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May 7, 2024

Via Online Submission

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
800 Capitol Mall
Sacramento, CA 95814
<https://dir.taforms.net/128>

RE: Rejenna Marshall v. Uber Technologies, Inc.

Dear PAGA Administrator:

This office represents Ms. Rejenna Marshall in connection with their claims under the California labor code and send this letter in compliance with the notice requirements of the Private Attorneys General Act of 2004 ("PAGA"). Lab. C. § 2699.3. Ms. Marshall was an employee of Uber Technologies, Inc. in California.

The employer may be contacted directly at:

1725 3rd St
San Francisco, CA 94158

Ms. Marshall, on behalf of herself and other current and former laborers and workers who are similarly situated, allege that Uber Technologies, Inc. ("Uber" or "Uber Eats"), has violated, and continues to violate, the provisions of the Labor Code and wage orders promulgated by the Industrial Welfare Commission. Those similarly situated workers include all current and former independent contracting delivery drivers, employed by Uber Eats, who were denied wages for hours worked, not compensated, and who were denied compliant meal and rest breaks under California Law, and provided services for Uber Eats, at any of its locations and/or job sites in the state of California, from a date four years prior to the date that the attached proposed complaint is filed, to the present date.

Ms. Marshall was employed by Uber as a delivery driver under its Uber Eats brand. During the relevant time period, Ms. Marshall had her delivery driver contracts terminated, and her account on Uber's app suspended, preventing her from carrying out any more deliveries. Ms. Marshall was not informed why her contract had been terminated, and is unaware of what ultimately caused Uber to suspend her account. Ms. Marshall attempted to appeal Uber's decision to terminate her contracts, as described in further detail in the attached proposed complaint, however Uber did not reinstate her, but instead summarily affirmed its decision to terminate her contract without providing any further detail.

By engaging in such conduct, Uber has violated section 7452 of the California Business and Professions Code,¹ which states that “. . . (b) [a] network company shall not terminate a contract with an app-based driver unless based upon a ground specified in [their] contract,” and “(c) [n]etwork companies shall provide an appeals process for app-based drivers whose contracts are terminated by the network company.” As a result of Uber’s conduct in violation of California Business and Professions Code section 7452, Ms. Marshall, and all similarly situated delivery drivers do not qualify as independent contractors under California Business and Professions Code Chapter 10.5, and are therefore employees subject to the California Labor Code, as discussed in more detail in the attached proposed complaint.

The complaint alleges that Uber’s actions are subject to civil penalties pursuant to the following provisions of the *Labor Code* and Industrial Welfare Commission Wage Orders;

- a. Sections 1194 and 1197, for failing to pay minimum wage;
- b. Sections 2800 and 2802, for failing to reimburse business expenses;
- c. Section 204, 1197, and 1199, for failing to pay all regular wages;
- d. Sections 510, 1194 and 1198, for failing to pay overtime wages;
- e. Sections 226.7 and 512, for failing to provide duty-free meal and rest periods;
- f. Section 558, for failing to properly compensate for all hours worked;
- g. Sections 201-203, for failing to pay all wages due and owing when employees terminated;
- h. Section 226.8, for willful misclassification as independent contractor;
- i. Section 226, for failing to provide accurate, itemized wage statements; and,
- j. Section 1199, and Wage Orders No. 4 and/or 7 § 20, for failing to pay proper wages and/or provide required working conditions and/or for violating the applicable Wage Order/regulations.

Accordingly, Ms. Marshall requests that the Labor and Workforce Development Agency not investigate these violations and permit her to pursue a claim for such penalties under the Private Attorney General's Act (Labor Code section 2698 et seq. and Labor Code section 558). Upon receiving notice that this Agency does not intend to investigate the alleged violations, or, if no notice is provided, then within 60 calendar days of the postmark date of this letter, the named plaintiff will amend his lawsuit to include these claims.

¹ Cal. Bus. & Prof. C. § 7452 was added in 2020 after the passage of Proposition 22 in the 2020 election cycle.

Labor Workforce Development Agency
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May 7, 2024
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Thank you for your time and consideration.

Yours Truly,

Todd M. Friedman, Esq.

Enclosure: Complaint

cc:

By Certified Mail (with enclosure)

Uber Technologies, Inc.

1725 3rd St.

San Francisco, CA 94158

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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE
UNLIMITED JURISDICTION**

REJENNA MARSHALL, *individually and on
behalf of all others similarly situated and in her
capacity as a Private Attorneys General
Representative,*

Plaintiffs,

v.

UBER TECHNOLOGIES, INC.,

Defendant.

Case No.

**CLASS ACTION AND PRIVATE
ATTORNEYS GENERAL ACT
COMPLAINT**

(Amount to Exceed \$35,000)

I. INTRODUCTION

1. This case is brought on behalf of the state of California and other similarly situated aggrieved individuals who have worked for Uber Technologies, Inc. as delivery drivers under its Uber Eats brand in California. Uber Technologies, Inc. (“Uber Eats”) provides on-demand takeout food delivery to customers at their homes and businesses through its mobile phone application and website. Uber Eats is based in San Francisco, California, but it does business across the United States and extensively throughout California.

1 2. As described further below, Uber Eats has willfully misclassified its delivery
2 drivers including Plaintiff in violation of Cal. Labor Code § 226.8. Additionally, because of
3 delivery drivers' misclassification as independent contractors, Uber Eats has unlawfully
4 required delivery drivers to pay business expenses (including expenses to own or lease a vehicle,
5 as well as phone/data expenses) in violation of Cal. Lab. Code § 2802 and has also failed to pay
6 required minimum wage and overtime for all hours worked in violation of Cal. Lab. Code §§
7 1194, 1197, 1198, 510 and 554. Likewise, Uber Eats has failed to provide proper itemized
8 wage statements in violation of Cal. Lab. Code § 226(a) because it does not explain the piece-
9 rate basis on which drivers are paid and does not break out the amount of drivers' wages and
10 tips, among other reasons. Plaintiff brings her claims on a class-wide basis and pursuant to the
11 Private Attorney General Act ("PAGA"), Cal. Lab. Code § 2699, *et seq.*, on behalf of the state of
12 California and all other similarly situated aggrieved employees who have been misclassified by
13 Uber Eats in California since June 30, 2021.

14
15 **II. PARTIES**

16 3. Plaintiff Rejenna Marshall is an adult resident of Riverside County, California,
17 where she has worked as a delivery driver for Uber Eats.

18 4. Defendant Uber Technologies, Inc. ("Uber Eats" or "Defendant") is
19 headquartered in San Francisco, California.

20 **III. JURISDICTION**

21 5. This Court has jurisdiction over Plaintiff's California Labor Code claims
22 pursuant to California Code of Civil Procedure § 410.10.

23 6. This Court has jurisdiction over Plaintiff's PAGA claims pursuant to California
24 Code of Civil Procedure § 410.10. The monetary relief which Plaintiff seeks is in excess of the
25 jurisdictional minimum required by this Court and will be established according to proof at trial.

26 7. Venue is proper in this Court because Defendant engages in business activities in
27 and throughout the State of California, including Riverside County and Plaintiff performed
28 work as a delivery driver in Riverside County.

1 **IV. FACTUAL ALLEGATIONS**

2 **Background**

3 8. Uber Eats is a food delivery service, based in San Francisco, which engages
4 delivery drivers across the state of California to deliver food to its customers at their homes and
5 businesses.

6 9. Uber Eats offers customers the ability to request a driver on a mobile phone
7 application or online through its website, who will go to the restaurant and pick up their food,
8 then deliver it to the customer at their home or business.

9 10. Uber Eats holds itself out to the public as a food delivery service. Its website
10 advertises “Uber Eats is the easy way to get the food you love delivered.”

11 11. Plaintiff has driven for Uber Eats at various times, including during the last year.

12 12. Uber Eats classifies its delivery drivers as “independent contractors,” but under
13 California law, they should be classified as employees.

14 13. Uber Eats drivers perform services within Defendant’s usual course of business
15 as a food delivery service. The delivery drivers’ services are fully integrated into Defendant’s
16 business. Without delivery drivers to perform deliveries, Uber Eats would not exist.

17 14. Uber Eats delivery drivers are not typically engaged in their own food delivery
18 business. When delivering items for Uber Eats customers, they wear the “hat” of Uber Eats.

19 15. In addition, Uber Eats maintains the right of control over the delivery drivers’
20 performance of their jobs and exercises detailed control over them.

21 16. For example, drivers must follow Defendant’s instructions regarding where to
22 report for their shifts and where to go to pick up or await deliveries. Drivers can be penalized or
23 terminated for missing scheduled shifts or cancelling their shifts too close to the start time.
24 Uber Eats has collected various metrics regarding its drivers’ performance, including: (1)
25 drivers’ customer rating (out of five stars, with five being the highest), which is used to gauge
26 customers’ satisfaction with a delivery; (2) drivers’ acceptance rating, which gauges how many
27 deliveries drivers were assigned and accepted over the last 100 deliveries; and (3) drivers’
28

1 completion rating, which gauges the number of deliveries drivers completed that they accepted.
2 If drivers' ratings fall below Defendant's minimum thresholds they may be terminated.

3 17. Uber Eats communicates directly with customers and follows up with delivery
4 drivers if the customer complains that something was not delivered or that the delivery
5 otherwise failed to meet their expectations. Based on any customer feedback, Uber Eats may
6 suspend or terminate delivery drivers.

7 18. Uber Eats unilaterally sets the pay scheme and rate of pay for delivery drivers'
8 services and changes the rate of pay in its sole discretion.

9 19. Uber Eats does not reimburse delivery drivers for most expenses they may incur
10 while working for Uber Eats, including, but not limited to the cost of owning or leasing a
11 vehicle, and phone and data expenses for running the Uber Eats Application. Delivery drivers
12 incur these costs as a necessary expenditure to work for Uber Eats, which California law
13 requires employers to reimburse.
14

15 20. Uber Eats pays its drivers a guaranteed delivery fee for each delivery plus tips
16 they receive from customers. Uber Eats has failed to ensure that its delivery drivers receive the
17 applicable state minimum wage for all hours worked, and delivery drivers frequently do not
18 receive minimum wage for all hours worked, particularly given that customers' tips cannot
19 count toward Defendant's minimum wage obligations.

20 21. Furthermore, Uber Eats does not provide transparent itemized wage statements to
21 drivers with information regarding how their pay is calculated.

22 **Dynamex, AB5, and Proposition 22**

23 22. On April 30, 2018, the California Supreme Court issued its decision in Dynamex
24 Operations W., Inc. v. Superior Court, 4 Cal. 5th 903, 416 P.3d 1 (2018), which adopted the
25 "ABC" test for determining whether a worker is an independent contractor or an employee. The
26
27
28

1 Dynamex opinion strongly suggested that app-based drivers, like Uber Eats drivers, were
2 employees under California law.¹

3 23. In September of 2019, the California legislature enacted Assembly Bill 5
4 (“AB5”), which codified the Dynamex decision’s use of the ABC test and further expanded the
5 scope of its application.

6 24. Under the tests adopted in Dynamex and AB5, Uber Eats drivers undoubtedly
7 would have been classified as employees in California.

8 25. However, on October 29, 2019, Proposition 22 was filed, and on November 3,
9 2020, was approved by a majority of California voters.

10 26. Proposition 22, now codified at Cal. Bus. & Prof. C. § 7448, *et seq.*, made
11 several changes to California law, the primary change being that Proposition 22 superseded the
12 “ABC” test adopted in Dynamex and AB5, and instead states that app-based delivery drivers are
13 independent contractors if:
14

- 15 (a) The network company does not unilaterally prescribe specific
16 dates, times or day, or a minimum number of hours during which
the app-based driver must be logged into the network company’s
online-enabled application or platform.
- 17 (b) The network company does not require the app-based driver to
18 accept any specific rideshare service or deliver service request as
a condition of maintaining access to the network company’s
19 online-enabled application or platform.
- 20 (c) The network company does not restrict the app-based driver from
performing rideshare services or deliver services through other
21 network companies except during engaged time.
- 22 (d) The network company does not restrict the app-based driver from
working in any other lawful occupation or business.

23 Cal. Bus. & Prof. C. § 7451.

24 27. Proposition 22 also imposed additional requirements on network companies,
25 such as Uber Eats.

26
27
28 ¹ One California Court of Appeal expressly ruled as such with regard to Defendant’s rideshare
drivers in *People v. Uber Technologies, Inc.*, 56 Cal. App. 5th 226, 295–298 (2020).

28. Specifically, under Proposition 22, Uber Eats must “enter into a written agreement” with its drivers, “not terminate a contract with an app-based driver unless based upon a ground specified in the contract,” and “provide an appeals process for app-based drivers whose contracts are terminated by” Uber Eats. Cal. Bus. & Prof. C. § 7452.

Plaintiff's Facts

29. Beginning in or around June of 2021, Plaintiff drove as an Uber Eats delivery driver.

30. In or around May of 2023, Plaintiff received an email from Uber Eats indicating that it was terminating her independent contractor status and deactivating her account on Uber Eats's platform.

31. Thus, Plaintiff would no longer be able to deliver for Uber Eats.

32. The email Plaintiff received provided essentially no details regarding her account deactivation, other than that the deactivation was for “cancellation fraud.” The email did not describe what actions Plaintiff allegedly took that were fraudulent in nature, what date these allegedly fraudulent actions occurred, or any other identifying information that would in any way assist Plaintiff in evaluating the validity of her deactivation.

33. The email also indicated that Plaintiff could appeal her deactivation.

34. Plaintiff appealed her deactivation with Uber Eats and provided as much detail as she could based on Defendant's limited description of the reason she was deactivated.

35. Shortly thereafter, Plaintiff received an email from Uber Eats indicating that it had denied her appeal.

36. This email provided no explanation for why Uber Eats had denied Plaintiff's appeal other than that it had "determined that [her] account will remain deactivated."

37. This email, again, provided no factual detail regarding the underlying conduct that Uber Eats viewed as grounds for termination of Plaintiff's independent contractor agreement, and no specific response to any of the information Plaintiff provided in her appeal.

1 38. As a result, Plaintiff, to this day, does not actually know why Uber Eats
2 deactivated her account and terminated her independent contractor agreement, nor does she
3 know why Uber Eats denied her appeal.

4 39. Uber Eats has, thus, terminated Plaintiff's independent contractor agreement
5 upon a ground not specified in the agreement itself in violation of Cal. Bus. & Prof. C. §
6 7452(b).

7 40. Moreover, Uber Eats has not provided Plaintiff with any meaningful appeal
8 process as required by Cal. Bus. & Prof. C. § 7452(c).

9 41. Thus, Uber Eats has failed to meet the requirements placed upon Network
10 Companies by Proposition 22.

11 42. As a result, Uber Eats should not be allowed to avail itself of the relaxed test for
12 independent contractor status adopted by Proposition 22 and codified in Cal. Bus. & Prof. C. §
13 7451.

14 43. Instead, the general standard of California labor law applies.

15 44. That standard is the "ABC" test as adopted by Dynamex and AB5. See Cal. Lab.
16 C. § 2755, *et seq.*

17 45. Uber Eats cannot meet the standard of the "ABC" test, and therefore has
18 deliberately misclassified Plaintiff as an independent contractor.

19 **V. CLASS ACTION ALLEGATIONS**

20 46. Plaintiff brings this case as a class action pursuant to California Code of Civil
21 Procedure § 382 on behalf of all individuals who used the Uber Eats platform and have
22 completed at least one delivery in California since June 30, 2021.

23 47. Plaintiff and other class members have uniformly been deprived reimbursement
24 of their necessary business expenditures.

25 48. The members of the class are so numerous that joinder of all class members is
26 impracticable.

1 49. Common questions of law and fact regarding Defendant’s conduct in classifying
2 drivers as independent contractors, failing to reimburse them for business expenditures, and
3 failing to ensure they are paid at least minimum wage and overtime for all weeks, exist as to all
4 members of the class and predominate over any questions affecting solely any individual
5 members of the class. Among the questions of law and fact common to the class are:
6

- 7 a. Whether Uber Eats provides a meaningful appeals process within the meaning of
8 Cal. Bus. & Prof. C. § 7452(c);
- 9 b. Whether Defendant’s failure to comply with the requirements of Proposition 22
10 (Cal. Bus. & Prof. C. § 7488, *et seq.*) results in the application of the “ABC” test
11 to its drivers, or in the alternative whether the requirements of Cal. Bus. & Prof.
12 C. § 1488, *et seq.*, supplant the “ABC” test, and result in *de facto*
13 misclassification upon a breach;
- 14 c. Whether the work performed by class members—providing delivery services to
15 customers—is within Defendant’s usual course of business;
- 16 d. Whether class members are typically engaged in their own businesses or whether
17 they wear the “hat” of Uber Eats when performing delivery services;
- 18 e. Whether class members have been required to follow uniform procedures and
19 policies regarding their work for Uber Eats;
- 20 f. Whether these class members have been required to bear the expenses of their
21 employment, such as expenses for maintaining their vehicles and expenses for gas,
22 insurance, phone and data plan.

23 50. Plaintiff is a class member who suffered damages as a result of Defendant’s
24 conduct and actions alleged herein.

25 51. Plaintiff’s claims are typical of the claims of the class, and the named Plaintiff
26 has the same interests as the other members of the class.

27 52. Plaintiff will fairly and adequately represent and protect the interests of the class.
28 Plaintiff has retained able counsel experienced in class action litigation. The interests of
Plaintiff are coincident with, and not antagonistic to, the interests of the other class members.

1 53. The questions of law and fact common to the members of the class predominate
2 over any questions affecting only individual members, including legal and factual issues relating
3 to liability and damages.

4 54. A class action is superior to other available methods for the fair and efficient
5 adjudication of this controversy because joinder of all class members is impractical. Moreover,
6 since the damages suffered by individual members of the class may be relatively small, the
7 expense and burden of individual litigation makes it practically impossible for the members of
8 the class individually to redress the wrongs done to them. The class is readily definable as Uber
9 Eats knows which drivers have signed up to use the Uber Eats platform as drivers and have
10 completed at least one delivery since June 30, 2021. Further, prosecution of this action as a class
11 action will eliminate the possibility of repetitive litigation. There will be no difficulty in the
12 management of this action as a class action.
13

14 **VI. PAGA REPRESENTATIVE ACTION ALLEGATIONS**

15 55. Plaintiff alleges that Uber Eats violated the Labor Code as follows: (1) failure to
16 reimburse delivery driver employees for all necessary expenditures incurred in performing their
17 duties, including but not limited to owning or leasing their vehicles, phones, and data and by
18 requiring drivers to enter into contracts that impermissibly waive their right to reimbursement of
19 these expenses, in violation of Cal. Lab. Code §§ 2802, 2804, and 450; (2) the willful
20 misclassification of delivery workers as independent contractors in violation of Cal. Lab. Code
21 §§ 226.8 and 2753; (3) failure to assure that all delivery drivers received the appropriate
22 overtime premium for all overtime hours worked beyond forty per week or eight hours per day in
23 violation of Cal. Lab. Code §§ 1194, 1198, 510, and 554; (4) failure to provide proper itemized
24 wage statements in violation of Cal. Lab. Code § 226(a), 226.3, and Wage Order 9-2001; (5)
25 failure to pay the appropriate minimum wage for all hours worked in violation of Cal. Lab. Code
26 §§ 1197, 1194, 1194.3, 1182.12, 1194.2, 1197.1, 1199 and Wage Order 9-2001; (6) collecting
27 and/or withholding gratuities and failure to keep accurate records of gratuities in violation of Cal.
28 Lab. Code § 351, 353; (7) failure to pay for meal and rest periods in violation of Cal. Lab. Code

1 §§ 226.7, 512, 558, and 1198; (8) failure to timely pay all earned wages during employment and
2 upon termination and failing to conspicuously post notice of regular pay days in violation of Cal.
3 Lab. Code §§ 201-204, 207 and 208; (9) requiring drivers to release claims as a condition to
4 receiving paychecks in violation of Cal. Lab. Code § 206.5; (10) collecting and receiving wages
5 already paid in violation of Cal. Lab. Code § 221, 224; (11) failing to pay the costs of mandatory
6 drug testing and/or physical examinations in violation of Cal. Lab. Code § 222.5; (12) secretly
7 paying wages lower than required by statute in violation of Cal. Lab. Code § 223; (13) failing to
8 provide sick leave benefits and failing to provide written notice of paid sick leave or paid time
9 off to its delivery drivers in violation of Cal. Lab. Code §§ 245-49; (14) failure to provide one
10 day's rest in seven in violation of Cal. Lab. Code § 551, 552; (15) failure to provide written
11 notice of material terms of employment in violation of Cal. Lab. Code §§ 2810.5 and 432.5; (16)
12 failure to keep accurate records of hours worked and drivers' personal information in violation of
13 Cal. Lab. Code § 1174, 1174.5, and 1175; (17) willfully refusing to pay wages in violation of Cal.
14 Labor Code §§ 216, 218, 218.5, 218.6, and 225.5; (18) failing to pay out vested vacation time to
15 drivers in violation of Cal. Labor Code § 227.3; (19) causing delivery drivers to be injured on the
16 job through the serious and willful misconduct of the company in violation of Cal. Labor Code §
17 4553; and (20) failing to remit wages that it has withheld to benefit plans in violation of Cal.
18 Labor Code § 227.

19
20 56. On [Date], Plaintiff gave written notice of Defendant's violations to the California
21 Labor Code as alleged in this complaint to the Labor and Workforce Development Agency
22 ("LWDA") via online filing and to Defendant's general counsel via certified mail.

23 **COUNT I**
24 **Expense Reimbursement**
25 **Violation of Cal. Lab. Code § 2802**

26 57. Plaintiff realleges and incorporates by reference the allegations in the preceding
27 paragraphs as if fully alleged herein. Defendant's conduct, as set forth above, in misclassifying
28 Plaintiffs as independent contractors and failing to reimburse them for expenses that they paid

1 that should have been borne by their employer, constitutes a violation of California Labor Code §
2 2802.

3 58. This claim is brought by Plaintiff on behalf of a class of all similarly situated
4 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile
5 application to offer delivery services to customers in California since December 17, 2020 and
6 performed at least one delivery.
7

8 **COUNT II**
9 **Willful Misclassification**
10 **Violation of Cal. Lab. Code § 226.8**

11 59. Plaintiff realleges and incorporates by reference the allegations in the preceding
12 paragraphs as if fully alleged herein. Defendant's conduct, as set forth above, in continuing to
13 classify drivers as independent contractors notwithstanding its failure to comply with the
14 requirements placed on Network Companies by Cal. Bus. & Prof. C. § 7452, violates Cal. Lab.
15 Code §226.8 and constitutes willful misclassification.

16 60. This claim is brought by Plaintiff on behalf of a class of all similarly situated
17 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile
18 application to offer delivery services to customers in California since December 17, 2020 and
19 performed at least one delivery.

20 **COUNT III**
21 **Minimum Wage**

22 **Violation of Cal. Lab. Code §§ 1197 and 1194, Cal. Wage Order No. 9-2001**

23 61. Plaintiff realleges and incorporates by reference the allegations in the preceding
24 paragraphs as if fully alleged herein. Defendant's conduct, as set forth above, in failing to pay
25 Plaintiff minimum wage for all hours worked as required by California law, violates Cal. Lab.
26 Code §§ 1197 and 1194 and Wage Order 9-2001.

27 62. This claim is brought by Plaintiff on behalf of a class of all similarly situated
28 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile

1 application to offer delivery services to customers in California since December 17, 2020 and
2 performed at least one delivery.

3 **COUNT IV**
4 **Overtime**

5 **Violation of Cal. Lab. Code §§ 510, 1194, 1198, Cal. Wage Order No. 9-2001**

6 63. Plaintiff realleges and incorporates by reference the allegations in the preceding
7 paragraphs as if fully alleged herein. Defendant's conduct, as set forth above, in failing to pay
8 Plaintiff minimum wage for all hours worked as required by California law, violates Cal. Lab.
9 Code §§ 510, 1194, and 1198 and Wage Order 9-2001.

10 64. This claim is brought by Plaintiff on behalf of a class of all similarly situated
11 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile
12 application to offer delivery services to customers in California since December 17, 2020 and
13 performed at least one delivery.

14 **COUNT V**
15 **Pay Statements**

16 **Violation of Cal. Lab. Code § 226(a)**

17 65. Plaintiff realleges and incorporates by reference the allegations in the preceding
18 paragraphs as if fully alleged herein. Uber Eats's conduct, as set forth above, in failing to
19 provide proper itemized wage statements to Plaintiff, as required by California state law, violates
20 Cal. Lab. Code § 226(a).

21 66. This claim is brought by Plaintiff on behalf of a class of all similarly situated
22 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile
23 application to offer delivery services to customers in California since December 17, 2020 and
24 performed at least one delivery.

25 **COUNT VI**
26 **Meal and Rest Period Violations**

27 **Violation of Cal. Wage Order No. 9-2001; Cal. Labor Code §§ 226.7 & 512**

28 67. Plaintiff realleges and incorporates by reference all other paragraphs as if they
were set forth again herein. Uber Eats's conduct in denying drivers at least a half-hour meal

1 break during shifts in excess of five hours and one ten-minute rest break per four hours of work
2 performed violates Cal. Wage Order No. 9-2001; Cal. Labor Code §§ 226.7 & 512.

3 68. This claim is brought by Plaintiff on behalf of a class of all similarly situated
4 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile
5 application to offer delivery services to customers in California since December 17, 2020 and
6 performed at least one delivery.
7

8 **COUNT VII**
9 **Failure to Pay All Regular Wages**
10 **Violation of Cal. Labor Code § 204**

11 69. Plaintiff realleges and incorporates by reference the allegations in the preceding
12 paragraphs as if fully alleged herein. Door Dash's conduct, as set forth above, in failing to pay
13 drivers the proper wages for all hours worked violates Cal. Labor Code § 204.

14 70. This claim is brought by Plaintiff on behalf of a class of all similarly situated
15 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile
16 application to offer delivery services to customers in California since December 17, 2020 and
17 performed at least one delivery.

18 **COUNT VIII**
19 **Waiting Time Penalties**
20 **Violation of Cal. Labor Code §§ 201-203**

21 71. Plaintiff realleges and incorporates by reference the allegations in the preceding
22 paragraphs as if fully alleged herein. Door Dash failed to pay drivers their final wages pursuant
23 to Cal. Labor Code §§ 201-203 and accordingly owes waiting time penalties pursuant to Cal.
24 Labor Code § 203.

25 72. This claim is brought by Plaintiff on behalf of a class of all similarly situated
26 individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile
27 application to offer delivery services to customers in California since December 17, 2020 and
28 performed at least one delivery.

COUNT IX
Unfair Business Practices
Violation of Cal. Bus. & Prof. Code §17200, *et seq.*

73. Defendant's conduct, as set forth above, violates the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* ("UCL"). Defendant's conduct constitutes unlawful business acts or practices, in that Defendant has violated the California Labor Code as described above. As a result of Defendant's unlawful conduct, Plaintiff suffered injury in fact and lost money and property, including, but not limited to business expenses they were required to pay (and was not reimbursed for) and wages that they were due. Pursuant to California Business and Professions Code § 17203, Plaintiff seeks declaratory and injunctive relief for Defendant's unlawful conduct and to recover restitution. The nature of this relief is in the public interest, since Defendant's violation of the Labor Code in misclassifying drivers across California like Plaintiff, and failing to provide them with protections of the Labor Code, harms the public interest (and not just Uber Eats drivers like Plaintiff), in that it burdens the government and taxpayers, as well as complying competitors, and also negatively harms the labor market as a whole, particularly in the delivery industry. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiff is entitled to recover reasonable attorneys' fees, costs, and expenses incurred in bringing this action.

74. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber Eats to use the Uber Eats mobile application to offer delivery services to customers in California since December 17, 2020 and performed at least one delivery.

COUNT X
Penalties Pursuant to Labor Code Private Attorneys General Act of 2004
Violation of Cal. Lab. Code §§ 2698, *et seq.*, 558

75. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs as if fully alleged herein. Plaintiff is an aggrieved employee as defined by Cal. Lab. Code § 2699(c) as she was employed by Uber Eats during the applicable statutory period and

1 suffered injury as a result of Uber Eats's Labor Code violations. Accordingly, Plaintiff seeks to
2 recover on behalf of the State of California, as well as herself and all other current and former
3 aggrieved employees of Uber Eats who have worked in California, the civil penalties provided
4 by PAGA, plus reasonable attorney's fees and costs.

5 76. Uber Eats delivery drivers are entitled to penalties for Uber Eats's violations of
6 Cal. Lab. Code §§ 132a, 201-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6, 221-224,
7 225.5, 226, 226.3, 226.7, 226.8, 227, 227.3, 245-249, 351, 353, 432.4, 432.5, 450, 510, 512, 551-
8 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2753, 2802, 2804,
9 2810.5, and 4553 *et seq.* Plaintiff seeks civil penalties pursuant to PAGA for: (1) failure to
10 reimburse delivery driver employees for all necessary expenditures incurred in performing their
11 duties, including but not limited to owning or leasing their vehicles, fuel, phones, and data and
12 by requiring drivers to enter into contracts that impermissibly waive their right to reimbursement
13 of these expenses, in violation of Cal. Lab. Code §§ 2802, 2804, and 450; (2) the willful
14 misclassification of delivery workers as independent contractors in violation of Cal. Lab. Code
15 §§ 226.8 and 2753; (3) failure to assure that all delivery drivers received the appropriate
16 overtime premium for all overtime hours worked beyond forty per week or eight hours per day in
17 violation of Cal. Lab. Code §§ 1194, 1198, 510, and 554; (4) failure to provide proper itemized
18 wage statements in violation of Cal. Lab. Code § 226(a), 226.3, and Wage Order 9-2001; (5)
19 failure to pay the appropriate minimum wage for all hours worked in violation of Cal. Lab. Code
20 §§ 1197, 1194, 1194.3, 1182.12, 1194.2, 1197.1, 1199 and Wage Order 9-2001; (6) collecting
21 and/or withholding gratuities and failure to keep accurate records of gratuities in violation of Cal.
22 Lab. Code § 351, 353; (7) failure to pay for meal and rest periods in violation of Cal. Lab. Code
23 §§ 226.7, 512, 558, and 1198; (8) failure to timely pay all earned wages during employment and
24 upon termination and failing to conspicuously post notice of regular pay days in violation of Cal.
25 Lab. Code §§ 201-204, 207 and 208; (9) requiring drivers to release claims as a condition to
26 receiving paychecks in violation of Cal. Lab. Code § 206.5; (10) collecting and receiving wages
27 already paid in violation of Cal. Lab. Code § 221, 224; (11) failing to pay the costs of mandatory
28

1 drug testing and/or physical examinations in violation of Cal. Lab. Code § 222.5; (12) secretly
2 paying wages lower than required by statute in violation of Cal. Lab. Code § 223; (13) failing to
3 provide sick leave benefits and failing to provide written notice of paid sick leave or paid time
4 off to its delivery drivers in violation of Cal. Lab. Code §§ 245-49; (14) failure to provide one
5 day's rest in seven in violation of Cal. Lab. Code § 551, 552; (15) failure to provide written
6 notice of material terms of employment in violation of Cal. Lab. Code §§ 2810.5 and 432.5; (16)
7 failure to keep accurate records of hours worked and drivers' personal information in violation of
8 Cal. Lab. Code § 1174, 1174.5, and 1175; (17) willfully refusing to pay wages in violation of Cal.
9 Labor Code §§ 216, 218, 218.5, 218.6, and 225.5; (18) failing to pay out vested vacation time to
10 drivers in violation of Cal. Labor Code § 227.3; (19) causing delivery drivers to be injured on the
11 job through the serious and willful misconduct of the company in violation of Cal. Labor Code §
12 4553; and (20) failing to remit wages that it has withheld to benefit plans in violation of Cal.
13 Labor Code § 227.
14

15 77. Cal. Lab. Code § 2699(f) provides for civil penalties for violation of all Labor
16 Code provisions for which no civil penalty is specifically provided. There is no specified civil
17 penalty for violations of Cal. Lab. Code §§ 206.5, 351, 353, 2802, 2810.5. With respect to
18 minimum wage violations under Cal. Lab. Code §§ 1197 and 1194, § 1197.1 imposes a civil
19 penalty in addition to any other penalty provided by law of one hundred (\$100) for each
20 underpaid employee for each pay period for which the employee is underpaid in addition to an
21 amount sufficient to recover underpaid wages and liquidated damages, and, for each subsequent
22 violation of Labor Code §§ 1197 and 1194, two hundred and fifty dollars (\$250) for each
23 underpaid employee for each pay period for which the employee is underpaid in addition to an
24 amount sufficient to recover underpaid wages and liquidated damages. With respect to overtime
25 violations under Labor Code §§ 510 and 558, the statute imposes a civil penalty in addition to
26 any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid
27 employee for each pay period for which the employee was underpaid in addition to an amount
28 sufficient to recover unpaid wages, and one hundred dollars (\$100) for subsequent violations for

1 each underpaid employee for each pay period for which the employee was underpaid in addition
2 to an amount sufficient to recover underpaid wages. With respect to violations of Labor Code §
3 226(a), Labor Code § 226.3 imposes a civil penalty in addition to any other penalty provided by
4 law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one
5 thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §
6 226(a). With respect to violations of Labor Code § 226.8, Labor Code § 226.8(b) imposes a
7 civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand
8 dollars (\$15,000) for each violation. With respect to violations under Labor Code § 512, the
9 statute imposes a civil penalty in addition to any other penalty provided by law of fifty dollars
10 (\$50) for initial violations for each underpaid employee for each pay period for which the
11 employee was underpaid in addition to an amount sufficient to recover unpaid wages, and one
12 hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay
13 period for which the employee was underpaid in addition to an amount sufficient to recover
14 underpaid wages. With respect to violations of Labor Code § 204, the statute imposes a civil
15 penalty in addition to any other penalty of one hundred dollars (\$100) for initial violations for
16 each underpaid employee and two hundred dollars (\$200) for subsequent violations for each
17 underpaid employee, plus 25% of the amount unlawfully withheld. With respect to violations of
18 Labor Code §§ 221, 223, the statute imposes a civil penalty in addition to any other penalty of
19 one hundred dollars (\$100) for initial violations for each underpaid employee and two hundred
20 dollars (\$200) for subsequent violations for each underpaid employee, plus 25% of the amount
21 unlawfully withheld. With respect to violations of Labor Code §§ 551, 552, the statute imposes
22 a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial
23 violations for each underpaid employee for each pay period for which the employee was
24 underpaid in addition to an amount sufficient to recover unpaid wages, and one hundred dollars
25 (\$100) for subsequent violations for each underpaid employee for each pay period for which the
26 employee was underpaid in addition to an amount sufficient to recover underpaid wages. With
27 respect to violations of Labor Code § 1174, the statute imposes a civil penalty of five hundred
28

1 dollars (\$500). With respect to violations of Labor Code § 246, the statute imposes a civil
2 penalty of the dollar amount of paid sick days withheld multiplied by three, or two hundred fifty
3 dollars (\$250) but not to exceed four thousand dollars (\$4000).

4 78. Plaintiff complied with the notice requirement of Cal. Lab. Code §2699.3 and
5 served a written notice to the California Labor & Workforce Development Agency (“LWDA”)
6 through its website’s online filing portal, and on Defendant Uber Eats via Certified Mail, return
7 receipt requested, on [DATE]. It has been 65 days or more since the LWDA was notified of the
8 Labor Code violations asserted in this Complaint, and the LWDA has not provided any notice
9 that it will or will not investigate the alleged violations.
10

11
12 WHEREFORE, Plaintiffs request that this Court enter the following relief:

- 13 a. Declare and find that the Defendant violated Wage Order 9, the UCL, and Cal. Lab.
14 Code §§ 201-204, 226(a), 226.7, 2802, 1194, 1197, 1198, 510, 554;
15
16 b. Certify a Class under Counts I through IX and appoint Plaintiff and her counsel to
17 represent a class of all individuals who entered into an agreement with Uber Eats to
18 use the Uber Eats mobile application to offer delivery services to customers in
19 California since June 30, 2021 and performed at least one delivery;
20
21 c. Award compensatory damages, including all expenses and wages owed and all
22 damages stemming from the alleged use of tips to meet minimum-pay guarantees, in
23 an amount according to proof;
24
25 d. Award restitution for unfair business practices and for all claims arising out of or
26 relating to the statutory causes of action described herein;
27
28 e. Enter Judgment in Plaintiff’s favor on her PAGA claim pursuant to Cal. Lab. Code
§2699(c);
f. Award penalties, including penalties for timely payment of wages upon discharge,
waiting time penalties, and PAGA penalties in an amount according to proof;

- 1 g. Award liquidated damages and exemplary and/or punitive damages;
2 h. Award pre- and post-judgment interest;
3 i. Award reasonable attorneys' fees, interest, costs, and expenses;
4 j. Award declaratory and injunctive relief (including public injunctive relief) in the
5 form of an order requiring Defendant to comply with the California Labor Code; and
6 k. Award any equitable remedies or any other relief to which the Plaintiff may be
7 entitled.
8

9 Respectfully submitted,
10

11 REJENNA MARSHALL, individually and on
12 behalf of all others similarly situated and in her
13 capacity as a Private Attorney General
14 Representative,
15

16 By her attorney,
17

18 _____
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28

29 Dated: May 7, 2024