

90067  
A6029  
CA

**FILED**  
Superior Court of California  
County of Los Angeles

JUL 14 2015

Sherri R. Carter, Executive Officer/Clerk  
By M. Soto, Deputy  
Moses Soto

1 MICHAEL L. COHEN (SBN: 206253)  
2 HEATHER M. McKEON (SBN: 186414)  
3 COHEN McKEON LLP  
4 1910 West Sunset Boulevard, Suite 440  
5 Los Angeles, California 90026  
6 Telephone: (213) 413-6400  
7 Facsimile: (213) 403-6405  
8 cohen@cohenmckeon.com  
9 mckeon@cohenmckeon.com

10 Attorneys for Plaintiff, Sennett Devermont,  
11 individually, and on behalf of  
12 others similarly situated

D-323  
ELIHU BERLE

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

15 SENNETT DEVERMONT, an individual;  
16 individually and on behalf of others similarly  
17 situated,

CASE NO: **BC 5 8 8 0 9 6**

18 Plaintiffs,

**CLASS ACTION COMPLAINT FOR:**

19 vs.

- 1. **Violations of the Unfair Competition Law  
(Cal. Business & Professions Code §§  
17200 et seq.)**

20 UBER TECHNOLOGIES INC, N.A., A SAN  
21 FRANCISCO CORPORATION, and DOES  
22 1-100, Inclusive,

23 Defendants.

CIT/CASE: BC588096  
LEA/DEF#:   
RECEIPT #: CCH524880067  
DATE PAID: 07/14/15 12:35 PM  
PAYMENT: \$1,435.00 310  
RECEIVED:   
CHECK: \$0.00  
CASH: \$0.00  
CHANGE: \$0.00  
CARD: \$1,435.00

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1 Individual and representative plaintiff Sennett Devermont ("Plaintiff") brings this action for  
2 himself and for all other similarly situated California residents. The following allegations are based on  
3 Plaintiff's personal knowledge, on investigation by his counsel, and on information and belief:

4 **INTRODUCTION**

5 1. Uber Technologies, Inc. ("Uber") is unlawfully attempting to advertise false or misleading  
6 information concerning their prices and credits it provides for referring new customers. Plaintiff has  
7 brought this action to stop this unlawful practice.

8 2. Acting on its own behalf, Uber misleads its users by falsely advertising a cheaper product  
9 than their competitor. This claim is false and misleading as a normal cab company may charge less for  
10 the same route, as found by Plaintiff. By attempting to advertise this information, Uber is systematically  
11 violating California's unfair competition law and California's prohibitions on false advertising. In  
12 addition, Uber is making misleading representations regarding the credits it offers for referrals.  
13

14 **THE PARTIES**

15 **The Plaintiff**

16 3. Individual and representative plaintiff Sennett Devermont is, and at all times relevant to  
17 this action, was an individual residing in Los Angeles County, California.  
18

19 **The Defendant (including Doe Defendants)**

20 4. Plaintiff is informed, believes, and therefore alleges that defendant Uber Technologies,  
21 Inc. ("Uber") is, and at all relevant times was, a corporation organized and existing under the laws of the  
22 state of California. Uber is, and at all relevant times was, authorized to transact the business of  
23 transportation in the state of California and transacted transportation business in Los Angeles County,  
24 California.  
25  
26

1 5. Plaintiff does not know the true names and capacities, whether individual, corporate,  
2 associate, or otherwise, of the defendants sued herein under the fictitious names Does 1 through 100 and  
3 therefore name them as Doe Defendants. Plaintiff will move to amend this complaint to allege the true  
4 names and capacities of the Doe Defendants when they discover these defendants' true names and  
5 capacities. Plaintiff is informed, believe, and therefore allege that each of the Doe Defendants is legally  
6 responsible in some way for the events and occurrences alleged in this complaint and for the damages he  
7 has suffered.

8 6. Plaintiff is informed, believes, and therefore alleges and plead in the alternative that all  
9 defendants, including the Doe Defendants, were at all relevant times acting as actual agents, conspirators,  
10 ostensible agents, partners, joint venturers, or employees of all the other defendants, and that all acts  
11 alleged herein occurred within the course and scope of that agency, employment, partnership, joint  
12 venture, conspiracy, or enterprise, and with the express or implied permission, knowledge, consent,  
13 authorization, and ratification of their co-defendants.

#### 14 JURISDICTION AND VENUE

15 7. This Court may properly assert personal jurisdiction over these parties. Plaintiff is a  
16 California resident and submits himself to this Court's jurisdiction. Uber Technologies, Inc. does  
17 substantial business in California. Finally, all of the actions that are the subject of this action took place  
18 in California.

19 8. This Court may properly assert subject matter jurisdiction over this action. Plaintiff is  
20 alleging claims for violations of California Business and Professions Code section 17200 *et seq.*, and the  
21 amount in dispute exceeds this Court's jurisdictional minimum.

22 9. Venue is proper here because all of the actions that are the subject of this action took place  
23 in Los Angeles County, California. Furthermore, pursuant to Local Rule 2.0(b), this type of action must  
24 be filed in the Central Division of Los Angeles Superior Court.  
25  
26

1 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

2 10. Plaintiff is a frequent user of Uber. Plaintiff has received advertisements from Uber and  
3 viewed advertisements provided to the general public regarding claims that Uber is 30% cheaper than a  
4 cab for specific routes. Based on his use of Uber, Uber’s statements are not true during certain peak  
5 times.

6 11. Plaintiff also receives credits from Uber for referring new business to Uber. Uber does  
7 not disclose that these credits have an expiration date until after the referral has occurred misleading the  
8 public.

9  
10 **CLASS ALLEGATIONS**

11 12. Plaintiff brings this action for himself and for all similarly situated California residents.  
12 He seeks certification of a class under Code of Civil Procedure § 382

13 **An Ascertainable Class Exists**

14 13. Based on the information currently known to Plaintiff and his counsel, Plaintiff defines  
15 the proposed class as follows:  
16

- 17 • All California residents who used Uber Technologies, Inc.’s driver services  
18 between July 14, 2011 and the present.

19 14. Based on the information currently known to Plaintiff and his counsel, Plaintiffs  
20 defines the proposed sub-classes as follows:

- 21 • All California residents who viewed advertising from Uber where Uber  
22 claimed to be a less expensive option than a regular cab company; and  
23 • All California residents who received credits for referring new business, but  
24 were not immediately told that the credits had an expiration date.  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1 15. The proposed class period would begin July 14, 2011, which is four years before the filing  
2 of the original complaint in this action.

3 16. The identities of the members of the proposed class are ascertainable from Uber's  
4 corporate records.

5 17. Plaintiff reserves his right to modify the definition of the proposed class and sub-classes  
6 based on information that he or his counsel learns during discovery.

7 **Common Questions Predominate**

8 18. Common questions predominate over individual questions. These questions include the  
9 following:

- 10 1. Did Uber falsely advertise that its rates were lower than cabs?  
11  
12 2. Did Uber mislead its credit system for referring new business to its  
13 consumers?  
14 3. Is Plaintiff entitled to reasonable attorney fees?

15 **Plaintiff's Claims are Typical**

16 19. Plaintiff's claims are typical of the claims of absent class members.

17 **Plaintiff is an Adequate Representatives**

18 20. Plaintiff will adequately represent the class. He has no interests that are in conflict with  
19 those of the class. Furthermore, they have retained as counsel attorneys who have experience  
20 prosecuting consumer class actions.

21 **Superiority of Class Treatment**

22 21. The class mechanism is superior to other procedures for resolving these claims. Upon  
23 information and belief, the class is too large for joinder to be practicable. The members of the class are  
24 people who have used Uber, and they usually lack the means to prosecute these claims individually.  
25  
26

1 Furthermore, given the state of California's courts, resolving these claims on a class-wide basis rather  
2 than user-by-user would help preserve increasingly scarce judicial resources..

3 **FIRST CAUSE OF ACTION**

4 **Violations of the Unfair Competition Law**

5 **Cal. Business & Professions Code §§17200 *et. seq.***

6 **(By all plaintiffs against Uber Technologies, Inc. and Doe Defendants 1 through 100)**

7 22. Plaintiffs hereby incorporate by reference the allegations contained in paragraphs 1  
8 through 34 above.

9 23. The Unfair Competition Law prohibits acts of competition that are "unfair," "unlawful,"  
10 or "fraudulent." This includes any act prohibited by Business & Professions Code §§ 17500 *et. seq.*

11 24. Business & Professions Code §17500 provides that it is unlawful for any person, firm,  
12 corporation, or association, or any employee thereof to intentionally directly or indirectly perform  
13 services, professional or otherwise, or to induce the public to enter into any obligation relating thereto, to  
14 make or disseminate in any manner any statement which is untrue or misleading, or which by the  
15 exercise of reasonable care should be known to be untrue or misleading.

16 25. Uber's conduct constituted unfair business practices, as defined by the above-referenced  
17 statutes.

18 26. Uber's conduct was "unlawful." It violated the statutes prohibiting false advertising  
19 including Business & Professions Code Section 17500.

20 27. Uber's conduct was "unfair." Uber's advertising campaign includes statements that its  
21 prices are 30% lower than a cabs for certain routes. This is false and misleading. In addition, Uber  
22 misleads its consumers regarding the credits its offers for referring business. The public policy that is a  
23 predicate to Plaintiff's UCL claim is tethered to the state's false advertising statute, state law governing  
24  
25  
26

1 false advertisement, and the common law. Finally, Uber's actions here have been immoral, unethical,  
2 oppressive, unscrupulous, and substantially injurious to consumers.

3 28. The Uber's conduct was "fraudulent." Consumers, including Plaintiff, were likely to be  
4 deceived by Uber's advertisement of cheaper service and non-expiring credits.

5 29. Plaintiff lost money or property because of Uber's unfair, unlawful, and fraudulent  
6 conduct. Plaintiff paid Uber more than was expected or advertised comparatively to a normal cab  
7 company. He also lost credits because Uber failed to properly advise him of expiration dates.

8 30. Plaintiff is informed, believes, and therefore alleges that the unlawful practices alleged  
9 above are continuing in nature and are widespread practices engaged in by Uber.

10 31. On behalf of the general public, Plaintiff requests that this court order Uber to disgorge  
11 the profits they have wrongfully obtained through the use of these unfair, unlawful, and deceptive  
12 practices.

13 32. Additionally, Plaintiff seeks an injunction requiring Uber to stop the misleading  
14 advertisements and to properly disclose all expiration dates, if any, regarding credits for referring  
15 business.

16 WHEREFORE, Plaintiffs pray that the Court enter judgment for them and against Uber and that  
17 the judgment include the following relief:  
18

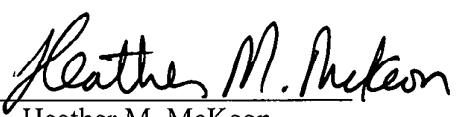
- 19 1. that the Court certify this case for class treatment, with Sennett Devermont as class  
20 representative, and Michael L. Cohen and Heather M. McKeon as counsel for the class;  
21 2. for general, special, and consequential damages according to proof;  
22 3. for attorney fees;  
23 4. for taxable costs;  
24 5. for a preliminary and permanent injunction prohibiting the Uber from engaging in the  
25 conduct described herein;  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

- 6. for any and all other relief available under Business and Professions Code sections 17200 and 17500, et. seq., including but not limited to disgorgement of profits received through the Uber's unlawful practices.
- 7. for such other and further relief as the Court deems just and proper.

DATED: July 13, 2015

COHEN McKEON LLP  
MICHAEL L. COHEN  
HEATHER M. MCKEON

By:   
Heather M. McKeon  
Attorney for Plaintiff  
Sennett Devermont