

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

Filed and Attested by the
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M. BRYANT

COMMONWEALTH OF PENNSYLVANIA	:	
By Attorney General JOSH SHAPIRO	:	
	:	
Plaintiff	:	No.
v.	:	
	:	
UBER TECHNOLOGIES, INC.	:	CIVIL ACTION – EQUITY
1455 Market Street, 4 th Floor	:	
San Francisco, California 94103	:	
	:	
Defendant	:	
_____	:	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Philadelphia County Bar Association
1101 Market Street
Philadelphia, PA 19107
Phone (215) 238-6300
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PA Bar Association: www.pabar.org

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de esta demanda expuesta en las siguiente páginas, usted tiene veinte (20) días a partir de la fecha en que la demanda y la notificación fueron servidas para tomar acción mediante la introducción de su apariencia, personalmente o a través de un abogado, y entregarle a la corte, en forma escrita, sus defensas o sus objeciones a los reclamos expuestos en contra de su persona. Sea avisado que si usted no se defiende o toma ninguna acción, puede que el caso o demanda en contra suya continúe, y puede que una decisión o resolución sea declarada en su contra sin previo aviso o notificación, por cualquier dinero reclamado en la demanda, o por cualquier otro reclamo o compensación solicitada por el/la demandante. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

USTED DEBE TOMAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE A UN ABOGADO VAYA EN PERSONA O LLAME POR TELEFONO A LA OFFICINA LISTADA A CONTINUACION ABAJO. ESTA OFICINA LE PUEDE PROPORCIONAR CON INFORMACION ACERCA DE COMO EMPLEAR A UN ABOGADO.

SI USTED NO TIENE DINERO PARA CONTRATAR O PAGAR UN ABOGADO, ESTA OFICINA PUEDE PROVEERLE INFORMACION ACERCA DE AGENCIAS QUE PUEDEN OFRECER SERVICIOS LEGALES A PERSONAS ELEGIBLES A UN HONORARIO O COSTO REDUCIDO, O GRATIS.

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COMPLAINT

AND NOW, comes the Commonwealth of Pennsylvania, Office of Attorney General, by Attorney General Josh Shapiro, through the Bureau of Consumer Protection, which brings this action on behalf of the Commonwealth pursuant to the provisions of the *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. §§ 201-1 – 201-9.2 (herein referred to as the “Consumer Protection Law”) and the *Breach of Personal Information Notification Act* (herein referred to as “BPINA”) 73 P.S. § 2301, *et seq.*, to restrain by permanent injunction unfair methods of competition or unfair or deceptive acts or practices in the conduct of any trade or commerce, declared unlawful by the Consumer Protection Law.

In support thereof, the Commonwealth respectfully represents the following:

JURISDICTION

1. This Court has original jurisdiction over this action pursuant to Section 931 of the Judicial Code, 42 Pa. C.S.A. § 931(a).

VENUE

2. Venue lies with this Court pursuant to Pa. R.C.P. 1006(a)(1).

THE PARTIES

3. Plaintiff is the Commonwealth of Pennsylvania, Office of Attorney General, by Attorney General Josh Shapiro, through the Bureau of Consumer Protection (herein referred to as the “Commonwealth” and/or “Plaintiff”), with offices located at 1600 Arch Street, 3rd Floor, Philadelphia, Pennsylvania 19103 and 15th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120.

4. Defendant Uber Technologies, Inc. (herein referred to as “Uber”) is a Delaware corporation with its principal place of business at 1455 Market Street, 4th Floor, San Francisco, California 94103. Uber is registered with the Pennsylvania Department of State, Bureau of Corporations and Charitable Organizations: Corporations Section. Uber transacts or has transacted business in Pennsylvania.

BACKGROUND

5. The Commonwealth brings this action against Uber for its concealment and refusal to provide notification to individuals affected by the data breach for a period of over twelve months.

6. The Commonwealth believes that the public interest is served by seeking a permanent injunction from this Honorable Court to restrain the methods, acts and practices of Uber. The Commonwealth believes that citizens of the Commonwealth are suffering and will continue to suffer harm unless the acts and practices complained of herein are permanently enjoined.

7. The Commonwealth also seeks restitution pursuant to Section 201-4.1 of the Consumer Protection Law. Additionally, the Commonwealth seeks appropriate civil penalties pursuant to Section 201-8(b) of the Consumer Protection Law for all willful violations of said Law,

and to recover its costs for enforcement of the Consumer Protection Law.

8. Uber engages in “trade” or “commerce” within the meaning of the Consumer Protection Law 73 P.S. § 201-2 because Uber owns and operates a mobile application platform that allows riders to connect with drivers for trips using their mobile phone. Uber markets its ride hailing service to riders and drivers, including through a website it operates, www.uber.com. Drivers and riders are consumers of Uber’s service.

9. Uber collects certain personal identifiable information from riders including name, email address, phone number, and payment instrument.

10. Uber also collects personal identifiable information from drivers to determine whether they meet the requirements to use the Uber platform, including names, addresses, email addresses, driver license numbers, vehicle registrations, and vehicle inspection documentation, as well as information related to their use of the Uber platform.

11. As part of its information technology infrastructure, Uber uses a third-party service provided by Amazon Web Services (“AWS”) called the Amazon Simple Storage Service (the “Amazon S3”). The Amazon S3 is a scalable cloud storage service that can be used to store and retrieve large amounts of data. The Amazon S3 stores data inside of virtual containers, called “buckets,” against which individual access controls can be applied.

12. Uber relied on Amazon S3 to store a wide variety of files that contain sensitive personal information about Uber drivers and riders.

STATEMENT OF FACTS

13. Uber’s Privacy Policy recognizes that users trust and rely on it to safeguard their personal information: “When you use Uber, you trust us with your information. We are committed

to keeping that trust.”¹ In this regard, the frequently asked questions on Uber’s Privacy Policy webpage states, “We take the security of your data seriously. Uber uses technical safeguards like encryption, authentication, fraud detection, and secure software development to protect your information. We also have an extensive team of data security and privacy experts working around the clock to prevent theft, fraud, or abuse of your information.”²

14. Despite these assertions of safeguarding and protecting consumer data, on November 14, 2016, Uber received emails from an individual who claimed he had accessed and acquired Uber user information. The individual demanded a six-figure payment.

15. Uber investigated the claim and determined that the individual and another person working together had obtained access to certain archived copies of Uber databases and files located on Uber’s private cloud data storage environment on AWS.

16. Specifically, Uber learned that the hackers found access credentials on GitHub, a third-party code-sharing website used by Uber’s software developers. With these access credentials, the hackers were able to gain access to the back-up files stored in Uber’s Amazon S3 bucket.

17. The intrusion by the hackers began on or about October 13, 2016 and ended on or about November 15, 2016 (herein referred to as the “2016 Data Breach”).

18. The intruders accessed and downloaded the information of approximately 25 million users in the United States. Of these, approximately 4.1 million users were drivers.

19. For nearly all users, the downloaded files included names, email addresses and phone numbers.

20. The hackers also gained access to the names and United States driver’s license

¹ Uber Privacy, Nov. 1, 2017, <https://privacy.uber.com/policy> (last visited Feb. 24, 2018).

² Uber Privacy, <https://privacy.uber.com/#faq> (last visited Feb. 24, 2018).

numbers of approximately 600,000 Uber drivers, including at least 13,500 drivers who reside in the Commonwealth of Pennsylvania.

21. When it learned about the 2016 Data Breach, Uber did not notify law enforcement authorities or consumers about the breach. Instead, Uber paid the hackers at least \$100,000 to delete the acquired consumer data and keep quiet about the breach.

22. Uber claimed that the payment of at least \$100,000 was done through a “bug bounty” program, which allows the company to reward an outsider who reports a software vulnerability. However, Uber’s Chief Information Security Officer John Flynn admitted during his live testimony in front of the U.S. Senate Committee on Commerce, Science, and Transportation on February 6, 2018 that the payment was not consistent with how the bug bounty program operated. Specifically, Flynn stated, “this was a multistep malicious intrusion, a downloading of data, and extortionate demand means this wasn’t consistent with the way that [the bug bounty] program normally operates.”³

23. On November 21, 2017, Uber publicly acknowledged the 2016 Data Breach occurred—more than one year after Uber was aware of the 2016 Data Breach.

24. On November 22, 2017, Uber began the process of notifying the affected drivers of the 2016 Data Breach that an unauthorized person or persons accessed their personal identifiable information, including driver’s license numbers.

25. Uber executives were aware of the 2016 Data Breach as early as November 2016.

26. Uber did not notify law enforcement of the 2016 Data Breach until November 2017.

³ Data Security and Bug Bounty Programs: Lessons Learned from the Uber Breach and Security Researchers Before the U.S. Senate Comm. On Commerce, Science, & Transportation, 115th Cong. (2018)(testimony of Uber Chief Information Security Officer John Flynn).

27. Uber had admitted fault in how it handled the 2016 Data Breach. Uber's CEO Dara Khosrowshahi wrote in a blog post entitled "2016 Data Security Incident":

"You may be asking why we are just talking about this now, a year later. I had the same question . . . None of this should have happened, and I will not make excuses for it. While I can't erase the past, I can commit on behalf of every Uber employee that we will learn from our mistakes. We are changing the way we do business, putting integrity at the core of every decision we make and working hard to earn the trust of our customers."⁴

28. When asked whether there was legal justification for Uber to not notify its customers about the 2016 Data Breach, Chief Information Security Officer Flynn replied that there was "no justification" and Uber should have notified the customers at the time when the 2016 Data Breach occurred. He also stated that "we made a misstep not reporting to law enforcement."⁵

29. In response to whether Uber takes the position that the notification laws are clear, Flynn stated, "in this case (the 2016 Data Breach), I think the real issue was we didn't have all the right people in the room making that evaluation and making the right decision and making right by our customers."⁶

VIOLATIONS OF BREACH OF PERSONAL INFORMATION ACT
FAILURE TO PROVIDE NOTICE OF THE DATA BREACH WITHOUT
UNREASONABLE DELAY

30. The averments and allegations of the preceding paragraphs are incorporated though the same were fully set forth herein.

31. Under Section 2308 of BPINA, the Office of Attorney General has exclusive

⁴ Dara Khosrowshahi, *2016 Data Security Incident*, Nov. 21, 2017, <https://www.uber.com/newsroom/2016-data-incident> (last visited Feb. 21, 2018).

⁵ Data Security and Bug Bounty Programs: Lessons Learned from the Uber Breach and Security Researchers Before the U.S. Senate Comm. On Commerce, Science, & Transportation, 115th Cong. (2018)(testimony of Uber Chief Information Security Officer John Flynn).

⁶ *Id.*

authority to bring an action under the Consumer Protection Law for a violation of BPINA.

32. Under section 2303(a) of BPINA,

an entity that maintains, stores or manages computerized data that includes personal information shall provide notice of any breach of the security of the system following discovery of the breach of the security of the system to any resident of [Pennsylvania] whose unencrypted and unredacted personal information was or is reasonably believed to have been accessed and acquired by an unauthorized person. Except as provided in section 4 or in order to take any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system, the notice shall be made without unreasonable delay.

33. “Personal Information” is defined in Section 2302 of BPINA as:

An individual’s first name or first initial and last name in combination with and linked to any one or more of the following data elements when the data elements are not encrypted or redacted: (i) Social Security number. (ii) Driver’s license number or a State identification card number issued in lieu of a driver’s license. (iii) Financial account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

34. At all relevant times, Uber maintained, stored, and managed computerized data that included personal information of Pennsylvania residents. Specifically, Uber maintained, stored, and managed the driver’s license number of at least 13,500 drivers.

35. As of or soon after November 14, 2016, Uber knew or should have known that the “personal information” of at least one Pennsylvania resident was accessed and acquired by an unauthorized person, and that it thus had a duty to provide notice to the affected Pennsylvania residents “without unreasonable delay.”

36. Instead, Uber waited over a year and did not begin to provide notice to the affected 13,500 Pennsylvania Uber drivers until November 22, 2017.

37. By not providing notice “without unreasonable delay” to the affected 13,500

Pennsylvania Uber drivers, Uber violated 73 P.S. § 2303(a).

38. Each failure to notify each affected Pennsylvania Uber driver constitutes a separate violation of BPINA.

39. A violation of BPINA is deemed to be a violation of the Consumer Protection Law, 73 P.S. § 2308.

40. The aforesaid methods, acts or practices constitute unfair methods of competition and unfair acts or practices in the conduct of trade or commerce prohibited by Section 201-3 of the Consumer Protection Law, as defined by Section 201-2(4) of said Law, including, but not limited to, Section 201-2(4)(xxi), engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding. 73 P.S. §§ 201-3, and 201-2(4)(xxi).

41. The Commonwealth alleges that all of the practices described above were performed willfully. Accordingly, and pursuant to Section 201-8 of the Consumer Protection Law, the Commonwealth seeks the imposition of civil penalties of One Thousand and 00/100 Dollars (\$1,000.00) for each violation of the Consumer Protection Law and BPINA, including enhanced civil penalties of Three Thousand and 00/100 Dollars (\$3,000.00) for each violation involving consumer victims age sixty (60) or older, in addition to other relief sought, as appropriate.

42. The Commonwealth believes that the public interest is served before this Court a permanent injunction to restrain the methods, acts and practices described herein, as well as seeking restitution and civil penalties for violation of the law. The Commonwealth believes that citizens of the Commonwealth are suffering and will continue to suffer harm unless the acts and practices complained of herein are permanently enjoined.

WHEREFORE, the Commonwealth of Pennsylvania respectfully requests that this Honorable Court issue an Order:

- A. Declaring Defendant Uber's conduct as described herein above to be in violation of the Consumer Protection Law and BPINA;
- B. Permanently enjoining Defendant Uber and all other persons acting on its behalf, directly or indirectly, from violating the Consumer Protection Law and BPINA, and any amendments thereto;
- C. Directing Defendant Uber to make full restitution, pursuant to Section 201-4.1 of the Consumer Protection Law, to all persons who have suffered losses as a result of the acts and practices alleged in this complaint and any other acts or practices which violate the Consumer Protection Law and BPINA;
- D. Directing Defendants to pay to the Commonwealth civil penalties of One Thousand and 00/100 Dollars (\$1,000.00) for each instance of a past or present violation of the Consumer Protection Law, and Three Thousand and 00/100 Dollars (\$3,000.00) for each instance of a past or present violation of the Consumer Protection Law and involving consumers age sixty (60) or older as victims;
- E. Requiring Defendants to pay the Commonwealth's investigative and litigation costs in this matter; and
- F. Granting such other general, equitable and/or further relief as the Court deems just and proper.

Respectfully Submitted,

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

JOSH SHAPIRO
Attorney General

Date: 3-5-18

By:



TIMOTHY R. MURPHY

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