

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

MEGAN SARLES)
2444 Fenwick Drive)
University Heights, Ohio 44118,)

Plaintiff,)

- vs -)

UBER TECHNOLOGIES, INC.)
c/o CT Corporation, Statutory Agent,)
1300 East 9th Street)
Cleveland, Ohio 44114,)

and)

RASIER, LLC)
c/o CT Corporation, Statutory Agent,)
1300 East 9th Street)
Cleveland, Ohio 44114,)

and)

KRISTAQ SHIPCKA)
8860 Eagle Road)
Kirtland, Ohio 44094,)

Defendants.)

CASE NO.

JUDGE:

COMPLAINT

Jury Demand Endorsed Hereon

NATURE OF THE ACTION, PARTIES, JURISDICTION, AND VENUE

1. Plaintiff brings claims for various breaches of duty of a common carrier under state common law against Defendant Uber Technologies, Inc. and Rasier, LLC, and claims for assault, battery, intentional infliction of emotional distress, and false imprisonment against Defendant Kristaq Shipcka. Each claim is premised on Defendants' tortious conduct as defined by the common law of Ohio. Plaintiff further seeks relief pursuant to R.C. 2307.60.

2. Plaintiff is a student at John Carroll University who resides at 2444 Fenwick Drive,

University Heights, Ohio in Cuyahoga County, Ohio.

3. Defendant Uber Technologies, Inc. is a Delaware corporation, headquartered in San Francisco, California and is authorized to conduct business and does conduct business in Ohio, including in Cuyahoga County. Defendant Rasier, LLC, is a Delaware limited liability company, also headquartered in San Francisco, California, authorized to conduct business and does conduct business in Ohio, including in Cuyahoga County. Rasier, LLC, is a wholly owned subsidiary of Uber Technologies, Inc. and holds itself out as “Uber.” Rasier, LLC, and Uber Technologies, Inc., are hereinafter collectively referred to as “Uber.” Uber operates an Uber Greenlight Hub at 1163 East 40th Street, #101, Cleveland, Ohio, 44114.

4. Uber “holds itself ‘out to the public as ready and willing to serve the public indifferently’” by undertaking “to transport persons ... from place to place, for hire.” *Kinder Morgan Cochin L.L.C. v. Simonson*, 5th Dist. No. 15 COA 044, 2016-Ohio-4647, 66 N.E. 3d 1176 at ¶ 33. It promotes itself as providing “always the ride you want,” and offering “the best way to get wherever you’re going,” as well as “everyday rides that are always smarter than a taxi.” Uber is a common carrier as defined by Ohio law.

5. Kristaq Shipcka (Shipcka) is a resident of Lake County who resides at 8860 Eagle Road, Kirtland, Ohio 44094.

6. This Court has jurisdiction over Plaintiff’s claims because they allege violations of state law and the amount in controversy exceeds \$25,000.00.

7. This Court has personal jurisdiction over the Defendants.

8. Plaintiff’s claims arose in Cuyahoga County. Venue is, therefore, proper in Cuyahoga County.

GENERAL ALLEGATIONS

9. Uber holds itself out as a common carrier committed to its riders' safety "before, during, and after every trip."

10. At all times relevant herein, Shipcka was a driver for, and an agent, servant and/or employee of Uber.

11. On or about March 18, 2016, Plaintiff was a passenger in a car operated by Shipcka, in his capacity as an Uber driver.

12. As Defendants were transporting Plaintiff to her intended destination, Shipcka sexually assaulted her. Shipcka's conduct was unprovoked and was committed while discharging his duties as an agent, servant and/or employee of Uber.

13. On or about November 30, 2016, Shipcka pleaded guilty to unlawful sexual conduct with a minor and abduction, charges which arose from his sexual assault on Plaintiff.

COUNT I

14. Plaintiff restates and re-alleges each of the previous paragraphs as if fully re-written herein.

15. Uber is a common carrier under the laws of the State of Ohio.

16. Uber has a non-delegable duty to carry its passengers safely and properly and to treat them respectfully.

17. Shipcka sexually assaulted Plaintiff while providing a ride as an agent, servant, and/or employee of Uber. Shipcka's conduct was intentional, willful, malicious, and in reckless disregard of Plaintiff's legal rights.

18. As a direct and proximate result of Shipcka's assault, Plaintiff has suffered and continues to suffer damages.

19. Uber is held to a strict responsibility for the assaults and insults of its agents, and therefore, is liable for Shipcka's assault on Plaintiff.

COUNT II

20. Plaintiff restates and re-alleges each of the previous paragraphs as if fully re-written herein.

21. At all times, Uber, as a common carrier, owed a duty to Plaintiff to exercise ordinary skill and care in hiring and/or contracting with its drivers. Uber has a history of sexual assaults perpetrated by its drivers. *See* Amended Complaint (Doc. 46) at ¶¶ 90–97, 136–39, 202–18, *Jane Doe 1, et al. v. Uber Technologies, Inc.*, Case No. 3:15-cv-04670-SI (U.S. Dist. Ct., N.D. Ca.); *Child Doe v. Uber Technologies, Inc.*, Case No. CL15-2215, Va. Cir. Court for the City of Virginia Beach; *Jane Doe v. Uber Technologies, Inc.*, Case No. 1:16-cv-03115-KMT (U.S. Dist. Ct., Colo).

22. Uber breached its duty of care in hiring and retaining Shipcka as a driver and was therefore, negligent in discharging its duties as a common carrier.

23. As a direct and proximate result of Uber's negligence, Plaintiff has suffered and continues to suffer damages.

COUNT III

24. Plaintiff restates and re-alleges each of the previous paragraphs as if fully re-written herein.

25. At all relevant times, there was an employment and/or agency relationship between Shipcka and Uber.

26. At all relevant times, Uber held out Shipcka, as its agent, possessing sufficient authority to transport Plaintiff on its behalf, to the public.

27. Plaintiff in good faith believed that Shipcka was acting as Uber's agent, servant and/or employee, who possessed authority to transport her on Uber's behalf.

28. At minimum, Shipcka was incompetent and unable to perform his duties and responsibilities for Uber as a common carrier.

29. Uber had actual or constructive knowledge of the incompetence of Shipcka.

30. Uber was negligent in the training, supervision and/or retention of Shipcka.

31. As a direct and proximate result of Uber's negligence, Plaintiff has suffered and continues to suffer damages.

COUNT IV

32. Plaintiff restates and re-alleges each of the previous paragraphs as if fully re-written herein.

33. Shipcka sexually assaulted Plaintiff and pleaded guilty to unlawful sexual conduct with a minor and abduction.

34. Shipcka willfully touched Plaintiff offensively and knew that his conduct would bring about harm to Plaintiff.

35. As a direct and proximate result of Shipcka's conduct, Plaintiff has suffered and will continue to suffer damages.

COUNT V

36. Plaintiff restates and re-alleges each of the previous paragraphs as if fully re-written herein.

37. Shipcka intentionally confined Plaintiff and deprived her of her liberty, without lawful privilege or justification, and without Plaintiff's consent.

38. As a direct and proximate result of Shipcka's conduct, Plaintiff has suffered and will continue to suffer damages.

COUNT VI

39. Plaintiff restates and re-alleges each of the previous paragraphs as if fully re-written herein.

40. Shipcka either intended to cause emotional distress or knew or should have known that his actions would result in serious emotional distress to Plaintiff.

41. Shipcka's conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community.

42. As a direct and proximate result of Shipcka's conduct, Plaintiff has suffered and will continue to suffer damages.

COUNT VII

43. Plaintiff restates and re-alleges each of the previous paragraphs as if fully re-written herein.

44. Shipcka engaged in criminal acts, which injured Plaintiff. Specifically, Shipcka violated R.C. 2907.04 (Unlawful Sexual Conduct with a Minor) and R.C. 2905.02 (A)(1) (Abduction) and pleaded guilty to committing those criminal acts.

45. As a direct and proximate result of Shipcka's criminal acts, Plaintiff has suffered and will continue to suffer damages.

46. Plaintiff is entitled to seek recovery for damages as a result of Shipcka's conduct

pursuant to R.C. 2307.60.

47. Shipcka engaged in these criminal acts in the course and scope of his employment and/or agency with Uber.

PRAYER FOR RELIEF

For the reasons stated above, Plaintiff respectfully requests the following relief:

- A. Compensatory damages, economic and non-economic, including, but not limited to, damages for pain and suffering, mental anguish, emotional distress, humiliation and inconvenience that she has suffered and continues to suffer in an amount in excess of \$25,000.00;
- B. Punitive damages in excess of \$25,000.00;
- C. Reasonable attorney's fees and the costs of this action; and
- D. All other relief in law or equity to which Plaintiff is entitled and the Court deems equitable, just, or proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues within this Complaint.

Respectfully submitted,

/s/ J. Michael Murray
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