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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAEF LAWSON, individually and on behalf of  
all other similarly situated individuals, and in  
his capacity as Private Attorney General  
Representative

Plaintiff,

v.

GRUBHUB HOLDINGS INC. and GRUBHUB  
INC.,

Defendants.

Case No. 15-cv-05128 JSC

**PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT**

BEFORE THE HON. JACQUELINE SCOTT  
CORLEY

**Hearing:**

Date: March 3, 2022

Time: 9:00 a.m.

Place: Courtroom F

Judge: Hon. Jacqueline Scott Corley

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

**PLEASE TAKE NOTICE THAT**, on Thursday, March 3, 2022, or as soon thereafter as the matter may be heard before the Honorable Jacqueline Scott Corley by videoconference pursuant to General Order 72-2, or if the Court orders, in Courtroom F of the United States District Court, Northern District of California, located at 450 Golden Gate Avenue, 15th floor, San Francisco, California 94102, Plaintiff Raef Lawson will and hereby does move this Court for Summary Judgment.

Specifically, Plaintiff moves for Summary Judgment on Plaintiff's employment status, GrubHub's liability for the Labor Code violations alleged in this case, and on the issue of whether Plaintiff was an aggrieved employee for the purposes of pursuing a representative action under the Private Attorneys General Act ("PAGA"), Cal. Lab. Code § 2698 *et seq.* Following the conclusion of the bench trial held in this matter, the Court issued its Opinion (Dkt. 221, Lawson v. GrubHub, Inc., 302 F. Supp. 3d (S.D. Cal. 2018)) holding that Plaintiff was an independent contractor under the California common law employment status test set forth in S.G. Borello & Sons, Inc. v. Department of Industrial Relations, 48 Cal.3d 341, 349-55 (1989), and thus entering judgment in favor of GrubHub (Dkt. 222). On September 20, 2021, the Ninth Circuit in Lawson v. Grubhub, Inc., 13 F.4th 908, 917 (9th Cir. 2021), vacated the Court's decision and remanded the case. The Ninth Circuit held that: (1) the ABC test adopted by the California Supreme Court should be applied to Plaintiff's minimum wage and overtime claims; (2) this Court should determine whether the ABC test also applies to Plaintiff's expense reimbursement claim; and (3) Plaintiff's claims under the ABC test are not abated by Proposition 22. See Lawson, 13 F.4th at 913-17.

In light of the Ninth Circuit's decision, Plaintiff asks the Court to find – on the basis of the full evidentiary record that was developed during the bench trial in this matter – that Plaintiff was GrubHub's employee under the ABC test, which applies not only to Plaintiff's minimum wage and overtime claims, but also to his expense reimbursement claim. Plaintiff also seeks a finding that GrubHub failed to pay minimum wage on a number of days in violation of Cal. Lab.

1 Code §§ 1194 and 1197, failed to pay overtime for the week of November 30, 2015, in violation  
2 of Cal. Lab. Code §§ 1194, 1198, 510, and 554, and did not reimburse Plaintiff's necessary  
3 business expenses in violation of Cal. Lab. Code § 2802. As such, Plaintiff requests that the  
4 Court hold that Plaintiff is an aggrieved employee for the purposes of PAGA and that the parties  
5 may proceed to the next phase of this case in which Plaintiff will pursue his representative  
6 PAGA claims on behalf of the State and other GrubHub drivers throughout California.

7 Dated: January 26, 2022

8  
9 Respectfully submitted,  
10 RAEF LAWSON,

11 By his attorneys,

12 /s/ Shannon Liss-Riordan

13 Shannon Liss-Riordan (State Bar No. 310719)

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