

113. Because NYC Transit failed to provide a Spanish translation of the Access-A-Ride application, Ms. Valdès was forced to have her social worker complete the application for her.

114. The cover letter that accompanied the application stated in bold font, "**NYC Transit does not provide language translators. You must bring a language translator, if needed.**" Still, Ms. Valdès's social worker called Access-A-Ride to request an interpreter. The Access-A-Ride representative with whom she spoke said clearly that NYC Transit does not provide interpreters, and referred Ms. Valdès's social worker to the policy written on the cover letter to the application.

115. In order to obtain additional medical documentation, Ms. Valdès cancelled her appointment for the functional assessment.

116. Ms. Valdès is currently preparing to apply for Access-A-Ride services in the near future, but she faces the same language barriers due to NYC Transit's policy of denying interpretation or translation.

NYC Transit Has Erected System-Wide Barriers for LEP Individuals in Access-A-Ride

NYC Transit's Denial of Equal Access in Access-A-Ride Applications and Appeals

117. As set forth in the letters it sends to every individual who requests an Access-A-Ride application, NYC Transit has an explicit policy of denying interpretation and translation for LEP individuals. The cover letter that accompanies each application that NYC Transit mails to each and every applicant states, in bold print: “**NYC Transit does not provide language translators. You must bring a language translator, if needed.**” NYC Transit anticipates a significant need for language services, but it deliberately refuses and fails to provide such services.

118. NYC Transit's cover letter to the Access-A-Ride application is always sent to applicants in English and is itself inaccessible to LEP individuals.

119. The 10-page paper application for Access-A-Ride is similarly inaccessible to LEP individuals, as NYC Transit fails to provide it in any language other than English. As a result, LEP applicants are forced to find an English-speaking person to complete the application on their behalf, provide an incomplete or inaccurate application, or forego applying altogether.

120. Even when LEP applicants request, or have someone else request on their behalf, an interpreter for their functional assessment and/or a translated version of the application, NYC Transit denies these requests.

121. Upon information and belief, LEP applicants who arrive at their functional assessment appointments alone have been turned away by staff members at the functional assessment centers. These staff members have told LEP applicants that they must return some other time when they can bring someone to interpret for them.

122. NYC Transit's refusal and failure to provide interpreters for the functional assessment and personal interview forces LEP applicants to pay to hire an interpreter on their own; to bring a relative, friend, or advocate with them to interpret, regardless of whether that person is actually qualified to interpret; to try and struggle through the interview in English with little or no ability to understand the interview questions or explain their disabilities; or to forego the appointment altogether.

123. Compounding its failure to provide translated application materials, NYC Transit fails to provide any subsequent notices and correspondence in any language other than English. This includes critical eligibility determination letters, denial letters, instructions for appeal, and standard notices explaining the various types of eligibility and Access-A-Ride's rules. NYC Transit's failure to translate these materials means that LEP individuals cannot understand what kind of eligibility they have received; cannot assert their due process rights to file an appeal; and cannot understand the rules of and their rights within the Access-A-Ride system.

124. If an Access-A-Ride applicant is denied eligibility, they have the right to appeal as a matter of due process. However, NYC Transit also fails to provide translated materials for written appeals or interpreters for appeal hearings. Upon information and belief, NYC Transit thereby forces LEP applicants to pay to hire an interpreter on their own; to bring a relative, friend, or advocate with them to interpret, regardless of whether that person is actually qualified to interpret; to try and struggle through the appeal with little or no ability to understand or respond to the hearing officer's questions; or to forego the appeal hearing altogether.

NYC Transit's Denial of Equal Access in Access-A-Ride Usage

125. If an LEP applicant succeeds in becoming eligible for Access-A-Ride services, the need for communication remains vital in using the Access-A-Ride system, and NYC Transit's system remains inaccessible to LEP individuals.

126. Riders must call Access-A-Ride one to two days in advance to schedule each ride and provide all relevant information, including timing, location, and whether they will bring a personal care attendant or guest with them on the van.

127. To cancel a scheduled ride, riders must call Access-A-Ride at least 3 hours in advance. Otherwise, NYC Transit counts the trip as a violation in the rider's file. After a certain number of violations, NYC Transit may suspend the rider's Access-A-Ride services under ADA regulations.

128. If NYC Transit intends to suspend an Access-A-Ride rider from service, it must send written notice with details of the violations upon which the suspension is based. The Access-A-Ride rider is then entitled to an appeal as a matter of due process.

129. Upon information and belief, NYC Transit's written correspondence and oral communications related to suspensions and any related appeals are all in English and are inaccessible to LEP individuals. If LEP individuals do not understand a suspension notice or have a way to appeal a wrongful suspension, they are at serious risk of having their service suspended for months at a time, causing unwarranted and significant disruption to their lives.

130. If an Access-A-Ride ride is late, individuals who speak English may call NYC Transit to report the delay and obtain status information as well as alternative rides in the event the scheduled ride is too delayed. However, LEP individuals also do not have equal access to this portion of Access-A-Ride's service because NYC Transit fails to provide any interpreters.

As a result, LEP Access-A-Ride riders have been stranded when vans do not arrive, as NYC Transit denied them the opportunity to report the problem or to secure alternate transportation.

131. NYC Transit fails to provide phone service in any languages other than English or Spanish. Although Access-A-Ride's phone system offers a Spanish option, this option has only recently become somewhat functional for certain Access-A-Ride departments, such as the department that handles trip reservations. For other departments, such as the one that handles same-day trip problems, NYC Transit still fails to have Spanish-speaking employees staff the calls on a consistent basis. As for callers who speak a language other than English or Spanish, Access-A-Ride offers absolutely no option for communication.

132. When Access-A-Ride fails to provide bilingual staff members or interpreters for its phone system, LEP callers are forced to find an English-speaking person who is available and willing to call Access-A-Ride on their behalf. In the event they cannot find such friend or advocate, these callers are often forced to forego the call altogether. This often means these riders must miss critical trips such as to medical appointments.

CLASS ACTION ALLEGATIONS

133. Named Plaintiffs bring this action as a class action under Fed. R. Civ. P. 23(b)(2) for violations of their statutory rights. The Rule 23(b)(2) class comprises all current and future limited English proficient residents of New York City who have or will have a disability, and who are current or prospective Access-A-Ride users.

134. Defendants have acted, or failed to act, on grounds generally applicable to the Rule (b)(2) class, thereby making appropriate final injunctive and declaratory relief with respect to the Rule (b)(2) class as a whole.

135. Joinder of all class members is impracticable because of the size of the class.

Upon information and belief, the Rule 23(b)(2) class consists of tens of thousands of individuals who either have been or are at risk of being subjected to NYC Transit's challenged policies and practices.

136. The questions of law and fact presented by the Named Plaintiffs are common to other members of the class. Among others, these questions include: (i) whether NYC Transit maintains a policy and practice of refusing to provide interpreters or bilingual assistance to LEP individuals who seek to apply for or use the Access-A-Ride services; (ii) whether NYC Transit fails to provide translated documents such as applications, correspondence, and notices to LEP individuals who seek to apply for or use the Access-A-Ride services; (iii) whether NYC Transit fails to provide interpretation or bilingual assistance for eligibility interviews and other oral communications to LEP individuals who seek to use the Access-A-Ride services; (iv) whether NYC Transit's policies and practices towards LEP individuals who seek to apply for or use the Access-A-Ride services violate the Americans with Disabilities Act's paratransit requirements; (v) whether NYC Transit's policies and practices towards LEP individuals who seek to apply for or use the Access-A-Ride services violate Section 504 of the Rehabilitation Act of 1973; (vi) whether NYC Transit's policies and practices towards LEP individuals who seek to apply for or use the Access-A-Ride services violate Title VI of the Civil Rights Act of 1964's prohibition on national origin discrimination; (vii) whether NYC Transit's policies and practices towards LEP individuals who seek to apply for or use the Access-A-Ride services violate the New York City Human Rights Law's prohibition on national origin discrimination; (viii) whether NYC Transit's policies and practices towards LEP individuals cause delayed and inferior service to LEP

individuals; and (ix) the appropriate injunctive and declaratory remedies that will be needed to ensure that NYC Transit complies with its legal obligations towards class members.

137. These questions of fact and law common to the class are susceptible to common resolution and will generate common answers with respect to all members of the class, including what are the appropriate remedies that will be necessary to ensure that (i) the unlawful conduct at issue in this lawsuit, and the policies and practices that perpetuate it, are terminated in every respect, and (ii) their harmful effects are nullified.

138. The violations suffered by Named Plaintiffs are typical of those suffered by the class. Each Plaintiff has been subjected to the challenged policies and practices by virtue of having attempted to apply for Access-A-Ride eligibility and/or use the Access-A-Ride system, and having been denied interpretation, translation, and bilingual assistance. The entire class will benefit from the remedial relief sought. All present and future limited English proficient residents of New York City with disabilities who use, or will seek to use, Access-A-Ride would benefit from an order enjoining and directing Defendants to cease the challenged unlawful conduct and to adopt remedial and corrective policies.

139. Named Plaintiffs have no interests in this matter that are antagonistic to other class members, and will fairly and adequately protect the interests of the class. Class counsel, New York Lawyers for the Public Interest, has many years of experience in federal civil rights, class action litigation, and as counsel for LEP people with disabilities. Class counsel experienced and competent in class action and civil rights litigation has been retained to represent the class.

FIRST CLAIM FOR RELIEF
(Title II, Part B of the Americans with Disabilities Act)

140. Plaintiffs repeat and reallege the above paragraphs.

141. This claim for relief is brought against each and every Defendant.

142. Plaintiffs Josefa Jorge, Annette Padrò, Dois Rodriguez, and Rosa Valdès as well as Plaintiff Nyuk Siem Yap's minor sons, C.L. and D.L., on whose behalf she sues, have impairments that substantially limit one or more major life activities.

143. Plaintiffs Josefa Jorge, Annette Padrò, Dois Rodriguez, and Rosa Valdès as well as Plaintiff Nyuk Siem Yap's minor sons, C.L. and D.L., on whose behalf she sues, are qualified individuals with disabilities within the meaning of 42 U.S.C. § 12131(2). They are qualified to apply for and/or receive ADA paratransit services.

144. Defendant NYC Transit is a public entity operating fixed route and paratransit systems covered by Title II of the ADA.

145. Defendants Prendergast and Bianco are responsible for the operation of NYC Transit.

146. Defendants' policy and practice of refusing and failing to offer and provide interpretation or translation services to limited English proficient Plaintiffs and others seeking to access Access-A-Ride services discriminates against Plaintiffs by denying or significantly limiting their access to paratransit services.

147. Through its policy and practice of denying limited English proficient individuals language access services, Defendants are engaging in an operational pattern or practice that significantly limits the availability of complementary paratransit service to ADA paratransit eligible individuals. This capacity constraint constitutes disability discrimination under the ADA.

148. NYC Transit's paratransit system, Access-A-Ride, is not comparable to its fixed route system.

149. Defendants' violations constitute continuing violations of law.

150. Plaintiffs are entitled to injunctive relief and damages in an amount to be determined by the Court.

SECOND CLAIM FOR RELIEF
(Section 504 of the Rehabilitation Act of 1973)

151. Plaintiffs repeat and reallege the above paragraphs.

152. This claim for relief is brought against each and every Defendant.

153. Plaintiffs Josefa Jorge, Annette Padrò, Dois Rodriguez, and Rosa Valdès as well as Plaintiff Nyuk Siem Yap's minor sons, C.L. and D.L., on whose behalf she sues, have impairments that substantially limit one or more major life activities.

154. Plaintiffs Josefa Jorge, Annette Padrò, Dois Rodriguez, and Rosa Valdès as well as Plaintiff Nyuk Siem Yap's minor sons, C.L. and D.L., on whose behalf she sues, are individuals with disabilities within the meaning of 29 U.S.C. § 705(20). They are qualified to apply for and/or receive ADA paratransit services.

155. Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794.

156. NYC Transit is a program or activity receiving federal financial assistance and is therefore subject to § 504 of the Rehabilitation of Act of 1973 ("Section 504").

157. Recipients of federal financial assistance "shall comply with all applicable requirements of the [ADA] including the Department[] [of Transportation's] ADA regulations

(49 CFR parts 37 and 38) Compliance with all these regulations is a condition of receiving Federal financial assistance from the Department of Transportation.” 49 CFR § 27.19.

158. Defendants Prendergast and Bianco are responsible for NYC Transit’s operation.

159. Defendants’ policy and practice of refusing and failing to offer and provide interpretation or translation services to limited English proficient Plaintiffs and others seeking to access Access-A-Ride services discriminates against Plaintiffs by denying or significantly limiting their access to paratransit services in violation of the ADA’s paratransit requirements. Defendants’ failure to comply with the paratransit requirements under ADA Title II constitutes a violation of their obligations under Section 504 of the Rehabilitation Act of 1973 as recipients of federal financial assistance.

160. Defendants’ actions prevent a significant number of people with disabilities from having equal access to public transportation.

161. Defendants’ violations constitute continuing violations of law.

162. Plaintiffs are entitled to injunctive relief and damages in an amount to be determined by the court.

THIRD CLAIM FOR RELIEF
(Title VI of the Civil Rights Act of 1964)

163. Plaintiffs repeat and reallege the above paragraphs.

164. This claim for relief is brought against each and every Defendant.

165. Plaintiffs are limited English proficient and of foreign national origin.

166. Defendant NYC Transit is a program or service that receives Federal financial assistance.

167. Defendants Prendergast and Bianco are responsible for NYC Transit’s operation.

168. Defendants have been on clear notice of their obligation to provide equal access to limited English proficient individuals. Yet, Defendants have engaged in a deliberate policy and practice of denying equal access to limited English proficient individuals.

169. Defendants' policy and practice of refusing to offer and provide interpretation or translation services to limited English proficient Plaintiffs and others seeking to access Access-A-Ride services intentionally discriminates against Plaintiffs and other persons of foreign national origin by denying them meaningful access to Access-A-Ride services in violation of Title VI of the Civil Rights Act of 1964.

170. Defendants' violations constitute continuing violations of law.

171. Plaintiffs are entitled to injunctive relief and damages in an amount to be determined by the court.

FOURTH CLAIM FOR RELIEF
(Intentional Discrimination –New York City Human Rights Law)

172. Plaintiffs repeat and reallege the above paragraphs.

173. This claim for relief is brought against each and every Defendant.

174. Plaintiffs are limited English proficient and of foreign national origin.

175. Defendant NYC Transit is a place or provider of public accommodations covered by the New York City Human Rights Law.

176. Defendants Prendergast and Bianco are managers and agents of NYC Transit.

177. Defendants have been on clear notice of their obligation to provide equal access to limited English proficient individuals. Yet, Defendants have engaged in a deliberate policy and practice of denying equal access to limited English proficient individuals.

178. Defendants' policy and practice of refusing to offer and provide interpretation or translation services to limited English proficient Plaintiffs and others seeking to access Access-

A-Ride services intentionally discriminates against Plaintiffs and other persons of foreign national origin by denying them equal access to Access-A-Ride services in violation of the New York City Human Rights Law.

179. Defendants' violations constitute continuing violations of law.

180. Plaintiffs are entitled to injunctive relief and damages in an amount to be determined by the court.

FIFTH CLAIM FOR RELIEF
(Disparate Impact Discrimination – New York City Human Rights Law)

181. Plaintiffs repeat and reallege the above paragraphs.

182. This claim for relief is brought against each and every Defendant.

183. Plaintiffs are limited English proficient and of foreign national origin.

184. Defendant NYC Transit is a place or provider of public accommodations covered by the NYCHRL.

185. Defendants Prendergast and Bianco are managers and agents of NYC Transit.

186. New York City residents of foreign national origin are far more likely to be limited English proficient than residents born in the U.S. Census data establishes that New York City residents of foreign national origin are far more likely to be limited English proficient than residents born in the U.S. Only 6.5 percent of U.S. born New Yorkers are LEP, while 50 percent of foreign born New Yorkers are LEP. Only 2.5 percent of U.S. born residents have extremely limited English language skills, while 29.7 percent of foreign born residents are so classified.

187. Defendants' policy and practice of refusing to offer and provide interpretation or translation services to limited English proficient Plaintiffs and others seeking to access Access-A-Ride services disparately impacts Plaintiffs and other persons of foreign national origin by

denying them equal access to Access-A-Ride services in violation of the New York City Human Rights Law.

188. Defendants' violations constitute continuing violations of law.

189. Plaintiffs are entitled to injunctive relief and damages in an amount to be determined by the court.

RELIEF REQUESTED

WHEREFORE, the Plaintiffs respectfully request that the Court:

190. Assume jurisdiction over this matter;

191. Certify this action as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2);

192. Declare that the Defendants' actions violate Plaintiffs' rights under Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, and regulations promulgated thereunder;

193. Declare that the Defendants' actions violate Plaintiffs' rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*, and regulations promulgated thereunder;

194. Declare that the Defendants' actions violate Plaintiffs' rights under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and regulations promulgated thereunder;

195. Declare that the Defendants' actions violate Plaintiffs' rights under the New York City Human Rights Law (NYCHRL), N.Y.C. Admin. Code § 8-101 *et seq.*

196. Enjoin further violations of Plaintiffs' statutory rights, including but not limited to an injunction that requires Defendants to:

a) Create a comprehensive language access policy and protocol;

- b) Appoint a “Language Access Coordinator” to oversee Access-A-Ride’s provision of language services to LEP applicants and customers;
- c) Create a written notice of the availability of interpretation and translations services, and prominently post it on NYC Transit’s website; at Access-A-Ride offices and functional assessment centers; and on correspondence sent to Access-A-Ride applicants, customers, and appellants;
- d) Establish a mechanism to prominently record in individuals’ Access-A-Ride files their primary language and need for interpretation and translation;
- e) Provide telephonic interpretation services in every Access-A-Ride department that individuals may contact, including, but not limited to departments handling application requests, reservations, cancellations, same-day trip problems, eligibility and suspension appeals, and customer complaints;
- f) Provide interpretation at functional assessments and appeal hearings;
- g) Translate of all correspondence, notices, and forms related to eligibility, appeals, and suspensions, as well as any notices or rules mass-mailed to Access-A-Ride customers;
- h) Establish a mechanism to assess and monitor the quality of interpretation and translation services provided, including assessing the language proficiency of any bilingual staff members who are used to provide language access;
- i) Train all Access-A-Ride staff members, as well as all staff at the in-person assessment centers, on how to interact with and provide language services to applicants and customers who have LEP;

- j) Implement a grievance system through which LEP individuals can complain to the Language Access Coordinator if they are denied language access or receive poor interpretation or translation when dealing with Access-A-Ride; and
- k) Establish a mechanism to track on a regular, periodic basis the languages of all Access-A-Ride applicants and customers, to inform NYC Transit's ongoing need to develop its language access protocols.

197. Issue a judgment against Defendants in an amount to be determined by the Court, including compensatory damages for injuries sustained by Plaintiffs in amounts that are fair, just, and reasonable;

198. Award Plaintiffs reasonable attorneys' fees and costs; and

199. Grant any other relief the Court deems necessary and proper.

Dated: March 5, 2015

New York, New York

Respectfully Submitted,

NEW YORK LAWYERS FOR THE
PUBLIC INTEREST

s/ Aditi K. Shah

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APPENDIX A

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Brooklyn, NY 11201

Carmen Blanco
President



New York City Transit

(877) 337-2017 - FREE
(718) 393-4999 - VOICE
(718) 393-4259 - TTY

November 25, 2014

JOSEFA JORGE

NEW YORK, NY 10032

NYC Transit Reference Number:

DEAR MS. JORGE:

Per your conversation with a Paratransit Representative on 11/25/2014, you are scheduled for an eligibility assessment. The enclosed Access-A-Ride application must be completed and brought to your assessment appointment: location, date and time noted below.

Bring medical documentation that states and explains your condition. Also bring this letter and official government identification with you to the assessment.

One to two days before your appointment, call Reservations at 877-337-2017 and press # 2 to schedule your round-trip to the assessment center. There is no fare charged for the trip to or from the assessment center. When making your reservation, please inform the agent that you are requesting CERT trips. Your return trip should be scheduled 90 minutes after your appointment time. You may be accompanied by only one other person to the assessment. You may, at your own expense, use other means of transportation to the assessment center. (The pick-up and return trip drop-off location must be within the five (5) boroughs of New York City.)

ACCESS COMMUNITY HEALTH CENTER

83 Maiden Lane, 6th floor, New York, NY 10038 Cross Street:

On 12/26/2014 at 3:20:00 PM - Suggested Return Time No Sooner Than: 4:20:00 PM

If you can not make this appointment, you must call 877-337-2017 immediately to cancel it.

You will not be seen if your application is not completed when you arrive at the assessment center.

NYC Transit does not provide language translators. You must bring your own language translator, if needed.

NOTE: If you are a current registered user of Access A Ride and do not want your service interrupted you will need to call 877-337-2017 the day after you attend your assessment to speak to an Eligibility Representative.

Sincerely,

Eric Mullins, Certification Specialist of the Metropolitan Transportation Authority, State of New York

R