

**Testimony of Commissioner Meera Joshi  
NYC Taxi and Limousine Commissioner/Chair**

**City Council Committee on Transportation  
Oversight Hearing: App Technology and the  
Transformation of the Taxi and For-Hire Industries**

**December 3, 2014**

Good morning Chair Rodriguez and members of the Transportation Committee, I am Meera Joshi, Commissioner and Chair of the New York City Taxi and Limousine Commission. Thank you for the opportunity to speak today about Smartphone applications (apps) and ways they have transformed the taxi and for-hire vehicle industries.

The purpose of my testimony today is to describe changes to TLC rules as Smartphone app technology has become more prevalent in the taxi and for hire-vehicle industries. These changes promote safe and reliable service for passengers and include accountability measures so core standards are adhered to while simultaneously fostering innovation.

For years, new technologies have been present in the for-hire vehicle (FHV) industry. By 2009, many for-hire bases had adopted either off the shelf dispatching programs or had developed their own web based dispatch program tailored to their particular services. The benefits of these technology enhancements, which streamlined dispatch, were immediately appreciable. By 2012, these benefits were also widely present via Smartphone apps that dispatch cars. There is no debate that incorporating apps into the dispatching process has given passengers more options and has given drivers additional income opportunities. Apps put direct access to taxis and for-hire vehicles in the pockets of every New Yorker and visitor with a Smartphone.

In some jurisdictions however, apps are given special permission to provide for-hire service with unlicensed vehicles, unlicensed drivers, and inadequate insurance. For example, in Boston, Atlanta, and Dallas, anyone can provide for-hire transportation without going through a licensing process. I am proud to say that app companies operating in New York City are held to the same high standards as all private for-hire transportation providers and must work within the existing TLC license structure. This means, for example, that dispatched drivers must be drug tested and background checked, and vehicles must have for-hire insurance and pass a 200 point inspection.

A number of our regulatory counterparts from other jurisdictions have and continue to reach out to us about our experience in working with app companies to see how they have adapted to New York City's high-accountability regulatory model, thinking that what we have achieved must have been a very complex undertaking. We tell them that, while navigating these new waters involved some complexities and challenges, the basic approach was a simple one – if you are going to operate in New York City, the safety, accountability and consumer protections must be there, and our licensing process provides for this. Unfortunately, some of these jurisdictions have experienced true horror stories involving, among

other things, drivers who were poorly screened and vehicles without adequate inspections or insurance coverage. As taxi and for-hire services are essential components of any city's transportation network, such problems have the effect of degrading the system as a whole, which is simply not an option we would tolerate here in New York City, where we move about one million passengers a day.

In New York City, different rubrics govern apps that dispatch, which is dependent on the industry segment they are dispatching, and whether they/or a company related to them is a TLC licensee.

### **Apps and Taxis**

In 2013, the TLC launched a pilot program to evaluate hailing a yellow taxi through a Smartphone. The program gives passengers the same experience they would have in any taxi – passengers are charged a metered fare and drivers must follow TLC rules. However, the use of the application allows passengers and drivers to “peek around corners” to connect with one another. This has the potential to increase driver income and lowers passenger wait time by helping them efficiently find each other, especially in areas without a dense supply and demand for taxi service, where drivers and passengers looking for fares are often not in the same place at the same time.

From the first year of the pilot program, we have found that e-hail apps do help passengers find taxis in certain lower-trafficked areas. Over 600,000 E-Hailed rides were serviced during the pilot's first year, and the majority of pickups occurred in either Manhattan above 110<sup>th</sup> street or the other boroughs— areas that historically have not seen a lot of yellow taxi service. While only 6% of all taxi pickups in that same time period occurred in these areas outside of the Manhattan Central Business District, a full 66% of E-Hailed rides started in these areas.

Due to the success of the E-Hail pilot in providing yet another option for passengers to arrange safe and legal for-hire transportation service, before the end of the year the TLC plans to make the program permanent. The proposed rules will create an E-Hail license structure and will mirror many of the requirements from the E-Hail pilot.

### **Apps and For-Hire Vehicles**

To work in the FHV sector, dispatch apps must either obtain a base license from the TLC or work with an existing TLC-licensed base, and for-hire dispatching is still subject to all TLC applicable rules. Most importantly that for-hire service must only be dispatched by TLC-licensed bases to TLC-licensed drivers and vehicles meeting TLC's requirements.

Today as many as 42% of for-hire vehicles can be reached through passenger facing apps, using over 75 different platforms. This paradigm shift requires new accountability rules. A few weeks ago, the TLC unanimously voted to require all FHV bases to provide electronic trip records and prohibited cross class dispatching in order to balance the growing prevalence of the practice with the Commission's policy and enforcement needs. And as technology and the for-hire industry continues to evolve, the Commission

looks forward to discussing with Council and the Transportation Committee appropriate government action.

Thank you again for allowing me to speak to today on how apps are transforming the taxi and for-hire vehicle industries. At this time I would be happy to answer any questions you may have.



## Greater New York Taxi Association

26 Court Street, Suite 1405, Brooklyn, NY 11242 · Tel.: (718) 834-4850 Fax: (718) 488-0535 · [www.GNYTA.org](http://www.GNYTA.org)

Good morning, my name is Ethan Gerber Executive Director of the Greater New York Taxi Association, an organization comprised of Progressive Taxi fleet owners who provide clean air and wheelchair accessible service for New Yorkers.

I'm here today in opposition to intro number 47 and in support of this council taking proactive measures to regulate and oversee the drastic changes to the for hire industry that are happening not because of innovation but because of the lack of responsibility by the New York City Taxi & Limousine Commission and by tying our hands while at the same time giving full liberty to Uber and other apps to do as they see fit wherever and whenever they please. Case in point is Intro number 47. Intro number 47 gets rid of the requirement in the municipal code which requires all base stations to have ample street parking. That rule, that law was written so that car bases would not clog the streets of New York, double park their vehicles, and add to the already serious congestion of New York City. Today because Uber doesn't have the ability or actually the desire to park their vehicles they simply ask you to get rid of this requirement - never mind the original intent - never mind the congested streets the only thing Paramount is the technology and the desires of a California technology company.

I don't represent black car fleets I represent the yellow taxi cab medallion industry the most regulated sector. The TLC tells us what color the cars must be; what the markings must be, that we must install petitions, what type of vehicles we can use, how many must be accessible to people dependent on wheelchairs, what type of GPS devices we must have, how many shifts we must operate, what to charge passengers, what to charge drivers and over hundreds of other rules. We compete with a virtually non-regulated industry competing for the same passengers in the same drivers. Worse, while the app companies are developing their technology we are stifled - frozen in time on obsolete technology that the TLC will not let us improve ourselves. Every adaptation every change must be approved by them at a glacially slow process if at all.

While we greatly contribute to the economy of the city technologies, silicon-based technology companies do nothing for the New York bottom line. The New York City budget is highly dependent on the health of the medallion industry. The four-year projected budget for the city of New York voted by the council, and signed by the mayor and approved by the New York City and the New York State Comptroller all require and have spent \$1.2 billion of anticipated revenue from medallion sales. Indeed, the office of the state comptroller projected that the city budget would be even healthier because he anticipated that medallion prices would go up. Meanwhile the city has been enacting rules that make it harder for medallions to operate and easier for app competitors to operate.

The results are predictable. Medallion prices are plummeting. Worse there are no banks willing to finance medallion purchases at the auction. Just this week medallion financial, a publicly traded lending institution, reported a record low in its stock prices and Signature Bank was questioned on its stability based on its medallion loans. Without a level playing field, the value of the medallions will disintegrate, and there will be no auction.

The city estimates that next year \$400 million will be generated by the auction and continue at that rate for three more successive years. Where will this money come? Which firehouses will close? How many police officers will not be hired? What Pre-K programs will be shut? What teachers will be fired, when there is a \$1.2 billion shortfall in the city budget? Nor is this the only money that is generated by medallions. 5% of each medallion transaction is taxable -taxed money that goes directly to the coffers of New York City. Thus each time a medallion sells for \$1 million dollars the city recovers \$50,000 to use in its budget as needed. No such revenue is generated by apps.

Beyond the budget crisis that will exist if this problem is not solved, there will be financial ruin for the 42% of medallion owners who are owner operators in other words, drivers of the medallions the opera they own. There will be financial ruin for the fleet operators who employ mechanics, paring attendants, gas men, car washers, dispatchers, bookkeepers, secretaries and other office staff. They will be financial collapse for the lenders and banks that invested heavily in Medallions sold by the city.

But more than the banks, more than the city's finances, more than the drivers, more than the owners, the real victim here will be the consumer, the passengers. When UBER is a monopoly when our legitimate well-established taxi businesses fail there will be no way to control this beast. Already in other cities this is happened. In San Francisco, just a week after reporting that one of the largest fleets, like most others, was ruined financially it was reported that Uber changed their driver price policy costing the drivers a substantial portion of their fares - Uber and apps change their prices at will - when they kill the competition; those of us who played by the rules and contributed greatly, who will control them?

We ask simply that we are allowed to play on a level playing field - let the regulated yellow and green cabs have a uniform app; make Uber and Lyft abide by the same rules, let us innovate as we see fit - recently the TLC turned down our requests for a universal app, turned down our request to put free Wi-Fi in our cabs, turned down our request to install charging devices -

We have little trust in the TLC providing proper oversight - the last TLC Chair who made many of the policy decisions, which hurt medallions, is a paid consultant for Lyft. The last policy deputy, who ushered in the rule changes allowing Uber exchanged over 1000 emails with Uber during his TLC employment and went to work for UBER immediately after getting the rule changes through. We are playing against a stacked deck and need this committee to exorcise oversight if not for us, do it for the city that needs the 1.2 billion it expects to raise from medallion sales.

**The New York City Council Committee on Transportation**  
Oversight Hearing - App Technology and the Transformation of the Taxi and For-Hire Industries  
Wednesday, December 3, 2014

*Written Testimony for Uber Technologies, Inc.*

---

---

**TABLE OF CONTENTS**

Background

Uber Background.....	1
How Uber Works.....	2
Rider Experience.....	3
Driver Opportunity.....	3
City Impact.....	4

New York City

Uber NYC Background.....	4
Rider Experience: Affordable Transportation Option.....	6
Rider Experience: Accessibility and uberWAV.....	6
Rider Experience: uberFAMILY.....	9
Rider Experience: Reduced Impaired Driving.....	10
Rider Experience: Transportation to Hospitals and Emergency Services.....	10
Rider Experience: Eliminating Discrimination.....	12
Driver Opportunity: Partnering with Uber.....	12
Driver Opportunity: UberMILITARY.....	13
Driver Opportunity: Growing a Small Business.....	14
City Impact: Serving Underserved Communities.....	14
City Impact: Support for Public Transit.....	15
City Impact: Improving the Local Economy.....	15
City Impact: Working with Regulators.....	16

---

---

**UBER BACKGROUND**

Uber Technologies, Inc. ("Uber") is evolving the way the world moves. By seamlessly connecting riders to drivers through a smartphone application, Uber creates more transportation alternatives for riders and increases business for drivers, connecting customers to the highest quality transportation with the fastest response time. Uber gets cities moving more efficiently – bringing a safe, reliable and flexible alternative to urban transportation through the tap of an app. Uber brings more choice to riders and drivers alike, and helps to create the smart cities of tomorrow. Uber encourages faster economic development in both residential and business districts, job creation for small businesses, and higher incomes for drivers who are, in turn, better able to support their families. This all occurs in a way that prioritizes quality, convenience, and safety for consumers. Uber brings major economic benefits and improved consumer experiences to the cities it serves.

For almost four years, Uber has provided a safe, affordable, and convenient way to get around the five boroughs. Uber was founded in San Francisco in 2009 by CEO Travis Kalanick and co-founder Garrett Camp. Uber officially launched on May 3, 2011 in the company's second market: New York City. Uber currently operates in more than 230 cities in 46 countries across the globe, covering sixty-three (63) percent of the global population.

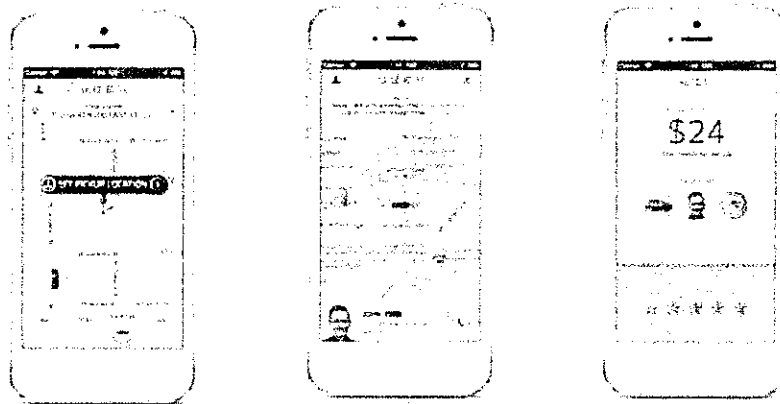
Uber employs over seventeen hundred (1,700) individuals worldwide, including over seven hundred (700) in its San Francisco headquarters and sixty (60) employees in Uber's New York City office in Long Island City, Queens. Uber's localized team structure ensures high quality support for consumers and driver partners.

Uber's technology is rapidly transforming cities. Uber provides safe, reliable and efficient transportation options that are complementary to each city's existing options. The app's technology provides for improved experiences for millions of riders, life changing opportunities for hundreds of thousands of driver partners, and a positive impact on cities.

### HOW UBER WORKS

Uber's mission is to turn ground transportation into a seamless service and to enable an affordable transportation alternative that makes car ownership a thing of the past. The company's goal is to provide transportation as reliable as running water, everywhere and for everyone. Uber is focused on growth and expansion, and envisions a world where anyone, anywhere can open the Uber app and be connected with a safe, reliable and seamless ride in just a few minutes.

#### UBER APP SCREENSHOTS



When a rider wants to request a ride through the free Uber smartphone app, he/she sees available cars in real time on a map displaying their current location. The nearest driver is alerted of the ride request and is given the rider's pick up location through the Uber partner app. The rider then receives detailed information about his/her driver, including the driver's first name and Uber rating, the vehicle's make, model, and license plate number, and a picture of the driver. While both phone numbers are anonymized through Uber's technology, drivers and riders have a direct line of contact to one another if needed.

The Uber partner app uses GPS technology to collect location information, which is then forwarded to Uber's servers for accurate billing and receipt generation. When a rider reaches his/her destination, his/her driver ends the trip on the Uber partner app, and the rider is automatically billed for the ride through a seamless, cashless transaction. The rider immediately receives an electronic receipt via email, and there is no need to tip.

## RIDER EXPERIENCE

Uber's platform connects users with safe, reliable and convenient on-demand rides, revolutionizing the way people connect with their city. Residents and visitors have a reliable, accessible, high quality, and fast option to get around every Uber city.

Uber's top priority is connecting riders to the safest rides on the road. The platform offers unprecedented transparency and accountability for transportation options – delivering a safer, more reliable way to move around cities. For riders, that means always knowing a driver's information before getting into the car, knowing that every driver on the Uber platform is thoroughly screened, and knowing that every ride is insured. At the end of every trip, riders can rate their driver, creating a continuous feedback loop to improve the Uber experience, and providing transparency to a historically closed business. The Uber app also provides built-in safety measures, including the "Share My ETA" feature that allows riders to share trip details, estimated time of arrival, and tracking as a trip is in progress.<sup>1</sup>

Uber provides a convenient and reliable transportation alternative for riders, as evidenced by a recent poll of forty (40) leading economic experts.<sup>2</sup> When asked whether "letting car services such as Uber... compete with taxi firms on equal footing regarding genuine safety and insurance requirements, but without restrictions on prices or routes, raises consumer welfare," one hundred (100) percent of the economists polled agreed.

As one example, Uber has played a major role in increasing mobility for seniors. Uber provides transportation to and from all neighborhoods, especially areas traditionally underserved by public transportation. Uber is accessible from any web-enabled device; seniors can either request rides for themselves or relatives, friends, and caretakers can request on their behalf. Uber is also available through a mobile site,<sup>3</sup> which can be accessed through any internet browser. However, the benefits of Uber extend far beyond riders on the platform.

## DRIVER OPPORTUNITY

*"Uber's app has taken a lot of stress away from me. I love the rating system. My passengers know where my car is and I do not get yelled at if I am late during rush hour stuck in traffic. Late at night, I am not scared with drunk passengers because they are not paying by cash. We already have the card on file. Customers cannot jump out of the car without paying. The Uber application has been a life saver for me with its great image all around the world." – Bittu S., Uber NYC partner*

Uber creates a new market for transportation services that leads to significant driver job creation and a reduction in unemployment in all Uber cities. The economic opportunity of the Uber platform is unprecedented in the industry, providing freedom and flexibility for drivers in every Uber city. Driver choice and flexibility are hallmarks of the opportunity for drivers partnering with Uber. Drivers choose their own hours and own their vehicle. The technology has provided hundreds of thousands of driver partners the opportunity to start and grow their own small businesses. Worldwide, fifty-thousand (50,000) driver jobs are generated by the Uber platform every month.

Uber's technology encourages entrepreneurship and fosters significant small businesses growth. In the four years since Uber launched in New York City, Uber has transformed the earning opportunity of the driver

---

<sup>1</sup> Read more about how Uber's safety features are embraced by regulators and community members at The Atlanta Journal-Constitution, "With spike in rape, Reed announces campaign to end sexual violence," Katie Leslie, 13 November 2014,

<http://www.ajc.com/news/news/with-spike-in-rape-reed-announces-campaign-to-end-/nh6tG/>

<sup>2</sup> The New York Times, "Uber improves life, economics agree," Justin Wolfers, 30 September 2014, <http://www.nytimes.com/2014/10/01/upshot/uber-improves-life-economists-agree.html?abt=0002&abq=1>

<sup>3</sup> <https://m.uber.com/>



experience in an industry that had not offered any new opportunity for drivers for decades. Uber has increased small business opportunities for New Yorkers, particularly recent immigrants, veterans, and women. The average earnings per hour for a driver who is active on the platform ten (10) hours per week is roughly the same as the average for drivers who are active on the platform sixty five (65) hours per week.<sup>4</sup> The flexibility of the app allows drivers to work when it's convenient for them – earning money in between other jobs, working with other companies, working around their families' schedules, or taking personal time away from work.

The Uber platform also facilitates a safe environment for driver partners. Every transaction is cashless; unlike taxi drivers, Uber partners never have to worry about the risk or hassle of carrying cash or making change. For example, since Uber launched in Chicago in September 2011, taxi crime has decreased by about twenty (20) percent.<sup>5</sup> Drivers are also encouraged to rate riders to ensure a high quality experience for all Uber trips.

### CITY IMPACT

For cities, Uber's transportation technology brings tremendous progress by making cities smarter. As cities prepare for the future, reliable and convenient transportation remains a significant challenge. Highly-efficient and technology-enabled transportation solutions must be part of the equation, because technology can lead to better transport options for underserved communities, a reduction in congestion, and increased efficiency in cities.

Uber is committed to changing people's lives by revolutionizing urban transportation. Uber provides transportation options for underserved communities, lower DUI rates, and powerful new economic opportunities. Uber serves all communities and neighborhoods with ETA-based dispatch rather than traditional location-based dispatch, ensuring that no rider is rejected because of who they are, where they live, or where they want to go.<sup>6</sup> Uber's vision for the city of the future is one where a major metropolis – whether it's New York City, London, Rio or Singapore – has many fewer cars on the road than it does today.

The company believes in a future that looks greener, cleaner, and more efficient thanks to fewer cars. Uber is not single-handedly driving this trend. In fact, Uber is an essential tool among many other non-privately owned personal vehicles such as public transit, bikesharing, carsharing, walkable communities, and taxis. When combined, this portfolio of transportation choices each serve to replace personal car trips of different lengths, purposes, and times. Each option is strengthened by the other and not a zero-sum fight for a set number of trips.

---

### UBER NYC BACKGROUND

Launched in May 2011, Uber currently offers the following transportation products in New York: uberT (yellow cabs through the Taxi & Limousine Commission's E-Hail Pilot Program<sup>7</sup>), uberWAV (wheelchair-accessible green Boro Taxis), uberX (low-cost commercial black cars with seating for up to four

<sup>4</sup> Uber Blog, "Three September of uberX in New York City," 29 October 2014, <https://blog.uber.com/nyc-three-septembers-uberX>.

<sup>5</sup> Uber Blog, "Uber Impact on Taxi Crime in Chicago," 28 April 2014, <http://blog.uber.com/chicagotaxicrime>.

<sup>6</sup> Uber Blog, "The City of the Future: One Million Fewer Cars on the Road," 3 October 2014, <http://blog.uber.com/city-future>.

<sup>7</sup> Uber was the first company to be initiated into the TLC's E-Hail Pilot Program in April 2013. The Program, which was initially set to last one year, has been extended. Read more about the Program at New York City Taxi and Limousine Commission, "Resolution Approving a Pilot Program to Evaluate Electronic Hailing Applications," 13 December 2012 as amended on 21 February 2013, [http://www.nyc.gov/html/tlc/downloads/pdf/ehail\\_pilot\\_res\\_final\\_amended\\_02\\_21\\_13.pdf](http://www.nyc.gov/html/tlc/downloads/pdf/ehail_pilot_res_final_amended_02_21_13.pdf).

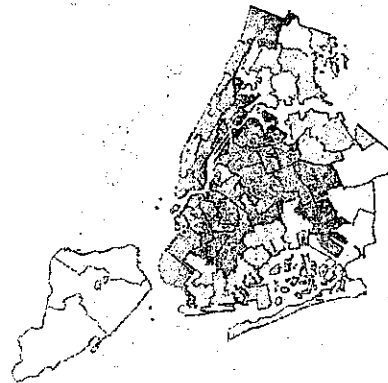
riders), uberXL (low-cost commercial black cars with seating for up to six riders)<sup>8</sup>, uberFAMILY (low-cost commercial black cars equipped with car seats), UberBLACK (commercial black cars with seating for up to four riders), and UberSUV (commercial black cars with seating for up to six riders). On Thursday, December 4, 2014, Uber will be launching UberPool in New York, a new product that allows up to two (2) riders to share the ride – and the cost – with another rider. Piloted in San Francisco, the effects of UberPool have been seen up close, and in a city as dense – and as car-congested – as New York City, the potential is truly astonishing. A recent MIT study revealed that in Manhattan, up to ninety (90) percent of rides would be combinable with riders being inconvenienced by no more than five (5) minutes, and that “the optimal combination of trips would [reduce] total travel time by 40 percent, with corresponding reductions in operational costs and carbon dioxide emissions.”<sup>9</sup>

Working hand in hand with the NYC Taxi & Limousine Commission (TLC), Uber has established five subsidiary black car bases (Weiter, LLC; Hinter, LLC; and Schmecken, LLC; Grun, LLC; and Danach-NY, LLC) and one subsidiary luxury limousine base (Unter, LLC). Over eleven thousand (11,000) Uber NYC partners are affiliated with one of those six bases. All partners in New York are licensed as for-hire vehicle drivers, their vehicles are registered as for-hire vehicles, and their license plates are embossed with “T & LC.” Uber contributes two and a half (2.5) percent of all transportation fares to the New York Black Car Operator’s Injury Compensation Fund.<sup>10</sup> Each New York trip’s fare includes an over eight (8) percent New York State black car sales tax.<sup>11</sup>

Unlike Uber’s other options, Uber does not offer e-payment for its uberT or uberWAV products; riders use the Uber app to identify the location of yellow cabs and green Boro Taxis and e-hail through the app. Once a trip is completed, riders pay as they normally do, with cash or credit card based on the metered fare.

Each week, Uber riders take hundreds of thousands of trips in all five boroughs. With a median pickup time of 2.42 minutes in Manhattan and 3.13 minutes in the outer boroughs, Uber provides riders with a safe and reliable option for on-demand rides.

HEAT MAP: AVERAGE WEEKLY TRIPS BY CITY COUNCIL DISTRICT  
(October)



<sup>8</sup> Uber Blog, “We’ve Got Big News for uberX,” 28 July 2014, <http://blog.uber.com/nyc/uberXL>.

<sup>9</sup> MIT News Online, “Ride-sharing could cut cab’s road time by 30 percent,” Larry Hardesty, 1 September 2014, <http://newsoffice.mit.edu/2014/rideshare-data-cut-taxi-time-0901>.

<sup>10</sup> “Plan of Operation of the New York Black Car Operators’ Injury Compensation Fund,” 7 September 1999, [http://static.squarespace.com/static/53b4520ae4b0c36b0038d37a/t/543ecf2ce4b0fffb4576900b/1413402412274/nybcoicf\\_plan\\_10.pdf](http://static.squarespace.com/static/53b4520ae4b0c36b0038d37a/t/543ecf2ce4b0fffb4576900b/1413402412274/nybcoicf_plan_10.pdf).

<sup>11</sup>Uber announces the 8.875% sales tax for each trip on [www.uber.com/nyc](http://www.uber.com/nyc).

## RIDER EXPERIENCE: AFFORDABLE TRANSPORTATION OPTIONS

Uber provides affordable, reliable transportation options across every price point. In New York, riders are offered the choice of e-hailing a yellow cab, riding in style with UberBLACK, or opting for an affordable and convenient experience with uberX. uberX prices offer the most affordable transportation option in the city.<sup>12</sup>

### uberX PRICE COMPARISON (after July 7, 2014 fare reduction)

#### Williamsburg to East Village

uberX	\$15
old uberX	\$19
taxi	\$16

uberX: \$15, old uberX: \$19, taxi: \$16

#### Nolita to Lincoln Center

uberX	\$20
old uberX	\$26
taxi	\$22

uberX: \$20, old uberX: \$26, taxi: \$22

#### Grand Central to Financial District

uberX	\$22
old uberX	\$28
taxi	\$24

uberX: \$22, old uberX: \$28, taxi: \$24

## RIDER EXPERIENCE: ACCESSIBILITY and uberWAV

*"We visited Brooklyn the weekend of October 3, 2014. We were in town for our son's wedding and were staying at a house in Brooklyn. We have another adult son who is confined to a power wheelchair. He was staying at a hotel in Brooklyn because the house we were in was not accessible. I rented a wheelchair van to provide most of his transportation but using a cab service was much easier due to parking issues and time constraints. I searched online, in the phonebook and called several taxi companies and was unable to find a wheelchair taxi in Brooklyn, I was told I*

<sup>12</sup> Uber blog, "Lower uberX Fares are Here to Stay," 25 September 2014, <http://blog.uber.com/nyc/uberX-price-cut-09-25-2014>.

*needed to arrange several days in advance which is totally inconvenient. It appears there is a service that picks up in Manhattan and goes to all locations but will not pick up in Brooklyn. I noticed on my Uber phone application that they had a wheelchairs service so I decided to try them. A wheelchair cab was at our place inside of 5 minutes and we ended up using them 3 or 4 times over the weekend. We wish [uberWAV] was available everywhere because difficulty in obtaining an accessible taxi is not unique to New York. The commercial drivers do not like to transport wheelchairs even when required because it takes more time. Our son has waited hours for a cab to show up and actually been stranded several times because a cab would not honor his request. I think Uber is providing a valuable service and should continue doing so." – David A., uberWAV rider*

Accessibility is a top priority for Uber. The Uber platform was developed to expand access to transportation options for all, including persons with disabilities. The company is committed to making a universally accessible app, and is constantly innovating its platform and operations to meet demand for accessibility. Uber's technology increases the mobility, efficiency and freedom of riders and drivers with accessibility needs.

Uber has been lauded by the blind and visually-impaired community for increasing their freedom and mobility. The Uber app is fully VoiceOver iOS compatible and uses every feature of the iPhone. With VoiceOver, the Uber app provides a safe transportation option for the visually impaired community that is adaptable to their needs. VoiceOver can be used in connection with a wireless braille display, and is available in all Uber cities and languages. VoiceOver helps users navigate the iPhone, even when they cannot see the screen.

Relatedly, service animals are welcome. Uber will deactivate transportation partners from the Uber platform who refuse to transport a service animal. This means that such partners are no longer able to accept ride requests through Uber.

Uber has leveraged its technology to partner with wheelchair accessible transportation providers in multiple pilot programs across the nation,<sup>13</sup> as it works hard on features to accommodate all riders' needs. As a technology company that does not own vehicles or employ drivers, Uber uses all available local resources to make the app a user-friendly product that increases the mobility of those with disabilities. For example, Uber is currently evaluating vehicle financing and incentive programs for partners to add wheelchair accessible vehicles to their fleets.

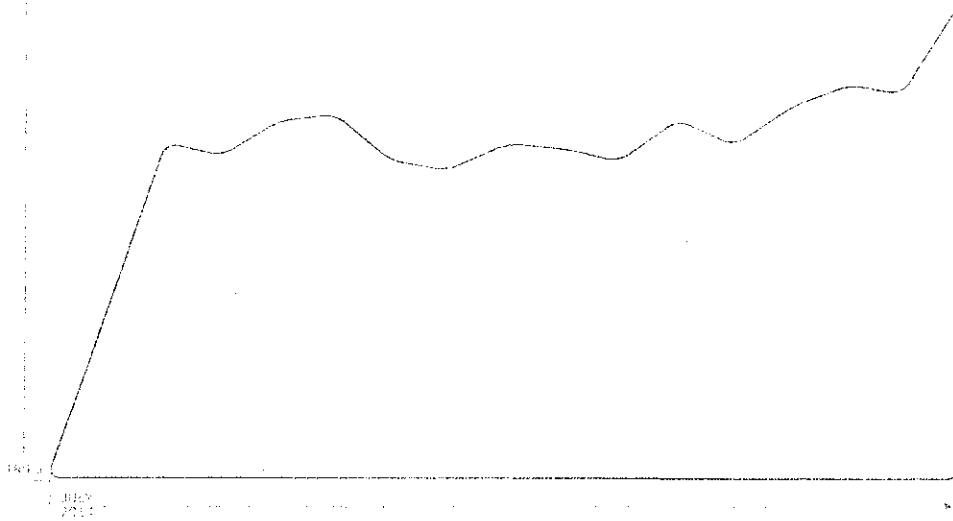
In New York, Uber launched its wheelchair accessible vehicle option, uberWAV, on August 7, 2014.<sup>14</sup> Riders in the outer boroughs have the ability to request a wheelchair accessible ride with this option. Prior to its uberWAV launch, Uber staff met with the New York City Taxi & Limousine Commission and the Mayor's Office for People with Disabilities to discuss how the Uber platform can help continue to expand accessibility options. Thanks to the leadership of the New York State Legislature, twenty (20) percent of the Street Hail Livery cars (Boro Taxis) serving the outer boroughs are already wheelchair accessible. With the launch of uberWAV, Uber expanded on the city's and state's efforts by connecting riders with these wheelchair accessible Boro Taxis through the Uber app. Riders requiring a wheelchair accessible vehicle have access to reliable, on-demand transportation in the outer boroughs for the first time. Since its launch, people with disabilities have embraced the convenience and reliability of uberWAV by taking hundreds of trips each week.

---

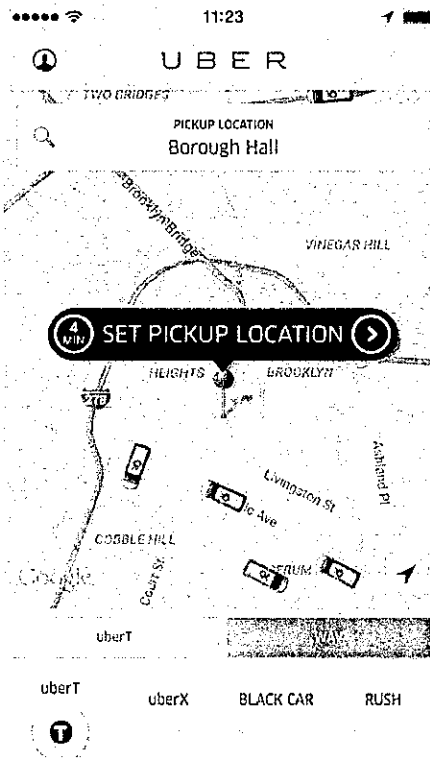
<sup>13</sup> For two examples of these programs, read more about Chicago's UberACCESS program (<http://blog.uber.com/accessiblechicago>) and Philadelphia's uberWAV program (<http://blog.uber.com/phillyWAV>).

<sup>14</sup> Read more about New York's uberWAV option at "Wheelchair Accessible Rides with uberWAV," 7 August 2014, <http://blog.uber.com/nyc-uberwav>.

UberWAV TRIPS PER WEEK SINCE LAUNCH



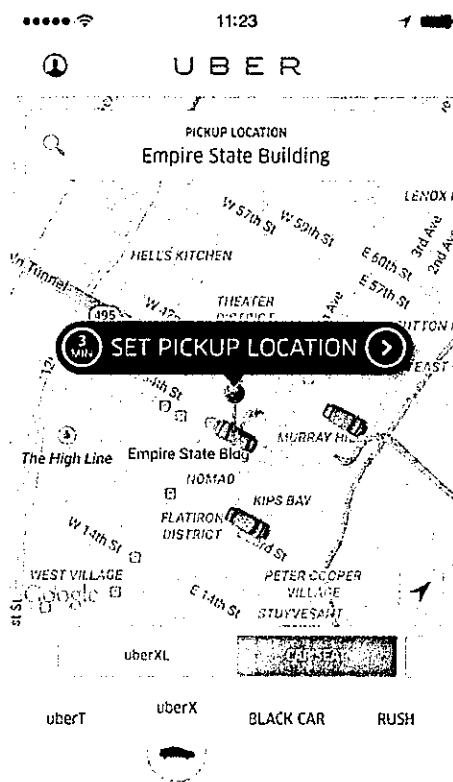
SCREENSHOT OF uberWAV AVAILABILITY  
(11:23 AM on December 2, 2014)



## RIDER EXPERIENCE: uberFAMILY

*"As a family with a toddler living in in Brooklyn without a car, uberFAMILY has changed our lives. Grocery shopping, travel to the airport, as well as getting to school in inclement weather have never been easier. The drivers are personable, caring and careful, driving us as if we were their own family. The fact that we can travel without having to carry our car seat everywhere is a gift to any parent in this town! Plus, our two year old loves saying the word 'Uber' and chatting it up with the drivers, so it is a fun adventure for all of us." – Betsy C., uberFAMILY rider and Brooklyn resident*

### SCREENSHOT OF uberFAMILY AVAILABILITY (11:23 AM on December 2, 2014)

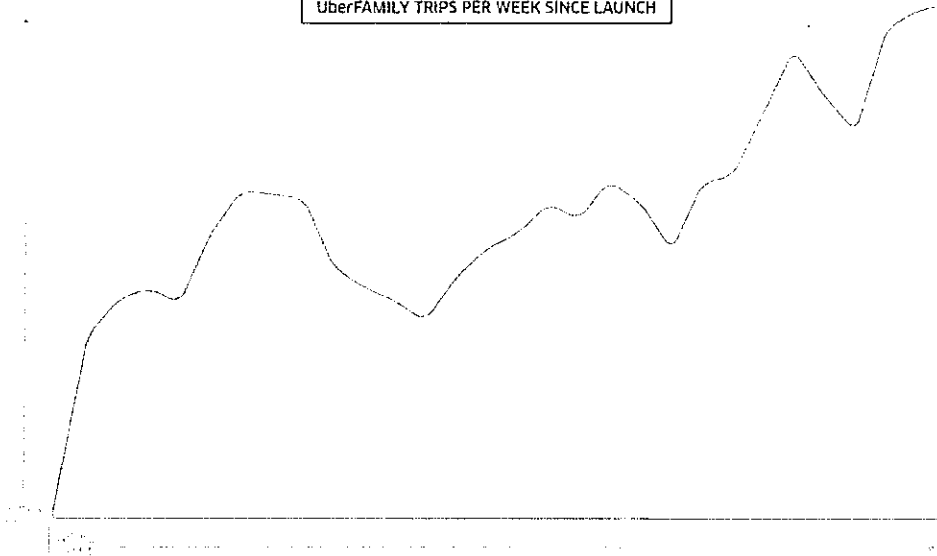


On May 8, 2014, Uber launched its uberFAMILY product in New York.<sup>15</sup> Uber's highest-rated licensed uberX partners have been trained by The Car Seat Lady's Dr. Alisa Baer<sup>16</sup> on how to safely secure IMMI Go car seats. When riders request uberFAMILY, they can expect not only a car seat, but a professional driver who has been certified by The Car Seat Lady. Families and nannies take advantage of this convenience by taking almost one thousand (1,000) uberFAMILY trips each week.

<sup>15</sup> Read more about uberFAMILY at "uberFAMILY: For Parents on the Go," 8 May 2014, <http://blog.uber.com/uberfamily>.

<sup>16</sup> Read more about The Car Seat Lady at <http://thecarseatlady.com/>.

UberFAMILY TRIPS PER WEEK SINCE LAUNCH



#### RIDER EXPERIENCE: REDUCING IMPAIRED DRIVING

Uber provides an effective deterrent and a viable alternative to impaired driving. The ubiquity and reliability of Uber can remove the temptation of getting behind the wheel after a night on the town. The seamless, cashless alternative makes it easy for drivers to leave their cars at home, reducing the prevalence of drunk driving. In fact, in Seattle, DUI incidents declined by more than ten (10) percent after Uber entered the market.<sup>17</sup>

In June 2014, a data science enthusiast released his findings on how companies like Uber help curb drunk driving in Philadelphia.<sup>18</sup> After Uber and similar companies launched in Philadelphia, the average number of DUIs per month dropped across the board by eleven (11) percent, with those under thirty (30) years old being mostly responsible for the drop with a staggering eighteen and a half (18.5) percent decrease.

#### RIDER EXPERIENCE: TRANSPORTATION TO HOSPITALS AND EMERGENCY SERVICES

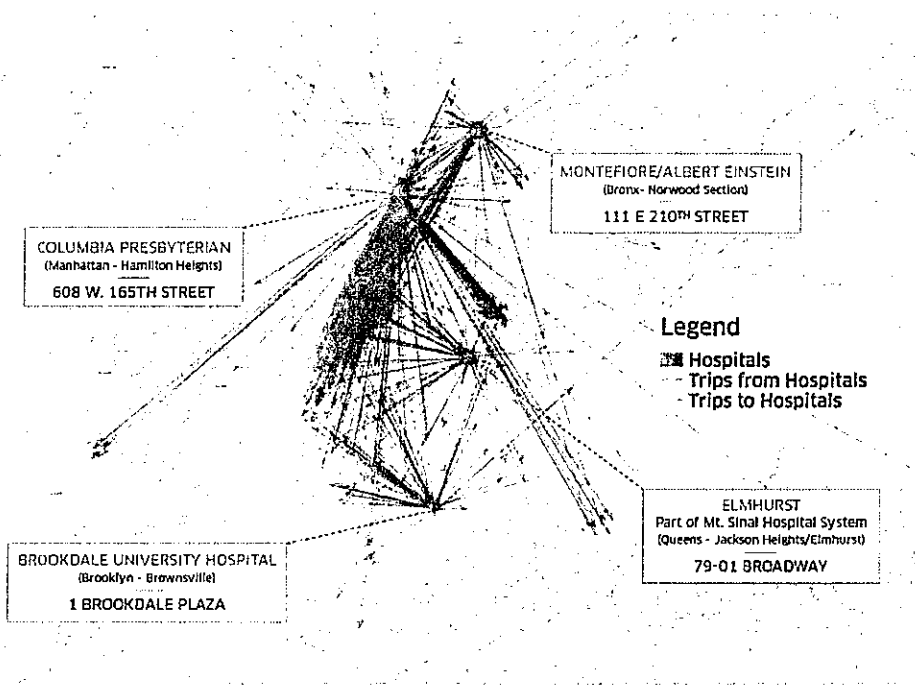
*"On the day my newborn son and I were discharged from the hospital, my husband and I realized that we didn't have a way of getting home. Although we had a car seat, like most New Yorkers we didn't have a car. Uber to the rescue! I'll never forget how our driver, a father of two, patiently helped my husband figure out how to install our car seat (in the rain, no less). He then obliged with my neurotic first-time mother request to drive 'extra-carefully' and delivered our new little family safely to our doorstep." – Alexandra S., Uber rider and Manhattan resident*

The availability of Uber service throughout the city also serves to alleviate strain on ambulances in non-emergency situations. Riders choose to use Uber not only in emergency situations, but also to take regular trips to and from hospitals around the city.

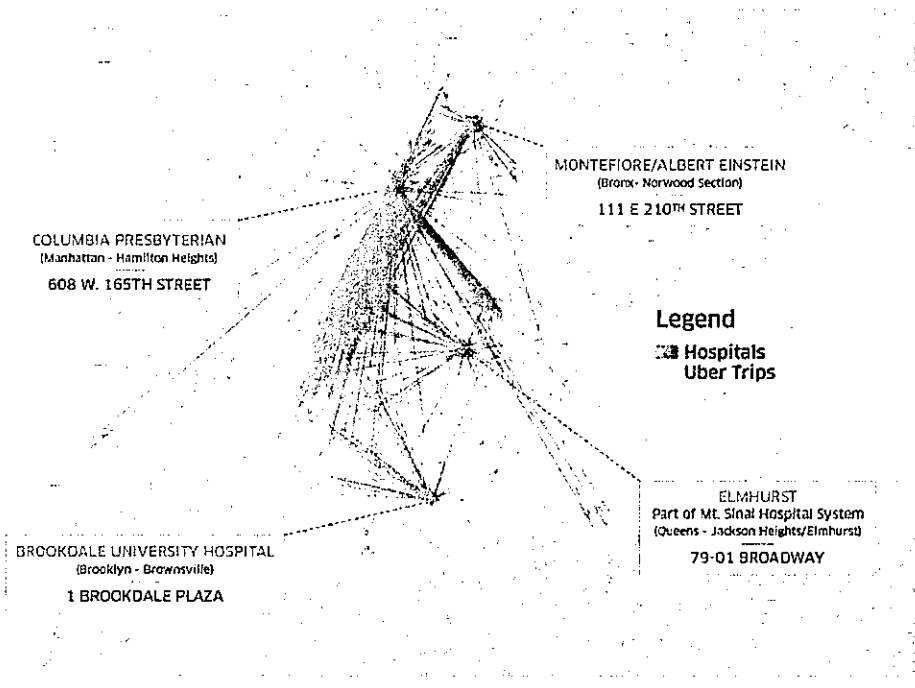
<sup>17</sup> Uber blog, "DUI Rates Decline in Uber Cities," 5 May 2014, <http://blog.uber.com/duiratesdecline>.

<sup>18</sup> NateGood's Block, "DUI Trends and Ridesharing," Nate Good, 21 June 2014, <http://blogs.ocks.org/nategood/5868e870b1c668c660f1>.

**DIRECTIONAL NEW YORK HOSPITAL UBER TRIPS**  
(1 week)



**TOTAL NEW YORK HOSPITAL UBER TRIPS**  
(1 week)





## RIDER EXPERIENCE: ELIMINATING DISCRIMINATION

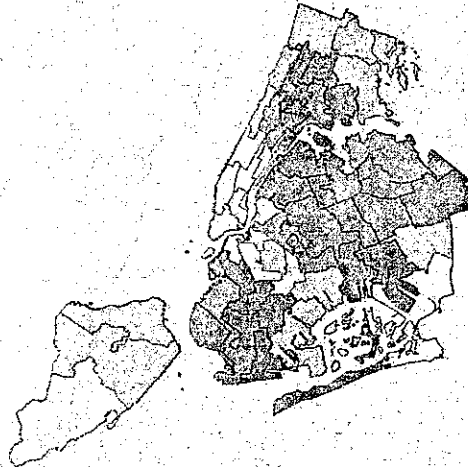
Uber's technology eliminates discrimination and lack of accountability persistent in other transportation options. Before accepting a trip, driver are not given any identifying information about a rider when a request is made through the app – including neither the rider's location nor their destination. Rider discrimination is a well-documented problem in New York City: in 2012, "there were 4,237 complaints of service refusal made to the TLC, according to figures from the agency...Fromberg of the TLC has high hopes for the technology saying, "We believe that some apps would be bias-proof since the responding driver has no knowledge of a hailer's name, appearance, ethnicity or even their destination."<sup>19</sup>

## DRIVER OPPORTUNITY: PARTNERING WITH UBER

*"Uber is a great opportunity for full time students like me to earn extra cash on my own schedule. Rather than working part time in a place where there is no flexibility with my studies, Uber has always been there when I want to work. If I wasn't in college, I would certainly take Uber full time because I enjoy the technology Uber has to offer for the convenience for both, driver(s) and passenger(s). Lastly, I did work for [a car service] which is total chaos when it comes to favoritism and stress of not being treated with respect by its employees and many passengers. However, with Uber, there is not one day where I have had bad experience with an Uber employee or its riders."*  
– Waqas I., Uber NYC partner

Over eleven thousand (11,000) TLC-licensed black car drivers are affiliated with one of Uber's subsidiary bases. Hundreds of Uber partners live in each of the outer borough City Council districts, with the highest concentration of residences in Queens and Brooklyn.<sup>20</sup>

HEAT MAP: DRIVER PARTNER RESIDENCY  
(by City Council district)



<sup>19</sup> TheGrio, "Can new mobile apps for hailing cabs stop taxi discrimination in NYC?," Donovan X. Ramsey, April 29, 2013, <http://thegrio.com/2013/04/29/can-new-mobile-apps-for-hailing-cabs-stop-taxi-discrimination-in-new-york-city/2/>.

<sup>20</sup> To learn more about two of Uber's New York partners, read "Behind the Wheel with...Sani, NYC uberX Partner" (<http://blog.uber.com/nyc-behind-the-wheel-sani-october-2014>) or "Behind the Wheel with...Pin, NYC uberX Partner" (<http://blog.uber.com/nyc-behind-the-wheel-with-pin-uberx>).

## DRIVER OPPORTUNITY: uberMILITARY

*"I re-enlisted in the Army as a geospatial analyst after originally enlisting in 1992. After serving in Afghanistan I returned home. It was hard to find full time work. Eventually I began working as a private driver for a university. I had a lot of downtime to fill so I signed up to be an Uber partner. Immediately I was impressed by the technology. I liked that I was my own boss. When I was out in the field I had to figure out a lot on my own. Using the Uber app to navigate the city to pick up riders is not unlike the work I did as a geospatial analyst." – Adam C., Uber NYC partner and Army veteran*

On September 17, 2014, Uber announced its UberMILITARY launch.<sup>21</sup> Uber is working with Hiring our Heroes via targeted outreach and special incentives to bring fifty-thousand (50,000) service members, veterans, and military spouses onto the Uber platform as drivers. The UberMILITARY Advisory Board and internal UberMILITARY team includes experts representing every branch of the military who continue to put forward new initiatives to positively impact military communities. Former Secretary of Defense, Dr. Robert Gates, serves as volunteer Chairman of the UberMILITARY Advisory Board.<sup>22</sup>

Veterans on the Uber platform today consistently rank among our highest rated partner drivers<sup>23</sup> and do more trips with Uber per week on average than non-veteran partners. Currently, Uber has the pleasure of partnering with almost four hundred (400) UberMILITARY partners (including veterans, military spouses, and reservists) in New York, and over eight thousand (8,000) UberMILITARY partners nationwide. Transitioning service members, veterans, and military spouses drive on the Uber platform in one hundred and seventy five (175) cities throughout the United States.

### SNAPSHOT OF CITIES WITH UberMILITARY PARTNERS



<sup>21</sup> Uber blog, "UberMILITARY: We Want You," 17 September 2014, <http://blog.uber.com/ubermilitary>.

<sup>22</sup> CBS News, "Uber seeks to put veterans behind the wheel," 17 September 2014, <http://www.cbsnews.com/news/uber-seeks-to-put-veterans-behind-the-wheel/>.

<sup>23</sup> APK, Uber - "Veterans," <http://vimeo.com/99890898>.

## DRIVER OPPORTUNITY: GROWING A SMALL BUSINESS

*"Uber has been an incredible opportunity for me and many other New Yorkers like me. I feel so much more confidence in my ability to earn the money I need to provide for myself and family, including my 14-month-old daughter. The reliability of Uber – as well as the flexibility it gives me in my schedule – makes it ideal for me. It can also be incredibly rewarding and a lot of fun. One of my favorite stories is when I picked up a couple on the way to the hospital to have their first baby. The woman in labor was handling it pretty well, but the guy was in total shock. I had been listening to hip-hop, but I put on some Beethoven thinking it might help to calm him down. We started chatting, and I realized, he was concerned because he didn't know what to expect. Having been there recently as a first-time father, I was able to give him some advice and motivation. When we arrived at the hospital and I helped them out of my car, he gave me a BIG hug. That's when I realized that this job isn't always just about getting from point A to point B – more often than we realize, we have the opportunity to actually have an impact on people's lives, sometimes at very significant moments.*

– Daniel J., Uber NYC partner

Uber's technology displaces the need for a human operated dispatch system, which is how taxi has operated for decades. Many dispatch systems are prone to showing favoritism among taxi drivers and will assign trips unfairly, resulting in many drivers missing out on opportunities and losing money. Uber's technology provides a fair alternative, where a direct connection is made between drivers and riders based solely on proximity to one another.

As mentioned in the "Rider Experience: Affordable Transportation Option" section, Uber recently lowered uberX prices in New York – continuing to offer the highest quality ride at the most affordable price, and delivering more value than ever before. With past price cuts, Uber has seen trips per hour go up, meaning drivers make as much or more money than before. Lower fares mean greater demand, lower pickup times, and more trips per hour – increasing earning potential and creating better economics for drivers. For example, the average gross revenue per hour for uberX partners in New York has increased from \$24.80 in 2012 and \$26.76 in 2013 to \$36.16 in 2014 (with an average net of \$25.17 per hour in 2014).<sup>24</sup>

Uber partners can be active on the Uber platform for as many or as few hours in a given week as they like. Partners take advantage of that flexibility, as evidenced by the wide range of hours they spend online – everything from five (5) to sixty-five (65) hours a week. This is a huge difference from traditional New York taxi drivers, who buy fixed shifts of twelve (12) hours a day or eighty-four (84) hours a week.<sup>25</sup>

## CITY IMPACT: SERVING UNDERSERVED COMMUNITIES

Residents and visitors previously underserved by transportation options have a convenient, safe, reliable way to move around New York. Riders can open the Uber app and request a transportation provider twenty-four (24) hours a day, seven (7) days a week in all neighborhoods, including those traditionally underserved by existing transportation options.<sup>26</sup> In New York, Uber's technology has led to greater access to transportation options in all parts of the City, especially the outer boroughs. These are neighborhoods where residents simply did not have another choice for transportation before Uber.

The Uber platform was created to solve the challenge of getting a ride, whenever and wherever people need one. Technology and data don't discriminate – the Uber app provides ride reliability never before seen in

<sup>24</sup> Uber Blog, "Three September of uberX in New York City," 29 October 2014, <http://blog.uber.com/nyc-three-septembers-uberX>.

<sup>25</sup> Uber Blog, "What Does a Typical New York uberX Partner Earn in a Week?," 1 December 2014, <http://blog.uber.com/how-much-nyc-uberX-partner-drivers-earn-per-week>.

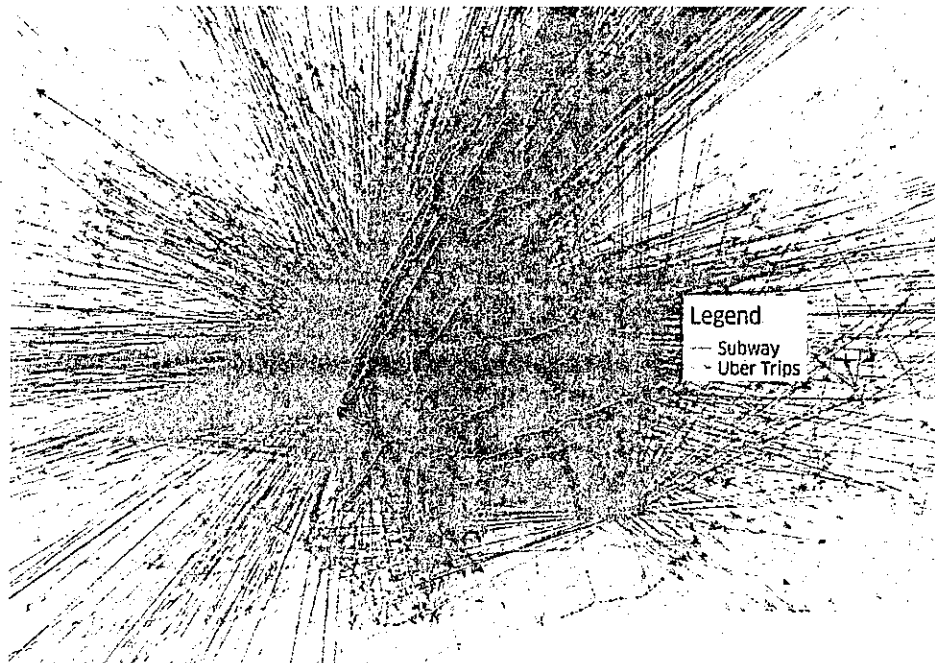
<sup>26</sup> Uber blog, "With Uber, Everyone Rides," 20 August 2014, <http://blog.uber.com/everyone-rides>.

transportation. In New York, riders take about three (3) times more uberX or uberT trips from Manhattan to the outer boroughs than yellow taxi trips. Four (4) out of ten (10) rides in Chicago start or end in underserved neighborhoods.<sup>27</sup> In Boston, up to thirty-five (35) percent of residents in outlying neighborhoods were previously unable to get a taxi within twenty (20) minutes of a request, but since Uber's arrival, service and reliability have improved dramatically.

#### CITY IMPACT: SUPPORT FOR PUBLIC TRANSIT

With the push of a button, riders can have a ride waiting for them in a matter of minutes, no matter the neighborhood. Uber has turned many New York neighborhoods without transit options into transit accessible communities via a convenient, affordable, and reliable Uber trip from their homes to end-of-line and other nearby transit stations. In New York, almost twenty-five (25) percent of all trips over the month of October started or ended less than half a mile from a subway station.

TRIPS FROM SUBWAY STATIONS  
(24 hours)



#### CITY IMPACT: IMPROVING THE LOCAL ECONOMY

Uber benefits cities by enabling more consumers to safely go out and shop, dine, and entertain with friends, which generates revenue for small businesses and jobs for residents across the city. Uber allows New York residents to explore new neighborhoods and communities that are otherwise inaccessible by traditional transit.

Cities benefit from Uber because it promotes tourism expenditures in a more diverse variety of neighborhoods and businesses by giving out of town visitors the confidence and comfort of knowing that wherever they go, there will be a safe and convenient ride back to their hotel and they will not have to worry

<sup>27</sup> "Uber Economic Study: Uber Serves Underserved Neighborhoods in Chicago as well as the Loop. Does Taxi?" March 3, 2014, <http://blog.uber.com/chicagoneighborhoodstudy>.

about navigating the city's streets or finding cash to pay for a taxi ride. Last year in Chicago, one (1) in three (3) Uber trips started or ended at small businesses.

In New York, Uber embraces the local economy by partnering with small businesses to provide incentives for riders to visit their establishments. For example, on one weekend in August 2013, Uber offered free rides to over forty (40) local Brooklyn businesses.<sup>28</sup> Similarly, during one weekend in November 2013, Uber offered free rides to over fifty (50) local Queens businesses.<sup>29</sup>

Uber also supports the local community in other ways. During its Ride for a Cause event, for each ride taken in New York during the month of March 2014, Uber donated one (1) dollar to each rider's choice of six (6) local charities.<sup>30</sup> Uber has an ongoing partnership with local Goodwill stores, as evidenced by its Spring Cleaning<sup>31</sup> and Winter Clothing Drive<sup>32</sup> events. Uber has also led holiday toy drives throughout the nation, including a local drive with Room to Grow.<sup>33</sup>

### CITY IMPACT: WORKING WITH REGULATORS

For nearly four years, Uber has a history of engaging with the TLC to ensure that Uber is able to serve all New Yorkers. The company has worked in close coordination with the TLC in establishing six (6) TLC-licensed bases and ensuring that all partners meet local requirements.

At the state level, Uber has worked in close cooperation with the office of the Attorney General to craft an agreement that resolves questions about Uber's dynamic pricing policies. During periods of peak demand, Uber's pricing algorithm adjusts prices to align with demand and ensure that a ride is available to everyone who needs one. Under the terms of this agreement, Uber set a cap on its pricing during "abnormal disruptions of the market" limited to the normal range of prices it charged in the preceding sixty (60) days. In addition, Uber agreed to further limit the allowable range of prices by excluding from the cap the three highest prices charged on different days during that period. During disasters and relevant states of emergency, Uber will donate its commissions for each trip, twenty (20) percent of the fare, to the American Red Cross's disaster relief efforts.<sup>34</sup> Uber is proud of this innovative, groundbreaking partnership with the Red Cross and the collaborative process that made it possible.

Uber has and will continue to provide data when requested in response to specific law enforcement or consumer safety requests. For example, when Uber learned that an Ebola patient took a trip with Uber in October 2014, Uber reviewed its records and was able to confirm that one of its partner drivers in New York provided a ride to the patient. Uber immediately contacted the Centers for Disease Control and Prevention and the NYC Department of Health and Mental Hygiene (NYC DOHMH), which stated that neither the driver partner nor any of his subsequent passengers were at risk. Uber communicated this to the driver, and the NYC DOHMH medical team met with the driver in person, assuring him that he was not at risk.<sup>35</sup> The

---

<sup>28</sup> Uber blog, "Make it an Endless Summer with Free uberX Rides During #BKLOVESuberX," 22 August 2013, <http://blog.uber.com/bklovesuberX>.

<sup>29</sup> Uber blog, "Gobble Up Free Rides and Local Deals with #QUEENSLOVESuberX," 28 November 2013, <http://blog.uber.com/QUEENSLOVESuberX>.

<sup>30</sup> Uber blog, "Give Meaning to your Commute - Ride for a Cause," 1 March 2014, <http://blog.uber.com/ride-for-a-cause>.

<sup>31</sup> Uber blog, "Uber+Goodwill Bring You: #UberSpringCleaning," 1 May 2014, <http://blog.uber.com/springcleaning>.

<sup>32</sup> Uber blog, "Share the Warmth," 24 November 2014, <http://blog.uber.com/winterclothingdrive>.

<sup>33</sup> Uber blog, "The #UberSLEIGH Toy Drive is Coming to NYC," 10 December 2013, <http://blog.uber.com/ubersleighnyc>.

<sup>34</sup> Uber blog, "Partnership with American Red Cross to Support Cities and Citizens During Disasters," 8 July 2014, <http://blog.uber.com/UberARC>.

<sup>35</sup> Uber blog, "NYC Statement," 23 October 2014, <http://blog.uber.com/nyc-statement>.

company believes there is a balance to be struck in helping the City to maintain public safety while still protecting consumer data, and Uber stands ready to work with the TLC to achieve that balance.

The TLC recently passed For Hire Vehicle dispatch rules that threatens to impair consumer choice and driver opportunities. Uber appreciates the TLC's decision to drop the requirement of formal agreements between bases from the rules. However, the company is disappointed that the TLC's decision will introduce new inefficiencies in the ground transportation marketplace by reinforcing an archaic distinction between livery vehicles and black cars to the detriment of both drivers and passengers.

Despite the challenges that the recently-passed rules will pose to both riders and drivers, Uber will continue to build on our record of middle-class job creation, innovation, and consumer choice.



## **Disabled In Action of Metropolitan New York, Inc.**

### **City Council Committee on Transportation Oversight: App Technology and the Transformation of the Taxi and For-Hire Industries. December 3<sup>rd</sup>, 2014**

My name is Edith Prentiss; I am President of the 504 Democratic Club, Vice President for Legislative Affairs of Disabled In Action of Metropolitan New York (DIA); Chair of the Taxis For All Campaign (TFAC), a Board member of the Disabilities Network NYC (DNNYC), and a member of the Permanent Citizen Advisory Council to the MTA Transit Riders' Council (PCAC/TRC).

Apps are ubiquitous in the taxi, FHV (For Hire Vehicles) and SHL (Street Hire Liveries aka Greens) industry. Each set of apps has its own set of rules, which I'm sure, make sense to the TLC or are carefully crafted to reduce sibling rivalry and forestall lawsuits! But apps require the user to afford a smart phone and to know how to use a smart phone. When the TLC proposed E-Hail for the yellows, I testified in opposition based on the fact that drivers could bypass hailers claiming they were on their way to pick up an E-Hail. People using service animals had a justified fear that their attempt to hail taxis would be refused.

When WOW was introduced, I downloaded it to my phone. To be honest, I viewed it as entertainment (as there were rarely any available vehicles where and when I needed one). I've not bothered to installing it on subsequent phones. I rarely bother to use Accessible Dispatch, preferring to hail or utilize mass transit.

Uber, UberX, Sidecar, Lyft, SheRides and the list goes on all believe they should not have to play by the rules. The newly announced UberPool is by definition is inaccessible. Uber should understand we opposed the TLC's efforts to promote their rideshare taxi stands.

The absence of accessible vehicles is a problem the disability community has struggled with for many years given the Taxi & Limousine Commission's failure enforce the FHV Rule. The Rule is simple, bases

are required to have an accessible vehicle or be in contract with a base the TLC allows to provide services to bases without their own accessible vehicle(s). The Rules requires bases to provide "equivalent service" in response time; cost, availability; reservations (if requested by customer) no restrictions based upon trip purpose; and other limitations on capacity or service availability. In 2011 the TLC's Accessibility Initiatives reported there were 16 bases with 23 WC acc vehicles to contract with 760 FHV bases (1:1565 vehicles).

Uber's six bases use WC acc Green Cars to provide WC acc service. Uber and Lyft are adding inaccessible vehicles to the aggregate and using Green WC acc vehicles effectively decreasing the percentage of accessible vehicles. For over five months, we have requested a meeting with the TLC regarding the FHV Rule but we're still waiting.

Let's be honest whether a wheelchair user tries to get a taxi by putting their arm in the air, calling Central Dispatch or using an app, it will always take longer than a non-wheelchair user. Monday, a friend was trying to show me how easy it was to get an acc vehicle. He pulled up the app and not a single accessible available vehicle appeared on the screen!

Later, I was on Park Row with a New School graduate student who is doing a video project on transportation inequity. Three yellow taxis were parked in front of J&R, of course none were accessible. The student like many people thought that vans were WC acc. I explained how to identify an accessible vehicle and we tried to hail one. We saw four, two going north on Park Row occupied by non-WC users and two heading south on Broadway one of which was occupied by a WC user.

Wheelchair users will not have equal service or even equivalent service whether they hail, use an app or call Accessible Dispatch until many more taxis are accessible. In the meantime, if wheelchair accessible Green vehicles were exempt from the frozen zone prohibition our chance of hailing a vehicle would increase tremendously (given that there are approximate three times as many accessible Green vehicles than yellow taxis). And hopefully, Access A Ride will expand their pilot programs to allow wheelchair users access to liveries and taxis at the cost of an AAR trip.

Thank you, Chairman Rodriguez, for the opportunity to testify.



**WINDELS  
MARX**

Windels  
Marx  
Lane &  
Mittendorf, LLP

---

**THE DISRUPTIVE TRANSPORTATION TECHNOLOGY  
MOVEMENT - A LITIGATION PRIMER & ROADMAP**

**Prepared by Windels Marx Lane & Mittendorf, LLP**

**July 16, 2014**

**Professor Matthew W. Daus, Esq.  
Jasmine K. Le Veaux, Esq.  
Transportation Practice Group  
Windels Marx Lane & Mittendorf, LLP  
156 West 56th Street | New York, NY 10019  
[www.windelsmarx.com](http://www.windelsmarx.com)**

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	1
SUMMARY OF CAUSES OF ACTION .....	9
I.    PERSONAL INJURY LAWSUITS & INSURANCE COVERAGE ISSUES .....	9
II.   LABOR LAW VIOLATIONS & WORKER MISCLASSIFICATION .....	15
III.  CONTRACTUAL CLAIMS .....	18
A.  Breach of Contract .....	18
B.  Quantum Meruit .....	18
C.  Unjust Enrichment .....	19
D.  Promissory Estoppel .....	19
IV.  FALSE ADVERTISING, UNFAIR TRADE PRACTICES & CONSUMER PROTECTION CLAIMS .....	21
A.  Federal Law: The Lanham Act .....	21
B.  State Consumer Protection Laws .....	25
C.  Federal Law: Telephone Consumer Protection Act, 47 USC § 227 .....	26
D.  Unfair Competition .....	27
E.  Deceptive Acts & Practices .....	29
V.   STATE ANTITRUST CLAIMS .....	33
VI.  RACKETEERING – CORRUPT BUSINESS PRACTICES & SCHEME TO DEFRAUD .....	35
VII. DISABILITY DISCRIMINATION .....	37
VIII. TORTIOUS INTERFERENCE WITH BUSINESS .....	38
A.  Intentional Interference with Contractual Relations .....	38
B.  Interference with Prospective Economic Relations .....	40
IX.  GOVERNMENT ACTIONS .....	43

A.	Common Law Injunctive Relief .....	43
B.	Injunctive Relief Prescribed by Statute .....	45
X.	CONSTITUTIONAL CHALLENGES .....	47
A.	Constitutional Claims: Equal Protection .....	47
B.	Constitutional Claims: Takings Clause .....	48
XI.	ENVIRONMENTAL LAW VIOLATIONS .....	50
XII.	OTHER LEGAL CLAIMS AND RELIEF SOUGHT .....	52
A.	Accounting.....	52
B.	Class Certification .....	52

APPENDIX

CASE BRIEFS .....	TAB 1
AUTHOR BIOS .....	TAB 2

## EXECUTIVE SUMMARY

The introduction of new “transportation network companies” or “TNCs” has had a “game changing” impact on the traditional transportation industry. TNCs offer smartphone applications (“app(s)”) which provide free online booking for for-hire transportation and/or ridesharing services.<sup>1</sup> Passengers request rides through an app from a private passenger vehicle driven by a non-commercially licensed driver, a commercially licensed vehicle and a commercially licensed driver, or some other configuration of licensed/unlicensed vehicles and/or drivers. Passengers generally pay for such services through a credit card, the information for which is saved electronically in the passenger’s online profile for the app. The fact that anyone may pick-up a passenger, in any type of vehicle, when the app communicates the passenger’s location to a driver, has resulted in an onslaught of potential legal violations of local, state, and federal law.

### TYPES OF CLAIMS

The advent of TNCs has raised several public safety and consumer protection issues that are currently being litigated in lawsuits across the nation. There is a panoply of claims, although many of the overarching theories of these claims overlap. Indeed, cases involving TNCs are varied and include the following: (i) personal injury litigation and insurance coverage issues; (ii) labor law violations and worker misclassification claims; (iii) contractual claims; (iv) false advertising, unfair business practices and consumer protection lawsuits; (v) racketeering; (vi) antitrust violations; (vii) disability discrimination; (viii) tortious interference with business; (ix) government actions; (x) constitutional challenges; (xi) environmental law violations; and (xii) other legal claims and forms of relief.

---

<sup>1</sup> For purposes of this report, we refer to “ridesharing”, although we neither concede nor endorse the proposition that such apps are providing ridesharing services as may be defined by local regulation.

## **Personal Injury Litigation and Insurance Coverage Issues**

Personal injury lawsuits asserted against TNC drivers and/or the TNC itself, are usually filed by a passenger or bystander who has been injured, or worse, during the course of TNC services. The general premise of negligence law is that all citizens have a duty to behave reasonably in the course of their day-to-day actions. When a breach of that duty causes an injury, a negligent act may have occurred. Because passenger carriers must exercise reasonable care when performing their services, the crux of many of these personal injury suits, which also include wrongful death claims, is that a TNC driver, or the TNC itself, breached its duty of reasonable care with respect to some aspect of the services provided. This generally occurs when the driver did not drive safely and thus an accident occurred and/or the TNC did not perform a sufficient investigation of a driver's background before hiring him/her, subjecting the TNC to be held vicariously liable for the driver's wrongful acts. Not only have these types of suits raised issues regarding what is considered "TNC services" (i.e., when the passenger is physically in the vehicle versus when a trip has been booked and the driver is en route to pick-up a passenger), and who is liable for injuries (i.e., the driver, the TNC, or both), but questions about when and whose insurance policies would apply (i.e., the TNCs' commercial insurance or the driver's personal vehicle insurance) must now be reconciled by the courts in these actions.

## **Labor Law Violations and Worker Misclassification**

Drivers have initiated legal action against TNCs for labor law violations particularly with respect to wage and hour issues. In many of these cases, drivers are seeking damages in the form of wages and/or overtime that went unpaid due to their misclassification as independent contractors rather than employees and/or unpaid gratuities that were pocketed by the TNC rather than the drivers. Whether an employment relationship exists within the meaning of state and

federal Labor Law is a question of fact and depends on whether there is evidence that the putative employer has exercised control over the manner in which the worker performs his or her job and whether the worker's services form the core part of what the business does. The lawsuits alleging misclassification argue that drivers are integral to the operation of TNCs and thus, they should be properly classified as employees and eligible for workers compensation and unemployment benefits in the event that they are terminated. Further, drivers argue that TNCs direct drivers not to accept tips because they are included in the service fees automatically charged to customers' credit cards. However, the law in many jurisdictions, as well as industry practice, requires that gratuities be remitted to workers in full.

### **Contractual Claims**

As an extension of the foregoing, drivers have also sued TNCs for failure to comply with terms of their driver agreements concerning wages and gratuities. The breach of contract suits also include claims that the TNCs have been unjustly enriched by the conversion of drivers' gratuities as well as the equitable claims of *quantum meruit* and promissory estoppel, which allow for a claimant to ask the court to enforce a promise, or an offer that was made to and accepted by the claimant, even if the specific agreement at issue does not satisfy the required elements of a legally enforceable contract.

### **False Advertising, Unfair Trade Practices and Consumer Protection Claims**

Plaintiffs have invoked federal statutes such as the Lanham Act, and similar state corollary statutes, to assert, *inter alia*, claims of false advertising. These claims allege that TNCs have made false statements regarding their compliance with the law, which has deceived or has the tendency to deceive the public, thereby resulting in damages in the form of commercial injuries, or money spent to purchase TNC services. The false statements alleged include

misrepresentations TNCs have made regarding insurance coverage and proper licensing of the vehicle and/or drivers with the governing agency. Some TNCs do not comply with many of these costly standards, which allow them to charge a lower fare than transportation companies that do comply with the law, thus deceiving the consumer into thinking that such TNCs are similarly licensed and safe, but cheaper. This, plaintiffs have alleged, has resulted in a decline in profits for the law abiding transportation companies.

In addition to the foregoing, cases have been brought by passengers as well as members of the transportation industry – trade associations, competing taxicab companies and black car/limousine companies – alleging unfair business practices and consumer protection violations. There are numerous state and federal statutes which serve to protect the consumer and to promote fair competition, thus the theories upon which several of these claims are based are varied and broad. Many of the state claims are based on state common law or consumer protection statutes. However, federal consumer protection statutes, such as the Telephone Consumer Protection Act, have also been used to challenge the unscrupulous business practices of some TNCs.

### **Antitrust Violations**

Antitrust laws, also referred to as “competition laws”, are statutes designed to protect consumers from predatory business practices by ensuring that fair competition exists. State and federal laws serve to prohibit: (i) conduct that unreasonably restrains trade or commerce; (ii) attempts to monopolize a particular market; (iii) price discrimination; and (iv) exclusive dealing agreements which may have anticompetitive effects. At least one state law case has been filed which charges a TNC with violating a specific state antitrust statute through price fixing. The price fixing alleged is: (i) charging mandatory prices that have not been approved by the state;

(ii) charging fares that are far below market rate to constitute illegal predatory pricing with which reputable transportation companies are unable to compete; and (iii) charging uniform rates which restrain trade and constitute an effort to monopolize the industry and destroy competition.

### **Racketeering – Corrupt Business Practices & Scheme to Defraud**

The federal Racketeer Influenced and Corrupt Organizations Act, commonly referred to as the “RICO Act” or simply “RICO”, is traditionally used to impose criminal penalties for acts performed as part of an ongoing criminal organization. However, RICO has been used in the context of TNC litigation as a means to assert a civil cause of action for damages to businesses caused by the TNCs’ vast commercial enterprise which flouts for-hire vehicle regulations throughout the world.

### **Disability Discrimination**

TNCs are also being brought to court for allegedly discriminating against passengers on the basis of disability in violation of the federal Americans with Disabilities Act. At least one federal case exists in which disabled passengers and disability rights activists are suing a TNC for refusing to provide service to individuals with disabilities, refusing to have accessible vehicles, and refusing to assist with the stowing of mobility devices.

### **Tortious Interference with Business**

Tortious interference with a business is the intentional, damaging intrusion on another’s potential or existing business relationship. The interference is usually alleged when a defendant induces a contracting party to break a contract or steals customers away from a third party by unlawful means. Within the context of TNC litigation, this claim has been asserted when disruptive TNCs are illegally operating taxicab services without proper permits or insurance, and through this violation, the TNCs are stealing drivers and taking passengers away from legitimate



taxicab companies. As a result, TNCs are interfering with the economic relationship between taxicab companies and their respective drivers and consumers.

### **Governmental Actions – To Stop Unlicensed For-Hire Operations**

Several lawsuits are pending which involve municipalities or government agencies in which the government is seeking a restraining order or an injunction against TNCs to cease operations because they have failed to comply with local regulations. All government agencies and municipalities have enforcement procedures they must follow to punish those that violate the law. However, when it is part of a company's *modus operandi* to "shoot first and ask questions later", as has been the case with several disruptive TNCs, cities have sought to shortcut enforcement protocol, that may only momentarily curb unlawful TNC operation, by seeking judicial assistance to permanently shut down such unlawful and dangerous business operations.

### **Constitutional Challenges – Equal Protection & Regulatory Takings**

There are also a number of lawsuits in which government agencies or municipalities are being sued for violating state and/or federal constitutional rights that require laws to be enforced equally amongst similarly-situated persons or businesses. Plaintiffs in these cases believe that the government is not adequately or equitably enforcing its laws against TNCs, laws that are equally applicable to all transportation companies. For instance, having different levels of insurance, criminal background checks and other licensing requirements for TNCs as compared to limousines and taxicabs, all of which are engaging in the same exact activity of transporting passengers for hire, raises equal protection of the law concerns for two separate license classifications without a proper rational basis. Also, actions have been commenced alleging regulatory takings of private property (medallion values) without just compensation, for the government's failure to regulate unlicensed ridesharing or TNC type of services, leading to the

devaluation of medallion property right values. The Fifth Amendment of the United States Constitution provides that persons must receive just compensation for the depreciation in value of their property, whether by (i) an actual government acquisition (e.g., paying just compensation to a homeowner if the powers of eminent domain are exercised to demolish his or her property to build a highway), or by (ii) a regulatory taking, caused by government agencies and municipalities enacting extensive regulations or failing to enforce the law resulting in a devaluation of private property (e.g., failure to enforce laws against TNCs resulting in depreciation in medallion values).

### **Environmental Law Violations**

In addition to constitutional requirements, governments must comply with their own administrative procedures when initiating new rulemaking and/or implementing new regulations/legislation. In many cases, an environment assessment of new legislation is required before such laws are implemented. At least one state lawsuit is asking a court to review the procedures by which new TNC legislation was passed in order to ensure that the government agency followed state law procedures for rulemaking and if not, to strike the law as void for failing to comply with the requirement to conduct an environmental quality assessment.

### **PURPOSE OF THE REPORT**

This report outlines the major and/or novel legal claims that have been asserted in TNC litigation across the U.S., including an explanation of potential legal theories upon which TNC and disruptive app litigations may be based. We have first analyzed the most popular, novel and compelling claims that have been used to challenge the operations of disruptive TNCs. Following the summary of the causes of action, in the Appendix annexed hereto, we have compiled case briefs for the most prominent lawsuits in which these legal claims are being

pursued. These lawsuits all relate to at least one of the three largest and most disruptive TNCs operating across the nation: Uber Technologies, Inc. (“Uber”); Zimride, Inc. d/b/a Lyft (“Lyft”); and Side.cr LLC (“Sidecar”). Most of these lawsuits are still pending, and only time will tell whether court rulings will change the course of the TNC movement which has, thus far, moved swiftly and aggressively across the country, disrupting traditional for-hire transportation markets.

## SUMMARY OF CAUSES OF ACTION

### I. Personal Injury Lawsuits & Insurance Coverage Issues

There have been several cases in which either passengers or bystanders have been injured by a TNC driver during the course of TNC for-hire services. The crux of these claims rest on the legal theory of negligence, but may also include an action for wrongful death when the resulting damages of an alleged breach of duty of care results in death, rather than simply an injury. Below we have summarized the elements of a negligence claim, and liability theories upon which the claim may be based, as well as the elements of a wrongful death claim.

#### A. Negligence

Negligence is the failure to exercise the level of care that someone of ordinary prudence would have exercised under the same circumstances. It may consist of actions, but can also consist of omissions where there is a duty to act. Negligence involves harm caused by carelessness, and not intentional harm. Five elements are required to prove a case of negligence:

1. The existence of a legal duty to exercise reasonable care. The plaintiff must show that the defendant owed the plaintiff a duty of care.
2. A failure to exercise reasonable care. The plaintiff must show that the defendant breached the duty of care.
3. Physical harm was caused by the negligent conduct. After establishing that defendant breached a duty of care, plaintiff must prove the harm was caused by such breach.
4. Physical harm in the form of actual damages. In order for plaintiff to recover, he/she must show that the defendants breach caused a financial loss.

5. Proximate cause – a showing the harm is within the scope of liability. Plaintiff must prove that the harm was not such a remote consequence of defendant's actions that there should not be any liability.

Negligence cases are very fact specific and all five elements need to be proven before a plaintiff can establish his or her case. Negligence claims were raised in *Jiang Liu, et al. v. Uber Technologies, Inc.* Case No. CGC-14-536979 (California), *United Independent Taxi Drivers Inc., et al v. Uber Technologies, Inc. and Lyft, Inc.*, Case No. BC51387 (California); *Herrera, et al. v. Uber Technologies, Inc., et al.*, Case No. CGC-13-536211 (California) and *Fahrbach v. Uber Technologies, Inc.*, Case No. CGC-13-533103 (California).

The facts which form the basis for the negligence claim in the *Liu* case are as follows: On December 31, 2013, an UberX driver was cruising through San Francisco when he struck a family of three (Mother, Huan Kuang, 39, her son, Anthony Liu, 5, and daughter, Sofia Liu, 7), killing the seven year old daughter, and severely injuring her mother and brother. Uber very quickly denied any involvement in the accident, but has since admitted the driver arrested and charged in the accident, was in fact an UberX partner. However, Uber distinctly notes that the driver was not on an Uber call at the time of the accident. Uber has since terminated the services of the driver, and although Uber has expressed its condolences to the family on its blog, it is distancing itself from the accident or any liability for same.

The Liu family suit alleges that, at the time of the crash, the Uber driver was logged onto the UberX smartphone app and was available to provide rides. As such, Uber is alleged to have breached its duty of care by entrusting the driver to provide transportation services for the company, and by failing to learn, through background checks, that the driver may cause a danger to the public. Further, because he was in the course of providing such services for Uber when

the accident occurred, and Uber requires its drivers to use a smartphone to pick-up trips, such requirement may have distracted the Uber driver and resulted in damages to the family. As such, the company is alleged to be liable for the accident involving the Uber driver.

In *Herrera, et al. v. Uber*, Plaintiffs allege that after an Uber driver arrived to pick them up, and en route to the drop-off location, the Uber driver collided with co-Defendant's vehicle, resulting in, *inter alia*, both Plaintiffs suffering from major concussions. Plaintiffs further allege that when they complained about this incident to Uber, Uber instructed them to file a claim with the Uber driver's personal motor vehicle insurance to seek recompense for their medical care. However, the driver's carrier denied coverage as he did not have a commercial policy, and the driver's personal motor vehicle policy specifically excluded instances of driving for profit. Plaintiffs argue that Uber was negligent in failing to train and supervise the subject driver and its other drivers and, therefore, because subject driver was an employee of Uber, Uber is vicariously liable for the work-related vehicle collision.

In *Fahrbach v. Uber Technologies, Inc.*, Plaintiff was a bystander who was injured as a result of a vehicle accident involving an Uber driver. The suit was brought against the for-hire vehicle ("FHV") driver, the limousine company that the FHV driver was affiliated with, and Uber, because the FHV driver was participating in an Uber trip at the time of the accident. The FHV driver had the required amount of insurance coverage for his state FHV license, but Uber is disclaiming liability based upon their contract with the driver. This was the first case filed that would test the enforceability of Uber's terms and conditions, which seek to absolve themselves of responsibility if an accident were to occur during an Uber trip.

1) Legal Theory of *Respondeat Superior*

Under the doctrine of *respondeat superior*, which is also known as vicarious liability, a principal (for example, an employer) can be found liable for the negligence of its agent (for example, an employee) causing injuries to third parties, if, at the time of the occurrence, the agent was acting within the scope of his or her employment. To establish a principal's liability for the acts of his or her agent, a plaintiff must prove (1) that a principal-agent relationship existed and (2) that the tortious act of the servant occurred within the scope of that employment. It is not every agent whose fault is attributable to a principal, however. In this regard, a non-employee agent is generally nothing more than an independent contractor whose fiduciary duty to his principal may bind the principal with respect to contractual obligations. The actions of an independent contractor are not actions of the principal in all circumstances and for all purposes, as is ordinarily the case when a driver is deemed a servant/or agent.

Plaintiffs raised *respondeat superior* claims in *Ryan Lawrence v. Uber Technologies, Inc.*, Case No. CGC-13-535949 (California). In *Lawrence*, Plaintiff filed a complaint against Uber, driver Eduardo Gondim and Uber passenger Walter Allen Rosenfield, for injuries he sustained while riding his bicycle in a designated bicycle lane. Plaintiff claims that he was hit and injured by the door of the driver's vehicle after the Uber passenger exited the Uber vehicle in a clearly marked bicycle lane. Plaintiff alleges that he suffered injuries to his leg/knee requiring hospitalization and weekly physical therapy, resulting in medical expenses in excess of \$325,000.00 due to Defendants' negligence and Uber's breach of duty of care. This duty was allegedly breached under the theory that Uber was the employer of the defendant driver who wrongfully allowed the Uber passenger to exit the vehicle in a designated bicycle lane, during the course of an Uber trip, which resulted in Plaintiff's injuries.

## **B. Wrongful Death**

In most jurisdictions an action for wrongful death is a purely statutory right which is designed to compensate a surviving spouse and/or next of kin for the pecuniary losses sustained due to a decedent's death. The recoverable damages are not based on the negligent act, but rather, on the survivors' injuries resulting from the decedent's death. To state a cause of action for wrongful death, a plaintiff must show: (i) that the plaintiff has capacity to sue as personal representative of the deceased; (ii) that the plaintiff is the person entitled by statute to damages; (iii) that there are alleged sufficient facts to show in what particular way the defendant or defendants were negligent; (iv) that the defendants' negligence was the proximate cause of death; and (v) damages.

Plaintiffs raised claims for wrongful death in *Jiang Liu, et al. v. Uber Technologies, Inc.*, Case No. CGC-14-536979 (California).

## **C. Insurance Coverage/Declaratory Judgment**

A declaratory judgment is a judicial determination of the rights of respective parties often sought in situations involving insurance policies, contracts, deeds, leases, and wills. A declaratory judgment differs from other judicial rulings in that it does not require that any action be taken. Instead, the judge, after analyzing the controversy, simply issues an opinion declaring the rights of each of the parties involved. Individuals may seek this type of judgment after a legal controversy has arisen, but before any damages have occurred or any laws have been violated.

Although the specific elements may vary from state to state, a declaratory judgment requires a plaintiff to prove: (i) a substantial controversy between the parties; (ii) adverse legal interests; and (iii) that those adverse legal interests are of sufficient immediacy and reality to



justify declaratory relief. Declaratory judgments can be brought in federal court under the Declaratory Judgment Act under 28 U.S.C. § 2201, or in state court under relevant state statutes. This judgment is appropriate when it will “terminate the controversy” giving rise to the proceeding. A declaratory judgment has the force and effect of a final judgment on the matter and may be appropriate if there is specific warning of *intent to prosecute*. If there is a prosecution already in process, generally courts will not issue declaratory relief.

Declaratory relief has been sought in several cases involving TNCs. *See United Independent Taxi Drivers Inc., et al. v. Uber Technologies, Inc. and Lyft, Inc.*, Case No. BC513879 (California); *Goncharov, et al. v. Uber Technologies, Inc.*, Case No. CGC-12-526017 (California); and *Landmark American Insurance Company v. Uber Technologies, Inc.*, Case No. 1:2013-cv-02109 and Case No. 1:13-cv-02103 (Illinois).

In the cases captioned, Landmark American Insurance Company v. Uber Technologies, Inc., Case No. 1:2013-cv-02109 and Case No. 1:13-cv-02103 (Illinois), Landmark American Insurance Company brought two actions against Uber seeking a declaration from the Court that Landmark had no duty to defend or indemnify Uber under a Landmark insurance policy as it relates to Uber’s insurance claims arising from the Ehret case and Yellow Group case, more fully explained below. Landmark alleged that relief sought by Ehret and Yellow Group against Uber was not covered under the policy. A settlement was reached in each of these actions.

## II. Labor Law Violations & Worker Misclassification

Many licensed for hire vehicle operators invest much time and legal resources on the issue of how to properly classify their for hire drivers under state and federal labor law. However, TNCs that solicit and hire drivers to provide transportation services through their app(s), may be creating a relationship between their companies and their affiliated drivers which do not comport with legal standards for the independent contractor worker classification category.

Additionally, the contracts between TNCs and their respective drivers, may set forth terms of “employment”, regardless of the driver’s classification as an independent contractor or employee. Entitlement to a wage in excess of the minimum wage and/or the manner in which gratuities are remitted may be outlined in an agreement between a TNC and driver. Below we have summarized the claims that have been asserted by TNC drivers against TNCs. The allegations involve labor law violations, including wage and hour claims and worker misclassification claims.

The classification of workers as independent contractors or employees is important under federal, state and local tax and labor laws. Either classification triggers a specific set of laws to which a putative employer must comply in order to ensure that workers are paid appropriate wages for hours worked, overtime pay, and that they are paid on a regular basis. Further, a putative employer may be required to pay taxes to the state and/or federal taxation department as well as unemployment insurance for workers that are deemed “employees.” Worker classification has become a particularly important topic recently as the Internal Revenue Service (“IRS”) has stepped-up enforcement of rules regarding independent contractors. This increased enforcement has been facilitated by the formation of joint task forces among the Federal

Department of Treasury and the U.S. Department of Labor (“DOL”), as well as between state agencies, to crack down on independent contractor misclassification.

In order to determine whether a person is an employee, and therefore entitled to overtime pay subject to state and federal wage and hour laws, the relationship between the employee and business is examined. Whether an employment relationship exists within the meaning of a specific state law is fact-specific and no one fact is determinative. An employer-employee relationship exists when the evidence shows that the employer exercises control over the results produced or the means used to achieve the results. The most important factor to be considered, however, is “control over the means” by which results were achieved.

Some factors applied by courts/state agencies to determine the amount of control a purported employer had over a worker include:

*Behavioral Control*

Does the business instruct the worker on when and where to work, what tools to use, which other workers should assist with the work, where to purchase supplies, does the business provide training, and what order or sequence to follow?

*Financial Control*

Does the business reimburse the worker for expenses related to the job? Can such worker realize a profit or loss?

*Type of Relationship*

Does the worker get benefits, such as paid sick leave, or a pension?

The more behavioral and financial control that an employer has over a worker, the more likely that such worker would be considered an employee.

The issue of worker misclassification was raised in the class action *O'Connor, et al. v. Uber Technologies*, 2013-cv-03826 (California). Plaintiffs argue that Uber drivers are required to follow a litany of detailed requirements imposed on them by Uber. The drivers are graded, and are subject to termination, based on their failure to adhere to these requirements. Plaintiffs assert that this indicia of control shows that Uber drivers are not, in fact, independent contractors, but rather, employees of the company.

### III. Contractual Claims

A contractual claim is a dispute that arises out of an agreement between the parties. Typically, the agreement is in writing and one or both parties have breached a term of the agreement. Where no contract exists, the law recognizes several *quasi* contract claims to allow for recovery where one party received a benefit at the other party's expense. Many of the claims brought by drivers against TNCs are based in contract or *quasi* contract.

#### A. **Breach of Contract**

A breach of contract is a legal proceeding where one or more parties to a contract do not fulfill their obligations under such contract. Such breach may be because of non-performance or interference with the other party's performance. To demonstrate a case for breach of contract, a plaintiff must show: (i) the existence of a contract; (ii) that the plaintiff was ready, willing and able to perform; (iii) that the defendant's breach has kept them from performing; and (iv) that the plaintiff has suffered damage.

A breach of a contract can be minor, material, fundamental or anticipatory. In the event of a minor breach, the plaintiff can only recover actual damages and not specific performance. A material breach permits the plaintiff to either compel performance or collect damages. A fundamental breach is so serious that it permits a plaintiff to terminate the contract and sue for damages. An anticipatory breach is an unequivocal indication that the defendant will not perform when performance is due or that non-performance is inevitable. A plaintiff may treat an anticipatory breach as immediate, terminate the contract and sue for damages.

#### B. **Quantum Meruit**

In the case where no express contract exists and breach of contract damages cannot be recovered, the legal theory of *quantum meruit* may be available. Though the specific elements

may vary from state to state, generally a plaintiff must show: (i) the performance of the services in good faith; (ii) the acceptance of the services by the person to whom they are rendered; (iii) an expectation of compensation therefore, and (iv) the reasonable value of the services.

### **C. Unjust Enrichment**

Similarly, the theory of unjust enrichment is based on the principle that a person must not be allowed to enrich himself unjustly at the expense of another. A claim for unjust enrichment generally requires a plaintiff to show: (i) the other party was enriched; (ii) at plaintiff's expense; and (iii) that it is against equity and good conscience to permit the other party to retain what is sought to be recovered.

Plaintiffs raised breach of contract, unjust enrichment and *quantum meruit* claims in *Lavitman v. Uber Technologies, Inc.*, Civil Action No. 12-449 (Massachusetts) and *O'Connor, et al. v. Uber Technologies*, 2013-cv-03826 (California). In *Lavitman v. Uber Technologies, Inc.*, Civil Action No. 12-4490 (Massachusetts) taxi driver David Lavitman (who also drives for Uber) filed a complaint accusing Uber of violating a state law which states that "no employer or other person" may take any portion of a worker's gratuity. The lawsuit refers to a company document that explains how Uber and the driver divide the earnings: "We will automatically deposit the metered fare + 10% tip to your bank account each week." Plaintiff alleges that customers are regularly assessed a 20% gratuity, but that the company retains as much as half that amount, and thus, Uber is unjustly enriched by this deception. The Plaintiff is seeking class action status.

### **D. Promissory Estoppel**

Promissory estoppel is a quasi-contractual, equitable doctrine that is recognized in most jurisdictions. Under New York law, "[i]n order to establish a viable cause of action sounding in promissory estoppel, a plaintiff must allege: (i) a clear and unambiguous promise; (ii) reasonable

and foreseeable reliance by the party to whom the promise is made; and (iii) an injury sustained in reliance on the promise.”<sup>2</sup> Typically, a plaintiff may invoke the doctrine of promissory estoppel in two situations: 1) to enforce a promise in the absence of bargained for consideration; and 2) to provide relief to a party where the contract is rendered unenforceable.

Plaintiffs have asserted promissory estoppel claims in *Dundar v. Uber Technologies, Inc.*, Case No. 653400-2013 (New York). Dundar is a licensed New York City taxi driver and Uber driver who alleges that he purchased a 2010 Chrysler in reliance upon Uber’s approved vehicles for Black Car status. Plaintiff further alleges that approximately 1 year after he purchased the 2010 Chrysler, Uber demoted him from Uber Black status to UberX status because Dundar’s 2010 Chrysler no longer qualified for Uber Black status. As a result of the demotion from Uber Black to UberX, Dundar claims he suffered a significant decrease in earnings. Plaintiff further alleges that based upon Uber’s new list of approved vehicles, Plaintiff traded in his 2010 Chrysler for a 2013 Chrysler 300 for a total adjusted sale price of \$60,449.68, and was restored to Uber Black status. Plaintiff then states that approximately four (4) months following Plaintiff’s purchase of the 2013 Chrysler, Uber once again demoted Plaintiff to UberX status because the 2013 Chrysler was removed from Uber’s list of approved vehicles for Black Car status. As such, Plaintiff claims he relied on the representations made by Uber with respect to his vehicle being an approved vehicle, but that this reliance resulted to his detriment.

---

<sup>2</sup> *Rogers v. Town of Islip*, 230 A.D.2d 727, 727 (2d Dep’t 1996).

#### IV. False Advertising, Unfair Trade Practices & Consumer Protection Claims

There are numerous federal and state laws that serve to protect the public from harm. The “public” may include consumers, but also competitors in a given industry. The government has an interest in ensuring, through state and federal statutes that advertising is truthful, that the free market provides for fair competition, and that interstate commerce is not being exploited for purposes of businesses operating illegally, and that businesses are servicing all customers fairly and indiscriminately.

As such, consumers of TNCs as well as competitors of TNCs have asserted a myriad of claims against TNCs to address the issue of unfair business practices and consumer protection. Complaints have been filed by members of the public (industry members and individual consumers) asserting violations of the federal Lanham Act and Telephone Consumer Protection Act. Also, there have been state law corollaries to the aforementioned and common law claims asserted for unfair competition and deceptive acts and practices. We summarize these causes of action below.

##### A. **Federal Law: The Lanham Act**

The Lanham Act, 15 U.S.C. § 1051 *et seq.*, principally provides for two distinct causes of action: false designation of origin or source, known as ‘product infringement,’<sup>3</sup> and false description or representation, known as “false advertising.” In order to establish “standing”, or the ability to sue under the Lanham Act, one must demonstrate a reasonable interest to be protected against the advertiser’s false or misleading claims, and a reasonable basis for believing that this interest is likely to be damaged by the false or misleading advertising. The “reasonable basis” prong embodies a requirement that the plaintiff show both likely injury and a causal nexus

---

<sup>3</sup> “Product infringement” as referred to herein includes goods and services. Lanham Act, 15 U.S.C. § 1125(a)(1) (emphasis added).



to the false advertising or infringement claim. The most common remedy is a preliminary injunction, though damages, costs, and attorneys' fees are sometimes awarded.

To state a claim of misrepresentation under the Lanham Act, a plaintiff must allege: (i) a false statement of fact by the defendant in a commercial advertisement about its own or another's product; (ii) the statement actually deceives or has the tendency to deceive a substantial segment of its audience; (iii) the deception is material, in that it is likely to influence the purchasing decision; (iv) the defendant caused its false statement to enter interstate commerce; and (v) the plaintiff has been or is likely to be injured as a result of the false statement.

With regard to the first element, false statements of fact (in commercial advertisement) include both those that are literally false and those that, although literally true, are misleading or likely to cause consumer confusion. Courts may presume consumer deception and reliance, the second element, if the defendant made an intentionally false statement regarding the defendant's product, even if the statement entailed little overt reference to plaintiff or plaintiff's product. Materiality in Lanham Act false advertising cases may be established by a showing that the representation was likely to deceive a consumer and influence his or her purchasing decision. Finally, because a likely injury is less certain than an actual injury, a plaintiff need not prove that it has actually been injured to establish the commercial injury necessary for Lanham Act standing, so long as the likelihood of injury is present.

Damages available under the Lanham Act include: (1) defendant's profits; (2) any damages sustained by the plaintiff; and (3) the costs of the action. In some circumstances, a court may award both actual damages and the defendant's profits resulting from the false advertising. The defendant in a false advertising case brought under the Lanham Act will usually try to negate at least one of the elements the plaintiff must show in order to succeed.

TNC cases involving alleged violations of the Lanham Act include *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG (Massachusetts); *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois) and *Greater Houston Transportation Company, et al. v. Uber Technologies, Inc and Lyft, Inc.*, Civil Action No. 14-941 (Texas).

In *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG (Massachusetts), Plaintiffs alleged that Uber's use of an unlicensed dispatch system ignores regulations that are essential to public safety, and that Uber uses a payment system that illegally overcharges customers. More specifically, the Boston Complaint alleges, *inter alia*, that Uber: (i) does not have a regular program of inspecting, licensing and insuring vehicles as required by regulations; (ii) enlists drivers who have not met proper license requirements; (iii) forces consumers to waive their rights to hold Uber accountable for dangerous, offensive, harmful, or unsafe behavior by its drivers; (iv) ignores laws designed to protect consumers with disabilities; (v) does not equip its cars with essential safety protections as required; (vi) claims it is a car service in order to buy less expensive vehicle insurance; (vii) claims it conducts business outside Boston where insurance rates are lower; (viii) deceives consumers by falsely representing that drivers and vehicles are properly insured; (ix) fails to disclose the fare until after the ride is complete; (x) illegally charges a 20% gratuity; and (xii) fails to share required trip data.

Uber filed a Motion to Dismiss, and on February 28, 2014, United States Magistrate Judge Marianne B. Bowler issued a report and recommendation on the motion. The Court recommended dismissing Count I (Misrepresentation of Services in Violation of Lanham Act), finding no explicit misrepresentation; but the Court did find an implicit misrepresentation because Uber taxis charge illegal fares, unlawfully use cell phones, and unlawfully limit payment

options to credit cards. However, even with this implicit misrepresentation, the Court did not find any commercial advertising or promotion because the alleged activity only targeted individual riders. The Court also did not find any harm to the plaintiffs' business because of any misrepresentation. The Court recommended not dismissing Count II (Misrepresentation of Connection, Association, Sponsorship and Approval of Lawful Taxi Association in Violation of Lanham Act) because it can be reasonably inferred that the dispatching of Boston Cabs, with their unique identifying features, created confusion leading some to believe Uber and Boston Cab were affiliated. The Court also found that Uber may have caused damages to Boston Cab because it takes business away from taxis by the use of Uber Black Cars and SUVs.

In *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois), Plaintiffs, Chicago taxi company, Yellow Group, and its subsidiaries and affiliates, filed a claim against Uber for false advertising under Section 43(a) of the Lanham Act and its state law corollary, the Illinois Fraud and Deceptive Practices Act, by misrepresenting its vetting of "fleet partners" and a false association with "fleet partners". On September 30, 2013, the Court issued its Decision and Order with respect to Uber's Motion to Dismiss the Complaint. The Court denied Uber's motion to dismiss for lack of subject matter jurisdiction, as well as its motion to dismiss several of the claims for false advertising, misrepresentation and deceptive practices under the Lanham Act, and the Illinois Fraud and Deceptive Practices Act. However, Uber's motion to dismiss for failure to state a claim for relief was granted as to Uber's alleged statements about the "premium" and "high quality" nature of its services and its representation that it charged standard taxi rates plus a 20% "gratuity." The motion was also granted as to the taxi plaintiffs' claims regarding insurance misrepresentation, and that Uber induced breaches of its agreements with drivers regarding the use of their trademarks.

In *Greater Houston Transportation Company, et al. v. Uber Technologies, Inc., and Lyft, Inc.*, the plaintiffs allege that Uber and Lyft are misrepresenting their services as “ridesharing”, although they are in fact operating “for hire” without following the applicable “for hire” regulations including obtaining licenses, paying licensing fees, obtaining proper insurance, and charging regulated rates. The Complaint references the Cease and Desist letter issued on March 26, 2014 by the City of San Antonio Police Department and the 26 citations that the Houston Administration & Regulatory Affairs Department issued to Uber and Lyft for noncompliance with the Code. Plaintiffs allege that Uber and Lyft have made various misrepresentations, including, referring to their services as “ridesharing”, stating that they can operate legally, and misrepresentations of insurance coverage and safety.

**B. State Consumer Protection Laws**

There are also state law corollaries to the Lanham Act’s claim for misrepresentation of services. *See* Deceptive Trade Practices Act Violation (Illinois), Consumer Fraud and Deceptive Business Practices Act Violation (Illinois), Consumer Protection Act Violation (RCW). Causes of action under these statutes, though similar to the Lanham Act in terms of elements, are nevertheless distinguishable from the Act because they focus on “consumer protection”, whereas the Act focuses solely on competition related injuries. For example, a state statutory corollary to the Lanham Act was implicated in *Western Washington Taxicab Operators Association v. Uber Technologies, Inc.*, Case No. 14-2-08259-2 (Washington).

In *Western Washington Taxicab Operators Association*, Washington Taxicab Operators’ Association, an organization of Seattle and King County taxicab operators, filed an action against Uber Technologies Inc. for unfair and deceptive practices in violation of Washington’s Consumer Protection Act, resulting from Uber’s violation of taxi and for-hire regulations

imposed by the City of Seattle, King County and Washington State. The Operators' Association claims that Uber deprives its members of fares and tips they expect as licensed drivers, and harms the public interest by depriving the public of the rights and protections provided to passengers within those regulations (trained drivers, safe and properly insured vehicles). The Operators Association seeks damages in the amount equal to the lost fares and tips due to Uber's alleged unlawful dispatch operation, treble damages, reasonable attorneys' fees and costs, and an injunction prohibiting Uber's operations. It appears that this litigation targets Uber Black only.

**C. Federal Law: Telephone Consumer Protection Act, 47 USC § 227**

The United States Congress passed the Telephone Consumer Protection Act ("TCPA") in 1991. The Federal Communications Commission is charged with issuing rules and regulations implementing the TCPA. The TCPA restricts telephone solicitations and the use of automated telephone equipment. The TCPA limits the use of automatic dialing systems, artificial or prerecorded voice messages, SMS text messages, and fax machines. It also requires fax machines, autodialers, and voice messaging systems to identify and have contact information of the entity using the device in the message. The essence of the TCPA is that a consumer has to give prior express consent before he or she can receive a telephone solicitation. Some general restrictions under the TCPA include:

- Calling residences before 8 am or after 9 pm local time;
- A company must keep a company-specific "do-not-call" list of consumers that must be honored for 5 years;
- Solicitors must honor "National Do Not Call Registry"; and
- Prohibits calls made using an artificial voice or recording.

The TCPA applies to both voice and text messages if they are transmitted for marketing purposes. The TCPA has been interpreted to prohibit the sending of unsolicited text messages to cell phones, with limited exceptions, such as messages with emergency information. Although the TCPA is a federal law, there is a provision in the law allowing a plaintiff to bring suit in state court, if otherwise permitted by the laws or rules of court of such state. The TCPA provides for actual statutory damages ranging from \$500 to \$1500 per unsolicited call/message.

Plaintiffs raised TCPA claims in *Noorpavar v. Uber Technologies, Inc.*, Case No. 2:14-cv-01771-JAK-JCG (California). Plaintiff was an Uber customer who alleges that Uber sent him unauthorized text messages regarding Uber's services; text messages which are charged to Plaintiff under his cell phone plan, despite the Plaintiff notifying Uber that he no longer wanted to receive such messages. Plaintiff is seeking class action status.

#### **D. Unfair Competition**

Some states recognize unfair competition as an independent, common-law cause of action, while others have adopted state statutes which directly address unfair competition. Additionally, federal law may apply in the areas of trademarks, copyrights, and false advertising, and a claim for relief in federal court for such a tort must rest on a federal statute.

At common law, an unfair competition claim requires a plaintiff to show: (i) that the defendant's activities have caused confusion with, or have been mistaken for, the plaintiff's activities in the mind of the public, or are likely to cause such confusion or mistake; or (ii) the defendant has acted unfairly in some manner. The doctrine has developed into two broad categories, first, the term "unfair competition" refers to those torts that result in consumer confusion, such as, the source of the product or the "palming off" of a product as those of a rival trader; and second, "unfair trade practices" by extension of the principle that one may not

appropriate a competitor's skill, expenditure, and labor. This has resulted in the granting of relief in cases where there was no fraud on the public, but rather where the plaintiff could show that defendant misappropriated a benefit or 'property right' for commercial advantage.

The essence of unfair competition is the bad faith misappropriation of the labors and expenditures of another, likely to cause confusion or to deceive purchasers as to the origin of the goods. To establish a cause of action for unfair competition, the effort to profit from the labor, skill, expenditures, name and reputation of others must be demonstrated. Courts have determined that to bring an action for unfair competition, that parties need not be actual competitors, or rest a claim solely on grounds of direct competition, but on the broader principle that property rights of commercial value are to be, and will be protected from, any form of unfair invasion or infringement. The courts have thus recognized that in the complex pattern of modern business relationships, persons in theoretically noncompetitive fields may, by unethical business practices, inflict as severe and reprehensible injuries upon others as can direct competitors.

Plaintiffs' asserted claims of unfair competition in the following case(s): *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG (Massachusetts); *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois); *Manzo Miguel, et al. v. Uber Technologies, Inc.*, Case No. 1:2013cv-02407 (Illinois) (see Deceptive Acts & Practices Subsection for summary); *Greater Houston Transportation Company, et al. v. Uber Technologies, Inc., and Lyft, Inc.*, Civil Action No. 14-941 (Texas); *The Yellow Cab Company, et al. v. Uber Technologies, Inc., et al.* (Maryland)

In *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG (Massachusetts), Uber argued in its motion to dismiss that the claim which sets out

a common law claim for unfair competition should be dismissed because it was duplicative of the Lanham Act and chapter 93a claims; however, this request was denied.

In *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois), Plaintiffs asserted a claim against Uber for unfair competition on the basis that Uber requires drivers to violate city and state laws prohibiting use of cellular phones while driving, and causing drivers to violate federal and state regulations that require taxi services to be equally available to members of the disabled community.

In *Greater Houston Transportation Company, et al. v. Uber Technologies, Inc., and Lyft, Inc.*, the plaintiffs allege that Uber and Lyft are operating “for hire” without following the applicable “for hire” regulations including obtaining licenses, paying licensing fees, obtaining proper insurance, and charging regulated rates. As a result, plaintiffs claim that defendants are unfairly competing with plaintiffs and that they have been damaged by Uber and Lyft’s illegal acts because they render the plaintiffs’ licenses and permits useless.

#### **E. Deceptive Acts & Practices**

In order to protect the public and to provide a remedy for injuries resulting from consumer fraud, many states have adopted statutes which seek to protect the consumer for deceptive business acts and/or practices. For example, New York’s General Business Law provides that deceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in New York are unlawful. Most statutes regarding deceptive business acts and/or practices apply to virtually all economic activity, and seek to secure an honest marketplace.

In most states, the Attorney General or any person who has been injured by reason of any deceptive trade practices violation may bring an action to enjoin such unlawful act or practice



and to recover damages. A plaintiff who brings an action under the statute must prove: (1) that the challenged act or practice was consumer-oriented; (2) that it was misleading in a material way; and (3) that the plaintiff suffered injury as a result of the deceptive act.

Plaintiffs raised Consumer Protection/Deceptive Acts & Practices claims in *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG (Massachusetts); *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois); *Manzo Miguel, et al. v. Uber Technologies, Inc. et al.*, Case No. 1 :2013cv-02407 (Illinois); *Caren Ehret et al v. Uber Technologies Inc.*, Case No. 12-CH36714 (Illinois); *Western Washington Taxicab Operators Association v. Uber Technologies, Inc.*, Case No. 14-2-08259-2 (Washington); *The People of the State of New York v. Lyft, Inc.*, Case No. 451476/2014 (New York) (attorney general brought seeks injunction behalf of the State against Lyft for engaging in deceptive practices in the state); *The City of New York, et al. v. Lyft, Inc.*, Case No. 451477/2014 (New York) (City sees injunction based on Lyft's violation of local law regarding for-hire vehicle service).

In *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois), Plaintiffs, Chicago taxi company, Yellow Group, and its subsidiaries and affiliates, allege that Uber violates city, state and federal law designed to protect public safety and welfare through the use of deceptive business methods. The Complaint asserts a claim against Uber for false advertising under Section 43(a) of the Lanham Act and its state law corollary, the Illinois Fraud and Deceptive Practices Act, by misrepresenting its vetting of "fleet partners" and a false association with "fleet partners". On September 30, 2013, the Court issued its Decision and Order with respect to Uber's Motion to Dismiss the Complaint. The Court denied Uber's motion to dismiss for lack of subject matter jurisdiction, as well as its motion to dismiss several of the

claims for false advertising, misrepresentation and deceptive practices under the Lanham Act and the Illinois Fraud and Deceptive Practices Act. However, Uber's motion to dismiss for failure to state a claim for relief was granted as to Uber's alleged statements about the "premium" and "high quality" nature of its services, and its representation that it charged standard taxi rates plus a 20% "gratuity." The motion was also granted as to the taxi plaintiffs' claims regarding insurance misrepresentation, and that Uber induced breaches of its agreements with drivers regarding the use of their trademarks.

In *Manzo Miguel, et al. v. Uber Technologies, Inc.*, Case No. 1:2013cv-02407 (Illinois), a taxicab driver and a livery driver brought suit against Uber on behalf of themselves and classes of similarly-situated persons for unfair competition in violation of the Consumer Fraud Act and Deceptive Business Practices Act. The plaintiffs allege that Uber violates Section 2 of the Consumer Fraud Act and Section 2 of the Deceptive Trade Practices Act by: (i) misrepresenting to passengers that the 20% automatic charge is a "gratuity", when half of it is retained by Uber, thereby increasing the charge for taxi transportation in excess of standard, metered or permissible amounts; and (ii) publishing false, misleading and confusing representations suggesting that Uber is a transportation service when it is not. Plaintiff further alleges that Uber's use of its GPS-enabled smartphone application to measure and calculate fares for livery transportation, violates the City's code, and Uber allegedly misrepresents that its fare charges for livery transportation are lawful, when they are not. Plaintiffs seek class certification and damages in excess of \$50,000. Currently, Uber's Motion to Dismiss is pending.

In *Ehret, et al v. Uber Technologies Inc.*, Case No. 12-CH36714 (Illinois), Caren Ehret, an Uber customer in Chicago, filed a lawsuit in state court against Uber alleging she was defrauded by Uber. In her complaint, Ehret claims Uber violated the Consumer Fraud Act and

Deceptive Business Practices Act by charging a 20 percent compulsory “gratuity”, but keeping “a substantial portion of this additional charge for itself as its own additional revenue and profit.” The suit also claims Uber passes along to riders “credit-card processing fees in violation of City of Chicago Ordinances/Rules applicable to taxicabs.”

V. State Antitrust Claims

Antitrust laws are designed to protect and promote competition. In addition to federal antitrust laws, there has been a significant increase in state antitrust statutes which complement the federal statutes. For example, the stated purpose of the Maryland Antitrust Act is “to complement the body of federal law governing restraints of trade...in order to protect the public and foster fair and honest intrastate competition”. The Maryland Antitrust Act prohibits four general types of conduct:

- Any “contract, combination, or conspiracy” which “unreasonably restrain[s] trade or commerce”
- Any monopolization or attempt to monopolize “any part of the trade or commerce within the State”
- Several types of price discrimination
- A tie-in or exclusive dealing agreement which may have an anticompetitive effect

In cases where federal jurisdiction may be questionable, state antitrust laws provide an alternative way to bring antitrust claims. Plaintiffs pursued a state antitrust claim in *The Yellow Cab Company, et al. v. Uber Technologies, Inc., et al.* (Maryland) as described below.

*In The Yellow Cab Company, et al. v. Uber Technologies, Inc., et al.* (Maryland), several Maryland taxicab services and their drivers brought an action against Uber and three Uber drivers alleging that (i) through UberBlack and UberSUV, Uber causes its contract drivers to charge mandatory, uniform prices which do not enjoy state action immunity from antitrust restrictions, (ii) through UberX, Uber causes its contract drivers to charge mandatory, uniform prices so far below the market rate as to constitute illegal predatory pricing with which Plaintiffs are unable to compete; and (iii) through all of its services, Uber employs unregulated surge pricing based upon favorable market conditions, which results in mandatory, uniform price

multiples higher than the prices Plaintiffs can legally charge for the same services. Plaintiffs allege that these actions unreasonably restrain commerce in the vehicle transportation industry in Baltimore City and Montgomery County, constitute well-planned efforts to monopolize the industry, destroy competition for transportation companies and taxicab drivers, and violate the Maryland Antitrust Act.

## VI. Racketeering – Corrupt Business Practices & Scheme to Defraud

Although not traditionally used as an unfair business practice cause of action, racketeering claims have recently been asserted against TNCs by competitor businesses in order to aggressively attack the illegal nature of some TNC's operations. The Racketeer Influenced and Corrupt Organizations Act ("RICO") was enacted by Congress in 1970 to combat the infiltration of organized crime into interstate commerce by gaining control of legitimate businesses. Congress included a civil remedy provision that allows private parties to sue for injuries to their business or property caused "by reason of" a defendant's violation of RICO. Under this provision, a private plaintiff may sue in state or federal court to recover treble damages and attorneys' fees caused by a RICO violation. RICO generally outlaws four types of activities:

1. Use or Investment: investing in an enterprise, any income derived from a pattern of racketeering activity;
2. Acquire or Control: using a pattern of racketeering activity, or the collection of an unlawful debt, to acquire or maintain control over an enterprise;
3. Conduct Business Affairs: conducting the affairs of an enterprise through a pattern of racketeering, or the collection of an unlawful debt ; and
4. Conspiracy: conspiring to perform any of the above activities.

In simple terms, a cause of action under RICO requires the plaintiff to plead, and establish by a preponderance of evidence, that: (1) a culpable person; (2) who is employed by, or associated with, an enterprise; (3) which is engaged in interstate commerce; (4) conducts or participates, directly or indirectly, in the enterprise's affairs; (5) by the commission of two or more acts; (6) constituting a pattern; (7) of "racketeering activity" or collection of unlawful

debt;<sup>4</sup> and (8) such activity caused compensable injury to the plaintiff. The injury to business or property must occur “by reason of” the RICO violation. Generally speaking, a RICO injury is actionable if it is a concrete financial loss, or at the very least, a loss which is not speculative or an indeterminable future loss. The most common form of commercial litigation and RICO claims involve mail or wire fraud.

Plaintiffs have asserted RICO claims in the following cases: *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG (Massachusetts); *Greater Houston Transportation Company, et al. v. Uber Technologies, Inc. and Lyft, Inc.*, Civil Action No. 14-941 (Texas) and *Greenwich Taxi, Inc., et al. v. Uber and Lyft*, Case No. 3:14-cv-733 (Connecticut).

The plaintiffs in *Greenwich Taxi, Inc.* allege RICO violations. The alleged RICO violations are based on the theory that the defendants have used the internet to transmit fraudulent misrepresentations to consumers about fares and to transmit false claims of an association between the defendants and plaintiffs (w/r/t the “partnership” with taxicab drivers). These fraudulent actions, the plaintiffs argue, constitute wire fraud from which Defendants are making a profit, in violation of the RICO statute.

In *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG (Massachusetts), more fully discussed *supra*, the court found that the complaint adequately particularized a scheme to defraud and to deceive sufficient to maintain a RICO claim. However, it also found that the allegation of use of the internet to transmit representations thousands of times for a period in excess of five months did not meet the specificity requirement for stating the time and place of the use of interstate wire communications.

---

<sup>4</sup> The collection of unlawful debt is itself a RICO violation without a “pattern of racketeering activity.”

## VII. Disability Discrimination

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. Through the ADA and specifically through Title 49 of the Code of Federal Regulations, Section 37, the Federal Government has set the floor for the minimum accessible services that must be offered throughout the United States. 49 CFR 37.29 specifically addresses private entities providing taxi service. According to the statute, a passenger cannot be discriminated against due to their disability, which includes “refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to assist with the stowing of mobility devices, and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons.” Some municipalities have taken the standards set by the Federal government through the ADA, as codified in the Code of Federal Regulations, and have the option to expand upon such requirements. New York City, for example, takes a very progressive approach to paratransit services provided within its local jurisdiction.

Plaintiffs in *Ramos, et al. v. Uber Technologies, Inc., and Lyft Inc.* allege that Uber and Lyft are violating the ADA by, *inter alia*, (i) failing to provide wheelchair accessible transportation vehicles for their transportation needs and other accommodating services (such as storage of wheelchairs); (ii) allowing their vehicles-for-hire to deny service to the disabled; and (iii) not offering any training or guidance to vehicles-for-hire that use their service so that they will lawfully meet the needs of the disabled.



### VIII. Tortious Interference with Business

Tortious interference with business (also known as tortious interference with contract) occurs when one tries to prevent the performance of a contract between others. This commonly occurs when a competitor makes false statements against a rival company in order to deter customers from doing business with the rival. A claim for interference with prospective economic relations is a separate claim which is distinguishable from the interference with contract claim, because the former does not require the existence of a contract and requires proof of a “wrongful act.”

#### A. **Intentional Interference with Contractual Relations**

Although the specific elements of intentional interference with contractual relations may vary from state to state, the general elements include: (i) the existence of a valid contract between the plaintiff and a third party; (ii) defendant’s knowledge of this contract; (iii) defendant’s intentional acts designed to induce a breach or disruption of the contractual relationship; (iv) actual breach or disruption of the contractual relationships; and (v) resulting damage.

In California, where this claim has been asserted in *United Independent Taxi Drivers Inc., et al. v. Uber Technologies, Inc. and Lyft, Inc.*, Case No. BC513879 (California), this tort requires only proof of interference (such as interference causing a mere delay in performance), not breach of the underlying contract. An existing, enforceable contract must exist, and where there is no such contract, only a claim for interference with prospective advantage may be pleaded. Intentional interference with contractual relations has also been asserted in *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NMG.

In *Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.*, Civil Action No. 13-10769-NM (Massachusetts), more fully discussed *supra*, Uber argued on its motion to dismiss that Count VI, which sets out a common law claim for interference with contractual relationships, should be dismissed because it derives from the Lanham Act and chapter 93a claims. The Court recommended not dismissing Count VI because not all of the Lanham Act Claims and Ch. 93a claims were dismissed. Uber also argued that Count VI should be dismissed because Plaintiffs did not satisfy the elements of an intentional interference with contractual relationships claim. The Court found that plaintiffs did establish plaintiffs' contractual relationship with its drivers, and Boston Cab's contract with Creative Mobile Technologies, but that the complaint did not show any harm suffered by plaintiffs as a result of Uber's interference with the contracts. Despite this deficiency, the Court recommended not dismissing the Counts and to give plaintiffs the opportunity to seek leave to amend their complaint to demonstrate the harm to the contractual relationships.

In *United Independent Taxi Drivers Inc., et al. v. Uber Technologies, Inc. and Lyft, Inc.*, Case No. BC513879 (California), plaintiffs allege that Uber, Lyft and SideCar have committed intentional or, in the alternative, negligent interference with prospective economic relations. The Complaint requests an accounting of all receipts and disbursements of Defendants from the time that they commenced their operations in Los Angeles, and payment of damages to Plaintiffs (of the amount due from Defendants as a result of the accounting). Plaintiffs allege that defendants are illegally operating taxicab services without the proper permits, licensure or insurance. Through this violation, Defendants are taking passengers away from Plaintiffs, thereby damaging their ability to provide cost-effective transportation in accordance with local regulations.

Plaintiffs claim that this interferes with the economic relationship between Plaintiffs, their members and respective drivers, and the consumers of public transportation.

**B. Interference with Prospective Economic Relations**

There are two theories upon which a claim for interference with prospective economic relations may be asserted: (i) *intentional* interference with prospective economic relations and *negligent* interference with prospective economic relations. Both impose liability for improper methods of disrupting or diverting the business relationship of another.

i) Negligent Interference with Prospective Economic Relations

To assert a claim for negligent interference with prospective economic relations, the defendant must have owed the plaintiff a duty of care as a matter of law. Although the specific elements may vary from state to state, generally, the courts will consider the following six (6) elements when evaluating a claim for negligent interference with prospective economic relations: (i) the extent to which the transaction was intended to affect the plaintiff; (ii) the foreseeability of the harm to the plaintiff; (iii) the degree of certainty that the plaintiff suffered injury; (iv) the closeness of the connection between the defendant's conduct and the injury suffered; (v) the moral blame attached to the defendant's conduct; and (vi) the policy of preventing future harm.

Among the factors for establishing a duty of care is the "blameworthiness" of the defendant's conduct. For negligent interference, the defendant's conduct is blameworthy only if it was independently wrongful apart from the interference itself (i.e. an act that is proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard.)

Further, the above-mentioned six factors place a limit on recovery by focusing judicial attention on the foreseeability of the injury and the nexus between the defendant's conduct and the plaintiff's injury. Following these principles, recovery for negligent interference with prospective economic advantage will be limited to instances where the risk of harm is foreseeable and is closely connected with the defendant's conduct, where damages are not wholly speculative and the injury is not part of the plaintiff's ordinary business risk.

b) Intentional Interference with Prospective Economic Relations

A claim for interference with prospective economic advantage protects the same interest in stable economic relationships as does the tort of interference with a contract, but *does not require proof of a legally binding contract*. The elements of intentional interference with prospective economic relations are (i) the existence of an economic relationship between the plaintiff and some third party, that probably would have benefitted the plaintiff; (ii) the defendant's knowledge of the relationship; (iii) the defendant engaged in wrongful acts such as breach of contract, misrepresentation, or other violations of the law; (iv) actual disruption of the relationship; and (v) the defendant's wrongful conduct was a substantial factor in the damages.

To prove intentional interference with prospective economic advantage, it is sufficient to show that the defendant was certain or substantially certain that the plaintiff's relationship with the third party would be disrupted as a result of the defendant's actions, whether or not the acts were intentional.

Several cases involving TNCs include claims for tortious interference with contractual and/or advantageous relations. *See Lavitman v. Uber Technologies, Inc.*, Civil Action No. 12-4490 (Massachusetts); *United Independent Taxi Drivers Inc., et al. v. Uber Technologies, Inc. and Lyft, Inc.*, Case No. BC513879 (California); *Goncharov, et al. v. Uber Technologies, Inc.*,

Case No. CGC-12-526017 (California); *O'Connor, et al. v. Uber Technologies, Inc.*, Case No. 4 :2013-cv-03826 (California); *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois); *The Yellow Cab Company, et al. v. Uber Technologies, Inc., et al.* (Maryland).

In *Lavitman v. Uber Technologies, Inc.*, Civil Action No. 12-4490 (Massachusetts) taxi driver David Lavitman (who also drives for Uber) filed a complaint accusing Uber of violating a state law which states that “no employer or other person” may take any portion of a worker’s gratuity. The lawsuit refers to a company document that explains how Uber and the driver divide the earnings: “We will automatically deposit the metered fare + 10% tip to your bank account each week.” Plaintiff alleges that customers are regularly assessed a 20% gratuity, but that the company retains as much as half that amount. The Plaintiff is seeking class action status.

In *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Illinois), Plaintiffs, Chicago taxi company Yellow Group, and its subsidiaries and affiliates, allege that Uber, whose business model in Chicago is built upon the use of drivers and vehicles from other licensed transportation companies, avoids or seeks to avoid licensing, registration, and/or compliance with the law. The Complaint also alleges that Uber prohibits plaintiffs from complying with current regulations regarding data collection, including mandated reporting of all payments collected (including fares and extra charges) and whether the fare was dispatched or hailed. Plaintiffs argue that when an affiliated driver does not inform the affiliation of its relationship with Uber, Uber places the affiliation at risk because the licensed affiliation is now unable to ensure that its drivers are in compliance with applicable laws.

## IX. Government Actions

State and local government agencies can take action against entities within their jurisdiction for violating local and state laws. Typically, the government agency seeks an injunction, which directs the entity to stop its unlawful practices, as well as civil penalties to discourage other entities from engaging in the same unlawful action.

### A. **Common Law Injunctive Relief**

An injunction, or injunctive relief, is an equitable remedy in the form of an *in personam* court order. There are two types of injunctions: a temporary restraining order (“TRO”) and a preliminary injunction. Both types of injunctions are orders that direct the defendant to do something or require the defendant to refrain from doing something. Courts find prohibitory injunctions easier to administer. Though the specific elements may vary from state to state, in general, there are four elements that must be met for a court to grant a preliminary injunction or a TRO: (i) the moving party’s likelihood of success on the merits; (ii) the likelihood that the moving party will suffer irreparable harm absent preliminary injunctive relief; (iii) the balance of harms between the moving party and the non-moving party; and (iv) the effect of the injunction on the public interest.

In many jurisdictions, a likelihood of irreparable harm with no adequate remedy at law is the most important factor. A judge will consider how likely it is that the injury will come to pass; the nature of the harm; whether it is truly irreparable; and whether the harm, even if likely and irreparable, can be redressed with money damages (in which case a judge will likely find that a TRO or preliminary injunction is not warranted).

The second element - balancing of the harms - is a fact-based analysis of who would suffer the greater harm should the injunction not be granted. If the balance is unclear, however,

then typically courts will more closely examine the likelihood of success of the action, the next element of a preliminary injunction.

The measure of the likelihood of success on the merits can vary from court to court, although no judge will require an action to have a certainty, or even near-certainty of success, before they grant a preliminary injunction. Similarly, a frivolous lawsuit will never be able to satisfy this element. In between the extremes, however, there is less clarity. Some judges will require a probability of success to grant an injunction. Others require merely that the movant has raised a fair question over the existence of a right.

The final element is whether the public interest would be furthered by the granting, or denying, of the preliminary injunction. Depending on the nature of the case, this element may either be a formality, or it may be extremely important. Typically, those cases that challenge a government action are those where the public interest element most often comes into play.

Injunctive relief has been sought in *City of Columbus v. Uber Technologies, Inc.*, Case No. 2014 EVH 60125 (Ohio); *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Chicago); *Greater Houston Transportation Company, et al. v. Uber Technologies, Inc and Lyft, Inc.*, Civil Action No. 14-941 (Houston)

In *City of Columbus v. Uber Technologies, Inc.*, Case No. 2014 EVH 60125 (Ohio), the City of Columbus filed suit against Uber and three Uber drivers, seeking injunctive relief to stop all Defendants from operating in violations of the City's regulations. Uber's Answer is pending and a hearing date has not yet been set. The suit comes after the City Council has been collecting more information about the services of Uber, UberX and Lyft through public hearings.

In *Yellow Group, LLC, et al v. Uber Technologies, Inc.*, Case No. 12-cv-7967 (Chicago), Plaintiffs sought to enjoin Uber from three activities: (i) calculating livery fares by the use of a

smartphone device measuring distance and time; (ii) providing livery services for which fares are not fixed in advance; and (iii) charging a mandatory fee for taxicab rides that exceeds the maximum rates set by law. Plaintiffs' Motion for a Preliminary Injunction was denied on September 30, 2013. The Court ruled that plaintiffs failed to show that injunctive relief was required to prevent the anticipated harm. In reaching this conclusion, the Court cites to plaintiffs' acknowledgment that the Chicago Department of Business Affairs and Consumer Protection (the "BACP"), the agency tasked with regulating ground transportation in the City, has commenced an investigation of Uber, has issued citations to Uber, and that the City has proposed additional regulations to further curtail Uber's business practices.

**B. Injunctive Relief Prescribed by Statute**

State and local government agencies are often permitted by statute to enjoin entities within their jurisdiction from continuing business practices which violate the laws within the agency's jurisdiction. For example, in New York, the Attorney General of the State of New York, authorized by statute bring an action to enjoin various violation of the State's vehicle and traffic law, business corporations law, insurance law, executive law, and various city codes.

In *The People of the State of New York, et al. v. Lyft* (New York), the Attorney General of the State of New York and the Superintendent of Financial Services of the State of New York brought an action against Lyft to enjoin it from continuing to operate in the State of New York and for civil penalties for its violation of various local and state statutes. The Attorney General and Superintendent allege that Lyft operates as a for-hire vehicle, but does not follow the for-hire vehicles laws prescribed by the State of New York such as, adequate disclosure of fares to passengers and employing drivers with commercial licenses. They further allege that Lyft illegally solicits and sells three excess line group insurance policies issued by an insurance



company not authorized to do business in the State of New York. For these reasons, an action was brought to enjoin Lyft from violating local and state laws, and for an order directing an accounting of profits, disgorgement of profits, and civil penalties of up to \$5,000 for each violation of the New York General Business Law.

Similarly, in *The City of New York, et al. v. Lyft* (New York), the City of New York and The New York City Taxi and Limousine Commission brought an action to enjoin Lyft from promoting, operating or otherwise engaging in the unlicensed “ride-sharing transportation” service, and from advertising and soliciting Lyft Community drivers for its service. The Complaint alleges that Lyft’s services in New York City violates the City’s Administrative Code because, among other things, (i) Lyft does not require New York City Lyft Community drivers to obtain a for-hire driver’s license; (ii) Lyft does not have a license to operate its communications system which dispatches for-hire vehicles; (iii) Lyft does not have a license to operate a base station; and (iv) Lyft does not have a license to operate in New York City. For these reasons, the City of New York and the TLC seek a declaration that Lyft’s operations and solicitation of drivers is unlawful, and an injunction prohibiting Lyft from operating and soliciting drivers.

## X. Constitutional Challenges

Protection from unlawful government action is rooted in many state statutes as well as state constitutions. With respect to the latter, the 14<sup>th</sup> Amendment of the U.S. Constitution, as well as many state constitutions, require that all citizens receive equal protection of the laws. This essentially requires that similarly-situated individuals and business must be treated the same. As new regulations are introduced to address the advent of TNCs, cases have been filed which argue that because TNCs are not a new/innovative service, but rather a re-packaged traditional transportation service, the new laws are treating TNCs differently than, and to the detriment of traditional for-hire vehicle companies. Below we have also summarized the elements of an equal protection cause of action. Similarly, the 5<sup>th</sup> Amendment of the U.S. Constitution provides that the government may take private property for public use only if it provides just compensation. Physical and regulatory takings may occur, the latter being the theory upon which many for-hire transportation companies have based their claims, as discussed below.

### A. **Constitutional Claims: Equal Protection**

The Equal Protection Clause of the 14th amendment of the U.S. Constitution, as well as similar clauses in many state constitutions, prohibits states from denying any person within its jurisdiction the equal protection of the laws. *See* U.S. Const. Amend. XIV. On a basic level, this requires that a state must treat an individual in the same manner as others in similar conditions and circumstances. The equal protection clause is not intended to provide “equality” among individuals or classes but only “equal application” of the laws. Unless the classification upon which a claimant believes he is treated differently is based on one of the protected classes (*e.g.*, race, travel, alienate, national origin, gender), the government must only prove that it has a rational basis for differentiating between the two similarly situated classes that relates to a

legitimate government interest. Equal protection violations have been asserted in *Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California*, Case No. C076432 (California) and *Illinois Transportation Trade Association et al., v. City of Chicago*, Case No. 1:14-cv-00827 (Illinois).

In *Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California*, Case No. C076432 (California), plaintiff alleges that the California Public Utilities Commission (the “CPUC”) violated its members rights to equal protection under the U.S. and CA constitutions by passing Decision 13-09-045, entered in September 2013, which adopted rules and regulations for TNCs. Specifically, the deviations under the new TNC law from existing requirements imposed upon charter-party carriers regarding insurance and background checks for drivers are alleged to deprive members of the Taxicab Paratransit Association of California (“TPAC”) from the fair application of California laws.

#### **B. Constitutional Claims: Takings Clause**

The 5<sup>th</sup> Amendment of the U.S. Constitution prohibits the government from taking private property for public use without just compensation. *See* U.S. Const. Amend. V. The “taking” can be a literal physical taking or a regulatory taking. A physical taking occurs when the government takes ownership or use of a piece of land or property. A regulatory taking occurs when the government promulgates regulations that devalue the property of private citizens so greatly that it leaves no reasonable economically viable use of the property.

The plaintiff taxi medallion owners in *Illinois Transportation Trade Association et al., v. City of Chicago*, Case No. 1:14-cv-00827 (Illinois), allege that the City of Chicago has violated the 5<sup>th</sup> Amendment by allowing TNCs to operate in the City. They argue that the effect of allowing TNCs to encroach upon the on-demand for-hire market, without adhering to the same

costly regulations as other on-demand operators, is the depreciation of medallion values to the extent that it leaves no reasonable economically viable use of the property.

Specifically, prior Illinois legal precedent recognizes individual medallions as a property right and holds that the relationship between the City and medallion holders is contractual, not merely regulatory. Medallions have sold for between \$325,000 and \$375,000. On September 13, 2013, the City announced that it would auction 50 medallions at a minimum price of \$360,000. However, plaintiffs allege that this attempt to auction medallions ended on October 18, 2013 unsuccessfully. Plaintiffs argue that the City's decision not to apply the City Taxi Regulations in any meaningful way to the unlawful operations of TNCs has disrupted long-settled expectations and imposed very serious adverse consequences, including the devaluation of the more than 6,800 taxi medallions currently in use in Chicago, which have had a market value of at least \$2.38 billion (6,800 x \$350,000). Plaintiffs argue that this will not only negatively impact medallion owners, but because most owners use such medallions to finance other investments, lenders who hold a security interest in medallions will see a loss in substantial value of the collateral. The drop in value and related uncertainty threatens to cause the credit market that supports financing medallions to freeze, thereby causing a spiral in which medallion values plummet even further.

## XI. Environmental Law Violations

When new laws that greatly affect an entire industry are passed, most local laws require that the government conduct some sort of study or analysis to determine the environmental impact of such laws. An example of one such law is the California Environmental Quality Act (the “CEQA”), although many cities and states have similar procedural requirements that a government agency must adhere to with respect to rulemaking.

Under CEQA, all public agencies in California must prepare and certify an environmental impact report (“EIR”) for “any project which they propose to carry out or approve that may have a significant effect on the environment.” (Pub. Res. Code § 21100, subd. California case precedent has held that quasi-legislative actions, such as rulemakings, are approvals of “projects” within the meaning of CEQA and subject to environmental review if a direct physical change in the environment is a “reasonably foreseeable” result of the activity approved by the agency’s action.

Similarly, in New York, the State Environmental Quality Review Act (“SEQRA”) requires a full environmental review prior to “agency...resolutions that may affect the environment,” such as the major transportation policy effected here, and no agency may approve the action until it has complied with SEQRA. The plaintiffs in *Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California*, Case No. S218427 (California) as well as *Black Car Assistance Corp., et al. v. the City of New York*, Case No. Case No. 100327/2013 (New York) allege a violation of this procedural requirement.

TPAC alleges that the CPUC’s Decision has authorized and caused thousands of additional vehicles to engage in commercial operations on city streets providing on-demand passenger services like taxicabs by carving out an impermissible subcategory of charter-party

carriers – the TNC category. As such, the CPUC Decision has effectuated a major and unprecedented restructuring of the passenger-transportation-for-hire industry (taxicabs, limousines and car services) which requires preliminary review of the potential environmental impact, before approval, which the CPUC failed to perform.

The Black Car Assistance cooperation made the similar argument that the New York City Taxi and Limousine Commission (“TLC”) failed to conduct an environmental analysis under the New York State SEQRA statute when it implemented its E-Hail pilot program in December 2012. *Black Car Assistance Corp., et al. v. the City of New York*. The TLC, having failed to garner enough votes for a permanent rule change, voted in December 2012, to approve the E-Hail Pilot Program -- which allows passengers to use their smartphone applications to locate available taxicabs and drivers with the corresponding application to accept the request for transportation. Several TNCs including Uber participate in this pilot program. The plaintiffs argued in the New York Supreme Court, and then again in the Appellate Division, that the TLC’s hasty passage of the pilot was in violation of several procedural requirements, including SEQRA. The New York State Appellate Division ultimately affirmed the lower court’s ruling that the pilot program was properly adopted and did not violate the environmental review requirements or the City’s administrative procedural requirements.

## **XII. Other Legal Claims and Relief Sought**

### **A. Accounting**

An accounting is a legal action to compel a defendant to account for and pay over money owed to the plaintiff but held by the defendant. The elements of an accounting vary under state law but generally require a showing that: (i) a fiduciary relationship existed; (ii) entrustment of money or property occurred; (iii) there is no other remedy available at law; and (iv) a demand and refusal of payment. A plaintiff is not required to show misappropriation or wrongdoing. Provided that the Plaintiff can show the three elements listed above, the burden of proof then shifts to the defendant to establish that any challenged expenditures were made for the benefit of the plaintiff, were reasonable, and that the defendant derived no unfair advantage from the fiduciary relationship.

Plaintiffs pursued an accounting in *United Independent Taxi Drivers Inc., et al. v. Uber Technologies, Inc. and Lyft, Inc.*, Case No. BC513879 (California); *Goncharov, et al. v. Uber Technologies, Inc.*, Case No. CGC-12-526017 (California).

### **B. Class Certification**

The Federal Rules of Civil Procedure govern the certification of a class in connection with class action lawsuits. There are four prerequisites to the certification of a class and the maintenance of a class action under Rule 23 of the Federal Rules of Civil Procedure: (i) that the members of the class are so numerous that the joinder of all class members is impractical, (ii) that there are questions of law or fact common to the class, (iii) that the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (iv) that the representative parties will fairly and adequately protect the interests of the class.

“The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide incentive for any individual to bring a solo action prosecuting his or her rights; a class action solves this problem by aggregating relatively paltry potential recoveries into something worth someone's, usually an attorney's, labor. Fed. R. Civ. P. 23 expresses a policy in favor of having litigation in which common interests or common questions of law or fact prevail disposed of in a single lawsuit whenever feasible.”

Plaintiffs have attempted to obtain class certification in *Goncharov, et al. v. Uber Technologies, Inc.*, Case No. CGC-12-526017 (California); *O'Connor, et al. v. Uber Technologies, Inc.*, Case No. 4 :2013-cv-03826 (California); *Noorpavar v. Uber Technologies, Inc.*, Case No. 2:14-cv-01771-JAK-JCG (California).



**APPENDIX**

**CASE BRIEFS**

**AND**

**AUTHOR BIOS**

**CASE BRIEFS**

**CALIFORNIA**

<b>California</b>	
<p><i>Fahrbach v. Uber Technologies, Inc.</i> Case No. CGC-13-533103 Superior Court of the State of California, County of San Francisco Action commenced on July 25, 2013</p>	
<p><b>Plaintiff's Counsel:</b> K. Douglas Atkinson Atkinson &amp; Associates 710 Central Avenue San Francisco, CA 94117 415-793-7819</p>	<p><b>Defendant's Counsel:</b> John C. Fish Littler Mendelson, P.C. 650 California Street, 20<sup>th</sup> Floor San Francisco, CA 94108 415-433-1940 <i>Attorneys for Uber Technologies, Inc.</i></p> <p>Brian R. McClellan Law Office of Brian McClellan 505 14<sup>th</sup> Street, Suite 1210 Oakland, CA 94612 510-457-9940 <i>Attorneys for Djamol Gafurov, SF Limo Car Service Corporation</i></p> <p>Thomas J. Feeney Carbone, Smoke, Smith, Bent &amp; Leonard 505 14<sup>th</sup> Street, Suite 600 Oakland, CA 94612 510-267-7273 <i>Attorneys for Ziad Sleiman</i></p>
<p><b>Claims Asserted:</b> Plaintiff is a pedestrian injured when driver on Uber trip hit another vehicle which also struck a fire hydrant. Plaintiffs claims:</p> <ul style="list-style-type: none"><li>• Damages for personal injury</li><li>• Negligence</li></ul>	<p><b>Status:</b> Discovery is taking place</p>

<b>California</b>	
<p><i>Goncharov, et al v. Uber Technologies, Inc.</i> Case No. CGC-12-526017 Superior Court of the State of California, County of San Francisco Action commenced on July 2, 2013</p>	
<p><b>Plaintiff's Counsel:</b> Gary P. Oswald Law Offices of Gary P. Oswald</p>	<p><b>Defendant's Counsel:</b> Eric J. Emanuel Quinn Emanuel Urquhart &amp; Sullivan LLP</p>

100 Tamal Plaza, Suite 140 Corte Mader, California 94925 415-927-5700	865 Figueroa Street, 10 <sup>th</sup> Floor Los Angeles, CA 90017-2543 213-443-3000
<b>Claims Asserted:</b> Plaintiffs are licensed taxi cab drivers in San Francisco who claim: <ul style="list-style-type: none"> <li>• Violation of Unfair Business Practices; Business and Professions Code § 17200</li> <li>• Intentional Interference with Prospective Economic Relations</li> <li>• Accounting</li> <li>• Declaratory Relief – Uber and Lyft are in violation of city and state laws</li> <li>• Seeking class certification</li> </ul>	<b>Status:</b> Case management conference set for May 2014 at which time Plaintiffs requests for class certification will be heard. Parties are serving discovery requests.

<b>California</b>	
<i>Herrera, et al. v. Uber Technologies, Inc., et al.</i> Case No. CGC-13-536211 Superior Court of the State of California, County of San Francisco Action commenced on December 17, 2013	
<b>Plaintiff's Counsel:</b> Philip A. Segal Kern, Noda, Devin & Segal 1388 Sutter Street, Suite 600 San Francisco, CA 94109 415-474-1900	<b>Defendant's Counsel:</b> Michael A. King Mellisa R. Meyers Bradley, Curley, Asiano, Barrabee, Abel & Kowalski, P.C. 1100 Larkspur Landing Circle, Suite 200 Larkspur, CA 94939 415-484-8888
<b>Claims Asserted:</b> Plaintiffs are passengers injured during Uber trip who claim: <ul style="list-style-type: none"> <li>• Breach of duty of common carrier</li> <li>• General negligence – motor vehicle</li> <li>• Damages for personal injury</li> </ul>	<b>Status:</b> Uber Answer filed March 3, 2014; case is pending

<b>California</b>	
<i>Ryan Lawrence v. Uber Technologies, Inc.</i> Case No. CGC-13-535949 Superior Court of the State of California, County of San Francisco Action commenced on December 6, 2013	
<b>Plaintiff's Counsel:</b> Scott R. L. Love	<b>Defendant's Counsel:</b> Michael A. King

<p>Jeffrey Scott LLP  Four Embarcadero Center, 39<sup>th</sup> Floor  San Francisco, CA 94111  415-216-9190</p>	<p>Mellisa R. Meyers  Bradley, Curley, Asiano, Barrabee, Abel &amp;  Kowalski, P.C.  1100 Larkspur Landing Circle, Suite 200  Larkspur, CA 94939  415-484-8888</p>
<p><b>Claims Asserted:</b>  Plaintiff is a pedestrian bystander injured by driver on Uber trip who claims:</p> <ul style="list-style-type: none"> <li>• Damages for personal injury</li> <li>• Negligence – motor vehicle; respondeat superior</li> </ul>	<p><b>Status:</b> Uber’s Answer is pending. Orders to Show Cause issued to determine why default judgment should not be entered against Uber. Hearing on Order to Show Cause scheduled for June 17, 2014.</p>

<p><b>California</b></p> <p><i>Jiang Liu, et al. v. Uber Technologies, Inc</i>  Case No. CGC-14-536979  Superior Court of the State of California, County of San Francisco  Action commenced on January 27, 2014</p>	
<p><b>Plaintiff’s Counsel:</b>  Christopher B. Dolan  The Dolan Law Firm  1438 Market Street  San Francisco, California 94102  415-421-2800</p>	<p><b>Defendants’ Counsel:</b>  Diane M. Doolittle  Morgan W. Tovey  Nicole Y. Altman  Quinn Emanuel Urquhart Sullivan, LLP  50 California Street, 22<sup>nd</sup> Floor  San Francisco, CA 94111  415-875-6600</p> <p>Ann Asiano  Michael A. King  Bradley Curley Asiano Barrabee Abel &amp;  Kowaski  1100 Larkspur Landing Circle, Suite 200  Larkspur, CA 94939  415-464-8888</p>
<p><b>Claims Asserted:</b>  Plaintiff is the husband/father of three pedestrians (wife, five year old son and six year old daughter) who were injured, and pedestrian daughter who died after being hit by FHV driver affiliated with Uber and on-call for Uber trip. Plaintiff claims:</p> <ul style="list-style-type: none"> <li>• Damages for personal injury</li> <li>• Wrongful death</li> <li>• Negligence – negligent infliction of emotional distress; motor vehicle;</li> </ul>	<p><b>Status:</b> Uber filed its Answer disclaiming liability as transportation network provider and based on the theory that defendant driver was not an employee of the company, but rather an independent contractor. Defendant driver’s Motion to Strike Complaint is pending.</p>

negligent hiring, retention and supervision	
<ul style="list-style-type: none"> <li>Loss of consortium</li> </ul>	

<b>California</b>	
<p><b>Noorpavar v. Uber Technologies, Inc.</b>  Case No. 2:14-cv-01771-JAK-JCG  United States District Court – Central District of California  Action Commenced on March 11, 2014</p>	
<p><b>Plaintiff's Counsel:</b>  Dmitry Mazisyuk  Mazis &amp; Park  15250 Ventura Boulevard, Suite 1220  Sherman Oaks, California 91403  818-501-3334</p> <p>Abbas Kazerounian  Kazerouni Law Group  245 Fischer Avenue, Suite D1  Costa Mesa, CA 92626  800-400-6808</p> <p>Joshua B. Swigart  Hyde &amp; Swigart  2221 Camino Del Rio South, Suite 101  San Diego, CA 92108  619-233-7770</p>	<p><b>Defendant's Counsel:</b>  Nick James DiGiovanni  Locke Lord LLP  111 South Wacker Drive  Chicago, IL 60606  312-443-0634</p> <p>Martin W Jaszczuk  Locke Lord LLP  111 South Wacker Drive  Chicago, IL 60606  312-443-0610</p> <p>Susan J Welde  Locke Lord LLP  300 South Grand Avenue Suite 2600  Los Angeles, CA 90071  213-485-1500</p>
<p><b>Claims Asserted:</b>  Plaintiff is an Uber customer who claims:</p> <ul style="list-style-type: none"> <li>Violation of Telephone Consumer Protection Act, 47 U.S.C. §227. <i>et seq.</i></li> </ul>	<p><b>Status:</b> Complaint filed seeking class action status. Uber's Answer is pending.</p>

<b>California</b>	
<p><b>O'Connor, et al. v. Uber Technologies, Inc.</b>  Case No. 3:2013-cv-03826  United States District Court – Northern District of California (San Francisco Division)  Action Commenced on August 16, 2013</p>	
<p><b>Plaintiff's Counsel:</b>  Shannon Liss-Riordan  Lichten &amp; Liss-Riordan, P.C.  100 Cambridge Street, 20<sup>th</sup> Floor  Boston, MA 02114  617-994-5800</p>	<p><b>Defendant's Counsel:</b>  Robert Jon Hendricks  Morgan, Lewis Bockus LLP  One Market Street, Spear Street Tower  San Francisco, CA 94105  415-442-1000</p>

**Claims Asserted:**

Plaintiffs are former Uber drivers who claim:

- Tortious Interference with Contractual and/or Advantageous Relations
- Unjust Enrichment
- Breach of Contract
- Statutory Gratuity Violation
- Worker Misclassification and Expense Reimbursement Violation
- Unfair Competition in Violation of California of Business and Professional Code §17200
- Seeking class certification

**Status:** Motion to relate *Ehert* case, discussed *infra*, granted in February 2014. Case management conference set for June 2014. Parties were ordered to mediation. On December 6, 2013, the Court issued an Order enjoining Uber from issuing any agreement containing its standard arbitration provision to “Uber drivers or prospective drivers” until the Court approves revised notice and opt-out procedures. This ruling also stated that drivers in other states can join the suit, since Uber’s licensing agreement includes a clause specifying that all disputes be settled under California law. The court agreed with the plaintiffs’ argument that the arbitration clause could undermine the drivers’ ability to participate in this class action and ordered that Uber provide “corrective notice” about the arbitration clause. Uber drivers should be receiving soon a notice through e-mail that gives them another chance to “opt out” of the arbitration clause so they may be a part of this case. The Court also rejected Uber’s requests to dismiss the drivers’ claims for compensation for their lost tips and for reclassification as employees, which would allow them to recoup expenses for gas and other costs. In seeking to dismiss the suit, Uber cited California law that defines “gratuities” as amounts paid by customers “over and above the actual amount due to the business for services rendered.” The fare each customer pays includes no gratuity, the company argued, because it consists of a single mandatory charge and nothing “over and above” that amount. The U.S. District Judge Edward Chen denied Uber’s motion and found that the two drivers, who seek to expand their case into a nationwide class action, have described practices by the company which, if proven, would violate state law.

**California**

***Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California***

Case No. C076432

Court of Appeal of the State of California, Third Appellate District

Action Commenced on May 9, 2014

<p><b>Petitioner's Counsel:</b> Mark Fogelman Ruth Stoner Muzzin Friedman &amp; Springwater LLP 33 New Montgomery St., Suite 290 San Francisco, CA 94105 415-834-3800</p>	<p><b>Counsel for Real Parties in Interest:</b> Kristin Svercheck, Esq. General Counsel Lyft, Inc. 548 Market Street, #68514 San Francisco, CA 94104</p> <p>Martin A. Mattes Mari R. Lane Nossman LLP 50 California Street, 34<sup>th</sup> Floor San Francisco, CA 94111 <i>Attorneys for Sidecar Technologies, Inc. and Side.Cr, LLC</i></p> <p>Edward W. O'Neill Davis Wright Tremaine LLP 505 Montgomery Street, Suite 800 San Francisco, CA 94111-6533 <i>Attorneys for Uber Technologies, Inc.</i></p>
<p><b>Claims Asserted:</b> Plaintiff is a trade association that is seeking writ of review of the CPUC's decision regarding TNCs, claiming that:</p> <ul style="list-style-type: none"><li>• CPUC's decision was not supported in findings</li><li>• CPUC exceeded its jurisdiction under state law when issuing its decision</li><li>• CPUC decision violates TPAC's member's rights to equal protection under the U.S. and CA constitutions</li><li>• *Uber, Lyft and SideCar are listed as "Real Parties in Interest"</li></ul>	<p><b>Status:</b> Pending consideration by the court</p>

**California**

*Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California*

Case No. S218427

Supreme Court of the State of California

Action Commenced on May 9, 2014

<p><b>Petitioner's Counsel:</b> Mark Fogelman Ruth Stoner Muzzin</p>	<p><b>Counsel for Real Parties of Interest:</b> Kristin Svercheck, Esq. General Counsel</p>
--	---

<p>Friedman &amp; Springwater LLP  33 New Montgomery St., Suite 290  San Francisco, CA 94105  415-834-3800</p>	<p>Lyft, Inc.  548 Market Street, #68514  San Francisco, CA 94104</p> <p>Martin A. Mattes  Mari R. Lane  Nossman LLP  50 California Street, 34<sup>th</sup> Floor  San Francisco, CA 94111  <i>Attorneys for Sidecar Technologies, Inc. and Side.Cr, LLC</i></p> <p>Edward W. O'Neill  Davis Wright Tremaine LLP  505 Montgomery Street, Suite 800  San Francisco, CA 94111-6533  <i>Attorneys for Uber Technologies, Inc.</i></p>
<p><b>Claims Asserted:</b>  Plaintiff is a trade association seeking writ of review of the CPUC's decision regarding TNCs, claiming that:</p> <ul style="list-style-type: none"> <li>• CPUC's failed to consider environmental impacts of its decision under the California Environmental Quality Act</li> </ul>	<p><b>Status:</b> Pending consideration by the court</p>

<p><b>California</b></p>	
<p><i>United Independent Taxi Drivers Inc., et al. v. Uber Technologies, Inc. and Lyft, Inc.</i>  Case No. BC513879  Superior Court of the State of California for the County of Los Angeles  Action Commenced on July 2, 2013</p>	
<p><b>Plaintiff's Counsel:</b>  Dmitry Mazisyuk  Mazis &amp; Park  15250 Ventura Boulevard, Suite 1220  Sherman Oaks, California 91403  818-501-3334</p>	<p><b>Defendant's Counsel:</b>  Eric J. Emanuel  Quinn Emanuel Urquhart &amp; Sullivan LLP  865 Figueroa Street, 10<sup>th</sup> Floor  Los Angeles, CA 90017-2543  213-443-3000</p>
<p><b>Claims Asserted:</b>  Plaintiffs are taxicab companies claiming:</p> <ul style="list-style-type: none"> <li>• Violation of Business &amp; Professions Code §17200</li> <li>• Intentional Interference with Prospective Economic Relations</li> <li>• Negligent Interference with Prospective Economic Relations</li> </ul>	<p><b>Status:</b> Dismissed in January 2014.</p>



<ul style="list-style-type: none"><li>• Accounting</li><li>• Declaratory Relief – Uber and Lyft are in violation of city and state laws</li></ul>	
---	--

CONNECTICUT

<b>Connecticut</b>	
<i>Greenwich Taxi, Inc., et al. v. Uber and Lyft</i> Case No. 3:14-cv-733 United States District Court – District of Connecticut Action Commenced on May 21, 2014	
<b>Plaintiff's Counsel:</b> Mary Alice Moore Leonhardt Moore Leonhardt & Associates LLC 102 Oak Street Hartford, CT 06106 860-727-8874  Glenn E. Coe Rome McGuigan, P.C. One State Street Hartford, CT 06103 860-549-1000	<b>Defendants' Counsel:</b> Mary Beth Buchanan Bryan Cave, LLP - Ave Americas-NY 1290 Avenue of the Americas New York, NY 10104-3300 212-541-1074  <b>Stephen V. Manning</b> O'Brien, Tanski & Young, LLP 500 Enterprise Dr., Suite 4B Rocky Hill, CT 06067 860-525-2700 <i>Attorneys for Lyft, Inc.</i>  Amit B. Patel Quinn Emanuel Urquhart & Sullivan, LLP - IL 500 West Madison St., Suite 2450 Chicago, IL 60661 312-705-7400  <b>Kevin M. Smith</b> Wiggin & Dana One Century Tower 265 Church Street P.O. Box 1832 New Haven, CT 06508-1832 203-498-4579 <i>Attorneys for Uber Technologies, Inc.</i>
<b>Claims Asserted:</b> Plaintiffs are fifteen cab and livery companies asserting: <ul style="list-style-type: none"><li>• Lanham Act claims for misrepresentation of services</li><li>• Unfair and deceptive trade practices in violation of the state statute, Conn. Gen. Stat. §§ 42-110a, <i>et seq.</i></li><li>• Intentional interference with contractual relations</li><li>• Violations of RICO statute</li></ul>	<b>Status:</b> Defendants' Answers are pending.

ILLINOIS

<u>Illinois</u>	
<p><i>Caren Ehret et al. v. Uber Technologies Inc.</i> Case No. 12-CH36714 Circuit Court of Cook County, Illinois, County Department, Chancery Department Action Commenced on October 1, 2012</p>	
<p><b>Plaintiff's Counsel:</b> Hall Adams Law Offices of Hall Adams LLC 33 N. Dearborn St., Suite 2350 Chicago, IL 60602 312-445-4900</p>	<p><b>Defendant's Counsel:</b> Pro Se</p>
<p><b>Claims Asserted:</b> Plaintiff is an Uber customer in Chicago who claims:</p> <ul style="list-style-type: none"><li>• Violation of Consumer Fraud Act and Deceptive Business Practices Act due to "gratuity" that does not go to drivers and credit card processing fees being passed along to customers</li></ul>	<p><b>Status:</b> The suit has been moved to the Northern District of California, discussed <i>supra</i>, as it relates to the <i>O'Connor</i> case. Plaintiff is filing an amended complaint and Uber has been granted leave to re-file a Motion to Dismiss. Hearing set for Motion to Dismiss in August 2014.</p>

<u>Illinois</u>	
<p><i>Illinois Transportation Trade Association et al., v. City of Chicago</i> Case No. 1:14-cv-00827 United States District Court – Northern District of Illinois Action Commenced on February 6, 2014</p>	
<p><b>Plaintiff's Counsel:</b> Michael L. Shakman Edward W. Feldman Stuart M. Widman Melissa B. Pryor Miller Shakman &amp; Beem LLP 180 N. LaSalle Street, Suite 3600 Chicago, IL 60601 312-263-3700</p>	<p><b>Defendant's Counsel:</b> William Macy Aguiar City of Chicago, Department of Law 30 North LaSalle Street Suite 900 Chicago, IL 60602 (312) 744-9010 <i>Attorneys for City of Chicago</i>  Stephen A. Swedlow Quinn Emanuel Urquhart &amp; Sullivan LLP 500 W Madison St Suite 2450 Chicago, IL 60661 (312)705-7430</p>

<p><b>Claims Asserted:</b> Plaintiffs are taxi medallion owners and a Chicago resident and long-time advocate for the rights of disabled persons who assert:</p> <ul style="list-style-type: none"> <li>• Violation of the Takings Clause of the 5<sup>th</sup> Amendment of the U.S. Constitution</li> <li>• Violation of the “Equal Protection” Clause of the Fourteenth Amendment of the U.S. Constitution</li> </ul>	<p><i>Attorneys for Uber Technologies, Inc. (Movant)</i></p> <p><b>Status:</b> Defendant’s Answer is pending. Status conference scheduled for June 6, 2014. Three drivers for UberX, Lyft and SideCar (respectively) have filed a joint motion to intervene which is also pending before the Court</p>
--	--

<b>Illinois</b>	
<p><i>Landmark American Insurance Company v. Uber Technologies, Inc.</i> Case No. 1:13-cv-02109 United States District Court – Northern District of Illinois, Eastern Division Action Commenced February 6, 2014</p>	
<p><b>Plaintiff’s Counsel:</b> Michael Smith Knippen Brian C. Bassett Janson Michael Taylor Traub Lieberman Strauss &amp; Shrewsberry LLP 303 West Madison Street, Suite 1200 Chicago, IL 60606 312-332-3900</p> <p>Michael A. Stiegel Carrie A. Hall Paul R. Cogle Zachary J. Watters Michael Best &amp; Friedrich LLP 180 North Stetson Avenue, Suite 2000 Chicago, Illinois 60601 312-222-0800</p>	<p><b>Defendant’s Counsel:</b> Christopher A. Johnson Daniel A. Johnson Jenner &amp; Block LLP 353 N. Clark Street Chicago, Illinois 60654 312-222-9350</p> <p>Jan A. Larson Jenner &amp; Block LLP 1099 New York Ave., NW Suite 900 Washington, DC 20001 202-639-6046</p>
<p><b>Claims Asserted:</b> Plaintiff is an insurance company seeking:</p> <ul style="list-style-type: none"> <li>• Declaratory Judgment – no duty to defend/indemnify under insurance policy.</li> </ul>	<p><b>Status:</b> Settlement reached.</p>
<b>Illinois</b>	
<p><i>Landmark American Insurance Company v. Uber Technologies, Inc.</i> Case No. 1:13-cv-02103</p>	

United States District Court – Northern District of Illinois, Eastern Division Action Commenced August 20, 2013	
<b>Plaintiff's Counsel:</b> Michael Smith Knippen Brian C. Bassett Janson Michael Taylor Traub Lieberman Strauss & Shrewsberry LLP 303 West Madison Street, Suite 1200 Chicago, IL 60606 312-332-3900	<b>Defendant's Counsel:</b> <b>Hall Adams, III</b> Law Offices of Hall Adams 33 N. Dearborn Street Suite 2350 Chicago, IL 60602 (312) 445-4900 <i>Attorney for Defendant Caren Ehret</i>
<b>Claims Asserted:</b> Plaintiff is an insurance company seeking: <ul style="list-style-type: none"> <li>• Declaratory Judgment -- no duty to defend/indemnify under insurance policy.</li> </ul>	<b>Status:</b> Settlement reached and case is closed.

<b>Illinois</b> <i>Manzo Miguel, et al. v. Uber Technologies, Inc. et al.</i> Case No. 1:2013cv-05136 Circuit Court of Cook County, Illinois, County Department, Chancery Department Action Commenced February 21, 2013	
<b>Plaintiff's Counsel:</b> Hall Adams Law Offices of Hall Adams LLC 33 North Dearborn Street, Suite 2350 Chicago, IL 60602 312-445-4900	<b>Defendant's Counsel:</b> Stephen A. Swedlow Andrew H. Schapiro Quinn Emanuel Urquhart & Sullivan, LLP 500 West Madison St., Suite 2450 Chicago, IL 60661 312-705-7400
<b>Claims Asserted:</b> Plaintiffs are licensed taxi cab and livery drivers in Chicago claiming: <ul style="list-style-type: none"> <li>• Unfair competition/Violation of Consumer Fraud Act and Deceptive Business Practices Act</li> </ul>	<b>Status:</b> Uber's motion is pending.

<b>Illinois</b> <i>Yellow Group, LLC et al v. Uber Technologies, Inc.,</i> Case No. 12-cv-7967 United States District Court – Northern District of Illinois, Eastern Division Action Commenced on October 4, 2012	
<b>Plaintiff's Counsel:</b> Michael A. Stiegel	<b>Defendant's Counsel:</b> Stephen A. Swedlow

<p>Michael Best &amp; Friedrich LLP Two Prudential Plaza 180 N. Stetson Avenue Suite 2000 Chicago, Illinois 60601</p>	<p>Andrew H. Schapiro Quinn Emanuel Urquhart &amp; Sullivan, LLP 500 West Madison St., Suite 2450 Chicago, IL 60661 312-705-7400</p> <p>John B. Quinn Quinn Emanuel Urquhart &amp; Sullivan, LLP 865 S. Figueroa Street, 10<sup>th</sup> Floor Los Angeles, CA 90017</p>
<p><b>Claims Asserted:</b> Plaintiffs are taxi company subsidiaries and affiliates who claim:</p> <ul style="list-style-type: none"> <li>• Lanham Act Violation (False/Misleading Representations of Goods &amp; Services)</li> <li>• Lanham Act Violation (False Representations of Affiliation)</li> <li>• Illinois Deceptive Trade Practices Act Violation</li> <li>• Illinois Consumer Fraud and Deceptive Business Practices Act Violation</li> <li>• Tortious Interference with Contractual Relations</li> </ul>	<p><b>Status:</b> Status hearing set for May 15, 2014. Uber's Motion to Dismiss on the basis of lack of jurisdiction is pending. In September 2013, Uber's Motion to Dismiss on the basis of failing to state a claim was denied in substantial part. Plaintiffs' Motion for a Preliminary Injunction was also denied.</p>

<b>Illinois</b>	
<p><i>Illinois Transportation Trade Association et al., v. City of Chicago</i> Case No. 1:14-cv-00827 United States District Court – Northern District of Illinois Action Commenced on February 6, 2014</p>	
<p><b>Plaintiff's Counsel:</b> Edward W. Feldman Miller Shakman &amp; Beem LLP 180 North LaSalle Street Suite 3600 Chicago, IL 60601 (312) 263-3700</p>	<p><b>Defendant's Counsel:</b> William Macy Aguiar City of Chicago, Department of Law 30 North LaSalle Street Suite 900 Chicago, IL 60602 (312) 744-9010</p> <p>David Michael Baron City of Chicago 121 N. LaSalle Street Room 302 Chicago, IL 60602 (312) 744-9018</p>

	<p><i>Attorneys for City of Chicago</i></p> <p><b>Stephen A. Swedlow</b>  Quinn Emanuel Urquhart &amp; Sullivan LLP  500 W Madison St  Suite 2450  Chicago, IL 60661  (312)705-7430</p> <p><i>Attorneys for Uber Technologies (Movant)</i></p>
<p><b>Claims Asserted:</b>  Plaintiffs are a taxi medallion owners and a Chicago resident and long-time advocate for the rights of disabled persons who claim:</p> <ul style="list-style-type: none"> <li>• Violation of the Takings Clause of the 5<sup>th</sup> Amendment of the U.S. Constitution</li> <li>• Violation of the “Equal Protection” Clause of the Fourteenth Amendment of the U.S. Constitution</li> </ul>	<p><b>Status:</b> S Defendant’s Answer is pending. Status conference scheduled for June 6, 2014. Three drivers for UberX, Lyft and SideCar (respectively) have filed a joint motion to intervene which is also pending before the Court.</p>

MARYLAND

<u>Maryland</u>	
<i>The Yellow Cab Company, et al. v. Uber Technologies, Inc., et al.</i> Civil Action No. Circuit Court for Baltimore City Action Commenced on July 3, 2014	
<b>Plaintiff's Counsel:</b> George F. Ritchie Jonathan Montgomery Gordon Feinblatt LLC 233 East Redwood Street Baltimore, MD 21202 410-576-4131	<b>Defendant's Counsel:</b>
<b>Claims Asserted:</b> Plaintiffs are several cab companies, cab associations, as well as taxicab drivers who claim: <ul style="list-style-type: none"><li>• Violation of state Antitrust Act</li><li>• Unfair Competition</li><li>• Tortious Interference with Contract and Business Relationships</li></ul>	<b>Status:</b> Defendants Answers are pending.



**MASSACHUSETTS**

<u>Massachusetts</u>	
<i>Boston Cab Dispatch Inc., et al. v. Uber Technologies, Inc.,</i> Civil Action No. 13-10769-NMG United States District Court – District of Massachusetts (removed from state court) Action Commenced on March 11, 2013	
<b>Plaintiff's Counsel:</b> Brody, Hardoon, Perkins & Kesten, LLP One Exeter Plaza Boston, MA 02116 617-880-7100	<b>Defendant's Counsel:</b> Michael Mankes Littler Mendelson, P.C. One International Place, Suite 2700 Boston, MA 02110 617-378-6000  Of Counsel: Stephen A. Swedlow Andrew H. Schapiro Quinn Emanuel Urquhart & Sullivan, LLP 500 West Madison St., Suite 2450 Chicago, IL 60661 312-705-7400
<b>Claims Asserted:</b> Plaintiffs are a taxi dispatch service and manager who claim: <ul style="list-style-type: none"><li>• Misrepresentation of Services in Violation of Lanham Act</li><li>• Misrepresentation of Connection, Association, Sponsorship and Approval of Lawful Taxi Association in Violation of Lanham Act</li><li>• Unfair and Deceptive Acts and Practices in Violation of MGL c. 93A §11</li><li>• Unfair Competition in Violation of MGL c. 93A §11</li><li>• Common Law Unfair Competition</li><li>• Intentional Interference with Contractual Relationships</li><li>• RICO – violation of “use or invest” prohibition</li><li>• RICO – violation of “interest in or control over prohibition</li><li>• RICO – violation of “conduct of enterprise” prohibition</li></ul>	<b>Status:</b> Uber’s Motion to Dismiss was granted in part with respect to Plaintiffs’ RICO claims; however, the Court Order allows Plaintiffs the opportunity to move for leave to amend the RICO claims.

<b>Massachusetts</b>	
<p><i>Lavitman v. Uber Technologies, Inc.</i>            Civil Action No. 12-4490            Suffolk County Superior Court (by remand from federal district court)            Action Commenced on December 18, 2012</p>	
<p><b>Plaintiff's Counsel:</b>            Edward L. M anchor            Knudsen, Burdridge &amp; Manchur, P. C.            401 Edgewater Place, Suite 140            Wakefield, MA 01880            781-246-3030</p> <p>Shannon Liss-Riordan            Hillary Schwab            Lichten &amp; Liss-Riordan, P.C.            100 Cambridge Street, 20<sup>th</sup> Floor            Boston, MA 02114            617-994-5800</p>	<p><b>Defendant's Counsel:</b>            Michael Mankes            Littler Mendelson, P.C.            One International Place, Suite 2700            Boston, MA 02110            617-378-6000</p> <p>Of Counsel:            Stephen A. Swedlow            Andrew H. Schapiro            Quinn Emanuel Urquhart &amp; Sullivan, LLP            500 West Madison St., Suite 2450            Chicago, IL 60661            312-705-7400</p>
<p><b>Claims Asserted:</b>            Plaintiff is an Uber Driver asserts:</p> <ul style="list-style-type: none"> <li>• Violation of M.G.L. ch 149, §150</li> <li>• Tortious Interference with Contractual and/or Advantageous Relations</li> <li>• Unjust Enrichment/Quantum Meruit</li> <li>• Breach of Contract</li> </ul>	<p><b>Status:</b> The suit is ongoing after Defendant failed to prove that they could satisfy the threshold amount in controversy to remove it to federal court.</p>

MISSOURI

<u>Missouri</u>	
<i>City of St. Louis, Metropolitan Taxicab Commission v. Lyft, Inc.</i> Case No. 1422-CC00890 22 <sup>nd</sup> Judicial Circuit Court of Missouri, St. Louis Circuit Action Commenced April 18, 2014	
<b>Plaintiff's Counsel:</b> Charles Harry Billings 1735 S Big Bend Blvd St. Louis, MO 63101	<b>Defendant's Counsel:</b> Stephen J. O'Brien Dentons US LLP One Metropolitan Square Suite 3000 St. Louis, MO 63102-2741 (314) 241-1800
<b>Claims Asserted:</b> Plaintiff is a city agency seeking: <ul style="list-style-type: none"><li>• Temporary Restraining Order to stop Lyft's illegal operations in the city</li></ul>	<b>Status:</b> Temporary Restraining Order was granted against Lyft. Lyft is currently operating in violation of the TRO. Hearing is scheduled for May 6, 2014.

**NEW YORK**

<b>New York</b>	
<i>Black Car Assistance Corp., et al. v. the City of New York</i> Case No. 100327/2013 Supreme Court of the State of New York, County of New York Action Commenced on February 14, 2013	
<b>Plaintiff's Counsel:</b> Randy M. Mastro Gibson, Dunn & Crutcher LLP 200 Park Avenue, 47 <sup>th</sup> Floor New York, NY 10166 212-351-3845	<b>Defendant's Counsel:</b> Michael A. Cardozo Corporation Counsel, New York 100 Church Street, Room 4-313 New York, NY 10007 212-788-0303
<b>Claims Asserted:</b> Plaintiffs are black car and livery groups who sought injunctive relief and damages against the City for: <ul style="list-style-type: none"><li>• Violations of the NYC Administrative Code which requires licenses for communication systems used for arranging pickups and which prohibits drivers from refusing to pick-up passengers without justifiable grounds</li><li>• E-Hail Pilot Program is not a permissible pilot program as provided in the NYC Charter</li><li>• TLC failed to follow procedures required for rule changes pursuant to the NYC Administrative Procedures Act;</li><li>• TLC failed to follow its own regulations regarding the implementation of pilot programs</li><li>• the E-Hail Pilot Program violated the New York State and New York City Environmental Quality Review Acts</li><li>• E-Hail Pilot Program violates the New York City Human Rights Laws as it will have a disparate impact on the elderly.</li></ul>	<b>Status:</b> Case closed. On April 23, 2013, the court denied all of Plaintiffs' claims and lifting the temporary injunction against the TLC that had earlier been issued. Plaintiffs appealed to the 1 <sup>st</sup> Department of the New York Supreme Court, Appellate Division which, on October 29, 2013 unanimously rejected the arguments made by the, thereby affirming the TLC's ability to continue with the Pilot Program as adopted.

<b>New York</b>	
<i>Dundar v. Uber Technologies, Inc.</i> Case No. 653400-2013 Supreme Court of the State of New York, County of New York Action Commenced on October 2, 2013	
<b>Plaintiff's Counsel:</b> Mark Bastian 36 East 20 <sup>th</sup> Street, 6 <sup>th</sup> Floor New York, NY 10003 212-387-0381	<b>Defendant's Counsel:</b> John H. Snyder Abaigeal Van Deerlin 555 Fifth Avenue, Suite 1700 New York, NY 10017 212-856-7280
<b>Claims Asserted:</b> Plaintiff is an Uber Driver who asserts claims for: <ul style="list-style-type: none"> <li>• Money Damages – lost earnings and detrimental reliance</li> <li>• Promissory estoppel</li> <li>• Negligent misrepresentation</li> </ul>	<b>Status:</b> Uber's Motion to Dismiss granted with respect to Plaintiff's claim for promissory estoppel and negligent misrepresentation. Plaintiff submitted an amended Complaint April 10, 2014.

<b>New York</b>	
<i>The City of New York, et al., v. Lyft, Inc.</i> Index No. 451477/2014 Supreme Court of the State of New York, County of New York Action Commenced on July 10, 2014	
<b>Plaintiff's Counsel:</b> Zachary W. Carter Corporation Counsel of the City of New York 100 Church Street, Rm 5-180 New York, NY 10007 212-356-2607	<b>Defendant's Counsel:</b> Not provided
<b>Claims Asserted:</b> Plaintiff City of New York and TLC assert claims for: <ul style="list-style-type: none"> <li>• Declaratory Judgment – Lyft operating unlawfully/violating local laws</li> <li>• Injunction – to enjoin Lyft's operations</li> </ul>	<b>Status:</b> TRO pending; Lyft's answer is pending

<b>New York</b>	
<i>The People of the State of New York v. Lyft, Inc.</i> Index No. 451479/2014 Supreme Court of the State of New York, County of New York Action Commenced on July 11, 2014	

<p><b>Plaintiff's Counsel:</b>  Eric T. Schneiderman  Attorney General of the State of New York  Bureau of Consumer Frauds &amp; Protection  120 Broadway, 3<sup>rd</sup> Floor  New York, NY 10271  212-416-8296</p>	<p><b>Defendant's Counsel:</b>  Not provided</p>
<p><b>Claims Asserted:</b>  Attorney General of the State of New York asserts claims for:</p> <ul style="list-style-type: none"> <li>• Injunction – to enjoin Lyft's operations/violations of State and local laws</li> <li>• Accounting</li> <li>• Civil Penalties</li> <li>• Statutory Costs</li> </ul>	<p><b>Status:</b> TRO pending; Lyft's answer is pending</p>

**OHIO**

<b>Ohio</b>	
<i>City of Columbus v. Uber Technologies, Inc.</i> Case No. 2014 EVH 60125 Franklin County Municipal Court, Environmental Division, Franklin County, Ohio Action Commenced on April 8, 2014	
<b>Plaintiff's Counsel:</b> Westley M. Phillips City of Columbus, Department of Law 77 North Front Street Columbus, Ohio 43215 614-645-7385	<b>Defendant's Counsel:</b> Erik J. Clark 1335 Dublin Road, Suite 104D Columbus, Ohio 43215
<b>Claims Asserted:</b> Plaintiff is the City of Columbus which seeks: <ul style="list-style-type: none"><li>• Injunctive Relief – enjoining Uber from operating in Columbus, Ohio</li></ul>	<b>Status:</b> Uber's Answer is pending.

<b>Ohio</b>	
<i>City of Columbus v. Lyft Inc.</i> Case No. 2014 EVH 060145 Franklin County Municipal Court, Environmental Division, Franklin County, Ohio Action Commenced on May 5, 2014	
<b>Plaintiff's Counsel:</b> Stephen C. Dunbar City of Columbus Department of Law 77 North Front Street Columbus, Ohio 43215 614-645-7385	<b>Defendant's Counsel:</b> Albert G. Lin Ice Miller LLP 250 West Street Columbus, Ohio 43215  Gregory S. Peterson 2 Miranova Place, Suite 330 Columbus, Ohio 43215
<b>Claims Asserted:</b> Plaintiff is the City of Columbus which seeks: <ul style="list-style-type: none"><li>• Injunctive Relief – enjoining Lyft from operating in Columbus, Ohio</li></ul>	<b>Status:</b> Lyft's Answer is pending.

TEXAS

<b>Texas</b>	
<b><i>Greater Houston Transportation Co., et al v. Uber Technologies and Lyft, Inc.</i></b> Civil Action No. 14-941 United States District Court – Southern District of Texas, Houston Division Action Commenced on April 8, 2014	
<b>Plaintiff's Counsel:</b> Martyn B. Hill Pagel, Davis & Hill, P.C. 1415 Louisiana Street, 22 <sup>nd</sup> Floor Houston, Texas 77002 713-951-0160  Daniel K Hedges Porter & Hedges 1000 Main St 36th Floor Houston, TX 77002 713-226-6641	<b>Defendant's Counsel:</b> Amit B. Patel Quinn Emanuel Urquhart & Sullivan LLP 500 W Madison St Ste 2450 Chicago, IL 60661 312-705-7400  Barrett H Reasoner Gibbs Bruns LLP 1100 Louisiana Ste 5300 Houston, TX 77002 713-650-8805 <b><i>Attorneys for Uber Technologies, Inc.</i></b>  Lauren Elizabeth Tanner Baker Botts LLP 98 San Jacinto Blvd Suite 1500 Austin, TX 78701 512-322-2544  Caroline Nan Carter Baker Botts LLP 910 Louisiana Houston, TX 77002 713-229-1302 <b><i>Attorneys for Lyft, Inc.</i></b>
<b>Claims Asserted:</b> Plaintiffs are taxicab permit holders licensed in Houston and San Antonio and chauffeured limousine services licensed in Houston who claim: <ul style="list-style-type: none"><li>• Violation City for-hire vehicle codes</li><li>• RICO</li><li>• Lanham Act Violation (misrepresentation of services)</li></ul>	<b>Status:</b> On April 21, 2014, the Court declined to issue a temporary restraining order sought by Houston and San Antonio cab companies; however, the Court did agree to an expedited hearing on July 15 <sup>th</sup> , based on plaintiffs' request for a permanent injunction.



<ul style="list-style-type: none"> <li>• Common law unfair competition law violations</li> <li>• Preliminary and permanent injunction restraining Uber and Lyft from operating in Houston and San Antonio</li> </ul>	
--	--

<p><b>Texas</b></p> <p><i>Ramos, et al. v. Uber Technologies, Inc., and Lyft Inc.</i></p> <p>Case No. 5:14-cv-00502-XR</p> <p>United States District Court – Western District of Texas, San Antonio Division</p> <p>Action Commenced on June 2, 2014</p>	
<p><b>Plaintiffs' Counsel:</b></p> <p>Jose Garza Law Office of Jose Garza 7414 Robin Rest Dr. San Antonio, TX 78209 210-392-2856</p> <p>Rolando L. Rios Law Offices of Rolando L. Rios 115 E. Travis Street Suite 1645 San Antonio, TX 78205 (210) 222-2102</p> <p>Judith A. Sanders-Castro Texas RioGrande Legal Aid, Inc. 1111 N. Main Ave. San Antonio, TX 78212 (210)212-3725</p>	<p><b>Defendant's Counsel:</b></p> <p><i>NOT PROVIDED</i></p>
<p><b>Claims Asserted:</b></p> <p>Plaintiffs are three (3) disabled residents of San Antonio and Houston who claim:</p> <ul style="list-style-type: none"> <li>• Violation of the Americans with Disabilities Act (the "ADA")</li> </ul>	<p><b>Status:</b> Action filed on June 2, 2014. Responsive pleadings are pending.</p>

WASHINGTON

<b>Washington</b>	
<i>Western Washington Taxicab Operators Association v. Uber Technologies, Inc.</i> Case No. 14-2-08259-2 Superior Court of the State of Washington in and for the County of King Action Commenced on March 24, 2014	
<b>Plaintiff's Counsel:</b> Spencer Nathan Thal General Counsel Western Washington Taxi Club Operators Association 14675 Interurban Ave. South, Suite 307 Tukwila, WA 98168 206-441-4860  Dmitri Iglitzin Schwerin Campbell Barnard Iglitzin & Lavitt LLP 18 West Mercer Street, Suite 400 Seattle, WA 98119-3971 206-257-6006	<b>Defendant's Counsel:</b> Robert Maguire Steven Trummage Rebecca Francis Colin Prince Davis Wright Tremaine LLP 1201 Third Avenue, Suite 2200 Seattle, Washington , 98101 206-622-3150
<b>Claims Asserted:</b> Plaintiffs are the Organization of Seattle and King County taxi operators who claim: <ul style="list-style-type: none"><li>• Breach of Consumer Protection Act – RCW 19.86</li></ul>	<b>Status:</b> Uber's Answer is pending.

## AUTHOR BIOS

## LAWYERS

**Matthew W. Daus**

Partner

PRINT PDF

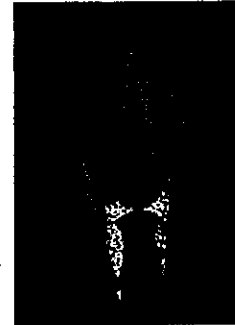
Matthew W. Daus' practice focuses on transportation law, counseling clients on a broad range of matters including regulatory compliance, strategic planning, procurement, litigation, administrative law and public policy. Within this area Mr. Daus coordinates representation on a wide array of legal needs and services representing ground transportation and related businesses. Mr. Daus also practices in the area of employment law, advising employers concerning the hiring and discharge of employees, employment discrimination laws and general personnel and policy matters.

Before joining Windels Marx to lead its Transportation practice, Mr. Daus served as Commissioner and Chairman of the New York City Taxi and Limousine Commission ("TLC") for eight and one half years, appointed by Mayors Giuliani, Bloomberg and the New York City Council. Prior to his tenure as the TLC's longest serving Chief Executive Officer, Mr. Daus served as General Counsel to the Commission and Deputy Commissioner for Legal Affairs since 1998, and before that, as Special Counsel to the TLC Chair - supervising over 75 lawyers and Administrative Law Judges. Mr. Daus also served as General Counsel to the New York City Community Development Agency (now the Department of Youth and Community Development), Special Counsel to the New York City Trade Waste Commission (now the Business Integrity Commission), and as a Prosecutor for the New York City Commission on Human Rights.

In 2010, Mayor Bloomberg and the New York City Council appointed Mr. Daus as a Commissioner of the New York City Civil Service Commission, an independent quasi-judicial agency that hears and decides employee candidate, disciplinary, and involuntary medical leave appeals under the New York State Civil Service Law. Additionally, the President of the New York State Bar Association appointed Mr. Daus to serve on its Committee on Civil Rights.

Mr. Daus serves as a Distinguished Lecturer with the City University of New York's ("CUNY's") Transportation Research Center ("UTRC") at The City College of New York. In addition to lecturing at CUNY on sustainable transportation, transportation policy, and business law. Mr. Daus speaks internationally on a broad range of transportation topics. He also is currently the President of the International Association of Transportation Regulators ("IATR").

Mr. Daus is a member of several non-profit boards serving as President of Community Understanding for Racial and Ethnic Equality ("CURE"), as Co-Chairman of the Brooklyn Economic Development Corporation and board member of Big Apple Greeter and the 2011 World Police and Fire Games. He also served for over eight years on the Board of NYC & Co. (the City's tourism, marketing, convention and visitors bureau) and for several years on the Board of Brooklyn Dreams Charter School.



SHARE

**MATTHEW W. DAUS**  
CONTACT | DOWNLOAD VCARD

 New York, NY  
T. 212.237.1106  
F. 212.262.1215

## PRACTICES

- TRANSPORTATION
- EMPLOYMENT & EMPLOYEE BENEFITS
- CORPORATE & SECURITIES
- CORPORATE FORMATION & FINANCE
- INFRASTRUCTURE DEVELOPMENT & FINANCE
- LITIGATION & ALTERNATIVE DISPUTE RESOLUTION

## EDUCATION

- LL.M., employment law, New York University School of Law, 1997
- J.D., *cum laude*, Touro College Jacob D. Fuchsberg Law Center, 1992
- B.A., political science, *magna cum laude*, Brooklyn College, 1989

## ADMISSIONS

- New York
- New Jersey
- District of Columbia
- United States District Court for the Southern District of New York
- United States District Court for the Eastern District of New York

AT-A-GLANCE

SEARCH LAWYERS

BROWSE PRACTICE AREAS

## NEWS &amp; NOTEWORTHY

Ranking - Windels Marx Named to Best Law Firms 2015

Article - Forbes Legal Black Book Features Windels Marx

Ranking - NJBiz Releases "Power 50: Real Estate" List, Pegs Tony Coscia Among Top 20

LAWYERS

**Jasmine K. Le Veaux**  
Associate

PRINT PDF

Ms. Le Veaux is a seasoned litigator, focusing on the areas of complex commercial litigation as well as employment and labor law. She has represented companies and individuals in commercial contract disputes, and State Department of Labor audits, investigations and hearings. She has extensive experience in motions practice; helping clients obtain successful judgments or settlements to litigation matters prior to trial. Ms. Le Veaux represents clients in commercial cases involving:

- breach of contract claims,
- employment relationships,
- wage and hour disputes, and
- worker misclassification issues.

Ms. Le Veaux has also represented debtors in bankruptcy-related litigation, particularly with respect to preference claims and Federal and State WARN Act violations.

As a member of the transportation practice group, Ms. Le Veaux counsels clients on regulatory compliance and various types of transportation-related agreements, contractual disputes and procurements. In addition, she drafts and analyzes proposed legislation and regulations on behalf of clients for compliance with Federal and local laws relevant to the transportation industry.

Prior to joining Windels Marx, Ms. Le Veaux practiced products liability litigation in Washington DC, where she represented pharmaceutical companies in national multi-district litigation cases and class action suits.

In 2008, Ms. Le Veaux was appointed a guardian ad litem by the Family Law Division of the Superior Court of the District of Columbia where she represented minor children in custody disputes. Her dedication to child advocacy has also led Ms. Le Veaux to volunteer as a mentor and tutor for several years. Through her work with PENCIL, a non-profit organization that partners business professionals in private industry with New York City public schools, Ms. Le Veaux established a Law Club for students at Brooklyn's School of Democracy and Leadership. She also volunteers with Children of Promise, NYC, a community-based, non-profit organization that services children of incarcerated parents.

At Georgetown University Law Center, Ms. Le Veaux's honors and achievements include winning first place on both the national and regional level of the Frederick Douglass Moot Court Competition in 2006, serving as the Chair of the Women of Color Collective, and receiving the Equal Justice America Fellowship in 2005.

Publications

- The Disruptive Transportation Technology Movement - A Litigation Primer & Roadmap (July 2014)
- Transportation Network Companies (TNCs): *Litigation Marathon or Legislative Sprint to Deregulation?* (July 2014)
- Ridesharing Applications: *Illegal "Hitchhiking-For-Hire" or Sustainable Group Riding?* (May 2013)
- Proposed Model Regulations for Smartphone Applications in the For-Hire Industry (November 2012)
- Important Worker Classification Tips for Transportation Businesses (August 2011)

Recognition

- *SuperLawyers* Metro New York 2014 - Rising Star - Employment Litigation



SHARE

JASMINE K. LE VEAUX  
CONTACT | DOWNLOAD VCARD

New York, NY  
T. 212.237.1112  
F. 212.262.1215

PRACTICES

- BANKRUPTCY-RELATED LITIGATION & TRANSACTIONS
- EMPLOYMENT LITIGATION
- LITIGATION & ALTERNATIVE DISPUTE RESOLUTION
- TRANSPORTATION

EDUCATION

- J.D., Georgetown University Law Center, 2007
- B.A., International Development Studies, Minor: Policy Studies & Social Welfare, Provost's Honors List, University of California, Los Angeles

ADMISSIONS

- District of Columbia
- California
- New York
- United States District Court for the Central District of California
- United States District Court for the Southern District of New York

AT-A-GLANCE

SEARCH LAWYERS

BROWSE PRACTICE AREAS

NEWS & NOTEWORTHY

Ranking - Windels Marx Named to Best Law Firms 2015

Article - Forbes Legal Black Book Features Windels Marx

Ranking - NJBiz Releases "Power 50: Real Estate" List, Pegs Tony Coscia Among Top 20

## NYC Council Transportation Committee – Oversight Hearing 12/3/14

### Testimony of Lyft

Lyft is proud to be here in New York City and to be part of one of the world's leading transportation systems. We launched here this summer with the guidance of the Taxi and Limousine Commission and with the goal of providing a high-quality, safe, and efficient service to New Yorkers alongside the many other transportation options this city is unparalleled in providing.

Technology has transformed the transportation sector dramatically over time, to the benefit of passengers and drivers. Major shifts in the Taxi and For Hire Vehicle industries are neither new nor limited to technological innovation. These industries are constantly evolving. In the 1980s, the city recognized changes in the marketplace and established rules that created the livery and black car sectors. Over the past few years alone, New Yorkers have enjoyed the benefits of Borough Taxis, electronic payment and communication technology in taxis and liveries with the introduction of TPEP and LPEP systems, the testing of E-Hail programs and now app-based dispatch options. Technology-based dispatch is currently being used in some form by nearly the entire industry, from E-Hail in taxis to a broad variety of dispatch apps developed for individual FHV bases.

Each of these major industry shifts has posed challenges and faced a certain amount of initial concern about impact on the market. But ultimately the industry, the City Council and the TLC have found ways to adapt to those changes for the benefit of New Yorkers. Many of the shifts in the industry that seemed painful at first are now options most New Yorkers could not imagine living without and the industry has continued to grow.

Electronic payment options provide convenience and security in taxis and liveries. Borough taxis have expanded access to underserved areas. Technology-based dispatch will further enhance benefits to underserved areas and provide additional last-mile solutions for passengers looking to connect with public transit options. These apps already enhance public safety by clearly identifying for passengers the car, driver, and license plate of the ride they are expecting

to pick them up. Lyft passengers and drivers have the opportunity to rate their ride experience and provide feedback which allows any safety and quality issues to be immediately investigated and resolved. Passengers also receive detailed electronic receipts immediately following the ride.

Lyft provides drivers experiencing a lull in demand with additional options for filling their vehicles, reducing the number of underutilized cars on the road and supplementing driver earnings. With the addition of these options, passengers have more choices from any given pick-up location and can select the option that best suits their needs. The current and future benefits are limitless.

Oversight and regulation need to keep pace with these changes, but also must be carefully considered to protect the public while also preserving the possibility of further innovation. The TLC recently struck an excellent balance with its new FHV Dispatch Rules. The TLC diligently sought and considered information, taking into account the current state of the industry as well as contemplating its future; public safety, driver benefits, and accountability were carefully addressed without unnecessarily restricting options or stifling competition. Moving forward, we hope that any legislative and regulatory changes will continue to be comprehensive while considering the future potential of new developments.

While every turn in this market evolution cannot be foreseen at this time, some useful core principles should guide reforms: (1) concern for passenger safety must always be respected; (2) regulations should foster competition for customers and drivers; (3) rules should enable innovation in providing new services to passengers and drivers; and (4) reform should eliminate unnecessary costs to customers and drivers.

We would appreciate the opportunity to provide each of you with more information on our company and our current and future operations in New York City without taking too much time at this hearing. We look forward to continuing to work with you and the TLC to realize the future of safe, reliable and efficient transportation options in New York City.

City Council Oversight Hearing  
App Technology  
Wednesday, December 3<sup>rd</sup>, 2014

Good Afternoon Members of the Transportation Committee,

My name is Derrick Warmington and I am the owner of Rose 'N' Dale Car Service located in Rosedale, Queens, New York. I am also a member of the New York City Independent Livery Owners Corporation that represents Caribbean owned bases primarily in Brooklyn and Queens.

Rose N Dale is a small livery base of 15 affiliated vehicles. We cherish the excellent relationship we have with members of our community and their support over the years. Many of our passengers are known on a first name basis and have been customers for years.

Mr. Chairman, I am here today to ask the Transportation Committee to support the "the draft of rule", heard at a public hearing in October, 2014 that requires bases to have consent before dispatching a driver from another base via an agreement, mandated that bases electronically share trip records, and prohibit 'cross dispatching'.

I am appealing to you not to support measures that will force your small community bases into extinction.

Unfortunately the amended rule, of November 2014, that eliminates contract agreement is a recipe for chaos, and a death ride for small community bases like Rose N Dale Car Service.

It has not answered the serious questions of accountability and Workers Compensation. Who will have the final say in accountability to an aggrieved passenger, or who will be responsible for governmental enquiries?

Small base owners are also concerned about the questionable business tactics that a company like UBER is using. The use of 'Operation Slog' can be construed as unethical and an unfair recruitment practice. Under this operation, drivers are paid large sum of money to be snatched from bases. These are drivers in whom bases have invested their limited resource for training. Small community bases do not have the resource to snatch drivers. This business tactic will only serve to eliminate competition instead of encouraging it.



Council members will remember when Wall-mart, the giant supermarket chain moved in to some communities how it forced many neighborhood business into economic oblivion. I urge you not to allow this to happen to us. Many of us have mortgaged our homes, slept in our cars and at our bases to build this business. The TLC's Affiliated Rule that remove the base contract requirements will force small bases into extinction. Do not support measures that will take away our livelihood, we are your constituents.

Community bases serve the community in peak time and in inclement weather. We do not change fares in response to the weather of the day. It is however well documented, that UBER, the flag ship for livery APP, has practiced "surge pricing" in the past during peak hours and in inclement weather when passengers are most vulnerable. It is reported that fares were increased up to eight times the standard rates.

This amendment will result in mass production service. By providing service through mass production there will be a loss of the unique community relationship that exists between local bases and their community, especially in the outer boroughs.

A victory for a billion dollar company like URBER is a loss for small base owners, their staff and family. It will force many into bankruptcy.

Once again I appeal to this Honorable Council, to support the "draft of rules", heard in October 2014 that requires bases to have consent before dispatching a driver from another base via an agreement"

Thanks for your support.

Date: December 3, 2014

RE: NYC City Council Committee on Transportation Oversight Hearing  
Regarding App Technology and the Transformation of the Taxi and For-  
Hire Industries

TESTIMONY OF JASON R. MISCHEL REGARDING RELATIONSHIP  
BETWEEN TRANSPORTATION NETWORK COMPANY APPS AND  
APPLICABLE LAWS REGARDING ACCESSIBILITY FOR PEOPLE  
WITH DISABILITIES

Good morning, members of the Transportation Committee of the New York City Council. I am pleased that you have called this oversight hearing regarding the proliferation of Transportation Network Company (“TNC”) Apps in the Taxi and For-Hire Industries, and I would like to make a few comments regarding their effect on accessibility for people with disabilities. By way of background, I am the former Commissioner and General Counsel of the NYC Mayor’s Office for People With Disabilities (MOPD), and served there for almost ten (10) years.

The relationship between TNCs and accessibility is currently a “hot button” issue, as there are a number of lawsuits around the country alleging that TNCs are discriminating against people with disabilities. While TNCs have sporadically responded to these allegations (i.e. introduction of new apps in certain jurisdictions that provide for a passenger to be able to request an accessible vehicle; the possibility that TNCs have, in some case, been entering into “affiliation agreements” with for-hire vehicle bases that maintain accessible vehicles to provide said vehicles to passengers), the general feeling, to date, is that TNCs have not met the needs of people with disabilities. Whatever the case may be, it is necessary for the NYC City Council to be provided with an overview of the laws that would potentially apply in this arena.

The Americans With Disabilities Act (“ADA”) provides a number of relevant clauses that are designed to prevent discrimination against people with disabilities. For example, Title III of the ADA states that “no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce”, and that such discrimination includes:

- 1) the failure of such entity to make “reasonable modifications”;
- 2) the failure to provide auxiliary aids and services; and
- 3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public (this applies to a public entity, such as the NYC Taxi & Limousine Commission, through Title II of the ADA – see 42 U.S.C. §12144).

(42 USC §12184).

The failure to make “reasonable modifications” is defined as “a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations”. Similarly, the failure to provide auxiliary aids and services is defined as “a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden.” (42 U.S.C. §12182)

A “demand responsive system” is defined as “any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.” (42 U.S.C. §12181).

Further, Title 8 of the Administrative Code of the City of New York, otherwise known as the NYC Human Rights Law, states that “it shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the actual or perceived...disability...to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof” (§8-102) and defines "place or provider of public accommodation" as “providers, whether licensed or unlicensed, of goods, services, facilities,

accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold or otherwise made available.” (§8-107)

So what does all this mean? It seems clear that whether or not TNCs can argue that they are not covered by the ADA (whether because providing reasonable accommodations and/or auxiliary aids and services for people with disabilities would “fundamentally alter the nature of their services”; or that they are either not providing “public transportation services” or “primarily engaged in the business of transporting people”; or that they are not purchasing or leasing “new” vehicles to be engaged in a demand responsive system), TNCs, under the NYC Human Rights Law, are, in fact, providers of a public accommodation, and it is of no consequence that its “place” of public accommodation is in the digital space. When taking into account this city’s commitment to the inclusiveness of all in everything the city has to offer, as well as recent legislation (the Outer-Borough Street HAIL law providing for a mandated long-term disability plan for the city’s taxi and for-hire vehicle industries) and litigation (the 50% accessible taxi fleet by 2020 mandate resulting from the Noel v. TLC case), it is imperative that this Council hold TNCs to the mandate that people with disabilities must enjoy equal and unfettered access to the services that they are providing, without compromise.

**Testimony of**  
**Jasmine K. Le Veaux, Esq.**  
**Attorney for the International Association of Transportation Regulators**  
**Before the**  
**New York City Council Committee on Transportation**  
**December 3, 2014**

Good Afternoon Chairman Rodriguez and members of the Committee on Transportation. Thank you for holding this important oversight hearing on App Technology and the Transformation of the Taxi and For-Hire Vehicle Industries. My name is Jasmine Le Veaux and I am an Associate at the law firm Windels Marx Lane & Mittendorf, LLP. We represent the International Association of Transportation Regulators (the "IATR"), a non-profit educational and advocacy group comprised of members of governments -- taxi and limousine commissions; law enforcement agencies; transportation agencies and airport authorities-- from around the world that regulate for-hire ground transportation vehicles, businesses and drivers, of which the New York City Taxi & Limousine Commission ("TLC") is a member.

It is indisputable that the introduction of new "transportation network companies" or "TNCs" has had a "game changing" impact on the traditional transportation industry. Approximately ten (10) jurisdictions have recently passed regulation or legislation which officially recognize TNCs as a separate licensing category of for-hire vehicle. However, even in these jurisdictions, where TNCs are required to obtain a TNC permit or license, there have been reports of noncompliance and regulatory disregard. Over 30 lawsuits have been filed around the United States by every party possible – passengers, drivers, taxicab and limousine business owners, insurance companies, and government agencies and officials -- in which a plethora of

legal claims under Federal and State laws are being asserted against TNCs, or in which municipalities are being sued for passing allegedly unconstitutional TNC legislation. A detailed analysis and summary of most of the litigation that has been commenced against TNCs may be found in a report published by my firm entitled “The Disruptive Transportation Technology Movement – A Litigation Primer & Roadmap, of which I have brought several copies for the Committee.<sup>1</sup>

A common sense approach is the most appropriate way to assess the issue of how to deal with TNCs. At the end of the day, the underlying acts being regulated are essentially the same – a passenger, getting into a vehicle, either pre-arranged or hailed by a smartphone app, and being transported from point A to point B. There are no other variants or differences between traditional taxicab and limousine companies and the new breed of TNCs other than a smartphone app – which is also being used by the incumbent industry in a legal manner. If laws that apply to taxicab and limousine companies, drivers and vehicles require insurance, safety vetting (i.e., background checks, drug testing, driving record review) and other regulatory requirements such as fare regulation, permit limitations, emissions compliance, overcharging safeguards and requirements to serve disabled individuals and underserved communities, there must be an underlying public policy rationale that justifies having two sets of standards for transportation companies and TNCs. Other than vague references to “innovation” and “sharing economies”, no logical rational basis for creating two classes of licenses has emerged.

The New York City TLC has taken such a common sense approach and has used a heavy hand to ensure that its regulations are being equally enforced on all for-hire vehicle companies in

---

<sup>1</sup> The report may also be accessed on my firm’s website at:  
[http://www.windelsmarx.com/resources/documents/The%20Disruptive%20Transportation%20Technology%20Movement%20\(10990519\).pdf](http://www.windelsmarx.com/resources/documents/The%20Disruptive%20Transportation%20Technology%20Movement%20(10990519).pdf).<sup>1</sup>

our market. Although the initial introduction of some TNCs came with the usual flouting of local laws, most TNCs in New York City have obtained the necessary base licenses required by the TLC and/or have taken steps to operate in compliance with all applicable regulations to provide for-hire transportation services within the City. Innovation is being supported and promoted in New York City without unnecessary concessions or compromises on the important regulatory issues of public safety and consumer protection. As counsel to an international group of regulators, I can attest to the fact that New York City is looked upon as a model for regulation in this regard.

Thank you for this opportunity to testify.





139-30 Queens Boulevard  
Briarwood, N.Y. 11435  
Main Telephone: 718-658-9800  
Executive Fax: 718-526-8530  
Real Estate Fax: 718-526-8531  
Email: melrose@melrosecu.org

New York City Transportation Committee of the  
New York City Council  
December 3, 2014

### Testimony of Melrose Credit Union

Good afternoon. Thank you Chairman Rodriguez and members of the Transportation Committee for organizing this important hearing and for inviting us here to testify today. My name is David Pollack and I am employed as the Director of the Taxi Action Center for Melrose Credit Union, the largest financer of yellow taxi medallions in New York City.

Based in Briarwood, Melrose Credit Union provides personal and business banking services to its wide membership. We serve approximately 26,000 members with assets of more than \$2 billion. Melrose has members representing ownership of 3,135 medallions; roughly 25% of the entire taxi industry. Melrose Credit Union was originally established in 1922 to supply financial services to the Bronx, New York community. Since that time, the credit union has grown considerably and now permits anyone with a valid ID and social security number to join.

Contrary to what many may think, most medallion holders are individuals of modest means; they are thousands of small business men and women who saved and borrowed to purchase medallions. The driver pool in the yellow cab industry must include 42% of driver-owner medallions, meaning they own ONE medallion. In addition to that, there are additional small business men and women that own either one or two corporate medallions.

The entry of Uber and other tech-based transportation companies has had a negative affect on both the small business taxi medallion owner and the yellow taxi industry as a whole. These tech based companies are not subject to the same rules and regulations that govern the yellow cab & livery industry; that fact has created an unlevel playing field for all those in the transportation service industry.

One of the most striking examples of this unlevel playing field is the fact Uber drivers can choose whichever vehicle they'd like, leaving no financial incentive to retrofit cars to increase accessibility for disabled people. Medallion holders in the yellow cab industry are subject to heavy regulation regarding wheelchair accessibility resulting in cabs that are far more expensive to purchase, maintain and fuel. This is forcing those individuals interested in purchasing medallions or driving a yellow cab to leave the yellow cab industry to work for companies like Uber, creating both a workforce development problem for the yellow cab industry and a decrease in revenue for the City.

The issues seen by cab drivers once they are employed by Uber are a separate problem itself that likely needs its own hearing. While Uber entices drivers with higher wages and vehicle selection, many drivers end up barely making minimum wage after taking into account all of the fees and charges paid to Uber, as reported by the media. When these drivers decide they want to come back to the yellow cab industry, they are finding themselves stuck in contracts that they cannot break, creating a cost of living crisis for many individuals. Drivers are so unhappy with Uber that they recently decided to strike in an attempt to create better working conditions for themselves.

These tech-based companies have no approved driver training and no business accountability or oversight, creating a safety issue for both the riding and walking public.

Aside from hurting the small business medallion holders and the yellow cab industry, companies like Uber are socking it to the consumer as they operate with no fare pricing controls. Uber is allowed to charge surge pricing according to a supply/demand algorithm and can include pricing

from well below the normal price to eight times the going rate. As Councilmember Greenfield most recently noted "A yellow cab in New York City may not charge you \$225 for a \$25 ride simply because it's snowing – neither should Uber."

There are many other issues that I could mention today but in the interest of time I have focused on the major ways these tech based companies are negatively impacting the yellow cab industry. We urge the Committee to examine ways in which the City might help to regulate these tech based companies while simultaneously protecting those who have contributed so much to the New York state economy.

Creating a Transportation Network Company or TNC, a separate segment of the transportation industry, would allow for tech-based companies to operate under specific rules and regulations.

The TLC took a step in the right direction at their last meeting by requiring that Uber keep track of trip records; however we need to do more. Thank you for your time and I look forward to working with the Council to help level the playing field for all stakeholders in this important industry.

Committee For Taxi Safety Testimony  
Transportation Committee Hearing  
Oversight Hearing on App Technology and the Transformation of  
the Taxi and For-Hire Industries  
December 3, 2014

Good morning Chair Rodriguez and members of the transportation committee. My name is Tweeps Phillips Woods and I am the Executive Director of the Committee for Taxi Safety, and on behalf of CTS I wish to commend you for holding this public hearing.

When discussing taxi apps and technology, it appears that what you really mean is Uber. Uber has taken advantage of a for-hire transportation environment with no real rules to regulate them by utilizing their \$17 billion valuation and high-priced public relation experts to exploit the existing regulatory system. Regulations are vital to the health of for-hire transportation by ensuring the safety and comfort of passengers, preventing price gouging, and establishing uniform standards in the for hire industry. Regulations have been applied to the yellow taxi industry for decades, but livery and black car services have not been as strictly regulated. Now, with its app, Uber has allowed livery and black cars to essentially act as yellow taxis and accept street hails without being subject to the same rules by claiming it is not a transportation company but rather a technology company, notwithstanding that it is a licensed base. This is an unfair burden on the yellow taxi industry that puts drivers and yellow cabs at a disadvantage.

Furthermore, Uber has shown itself to be an unscrupulous company acting in bad faith. Not only has it used its money and power to exploit the regulatory system, but also it has come to light in recent weeks that Uber is using private personal data it collects from customers for potentially dodgy purposes. On several occasions, the company has tracked reporters' movements, without their permission, using the company's "God View" technology. A senior executive at Uber also suggested funding a one million dollar smear campaign looking into the personal lives of reporters critical of Uber. Amazingly, Uber also does not have restrictions on who at the company can access God View. On at least one occasion, Uber projected God View onto a wall for the entertainment of its employees at a party. An Uber employee stated in an interview that employees were able to access the "God View" technology

freely without any security measures. The vulnerability of this private personal data is absolutely unacceptable, and it is a disaster waiting to happen.

At the same time the TLC was allowing Uber to run rampant with no rules to protect customers, the Commission enacted draconian regulations that doomed any app innovation for the yellow taxi market. The rules created by the TLC were so stifling that only one company, Hailo, even took up the challenge. The TLC forced yellow taxi apps to work with outdated technology instead of allowing companies to innovate new and more convenient ways for customers to access and pay for yellow taxi service. While Hailo put forth a valiant effort to make this work, in the end it was forced to leave New York City resulting in the loss of thousands of high paying jobs for the New York economy. Yellow taxis are now left with no app of their own.

As we all know by now, two of the TLC Commissioners that promulgated these disparate rules immediately went to work for the very companies they were supposed to be regulating: Ashwini Chhabra left for Uber and David Yassky consults for Lyft.

It is time for these rogue companies to be reigned in and fair common-sense regulations to be put in place.

We thank you for the opportunity to testify, and we hope that we can work together to create a better, safer, and more secure future for all taxi passengers.



**Testimony of Cira Angeles  
Spokesperson, Livery Base Owners Inc.**

**Before The Council of the City of New York  
Transportation Committee**

**Oversight Hearing: App Technology and the Transformation of the Taxi  
and For-Hire Industries**

**December 3, 2014 10:00AM**

Good morning Mr. Chairman, members of the committee and industry colleagues. My name is Cira Angeles, spokesperson for the Livery Base Owners Association (LBO), composed of 125 base owners with approximately 12,000 affiliated vehicles throughout New York City.

I want to thank the Chairman Ydanis Rodriguez and the Members of the New York City Council Transportation Committee for allowing us to speak regarding the Oversight of App Technology and the Transformation of the Taxi and For-Hire Industries today.

We're here today to discuss an agreement with the new start-up companies working in the New York City Taxi industry like Uber and Lyft. Agreements work when they address the interests of all the parties involved and when they protect against loopholes and cracks that can alter the intent of the initial agreement and ultimately the safety of the parties involved. More importantly we must look for solutions to the real problems at hand and address the entrance of wireless technologies into our industry cohesively.

The Livery Base industry has embraced the use of technology throughout our bases and vehicles for years and we strongly support innovation that protects and helps drivers and passengers alike. However, thoughtfully constructed oversight that protects the industry is critical to the safety of passengers and drivers across New York City.

***History of Technology in the Industry***

First, I'd like to take a look at the history of technology in our industry. In the 1980's and 90's the Taxi industry operated on two radio frequencies heavily regulated by the FCC. Our industry as a result had very clear delineations. In the late 90's with the introduction of cell phones and Wi-Fi the technological opportunities expanded creating entry for start-ups in the industry. By 2004 Taxi's began using wireless credit card payments and by 2011 Uber began operating in New York City. Since then our \$11 billion industry which employs 260,000 people and supports over 200,000 businesses has experienced a rapid growth of 3.2%, the greatest growth increase the industry has ever seen including 20,000 new drivers in just the past two years alone.

Over the past decade the livery industry has begun to employ technology of its own including dispatch on demand, mobile data, smartphone payment, maintenance and repair, and car leasing and financing technology through Verifone and CNT technology. However, our use of technology has not kept pace with the technological advancements available. This has been due mainly to a lack of access to capital funding, resources and training. We welcome the introduction of new technologies that improve the delivery of services but are very concerned about abrupt changes to the industry that ignore decades of oversight and protection for both drivers and passengers. These safeguards have been in place to protect the safety of all parties and cannot be undermined just to accommodate a new business model.

***Primary Concerns: Allowing Highly Capitalized Companies to Rewrite the Rules to Their Benefit***

Second, I'd like to address our main concerns. Allowing highly capitalized companies to rewrite the rules to serve their business model will undermine the industry. The government's job is to ensure that doesn't happen and that there is a level playing field for all industry players and ensuring safety for the public and drivers.

*Safety Regulations*

Uber and Lyft classify drivers as contract workers, there are no benefits, not much regulation for drivers that aren't affiliated with an Uber base, and there are insurance issues due to the sharing of vehicles. While apps for passengers is more convenient, safety concerns should prevail as the most important issue.

*Job Loss*

Technology has been a strong force in the elimination of jobs across industries and the Taxi industry is no different. EZ-Pass replaced toll booth attendants, scanners replaced retail workers, and computers are replacing our dispatch jobs. When companies operate outside of New York and splice our industry we lose plain and simple.

*Loss of Industry Investment*

Drivers choose to move to an app company for the promise of a higher salary. The Livery industry has never been able to guarantee a set annual salary. However, what the industry has been able to promise is



education. The Livery industry has placed a huge investment not just in each and every driver but in the industry as a whole. Servicing areas Yellow Cabs never initially ventured to, building community based business and building a regulation system for the industry that protects drivers and passengers.

*Driver Mobility*

We oppose allowing one base to dispatch drivers of another base without an agreement between the two bases. Doing so raises significant accountability concerns and needlessly alters the current practice. We agree that bases should be able to dispatch drivers from other bases as long as it includes an agreement between the bases. This practice has worked well for over 30 years allowing drivers to maximize their revenues while ensuring proper customer service and reliability of service. Allowing bases to dispatch other bases' affiliated drivers without an agreement will seriously undermine the important role of community based bases in providing day to day accountability to their drivers, the communities they serve and the overall safety of residents throughout New York City. In the drafting of this new agreement we want to ensure the current practice is protected.

We also want to reiterate our support for the prohibition on cross class dispatch. The Livery bases and drivers are local community based businesses serving the communities they live in and are held by a separate set of rules and regulations including a separate Worker's Compensation Fund. Livery drivers dispatched by a Black Car service may put the livery driver in danger of losing worker's compensation coverage and vice versa.

We are here today because we keep making the wrong choices with regard to the entrance of new these new companies to our long regulated long working industry. Let me be clear when start-up companies enter our industry we should embrace them and the change and technology they bring, but we need to protect the industry, employees and customers in the process.

It is our hope that the Commission will continue to listen to stakeholders from the livery industry in order to preserve the businesses and its drivers and allow us to continue providing much needed transportation to the residents of New York City as it has been doing for decades.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 12-3-14

(PLEASE PRINT)

Name: MEERA JOSHI

Address: MC TAXI + LIMO COMMISSIONER

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

OF OURSIGHT Date: \_\_\_\_\_

(PLEASE PRINT)

Name: ETHAN GERBER

Address: \_\_\_\_\_

I represent: GREATER NY TAXI ASSOC

Address: 26 COURT ST BKLN

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Chris Wilson

Address: \_\_\_\_\_

I represent: TLC

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12-3-14

(PLEASE PRINT)

Name: JO RITENSEN

Address: NYC Taxi & Limo

I represent: Exec Director of Technologia

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/14

(PLEASE PRINT)

Name: David Pollack

Address: \_\_\_\_\_

I represent: Melrose Credit Union

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/14

(PLEASE PRINT)

Name: Tweeps Phillips Woods

Address: \_\_\_\_\_

I represent: Committee for Taxi Safety

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Cira Angeles

Address: \_\_\_\_\_

I represent: Livery Race Owners

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: CAROLYN CASTRO

Address: \_\_\_\_\_

I represent: LIVERY ROUNDTABLE

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: TAREK MALLAT

Address: \_\_\_\_\_

I represent: LIVERY ROUNDTABLE/DIAL ?

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/2014

Name:

CIRA Angeles  
(PLEASE PRINT)

Address:

1642 St Nicholas Ave, NYC 10040

I represent:

Livery Base Owners Assn.

Address:

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name:

Edith Prewitts  
(PLEASE PRINT)

Address:

I represent:

Taxis For All Coalition

Address:

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/2014

Name:

Tweeps Phillips  
(PLEASE PRINT)

Address:

I represent:

Committee For Taxi Safety

Address:

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Testimony  
on Oversight

Date: 12/3/14

(PLEASE PRINT)

Name: Diana Dellamere

Address: 37-00 47th Avenue

I represent: Lyft

Address: " "

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jason Mischel

Address: 156 W 56th St

I represent: Windels Mary

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/14

(PLEASE PRINT)

Name: Jasmine Leveaux - Windels Mary

Address: 156 W. 56th St

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/14

(PLEASE PRINT)

Name: Bill Lindauer

Address: \_\_\_\_\_

I represent: New York Taxi Workers Alliance

Address: 31-10 37th Avenue Suite 300, LIC, NY 11101

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Nancy Soria

Address: 2639 Sedgwick Ave

I represent: FHV Drivers

Address: 2639 Sedgwick Ave

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/2014

(PLEASE PRINT)

Name: Nicole Benincosa

Address: 27-55 Jackson Ave, Queens

I represent: Uber Technologies, Inc.

Address: (same)

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/2014

(PLEASE PRINT)

Name: Rachel Holt

Address: 27-55 Jackson Ave., Queens

I represent: Uber Technologies, Inc.

Address: (same)

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12-3-14

(PLEASE PRINT)

Name: DERRICK ARMSTRONG

Address: \_\_\_\_\_

I represent: NY LIVES & BASE OWNER ASS

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Stella Maito

Address: 3631 10<sup>th</sup> St Long Island City, NY

I represent: StarTaxis / Star Kids

Address: 3631 10<sup>th</sup> Street, Long Island City, NY



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3/14

(PLEASE PRINT)

Name: Tamika Mallory

Address: 1079 Lydell Avenue Bro. N.Y. 10461

I represent: Shearman / Staples

Address: 3631 10<sup>th</sup> Street Long Island City, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Emmy Garcia - UBER Partner

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Khamis Rifa'i, Uber partner

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

▶ Please complete this card and return to the Sergeant-at-Arms ◀

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Daniel Jean, Uber partner

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

▶ Please complete this card and return to the Sergeant-at-Arms ◀