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24 **UNITED STATES DISTRICT COURT**
25 **NORTHERN DISTRICT OF CALIFORNIA**
26 **SAN FRANCISCO DIVISION**

27 TERRELL ABERNATHY, et al.,)
28) Case No. 3:19-cv-07545
)
)
29 *Petitioners,*) **PETITION FOR ORDER**
) **COMPELLING ARBITRATION**
)
30 vs.)
)
31)
32 DOORDASH, INC.,)
33)
34)
35 *Respondent.*)
36)
37)
38)

1 Petitioners file this Petition for an Order compelling Respondent DoorDash, Inc. to
2 arbitration as follows:

3 **NATURE OF THE PETITION**

4 1. Petitioners are 2,236 DoorDash couriers (“Dashers”) who are attempting to arbitrate
5 individual claims against DoorDash for misclassifying them as independent contractors instead of
6 employees. Petitioners contend that in misclassifying them, DoorDash has violated the Fair Labor
7 Standards Act, 29 U.S.C. §§ 206, 207, and related California state and local laws.

8 2. In order to begin making deliveries for DoorDash, each Petitioner was required to
9 sign a contract that contained a sweeping “Mutual Arbitration Provision.” No Petitioner recalls
10 opting out of that arbitration provision.

11 3. The Mutual Arbitration Provision requires that the parties arbitrate any dispute
12 regarding a Dasher’s classification as an independent contractor. The provision also requires that
13 arbitration be administered by the American Arbitration Association (“AAA”) under AAA’s
14 Commercial Rules. Those Rules, in turn, authorize AAA to require that each party pay filing fees
15 before AAA will empanel an arbitrator and proceed with the parties’ arbitration. DoorDash’s
16 arbitration provision expressly requires that DoorDash pay a portion of the fees and costs necessary
17 to commence arbitration.

18 4. On August 26, 2019, in accordance with the parties’ agreement, counsel for
19 Petitioners served an individual demand for arbitration on DoorDash and AAA on behalf of each
20 Petitioner. Each Petitioner promptly satisfied his or her filing-fee obligation.

21 5. AAA determined that each Petitioner’s demand for arbitration met the requirements
22 under AAA’s rules to proceed with arbitration. Thus, pursuant to its rules, AAA imposed successive
23 deadlines of October 14, 2019, October 28, 2019, and November 7, 2019 for DoorDash to pay its
24 share of the filing fees necessary to commence each Petitioner’s arbitration and empanel an
25 arbitrator.

26 6. DoorDash refused to comply with AAA’s deadlines. It did not pay the filing fees
27 necessary for a single Petitioner to proceed with arbitration.

28 7. On November 8, 2019, AAA terminated Petitioners’ arbitrations due to DoorDash’s

1 refusal to satisfy its filing fee obligations.

2 8. Petitioners have filed this Petition to require DoorDash to abide by the arbitration
3 agreement it drafted.

4 **PARTIES**

5 9. Petitioners are Dashers who have made deliveries for DoorDash in California.
6 Details for each Petitioner are listed in Exhibit A.

7 10. Respondent DoorDash, Inc. is a Delaware corporation headquartered at 901 Market
8 Street, Sixth Floor, San Francisco, California 94103.

9 **JURISDICTION AND VENUE**

10 11. This Court has jurisdiction over this action pursuant to 9 U.S.C. § 4 and 28 U.S.C.
11 §§ 1331 and 1367 because the underlying controversy involves claims arising under federal law.

12 12. This Court has personal jurisdiction over DoorDash because DoorDash has its
13 headquarters and principal place of business in California.

14 13. Venue is proper in this district (San Francisco Division) pursuant to 9 U.S.C. § 4
15 and 28 U.S.C. § 1391(b) because DoorDash is headquartered and conducts business in San
16 Francisco County, and many of the acts and omissions complained of occurred in San Francisco
17 County.

18 **INTRADISTRICT ASSIGNMENT**

19 14. This action is properly assigned to the San Francisco Division of this District,
20 pursuant to Civil Local Rule 3-2(c) and (d), because a substantial part of the events or omissions
21 that give rise to the claim occurred in San Francisco County, which is served by the San Francisco
22 Division.

23 **BACKGROUND**

24 15. DoorDash is an on-demand delivery service through which customers may order
25 food and other items from participating merchants for delivery. DoorDash pays Dashers to make
26 those deliveries.

27 16. Petitioners are Dashers whom DoorDash has misclassified as independent
28 contractors rather than employees, in violation of federal, state, and local law.

1 17. DoorDash executed an agreement with each Petitioner requiring that DoorDash and
2 the Petitioner individually arbitrate any claim arising from the agreement, including a claim that
3 the Petitioner has been misclassified. *See, e.g.*, Ex. B (DoorDash’s 2019 Independent Contractor
4 Agreement). The agreement further requires that the arbitration be administered by AAA under its
5 Commercial Arbitration Rules. *See id.*

6 18. Under the Commercial Rules, “[t]he arbitrator shall interpret and apply the[] rules
7 insofar as they relate to the arbitrator’s powers and duties.” Commercial Rule 8. Where no
8 arbitrator is yet available, or where a rule does not involve the “arbitrator’s powers and duties,” the
9 rules “shall be interpreted and applied by the AAA.” *Id.*¹

10 19. Commercial Rule 56 further authorizes AAA to “require the parties to deposit in
11 advance of any hearings such sums of money as it deems necessary to cover the expense of the
12 arbitration, including the arbitrator’s fee.” Commercial Rule 56.

13 20. The Commercial Rules also state that AAA’s Employment Fee Schedule applies
14 where, as here, workers bring claims asserting that they were misclassified as independent
15 contractors. *Id.* at 2 n.*. And the Employment Fee Schedule states that “[t]he employer or
16 company’s share of filing fees is due as soon as the employee or individual meets his or her filing
17 requirements.” Employment Fee Schedule at 2.²

18 21. DoorDash has enforced its broad arbitration agreement to preclude couriers from
19 filing misclassification claims against it in court. *See, e.g., Magana v. DoorDash, Inc.*, 343 F. Supp.
20 3d 891 (N.D. Cal. 2018) (compelling a Dasher to arbitrate misclassification claims); *Mckay v.*
21 *DoorDash, Inc.*, No. 19-cv-04289-MMC, 2019 WL 5536199 (N.D. Cal. Oct. 25, 2019) (same).

22 22. On August 26, 2019, in accordance with the parties’ agreement, counsel for
23 Petitioners served an individual demand for arbitration on DoorDash and AAA on behalf of each
24 Petitioner. Each Petitioner promptly satisfied his or her filing-fee obligation.

25 23. AAA then determined that each Petitioner’s arbitration demand satisfied AAA’s
26 filing requirements.

27 ¹ Available at https://www.adr.org/sites/default/files/CommercialRules_Web_FINAL_1.pdf.

28 ² Available at https://www.adr.org/sites/default/files/Employment_Fee_Schedule1Nov19.pdf.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

34. Enter an Order requiring that DoorDash arbitrate each Petitioner’s claims under the Mutual Arbitration Provision, including by paying the arbitration fees and costs AAA determines are necessary to empanel arbitrators and proceed with arbitrations.

Dated: November 15, 2019

Respectfully submitted,

/s/ Keith A. Custis
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CERTIFICATE OF SERVICE

I certify that I shall cause the foregoing document to be served on DoorDash, Inc. at its registered agent for service of process, Registered Agent Solutions, Inc. 1220 S. Street, Suite 150, Sacramento, CA 95811, on or around November 18, 2019.

Dated: November 15, 2019

/s/ Keith A. Custis