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**IN THE THIRD JUDICIAL DISTRICT COURT
STATE OF UTAH, SALT LAKE COUNTY**

STATE OF UTAH)	
)	
)	
Plaintiff,)	<u>COMPLAINT</u>
)	
vs.)	
)	
UBER TECHNOLOGIES, INC.)	
)	Civil No. _____
Defendant.)	

Plaintiff, THE STATE OF UTAH, by Sean D. Reyes, Attorney General of the State of Utah (“Attorney General”), brings this action complaining of Defendant, UBER TECHNOLOGIES, INC. (“UBER” or “Defendant”) for violations of the Utah Protection of Personal Information Act (“UPPIA”), Utah Code §§ 13-44-101, *et. seq.* and the Utah Consumer Sales Practices Act (“UCSPA”), Utah Code §§ 13-11-1, *et. seq.*, and states as follows:

PUBLIC INTEREST

1. The Attorney General believes this action to be in the public interest of the citizens of the State of Utah.

JURISDICTION AND VENUE

2. This action is brought on behalf of the State of Utah by the Attorney General pursuant to the provisions of the UPPIA and the UCSPA and his common law authority to represent the people of the State of Utah.
3. Venue for this action properly lies in Salt Lake County, Utah, pursuant to Utah Code §§ 13-44-301(4)(b)(i) and 78B-3-302.

THE PARTIES

4. The State of Utah is the Plaintiff in this case. Claims pursuant to the UPPIA are brought under the direct enforcement authority of the Attorney General. Utah Code § 13-44-301(1). Claims pursuant to the UCSPA are brought by the Attorney General as counsel for the Utah Division of Consumer Protection, pursuant to the Division's enforcement authority. Utah Code §§ 13-2-1 and 6.
5. Defendant is a Delaware corporation with its principal place of business at 1455 Market Street, San Francisco, California 94103.
6. 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.

CONSUMER TRANSACTION

7. The UCSPA includes in its definition of "consumer transaction" expenditures for certain business opportunities, which includes UBER drivers. *See*, Utah Code §13-11-3(2)(a).

8. UBER was at all times relevant hereto, engaged in consumer transactions in the State of Utah, in that UBER is a technology company that provides a ride hailing mobile application that connects drivers with riders, including in Utah, and drivers make expenditures in order to participate in the business opportunity of being an UBER driver. Riders hail and pay drivers using the UBER platform.

BACKGROUND

9. 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.
10. UBER was able to determine the security vulnerability that the hackers had exploited and to eliminate the vulnerability.
11. In December 2016, the hackers represented to UBER that they deleted the data.
12. Among the data the hackers acquired was personal information as defined in the UPPIA, including the names and driver's license information pertaining to some UBER drivers who reside in Utah and provide UBER ride services in Utah.
13. Pursuant to the UPPIA, UBER was required to notify affected UBER drivers "in the most expedient time possible without unreasonable delay." Utah Code §13-44-202(2).
14. UBER did not disclose the data breach to affected UBER drivers in 2016 when the breach was discovered.
15. In August 2017, UBER named a new CEO, Dara Khosrowshani.
16. 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.

17. The cyber security provider verified the 2016 data breach, and, on November 21, 2017, UBER notified regulators and consumers of the 2016 breach.
18. UBER offered affected drivers free credit monitoring and identity theft protection.

COUNT I- UTAH CONSUMER SALES PRACTICES ACT

APPLICABLE STATUTE

19. The UCSPA, provides in relevant part that:

13-11-4. Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

VIOLATIONS OF THE UTAH CONSUMER SALES PRACTICES ACT

20. The plaintiff re-alleges and incorporates by reference the allegations in Paragraphs 1 through 18.
21. While engaged in trade or commerce, UBER has violated the UCSPA 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.

REMEDIES

22. The UCSPA provides in relevant part that:

13-11-17. Actions by enforcing authority.

(1) The enforcing authority may bring an action in a court of competent jurisdiction to:

- (a) obtain a declaratory judgment that an act or practice violates this chapter;
- (b) enjoin, in accordance with the principles of equity, a supplier who has violated, is violating, or is otherwise likely to violate this chapter;
- (c) recover, for each violation, actual damages, or obtain relief under Subsection (2)(b), on behalf of consumers who complained to the enforcing authority within a reasonable time after it instituted proceedings under this chapter; and
- (d) obtain a fine in an amount determined after considering the factors in Subsection (6).

23. The UCSPA provides, pursuant to Utah Code §13-11-17.5, that “[a]ny judgment granted in favor of the enforcing authority in connection with the enforcement of this chapter shall include, in addition to any other monetary award or injunctive relief, an award of reasonable attorney's fees, court costs, and costs of investigation.”

PRAYER FOR RELIEF- COUNT I

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

- A. Finding that UBER has violated the UCSPA by engaging in the unlawful acts and practices alleged herein;
- B. Preliminarily and permanently enjoining UBER from engaging in the deceptive and unfair acts and practices alleged herein, as provided in Utah Code §§13-11-17(1)(a) and (b);
- C. Ordering UBER to pay an administrative fine of up to \$2,500 per violation of the UCSPA, as provided in Utah Code §13-11-17(1)(d);
- D. Requiring UBER to pay reasonable attorney's fees, court costs, and costs of investigation, as provided in Utah Code §13-11-17.5; and
- E. 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

24. The UPPIA, Utah Code §13-44-102(3)(a), defines “personal information” to include “... a person's first name or first initial and last name, combined with any one or more of the following data elements relating to that person ... (iii) driver license number or state identification card number.”
25. The UPPIA, Utah Code §13-44-201(1), requires that a business which “maintains personal information shall implement and maintain reasonable procedures to: (a) prevent unlawful use or disclosure of personal information collected or maintained in the regular course of business.”
26. The UPPIA, Utah Code §13-44-202(1), defines situations in which a business that suffers a data breach must notify Utah residents whose “personal information” was disclosed. When such a situation arises, the UPPIA, Utah Code §13-44-202(2) requires the business to “provide the notification in the most expedient time possible without unreasonable delay.”

VIOLATIONS OF THE UPPIA

27. The plaintiff re-alleges and incorporates by reference the allegations in Paragraphs 1 through 18.
28. UBER collected “personal information” within the meaning of the UPPIA from UBER Drivers.
29. The UBER information the hackers acquired included UBER Drivers’ “personal information.”

30. UBER violated the UPPIA, Utah Code §13-44-201(1), in that UBER failed to implement and maintain reasonable security measures to protect personal information that it owns or licenses.

31. UBER violated the UPPIA, Utah Code §13-44-202(2), in that UBER suffered a breach of the security of its system data and failed to notify affected Utah residents in the most expedient time possible and without unreasonable delay.

REMEDIES

32. The UPPIA, Utah Code §13-44-301(1), provides that “[t]he attorney general may enforce this chapter's provisions.” The UPPIA, Utah Code §13-44-301(3), authorizes the Attorney General to obtain a civil penalty as follows:

- (3) A person who violates this chapter's provisions is subject to a civil penalty of:
 - (a) no greater than \$2,500 for a violation or series of violations concerning a specific consumer; and
 - (b) no greater than \$100,000 in the aggregate for related violations concerning more than one consumer.

33. The UPPIA, Utah Code §13-44-301(4), further provides:

- (4)(a) In addition to the penalties provided in Subsection (3), the attorney general may seek, in an action brought under this chapter:
 - (i) injunctive relief to prevent future violations of this chapter; and
 - (ii) attorney fees and costs.

PRAYER FOR RELIEF- COUNT II

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

A. Finding that UBER has violated the UPPIA, Utah Code §13-44-201(1) and 202(2), 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 \$2,500 per violation of the UPPIA concerning a specific consumer, up to a cap of \$100,000 in the aggregate for related violations concerning more than one consumer, as provided for in Utah Code §13-44-301(3);

E. Requiring UBER to pay all attorneys fees and costs for the prosecution and investigation of this action, as provided for in Utah Code §13-44-301(4); and

F. 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

PLAINTIFF, THE STATE OF UTAH
Attorney General Sean D. Reyes

By: 
Deputy Attorney General David N. Sonnenreich

Appendix A.

STATE	CONSUMER PROTECTION ACTS and PERSONAL INFORMATION PROTECTION ACTS
Alabama	Alabama Deceptive Trade Practices Act, Ala. Code § 8-19-1, <i>et seq.</i> ; Alabama Data Breach Notification Act of 2018, Ala. Code § 8-38-1, <i>et seq.</i>
Alaska	The Alaska Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 <i>et seq.</i> ; The Alaska Personal Information Protection Act, AS 45.48 <i>et seq.</i>
Arizona	Arizona Consumer Fraud Act, Ariz. Rev. Stat. § 44-1521 <i>et seq.</i> ; Arizona Data-Breach Notification Law, Ariz. Rev. Stat. § 18-545 (in effect 2016-2018; now codified, as revised, at Ariz. Rev. Stat. §§ 18-551 and 18-552)
Arkansas	Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101, <i>et seq.</i> ; Personal Information Protection Act, Ark. Code Ann. §§ 4-110-101, <i>et seq.</i>
California	California Business & Professions Code, section 17200, <i>et seq.</i> ; California Civil Code, sections 1798.82 and 1798.81.5
Colorado	Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-101, <i>et seq.</i>
Connecticut	Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110a <i>et seq.</i> ; Breach of Security re Computerized Data Containing Personal Information, Conn. Gen. Stat. § 36a-701b; Safeguarding of Personal Information, Conn. Gen. Stat. § 42-471
District of Columbia	D.C. Code §§ 28-3901, <i>et seq.</i> ; D.C. Code §§ 28-3851, <i>et seq.</i>
Delaware	Delaware Consumer Fraud Act, 6 Del. C. § 2511, <i>et seq.</i> ; Delaware Uniform Deceptive Trade Practices Act, 6 Del. C. § 2531, <i>et seq.</i> ; Delaware Computer Security Breaches Act, 6 Del. C. § 12B-100, <i>et seq.</i>

Appendix A.

Florida	Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes; Florida Information Protection Act, Section 501.171, Florida Statutes
Georgia	Fair Business Practices Act, O.C.G.A. §§ 10-1-390 through 408; Georgia Personal Identity Protection Act, O.C.G.A. §§ 10-1-910 through 912
Hawaii	Monopolies; Restraint of Trade, Haw. Rev. Stat. Chpt. 480; Security Breach of Personal Information, Haw. Rev. Stat. Chpt. 487N
Idaho	Idaho Consumer Protection Act, Idaho Code §§ 48-601 <i>et seq.</i> ; Idaho Identity Theft Act, Idaho Code §§ 28-51-101 <i>et seq.</i>
Illinois	Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1, <i>et seq.</i> ; Illinois Personal Information Protection Act, 815 ILCS 530/1, <i>et seq.</i>
Indiana	Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5 <i>et seq.</i> ; Disclosure of Security Breach Act, Ind. Code § 24-4.9 <i>et seq.</i>
Iowa	Iowa Consumer Fraud Act, Iowa Code § 714.16; Personal Information Security Breach Protection, Iowa Code § 715C
Kansas	Kansas Consumer Protection Act K.S.A. 50-623 <i>et seq.</i> ; Wayne Owen Act K.S.A. 50-6,139b
Kentucky	Kentucky Consumer Protection Act, KRS 367.110-.300 and 367.990; KRS 365.732
Louisiana	Unfair Trade Practices and Consumer Protection Law LA RS 51:1401 <i>et seq.</i> ; Database Security Breach Notification Law LA RS 51:3071 <i>et seq.</i>
Maine	Maine Unfair Trade Practices Act, 5 M.R.S.A. §§ 205-A through 214; Maine Notice of Risk to Personal Data Act, 10 M.R.S.A. §§ 1346 through 1350-B

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Maryland	Maryland Consumer Protection Act, Md. Code Ann., Com. Law § 13-101, <i>et seq.</i> (2013 Repl. Vol and 2017 Supp.); Maryland Personal Information Protection Act, Md. Code Ann., Com. Law § 14-3501, <i>et seq.</i> (2013 Repl. Vol and 2017 Supp.)
Massachusetts	Massachusetts Consumer Protection Act (G.L. c. 93A); Massachusetts Data Security Law (G.L. c. 93H)
Michigan	Michigan Consumer Protection Act, MCL 445.901, <i>et seq.</i> ; Michigan Identity Theft Protection Act, MCL 445.61, <i>et seq.</i>
Minnesota	Minnesota Deceptive Trade Practices Act, Minn. Stat. §§ 325D.43 <i>et seq.</i> Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §§ 325F.68 <i>et seq.</i> Minnesota Data Breach Notification Statute, Minn. Stat. § 325E.61.
Mississippi	Mississippi Consumer Protection Act Miss. Code Ann. § 75-24-1 <i>et seq.</i> ; Notice of Breach of Security Miss. Code Ann. § 75-24-29
Missouri	Mo. Rev. Stat. § 407.010, <i>et seq.</i> ; Mo. Rev. Stat. § 407.1500
Montana	Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code Ann. §§ 30-14-101 <i>et seq.</i> ; Montana Impediment of Identity Theft Act, Mont. Code Ann. §§ 30-14-1701 <i>et seq.</i>
Nebraska	Consumer Protection Act, Neb. Rev. Stat. § 59-1601 <i>et seq.</i> ; Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301 <i>et seq.</i> ; Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006, Neb. Rev. Stat. § 87-801 <i>et seq.</i>
Nevada	Nevada Deceptive Trade Practices Act; Nev. Rev. Stat. §§ 598.0903, <i>et seq.</i> ; Nevada Security of Personal Information Act; Nev. Rev. Stat. §§ 603A.010, <i>et seq.</i>
New Hampshire	NH RSA 358-A; NH RSA 359-C: 19-21

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New Jersey	New Jersey Consumer Fraud Act, <u>N.J.S.A. 56:8-1</u> <i>et seq.</i> ; New Jersey Identity Theft Prevention Act, <u>N.J.S.A. 56:8-161</u> to -166
New Mexico	The New Mexico Unfair Practices Act, NMSA 1978, §§ 57-12-1 to -26 (1967, as amended through 2009); The New Mexico Data Breach Notification Act, NMSA 1978, §§ 57-12C-1 to -12 (2017)
New York	Executive Law 63(12) and General Business Law 349/350
North Carolina	North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, <i>et seq.</i> ; North Carolina Identity Theft Protection Act, N.C. Gen. Stat. §§ 75-60, <i>et seq.</i>
North Dakota	Unlawful Sales or Advertising Practices N.D.C.C. § 51-15-01 <i>et seq.</i> ; Notice of Security Breach for Personal Information N.D.C.C. § 51-30-01 <i>et seq.</i>
Ohio	Ohio Consumer Sales Practices Act, Ohio R.C. 1345.01 <i>et seq.</i> ; Ohio Data Breach Notification Act, R.C. 1349.19 <i>et seq.</i>
Oklahoma	Oklahoma Consumer Protection Act, 15 O.S. §§ 751 <i>et seq.</i> ; Security Breach Notification Act, 24 O.S. §§ 161 <i>et seq.</i>
Oregon	Unlawful Trade Practices Act, ORS 646.605 <i>et seq.</i> ; Oregon Consumer Identity Theft Protection Act, ORS 646A.600 <i>et seq.</i>
Pennsylvania	Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1 – 201-9.3; Breach of Personal Information Notification Act, 73 P.S. § 2301, <i>et seq.</i>
Rhode Island	Rhode Island Gen. Laws § 6-13.1-1, <i>et seq.</i> ; Rhode Island Gen. Laws § 11-49.3-1, <i>et seq.</i>
South Carolina	South Carolina Unfair Trade Practices Act §§39-5-10 <i>et seq.</i> ; Section 39-1-90
South Dakota	SDCL 37-24; Data Breach Notification SDCL 22-40-19 through 22-40-26

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Tennessee	Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101 to -131; Tennessee Identity Theft Deterrence Act of 1999, §§ 47-18-2101 to -2111
Texas	Deceptive Trade Practices – Consumer Protection Act, Tex. Bus. & Com. Code Ann. §§ 17.41-17.63; Identity Theft Enforcement and Protection Act, Tex. Bus. & Com. Code Ann. § 521.001 -152
Utah	Utah Consumer Sales Practices Act, Utah Code §§ 13-11-1, <i>et. seq.</i> ; Utah Protection of Personal Information Act, Utah Code §§ 13-44-101, <i>et. seq.</i>
Vermont	Vermont Consumer Protection Act, 9 V.S.A. §§ 2451 <i>et seq.</i> ; Vermont Security Breach Notice Act, 9 V.S.A. § 2435
Virginia	Breach of Personal Information Notification, Virginia Code § 18.2-186.6
Washington	Consumer Protection Act, RCW 19.86.020; Notice of Security Breaches law, RCW 19.255.010
West Virginia	West Virginia Consumer Credit and Protection Act, W.Va. Code § 46A-1-101 <i>et seq.</i> ; Theft of Consumer Identity Protections, W.Va. Code § 46A-2A-101 <i>et seq.</i>
Wisconsin	Fraudulent Misrepresentations, Wis. Stat. § 100.18; Notice of unauthorized acquisition of personal information, Wis. Stat. § 134.98
Wyoming	Wyoming Consumer Protection Act, Wyo. Stat. Ann. §§ 40-12-101 through -114; Wyo. Stat. Ann. §§ 40-12-501 through -509

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