**Nature of Action**

1. This is an action in mandamus to compel Defendants, the Philadelphia Parking Authority (“PPA”) and Philadelphia Police Department (“PPD”), to enforce the Pennsylvania Motor Vehicle Code as mandated by the laws of the Commonwealth of Pennsylvania and the City of Philadelphia, as detailed below.

2. The organizational Plaintiff in this matter is the Fifth Square PAC (“5th Square”), a political action committee as defined in the Pennsylvania Code (25 P.S. § 3242 1621(l). Central to the mission of this organization is to advocate for the public safety of pedestrians, bicyclists and motorists in Philadelphia.

3. To support this mission, 5th Square has expended substantial time, energy, and resources on its core mission to advance the safety on the roadways of Philadelphia.

4. 5th Square has expended time, energy, and resources on advocating for the enforcement of parking regulations, including the prohibition on vehicular parking in the Broad Street Median. Over the last year in regards to the Broad Street Median, 5th Square has devoted time, energy, and resources to launch a citizen petition requesting enforcement of the law, attempted to secure compliance with vehicular code without resorting to litigation, and researching the history of non-compliance.

5. 5th Square was thus compelled to divert a substantial portion of its limited volunteer time and resources from other projects and programs central to 5th Square’s mission. These other programs and projects include, in particular, advocating for the removal of vehicles blocking wheelchair accessible ADA curb cuts and sidewalks, reviewing and advocating for Philadelphia’s Vision Zero program, advancing intersection daylighting, and advocating for improved safety in school zones.

6. Accordingly, organizational Petitioner 5th Square have standing to file this petition. *See, e.g., Applewhite v. Commonwealth,* No. 330 M.D. 2012, 2014 Pa. Commw. Unpub. LEXIS 756, at \*21 (Pa. Commw. Ct. Jan. 17, 2014) (“Organizational Petitioners diverted valuable resources as a consequence of Respondents’ inconsistent evolving unchecked decisions expanding and contracting the criteria for compliant photo IDs under the Voter ID Law. This loss of resources is a direct harm sufficient for standing.” (citations omitted)).

7. The individual Plaintiff in this matter is Jacob Liefer, a resident of South Philadelphia, a pedestrian, bicyclist, public transit user and motorist that traverses Broad Street on a regular basis. As a resident who traverses both the length and breadth of Broad Street on a regular basis, Mr. Liefer has an interest in the fair and lawful administration of vehicular movement in accordance with the Pennsylvania Vehicular Code and Philadelphia Vehicular Code.

**Jurisdiction and Venue**

8. The Court has jurisdiction under 42 Pa.C.S. § 931 and the Declaratory Judgments Act, 42 Pa.C.S. §§ 7531-7541.

9. The Court has personal jurisdiction over the Respondents, all of whom are located within Philadelphia County.

10. Venue is proper, as the action brought in the court of common pleas is in the county in which the cause of action arose.

**The Philadelphia Parking Authority**

11. The City of Philadelphia created the PPA pursuant to the Commonwealth of Pennsylvania Parking Authority Law (Act of Jun 5, 1947, 53 P.S. § 341 et. seq.) to provide adequate parking services for residents of and visitors to Philadelphia by establishing and operating public parking facilities.

8. The City of Philadelphia, pursuant to the Pennsylvania Parking Authority Law (53 P.S. §§ 341 et seq.) delegated additional powers to the PPA by Ordinance No. 1633, approved April 8, 1983, including powers relating to the administration, supervision and enforcement of on-street parking regulations and the collection of fines and penalties resulting from the violation of parking regulations.

**The Philadelphia Police Department**

12. The PPD is a city department created pursuant to the Philadelphia Home Rule Charter §3-100(d).

13. Pursuant to the Philadelphia Home Rule Charter §5-100(a), “the [PPD] shall have the power and its duty shall be to “…police the streets and highways and enforce traffic statutes, ordinances and regulations relating thereto. The Department shall at all times aid in the administration and enforcement within the City of the statutes of the Commonwealth of Pennsylvania and the ordinances of the City.”

14. The Philadelphia Traffic Code (Phila. Code § 12-201(1)(a)) further provides that “The Police Department shall enforce the provisions of this Title and of The Vehicle Code applicable to street traffic in this City, investigate accidents, cooperate with the Department and other City Departments and agencies in the administration of traffic laws and develop ways and means to improve traffic conditions…”

**Manual on Uniform Traffic Control Devices**

15. Commonwealth Vehicular Code states that the Department of Transportation of the Commonwealth “shall publish a manual for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within this Commonwealth.” (75 Pa.C.S.A. § 6121).

16. Pursuant to Commonwealth of Pennsylvania Official Traffic Control Devices (67 § 212.2), the current version (2009 edition) of the Federal Highway Administration Manual on Uniform Traffic Control Devices (“MUTCD”) has been adopted by the Department of Transportation of the Commonwealth.

17. Commonwealth Vehicular Code mandates that traffic-control devices erected by the Department of Transportation of the Commonwealth and local authorities shall conform with the MUTCD and regulations published by the department (75 PA. C.S.A. § 6121(a)).

18. Commonwealth Vehicular Code states that the provisions of the code “shall be applicable and uniform throughout this Commonwealth and in all political subdivisions in this Commonwealth.” (75 PA. C.S.A. § 6101(a)).

19. The MUTCD defines median as “the area between two roadways of a divided highway measured from edge of traveled way to edge of traveled way. The median excludes turn lanes” (MUTCD Section 1A.13D.115).

20. Pennsylvania Vehicular Code defines a divided highway as “A highway divided into two or more roadways and so constructed as to impede vehicular traffic between the roadways by providing an intervening space, physical barrier or clearly indicated dividing section” (Title 75 § 102).

21. The MUTCD states that markings can be used alone to convey regulations (MUTCD Section 3A.01(01)).

22. The MUTCD states that yellow markings for longitudinal lines “shall delineate the separation of traffic traveling in opposite directions” (MUTCD Section 3A.05.03).

23. The MUTCD states that a double line “indicates maximum or special restrictions” (MUTCD Section 3A.06.01.B).

24. The MUTCD states that a solid line “discourages or prohibits crossing (Depending on the specific application)” (MUTCD Section 3A.06.01.B).

25. The MUTCD states that “If a continuous flush median island formed by pavement markings separating travel in opposite directions is used, two sets of solid double yellow lines shall be used to form the island” (MUTCD Section 3B.03.06)

26. Broad Street is a Pennsylvania State Highway that runs for approximately 13 miles through Philadelphia, Pennsylvania. Broad Street commences at the intersection of Cheltenham Avenue and ends at the Philadelphia Navy Yard in South Philadelphia.

27. Broad Street is two-way divided highway between the intersection of Broad Street and Washington Avenue and Broad Street and Oregon Avenue, approximately 1.5 miles. The two-outer lanes are reserved for parking, loading, and bus zones. Two lanes in each direction are reserved for north and southbound travel. Separating these lanes is a median formed by pavement markings, hereinafter “the Median.” At a portion of intersections, provided and marked turning lanes are located in place of the Median.

**Parking Laws**

28. Both city and state law regulate the parking of motor vehicles along roadways.

29. Philadelphia City Code provides “…every vehicle standing or parking upon a two-way highway shall be positioned parallel to and with the right-hand wheels within twelve (12) inches of the right-hand curb or, in the absence of a curb, as close as practicable to the right edge of the right-hand shoulder.” (Phila. Code § 12-914(1)).

30. Pennsylvania Vehicular Code also mandates that “…every vehicle standing or parked upon a two-way highway shall be positioned parallel to and with the right-hand wheels within 12 inches of the right-hand curb or, in the absence of a curb, as close as practicable to the right edge of the right-hand shoulder.” (Title 75 § 3354(a))

31. Philadelphia City Code provides “No person shall stop, stand, or park a vehicle in the area between roadways of a divided highway, including crossovers” (Phila. Code §12-913(viii)).

32. Pennsylvania Vehicular Code also mandates that “No person shall stop, stand, or park a vehicle in the area between roadways of a divided highway, including crossovers” (Title 75 § 3353(a)(1)).

33. Vehicles routinely drive, stop, stand, or park in the Median of Broad Street between Washington Avenue and Oregon Avenue.

34. The vehicles standing or parked in the Median are standing or parked upon a two-way highway more than twelve (12) inches from the curb in violation of Pennsylvania and City code.

35. The vehicles standing or parked in the Median do not fall within any exception to the prohibition of parking more than twelve (12) inches from the curb of a two-way highway.

36. The vehicles stopped, standing, or parked in the Median are stopped, standing, or parked upon the area between the roadways of a divided highway.

37. Pursuant to City Code § 12-2804(1), “Any police officer or other duly authorized employee of the City or any agency thereof or of the Parking Authority **who observes a parking violation shall serve a parking ticket upon the owner or operator of the vehicle** as provided in this section.”

**Failure to Perform Required Act**

38. The PPD and PPA routinely observe vehicles parked in the Median of Broad Street and do not issue a parking ticket to those vehicles.

39. The PPD and PPA’s failure to issue parking a parking ticket to owners of vehicles parked in the Median of Broad Street is in violation of their mandated duties, set forth above, under the law.

40. The PPD and PPA’s failure to enforce the Median parking laws set forth above creates a dangerous condition for those walking, driving or bicycling down Broad Street.

41. The PPA has selectively enforced Median parking, stating “In order to insure traffic and pedestrian safety during the Democratic National Convention, parking will be prohibited in the median of South Broad Street from 8:00 a.m. Sunday, July 24 through 8:00 p.m. Friday July 29.” (http://www.philapark.org/2016/07/parking-restrictions-in-place-during-democratic-national-convention/)

42. Plaintiff 5th Square’s interest in the enforcement of the Median parking laws is to ensure the safety, health and welfare of those pedestrians, motorists and bicyclists that use or traverse Broad Street.

43. Plaintiff Jacob Liefer is a resident in close proximity to the stretch of Broad Street where Median parking occurs and regularly traverses on and across Broad Street with his young children to visit their local playground.

44. Plaintiff Jacob Liefer uses Broad Street via bicycle, foot, and public and private vehicles to access employment, social, and civic opportunities.

45. Plaintiff Jacob Liefer has a dedicated interest in ensuring the state and local traffic laws are enforced to protect his and his family’s safety.

46. There is no other adequate remedy at law to provide for the enforcement of traffic laws to prohibit parking in the Median of Broad Street.

**Count I – Declaratory Judgement**

47. Petitioners incorporate by reference paragraphs 1 through 46 as if set forth fully herein.

48. For the above-stated reasons, Plaintiffs pray for the entry of a judgment against the Defendants commanding the PPA and PPD to immediately perform their mandated duties of serving a parking ticket upon the owner or operator of a vehicle that is violating the parking and/or traffic code.

**Wherefore, Petitioners move this Court to enter a declaratory judgement that Respondents are statutorily obligated to carry out the functions of their duties relating to enforcement of parking regulations on Broad Street.**

Respectfully submitted,

Verification

I, Jacob Liefer, hereby state:

1. I am the chairman of 5th Square PAC, which is a petitioner in this action;
2. I am authorized on behalf of 5th Square PAC in the foregoing action;
3. I have personal knowledge of the statements made in the foregoing petition;
4. The statements made in the foregoing Petition are true and correct to the best of my knowledge, information, and belief; and
5. I understand that the statements in said Petition and this Verification are subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

Jacob Liefer, on behalf of

Petitioner 5th Square PAC

Dated:

Verification

I, Jacob Liefer, hereby state:

1. I am a petitioner in this action;
2. I verify that the statements made in the foregoing Petition are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said Petition and this Verification are subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

Jacob Liefer

Dated: