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San Francisco County Superior Court

MAY 01 2017

Attorneys for Petitioner Uber Technologies, Inc.

CLERK OF THE COURT
BY: [Signature]
Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

SPF-17-515627

UBER TECHNOLOGIES, INC.,

Petitioner,

v.

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE TREASURER-TAX
COLLECTOR,

Respondent.

Case No.

**UBER TECHNOLOGIES, INC.'S
PETITION TO QUASH TAX
COLLECTOR'S SUBPOENA FOR
DRIVER INFORMATION**

DAVIS WRIGHT TREMAINE LLP

FAXED

1 Petitioner Uber Technologies, Inc. ("Uber") hereby petitions this Court to issue an order
2 quashing the subpoena issued by Respondent the Tax Collector of the City and County of San
3 Francisco ("Tax Collector") pursuant to section 6.4-1 of the San Francisco Business and Tax
4 Regulations Code.

5 1. Petitioner Uber is a corporation headquartered in San Francisco, California. Uber
6 is registered to do business in California with the Secretary of State and has been doing business
7 in the City and County of San Francisco since approximately 2009.

8 2. Uber is a ride-sharing transportation platform allowing passengers to connect with
9 partner drivers.

10 3. Respondent is the Tax Collector of the City and County of San Francisco.

11 4. In February 2017, the Tax Collector issued and served a subpoena on Uber
12 demanding that Uber produce the following information:

13 Please provide data identifying all drivers that use/used the technology of
14 Uber Technologies, Inc. or any related entity (collectively, "Uber") to
15 provide transportation or delivery services during the period July 1, 2016
16 through December 31, 2016, where any part of the trip occurred in San
17 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.

18 A true and correct copy of the subpoena is attached as Exhibit A. The subpoena specified a
19 response date of either February 17, 2017, if the requested records described in Exhibit A were
20 produced with a completed declaration of a custodian of records, or February 21, 2017, if
21 appearing in person.

22 5. On February 17, 2017, Uber served objections and requested a meet and confer
23 with the Tax Collector.

24 6. On February 23, 2017, Uber conducted a meet and confer with the Tax Collector.
25 Uber proposed that the subpoena be modified in numerous ways, including, (1) limiting to drivers
26 that the Tax Collector suspected were not in compliance; (2) limiting to drivers that the Tax
27 Collector had not already contacted about registration; (3) excluding drivers who are already in
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1 compliance; and (4) providing notice to the affected drivers and providing an opportunity for
2 them to object. Uber also requested a stay of enforcement of the subpoena until the Legislature
3 considers Uber's proposed rule permitting drivers to register in one city and obtain reciprocity
4 with others. The Tax Collector declined these proposals. Further, through the meet and confer
5 process, Uber learned that the Tax Collector intends to reissue the subpoena every six or nine
6 months.

7 7. Following another meet and confer on March 16, 2017, the Tax Collector issued a
8 revised subpoena on Uber. While the Tax Collector characterized this updated subpoena as an
9 "accommodation" to Uber's request to narrow the scope of the original subpoena, the revised
10 subpoena suffers from the same issues as the original subpoena. The only difference between the
11 original subpoena and the revised subpoena is that the revised subpoena modified the applicable
12 date range for the requested information from July through December 2016 to July 2016 through
13 March 2017 and clarified that the individuals the subpoena applied to were drivers who provided
14 "transportation of delivery services . . . for seven or more days . . . [where] any part of the trip
15 occurred in San Francisco." This alleged "accommodation" of Uber's request "limiting" the
16 scope of the subpoena was also with the limitation that it was "without prejudice to [the Tax
17 Collector's] right to ask for full data for subsequent periods." Thus, the revised "narrower"
18 subpoena does not represent a genuinely narrowed subpoena. A true and correct copy of the
19 revised subpoena is attached as Exhibit B. The revised subpoena specifies a response date of
20 either April 27, 2017, if the requested records described in Exhibit B are produced with a
21 completed declaration of a custodian of records, or May 1, 2017, if appearing in person.

22 8. On April 27, 2017, Uber served objections. Uber subsequently notified the Tax
23 Collector that it would not comply with the subpoena.

24 9. The subpoena is improper and unreasonable for a number of reasons, including,
25 but not limited to, (1) under both administrative subpoena and civil discovery standards, it is
26 overbroad, not relevant, burdensome and oppressive; (2) it exceeds the scope of the Tax
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Collector's authority; (3) it violates Fifth Amendment takings principles; and (4) it violates the drivers' privacy rights and fundamental due process.

10. For the reasons stated above, the Tax Collector's subpoena should be quashed.

WHEREFORE, Uber prays that:

1. The Court quash the subpoena entirely (or modify the subpoena such that production of information requested in the subpoena is sufficiently tailored and drivers are permitted notice and the opportunity to object to the subpoena);

2. The Court award Uber its fees and costs of bringing this Petition; and

3. The Court grant such other order or relief that the Court considers just and proper.

DATED: May 1, 2017

Respectfully Submitted,
DAVIS WRIGHT TREMAINE LLP

By: 

Sanjay M. Nangia

Attorneys for Petitioner
Uber Technologies, Inc.

VERIFICATION

I, Dalene Bramer certify and declare as follows:

I am Senior Counsel for Uber Technologies, Inc. ("Uber"). I am authorized to execute this verification on behalf of Uber. I have read the foregoing Petition to Quash Tax Collector's Subpoena for Driver Information, to which this verification is attached, and know its contents. Based on review of information available to me and on my personal knowledge of the matters set forth therein, I am informed and believe that the matters stated in the Petition are true and, on that basis, allege that said matters are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 1st, 2017.



Dalene Bramer