

THE KING'S BENCH

Winnipeg Centre

(Proceeding under *The Class Proceedings Act*, CCSM c C130)

BETWEEN:

C.K.

Plaintiff

- and -

**UBER CANADA INC., UBER TECHNOLOGIES, INC., UBER HOLDINGS CANADA
INC., UBER RASIER CANADA INC., AND RASIER, LLC**

Defendants

STATEMENT OF CLAIM

250⁰⁰
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File No. _____

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TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the King's Bench Rules, serve it on the plaintiff's lawyer or where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is 40 days. If you are served outside Canada and the United States of America, the period is 60 days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: March 15, 2024

Issued by _____

E.A. ASHAM
DEPUTY REGISTRAR
COURT OF KING'S BENCH
FOR MANITOBA

Address of court office: 100C – 408 York Avenue
Winnipeg, Manitoba R3C 0P9

TO: Uber Canada Inc.
5300-66 Wellington Street West
TD Bank Tower
Toronto, Ontario M5K 1E6

AND: Uber Technologies, Inc.
1455 Market Street, Suite 400
San Francisco, California
94103-1331

AND: Uber Holdings Canada Inc.
5300-66 Wellington Street West
Toronto, Ontario M5K 1E6

AND: Uber Rasier Canada Inc.
5300-66 Wellington Street West
Toronto, Ontario M5K 1E6

AND: Rasier, LLC
1455 Market Street, Suite 400
San Francisco, California
94103-1331

THE CLAIM

1. The proposed Representative Plaintiff claims the following on her own behalf and on behalf of the members of the Class of persons as defined in paragraph 11 below (the “Class”) as against Uber Canada Inc., Uber Technologies, Inc., Uber Holdings Canada Inc., Uber Rasier Canada Inc., and Rasier, LLC (the “Defendants”):

- (a) An order pursuant to *The Class Proceedings Act* certifying this action as a class proceeding and appointing the Plaintiff as Representative Plaintiff for the Class;
 - (i) A declaration that in manufacturing, designing, developing, marketing, implementing, producing, operating, selling and/or making Uber Rideshare Services available in the stream of commerce, the Defendants committed the *Prima facie* negligence owing to its liability as a common (public) carrier;
 - (ii) Strict liability for: (a) the provision of ultrahazardous and dangerous Rideshare Services and (b) the defectively designed Rideshare Services platform;
 - (iii) Negligence;
 - (iv) Negligence in *inter alia* failing to exercise reasonable care in the hiring, training, retention, and supervision of individuals acting on the Defendants’ behalf as Uber drivers;
 - (v) Fraudulent and/or negligent misrepresentation;

- (vi) Negligent infliction of emotional distress;
 - (vii) Negligent failure to warn;
 - (viii) Breach of fiduciary duty to the Plaintiff and to Class Members;
- (b) A declaration that the Defendants are vicariously liable for the Uber drivers' torts and statutory breaches, including the intentional torts, the above breaches, where applicable, as well as the breaches of s. 19 of *The Human Rights Code*;
- (c) A declaration that the Defendants made representations that were false, misleading, and deceptive, amounting to unfair practices in violation of *The Business Practices Act* and the parallel provisions of the Consumer Protection Legislation as well as the *Competition Act*;
- (d) A declaration that the Defendants are jointly and severally liable for any and all damages awarded;
- (e) General damages in an amount to be assessed in the aggregate for the Class Members including those enumerated at paragraph 320 herein;
- (f) Special damages in an amount that this Honourable Court deems appropriate to compensate Class Members for, *inter alia*, medical expenses (including diagnostic tests and medical evaluations, medical treatment, therapy, counselling and rehabilitation), medications purchased (including both over-the-counter and prescriptions), lost wages and income, future loss of earning capacity, property damage, and/or the cost of the Uber ride;

- (g) Punitive (exemplary) and aggravated damages in the aggregate in an amount to be determined as this Honourable Court deems appropriate;
- (h) An order compelling the creation of a plan of distribution pursuant to s. 33 of *The Class Proceedings Act*;
- (i) An interim interlocutory and then a permanent order restraining the Defendants from continuing any actions in contravention of the law, whether tortious, statutory, or equitable;
- (j) A mandatory order compelling the Defendants to implement adequate safety measures for their Rideshare Services;
- (k) An order directing a reference or such other directions as may be necessary to determine issues not determined at the trial of the common issues;
- (l) Pre-judgment and post-judgment interest on the foregoing sums pursuant to ss. 79 to 84 of *The Court of King's Bench Act*;
- (m) Costs of notice and administration of the plan of distribution of recovery in this action, plus applicable taxes, pursuant to ss. 24 and 33 of *The Class Proceedings Act*;
- (n) Costs of this action on a substantial indemnity basis including any and all applicable taxes payable thereon; and
- (o) Such further and other relief as counsel may advise and/or this Honourable Court may deem just and appropriate in the circumstances.

DEFINED TERMS

2. In this Statement of Claim, in addition to the terms that are defined elsewhere herein, the following terms have the following meanings:

- (a) “**Uber App**” means the **Rideshare Services** platform manufactured, designed, developed, produced, marketed, implemented, operated, sold and/or made available in the stream of commerce by the **Defendants** that allows passengers to summon, arrange, and pay for **Rideshare Services** with Uber drivers electronically;
- (b) “**Uber Rideshare Services**”, “**Uber Transportation Services**”, and/or “**Rideshare Services**” means all transportation services arranged through the Defendants’ website or through the **Uber App**, such as UberX, UberXL, UberSELECT, UberBLACK, UberSUV, UberPOOL, UberPet, Uber Electric, Uber Green, and Comfort;
- (c) “**Rideshare Fee**” means the fee charged to passengers by the **Defendants** in exchange for the provision of **Rideshare Services**;
- (d) “**Safe Rides Fee**” means the additional fee charged to passengers by the **Defendants** to ostensibly fund and provide safety measures;
- (e) “**Rideshare Services Agreement**” means the services contract entered into between the **Defendants** and **Class Members** whereby the **Defendants** agreed to provide **Rideshare Services** in exchange for a **Rideshare Fee**;

- (f) “**Class**”, “**Proposed Class**”, or “**Class Members**” means all persons in Canada who used **Uber’s Rideshare Services** and were sexually assaulted, assaulted, battered, raped, kidnapped, forcibly confined, stalked, harassed, otherwise attacked or subjected to other sexual misconduct by an Uber driver with whom they had been paired through the **Uber App**;
- (g) “**The Class Proceedings Act**” means *The Class Proceedings Act*, C.C.S.M. c. C130, as amended;
- (h) “**The Court of King’s Bench Act**” means *The Court of King’s Bench Act*, C.C.S.M. c. C280 (formerly *The Court of Queen’s Bench Act*);
- (i) “**Court of King’s Bench Rules**” means the *Court of King’s Bench Rules*, M.R. 553/88;
- (j) “**The Business Practices Act**” means *The Business Practices Act*, C.C.S.M., c. B120;
- (k) “**Consumer Protection Act**”, means the *Consumer Protection Act*, CCSM c C200;
- (l) “**Consumer Protection Legislation**” means:
- (i) *The Business Practices and Consumer Protection Act*, SBC 2004, c.2 (British Columbia);
 - (ii) *The Consumer Protection Act*, RSA 2000, c C-26.3 (Alberta);

- (iii) *The Consumer Protection and Business Practices Act*, SS 2014, c. C-30.2 (Saskatchewan);
- (iv) *The Consumer Protection Act, 2002*, SO 2002, c. 30, Schedule A (Ontario);
- (v) *The Consumer Protection Act*, CQLR c P-40.1 (Quebec);
- (vi) *The Consumer Protection and Business Practices Act*, SNL 2009, c. C-31.1 and the *Trade Practices Act*, RSNL 1990, c. T-7 (Newfoundland and Labrador);
- (vii) *The Consumer Product Warranty and Liability Act*, SNB 1978, c. C-18.1 (New Brunswick);
- (viii) *The Consumer Protection Act*, RSNS 1989, c. 92 (Nova Scotia);
- (ix) *Business Practices Act*, RSPEI 1988, c. B-7 (Prince Edward Island);
- (x) *The Consumers Protection Act*, RSY 2002, c 40 (Yukon);
- (xi) *The Consumer Protection Act*, RSNWT 1988, c C-17 (Northwest Territories); and
- (xii) *The Consumer Protection Act*, RSNWT (Nu) 1988, c C-17 (Nunavut);
- (m) “**Competition Act**” means the *Competition Act*, RSC 1985, c. C-34;
- (n) “**The Tortfeasors and Contributory Negligence Act**” means *The Tortfeasors and Contributory Negligence Act*, CCSM c T90;

- (o) “**The Human Rights Code**” means *The Human Rights Code*, C.C.S.M. c. H175;
- (p) “**Human Rights Legislation**” means:
- (i) *The Human Rights Code*, RSBC 1996, c 210 (British Columbia);
 - (ii) *The Alberta Human Rights Act*, RSA 2000, c A-25.5 (Alberta);
 - (iii) *The Saskatchewan Human Rights Code*, SS 1979, c S-24.1 (Saskatchewan);
 - (iv) *The Human Rights Code*, RSO 1990, c H.19 (Ontario);
 - (v) *The Charter of Human Rights and Freedoms*, CQLR c C-12 (Quebec);
 - (vi) *The Human Rights Act, 2010*, SNL 2010, c H-13.1 (Newfoundland and Labrador);
 - (vii) *The Human Rights Act*, RSNB 2011, c 171 (New Brunswick);
 - (viii) *The Human Rights Act*, RSNS 1989, c 214 (Nova Scotia);
 - (ix) *The Human Rights Act*, RSPEI 1988, c H-12 (Prince Edward Island);
 - (x) *The Human Rights Act*, RSY 2002, c 116 (Yukon);
 - (xi) *The Human Rights Act*, SNWT 2002, c 18 (Northwest Territories);
 - (xii) *The Human Rights Act*, CS Nu, c H-70 (Nunavut);
- (q) “**Criminal Code**” means the *Criminal Code*, RSC 1985, c C-46;

- (r) “**Defendants**” or “**Uber**” means Uber Canada Inc., Uber Technologies, Inc., Uber Holdings Canada Inc., Uber Rasier Canada Inc., and Rasier, LLC;
- (s) “**Plaintiff**” or “**Representative Plaintiff**” means C.K.;
- (t) “**Representation**” or “**Safety Representation**” means the **Defendants’** intentionally or negligently false, misleading or deceptive representations that their **Rideshare Services** (a) have safety benefits and/or qualities they did not possess, (b) are of a particular standard and/or quality, and (c) are effective in preventing or protecting passengers from the attendant risks of harm posed by Uber drivers; and the **Defendants’** (d) use of exaggeration, innuendo and ambiguity regarding the degree of safety afforded to **Class Members** in comparison to standard commercial transportation providers.

THE PARTIES

The Representative Plaintiff

3. The Plaintiff, C.K., is an individual residing in the city of Winnipeg, in the province of Manitoba. On December 3, 2023, at or around 4:03 AM, the Plaintiff used her Uber account to obtain UberX Transportation Services. As will be described more fully herein, the Plaintiff became a victim of sexual assault.

The Class

4. The Plaintiff seeks to represent the following class of which she is a member (the “Proposed Class”):

“All persons in Canada who used Uber’s Rideshare Services and were sexually assaulted, assaulted, battered, raped, kidnapped, forcibly confined, stalked, harassed, otherwise attacked or subjected to other sexual misconduct by an Uber driver with whom they had been paired through the Uber App.”

The Defendants

5. Defendant, Uber Canada Inc. (“Uber Canada”) is a Canadian transportation network corporation with its principal place of business in Toronto, Ontario. Uber Canada conducts business in Canada, including within the province of Manitoba.

6. Defendant, Uber Technologies, Inc. (“Uber Tech”) is an American transportation network corporation with its principal place of business in San Francisco, California. It is the parent company of Defendant Rasier, LLC. It is the registrant of the CIPO trade-mark (word) “UBER” (TMA935075), which was filed on June 25, 2013, the CIPO trade-mark (design) “U Logo” (TMA957232), which was filed on June 25, 2013, the trademark (word) “UBERPOOL” (TMA1083541), which was filed on July 24, 2015, as well as the CIPO trade-mark (word) “UBERX”, which has reached the status of searched.

7. Defendant Uber Tech is also the owner of the following patents:

(a) “SYSTEM AND METHOD FOR ARRANGING TRANSPORT AMONGST PARTIES THROUGH USE OF MOBILE DEVICES” (CA 2782611), which was filed on December 6, 2010 and issued on July 10, 2018;

- (b) “TRANSPORT MONITORING” (CA 2980456), which has not yet been registered and was filed on April 1, 2016;
- (c) “AUGMENTING TRANSPORT SERVICES USING DRIVER PROFILING” (CA 2981525), which was filed on April 8, 2016 and is now “dead”;
- (d) “FARE DETERMINATION SYSTEM FOR ON-DEMAND TRANSPORT ARRANGEMENT SERVICE” (CA 2982710), which has not yet been issued and was filed on April 13, 2016;
- (e) “METHOD AND SYSTEM FOR SHARED TRANSPORT” (CA 3004098), which has not yet been issued and was filed on November 16, 2016;
- (f) “PREDICTING SAFETY INCIDENTS USING I LEARNING” (CA 3040032), which was filed on August 31, 2017 and issued on August 30, 2022;
- (g) “SYSTEM AND METHOD TO PERFORM SAFETY OPERATIONS IN ASSOCIATION WITH A NETWORK SERVICE” (CA 3054923), which was filed on February 16, 2018 and issued on August 3, 2021;

8. Defendant Uber Holdings Canada Inc. is a Canadian corporation and is the parent company of Defendant Uber Rasier Canada Inc., both of which are listed as providing technology services for Uber in Canada.

9. Defendant Uber Rasier Canada Inc. (“Rasier Canada”) is a Canadian corporation that provides technology services for Uber in Canada.

10. Defendant, Raiser, LLC (“Raiser”) is an American transportation network corporation with its principal place of business in San Francisco, California. It is a wholly-owned subsidiary of Defendant Uber Tech.

11. The Defendants manufactured, designed, developed, produced, marketed, implemented, operated, sold and/or made available in the stream of commerce Uber Transportation Services as well as the Uber App, throughout Canada, including within the province of Manitoba.

12. At all relevant times, the Defendants were each other’s agents, licensees, servants, assistants, employees, alter egos or consultants.

13. The Defendants are jointly and severally liable for each other’s acts and omissions.

THE NATURE OF THE CLAIM

14. The Defendants have positioned themselves in the minds of consumers as a safer, lower cost, more reliable, and efficient alternative to standard commercial transportation services. These class proceedings concern the Defendants’ failure to protect riders from sexual assault, sexual misconduct, and other attacks as well as their misrepresentations concerning the safety of Rideshare Services.

15. These class proceedings also concern the Defendants’ unlawful conduct in failing to effectively adopt, implement, maintain, administer and supervise the application of reasonable or traditional safety precautions, measures and standards to protect passengers from dangerous or predatory Uber drivers.

16. Although taxicabs have been around for decades, to which are heavily-regulated to provide safeguards and protections for prospective passengers, the Defendants opted to instead circumvent the existing industry's basic protections in order to fuel rapid growth and to monetize hitchhiking. This led to the Defendants knowingly placing an Uber rider and an Uber driver (a random layperson) in an isolated private vehicle with limited ways for the rider to escape should anything go wrong.

17. And all the while, Uber assured passengers that Uber was a safe means of transportation. The Defendants make and have made several representations and/or omissions regarding the safety efforts, expenditures, background checks and other measures purportedly intended to ensure passenger safety.

18. Contrary to the Defendants' Representations, Uber's proclaimed safety measures fall woefully short of what is required and reasonably expected of standard commercial transportation providers to ensure and maintain the safety of Uber passengers. This is evidenced by the litany of complaints, police investigations, criminal charges and criminal convictions of Uber drivers in respect of conduct perpetrated against Uber passengers, whose safety the Defendants have repeatedly identified as the focus of the safety measures and standards attached to the Rideshare services.

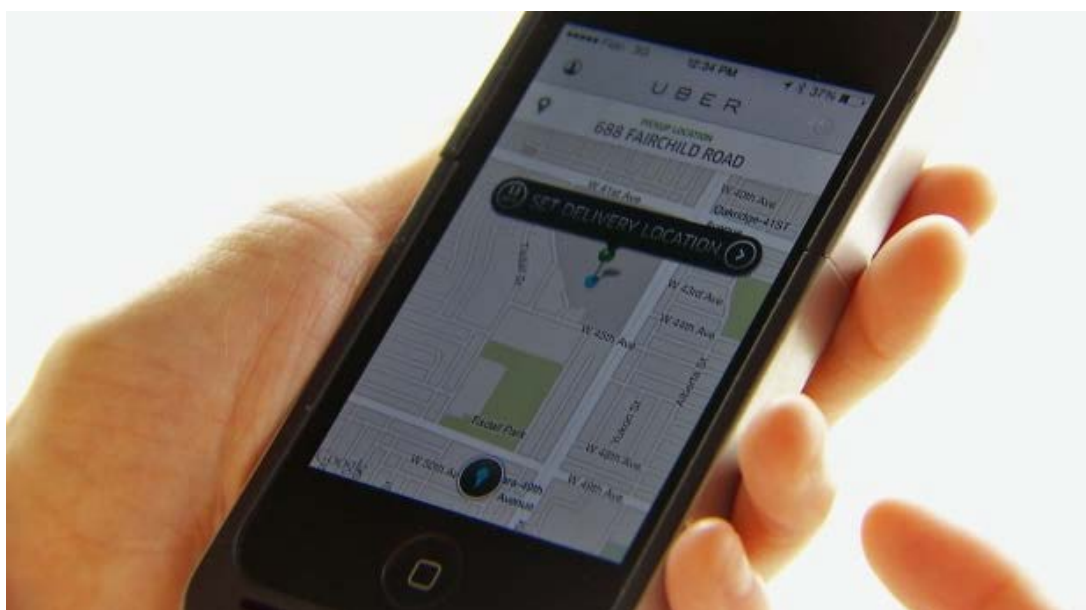
19. The Defendants have repeatedly demonstrated that the protection of their brand, undeserved reputation for safety, and sizeable revenues consequently generated take precedence over warning prospective Uber passengers of the attendant risks of Rideshare Services and over actually adopting safety measures and standards effective in addressing and indeed preventing the perpetration of sexual assault and other

unacceptable conduct by Uber drivers. The Defendants' focus has been and continues to be on creating an appearance of safety, rather than actually ensuring it.

20. The Defendants are liable for the acts of each other under various forms of direct liability including the principles of agency, partnership and alter-ego.

A. Overview – How Uber Works

21. The Defendants manufactured, designed, developed, produced, marketed, implemented, operated, sold and/or made Rideshare Services, commonly known as “Uber” available in the stream of commerce, through the Uber website(s) and/or through an online-enabled mobile device application (the “Uber App”) that allows passengers/riders throughout Canada to summon, to arrange, and to pay for transportation services electronically via their Mobile Devices and/or online through their desktop computers.



22. Uber was launched in Toronto on March 4, 2012 and as of November 2015, UberX was available for over 10 million people in 40 Ontario municipalities.

23. At the time of its launch in Canada, Uber was a cab-hailing service, which expanded thereafter to Mississauga, Montreal, and Halifax. On September 8, 2014, Uber introduced UberX ride-sharing to Canada with launches in Toronto and Mississauga.

24. On October 29, 2014, UberX was launched in Montreal. In December 2014, UberX was launched in Edmonton. On October 15, 2015, UberX was launched in Calgary. On July 7, 2020, Uber was launched in Winnipeg.

25. The Defendants offer transportation services that are differentiated by either the type of vehicle used and/or the size/number of passengers that it can accommodate. Any person with a vehicle model that is ten years old or less car can become an Uber driver.

The taxonomy is as follows:

- First Tier: UberX is the least expensive Uber service that seats up to four riders¹,
- Second Tier: UberXL is the more expensive Uber service than UberX, seating at least six passengers and will be a sports utility vehicle (SUV) or a minivan²,

¹ Examples of UberX vehicles include: Toyota Prius, Honda Accord, Mazda 3 and Mazda 6, Toyota Camry and Corolla, Ford Focus, Nissan Altima, Ford F-150, Toyota Tacoma, Honda Civic, Chevrolet Malibu, Chevrolet Cruz, Chevrolet Cobalt, Volkswagen Golf, and Volkswagen Passat.

² Examples of UberXL vehicles include: GMC Acadia, Dodge Caravan, Honda Odyssey, Ford Explorer, Ford Expedition, Honda, Pilot, Dodge Durango, Jeep Cherokee, Chevrolet Suburban, Nissan Pathfinder, and Toyota Highlander.

- Third Tier: UberSELECT is an even more expensive Uber service that seats up to four riders in a semi-luxury premium sedan³, and
- Fourth Tier: UberBLACK and UberSUV are the high-end, high-cost Uber services that have the highest vehicle and driver standards that seat at least 4 (UberBLACK) or up to 6 (UberSUV) riders in a black exterior and black interior, great condition, 2013 or newer luxury vehicle^{4,5}.

26. UberPOOL is an Uber Rideshare Service that allows a rider to share their ride and split the cost of the trip with another Uber rider headed in the same or a similar direction. UberPOOL also offers the rider a guaranteed fare.

27. There are two versions of the Uber App; the passenger version and the driver version – users may download either or both. Both versions connect to the Uber’s backend infrastructure to communicate with each other to exchange data and to “match” passengers and drivers, transmit payments, obtain and store “ratings” for drivers and passengers and perform other functions.

28. In order to request Rideshare Services, consumers must first create an Uber account either online or by downloading the Uber App onto their Mobile Device(s) and by placing a credit card, debit card or PayPal account on file, eliminating the need for cash payments between the passenger and the driver. Consumers can then submit a “trip

³ Examples of UberSELECT vehicles include: Mercedes-Benz C-Class, Audi A4, Audi S8, BMW 3 Series, BMW X1, Cadillac SRX, Cadillac ATS, Cadillac DTS, Infiniti QX70, Infiniti M-Class, Tesla Model S, Tesla Model X, Porsche Panamera, Porsche Cayman, Lexus RX, Jaguar X Type, and Jaguar S Type.

⁴ Examples of UberBLACK vehicles include: Audi A6 and A7, BMW 5 Series, Cadillac XTS, Infiniti Q70, Jaguar XF, Lexus GS, and Mercedes-Benz E-Class.

⁵ Examples of UberSUV vehicles include: Cadillac Escalade ESV, Chevrolet Suburban, GMC Yukon XL, Infiniti QX56 and QX80, Lexus LX, Lincoln Navigator L, and Mercedes-Benz GL-Class.

request” by clicking the “Request UberX” button to call for a ride which is then routed to Uber drivers who then provide Rideshare Services.

29. At the end of the trip, the Defendants automatically obtain payment from the passenger’s credit card, debit card or PayPal account. The Defendants then retain a portion (between 15% and 30%) of the fare charged for themselves, pay the Uber driver with the balance (between 70% and 85%), and the consumer is sent a receipt for the transaction through the Uber App and through e-mail.

B. The Defendants’ Control Over Their Rideshare System

30. The Defendants exercise complete control over their transportation system, including the Uber App used for Rideshare Services. This includes structuring the way in which their transportation service operates. Uber also retains complete control over determining who can access the Uber App and on what terms – whether as passengers or as drivers.

31. Specifically with respect to driver eligibility, the Defendants decide what background checks to use, how far back to investigate, which previous offences will be disqualifying, the interviewing process (i.e. the lack of in-person interviews), training/orientation sessions, drug/alcohol screenings, and generally, any interactions with Uber drivers. And the Defendants made the business decision to make it as easy as possible for drivers to sign up.

32. The Defendants determine how and which drivers and passengers will be paired, design the rideshare pick-up experience and identify the trade dress, markings, decals,

devices and in-app tools used for passengers and drivers to recognize each other once Rideshare services have been requested on the Uber App.

33. The Defendants enjoy sole authority and discretion to set fare amounts, additional fees, and to implement dynamic pricing. The Defendants' authority extends to discounts, vouchers, and promotional offers and their application to particular fares.

34. The Defendants further determine the aspects of a driver and passenger's rideshare experience that is to be supported by buttons, information, controls, and other tools within the Uber App, or by devices, services, or technology external thereto.

35. The Defendants collect GPS information and data on drivers in the course of their usage of the app, and on passengers from the moment they request a ride until five minutes after they are dropped off. The Defendants exclusively control the nature and level of information provided to drivers and passengers concerning each other. Passengers only receive a picture of the Uber driver, along with their first name, license plate number and vehicle type.

36. All in-app communications between drivers and passengers are accessible and monitored by the Defendants. The Defendants further exercise exclusive authority to receive and determine the outcome of all issues, grievances and complaints concerning Rideshare services, whether in general, or as concerns particular rides.

37. The sending of a support message through the Uber App by a passenger or driver generates an automated response from the Defendants and, where necessary, the dispatch of customer support staff trained to follow the Defendants' protocols.

38. The Defendants enjoy the exclusive ability to track and investigate misconduct by drivers and passengers occurring in the course of individual rides. Passengers have no knowledge or access to information concerning Uber drivers' track records of previous complaints, investigations, suspensions or disciplinary actions.

39. A rider has no way of knowing whether a particular Uber driver has had prior complaints or was under investigation for misconduct, or has been the subject of a disciplinary action. A rider also has no control over which Uber driver they will be paired with.

40. The Defendants control the access to any and all information between the passenger and drivers.

C. Safety Representations

41. The Defendants have made the following representations:

(a) "SAFEST RIDES ON THE ROAD: GOING THE DISTANCE TO PUT PEOPLE FIRST"

(b) "Wherever you are around the world, Uber is committed to connecting you to the safest ride on the road. That means setting the strictest safety standards possible, then working hard to improve them every day."

(c) "From the moment you request a ride to the moment you arrive, the Uber experience has been designed from the ground up with your safety in mind."

(d) “BACKGROUND CHECKS YOU CAN TRUST – Every ridesharing and livery driver is thoroughly screened through a rigorous process we’ve developed using industry-leading standards.”

(e) “Every week, hundreds of thousands of people in Canada trust Uber to get them around their city safely.”

(f) “Our technology makes it possible to focus on safety for riders and drivers before, during, and after every trip in ways that others can’t.”

(g) “We have a zero-tolerance policy on any criminal history, including sexual offenses.”

42. Central to the Defendants’ deceptive marketing scheme is their message that Uber does everything possible to ensure the safety of Uber passengers. Key to this scheme entails convincing prospective Uber passengers that no risk arises from entering a private vehicle driven by a random layperson and thus addressing the reticence that may otherwise prevent people from using Uber’s Rideshare Service. This the Defendants seek to accomplish by marketing to the public that an Uber ride is a ride *with Uber*, not with a stranger, and that Uber rides are safe and reliable.

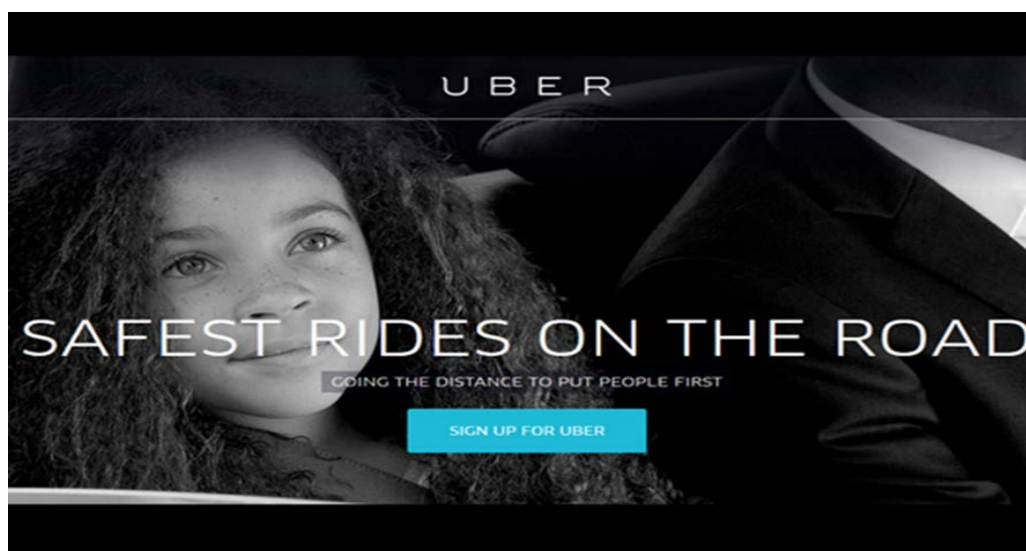
43. By way of example, the Defendants’ promotional strategy includes communicating the following statements:

(a) “From the moment you request a ride to the moment you arrive, the Uber experience has been designed from the ground up with your safety in mind”;

- (b) “Putting safety first for each of the one million trips we are doing every day means setting strict safety standards, then working hard to improve them every day”;
- (c) “We believe deeply that, alongside our driver partners, we have built the safest transportation option in 260 cities around the world;”
- (d) “Wherever you are around the world, Uber is committed to connecting you to the safest ride on the road. That means setting the strictest standards possible, and then working hard to improve them every day.”
- (e) “The future of safety – More than 200 Uber employees, from researchers and scientists to designers and engineers are focused on building technology that puts safety at the heart of your experience;”
- (f) “Our commitment to safety – You deserve to be able to move safely. To look forward to opportunities ahead. To be connected to people and places that matter most. Which is why we’re focused on your safety, from setting new standards to developing technology with the goal of reducing incidents”;
- (g) “93% of people would recommend Uber to a friend if they have been drinking. Not only would people take Uber themselves – they would trust Uber to take their drunk home safely”;
- (h) “Sexual assault and gender-based violence don’t belong anywhere in our communities, which is why Uber is committed to help stop incidents before they happen”; and

- (i) “Of course, no background check can predict future behaviour and no technology can yet prevent bad actions. But our responsibility is to leverage every smart tool at our disposal to set the highest standard in safety we can. We will not shy away from this task.”

44. Such safety-related representations, a visual example of which appears below, are demonstrably false, deceptive, and/or misleading.



45. On its website, Uber has an entire section devoted to its safety policies—promising the safest rides on the road. Uber promises that from the moment riders request a ride until they arrive at their destinations, the Uber experience is the safest available for riders, drivers, and the residents of the cities in which Uber operates.

46. Uber represents that it uses “multi-step safety screening” of its drivers along with regular review of drivers’ histories:

Driver Screening

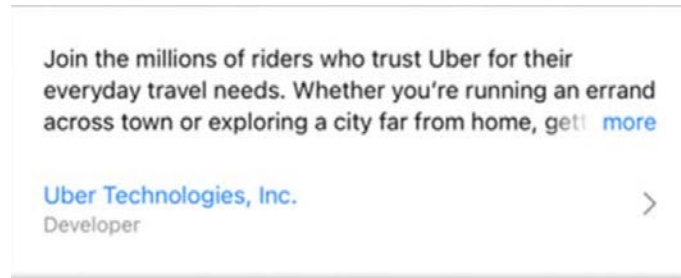
Everyone who drives with Uber is screened before their first trip. In addition, Uber reruns these driver screenings² at least every year and uses technology to look for issues in between. It's part of our commitment to help keep you safe when you request a ride with Uber.

47. However, Uber's only method of screening drivers consists of background checks with the information that the prospective driver provides (which may not even be that of the actual driver) and not with any biometric information such as fingerprints. Further, there are no interviews.

48. In 2016, the Defendants paid US\$28.5 million to settle a class action lawsuit pertaining to their false and fraudulent marketing of their security screening process as "industry-leading." Also in 2016, the Defendants paid a US\$25 million settlement in a consumer protection lawsuit filed by the City of San Francisco and the County of Los Angeles and agreed to stop referring to its background checks as "gold standard" and to stop describing its Rideshare Services as the "safest ride on the road."

49. The Defendants' announcement of the settlements was noticeably not accompanied by any correction of previous misstatements or disclosures of the actual truth about its standards, background checks or safety record.

50. Even at present, Uber's listing in the Apple app store encourages the public to "join the millions of riders who trust Uber for their everyday travel needs":



51. In 2017, the Defendants' advertising strategy subsequent to the fraud settlements was subtly altered, but retained its misleading character. The Defendants advertised: "safe rides for everyone: Whether riding in the backseat or driving up front, every part of the Uber experience is designed around your safety and security." The Defendants also proclaimed "Trip Safety, Our Commitment to Riders" and that "Uber is dedicated to keeping people safe on the road." Very similar platitudes formed part of the Defendants' 2018 advertisements.

52. In 2019, the Defendants' advertisements featured the following statement: "Your safety is always a top priority. We're committed to helping drivers and riders get where they want to go with confidence." The Defendants also advertised their commitment to "Building safer journeys for everyone."

53. The Defendants' 2020 advertising campaign featured the following: "Our new Door-to-Door Safety Standard. We want you to feel safe riding with Uber."

54. From 2021 to the present, the Defendants have continued advertising "Our Commitment to your safety", emphasizing that it was "Focused on safety, wherever you" and "committed to helping to create a safe environment for our users."

55. To this very day, Uber’s website describes the Rideshare Service as including “features to help keep you safe” and maintains a “ride with confidence” page that includes additional misrepresentations as to the safety of Rideshare services. For example: “Designing a safer ride – An inclusive community – Through our joint efforts with cities and safety experts and by working together we’re helping to create safe journeys for everyone.”

56. However, to this very day, the Defendants continue to misrepresent that passenger safety – and not increasing its profit – is their number one priority. The Uber website currently features the following safety-related advertisements:

Our commitment to safety

We want you to move freely, make the most of your time, and be connected to the people and places that matter most to you.

That's why we're committed to safety—from the creation of new standards to the development of technology with the aim of reducing incidents.



Rider Safety Features

At Uber, Safety Never Stops

Uber is committed to safety. Our in-app safety features help keep you connected and protected when you ride. And because we believe that safety never stops, we'll keep working to drive safety forwards.



57. Based on the Defendants' own data, and directly testifying to the reliance created by their representations on this issue, safety is a key motivator for passengers when choosing to contract for Rideshare Services.

58. Uber's various Safety Representations has created the public impression that an Uber ride is not with a stranger, but with Uber, with Uber arranging the ride, vetting and approving the Uber driver, with monitoring in place – this sense of safety has largely motivated passengers to choose Uber's Rideshare Services.

D. Representations Specifically Targeting Women

59. The Defendants have also repeatedly misrepresented the safety of the Rideshare Services for female passengers and their commitment to women's safety.

60. The Defendants have disproportionately targeted women with particularized ad campaigns, and their marketing materials overwhelmingly feature smiling women purportedly riding in Uber vehicles.

61. The Defendants specifically target their safety representations to women because women are especially vulnerable to gender-based violence and therefore require greater persuasion concerning the safety of entering a stranger's private car. Examples of targeted advertisements include the following:

UBER Ride Drive



#LiveBetter and Uber



RIDE > SAFETY > SAFETY TIPS



"I work events late at night, and with Uber, I feel safer knowing I don't have to go wait outside and hope I can flag down a ride."

Brittany,
Rider from Portland

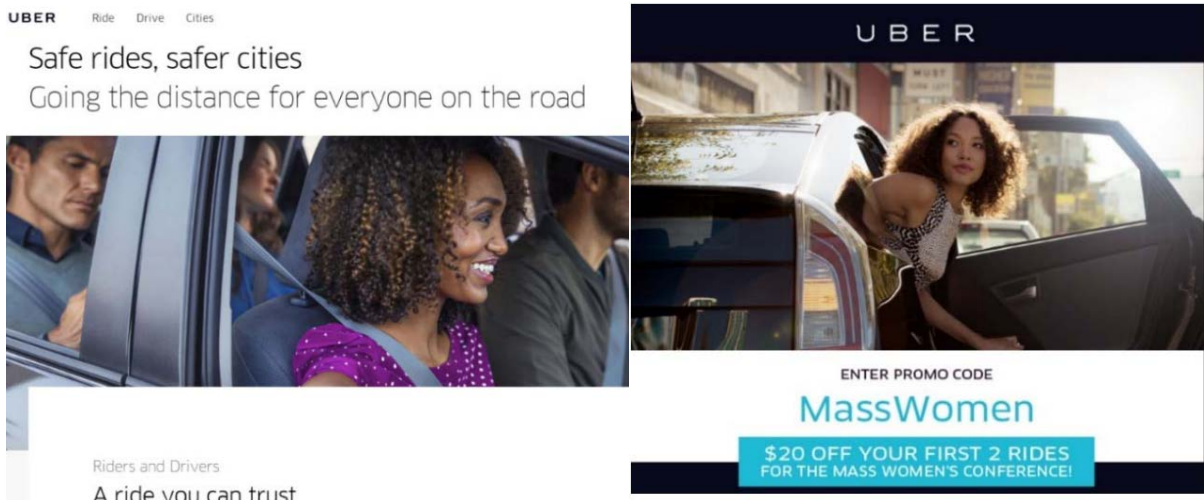


RIDE > SAFETY

Trip safety

Our commitment to riders

Uber is dedicated to keeping people safe on the road. Our technology enables us to focus on rider safety before, during, and after every trip.



62. Additional misrepresentations are featured on a “Women’s Safety” page on Uber’s website. The latter specifically represents that Uber is “driving change for women’s safety” and that “[s]exual assault and gender-based violence don’t belong anywhere in our communities...” Until recently, the page also advertised that “Uber is committed to help stop incidents before they happen...”

63. Advertisements of this kind are used to induce women to trust Uber as a safe transportation provider. However, despite these assurances, the Defendants continue to deny responsibility for the litany of sexual assaults, kidnappings, incidents of harassment, stalking, and other unacceptable behaviour perpetrated by Uber drivers.

E. Representations Targeting Intoxicated Passengers

64. The Defendants also specifically advertise Uber Rideshare Services as being safe for intoxicated passengers, including inebriated women, despite knowing of their heightened vulnerability to sexual misconduct, forcible confinement, battery, stalking, and harassment perpetrated by Uber drivers.

65. The Defendants have continued their targeted advertising campaigns despite being aware of incidents involving the aforementioned conduct perpetrated against intoxicated passengers, generally, and intoxicated female passengers, specifically.

66. In 2015, a report jointly released by the Defendants and Mothers Against Drunk Driving claimed that “93% of people would recommend Uber to a friend if they have been drinking. Not only would people take Uber themselves – they would trust Uber to take their drunk friend home safely.”

67. Another targeted ad campaign boasted: “Safe rides around the clock – Affordable, reliable transportation can help make roads safer. Need a late-night ride and can’t drive yourself? Request a ride with Uber.”

68. The Defendants also make use of targeted campaigns directed at intoxicated prospective passengers during holidays and special events associated with alcohol consumption. On New Year’s Eve 2023, for example, the Defendants published the following ads:



69. The Defendants also frequently partner with bars and alcohol manufacturers to promote and create an association between alcohol consumption and Uber services.

70. Advertisements targeting intoxicated persons undoubtedly reduce the risk that said persons drive while impaired. At the same time, however, intoxicated persons, who are particularly vulnerable to abuse, are encouraged to contract for Rideshare Services whose attendant risks include gender-based violence, sexual assault, battery, forcible confinement, and harassment perpetrated by Uber drivers.

F. The Safe Rides Fee

71. In April 2014, the Defendants began charging its Uber Transportation Services users a purported "Safe Rides Fee."

72. The Defendants' website describes the Safe Rides Fee as a tool to "support[] [its] continued efforts to ensure the safest possible platform for Uber riders and drivers,

including an industry-leading background check process, regular motor vehicle checks, driver safety education, and development of safety features in the app....”

73. The terminology used by the Defendants concerning a “Safe Rides Fee” and other representations concerning safety measures and standards deliberately or recklessly created the distinct, but materially inaccurate impression on Rideshare users that the revenue generated would be used to fund safety measures to ensure their safety in the face of attendant risks in the services contracted via the Uber App.

74. The risks against which the safety measures would necessarily or reasonably be expected to guard against or otherwise prevent would necessarily have extended to those posed to Uber passengers by the drivers with whom they were connected through the Uber App.

75. On or around April 24, 2014, the Defendants’ website represented that the Safe Rides Fee was being charged to riders to ostensibly “support continued efforts to ensure the safest possible platform for Uber riders and drivers, including an industry-leading background check process, regular motor vehicle checks, driver safety education and development of safety features in the app ...”

76. In October of 2014, Uber continued to surreptitiously charge the Safe Rides Fee; however, it stopped claiming that its safety measures were “industry-leading” and instead claimed that the extra charge supported “continued efforts to ensure the safest possible platform for Uber riders and drivers, including a *Federal, state, and local background*

check process, regular motor vehicle checks, driver safety education, development of safety features in the app, and more.”

77. However, the revenue generated from the “Safe Rides Fee” was never spent on improving safety or otherwise on adopting and implementing the safety measures and standards the Defendants represented to clients would be funded by the fee.

78. The Defendants’ cynical and brazen practice in this regard testifies to its half-hearted and artificial commitment to the safety of passengers contracting for Rideshare Services through the Uber Application. This is further evidenced by the actual materializing of risks to Uber passengers arising from sexual assaults, attacks, kidnappings and other criminal and unacceptable conduct committed by Uber drivers.

79. The Defendants claimed that the Safe Rides Fee was being collected to ensure and enhance the safety measures and standards purportedly designed with passenger safety in mind and to position Uber as the safest transportation option.

80. However, the so-called “background check process” consisted of a perfunctory one-time occurrence, rather than the ongoing and substantive type of procedure implied by the use of the word “process.”

81. The Safe Rides Fee has not been used to launch any safety education programs and the Defendants do not require Uber drivers to participate in any form of mandatory driver safety education. Since being announced in 2014, the “development of safety features in the app” the Defendants touted as being funded by the Safe Rides Fees have yet to be implemented in Canada.

82. Pursuant to the United States settlement agreement dated February 11, 2016, the Defendants agreed to rename the Safe Rides Fee as the “Booking Fee.” This renaming of the so-called Safe Rides Fee was accompanied by a further obfuscation of its actual use: the representation that the Booking Fee would be used for “safety initiatives for riders and drivers” is opaque and essentially meaningless. Each and both changes can be viewed as an admission that the “Safe Rides Fee” terminology was materially misleading.

83. The same is true for the false assurances featured on a “Women’s Safety” page on Uber’s website. The latter specifically represents that Uber is “driving change for women’s safety” and that “[s]exual assault and gender-based violence don’t belong anywhere in our communities...” Until recently, the page also advertised that “Uber is committed to help stop incidents before they happen...” The meaning of the deletion of this statement of commitment is unclear.

84. The Defendants’ rhetoric does not, however, match reality as they continuously intentionally or recklessly neglect to adopt and implement reasonable safety measures and standards to actually achieve these objectives. To this day, Uber has yet to adopt a reliable and consistent process for effectively addressing reports by passengers pertaining to sexual assault and other unacceptable acts perpetrated by Uber drivers.

85. The Defendants’ misrepresentations concerning their commitments to passenger safety and as to their development, adoption and implementation of safety measures and standards intended to further these commitments, have misled and continue to mislead the Class by exaggerating the purported measures taken to ensure the safety of Uber riders in comparison to standard commercial transportation providers.

86. The Safe Rides Fee/ Booking Fee was a key part of the Defendants' broader strategy of misrepresenting the safety of the Rideshare Services and the concomitant obscuring of attendant risks.

87. This strategy, in turn, frustrated the Plaintiff and Class Members' ability to assess the risk of contracting for Rideshare Services offered by the Defendants, or otherwise provided them with a false sense of security that was unequivocally broken by the conduct and actions of the Uber drivers responsible for the sexual assaults, kidnappings, forcible confinements, and other acts perpetrated against them.

88. Preventing the materialization of risks of behaviour of this nature was or ought reasonably to have been one of the key pillars of any safety measures or standards adopted by the Defendants in order to ensure passenger safety and to position Uber as "the safest" alternative transportation option."

G. Uber's Aversion to Implementing Proper Safety Measures

89. In addition to knowing or understanding that the safety measures and standards purportedly in place to protect Uber passengers are inadequate – and to continuing to make misrepresentations to the contrary – the Defendants have resisted implementing effective safety measures and policies to protect the safety of Uber passengers. In consciously doing so, the Defendants are intentionally perpetuating the risk and occurrence of actual harm to Uber passengers – the safety of which they allege is their top priority.

90. For one, the Defendants have publicly and actively lobbied against the adoption by regulatory bodies and municipalities of any sort of biometric fingerprinting requirements for Uber drivers.

91. Further, the Defendants' longstanding policy is to not report to law enforcement authorities any criminal activity engaged in by Uber drivers that comes to their attention. Even after a report of criminal activity is made to the Defendants, the latter typically require a subpoena before releasing information. Particularly relevant to the present proposed class action, and especially shocking, this policy extends to allegations of sexual assault committed against Uber passengers.

92. This policy of non-reporting produces or otherwise perpetuates perverse incentives, as the knowledge by Uber drivers that Uber will not report sexual assaults and other criminal activity perpetrated against passengers enhances the risk of their occurrence. The Defendants have also wilfully decided against the adoption of policies that would require that prospective Uber drivers be interviewed or be trained as to the lines of permissible and impermissible conduct vis-à-vis Uber passengers.

93. Significantly, and despite unquestionably being aware of repeated complaints, police investigations, criminal charges and convictions on this issue, the Defendants deliberately decided against implementing standards or policies aimed at protecting passengers from sexual assault, sexual misconduct, other physical attacks and dangerous behaviour.

94. Perhaps most shockingly, the Defendants have repeatedly decided against implementing policies insisting upon a zero-tolerance policy with respect to making sexual

or other advances towards passengers, or with respect to sexual activity with or touching of Uber passengers.

95. The Defendants' intentional perpetuation of the risk and actual manifestation of harm to Uber passengers is further evidenced by their continued adherence to perfunctory background check processes that do not require applicant drivers to submit fingerprints for evaluation in all public databases such as RCMP records.

96. Two third-party background screening companies, ISB Canada Inc. ("ISB") and First Advantage, perform background checks on Uber drivers who wish to access the Uber App to receive requests for Rideshare Services. The background check conducted by ISB or First Advantage consists of two parts: a "Premium Criminal Record Check" and a "Driver's Abstract". The Premium Criminal Record Check provides information as to criminal convictions and criminal cases pending before the courts. The Driver's Abstract provides information as to convictions under provincial transportation laws over the preceding three years.

97. In addition, in terms of Uber passengers being able to report an incident to the Defendants, the Uber App does have a section where you can "Report a Safety Issue"; however, none of the options list assault, sexual assault, harassment or anything of this nature. And even where the Defendants are made aware of an incident, they allow the Uber driver to continue driving and do not communicate this to the Uber passengers.

98. The Defendants' continued shocking and wanton practices intentionally perpetuating the risk and manifestation of actual harm arising from the conduct of Uber

drivers extend to the absence of any policy or mechanism for continuously visually monitoring Uber drivers during rides contracted via the Uber Application.

99. To this day, and despite being undeniably fixed with the knowledge of repeated, horrific, and unacceptable occurrences of assault, battery, sexual assault, forcible confinement and other criminal acts perpetrated by Uber drivers, the Defendants still do not require video monitoring of their drivers that cannot be turned off during the delivery of Rideshare Services.

100. The Defendants have, however, repeatedly chosen to maintain a broken status quo to avoid deterring prospective Uber drivers from signing up, burdening the onboarding process for new drivers, and ultimately affecting their bottom line.

101. More specifically, the Defendants failed to implement at least the following reasonable safety measures to protect the overall safety of its passengers:

(a) Prospective Driver Screening and Training:

- Enhanced background checks with biometric fingerprinting to ensure that drivers do not have a history of violent behaviour or criminal activity, including criminal record and child abuse registry checks and including any outstanding charges awaiting court disposition;
- In-person interviews of prospective Uber drivers;
- Verifying prospective Uber drivers' employment history

- In-person comprehensive training/orientation for Uber drivers relating to driver and passenger safety protocols, conflict de-escalation/resolution techniques, customer service skills, assault, sexual assault, sexual relations, sexually inappropriate behaviour;

(b) Enhanced Monitoring and Oversight of Uber Drivers:

- Regularly updating background checks to identify new red flags or criminal offences to identify changes from the initial screening;
- Regular drug or alcohol screenings;
- Monitoring drivers' safety performance through performance evaluations, spot checks, and tracking driver behaviour and trip data;
- Including an Uber driver's complete track record in its star rating (instead of only the last 500 ratings – this amounts to 10-week ratings if an Uber driver does 50 rides per week);
- Requiring monitoring systems, including functional in-vehicle cameras that are capable of both video and audio recording and that must remain on while the Rideshare Services are being performed;
- Identifying threatening Uber drivers and removing their ability to be Uber drivers upon complaints of sexual assault, sexual misconduct, and other attacks;

(c) In-App Safety Features:

- An emergency assistance button within the Uber App to allow Uber passengers to contact emergency services;
- Real-time GPS tracking to allow Users to track their ride in progress and to share trip details with trusted contacts;
- Offering timely in-app support during unsafe rides, including live Uber agents able to answer distress calls in real-time;

(d) Customer Support and Accountability:

- Allowing and encouraging riders to report sexual assault, sexual misconduct, and other attacks through the Uber App rating system – this should include an anonymous reporting mechanism to allow users to report safety concerns without fear of retaliation;
- Establishing clear protocols for investigating and responding to reported incidents;
- Devoting adequate staff and resources to the investigation of these complaints and to take appropriate action against offenders;
- Implementing and enforcing a strict zero-tolerance policy for Uber drivers that have a history of sexual assault, sexual misconduct, and other attacks to passengers;

- Investigating and taking appropriate disciplinary action against drivers found to have violated safety policies, including immediate suspension or termination of their accounts;
- Providing support to affected Uber passengers;

(e) Other Safety Features:

- Providing an option for female riders to select to be driven by female Uber drivers (as, for example, Cowboy Taxi had enabled – the “girl power” option);

(f) Law Enforcement Involvement/Cooperation:

- Requiring automatic emergency notification to law enforcement when a driver drastically veers off course from the passenger’s destination, abruptly cancels the ride prior to arriving to destination, or ends the ride at the intended destination, but GPS data indicates the passenger remains in the car for a significant period of time.

102. As a matter of common sense and reasonable inference, the adoption of any or all of the aforementioned policies would necessarily reduce the risk and incidence of harm occasioned upon passengers by Uber drivers and provide passengers with tools and resources to enhance their safety and security during the Uber rides.

103. The failure to include these options impedes reports of sexual assault, precludes the identification of drivers responsible for these behaviours, and further illustrates the Defendants’ failure to protect passengers from drivers that should be terminated.

104. The deficient in-app rating system also results in the Defendants depriving themselves of complete statistics on sexual assault and similar unacceptable behaviours, which then prevents it or otherwise frustrates the adoption of meaningful prevention measures.

105. The Defendants' recent implementation of an emergency button on the Uber App that alerts emergency responders when pressed maintains an artificial sense of safety. The button merely duplicates a passenger's ability to call 9-1-1 and fails to account for the fact that passengers do not always order Rideshare Services themselves and may thus not have the app installed on their phone. Other passengers may be too intoxicated to situate the button on their App, or unable to access it in the midst of being attacked by an Uber driver. The emergency button is simply not an effective safety measure.

106. Individually and collectively, the Defendants' intentional practices and conscious refusals to adopt responsible and effective policies aimed at truly protecting the safety of Uber passengers in the face of repeated criminal and other incidents involving Uber drivers intentionally perpetuate the risk and occurrence of harm to Uber passengers.

107. This includes increasing the risk and occurrence of further incidents of assault, battery, sexual assault, forcible confinement, harassing, stalking, and other attacks on Uber passengers, all of which are patently unacceptable and directly contrary to the Defendants' repeated representations concerning the safety of its Rideshare Services. Female passengers are particularly at risk.

108. The Defendants' intentional perpetuation of risks and actual manifestation of harm on Uber passengers can therefore be characterized as shocking and unconscionable, but ultimately unsurprising.

H. Statistics on Reported Safety Incidents

109. In its First U.S. Safety Report, Uber received 5,981 reports of sexual assault in 2017 and 2018. This amounts to approximately 8 reports per day over the period surveyed. The 5,981 reports include 235 rapes, 280 attempted rapes, 1,560 groping incidents, 970 incidents of unwanted kissing, and 19 deaths caused by physical assault.

110. In its Second U.S. Safety Report, covering the years 2019 and 2020, Uber reported receiving 3,824 reports of five categories of sexual assault, which range from "non-consensual kissing of a non-sexual body part" to "non-consensual sexual penetration," or rape. This amounts to over 5 reports per day of two-year period. Of those 3,824 reports, there were 141 reports of rape and 20 deaths caused by physical assault. The decrease in numbers between the First and Second Reports is not attributable to the Defendants' efforts to address the attendant risks of sexual assault, but rather reflects dramatically reduced ridership during the COVID-19 pandemic.

111. The reported statistics are, moreover, incomplete. In late 2018, the Defendants developed a "Taxonomy" for identifying, classifying and counting incidents of sexual misconduct or assault perpetrated by Uber drivers based on "real examples... reported to Uber." The First and Second Reports, however, only include statistics on five categories, with no transparency as to the Taxonomy's 16 other categories.

SEXUAL MISCONDUCT

Staring or Leering
 Comments or Gestures > Asking Personal Questions
 Comments or Gestures > Comments About Appearance
 Comments or Gestures > Flirting
 Comments or Gestures > Explicit Gestures
 Comments or Gestures > Explicit Comments
 Displaying Indecent Material
 Indecent Photography Without Consent
 Soliciting Sexual Contact
 Masturbation / Indecent Exposure
 Verbal Threat of Sexual Assault

SEXUAL ASSAULT

Attempted Touching: Non-Sexual Body Part
 Attempted Kissing: Non-Sexual Body Part
 Non-Consensual Touching: Non-Sexual Body Part
 Non-Consensual Kissing: Non-Sexual Body Part
 Attempted Touching: Sexual Body Part
 Attempted Kissing: Sexual Body Part
 Non-Consensual Touching Sexual Body Part
 Non-Consensual Kissing: Sexual Body Part
 Attempted Non-Consensual Sexual Penetration
 Non-Consensual Sexual Penetration

112. The above statistics are incomplete for another reason: sexual assault is notoriously underreported and represent only a small fraction of the actual incidents that have occurred. The Defendants themselves are unaware of the precise number of incidents involving unacceptable and/or criminal behaviour by Uber drivers, by design. Uber discouraged reporting of sexual assault, sexual misconduct, and other attacks by implementing a system with subpar reporting tools that made it difficult and confusing for riders, gave no assurances of protection for passengers who did file a report, mismanaged complaints, failed to conduct appropriate investigations or to report incidents to the police, and lacked safety mechanisms.

113. Following Uber's First U.S. Safety Report, the California Public Utilities Commission fined Uber \$59 million for failing to turn over additional data on sexual assaults and harassment incidents on its platform. The California regulator later drastically reduced the fine as part of a settlement agreement approved in December 2021, with Uber agreeing to pay \$9 million toward safety-related initiatives.

114. The Third U.S. Safety Report – which will likely contain statistics for 2021 and 2022, has yet to be released. There is a two-year time lag between the publication of the Safety Reports and the final year in respect of which statistics are made available.

115. Contrary to the Defendants' assurances of transparency concerning statistics pertaining to the safety of Uber passengers, the two-year time lag further speaks to the Defendants' unwillingness to publicly disclose in a timely manner the numerous passenger safety incidents, issues, and other concerns pertaining to the safety of passengers who contract to use Rideshare Services. The practice also speaks to Uber's nonchalant and cavalier attitude towards passenger safety.

116. The Defendants' own 2022 Annual Report acknowledges that “[p]ublic reporting or disclosure of reported safety information, including information about safety incidents reportedly occurring on or related to our platform, whether generated by us or third parties such as media or regulators, may adversely impact our business and financial results.” The Defendants therefore clearly prioritize profits over transparency and passenger safety.

117. The Defendants' clear aversion to transparency and accountability serves to frustrate prospective Uber passengers' assessment of the risk of contracting for Rideshare Services made available by the Defendants, and deprives them of the opportunity to adopt protective measures or to meaningfully consider alternative options that do not feature such risks.

118. Further, since 2017, at least 14 Uber drivers in four provinces (Alberta, British Columbia, Ontario, and Québec) are reported to have been charged with sexual assault,

with at least seven reported cases resulting in convictions. In at least three reported cases, Uber drivers have been sentenced to imprisonment.

119. Three of the 14 cases involved drivers sexually assaulting multiple victims. One of the 14 cases involved a driver being charged with sexual assault and assault causing bodily harm. Another involved sexual interference with a person under the age of 18.

120. Criminal proceedings are underway in several matters. Some judgments may be unreported. Additional charges against current or former Uber drivers are likely pending.

121. The Defendants are clearly aware of the risks and actual harms of sexual assaults and other unacceptable acts perpetrated by Uber drivers. The Defendants' 2020 Annual Report acknowledges: "There have been numerous incidents and allegations worldwide of drivers, or individuals impersonating drivers, sexually assaulting, abusing, kidnapping, or fatally injuring consumers, or otherwise engaging in criminal activity while using our platform or claiming to use our platform."

I. Sampling of Reported Safety Incidents Involving Sexual Assault

122. The Defendants are currently the named defendants in more than 191 civil lawsuits in at least a dozen different District Courts in the United States over sexual assaults and other criminal and/or unacceptable acts perpetrated by Uber drivers against passengers in the course of delivering Rideshare services. In October 2023, the cases filed as of that time were consolidated and centralized before one judge in the Northern District of California. Two new suits were filed in the United District Court for the Northern District of California in December 2023 and February 2024, respectively.

123. In July 2023, an Uber driver was convicted in the Ontario Superior Court of Justice on three counts of sexual assault pertaining to three distinct occurrences of sexual assault in September 2018, March 2019, and April 2019.

124. In April 2023, a 53-year-old Uber driver sexually assaulted a 26-year-old passenger then used her phone to leave himself a tip and 5-star review. A police news release states that there may be other victims who have yet to contact police.

125. In January 2023, a lawsuit was filed in the Massachusetts Superior Court on behalf of a female complainant who was horrifically raped while intoxicated by an Uber driver in front of the home she shared with her daughter and parents. Meanwhile, over the years, the Defendants' marketing of Rideshare Services have included campaigns specifically targeting young women too intoxicated to drive.

126. In October 2022, an Uber driver was convicted of one count of sexual assault and sentenced to a 6-month conditional sentence and 18 months probation.

127. In September 2021, an Uber driver in Ontario was convicted of sexual assault and sentenced to 6 months in jail after kidnapping the Uber passenger and repeatedly sexually assaulting her.

128. In March 2021, an Uber driver in Ontario was convicted of two counts of sexual assault and one count of assault causing bodily harm and sentenced to 22 months in jail after sexually assaulting two inebriated passengers on separate occasions. In one incident, the driver was unwittingly captured on a security camera leaving his intoxicated victim on the pavement of the parking lot.

129. In 2018, an Uber driver in Ontario was convicted of sexual assault, invitation to sexual touching and sexual interference after engaging in sexual activity with a 15-year-old boy.

130. In 2018, an Uber driver in Ontario was charged with sexually assaulting four different Uber passengers, including two instances in which he picked up Uber passengers that had been assigned via the app to another driver.

131. On September 21, 2016, an Uber driver was charged with sexually assaulting several women while on the job in southern California.

132. In May 2016, *The Independent* in the United Kingdom revealed that Uber drivers are accused of sexually assaulting or raping customers almost three times a month – 32 assault claims had been made against Uber drivers in the preceding 12 months.

133. On April 26, 2016, an Uber driver in Toronto was charged with sexual assault after an alleged attack on an Uber passenger.

134. In April of 2015, *Chron News* reported that “the criminal record of an Uber driver accused of sexually assaulting a passenger last week would have been caught by the city’s background check system if the driver had sought a permit as required” by taxi drivers. According to a Houston city report, an Uber driver was cleared to be an Uber driver by Hirease Inc., the company used by Uber in the United States to perform its background checks; however, when this individual underwent a City of Houston fingerprint check “it turned out she had 24 alias names, 5 listed birth dates, 10 listed Social Security numbers, and an active warrant for arrest.”

135. On December 18, 2014, an Uber driver pleaded not guilty to charges of rape, assault, kidnapping, and two counts of assault and battery following the rape of a young female Uber rider. Uber confirmed that the alleged rapist had passed Uber's background check. Following the attack, it was discovered that the Uber driver was linked to two previous rapes. On October 16, 2015, following positive DNA evidence, the Uber driver pled guilty to aggravated rape, kidnapping, and assault and battery and was sentenced to ten to twelve years in prison.

136. In December 2014, a 26-year-old finance worker in New Delhi, India was raped by an Uber driver after she fell asleep in the backseat of the car. The driver confessed to the police that he had committed the assault, and had previously been arrested for rape. Uber responded by blaming the victim, unlawfully obtaining her medical records, and identifying the incident as a false flag operation carried out by Uber's rival in India.

137. On June 2, 2014, an Uber driver was arrested in Los Angeles for allegedly kidnapping a drunk female passenger after she woke up in a motel room and found her shirtless driver in bed with her.

138. Significantly, one of the common denominators of this enumeration of atrocious attacks and assaults perpetrated by Uber drivers is that most of the victims were women.

J. Sampling of Reported Safety Incidents Involving Other Forms of Criminal Behaviour

139. In August 2016, a couple was brutally attacked during an Uber trip in South Africa by 3 men who were being hidden in the trunk of the Uber vehicle, apparently to extort

money from their bank account(s). Thereafter, Uber has announced that it is going to be testing a “panic button” to press in the event of an emergency.

140. On August 13, 2016, an Uber passenger in Toronto alleged that she was assaulted by a racist Uber driver, resulting in a fractured finger and an injured arm. After refusing to let the Uber driver take her photograph, he dragged her out of the vehicle. The incident was captured on video.

141. On June 20, 2016, an Uber passenger alleged that his Uber driver attempted to attack him with a 40-pound stone and then stole his iPhone.

142. On February 20, 2016, an Uber driver in Kalamazoo, Michigan confessed to killing 6 people and injuring 2 others on a shooting spree that spanned approximately 5 hours during which the suspect was operating an Uber vehicle as an Uber driver.⁶

143. On January 1, 2016, a woman in Los Angeles claimed that an Uber driver attacked her, leaving her with a broken jaw. The woman alleged that the Uber driver pulled her from the car, punched her in the face and knocked her to the ground.

144. In August of 2015, ABC News reported that four Uber drivers in the United States had been convicted of crimes that would have made them ineligible to become taxi drivers including child exploitation, identity theft and manslaughter. Uber commented that it “stands behind its safety screening process.”

⁶ The suspect blamed his actions on his Uber App, claiming that its symbol resembled that of the Order of the Eastern Star, and that it took over his body during the events after he pressed the button of a new app resembling the Devil when it abruptly popped up.

145. On September 26, 2014, an Uber driver was arrested in San Francisco for attacking a passenger with a hammer.

146. In February of 2014, the Chicago Tribune reported that a 24-year-old Uber driver had a felony conviction for residential burglary in 2010, a misdemeanor conviction for criminal damage to property in 2009, another misdemeanor conviction in 2008 for breaking into a car to steal a GPS and satellite radio receiver. The same Uber driver previously received numerous speeding tickets and had his driving license suspended twice in 2008.

147. In January of 2014, in an article entitled “Uber driver accused of assault had done prison time for a felony, passed background check anyways,” online news site PandoDaily.com reported that an Uber driver in San Francisco, who had been accused of verbally and physically assaulting a passenger, had passed the Defendants’ background check even though he had a significant criminal history – including felony and misdemeanor charges, and at least one felony conviction involving prison time – that should have disqualified him from becoming an Uber driver. In June 2014, Forbes.com reported that the driver had been on probation for a battery conviction when Uber hired him in October 2013. Respondents claimed that the driver “had a clean background check in October.”

148. On December 31, 2013, an Uber driver struck and killed a six-year-old girl while driving in San Francisco. The San Francisco Business Times subsequently reported that the driver had been convicted of reckless driving in Florida in September of 2004.

149. On April 24, 2014, NBC Los Angeles aired an investigative report about Uber's driver background checks in which the station enlisted a woman to apply to become an Uber driver. She was on felony probation for making criminal threats (willfully threatening to commit a crime which will result in death or great bodily injury to another person), and during the broadcast described the conduct leading to her arrest: "I pulled a girl out of a car and almost beat her to death."

150. On March 3, 2014, Uber sent the woman an email notifying her that she passed her background check. According to the NBC report, Uber would not respond to the station's request for comment about this case. Instead, Uber spokesperson Lane Kasselmann sent an email explaining Uber's background screening policy. The email ended with, "[w]e're confident that every ride on Uber is safer than a taxi."

151. In fact, anonymous chat rooms, social media websites and messaging apps share ways in which a potential Uber driver can avoid undergoing a background check. For example, "[a]ll you have to do is input your information on an existing drivers account that no longer wants to work and presto – you're online and driving."

152. This practice of account-swapping is particularly troublesome in that "[o]ne person could fill out all the info and hand off the approved account to another person. You can't do that in the taxi world." In addition, another post stated "I know of a few guys that "share" an account. One was approved by Uber, totally legit, and the other just drives."

K. Summative Remarks

153. The Plaintiff and the Class Members she seeks to represent suffered physical, psychological, emotional, and physiological harm as a result of the conduct and actions of the Defendants.

154. The Plaintiff and the Class Members reasonably believed, were led to believe, and had every reason to believe, that the Defendants had measures in place to ensure passenger safety while using the Rideshare Services, both generally and specifically as concerns the drivers with whom passengers were connected by way of the Uber App.

155. The physical, psychological, emotional, and physiological harms suffered by the Plaintiff and Class Members result from the Defendants' failure to deliver on the safety measures and standards they represented as being intended to ensure and promote passenger safety against attendant risks of using the Rideshare Service.

156. The attendant risks necessarily include the conduct of Uber drivers who sexually assaulted or otherwise attacked the Plaintiff and Class Members while delivering the services they respectively contracted with the Defendants, which confer upon drivers' exceptional unilateral discretionary power susceptible to abuse.

157. Basic safety precautions, such as enhanced background checks, biometric fingerprinting, an interview process, Uber driver training sessions, monitoring systems including cameras and GPS, enabling Uber drivers' star rating to reflect their complete track record, drug/alcohol screenings, a proper system to encourage passengers to report sexual and other assaults and a proper system in place to investigate these reports, a zero-tolerance policy for drivers who sexually assault passengers, and cooperation with law enforcement would have prevented these incidents.

158. Instead, the Defendants prioritized profits and growth over safety.

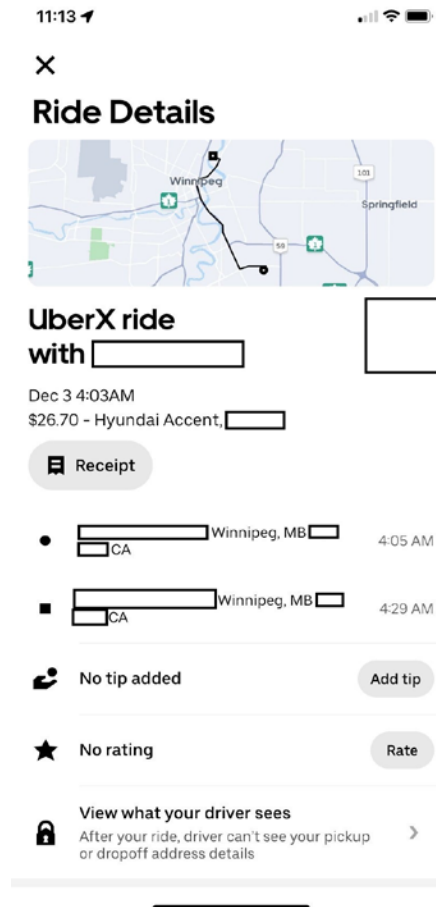
159. Class Members paid for Rideshare Services that were of a substantially lesser standard than represented. The Plaintiff and the Class Members would not have used the Defendants' Rideshare Services had they known that said services did not meet the minimum safety standards and that they were at risk of sexual assault, sexual misconduct, and other attacks.

160. The Plaintiff and the Class Members have suffered and will continue to suffer injuries, losses or damages as a result of the Defendants' conduct.

THE REPRESENTATIVE PLAINTIFF

161. The Plaintiff, C.K., is an individual residing in the city of Winnipeg, in the province of Manitoba. On December 3, 2023, at or around 4:03 AM, the Plaintiff used her Uber account to obtain UberX Transportation Services.

162. A screenshot of the receipt made available on the Uber App downloaded to the Plaintiff's phone indicates that the Uber ride commenced at 4:05 AM. The screenshot of the receipt also indicates that the ride is considered by Uber to have ended at 4:29 AM, when the Uber driver arrived at the final destination, namely, the Plaintiff's residence.

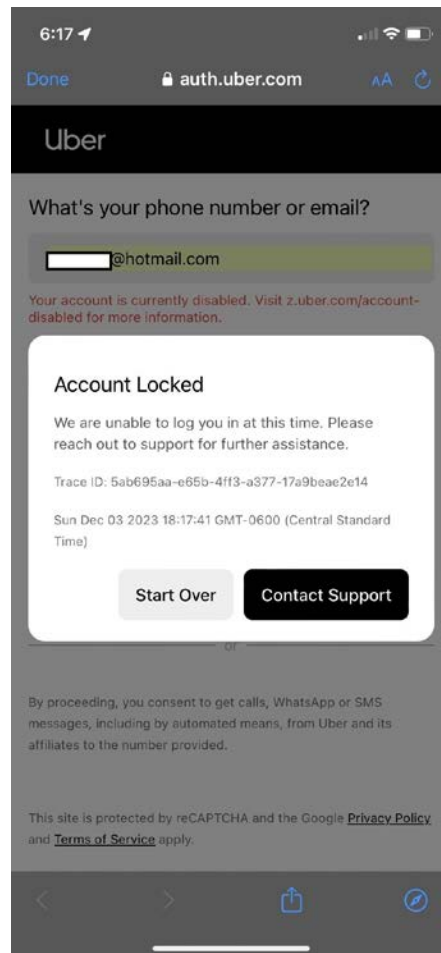


163. At or around 4:29 AM, the vehicle reached the intended destination, being the Plaintiff's residence, and she woke up as she had fallen asleep. The Uber driver took his keys out of the ignition, and quickly exited the vehicle and placed himself in front of the open back passenger door where she was attempting to exit. The Uber driver then physically grabbed the Plaintiff by her shoulders and forced himself upon her by kissing her on the mouth. The Uber driver grabbed her a few times to kiss her and she kept saying no and trying to push him off of her. He kept following her and trying to block her from getting away.

164. The Uber driver then sought to enter her home and followed her onto her driveway. The Uber driver only left when the Plaintiff began to scream, ordering him to leave her alone and leave the premises.

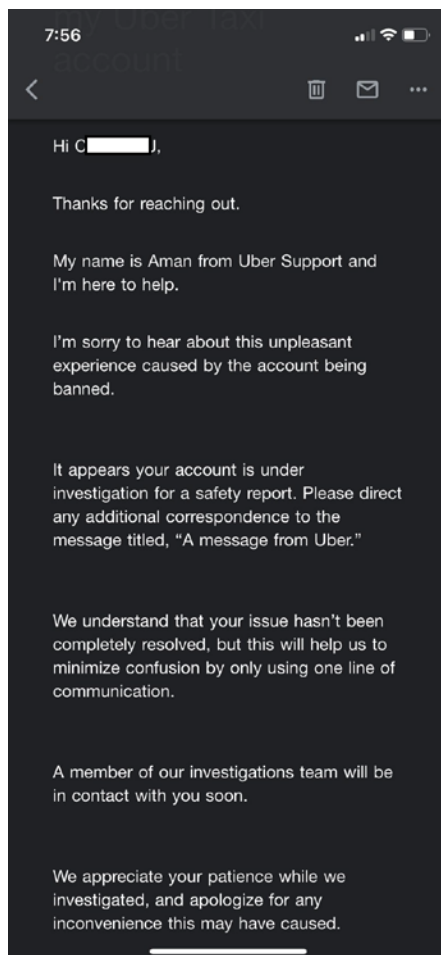
165. Later that afternoon, the Plaintiff reported the incident to the police – the police came to her residence that evening to make an official report. The driver was subsequently arrested.

166. In addition to reporting the incident to the police, the Plaintiff reported the incident to Uber through the Uber App using the “reporting a security” matter on the same day the sexual assault occurred. Uber subsequently proceeded to have her account “banned”/ “locked” from the Uber App.



167. After seeing that her account was locked, the Plaintiff contacted Uber support and a representative of Uber’s support team apologized about the “unpleasant experience caused by the account being banned” and notified the Plaintiff that her account was “under investigation for a safety report.”

168. The Uber representative also invited the Plaintiff to “direct any additional correspondence to the message” she received entitled “A message from Uber.” The Uber representative further noted that “only using one line of communication” was necessary in order “to help [the Defendants’] minimize confusion.”



169. About 5 days later the Plaintiff's Uber account was unblocked.

170. As a result of this unwarranted and horrific attack, the Plaintiff incurred and continues to incur significant emotional and psychological harm, pain and suffering and anxiety and stress.

CAUSES OF ACTION

A. Liability as a Common (Public) Carrier – *Prima Facie* Negligence

171. Uber is a commercial enterprise that manufactured, designed, developed, produced, marketed, implemented, operated, sold and/or made Rideshare Services,

available to the general public in Canada for hire to transport passengers to their chosen locations.

172. As a common carrier, Uber owed a duty to provide a safe service to protect its passengers and upon one of them being harmed, Uber is under a heavy burden to establish that it had used all due, proper and reasonable care and skill to avoid or prevent injury to Class Members.

173. Here, the elements of common carrier *prima facie* negligence have been made out as Class Members were harmed from their usage of the Uber Rideshare Services.

174. It is up to the Defendants to establish that Class Members' injuries would have been caused in the absence of its negligence.

175. It is rather clear that Class Members injuries were the result of and could only have occurred by reason of the lack of reasonable safety measures instituted by the Defendants and would have been prevented had they been in place.

B. Strict Liability

a. Provision of Ultrahazardous and Dangerous Rideshare Services

176. The Defendants manufactured, designed, developed, marketed, implemented, produced, operated, sold and/or made Uber Rideshare Services available to the public in Canada through its proprietary platform as manifested in the Uber App.

177. It is certainly reasonably foreseeable that Class Members would use the Rideshare Services as directed and that in so doing, be exposed to an increased serious risk of injury.

178. The present class action involves the inherently dangerous transportation Rideshare Services and the injuries that Class Members sustained as a result of the Defendants' action and inactions – the Rideshare Services involved a high risk of harm due to the lack of appropriate safety measures and the Class Members had no control over the situation.

179. The Defendants failed to exercise reasonable care in performing their legal obligations to the Class Members, including, but not limited to manufacturing, designing, developing, marketing, implementing, producing, operating, selling and/or making Uber Rideshare Services safe.

b. Design Defect

180. The Defendants manufactured, designed, developed, produced, marketed, implemented, operated, sold and/or made Rideshare Services available in the stream of commerce with a defective design such that it was lacking in safety and security.

181. Every feature of the Uber App was and is designed, developed, implemented, and controlled exclusively by the Defendants.

182. It is unreasonable for the app to have been designed in a manner that could foreseeably cause legally-cognizable injury to the Plaintiff and Class Members when a safer available design was available that would not give rise to these risks of harm.

183. The Defendants had a duty to conduct a hazard analysis to identify risks and to mitigate them in accordance with industry standards.

184. Specifically, the Defendants had a duty to control for safety risks by: (1) designing away the risks; (2) guarding against any risks that could not be designed away; and (3) warning prospective and actual users against any risks that could not be designed out or guarded against.

185. The Defendants did not conduct a hazard analysis and did not properly control for the risks associated with the use of the Uber App and the use of their Rideshare Services.

186. The Uber App and the Rideshare Services were defective and unreasonably dangerous to Uber passengers.

187. A safer design of the Uber App could have featured – and could be updated to feature – the following measures to mitigate the risk of the aforementioned harms or their actual manifestation (as outlined above):

(a) Prospective Driver Screening and Training:

- Enhanced background checks with biometric fingerprinting to ensure that drivers do not have a history of violent behaviour or criminal activity, including criminal record and child abuse registry checks and including any outstanding charges awaiting court disposition;
- In-person interviews of prospective Uber drivers;
- Verifying prospective Uber drivers' employment history

- In-person comprehensive training/orientation for Uber drivers relating to driver and passenger safety protocols, conflict de-escalation/resolution techniques, customer service skills, assault, sexual assault, sexual relations, sexually inappropriate behaviour;

(b) Enhanced Monitoring and Oversight of Uber Drivers:

- Regularly updating background checks to identify new red flags or criminal offences to identify changes from the initial screening;
- Regular drug or alcohol screenings;
- Monitoring drivers' safety performance through performance evaluations, spot checks, and tracking driver behaviour and trip data;
- Including an Uber driver's complete track record in its star rating (instead of only the last 500 ratings – this amounts to 10-week ratings if an Uber driver does 50 rides per week);
- Requiring monitoring systems, including functional in-vehicle cameras that are capable of both video and audio recording and that must remain on while the Rideshare Services are being performed;
- Identifying threatening Uber drivers and removing their ability to be Uber drivers upon complaints of sexual assault, sexual misconduct, and other attacks;

(c) In-App Safety Features:

- An emergency assistance button within the Uber App to allow Uber passengers to contact emergency services;
- Real-time GPS tracking to allow Users to track their ride in progress and to share trip details with trusted contacts;
- Offering timely in-app support during unsafe rides, including live Uber agents able to answer distress calls in real-time;

(d) Customer Support and Accountability:

- Allowing and encouraging riders to report sexual assault, sexual misconduct, and other attacks through the Uber App rating system – this should include an anonymous reporting mechanism to allow users to report safety concerns without fear of retaliation;
- Establishing clear protocols for investigating and responding to reported incidents;
- Devoting adequate staff and resources to the investigation of these complaints and to take appropriate action against offenders;
- Implementing and enforcing a strict zero-tolerance policy for Uber drivers that have a history of sexual assault, sexual misconduct, and other attacks to passengers;

- Investigating and taking appropriate disciplinary action against drivers found to have violated safety policies, including immediate suspension or termination of their accounts;
 - Providing support to affected Uber passengers;
- (e) Other Safety Features:
- Providing an option for female riders to select to be driven by female Uber drivers (as, for example, Cowboy Taxi had enabled – the “girl power” option);
- (f) Law Enforcement Involvement/Cooperation:
- Requiring automatic emergency notification to law enforcement when a driver drastically veers off course from the passenger’s destination, abruptly cancels the ride prior to arriving to destination, or ends the ride at the intended destination, but GPS data indicates the passenger remains in the car for a significant period of time.

188. The Defendants ought to have included – and indeed should include – these safety features in the Uber App’s design and in their provision of the Rideshare Services because it was and remains reasonably foreseeable to them that Uber passengers were and are at risk of sexual assault or other misconduct carried out by Uber drivers. These safety features would have reduced the reasonably foreseeable risk of harm.

C. Negligence

189. The Defendants had a positive legal duty to exercise reasonable care in performing their legal obligations to Class Members, including, but not limited to manufacturing, designing, developing, marketing, implementing, producing, operating, selling and/or making Uber Rideshare Services available in the stream of commerce, in a manner which is reasonably safe for its foreseeable use and therefore that did not pose a significantly increased risk of injury to the Plaintiff and to the Class Members when used as directed.

190. The relationship between the Defendants and Class Members was one of proximity and the harm occasioned to the Plaintiff and Class Members was reasonably foreseeable. Uber exercised control and had the ability to exercise control over the Rideshare Services to which it derived a financial profit.

191. Uber had a duty to prevent Uber drivers from harming passengers; Uber permits drivers to use its product and trademarks, Uber was virtually present in the Uber vehicles, and Uber had the ability to implement safety measures to control the Uber drivers.

192. The Defendants breached their duty of care to Class Members by failing to exercise reasonable care in performing their legal obligations towards the Class Members, including, but not limited to manufacturing, designing, developing, marketing, implementing, producing, operating, selling and/or making Uber Rideshare Services reasonably safe for the public through the implementation of safety measures to protect against sexual assault, sexual misconduct, and other attacks.

193. At the very least, this duty of care required the Defendants not to negligently perform the services for which they had been retained, and to warn the public – including

the Plaintiff and Class Members – of the attendant risks posed by Uber drivers employed to provide Rideshare Services.

194. Uber introduced a new form of transportation without taking any study of the obvious risks and without making efforts to prevent them. Uber marketed its Rideshare Services as safe and then failed to warn passengers of the inherent risks associated with the Rideshare Services.

195. By failing to deliver on the level, extent, nature, quality and operation of safety standards and measures the Defendants themselves warranted Uber passengers could expect to benefit from or enjoy as part of their use of Uber's Rideshare Services, the Defendants negligently performed the services for which they were contracted by the Class Members.

196. The Defendants failed to adopt effective safety measures and standards guarding against or otherwise preventing and protecting Uber passengers from harm. The Defendants failed to take reasonable steps to ensure the safety of their passengers. This includes, but is not limited to, failure to screen Uber drivers, inadequate training, and failure to respond to complaints of misconduct.

197. The exercise of ordinary and reasonable business prudence and diligence in the operation and administration of the Rideshare Services fixed or ought reasonably to have fixed Uber with the knowledge that its passengers were at risk of harm perpetrated by Uber drivers since at least 2014.

198. In the face of actual knowledge of the aforementioned risks and manifestations of harm, the Defendants were negligent in continuing to perform the Rideshare Services

without adopting effective safety measures that a responsible service provider would have adopted.

199. As noted, in Canada alone, Uber drivers have been charged and/or convicted of sexual assault, assault causing bodily harm, sexual interference, forcible confinement, and criminal harassment committed against passengers with whom they had been connected by way of the Uber App. This is in addition to police investigations and criminal charges and/or convictions in jurisdictions other than Canada for conduct of the aforementioned kind.

200. This is also in addition to a litany of civil lawsuits filed by Uber passengers in the United States and other jurisdictions in respect of the same or similar kinds of conduct engaged in by Uber drivers that culminated in criminal investigations, charges and/or convictions.

201. Uber's failure to warn Uber passengers of the Rideshare services' attendant risks frustrated their assessment of the risk of contracting for said services and deprived them of the opportunity to meaningfully consider and implement precautionary measures to mitigate the manifestation of those risks or to contract for safer transportation options.

202. The tort of negligence is established as concerns negligent performance of service and negligent failure to warn as:

- (a) The Defendants unquestionably owed the Plaintiff and Class Members a duty of care;

- (b) The Defendants irresponsible, short-sighted, careless, and reckless behaviour breached the standard of care applicable to their relationship with the Plaintiff and Class Members;
- (c) The Plaintiff and Class Members sustained physical, emotional and physiological harm;
- (d) The harm sustained by the Plaintiff and Class Members was directly caused, in fact and in law, by the Defendants' several repeated breaches of the applicable standard of care.

203. The Plaintiff and Class Members are therefore entitled to damages in an amount to be specified at trial.

D. Negligent Hiring, Training, Retention, and Supervision

204. Uber is liable for negligent hiring, training, or supervision because it failed to adequately screen drivers, provide proper training on appropriate conduct, or supervise their activities while on duty. Despite being aware of allegations and criminal convictions of Uber drivers in Canada for offences including sexual assault since at least 2014, Uber has failed to implement meaningful safety measures that would help to prevent these crimes and other unacceptable conduct from occurring.

205. The Defendants knew or ought reasonably to have known that dispatching inadequately screened and undertrained Uber drivers to provide Rideshare Services to passengers exposed them to a significant risk of harm.

206. To begin, persons applying to work as drivers for the Defendants are not even interviewed. Nor are they subject to drug and alcohol testing, examinations, or reference checks. The Defendants have repeatedly misrepresented the scope of their so-called “industry-leading” background check process. The Defendants do not and have never conducted or paid for an “industry-leading” background check process.

207. As highlighted, in 2016, the Defendants paid \$28.5 million to settle a class action lawsuit pertaining to their false and fraudulent marketing of their security screening process as “industry-leading.” Also in 2016, the Defendants paid a \$25 million settlement in a consumer protection lawsuit filed by the City of San Francisco and the County of Los Angeles. The Defendants also agreed to stop referring to their background checks as the “gold standard” and to stop describing Rideshare services as the “safest ride on the road.”

208. The Defendants represent that all Uber drivers are “thoroughly screened through a rigorous process [they’ve] developed using industry-leading standards”. However, contrary to this statement, Uber actually allows any person with a vehicle that qualifies its *vehicle* requirements to become a driver for one of Uber’s Transportation Services.

209. In reality, the Defendants’ background check process does not even include the minimum of fingerprint identification of potential drivers to ensure that the results of a background check actually correspond to the applicant that submitted the information.

210. Instead of using fingerprint identification, the Defendants’ background check process simply relies on applicants to submit their own personal information online (name, address, driver’s license number and province, and social insurance number). The

Defendants then transfer this information to ISB Canada Inc., a private Canadian company that performs their background checks.

211. Considering that the Defendants' background check process does not use a unique biometric identifier such as a fingerprint, there is no guarantee that the results of the background check report are actually affiliated with the applicant who submitted the personal identifiers. Moreover, the applicant driver is never required to appear in person or even by way of simple videoconference to verify their identity at any point during the background check process.

212. The Defendants' background check process does not even come close to what is generally accepted and required within the commercial transportation industry.

213. By way of example, taxi regulators in many metropolitan cities in Canada require applicant drivers to undergo criminal background checks using fingerprint identification through the Royal Canadian Mounted Police's Certified Criminal Record Check process.

214. The Certified Criminal Record Check program requires that the applicant personally appear in order to be fingerprinted, which confirms that the results of the background check do, in fact, belong to that particular individual. This process ensures that, for example, a registered sex offender could not use his law-abiding brother's identification or that a convicted burglar could not borrow his cousin's identification information to become an Uber driver.

215. The Defendants' background check process, although purportedly "industry-leading" simply does not meet minimum safety standards. It does not afford the same or

a similar level of security as the fingerprint-based RCMP certified Criminal Record Check process that is used for performing background checks on taxi drivers.

216. The use of fingerprint identification is the bare minimum standard for a background check process to be considered “industry-leading”. The Defendants’ background screening process is indeed anything but.

217. Uber has not implemented background checks that require applicant drivers to submit their fingerprints and running it against all available public databases, such as RCMP records. Uber does not invest in continuous monitoring of its drivers and is not immediately alerted when one of its drivers is implicated in criminal acts.

218. The Defendants have also wilfully decided against the adoption of policies that would require that prospective Uber drivers be interviewed or be trained as to the lines of permissible and impermissible conduct vis-à-vis Uber passengers.

219. Testifying to their insensitivity to gender-based violence and to the risk of its occurrence in the course of Uber drivers’ delivery of Rideshare Services, the Defendants also do not adequately train their drivers on issues pertaining to sexual assault, sexual relations, sexually inappropriate behavior, and sensitivity to how their words or conduct may be perceived. The Defendants therefore have no reasonable basis for concluding that their drivers will not engage in any such conduct.

220. Significantly, and despite unquestionably being aware of repeated complaints, police investigations, criminal charges and convictions on this issue, the Defendants repeatedly deliberately decided against implementing standards or policies aimed at

protecting passengers from sexual assault, assault, battery, forcible confinement, sexual harassment and other unacceptable and dangerous behaviour.

221. Perhaps most shockingly, the Defendants have consciously decided against implementing policies, let alone mandatory training, insisting upon a zero-tolerance policy with respect to making sexual or other advances towards passengers, or with respect to sexual activity with or touching of Uber passengers.

222. As is directly exemplified by the horrific attacks and assaults sustained by the Plaintiff and Class Members, the Defendants' failure to implement and enforce training policies of this kind have had and continue to have deleterious consequences from which victims may never entirely recover.

223. The Defendants' retention of Uber drivers engaging in criminal acts and other misconduct brought to their attention can, at worst, be said to amount to intentionally incompetent retention and, at best, as patently negligent.

224. In response to passenger complaints about Uber drivers, including with respect to the use of physical violence and sexual assault, a driver will only be deactivated from the app and thereby be precluded from providing Rideshare Services on the Defendants' behalf under one of three circumstances: (1) if the complaint concerned a second or third reported transgression or offence; (2) if corroborative evidence exists, such as a police report or video footage; or (3) if the driver admits to the assault.

225. This so-called "three strikes policy" is the epitome of negligent retention. The policy is not rigorously enforced in all cases, including as concerns an Uber driver who was allowed to continue providing Rideshare Services despite three separate complaints

concerning sexual advances made on Uber passengers. The driver was only disallowed from further working as an Uber driver after a fourth passenger filed a complaint alleging the driver raped her.

226. The Defendants' retention practices are also negligent in failing to terminate drivers it knows or ought reasonably to know or have known pose a threat to passengers, including to the Plaintiff and Class Members.

227. As is directly exemplified by the horrific attacks and assaults sustained by the Plaintiff and Class Members, the Defendants' negligent retention of problematic Uber drivers have had and continue to have deleterious consequences from which victims may never entirely recover.

228. The significant and indelible injuries suffered by the Plaintiff and Class Members are directly causally related to Uber's negligent supervision of the drivers respectively responsible for perpetrating the attacks and assaults from which these injuries derive.

229. The Defendants' past and persistent practices and refusal to implement effective supervisory policies and mechanisms that can confidently, reasonably, and necessarily lead to the diminution of the risk and actual manifestation of harms and criminal conduct including battery, assault, sexual assault, forcible confinement and other attacks perpetrated by Uber drivers and passengers unmistakably amounts to negligent supervision.

230. The Defendants' continued shocking and wanton practices negligently perpetuate the risk and manifestation of actual harm arising from the conduct of Uber drivers extend

to the absence of any policy or mechanism for continuously visually monitoring Uber drivers during rides contracted via the Uber Application.

231. To this day, and despite being undeniably fixed with the knowledge of repeated, horrific, and unacceptable occurrences of sexual assault, sexual misconduct, and other criminal acts perpetrated by Uber drivers, the Defendants still do not require video monitoring of their drivers that cannot be turned off during the delivery of Rideshare Services.

232. The Defendants' practices in this regard amount to intentionally perpetuating the risk or actual manifestation of the aforementioned harms; at best, these practices are emblematic of the negligent supervision upheld by the Defendants in operating and administering the Rideshare Services.

233. The Defendants' failure to require video surveillance at the time of the incidents and criminal acts perpetrated against the Plaintiff and Class Members necessarily amounts to negligent supervision of Uber drivers, particularly in light of the Defendants' repeated, exaggerated, and indeed misleading and false representations concerning the high safety measures and standards prospective and actual Uber passengers can expect.

E. Fraudulent and/or Negligent Misrepresentation

234. Uber, as a transportation service provider, owes a duty of care to its passengers to provide accurate and truthful information regarding safety measures, driver qualifications, and potential risks.

235. Uber made explicit representations about the safety of its Rideshare Services as outlined herein. Uber did so knowingly, intentionally or with reckless disregard for its truthfulness with the intent to deceive passengers and induce them to rely on the false information. Alternatively, Uber failed to exercise reasonable care or diligence in ensuring the accuracy of the information that it provided.

236. Alternatively, the Defendants were reckless or negligent in failing to correct their misrepresentations upon undeniably becoming aware of complaints, statistics, and reports concerning incidents of sexual assault, sexual misconduct, and other odious acts perpetrated by Uber drivers.

237. Uber made false statements or failed to disclose material information relevant to passenger safety. This includes misrepresentations about the effectiveness of its driver background checks, driver qualifications, and safety protocols in place.

238. Central to the Defendants' deceptive marketing scheme is their message that Uber does everything possible to ensure the safety of its Rideshare Services users.

239. By way of example, the Defendants' promotional strategy includes communicating the following statements:

- (a) "From the moment you request a ride to the moment you arrive, the Uber experience has been designed from the ground up with your safety in mind";
- (b) "We believe deeply that, alongside our driver partners, we have built the safest transportation option in 260 cities around the world;"

- (c) “Putting safety first for each of the one million trips we are doing every day means setting strict safety standards, then working hard to improve them every day”;
- (d) “The future of safety – More than 200 Uber employees, from researchers and scientists to designers and engineers are focused on building technology that puts safety at the heart of your experience;”
- (e) “Our commitment to safety – You deserve to be able to move safely. To look forward to opportunities ahead. To be connected to people and places that matter most. Which is why we’re focused on your safety, from setting new standards to developing technology with the goal of reducing incidents”;
- (f) “93% of people would recommend Uber to a friend if they have been drinking. Not only would people take Uber themselves – they would trust Uber to take their drunk home safely”;
- (g) “Sexual assault and gender-based violence don’t belong anywhere in our communities, which is why Uber is committed to help stop incidents before they happen”; and
- (h) “Of course, no background check can predict future behaviour and no technology can yet prevent bad actions. But our responsibility is to leverage every smart tool at our disposal to set the highest standard in safety we can. We will not shy away from this task.”

240. The Defendants have also repeatedly misrepresented the safety of Rideshare Services for female passengers and their commitment to women's safety generally. The Defendants have disproportionately targeted women with particularized ad campaigns, and marketing materials overwhelmingly feature smiling women while being driven in vehicles purportedly contracted by way of the Uber App.

241. Additional misrepresentations are featured on a "Women's Safety" page on Uber's website. The latter specifically represents that Uber is "driving change for women's safety" and that "[s]exual assault and gender-based violence don't belong anywhere in our communities..." Until recently, the page also advertised that "Uber is committed to help stop incidents before they happen..."

242. The Defendants' misrepresentations concerning the safety of Rideshare Services were conveyed to actual and prospective Uber passengers, including the Plaintiff and Class Members, and other members of the public through several channels, including but not limited to: the Uber App, retail advertising, Uber's own website, app store product placement, emails and social media. The Defendants intended for their representations to reach and expand its existing audience, especially women and other vulnerable passengers and statements made by members of the Defendants' executive team.

243. Based on the Defendants' awareness and on their failure to adopt effective safety measures and standards, the Defendants did not have reasonable grounds for believing that their representations concerning safe rides could actually be delivered to passengers, both generally and to the Class Members.

244. The Defendants essentially induced the Class Members to enter into a contract promising benefits that Defendants knew or ought reasonably to have known could not be delivered on the basis of insufficient or inadequate measures to ensure their complete fulfillment.

245. The tort of negligent misrepresentation can be made out as:

- (a) There was a relationship of proximity in which failure to take reasonable care would foreseeably cause loss or harm to the Class;
- (b) The Defendants made a Representation that was untrue, inaccurate and/or misleading regarding the safety of its services, the background checks on its drivers, or its ability to prevent sexual assault, sexual misconduct, and other attacks;
- (c) The Defendants acted negligently in making the Representation;
- (d) The Representation was relied upon by the Class reasonably; and
- (e) The Class has sustained damages as a result of their reliance.

246. The tort of fraudulent misrepresentation can equally be made out as:

- (a) The Defendants made a Representation that was untrue, inaccurate and/or misleading regarding the safety of its services, the background checks on its drivers, or its ability to prevent sexual assault, sexual misconduct, and other attacks;

- (b) The Defendants knew that the Representation was false or were reckless as to their truthfulness – this includes knowledge of previous incidents of sexual assault, sexual misconduct, and other attacks by drivers and awareness of deficiencies in their safety protocols;
- (c) The Defendants intended to deceive passengers or with reckless disregard for the truth, knowing that passengers would rely on the information provided;
- (d) The Representation was relied upon by the Class reasonably; and
- (e) The Class has sustained damages as a result of their reliance.

247. The Defendants represented to the Class Members that the Rideshare Services are the safest transportation option, were designed with their safety in mind and feature the strictest safety standards in order to set the highest standard in safety. Class Members reasonably relied on the information provided by Uber in deciding to use its Rideshare Services and they would not have used these services or would have taken alternative measures to ensure their safety if they had known the truth.

F. Negligent Infliction of Emotional Distress

248. Uber owed Class Members a duty to exercise reasonable care to avoid causing foreseeable harm, including emotional distress.

249. Class Members did indeed suffer psychological harm due to the negligent actions and inactions described herein by the Defendants that fell below the expected standard of care.

250. Class Members' harm in having been victims of sexual assault, sexual misconduct, and other attacks is recognizable, severe, substantial, and medically recognized.

G. Negligent Failure to Warn

251. Uber, as a transportation service provider, has a duty to warn passengers of foreseeable risks associated with using its platform for Rideshare Services. This duty includes warning passengers about the possibility of sexual assault, sexual misconduct, and other attacks by Uber drivers in the ordinary course of using its Rideshare Services and providing guidance on how to recognize and how to report inappropriate behaviour.

252. Uber has and had a duty to inform passengers of this risk to enable them to take appropriate precautions and make informed decisions about their safety.

253. Uber has and had a duty to warn passengers that the features of the Uber App and the use of its Rideshare Services posed a risk of harm by informing them of at least the following:

- (a) That its matching algorithm could pair passengers with Uber drivers with a criminal past, a history of receiving low star ratings, or a history of reports/complaints by passengers;
- (b) That the GPS tracking and prediction did not include any aspect to alert Uber or law enforcement if an Uber driver deviated from the predicted or planned route or spent excessive time with a passenger at the beginning or end of a route;

- (c) That when ordering Rideshare Services, that Uber may transmit their precise location to individuals who posed a risk of harm, including sexual assault, sexual misconduct, and other attacks;
- (d) That they were at risk of sexual assault, sexual misconduct, and other attacks when using the Rideshare Services and when using the Uber App.

254. Uber breached its duty to warn passengers by failing to provide adequate information or warnings about the risk of sexual assault, sexual misconduct, and other attacks. Uber did not sufficiently educate passengers on safety measures and it failed to implement effective policies and procedures to prevent such incidents.

255. Based on the aforementioned Annual Reports, criminal convictions, reported incidents, complaints, and other publicly-available information including the Defendants' own admissions as to their awareness of the risks, the Defendants cannot reasonably contend that they did not know or could not have known about them on the basis of all available information.

256. To the extent that the Defendants may be said to have provided any warning to the Plaintiff and Class Members and members of the public in respect of any of the risks heretofore identified – which is not admitted – the warning was inadequate.

257. Had Uber properly warned Class Members of the risks associated with the use of its Rideshare Services, they would not have used the Uber App or would not have used it in the way that they did.

258. Overall, the elements of the tort of negligent failure to warn are established:

- (a) The Defendants knew or reasonably ought to have known of the risks posed to passengers by the Uber App and Uber drivers;
- (b) The Defendants negligently failed to warn actual and prospective passengers of the attendant risks by failing to actually warn passengers, including the Plaintiff and Class Members, and/or providing inadequate warnings;
- (c) Had the Defendants actually warned the Plaintiff and Class Members and/or provided an adequate warning, the Plaintiff and Class Members would have used the Uber App differently, or not at all.

H. Breach of Fiduciary Duty to the Plaintiff and to the Class Members

259. Uber, as a transportation service provider, owed a duty of care to its passengers to ensure their safety based on Uber's role in providing a service that involves trust and reliance on the part of passengers. Uber assumed a special responsibility for passenger safety, bodily autonomy and security that gives rise to fiduciary obligations.

260. In addition, this fiduciary relationship also arises out of contract.

261. The elements required to establish an *ad hoc* fiduciary relationship are present:

- (a) The nature of the relationship between the Defendants and Uber passengers is characterized by a scope for the exercise of discretion or power by Uber drivers;

- (b) The power or discretion can, at any time, be exercised unilaterally so as to effect Uber passengers' legal and/or practical interests; and
- (c) Passengers of Uber vehicles dispatched through the Uber App to provide Rideshare Services have a peculiar vulnerability to the exercise of that discretion or power.

262. The nature and method of delivering Rideshare drivers provides Uber drivers with unique discretionary power over passengers, including the unilateral ability to exercise general control over their physical liberty.

263. Uber drivers can activate locks, turn off lights, and operate the automobile so as to prevent the passenger from exiting the vehicle or escaping from it in the event of an attack perpetrated against them by an Uber driver.

264. Uber breached its fiduciary duty to passengers when it failed to take adequate steps to ensure passenger safety and to prevent sexual assault, sexual misconduct, and other attacks by Uber drivers.

I. Vicarious Liability for the Intentional Torts of its Uber Drivers

265. Uber exercised complete control over the provision of its Rideshare Services.

266. However Uber drivers are characterized, whether as employees or as independent contractors, the sexual assault, sexual misconduct, and other attacks occurred within the scope of Uber's controlled environment and it is therefore responsible for the actions of its drivers.

267. Uber intentionally or recklessly caused harm to its passengers and it is thus liable for the intentional torts committed against them such as assault, battery, false imprisonment, and intentional infliction of emotional distress.

268. Briefly:

- (a) The tort of assault can be made out where the Uber drivers actions included unwanted advances or threats of physical harm;
- (b) The tort of battery can be made out where the Uber drivers engaged in unwanted touching or contact with passengers;
- (c) The tort of false imprisonment can be made out where the Uber drivers prevented passengers from leaving the vehicle or otherwise restricting their movement during the assault;
- (d) The tort of intentional infliction of emotional distress can be made out where the Uber drivers engaged in particularly egregious or shocking behaviour that caused significant emotional harm to passengers.

STATUTORY REMEDIES

269. The Defendants' manufacture, design, development, production, marketing, operation, sale and/or making Uber Rideshare Services available in the stream of commerce whilst posing safety risks of which the Defendants are and have been aware and have taken no steps, or only insufficient steps to remedy, constitute breaches of *The Business Practices Act*, the Consumer Protection Act, and/or other similar/equivalent

Consumer Protection Legislation, the *Competition Act*, *The Human Rights Code*, the Human Rights Legislation, and the *Criminal Code*.

(a) **Breach of *The Business Practices Act***

270. At all times relevant to this action, the Plaintiff and Class Members were “consumers” within the meaning of that term as defined in s. 1 of *The Business Practices Act*.

271. At all times relevant to this action, the Defendants were “supplier[s]” within the meaning of that term as defined in s. 1 of *The Act*.

272. The service agreement entered into between the Plaintiff and Class Members and the Defendants is a “consumer transaction” within the meaning of that term as defined in s. 1 of *The Business Practices Act*.

273. The Rideshare Services contracted from the Defendants by the Plaintiff and by Class Members constitute “goods” within the meaning of that terms as defined in section 1 of *The Business Practices Act*.

274. The Defendants have engaged in an unfair practice by making a Representation to Class Members which was and is “deceiving or misleading” in “using exaggeration, innuendo or ambiguity as to a material fact or failing to disclose a material fact” within the meaning of ss. 2, 3, 5 and 8 of *The Business Practices Act* as follows:

- (a) Representing that its Rideshare Services have performance characteristics, accessories, components, uses or benefits that they do not have in terms of safety features;

- (b) Representing that the Rideshare Services are of a particular standard quality or grade that they are not;
- (c) Falsely representing that the Rideshare services are available for safe transportation;
- (d) Falsely representing the purpose of the Safe Rides Fee;

275. Uber took advantage of Class Members who were unable to protect their own interests in breach of s. 3(1) of *The Business Practices Act*.

276. Further, the Defendants' conduct alleged herein is unfair insofar as it offends public policy, is oppressive and causes consumers substantial injury.

277. The Representation was and is false, misleading and/or deceptive such that it constitutes an unfair practice.

278. The Defendants know or ought to know that consumers are exposed to a risk of harm as a result of their purchase of Rideshare Services and are therefore deprived of a substantial benefit from the subject-matter of the misrepresentations, namely, that the services are safe, feature the highest safety measures and standards, and are designed with the safety of passengers in mind.

279. The Representation was and is deceiving and/or misleading such that it constituted an unfair practice, which induced the Plaintiff and the Class Members to pay for and use the Uber Transportation Services in the course of which they were harmed, as a result of which they are entitled to damages pursuant to *The Business Practices Act*.

280. The Plaintiff and the Class Members relied on the Representations made by the Defendants. The reliance upon the Representations by the Plaintiff and Class Members is established by their purchase and concomitant use of Uber Transportation Services.

281. The Plaintiff states that the breach of contract and the refusal to compensate Class Members constitutes an unfair practice as a result of which they are entitled to damages pursuant to *The Business Practices Act*.

B. Breach of the *Consumer Protection Act*

282. At all times relevant to this action, the Uber Rideshare Services were “services” and “products” within the meaning of that terms as defined as s. 1(1) of the *Consumer Protection Act*.

283. At all times relevant to this action, the transactions by which consumers used Uber Rideshare Services were “retail sale(s)” within the meaning of that terms as defined as s. 1(1) of the *Consumer Protection Act*.

284. The *Consumer Protection Act* prohibits businesses, such as Uber, from making false or misleading representations to consumer regarding goods or services.

285. Uber made false or misleading representations to passengers concerning the safety of its services.

286. The *Consumer Protection Act* also prohibits businesses, such as Uber, from engaging in unfair practices that harm consumers. Uber's failure to implement adequate safety measures or to respond appropriately to reports of sexual assault, sexual misconduct, and other attacks is unfair and harmful to passengers.

(i) Implied Warranty of Satisfactory Performance

287. S. 58 (6) of the *Consumer Protection Act* provide that in every retail sale, including the Rideshare Services there is an implied condition that they will be provided in a satisfactory manner.

288. The Defendants violated the statutory implied warranty of satisfactory performance when they did not provide the safety measures necessary for the Rideshare Services to be satisfactory.

289. The implied warranty of satisfactory performance can under no circumstances be understood to have been satisfactorily performed when consumers are harmed due to a lack of safety measures and standards being put into place.

(ii) Express Warranty of Oral or Written Representations

290. The Defendants violated the express warranties made to prospective and current users of Uber Rideshare Services in advertisements touting the purported industry-leading safety measures and standards in place to ensure passenger safety and position Uber as the safest transportation option.

291. Pursuant to section 58 (8) of the *Act*, every oral or written statement made by the Defendants regarding the quality, performance or efficacy of the Rideshare Services that

is contained in an advertisement – such as the safety measures and standards represented as applicable to, and to be enjoyed by, purchasers of the Rideshare Services – is deemed to be an express warranty respecting those services.

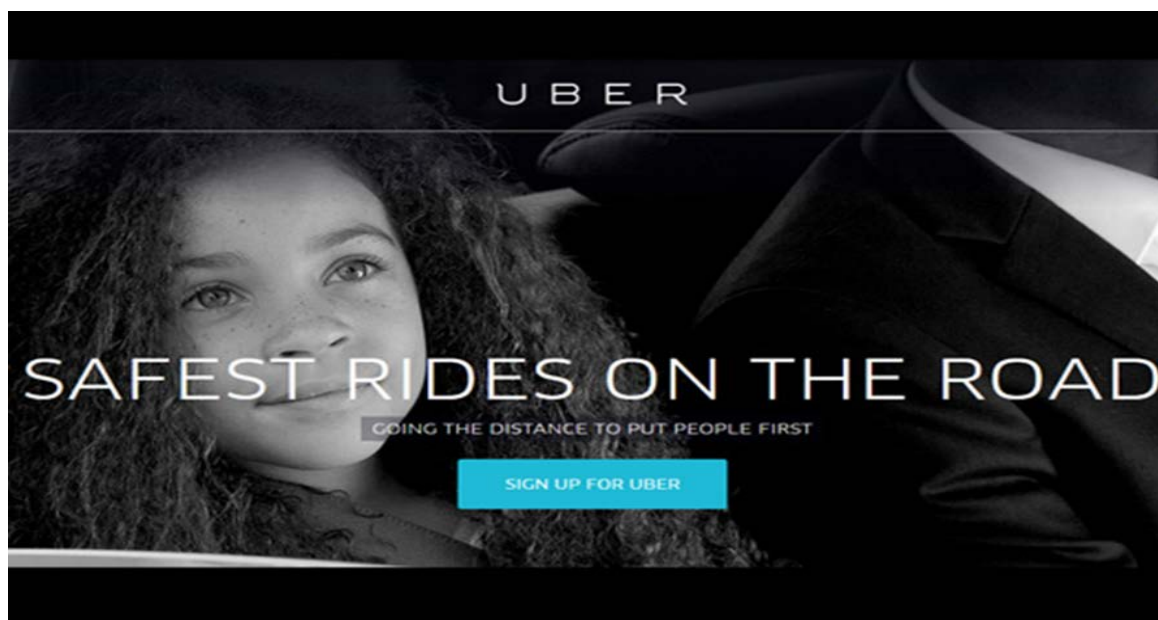
292. By way of example, the Defendants' promotional strategy includes advertisements communicating the following statements:

- (a) "From the moment you request a ride to the moment you arrive, the Uber experience has been designed from the ground up with your safety in mind";
- (b) "Putting safety first for each of the one million trips we are doing every day means setting strict safety standards, then working hard to improve them every day";
- (c) "We believe deeply that, alongside our driver partners, we have built the safest transportation option in 260 cities around the world;"
- (d) "The future of safety – More than 200 Uber employees, from researchers and scientists to designers and engineers are focused on building technology that puts safety at the heart of your experience;"
- (e) "Our commitment to safety – You deserve to be able to move safely. To look forward to opportunities ahead. To be connected to people and places that matter most. Which is why we're focused on your safety, from setting new standards to developing technology with the goal of reducing incidents"; and
- (f) "Of course, no background check can predict future behaviour and no technology can yet prevent bad actions. But our responsibility is to leverage

every smart tool at our disposal to set the highest standard in safety we can. We will not shy away from this task.”

293. Additional statements are featured on a “Women’s Safety” page on Uber’s website. The latter specifically represents that Uber is “driving change for women’s safety” and that “[s]exual assault and gender-based violence don’t belong anywhere in our communities...” Until recently, the page also advertised that “Uber is committed to help stop incidents before they happen...”

294. An example of an advertisement containing representations that s. 58 (8) considers to be express warranties statutorily incorporated into the contracts between the Plaintiff and Class Members and the Defendants, respectively, appears below:



295. Pursuant to s. 58.1 of *The Consumer Protection Act*, and by virtue of their being “seller[s]” within the definition of that term under s. 1 thereof, the Defendants are “personally liable to the buyer[s]” – here, the Plaintiff and Class Members – “for all duties,

liabilities, obligations and warranties applicable to the sale” whether under the *Act* or under the contract.

296. By virtue of the Defendants’ categorical breach of the express warranties identified above as having been statutorily incorporated into their respective contractual relationship, the Plaintiff and Class Members are entitled to recover damages from the Defendants.

C. Breach of the *Competition Act*

297. At all times relevant to this action, the Defendants’ Rideshare Services was a “business”, a “product” and a “service” within the meaning of these terms as defined in s. 2 of the *Competition Act*.

298. The Defendants’ acts are in breach of s. 52 of Part VI of the *Competition Act*, were and are unlawful and render the Defendants jointly and severally liable to pay damages and costs of investigation pursuant to s. 36 of the *Competition Act*.

299. The Defendants knowingly or recklessly made the Representation to the public and in so doing breached s. 52 of the *Competition Act* because the Representation:

- (a) Was made for the purpose of promoting, directly or indirectly, the business interests of the Defendants;
- (b) Was made to the public;
- (c) Was false and misleading in a material respect;

- (d) Failed to state material facts; and
- (e) Stated benefits and qualities of the Rideshare Services that were false and represented that the Safe Rides Fee was used for a purpose that does not exist, i.e. for Safety Measures.

300. Due to the Defendants' Representations, the Plaintiff and Class Members were induced into using Uber Transportation Services and consequently suffering damages as outlined herein.

301. Pursuant to s. 36 of the *Competition Act*, the Defendants are liable to pay the damages that resulted from the breach of s. 52.

302. Pursuant to s. 36 of the *Competition Act*, the Plaintiff and Class Members are entitled to recover their full costs of investigation and substantial indemnity costs paid in accordance with the *Competition Act*.

303. The Plaintiff and Class Members are also entitled to recover as damages or costs, in accordance with the *Competition Act*, the costs of administering the plan to distribute the recovery in this action and the costs to determine the damages of each Class Member.

D. Breach of *The Human Rights Code*

304. The Defendants contravened *The Human Rights Code* in at least the following ways:

(i) Discrimination in Services and Accommodation – s. 9

305. As applicable to this Statement of Claim, discrimination is defined in *The Human Rights Code* at s. 9(1)(b) and (d) as: (i) differential treatment of an individual or group on the basis of any protected characteristic such as “sex, including sex-determined characteristics or circumstances...”, “gender identity”, “sexual orientation”, and “physical or mental disability”; and (ii) failure to make reasonable accommodation for the special needs of these same individual or group.

306. The Uber Rideshare Services were provided in a discriminatory manner such that Uber’s policies or practices disproportionately exposed certain groups to sexual assault, sexual misconduct, and other attacks, with certain characteristics, such as sex, gender, sexual orientation, and physical or mental disability.

(ii) Discrimination in service, accommodation, etc. – s. 13

307. *The Human Rights Code* prohibits discrimination with respect to any service, accommodation, benefit, or program unless bona fide and reasonable cause exists.

308. The Defendants discriminated with respect to its provision of Rideshare Services insofar as sex, gender, sexual orientation, and physical or mental disability.

(iii) Harassment – s. 19

309. Section 19(2) of *The Human Rights Code* defines “harassment” as:

- (a) a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in subsection 9(2); or

- (b) a series of objectionable and unwelcome sexual solicitations or advances;
or
- (c) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

310. Section 19(1) of *The Human Rights Code* prohibits persons responsible for an activity or undertaking from harassing a person partaking and prohibits persons from knowingly permitting or failing to take reasonable steps to terminate said harassment.

311. Uber drivers have been harassing passengers and Uber itself has been knowingly permitting or failing to take reasonable steps to prevent/terminate said harassment.

(iv) Vicarious Liability – s. 10

312. Section 10 of *The Human Rights Code* provides that acts of officers and employees (the Uber drivers) are the responsibility of Uber itself since it did not take all reasonable steps to prevent contraventions of *The Human Rights Code* and did not take any subsequent steps to mitigate or avoid the effect of the contravention.

313. As such, Uber is vicariously liable for the Uber drivers' harassment of Uber passengers under s. 19 of *The Human Rights Code*.

E. Vicarious Liability for *Criminal Code* offences

314. While the *Criminal Code* primarily addresses criminal offences and prosecutions, its provisions also have implications for civil liability here.

315. Evidence of criminal offences committed by Uber drivers engages Uber's vicarious liability.

316. Where an Uber driver is convicted of sexual assault, sexual misconduct, and other attacks, Uber is accordingly responsible for it within the context of this Statement of Claim.

CAUSATION

317. The acts, omissions, wrongdoings, and breaches of legal duties and obligations on the part of the Defendants are the direct and proximate cause of the Plaintiff's and Class Members' injuries.

318. The Plaintiff pleads that by virtue of the acts, omissions and breaches of legal obligations as described above, they are entitled to legal and/or equitable relief against the Defendants, including damages, consequential damages, injunctive relief, specific performance, rescission, attorneys' fees, costs of suit and other relief as appropriate in the circumstances.

DAMAGES SUFFERED BY THE CLASS

319. By reason of the acts, omissions and breaches of legal obligations of the Defendants, the Plaintiff and Class Members have suffered injury, economic loss and

damages, the particulars of which include, but are not limited to the following general, special, and punitive damages:

A. General Damages (Non-Pecuniary Damages)

320. The general damages being claimed in this Statement of Claim include:

- (a) emotional, physical, and psychological harm;
- (b) impairment of mental and emotional health and well-being;
- (c) impaired ability to participate in normal family affairs and relationships;
- (d) alienation from loved ones and loss of friendship and companionship;
- (e) depression, anxiety, emotional distress, and mental anguish;
- (f) pain, suffering, trouble, stress, inconvenience, and loss of general enjoyment of life;
- (g) loss of self-esteem, embarrassment, feelings of humiliation and degradation;
- (h) sexual disorientation;
- (i) impaired ability to trust other individuals or to sustain relationships;
- (j) loss of consortium;
- (k) loss of reputation;
- (l) a requirement for medical or psychological treatment and counselling;

B. Special Damages (Pecuniary Losses)

321. The special damages being claimed in this Statement of Claim include any and all medical expenses (including diagnostic tests and medical evaluations, medical treatment, therapy, counselling and rehabilitation), medications purchased (including both over-the-

counter and prescriptions), lost wages and income, future loss of earning capacity, property damage, and/or the cost of the Uber ride;

C. Punitive (Exemplary) and Aggravated Damages

322. The Defendants have taken a high-handed, cavalier and arbitrary attitude towards their legal and moral duties to Class Members and conducted their affairs with wanton disregard for Class Members' interests, safety, and well-being.

323. Since as early as 2014, Uber knew that its drivers were committing acts of sexual assault, sexual misconduct, and other attacks on women and other vulnerable passengers through the receipt of repeated passenger complaints and reports and through notification of police investigations into Uber drivers' misconduct. Uber has been the defendant in numerous civil lawsuits/arbitrations alleging substantially similar allegations as those put forth in this Statement of Claim.

324. Nevertheless, the Defendants have failed to institute reasonable safety precautions necessary to protect its passengers, instead prioritizing profits over safety.

325. In addition, it should be noted since the Defendants are parts of a highly-notorious, multi-billion-dollar corporation: it is imperative that punitive and exemplary be ordered to avoid any perception that they can evading the law without consequence.

326. Punitive and aggravated damages are necessary to be material in order to have a deterrent effect on other corporations, and to incentivize the Defendants and other corporations engaged in the same line of business to adopt and implement meaningful

safety measures and standards that actually serve to ensure and protect the safety of their customers, in this case passengers of Rideshare Services.

327. At all material times, the conduct of the Defendants as set forth was intentional, malicious, deliberate, and oppressive towards their customers and the Defendants conducted themselves in a willful and reckless manner.

LEGISLATION

328. The Plaintiff pleads and relies on *The Class Proceedings Act*, *The Court of King's Bench Act*, *The Consumer Protection Act*, *The Business Practices Act*, the *Competition Act*, and other Consumer Protection Legislation in force in Canada, *The Tortfeasors and Contributory Negligence Act*, *The Human Rights Code*, the Human Rights Legislation, and the *Criminal Code*.

JURISDICTION AND FORUM

Real and Substantial Connection with Manitoba

329. There is a real and substantial connection between the subject matter of this action and the province of Manitoba because:

- (a) The Defendants engage in, and derive substantial revenue from, carrying on business in, and with residents of, Manitoba;
- (b) The Plaintiff and a portion of Class Members are residents of Manitoba;
- (c) Torts were committed by the Defendants, and the damages of certain Class Members occurred in the jurisdiction of Manitoba.

330. The Plaintiff proposes that this action be tried in the City of Winnipeg, in the Province of Manitoba as a proceeding under *The Class Proceedings Act*.

331. No alternative forum is *clearly* more appropriate so as to displace the forum selected by the Representative Plaintiff.

THE DEFENDANTS' JOINT AND SEVERAL LIABILITY

332. The Plaintiff pleads that by virtue of the acts and omissions described above, the Defendants are liable in damages to herself and to the Class Members by virtue of section 5 of *The Tortfeasors and Contributory Negligence Act*, and where there is no similar statute, that each Defendant is responsible for the acts and omissions of the other Defendants for the following reasons:

- (a) Each was the agent of the other;
- (b) Each company's business was operated so that it was inextricably interwoven with the business of the other as set out above;
- (c) Each company entered into a common advertising and business plan to manufacture, design, develop, produce, market, operate, sell and/or make Uber Transportation Services available in the stream of commerce;
- (d) Each owed a duty of care to the other and to each Class Member by virtue of the common business plan to manufacture, design, develop, market, implement, produce, operate, sell and/or make Uber Transportation Services available in the stream of commerce; and

- (e) The Defendants intended that their businesses be run as one global business organization.

333. The Plaintiff and the other Class Members are entitled to legal and equitable relief against the Defendants, including damages, consequential damages, attorneys' fees, costs of suit and other relief as appropriate.

334. The Plaintiff and Class Members are entitled to recover damages and costs of administering the plan to distribute the recovery of the action in accordance with *The Class Proceedings Act*.

SERVICE OUTSIDE MANITOBA

335. The originating process herein may be served outside Manitoba, without leave, pursuant to subparagraphs (a), (c), (f), (g), (h), (i), (k) and (m) of Rule 17.02 of the *Court of King's Bench Rules*. Specifically, the originating process herein may be served without court order outside Manitoba, in that the claim is:

- (a) In respect of a contract made in whole or in part in Manitoba (rule 17 (f));
- (b) In respect of a tort committed in Manitoba (rule 17.02 (g));
- (c) In respect of loss or damage sustained in Manitoba arising from the causes of action claimed herein (rule 17.02 (h));
- (d) In respect of the injunctive relief being claimed in Manitoba (rule 17.02 (i));
- (e) Against a person carrying on business in Manitoba (rule 17.02 (m)).

Respectfully submitted.

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