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CENTRAL DIST. OF CALIF.  
LOS ANGELES

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11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 CV10 1659  
Case No.:

SJO AJWx

14 RAY LaHOOD, Secretary of the  
U.S. Department of Transportation,

15 Plaintiff,

16 vs.

COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

17 TIERRA SANTA, INC., a  
California corporation; and  
18 CAYETANO MARTÍNEZ, an  
19 individual,

20 Defendants.

21  
22  
23 Plaintiff Ray LaHood, Secretary of the U.S. Department of Transportation,  
24 by his undersigned attorneys, brings this civil action for declaratory and injunctive  
25 relief, and alleges as follows:

26 NATURE OF THE ACTION

27 1. This is a civil action pursuant to 49 U.S.C. § 14702 to enjoin  
28 Cayetano Martinez ("Martinez") and Tierra Santa, Inc., along with its



1 and 28 U.S.C. § 1345.

2 6. Venue lies in the Central District of California under 28 U.S.C.  
3 § 1391(b)(1) and 49 U.S.C. § 14702(b), in that Defendants reside in this District.

4 **PARTIES**

5 7. Plaintiff Ray LaHood is the Secretary of the United States  
6 Department of Transportation. He sues in his official capacity.

7 8. Defendant Tierra Santa, Inc., is a California corporation that operates  
8 as a motor carrier out of its principal place of business in Van Nuys, California.

9 9. Defendant Cayetano Martinez is an individual who resides in  
10 Los Angeles County. At all times material to this Complaint, Cayetano Martinez  
11 was the owner and operator of Tierra Santa, Inc. Martinez has been a principal in  
12 at least three other motor carrier operations operating in interstate and foreign  
13 commerce.

14 **STATEMENT OF THE CLAIM**

15 10. Interstate motor carrier transportation is regulated under Title 49,  
16 Subtitle IV, Part B, of the U.S. Code. Under 49 U.S.C. § 13501, the Secretary of  
17 Transportation has authority over interstate motor carrier transportation of persons  
18 or property. Under 49 U.S.C. § 113(f), FMCSA carries out the powers and duties  
19 of the Secretary related to the regulation of interstate and foreign motor carrier  
20 operations.

21 11. Section 13901 of Title 49 of the United States Code provides that a  
22 motor carrier may not operate over the public highways in interstate or foreign  
23 commerce unless the motor carrier is granted and maintains operating authority  
24 registration from FMCSA. Similarly, 49 C.F.R. § 392.9a(a) prohibits a motor  
25 vehicle that provides transportation requiring operating authority registration from  
26 operating without the required authority.

27 12. Section 13902 of Title 49 of the United States Code provides that a  
28 person may be registered as a motor carrier if that person is able and willing to

1 comply with the Federal motor carrier statutes and accompanying regulations and  
2 certain minimum financial responsibility requirements established under 49 U.S.C.  
3 § 13906. Such motor carriers must also meet the safety fitness requirements under  
4 49 U.S.C. § 31144.

5 13. Defendants operate as a for-hire motor carrier, as defined in 49 U.S.C.  
6 § 13102, operating motor vehicles as defined in 49 U.S.C. § 13102. Accordingly,  
7 Defendants are subject to the requirements of Federal motor carrier statutes,  
8 including 49 U.S.C. §§ 13901 and 13902, and accompanying regulations,  
9 including 49 C.F.R. § 392.9a(a).

10 14. On or about May 10, 2006, Martinez applied for operating authority  
11 registration under the name of Cayetano Martinez dba Tierra Santa Tours.  
12 FMCSA conducted a compliance review of the company on December 16, 2006  
13 and issued an unsatisfactory safety rating. On February 10, 2007, FMCSA  
14 prohibited Cayetano Martinez dba Tierra Santa Tours from operating any  
15 commercial motor vehicle in interstate commerce and ordered the company to  
16 cease transportation in interstate and foreign commerce. *See* 49 C.F.R. § 385.13.  
17 On January 23, 2007, FMCSA also initiated an administrative civil penalty  
18 proceeding for violations of Federal motor carrier safety regulations discovered  
19 during the December 2006 compliance review. After Martinez defaulted on the  
20 Notice of Claim and failed to pay the assessed civil penalty, FMCSA suspended  
21 his operating authority registration, effective November 2, 2007. *See* 49 C.F.R.  
22 § 386.84(a).

23 15. Over the past several years, Martinez has repeatedly attempted to  
24 obtain operating authority from FMCSA under different business names and  
25 entities. FMCSA has shut these operations down, revoking any operating  
26 authority registrations that it issued, issuing Orders to Cease interstate  
27 transportation, suspending registration, and imposing civil penalties against  
28 Martinez and/or his entities for violations of FMCSA regulations. Each time

1 FMCSA has shut down one operation, Martinez has reincarnated himself as a new  
2 carrier and tried again. Martinez has shown a persistency and determination to  
3 continue operating under new entities and businesses.

4 16. On April 1, 2009, the Defendants applied to FMCSA for operating  
5 authority registration for Tierra Santa, Inc. to conduct for-hire transportation of  
6 passengers in interstate and foreign commerce.

7 17. Upon receipt of Defendants' application for operating authority,  
8 FMCSA notified Defendants that the application was under review to determine  
9 whether Defendants were subject to any Orders to Cease and/or registration  
10 revocations under any name or identification. FMCSA informed Defendants that  
11 FMCSA might request additional information and that the application could not be  
12 processed until all requested information was received. FMCSA specifically  
13 notified Defendants that they were "not authorized to engage in the interstate  
14 transportation of passengers by commercial motor vehicle during the application  
15 review."

16 18. On July 13, 2009, FMCSA notified Defendants that the application  
17 they had submitted did not contain information and documentation required to  
18 demonstrate that Defendants satisfied the requirements for operating authority and  
19 that Defendants were able and willing to comply with Federal statutes and  
20 regulations.

21 19. On December 14, 2009, after receiving no response to its request for  
22 additional information, FMCSA dismissed Defendants' application for operating  
23 authority registration. FMCSA advised Defendants that they were not authorized  
24 to engage in the interstate transportation of passengers.

25 20. Accordingly, Defendants do not currently have operating authority  
26 registration to conduct for-hire transportation of passengers in interstate and  
27 foreign commerce. Any operating authority Martinez had under his prior business  
28 names have been suspended and revoked. Tierra Santa has never had operating

1 authority registration to conduct for-hire transportation of passengers in interstate  
2 and foreign commerce.

3 21. Despite this, Defendants have repeatedly operated commercial motor  
4 vehicles transporting passengers in interstate and foreign commerce. It appears  
5 that Defendants maintain a website at <http://www.tierrasantatours.com> that  
6 announces the availability of bus service from Mexico to points in the United  
7 States and from such points in the United States back to Mexico. This  
8 transportation is not authorized by federal law or regulations.

9 22. Unless enjoined from operating in interstate and foreign commerce,  
10 FMCSA believes Defendants may again operate without operating authority  
11 registration or attempt to start a new motor carrier operation under a different  
12 name or identification.

### 13 **CAUSE OF ACTION**

#### 14 **COUNT I: Violation of 49 U.S.C. § 13901 and 49 C.F.R. § 392.9a(a)**

15 23. Paragraphs 1 through 22 above are incorporated herein as if set forth  
16 in full.

17 24. Defendants have been and are operating as a for-hire motor carrier of  
18 passengers over public highways in interstate and foreign commerce without  
19 required operating authority registration. Such operation and transportation  
20 constitute violations of 49 U.S.C. § 13901 and 49 C.F.R. § 392.9a(a).

### 21 **PRAYER FOR RELIEF**

22 WHEREFORE, plaintiff Ray LaHood, Secretary of the U.S. Department of  
23 Transportation, respectfully requests that this Court:

24 1. Enter a judgment declaring that Defendants' for-hire motor carrier  
25 operations in interstate and foreign commerce without required operating authority  
26 registration from FMCSA are in violation of Federal statute and regulations;

27 2. Enter preliminary and permanent injunctive relief enjoining  
28 Defendants from operating any commercial motor vehicle in interstate or foreign

1 commerce that requires operating authority registration in accordance with 49  
2 U.S.C. § 13901 unless and until Defendants obtain valid operating authority from  
3 FMCSA;

4 3. Enter preliminary and permanent injunctive relief enjoining  
5 Defendants from contracting with, or arranging for, additional transportation of  
6 passengers unless the contracted motor carrier(s) possesses valid operating  
7 authority registration from FMCSA; and

8 4. Grant Plaintiff such other relief as the Court deems just and proper.

9 DATED: 3/6/10

Respectfully submitted,

10  
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14 */s/ Donald W Yoo*

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