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7 Attorneys for Plaintiff Thomas Colopy
   on behalf of himself and all others
8 similarly situated,

9   **UNITED STATES DISTRICT COURT**

10   **NORTHERN DISTRICT OF CALIFORNIA**

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12 THOMAS COLOPY, individually and on   Case No_____
   behalf of all others similarly situated,

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                  Plaintiff,
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                                               CLASS ACTION COMPLAINT
15 v.
                                               1. FAILURE TO REIMBURSE FOR BUSINESS
16 UBER TECHNOLOGIES, INC,   EXPENSES (CAL. LAB. CODE § 2802,
                                                   WAGE ORDER 9-2001)
17   Defendant.   2. MINIMUM WAGE (CAL. LABOR CODE §§
                                                   1197, 1194, 1182.12, 1194.2, 1197.1, 1199,
18   WAGE ORDER 9-2001)
                                               3. UNLAWFUL AND/OR UNFAIR BUSINESS
19   PRACTICES (CAL. BUS. & PROF. CODE
                                                   §§17200-17208)
20   4. OVERTIME (CAL. LAB. CODE § 1194, 1198,
                                                   510 AND 554, WAGE ORDER 9-2001)
21   5. FAILURE TO PROVIDE PROPER
                                                   ITEMIZED PAY STATEMENTS (CAL.
22   LABOR CODE § 226(A), WAGE ORDER 9-
                                                   2001)
23   6. DECLARATORY JUDGMENT (28 U.S.C.
                                                   §§2201-02)
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                            CLASS ACTION COMPLAINT
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I.   INTRODUCTION

1.   Uber is a car service, which engages thousands of drivers across the state of California who can be hailed and dispatched through a mobile phone application to transport riders. Uber is based in San Francisco, California, and it does business across the United States and extensively throughout California.

2.   As described further below, Uber has misclassified its drivers, including Plaintiff Thomas Colopy, as independent contractors when they should be classified under California law as employees. Based on the drivers' misclassification as independent contractors, Uber has unlawfully required drivers to pay business expenses (including but not limited to the cost of maintaining their vehicles, gas, insurance, phone and data expenses, and other costs) in violation of Cal. Lab. Code § 2802. Uber has also failed to guarantee and pay its drivers minimum wage for all hours worked and it has failed to pay overtime premiums for hours worked in excess of eight hours per day or forty hours per week in violation of Cal. Lab. Code §§ 1182.12, 1194.2, 1194, 1197, 1197.1, 1198, 1199, 510, and 554. Uber has also failed to provide proper itemized wage statements that include all the requisite information, including hours worked and hourly wages and that are accessible outside the Uber Application in violation of Cal. Lab. Code § 226(a). Uber's continued misclassification of its drivers as independent contractors is willful misclassification in violation of Cal. Labor Code § 226.8.

3.   Indeed, the California legislature has now passed a statute known as Assembly Bill 5 (or "AB5"), which codifies the 2018 California Supreme Court decision, Dynamex Operations W., Inc. v. Superior Court, 4 Cal. 5th 903, 416 P.3d 1 (2018), reh'g denied (June 20, 2018), under which an alleged employer cannot justify classifying workers as independent contractors who perform services within its usual course of business. It has been widely recognized by the California legislature, including the bill's author, that the purpose and intent of this statute is to ensure that companies, including specifically Uber, stop misclassifying their

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CLASS ACTION COMPLAINT

workers as independent contractors. Although Uber attempted to obtain a "carve-out" from this statute, it did not obtain such an exemption, and the legislature passed the statute so that it would include Uber drivers. Nevertheless, Uber has publicly stated that it intends to defy this statute and continue to classify its drivers as independent contractors – in violation of the express intent of the California legislature. This ongoing defiance of the law constitutes a willful violation of California law.

4.   Plaintiff brings these claims on behalf of himself and all other similarly situated pursuant to Fed. R. Civ. P. 23. He seeks recovery of damages for himself and the class, as well as declaratory and injunctive relief, requiring Uber to reclassify its drivers as employees in California.

II.   PARTIES

5.   Plaintiff Thomas Colopy is an adult resident of San Francisco, California, where he has worked as an Uber driver since 2012.

6.   The above-named plaintiff has brought this action on his own behalf and on behalf of all others similarly situated, namely all other individuals who have worked as Uber drivers in California who have not released all of their claims against Uber.

7.   Defendant Uber Technologies, Inc. ("Uber") is a corporation headquartered in San Francisco, California.

III.   JURISDICTION

8.   This Court has jurisdiction over the state law claims asserted here pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2), since Defendant is a California citizen and, upon the filing of this complaint, members of the putative plaintiff class reside in states around the country; there are more than 100 putative class members; and the amount in controversy exceeds $5 million.

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9.   This Court also has jurisdiction under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, and Rule 57 of the Federal Rules of Civil Procedure.

IV.   STATEMENT OF FACTS

10.   Uber is a San Francisco-based car service that provides transportation service in cities throughout the country, including in California, via an on-demand dispatch system.

11.   Uber offers customers the ability to hail a car service driver on a mobile phone application.

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

13.   Although classified as independent contractors, Uber drivers are employees under California law.

14.   Drivers perform a service in the usual course of Uber's business, since Uber is a car service that provides transportation to its customers, and drivers such as Plaintiff Thomas Colopy perform that transportation service. Uber holds itself out as a transportation service, and it generates its revenue primarily from customers paying for the very rides that its drivers perform. Without drivers to provide rides for Uber's customers, Uber would not exist.

15.   Uber also requires its drivers to abide by a litany of policies and rules designed to control the drivers' work performance. Uber retains the right to terminate drivers at any time in its discretion. Uber may terminate a driver if the driver behaves in a way that Uber believes in inappropriate or has violated one of Uber's rules or standards. Drivers are also subject to termination based on Uber's system of using customer rating feedback; drivers can be terminated in Uber's discretion if Uber deems their customer ratings to be inadequate.

16.   When driving for Uber, Uber drivers are not engaged in their own transportation business. Instead, when driving Uber customers, drivers wear the "hat" of Uber. Customers cannot request specific Uber drivers; instead, Uber assigns particular rides to drivers.

17.   Uber does not require drivers to possess any skill above and beyond that necessary to obtain a normal driver's license.

18.   Drivers' tenure with Uber is for an indefinite amount of time.

19.   Uber provides the drivers with the primary instrumentality with which they can perform services for Uber because Uber only derives a benefit from the drivers' labor when they use Uber's software.

20.   Uber sets the rate of pay for drivers' services and changes the rate of pay in its sole discretion.

21.   At times, Uber has deducted money from drivers' fares to cover the cost of an Uber-issued iPhone, which drivers use to run Uber's software and accept ride requests.

22.   Drivers must undergo background checks, receive initial training, and, in some circumstances, Uber has required drivers to attend training classes and pass a written test as a prerequisite to driving for Uber.

23.   Drivers' vehicles must meet Uber's quality standards, which it determines and may change at any time at its sole discretion.

24.   Uber may make promotional offers to riders that reduce drivers' income without consulting the drivers.

25.   Uber monitors drivers' performance and may suspend or terminate drivers who do not accept enough rides, cancel too many rides, do not maintain high customer satisfaction ratings, do not take what Uber deems to be the most efficient routes, or engage in other conduct that Uber, in its sole discretion, may determine constitutes grounds for suspension or termination.

26.   Uber drivers are engaged in interstate commerce. At times, drivers transport passengers across state lines. Furthermore, drivers are engaged in interstate commerce insofar as they transport passengers who are within the flow of interstate commerce; indeed, passengers

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at times arrive from, or are traveling to destinations, out of state, such as arriving at or leaving train stations or airports.

27.   Uber does not reimburse drivers for any expenses they incur while working for Uber, including, but not limited to the cost of maintaining their vehicles, gas, insurance, and phone and data expenses for running the Uber Application. Drivers incur these costs as a necessary expenditure to work for Uber, which California law requires employers to reimburse.

28.   Uber has violated Cal. Lab. Code §§ 1194, 1197 by failing to assure that drivers, including Thomas Colopy, make the applicable minimum wage for all hours worked, after accounting for their expenses and other deductions taken from their pay. The hours they work include hours spent transporting passengers, driving to pick up passengers, and driving between rides while awaiting the next ride.

29.   Uber has violated Cal. Lab. Code §§ 1194, 1198, 510 and 554 by failing to pay its drivers like Thomas Colopy the appropriate overtime premium for all overtime hours worked beyond forty per week or eight per day. Mr. Colopy has worked more than eight hours per day and more than forty hours per week at various times since he began driving for Uber and was never paid the appropriate premium for hours worked beyond eight per day or forty per week. The hours that drivers such as Mr. Colopy have worked include hours spent transporting passengers, driving to pick up passengers, and driving between rides while awaiting the next ride.

30.   Uber has violated Cal. Lab. Code § 226(a) by failing to provide proper itemized wage statements that include all the requisite information required by California law, including hours worked and hourly wages and has failed to provide pay statements that are accessible to drivers outside of the Uber Application.

31.   On April 30, 2018, the California Supreme Court issued its decision in Dynamex Operations W., Inc. v. Superior Court, 4 Cal. 5th 903, 416 P.3d 1 (2018), reh'g denied (June 20, 2018), which makes clear that Uber drivers should be classified as employees rather than as

independent contractors under California law for purposes of wage-and-hour statutes like the ones at issue here. Under the "ABC" test adopted in <u>Dynamex</u>, in order to justify classifying the drivers as independent contractors, Uber would have to prove that its drivers perform services outside its usual course of business (in addition to other requirements), which it cannot do. Notwithstanding this decision, Uber has willfully continued to misclassify its drivers as independent contractors.

32.   Furthermore, the California legislature has now taken steps to clarify and codify the <u>Dynamex</u> decision by passing Assembly Bill 5, which has been passed by the California legislature and is expected to be signed into law by the governor imminently. However, Uber has nevertheless publicly and defiantly stated, including through its General Counsel Tony West, that it will not classify its drivers as employees.[1] Uber has stated that it will not reclassify its drivers, even though the legislature has clearly intended for Uber to be covered by this statute; indeed, the author of the statute, Assemblywoman Lorena Gonzalez, has made clear that Uber (and similar "gig economy" companies) would not be exempted from the law. Uber specifically lobbied to obtain a "carve-out" exemption from the law, which it did not receive from the legislature.

V.   CLASS ACTION ALLEGATIONS

33.   The class representative, Thomas Colopy, has brought this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of Uber drivers who have worked for Uber in California.

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[1]   <u>See</u> Conger, Kate and Noam Scheiber, <u>Confusion and Defiance Follow California's New Gig-Worker Law</u>, NEW YORK TIMES (Sept. 11, 2019); Miller, Cheryl, <u>Uber's Top Lawyer Vows Fight as California Embraces Sweeping New Labor Rules</u>, THE RECORDER (Sept. 11, 2019).

CLASS ACTION COMPLAINT

34. The class representative and other class members have uniformly been misclassified as independent contractors.

35. The members of the class are so numerous that joinder of all class members is impracticable.

36. Common questions of law and fact regarding Uber's conduct exist as to all members of the class and predominate over any questions affecting solely any individual members of the class. Among the questions of law and fact common to the class are:

    a. Whether the work performed by class members—providing transportation service to customers—is within Uber's usual course of business, and whether such service is fully integrated into Uber's business;

    b. Whether class members have been required to work under Uber's direction and control;

    c. Whether class members are engaged in an independently established business or occupation while they are transporting Uber customers;

    d. Whether class members have been required to bear the expenses of their employment, such as expenses for their vehicles, gas, and other expenses;

    e. Whether class members have suffered other violations of the California Labor Code and Wage Orders, as described herein.

37. The class representative is a member of the class, who suffered damages as a result of Defendant's conduct and actions alleged herein.

38. The class representative's claims are typical of the claims of the class and he has the same interests as the other members of the class.

39. The class representative will fairly and adequately represent and protect the interests of the class. The class representative has retained able counsel experienced in class action litigation and particularly in the allegations included here. The interests of the class

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CLASS ACTION COMPLAINT

representative are coincident with, and not antagonistic to, the interests of the other class members.

40.   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.

41.   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 and 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.

COUNT I
Declaratory Judgment
Uniform Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2201

42.   An actual controversy of sufficient immediacy exists between the Parties as to whether Uber has failed to comply with its obligations under the California Labor Code, as described above.

43.   Uber's conduct in misclassifying its drivers, including Plaintiff Thomas Colopy, as independent contractors, failing to ensure that they are reimbursed for their necessary business expenditures, failing to ensure that they receive minimum wage for all hours worked, overtime pay, and other protections of California's Labor Code and Wage Orders, contravenes California state law.

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44.   As a result of the factual allegations above, Plaintiff and all Uber drivers in California have suffered actionable harm, as they are not properly compensated for their work for Uber.

45.   Plaintiff seeks an order of this Court pursuant to 28 U.S.C. §§2201-02 and Fed. R. Civ. P. 57 declaring that, as a result of its misclassification of its drivers, Uber has violated the California Labor Code and Wage Orders and declaring that Uber must comply with the Labor Code and Wage Orders.

46.   The injunction that Plaintiff seeks is in the nature of a public injunction and is not solely for the benefit of himself and other Uber drivers. Instead, ordering Uber to comply with the California Labor Code is in the public interest because Uber's violation of the Labor Code and Wage Orders diminishes labor standards more generally in the California economy and particularly in the transportation industry. Complying competitors are put at a disadvantage when companies such as Uber flout the Labor Code and Wage Orders by misclassifying their employees as independent contractors. Public funds are also impacted by these violations because the state incurs costs in supporting and providing services to employees who are not properly paid and do not even receive minimum wage. The California Supreme Court made a strong statement in the recent <u>Dynamex</u> decision – and the California legislature has now reinforced that statement by passing Assembly Bill 5 -- of the importance to the public good of employers properly classifying their workers as employees. That public interest is harmed by an employer such as Uber ignoring the decision and continuing to classify its employees as independent contractors.

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COUNT II
Expense Reimbursement
Violation of Cal. Lab. Code § 2802, Wage Order 9-2001

47.   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 misclassifying its drivers as independent contractors, and failing to reimburse them for expenses they paid that should have been borne by their employer, including but not limited to gas, insurance, car maintenance, and phone data charges, constitutes a violation of California Labor Code Section 2802 and Wage Order 9-2001.

48.   This claim is brought on behalf of a class of similarly situated individuals who have worked as drivers for Uber in the state of California.

COUNT III
Willful Misclassification
Violation of Cal. Lab. Code § 226.8

49.   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 continuing to classify drivers as independent contractors notwithstanding the California Supreme Court's decision in Dynamex Operations W., Inc. v. Superior Court, 4 Cal. 5th 903, 416 P.3d 1 (2018), reh'g denied (June 20, 2018), and notwithstanding the California Legislature's passage of Assembly Bill 5, both of which make clear that Uber drivers are employees under California law, violates Cal. Lab. Code §226.8 and constitutes willful misclassification.

50.   This claim is brought on behalf of a class of similarly situated individuals who have worked as drivers for Uber in the state of California.

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CLASS ACTION COMPLAINT

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COUNT IV
Minimum Wage
Violation of Cal. Lab. Code §§ 1197, 1194, 1182.12, 1194.2, 1197.1, 1199;
Wage Order 9-2001; San Francisco Minimum Wage Ordinance;
Los Angeles Citywide Minimum Wage Ordinance;
Los Angeles County Minimum Wage Ordinance

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51.   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 ensure its drivers recceive minimum wage for all hours worked as required by California law, violates Cal. Lab. Code §§ 1197, 1194, 1182.12, 1194.2, 1197.1, 1199 and Wage Order 9-2001 (as well as the higher minimum wage rates established by the San Francisco Minimum Wage Ordinance, the Los Angeles Citywide Minimum Wage Ordinance, and the Los Angeles County Minimum Wage Ordinance, for those drivers who worked in those jurisdictions).

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52.   This claim is brought on behalf of a class of similarly situated individuals who have worked as drivers for Uber in the state of California.

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COUNT V
Overtime
Violation of Cal. Lab. Code §§ 1194, 1198, 510 and 554; Wage Order 9-2001

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53.   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 its employees the appropriate overtime premium for overtime hours worked as required by California Law, violates Cal. Lab. Code §§ 1194, 1198, 510 and 554 and Wage Order 9-2001.

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54.   This claim is brought on behalf of a class of similarly situated individuals who have worked as drivers for Uber in the state of California.

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COUNT VI
Failure to Provide Accurate Itemized Pay Statements
Violation of Cal. Lab. Code § 226(a), 226.3; Wage Order 9-2001

55.   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, as required by California state law, violates Cal. Lab. Code §226(a) and Wage Order 9-2001.

56.   This claim is brought on behalf of a class of similarly situated individuals who have worked as drivers for Uber in the state of California.

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

57.   Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs as if fully alleged herein. Uber's conduct, as set forth above, violates the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq*. ("UCL"). Uber's conduct constitutes unlawful business acts or practices, in that Uber has violated California Labor Code §§ 2802, 1194, 1198, 510, 554, 1197, 1194, 1182.12, 1194.2, 1197.1, 1199, 226.8, and 226(a). As a result of Uber's unlawful conduct, Plaintiff and class members suffered injury in fact and lost money and property, including, but not limited to business expenses that drivers were required to pay and wages that drivers were due. Pursuant to California Business and Professions Code § 17203, Plaintiff and class members seek declaratory and injunctive relief for Uber's unlawful conduct and to recover restitution. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiff and class members who worked for Uber are entitled to recover reasonable attorneys' fees, costs, and expenses incurred in bringing this action.

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58.   This claim is brought on behalf of a class of similarly situated individuals who

have worked as drivers for Uber in the state of California.

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WHEREFORE, Plaintiff requests that this Court enter the following relief:

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a. Declare that Uber's actions described in this Complaint violate the rights of Plaintiff

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and Uber drivers throughout California;

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b. Declare and find that the Uber has violated Wage Order 9-2001, the UCL, and Cal.

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Lab. Code 226(a), 226.3, 226.7, 510, 558, 1184.12, 1194, 1194.2, 1197, 1197.1,

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1199, 1198, and 2802 as well as the San Francisco Minimum Wage Ordinance, the

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Los Angeles Citywide Minimum Wage Ordinance, and the Los Angeles County

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Minimum Wage Ordinance;

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c. Certify a class action under Count I through VII and appoint Plaintiff Thomas

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Colopy and his counsel to represent a class of Uber drivers in the state of California;

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d. Award compensatory damages, including all expenses and wages owed, in an

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amount according to proof;

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e. Award pre- and post-judgment interest;

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f. Award reasonable attorneys' fees, costs, and expenses;

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g. Issue a declaratory judgment that Uber has violated the California Labor Code and

Wage Orders in connection with its misclassification of drivers as independent

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contractors;

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h. Issue public injunctive relief in the form of an order requiring Uber to comply with

the California Labor Code and Wage Orders and other provisions cited herein; and

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i. Award any other relief to which the Plaintiff and the class may be entitled.

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CLASS ACTION COMPLAINT

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Respectfully submitted,

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THOMAS COLOPY, individually
and on behalf of all others similarly situated,

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By their attorneys,

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 _/s/ Shannon Liss-Riordan_____
Shannon Liss-Riordan, SBN 310719
Anne Kramer, SBN 315131

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Email: sliss@llrlaw.com, akramer@llrlaw.com

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Dated: October 8, 2019

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CLASS ACTION COMPLAINT

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

THOMAS COLOPY, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff   San Francisco, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Shannon Liss-Riordan, Anne Kramer, Adelaide Pagano, Lichten &
Liss-Riordan P.C. 729 Boylston Street Suite 2000 Boston MA 02116

DEFENDANTS

Uber Technologies Inc.

County of Residence of First Listed Defendant   San Francisco County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- [ ] 1 U.S. Government Plaintiff
- [ ] 3 Federal Question *(U.S. Government Not a Party)*
- [ ] 2 U.S. Government Defendant
- [X] 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	[X] 1	[ ] 1	Incorporated *or* Principal Place of Business In This State	[ ] 4	[X] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business In Another State	[ ] 5	[ ] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment Of Veteran's Benefits
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability
- [ ] 196 Franchise

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

TORTS

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury
- [ ] 362 Personal Injury -Medical Malpractice

PERSONAL INJURY
- [ ] 365 Personal Injury – Product Liability
- [ ] 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

CIVIL RIGHTS
- [ ] 440 Other Civil Rights
- [ ] 441 Voting
- [X] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 445 Amer. w/Disabilities–Employment
- [ ] 446 Amer. w/Disabilities–Other
- [ ] 448 Education

PRISONER PETITIONS

HABEAS CORPUS
- [ ] 463 Alien Detainee
- [ ] 510 Motions to Vacate Sentence
- [ ] 530 General
- [ ] 535 Death Penalty

OTHER
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Condition
- [ ] 560 Civil Detainee– Conditions of Confinement

FORFEITURE/PENALTY
- [ ] 625 Drug Related Seizure of Property 21 USC § 881
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Management Relations
- [ ] 740 Railway Labor Act
- [ ] 751 Family and Medical Leave Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Employee Retirement Income Security Act

IMMIGRATION
- [ ] 462 Naturalization Application
- [ ] 465 Other Immigration Actions

BANKRUPTCY
- [ ] 422 Appeal 28 USC § 158
- [ ] 423 Withdrawal 28 USC § 157

PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 835 Patent—Abbreviated New Drug Application
- [ ] 840 Trademark

SOCIAL SECURITY
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS–Third Party 26 USC § 7609

OTHER STATUTES
- [ ] 375 False Claims Act
- [ ] 376 Qui Tam (31 USC § 3729(a))
- [ ] 400 State Reapportionment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced & Corrupt Organizations
- [ ] 480 Consumer Credit
- [ ] 485 Telephone Consumer Protection Act
- [ ] 490 Cable/Sat TV
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 890 Other Statutory Actions
- [ ] 891 Agricultural Acts
- [ ] 893 Environmental Matters
- [ ] 895 Freedom of Information Act
- [ ] 896 Arbitration
- [ ] 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- [ ] 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- [X] 1 Original Proceeding
- [ ] 2 Removed from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from Another District *(specify)*
- [ ] 6 Multidistrict Litigation–Transfer
- [ ] 8 Multidistrict Litigation–Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
Class Action Fairness Act ("CAFA"), 28 U.S.C. 1332; Uniform Declaratory Judgment Act, 28 U.S.C. §§2201-02

Brief description of cause:
Misclassification and related Labor Code violations; declaratory judgment that plaintiffs are Defendant's employees

VII. REQUESTED IN COMPLAINT:

[✓] CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, Fed. R. Civ. P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: [ ] Yes [X] No

VIII. RELATED CASE(S), IF ANY *(See instructions):*

JUDGE Edward M. Chen
DOCKET NUMBER 13-cv-3826-EMC

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)
- [X] SAN FRANCISCO/OAKLAND
- [ ] SAN JOSE
- [ ] EUREKA-MCKINLEYVILLE

DATE 10/08/2019

SIGNATURE OF ATTORNEY OF RECORD   s/ Shannon Liss-Riordan

Print	Save As...	Reset

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

   b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

   c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)."

II. **Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

   (1) <u>United States plaintiff</u>. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.

   (2) <u>United States defendant</u>. When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

   (3) <u>Federal question</u>. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

   (4) <u>Diversity of citizenship</u>. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked**.** (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.

   (1) <u>Original Proceedings</u>. Cases originating in the United States district courts.

   (2) <u>Removed from State Court</u>. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.

   (3) <u>Remanded from Appellate Court</u>. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

   (4) <u>Reinstated or Reopened</u>. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

   (5) <u>Transferred from Another District</u>. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

   (6) <u>Multidistrict Litigation Transfer</u>. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.

   (8) <u>Multidistrict Litigation Direct File</u>. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.

   <u>Please note that there is no Origin Code 7</u>. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** <u>Example</u>: U.S. Civil Statute: 47 USC § 553. <u>Brief Description</u>: Unauthorized reception of cable service.

VII. **Requested in Complaint.** <u>Class Action</u>. Place an "X" in this box if you are filing a class action under Federal Rule of Civil Procedure 23.

   <u>Demand</u>. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

   <u>Jury Demand</u>. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

IX. **Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: "the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated."

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

Thomas Colopy	))))	
Plaintiff(s)	))	
v.	))	Civil Action No.
Uber Technologies Inc.	)))	
Defendant(s)	)))	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Uber Technologies Inc.
1455 Market Street, 4th Floor
San Francisco CA 94103

c/o Registered, CT Corporation System
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Shannon Liss-Riordan
Lichten & Liss-Riordan P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE
(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

❏ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

❏ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____ , a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

❏ I served the summons on *(name of individual)* _____ , who is

 designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

❏ I returned the summons unexecuted because _____ ; or

❏ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00   .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print   Save As...   Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Uber Drivers Misclassified as Contractors, Denied Proper Wages](#)