

1 THURSDAY, NOVEMBER 2, 2017

11:58 A.M.

2 (TRANSCRIBER'S NOTE: DUE AT TIMES TO COUNSELS' FAILURE TO
3 IDENTIFY THEMSELVES WHEN SPEAKING, CERTAIN SPEAKER
4 ATTRIBUTIONS ARE BASED ON EDUCATED GUESS.)

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6 PROCEEDINGS

7 **THE CLERK:** CALLING CIVIL ACTION 15-1175, ANTMAN, ET
8 AL. VERSUS UBER TECHNOLOGIES, INC.

9 COUNSEL, PLEASE STATE YOUR APPEARANCES FOR THE
10 RECORD.

11 **MR. MAYA:** GOOD MORNING, YOUR HONOR. IT IS STILL
12 MORNING, JUST.

13 **THE COURT:** YES, IT IS JUST. SORRY. YES.

14 **MR. MAYA:** THEODORE MAYA APPEARING FOR PLAINTIFFS.

15 **THE COURT:** GOOD MORNING BY THREE MINUTES.

16 MR. WONG?

17 **MR. LI-MING WONG:** GOOD MORNING, YOUR HONOR. MICHAEL
18 LI-MING WONG FOR UBER TECHNOLOGIES.

19 **MS. MAUTE:** JEANA MAUTE FOR UBER TECHNOLOGIES.

20 **UNIDENTIFIED SPEAKER:** RANDY (INDISCERNIBLE), YOUR
21 HONOR.

22 **THE COURT:** ALL RIGHT. SO OF COURSE NOW I REGRET MY
23 DECISIONS ABOUT HOW I STAGE MY CALENDAR, BECAUSE AS I TOLD
24 EVERYBODY -- SO, SORRY ABOUT THAT. AND, YOU KNOW, SOMETIMES
25 I'VE CALLED YOU EARLIER ALMOST EVERY TIME YOU'VE BEEN HERE, YOU

1 KNOW, OUT OF RESPECT.

2 **MR. LI-MING WONG:** IT'S ALWAYS A PLEASURE TO BE HERE,
3 YOUR HONOR.

4 **THE COURT:** OH, THANKS. WELL, IT'S NICE TO SEE
5 EVERYBODY.

6 SO -- OH, BOY, I SORT OF REMEMBER YOU WEREN'T HERE
7 THE LAST TIME WE WERE IN COURT FOR THE CASE MANAGEMENT
8 CONFERENCE WHERE YOUR CO-COUNSEL BASICALLY WAS TELLING ME
9 THAT -- SHE WANTED TO TELL ME WHY THE CASE DIDN'T SETTLE, AND
10 MR. WONG SAID, PLEASE DON'T, WE NEED TO GET TO THE MOTION TO
11 DISMISS FIRST.

12 AND I WANTED TO FIGURE A LITTLE BIT -- I GUESS I
13 WANTED TO -- I THOUGHT -- I REALLY DID THINK LONGER AND
14 QUICKER, BUT I WANT TO NOW HAVE NOT JUST THE MOTION TO DISMISS
15 CONVERSATION WITH YOU ALL, BUT THE CASE MANAGEMENT CONVERSATION
16 WITH YOU. AND I'M NOT NECESSARILY -- I DON'T HAVE ANY FIXED
17 IDEAS ABOUT HOW TO APPROACH THIS CONVERSATION, BUT LET ME TALK
18 A LITTLE BIT ABOUT THE CASE.

19 YOU KNOW, AT THE END OF THE DAY, I'LL DO MY JOB, AND
20 I'LL DO A VERY GRANULAR ANALYSIS ABOUT THE COMPLAINT. I WAS
21 SURPRISED AT THE SECOND DISCLOSURE. I MISSED THE SECOND NOTICE
22 WITH THE SECOND SET OF INFORMATION THAT WAS DISCLOSED TO
23 CONSUMERS, BUT I HAVE -- I RETAIN MY SKEPTICISM ABOUT THE CASE
24 OVERALL, AND STANDING IS JUST ANOTHER WAY OF SAYING THERE ARE
25 NO DAMAGES.

1 AND, AGAIN, YOU KNOW, PART OF IT IS -- AND I KNOW AT
2 THE END OF THE DAY MY ANALYSIS HAS TO BE VERY SPECIFIC,
3 CONFINED TO THE COMPLAINT, AND NOT -- AND NOT MY VIEWS ABOUT --
4 I DO ALWAYS SAY, WELL, I DON'T HAVE TO DIVORCE REASON AND
5 COMMON SENSE FROM MY ANALYSIS OF THE ALLEGATIONS THAT PEOPLE
6 MAKE ABOUT THEIR CASE. BUT HALF THE REASON I ENCOURAGED YOU
7 ALL TO TALK IS I BELIEVE FROM THE MOMENT WE -- WERE YOU HAVING
8 A CHILD?

9 **MR. MAYA:** I WAS.

10 **THE COURT:** THE VERY FIRST --

11 **MR. MAYA:** THAT CHILD IS GOING TO TURN TWO NEXT
12 MONTH.

13 **THE COURT:** EXACTLY. TWO YEARS AGO WHEN WE FIRST GOT
14 TOGETHER, HONESTLY, THERE WAS SOMETHING WHERE YOU'RE LIKE --
15 YOU'RE HAVING -- IT WAS BEFORE YOUR BABY WAS DUE, RIGHT, AND
16 SO -- THAT WAS A LONG TIME AGO, TWO-YEAR OLD.

17 I SAID TO YOU AT THE TIME, I THINK SAID, I THINK, IF
18 YOU KNOW MORE ABOUT WHAT THIS (INDISCERNIBLE) BECAUSE OF THE
19 RELATED LITIGATION, I THINK IF YOU KNOW MORE ABOUT WHAT THIS
20 CASE IS ABOUT -- AND THAT CLEARLY WAS IN THE CONTEXT OF ONLY
21 THE NAME AND OVER THE DRIVER'S LICENSE INFORMATION ALLEGED IN
22 THE FIRST ITERATION OF THE COMPLAINT. IN MY FIRM VIEW, BECAUSE
23 I TOOK A LONG -- MY LITTLE JOKE ABOUT MY OPINIONS IS I HOPE YOU
24 LIKE IT, I WROTE IT MYSELF -- AND SO, YOU KNOW, I REALLY
25 THOUGHT DEEPLY BECAUSE THAT WAS -- YOU KNOW, I HAD TO THINK

1 ABOUT STANDING, I HAD TO THINK ABOUT DAMAGES, I HAD TO THINK
2 ABOUT WHEN THE HARM WAS ALLEVIATED.

3 SO I THOUGHT ABOUT THAT IN A COUPLE OF OTHER
4 LITIGATIONS THAT PRECEDED YOU, BUT IT WAS -- YOU KNOW, IT'S AN
5 AREA THAT I'M INTERESTED IN. AND I THOUGHT IT'S NOT THERE;
6 IT'S JUST NOT WHAT YOU THINK IT IS. AND IT'S A ONE-TIME SCRAPE
7 THAT WAS -- I'M NOT -- AND, OF COURSE, I DON'T WANT TO LET UBER
8 OFF THE HOOK ENTIRELY BECAUSE I WOULD SAY A HARM -- YOU KNOW,
9 WHETHER IT'S A HARM THAT GETS ADVANCED THROUGH LITIGATION
10 THROUGH CONTINUED ITERATIONS OF MOTIONS TO DISMISS IS ANOTHER
11 ISSUE.

12 BUT THERE WAS A HARM THAT WAS VISITED. I MEAN, I
13 MIGHT HAVE SAID THAT THE LAST TIME, BUT I CERTAINLY SAID IT IN
14 OTHER CASES WHEN I LOOK AT DATA BREACH. I MEAN, MOST OF US
15 THINK THAT WHEN OUR CONFIDENTIAL INFORMATION IS TAKEN BY OTHER
16 PEOPLE, THAT IS NOT A GOOD THING, AND THAT THERE'S -- AND
17 MR. WONG WOULD TELL ME PSYCHIC KARMA IS -- I MEAN, IT CAN BE IN
18 SOME OF THE EMOTIONAL DISTRESS KINDS OF COMPONENTS ABOUT
19 WHETHER YOU HAVE ENOUGH, YOU KNOW, GOING FORWARD TO ALLEGE
20 SOMETHING, BUT IT REALLY ISN'T ENOUGH TO MAKE A CASE.

21 AND -- AND IT LOOKS TO ME LIKE -- AGAIN, I'M
22 CONFINING MYSELF TO THE ALLEGATIONS IN THE COMPLAINT -- THAT
23 THE HARM WAS LARGER THAN I ANTICIPATED, AND AT A VERY, VERY
24 HIGH 40,000-FOOT LEVEL, HAD SOME OF THOSE INITIAL ALLEGATIONS
25 THERE AT THE BEGINNING, TWO YEARS AGO, I MIGHT HAVE BEEN

1 INCLINED TO SAY, AH, YOU KNOW, EVEN WITH THIS ONE-TIME DATA
2 BREACH, I'M NOT SO SURE, AT LEAST WE NEED TO HAVE DISCOVERY.

3 AND HERE WE ARE TWO YEARS LATER WITH WHAT I HOPED WAS
4 DISCOVERY, AND MY CONCERN THAT THREE YEARS, TWO YEARS LATER --
5 BUT THE DATA -- OF COURSE, I'M FORGETTING MY TIMELINE. IT WAS
6 IN 20 -- THE DISCLOSURE WAS 2015, BUT THE SCRAPE WAS -- REMIND
7 ME OF THE DATE? 2014?

8 **MR. MAYA:** 2014, CORRECT.

9 **THE COURT:** APRIL 2014.

10 **MR. MAYA:** MAY.

11 **THE COURT:** MAY, MAY 2014?

12 **MR. MAYA:** RIGHT.

13 **THE COURT:** I MEAN, I HAVE MY LITTLE TIMELINE.

14 **MR. MAYA:** YES.

15 **THE COURT:** AND SO NOW, OVER THREE YEARS LATER, I'M
16 CONCERNED WITH -- IN THE KIND OF *STARBUCKS* KIND OF ANALYSIS
17 CASE, I'M CONCERNED ABOUT WHETHER THERE ULTIMATELY IS ENOUGH TO
18 BE ABLE TO PURSUE A CASE. SO I RETAIN MY SKEPTICISM OVERALL
19 ABOUT THE CASE.

20 SO THAT'S KIND OF -- THAT'S MY -- AND I WANTED YOU TO
21 TELL ME WHY -- AND THEN YOUR OPPOSITION WAS -- I MEAN, AGAIN,
22 YOU GUYS HAVE DONE A GREAT JOB ON YOUR PAPERS ALONG THE WAY.
23 YOUR OPPOSITION WAS THOUGHTFUL, AND IT BASICALLY ACKNOWLEDGED
24 THE RISK THAT I MIGHT DECIDE THAT THE HARM WAS TOO ATTENUATED
25 TO ESSENTIALLY ALLOW STANDING FOR THE CASE TO CONTINUE, AND

1 THEN YOU GUYS BECAME VERY CLOSE TO SETTLING, AND I -- I'M NOT
2 GOING TO ENCOURAGE YOU TO DO ANYTHING MORE THAN YOU'VE
3 OTHERWISE DONE.

4 I JUST WANTED TO ACKNOWLEDGE THAT FACT IN THE CONTEXT
5 OF THE MOTION TO DISMISS, AND ALSO SAY TO UBER, YOU KNOW, YOU
6 DO HAVE SOME RESPONSIBILITY TO YOUR DRIVERS. I KNOW YOU
7 ENGAGED IN THE SETTLEMENT PROCESS IN GOOD FAITH, AND IT'S JUST
8 SORT OF A SHAME THAT YOU'RE HERE IN THE CONTEXT OF A CASE THAT
9 I'M NOT SURE WHETHER OR NOT TO SURVIVE.

10 SO WHY DON'T YOU TELL ME FROM THE PLAINTIFFS'
11 PERSPECTIVE WHAT YOU THINK IS ENOUGH IN YOUR COMPLAINT, GIVEN
12 THAT NOTHING HAS HAPPENED IN THREE YEARS, AND RECOGNIZING THAT
13 I NEED TO CONFINE MYSELF TO THE COMPLAINT'S ALLEGATIONS, WHAT
14 LOOKS LIKE A ONE OFF, ONE TIME DATA SCRAPE WHERE MR. WONG SAID
15 THAT WE TOLD YOU WHAT HAPPENED; YOU HAVEN'T ALLEGED PERSONALLY
16 THAT YOUR OWN -- YOU KNOW, I REALLY DO THINK I WAS RIGHT ABOUT
17 SOCIAL SECURITY NUMBERS BEING ENOUGH, BEING SORT OF REQUIRED
18 TO -- I DON'T THINK NAMES AND DRIVERS' LICENSES ARE ENOUGH -- I
19 JUST DON'T -- BASED ON THE HARM YOU DESCRIBED.

20 I DON'T THINK THAT INFORMATION TETHERED TO THE
21 RESULTS -- AND YOU'VE ALLEGED, YOU KNOW, ON THE ONE HAND THE --
22 I DON'T NECESSARILY JUST AGREE WITH MR. WONG ABOUT THE TAX
23 CONSEQUENCES TO YOUR SECOND NAMED PLAINTIFF, BUT I DO THINK
24 THAT WITHOUT THAT RISK THAT ATTENDS THE COMPLETE ABILITY TO,
25 FOR EXAMPLE, APPLY FOR CREDIT CARDS, AT LEAST TWO YEARS AGO I

1 WOULD HAVE SAID, AH, YOU KNOW, I THINK WITH SOCIAL SECURITY
2 NUMBERS IT'S ENOUGH; WITHOUT IT, NOT ENOUGH.

3 AND THEN MR. WONG SAID, AND YOU HAVEN'T ALLEGED THAT
4 WITH EITHER OF YOUR TWO NAMED PLAINTIFFS; THE HARM HAS TO BE
5 REALIZED TO THEM, AND IT'S NOT. I THINK THAT THAT'S A PRETTY
6 GOOD ARRANGEMENT.

7 THEN THE SECOND THING THAT I WOULD SAY IS THEN
8 THERE'S THE PASSAGE OF TIME ARGUMENT, AND I THINK THAT'S A
9 PRETTY GOOD ARGUMENT TOO, AND THAT I DEVOTED SOME TIME TO IN MY
10 LAST ORDER.

11 I WELCOME -- YOU WERE TALKING ABOUT ANYTHING YOU
12 THINK WOULD BE HELPFUL TO ME, BUT THOSE ARE MY PRIMARY CONCERNS
13 WITH THE MOTION, AND I KNOW THAT IT'S YOUR MOTION, BUT I THINK
14 IT'S PRETTY GOOD TO START THERE AND THEN HAVE YOU RESPOND TO
15 THAT.

16 **MR. MAYA:** THANK YOU, YOUR HONOR.

17 FIRST OF ALL, THERE WAS SOME EXCHANGE OF INFORMATION
18 SINCE THE COURT'S LAST RULING. BASICALLY, FROM OUR
19 PERSPECTIVE, WE'VE BEEN PERMITTED TO LEARN WHAT UBER IS WILLING
20 TO LET US LEARN AND NOTHING MORE. WE WOULD LIKE THE
21 OPPORTUNITY TO CONDUCT DISCOVERY, AND WE THINK IT'S IMPORTANT
22 THAT WE BE GIVEN THAT OPPORTUNITY. HERE'S WHAT WE KNOW:

23 WHEN THOSE SECOND -- AFTER THIS COURT'S RULING, WHICH
24 IS PREMISED ON THE FACTUAL --

25 **THE COURT:** (INDISCERNIBLE) RIGHT.

1 **MR. MAYA:** YEAH, FACTUAL SCENARIO, AND THE COURT'S
2 UNDERSTANDING OF THE FACTS BASED ON UBER'S STATEMENTS AT THE
3 TIME.

4 **THE COURT:** AND ALSO, BASICALLY, BASED ON YOUR
5 ALLEGATIONS IN YOUR FIRST ROUND OF THE COMPLAINT.

6 **MR. MAYA:** WHICH WERE BASED ON THAT --

7 **THE COURT:** EXACTLY.

8 **MR. MAYA:** -- THAT IT WAS DRIVERS' LICENSES AND NAMES
9 ONLY. IT'S BECOME CLEAR THAT IS NOT TRUE. THERE WAS A SECOND
10 ROUND OF NOTIFICATIONS ISSUED AFTER THAT RULING AND AFTER THE
11 INVESTIGATION THAT WE'VE BEEN TALKING ABOUT IN THE LIMITED
12 DISCLOSURE OF INFORMATION THAT UBER HAS PERMITTED, WHICH I'M
13 NOT EVEN ALLOWED TO TALK ABOUT, BY THE WAY.

14 **THE COURT:** I'M SURE THAT'S PROBABLY RIGHT, RIGHT?
15 YEAH, I KNOW THAT.

16 **MR. MAYA:** SO WHAT THEY TOLD MR. ANTMAN IS THAT HIS
17 BANKING INFORMATION WAS DISCLOSED.

18 **THE COURT:** AND WHAT DOES THAT MEAN?

19 **MR. MAYA:** GOOD QUESTION.

20 **THE COURT:** WHAT IS -- BUT YOU DON'T KNOW MORE
21 GRANULARLY WHAT HIS BANKING --

22 **MR. MAYA:** NO, YOUR HONOR. IT SAYS BANKING
23 INFORMATION, AND THAT'S IT. AND WHAT WE DO KNOW IS THAT BOTH
24 PLAINTIFFS' SOCIAL SECURITY NUMBERS -- THIS IS ALLEGED IN THE
25 COMPLAINT, AND I THINK IT'S ENOUGH FOR US TO GET PAST THIS

1 VERY -- WHAT SHOULD BE A VERY LIGHT PLEADING BURDEN ON
2 PLAINTIFFS TO PASS THE INJURY-IN-FACT HURDLE FOR ARTICLE III
3 STANDING. THERE'S A LOT OF CASES THAT SAY THAT. I'M THINKING
4 IN MY MIND RIGHT NOW THAT *ATTIAS VERSUS CAREFIRST* CASE WHICH WE
5 CITED EXTENSIVELY --

6 **THE COURT:** RIGHT.

7 **MR. MAYA:** -- WHICH IS OUT OF CIRCUIT, BUT *CROPNER*
8 (PHONETIC) APPLIED A VERY LOW BAR.

9 WE ALLEGE -- OUR INVESTIGATION HAS DISCOVERED THAT
10 THESE NAMED PLAINTIFFS' SOCIAL SECURITY NUMBERS WAS AVAILABLE
11 FOR SALE ON THE DARK WEB AT THE TIME WE FILED IN AND THAT THEY
12 KNOW OF NO OTHER WAY THAT IT COULD HAVE GOTTEN OUT THERE AND
13 THAT THEY HADN'T RECEIVED NOTICES.

14 **THE COURT:** BUT CAN I ASK JUST A QUESTION ABOUT THAT?
15 PART OF -- WHAT IS ON THE WEB THAT'S FAIRLY ATTRIBUTABLE TO THE
16 DATA SCRAPE HAS TO BE WHAT INFORMATION ABOUT THESE PLAINTIFF
17 THAT UBER HAD AND THAT WAS SCRAPED. PERIOD, END OF STORY.

18 I'M GOING TO GIVE YOU -- JUST LET ME FINISH THIS
19 POINT, BECAUSE LET'S JUST SAY WE KNEW FOR SURE IT WAS ONLY
20 DRIVERS' LICENSES AND NAMES, THERE'S NO WAY THEN THAT THAT
21 SOCIAL SECURITY NUMBER ON THE DARK WEB IS ATTRIBUTABLE TO THAT.

22 I MEAN, WE ARE ALL -- LOOK, MY INFORMATION IS -- WE
23 ALL HAVE HAD THE EQUIFAX AND THE SONY AND FOR THE DISCLOSURE OF
24 MY INFORMATION FROM THE AO DATA SCRAPE, YOU KNOW, THIS IS --
25 THIS ACCESS TO INFORMATION -- AND I'M NOT SAYING THAT YOU HAVE

1 TO PLEAD AROUND THIS, YOU DON'T, BUT I THINK YOU DO HAVE TO
2 SHOW -- THEY SAY THEY KNOW NO OTHER WAY THAT IT COULD BE THERE
3 IS PRETTY CONCLUSORY. I THINK THAT THEIR KNOWLEDGE HAS TO BE
4 TETHERED TO WHAT ACTUALLY WAS DISCLOSED.

5 SO IF -- I MEAN, I'M NOT DOING A VERY GOOD JOB OF
6 SAYING THIS.

7 **MR. MAYA:** OKAY.

8 **THE COURT:** BUT I THINK IF WE KNEW FOR SURE IT WAS
9 ONLY DRIVERS' LICENSES AND NAMES, THEN I THINK IT'S NOT ENOUGH
10 TO SAY THE -- THIS ONLY COULD HAVE COME -- WE DON'T KNOW OF NO
11 OTHER WAY THIS COULD BE ON THERE.

12 NOW, IF IT'S OTHER INFORMATION SUCH AS THE SOCIAL
13 SECURITY NUMBER THAT WAS DISCLOSED, THEN I THINK THAT YOU ARE
14 ALLOWED TO INFER -- AT LEAST AT THE PLEADING STAGE I THINK YOUR
15 ALLEGATION WOULD BE SUFFICIENT. MR. WONG CAN DISAGREE WITH ME
16 IF HE THINK THERE'S A BETTER ANALYSIS, BUT THAT'S MY REACTION
17 TO THAT POINT.

18 AND SO FOR ME WHAT'S ALWAYS DRIVEN MY VIEW OF THIS
19 IS: WHAT HAPPENED AND WHY, OR HOW? HOW? HOW DID IT HAPPEN?
20 AND I FELT THAT THAT WAS SOMETHING THAT WAS CAPABLE OF BEING
21 ASCERTAINED FOR ATTORNEYS' EYES ONLY. I THOUGHT THERE WAS A
22 UTILITY TO BOTH PARTIES BECAUSE I THOUGHT THAT YOU PROBABLY
23 DIDN'T HAVE ANY INTEREST IN ADVANCING LITIGATION IF YOU GOT
24 DISCOVERY THAT SHOWED THE DATA SCRAPE WASN'T WHAT YOU THOUGHT
25 IT WAS. THAT WAS THEN BASED ON ONLY THE SOCIAL -- I MEAN, THE

1 NAMES AND DRIVERS' LICENSE NUMBERS, AND WHY INVEST A LOT OF
2 MONEY IN LITIGATION IF THERE'S NO THERE THERE. USUALLY, YOU
3 CAN SETTLE AROUND IT. AND THAT REALLY WAS MY -- SO LOOKING AT
4 WHAT -- AND I RECOGNIZE THAT SOME STUFF YOU CAN'T TALK ABOUT IN
5 COURT LIKE WHY IT HAPPENED -- BUT I NAMED THIS LANDSCAPE.

6 IF I -- IF, FOR EXAMPLE, IT WAS A LYFT COMPETITOR
7 WHO'S LOOKING AT DRIVERS -- TO GET DRIVERS' INFORMATION TO
8 SOLICIT THEM, FOR EXAMPLE, I DON'T THINK -- I'M JUST SAYING
9 THAT. THAT'S IN THE PAPER. I DON'T THINK THAT CREATES A BASIS
10 FOR THE CLAIMS THAT YOU ADVANCE. I JUST DON'T. AND THAT'S --
11 AND THAT'S WHAT I THOUGHT IN THE -- IN THE FIRST ROUND MOTION.

12 IF -- THE SECOND PART OF IT IS: IF THE INFORMATION
13 THAT WAS TAKEN WAS SO INSIGNIFICANT AS TO NOT BE CAPABLE OF
14 BEING USED FOR NEFARIOUS PURPOSES, THEN I DON'T THINK THAT
15 DRIVES THE CLAIM EITHER.

16 AND THE THIRD PART OF IT, WHICH IS MAYBE -- SO PART
17 OF IT IN MY INQUIRY IS WHAT WAS TAKEN, WHAT DO YOU KNOW AND CAN
18 YOU PLEAD? AND MAYBE YOUR POINT IS, I ONLY KNOW THIS MUCH AND
19 I CAN'T PLEAD MORE THAN I KNOW. THAT'S ONE THING TO TALK
20 ABOUT.

21 THE SECOND ISSUE TO MAYBE TALK ABOUT IS: AND IT'S
22 BEEN SO LONG. THAT WAS A BIG PART OF MR. WONG'S ARGUMENT.

23 SO -- SO WHAT ABOUT THIS, WHAT WAS ACTUALLY TAKEN?
24 SO LOOKING AT YOUR -- WHAT YOU DON'T KNOW BEYOND THE DESCRIPTOR
25 BANKING INFORMATION IS THAT WHAT WAS TAKEN? I MEAN, IS IT NAME

1 AND BANKING ACCOUNT NUMBER? IT COULD NOT BE MORE THAN THAT,
2 UNLESS IT'S PASS CODE. EVERY TIME I WRITE A CHECK, MY BANKING
3 INFORMATION AND MY ROUTING NUMBER IS DISCLOSED TO THE WORLD.

4 AND SO HOW DOES THAT BANKING INFORMATION, I MEAN,
5 CREATE A COMPENSABLE INJURY?

6 **MR. MAYA:** WELL, I DON'T KNOW WHAT BANKING
7 INFORMATION MEANS, YOUR HONOR.

8 **THE COURT:** OKAY.

9 **MR. MAYA:** IF YOUR HONOR IS GOING TO IMPOSE THE
10 STANDARD THAT WE DON'T HAVE A CLAIM UNLESS UBER SAYS -- AND
11 NOTIFIES US --

12 **THE COURT:** OH, NO, I'M NOT --

13 **MR. MAYA:** -- THAT OUR SOCIAL NUMBERS WERE DISCLOSED
14 IN THE BREACH, THEN I'M GOING TO TELL YOU THEY HAVE NOT
15 NOTIFIED EITHER OF THESE PLAINTIFFS THAT THEIR SOCIAL SECURITY
16 NUMBERS, THEIRS --

17 **THE COURT:** WERE NOT DISCLOSED?

18 **MR. MAYA:** -- WERE DISCLOSED.

19 **THE COURT:** WERE DISCLOSED.

20 **MR. MAYA:** BUT THEY HAVE -- BUT IT IS CLEAR THAT
21 SOCIAL SECURITY NUMBERS WERE DISCLOSED IN THE BREACH.

22 **THE COURT:** OKAY.

23 **MR. MAYA:** WHOSE -- NOW --

24 **THE COURT:** OKAY.

25 **MR. MAYA:** WHAT THEY SAID TO PLAINTIFF ANTMAN IS THAT

1 YOUR BANK ACCOUNTING INFORMATION WAS DISCLOSED. THAT'S IT. I
2 DON'T KNOW WHAT THAT MEANS. TO ME THAT COULD MEAN -- I MEAN, I
3 USE MY SOCIAL SECURITY NUMBER IN CONNECTION WITH BANKING.

4 **THE COURT:** RIGHT, I UNDERSTAND, BUT IT DOES SEEM TO
5 ME THAT UBER -- AGAIN, I RECOGNIZE WHAT YOU'RE GOING TO TELL ME
6 LIKE THIS IS IN THE PLEADINGS CONTEXT AND --

7 (SIMULTANEOUS COLLOQUY).

8 **MR. MAYA:** AND, YOUR HONOR, WITH RESPECT TO THE --
9 NOBODY IS CONTENDING THAT ONLY -- ONLY DRIVER LICENSES AND
10 NAMES WERE DISCLOSED AT THIS POINT. IT'S CLEAR THAT MORE WAS
11 DISCLOSED, AND THEY'RE SAYING, TRUST US, YOU KNOW, THERE'S
12 NO --

13 **THE COURT:** BUT HAVEN'T THEY ACTUALLY GIVEN YOU
14 DISCOVERY TO BE ABLE TO TRUST THAT VERIFIED -- DISCOVERY IS
15 JUST A VERIFICATION METHOD, AND HOW DO YOU --

16 **MR. MAYA:** YOUR HONOR, WHAT KIND OF DISCOVERY? I'VE
17 HAD AN INTERVIEW.

18 **THE COURT:** OKAY.

19 **MR. MAYA:** I MEAN, I DON'T KNOW HOW MUCH I CAN GO
20 INTO.

21 **THE COURT:** OKAY.

22 **MR. MAYA:** I KNOW ABOUT THREE CATEGORIES OF
23 INFORMATION.

24 **THE COURT:** OKAY. IT'S TRUE -- OKAY. SO LET'S TALK
25 ABOUT THE PASSAGE OF TIME AND THEN --

1 **MR. MAYA:** SURE.

2 **THE COURT:** -- WE'LL LET MR. WONG TELL ME WHAT HE
3 THINKS.

4 (SIMULTANEOUS COLLOQUY.)

5 **MR. MAYA:** YOUR HONOR, AND I MEAN, ONCE YOUR
6 INFORMATION IS OUT THERE, IT'S OUT THERE FOREVER, AND YOU'RE AT
7 RISK FOREVER. THE CREDIT MONITORING THEY HAVE OFFERED AS A
8 RESULT OF BOTH BREACH NOTIFICATIONS HAS NOW EXPIRED. YOU KNOW,
9 WITH RESPECT TO MR. LINK, HIS -- HE HAD A FRAUDULENT TAX
10 RETURN.

11 NOW, AT THE TIME WE FILED THIS COMPLAINT, WE DIDN'T
12 HAVE THAT NAILED DOWN. WE DO NOW. I WOULD LIKE TO AMEND TO
13 PUT THAT INTO THE COMPLAINT --

14 (SIMULTANEOUS COLLOQUY.)

15 **THE COURT:** CAN YOU JUST TELL ME WHAT HAPPENED, JUST
16 OUT OF CURIOSITY WITH THE TAX RETURN?

17 **MR. MAYA:** WHY IT WASN'T THERE?

18 **THE COURT:** NO, NO, NO, NOT WHY IT WASN'T THERE, BUT
19 JUST WHAT HAPPENED. WHAT WOULD YOU -- JUST OUT OF CURIOSITY,
20 WHAT WOULD YOU PUT IN AN AMENDED COMPLAINT?

21 **MR. MAYA:** WHAT'S IN HIS DECLARATION.

22 **THE COURT:** OKAY. JUST WHAT'S IN THE DECLARATION.
23 OKAY?

24 **MR. MAYA:** JUST WHAT'S IN HIS DECLARATION.

25 **THE COURT:** OKAY. NOTHING MORE THAN THAT. OKAY.

1 **MR. MAYA:** THAT HE WENT TO FILE -- YOU KNOW, THE
2 TIMING LINES UP REALLY PERFECTLY WITH THIS BREACH.

3 **THE COURT:** OKAY.

4 **MR. MAYA:** YOU KNOW, HE WENT TO FILE IN 2015. HIS
5 FILING WAS REJECTED BECAUSE SOMEBODY HAD FILED A FRAUDULENT TAX
6 RETURN, HE FOUND THEREAFTER, AND HE -- HIS TAX RETURN OF \$2,800
7 OR THEREABOUTS WAS DELAYED UNTIL THE NEXT YEAR, 2016.

8 **THE COURT:** OKAY.

9 **MR. MAYA:** I DON'T KNOW IF THE COURT IS INTERESTED IN
10 THIS, THEY SAY THERE'S STILL NO DAMAGE BECAUSE THERE'S INTEREST
11 AND THERE WAS A REDACTED -- I REDACTED EVERYTHING FROM THAT
12 EXHIBIT OTHER THAN THE AMOUNT OF THE RETURN.

13 **THE COURT:** RIGHT.

14 **MR. MAYA:** AND THE DATES AND ALL OF THAT.

15 **THE COURT:** OKAY.

16 **MR. MAYA:** AND I CAN GIVE YOU THAT INFORMATION IF THE
17 COURT WANTS TO KNOW THAT. IT WAS A VERY MINISCULE AMOUNT OF
18 INTEREST, JUST \$86.

19 **THE COURT:** OKAY. ALL RIGHT. ALL RIGHT.

20 SO, MR. WONG, HOW DO YOU WANT TO RESPOND TO THE
21 ARGUMENTS ABOUT, YOU KNOW, THE HARM ISN'T ATTENUATED BECAUSE IT
22 ACTUALLY HAPPENED; WE DON'T KNOW WHAT THE EXTENT OF THE BREACH
23 IS; WE DO KNOW NOW MORE THAN WE DID THEN, WHICH IS IT
24 IMPLICATED AT LEAST FINANCIAL INFORMATION, SOCIAL SECURITY
25 NUMBERS, AND THERE WAS ACTUAL HARM THAT NOW BECOMES MORE

1 TETHERED TO THE BREACH BECAUSE -- BECAUSE THE NATURE OF THE
2 BREACH, BASED ON WHAT WE KNOW, IS BROADER THAN WAS ALLEGED IN
3 THE FIRST COMPLAINT, THE HARM THAT FLOWED FROM IT, WHICH I
4 PRETTY MUCH SAID THE LAST TIME WOULD BE ENOUGH HAD THERE BEEN
5 THINGS LIKE SOCIAL SECURITY NUMBERS -- WOULD BE ENOUGH, AND
6 WE'VE ACTUALLY SHOWN THAT NOW; AND WE DON'T NEED TO TRUST YOU
7 THAT IT'S NOT TRUE, WE GET DISCOVERY TO DO THIS, WHICH THEN
8 ONLY LEAVES YOU -- WHICH -- AND THAT'S THE NATURE OF
9 LITIGATION.

10 YOUR POINT, I DON'T KNOW -- IF IT WAS ACTUALLY IN THE
11 FIRST CASE WE HAD TODAY WHEN THE PLAINTIFF'S LAWYER SAID, I'LL
12 SLAP YOU WITH A RULE 11 MOTION. I DON'T KNOW IF YOU SAID THAT
13 IN YOUR -- I CAN'T REMEMBER IF YOU SAID THAT IN YOUR PLEADINGS
14 TOO, BUT --

15 **MR. LI-MING WONG:** WE DID, BUT MORE POLITE. WE
16 DIDN'T USE THE WORD "SLAP."

17 **THE COURT:** BUT THAT YOU SHOULDN'T PLEAD WHAT YOU
18 KNOW ISN'T TRUE?

19 **MR. LI-MING WONG:** THAT'S RIGHT.

20 **THE COURT:** AND SO -- SO HOW'S THE -- SO THE REACTION
21 TO THE ARGUMENT -- OKAY --

22 **MR. LI-MING WONG:** YES. YES, YOUR HONOR. AND I
23 THINK THE COURT STARTED OUT THIS HEARING THE SAME WAY THE COURT
24 DID IN 2015, TWO YEARS AGO, WHICH WAS SORT OF WANTING TO GET
25 SORT OF A BROADER PERSPECTIVE OF THINGS AND WANTING TO

1 UNDERSTAND EXACTLY WHAT HAPPENED AND WHY. THOSE ARE THE
2 COURT'S WORDS.

3 **THE COURT:** BECAUSE IF IT WAS A ONE OFF FROM SOMEBODY
4 WHO DOESN'T POSE A RISK OF HARM TO THE PEOPLE WHO WERE HARMED,
5 AT LEAST FINANCIALLY --

6 **MR. LI-MING WONG:** THAT'S EXACTLY RIGHT.

7 **THE COURT:** -- THAT YOU SHOULDN'T HAVE A LAWSUIT?

8 **MR. LI-MING WONG:** THAT'S EXACTLY RIGHT. THAT'S
9 EXACTLY RIGHT.

10 WE WERE SITTING HERE THIS MORNING LISTENING TO OTHER
11 CASES, AND A COUPLE OF THINGS THAT KEPT COMING UP WERE THAT,
12 NUMBER ONE, CONTEXT IS IMPORTANT, AND NUMBER, TWO, I THINK THE
13 BOTTOM LINE QUESTION -- AND FOR PURPOSES OF A MOTION TO
14 DISMISS, MAYBE IT NEED NOT BE ANSWERED WITH CERTAINTY, BUT IT'S
15 CERTAINLY A RELEVANT QUESTION, WHICH IS: IS THERE ANY THERE
16 THERE?

17 WHAT I WANT TO DO IS TALK ABOUT THE DIFFERENCE
18 BETWEEN NOW AND 2015, WHAT'S HAPPENED IN THE PAST TWO YEARS,
19 ASIDE FROM MR. MAYA'S DAUGHTER BEING TWO YEARS OLD.

20 SO IN THE PAST TWO YEARS, AT THE COURT'S SUGGESTION
21 AND DIRECTION, WE HAVE CONDUCTED FURTHER INVESTIGATION. AND
22 OUR PERSPECTIVE IS WE'VE BEEN PRETTY LIBERAL ABOUT SHARING OUR
23 FINDINGS WITH THE PLAINTIFFS.

24 AND WITHOUT GOING TOO MUCH INTO THE WEEDS, I CAN TELL
25 THE COURT THAT WE ALL HAD THE SUSPICION TWO YEARS AGO THAT THIS

1 WAS A COMPETITIVE HACK, NOT AN I.D. THEFT. AND THERE'S NOTHING
2 THAT WE FOUND THAT HAS DISABUSED US OF THAT NOTION. SO IN THAT
3 SENSE IT SEEMS TO BE CONSISTENT. IT SEEMS TO BE WHAT WE ALL
4 THOUGHT IT WAS.

5 IN THE COURSE OF THE INVESTIGATION AND THE
6 INFORMATION SHARING, WE DID FIND THAT THERE WAS A LITTLE MORE
7 IN THE DATABASE THAN WE HAD REALIZED, DID ANOTHER ROUND OF
8 NOTIFICATIONS TO UBER DRIVERS, AND INFORMED EVERY DRIVER
9 EXACTLY WHAT WAS -- WHAT WAS COMPROMISED AS --

10 (SIMULTANEOUS COLLOQUY.)

11 **THE COURT:** ARE THE NOTICES -- I CAN'T REMEMBER.
12 IT'S BEEN A LONG WEEK. ARE THE NOTICES PART OF THE RECORD?

13 **MR. LI-MING WONG:** WELL, THE --

14 **THE COURT:** THE NOTICES -- I KNOW THEY'RE INDIVIDUAL,
15 BUT THERE MUST BE SORT OF -- ARE THE NOTICES TO TWO PLAINTIFFS
16 PART OF THE RECORD?

17 **MR. LI-MING WONG:** YES, FIRST NOTICE.

18 **THE COURT:** FIRST NOTICE, RIGHT.

19 **MR. LI-MING WONG:** I DON'T KNOW -- AND, YOUR HONOR, I
20 DON'T KNOW IF WE GOT THE SECOND NOTICE TO MR. ANTMAN INTO THE
21 RECORD.

22 **THE COURT:** I DON'T THINK IT WAS THERE.

23 **MR. LI-MING WONG:** THERE'S NOT A DISPUTE ABOUT THE
24 NOTICE THE NAMED PLAINTIFFS RECEIVED. THERE'S TWO NAMED
25 PLAINTIFFS, MR. ANTMAN AND MR. LINK. SO MR. LINK ONLY RECEIVED

1 THE NOTICE REGARDING NAME AND DRIVER'S LICENSE NUMBER, THE
2 ORIGINAL ROUND OF NOTICES. SO, IN OUR VIEW, HE'S IN THE
3 SAME --

4 **THE COURT:** I SEE.

5 **MR. LI-MING WONG:** -- IN THE SAME SORT OF GROUP OF
6 PLAINTIFFS THAT THE COURT DISMISSED THE FIRST TIME AROUND.

7 NOW, MR. ANTMAN DID RECEIVE A SECOND ROUND NOW WHICH
8 WAS BANK ACCOUNT INFORMATION. AND I'M SURE THAT MR. MAYA MIGHT
9 NOT HAVE IT AT HIS FINGERPRINTS, BUT WE DID DISCLOSE TO
10 MR. MAYA EXACTLY WHAT "BANKING INFORMATION" MEANS AND WHAT THAT
11 ENTAILS.

12 AND I CAN ALSO REPORT TO THE COURT THAT, YOU KNOW,
13 JUST -- I WANT TO BE CAREFUL ABOUT SAYING THINGS THAT AREN'T IN
14 THE RECORD, BUT THERE'S A SPECIFIC DEFINITION FOR PII IN
15 CALIFORNIA LAW AND IN THE CASES AND BANK -- AND BANKING
16 INFORMATION GETS INTO THE PII REALM WHEN THERE'S SOME SORT OF
17 ACCOUNT ACCESS THAT IS ENABLED.

18 AND THAT USUALLY REQUIRES A COMBINATION OF SOMETHING,
19 A COMBINATION OF A CREDIT CARD AND -- A CREDIT CARD NUMBER AND
20 THEN THE CODE THAT GOES WITH THE CREDIT CARD, OR IN BANKING
21 INFORMATION AN ACCOUNT NUMBER AND A PASSWORD OR A PIN.

22 **THE COURT:** OKAY.

23 **MR. LI-MING WONG:** AND THAT'S NOT PART OF -- THAT'S
24 NOT PART OF THE LANDSCAPE HERE. AND OUR VIEW IS THAT --

25 **THE COURT:** IT IS ESSENTIALLY A WAY TO GET MONEY FROM

1 THE INFORMATION YOU HAVE.

2 **MR. LI-MING WONG:** CORRECT.

3 **THE COURT:** OKAY.

4 **MR. LI-MING WONG:** CORRECT.

5 AND THERE'S JUST NO ALLEGATION -- AND THERE'S NOT --
6 AND WE DON'T KNOW OF ANY INSTANCE WHERE SORT OF -- BANKING
7 INFORMATION THAT WAS THERE COULD OR WAS USED IN ANY SORT OF --
8 SORT OF THEFT ATTEMPT.

9 AND CERTAINLY NOT IN THE CASE OF A TAX -- OF A TAX
10 RETURN. I THINK THE COURT CAN TAKE JUDICIAL NOTICE THAT TAX
11 AUTHORITIES USE SOCIAL SECURITY NUMBERS AND MAYBE OTHER NUMBERS
12 AS IDENTIFIERS BUT NOT BANK ACCOUNT NUMBERS.

13 **THE COURT:** RIGHT. SO LET ME ASK YOU THIS, BECAUSE
14 THIS IS SOMETHING THAT OCCURRED TO ME. I HAD TWO BASIC --
15 DID YOU WANT TO RESPOND TO THAT FIRST?

16 **MR. MAYA:** I DO WANT TO RESPOND.

17 **THE COURT:** OKAY. WHY DON'T YOU RESPOND TO THAT
18 FIRST, AND THEN I'LL ASK MY QUESTION ABOUT IT.

19 **MR. MAYA:** FIRST OF ALL, THE NOTICE TO MR. ANTMAN --
20 AND I CAN PULL IT UP. IT WOULD TAKE ME A COUPLE OF MINUTES.
21 I'M SORRY ABOUT THAT.

22 **THE COURT:** THAT'S OKAY.

23 **MR. MAYA:** BUT IT DOES SAY -- IT SAYS BANKING.
24 INFORMATION --

25 **THE COURT:** RIGHT.

1 **MR. MAYA:** -- WAS DISCLOSED, HIS BANKING INFORMATION.

2 **THE COURT:** OKAY. AND, AGAIN, AT THE END OF THE DAY,
3 I'VE GOT TO LOOK AT WHAT'S IN THE RECORD, AND THEN I'VE GOT TO
4 LOOK AT WHAT YOU PLEADED.

5 **MR. MAYA:** AND THAT'S IN THE COMPLAINT.

6 **THE COURT:** AND THAT'S THIS COMPLAINT, AND THAT WOULD
7 BE THE LANDSCAPE I WOULD RELY ON. OKAY. THAT'S FINE.

8 **MR. LI-MING WONG:** I THINK WHAT I'M TALKING ABOUT,
9 THOUGH, WHAT I'M TALKING, JUST FOR CLARIFICATION, I'M NOT
10 TALKING ABOUT THE NOTICE. I'M TALKING ABOUT WHAT WE SHARED
11 WITH THE PLAINTIFFS THAT ISN'T IN THE RECORD.

12 **THE COURT:** I SEE.

13 **MR. LI-MING WONG:** AND WE SHARED WITH THE PLAINTIFFS
14 MUCH MORE INFORMATION THAN --

15 **THE COURT:** BECAUSE MY QUESTION IS, IS WHY DIDN'T YOU
16 ANSWER THE COMPLAINT AND THEN MOVE ON 12(C) FOR JUDGMENT ON THE
17 PLEADINGS? I MEAN, THAT WAS MY OVERWHELMING REACTION TO THIS
18 LANDSCAPE, I WILL TELL YOU THAT, BECAUSE ONE OF THE ISSUES --
19 AND I'M NOT SAYING YOU SHOULD DO IT -- AND I DON'T MEAN THIS
20 THE WAY IT'S GOING TO COME OUT, BECAUSE I WILL DO THE WORK. I
21 ALWAYS DO THE WORK. AND I SPENT TIME THE LAST TIME, AND I
22 WILL -- I WILL WRITE AN ORDER, AND I'M NOT DUCKING MY JOB,
23 BECAUSE MY SECOND QUESTION WAS -- FIRST REACTION WAS 12(C).
24 THE SECOND REACTION I HAD WAS SETTLEMENT.

25 AND YOU KNOW HOW JUDGES OFTEN SEND YOU OUT, I'M NOT

1 GOING TO DO THAT. YOU DID YOUR SETTLEMENT, SO I'M NOT DOING
2 ANY OF THAT. SO THOSE ARE MY TWO QUESTIONS, BECAUSE IF YOU'RE
3 RIGHT, YOU KNOW, AS OPPOSED TO -- AND THEN, AGAIN, YOU MIGHT
4 TELL ME, WELL, IT'S NOT REALLY A 12(C) SITUATION, WE'VE GOT TO
5 HAVE A LITTLE DISCOVERY AND THEN IT'S REALLY SUMMARY JUDGMENT,
6 NOT 12(C), SO YOU MIGHT SAY THAT. BUT I -- AND SO MAYBE THAT'S
7 YOUR WHOLE REASON FOR MOVING TO DISMISS, AND IT'S NOT --

8 **MR. LI-MING WONG:** (INDISCERNIBLE) YOUR HONOR.

9 **THE COURT:** -- FAIRLY AMENABLE TO 12(C).

10 **MR. LI-MING WONG:** YEAH, IF WE THOUGHT THEY CAME
11 ANYWHERE NEAR TO MEETING THEIR BURDEN TO PLEAD STANDING, THEN
12 WE MIGHT HAVE CONSIDERED 12(C).

13 **THE COURT:** RIGHT. I SEE. I UNDERSTAND THAT. THAT
14 MAKES SENSE. ALL RIGHT.

15 OKAY. SO YOU WANTED TO RESPOND. SO THAT PUTS US
16 BACK TO THE RESPONSE THEN.

17 **MR. MAYA:** I THINK I DID ON THAT.

18 BUT AS FAR AS THE COURT TAKING JUDICIAL NOTICE OF
19 THINGS, I'D ALSO SAY, YOU KNOW, THE COURT CAN TAKE JUDICIAL
20 NOTICE OF THE FACT THAT THE COMBINATION OF PII OTHER THAN
21 SOCIAL SECURITY NUMBERS IS VERY VALUABLE TO IDENTIFY THIEVES
22 AND PRESENTS A REAL RISK, AND I DON'T THINK THAT AT THE
23 PLEADING STAGE YOU CAN SAY THERE'S NO INJURING FACT SUBSTANTIAL
24 ENOUGH FOR ARTICLE III STANDING JUST BECAUSE YOU HAVEN'T
25 ALLEGED THAT UBER HAS TOLD YOU THAT YOUR SOCIAL SECURITY WAS

1 THERE.

2 **THE COURT:** WELL, BUT I HAVE THE NECESSARILY PART
3 OF -- YOU WOULD SAY WE HAVE THIS ALREADY -- WELL, I'LL HAVE TO
4 THINK ABOUT THIS A LITTLE BIT MORE. I AM CONCERNED THAT ABSENT
5 A SOCIAL SECURITY NUMBER, THAT -- AND I THOUGHT I WAS PRETTY
6 CLEAR IN MY FIRST ROUND ORDER THAT THERE'S NO THERE THERE.

7 **MR. MAYA:** AND THEN AFTER THAT THEY CAME AND THEY
8 SAID, WELL, ACTUALLY YOUR BANKING INFORMATION WAS DISCLOSED.

9 **THE COURT:** RIGHT, RIGHT, RIGHT. AND THAT WOULD BE
10 THE DIFFERENCE, RIGHT?

11 **MR. MAYA:** I THINK IT'S A SIGNIFICANT DIFFERENCE.
12 OH, YEAH, AND THERE WERE SOME SOCIAL SECURITY NUMBERS THERE.

13 **THE COURT:** AND SO -- YES.

14 **MR. MAYA:** WE'VE ASKED AS OUR DISCOVERY WHAT WE WANT
15 TO DO -- YOU KNOW, ONE THING WE WANT TO DO, WE WANT RESPONSES.
16 WE WANT FULSOME RESPONSES TO OUR DISCOVERY REQUESTS THAT HAVE
17 BEEN PENDING SINCE 2015, WHICH WE HAVEN'T GOTTEN.

18 B, WE WANT TO EXAMINE THE DATABASE AT ISSUE WITH OUR
19 FORENSIC EXPERT AND SEE WHAT HE FINDS THERE. BUT THEY HAVE
20 SAID NO, NOT UNTIL --

21 **THE COURT:** NOT UNTIL THE PLEADINGS ARE SETTLED.

22 **MR. MAYA:** THIS MOTION.

23 **THE COURT:** OKAY. THAT'S FINE. WAS THAT THE
24 IMPEDIMENT TO SETTLEMENT?

25 **MR. MAYA:** NO, YOUR HONOR.

1 **THE COURT:** THE FORENSIC EXAMINATION?

2 **MR. MAYA:** NO, YOUR HONOR, WE HAD A NATIONWIDE CLASS
3 ACTION SETTLEMENT ALL EXCEPT FOR -- AND --

4 **THE COURT:** YOU DON'T WANT TO TELL ME ANYTHING
5 MR. WONG DOESN'T WANT ME TO KNOW, BUT NOT THAT I REALLY CARE.
6 I FEEL THAT I CAN ASK FOR CASE MANAGEMENT PURPOSES.

7 **MR. LI-MING WONG:** THE PARTIES HAVE A VERY DIFFERENT
8 VIEW -- VERY DIFFERENT VIEW OF THE MERITS OF THE CASE AND HOW
9 MUCH IT'S WORTH. AND PART OF IT, TOO, YOUR HONOR --

10 **THE COURT:** YOU SAID YOU HAD IT ALL WORKED OUT.

11 **MR. MAYA:** I DON'T THINK THAT GOES TO --
12 (SIMULTANEOUS COLLOQUY).

13 **MR. LI-MING WONG:** THE POINT, YOUR HONOR IS -- THE
14 COURT POINTED OUT WE DO HAVE RESPONSIBILITY TO OUR DRIVERS, AND
15 WE'VE NEVER DENIED THAT THERE'S SOME HARM THERE. NOW, IF
16 THERE'S COGNIZABLE HARM FOR CLASS ACTION PURPOSES, WHEN THERE'S
17 CONSTITUTIONAL AND STATUTORY STANDING REQUIREMENTS IS A
18 DIFFERENT QUESTION.

19 **THE COURT:** NO, NO, I APPRECIATE THAT.

20 **MR. LI-MING WONG:** BUT WE DID PROCEED IN GOOD FAITH
21 AND WANTED TO -- AND WANTED TO WORK WITH THE PLAINTIFFS AND
22 GIVE THEM INFORMATION AND SETTLE THE CASE, AND THOSE ATTEMPTS
23 JUST DID NOT -- DID NOT REACH FRUITION.

24 **THE COURT:** SO YOU WERE GOING TO SAY SOMETHING?

25 **MR. MAYA:** I DO WANT TO RESPOND. I THINK THE

1 SUGGESTION THAT UBER IS DOING RIGHT BY ITS DRIVERS IS REALLY
2 KIND OF OFFENSIVE, YOU KNOW, AND WE DO HAVE SOME OF THE DRIVERS
3 HERE TODAY. THIS IS ANOTHER INSTANCE IN A LITANY OF THEM OF
4 UBER TREATING ITS DRIVERS POORLY, YOU KNOW, IN ADDITION. AND
5 THEY'RE NOT -- THOSE OTHER INSTANCES ARE NOT RELEVANT, GERMANE
6 TO THE CASE AT HAND, BUT THE CASE AT HAND, IT DID NOT PROTECT
7 THEIR INFORMATION THAT THEY WERE REQUIRED TO PROVIDE TO UBER IN
8 ORDER TO WORK AND GET THAT PAYCHECK WHICH THEY NEEDED TO LIVE.

9 THEY DIDN'T HAVE A CHOICE ABOUT PROVIDING THEIR
10 SOCIAL SECURITY NUMBER. NOBODY DISPUTES THAT THEY HAD THE
11 SOCIAL SECURITY NUMBERS, THAT THE DRIVERS WERE REQUIRED TO HAND
12 THOSE OVER IN ORDER TO GET PAID. HOW DID UBER HANDLE THAT
13 INFORMATION? NOT WELL, YOUR HONOR, NOT WELL AT ALL. AND, YOU
14 KNOW, SO I DON'T THINK --

15 **THE COURT:** THAT'S BECAUSE --

16 **MR. MAYA:** -- UBER IS DOING RIGHT BY ITS DRIVERS
17 THROUGH THE SETTLEMENT THAT WAS SCUTTLED, OR OTHERWISE, OR
18 THROUGH THIS MOTION, OR --

19 (SIMULTANEOUS COLLOQUY.)

20 **THE COURT:** NO, I KNOW. I APPRECIATE THAT, WHAT I
21 WAS TRYING TO SAY ABOUT THE SETTLEMENT, THE HARM TO THE
22 DRIVERS, WHICH I ACKNOWLEDGE -- THAT'S WHAT I SAID TO MR. WONG,
23 WHICH IS WHAT'S YOUR RESPONSIBILITY AND IS THERE ROOM FOR SOME
24 KIND OF A SETTLEMENT THAT ADDRESSES THE HARM THAT ACTUALLY
25 ATTACHED TO THEM. AND THAT'S WHAT I THOUGHT.

1 AND IT'S IMPORTANT FOR THESE THINGS TO BE AIRED WHEN
2 THEY HAPPEN, AND SO THAT'S WHY I DID THINK THE POSSIBILITY OF
3 SETTLEMENT TETHERED TO WHAT ACTUAL HARM WAS IN THE CONTEXT OF
4 WHAT ACTUALLY HAPPENED TO PEOPLE WAS FAIR GROUNDS FOR
5 CONVERSATION, AND I THOUGHT -- AND THEN BECAUSE THESE THINGS
6 HAVE A WAY OF WORKING OUT. YOU TETHER THE SETTLEMENT TO THE
7 HARM, AND YOU MAKE REASONABLE -- AND THERE WAS ROOM FOR YOU TO,
8 I THOUGHT, TO DECIDE HOW THE INTEREST OF THE DRIVERS WERE OR
9 WEREN'T ADVANCED BY LITIGATION ON THE ONE HAND AND SETTLEMENT
10 ON THE OTHER.

11 AND SO I SAW THAT, AND I THOUGHT IT COULD HAPPEN. I
12 KNEW YOU WERE CLOSE BECAUSE YOUR COLLEAGUE TOLD ME YOU WERE
13 CLOSE.

14 **MR. LI-MING WONG:** YES.

15 **THE COURT:** AND SO -- AND THEN -- AND THEN I, YOU
16 KNOW, WONDER HOW EVERYBODY'S (INDISCERNIBLE) BRAND NEW DAY FOR
17 UBER, NEW CEO, NEW CHIEF LEGAL OFFICER, AND THAT'S A LANDSCAPE
18 THAT WAS DIFFERENT THAN IT WAS THE LAST TIME WE GOT TOGETHER
19 FOR A CASE MANAGEMENT CONFERENCE.

20 AND I JUST -- AND, AGAIN, AS I SAID, I DON'T MIND
21 WRITING THE ORDER, I WILL WRITE THE ORDER. AND YOU GUYS KNOW
22 HOW I'M APPROACHING THE CASE. I DON'T THINK THAT YOU NEED
23 TO -- I MEAN I -- IF THERE'S A FAIR WAY OF IT PERSISTING, I
24 HAVE MY VIEW ON THE HARM, WHICH MEANT IT WENT MORE YOUR WAY
25 THAN DID SOME OF UBER'S ANALYSIS IN ROUND ONE.

1 I ALSO HAVE MY VIEWS ON WHAT STANDING FAIRLY IS AND
2 WHETHER THE RIGHT PEOPLE ARE ADVANCING THE HARM THAT ATTACHES
3 TO PEOPLE.

4 AND THEN, OF COURSE, I ALWAYS AM CONCERNED ABOUT, YOU
5 KNOW, DOES THE DELAY BY DISMISSAL, WHICH I DON'T LIKE THAT PART
6 OF IT EITHER. AND SO -- AND MIGHT I JUST WRITE AN ORDER, AND
7 I'D DO IT.

8 MOSTLY, I WANTED TO ASK YOU AS MY FINALE, ARE YOU
9 SURE THAT YOU GUYS DON'T WANT TO REVISIT THE SETTLEMENT THAT
10 YOU ALMOST INKED.

11 **MR. LI-MING WONG:** WE WOULD LIKE TO --

12 **THE COURT:** AND IF YOU DO WANT TO DO THAT, DO YOU
13 REALLY REQUIRE ME TO WRITE AN ORDER FIRST? IF YOU DO, THAT'S
14 FINE. IF I WERE SPARED -- DID YOU KNOW THAT I HAD TWO -- THE
15 CASE THAT I FINALLY KICKED, BECAUSE I HAD AN UNEXPECTED TRO
16 YESTERDAY WHICH TOOK SEVEN HOURS OUT OF MY -- IT WAS FILED AT A
17 LOVELY, LOVELY HOUR OF 5:30 AT NIGHT ON A TUESDAY WHICH TOOK
18 AWAY MY WHOLE TUESDAY EVENING AND PART OF MY WEDNESDAY, AND
19 THAT WAS ENOUGH I KICKED MY SUMMARY JUDGMENT.

20 BUT IF THERE'S AN ORDER I DON'T HAVE TO WRITE BECAUSE
21 YOU GUYS WILL SETTLE YOUR CASE, I'M HAPPY TO DO IT. IF YOU
22 NEED ME TO WRITE IT, I CAN DO IT. I'M STILL HAPPY TO DO IT.

23 **MR. LI-MING WONG:** YOUR HONOR, I THINK MY CLIENT
24 WOULD LIKE TO ADDRESS THE COURT'S QUESTIONS.

25 **UNIDENTIFIED SPEAKER:** JUST SO THE COURT HAS FULL

1 DISCLOSURE, WE PUT A LOT OF EFFORT IN THE SETTLEMENT, AND THE
2 TAKING CARE OF THE DRIVERS PART OF THE SETTLEMENT ISN'T WHAT
3 THEY WOULD SETTLE UP. I JUST WANT THE COURT TO KNOW THAT --

4 **THE COURT:** NO, I APPRECIATE THAT. IF YOU GOT CLOSE,
5 THAT MEANT YOU HAD DEALT WITH THE COMPENSATION TO THE DRIVERS
6 ALREADY.

7 **UNIDENTIFIED SPEAKER:** THAT'S RIGHT. AND I THINK --

8 **THE COURT:** I UNDERSTAND THAT.

9 **UNIDENTIFIED SPEAKER:** AND I THINK IT'S IMPORTANT FOR
10 THE COURT TO KNOW THAT.

11 **THE COURT:** NO, I FIGURED.

12 **UNIDENTIFIED SPEAKER:** SO, BUT OF COURSE.

13 **THE COURT:** AND?

14 **UNIDENTIFIED SPEAKER:** IT ALWAYS MAKES SENSE TO TRY
15 TO RESOLVE CASES, SO WE'RE HAPPY TO CONSIDER THAT.

16 **THE COURT:** I JUST WAS GOING TO SAY IF YOU'RE GOING
17 TO CONSIDER IT AND YOU WANT, LIKE, TWO WEEKS TO DO IT, IF YOU
18 DECIDE THAT YOU WANT TWO WEEKS, AND I'LL JUST NOT WRITE MY
19 ORDER FOR A WEEK -- OR TWO WEEKS OR A WEEK, TELL ME THAT. IF
20 NOT, I'LL PUT YOU IN LINE.

21 I'VE GOT A LOT OF ORDERS TO WRITE. SOMETIMES I'M
22 FURTHER ALONG. LIKE LAST TIME I THINK I HAD A PRETTY GOOD
23 ORDER WRITTEN BEFORE YOU CAME IN. I DON'T HAVE IT WRITTEN NOW.
24 I READ EVERYTHING. I HAVE MY IDEAS. I'M AT THE BEGINNING
25 OF -- YOU SAW HOW MANY ORDERS I HAD TODAY.

1 **MR. LI-MING WONG:** RIGHT.

2 **THE COURT:** AND I'M JUST LETTING YOU KNOW THAT NEXT
3 WEEK IS A BUSY CALENDAR, AND THEN I'VE GOT A LITTLE BIT OF A
4 BREAK AFTER THAT UNTIL THE 30TH WHERE IT'S CRAZY AGAIN.

5 SO IT'S JUST IT'S A CERTAIN AMOUNT OF TIME FOR ME TO
6 WRITE STUFF. AND PROBABLY, MAYBE, I START IT THIS WEEKEND,
7 MAYBE I WOULDN'T, DEPENDING ON WHETHER YOU GUYS WANT TO TAKE
8 ANOTHER CRACK AT SETTLEMENT DURING A DEFINED TIME PERIOD. I'M
9 NOT TRYING TO SHIRK WORK. I'M JUST SAYING THAT IF YOU ARE
10 GOING TO WANT ME OUT OF IT AND YOU WANT A LITTLE BIT OF TIME TO
11 TALK NOW, YOU SHOULD TELL ME THAT. IF YOU DON'T, THAT'S OKAY,
12 TOO. IF YOU NEED ME TO WRITE THE ORDER FIRST, I'LL DO THE BEST
13 I CAN TO DO IT AS FAST AS I CAN.

14 **MR. LI-MING WONG:** TAKE A WEEK OFF FROM THIS ORDER
15 THEN, YOUR HONOR. I'M HAPPY TO TRY.

16 **THE COURT:** OKAY.

17 **MR. LI-MING WONG:** YOU KNOW --

18 **THE COURT:** LET ME GET -- I'LL GET THROUGH MY SUMMARY
19 JUDGMENT HEARINGS NEXT THURSDAY. IF YOU DECIDE THAT YOU DON'T
20 WANT ME TO ADDRESS THE MOTION TO DISMISS, FILE SOMETHING BY
21 NEXT THURSDAY SAYING THAT YOU'RE TABLING IT FOR NOW, AND I
22 PROBABLY -- I MEAN, I HAVE PLENTY TO WORK ON.

23 **MR. LI-MING WONG:** RIGHT.

24 **THE COURT:** SO THAT'S -- LET ME JUST THINK WHERE I
25 AM.

1 NEXT THURSDAY IS THE 9TH. IF YOU WANT MORE TIME,
2 THAT'S FINE. IF YOU DON'T AND YOU SAY GO FORTH AND PROSPER,
3 THAT'S FINE, TOO. I PROBABLY AM FULLY OCCUPIED BETWEEN NOW AND
4 THURSDAY WITH OTHER SUBSTANTIVE MOTIONS.

5 **MR. LI-MING WONG:** VERY WELL, YOUR HONOR.

6 **MR. MAYA:** AND WE SORT OF TOOK A DIFFERENT PATH HERE
7 WHEN WE STARTED TALKING ABOUT SETTLEMENT. I JUST WANTED TO
8 MAKE SURE YOUR HONOR DIDN'T HAVE ANY OTHER QUESTIONS ON THE
9 UNDERLYING MOTION.

10 **THE COURT:** NO, I THINK THAT'S FINE. I THINK I
11 UNDERSTAND THE LANDSCAPE. I'VE GOT SOME WORK TO DO, BUT I
12 UNDERSTAND THE LANDSCAPE --

13 **MR. LI-MING WONG:** OKAY.

14 **THE COURT:** -- OF THE MOTIONS. SO THAT'S FINE.
15 AND, REALISTICALLY, KNOWING WHAT I HAVE ON MY PLATE,
16 I'M BUSY. AND I'VE GOT A FULL DAY SETTLEMENT CONFERENCE NEXT
17 WEDNESDAY SO...

18 **MR. LI-MING WONG:** YOUR HONOR, IF I COULD MAKE ONE
19 LEGAL POINT IN THE EVENT THE COURT GETS TO THE ORDER --

20 **THE COURT:** AND WOULD YOU TELL -- SHE CAN GO AHEAD
21 AND SHE CAN DO THE CALL. SHE CAN SET IT UP. I'LL BE THERE IN
22 A SEC. OKAY.

23 **MR. LI-MING WONG:** MR. MAYA MENTIONED THE
24 *STARBUCKS VERSUS CROPNER* CASE AND THE *ATTIAS V. CAREFIRST*
25 CASE. THOSE ARE CASES THAT INVOLVED SOCIAL SECURITY NUMBERS,

1 BUT IT WAS ALLEGED THAT THEY WERE IN THE, I GUESS, THE VESSEL
2 THAT WAS BREACHED. IN THE CASE OF *STARBUCKS*, IT WAS A LAPTOP
3 AND IN THE CASE OF *CAREFIRST*, IT WAS A DATABASE.

4 AND SO THE COMPROMISE OF SOCIAL SECURITY NUMBERS WAS
5 PROPERLY ALLEGED. AND THE DIFFERENCE HERE IS THAT, ALTHOUGH
6 WE'VE CONCEDED THAT THE -- THAT A SMALL NUMBER OF OTHER
7 DRIVERS' SOCIAL SECURITY NUMBERS WERE IN THE DATABASE, THERE'S
8 NO ALLEGATION THAT THESE DRIVERS' SOCIAL SECURITY NUMBERS WERE.

9 THEY (INDISCERNIBLE) NOTIFICATION LETTERS, AS THEY
10 DID ACKNOWLEDGE ABOUT SOCIAL SECURITY NUMBER COMPROMISE. AND
11 WE THINK THAT IF THEY -- YOU KNOW, THEY WOULDN'T BE ABLE TO
12 TAKE DISCOVERY OR AMEND THE COMPLAINT IN A WAY THAT WOULD HELP
13 THEM CONSISTENT WITH THE RULE 11 OBLIGATIONS. SO THAT'S A KEY
14 DIFFERENCE BETWEEN THE RECORD BEFORE THE COURT AND THE CASES
15 THAT THE COURT AND MR. MAYA HAVE CITED.

16 **THE COURT:** AND ONE OF THE ISSUES IS I ALWAYS FIGURE,
17 YOU KNOW, WHO AM I --

18 **MR. MAYA:** IT'S A QUESTION OF FACT.

19 **THE COURT:** I KNOW IT'S A QUESTION OF FACT.

20 AND, YOU KNOW, I DO TAKE EVERYBODY'S REPRESENTATIONS
21 TO ME SERIOUSLY. ONE OF THE THINGS I SAY IS, NO ONE SHOWS UP
22 HERE AND WANTS TO EVER DO A BAD JOB. AND I TRUST LAWYERS. I
23 KNOW THAT MAYBE -- I DO TRUST WHEN PEOPLE MAKE REPRESENTATIONS
24 TO ME. THAT'S THEIR ETHICAL RESPONSIBILITY UNDER THE RULES OF
25 CANDOR TO THE TRIBUNAL. I KNOW MR. WONG FOR A LOT OF YEARS

1 NOW, AND I DON'T THINK HE WOULD -- NOT THAT THAT'S -- I WOULD
2 BASICALLY GO COMPLETELY ON WHAT YOU PLEAD, BUT HE'S NOT GOING
3 TO MAKE A MISREPRESENTATION TO ME IN COURT. HE'S JUST NOT
4 GOING TO DO IT.

5 AND SO I ALSO APPRECIATE WHAT YOU'RE SAYING, IS WE
6 DON'T KNOW FOR SURE UNTIL WE DO DISCOVERY AND THEREIN LIES
7 THE -- AND I JUST ALWAYS THOUGHT IN THE CONTEXT OF WHAT I KNOW
8 ABOUT THIS CASE THROUGH THIS AND THE RELATED CASE THAT THERE
9 WASN'T GOING TO BE ANY THERE THERE, WHICH IS NOT TO SAY THAT
10 YOU'RE NOT RIGHT ABOUT -- WHAT DID YOU PLEAD, IS IT ENOUGH, DID
11 YOU PLEAD HARM SUFFICIENTLY, AND IS IT ENOUGH TO GO FORWARD
12 WITH YOUR DIFFERENCES ON STANDING? AND I EXPRESSED MY VIEWS ON
13 ARTICLE III STANDING PRETTY WELL THE LAST ROUND.

14 SO THAT'S -- I THINK THAT KIND OF QUEUES IT UP NICELY
15 FOR ME TO LOOK AT THE ORDER, GIVEN THERE'S ONLY A CERTAIN
16 NUMBER OF BUSINESS DAYS BETWEEN NOW AND NEXT THURSDAY WHEN I
17 HAVE ANOTHER GOOD ROUND OF HEARINGS. I THINK IT'S FAIR TO JUST
18 SAY, YOU KNOW, THINK ABOUT IT. IF BY NEXT THURSDAY, IF I DON'T
19 HEAR FROM YOU, I WILL JUST ASSUME THAT YOU -- I WILL JUST PUT
20 YOU IN THE QUEUE AND WRITE MY ORDER AS USUAL.

21 IF YOU -- AND I REALLY DO WANT TO GET IT DONE BEFORE
22 THE MIDDLE OF THE MONTH. AND SO I JUST WON'T BOTHER DOING IT
23 UNTIL NEXT -- I WOULD JUST SAY BY -- BECAUSE MY CALENDAR ENDS
24 THURSDAY AT NOON -- MAYBE BY NOON ON THURSDAY.

25 **MR. LI-MING WONG:** VERY WELL.

1 **THE COURT:** IF YOU'RE GOING TO SAY THAT YOU WANT A
2 LITTLE BIT OF A -- PUT EVERYTHING ON HIATUS FOR ANOTHER DEFINED
3 PERIOD OF TIME, FILE THAT. IF YOU DON'T, IF I DON'T HEAR
4 ANYTHING FROM YOU, THEN I'LL ASSUME IT'S BUSINESS AS USUAL.

5 **MR. LI-MING WONG:** RIGHT. IF I COULD RESPOND TO
6 MR. MAYA'S LAST POINT?

7 **THE COURT:** SURE.

8 **MR. LI-MING WONG:** AND THEN WE'LL SIT DOWN IF THE
9 COURT HAS NO FURTHER QUESTIONS.

10 SO MR. MAYA SAID IT'S A QUESTION OF FACT, AND I WOULD
11 DISAGREE WITH THAT. I THINK IT'S A QUESTION OF OMISSION. AND
12 RIGHT NOW AT THIS STAGE, IT'S THEIR BURDEN TO ALLEGE FACTS THAT
13 PLAUSIBLY ALLEGE THE HARM THAT THEY NEED TO ALLEGE TO ESTABLISH
14 STANDING. IT'S NOT UBER'S JOB TO DISPROVE ALL OF THEIR --

15 **THE COURT:** NO, I APPRECIATE THAT.

16 **MR. LI-MING WONG:** -- UNSUBSTANTIATED ALLEGATIONS.

17 **THE COURT:** BUT HERE'S MY OBSERVATION --

18 (SIMULTANEOUS COLLOQUY.)

19 **THE COURT:** IN THE -- AND THIS IS WHERE IT GETS A
20 LITTLE TRICKY FOR ME.

21 IN THE ORDINARY CASE THERE'S KNOWLEDGE THAT'S
22 PECULIARLY WITHIN YOUR CONTROL AND NOT WITHIN THEIR CONTROL,
23 AND THEY CAN ONLY PLAUSIBLY ALLEGE WHAT THEY KNOW BASED ON WHAT
24 HAPPENED TO THEM. AND SO IN THE ORDINARY CASE, THAT'S -- THAT
25 SOMETIMES LETS CASES GO FORWARD BECAUSE THEY'RE PLAUSIBLE EVEN

1 IF THEY'RE NOT ACTUALLY CORRECT.

2 THE TRICKY THING HERE, AS YOU SAID IN YOUR FILINGS,
3 HEY, WE GAVE YOU INFORMATION, YOU CANNOT PLAUSIBLY PLEAD A
4 CLAIM BASED ON WHAT YOU KNOW. AND THEN THAT JUST REALLY FOR ME
5 IS, I CANNOT GUESS ABOUT WHAT YOU DO AND DON'T KNOW. I'M
6 CONFINED TO WHAT YOU PLED, AND THAT'S IT. AND WHETHER YOU PLED
7 IS OR ISN'T ENOUGH; I CAN'T JUST SAY WELL, YOU KNOW, MAYBE
8 THERE'S SOMETHING MORE THAN THAT YOU DO KNOW, BECAUSE YOU
9 BASICALLY TOLD ME, WE'VE TOLD THEM AS MUCH AS WE CAN ABOUT THE
10 INVESTIGATION AND IT OUGHT TO ASSUAGE THEIR CONCERNS, AND THAT
11 OUGHT TO BE THE END OF IT. I HEAR THAT'S WHAT YOU ARE TELLING
12 TO ME.

13 **MR. LI-MING WONG:** THAT'S RIGHT.

14 **THE COURT:** AND I CAN'T GO ON THAT, NOT THAT I DON'T
15 BELIEVE YOU. I HAVE TO JUST LOOK AT WHAT YOU'VE ALLEGED AND
16 DECIDE IF THAT'S ENOUGH, AND THAT'S -- THAT'S -- YOU'RE MAKING
17 THE SAME ARGUMENT THAT WE PLED WHAT WE KNOW, AND THEN WHAT
18 WE -- AND THE ISSUE IS WHETHER IT'S PLAUSIBLE, AND THAT'S WHY
19 WE JUST HAVE THE PLEADING STAGE, AND THEN WE MOVE ON TO
20 DISCOVERY IF IT'S PLAUSIBLY PLED.

21 **MR. MAYA:** I MEAN, YOUR HONOR, I AGREE WITH YOU THAT
22 UBER HAS HIRED A TRUSTWORTHY AND VERY GOOD LAWYER.

23 **THE COURT:** YES.

24 **MR. MAYA:** VERY CAPABLE, LIKEABLE LAWYER, BUT THAT
25 DOESN'T MEAN --

1 **THE COURT:** THE LIKABLE LAWYER; IT'S LIKE THE
2 LINCOLN LAWYER ONLY BETTER.

3 **MR. MAYA:** BUT THAT DOESN'T MEAN THAT UBER HAS BEEN
4 HONEST.

5 **THE COURT:** YEAH.

6 **MR. MAYA:** AND IT DOESN'T MEAN THAT THEY WERE
7 CORRECT --

8 **THE COURT:** NO, I UNDERSTAND.

9 **MR. MAYA:** -- THE FIRST TIME THEY SAID --

10 **THE COURT:** I UNDERSTAND. AND THAT'S WHAT YOU WOULD
11 SAY: YOU CAN LIKE THE LAWYER AND TRUST WHAT HE TELLS YOU, AND
12 DOESN'T MEAN HE'S RIGHT.

13 **MR. LI-MING WONG:** WELL, THAT'S THE NICEST THING I'VE
14 HEARD ALL DAY. IF ONLY MR. MAYA STOPPED AT "LIKEABLE LAWYER,"
15 BUT THANK YOU, THANK YOU VERY MUCH.

16 **THE COURT:** SO DID YOU HAVE ANYTHING?

17 **THE CLERK:** NO. THEY'RE JUST TO SUBMIT SOMETHING IF
18 THEY WANT TO --

19 **THE COURT:** YEAH. THE MINUTE ORDER WILL JUST SAY:
20 PARTIES WILL UPDATE THE COURT BY NOON ON THURSDAY IF THEY WANT
21 A FURTHER STAY OF THE MOTION TO DISMISS.

22 **MR. LI-MING WONG:** AND THEN NO MESSAGE MEANS JUST
23 WRITE AWAY.

24 **THE COURT:** NO MESSAGE IS --

25 **MR. MAYA:** YOUR HONOR?

1 **THE COURT:** YES.

2 **MR. MAYA:** DO WE HAVE LEAVE TO AMEND TO ADD THOSE
3 ADDITIONAL ALLEGATIONS?

4 **THE COURT:** LET ME -- WELL, YES, LET ME JUST GET
5 THROUGH THE ORDER.

6 **MR. MAYA:** OKAY.

7 **THE COURT:** BUT, YES, I MEAN -- OBVIOUSLY.

8 **MR. MAYA:** I DON'T WANT TO -- I MEAN, IF YOUR ORDER
9 IS CLEAR --

10 **THE COURT:** IF YOU'RE JUST GOING TO ADD IN THE
11 ALLEGATIONS -- I MEAN, ONE OF THE ISSUES -- WELL, LET ME
12 JUST -- IF THAT'S THE ONLY IMPEDIMENT TO THE CASE GOING
13 FORWARD, OF COURSE YOU CAN AMEND TO ADD THOSE ALLEGATIONS, BUT
14 IT'S ALL SET FORTH. AND MY QUESTION WAS ONLY IS THERE IS MORE
15 THAN THERE IS IN THE DECLARATION, AND THE ANSWER IS NO, SO AT
16 LEAST --

17 **MR. MAYA:** RIGHT.

18 **THE COURT:** -- WE'VE GOT THE LANDSCAPE OF STUFF
19 NAILED.

20 **MR. MAYA:** YES.

21 **THE COURT:** SO LET ME -- I'LL LOOK AT IT BY NOON NEXT
22 THURSDAY, AND IF THERE'S ANYTHING -- IF YOU HAVE A CEASEFIRE IN
23 YOUR LITIGATION FOR A SMALL AMOUNT OF TIME, WHAT I WOULD DO
24 THEN, JUST PROCEDURALLY, IF YOU DID SAY, OH, ANOTHER TWO WEEKS,
25 USUALLY WHAT I JUST DO IS -- LET ME KNOW AT THAT PERIOD OF TIME

1 WHETHER YOU NEED ME TO DEAL WITH THE MOTION TO DISMISS AND YOU
2 TELL ME, BUT THAT'S USUALLY HOW I DO IT.

3 **MR. MAYA:** VERY WELL.

4 **THE COURT:** SO -- IF YOU GET TO THAT POINT.

5 ALL RIGHT. THANK YOU FOR COMING.

6 **MR. MAYA:** THANK YOU, YOUR HONOR.

7 **THE COURT:** THANK YOU FOR COMING. AND THANKS FOR
8 YOUR BRIEFS. AND I'LL WORK ON THIS NEXT WEEK.

9 **MR. LI-MING WONG:** THANK YOU.

10 **THE COURT:** ALL RIGHT.

11 (PROCEEDINGS ADJOURNED AT 12:37 P.M.)
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CERTIFICATE OF TRANSCRIBER

I CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
TRANSCRIPT, TO THE BEST OF MY ABILITY, OF THE ABOVE PAGES OF
THE OFFICIAL ELECTRONIC SOUND RECORDING PROVIDED TO ME BY THE
U.S. DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, OF THE
PROCEEDINGS TAKEN ON THE DATE AND TIME PREVIOUSLY STATED IN THE
ABOVE MATTER.

I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR,
RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN
WHICH THIS HEARING WAS TAKEN; AND, FURTHER, THAT I AM NOT
FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THE
ACTION.


JOAN MARIE COLUMBINI

NOVEMBER 13, 2017