

Superior Court of California

County of Orange



Case Number : 30-2018-01009853-CU-NP-CJC

Copy Request: 3766448

Request Type: Case Documents

Prepared for: cns

Number of documents: 1

Number of pages: 20

1 F. EDIE MERMELSTEIN, (SBN: 248941)
2 **FEM LAW GROUP**
3 18811 Huntington Street, Suite 240
4 Huntington Beach, California 92648
5 Telephone: (714) 596-0137
6 Facsimile: (714) 841-8810

7 **DARREN PIROZZI (SBN:156890)**
8 **GREG RIZIO (SBN:157008)**
9 **RIZIO LAW FIRM**
10 2677 N Main St., Suite 225
11 Santa Ana, CA92705-6695
12 Telephone: (714) 547-1234
13 Facsimile: (714) 547-1245

14 Attorneys for Plaintiff JANE DOE, an
15 individual

16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF ORANGE**

19 JANE DOE, an individual,
20 Plaintiff,

21 v.

22 UBER TECHNOLOGIES, INC.;
23 RAISER, LLC; LAURO DOE No. 1 and
24 DOES 2-50,
25 Defendants.

CASE NO. 30-2018-01009853-CU-NP-CJC

COMPLAINT Judge Frederick P. Horn

JURY TRIAL DEMANDED

- (1) Negligent Hiring, Supervision And Retention;
(2) Sexual Battery;
(3) Common Carrier Negligence;
(4) Intentional Misrepresentation;
(5) Negligent Misrepresentation; and
(6) Violation of Civil Code § 51.7
(7) Violation of Civil Code § 52.4
(8) Intentional Infliction of Emotional Distress

DEMAND FOR JURY TRIAL

26
27 //

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
08/02/2018 at 03:59:03 PM
Clerk of the Superior Court
By Isia Vazquez, Deputy Clerk

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMPLAINT

Plaintiff, Jane Doe, by and through undersigned counsel F. Edie Mermelstein, as and for her Complaint against Defendant UBER Technologies, Inc., (“UBER”); Raiser, LLC (“Raiser”) (Collectively “Uber”); Lauro Doe No. 1 (“Lauro”) and DOES 2-50 (collectively “Defendants”) hereby alleges as follows:

INTRODUCTION

1. The Uber Defendants provide transportation services to the public for compensation through its network of drivers, using an online-enabled smartphone application (the “Uber App”) to connect passengers with drivers. The unwitting public has been lulled into believing the common carrier UBER is a safe means of transportation, when the Uber App is little more than a virtual hitch-hiking thumb that comes with most of the stranger dangers associated with traditional hitch-hiking.

2. The Uber App can be downloaded by anyone with a smartphone. Anyone can create an Uber account for use on the Uber App with a telephone number and email address. Anyone with the Uber App can hail an Uber driver by launching or opening the Uber App downloaded on a smartphone for *any* passenger. Once the Uber App is launched, the pick-up location is set on the smartphone and a request is sent out to the nearest available Uber drivers to pick-up the passenger(s) and take him/her or them to his/her or their desired destination.

3. For each passenger trip, the Uber Defendants control the financial transaction for the trip. When a ride is requested on the Uber App, UBER calculates the estimated fare based on location information from the GPS enabled mobile device, which is required for use of the Uber App. UBER receives the customer fare data and in turn

1 charges this standardized fare to the credit or debit card provided to UBER when the Uber
2 App is registered. The Uber Defendants pay the Uber driver’s portion of the fare to the
3 driver while retaining roughly a one-quarter percentage of every fare.
4

5 4. The core service provided by the Uber Defendants, passenger transportation,
6 has serious implications for the safety of UBER’s passengers, in particular, the inebriated
7 young women UBER directly targets.
8

9 5. UBER consistently markets itself to the general public as one of the best
10 options for a safe ride home after a night of drinking alcohol. UBER has even partnered
11 with Mother Against Drunk Driving (“MADD”) whereby UBER and MADD are
12 “Pledging to protect loved ones,” as featured in a video on the joint UBER/MADD
13 webpage. This joint webpage also features a large photograph of a young female passenger
14 with the title “Uber | MADD” followed by the Defendant’s catchphrase, “Get home safe.”
15

16 6. Uber also markets its safety features through its rider safety webpage. The
17 rider safety webpage features proclamations of “safe pickups” with “door-to-door service.”
18 This safety webpage also features a photograph of a young female, with a quote from the
19 young female declaring the safety benefits of using the Uber App. In approximately April
20 2016, Uber entered into a settlement agreement to stop fabricating the gross
21 misrepresentations about the depth of its background checks for drivers, but failed to
22 affirmatively implement any safeguards for the general public after being put on notice of
23 the problem of sexual predators relying on the Uber App to easily pick up their prey.
24

25
26 7. Although it may appear Uber invests in the safety of its passengers, Uber
27 fails to mention and warn its passengers of the serious danger its drivers present to
28

1 passengers, particularly young, intoxicated female passengers, the very demographic
2 targeted by Uber’s safety marketing campaigns. Uber sexual assaults are a pervasive
3 problem that Uber has been on notice of and continues to fail to implement technology-
4 based safeguards even though Uber is aware of the need to protect the general public, and
5 has the means to do so.

7 8. Plaintiff Jane Doe (“Plaintiff” or “Jane Doe”) files this action under a
8 pseudonym as she is a victim of sexual assault. Plaintiff proceeds in this manner to protect
9 her legitimate privacy rights as further disclosure would expose her to stigmatization and
10 invasion of privacy. Defendants are aware of the true legal name of Jane Doe, the
11 circumstances surrounding the claims set forth herein and with the service of the
12 complaint, Plaintiff will provide them with a separate notice of her true identity. Further,
13 in order to prevent unnecessary disclosure of Jane Doe’s identity and real name in the
14 public record, Plaintiff anticipates seeking concurrence from Defendants for entry into a
15 protective order.

18 9. Plaintiff is a female Uber passenger that Uber failed to warn and protect.
19 Jane Doe, was inebriated , but made the responsible decision not to drive her own car and
20 asked the bartender at the Republic Bar in Fullerton, California to hail an Uber to take
21 Plaintiff home safely when her Uber App was not available. Instead of being delivered
22 safely to her home, Jane Doe was sexually assaulted on her ride home when the driver of
23 the hailed Uber vehicle, without instruction or permission from Plaintiff, stopped the car in
24 an unknown neighborhood to Plaintiff. Upon stopping the vehicle, the Uber driver digitally
25 penetrated and performed cunnilingus on Doe against her will, and then forced her face
26
27
28

1 into his exposed penis, all while Doe continually begged the driver to take her to her
2 residence. After sexually assaulting Plaintiff, Plaintiff finally convinced Lauro to drop
3 Plaintiff off to her residence. Plaintiff then quickly entered her apartment whereshe lost
4 consciousness on her bed. As soon as she awoke, Plaintiff contacted the Fullerton Police
5 Department to report the sexual assault. Since the assault, Plaintiff has been experiencing
6 loss of sleep, anxiety, depression, inability to concentrate and other symptoms consistent
7 with rape trauma syndrome.
8

9
10 10. Defendant Uber and/or Raiser collected and retained a fee for the Uber trip
11 which resulted in a sexual assault against Plaintiff. Uber has marketed to young women
12 under the influence of alcohol with a known risk that the young women it markets to are
13 vulnerable to sexual assault as soon as they engage the Uber app. Uber failed to safeguard
14 Plaintiff even though Uber could have implemented technology to insure Plaintiff's safety.
15

16 11. As detailed herein, Uber's negligence, fraud, false advertising, misleading
17 statements, and other unlawful actions caused Plaintiff's sexual assault, which humiliated,
18 degraded, violated, and robbed Plaintiff of her dignity and personal safety. The depraved
19 attack on Plaintiff caused Plaintiff to suffer both physical and psychological harm from
20 which she may never fully recover.
21

22 ***PARTIES***

23 12. Jane Doe is an adult woman who is a citizen of California and currently
24 resides the City of Fullerton in the County of Orange.

25 13. Plaintiff is ignorant of the true names and capacities of defendants sued
26 herein as DOES 2 through 50, inclusive, and therefore sues said defendants by such
27 fictitious names. Plaintiff will amend this Complaint to allege their true names and
28

1 capacities when ascertained. Plaintiff believes that the fictitiously named defendants are
2 legally responsible in some manner for the occurrences, injuries and damages hereinafter
3 alleged. Doe defendants 2 through 25 were the agents or employees of other named
4 defendants and acted within the course and scope of said agency or employment, and Doe
5 defendants 26 through 50 are persons or entities whose capacities are unknown to plaintiff.

6 14. Plaintiff is informed and believes and thereon alleges that defendants were
7 the agents and employees of the other co-defendants and in doing the things alleged in this
8 complaint were acting within the course and scope of said agency and employment. In the
9 alternative, each defendant authorized, consented to and/or ratified the conduct of the
10 remaining defendants, and each of them.

11 15. Defendant Lauro Doe No. 1 (“Lauro”) is an Uber driver who at the time of
12 the incident was working for Uber in the Orange County area and is believed to be a
13 resident of Orange County.

14 16. Defendant Uber Technologies, Inc. (“UBER”) is a Delaware Corporation
15 with its principal place of business in San Francisco, California, and has drivers dispatched
16 throughout Orange County. UBER upon information, is believed to be a holding company
17 that manages corporate issues as well as research and development.

18 17. Defendant Raiser LLC (“Raiser”) is believed to be a wholly owned
19 subsidiary of Uber and is a front for Uber, collecting the income generated from the Uber
20 App, including income generated from Orange County, California.

21

22

JURISDICTION AND VENUE

23 18. This Court may exercise general personal jurisdiction over Defendants
24 consistent with the California and U.S. Constitution.

25 19. The Court has personal jurisdiction over Uber and Raiser because they are
26 headquartered in the State of California and they conduct business throughout California.

27 20. Venue is proper in Orange County Superior Court in that a substantial part of
28 the events and omissions giving rise to the claims occurred within Orange County,

1 including the Uber trip that led to the claims asserted here, as well as the marketing,
2 advertising, promotion, offering for sale, and sale of Uber’s services.

3 ***FACTUAL ALLEGATIONS***

4 **THE UBER DRIVER APPLICATION PROCESS**

5 21. Uber takes a mechanical, mostly automated, approach in its hiring of drivers.

6 22. In order to apply to become a driver, an applicant merely fills out a few short
7 forms online and uploads photos of a driver’s license, vehicle registration, and proof of
8 vehicle insurance.

9 23. At no point does any Uber employee verify that the applicant is uploading
10 his or her *own* driver’s license, vehicle registration, proof of vehicle insurance, or other
11 personal information.

12 24. At the time Lauro applied to be an Uber driver, Uber did not employ any
13 heightened service to perform background checks for their drivers. After minimal
14 information provided, Lauro became an employee or a *de facto* employee of Uber. Uber
15 controls the pricing and the payment to its drivers, has the right to terminate its drivers
16 with or without cause, Uber controls all the contacts with the customer base and requires
17 Uber drivers to send a text message to the awaiting customer within specified parameters.

18 25. The service Uber employed did not and does not perform adequate
19 background checks. Applicants were not required to submit fingerprints for comparison
20 against Department of Justice and Federal Bureau of Investigation databases. Rather, Uber
21 only had a service run an applicants’ purported social security numbers through records
22 databases which only check the driving and criminal history of the social security number
23 the applicant provided for a period going back seven years from the application date. Uber
24 does not require an in person verification process.

25 26. If an applicant was convicted of a sexual crime more than seven years prior
26 to applying to become an Uber driver, Uber would have no way of knowing this critical
27 information about the applicant. Likewise, Uber does not implement a means to verify
28 whether the applicant has provided accurate identification.

1 27. By its conduct, Uber takes the position that any violent or sexual crime
2 committed by an applicant that has occurred more than seven years ago has no bearing on
3 whether or not the applicant is suitable to become a driver or suitable to work during the
4 vulnerable midnight to 4:00 AM shift. Uber’s employee drivers are allowed to log on at
5 any time, day or night, giving drivers access to young, vulnerable inebriated women for
6 pick up in front of bars.

7 28. This application process is efficient and simple for Uber and the applicants,
8 and cuts down on associated costs. However, this application process does not ensure that
9 dangerous applicants are blocked from becoming Uber drivers, thus putting the public,
10 particularly female passengers, in grave danger.

11
12 **UBER’S PERPETRATION OF FRAUD AND MISREPRESENTATIONS**
13 **JANE DOE’S EXPOSURE**

14 29. Jane Doe was exposed to Uber’s marketing campaign which was targeted at
15 her demographic. Jane Doe read Uber’s safety messages, and received email chains
16 announcing Uber’s safety standards and believed that Uber would deliver her safely home
17 when she was too drunk to drive.

18 **UBER’S SAFETY WARRANTIES**

19 30. Uber’s website states under “Getting a Safe Ride” the following:

20 “Safe pickups
21 The Uber app automatically finds your location to
22 provide door-to-door service. That means you stay
23 safe and comfortable wherever you are until
24 your driver arrives.”

25 31. Uber is aware that violent predators including serial rapists have increasingly
26 impersonated Uber drivers and have preyed on unsuspecting young women leaving bars in
27 the late night, early morning hours. Uber has chosen not to implement any available
28 technological safety measures to prevent passengers, particularly young females leaving
bars after consuming alcohol, from being assaulted by its own drivers or others
impersonating an Uber driver.

1 **COMMON CARRIER NEGLIGENCE**

2 32. Uber states on its website the following message:

3 “Open to everyone, everywhere
4 All ride requests are blindly matched with the closest available
5 driver. So there is no discrimination based on race, gender, or
6 destination.”

7 33. Any person can schedule an Uber pick up for themselves or for any person.

8 You do not have to have the Uber app installed on your smartphone to get in an Uber
9 controlled vehicle. Uber is a common carrier subject to heightened duties to the general
10 public including Plaintiff.

11 **THE TERMS AND CONDITIONS OF THE UBER APP ARE NOT BINDING**

12 34. At all relevant times, including when Plaintiff downloaded the Uber App on
13 her smartphone, the Uber App did not require Plaintiff to open a link to the Terms and
14 Conditions.

15 35. At no point did the Uber App require that Plaintiff read the Terms and
16 Conditions. Upon the filing of this complaint, Plaintiff has not read Uber’s Terms and
17 Conditions.

18 36. The full Terms and Conditions were never emailed or otherwise delivered to
19 Plaintiff.

20 37. The Terms and Conditions contain unconscionable terms.

21 38. Uber claims that it retains the right to immediately terminate the Terms and
22 Conditions at any time for any reason and those contractual changes are effective once
23 posted on the Uber App.

24 39. Plaintiff was not provided conspicuous notice of the existence of the Terms
25 and Conditions when she downloaded the Uber App.

26 40. Plaintiff was not required to and Plaintiff did not review any of the Terms
27 and Conditions.

28 //

FIRST CAUSE OF ACTION

(Negligent Hiring, Supervision, and Retention)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

41. Plaintiff hereby incorporates all paragraphs above as though set forth fully herein.

42. Plaintiff alleges that at all times mentioned herein, Defendant Lauro was an agent and employee of Uber Defendants, and DOES 2 through 50, inclusive, and that Lauro performed the acts herein while in the course and scope of his agency and employment of said Defendants at the time of the subject incident. Moreover, Plaintiff contends said conduct was authorized, ratified, adopted and/or approved of by Defendants, and DOES 2 through 50, inclusive.

43. The employees and/or agents of Uber have a special relationship with Plaintiff, which imposes an affirmative duty to take reasonable steps to protect her from reasonably foreseeable risks of harm.

44. The employees and/or agents of Uber failed to use reasonable care in hiring and supervising their employees and/or agents who had actual and constructive knowledge and/or notice that the manner and means of hiring created a dangerous environment for the general public, including Plaintiff, and of Lauro’s propensity to commit such acts. Nonetheless Ubers’ employees and/or agents took no remedial steps to protect the public, including Plaintiff.

45. Defendants, and each of them, including Uber, hired Lauro as one of its drivers. Uber was Lauro’s employer at the time of the assault. Uber failed to adequately screen Lauro prior to hiring him.

46. Uber failed to adequately supervise Lauro during the ride in which Plaintiff was sexually assaulted by Lauro. Uber should have been able to identify an issue when the ride was not completed in a customary timeframe. Uber’s failure to supervise is the proximate cause of Plaintiff’s injury.

47. Uber owed Plaintiff and the general public a duty of reasonable care in the hiring, supervising, training, and supervision of its drivers. As a common carrier this duty

1 is heightened.

2 48. Uber breached that duty of care in the hiring, supervision and/or retention of
3 Lauro.

4 49. Lauro was unfit and incompetent to perform as an Uber driver, especially
5 during late night pick ups.

6 50. Uber knew or should have known that Lauro was a potential sexual predator
7 through background checks and references.

8 51. Lauro's incompetence and predatory behavior harmed Plaintiff.

9 52. Uber's negligence in hiring, supervising, and retaining Lauro was a
10 substantial factor in causing Plaintiff's harm.

11 **SECOND CAUSE OF ACTION**

12 **(Sexual Battery)**

13 53. Plaintiff hereby incorporates all paragraphs above as though set forth fully
14 herein.

15 54. As a driver for a common carrier, Defendant Lauro was in a position of trust,
16 influence and control of the trip. Defendant Lauro was an agent of Uber Defendants,
17 responsible for maintaining the special relationship with the general public. Defendant
18 Lauro's sexual abuse of Plaintiff was an abuse of his authority as an agent and/or
19 employee of Defendants. Defendants are liable for the acts, omissions and conduct of its
20 employees as a common carrier.

21 55. Plaintiff alleges that at all times mentioned herein, Defendant Lauro was an
22 agent and employee of Uber Defendants, and DOES 2 through 50, inclusive, and that
23 Defendant Lauro performed the acts herein while in the course and scope of his agency
24 and employment of said Defendants at the time of the subject incident. Moreover, Plaintiff
25 contends said misconduct was authorized, ratified, adopted and/or approved of by Uber
26 Defendants, and DOES 2 through 50, inclusive.

27 56. At the time of the incident described above and continuing to date,
28 Defendant Lauro sexually touched Plaintiff and intended to cause a harmful contact with

1 Plaintiff's person by groping her vagina, and forcing her to expose her naked body and
2 forcing penetration against her will.

3 57. Plaintiff did not consent to the unlawful touching.

4 58. Plaintiff was harmed and offended by Defendant Lauro's conduct.

5 59. Defendant Lauro's conduct was a direct and proximate cause of serious
6 injury to Plaintiff. Plaintiff is entitled to damages in an amount to be determined by proof
7 at trial.

8 60. Defendant Lauro's acts also constitute conduct intended by him to cause
9 injury to Plaintiff and despicable, malicious, and/or oppressive conduct that is carried on
10 with willful and conscious disregard for the rights and safety of others in direct violation of
11 Civil Code section 3294, subdivision (a). Plaintiff is, therefore, entitled to punitive
12 damages against Defendant Lauro in an amount to be determined by proof at trial.

13 **THIRD CAUSE OF ACTION**

14 **(Common Carrier Negligence)**

15 61. Plaintiff hereby incorporates all paragraphs above as though set forth fully
16 herein.

17 62. At all times herein, Defendant was careless, reckless, and negligent in its
18 actions and conduct, including but not limited to its operation and development of the Uber
19 application and its selection and oversight of its drivers so as to cause injuries, damages,
20 and losses alleged herein.

21 63. Common carriers must carry passengers safely, however Uber failed to carry
22 Plaintiff safely from the Republic Bar in Fullerton to her home as obligated.

23 64. Common carriers must use the highest care and vigilance of a very cautious
24 person, however Uber failed to utilize this standard as discussed in the paragraphs above.

25 65. Common carriers must do all that human care, vigilance, and foresight
26 reasonably can do under the circumstances to avoid harm to passengers including warning
27 passengers of the potential dangers of using the Uber's transportation services. Uber
28 defendants failed at warning Plaintiff of the inherent harm of its virtual hitch-hiking app.

1 where she was picked up to her destination and ensure the driver was taking the most
2 direct route to Plaintiff's destination, instead of allowing its driver to go off-route and
3 failing to maintain measures of ensuring the driver did not take an unreasonable amount of
4 time to complete the trip.

5 74. Defendant's false statements concerning its safety measures detailed herein
6 were made knowingly, or with a willful, wanton and reckless disregard for the truth, and
7 intended to deceive and defraud Plaintiff into agreeing to utilize Uber's services while
8 Plaintiff was in a vulnerable state.

9 75. Defendant made these misrepresentations with the intent to cause Plaintiff to
10 rely on this false information and induce her into utilizing Uber's services.

11 76. Plaintiff actually and reasonably relied on the false facts and
12 misrepresentations provided by Defendant when she agreed to utilize Uber's services, after
13 being continuously exposed to Defendant's representations that they would provide her
14 with safe passage to her destination.

15 77. As a result of Defendant's deliberate misrepresentations of material facts,
16 Plaintiff suffered significant damages.

17 78. Accordingly, Plaintiff is entitled to recovery against Defendant in an amount
18 to be determined at trial.

19 **FIFTH CAUSE OF ACTION**

20 **(Negligent Misrepresentation)**

21 79. Plaintiff hereby incorporates all paragraphs above as though set forth fully
22 herein.

23 80. Beginning at an exact date unknown to Plaintiff, but in any event within
24 three years of the filing of this complaint, and continuing to the present, Defendants, and
25 each of them, with the intent to perform services, or to induce members of the public,
26 including Plaintiff, to enter into obligations relating thereto, made or disseminated or
27 caused to be made or disseminated before the public, including Plaintiff, statements
28 concerning such services, or matters of fact connected with the performance thereof, which

1 were untrue or misleading, and which Defendant knew or reasonably should have known
2 were untrue or misleading. Such statements include but are not limited to all of the
3 representations set forth and discussed in paragraphs above. The misrepresentation of the
4 safety of utilizing the Uber App is a material fact.

5 81. Uber Defendants have made statements on its website regarding the safety of
6 the using the Uber application with no reasonable ground for believing the safety
7 representation as true.

8 82. The safety representations were positive assertions made by Uber with the
9 intent for Plaintiff and other young women leaving bars in an inebriated state to rely.

10 83. Plaintiff reasonably relied on Ubers safety representations and her reliance
11 was justified.

12 84. Plaintiff suffered injury and damages when she was sexually assaulted
13 during the Uber ride that was suppose to be a safe ride home.

14 **SIXTH CAUSE OF ACTION**

15 **(Freedom From Violence or Intimidation)**

16 **(California Civil Code § 51.7)**

17 85. Plaintiff hereby incorporates all paragraphs above as though set forth fully
18 herein.

19 86. As a driver for a common carrier, Defendant Lauro was in a position of trust,
20 influence and control of the trip. Defendant Lauro was an agent of Uber Defendants,
21 responsible for maintaining the special relationship with the general public. Defendant
22 Lauro's sexual abuse of Plaintiff was an abuse of his authority as an agent and/or
23 employee of Defendants. Defendants are liable for the acts, omissions and conduct of its
24 employees as a common carrier.

25 87. Plaintiff alleges that at all times mentioned herein, Defendant Lauro was an
26 agent and employee of Uber Defendants, and DOES 2 through 50, inclusive, and that
27 Defendant Lauro performed the acts herein while in the course and scope of his agency
28 and employment of said Defendants at the time of the subject incident. Moreover, Plaintiff

1 contends said misconduct was authorized, ratified, adopted and/or approved of by Uber
2 Defendants, and DOES 2 through 50, inclusive.

3 88. California Civil Code section 51.7 states that "all persons within the
4 jurisdiction of this state have the right to be free from any violence, or intimidation by
5 threat of violence, committed against their persons or property because of their sex."

6 89. At all times herein relevant, Defendant Lauro, during the course and scope of
7 his agency and employment with the Uber Defendants, made sexual advances towards
8 Plaintiff, sexually assaulted her, made sexual requests and demands for sexual compliance
9 by Plaintiff, and engaged in other acts of violence, or intimidation by threat of violence,
10 against Plaintiff because of her gender.

11 90. As a direct and proximate result of Defendant Lauro's conduct, Plaintiff has
12 suffered special damages in the form of lost earnings, benefits and/or out-of-pocket
13 expenses in an amount according to proof at the time of trial. As a further direct and
14 proximate result of Defendant Lauro's conduct, Plaintiff will suffer additional special
15 damages in the form of lost future earnings, benefits and/or other prospective damages in
16 an amount according to proof at the time of trial.

17 91. As a further direct and proximate result of Defendant Lauro's conduct,
18 Plaintiff has suffered mental and emotional pain, distress and discomfort, all to her
19 detriment and damage in the amounts not fully ascertained but within the jurisdiction of
20 this Court and subject to proof at the time of trial.

21 92. In engaging in the conduct alleged herein, Defendant Lauro acted
22 oppressively, maliciously, fraudulently, and/or outrageously toward Plaintiff, with
23 conscious disregard for her known right and with the intention of causing, and/or willfully
24 disregarding the probability of causing, unjust and cruel hardship to Plaintiff. In so acting,
25 Defendant Lauro intended to and did vex, injure and annoy Plaintiff. Therefore, an
26 assessment of punitive damages should be made against Defendants in an amount
27 sufficient to punish them and to prevent them from willfully engaging in future
28 discriminatory and/or retaliatory conduct.

1 93. Further, Plaintiff is entitled to civil penalty of \$25,000 pursuant to Civil
2 Code Section 52(b).

3 94. Plaintiff is entitled to costs and reasonable attorneys' fees pursuant to Civil
4 Code Section 52(b).

5 **SEVENTH CAUSE OF ACTION**

6 **(Civil Action for Damages Arising from Gender Violence)**

7 **(California Civil Code § 52.4)**

8 95. PLAINTIFF re-alleges and incorporates each and every allegation contained
9 above as if set forth herein.

10 96. In engaging in and performing the acts, omission, and conduct alleged above,
11 Defendant Lauro performed one or more of the following acts:

12 (a) One or more acts that would constitute a criminal offense under state law
13 that has as an element the use, attempted use, or threatened use of physical force against
14 the person or property of another, committed at least in part based on the gender of the
15 victim, whether or not those acts have resulted in criminal complaints, charges,
16 prosecution, or conviction.

17 (b) A physical intrusion or physical invasion of a sexual nature under
18 coercive conditions, whether or not those acts have resulted in criminal complaints,
19 charges, prosecution, or conviction.

20 97. In engaging in and performing the acts, omissions and conduct alleged
21 above, Defendant Lauro engaged in acts of gender violence and violated Plaintiff's rights
22 under California Civil Code § 52.4.

23 98. Defendant carried out his gender violence against Plaintiff while acting
24 within the scope of his employment and agency with the Uber Defendants. Moreover, the
25 Uber Defendants are "responsible parties" against whom Plaintiff may "bring a civil action
26 for damages" pursuant to section 52.4 of the Civil Code.

27 99. As an actual, legal and proximate result of the wrongful conduct of
28 Defendants, and each of them, Plaintiff has suffered an incurred damages for: (a) physical,

1 mental, and emotional injuries and emotional stress; (b) medical expenses; and (c) future
2 medical expenses.

3 100. Plaintiff is entitled to recover her attorney's fees pursuant to California Civil
4 Code § 52.4(a).

5 101. Plaintiff is entitled to and requests an award of punitive and exemplary
6 damages pursuant to California Civil Code § 3294(a) against Defendants because, as
7 alleged above, Defendants acted with, and were guilty of, oppression, fraud, and/or malice
8 and/or ratified such wrongful conduct.

9 102. Defendants are legally responsible for, and have a duty to pay, all of the
10 damages, punitive or exemplary damages, penalties, attorneys' fees, and costs set forth in
11 this cause of action.

12
13 **EIGHTH CAUSE OF ACTION**

14 **(Intentional Infliction of Emotional Distress)**

15 103. Plaintiff hereby incorporates all paragraphs above as though set forth fully
16 herein.

17 104. As a common carrier driver, Defendant Lauro was in a position of control of
18 the vehicle, trust, and persuasion over the Plaintiff, especially in Plaintiff's vulnerable
19 state. Defendant was an agent of Uber Defendants, responsible for the safe carriage of the
20 general public, specifically marketing their services to inebriated individuals, maintaining
21 this special relationship with the general public. Defendant Lauro's sexual abuse of
22 Plaintiff was an abuse of his authority and position as an agent and employee of Uber
23 Defendants and DOES 2 through 50, inclusive. Defendants are liable for the acts,
24 omissions and conduct of its employees as common carriers.

25 105. Plaintiff alleges that at all times mentioned herein, Defendant Lauro was an
26 agent and employee of Uber Defendants, and DOES 2 through 50, inclusive, and that
27 Defendant Lauro performed the acts herein while in the course and scope of his agency
28 and employment of said Defendants at the time of the subject incident. Moreover,

1 Plaintiffs contend said misconduct was authorized, ratified, adopted and/or approved of by
2 Uber Defendants, and DOES 2 through 50, inclusive.

3 106. At the time of the incident described above, Defendant Lauro's conduct as
4 alleged herein was beyond the bounds of decency accepted within society and was
5 intentional, outrageous, malicious, and committed for the purpose of causing Plaintiff to
6 suffer humiliation, embarrassment, mental anguish, and/or severe physical and/or
7 emotional distress, or done in reckless disregard of the probability of causing Plaintiff to
8 suffer humiliation, embarrassment, mental anguish, and/or severe physical and/or
9 emotional distress.

10 107. As a direct and proximate result of Defendant Lauro's conduct as herein
11 alleged, Plaintiff has suffered great mental pain, embarrassment, humiliation, distress
12 anguish and suffering, as damages in an amount according to proof at trial.

13 108. Defendant Lauro's acts in his position of control as a common carrier
14 constitute conduct intended by him to cause injury to Plaintiff and despicable, malicious,
15 and/or oppressive conduct that is carried on with willful and conscious disregard for the
16 rights and safety of others in direct violation of Civil Code section 3294, subdivision (a).
17 Plaintiff is , therefore, entitled to punitive damages against Defendant Lauro to be
18 determined by proof at trial.

19 ***PRAYER FOR RELIEF***

20 WHEREFORE, Plaintiff prays for judgment as follows:

- 21 1. For general damages in an amount according to proof;
- 22 2. For special damages in an amount according to proof;
- 23 3. For punitive damages in an amount according to proof;
- 24 4. For Attorney Fees and Costs;
- 25 5. For Statutory Remedies;
- 26 6. For legal interest on judgment from the filing of this Complaint to the date of
27 judgment;
- 28 8. For post-judgment interest at the legal rate;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

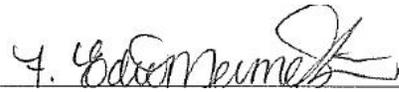
- 9. For costs of suit incurred herein;
- 10. For such further relief as justice may require, or as this Court deems necessary.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for all issues so triable.

Dated: August 2, 2018

FEM LAW GROUP

By: 
F. Edie Mermelstein
Attorneys for Plaintiff