

ROBERT BONSALE
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 SARAH SANDFORD-SMITH
 CHRISTOPHER HAMMER
 DALISAI NISPEROS
 STEPHANIE PLATENKAMP
 SARAH KANTER

BEESON, TAYER & BODINE
 ATTORNEYS AT LAW
 A PROFESSIONAL CORPORATION
 483 NINTH STREET, SUITE 200
 OAKLAND, CALIFORNIA 94607-4051
 (510) 625-9700
 FAX (510) 625-8275



March 22, 2016

SACRAMENTO OFFICE
 520 CAPITOL MALL, SUITE 300
 SACRAMENTO, CA 95814-4714
 (916) 325-2100
 FAX (916) 325-2120

DONALD S. TAYER
 (1932-2001)

WWW.BEESONTAYER.COM

Of Counsel
 Duane B. Beeson
 Neil Bodine

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Attention: PAGA Administrator
 1515 Clay Street, Suite 801
 Oakland, CA 94612

Re: Notice Pursuant to Labor Code 2699 Re Lyft Inc.
Notice of Labor Code Violations Pursuant to Private Attorney Generals Act
of 2004 ("PAGA")

Dear Paga Administrator:

We represent Kelsey Tilander, an aggrieved employee of Lyft Inc. (although not recognized as such by Lyft). This letter is sent on his behalf and all other current and former Lyft employees who are aggrieved by Lyft's Labor Code violations. We submit this letter to comply with the statutory exhaustion requirements of Labor Code § 2699.3 prior to filing the enclosed Complaint-in-Intervention. As described therein, this notice relates to an action commenced in the Northern District of California, *Cotter, et al., v. Lyft*, which seeks penalties for similar PAGA violations and for which notice was previously provide to LWDA.

The PAGA penalties arise from numerous labor code violations that result from Lyft's failure to recognize Mr. Tilander and other aggrieved employees as employees. The contents of the complaint-in-intervention attached hereto are incorporated by reference to this letter in order to provide notice and an adequate description of the labor code violations alleged. The following violations of the California Labor Code and the reference to the specific statutory basis for recovery of civil penalties for those violations, are:

Labor Code § 226 (penalty provision § 226.3): Failure to provide drivers with properly itemized wage statements;

Labor Code §§ 201 and 202 (penalty provision § 2699.5): Failure to pay employees all earned and unpaid wages at the time of their severance from employment;

Labor Code §§ 351 and 353 (penalty provision § 2699.5): Withholding and converting gratuities, and failing to keep accurate records of gratuities withheld;

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Labor Code § 226.8 (penalty provision § 226.8(b) & (c)): Willful misclassification of drivers as independent contractors;

Labor Code § 432.5 (penalty provision § 2699.5): Forcing drivers to sign illegal contracts;

Labor Code §§ 1174 (penalty provision § 2699.5) and 1174.5 (penalty provision § 2699(f)): Failure to maintain accurate payroll records;

Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, 1198, 1999 (penalty provision § 2699.5): Failure to pay minimum wage and failure to pay overtime;

Labor Code § 2802 (penalty provision § 2699.5): Failure to reimburse for work-related expenses; and

Labor Code §§ 558, 1198 and 1199 (Penalty Provision 2699(f)): Violations of Labor Code and/or Wage Orders

Please contact us if you desire more information regarding this notice or its attachments.

Very truly yours,



Susan K. Garea

SKG:tg
Enclosure

cc: Mark Woo-Sam, General Counsel, LWDA
800 Capital Mall, Suite 5000, Sacramento, CA 95814

Lyft, Inc.
2300 Harrison Street, San Francisco, CA 94110

1 TEAGUE P. PATERSON, SBN 226659
2 COSTA KERESTENZIS, SBN 186125
3 SUSAN K. GAREA, SBN 260407
4 **BEESON, TAYER & BODINE, APC**
5 483 Ninth Street, 2nd Floor
6 Oakland, CA 94607
7 Telephone: (510) 625-9700
8 Facsimile: (510) 625-8275
9 Email: tpaterson@beesontayer.com

10 Attorneys for Plaintiff-In-Intervention
11 KELSEY TILANDER

12 **UNITED STATES DISTRICT COURT CALIFORNIA**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 PATRICK COTTER, ALEJANDRA MACIEL,
15 and JEFFREY KNUDTSON, on behalf of
16 themselves and all others similarly situated,

17 Plaintiffs,

18 and

19 KELSEY TILANDER, on behalf of all former
20 and current aggrieved employees,

21 Plaintiff-In-Intervention,

22 v.

23 LYFT, INC.,

24 Defendant.

Case No. 3:13-CV-04065-VC

**[PROPOSED] COMPLAINT-IN-
INTERVENTION SEEKING RELIEF FOR
VIOLATIONS OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEY
GENERALS ACT OF 2004 (PAGA) ON
BEHALF OF ALL CURRENT AND
FORMER AGGRIEVED EMPLOYEES**

25 Plaintiff-In-Intervention Kelsey Tilander ("Intervenor" or "Tilander") submits this Complaint-
26 In-Intervention on behalf of himself and all other current and former aggrieved employees, and
27 hereby alleges as follows:

INTRODUCTION

28 1. Plaintiff-In-Intervention Kelsey Tilander is a driver for Defendant Lyft, Inc., a
transportation service that employs drivers to transport its customers via a smartphone application.

1 Although Defendant has designated Mr. Tilander as an independent contractor, Intervenor alleges
2 such designation is improper and unlawful, and that he is a current and former employee of Lyft.
3 Intervenor Tilander is a member of the proposed class described in the Fifth Amended Complaint,
4 and prior complaints of the above-captioned action in which Tilander seeks to intervene. Tilander is
5 a member of such proposed class because he drove for Lyft during the specified period covered by
6 the proposed settlement. Through this Complaint-In-Intervention Intervenor Tilander seeks to
7 prosecute claims arising under the Private Attorney General Act of 2004, Labor Code section 2698, *et*
8 *seq.* ("PAGA") on behalf of himself and all current and former aggrieved employees of Lyft.

9 VENUE/JURISDICTION

10 2. This Court appears to have assumed jurisdiction over the claims asserted by Intervenor
11 and Plaintiffs under 28 U.S.C. § 1367. Because the jurisdiction of the original action is founded on
12 28 U.S.C. § 1332(d), supplemental jurisdiction over a party seeking to intervene as a plaintiff under
13 Rule 24 is not inconsistent with the jurisdictional requirements of Section 1332. Should this Court
14 Continue to assert jurisdiction over the claims asserted in this Complaint-In-Intervention, it may do
15 so with respect to Intervenor's interest which did not arise until later in the litigation, once the
16 settlement terms were made public. *See Aurora Loan Servs. Inc. v. Craddieth*, 442 F.3d. 1018, 1025
17 (7th Cir. 2006) (Posner, J.) (intervening party whose interest arose during the course of litigation does
18 not circumvent diversity jurisdiction requirement).

19 3. The claims asserted by Intervenor share a common nucleus of operative fact and law
20 with respect to certain overlapping claims asserted by Plaintiffs, namely their PAGA claims, as
21 herein alleged. Therefore, the PAGA claims would be expected to be tried in the same proceeding as
22 Plaintiffs' and because the Plaintiffs seek court approval of a settlement of the PAGA claims
23 Intervenor herein seeks to assert through the intervention process.

24 4. Unlike Plaintiffs' other claims, the PAGA claims asserted herein are not susceptible to
25 mandatory arbitration or a motion to compel arbitration, and may not be dismissed as a result of any
26 purported waiver of the right to prosecute a representative action pursuant to PAGA.

27 5. Venue is proper in this Court because a substantial part of the events giving rise to the
28 Plaintiff-In-Intervention's claims occurred in this district. Specifically, Lyft's policies and practices

1 were created and implemented from its headquarters in San Francisco, California, and Intervenor has
2 been employed by Defendant Lyft in this judicial district.

3 6. Intra-District Assignment: Assignment to the San Francisco Courthouse is appropriate
4 as that is where Plaintiffs' action has convened.

5 **THE PARTIES**

6 7. Intervenor Tilander has regularly driven 36 or more hours per week for Lyft. Tilander
7 has driven for Lyft since May 2014, and is a resident of the County of Alameda, California.

8 8. Tilander is an aggrieved employee within the meaning of California Labor Code
9 section 2699.

10 9. Plaintiffs Cotter, Maciel, and Knudtson are two former and one current California Lyft
11 driver, respectively, and seek to represent at a class of approximately 100,000 Lyft drivers in the state
12 of California, including Intervenor, for the purpose of compromising claims on behalf of Tilander,
13 including those alleged herein.

14 10. Defendant Lyft is a Delaware corporation with its principal place of business in San
15 Francisco, California. Lyft is an "employer" and a "violator" within the meaning of Labor Code
16 section 2699.

17 **RIGHT TO INTERVENE**

18 11. Intervenor has the right to intervene pursuant to Federal Rule of Civil Procedure 24.

19 12. On or about March 22, 2015, Intervenor filed a motion to intervene with this Court,
20 which attached this proposed Complaint-In-Intervention.

21 13. This Complaint-In-Intervention will be filed as a matter of right, because it will be
22 filed if the Court grants the Motion for Intervention referenced in the prior paragraph. Intervenor
23 hereby incorporates the allegations and legal bases for intervention set forth in its Motion for
24 Intervention herein by reference in their entirety in support of its right to file and serve this Complaint
25 upon the Defendant Lyft.

26 **GENERAL ALLEGATIONS**

27 14. On or about January 26, 2016, Plaintiffs filed with this Court a motion for
28 Preliminary Approval of Class Settlement, which included a request to file a putative Fifth Amended

1 Complaint.

2 15. Prior to that date, Plaintiffs had not sought to certify a class of individuals with
3 respect to their lawsuit against Lyft.

4 16. The proposed settlement submitted to the Court for preliminary approval included a
5 compromise of various claims on a class-wide basis. Included for settlement were claims seeking
6 penalties recoverable on behalf of the State of California and aggrieved employees of Lyft pursuant
7 to PAGA.

8 17. In addition, Plaintiffs' proposed Fifth Amended Complaint ("FAC") sought to add,
9 for the first time and "for settlement purposes only," various additional California Labor Code
10 violations for which plaintiffs sought releases on a class-wide basis from Lyft. Specifically, Plaintiffs
11 indicated to the Court: "for settlement purposes, Plaintiffs have amended their Complaint to add
12 additional related claims against Lyft arising from their alleged misclassification of Drivers,
13 including claims under Cal. Lab. Code § 510, 1194, 1198, and Wage Order 9 (failure to pay overtime
14 wages); Cal. Lab. Code §§ 226.7, 512, and Wage Order 9 (failure to provide meal periods); Cal Lab.
15 Code § 226.7 and Wage Order 9 (failure to authorize and permit rest periods); Cal. Lab. Code §§ 201,
16 202, and 203 (failure to pay wages when due);[] Cal. Lab. Code § 1174 (failure to maintain accurate
17 payroll records); and Wage Order 9 (failure to pay for reporting time)."

18 18. Intervenor was unaware of Plaintiffs' intent with respect to their allegations and
19 intention to compromise the claims, including his PAGA claims as an aggrieved employee, until on
20 or around February 12, 2016. Thereafter, Intervenor submitted to the Court objections, along with
21 other class members and interested parties, to Plaintiffs' proposed settlement on or about March 17,
22 2016, and now seeks to intervene with respect to the PAGA claims he asserts through this Complaint-
23 In-Intervention.

24 **FIRST CAUSE OF ACTION**
25 **Penalties Under the Labor Code Private Attorneys General Act of 2004**
26 **Cal. Lab. Code § 2699 et seq.**

27 19. Intervener realleges and incorporates by reference all of the allegations of the
28 preceding paragraphs as if fully alleged herein.

1 20. Under the California Labor Code, an aggrieved employee may recover civil penalties
2 for violations of the Labor Code on behalf of all current and former aggrieved employees and on
3 behalf of the State of California.

4 21. Plaintiffs on behalf of themselves and all other aggrieved employees, and therefore on
5 Intervenor's behalf, have completed the notice requirements of Cal. Lab. Code § 2699.3 by sending
6 written notice by certified mail to Defendant and to the California Labor & Workforce Development
7 Agency ("LWDA") with respect to all Labor Code violations asserted in their Complaint.

8 22. As an aggrieved employee on whose behalf such notice was sent, Lyft has been
9 informed of the PAGA claims asserted by Intervenor, as has the LWDA which has declined to
10 investigate or remedy.

11 23. Defendant Lyft has failed and declined to cure the violations for which PAGA
12 penalties are sought.

13 24. Intervenor, in an abundance of caution, prior to filing this Complaint has also
14 provided notice to the LWDA and to Lyft of these PAGA claims asserted herein.

15 25. Intervenor is an employee of Defendant Lyft, however Defendant Lyft has failed to
16 abide by numerous Labor Code provisions applicable to employees and for which PAGA authorizes
17 assessment of a penalty. In addition to Intervenor, all other drivers engaged by Lyft have been
18 treated as non-employees and, therefore, Lyft has failed to adhere to the various Labor Code
19 provisions for which PAGA authorizes penalties with respect to Intervenor and all other aggrieved
20 employees, including:

- 21 a. Labor Code § 226, for failure to provide drivers with properly itemized wage
22 statements;
- 23 b. Labor Code §§ 201 and 202 requires employers to pay employees all earned and
24 unpaid wages at the time of their severance from employment, whether severance
25 is due to discharge or resignation, Lyft has failed to do so with respect to the
26 earned but unpaid overtime and minimum wages alleged herein;
- 27 c. Labor Code §§ 351 and 353, withholding and converting gratuities, and failing to
28 keep accurate records of gratuities withheld;

- 1 d. Labor Code § 226.8, willful misclassification of drivers as independent
2 contractors;
3 e. Labor Code § 432.5, forcing drivers to sign illegal contracts;
4 f. Labor Code §§ 1174 and 1174.5, failure to maintain accurate payroll records;
5 g. Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, 1198, 1999, failure to pay
6 minimum wage and failure to pay overtime; Lyft has failed to ensure and to pay
7 drivers the applicable minimum wage or daily or weekly overtime for all hours
8 worked as defined by California law;
9 h. Labor Code § 2802, failure to reimburse for work-related expenses;
10 i. Labor Code §§ 558, 1198 and 1199, violations of Labor Code and/or Wage
11 Order.

12 26. Lyft has not cured the Labor Code violations of which it has been informed, nor does
13 it commit to do so under the proposed settlement.

14 27. Where the Labor Code does not specify a penalty for a particular violation, PAGA §
15 2699(f) provides for a penalty of \$50, otherwise Intervenor is entitled to obtain a penalty for each
16 such violations in the amount enumerated within the respective Labor Code provision on behalf of
17 himself and all current and former aggrieved employees and the Labor Commissioner of the State of
18 California.

19 28. Plaintiffs are also entitled to recover attorneys' fees and costs pursuant to Labor Code
20 § 2699(g).

21 **WHEREFORE**, Plaintiff-In-Intervention prays for judgment as follows:

- 22 1. Civil penalties pursuant to the Labor Codes' Private Attorneys General Act of 2004;
23 2. Pre-judgment and post-judgment interest, attorney fees, and costs

24 Dated: March 22, 2016

BEESON, TAYER & BODINE, APC

25
26 By: /s/ Teague P. Paterson
27 TEAGUE P. PATERSON
28 Attorneys for Plaintiff-In-Intervention
KELSEY TILANDER

BEESON, TAYER & BODINE
ATTORNEYS AT LAW
ROSS HOUSE, SUITE 200
483 NINTH STREET
OAKLAND, CALIFORNIA 94607-4051



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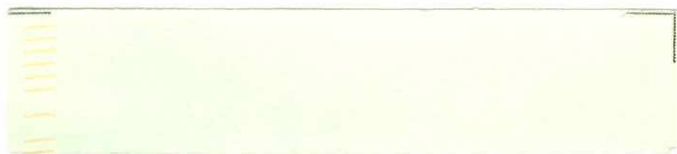
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