

1 THEODORE J. BOUTROUS JR., SBN 132099  
 2 tboutrous@gibsondunn.com  
 3 THEANE EVANGELIS, SBN 243570  
 4 tevangelis@gibsondunn.com  
 5 HEATHER RICHARDSON, SBN 246517  
 6 hrichardson@gibsondunn.com  
 7 BLAINE EVANSON, SBN 254338  
 8 bevanson@gibsondunn.com  
 9 GIBSON, DUNN & CRUTCHER LLP  
 10 333 South Grand Avenue  
 11 Los Angeles, CA 90071-3197  
 12 Telephone: 213.229.7000  
 13 Facsimile: 213.229.7520

14 JOSHUA S. LIPSHUTZ, SBN 242557  
 15 jlipschutz@gibsondunn.com  
 16 GIBSON, DUNN & CRUTCHER  
 17 1050 Connecticut Avenue, N.W.  
 18 Washington D.C. 20036-5306  
 19 Telephone: 202.955.8500  
 20 Facsimile: 202.467.0539

21 Attorneys for Uber Technologies, Inc.

22 UNITED STATES DISTRICT COURT

23 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

24 SPENCER VERHINES, on behalf of himself  
25 and all others similarly situated,

26 Plaintiff,

27 v.

28 UBER TECHNOLOGIES, INC.,

Defendant

CASE NO. 3:20-cv-01886

**NOTICE OF REMOVAL OF ACTION BY  
DEFENDANT UBER TECHNOLOGIES,  
INC.**

[Removal from the Superior Court of San  
Francisco County, Case No. CGC20583684]

ACTION FILED: March 12, 2020

COMPLAINT NOT YET SERVED

**TO THE CLERK OF THE ABOVE-TITLED COURT AND TO PLAINTIFF**

**SPENCER VERHINES AND HIS COUNSEL OF RECORD:** PLEASE TAKE NOTICE THAT,  
 pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §§ 1332(d), 1453, and 1711–  
 1715, Defendant Uber Technologies, Inc. hereby removes to the United States District Court for the  
 Northern District of California the above-captioned state court action, originally filed as Case No.  
 BC CGC20583684 in the San Francisco County Superior Court, State of California. Removal is  
 proper on the following grounds:

**TIMELINESS OF REMOVAL**

1  
2 1. On March 12, 2020, Plaintiff Spencer Verhines filed a Complaint on behalf of a  
3 putative class against Uber in San Francisco County Superior Court. Pursuant to 28 U.S.C.  
4 § 1446(a), true and correct copies of the Complaint, Superior Court Civil Case Cover Sheet, Superior  
5 Court Summons, Superior Court Notice to Plaintiff, and Superior Court Docket Sheet are attached as  
6 Exhibits A–E respectively. Plaintiff has not yet served Uber with the Complaint. This notice of  
7 removal is timely pursuant to 28 U.S.C. § 1446(b) because it is filed no later than 30 days after  
8 service. *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999); *Novak v. Bank*  
9 *of New York Mellon Trust Co., NA.*, 783 F.3d 910, 911–15 (1st Cir. 2015) (“service is generally not a  
10 prerequisite for removal and . . . a defendant may remove a state-court action to federal court any  
11 time after the lawsuit is filed but before the statutorily-defined period for removal ends”); *Rosset v.*  
12 *Hunter Eng’g Co.*, No. C-14-01701-LB, 2014 WL 3569332, at \*5 (N.D. Cal. July 17, 2014).

13 **SUMMARY OF PLAINTIFF’S ALLEGATIONS**  
14 **AND FACTS GIVING RISE TO JURISDICTION AND REMOVAL**

15 2. Plaintiff’s Complaint alleges that “[a]lthough Uber classifies its drivers like Spencer  
16 Verhines as ‘independent contractors,’ Uber drivers are actually employees under California law” and  
17 therefore “Uber is in violation of Cal. Lab. Code § 246.” *See* Ex. A (Compl. ¶¶ 24, 30). Plaintiff  
18 seeks to represent a class of “all Uber drivers who work for Uber in California.” *Id.* ¶ 12.

19 3. Among other things, Plaintiff alleges that he and the putative class members are owed  
20 “compensatory damages,” “pre- and post-judgment interest,” “reasonable attorneys’ fees, costs, and  
21 expenses,” and an injunction requiring Uber to “provide paid sick leave.” *Id.*, Prayer for Relief  
22 ¶¶ d, e, f.

23 4. Uber denies any liability as to Plaintiff’s individual claims and as to the claims of the  
24 putative class members. Uber expressly reserves all of its rights, including, but not limited to, its  
25 right to file motions to compel arbitration and motions challenging the pleadings. However, for  
26 purposes of meeting the jurisdictional requirements for removal *only*, Uber submits on a good-faith  
27 basis that this action satisfies all requirements for federal jurisdiction under CAFA because, as set  
28 forth below, the allegations in the Complaint identify a putative class of more than 100 members,

1 establish the minimum diversity of citizenship required under CAFA, and put in controversy more  
2 than \$5 million in the aggregate for the entire class, exclusive of interest and costs. *See* 28 U.S.C.  
3 §§ 1332(d)(2), (d)(5)(B), and (d)(6).

4 5. Indeed, the Plaintiff in this case, Stephen Verhines, all but admits that federal courts  
5 have jurisdiction. Plaintiff is one of three named plaintiffs in *Colopy v. Uber Technologies, Inc.*, No.  
6 3:2019-cv-06462-EMC (N.D. Cal.), a CAFA case pending in this Court. In *Colopy*, which has a very  
7 similar putative class definition to the one Plaintiff asserts here, Plaintiff alleges that “this [C]ourt has  
8 jurisdiction over the state law claims asserted here pursuant to the Class Action Fairness Act, 28  
9 U.S.C. § 1332(d)(2), since Defendant is a California citizen and, upon the filing of this complaint,  
10 members of the putative plaintiff class reside in states around the country; there are more than 100  
11 putative class members; and the amount in controversy exceeds \$5 million.” *Colopy* Dkt. 33 ¶ 10.

12 **A. The Putative Class Contains More Than 100 Members**

13 6. Plaintiff seeks to represent “all Uber drivers who work for Uber in California.”  
14 Compl. ¶ 12. Uber has a good faith basis to believe, and on that basis avers, that more than 100  
15 persons use the Uber Driver app to find customers looking for rides and drive those customers within  
16 California. Rosenthal Decl. ¶ 8. Uber disputes Plaintiff’s characterization of these individuals as  
17 “Uber drivers who work for Uber” (drivers use the Uber app, but do not “work for Uber”). But  
18 interpreting Plaintiff’s class definition as people who use the Uber app in California, the putative  
19 class has more than 100 members.

20 **B. The Amount Placed in Controversy Exceeds \$5 Million**

21 7. Uber denies any liability in this case and intends to vigorously oppose class  
22 certification—and Uber expressly reserves all of its rights to do so. *See Dart Cherokee Operating*  
23 *Co., LLC v. Owens*, 135 S. Ct. 547, 544 (2014). However, for purposes of the jurisdictional  
24 requirements for removal only, Uber has a good faith basis to believe, and on that basis avers, that the  
25 allegations in Plaintiff’s Complaint put more than \$5,000,000 in controversy, exclusive of interest  
26 and costs. *See* 28 U.S.C. § 1332(d)(6) (claims of individual class members set forth in the Complaint  
27 are “aggregated to determine whether the matter in controversy exceeds the sum or value of  
28 \$5,000,000”).

1           8.       Plaintiff alleges that putative class members are entitled to one hour of leave for every  
 2 30 hours worked after their initial 30 days. *See* Ex. A (Compl. ¶ 30, Prayer for Relief ¶ a). Under  
 3 Plaintiff’s theory, the putative class would be entitled to at least 416,667 hours of leave, because  
 4 those who drive using the Uber platform in the State of California—even including only those who  
 5 have already driven for 30 days—have driven at least 30 times that many hours. Rosenthal Decl.  
 6 ¶ 11. Multiplied by the state minimum wage of \$12/hour, that alone exceeds the \$5 million the  
 7 amount-in-controversy threshold. *See Lewis v. Verizon Communications, Inc.*, 627 F.3d 395, 401  
 8 (9th Cir. 2010) (“once the proponent of federal jurisdiction has explained *plausibly* how the stakes  
 9 exceed \$5 million . . . *then the case belongs in federal court unless it is legally impossible for the*  
 10 *plaintiff to recover that much*” (emphasis added; citation omitted)).

11           9.       Plaintiff also alleges that putative class members are entitled to attorneys’ fees and  
 12 pre- and post-judgment interest, which would add to this amount.

13 **C.     The Class Includes Numerous Non-California Citizens**

14           10.       Plaintiff does not even allege that *he* is a California citizen, merely that he resides in  
 15 Foothill Ranch, California. Ex. A ¶ 7.

16           11.       Moreover, the putative class includes individuals who are citizens of other states.  
 17 Plaintiff seeks to represent a class of “Uber drivers who work for Uber in California.” *Id.* ¶¶ 1, 46.

18           12.       Because the proposed class “cover[s] all California [drivers], and not just [drivers]  
 19 who were California citizens,” there are many non-California *citizens* in the proposed classes.  
 20 *Broadway Grill, Inc. v. Visa Inc.*, 856 F.3d 1274, 1279 (9th Cir. 2017). The proposed classes of  
 21 California *drivers* necessarily includes many individuals who are not *citizens* of this State, such as  
 22 “college students from other states.” *In re Sprint Nextel Corp.*, 593 F.3d 669, 673 (7th Cir. 2010);  
 23 *accord, e.g., Hargett v. RevClaims, LLC*, 854 F.3d 962, 965 (8th Cir. 2017); *see also Colopy* Dkt. 33  
 24 ¶ 10 (alleging that members of the similarly defined “putative class reside in states around the  
 25 country”). There are many California *drivers* who are not *citizens* of this State, including college  
 26 students, those who stay only seasonally, and on-demand workers whose permanent citizenship is  
 27 outside of California. Rosenthal Decl. ¶¶ 9-10. Moreover, there are drivers who live in, and are  
 28 citizens of, Nevada who drive in California around the Lake Tahoe area. *Id.* ¶ 9.

1           13.     “Under CAFA there is sufficient diversity to establish federal diversity jurisdiction so  
2 long as one class member has citizenship diverse from that of one defendant.” *Broadway Grill*, 856  
3 F.3d at 1276. “Since many [California drivers] are not citizens of California, th[is] requirement [is]  
4 met.” *Id.*; *accord id.* at 1276, 1279 (class of “California individuals, businesses and other entities”  
5 was removable because it covered more than “California citizens”).

6     **D.     Intradistrict Assignment**

7           14.     This action is properly removed to the Court’s San Francisco Division because  
8 Plaintiff originally filed his Complaint in the Superior Court for the County of San Francisco. *See*  
9 N.D. Cal. Civ. L.R. 3-2(c), 3-5(b).

10     **E.     Uber Has Met Its Initial Burden for Removal**

11           15.     Because Uber has met its “initial burden of establishing federal jurisdiction under  
12 § 1332(d)(2),” the case is removable. *Serrano v. 180 Connect, Inc.*, 478 F.3d 1018, 1024 (9th Cir.  
13 2007); *see* 28 U.S.C. § 1441(a) (“Except as otherwise expressly provided by Act of Congress, any  
14 civil action brought in a State court of which the district courts of the United States have original  
15 jurisdiction, may be removed by the defendant or the defendants, to the district court of the United  
16 States for the district and division embracing the place where such action is pending.”). If Plaintiff  
17 eventually seeks remand, he will at that point have the burden of establishing any exception to CAFA  
18 jurisdiction. *Id.*; *accord, e.g., Sprint*, 593 F.3d at 673 (“Once Sprint Nextel established that CAFA  
19 jurisdiction exists, the burden fell on the plaintiffs, who were seeking remand, to show that the home-  
20 state exception applies.”).

21           16.     Plaintiff will not be able establish any such exception. *See Brinkley v. Monterey Fin.*  
22 *Servs., Inc.*, 873 F.3d 1118, 1121 (9th Cir. 2017) (local-controversy exception did not apply where  
23 class definition was based on where plaintiffs were located); *Hargett*, 854 F.3d at 966 (“[M]erely  
24 alleging a proposed class of [in-state] residents” is not “sufficient to satisfy” the local-controversy  
25 exception); *accord Sprint*, 593 F.3d at 673-75 (plaintiff could not “establish by a preponderance of  
26 the evidence that two-thirds of their proposed class members are Kansas citizens” merely by defining  
27 the class as consisting of in-state residents).

**THIS COURT HAS JURISDICTION AND REMOVAL IS PROPER**

17. Based on the foregoing facts and allegations, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because:

- (a) this is a civil action which is a class action within the meaning of § 1332(d)(1)(B);
- (b) Plaintiff’s putative class, under Plaintiff’s allegations, would encompass at least 100 persons as required by § 1332(d)(5)(B);
- (c) the alleged amount in controversy exceeds \$5 million, exclusive of interest and costs as required by § 1332(d)(2); and
- (d) a member of the proposed class is a citizen of a state different from any defendant as required by § 1332(d)(2)(A).

18. Accordingly, this action is properly removable under 28 U.S.C. §§ 1441, 1446, and 1453.

19. The United States District Court for the Northern District of California is the federal judicial district embracing the San Francisco County Superior Court, where the suit was originally filed, 28 U.S.C. § 84(a). *See* 28 U.S.C. § 1441(a). Although under Local Rule 3-2(d), the case may be assigned to either the San Francisco Division or the Oakland Division, there is a related case pending before Judge Chen in the San Francisco Division. *See Colopy v. Uber Technologies, Inc.*, No. 3:2019-cv-06462-EMC (N.D. Cal.). Indeed, the Plaintiff in this case is already one of three named plaintiffs in *Colopy*.

20. Upon filing the Notice of Removal, Uber will furnish written notice to Plaintiff’s counsel and will file and serve a copy of this Notice with the Clerk of the San Francisco County Superior Court, pursuant to 28 U.S.C. § 1446(d).

Uber therefore removes this action from the San Francisco County Superior Court.

1 DATED: March 17, 2020

GIBSON, DUNN & CRUTCHER LLP

2  
3 By: /s/ Theane Evangelis

Theane Evangelis

4  
5 Attorneys for DEFENDANT  
UBER TECHNOLOGIES, INC.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT A**



1 SHANNON LISS-RIORDAN (SBN 310719)  
(sliss@llrlaw.com)  
2 ANNE KRAMER (SBN 315131)  
3 LICHTEN & LISS-RIORDAN, P.C.  
729 Boylston Street, Suite 2000  
4 Boston, MA 02116  
Telephone: (617) 994-5800  
5 Facsimile: (617) 994-5801

6 *Attorneys for Plaintiff Spencer Verhines,*  
7 *on behalf of himself and all others similarly situated*

**FILED**  
San Francisco County Superior Court

MAR 12 2020

CLERK OF THE COURT  
BY: *Celene Antonia*  
Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN FRANCISCO**

12 Case No. **CGC-20-583684**

13 SPENCER VERHINES, on behalf of himself  
14 and all others similarly situated,

15 Plaintiff,

16 v.

17 UBER TECHNOLOGIES, INC.,

18 Defendant.

19 **CLASS ACTION COMPLAINT**

- 20  
21  
22  
23  
24  
25  
26  
27  
28  
1. FAILURE TO PROVIDE PAID SICK DAYS (CAL. LAB. CODE § 246)

By Fax

1 **I. INTRODUCTION**

2 1. This case is brought by Spencer Verhines, who works as an Uber driver in  
3 California. Uber Technologies, Inc. (“Uber”), is a car service, which engages thousands of  
4 drivers across the state of California to transport riders. Uber is based in San Francisco,  
5 California, and it does business across the United States and extensively throughout California.

6 2. As described further below, Uber has misclassified its drivers including Plaintiff  
7 Spencer Verhines, as independent contractors in violation of Cal. Labor Code § 2750.3. As Uber  
8 does not acknowledge that its drivers are employees, it does not pay them for sick leave as  
9 required by California law.

10 3. Uber has harmed drivers like Spencer Verhines by these violations, as drivers  
11 struggle to support themselves without the employment protections mandated by the State of  
12 California, including paid sick leave.

13 4. This harm extends not only to Uber drivers, but to the public as well, particularly  
14 as the international community is now facing a worldwide crisis in the spread of COVID-19 (the  
15 “coronavirus”). Today, March 11, 2020, the World Health Organization classified the spread of  
16 this virus as a pandemic.<sup>1</sup> Public health recommendations have recently advised that anyone  
17 who feels ill should stay home and not go to work.<sup>2</sup> However, because Uber does not  
18 acknowledge its drivers as employees and comply with California state law paid sick leave  
19 requirements, drivers like Spencer Verhines will feel the need to continue working in order to  
20 support themselves, even if they feel ill.  
21

22  
23  
24 <sup>1</sup> World Health Organization, WHO Director-General’s opening remarks at the media  
25 briefing on COVID-19 - 11 March 2020, [https://www.who.int/dg/speeches/detail/who-director-](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020)  
26 [general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020) (last accessed  
27 March 11, 2020).

28 <sup>2</sup> Centers for Disease Control and Prevention, Stay Home When You Are Sick,  
<https://www.cdc.gov/flu/business/stay-home-when-sick.htm> (last accessed March 11, 2020).

1 5. Faced with the choice of staying home without pay and risking losing their access  
2 to their livelihood, including housing, food, and other necessities of living, Uber drivers across  
3 California will continue working and risk exposing hundreds of riders who enter their car on a  
4 weekly basis to this deadly disease. Thus, Uber's failure to comply with California law, by  
5 misclassifying its drivers as independent contractors, is creating an immediate danger, not only  
6 to Uber drivers, but to the general public as well.

7  
8 6. As a result, immediate public injunctive relief should be ordered, requiring Uber  
9 to comply with California law by classifying its drivers as employees and implementing a policy  
10 to provide them with paid sick leave as required by law.

11 **II. PARTIES**

12 7. Plaintiff Spencer Verhines is an adult resident of Foothill Ranch,  
13 California, where he has worked as an Uber driver (and in Los Angeles) since 2014.

14 8. Defendant Uber Technologies, Inc. ("Uber") is a headquartered in San Francisco,  
15 California.

16 **III. JURISDICTION**

17 9. This Court has jurisdiction over Plaintiff's claims pursuant to California Code of  
18 Civil Procedure § 410.10.

19 10. The monetary relief which the Plaintiff seek is in excess of the jurisdictional  
20 minimum required by this Court and will be established according to proof at trial.

21 11. Venue is proper in this Court pursuant to Code of Civ. P. §§ 395 and 395.5  
22 because Uber is headquartered in San Francisco County. Furthermore, Uber engages in business  
23 activities in and throughout the State of California, including San Francisco County.

24 **V. CLASS ALLEGATIONS**

25 12. Plaintiff Spencer Verhines brings this case as a class action pursuant to California  
26 Code of Civil Procedure § 382 on behalf of all Uber drivers who work for Uber in California.

1           13. Plaintiff and other class members are being uniformly deprived of paid sick  
2 leave, as Uber does not have a policy in place to provide its driver employees with paid sick  
3 leave required by California law.

4           14. The members of the class are so numerous that joinder of all class members is  
5 impracticable.

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

- 9
- 10           a. Whether Uber drivers are misclassified as independent contractors under  
11 California law;
  - 12           b. Whether the work performed by class members—providing driving services to  
13 customers—is within Uber's usual course of business;
  - 14           c. Whether class members are typically engaged in their own businesses or whether  
15 they wear the "hat" of Uber when performing transportation services;
  - 16           d. Whether class members have been required to follow uniform procedures and  
17 policies regarding their work for Uber;
  - 18           e. Whether Uber has a sick leave policy to provide paid sick leave to its employee  
19 drivers as required by California law.

20           16. Named Plaintiff Spencer Verhines is a class member who is harmed as a result of  
21 Uber's conduct and actions alleged herein.

22           17. The named plaintiff's claims are typical of the claims of the class, and the named  
23 plaintiff has the same interests as the other members of the class.

24           18. The named plaintiff will fairly and adequately represent and protect the interests  
25 of the class. The named plaintiff has retained able counsel experienced in class action litigation.

1 The interests of the named plaintiff are coincident with, and not antagonistic to, the interests of  
2 the other class members.

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

6 20. A class action is superior to other available methods for the fair and efficient  
7 adjudication of this controversy because joinder of all class members is impractical. Moreover,  
8 the relief sought here – that Uber should be ordered to implement a policy to provide paid sick  
9 leave to its driver employees in compliance with California law – is relief that would affect a  
10 class of drivers. Also, since the damages suffered by individual members of the class may be  
11 relatively small, the expense and burden of individual litigation makes it practically impossible  
12 for the members of the class individually to redress the wrongs done to them. The class is readily  
13 definable and prosecution of this action as a class action will eliminate the possibility of  
14 repetitive litigation. There will be no difficulty in the management of this action as a class action.

15 **IV. STATEMENT OF FACTS**

16 21. Uber is a San Francisco-based transportation service, which engages drivers  
17 across the country, including in the state of California, to transport riders.

18 22. Uber offers customers the ability to order rides via a mobile phone application,  
19 which its drivers then carry out.

20 23. Plaintiff Spencer Verhines has driven for Uber since approximately 2014.

21 24. Although Uber classifies its drivers like Spencer Verhines as “independent  
22 contractors,” Uber drivers are actually employees under California law.

23 25. Uber drivers, including Plaintiff Verhines, provide a service in the usual course of  
24 Uber’s business because Uber is a car service that provides transportation to its customers, and  
25 drivers such as Spencer Verhines perform that transportation service. Uber holds itself out as a  
26  
27

1 transportation service, and it generates its revenue primarily from customers paying for the very  
2 rides that its drivers provide. Without drivers to provide rides, Uber would not exist.

3  
4 26. Uber also requires its drivers, including Plaintiff Verhines, to abide by a litany of  
5 policies and rules designed to control the drivers' work performance. Uber both retains the right  
6 to, and does in fact exercise, control over the drivers' work.

7  
8 27. Uber drivers, including Plaintiff Verhines, are not typically engaged in their own  
9 transportation business. When driving Uber customers, they wear the "hat" of Uber.

10  
11 28. Uber communicates directly with customers and follows up with drivers if the  
12 customer complains that the ride failed to meet their expectations. Based on any customer  
13 feedback, Uber may suspend or terminate drivers at its sole discretion.

14  
15 29. Uber drivers are engaged in interstate commerce. At times, drivers transport  
16 passengers across state lines. Furthermore, drivers are engaged in interstate commerce insofar as  
17 they transport passengers who are within the flow of interstate commerce; indeed, passengers  
18 arrive from, or are traveling to destinations out of state, such as arriving at or leaving train  
19 stations or airports.

20  
21 30. Uber is in violation of Cal. Lab. Code § 246 by not maintaining a policy of  
22 providing paid sick days to its drivers such as Spencer Verhines. This provision requires  
23 employers to allow employees to accrue sick days at the rate of not less than one hour for every  
24 thirty hours worked after working for the employer for 30 days within a year from the start of  
25 their employment.

26  
27 31. On April 30, 2018, the California Supreme Court issued its decision in Dynamex,  
28 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. 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, which

1 it cannot do. Notwithstanding this decision, Uber has continued to misclassify its drivers as  
2 independent contractors.

3 32. Furthermore, the California legislature has now taken steps to clarify and codify  
4 the “ABC” test set forth in the Dynamex decision by passing Assembly Bill 5, which has been  
5 passed into law by the California legislature and went into effect on January 1, 2020. The  
6 legislature has clearly intended for Uber to be covered by this statute; indeed, the author of the  
7 statute, Assemblywoman Lorena Gonzalez, has made clear that Uber (and similar “gig economy”  
8 companies) would not be exempted from the law. Although Uber specifically lobbied to obtain a  
9 “carve-out” exemption from the law, it did not receive a carve-out from the legislature. Uber is  
10 now one of several “gig economy” companies that have pledged at least \$90 million to fund a  
11 ballot initiative seeking a carve-out for “gig economy” companies from A.B. 5. Uber’s actions  
12 in opposing the law – and its expressed concern that the law would have a major impact on its  
13 business -- are an acknowledgement that this law requires it to classify its drivers as employees  
14 and provide employees with the protections of the California Labor Code, such as paid sick  
15 leave.  
16

17  
18 **COUNT I**  
19 **Paid Sick Days**  
20 **Violation of Cal. Lab. Code § 246**

21 33. Uber’s conduct, as set forth above, in misclassifying its drivers, including Spencer  
22 Verhines, as independent contractors, and failing to offer its drivers paid sick days as required by  
23 California law, violates Cal. Lab. Code §§ 246 and 2750.3.  
24  
25  
26  
27

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

- 2 a. Issue a public injunction requiring Uber to comply with the California Labor Code by  
3 classifying its drivers as employees and, in particular, enacting a policy to provide  
4 paid sick leave as required by California law  
5  
6 b. Declare and find that Uber violated the Cal. Lab. Code § 246 and 2750.3;  
7  
8 c. Certify this case as a class action;  
9  
10 d. Award compensatory damages in an amount according to proof;  
11  
12 e. Award pre- and post-judgment interest;  
13  
14 f. Award reasonable attorneys' fees, costs, and expenses;  
15  
16 g. Any other relief to which Plaintiff and the class may be entitled.

17 Respectfully submitted,

18 SPENCER VERHINES, on behalf of himself and  
19 all others similarly situated,

20 By his attorneys,

21 

22 

---

Shannon Liss-Riordan, SBN 310719  
23 Anne Kramer, SBN 315131  
24 LICHTEN & LISS-RIORDAN, P.C.  
25 729 Boylston Street, Suite 2000  
26 Boston, MA 02116  
27 (617) 994-5800  
28 Email: sliss@llrlaw.com

Dated: March 11, 2020



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Lawsuit Claims Uber Owes California Drivers Paid Sick Leave, Creates COVID-19 Risk](#)

---