

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

VALERIE BRITT; VERNICE DESPORT;  
JAMES MCENROE; HELEN MURPHY; and  
SHEILA MURRAY, on behalf of themselves and  
all others similarly situated,

Index No.

*Plaintiffs,*

v.

METROPOLITAN TRANSPORTATION  
AUTHORITY, a public benefit corporation, and  
NEW YORK CITY TRANSIT AUTHORITY, a  
public benefit corporation,

**COMPLAINT**

*Defendants.*

Plaintiffs Valerie Britt, Vernice Desport, James McEnroe, Helen Murphy, and Sheila Murray (collectively, “Plaintiffs”), by and through their undersigned attorneys, Mobilization for Justice, Inc. (“MFJ”), New York Lawyers for the Public Interest (“NYLPI”), and Jenner & Block LLP (“Jenner & Block”), file this class action complaint against Defendants Metropolitan Transportation Authority (“MTA”) and New York City Transit Authority (“NYC Transit”) (collectively, “Defendants”). Plaintiffs allege as follows upon their own knowledge, acts, and experiences and upon their investigation into matters addressed in this Complaint:

**PRELIMINARY STATEMENT**

1. Defendants MTA and NYC Transit have denied—and continue to deny—fare discounts to over 160,000 people with disabilities.
2. Defendants offer multiple discounts to those who use subways and buses, including half fares for seniors, half fares for people with disabilities, unlimited weekly passes, and unlimited monthly passes (collectively, “Fare Discount Program”), but do not provide *any*

discounts to those with the most severe disabilities who must use Defendants' Access-A-Ride ("AAR") paratransit system instead of subways or buses.

3. Even though AAR is part of the same public transportation system as subways and buses, and even though persons with disabilities have the same needs to access public transportation as those who do not have disabilities, Defendants categorically exclude eligible people with disabilities from Defendants' Fare Discount Program when they use AAR.

4. Defendants' refusal to provide the Fare Discount Program to eligible individuals with disabilities who use AAR violates New York City's Human Rights Law.

5. Plaintiffs Valerie Britt, Vernice Desport, James McEnroe, Helen Murphy, and Sheila Murray, and the class of approximately 160,000 riders whom they seek to represent, are all people with disabilities who need to use AAR to go to work, medical appointments, social engagements, and other activities, and who do not have access to the Fare Discount Program when they use AAR.

6. Plaintiffs therefore bring this action on their own behalf and on behalf of a class of similarly situated individuals with disabilities to enjoin Defendants' discrimination and seek an award of individual and class-wide damages to reimburse them for the additional fares they have had to pay.

## STATEMENT OF THE LAW

### AAR Rules and Regulations

7. Defendants' public transportation system has two main components: the subway and bus routes ("Fixed-Route Public Transit") and the AAR paratransit program ("AAR

Public Transit”), which “provides public transportation for eligible customers with disabilities that prevent them from using the public buses and subways.”<sup>1</sup>

8. Paratransit service must be “comparable to the level of service provided to individuals without disabilities who use the fixed route system.” 49 CFR § 37.121[a]. As the MTA has acknowledged, an AAR vehicle “is just like a city bus, except that it transports its customers door-to-door.”<sup>2</sup>

9. An individual qualifies for AAR Public Transit if they have a physical or mental impairment that substantially limits their ability to travel independently on Fixed-Route Public Transit. 21 NYCRR §1035.1[e][1].

10. To determine whether an individual has a physical or mental impairment that substantially limits their ability to travel independently on Fixed-Route Public Transit, NYC Transit assesses whether the individual fits into at least one of the following categories:

- (a) Individuals who are unable, as the result of a physical or mental impairment, to board, ride, or disembark from an accessible bus or train without assistance. *See id.* §1035.2[a][1].
- (b) Individuals with disabilities who can use an accessible vehicle but who want to travel on a route that is inaccessible, such as one not served by accessible buses or trains. *See id.* §1035.2[a][2].
- (c) Individuals who have a specific disability-related condition that prevents them from traveling to a boarding location or from a disembarking location, such as a person who is blind but cannot reach a bus or subway stop because they cannot cross a major intersection. *See id.* §1035.2[a][3].

11. NYC Transit determines AAR Public Transit eligibility based on a written application, information from applicants’ medical providers, and an in-person interview and functional assessment.

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<sup>1</sup> MTA, *Guide to Access-A-Ride Paratransit Service 2*, <https://new.mta.info/accessibility/paratransit> [2020].

<sup>2</sup> *Id.* at 19.

### New York City Human Rights Law

12. Defendants' fare system violates the anti-discrimination requirements of the New York City Human Rights Law (the "NYCHRL"). The purpose of the NYCHRL is to eliminate and prevent discrimination and to redress such discrimination. *See* Administrative Code of City of New York § 8-130.

13. The NYCHRL prohibits public accommodations from refusing, withholding, or denying the advantages or privileges of such accommodations to persons because of their disability status. *See id.* § 8-107[4][a].

14. The NYCHRL's anti-discrimination provisions are independent of, and in addition to, the anti-discrimination protections provided by federal and state laws. *See id.* § 8-130. The NYCHRL is therefore neither pre-empted by the Americans with Disabilities Act nor by the New York State Human Rights Law. *See* 42 USC § 12201[b]; 49 CFR § 37.131[c]; Administrative Code of City of NY § 8-107; Executive Law § 296[2][a]; *see also Ctr. for Indep. of Disabled v. Metro. Transp. Auth.*, 184 AD3d 197, 204 [1st Dept 2020].

15. Each section of the NYCHRL must be "construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York State civil and human rights laws, including those laws with provisions worded comparably to provisions of this title, have been so construed." Administrative Code of City of NY § 8-130.

16. Governmental bodies or agencies are required to comply with the NYCHRL. *Id.* § 8-102.

## JURISDICTION AND VENUE

17. This is an action for declaratory, injunctive, and compensatory relief brought pursuant to Administrative Code of City of NY § 8-101 *et seq.* The Court has power to issue such relief pursuant to CPLR § 6301.

18. Venue is proper in New York County pursuant to CPLR § 503(c) because Defendants' principal offices are located there.

19. A copy of this Complaint will be served both on the New York City Commission on Human Rights and the Office of the Corporation Counsel of the City of New York, thereby satisfying the notice requirements of the New York City Administrative Code. Administrative Code of City of NY § 8-502[c].

## PARTIES

20. Plaintiff Valerie Britt is a person with a disability whom Defendants found eligible for AAR Public Transit. She lives in Queens and she regularly uses AAR Public Transit to travel to medical appointments and to see her family. Due to her disability, she is unable to use Fixed-Route Public Transit. Ms. Britt has experienced and continues to experience harm from the ongoing exclusion of AAR Public Transit riders from Defendants' Fare Discount Program.

21. Plaintiff Vernice Desport is a person with a disability whom Defendants found eligible for AAR Public Transit. She lives in Queens and she regularly uses AAR Public Transit to travel to medical appointments and social engagements. Due to her disability, she is unable to use Fixed-Route Public Transit. Ms. Desport has experienced and continues to experience harm from the ongoing exclusion of AAR riders from Defendants' Fare Discount Program.

22. Plaintiff James McEnroe is a person with a disability whom Defendants found eligible for AAR Public Transit. He lives in Queens and he regularly uses AAR Public Transit to

travel to work, medical appointments, and recreational activities when his disabilities prevent him from using Fixed-Route Public Transit. Mr. McEnroe has experienced and continues to experience harm from the ongoing exclusion of AAR Public Transit riders from Defendants' Fare Discount Program.

23. Plaintiff Helen Murphy is a person with a disability whom Defendants found eligible for AAR Public Transit. She lives in Manhattan and regularly uses AAR Public Transit to travel to medical appointments and visit friends. Due to her disability, she is unable to use Fixed-Route Public Transit. Ms. Murphy has experienced and continues to experience harm from the ongoing exclusion of AAR Public Transit riders from Defendants' Fare Discount Program.

24. Plaintiff Sheila Murray is a person with a disability whom Defendants found eligible for AAR Public Transit. She lives in the Bronx and she regularly uses AAR Public Transit to travel to medical appointments, the supermarket, the fitness center, and to visit her family. Due to her disability, she is unable to use Fixed-Route Public Transit. Ms. Murray has experienced and continues to experience harm from the ongoing exclusion of AAR Public Transit riders from Defendants' Fare Discount Program.

25. Defendant MTA is a public benefit corporation chartered by the New York State Legislature under the Metropolitan Transportation Authority Act, N.Y. Pub. Auth. Law § 1260 *et seq.* The MTA is therefore a "governmental bod[y] or agenc[y]" within the meaning of the NYCHRL. Administrative Code of City of NY § 8-102(1). It is headquartered in New York County.

26. Defendant NYC Transit is a public benefit corporation that operates as MTA's subsidiary pursuant to N.Y. Public Authorities Law § 1200 *et seq.* NYC Transit is therefore a

“governmental bod[y] or agenc[y]” within the meaning of the NYCHRL. Administrative Code of City of NY § 8-102. It is headquartered in New York County.

## STATEMENT OF FACTS

### A. AAR Ridership

27. More than 160,000 New Yorkers with disabilities rely on AAR Public Transit to go to work, complete their educations, attend medical appointments, care for family members, and otherwise participate in the life of New York City. When they are unable to use the bus or subway, their access to public transportation depends on AAR Public Transit. Without access to AAR Public Transit, eligible people with disabilities are unable to live independently or participate fully in society.

28. AAR Public Transit is therefore a crucial component of New York City’s public transit system for these riders. The large ridership of AAR Public Transit is the result of the inaccessibility of Defendants’ Fixed-Route Public Transit. Only about one quarter of subway stations in New York City are accessible to people who use mobility devices or who otherwise cannot use stairs.<sup>3</sup> This paltry level of access renders the subway system virtually inaccessible to these riders and relegates them to using AAR Public Transit.

### B. Defendants’ Fare Discount Program

29. Defendants offer a Fare Discount Program on Fixed-Route Public Transit for seniors (riders 65 or older), people with disabilities, and frequent riders, but offer no discounts whatsoever to those who use AAR Public Transit, as illustrated in the table below.

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<sup>3</sup> MTA, *MTA Accessible Stations*, <https://new.mta.info/accessibility/stations> [2022].

Discount	Fixed-Route Public Transit Riders	AAR Public Transit Riders
Half fare for those 65 or older	Included	Excluded
Half fare for those with qualifying disabilities <sup>4</sup>	Included	Excluded
\$127 for unlimited rides during a 30-day period	Included	Excluded
\$33 for unlimited rides during a 7-day period	Included	Excluded

30. The base fare, which applies to both Fixed-Route Public Transit and to AAR Public Transit, is \$2.75.

31. For Fixed-Route Public Transit, seniors and riders who have qualifying disabilities can apply for a reduced fare program that allows them to pay only \$1.35 per trip—less than half of the base fare.<sup>5</sup> Defendants also offer Fixed-Route Public Transit riders 7-day or 30-day unlimited fares for a fixed price.<sup>6</sup> The Fare Discount Program significantly reduces riders' transportation costs.

32. For example, if a person rides the subway twice a day for 30 days and pays the base fare for each trip, they would spend \$165. By choosing the 30-day unlimited ride fare

<sup>4</sup> To qualify for the disability half fare discount, a rider must satisfy one of the following conditions: receive Medicare benefits for any reason other than age, have a serious mental illness and receive Supplemental Security Income benefits, have blindness, have a hearing impairment, have an ambulatory disability, have lost both hands, or have an intellectual disability and/or another organic mental capacity impairment. MTA, *Application for MTA Reduced-Fare MetroCard for People with Disabilities 2*, <https://new.mta.info/sites/default/files/2018-07/disabled.pdf> [2018].

<sup>5</sup> Seniors who have disabilities qualify for either discount, which offer the same benefits. Plaintiffs understand that reduced fare applicants who would qualify for either discount would receive the senior reduced fare .

<sup>6</sup> Starting this month, Fixed-Route Public Transit riders who use the One Metro New York (“OMNY”) fare payment system will automatically receive free rides for the rest of the week once they pay \$33 in fares as part of a pilot program. MTA, *About OMNY*, <https://omny.info/about-omny> [2022]. AAR Public Transit riders are also excluded from this key aspect of fare discounts.

for \$127, they would save \$38 per month, which amounts to a savings of almost \$500 per year (or approximately a 23% discount).

33. The frequent rider discount is even more pronounced if applied together with another discount. For example, a person 65 years old or older who rides the subway twice a day for 30 days would save \$101.50 per month—well over \$1,000 per year—by applying their senior discount to the 30-day unlimited fare instead of paying the full fare for each trip.

34. But Defendants exclude eligible people with disabilities who use AAR Public Transit from the Fare Discount Program.<sup>7</sup>

35. Fare discounts were first offered more than 20 years ago, when the MetroCard fare payment system was introduced, but Defendants chose not to use the MetroCard for AAR Public Transit.

36. As a result, not only do Defendants exclude AAR Public Transit riders from the Fare Discount Program, but they also saddle them with the hardship of having to make cash payments for each AAR Public Transit trip with exact change.

37. This year, with the expansion of the One Metro New York (“OMNY”) fare payment system, Defendants will finally provide AAR Public Transit riders access to the same fare payment technology used throughout the rest of Defendants’ public transit system.

38. In anticipation of OMNY, attorneys from MFJ and NYLPI asked Defendants, on several occasions, to include AAR Public Transit in Defendants’ Fare Discount Program.

39. Yet Defendants have refused to do so, and have no plans to make their Fare Discount Program available to AAR Public Transit riders.

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<sup>7</sup> Fair Fares NYC, which is administered by the New York City Department of Social Services / Human Resources Administration (DSS / HRA), provides half-price fares to AAR users, as well as to subway and bus users, but only to those who are 18 to 64 years old and have a very low income. Fair Fares NYC is a New York City program, separate from the Defendants’ Fare Discount Program. See 68 RCNY 12.01 *et seq.*

40. As a result of Defendants' discrimination, AAR Public Transit riders who would be eligible for discounts when using Fixed-Route Public Transit are required to pay the full \$2.75 fare for every AAR Public Transit ride they take. AAR Public Transit riders are therefore categorically excluded from Defendants' Fare Discount Program on the basis of their disabilities.

### C. Individual Plaintiffs

#### Valerie Britt

41. Valerie Britt is a 70-year-old Black woman who lives in Queens. She retired from the Department of Education, where she was a one-to-one paraprofessional helping students with disabilities.

42. Ms. Britt has sciatica, arthritis in both knees and her lower back, and sinus tarsi syndrome, which significantly impact her mobility and prevent her from using Fixed-Route Public Transit.

43. Ms. Britt has been using AAR for about ten years. Before Ms. Britt retired, she commuted daily with AAR Public Transit. Now she takes about 20 AAR Public Transit rides a month to attend doctors' and physical therapy appointments, to visit her father, and to run errands.

44. Ms. Britt, who lives on a fixed income, would qualify for a senior half-fare discount on Fixed-Route Public Transit, but instead must pay the full \$2.75 fare, in cash, for each trip on AAR Public Transit.

45. Defendants' denial of the Fare Discount Program to Ms. Britt has caused her financial harm, created ongoing obstacles to her use of public transit, and left her feeling frustrated and discriminated against on the basis of her disability.

**Vernice Desport**

46. Vernice Desport is a 72-year-old Black woman who lives in Queens. She retired from the New York State Department of Correctional Services.

47. Ms. Desport has sciatica, multiple knee replacements, arthritis, and a visual impairment, which significantly impact her mobility and prevent her from using Fixed-Route Public Transit.

48. Ms. Desport has been using AAR Public Transit for approximately nine years. She uses AAR Public Transit a few times per month to attend doctors' appointments and social engagements.

49. Ms. Desport, who lives on a fixed income, would qualify for a senior half-fare discount on Fixed-Route Public Transit, but instead must pay the full \$2.75 fare, in cash, for each trip on AAR Public Transit.

50. Defendants' denial of the Fare Discount Program to Ms. Desport has caused her financial harm, created ongoing obstacles to her use of public transit, and left her feeling frustrated and discriminated against on the basis of her disability.

**James McEnroe**

51. James McEnroe is a 44-year-old white man who lives in Queens. He is employed as a teaching assistant at the New York Institute for Special Education.

52. Mr. McEnroe has visual and hearing impairments. He uses Fixed-Route Public Transit whenever the route is fully accessible and his disabilities permit it, although his disabilities significantly limit his ability to use Fixed-Route Public Transit. He generally uses Fixed-Route Public Transit fewer than five times per month.

53. Mr. McEnroe has used AAR Public Transit for approximately 20 years. He takes roughly 50 AAR Public Transit trips per month, to work, medical appointments, and recreational activities.

54. Mr. McEnroe would qualify for a disability half-fare and benefit from the 30-day unlimited fare discount, but instead must pay the full \$2.75 fare, in cash, for each trip on AAR Public Transit.

55. Defendants' denial of the Fare Discount Program to Mr. McEnroe has caused him financial harm, created ongoing obstacles to his use of public transit, and left him feeling frustrated and discriminated against on the basis of his disability.

### **Helen Murphy**

56. Helen Murphy is a 70-year-old white woman who lives in Manhattan.

57. Ms. Murphy is legally blind. Her disability, which significantly impacts her mobility, prevents her from using Fixed-Route Public Transit.

58. Ms. Murphy has used AAR Public Transit for more than 20 years. She takes a few trips per month to visit friends and travel to doctors' appointments.

59. Ms. Murphy, who lives on a fixed income, would qualify for a senior half-fare discount on Fixed-Route Public Transit, but instead must pay the full \$2.75 fare, in cash, for each trip on AAR Public Transit.

60. Defendants' denial of the Fare Discount Program to Ms. Murphy has caused her financial harm, created ongoing obstacles to her use of public transit, and left her feeling frustrated and discriminated against on the basis of her disability.

### **Sheila Murray**

61. Sheila Murray is a 65-year-old Black woman who lives in the Bronx. She is a retired federal government employee.

62. Ms. Murray has arthritis, sciatica, respiratory issues, and is neuro- and immuno-compromised. Her disabilities, which significantly impact her mobility, prevent her from using Fixed-Route Public Transit.

63. Ms. Murray has been using AAR Public Transit for approximately seven years. She usually takes more than 30 AAR Public Transit rides per month, to medical appointments, the supermarket, the fitness center, and to visit family.

64. Ms. Murray, who lives on a fixed income, would qualify for a senior half-fare discount on the Fixed-Route Public Transit, but instead must pay the full \$2.75 fare, in cash, for each trip on AAR Public Transit.

65. Defendants' denial of the Fare Discount Program to Ms. Murray has caused her financial harm, created ongoing obstacles to her use of public transit, and left her feeling frustrated and discriminated against on the basis of her disability.

### CLASS ACTION ALLEGATIONS

66. Pursuant to CPLR § 901, each named Plaintiff brings this action for declaratory, injunctive, and compensatory relief on their own behalf and on behalf of all people similarly situated.

67. Plaintiffs seek to represent the class which is defined as all people with disabilities who qualify for Defendants' Fare Discount Program but cannot use the Fare Discount Program when they use AAR Public Transit.

68. The claims asserted herein are for injunctive and declaratory relief for class members, as well as damages to redress the economic injuries the class members have suffered as a result of paying the full \$2.75 fare instead of a discounted fare.

69. Class members are so numerous that joinder is impracticable, and the disposition of their claims in a class action is a benefit to the parties and to the Court. *See* CPLR

§ 901[a][1]. Approximately 160,000 riders currently are registered to use AAR Public Transit. All AAR Public Transit users would otherwise qualify for Defendants' Fare Discount Program based on their age, disability, and/or the frequency of their AAR Public Transit use.

70. The proposed class members share a well-defined community of interest with respect to both questions of law and fact because they are all subject to discrimination given their lack of equal access to Defendants' Fare Discount Program. *See* CPLR § 901[a][2]. These questions include: whether Defendants maintain a policy and practice of denying discounts in the Fare Discount Program to riders' trips on AAR Public Transit; whether Defendants' failure to apply the Fare Discount Program to AAR Public Transit trips constitutes a discriminatory violation of the NYCHRL; and whether Defendants' denials of discounts caused harm to class members. Such common questions clearly predominate over any questions affecting individual class members.

71. Plaintiffs' claims are likewise typical of the claims of the class as a whole because all Plaintiffs are similarly affected by Defendants' discrimination and refusal to provide the Fare Discount Program to AAR Public Transit riders. *See id.* § 901[a][3].

72. Plaintiffs are adequate class representatives because they are directly impacted by Defendants' refusal to make Defendants' Fare Discount Program available to AAR Public Transit users. Plaintiffs' interests do not conflict with the interests of the class as a whole. *See id.* § 901[a][4].

73. The attorneys representing the class are highly trained, duly qualified, and very experienced in representing plaintiffs in civil rights class actions. *See id.* MFJ (formerly MFY Legal Services) has provided legal and advocacy services to New York City residents for sixty years and has decades of experience litigating on behalf of seniors and people with

disabilities, both individually and in class actions, including a class action to improve AAR Public Transit. *See, e.g., Caldwell v. N.Y.C. Transp. Auth.*, No. 15 Civ. 3682 [SD NY Nov. 10, 2015] (certifying class of paratransit applicants and appointing MFJ as co-class counsel); *O'Toole v. Cuomo*, 1:13CV04166 [ED NY Nov. 20, 2013] (certifying class of adult home residents and appointing MFJ as co-class counsel; currently in the monitoring stage).

74. NYLPI is a leading civil rights and legal services advocacy organization that has since 1976 served New Yorkers fighting marginalization on the basis of disability, race, poverty, and immigration status. A recent example of NYLPI's class action experience involving access to mass transportation services includes the landmark case *Jorge v. N.Y.C. Tr. Auth.*, 14-CV-09946 (RA) [SD NY] (currently in the monitoring and enforcement stage), which resulted in improved access to paratransit services for people with disabilities who have limited English proficiency. Other examples of NYLPI's class action experience include *Jimenez v. N.Y.C. Dep't of Educ.*, No. 155825/2018 [Sup Ct, NY County]; *N.Y. Ass'n for Retarded Children v. Paterson*, Index No. 72 Civ. 356 [ED NY] (currently in the monitoring and enforcement stage); *Brad. H. v. City of New York*, No. 117882/99 [Supt Ct, NY County] (currently in the monitoring stage); *O'Toole v. Cuomo*, 1:12CV04166 [ED NY] (currently in the monitoring stage); *Ligon v. City of New York*, 12-cv-02274 [SD NY] (currently in the remedial stages); and *Casale v. Kelly*, 257 F.R.D. 396 [SD NY 2009].

75. Jenner & Block is a leading law firm known for its commitment to civil rights cases. The firm's recent class actions include representing homeless New Yorkers with disabilities in *Butler v. City of New York*, 15-CV-3783 (VEC) [SD NY] (the parties are currently finalizing a resolution), Marine and Army veterans with post-traumatic stress disorder in *Manker v. Del Toro*, 3:18-cv-372 (CSH) [D Conn] (currently in the remedial stages), and immigrants with

disabilities in *Jorge v. N.Y.C. Tr. Auth.*, No. 1:14-cv-09946-RA [SD NY] (currently in the monitoring and enforcement stage).

76. By excluding AAR Public Transit users from Defendants' Fare Discount Program, Defendants have acted and/or failed to act on grounds generally applicable to the class as a whole. An award of appropriate final declaratory, injunctive, and compensatory relief with respect to the class as a whole is therefore warranted, and the class action is superior to other available methods for the fair and efficient adjudication of the controversy. *See* CPLR § 901[a][5].

### CAUSE OF ACTION

#### Discrimination in Violation of the New York City Human Rights Law (Administrative Code of City of NY § 8-101 *et seq.*)

77. Plaintiffs re-allege and incorporate herein all previously alleged paragraphs in this Complaint.

78. Administrative Code of City of NY § 8-107(4)(a) provides that “[i]t shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the . . . disability . . . status of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof . . . .” Persons include all “natural persons, proprietorship partnerships, associations, group associations, organizations, governmental bodies or agencies, corporations [and] legal representatives . . . .” Administrative Code of City of NY § 8-102[1].

79. Plaintiffs each have disabilities as defined by the NYCHRL. *See id.* § 8-102[16][a] (defining disability as “any physical, medical, mental or psychological impairment, or a history or record of such impairment”).

80. Defendants' public transportation services are public accommodations within the meaning of Administrative Code of City of NY § 8-102(9). Defendants are "persons . . . including governmental agencies" within Administrative Code of City of NY § 8-102(1).

81. Defendants' exclusion of trips on AAR Public Transit from their Fare Discount Program denies people with disabilities benefits that are provided to people who use Fixed-Route Public Transit.

82. Defendants' acts, policies, and practices have an adverse and disproportionate impact on people with disabilities as compared to similarly situated people who do not have disabilities. This adverse and disproportionate impact is the direct result of Defendants' exclusion of AAR Public Transit trips from Defendants' Fare Discount Program.

83. Because Defendants' policy is contrary to New York City law, it cannot be necessary to serve any substantial, legitimate, nondiscriminatory interest.

84. Defendants' acts, policies, and practices have refused, withheld from, and denied, and continue to refuse, withhold from, and deny, the full and equal enjoyment, on equal terms and conditions, and the accommodations, advantages, services, facilities, and privileges of Defendants' public accommodations because of Plaintiffs' disabilities, in violation of Administrative Code of City of NY § 8-107(4)(a)(1).

85. As a direct and proximate result of Defendants' violations of the NYCHRL, Plaintiffs have been injured as set forth herein.

86. Defendants' conduct constitutes an ongoing and continuous violation of the NYCHRL. Unless Defendants are enjoined from further violations, Plaintiffs will continue to suffer injuries. In particular, Plaintiffs will suffer harm in that they will continue to be discriminated against and denied the advantages of Defendants' Fare Discount Program.

87. Plaintiffs and all class members are entitled to declaratory and injunctive relief and damages in an amount to be determined by the Court.

### PRAYER FOR RELIEF

Wherefore, Plaintiffs, on their own behalf and on behalf of the class, pray for the following relief against Defendants:

- (a) An order certifying this action as a class action, with the class defined as set forth above in paragraph 67, appointing Plaintiffs as class representatives, and appointing Plaintiffs' attorneys as class counsel;
- (b) An order and judgment declaring that Defendants' acts and omissions as challenged herein are unlawful;
- (c) An order and judgment enjoining Defendants from violating the NYCHRL, requiring Defendants to immediately make available the same Fare Discount Program that is available for use on Fixed-Route Public Transit to Plaintiffs and members of the proposed class for use on AAR Public Transit, and requiring Defendants to promptly take any necessary steps to immediately end their discrimination, including but not limited to staff training measures, outreach efforts to inform AAR Public Transit riders of the Fare Discount Program, and the auto-enrollment of AAR Public Transit riders in any applicable Fare Discount Program when riders register for AAR Public Transit;
- (d) An order and judgment awarding the class, defined as set forth above in paragraph 67, recovery for damages sustained;
- (e) An award of Plaintiffs' reasonable attorneys' fees and costs; and
- (f) Such other relief that the Court may deem just and proper.

Dated: February 15, 2022

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