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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
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CLERK OF THE COURT
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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN FRANCISCO**

14 THOMAS COLOPY, AMER ABDALLAH,
15 MALE LEXINGTON ALEXANDER, THEIR
16 ALMASARWEH, AHMED ALMORAISSI,
17 SORINNE ARDELEANU, ALEX ARNON,
18 STEVE AZIZ, ALAN AZOUNI, JAMES
19 BALL, MIKE BARCO, NICK BELL,
20 RICHARD BELTRAME, SYEDAMMAR
21 BUKHARI, FREDERICK BUTLER, JULISSA
22 CABRERA, KURT CAMODY, OULAI
23 CHAOUCH, SHANE COLLINS, TADJ
24 CORREIA, SERGIO ALVES DA COSTA,
25 BRIAN DESSERO, COLIN DONNELLY,
26 MOHAMED EL HENDI, YOUNESELDER,
27 ASHRAF FADLALLA, GUADALUPE
FELICIANO, GERSON GARCIA,
CHRISTOPHER GLOVER, CLIFFORD
GONSHERY, KARL GRANT, DIANA
GREER, NATHAN HALL, EDWIN HAVENS,
MIKE HEYMANN, BRYAN HINDS,
RASHAD HUMPHREY, FAWZI KAMEL,
SAAD KHAN, JEFF KNUDTSON, ICK

Case No. **CGC-16-549696**

COMPLAINT

1. FAILURE TO REIMBURSE FOR BUSINESS EXPENSES IN VIOLATION OF CAL. LAB. CODE §2802
2. UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES (CAL. BUS. & PROF. CODE §§17200-17208)
3. PRIVATE ATTORNEY GENERAL ACT (PAGA) CLAIM FOR CIVIL PENALTIES (CAL. LAB. CODE §2698 *et seq.*)

1 HWAN KWON, MICHAEL LAKE, MAURO
2 LANNINI, RUDY LAWLEY, JEFF LEVIN,
3 GUSTAVE LINK, CHRISTIAN MALASPINA,
4 DARREN MANSON, VANIK MARCARIAN,
5 SALLI MCDONALD, HICHEM MEMMI,
6 HICHAM MESNAOUI, BARA NASSR,
7 RAFAEL NAZARIO, DELVIN NIX, CAROL
8 THERESA NOTARO, DOUGLAS
9 O'CONNOR, YVETTE PINZON, FREDERIC
10 POIRIER, JEFF POOLE, JASON PRIMROSE,
11 MALCOM REID, DANIEL REYES, REX
12 RICAFORT, BLAINE RITCHIE, FRANCISCO
RODRIGUEZ, NIDAL SAKR, DAVID
SAPIRSTEIN, TIMOTHY SAULS, PAULO
SEGARRA, ERIC SEVERINO, AMIR
SHAHBAZI, PETER PAUL SHAKER,
MATTHEW TALBOT, ERDAL TEKIN,
GERMAIN TITI GOLO, VONDA VON
DUNK, and MICHAEL WILBORN,

13 Plaintiffs,

14 v.

15 UBER TECHNOLOGIES, INC,

16 Defendant.
17

18
19 **I. INTRODUCTION**

20 1. This case is brought on behalf of individuals who have worked as Uber drivers in
21 California and have been excluded from the class certified in the case of O'Connor v. Uber
22 Technologies, Inc. No. 13-cv-3826-EMC (N.D. Cal. Dec. 9, 2015) (Dkt. 395).
23

24 2. Uber is a car service that provides drivers who can be hailed and dispatched
25 through a mobile phone application.
26

1
2 **IV. STATEMENT OF FACTS**

3 12. Uber provides car service in cities throughout the country, including in California,
4 via an on demand dispatch system.
5

6 13. Uber offers customers the ability to hail a car service driver on a mobile phone
7 application.
8

9 14. Uber's website has advertised that "Uber is your on-demand private driver."
10

11 15. Although classified as independent contractors, Uber drivers, including Plaintiffs,
12 are Uber's employees. They are required to follow a litany of detailed requirements imposed on
13 them by Uber and they are graded, and are subject to termination, based on their failure to adhere
14 to these requirements (such as rules regarding their conduct with customers, the cleanliness of
15 their vehicles, their timeliness in picking up customers and taking them to their destination, what
16 they are allowed to say to customers, etc.)
17

18 16. In addition, Uber is in the business of providing car service to customers, and that
19 is the service that Uber drivers provide. The drivers' services are fully integrated into Uber's
20 business, and without the drivers, Uber's business would not exist.
21

22 17. However, based on their misclassification as independent contractors, Uber
23 drivers, including Plaintiffs, are required to bear many of the expenses of their employment,
24 including expenses for their vehicles, gas, phone/data, and other expenses. California law
25 requires employers to reimburse employees for such expenses, which are for the benefit of the
26 employer and are necessary for the employees to perform their jobs.
27
28

1 been deprived of payments to which they are entitled, and to which reasonable customers would
2 have expected them to receive.

3 **VI. PAGA REPRESENTATIVE ACTION ALLEGATIONS**

4
5 25. On January 16, 2015, Plaintiff Thomas Colopy gave written notice of Uber's
6 violations of various provisions of the California Labor Code as alleged in this complaint to the
7 Labor and Workforce Development Agency ("LWDA") and Uber.

8 26. On March 4, 2015, the LWDA provided notice to Plaintiff and Uber that it did not
9 intend to investigate Uber's alleged violations. See Cal. Lab. Code § 2699.3(a)(2)(A).

10
11 27. Plaintiff Thomas Colopy alleges that Uber violated PAGA in the following ways:
12 (1) Uber has retained portions of gratuities intended for driver employees in violation of Labor
13 Code § 351, and (2) Uber has failed to reimburse driver employees for all reasonably necessary
14 expenditures incurred by drivers in discharging their duties, including fuel, insurance, and
15 maintenance costs in violation of Labor Code § 2802.

16
17 **COUNT I**

18 **Unfair Competition in Violation of California Business and Professions Code**
19 **§ 17200 *et seq.***

20 28. Defendant's conduct, as set forth above, violates the California Unfair
21 Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* ("UCL"). Defendant's conduct
22 constitutes unlawful business acts or practices, in that Defendant has violated California Labor
23 Code Sections 351 and 2802. As a result of Defendant's unlawful conduct, Plaintiffs suffered
24 injury in fact and lost money and property, including, but not limited to loss of gratuities to
25 which they were entitled and customers expected them to receive, and business expenses that
26 drivers were required to pay. Pursuant to California Business and Professions Code § 17203,
27

1 Plaintiffs seek declaratory and injunctive relief for Defendant's unlawful conduct and to recover
2 restitution. Pursuant to California Code of Civil Procedure §1021.5, Plaintiffs and class
3 members are entitled to recover reasonable attorneys' fees, costs, and expenses incurred in
4 bringing this action.
5

6 **COUNT II**

7 **Independent Contractor Misclassification and Expense Reimbursement Violation**

8 29. Defendant's conduct, as set forth above, in misclassifying Plaintiffs as
9 independent contractors, and failing to reimburse them for expenses they paid that
10 should have been borne by their employer, constitutes a violation of California Labor Code
11 Section 2802.
12

13 **COUNT III**

14 **Penalties Pursuant to the Labor Code Private Attorneys General Act of 2004**
15 **(Representative Action)**

16 30. Plaintiff Thomas Colopy realleges and incorporates by reference the allegations in
17 the preceding paragraphs as if fully alleged herein. Plaintiff is an aggrieved employee as defined
18 by Cal. Lab. Code § 2699(c) as he has been employed by Uber during the applicable statutory
19 period and suffered injury as a result of Uber's Labor Code violations. Accordingly, Plaintiff
20 Thomas Colopy seeks to recover on behalf of himself and all other current and former aggrieved
21 employees of Uber in California who have been excluded from the class certified in the case of
22 O'Connor v. Uber Technologies, Inc. No. 13-cv-3826-EMC (N.D. Cal. Dec. 9, 2015) (Dkt. 395),
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24 the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
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Respectfully submitted,

THOMAS COLOPY et al,

By their attorneys,



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