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14 CITY OF LOS ANGELES

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

17 TURO INC.,
18 Plaintiff,
19 v.
20 CITY OF LOS ANGELES,
21 Defendant.

Case No. 2:18-CV-06055-CAS-GJS

Judge: Honorable Christina A. Snyder

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
CITY OF LOS ANGELES’S MOTION
FOR PRELIMINARY INJUNCTION**

Hearing Date: April 27, 2020
Time: 10:00 a.m.
Place: Courtroom 8D

1 CITY OF LOS ANGELES, on its own
2 behalf and on behalf of the People of
the State of California,

3 Counterclaim-Plaintiff,

4 v.

5 TURO INC., ERIC KWAN, ANDRAS
6 SMULOVICS, and ANDREY
KORNAKOV D/B/A 101 CAR
7 RENTAL,

8 Counterclaim-Defendants.

Complaint filed: July 12, 2018
Trial Date: November 3, 2020

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Cases	Page(s)
<i>Arc of Cal. v. Douglas</i> , 757 F.3d 975 (9th Cir. 2014).....	20
<i>Bank of Stockton v. Church of Soldiers</i> , 44 Cal. App. 4th 1623 (Cal. Ct. App. 1996)	14,20
<i>Boldface Licensing + Branding v. By Lee Tillett, Inc.</i> , 940 F. Supp. 2d 1178 (C.D. Cal. 2013).....	18
<i>Cassinovs v. Union Oil Co.</i> 14 Cal. App. 4th 1770 (Cal. Ct. App. 1993)	13, 14
<i>City of Los Angeles v. Belridge Oil Co.</i> , 42 Cal. 2d 823 (1954), <i>appeal dismissed</i> , 348 U.S. 907 (1955)	9
<i>City of N.Y. v. Golden Feather Smoke Shop</i> , 597 F.3d 115 (2d Cir. 2010).....	1, 9
<i>Cuviello v. City of Vallejo</i> , 944 F.3d 816 (9th Cir. 2019).....	20
<i>Disney Enters., Inc. v. Vidangel, Inc.</i> , 224 F. Supp. 3d 957 (C.D. Cal. 2016).....	20
<i>Donahue Schriber Realty Grp., Inc. v. Nu Creation Outreach</i> , 232 Cal. App. 4th 1171 (Cal. Ct. App. 2014)	13, 14,20
<i>Drakes Bay Oyster Co. v. Jewell</i> , 747 F.3d 1073 (9th Cir. 2014).....	21
<i>eBay v. Bidders’ Edge, Inc.</i> , 100 F. Supp. 2d 1058 (N.D. Cal. 2000).....	14,18
<i>Federal Trade Comm’n v. Consumer Def. LLC</i> , 926 F.3d 1208 (9th Cir. 2019).....	1,9,10,17
<i>Ferrone v. Rossi</i> , 311 Mass. 591 (Mass. 1943).....	20
<i>General Motors Corp. v. Urban Gorilla, LLC</i> , 500 F.3d 1222 (10th Cir. 2007).....	18

1 *Hensley v. San Diego Gas & Elec. Co.*,
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3 *IT Corp. v. County of Imperial*,
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4

5 *King v. City Council of Augusta*,
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6

7 *Massachusetts Port Auth. v. Turo, Inc.*,
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 8 Jan. 24, 2020)..... *passim*

9

10 *Miller v. National Broadcasting Co.*,
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12 *Navel Orange Admin. Comm. v. Exeter Orange Co.*,
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14 *New York v. BB’s Corner*,
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16 *Novartis Consumer Health, Inc. v. Johnson & Johnson-Merck Consumer
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18 *Ralph’s Grocery Co. v. Victory Consultant’s Inc.*,
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19

20 *Register.com, Inc. v. Verio, Inc.*,
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21

22 *Ride the Ducks of Phila., LLC v. Duck Boat Tours, Inc.*,
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23

24 *Saunders v. Superior Ct.*,
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26 *S.E.C. v. Capital Cove Bancorp LLC*,
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28 *Segundo v. Rancho Mirage City*,
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