

**IN THE SUPREME COURT OF FLORIDA**

**CASE NO. SC2023-0095**

Gustavo Bojorquez, etc., et al.,

Petitioners,

vs.

L.T. Case Nos.  
2D20-3326;  
2D20-3432;  
2019-CA-006391

State of Florida, et al.,

Respondents.

**ON DISCRETIONARY REVIEW FROM  
THE SECOND DISTRICT COURT OF APPEAL**

---

**AMICUS BRIEF OF FLORIDA TAXICAB ASSOCIATION**

---

**MILLS LAW GROUP PA**  
**E.A. "Seth" Mills, Jr., Esq.**  
Florida Bar No. 339652  
smills@mills-legal.com  
**Jordan Miller, Esq.**  
Florida Bar No. 69998  
jmillerm@mills-legal.com  
100 S. Ashley Drive  
Suite 600  
Tampa, FL 33602  
*Attorneys for Florida Taxicab  
Association*

## **TABLE OF CONTENTS**

TABLE OF CONTENTS .....	i
TABLE OF CITATIONS.....	ii
STATEMENT OF IDENTITY AND INTEREST .....	1
SUMMARY OF ARGUMENT .....	3
ARGUMENT .....	6
I. Taxis were required to provide an important public service in Hillsborough County which is why taxi owners requested the Legislature compensate them with a private property interest in their Medallions.....	6
II. The Legislature passed the Special Act to give taxi companies greater value and security in their Medallions by granting them private property rights and Medallion owners justifiably relied upon the Legislature’s grant of these rights. ....	8
III. The PTC revised its Rules after the Special Act’s passage to reflect and implement the grant of private property rights in taxi Medallions. ....	10
IV. The Special Act’s repeal destroyed owners’ private property rights in their Medallions which devastated their businesses, and they should be compensated accordingly. ....	13
CONCLUSION .....	15
CERTIFICATE OF COMPLIANCE .....	16
CERTIFICATE OF SERVICE.....	16

## **TABLE OF CITATIONS**

### **CASES**

<i>Fitzgerald v. Advanced Spine Fixation Sys., Inc.</i> , 996 S.W.2d 864, 866 (Tex. 1999) .....	14
--	----

<i>Robinson v. City of Detroit</i> , 613 N.W.2d 307, 321 (Mich. 2000) .....	14
--	----

### **SESSION LAWS**

Ch. 83-423, § (2)(1) Laws of Fla. ....	6
Ch. 2001-299, § 1(1) Laws of Fla. ....	6
Ch. 2001-299, § 2(1) Laws of Fla. ....	6
Ch. 2001-299, § 3(24) Laws of Fla. ....	6
Ch. 2001-299, § 5(i) Laws of Fla. ....	6
Ch. 76-383, §§ 1-2 Laws of Fla. ....	6
Ch. 83-423, § 14 Laws of Fla. ....	6
Ch. 2001-299 § 5(1)(b) Laws of Fla. ....	7
Ch. 2001-299 § 5(1)(j) Laws of Fla. ....	7
Ch. 2001-299 § 5 Laws of Fla. ....	7
Ch. 2012-247, § 1(2) Laws of Fla. ....	9

### **PTC RULES**

Section 6.2 (2009) .....	7
Section 8.1.2 (2009) .....	7
Section 1.31 (2009) .....	7
Section 8.1.12 (2009) .....	7
Chapter 1-1, Rule 1-1.001 (6) (2013) .....	11

Chapter 1-2, Rule 1-2.001 (7)(b) (2013) .....	11
Chapter 1-17, Rule 1-17.001 (1)(d) (2013) .....	11
Chapter 1-2, Rules 1-2.001 (8) (9) .....	12
Chapter 1-2, Rule 1-2.001 (9)(f) (2013) .....	12
Chapter 1-2, Rule 1-2.001 (9)(e) (2013).....	12
Chapter 1-2, Rule 1.2001 (8)(c) (2013).....	12

## **RULES**

Fla. R. App. P. 9.210 .....	16
Fla. R. App. P. 9.045 .....	16

## **STATEMENT OF IDENTITY AND INTEREST**

The Florida Taxicab Association (“FTA”) is a voluntary association comprising of thousands of members who are taxicab owners and operators throughout Florida. It enhances the ability of its members to serve the public’s transportation needs, and it represents its members’ interests, normally before regulatory and legislative bodies.

In this judicial case, the FTA seeks to ensure that taxicab owners’ and operators’ property is not unjustly taken without full compensation. Absent such compensation, the ability of owners and operators to survive in today’s highly competitive, on-demand transportation market will be significantly eroded. This ultimately injures the traveling public because fewer operators would remain to meet their needs, and in turn, less competition results in increased pricing, particularly from the rideshare industry.

Taxi companies—like any business—must be able to operate in a stable, law-based system. They must be able to rely on unambiguously worded statutes when making decisions about their operations, financing, and long-term planning. Repealing a statute that the taxicab companies relied on to run their businesses and plan their futures,

without paying any compensation, violates the foundation of a rule-of-law society.

## **SUMMARY OF ARGUMENT**

Pursuant to an act of the Florida Legislature, the Hillsborough County Public Transportation Commission (“PTC”) was created and authorized to adopt rules governing taxi companies’ operations, along with other for-hire vehicles. The PTC implemented strict regulations over taxi companies requiring them to operate 24/7/365 across the County. It also fixed rates for rides, regulated the vehicles and drivers, and prohibited taxis from refusing rides no matter how short or where in the County the ride was requested.

Before 2012, taxi companies sought governmental relief for providing effectively quasi-governmental services pursuant to these PTC requirements that were not imposed upon other for-hire vehicles. The relief requested took the form of obtaining a “private property interest” in their certificates and permits (collectively, “Medallions”) instead of operating under mere licenses.

In 2012, the Legislature finally agreed and passed the Special Act which granted this private property interest. The Special Act allowed taxi Medallion owners to obtain financing for their businesses, and to establish long-term investment and strategic plans for transfers of their businesses by sale, devise, or otherwise. Owners relied on this

law to use the Medallions as security for private and commercial loans, to transfer them for fair market value, and prepared wills and other estate planning documents to pass this property to their heirs. The right to transfer, devise, and pledge their Medallions meant taxi owners could build their small businesses through financing options that did not previously exist.

Notably, the Legislature granted this “private property” interest only to taxi businesses and not to any public transportation business subject to the PTC’s jurisdiction and regulations. For example, tow trucks, stretcher vans, BLS ambulances, limousines and all other for-hire vehicles operating in the County were not granted this “property interest.” Rather, all other vehicles for hire that the PTC regulated continued to operate under a mere license.

Following the Special Act, the PTC modified its rules to recognize the same private property rights in taxi Medallions. Specifically, the PTC permitted Medallions to be sold, devised, or pledged and Medallions could not be revoked. Additionally, the PTC created a system whereby newly available Medallions were auctioned for fair market value unlike the mere license fee the other categories of for-hire vehicles paid to operate in the County. As noted, this was largely



in recognition of the fact that taxis were providing a substantial quasi-public service without any public funding and thus the Medallions should be treated as property and not licenses. The other vehicles for hire governed by the Special Act provided no such service and their certificates remained as licenses under the PTC.

The Special Act's recognition of taxicab Medallions in Hillsborough County as "private property" and the taking of this property through the Special Act's subsequent repeal distinguishes this case from other taxi takings cases across the country where no private property interest had been previously granted. Simply put, the taxi companies in the cases from other jurisdictions had no decree of any private property rights enshrined in law like the Special Act. Thus, those cases are inapposite, and this Court should not follow them.

Instead, this Court should honor the Florida Legislature's grant of property rights in the Medallions that taxi companies relied upon, to their ultimate detriment, for years before the Special Act's repeal and the resulting decimation of the taxi industry in Hillsborough County.

## **ARGUMENT**

### **I. Taxis were required to provide an important public service in Hillsborough County which is why taxi owners requested the Legislature compensate them with a private property interest in their Medallions.**

In 1983, the Florida Legislature created the PTC to “regulate the operation of taxicabs, limousines, vans and handicabs upon the public highways of Hillsborough County.”<sup>1</sup> Ch. 83-423, § (2)(1), Laws of Fla. In 2001, the Legislature enacted another law to “supersede” the 1983 act, Ch. 2001-299, § 1(1), Laws of Fla., and that 2001 law expanded the PTC’s jurisdiction “to regulate the operation of **public vehicles** upon the public highways of Hillsborough County,” *id.* § 2(1) (emphasis added). “Public vehicles” included not only “taxicab[s], van[s], limousine[s], [and] handicab[s],” but also “basic life support ambulance[s] . . . and wrecker[s].” *Id.* § 3(24). The 2001 act tasked the PTC to “[d]etermine whether public convenience and necessity require the operation of a public vehicle proposed in an application for a certificate or a permit.” *Id.* § 5(i).

---

<sup>1</sup> A 1976 act created the Consolidated Taxicab Commission that regulated only taxicabs in Hillsborough County. Ch. 76-383, §§ 1-2, Laws of Fla. The 1983 act repealed the 1976 act. Ch. 83-423, § 14, Laws of Fla.

The 2001 act authorized the PTC to adopt rules (“Rules”) to regulate public vehicles, *id.* at § 5(1)(b), and it expressly mandated that the PTC “**shall** . . . [f]ix or approve taxicab zones, rates, fares and charges.” *Id.* At § 5(1)(j) (emphasis added). The 2001 act did not require such regulations for any other public vehicles. *See id.* at § 5. Therefore, the Florida Legislature singled out taxis as serving an important public need.

The Rules required taxis to provide service throughout the county, at all times, and in all weather conditions. PTC Rules, Sections 6.2; 8.1.2 (2009) (Appendix at 83, 87.)<sup>2</sup> The Rules restricted rates, dictated the types and age of vehicles, and prohibited refusing any on-demand transportation request, whether day or night. *See* PTC Rules, Sections 1.31; 6.2; 8.1.12 (2009) (A. 70, 83, 87.) Taxis could not refuse very short distance rides, even if the company had to send a taxi across the entire County to provide that short ride, for almost no fare. PTC Rules, Section 6.2 (2009) (A. 83.)

Taxis were often the only means by which poor or infirm travelers, sometimes described as the “traveling disadvantaged,” could get to their medical or other appointments, buy groceries, or even access

---

<sup>2</sup> Hereinafter citations to the Appendix will be abbreviated as A.

public transportation (e.g. get to or from a faraway bus stop). Taxi companies provided both “the first mile and last mile of service,” to allow the traveling public to access locations which were otherwise inaccessible to them. In short, taxi companies were required to meet a demanding public need. They did so without any public funding. They met the need even when the trip was short, unprofitable, in a remote part of the County, and in the middle of the night. Accordingly, taxi companies sought greater value in their Medallions from the Legislature to compensate for the burdensome restrictions placed on them.

**II. The Legislature passed the Special Act to give taxi companies greater value and security in their Medallions by granting them private property rights and Medallion owners justifiably relied upon the Legislature’s grant of these rights.**

After operating under the PTC’s regulatory regime for years, taxi companies asked the Florida Legislature to enact a law that would provide them with greater rights in their Medallions given the public service they provided. Thus, the 2012 Special Act was passed providing that taxi permits were the “**private property** of the holder of such certificate or permit (medallion)” and that holder of such permit “may transfer the certificate or permit by pledge, sale, assignment, sublease,

devise, or other means of transfer to another person.” Ch. 2012-247, §1(2), Laws of Fla. (emphasis added).

Understandably, taxi owners in Hillsborough County took steps in reliance on this new law for their businesses and the public’s benefit. Owners began including Medallions in long-term estate planning to ensure continuity for their businesses and families. They rightfully believed that their Medallions could be passed on to future generations as many taxi companies in Hillsborough County were small family businesses. Owners also began using Medallions as collateral for loans to maintain their vehicle(s) for the benefit of their customers, i.e., the traveling public. Owners also pledged Medallions as collateral to buy homes, staking their family’s future on the Special Act’s grant of stability through private property rights. Further, new owners applied for Medallions on the reliance that they could sell them to someone else for fair market value if their new business did not work out. Finally, the Special Act created a Drivers’ Ownership Program incentivizing drivers to purchase a single Medallion which would otherwise not be possible if the driver could not use the Medallion as security for funding to start a new business.

In sum, the Special Act struck a fair balance between the burdens placed on taxis due to their public responsibilities while recognizing that Medallions carried specific private property rights to promote growth and stability in long-term business planning.

**III. The PTC revised its Rules after the Special Act's passage to reflect and implement the grant of private property rights in taxi Medallions.**

The PTC passed new Rules in 2013 in response to the Special Act's creation of the private property rights in Medallions discussed above. *See generally* Hillsborough County Public Transportation Commission Rules (adopted March 19, 2013, as amended August 15, 2014, November 2, 2015, and March 23, 2016) (A. 119-209.) It adopted Rules expressly recognizing that taxi Medallions were private property and different from the other certificates and permits it issued as mere licenses. In other words, the PTC amended its Rules to further cement taxi owners' expectations that their Medallions would be treated as property rather than licenses, as before.

For starters, as part of its definition of the term "Certificate" the new Rules expressly provided that only taxi certificates were considered private property:

"Certificate" means the written authority granted by the Commission by its order to Operate one or more Public

Vehicles in the County and its Municipalities. ***For Taxicab Certificate[s], [the] Certificate shall Transfer and grant to the Certificate holder such property and other inherent rights as are consistent with the terms of the Special Act, including, but not limited to the right for Taxicab Certificate holders to sell, devise, pledge and Transfer the Certificate and any related Permits as authorized by the Special Act and these Rules.***

See PTC Rules, Chapter 1-1, Rule 1-1.001 (6) (2013) (A. 121-122.) (emphasis added). The Rules were also amended to implement public auctions of taxi Medallions to drivers under the Driver Ownership Program or existing Medallion owners who wished to acquire any newly available permits.<sup>3</sup> See PTC Rules, Chapter 1-2, Rule 1-2.001 (7) (b) (2013) (A. 129.) . No other regulated vehicles under the 2012 Special Act had their certificates or permits auctioned for fair market value like traditional private property. Rather, all other vehicle for-hire companies merely paid a pre-determined fee to the PTC for a license to operate. See PTC Rules, Chapter 1-17, Rule 1-17.001 (1) (d) (2013) (A. 190.) As such, taxi owners paid much more for their Medallions than the license fees, but they understandably expected the greater benefits of private property like the rights to devise and transfer.

Additionally, while all other certificates and permits were subject

---

<sup>3</sup> Based upon population increases, as authorized by the Special Act.

to expiration and revocation by the PTC, the taxi Medallions were not because they were recognized as the taxi owner's private property.<sup>4</sup> See PTC Rules, Chapter 1-2, Rules 1-2.001 (8) (9) (2013) (A. 132-133.) The Rules also expressly provided for the pledge of the taxi Medallions as collateral for loans. See PTC Rules, Chapter 1-2, Rules 1-2.001 (9) (f) (2013) (A. 134-135.) No other certificates or permits were granted this right. *Cf. id.*

Finally, the Rules detailed exactly how the transfer by devise was to work, including the role of the probate court. See PTC Rules, Chapter 1-2, Rule 1-2.001 (9) (e) (2013) (A. 134.) Again, this process was unique to the taxi Medallions. In sum, the PTC Rules recognized that taxi Medallions were significantly different from the mere licenses the other for-hire vehicles held in Hillsborough County. Taxi Medallions not only had the hallmarks of private property, but the PTC followed the 2012 Special Act and adopted Rules to treat them as such.

---

<sup>4</sup> Under the Rules, a taxi Medallion owner merely had to pay a renewal fee. PTC Rules, Chapter 1-2, Rule 1-2.001 (8) (c) (2013) (A. 132.)



**IV. The Special Act's repeal destroyed owners' private property rights in their Medallions which devastated their businesses, and they should be compensated accordingly.**

After operating for years on the assumption that their Medallions could be transferred, pledged, and devised, Medallion owners had the rug suddenly pulled out from underneath their feet when the Legislature repealed the 2012 Special Act and abolished the PTC. In an instant, all taxi owners' established rights and expectations in their Medallions were extinguished with no compensation. Owners' long-term business plans were shattered. Their Medallions were rendered utterly worthless when they were refused any recognition by the new regulator. In the 2012 Special Act's place, the Florida Legislature left taxi regulation to Hillsborough County which enacted an ordinance that provided none of the same private property rights.

In essence, owners were transported back to the days when their permits were mere licenses. Suddenly, owners could not sell Medallions for market value, many of which they had purchased through auction for a steep price given the private property rights the Special Act afforded them. Their business and personal lives were upended because their Medallions no longer held any value as

collateral for the long-term business and personal loans owners had taken out in reliance on the Legislature's grant of property rights. Their family plans were disrupted because the now worthless Medallions could not be devised, putting family businesses in jeopardy. The Driver Ownership program was eliminated, and new owners had almost no incentive to enter the market because a license cannot be sold or otherwise transferred, nor can it be used as collateral for start-up capital. In other words, the predictable, market-based environment that Medallion owners had been operating under for years was snuffed out and their businesses were decimated with no just compensation.

Instead of realizing this injustice and recognizing the plain meaning of the words "private property" in the Special Act, the Second District's majority opinion held that just because a law calls something private property does not make it so. Taxi owners are not lawyers, but they like all "ordinary citizens should be able to rely on [a law's] plain language . . . to mean what it says." *Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 866 (Tex. 1999). "This is the essence of the rule of law: to know in advance what the rules of society are." *Robinson v. City of Detroit*, 613 N.W.2d 307, 321 (Mich. 2000). A

citizen “should be able to expect . . . that [a law’s words] will be carried out by all in society, including the courts.” *Id.*

Justice requires the reversal of the majority’s ill-reasoned decision. The dissent got it right. It recognized how taxi owners would have necessarily understood the 2012 Special Act’s plain language and governed their business activities accordingly. The Court should follow the dissent’s well-reasoned opinion and reverse the Second District’s tortured interpretation of an unambiguous statute upon which local small business owners understandably staked their future.

### **CONCLUSION**

This Court should quash the Second District’s decision for the reasons argued herein and for the reasons argued by Petitioners.

MILLS LAW GROUP PA

/s/ E.A. “Seth” Mills, Jr.  
E.A. “Seth” Mills, Jr., Esq.  
Florida Bar No. 339652  
smills@mills-legal.com  
Jordan Miller, Esq.  
Florida Bar No. 69998  
jmilller@mills-legal.com  
100 S. Ashley Drive, Suite 600  
Tampa, FL 33602  
Telephone: (813) 923-1502  
*Attorneys for Florida Taxicab  
Association*

## **CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the foregoing document complies with the word count limitation of Rule 9.210, Florida Rules of Appellate Procedure, in that it contains 3,485 words (including words in headings, footnotes, and quotations), according to the word-processing system used to prepare this document. This document also complies with the line spacing, type size, and typeface requirements of Rule 9.045, Florida Rules of Appellate Procedure.

/s/ E.A. "Seth" Mills, Jr.  
Attorney

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing brief was filed with the Clerk of Court on October 4, 2023 via the Florida Courts E-Filing Portal, which will serve a notice of electronic filing to all counsel of record:

Bryan S. Gowdy, Esq.  
bgowdy@appellate-firm.com  
filings@appellate-firm.com  
Dimitrios A. Peteves, Esq.  
dpeteves@appellate-firm.com  
Creed & Gowdy, P.A.  
865 May Street  
Jacksonville, FL 32204  
*Counsel for Petitioner*

Jason K. Whittemore, Esq.  
jason@wagnerlaw.com  
arelys@wagnerlaw.com  
Wagner, McLaughlin &  
Whittemore, P.A.  
601 Bayshore Blvd., Suite 910  
Tampa, FL 33606  
*Counsel for Petitioners*

Robert E. Brazel, Esq.  
brazelr@hillsboroughcounty.org  
matthewsl@hillsboroughcounty.org  
johnsonni@hillsboroughcounty.org  
Hillsborough County Attorney's  
Office  
601 E. Kennedy Blvd., Floor 27  
Tampa, FL 33602

Henry C. Whitaker, Esq.  
Solicitor General  
henry.whitaker@myfloridalegal.com  
Daniel W. Bell, Esq.  
Chief Deputy Solicitor General  
daniel.bell@myfloridalegal.com  
David M. Costello, Esq.  
Deputy Solicitor General  
david.costello@myfloridalegal.com

*Counsel for Hillsborough County*

m  
jenna.hodges@myfloridalegal.co  
m  
Office of the Attorney General  
PL01, The Capitol  
Tallahassee, FL 32399  
*Counsel for the State of Florida*

J. Daniel Clark, Esq.  
dclark@clarkmartino.com  
jliza@clarkmartino.com  
Clark & Martino, P.A.  
3407 W. Kennedy Blvd.  
Tampa, FL 33609  
*Counsel for Petitioners*

Bay & Beach Transportation,  
LLC; Bay & Beach Cab, LLC  
d/b/a Executive Cab; and ABC  
Taxi, LLC  
Nancy Castellano  
castellano@mosesgroupllc.com

Gulf Coast Transportation, Inc.  
d/b/a United Cab, d/b/a United  
Taxi, d/b/a Tampa Bay Cab  
Justin Morgaman  
jdmorgaman@gmail.com

/s/ E.A. "Seth" Mills, Jr.  
Attorney