

In the Supreme Court of the United States

No. 20-5820

S. PATRICK MENDEL, et al

Petitioner

v.

Supreme Court, U.S.  
FILED

OCT 05 2022

OFFICE OF THE CLERK

LIANE RANDOLPH, et al.

Respondents

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*ON PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT*

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION PRESENTED

Congress regulates transportation throughout the United States and preempts by law State interference, to insure a competitive marketplace; and importantly to secure the safety of the American people.

Significantly, Congress enacted transportation laws, prohibiting the sale and arrangement of passenger transportation to private motor vehicles, today's *rideshare*, - laws designed to prevent criminal conduct including the murder of innocent unsuspecting citizens, while preempting State interference and assigning by law the enforcement of their statutory scheme upon the federal courts.

Since 2015, the Appellate and District Courts, in hundreds of cases, including this one, have failed to recognize, apply or enforce the laws, the *Preventatives* of the Congressional Transportation scheme leading to the documented and continuing murder of innocent unsuspecting citizens and related criminal and civil misconduct.

The solution to stop the criminal conduct is as simple as enforcement of the federal laws, by the federal courts, as delegated by the laws of Congress.

**QUESTION:** Does this pro se case, alleging fatal systemic failures resulting in the continuing preventable murder of innocent citizens, where literally the lives of tens of thousands of lives, are at risk daily, deserve and demand this Court's immediate attention and supervisory review?

## I. PARTIES TO THE PROCEEDINGS

**Ninth Circuit Case No. 21-15910** [Dist. Court Case No. 4:19-cv-03244-JST]

**Petitioner:** S. Patrick Mendel, (Appellant/Plaintiff below)

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**Respondents/Defendants:**

**LIANE RANDOLPH**, in her individual and official capacity as Commissioner, California Public Utilities Commission;

**CALIFORNIA PUBLIC UTILITIES COMMISSION**; State of California Regulatory Agency

**MICHAEL PICKER**, in his individual and Official Capacity as President, Commissioner, California Public Utilities Commission;

**MARYBEL BATJER**, in her individual and Official Capacity as President, Commissioner, California Public Utilities Commission;

**GENEVIEVE SHIROMA**, in her individual and Official Capacity as Commissioner, California Public Utilities Commission,;

**CLIFFORD RECHTSCHIFFEN**, in his individual and official capacity as Commissioner, California Public Utilities Commission;

**MARTHA GUZMAN ACEVES**, in her individual and official capacity as Commissioner, California Public Utilities Commission;

**MARITZA PEREZ**, in her individual and official capacity as Section Supervisor Badge #11, Transportation License Section California Public Utilities Commission;

**UBER TECHNOLOGIES, INC.**; a Delaware corporation;  
**RAISER-CA LLC**, a subsidiary of Uber Technologies Inc.;  
**UBER USA, LLC**, a subsidiary of Uber Technologies Inc.;

**TRAVIS KALANICK**, Founder, Board Member, former CEO; and  
**GARRETT CAMP**, Founder, Board Member and Founder; and  
**RYAN GRAVES**, Founder, Board Member, former CEO; and  
**DEREK ANTHONY WEST**, Uber General Counsel for Uber Technologies Inc.  
**SCOTT SCHOOLS**, Uber Chief Compliance and Ethics Officer  
**CITY AND COUNTY OF SAN FRANCISCO;**  
**SAN FRANCISCO INTERNATIONAL AIRPORT COMMISSION,**  
**IVER C. SATERO**, Director, San Francisco International Airport;  
**LICHEN & LISS-RIORDAN P.C.**, a law firm;  
**SHANNON LISS-RIORDAN**, Attorney of Lichten & Liss-Riordan, PC;  
**ADELAIDE PAGANO**, Attorney of Lichten & Liss-Riordan, P.C.;  
**ANNE KRAMER**, Attorney of Lichten & Liss-Riordan, P.C.,

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## **TABLE OF AUTHORITIES**

**California v. Zook, 336 U.S. 725 (1949)**

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**PETITION**

Petitioner S. Patrick Mendel respectfully prays that a writ of certiorari issue to review the alleged errors of Decision, Judgments and Orders, below of the United States Court of Appeals for the Ninth Circuit, in case No. 21-15910.

**It is unlawful, under federal law, to sell or arrange passenger transportation to private motor vehicles as an occupation or business! [49 CFR §372.101]**

Defendant/Respondent Uber's *rideshare* business does what federal law prohibits: the selling and arranging passenger transportation to private motor vehicles, as an occupation and business - contrary to federal law prohibitions, with

the unconstitutional support of the laws enacted by the State of California and the City and County of San Francisco.

This “brokering to private motor vehicles” i.e *Rideshare*, is unlawful because, as Congress and its agencies and this Court’s review in *California v. Zook*, 336 U.S. 725 (1949) explained: it has always led to the preventable murder and other criminal conduct of rape and assault upon unsuspecting traveling passengers rendering travel within the States and across the United States unsafe and deadly.

There are now hundreds of federal cases involving “Transportation Network Companies,” i.e. Uber Respondent here, conducting *today’s rideshare*, that did or are passing through the federal courts, and not one of the cases has acknowledged or recognized the applicable federal transportation laws rendering these business entities *rideshare* operations as unlawful and defiant of federal law. See: 49 U.S.C. §13506(b)(2) and 49 CFR §372.101. In fact, by the actions of the lower Courts, they have given “tacit approval” to this unlawful business practice.

The decision below is contrary to the authorities of this Court under *California v. Zook*, 336 U.S. 725 (1949) and the constitutional transportation laws of the United States. The erroneous decisions, judgments and orders in this case were further supported below by the erroneous errors of many other appellate and district courts throughout the United States as further shown below.

IF - Appellant Mendel fails to secure review by this Court, it is guaranteed that the weekly preventable murder of innocent citizens will continue unabated.

The solution is simple. Federal Court enforcement, under 49 U.S.C. §§14704 and 49 U.S.C. §14707, of the federal transportation laws, enforcing 49 U.S.C. §13506(b)(2) and 49 CFR §372.101, designed to prevent these senseless, preventable acts of murder and other criminal and civil misconduct.

## **OPINIONS BELOW**

*S. Patrick Mendel v. Liane Randolph, et al*, filed July 7, 2022, Ninth Circuit Court of Appeals, see appendix.

## **JURISDICTION**

The jurisdiction of this Court is invoked under 28 U.S. C. §1254(1). No petition for rehearing was filed below.

## **CONSTITUTIONAL PROVISIONS AND LAWS INVOLVED**

U.S. Constitution, Article I, § 8, Clause 3 (Commerce Clause); §10, Clause 1 (Contracts Clause); the Fifth, Ninth, Tenth and Fourteenth Amendments of the

United States Constitution

Supremacy Clause of the U.S. Constitution

Commerce Clause of the U.S. Constitution

## **FEDERAL LAWS**

49 U.S.C. §14501(d), 49 U.S.C. §14704, 49 U.S.C. §14707, 49 U.S.C. §13506(b)(2)  
49 U.S.C. §14505

## **FEDERAL REGULATIONS**

49 CFR §372.101

## **SUMMARY OF THE CASE**

Mr. Mendel, Appellant here, is pro se and will proceed in layman's terms to describe the issues for this Court to consider.

In summary, Mr. Mendel for the second time proceeded into federal court under his constitutional right to petition the government for a redress of grievances.

Briefly, Mr. Mendel's complaint stated that his occupation and business had been destroyed by Uber Technologies, Inc. for a second time, and the cooperating State and County officials repeated violations of federal transportation laws.

Mr. Mendel previously sued Uber and some of these officials in a suit with his business partner in a case entitled Overton v. Uber Technologies, Inc. 333 F.Supp.3d 927 (Dist. Ct ND California 2018) and see Overton v. Uber Technologies, Inc., Case No. 18-16610, filed March 10, 2020.

UNDER this Court's authority "res judicata" DOES NOT APPLY to conduct occurring in the future, particularly repeated violations of the law, well beyond any previous Court decisions involving the same litigants. If Mendel is robbed by the respondent and files a complaint and it is dismissed, and Mendel replaces the stolen property and secures his home and is robbed again by the same respondent, the lower courts claim res judicata applies ...this is an abuse of judicial doctrines contrary to the authorities of this Court.

According to the appellate and district courts' below, "res judicata" applies under their twist and interpretation of the judicial doctrine and the repeated violations of federal laws Mendel complains about, which harmed him personally, and were flat out ignored. Mendel's cause of action was dismissed in the district court and rubber stamped by the Ninth Circuit Court of Appeals. Mr. Mendel asserts rubber stamped is meant to emphasize the fact that the Ninth Circuit panel ignored the violations of federal transportation laws and simply made a decision which simply repeated the district court position. The decision defeats the rule of law and this Court's authorities.

It is beyond dispute and well known by anyone with an 8<sup>th</sup> grade education that Uber operates a Rideshare business, at least 60 percent of the public has the Uber smartphone application on their phones, the drivers are known as "unlicensed individuals" using their private motor vehicles and they are driving for Uber to earn

an income, the drivers seek income for their services and Uber takes a cut of the fees the passenger pays. THIS VIOLATES the plain language of 49 CFR §372.101.

Additionally, Mr. Mendel sought to hold the law firm of Lichten and Liss-Riordan, who have repeatedly brought labor class-actions on behalf of Uber drivers before Northern District of California, accountable for their failure to protect their clients, Uber drivers, which Mr. Mendel was one. Mendel alleges these attorneys had a legal and ethical duty to inform the district and appellate courts of the violations of federal transportation laws and prevent the murders of Uber drivers by the Uber assigned passengers. Most despicable is these attorneys were noticed of the applicable federal transportation laws by Mendel and his pleadings in the district court! The documented court records show the callous disregard for human life of this Law Firm and the named attorney respondents.

The lower Appellate and District Courts refused to consider or apply 49 U.S.C. §13506(b)(2) and 49 CFR §372.101, which prohibit the sale or arrangement of passenger transportation to private motor vehicles as an occupation or business. If these attorneys actually cared for their Uber drivers, at least 50 of the now more than 60 Uber drivers, murdered by their Uber assigned passengers would be alive today!

## STATEMENT OF THE CASE

Since 1942, the federal government has prohibited the “brokering”- the sale and arrangement of passenger transportation to private motor vehicles, by *travel bureaus*, or “*brokers*,” because of the criminal bloodshed that resulted. As this Court explained in California v. Zook, 336 U.S. 725 [69 S.Ct. 841] (1949), the I.C.C. completed a nearly 2 year investigation of the problem and the inability or neglect of the problem by the several States to resolve this preventable murder, rape and assault danger to the traveling public, which compelled Congress to act.

Congress has by law preempted State and local governments from enacting any laws related to the *intrastate* rates, routes or services of ANY ...broker. However, as Mendel has alleged and the laws of California undisputedly show, see California Codes, Article 7, Transportation Network Companies §§ 5430-5450, California's legislature violated the Supremacy and Commerce clause making laws that are in direct conflict with federal laws. When State law grants consent for conduct prohibited by federal law, this is even to a layman a violation of the supremacy clause and the Commerce clause of the US Constitution.

Congress regulates *prearranged passenger transportation* under the Real Interstate Drivers Equity Act, "RIDE Act" and any broker, freight or passenger, under 49 U.S.C. §14501(b). The Federal Motor Carrier Safety Administration does not issue "Passenger broker permits or licenses, but see 49 U.S.C. §13904(d) and §13904(f). FYI – any provision of transportation law that grants the Secretary of Transportation "discretion" is backed up with federal regulations imposing the discretionary item as mandatory. SEE: Broker bonds and insurance under §13904(f).

Respondent Uber *brokers* under a California permit, by written contract with private individuals, a prohibited federal occupation, using their private vehicles, for the unlawful purpose of providing *prearranged passenger transportation* via private motor vehicles using an Uber embedded arbitration contract for disputes to unlawfully rout federal court jurisdiction, escaping the intent of Congress to exempt drivers of interstate passenger transportation from arbitration as assigned under law by Congress, see 9 U.S.C. §1, [Exemption from arbitration for transportation workers]

The federal regulatory scheme designed to prevent criminal conduct has been thwarted by Respondents' Uber with the preempted cooperation of California State Officials and Local governments for mutual profit. California's Public Utilities Commission taxes each and every trip Uber sells and arranges contrary to the

purpose and intent of federal law 49 U.S.C. §14505 exempting interstate passenger transportation from any State taxation. In fact, the California CPUC issued a “RESOLUTION” found on their official website, acknowledging they overcharged [PUCTRA] fees to the tune of tens of millions of dollars. California’s own PUCTRA laws prohibit the CPUC from collecting more than their budgetary needs. See: California Public Utility Code section 421, they are to collect fees equal to their annual budget needs not a penny more or less. Charging an unlawful percentage, which Mr. Mendel refused to pay, which then had AFTER his previous case decision in *Overton v. Uber*, had his State licensed revoked without lawful reason because he refused to pay an unlawful percentage of his gross interstate revenue, which was unlawful under State PUC Code §421 and federal law 49 U.S.C. §14505 et seq.

The respondent County and City of San Francisco likewise taxes any Uber passenger trip originating or ending inside the city and county of San Francisco. The City and County of San Francisco, operators of the San Francisco International Airport also defy federal law 49 U.S.C. §14501(d)(1) [prohibiting laws, rules regulations] and contrary to the intent of 49 U.S.C. §14501(d)(3) granting an exception allowing airports to contract with willing participants, - not as the City and County of SF have done here to FORCE every “prearranged passenger transportation provider” to secure an airport permit and to charge a fee for each passenger drop off or pick up...collecting a media reported 47 million dollars a month, violating 49 U.S.C. §14505 [federal tax preemptions] far greater than the airports entire parking facilities. This is why Uber’s lawless conduct continues!

The lower federal courts’ decisions have essentially sanctioned and condoned the Uber Technologies Inc., respondents unlawful business conduct as legal because of a complete absence of application of federal transportation laws to the unlawful conduct of the Uber respondents’ and their government officials cooperation in return for unlawful fees and taxes contrary to the laws of the United States.

**The result:** the continuing preventable criminal murder of at least 52, now more than 60 Uber [and Lyft] drivers, and more than 11 passengers and annually at least hundreds of rapes and thousands of physical assaults upon drivers and passengers alike. The load of all this mischief is and has been swamping the courts and law enforcement all because the laws are not enforced as mandated by Congress under 49 U.S.C. §14704 and 49 U.S.C. §14707.

**The minor result** is Mr. Mendel's valid complaints, of repeated violations of federal transportation laws destroyed his "legal occupation as a "prearranged passenger provider under 49 U.S.C. §14501(d) and destroyed his properly State licensed prearranged passenger transportation business of more than 30 years.

## CONCLUSION

This Court should review it's previous applicable decision in *California v. Zook* 336 U.S. 725 (1949) and compare todays laws, as it reviews the record below.

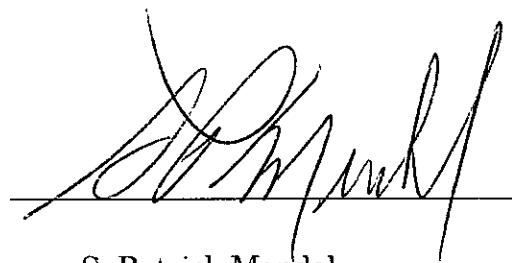
It is hoped that this Court will find it most important to correct this well out of control systemic failure in order to save lives and restore Mr. Mendel's right to petition the Courts to regain his legal occupation of 30 years and seek proper compensation from these respondents for the destruction of his legally operating prearrange passenger transportation business which they destroyed with their lawless conduct.

This Court has many seeking attention for their cause, this one seeks to save lives!

May God Save America.

Respectfully submitted;

Dated: October 3, 2022



A handwritten signature in black ink, appearing to read "S. Patrick Mendel", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'S' at the beginning.

S. Patrick Mendel