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FILED
San Francisco County Superior Court
MAY 11 2017
CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

8 Attorneys for Petitioners
9 CITY AND COUNTY OF SAN FRANCISCO,
SAN FRANCISCO TREASURER JOSÉ CISNEROS, and
10 SAN FRANCISCO TAX COLLECTOR DAVID AUGUSTINE

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN FRANCISCO
14 UNLIMITED JURISDICTION

15 CITY AND COUNTY OF
SAN FRANCISCO, SAN FRANCISCO
16 TREASURER JOSÉ CISNEROS, and
SAN FRANCISCO TAX COLLECTOR
17 DAVID AUGUSTINE,

18 Petitioners,

19 vs.

20 UBER TECHNOLOGIES, INC.,

21 Respondent.

Case No.

CPF-17-515663

**VERIFIED PETITION FOR AN ORDER
TO REQUIRE UBER TECHNOLOGIES, INC.
TO DISCLOSE DRIVER CONTACT
INFORMATION TO THE
SAN FRANCISCO TAX COLLECTOR**

1 Petitioners CITY AND COUNTY OF SAN FRANCISCO (“San Francisco”),
2 SAN FRANCISCO TREASURER JOSÉ CISNEROS (the “Treasurer”) and SAN FRANCISCO TAX
3 COLLECTOR DAVID AUGUSTINE (the “Tax Collector”) hereby petition this Court 1) if necessary,
4 to issue an order requiring Respondent UBER TECHNOLOGIES, INC. (“Uber”) to appear before this
5 Court and show cause, if any there be, why Uber should not be ordered to obey and comply with a
6 subpoena issued by the San Francisco Tax Collector pursuant to San Francisco Business and Tax
7 Regulations Code section 6.4-1(f) and, after Uber has had an opportunity to respond; 2) issue an order
8 requiring Uber to comply with the Tax Collector’s subpoena.

9 1. Petitioner San Francisco is a municipal corporation existing under its Charter and the
10 laws of the State of California. Petitioner José Cisneros, in his official capacity as the San Francisco
11 Treasurer, and Petitioner David Augustine, in his official capacity as San Francisco Tax Collector, are
12 officers of San Francisco with authority to enforce San Francisco’s Business and Tax Regulations
13 Code. Petitioners reside within the City and County of San Francisco for venue purposes.

14 2. Respondent Uber is a Delaware Corporation with its principal place of business in
15 San Francisco, California. Uber is registered to do business in California with the Secretary of State.
16 Uber and its drivers have been doing a large volume of business in the City and County of
17 San Francisco for several years.

18 3. Uber is a Transportation Network Company (“TNC”). Uber provides a computer-based
19 application (“App”) that connects passengers and drivers. Uber passengers use the Uber App to
20 connect with Uber drivers and arrange for rides from them. Uber passengers then pay fees to Uber
21 drivers, which fees are processed by Uber using the Uber App. Tens of thousands of drivers use the
22 Uber App to do business in San Francisco. These drivers pick up and drop off paying passengers in
23 San Francisco, and drive paying passengers through San Francisco on their way to nearby destinations
24 (for example, the San Francisco International Airport).

25 4. Under Article 6 of the San Francisco Business and Tax Regulations Code
26 (“SFB&TRC”), the Tax Collector has a duty to “collect and receive the taxes imposed by the Business
27 and Tax Regulations Code.” (SFB&TRC § 6.3-1.) The Tax Collector has the authority to investigate
28

1 possible non-compliance with the Business and Tax Regulations Code. (*Id.* § 6.4-1.) Specifically, the
2 Tax Collector:

3 may order any person or persons, whether taxpayers, alleged taxpayers,
4 witnesses, or custodians of records, to produce all books, papers, and records
5 which the Tax Collector believes may have relevance to enforcing compliance
6 with the provisions of the Business and Tax Regulations Code for inspection,
7 examination, and copying at the Tax Collector's Office during normal business
8 hours.

9 (*Id.* § 6.4-1(c).) The Tax Collector is authorized to “issue and serve subpoenas to carry out these
10 provisions.” (*Id.* § 6.4-1(f).)

11 5. Pursuant to the authority described above, the Tax Collector has periodically requested
12 information from Uber in an effort to identify Uber drivers who are doing business in San Francisco.
13 In August, 2014, the Tax Collector requested such information for the calendar years 2011, 2012 and
14 2013. Uber provided certain driver information for those years to the Tax Collector in January 2015.
15 Uber provided Excel spreadsheets listing the names, addresses, and amounts earned by certain drivers
16 for each of those calendar years. The number of drivers listed by Uber steadily increased.

17 6. The Tax Collector subsequently requested Uber driver information for the calendar
18 years 2014 and 2015. In a letter dated September 25, 2015, the Tax Collector asked Uber to provide
19 identifying information on any of its drivers who provided transportation and delivery services “during
20 each of the calendar years 2014 and 2015, where any part of the trip occurred in San Francisco.”
21 Uber again complied, and provided name and address information for certain drivers for 2014 and
22 2015. The number of drivers listed by Uber again increased each year. In June 2016, the Tax
23 Collector requested year to date information for Uber drivers for 2016. In July 2016, Uber submitted
24 year to date name and address information for certain drivers for 2016.

25 7. Based in part on the information previously provided by Uber for the 2015 calendar
26 year, the Tax Collector mailed letters to 31,583 TNC drivers in April 2016. These letters explained
27 the requirements that apply to drivers who do business in San Francisco, including the requirement to
28 obtain a San Francisco Business Registration Certificate. These letters also assigned a unique
“correspondence ID” number to each driver for tracking purposes, as is explained further below.

1 In June 2016, the Tax Collector mailed out 27,379 follow up letters to TNC drivers who had not
2 responded to the April letter.

3 8. In August 2016, the Tax Collector mailed letters to 22,287 TNC drivers based in part
4 on year to date information that Uber had previously provided for 2016. The Tax Collector's Office
5 used its best efforts to remove any drivers who had already received letters in April 2016, based on
6 2015 data, from the list of drivers who received letters in August 2016 based on 2016 data.

7 9. The Tax Collector's 2016 letters explained that, with some exceptions, drivers who
8 earn money driving in San Francisco on seven or more days in any calendar year are required to obtain
9 a Business Registration Certificate from the Treasurer. (San Francisco Business and Tax Regulations
10 Code ["SFB&TRC"] § 6.2-12(g) [any person who "performs work or renders services within the City
11 for all or part of any seven days during a tax year" is subject to the Gross Receipts Tax and the
12 Business Registration Ordinance] and SFB&TRC §§ 853, 856 [requiring Registration Certificate].)
13 Drivers can register online on the Treasurer's website, <http://sftreasurer.org/registration>. Drivers
14 typically pay annual fees of \$91 to obtain a Business Registration Certificate.

15 10. Alternatively, as the Tax Collector's 2016 letters also explained, a driver can avoid the
16 San Francisco business registration requirement by filing out a "Declaration of Non-Registration for
17 TNC Drivers." That form is also available on the Treasurer's website at
18 www.sftreasurer.org/inactivetnc, which redirects to [https://newbusiness.sfgov.org/AppNet/
19 UnityForm.aspx?key=UFSessionIDKey](https://newbusiness.sfgov.org/AppNet/UnityForm.aspx?key=UFSessionIDKey)). If appropriate, a driver can use this form to submit a
20 declaration, under penalty of perjury, that he or she: 1) is not required to register because the driver
21 was never engaged in business in San Francisco or was so engaged but is no longer; 2) is not required
22 to register because the driver operates solely as an employee rather than as an independent contractor;
23 or 3) is already registered. In order to fill out a Declaration of Non-Registration for TNC Drivers, a
24 driver must provide the unique "correspondence ID" number that was previously assigned by the Tax
25 Collector, and which was included in the 2016 letters.

26 11. Through the April and August 2016 mailings combined, the Tax Collector has
27 attempted to notify 53,870 TNC drivers of their duty to obtain a Business Registration Certificate if
28 they intend to do business in San Francisco. About 19,200 TNC drivers have obtained a Business

1 Registration Certificate from San Francisco. Another 12,000 drivers filled out Declarations of Non-
2 Registration for TNC Drivers in response to the 2016 letters, stating that they did not or were no
3 longer driving in San Francisco, considered themselves employees, or had already registered. That
4 leaves over 27,000 drivers who have not responded to the 2016 letters by either registering or filling
5 out a Declaration of Non-Registration.

6 12. In December 2016, the Tax Collector requested that Uber submit updated data for the
7 second half of 2016. Uber's outside counsel indicated that Uber would not comply with this request in
8 response to a demand letter.

9 13. On January 26, 2017, the Tax Collector issued a subpoena to Uber demanding that
10 Uber produce the following information for the period of July 1, 2016 through December 31, 2016:

11 Please provide data identifying all drivers that use/used the technology of Uber
12 Technologies, Inc. or any related entity (collectively, "Uber") to provide
13 transportation or delivery services during the period July 1, 2016 through
14 December 31, 2016, where any part of the trip occurred in San Francisco. For
each driver, please provide the driver's most recent contact information (name,
mailing address, street address if different, and driver's license number). Please
provide the data in Microsoft Excel format if available, or in native format.

15 A true and correct copy of the January subpoena to Uber is attached as Exhibit A [hereinafter, "the
16 January Subpoena"].

17 14. On February 17, 2017, Uber objected to the January subpoena. A true and correct copy
18 of Uber's objection to the January Subpoena is attached hereto as Exhibit B. In subsequent meet and
19 confer discussions, Uber's outside counsel requested that San Francisco consider limiting the
20 subpoena so that it only sought information on drivers who had driven in San Francisco for seven or
21 more days during the period in question. Without waiving its right to seek more complete data in
22 future subpoenas, San Francisco agreed to do so.

23 15. Given the passage of during the parties' meet and confer discussions, San Francisco
24 withdrew the January Subpoena and issued a new subpoena on March 20, 2017 ("the Subpoena").
25 At Uber's request, the Subpoena was limited to seeking identifying information on those Uber drivers
26 who had driven in San Francisco on seven or more days during the period of July 1, 2016 through
27 March 31, 2017. Specifically, the Subpoena requested that Uber:
28

1 Please provide data identifying all drivers that use/used the technology of Uber
2 Technologies, Inc. or any related entity (collectively, "Uber") to provide
3 transportation or delivery services during the period July 1, 2016 through
4 March 31, 2017, where for seven or more days during that period any part of the
5 trip occurred in San Francisco. For each driver, please provide the driver's most
6 recent contact information (name, mailing address, street address if different,
7 and driver's license number). Please provide the data in Microsoft Excel format
8 if available, or in native format.

9 A true and correct copy of the Subpoena is attached as Exhibit C. The Subpoena specified a return
10 date of either April 27, 2017 (if by mail or overnight delivery) or May 1, 2017 (if in person).

11 16. The Subpoena was served on Uber's outside counsel by email on March 20, 2017.
12 Uber's outside counsel confirmed that they were authorized to accept service of the subpoena by email
13 in a subsequent email dated April 11, 2017.

14 17. On April 27, 2017, Uber served its responses and objections to the Subpoena on
15 San Francisco. A true and correct copy of those responses and objections is attached hereto as
16 Exhibit D. In a conversation on May 1, 2017, Uber's outside counsel stated that Uber would not
17 voluntarily comply with the Subpoena. On that same day, Uber filed a Petition to Quash the
18 Subpoena. (San Francisco Superior Court Case No. CPF-17-515627.)

19 18. San Francisco has a legitimate need for the information it has requested from Uber.
20 San Francisco needs this information to determine whether Uber's drivers are complying with
21 San Francisco's Business Registration Certificate requirement and paying annual registration fees.
22 San Francisco also needs this information to determine whether drivers who previously filed
23 Declarations of Non-Registration are nevertheless still doing business in San Francisco.

24 19. Uber's refusal to provide current data on its drivers makes it impossible for the
25 Tax Collector to issue correspondence ID numbers to them for 2017. Uber's refusal therefore prevents
26 all Uber drivers who did not receive a letter from the Tax Collector in 2016 from filling out a
27 Declaration of Non-Registration for TNC Drivers.

28 20. All non-public data submitted by Uber in response to the Subpoena will be treated as
confidential taxpayer data. The Tax Collector will resist any request for a disclosure of non-public
data submitted to it by Uber on that basis. (See SFB&TRC section 6.22-1(a) ["any information the

1 Tax Collector learns about a taxpayer's business from the taxpayer or in response to the Tax
2 Collector's request for information" is confidential].)

3 21. The Tax Collector does plan to use the information sought in the Subpoena to contact
4 Uber drivers and notify them about the requirements for doing business in San Francisco. These
5 contact letters will likely be similar to the letters the Tax Collector sent out in 2016. They will inform
6 drivers of San Francisco's Business Registration Certificate requirements, and also of the opportunity
7 for drivers to instead submit a Declaration of Non-Registration for TNC Drivers if they meet the
8 requirements for doing so. A true and correct copy of the form that was used for the April 2016 notice
9 letters is attached hereto as Exhibit E.

10 22. All drivers who choose to obtain a Business Registration Certificate will have their
11 name and address information listed in San Francisco's public business registration data-base. In this
12 respect, drivers who register are treated the same as all other people or entities who obtain Business
13 Registration Certificates in San Francisco. (See SFB&TRC § 853 [requiring Business Registration
14 Certificate to be posted conspicuously at the person's place of business, and thereby making public all
15 information on the face of a Business Registration Certificate].) However, a driver may use a business
16 address or Post Office Box as their address for their Business Registration Certificate.

17 23. It is important for Uber drivers who are doing business in San Francisco to register
18 here, just as all other business operating in San Francisco are required to do. By registering, business
19 owners provide consumers with access to basic information about their businesses. This allows
20 consumers to verify that a particular business operating in San Francisco has registered to do business
21 here. Registration also allows consumers to contact business owners in the event of a dispute. For
22 these reasons, the Office of the Treasurer and Tax Collector works diligently in an effort to ensure that
23 all businesses that are operating in San Francisco obtain a Business Registration Certificate.

24 24. San Francisco Business and Tax Regulations Code section 6.4-1(f), California Code of
25 Civil Procedure sections 1986(c) and 1991, and California Government Code sections 37104-37109
26 confer jurisdiction upon this Court to order Uber to comply with the Tax Collector's Subpoena.

1 25. Prior to filing this Petition, counsel for San Francisco contacted Uber's outside counsel.
2 Uber's outside counsel agreed to a briefing schedule and a hearing date of June 22, 2017, for a motion
3 by San Francisco to compel compliance with the Subpoena.
4

5 WHEREFORE, San Francisco and its Treasurer and Tax Collector pray that:

- 6 1. If necessary, the Court issue an order requiring Respondent Uber to appear before this
7 Court and show cause, if any there be, why Uber should not be ordered to comply with the Tax
8 Collector's Subpoena;
- 9 2. The Court issue an order requiring Respondent Uber to obey and comply with the Tax
10 Collector's Subpoena;
- 11 3. The Court award San Francisco its costs of bringing this Petition; and
- 12 4. The Court grant such other order or relief that the Court considers just and proper.
13

14 Dated: May 11, 2017

DENNIS J. HERRERA
City Attorney
JEAN H. ALEXANDER
Chief Tax Attorney
OWEN J. CLEMENTS
SCOTT M. REIBER
Deputy City Attorneys

15
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19 By: 
OWEN J. CLEMENTS

20 Attorneys for Petitioners

21
22 CITY AND COUNTY OF SAN FRANCISCO,
23 SAN FRANCISCO TREASURER JOSÉ CISNEROS,
24 and SAN FRANCISCO TAX COLLECTOR DAVID
25 AUGUSTINE
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VERIFICATION

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2 I, DAVID AUGUSTINE, certify and declare as follows:

3 I am the Tax Collector for the City and County of San Francisco. I am authorized to execute
4 this verification on behalf of San Francisco. I have read the foregoing Verified Petition For An Order
5 To Require Uber Technologies, Inc. To Disclose Driver Contact Information To The San Francisco
6 Tax Collector, to which this verification is attached, and know its contents. Based on review of
7 information available to me and on my personal knowledge of the matters set forth therein, I am
8 informed and believe that the matters stated in the Verified Petition are true and, on that basis, allege
9 that said matters are true.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing is
11 true and correct. Executed on May 10, 2017 at San Francisco, California.

12
13 
14 DAVID AUGUSTINE