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26
27 SUPERIOR COURT OF THE STATE OF CALIFORNIA

28 COUNTY OF LOS ANGELES

UNLIMITED JURISDICTION

Coordination Proceeding
Special Title (Rule 3.550)

LYFT ASSAULT CASES¹

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5061

**DEFENDANT LYFT, INC.'S
OPPOSITION TO PETITION FOR
COORDINATION**

Hearing Date: November 20, 2019

Time: 11:00 a.m.

Dept. 14

Petition Filed: September 4, 2019

¹ Because not every plaintiff alleges assault, the caption "Lyft Assault Cases" is inaccurate and overbroad, in addition to being unnecessarily prejudicial. Given the diversity of allegations and the fact that all plaintiffs allege vicarious liability for a driver's conduct, and akin to the *Massage Envy Franchising Cases* proceeding discussed below, Lyft respectfully suggests that the proceeding be captioned "Lyft, Inc. Driver Cases."

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INTRODUCTION

The Petition before the Court is not a conventional petition to secure coordination of similar complex cases filed in different California counties.² It is an improvident and unprecedented invitation under California Civil Procedure Code §§ 404 and 404.1 to make San Francisco Superior Court a national clearinghouse for claims against San Francisco-based companies that arise out of individual incidents that occurred largely in other states—claims that will involve considerable discovery in those other states and also will be governed in significant measure by the law of those states. The logic of the Petition would mean that all claims against a California-based company—wherever the underlying incidents arise, and however much the disputed facts occurred elsewhere and other states’ laws govern the contested legal issues—could be brought in California courts and coordinated. That surely was not the intent in enacting §§ 404 and 404.1, and it would tax the already-overburdened docket of the Superior Courts.

The cases at issue involve allegations of sexual misconduct by independent-contractor drivers using the Lyft “app” (*i.e.*, ride-sharing platform). Plaintiffs’ allegations are disturbing to Lyft, which places passenger safety at the heart of its mission. No person should have to endure sexual misconduct of any kind. The Petition, however, presents the question how the judicial system can best handle these cases. For purposes of coordination, two factors are of overriding importance: that the allegations of misconduct are not the same, and that the majority of incidents did not occur in California.

Plaintiffs’ counsel seeks coordination in San Francisco Superior Court of 23 cases³ alleging 38 incidents that occurred in 29 different cities across 19 states—from Marlborough, Massachusetts to Tacoma, Washington. The majority of the alleged incidents—22 of 38—

² “Petition” refers to Petitioners’ memorandum in support of the “Application ... for Complex Designation, Petition for Coordination, and Request for Stay” (Sept. 4, 2019) filed by Levin Simes Abrams LLP. “Joinder” refers to the “Response in Support of Petition for Coordination” (Sept. 23, 2019) filed by Estey & Bomberger LLP.

³ Lyft understands that plaintiffs’ counsel seeks coordination of 20 cases filed in San Francisco Superior Court plus 3 additional cases: The Petition (filed by the Levin Simes law firm) identified 13 cases the firm filed in San Francisco Superior Court, along with 2 cases filed in other counties by other law firms. The Joinder (filed by the Estey & Bomberger law firm) identified a further 6 cases—all filed in San Francisco. Estey Bomberger and Lyft jointly filed an add-on notice of an additional case filed in Los Angeles; and there is another case filed by Levin Simes in San Francisco.

1 occurred in other states and involved out-of-state plaintiffs, drivers, and witnesses.⁴ The cases
2 involving these 22 alleged out-of-state incidents do not belong in California courts at all. Every
3 *forum non conveniens* factor except the plaintiff's choice of forum (or, more specifically, their
4 California-based counsel's choice of forum) weighs in favor of dismissal,⁵ and the similar § 404.1
5 considerations explain why coordination would be inefficient and inappropriate.

6 **First**, each case is different. Each case arises from a different incident of alleged sexual
7 misconduct by a driver, involving a different passenger. The one common factor is that each
8 plaintiff asserts that she or he commissioned a ride using the Lyft app. But in each case, one does
9 not even reach questions of Lyft's liability (whether vicarious, or for negligent screening of
10 drivers or misrepresentation) unless the plaintiff first proves the driver's misconduct, along with
11 other case-specific facts. In short, case-specific facts predominate. That was the Sacramento
12 Superior Court's conclusion in the *Massage Envy Franchising Cases*, in which the court declined
13 to coordinate 8 cases alleging 13 individual instances of sexual assault—all of which occurred in
14 California—by masseurs at Massage Envy franchise locations. *See Massage Envy Franchising*
15 *Cases*, JCCP No. 4997, Order Denying Petition for Coordination, at 3 (Super. Ct., Sacramento
16 Cty. June 24, 2019) (Request for Judicial Notice ["RFJN"], Ex. A). Notwithstanding common
17 causes of action for vicarious liability and negligent hiring, the court reasoned that proving one
18 assault would have no determinative effect on any of the other cases. All the more so here, where
19 the majority of incidents did not occur in California.

20 **Second**, because the majority of cases involve alleged out-of-state incidents, coordination
21 would be significantly more costly for the parties and more time-consuming for the court. **All the**
22 **discovery** that Lyft requires regarding the out-of-state incidents and out-of-state plaintiffs will
23 take place outside California, requiring the California court to issue commissions for third-party
24 depositions and document discovery—and limiting its ability to enforce discovery orders directly.

25
26 ⁴ Plaintiffs' counsel has stated that they will soon file additional cases, *see, e.g.*, Petition,
27 Decl. of R. Abrams (Sept. 4, 2019), ¶ 24, the vast majority of which Lyft has reason to believe
also involve out-of-state incidents.

28 ⁵ Lyft has so far moved for dismissal or stay on *forum non conveniens* grounds in 10
cases. In the 6 cases in which plaintiffs to date have filed oppositions, they do not dispute that
their home state is an adequate alternative forum.

1 And, because each plaintiff must establish both the driver's alleged misconduct and damages
2 through discovery from out-of-state drivers, witnesses, law enforcement, healthcare providers,
3 and other non-California sources, much of the discovery that plaintiffs require also is outside
4 California. Attempting to coordinate significant out-of-state discovery from California is certain
5 to slow down these cases and compound the costs for the parties and the court.

6 *Third*, coordination will not eliminate inconsistent rulings because the cases will be
7 governed by the law of different states. No matter how rigorously consistent the court's
8 reasoning, coordination of California and out-of-state cases would almost certainly result in
9 inconsistent rulings, because a California court would be required to apply, for example, New
10 York law to tort claims arising in New York and involving a New York plaintiff and driver. Even
11 as to the California plaintiffs, the court's rulings would likely differ from case to case because the
12 alleged facts necessarily differ from case to case.

13 *Fourth*, to the extent pretrial proceedings require the appearance in California of third-
14 party witnesses or their counsel, coordination would be unusually inconvenient for them, given
15 that 22 of the 38 incidents allegedly took place as far away as Florida, Massachusetts, and New
16 York. Were the cases to remain coordinated for trial in California, the court could not compel the
17 appearance of these out-of-state witnesses, including the alleged assailant, law-enforcement and
18 medical personnel, and key damages witnesses.

19 *Fifth*, § 404 is a mechanism to achieve efficient coordination of similar cases that have
20 been filed in different California counties. Here, 20 of the 23 filed cases—and 20 of the 21
21 served cases—have been filed in the same court. The one served case that was filed in a court
22 other than San Francisco Superior Court has progressed beyond two rounds of demurrers and into
23 discovery. Thus, while plaintiffs' counsel has identified cases for coordination filed "in different
24 courts," Cal. Civ. Proc. Code § 404, the one non-San Francisco case that has been served is at a
25 different stage than the San Francisco cases, and the Petition and Joinder fail to demonstrate any
26 efficiencies will result from coordinating these differently situated actions.

27 For all these reasons, the Court should deny coordination.
28

BACKGROUND

Lyft is a ride-sharing company with its headquarters in San Francisco. It maintains a software platform that connects people seeking a ride with drivers offering them. Drivers who wish to use the platform must (among other things) register with Lyft, submit to and pass a background check (as the complaints concede), and agree to Lyft's Terms of Service. Lyft uses a vendor with expertise in background checks, and it searches six separate databases that include, collectively, global, national, state, and local data. Lyft also has implemented first-of-its-kind, and still-unique, safety measures in the for-hire transportation industry, and recently announced a partnership with the 145-year-old firm ADT to develop additional safety features. After a driver passes the background screenings and is approved by Lyft, he or she may use the Lyft platform to offer rides, or not, whenever and wherever the driver chooses.

There are 23 pending complaints. They allege 38 incidents perpetrated by 37 different drivers in 29 cities and 19 states.⁶ Of the 38 incidents, less than half (16) occurred in California. Appendix A, attached to the declaration filed with this brief, identifies the cases Lyft understands to be included in the coordination request, the court in which each case was filed, how the case was brought to the Court's attention, the law firm representing the plaintiff(s) in each case, and where the alleged incidents underlying the cases occurred.

The claims of driver misconduct vary dramatically. Most plaintiffs assert that they used the Lyft app to initially match with the driver, but at least one does not. All of the allegations are disturbing, but they also are different: some allege rape; others, being yelled at or grabbed or made afraid; a few, being subjected to lewd or harassing comments. No two plaintiffs allege the same set of facts, just as, with one exception, no two allege misconduct by the same driver or identify a witness in common with the other incidents—not surprisingly, as the incidents occurred in so many different places across the country.

And although the complaints largely repeat the same causes of action, the applicable law varies. For example, some of the alleged incidents occurred in states with statutes that expressly

⁶ Alabama, Arizona, California, Florida, Illinois, Louisiana, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Ohio, South Carolina, Utah, Virginia, Washington, and Wisconsin.

1 exempt or limit the scope of tort liability for ride-sharing companies from common-carrier
2 obligations; other incidents occurred in states where the applicability of common-carrier
3 obligations to ride-sharing companies is a matter of common law.

4 **THE CASES DO NOT WARRANT COORDINATION**

5 The request for coordination is atypical. The cases do not concern a mass tort: plaintiffs
6 do not allege that they were injured in the same catastrophic accident or by the same
7 environmental contamination. Nor, like many instances of coordinated litigation, do they allege
8 they used the same defective drug or medical device. The sole common thread in the cases is that
9 plaintiffs used the Lyft app to match with a driver. Everything else—the circumstances of the
10 incident, the character of the driver’s misconduct, the nature of the plaintiff’s injury, the findings
11 of any police investigation of the incident, the driver’s background, the then-existing statutory
12 background-check procedures, the witnesses to the alleged incident—is *not* common. And those
13 uncommon elements not only predominate, but will involve extensive discovery from out-of-state
14 sources. It is for this reason that the request for coordination is unprecedented in its reach: it asks
15 a California court to coordinate cases that arise from alleged misconduct by different people, with
16 different victims,⁷ in different locales, thereby implicating different states’ laws.

17 Coordination under these circumstances will not “promote the ends of justice,” Cal. Civ.
18 Proc. Code § 404.1, but will instead create headache, delay, and increased expenses for both
19 sides. Section 404.1 requires consideration of seven factors: (1) whether “common question[s]
20 of fact or law” predominate; (2) whether coordination will promote the “efficient utilization” of
21 judicial resources; (3) the effect of coordination on the “calendar of the courts”; (4) “the
22 convenience of parties, witnesses, and counsel”; (5) the “relative development,” or stage, of the
23 actions; (6) the risk of “duplicative and inconsistent rulings”; and (7) the “likelihood of settlement
24 ... should coordination be denied.” None of the factors affirmatively weighs in favor of
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27 ⁷ Many individuals who have been sexually assaulted prefer the term “survivor,” but
28 plaintiffs’ counsel use the term “victim” in blog posts on their websites; accordingly Lyft uses it
here. *See, e.g.*, Levin Simes Abrams Files More Lyft Rape and Sexual Assault Lawsuits,
<https://www.levinsimes.com/lyft-rape-sexual-assault-lawsuit-update/> (last visited Nov. 5, 2019).

1 coordination, and the first six weigh strongly against it.⁸

2 **A. Common Questions of Law or Fact Do Not Predominate Where the**
3 **Underlying Claims Are Separate Incidents of Sexual Misconduct.**

4 As plaintiffs' counsel concede, the "[t]rials of each plaintiff's claim will present *unique*

5 issues," for they allege 38 instances of assault, harassment, or other misconduct that differ in

6 time, place, perpetrator, and victim (among other things). Joinder at 9.⁹

7 Neither the Petition nor the Joinder point to any collection of cases as varied as these that

8 have been coordinated under §§ 404 and 404.1. On the other hand, as noted above, the

9 Sacramento Superior Court declined to coordinate sexual-assault claims brought by 13 plaintiffs

10 even though they raised similar legal issues, because "resolution of those issues of law will be

11 determined by the individual facts of each plaintiff's case. ..." *Massage Envy*, RFJN Ex. A, at 3.

12 In *Massage Envy*, as here, plaintiffs asserted vicarious liability and negligent hiring, supervision,

13 and retention claims. But, as the court explained, "a determination that a plaintiff in one case was

14 sexually assaulted by a masseuse will have no determinative effect whatsoever on whether a

15 plaintiff in another case was sexually assaulted by a different masseuse." *Id.* That reasoning

16 applies with greater force to the Petition, which seeks coordination of cases alleging 16 California

17 incidents, along with 22 incidents in 18 other states.

18 The Petition's contention that "the facts specific to [plaintiffs'] individual assault ... are

19 secondary to the theories of liability that predominate," Petition at 18, is mistaken for two

20 reasons. *First*, theories of liability succeed or fail depending on their application to the facts.

21 While plaintiffs' counsel argues at one point that "[t]hese cases are all premised on the same

22 operative facts," Petition at 6, at another point they admit that each plaintiff's claim "will present

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24 ⁸ Additionally, coordination under § 404 is limited to "complex" actions. But plaintiffs'

25 counsel did not designate 11 cases "complex" when they were filed in San Francisco. *See Jane*

26 *Doe 1 v. Lyft Inc. et al.*, No. CGC-19-578124; *Jane Doe 2 v. Lyft Inc. et al.*, No. CGC-19-578122;

27 *India Matheson v. Lyft Inc. et al.*, No. CGC-19-578123; *Jennifer Hardin v. Lyft Inc. et al.*, No.

28 CGC-19-578280; *Jane Doe 3 v. Lyft Inc. et al.*, No. CGC-19-578278; *Jane Doe 4 v. Lyft Inc. et*

al., No. CGC-19-578286; *Mary Espinosa v. Lyft Inc. et al.*, No. CGC-19-578282; *Jill Berquist v.*

Lyft Inc. et al., No. CGC-19-578643; *Margarita Bicana v. Lyft Inc., et al.*, No. CGC-19-578645;

Justin Kran v. Lyft Inc. et al., No. CGC-19-578647; *Stephanie Nan v. Lyft Inc. et al.*, No. CGC-

19-578640.

⁹ All emphases are added unless otherwise indicated.

1 unique issues” and thus should not be “coordinated or joined for trial,” Joinder at 9.¹⁰ Counsel is
2 quite right. Consider that each plaintiff asserts claims of vicarious liability against Lyft. The
3 predicate for those claims is an individual injury caused by a driver’s misconduct vis-à-vis a
4 passenger, *see, e.g., Lisa M. v. Henry Mayo Newhall Mem’l Hosp.*, 12 Cal. 4th 291, 296 (1995);
5 without that predicate plaintiff-by-plaintiff proof, the vicarious claims against Lyft fail. Plaintiffs
6 also assert misrepresentation claims that depend on individual proof of reliance, *see, e.g., Cadlo*
7 *v. Owens-Ill., Inc.*, 125 Cal. App. 4th 513, 519 (2004), and may well involve different alleged
8 misrepresentations communicated in different ways. Thus, when the Petition asserts that “[t]he
9 **only** differences in each Petitioners’ case are the facts specific to their [sic] individual assault and
10 the damages stemming therefrom,” Petition at 18, it refers to the very facts that are front and
11 center. Cases can hardly be said to present common issues if the primary actor, the primary
12 misconduct, and the primary victim are all different from case to case, as they are here. To say
13 that those differences are the “only” differences between the cases is like saying the “only”
14 difference between the California Supreme Court and the United States Supreme Court is that
15 they have different judges.

16 *Second*, plaintiffs’ theories of liability may come to the fore at trial (in jury instructions)
17 or at the close of discovery (in dispositive motions). But plaintiffs’ counsel seeks “coordination
18 solely for *pretrial* purposes,” Joinder at 9; *see also* Petition at 1—*i.e.*, primarily for purposes of
19 discovery. The bulk of that discovery will not be common, because it will concern the incident,
20 the driver, and the passenger. That plainly is true for the underlying claims of assault and
21 harassment at the core of each case. And it is true as well for the claims of intentional and
22 negligent misrepresentation that all plaintiffs bring, which require proof that Lyft made a
23

24 ¹⁰ Personal-injury cases generally involve unique claims. *See Jolly v. Eli Lilly & Co.*, 44
25 Cal. 3d 1103, 1123 (1988) (“[M]ajor elements in tort actions for personal injury—liability,
26 causation, and damages—may vary widely from claim to claim, creating a wide disparity in
27 claimants’ damages and issues of defendant liability, proximate cause, liability of skilled
28 intermediaries, comparative fault, informed consent, assumption of the risk and periods of
limitation.”). Courts reject class-action certification where common issues of fact do not
predominate, as is typically true for personal-injury cases. *See id.* at 1125 (“[P]ersonal-injury
mass-tort class-action claims can rarely meet the community of interest requirement in that each
member’s right to recover depends on facts peculiar to each particular case.”); *Kennedy v. Baxter*
Healthcare Corp., 43 Cal. App. 4th 799, 810 (1996) (denying class certification when individual
questions “clearly predominate in determining liability, causation, damages and defenses.”)

1 “positive assertion” (*i.e.*, a guarantee of safety) and that the plaintiff saw and relied on the alleged
2 misrepresentation. *See, e.g., Yanase v. Auto. Club of So. Cal.*, 212 Cal. App. 3d 468, 473 (1989)
3 (tour company not liable for mugging that took place at a motel listed in its guidebook because
4 the guidebook made no positive assertions regarding the safety or security measures taken at the
5 hotel). Discovery about what was communicated, what was heard or read, and what was relied on
6 is specific to each plaintiff. Also not common to the cases is the discovery regarding Lyft’s
7 allegedly negligent screening and approval of drivers. That claim requires proof—as to each
8 accused driver—that he was, or became, unfit to perform the work for which he was retained and
9 that Lyft knew or should have known it. *See Doe v. Capital Cities*, 50 Cal. App. 4th 1038, 1054
10 (1996).¹¹ Discovery as to that issue concerns each driver’s background and past conduct and,
11 therefore, is not common, but driver-specific.

12 As discussed in more detail below, the law, like the facts, is not common across the cases.
13 Because the majority of the claims arise from out-of-state conduct, other states’ laws likely will
14 apply to some, if not all, of the issues before the court. Thus, contrary to plaintiffs’ mere
15 assertion, coordination will *not* “promote uniform, consistent rulings,” Petition at 19—a separate
16 factor weighing against coordination. While the legal questions may be similar, the analysis and
17 conclusions necessarily will vary between the California and non-California incidents, among the
18 non-California incidents for the 18 states already implicated by the pending cases, and indeed
19 among the California incidents, given the application of different facts to the law.

20 These cases therefore fail to satisfy the first and sixth factors for coordination. Common
21 questions of law and fact do not predominate, and coordination will not diminish the possibility
22 of inconsistent rulings.

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26 ¹¹ Each plaintiff must establish that Lyft “‘knew or should have known’ that [the driver]
27 was unfit” in the *specific* way that led to the alleged harm. *See Capital Cities*, 50 Cal. App. 4th at
28 1054; *Federico v. Superior Court*, 59 Cal. App. 4th 1207, 1212–15 (1997) (finding no negligent
hiring where an employee previously convicted of molestation of minors was hired to teach at a
school for adults, even though it was foreseeable he would come into contact with minors as a
result of his work).

1 **B. Coordination Will Not Result in the Efficient Use of Judicial Resources or**
2 **Convenience of the Parties, Counsel, and Witnesses.**

3 Far from promoting judicial efficiency or convenience for the parties, counsel, and the
4 witnesses, coordination would create additional work for the court and impose additional costs on
5 the parties, with the prospect of slowing down the entire pretrial process.

6 **Discovery.** Consider the coordination of discovery. With regard to the claims arising
7 from the 22 incidents that occurred outside California, both plaintiffs and Lyft will be seeking
8 documents and witness testimony outside California. To obtain that out-of-state discovery, the
9 parties:

- 10 • Will require commissions from the court authorizing discovery in the other
11 jurisdictions.
- 12 • Must then take those commissions and begin a parallel process in the other
13 jurisdictions to secure subpoenas for testimony and documents—which in some
14 states involves opening a court matter. *See, e.g.,* N.J. Ct. R. 4:11-4(a); Ill. Sup. Ct.
15 R. 204(b).
- 16 • If a third party fails to respond, delays, or objects, there is no ready recourse to the
17 coordinating court for relief. *See, e.g.,* Wis. Stat. § 887.24(6)(a) (“An application
18 to the circuit court for a protective order or to enforce, quash, or modify a
19 subpoena issued under this section will commence a special proceeding.”).

20 Completing this process for multiple third-party witnesses and document custodians—more than
21 200 subpoenas if there were, on average, just 10 witnesses and document custodians per out-of-
22 state case—would unquestionably increase litigation costs and likely would delay the completion
23 of discovery. Put differently, the fact that the majority of the cases involve out-of-state conduct
24 puts much of the customary work of a coordinating court outside its direct control.

25 **Choice of Law.** That same fact means that the coordinating court’s determination of legal
26 issues will be more cumbersome and less efficient, because it will require the court to undertake
27 *seriatim* choice-of-law analyses (i) as to each case alleging an out-of-state incident (ii) for 19
28 states (iii) regarding each legal issue. *See Wash. Mut. Bank, FA v. Superior Court*, 24 Cal. 4th

1 906, 920 (2001) (“A separate conflict of laws inquiry must be made with respect to each issue in
2 the case.”). This requires more elaborate briefing by the parties and more detailed
3 decisionmaking by the court.

4 This extra burden is not a small thing. The choice-of-law analyses before the coordinating
5 court may not be straightforward or sign-posted with precedent. For example, 21 states have
6 statutes that define a “common carrier” to exclude ride-sharing companies like Lyft, including 7
7 of the states in which alleged incidents occurred.¹² In the other 29 states and the District of
8 Columbia, whether common-carrier responsibilities apply to ride-sharing companies is governed
9 primarily by common law. This can make for an elaborate choice-of-law analysis where, as in
10 one case, the plaintiff alleges that the driver picked her up in New York (a state in which Lyft is
11 not a common carrier, by statute), assaulted her in New Jersey (a common-law state), then
12 returned her to New York. Further complicating the analysis, a number of the relevant states
13 enacted laws in 2017 and 2018 that created regulatory requirements specific to ride-sharing
14 companies. The coordinating court may have to apply those laws, perhaps interpreting them for
15 the first time.

16 The point is not that a coordinating court cannot or should not perform choice-of-law
17 analyses; California courts do so all the time. The point is that it is inefficient and burdensome
18 for a California court to do so here. After all, the coordinated proceeding would not involve just
19 one or two out-of-state cases. The *majority* of the pending cases and claims arise from out-of-
20 state incidents, and plaintiffs’ counsel have publicly suggested they are prepared to file more than
21 forty additional cases (the vast majority, Lyft has reason to believe, involving alleged out-of-state
22 incidents). Thus, coordination will not “avoid[] repeated adjudication of common questions of
23 law and fact,” Petition at 19; coordination will instead put before the court additional questions of
24 law that must be answered before the cases can proceed. Those questions must be addressed
25 *seriatim* under the laws of 19 (or more) states. Neither the Petition nor Joinder even consider the
26 choice-of-law issues that are certain to arise.

27
28 ¹² See Ala. Code § 32-7C-21(a); Fla. Stat. § 627.748(2); 625 Ill. Comp. Stat. 57/25(e);
Mich. Comp. Laws § 257.2127(1); N.Y. Veh. & Traf. Law § 1692; Va. Code § 46.2-2000; Wis.
Stat. § 194.01(1).

1 And those issues, along with the burden of attempting to manage discovery in cases
2 involving incidents in 19 states, renders empty the Joinder’s suggestion that “coordination will
3 unburden the calendar of courts in some of California’s most congested jurisdictions.” Joinder at
4 8; *see also* Petition at 19. Indeed, coordinating the cases will promote congestion, as the court is
5 forced to address legal and discovery issues that result *from coordination itself*—an independent
6 factor rendering the Petition unwarranted.

7 **Witnesses.** Plaintiffs’ counsel states that “[t]he pretrial phase of each of these cases is
8 likely to involve a substantial amount of documentary evidence and discovery from numerous
9 witnesses.” Joinder at 5. They go even further and asserts that “[c]oordination will ... advance
10 the convenience of the witnesses to the actions.” Joinder at 7. But both the Petition and Joinder
11 fail to explain how this can possibly be true for the 22 incidents that occurred in other states.
12 There are sure to be numerous witnesses with relevant knowledge as to each incident and the
13 plaintiff’s alleged damages—the plaintiff, the driver, law-enforcement personnel, medical
14 providers, and friends, family, and colleagues of the plaintiff and driver—and all likely are
15 located in the state where the incident occurred. And were the cases to remain coordinated for
16 trial, those witnesses would be inconvenienced by having to come to California to testify.¹³ Or
17 they will refuse, and California juries—evaluating the merits of a claim of assault that took place
18 outside of California—will be forced to rely solely on the recorded depositions of out-of-state
19 witnesses. “[I]t is manifestly always more satisfactory and desirable, in jury cases in particular,
20 to present the testimony first hand. ...” *Carr v. Stern*, 17 Cal. App. 397, 408 (1911); *accord* Cal.
21 Civ. P. Code § 2025.620(c)(3) (recognizing “the importance of presenting the testimony of
22 witnesses orally in open court”). The convenience of witnesses cannot weigh in favor of
23 coordination, given that the majority of claims arise from out-of-state incidents.

24 Even where the California claims are concerned, it is not clear that San Francisco is
25 convenient for the larger number of witnesses. Of the 16 California claims, 13 arise from
26 incidents that took place in Central or Southern California. Apart from convenience, non-parties

27 ¹³ In the context of venue, the inconvenience of travel to California militates against a
28 California forum. *See Rubio v. Monsanto Co.*, 181 F. Supp. 3d 746, 763 (C.D. Cal. 2016)
(convenience of non-party witnesses is more significant than that of parties because “party
witnesses can be compelled to testify regardless of the forum in which the case is litigated”).

1 in those cases may be beyond the subpoena power of San Francisco Superior Court.

2 **Alternatives.** The rationale for proposing coordination before San Francisco Superior
3 Court comes down to this: “Lyft’s headquarters are in San Francisco, thus the vast majority of
4 Lyft’s corporate witnesses and documents are most likely in San Francisco.” Joinder at 9. That
5 fact, when considered on its own, may appear to make San Francisco a convenient forum for Lyft.
6 But coordination is not necessary to simplify and streamline discovery from the company for the
7 plaintiffs. Lyft is prepared to agree that documents produced by the company, and depositions
8 taken from corporate witnesses, in one case will be deemed produced and taken in the other cases.
9 Lyft also is willing to identify and produce, without formal document requests, certain basic
10 documents (*e.g.*, records relating to the rides at issue). As only two law firms represent nearly all
11 of the plaintiffs, it should be possible to reach agreement on such mutually-beneficial matters.

12 In the California-incident cases, absent the complicating considerations of the out-of-state
13 cases, counsel, in the Joinder’s words, should be able to “proceed[] with discovery in a
14 cooperative manner,” Joinder at 7, and, in addition to sharing Lyft discovery, agree on a common
15 timetable.

16 **C. The Relative Development of the Actions Weighs Against Coordination.**

17 Coordination is intended to bring together two or more “civil actions ... pending in
18 different courts.” Cal. Civ. Proc. Code § 404. The Petition satisfies that condition, as 20 cases
19 were filed in the San Francisco Superior Court and served on Lyft, and 3 in other counties. But
20 the relative development of the 20 San Francisco cases versus the 3 other cases weighs against
21 coordinating all of them in one court.

22 The 20 cases are at a very early stage. In none has there been any discovery. Motions for
23 dismissal on *forum non conveniens* grounds (or demurrer) are pending in 7 of them. The 3 non-
24 San Francisco cases are different. Discovery is underway (after two rounds of demurrers) in the
25 single served case filed outside San Francisco, *Jane Doe v. Lyft, Inc. et al.*, No. BC-705652
26 (Super. Ct, Los Angeles Cty. filed May 11, 2018). And the remaining non-San Francisco cases,
27 one of which was pleaded as a class action, have not been served three and six months,
28 respectively, after being filed. *See Jane Doe 1, et al., individually and on behalf of all others*

1 *similarly situated v. Lyft, Inc. et al.*, No. 19CV-0434 (Super. Ct., San Luis Obispo Cty. filed July
2 24, 2019); *Gillian C. v. Lyft, Inc. et al.*, No. 19STCV13758 (Super. Ct., Los Angeles Cty. filed
3 Apr. 22, 2019). The Petition and Joinder fail to account for these differences or to explain how
4 coordinating the San Francisco cases with the non-San Francisco cases—in particular, the case in
5 which discovery is underway and a putative class action—will create efficiencies. Appending
6 those cases to the differently situated, San Francisco-filed cases will only delay them, or the 20
7 San Francisco cases.

8 **D. The Likelihood of Settlement Does Not Favor Coordination.**

9 As explained above, common questions of fact and law do not predominate; coordination
10 does not serve the convenience of anyone (with the possible exception of Lyft’s corporate
11 witnesses); given the out-of-state claims, coordination places an extra burden on judicial
12 resources and court calendars while failing to prevent multiple rulings that may be inconsistent as
13 a result of the application of different state laws; and the cases are at different stages. That these
14 § 404.1 factors weigh against coordination warrants denial of the Petition.

15 The remaining § 404.1 factor—the likelihood of coordination promoting settlement—does
16 not alter the balance. Plaintiffs “intend to vigorously pursue their claims in this litigation and
17 expect that Defendants will do the same.” Joinder at 8. The utility of coordination, the Petition
18 says, is court supervision of “organized plans for mediation or settlement.” Petition at 19; *see*
19 *also* Joinder at 8–9. But a court can do that in any case, whether coordinated with others, or not.
20 And it is noteworthy that one of just two law firms that support the Petition represents almost all
21 plaintiffs. Should there ever be a prospect of global settlement, the parties will have no difficulty
22 finding one another. For now, coordination cannot change the fundamental fact that each
23 plaintiff’s factual circumstances, injuries, and damages are unique. And neither the Petition nor
24 the Joinder explains how coordination will make settlement more likely in those circumstances.

25 * * * * *

26 The Petition and Joinder treat California’s coordination statute—a statute intended to
27 facilitate the coordination of *California-based cases*—as license to create a multidistrict litigation
28 along the lines of that authorized by federal statute, 28 U.S.C. § 1407. Coordination here cannot

1 be fairly compared to a federal MDL. Cases subject to MDL pretrial coordination are transferred
2 back to their home districts for trial. If the Court orders coordination and elects to keep all of the
3 cases in California, not only will all remain here, but others will follow. That would turn
4 California (and San Francisco Superior Court) into the national clearinghouse for Lyft tort
5 litigation, as well as the tort litigation of other ride-sharing companies based in San Francisco.
6 And, by the same logic, any technology, bioscience, or other company headquartered in San
7 Francisco whose work has national scope.¹⁴

8 Such an application of § 404 would add considerably to the more-than-16,000 cases filed
9 each year in the San Francisco Superior Court. Those 16,000 cases are not created equal,
10 however, and the cases here involving out-of-state incidents will involve (i) significant third-party
11 discovery that is not, as a practical matter, subject to coordination by a California court, plus (ii)
12 troublesome choice-of-law analyses. Burden abounds: either plaintiffs' counsel is envisioning a
13 very long coordinated discovery period, to ensure that the parties have sufficient time to take out-
14 of-state discovery and engage in motions practice under the law of 19 (or more) states, or they are
15 ignoring that coordination will produce the very inefficiencies they contend it will yield.

16 CONCLUSION


17 Petitioners cannot satisfy six of the seven § 404.1 criteria; and the remaining factor does
18 not weigh in favor of coordination. The Court should deny the Petition.

19
20 DATED: November 6, 2019



WARREN METLITZKY
CONRAD & METLITZKY LLP

21
22
23 DATED: November 6, 2019



BETH STEWART
WILLIAMS & CONNOLLY LLP
Attorneys for Defendant Lyft, Inc.

24
25
26
27
28 ¹⁴ There is no reason to think that observant counsel following the ruling in this matter
would not attempt to use the coordination mechanisms of § 404 in Los Angeles to center all tort-
based litigation against Los Angeles-based companies in Los Angeles Superior Court, regardless
of the location of the victim, tortfeasor, and underlying torts.

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15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF LOS ANGELES
18 UNLIMITED JURISDICTION

19 Coordination Proceeding
20 Special Title (Rule 3.550)

21 LYFT ASSAULT CASES¹

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5061

**DECLARATION OF BETH A. STEWART
IN SUPPORT OF LYFT, INC.'S
OPPOSITION TO THE PETITION FOR
COORDINATION**

Hearing Date: November 20, 2019
Time: 11:00 a.m.
Dept. 14
Petition Filed: September 4, 2019

28 ¹ Lyft, Inc. incorporates the first footnote of its Opposition to the Petition for Coordination
objecting to the caption for this proceeding.

1 I, Beth A. Stewart, declare as follows:

2 1. I am a partner at the firm of Williams & Connolly LLP, attorneys of record for
3 Defendant Lyft, Inc. I am licensed to practice law in the District of Columbia, and have secured
4 approval to appear *pro hac vice* in two of the matters included in the instant Petition for
5 Coordination: *Jane Doe 4 v. Lyft, Inc. et al.*, San Francisco Superior Court Case No. CGC-19-
6 578286; and *Jane Roe 1, et al. v. Lyft, Inc., et al.*, San Francisco Superior Court Case No. CGC-
7 19-578975. The following facts are known to me personally, and if called upon as a witness, I
8 could testify to them competently.

9 2. The content of Appendix A includes information found in the complaints in each
10 of the actions noticed in the September 4, 2019 “Application ... for Complex Designation,
11 Petition for Coordination, and Request for Stay,” filed by Levin Simes Abrams, and the
12 September 23, 2019 “Response in Support of Petition for Coordination,” filed by Estey &
13 Bomberger LLP. The complaints were attached to declarations accompanying those filings.

14 3. Appendix A also includes information found in the complaints filed in *Jane Doe v.*
15 *Lyft, Inc. et al.*, Los Angeles Superior Court Case No. BC705652 (filed May 11, 2019), which
16 was noticed as a potential add-on case on September 24, 2019, and *Jane Doe 7 v. Lyft, Inc. et al.*,
17 San Francisco Superior Court Case No. CGC-19-580014 (filed October 16, 2019), in which Levin
18 Simes is the counsel of record for the plaintiff. Lyft expects that all pending deadlines in the
19 latter action will be continued pending the Court’s ruling on the Petition for Coordination.

20 4. Appendix A is attached to this declaration as Exhibit 1.


21 5. The complaint in *Jane Doe v. Lyft, Inc. et al.*, Los Angeles Superior Court Case
22 No. BC705652, is attached to this declaration as Exhibit 2.

23 6. The complaint in *Jane Doe 7 v. Lyft, Inc. et al.*, San Francisco Superior Court Case
24 No. CGC-19-580014, is attached to this declaration as Exhibit 3.

25 7. I understand that the operative complaints in *Gillian C. v. Lyft Inc. et al.*, Los
26 Angeles Superior Court Case No. 19STCV13758 (filed April 22, 2019), and *Jane Doe 1, et al.*,
27 *individually and on behalf of others similarly situated v. Lyft Inc. et al.*, San Luis Obispo Superior
28 Court Case No. 19CV-0434 (filed July 24, 2019), which were identified in the Levin Simes
September 4, 2019 Petition for Coordination have not been served on Lyft. Certified copies of

1 the docket sheets from *Gillian C* and *Jane Doe 1, et al.* are attached as Exhibits 4 and 5,
2 respectively.

3
4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct. Executed on November 6, 2019, in Washington, D.C.
6

7
8 

9 _____
Beth A. Stewart

EXHIBIT 1

Appendix A: Cases Noticed for Coordination and Potential Add-On Cases

	Case Name	Number of Plaintiffs	Counsel for Plaintiff(s)	Court Filed	State of Alleged Incident	City of Alleged Incident	Method of Notification
1.	<i>Jill Berquist v. Lyft Inc. et al.</i> , Case No. CGC-19-578643	1	Levin Simes	San Francisco	Minnesota	Minneapolis	9/4/19 Levin Simes Petition
2.	<i>Margarita Bicana v. Lyft Inc. et al.</i> , Case No. CGC-19-578645	1	Levin Simes	San Francisco	Wisconsin	Milwaukee	9/4/19 Levin Simes Petition
3.	<i>Marianne DiTrani v Lyft Inc. et al.</i> , Case No. CGC-19-578933	1	Levin Simes	San Francisco	California	Hollywood	9/4/19 Levin Simes Petition
4.	<i>Jane Doe 1 v. Lyft Inc. et al.</i> , Case No. CGC-19-578124	1	Levin Simes	San Francisco	Louisiana	New Orleans	9/4/19 Levin Simes Petition
5.	<i>Jane Doe 2 v. Lyft Inc. et al.</i> , Case No. CGC-19-578122	1	Levin Simes	San Francisco	Michigan	Detroit	9/4/19 Levin Simes Petition
6.	<i>Jane Doe 3 v. Lyft Inc. et al.</i> , Case No. CGC-19-578278	1	Levin Simes	San Francisco	Washington	Tacoma	9/4/19 Levin Simes Petition
7.	<i>Jane Doe 4 v. Lyft Inc. et al.</i> , Case No. CGC-19-578286	1	Levin Simes	San Francisco	California	San Diego	9/4/19 Levin Simes Petition
8.	<i>Jane Doe 5 v. Lyft Inc. et al.</i> , Case No. CGC-19-578878	1	Levin Simes	San Francisco	California	Imperial Beach	9/4/19 Levin Simes Petition

	Case Name	Number of Plaintiffs	Counsel for Plaintiff(s)	Court Filed	State of Alleged Incident	City of Alleged Incident	Method of Notification
9.	<i>Mary Espinosa v. Lyft Inc. et al.</i> , Case No. CGC-19-578282	1	Levin Simes	San Francisco	Florida	Miami	9/4/19 Levin Simes Petition
10.	<i>Jennifer Hardin v. Lyft Inc. et al.</i> , Case No. CGC-19-578280	1	Levin Simes	San Francisco	Virginia	Centreville	9/4/19 Levin Simes Petition
11.	<i>Justin Kran v. Lyft Inc. et al.</i> , Case No. CGC-19-578647	1	Levin Simes	San Francisco	Ohio	Cleveland	9/4/19 Levin Simes Petition
12.	<i>India Matheson v. Lyft Inc. et al.</i> , Case No. CGC-19-578123	1	Levin Simes	San Francisco	Washington	Seattle	9/4/19 Levin Simes Petition
13.	<i>Stephanie Nan v. Lyft Inc. et al.</i> , Case No. CGC-19-578640	1	Levin Simes	San Francisco	New York	New York City	9/4/19 Levin Simes Petition
14.	<i>Jane Doe 1, Jane Doe 2, Jane Doe 3, individually and on behalf of others similarly situated v. Lyft Inc. et al.</i> , Case No. 19CV-0434	3	James McKiernan Lawyers	San Luis Obispo	California	San Luis Obispo	9/4/19 Levin Simes Petition
15.					California	Los Angeles	
16.					California	San Diego	
17.	<i>Gillian C. v. Lyft Inc. et al.</i> , Case No. 19STCV13758	1	Greenslade Cronk, LLP	Los Angeles	California	Los Angeles	9/4/19 Levin Simes Petition

	Case Name	Number of Plaintiffs	Counsel for Plaintiff(s)	Court Filed	State of Alleged Incident	City of Alleged Incident	Method of Notification
18.	Jane Roe 1 through Jane Roe 14 et al. v. Lyft Inc. et al., Case No. CGC-19-578975	14	Estey & Bomberger	San Francisco	California	Los Angeles	9/23/19 Estey & Bomberger Joinder
19.					California	Cypress	
20.					California	West Hollywood	
21.					South Carolina	Charleston	
22.					North Carolina	Charlotte	
23.					Nevada	Las Vegas	
24.					Utah	Salt Lake City	
25.					North Carolina	Jacksonville	
26.					Massachusetts	Marlborough	
27.					Alabama	Tuscaloosa	
28.					California	San Francisco	
29.					North Carolina	Wilmington	
30.					Illinois	Chicago	
31.					Illinois	Chicago	

	Case Name	Number of Plaintiffs	Counsel for Plaintiff(s)	Court Filed	State of Alleged Incident	City of Alleged Incident	Method of Notification
32.	<i>Alison Turkos v. Lyft, Inc. et al.</i> , Case No. CGC-19-579280	1	Levin Simes	San Francisco	New York & New Jersey	Brooklyn & City in New Jersey	9/23/19 Estey & Bomberger Joinder
33.	<i>Jane Doe 6 v. Lyft Inc. et al.</i> , Case No. CGC-19-579281	1	Levin Simes	San Francisco	California	San Francisco & Richmond	9/23/19 Estey & Bomberger Joinder
34.	<i>Michelle Christensen v. Lyft Inc. et al.</i> , Case No. CGC-19-579282	1	Levin Simes	San Francisco	California	Oakland	9/23/19 Estey & Bomberger Joinder
35.	<i>Amber Wilson v. Lyft Inc. et al.</i> , Case No. CGC-19-579284	1	Levin Simes	San Francisco	California	San Diego	9/23/19 Estey & Bomberger Joinder
36.	<i>Farheen Hashem v. Lyft Inc. et al.</i> , Case No. CGC-19-579285	1	Levin Simes	San Francisco	California	Sun Valley	9/23/19 Estey & Bomberger Joinder
37.	<i>Jane Doe v. Lyft Inc. et al.</i> , Case No. BC705652	1	Estey & Bomberger	Los Angeles	California	Los Angeles	9/24/19 Notice of Potential Add-On
38.	<i>Jane Doe 7 v. Lyft Inc. et al.</i> , Case No. CGC-19-580014	1	Levin Simes	San Francisco	Arizona	Tucson	11/6/19 Lyft, Inc.'s Opposition

EXHIBIT 2

Attorneys for Plaintiff Alyssa Doe

ALYSSA DOE,

vs.


Defendants.

[REDACTED PURSUANT TO COURT ORDER] THIRD AMENDED COMPLAINT FOR DAMAGES:

1. **BATTERY**
2. **NEGLIGENCE**
3. **COMMON CARRIER NEGLIGENCE**
4. **ACTS OF VIOLENCE BECAUSE OF SEX**

COMES NOW, the Plaintiff, ALYSSA DOE, and for cause of action against the Defendants,
and each of them, complains and alleges as follows:

1. Logan Green, CEO and Co-founder of LYFT, INC. proclaims that: “Safety is our top priority and it is our goal to make every ride safe, comfortable, and reliable. Since the beginning we have worked hard to design policies and features that protect our community.” LYFT’s advertisements primarily target a female audience. In the company’s early days, founder John Zimmer explained LYFT’s signature pink color was used partially because the company was originally intended “*just for women.*”

- 1 2. LYFT also advertises itself as a safe alternative to drinking and driving.
- 2 3. Unfortunately, LYFT's ads and proclamations are false.
- 3 4. LYFT drivers have sexually assaulted hundreds of passengers.
- 4 5. LYFT is aware of the sexual assault issues it has with its drivers but has taken little to no
- 5 precautions to prevent its intoxicated (and vulnerable) female passengers from being raped by
- 6 its drivers. LYFT has been aware that its drivers have been raping and sexually assaulting
- 7 female passengers since at least 2015.
- 8 6. LYFT has failed to implement safety measures to protect its passengers and has failed to adopt
- 9 reasonable means to monitor its drivers.
- 10 7. As a result of LYFT not taking any measures to keep its passengers safe, Plaintiff was brutally
- 11 raped by LYFT employee, Ameer Gaied.
- 12 8. On May 19, 2016, after a minimal background check, Ameer Gaied was hired by LFYT as a
- 13 driver.
- 14 9. On or about May 26, 2016, only one week after being hired, Ameer Gaied picked up Plaintiff
- 15 (who was obviously under the influence of alcohol). Ameer Gaied was supposed to take
- 16 Plaintiff home but instead drove her to a hotel where he beat and raped her.
- 17 10. 
- 18 11. Meanwhile, Plaintiff reported Ameer Gaied and LYFT to the Los Angeles Police Department
- 19 (hereafter LAPD) and an investigation was started.
- 20 12. Plaintiff underwent a SART exam and Ameer Gaied's DNA was found in/on Plaintiff.
- 21 13. An LAPD detective then issued a subpoena to LYFT requesting: "driver/employee information
- 22 should include, but not limited to the Driver's full name, address, length of time he has worked
- 23
- 24
- 25
- 26
- 27
- 28

for the LYFT organization, his driver record, including **any customer complaints or comments made about his service.**" The subpoena also requested "a complete record of all of Ameer Safwat Gaied's calls for service, including calls that were cancelled..."

14.

15.

16. Sexual harassment and assaults by LYFT drivers are so pervasive that websites are dedicated to maintaining databases of assaults and other crimes committed by LYFT. They are hardly a comprehensive list of the total misconduct and assaults committed by LYFT employees. It is well-established that only about one-third of sexual assaults are reported to authorities as some victims of sexual assault are too humiliated to come forward. Other women fear being embroiled in a criminal justice system which often makes their sexual histories a target at trial. Many others fear retaliation from their attackers – a fear especially acute in sexual assaults committed by LYFT drivers who often know exactly where their victims live and work. Below are some recently reported sexual assaults committed by LYFT's drivers:

1. In May 2018, CNN, after analyzing police reports, federal court records and County databases across the United States, found that over the last four years over 120 rideshare drivers - including LYFT drivers - sexually assaulted their passengers, including kidnapping, sexual battery and rape.
2. In October 2018, a LYFT driver, picked up a female passenger from a pub at 10pm

1 to take her to her home in Van Nuys, California. He sexually assaulted her as she
2 was exiting his car – resulting in criminal charges against him for kidnapping with
3 the intent to commit a sexual assault, rape, sexual penetration with a foreign object
4 and sexual battery under a \$2.2 million bail.

5 3. In May 2018, a teenager in Ontario, Canada requested a LYFT to pick up her and
6 her boyfriend. After the driver dropped off the boyfriend, he groped the young
7 woman, sped down the highway, and held her against her will in the car. “*I’m*
8 *scared,*” the teen managed to text her mother.

9
10 4. In May 2018, a LYFT driver in Waterford Township, Michigan assaulted his female
11 passenger after she refused to accept his offer of \$1,000 in exchange for sexual
12 intercourse.

13 5. In April 2018, a 29-year old woman in Oakland, California requested a LYFT to
14 take her to a friend’s home. Her LYFT driver instead drove her to his own home,
15 where he gave her marijuana and sexually assaulted her while she was unconscious.

16 6. In December 2017, a woman in Cardiff, California requested a LYFT driver to take
17 her home. Instead, the driver viciously and brutally raped her. The incident left
18 lacerations on the woman’s nose and arms, as well as tissue damage from the sexual
19 assault.
20

21 7. In October 2017, a 16-year old boy in Davie, Florida was assaulted by his LYFT
22 driver when, after dropping the boy off at home after school, the LYFT driver
23 followed the boy into his home and made the boy perform oral sex on him. In this
24 case, the LYFT driver was arrested on suspicion of committing an unlawful sex act
25 with a minor.
26

27 8. In July 2017, a LYFT driver in Cook County, Illinois assaulted a woman after she
28

1 fell asleep during her ride home. He later drove her into an alley, got into the
2 backseat, grabbed the woman by her throat and tied her hands behind her back using
3 zip ties, then raped her.

4 9. In June 216, a LYFT driver picked up a woman in Chicago, Illinois. He asked her to
5 sit in the front seat and touched her thighs without her permission throughout the
6 ride. When the driver arrived at his passenger's home, he kept the doors locked,
7 requesting that the woman invite him inside. While she was trapped in the car, he
8 grabbed her and forcefully tried to kiss her. After the ride, the driver called the
9 woman multiple times and found her on Snapchat. A few days after the incident, the
10 driver called the woman and threatened her, claiming it was her fault he was fired.
11 **"Listen bitch"** the driver said in his voicemail, **"You got them to fire me at LYFT.**
12 **I'm going to fuck your ass up."** This woman was terrified, knowing the driver had
13 her address and phone number.

14
15 10. In January 2016, a University of North Florida student claims she was sexually
16 assaulted by her Lyft driver when he climbed into the backseat with her and locked
17 the doors after they arrived at her house and groped her before she could get out of
18 the car.

19
20 11. In September 2015, a California woman was followed into her home and groped by
21 her LYFT driver. The driver followed her into her home and grabbed her by the
22 waist and groped her buttocks and hips and asked her to perform a sexual favor
23 rather than have to pay a cleaning fee for getting sick in his car.

24
25 12. In June 2015, a Washington woman realized she had left her phone in her Lyft
26 driver's car. She used her iPad to call the phone and the driver answered. He initially
27 refused to bring her phone back, then said he would if she would have sex with him.
28

The driver returned to her home and she was outside. She tried reaching in through the window to get her phone, and the driver drove away, with her arm caught inside, dragging her and causing injury.

JURISDICTION AND VENUE

17. ALYSSA DOE is an adult born August 3, 1989. The true name and identity of plaintiff

ALYSSA DOE is withheld in this Complaint to protect said plaintiff from unwarranted and unwanted publicity, sensationalism, or attention in this public filing and is not being withheld for any improper reason.

18. Defendant LYFT, INC. (Hereafter "LYFT") is a Delaware corporation, duly licensed to operate and do business in the State of California with its principal place of business at San Francisco, California. At all times herein mentioned, defendant LYFT is a "common carrier" or "carrier for hire" within the meaning of California Civil Code § 2100 and was doing business in Los Angeles, California.

19. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned Defendant AMEER GAIED aka AMEER GAYED (hereafter "AMEER") was an individual residing in the City of Los Angeles, State of California. Plaintiff is further informed and believes and thereon alleges that at all times herein mentioned, defendant AMEER was employed by or was the agent of Defendant LYFT and was acting within the course and scope of that employment and/or agency.

20. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants, DOES 1 through 25, inclusive, are unknown to Plaintiff, who therefore, sues said Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the Defendants herein designated as a DOE is responsible in some manner for the events and happenings herein referred to and caused injuries and damages proximately thereby

as hereinafter alleged.

21. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned, each of the Defendants was the agent, servant, and employee of the remaining Defendants, and at all times herein mentioned, each was acting within the time, place and scope of said agency and employment.

22. Defendant LYFT provides prearranged transportation services for compensation using an online enabled smart phone application ("the LYFT App") to connect passengers with drivers.

23. For each passenger trip, defendant LYFT controls the financial transaction between the customer, LYFT and the driver. A customer hails an LYFT driver through the LYFT app downloaded on the customer's smart phone; LYFT calculates the customer fare based on location information from a GPS enabled mobile device; defendant LYFT then receives the customer fare by charging the credit card the customer provided to LYFT when registering her/his personal information on the LYFT app; and then defendant LYFT pays the driver her/his portion of the fare.

24. As noted previously, on or about May 26, 2016, Plaintiff's boyfriend utilized the LYFT App on his smart phone seeking a ride for Plaintiff and defendant AMEER was dispatched by defendant LYFT to provide transportation services to Plaintiff. Plaintiff had consumed alcohol and did not want to drive.

25. Defendant AMEER arrived and commenced transporting plaintiff.

26. Defendant AMEER drove plaintiff to a hotel room. Once inside the room, Plaintiff was sexually assaulted and raped by defendant AMEER while he was acting in the course and scope of his employment.

///

///

FIRST CAUSE OF ACTION
(Battery against Defendants AMEER,
LYFT and DOES 1-25, Inclusive)

27. Plaintiff realleges and incorporates by reference paragraphs 1 through 26, Inclusive as if set forth in full herein.

28. At no time did plaintiff consent to any of the actions of defendants AMEER and DOES 1 through 25 Inclusive, as alleged above.

29. As a common carrier/carrier for hire defendant LYFT is vicariously liable for the acts committed by defendant AMEER.

30. As a direct and proximate result of the acts of defendants AMEER, LYFT and DOES 1 through 25, Inclusive, and each of them, plaintiff was hurt and injured in her health, strength and activity sustaining injury to her body and shock and injury to her nervous system and person, all of which injuries have caused and continue to cause plaintiff great mental, physical and nervous pain and suffering. The full nature and extent of these injuries are not now known to plaintiff, and leave is requested to amend this complaint to conform to proof at time of trial. Plaintiff is informed and believes that such injuries will result in some permanent disability to herself. As a result of said injuries, plaintiff has suffered general damages in a sum to be shown according to proof at time of trial.

31. Defendant LYFT ratified AMEER's conduct. Defendant LYFT knew or should have known of the fact that defendant AMEER raped Plaintiff on or about 5/26/2016, yet it failed to terminate him and allowed him to continue to drive for LYFT. [REDACTED]

32. The acts of defendants AMEER, LYFT and DOES 1 through 25, Inclusive, and each of them,

as alleged above, were willful and malicious and were intended to oppress and cause injury to Plaintiff. Plaintiff is therefore entitled to an award of punitive damages in an amount to be shown according to proof at time of trial.

SECOND CAUSE OF ACTION
**(Negligence against defendants LYFT,
and DOES 1 through 25, Inclusive.)**

33. Plaintiff realleges and incorporates by reference paragraphs 1 through 32, Inclusive as if set forth in full herein.

34. As a common carrier/carrier for hire, defendant LYFT owes Plaintiff and all riders the utmost duty of care to ensure that the drivers it hires to transport customers are safe and are not a threat to their customers.

35. Plaintiff is informed and believes and thereon alleges that defendant LYFT has been aware since 2015 that LYFT drivers have been sexually assaulting and raping female passengers.

36. Plaintiff is informed and believes and thereon alleges the defendant LYFT never adopted or implemented procedures designed to keep its passengers safe from sexual assaults.

37. Plaintiff is informed and believes and thereon alleges that instead of using fingerprint technology known as "Live Scan", defendant LYFT's background check on drivers it employs relies upon drivers submitting personal identifying information (i.e. name, address, telephone number and state, and social security number) through an online webpage. Plaintiff is further informed and believes and thereon alleges that defendant LYFT performs no background check on its drivers or in the alternative that the background check process utilized by defendant LYFT is inadequate because defendant LYFT cannot ensure that the information in the background report is actually associated with the applicant since it does not use a unique biometric identifier such as a fingerprint.

38. In contrast to the background check process performed by defendant LYFT, common carriers

1 throughout the state of California require drivers to undergo criminal background checks using
2 fingerprint identification employing the "Live Scan" technology. The "Live Scan" technology
3 provides assurance that the person whose criminal history has been run is, in fact, the applicant.

4 39. LYFT holds itself out as providing safe and reliable transportation to the general public, and in
5 particular to young women. LYFT targets specific groups of vulnerable riders who place a
6 premium on safety, including women, and in particular, young women who are intoxicated and
7 riding alone late at night.
8

9 40. LYFT markets itself as a safe ride home after a night of drinking. LYFT touts safety as its top
10 priority on its website. There is a quote from LYFT CEO and Co-Founder Logan Green on the
11 LYFT website that states "Safety is our top priority and it is our goal to make every ride safe,
12 comfortable, and reliable. Since the beginning, we have worked hard to design policies and
13 features that protect our community. People say they use LYFT because they feel safe with our
14 drivers, which is a product of this commitment."
15

16 41. LYFT is aware that claims of sexual assault by its employee drivers are rising. LYFT has a
17 "Trust and Safety" section on its application that states there is a "critical response team"
18 available 24 hours a day, 7 days a week who will call you back as soon as possible after a call
19 is requested. Based upon the hundreds of complaints of sexual assault against its drivers, it has
20 become apparent that sexual assault by LYFT drivers is foreseeable. LYFT receives hundreds
21 of complaints of sexual assault and harassment from riders, which have resulted in numerous
22 lawsuits against LYFT.
23

24 42. LYFT is aware that sexual assault of passengers by LYFT drivers is foreseeable. LYFT's
25 website has a portion entitled "Supporting Survivors of Sexual Assault and Harassment:
26 LYFT's Approach to Arbitration and Confidentiality."
27

28 43. Despite this representation to consumers that safety is the top priority for LYFT, LYFT does

1 not conduct a thorough or meaningful background check on the drivers LYFT employs.

2 LYFT's website states that they are aware riders expect drivers to be background checked and
3 vetted, despite the fact that the background checks performed are inadequate, and there is no in-
4 person vetting process for prospective drivers and no reference or character check is performed.
5 A person can apply to work for LYFT in a matter of minutes via the LYFT Driver Application
6 online or on a smartphone. There is no in person interview or vetting process as LYFT leads
7 riders to believe. All that is required to apply to become a driver for LYFT is a driver's license,
8 drivers must be at least 21 years old and have one year of driving experience, a DMV and non-
9 fingerprint background check, proof of insurance and registration, and a vehicle inspection at
10 an auto shop not affiliated with LYFT.
11

12 44. Without a meaningful method of checking the background of the drivers LYFT employs or
13 supervising them, their drivers sexually assaulted hundreds of passengers and it was
14 foreseeable that inappropriate and unwanted sexual assault, such as the rape committed against
15 Alyssa Doe, could and would occur.
16

17 45. There is an inherent risk in getting into a car with a stranger, especially if the passenger is
18 intoxicated. LYFT is aware of this, yet LYFT does not have any policies, procedures, or
19 features in place to protect riders, as it promises to do on its website.
20

21 46. LYFT could take a number of steps that are reasonable and necessary to protect passengers, and
22 in particular vulnerable passengers such as intoxicated young women – a group LYFT
23 specifically markets to. Some of the safety features LYFT could employ include:

- 24 a. Disabling child lock and window lock features on driver vehicles. LYFT drivers
25 are not required to disable child lock and window lock features on their vehicles,
26 making it possible for drivers to lock passengers in their cars with no means of
27 escape if these features are being used without a rider's knowledge.
28

- b. Tracking of drivers. LYFT drivers are also not tracked by means of GPS, meaning LYFT drivers are free to drive off course, or can simply turn off their app and can then commit acts of sexual abuse and violence.
- c. Requiring all prospective drivers to utilize Live Scan, a fingerprint-based background check which is administered through the Department of Justice and the FBI databases.
- d. Require all drivers to resubmit to Live Scan screening every six months.
- e. Require all drivers to immediately report to LYFT any charge involving kidnapping, violence, physical force, kidnapping, or any charge involving physical or sexual assault.
- f. Require all drivers to immediately report to LYFT any charge involving domestic violence or the issuance of a restraining order against the driver.
- g. Require all prospective drivers to undergo in-person interviews.
- h. Perform reference checks on all prospective drivers and require prospective drivers to provide character references so LYFT can vet the driver, as LYFT states it does on its website.
- i. Include in-app panic buttons that would send an alert to LYFTs Critical Response Team, local police, and other relevant agencies so a passenger has a way to quickly contact authorities in the event of an unsafe situation or the threat of an assault.
- j. Install tamper-proof dash cameras in all LYFT vehicles that alert the Critical Response Team if the camera is disabled or in some way malfunctions.
- k. Employ a means for female passengers to connect with female drivers if they wish.

1. Deploy a service to check on drivers and passengers if the LYFT ride stops unexpectedly somewhere, veers far off course, or takes much longer than expected to complete the ride to make sure that everyone is safe.
- m. Report all complaints of physical and/or sexual violence, assault, and harassment by LYFT drivers to law enforcement so a thorough and proper investigation may be done by an independent third party.
- n. Require all drivers to complete sexual harassment and sexual assault prevention training prior to being able to drive for LYFT.
- o. Have policies in place to immediately deactivate any driver if LYFT receives a complaint or allegation of sexual assault by that driver.

47. As a direct and proximate result of the negligence of defendants LYFT and DOES 1 through 25, Inclusive, and each of them, plaintiff was hurt and injured in her health, strength and activity sustaining injury to her body and shock and injury to her nervous system and person, all of which injuries have caused and continue to cause plaintiff great mental, physical and nervous pain and suffering. The full nature and extent of these injuries are not now known to plaintiff, and leave is requested to amend this complaint to conform to proof at time of trial. Plaintiff is informed and believes that such injuries will result in some permanent disability to herself. As a result of said injuries, plaintiff has suffered general damages in a sum to be shown according to proof at time of trial.

THIRD CAUSE OF ACTION
**(Common Carrier Negligence against defendants LYFT,
and DOES 1 through 25, Inclusive.)**

48. Plaintiff realleges and incorporates by reference paragraphs 1 through 47, Inclusive as if set forth in full herein.

49. At the time defendant AMEER was employed by and driving for defendant LYFT, LYFT was a

1 common carrier. A common carrier provides transportation to the general public. Defendant
2 LYFT transports people from place to place for profit. LYFT advertises its transportation
3 services to the general public, and LYFT charges standard rates for its services through its
4 application.

5 50. As a common carrier or carrier for hire, Defendants LYFT and DOES 1 through 25, and each
6 of them, owed to its customers, including Plaintiff the utmost duty of care to at all times to
7 supervise the conduct of its employee drivers and to enforce those rules and regulations
8 necessary for the protection of passengers utilizing its service. Defendants LYFT and DOES 1
9 through 25, had a duty to enact policies and procedures that prevented its driver employees
10 from being alone and unsupervised with passengers in their home or place of residence.

11 51. As a common carrier, defendant LYFT must carry passengers safely. Common carriers must
12 use the highest care and vigilance of a very cautious company. LYFT must do all that human
13 care, vigilance, and foresight reasonably can do under the circumstances to avoid harm to
14 passengers. LYFT must use reasonable skill to provide everything necessary for safe
15 transportation, in view of the transportation used and the practical operation of the business.

16 52. Defendants LYFT and DOES 1 through 25, and each of them, were negligent and careless in
17 that they failed to exercise ordinary care in supervising the conduct of defendant AMEER and
18 in failing to enact policies and procedures that prevented its driver employees from being alone
19 and unsupervised with passengers in their home or place of residence.

20 53. LYFT has known its drivers sexually assault female passengers, and LYFT receives hundreds
21 of complaints of sexual assault by its drivers, yet LYFT does not enact safety procedures to
22 protect its passengers from these assaults.

23 54. LYFT does not provide passengers with a way to immediately report sexual assaults to a person
24 at the company.
25
26
27
28

1 55. LYFT does not warn the public and its passengers about the danger of sexual assault by its
2 drivers, nor of the history of complaints against its drivers.

3 56. LYFT knows young intoxicated women who ride alone are at particular risk of being sexually
4 assaulted by its drivers, yet LYFT still targets these women as potential customers with specific
5 statements about ensuring their safety.

6 57. LYFT did not exercise the utmost degree of care in order to protect riders from the danger of
7 being sexually assaulted by one of its drivers while being transported by LYFT.

8 58. LYFT failed to safely transport Plaintiff, ALYSSA DOE.

9 59. LYFT did not exercise the utmost degree of care in order to protect Plaintiff ALYSSA DOE
10 from the danger of being sexually assaulted by its driver while being transported by LYFT.

11 60. As a direct and proximate result of the negligence of defendants LYFT and DOES 1 through
12 25, Inclusive, and each of them, plaintiff was hurt and injured in her health, strength and
13 activity sustaining injury to her body and shock and injury to her nervous system and person,
14 all of which injuries have caused and continue to cause plaintiff great mental, physical and
15 nervous pain and suffering. The full nature and extent of these injuries are not now known to
16 plaintiff, and leave is requested to amend this complaint to conform to proof at time of trial.
17 Plaintiff is informed and believes that such injuries will result in some permanent disability to
18 herself. As a result of said injuries, plaintiff has suffered general damages in a sum to be shown
19 according to proof at time of trial.
20
21
22

FOURTH CAUSE OF ACTION
(Acts of Violence Because of Sex [Civil Code § 51.7]
against defendants LYFT, AMEER
and DOES 1 through 25, Inclusive)

23
24
25
26 61. Plaintiff realleges and incorporates by reference paragraphs 1 through 60, Inclusive as if set
27 forth in full herein.
28

62. By committing the acts as herein above alleged, defendant AMEER acted violently against Plaintiff.

63. A motivating reason for defendant AMEER's conduct was because Plaintiff is a woman.

64. As a direct and proximate result of the acts of Defendant AMEER, Plaintiff has sustained injuries and damages as alleged in paragraphs 30-32, 64-67.

65. The acts of defendants AMEER and DOES 1 through 25, Inclusive, and each of them, as alleged above, was willful and malicious and was intended to oppress and cause injury to plaintiff. Plaintiff is therefore entitled to an award of punitive damages in an amount to be shown according to proof at time of trial against defendant AMEER.

66. As a direct and proximate result of the acts of Defendant AMEER, Plaintiff is entitled to recover Civil penalties per statute.

67. As a direct and proximate result of the acts of Defendant AMEER, Plaintiff is entitled to recover reasonable attorney fees according to proof at time of trial.

FIFTH CAUSE of ACTION
(NEGLIGENT MISREPRESENTATION - against LYFT)

68. Plaintiff alleges and reasserts all of the preceding paragraphs as if fully set forth herein.

69. Defendant LYFT falsely represented to Plaintiff that its rides were safe ("*[w]e designed safety into every party of LYFT... providing everyone in the car ultimate peace of mind*"), that is employed drivers were properly screened and that its screening process was superior to that utilized by competing cab companies. Theses representations were false and were relied on by Plaintiff.

70. Defendant LYFT had no reasonable basis for making those false representations to Plaintiff regarding safety and reliability of its service.

71. Even if Defendant LYFT may have believed that its representations were true, LYFT had no reasonable grounds for believing the representations were true then they were made.

1 72. Nevertheless, LYFT intended that customers, including Plaintiff, rely on its representations in
2 choosing LYFT over other transportation services and options.

3 73. Plaintiff reasonably relied on LYFT's misrepresentations in riding with defendant AMEER.

4 74. LYFT's misrepresentations and promises caused Plaintiff harm, including general and special
5 damages exceeding the minimum jurisdictional limit of this court.

6 75. Plaintiff's reliance on LYFT's misrepresentations was a substantial factor in causing her harm.
7 If Plaintiff had known the facts LYFT concealed about its service, its security screening, and its
8 drivers, she would not have accepted a ride with defendant AMEER.
9

10
11 **WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them as
12 follows:

13 FIRST CAUSE OF ACTION

- 14 1. For general damages according to proof;
15 2. For exemplary or punitive damages according to proof;
16 3. For interest according to proof;
17 4. For costs of suit herein incurred; and
18 5. For such other and further relief as the Court may deem just and proper.
19

20 SECOND AND THIRD CAUSE OF ACTION

- 21 1. For general damages according to proof at time of trial;
22 2. For prejudgment interest according to proof at trial;
23 3. For costs of suit incurred herein;
24 4. For such other and further relief as the Court deems just and proper.
25 5. For exemplary or punitive damages according to proof.
26
27
28

FOURTH CAUSE OF ACTION

1. For general damages according to proof;
2. For exemplary or punitive damages according to proof as to defendant Ameer;
3. For Civil Penalties per statute;
4. For attorney fees according to proof at time of trial
5. For interest according to proof;
6. For costs of suit herein incurred; and
7. For such other and further relief as the Court may deem just and proper


FIFTH CAUSE OF ACTION

1. For general damages according to proof at time of trial;
2. For prejudgment interest according to proof at trial;
3. For costs of suit incurred herein;
4. For such other and further relief as the Court deems just and proper.
5. For exemplary or punitive damages according to proof.

Dated: 9/25/19

ESTEY & BOMBERGER, LLP

By: _____


Stephen J. Estey, Esq.
Mary Bajo, Esq.
Attorneys for Plaintiff

SUPERIOR COURT, COUNTY OF LOS ANGELES		FOR COURT USE ONLY
TITLE OF CASE (Abbreviated) Doe v. Lyft, et al.		
ATTORNEY(S) NAME AND ADDRESS TELEPHONE Stephen J. Estey, Esq. 619-295-0035 ESTEY & BOMBERGER, LLP 619-295-0172 2869 India Street San Diego, CA 92103		
ATTORNEY(S) FOR: Plaintiff, Alyssa Doe	HEARING: DATE-TIME-DEPT D	CASE NUMBER BC705652

DECLARATION OF SERVICE [C.C.P. §§ 1013A and 2015.5]

I, the undersigned, declare:

I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to this action. My business address is 2869 India Street, San Diego, CA 92103.

I served the following document(s):

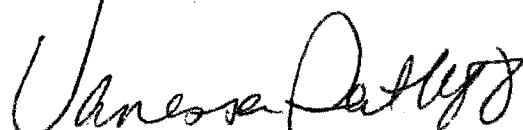
THIRD AMENDED COMPLAINT (REDACTED VERSION)

on the parties in this action addressed as follows:

Jennifer Huber, Esq.
Nicholas D. Marais, Esq.
Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111-1890
415 773 6614 direct | 415 391 5400 main
Fax: 415-397-7188
Email: nmarais@keker.com
Email: jhuber@keker.com
Attorneys for Defendant, Lyft, Inc.

X **(BY EMAIL OR ELECTRONIC TRANSMISSION)** Based on a court order or an agreement of the parties to accept service by e mail or electronic transmission, I caused the documents to be sent to the persons at the electronic service addresses listed: nmarais@keker.com; jhuber@keker.com; gthole@keker.com; twhite@keker.com; JStiles@keker.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 25, 2019, at San Diego, California.



VANESSA RATLIFF

EXHIBIT 3

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

LYFT, INC.; a Delaware Corporation; and
DOES 1 through 50, Inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

JANE DOE 7, an individual

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: San Francisco Superior Court
(El nombre y dirección de la corte es):
Unlimited

400 McAllister Street
San Francisco

CA 94102

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Laurel L. Simes (SBN #134637) 415-426-3000

Levin Simes Abrams LLP, 1700 Montgomery St., Suite 250
San Francisco

CA 94111

DATE:

(Fecha)

OCT 16 2019

CLERK OF THE COURT

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

CASE NUMBER
(Número de Caso)

000-19-580014



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

FILED
San Francisco County Superior Court

OCT 16 2019

CLERK OF THE COURT

Angela Smith
Deputy Clerk

1 Laurel L. Simes (SBN #134637)
Rachel Abrams (SBN #209316)
2 Meghan E. McCormick (SBN #283853)
LEVIN SIMES ABRAMS LLP
3 1700 Montgomery Street, Suite 250
San Francisco, California 94111
4 Telephone: (415) 426-3000
Facsimile: (415) 426-3001
5 Email: lsimes@levinsimes.com
Email: rabrams@levinsimes.com
6 Email: mmccormick@levinsimes.com

7 *Attorneys for Plaintiff*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN FRANCISCO**

10 JANE DOE 7, an individual,

11 Plaintiff,

12 v.

13 LYFT, INC.; a Delaware Corporation; and
DOES 1 through 50, Inclusive,

14 Defendants.

Case No. **CGC-19-580014**

**COMPLAINT FOR DAMAGES AND DEMAND
FOR JURY TRIAL**

1. **GENERAL NEGLIGENCE**
2. **NEGLIGENT HIRING, RETENTION,
AND SUPERVISION**
3. **COMMON CARRIER NEGLIGENCE**
4. **NEGLIGENT FAILURE TO WARN**
5. **VICARIOUS LIABILITY FOR SEXUAL
ASSAULT**
6. **VICARIOUS LIABILITY FOR SEXUAL
BATTERY**
7. **VICARIOUS LIABILITY FOR
BURGLARY**
8. **INTENTIONAL MISREPRESENTATION**
9. **NEGLIGENT MISREPRESENTATION**
10. **NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS**

23 JANE DOE 7¹ ("Plaintiff") alleges causes of action against LYFT, INC. ("LYFT"), a
24 corporation with its principal place of business in San Francisco, California, and DOES 1 through
25 50, inclusive, and each of them, and complains and alleges as follows:

26
27 ¹ Counsel for Plaintiff will be filing numerous complaints on behalf of clients who have been sexually
28 assaulted by LYFT drivers. As such, counsel is numbering its Jane Doe Plaintiffs in order to readily
distinguish them.

LEVIN SIMES ABRAMS LLP
1700 Montgomery Street, Suite 250
San Francisco, California 94111
415.426.3000 phone • 415.426.3001 fax

BY FAX

FACTUAL OVERVIEW OF ALLEGATIONS

1
2 1. LYFT is a transportation company headquartered in San Francisco, California and
3 is one of the fastest growing companies in the United States. At least as early as 2015, LYFT
4 became aware that LYFT drivers were sexually assaulting and raping female passengers. Since
5 2015, sexual predators driving for LYFT have continued to assault and rape LYFT's female
6 passengers. For four years, LYFT has known of the ongoing sexual assaults and rapes by LYFT
7 drivers upon LYFT passengers. Complaints to LYFT by female passengers who have been
8 attacked by LYFT drivers, combined with subsequent criminal investigations by law enforcement,
9 clearly establish that LYFT has been fully aware of these continuing attacks by sexual predators
10 driving for LYFT.

11 2. LYFT's response to this sexual predator crisis amongst LYFT drivers has been
12 appallingly inadequate. LYFT continues to hire drivers without performing adequate background
13 checks. LYFT continues to allow culpable drivers to keep driving for LYFT. And, perhaps most
14 importantly, LYFT has failed to adopt and implement reasonable driver monitoring procedures
15 designed to protect the safety of its passengers. As a consequence, LYFT passengers continue to
16 be victims of sexual assaults and rapes by LYFT drivers.

17 3. On August 10, 2019, Plaintiff's cousin ordered a LYFT to get herself and Plaintiff
18 home safely. The LYFT driver assigned to the ride, Orlyn George Ruddock, delivered Plaintiff
19 and her cousin to their destinations, but he later returned to Plaintiff's home, broke into the home,
20 and raped Plaintiff. The attack was reported to the police the same day. The police took Plaintiff
21 to Tucson Medical Center Hospital where hospital staff administered a rape kit. The LYFT driver
22 was later arrested by the police. These events have had a devastating effect on Plaintiff. The
23 trauma of the rape caused and continues to cause excruciating pain and suffering and has had a
24 catastrophic impact on Plaintiff's life and well-being. Unfortunately, there have been many other
25 sexual assault victims who, like Plaintiff, have been attacked and traumatized after they simply
26 contracted with LYFT for a safe ride home.

27 4. Passengers pay LYFT a fee in exchange for safe passage to their destination.
28 LYFT's public representations state that "safety is our top priority" and "it is our goal to make

1 every ride safe, comfortable and reliable.” Sadly, LYFT’s priority is not passenger safety. Profits
2 are LYFT’s priority. As a result, Plaintiff and other female passengers continue to be attacked by
3 sexual predators driving for LYFT.

4 5. When faced with this sexual predator crisis, there are a number of potential safety
5 procedures that a reasonable transportation company would implement in order to address this
6 dangerous situation. Yet, LYFT corporate management has failed to implement the most obvious
7 and straightforward safety procedures in order to address the growing problem of sexual assault by
8 those LYFT drivers who are sexual predators.

9 6. Corporate decision-making with respect to passenger safety issues is centered at
10 LYFT’s corporate headquarters in San Francisco. Decisions with respect to the vetting of LYFT
11 drivers and the supervision of LYFT driver’s *vis a vis* the safety of its passengers are made and
12 implemented in its San Francisco headquarters. LYFT’s contract with LYFT customers specifies
13 that the agreement should be governed by California law.

14 **INADEQUATE SAFETY PRECAUTIONS AND INADEQUATE SCREENING**

15 7. Even today, the hiring of LYFT drivers occurs without any real screening.
16 Potential drivers merely fill out a form online. There is no interview, either in person or through
17 online platforms such as Skype. There is no adequate background check and no biometric
18 fingerprinting. Almost all online applicants become drivers. Once a LYFT applicant becomes a
19 driver, LYFT fails to utilize its own technology, including in car cameras and GPS tracking, to
20 ensure that drivers keep the camera running during the entire ride and that the driver remains on
21 course to the passenger’s destination. LYFT does not have a zero-tolerance policy for sexual
22 misconduct and has allowed drivers who have been reported for misconduct to continue driving.
23 LYFT often does not cooperate with law enforcement in the absence of a subpoena, giving tacit
24 assurance to its drivers that they will face no repercussions for criminal acts such as breaking and
25 entering, assault, or rape. LYFT does not require non-harassment training, nor does it adequately
26 investigate passenger complaints of sexually inappropriate behavior or serious sexual assaults.
27 Shockingly, a chatroom of rideshare drivers exists where they openly discuss and brag about the
28 access that they have to “hot” young women. Notwithstanding LYFT’s history of hiring sexual

1 predators who have assaulted LYFT passengers, and notwithstanding the obvious and open
2 subculture of LYFT drivers who harbor a sexual motivation for driving young female passengers,
3 LYFT does nothing to warn its female passengers about this very serious and real danger.

4 LYFT'S FINANCIAL MODEL

5 8. The key to LYFT's business model is getting as many new LYFT drivers on the
6 road as possible. The more drivers, the more rides, the more money LYFT makes. Unfortunately,
7 more careful screening and supervision would result in fewer drivers and lower profits.

8 9. LYFT also has a high turnover among its drivers because they are not well paid and
9 often move on to other jobs. As a result, and in order to keep the number of drivers on the road at
10 a maximum level, LYFT's business model is designed to accept as many new drivers as possible
11 and to keep as many existing drivers working for LYFT as possible. Unfortunately, LYFT
12 prioritizes profits over passenger safety. That is why LYFT corporate management has made
13 deliberate decisions to adopt inadequate initial screening procedures, inadequate safety
14 monitoring, and has failed to warn passengers of the dangers of riding with LYFT.

15 LYFT'S CONTROL OVER ITS DRIVERS

16 10. LYFT exercises significant control over its drivers. LYFT executives set all of the
17 fare rates. Drivers have no input on the fares charged and no ability to negotiate fares with
18 customers. Fees are standardized based on mileage and or ride time, similar to taxis.

19 11. LYFT collects a percentage fee for every ride. LYFT does not charge drivers a fee
20 to become a LYFT driver and LYFT does not charge drivers to use the LYFT App.

21 12. LYFT drivers are prohibited from answering passenger inquiries about booking
22 rides outside of the LYFT App.

23 13. LYFT has the power to terminate drivers with or without cause.

24 14. LYFT drivers are expected to accept all ride requests while they are logged into the
25 App. Drivers who reject or cancel too many ride requests risk facing discipline, including
26 suspension or termination.

27 15. LYFT provides its drivers with and requires them to use and display LYFT
28 branding materials in order to make their drivers easily identifiable as LYFT drivers.

1 16. LYFT also allows for passengers to provide comments to LYFT regarding their
2 experience with LYFT DRIVER. These comments are not shared with other passengers.
3 Passengers are not provided with any information regarding their driver other than a photograph,
4 and other basic information about the car. Passengers are not informed about prior complaints
5 concerning particular drivers.

6 17. Within the app, LYFT does not tell passengers whether their comments regarding
7 drivers are shared with drivers, resulting in a ride share culture where passengers are fearful that
8 giving honest negative feedback could negatively impact their passenger star rating – or result in
9 retaliation from the driver.

10 **NO MONITORING OF RIDES**

11 18. Given LYFT's knowledge of the sexual assaults and rapes of its passengers by
12 LYFT drivers, the company should have implemented a monitoring system in order to protect its
13 passengers. As a technology company with access to a state-of-the-art in-app tracking system, as
14 well as a camera within the required mobile device, LYFT could take the following steps towards
15 the elimination of the sexual assaults by LYFT drivers:

- 16 • Adopt a zero-tolerance policy for improper conduct and inform all drivers
17 of the policy;
- 18 • Maintain a surveillance camera and rules requiring its continuing operation
19 during all rides;
- 20 • Inform drivers that if they turn off the surveillance system during a LYFT
21 ride, they will never drive for LYFT again;
- 22 • Inform their drivers that they may not leave the car and accompany a
23 passenger to their home or to any other location outside the vehicle, other
24 than to provide temporary and time-limited assistance to a passenger;
- 25 • Inform their drivers that any reports of criminal acts committed by LYFT
26 drivers during or as a result of driving with LYFT will be fully investigated
27 by LYFT and reported to law enforcement;
- 28 • Modify the functionality of the app so that LYFT can determine

immediately if a driver deviates from these protocols;

19. The ongoing sexual attacks by LYFT drivers are and have long been known to LYFT. Prior to Plaintiff's rape, LYFT has known that a consequence of its business model has been exposing women, who are using the business for a safe ride home after a night of drinking, to drivers that may take advantage of their vulnerable position. Despite being a company that holds itself out to the public as being engaged in the safe transportation of its passengers from place to place for compensation, LYFT has failed to take any reasonable precautions to attempt to prevent harm to its passengers.

20. At the time of the actions alleged in this complaint LYFT was aware of the established occurrence of sexual assault of its female passengers by its drivers but failed to take any reasonable action to protect its passengers from these assaults and violations.

MISREPRESENTATIONS AS TO SAFETY

21. In addition to inadequate background check procedures, LYFT affirmatively induces passengers, particularly young, unaccompanied, intoxicated, and/or vulnerable women, to use its services with the expectation of safety, while LYFT simultaneously knows that sexual abuse of its passengers has been prevalent.

22. In February 2015, LYFT's website posted a blog post announcing it had partnered with It's On Us, an anti-sexual assault initiative, and offered free ride credits for new Lyft passengers during the Spring Break season, "making it easier to get a safe ride home even if you're in a new city." In November 2016, LYFT's website posted a blog post entitled "Get Home Safely with Lyft," again touting its partnership with It's On Us, and offering college students free LYFT rides so that they "don't need to worry about finding a safe ride after going out." The insinuation of these articles is that LYFT prevents, and does not create, the risk of sexual assault. Nowhere on LYFT's website does LYFT discuss the occurrence or risk of sexual assault by LYFT's drivers. As a result, many women, like Plaintiff, enter LYFT cars unaccompanied and after drinking with the expectation that they will not be harassed, propositioned, kidnapped, attacked, stalked, raped, or worse, by LYFT's drivers.

23. Further, LYFT does not report statistics about sexual harassment or sexual assault

1 by its drivers. LYFT does not disclose its policies or procedures on dealing with sexual assault by
2 its drivers. LYFT does not properly train its customer service representatives on how to deal with
3 serious allegations of driver misconduct. As a result, passengers who report sexual abuse by a
4 driver have been later matched with the same driver, and dangerous drivers continue to drive with
5 LYFT and assault passengers while LYFT profits from their actions. At the time of Plaintiff's
6 attack, LYFT's guidelines for their drivers made no mention of sexual harassment or assault
7 guidelines.

8 24. In short, LYFT fails to follow reasonable safety procedures and intentionally
9 induces passengers to use LYFT's services while in a vulnerable state. As a result, Plaintiff and
10 women like her are attacked, sexually assaulted, and raped by LYFT's drivers.

11 LYFT'S BACKGROUND CHECKS

12 25. LYFT relies on a quick, name-based background check process to screen its
13 applicant drivers and has continuously refused to adopt an industry-standard, fingerprint-based
14 background check qualification process.

15 26. LYFT's background check process requires drivers to submit personal identifiers
16 (driver's license and social security number) through an online webpage. LYFT, in turn, provides
17 this information to third party vendors to perform a basic, name-based background check.

18 27. Neither LYFT nor the third-party vendors it uses for background checks verifies
19 that the information provided by applicants is accurate or complete. The turnaround time for a
20 LYFT background check is typically between 3-5 days.

21 28. The difference between name-based background checks and fingerprint-based
22 background checks is significant. While a name-based background check searches the applicant's
23 reported name against various databases and compares records that have the same name, a
24 fingerprint-based background check (or biometric check) uses the fingerprints of the individual to
25 match against a law enforcement database, comparing records that have the same print, even if the
26 names are different.

27 29. For example, most prospective taxi drivers are required by the taxicab companies to
28 undergo criminal background checks that require the driver to submit fingerprints through a

1 technology called "Live Scan." The fingerprint images are used to automatically search against all
2 other fingerprint images in government criminal record databases, including databases maintained
3 by state law enforcement and the Federal Bureau of Investigation (FBI). The FBI's database
4 includes criminal record information from all 50 states, including sex offender registries. If a
5 person has a criminal history anywhere in the U.S., it will register as a match.

6 30. Fingerprints are not only a highly accurate way to confirm an individual's identity,
7 they are also universally used among state and federal government agencies. This allows for the
8 highest levels of information-sharing among all relevant agencies – an element that is lacking
9 when fingerprints are not used to verify identities.

10 31. Because of the unique identifying characteristics of fingerprints, the Live Scan
11 process provides assurance that the person whose criminal history has been run is, in fact, the
12 applicant. This would ensure that a convicted rapist or sexual predator could not use a false
13 identification to become a LYFT driver.

14 32. Name-based background checks, on the other hand, are limited and not easily
15 shared among the appropriate authorities. These name-based criminal background checks are
16 performed on publicly available databases and records from county courthouses, which are not
17 linked to each other and typically do not go back past seven years. Because the FBI database is not
18 accessed, there is no true national search performed, making these searches incomplete, limited,
19 and inaccurate.

20 33. Name-based background checks present systematic, fundamental problems. First,
21 there is no way to positively identify a person via a biometric indicator, increasing the likelihood
22 of fraud. Likewise, because names, addresses and birthdays are not unique, the likelihood of false
23 positives (a person linked in error with another's record) and false negatives (someone getting
24 cleared when they should not) are greatly increased. For example, if an individual changes his
25 name, or for some other reason has a criminal history under a different name, the name-based
26 checks can miss the individual's criminal history.

27 34. LYFT has refused to adopt fingerprint-based biometric checks and has in fact spent
28 millions of dollars lobbying against local regulations requiring these checks.

1 35. Despite advertising to passengers that "Your safety is important" and "Safety is our
2 top priority," LYFT's background check process is designed for speed, not safety. In refusing to
3 adopt reasonable safety procedures, LYFT makes clear that its priority is profit, not passenger
4 safety.

5 **THE ATTACK UPON PLAINTIFF**

6 36. On the evening of August 9, 2019, Plaintiff went out with her cousin in downtown
7 Tucson. Plaintiff was intoxicated. Plaintiff's cousin ordered Plaintiff a ride to her parents' house
8 using the LYFT app in order to get her safely home.

9 37. The LYFT application assigned the ride to "Orlyn" ("LYFT DRIVER"), who
10 picked Plaintiff and her cousin up in downtown Tucson at approximately 2:41 A.M. in the early
11 morning on August 10, 2019.

12 38. LYFT DRIVER dropped Plaintiff off at her house around 3:08 A.M. Plaintiff's
13 cousin gathered a few of her own effects from the in-law unit where Plaintiff lived in her parents'
14 backyard and got back into LYFT DRIVER'S car.

15 39. LYFT DRIVER dropped Plaintiff's cousin off at her own address at around 3:33
16 A.M. LYFT DRIVER returned to Plaintiff's home after that.

17 40. LYFT DRIVER knew that Plaintiff was alone and intoxicated, as well as her home
18 address, by virtue of the access he had to her as a LYFT driver.

19 41. LYFT DRIVER broke into the guest house where Plaintiff was sleeping, undressed
20 her, climbed on top of her, and raped her.

21 42. Plaintiff awoke to find LYFT DRIVER on top of her, naked, and raping her
22 vaginally with his penis.

23 43. Plaintiff was shocked and horrified. She immediately slapped and punched LYFT
24 DRIVER and screamed at him to get off of her. She managed to jump out of bed and discovered
25 that the clothes she had gone to bed wearing had been taken off and thrown to the floor.

26 44. LYFT DRIVER put his clothes back on, told Plaintiff to stop yelling, and ran out of
27 Plaintiff's house.

28 45. Plaintiff does not know if LYFT DRIVER put a condom on his penis before he

1 raped her.

2 46. Immediately after the attack, Plaintiff FaceTimed with her best friend at 5:05 A.M.,
3 and told her parents a few hours later. Shortly after 10:30 A.M., Plaintiff's parents telephoned the
4 police.

5 47. Sheriffs arrived approximately 10 minutes after that and remained at Plaintiff's
6 residence until approximately 8:30 P.M. on August 10, 2019. During this time, Plaintiff went to
7 Tucson Medical Center Hospital where hospital personnel performed a rape kit.

8 48. LYFT DRIVER was charged with second degree burglary for entering Plaintiff's
9 dwelling and committing rape therein.

10 49. Defendant LYFT collected and retained a fee for the LYFT trip that resulted in the
11 sexual assault and rape of Plaintiff.

12 50. By failing to take reasonable steps to confront the problem of multiple rapes and
13 sexual assaults of LYFT passengers by LYFT drivers, LYFT has acted in conscious disregard of
14 the safety of its passengers, including Plaintiff, and has breached its duty of reasonable care and
15 has breached the implied and express covenants arising from its contract with its passengers.

16 51. LYFT is legally responsible for the harm to Plaintiff under a number of legal
17 theories including vicarious liability for the intentional acts of its employees (battery and false
18 imprisonment) basic negligence for failing to act with reasonable care when faced with multiple
19 and ongoing attacks by its drivers, breach of the non-delegable duty of a transportation company
20 to provide safe passage to its passengers, punitive damages for the conscious disregard of the
21 safety of its female passengers, intentional and negligent misrepresentations and breaches of
22 contract, and express and implied covenants arising out of its commercial contracts with its
23 passengers, including Plaintiff.

24 **PARTIES**

25 52. Defendant LYFT ("DEFENDANT") is a Delaware Corporation with its principal
26 place of business at 185 Berry Street, San Francisco, California. San Francisco is the center of
27 Corporate decision-making with respect to the hiring and supervision of LYFT drivers, safety
28 precautions, passenger safety, as well as decision-making with respect to LYFT's response to the

ongoing sexual attacks upon LYFT passengers.

53. Plaintiff, an adult woman and resident of Arizona, was a LYFT passenger who was raped by LYFT DRIVER who drove her home in Tucson in the early morning on August 10, 2019.

54. JANE DOE 7 files this action under a pseudonym as she is a victim of sexual assault. Plaintiff proceeds in this manner to protect her legitimate privacy rights as further disclosure would expose her to stigmatization and invasion of privacy. Defendants are aware of the true legal name of JANE DOE 7 and the circumstances surrounding these causes of action. Plaintiff further anticipates seeking concurrence from Defendants for entry into a protective order to prevent unnecessary disclosure of JANE DOE 7's real name in the public record.

55. The true names and capacities, whether individual, plural, corporate, partnership, associate, or otherwise, of DOES 1 through 50, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names. The full extent of the facts linking such fictitiously sued Defendants is unknown to Plaintiff. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants designated herein as a DOE was, and is, negligent, or in some other actionable manner, responsible for the events and happenings hereinafter referred to, and thereby negligently, or in some other actionable manner, legally caused the hereinafter described injuries and damages to Plaintiff. Plaintiff will hereafter seek leave of the Court to amend this Complaint to show the Defendants' true names and capacities after the same have been ascertained.

56. Plaintiff is informed and believes, and on that basis alleges, that at all times herein mentioned, each of the defendants herein was the agent, servant, licensee, employee, assistant, consultant, or alter ego, of each of the remaining defendants, and was at all times herein mentioned acting within the course and scope of said relationship when Plaintiff was injured as set forth herein. Plaintiff is informed and believes that each and every defendant, when acting as a principal, was negligent in the selection, hiring, supervision or retention of each and every other defendant as an agent, servant, employee, assistant, or consultant. Plaintiff is further informed and believes, and thereon alleges, that at all times herein mentioned, each business, public entity or corporate employer, through its officers, directors, supervisors and managing agents, and each

individual defendant, had advance knowledge of the wrongful conduct, psychological profile, and behavior propensity of said agents, servants, licensees, employees, assistants, consultants, and alter egos, and allowed said wrongful conduct to occur and continue to occur, thereby ratifying said wrongful conduct, and, after becoming aware of their wrongful conduct, each public entity, and corporate defendant by and through its officers, directors, supervisors and managing agents, and each individual defendant, authorized and ratified the wrongful conduct herein alleged.

57. Defendants are liable for the acts of each other through principles of *respondeat superior*, agency, ostensible agency, partnership, alter-ego and other forms of vicarious liability.

JURISDICTION AND VENUE

58. The San Francisco Superior Court has jurisdiction over LYFT because it is a corporation with its principal place of business is located in San Francisco, in the State of California, LYFT is authorized to do business in the State of California and registered with the California Secretary of State. LYFT has its primary place of business in San Francisco and intentionally avails itself of the benefits and protection of California law such that the exercise of jurisdiction over it by the California courts is consistent with traditional notions of fair play and substantial justice. And, LYFT's user agreement states, "this Agreement shall be governed by the laws of the State of California..." Damages in this case exceed \$25,000.

59. Venue is proper in this Court pursuant to *California Code of Civil Procedure* §395 in that Defendant LYFT resides in and maintains its principal place of business in San Francisco, San Francisco County, California. Further, LYFT's negligent conduct, its breaches of contract express, and implied covenants and the conduct giving rise to Plaintiff's punitive damages claims, all occurred in San Francisco.

60. All executive decision making of the part of LYFT regarding hiring policies, handling of complaints regarding drivers, driver termination policies, training of drivers and standard operating procedures relating to drivers occurred in San Francisco.

61. All executive decision making on the part of LYFT regarding its marketing campaigns and representations to passengers regarding its safety occurred in San Francisco.

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FIRST CAUSE OF ACTION

(GENERAL NEGLIGENCE)

62. The preceding paragraphs of this Complaint are incorporated by reference.

63. By providing transportation to the general public using its application and network of drivers, LYFT owed a duty to act with due and reasonable care towards the public and in particular its own passengers, including Plaintiff.

64. LYFT has been on notice that its drivers have been sexually harassing, sexually assaulting, and raping its passengers since 2015. LYFT was aware or should have been aware that some LYFT drivers would continue to assault, sexually molest, sexually assault and/or rape their vulnerable LYFT patrons and passengers.

65. Since learning of the sexual assaults perpetrated by its drivers, LYFT never adapted or improved its safety procedures in any meaningful way.

66. LYFT does not require video monitoring of its drivers that cannot be turned off, nor provide emergency notification to LYFT and the authorities when a driver drastically veers off course from the passenger's destination or abruptly cancels the ride.

67. LYFT is very well aware of the dangers its drivers pose yet induces women like the Plaintiff to enter LYFT cars while intoxicated. In doing so, LYFT fails to warn of the dangers of sexual assault by LYFT's drivers.

68. LYFT does not require any sexual harassment/assault training of its drivers nor have any policies in place for immediate termination if a driver engages in sexual misconduct.

69. LYFT does not cooperate with the police when a driver commits an illegal sexual attack on its passengers. Despite having the express right to disclose driver information at LYFT's sole discretion, LYFT requires that extensive standards be met before the company will even consider law enforcement requests for information. Even after a report of sexual assault or has been made, LYFT generally requires a subpoena before it will release information. Of hundreds of law enforcement requests for information in 2017, the company fully complied with only a fraction. LYFT's policy of noncooperation discourages police agencies from making recommendations to District Attorney's offices to file complaints against LYFT drivers, and

1 provides LYFT's predatory drivers with tacit assurance that their illegal attacks will not be
2 detected by law enforcement.

3 70. When hiring new drivers, LYFT does not verify driver identities with biometric
4 background checks. LYFT does not correct for false negatives created by its name-based
5 screening procedures. LYFT does not provide industry-standard background checks which would
6 provide the most comprehensive means of screening applicant drivers. LYFT does not invest in
7 continuous monitoring of its drivers and is not immediately alerted when one of its drivers is
8 implicated in criminal acts.

9 71. LYFT cultivates an environment that encourages its passengers to ignore signs of
10 danger.

11 72. LYFT does not have a streamlined process to address passenger reports of sexual
12 assault by its drivers and continues to let dangerous predators drive for and earn money for LYFT.

13 73. For the above reasons and others, LYFT breached its duty of reasonable care
14 towards Plaintiff.

15 74. LYFT's breach was the legal cause of Plaintiff's rape, which humiliated, degraded,
16 violated, and robbed Plaintiff of her dignity and personal safety. The depraved attack on Plaintiff
17 caused Plaintiff to suffer both psychological and physical harm from which she may never fully
18 recover.

19 75. As a direct and legal cause of LYFT's general negligence, Plaintiff has suffered
20 damages, both economic and general, non-economic damages according to proof.

21 **SECOND CAUSE OF ACTION**

22 **(NEGLIGENT HIRING, SUPERVISION, AND RETENTION)**

23 76. The preceding paragraphs of this Complaint are incorporated by reference.

24 77. Defendant LYFT and DOES 1 through 50, inclusive hired LYFT DRIVER.

25 78. LYFT's hiring of LYFT DRIVER was mostly automated, after LYFT DRIVER
26 merely filled out some short forms online, uploaded photos of a driver's license, vehicle
27 registration and proof of vehicle insurance.

28 79. At the time LYFT DRIVER applied to drive for LYFT, LYFT was not performing

1 adequate background checks for its drivers. After minimal information was provided to LYFT,
2 LYFT DRIVER was hired and engaged as a LYFT driver.

3 80. LYFT did not interview, check the references of, provide training to, or advise
4 LYFT DRIVER of any anti-sexual assault policies when hiring him. LYFT had no reasonable
5 basis for believing that LYFT DRIVER was fit to drive intoxicated women around at night and
6 failed to use reasonable care in determining whether he was fit for the task. LYFT should have
7 known of LYFT DRIVER's unfitness but failed to use reasonable care to discover his unfitness
8 and incompetence.

9 81. Despite failing to reasonably endeavor to investigate LYFT DRIVER's
10 incompetence for transporting vulnerable and intoxicated women late at night in a moving vehicle,
11 LYFT employed LYFT DRIVER.

12 82. LYFT knew or should have known that assigning the task of transporting
13 vulnerable passengers late at night to an inadequately screened driver created an unreasonable risk
14 of harm to LYFT's passengers, including Plaintiff, particularly when LYFT had been on notice of
15 the string of sexual assaults committed by LYFT's drivers.

16 83. LYFT DRIVER was and/or became unfit to perform the work for which he was
17 HIRED as he improperly and illegally took advantage of LYFT's passenger Plaintiff when she
18 attempted to use the service for a safe ride home after drinking, thereby causing her psychological
19 and physical harm.

20 84. Because of LYFT DRIVER's unfitness to perform the task of transporting Plaintiff,
21 Plaintiff was sexually assaulted and battered, which humiliated, degraded, violated, and robbed
22 Plaintiff of her dignity and personal safety.

23 85. LYFT's and DOES 1 through 50's, inclusive, negligence in hiring, retaining, and or
24 supervising caused Plaintiff's sexual assault and rape, which humiliated, degraded, violated, and
25 robbed Plaintiff of her dignity and personal safety. The depraved attack on Plaintiff caused
26 Plaintiff to suffer both psychological and physical harm from which she may never fully recover.

27 86. As a direct and legal result of LYFT's general negligence, Plaintiff has suffered
28 damages, both economic and general, non-economic damages according to proof.

THIRD CAUSE OF ACTION

(LYFT - COMMON CARRIER NEGLIGENCE)

87. The preceding paragraphs of this Complaint are incorporated by reference.

88. At the time that LYFT DRIVER raped Plaintiff, LYFT was a common carrier as it provided transportation to the general public.

89. LYFT provides transportation through a digital application made available to the general public for the purpose of transporting its users, the passengers, from place to place for profit. LYFT has widely offered its services to the general public and charges standard fees for its services through its application. LYFT does not allow discrimination against passengers on the basis of race, color, national origin, religion, gender, gender identity, physical or mental disability, medical condition, marital status, age, or sexual orientation. Any member of the public can use LYFT's services for transportation.

90. As a common carrier, LYFT must carry its passengers, including Plaintiff, safely.

91. LYFT has a duty to employ the utmost degree of care and diligence that would be expected of a very cautious company. LYFT has a duty to do all that human care, vigilance, and foresight reasonably can do under the circumstances to avoid harm to passengers, including Plaintiff.

92. LYFT must use reasonable skill to provide everything necessary for safe transportation, in view of the transportation used and the practical operation of the business.

93. Despite complaints to LYFT of sexual assaults committed by LYFT drivers and lawsuits against LYFT for sexual assault, LYFT has failed to implement safety precautions that would address the sexual assault problem.

94. LYFT does not provide a consistent and reliable way for passengers to report sexual abuse and rape.

95. LYFT does not warn passengers of the dangers of riding with LYFT and fails to warn passengers of past complaints regarding LYFT drivers.

96. LYFT does not have an effective program in place to deal with the sexual predator crisis posed by some of its drivers.

1 97. LYFT knows that its female passengers are in a uniquely vulnerable situation
2 enclosed in a moving vehicle and that a subset of its drivers are sexual predators.

3 98. LYFT has not exercised reasonable care to protect its passengers from harassment,
4 assault, and rape by LYFT's drivers.

5 99. LYFT has not exercised the utmost degree of care in order to protect its passengers
6 from the danger posed by sexual predators who drive for LYFT. If LYFT had used the highest
7 degree of care, LYFT could have prevented or dramatically reduced the likelihood of the sexual
8 assault of its passengers, including Plaintiff.

9 100. LYFT failed to safely transport Plaintiff.

10 101. LYFT failed to use the utmost care and vigilance to protect Plaintiff from its own
11 driver who sexually assaulted, battered, penetrated and raped Plaintiff while she was being
12 transported by LYFT.

13 102. LYFT failed to take reasonable precautions to protect its vulnerable female
14 passengers, including Plaintiff, from the foreseeable and known risk of sexual assault, harassment
15 and/or rape by its drivers. If LYFT had used the highest degree of care, LYFT could have
16 prevented or reduced the likelihood of the sexual assault of its passengers, including Plaintiff.

17 103. As a legal and direct result of the aforementioned conduct and omission of
18 Defendants LYFT and DOES 1 through 50, inclusive, Plaintiff was sexually assaulted and raped,
19 which humiliated, degraded, violated, and robbed Plaintiff of her dignity and personal safety. The
20 depraved attack on Plaintiff caused Plaintiff to suffer both psychological and physical harm from
21 which she may never fully recover.

22 104. As a direct and legal result of LYFT's negligence, Plaintiff has suffered damages,
23 both economic and general, non-economic damages according to proof.

24 **FOURTH CAUSE OF ACTION**

25 **(NEGLIGENT FAILURE TO WARN)**

26 105. The preceding paragraphs of this Complaint are incorporated by reference.

27 106. LYFT's conduct created a risk of physical or emotional harm to its passengers,
28 including Plaintiff.

1 107. In operating its business, LYFT knew and had reason to know that its passengers
2 were at risk of sexual assault and abuse by LYFT's drivers since as early as 2015. Since 2015,
3 LYFT has received frequent passenger complaints about driver misbehavior, has been notified of
4 police investigations of the criminal conduct of drivers acting within their capacity as LYFT
5 drivers, and has been the subject of numerous civil suits alleging the sexual harassment and sexual
6 assault of LYFT's passengers by LYFT's drivers.

7 108. Despite the knowledge of the danger its enterprise creates, LYFT did not alert its
8 passengers, including Plaintiff, to the risk of sexual assault by LYFT drivers. In fact, LYFT
9 continued to market itself as a service that provides "safe" rides, even to unaccompanied and/or
10 intoxicated passengers.

11 109. In February 2015, LYFT's website posted a blog post announcing it had partnered
12 with It's On Us, an anti-sexual assault initiative, and offered free ride credits for new Lyft
13 passengers during the Spring Break season, "making it easier to get a safe ride home even if
14 you're in a new city." In November 2016, LYFT's website posted a blog post entitled "Get Home
15 Safely with Lyft," again touting its partnership with It's On Us and offering college students free
16 LYFT rides so that they "don't need to worry about finding a safe ride after going out." The
17 insinuation of these articles is that LYFT prevents, and does not create, the risk of sexual assault.
18 Nowhere on LYFT's website does LYFT discuss the occurrence or risk of sexual assault by
19 LYFT's drivers.

20 110. LYFT itself represented to its passengers that riding with LYFT is safe, implying
21 it's free of risk from sexual assault.

22 111. Defendant LYFT had reason to know that passengers would be unaware of the risk
23 of sexual assault by LYFT drivers.

24 112. A warning to its passengers that they were at risk of sexual assault by LYFT drivers
25 would have reduced the risk of harm to passengers, including Plaintiff, who could have arranged
26 for alternative transportation or taken additional safety precautions and avoided the assault she
27 suffered at the hands of her Lyft driver.

28 113. As a direct and legal result of Defendant LYFT's failure to warn, Plaintiff has

1 suffered damages, both economic and general, non-economic damages according to proof.

2 **VICARIOUS LIABILITY/LIABILITY FOR THE TORTS OF LYFT'S DRIVERS**

3 114. Plaintiff incorporates by reference the preceding paragraphs.

4 115. LYFT is vicariously liable for the torts of its drivers through the theories of
5 *respondeat superior*, nondelegable duties, agency, and ostensible agency. LYFT's liability for the
6 acts of its drivers is not contingent upon the classification of its drivers as employees.

7 116. Under the doctrine of *respondeat superior*, LYFT is responsible for the torts of its
8 employees committed within the scope of employment. The modern rationale for the theory is
9 that an employer who profits from an enterprise which, through the torts of his employees, causes
10 harm to others should bear the costs of the injury instead of the innocent injured Plaintiff.

11 117. LYFT profits from transporting vulnerable passengers late at night. LYFT
12 encourages intoxicated passengers to use its services. At the same time, LYFT does not take
13 reasonable steps to protect its passengers or warn them of the dangers of riding with LYFT.
14 LYFT, and not the victims of LYFT's negligence, should bear the costs of injuries that result from
15 torts such as sexual assault, kidnapping, and rape.

16 118. LYFT drivers are employees. LYFT reserves the right to control the activities of
17 LYFT drivers. LYFT controls the prices charged to customers, controls contact with the customer
18 base, controls the ability of a driver to see where he will be driving before he accepts a ride, and
19 reserves the right to terminate drivers with or without cause.

20 119. LYFT DRIVER's rape of Plaintiff occurred within the scope of LYFT DRIVER's
21 employment and/or authority. The kidnapping, assault and rape of intoxicated and unaccompanied
22 women who have been placed in an improperly screened LYFT driver's car with little to no
23 supervision is incidental to and a foreseeable result of the act of transporting passengers.

24 120. LYFT may maintain that its drivers are contractors and not employees.
25 Nevertheless, whether LYFT DRIVERS are characterized as contractors, employees or agents,
26 LYFT has a non-delegable duty to transport its passengers safely.

27 121. The doctrine of nondelegable duty recognizes when one party owes a duty to
28 another which, for public policy reasons, cannot be delegated. It operates to ensure that when a

1 harm occurs the injured party will be compensated by the party whose activity caused the harm
2 and who may therefore properly be held liable for the acts of his agent, whether the agent was an
3 employee or an independent contractor. The doctrine recognizes that an entity may not delegate
4 its duties to a contractor in order to evade its own responsibilities. This is especially so when
5 allowing delegation would incentivize the employers to hire incompetent contractors in order to
6 further the employer's pecuniary interests.²

7 122. In advertising to passengers that LYFT provides them a safe ride to their
8 destinations and by profiting off of women who use LYFT for that very purpose and are attacked,
9 LYFT has a duty to its passengers that cannot be delegated. To allow LYFT to delegate the
10 liability for the assaults by its drivers to anyone else would encourage LYFT to continue to utilize
11 the cheapest, fastest, and most haphazard safety procedures. LYFT would be disincentivized from
12 hiring only competent drivers, since the more drivers LYFT has, the more money LYFT makes.

13 123. Further, LYFT drivers act as agents of and operate as extensions of LYFT. LYFT
14 drivers represent LYFT's business and further LYFT's pecuniary interests.

15 124. LYFT drivers display the LYFT logo when interacting with passengers, and in
16 many cases LYFT drivers are the only people with whom LYFT's passengers have direct contact.
17 LYFT drivers provide the service that LYFT claims to provide – transportation.

18 125. By allowing LYFT drivers to represent LYFT's business, LYFT creates the
19 impression that its drivers, including LYFT DRIVER, were LYFT's employees and/or agents.

20 126. Plaintiff reasonably believed that LYFT DRIVER was an employee or agent of
21 LYFT, and, relying on this belief, hired LYFT DRIVER and suffered harm as a result of her
22 contact with LYFT DRIVER.

23 127. For these reasons and others, LYFT is vicariously liable for the tortious acts of its
24 drivers, regardless of whether LYFT's drivers are employees, agents, apparent agents, or
25

26
27 ² See, for example, Barry v. Raskov, 232 Cal. App. 3d 447, 454 (Ct. App. 1991), where the court
28 recognized that allowing a broker to delegate the liability for the fraudulent torts of its contractor
property appraiser would incentivize the broker to hire potentially insolvent contractors, to the
detriment of the public.

1 contractors of LYFT.

2 **FIFTH CAUSE OF ACTION**

3 **(VICARIOUS LIABILITY FOR SEXUAL ASSAULT)**

4 128. The preceding paragraphs of this Complaint are re-alleged and incorporated by
5 reference.

6 129. At the time LYFT DRIVER raped Plaintiff LYFT DRIVER intended to cause
7 harmful and offensive contact with Plaintiff, and placed Plaintiff in reasonable apprehension of
8 imminent harmful and offensive contact. He intentionally and recklessly did acts which placed
9 Plaintiff in apprehension of imminent harm, including but not limited to: forcing her to engage in
10 sexual intercourse with him despite her lack of consent.

11 130. As a result, Plaintiff was raped, which humiliated, degraded, violated, and robbed
12 Plaintiff of her dignity and personal safety. The depraved attack on Plaintiff caused Plaintiff to
13 suffer both psychological and physical harm from which she may never fully recover.

14 131. LYFT DRIVER committed these tortious and wrongful acts while acting in the
15 course and scope of his employment with LYFT as an employee/agent of LYFT. Therefore,
16 LYFT is liable for LYFT DRIVER's assault of Plaintiff and is responsible for damages caused by
17 said conduct under the principles of vicarious liability, including the doctrine of *respondeat*
18 *superior*. Even if LYFT DRIVER had not been an employee, LYFT's duty to provide
19 transportation free of assault is nondelegable and LYFT is liable for LYFT DRIVER's actions,
20 because to allow LYFT to delegate its duty of providing the safe transportation it promises would
21 incentivize LYFT to create a greater risk of harm to the public.

22 132. Under the theories of *respondeat superior*, nondelegable duty, agency, and
23 ostensible agency, LYFT is liable for the tortious acts of LYFT DRIVER.

24 133. As a legal result of LYFT DRIVER's rape, Plaintiff has suffered economic and
25 general, non-economic damages according to proof.

26 ///

27 ///

28 ///

SIXTH CAUSE OF ACTION

(VICARIOUS LIABILITY FOR SEXUAL BATTERY)

134. The preceding paragraphs of this Complaint are re-alleged and incorporated by reference.

135. LYFT DRIVER made harmful and offensive contact with the Plaintiff. Plaintiff did not consent to the contact. Plaintiff was harmed and offended by LYFT DRIVER's contact with her. LYFT DRIVER intentionally and recklessly did acts which resulted in harmful contact with Plaintiff's person, including but not limited to: forcing her to engage in sexual intercourse with him despite her lack of consent.

136. As a result of LYFT DRIVER's sexual battery, which occurred while in the course and scope of LYFT DRIVER's employment with LYFT, Plaintiff was sexually assaulted, which humiliated, degraded, violated, and robbed Plaintiff of her dignity and personal safety. The depraved attack on Plaintiff caused Plaintiff to suffer both psychological and physical harm from which she may never fully recover.

137. As a legal result of LYFT's Sexual Battery, Plaintiff has suffered damages, both economic and general, non-economic damages according to proof.

138. LYFT is vicariously liable for the torts of its driver under the theory of *respondeat superior*, the nondelegable duty doctrine, agency, and ostensible agency.

SEVENTH CAUSE OF ACTION

(VICARIOUS LIABILITY FOR BURGLARY)

139. The preceding paragraphs of this Complaint are re-alleged and incorporated by reference.

140. LYFT DRIVER entered unlawfully into a residential structure where Plaintiff was sleeping with the intent to sexually assault Plaintiff. Plaintiff did not consent to LYFT DRIVER entering her home or having sexual contact with her. Plaintiff was harmed by LYFT DRIVER's entering her home and having sexual contact with her. LYFT DRIVER intentionally and recklessly did acts which resulted in harmful contact with Plaintiff's person, including but not limited to: forcing her to engage in sexual intercourse with him despite her lack of consent.

1 141. As a result of LYFT DRIVER's burglary, which occurred while in the course and
2 scope of LYFT DRIVER's employment with LYFT, Plaintiff's home was violated and Plaintiff
3 was sexually assaulted, which humiliated, degraded, violated, and robbed Plaintiff of her dignity
4 and personal safety. The depraved attack on Plaintiff caused Plaintiff to suffer both psychological
5 and physical harm from which she may never fully recover.

6 142. As a legal result of LYFT's Burglary, Plaintiff has suffered damages, both
7 economic and general, non-economic damages according to proof.

8 143. LYFT is vicariously liable for the torts of its driver under the theory of *respondeat*
9 *superior*, the nondelegable duty doctrine, agency, and ostensible agency.

10 **EIGHTH CAUSE OF ACTION**

11 **(INTENTIONAL MISREPRESENTATION)**

12 144. The preceding paragraphs of this Complaint are re-alleged and incorporated by
13 reference.

14 145. LYFT represented to Plaintiff and the general public that safety was LYFT's top
15 priority and it was LYFT's goal to make every ride safe, comfortable, and reliable. At the same
16 time, LYFT already knew that a number of its drivers had preyed on vulnerable female passengers
17 by sexually molesting, assaulting and/or raping them.

18 146. LYFT made intentional misrepresentations of fact to Plaintiff known by Defendant
19 to be false including the false statement that Defendant would provide Plaintiff with a safe ride to
20 her destination.

21 147. LYFT made these intentional misrepresentations of material fact in order to induce
22 young women, including Plaintiff, into using LYFT's services.

23 148. LYFT made these representations to Plaintiff and the general public despite
24 knowing that it had chosen not to take the measures necessary to provide a safe ride home, and
25 that, as a result, continued sexual assault of its passengers by its drivers was a foreseeable
26 occurrence. LYFT made these representations in order to induce women like the Plaintiff into
27 using LYFT's services and to derive profit from women like Plaintiff.

28 149. In getting into the LYFT ordered by her cousin, Plaintiff reasonably relied on

1 LYFT's representations that it would get her safely home.

2 150. In trusting and relying on LYFT's representations, Plaintiff was placed in a
3 uniquely vulnerable position that was taken advantage of by LYFT's employee LYFT DRIVER
4 who sexually molested, assaulted, sexually penetrated and raped Plaintiff against her will.

5 151. As a legal result of LYFT's intentional misrepresentation, Plaintiff was sexually
6 assaulted and raped, which humiliated, degraded, violated, and robbed Plaintiff of her dignity and
7 personal safety. The depraved attack on Plaintiff caused Plaintiff to suffer both psychological and
8 physical harm from which she may never fully recover.

9 152. As a legal result of LYFT's intentional misrepresentation, Plaintiff has suffered
10 damages, both economic and general, non-economic damages according to proof.

11 **NINTH CAUSE OF ACTION**

12 **(NEGLIGENT MISREPRESENTATION)**

13 153. The preceding paragraphs of this Complaint are re-alleged and incorporated by
14 reference.

15 154. LYFT represented to Plaintiff and the general public that safety is LYFT's top
16 priority and it is LYFT's goal to make every ride safe, comfortable, and reliable. At the time of
17 the assault alleged herein, LYFT knew that a number of its drivers had previously preyed on
18 vulnerable female passengers by sexually molesting, assaulting and/or raping them.

19 155. LYFT continued to represent that its services were safe in order to further LYFT's
20 own pecuniary interests.

21 156. In representing to intoxicated and vulnerable passengers that its services were safe,
22 LYFT had a duty to provide correct and accurate information about the actual safety of its
23 services.

24 157. LYFT knew or should have known that it could not provide the safe ride that it
25 represented it could.

26 158. Knowing of the incidence of sexual assault of its passengers by its drivers and
27 knowing that LYFT had not implemented adequate precautions, LYFT had no reasonable grounds
28 for believing that it could provide Plaintiff and other similarly vulnerable female passengers a safe

1 ride home as represented.

2 159. In getting into the LYFT ordered by her cousin, Plaintiff reasonably relied on
3 LYFT's representations that it would get her safely home.

4 160. In trusting and relying on LYFT's representations, Plaintiff was placed in a
5 uniquely vulnerable position that was taken advantage of by LYFT's employee, LYFT DRIVER,
6 who sexually molested, assaulted and penetrated Plaintiff against her will.

7 161. As a legal result of Defendant LYFT's aforementioned conduct, Plaintiff was
8 sexually assaulted and raped, which humiliated, degraded, violated, and robbed Plaintiff of her
9 dignity and personal safety. The depraved attack on Plaintiff caused Plaintiff to suffer both
10 psychological and physical harm from which she may never fully recover.

11 162. As a legal result of LYFT's Negligent Misrepresentation, Plaintiff has suffered
12 damages, both economic and general, non-economic damages according to proof.

13 **TENTH CAUSE OF ACTION**

14 **(NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)**

15 163. Plaintiff hereby incorporates by reference the preceding causes of action and
16 factual allegations.

17 164. For several years prior to the rape of Plaintiff by LYFT DRIVER, LYFT was fully
18 aware that other female passengers had been sexually assaulted and raped by LYFT drivers. Since
19 2015, LYFT has received frequent passenger complaints about driver misbehavior, has been
20 notified of police investigations of the criminal conduct of drivers acting within their capacity as
21 LYFT drivers, and has been the subject of numerous civil suits alleging the sexual harassment and
22 sexual assault of LYFT's passengers by LYFT's drivers.

23 165. LYFT made a conscious decision not to implement procedures that would
24 effectively screen its drivers and monitor its drivers in order to identify and terminate drivers who
25 were sexual predators.

26 166. Safety precautions such as enhanced background checks, biometric fingerprinting,
27 job interviews, electronic monitoring systems, warnings to passengers of the dangers of being
28 attacked by LYFT drivers, and cooperation with law enforcement when a driver attacks a

passenger would have cost LYFT money and reputational damage. Because of this, LYFT decided not to implement such precautions and instead continues to place its passengers at greater risk of kidnapping, sexual assault, and rape by LYFT's own drivers.

167. Additional safety precautions that LYFT chose not to make include but are not limited to: ongoing monitoring of LYFT through available technology including cameras and GPS; a zero tolerance policy for drivers who deviate from expected behavior by leaving the vehicle with passengers, or by deviating substantially from the assigned route; a zero-tolerance program for sexual assault and guidelines mandating immediate termination; creating and instituting a system encouraging customer reporting; and adequate monitoring of customer complaints by well-trained and effective customer service representatives. LYFT chose not to implement such precautions.

168. In failing to take these and other safety precautions designed to protect female passengers from sexual predators driving for LYFT, LYFT breached its duty of reasonable care, negligently inflicting emotional harm, and acted recklessly and in conscious disregard of the safety of its female passengers.

169. As a direct and legal result of LYFT's negligent infliction of emotional distress, Plaintiff has suffered damages, both economic and general, non-economic damages according to proof.

///

PUNITIVE DAMAGES

170. The preceding paragraphs of this Complaint are re-alleged and incorporated by reference.

171. As stated above, LYFT knew that it faced an ongoing problem of sexual predators driving for LYFT and assaulting its passengers. As early as 2015 LYFT knew that its drivers were sexually assaulting female passengers. Since 2015, LYFT has received frequent passenger complaints about driver sexual misconduct, including sexual assault and rape, it has been notified of police investigations of the criminal sexual conduct of drivers acting within their capacity as LYFT drivers, and it has been the subject of numerous civil suits alleging the sexual harassment

1 and sexual assault of LYFT's passengers by LYFT's drivers.

2 172. Nevertheless, even though LYFT was fully aware of its sexual predator problem it
3 failed to take safety precautions to protect its passengers.

4 173. Safety precautions such as enhanced background checks, biometric fingerprinting,
5 job interviews, electronic monitoring systems, warnings to passengers of the dangers of being
6 attacked by LYFT drivers, and cooperation with law enforcement when a driver attacks a
7 passenger would have cost LYFT money and reputational damage. Because of this, LYFT
8 decided not to implement such precautions and instead has continued to place its passengers at
9 greater risk of kidnapping, sexual assault, and rape by LYFT's own drivers.

10 174. As such LYFT acted recklessly and in knowing, conscious disregard of the safety
11 of its passengers and the public safety.

12 175. As a legal result of the aforementioned negligent, reckless and grossly negligent
13 conduct of Defendants LYFT and DOES 1 through 50, inclusive, Plaintiff was sexually assaulted,
14 which humiliated, degraded, violated, and robbed Plaintiff of her dignity and personal safety.

15 176. As a result of her sexual assault, Plaintiff suffered serious emotional distress.

16 177. As a result of LYFT's misconduct as stated above, Plaintiff prays for exemplary
17 damages to punish LYFT for its misconduct and to deter future misconduct.

18 ///

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays judgment against all Defendants as follows:

21 1. For general damages (also known as non-economic damages), including but not
22 limited to, past and future pain and suffering, in an amount in excess of the jurisdictional minimum,
23 according to proof;

24 2. For special damages (also known as economic damages), including but not limited
25 to past and future hospital, medical, professional, and incidental expenses as well as past and future
26 loss of earnings, loss of opportunity, and loss of earning capacity, in excess of the jurisdictional
27 minimum, according to proof;

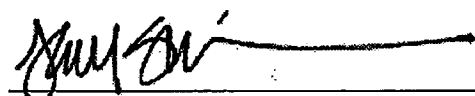
28 3. For exemplary and punitive damages according to proof;

LEVIN SIMES ABRAMS LLP
1700 Montgomery Street, Suite 250
San Francisco, California 94111
415.426.3000 phone • 415.426.3001 fax

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- 4. For prejudgment interest, according to proof;
- 5. For costs of suit incurred herein, according to proof;
- 6. For such other and further relief as the Court may deem just and proper.

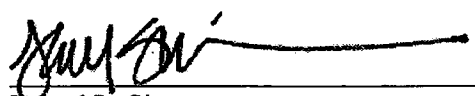
DATED: October 15, 2019 LEVIN SIMES ABRAMS LLP

By: 
Laurel L. Simes
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all causes of action.

DATED: October 15, 2019 LEVIN SIMES ABRAMS LLP

By: 
Laurel L. Simes
Attorneys for Plaintiff

By Fax

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Laurel L. Simes (SBN #134637) LEVIN SIMES ABRAMS LLP, 1700 Montgomery St., Ste. 250 San Francisco, CA 94111 TELEPHONE NO: (415) 426-3000 FAX NO (415) 426-3001 ATTORNEY FOR (Name): Jane Doe 7, Plaintiff		FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">FILED</div> San Francisco County Superior Court <div style="font-size: 1.2em;">OCT 16 2019</div> CLERK OF THE COURT By: Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco Superior Court STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: 400 McAllister Street CITY AND ZIP CODE: San Francisco 94102 BRANCH NAME: Unlimited		CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">CGC-19-580014</div> JUDGE: DEPT:	
CASE NAME: Jane Doe 7 v. LYFT, INC., et al.			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/DP/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other P/DP/D (23) Non-P/DP/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DP/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | d. <input checked="" type="checkbox"/> Large number of witnesses
e. <input checked="" type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): ten (10)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 10/15/2019

Laurel L. Simes

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CIV-010

To Plaintiffs and Others Filing First Paper. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages; (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto/Tort Auto (22)—Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability (not asbestos or toxic/environmental) (24) Medical Malpractice (45) Medical Malpractice— Physicians & Surgeons Other Professional Health Care Malpractice Other PI/PD/WD (23) Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other PI/PD/WD Non-PI/PD/WD (Other) Tort Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) Legal Malpractice Other Professional Malpractice (not medical or legal) Other Non-PI/PD/WD Tort (35) Employment Wrongful Termination (36) Other Employment (15)	Contract Breach of Contract/Warranty (06) Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence) Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case—Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage (not provisionally complex) (18) Auto Subrogation Other Coverage Other Contract (37) Contractual Fraud Other Contract Dispute Real Property Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property (not eminent domain, landlord/tenant, or foreclosure) Unlawful Detainer Commercial (31) Residential (32) Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential) Judicial Review Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) Writ—Administrative Mandamus Writ—Mandamus on Limited Court Case Matter Writ—Other Limited Court Case Review Other Judicial Review (39) Review of Health Officer Order Notice of Appeal—Labor Commissioner Appeals	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403) Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims (arising from provisionally complex case type listed above) (41) Enforcement of Judgment Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment (non-domestic relations) Sister State Judgment Administrative Agency Award (not unpaid taxes) Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case Miscellaneous Civil Complaint RICO (27) Other Complaint (not specified above) (42) Declaratory Relief Only Injunctive Relief Only (non-harassment) Mechanics Lien Other Commercial Complaint Case (non-tort/non-complex) Other Civil Complaint (non-tort/non-complex) Miscellaneous Civil Petition Partnership and Corporate Governance (21) Other Petition (not specified above) (43) Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief From Late Claim Other Civil Petition
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EXHIBIT 4

Case Access Information

Case Information

Case Number	Case Title	Filing Date
19STCV13758	GILLIAN C VS LYFT, INC., ET AL.	April 22, 2019

Filing Courthouse	Status
Spring Street Courthouse	Pending

Case Type
Other Personal Injury/Property Damage/Wrongful Death (General Jurisdiction)

Judicial Officer
Jon R. Takasugi

Party Information

Party Name	Party Type
C GILLIAN	Plaintiff
CRONK ANNA H	Attorney for Plaintiff
GREENSLADE MICHAEL VINCENT	Attorney for Plaintiff
LYFT INC.	Defendant
MAHDAVI MATIN	Defendant

Future Proceedings Information

Date	Time	Location	Department	Proceeding Type
October 5, 2020	10:00 AM	Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012	3	Final Status Conference
October 19, 2020	08:30 AM	Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012	3	Non-Jury Trial
April 18, 2022	08:30 AM	Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012	3	Order to Show Cause Re: Dismissal

Documents Scanned Information

Date Filed	Document Title	Description	Page Count
September 27, 2019	Notice (name extension)	Notice NOTICE OF POTENTIAL ADD-ON CASE FOR COORDINATION CONSIDERATION	28
April 23, 2019	PI General Order	PI General Order	8
April 23, 2019	Certificate of Mailing for	Certificate Of Mailing For [PI General Order] And Standing Order Re PI Procedures And Hearing Dates	1
April 22, 2019	Notice of Case Assignment - Unlimited Civil Case	Notice Of Case Assignment - Unlimited Civil Case	2
April 22, 2019	Complaint	Complaint	26
April 22, 2019	Civil Case Cover Sheet	Civil Case Cover Sheet	6
April 22, 2019	Summons	Summons On Complaint	1

Documents Filed Information

Document Date	Document Description	Memo	Filed by
September 27, 2019	Notice	NOTICE OF POTENTIAL ADD-ON CASE FOR COORDINATION CONSIDERATION	Lyft, Inc. (Defendant)
April 23, 2019	Certificate of Mailing for	[PI General Order] and Standing Order re PI Procedures and Hearing Dates	Clerk
April 23, 2019	PI General Order		Clerk
April 22, 2019	Notice of Case Assignment - Unlimited Civil Case		Clerk
April 22, 2019	Civil Case Cover Sheet		Gillian C (Plaintiff)
April 22, 2019	Complaint		Gillian C (Plaintiff)
April 22, 2019	Summons	on Complaint	Gillian C (Plaintiff)

Register of Actions Information

Date	Description	Additional Information
September 27, 2019	Notice	NOTICE OF POTENTIAL ADD-ON CASE FOR COORDINATION CONSIDERATION
April 23, 2019	Certificate of Mailing for	[PI General Order] and Standing Order re PI Procedures and Hearing Dates
April 23, 2019	PI General Order	
April 22, 2019	Civil Case Cover Sheet	
April 22, 2019	Summons	on Complaint
April 22, 2019	Complaint	
April 22, 2019	Notice of Case Assignment - Unlimited Civil Case	



I certify that this is a true and correct copy of the
original Register of Actions
on file in this office, consisting of 5 pages.
SHERRI R. CARTER, Executive Officer/Clerk of the
Superior Court of California, County of Los Angeles.
Date: NOV 05 2019 By: Chris Colene Deputy

EXHIBIT 5

SAN LUIS OBISPO
CASE SUMMARY
CASE NO. 19CV-0434

Jane Doe 1 vs. LYFT, Inc.

§
§
§
§

Location: **San Luis Obispo CV**
Judicial Officer: **Judge Coates, Tana L.**
Filed on: **07/24/2019**

CASE INFORMATION

Case Type: **CV - Personal Injury - Other**

Case Status: **07/24/2019 Open**

Case Flags: **Consent to Electronic Service**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	19CV-0434
Court	San Luis Obispo CV
Date Assigned	07/24/2019
Judicial Officer	Judge Coates, Tana L.

PARTY INFORMATION







Plaintiff **Doe 1, Jane**

Lead Attorneys
McKiernan, James
Retained
805-541-5411(W)




Defendant  **FENWICK, JASON LAMONT**

DATE

EVENTS & ORDERS OF THE COURT

07/24/2019	 Civil Case Cover Sheet Filed Party: Plaintiff Doe 1, Jane; Plaintiff Doe 2, Jane; Plaintiff Doe 3, Jane
07/24/2019	 Summons Filed
07/24/2019	 Complaint Filed Plaintiff: Plaintiff Doe 1, Jane; Plaintiff Doe 2, Jane; Plaintiff Doe 3, Jane Service: Defendant FENWICK, JASON LAMONT; Defendant LYFT, Inc.
07/24/2019	Service of Complaint & Summons LYFT, Inc. Unserved FENWICK, JASON LAMONT Unserved
07/26/2019	 Amended Complaint Filed Party: Plaintiff Doe 1, Jane; Plaintiff Doe 2, Jane; Plaintiff Doe 3, Jane <i>FIRST</i>
08/21/2019	 Notice Filed Party: Claimant California Victim Compensation Board <i>Notice of Lien</i>
09/24/2019	 Ex-Parte Order Filed Party: Plaintiff Doe 1, Jane <i>Ex Parte Application for Extension of Time to Serve Pleading and Orders</i>

SAN LUIS OBISPO
CASE SUMMARY
CASE No. 19CV-0434

09/24/2019	 Notice Filed Party: Claimant California Victim Compensation Board <i>Notice of Lien</i>
09/27/2019	 Notice Filed Party: Defendant LYFT, Inc. <i>NOTICE OF POTENTIAL ADD-ON CASE FOR COORDINATION CONSIDERATION</i>
12/02/2019	 Case Management Conference (9:00 AM) (Judicial Officer: Judge Coates, Tana L.; Location: San Luis Obispo Department 9) Resource: Hearing Location San Luis Obispo Department 9

DATE	FINANCIAL INFORMATION	
	Plaintiff Doe 1, Jane	
	Total Charges	435.00
	Total Payments and Credits	435.00
	Balance Due as of 11/05/2019	0.00

I certify that this is a correct copy of the original on
file with the Clerk of the Superior Court of California,
County of San Luis Obispo. Attest my hand and seal
of said court on

(Date) **NOV 05 2019**

Michael Powell

MICHAEL POWELL, Court Executive Officer



Certification must be in pen or ink to be a
CERTIFIED COPY

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25 *Attorneys for Defendant Lyft, Inc.*

26 SUPERIOR COURT OF THE STATE OF CALIFORNIA

27 COUNTY OF LOS ANGELES

28 UNLIMITED JURISDICTION

Coordination Proceeding
Special Title (Rule 3.550)

LYFT ASSAULT CASES¹

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5061

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF DEFENDANT LYFT,
INC.'S OPPOSITION TO PETITION
FOR COORDINATION**

Hearing Date: November 20, 2019

Time: 11:00 a.m.

Dept. 14

Petition Filed: September 4, 2019

¹ Lyft, Inc. incorporates the first footnote of its Opposition to the Petition for Coordination objecting to the caption for this proceeding.

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Lyft, Inc. requests, under California Evidence Code §§ 452 and 453 and California Rules
3 of Court 3.1113(l) and 3.1306(c), that the Court take judicial notice of the following order issued
4 by another California court rejecting coordination of sexual-assault cases brought against massage
5 franchises. A copy of the order is attached to this Request for Judicial Notice.

- 6 • Final Order Denying Petition for Coordination, *Massage Envy Franchising Cases*,
7 Judicial Counsel Coordination Proceeding No. 4997 (Super. Ct., Sacramento Cty. June
8 24, 2019) (Exhibit A).

9 **I. LEGAL STANDARD**

10 A court shall take judicial notice of any matter specified in Evidence Code § 452 if a party
11 requests it, provides the opposing party with notice of the request through the pleadings or
12 otherwise, and provides the court with sufficient information to enable it to take judicial notice.
13 Cal. Evid. Code § 453.

14 **II. THE COURT SHOULD TAKE JUDICIAL NOTICE OF THE *MASSAGE ENVY***
15 **ORDER**

16 The Court should take judicial notice of the attached order from the Sacramento Superior
17 Court denying coordination in the *Massage Envy Franchising Cases*. There, thirteen plaintiffs
18 brought vicarious liability and negligent hiring and supervision claims against massage
19 franchisees, arising out of alleged individual sexual assaults by masseurs. Evidence Code §
20 452(d) allows courts to take judicial notice of records of “any court of this state.” Cal. Evid.
21 Code § 452(d); *see also Duggal v. G.E. Capital Commc’ns Servs., Inc.*, 81 Cal. App. 4th 81, 86
22 (2000) (observing that the Evidence Code permits a court to “take judicial notice of the records of
23 a California court”). And courts routinely do so. *See, e.g., Kimco Staffing Servs., Inc. v. State*,
24 236 Cal. App. 4th 875, 881 & n.6 (2015) (judicial notice was properly taken of complaint in prior
25 action); *AL Holding Co. v. O’Brien & Hicks, Inc.*, 75 Cal. App. 4th 1310, 1313 n.2 (1999) (same).

26 //


27 //

28 //

1 **III. CONCLUSION**


2 Because the *Massage Envy* coordination denial is a proper subject of judicial notice, and
3 because Lyft has provided the Court and all interested parties sufficient notice and information,
4 the Court should grant this request for judicial notice.

5
6
7 DATED: November 6, 2019



WARREN METLITZKY
CONRAD & METLITZKY LLP

8
9
10 DATED: November 6, 2019



BETH STEWART
WILLIAMS & CONNOLLY LLP
Attorneys for Defendant Lyft, Inc.

Exhibit A

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Fax. (602) 682-6149
18 *Attorneys for Defendant*
19 **Massage Envy Franchising, LLC**

20 **SUPERIOR COURT OF CALIFORNIA**
21 **COUNTY OF SACRAMENTO**

22 **Coordination Proceeding**
23 **MASSAGE ENVY FRANCHISING CASES**
24
25
26

JUDICIAL COUNCIL COORDINATION
PROCEEDING No. 4997
~~PROPOSED~~ FINAL ORDER DENYING
PETITION FOR COORDINATION

FILED/ENDORSED
JUN 24 2019
By: DESSIE ROGERS
DEPUTY CLERK



1 The Petition for Coordination for Pre-Trial Purposes ("Petition") came on for hearing on
2 April 12, 2019 in Department 39 of the above-referenced court, the Honorable David W. Abbot
3 presiding. Having read and considered the Petition, all oppositions and responses, the evidence
4 submitted by the parties, and arguments presented by the parties and counsel, and all other
5 information bearing on the matter, the Court entered a Minute Order on May 10, 2019 denying
6 the Petition in its entirety.

7 IT IS HEREBY ORDERED, ADJUDICATED AND DECREED that the Court's Minute
8 Order, attached hereto as Exhibit A, shall become the final order of the Court. For ease of
9 reference, the Minute Order is reproduced in full as follows:

10 **MASSAGE ENVY FRANCHISING CASES**
11 **JUDICIAL COUNSEL COORDINATION PROCEEDING NO. 4997**
12 **FINAL RULING RE PETITION FOR COORDINATION**

13 Following issuance of the Court's tentative ruling on the Petition for Coordination, this
14 matter came on regularly for hearing on April 12, 2019 at 9:00 a.m. in Department 39, the
15 Honorable David W. Abbott, Judge presiding.

16 Upon submission of the memoranda of points and authorities in support of and in
17 opposition to the petition and arguments of counsel, the Tentative Ruling is vacated. The Court's
18 final ruling is as follows.

19 The Tentative Ruling erroneously concluded all cases subject to the petition had been
20 designated complex. This is not correct. Indeed, of all the cases subject to the petition, only one
21 has been deemed complex. Because coordination is sought pursuant to Code of Civil Procedure
22 Section 404, petitioners have the burden of establishing the cases are complex, and this has not
23 been done (Cal.Rules of Ct., Rule 3.502). In this regard, analysis of the separate actions filed in
24 each venue militates against a finding of complexity. Application of the factors set forth in Rule
25 3.400(b) of the California Rules of Court leads to the conclusion that the separate actions are not
26 complex:

27 1. Numerous pretrial motions raising difficult or novel legal issues that will be time-
28 consuming to resolve. The individual actions allege sexual misconduct in the form of sexual
assault, sexual battery or invasion of privacy, which do not present difficult or novel legal issues

1 that will be inordinately time-consuming to resolve. In the cases where multiple plaintiffs are
2 joined in the same action, though the pre-trial motions may be numerous, they likely will not raise
3 difficult or novel legal issues.

4 2. Management of a large number of witnesses or a substantial amount of documentary
5 evidence. For the claim of each individual plaintiff, as in most cases of sexual misconduct, there
6 are few percipient witnesses beyond the perpetrator and the victim. In those cases involving
7 multiple plaintiffs and alleging more than one perpetrator, there will a larger number of witnesses,
8 but management of that number does not create complexity.

9 3. Management of a large number of separately represented parties. In each individual
10 action, there are not large numbers of separately represented parties.

11 4. Coordination of related actions pending in one or more courts in other counties. The
12 pending actions in separate venues are similar, but they are not "related" in the sense that
13 resolution of one case will have a determinative effect on another.

14 5. Substantial post judgment judicial supervision. The relief sought in each action is
15 damages, which do not require substantial, if any, judicial supervision.

16 Accordingly, the actions subject to the petition are not complex, which is a requirement
17 for coordination under Section 404 and coordination of the individual actions is therefore not
18 warranted under the present petition.

19 Coordination of civil actions sharing a common question of fact or law is appropriate if
20 one judge hearing all of the actions for all purposes in a selected site or sites will promote the
21 ends of justice, taking into account whether the common question of fact or law is predominating
22 and significant to the litigation; the convenience of parties, witnesses, and counsel; the relative
23 development of the actions and the work product of counsel; the efficient utilization of judicial
24 facilities and manpower; the calendar of the courts; the disadvantages of duplicative and
25 inconsistent rulings, orders, or judgments; and the likelihood of settlement of the actions without
26 further litigation should coordination be denied. (Cal. Code Civ. Proc. §404.1.) In the instant
27 cases, these factors do not weigh in favor of coordination. Common question of fact or law do not
28 predominate in this litigation. Coordination of the various actions will not be convenient to all the

1 parties, witnesses, and counsel and in fact, will be less convenient. The encompassed cases are at
2 disparate stages of development with some actions nearing trial, and others just commencing.
3 Coordination described by the petitioning party will not promote the efficient utilization of
4 judicial facilities. There is not a significant likelihood of duplicative and inconsistent rulings,
5 orders, or judgments, if the actions are not coordinated.

6 Moreover, it is apparent the claims of each plaintiff will necessarily be determined and
7 resolved based on the individual facts unique to their particular case. Those facts may raise issues
8 of law that are similar to other Massage Envy cases, but resolution of those issues of law will be
9 determined by the individual facts of each plaintiff's case. As such, a determination of a similar
10 legal issue in one case will not be inconsistent with a ruling in another case, because each case
11 will be decided on its own facts. In other words, a determination that a plaintiff in one case was
12 sexually assaulted by a masseuse will have no determinative effect whatsoever on whether a
13 plaintiff in another case was sexually assaulted by a different masseuse.

14 Ratification presents issues which may be common to the Massage Envy parent as
15 franchisor, but this is not the same issue of ratification pertaining to individual franchisees.
16 Ratification by a franchisee of the conduct of a masseuse in its employ will be dependent upon
17 the individual facts of that franchisee's response to, and investigation of, the complaints of sexual
18 assault by its clientele. While ratification by the franchisor may raise common questions of law
19 and fact, these are insufficient to warrant coordination of all pending actions.

20 **IT IS SO ORDERED.**

21
22 Dated: 6-24-2019
23 
24 Hon. David W. Abbott
25 Judge, Superior Court, County of Sacramento
26
27
28



EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE**

MINUTE ORDER

DATE: 05/10/2019

TIME: 03:00:00 PM

DEPT: 39

JUDICIAL OFFICER PRESIDING: David W. Abbott

CLERK: Julie Jackson

REPORTER/ERM: NONE

BAILIFF/COURT ATTENDANT: A. Muir-Harrison

CASE NO: JCCP 4997

CASE INIT.DATE: 01/10/2019

CASE TITLE: **Massage Envy Franchising Cases**

CASE CATEGORY: Civil - Unlimited

EVENT TYPE: Motion - Other - Complex

APPEARANCES

NATURE OF PROCEEDINGS: FINAL RULING ON MATTER TAKEN UNDER SUBMISSION

MESSAGE ENVY FRANCHISING CASES

JUDICIAL COUNSEL COORDINATION PROCEEDING NO. 4997

FINAL RULING RE PETITION FOR COORDINATION

Following issuance of the Court's tentative ruling on the Petition for Coordination, this matter came on regularly for hearing on April 12, 2019 at 9:00 a.m. in Department 39, the Honorable David W. Abbott, Judge presiding.

Upon submission of the memoranda of points and authorities in support of and in opposition to the petition and arguments of counsel, the Tentative Ruling is vacated. The Court's final ruling is as follows.

The Tentative Ruling erroneously concluded all cases subject to the petition had been designated complex. This is not correct. Indeed, of all the cases subject to the petition, only one has been deemed complex. Because coordination is sought pursuant to Code of Civil Procedure Section 404, petitioners have the burden of establishing the cases are complex, and this has not been done (Cal.Rules of Ct., Rule 3.502). In this regard, analysis of the separate actions filed in each venue militates against a finding of complexity. Application of the factors set forth in Rule 3.400(b) of the California Rules of Court leads to the conclusion that the separate actions are not complex:

1. Numerous pretrial motions raising difficult or novel legal issues that will be time-consuming to resolve. The individual actions allege sexual misconduct in the form of sexual assault, sexual battery or invasion of privacy, which do not present difficult or novel legal issues that will be inordinately time-consuming to resolve. In the cases where multiple plaintiffs are joined in the same action, though the pre-trial motions may be numerous, they likely will not raise difficult or novel legal issues.
2. Management of a large number of witnesses or a substantial amount of documentary evidence. For the claim of each individual plaintiff, as in most cases of sexual misconduct, there are few percipient witnesses beyond the perpetrator and the victim. In those cases involving multiple plaintiffs and alleging more than one perpetrator, there will a larger number of witnesses, but management of that number

DATE: 05/10/2019

MINUTE ORDER

DEPT: 39

Page 1
Calendar No.

does not create complexity.

3. Management of a large number of separately represented parties. In each individual action, there are not large numbers of separately represented parties.

4. Coordination of related actions pending in one or more courts in other counties. The pending actions in separate venues are similar, but they are not "related" in the sense that resolution of one case will have a determinative effect on another.

5. Substantial post judgment judicial supervision. The relief sought in each action is damages, which do not require substantial, if any, judicial supervision.

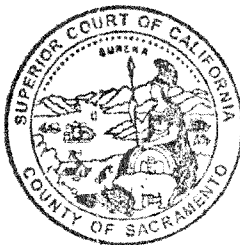
Accordingly, the actions subject to the petition are not complex, which is a requirement for coordination under Section 404 and coordination of the individual actions is therefore not warranted under the present petition.

Coordination of civil actions sharing a common question of fact or law is appropriate if one judge hearing all of the actions for all purposes in a selected site or sites will promote the ends of justice, taking into account whether the common question of fact or law is predominating and significant to the litigation; the convenience of parties, witnesses, and counsel; the relative development of the actions and the work product of counsel; the efficient utilization of judicial facilities and manpower; the calendar of the courts; the disadvantages of duplicative and inconsistent rulings, orders, or judgments; and the likelihood of settlement of the actions without further litigation should coordination be denied. (Cal.Code Civ. Proc. §404.1.) In the instant cases, these factors do not weigh in favor of coordination. Common question of fact or law do not predominate in this litigation. Coordination of the various actions will not be convenient to all the parties, witnesses, and counsel and in fact, will be less convenient. The encompassed cases are at disparate stages of development with some actions nearing trial, and others just commencing. Coordination described by the petitioning party will not promote the efficient utilization of judicial facilities. There is not a significant likelihood of duplicative and inconsistent rulings, orders, or judgments, if the actions are not coordinated.

Moreover, it is apparent the claims of each plaintiff will necessarily be determined and resolved based on the individual facts unique to their particular case. Those facts may raise issues of law that are similar to other Massage Envy cases, but resolution of those issues of law will be determined by the individual facts of each plaintiff's case. As such, a determination of a similar legal issue in one case will not be inconsistent with a ruling in another case, because each case will be decided on its own facts. In other words, a determination that a plaintiff in one case was sexually assaulted by a masseuse will have no determinative effect whatsoever on whether a plaintiff in another case was sexually assaulted by a different masseuse.

Ratification presents issues which may be common to the Massage Envy parent as franchisor, but this is not the same issue of ratification pertaining to individual franchisees. Ratification by a franchisee of the conduct of a masseuse in its employ will be dependent upon the individual facts of that franchisee's response to, and investigation of, the complaints of sexual assault by its clientele. While ratification by the franchisor may raise common questions of law and fact, these are insufficient to warrant coordination of all pending actions.

This ruling shall be entered as a minute order. Any counsel desiring a formal written order shall prepare same and circulate to all other counsel for approval as to form for submittal to the Court.



The annexed instrument is a correct copy of the
original on file in my office.

Attest: **NOV 05 2019**

Certified
Superior Court of Sacramento
County of Sacramento

By M. Whitaker
(Seal)

1 WARREN METLITZKY (CA Bar No. 220758)
2 GABRIELA KIPNIS (CA Bar No. 284965)
3 WILLIAM J. COOPER (CA Bar No. 304524)
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26 SUPERIOR COURT OF THE STATE OF CALIFORNIA

27 COUNTY OF LOS ANGELES

28 UNLIMITED JURISDICTION

Coordination Proceeding

LYFT ASSAULT CASES

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5061

PROOF OF SERVICE

Date: November 20, 2019

Time: 11:00 a.m.

Dept. No. 14

Date Action Filed: September 4, 2019

PROOF OF SERVICE

I, **MAGGIE HODGINS**, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the law firm of Conrad & Metlitzky LLP, Four Embarcadero Center, Suite 1400, San Francisco, CA, 94111.

On November 6, 2019, I served the following document(s):

1. **DEFENDANT LYFT INC.'S OPPOSITION TO PETITION FOR COORDINATION**
2. **DECLARATION OF BETH A. STEWART IN SUPPORT OF LYFT, INC.'S OPPOSITION TO THE PETITION FOR COORDINATION**
3. **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT LYFT INC.'S OPPOSITION TO PETITION FOR COORDINATION**

on the following person(s) at the location(s) specified:

Chair, Judicial Council of California
Attn: APPELLATE COURT SERVICES
(Civil Case Coordination)
455 Golden Gate Avenue, 5th Floor
San Francisco, California 94102-3688
Email: coordination@jud.ca.gov
(Served by Electronic Mail and Personal Service)

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R Michael Bomberger
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Counsel for Plaintiffs Alyssa Doe and Jane Roe 1
(Served by Electronic Mail and Personal Service)

James McKiernan
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Counsel for Plaintiffs Jane Doe 1, Jane Doe 2, Jane Doe 3
(Served by Electronic Mail and Personal Service)

Judge Kenneth R. Freeman
SUPERIOR COURT OF CALIFORNIA
County of Los Angeles
Spring Street Courthouse, Department 14
312 North Spring Street
Los Angeles, CA 90012
(Served by Overnight Delivery)

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Michael V. Greenslade
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Counsel for Plaintiffs Berquist, Bicani, Christensen, DiTrani, Espinosa, Hardin, Hashem, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, Jane Doe 5, Jane Doe 6, Jane Doe 7, Kran, Matheson, Nan, Turkos, Wilson
(Served by Electronic Mail and Personal Service)

Jennifer A. Huber
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Counsel for Defendant Lyft, Inc.
(Served by Electronic Mail and Personal Service)

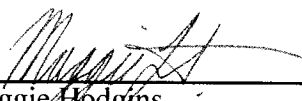
Ameer Gaied aka Ameer Gayed
6600 Telephone Road, #1603
Ventura, CA 93003
Defendant in Pro Per in Alyssa Doe
(Served by United States Mail)

in the manner indicated below:

- ☒ **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of Conrad & Metlitzky LLP for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.
- ☒ **BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional messenger service.
- ☒ **BY OVERNIGHT DELIVERY:** I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and delivery by overnight courier service. I am readily familiar with the practices of Conrad & Metlitzky LLP for sending overnight deliveries. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be collected by a courier the same day.
- ☒ **BY ELECTRONIC MAIL:** I caused a copy of such document to be transmitted *via* electronic mail in portable document format ("PDF") Adobe Acrobat from the electronic address: mhodgins@conradmetlitzky.com.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed November 6, 2019, at San Francisco, California.



Maggie Hodgins