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COURT                      COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE        CALGARY

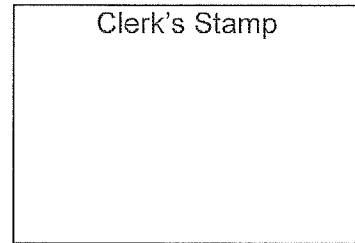
PLAINTIFF(S)            SHANEEF MOHAMED VIRANI

DEFENDANT(S)          UBER TECHNOLOGIES INC.,  
UBER CANADA INC., UBER B.V.,  
RASIER OPERATIONS B.V. and  
UBER PORTIER B.V.

DOCUMENT               **AMENDED STATEMENT OF CLAIM**  
Brought under the *Class Proceedings Act*, S.A. 2003, c C-16.5

PARTY FILING THIS DOCUMENT      SHANEEF MOHAMED VIRANI

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTIES FILING THIS DOCUMENT      Paul D. Edwards  
Duboff Edwards-Haight & Schachter  
1900 – 155 Carlton Street  
Winnipeg, MB R3C 3H8  
Telephone: (204) 942-3361  
Facsimile: (204) 942-3362  
File No. 280226-2007  
  
Michael Peerless  
McKenzie Lake Lawyers LLP  
1800 – 140 Fullarton  
London, ON N6A 5P2  
Telephone: (519) 672 – 5666  
Fax: (519) 672 – 2674



**NOTICE TO DEFENDANT(S)**

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

**Note: State below only facts and not evidence (Rule 13.6)**

**Statement of facts relied on**

1. The Plaintiff claims against the Defendants:
  - a. An order certifying this proceeding as a class proceeding and appointing the Plaintiff as representative Plaintiff for the Class (defined below);
  - b. Damages in an amount to be determined at trial;

- c. A declaration that the provisions of:
- i. British Columbia's *Employment Standards Act*, R.S.B.C. 1996. C. 113;
  - ii. Alberta's *Employment Standards Code*, R.S.A. 2000 c. E-9;
  - iii. Saskatchewan's *The Saskatchewan Employment Standards Act*, S.S. 2013, S-15.1;
  - iv. Manitoba's *The Employment Standards Code*, C.C.S.M. c E110;—and
  - v. Quebec's *Act Respecting Labour Standards* N-1.1;
  - vi. Nova Scotia's *Labour Standards Code*. R.S.N.S., c 246;
  - vii. Newfoundland and Labrador's *Labour Standards Act*, 2018 R.S.N.L. 1990, c. L-2; and,
  - viii. New Brunswick's *Employment Standards Act*, SNB 1982, cE-7.2.
- (the "Applicable Employment Standards Legislation")
- are express or implied terms of the contracts of employment of the Class;
- d. A declaration that the Class Members (defined below) are employees of the Defendants, who are operating as a common employer, for the purposes of the Applicable Employment Standards Legislation;
- e. A declaration that the Defendants violated the terms of the Applicable Employment Standards Legislation, breached the Class Members' contracts of employment and the duty of good faith owed to the Class Members and/or breached the duty of care owed to Class Members by:
- i. Failing to ensure that Class Members were properly classified as employees;
  - ii. Failing to advise Class Members of their entitlement to compensation equal to or above the minimum wage as stipulated by the Applicable Employment Standards Legislation (the "Minimum Wage");
  - iii. Failing to compensate Class Members at a rate equal to or above the Minimum Wage;
  - iv. Failing to advise Class Members of their entitlement to overtime pay in accordance with the Applicable Employment Standards Legislation;
  - v. Requiring and/or permitting the Class Members to work overtime hours but failing to compensate the Class Members in accordance with the Applicable Employment Standards Legislation ("Overtime Pay");
  - vi. Failing to ensure that the Class Members' hours of work were monitored and accurately recorded;
  - vii. Failing to advise Class Members of their entitlement to vacation pay at a rate of 4 percent of wages in accordance with the Applicable Employment Standards Legislation ("Vacation Pay");
  - viii. Failing to compensate Class Members for Vacation Pay;

- ix. Failing to advise Class Members of their entitlement to public holiday pay and premium pay in accordance with the Applicable Employment Standards Legislation (the "Public Holiday and Premium Pay"); and
  - x. Failing to compensate Class Members for Public Holiday and Premium Pay.
- f. An interlocutory and a final mandatory order for specific performance directing that the Defendants comply with the Applicable Employment Standards Legislation and/or the contracts of employment with the Class Members, in particular, to:
  - i. Ensure that Class Members are properly classified as employees;
  - ii. Advise Class Members of their entitlement to the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay;
  - iii. Ensure that Class Members' hours of work are monitored and accurately recorded; and
  - iv. Ensure that Class Members are appropriately compensated at a rate equal to or above the Minimum Wage, for Overtime Pay, for Vacation Pay and for Public Holiday and Premium Pay.
- g. A declaration that the provisions of any applicable "Partner" and/or independent contractor agreement which may purport to exclude the Class Members from eligibility for the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay are void and unenforceable;
- h. A declaration that the Defendants are liable for any consequential damages resulting from the determination that the Class Members are/were employees of the Defendants and not Partners and/or independent contractors;
- i. A declaration that the Defendants are liable for any adverse tax liability sustained by the Class Members resulting from a determination that the Class Members are/were employees of the Defendants and not Partners and/or independent contractors;
- j. A declaration that the Defendants were and continue to be unjustly enriched to the deprivation of Class Members for any *Canada Pension Plan* ("CPP") or *Employment Insurance Act* ("EI") and/or benefits which should have been paid on behalf of, or are owed to, Class Members resulting from a determination the Class Members are/were employees of the Defendants and not Partners and/or independent contractors;
- k. A declaration that the Defendants were unjustly enriched, to the deprivation of the Class Members, in that they received the value of compensating Class Members at rates below the Minimum Wage, without paying Overtime Pay, without paying Vacation Pay and without paying Public Holiday and Premium Pay, and an order requiring the Defendants to disgorge to the Class Members all amounts withheld by them in respect of such unpaid hours and entitlements;
- l. An order, pursuant to s. 30 of the *Alberta Class Proceedings Act* directing an aggregate assessment of damages;

- m. An order directing the Defendants to preserve and disclose to the Plaintiff all records (in any form) relating to the identification of Class Members and the hours of work performed by the Class Members;
- n. Pre-judgment and post-judgment interest;
- o. Punitive, aggravated and exemplary damages;
- p. Costs of this action on a substantial indemnity basis, together with all applicable taxes thereon;
- q. The costs of administering the plan of distribution of the recovery in this action; and
- r. Such further and other relief as this Honourable Court may deem just.

### **The Parties**

- 2. The Plaintiff, Shaneef Mohamed Virani ("Mr. Virani"), resides in Alberta. He is an employee retained by the Defendants to provide delivery and driving services to the Defendants' customers. Mr. Virani is currently employed by Uber. Mr. Virani works as a driver in Calgary.
- 3. Uber Technology Inc., Uber Canada Inc., Uber B.V., Rasier Operations B.V., and Uber Portier B.V. (herein collectively referred to as "Uber" or the "Defendants") is a worldwide transportation network company. Uber develops, markets and operates the Uber Internet application (the "App") which allows its customers to submit a trip and/or delivery request with the use of a smartphone. Uber then uses the App to alert the nearest driver of the customer's request, location and the price the customer will be paying the driver for his/her services. The Defendants are incorporated as follows:
  - a. Uber B.V. is incorporated under the laws of the Netherlands;
  - b. Rasier Operations B.V. is incorporated under the laws of the Netherlands;
  - c. Uber Canada Inc. is incorporated under the laws of Canada;
  - d. Uber Technologies Inc. is incorporated under the laws of Delaware; and
  - e. Uber Portier B.V. is incorporated under the laws of the Netherlands.
- 4. Uber is the largest company of its kind worldwide. In Canada, Uber has extensive operations, including but not limited to, in the Provinces of British Columbia (Vancouver, Kamloops, Kelowna, Nanaimo, Prince George, and Victoria), Alberta (Calgary, Edmonton, Lethbridge, Fort McMurray, and Red Deer), Saskatchewan (Saskatoon and Regina), Manitoba (Winnipeg), and Quebec (Laurentides, Saguenay, Sherbrooke, Trois-Rivières, "Rest of Quebec", Gatineau, Montreal and Quebec City), Nova Scotia (Halifax), Newfoundland and Labrador (St. John's), and New Brunswick (Moncton). Uber provides services in those cities that include, but are not limited to, the following:
  - a. Uber X: a ride service offered by Uber for drivers with standard 4-door sedans;
  - b. Uber XL: a ride service substantially similar to Uber X only offered in larger cars or vans and at a premium price to Uber X;

- c. Uber Select: a ride service substantially similar to Uber XL only offered in luxury cars of a higher quality than Uber XL and at a premium price to the Uber XL price structure;
  - d. Uber Black: a ride service offered by licensed limousine drivers in limousines;
  - e. Uber SUV: a ride service similar to Uber Black using licensed limousine drivers and cars, but offered in larger SUV-type limousines at a premium price to Uber Black;
  - f. Uber LUX: a ride service similar to Uber Select but with premium luxury cars and professional drivers;
  - g. Uber Taxi: a ride service provided by taxi drivers and cars at metered rates;
  - h. Uber WAV (formerly Uber Access): a ride service similar to Uber Taxi only utilizing wheelchair accessible taxis;
  - i. Uber Assist: a ride service similar to Uber X for riders who require additional assistance (such as those with disabilities or older adults);
  - j. Uber Pool: a ride service similar to Uber X but where riders can share a ride with other riders heading in the same general direction; and
  - k. Uber Eats: a food delivery service.
5. The Defendants carry on business in common with respect to the hiring, training, supervision and control of the Class Members.
6. The business activities of Uber are provincially regulated and therefore governed by the Applicable Employment Standards Legislation.

### **The Class**

7. The Plaintiff brings this action pursuant to the *Alberta Class Proceeding Act* on his own behalf and on behalf of the following class of persons:
- Any person who worked or continues to work for Uber in Nova Scotia, Newfoundland and Labrador, New Brunswick, British Columbia, Alberta, Saskatchewan, Manitoba or Quebec as a Partner and/or independent contractor, providing any of the services to Uber as outlined in this Amended Statement of Claim pursuant to a Partner and/or independent contractor agreement  
(the "Class" or "Class Members")

### **Employment Relationship**

8. The duties performed by the Class Members and the supervision and control imposed on the Class Members by Uber creates an employment relationship with Uber. In particular:
- a. Uber trains all the Class Members in their operation of the App and other related software necessary in completing their duties;
  - b. Class Members must use the tools of Uber in the form of delivery bags, data, delivery signs and the Uber App;

- c. Class Members are told the type of vehicle they must supply, maintain and use as well as the category of license they must possess in order to work for Uber;
- d. Class Members' vehicles are subject to mandatory inspections by Uber, where noncompliance by Class Members can result in their immediate suspension;
- e. Class Members must pass a mandatory screening process to work for Uber;
- f. Class Members must provide Uber with proof of eligibility to work in Canada (e.g. passport, social insurance number, birth certificate, permanent residency card, etc.);
- g. All prices and "Partner" compensation are fixed by Uber;
- h. Class Members do not solicit or contact customers, all customers contact Uber directly, at which point their information is provided to Class Members in order for the Class Members to service Uber's clients;
- i. Uber maintains sole discretion whether to accept or reject any potential clients who contact Uber for services;
- j. All clients serviced by Class Members are reported to Uber through the App and tracked by Uber;
- k. Class Members who reduce their hours of work are denied special promotions, incentives and pay increases;
- l. Only Uber handles customer complaints about the Class Members;
- m. Uber assumes responsibility for alleged misconduct of the Class Members while providing services to the public on behalf of Uber;
- n. Uber collects customer feedback and other related data on Class Members and can suspend or terminate the Class Members' use of the App if the service provided or the Class Members' rating is not satisfactory;
- o. Class Members cannot sub-contract or independently employ other drivers under their App account with Uber to provide services on the Class Members' behalf;
- p. Class Members are prohibited from developing their own Apps to independently provide services to customers;
- q. The services rendered by Class Members form the vast majority of Uber's revenue;
- r. Class Members do not receive payment directly from customers; and
- s. Class Members are paid directly by Uber at specified intervals.

**Applicable Employment Standards Legislation and Contracts of Employment**

- 9. The provisions of the Applicable Employment Standards Legislation are implied terms, in fact or by law, as minimum terms of the contract of employment by Class Members.

10. Therefore, the contracts of employment of the Class Members expressly or impliedly provide that Class Members shall be compensated:
  - a. At a rate equal to, or greater than, the Minimum Wage;
  - b. With Overtime Pay as prescribed by the Applicable Employment Standards Legislation;
  - c. With Vacation Pay on all amounts paid; and
  - d. With Public Holiday and Premium Pay.

#### **Contractual Duties to Class Members**

11. As low-skilled employees under the direct control and supervision of the Defendants, the Class Members relied on the Defendants to advise them properly regarding their employee status and eligibility for Minimum Wage, Overtime Pay, Vacation Pay, Public Holiday and Premium Pay and to fulfill their contractual and statutory employment responsibilities to keep track of and pay the Class Members at, or above, the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay. Uber is/was in a position of power and direct control over the Class Members and the Class Members were in a vulnerable position vis-à-vis the Defendants.
12. The Defendants owe contractual duties to the Class Members, including their contractual duty of good faith, all of which required, and continues to require, the Defendants to:
  - a. Ensure Class Members are properly classified as employees;
  - b. Advise Class Members of their entitlement to the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay;
  - c. Ensure that Class Members' hours of work are monitored and accurately recorded; and
  - d. Ensure that Class Members are appropriately compensated at, or above, the Minimum Wage, for Overtime Pay, for Vacation Pay and for Public Holiday and Premium Pay.

#### **Duty of Care**

13. Uber owed the Class Members a duty of care based upon the special relationship that developed between them as a consequence of Uber retaining the Class Members to perform driving services on Uber's behalf.
14. Uber owed the Class Members a duty to take reasonable steps to properly characterize the employment relationship when retaining the Class Members to provide driving services to Uber's customers.
15. The Defendants' duty of care required the Defendants to:
  - a. Ensure Class Members are properly classified as employees;

- b. Advise Class Members of their entitlement to the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay;
- c. Ensure that the Class Members' hours of work are monitored and accurately recorded; and
- d. Ensure that Class Members are appropriately compensated at, or above, the Minimum Wage, for Overtime Pay, for Vacation Pay and for Public Holiday and Premium Pay.

**Responsibilities of Partners and Treatment by Uber**

- 16. Mr. Virani began his employment with Uber in and around July 2018.
- 17. Mr. Virani's duties and responsibilities as a purported Partner and/or independent contractor include:
  - a. Ensuring that the vehicle used is safe to operate and meets the specifications/requirements set out by Uber;
  - b. Ensuring the App is operational so that he can provide services to Uber clients;
  - c. Using the App to locate Uber's customers;
  - d. Arriving at restaurants and other food service outlets to pick up orders placed by Uber's customers;
  - e. Verifying the contents of food orders made by Uber's clients;
  - f. Delivering food orders to Uber's customers in a timely fashion; and
  - g. Other duties and responsibilities as assigned.
- 18. In order to receive a livable wage, Mr. Virani routinely works more than 40 hours per week without being compensated in accordance with the Applicable Employment Standards Legislation.
- 19. Mr. Virani relied on the Defendants in good faith and was unaware that he was an employee and entitled to the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay. At the time, Mr. Virani relied on the Defendants to properly classify him regarding his status as an employee and his entitlement to Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay and was misled by the Defendants that he was not an employee of the Defendants.
- 20. Mr. Virani did not become aware that he was eligible as an employee for Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay because the Defendants had continually misrepresented to him his actual eligibility and entitlement to such pay.
- 21. Mr. Virani's duties are consistent with the duties of all "Partners and/or independent contractors" in the Class and the operations of Uber and the controls imposed by Uber on its "Partners and/or independent contractors".



22. At all material times, Mr. Virani and other Class Members were directed how, when and where they could provide driving services for Uber's customers.
23. The Defendants require Mr. Virani and other Class Members to consistently be available for work or risk reduced pay and loss of incentives and/or promotions.
24. The Defendants were aware of and/or encouraged Mr. Virani and all other Class Members, to work overtime hours which were necessary in order to earn a liveable wage. The Defendants required and/or permitted Mr. Virani and other Class Members, to work hours which ought to have been paid Overtime Pay in accordance with the Applicable Employment Standards Legislation but failed or refused to provide them with Overtime Pay, contrary to their contractual terms.
25. At all material times, Mr. Virani and the other Class Members were explicitly and incorrectly informed that they were not employees of Uber.
26. The Defendants failed and continue to fail to compensate Mr. Virani and the other Class Members for Vacation Pay, contrary to their contractual terms.
27. The Defendants failed and continue to fail to compensate Mr. Virani and the other Class Members for Public Holiday and Premium Pay, contrary to their contractual terms.

#### **Systemic Classification as "Partners"**

28. The Defendants systematically classified all drivers as Partners and/or independent contractors and required and/or permitted the Class Members to regularly work hours without receiving the Minimum Wage, Overtime Pay, Vacation Pay, Public Holiday and Premium Pay, under the misrepresentation from Uber that drivers were Partners and/or independent contractors.
29. The Defendants were aware that the Class Members relied on the Defendants to advise them properly of their employment status and eligibility for Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay and to fulfill their contractual and statutory employment responsibilities to keep track of and pay the Class Members for their hours worked.
30. The Defendants exerted persuasive pressure on Class Members to work overtime hours. If Class Members did not work regularly and did not work overtime as required to complete their employment responsibilities, such Class Members would not be eligible for pay raises and incentives and/or promotions.

#### **Systemic Breach of the Applicable Employment Standards Legislation**

31. The Defendants have systemically breached the provisions of the Applicable Employment Standards Legislation with respect to all Class Members by:
  - a. Failing to ensure that Class Members were properly classified as employees;
  - b. Failing to advise Class Members of their entitlement to Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay;

- c. Failing to ensure that the Class Members' hours of work were monitored and accurately recorded;
  - d. Requiring and/or permitting the Class Members to work hours for which they failed to compensate at a rate equal to, or above, the Minimum Wage;
  - e. Requiring and/or permitting the Class Members to work overtime hours but failing to ensure that Class Members were compensated with Overtime Pay;
  - f. Failing to compensate Class Members for Vacation Pay; and
  - g. Failing to compensate Class Members for Public Holiday and Premium Pay.
32. Uber's misclassification of drivers as Partners and/or independent contractors and denial of Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay to Class Members are in violation of the Applicable Employment Standards Legislation and are unlawful.
33. To the extent that any contracts purport to designate the Class Members as Partners and/or independent contractors and exclude the Class Members from eligibility for the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay or any other minimum requirement under the Applicable Employment Standards Legislation, such contracts and/or provisions are void and unenforceable.

#### **Appropriate Jurisdiction**

34. Alberta is the appropriate jurisdiction in which to hear this claim because:
- a. The plaintiff resides in Alberta;
  - b. The plaintiff works for Uber in Alberta; and
  - c. The applicable law and facts are the same or substantially similar for the Class in the other provinces being, Nova Scotia, Newfoundland and Labrador, New Brunswick, British Columbia, Saskatchewan, Manitoba and Quebec.

#### **Dispute Resolution Mechanism**

35. The Plaintiff and other Class Members' employment with Uber is purportedly subject to the Rasier Operations B.V. Services Agreement (the "Agreement"). The Agreement sets out at Article 15 that:

Any dispute, conflict or controversy, howsoever arising out of or broadly in connection with or relating to this Agreement, including relating to its validity, its construction or its enforceability, shall be first mandatorily submitted to mediation proceedings under the International Chamber of Commerce Mediation Rules ("*ICC Mediation Rules*"). If such a dispute has not been settled within sixty (60) days after a request for mediation has been submitted under such ICC Mediation Rules, such dispute can be referred to and shall be exclusively and finally resolved by arbitration under the Rules of

Arbitration of the International Chamber of Commerce ("*ICC Arbitration Rules*").

36. Further to the above provision, it is stated within Article 15 that the arbitration shall be held in Amsterdam, The Netherlands.
37. The Plaintiff states that the arbitration provisions contained in the Agreement create an unworkable and illegal dispute resolution mechanism, as outlined further below, which is wholly unconscionable, inaccessible and in direct contravention of the Applicable Employment Standards Legislation.
38. The Plaintiff states that arbitration of this matter in Amsterdam, The Netherlands, or any other location is not possible, equitable or permissible by law.

#### **Systemic Breach of Contract and Breach of Duty of Good Faith**

39. The Defendants systematically breached the contracts with the Class Members and the contractual duty of good faith owed to the Class Members by:
  - a. Improperly and arbitrarily misclassifying the Class Members as Partners or independent contractors;
  - b. Misrepresenting to Class Members that the Class Members were Partners or independent contractors;
  - c. Failing to monitor and keep track of the hours worked by the Class Members; and
  - d. Requiring and/or permitting the Class Members to work regular hours and overtime hours but failing to compensate the Class Members as required for the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay.
40. There was not a legitimate basis for the Defendant's arbitrary designation of the Class Members as Partners and/or independent contractors and for denying eligibility for Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay, which was contrary to the Class Members' express or implied terms of contract with the Defendants. Such classification and exclusion is contrary to the terms of the Applicable Employment Standards Legislation, which are incorporated as express or implied terms of the contracts.
41. Such breaches are ongoing and continuous in respect to Class Members since at least 2012.

#### **Systemic Negligence**

42. Uber owed Mr. Virani, and the Class Members a duty to take reasonable steps to properly characterize the employment relationship when retaining the Class Members to provide services to Uber's customers. Uber systemically breached that duty by:
  - a. Improperly and arbitrarily misclassifying the Class Members as Partners and/or independent contractors;

- b. Misrepresenting to Class Members that the Class Members were Partners and/or independent contractors;
  - c. Failing to monitor and keep track of the hours worked by the Class Members; and
  - d. Requiring and/or permitting the Class Members to work regular hours and overtime hours but failing to compensate the Class Members as required for the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay.
43. As a result of Uber's negligence in mischaracterizing the relationship between Uber and the Class Members, the Class Members have suffered damages and losses, including lost Minimum Wages, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay, and any consequential damages resulting from the determination that the Class Members are/were employees of the Defendants and not Partners and/or independent contractors, all of which were reasonably foreseeable to Uber.

### **Unjust Enrichment**

44. The Defendants have been unjustly enriched as a result of receiving the benefit of the unpaid hours worked by the Class Members.
45. The Class Members have suffered a corresponding deprivation, in the form of Minimum Wages, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay that is owed to them.
46. In addition to the above, the Defendants have inaccurately and/or deliberately programed the App to misrepresent travel distances, leaving Class Members without any form of compensation for a portion of the work they perform for the benefit of Uber.
47. Specifically, the App provides Class Members with the preferred route in which to make a delivery or provide transportation services to an Uber customer. The Class Member is paid according to the specific route which Uber prescribes. If the driver deviates from the prescribed route, he/she is not compensated for any additional travel time and/or distance.
48. Often Class Members are provided with a route that is not navigable or possible (i.e. the opposite direction on a one-way street, through a park or construction site, on private property, etc.). In such circumstances, the Class Member would be required to take a longer, alternative route. In all cases, the Class Member is not compensated for the additional distance or time. The Defendants knew or ought to have known that Class Members were providing services without any form of compensation.
49. Despite not even providing Class Members with their Minimum Entitlements under the Applicable Employment Standards Legislation, the Defendants saw fit to further deprive Class Members of any pay on account of a reasonably foreseeable and/or a deliberate malfunction of the App. The Defendants were not only unjustly enriched by their willful neglect of the law but also by the malfunction and/or deliberate programing of the App to deprive Class Members of thousands, if not millions of dollars in compensation.
50. There is no juristic reason for the Defendants' unjust enrichment and the Class Members' corresponding deprivation. The systemic exclusion of the Class Members from their contractual and statutory entitlements is unlawful.

**Damages**

51. As a result of the Defendants' breaches of the Applicable Employment Standards Legislation, breaches of contract, negligence and/or unjust enrichment, the Class Members have suffered damages and losses, including lost Minimum Wages, Overtime Pay, Vacation Pay, Public Holiday and Premium Pay, and any consequential damages resulting from the determination that the Class Members are/were employees of the Defendants and not Partners or independent contractors.
52. Furthermore, the Defendants' arbitrary and incorrect misclassification of the Class Members as Partners and/or independent contractors and exclusion from the Minimum Wage, Overtime Pay, Vacation Pay and Public Holiday and Premium Pay, coupled with the Defendants' willingness and/or requirement that Class Members work overtime hours, was high handed and callous. The Defendants are/were in a position of power over low-skilled and vulnerable employees and owed them a duty of good faith, which the Defendants flagrantly breached to increase their profits at the expense of the Class Members. Such conduct warrants an award of punitive damages.
53. The Plaintiff pleads and relies upon the following statutes and regulations:
  - a. British Columbia's *Employment Standards Act*, R.S.B.C. 1996. C. 113;
  - b. Alberta's *Employment Standards Code*, R.S.A. 2000 c. E-9;
  - c. Saskatchewan's *The Saskatchewan Employment Standards Act*, S.S. 2013, S-15.1;
  - d. Manitoba's *The Employment Standards Code*, C.C.S.M. c E110;
  - e. Quebec's *Act Respecting Labour Standards* N-1.1;
  - f. *Class Proceedings Act*, SA 2003, c C-16.5;
  - g. *Canadian Pension Plan*, R.S.C. 1985, c. C-8; and
  - h. *Employment Insurance Act*, S.C. 1996, c. 23;
  - i. Nova Scotia's *Labour Standards Code*. R.S.N.S. 1989, c 246;
  - j. Newfoundland and Labrador's *Labour Standards Act*, 2018 R.S.N.L. 1990, c. L-2;  
and,
  - k. New Brunswick's *Employment Standards Act*, SNB 1982, cE-7.2.
54. The Plaintiff claims as set out in paragraph 1 above.

**NOTICE TO THE DEFENDANT(S)**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiffs' address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.