

No. 21-55285

---

**IN THE UNITED STATES COURT OF APPEALS**

---

**FOR THE NINTH CIRCUIT**

---

JUSTIN SANCHEZ,  
*Plaintiff – Appellant,*

v.

LOS ANGELES DEPARTMENT OF TRANSPORTATION AND  
CITY OF LOS ANGELES  
*Defendants – Appellees.*

---

On appeal from the United States District Court  
for the Central District of California, No. 2:20-cv-05044-DMG-AFM  
Honorable Dolly M. Gee

---

**OPEN MOBILITY FOUNDATION’S  
AMICUS BRIEF IN SUPPORT OF  
APPELLEES LOS ANGELES DEPARTMENT  
OF TRANSPORTATION AND  
CITY OF LOS ANGELES**

---

**GREINES, MARTIN, STEIN & RICHLAND LLP**

Alana H. Rotter (SBN 236666)

arotter@gmsr.com

\*Nadia A. Sarkis (SBN 227778)

nsarkis@gmsr.com

5900 Wilshire Boulevard, 12th Floor

Los Angeles, California 90036

(310) 859-7811 / Fax: (310) 276-5261

*Attorneys for Amicus Curiae* OPEN MOBILITY FOUNDATION

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, amicus curiae Open Mobility Foundation hereby states as follows: Open Mobility Foundation is a nonprofit 501(c)(6) foundation organized as a series of Oasis Open Development Foundation, LLC. No publicly held corporation owns 10% or more of its stock.

Dated: November 11, 2021

**GREINES, MARTIN, STEIN &  
RICHLAND LLP**

Alana H. Rotter

Nadia A. Sarkis

By: s/ Nadia A. Sarkis

Nadia A. Sarkis

Attorneys for Amicus Curiae  
OPEN MOBILITY FOUNDATION

## TABLE OF CONTENTS

	PAGE
CORPORATE DISCLOSURE STATEMENT	2
INTEREST OF <i>AMICUS CURIAE</i>	10
INTRODUCTION AND SUMMARY OF ARGUMENT	11
ARGUMENT	12
I.    MDS Is The Digital Infrastructure That Allows Cities And Mobility Companies To Exchange Essential Information Regarding Micromobility Vehicles In The Public Right-Of-Way.	12
A.    MDS’s Development.	12
B.    MDS Is Designed To Protect The Privacy Of Micromobility Users.	14
C.    Appellant’s Privacy Concerns Rest On Misapprehensions Of Fact And Unfounded Speculation.	17
II.   Cities Effectively Use MDS To Regulate The Public Right-Of- Way And Benefit The Public.	21
A.    MDS—And The Precise, Comprehensive, And Flexible Data It Provides—Is At The Core Of Regulatory Models Developed For Micromobility.	21
B.    Cities Successfully Use Granular MDS Data To Promote Equity, Plan Infrastructure, Ensure Public Safety, And Support Public Transit.	25
1.    Increasing access and equity.	26
2.    Ensuring safety and compliance.	28
3.    Infrastructure planning.	30
4.    Supporting public transit.	31
CONCLUSION	33

## TABLE OF CONTENTS

	<b>PAGE</b>
FORM 8. CERTIFICATE OF COMPLIANCE FOR BRIEFS	34
STATEMENT OF RELATED CASES	35

## TABLE OF AUTHORITIES

	PAGE
<b>Other Authorities</b>	
<i>136 Million Trips Taken on Shared Bikes and Scooters Across the U.S. in 2019</i> , NACTO (Aug. 27, 2020), <a href="https://nacto.org/2020/08/27/136-million-trips-taken-on-shared-bikes-and-scooters-across-the-u-s-in-2019/">https://nacto.org/2020/08/27/136-million-trips-taken-on-shared-bikes-and-scooters-across-the-u-s-in-2019/</a>	23
<i>2019 E-Scooter Findings Report</i> , PBOT, 23-25 (Sept. 2020), <a href="https://www.portland.gov/sites/default/files/2020/pbot_e-scooter_report_final.pdf">https://www.portland.gov/sites/default/files/2020/pbot_e-scooter_report_final.pdf</a>	30
<i>A Review of the 2019-2020 Dockless Vehicle Pilot Program</i> , LADOT (July 2020), <a href="https://ladot.lacity.org/sites/default/files/documents/ladot-dockless-year-one-report.pdf">https://ladot.lacity.org/sites/default/files/documents/ladot-dockless-year-one-report.pdf</a>	29, 32
<i>Ad Hoc Scooter Task Force Meeting</i> , City of Alexandria (May 27, 2021), <a href="https://www.alexandriava.gov/uploadedFiles/tes/info/AdHocScooterTFPresentation05272021.pdf">https://www.alexandriava.gov/uploadedFiles/tes/info/AdHocScooterTFPresentation05272021.pdf</a>	32
<i>Administrative Rule TRN-15.01</i> , Portland Bureau of Transportation, <a href="https://www.portlandoregon.gov/citycode/article/690212">https://www.portlandoregon.gov/citycode/article/690212</a>	25
Adrian Colyer, <i>Trajectory Recovery from Ash: User Privacy is Not Preserved in Aggregated Mobility Data</i> , The Morning Paper (May 15, 2017), <a href="https://blog.acolyer.org/2017/05/15/trajectory-recovery-from-ash-user-privacy-is-not-preserved-in-aggregated-mobility-data/">https://blog.acolyer.org/2017/05/15/trajectory-recovery-from-ash-user-privacy-is-not-preserved-in-aggregated-mobility-data/</a>	19
Andrew J. Hawkins, <i>Nashville is Banning Electric Scooters after a Man Was Killed</i> , The Verge (June 21, 2019), <a href="https://www.theverge.com/2019/6/21/18701299/nashville-electric-scooter-ban-man-killed">https://www.theverge.com/2019/6/21/18701299/nashville-electric-scooter-ban-man-killed</a>	22
<i>Announcing MDS 1.2.0</i> , Open Mobility Found. (Nov. 4, 2021), <a href="https://www.openmobilityfoundation.org/mds-version-1-2-0/">https://www.openmobilityfoundation.org/mds-version-1-2-0/</a>	14
Brett Simpson, <i>Why Cars Don't Deserve the Right of Way</i> , The Atlantic (Oct. 15, 2021), <a href="https://www.theatlantic.com/ideas/archive/2021/10/end-police-violence-get-rid-traffic-cop/620378/">https://www.theatlantic.com/ideas/archive/2021/10/end-police-violence-get-rid-traffic-cop/620378/</a>	26
<i>Case Study: Austin, Texas</i> , Ride Report, 2, <a href="https://f.hubspotusercontent40.net/hubfs/5891093/2020-austin.pdf?__hstc=137334191.16475b8d0bcf9292b1cf30ac51d3a3a2.1635444688922.1635444688922.1635444688922.1&amp;__hssc=137334191.3.1635444688922&amp;__hsfp=4034898497">https://f.hubspotusercontent40.net/hubfs/5891093/2020-austin.pdf?__hstc=137334191.16475b8d0bcf9292b1cf30ac51d3a3a2.1635444688922.1635444688922.1635444688922.1&amp;__hssc=137334191.3.1635444688922&amp;__hsfp=4034898497</a>	23

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.