

1 DENNIS J. HERRERA, State Bar #139669  
City Attorney  
2 YVONNE R. MERÉ, State Bar #173594  
Chief of Complex and Affirmative Litigation  
3 OWEN J. CLEMENTS, State Bar #141805  
KRISTINE A. POPLAWSKI, State Bar #160758  
4 KENNETH M. WALCZAK, State Bar #247389  
MARC PRICE WOLF, State Bar #254495  
5 Deputy City Attorneys  
1390 Market Street, 6th Floor  
6 San Francisco, California 94102-5408  
Telephone: (415) 554-3901  
7 Facsimile: (415) 437-4644  
E-Mail: owen.clements@sfcityatty.org  
8 kristine.poplawski@sfcityatty.org  
9 kenneth.walczak@sfcityatty.org  
marc.price.wolf@sfcityatty.org

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**11/25/2019**  
Clerk of the Court  
BY: MADONNA CARANTO  
Deputy Clerk

10 Attorneys for Plaintiff PEOPLE OF THE STATE  
OF CALIFORNIA, acting by and through DENNIS  
11 J. HERRERA AS CITY ATTORNEY OF SAN  
FRANCISCO and Cross-Defendant CITY AND  
12 COUNTY OF SAN FRANCISCO

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SAN FRANCISCO

15 UNLIMITED JURISDICTION

16 PEOPLE OF THE STATE OF CALIFORNIA,  
acting by and through DENNIS J. HERRERA  
17 AS CITY ATTORNEY OF SAN  
FRANCISCO,

18 Plaintiff,

19 vs.

20 TURO INC., and DOES 1-100, inclusive,

21 Defendants.

22 TURO INC.,

23 Cross-Complainant,

24 vs.

25 CITY AND COUNTY OF SAN FRANCISCO,

26 Cross-Defendant.  
27  
28

Case No. CGC-18-563803

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF PLAINTIFF  
PEOPLE OF THE STATE OF CALIFORNIA'S  
MOTION TO COMPEL FURTHER  
RESPONSES TO THE PEOPLE'S FIRST SET  
OF REQUESTS FOR PRODUCTION OF  
DOCUMENTS AND SPECIAL  
INTERROGATORIES**

Hearing Date: December 19, 2019  
Hearing Judge: Hon. Ethan P. Schulman  
Time: 9:00 a.m.  
Place: 302

Date Action Filed: January 24, 2018  
Trial Date: March 23, 2020

**DISCOVERY**

**TABLE OF CONTENTS**

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

TABLE OF CONTENTS.....2

TABLE OF AUTHORITIES .....3

INTRODUCTION .....4

FACTUAL BACKGROUND.....4

ARGUMENT.....5

    I.    THE PEOPLE HAS A BROAD RIGHT TO DISCOVERY.....5

    II.   TURO IMPROPERLY REFUSES TO PRODUCE RELEVANT AND  
          RESPONSIVE LOBBYING DOCUMENTS AND LOBBYING  
          INFORMATION.....6

    III.  TURO IMPROPERLY REFUSES TO PRODUCE DOCUMENTS THAT  
          “REFLECT” COMMUNICATIONS BETWEEN TURO AND SAN  
          FRANCISCO.....10

    IV.  TURO IMPROPERLY REFUSES TO PRODUCE DOCUMENTS  
          “CONCERNING OR REFLECTING” TURO’S ATTEMPTS TO MARKET  
          OR PROMOTE ITS BUSINESS TO TRAVELERS AT SFO.....12

CONCLUSION.....13

**TABLE OF AUTHORITIES**

**State Cases**

*Coy v. Super. Ct.*,  
58 Cal. 2d 210 (1962) .....6

*Gonzalez v. Super. Ct.*,  
33 Cal. App. 4th 1539 (1995) .....6

*Kirkland v. Super. Ct.*,  
95 Cal. App. 4th 92 (2002) .....6

*Lipton v. Super. Ct.*,  
48 Cal. App. 4th 1599 (1996) .....6

**State Statutes & Codes**

Cal. Civ. Code  
§ 1939.01 .....8

Cal. Code Civ. Proc.  
§ 2017.010 .....6

Cal. Code Civ. Proc.  
§ 2031.310(b)(1) .....6

California Business and Professions Code  
§ 17200 .....4

**Other References**

Bill Analysis of Cal. Assemb. B. 2873, 2017-2018 Leg. Sess.,  
[https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201720180AB2873](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB2873).8

Darrell Etherington, *Peer-to-peer car-sharing marketplace Turo raises \$250M at over \$1B valuation from IAC*, TechCrunch (July 17, 2019) <https://techcrunch.com/2019/07/17/peer-to-peer-car-sharing-marketplace-turo-raises-250m-at-over-1b-valuation-from-iac> .....9

<https://turo.com/us/en-us/car-rental> (last visited November 25, 2019) .....8

Jonathan J. Cooper, *Car-sharing apps' rising U.S. popularity fuels tax debate*, The Associated Press (May 2, 2019) <https://apnews.com/142460121a914612b829588bad796764> .....6

Joshua Brustein, *Lobbying Over Car-Sharing Is Exhausting State Lawmakers*, Bloomberg (April 17, 2019) <https://www.bloomberg.com/news/articles/2019-04-17/turo-car-rental-companies-are-battling-over-state-laws> .....6

Robert I. Weil & Ira A. Brown, *California Practice Guide: Civil Procedure Before Trial* ¶ 8:66.1 (1996) .....6

Turo OpenRoad, <https://openroad.turo.com> (last visited November 25, 2019) (publicizing Turo's lobbying efforts around the country) .....8

1 **INTRODUCTION**

2 The People of the State of California, acting by and through Dennis J. Herrera as City Attorney  
3 of San Francisco (the “People”), brings this motion against Turo Inc. (“Turo”) to compel further  
4 responses regarding three basic categories of relevant documents and information: (1) lobbying  
5 documents concerning San Francisco International Airport (“SFO”); (2) documents that reflect  
6 communications between Turo and the City and County of San Francisco (“San Francisco”), and  
7 (3) documents about Turo’s marketing and business promotion to travelers at SFO. This discovery is  
8 relevant to show Turo’s unlawful and unfair business practices at SFO, and to disprove Turo’s  
9 meritless equal protection and dormant commerce clause cross-claims. Although these should be non-  
10 controversial discovery requests, Turo has curiously refused to produce responsive documents and  
11 answer a related interrogatory. The People seeks relief from the Court to order Turo to produce these  
12 relevant documents and answer the interrogatory.

13 **FACTUAL BACKGROUND**

14 On January 24, 2018, the People filed this action against Turo asserting that Turo’s operation  
15 of an off-airport rental car business on SFO property without a permit or other authorization violated  
16 California’s Unfair Competition Law, California Business and Professions Code Section 17200 *et seq.*  
17 Declaration of Marc Price Wolf in Support of Motion To Compel (“Price Wolf Decl.”) ¶ 2. In  
18 response to the People’s complaint, Turo filed a cross-complaint against the City and County of San  
19 Francisco, asserting claims under article XIII C of the California Constitution, the Dormant Commerce  
20 Clause of the United States Constitution, and the Equal Protection Clauses of the California and  
21 United States Constitutions, challenging SFO’s treatment of Turo and the legality of fees and charges  
22 paid by rental car companies operating at SFO pursuant to permits. *Id.* ¶ 3.

23 Early in the case, the People served on Turo a First Set of Requests for Production of  
24 Documents (“RFPs”), and a First Set of Special Interrogatories (“SROGs”) which included targeted  
25 requests for documents and information concerning: Turo’s overall business model; how it attempts to  
26 distinguish itself from rental car companies; marketing and advertising materials; its operations at or  
27 involving SFO; and the level of control Turo exerts over “Turo Hosts,” *i.e.*, individuals who arrange  
28 car rental transactions using the Turo website or app. *Id.* ¶ 4. After an extensive and prolonged meet

1 and confer process that lasted over one year and resulted in three sets of amended responses, Turo still  
2 refuses to produce three categories of documents essential to proving the People’s case and disproving  
3 the claims in Turo’s cross-complaint: (1) documents about Turo’s advocacy and lobbying efforts  
4 concerning SFO; (2) documents that *reflect* communications between Turo and San Francisco; and  
5 (3) documents *concerning or reflecting* Turo’s marketing and business promotion to travelers at SFO.

6 Status of Meet and Confer Process with Turo.

7 On April 11, 2018, the People served on Turo a First Set of RFPs and SROGs. Price Wolf  
8 Decl. ¶ 4. However, Turo did not serve its responses until September 7, 2018 because the parties  
9 agreed to stay discovery until the resolution of their respective motions on the pleadings. *Id.* ¶ 5.  
10 After many iterations of meet and confer letters, telephone conversations, and amended responses, on  
11 August 22, 2019, Turo served a third amended set of responses to the People’s First Set of RFPs and  
12 SROGs. *Id.*

13 The parties again engaged in a meet and confer process to attempt to resolve several  
14 outstanding issues in Turo’s discovery responses. On September 20, 2019, the People sent Turo a  
15 letter outlining these three open issues; on September 26, 2019, the parties discussed these issues on  
16 the telephone; and on October 2, 2019, the People sent Turo a letter, which summarized the additional  
17 amendments Turo agreed to make and the issues the parties could not resolve short of a motion to  
18 compel. Price Wolf Decl. ¶ 6. The parties have exhausted their meet and confer efforts on the issues  
19 addressed in this motion.<sup>1</sup> *Id.*

20 **ARGUMENT**

21 **I. THE PEOPLE HAS A BROAD RIGHT TO DISCOVERY.**

22 The Civil Discovery Act gives litigants the broad ability to seek discovery on relevant matters.

23 Unless otherwise limited by order of the court in accordance with this title,  
24 any party may obtain discovery regarding any matter, not privileged, that  
25 is relevant to the subject matter involved in the pending action or to the  
determination of any motion made in that action, if the matter either is

26 <sup>1</sup> There are additional unresolved disputes about Turo’s Responses to the People’s First Sets of  
27 RFPs and SROGs concerning the production of (1) historic individual listings of cars available on  
28 Turo’s platform and (2) private Slack channel data. The parties are still meeting and conferring on  
those issues with the hope of avoiding a motion to compel. By filing this motion, the People do not  
waive its right to file an additional motion to compel on these remaining unresolved issues.

1           itself admissible in evidence or appears reasonably calculated to lead to  
2           the discovery of admissible evidence. Discovery may relate to the claim  
3           or defense of the party seeking discovery or of any other party to the  
4           action. Discovery may be obtained of the identity and location of persons  
5           having knowledge of any discoverable matter, as well as of the existence,  
6           description, nature, custody, condition, and location of any document,  
7           electronically stored information, tangible thing, or land or other property.

8 Cal. Code Civ. Proc. § 2017.010.

9           Courts have consistently interpreted California’s discovery rules liberally, generally resolving  
10          disputes in favor of permitting discovery. *Gonzalez v. Super. Ct.*, 33 Cal. App. 4th 1539, 1546 (1995).  
11          Courts have repeatedly held that information that “might reasonably assist a party in *evaluating* the  
12          case, *preparing* for trial, or *facilitating* settlement” is generally discoverable. *Id.* (italics in original).  
13          The ““scope of permissible discovery is one of *reason, logic and common sense.*”” *Lipton v. Super.*  
14          *Ct.*, 48 Cal. App. 4th 1599, 1612 (1996) (quoting Robert I. Weil & Ira A. Brown, California Practice  
15          Guide: Civil Procedure Before Trial ¶ 8:66.1 (1996)) (italics in original). Once good cause for the  
16          production of requested documents is shown, the burden shifts to the responding party, Turo, to justify  
17          its objections. *Kirkland v. Super. Ct.*, 95 Cal. App. 4th 92, 98 (2002) (citing *Coy v. Super. Ct.*, 58 Cal.  
18          2d 210, 220-221 (1962); *see also* Cal. Code Civ. Proc. § 2031.310(b)(1).

19 **II. TURO IMPROPERLY REFUSES TO PRODUCE RELEVANT AND RESPONSIVE**  
20 **LOBBYING DOCUMENTS AND LOBBYING INFORMATION.**

21           It is no secret that Turo actively engages in a coordinated national effort to change laws that  
22          impact its business model. *See, e.g.*, Joshua Brustein, *Lobbying Over Car-Sharing Is Exhausting State*  
23          *Lawmakers*, Bloomberg (April 17, 2019) [https://www.bloomberg.com/news/articles/2019-04-17/turo-](https://www.bloomberg.com/news/articles/2019-04-17/turo-car-rental-companies-are-battling-over-state-laws)  
24          [car-rental-companies-are-battling-over-state-laws](https://www.bloomberg.com/news/articles/2019-04-17/turo-car-rental-companies-are-battling-over-state-laws); Jonathan J. Cooper, *Car-sharing apps’ rising U.S.*  
25          *popularity fuels tax debate*, The Associated Press (May 2, 2019) [https://apnews.com/142460121a9146](https://apnews.com/142460121a914612b829588bad796764)  
26          [12b829588bad796764](https://apnews.com/142460121a914612b829588bad796764). Turo’s lobbying efforts focus on defining its business model as something  
27          other than a rental car company and attempting to minimize any government regulations. *Id.* The  
28          lobbying process is a way for Turo to present and define its business and its image to lawmakers.  
29          Documents in which Turo defines itself and expresses its policy and business goals are relevant to  
30          whether Turo is a rental car company.

1 Curiously, in this litigation, Turo has repeatedly refused to produce relevant documents and  
2 information about Turo’s lobbying efforts. The two document requests at issue are RFP No. 3, which  
3 seeks “all DOCUMENTS relating to or concerning SFO”; and RFP No. 4, which seeks “all  
4 DOCUMENTS relating to or concerning TURO’S operations at SFO, including DOCUMENTS  
5 related to transactions that took place at, or set a TRANSACTION LOCATION at, SFO.” Separate  
6 Statement in Support of People’s Motion to Compel re People’s First Set of Requests for Production  
7 (“Sep. Stmt. re RFPs”) at 5 and 12. Turo responded to both of these requests, by stating that it would  
8 not produce any “documents concerning Turo’s nationwide lobbying efforts.” Sep. Stmt. re RFPs at 8  
9 and 15. Through the meet and confer process, Turo clarified that this included a refusal to produce  
10 both national and California lobbying documents. Price Wolf Decl. ¶ 6, Ex. E.

11 The interrogatory at issue is SROG No. 48, which asks Turo to “[s]tate the total amount of  
12 money that TURO has spent on lobbying directed at governmental officers or entities in each year  
13 since January 1, 2010.” Separate Statement in Support of People’s Motion to Compel re People’s First  
14 Set of Special Interrogatories (“Sep. Stmt. re SROGs”) at 7. Turo objected on relevance grounds and  
15 failed to provide a response to this SROG. *Id.* At one point in meet and confer discussions, Turo  
16 considered providing a response with respect to California (as distinct from national) lobbying efforts,  
17 but in the end, Turo decided against providing any response to this interrogatory. Price Wolf  
18 Decl. ¶ 7.

19 This discovery is relevant because it will show that (1) Turo describes itself differently to  
20 different audiences to suit its agenda at that moment; (2) Turo has defined itself as a rental car  
21 company previously; and (3) Turo presents a false narrative that there is a grand national conspiracy  
22 between behemoth rental car companies and airports against the fragile startup and disruptor Turo.  
23 Evidence in these three categories are relevant to proving the People’s unlawful and unfair business  
24 practices claim that Turo operates at SFO without a permit, and disproving Turo’s cross-claims that  
25 SFO’s regulations of it as a rental car company somehow violate its equal protection rights and the  
26 dormant commerce clause.

27 ***Turo’s Many Masks.*** In this litigation, Turo insists it is not a rental car company, but discovery  
28 in this case has shown that Turo defines and presents itself as different things depending on the

1 audience and its needs at the moment. For instance, on its webpage before this litigation started, Turo  
2 referred to itself as offering “Airport Car Rental(s),” “Car Rentals in San Francisco”, and the ability to  
3 “Rent the Perfect Car.” Price Wolf Decl. ¶ 8, Ex. G. Yet, after this case began, Turo changed course  
4 and stopped using the verb “rent” to describe its business model. Instead, it now uses the verb “book”  
5 to refer to the act of reserving a car for temporary use in exchange for money. For example, Turo’s  
6 webpage now states, “Book the perfect car rental alternative” and describes the ability to “book on the  
7 Turo app or online.” See <https://turo.com/us/en-us/car-rental> (last visited November 25, 2019).

8 The lobbying documents at issue in this motion are important to understanding how Turo  
9 presents itself in the political and policy spheres, which are perhaps Turo’s most important outward  
10 facing moments of defining and presenting itself. When Turo lobbies for changes in rental car laws in  
11 Sacramento and beyond, it will be extremely relevant to learn whether Turo identifies itself as a rental  
12 car company, personal vehicle sharing program, or some third category of business.

13 ***Turo’s Statutory Problem.*** The parties strongly disagree as to whether the California Civil  
14 Code definition of rental company – “a person or entity in the business of renting passenger vehicles to  
15 the public” – applies to Turo. Cal. Civ. Code § 1939.01. However, Turo is clearly concerned that this  
16 law covers its activities because it is trying mightily to change the laws in California to carve out new  
17 definitions for its activities. See, e.g., Turo OpenRoad, <https://openroad.turo.com> (last visited  
18 November 25, 2019) (publicizing Turo’s lobbying efforts around the country); Bill Analysis of Cal.  
19 Assemb. B. 2873, 2017-2018 Leg. Sess., [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.  
20 xhtml?bill\\_id=201720180AB2873](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB2873) (showing Turo’s heavy involvement in legislation which concerned  
21 personal vehicle sharing programs and recalled vehicles). The lobbying documents are relevant to  
22 show that Turo knows the current legal landscape in California favors an interpretation that it is a  
23 rental car company. The documents will also show that Turo’s efforts to be called something other  
24 than a rental car company are driven by its motivation to avoid taxation and regulation as a rental car  
25 company.

26 ***Turo’s Conspiracy Theory.*** Turo’s cross-complaint is centered on the notion that it is the  
27 diminutive victim of a national conspiracy perpetrated by behemoth rental car companies and airports.  
28 See, e.g., Price Wolf Decl. Ex. B (Am. Cross-Compl.) ¶ 9 (“Enterprise . . . has pressured airports and



1 lawmakers across the country to create obstacles for Turo and its users.”); ¶ 10 (“SFO’s collusion with  
2 Enterprise . . .”); ¶ 11 (lawsuit brought “to protect the interests of national rental car conglomerates  
3 like Enterprise.”). Turo’s equal protection claim asserts that SFO’s attempts to regulate Turo are not  
4 rationally related to any legitimate government interest, rather its “motivation[] . . . [is] to protect the  
5 interests of large multi-national rental car companies . . .” *Id.* ¶ 96.

6 Turo’s lobbying documents will be relevant to show that there is no national conspiracy against  
7 Turo, but instead that Turo has virtually unlimited resources in its fight to avoid being defined or  
8 regulated as a rental car company. Turo is valued at over \$1 billion and has received approximately  
9 \$450 million in private investor funding. *See* Darrell Etherington, *Peer-to-peer car-sharing*  
10 *marketplace Turo raises \$250M at over \$1B valuation from IAC*, TechCrunch (July 17, 2019)  
11 [https://techcrunch.com/2019/07/17/peer-to-peer-car-sharing-marketplace-turo-raises-250m-at-over-](https://techcrunch.com/2019/07/17/peer-to-peer-car-sharing-marketplace-turo-raises-250m-at-over-1b-valuation-from-iac)  
12 [1b-valuation-from-iac](https://techcrunch.com/2019/07/17/peer-to-peer-car-sharing-marketplace-turo-raises-250m-at-over-1b-valuation-from-iac). If Turo comfortably alleges that it is being victimized by Enterprise “through  
13 paid lobbyists, expansive political donations, and even through its own political action committee,  
14 spending millions of dollars buying political influence to advance its interests at the federal, state, and  
15 local levels of government,” then Turo should have to produce records and information about the  
16 millions of dollars it spends “buying political influence.” Am. Cross-Compl. ¶ 9.

17 Lastly, it is important to note that Turo has hired at least four registered lobbyists working on  
18 its behalf in California – Erin Niemela and Emily Pappas at Niemela Pappas & Associates; and Glenn  
19 Gritzner and Kyndell Gaglio at Mercury Public Affairs. Price Wolf Decl. ¶ 9. Turo has also at least  
20 three management level employees who spend their time coordinating and directing outside lobbyists  
21 in California, and engaging in direct lobbying in California – Michelle Peacock (Vice President and  
22 Head of Government Relations), Pablo Benavente (Government Relations Manager), and Louis  
23 Bertuca (Government Relations Senior Manager). *Id.* The People is seeking to depose several of  
24 these Turo employees and it needs these documents to explore what is clearly a vibrant and important  
25 part of Turo’s business.

26 In sum, Turo’s efforts to change laws and policies about whether it is a rental car company, and  
27 how that impacts its ability to operate at SFO is relevant to this litigation. The People has good cause  
28 to obtain Turo’s lobbying documents about SFO and Turo’s operation at SFO because they are

1 reasonably calculated to lead to the discovery of evidence related to Turo’s defenses and cross-claims.

2 **III. TURO IMPROPERLY REFUSES TO PRODUCE DOCUMENTS THAT “REFLECT”**  
3 **COMMUNICATIONS BETWEEN TURO AND SAN FRANCISCO.**

4 RFP No. 33 seeks “all DOCUMENTS that constitute or *reflect* communications between  
5 TURO and any employee, official, or Commissioner of the City and County of San Francisco  
6 (including SFO).”<sup>2</sup> Price Wolf Decl. Ex. C; Sep. Stmt. re RFP at 19 (emphasis added). Turo agreed to  
7 provide the documents that constitute the underlying communications, but Turo refuses to produce  
8 documents that “reflect” communications between Turo and San Francisco. Sep. Stmt. re RFP at 21;  
9 Price Wolf Decl. ¶ 6, Ex. F. The Court should order Turo to produce documents that reflect  
10 communications between Turo and San Francisco because (1) these documents are relevant, and  
11 (2) Turo’s discovery requests have repeatedly sought documents “related to” similar communications  
12 and the People has produced such documents.

13 *First*, documents reflecting communications between Turo and San Francisco likely contain  
14 more relevant information than the communications themselves. For every meeting or communication  
15 Turo had with someone at SFO, the Mayor’s Office, the Board of Supervisors, *etc.*, there were likely  
16 additional internal documents and communications exchanged amongst Turo employees *in*  
17 *preparation for* and *after* the meetings and communications with San Francisco. For example,  
18 January 2018 emails show that Turo Government Relations Senior Manager Louis Bertuca met with  
19 San Francisco Mayor’s Chief of Staff Jason Elliott, yet Turo refuses to produce internal documents  
20 prepared before or after that meeting. Price Wolf Decl. Ex. H. Turo’s internal conversations and  
21 documents about its communications with San Francisco are likely just as valuable as the underlying  
22 conversations themselves. These documents are relevant to show how Turo delicately and deliberately  
23 communicated with San Francisco officials while it knowingly operated at SFO without a permit.  
24 These documents are also relevant to contest Turo’s equal protection argument because they will show  
25 that San Francisco did not treat Turo with animus, rather, San Francisco merely imposed rational  
26 regulations on the company.

27 \_\_\_\_\_  
28 <sup>2</sup> Hereinafter, the People collectively refer to “employee, official, or Commissioner of the City  
and County of San Francisco” as “San Francisco.”

1           **Second**, Turo should produce documents that “reflect” its communications with San Francisco  
2 because Turo has sought similar documents from the People in this litigation, and the People has  
3 produced such documents. Many of Turo’s document requests seek all “notes, records,  
4 communications, and documents *related* to any and all emails, meetings, and phone calls between”  
5 San Francisco and another party concerning a topic, such as Turo or peer-to-peer car sharing  
6 programs:

7           Request No. 33: All notes, records, COMMUNICATIONS, and DOCUMENTS  
8 *related* to any and all emails, meetings, and phone calls between YOU and  
9 ENTERPRISE CONCERNING<sup>3</sup> TURO or PEER-TO-PEER CAR SHARING  
10 PROGRAMS.

11           Request No. 34: All notes, records, COMMUNICATIONS, and DOCUMENTS  
12 *related* to any and all emails, meetings, and phone calls between YOU and  
13 HERTZ CONCERNING TURO or PEER TO-PEER CAR SHARING  
14 PROGRAMS.

15           Request No. 35: All notes, records, COMMUNICATIONS, and DOCUMENTS  
16 *related* to any and all emails, meetings, and phone calls between YOU and  
17 AVIS CONCERNING TURO or PEER-TO-PEER CAR SHARING  
18 PROGRAMS.

19           Request No. 36: All notes, records, COMMUNICATIONS, and DOCUMENTS  
20 *related* to any and all emails, meetings, and phone calls between YOU and the  
21 AMERICAN CAR RENTAL ASSOCIATION CONCERNING TURO or  
22 PEER-TO-PEER CAR SHARING PROGRAMS.

23 Price Wolf Decl. ¶ 11, Ex. J (emphasis added).

24           In response to these requests, the People agreed to produce all responsive non-privileged  
25 documents. Price Wolf Decl. ¶ 11. Turo is falling into the classic Goose-Gander problem.<sup>4</sup> If Turo  
26 has requested and obtained from the People documents and communications “related to”  
27 communications between certain parties, Turo should have to produce the same type of documents to  
28 the People. In sum, there is good cause to order Turo to produce all documents that reflect  
communications between it and San Francisco, and Turo has not mounted any objection or reason that  
would justify a lack of response.

---

<sup>3</sup> Turo also broadly defined “concerning” as “relating to, referring to, describing, referencing, evidencing, or constituting.” Price Wolf Decl. ¶ 11, Ex. I.

<sup>4</sup> “Goose-Gander” refers to the idiom, “What’s good for the goose is good for the gander.”

1 **IV. TURO IMPROPERLY REFUSES TO PRODUCE DOCUMENTS “CONCERNING OR**  
2 **REFLECTING” TURO’S ATTEMPTS TO MARKET OR PROMOTE ITS BUSINESS**  
3 **TO TRAVELERS AT SFO.**

4 RFP No. 37 seeks “all DOCUMENTS concerning or reflecting TURO’s attempts to market or  
5 promote its business to travelers at SFO.” Price Wolf Decl. Ex. C; Sep. Stmt. re RFP at 23. In  
6 response to this RFP, Turo agreed to produce “advertisements and marketing materials that *reference*  
7 SFO,” but it refused to “produce documents that do not reference SFO.” Sep. Stmt. re RFP at 26  
8 (emphasis added). This response is unacceptable for several reasons. *First*, this response more aptly  
9 fits with two different RFPs, which requested advertising and marketing materials that *referenced*  
10 SFO or that otherwise appeared in California.<sup>5</sup> See Price Wolf Decl. Ex. C at Request Nos. 15 and 20.  
11 RFP No. 37 is not limited to documents that merely *reference* SFO. This RFP seeks different  
12 information. *Second*, RFP No. 37 seeks a set of documents beyond traditional advertising and  
13 marketing materials. This RFP seeks internal documents about Turo’s efforts to promote its business  
14 to individuals traveling to or from SFO. In other words, limiting the production to advertising and  
15 marketing documents that reference SFO will intentionally skip over internal documents like emails,  
16 reports, and PowerPoint presentations about bolstering business at California airports, which might not  
17 explicitly mention SFO, but would be excluded by Turo’s limitation.

18 *Third*, Turo repeatedly served the People discovery requests which sought documents  
19 “concerning” a topic, where “concerning” was defined very broadly to include “relating to, referring  
20 to, describing, referencing, evidencing, or constituting.” See Price Wolf Decl. ¶11, Ex. I. In fact,  
21 fifty-six of the seventy-one document requests Turo has served on the People seek documents  
22 “relating to, referring to, describing, referencing, evidencing, or constituting” a topic. See Price Wolf  
23 Decl. ¶ 11, Exs. I-M. Going back to the Goose-Gander idiom, if Turo believes that crafting documents  
24 requests in this fashion is appropriate when it is propounding requests, it should be prepared to

25 <sup>5</sup> The two requests are:

26 RFP No. 15: Produce all DOCUMENTS evidencing or relating to any  
27 references to SFO that have appeared on TURO’S PLATFORM,  
28 advertisements, or promotional materials at any point since January 1, 2010.

RFP No. 20: Produce all DOCUMENTS that constitute or evidence  
advertisements for TURO that have appeared in California on television, radio,  
print, online, or in any other medium at any point since January 1, 2010.

1 produce documents in response to requests that use a similar phrase.

2  
3 **CONCLUSION**

4 For the foregoing reasons, the People requests that the Court order Turo to serve amended  
5 responses and documents responsive to the People’s First Set of Requests for the Production of  
6 Documents and the People’s First Set of Special Interrogatories by removing the exclusions and  
7 limitations described herein and by answering the interrogatory.

8 Dated: November 25, 2019

9 Respectfully submitted,

10 DENNIS J. HERRERA  
11 City Attorney  
12 YVONNE R. MERÉ  
13 Chief of Complex and Affirmative Litigation  
14 OWEN J. CLEMENTS  
15 KRISTINE A. POPLAWSKI  
16 KENNETH M. WALCZAK  
17 MARC PRICE WOLF  
18 Deputy City Attorneys

19 By:           /s/ Marc Price Wolf          

20 MARC PRICE WOLF

21 Attorneys for Plaintiff THE PEOPLE OF THE STATE  
22 OF CALIFORNIA acting by and through DENNIS J.  
23 HERRERA AS CITY ATTORNEY OF SAN  
24 FRANCISCO and Cross-Defendant CITY AND  
25 COUNTY OF SAN FRANCISCO  
26  
27  
28

1  
2 **PROOF OF SERVICE**

3 I, Alison Lambert, declare as follows:

4 I am a citizen of the United States, over the age of eighteen years and not a party to the above-  
5 entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building,  
6 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

7 On November 25, 2019, I served the following document(s):

8 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF PEOPLE  
9 OF THE STATE OF CALIFORNIA'S MOTION TO COMPEL FURTHER RESPONSES TO  
10 THE PEOPLE'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND  
11 SPECIAL INTERROGATORIES**

12 on the following persons at the locations specified:

13 Michael G. Rhodes  
14 Matthew D. Brown  
15 Benjamin H. Kleine  
16 Bethany Lobo  
17 Ashley Corkery  
18 Max A. Bernstein  
19 Amy McCowan Smith  
20 Adam S. Gershenson  
21 COOLEY LLP  
22 101 California Street, 5th Fl.  
23 San Francisco, CA 94111-5800

24 rhodesmg@cooley.com  
25 brownmd@cooley.com  
26 bkleine@cooley.com  
27 blobo@cooley.com  
28 acorkery@cooley.com  
mbernstein@cooley.com  
amsmith@cooley.com  
agershenson@cooley.com

Telephone: (415) 693-2000  
Facsimile: (415) 693-2222

*Attorneys for Defendant and Cross-  
Complainant Turo Inc.*

in the manner indicated below:

**BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept  
electronic service, I caused the documents to be served electronically through File & ServeXpress in portable  
document format ("PDF") Adobe Acrobat.

**BY ELECTRONIC MAIL:** Based on a court order or an agreement of the parties to accept electronic  
service, I caused the documents to be sent to the person(s) at the electronic service address(es) listed above. Such  
document(s) were transmitted *via* electronic mail from the electronic address:

