

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

TIFFANY JOLLIFF,)
)
 Plaintiff)
)
 v.)
)
 UBER TECHNOLOGIES, INC., and)
)
 RASIER, LLC, and)
)
 ALBERTINE DJEUMI COLE,)
)
 Defendants.)
 _____)

Case No. _____

COMPLAINT

Plaintiff Tiffany Jolliff, by and through her undersigned counsel, respectfully submits her Complaint against Uber Technologies, Inc. (“Uber Technologies”) and its wholly-owned subsidiary Rasier, LLC (“Rasier,” and together with Uber Technologies, “Uber”), and against individual Albertine Djeumi Cole (“Cole,” and together with Uber, the “Defendants”), and states and alleges as follows:

PRELIMINARY STATEMENT

1. Ms. Jolliff is blind and uses a service animal named Railey. On June 14, 2015, Ms. Jolliff requested a ride from the Uber taxi service to take her and Railey to meet friends for dinner. The first Uber driver to arrive refused to let Railey in the car, even after Ms. Jolliff explained that Railey is a service animal and that she is blind. Ms. Jolliff then had to request another Uber vehicle to take her to dinner with her friends. After dinner, Ms. Jolliff again requested a ride from the Uber taxi service, and Defendant Cole was assigned as the Uber driver.

However, when Defendant Cole arrived to pick up Ms. Jolliff, she yelled out the window to Ms. Jolliff that “the dog” was not allowed in the car. Ms. Jolliff had grown frustrated with Uber drivers’ repeated denials of her right to have her service animal accompany her, and she attempted to enter the backseat of the Uber vehicle anyway, in the hope that Defendant Cole would drive her and her service animal to her home. As Ms. Jolliff grasped the rear door handle, Defendant Cole pressed the accelerator and drove off. The car dragged Ms. Jolliff several feet before she was able to let go of the door handle, and Ms. Jolliff tripped and injured her shoulder.

2. Even before that evening, at least one other Uber driver had discriminated against Ms. Jolliff because she is blind and uses a service animal, when the driver refused to transport Ms. Jolliff to Washington National Airport because Ms. Jolliff had Railey with her. These incidents, both individually and collectively, constitute violations of Title III of the Americans with Disabilities Act (“ADA”), section 51.5-44(b) and section 51.5-1 of the Virginians with Disabilities Act (“VDA”), and the Virginia Department of Motor Vehicle (“Virginia DMV”) Operational Requirements for Transportation Network Companies (“TNC”) (such as Uber) and TNC Partners (such as Defendant Cole) (collectively, “Civil Rights Laws”).

3. Ms. Jolliff complained to Uber about the discrimination, and she filed a police report after the June 14, 2015 incident with Defendant Cole, but no action has been taken to remedy Defendants’ repeated and ongoing violations of the Civil Rights Laws. Defendants’ actions also violated Virginia statute section 46.2-932.1, which requires the driver of a vehicle approaching a blind person with a service dog to take all necessary precautions to avoid injury to the blind person and to the service dog.

4. Uber is aware that many of its Uber drivers discriminate against blind passengers who use service animals, but Uber has failed to implement policies and procedures to prevent

that discrimination from happening. Uber Technologies closely monitors and tightly controls interactions between Uber drivers and its customers. It not only could, but is also legally required to ensure that Uber drivers in the Commonwealth of Virginia do not discriminate against blind passengers with service animals. Uber has failed to meet that legal obligation. Defendant Cole likewise failed in her legal obligation not to discriminate against blind passengers with service animals.

5. Because Ms. Jolliff has been refused pickup repeatedly by different Uber drivers and was injured the last time she attempted to use an Uber vehicle, she has been deterred from using Uber services for transportation. Thus, in both the past and in the future, she has—in effect—been denied full and equal access to this critical mode of transportation.

6. Congress provided a clear and national mandate for the elimination of discrimination against individuals with disabilities when it enacted the ADA. Such prohibited discrimination includes discrimination in the provision of taxi services and other transportation services.

7. Similarly, Virginia state law requires full and equal access to all modes of transportation to which the general public is invited and to the social and economic life of the Commonwealth. This includes vehicles providing transportation services, such as the Uber vehicle that Defendant Cole used when she denied service to Ms. Jolliff.

8. In this action, Ms. Jolliff seeks the following relief: (1) an order finding that the Defendants have discriminated against Ms. Jolliff on the basis of her disability in violation of federal and state law; (2) an order requiring Uber to take the steps necessary to ensure that all Uber drivers do not unlawfully refuse to transport blind individuals with service animals and do not physically harm them; (3) an order requiring Uber to educate all current and future Uber

drivers that they have a legal obligation to accept service animals in their Uber vehicles; (4) an order requiring Uber to develop a method to respond to complaints of discrimination timely and adequately; (5) an order requiring Uber to adopt an ongoing training program to remind periodically all Uber drivers that they have a legal obligation to accept service animals in their Uber vehicle; (6) damages for discrimination, assault, and battery against Ms. Jolliff that caused her to suffer injuries, physical pain, emotional pain and suffering, humiliation, distress, anxiety, trauma, and to incur medical costs and lost wages; (7) punitive damages for the reckless, wanton, oppressive, and willful disregard for Ms. Jolliff's rights; (8) costs and attorneys' fees; and (9) post-judgment interest.

PARTIES

9. Plaintiff Jolliff currently resides in Arlington, Virginia, and has used Uber for transportation.

10. Plaintiff Jolliff is blind and uses a service animal for mobility.

11. Defendant Uber Technologies, Inc. is a Delaware corporation with its principal place of business in San Francisco, California; it operates in Virginia under its own name and through its wholly-owned subsidiary Rasier, LLC.

12. Defendant Rasier, LLC is a wholly-owned subsidiary of Uber Technologies. It is a Delaware limited liability company with its principal place of business in San Francisco, California, and it operates in Virginia.

13. Defendant Albertine Djeumi Cole currently resides in Hyattsville, Maryland. Upon information and belief, Defendant Cole is a driver for Uber's "UberX" service, which operates in the Washington Metropolitan Area, including in Virginia. As an UberX driver,

Defendant Cole has a contract with Rasier, LLC, a wholly-owned subsidiary of Uber Technologies, Inc.

JURISDICTION AND VENUE

14. This Court has federal-question subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 & 1343, as Plaintiff asserts a federal civil rights claim under the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq.

15. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiff's state law claims, under section 51.5-1 of the Virginians with Disabilities Act and Virginia statute section 46.2-932.1, and under common law for negligence, assault, and battery.

16. This Court has personal jurisdiction over Uber Technologies because: it is the sole owner of Rasier; it is registered with the Commonwealth of Virginia State Corporation Commission to do business in Virginia; it enters into contracts with residents of Virginia; and it regularly transacts business in Virginia.

17. This Court has personal jurisdiction over Rasier because: it requested and was granted temporary authority to operate in Virginia as a TNC by the Virginia Department of Motor Vehicles; upon information and belief, it has requested a license to operate in Virginia as a TNC; it registered with the Commonwealth of Virginia State Corporation Commission to do business in Virginia; it enters into contracts with Virginia residents; and it regularly transacts business in Virginia.

18. This Court has personal jurisdiction over Albertine Djeumi Cole because she operates her Uber vehicle within Virginia for business purposes as an Uber driver, and because she regularly provides services to residents of Virginia within the Commonwealth of Virginia, and because she caused the injuries at issue within the Commonwealth of Virginia.

19. Venue is proper in the Eastern District of Virginia pursuant to 28 U.S.C. § 1391(b)(2) because all or most of the events or omissions that gave rise to Plaintiff's claims occurred in this District.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Virginia's Statutory Regulation of Uber

20. Defendant Uber Technologies began operating its taxi services in Virginia without the necessary permits several years ago. In early 2014, Defendant Uber Technologies was fined civil penalties by Virginia for operating without the proper permits. Yet, Defendant Uber Technologies continued to operate its taxi services within Virginia even after receiving a cease and desist letter from Virginia in June 2014.

21. In August 2014, Uber Technologies and Virginia reached an agreement whereby Defendant "Rasier, LLC (an Uber subsidiary)" was granted temporary authority to operate within Virginia. The agreement imposed several requirements on Uber, including strict background checks for Uber drivers. The temporary authority was granted pending Virginia's passage of statutes to impose specific regulations on Uber's services and its drivers.

22. In February 2015, Virginia enacted statutes governing Uber, a TNC; Uber's drivers, TNC Partners; and TNC Partner taxi vehicles. The statutes became effective June 1, 2015, two weeks before the June 14, 2015 incident with Ms. Jolliff, and the Virginia DMV was charged with overseeing approvals and compliance.

23. In order to receive certificates to operate, a TNC must adhere to regulations governing its operations, including supervision of drivers, recordkeeping, and insurance. Further, TNC Partners must meet regulations regarding driving and criminal histories, as well as the safety of the taxi vehicle the TNC Partner will operate while driving for the TNC.

24. Under the statutes, a TNC or a TNC Partner may have its license revoked for one or more enumerated grounds, including failing to comply with the Civil Rights Laws.

25. The Virginia DMV specifically requires all TNC Partners to comply with all applicable laws relating to accommodation of service animals.

Ms. Jolliff Suffered Injury Due to Defendant Cole's Discrimination

26. Because Plaintiff Tiffany Jolliff is blind, she is accompanied regularly by her professionally-trained service animal, a yellow Labrador retriever named Railey. Railey assists Ms. Jolliff with her mobility. Railey wears a harness identifying him as a guide dog at all times while accompanying Ms. Jolliff.

27. Ms. Jolliff previously used Uber services throughout Virginia and the surrounding areas in the District of Columbia Metropolitan Area. Ms. Jolliff most often used UberX, one of several services offered by Uber and described more fully below.

28. Ms. Jolliff no longer uses Uber's services due to the violation of her rights under the Civil Rights Laws by Uber drivers and Uber. On numerous occasions, Uber drivers have refused to transport Ms. Jolliff and her service animal.

29. In early 2015, Ms. Jolliff used the Uber mobile software application to request an UberX vehicle to transport her and her service animal from her home in Arlington, Virginia, to Washington National Airport at approximately 4:00 am. Ms. Jolliff was accompanied by her service animal, Railey. Upon arrival, the Uber driver first denied Ms. Jolliff and Railey entry into the Uber vehicle. Ms. Jolliff was able to enter the Uber vehicle, as was her right, and then learned that the Uber driver was not aware of laws such as the ADA that require Uber drivers to permit service animals in his UberX vehicle.

30. On June 14, 2015, Ms. Jolliff was refused transportation by another UberX driver (unknown, and hereafter referred to as “Mr. Doe”) after she used the Uber mobile software application to request an UberX vehicle to transport her from her home in Arlington, Virginia, to a restaurant in Crystal City, Virginia, to meet three friends for dinner.

31. Mr. Doe telephoned Ms. Jolliff when he was approaching and was able to see her. Mr. Doe asked if she was the person with “the dog”; Ms. Jolliff replied that she was. Mr. Doe told her that he would not allow her into the UberX vehicle. Ms. Jolliff informed him that the ADA required him to allow her and her service animal in to the car, to which he replied “No, I have rights,” and drove off. Ms. Jolliff had to request a second UberX vehicle to get to the restaurant.

32. Because Mr. Doe refused to transport Ms. Jolliff and Railey, Uber charged Ms. Jolliff a cancellation fee when Mr. Doe canceled the ride. Each time an Uber driver fails to transport Ms. Jolliff and her service animal, the Uber driver cancels the request through the Uber mobile software application, and Ms. Jolliff is charged the cancellation fee. Each time that she was denied entry into an Uber vehicle, Ms. Jolliff had to contact Uber to inform Uber that she was wrongly charged a cancellation fee to receive a refund.

33. At the conclusion of her dinner with friends in Crystal City, Ms. Jolliff requested an UberX vehicle to take her back to her home in Arlington, Virginia. Defendant Cole accepted the fare, agreeing to transport Ms. Jolliff.

34. As Defendant Cole neared the restaurant, Ms. Jolliff and Defendant Cole communicated as to their exact locations because they were having trouble locating each other. Ms. Jolliff informed Defendant Cole that she is blind and could not see Defendant Cole or her car.

35. When Defendant Cole saw Ms. Jolliff and her three friends, she rolled down the front passenger side window and yelled to Ms. Jolliff and her friends, "Who's all going?" Ms. Jolliff and her friends indicated that she, Ms. Jolliff, would be the passenger, to which Defendant Cole responded "Is the dog coming, too?"

36. Ms. Jolliff indicated that Railey would indeed be accompanying her on the ride to their home.

37. Defendant Cole responded that she would not permit the dog in the UberX vehicle.

38. Ms. Jolliff reminded Defendant Cole of her legal obligations to accept her and her service animal as a customer. Defendant Cole continued to refuse to permit Ms. Jolliff and Railey to enter the UberX vehicle. Ms. Jolliff asked Defendant Cole if Ms. Jolliff needed to call the police, stating that Defendant Cole was discriminating against Ms. Jolliff by denying her access to the Uber Technologies transportation service.

39. When Defendant Cole continued to refuse service to Ms. Jolliff, Ms. Jolliff became frustrated and attempted to enter the Uber vehicle with Railey, as she had done in a different Uber vehicle to Washington National Airport only a few months before. Ms. Jolliff grasped the handle to the rear passenger door with her right hand and attempted to open it, but it was locked.

40. While Ms. Jolliff was attempting to open the car door to enter, Defendant Cole purposefully stepped on the accelerator of the UberX vehicle and began driving away, with wanton and willful disregard for Ms. Jolliff's safety.

41. The moving vehicle dragged Ms. Jolliff a few steps before she was able to react and let go of the door, causing Ms. Jolliff to trip. Because Ms. Jolliff was holding on to Railey's

harness with her left hand, Railey was also dragged when Defendant Cole drove off unexpectedly.

42. Almost immediately after being dragged and tripped, Ms. Jolliff felt pain in her shoulder and hip.

43. Upon information and belief, the front passenger window of Defendant Cole's vehicle remained opened throughout the exchange, including while Defendant Cole was driving away from the curb.

44. Ms. Jolliff and Defendant Cole continued to communicate up until Defendant Cole drove away, including while Ms. Jolliff attempted to open the car door.

45. Upon information and belief, Defendant Cole knew that Ms. Jolliff was attempting to open the door and knew that Ms. Jolliff and Railey were in close proximity to her Uber vehicle.

46. Ms. Jolliff then traveled with her friends the short distance to their apartment and called police.

47. The Arlington County Fire Department responded and directed Ms. Jolliff to go to Virginia Medical Center in Arlington, Virginia for examination.

48. Ms. Jolliff was examined by doctors, who insisted she have x-rays. Doctors informed Ms. Jolliff that her shoulder was sprained. Ms. Jolliff was at the hospital for approximately three and a half hours before she and Railey were able to return home in the early hours of the following day.

49. As a result of her shoulder sprain, Ms. Jolliff could not go to work for the remainder of the week. Ms. Jolliff continued to have residual pain for several weeks.

50. On the evening of the accident, Ms. Jolliff filed a police report against Defendant Cole for illegally refusing to transport her and her service animal.

51. Defendant Cole informed the police that she refused to drive Plaintiff Jolliff because she did not want a dog inside of her UberX vehicle.

52. Ms. Jolliff would like to continue to use Uber services. The June 14, 2015 incident deterred her from using Uber services because of the discriminatory, undignified, illegal, and harmful treatment she received from all Defendants.

53. Defendant Cole was an actual or apparent agent of Uber Technologies and Rasier when she unlawfully discriminated against and caused injury to Ms. Jolliff.

54. Defendant Cole exercised the power and authority conferred on her by Uber Technologies and Rasier as an Uber driver when she unlawfully discriminated against and caused injury to Ms. Jolliff.

55. Defendant Cole acted within the scope of her authority as an Uber driver when she accepted a ride request from Ms. Jolliff, drove to Ms. Jolliff's location to pick her up, communicated with Ms. Jolliff, and drove away from Ms. Jolliff after refusing to transport Ms. Jolliff and her service animal.

Uber Technologies' and Rasier's Business Model and Procedures

56. Together, Uber Technologies and Rasier provide several types of transportation services to members of the general public in a rapidly expanding number of metropolitan areas across Virginia and throughout the United States.

57. An Uber smart phone software application arranges rides between passengers and its fleet of Uber drivers in much the same way that a taxi dispatch arranges rides for customers.

58. Uber's transportation services vary based on the type of Uber vehicle providing the transportation. UberX is one of Uber's services. UberX is described by Uber as "the low cost Uber." UberX uses "everyday cars for everyday use." It is among Uber's most popular services.

59. To use Uber services, an individual must either (1) create a user account, and provide Uber with her phone number, credit card information, and email address, or (2) travel as the guest of an individual with an Uber customer account.

60. Uber has developed mobile software applications for iPhones, Android phones, and Windows phones that customers use to request transportation from Uber for themselves and/or guests.

61. To use the Uber service, a customer submits a request through Uber's mobile software application. Upon information and belief, nearby Uber drivers then receive a notification that a customer has requested a pickup, one of them accepts the request to provide the customer with transportation service, and Uber notifies the customer of the driver acceptance either by text message or through its smart phone application. The notification includes the Uber driver's name, phone number, Uber vehicle license plate number, make and model of the Uber vehicle, and the Uber driver's estimated time of arrival.

62. Uber's mobile software application includes a map function that allows the requesting customer to track the Uber vehicle's location as the driver navigates to the requesting customer's identified pick-up address. Ms. Jolliff is not able to use this function, because the navigation tool is not fully accessible to blind customers like Ms. Jolliff.

63. Uber notifies the requesting customer once her Uber vehicle has arrived.

64. Once the Uber driver has picked up the customer, the Uber driver then starts the fare meter in the Uber smart phone application and proceeds to the desired destination. When the Uber vehicle arrives at the desired destination, the Uber driver ends the fare in the Uber smart phone application.

65. Uber closely monitors and controls interactions between its Uber drivers and customers. For example:

- a. Uber provides Uber drivers with supplies necessary to provide Uber's services, including but not limited to iPhones loaded with the Uber smart phone application. When providing Uber services, its taxi drivers use Uber's smart phone application on the iPhones to receive and respond to fare requests, receive GPS-based navigational guidance, record the beginning and end of each fare, communicate with customers, and cancel fares.
- b. Uber customers request rides through Uber's smart phone application; Uber identifies an available Uber driver to transport each customer; and Uber handles inquiries and complaints from customers concerning Uber's drivers and services.
- c. Uber requires individuals who wish to be an Uber driver to take an exam; pass a criminal background check and a driving record check; have a current driver's license, vehicle registration, and insurance; and complete various forms.
- d. Uber controls which fare requests are transmitted to each of its Uber drivers.

- e. Uber exercises exclusive control over the termination of Uber drivers. Uber regularly terminates some of its taxi drivers for several reasons, including for poor ratings from customers.
- f. Uber has detailed requirements for its taxi driver conduct and appearance, as well as vehicle type and condition. For example, an UberX vehicle must be no older than a 2000 (or 2006 in some regions) year model and must be a four door sedan that accommodates four occupants in addition to the Uber driver.
- g. Uber requires that Uber drivers refrain from smoking while providing Uber services, refrain from asking customers to give them five-star ratings, and meet or exceed the estimated time-of-arrival that Uber generates and provides to each customer.
- h. Upon information and belief, Uber instructs Uber drivers that they must accept a certain percentage of the ride requests they receive and forbids the Uber drivers from accepting street hails from potential passengers.
- i. Uber maintains general commercial liability insurance to cover claims concerning incidents that occur while Uber drivers are providing Uber services.
- j. Uber controls the financial transaction associated with each ride that Uber drivers provide to customers, bills customers for their rides in Uber vehicles, and provides customers with receipts. Uber tightly controls payment for its Uber services. Customers do not pay Uber drivers directly. Instead, Uber automatically charges a customer's credit card

after the Uber vehicle arrives at the desired destination. Uber has exclusive control over the fares that customers pay and the compensation that Uber drivers receive. Uber claims a percentage of fares earned by Uber drivers as its own revenue, as well as shares of drivers' gratuities in some regions, and pays the balance to the individual Uber drivers.

66. Thus, Uber closely monitors and controls all interactions between Uber drivers and Uber customers.

67. Customers only interface with Uber. Customers create an account on the website "www.uber.com" or on the mobile software application named "Uber," and receive notification texts, promotional emails, and emailed receipts from email addresses such as "receipts@uber.com" and "eats@uber.com." All customers wishing to use Uber's services contract directly with Uber Technologies.

68. All drivers in Virginia wishing to become an Uber driver contract directly with Rasier, Uber Technologies' wholly-owned subsidiary.

Uber Technologies and Rasier Violated Ms. Jolliff's Rights

69. Ms. Jolliff notified Uber Technologies of the June 14, 2015 incident with Defendant Cole via email to the Uber Technologies Help Center.

70. On June 15, 2015, "Courtney" from Uber Technologies responded and apologized, stating that Uber Technologies would take "appropriate action" against the driver.

71. No one from Uber Technologies further contacted Ms. Jolliff with follow-up information.

72. In fact, Ms. Jolliff does not know to this day whether Uber Technologies investigated her complaint, disciplined Defendant Cole, took any action to ensure Defendant

Cole does not discriminate against blind individuals with service animals in the future, or took any action to ensure that other Uber drivers do not discriminate against blind individuals with service animals in Virginia or the District of Columbia Metropolitan Area.

73. When Ms. Jolliff again emailed Uber Technologies on September 28, 2015, “Susana” from Uber Technologies responded and vaguely stated “We noted the issue on the driver’s account, and we will follow up right away to address this,” but offered no other details.

74. Yet again, no one from Uber Technologies contacted Ms. Jolliff with follow-up information.

75. The Uber Technologies website instructs its customers that “all drivers are required by law to transport registered service animals. If you experience issues using Uber with your service animal, please reach out to us by reporting an issue with your trip.”

76. Upon information and belief, Uber has failed to inform and train properly its drivers about that obligation under federal law, state law, and Uber’s own policies.

77. Uber also has failed to monitor Uber drivers to ensure their ongoing compliance with federal law, state law, and Uber’s policies.

78. Uber has failed to respond to Ms. Jolliff’s complaint that an Uber driver discriminated against her and harmed her in the process, thereby effectively condoning and enabling such discrimination.

79. Upon information and belief, Uber has not taken any action to educate or discipline Defendant Cole, or any action to educate any of its drivers that operate in Virginia, of their legal obligation to transport blind individuals and their service animals.

80. Uber drivers will continue to discriminate against Ms. Jolliff and against other blind passengers unless and until Uber corrects its failures to inform, educate, and monitor its drivers with respect to their obligation to transport blind passengers and their service animals.

81. Ms. Jolliff no longer uses Uber services due to the discrimination, injury, and humiliation that she suffered because of the June 14, 2015 incident with Defendant Cole and the other Defendants in this action.

82. On December 8, 2015, Ms. Jolliff, by and through her attorneys at the Washington Lawyers' Committee for Civil Rights and Urban Affairs, notified the Defendants of their violations of state and federal law, and Ms. Jolliff's interest in resolving this matter, pursuant to section 51.5-5-44(b) of the VDA. As of the filing of this Complaint, neither Ms. Jolliff nor her counsel has received a response from the Defendants or Defendants' attorneys.

83. On Friday, April 29, 2016, the parties in the litigation captioned *National Federation of the Blind, et al. v. Uber Technologies, Inc., et al.*, Case No. 3:14-cv-04086-NC, pending in the United States District Court for the Northern District of California (the "NFB Action") filed a joint motion for preliminary approval of a class settlement ("Proposed Class Settlement"). The Proposed Class Settlement purports to resolve alleged deficiencies in Uber's ADA compliance regarding accommodation of service animals.

84. Although the NFB Action Proposed Class Settlement may provide injunctive relief to Ms. Jolliff and other blind customers of Uber, the Proposed Class Settlement expressly states that it does not require class members to release claims for damages against Uber, such as the claims for damages that Ms. Jolliff asserts in this Complaint.

85. Moreover, because the Proposed Class Settlement is a class action settlement, there is significant uncertainty regarding whether and when the relief called for in the settlement

will be implemented. Assuming the court grants preliminary approval of the Proposed Class Settlement, it will not take effect until: (a) after the class members receive notice of and have an opportunity to make objections to it; (b) after the court grants final approval; and (c) after any appeals of final approval have been resolved, and not until 30 days after the resolution of any such appeal(s). Moreover, as the Proposed Class Settlement agreement anticipates, it may not succeed upon implementation or be long enough in duration to provide the relief that Ms. Jolliff seeks.

86. By way of example, the original hearing date to discuss the Proposed Class Settlement has already been postponed to mid-June to accommodate a request that the United States Government respond to the Proposed Class Settlement.

87. Due to uncertainty over the timeline for approval and implementation of the Proposed Class Settlement and the fact that Ms. Jolliff faces a one year statute of limitations period on at least one of her claims, Ms. Jolliff is filing her Complaint to preserve her right to enforce her rights under federal and state law.

COUNT I

Violation of the Americans with Disabilities Act 42 U.S.C. § 12184

88. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

89. Ms. Jolliff is a qualified individual with a disability within the meaning of Title III of the ADA.

90. Ms. Jolliff's service animal Railey is a professionally-trained service animal who provides mobility assistance to Plaintiff Jolliff within the meaning of Title III of the ADA.

91. A “specified public transportation” system is broadly defined as transportation by any “conveyance” (other than aircraft) “that provides the general public with general or special service (including charter service) on a regular and continuing basis.” 42 U.S.C. § 12181(10).

92. Uber is a private entity primarily engaged in providing transportation services, and its service is a demand responsive system, within the meaning of the ADA. 42 U.S.C. § 12181(3); 49 C.F.R. § 37.29; 49 C.F.R. § 37.3.

93. Uber “operate[s]” a “demand responsive” system (or non-fixed route transportation system), and “operates” is defined to include “the provision of transportation services by a . . . private entity itself or by a person under a contractual or other arrangement or relationship with the entity.” 49 C.F.R. § 37.3; 49 C.F.R. § 37.5(f).

94. Uber owns, operates, or leases vehicles providing taxi service and specified public transportation within the meaning of the ADA and its regulations. 49 C.F.R. §§ 37.3, 37.29, App. D § 37.29.

95. Except for modifications to vehicles providing taxi services for the purpose of wheelchair accessibility, all of the antidiscrimination provisions of the ADA apply to the goods, services, facilities, privileges, advantages, and accommodations of vehicles providing taxi services. 42 U.S.C. § 12184(b)(1); 42 U.S.C. § 12184(b)(1).

96. Uber Technologies and Rasier are obligated to train personnel proficiently so that they properly assist and treat individuals with disabilities. 49 C.F.R. § 37.173.

97. Uber Technologies and Rasier failed to train personnel proficiently to assist and treat properly Ms. Jolliff.

98. Uber, as a private entity that owns or operates specified public transportation services primarily engaged in the business of transporting people and whose operations affect commerce, are prohibited from discriminating on the basis of disability. 42 U.S.C. § 12184(a).

99. Defendants violated the ADA by discriminating against Ms. Jolliff on the basis of her disability, thereby preventing her full and equal enjoyment of the Defendants' public transportation services.

100. Defendants are required to permit service animals in vehicles to accompany people with disabilities. 49 C.F.R. §§ 37.5(f), 37.37(f), 37.167(a), (d); 28 C.F.R. § 36.302(c)(1).

101. Under 42 U.S.C. § 12184, discrimination is defined broadly to include refusing to provide transportation service, or providing unequal service, to individuals with disabilities who can physically access the vehicle. 49 C.F.R. §§ 37.5, 37.29(c).

102. Defendants failed to permit Ms. Jolliff's service animal Railey to accompany her in Uber vehicles.

103. The actions of Defendants were and are in violation of the ADA, 42 U.S.C. §§ 12181, et seq., and regulations promulgated thereunder.

104. The discriminatory conduct of Defendants against Ms. Jolliff was deliberate and intentional, and in reckless disregard for the rights of Ms. Jolliff.

105. The actions of Defendants caused Ms. Jolliff to suffer discrimination, physical pain and suffering, emotional pain and suffering, humiliation, distress, anxiety, and trauma.

COUNT II

Violation of the Americans with Disabilities Act 42 U.S.C. § 12182

106. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

107. Ms. Jolliff is a qualified individual with a disability within the meaning of Title III of the ADA.

108. Ms. Jolliff's service animal Railey is a professionally-trained service animal that provides mobility assistance to Plaintiff Jolliff within the meaning of Title III of the ADA.

109. Defendants are required to permit service animals in vehicles to accompany people with disabilities. 49 C.F.R. §§ 37.5(f), 37.37(f), 37.167(a), (d); 28 C.F.R. § 36.302(c)(1).

110. Defendants failed to permit Ms. Jolliff's service animal Railey to accompany her in Uber vehicles.

111. Under the ADA, the Defendants are considered to own or operate a public accommodation as the Defendants' operations affect commerce as a travel service. 42 U.S.C. § 12181(7)(F).

112. Defendants discriminated against Ms. Jolliff on the basis of her disability, preventing her full and equal enjoyment of the Defendants' public accommodation travel services.

113. Under the ADA, the Defendants, private entities providing specified public accommodation, are required to make reasonable accommodations in policies, practices, or procedures when such modifications are necessary to afford their services to individuals with disabilities. 42 U.S.C. § 12182(b)(2)(a)(ii); 49 C.F.R. § 37.5(f); 28 C.F.R. § 36.302(a).

114. Defendants failed to make reasonable accommodations in their policies, practices, or procedures to afford their public accommodations to Ms. Jolliff.

115. Under the ADA, Defendants are prohibited from using standards or criteria, directly or through contractual arrangements, which have the effect of discriminating on the basis of disability. 42 U.S.C. § 12182(b)(1)(d); 28 C.F.R. § 36.204.

116. Defendants violated the ADA by using standards or criteria which discriminated against Ms. Jolliff.

117. Upon information and belief, Uber failed to train their personnel, including Defendant Cole, so that they properly treat customers who use a service animal.

118. By operating a taxi service that dispatched a driver who unlawfully discriminated against and refused to transport a blind individual with a service animal, Defendants provided Plaintiff, on the basis of disability, with a service, privilege, advantage, and accommodation of Uber vehicles that was different or separate from that provided to other individuals.

119. By failing to modify practices, policies, and procedures to ensure that Defendant Cole and other Uber drivers were properly trained and did not refuse to transport Ms. Jolliff, Defendants Uber Technologies and Rasier denied Ms. Jolliff full and equal access to Uber services.

120. By administering Defendants' Uber service in a manner that results in Ms. Jolliff being denied access to Uber services on the basis of her disability, Defendants are denying Ms. Jolliff full and equal access to the services, privileges, advantages, and accommodations of Uber vehicles because Defendants are utilizing methods of administration that have the effect of discriminating on the basis of disability.

121. The actions of Defendants were and are in violation of the Americans with Disabilities Act, 42 U.S.C. §§ 12181, et seq., and regulations promulgated thereunder.

122. The discriminatory conduct of Defendants against Ms. Jolliff was deliberate and intentional, and in reckless disregard for the rights of Ms. Jolliff.

123. The actions of Defendants caused Ms. Jolliff to suffer discrimination, physical pain and suffering, emotional pain and suffering, humiliation, distress, anxiety, and trauma.

COUNT III

Violation of the Virginians with Disabilities Act Va. Code Ann. § 51.5-44

124. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

125. Ms. Jolliff is an “otherwise disabled person” within the meaning of the VDA.

126. Ms. Jolliff’s service dog Railey, a yellow Labrador retriever, is a professionally-trained service dog that performs tasks for the benefit of the mobility-impaired Plaintiff within the meaning of the VDA. Railey wears a harness that identifies him as a service dog.

127. On December 8, 2015, Ms. Jolliff, by and through her attorneys, notified the Defendants of their violations of the VDA and of Ms. Jolliff’s interest in resolving this matter, pursuant to section 51.5-5-44(b) of the VDA. Defendants have not responded to the letter.

128. The VDA requires modes of transportation to provide a “person with a disability . . . full and equal accommodations, advantages, facilities, and privileges of all . . . motor vehicles, . . . or modes of transportation, . . . to which the general public is invited.” Va. Rev. Stat. § 51.5-44(b).

129. By not allowing Ms. Jolliff, who has a disability, to enter the Uber vehicle because of her service animal, Defendants denied her full and equal access to a motor vehicle and mode of transportation to which the general public is allowed access.

130. By denying Ms. Jolliff access to Uber services, a common means of transportation, Defendants discouraged and prevented her from participating fully and equally in the social and economic life of the Commonwealth of Virginia, as Uber has become a common means of transportation within the Commonwealth by the general public.

131. Defendants’ actions were and are in violation of the VDA.

132. The discriminatory conduct of Defendants against Ms. Jolliff was deliberate and intentional, and in reckless disregard for the rights of Ms. Jolliff.

133. The actions of Defendants caused Ms. Jolliff to suffer discrimination, physical pain and suffering, emotional pain and suffering, humiliation, distress, anxiety, and trauma, for which she is entitled to damages.

COUNT IV

Failure to Avoid Injury to a Blind Pedestrian Va. Code Ann. § 46.2-932.1

134. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

135. Virginia statute section 46.2-932.1 requires the driver of a vehicle approaching a blind person with a service dog to take all necessary precautions to avoid injury to the blind person and service dog.

136. Defendant Cole approached Ms. Jolliff while operating an Uber vehicle.

137. Defendant Cole failed to take all necessary precautions to avoid injury to Ms. Jolliff by unexpectedly accelerating the vehicle and driving away while Ms. Jolliff, a pedestrian, attempted to enter the Uber vehicle.

138. Defendant Cole's failure to take all necessary precautions resulted in injury to Ms. Jolliff.

139. Defendant Cole's actions against Ms. Jolliff were deliberate and intentional, and in reckless disregard for the rights of Ms. Jolliff.

140. At all relevant times, Defendant Cole was an agent of Uber acting within the course and scope of her agency. See ¶¶ 33-45; 65-67.

141. Uber failed to educate and train properly Ms. Jolliff on her responsibilities under the law.

142. The actions of Defendants caused Ms. Jolliff to suffer discrimination, physical pain and suffering, emotional pain and suffering, humiliation, distress, anxiety, and trauma, for which she is entitled to damages.

COUNT V

Negligence Per Se

143. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

144. Defendants have a duty to follow and comply with state and federal law.

145. Defendants breached that duty when they violated the ADA, the VDA, and Virginia statute section 46.2-932.1.

146. As a direct and proximate result of Defendants' negligence per se, Ms. Jolliff has suffered actual personal injury damages and will continue to suffer damages from the inconvenience, humiliation, embarrassment, diminished enjoyment of life, economic loss, and other injuries caused by the Defendants' refusal to offer her service.

147. The discriminatory actions have been taken with ill will, recklessness, wantonness, oppressiveness, and willful disregard of Plaintiff's rights, justifying an award of punitive damages.

148. At all relevant times, Defendant Cole was an agent of Uber acting within the course and scope of her agency. See ¶¶ 33-45; 65-67.

COUNT VI

Negligence

149. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

150. Defendants owed Plaintiff a reasonable duty of care while providing Uber services to Ms. Jolliff.

151. Defendant Cole breached that duty when she negligently operated her Uber vehicle by driving away while Ms. Jolliff was entering the automobile, causing injury to Ms. Jolliff.

152. Defendants Uber Technologies and Rasier breached that duty by failing to train and monitor its Uber drivers to operate their vehicles safely and of their obligations under state and federal law.

153. Defendants' unreasonable actions were both the cause in fact and proximate cause of Ms. Jolliff's injuries.

154. Ms. Jolliff suffered actual physical harm and damages as a result of the Defendants' negligence, including physical pain, emotional harm, medical costs, and lost wages.

155. At all relevant times, Defendant Cole was an agent of Uber acting within the course and scope of her agency. See ¶¶ 33-45; 65-67.

COUNT VII

Assault

156. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

157. Defendant Cole's actions caused harmful or offensive contact with Ms. Jolliff, and caused Ms. Jolliff apprehension of such contact.

158. Ms. Jolliff reasonably apprehended an imminent battery when Defendant Cole accelerated the Uber vehicle as Ms. Jolliff was holding onto the rear passenger door handle of the vehicle.

159. Ms. Jolliff suffered actual physical harm and damages as a result of the Defendant Cole's assault, including physical pain, emotional harm, medical costs, and lost wages.

160. Defendant Cole's actions were in willful and wanton disregard of Ms. Jolliff's safety.

161. At all relevant times, Defendant Cole was an agent of Uber acting within the course and scope of her agency. See ¶¶ 33-45; 65-67.

COUNT VIII

Battery

162. Plaintiff incorporates by reference the allegations in the prior paragraphs of this Complaint as though fully set forth herein.

163. Defendant Cole committed battery when she caused Ms. Jolliff to be dragged and tripped by Defendant Cole's Uber vehicle, thereby causing Ms. Jolliff to be injured.

164. Defendant Cole's action was unwanted by Ms. Jolliff and was not consented to, excused, nor justified.

165. Ms. Jolliff suffered actual physical harm and damages as a result of the Defendant's battery, including physical pain, emotional harm, medical costs, and lost wages.

166. At all relevant times, Defendant Cole was an agent of Uber acting within the course and scope of her agency. See ¶¶ 33-45; 65-67.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as set forth below.

A. A declaratory judgment that Defendants discriminated against Plaintiff by failing to provide Plaintiff with full and equal access to the services, facilities, privileges, advantages, and accommodations of Uber services and Uber vehicles providing taxi services in violation of the ADA and the VDA;

B. A permanent injunction requiring Defendants to take the steps necessary to ensure that Defendant Cole and all other Uber drivers do not unlawfully refuse to transport blind individuals with service animals, including but not limited to:

1. Educating all current Uber drivers, and those that may become Uber drivers in the future, that they have a legal obligation to accept service animals in their Uber vehicle;
2. Developing a method to respond to complaints of discrimination timely and adequately;
3. Adopting an ongoing training program to remind periodically all Uber drivers that they have a legal obligation to accept service animals in their Uber vehicle;

C. Damages in an amount to be determined at trial, including all applicable statutory damages pursuant to Va. Code section 51.5-46;

D. Punitive damages in an amount to be determined at trial;


E. An order awarding Plaintiff's reasonable attorneys' fees and costs, as authorized by 42 U.S.C. § 12188, and Va. Code section 51.5-46;

F. Post-judgment interest; and

G. For such other and further relief as the Court deems just and proper.

Dated: June 1, 2016.

Respectfully submitted,



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