

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOB GOLIGHTLY, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

UBER TECHNOLOGIES, INC., and  
CHECKR, INC.,

Defendants.

**CLASS ACTION COMPLAINT**

**Jury Trial Demanded**

Plaintiff Job Golightly, on behalf of himself and all others similarly situated, alleges, upon personal knowledge and upon information and belief as to other matters, as follows:

**INTRODUCTION**

1. Uber, the largest rideshare company in the world, has operated in New York City, its largest domestic market, since 2011.
2. This class action lawsuit challenges Uber's unlawful use of criminal history to discriminate against its drivers in New York City as well as its brazen noncompliance with human rights and fair credit laws.
3. Checkr, a consumer reporting agency used by Uber to obtain drivers' criminal history through backgrounds checks, is Uber's willing partner in this unlawful conduct.
4. Uber's criminal history discrimination has fueled and continues to fuel significant racial disparities in New York City and nationwide.
5. Uber has dominant market share in New York City, with its labor platform hosting approximately 70% of the application-based on-demand rides that occur in the City.

6. Since its founding, Uber has classified its drivers as independent contractors, leaving its driver workforce vulnerable to discrimination and exploitation, and without the protection of city, state, and federal civil rights laws.

7. To address this gap in protection, the New York City Council amended the New York City Human Rights Law (NYCHRL) in November 2019 to encompass independent contractors such as Uber drivers within its expansive protections against discrimination and unfair treatment.<sup>1</sup> That amendment became effective and binding on companies, including Uber, on January 11, 2020.

8. These NYCHRL protections include the Fair Chance Act, which, *inter alia*, requires employers to evaluate job seekers and current workers with criminal histories fairly and on a case-by-case basis.<sup>2</sup>

9. The Fair Chance Act has been a critical tool for advancing racial justice and reducing barriers to opportunity. Employment discrimination based on criminal history has a particularly outsized impact in communities of color, which have long been over-criminalized and face disproportionately higher rates of criminal history and incarceration.<sup>3</sup>

10. Plaintiff Job Golightly is a Black resident of the Bronx who has been licensed by the New York City Taxi and Limousine Commission (TLC) since 2014 as a For-Hire-Vehicle

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<sup>1</sup> See N.Y.C. Admin. Code § 8-107(23) (“The protections of this chapter relating to employees apply to interns, freelancers and independent contractors.”) (effective date Jan. 11, 2020).

<sup>2</sup> See N.Y.C. Admin. Code § 8-107(10)(a); Fair Chance Act: Legal Enforcement Guidance, available at: <https://www1.nyc.gov/site/cchr/law/fair-chance-act.page> (expansively defining “Applicant” to include both potential and current employees) (last visited April 8, 2021).

<sup>3</sup> Devah Pager et al., *Discrimination in a Low-Wage Labor Market: A Field Experiment*, 74 Am. Soc. Rev. 777, 785-86 (2009); Devah Pager et al., *Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records*, 623 ANNALS AM. ACAD. POL. & SOC. SCI 195, 199 (2009); Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOC. 937, 955-61 (2003).

(FHV) driver. Mr. Golightly has driven for Uber since 2014, working 50-60 hours a week, on average, and earning, on average, approximately \$1,500 per week.

11. In August 2020, Uber used Checkr to obtain Mr. Golightly's background check, which revealed a 2013 speeding ticket in Virginia characterized as a misdemeanor. If Mr. Golightly had received the same speeding ticket in New York, it would not have been characterized as a misdemeanor.

12. One day later, due to the results of this background check, and without any notice, process, or further communication, Uber deactivated Mr. Golightly from the Uber labor platform, depriving him of the ability to drive for Uber and earn income.

13. Uber used the results of Mr. Golightly's background check, specifically his criminal history, for employment purposes, by using it as a basis for deactivating him from the platform. Uber deactivated Mr. Golightly without engaging at all in the Fair Chance Act process, which incorporates Article 23-A of the New York State Corrections Law.

14. The Fair Chance Act process requires individualized analysis under Article 23-A and its multi-part factors, the provision of required documents and disclosures, and a waiting period in which the employer must keep the position open for the applicant or current worker to respond to the employer's concerns about any criminal history that appears on the background check.

15. Uber did none of these things.

16. Only several months later, after Mr. Golightly complained to Uber and Checkr about his unfair treatment, did Checkr provide him with information about why Uber had barred him from the platform, specifically citing the 2013 Virginia misdemeanor.

17. Uber's unlawful policy of using criminal history to summarily deactivate current drivers from its labor platform or reject new drivers without even attempting to comply with the Fair Chance Act process also disparately impacts hundreds of Black and Latinx individuals, like Mr. Golightly, who drove or hoped to drive for Uber, and who have disproportionately higher rates of criminal history due to the overcriminalization of communities of color. Uber's conduct accordingly violates the disparate impact provision of the NYCHRL, N.Y.C. Admin. Code § 8-107(17).

18. Uber's policy of wholesale noncompliance with the Fair Chance Act process imports the significant racial disparities in the criminal justice system into its driver applicant and retention process, causing a disparate impact on Black and Latinx current and prospective drivers in New York City with criminal histories.

19. Uber and Checkr also deliberately failed to comply with the requirements of the federal Fair Credit Reporting Act (FCRA) and its New York analogue, the New York State Fair Credit Reporting Act (NY FCRA), which impose an additional set of disclosure, notice, and certification requirements on companies that obtain and use consumer reports to take adverse action against applicants or current workers.

20. Mr. Golightly did not receive from Uber any of the notices or disclosures required by these statutes.

21. Current and potential Uber drivers with criminal histories are being deprived of crucial notice, information, and process that would permit them to explain their criminal histories, correct inaccurate or incomplete information, and otherwise challenge Uber's policy of barring them from its labor platform due to that criminal history.

22. Uber and Checkr's policies and practices have unlawfully imposed barriers to opportunity on Uber's driver workforce that have a significant racial impact.

23. Plaintiff accordingly brings claims on behalf of himself and all others similarly situated against Uber under the NYCHRL, FCRA, and NY FCRA, and against Checkr under the FCRA.

### **JURISDICTION AND VENUE**

24. The Court has jurisdiction over Plaintiff's FCRA claims under both 15 U.S.C. § 1681p, which permits FCRA claims to be brought in any "court of competent jurisdiction," and 28 U.S.C. § 1331. The Court has supplemental jurisdiction over Plaintiff's NYCHRL and NY FCRA claims under 28 U.S.C. § 1367.

25. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to the claims alleged herein occurred in this District.

26. At the same time he files this Complaint, Plaintiff will send a copy of the Complaint to the New York City Commission of Human Rights and the Office of the Corporation Counsel of the City of New York, thereby satisfying the notice requirements of N.Y.C. Admin. Code § 8-502.

### **PARTIES**

#### **Plaintiff Job Golightly**

27. Plaintiff Job Golightly is a 44-year-old resident of Bronx County, New York.

28. Mr. Golightly is a Black man.

29. Mr. Golightly's criminal history consists of a single 2013 misdemeanor speeding violation from Virginia.

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