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UBER TECHNOLOGIES, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 DOUGLAS O’CONNOR, THOMAS COLOPY,
12 MATTHEW MANAHAN, and ELIE
GURFINKEL, individually and on behalf of all
13 others similarly situated,

14 Plaintiffs,

15 v.

16 UBER TECHNOLOGIES, INC.

17 Defendants.

Case No. 13-03826-EMC

Hon. Edward M. Chen

**DEFENDANT UBER TECHNOLOGIES,
INC.’S ANSWER TO PLAINTIFFS’
SECOND AMENDED CLASS ACTION
COMPLAINT**

Complaint Filed: August 16, 2013

1 Defendant Uber Technologies, Inc. (“Uber” or “Defendant”) answers the Second
2 Amended Class Action Complaint (“Complaint”) filed by Plaintiffs Douglas O’Connor, Thomas
3 Colopy, Matthew Manahan, and Elie Gurfinkel according to its numbered paragraphs as follows
4 below. This filing also serves as Defendant’s Answer to Plaintiffs’ revised Second Amended
5 Complaint (Dkt. No. 201-2), if the Court permits it to be filed.

6 **I. INTRODUCTION**

7 1. Defendant admits that Uber is a software technology company that provides lead
8 generation services for transportation companies and drivers. Except as expressly admitted,
9 Defendant denies each and every allegation contained in paragraph 1 of the Complaint.

10 2. The allegations of this paragraph constitute a conclusion of law to which no
11 response is required. To the extent that a response is required, Defendant admits that Plaintiffs
12 seek to set forth a class action on behalf of themselves and other similarly situated individuals in
13 California and denies any remaining factual allegations.

14 3. The allegations of this paragraph constitute a conclusion of law to which no
15 response is required. To the extent that a response is required, Defendant admits that Plaintiffs
16 seek to set forth a class action on behalf of themselves and other similarly situated individuals in
17 California and denies any remaining factual allegations.

18 **II. PARTIES**

19 4. Defendant lacks sufficient information and belief to admit or deny whether
20 Plaintiff Douglas O’Connor is a resident of South San Francisco, California. Based on this lack
21 of information and belief, Defendant denies this allegation. Defendant expressly denies the
22 remaining allegations contained in paragraph 4 of the Complaint.

23 5. Defendant lacks sufficient information and belief to admit or deny whether
24 Plaintiff Thomas Colopy is a resident of San Francisco, California. Based on this lack of
25 information and belief, Defendant denies this allegation. Defendant expressly denies the
26 remaining allegations contained in paragraph 5 of the Complaint.

27 6. Defendant lacks sufficient information and belief to admit or deny whether
28 Plaintiff Matthew Manahan is a resident of Los Angeles, California. Based on this lack of

1 information and belief, Defendant denies this allegation. Defendant expressly denies the
2 remaining allegations contained in paragraph 6 of the Complaint.

3 8. Defendant lacks sufficient information and belief to admit or deny whether
4 Plaintiff Elie Gurfinkel is a resident of San Diego, California. Based on this lack of information
5 and belief, Defendant denies this allegation. Defendant expressly denies the remaining
6 allegations contained in paragraph 8 of the Complaint.

7 9. The allegations of this paragraph constitute a conclusion of law to which no
8 response is required. To the extent that a response is required, Defendant admits that Plaintiffs
9 seek to set forth a class action on behalf of themselves and other similarly situated individuals in
10 California and denies any remaining factual allegations contained in paragraph 9 of the
11 complaint.

12 10. Defendant admits that Uber is a corporation whose headquarters is located in San
13 Francisco, California.

14 **III. JURISDICTION**

15 11. Defendant admits that Plaintiffs' claim that this "Court has jurisdiction over the
16 state law claims asserted here pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2)
17 [{"CAFA"}]" is based in part on the purported grounds that "upon the original filing of this
18 complaint members of the putative plaintiff class resided in states around the country; there are
19 more than 100 putative class members; and the amount in controversy exceeds \$5 million."
20 However, Defendant lacks sufficient information and belief to admit or deny each and every
21 allegation contained in paragraph 11 of the Complaint. Based on this lack of information and
22 belief, Defendant denies each and every allegation contained in paragraph 11 of the complaint,
23 except as expressly admitting that Plaintiffs have asserted the existence of CAFA jurisdiction.

24 **IV. STATEMENT OF FACTS**

25 12. Defendant denies each and every allegation contained in paragraph 12 of the
26 Complaint.

27 13. Defendant admits that Uber is a software technology company that provides lead
28 generation services for transportation companies and drivers. Except as expressly admitted,

1 Defendant denies each and every allegation contained in paragraph 13 of the Complaint.

2 14. Defendant denies each and every allegation contained in paragraph 14 of the
3 Complaint.

4 15. Defendant denies each and every allegation contained in paragraph 15 of the
5 Complaint.

6 16. Defendant denies each and every allegation contained in paragraph 16 of the
7 Complaint.

8 17. Defendant denies each and every allegation contained in paragraph 17 of the
9 Complaint.

10 18. Defendant admits that Uber's webpage does not specify that a gratuity is
11 automatically added when selecting certain choices in various cities. Except as expressly
12 admitted, Defendant denies each and every allegation contained in paragraph 18 of the
13 Complaint.

14 19. Defendant lacks sufficient information and belief to admit or deny the allegations
15 contained in this paragraph. Based on this lack of information and belief, Defendant denies each
16 and every allegation contained in paragraph 19 of the Complaint.

17 20. Defendant denies each and every allegation contained in paragraph 20 of the
18 Complaint.

19 21. Defendant denies each and every allegation contained in paragraph 21 of the
20 Complaint.

21 22. Defendant denies each and every allegation contained in paragraph 22 of the
22 Complaint.

23 23. Defendant denies that Defendant misclassifies drivers as independent contractors.
24 Defendant lacks sufficient information and belief to admit or deny whether drivers are required to
25 bear the expenses of their employment. Based on this lack of information and belief, Defendant
26 denies this allegation. The remaining allegations constitute a conclusion of law for which no
27 response is required. To the extent a response is required, Defendant denies each and every
28 remaining allegation contained in paragraph 23.

1 **V. CLASS ACTION ALLEGATIONS**

2 24. The allegations of this paragraph constitute a conclusion of law to which no
3 response is required. To the extent a response is required, Defendant denies each and every
4 allegation contained in paragraph 24 of the Complaint.

5 25. Defendant denies each and every allegation contained in paragraph 25 of the
6 Complaint.

7 26. Defendant denies each and every allegation contained in paragraph 26 of the
8 Complaint.

9 27. Defendant denies each and every allegation contained in paragraph 27 of the
10 Complaint.

11 28. Defendant denies each and every allegation contained in paragraph 28 of the
12 Complaint.

13 29. Defendant denies each and every allegation contained in paragraph 29 of the
14 Complaint.

15 30. Defendant denies each and every allegation contained in paragraph 30 of the
16 Complaint.

17 31. Defendant denies each and every allegation contained in paragraph 31 of the
18 Complaint.

19 32. Defendant denies each and every allegation contained in paragraph 32 of the
20 Complaint.

21 33. Defendant denies each and every allegation contained in paragraph 33 of the
22 Complaint.

23 **COUNT I**

24 **Unfair Competition in Violation of California Business and Professions Code § 17200 *et seq.***

25 34. Defendant admits that Plaintiffs seek declaratory and injunctive relief and
26 restitution but denies each and every remaining allegation contained in paragraph 34 of the
27 Complaint.

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1 **COUNT II**

2 **Independent Contractor Misclassification and Expense Reimbursement Violation**

3 35. Defendant denies each and every allegation contained in paragraph 35 of the
4 Complaint.

5 **JURY DEMAND**

6 36. Defendant denies that Plaintiffs or the putative class are entitled to any relief in
7 this action.

8 **DEFENSES**

9 Defendant has not completed its investigation of the facts of this case, has not completed
10 discovery in this matter, and has not completed its preparation for trial. The defenses asserted
11 herein are based on Defendant's knowledge, information and belief at this time. Defendant
12 specifically reserves the right to modify, amend, or supplement any defense contained herein at
13 any time. Without conceding that it bears the burden of proof or persuasion as to any of them,
14 Defendant alleges the following separate defenses to the Complaint:

15 **FIRST DEFENSE**

16 (Failure to State a Claim)

17 1. Plaintiffs' Complaint, and each claim contained therein, fails to state a claim upon
18 which relief can be granted.

19 **SECOND DEFENSE**

20 (Statute of Limitations)

21 2. Plaintiffs' claims, and the claims of each putative member of the purported class
22 defined in the Complaint, are barred in whole or in part by the applicable statutes of limitations.

23 **THIRD DEFENSE**

24 (Laches)

25 3. The claims of Plaintiffs and those of the putative members of the purported class
26 defined in the Complaint are barred in whole or in part by the doctrine of laches.

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FOURTH DEFENSE

(Action Unconstitutional)

4. Certification of a class, based upon the facts and circumstances of this case, would constitute a denial of Defendant’s right to due process under the Fourteenth Amendment to the United States Constitution and the California Constitution.

FIFTH DEFENSE

(Estoppel)

5. The claims of Plaintiffs and those of the putative members of the purported class defined in the Complaint are barred in whole or in part by their own conduct, actions, and inactions, which amount to and constitute an estoppel of the causes of action and any relief sought thereby.

SIXTH DEFENSE

(Waiver of Claims)

6. The claims of Plaintiffs and those of the putative members of the purported class defined in the Complaint are barred in whole or in part because such claims have been waived, discharged, and/or abandoned.

SEVENTH DEFENSE

(Unclean Hands)

7. The claims of Plaintiffs and those of the putative members of the purported class defined in the Complaint are barred in whole or in part by the doctrine of unclean hands.

EIGHTH DEFENSE

(Excuse)

8. The claims of Plaintiffs and those of the putative members of the purported class defined in the Complaint are barred in whole or in part because Defendant’s acts and/or omissions were excused.

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NINTH DEFENSE

(Adequate Remedy at Law)

9. The claims of Plaintiffs and those of the putative members of the purported class defined in the Complaint brought pursuant to California Business and Professions Code Section 17200 are barred in whole or in part in light of the fact that Plaintiffs have an adequate remedy at law.

TENTH DEFENSE

(Good Faith)

10. The claims of Plaintiffs and those of the putative members of the purported class defined in the Complaint are barred in whole or in part by Defendant’s good faith and/or good faith legal defense.

ELEVENTH DEFENSE

(Equitable Indemnity/Proportional Fault)

11. Plaintiffs’ alleged injuries are the result, in whole or in part, of the acts or omissions of entities or individuals other than Defendant, including Plaintiffs, and Defendant’s liability, if any, must be reduced by any percentage of fault attributable to those other entities and/or individuals.

TWELFTH DEFENSE

(Satisfaction of Duty)

12. Defendant satisfied, fulfilled and performed each and every obligation and duty imposed by law or contract to the full extent of its responsibility.

THIRTEENTH DEFENSE

(Arbitration Agreement)

13. The claims of persons who might otherwise be putative class members are barred by a valid and binding arbitration agreement.

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FOURTEENTH DEFENSE

(Additional Affirmative Defenses)

14. Defendant presently has insufficient knowledge and/or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Defendant reserves the right to assert additional defenses if discovery indicates that they would be appropriate.

WHEREFORE, Defendant prays for judgment as follows:

- 1. That Plaintiffs take nothing by this action;
- 2. That judgment be entered in favor of Defendant and against Plaintiffs;
- 3. That Defendant be awarded its costs of suit;
- 4. That Defendant be awarded its attorneys’ fees incurred herein, including, but not limited to, under Labor Code section 218.5;
- 5. The Court deny Plaintiffs’ request to certify this action as a class action; and
- 6. That the Court award Defendant such other and further relief as the Court may deem proper.

Dated: November 25, 2014

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CAITLIN V. MAY

By /s/ Robert Jon Hendricks

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