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FILED

Superior Court of California
County of Los Angeles

JUN 22 2017

1 SHANNON LISS-RIORDAN, SBN 310719
(sliss@lrlaw.com)
2 LICHTEN & LISS-RIORDAN, P.C.
3 729 Boylston Street, Suite 2000
Boston, MA 02116
4 Telephone: (617) 994-5800
5 Facsimile: (617) 994-5801

Hon.

Sherril R. Carter, Executive Officer/Clerk
By Jenny D. Truong Deputy

Maren E. Nelson

6 MATTHEW CARLSON, SBN 273242
(mcarlson@lrlaw.com)
7 466 Geary St., Suite 201
San Francisco, CA 94102
8 Telephone: (415) 630-2651
9 Facsimile: (617) 994-5801

10 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES
12 CENTRAL DIVISION

14 CHRISTOPHER JAMES and CHRISTINE
15 BEATLESTON, individually and on behalf of
all other similarly situated,

Case No. BC666055

16 Plaintiffs,

CLASS ACTION
COMPLAINT FOR DAMAGES
(BY FAX)

17 v.

18 TRAVIS KALANICK, GARRETT CAMP, and
19 JOHN DOES 1-10.

- 1. UNLAWFUL MISCLASSIFICATION OF EMPLOYEE
- 2. FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES
- 3. FAILURE TO REMIT GRATUITIES

20 Defendants.

RECEIPT #: 00499422030
DATE PAID: 06/22/17 12:19 PM
PAYMENT: \$1,435.00 310
RECEIVED:
CHECK: \$0.00
CASH: \$0.00
CHARGE: \$0.00
CARD: \$1,435.00

CIT/CASE: BC666055
LEAFLET#:

28 CLASS ACTION COMPLAINT FOR DAMAGES

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Opt-Out: Not Defined

1 **I. INTRODUCTION**

2 1. This case is brought on behalf of individuals who have worked as Uber drivers in
3 California. Uber is a car service that provides drivers who can be hailed and dispatched through
4 a mobile phone application. As set forth below, Uber has misclassified these drivers as
5 independent contractors.

6 2. As a result of this misclassification, the drivers have had to bear expenses that
7 should be borne by their employer. For example, the drivers have had to pay necessary business
8 expenses to maintain and purchase or lease their vehicles, as well as other expenses, such as gas,
9 insurance, and phone data charges, in violation of California Labor Code Section 2802.

10 3. In addition, Uber has advertised to customers that gratuity is included in the cost
11 of its car service. Uber drivers do not receive the total proceeds of any such gratuity. Instead,
12 they receive only a portion of such gratuity, if any is charged to the customer.

13 4. Plaintiffs bring this action on their own behalf, and on behalf of other similarly
14 situated Uber drivers, for misclassification as independent contractors, failure to reimburse
15 necessary business expenses in violation of Cal. Labor Code § 2802, and violation of the
16 California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“UCL”), based
17 upon Uber’s violation of the California Gratuities Law, Cal. Labor Code § 351, and failure to
18 remit to drivers the entire gratuity paid by customers.¹ Plaintiffs bring this action against
19 Defendants Travis Kalanick, Garrett Camp, and other individuals who have advised Uber to
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21

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23 ¹ Plaintiffs also plan to bring this case as a representative action on behalf of the State of
24 California for penalties under the Private Attorney General Act (“PAGA”), Cal. Lab. Code
25 §2699, *et seq.*, arising out of Uber’s wage violations, which stem from its misclassification of its
26 drivers as independent contractors. Plaintiffs have filed their letters with the Labor and
27 Workforce Development Agency (LWDA) and have provided the statutorily required notice to
28 Uber, and Plaintiffs plan to amend their Complaint to add a PAGA claim once the requisite time
period has run.

1 commit these violations and thus are jointly and severally liable for damages pursuant to
2 California Labor Code § 2753.

3 **II. PARTIES**

4 5. Plaintiff Christopher James is an adult resident of Arcadia, California, where he
5 has worked as an Uber driver.

6 6. Plaintiff Christine Beatleston is an adult resident of San Francisco, California,
7 where she has worked as an Uber driver.

8 7. The above-named plaintiffs have brought this action on their own behalf and on
9 behalf of all others similarly situated, namely all other individuals who have worked as Uber
10 Black, Uber SUV, or UberX drivers in California.

11 8. Defendant Travis Kalanick is an adult resident of San Francisco, California. Until
12 June 20, 2017, he was CEO of Uber Technologies, Inc. He has been, and continues, to be a
13 Board Member for the company. Kalanick was also one of the original founders of Uber
14 Technologies, Inc.

15 9. Defendant Garrett Camp is an adult resident of San Francisco, California. He is
16 Chairman of the Board of Uber Technologies, Inc. Camp was also one of the original founders
17 of Uber Technologies, Inc.

18 10. Plaintiffs do not know the true names and/or capacities of Defendants sued herein
19 as Does 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names.
20 Upon information and belief, Does 1 through 10 advised Uber Technologies Inc. to classify its
21 drivers as independent contractors rather than employees and knowingly and willfully advised
22 Uber Technologies Inc. to violate the law. Plaintiffs will seek leave to amend this complaint to
23 include the true names and capacities of these so named Doe Defendants when their true names
24 and capacities are ascertained.
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III. JURISDICTION AND VENUE

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11. This is a civil action brought under and pursuant to the California Labor Code and California Business & Professions Code, and this Court has jurisdiction over this action pursuant to California Code of Civ. P. § 410.10.

12. The monetary relief which Plaintiffs seek is in excess of the jurisdictional minimum required by this Court and will be established according to proof at trial.

13. Venue is proper in this Court pursuant to Code of Civ. P. §§ 395 and 395.5 because the employment at issue for Plaintiff James and many class members was and performed in the county of Los Angeles, California, and Plaintiff James resides in Arcadia, California.

IV. STATEMENT OF FACTS

14. Uber provides car service in cities throughout the country via an on-demand dispatch system available via a mobile phone.

15. Uber has trademarked the phrase “Everyone’s Private Driver” and has advertised and marketed itself as “your on-demand private driver.”

16. Uber has stated to customers, on its website, and in marketing materials, that a gratuity is included in the total cost of the car service and that there is no need to tip the driver. Through its communications with customers, it has suggested that the gratuity is included in the fare, even when it has not stated this explicitly.

17. However, Uber drivers have not received the total proceeds of this gratuity.

18. Instead, Uber has retained a portion of the gratuity for itself.

19. Although Uber has not specified the amount of the gratuity, it is customary in the car service industry for customers to leave approximately a 20% gratuity for drivers. Furthermore, Uber has at various times communicated that the amount of the gratuity included in the fare is 20%. Thus, where the amount of the gratuity is not specified, reasonable customers would assume that the gratuity is in the range of 20% of the total fare.

1 25. Chairman of the Board, Garrett Camp, originated the idea for Uber and was one
2 of the original founders of Uber Technologies, Inc. Defendant Camp likewise knowingly
3 advised Uber, for money or other valuable consideration, to classify its drivers as independent
4 contractors in order to avoid employee status and should therefore be held jointly and severally
5 liable with Uber for all violations alleged herein.
6

7 26. Defendants Kalanick and Camp continued to advise Uber to classify its drivers as
8 independent contractors even after litigation was filed challenging this classification, and even
9 after the California Labor Commissioner issued a decision finding a driver to be an employee of
10 Uber under California law, Berwick v. Uber Technologies, Inc., Case No. 11-46739 (June 3,
11 2015), despite their continuing obligation to the company.

12 27. Likewise, upon information and belief, both Kalanick and Camp advised Uber to
13 advertise and suggest to customers that a tip is included in the Uber fare, while failing to remit
14 proceeds of these tips to drivers.

15 28. Upon information and belief, Defendant Does 1 through 10 knowingly advised
16 Uber, for money or other valuable consideration, to classify its drivers as independent
17 contractors in order to avoid employee status and should therefore be held jointly and severally
18 liable with Uber for all violations alleged herein.

19 **V. CLASS ACTION ALLEGATIONS**

20 29. The class representatives have brought this action as a class action pursuant to
21 California Code of Civil Procedure § 382 on behalf of Uber Black, Uber SUV, and UberX
22 drivers who have worked for Uber in California.

23 30. The class representatives and other class members have uniformly misclassified
24 as independent contractors, have not been reimbursed for their expenses, and have been deprived
25 of gratuities that were not remitted to them.

26 31. The members of the class are so numerous that joinder of all class members is
27

1 impracticable.

2 32. Common questions of law and fact exist as to whether members of the class have
3 been misclassified as independent contractors. Among the questions of law and fact that are
4 common to drivers are:

- 5 a. Whether Uber has had a right to control class members' work for Uber or face
6 termination or suspension;
- 7 b. Whether the work performed by class members—providing car service to
8 customers—is within Uber's usual course of business, and whether such
9 service is fully integrated into Uber's business;
- 10 c. Whether Defendants Kalanick and Camp knowingly advised Uber
11 Technologies Inc. in their capacities as Board Members and advisors to
12 classify drivers as independent contractors, although such classification was
13 not correct, and thus are jointly and severally liable for the violations alleged
14 herein, pursuant to Cal. Labor Code § 2753;
- 15 d. Whether Defendants Doe 1 through 10 also knowingly advised Uber
16 Technologies Inc. to classify drivers as independent contractors, although
17 such classification was not correct, and thus are jointly and severally liable for
18 the violations alleged herein, pursuant to Cal. Labor Code
19 § 2753.

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21 33. Common questions of law and fact regarding Uber's conduct with respect to
22 expense reimbursement and gratuities exist as to all members of the class and predominate over
23 any questions affecting solely any individual members of the class. Among the questions of law
24 and fact common to the class are:

- 25 a. Whether class members have suffered damages based upon Uber's failure to
26 reimburse drivers' expenses necessary to perform their jobs;

1 b. Whether class members have suffered damages based upon Uber's
2 representation to customers that tips are included while not distributing them
3 to the drivers.
4

5 34. The class representatives are members of the class, who suffered damages as a
6 result of Defendants' conduct and actions alleged herein.

7 35. The class representatives' claims are typical of the claims of the class and have
8 the same interests as the other members of the class.

9 36. The class representatives will fairly and adequately represent and protect the
10 interests of the class. The class representatives have retained able counsel experienced in class
11 action litigation. The interests of the class representatives are coincident with, and not
12 antagonistic to, the interests of the other class members.

13 37. The questions of law and fact common to the members of the class predominate
14 over any questions affecting only individual members, including legal and factual issues relating
15 to liability and damages.

16 38. A class action is superior to other available methods for the fair and efficient
17 adjudication of this controversy because joinder of all class members is impractical. Moreover,
18 since the damages suffered by individual members of the class may be relatively small, the
19 expense and burden of individual litigation makes it practically impossible for the members of
20 the class individually to redress the wrongs done to them. The class is readily definable and
21 prosecution of this action as a class action will eliminate the possibility of repetitive litigation.
22 There will be no difficulty in the management of this action as a class action.
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COUNT I

Expense Reimbursement Violation (Cal. Labor Code §§ 2802, 2753)

39. Uber Technologies, Inc.’s conduct, as set forth above, in misclassifying Uber drivers as independent contractors, and failing to reimburse them for expenses they paid that should have been borne by their employer, constitutes a violation of California Labor Code Section 2802.

40. California Labor Code § 2753 states “(a) A person who, for money or other valuable consideration, knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for that individual shall be jointly and severally liable with the employer if the individual is found not to be an independent contractor.”

41. Defendants Kalanick and Camp, as well as Does 1 through 10, should be held jointly and severally liable for this violation pursuant to California Labor Code § 2753.

COUNT II

**Gratuities Violation (Cal. Labor Code §§ 351, 2753,
actionable under Cal. Bus. & Prof. Code § 17200 *et seq.*)**

42. Uber Technologies Inc.’s conduct, as set forth above, in misclassifying Uber drivers as independent contractors and failing to remit all gratuities to Uber drivers constitutes a violation of California Labor Code Section 351, which is actionable under the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“UCL”).

43. California Labor Code § 2753 states “(a) A person who, for money or other valuable consideration, knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for that individual shall be jointly and severally liable with the employer if the individual is found not to be an independent contractor.”

1 44. Defendants Kalanick and Camp, as well as Does 1 through 10, should be held
2 jointly and severally liable for this violation pursuant to California Labor Code § 2753.
3

4 WHEREFORE, Plaintiffs request that this Court certify this case as a class action,
5 pursuant to California Code of Civil Procedure § 382; award reimbursement that the drivers who
6 were misclassified as independent contractors were required to bear; award restitution for all
7 charged gratuities which were not remitted to the drivers; award pre- and post-judgment interest;
8 award reasonable attorneys' fees, costs, and expenses; and award any other relief to which the
9 plaintiffs may be entitled.
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12 Dated: June 22, 2017

13 Respectfully submitted,

14 CHRISTOPHER JAMES and CHRISTINE
15 BEATLESTON, et al., individually
16 and on behalf of all others similarly situated,

17 By their attorneys,

18 

19 Shannon Liss-Riordan, SBN 310719
20 LICHTEN & LISS-RIORDAN, P.C.
21 729 Boylston Street, Suite 2000
22 Boston, MA 02116
23 (617) 994-5800
24 sliss@llrlaw.com

25 Matthew Carlson, SBN 273242
26 LICHTEN & LISS-RIORDAN, P.C.
27 466 Geary St., Suite 201
28 San Francisco, CA 94102
 (415) 630-2651
 (617) 994-5801
 mcarlson@llrlaw.com