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## APPEAL FILED IN MTC DISCRIMINATION CASE

San Francisco – The plaintiffs in *Darensburg v. MTC* appealed to the 9th Circuit Court of Appeals today from a lower court's ruling that the Metropolitan Transportation Commission (MTC) adequately justified its unequal treatment of minority bus riders.

In a decision handed down March 27, 2009, the U.S. District Court for Northern California found that MTC's multibillion dollar transit expansion program has a harmful "disparate impact" on minority bus riders by making funding decisions favoring rail projects—which on the whole are used by a lower percentage of minority riders—over bus projects. The bus riders' legal team praised this part of the ruling, but will challenge the lower court's acceptance of MTC's rationale that "competing goals" warranted the unequal treatment of minorities.

"The judge's finding of a disparate impact is very significant," said Richard Marcantonio, Managing Attorney with Public Advocates Inc. representing the plaintiffs. "For the first time, minority bus riders have been vindicated in their belief that MTC's Resolution 3434 expansion program, which MTC calls the 'cornerstone' of its regional planning, expands rail at the expense of vital bus service."

The Court also found that MTC's funding practices are responsible for AC Transit's service cuts and fare hikes, undermining MTC's ability in the future to argue that its "hands are tied" and that it is "bending over backwards" to provide operating funding to the bus system.

While vindicating minority bus riders' claims in some respects, the judge accepted MTC's excuse that the discriminatory impact of its decisions was outweighed by other goals.

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Plaintiffs intend to argue on appeal that the Court applied the wrong legal standard in concluding that MTC had adequately justified the discriminatory impacts of its decisions.

“The trial court held MTC to too low a standard,” said Adrienne Bloch of Communities for a Better Environment (CBE). “Civil rights laws require that when otherwise lawful actions have a discriminatory impact on racial minorities, they must meet a much stricter standard of justification; there must be a ‘necessity.’”

Plaintiff Sylvia Darensburg added: “MTC claims otherwise, but it continues to prioritize rail expansion projects over critical bus service on which minority communities desperately depend. We’re not done fighting.”

AC Transit bus riders of color, together with ATU 192 and CBE, brought the federal class action suit challenging MTC’s funding practices in 2005. Their legal team includes attorneys from Public Advocates Inc., CBE, Lewis Feinberg Lee Renaker & Jackson PC, Altshuler Berzon LLP, and Cooley Godward Kronish LLP.

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