

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARIAM DAVITASHVILI, ADAM BENSIMON,  
MIA SAPIENZA, PHILIP ELIADES, JONATHAN  
SWABY, JOHN BOISI, NATHAN OBEY, and  
MALIK DREWEY, individually and on behalf of all  
others similarly situated,

*Plaintiffs,*

v.

GRUBHUB INC., UBER TECHNOLOGIES, INC.,  
and POSTMATES INC.,

*Defendants.*

Civ. No. 1:20-cv-03000-LAK

**ANSWER OF UBER TECHNOLOGIES, INC. AND POSTMATES, LLC TO  
AMENDED CONSOLIDATED CLASS ACTION COMPLAINT**

Defendants Uber Technologies, Inc. (“Uber”) and Postmates, LLC (“Postmates”), by and through their undersigned attorneys, hereby answer and assert defenses to the claims and allegations made by Mariam Davitashvili, Adam Bensimon, Mia Sapienza, Philip Eliades, Jonathan Swaby, John Boisi, Nathan Obey, and Malik Drewey, individually and on behalf of all others similarly situated (“Plaintiffs”) in the Amended Consolidated Class Action Complaint, ECF No. 28, filed on August 31, 2020 (the “Complaint”).<sup>1</sup> Except as specifically admitted, each factual

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<sup>1</sup> The entity formerly known as Postmates Inc. was acquired by Uber Technologies, Inc. on December 1, 2020. Postmates, LLC is the wholly-owned subsidiary of Uber Technologies, Inc.

assertion by Plaintiffs is denied. Uber and Postmates further deny each and every averment contained in the headings, subheadings, and non-numbered statements in the Complaint.

### **RESPONSES TO INDIVIDUAL PARAGRAPHS**

Numbered paragraphs below correspond to the like-numbered paragraphs in the Complaint. Except as specifically admitted, Uber and Postmates deny the allegations in the Complaint.

#### **I. ANSWER TO INTRODUCTION**

1. The allegations in Paragraph 1 reflect legal conclusions, for which no response is required. To the extent an answer is required, Uber and Postmates deny the allegations in Paragraph 1.

2. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 and deny the allegations on that basis.

3. The allegations in the first sentence of Paragraph 3 reflect legal conclusions, for which no response is required. To the extent an answer is required, Uber and Postmates deny the allegations. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 3 and deny the allegations on that basis.

4. The allegations in the first sentence of Paragraph 4 reflect legal conclusions, for which no response is required. To the extent an answer is required, Uber and Postmates deny the allegations. Uber and Postmates lack knowledge or information sufficient to form a belief as to

the truth of the allegations in the second sentence of Paragraph 4 and deny the allegations on that basis.

5. Uber denies the allegations in Paragraph 5 relating to Uber and Postmates. Uber lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 relating to Grubhub and Doordash and denies the allegations on that basis. Uber states that certain, but not all, contracts between Portier, LLC and merchants contained a provision that stated: “Merchant may not make any Item available to Customers through the Eats App at a price that is higher than the price that Merchant charges in-store for similar Items. Merchant agrees that you will not make an Item available under this Agreement at a price higher than the amount Merchant is charging for similar items through any comparable platform for food delivery services.” These documents speak for themselves, and Uber refers to those contracts for a complete and accurate statement of their contents.

Postmates denies the allegations in the first and second sentences of Paragraph 5 relating to Postmates. Postmates lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 relating to Uber, Grubhub, and Doordash and denies the allegations on that basis. Postmates further states that certain, but not all, contracts between Postmates and merchants contained a provision that stated “Merchant will keep Postmates apprised of available products and pricing, which shall be consistent with Merchant’s in-store pricing.” These documents speak for themselves, and Postmates refers to those contracts for a complete and accurate statement of their contents.

6. The allegations in Paragraph 6 reflect legal conclusions, for which no response is required. To the extent an answer is required, Uber and Postmates deny the allegations in Paragraph 6.

7. The allegations in Paragraph 7 reflect legal conclusions, for which no response is required. To the extent an answer is required, Uber and Postmates deny the allegations in Paragraph 7.

8. The allegations in Paragraph 8 reflect legal conclusions, for which no response is required. To the extent an answer is required, Uber and Postmates deny the allegations in Paragraph 8.

9. The allegations in Paragraph 9 reflect Plaintiffs' characterization of their case and the relief sought, for which no response is required. To the extent an answer is required, Uber and Postmates deny the allegations in Paragraph 9.

## **II. ANSWER TO ALLEGATIONS REGARDING PARTIES**

10. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 and deny the allegations on that basis. Uber and Postmates state that a user named Mariam Davitashvili has used the Postmates application to order meals on more than one occasion.

11. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 and deny the allegations on that basis. Uber and Postmates state that a user named Adam Bensimon has used the Postmates application to order meals on more than one occasion.

12. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 and deny the allegations on that basis. Uber states that a user named Mia Sapienza has used the Uber Eats and Postmates applications to order meals on more than one occasion.

Postmates states that a user named Mia Sapienza has used the Postmates application to order meals on more than one occasion.

13. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 and deny the allegations on that basis.

14. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 and deny the allegations on that basis. Uber and Postmates state that a user named Jonathan Swaby has used the Postmates application to order meals on more than one occasion.

15. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and deny the allegations on that basis. Uber and Postmates state that a user named John Boisi has used the Postmates application to order meals on more than one occasion.

16. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 and deny the allegations on that basis.

17. Uber and Postmates lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 and deny the allegations on that basis.

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