

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**FORT LAUDERDALE DIVISION**

**Case No. 0:17-cv-61617-BB**

JOSE MEJIA, individually and on  
Behalf of all others similarly situated,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC., a  
Delaware corporation.

Defendant.

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**NOTICE OF FILING THE DECLARATION OF  
MICHAEL COLMAN IN SUPPORT OF DEFENDANT'S  
MOTION TO COMPEL ARBITRATION AND STAY ALL COURT PROCEEDINGS**

Defendant, UBER TECHNOLOGIES, INC., hereby gives notice of filing the Declaration of Michael Colman in Support of Defendant's Motion to Compel Arbitration and Stay all Court Proceedings.

Dated: September 20, 2017

Respectfully Submitted:

UBER TECHNOLOGIES, INC.

By: /s/ Brandon T. White

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 20, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel or parties of record.

/s/ Brandon T. White

Brandon T. White

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**DECLARATION OF MICHAEL COLMAN IN SUPPORT OF DEFENDANT'S MOTION  
TO COMPEL ARBITRATION AND STAY ALL COURT PROCEEDINGS**

I, MICHAEL COLMAN, hereby declare and state:

1. I am an adult over the age of 18 and a resident of the state of California. The information set forth herein is true and correct of my own personal knowledge (unless otherwise stated) and if asked to testify thereto, I would do so competently.

2. I am currently employed as a Senior Program Manager at the San Francisco headquarters of Uber Technologies, Inc. ("Uber"). I have been employed by Uber since October 19, 2011, and have been in my current role since July 1, 2017. From February 2013 to July 1, 2017, I was an Operations Specialist. In my current role, as well as in my prior role, I regularly consult with operations teams throughout the country regarding Uber's operations and have comprehensive personal knowledge of Uber's business model, as well as the operations of

Uber's wholly owned subsidiary, Rasier, LLC, and its wholly owned subsidiary Rasier-DC LLC ("Rasier-DC").

3. Uber is a technology company that offers a smartphone application to connect riders looking for transportation to independent transportation providers looking for riders. Uber provides the technology through its smartphone application (the "Uber App"), which allows riders and transportation providers to connect based on their location. Uber offers the application as a tool to both riders and transportation providers to facilitate transportation services, and it charges a service fee to transportation providers for their use of the Uber App.

4. Using the Uber App, riders can connect with available transportation providers offering a variety of transportation options through different software products, including uberX. The uberX product connects riders to vehicles operated by private individuals (*i.e.*, the product arranges "ridesharing" or "peer-to-peer" services), as well as vehicles operated by livery-licensed individuals and transportation companies. Rasier-DC is a wholly-owned subsidiary of Rasier, LLC, which is a wholly owned subsidiary of Uber, engaged in the business of providing lead generation services for independent ridesharing transportation providers.

5. The Uber App is available to riders and transportation providers in hundreds of cities across the country.

6. As a Senior Program Manager at Uber, I have personal knowledge of the process transportation providers must go through to sign up to use the Uber App and the various documents to which they must assent in order to use the Uber App. I also have access to Uber's business records reflecting the identity of transportation providers that use the Uber App. These records are maintained in the regular course of Uber's business and are records of regularly conducted activity, as they are regularly updated at or very near the time that transportation

providers join and leave the system.

7. Any independent ridesharing transportation provider who wishes to access the Uber App product to connect with riders must first enter into a “Rasier Technology Services Agreement” (the “Rasier Agreement”) with Rasier-DC or a related entity.

8. In order to enter into the Rasier Agreement and gain access to the Uber product, a transportation provider must first create a user account to login to the Uber App by creating a unique username (the transportation provider’s email address) and password selected by the transportation provider. The transportation provider personally selects the unique username and password at the time the provider signs up to use the Uber App, and the transportation provider’s account can only be accessed by inputting that unique username and password. Also, the transportation provider can use the reset password feature within the Uber App. To reset the password, the transportation provider would be required to input the email address associated with his/her account, and a link to reset his/her password would be sent to the transportation provider’s email address. Uber assigns a unique identifier to each driver account. This identifier – the Driver ID – is automatically generated by Uber’s system when the account holder signs up for a driver account. Only one account can be created with a single email address, and the Driver ID is linked to the email address. The Driver ID 77ed296b-f695-41e4-bac9-695ace91d71b was assigned to Plaintiff’s account.

9. When a new transportation provider logs on to the Uber App after the provider has finished activating the provider’s account, and before the provider is required to assent to the Rasier Agreement, the provider is given the opportunity to review the Rasier Agreement by clicking a hyperlink presented on the screen within the Uber App. At the top of this screen, the App states the following: “TO GO ONLINE, YOU MUST REVIEW ALL THE DOCUMENTS

BELOW AND AGREE TO THE CONTRACTS BELOW.” For the December 11, 2015 Rasier Agreement that Plaintiff Jose Mejia accepted on March 5, 2016, the hyperlink was entitled “RASIER Technology Services Agreement December 10 2015”. Clicking the link opens the Rasier Agreement, which can be reviewed beginning to end on the screen by scrolling through. Transportation providers are free to spend as much time as they wish reviewing the Rasier Agreement on their smartphone.

10. To advance past the screen which contains the link to the document, the transportation provider must click “YES, I AGREE” to the Rasier Agreement. Directly above “YES I AGREE,” the App states the following: “By clicking below, you represent that you have reviewed all the documents above and that you agree to all the contracts above.” A true and correct copy of the form “YES, I AGREE” screenshot is attached hereto as **Exhibit 1**.

11. After clicking “YES, I AGREE,” the transportation provider is prompted to confirm acceptance a second time. On the second screen, the App states the following: “PLEASE CONFIRM THAT YOU HAVE REVIEWED ALL THE DOCUMENTS AND AGREE TO ALL THE NEW CONTRACTS.” A true and correct copy of the confirmation screenshot is attached hereto as **Exhibit 2**.

12. After clicking “YES, I AGREE” a second time, transportation providers are able to access the Uber App, and the agreement is automatically and immediately sent to their “Driver Portal” where the provider can access the agreement to review at their leisure any time, either online or by printing a hard copy. All transportation providers who sign up to use the Uber App are given access to an online Driver Portal, which generally includes access to the applicable contracts (including the Raiser Agreement) entered into by any given transportation provider via a conspicuous hyperlink. The Driver Portal is accessible online to transportation providers at all

times. They may access the information by logging into their Uber account using their unique username and password via computer, tablet, smartphone, or similar device. A true and correct copy of a screenshot of Plaintiff's Driver Portal showing links to the contracts that he entered into, including the Raiser Agreement, is attached hereto as **Exhibit 3**. The link is a live link and if Plaintiff were to click the link, he would be directed to a PDF version of the Rasier Agreement he accepted to review, print, etc.

13. I have access to Uber's records reflecting the dates and times that transportation providers accept their applicable agreements. These records are maintained in the regular course of Uber's business, are records of regularly conducted activity, and are updated automatically as transportation providers agree to these documents. When a transportation provider agrees to one of those documents through the Uber App, an electronic receipt is generated at the time the transportation provider agrees to the documents. The receipt includes a date and timestamp establishing when the transportation provider accepted the agreement.

14. Based on my review of Uber's business records, on or about February 29, 2016, Plaintiff signed up to use the Uber App product to connect with riders. Plaintiff's account was activated on March 5, 2016. On March 5, 2016, he accepted, through the Uber App, the December 11, 2015 Rasier Agreement. A true and correct copy of the December 11, 2015 Rasier Agreement accepted by Plaintiff is attached hereto as **Exhibit 4**.

15. Uber received an electronic receipt that Plaintiff accepted the Raiser Agreement. A true and correct copy of the electronic receipt that Uber received following Plaintiff's acceptance of the December 11, 2015 Rasier Agreement, maintained in the regular course of Uber's business, is attached hereto as **Exhibit 5**. This receipt only could have been generated by someone using Plaintiff's unique username and password (assigned Driver ID 77ed296b-f695-

above in Paragraphs 10-12) when prompted by the Uber App. The date and time (UTC) shown on the receipt indicates when Plaintiff clicked "YES, I AGREE."

16. The December 11, 2015 Rasier Agreement contains an Arbitration Provision. After accepting the agreement, a transportation provider has the opportunity to opt out of the Arbitration Provision if the provider so desires in the manner described by the Arbitration Provision. As a Senior Program Manager, I have access to Uber's business records reflecting the names of those individuals who have elected to opt out of a particular Arbitration Provision. The opt out records, regardless of whether they are received by mail, overnight delivery, hand delivery, email or otherwise, are maintained in an electronic file in the regular course of Uber's business, and are records of Uber's regularly conducted activity of recording those individuals who have opted-out of the Arbitration Provision. Based on my review of these records, Plaintiff did not opt out of the December 11, 2015 Rasier Agreement within thirty days of his acceptance of that agreement. Based on my review of these records, Uber's and Rasier's business records reflect that thousands of transportation providers did, in fact, opt out of one or more than one Arbitration Provision contained in the various agreements in place between Uber and Rasier and the transportation providers who use the Uber App.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, this 20th day of September, 2017.

  
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MICHAEL COLMAN