

**IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA**

OFFICE OF THE ATTORNEY GENERAL,)
STATE OF FLORIDA,)
DEPARTMENT OF LEGAL AFFAIRS,)
)
Plaintiff,)
)
vs.) Court Case Number:
)
UBER TECHNOLOGIES, INC.)
)
Defendant.)

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

NOW COMES Plaintiff, Office of Attorney General, State of Florida, Department of Legal Affairs, by Pamela Jo Bondi, Attorney General of the State of Florida (hereinafter referred to as the “State of Florida”), bringing this action complaining of Defendant, UBER TECHNOLOGIES, INC. (“UBER” or “Defendant”) for violations of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2018) (“FDUTPA”) and the Florida Information Protection Act, Section 501.171, Florida Statutes (2018) (“FIPA”), and states as follows:

PUBLIC INTEREST

1. The Florida Attorney General conducted an investigation of the matters alleged herein and Attorney General Pamela Jo Bondi has determined that this enforcement action serves the public interest, as required by Section 501.207(2), Florida Statutes.

JURISDICTION AND VENUE

2. This action is brought by PAMELA JO BONDI, Attorney General of the State of Florida, pursuant to the provisions of FDUTPA and FIPA, and her common law authority as

Attorney General.

3. Venue for this action properly lies in Broward County, Florida, pursuant to Section 47.051, Florida Statutes.

THE PARTIES

4. Plaintiff Office of Attorney General, State of Florida, Department of Legal Affairs, by Pamela Jo Bondi, Attorney General of the State of Florida, is charged, *inter alia*, with the enforcement of FDUTPA and FIPA.
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.

TRADE AND COMMERCE

7. Section 501.203(8), Florida Statutes defines “trade or commerce” as “the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. ‘Trade or commerce’ shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity.”
8. UBER was at all times relevant hereto, engaged in trade and commerce in the State of Florida, in that UBER is a technology company that provides a ride hailing mobile application that connects drivers with riders, including in Florida. Riders hail and pay drivers using the UBER platform.

BACKGROUND

9. 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." 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."
10. 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.
11. UBER was able to determine the security vulnerability that the hackers had exploited and eliminate the vulnerability.
12. In December 2016, the hackers deleted the data.
13. Among the data the hackers acquired was personal information pursuant to FIPA: name and driver's license information pertaining to some UBER drivers.
14. The hackers violated FIPA with respect to that personal information.
15. UBER did not disclose the data breach to affected UBER drivers in 2016 when the breach was discovered.
16. In August 2017, UBER named a new CEO, Dara Khosrowshahi.
17. In September 2017, Khosrowshahi 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.
18. The cyber security provider verified the 2016 data breach, and, on November 21, 2017,

UBER notified regulators and consumers of the 2016 breach.

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

COUNT I- Florida Deceptive and Unfair Trade Practices Act

APPLICABLE STATUTE

20. Section 501.204(1), Florida Statutes, provides “Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

VIOLATIONS OF FDUTPA

21. The Attorney General re-alleges and incorporates by reference the allegations in Paragraphs 1 through 19.

22. While engaged in trade or commerce, UBER has violated FDUTPA 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

23. Section 501.207, Florida Statutes, provides:

- (1) The enforcing authority may bring:
- (b) An action to enjoin any person who has violated, is violating, or is otherwise likely to violate, this part.

- (3) Upon motion of the enforcing authority or any interested party in any action brought under subsection (1), the court may make appropriate orders, including, but not limited to, appointment of a general or special magistrate or receiver or sequestration or

freezing of assets, to reimburse consumers or governmental entities found to have been damaged; to carry out a transaction in accordance with the reasonable expectations of consumers or governmental entities; to strike or limit the application of clauses of contracts to avoid an unconscionable result; to bring actions in the name of and on behalf of the defendant enterprise, without regard to any wrongful acts that were committed by the enterprise; to order any defendant to divest herself or himself of any interest in any enterprise, including real estate; to impose reasonable restrictions upon the future activities of any defendant to impede her or him from engaging in or establishing the same type of endeavor; to order the dissolution or reorganization of any enterprise; or to grant legal, equitable, or other appropriate relief. The court may assess the expenses of a general or special magistrate or receiver against a person who has violated, is violating, or is otherwise likely to violate this part. Any injunctive order, whether temporary or permanent, issued by the court shall be effective throughout the state unless otherwise provided in the order.

24. Section 501.2075, Florida Statutes, provides:

Except as provided in s. 501.2077, any person, firm, corporation, association, or entity, or any agent or employee of the foregoing, who is willfully using, or has willfully used, a method, act, or practice declared unlawful under s. 501.204, or who is willfully violating any of the rules of the department adopted under this part, is liable for a civil penalty of not more than \$10,000 for each such violation.

25. Section 501.2077, Florida Statutes, provides:

(2) A person who is willfully using, or has willfully used, a method, act, or practice in violation of this part which victimizes or attempts to victimize a senior citizen or a person who has a disability is liable for a civil penalty of not more than \$15,000 for each such violation if she or he knew or should have known that her or his conduct was unfair or deceptive.

(3) A person who is willfully using, or has willfully used, a method, act, or practice in violation of this part directed at a military servicemember or the spouse or dependent child of a military servicemember is liable for a civil penalty of not more than \$15,000 for each such violation if she or he knew or should have known that her or his conduct was unfair or deceptive.

26. Section 501.2105(1), Florida Statutes, provides that “In any civil litigation resulting from an act or practice involving a violation of this part, except as provided in subsection (5),

the prevailing party, after judgment in the trial court and exhaustion of all appeals, if any, may receive his or her reasonable attorney's fees and costs from the nonprevailing party."

COUNT II- FLORIDA INFORMATION PROTECTION ACT

APPLICABLE STATUTE

27. Section 501.171(1), Florida Statutes, provides in part:

(a) "Breach of security" or "breach" means unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of the covered entity does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use.

(b) "Covered entity" means a sole proprietorship, partnership, corporation, trust, estate, cooperative, association, or other commercial entity that acquires, maintains, stores, or uses personal information. For purposes of the notice requirements in subsections (3)-(6), the term includes a governmental entity.

(g) 1. "Personal information" means either of the following:

a. An individual's first name or first initial and last name in combination with any one or more of the following data elements for that individual:

(I) A social security number;

(II) A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;

(III) A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account;

(IV) Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or

(V) An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.

b. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.

2. The term does not include information about an individual that

has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.

28. Section 501.171(4), Florida Statutes, provides in part:

(a) A covered entity shall give notice to each individual in this state whose personal information was, or the covered entity reasonably believes to have been, accessed as a result of the breach. Notice to individuals shall be made as expeditiously as practicable and without unreasonable delay, taking into account the time necessary to allow the covered entity to determine the scope of the breach of security, to identify individuals affected by the breach, and to restore the reasonable integrity of the data system that was breached, but no later than 30 days after the determination of a breach or reason to believe a breach occurred unless subject to a delay authorized under paragraph (b) or waiver under paragraph (c).

(c) Notwithstanding paragraph (a), notice to the affected individuals is not required if, after an appropriate investigation and consultation with relevant federal, state, or local law enforcement agencies, the covered entity reasonably determines that the breach has not and will not likely result in identity theft or any other financial harm to the individuals whose personal information has been accessed. Such a determination must be documented in writing and maintained for at least 5 years. The covered entity shall provide the written determination to the department within 30 days after the determination.

(e) The notice to an individual with respect to a breach of security shall include, at a minimum:

1. The date, estimated date, or estimated date range of the breach of security.
2. A description of the personal information that was accessed or reasonably believed to have been accessed as a part of the breach of security.
3. Information that the individual can use to contact the covered entity to inquire about the breach of security and the personal information that the covered entity maintained about the individual.

29. Section 501.171(2), Florida Statutes, provides:

REQUIREMENTS FOR DATA SECURITY.—Each covered entity, governmental entity, or third-party agent shall take reasonable measures to protect and secure data in electronic form containing personal information.

30. Section 501.171(9)(a), Florida Statutes, provides that, “A violation of this section shall be treated as an unfair or deceptive trade practice in any action brought by the department under s. 501.207 against a covered entity or third-party agent.”

VIOLATIONS OF FIPA

31. The Attorney General re-alleges and incorporates by reference the allegations in Paragraphs 1 through 19.

32. UBER is a covered entity pursuant to FIPA.

33. The UBER information the hackers acquired included personal information pursuant to FIPA.

34. UBER violated Section 501.171(4), Florida Statutes, in that UBER suffered a breach of the security of its system data and failed to notify affected Florida residents as expeditiously as practicable and without unreasonable delay, but no later than 30 days after the determination of a breach or reason to believe a breach occurred.

35. UBER violated Section 501.171(2), Florida Statutes, in that UBER failed to take reasonable measures to protect and secure data in electronic form containing personal information.

REMEDIES

36. Section 501.171(9)(b), Florida Statutes, provides:

(b) In addition to the remedies provided for in paragraph (a), a covered entity that violates subsection (3) or subsection (4) shall be liable for a civil penalty not to exceed \$500,000, as follows:

1. In the amount of \$1,000 for each day up to the first 30 days following any violation of subsection (3) or subsection (4) and, thereafter, \$50,000 for each subsequent 30-day period or portion thereof for up to 180 days.
2. If the violation continues for more than 180 days, in an amount not to exceed \$500,000.

37. Section 501.207, Florida Statutes, provides:

- (1) The enforcing authority may bring:
 - (b) An action to enjoin any person who has violated, is violating, or is otherwise likely to violate, this part.
- (3) Upon motion of the enforcing authority or any interested party in any action brought under subsection (1), the court may make appropriate orders, including, but not limited to, appointment of a general or special magistrate or receiver or sequestration or freezing of assets, to reimburse consumers or governmental entities found to have been damaged; to carry out a transaction in accordance with the reasonable expectations of consumers or governmental entities; to strike or limit the application of clauses of contracts to avoid an unconscionable result; to bring actions in the name of and on behalf of the defendant enterprise, without regard to any wrongful acts that were committed by the enterprise; to order any defendant to divest herself or himself of any interest in any enterprise, including real estate; to impose reasonable restrictions upon the future activities of any defendant to impede her or him from engaging in or establishing the same type of endeavor; to order the dissolution or reorganization of any enterprise; or to grant legal, equitable, or other appropriate relief. The court may assess the expenses of a general or special magistrate or receiver against a person who has violated, is violating, or is otherwise likely to violate this part. Any injunctive order, whether temporary or permanent, issued by the court shall be effective throughout the state unless otherwise provided in the order.

38. Section 501.2075, Florida Statutes, provides:

Except as provided in s. 501.2077, any person, firm, corporation, association, or entity, or any agent or employee of the foregoing, who is willfully using, or has willfully used, a method, act, or practice declared unlawful under s. 501.204, or who is willfully violating any of the rules of the department adopted under this part, is liable for a civil penalty of not more than \$10,000 for each such violation.

39. Section 501.2077, Florida Statutes, provides:

(2) A person who is willfully using, or has willfully used, a method, act, or practice in violation of this part which victimizes or attempts to victimize a senior citizen or a person who has a disability is liable for a civil penalty of not more than \$15,000 for each such violation if she or he knew or should have known that her or his conduct was unfair or deceptive.

(3) A person who is willfully using, or has willfully used, a method, act, or practice in violation of this part directed at a military servicemember or the spouse or dependent child of a military servicemember is liable for a civil penalty of not more than \$15,000 for each such violation if she or he knew or should have known that her or his conduct was unfair or deceptive.

40. Section 501.2105(1), Florida Statutes, provides that “In any civil litigation resulting from an act or practice involving a violation of this part, except as provided in subsection (5), the prevailing party, after judgment in the trial court and exhaustion of all appeals, if any, may receive his or her reasonable attorney’s fees and costs from the nonprevailing party.”

PRAYER FOR RELIEF

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

A. Finding that UBER has violated Section 501.204(1) and Sections 501.171(2) and (4), Florida Statutes, by engaging in the unlawful acts and practices alleged herein;

B. Preliminarily and permanently enjoining UBER from engaging in the violations alleged herein, including deceptive and unfair acts and practices;

C. Ordering UBER to pay civil penalties in the amount of \$10,000 per violation, as provided in Section 501.2075, Florida Statutes;

D. Assessing an enhanced civil penalty in the amount of \$15,000 per violation for each victimized senior citizen, person with a disability, military service member or the spouse or dependent child of a military service member as provided in Section 501.2077, Florida Statutes;

E. Requiring UBER to pay all costs for the prosecution and investigation of this action, as provided by Section 501.2105(1), Florida Statutes;

F. Ordering UBER to pay civil penalties pursuant to Section 501.171(9), Florida Statutes; and

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

Dated Sept. 26, 2018.

Respectfully submitted,

PAMELA JO BONDI
Florida Attorney General

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