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9 | **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 | **CITY AND COUNTY OF SAN FRANCISCO**

11 | **UNLIMITED JURISDICTION**

12 | CGC-20-584789

13 | THE PEOPLE OF THE STATE OF CALIFORNIA, | CASE NO.:

14 | Plaintiff, | **COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL PENALTIES, RESTITUTION AND OTHER EQUITABLE RELIEF**

15 | vs.

16 | DOORDASH, INC., and DOES 1 through 10, inclusive,

17 | Defendants. | Amount in Controversy Exceeds $25,000

18

19 | Plaintiff, the People of the State of California ("People"), by and through Chesa Boudin,

20 | District Attorney for the City and County of San Francisco, acting to protect the general public

21 | within the State of California from unlawful and unfair business practices, hereby brings this

22 | action against DoorDash, Inc. and Does 1 through 10 (collectively "DoorDash"), and alleges as

23 | follows:

24 | **INTRODUCTION**

25 | 1.   DoorDash is a business that delivers food, beverages and other items from local

26 | restaurants and stores to nearby customers.

27 | 2.   DoorDash employs and pays delivery persons to pick up orders from merchants

28 | and deliver them to customers. DoorDash refers to its delivery workers as "Dashers."

3.   In direct contravention of California law, DoorDash has and continues to misclassify its Dashers as independent contractors when, in fact, they are DoorDash's employees. Dashers are employees because DoorDash cannot show that (1) Dashers are free from DoorDash's direction and control, (2) Dashers perform work outside of the usual course of DoorDash's delivery business, *and* (3) Dashers are engaged in an independently established trade or occupation.

4.   DoorDash's misclassification of its Dashers was no mistake, but instead a calculated decision made to reduce the costs of doing business at the expense of the very workers providing the company's core service of delivery: the delivery of merchandise from merchants to customers.

5.   Under California's protective labor laws, workers are presumed to be employees and it is the employer's burden to justify classifying workers as independent contractors. Despite this presumption, misclassification of employees remains a persistent economic problem in California. Speaking to the scale of the problem, the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903 (2018) cited to regulatory agencies of both federal and state governments that found misclassification is a "very serious problem" that was depriving "millions of workers of the labor law protections to which they are entitled." (*Dynamex*, 4 Cal. 5th at 913.) Additionally, the California Legislature has stated that misclassification contributes to the rise in income inequality and the shrinking of the middle class. (Assembly Bill 5 § 1(c) & (e).)

6.   The distinction between Dashers being classified as employees instead of independent contractors is critical. California law affords employees a multitude of rights that independent contractors do not enjoy. When employees are misclassified, they are unlawfully denied their guaranteed rights to minimum labor standards, including minimum wage and overtime pay, meal and rest breaks, workers' compensation coverage, paid sick leave, family leave, reimbursement for business expenses, and access to wage replacement programs like disability insurance and unemployment insurance. Additionally, misclassified workers are not

1 protected by most anti-discrimination laws and do not have nearly as robust legal rights to

2 unionize and to bargain collectively.

3   7.   The public good also suffers from misclassification: (1) the substandard wages and

4 unhealthy working conditions that can result from misclassification often force the public to

5 assume the responsibility for the ill effects suffered by workers and their families; (2) the State of

6 California ("State") is deprived of tax revenue used to fund social safety net programs such as

7 unemployment insurance; and (3) businesses who properly classify their workers and pay the

8 associated costs must compete with companies who misclassify, allowing unscrupulous

9 employers to gain an unfair advantage over their law-abiding competitors.

10   8.   In addressing the widespread and systematic issue of employer misclassification of

11 workers as independent contractors, the *Dynamex* Court, in a unanimous decision, adopted the

12 straightforward "ABC" test for determining employment status under California's Industrial

13 Welfare Commission ("IWC") Wage Orders. (*Dynamex*, 4 Cal. 5th at 916.)

14   9.   In 2019, the Legislature took action to curb misclassification by passing Assembly

15 Bill 5 ("AB 5"), which seeks to restore "protections to potentially several million workers who

16 have been denied . . . basic workplace rights that all employees are entitled to under the law."

17 (AB 5 § 1(e).) AB 5 codified the ABC test set forth in *Dynamex* and also expanded the test's

18 application to contexts beyond those at issue in *Dynamex*, to include workers' compensation,

19 unemployment insurance, and disability insurance. (*See* Cal. Lab. Code §§ 2750.3(a)(1), 3351(i);

20 Unemployment Ins. Code § 621.)

21   10.   From the Court's 2018 decision in *Dynamex* to the Legislature's passing of AB 5 to

22 the Governor's execution of the bill in 2019, all three branches of California government have

23 made clear that businesses need to follow the ABC test when it comes to the classification of

24 their workers.

25   11.   Yet, despite this clear message, DoorDash has and continues to misclassify its

26 Dashers throughout California as independent contractors instead of employees.

27   12.   DoorDash cannot meet its burden to establish that its Dashers have been and are

28 properly classified as independent contractors. Specifically, applying the ABC test, DoorDash

cannot show that: (A) its Dashers are free from the control and direction of DoorDash in connection with the performance of the work, both under the contract for the performance of such work and in fact; (B) its Dashers perform work that is outside the usual course of DoorDash's business; and (C) its Dashers are customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

13.   By misclassifying its Dashers, DoorDash has denied them minimum labor protections, violated California's workplace laws, failed to fulfill its tax obligations to the State, and gained an unfair advantage over its law-abiding competitors. DoorDash's illegal misclassification and accompanying failure to comply with numerous provisions of California law constitute an unlawful and unfair business practice and, therefore, violate California's Unfair Competition Law ("UCL") as set forth in California Business and Professions Code section 17200 *et seq.*

JURISDICTION AND VENUE

14.   The Superior Court has original jurisdiction over this action pursuant to Article VI, Section 10 of the California Constitution.

15.   The Superior Court has jurisdiction over DoorDash because: (1) DoorDash is headquartered in the State of California; (2) DoorDash is authorized to and conducts business in and across this State; and (3) DoorDash otherwise has sufficient minimum contacts with and purposefully avails itself of the markets of this State, thus rendering the Superior Court's jurisdiction consistent with traditional notions of fair play and substantial justice.

16.   Venue is proper under Code of Civil Procedure section 393(a) because DoorDash is headquartered in the City and County of San Francisco and thousands of the illegal acts described below occurred in the City and County of San Francisco.

PARTIES

17.   The People of the State of California bring this civil enforcement action by and through San Francisco District Attorney Chesa Boudin pursuant to California Business and Professions Code sections 17204 and 17206(a).

18. Defendant DoorDash, Inc. is incorporated under Delaware law and is headquartered in San Francisco, California.

19. The true names and capacities of the Defendants sued herein as DOES 1 through 10 are unknown to the People. The People will amend the Complaint to allege the true names and capacities of such Defendants when ascertained. The People are informed and believe, and thereon allege, that each of the fictitiously named Defendants is legally responsible in some manner for the events referred to herein.

20. The People are informed and believe, and upon such information and belief allege, that, at all times herein mentioned, Defendants DoorDash, Inc. and DOES 1 through 10 were all involved in the decisions and actions complained of herein. Further, the People are informed and believe, and upon such information and belief allege, that, at all times herein mentioned, Defendants DoorDash, Inc. and DOES 1 through 10, and each of them, were the agents, co-conspirators, parent corporation, joint employers, alter ego, and/or joint venturers of the other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, conspiracy, joint employer, alter ego status, and/or joint venture and with the permission and consent of each of the other Defendants.

FACTS COMMON TO ALL CAUSES OF ACTION

I. **DoorDash Operates a Delivery Service**

21. DoorDash was first incorporated in 2013 under the name Palo Alto Delivery Inc. In 2015, the company changed its name to DoorDash, Inc.

22. As its original name indicates, DoorDash is and has always been a delivery service. DoorDash's founders have stated that their "vision is to build the local, on-demand Fedex."

23. DoorDash tracks the number of deliveries completed as a metric for its growth and has publicized its achievement of becoming "the first on-demand destination to offer food delivery in all 50 states."

24. DoorDash's delivery business uses a website and smartphone application to receive delivery requests from customers and then dispatches couriers (who it calls "Dashers") to pick up

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