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May 21, 2024

Via Online Submission

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
800 Capitol Mall
Sacramento, CA 95814
<https://dir.tfaforms.net/308>

RE: Thomas Edwards v. Uber Technologies, Inc.

Dear PAGA Administrator:

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

The employer may be contacted directly at:

1725 3rd St.
San Francisco, CA 94158

Mr. Edwards, on behalf of himself and other current and former laborers and workers who are similarly situated, alleges 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, who were denied wages for hours worked, not compensated, and who were denied compliant meal and rest breaks under California Law, and provided services to Uber, at any of its locations and/or job sites in the state of California, from January 1, 2021 to the present date.

As described more thoroughly in the attached proposed Complaint, Mr. Edwards was employed by Uber as a delivery driver. During the relevant time period, Mr. Edwards was not paid the guaranteed minimum earnings under Proposition 22. Uber did not pay Mr. Edwards minimum wage or overtime, and did not allow Mr. Edwards to take meal or rest breaks, as required by California law.

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 4 and/or 7:

- 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, Mr. Edwards requests that the Labor and Workforce Development Agency not investigate these violations and permit him 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.

Thank you for your time and consideration.

Yours Truly,

Todd M. Friedman

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 BUTTE
UNLIMITED JURISDICTION

THOMAS EDWARDS, *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**

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 in California. Uber Technologies, Inc. (“Uber” or “Uber Eats”) provides on-demand takeout food delivery to customers at their homes and businesses under the Uber Eats brand through its

1 mobile phone application and website. Uber is based in San Francisco, California, but it does
2 business across the United States and extensively throughout California.

3 2. As described further below, Uber has willfully misclassified its delivery drivers
4 including Plaintiff in violation of Cal. Labor Code § 226.8. Additionally, because of delivery
5 drivers' misclassification as independent contractors, Uber has unlawfully required delivery
6 drivers to pay business expenses (including expenses to own or lease a vehicle, as well as
7 phone/data expenses) in violation of Cal. Lab. Code § 2802 and has also failed to pay required
8 minimum wage and overtime for all hours worked in violation of Cal. Lab. Code §§ 1194, 1197,
9 1198, 510 and 554. Likewise, Uber has failed to provide proper itemized wage statements in
10 violation of Cal. Lab. Code § 226(a) because it does not explain the piece-rate basis on which
11 drivers are paid and does not break out the amount of drivers' wages and tips, among other
12 reasons. Plaintiff brings his claims on a class-wide basis and pursuant to the Private Attorney
13 General Act ("PAGA"), Cal. Lab. Code § 2699, *et seq.*, on behalf of the state of California and
14 all other similarly situated aggrieved employees who have been misclassified by Uber in
15 California since January 1, 2021.
16

17 **II. PARTIES**

18 3. Plaintiff Thomas Edwards ("Plaintiff") is an adult resident of Butte County,
19 California, where he has worked as a delivery driver for Uber.

20 4. Defendant Uber is headquartered in San Francisco, California.

21 **III. JURISDICTION**

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

24 6. This Court has jurisdiction over Plaintiff's PAGA claims pursuant to California
25 Code of Civil Procedure § 410.10. The monetary relief which Plaintiffs seek is in excess of the
26 jurisdictional minimum required by this Court and will be established according to proof at trial.
27
28

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

IV. FACTUAL ALLEGATIONS

Background

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

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

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

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

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

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

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

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

16. For example, drivers must follow Defendant's instructions regarding where to report for their shifts and where to go to pick up or await deliveries. Drivers can be penalized or terminated for missing scheduled shifts or cancelling their shifts too close to the start time. Uber Eats has collected various metrics regarding its drivers' performance, including: (1)

1 drivers' customer rating (out of five stars, with five being the highest), which is used to gauge
2 customers' satisfaction with a delivery; (2) drivers' acceptance rating, which gauges how many
3 deliveries drivers were assigned and accepted over the last 100 deliveries; and (3) drivers'
4 completion rating, which gauges the number of deliveries drivers completed that they accepted.
5 If drivers' ratings fall below Defendant's minimum thresholds they may be terminated.

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

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

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

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

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

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

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

1 Dynamex opinion strongly suggested that app-based drivers, like Uber’s 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’s 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.

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

28. Specifically, under Proposition 22, Uber must pay its delivery drivers a “guaranteed minimum level of compensation,” equal to 120% of the local minimum wage plus the applicable milage rate.

29. In evaluating whether a delivery driver has met the guaranteed minimum, Uber may not include tips, gratuities, or incentive bonuses earned by a delivery driver to calculate their earnings.

30. In other words, the “guaranteed minimum level of compensation” includes only the money paid to delivery drivers by Uber for completing specific deliveries.

31. In practice, this requirement frequently causes Uber to pay delivery drivers a lump sum “adjustment” in order to ensure that delivery drivers are making the guaranteed minimum.

Plaintiff's Facts

32. In or around September of 2023, Plaintiff was working as a delivery driver for Uber Eats.

33. On information and belief, for the entire time that Plaintiff worked as a delivery driver, Uber has consistently failed to pay Plaintiff the guaranteed minimum compensation, and has incorrectly calculated his earnings.

34. Specifically, Plaintiff alleges that, on information and belief, Uber has incorrectly calculated the mileage that Plaintiff is owed under the Proposition 22 guaranteed earnings.

35. On information and belief, Uber has thus consistently failed to pay Plaintiff and those similarly situated the guaranteed minimum earnings as required by Cal. Bus. & Prof. C. § 7453 and has failed to meet the requirements placed upon Network Companies by Proposition 22.

36. Moreover, Uber has changed its payroll practices such that Plaintiff and those similarly situated can no longer see the exact breakdown of their pay. Because of this, Plaintiff and those similarly situated have no way to cross-check the amount of pay they received against the guaranteed minimum earnings of Proposition 22.

1 37. As a result, Uber should not be allowed to avail itself of the relaxed test for
2 independent contractor status adopted by Proposition 22 and codified in Cal. Bus. & Prof. C. §
3 7451.

4 38. Instead, the general standard of California labor law applies.

5 39. That standard is the “ABC” test as adopted by Dynamex and AB5. *See* Cal. Lab.
6 C. § 2755, *et seq.*

7 40. Uber cannot meet the standard of the “ABC” test, and therefore has deliberately
8 misclassified Plaintiff as an independent contractor.

9 **V. CLASS ACTION ALLEGATIONS**

10 41. Plaintiff brings this case as a class action pursuant to California Code of Civil
11 Procedure § 382 on behalf of all individuals who used the Uber platform and have completed at
12 least one delivery for Uber Eats in California since January 1, 2021.

13 42. Plaintiff and other class members have uniformly been deprived reimbursement
14 of their necessary business expenditures.

15 43. The members of the class are so numerous that joinder of all class members is
16 impracticable.

17 44. Common questions of law and fact regarding Uber’s conduct in classifying
18 drivers as independent contractors, failing to reimburse them for business expenditures, and
19 failing to ensure they are paid at least minimum wage and overtime for all weeks, exist as to all
20 members of the class and predominate over any questions affecting solely any individual
21 members of the class. Among the questions of law and fact common to the class are:

- 22
- 23 a. Whether Uber pays delivery drivers the guaranteed minimum earnings required
- 24 by Cal. Bus. & Prof. C. § 7453;
- 25 b. Whether Uber’s failure to comply with the requirements of Proposition 22 (Cal.
- 26 Bus. & Prof. C. § 7488, *et seq.*) results in the application of the “ABC” test to its
- 27 drivers, or in the alternative whether the requirements of Cal. Bus. & Prof. C. §
- 28 1488, *et seq.*, supplant the “ABC” test, and result in *de facto* misclassification
- upon a breach;

- c. Whether the work performed by class members—providing delivery services to customers—is within Uber’s usual course of business;
- d. Whether class members are typically engaged in their own businesses or whether they wear the “hat” of Uber when performing delivery services;
- e. Whether class members have been required to follow uniform procedures and policies regarding their work for Uber;
- f. Whether these class members have been required to bear the expenses of their employment, such as expenses for maintaining their vehicles and expenses for gas, insurance, phone and data plan.

45. Plaintiff is a class member who suffered damages as a result of Uber’s conduct and actions alleged herein.

46. The Plaintiff’s claims are typical of the claims of the class, and the named plaintiffs have the same interests as the other members of the class.

47. The Plaintiff will fairly and adequately represent and protect the interests of the class. The 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.

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

49. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all class members is impractical. Moreover, since the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation makes it practically impossible for the members of the class individually to redress the wrongs done to them. The class is readily definable as Uber knows which drivers have signed up to use the Uber platform as delivery drivers and have completed at least one delivery since January 1, 2021. Further, prosecution of this action as a class action will eliminate the possibility of repetitive litigation. There will be no difficulty in the management of this action as a class action.

1 **VI. PAGA REPRESENTATIVE ACTION ALLEGATIONS**

2 50. Plaintiff alleges that Uber violated the Labor Code as follows: (1) failure to
3 reimburse delivery driver employees for all necessary expenditures incurred in performing their
4 duties, including but not limited to owning or leasing their vehicles, phones, and data and by
5 requiring drivers to enter into contracts that impermissibly waive their right to reimbursement of
6 these expenses, in violation of Cal. Lab. Code §§ 2802, 2804, and 450; (2) the willful
7 misclassification of delivery workers as independent contractors in violation of Cal. Lab. Code
8 §§ 226.8 and 2753; (3) failure to assure that all delivery drivers received the appropriate
9 overtime premium for all overtime hours worked beyond forty per week or eight hours per day in
10 violation of Cal. Lab. Code §§ 1194, 1198, 510, and 554; (4) failure to provide proper itemized
11 wage statements in violation of Cal. Lab. Code § 226(a), 226.3, and Wage Order 9-2001; (5)
12 failure to pay the appropriate minimum wage for all hours worked in violation of Cal. Lab. Code
13 §§ 1197, 1194, 1194.3, 1182.12, 1194.2, 1197.1, 1199 and Wage Order 9-2001; (6) collecting
14 and/or withholding gratuities and failure to keep accurate records of gratuities in violation of Cal.
15 Lab. Code § 351, 353; (7) failure to pay for meal and rest periods in violation of Cal. Lab. Code
16 §§ 226.7, 512, 558, and 1198; (8) failure to timely pay all earned wages during employment and
17 upon termination and failing to conspicuously post notice of regular pay days in violation of Cal.
18 Lab. Code §§ 201-204, 207 and 208; (9) requiring drivers to release claims as a condition to
19 receiving paychecks in violation of Cal. Lab. Code § 206.5; (10) collecting and receiving wages
20 already paid in violation of Cal. Lab. Code § 221, 224; (11) failing to pay the costs of mandatory
21 drug testing and/or physical examinations in violation of Cal. Lab. Code § 222.5; (12) secretly
22 paying wages lower than required by statute in violation of Cal. Lab. Code § 223; (13) failing to
23 provide sick leave benefits and failing to provide written notice of paid sick leave or paid time
24 off to its delivery drivers in violation of Cal. Lab. Code §§ 245-49; (14) failure to provide one
25 day's rest in seven in violation of Cal. Lab. Code § 551, 552; (15) failure to provide written
26 notice of material terms of employment in violation of Cal. Lab. Code §§ 2810.5 and 432.5; (16)
27 failure to keep accurate records of hours worked and drivers' personal information in violation of
28

1 Cal. Lab. Code § 1174, 1174.5, and 1175; (17) willfully refusing to pay wages in violation of Cal.
2 Labor Code §§ 216, 218, 218.5, 218.6, and 225.5; (18) failing to pay out vested vacation time to
3 drivers in violation of Cal. Labor Code § 227.3; (19) causing delivery drivers to be injured on the
4 job through the serious and willful misconduct of the company in violation of Cal. Labor Code §
5 4553; and (20) failing to remit wages that it has withheld to benefit plans in violation of Cal.
6 Labor Code § 227.

7
8 51. On [Date], Plaintiff gave written notice of Uber's violations to the California
9 Labor Code as alleged in this complaint to the Labor and Workforce Development Agency
10 ("LWDA") via online filing and to Defendant Uber's general counsel via certified mail.

11 **COUNT I**
12 **Expense Reimbursement**
13 **Violation of Cal. Lab. Code § 2802**

14 52. Plaintiff realleges and incorporates by reference the allegations in the preceding
15 paragraphs as if fully alleged herein. Defendant's conduct, as set forth above, in misclassifying
16 Plaintiff as an independent contractors and failing to reimburse them for expenses that they paid
17 that should have been borne by their employer, constitutes a violation of California Labor Code §
18 2802.

19 53. This claim is brought by Plaintiff on behalf of a class of all similarly situated
20 individuals who entered into an agreement with Uber to use the Uber mobile application to offer
21 delivery services to customers in California since January 1, 2021 and performed at least one
22 delivery.

23 **COUNT II**
24 **Willful Misclassification**
25 **Violation of Cal. Lab. Code § 226.8**

26 54. 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 continuing to
28 classify drivers as independent contractors notwithstanding its failure to comply with the

requirements placed on Network Companies by Cal. Bus. & Prof. C. § 7452, violates Cal. Lab. Code §226.8 and constitutes willful misclassification.

55. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber to use the Uber mobile application to offer delivery services to customers in California since January 1, 2021 and performed at least one delivery.

COUNT III
Minimum Wage

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

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

57. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber to use the Uber mobile application to offer delivery services to customers in California since January 1, 2021 and performed at least one delivery.

COUNT IV
Overtime

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

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

59. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber to use the Uber mobile application to offer delivery services to customers in California since January 1, 2021 and performed at least one delivery.

COUNT V
Pay Statements
Violation of Cal. Lab. Code § 226(a)

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

61. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber to use the Uber mobile application to offer delivery services to customers in California since January 1, 2021 and performed at least one delivery.

COUNT VI
Meal and Rest Period Violations
Violation of Cal. Wage Order No. 9-2001; Cal. Labor Code §§ 226.7 & 512

62. Plaintiff realleges and incorporates by reference all other paragraphs as if they were set forth again herein. Uber's conduct in denying drivers at least a half-hour meal break during shifts in excess of five hours and one ten-minute rest break per four hours of work performed violates Cal. Wage Order No. 9-2001; Cal. Labor Code §§ 226.7 & 512.

63. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber to use the Uber mobile application to offer delivery services to customers in California since January 1, 2021 and performed at least one delivery.

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

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

65. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber to use the Uber mobile application to offer

1 delivery services to customers in California since January 1, 2021 and performed at least one
2 delivery.

3
4 **COUNT VIII**
5 **Waiting Time Penalties**
6 **Violation of Cal. Labor Code §§ 201-203**

7 66. Plaintiff realleges and incorporates by reference the allegations in the preceding
8 paragraphs as if fully alleged herein. Uber failed to pay drivers their final wages pursuant to Cal.
9 Labor Code §§ 201-203 and accordingly owes waiting time penalties pursuant to Cal. Labor
Code § 203.

10 67. This claim is brought by Plaintiff on behalf of a class of all similarly situated
11 individuals who entered into an agreement with Uber to use the Uber mobile application to offer
12 delivery services to customers in California since January 1, 2021 and performed at least one
13 delivery.

14
15 **COUNT IX**
16 **Unfair Business Practices**
17 **Violation of Cal. Bus. & Prof. Code §17200, *et seq.***

18 68. Defendant's conduct, as set forth above, violates the California Unfair
19 Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* ("UCL"). Defendant's conduct
20 constitutes unlawful business acts or practices, in that Defendant has violated the California
21 Labor Code as described above. As a result of Defendant's unlawful conduct, Plaintiff suffered
22 injury in fact and lost money and property, including, but not limited to business expenses they
23 were required to pay (and was not reimbursed for) and wages that they were due. Pursuant to
24 California Business and Professions Code § 17203, Plaintiff seeks declaratory and injunctive
25 relief for Defendant's unlawful conduct and to recover restitution. The nature of this relief is in
26 the public interest, since Defendant's violation of the Labor Code in misclassifying drivers
27 across California like Plaintiff, and failing to provide them with protections of the Labor Code,
28 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.

69. Moreover, Uber's payroll practice of not providing delivery drivers with a comprehensive breakdown of their earnings, thereby preventing them from accurately cross-checking their earnings with the Proposition 22 guaranteed minimum, is an unfair business practice insofar as it violates the spirit of the requirements placed on Network Companies by Proposition 22.

70. This claim is brought by Plaintiff on behalf of a class of all similarly situated individuals who entered into an agreement with Uber to use the Uber mobile application to offer delivery services to customers in California since January 1, 2021 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

71. 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 he was employed by Uber during the applicable statutory period and suffered injury as a result of Uber's Labor Code violations. Accordingly, Plaintiff seeks to recover on behalf of the State of California, as well as himself and all other current and former aggrieved employees of Uber who have worked in California, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

72. Uber delivery drivers are entitled to penalties for Uber's violations of Cal. Lab. Code §§ 132a, 201-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6, 221-224, 225.5, 226, 226.3, 226.7, 226.8, 227, 227.3, 245-249, 351, 353, 432.4, 432.5, 450, 510, 512, 551-552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2753, 2802, 2804, 2810.5, and 4553 *et seq.* Plaintiff seeks civil penalties pursuant to PAGA for: (1) failure to reimburse

1 delivery driver employees for all necessary expenditures incurred in performing their duties,
2 including but not limited to owning or leasing their vehicles, fuel, phones, and data and by
3 requiring drivers to enter into contracts that impermissibly waive their right to reimbursement of
4 these expenses, in violation of Cal. Lab. Code §§ 2802, 2804, and 450; (2) the willful
5 misclassification of delivery workers as independent contractors in violation of Cal. Lab. Code
6 §§ 226.8 and 2753; (3) failure to assure that all delivery drivers received the appropriate
7 overtime premium for all overtime hours worked beyond forty per week or eight hours per day in
8 violation of Cal. Lab. Code §§ 1194, 1198, 510, and 554; (4) failure to provide proper itemized
9 wage statements in violation of Cal. Lab. Code § 226(a), 226.3, and Wage Order 9-2001; (5)
10 failure to pay the appropriate minimum wage for all hours worked in violation of Cal. Lab. Code
11 §§ 1197, 1194, 1194.3, 1182.12, 1194.2, 1197.1, 1199 and Wage Order 9-2001; (6) collecting
12 and/or withholding gratuities and failure to keep accurate records of gratuities in violation of Cal.
13 Lab. Code § 351, 353; (7) failure to pay for meal and rest periods in violation of Cal. Lab. Code
14 §§ 226.7, 512, 558, and 1198; (8) failure to timely pay all earned wages during employment and
15 upon termination and failing to conspicuously post notice of regular pay days in violation of Cal.
16 Lab. Code §§ 201-204, 207 and 208; (9) requiring drivers to release claims as a condition to
17 receiving paychecks in violation of Cal. Lab. Code § 206.5; (10) collecting and receiving wages
18 already paid in violation of Cal. Lab. Code § 221, 224; (11) failing to pay the costs of mandatory
19 drug testing and/or physical examinations in violation of Cal. Lab. Code § 222.5; (12) secretly
20 paying wages lower than required by statute in violation of Cal. Lab. Code § 223; (13) failing to
21 provide sick leave benefits and failing to provide written notice of paid sick leave or paid time
22 off to its delivery drivers in violation of Cal. Lab. Code §§ 245-49; (14) failure to provide one
23 day's rest in seven in violation of Cal. Lab. Code § 551, 552; (15) failure to provide written
24 notice of material terms of employment in violation of Cal. Lab. Code §§ 2810.5 and 432.5; (16)
25 failure to keep accurate records of hours worked and drivers' personal information in violation of
26 Cal. Lab. Code § 1174, 1174.5, and 1175; (17) willfully refusing to pay wages in violation of Cal.
27 Labor Code §§ 216, 218, 218.5, 218.6, and 225.5; (18) failing to pay out vested vacation time to
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1 drivers in violation of Cal. Labor Code § 227.3; (19) causing delivery drivers to be injured on the
2 job through the serious and willful misconduct of the company in violation of Cal. Labor Code §
3 4553; and (20) failing to remit wages that it has withheld to benefit plans in violation of Cal.
4 Labor Code § 227.

5 73. Cal. Lab. Code § 2699(f) provides for civil penalties for violation of all Labor
6 Code provisions for which no civil penalty is specifically provided. There is no specified civil
7 penalty for violations of Cal. Lab. Code §§ 206.5, 351, 353, 2802, 2810.5. With respect to
8 minimum wage violations under Cal. Lab. Code §§ 1197 and 1194, § 1197.1 imposes a civil
9 penalty in addition to any other penalty provided by law of one hundred (\$100) for each
10 underpaid employee for each pay period for which the employee is underpaid in addition to an
11 amount sufficient to recover underpaid wages and liquidated damages, and, for each subsequent
12 violation of Labor Code §§ 1197 and 1194, two hundred and fifty dollars (\$250) for each
13 underpaid employee for each pay period for which the employee is underpaid in addition to an
14 amount sufficient to recover underpaid wages and liquidated damages. With respect to overtime
15 violations under Labor Code §§ 510 and 558, the statute imposes a civil penalty in addition to
16 any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid
17 employee for each pay period for which the employee was underpaid in addition to an amount
18 sufficient to recover unpaid wages, and one hundred dollars (\$100) for subsequent violations for
19 each underpaid employee for each pay period for which the employee was underpaid in addition
20 to an amount sufficient to recover underpaid wages. With respect to violations of Labor Code §
21 226(a), Labor Code § 226.3 imposes a civil penalty in addition to any other penalty provided by
22 law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one
23 thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §
24 226(a). With respect to violations of Labor Code § 226.8, Labor Code § 226.8(b) imposes a
25 civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand
26 dollars (\$15,000) for each violation. With respect to violations under Labor Code § 512, the
27 statute imposes a civil penalty in addition to any other penalty provided by law of fifty dollars
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1 (\$50) for initial violations for each underpaid employee for each pay period for which the
2 employee was underpaid in addition to an amount sufficient to recover unpaid wages, and one
3 hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay
4 period for which the employee was underpaid in addition to an amount sufficient to recover
5 underpaid wages. With respect to violations of Labor Code § 204, the statute imposes a civil
6 penalty in addition to any other penalty of one hundred dollars (\$100) for initial violations for
7 each underpaid employee and two hundred dollars (\$200) for subsequent violations for each
8 underpaid employee, plus 25% of the amount unlawfully withheld. With respect to violations of
9 Labor Code §§ 221, 223, the statute imposes a civil penalty in addition to any other penalty of
10 one hundred dollars (\$100) for initial violations for each underpaid employee and two hundred
11 dollars (\$200) for subsequent violations for each underpaid employee, plus 25% of the amount
12 unlawfully withheld. With respect to violations of Labor Code §§ 551, 552, the statute imposes
13 a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial
14 violations for each underpaid employee for each pay period for which the employee was
15 underpaid in addition to an amount sufficient to recover unpaid wages, and one hundred dollars
16 (\$100) for subsequent violations for each underpaid employee for each pay period for which the
17 employee was underpaid in addition to an amount sufficient to recover underpaid wages. With
18 respect to violations of Labor Code § 1174, the statute imposes a civil penalty of five hundred
19 dollars (\$500). With respect to violations of Labor Code § 246, the statute imposes a civil
20 penalty of the dollar amount of paid sick days withheld multiplied by three, or two hundred fifty
21 dollars (\$250) but not to exceed four thousand dollars (\$4000).
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23 74. Plaintiff complied with the notice requirement of Cal. Lab. Code §2699.3 and
24 served a written notice to the California Labor & Workforce Development Agency (“LWDA”)
25 through its website’s online filing portal, and on Defendant Uber via Certified Mail, return
26 receipt requested, on [Date]. It has been 65 days or more since the LWDA was notified of the
27 Labor Code violations asserted in this Complaint, and the LWDA has not provided any notice
28 that it will or will not investigate the alleged violations.

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PRAYER FOR RELIEF

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

- a. Declare and find that the Defendant violated Wage Order 9, the UCL, Cal. Lab. Code §§ 201-204, 226(a), 226.7, 2802, 1194, 1197, 1198, 510, 554, and the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.;
- b. Certify a Class under Counts I through IX and appoint Plaintiff and his counsel to represent a class of all individuals who entered into an agreement with Uber to use the Uber mobile application to offer delivery services to customers in California since January 1, 2021 and performed at least one delivery;
- c. Award compensatory damages, including all expenses and wages owed and all damages stemming from the alleged use of tips to meet minimum-pay guarantees, in an amount according to proof;
- d. Award restitution for unfair business practices and for all claims arising out of or relating to the statutory causes of action described herein;
- e. Enter Judgment in Plaintiff's favor on his 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;
- g. Award liquidated damages and exemplary and/or punitive damages;
- h. Award pre- and post-judgment interest;
- i. Award reasonable attorneys' fees, interest, costs, and expenses;
- j. Award declaratory and injunctive relief (including public injunctive relief) in the form of an order requiring Defendant to comply with the California Labor Code; and
- k. Award any equitable remedies or any other relief to which the Plaintiff may be entitled.

1 Respectfully submitted,

2 THOMAS EDWARDS, individually and on behalf
3 of all others similarly situated and in her capacity as
4 a Private Attorney General Representative,

5 By his attorney,

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16 Dated: May 21, 2024
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