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9 **United States District Court**
10 **for the Northern District of California**
11 **San Francisco Division**

12 Plaintiff Edmond Mesachi,

13 v.

14 Defendant Postmates Inc.

Case No. 20-cv-3046

Complaint; Demand for Jury Trial

15
16 **Introduction**

- 17
- 18 1. This is a wage theft case.
 - 19 2. Postmates Inc. is an on-demand delivery company.
 - 20 3. After creating an account with Postmates, consumers can order meals
21 from restaurants, or groceries and other items from stores, using the company's
22 website or smartphone app.
 - 23 4. Postmates delivers those items right away.
 - 24 5. The workers who do the delivering are Postmates "Fleet."
 - 25 6. The deliveries these workers make aren't just in the ordinary course of
26 Postmates's business—they are Postmates's business.

27 COMPLAINT - 1

7. Under California law, that makes the Fleet workers Postmates's employees. Cal. Labor Code § 2750.1(a); *Dynamex Operations W., Inc. v. Superior Court*, 4 Cal.5th 903, 955 (Cal. 2018).

8. Postmates, like all employers, owes its employees minimum wage, overtime pay, sick leave, and a host of other benefits.

9. Yet Postmates pays its Fleet less than it should and offers no benefits. It instead misclassifies its workers as independent contractors.

10. Edmond Mesachi is one of Postmates's misclassified workers.

11. He's worked for Postmates since 2016, making hundreds of the deliveries that are the company's only real product.

12. For his effort, he has been underpaid and denied the other benefits due him under law.

13. He now sues Postmates to claim what he is owed.

Parties

14. Plaintiff Edmond Mesachi is an individual living in the Los Angeles area.

15. Defendant Postmates Inc. is a Delaware corporation with its principal place of business in San Francisco, California.

Jurisdiction & Venue

16. The court has federal-question jurisdiction over this case based on Mesachi's federal Fair Labor Standards Act claim and supplemental jurisdiction over Mesachi's remaining claims because they arise from the same basic facts as the federal claim.

17. Venue is appropriate under 28 U.S.C. § 1391(b)(1) because Postmates is the only defendant and it resides in this judicial district.

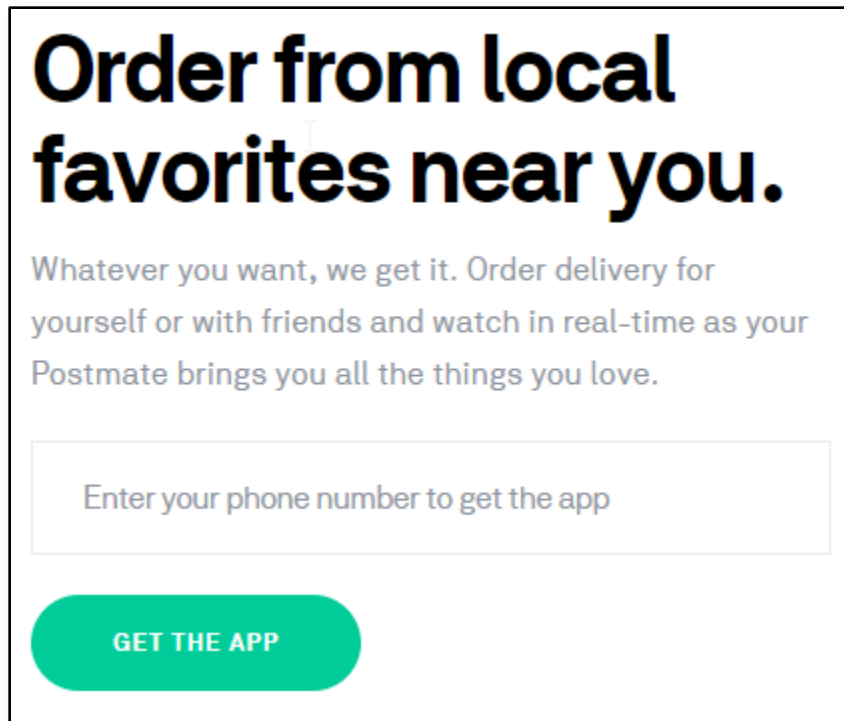
18. Intradistrict Assignment should be to the San Francisco Division because Postmates is based in San Francisco.

Allegations

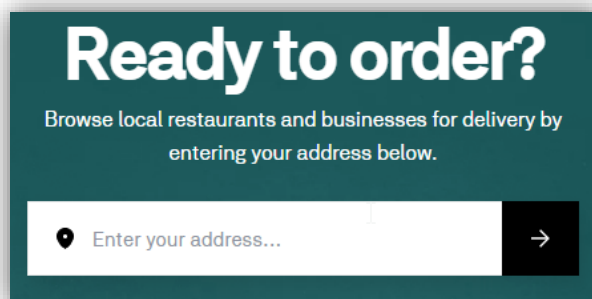
Postmates

19. Postmates was founded in 2011 as an on-demand delivery company. It now serves 4,200 cities, covering over 80% of U.S. households.

20. Postmates's marketing shows that its business is delivery. Its website repeatedly offers consumers fast delivery from local merchants:



– and –

*How Postmates Makes Money*

21. The way Postmates makes money is consistent with its marketing.

22. Postmates gets paid for making deliveries.

23. Consumers create accounts with Postmates by forking over their names, addresses, preferences, and payment information (like a credit card number).

24. A consumer can log into their Postmates account from a smartphone or computer, click on stores in their area, see what those stores have to offer, add items to a virtual shopping cart, schedule a time to have those items delivered, and pay.

25. Postmates's revenue comes almost exclusively from what consumers pay for deliveries.

The Fleet

26. To make deliveries happen, Postmates employs a Fleet of workers.

27. To join the Fleet, a worker must create a Fleet-account with Postmates via its website or a Fleet-specific version of its smartphone app.

28. Using the app, the worker gives Postmates his or her personal information, consents to a background check, accepts Postmates “Fleet Agreement,” and provides a bank account for direct deposit of wages.

29. Postmates sends new workers a Postmates charge card to pay for, and an insulated bag to transport, consumer orders.

30. The worker can then log onto the app and accept any delivery jobs that Postmates sends to that worker.

31. If the worker accepts a job, the worker must then travel to the store, pick up the order, and deliver it to the consumer.

32. Postmates pays its workers on a per-job basis.

33. Postmates reserves the right to change its payment formula at any time.

34. Currently, in Los Angeles, the published payment formula is this:

Delivery Earnings

Rate Per Pickup	Rate Per Dropoff	Rate Per Minute	Rate Per Mile
\$1.40	\$0.70	\$0.07	\$0.69

35. By “Per Minute,” Postmates only means minutes between the time a worker accepts a delivery job and the drop-off for that job. Postmates does not pay for the time workers are waiting for jobs.

36. By “Per Mile,” Postmates only means distance—as the crow flies—between the merchant and the consumer. Postmates does not count other mileage.

37. Postmates does not pay workers’ business expenses, like vehicles, insurance, parking, cellphones, or data plans.

38. And Postmates makes no effort to calculate or pay overtime to workers who work more than 8 hours in a day, 40 hours in a week, or six days in a row.

39. Postmates also refuses to offer sick time or meal and rest breaks.

40. Postmates also fails to provide wage statements to workers from which they can discern their gross and net wages, and the hourly rate at which they are being compensated for their work.

Fleet Workers are Not Independent Businesses

41. Postmates Fleet workers are not independent transportation businesses or genuine independent contractors.

42. First and foremost, a genuine business, or a genuine independent contractor, would make more than minimum wage. Fleet workers don’t.

43. Fleet workers have no independent brand. To the stores they pick up from, and the consumers they drop off with, they are *Postmates*; not an independent business.

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