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**NO FEE PURSUANT TO
GOVERNMENT CODE § 6103**

11 *[Plaintiff's Counsel Continued on Next Page]*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN FRANCISCO
14 UNLIMITED JURISDICTION

16
17 **PEOPLE OF THE STATE OF CALIFORNIA,**
18 Plaintiff,
19 v.
20 **UBER TECHNOLOGIES, INC., A DELAWARE**
21 **CORPORATION; LYFT, INC., A DELAWARE**
22 **CORPORATION; AND DOES 1-50, INCLUSIVE,**
23 Defendants.

Case No.

**COMPLAINT FOR INJUNCTIVE
RELIEF, RESTITUTION, AND
PENALTIES**

**[VERIFIED ANSWER REQUIRED
PURSUANT TO CODE OF CIVIL
PROCEDURE SECTION 446]**

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1 Plaintiff, the People of the State of California (“People”), by and through Xavier Becerra,
2 Attorney General of the State of California; Michael N. Feuer, Los Angeles City Attorney; Mara
3 W. Elliott, San Diego City Attorney; and Dennis J. Herrera, San Francisco City Attorney, bring
4 this action against Uber Technologies, Inc. (“Uber”), Lyft, Inc. (“Lyft”), and Does one through
5 fifty (collectively “Defendants”), and allege as follows:

6 INTRODUCTION

7 1. In their early stages, when Uber and Lyft started selling ride-hailing services in 2010
8 and 2012, respectively, they made the calculated business decision to misclassify their on-demand
9 drivers as independent contractors rather than employees. Both companies continue to
10 misclassify their drivers—and have exploited hundreds of thousands of California workers—in
11 direct contravention of California law.

12 2. By misclassifying their drivers, Uber and Lyft evade the workplace standards and
13 requirements that implement California’s strong public policy in favor of protecting workers and
14 promoting fundamental fairness for all Californians. This longstanding policy framework
15 includes a comprehensive set of safeguards and benefits established by the State of California
16 (“State”), cities, and counties, such as minimum wages, overtime premium pay, reimbursement
17 for business expenses, workers’ compensation coverage for on-the-job injuries, paid sick leave,
18 and wage replacement programs like disability insurance and paid family leave. Uber and Lyft
19 owe their drivers these benefits and protections.

20 3. Recognizing the serious problem of employee misclassification and the harms it
21 inflicts on workers, law-abiding businesses, taxpayers, and society more broadly, the California
22 Legislature enacted Assembly Bill 5, which took effect on January 1, 2020. (Assem. Bill No. 5
23 (2019-2020 Reg. Sess.) (“A.B. 5”).) A.B. 5 codified and extended the California Supreme
24 Court’s landmark, unanimous decision in *Dynamex Operations W., Inc. v. Superior Court* (2018)
25 4 Cal.5th 903, reh. denied (June 20, 2018) (“*Dynamex*”). California law is clear: for the full
26 range of protections afforded by California’s Wage Orders, Labor Code, and Unemployment
27 Insurance Code, workers are generally presumed to be employees unless the hiring entity can
28

1 overcome this presumption by establishing each of the three factors embodied in the strict “ABC”
2 test.

3 4. Uber and Lyft cannot overcome this presumption with respect to their drivers. Uber
4 and Lyft are traditional employers of these misclassified employees. They hire and fire them.
5 They control which drivers have access to which possible assignments. They set driver quality
6 standards, monitor drivers for compliance with those standards, and discipline drivers for not
7 meeting them. They set the fares passengers can be charged and determine how much drivers are
8 paid.

9 5. Uber and Lyft are transportation companies in the business of selling rides to
10 customers, and their drivers are the employees who provide the rides they sell. The fact that Uber
11 and Lyft communicate with their drivers by using an app does not suddenly strip drivers of their
12 fundamental rights as employees.

13 6. But rather than own up to their legal responsibilities, Uber and Lyft have worked
14 relentlessly to find a work-around. They lobbied for an exemption to A.B. 5, but the Legislature
15 declined. They utilize driver contracts with mandatory arbitration and class action waiver
16 provisions to stymie private enforcement of drivers’ rights. And now, even amid a once-in-a-
17 century pandemic, they have gone to extraordinary lengths to convince the public that their
18 unlawful misclassification scheme is in the public interest. Both companies have launched an
19 aggressive public relations campaign in the hopes of enshrining their ability to mistreat their
20 workers, all while peddling the lie that driver flexibility and worker protections are somehow
21 legally incompatible.

22 7. Uber’s and Lyft’s motivation for breaking the law is simple: by misclassifying their
23 drivers, Uber and Lyft do not “bear any of [the] costs or responsibilities” of complying with the
24 law. (*Dynamex, supra*, 4 Cal.5th at p. 913.) When addressing investors, Uber pulls no punches:
25 “Our business would be adversely affected if Drivers were classified as employees instead of
26 independent contractors.” (Uber Securities and Exchange Com. (“SEC”) S-1, p. 28 [Filing Date:
27 April 11, 2019].)

28

1 establishing that *all* of the following three conditions are satisfied: (A) the worker is free from
2 the control and direction of the hiring entity in connection with the performance of the work, both
3 under the contract for the performance of the work and in fact; (B) the worker performs work that
4 is outside the usual course of the hiring entity’s business; and (C) the worker is customarily
5 engaged in an independently established trade, occupation, or business of the same nature as the
6 work performed. (Lab. Code, § 2750.3(a)(1); see generally *Dynamex, supra*, 4 Cal.5th at p. 957.)
7 These three requirements are referred to as Parts A, B, and C of the ABC test, respectively.

8 24. Because the hiring entity must establish all three parts of the ABC test in order to
9 lawfully classify a worker as an independent contractor, the hiring entity’s failure to satisfy any
10 one part of the ABC test results in the worker in question being classified as an employee rather
11 than an independent contractor. (*Dynamex, supra*, 4 Cal.5th at p. 963.)

12 **II. EACH DEFENDANT OPERATES A TRANSPORTATION SERVICE THAT**
13 **SELLS ON-DEMAND RIDES PROVIDED BY DRIVERS WHOM EACH**
14 **DEFENDANT HAS MISCLASSIFIED AS INDEPENDENT CONTRACTORS.**

15 25. For the purpose of this Complaint, “Drivers” refers to individuals who fall into one or
16 both of the following two categories. *First Category*: All individuals who have driven for Uber
17 as ride-hailing drivers in the State of California at any time since May 5, 2016 and who (1) signed
18 up to drive as a ride-hailing driver directly with Uber or an Uber subsidiary under their individual
19 name or with a fictional/corporate name *and* (2) are/were paid by Uber or an Uber subsidiary
20 directly under their individual name or with a fictional/corporate name for their services as ride-
21 hailing drivers. *Second Category*: All individuals who have driven for Lyft as ride-hailing
22 drivers in the State of California at any time since May 5, 2016 and who (1) signed up to drive
23 directly with Lyft or a Lyft subsidiary as ride-hailing drivers under their individual name or with
24 a fictional/corporate name *and* (2) are/were paid by Lyft or a Lyft subsidiary directly under their
25 individual name or with a fictional/corporate name for their services as ride-hailing drivers.
26 “Passengers” refer to individuals who receive Uber and/or Lyft ride-hailing services through such
27 Drivers.

28 26. Each Defendant operates a ride-hailing transportation service in which Passengers
may request and pay for on-demand rides from either Defendant by using that Defendant’s

1 smartphone application (the “Uber App,” the “Lyft App,” “App” or “Defendant’s App”
2 respectively, and collectively, “Apps” or “Defendants’ Apps”).

3 27. Each Defendant has hired hundreds of thousands of ride-hailing Drivers across the
4 State of California to provide on-demand rides throughout the State to Passengers who book such
5 rides through either Defendant’s App.

6 28. Lyft was founded in 2012 as a ride-hailing service of Zimride. Zimride later changed
7 its name to Lyft, and subsequently sold the “Zimride” component of its business (a long-distance
8 carpooling service) to focus on offering on-demand rides. As of January 2, 2020, Lyft had a
9 market capitalization of approximately \$13 billion.

10 29. Uber was founded in 2009 as a ride-hailing service. As of January 2, 2020, Uber had
11 a market capitalization of approximately \$53 billion.

12 30. Among the various ride-hailing options offered by Defendants, by far the largest is an
13 option in which individuals with non-commercial drivers’ licenses provide on-demand rides to
14 Passengers via each Defendant’s App using ordinary passenger vehicles. Lyft refers to this on-
15 demand option as a “Lyft.” Uber refers to this option as “UberX.”

16 **III. UNDER THE ABC TEST, EACH DEFENDANT MISCLASSIFIES ITS**
17 **DRIVERS.**

18 31. Since first launching their ride-hailing services, each Defendant has misclassified, and
19 continues to misclassify, its Drivers as independent contractors instead of employees.

20 32. Each Defendant requires its Drivers, as a pre-condition of providing rides through
21 Defendant’s App, to agree to standard-form contracts and addenda. Each Defendant’s contracts
22 and addenda contain standardized terms and conditions that each Defendant sets regarding its
23 Drivers’ work. Each Defendant’s contracts and addenda also contain boilerplate language
24 unilaterally designating each Defendant’s Drivers as independent contractors.

25 **A. Part A of the ABC Test (“control and direction”)**

26 33. Each Defendant retains all necessary control over its Drivers’ work, which is to
27 transport Passengers from point A to point B in a car.
28

1 34. Each Defendant’s App, in combination with each Defendant’s policies, functions like
2 an algorithmic manager that effectively supervises its Drivers like a human manager.

3 35. Each Defendant determines what Drivers are eligible to provide ride-hailing services
4 on its App and can change its Driver standards in its discretion.

5 36. Each Defendant dictates the types of cars its Drivers may use on its app, as well as the
6 standards its Drivers’ vehicles must meet. Each Defendant can change its vehicle standards in its
7 discretion.

8 37. Drivers’ tenure with each Defendant is for an indefinite time, but each Defendant
9 retains the right to terminate or pause a Driver’s tenure at any time in accordance with terms,
10 conditions, and policies that each Defendant sets in its discretion.

11 38. Each Defendant sets the fares that Passengers pay for rides received through its App.

12 39. Each Defendant, not its Drivers, collects fare payments directly from Passengers.

13 40. Each Defendant sets the amount of compensation that it pays its Drivers for providing
14 ride-hailing services to Passengers on its App.

15 41. Each Defendant handles invoicing, claim and fare reconciliation, and resolution of
16 complaints that arise from its Drivers and Passengers.

17 42. Each Defendant mediates and resolves conflicts involving its Drivers in its discretion,
18 ranging from Driver-Passenger disputes, to allegations of Driver or Passenger misconduct, to lost
19 items, damaged vehicles, cleaning fees, and Driver complaints of not receiving the full amount of
20 compensation for ride-hailing services provided through the App.

21 43. Each Defendant monitors its Drivers’ work hours and logs a Driver off its App for six
22 hours if the Driver reaches a twelve-hour driving limit.

23 44. Each Defendant does not freely permit its Drivers to choose their routes. For
24 example, if a Passenger complains to a Defendant about the route used by a Driver, each
25 Defendant reserves the right to adjust the fare if it decides that the Driver took an inefficient
26 route.

1 45. Each Defendant provides its Drivers with their work and pay by controlling the
2 dispatch of individual Passengers to individual Drivers through each Defendant's App. Each
3 Defendant's App controls which Drivers receive which ride requests and when.

4 46. Each Defendant controls and limits the information available to its Drivers and
5 Passengers through each Defendant's App, which each Defendant may change at any time
6 without notice.

7 47. When a Passenger requests an on-demand ride through Defendant's App, the App
8 shows and matches that Passenger with only one Driver at a time, regardless of the number of
9 nearby Drivers. Similarly, when a Driver is available to provide an on-demand ride, the App
10 shows and matches that Driver with only one Passenger at a time, regardless of the number of
11 nearby Passengers. Drivers and Passengers do not freely negotiate over the terms of an on-
12 demand ride. Instead, they are selectively steered to one another through the centralized direction
13 of the App.

14 48. Each Defendant's App hides from its Passengers key information about its Drivers'
15 experience and vehicles, limiting Drivers' ability to differentiate themselves and increase their
16 earnings in the way a true independent contractor or entrepreneur typically would.

17 49. Each Defendant's App allows its Drivers only approximately fifteen seconds to
18 accept or reject a trip request.

19 50. Drivers for each Defendant who consistently do not accept or reject trip requests
20 within the fifteen-second time limit may be temporarily logged out from each Defendant's App.
21 The length of this bar is within each Defendant's discretion.

22 51. Each Defendant's App tracks its Drivers. Drivers for each Defendant must notify the
23 respective Defendant through its App of the Driver's trip status at every key step of the on-
24 demand ride: (1) acceptance of the Passenger's ride request, (2) arrival to the pick-up location of
25 the Passenger, (3) start of the trip, and (4) end of the trip. Each Defendant uses its App to
26 constantly monitor and control its Drivers' behavior while its Drivers are logged into the App.

27 52. Each Defendant specifies detailed rules for Drivers to follow to create a uniform ride
28 experience from which each Defendant derives its brand recognition, reputation, and value.

1 These rules, which each Defendant bills as “suggestions” or “tips,” cover matters such as music,
2 how to pick-up Passengers, and what its Drivers can and cannot say to the Passengers.

3 53. Each Defendant retains the right to suspend or terminate its Drivers, or to cease
4 dispatching ride requests to its Drivers through its App at any time if its Drivers behave in a way
5 that Defendant deems inappropriate or in violation of a Defendant-mandated rule or standard.
6 These Driver behaviors can include, among other infractions, canceling too many rides, not
7 maintaining sufficiently high Passenger satisfaction ratings, or taking trip routes each Defendant
8 deems inefficient.

9 54. Each Defendant monitors, and ultimately controls, its Drivers through feedback it
10 solicits from its Passengers on every ride via a rating system that each Defendant uses to assess its
11 Drivers’ performance. Each Defendant’s App solicits feedback and prompts its Drivers and
12 Passengers to rate one another from one to five stars for each Defendant’s benefit, as each
13 Defendant uses the ratings for its own discipline of Drivers.

14 55. Each Defendant determines the type of data and feedback its Drivers and Passengers
15 may submit via its App. Each Defendant also defines on what basis its Passengers and Drivers
16 may provide feedback through its App.

17 56. Each Defendant uses information from its Passenger ratings to make decisions about
18 disciplining or terminating its Drivers. If the average rating of a Defendant’s Driver falls below a
19 certain threshold set by Defendant, Defendant may suspend or terminate that Driver from
20 providing ride-hailing services on Defendant’s App.

21 57. Each Defendant frequently experiments with software features that directly impact its
22 Drivers, creating an environment in which Drivers are subject to ever-shifting working
23 conditions, all determined in each Defendant’s discretion. According to Lyft, “We frequently test
24 driver incentives on subsets of existing drivers and potential drivers, and these incentives . . .
25 could have other unintended adverse consequences.” (See Lyft SEC 10-K, p. 20 [Filing Date:
26 February 28, 2020].) According to Uber, “[t]here are over 1,000 experiments running on our
27 platform at any given time.” (Deb et al., Under the Hood of Uber’s Experimentation Platform
28 (Aug. 28, 2018), <<https://eng.uber.com/xp/>> (as of May 1, 2020).)

1 58. Each Defendant introduces and then takes away features from its App in accordance
2 with its own business decisions. Each Defendant exerts control over its App, and thereby over its
3 Drivers.

4 **B. Part B of the ABC Test (“usual course of business”)**

5 59. Each Defendant’s Drivers are engaged in work that is within the usual course of each
6 Defendant’s business: the provision of on-demand rides. Each Defendant is a transportation
7 company that sells on-demand rides to its customers, i.e., its Passengers, who book and pay for
8 such rides through the Defendant’s App.

9 60. Drivers provide the on-demand ride. They are an integrated and essential part of each
10 Defendant’s transportation business. The immediate availability and temporal convenience of an
11 on-demand ride is the service that each Defendant sells to its Passengers.

12 61. Each Defendant publicly holds itself out to the public as a transportation company in
13 the business of selling on-demand rides.

14 62. Lyft has trademarked the slogan, “Your Friend with a Car.” Lyft advertises: “Get a
15 Ride Whenever You Need One”; “A ride in minutes”; and “Our drivers are always nearby so you
16 can get picked up, on demand, in minutes.”

17 63. Uber has trademarked the slogan, “Everyone’s Private Driver.” Uber advertises: “We
18 built Uber to deliver rides at the touch of a button”; “Always the ride you want”; “Request a ride,
19 hop in, and go”; “Sign up to ride. Rides on demand”; and “Get a reliable ride in minutes, at any
20 time and on any day of the year.”

21 64. Each Defendant represents to Passengers that it prescribes the qualifications of
22 Drivers on its App, as well as standards for Drivers’ quality of services. Each Defendant bills its
23 Passengers directly for the entire amount of the on-demand ride, and each Defendant’s Passengers
24 pay the fare for the service to each Defendant, not to the Driver. If a Passenger has an issue with
25 the quality of the on-demand ride provided through Defendant’s App, they report that problem to
26 Defendant, and Defendant may refund or cancel the Passenger’s fare.

27 65. Each Defendant is financially integrated with and dependent on its Drivers. Each
28 Defendant only generates income for its ride-hailing business if its Drivers transport and provide

1 rides to its Passengers. Each Defendant sets the fare its Passengers pay, collects the entire
2 amount of the fare from its Passengers, and then disburses a percentage of those fares to its
3 Drivers as compensation for providing the on-demand ride its Passenger ordered while keeping
4 the remainder of the fare for itself. Without its Drivers' labor to provide Defendant's service, the
5 on-demand ride, each Defendant's ride-hailing business would not exist.

6 66. Defendants do not facilitate a marketplace or matchmaking service between
7 independent Drivers and Passengers. Instead, they utilize their substantial resources and
8 technology to shape every facet of the service they sell to Passengers—a branded, on-demand
9 ride. To offer an on-demand ride, Defendants use their technology to choreograph the
10 deployment of countless Drivers in a localized geographic area, and integrate themselves into
11 every aspect of how those Drivers provide the service of getting Passengers to their destinations.

12 67. Far from being a mere technology company, each Defendant is deeply enmeshed in
13 the provision of transportation services. Each Defendant controls its Passengers' access to its on-
14 demand ride service and its Drivers' access to providing such services. Each Defendant
15 prescribes qualifications for its Drivers, determines its Driver supply, and designs and monitors
16 the level and quality of service that its Drivers must provide to Defendant's Passengers. Each
17 Defendant sets the fees, pricing, and incentives on its rides, and each Defendant uses its App to
18 distribute its Drivers across a geographic area to provide an on-demand ride at a price and
19 quantity that each Defendant, in its business discretion, deems the most beneficial to its business
20 model and delivery of services.

21 68. Each Defendant also engages in extensive data collection and surveillance of its
22 Drivers, tracking its Drivers' hours, movements, quality of services, and other metrics from when
23 the Drivers log on to Defendant's App until they log off. Each Defendant uses this data to
24 monitor and make disciplinary decisions regarding its Drivers, as well as for other business
25 purposes.

26 69. Lyft's prospectus for its 2019 initial public offering ("IPO") describes how its overall
27 business strategy depends on its Drivers. Lyft describes its growth strategy as "continu[ing] to
28 add density to our ridesharing marketplace *by attracting and retaining drivers* to our platform to

1 further improve the rider experience.” (See Lyft SEC S-1, p. 1 [Filing Date: March 1, 2019],
2 emphasis added.) The prospectus identifies a “key factor” affecting Lyft’s performance as
3 “*maintaining an ample number of drivers to meet rider demand in our ridesharing marketplace.*”
4 (Id., at p. 88, emphasis added.) In response to the fundamental question underlying Lyft’s
5 business model, “Why Lyft Wins,” Lyft’s IPO prospectus definitively answers: because Lyft is
6 “Driver-Centric.” (Id., at p. 3.)

7 70. Uber’s prospectus for its 2019 IPO also describes how Drivers, and the labor they
8 furnish providing on-demand rides, are the lifeblood of its business strategy. Uber does not
9 mince words: “If we are unable to attract or maintain a critical mass of Drivers . . . our platform
10 will become less appealing to platform users, *and our financial results would be adversely*
11 *impacted Any decline in the number of Drivers . . . using our platform would reduce the*
12 *value of our network and would harm our future operating results.*” (See Uber SEC S-1, *supra*,
13 at pp. 29-30, emphasis added.) Uber’s business model begins and ends with its Drivers.

14 **C. Part C of the ABC Test (“independently established trade, occupation, or**
15 **business”)**

16 71. Each Defendant’s Drivers are not engaged in an independently established trade,
17 occupation, or business of the same nature as the work they perform for each Defendant. Driving
18 itself is not a distinct trade, occupation, or business.

19 72. When driving for each Defendant, Drivers are not engaged in their own transportation
20 business, but are instead driving Passengers and generating income for the respective Defendant.

21 73. There are no specialized skills or training necessary to drive passengers on a ride-
22 hailing service. Consequently, each Defendant permits Drivers without any such skills or training
23 to provide on-demand rides on its App. For example, both of Defendant’s largest ride-hailing
24 options, “Lyft” and “UberX,” permit Drivers to offer ride-hailing services with an ordinary
25 driver’s license and a personal vehicle.

26 74. Each Defendant provides its Drivers with a necessary tool and instrumentality to
27 perform their on-demand, ride-hailing services—its App.

28

1 75. Each Defendant's App is the exclusive means by which Passengers and Drivers can
2 connect to, request, and provide each Defendant's on-demand rides.

3 76. Each Defendant's Drivers generally invest little to no capital to drive for each
4 Defendant. To offer ride-hailing services on each Defendant's App, Drivers only need a
5 smartphone and a car.

6 77. Each Defendant directly shapes its Drivers' earnings, and thereby effectively prevents
7 its Drivers from attaining the profits and losses that would ordinarily be the hallmarks of running
8 their own independent businesses.

9 78. Each Defendant, not its Drivers, prescribes the key factors that determine its Drivers'
10 earnings. Each Defendant sets the prices charged to its Passengers, and controls its Drivers' rate
11 of pay, its Drivers' territory, the supply of its Drivers on the overall App, and the marketing and
12 advertising of each Defendant's brand.

13 79. The limited economic levers that each Defendant leaves to its Drivers, such as
14 whether to drive at busier times or for more hours, are not consistent with the level of decision-
15 making normally exercised by entrepreneurs or those operating their own independent businesses.

16 80. Each Defendant limits its Drivers' ability to freely decline and cancel rides that
17 Drivers think will be unprofitable.

18 81. Each Defendant limits its Drivers' ability to see all ride requests in an area, and thus
19 to gauge their potential earnings based on demand for their services.

20 82. Each Defendant limits its Drivers' ability to share their accounts with other Drivers,
21 thereby curtailing its Drivers' ability to individually expand their business offerings.

22 83. Each Defendant prohibits its Drivers from soliciting Passenger information, limiting
23 the ability of its Drivers to market themselves independently for repeat rides outside of
24 Defendant's App.

25 84. Each Defendant limits its Drivers' ability to take advantage of its App's financial
26 incentives in an entrepreneurial fashion. Each Defendant specifically targets individual Drivers it
27 invites to participate in various, time-limited financial incentives that, for example, reward
28 Drivers for driving longer, or for driving at certain times and places. These financial incentives

1 are targeted to individual Drivers based on each Defendant’s own opaque criteria as implemented
2 by the algorithmic decision-making engines in its App. By selecting which Drivers will be
3 invited to participate in which financial incentives and on what individualized terms, each
4 Defendant, in effect, chooses which Drivers are financial “winners” and “losers.” Each
5 Defendant as the employer, not the Driver as an “entrepreneur,” determines the Driver’s earnings.

6 85. Each Defendant controls its Drivers’ ability to earn compensation via its App, making
7 trade-offs between its Drivers’ earnings and the price each Defendant charges to Passengers to the
8 benefit of each Defendant’s profit.

9 86. Lyft describes these trade-offs in its 2019 annual SEC report reporting that “changes”
10 made by Lyft “may be viewed positively from one group’s perspective (such as riders)” and
11 “negatively from another’s perspective such as (drivers).” (See Lyft SEC 10-K, *supra*, at p. 24.)

12 87. Uber’s SEC filings describe how the “greatest impact” on Uber’s Take Rate (the
13 company’s “take” on the difference between the Passenger’s fare on a ride and what the ride-
14 hailing company pays out to the Driver) has “historically” come through Uber’s unilateral
15 “adjustments to Driver incentives.” (See Uber SEC S-1, *supra*, at p. 100.) In its 2019 IPO
16 prospectus, Uber freely admits the control it exerts over its Drivers’ earnings—and the fact that
17 Uber’s own profit comes at its Drivers’ expense: “[A]s we aim to reduce Driver incentives to
18 improve our financial performance, we expect Driver dissatisfaction will generally increase.”
19 (*Id.*, at p. 30.)

20 **IV. DEFENDANTS’ UNLAWFUL MISCLASSIFICATION OF DRIVERS**
21 **RESULTS IN UNLAWFUL AND UNFAIR BUSINESS PRACTICES.**

22 88. It is evident that neither Uber nor Lyft can meet their burden of showing that their
23 Drivers are independent contractors under California’s ABC test for misclassification as adopted
24 in *Dynamex, supra*, 4 Cal.5th 903, and as codified in A.B. 5. Under Part A of the ABC test,
25 Defendants exercise control over their Drivers through their Apps, which, in combination with
26 their policies, function like algorithmic managers that effectively supervise Defendants’ Drivers
27 like human managers. Under Part B of the ABC test, Drivers perform services within
28

1 Defendants' usual course of business—providing on-demand rides. Under Part C of the ABC
2 test, Defendants cannot show that Drivers have established independent businesses.

3 89. Uber claims that “Drivers are at the heart of our service” and Lyft claims that Drivers
4 are “what makes Lyft ... Lyft.” But by misclassifying their Drivers, Defendants have devised an
5 unlawful business model that denies these very same Drivers the protections and benefits they
6 have rightfully earned as employees, and thereby gained an unlawful and unfair competitive
7 advantage in the marketplace. Defendants' misclassification scheme hurts vulnerable Drivers,
8 undermines law-abiding competitors, evades Defendants' responsibility to contribute their share
9 as employers into the State's social insurance programs, and harms taxpayers who are often called
10 upon to address the negative consequences to Drivers and their families of Defendants'
11 exploitative employment practices.

12 **A. Defendants' unlawful misclassification deprives Drivers of their rights as**
13 **employees.**

14 90. Defendants' misclassification of their Driver workforce has allowed Defendants to
15 gain an unlawful competitive advantage over their competitors by circumventing the protections
16 and benefits that the law requires employers to provide to their employees. The laws violated by
17 Defendants include, but are not limited to, requirements relating to minimum wages, overtime
18 wages, business expenses, meal and rest periods, wage statements, paid sick leave and health
19 benefits, and social insurance programs.

20 **1. Minimum Wages**

21 91. The law requires Drivers to be paid the applicable state or local minimum wage for
22 each hour worked, regardless of the compensation formula or method.

23 92. Defendants do not guarantee their Drivers a minimum wage under state and local
24 laws. Instead, each Defendant pays its Drivers for completed rides based on the time and distance
25 of the ride and other factors dictated by each Defendant, including, but not limited to, dynamic
26 pricing pay surges, base rates, and minimum fares.

27 93. Defendants do not pay their Drivers for all their hours worked. Examples where each
28 Defendant fails to pay its Drivers include, but are not limited to, time spent refueling, time spent

1 cleaning and maintaining their vehicles, time spent for off-duty rest periods, time spent driving to
2 and returning from rides, and time spent logged on and monitoring each Defendant's App for ride
3 requests. Defendants cannot provide on-demand rides without the performance of these tasks.

4 94. Defendants have failed—and continue to fail—to meet their minimum wage
5 obligations with respect to their Drivers, including hours that are entirely unpaid and hours that
6 are paid at less than the applicable minimum wage.

7 **2. Overtime Wages**

8 95. The law requires Drivers to be paid the applicable overtime rate of pay—one-and-
9 one-half times or two times the Drivers' regular rate of pay—for all hours worked in excess of
10 forty per week, for all hours worked in excess of eight per day, and for all hours worked on the
11 seventh consecutive day of work in a workweek.

12 96. Defendants do not pay their Drivers overtime as required by law, despite the fact that
13 Drivers working overtime help Defendants to ensure the steady and constant supply of rides on
14 which Defendants' businesses depend.

15 97. Defendants have failed—and continue to fail—to meet these overtime pay obligations
16 with respect to their Drivers.

17 **3. Business Expenses**

18 98. The law requires Drivers to be paid or reimbursed for the necessary expenses in
19 performing their work.

20 99. Drivers pay for business expenses they incur in the course and scope of performing
21 their work for Defendants, including, but not limited to, vehicle expenses (wear-and-tear,
22 registration, insurance, gas, maintenance, repairs, etc.) and phone and data expenses associated
23 with using Defendants' Apps.

24 100. These expenses are substantial. For example, the Internal Revenue Service publishes
25 a "standard mileage rate," which currently estimates the cost of operating a vehicle for business
26 purposes at 57.5 cents per mile. Drivers provide ride-hailing services for Defendants using their
27 vehicles, without any reimbursement for this significant, work-related expense.

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1 101. Defendants impose all the costs of operating the vehicles necessary to perform their
2 ride-hailing business on Drivers, though Defendants could not operate their ride-hailing business
3 without them.

4 102. Defendants have failed—and continue to fail—to meet these expense reimbursement
5 obligations with respect to their Drivers.

6 **4. Meal and Rest Periods**

7 103. The law requires Drivers to be provided with one 30-minute duty-free meal period for
8 a work period of more than five hours, and a second 30-minute duty-free meal period for a work
9 period more than ten hours. The law further requires Drivers to be provided a ten-minute, paid,
10 off-duty rest period for every four hours worked, or major fraction thereof. Authorized or
11 required rest period time shall be counted as paid time worked.

12 104. Defendants do not provide for off-duty meal periods and do not authorize or permit
13 paid, off-duty rest periods. Defendants do not provide a premium of one hour of pay at the
14 employee's regular rate of compensation for each failure, as required by law.

15 105. Defendants have failed—and continue to fail—to meet these meal and rest period
16 obligations with respect to their Drivers.

17 **5. Wage Statements**

18 106. The law requires Drivers to receive regular and complete itemized wage statements
19 from Defendants, which include, as applicable, gross and net wages earned, hours worked, hourly
20 wages, piece rate wages, rest period pay, and nonproductive time pay.

21 107. Defendants do not provide Drivers with itemized wage statements in conformance
22 with California law.

23 108. Defendants have failed—and continue to fail—to meet these wage statement
24 obligations with respect to their Drivers.

25 **6. Paid Sick Leave and Health Benefits**

26 109. The law requires Drivers to be provided paid sick leave benefits as specified under
27 California law and various local laws, including, but not limited to, the Los Angeles, San Diego,
28 and San Francisco sick leave ordinances.

1 110. The law currently requires Drivers in San Francisco to receive health care
2 expenditures of \$3.08 per hour. In recent years the rate has ranged between \$2.53 and \$3.08 per
3 hour.

4 111. Drivers do not accrue the paid sick leave benefits or receive the health care
5 expenditures from Defendants that employers are required to provide under state and local law.

6 112. Defendants have failed—and continue to fail—to meet these sick leave and health
7 care expenditure obligations with respect to their Drivers.

8 **7. Social Insurance Programs**

9 113. The law requires Defendants to remit contributions or take other mandatory actions
10 under the State’s social insurance programs, including, but not limited to, unemployment
11 insurance, disability insurance, paid family leave, workers’ compensation, and San Francisco’s
12 Paid Parental Leave Ordinance.

13 114. These programs are intended to provide wage replacement and other benefits in the
14 event an employee loses a job, becomes disabled or injured (whether on the job or off), needs to
15 care for a family member, or is otherwise unable to work.

16 115. Defendants have failed—and continue to fail—to meet these social insurance
17 program obligations with respect to their Drivers.

18 **B. Defendants’ unlawful misclassification harms law-abiding competitors and** 19 **would-be competitors.**

20 116. Defendants’ unfair and unlawful treatment of their Drivers also confers an unfair
21 advantage on Defendants over their law-abiding competitors and would-be competitors.
22 Defendants utilize the illegitimate savings they gain from depriving their Drivers of the full
23 compensation and benefits they earn as employees to offer their ride-hailing services at an
24 artificially low cost, decimating competitors and generating billions of dollars in private investor
25 wealth off the backs of vulnerable Drivers.

26 117. Defendants’ misclassification of their Drivers allows both companies to unlawfully
27 reduce a substantial portion of the labor and vehicle fleet costs they would otherwise incur if they
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1 lawfully classified and compensated their Drivers as employees, including reimbursing Drivers
2 for their vehicle maintenance and fuel expenses.

3 118. Because driver compensation, along with vehicle maintenance and fuel expenses,
4 generally constitutes the lion's share of operating costs for a car service, Defendants' illicit
5 savings allow them to gain an out-sized competitive advantage over other transportation
6 providers. Defendants' misclassification scheme unlawfully shifts the substantial labor and
7 vehicle costs of running a transportation service from well-resourced Defendants onto their
8 under-resourced Drivers, placing law-abiding competitors who bear those costs themselves at a
9 substantial competitive disadvantage.

10 119. In addition to avoiding paying Drivers for the full compensation and reimbursements
11 they earn as employees under state and local wage and hour laws, Defendants also avoid paying
12 their share of state and local payroll taxes and workers' compensation insurance premiums.

13 120. On information and belief, the illicit cost savings Defendants have reaped as a result
14 of avoiding employer contributions to state and local unemployment and social insurance
15 programs totals well into the hundreds of millions of dollars. Defendants' denial to Drivers of the
16 full compensation and benefits they are guaranteed under law as employees pushes the total
17 amount of Defendants' illicit cost savings over their law-abiding competitors—or would-be
18 competitors who cannot enter the market—even higher.

19 **FIRST CAUSE OF ACTION**

20 **INJUNCTIVE RELIEF, RESTITUTION, AND PENALTIES FOR VIOLATIONS OF**
21 **BUSINESS AND PROFESSIONS CODE SECTION 17200**
22 **(Against all Defendants)**

23 121. The People reallege and incorporate by reference each allegation contained in the
24 above paragraphs as if fully set forth herein.

25 122. Defendants have engaged, and continue to engage, in acts or practices that are
26 unlawful, unfair, or fraudulent and which constitute unfair competition within the meaning of
27 section 17200 of the Business and Professions Code. These acts or practices include, but are not
28 limited to, the following:

- 1 a. Failing to classify Drivers as employees as required by Labor Code section 2750.3,
2 I.W.C. Wage Order 9-2001, and California law;
- 3 b. Failing to pay Drivers at least the California minimum wage for all time worked as
4 required by Labor Code sections 1182.12, 1182.13, 1194, 1197, I.W.C. Wage Order 9-
5 2001, section 4 (currently \$13.00 per hour for employers with 26 or more employees),
6 and the California Minimum Wage Order (MW-2019);
- 7 c. Failing to pay Drivers who worked in San Francisco at least the San Francisco
8 minimum wage for all time worked as required by the San Francisco Minimum Wage
9 Ordinance, San Francisco Administrative Code, Chapter 12R (currently \$15.59 per
10 hour);
- 11 d. Failing to pay Drivers who worked in Los Angeles at least the Los Angeles minimum
12 wage for all time worked as required by the Los Angeles Minimum Wage Ordinance,
13 Los Angeles Municipal Code, Chapter 18, Article 7, section 187.00 et seq. (currently
14 \$14.25 per hour);
- 15 e. Failing to pay Drivers who worked in San Diego at least the San Diego minimum wage
16 for all time worked as required by the City of San Diego Earned Sick Leave and
17 Minimum Wage Ordinance, San Diego Municipal Code, Chapter 3, Article 9, Division
18 1 (currently \$13.00 per hour);
- 19 f. Failing to pay Drivers the appropriate premium for overtime hours worked as required
20 by Labor Code sections 510, 1194, 1198, and I.W.C. Wage Order 9-2001, section 3(A);
- 21 g. Failing to reimburse Drivers for business expenses and losses as required by Labor
22 Code section 2802;
- 23 h. Failing to provide meal periods and pay meal period premiums as required by Labor
24 Code sections 226.7, 512, and I.W.C. Order 9-2001, section 11;
- 25 i. Failing to authorize, permit, and pay for rest periods and rest period premiums as
26 required by Labor Code section 226.7 and I.W.C. Wage Order 9-2001, section 12;
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- 1 j. Failing to provide Drivers with itemized written statements as required by Labor Code
2 section 226, and failing to maintain and provide Drivers with records as required by
3 I.W.C. Wage Order 9-2001, section 7;
- 4 k. Failing to provide paid sick leave to Drivers as required by Labor Code section 246;
- 5 l. Failing to provide paid sick leave to Drivers who worked in San Francisco, as required
6 by the San Francisco Paid Sick Leave Ordinance, San Francisco Administrative Code,
7 Chapter 12W;
- 8 m. Failing to provide paid sick leave to Drivers who worked in Los Angeles, as required by
9 the City of Los Angeles Paid Sick Leave Ordinance, Los Angeles Municipal Code
10 section 187.00 et seq.;
- 11 n. Failing to provide paid sick leave to Drivers who worked in San Diego, as required by
12 the City of San Diego Earned Sick Leave and Minimum Wage Ordinance, San Diego
13 Municipal Code Chapter 3, Article 9, Division 1;
- 14 o. Failing to make health care expenditures on behalf of Drivers who worked in San
15 Francisco as required by the San Francisco Health Care Security Ordinance, San
16 Francisco Administrative Code, Chapter 14;
- 17 p. Failing to pay Drivers who worked in San Francisco as required by the San Francisco
18 Paid Parental Leave Ordinance, San Francisco Police Code, Article 33H;
- 19 q. Failing to pay unemployment insurance taxes for Drivers as required by Unemployment
20 Insurance Code section 976;
- 21 r. Failing to pay Employment Training Fund taxes for Drivers as required by
22 Unemployment Insurance Code section 976.6;
- 23 s. Failing to withhold and remit State Disability Insurance taxes for Drivers as required by
24 Unemployment Insurance Code section 986;
- 25 t. Failing to withhold and remit state income taxes for Drivers as required by
26 Unemployment Insurance Code sections 13020 and 13021;
- 27 u. Failing to provide workers' compensation for Drivers as required by Labor Code
28 section 3700; and

1 v. Failing to provide other rights and benefits to Drivers under the Labor Code, I.W.C.
2 Wage Order 9-2001, and other local employee protection laws.

3 123. Each Defendant's misclassification of its Drivers as independent contractors and
4 accompanying failure to comply with numerous provisions of the California Labor Code,
5 including the employee classification provision of Labor Code section 2750.3, and applicable
6 local ordinances, constitutes an unlawful and unfair business practice and, therefore, violates
7 California's Unfair Competition Law. (Bus. & Prof. Code, §17200 et seq.)

8 **SECOND CAUSE OF ACTION**

9 **INJUNCTIVE RELIEF FOR VIOLATIONS OF A.B. 5 (Labor Code § 2750.3)**
10 **(Against all Defendants)**

11 124. The People reallege and incorporate by reference each allegation contained in the
12 above paragraphs as if fully set forth herein.

13 125. A.B. 5 permits an action for injunctive relief to prevent the continued
14 misclassification of employees as independent contractors. (Lab. Code, § 2750.3(j).) This action
15 may be prosecuted by the Attorney General, or by a City Attorney of a city having a population in
16 excess of 750,000, or by a City Attorney in a city and county.

17 126. Each Defendant continues to misclassify its Drivers as independent contractors.

18 127. The People seek an order of this Court, pursuant to Labor Code section 2750.3(j), to
19 prevent the continued misclassification of each Defendant's Drivers as independent contractors.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, the People pray for the following relief:

22 1. Pursuant to Business and Professions Code section 17203, that each Defendant, their
23 successors, agents, representatives, employees, and all persons who act in concert with each
24 Defendant, be permanently enjoined from engaging in unfair competition as defined in Business
25 and Professions Code section 17200 et seq., including, but not limited to, the acts and practices
26 alleged in this Complaint;

1 2. Pursuant to Business and Professions Code section 17203, that the Court enter all
2 judgments as may be necessary to restore to any person in interest any money or property that
3 may have been acquired by violations of Business and Professions Code section 17200 as may be
4 proved at trial;

5 3. Pursuant to Business and Professions Code section 17206, that each Defendant be
6 assessed a civil penalty in an amount up to \$2,500 for each violation of Business and Professions
7 Code section 17200 et seq., as proven at trial;

8 4. Pursuant to Business and Professions Code section 17206.1, that each Defendant be
9 assessed an additional civil penalty in an amount up to \$2,500 for each violation of the UCL
10 perpetrated against a senior citizen or disabled person, as proven at trial;

11 5. Pursuant to Labor Code section 2750.3(j), an order to prevent each Defendant from
12 continuing to misclassify its Drivers as independent contractors;

13 6. That the People recover their costs of suit; and

14 7. Such other and further relief that the Court deems appropriate and just.

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Dated: May 5, 2020

Respectfully Submitted,

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