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SUPERIOR COURT OF NJ
MERCER VICINAGE
CIVIL DIVISION

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, MERCER COUNTY
DOCKET NO. MER-C-_____ -18

GURBIR S. GREWAL, Attorney General of the
State of New Jersey, and PAUL R. RODRÍGUEZ,
Acting Director of the New Jersey Division of
Consumer Affairs,

Plaintiffs,

v.

UBER TECHNOLOGIES, INC.,

Defendant.

Civil Action

COMPLAINT

Plaintiffs Gurbir S. Grewal, Attorney General of the State of New Jersey (“Attorney General”), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Paul R. Rodríguez, Acting Director of the New Jersey Division of Consumer Affairs (“Director”), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey (collectively, “Plaintiffs”), by way of Complaint state:

PARTIES AND JURISDICTION

1. The Attorney General is charged with the responsibility of enforcing the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”). The Director is charged with the responsibility of administering the CFA on behalf of the Attorney General.

2. Defendant UBER TECHNOLOGIES, INC. is a Delaware corporation with its principal place of business at 1455 Market Street, San Francisco, California 94103.

3. 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.

4. UBER was at all relevant times engaged in business in the State of New Jersey (“New Jersey”), in that UBER is a technology company that provides a ride hailing mobile application that connects drivers with riders, including in New Jersey. Riders hail and pay drivers using the UBER platform.

5. The Attorney General and Director bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19. Venue is proper in Mercer County, pursuant to R. 4:3-2, because it is a county in which UBER conducted business.

BACKGROUND

6. 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.

7. UBER was able to determine the security vulnerability that the hackers had exploited and eliminate the vulnerability.

8. In December 2016, the hackers deleted the data.

9. UBER’s Privacy Policy, found at <https://privacy.uber.com>, recognizes that users trust and rely on UBER 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 our information.”

10. Despite these assertions of safeguarding and protecting consumer data, UBER did not take reasonable steps to safeguard that data from unauthorized access.

11. Among the data the hackers acquired was “personal information” as defined pursuant to the New Jersey Identity Theft Prevention Act, N.J.S.A. 56:8-161 et seq. (“ITPA”): first and last name linked with driver’s license information pertaining to some UBER drivers, including New Jersey UBER drivers.

12. UBER drivers are “customers” as defined in N.J.S.A. 56:8-161: an individual who provides personal information to a business.

13. The hackers’ unauthorized access to its customers’ personal information triggered UBER’s obligation to disclose the unauthorized access to the affected customers pursuant to N.J.S.A. 56:8-163(a).

14. However, UBER did not disclose the data breach of personal information to affected UBER drivers in 2016 when the breach was discovered.

15. In August 2017, UBER named Dara Khosrowshahi as its Chief Executive Officer.

16. In September 2017, Khosrowshahi was informed that UBER had suffered a data breach in 2016 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, including the New Jersey Office of the Attorney General, and consumers of the 2016 breach.

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

COUNT I

VIOLATION OF THE CFA BY DEFENDANT (UNCONSCIONABLE COMMERCIAL PRACTICES)

19. The Plaintiffs re-allege and incorporate by reference the allegations in Paragraphs 1 through 18 of this Complaint as if more fully set forth below.

20. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise...

21. The CFA defines “merchandise” as including “any objects, wares, goods commodities, services or anything offered, directly or indirectly to the public for sale.” N.J.S.A. 56:8-1(c).

22. At all relevant times, Defendant has engaged in the advertisement, offer for sale and/or sale of merchandise within the meaning of N.J.S.A. 56:8-1(c), specifically its ride hailing mobile application.

23. In the course of offering or advertising its ride hailing mobile application to residents of New Jersey, Defendant has engaged in unconscionable commercial practices including, but not limited to:

- a. failing to implement and maintain reasonable security practices to protect the sensitive personal information it collects from and maintains for its users; and

b. failing to disclose a data breach to affected users.

24. Each unconscionable commercial practice by Defendant constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

COUNT II

VIOLATION OF THE CFA BY DEFENDANT (MISREPRESENTATION)

25. The Plaintiffs re-allege and incorporate by reference the allegations in Paragraphs 1 through 24 of this Complaint as if more fully set forth herein.

26. In the course of offering or advertising its ride hailing mobile application to residents of New Jersey, Defendant has engaged in misrepresentations including, but not limited to: representing to UBER 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.

27. Each misrepresentation by Defendant constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

COUNT III

VIOLATION OF THE ITPA BY DEFENDANT

28. Plaintiffs re-allege and incorporate by reference the allegations in Paragraphs 1 through 27 of this Complaint as if more fully set forth herein.

29. The ITPA, specifically N.J.S.A. 56:8-161, includes definitions relative to the security of personal information and provides, in relevant part:

‘Breach of security’ means unauthorized access to electronic files, media or data containing personal information that compromises the security, confidentiality or

integrity of personal information when access to the personal information had not been secured by encryption or by any other method of technology that renders the personal information unreadable or unusable.

'Business' means a sole proprietorship, partnership, corporation, association, or other entity, however organized and whether or not organized to operate at a profit, . . .

'Customer' means an individual who provides personal information to a business.

'Individual' means a natural person.

....

'Personal information' means an individual's first name or first initial and last name linked with any one or more of the following data elements: . . . (2) driver's license number or State identification card number; . . .

30. The ITPA, specifically N.J.S.A. 56:8-163(a), provides in relevant part:

Any business that conducts business in New Jersey, or any public entity that compiles or maintains computerized records that include personal information, shall disclose any breach of security of those computerized records following discovery or notification of the breach to any customer who is a resident of New Jersey whose personal information was, or is reasonably believed to have been, accessed by an unauthorized person. The disclosure to a customer shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, . . . or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

31. The ITPA, specifically N.J.S.A. 56:8-166, further provides that it is an unlawful practice and a violation of the CFA for a business that conducts business in New Jersey to willfully, knowingly, or recklessly fail to comply with N.J.S.A. 56:8-163.

32. At all relevant times, Defendant was a "business" within the meaning of the ITPA.

33. At all relevant times, UBER Drivers were "customers" within the meaning of the ITPA.

34. The UBER information that the hackers acquired included “personal information” within the meaning of the ITPA.

35. In the course of offering or advertising its ride hailing mobile application to residents of New Jersey, Defendant violated the ITPA, specifically N.J.S.A. 56:8-163(a), by suffering a breach of the security of its customers’ personal information and knowingly failing to notify affected New Jersey residents in the most expedient time possible and without unreasonable delay.

36. Each failure by Defendant to disclose a breach of the security of a customer’s personal information in accordance with N.J.S.A. 56:8-163(a) constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

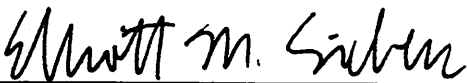
PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendant:

- (a) Finding that the acts and omissions of Defendant constitute multiple instances of unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the ITPA, N.J.S.A. 56:8-161 et seq.;
- (b) Permanently enjoining Defendant and its owners, officers, directors, shareholders, members, founders, managers, agents, servants, employees, representatives, independent contractors, successors, assigns and all other persons or entities directly under their control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq. and/or the ITPA, N.J.S.A. 56:8-161 et seq., including, but not limited to, the acts and practices alleged in the Complaint;
- (c) Directing Defendant to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any alleged practice herein declared to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Directing Defendant to pay the maximum statutory civil penalties for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;

- (e) Directing Defendant to pay costs and fees, including attorneys' fees, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interests of justice may require.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 

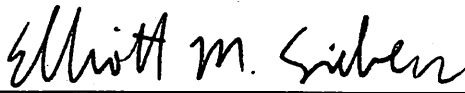
Elliott M. Siebers
Deputy Attorney General

Dated: September 26, 2018
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the CFA, N.J.S.A. 56:8-1 et seq. and ITPA, N.J.S.A. 56:8-161 et seq., is not the subject of any other action pending in any other court of this State. I am aware that private actions have been brought against the Defendant, but have no direct information that any such actions involve consumer fraud allegations. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs


By: 
Elliott M. Siebers
Deputy Attorney General

Dated: September 26, 2018
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs


By: 
Elliott M. Siebers
Deputy Attorney General

Dated: September 26, 2018
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorney General Elliott M. Siebers is hereby designated as trial counsel for the Plaintiffs in this action.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Elliott M. Siebers
Deputy Attorney General

Dated: September 26, 2018
Newark, New Jersey