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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

PATRICK COTTER, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

LYFT, INC., and DOES 1 through 10, inclusive,

Defendants.

**Case No.:**

**COMPLAINT FOR: (1) VIOLATION  
OF THE CALIFORNIA UNFAIR  
COMPETITION (CAL. BUS. & PROF.  
CODE § 17200, *et seq.*; (2) FAILURE  
TO FURNISH ACCURATE WAGE  
STATEMENTS (CAL. LAB. CODE §  
226); (3) CONVERSION; AND (4)  
REIMBURSEMENT (CAL. LAB.  
CODE § 2802)**

**CLASS ACTION**

1  
2 Plaintiff Patrick Cotter (hereafter “Plaintiff”), by and through his attorney, brings this  
3 action on behalf of himself and all others similarly situated against Defendants Lyft, Inc.  
4 (hereafter “Lyft”) and Does 1-10 (hereafter “Doe Defendants”) (collectively, “Defendants”).  
5

## 6 **I. NATURE OF THE ACTION**

- 7 1. Lyft is a San Francisco-based ride-sharing business. Through its “Lyft Platform” software  
8 implemented in the Lyft mobile phone application, Lyft provides a means to enable a  
9 person who seeks transportation to a destination via automobile (“Rider(s)”) to be picked  
10 up by a nearby person who is willing to transport the Rider to his or her destinations via  
11 automobile (“Driver(s)”).
- 12 2. This is a national class action that challenges Lyft’s policy of misclassifying its Drivers  
13 as “independent contractors” unprotected by the California Labor Code. Because Drivers  
14 are in fact Lyft employees, this action also challenges Lyft’s policy of taking 20% of  
15 gratuity payments given by Riders to Lyft’s Drivers, an illegal practice under California  
16 Labor Code § 351, which prohibits an employer from taking any amount of gratuity  
17 given to an employee. This action also challenges Lyft’s practice of failing to provide its  
18 Drivers with wage statements that accurately reflect, for example, their hours worked or  
19 rates of pay in violation of California Labor Code § 226, as well as Lyft’s practice of  
20 failing to reimburse its Drivers for mileage costs in violation Cal. Lab. Code § 2802.
- 21 3. Lyft has numerous Drivers in California, Washington, Illinois, Massachusetts, Indiana,  
22 Minnesota, Georgia, and the District of Columbia. It has plans to expand to New York  
23 and additional markets, including international markets, in the near future.

## 24 **II. JURISDICTION**

- 25 4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) (the Class  
26 Action Fairness Act of 2005 (“CAFA”)) because the amount in controversy exceeds the  
27 value of \$5 million, exclusive of interest and costs, because the class contains 100 or  
28

1 more putative class members, and because at least one putative class member (i.e., a  
2 Driver in Chicago, Illionis) is diverse from Lyft, a corporation with its principal place of  
3 business in California.

- 4 5. Plaintiff is informed and believes that the average gratuity payment made by a Rider to a  
5 Lyft Driver is \$15, and that a total of approximately 1.5 million rides have been provided  
6 by Lyft Drivers to date. Accordingly, potential class-wide liability for Lyft's policy of  
7 taking 20% of gratuity payments given by Riders to Lyft Drivers is approximately \$4.5  
8 million to date. Plaintiff is further informed and believes that Lyft's failure to provide its  
9 thousands of Drivers with accurate wage statements may subject Lyft to liability of at  
10 least \$2,000,000 to date. Additionally, Plaintiff is informed and believes that Lyft Drivers  
11 have collectively suffered substantial unreimbursed mileage costs incurred as a result of  
12 transporting Riders a total of approximately 4.5 million miles to date. Plaintiff will also  
13 be permitted to recover attorney's fees if he is successful in this action.  
14

### 15 **III. VENUE**

- 16 6. This Court is the proper venue for this matter pursuant to 28 U.S.C. § 1391 because a  
17 substantial part of the events giving rise to Plaintiff's claims and the claims of putative  
18 class members occurred in the Northern District of California. Specifically, Lyft took  
19 gratuities given by Riders to Plaintiff and putative class members at Lyft's principal place  
20 of business in San Francisco, California. Lyft's policies of failing to provide properly  
21 itemized wage statements and failing to reimburse Lyft Drivers for mileage costs were  
22 also implemented in San Francisco, California.  
23

### 24 **IV. THE PARTIES**

- 25 7. Plaintiff Patrick Cotter is a citizen of California, domiciled in San Francisco. Plaintiff  
26 provided services as a Lyft Driver starting in September, 2012. Plaintiff's employment  
27 with Lyft was terminated in January, 2013.  
28

- 1 8. Defendant Lyft, Inc. is a Delaware corporation with its headquarters and principal place  
2 of business in San Francisco, CA. Lyft's accounting, human resources, and all other  
3 departments are located in its San Francisco, CA headquarters.
- 4 9. Plaintiff does not know the true names and capacities, whether individual, partners, or  
5 corporate, of Defendants Does 1-10, and for that reason sues Does 1-10 under fictitious  
6 names. Plaintiff is informed and believes that Does 1-10 are owners and/or parent  
7 companies of Lyft, Inc. Does 1-10 have a unity of interest and ownership with Lyft such  
8 that the separate personalities of Lyft and Does 1-10 did not and do not exist.  
9 Specifically, Does 1-10 substantially own Lyft and dominate the management of Lyft.  
10 Does 1-10 commingle their assets with the assets of Lyft, and divert assets from Lyft to  
11 themselves to avoid creditors. Lyft is undercapitalized and has no regular board meetings.  
12 Does 1-10 failed to maintain an arm's length relationship with Lyft. If the acts of Lyft are  
13 treated as the acts of Lyft alone, an inequitable result will follow because Lyft may be  
14 unable to satisfy a judgment in favor of the putative classes.

#### 15 **V. FACTUAL ALLEGATIONS**

- 16
- 17 10. As described above, Lyft is a San Francisco-based ride-sharing business that uses its  
18 "Lyft Platform" software to "match" an individual who needs a ride (a Rider) with  
19 someone willing to provide a ride (a Driver).<sup>1</sup>
- 20 11. Lyft's business works as follows: The Lyft Platform is implemented in an application that  
21 must be downloaded to an iPhone or Android-based cellular phone by all Drivers and any  
22 prospective Rider. If a prospective Rider is in need of a Driver, the Rider uses the  
23 application to request a ride from a Driver in the Rider's geographical vicinity. All  
24 available Lyft Drivers in the vicinity are informed of the request via the Lyft application.

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27 <sup>1</sup> Plaintiff is one of many Lyft Drivers throughout the United States, and accordingly the term "Driver" or "Drivers"  
as used herein is a term intended to encompass all Lyft Drivers, including Plaintiff.

28 <sup>2</sup> Plaintiff is informed and believes that Lyft's policies that underlie this action began in May, 2012. Given the

- 1 The first Lyft Driver to accept a request is then “matched” with the Rider, and proceeds  
2 to pick up the Rider and transport him or her to his or her destination.
- 3 12. Lyft expects its Drivers to accept all incoming requests from Riders unless the Driver is  
4 in the process of transporting another Rider at the time of a request.
- 5 13. Drivers can receive requests whenever they indicate via the Lyft application that they are  
6 available to provide rides.
- 7 14. Lyft prohibits its Drivers from transporting Riders more than 60 miles from the origin of  
8 the ride.
- 9 15. Drivers and Riders were and are required to agree to the Lyft’s Terms of Services  
10 (“TOS”) as a prerequisite to utilizing the Lyft Platform.
- 11 16. Lyft’s uniform TOS provides that the agreement is governed by the laws of the State of  
12 California without regard to choice of law principles.
- 13 17. Lyft’s uniform TOS and all policies therein were drafted, created, implemented, and  
14 carried out in the state of California.
- 15 18. Lyft’s compensation structure for its Plaintiff and all Drivers is set forth in Lyft’s uniform  
16 TOS. Pursuant to the uniform TOS, a Rider may give a gratuity payment to a Driver at  
17 the conclusion of the ride.
- 18 19. The decision whether to pay a gratuity and the amount of the gratuity is in the Rider’s  
19 sole discretion.
- 20 20. Drivers are prohibited from requesting compensation from Riders or from receiving any  
21 compensation or consideration for providing a ride to Riders other than the amount (if  
22 any) of the gratuity payment.
- 23 21. If a Rider elects to pay a gratuity to a Driver, the full amount of the gratuity is charged to  
24 the Rider’s authorized credit card immediately following completion of such election.
- 25 22. The gratuity payment is then processed by a third party vendor, and Lyft subsequently  
26 takes an “administrative fee” of twenty percent of the gratuity payment.  
27  
28

- 1 23. Lyft transfers the balance of the gratuity payment the Driver's account.
- 2 24. California Labor Code § 351 prohibits an employer from taking any portion of a gratuity
- 3 given to its employee(s).
- 4 25. However, Lyft misclassifies its Drivers as "independent contractors" rather than
- 5 employees protected by the California Labor Code, including California Labor Code §
- 6 351.
- 7 26. In fact and pursuant to California law, all Lyft Drivers are properly considered employees
- 8 for the following reasons:
- 9
- 10 a. Pursuant to Lyft's uniform business model, Drivers provide a service (i.e.,
- 11 transporting Riders) that benefits Lyft;
- 12 b. Pursuant to Lyft's uniform TOS, Lyft retains the right to terminate Drivers
- 13 for any or no reason, without explanation, at any time;
- 14 c. Pursuant to Lyft's uniform TOS, Lyft retains the right to terminate Drivers
- 15 if, in Lyft's discretion, the Driver behaved in a way that could be regarded
- 16 as inappropriate;
- 17 d. Pursuant to Lyft's uniform TOS, Lyft takes a 20% administrative fee from
- 18 gratuities given to Drivers by Riders, regardless of the amount of the
- 19 gratuity. Accordingly, Lyft has an incentive to control the means and
- 20 manner of the Drivers' service;
- 21 e. Pursuant to Lyft's uniform business model, Drivers do not engage in a
- 22 business distinct from Lyft's business; rather, Drivers' services are the
- 23 primary or sole source of income for Lyft;
- 24 f. Pursuant to Lyft's uniform TOS, Lyft does not require Drivers to possess
- 25 any skill above and beyond that necessary to obtain a normal driver's
- 26 license;
- 27
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- 1 g. Pursuant to Lyft's uniform business model, Drivers' tenure with Lyft was  
2 for an indefinite period of time;
- 3 h. Pursuant to Lyft's uniform business model, Lyft provides Drivers with the  
4 only instrumentality by which a Driver can perform services for Lyft,  
5 namely Lyft's software;
- 6 i. Pursuant to Lyft's uniform TOS, Lyft does not require Drivers to invest in  
7 any equipment or materials required for his or her services; rather all  
8 Drivers must already own or have the legal right to operate a vehicle in  
9 good operating condition before he or she can work as a Lyft Driver. All  
10 Drivers must also already be named on an insurance policy covering the  
11 Driver's vehicle before he or she can work as a Lyft Driver;
- 12 j. Pursuant to Lyft's uniform policy, Drivers must place a large pink  
13 mustache provided by Lyft on the front of the Driver's vehicle while the  
14 Driver is in the course of transporting a Rider;
- 15 k. Pursuant to Lyft's uniform TOS, Lyft prohibits Drivers from setting rates  
16 of pay for their services; rather, pursuant to Lyft's uniform TOS, Lyft  
17 permits only payment in the form of gratuity;
- 18 l. Pursuant to Lyft's uniform TOS, Lyft requires its Drivers to consent to  
19 receiving email communications and text messages from Lyft, which  
20 include message notification emails, emails or text messages informing  
21 Drivers of potential available Riders, and emails or text messages  
22 informing Drivers of Lyft's promotions. Drivers are required to pay for  
23 receiving these text messages at the rate applied by the Driver's mobile  
24 phone service provider;
- 25 m. Pursuant to Lyft's uniform policy, Drivers must undergo a two hour  
26 training session during which:  
27  
28

- i. Drivers are told to greet Riders with a “fist pound;”
- ii. Drivers are told how to interact and converse with Riders;
- iii. Drivers are told they must obey all aspects of the California Vehicle Code;

- n. Pursuant to Lyft’s uniform policy, Drivers’ vehicles are evaluated for aesthetic purposes, including cleanliness, and Drivers’ vehicles must pass this appearance evaluation in order for Drivers to work for Lyft;
- o. Pursuant to Lyft’s uniform TOS, Lyft retains the right to shut down the Lyft Platform and the Lyft application, thereby retaining the right to prevent Drivers from picking up Riders;
- p. Pursuant to Lyft’s uniform TOS, Lyft, at its sole discretion, may make available promotion offers to Riders without consulting with its Drivers;
- q. Pursuant to Lyft’s uniform policy, Drivers are not permitted to transport Riders more than 60 miles; and
- r. Pursuant to Lyft’s uniform policy, Drivers are expected to accept all Rider requests unless the Driver is transporting another Rider.

27. Despite the fact that Drivers are, in fact, Lyft employees, Lyft nevertheless takes 20% of the gratuity given by Drivers to Riders as an “administrative fee.”

28. Under California law, Lyft is not permitted to take any portion of the gratuity given by Drivers to Riders (i.e., the “administrative fee”) because such voluntary payments are sole property of Lyft Drivers.

29. Despite the fact that Drivers are, in fact, Lyft employees, Lyft nevertheless failed to provide its Drivers with itemized wage statements showing the information required by California Labor Code § 226.



1 30. Despite the fact that Drivers are, in fact, Lyft employees, Lyft nevertheless failed to  
2 reimburse its Drivers for the mileage costs they necessarily incurred because Lyft Drivers  
3 must used automobiles to transport Riders.  
4

## 5 **VI. CLASS ACTION ALLEGATIONS**

### 6 **Plaintiff's Claims for Conversion and Pursuant to Cal. Bus. & Prof. Code § 17200, *et seq.***

7 31. Plaintiff's claim for conversion and his claim pursuant to Cal. Bus. & Prof. Code §  
8 17200, *et seq.* are brought on behalf of himself and all others similarly situated pursuant  
9 to the class action mechanism set forth in Federal Rule of Civil Procedure 23.

10 32. This putative class is defined as:

11 "All individuals who worked or currently work as Lyft drivers."<sup>2</sup>

12 33. Plaintiff hereafter refers to this putative class as the "Gratuity Class."

#### 13 **A. ASCERTAINABILITY**

14 34. It is administratively feasible to determine the members of the Gratuity Class through  
15 Lyft's records because Lyft maintains all Drivers' personal information, including  
16 contact information.

#### 17 **B. NUMEROSITY**

18 35. Lyft previously announced that its Drivers provided transportation on 1,000,000 separate  
19 occasions. While Plaintiff is unaware of the exact number of Lyft Drivers, he is informed  
20 and believes that there are thousands of Drivers geographically dispersed throughout the  
21 United States. Given Lyft's intent to reach new markets in the near future, including New  
22 York, and particularly given Lyft's rapid expansion in the last several months, Plaintiff  
23 expects that the size of the Gratuity Class will increase significantly during this litigation.  
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26  
27 <sup>2</sup> Plaintiff is informed and believes that Lyft's policies that underlie this action began in May, 2012. Given the  
28 statutes of limitations on Plaintiff's claims for conversion (three years) and pursuant to Cal. Bus. & Prof. Code §  
17200, *et seq.*, (four years), no temporal limitation on the class definition is required.

1 **C. COMMONALITY**

2 36. Members of the Gratuity Class share common issues of fact, including:

- 3 a. Whether, pursuant to Lyft's uniform business model, Drivers provide a
- 4 service (i.e., transporting Riders) that benefits Lyft;
- 5 b. Whether, pursuant to Lyft's uniform TOS, Lyft retains the right to
- 6 terminate Drivers for any or no reason, without explanation, at any time;
- 7 c. Whether, pursuant to Lyft's uniform TOS, Lyft retains the right to
- 8 terminate Drivers if, in Lyft's discretion, the Driver behaved in a way that
- 9 could be regarded as inappropriate;
- 10 d. Whether, pursuant to Lyft's uniform business model, Drivers do not
- 11 engage in a business distinct from Lyft's business; rather, Drivers'
- 12 services are the primary or sole source of income for Lyft;
- 13 e. Whether, pursuant to Lyft's uniform TOS, Lyft does not require Drivers to
- 14 possess any skill above and beyond that necessary to obtain a normal
- 15 driver's license;
- 16 f. Whether, pursuant to Lyft's uniform business model, Drivers' tenures with
- 17 Lyft are for an indefinite period of time;
- 18 g. Whether, pursuant to Lyft's uniform business model, Lyft provides
- 19 Drivers with the only instrumentality by which a Driver can perform
- 20 services for Lyft, namely Lyft's software;
- 21 h. Whether, pursuant to Lyft's uniform TOS, Lyft does not require Drivers to
- 22 invest in any equipment or materials required for his services; rather all
- 23 Drivers must already own or have the legal right to operate a vehicle in
- 24 good operating condition before he or she can work as a Lyft Driver.
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- 1 i. Whether, pursuant to Lyft's uniform TOS, all Drivers must already be  
2 named on an insurance policy covering the Driver's vehicle before he or  
3 she can work as a Lyft Driver;  
4  
5 j. Whether, pursuant to Lyft's uniform policy, Drivers must place a large  
6 pink mustache provided by Lyft on the front of the Driver's vehicle while  
7 the Driver is in the course of transporting a Rider;  
8  
9 k. Whether, pursuant to Lyft's uniform TOS, Lyft prohibits Drivers from  
10 setting rates of pay for their services;  
11  
12 l. Whether, pursuant to Lyft's uniform TOS, Lyft permits only payment in  
13 the form of gratuity;  
14  
15 m. Whether, pursuant to Lyft's uniform TOS, Lyft requires its Drivers to  
16 consent to receiving email communications and text messages from Lyft,  
17 which include message notification emails, emails or text messages  
18 informing Drivers of potential available Riders, and emails or text  
19 messages informing Drivers of Lyft's promotions;  
20  
21 n. Whether, pursuant to Lyft's uniform TOS, Drivers are required to pay for  
22 receiving these text messages at the rate applied by the Driver's mobile  
23 phone service provider;  
24  
25 o. Whether, pursuant to Lyft's uniform policy, Drivers must undergo a two  
26 hour training session during which:  
27 i. Drivers are told to greet Riders with a "fist pound;"  
28 ii. Drivers are told how to interact and converse with Riders;  
iii. Drivers are told they must obey all aspects of the vehicle code;  
p. Whether, pursuant to Lyft's uniform policy, Drivers' vehicles are  
evaluated for aesthetic purposes, including cleanliness;

- q. Whether, pursuant to Lyft's uniform policy, Drivers' vehicles must pass this appearance evaluation in order for Drivers to work for Lyft;
- r. Whether, pursuant to Lyft's uniform TOS, Lyft retains the right to shut down the Lyft Platform and the Lyft application;
- s. Whether, pursuant to Lyft's uniform TOS, Lyft, at its sole discretion, may make available promotion offers to Riders without consulting with its Drivers;
- t. Whether, pursuant to Lyft's uniform TOS, Drivers are not permitted to transport Riders more than 60 miles;
- u. Whether, pursuant to Lyft's uniform policy, Drivers are expected to accept all Rider requests unless the Driver is transporting another Rider; and
- v. Whether, pursuant to Lyft's uniform TOS, Lyft takes a 20% administrative fee from gratuities given to Drivers by Riders, regardless of the amount of the gratuity.

37. Members of the Gratuity Class share common issues of law, including:

- a. Whether members of the Gratuity Class were misclassified by Lyft as independent contractors under California law;
- b. Whether Lyft unlawfully took as "administrative fees" gratuities given to members of the Gratuity Class in violation of Cal. Lab. Code § 351; and
- c. Whether Lyft's conduct in violating of Cal. Lab. Code § 351 is an unlawful business practice pursuant to Cal. Bus. & Prof. Code § 17200, *et seq.*

38. The common issues of law can be answered with proof common to members of the Gratuity Class, including:

- a. Lyft's TOS, to which Lyft and all Drivers must agree;

- b. Lyft’s policies and practices applicable to all Drivers, including policies that tend to show Drivers are in fact employees rather than independent contractors;
- c. Lyft’s policies or practices concerning its “administrative fee;” and
- d. All other facts common to the Gratuity Class alleged above.

**D. TYPICALITY**

39. Plaintiff’s claims are typical of the claims of all members of the Gratuity Class. First, Plaintiff, like all members of the Gratuity Class, was misclassified by Lyft as an independent contractor.
40. Second, Plaintiff, like all members of the Gratuity Class, was harmed by Lyft’s policy of taking an “administrative fee” from gratuities given by Riders to Drivers.

**E. ADEQUACY**

41. Plaintiff is a member of the Gratuity Class and will fairly and adequately represent and protect the interests of the members of the Gratuity Class. Plaintiff has no conflicts of interests with members of the Gratuity Class.
42. Counsel for Plaintiff is competent and experienced in litigating employment-based class actions, including actions based on alleged misclassification.

**F. PREDOMINANCE**

43. Common questions of law and fact predominate over individual issues in this action for several reasons. First, the issue of misclassification can be resolved with proof of Lyft policies applicable to all Drivers in the Gratuity Class, including but not limited to the Lyft’s uniform TOS. Second, the issue of Lyft’s liability under Cal. Lab. Code § 351 can be established as to all members of the Gratuity Class with proof that Lyft takes an “administrative fee” from every gratuity given by a Rider to a Driver.
44. Additionally, Lyft, and all Drivers throughout the United States, have agreed to be subject to California law for all disputes relating to Lyft’s TOS, including its

1 compensation policy and therefore the instant dispute. Regardless of the choice of law  
2 provision in the TOS, California law, including Cal. Bus. & Prof. Code § 17200, *et seq.*  
3 and applicable misclassification law, applies to Drivers in California and all other states  
4 because Lyft's unlawful conduct took place and continues to take place in California.

5 **G. SUPERIORITY**

6 45. A class action is superior to all other available methods for the fair and efficient  
7 adjudication of this controversy. First, because of the relatively small monetary value of  
8 the claims asserted by members of the Gratuity Class, most if not all members of the  
9 Gratuity Class would likely find the cost of individually litigating their claims against  
10 Lyft to be prohibitive. Additionally, many members of the Gratuity Class may be  
11 unaware that they have legal recourse against Lyft for the conduct alleged herein.

12 46. Second, Plaintiff is informed and believes that there is no other similar litigation pending  
13 in state or federal court.

14 47. Third, it is desirable to concentrate this litigation in this forum because Lyft's misconduct  
15 took place and continues to take place in San Francisco.

16 48. Fourth, Plaintiff does not anticipate any difficulties in managing a relatively straight-  
17 forward class action such as this one.

18 **VII. CLASS ACTION ALLEGATIONS**

19 **Plaintiff's Claim Pursuant to Cal. Lab. Code § 226**

20 49. Plaintiff's claim for inaccurate wage statements pursuant to Cal. Lab. Code § 226 is  
21 brought on behalf of himself and all others similarly situated pursuant to the class action  
22 mechanism set forth in Federal Rule of Civil Procedure 23.

23 50. This putative class is defined as:  
24  
25  
26  
27  
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1 “All individuals who worked or currently work as Lyft drivers from January 1,  
2 2013, through the present.”<sup>3</sup>

3 51. Plaintiff hereafter refers to this putative class as the “Wage Statement Class.”

4 **A. ASCERTAINABILITY**

5 52. It is administratively feasible to determine the members of the Wage Statement Class  
6 through Lyft’s records because Lyft maintains all Drivers’ personal information,  
7 including contact information.

8 **B. NUMEROSITY**

9 53. Lyft previously announced that its Drivers provided transportation on 1,000,000 separate  
10 occasions. While Plaintiff is unaware of the exact number of Lyft Drivers, he is informed  
11 and believes that there are thousands of Drivers geographically dispersed throughout the  
12 United States. Given Lyft’s intent to reach new markets in the near future, including New  
13 York, and particularly given Lyft’s rapid expansion in the last several months, Plaintiff  
14 expects that the size of the Gratuity Class will increase significantly during this litigation.

15 **C. COMMONALITY**

16 54. Members of the Wage Statement Class share common issues of fact, including:

- 17 a. Whether, pursuant to Lyft’s uniform business model, Drivers provide a  
18 service (i.e., transporting Riders) that benefits Lyft;  
19 b. Whether, pursuant to Lyft’s uniform TOS, Lyft retains the right to  
20 terminate Drivers for any or no reason, without explanation, at any time;  
21 c. Whether, pursuant to Lyft’s uniform TOS, Lyft retains the right to  
22 terminate Drivers if, in Lyft’s discretion, the Driver behaved in a way that  
23 could be regarded as inappropriate;  
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27 <sup>3</sup> The temporal limitation on this class is based on the January 1, 2013 amendment of Cal. Lab. Code § 226 to state  
28 “An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.”

- 1 d. Whether, pursuant to Lyft's uniform TOS, Lyft takes a 20% administrative  
2 fee from gratuities given to Drivers by Riders, regardless of the amount of  
3 the gratuity;  
4  
5 e. Whether, pursuant to Lyft's uniform business model, Drivers do not  
6 engage in a business distinct from Lyft's business; rather, Drivers'  
7 services are the primary or sole source of income for Lyft;  
8  
9 f. Whether, pursuant to Lyft's uniform TOS, Lyft does not require Drivers to  
10 possess any skill above and beyond that necessary to obtain a normal  
11 driver's license;  
12  
13 g. Whether, pursuant to Lyft's uniform business model, Drivers' tenures with  
14 Lyft are for an indefinite period of time;  
15  
16 h. Whether, pursuant to Lyft's uniform business model, Lyft provides  
17 Drivers with the only instrumentality by which a Driver can perform  
18 services for Lyft, namely Lyft's software;  
19  
20 i. Whether, pursuant to Lyft's uniform TOS, Lyft does not require Drivers to  
21 invest in any equipment or materials required for his services; rather all  
22 Drivers must already own or have the legal right to operate a vehicle in  
23 good operating condition before he or she can work as a Lyft Driver.  
24  
25 j. Whether, pursuant to Lyft's uniform TOS, all Drivers must already be  
26 named on an insurance policy covering the Driver's vehicle before he or  
27 she can work as a Lyft Driver;  
28  
k. Whether, pursuant to Lyft's uniform policy, Drivers must place a large  
pink mustache provided by Lyft on the front of the Driver's vehicle while  
the Driver is in the course of transporting a Rider;  
l. Whether, pursuant to Lyft's uniform TOS, Lyft prohibits Drivers from  
setting rates of pay for their services;



- 1 m. Whether, pursuant to Lyft's uniform TOS, Lyft permits only payment in  
2 the form of gratuity;
- 3 n. Whether, pursuant to Lyft's uniform TOS, Lyft requires its Drivers to  
4 consent to receiving email communications and text messages from Lyft,  
5 which include message notification emails, emails or text messages  
6 informing Drivers of potential available Riders, and emails or text  
7 messages informing Drivers of Lyft's promotions;
- 8 o. Whether, pursuant to Lyft's uniform TOS, Drivers are required to pay for  
9 receiving these text messages at the rate applied by the Driver's mobile  
10 phone service provider;
- 11 p. Whether, pursuant to Lyft's uniform policy, Drivers must undergo a two  
12 hour training session during which:
- 13 i. Drivers are told to greet Riders with a "fist pound;"
- 14 ii. Drivers are told how to interact and converse with Riders;
- 15 iii. Drivers are told they must obey all aspects of the vehicle code;
- 16 q. Whether, pursuant to Lyft's uniform policy, Drivers' vehicles are  
17 evaluated for aesthetic purposes, including cleanliness;
- 18 r. Whether, pursuant to Lyft's uniform policy, Drivers' vehicles must pass  
19 this appearance evaluation in order for Drivers to work for Lyft;
- 20 s. Whether, pursuant to Lyft's uniform TOS, Lyft retains the right to shut  
21 down the Lyft Platform and the Lyft application;
- 22 t. Whether, pursuant to Lyft's uniform TOS, Lyft, at its sole discretion, may  
23 make available promotion offers to Riders without consulting with its  
24 Drivers;
- 25 u. Whether, pursuant to Lyft's uniform TOS, Drivers are not permitted to  
26 transport Riders more than 60 miles;
- 27  
28

- 1 v. Whether, pursuant to Lyft's uniform policy, Drivers are expected to accept  
2 all Rider requests unless the Driver is transporting another Rider; and  
3  
4 w. Whether, pursuant to Lyft's business model, Drivers were not and are not  
5 provided with wage statements that comply with Cal. Lab. Code § 226.

6 55. Members of the Wage Statement Class share common issues of law, including:

- 7 a. Whether members of the Wage Statement Class were misclassified by  
8 Lyft as independent contractors under California law; and  
9 b. Whether Lyft unlawfully failed to provide members of the Wage  
10 Statement Class with wage statements that comply with Cal. Lab. Code §  
11 226.

12 56. The common issues of law can be answered with proof common to members of the Wage  
13 Statement Class, including:

- 14 a. Lyft's TOS, to which Lyft and all Drivers must agree;  
15 b. Lyft's policies and practices applicable to all Drivers, including policies  
16 that tend to show Drivers are in fact employees rather than independent  
17 contractors;  
18 c. Lyft's policies or practices (or lack thereof) concerning wage statements  
19 for its Drivers; and  
20 d. All other facts common to the Wage Statement Class alleged above.

21 **D. TYPICALITY**

22 57. Plaintiff's claims are typical of the claims of all members of the Wage Statement Class.  
23 First, Plaintiff, like all members of the Wage Statement Class, was misclassified by Lyft  
24 as an independent contractor.

25 58. Second, Plaintiff, like all members of the Wage Statement Class, never received a wage  
26 statement that complied with Cal. Lab. Code § 226.

27 //  
28

1 **E. ADEQUACY**

2 59. Plaintiff is a member of the Wage Statement Class and will fairly and adequately  
3 represent and protect the interests of the members of the Wage Statement Class. Plaintiff  
4 has no conflicts of interests with members of the Wage Statement Class.

5 60. Counsel for Plaintiff is competent and experienced in litigating employment-based class  
6 actions, including actions based on alleged misclassification.  
7

8 **F. PREDOMINANCE**

9 61. Common questions of law and fact predominate over individual issues in this action for  
10 several reasons. First, the issue of misclassification can be resolved with proof of Lyft  
11 policies applicable to all Drivers, including but not limited to the Lyft TOS. Second, the  
12 issue of Lyft's liability under Cal. Lab. Code § 226 can be established with proof that  
13 Lyft never provided wage statements to its Drivers.

14 62. Additionally, Lyft, and all Drivers throughout the United States, have agreed to be  
15 subject to California law for all disputes relating to Lyft's TOS, including its  
16 compensation policy and therefore the instant dispute. Regardless of the choice of law  
17 provision in the TOS, California law, including Cal. Lab. Code § 226, *et seq.* and  
18 applicable misclassification law, applies to Drivers in California and all other states  
19 because Lyft's unlawful conduct took place and continues to take place in California.

20 **G. SUPERIORITY**

21 63. A class action is superior to all other available methods for the fair and efficient  
22 adjudication of this controversy. First, because of the relatively small monetary value of  
23 the claims asserted by members of the Wage Statement Class, most if not all members of  
24 the Wage Statement Class would likely find the cost of individually litigating their claims  
25 against Lyft to be prohibitive. Additionally, many members of the Wage Statement Class  
26 may be unaware that they have legal recourse against Lyft for the conduct alleged herein.  
27  
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64. Second, Plaintiff is informed and believes that there is no other similar litigation pending in state or federal court.

65. Third, it is desirable to concentrate this litigation in this forum because Lyft's misconduct took place and continues to take place in San Francisco.

66. Fourth, Plaintiff does not anticipate any difficulties in managing a relatively straight forward class action such as this one.

### **VIII. CLASS ACTION ALLEGATIONS**

#### **Plaintiff's Claim for Reimbursement Pursuant to Cal. Lab. Code § 2802**

67. Plaintiff's claim for reimbursement under Cal. Lab. Code § 2802 is brought on behalf of himself and all others similarly situated pursuant to the class action mechanism set forth in Federal Rule of Civil Procedure 23.

68. This putative class is defined as:

"All individuals who worked or currently work as Lyft drivers."<sup>4</sup>

69. Plaintiff hereafter refers to this putative class as the "Reimbursement Class."

#### **A. ASCERTAINABILITY**

70. It is administratively feasible to determine the members of the Reimbursement Class through Lyft's records because Lyft maintains all Drivers' personal information, including contact information.

#### **B. NUMEROSITY**

71. Lyft previously announced that its Drivers provided transportation on 1,000,000 separate occasions. While Plaintiff is unaware of the exact number of Lyft Drivers, he is informed and believes that there are thousands of Drivers geographically dispersed throughout the United States. Given Lyft's intent to reach new markets in the near future, including New

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<sup>4</sup> Plaintiff is informed and believes that Lyft's policies that underlie this action began in May, 2012. Given the statutes of limitations on Plaintiff's claims for reimbursement (three years), no temporal limitation on the class definition is required.

1 York, and particularly given Lyft's rapid expansion in the last several months, Plaintiff  
2 expects that the size of the Gratuity Class will increase significantly during this litigation.

3 **C. COMMONALITY**

4 72. Members of the Reimbursement Class share common issues of fact, including:

- 5 a. Whether, pursuant to Lyft's uniform business model, Drivers provide a  
6 service (i.e., transporting Riders) that benefits Lyft;  
7  
8 b. Whether, pursuant to Lyft's uniform TOS, Lyft retains the right to  
9 terminate Drivers for any or no reason, without explanation, at any time;  
10  
11 c. Whether, pursuant to Lyft's uniform TOS, Lyft retains the right to  
12 terminate Drivers if, in Lyft's discretion, the Driver behaved in a way that  
13 could be regarded as inappropriate;  
14  
15 d. Whether, pursuant to Lyft's uniform TOS, Lyft takes a 20% administrative  
16 fee from gratuities given to Drivers by Riders, regardless of the amount of  
17 the gratuity;  
18  
19 e. Whether, pursuant to Lyft's uniform business model, Drivers do not  
20 engage in a business distinct from Lyft's business; rather, Drivers'  
21 services are the primary or sole source of income for Lyft;  
22  
23 f. Whether, pursuant to Lyft's uniform TOS, Lyft does not require Drivers to  
24 possess any skill above and beyond that necessary to obtain a normal  
25 driver's license;  
26  
27 g. Whether, pursuant to Lyft's uniform business model, Drivers' tenures with  
28 Lyft are for an indefinite period of time;  
h. Whether, pursuant to Lyft's uniform business model, Lyft provides  
Drivers with the only instrumentality by which a Driver can perform  
services for Lyft, namely Lyft's software;

- 1 i. Whether, pursuant to Lyft's uniform TOS, Lyft does not require Drivers to  
2 invest in any equipment or materials required for his services; rather all  
3 Drivers must already own or have the legal right to operate a vehicle in  
4 good operating condition before he or she can work as a Lyft Driver.  
5  
6 j. Whether, pursuant to Lyft's uniform TOS, all Drivers must already be  
7 named on an insurance policy covering the Driver's vehicle before he or  
8 she can work as a Lyft Driver;  
9  
10 k. Whether, pursuant to Lyft's uniform policy, Drivers must place a large  
11 pink mustache provided by Lyft on the front of the Driver's vehicle while  
12 the Driver is in the course of transporting a Rider;  
13  
14 l. Whether, pursuant to Lyft's uniform TOS, Lyft prohibits Drivers from  
15 setting rates of pay for their services;  
16  
17 m. Whether, pursuant to Lyft's uniform TOS, Lyft permits only payment in  
18 the form of gratuity;  
19  
20 n. Whether, pursuant to Lyft's uniform TOS, Lyft requires its Drivers to  
21 consent to receiving email communications and text messages from Lyft,  
22 which include message notification emails, emails or text messages  
23 informing Drivers of potential available Riders, and emails or text  
24 messages informing Drivers of Lyft's promotions;  
25  
26 o. Whether, pursuant to Lyft's uniform TOS, Drivers are required to pay for  
27 receiving these text messages at the rate applied by the Driver's mobile  
28 phone service provider;  
p. Whether, pursuant to Lyft's uniform policy, Drivers must undergo a two  
hour training session during which:  
i. Drivers are told to greet Riders with a "fist pound;"  
ii. Drivers are told how to interact and converse with Riders;

- 1                   iii. Drivers are told they must obey all aspects of the vehicle code;
- 2
- 3           q. Whether, pursuant to Lyft's uniform policy, Drivers' vehicles are
- 4           evaluated for aesthetic purposes, including cleanliness;
- 5           r. Whether, pursuant to Lyft's uniform policy, Drivers' vehicles must pass
- 6           this appearance evaluation in order for Drivers to work for Lyft;
- 7           s. Whether, pursuant to Lyft's uniform TOS, Lyft retains the right to shut
- 8           down the Lyft Platform and the Lyft application;
- 9           t. Whether, pursuant to Lyft's uniform TOS, Lyft, at its sole discretion, may
- 10           make available promotion offers to Riders without consulting with its
- 11           Drivers;
- 12           u. Whether, pursuant to Lyft's uniform TOS, Drivers are not permitted to
- 13           transport Riders more than 60 miles;
- 14           v. Whether, pursuant to Lyft's uniform policy, Drivers are expected to accept
- 15           all Rider requests unless the Driver is transporting another Rider; and
- 16           w. Whether pursuant to Lyft's uniform policy, Drivers are not reimbursed for
- 17           necessary and reasonable mileage costs.

18 73. Members of the Reimbursement Class share common issues of law, including:

- 19           a. Whether members of the Gratuity Class were misclassified by Lyft as
- 20           independent contractors under California law;
- 21           b. Whether mileage costs incurred by Lyft Drivers are "necessary and
- 22           reasonable" business expenditures; and
- 23           c. Whether Lyft unlawfully failed to reimburse Drivers for mileage costs in
- 24           violation of Cal. Lab. Code § 2802.

25 74. The common issues of law can be answered with proof common to members of the

26 Reimbursement Class, including:

- 27           a. Lyft's TOS, to which Lyft and all Drivers must agree;
- 28

- b. Lyft's policies and practices applicable to all Drivers, including policies that tend to show Drivers are in fact employees rather than independent contractors;
- c. The common nature of all Drivers' employment responsibilities (i.e., transporting Riders via automobile);
- d. Lyft's policies or practices concerning mileage reimbursement; and
- e. All other facts common to the Gratuity Class alleged above.

**D. TYPICALITY**

75. Plaintiff's claims are typical of the claims of all members of the Reimbursement Class. First, Plaintiff, like all members of the Reimbursement Class, was misclassified by Lyft as an independent contractor.
76. Second, Plaintiff, like all members of the Reimbursement Class, was harmed by Lyft's policy of failing to pay Drivers for mileage costs.

**E. ADEQUACY**

77. Plaintiff is a member of the Reimbursement Class and will fairly and adequately represent and protect the interests of the members of the Reimbursement Class. Plaintiff has no conflicts of interests with members of the Reimbursement Class.
78. Counsel for Plaintiff is competent and experienced in litigating employment-based class actions, including actions based on alleged misclassification.

**F. PREDOMINANCE**

79. Common questions of law and fact predominate over individual issues in this action for several reasons. First, the issue of misclassification can be resolved with proof of Lyft policies applicable to all Drivers in the Gratuity Class, including but not limited to the Lyft's uniform TOS. Second, the issue of Lyft's liability under Cal. Lab. Code § 2802 can be established as to all members of the Gratuity Class with proof that Lyft does not



1 pay for mileage expenses incurred by any Lyft Drivers, and proof that all Drivers'  
2 mileage costs are necessarily incurred as a direct result of their employment with Lyft.

3 80. Additionally, Lyft, and all Drivers throughout the United States, have agreed to be  
4 subject to California law for all disputes relating to Lyft's TOS, including its  
5 compensation policy and therefore the instant dispute. Regardless of the choice of law  
6 provision in the TOS, California law, including Cal. Lab. Code § 2802 and applicable  
7 misclassification law, applies to Drivers in California and all other states because Lyft's  
8 unlawful conduct took place and continues to take place in California.

9  
10 81. Further, Lyft has no policy in place that allowed or allows any Driver to request  
11 reimbursement for mileage.

12 **G. SUPERIORITY**

13 82. A class action is superior to all other available methods for the fair and efficient  
14 adjudication of this controversy. First, because of the relatively small monetary value of  
15 the claims asserted by members of the Reimbursement Class, most if not all members of  
16 the Reimbursement Class would likely find the cost of individually litigating their claims  
17 against Lyft to be prohibitive. Additionally, many members of the Reimbursement Class  
18 may be unaware that they have legal recourse against Lyft for the conduct alleged herein.

19 83. Second, Plaintiff is informed and believes that there is no other similar litigation pending  
20 in state or federal court.

21 84. Third, it is desirable to concentrate this litigation in this forum because Lyft's misconduct  
22 took place and continues to take place in San Francisco.

23 85. Fourth, Plaintiff does not anticipate any difficulties in managing a relatively straight  
24 forward class action such as this one.

25 **IX. FIRST CLAIM**

26 **Violation of Business & Professions Code § 17200, *et seq.***

27 **Arising from Violation of Cal. Lab. Code § 351**

- 1 86. Plaintiff, on behalf of himself and members of the Gratuity Class, realleges and  
2 incorporates by reference the allegations in the preceding paragraphs as if fully alleged  
3 herein.  
4  
5 87. Pursuant to California law, Lyft was and/or is the employer of Plaintiff and members of  
6 the Gratuity Class.  
7  
8 88. Lyft unlawfully collected, took, or received a portion of the gratuities paid, given, or left  
9 by Riders to or for Drivers despite the fact that the full amount of the gratuities paid,  
10 given, or left by Riders to or for Drivers was the sole property of the Drivers.  
11  
12 89. Lyft's unlawful taking of gratuities constitutes an unlawful business practice prohibited  
13 by California Business & Professions Code § 17200, *et seq.* and is independently  
14 actionable under California Business & Professions Code § 17200, *et seq.*  
15  
16 90. As a result of Lyft's unlawful conduct, Plaintiff and members of the Gratuity Class  
17 suffered economic losses in the amount of the administrative fees deducted from the  
18 gratuities given to them by Riders and are entitled to restitution in that amount.

## 19 **X. SECOND CLAIM**

### 20 **Violation of Cal. Lab. Code § 226**

- 21 91. Plaintiff, on behalf of himself and members of the Wage Statement Class, realleges and  
22 incorporates by reference the allegations in the preceding paragraphs as if fully alleged  
23 herein.  
24  
25 92. Pursuant to California law, Lyft was and/or is the employer of Plaintiff and members of  
26 the Wage Statement Class and purposefully misclassified Plaintiffs and members of the  
27 Wage Statement Class as independent contractors.  
28  
93. Lyft unlawfully failed to provide Plaintiff and members of the Wage Statement Class  
with accurate itemized wage statements in writing showing gross wages earned, total  
hours worked, deductions, net wages earned, pay period, the name of the employee and

the last four digits of his or her social security number, the legal name of the employer, and all applicable hourly rates.

94. Plaintiff and members of the Wage Statement Class “suffered injury” as defined in Cal. Lab. Code § 226 (as amended effective January 1, 2013) because they were not provided with a complete and accurate wage statement.

95. The injuries suffered by Plaintiff and members of the Wage Statement Class were as a result of Lyft’s knowing and intentional failure to comply with Cal. Lab. Code § 226(a).

96. Accordingly, Plaintiff and each member of the Wage Statement Class are entitled to recover fifty dollars for the initial pay period in which a violation of § 226 occurred, and one hundred dollars for each violation of § 226 in a subsequent pay period, not to exceed a penalty of four thousand dollars per member of the Wage Statement Class.

## **XI. THIRD CLAIM**

### **Conversion**

97. Plaintiff, on behalf of himself and members of the Gratuity Class, realleges and incorporates by reference the allegations in the preceding paragraphs as if fully alleged herein.

98. Pursuant to California law, Lyft was and/or is the employer of Plaintiff and members of the Gratuity Class.

99. Plaintiff and members of the Gratuity Class had a right to possess the full amount of gratuities given to them by Riders. Such gratuities are considered property under California Law. *See* Cal. Lab. Code § 351.

100. Lyft wrongfully and illegally took from Plaintiff and members of the Gratuity Class a portion of the gratuities given to Plaintiff and members of the Gratuity Class by Riders as an “administrative fee.”

101. Plaintiff and members of the Gratuity Class suffered economic harm in the amount of the “administrative fees” taken from the gratuities given to them by Riders.

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**XII. FOURTH CLAIM**

**Violation of Cal. Lab. Code § 2802**

102. Plaintiff, on behalf of himself and members of the Reimbursement Class, realleges and incorporates by reference the allegations in the preceding paragraphs as if fully alleged herein.

103. Pursuant to California law, Lyft was and/or is the employer of Plaintiff and members of the Reimbursement Class.

104. Plaintiff and members of the Reimbursement Class incurred mileage costs;

105. Such mileage costs were incurred because Plaintiff and members of the Reimbursement Class are Lyft Drivers and were therefore required to use their automobiles to transport Riders;

106. Such mileage costs were incurred necessarily in order for Plaintiff and members of the Reimbursement Class to perform their job duties as automobile Drivers for Lyft.

107. Accordingly, Plaintiff and each member of the Reimbursement Class are entitled to reimbursement at the applicable IRS rate because Lyft had no specific agreement with its Drivers concerning reimbursement for mileage costs.

**PRAYER FOR RELIEF**

108. Plaintiff, on behalf of himself and the members of each putative class, prays for relief as follows:

- a. Certification of this action as a class action as described above;
- b. Designation of Plaintiff as representative of the each putative class;
- c. Designation of Plaintiff's Counsel as Class Counsel for each putative class;
- d. Restitution pursuant to Plaintiff's claim under Cal. Bus. & Prof. Code § 17200, *et seq.*;

- e. In the alternative to restitution pursuant to Plaintiff's claim under Cal. Bus. & Prof. Code § 17200, *et seq.*, compensatory damages pursuant to Plaintiff's conversion claim;
- f. Penalties pursuant to Cal. Lab. Code § 226;
- g. Reimbursement pursuant to Cal. Lab. Code § 2802;
- h. Pre-judgment and post-judgment interest pursuant to Cal. Civ. Code § 3287;
- i. Attorneys' fees as provided by Cal. Code Civ. P. § 1021.5 and Cal. Lab. Code § 226, or as provided by the parties' agreement, if any; and
- j. Costs as provided by Cal. Code Civ. P. § 1021 or as provided by the parties' agreement, if any.

Dated: September 3, 2013

Carlson Legal Services

By: /s/  
Matthew D. Carlson  
Attorney for Plaintiff