

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION**

KATHLEEN SHORT,

Plaintiff,

v.

CASE NO.: _____

UBER TECHNOLOGIES, INC.,

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Kathleen Short, (“Plaintiff”), by and through the undersigned counsel, on behalf of herself and on behalf of all others similarly situated, brings this Complaint against Defendant, Uber Technologies, Inc., (“Defendant” or “Uber”), and in support of her claims states as follows:

PRELIMINARY STATEMENT

1. This Complaint is filed as a collective action under 29 U.S.C. § 216(b), and as a class action under Federal Rule of Civil Procedure 23(b)(1), and is brought by and on behalf of persons who are or have been at some time employed during the applicable limitations period as drivers for Uber Technologies, Inc., a Delaware Corporation with its principal place of business in California, in the business of providing taxi or transportation services to the general public.

2. This is a collective action and a class action which challenges Uber’s uniform policy of willfully misclassifying its drivers as independent contractors when, in fact, each such driver is and/or was an employee of Uber.

3. As a result of Uber’s unlawful misclassification of its drivers as independent contractors, Uber has uniformly violated the requirements of the Fair Labor Standards Act, as

amended (“FLSA,” 29 U.S.C. § 201 *et seq.*) and the Florida Minimum Wage Act (“FMWA” Fla. Stat. § 44.) by failing to pay its Drivers at least the minimum wage required by Federal and Florida law for every hour worked.

PARTIES

4. Plaintiff is a resident of Brevard County, Florida. Between March 2018 and May 2020, Plaintiff worked for Uber as a driver in Sebastian, Florida.

5. Defendant Uber is a corporation, organized under the laws of the state of Delaware, which is licensed to conduct business in the state of Florida, and which does conduct substantial business on a regular and continuous basis in Florida. Uber’s principal place of business is in San Francisco, California.

JURISDICTION AND VENUE

6. This Court has federal question jurisdiction over Plaintiff’s FLSA claims pursuant to 28 U.S.C. § 1331.

7. Venue is proper in the United States District Court, Southern District of Florida, pursuant to 28 U.S.C. § 1391. Plaintiff resides in Micco, Florida, worked for Defendant in St. Sebastian, Florida, and her claims arose, in substantial part, in Sebastian, Florida. Defendant regularly conducts business in Sebastian, Florida and is thus subject to personal jurisdiction in this district.

ALLEGATIONS REGARDING DEFENDANT’S BUSINESS PRACTICES

8. Defendant Uber is a transportation or taxi business. Through a mobile phone software application, Uber connects local travelers who seek transportation via automobile with local drivers, like Plaintiff, who have been screened, trained, controlled, and are paid by Uber.

9. All Uber drivers must abide by all of Uber's uniform rules, regulations, and policies.

10. Uber operates much like a taxi cab service. Customers who wish to pay for local transportation via automobile log on to a mobile phone application and enter information regarding, among other things, where they wish to be picked up and where they wish to be dropped off. Then, through its software application, Uber sends each customer's information to a local Uber driver.

11. The Uber driver, with easily identifiable decals provided by Uber which, pursuant to Uber's uniform rules, must be affixed to the front and back windows of every driver's vehicle, then picks up the customer and transports the customer to the desired destination.

12. Each Uber customer pays for the service by paying Uber directly via credit card based on an amount calculated solely by Uber and based on the miles driven and the amount of time it took to reach the destination, plus any gratuity which the customer wishes to give to the driver.

13. All payments from the customer, including gratuities, must be paid by the customer directly to Uber. Uber rules do not permit its drivers to accept any type of payment from its customers. Instead, Uber pays each of its drivers a portion of the amount received from the customer (i.e., a portion of the charge for the service and a portion of any gratuity), as determined solely by Uber.

14. In an effort to avoid providing its drivers with the minimum benefits and protections afforded employees under the FLSA and Florida law, Uber has willfully, uniformly, and unilaterally classified each and every one of its drivers as independent contractors, rather than

employees, despite the fact that the factual circumstances of the relationship between Uber and its drivers clearly demonstrate that Uber drivers are in fact employees of the company.

15. Under the FLSA and Florida law, Uber drivers should be considered employees for, among others, the following reasons:

- a. Uber retains the right to control, and in fact does control, the manner and means by which all Uber drivers accomplish their work;
- b. Uber retains the right to hire and fire drivers in its sole discretion;
- c. Uber retains the right to terminate the Uber “Platform” and the Uber application, or to block drivers from using the Platform and/or application, which effectively gives Uber the ability to prevent its drivers from picking up Riders, working, and earning an income;
- d. Uber takes a 20% “administration fee” from each driver’s gratuities left by the customer for the driver;
- e. Drivers do not engage in business distinct from that of Uber;
- f. Uber requires that each driver place a large pink mustache on the front of their car while transporting a Rider to identify the driver’s car as a Uber vehicle;
- g. Uber sets all rates of pay for its drivers and prohibits its drivers from setting rates of pay for their services;
- h. Uber requires its drivers to consent to receiving emails and text messages from Uber, all of which the drivers are required to pay for receiving at the rate charged by their mobile phone service providers, including without limitation, notification emails, emails or text messages informing drivers about potential available Riders, and emails or text messages regarding Uber promotions which drivers are required to abide by;

- i. Uber unilaterally and in its sole discretion requires each driver to accept any and all discount promotion offers to customers;
- j. Uber requires each driver to engage in a two hour training session before being permitted to work as a Uber driver, including the viewing of training videos, which, inter alia, instructs drivers regarding Uber's requirements for how they are to interact with Riders;
- k. Uber requires that each driver ensure that his or her vehicle comply with Uber's requirements for appearance and cleanliness;
- l. Uber retains the right to discipline its drivers in its sole discretion;
- m. Uber limits the geographical locations in which its drivers are permitted to work, and restricts its drivers' ability to transport customers more than 60 miles;
- n. Uber advertises that its drivers receive an hourly rate of pay;
- o. Uber restricts its drivers ability to work and earn income by only permitting them to work certain hours each day;
- p. Uber prohibits its drivers from hiring other employees to assist them; and,
- q. Uber requires its drivers to respond to and accept all customer ride requests unless they are transporting another customer at the time.

16. As a result of Uber's uniform misclassification of its drivers as independent contractors, Uber does not pay its drivers a minimum wage for each hour, or portion thereof, that they work. Instead, Uber pays its drivers using a formula, derived and determined solely by Uber, based on and related in some way to the amount Uber receives from its customers. The consequences of this practice are, without limitation, that Uber drivers: (1) are not paid for all of

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