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HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA,  
  
*Plaintiff,*  
  
v.  
  
CITY OF SEATTLE, *et al.*,  
  
*Defendants.*

Case No. 2:16-cv-00322 RSL

DECLARATION OF MITCHEL  
MATTHEWS IN SUPPORT OF  
PLAINTIFF’S OPPOSITION TO  
MOTION TO DISMISS

I, Mitchel Matthews, hereby declare as follows:

I submit this declaration in support of Plaintiff’s Opposition to Defendants’ Motion to Dismiss. I have personal knowledge of each fact stated in this declaration, to which I could and would competently testify if called as a witness in this matter.

1. Since June 2015, I have worked for Uber Technologies, Inc. (“Uber”) as a Senior Operations and Logistics Manager based in Seattle. In that role, I consult with operations teams in Seattle regarding Uber’s operations and have comprehensive personal knowledge of Uber’s business model, as well as the operations of Uber’s wholly owned subsidiaries, including Uber USA, LLC (“Uber USA”) and Rasier, LLC (“Rasier”).

1           2.       Uber was founded in 2009 in San Francisco, California. Uber, Uber USA,  
2 and Rasier are members of the Chamber of Commerce of the United States of America.

3           3.       Uber is a technology company based in San Francisco that connects  
4 individuals looking for transportation (“riders”) with independent transportation providers  
5 looking for passengers (“drivers”). Uber provides the technology, through its smartphone  
6 application (the “App”) that allows riders and drivers to connect based on their location.  
7 Uber offers the App as a tool to both riders and drivers to facilitate transportation services,  
8 and it charges a service fee to drivers for use of the App.

9           4.       Using the App, riders can connect with available drivers offering a variety  
10 of transportation options.

11          5.       The App is available to riders and drivers in over 150 cities across the  
12 country.

13          6.       As a Senior Operations and Logistics Manager for Uber, I am familiar with  
14 the process drivers and riders must go through to sign up to use the App and the various  
15 documents to which they must assent in order to use the App.

16          7.       To request transportation services via the Uber App, riders must first  
17 download the rider version of the Uber App to a smartphone and create an account with  
18 Uber. Riders place a payment method on file with Uber, which eliminates the need for  
19 riders to carry cash and allows for direct payment from the rider to the driver via the Uber  
20 App. Before using the Uber App to request transportation services, riders must also agree  
21 to a set of terms and conditions.

22          8.       In Seattle, drivers seeking to access the Uber platform to generate leads for  
23 potential riders must first enter into an agreement with Uber USA or Rasier, depending on  
24 the Uber product under which they would like to receive transportation requests. Drivers  
25 using the Uber platform can hire other individuals to drive vehicles and transport riders on  
26 their behalf under their Uber account.

DECLARATION OF MITCHEL MATTHEWS - 2

1           9.       Drivers who use the Uber App are free to obtain leads from a variety of  
2 sources apart from or in addition to the Uber App. These other lead generation sources may  
3 include transportation providers' pre-existing rider base, third parties such as hotels or  
4 corporate accounts, other mobile lead generation services such as Lyft, and (in the case of  
5 taxi service providers) dispatch services or even street hails.

6           10.       Because of the freedom associated with using the Uber App, drivers often  
7 discontinue their use of the Uber App for extended periods of time, and new drivers  
8 frequently begin using the App. This leads to a high turnover rate among drivers who  
9 contract with Uber and its subsidiaries. Also, many active drivers use the Uber App only a  
10 few hours a week or use it to earn money for a specific project or purpose (e.g., to pay for a  
11 kitchen remodel or summer camp for their child), after which they do not use the Uber App  
12 for months, or at all. In fact, 50% of drivers who have an active Uber account use the App  
13 for less than 10 hours per week.

14           11.       The Uber App provides a number of benefits to the cities in which it is  
15 available. For example, the Uber App benefits transportation providers, who appreciate the  
16 additional earnings potential and flexibility the Uber App gives them—they are free to log  
17 into the Uber App whenever they like, which permits them to receive and accept requests for  
18 transportation during times when they would otherwise be unengaged, and it is entirely up to  
19 them whether to accept or decline a trip request. The flexibility permits a stay-at-home  
20 parent to work only while his children are at school, or a student to work between her classes  
21 or on weekends. It also permits an individual to choose to use the App 30 to 40 hours a  
22 week. Drivers are not required to use the App any particular number of hours each week,  
23 allowing the parent to attend school functions, the student to decide not to work during finals  
24 week, or an employee of another business to supplement her income temporarily.

25           12.       The Uber App is also popular with members of the public, who appreciate the  
26 ability to request safe, affordable, and reliable transportation at the push of a button, as well

1 as the convenience of cashless, behind-the-scenes payment processing. Further, safety  
2 features include a widely used App-based feedback mechanism, which allows riders and  
3 drivers to rate each other immediately after a trip, encouraging good behavior on both sides,  
4 and enabling safety concerns to be communicated more promptly, more efficiently and more  
5 frequently than is the case with traditional taxi and livery operations. This allows Uber to  
6 quickly follow up with the driver or rider to address any such concerns that may arise.

7 Another feature, called “Share my ETA,” allows riders to share their current GPS location  
8 and Estimated Time of Arrival to anyone they choose.

9 13. Uber’s impact on reducing drunk driving has been well-documented. For  
10 example, last summer, the Los Angeles Times reported on “new independent research”  
11 indicating that ride-sharing companies “could reduce the rate of drunk driving related deaths  
12 by as much as 3.6%,” noting that, while “the introduction of more expensive transportation  
13 services ... had little effect on alcohol-related fatalities,” Uber’s affordable uberX product  
14 “made a noticeable difference.” (July 31, 2015 article by Tracy Lien in the Los Angeles  
15 Times, “Low-cost ride-hailing services could reduce drunk driving deaths, research finds.”).  
16 Mothers Against Drunk Driving (“MADD”), which has partnered with Uber, similarly has  
17 recognized the “lifesaving” impact of Uber’s services, including its “revolutionary app,”  
18 which “connects users with safe, reliable rides at the touch of a button . . . , so that people  
19 never have to get behind the wheel drunk” (see July 3, 2014 column by Travis Kalanick,  
20 Founder and CEO of Uber, and Jan Withers, President of MADD, in USA Today, “Uber gets  
21 MADD about drunk driving.”). The USA Today column notes that “DUI arrests in Seattle  
22 decreased by more than 10% after Uber started serving riders and drivers in the city.”

23 14. Uber operates in interstate commerce. The drivers who use the Uber App  
24 frequently serve out-of-state passengers, transport passengers across state lines, use  
25 interstate highways, and use interstate telecommunications equipment. The Uber App itself  
26 operates on interstate telecommunications devices. Payments from riders are processed via

1 interstate online payment gateways and delivered to drivers via the nationwide Automated  
2 Clearing House (ACH) network.

3 15. Uber, Uber USA, and Rasier do not employ drivers or own or operate any  
4 commercial vehicles. There are matters pending before the National Labor Relations  
5 Board in which the agency has been asked to determine whether, in its view, drivers who  
6 have accepted ride requests through the Uber App are employees. *See Uber USA, LLC*,  
7 NLRB Case No. 29-RC-168855 (Pet. filed Feb. 2, 2016); *Mamdooh “Abe” Ramzi Husein*,  
8 NLRB Case No. 14-CA-158833 (Pet. filed Aug. 27, 2015); *Catherine London & John*  
9 *Billington*, NLRB Case Nos. 20-CA-160720, 20-CA-160717 (Pets. filed Sept. 24, 2015);  
10 *Brittany Nicol*, NLRB Case No. 28-CA-160791 (Pet. filed Sept. 25, 2015).

11 16. Uber’s subsidiaries Uber USA and Rasier regularly contract with more than  
12 fifty drivers in the Seattle area. Because these drivers are independent contractors, Uber  
13 USA and Rasier are subject to the requirements of Seattle Ordinance 124968, including the  
14 collective-bargaining provisions.

15 17. Seattle Ordinance 124968 is having an immediate adverse impact on Uber’s  
16 and its subsidiaries’ business in Seattle. Uber and its subsidiaries have already expended,  
17 and continue to expend, substantial time and resources in response to the Ordinance by  
18 engaging costly experts and legal counsel to advise about navigating the collective-  
19 bargaining process and recruiting and hiring personnel to serve as permanent staff  
20 members. Uber and its subsidiaries would not have undertaken any of these costly and  
21 time-consuming efforts but for the existence of Ordinance 124968.

22 18. Uber and its subsidiaries also have already expended and continue to expend  
23 substantial time and resources in preparing to participate in the rulemaking process of the  
24 City of Seattle’s Department of Financial and Administrative Services (“FAS”). For  
25 example, Uber General Manager Brooke Steger drafted and submitted an extensive letter to  
26 the FAS regarding the FAS’s rulemaking and its implementation of the Ordinance on

1 February 24, 2016. Further, on April 18, 2016, a representative of the City requested  
2 records reflecting the trip dates, pick-up times, and drop-off times for all Seattle drivers for  
3 the purpose of implementing the Ordinance. *See* Ex. A. Uber and its subsidiaries are  
4 expending resources in an effort to determine whether and to what extent it will comply  
5 with this request.

6 19. In addition, Uber and its subsidiaries have an immediate need to undertake  
7 to educate drivers now about the Ordinance and the possibility of being represented by an  
8 exclusive union representative. Given the structure for the designation of driver  
9 representatives established in the Ordinance itself, Uber and its subsidiaries risk being  
10 unable to have sufficient time and ability to talk to drivers during any actual organizing  
11 campaign. Accordingly, Uber and its subsidiaries already are engaging in costly efforts to  
12 prepare to engage with drivers regarding organizing under the Ordinance. Uber and its  
13 subsidiaries would not have undertaken these costly and time-consuming efforts but for the  
14 existence of Ordinance 124968.

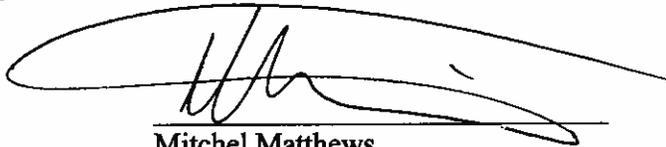
15 20. The Ordinance will require disclosure of the names, addresses, and phone  
16 numbers of all drivers that Uber's subsidiaries contract with. Uber and its subsidiaries have  
17 taken steps to keep this information confidential and have protected the information as a  
18 trade secret. This information is extremely valuable and would be of great interest to its  
19 competitors. Indeed, because drivers pay a service fee to use the App, drivers are  
20 customers of Uber and its subsidiaries—and production of this information is the  
21 equivalent of revealing a closely guarded customer list. If competing firms gain access to  
22 the information, they can use it to contact drivers who use the Uber App and attempt to  
23 weaken the relationship between Uber subsidiaries and the drivers, which would have a  
24 significant adverse impact on Uber's business. Uber and its subsidiaries have released  
25 similar lists only to service providers under agreements with extensive privacy and security  
26 obligations. Further, the drivers whose names would appear on this list under the

1 Ordinance are entitled to privacy and expect that Uber and its subsidiaries will safeguard  
2 their names and contact information. Finally, if Uber were to comply with the disclosure  
3 requirement, it would be forced to expend substantial time and resources to ensure that the  
4 correct information is disclosed, and that no privileged or protected information is  
5 produced.

6 21. The Ordinance also already poses disincentives to drivers signing up for or  
7 remaining on the Uber platform. Under the Ordinance, drivers are threatened with not  
8 being able to vote for the entity that represents them; all drivers will have their information  
9 disclosed to a third party without their consent; all drivers face the threat of being forced to  
10 pay dues to a driver representative regardless of whether they support that representative or  
11 even get to vote for it; and all drivers face the threat of being subject to a contract imposed  
12 by an arbitrator without having the opportunity to vote for that contract. The use of driver  
13 information under the Ordinance to contact drivers to solicit their interest in being  
14 represented by a driver representative also will create a chilling effect on driver signups and  
15 retention on the Uber platform. Drivers afraid of losing the right to vote, or of becoming  
16 subject to a union's control (as well as membership and financial obligations), will avoid  
17 using the Uber platform despite the many benefits it offers. Moreover, the Ordinance is  
18 silent on protections for drivers from coercion, threats, or harassment by entities vying to  
19 represent the drivers. The combination of all of these factors exerts present influences on  
20 drivers that work against Uber's and its subsidiaries' efforts to attract and retain drivers on  
21 the Uber platform—both of which are critical to the business of Uber and its subsidiaries.

22 I declare under penalty of perjury under the laws of the United States of America that the  
23 foregoing is true and correct.

24 Executed on May 9, 2016

25   
26 Mitchel Matthews

DECLARATION OF MITCHEL MATTHEWS - 7

# Exhibit A

**From:** Eng, Matthew [Matthew.Eng@seattle.gov](mailto:Matthew.Eng@seattle.gov)  
**Subject:** City of Seattle Data Request - Ordinance 124689 (Collective Bargaining)  
**Date:** April 18, 2016 at 3:07 PM  
**To:** [brooke@uber.com](mailto:brooke@uber.com)

EM

Hello,

In order for the City to begin drafting rules that would implement Ordinance [124698](#), including defining a “qualifying driver,” the City of Seattle requests you to provide the following driver and trip data between April 1, 2015, and March 31, 2016, on all drivers who drive on your company’s app or use your dispatch system:

- Driver identifier that differentiates one driver from another (driver 1, driver 2, driver 3, etc.).  
Examples might include:
  - A driver’s King County/City of Seattle for-hire driver permit number or
  - A number used by your company to identify a driver
- Trip dates (month/day/year)
- Trip pickup times
- Trip drop-off times

In submitting the data, you could do so via one of two methods. You may upload data to King County’s *sftp* website using your current login credentials or you may e-mail the data to [matthew.eng@seattle.gov](mailto:matthew.eng@seattle.gov).

Please submit data in a format, such as Excel, that allows the City to sort and organize it. A .csv file is acceptable. A scanned PDF containing the data will not meet the City’s request. Data should be submitted or uploaded no later than **5pm on May 6, 2016**.

Please direct any questions to Matthew Eng at 206-684-8157 and thank you for assistance.