

1 Rafey S. Balabanian (SBN 315962)  
 rbalabanian@edelson.com  
 2 Yaman Salahi (SBN 288752)  
 ysalahi@edelson.com  
 3 P. Solange Hilfinger-Pardo (SBN 320055)  
 shilfingerpardo@edelson.com  
 4 EDELSON PC  
 150 California Street, 18th Floor  
 5 San Francisco, California 94111  
 Tel: 415.212.9300  
 6 Fax: 415.373.9435

7 Rachel Dempsey (SBN 310424)  
 rachel@towardsjustice.org  
 8 TOWARDS JUSTICE  
 2840 Fairfax Street, Suite 200  
 9 Denver, Colorado 80207  
 Tel: 720.295.8846  
 10 Fax: 303.957.2289

11 *Counsel for Plaintiffs and the Proposed Class*

12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
 14 **OAKLAND DIVISION**

15 TAJE GILL, ESTERPHANIE ST. JUSTE, and  
 16 BENJAMIN VALDEZ, individually and on  
 17 behalf of all others similarly situated,

18 *Plaintiffs,*

19 v.

20 UBER TECHNOLOGIES, INC., a Delaware  
 21 corporation, and LYFT, INC., a Delaware  
 22 corporation,

23 *Defendants.*

Case No.: 4:22-cv-04379-JSW

**PLAINTIFFS’ NOTICE OF MOTION  
 AND MOTION TO REMAND AND  
 MEMORANDUM OF POINTS AND  
 AUTHORITIES**

**Date:** November 4, 2022

**Time:** 9:00am

**Location:** Courtroom 5 – 2nd Floor

**Judge:** Honorable Jeffrey S. White

**NOTICE OF MOTION AND STATEMENT OF REQUESTED RELIEF**

PLEASE TAKE NOTICE THAT, on November 4, 2022, at 9:00 am in Courtroom 5, 2<sup>nd</sup> Floor of the U.S. District Court for the Northern District of California, Oakland Division, at 1301 Clay St., Oakland, CA 94612, this Motion to Remand filed by Plaintiffs in the above-captioned action will be heard.

Plaintiffs respectfully request that the Court remand this case to San Francisco Superior Court because Defendant Uber, Inc.'s Notice of Removal fails to establish the existence of a federal question imparting federal subject matter jurisdiction. Plaintiffs' Motion is based on this Notice of Motion and the supporting Memorandum of Points and Authorities.

Dated: August 29, 2022

Respectfully submitted,

**TAJE GILL, ESTERPHANIE ST. JUSTE, and  
BENJAMIN VALDEZ**, individually and on behalf of  
all others similarly situated,

By: /s/ Yaman Salahi  
One of Plaintiffs' Attorneys

Rafey S. Balabanian (SBN 315962)  
rbalabanian@edelson.com  
Yaman Salahi (SBN 288752)  
ysalahi@edelson.com  
P. Solange Hilfinger-Pardo (SBN 320055)  
shilfingerpardo@edelson.com  
EDELSON PC  
150 California Street, 18th Floor  
San Francisco, California 94111  
Tel: 415.212.9300  
Fax: 415.373.9435

Rachel Dempsey (SBN 310424)  
rachel@towardsjustice.org  
TOWARDS JUSTICE  
2840 Fairfax Street, Suite 200  
Denver, Colorado 80207  
Tel: 720.295.8846  
Fax: 303.957.2289

*Counsel for Plaintiffs and the Proposed Class*

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**I. INTRODUCTION** ..... 1

**II. FACTUAL AND PROCEDURAL BACKGROUND**..... 1

**III. ARGUMENT** ..... 2

**A. No Federal Question Appears on the Face of the Complaint** ..... 3

**B. No Exception to the Well-Pleaded Complaint Rule Permits the Court to Exercise Federal Question Jurisdiction over this State Law Case** ..... 4

**1. The Artful Pleading Doctrine Does Not Apply** ..... 4

**2. Plaintiffs’ State Law Claims Were Not Brought Under Federal Law** ..... 4

**3. District Court Decisions that Permit Federal Question Jurisdiction Over State Law Antitrust Claims Are Inapplicable or Incorrect** ..... 7

**IV. CONCLUSION** ..... 11

**TABLE OF AUTHORITIES**

**United States Supreme Court Cases**

1  
2  
3 *California v. ARC Am. Corp.*,  
4 490 U.S. 93 (1989) .....4, 8  
5  
6 *Caterpillar Inc. v. Williams*,  
7 482 U.S. 386 (1987) .....3  
8  
9 *Gunn v. Minton*,  
10 568 U.S. 251 (2013) .....5  
11  
12 *Merrell Dow Pharms. Inc. v. Thompson*,  
13 478 U.S. 804 (1986) .....5  
14  
15 *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Manning*,  
16 578 U.S. 374 (2016) .....8, 9  
17  
18 *Pan Am. Petroleum Corp. v. Superior Ct. of Del. In & For New Castle Cty.*,  
19 366 U.S. 656 (1961) .....5

**United States Circuit Court of Appeals Cases**

20 *Balser v. Dep’t of Just., Off. of U.S. Tr.*,  
21 327 F.3d 903 (9th Cir. 2003) .....5  
22  
23 *City of Oakland v. BP PLC*,  
24 969 F.3d 895 (9th Cir. 2020) .....3, 4  
25  
26 *Cty. of San Mateo v. Chevron Corp.*,  
27 32 F.4th 733 (9th Cir. 2022) .....4  
28  
29 *Dimidowich v. Bell & Howell*,  
30 803 F.2d 1473 (9th Cir. 1986) .....6, 9  
31  
32 *Gaus v. Miles, Inc.*,  
33 980 F.2d 564 (9th Cir. 1992) .....2, 10  
34  
35 *Hansen v. Grp. Health Coop.*,  
36 902 F.3d 1051 (9th Cir. 2018) .....2, 4  
37  
38 *Lippitt v. Raymond James Fin. Servs., Inc.*,  
39 340 F.3d 1033 (9th Cir. 2003) .....5, 6, 10  
40  
41 *Matheson v. Progressive Specialty Ins. Co.*,  
42 319 F.3d 1089 (9th Cir. 2003) .....2

1	<i>Rains v. Criterion Sys., Inc.</i> , 80 F.3d 339 (9th Cir. 1996) .....	6
2	<i>Redwood Theatres, Inc. v. Festival Enterprises, Inc.</i> ,	
3	908 F.2d 477 (9th Cir. 1990) .....	3, 4
4	<b>United States District Court Cases</b>	
5	<i>Aguayo v. Wachovia</i> ,	
6	No. 10-cv-01178-JSW, 2010 WL 1221810 (N.D. Cal. Mar. 24, 2010) .....	6
7	<i>Cent. Valley Med. Grp., Inc. v. Indep. Physician Assocs. Med. Grp., Inc.</i> ,	
8	No. 19-CV-00404-LJO-SKO, 2019 WL 2491328 (E.D. Cal. June 14, 2019) .....	7
9	<i>City of Livingston v. Dow Chem., Co.</i> ,	
10	No. 05-cv-03262-JSW, 2005 WL 2463916 (N.D. Cal. Oct. 5, 2005) .....	11
11	<i>Guthrie v. Transamerica Life Ins. Co.</i> ,	
12	561 F. Supp. 3d 869 (N.D. Cal. 2021) .....	7
13	<i>In re Nat'l Football Leagues Sunday Ticket Antitrust Litig.</i> ,	
14	No. 15-cv-09996-BRO-JEMX, 2016 WL 1192642 (C.D. Cal. Mar. 28, 2016) .....	8
15	<i>Marquez v. DSW Shoe Warehouse, Inc.</i> ,	
16	No. 20-CV-07759-JSW, 2021 WL 6200337 (N.D. Cal. Mar. 12, 2021) .....	2
17	<i>Molina Healthcare, Inc. v. Celgene Corp.</i> ,	
18	No. 21-cv-05483-JCS, 2022 WL 161894 (N.D. Cal. Jan. 18, 2022) .....	10
19	<i>Nat'l Credit Reporting Ass'n, Inc. v. Experian Info. Sols., Inc.</i> ,	
20	No. 04-cv-01661 WHA, 2004 WL 1888769 (N.D. Cal. July 21, 2004) .....	3, 7
21	<i>PeopleBrowsr, Inc. v. Twitter, Inc.</i> ,	
22	No. C-12-6120 EMC, 2013 WL 843032 (N.D. Cal. Mar. 6, 2013) .....	7
23	<i>Rosenman v. Facebook Inc.</i> ,	
24	No. 21-cv-02108-LHK, 2021 WL 3829549 (N.D. Cal. Aug. 27, 2021) .....	7, 8
25	<i>Schumacher v. J.R. Simplot Co.</i> ,	
26	No. 6:21-CV-00489-MC, 2021 WL 3604836 (D. Or. Aug. 13, 2021) .....	1
27	<b>California Supreme Court Cases</b>	
28	<i>Burdell v. Grandi</i> ,	
	152 Cal. 376 (1907) .....	10
	<i>In re Cipro Cases I &amp; II</i> ,	
	61 Cal. 4th 116 (2015) .....	10

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.