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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Service Employees International Union,
California State Council; Service
Employees International Union, Local 521;
Service Employees International Union,
Local 721; Service Employees International
Union, Local 1021,

Complainants,

v.

Waymo LLC,

Defendant.

Case No. 26-03-035

**SEIU ET AL.'S OPPOSITION TO WAYMO'S MOTION TO DISMISS
COMPLAINT WITH PREJUDICE**

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INTRODUCTION

Complainants SEIU et al. respectfully submit this opposition to the motion to dismiss filed by defendant Waymo LLC (“Waymo”).

The Complaint alleges that “Waymo’s services are routinely used to transport unaccompanied minors in violation of the Commission’s prohibition on transporting unaccompanied minors.”¹ As Waymo acknowledges, “[t]he Commission treats [motions to dismiss] like demurrers in civil court.”² Thus, the Commission must “assume the truth of the properly pleaded factual allegations, and facts that reasonably can be inferred from those expressly pleaded” and “draw[] all reasonable inferences in favor of the asserted claims.”³ The Commission must “give the complaint a reasonable interpretation, reading it as a whole and its parts in their context” and deny the motion to dismiss “[i]f the complaint states a cause of action

¹ Appendix to Complaint at 2; *see also id.* at 4–5.

² MTD at 6.

³ *Liapes v. Facebook, Inc.*, 95 Cal.App.5th 910, 919 (2023) (cleaned up).

under any theory, regardless of the title under which the factual basis for relief is stated.”⁴

Moreover, “[i]f a complaint does not state a cause of action, but there is a reasonable possibility that the defect can be cured by amendment, leave to amend must be granted.”⁵

For the reasons stated below, Waymo’s motion to dismiss the Complaint should be denied.

ARGUMENT

I. The Commission has authority to hear the Complaint.

Waymo argues that the Commission lacks authority to hear a formal complaint against Waymo because Public Utilities Code Section 1702 refers to complaints against “public utilities.”⁶ The Commission should address this argument as a threshold matter because it concerns the Commission’s jurisdiction.⁷ Moreover, if there is a giant gap in the Commission’s authority, the public and Legislature should be so advised.

Waymo is incorrect because Section 1702 is not the sole source of Commission authority. Public Utilities Code Section 5381 provides that “the commission may supervise and regulate every charter-party carrier of passengers in the State and may do all things, whether specifically designated in this part, or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.” Thus, the Commission has the authority to use the formal complaint procedures developed under Section 1702 to hear complaints against charter-party carriers.

⁴ *Quelimane Co. v. Stewart Title Guar. Co.*, 19 Cal.4th 26, 38 (1998) (citations omitted).

⁵ *Id.*

⁶ MTD at 10–11.

⁷ *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94–95 (1998).

In *San Gabriel Transit, Inc. v. Titan Capital Corp.*, the Commission adjudicated a formal complaint against a charter-party carrier that is analogous to the complaint here.⁸ In that case, a taxi company alleged that two charter-party carriers were exceeding their charter-party authority by transporting passengers who had not prearranged the transportation. The Commission held an evidentiary hearing on the complaint, found violations of the defendants' charter-party carrier authority, and ordered those practices to cease. Thus, Waymo's argument that the Commission lacks authority to hear formal complaints against Waymo should be rejected.

II. The Complaint should not be dismissed for lack of standing.

Waymo argues that the Commission should dismiss the Complaint for lack of standing.⁹ Waymo's argument should be rejected for two reasons.

A. *First*, the Commission is not bound by a standing requirement in hearing complaints. In the 2023 decision that Waymo principally relies upon, *Nagel v. PG&E*, the Commission squarely held that, even though the complainants lacked standing, the Commission would hear their complaint because the Commission is not bound by a standing requirement.¹⁰

The three pre-*Nagel* decisions that Waymo relies upon also do not support Waymo's argument for dismissal of the Complaint.¹¹ In two of those decisions, the Commission held only that the complainants could not recover monetary compensation for property they did not own, not that their complaints must be dismissed. "Beery did not hold title to the property and therefore, had no standing to seek compensation for an unapproved easement."¹² The City of Ojai was "not the owner of the Playhouse" so it could not recover compensation "for damages to

⁸ D.03-02-008.

⁹ MTD at 7-9.

¹⁰ D.23-10-032 at 14-15.

¹¹ MTD at 8 n.28 (citing D.94-08-017, D.14-03-013, and D.17-09-008).

¹² *John C. Beery III*, D.14-03-013, at 5.

the Playhouse.”¹³ Complainants here are not seeking monetary compensation for damage to property they do not own.

In the third decision, *Employees United for Equity*, the Commission’s decision used the word “standing” but the claims were dismissed under other doctrines that do not apply here.¹⁴ The complainants asserted claims under the federal Small Business Act (“SBA”), the federal National Energy Policy Act (“NEPA”), and Title VI of the federal Civil Rights Act, but “Congress did not intend to create a private right of action under the SBA,” or “with respect to alleged violations of NEPA,” and “the allegations of violation of Title VI [were] derivative of the SBA and NEPA claims.”¹⁵ The complainants also asserted claims under Title VII of the federal Civil Rights Act, but “[t]he proper forum for the Title VII claims [was] before DFEH or the EEOC.”¹⁶ Finally, the complainants could not pursue claims for violation of a Commission General Order and its implementing legislation regarding women, minority, and disabled veteran business enterprises (“WMDVBE”) because the Commission had “set forth a specific complaint process which is mandatory” and limited to “aggrieved WMDVBEs.”¹⁷ Here, Complainants are not asserting violations of federal statutes, and the Commission has not established a “specific complaint process” for complaints that autonomous vehicle companies are violating their permits by routinely transporting unaccompanied minors.

All that being so, the decisions Waymo relies upon do not justify the enforcement of a nonexistent standing requirement against Complainants.

¹³ *City of Ojai*, D.17-09-008, at 8.

¹⁴ D.94-08-017, 1994 Cal. PUC LEXIS 494 (Cal. P.U.C. Aug. 3, 1994).

¹⁵ *Id.* at *4, *11, *12, *14.

¹⁶ *Id.* at *20.

¹⁷ *Id.* at *16.

B. Second, the facts alleged in the Complaint, and the reasonable inferences from those facts, viewed in the light most favorable to Complainants, are more than sufficient to show common law standing. Complainants allege that they are labor organizations and that their members include Transportation Network Company (“TNC”) drivers who compete with Waymo.¹⁸ The Complaint further alleges that Waymo obtains an unfair competitive advantage by regularly transporting unaccompanied minors in violation of its authority and without penalty, thereby “capturing a potentially lucrative market.”¹⁹

The standing of competitors to complain about unfair competition has been well-established since at least the U.S. Supreme Court’s decision in *Association of Data Processing Service Organizations, Inc. v. Camp*.²⁰ The complainant in *San Gabriel Transit*, for example, was asserting a competitive injury.²¹ In that proceeding, the complainant was a taxi company that alleged the defendant charter-party carriers were exceeding their authority by transporting street-hail passengers. The Commission heard the complaint and provided relief by ordering the defendants to take specific actions to cease operating outside their authority.²² Waymo urges that Complainants should not be permitted to “advance the private competitive interests of its TNC driver members,”²³ but, as the *San Gabriel Transit* decision shows, such competitive interests provide a well-established basis for standing.

Waymo contends that it is “nonsensical” for Complainants to allege that Waymo is “capturing a potentially lucrative market” because “Waymo cannot capture a ‘market’ of riders

¹⁸ Appendix to Complaint at 6.

¹⁹ *Id.* at 6-7.

²⁰ 397 U.S. 150 (1970).

²¹ *See supra* note 8.

²² D.03-02-008 at 16.

²³ MTD at 3.

that it expressly prohibits from using its service in its Terms of Service.”²⁴ To the contrary, Waymo and competitor TNC companies see a bright future in transporting unaccompanied minors who lack driver’s licenses. Waymo is actively petitioning the Commission to allow Waymo to transport unaccompanied minors.²⁵ In the meanwhile, however, Waymo’s illegal activity is allowing Waymo to build brand loyalty among parents and also among teenagers who will soon be adults who can lawfully book their own rides. Tobacco companies illegally marketed their brands to minors because the companies were looking to the future,²⁶ not because their business strategy was “nonsensical.”

Moreover, Uber recently relaunched its “Uber for teens” service in Los Angeles.²⁷ Thus, TNC drivers can lawfully transport unaccompanied minors after the drivers submit to a background check and with real-time tracking, additional safety procedures, and additional driver training.²⁸ When Waymo violates the law by transporting unaccompanied minors, Waymo takes away prospective customers from TNC drivers. As such, Complainants are in the same position vis-à-vis standing as the taxi company complainant in *San Gabriel Transit* that faced unfair competition from a charter-party carrier that was operating outside its permit and taking away the taxi company’s prospective customers. If the Commission believes that Complainants must include allegations about the relaunch of Uber for teens in their Complaint, the Commission should grant Complainants leave to add the allegation. Additionally, some TNC

²⁴ MTD at 8 n.29.

²⁵ MTD at 5-6.

²⁶ See *United States v. Philip Morris USA, Inc.*, 449 F.Supp.2d 1, 861–64 (D.D.C. 2006).

²⁷ Uber Blog, “Teen rides live in Los Angeles” (June 29, 2026), at <https://www.uber.com/us/en/blog/teen-rides-return-to-los-angeles/> (last visited July 20, 2026), archived at <https://perma.cc/4AU9-Y238>.

²⁸ Uber Techs, Inc., Advice Letter No. 36 – Submission Pursuant to D.24-12-004, July 17, 2025, at 2-5, <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/consumer-protection-and-enforcement-division/documents/tlab/advice-letters/d24-12-004-als/ubers-advice-letter-36.pdf>.

drivers use multiple platforms, so it is likely that some Uber and Lyft drivers also drive for HopSkipDrive, which transports unaccompanied minors.

While it is not necessary for the Commission to reach this issue, Complainants *also* have standing because they allege that Waymo's illegal activity is a risk to the workplace safety of Complainants' members who work as TNC drivers (and therefore are constantly on the roads) and as school employees, such as crossing guards (who work in locations that Waymo-riding unaccompanied minors are likely to frequent).²⁹ Protecting worker safety has always been germane to the purpose of labor organizations.³⁰ The concern that Waymo's transportation of unaccompanied minors, without any special protocols, is a risk to the safety of nearby workers (rather than just the safety of the unaccompanied minors) is not just speculation. In just the past few weeks, the media has reported separate incidents of unaccompanied minors shooting beads from the windows of a traveling Waymo vehicle and sitting in the car windows while the Waymo vehicle was moving in traffic.³¹

Complainants have also alleged that their members are interested in this issue because they are parents of minor children and Waymo's actions are putting children's safety at risk.³² Waymo urges that such an interest is not sufficient for standing because the Complainants' members' interests as parents are not germane to the Complainants' missions' as worker organizations.³³ Waymo takes an overly narrow view of labor organizations' missions in

²⁹ Appendix to Complaint at 7.

³⁰ See, e.g., *Indus. Union Dep't., AFL-CIO v. Am. Petroleum Inst.*, 448 U.S. 607 (1980).

³¹ Andrew J. Campa, *Kids sit in windows as Waymo travels through Westside. Witness alerts company; car doesn't stop*, L.A. Times, June 23, 2026, <https://www.latimes.com/california/story/2026-06-23/teens-hang-out-waymo-travels-through-westside-witness-alerts-company-car-doesnt-stop>, archived at <https://perma.cc/V9Y3-TZLZ>; Jaimie Ding, *Police detain 2 teens after a joy ride in a Waymo in Northern California*, AP News, July 8, 2026, <https://apnews.com/article/waymo-arrest-teens-san-mateo-police-d7163a63087671c784c1afb4eda8653e>, archived at <https://perma.cc/DEP7-FPJP>.

³² Appendix to Complaint at 8.

³³ MTD at 9.

advancing the interests of their members. Labor organizations have always engaged in activities that go beyond the workplace. But it is not necessary for the Commission to address this issue because Complainants have other bases for standing.

In sum, even if the Commission were bound by a standing requirement in hearing complaints, Complainants' allegations would satisfy that requirement.

III. The Complaint should not be dismissed because of other pending proceedings.

A. Waymo contends that the Complaint should be dismissed because it will interfere with the AV Rulemaking proceeding, R.25-08-013, which Waymo argues is the proper forum to adjudicate the issues Complainants present.³⁴ To the contrary, the AV Rulemaking proceeding will not determine whether Waymo has been violating existing legal requirements.

As Waymo knows, Complainants have participated in the AV Rulemaking proceeding.³⁵ Most recently, Complainants submitted comments on January 30, 2026, urging the Commission to hold an evidentiary hearing on the “ongoing violations by Waymo regarding the CPUC’s prohibition of the transportation of minors.”³⁶ Waymo responded: “[A] rulemaking is not the proper forum for pursuing enforcement or to hold an evidentiary hearing to adjudicate alleged violations by a single operator. To the extent the Commission seeks to investigate and enforce

³⁴ MTD at 12-13.

³⁵ See, e.g., Reply Comments of Waymo LLC on the Jan. 12, 2026 ALJ’s E-mail Ruling Regarding Questions from Jan. 6, 2026 E-mail Ruling, R.25-08-013, at 4-5 (Feb. 13, 2026), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M599/K152/599152738.PDF> (responding to SEIU et al.’s comments in the AV Rulemaking Proceeding).

³⁶ Opening Comments of SEIU Locals 521, 721, and 1021, on the Order Instituting Ruling to Establish Policies, Processes, and Rules Regarding Autonomous Vehicle Passenger Transportation Service, R.25-08-013, at 5 (Jan. 30, 2026), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M597/K841/597841175.PDF>.

potential violations of its requirements, the Commission can do so through its well-established mechanisms and procedures.”³⁷ Heeding Waymo’s response, SEIU filed the instant Complaint.³⁸

The AV Rulemaking and this Complaint cover different issues. The Rulemaking is considering whether “the Commission [should] modify its prohibition on the transportation of unaccompanied minors in AVs?”³⁹ The Complaint asks whether Waymo should be held accountable for violating its existing deployment permit and Passenger Safety Plan by routinely transporting unaccompanied minors.⁴⁰ The Rulemaking concerns the future and what the future rules should be; the Complaint considers past violations of the existing prohibitions. To be sure, Waymo hopes that the Rulemaking will grant AV operators permission to transport unaccompanied minors, subject to safety protocols, but that would not change the fact that Waymo has been transporting unaccompanied minors without permission or safety protocols. In *San Gabriel Transit*, the Commission was aware that “a number of issues raised” in the complaint would “be explored more fully in [a pending] rulemaking proceeding” but proceeded to resolve the complaint “based ... on the regulations as they now exist.”⁴¹ There is no reason for a different result here.

B. Waymo also urges that the Complaint should be dismissed with prejudice because of “ongoing staff inquiries” and Waymo’s submission of a Supplemental Advice Letter about unaccompanied minors.⁴² Staff inquiries and an advice letter do not provide a basis for dismissal

³⁷ Reply Comments of Waymo LLC on the Jan. 12, 2026 ALJ’s E-mail Ruling Regarding Questions from Jan. 6, 2026 E-mail Ruling, R.25-08-013, at 4 (Feb. 13, 2026), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M599/K152/599152738.PDF>.

³⁸ See Appendix to Complaint at 6 (quoting Waymo’s reply in the AV Rulemaking).

³⁹ Order Instituting Rulemaking to Establish Policies, Processes, and Rules Regarding Autonomous Vehicle Passenger Transportation Service, R.25-08-013, at 12 (Sept. 5, 2025) <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M578/K911/578911303.PDF>.

⁴⁰ See Appendix to Complaint at 2.

⁴¹ D.03-02-008 at 4.

⁴² MTD at 11-12.

of the Complaint. Waymo cites orders and decisions in which a proceeding was held in abeyance or stayed (not dismissed) *pending a formal Commission investigation*.⁴³ No formal investigation has been initiated here.

Complainants learned of the “staff inquiries” for the first time at the Prehearing Conference.⁴⁴ Complainants do not have any information about discussions between Commission staff and Waymo, and Complainants are not parties to such discussions. In Waymo’s Supplemental Advice Letter submitted on May 15, 2026—nearly two months after news of this Complaint was made public⁴⁵—Waymo provides additional information on what Waymo contends are its current procedures regarding unaccompanied minors.⁴⁶ In its Supplemental Advice Letter, Waymo states that “no further protest period is necessary or appropriate.”⁴⁷ Neither “staff inquiries” nor Waymo’s Supplemental Advice Letter provide any transparent

⁴³ See *Bereczky v. S. Cal. Edison Co.*, D.96-03-009, 1996 Cal. PUC LEXIS 246, at *5, *9 (Cal. P.U.C. Mar. 13, 1996) (finding first that “the conduct alleged does not constitute the basis for a complaint” because there is no rule against excessive tree trimming and instead suggesting that the best way to advocate for better tree trimming techniques is to participate in the ongoing Tree Trimming OII); I.98-12-012, 1998 Cal. PUC LEXIS 926, at *14 (Cal. P.U.C. Dec. 17, 1998) (instituting an investigation and staying a complaint pending determination in the investigation); I.96-02-043, 1996 Cal. PUC LEXIS 29, at *13 (Cal. P.U.C. Feb. 23, 1996) (instituting an investigation and holding a petition for authority to operate in abeyance until a final decision is issued); I.93-05-004, 1993 Cal. PUC LEXIS 366, at **10-11 (Cal. P.U.C. May 7, 1993) (ordering an investigation and holding an application for exemption in abeyance pending the outcome). Waymo also cites to I.18-09-003, at 4 (which we assume to refer to the Order Instituting Investigation issued on Sept. 14, 2018), where the Commission stated: “The Commission is currently holding the formal complaint in abeyance pending the resolution of other matters” (citing Order Extending Statutory Deadline, C.17-06-009 (June 7, 2018)). The Order Extending the Statutory Deadline states that the complainants in that case themselves moved to hold the proceeding in abeyance pending the resolution of other matters. D.18-05-048, at 2.

⁴⁴ Prehearing Conference Transcript 43:14-19.

⁴⁵ Rachel Swan, *Kids are riding in Waymos without an adult. Ride-hail drivers want California to crack down*, SF Chron., Mar. 18, 2026, <https://www.sfchronicle.com/sf/article/ride-hail-drivers-complaint-waymo-kids-22084343.php>, archived at <https://perma.cc/925E-7CA3>.

⁴⁶ See Waymo, Supplemental Advice Letter 0004-A (Tier 2), at A-1-3 (May 15, 2026), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/consumer-protection-and-enforcement-division/documents/tlab/av-programs/adviceletters/waymo-supplemental-advice-letter-0004a-tier-2-may-15-2026.pdf>.

⁴⁷ *Id.* (cover page).

process for resolving a complaint that Waymo has been routinely allowing unaccompanied minors to use its services, so they provide no basis for dismissing the Complaint.

C. Finally, Waymo urges that the Complaint should be dismissed with prejudice because the relief the Complaint seeks is unavailable through the complaint process. Waymo states that it is “unaware of any Section 1702 complaint proceeding, aside from enforcement proceedings initiated on the Commission’s own motion, where the Commission imposed monetary fines on the defendant under its general penalty authority.”⁴⁸ But the Commission has authority to issue penalties in a proceeding like this one under Public Utilities Code Section 2107, which sets minimum and maximum penalties of \$500 and \$2,000 for each “violat[ion] or fail[ure] to comply with” a statute or “any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the Commission.” In *UCAN v. SBC Communications, Inc.*, for example, the Commission ordered AT&T to pay a penalty of \$500 per day for a nine-year period, or \$1,691,000 in total, for failing to comply with the warm line policies.⁴⁹ In *UCAN v. Pacific Bell*, the Commission ordered a penalty of \$35,000 per day, totaling to \$15,225,000, for unlawful marketing practices.⁵⁰

Moreover, the Commission could provide relief in addition to monetary penalties by requiring Waymo to take the necessary steps to cease and desist from carrying unaccompanied minors. The Commission issued such a cease-and-desist order in *San Gabriel Transit*.⁵¹ Waymo’s position is that Waymo is *not* obligated to stop transporting unaccompanied minors—only to

⁴⁸ MTD at 12.

⁴⁹ *Util. Consumers’ Action Network v. SBC Commc’ns, Inc.*, D.08-08-017 (Cal. P.U.C. Aug. 21, 2008), *affirmed in part and modified on other grounds, AT&T Cal. v. Pub. Utils. Comm’n*, 2010 WL 2031268 (Cal. Ct. App. May 24, 2010).

⁵⁰ *Util. Consumers’ Action Network v. Pac. Bell*, D.02-02-027, at 41.

⁵¹ D.03-02-008 at 16.

have protocols that prevent unaccompanied minors from personally chartering rides.⁵²

Complainants contend that Waymo is wrong. As such, a cease-and-desist order would resolve that issue and provide relief. In sum, the Commission is not powerless to award relief in this complaint proceeding if Waymo has been violating its permit authority. As discussed in Part VII, *infra*, a motion to dismiss is not the proper vehicle to litigate the availability of particular remedies.

IV. The Complaint states a viable claim against Waymo.

The Complaint alleges that “Waymo’s services are routinely used to transport unaccompanied minors in violation of the Commission’s prohibition on transporting unaccompanied minors.”⁵³ The Complaint alleges that this practice violates D.20-11-046, which states that “[n]o one under 18 may travel unaccompanied, regardless of whoever chartered the vehicle,”⁵⁴ and Waymo’s approved Passenger Safety Plan, which provides that “riders under 18 must be accompanied by an adult account holder.”⁵⁵ The Complaint references *New York Times* and *San Francisco Chronicle* articles from January 2026 describing parents’ routine practice of using Waymo to transport their unaccompanied minor children, and notes Waymo’s January 2026 statement before the Commission that it is “aware” of these reports.⁵⁶ Numerous other reports of unaccompanied minors using Waymo’s services have appeared in the media.⁵⁷ These allegations, which must be assumed to be correct, are sufficient to state a claim.

A. Waymo argues that these allegations do not state a claim because the Commission’s Deployment Decision does *not* prohibit Waymo from transporting unaccompanied minors—but

⁵² See *infra* Part IV.A.

⁵³ Appendix to Complaint at 2.

⁵⁴ *Id.* (quoting D.20-11-046 at 94).

⁵⁵ *Id.* at 8-9 (quoting Passenger Safety Plan).

⁵⁶ *Id.* at 2, 4-5.

⁵⁷ See, e.g., Jaimie Ding, AP News, *supra* note 31; Andrew J. Campa, L.A. Times, *supra* note 31.

merely requires that Waymo have a protocol that prohibits unaccompanied minors from personally “chartering” its services.⁵⁸ To the contrary, D.20-11-046 clearly states: “The Commission currently prohibits the transport of unaccompanied minors in autonomous vehicle passenger service” and “[n]o one under 18 may travel unaccompanied, regardless of whoever chartered the vehicle.”⁵⁹

Indeed, during the rulemaking process, Waymo requested that the Commission modify its Proposed Decision so it would merely prohibit unaccompanied minors from *chartering* AVs:

The Proposed Decision states that “[t]he Commission currently prohibits the transport of unaccompanied minors in autonomous vehicle passenger service.” In point of fact, D.18-05-043 requires each AV-TCP to develop a plan to ensure that AV service “is available only to be chartered by adults 18 years and older,” and to provide that plan to the Commission. We recommend revising the PD to align with D.18-05-043.⁶⁰

The Commission emphatically rejected Waymo’s proposal:

Waymo states that the Commission currently prohibits the transport of unaccompanied minors in autonomous vehicle passenger service. Yet Waymo claims that D.18-05-043 requires each AV-TCP to develop a plan to ensure that AV service is available only to be chartered by adults 18 years and older. Waymo suggests revising the decision so that it is aligned with D.18-05-043.

*The Commission rejects Waymo’s request. No one under 18 may travel unaccompanied, regardless of whoever chartered the vehicle. Waymo’s requested change would create a loophole in the Commission’s regulations that would permit an adult to charter a vehicle for the transport of a minor without the chartering adult being present in the vehicle.*⁶¹

Moreover, Waymo has acknowledged numerous times before the Commission that there is currently a “blanket prohibition on the transportation of unaccompanied minors.”⁶² The

⁵⁸ MTD at 15-16.

⁵⁹ D.20-11-046 at 36, 94.

⁶⁰ Opening Comments of Waymo LLC on Proposed Decision of Commissioner Shiroma, R.12-12-011 (Nov 4, 2020), at 14, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M350/K325/350325105.PDF>.

⁶¹ D.20-11-046 at 94 (emphasis added).

⁶² Opening Comments of Waymo LLC on the Order Instituting Rulemaking to Establish Policies, Processes, and Rules Regarding Autonomous Vehicle Passenger Transportation Service, R.25-08-013, at 3

Commission has said so as well.⁶³

Waymo insists, however, that because Ordering Paragraph 7(k) of D.20-11-046 refers only to the charter of services, the rest of the Decision is meaningless, regardless of what the Commission intended. Ordering Paragraph 7(k) states:

Permit-holders participating in the driverless AV deployment program shall ... [e]nsure that the service is available only to be chartered by adults 18 years and older, and provide proof of such assurance to the Commission with their Transportation Charter-Party Carrier permit application and upon request anytime thereafter.⁶⁴

Waymo's authorities do not support its cramped reading of the Decision as limited to the language in Ordering Paragraph 7(k). In *Application of San Diego Gas & Electric Co. for an Ex Parte Order*, the Commission stated that "[w]hile an ordering paragraph would take precedence over an *inconsistent* statement in the opinion section of a decision," ordering paragraphs do not otherwise "supersede[] or nullif[y] the other provisions of the decisions."⁶⁵ Similarly, *City of Healdsburg v. PG&E* assumed "that the ordering paragraphs and a paragraph in the body of the decision are *inconsistent*."⁶⁶ Here, there is no inconsistency between Ordering Paragraph 7(k) and the remainder of the decision.

Equally to the point, D.20-11-046 requires, in Ordering Paragraphs 8 and 18, that an autonomous vehicle operator like Waymo can operate driverless service only in accordance with

(Oct. 31, 2025), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M586/K043/586043239.PDF>; see also *id.* at 11; Response of Waymo LLC on the Jan. 12, 2026 ALJ's E-mail Ruling Regarding Questions from Jan. 6, 2026 E-mail Ruling, R.25-08-013, at 10 (Jan. 30, 2026) ("The Commission should lift the prohibition on the transportation of unaccompanied minors in AVs."), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M597/K305/597305739.PDF>.

⁶³ See, e.g., Order Instituting Rulemaking to Establish Policies, Processes, and Rules Regarding Autonomous Vehicle Passenger Transportation Service, R.25-08-013, at 12 (Sept. 5, 2025) ("News reports have indicated some parents have put their unaccompanied minor children in AVs. This is explicitly disallowed by existing Commission regulations and carrier terms of service."), <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M578/K911/578911303.PDF>.

⁶⁴ D.20-11-046 at 129-30.

⁶⁵ D.97-11-013, 1997 Cal. PUC LEXIS 1000, at *9, *11 (Cal. P.U.C. Nov. 5, 1997).

⁶⁶ D.89-04-048, 1989 Cal. PUC LEXIS 221, at *40 (Cal. P.U.C. Apr. 12, 1989).

an approved Passenger Safety Plan.⁶⁷ Waymo’s Passenger Safety Plan submitted to the Commission states that “riders under 18 must be accompanied by an adult account holder”—not just that riders under 18 cannot personally charter Waymo’s services.⁶⁸

To the extent that Waymo is suggesting that the Complaint alleges only a violation of Ordering Paragraph 7(k), that is not correct. The Complaint must be read liberally and in the light most favorable to Complainants, and it states multiple times that Waymo is violating D.20-11-046 (not just Ordering Paragraph 7(k)) and Waymo’s Passenger Safety Plan.⁶⁹ Finally, even if the Complaint were limited to Ordering Paragraph 7(k), it is not possible to determine from the face of the Complaint that none of the unaccompanied minors who are using Waymo’s services personally chartered those services, so the Complaint cannot be dismissed based on that assumption.

B. Waymo further argues that the Complaint does not state a claim because holding Waymo strictly liable for an unaccompanied minor’s use of Waymo’s services would be inconsistent with Ordering Paragraph 7(k), which in Waymo’s view requires only that Waymo’s Terms of Service provide that minors cannot charter Waymo’s services.⁷⁰ As demonstrated above, however, Waymo’s obligations are not so limited. Moreover, Waymo’s argument offers a false choice between strict liability and non-enforcement. The Complaint, read in the light most favorable to Complainants, alleges that Waymo did not take reasonable steps to prevent unaccompanied minors from being transported in Waymo’s autonomous vehicles.

⁶⁷ D.20-11-046 at 136, 139.

⁶⁸ Waymo LLC, Advice Letter No. 0003 (Tier 2), Attachment C, at 10 (Mar. 26, 2025), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/consumer-protection-and-enforcement-division/documents/tlab/av-programs/tcp0038152a-waymo-al-0003_a1b.pdf.

⁶⁹ Appendix to Complaint at 2, 3-5, 8-10.

⁷⁰ MTD at 18-19.

The Complaint alleges that Waymo’s services are “routinely used to transport unaccompanied minors,” that Waymo is aware of these allegations, and yet has not provided any assurances that this practice has ended.⁷¹ The Complaint asks the Commission to consider whether Waymo has “taken the necessary precautions, awareness measures, or accountability measures to ensure that unaccompanied minors are not being transported,” and decide “[w]hat enforcement mechanisms ... are necessary to prevent future violations and ensure operation in compliance with permits.”⁷²

In sum, the Complaint is sufficient to allege that Waymo is at fault, so it is not necessary to consider, at the motion to dismiss stage, whether Waymo should be held strictly liable.

C. Waymo also insists that the Complaint should be dismissed with prejudice without the need for a hearing because “Waymo employs reasonable measures to detect unaccompanied minors and enforces its Terms of Service prohibition,” and Waymo may be “unaware that an unaccompanied minor has obtained access to a Waymo AV,” and accountholders may be “misrepresenting that they are over 18.”⁷³ Waymo’s factual assertions raise disputed issues that cannot be resolved by a motion to dismiss.

V. Holding Waymo accountable for transporting unaccompanied minors would not violate due process.

Contrary to Waymo’s contention,⁷⁴ holding Waymo liable for violating its permit by transporting unaccompanied minors would not violate Waymo’s constitutional due process rights. Due process requires that regulated parties receive “fair notice of what is prohibited or

⁷¹ Appendix to Complaint at 2, 4-5.

⁷² *Id.* at 9-10.

⁷³ MTD at 19-20.

⁷⁴ MTD at 20-22.

required.”⁷⁵ Due process also requires a party be “provided with notice[] and an opportunity to be heard” before a decision is issued.⁷⁶

Here, Waymo has fair notice based on the Deployment Decision and Waymo’s own Passenger Safety Plan and Comments before the Commission that Waymo may not transport unaccompanied minors.⁷⁷ Indeed, it is hard to imagine a situation in which a regulated party was provided with clearer notice: Waymo asked the Commission to modify its Proposed Decision so Waymo’s obligations would be limited to preventing minors from personally chartering Waymo service, and the Commission explicitly rejected Waymo’s request.⁷⁸ Waymo also received a copy of the Complaint and will have an opportunity to be heard before the Commission issues a decision on the Complaint. Thus, Waymo’s due process rights are safe.

Waymo’s reliance on *Kerman Telephone Co. v. Public Utilities Commission* is misplaced.⁷⁹ Petitioners in that case had “no basis to infer any disclosure requirement” and had effectively been penalized for “failing to intuit” an unstated obligation.⁸⁰ Here, Waymo has been told and has acknowledged that the Deployment Decision prohibits the transport of unaccompanied minors.⁸¹

Waymo also appears to contend that it would violate due process for Waymo to be penalized for transporting unaccompanied minors based on a “strict liability” standard.⁸² As an initial matter, it is well-settled that the due process clause allows the imposition of civil penalties

⁷⁵ *Kerman Tel. Co. v. Pub. Utils. Comm’n*, 94 Cal.App.5th 920, 932 (2023).

⁷⁶ *Util. Consumers’ Action Network v. SBC Commc’ns, Inc.*, D.09-04-036, at 68.

⁷⁷ See D.20-11-46; Waymo LLC, Advice Letter No. 0003 (Tier 2), Attachment C, at 10 (Mar. 26, 2025), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/consumer-protection-and-enforcement-division/documents/tlab/av-programs/tcp0038152a-waymo-al-0003_a1b.pdf; *supra* note 62.

⁷⁸ See *supra* Part IV.A.

⁷⁹ MTD at 21-22.

⁸⁰ *Kerman Tel. Co.*, 94 Cal.App.5th at 932, 933.

⁸¹ See *supra* notes 62, 63.

⁸² MTD at 20-22.

without regard to scienter.⁸³ The Commission can and does impose civil penalties for violations of its decisions and rules in the absence of any scienter requirement.⁸⁴ Equally to the point, the Complaint sufficiently alleges that Waymo’s transportation of unaccompanied minors was not a one-time event that was beyond Waymo’s control but a routine practice that Waymo knows about and fails to prevent.⁸⁵ As such, this issue cannot be resolved on the pleadings.

While it is not necessary to pursue this issue further at the pleading stage, it is obvious that Waymo had and continues to have the ability to do more to prevent the transportation of unaccompanied minors. Waymo “can see inside the vehicles” and “knows where the vehicle is going.”⁸⁶ “Waymo has all [the] information”—such as the account holder’s information, the appearance of the rider, and the departure point and destination of the rider—“before the ride starts,”⁸⁷ such that Waymo could make additional efforts to confirm that an adult is in the vehicle. Moreover, after the Complaint was filed, Waymo reportedly adopted additional protocols to prevent the transportation of unaccompanied minors,⁸⁸ which raises questions as to why these protocols were not in effect earlier and what additional protocols Waymo could adopt.

⁸³ See *Stansell v. Revolutionary Armed Forces of Colombia*, 45 F.4th 1340, 1355 (11th Cir. 2022) (collecting cases).

⁸⁴ See *Pac. Gas & Elec. Co. v. Pub. Utils. Comm’n*, 237 Cal.App.4th 812, 844–45 (2015).

⁸⁵ See *supra* at 15–16.

⁸⁶ Prehearing Conference Transcript 27:12–17.

⁸⁷ Prehearing Conference Transcript 27:18–23.

⁸⁸ See Aarian Marshall, *Waymo Is Trying to Crack Down on Solo Kids in Driverless Cars*, WIRED, May 1, 2026, <https://www.wired.com/story/waymo-trying-to-crack-down-on-solo-kids-in-driverless-cars/>, archived at <https://perma.cc/L2KB-R2JA> (“We are continuing to refine our system and processes for accuracy over time.”).

VI. The Complaint advises Waymo and the Commission of the grounds for the Complaint and the alleged injury.

The Complaint complies with Commission Rule 4.2 by advising Waymo and the Commission of the grounds of the Complaint and the alleged injury.⁸⁹ As relevant to Waymo's motion, Rule 4.2(a) requires that a complaint provide "the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired."⁹⁰ The Commission has described Rule 4.2 as requiring the complaint to identify "the nature of the wrong," "the injury," and "the relief requested."⁹¹ Here, the Complaint identifies "the wrong"—Waymo's routine transportation of unaccompanied minors in violation of D.20-11-046 and its Passenger Service Plan—and alleges supporting facts.⁹² It identifies the "injury" complained of—competitive injury and safety risks.⁹³ And it requests "relief," including relief pursuant to Public Utilities Code Sections 701, 2107, 2108, 5378(a), 5411 and attorney's fees.⁹⁴ Those allegations advise both Waymo and the Commission of the conduct challenged, the grounds for the claim, the alleged injury, and the relief sought.

The governing standard for complaints in a court proceeding is fair notice. "Fairness dictates that a complaint give the defendant sufficient notice of the cause of action stated to be able to prepare the case."⁹⁵ Administrative pleadings are construed at least as functionally; in administrative proceedings, there is no requirement of "adherence to the technical rules of

⁸⁹ See *Pac. Bell Tel. Co. v. Halo Wireless, Inc.*, Administrative Law Judge's Ruling Denying Halo Wireless, Inc.'s Partial Motion to Dismiss Counts I, II, and III of AT&T California's Complaint, C.12-02-007, at 1, 8, 14 (May 30, 2012) (finding causes of action pleaded with specificity required by Rule 4.2(a)).

⁹⁰ 20 Cal. Code Regs. § 4.2(a).

⁹¹ *Wood v. Tahoe Park Water Co.*, D.12-07-004, at 11.

⁹² See Appendix to Complaint at 4–5, 8.

⁹³ *Id.* at 6–8.

⁹⁴ *Id.* at 10.

⁹⁵ *Leek v. Cooper*, 194 Cal.App.4th 399, 413 (2011).

pleading.”⁹⁶ The Commission “construes complaints liberally, in the interests of justice.”⁹⁷ Any alleged imprecision is immaterial absent a showing that Waymo is actually misled and cannot present a defense.⁹⁸

Waymo relies on *Leek v. Cooper*, where the complaint failed to allege facts notifying the defendant that the plaintiffs sought to hold him liable under the distinct theory of alter-ego liability.⁹⁹ Here, however, the Complaint does not leave Waymo to guess why Waymo is a defendant. Rule 4.2 does not require any additional detail in a complaint or require that a complainant identify every person injured by the alleged misconduct when the complaint is not seeking individualized monetary damages. In any event, the Complaint identifies who suffered the alleged injury.¹⁰⁰ And the Complaint explains the grounds on which Complainants request Commission action. Waymo’s contention that the Complaint lacks supporting factual allegations is likewise contradicted by the Complaint itself. The Complaint alleges that Waymo routinely transports unaccompanied minors and cites contemporaneous news sources supporting those allegations.¹⁰¹

Finally, Waymo argues that the Complaint should be dismissed because four news articles included with Complainants’ compendium of exhibits did not upload properly.¹⁰² The pleading itself included hyperlinks to those four articles, so Waymo can find them by clicking on the

⁹⁶ *Wright v. Munro*, 144 Cal.App.2d 843, 848 (1956); accord *Stoumen v. Munro*, 219 Cal.App.2d 302, 307 (1963) (“Adherence to technical rules of pleading is not required.”).

⁹⁷ *City of Huntington Beach v. NextG Networks of Cal, Inc.*, Joint Ruling of the Assigned Commissioner and Assigned Administrative Law Judge Regarding Motion to Dismiss, C.08-04-037, at 7 (Nov. 6, 2008).

⁹⁸ *Pac. Gas & Elec. Co. v. Pub. Utils. Comm’n*, 237 Cal.App.4th 812, 860–63 (2015); *Stearns v. Fair Emp. Prac. Comm’n*, 6 Cal.3d 205, 213–14 (1971).

⁹⁹ *Leek v. Cooper*, 194 Cal.App.4th at 415.

¹⁰⁰ See Appendix to Complaint at 6–8.

¹⁰¹ See *id.* at 4–5.

¹⁰² MTD at 23-24.

hyperlinks.¹⁰³ Additionally, the pleading provides the author, article title, publication, and publication date for those four articles, so Waymo also can find them by using the search engine available from its sister Alphabet-subsidary company Google. More fundamentally, the pleading itself states the Complaint’s operative allegations; the cited articles merely provide support for those allegations. The Complaint should therefore not be dismissed.

VII. A motion to dismiss is not the appropriate vehicle to challenge remedies.

Waymo argues that Complainants should not recover attorney’s fees for prevailing on their Complaint.¹⁰⁴ A motion to dismiss is not the appropriate vehicle to argue about remedies. Waymo concedes that the Commission treats motions to dismiss like demurrers.¹⁰⁵ A demurrer “tests the sufficiency of the factual allegations of the complaint rather than the relief suggested in the prayer of the complaint.”¹⁰⁶ Accordingly, “[a] demurrer is not the appropriate vehicle to challenge a portion of a cause of action demanding an improper remedy.”¹⁰⁷

Nor has Waymo established that an award of attorney’s fees would be categorically beyond the Commission’s authority. In *Consumers Lobby Against Monopolies v. Public Utilities Commission*, the California Supreme Court held that the Commission “possesses equitable power to award attorney fees under the common fund doctrine in quasi-judicial reparation actions.”¹⁰⁸ The California Supreme Court has also recognized that equitable power may be used to award

¹⁰³ Appendix to Complaint at 4 n.4, n.5, n.7, 5 n.8.

¹⁰⁴ MTD at 24.

¹⁰⁵ MTD at 6.

¹⁰⁶ *Stop Youth Addiction, Inc. v. Lucky Stores, Inc.*, 17 Cal.4th 553, 575, n.11 (1998) (quoting *Venice Town Council, Inc. v. City of Los Angeles*, 47 Cal.App.4th 1547, 1562 (1996)), *superseded by statute on other grounds*, Cal. Bus. & Prof. Code §§ 17203-04.

¹⁰⁷ *Caliber Bodyworks, Inc. v. Superior Ct.*, 134 Cal.App.4th 365, 384–85 (2005); *see also Kong v. City of Hawaiian Gardens Redevelopment Agency*, 108 Cal.App.4th 1028, 1047 (2002) (“[A] demurrer cannot rightfully be sustained to ... a particular type of ... remedy”).

¹⁰⁸ *Consumers Lobby Against Monopolies v. Pub. Utils. Comm’n*, 25 Cal.3d 891, 908 (1979); *see also Sonitrol Security, Inc. v. Pac. Tel. & Tel. Co.*, D.84-11-009, 1984 Cal. PUC LEXIS 878, at *7-9, *11-12 (Cal. P.U.C. Nov. 7, 1984) (awarding attorney’s fees based on common law principles).

attorney's fees to a "private attorney general" in the absence of any statute providing for such fees.¹⁰⁹ Whether Complainants ultimately satisfy the requirements for a fee award is a question to be resolved later, not through a motion to dismiss.

CONCLUSION

For the foregoing reasons, Waymo's motion to dismiss the complaint should be denied.

Dated: July 24, 2026

Respectfully submitted,

By: /s/ Marisa C. Lowe

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¹⁰⁹ *Serrano v. Priest (Serrano III)*, 20 Cal.3d 25, 47 (1977).