

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE**

STATE OF ALASKA	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
UBER TECHNOLOGIES, INC.	)	
	)	
Defendant.	)	Case No.: 3AN-18-_____ CI
_____	)	

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

NOW COMES Plaintiff, The State of Alaska, by Jahna Lindemuth, Attorney General, bringing this action complaining of Defendant, UBER TECHNOLOGIES, INC. (“UBER” or “Defendant”) for violations of the Alaska Unfair Trade Practices and Consumer Protection Act and the Alaska Personal Information Protection Act, and states as follows:

**PUBLIC INTEREST**

The Alaska Attorney General believes this action to be in the public interest of the citizens of the State of Alaska and brings this lawsuit pursuant to the Alaska Unfair Trade Practices and Consumer Protection Act (AS 45.50.471 *et. seq.*) and the Alaska Personal Information Protection Act (AS 45.48).

**PARTIES**

1. Plaintiff, Jahna Lindemuth, Attorney General of the State of Alaska on behalf of the people of Alaska, is charged, *inter alia*, with the enforcement of the Alaska Unfair Trade Practices and Consumer Protection Act (AS 45.50.471 *et. seq.*) and the

Alaska Personal Information Protection Act (AS 45.48),

2. Defendant is a Delaware corporation with its principal place of business at 1455 Market Street, San Francisco, California 94103.

3. As used herein, any reference to “UBER” or “Defendant” shall mean UBER TECHNOLOGIES, INC., including all of its officers, directors, affiliates, subsidiaries and divisions, predecessors, successors and assigns doing business in the United States.

### **JURISDICTION AND VENUE**

1. This action is brought for and on behalf of the people of Alaska, by Jahna Lindemuth, Attorney General of the State of Alaska, pursuant to the provisions of to the Alaska Unfair Trade Practices and Consumer Protection Act (AS 45.50.471 *et. seq.*) and the Alaska Personal Information Protection Act (AS 45.48), and her common law authority as Attorney General to represent the People of the State of Alaska.

2. Pursuant to the provisions of Alaska Civil Rule 3, venue as to all matters between the Parties relating to or arising out of this Complaint shall lie exclusively in the Alaska Superior Court, 3<sup>rd</sup> Judicial District.

3. This Court has jurisdiction over the Defendant pursuant to AS 45.50.501 because Defendant has transacted business within the State of Alaska at all times relevant to this complaint.

4. UBER was at all times relevant hereto, engaged in trade and commerce in the State of Alaska, in that UBER is a technology company that provides a ride hailing

mobile application that connects drivers with riders, including in Alaska. Riders hail and pay drivers using the UBER platform.

## **BACKGROUND**

1. In November 2016, hackers contacted UBER to inform them that they had accessed and acquired UBER data and to demand payment in exchange for deleting the data.

2. UBER was able to determine the security vulnerability that the hackers had exploited and eliminate the vulnerability.

3. In December 2016, the hackers deleted the data.

4. Among the data the hackers acquired was personal information pursuant to the Alaska Personal Information Protection Act (AS 45.48): name and driver's license information pertaining to some UBER drivers.

5. The hackers violated the Alaska Personal Information Protection Act (AS 45.48) and the Alaska Unfair Trade Practice and Consumer Protection Act (AS 45.50.571) with respect to that personal information.

6. UBER did not disclose the data breach to affected UBER drivers in 2016 when the breach was discovered.

7. In August 2017, UBER named a new CEO, Dara Khosrowshani.

8. In September 2017, Khosrowshani was informed that UBER had suffered a data breach and ordered an investigation into the data breach, hiring a third party cyber security provider to conduct the investigation.

9. The cyber security provider verified the 2016 data breach, and, on

November 21, 2017, UBER notified regulators and consumers of the 2016 breach.

10. UBER offered affected drivers free credit monitoring and identity theft protection.

## **COUNT I- CONSUMER FRAUD AND UNFAIR TRADE PRACTICES ACT**

### **APPLICABLE STATUTE**

AS 45.50.571 provides:

- (a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are declared to be unlawful.
- (b) The terms “unfair methods of competition” and “unfair or deceptive acts or practices” include, but are not limited to, the following acts:
  - (11) engaging in any other conduct creating a likelihood of confusion or of misunderstanding and which misleads, deceives, or damages a buyer or competitor in connection with the sale or advertisement of goods or services;
  - (12) using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with intent that others rely upon the concealment, suppression, or omission in connection with the sale or advertisement of goods or services whether or not a person has in fact been misled, deceived or damaged;
  - (55) an information collector, other than a governmental agency, violating AS 45.48.010-45.48.090 (breach of security involving personal information)

### **VIOLATIONS OF THE UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT**

- 1. The People re-allege and incorporate by reference the allegations in Paragraphs 1 through 18.
- 2. While engaged in trade or commerce, UBER has violated the Alaska Unfair Trade Practices and Consumer Protection Act by:
  - a. failing to implement and maintain reasonable security practices to

protect the sensitive personal information it maintains for its users;

- b. failing to disclose a data breach to affected users; and
- c. representing to users that UBER protects the sensitive personal information of its users, when in fact the hackers were able to gain access to some UBER user personal information.
- d. engaging in conduct creating a likelihood of confusion or of misunderstanding that damages a buyer in connection with the sale of services
- e. knowingly suppressing, or omitting a material fact with intent that others rely upon the concealment, suppression, or omission in connection with the sale of services whether or not a person has in fact been misled, deceived or damaged

### **REMEDIES**

AS 45.40.501 provides:

- (a) Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by unlawful in AS 45.50.471, and that proceedings would be in the public interest, the attorney general may bring an action in the name of the state against such person to restrain by injunction the use of such act or practice. The action may be brought in the superior court of the judicial district in which the person resides or is doing business or has the person's principal place of business in the state, or, with the consent of the parties, in any other judicial district in the state.
- (b) The court may make additional orders or judgments that are necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by the means of an act or practice declared to be unlawful by AS 45.50.471.

- 1. AS 45.40.551(b) provides that "In an action brought under AS 45.50.501, if the court finds that a person is using or has used an act or practice declared unlawful

by AS 45.50.571, the attorney general, upon petition to the court, may recover, on behalf of the state, a civil penalty of not less than \$1,000 and not more than \$25,000 for each violation.”

2. AS 45.50.537(d) provides that “In an action brought by the attorney general under AS 45.50.571-45.50.561, if the attorney general prevails, the state shall be awarded its actual attorney fees and costs, including costs of investigation, to the extent those fees and costs are reasonable.

### **PRAYER FOR RELIEF- COUNT I**

**WHEREFORE**, the Plaintiff prays that this Honorable Court enter an Order:

A. Finding that UBER has violated AS 45.50.471(b), by engaging in the unlawful acts and practices alleged herein;

B. Preliminarily and permanently enjoining UBER from engaging in the violations alleged herein per AS 45.50.501;

C. Ordering UBER to pay a minimum of \$1,000 up to a maximum of \$25,000 for every deceptive or unfair act or practice, as provided in AS 45.50.551(b);

E. Requiring UBER to pay all costs for the prosecution and investigation of this action, as provided by AS 45.50.537(d); and

F. Providing any such other and further relief as the Court deems just, proper, and equitable under the circumstances.

## COUNT II- PERSONAL INFORMATION PROTECTION ACT

### APPLICABLE STATUTE

AS 45.48.090, provides in part: (information collector, breach of the security of the system data, personal information)

“(4) Information collector” means a covered person who owns or licenses personal information in any form if the personal information includes personal information on a state resident.

“(1) Breach of the security” means unauthorized acquisition, or reasonable belief of unauthorized acquisition of personal information that compromises the security, confidentiality, or integrity of personal information maintained by the information collector. ...”; ...

“(7) Personal information” means information in any form on an individual is that is not encrypted or redacted, or is encrypted and the encryption key has been accessed or acquired, and that consists of a combination of:

(A) An individual’s name; in this subparagraph, “individual’s name” means of combination of an individual’s (i) first name or first initial; and (ii) last name and

(B) one or more of the following information elements: (i) the individual’s social security number; (ii) the individual’s driver’s license number or state identification card number...”.

AS 45.48.010 provides in part:

(a) If a covered person owns or licenses personal information in any form that includes personal information on a state resident, and a breach of the security of the information system that contains personal information occurs, the covered person shall, after discovering or being notified of the breach, disclose the breach to each state resident whose personal information was subject to the breach.

(b) An information collector shall make the disclosure required by (a) of this section in the most expeditious time possible and without unreasonable delay, except as provided in AS 45.48.020 and as necessary to determine the scope of the breach and restore the reasonable integrity of the information system.

AS 45.48.080, provides in part,

(a) If an information collector who is a governmental agency violates AS 45.48.010 -45.48.090 with regard to the personal information of a state resident, the information collector

(1) is liable to the state for a civil penalty of up to \$500 for each state resident who was not notified under AS 45.48.010-45.48.090, but the total civil penalty may not exceed \$50,000; and

(2) may be enjoined from further violations.

(b) If an information collector who is not a governmental agency violates AS 45.48.010-45.48.090 with regard to the personal information of a state resident, the violation is an unfair or deceptive act or practice under AS 45.50.471-45.50.561. However,

(1) the information collector is not subject to the civil penalties imposed under AS 45.50.551 but is liable to the state for a civil penalty of up to \$500 for each state resident who was not notified under AS 45.48.010-45.48.090, except that the total civil penalty may not exceed \$50,000;

### **VIOLATIONS OF THE PIPA**

1. The People re-allege and incorporate by reference the allegations in Paragraphs 1 through 18.
2. UBER is an information collector pursuant to AS 45.48.090.
3. The UBER information the hackers acquired included personal information pursuant to the PIPA.
4. UBER violated AS 45.48, in that UBER suffered a breach of the security of its system data and failed to notify affected Illinois residents in the most expedient time possible and without unreasonable delay.
5. UBER violated AS 45.48, in that UBER failed to implement and maintain reasonable security measures to protect personal information that it owns or licenses.



## **REMEDIES**

AS 45.40.501 provides:

(a) Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by unlawful in AS 45.50.471, and that proceedings would be in the public interest, the attorney general may bring an action in the name of the state against such person to restrain by injunction the use of such act or practice. The action may be brought in the superior court of the judicial district in which the person resides or is doing business or has the person's principal place of business in the state, or, with the consent of the parties, in any other judicial district in the state.

(b) The court may make additional orders or judgments that are necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by the means of an act or practice declared to be unlawful by AS 45.50.471.

1. AS 45.40.551(b) provides that "In an action brought under AS 45.50.501, if the court finds that a person is using or has used an act or practice declared unlawful by AS 45.50.571, the attorney general, upon petition to the court, may recover, on behalf of the state, a civil penalty of not less than \$1,000 and not more than \$25,000 for each violation."

2. AS 45.50.537(d) provides that "In an action brought by the attorney general under AS 45.50.571-45.50.561, if the attorney general prevails, the state shall be awarded its actual attorney fees and costs, including costs of investigation, to the extent those fees and costs are reasonable.

## **PRAYER FOR RELIEF- COUNT II**

**WHEREFORE**, the Plaintiff prays that this Honorable Court enter an Order:

A. Finding that UBER has violated AS 45.48 and AS 45.50.471(b), by

engaging in the unlawful acts and practices alleged herein;

B. Preliminarily and permanently enjoining UBER from engaging in the violations alleged herein;

C. Ordering Uber to pay up to \$500 for each state resident who was not notified of a breach under AS 45.48.010-45.48.090 for a total civil penalty not to exceed \$50,000;

D. Requiring UBER to pay all costs for the prosecution and investigation of this action, as provided by AS 45.50.537(d); and

E. Providing any such other and further relief as the Court deems just, proper, and equitable under the circumstances.

DATED this 26th day of September, 2018, at Anchorage, Alaska.

JAHNA LINDEMUTH  
ATTORNEY GENERAL

By: \_\_\_\_\_  
Cynthia A. Franklin  
Assistant Attorney General  
Alaska Bar No. 0710057