

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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**STATE OF IOWA** *ex rel.*  
THOMAS J. MILLER,  
ATTORNEY GENERAL OF IOWA,

Plaintiff,

v.

**UBER TECHNOLOGIES, INC.;**

Defendant.

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**EQUITY No.** EQCE083577

**PETITION IN EQUITY**

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

NOW COMES The State of Iowa *ex rel.* Attorney General Thomas J. Miller, through Assistant Attorney General William R. Pearson, bringing this action complaining of Defendant, UBER TECHNOLOGIES, INC. (“UBER” or “Defendant”) for violations of Iowa Code §§ 714.16 and 715C, and states as follows:

**PUBLIC INTEREST**

1. The Iowa Attorney General believes this action to be in the public interest of the citizens of the State of Iowa and brings this lawsuit pursuant to Iowa Code §§ 714.16 and 715C.

**PARTIES AND VENUE**

2. Thomas J. Miller is the Attorney General of the State of Iowa and is expressly authorized by Iowa Code § 714.16(7) of the Consumer Fraud Act to bring this action on behalf of the State of Iowa.
3. Venue is proper in Polk County pursuant to Iowa Code § 714.16(10) because Defendant has engaged in violations of Iowa Code §§ 714.16 and 715C that have affected residents of Polk County.

4. Defendant is a Delaware corporation with its principal place of business at 1455 Market Street, San Francisco, California 94103.
5. 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**

6. Subsection 1(a) of the Consumer Fraud Act, Iowa Code § 714.16(1)(a), defines “advertisement” as follows:

The term “advertisement” includes the attempt by publication, dissemination, solicitation, or circulation to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise.

7. UBER was at all times relevant hereto, engaged in advertisement in the State of Iowa, in that UBER is a technology company that provides a ride hailing mobile application that connects drivers with riders, including in Iowa. Riders hail and pay drivers using the UBER platform.

### **BACKGROUND**

8. 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.”

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 eliminate the vulnerability.
11. In December 2016, the hackers deleted the data.
12. Among the data the hackers acquired was personal information pursuant to Iowa Code § 715C: name and driver’s license information pertaining to some UBER drivers.
13. The hackers violated Iowa Code § 715C with respect to that personal information.
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 Khosrowshahi.
16. 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.
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- CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT**

**APPLICABLE STATUTE**

19. Iowa Code § 714.16 (2)(a) of the Consumer Fraud Act (“CFA”) provides in pertinent part:

The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression, or omission of

a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.

### **VIOLATIONS OF THE CONSUMER FRAUD ACT**

20. The State of Iowa re-alleges and incorporates by reference the allegations in Paragraphs 1 through 18.
21. While engaged in trade or commerce, UBER has violated the Consumer Fraud Act 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. Section 7 of the Consumer Fraud Act, Iowa Code § 714.16(7), provides in pertinent part:

If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys...which have been acquired by means of a practice declared to be unlawful by this section. ...

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a

method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. ...

23. In addition, pursuant to Iowa Code § 714.16A(1), “[i]f a person violates section 714.16, and the violation is committed against an older person, in an action brought by the attorney general, in addition to any other civil penalty, the court may impose an additional civil penalty not to exceed five thousand dollars for each such violation.”

24. Section 11 of the Consumer Fraud Act, Iowa Code § 714.16(11), provides that “[i]n an action brought under this section, the attorney general is entitled to recover costs of the court action and any investigation which may have been conducted, including reasonable attorneys’ fees, for the use of this state.”

**PRAYER FOR RELIEF- COUNT I**

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

A. Finding that UBER has violated Section 2 of the Consumer Fraud Act, Iowa Code § 714.16(2), 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;

C. Ordering UBER to pay up to \$40,000 per deceptive or unfair act or practice and an additional amount of \$40,000 for each act or practice found to have been committed with intent to defraud, as provided in Section 7 of the Consumer Fraud Act, Iowa Code § 714.16(7);

D. Assessing an additional civil penalty in the amount of \$5,000 per violation of the Consumer Fraud Act found by the Court to have been committed by UBER against a person 65 years of age and older as provided in Iowa Code § 714.16A(1);

E. Requiring UBER to pay all costs for the prosecution and investigation of this

action, as provided by Section 11 of the Consumer Fraud Act, Iowa Code § 714.16(11); and

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

**COUNT II- PERSONAL INFORMATION SECURITY BREACH PROTECTION ACT**

**APPLICABLE STATUTE**

25. Section 1 of the Personal Information Security Breach Protection Act (PISBPA), Iowa

Code § 715C.1, provides in part: (person, breach of security, personal information)

“Person” means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.; ...

“Breach of security” means unauthorized acquisition of personal information maintained in computerized form by a person that compromises the security, confidentiality, or integrity of the personal information. “Breach of security” also means unauthorized acquisition of personal information maintained by a person in any medium, including on paper, that was transferred by the person to that medium from computerized form and that compromises the security, confidentiality, or integrity of the personal information.; ...

“Personal information” means an individual’s first name or first initial and last name in combination with any one or more of the following data elements that relate to the individual if any of the data elements are not encrypted, redacted, or otherwise altered by any method or technology in such a manner that the name or data elements are unreadable or are encrypted, redacted, or otherwise altered by any method or technology but the keys to unencrypt, unredact, or otherwise read the data elements have been obtained through the breach of security: ... (Driver’s license number or unique identification number created or collected by a government body...).

26. Section 2 of the PISBPA, Iowa Code § 715C.2, provides in part:

Any person who owns or licenses computerized data that includes a consumer’s personal information that is used in the course of the person’s business, vocation, occupation, or volunteer activities and

that was subject to a breach of security shall give notice of the breach of security following discovery of such breach of security, or receipt of notification under subsection 2, to any consumer whose personal information was included in the information that was breached. The consumer notification shall be made in the most expeditious manner possible and without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection 3, and consistent with any measures necessary to sufficiently determine contact information for the affected consumers, determine the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data.;

...

The consumer notification requirements of this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and the agency has made a written request that the notification be delayed. The notification required by this section shall be made after the law enforcement agency determines that the notification will not compromise the investigation and notifies the person required to give notice in writing. ...

27. Section 2 of the PISBPA, Iowa Code § 715C.2, further provides in part,

Any person who owns or licenses computerized data that includes a consumer's personal information that is used in the course of the person's business, vocation, occupation, or volunteer activities and that was subject to a breach of security requiring notification to more than five hundred residents of this state pursuant to this section shall give written notice of the breach of security following discovery of such breach of security, or receipt of notification under subsection 2, to the director of the consumer protection division of the office of the attorney general within five business days after giving notice of the breach of security to any consumer pursuant to this section.

28. Section 2 of the PISBPA, Iowa Code § 715C.2, provides, "A violation of this chapter is an unlawful practice pursuant to section 714.16 and, in addition to the remedies provided to the attorney general pursuant to section 714.16, subsection 7, the attorney general may seek and obtain an order that a party held to violate this section pay damages to the attorney general on behalf of a person injured by the violation."

**VIOLATIONS OF THE PISBPA**

29. The State of Iowa re-alleges and incorporates by reference the allegations in Paragraphs 1 through 18.
30. UBER is a “person who owns or licenses computerized that that includes a consumer’s personal information” pursuant to the PISBPA.
31. The UBER information the hackers acquired included personal information pursuant to the PISBPA.
32. UBER violated section 2 of the PISBPA, in that UBER suffered a breach of the security of its system data and failed to notify affected Iowa residents in the most expedient time possible and without unreasonable delay. UBER additionally failed to notify the director of the consumer protection division of the office of the attorney general of the breach.
33. UBER violated PISBPA, in that UBER failed to implement and maintain the reasonable integrity, security and confidentiality of the personal information that it owns or licenses.

**REMEDIES**

34. Section 7 of the Consumer Fraud Act, Iowa Code § 714.16(7), provides in pertinent part:

If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys...which have been acquired by means of a practice declared to be unlawful by this section...

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a

method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person...

35. In addition, pursuant to Iowa Code § 714.16A(1), “[i]f a person violates section 714.16, and the violation is committed against an older person, in an action brought by the attorney general, in addition to any other civil penalty, the court may impose an additional civil penalty not to exceed five thousand dollars for each such violation.”
36. Section 11 of the Consumer Fraud Act, Iowa Code § 714.16(11), provides that “[i]n an action brought under this section, the attorney general is entitled to recover costs of the court action and any investigation which may have been conducted, including reasonable attorneys’ fees, for the use of this state.”
37. Section 2 of the PISBPA, Iowa Code § 715C(2)(9) provides “in addition to the remedies provided to the attorney general pursuant to section 714.16, subsection 7, the attorney general may seek and obtain an order that a party held to violate this section pay damages to the attorney general on behalf of a person injured by the violation.”

**PRAYER FOR RELIEF- COUNT II**

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

- A. Finding that UBER has violated section 2 of the PISBPA, Iowa Code § 715C(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 \$40,000 per deceptive or unfair act or practice and an additional amount of \$40,000 for each act or practice found to have been committed with intent to defraud, as provided in Section 7 of the Consumer Fraud Act, Iowa Code § 714.16(7);

D. Assessing an additional civil penalty in the amount of \$5,000 per violation of the Consumer Fraud Act found by the Court to have been committed by UBER against a person 65 years of age and older as provided in Iowa Code § 714.16A(1);

E. Requiring UBER to pay all costs for the prosecution and investigation of this action, as provided by Section 11 of the Consumer Fraud Act, Iowa Code § 714.16(11); and

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

Respectfully submitted,

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