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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN FRANCISCO**

14 EVAN KISSNER, on behalf of himself and all
15 others similarly situated,

16 Plaintiff,

17 v.

18 DOORDASH, INC.,

19 Defendant.

Case No. _____

CLASS ACTION COMPLAINT

1. FAILURE TO REIMBURSE FOR BUSINESS EXPENSES IN VIOLATION OF CAL. LAB. CODE §2802
2. FAILURE TO PROVIDE PROPER ITEMIZED WAGE STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226(a)
3. UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES (CAL. BUS. & PROF. CODE §§17200-17208)

1 **I. INTRODUCTION**

2 1. This case is a class action brought on behalf of individuals who have worked for
3 DoorDash, Inc. (“DoorDash”) as delivery drivers in California. DoorDash is a food delivery
4 service that provides delivery drivers who can be scheduled and dispatched through a mobile
5 phone application or through its website and who will deliver food orders from restaurants to
6 customers at their homes and businesses.
7

8 2. As described further below, DoorDash has misclassified Plaintiff and other
9 similarly situated delivery drivers as independent contractors and, in so doing, has violated the
10 California Labor Code, including: (1) Cal. Labor Code §2802 by requiring couriers to pay
11 various expenses that should have been borne by the employer and (2) Cal. Lab. Code § 226(a)
12 by failing to provide itemized wage statements. Pursuant to California Code of Civil Procedure
13 § 382, Plaintiff, on behalf of himself and all similarly situated DoorDash drivers, seeks damages
14 for these violations.

15 **II. PARTIES**

16 3. Plaintiff Evan Kissner is an adult resident of Irvine, California, where he worked
17 as a DoorDash driver in February 2015.

18 4. Defendant Doordash, Inc. (“DoorDash”) is a Delaware corporation with its
19 principal place of business in Palo Alto, California.

20 **III. JURISDICTION**

21 5. This Court has jurisdiction over Plaintiff’s claims under Cal. Labor Code §§ 2802
22 and § 226 pursuant to California Code of Civil Procedure § 410.10.

23 **IV. STATEMENT OF FACTS**

24 6. DoorDash is a Palo Alto-based food delivery service, which provides food
25 delivery services in cities throughout the country via an on demand dispatch system.

26 7. DoorDash offers customers the ability to request a driver on a mobile phone
27

1 application or online through its website, who will go to the restaurant and pick up their food,
2 then deliver it to the customer at their home or business.

3 8. DoorDash’s website advertises that it offers “Your favorite local restaurants
4 delivered to you” and that “We deliver from the best restaurants.”

5 9. DoorDash drivers receive a flat fee for each delivery completed plus any
6 gratuities added by the customer. DoorDash does not provide proper itemized wage statements
7 to its drivers.

8 10. Although classified as independent contractors, DoorDash drivers like Plaintiff
9 are actually employees. Drivers are required to sign up for shifts in advance. DoorDash directs
10 drivers’ work in detail, instructing drivers where to report for their shifts, how to dress, and
11 where to go to pick up or await deliveries. Drivers are required to follow requirements imposed
12 on them by DoorDash regarding handling of the food and timeliness of the deliveries or risk
13 termination.

14 11. In addition, DoorDash is in the business of providing food delivery services to
15 customers, and this is the very service its drivers provide. The drivers’ services are fully
16 integrated into DoorDash’s business, and without the drivers, DoorDash’s business would not
17 exist.

18 12. However, based on their misclassification as independent contractors, DoorDash
19 has required Plaintiff and other DoorDash drivers to bear many of the expenses of their
20 employment, including expenses for their vehicles, gas, parking, phone data, and other expenses.

21 **V. CLASS ALLEGATIONS**

22 13. Plaintiff Evan Kissner this case as a class action pursuant to California Code of
23 Civil Procedure § 382 on behalf of all DoorDash drivers who have worked in California.

24 14. Plaintiff and other class members have uniformly been deprived reimbursement
25 of their necessary business expenditures.
26

1 20. The questions of law and fact common to the members of the class predominate
2 over any questions affecting only individual members, including legal and factual issues relating
3 to liability and damages.

4 21. A class action is superior to other available methods for the fair and efficient
5 adjudication of this controversy because joinder of all class members is impractical. Moreover,
6 since the damages suffered by individual members of the class may be relatively small, the
7 expense and burden of individual litigation makes it practically impossible for the members of
8 the class individually to redress the wrongs done to them. The class is readily definable and
9 prosecution of this action as a class action will eliminate the possibility of repetitive litigation.
10 There will be no difficulty in the management of this action as a class action.
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12
13 **COUNT I**

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

15 Plaintiff realleges and incorporates by reference the allegations in the preceding
16 paragraphs as if fully alleged herein. DoorDash’s conduct, as set forth above, in misclassifying
17 Plaintiff and other DoorDash drivers as independent contractors, and failing to reimburse them
18 for expenses they paid that should have been borne by their employer, constitutes a violation of
19 California Labor Code
20 § 2802.

21 **COUNT II**

22 **Violation of Cal. Lab. Code § 226**

23 Plaintiff realleges and incorporates by reference the allegations in the preceding
24 paragraphs as if fully alleged herein. DoorDash’s conduct, as set forth above, in failing to
25 provide itemized wage statements, as required by California state law, violates Cal. Lab. Code
26

1 § 226(a). This claim is brought on behalf of a class of similarly situated individuals who worked
2 for DoorDash in the state of California.
3

4 **COUNT III**

5 **Violation of Cal. Bus. & Prof. Code §17200, *et seq.***

6 Defendant's conduct, as set forth above, violates the California Unfair Competition Law,
7 Cal. Bus. & Prof. Code § 17200 *et seq.* ("UCL"). Defendant's conduct constitutes unlawful
8 business acts or practices, in that Defendant has violated California Labor Code Section 2802. As
9 a result of Defendant's unlawful conduct, Plaintiff and class members suffered injury in fact and
10 lost money and property, including, but not limited to business expenses that drivers were
11 required to pay. Pursuant to California Business and Professions Code § 17203, Plaintiff and
12 class members seek declaratory and injunctive relief for Defendant's unlawful conduct and to
13 recover restitution. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiff and class
14 members are entitled to recover reasonable attorneys' fees, costs, and expenses incurred in
15 bringing this action.
16

17
18 WHEREFORE, Plaintiff requests that this Court enter the following relief:

- 19 a. Certify a class action pursuant to California Code of Civil Procedure § 382 and
20 appoint Plaintiff and his counsel to represent the class;
- 21 b. Declare and find that the Defendant violated Cal. Lab. Code §§ 226 and 2802 and
22 Cal. Bus. & Prof. Code §17200, *et seq.* by failing to reimburse the expenses of
23 Plaintiff and the class and failing to provide itemized wage statements;
- 24 c. Award compensatory damages, including all expenses owed, in an amount according
25 to proof;
- 26 d. Award all costs and attorney's fees incurred prosecuting this claim;
27

- 1 e. Interest and costs;
2 f. Injunctive relief in the form of an order directing Defendant to comply with Cal Lab.
3 Code;
4 g. Such other relief as in law or equity may pertain.
5

6
7 Respectfully submitted,
8

9 EVAN KISSNER, on behalf of himself and all
10 others similarly situated,
11

12 By his attorneys,
13

14 Shannon Liss-Riordan, pro hac vice anticipated
15 Adelaide Pagano, pro hac vice anticipated
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28 Dated: September 23, 2015

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10 Telephone: (415) 817-1470

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN FRANCISCO**

13 ANDREW TAN, on behalf of himself and all
14 others similarly situated,

15 Plaintiff,

16 v.

17 GRUBHUB, INC.,

18 Defendant.

Case No. _____

CLASS ACTION COMPLAINT

1. FAILURE TO REIMBURSE FOR BUSINESS EXPENSES IN VIOLATION OF CAL. LAB. CODE §2802
2. FAILURE TO PROVIDE PROPER ITEMIZED WAGE STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226(a)
3. UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES (CAL. BUS. & PROF. CODE §§17200-17208)
4. FAILURE TO PAY MINIMUM WAGE IN VIOLATION OF CAL. LAB. CODE §§ 1197 AND 1194
5. FAILURE TO PAY OVERTIME IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1198, 510, AND 554

1 **I. INTRODUCTION**

2 1. This case is a class action brought on behalf of individuals who have worked for
3 GrubHub, Inc. (“GrubHub”) as delivery drivers in California. GrubHub is a food delivery
4 service that provides delivery drivers who can be scheduled and dispatched through a mobile
5 phone application or through its website and who will deliver food orders from restaurants to
6 customers at their homes and businesses.

7
8 2. As described further below, GrubHub has misclassified Plaintiff and other
9 similarly situated delivery drivers as independent contractors and, in so doing, has violated the
10 California Labor Code, including: (1) Cal. Lab. Code §2802 by requiring its drivers to pay
11 various expenses that should have been borne by the employer; (2) Cal. Lab. Code § 226(a) by
12 failing to provide proper itemized wage statements; (3) Cal. Lab. Code §§ 1197 and 1194 by
13 failing to pay minimum wage for all weeks worked; (4) Cal. Lab. Code § 1194, 1194, 510, and
14 554 by failing to pay overtime wages; (5) Cal. Bus. & Prof. Code §17200, *et seq.* by engaging in
15 unfair competition. Pursuant to California Code of Civil Procedure § 382, Plaintiff, on behalf of
16 himself and all similarly situated GrubHub drivers, seeks damages for these violations.

17 **II. PARTIES**

18 3. Plaintiff Andrew Tan is an adult resident of San Francisco, California, where he
19 has worked as a GrubHub driver since June 2015.

20 4. Defendant GrubHub, Inc. (“GrubHub”) is a Delaware corporation with its
21 principal place of business in Chicago, Illinois. Defendant does business in California, including
22 in Los Angeles, San Diego, and San Francisco.

23 **III. JURISDICTION**

24 5. This Court has jurisdiction over Plaintiff’s claims under Cal. Lab. Code §§ 2802,
25 226, 1194, 1197, 1198, 510, and 554, as well as under Cal. Bus. & Prof. Code §17200 *et seq.*
26 pursuant to California Code of Civil Procedure § 410.10.

1 **IV. STATEMENT OF FACTS**

2 6. GrubHub is a food delivery service, which provides food delivery to customers in
3 cities throughout the country via an on demand dispatch system.

4 7. GrubHub offers customers the ability to request a driver on a mobile phone
5 application or online through its website, who will go to the restaurant and pick up their food,
6 then deliver it to the customer at their home or business.

7 8. GrubHub’s website advertises that “GrubHub is the nation’s leading online and
8 mobile food ordering company dedicated to connecting hungry diners with local takeout
9 restaurants.”

10 9. GrubHub drivers receive a flat fee for each delivery completed plus gratuities
11 added by customers. GrubHub does not provide proper itemized wage statements to its drivers.

12 10. Although classified as independent contractors, GrubHub drivers like Plaintiff are
13 actually employees. Drivers are required to sign up for shifts in advance. GrubHub directs
14 drivers’ work in detail, instructing drivers where to report for their shifts, how to dress, and
15 where to go to pick up or await deliveries. Drivers are required to follow requirements imposed
16 on them by GrubHub regarding handling of the food and timeliness of the deliveries or risk
17 termination.

18 11. In addition, GrubHub is in the business of providing food delivery services to
19 customers, and this is the very service its drivers provide. The drivers’ services are fully
20 integrated into GrubHub’s business, and without the drivers, GrubHub’s business would not
21 exist.

22 12. However, based on their misclassification as independent contractors, GrubHub
23 has required Plaintiff and other GrubHub drivers to bear many of the expenses of their
24 employment, including expenses for their vehicles, gas, parking, phone data, and other expenses.
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1 13. Because Plaintiff and other GrubHub drivers are paid by the delivery, and have
2 been required to bear many of the expenses of their employment, their weekly pay rates have
3 fallen below California’s minimum wage in many weeks. For example, Plaintiff Tan recalls that
4 in several weeks since he began working for GrubHub in June 2015, his pay fell below minimum
5 wage as a result of his fuel and vehicle maintenance costs.

6 14. Plaintiff and other GrubHub drivers have regularly worked more than eight (8)
7 and even twelve (12) hours per day and forty (40) hours per week, but GrubHub has not paid
8 overtime wages for these hours. For example, Plaintiff Tan recalls that since he has started
9 working for GrubHub in June 2015, he has regularly worked in excess of forty hours per week,
10 and GrubHub did not pay time-and-a-half for the hours he worked in excess of forty each week.
11 Moreover, he routinely worked more than twelve (12) hours in a day, and GrubHub did not pay
12 him at twice his regularly hourly rate.

13
14 **V. CLASS ALLEGATIONS**

15 15. Plaintiff Andrew Tan brings this case as a class action pursuant to California
16 Code of Civil Procedure § 382 on behalf of all GrubHub drivers who have worked in California.

17 16. Plaintiff and other class members have uniformly been deprived reimbursement
18 of their necessary business expenditures as well, as of proper minimum wage and overtime, and
19 they also have not received proper itemized pay statements from GrubHub.

20 17. The members of the class are so numerous that joinder of all class members is
21 impracticable.

22 18. Common questions of law and fact regarding GrubHub’s conduct in classifying
23 drivers as independent contractors, failing to reimburse them for business expenditures, failing to
24 pay minimum and proper overtime, and failing to provide them with proper pay statements, exist
25 as to all members of the class and predominate over any questions affecting solely any individual
26 members of the class. Among the questions of law and fact common to the class are:

- a. Whether class members have been required to follow uniform procedures and policies regarding their work for GrubHub;
- b. Whether class members have been subject to termination by GrubHub in its discretion;
- c. Whether the work performed by class members—providing food delivery services to customers—is within GrubHub’s usual course of business, and whether such service is fully integrated into GrubHub’s business;
- d. Whether these class members have been required to bear the expenses of their employment, such as expenses for vehicles, gas, bikes, and other expenses.
- e. Whether GrubHub has failed to ensure payment of minimum wage for all weeks these class members worked.
- f. Whether GrubHub has failed to pay overtime wages for the overtime hours that the class members worked.
- g. Whether GrubHub failed to provide proper itemized pay statements to its drivers.

19. Named Plaintiff Andrew Tan is a class member, who suffered damages as a result of Defendant’s conduct and actions alleged herein.

20. Plaintiff Tan’s claims are typical of the claims of the class, and he has the same interests as the other members of the class.

21. Plaintiff Tan will fairly and adequately represent and protect the interests of the class. He has retained able counsel experienced in class action litigation and independent contractor misclassification in particular. His interests are coincident with, and not antagonistic to, the interests of the other class members.

22. The questions of law and fact common to the members of the class predominate over any questions affecting only individual members, including legal and factual issues relating to liability and damages.

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COUNT III

Violation of Cal. Lab. Code §§ 1197 and 1194 – Minimum Wage

Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs as if fully alleged herein. GrubHub’s conduct, as set forth above, in misclassifying Plaintiff and other GrubHub drivers as independent contractors, and failing to pay the drivers the California minimum wage each week worked constitutes a violation of California Labor Code §§ 1197 and 1194.

COUNT IV

Violation of Lab. Code §§ 1194, 1198, 510, and 554 – Overtime

Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs as if fully alleged herein. GrubHub’s conduct, as set forth above, in misclassifying Plaintiff and other GrubHub drivers as independent contractors, and failing to pay the drivers the appropriate overtime premium overtime hours they worked constitutes a violation of California Labor Code §§ 1194, 1198, 510, and 554.

COUNT V

Violation of Cal. Bus. & Prof. Code §17200, *et seq.*

Defendant’s conduct, as set forth above, violates the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“UCL”). Defendant’s conduct constitutes unlawful business acts or practices, in that Defendant has violated California Labor Code Section 2802. As a result of Defendant’s unlawful conduct, Plaintiff and class members suffered injury in fact and lost money and property, including, but not limited to business expenses that drivers were required to pay. Pursuant to California Business and Professions Code § 17203, Plaintiff and class members seek declaratory and injunctive relief for Defendant’s unlawful conduct and to

1 recover restitution. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiff and class
2 members are entitled to recover reasonable attorneys' fees, costs, and expenses incurred in
3 bringing this action.
4

5
6 WHEREFORE, Plaintiff requests that this Court enter the following relief:
7

- 8 a. Certify a class action pursuant California Code of Civil Procedure § 382 and appoint
9 Plaintiff and his counsel to represent the class;
- 10 b. Declare and find that the Defendant violated Cal. Lab. Code §§ 2802, 226(a), 510,
11 554, 1197, and 1198, and Cal. Bus. & Prof. Code §17200, *et seq.*;
- 12 c. Award compensatory damages, including all expenses owed, underpaid wages, and
13 liquidated damages in an amount according to proof;
- 14 d. Award all costs and attorney's fees incurred prosecuting this claim;
- 15 e. Interest and costs;
- 16 f. Injunctive relief in the form of an order directing Defendant to comply with Cal. Lab.
17 Code;
- 18 g. Such other relief as in law or equity may pertain.
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Respectfully submitted,

ANDREW TAN, on behalf of himself and all others
similarly situated,

By his attorneys,

Shannon Liss-Riordan, *pro hac vice* anticipated
Thomas Fowler, *pro hac vice* anticipated
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Dated: September 23, 2015

AMERICAN ARBITRATION ASSOCIATION

SEAN MCKEAN

Claimant,

v.

CAVIAR, INC. d/b/a TRY CAVIAR

Respondent.

AAA Case No.

DEMAND FOR ARBITRATION

I. Claimant

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c/o Shannon Liss-Riordan, Esq.
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Claimant's Representatives

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II. Respondent

Caviar, Inc. d/b/a Try Caviar
1455 Market Street, #600
San Francisco, CA 94103

Respondent's Representative

Robert James Slaughter
Ashok Ramani
Erin E. Meyer
Simona Alessandra Agnolucci
KEKER & VAN NEST LLP
633 Battery Street
San Francisco, CA 94111-1809

III. Nature of Dispute and Remedies Sought

See First Amended Complaint (Exhibit B); Courier Terms and Conditions (Exhibit C).

Claimant McKean brings this action against Caviar, Inc. d/b/a Try Caviar ("Try Caviar"), challenging the Respondent's wage payment practices. Try Caviar is a food delivery service that provides couriers who can be scheduled and dispatched through a mobile phone application or through its website and who will deliver food orders from restaurants to customers at their homes and businesses. Mr. McKean works for Try Caviar in San Francisco, California, as a courier delivering food orders to customers. Pursuant to a contract that Mr. McKean entered into with Try Caviar, California law applies to his claims. Try Caviar has misclassified its couriers as independent contractors when they are really employees of Try Caviar. In so doing, Try Caviar has violated California Labor Code § 2802 and California Business & Professional Code § 17200, *et seq.* by requiring couriers to pay various expenses that should have been borne by the employer, and California Labor Code § 226(a) by failing to provide itemized wage statements.

As a courier for Try Caviar, Mr. McKean is required to follow detailed requirements imposed on him by Try Caviar, including requirements regarding the accurateness of his deliveries, and how he interacts with customers, and he is subject to termination based upon his failure to adhere to these requirements or at the discretion of Try Caviar. Mr. McKean, like all other couriers, is required to bear his own expenses of his employment, including expenses for his car, gas, and other expenses, in violation of Cal. Lab. Code § 2802 and Cal. Bus. & Prof. Code § 17200, *et seq.*

Additionally, due to Mr. McKean's misclassification as an independent contractor, he was not provided with itemized wage statements, in violation of Cal. Lab. Code. § 226(a).

Per the parties' agreement and based on the nature of the claims, arbitration should proceed pursuant to the Employment Arbitration Rules.

IV. Amount in Controversy

Less than \$100,000.

V. Requested Hearing Location

San Francisco, CA

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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN FRANCISCO**

14 CYNTHIA MARCIANO,
15
16 Plaintiff,

17 v.

18 DOORDASH, INC.,
19 Defendant.

Case No. _____

COMPLAINT

1. PRIVATE ATTORNEY GENERAL
ACT (PAGA) CLAIM FOR CIVIL
PENALTIES (CAL. LAB. CODE
§ 2698 *et seq.*)

1 **I. INTRODUCTION**

2 1. Plaintiff Cynthia Marciano brings this suit as a representative action on behalf of
3 the state of California and all other similarly situated aggrieved employees of DoorDash, Inc.
4 (“DoorDash”) who have worked as delivery drivers for DoorDash in California during the past
5 year. DoorDash has classified Plaintiff and other similarly situated drivers as independent
6 contractors and, in so doing, has violated various provisions of the California Labor Code,
7 including: (1) Cal. Labor Code §2802 by requiring drivers to pay various expenses that should
8 have been borne by the employer and (2) Cal. Lab. Code § 226(a) by failing to provide itemized
9 wage statements. Pursuant to the Private Attorney General Act (“PAGA”), Cal. Lab. Code
10 §2699, *et seq.*, Plaintiff Marciano brings this claim on behalf of the state of California and all
11 similarly situated aggrieved DoorDash drivers, seeking penalties provided for under the
12 California Labor Code.
13

14 **II. PARTIES**

15 2. Plaintiff Cynthia Marciano is an adult resident of Palo Alto, California, where she
16 has worked as a DoorDash driver since September 2014.

17 3. Defendant Doordash, Inc. (“DoorDash”) is a Delaware corporation with its
18 principal place of business in Palo Alto, California.

19 **III. JURISDICTION**

20 4. This Court has jurisdiction over Plaintiff’s claim under the Private Attorney
21 General Act of 2004, Cal. Lab. Code § 2699, *et seq.* pursuant to California Code of Civil
22 Procedure § 410.10.

23 **IV. STATEMENT OF FACTS**

24 5. DoorDash is a Palo Alto-based food delivery service, which provides food
25 delivery services in cities throughout the country via an on demand dispatch system.

26 6. DoorDash offers customers the ability to request a driver on a mobile phone
27

1 application or online through their website, who will go to the restaurant and pick up their food,
2 then deliver it to the customer at their home or business.

3 7. DoorDash’s website advertises that it offers “Your favorite local restaurants
4 delivered to you” and that “We deliver from the best restaurants.”

5 8. DoorDash drivers receive a flat fee for each delivery completed plus any
6 gratuities added by the customer.

7 9. Although classified as independent contractors, DoorDash drivers are actually
8 employees. Drivers are required to sign up for shifts in advance. DoorDash directs drivers’
9 work in detail, instructing drivers where to report for their shifts, how to dress, and where to go
10 to pick up or await deliveries. Drivers are required to follow requirements imposed on them by
11 DoorDash regarding handling of the food and timeliness of the deliveries or risk termination.
12

13 10. In addition, DoorDash is in the business of providing food delivery services to
14 customers, and that is the very service that DoorDash drivers provide. The drivers’ services are
15 fully integrated into DoorDash’s business, and without the drivers, DoorDash’s business would
16 not exist.

17 11. However, based on their misclassification as independent contractors, DoorDash
18 has required drivers to bear many of the expenses of their employment, including expenses for
19 their vehicle, gas, parking, phone data, and other expenses.

20 **V. PAGA REPRESENTATIVE ACTION ALLEGATIONS**

21 12. On August 13, 2015, Plaintiff Marciano gave written notice of DoorDash’s
22 violations of various provisions of the California Labor Code as alleged in this complaint to the
23 Labor and Workforce Development Agency (“LWDA”) as well as to DoorDash.

24 13. More than thirty-three days have lapsed since the LWDA was notified of the
25 Labor Code violations asserted in this Complaint, and the LWDA has not provided any notice
26 that it will or will not investigate the alleged violations. See Cal. Lab. Code § 2699.3(a)(2)(A).
27

1 § 226(a).

2 18. Plaintiff Marciano complied with the notice requirement of Cal. Lab. Code
3 § 2699.3 and mailed a written notice to the California Labor & Workforce Development Agency
4 (“LWDA”), and Defendant via Certified Mail, return receipt requested, on August 13, 2015. It
5 has been 33 days or more since the LWDA was notified of the Labor Code violations asserted in
6 this Complaint, and the LWDA has not provided any notice that it will or will not investigate the
7 alleged violations.
8

9
10 WHEREFORE, Plaintiff requests that this Court enter judgment in her favor on her
11 PAGA claim pursuant to Cal. Lab. Code § 2699(c); award pre- and post-judgment
12 interest; award reasonable attorneys’ fees, costs, and expenses; and award any other
13 relief to which the plaintiff may be entitled.

14
15 Respectfully submitted,

16 CYNTHIA MARCIANO,

17 By her attorneys,

18
19

Shannon Liss-Riordan, *pro hac vice* anticipated
20 Adelaide Pagano, *pro hac vice* anticipated
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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN FRANCISCO**

14 CYNTHIA MARCIANO,
15
16 Plaintiff,

17 v.

18 DOORDASH, INC.,
19 Defendant.

Case No. _____

COMPLAINT

1. PRIVATE ATTORNEY GENERAL
ACT (PAGA) CLAIM FOR CIVIL
PENALTIES (CAL. LAB. CODE
§ 2698 *et seq.*)

1 **I. INTRODUCTION**

2 1. Plaintiff Cynthia Marciano brings this suit as a representative action on behalf of
3 the state of California and all other similarly situated aggrieved employees of DoorDash, Inc.
4 (“DoorDash”) who have worked as delivery drivers for DoorDash in California during the past
5 year. DoorDash has classified Plaintiff and other similarly situated drivers as independent
6 contractors and, in so doing, has violated various provisions of the California Labor Code,
7 including: (1) Cal. Labor Code §2802 by requiring drivers to pay various expenses that should
8 have been borne by the employer and (2) Cal. Lab. Code § 226(a) by failing to provide itemized
9 wage statements. Pursuant to the Private Attorney General Act (“PAGA”), Cal. Lab. Code
10 §2699, *et seq.*, Plaintiff Marciano brings this claim on behalf of the state of California and all
11 similarly situated aggrieved DoorDash drivers, seeking penalties provided for under the
12 California Labor Code.
13

14 **II. PARTIES**

15 2. Plaintiff Cynthia Marciano is an adult resident of Palo Alto, California, where she
16 has worked as a DoorDash driver since September 2014.

17 3. Defendant Doordash, Inc. (“DoorDash”) is a Delaware corporation with its
18 principal place of business in Palo Alto, California.

19 **III. JURISDICTION**

20 4. This Court has jurisdiction over Plaintiff’s claim under the Private Attorney
21 General Act of 2004, Cal. Lab. Code § 2699, *et seq.* pursuant to California Code of Civil
22 Procedure § 410.10.
23

24 **IV. STATEMENT OF FACTS**

25 5. DoorDash is a Palo Alto-based food delivery service, which provides food
26 delivery services in cities throughout the country via an on demand dispatch system.

27 6. DoorDash offers customers the ability to request a driver on a mobile phone
28

1 application or online through their website, who will go to the restaurant and pick up their food,
2 then deliver it to the customer at their home or business.

3 7. DoorDash’s website advertises that it offers “Your favorite local restaurants
4 delivered to you” and that “We deliver from the best restaurants.”

5 8. DoorDash drivers receive a flat fee for each delivery completed plus any
6 gratuities added by the customer.

7 9. Although classified as independent contractors, DoorDash drivers are actually
8 employees. Drivers are required to sign up for shifts in advance. DoorDash directs drivers’
9 work in detail, instructing drivers where to report for their shifts, how to dress, and where to go
10 to pick up or await deliveries. Drivers are required to follow requirements imposed on them by
11 DoorDash regarding handling of the food and timeliness of the deliveries or risk termination.
12

13 10. In addition, DoorDash is in the business of providing food delivery services to
14 customers, and that is the very service that DoorDash drivers provide. The drivers’ services are
15 fully integrated into DoorDash’s business, and without the drivers, DoorDash’s business would
16 not exist.

17 11. However, based on their misclassification as independent contractors, DoorDash
18 has required drivers to bear many of the expenses of their employment, including expenses for
19 their vehicle, gas, parking, phone data, and other expenses.

20 **V. PAGA REPRESENTATIVE ACTION ALLEGATIONS**

21 12. On August 13, 2015, Plaintiff Marciano gave written notice of DoorDash’s
22 violations of various provisions of the California Labor Code as alleged in this complaint to the
23 Labor and Workforce Development Agency (“LWDA”) as well as to DoorDash.

24 13. More than thirty-three days have lapsed since the LWDA was notified of the
25 Labor Code violations asserted in this Complaint, and the LWDA has not provided any notice
26 that it will or will not investigate the alleged violations. See Cal. Lab. Code § 2699.3(a)(2)(A).
27

1 § 226(a).

2 18. Plaintiff Marciano complied with the notice requirement of Cal. Lab. Code
3 § 2699.3 and mailed a written notice to the California Labor & Workforce Development Agency
4 (“LWDA”), and Defendant via Certified Mail, return receipt requested, on August 13, 2015. It
5 has been 33 days or more since the LWDA was notified of the Labor Code violations asserted in
6 this Complaint, and the LWDA has not provided any notice that it will or will not investigate the
7 alleged violations.
8

9
10 WHEREFORE, Plaintiff requests that this Court enter judgment in her favor on her
11 PAGA claim pursuant to Cal. Lab. Code § 2699(c); award pre- and post-judgment
12 interest; award reasonable attorneys’ fees, costs, and expenses; and award any other
13 relief to which the plaintiff may be entitled.

14
15 Respectfully submitted,

16 CYNTHIA MARCIANO,

17 By her attorneys,

18
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