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ATTORNEYS FOR PLAINTIFF JANE DOE

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

JANE DOE, an individual using a
pseudonym,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.,
RASIER, LLC; RASIER CA, LLC,

Defendant.

Case No. 19-cv-03310-JSC

**FIRST AMENDED COMPLAINT
FOR DAMAGES**

DEMAND FOR JURY TRIAL

Plaintiff Jane Doe, by and through undersigned counsel Walkup, Melodia,
Kelly & Schoenberger, A Professional Corporation, as her Complaint against
Defendant Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC, hereby alleges
as follows:

PARTIES

1. Jane Doe is a pseudonym and is not Plaintiff's real name. With her
original complaint, Jane Doe submitted an application to the Court for an order
permitting her to use a pseudonym on the ground that anonymity is necessary to
prevent mental harm and to preserve privacy in a matter of a sensitive and highly
personal nature.

1 hitchhiking was the potential for sexual assault.

2 10. If someone needed a ride, one approach that had been considered
3 reasonably safe for many decades as of 2010 was to hail a licensed taxi. For decades,
4 local authorities have heavily regulated taxi drivers and taxicabs to provide
5 safeguards and protections for prospective passengers against unscrupulous or
6 predatory drivers.

7 11. For example, currently in the City and County of San Francisco, an
8 applicant to become a taxi driver must: submit fingerprints that are checked against
9 the California DOJ “RAP Sheet” database; pass a written exam; complete a driver
10 training course; provide a recent photograph; submit to an alcohol and drug test;
11 receive a negative result on the alcohol and drug test; authorize the city to obtain the
12 results of past alcohol and drug tests; notify the city whether he or she has previously
13 failed an alcohol or drug test; be “clean in dress in person”; be free of any condition
14 that might render the applicant unsafe to operate a motor vehicle; have no prior
15 convictions of a crime that would present a risk to public safety; be at least 21; and
16 speak, read, and write the English language. San Francisco Transportation Code §
17 1103(c). A permitted taxi driver must conspicuously display his or her permit on the
18 outside of his or her clothing at all times while operating a taxi and show that permit
19 to any peace officer upon request. The permit can be worn only by the driver to whom
20 it is issued. *Id.* at § 1108(a).

21 12. San Francisco also regulates taxicabs to make sure they clearly stand
22 out, and are easily identified and tracked. Taxicabs must be painted to conform to an
23 approved color scheme and bear a city-issued medallion with an identifying number.
24 *Id.* at §§ 1102, 1108, 1113(d), 113(6). Every San Francisco taxicab must have the
25 following information displayed on the exterior of the vehicle: the vehicle number; the
26 words “San Francisco Taxicab”; a decal indicating a satisfactory vehicle inspection;
27 the name of the taxi company; and the medallion. *Id.* These safeguards make every
28 taxicab identifiable and trackable, and thus minimize the chances that a taxi driver

1 would rob, assault, or take advantage of a passenger, or that someone might
2 masquerade as a taxi driver and victimize a passenger. These safeguards also make
3 it easier for law enforcement officers to apprehend anyone who victimizes a
4 passenger while driving a taxi.

5 13. Beginning in 2011 with its launch of “Uber X,” Uber built a novel
6 “rideshare” industry. In order to build this industry, Uber had to both (1) change the
7 public’s attitude toward getting into a stranger’s private car such that there would be
8 demand for its rides, and (2) circumvent the taxi industry’s existing safety
9 regulations in order to rapidly recruit a fleet of non-professional drivers to meet this
10 demand. To say that Uber ultimately succeeded would be an understatement. On
11 May 9, 2019, an initial public offering valued Uber at \$82.4 billion.

12 14. In order to disrupt the public’s cautious attitude on the topic of getting
13 into a stranger’s private car, Uber spent many millions of dollars marketing and
14 promoting the concept that its non-professional Uber X “rideshare” drivers, driving
15 unregulated, non-distinctive personal cars, can be summoned with the “Uber App”
16 and trusted to transport people safely.

17 15. In order to create a large and ready supply of drivers, Uber leapfrogged
18 over safety regulations and laws that govern the transportation industry, and also
19 failed to take and implement reasonable measures to protect rideshare passengers
20 from unscrupulous, unqualified and dangerous drivers. The application process to
21 become an Uber X driver is simple, fast, and designed to allow the Company to hire
22 as many drivers as possible while incurring minimal associated costs. The cost and
23 time savings, however, come at the expense of the safety of Uber X passengers,
24 especially female riders.

25 16. In contrast to the local regulations that impose background checks,
26 tests, and permit requirements on taxi drivers, Uber instead invited almost anyone
27 with a driver’s license to become an Uber X driver. Uber even makes rental car
28 arrangements for those who do not own a car. To become an Uber X driver,

1 individuals apply through Uber’s website.

2 17. Uber generally outsources background checks of driver applicants to
3 third party vendors that do not perform stringent background checks. Those vendors
4 simply run potential drivers’ social security numbers through databases similar to
5 those held by private credit agencies, which only go back for a period of seven years
6 and do not capture all arrests and/or convictions. The background checks conducted
7 by private companies for Uber do not require fingerprinting for comparison against
8 Department of Justice and Federal Bureau of Investigation databases. Neither Uber
9 nor its third party vendors verify that the information provided by applicants is
10 accurate or complete. The turnaround time for an Uber background check is often
11 under 36 hours.

12 18. Using traditional lobbying efforts as well as its own social media clout,
13 Uber lobbies state and local governments, including in California, to adopt its own
14 proposed “model” regulations, which allow it to conduct its own background checks,
15 instead of more stringent regulations like those used for taxi drivers. In Austin,
16 Texas, where regulators imposed fingerprint background checks, Uber punished the
17 regulators by pulling out of the city altogether.

18 19. As a direct result of Uber’s lobbying efforts and social media campaigns,
19 the Company largely self-enforces hiring standards for its Uber X drivers.

20 20. Uber is and has been aware that its security screening processes are
21 insufficient to prevent unsafe applicants from successfully registering as Uber X
22 drivers. Its inadequate background checks have been the subject of a number of
23 municipal lawsuits and fines.

24 21. In 2015 the District Attorneys of San Francisco and Los Angeles filed a
25 complaint alleging that individuals who passed Uber’s security screening process and
26 were found driving for Uber had the following felony convictions: second degree
27 murder; lewd and lascivious acts against a child under the age of 14; sexual
28 exploitation of children; kidnapping for ransom with a firearm; assault with a

1 firearm; grand theft; robber; identity theft; burglary; and taking a vehicle without
2 consent. In connection with the litigation, the San Francisco District Attorney called
3 background checks without fingerprinting “completely worthless.”

4 22. Where cities and states (such as Houston and Maryland) perform their
5 own fingerprint-based background checks, numerous driver applicants approved by
6 Uber are ultimately rejected. In Maryland, nearly 15 percent of new rideshare
7 drivers are disqualified for failing the state’s background checks. In 2017, when
8 Massachusetts began running its own background checks on Uber and Lyft rideshare
9 drivers, the state rejected 20,000 out of 170,000 rideshare driver applications that
10 had been approved by the companies. Of those, 3,471 were rejected due to violent
11 crimes.

12 23. In addition to relaxed driver background check standards, Uber also
13 operates with almost no standards to ensure that Uber X vehicles stand out and are
14 easily tracked. In contrast to the local regulations that impose color-scheme and
15 medallion requirements making each taxicab distinct and easily traced, Uber devised
16 a system whereby Uber vehicles are distinguished from other vehicles only by an
17 Uber decal that the Uber X driver places in the car’s window. Uber made its Uber
18 decals easy to obtain so that it could quickly recruit a large numbers of new Uber X
19 drivers, who would drive their own non-distinctive vehicles.

20 24. Uber intends the Uber decal to reassure the prospective passenger:
21 “This is not just a random stranger’s car. It is an Uber X and it is safe to get in.”

22 25. Uber owns several trademark registrations for “UBER” and several
23 Uber-based marks. It has used Uber as a trademark and trade name in connection
24 with goods and services since 2010. In opposing applications submitted by others to
25 the United States Patent and Trademark Office that contain some form of the word
26 “uber”, Uber has stated that through its “marketing, promotion, advertising, and
27 commercial activity, the public readily associates the UBER Marks and Names with
28 Uber and its goods and services. The UBER Marks and Names are thus valuable

1 assets of Uber and symbols of its goodwill.”¹

2 26. Uber knows that the general public understands the use of its UBER
3 decal on a vehicle to mean that the driver is working for Uber, and that Uber has
4 vetted the driver and is certifying that the driver is a safe driver who will provide a
5 safe ride. Further, Uber intends for the use of its UBER decal on a vehicle to signify
6 these things (that the driver is working for Uber, and that Uber certifies the driver
7 as a safe driver). Uber advertises and markets its trademark, decal, and safety record
8 in a manner designed to cause the public to believe these things.

9 27. In opposing applications submitted by others to the United States
10 Patent and Trademark Office that contain some form of the word “uber”, Uber has
11 argued that allowing a person or company, which is not associated with Uber, to use
12 the word “uber” in a trademark name is “likely to falsely suggest a connection
13 between [the unaffiliated person or company] and Uber’s trade name and identity
14 because [a trademark containing the word “uber”] is confusingly similar to and would
15 be recognized as an approximation of the same. Even more, the fame and reputation
16 of Uber is of such a nature that a connection with Uber would be presumed when [the
17 unaffiliated person or company] uses [a trademark containing the word uber] in
18 connection with its services.”² Uber has further argued that “[a trademark containing
19 the word “uber”] uniquely and unmistakably points to Uber’s famous name and
20 identity.”³

21 28. Trademarks and service marks are recognized to function both as an
22 _____

23 ¹ Notice of Opposition submitted by Uber Technologies, Inc. in In the matter of
24 Trademark App. Ser. No. 88/149861 at ¶ 13; *see also* Notice of Opposition submitted
25 by Uber Technologies, Inc. in In the matter of Trademark App. Ser. No. 87776977 at
¶ 13 & Notice of Opposition submitted by Uber Technologies, Inc. in In the matter of
Trademark App. Ser. No. 87/490138 at ¶ 14.

26 ² Notice of Opposition filed by Uber Technologies, Inc. in In the matter of Trademark
27 App. Ser. No. 88/149861 at ¶ 15; *see also* Notice of Opposition submitted by Uber
Technologies, Inc. in In the matter of Trademark App. Ser. No. 87776977 at ¶ 15 &
28 Notice of Opposition submitted by Uber Technologies, Inc. in In the matter of
Trademark App. Ser. No. 87/490138 at ¶ 16.

³ *Id.*

1 indication of origin or ownership and to serve as a guarantee of constancy of the
2 quality or other characteristics of a product or service.

3 29. Uber presents vehicles bearing the UBER decal to customers as “a ride
4 you can trust.”

5 30. Uber has stated on its website that:

6 Wherever you are around the world, Uber is
7 committed to connecting you to the safest ride on the
8 road. That means setting the strictest standards
9 possible, and then working hard to improve them
10 every day. The specifics vary depending what local
11 governments allow, but within each city we operate,
12 we aim to go above and beyond local requirements to
13 ensure your comfort and security – what we are
14 doing in the US is an example of our standards
15 around the world.

12 31. Uber has stated on its website that:

13 From the moment you request a ride to the moment
14 you arrive, the Uber experience has been designed
15 from the ground up with your safety in mind.

15 32. Uber has actively fostered and successfully cultivated an image among
16 its customers of safety and superiority to public transportation and traditional taxis
17 – which is reflected in the very name of the Company itself.⁴

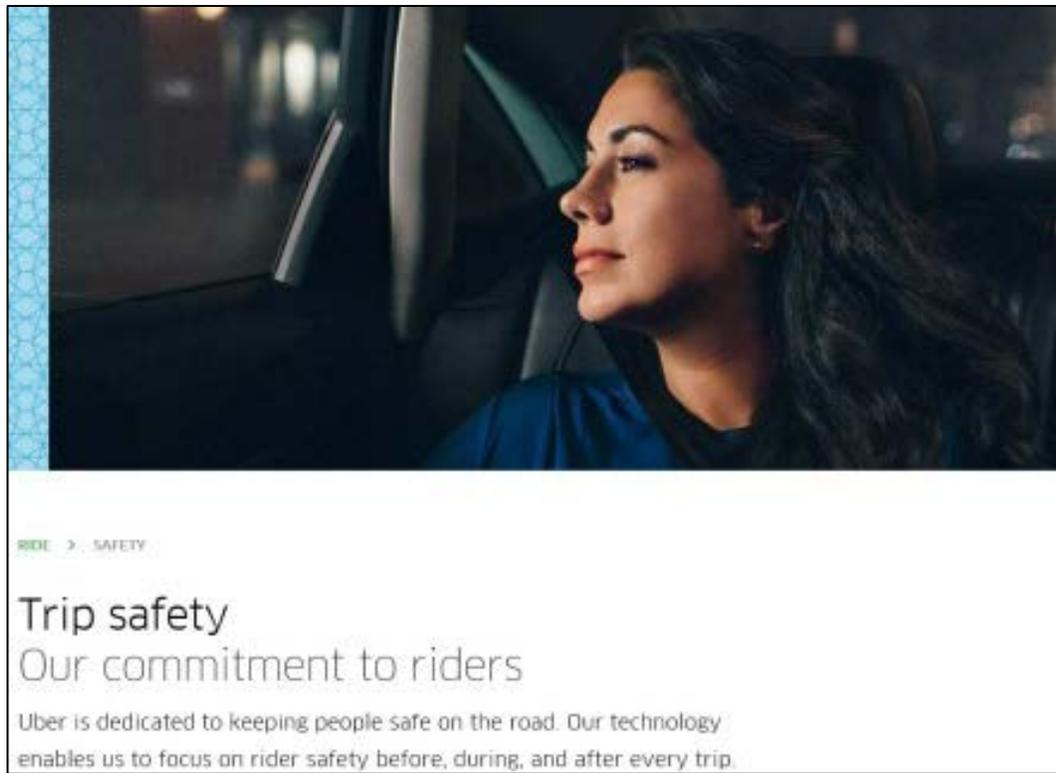
18 33. Until as recently as October 2014, Uber represented that “Every
19 ridesharing and livery driver is thoroughly screened through a rigorous
20 process we’ve developed using industry-leading standards. This includes a
21 three step criminal background screening for the U.S. – with country, federal
22 and multi-state checks that go back as far as the law allows –and ongoing
23 reviews of drivers’ motor vehicle records throughout their time on Uber.”

24 34. Until at least June 2, 2015, Uber’s website stated: “Wherever you
25 are around the world, Uber is committed to connecting you to the safest ride on
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27 _____
28 ⁴ Dictionary.com defines “uber” as “designating a person or thing that exceeds the
norms or limits of its kind or class.”

1 the road. That means setting the strictest safety standards possible, then
2 working hard to improve them every day.” Uber’s blog also trumpeted: “We’ll
3 continue innovating, refining, and working diligently to ensure we’re doing
4 everything we can to make Uber the safest experience on the road.”

5 35. Uber particularly markets itself as a safer transportation alternative for
6 women. Uber’s website and marketing contains numerous pictures of smiling women
7 entering and exiting vehicles, who are meant to appear “safe.” Five true and correct
8 examples of Uber’s marketing copy are reprinted below:



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UBER Ride Drive Cities

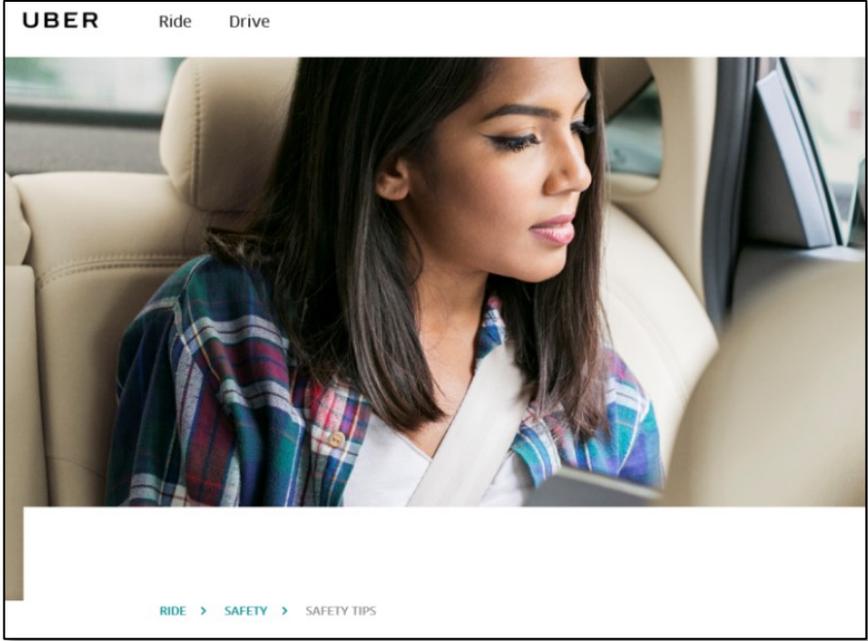
Safe rides, safer cities
Going the distance for everyone on the road

Riders and Drivers
A ride you can trust

Safety is important to us—whether you’re in the backseat or behind the wheel. That’s why we continue to develop technology that helps make millions of rides safer everyday.

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36. Uber intends the public to believe that a vehicle bearing an Uber decal is a “ride you can trust,” and that its driver has passed the “strictest standards possible” in terms of background checks.

37. Uber uses its decal as the way it confers its reputation and its safety certification upon a particular driver and ride.

38. Uber’s advertising and marketing representations have been successful, and at all relevant times members of the public, including Plaintiff Jane Doe, relied on the Uber decal on a vehicle as signifying that the driver is working for Uber, the trademark owner, and that the driver has been vetted and certified as safe by Uber.

39. At all relevant times, Uber dispensed Uber decals, adorned with its immediately recognizable name and/or trademarked symbol, liberally and with little or no control.

40. Uber even makes available a “temporary decal” for new drivers to print at home. This decal is publicly available at the website https://image.et.uber.com/lib/fe9112737763017e71/m/1/Uber-decal_print-at-home.png as of June 10, 2019, and is accessed via a public link stating “Need a temporary decal? Print one at home here.” There is no security whatsoever to prevent anyone

1 from printing this decal and displaying it in any vehicle.

2 41. At all relevant times, Uber did not even attempt to retrieve its Uber
3 decals from former Uber drivers who proved to be unsafe.

4 42. In the San Francisco Bay Area alone, tens of thousands of cars bear
5 Uber decals. No one, not even Uber, knows how many vehicles display an Uber decal,
6 let alone which specific vehicles bear such a decal.

7 43. At all relevant times, members of the public, including Plaintiff Jane
8 Doe, did not know that Uber exercises little control over its Uber decals, nor that the
9 presence of an Uber decal on a vehicle is essentially meaningless.

10 44. Uber knew or should have known that the public was unaware of its lax
11 control over its decals. Nevertheless, at all relevant times, Uber took no steps to
12 inform the public of its lax control, or of the fact that the decal was unreliable as an
13 indicator of employment status or safety.

14 45. Uber has known for years that criminals and sexual predators take
15 advantage of its weak driver screening process and uncontrolled Uber decal system.
16 Soon after launching Uber X, Uber began receiving reports of victims who were
17 assaulted, raped, robbed, or otherwise victimized after they willingly got into a car
18 because it displayed an Uber decal, including instances in which the assailant-driver
19 had not been hailed via the Uber App to pick up the victim-passenger. On December
20 5, 2019, Uber released a report confirming that it received reports of the following
21 occurrences during Uber rides in the year 2018 alone: 235 rapes, 280 attempted
22 rapes, 1,560 groping incidents, 376 instances of unwanted kissing the breast,
23 buttocks, or mouth, and 594 reports of unwanted kissing to another body party. It
24 reported receiving a total of 5,981 reports of sexual assault between 201 and 2018.

25 46. In sum, assaults and rape are a foreseeable risk of Uber's lax driver
26 screening process and Uber's uncontrolled distribution of Uber decals. Despite these
27 known deficiencies, Uber holds its brand and logo out to the public as representing
28 safety.

1 47. Uber is a recognized technology innovator, but it nevertheless has failed
2 to take technically feasible and reasonable measures to diminish and guard against
3 this foreseeable harm to passengers caused by its uncontrolled distribution of Uber
4 decals, because such safety measures would not only have added operating costs, but
5 would have also hindered Uber’s goal of recruiting as many Uber X drivers, driving
6 their personal, non-distinctive vehicles, as possible in advance of Uber’s IPO. Indeed,
7 Uber has actively lobbied and instigated social media campaigns against laws that
8 would regulate rideshare signage to protect against this very type of harm.

9 48. There are some features built into the Uber App that, when used, can
10 make the rides safer. When a person is riding in an Uber X vehicle summoned using
11 that person’s own Uber App, there are in-app features that allow the passenger to
12 monitor the driver’s location as the driver approaches the point of pickup. Under
13 such circumstances, the passenger can also view, in the App, the make, model, and
14 color of vehicle, as well as the license plate number and the driver’s photo. Once the
15 trip begins, there is a “panic button” in the app, as well as an option to “share trip
16 status,” and features that allow the passenger (or police, if necessary) to monitor the
17 driver’s location.

18 49. Uber is and at all relevant times has been aware that its customers
19 sometime summon Uber X cars for other people, and that under these circumstances
20 the passenger does not typically have access to the App’s features.

21 50. Uber tracks the location of those who use its App, and Uber has the
22 technological capability to block ride requests that attempt to summon a driver to
23 pick up a passenger at a location remote from that of the person using the App.

24 51. Uber not only permits its customers to summon rides for others by
25 failing to block such requests, but it encourages them to do so and assures them that
26 this is a safe and responsible practice. For example, Uber’s website says, “Save the
27 day. Grandma doesn’t have a smartphone? Mom needs a ride from the airport? Your
28 friend got a little too happy at happy hour? Send them a reliable ride to their

1 destination. It's always appreciated." [https://www.uber.com/ride/how-uber-](https://www.uber.com/ride/how-uber-works/request-for-a-guest/)
2 [works/request-for-a-guest/](https://www.uber.com/ride/how-uber-works/request-for-a-guest/)

3 52. By encouraging its customers to summon rides for others, and making
4 this an acceptable way to use its service, Uber further emphasizes and advertises the
5 rider's reliance on the Uber decal as the means to determine that a given ride is a
6 provided by a safe, vetted, reliable Uber driver.

7 53. Uber intentionally chose to expand its market share to include those
8 riders who do not have a working smart phone available, even though it knew that by
9 doing so it would be depriving those riders of the few safety mechanisms it otherwise
10 provides, and would cause those riders to rely on its unsafe decal system.

11 54. Prior to Ms. Doe's incident, Uber intentionally chose not to advertise to
12 riders that, in order to protect themselves from dangerous drivers, they should
13 always verify the license plate and driver's appearance, using the App. Uber made
14 this choice in order to increase and retain its market share.

15 55. Uber has at all relevant times failed to communicate to its customers
16 how lax its driver background check system is, how easy it is to acquire an Uber
17 decal, and how easy it is to impersonate an Uber X driver. In withholding this
18 information from its customers, Uber knowingly caused its customers to rely on the
19 Uber decals as signaling that a driver has been vetted by Uber and is trustworthy. In
20 withholding this information, Uber has also created the impression that the Uber
21 App's features that identify the driver and vehicle are there for convenience (to help
22 riders find the correct driver) as opposed to safety (to help riders find a safe driver).

23 56. On August 14, 2018, Plaintiff Jane Doe, a young woman, voluntarily got
24 into the back seat of a strange man's car. That man (the "Assailant") activated the
25 childproof locks on the car's rear doors, trapping her inside. He drove to a remote
26 location, where he raped and partially strangled Jane Doe. The Assailant then
27 started driving to another location, where he planned to assault Jane Doe again and
28 probably kill her, but she escaped and was rescued by a passing motorist.

1 57. The Assailant fled, but was identified and captured weeks later, only
2 because the San Mateo Police Department conducted an exhaustive and superb
3 investigation. As of the time of this complaint, the Assailant sits in jail and faces
4 criminal charges that could lead to imprisonment for life.

5 58. Jane Doe is not from the United States. She and her fiancé are from
6 Mexico. Her fiancé had business in the Bay Area in the middle of August 2018. She
7 flew to the region to spend a few days with him for a mini-vacation. It was in the
8 middle of this trip, August 14, 2018, that the assault occurred.

9 59. In the early evening of August 14, 2018, Jane Doe was at a shopping
10 mall in San Mateo County, California. She wanted to return to the nearby hotel at
11 which she and her fiancé were staying. Her own smartphone was running low on
12 power. She therefore texted her fiancé, who was elsewhere, and asked that he use his
13 Uber App to summon an Uber X ride for her. Her fiancé complied with her request.
14 As described above, using the Uber App to summon a ride for someone else is a
15 practice that Uber allows and encourages.

16 60. There was an Uber decal on the windshield of a car that showed up at
17 the location at which Jane Doe expected to be picked up. Jane Doe, whose primary
18 language is not English, got into that car only because it had an Uber decal in the
19 window and she believed, perhaps mistakenly, that the driver said her boyfriend's
20 name when she neared the car.

21 61. After Jane Doe overheard the driver say something and after she got
22 into the back of the car, the driver looked in his rearview mirror and said "wow." On
23 information and belief, before Jane Doe got into his vehicle, the driver did not know
24 that Jane Doe was at the mall, was unaware that she was about to enter his car, and
25 had not yet formed an intent to kidnap, assault, or rape her or anyone else. The
26 driver slowed down outside the mall for unknown reasons. Because he appeared to be
27 working for Uber, Jane Doe got into his car. On information and belief, when he
28 looked in his rearview mirror, he said "wow" because he was pleased that an

1 attractive woman had gotten into his car, alone. On information and belief, this
2 excited the driver and caused him to form a desire and intent to kidnap and then
3 assault Ms. Doe.

4 62. In sum, Jane Doe willingly got into the back of this strange man’s car
5 because she believed that it was an Uber X rideshare and that it was safe to do so. As
6 alleged above, Uber purposefully disrupted and changed the public’s attitudes about
7 riding in a stranger’s private car, and it aggressively marketed the concept that it is
8 safe for a young woman to get into an Uber X car under the circumstances presented
9 to Jane Doe on the evening of August 14, 2018.

10 63. Months before Jane Doe was assaulted, Uber learned that the Assailant
11 was a menace to women. He was, at that time, an Uber X driver, authorized by Uber
12 to use the Uber App. On or about June 8, 2018, a woman reported to the Company
13 that the Assailant behaved disturbingly while giving her an Uber X ride. Uber
14 “investigated” her complaint by interviewing the Assailant over the telephone. He
15 admitted to Uber that he drove the passenger off her “route”, flirted with her, and
16 drove her to a “horse stable,” ostensibly so they could “talk.”

17 64. Uber did suspend the Assailant’s access to the Uber App after
18 interviewing that woman and the Assailant, but the Company did nothing more than
19 suspend access. It did not attempt to take back the Uber decal on his car or warn
20 others about him. Upon the Assailant’s arrest months later for his terrifying attack
21 on Jane Doe, police observed an Uber decal on his car and found numerous Uber
22 decals in the Assailant’s possession.

23 65. Indeed, Uber was unable to put the genie it had created back in the
24 bottle. Uber had disseminated tens of thousands of Uber decals in the Bay Area alone
25 with no way of tracking them, let alone retrieving them from men like the Assailant
26 in this case, whom Uber knew, or had reason to suspect, were dangerous sexual
27 predators.

28 66. Upon learning of another woman’s complaint against its driver, Uber

1 did nothing to notify its main competitor, Lyft, of the Assailant’s concerning behavior
2 even though Uber was aware that many of its drivers concurrently drive for Lyft. As
3 a result, the Assailant was continuing to offer rides through Lyft up until and even
4 after he assaulted Plaintiff Jane Doe.

5 67. It turns out that the Assailant had a significant criminal history that
6 predated his driving for Uber, including convictions/arrests for driving under the
7 influence of alcohol, driving on a suspended license, being under the influence of a
8 controlled substance, possession of a controlled substance, vehicle theft, vandalism,
9 assault/battery, and domestic violence. Nevertheless, Uber: “passed” him after a
10 purported background check; provided him with Uber decals; gave him access to the
11 Uber App; and permitted him to pick up Uber X passengers.

12 68. Jane Doe is just one victim of Uber’s lax rideshare system that so easily
13 allows a predator to become an Uber X driver, or to masquerade as an Uber X driver
14 even if he no longer has access to or is not using the Uber App.

15 69. The attack on Jane Doe and other similar assaults by men who
16 appeared to be rideshare drivers received significant public attention just before
17 Uber’s planned IPO. Rather than changing its ineffectual driver-vetting process and
18 uncontrolled Uber decal scheme to more time-consuming and costly but safer
19 systems, Uber instead responded to the negative publicity by blaming the
20 victim-passenger. Uber also tried to shift the burden to the passenger to check and
21 vet the Uber X driver who picks her up. On or about April 18, 2019, Uber rolled out
22 new “safety features” (nothing more than text message prompts to passengers who
23 are waiting for their Uber X to arrive). At that same time Tony West, Uber’s chief
24 legal and security officer, said, “It’s become sort of second nature whenever we get
25 into a car to buckle up. It has to be second nature before you get into a car to ask,
26 ‘Hey, who are you here to pick up?’” [https://www.nbcnews.com/news/us-news/uber-](https://www.nbcnews.com/news/us-news/uber-unveils-new-safety-measures-wake-college-student-s-murder-n995611)
27 [unveils-new-safety-measures-wake-college-student-s-murder-n995611](https://www.nbcnews.com/news/us-news/uber-unveils-new-safety-measures-wake-college-student-s-murder-n995611) For Plaintiff
28 Jane Doe and many other past victims, this “fatherly advice” is too late. For the

1 appearance of agency, Assailant formed the desire and intent to kidnap Jane Doe.

2 75. Jane Doe was falsely imprisoned (kidnapped) because she reasonably
3 relied on her belief.

4 76. As a direct and proximate result of the aforementioned conduct, Jane
5 Doe has sustained and will sustain physical pain, mental suffering, loss of enjoyment
6 of life, anxiety, humiliation, and emotional distress.

7 77. As a direct and proximate result of the aforementioned conduct, Jane
8 Doe has incurred economic damages, including lost past and future income, lost
9 earning capacity, and past and future medical expenses.

10 78. Accordingly, Jane Doe is entitled to recovery against Uber in an amount
11 to be determined at trial.

12 **SECOND CAUSE OF ACTION**

13 **(ASSAULT AND BATTERY BY OSTENSIBLE AGENT)**

14 79. Plaintiff alleges and reasserts all the preceding paragraphs as if fully
15 set forth herein.

16 80. Uber intentionally or carelessly created the impression that the man
17 who assaulted and battered Jane Doe was Uber's employee or agent.

18 81. Jane Doe reasonably believed that the Assailant was Uber's employee
19 or agent and therefore got into his vehicle.

20 82. As a result of Jane Doe getting into his vehicle, on her reliance on his
21 appearance of agency, Assailant formed the desire and intent to assault, batter, and
22 rape Jane Doe.

23 83. Jane Doe was falsely imprisoned (kidnapped) and raped because she
24 reasonably relied on her belief.

25 84. As a direct and proximate result of the aforementioned conduct, Jane
26 Doe has sustained and will sustain physical pain, mental suffering, loss of enjoyment
27 of life, anxiety, humiliation, and emotional distress.

28 85. As a direct and proximate result of the aforementioned conduct, Jane

1 Doe has incurred economic damages, including lost past and future income, lost
2 earning capacity, and past and future medical expenses.

3 86. Accordingly, Jane Doe is entitled to recovery against Uber in an amount
4 to be determined at trial.

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6 **THIRD CAUSE OF ACTION**
7 **(BREACH OF THE DUTY OF UTMOST CARE)**

8 87. Plaintiff alleges and reasserts all of the preceding paragraphs as if fully
9 set forth herein.

10 88. Uber was at all relevant times in the business of transporting the
11 general public for profit, and held itself out to the public generally and indifferently
12 for that purpose.

13 89. Uber at all relevant times advertised its services to the general public.

14 90. Uber at all relevant times charged standardized fees for its services,
15 which were not separately negotiated with each passenger.

16 91. In requesting that her fiancé summon an Uber ride for her, Jane Doe
17 intended to become an Uber passenger.

18 92. In encouraging customers to summon rides for others, and in accepting
19 the ride request from Jane Doe’s fiancé for a location Uber knew was remote from his
20 location and thus must be for a person other than himself, Uber accepted Jane Doe as
21 a passenger.

22 93. In relying on Uber to send a driver to her location, and to provide trade
23 dress visually identifying its driver, Jane Doe placed herself under Uber’s control.

24 94. Jane Doe went to the location designated as the site of departure at the
25 appropriate time in an attempt to “board” her Uber ride using the manner and
26 process prescribed by Uber.

27 95. California Civil Code § 2100 thus obligated Uber to “use the utmost
28 care and diligence for” Jane Doe’s safe carriage, to “provide everything necessary for

1 that purpose,” and to “exercise to that end a reasonable degree of skill,” including
2 with respect to providing a safe place and manner for Jane Doe to locate her driver,
3 as well as providing a safe ride until she disembarked in a safe location.

4 96. Uber negligently, and with gross negligence and recklessness, breached
5 the duty of utmost care that it owed to Jane Doe in that it:

- 6 a. Undertook to provide riders, including Jane Doe, with a process and
7 set of tools for obtaining a safe ride, but negligently established an
8 unsafe process and unsafe set of tools, placing such riders at risk.
- 9 b. Through its advertising, marketing, statements, processes, tools, and
10 silences, negligently held out drivers whose vehicles bore the UBER
11 decal as safe, vetted drivers working for Uber, whom Uber was
12 recommending and endorsing to its riders.
- 13 c. Negligently created the appearance that it was recommending and
14 endorsing the Assailant, including by (1) making the UBER decal
15 seem a reliable indicator of safety, (2) failing to secure its UBER
16 decals generally, (3) providing UBER decals to the driver, and (4)
17 failing to specifically recall its UBER decals from the driver once he
18 proved to be dangerous.
- 19 d. Failing to provide her with a safe process for entering the correct
20 vehicle.

21 97. As a direct and proximate result of the aforementioned conduct and
22 breach of duty, Jane Does has sustained and will sustain physical pain, mental
23 suffering, loss of enjoyment of life, anxiety, humiliation, and emotional distress.

24 98. As a direct and proximate result of the aforementioned conduct and
25 breach of duty, Jane Doe has incurred economic damages, including lost past and
26 future income, lost earning capacity, and past and future medical expenses.

27 99. Accordingly, Jane Doe is entitled to recovery against Uber in an amount
28 to be determined at trial.

FOURTH CAUSE OF ACTION
(NEGLIGENCE)

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3 100. Plaintiff alleges and reasserts all of the preceding paragraphs as if fully
4 set forth herein.

5 101. At all relevant times, Uber had a special relationship with Plaintiff Jane
6 Doe in that it held itself out as offering safe rides to the public, and it accepted her
7 ride request, agreed to provide her with a safe ride to her destination.

8 102. Uber undertook to provide to Plaintiff Jane Doe a safe ride to her
9 destination. It undertook to provide her with a secure and safe process for obtaining
10 a safe ride. It undertook to recommend, certify, and identify for her a safe driver
11 whom she could trust.

12 103. Jane Doe relied on Uber to provide her with a safe ride, to certify a safe
13 driver, and to provide her with a safe process matching her with the safe ride. She
14 thereby entrusted herself to Uber's care, and allowed Uber to take charge of her for
15 purposes of providing a safe ride to her destination. She gave up her normal power
16 and tools of self-protection (for example, not getting into a stranger's car) and relied
17 on Uber's process, recommendation, and certification.

18 104. Uber negligently, and with gross negligence and recklessness, breached
19 the duty of care that it owed to Jane Doe in that it:

- 20 a. Undertook to provide riders, including Jane Doe, with a process and
21 set of tools for obtaining a safe ride, but instead negligently,
22 recklessly, and knowingly established an unsafe process and unsafe
23 set of tools, placing such riders at risk.
- 24 b. Through its advertising, marketing, statements, processes, tools, and
25 silences, negligently, recklessly, and knowingly held out drivers
26 whose vehicles bore the UBER decal as safe, vetted drivers working
27 for Uber, whom Uber was recommending, certifying, and endorsing
28 to its riders as safe and trustworthy.

1 c. Negligently, recklessly, and knowingly created the appearance that
2 it was recommending and endorsing the Assailant, including by (1)
3 making the UBER decal seem a reliable indicator of safety, (2) failing
4 to secure its UBER decals generally, (3) providing UBER decals to
5 the driver, and (4) failing to specifically recall its UBER decals from
6 the driver once he proved to be dangerous.

7 105. By virtue of the aforementioned acts, omissions, and breaches, Uber
8 exposed Jane Doe to an unreasonable risk of harm, including the foreseeable harm of
9 a kidnapping and/or assault.

10 106. As a direct and proximate result of the aforementioned conduct and
11 breach of duty, Jane Does has sustained and will sustain physical pain, mental
12 suffering, loss of enjoyment of life, anxiety, humiliation, and emotional distress.

13 107. As a direct and proximate result of the aforementioned conduct and
14 breach of duty, Jane Doe has incurred economic damages, including lost past and
15 future income, lost earning capacity, and past and future medical expenses.

16 Accordingly, Jane Doe is entitled to recovery against Uber in an amount to be
17 determined at trial.

18 **PRAYER FOR RELIEF**

- 19 A. For noneconomic damages according to proof at trial;
20 B. For economic damages according to proof at trial;
21 C. For costs of suit and attorneys' fees to the fullest extent permitted by
22 law;
23 D. For pre-judgment and post-judgment interest according to law;
24 E. For punitive and exemplary damages in an amount that is sufficient to
25 punish Uber and deter it and others from engaging in similar conduct in the future;
26 F. For such other and further relief as the Court may deem proper.

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Dated: December 19, 2019

WALKUP, MELODIA, KELLY & SCHOENBERGER

By: /s/ Sara M. Peters
MATTHEW D. DAVIS
SARA M. PETERS
ANDREW P. McDEVITT
Attorneys for Plaintiff Jane Doe

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

Dated: December 19, 2019 WALKUP, MELODIA, KELLY & SCHOENBERGER

By: /s/ Sara M. Peters
MATTHEW D. DAVIS
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