

1 Mike Arias, Esq. (SBN 115385)

2 mike@aswtlawyers.com

3 Elise R. Sanguinetti (SBN 191389)

4 elise@aswtlawyers.com

5 Alfredo Torrijos, Esq. (SBN 222458)

6 alfredo@aswtlawyers.com

7 **ARIAS SANGUINETTI WANG & TORRIJOS, LLP**

8 6701 Center Drive West, 14th Floor

9 Los Angeles, California 90045

10 Tel: (310) 844-9696/ Fax: (310) 861-0168

11 Richard S. Cornfeld (To be admitted *Pro Hac Vice*)

12 rcornfeld@cornfeldlegal.com

13 Daniel Scott Levy (To be admitted *Pro Hac Vice*)

14 dlevy@cornfeldlegal.com

15 **LAW OFFICE OF RICHARD S. CORNFELD, LLC**

16 1010 Market Street, Suite 1645

17 St. Louis, Missouri 63101

18 Tel: (314) 241-5799 / Fax: (314) 241-5788

19 *Attorneys for Plaintiffs and the Proposed Class*

20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**

22 Jennifer Peter and Karson Theiss,
23 individually and on behalf of all others
24 similarly situated,

25 Plaintiffs,

26 vs.

27 DoorDash, Inc., a Delaware corporation,

28 Defendant.

Case No.

CLASS ACTION

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiffs Jennifer Peter and Karson Theiss (collectively, “Plaintiffs”), individually and on
2 behalf of all others similarly situated, make the following allegations based upon information and
3 belief, except as to those allegations specifically pertaining to Plaintiffs and their counsel, which
4 are based on personal knowledge. Plaintiffs bring this action for restitution, monetary damages
5 and injunctive relief against defendant DoorDash, Inc. (“DoorDash” or “Defendant”), demanding
6 a trial by jury.

7 NATURE OF THE ACTION

8 1. Plaintiffs bring this action individually and on behalf of a class and subclasses of
9 similarly situated consumers who used DoorDash’s website or app to place food-delivery orders
10 and who paid tips through its website or app. Those tips, which were made by consumers with
11 the intention that the tips benefit the drivers, were instead used by DoorDash fund its operations
12 by subsidizing the guaranteed minimum payments that DoorDash promised and owed its drivers.
13 As a result of DoorDash’s practice of using tips to assist in funding the guaranteed minimum
14 payments it owes drivers, part or all of the tips for drivers that consumers paid provided no
15 financial benefit to the driver.

16 2. DoorDash’s actions as alleged herein violate the California Unfair Competition Law
17 (“UCL”), Cal. Bus. & Prof. Code, §§ 17200, *et seq.*, the Missouri Merchandising Practices Act
18 (“MMPA”), §§ 407.010 *et seq.*, by means of unfair practices and deception, the Illinois Consumer
19 Fraud Act (“ICFA”), 815 ILCS 505/1 *et seq.*, by means of unfair practices and deception, and
20 constitute unjust enrichment under Missouri and Illinois law.

21 THE PARTIES

22 3. Plaintiff Jennifer Peter (“Plaintiff Peter”) is a resident of Madison County and a
23 citizen of the State of Illinois. In May of 2019 she used DoorDash in the State of Missouri to
24 place a food delivery order and to pay her driver a tip.

25 4. Plaintiff Karson Theiss (“Plaintiff Theiss”) is a resident of St. Clair County and a
26 citizen of the State of Illinois. Between March and August of 2019, he used DoorDash in the State
27 of Illinois to place food delivery orders and to pay his drivers tips.

28 5. On information and belief, defendant DoorDash (“Defendant” or “DoorDash”) is a

1 corporation incorporated in the State of Delaware with its principal place of business located at
2 901 Market Street, Suite 600, San Francisco, California 94103. DoorDash is registered to do
3 business in California. Its registered agent in California is Ricardo Orozco, Registered Agent
4 Solutions, Inc., 1220 S. Street, Suite 150, Sacramento, California 95811. DoorDash is also
5 registered to do business in Illinois. Its registered agent in Illinois is Registered Agent Solutions,
6 Inc., 901 S. 2nd St., Suite 201, Springfield, Illinois 62704. DoorDash is not currently registered
7 to do business in Missouri according to the Missouri Secretary of State's website, following its
8 administrative dissolution on April 12, 2019 for failure to file a registration report.

9 JURISDICTION AND VENUE

10 6. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, because
11 this action arises under the laws of the United States. This Court has jurisdiction over this action
12 pursuant to the Class Action Fairness Act (28 U.S.C. § 1332(d)). The aggregated claims of the
13 individual class members exceed \$5,000,000, exclusive of interest and costs, at least one class
14 member is of diverse citizenship from one defendant, and there are more than 100 class members.

15 7. This Court has personal jurisdiction over DoorDash because it conducted business
16 in California and has sufficient minimum contacts with California.

17 8. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part
18 of the events or omissions giving rise to the claims occurred and/or emanated from this District,
19 as the principle place of business for DoorDash is in San Francisco, California, and because
20 DoorDash has caused harm to class members residing in this District.

21 FACTUAL ALLEGATIONS

22 **A. DoorDash's Scheme of Using "Tips" from its Customers to Subsidize the** 23 **Guaranteed Minimum Payments That DoorDash Owes its Drivers.**

24 9. DoorDash is a self-described "technology company" that facilitates door-to-door
25 food delivery services.¹ Using DoorDash's website or app, a consumer can place a food delivery
26 order from participating restaurants that one of DoorDash's drivers, which it calls "Dashers," then

27 _____
28 ¹ See "About Us," on DoorDash's website, available at <https://www.doordash.com/about/> (accessed September 9, 2019).

1 delivers to the consumer. A consumer who places an order through DoorDash is given the option
2 to add a tip for his or her Dasher before he or she completes the order online.

3 10. As outlined in a series of recent news articles, some of which are addressed below,
4 and as acknowledged by DoorDash, DoorDash's tipping policy results in parts or all of the tips
5 that consumers pay not providing a financial benefit to the Dashers. This is because DoorDash
6 uses tips that consumers pay to their Dashers to subsidize part or most of a guaranteed minimum
7 payment (the amount of which varies per delivery) that DoorDash promises to its Dashers for each
8 delivery.

9 11. For example, if a guaranteed minimum payment to a Dasher for a delivery is \$7.00
10 and the consumer leaves no tip, DoorDash pays the Dasher this \$7.00. But if the consumer leaves
11 a \$3.00 tip, DoorDash uses this \$3.00 toward the guaranteed \$7.00 minimum payment and only
12 pays \$4.00 of its own money.

13 12. The result is that the Dasher receives no additional compensation by the consumer
14 leaving a tip through DoorDash's website or app, and the consumer is deceived into leaving a tip
15 that merely reduces the amount that DoorDash has to pay the Dasher to meet the guaranteed
16 minimum payment.

17 13. This is explained in an article in the New York Times on July 21, 2019 by Andy
18 Newman, a reporter who worked for a few days as a food deliveryman for various companies,
19 including DoorDash.²

20 14. Mr. Newman states that DoorDash offers a guaranteed minimum for each job, which
21 for his first order was \$6.85. *Id.* The customer left a \$3.00 tip via DoorDash's app, but Mr.
22 Newman only received a total of \$6.85 for making the delivery. *Id.*

23 15. As he explains, had the customer not left a tip DoorDash would have paid him the
24 entire \$6.85. *Id.* But DoorDash used the customer's \$3.00 tip toward its guaranteed minimum
25 payment, meaning DoorDash only contributed \$3.85 towards the \$6.85 guaranteed minimum
26

27 ² See "My Frantic Life as a Cab-Dodging, Tip-Chasing Food App Deliveryman," available at
28 <https://www.nytimes.com/2019/07/21/nyregion/doordash-ubereats-food-app-delivery-bike.html>
(accessed September 10, 2019).

1 payment owed. *Id.* Thus, by tipping \$3.00 the customer actually *saved* DoorDash this amount –
2 rather than increasing what the Dasher received for the delivery as consumers would reasonably
3 expect. *Id.*

4 16. The Washington Post also reported on DoorDash’s tipping policy, including tweets
5 by DoorDash’s CEO Tony Xu in which he expressed an intent for the company to change its
6 policy.³

7 17. The article states that under DoorDash’s current policy “tips are used to meet the
8 minimum payment promised to its delivery crew,” which, according to the article, has “prompted
9 customers, workers and advocacy groups to accuse DoorDash of using gratuities to underwrite
10 drivers’ paychecks.” *Id.*

11 18. It quotes tweets from Mr. Xu addressing the policy, in which he states in part: “But
12 it’s clear from recent feedback that we didn’t strike the right balance. We thought we were doing
13 the right thing by making Dashers whole when a customer left no tip. What we missed was that
14 some customers who *did* tip would feel like their tip did not matter.” *Id.*

15 19. This statement is misleading. “Some customers” may “feel” that their tips didn’t
16 matter, but the fact is that their tips didn’t matter except to subsidize the amounts that DoorDash
17 owed its drivers.

18 20. The Washington Post article also quotes a post that a DoorDash driver made on the
19 website Reddit: “[DoorDash] technically doesn’t ‘steal’ your tip. They give it to you. . . BUT
20 they use it to subsidize what they pay out of pocket which is basically the same thing at the end
21 of the day.” *Id.*

22 21. The Huffington Post similarly reported on DoorDash’s tipping policy.⁴ It quoted a
23 tech writer named Louise Matsakis who wrote on Twitter: “I don’t believe that a single person

24 ³ See “DoorDash to change its controversial tipping policy after outcry.” Available at
25 [https://www.washingtonpost.com/business/2019/07/24/doordash-change-its-controversial-tipping-](https://www.washingtonpost.com/business/2019/07/24/doordash-change-its-controversial-tipping-policy-after-outcry)
26 [policy-after-outcry](https://www.washingtonpost.com/business/2019/07/24/doordash-change-its-controversial-tipping-policy-after-outcry) (accessed September 10, 2019).

27 ⁴ See “DoorDash to Change Tipping Model Following Backlash,” available at
28 https://www.huffpost.com/entry/doordash-changes-tipping-policy_n_5d3888c6e4b020cd994d74cb
(accessed September 10, 2019).

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