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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Marc David, Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

KRISTIN FRANCISCO, an Individual;

Plaintiff,

vs.

UBER TECHNOLOGIES, INC., a Delaware
corporation; NAHN C. NGUYEN, an
Individual; and DOES 1 to 10, inclusive;

Defendants.

CASE NO. 37-2018-00057156-CU-NP-CTL

VERIFIED COMPLAINT FOR:

- 1) Assault**
- 2) False Imprisonment**
- 3) Negligent Hiring**
- 4) Negligent Supervision**

Unlimited Civil

As and for her Complaint against Defendants, UBER TECHNOLOGIES, a Delaware
corporation; NAHN C. NGUYEN, an Individual, and DOES 1 to 100, inclusive, Plaintiff,
KRISTIN FRANCISCO, by and through her attorney of record, Christopher L. Bauer, Esq., alleges
as follows:

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GENERAL ALLEGATIONS

1. Plaintiff, KRISTIN FRANCISCO (hereinafter "Plaintiff" or "FRANCISCO"), is and at all times mentioned hereafter was an individual residing in San Diego County, CA.

2. Upon information and belief, Defendant, NAHN C. NGUYEN (hereinafter "Defendant" or "NGUYEN") is and at all times mentioned hereafter was an individual residing in San Diego County, California, and is an employee and/or agent of Defendant, UBER TECHNOLOGIES, INC.

3. Upon information and belief, Defendant, UBER TECHNOLOGIES, INC. (hereinafter "UBER"), is and at all times mentioned hereafter was a Delaware corporation regularly transacting business in the State of California with its principal place of business in San Francisco, California.

4. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as DOES 1 to 100, inclusive, and therefore sues these Defendants by such fictitious names. Defendant will amend this Complaint to allege their true names and capacities when the same are ascertained. Plaintiff is informed and believes, and based upon such information and belief, alleges that each of the fictitiously named Defendants are responsible and undertook the obligations and duties alleged herein, and the Plaintiff's damages, as hereinafter alleged, were the result of the failures, acts and omissions, as hereinafter alleged, by each such Defendant.

5. Plaintiff is informed and believes, and based upon such information and belief, alleges that, at all times herein mentioned, Defendants, DOES 1 to 100, inclusive, and each of them, were the agents and/or employees of Defendants, and each of them, and that said named Defendant, and said Defendants, DOES 1 to 100, inclusive, were acting within the course and scope of said agency, service and employment.

6. Plaintiff is informed and believes, and based upon such information and belief,

1 alleges that, at all times herein mentioned, the acts complained of were authorized, ratified or
2 otherwise approved by Defendants, and each of them, and therefore, Defendants and each of
3 them are jointly and severally liable for all the acts complained of herein.

4 **JURISDICTION, VENUE AND REFERENCE AGREEMENT**

5 7. Jurisdiction and venue are proper in this Court in that the Plaintiff's residence is
6 located within San Diego County, and the conduct complained of also took place within San
7 Diego County.
8

9 **FACTS COMMON TO ALL CAUSES OF ACTION**

10 8. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 8
11 as though fully set forth herein.
12

13 9. On December 13, 2017, at approximately 8:00 p.m., Plaintiff, FRANCISCO,
14 ordered an "Uber ride" via the Uber Application on her cellular phone. The Uber Application
15 advertised that the driver, Defendant, NHAN C. NGUYEN ("NGUYEN"), was hard of hearing
16 and fluent in sign language.

17 10. Upon entering the vehicle, Plaintiff immediately noticed that NGUYEN was not,
18 in fact, hard of hearing at all. Instead, NGUYEN quickly began asking Plaintiff about her
19 relationship status and relationships, including her sexual history and experiences.
20

21 11. NGUYEN then began relating that he himself was a single man and that he was
22 "so happy" he was single because of "all the beautiful women in San Diego," including
23 Plaintiff. Plaintiff responded that she was married, to which NGUYEN replied, "That's okay,
24 doesn't matter."
25

26 12. A short time later, as the vehicle approached Plaintiff's home, Plaintiff observed
27 that NGUYEN was not slowing down or giving any indication that he intended to stop.

28 13. When NGUYEN drove past Plaintiff's home, she informed him that he had

1 passed her drop off location, which was now behind them. NGUYEN, however, replied, "It's
2 okay. I have hotel in El Cajon. I take you there and we have some fun."

3 14. Plaintiff demanded NGUYEN stop the car and let her out immediately, but he
4 continued driving.

5 15. Plaintiff then opened the door to the car and jumped out while the car was in
6 motion. She fell along the side of the road, jumped up immediately and ran to the nearest
7 house. Plaintiff then observed NGUYEN turn his car around to look for her, but she hid behind
8 one of her neighbor's gates and waited till he was gone. Plaintiff then ran home and locked the
9 door.
10

11 16. When she arrived home, Plaintiff told her husband, Michael, what had occurred.
12 Michael then immediately contacted Defendant, UBER, via email and relayed to them Plaintiff's
13 encounter with UBER's driver, NGUYEN.
14

15 17. The next day, Michael received an emailed response from UBER which stated the
16 following:

17 Under no circumstances should a driver act in a way that makes you
18 uncomfortable, whether that be flirting, making sexual comments, or
19 otherwise. **We take these types of incidents seriously and are looking further**
into this to determine if this rider will lose access to the Uber app.

20 We've also fully refunded your fare for this trip to compensate for the
21 inappropriate experience. This will apply to your original payment method in 3-5
22 business days. An updated receipt will be sent by email.

23 We appreciate you reaching out and sharing this feedback with us. Should you
24 still wish to speak with a member of our team upon receipt of this email, please
let us know the best time to contact you.

25 (emphasis added).

26 18. Neither Plaintiff nor her husband were ever notified of the results of UBER's
27 "investigation" into the incident.
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SECOND CAUSE OF ACTION

False Imprisonment

(against Defendant, NAHN C. NGUYEN)

25. Plaintiff repeats and realleges paragraphs 1 through 18 as though fully set forth herein.

26. On or about December 13, 2017, at approximately 8:00 p.m., Defendant, NGUYEN, intentionally deprived Plaintiff of her freedom of movement by confining her to his moving vehicle and refusing to stop the vehicle to allow her to safely exit same.

27. At no time during the incident, nor at any time prior thereto, did Plaintiff consent to any of the threatened conduct.

28. As a direct and proximate result of NGUYEN's threats, Plaintiff suffered severe and extreme emotional distress and other injuries to her person, in an amount to be shown according to proof.

29. Plaintiff is informed and believes and alleges thereon that such acts directed towards Plaintiff were malicious and belligerent, and were done with a conscious disregard of Plaintiff's right to be free of such tortious and criminal behavior, such as to constitute oppression, fraud or malice, pursuant to California Civil Code Section 3294, entitling Plaintiff to punitive damages in an amount appropriate to punish and set an example of Defendant.

THIRD CAUSE OF ACTION

Negligent Hiring

(against Defendant, UBER TECHNOLOGIES, INC.)

30. Plaintiff repeats and realleges paragraphs 1 through 29 as though fully set forth herein.

31. Plaintiff is informed and believes, and based thereon alleges, that Defendant,

1 UBER, hired Defendant, NGUYEN, to serve in the capacity as an “Uber driver.”

2 32. Plaintiff is informed and believes, and based thereon alleges that at the time
3 NGUYEN was hired, he was unfit to perform the work for which he was hired because
4 NGUYEN had a history of conduct which would create an unreasonable risk of harm to
5 members of the public, including Plaintiff, should NGUYEN be hired to perform work as an
6 “Uber driver.”

7
8 33. Plaintiff is informed and believes, and based thereon alleges that Defendant,
9 UBER, knew or should have known that NGUYEN’s was unfit to perform the work for which he
10 was hired because NGUYEN had a history of conduct which would create an unreasonable risk
11 of harm to members of the public, including Plaintiff.

12
13 34. As a direct and proximate result of UBER’s negligence in hiring NGUYEN,
14 Plaintiff suffered severe and extreme emotional distress and other injuries to her person, in an
15 amount to be shown according to proof.

16 **FOURTH CAUSE OF ACTION**

17 **Negligent Retention**

18 **(against Defendant, UBER TECHNOLOGIES, INC.)**

19
20 35. Plaintiff repeats and realleges paragraphs 1 through 34 as though fully set forth
21 herein.

22 36. Plaintiff is informed and believes, and based thereon alleges, that Defendant,
23 UBER, hired Defendant, NGUYEN, to serve in the capacity as an “Uber driver.”

24 37. Plaintiff is informed and believes, and based thereon alleges, that subsequent to
25 his hiring, and while working as an “Uber driver,” Defendant, NGUYEN, engaged in conduct
26 which rendered him unfit to continue working in such a capacity.

27
28 38. Plaintiff is informed and believes, and based thereon alleges, that Defendant,

1 UBER, knew or should have known that subsequent to his hiring, and while working as an
2 "Uber driver," Defendant, NGUYEN, engaged in conduct which rendered him unfit to continue
3 working in such a capacity.

4 39. Plaintiff is informed and believes, and based thereon alleges, that Defendant,
5 UBER, knew or should have known that subsequent to his hiring, and while working as an
6 "Uber driver," Defendant, NGUYEN, engaged in conduct which created an unreasonable risk of
7 harm to members of the public, including Plaintiff.
8

9 40. Plaintiff is informed and believes, and based thereon alleges, that although
10 Defendant, UBER, knew or should have known of such conduct by Defendant, NGUYEN,
11 Defendant, UBER, continued to employ NGUYEN as an "Uber driver" even though he was
12 unfit to serve in such a capacity.
13

14 41. As a direct and proximate result of UBER's negligence in hiring NGUYEN,
15 Plaintiff suffered severe and extreme emotional distress and other injuries to her person, in an
16 amount to be shown according to proof.
17

18 WHEREFORE, Plaintiff prays for judgment as follows:
19

20 **ON THE FIRST CAUSE OF ACTION**

- 21 1) For general, special and consequential damages in a sum not yet fully ascertained and
22 according to proof at trial;
23 2) For costs and reasonable attorneys' fees; and
24 3) For punitive and/or exemplary damages according to proof at trial.
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26 **ON THE SECOND CAUSE OF ACTION**

- 27 1) For general, special and consequential damages in a sum not yet fully ascertained and
28 according to proof at trial;

1 2) For costs and reasonable attorneys' fees; and

2 3) For punitive and/or exemplary damages according to proof at trial.

3 **ON THE THIRD CAUSE OF ACTION**

4 1) For general, special and consequential damages in a sum not yet fully ascertained and
5 according to proof at trial;

6 2) For costs.
7

8 **ON THE FOURTH CAUSE OF ACTION**

9 1) For general, special and consequential damages in a sum not yet fully ascertained and
10 according to proof at trial;

11 2) For costs.
12

13 **ON ALL CAUSES OF ACTION**

14 1) For interest on all sums according to proof.

15 2) For costs of suit; and

16 3) For such other and further relief as the Court deems just and proper.
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20 Dated: November 8, 2018

THE LAW OFFICES OF CHRISTOPHER L. BAUER

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23 Christopher L. Bauer, Attorney for Plaintiff,
24 KRISTIN FRANCISCO
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