

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA

DYLAN KAPLAN,
on behalf of himself and
all others similarly situated,

Civil Action No.

Plaintiff,,

v.

DELIVERY DUDES, LLC, a Florida
limited liability company,
BOYNTON BEACH DELIVERY DUDES, LLC,
a Florida limited liability company,
and DUDE HOLDINGS, LLC,
a Florida limited liability company,

Defendants.

COMPLAINT

Plaintiff, DYLAN KAPLAN (“Plaintiff”), on behalf of himself and all others similarly situated, by and through undersigned counsel, sues the Defendants, DELIVERY DUDES, LLC, a Florida limited liability company, BOYNTON BEACH DELIVERY DUDES, LLC, a Florida limited liability company, and DUDE HOLDINGS, LLC, a Florida limited liability company, and for his causes of action, declares and avers as follows::

INTRODUCTION

1. Plaintiff brings this action on behalf of himself and all other similarly situated current and former delivery drivers of Defendants to recover from the Defendants unpaid minimum wages and overtime compensation, liquidated damages, costs and reasonable attorneys’ fees, as well as for declaratory and injunctive relief, under the provisions of the Fair Labor Standards Act, as amended, 29 U.S.C. § 201, *et seq.* (hereinafter referred to as “the FLSA”), and specifically under 29 U.S.C. § 216(b).

2. Defendants are in the restaurant food delivery service business and jointly employed the Plaintiff, as well as all others similarly situated, within the meaning of the FLSA, as they shared or co-determined those matters governing the essential terms and conditions of Plaintiff's employment. Defendants all possessed sufficient control over the terms and conditions of Plaintiff's employment, as well as all others similarly situated, directly and/or indirectly, and/or reserved the authority to do so.

3. Defendants have over forty (40) locations in Florida, Oregon, Colorado, Tennessee, and Pennsylvania, and employ over two thousand (2,000) individuals in these states as delivery drivers. These drivers deliver food from restaurants that do not provide delivery services to patrons who order the food through an online system.

4. The individual defendants own, operate and manage the corporate Defendants and all of the various geographical locations in the United States. They are active in the day to day management of all aspects of the business enterprise, which is made up of a network of limited liability companies. All of the various geographical locations are centrally operated and controlled through the corporate and individual Defendants.

5. In order to avoid paying minimum wages and overtime compensation under the FLSA, Defendants require the drivers to execute independent contractor agreements and therefore claim that they are not employees under the FLSA, such that the Defendants believe they do not have to pay minimum wages and overtime compensation to the driver. Instead, the Defendants pay the drivers the total sum of fifty cents per delivery, plus any tips received from patrons, and often require the drivers to work as much as 50 to 60 hours per week'

6. Significantly, pursuant to Exhibit "A", the delivery drivers (and alleged "independent contractors"), *inter alia*:

A. Are required to attend and participate in orientation and/or training sessions and

- meetings as requested by the Company with no expectation of compensation;
- B. Are not entitled to compensation for time spent in preparation for, or for travel to and from the place to perform an accepted work order;
 - C. Are required to purchase t-shirts identifying the delivery drivers as an authorized contractor of the Company which shall be worn only when the delivery drivers are executing work orders on behalf of the Company;
 - D. Are “lent” insulated delivery bags with the Company’s logo, and promotional materials, which the Company requires be given to the Company’s customers. The delivery drivers recognize and agree that the promotional materials provided by the Company are copyrighted and may not be used for any other purpose than the services to be provided under this Agreement.
 - E. Are assigned a Company credit card which is to be used to pay for foods, beverages, goods and services which are being purchased by the Company on behalf of its customers. Following expiration or termination of this Agreement for any reason, the delivery drivers are required to personally deliver or return the credit cards to the Company by overnight delivery service;
 - F. Are required to follow the Company’s established policies and procedures relating to the levels and quality of service which must be observed by the delivery drivers when making pick-ups and deliveries.

7. The delivery drivers work regular schedules, wear uniforms, and are dispatched from central locations. They are subject to policies and procedures of Defendants.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 216 and 28 U.S.C. § 1331. At all times pertinent to this Complaint, corporate Defendants HOME TITLE and HOME FINANCING, were engaged in interstate commerce. At all times pertinent to this

Complaint, Defendants HOME TITLE and HOME FINANCING owned and operated a business engaged in commerce or in the productions of goods for commerce as defined in 29 U.S.C. §§3(r) and 3(s) of the FLSA, 29 U.S.C. §§ 203(r) and 203(s).

9. Venue is proper in this Court as the unlawful employment practices complained of herein occurred and/or were committed in the Southern District of Florida, and Defendants were, and continue to be, engaged in business enterprises in the Southern District of Florida.

10. Defendants' business activities involved those to which the FLSA applies. Defendants' business and Plaintiff's work for the business, affected interstate commerce during all times material hereto.

11. Defendants have more than two employees and generate more than \$500,000.00 in annual revenue.

PARTIES

12. Defendant, Delivery Dudes, LLC, is a Florida limited liability company, organized and existing under the laws of Florida, with its principal place of business located at 102 NE 1 Avenue, Delray Beach, FL 33444, Palm Beach County, Florida. At all times relevant, Delivery Dudes, LLC, was (and still is) engaged in transportation and delivery services in Florida, Colorado, Tennessee, Pennsylvania and Oregon.

13. Defendant, Boynton Beach Delivery Dudes, LLC, is a Florida limited liability company, organized and existing under the laws of Florida, with its principal place of business located at 2911 NW Commerce Park Drive, Boynton Beach, Florida 33431. At all times relevant, Coral Springs Delivery Dudes, LLC, was engaged in transportation and delivery services in Florida. At least one of its managing members is Defendant, Michael Silverman.

14. Defendant, Dude Holdings, LLC, is a Florida limited liability company, organized and existing under the laws of Florida, with its principal place of business located at 102 NE 1 Avenue, Delray Beach, FL 33444, Palm Beach County, Florida.

GENERAL ALLEGATIONS

15. Defendants operate an interstate business enterprise with locations in Florida, Tennessee, Colorado, Pennsylvania, and Oregon.

16. Defendants use a centralized system in order to recruit delivery drivers. Indeed, prospective applicants are encouraged and directed to apply online through the Delivery Dudes website (www.deliverydudes.com).

17. Defendants market, brand and advertise through a centralized process utilizing various forms of social media (Twitter, LinkedIn, Facebook) in order to do so.

18. At all times material hereto, Defendants were, and continue to be, engaged in interstate commerce as defined by the FLSA. Indeed, Defendants engage in interstate commerce by employing delivery drivers who use instrumentalities of commerce, including but not limited to processing credit card transactions, use of the telephone and internet, and online ordering through the centralized Delivery Dudes website.

19. Moreover, at all times material hereto, during his employment with Defendants, Plaintiff was engaged in interstate commerce. For example, Plaintiff, and other similarly situated delivery drivers, processed payments from Defendants' customers using a cellular phone-based payment processing method like "Square". Plaintiff, and other similarly situated delivery drivers, make deliveries from restaurants, including local restaurants and national chains, whose food has traveled in interstate commerce.

20. The individual Defendants acted directly and indirectly in the interest of the corporate Defendants, in relation to the Plaintiff, and similarly situated delivery drivers, with regard to pay classification, pay methodology, pay rates, hours and the terms and conditions of employment. The individual Defendants set policies and procedures for all delivery dude locations, such as work hours, delivery hours, delivery locations, participating restaurants, administer the centralized website and social media platforms, and dispatch drivers and distribute orders through the website and email/text message to drivers.

21. Defendants jointly employed the Plaintiff.

22. Plaintiff, and other similarly situated delivery drivers, perform a service that is integral to the operation of the Defendants' food delivery business. Indeed, the Defendants' entire business model is economically dependent on the delivery drivers, and the delivery drivers likewise are economically dependent on the Defendants for their livelihood.

23. The additional persons who may become plaintiffs in this action, and who Plaintiff believes are entitled to notification of the pendency of this action, and of their right to opt-in to this action, are current and former delivery drivers of Defendants, who are or were subject to the payroll practices and procedures described in the paragraphs below, all of whom were jointly employed by the Defendants.

24. At all times pertinent to this Complaint, Defendants failed to comply with 29 U.S.C. §201, *et seq.*, in that Plaintiff and those current and former delivery drivers similarly situated to Plaintiff, while employed by Defendants and unlawfully misclassified as independent contractors for purposes of avoiding minimum wage and overtime compensation eligibility, performed hours of service for Defendants during one or more workweeks, for which Defendants failed to properly pay minimum wages and overtime premiums.

25. Plaintiff, and those current and former employees similarly situated to Plaintiff, are and were unlawfully misclassified as independent contractors. Defendants pay the delivery drivers, including Plaintiff, on a pathetic one dollar (\$1.00) per delivery “flat fee” for each completed delivery, plus tips.

26. The typical shift for delivery drivers for Defendants’ business is 4PM to 11PM, though commonly more hours were necessary - if, for example, a delivery came in right at the end of a shift.

27. During such a typical shift, it is common for a delivery driver to make 6–7 deliveries, such that the delivery drivers make a total of less than \$4.00 (not including tips) for the entire shift. In other words, Defendants are paying their delivery drivers less than .75 cents per hour (not including tips).

28. The federal minimum wage for employees for whom a tip credit is claimed is \$2.13 per hour, and the Florida state minimum wage for these same employees is \$5.03 per hour.

29. Defendants do not claim a tip credit for their delivery drivers.

30. Plaintiff did not control his own schedule; rather, he was subject to the schedule of Defendants and relied on them for all of his business. The same applies for all of Defendants’ delivery drivers.

31. Plaintiff wore a Delivery Dudes uniform during all relevant times during his employment. The same applies for all of Defendants’ delivery drivers.

32. Plaintiff was required to make deliveries assigned to him through a central dispatching system. The same applies for all of Defendants’ delivery drivers.

33. In the course of his employment with the Defendants, Plaintiff, and other current and former delivery drivers similarly situated to him, worked the number of hours required, many

times in excess of forty (40) per workweek, but Defendants did not pay a proper minimum hourly wage or overtime premium for any hours worked in excess of forty (40).

34. The pay practices of the Defendants, as described in the above paragraphs, violated the FLSA by failing to pay proper minimum wages and overtime compensation to Plaintiff, and those other current and former delivery drivers similarly situated to Plaintiffs, for those hours worked per workweek, including in excess of forty (40).

35. During the three (3) years preceding the filing of this lawsuit, Defendants have (1) employed and continue to employ individuals similarly situated to Plaintiff (*i.e.* delivery drivers; (2) classified and continue to classify these individuals as independent contractors; and (3) suffered or permitted to be suffered, with knowledge, hours of service by these individuals, including in excess of forty (40) during one or more workweeks, for which Defendants failed to pay proper minimum wages and/or overtime premiums for those hours worked in excess of forty (40). Each improperly classified (and therefore improperly paid) delivery driver who performed and/or continues to perform services for Defendants, for any time period during the three (3) years preceding this lawsuit, is entitled to notification of the pendency of this action and of his/her right to consent to becoming a party to this action.

36. Defendants already have been sued at least twice based on these same payroll practices, which lawsuit was settled in or about May 2016. *See, generally, Justin Attai et al. v. Dude Holdings, LLC et al.*, Case No. 0:15-cv-62522, United States District Court, Southern District of Florida, and . However, Defendants continue to operate in the same fashion as described herein with regard to their delivery drivers, such that their actions are willful.

COUNT I - RECOVERY OF UNPAID OVERTIME

37. Plaintiff re-avers and re-alleges all allegations contained in paragraphs 1 through 36 above as if fully set forth herein.

38. Plaintiff is entitled to be paid time and one-half for each hour worked in excess of forty (40) per workweek and to have such overtime calculated in accordance with Federal Regulations. All similarly situated employees are similarly owed time and one-half, calculated properly, for those overtime hours they worked and for which they were not properly paid.

39. By reason of the willful acts of the Defendants, all Plaintiffs (Plaintiff and those similarly situated to him) have suffered damages plus incurred costs and reasonable attorneys' fees.

40. As a result of the Defendants' violation of the Act, all Plaintiffs (Plaintiff and those similarly situated to him) are entitled to liquidated damages in an amount equal to that which they are owed as unpaid overtime.

WHEREFORE, Plaintiff, DYLAN KAPLAN, and those similarly situated to him, who have or will opt-in to this action, demand judgment against Defendants for the overtime compensation payments due them for the hours worked by them for which they have not been properly compensated, liquidated damages, reasonable attorneys' fees and costs of suit, and for all other relief the Court deems just and proper.

COUNT II - RECOVERY OF UNPAID MINIMUM WAGE

41. Plaintiff re-avers and re-alleges all allegations contained in paragraphs 1 through 36 above as if fully set forth herein.

42. Plaintiff is entitled to be paid his statutory minimum wages for each hour worked per workweek. All similarly situated employees are similarly owed minimum wages, for those hours they worked and for which they were not properly paid.

43. By reason of the willful acts of the Defendants, all Plaintiffs (Plaintiff and those similarly situated to him) have suffered damages plus incurred costs and reasonable attorneys' fees.

44. As a result of the Defendants' violation of the Act, all Plaintiffs (Plaintiff and those similarly situated to him) are entitled to liquidated damages in an amount equal to that which they

are owed as unpaid overtime.

WHEREFORE, Plaintiff, DYLAN KAPLAN, and those similarly situated to him, who have or will opt-in to this action, demand judgment against Defendants for the minimum wages due them for the hours worked by them for which they have not been properly compensated, liquidated damages, reasonable attorneys' fees and costs of suit, and for all other relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all claims so triable.

Dated: August 3, 2017

Respectfully Submitted,

/s/ Michael W. Davey, Esq.
Michael W. Davey, Esq.
Florida Bar # 689165
Email: MDavey@granadosdavey.com
GRANADOS DAVEY, LLP
Attorney for Plaintiff
50 W. Mashta Drive, Ste. 4
Key Biscayne, Florida 33149
Phone: (305) 639-8293
Facsimile: (305) 967-7452

EXHIBIT A



INDEPENDENT CONTRACTOR AGREEMENT

This Agreement (AGREEMENT) is made and entered into this 26 day of on April 2016 by
 (day) (month) (year)
 and between Boynton DD, a FL LLC ("COMPANY") with offices
 (business's name) (state) (corporation type)
 located at 2911 NW Commerce Park Dr., Florida 33431 and Dylan Kaplan
 (business address) (state, postal code) (contractor's name)
 ("Delivery Contractor" or "DC"), a sole proprietor with a business address of 10566 Cocobolo Way
 (contractor's business address)
Boynton Beach, Florida 33437, both parties being referred to
 (address continued) (state, postal code)
 collectively in this Agreement as the Parties.

RECITALS

WHEREAS, COMPANY provides delivery and concierge services to its customers and may require the services of an independent contractor to assist in providing services to its customer; and

WHEREAS, DC represents that it has the necessary equipment, licenses, training, ability, and experience to provide services of the nature required by COMPANY; and

WHEREAS, the Parties desire to enter into this Agreement to define their relationship and respective obligations to each other,

NOW THEREFORE, the parties agree as follows:

1. The above recitations are true and correct and are incorporated by reference into this Agreement.
2. **RELATIONSHIP OF THE PARTIES.** DC is an independent contractor to COMPANY and shall not be deemed an agent or employee of, or joint venturer with, COMPANY for any purpose. DC understands and agrees that it is not considered an employee for purposes of any law governing employment.
3. **NATURE OF SERVICES REQUIRED.** From time to time, COMPANY may require delivery services to be performed by DC. COMPANY shall initiate a request to DC for its services through a telephonic or electronic work order (such as text message or e-mail). Each work order will detail the date(s), time and place and particular type of service(s) that DC is being offered the opportunity to perform and a time by which the DC must indicate its acceptance of the offer of a work order. If DC does not accept within the time allotted for acceptance, the offer of a work order is deemed rejected and will be offered to another DC. Upon acceptance of a work order by DC, DC shall be bound to perform the requested services upon the terms stated. **THERE IS NO WARRANTY OR GUARANTEE THAT DC WILL BE GIVEN ANY WORK ORDERS UNDER THIS**

AGREEMENT.

CANCELLATION OF WORK ORDER. It is agreed that COMPANY may cancel a work order or a portion of a work order without penalty upon electronic notice to DC; provided, however, that COMPANY shall be liable only for payment of services already satisfactorily rendered by DC on behalf of customers of COMPANY through the time of cancellation.

ORIENTATION; ATTENDANCE AT MEETINGS. DC shall attend and participate in orientation and/or training sessions and meetings as requested by COMPANY with no expectation of compensation. Further, DC shall not be entitled to compensation for time spent in preparation for, or for travel to and from the place to perform an accepted work order pursuant to this Agreement.

COMPANY PROVIDED PROPERTY. DC shall be required to purchase T-shirts identifying DC as an authorized contractor of COMPANY which shall be worn only when DC is executing work orders on behalf of COMPANY. COMPANY also may lend DC its logoed insulated delivery bags, and promotional materials, which are to be given to COMPANY's customers. DC recognizes and agrees that the promotional materials provided by COMPANY are copyrighted and may not be used by DC for any other purpose than the services to be provided under this Agreement. When this Agreement expires or is terminated DC shall promptly (no later than two days) return to the COMPANY its insulated delivery bags and remaining inventory of promotional materials and collect and destroy all T-shirts with COMPANY's trade names and logos. If DC fails to do so or returns any item in unusable condition, COMPANY will be entitled to set-off the replacement value of the lost or damaged item(s) (through a deduction) against any compensation then due and owing to DC.

COMPANY PROVIDED CREDIT CARD. DC also will be assigned a COMPANY provided credit card which is to be safeguarded at all times by the DC and used only to pay for foods, beverages, goods and services which are being purchased by COMPANY on behalf of its customers. Following expiration or termination of this Agreement for any reason, COMPANY's credit card shall be personally delivered or returned by overnight delivery service to the COMPANY at the address below. Any unauthorized charges to the credit card made to the DC or anyone acting through it shall be cause for immediate termination of this Agreement and for COMPANY to recoup the unauthorized charges through deductions against monies owed to DC or through any other legal means available. DC shall notify COMPANY promptly in the event that the credit card is lost or stolen.

DC PROPERTY AND EQUIPMENT. Other than the COMPANY property specified in paragraph 6 above, DC shall be responsible for supplying, at its own cost, all other equipment, supplies, materials, vehicles and other items which are necessary to perform the contracted services and shall bear all expenses and costs associated therewith. As examples and not by way of limitation, DC shall be responsible for its own auto expenses, costs of obtaining insurance and licenses and fees associated with cellular service. At a minimum, DC shall provide its own vehicle to complete pick-ups and deliveries, a reliable smart phone with text messaging and e-mail capability and a cellular phone account, which permits DC to send and receive e-mail and text messages.

DC's EMPLOYEES. DC may employ others to assist it in fulfilling its obligations under this Agreement. DC shall have complete and total operational control to hire and fire, supervise, train, discipline and promote its employees, if any, and to establish their salaries and other forms of compensation including employee benefits such as worker's compensation. COMPANY reserves the right in its sole discretion to request DC to

refrain from assigning work orders to particular employees. DC's employees shall at all times abide by the terms of this Agreement and COMPANY's policies and procedures.

10. **COMPLIANCE WITH COMPANY POLICIES AND PROCEDURES.** COMPANY may establish policies and procedures relating to the levels and quality of service which must be observed by DC when making pick-ups and deliveries. Other than these policies and procedures, DC shall have full and complete control over the manner and methods used to perform the services required by this Agreement.
11. **COMPENSATION.** DC shall be paid a flat fee of \$ 1 for each delivery it completes. In addition to the flat fee, DC may receive tips given by COMPANY customers as a result of performing work orders. COMPANY shall reconcile and pay DC its tips at least once a week and provide DC with an electronic report showing the calculation of its compensation. COMPANY reserves the right to change the flat fee payment upon 14 days advance electronic notice to DC. If DC continues to accept work orders after a change in the flat fee, it will be deemed to have accepted the change. DC acknowledges that the flat fee per delivery and tips it receives from customers are the only compensation payable to DC by COMPANY and that there are no other benefits such as cost reimbursements, insurance (unemployment, health, life, workers compensation, disability or liability), pension, 401K or any other benefit payable by the COMPANY to DC.
12. **TAXES; LICENSES AND INSURANCES** DC is solely responsible to pay all federal, state or local taxes or fees that it may owe including income, sales, use, business, property, etc. Additionally, DC shall maintain at its own cost and keep in full force a policy of auto liability insurance (liability, collision, and PIP coverage) and workers compensation insurance (if DC has employees) in at least the minimum amounts required by FL law. DC must obtain and renew a business license if required for jurisdictions in which it will provide services. Additionally, DC expressly consents that from time to time, COMPANY may independently verify DC's driving record and the status of its driver's license (or of those individuals it employs for purposes of providing services under this Agreement). This Agreement will not be considered valid until proof of all insurances, and copies of driver's license(s) are submitted. COMPANY shall be notified of any material change to the DC's (and its employees) driving records, driver's license, and insurance policies and coverage's during the term of this Agreement. This Agreement will be terminated if DC (or its employees) driving record materially changes, or driver's license is suspended or revoked, if DC allows the insurance policies to lapse, or if changes are made to these without COMPANY's knowledge or consent. DC recognizes that any liability incurred during the provision of its services arising from intentional or negligent acts are DC's sole responsibility and obligation.
13. **INDEMNIFICATION.** DC shall indemnify and hold COMPANY and its owner, members, managers, employees and agents harmless from and against all claims, suits, actions, damages or causes of action arising during the terms of the Agreement for any personal, economic or bodily injury, loss of life or damage to property sustained by reason or as a result of acts or omissions committed by DC in furtherance of its obligations under this Agreement and from and against any orders, judgments or decrees which may be entered thereto, and from and against all costs, attorney's fees, expenses and liabilities incurred in or by reason of the defense for any such claim, suit or action and the investigation thereof. This provision shall survive the expiration or termination of this Agreement.


NON SOLICITATION/NON DISCLOSURE. DC agrees that during the term of this Agreement and for two years after its expiration or termination, it shall not for its own account or as an individual, employee consultant, independent contractor, partner, owner, member, agent, servant, employee, or as a shareholder associated with any other person, business or enterprise, either directly or indirectly,

A. offer, solicit or accept from any Customer of COMPANY business of the type performed by COMPANY or persuade any Customer to cease to do business with or to reduce the amount of business which any such Customer has customarily done or is reasonably expected to do with COMPANY. For purposes of this Agreement, the term "Customer" means (1) any person or entity which currently is or was a customer of the COMPANY at any point during Employee's relationship with the COMPANY and (2) any prospective customer from whom any other officer, employee or agent of the COMPANY solicited business or visited for the purpose of introduction of the COMPANY and its services and products during the one (1) year period immediately preceding the termination or expiration of this Agreement or any renewal. If the Customer is part of a group of companies which conduct business through more than one entity, division or operating unit, whether or not separately incorporated (a "Customer Group"), the term "Customer" as used herein shall also include each entity, division and operating unit of the Client Group where the same management group of the Client Group has the decision making authority or significant influence with respect to contracting for services of the type rendered by the COMPANY. The term Customer also includes referring restaurants, businesses, and online or print services which provide promotional coupons or discounts, other types of customer acquisition services, and any person or entity, which currently is or becomes a referral source to the COMPANY during the time DC has provided services to COMPANY..

B. solicit, hire, employ or retain as a consultant any person, firm or entity who, is then or at any time during the two (2) years preceding its relationship with COMPANY an employee of, or consultant to, the COMPANY, or persuade or attempt to persuade any employee of, or consultant to, the COMPANY to leave the employ of the COMPANY or to become employed as an employee or retained as a consultant by any person, firm or entity other than the COMPANY.

C. DC acknowledges that COMPANY is investing considerable time, expense and effort establishing a valuable and extensive trade in its services and business. During this Agreement, DC will be given and have access to trade secrets, marketing strategies, and confidential information and also have access to and establish relationships with COMPANY's Customers. For and in consideration of the opportunities presented by this Agreement, DC agrees not to directly or indirectly utilize or publicize any trade secrets, business plans, customer lists, business methods or other confidential information obtained from COMPANY or its owners, members, employees and agent during the term of this Agreement and after its termination or expiration.

D. DC understands and acknowledges that these terms are fair and for the reasonable protection of COMPANY's business and that COMPANY would suffer irreparable and immeasurable damages from a breach of these provisions.



E. Each of the subparagraphs of this provision are separate and distinct agreements. In the event of the invalidity of any one of the subparagraphs, the remaining obligations shall be deemed independent and divisible. Each of the subparagraphs of this Paragraph 14 shall survive the expiration or termination of this Agreement.

- 15. TERM AND TERMINATION OF AGREEMENT.** This Agreement shall be effective when signed by both Parties and shall be in effect for a period of one (1) year. The Agreement shall automatically renew until one or both Parties terminates it. This Agreement may be terminated by either party in accordance with provisions of this paragraph:
- A. If DC wishes to terminate this Agreement without cause it shall give COMPANY seven (7) days advance written notice. If COMPANY wishes to terminate this Agreement without cause it shall give DC at least two (2) days advance written notice.
 - B. This agreement also may be terminated by mutual consent in writing at any time.
 - C. This Agreement may be terminated for cause by either party immediately upon the giving of electronic notice to the other party.
- 16. NOTICE.** Where notice is required or permitted to be given, it shall be in writing and sent electronically or by first class mail, return receipt requested, or in person to the parties at the physical addresses or the e-mail addresses designated for each party or such other addresses as the parties may designate in writing from time to time.
- 17. FULL AGREEMENT.** The Agreement constitutes the full and final expression of intent by each party, and no provision may be varied or added to unless in writing which is executed by an authorized representative of each party with the same formalities as this document.



18. **ASSIGNMENT OF RIGHTS.** Under no circumstances shall DC assign to a third party any right or obligation of DC under this Agreement without the prior written consent of COMPANY.

Intending to be legally bound, the parties sign below next to their printed names.

Delivery Contractor

Company

Signature: _____

[Handwritten Signature]

Signature: _____

[Handwritten Signature]

Name: _____

Dylan Kaplan

Name: _____

Conor Ryan

Address: _____

10566 Corobolo Way

Title: _____

Operating Partner

Address (2): _____

Address: _____

2911 NW Commerce Park Drive
Boynton Beach, FL 33431

SSN / Tax ID: _____

~~077-84-9909~~ 077-84-9909

Address (2): _____

Drivers License: _____

K 145-177-95-020-0

V.I.N. Number: _____

2HNVD18403H541155

Emergency Contact Name: _____

Nancy Kaplan

Emergency Contact #: _____

561568-6669

Insurance Policy# _____

FLAP0000074687-03526

Carrier: _____

Mercury Indemnity Company of America

Expires on: _____

04/16/2017

AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT

This Amendment is to the Independent Contractor Agreement entered into between DELIVERY DUDES and/or its affiliated companies, successors or assigns (referred to collectively as "COMPANY") and Delivery Contractor.

In consideration for the continuation of the parties' relationship and other good and valuable consideration, the parties agree that:

1. Paragraph 12 of the Independent Contractor Agreement is hereby amended to include the following new provision:

DC shall be required to obtain and maintain an occupational accident insurance policy that includes either an endorsement or a separate policy provision whereby the insurer provides, or agrees to provide, workers' compensation coverage that becomes effective for a claim by DC or an employee or subcontractor of DC alleging employee status. DC may obtain an occupational accident insurance policy that complies with this requirement individually or DC may obtain occupation accident insurance coverage through a carrier facilitated by COMPANY. If DC elects to obtain coverage independently, such coverage shall be no less comprehensive than the coverage facilitated by the COMPANY through a third party carrier. In the event DC elects to use the occupational accident insurance policy facilitated through COMPANY, DC expressly authorizes COMPANY to withhold from DC's compensation DC's premium contributions, as may be necessary from time to time. DC shall make its election in writing and such election shall continue in force and effect until DC notifies COMPANY in writing of a change in its election. COMPANY reserves the right to terminate DC's Independent Contractor contract and relationship with COMPANY in the event DC initially fails to obtain occupational accident insurance or such coverage is allowed to lapse during the term of the parties' relationship.

2. All other terms and conditions of the Independent Contractor Agreement shall remain in full force and effect.

INTENDING TO BE LEGALLY BOUND, the parties sign this Amendment on the dates indicated below.


DELIVERY CONTRACTOR

By: 
Its: _____

PRINT: Dylan Kaplan

DATE: 04/26/16

COMPANY

By: 
Its: _____

PRINT: Conor Ryan

DATE: 04/26/16

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [The Dude Delivers: Delivery Dudes, Two Others Pegged with FLSA Lawsuit](#)
