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FILED
ALAMEDA COUNTY

APR 27 2017

CLERK OF THE SUPERIOR COURT

By [Signature]
DEPUTY

1 EDUARDO G. ROY (Bar No. 146316)
2 DANIEL C. QUINTERO (Bar No. 196492)
3 JOHN R. HURLEY (Bar No. 203641)
4 PROMETHEUS PARTNERS L.L.P.
220 Montgomery Street Suite 1094
San Francisco, CA 94104
Telephone: 415.527.0255

5 Attorneys for Plaintiff
6 FRIENDLY CAB COMPANY, INC.

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ALAMEDA**

10 FRIENDLY CAB COMPANY, INC., a
11 California corporation,

12 Plaintiff,

13 v.

14 UBER TECHNOLOGIES, INC., and DOES 1
15 through 20, inclusive,

16 Defendants.

Case No. **RG17858247**

COMPLAINT FOR:

1. **PREDATORY PRICING IN VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17043;**
2. **UNLAWFUL AND UNFAIR BUSINESS PRACTICES IN VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200, ET SEQ.**

JURY TRIAL DEMANDED

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1 Plaintiff Friendly Cab Co., Inc., ("Plaintiff" or "Friendly Cab") complains and alleges by and
2 through its attorneys, as follows:

3 **JURISDICTION AND VENUE**

- 4 1. This Court has personal and subject matter jurisdiction over all causes of action asserted herein.
5 2. Venue is proper in this county pursuant to Code of Civil Procedure § 393 (a) because the causes
6 of action alleged herein arose in whole or in part in the in which this court is located.

7 **PLAINTIFF**

- 8 3. Plaintiff Friendly Cab is a California corporation with its principal place of business in Oakland,
9 California. At all times alleged herein, Plaintiff is and was qualified to do business in the state of
10 California.
11 4. Friendly Cab is licensed to operate taxis in Alameda, Contra Costa and Santa Clara counties. In
12 Alameda County, Friendly Cab operates under the names Metro Cab, Yellow Cab and Friendly
13 Cab. In Contra Costa County, Friendly Cab operates under the names Greyline and Yellow Cab.
14 In Santa Clara County, Friendly Cab operates under the names Alpha Cab and Yellow Cab.
15 5. As a result of the anticompetitive conduct alleged herein, Friendly Cab has experienced a
16 substantial loss in ridership and revenue and has been damaged in an amount to be proven at
17 trial.

18 **DEFENDANTS**

- 19 6. At all relevant times, Defendant Uber Technologies, Inc. ("Uber"), was and is a Delaware
20 corporation registered and qualified to do business in California and with its principal place of
21 business in San Francisco, California.
22 7. Plaintiff is currently unaware of the true names and capacities of the defendants sued and DOES
23 1 through 20, inclusive, and therefore sues such defendants by fictitious names. Plaintiff will
24 amend this Complaint to allege said defendants' true names and capacities when they are
25 ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the
26 fictitiously named defendants are responsible for the unlawful acts and omissions alleged herein.

27 **GENERAL ALLEGATIONS**

- 28 8. Defendant Uber, founded in 2009, operates a transportation network through online and phone-

1 based applications. Uber operates the transportation network through the Uber software
2 application, which the company develops, markets and operates.

3 9. Through use of the application, users are able to request automobile-based transportation
4 provided by Uber drivers. Uber operates in every major metropolitan area in the state of
5 California.

6 10. Although drivers operate their own vehicles, Uber controls the process of requesting and paying
7 for rides through its software. Drivers must register with and be approved by Uber, Uber sets the
8 price for the transportation provided, and users pay Uber directly for the transportation provided.

9 11. Uber provides different tiers of service. Uber "Black" and "SUV" are the highest and most
10 expensive tiers of service available in the San Francisco Bay Area, utilizing luxury vehicles such
11 as high-end SUVs and luxury sedans.

12 12. Uber "Select" is a middle tier, utilizing late-model vehicles at the lower end of the luxury car
13 spectrum. Uber "X" and Uber "XL" are the lowest tier of service. The vehicles used are the
14 lower-end vehicles seating up to four passengers for Uber X and up to six passengers for Uber
15 XL. These service tiers compete directly with traditional taxi service. Uber began the Uber X
16 service in or about 2012.

17 13. Uber has priced its service below cost in order to capture market share and harm competition in
18 the state of California. In or about June 2013, Uber dropped the prices on Uber X to undercut
19 the cost of taxi service. Prior to this time, the cost of a ride through Uber X was generally higher
20 than a comparable ride in a taxi.

21 14. Subsequent to the price cut in or about June 2013, Uber has lost money on the Uber X service in
22 California because it charges less than its cost of providing the service. Despite losing money
23 after the June 2013 price cut, Uber has continued to periodically cut the price of Uber X and XL
24 at various times through and including 2016. As a result, beginning at some time in 2014, Uber
25 began paying its drivers more for rides than Uber charged the passengers for those rides.

26 15. As a result of providing service below cost, Uber is operating at a massive loss – an approximate
27 \$3 billion loss in 2016 on revenue of approximately \$5.5 billion. Nevertheless, Uber has
28 continued to charge less than the cost of providing service in order undercut and harm its

1 competition. Uber has raised approximately \$15 billion in private equity markets, allowing it to
2 subsidize and sustain losses while undercutting competition to drive them out of business.

3 16. When Uber has announced price cuts, its advertng has specifically compared the cost of
4 comparable Uber X trips and taxi trips, acknowledging that it directly competes with the taxi
5 industry and demonstrating its intent to undercut and harm the traditional taxi industry.

6 17. As a result of Uber's below-cost pricing, traditional taxi operators have been harmed through
7 loss of customers and fare revenue to Uber. Plaintiff Friendly Cab has seen large declines in
8 revenue since Uber began undercutting taxi fares through its predatory pricing.

9 **FIRST CAUSE OF ACTION**

10 **PREDATORY PRICING IN VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS**

11 **CODE § 17043**

12 18. Plaintiff realleges and incorporates by reference all paragraphs set forth above.

13 19. Plaintiff is informed and believes, and thereon alleges, that for at least the four years prior to the
14 date of this complaint, Uber has offered for sale and sold to customers, for whose dollars
15 Plaintiff competes, point-to-point ground transportation services in California at prices below
16 Uber's average total cost. This allegation is based on Uber's public statements regarding its
17 revenue and losses, as well as its conduct in cutting fares despite such losses.

18 20. Plaintiff is informed and believes, and thereon alleges, that Uber has engaged in this conduct for
19 the specific purpose of injuring and eliminating its competitors in the traditional taxi business,
20 including Plaintiff, as competitors and destroying competition for point-to-point ground
21 transportation in California. This allegation is based on Uber's acknowledgements of below-cost
22 pricing and subsidization of drivers and its public acknowledgments that it competes with
23 traditional taxis.

24 21. As a direct and proximate result of the conduct alleged herein, Plaintiff has been damaged
25 through loss of customers and revenue in an amount to be proved at trial, but far in excess of the
26 jurisdictional limit of this court.

27 22. Uber threatens to, and unless restrained will continue to, sell point-to-point ground transportation
28 in California to customers at prices below Uber's average total cost of providing same.

1 23. Wherefore Plaintiff prays for monetary and injunctive relief as set forth below.

2 **SECOND CAUSE OF ACTION**

3 **UNLAWFUL AND UNFAIR BUSINESS PRACTICES IN VIOLATION OF CALIFORNIA**
4 **BUSINESS & PROFESSIONS CODE § 17200, ET SEQ.**

5 24. Plaintiff incorporates and re-alleges all other paragraphs as if fully set forth herein.

6 25. The conduct of Uber alleged herein constitutes unlawful and unfair business practices in
7 violation of the California Unfair Competition Law ("UCL"), Bus. & Prof. Code §17200, *et seq.*,
8 in that the unlawful predatory pricing alleged herein also constitutes unlawful and unfair
9 business practices under the UCL.

10 26. As a direct and proximate result of the conduct alleged herein acts, Plaintiff has been injured and
11 suffered the loss of money or property in the form of lost revenue.

12 27. Uber threatens to, and unless restrained will continue to, engage in the conduct alleged herein.

13 28. Wherefore Plaintiff prays for injunctive relief as set forth below.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff requests of this Court the following relief:

- 16 a. Damages in an amount to be proven at trial;
- 17 b. Trebling of damages pursuant to Business & Professions Code § 17082;
- 18 c. Attorneys fees pursuant to Business & Professions Code § 17082 or as otherwise
19 authorized by law;
- 20 d. Appropriate injunctive relief barring Uber from engaging in predatory pricing as alleged
21 herein;
- 22 e. Costs of suit;
- 23 f. Interest at the legal rate; and,
- 24 g. Such other and further relief as the Court may deem appropriate.
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1 **DEMAND FOR JURY TRIAL**

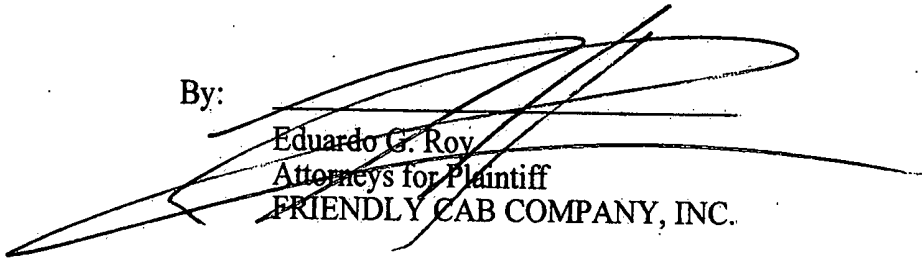
2 Plaintiff hereby demands a trial by jury on all claims so triable.

3 DATED: April 26, 2017

4 Respectfully submitted,

5 PROMETHEUS PARTNERS L.L.P.

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7 By:

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9 Eduardo G. Roy
10 Attorneys for Plaintiff
11 FRIENDLY CAB COMPANY, INC.
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