

1 Jordan L. Lurie (SBN 130013)
 Jordan.Lurie@capstonelawyers.com
 2 Tarek H. Zohdy (SBN 247775)
 Tarek.Zohdy@capstonelawyers.com
 3 Cody R. Padgett (SBN 275553)
 Cody.Padgett@capstonelawyers.com
 4 Trisha K. Monesi (SBN 303512)
 Trisha.Monesi@capstonelawyers.com
 5 Capstone Law APC
 1875 Century Park East, Suite 1000
 6 Los Angeles, California 90067
 Telephone: (310) 556-4811
 7 Facsimile: (310) 943-0396

8 Francis J. Flynn, Jr. (SBN 304712)
 Law Office of Francis J. Flynn, Jr.
 9 6220 West Third Street, #115
 Los Angeles, CA 90036
 10 francisflynn@gmail.com
 Telephone: (323) 424-4194

11 Attorneys for Plaintiff Julian Metter

12 *[Additional counsel listed on next page]*

13
 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16
 17 JULIAN METTER, individually and on behalf
 of a class of similarly situated individuals,

18 Plaintiff,

19 v.

20 UBER TECHNOLOGIES, INC.,

21 Defendant.

Case No. 3:16-cv-06652-RS

**STIPULATION AND ~~PROPOSED~~
 ORDER TO AMEND COMPLAINT AND
 TO DISMISS PLAINTIFF METTER**

Judge: Hon. Richard Seeborg
 Action Filed: November 16, 2016

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William L. Stern (BAR NO. 96105)
WStern@mofo.com
Tiffany Cheung (BAR NO. 211497)
TCheung@mofo.com
Claudia M. Vetesi (BAR NO. 233485)
CVetesi@mofo.com
Lucia X. Roibal (BAR NO. 306721)
LRoibal@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522

Attorneys for Defendant
UBER TECHNOLOGIES, INC.

1 Pursuant to Northern District of California Local Rule 7-12, Plaintiff Julian Metter
2 (“Plaintiff”) and Defendant Uber Technologies, Inc. (“Defendant”) (collectively referred to as the
3 “Parties”), by and through their undersigned counsel of record, hereby stipulate to amend the
4 current complaint to add two new plaintiffs and to dismiss Plaintiff Metter due to illness, and
5 request that the Court enter an Order to that effect as follows:

6 **RECITALS**

7 **WHEREAS** on October 11, 2017, the Ninth Circuit granted Uber’s motion for a stay of
8 its appeal and for a limited remand for this Court to conduct a mini-trial on the limited issue of
9 contract formation of the arbitration agreement;

10 **WHEREAS** on October 26, 2017, the Court set a bench trial for January 10, 2018;

11 **WHEREAS** on December 28, 2017, Plaintiff’s counsel learned that Plaintiff Metter was
12 recently diagnosed with lymphatic cancer that spread from an earlier diagnosis of bladder cancer;

13 **WHEREAS**, Plaintiff underwent surgery on January 2, 2018, as part of his treatment and,
14 as such, the Parties agreed to a short continuance of the bench trial to April 11, 2018, and an
15 extension of all corresponding pre-trial dates, to allow time for Plaintiff’s recovery from surgery;

16 **WHEREAS**, Plaintiff continued to undergo treatment for his cancer that severely limited
17 his ability to travel and appear for the aforementioned bench trial on April 11, 2018, and the
18 Parties agreed to a further continuance of the bench trial, which the Court continued to October
19 26, 2018 (Dkt. No. 89);

20 **WHEREAS**, Plaintiff’s health continues to severely limit his ability to travel and
21 otherwise participate in this action and the Parties now agree that, to avoid further delays in this
22 action due to Plaintiff’s health concerns, it is necessary for Plaintiff to amend his complaint to
23 name additional plaintiffs, whose information Plaintiff has provided to Defendant, and Defendant
24 does not oppose the amendment to add these two new plaintiffs;

25 **WHEREAS**, the Parties further agree that Plaintiff Metter’s individual claims should be
26 dismissed without prejudice, given his health concerns and ongoing physical limitations, which
27 severely and indefinitely affect his ability to participate as a named plaintiff in this action; and
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THEREFORE, the Parties agree and request that:

- 1) Plaintiff shall file an amended complaint to add plaintiffs within 10 business days of entry of the Order on this Stipulation;
- 2) Plaintiff Julian Metter shall be dismissed from this action without prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii). Each side shall bear its own costs; and
- 3) The Court should vacate the October 26, 2018 mini-trial on the issue of Mr. Metter’s contraction formation. Instead, Plaintiffs will file an amended complaint with two new plaintiffs. Thereafter, the Parties shall confer regarding the sufficiency of the allegations and whether it is necessary for Uber to move to compel arbitration as to the two new plaintiffs and/or whether a status conference will be required to resolve the issue prior to further briefing.

Dated: September 10, 2018

CAPSTONE LAW APC
JORDAN L. LURIE
TAREK H. ZOHDY
CODY R. PADGETT
TRISHA K. MONESI

By: /s/ Trisha K. Monesi

TRISHA K. MONESI
ATTORNEYS FOR PLAINTIFF
JULIAN METTER

1 Dated: September 10, 2018

2 WILLIAM L. STERN
3 TIFFANY CHEUNG
4 CLAUDIA M. VETESI
5 LUCIA X. ROIBAL
6 MORRISON & FOERSTER LLP

7 By: /s/ William Stern

8 WILLIAM L. STERN

9 Attorneys for Defendant
10 UBER TECHNOLOGIES, INC.

11 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

- 12 1) Plaintiff shall file an amended complaint to add plaintiffs within 10 business days
13 of entry of the Order on this Stipulation;
- 14 2) Plaintiff Julian Metter shall be dismissed from this action without prejudice,
15 pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and each side shall bear its own costs;
16 and
- 17 3) The October 26, 2018 mini-trial on the issue of Mr. Metter's contraction formation
18 is vacated. Rather, Plaintiffs shall file an amended complaint with two new
19 plaintiffs. Thereafter, the Parties shall confer regarding the sufficiency of the
20 allegations and whether it is necessary for Uber to move to compel arbitration as to
21 the two new plaintiffs and/or whether a status conference will be required to
22 resolve the issue prior to further briefing.

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25 Date: 9/14/18



26 Hon. Richard Seeborg