

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FORT LAUDERDALE DIVISION

CASE NO.

JOSE MEJIA, an individual, on behalf
of himself and all others similarly
situated,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC., a
Delaware corporation,

Defendant.

CLASS ACTION COMPLAINT

Plaintiff, JOSE MEJIA (“Plaintiff” or “Mejia”), by and through his undersigned attorneys, on behalf of himself and all those similarly situated, hereby sues Defendant, UBER TECHNOLOGIES, INC. (“Defendant” or “Uber”), and alleges as follows:

JURISDICTION AND VENUE

1. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and Plaintiff is a citizen of a State which is different from the State of citizenship of Defendant. In addition, the Court has jurisdiction under 28 U.S.C. § 1332(d)(2) (the Class Action Fairness Act) because the matter in controversy exceeds the sum or value of \$5 million, exclusive of interest and costs, and there is diversity of citizenship between the proposed class members and Defendant.

2. Venue is proper in the Fort Lauderdale Division of the Southern District of Florida because that is where a substantial part of the events or omissions giving rise to the claim occurred.

THE PARTIES

3. Plaintiff, Jose Mejia is an individual *sui juris* and a citizen of Florida.

4. Defendant, Uber Technologies, Inc. is a Delaware corporation with its principal place of business in California.

GENERAL FACTS

5. Defendant Uber develops, markets, and operates a mobile application enabling drivers to provide transportation and delivery services using their own vehicles.

6. Beginning in approximately March 2016, Plaintiff, Jose Mejia has worked as an Uber driver, offering transportation services primarily in Miami-Dade, Broward, and Palm Beach Counties.

7. In June 2015, it was reported that “Uber has changed its policy to prohibit drivers and riders from carrying guns.”¹

8. Plaintiff possesses a license to carry a concealed weapon or firearm from the State of Florida pursuant to section 790.06, Florida Statutes, and wishes to carry a firearm in his vehicle while he provides transportation services through Uber.

9. All conditions precedent to the commencement and prosecution to final judgment of this civil action have taken place, have been performed, or have been waived or excused by Defendants.

¹ Naomi Shavin, [Uber Isn't Letting Its Drivers Carry Guns Anymore](https://newrepublic.com/article/122094/uber-isnt-letting-its-drivers-carry-guns-anymore), New Republic (June 19, 2015), available at <https://newrepublic.com/article/122094/uber-isnt-letting-its-drivers-carry-guns-anymore> (last visited July 27, 2017) (quoting Uber representative: “We have adopted a no-firearms policy to ensure that both riders and drivers feel safe and comfortable on the platform.”)

10. Plaintiff has been compelled to engage the services of the undersigned attorneys and to pay them a reasonable fee.

CLASS ACTION ALLEGATIONS

11. Plaintiff brings this action on his own behalf and as a class action on behalf of the Class defined as,

All those possessing a license to carry concealed weapon or firearm and offering transportation services through Uber within the State of Florida from the date this Complaint is filed through the date class notice is disseminated, excluding Defendant; the officers, directors, or employees of Defendant; any entity in which Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of Defendant. Also excluded are those who assert claims for personal injury as well as any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

12. The Class defined above is individually so numerous that joinder of all members is impracticable. While the exact number of members of the Class is unknown to Plaintiff at this time, based on the nature of the trade and commerce involved, Plaintiff reasonably believes that there are thousands of members in the Class.

13. There are questions of law and fact common to the Class, including:

- a) whether Uber's no-firearms policy violates the rights of Plaintiff, and other Class members, under section 790.251, Florida Statutes ("Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008");
- b) whether Plaintiff and other members of the Class are entitled to injunctive relief;
- c) whether Plaintiff and other members of the Class are entitled to damages, and in what amount;

14. Plaintiff's claim is typical of the Class members because Plaintiff's claim arises from the same common course of conduct giving rise to the claims of the members of the Class and the relief sought is common to the Class.

15. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff also has no interests that are antagonistic to other members of the Class and has retained counsel competent and experienced in the prosecution of class actions to represent him and the Class.

16. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the parties opposing the Class.

17. Questions of law or fact common to Class members predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

18. Defendant acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

CAUSE OF ACTION

(Violation of Section 790.251, Florida Statutes)

19. Plaintiff re-alleges paragraphs 1 through 18 above as if fully set forth herein.

20. Section 790.251, Florida Statutes, is entitled "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008" ("the Act"). In pertinent part, the Act states:

(3) Legislative intent; findings.--This act is intended to codify the long-standing legislative policy of the state that individual citizens have a constitutional right to keep and bear arms, that they have a constitutional right to possess and keep legally owned firearms within their motor vehicles for self-defense and other lawful purposes, and that these rights

are not abrogated by virtue of a citizen becoming a customer, employee, or invitee of a business entity. It is the finding of the Legislature that a citizen's lawful possession, transportation, and secure keeping of firearms and ammunition within his or her motor vehicle is essential to the exercise of the fundamental constitutional right to keep and bear arms and the constitutional right of self-defense. The Legislature finds that protecting and preserving these rights is essential to the exercise of freedom and individual responsibility. The Legislature further finds that no citizen can or should be required to waive or abrogate his or her right to possess and securely keep firearms and ammunition locked within his or her motor vehicle by virtue of becoming a customer, employee, or invitee of any employer or business establishment within the state, unless specifically required by state or federal law.

(4) Prohibited acts.--No public or private employer may violate the constitutional rights of any customer, employee, or invitee as provided in paragraphs (a)-(e):

(a) No public or private employer may prohibit any customer, employee, or invitee from possessing any legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and when the customer, employee, or invitee is lawfully in such area.

(b) No public or private employer may violate the privacy rights of a customer, employee, or invitee by verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. Further, no public or private employer may take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in the parking lot of a public or private employer to ascertain the presence of a firearm within the vehicle may only be conducted by on-duty law enforcement personnel, based upon due process and must comply with constitutional protections.

(c) No public or private employer shall condition employment upon either:

1. The fact that an employee or prospective employee holds or does not hold a license issued pursuant to s. 790.06; or

2. Any agreement by an employee or a prospective employee that prohibits an employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a parking lot when such firearm is kept for lawful purposes.

(d) No public or private employer shall prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot of the employer's place of business because the customer's, employee's, or invitee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the customer's, employee's, or invitee's private motor vehicle.

(e) No public or private employer may terminate the employment of or otherwise discriminate against an employee, or expel a customer or invitee for exercising his or her constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.

§790.251, Fla. Stat. (2016).

21. Plaintiff is an “employee” of Uber pursuant to section 790.251(c), Florida Statutes.
22. Uber is Plaintiff’s “employer” pursuant to section 790.251(d), Florida Statutes.
23. Through its no-firearm policy, Uber has violated the rights of Plaintiff, and other members of the Class, as those rights are described under subsections 790.251(4)(c)-(d), Florida Statutes.
24. Subsection 790.251(6), Florida Statutes, entitles Plaintiff to bring a civil action to enforce his rights under the Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief against Defendant as follows:

- A. that the Court certify the Class under Rule 23 of the Federal Rules of Civil Procedure and appoint Plaintiff as Class Representative and his attorneys as Class Counsel to represent the members of the Class;
- B. that the Court declare that Defendant’s conduct violates the statute referenced herein;

C. that the Court preliminarily and permanently enjoin Defendant from conducting its business through the illegal conduct described in this Complaint;

D. that the Court award damages, costs, and attorneys' fees to Plaintiff and the Classes;

and,

E. that the Court grant such other and further relief as may be just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury in this action on all issues so triable.

DATED: August 11, 2017

RESPECTFULLY SUBMITTED,

/s/ Jared H. Beck

By: Jared H. Beck

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Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 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 by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS JOSE MEJIA

DEFENDANTS UBER TECHNOLOGIES INC.

(b) County of Residence of First Listed Plaintiff MIAMI-DADE, FL (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant NEWCASTLE, DE (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)

BECK & LEE TRIAL LAWYERS 12485 SW 137 AVE., SUITE 205 MIAMI, FL 33186/(305) 234-2060

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

Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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

- PTF DEF Citizen of This State
PTF DEF Citizen of Another State
PTF DEF Citizen or Subject of a Foreign Country
PTF DEF Incorporated or Principal Place of Business In This State
PTF DEF Incorporated and Principal Place of Business In Another State
PTF DEF Foreign Nation

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

Click here for: Nature of Suit Code Descriptions

Grid of categories for Nature of Suit: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): Violation of Section 790.251, Florida Statutes (right of Uber drivers to bear arms)

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 5,000,001.00 CHECK YES only if demanded in complaint:

JURY DEMAND: YES NO

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE August 11, 2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY RECEIPT #

AMOUNT

IFP

JUDGE

MAG JUDGE

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

JOSE MEJIA, an individual, on behalf of himself and all others similarly situated,

Plaintiff(s)

v.

UBER TECHNOLOGIES, INC., a Delaware corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Uber Technologies, Inc. THE CORPORATION TRUST COMPANY CORPORATION TRUST CENTER 1209 ORANGE ST Wilmington, DE 19801

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:

Jared H. Beck Beck and Lee Trial Lawyers 12485 SW 137th Avenue, Suite 205 Miami, Florida 33186

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

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:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Florida Driver Sues Uber Over Concealed-Carry Weapons Ban in Vehicles](#)
