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8 9	Attorneys for Plaintiff Angela McRay on behalf of herself and all others similarly situated,	
10	UNITED STATES I	DISTRICT COURT
11		
12	NORTHERN DISTRIC	CT OF CALIFORNIA
13	ANGELA MCRAY, individually and on behalf of all others similarly situated,	Case No
14	Plaintiff,	
15	i idilitili,	CLASS ACTION COMPLAINT
16	V.	 FAILURE TO REIMBURSE FOR BUSINESS EXPENSES (CAL. LAB. CODE § 2802,
17	UBER TECHNOLOGIES, INC,	WAGE ORDER 9-2001) 2. MINIMUM WAGE (CAL. LABOR CODE §§
18	Defendant.	1197, 1194, 1182.12, 1194.2, 1197.1, 1199, WAGE ORDER 9-2001)
19		3. UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES (CAL. BUS. & PROF. CODE
20		§§17200-17208) 4. OVERTIME (CAL. LAB. CODE § 1194, 1198
21		510 AND 554, WAGE ORDER 9-2001) 5. FAILURE TO PROVIDE PROPER
22		ITEMIZED PAY STATEMENTS (CAL. LABOR CODE § 226(A), WAGE ORDER 9-
23		2001) 6. DECLARATORY JUDGMENT (28 U.S.C.
24		§§2201-02)
25		
26		
27	,	
28	CLASS ACTION	N COMPLAINT

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.
- As described further below, Uber has misclassified its drivers, including Plaintiff Angela McRay, 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, <u>Dynamex</u>

 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

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 herself and all other similarly situated pursuant to Fed. R. Civ. P. 23. She seeks recovery of damages for herself and the class, as well as declaratory and injunctive relief, requiring Uber to reclassify its drivers as employees in California.

II. PARTIES

- 5. Plaintiff Angela McRay is an adult resident of Pittsburg, California, where she has worked as an Uber driver since November 2016.
- 6. The above-named plaintiff has brought this action on her 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.

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 Angela McRay 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

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 Angela McRay, 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 Angela McRay the appropriate overtime premium for all overtime hours worked beyond forty per week or eight per day. Ms. McRay has worked more than eight hours per day and more than forty hours per week at various times since she began driving for Uber in November 2016 and was never paid the appropriate premium for hours worked beyond eight per day or forty per week. The hours that drivers such as Ms. McRay 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), rehigher denied (June 20, CLASS ACTION COMPLAINT

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 Dynamex, 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. 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.

Fight as California Embraces Sweeping New Labor Rules, THE RECORDER (Sept. 11, 2019).

Gig-Worker Law, NEW YORK TIMES (Sept. 11, 2019); Miller, Cheryl, Uber's Top Lawyer Vows

See Conger, Kate and Noam Scheiber, Confusion and Defiance Follow California's New

V. <u>CLASS ACTION A</u>LLEGATIONS

- 33. The class representative, Angela McRay, 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.
- 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 she 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 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 McRay, as independent contractors, failing to ensure that they are reimbursed for their necessary business

CLASS ACTION COMPLAINT

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.

- 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 herself 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 Dynamex 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.

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 IIIWillful 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.

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

- 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 rececive 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).
- 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.

COUNT V Overtime

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

- 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.
- 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.

CLASS ACTION COMPLAINT

COUNT VI

<u>Failure to Provide Accurate Itemized Pay Statements</u> 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.

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.

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

- Declare that Uber's actions described in this Complaint violate the rights of Plaintiff
 and Uber drivers throughout California;
- b. Declare and find that the Uber has violated Wage Order 9-2001, the UCL, and Cal. Lab. Code 226(a), 226.3, 226.7, 510, 558, 1184.12, 1194, 1194.2, 1197, 1197.1, 1199, 1198, and 2802 as well as the San Francisco Minimum Wage Ordinance, the Los Angeles Citywide Minimum Wage Ordinance, and the Los Angeles County Minimum Wage Ordinance;
- c. Certify a class action under Count I through VII and appoint Plaintiff Angela McRay and her counsel to represent a class of Uber drivers in the state of California;
- d. Award compensatory damages, including all expenses and wages owed, in an amount according to proof;
- e. Award pre- and post-judgment interest;
- f. Award reasonable attorneys' fees, costs, and expenses;
- 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 contractors;
- 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
- i. Award any other relief to which the Plaintiff and the class may be entitled.

CLASS ACTION COMPLAINT

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4			Respectfully submitted,
5			ANGELA MCRAY, individually
6			and on behalf of all others similarly situated,
7			By their attorneys,
8			/s/ Shannon Liss-Riordan
9			Shannon Liss-Riordan, SBN 310719 Adelaide Pagano, pro hac vice anticipated
10			Anne Kramer, SBN 315131 LICHTEN & LISS-RIORDAN, P.C.
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13			(617) 994-5800 Email: sliss@llrlaw.com, apagano@llrlaw.com,
14			akramer@llrlaw.com
15			
16	Dated:	September 11, 2019	
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28		CLASS	15 S ACTION COMPLAINT

Filed 09/11/19 Page 1 of 2 Case 4:19-cv-05723-D

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	

Angela McCray, on behalf of herself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Contra Costa County (EXCÉPT 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 (IN U.S. PLAINTIFF CASES ONLY) San Francisco County

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)	III.	CITIZENSHIP OF P (For Diversity Cases Only)	PRINCIPAL PARTIES (Place an "X" in One Box for Plaintig and One Box for Defendant)				aintiff
1	U.S. Government Plaintiff Government Plaintiff Government Not a Party)		Citizen of This State	PTF × 1	DEF	Incorporated <i>or</i> Principal Place of Business In This State	PTF 4	DEF × 4
2	U.S. Government Defendant X 4 Diversity (Indicate Citizenship of Parties in Item III)		Citizen of Another State Citizen or Subject of a	3	3	Incorporated <i>and</i> Principal Place of Business In Another State Foreign Nation	6	5 6
			Foreign Country					

IV NATURE OF SUIT (Place on "V" in One Por Only)

	ORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
Marine Miller Act Miller Miller Miller Miller Act Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Miller Mil	25 Drug Related Seizure of Property 21 USC § 881 90 Other LABOR 10 Fair Labor Standards Act 20 Labor/Management Relations 40 Railway Labor Act 51 Family and Medical Leave Act 90 Other Labor Litigation 91 Employee Retirement Income Security Act IMMIGRATION 62 Naturalization Application 65 Other Immigration Actions	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	375 False Claims Act 376 Qui Tam (31 USC § 3729(a)) 400 State Reapportionme 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced Corrupt Organization 480 Consumer Credit 485 Telephone Consumer Protection Act 490 Cable/Sat TV 850 Securities/Commodit Exchange 890 Other Statutory Actic 891 Agricultural Acts 893 Environmental Matte 895 Freedom of Informat Act 896 Arbitration 899 Administrative Procede Act/Review or Appe Agency Decision 950 Constitutionality of S Statutes

V. ORIGIN (P.	ace an "X"	in One	Box	Only)
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Remanded from Multidistrict Original Removed from Reinstated or 5 Transferred from Proceeding Appellate Court Reopened Another District (specify) Litigation-Transfer Litigation-Direct File

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

REQUESTED IN CHECK IF THIS IS A CLASS ACTION **DEMAND \$** UNDER RULE 23, Fed. R. Civ. P. **COMPLAINT:**

CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes

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

JUDGE Edward M. Chen

DOCKET NUMBER 13-cv-3826-EMC

DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

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

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) United States plaintiff. 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) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. 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) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing
 - (4) Reinstated or Reopened. 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.
 - Please note that there is no Origin Code 7. 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. Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
 - Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 - Jury Demand. 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.

UNITED STATES DISTRICT COURT

	fo	or the			
	Norther _{Bis}	istrict of California			
Angela McCr	ay)))			
Plaintiff(s) V. Uber Technologi Defendant(s)) Civil Action No.))))))			
	SUMMONS IN	A CIVIL ACTION			
A lawsuit has been filed Within 21 days after ser are the United States or a United P. 12 (a)(2) or (3) — you must sthe Federal Rules of Civil Process whose name and address are:	1455 Market Street, 4th Flosan Francisco CA 94103 c/o Registered, CT Corpora 318 West Seventh Street, S Los Angeles, CA 90017 against you. vice of this summons on your States agency, or an office erve on the plaintiff an ans	ation System Suite 930 ou (not counting the day you received it) — or 60 days if you er or employee of the United States described in Fed. R. Civ. over to the attached complaint or a motion under Rule 12 of on must be served on the plaintiff or plaintiff's attorney,			
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			

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Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (1))

		ume of individual and title, if an	y)	
was re	ceived by me on (date)		·	
	☐ I personally serve	d the summons on the indi	ividual at (place)	
			on (date)	; or
	☐ I left the summons	s at the individual's reside	ence or usual place of abode with (name)	
		,	a person of suitable age and discretion who res	ides there,
	on (date)	, and mailed a	copy to the individual's last known address; or	
	☐ I served the summ	nons 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 sum	mons unexecuted because	e	; or
	☐ Other (specify):			
	My fees are \$	for travel and \$	for services, for a total of \$	0.00
	I declare under penal	ty of perjury that this info	ormation is true.	
Date:				
		_	Server's signature	
		_	Printed name and title	
		_	Server's address	

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: <u>Uber Hit with Driver Classification Class Action Leaning on Proposed Dynamex Law</u>