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County of Los Angeles

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Sherril K. Carter, Executive Officer/Clerk of Court  
By Steven Drew, Deputy  
Steven Drew

1 Stephen J. Estey, Esq. (SBN # 163093)  
2 R Michael Bomberger, Esq. (SBN # 169866)  
3 Kristen K. Barton (SBN# 303228)  
4 **ESTEY BOMBERGER, LLP**  
5 2869 India Street  
6 San Diego, CA 92103  
7 Telephone: 619-295-0035  
8 Facsimile: 619-295-0172  
9 Email: mike@estey-bomberger.com  
10 steve@estey-bomberger.com  
11 kristen@estey-bomberger.com

12 C. Brooks Cutter (SBN # 121407)  
13 Celine E. Cutter (SBN # 312622)  
14 **CUTTER LAW P.C.**  
15 401 Watt Avenue  
16 Sacramento, CA 95864  
17 Telephone: 916-290-9400  
18 Facsimile: 916-588-9330  
19 Email: bcutter@cutterlaw.com  
20 ccutter@cutterlaw.com

21 Attorneys for Plaintiff

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13  
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF LOS ANGELES**

16 CHEYENNE GUTIERREZ, an individual,  
17 Inclusive,  
18  
19 Plaintiffs,

20 v.  
21 LYFT, INC., and DOES 1 through 100,  
22 Inclusive,  
23 Defendants.

Case No. **19STCV43625**  
**COMPLAINT FOR DAMAGES AND  
DEMAND FOR JURY TRIAL**

24 Plaintiff CHEYENNE GUTIERREZ alleges the following against defendant LYFT, INC. and  
25 DOES 1 through 100, inclusive.

26 **PARTIES AND JURISDICTION**

27 1. The acts and omissions alleged in this complaint occurred within the State of California.

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1           2.     Plaintiff CHEYENNE GUTIERREZ is an adult and a resident of Los Angeles,  
2 California.

3           3.     At all times relevant to this complaint, defendant LYFT, INC. (referred to in this  
4 complaint as “LYFT”) was a corporation organized under the laws of Delaware with its principal place  
5 of business located at 185 Berry Street, Suite 5000, in the City and County of San Francisco, State of  
6 California. At all times relevant to this complaint, LYFT was conducting business in the City and  
7 County of San Francisco, State of California, and in all other places mentioned in this complaint, both  
8 as initially pleaded and as may be pleaded by way of amendment, including, but not limited to, Los  
9 Angeles, California.

10          4.     Plaintiff does not know the true names and capacities of defendants sued herein as DOES  
11 1 through 100, inclusive, and, in accordance with California Code of Civil Procedure Section 474,  
12 Plaintiff therefore sues these defendants by the fictitious names of DOES 1 through 100, inclusive.  
13 Plaintiff will seek leave to amend this complaint to set forth the true names and capacities of the  
14 fictitiously-named defendants when their true identities and capacities become known to plaintiff.

15          5.     DOES 1 through 100, inclusive, are responsible in some manner—either by act or  
16 omission, strict liability, fraud, negligence or otherwise—for the events and happenings alleged in this  
17 complaint and thereby caused harm to plaintiff.

18          6.     At all relevant times, each defendant—including DOES 1 through 100, inclusive—was  
19 the agent, servant, representative, partner or employee of each of the co-defendants, and, in doing the  
20 things alleged in this complaint, was acting within the course and scope of their authority as such agent,  
21 servant, representative, partner or employee of each of co-defendant.

22          7.     Wherever this complaint refers to “defendants,” such reference shall mean and include  
23 each expressly named defendant and all DOE defendants.

24          8.     This Court has jurisdiction over this action pursuant to Article 6, section 10 of the  
25 California Constitution and section 410.10 of the Code of Civil Procedure. The amount in controversy  
26 exceeds the jurisdictional limit of \$25,000.

27          9.     This Court has personal jurisdiction over Defendants, each of which is licensed to  
28 conduct and is systematically and continuously conducting business in the State of California.

1 10. Venue is proper in this judicial district pursuant to Code of Civil Procedure section  
2 395.5. Defendants transact business in this County and the conduct complained of occurred in this  
3 County.

#### 4 FACTUAL ALLEGATIONS

5 11. Defendant LYFT and DOES 1 through 100 offer a ridesharing service, similar to a taxi  
6 service. LYFT is a transportation company headquartered in San Francisco, California and is one of the  
7 fastest growing companies in the United States. LYFT is a Transportation Network Company as  
8 defined by California Public Utilities Code Section 5431c.

9 12. At least as early as 2015, LYFT, including Lyft's officers, directors and/or managing  
10 agents, became aware that LYFT drivers were sexually assaulting and raping female customers. Since  
11 2015, sexual predators driving for LYFT have continued to assault and rape LYFT's female passengers.  
12 For four years, LYFT, including Lyft's officers, directors and/or managing agents, has known of the  
13 ongoing sexual assaults and rapes by LYFT drivers upon LYFT customers. Complaints to LYFT by  
14 female customers who have been attacked by LYFT drivers, combined with subsequent criminal  
15 investigations by law enforcement, clearly establish that LYFT, including Lyft's officers, directors  
16 and/or managing agents, has been fully aware of these continuing attacks by sexual predators driving  
17 for LYFT.

18 13. LYFT's response to this sexual predator crisis amongst LYFT drivers has been  
19 appallingly inadequate. LYFT, at the direction of LYFT's officers, directors and/or managing agents,  
20 continues to hire drivers without performing adequate background checks. LYFT continues to allow  
21 culpable drivers who have complaints of rape and sexual assault lodged against them to keep driving for  
22 LYFT. And, most importantly, LYFT, at the direction of LYFT's officers, directors and/or managing  
23 agents, has failed to adopt and implement reasonable driver monitoring procedures designed to protect  
24 the safety of its passengers. As a consequence, LYFT passengers continue to be victims of sexual  
25 assaults and rapes by LYFT drivers.

26 14. Unfortunately, there have been many sexual assaults much worse than the ones as  
27 alleged herein, where victims have been attacked and traumatized after they simply contracted with  
28 LYFT for a safe ride home.

1           15. To utilize the service, a LYFT customer uses a smartphone application (hereinafter the  
2 “LYFT Ridesharing App” or “LYFT App”) to request a ride in a motor vehicle. The LYFT App  
3 communicates with a LYFT driver who then picks up the customer in a vehicle that is identified as a  
4 LYFT vehicle and drives the customer to the customer’s destination. Passengers pay LYFT a fee in  
5 exchange for safe passage to their destination. LYFT’s public representations state that “safety is our  
6 top priority” and “it is our goal to make every ride safe, comfortable and reliable.” Sadly, LYFT’s  
7 priority is not passenger safety. Profits and market share are LYFT’s priority. Lyft could make a few  
8 simple changes to the LYFT Ridesharing App to vastly increase passenger safety, but unfortunately,  
9 LYFT has chosen to not do so. As a result, Plaintiff, and other female passengers, continue to be  
10 attacked by sexual predators and have their lives irrevocably altered by the assailants driving for LYFT.

11           16. LYFT, including LYFT’s officers, directors and/or managing agents, is also aware that  
12 sexual assaults are not limited to LYFT passengers. LYFT is aware of the multitude of LYFT drivers  
13 that have reported being assaulted while driving for LYFT. LYFT is also aware that many LYFT  
14 drivers have installed cameras in their vehicles, at their own expense, to protect them from the incidence  
15 of sexual assault.

16           17. LYFT, at the direction of LYFT’s officers, directors and/or managing agents,  
17 understands that reports of rape and sexual assault by its drivers is not good for its business. Instead of  
18 taking a few basic and simple measures to prevent rapes and sexual assault of their passengers, LYFT,  
19 at the direction of LYFT’s officers, directors and/or managing agents, has chosen to hide and conceal  
20 from the United States public the staggering number of reported rapes and sexual assaults that occur  
21 within their vehicles. LYFT, at the direction of their officers, directors and/or managing agents, has  
22 made a concerted effort in the media, in litigation and in criminal cases to hide and conceal the true  
23 extent of sexual assaults that occur in their vehicles.

24           18. Plaintiff’s counsel represents multiple women that have been sexually assaulted by  
25 LYFT drivers. Despite attempting to obtain records regarding the number of reported rapes and assaults  
26 that have been reported to LYFT, LYFT has attempted to conceal and block the release and disclosure  
27 of any records regarding the number of reported rape and sexual assaults of LYFT passengers.

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1           19.     Based on information and belief, Plaintiff confidently alleges that many thousands have  
2 been assaulted in LYFT vehicles in the United States and LYFT officers, directors and/or managing  
3 agents are aware that several thousands of women have been assaulted in Lyft vehicles. LYFT officers,  
4 directors and/or managing agents have hidden those facts and numbers from their customers and  
5 passengers.

6           20.     LYFT corporate management, including LYFT officers, directors and/or managing  
7 agents, has failed to implement the most basic and rudimentary procedures for the proper investigation  
8 of sexual assaults that are reported in their vehicles.

9           21.     LYFT has continued to let sexual predators drive and interact with vulnerable members  
10 of the public after they have received reports of sexual assaults by these predatory drivers. In many  
11 cases, LYFT has allowed sexual predators and assailants to continue driving after LYFT learned of the  
12 assaults committed by those drivers.

13           22.     Corporate decision-making with respect to passenger safety issues is centered at LYFT's  
14 corporate headquarters in San Francisco. Corporate decision-making with respect to policies and  
15 procedures for training and supervising drivers regarding sexual assault are centered at LYFT's  
16 corporate headquarters in San Francisco. Corporate decision-making with respect to how LYFT  
17 responds to complaints of sexual assault is centered at LYFT's corporate headquarters in San Francisco.  
18 Corporate decision-making with respect to how LYFT's choses to stonewall and fail to cooperate with  
19 law enforcement investigating assaults of their drivers is centered at LYFT's corporate headquarters in  
20 San Francisco. Decisions with respect to the vetting of LYFT drivers and the supervision and non-  
21 supervision of LYFT drivers *vis a vis* the safety of its passengers are made and implemented in its San  
22 Francisco headquarters. Corporate decision-making with respect to LYFT's decision not to report  
23 assaults that they are aware of to law enforcement and other ride sharing companies that employ the  
24 assailants is centered at LYFT's corporate headquarters in San Francisco. Decisions with respect to the  
25 design of the LYFT App and implementation of changes with the LYFT App that effect passenger  
26 safety are made and implemented in its San Francisco headquarters. Corporate decision-making with  
27 respect to LYFT's policies and procedures to allow reported sexual predators to continue to drive for  
28 LYFT is centered at LYFT's corporate headquarters in San Francisco. Decisions regarding LYFT's

1 contract with LYFT customers specifies that the agreement should be governed by California law. The  
2 specific officers, directors and/or managing agents responsible for the policies and procedures guiding  
3 LYFT are centered at LYFT's corporate headquarters in San Francisco.

#### 4 INADEQUATE SAFETY PRECAUTIONS AND INADEQUATE SCREENING

5 23. The hiring of LYFT drivers occurs without any real screening. Potential drivers merely  
6 fill out a form online. There is no interview either in person or through a video call, i.e. Skype or  
7 FaceTime. There is no adequate background check and no biometric fingerprinting. Almost all online  
8 applicants become drivers. Once a LYFT applicant becomes a driver, LYFT fails to utilize its own  
9 technology, including in car cameras and GPS tracking, to ensure that drivers keep the camera running  
10 during the entire ride and that the driver remains on course to the passenger's destination.

11 24. LYFT, including LYFT officers, directors and/or managing agents, does not have a zero-  
12 tolerance policy for sexual misconduct and has allowed drivers who have been reported to have  
13 committed rape and sexual assault to continue driving.

14 25. LYFT, including LYFT officers, directors and/or managing agents, does not require non-  
15 harassment training. LYFT does not adequately investigate customer complaints of sexually  
16 inappropriate behavior or serious sexual assaults. Notwithstanding LYFT's history of hiring sexual  
17 predators who have assaulted LYFT passengers, and notwithstanding the obvious and open subculture  
18 of LYFT drivers  
19 who harbor a sexual motivation for driving female passengers, LYFT does nothing to warn its female  
20 passengers about this very serious and real danger.

#### 21 LYFT'S FINANCIAL MODEL

22 26. The key to LYFT's business model is getting as many new LYFT drivers on the road as  
23 possible. The more LYFT drivers and LYFT rides equals more money LYFT makes. Unfortunately,  
24 more careful screening and supervision would result in fewer drivers and lower profits.

25 27. LYFT also has a high turnover among its drivers because they are not well paid and  
26 often move on to other jobs. As a result, and in order to keep the number of drivers on the road at a  
27 maximum level, LYFT's business model is designed to accept as many new drivers as possible and to  
28 keep as many existing drivers working for LYFT as possible. Unfortunately, LYFT, including LYFT

1 officers, directors and/or managing agents, prioritizes profits over passenger safety. That is why LYFT  
2 corporate management has made deliberate decisions to adopt inadequate initial screening procedures,  
3 inadequate safety monitoring, and has failed to warn customers of the dangers of riding with LYFT.

4 **LYFT'S CONTROL OVER ITS DRIVERS**

5 28. LYFT exercises significant control over its drivers. LYFT executives set all of the fare  
6 rates. Drivers have no input on the fares charged and no ability to negotiate fares with customers. Fees  
7 are standardized based on mileage and or ride time, similar to taxis.

8 29. LYFT collects a percentage fee for every ride. LYFT does not charge drivers a fee to  
9 become a LYFT driver and LYFT does not charge drivers to use the LYFT App.

10 30. LYFT drivers are prohibited from answering passenger inquiries about booking rides  
11 outside of the LYFT App.

12 31. LYFT has the power to terminate drivers with or without cause.

13 32. LYFT drivers are expected to accept all ride requests while they are logged into the App.  
14 Drivers who reject or cancel too many ride requests risk facing discipline, including suspension or  
15 termination.

16 33. LYFT provides its drivers with and requires them to use and display LYFT branding  
17 materials in order to make their drivers easily identifiable as LYFT drivers.

18 34. LYFT also allows for passengers to provide comments to LYFT regarding their  
19 experience with the LYFT driver. These comments are not shared with other passengers. Passengers are  
20 not provided with any information regarding their driver other than a photograph, and other basic  
21 information about the car. Passengers are not informed about prior complaints concerning particular  
22 drivers.

23 35. Within the App, LYFT does not tell passengers whether their comments regarding  
24 drivers are shared with drivers, resulting in a ride share culture where passengers are fearful that giving  
25 honest negative feedback could negatively impact their passenger star rating or result in retaliation from  
26 the driver.

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**NO MONITORING OF RIDES**

1  
2           36.     Given LYFT's, including LYFT officers, directors and/or managing agents, knowledge  
3 of the sexual assaults and rapes of its customers by LYFT drivers, the company should have  
4 implemented a monitoring system in order to protect its passengers. LYFT understands that many  
5 assaults occur when drivers deviate from their route and turn off the ride and App before the passenger  
6 destination is reached. LYFT also knows that assaults are much less likely to occur if drivers understand  
7 they are being recorded or watched. As a transportation and technology company with access to a state-  
8 of-the-art in-app tracking system, as well as a camera within the required mobile device, LYFT could  
9 take the following simple steps towards the elimination of the sexual assaults and protecting their  
10 passengers:

- 11       •   Adopt a zero-tolerance policy for improper conduct and inform all drivers of the policy;
- 12       •   Implement a surveillance camera within the App that can audio and video record all rides and  
13           have footage saved and accessible for up to 72 hours after each ride. Implement rules requiring  
14           drivers to have this system on at all times while in their vehicles.
- 15       •   Inform all drivers that if they turn off the surveillance system during a LYFT ride, they will  
16           never drive for LYFT again;
- 17       •   Inform drivers that they may not leave the car and accompany a passenger to their home or to  
18           any other location outside the vehicle, other than to provide temporary and time-limited  
19           assistance to a passenger;
- 20       •   Modify the functionality of the app so that LYFT can determine immediately if a driver deviates  
21           from these protocols;
- 22       •   When a driver goes off course or ends a ride before the destination, a warning alert is sent to the  
23           driver that their location has been mapped and that they should report the reason for the  
24           deviation;
- 25       •   When a driver goes off course or ends a ride before the destination, a message should be sent to  
26           the passenger checking in on them.

27           37.     The ongoing sexual attacks by LYFT drivers are and have long been known to LYFT  
28 and LYFT's officers, directors and/or managing agents. Prior to the assaults on Plaintiff alleged herein,



1 LYFT has known that a consequence of its business model has been exposing women, who are using  
2 the business for a safe ride home, to drivers that may take advantage of their vulnerable position.  
3 Despite being a company that holds itself out to the public as being engaged in the safe transportation of  
4 its customers from place to place for compensation, LYFT, at the direction of LYFT's officers, directors  
5 and/or managing agents, has failed to take any reasonable precautions to attempt to prevent harm to its  
6 passengers.

7 38. At the time of the actions alleged in this complaint LYFT, and LYFT's officers, directors  
8 and/or managing agents, was aware of the established occurrence of sexual assault of its female  
9 passengers by its drivers but failed to take any reasonable action to protect its passengers from these  
10 assaults and violations.

#### 11 MISREPRESENTATIONS AS TO SAFETY

12 39. In addition to inadequate background check procedures, LYFT affirmatively induces  
13 passengers, particularly young, unaccompanied, intoxicated, and/or vulnerable women, to use its  
14 services with the expectation of safety, while LYFT simultaneously knows that sexual abuse of its  
15 passengers has been prevalent.

16 40. In February 2015, LYFT's website posted a blog post announcing it had partnered with  
17 *It's On Us*, an anti-sexual assault initiative, and offered free ride credits for new Lyft passengers during  
18 the Spring Break season, "making it easier to get a safe ride home even if you're in a new city." In  
19 November 2016, LYFT's website posted a blog post entitled "Get Home Safely with Lyft," again  
20 touting its partnership with *It's On Us* and offering college students free LYFT rides so that they "don't  
21 need to worry about finding a safe ride after going out." The insinuation of these articles is that LYFT  
22 prevents, and does not create, the risk of sexual assault. Nowhere on LYFT's website does LYFT  
23 discuss the occurrence or risk of sexual assault by LYFT's drivers. As a result, many women, like  
24 Plaintiff, enter LYFT cars unaccompanied and often after drinking with the expectation that they will  
25 not be harassed, propositioned, kidnapped, attacked, stalked, raped or worse by LYFT's drivers.

26 41. Further, LYFT does not report statistics about sexual harassment or sexual assault by its  
27 drivers. LYFT does not disclose its policies or procedures on dealing with sexual assault by its drivers.  
28 LYFT does not properly train its customer service representatives on how to deal with serious

1 allegations of driver misconduct. As a result, passengers who report sexual abuse by a driver have been  
2 later matched with the same driver, and dangerous drivers continue to drive with LYFT and continue to  
3 assault passengers while LYFT profits from their actions. At the time of the attack on Plaintiff as  
4 alleged herein, LYFT's guidelines for their drivers made no mention of sexual harassment or assault  
5 guidelines.

6 42. In short, LYFT fails to follow reasonable safety procedures and intentionally induces  
7 customers to use LYFT's services while in a vulnerable state. As a result, Plaintiff, and women like her  
8 are sexually harassed and sexually assaulted by LYFT's drivers. Additionally, LYFT does not inform  
9 UBER or other transportation networking companies when they suspend/terminate a driver, thereby  
10 allowing drivers to seamlessly shift from the LYFT App to the UBER App without any repercussions.

#### 11 LYFT'S BACKGROUND CHECKS

12 43. LYFT relies on a quick, name-based background check process to screen its applicant  
13 drivers and has continuously refused to adopt an industry-standard, fingerprint-based background check  
14 qualification process.

15 44. LYFT's background check process requires drivers to submit personal identifiers (driver  
16 license number and Social Security Number) through an online webpage. LYFT, in turn, provides this  
17 information to third-party vendors to perform a basic, name-based background check.

18 45. Neither LYFT nor the third-party vendors it uses for background checks verifies that the  
19 information provided by applicants is accurate or complete. The turnaround time for a LYFT  
20 background check is typically between 3-5 days.

21 46. The difference between name-based background checks and fingerprint-based  
22 background checks is significant. While a name-based background check searches the applicant's  
23 reported name against various databases and compares records that have the same name, a fingerprint-  
24 based background check (or biometric check) uses the fingerprints of the individual to match against a  
25 law enforcement database, comparing records that have the same print, even if the names are different.

26 47. For example, most prospective taxi drivers are required by the taxicab companies to  
27 undergo criminal background checks that require the driver to submit fingerprints through a technology  
28 called "Live Scan." The fingerprint images are used to automatically search against all other fingerprint

1 images in government criminal record databases, including databases maintained by state law  
2 enforcement and the Federal Bureau of Investigation (FBI). The FBI's database includes criminal  
3 record information from all 50 states, including sex offender registries. If a person has a criminal history  
4 anywhere in the U.S., it will register as a match.

5 48. Fingerprints are not only a highly accurate way to confirm an individual's identity, they  
6 are also universally used among state and federal government agencies. This allows for the highest  
7 levels of information-sharing among all relevant agencies, an element that is lacking when fingerprints  
8 are not used to verify identities.

9 49. Because of the unique identifying characteristics of fingerprints, the Live Scan process  
10 provides assurance that the person whose criminal history has been run is, in fact, the applicant. This  
11 would ensure that a convicted rapist or sexual predator could not use a false identification to become a  
12 LYFT driver.

13 50. Name-based background checks, on the other hand, are limited and not easily shared  
14 among the appropriate authorities. These name-based criminal background checks are performed on  
15 publicly available databases and records from county courthouses, which are not linked to each other  
16 and typically do not go back past seven years. Because the FBI database is not accessed, there is no true  
17 national search performed, making these searches incomplete, limited and inaccurate.

18 51. Name-based background checks present systematic, fundamental problems. First, there is  
19 no way to positively identify a person via a biometric indicator, increasing the likelihood of fraud.  
20 Likewise, because names, addresses and birthdays are not unique, the likelihood of false positives (a  
21 person linked in error with another's record) and false negatives (someone getting cleared when they  
22 should not) are greatly increased. For example, if an individual changes names, or for some other reason  
23 has a criminal history under a different name, the name-based checks can miss the individual's criminal  
24 history.

25 52. LYFT, at the direction of LYFT officers, directors and/or managing agents, has refused  
26 to adopt fingerprint-based biometric checks and has in fact spent millions of dollars lobbying against  
27 local regulations requiring these checks.

28 ///

1 53. Despite advertising to passengers that “Your safety is important” and “Safety is our top  
2 priority,” LYFT’s background check process is designed for speed, not safety. In refusing to adopt  
3 reasonable safety procedures, LYFT makes clear that its priority is profit, not passenger safety.

4 54. By failing to take reasonable steps to confront the problem of multiple rapes and sexual  
5 assaults of LYFT passengers by LYFT drivers, LYFT and LYFT’s officers, directors and/or managing  
6 agents, have acted in conscious disregard of the safety of its passengers, including plaintiff, and has  
7 breached its duty of reasonable care and has breached the implied and express covenants arising from  
8 its contract with its passengers.

9 55. LYFT is legally responsible for the harm to plaintiff under a number of legal theories  
10 including vicarious liability for the intentional acts of its employees (battery and assault) basic  
11 negligence for failing to act with reasonable care when faced with multiple and ongoing attacks by its  
12 drivers, breach of the non-delegable duty of a transportation company to provide safe passage to its  
13 passengers, punitive damages for the conscious disregard of the safety of its female passengers,  
14 intentional and negligent misrepresentations and breaches of contract, and express and implied  
15 covenants arising out of its commercial contracts with its passengers, including plaintiff.

16 56. LYFT, at the direction of LYFT’s officers, directors and/or managing agents, has  
17 embraced wide ranging policies and procedures that seek to silence victims that have been sexually  
18 assaulted by their drivers.

19 **MANDATORY REPORTING OF SEXUAL ASSAULT**

20 57. The benefits, reasoning and rationale for mandatory reporting of sexual assault is  
21 undisputed and well documented. One of the most obvious reasons for the policy of mandatory  
22 reporting of sexual assault is stopping sexual assault and preventing future sexual assault and the lives  
23 that can be destroyed by sexual assault. A policy of mandatory reporting helps stop the predators that  
24 commit sexual assault. Despite the knowledge that adopting a policy of mandatory reporting will help  
25 prevent future assaults and increase passenger safety, LYFT, at the direction of LYFT’s officers,  
26 directors and/or managing agents, has adopted a policy that is the opposite of mandatory reporting.  
27 LYFT does not report allegations of rape and brutal sexual assault to the police. Instead, LYFT makes

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1 every effort to hide and conceal these sexual assault reports from law enforcement, the public, media  
2 and our courts.

3 58. LYFT understands that their drivers often drive for UBER and other ridesharing  
4 companies. Lyft also understands that sexual predators are likely to continue committing sexual assault.  
5 Despite the knowledge of the benefits of reporting sexual assailants, LYFT does not report sexual  
6 assaults and rapes to law enforcement and does not share information regarding sexual assaults and  
7 rapes with other ridesharing companies despite the knowledge that these drivers are employed by other  
8 ridesharing companies. LYFT, at the direction of LYFT's officers, directors and/or managing agents,  
9 has adopted a policy which knowingly chooses to hide and conceal the identities of the drivers that rape  
10 and sexually assault LYFT passengers.

11 59. Any ridesharing company such as LYFT that is concerned about public safety and has  
12 more sexual assaults than almost any other company in US history would adopt a zero-tolerance policy  
13 and have mandatory reporting of sexual assaults to law enforcement and other ride sharing companies.  
14 Instead, LYFT' officers, directors and/or managing agents have chosen to sacrifice the lives of sexual  
15 assault victims in the hope of deriving additional profits.

#### 16 STONEWALLING LAW ENFORCEMENT

17 60. LYFT's attempts to conceal the problem of the sexual assault crisis is not limited to the  
18 public and media. This effort to conceal from the public extends to LYFT's lack of cooperation with  
19 law enforcement detectives that investigate these cases. LYFT has no policy to report crimes of rape  
20 and other sexual assaults to law enforcement after those crimes are reported to them. Additionally,  
21 LYFT has failed to provide records and documentation regarding sexual predators that have committed  
22 multiple assaults that are critical for law enforcement investigations. The net effect of LYFT's attempts  
23 to protect and conceal the reports of sexual predators from law enforcement is that dangerous sexual  
24 predators continue to rape, sexually assault and ruin lives.

25 61. A responsible and reasonable company that is concerned about public safety cooperates  
26 with law enforcement and shares the public's interest in stopping sexual predators. LYFT, at the  
27 direction of LYFT's officers, directors and/or managing agents, has chosen another path. Lyft delays  
28 and restricts their correspondence with police until a court order/search warrant is authorized. In many

1 cases, LYFT requires a subpoena or formal legal order to provide information police may need for an  
2 investigation. Many of the assault victims in this complaint have been told by the detectives handling  
3 their case that LYFT's Trust and Safety team are often unresponsive to the detective's requests.

4 62. LYFT often erases the victim's complaint from their App and does not send them a copy  
5 of what they sent to LYFT regarding the assault. In these cases, the victim has no way to access or  
6 retrieve their original complaint about the accused perpetrator which delays the police investigation.

7 63. After a victim has reported a rape or sexual assault, LYFT often disables the victim's  
8 account. This restriction prohibits the victim from accessing key information about their perpetrator  
9 including the name, photo, make and model of car, etc. which is needed for law enforcement  
10 investigation. This furthers hampers law enforcement investigation.

11 64. LYFT does not provide the assaulted passenger with the driver's license plate number  
12 which makes it difficult for law enforcement to identify the subject. Also, after the LYFT ride is  
13 completed, the trip receipt does not list the license plate number or the make/model of the car. It only  
14 has the drivers first name and photo, again making it hard for the police to identify LYFT's drivers.

15 65. LYFT is fully aware of the facts regarding their stonewalling and hampering law  
16 enforcement investigations as described above. LYFT, at the direction of LYFT's officers, directors  
17 and/or managing agents, knowingly protects the sexual predators that drive for them.

18 66. The LYFT ride-hailing platform is a haven for sexual predators preying on vulnerable  
19 women.

### 20 LYFT POLICY TO SILENCE VICTIMS

21 67. Many people that are sexually assaulted do not report the incident because of the stigma  
22 attached to sexual assault. Only a minority of courageous people that are sexually assaulted come  
23 forward to report the assault. It is well known that sexual assault victims suffer tremendous mental and  
24 psychological trauma as a result of being victimized by sexual assault. For this reason, any responsible  
25 organization, corporation or entity that takes calls from sexual assault victims should have trauma  
26 informed and trained persons in sexual trauma to handle those calls.

27 68. Despite the hundreds and thousands of calls reporting sexual assault to their company,  
28 LYFT has untrained operators acting as first responders that take the calls from traumatized sexual

1 assault survivors. These untrained operators have no concept or understanding of how to communicate  
2 with a sexual assault survivor. Oftentimes sexual assault victims get automated and recorded messages.  
3 All of the above is part of LYFT's effort to silence victims.

4 69. In addition to the above allegations, LYFT incorporates other methods to silence victims  
5 that come forward to report sexual assault by their drivers. Oftentimes when a victim comes forward  
6 and reports a sexual assault or rape, LYFT responds by turning off or deactivating the victim's LYFT  
7 App.

8 70. When a victim has the courage to come forward to report the assault, LYFT does not tell  
9 the victim to the report the incident to the police or other law enforcement. Rather, LYFT tells the  
10 sexual assault victim that they will investigate the incident and get back to them. Unfortunately, LYFT  
11 does not get back to the victim despite their promise to do so. The victim never hears from LYFT about  
12 the incident again.

13 71. LYFT often erases the victim's complaint from their App. LYFT employs all of the  
14 above policies to silence victims.

15 **LYFT RESPONDS INADEQUATELY TO RIDER REPORTS OF SEXUAL ASSAULT**

16 72. LYFT riders who report sexual harassment or sexual assault to LYFT's Trust & Safety  
17 Team are often left feeling no better off than had they not reported at all.

18 73. According to recent media reports, these women, who feel their reports are falling on  
19 deaf ears, are turning to twitter to voice their complaints. Even these reports of sexual assault seem to  
20 fall flat to LYFT who responds to each with the same response: "The safety of our community is our  
21 top priority."

22 74. Even if LYFT does respond to a woman who was reported a rape, sexual harassment, or  
23 sexual assault, the response, largely, follows the same script focusing on vague rhetoric about safety  
24 being a top priority. LYFT more often than not, does not tell the victim what steps LYFT conducts in  
25 an investigation, does not tell the victim if there have been other allegations against the same driver, and  
26 does not tell the victim whether the driver has been removed from the platform.

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1           75.     According to media reports, LYFT employees who work in the Trust & Safety Team  
2 receive approximately two weeks of training, but none of that training dealt with how to speak with  
3 victims of sexual assault or how to handle sexual harassment claims.

4           76.     On information and belief, LYFT's 'investigations' into reports of rape and sexual  
5 assault amount to nothing more than following up with the rider and the driver and checking to see if  
6 the driver has any previous complaints against him.

7           77.     The results of these 'investigations' are not shared with the reporting victim, law  
8 enforcement, or other ridesharing companies which would not only aid in actual law enforcement  
9 investigations, but would ensure that drivers with a history of rape and sexual assault are not allowed to  
10 continue driving and assaulting additional future victims.

11     **LYFT'S SAFETY MEASURES CONTINUE TO BE INADEQUATE TO PROTECT AGAINST**  
12                     **SEXUAL ASSAULT AND RAPE IN THEIR VEHICLES**

13           78.     LYFT's newly enacted safety measures continue to fall short of protecting female  
14 passengers from being sexually assaulted by their LYFT driver.

15           79.     In response to previous lawsuits filed against LYFT alleging rape and sexual assault,  
16 LYFT's head of Trust & Safety, Mary Winfield, stated in September "as a platform committed to  
17 providing safe transportation, we hold ourselves to a higher standard by designing products and policies  
18 to keep out bad actors, make riders and drivers feel safe, and react quickly if and when an incident does  
19 occur."

20           80.     Despite LYFT's 'higher standard' women, including Plaintiff, continue to be raped and  
21 sexually assaulted in LYFT vehicles by LYFT drivers.

22           81.     LYFT's officers, directors and/or managing agents have still not chosen to implement  
23 biometric fingerprint or Live Scan background checks.

24           82.     LYFT's newly announced standardized protocol for determining whether or not to ban  
25 drivers from the platform may pose a continued threat to passengers. The standardized protocol will  
26 introduce a black and white decision structure reducing the ability to implement a human judgment call  
27 based on a pattern of similar complaints of the same driver.



1 83. This new standardized protocol for dealing with complaints of sexual assault could, and  
2 likely will result in dangerous sexual predators remaining on LYFT’s platform until a more serious  
3 incident, like a rape occurs.

4 **LYFT FAILS TO PARTICIPATE IN TRANSPORTATION NETWORK COMPANY SAFETY**  
5 **HEARINGS**

6 84. On October 16, 2019 at 10:00 AM, the Subcommittee on Highways and Transit of the  
7 United States House of Representatives Committee on Transportation and Infrastructure held a hearing  
8 entitled “Examining the Future of Transportation Network Companies: Challenges and Opportunities”  
9 (“the Hearing”).

10 85. The aim of the Hearing was to discuss safety challenges and opportunities to protect both  
11 rideshare passengers and drivers across the country as well as to discuss legislation that has been  
12 proposed to achieve greater safety and regulations of TNCs.

13 86. The Subcommittee on Highways and Transit invited both Uber and LYFT to participate  
14 in the Hearing in order to answer the Subcommittee’s questions, and provide the TNC perspective on  
15 safety and regulations.

16 87. Despite the obvious intent of the Subcommittee to increase the safety of rideshare for its  
17 passengers and customers, LYFT refused to meet before the subcommittee. As a result, the  
18 Subcommittee’s questions were left unanswered. LYFT refused to appear because passenger and  
19 customer safety is not, and has never been, a priority or concern for LYFT.

20 88. On October 17, 2019, the Subcommittee sent to LYFT a list of questions that went  
21 unanswered and requested LYFT respond, in writing, to become part of the record of the Hearing.  
22 Many of the questions posed to LYFT were regarding LYFT’s position of the safety of their passengers:

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1 Public Safety: The hearing highlighted the growing number of news reports of alleged  
2 assaults on passengers who utilize TNCs. At the hearing, Paul Miller, Legislative Counsel  
3 with the Transportation Alliance, noted that when a taxi driver is involved in an accident or  
4 alleged assault against a passenger, not only are local police on-site but the taxi commission  
5 conducts oversight as well. For TNCs, alleged assaults or crimes are not documented as  
6 TNC-related, even if reported to local authorities. The only comprehensive data source of  
7 passenger-reported assaults and other incidents against Lyft drivers resides with your  
8 company.

- 9
- 10 4. Do you support making the number of reported crimes perpetrated by drivers  
11 against passengers you have received publicly available?
  - 12 5. Do you support local authorities tracking incidents that occur on hailed rides in  
13 order to provide law enforcement with better data to inform their public safety  
14 strategies?
  - 15 6. Do you track the type and frequency of passenger-reported crimes perpetrated by  
16 drivers you receive? If not, please explain why.
  - 17 7. Please provide data on the total number of incidents involving alleged crimes  
18 against riders by drivers you have received, to date, broken down by type.
  - 19 8. What is your specific process for reviewing alleged incidents of violence, assault, or  
20 harassment reported by Lyft passengers? What is your specific process for  
21 reviewing complaints and alleged incidents by Lyft drivers? What is your specific  
22 protocol for when and how to refer incidents to law enforcement?

23 9. What is your specific protocol to follow up with drivers who have been accused of  
24 harassment, assault, or violence? What is your specific protocol to deactivate a  
25 driver?

26 (Oct. 17, 2019 Subcommittee on Highways and Transit Letter to Logan Green)

### 27 THE ATTACK UPON PLAINTIFF

28 89. On May 27, 2019, Plaintiff Cheyenne Gutierrez used the ridesharing service offered by  
defendant LYFT and DOES 1 through 100. After Ms. Gutierrez used the LYFT App to summon a  
driver, a LYFT driver named Renato, last name unknown but to be alleged after discovery in this  
litigation, picked up Plaintiff Cheyenne Gutierrez within Los Angeles, California. Upon arrival at  
Plaintiff's destination, she was sexually assaulted by the above-named LYFT Driver who had responded  
to her request made through the LYFT App.

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1           90.       Ms. Gutierrez is both physically and mentally disabled. When Ms. Gutierrez was 11,  
2 she had a brain aneurysm. As a result of the aneurysm, she required 18 brain surgeries and has cognitive  
3 impairments. She also is legally blind in one eye and walks with a significant limp. Due to her  
4 disabilities, she is unable to obtain a license/drive so she solely relies on rideshare for transport.

5           91.       At approximately 9:54pm Plaintiff Cheyenne Gutierrez had finished grocery shopping  
6 and called for a LYFT to pick her up from the grocery store. The ride lasted 6 minutes. Upon arriving at  
7 Ms. Gutierrez' home, LYFT's driver offered to help her carry some grocery bags. Because of her  
8 disabilities, she accepted his offer to help. After bringing up the last of the grocery bags, the LYFT  
9 driver grabbed Cheyenne Gutierrez by the face and forcefully attempted to kiss her. Plaintiff Cheyenne  
10 Gutierrez tried to push the LYFT driver off of her. Instead, he grabbed her again and attempted to force  
11 himself on Plaintiff Cheyenne Gutierrez. Ms. Gutierrez, terrified for her life, kned the LYFT driver in  
12 the stomach and yelled at him to get out.

13           92.       Plaintiff Cheyenne Gutierrez called LYFT's hotline to report the assault she had just  
14 experienced by their driver. She spoke with a man named 'Enrique' who said LYFT would get back to  
15 her. The next day, she received a canned email response from LYFT.

16           93.       Plaintiff Cheyenne Gutierrez was not told what, if any, action had been made against the  
17 driver that assaulted her. Instead, the email stated: "I've investigated the concerns you raised and taken  
18 the required course of action with this Driver." Following this canned email, which Ms. Gutierrez  
19 received less than 24 hours of the assault, she never heard from LYFT again. LYFT never informed  
20 Plaintiff Cheyenne Gutierrez what the 'investigation' consisted of, what the results of the 'investigation'  
21 were, or what 'action' had been taken with the driver who assaulted her.

22           94.       The day after her assault, on May 28, 2019, Ms. Gutierrez reported her assault to the Los  
23 Angeles Police Department. The police report identified that a battery had occurred. The LAPD  
24 contacted LYFT for information about the driver and his vehicle, but LYFT was not helpful. The police  
25 report states **"Contacted LYFT but were unable to obtain any information regarding the suspects'  
26 vehicle description."** As a result of LYFT's failure to participate in the police investigation, no arrest  
27 was able to be made.

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1 95. LYFT never informed Ms. Gutierrez whether this driver continues to drive for LYFT.  
2 This predator may still be driving for LYFT.

3 96. Plaintiff Cheyenne Gutierrez lives in fear every day that this driver, who knows where  
4 she lives, will come back to her home and attack her again. She continues to suffer emotional trauma  
5 from this incident and states that she thinks about the incident "all the time". She has flashbacks every  
6 time she requests an Uber. She tries to do shared rides now to be safe. She is constantly fearful and has  
7 bought a taser and pepper spray which she brings to work with her now every day. She had nightmares  
8 every night for 2 months following the incident and now has daytime flashbacks. She continues to fear  
9 that the driver knows where she lives and will come back to get her again. She constantly feels unsafe.  
10 She is fearful, anxious, and suffers from sadness and confusion over this assault.

11 97. As a result of the assault, she had to undergo medical procedures. Plaintiff Cheyenne  
12 Gutierrez' injuries required medical treatment and will require medical treatment in the future. Plaintiff  
13 Cheyenne Gutierrez does not yet know the reasonable value of the past or future medical and incidental  
14 expenses but will prove the value of such losses at the time of trial.

15 98. LYFT's actions were a substantial factor in the harm that Plaintiff Cheyenne  
16 Gutierrez suffered. Cheyenne Gutierrez suffered general damages of pain-and-suffering, including but  
17 not limited to emotional distress, panic, anguish, fright, nervousness, grief, anxiety, worry, shock,  
18 humiliation, embarrassment, shame, mortification, hurt feelings, disappointment, depression and  
19 feelings of powerlessness. Additionally Cheyenne Gutierrez has suffered past lost earnings and will  
20 suffer future lost earnings and earning potential. Plaintiff Cheyenne Gutierrez is entitled to damages for  
21 such harm.

22 **FIRST CAUSE OF ACTION**

23 **STRICT PRODUCT LIABILITY BASED ON DESIGN DEFECT OF THE LYFT**  
24 **RIDESHARING APP AND FAILURE OF THE LYFT APP TO MEET MINIMUM**  
25 **REASONABLE CONSUMER SAFETY EXPECTATIONS)**

26 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

27 99. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 98 as  
28 though fully stated in this cause of action.

100. Defendant LYFT manufactured and distributed the LYFT App.

1 101. The LYFT App did not perform as safely as an ordinary consumer would have expected  
2 it to perform when used or misused in an intended or reasonably foreseeable way, because the LYFT  
3 App falsely led each Plaintiff to form a reasonable minimum safety expectation that was not met.

4 102. Plaintiff was harmed.

5 103. The LYFT App's failure to communicate to the Plaintiff a true expectation of the lack of  
6 safety in use of the LYFT App was a substantial factor in causing harm to the Plaintiff.

7 **SECOND CAUSE OF ACTION**

8 **STRICT PRODUCT LIABILITY BASED ON A FAILURE TO WARN OF THE RISKS POSED**  
9 **BY THE LYFT RIDESHARING APP**

10 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

11 104. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 103 as  
12 though fully stated in this cause of action.

13 105. Defendant LYFT manufactured and distributed the LYFT App.

14 106. The LYFT App presented potential risks of introducing the driver to Plaintiff, who,  
15 because of the nature of the ridesharing arrangement created and facilitated by the LYFT App, could  
16 neither escape from the driver's vehicle nor control the place where the driver would take Plaintiff, risks  
17 that were known or knowable at the time of manufacture and distribution of the LYFT App.

18 107. The potential risks presented a substantial danger when the LYFT App was used or  
19 misused in an intended or reasonably foreseeable way.

20 108. Ordinary consumers, including Plaintiff, would not have recognized the potential risks.

21 109. Defendant LYFT failed to adequately warn of the potential risks.

22 110. Plaintiff was harmed.

23 111. The lack of sufficient warnings was a substantial factor in causing the harm suffered by  
24 Plaintiff.

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1 **THIRD CAUSE OF ACTION**

2 **NEGLIGENT DESIGN DEFECT OF THE LYFT RIDESHARING APP**

3 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

4 112. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 111 as  
5 though fully stated in this cause of action.

6 113. Defendant LYFT designed and manufactured the LYFT App.

7 114. Defendant LYFT owed Plaintiff a duty not to design, manufacture, or distribute the  
8 LYFT App, with its defective design and defective manufacture.

9 115. Defendant LYFT was negligent in designing and manufacturing the LYFT App.

10 116. Plaintiff was harmed.

11 117. Defendant LYFT's negligence was a substantial factor in causing the harm suffered by  
12 Plaintiff.

13 **FOURTH CAUSE OF ACTION**

14 **NEGLIGENCE BASED ON FAILURE TO WARN OF THE DESIGN DEFECTS OF THE**  
15 **LYFT RIDSHARING APP**

16 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

17 118. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 117 as  
18 though fully stated in this cause of action.

19 119. Defendant LYFT was negligent by not using reasonable care to warn about facts that  
20 made the LYFT App likely to be dangerous.

21 120. Defendant LYFT designed and manufactured the LYFT App.

22 121. Defendant LYFT knew or reasonably should have known that the LYFT App was  
23 dangerous or likely to be dangerous when used or misused in a reasonably foreseeable manner.

24 122. Defendant LYFT knew or reasonably should have known that users, including Plaintiff,  
25 would not realize the danger.

26 123. Defendant LYFT failed to adequately warn of the danger.

27 124. A reasonable manufacturer and reasonable distributor under the same or similar  
28 circumstances would have warned of the danger.

1 125. Plaintiff was harmed.

2 126. Defendant LYFT's failure to warn was a substantial factor in causing the harm suffered  
3 by Plaintiff.

4 **FIFTH CAUSE OF ACTION**

5 **NEGLIGENCE BASED ON FAILURE TO RECALL OR RETROFIT THE LYFT**  
6 **RIDESHARING APP**

7 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

8 127. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 126 as  
9 though fully stated in this cause of action.

10 128. Defendant LYFT designed the LYFT App.

11 129. Defendant LYFT knew or reasonably should have known that the LYFT App was  
12 dangerous or was likely to be dangerous when used in a reasonably foreseeable manner.

13 130. Defendant LYFT became aware of this defect after the LYFT App was designed,  
14 manufactured, and distributed.

15 131. Defendant LYFT failed to recall or retrofit or warn of the danger of the LYFT App.

16 132. A reasonable manufacturer and distributor under the same or similar circumstances  
17 would have recalled or retrofitted or both recalled and retrofitted the LYFT App.

18 133. Plaintiff was harmed.

19 134. Defendant LYFT's failure to recall or retrofit the LYFT App was a substantial factor in  
20 causing the harm suffered by Plaintiff.

21 **SIXTH CAUSE OF ACTION**

22 **INTENTIONAL MISREPRESENTATIONS ABOUT THE LYFT RIDESHARING APP**

23 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

24 135. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 134 as  
25 though fully stated in this cause of action.

26 136. Defendant LYFT represented to Plaintiff that it was true that the LYFT App was safe to  
27 use and would provide a safe experience.

28 137. Defendant LYFT's representation was false.

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1 138. Defendant LYFT knew that the representation was false when it made it or at a minimum  
2 knew that it made the representation recklessly and without regard for its truth.

3 139. Defendant LYFT intended that Plaintiff rely on the representation.

4 140. Plaintiff reasonably relied on defendant LYFT's representation.

5 141. Plaintiff was harmed.

6 142. Plaintiff's reliance on defendant LYFT's representation was a substantial factor in  
7 causing the harm suffered by each Plaintiff.

8 **SEVENTH CAUSE OF ACTION**

9 **CONCEALMENT OF THE RISKS INHERENT IN USE OF THE LYFT RIDESHARING APP**

10 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

11 143. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 142 as  
12 though fully stated in this cause of action.

13 144. Defendant LYFT intentionally failed to disclose to Plaintiff the fact that the LYFT App  
14 was defective in its design and manufacture, was not safe to use as defendant LYFT otherwise  
15 represented, and posed risks and dangers of which defendant LYFT was aware at the time it designed,  
16 manufactured, and distributed the LYFT App.

17 145. Defendant LYFT disclosed some facts to Plaintiff, asserting that there supposedly were  
18 safeguards in place, but intentionally failed to disclose other facts about the risks and potential dangers,  
19 making the disclosures that defendant LYFT did make incomplete and deceptive.

20 146. Defendant LYFT intentionally failed to disclose certain facts about the risks and  
21 potential dangers that were known only to it and that Plaintiff could not have discovered in the ordinary  
22 course of downloading and using the LYFT App.

23 147. Plaintiff did not know of the concealed facts.

24 148. Defendant LYFT intended to deceive Plaintiff by concealing the facts.

25 149. Had the omitted information been disclosed, Plaintiff reasonably would have behaved  
26 differently.

27 150. Plaintiff was harmed.

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1 151. Defendant LYFT's concealment was a substantial factor in causing the harm suffered by  
2 Plaintiff.

3 **EIGHTH CAUSE OF ACTION**

4 **NEGLIGENT MISREPRESENTATION ABOUT THE LYFT RIDESHARING APP**

5 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

6 152. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 151 as  
7 though fully stated in this cause of action.

8 153. Defendant LYFT represented to Plaintiff that it was true that the LYFT App would  
9 provide for a safe ridesharing experience.

10 154. Defendant LYFT's representation was not true.

11 155. Although Defendant LYFT may have honestly believed that the representation was true,  
12 Defendant LYFT had no reasonable grounds for believing the representation was true when it made it.

13 156. Defendant LYFT intended that Plaintiff rely on this representation.

14 157. Plaintiff reasonably relied on defendant LYFT's representation.

15 158. Plaintiff was harmed.

16 159. Plaintiff's reliance on defendant LYFT's representation was a substantial factor in  
17 causing the harm suffered by Plaintiff.

18 **NINTH CAUSE OF ACTION**

19 **NEGLIGENT HIRING, SUPERVISION, AND RETENTION**

20 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

21 160. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 159 as  
22 though fully stated in this cause of action.

23 161. Defendant LYFT and DOES 1 through 100, inclusive hired the LYFT DRIVER, Renato.

24 162. LYFT's hiring of the LYFT DRIVER was mostly automated, after the LYFT DRIVER  
25 merely filled out some short forms online, uploaded photos of a driver license, vehicle registration and  
26 proof of vehicle insurance.

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1           163. At the time the LYFT DRIVER applied to drive for LYFT, LYFT was not performing  
2 adequate background checks for its drivers. After minimal information was provided to LYFT, the  
3 LYFT DRIVER was hired and engaged as a LYFT driver.

4           164. LYFT did not interview, check the references of, provide training to, or advise the LYFT  
5 DRIVER of any anti-sexual assault policies when hiring him. LYFT had no reasonable basis for  
6 believing that the LYFT DRIVER was fit to drive or interact with passengers, and LYFT failed to use  
7 reasonable care in determining whether the LYFT DRIVER was fit for those tasks. LYFT should have  
8 known of the LYFT DRIVER's unfitness but failed to use reasonable care to discover the DRIVER's  
9 unfitness and incompetence.

10           165. Despite failing to reasonably endeavor to investigate the LYFT DRIVER's competence  
11 to transport and interact with passengers in a moving vehicle, LYFT employed the LYFT DRIVER.

12           166. LYFT knew or should have known that assigning to an inadequately screened driver the  
13 task of transporting vulnerable customers late at night created an unreasonable risk of harm to LYFT's  
14 passengers, including Plaintiff herein, particularly when LYFT had been on notice of the string of  
15 sexual assaults committed by LYFT's drivers.

16           167. The LYFT DRIVER was and/or became unfit to perform the work for which he was  
17 HIRED as he improperly and illegally took advantage of LYFT's passengers, including Plaintiff, when  
18 she attempted to use the service for a safe ride, thereby causing Plaintiff psychological and physical  
19 harm.

20           168. Because of each LYFT DRIVER's unfitness to perform the task of transporting Plaintiff,  
21 Plaintiff was sexually harassed, assaulted and/or stalked, causing her to fear for her personal safety.

22           169. LYFT and inclusively DOES 1 through 100's negligence in hiring, retaining, and or  
23 supervising the LYFT DRIVER caused Plaintiff to be sexually harassed, assaulted and/or stalked.

24           170. As a direct and legal result of LYFT's general negligence, Plaintiff has suffered general  
25 non-economic damages according to proof.

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1 **TENTH CAUSE OF ACTION**

2 **COMMON CARRIER NEGLIGENCE**

3 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

4 171. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 170 as  
5 though fully stated in this cause of action.

6 172. LYFT provides prearranged transportation services for compensation using an online  
7 enabled application or platform to connect passengers with drivers. Consequently, LYFT is a  
8 Transportation Network Company as defined by California Public Utilities Code Section 5431c.

9 173. LYFT provides transportation through a digital application made available to the general  
10 public for the purpose of transporting its users, the passengers, from place to place for profit. LYFT has  
11 widely offered its services to the general public and charges standard fees for its services through its  
12 application. LYFT does not allow discrimination against passengers on the basis of race, color, national  
13 origin, religion, gender, gender identity, physical or mental disability, medical  
14 condition, marital status, age, or sexual orientation. Any member of the public can use LYFT's services  
15 for transportation.

16 174. As a common carrier, LYFT must carry its passengers, including Plaintiff, safely.

17 175. LYFT has a duty to employ the utmost degree of care and diligence that would be  
18 expected of a very cautious company. LYFT has a duty to do all that human care, vigilance, and  
19 foresight reasonably can do under the circumstances to avoid harm to passengers, including Plaintiff.

20 176. LYFT must use reasonable skill to provide everything necessary for safe transportation,  
21 in view of the transportation used and the practical operation of the business.

22 177. Despite complaints to LYFT of sexual assaults committed by LYFT drivers and lawsuits  
23 against LYFT for sexual assault, LYFT, at the direction of its managing agents, executives and officers,  
24 has failed to implement safety precautions that would address the sexual assault problem.

25 178. LYFT does not provide a consistent and reliable way for passengers to report sexual  
26 abuse and rape.

27 179. LYFT does not warn passengers, including Plaintiff, of the dangers of riding with LYFT  
28 and fails to warn passengers, including Plaintiff, of past complaints regarding LYFT drivers.

1 180. LYFT does not have an effective program in place to deal with the sexual predator crisis  
2 posed by some of its drivers.

3 181. LYFT knows that its female passengers are in a uniquely vulnerable situation enclosed in  
4 a moving vehicle and that a subset of its drivers are sexual predators.

5 182. LYFT, at the direction of its managing agents, executives and officers, has not exercised  
6 reasonable care to protect its passengers, including Plaintiff, from harassment, assault, and rape by  
7 LYFT's drivers.

8 183. LYFT, at the direction of its managing agents, executives and officers, has not exercised  
9 the utmost degree of care in order to protect its passengers, including Plaintiff, from the danger posed  
10 by sexual predators who drive for LYFT. If LYFT had used the highest degree of care, LYFT could  
11 have prevented or dramatically reduced the likelihood of the sexual assaults of its passengers, including  
12 Plaintiff.

13 184. LYFT failed to safely transport Plaintiff.

14 185. LYFT failed to use the utmost care and vigilance to protect Plaintiff from its own LYFT  
15 DRIVER who sexually harassed and assaulted in the course of transporting her to her destination.

16 186. LYFT, at the direction of its managing agents, executives and officers, failed to take  
17 reasonable precautions to protect its vulnerable female passengers, including Plaintiff, from the  
18 foreseeable and known risk of sexual harassment and sexual assault by its LYFT DRIVERS. If LYFT  
19 had used the highest degree of care, LYFT could have prevented or reduced the likelihood of the sexual  
20 assaults of its passengers, including the sexual assault of Plaintiff.

21 187. As a legal and direct result of the aforementioned conduct and omissions of Defendants  
22 LYFT and DOES 1 through 100, inclusive, Plaintiff was sexually harassed, assaulted and/or stalked,  
23 causing her to fear for her personal safety.

24 188. As a direct and legal result of LYFT's negligence, Plaintiff has suffered damages, both  
25 economic and general, non-economic damages according to proof.

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1 ELEVENTH CAUSE OF ACTION

2 VICARIOUS LIABILITY FOR THE TORTS OF LYFT'S DRIVERS

3 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

4 189. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 188 as  
5 though fully stated in this cause of action.

6 190. LYFT is vicariously liable for the torts of its drivers through the theories of *respondeat*  
7 *superior*, nondelegable duties, agency, and ostensible agency. LYFT's liability for the acts of its drivers  
8 is not contingent upon the classification of its drivers as employees.

9 191. Under the doctrine of *respondeat superior*, LYFT is responsible for the torts of its  
10 employees committed within the scope of employment. The modern rationale for the theory is that an  
11 employer who profits from an enterprise which, through the torts of its employees, causes harm to  
12 others should bear the costs of the injury instead of the innocent injured plaintiff.

13 192. LYFT profits from transporting vulnerable passengers late at night. LYFT encourages  
14 both sober and intoxicated passengers to use its services. At the same time, LYFT, at the direction of its  
15 managing agents, executives and officers, does not take reasonable steps to protect its passengers or  
16 warn them of the dangers of riding with LYFT. LYFT, and not the victims of LYFT's negligence,  
17 should bear the costs of injuries that result from torts such as sexual assault, kidnapping and rape.

18 193. LYFT's drivers, including Renato, are employees. LYFT reserves the right to control  
19 the activities of LYFT drivers, including Renato. LYFT controls the prices charged to customers,  
20 controls contact with the customer base, controls the ability of a driver to see where he will be driving  
21 before he accepts a ride, and reserves the right to terminate drivers with or without cause.

22 194. LYFT's drivers' acts of sexual harassment and sexual assault of Plaintiff occurred  
23 within the scope of employment and/or authority of the LYFT driver. The assault committed against  
24 Plaintiff was committed against a woman who had been placed in an improperly screened LYFT  
25 driver's car with little to no supervision. This assault was incidental to and a foreseeable result of the act  
26 of transporting customers.

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1 195. LYFT may maintain that its drivers are contractors and not employees. Nevertheless,  
2 whether the LYFT drivers are characterized as contractors, employees or agents, LYFT has a non-  
3 delegable duty to connect customers with safe transportation.

4 196. The doctrine of nondelegable duty recognizes when one party owes a duty to another  
5 which, for public policy reasons, cannot be delegated. It operates to ensure that when a harm occurs, the  
6 injured party will be compensated by the party whose activity caused the harm and who may therefore  
7 properly be held liable for the acts of his agent, whether the agent was an employee or an independent  
8 contractor. The doctrine recognizes that an entity may not delegate its duties to a contractor in order to  
9 evade its own responsibilities. This is especially so when allowing delegation would incentivize the  
10 employers to hire incompetent contractors in order to further the employer's pecuniary interests.

11 197. In advertising to customers, including Plaintiff, that LYFT provides them a safe ride to  
12 their destinations and by profiting off of women who use LYFT for that very purpose and are attacked,  
13 LYFT has a duty to its customers that cannot be delegated. To allow LYFT to delegate the liability for  
14 the assaults by its drivers to anyone else would encourage LYFT to continue to utilize the cheapest,  
15 fastest, and most haphazard safety procedures. LYFT would be disincentivized from hiring only  
16 competent drivers, since the more drivers LYFT has, the more money LYFT makes.

17 198. Further, LYFT drivers act as agents of and operate as extensions of LYFT. LYFT  
18 drivers represent LYFT's business and further LYFT's pecuniary interests.

19 199. LYFT drivers display the LYFT logo when interacting with customers, and in many  
20 cases LYFT drivers are the only people with whom LYFT's customers have direct contact. LYFT  
21 drivers provide the service that LYFT claims to provide, namely, transportation.

22 200. By allowing LYFT drivers, including Renato, to represent LYFT's business, LYFT  
23 creates the impression that its drivers, including Renato, were LYFT's employees and/or agents.

24 201. Plaintiff herein reasonably believed that her LYFT driver was an employee or agent of  
25 LYFT, and, relying on this belief, Plaintiff hired the LYFT driver and suffered harm as a result of her  
26 contact with each respective LYFT DRIVER.

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1 210. Defendant LYFT intended to cause emotional distress to Plaintiff or at a minimum  
2 defendant LYFT acted with reckless disregard of the probability that Plaintiff would suffer emotional  
3 distress, knowing that Plaintiff was or would be present when the conduct precipitated by use of the  
4 LYFT App occurred.

5 211. Plaintiff suffered severe emotional distress including but not limited to emotional  
6 distress, panic, anguish, fright, nervousness, grief, anxiety, worry, shock, humiliation, embarrassment,  
7 shame, mortification, hurt feelings, disappointment, depression and feelings of powerlessness.

8 212. The emotional distress suffered by Plaintiff is such that an ordinary, reasonable person  
9 would be unable to cope with it

10 213. Defendant LYFT's conduct was a substantial factor in causing the severe emotional  
11 distress suffered by Plaintiff.

12 **FOURTEENTH CAUSE OF ACTION**

13 **GENERAL NEGLIGENCE**

14 **(Alleged Against Defendant LYFT and DOES 1 through 100)**

15 214. Plaintiff incorporates by reference all of the allegations in paragraphs 1 through 211 as  
16 though fully stated in this cause of action.

17 215. Defendant LYFT owed to Plaintiff a duty to use ordinary care to prevent injury to  
18 Plaintiff as a result of the conduct and inaction of LYFT and the conduct and inaction of the LYFT  
19 driver.

20 216. In doing those things alleged herein above, defendant LYFT acted negligently,  
21 carelessly and recklessly, resulting in serious injury to Plaintiff.

22 217. As a proximate result of the acts and failures to act of defendant LYFT, Plaintiff was  
23 hurt and injured in her health, strength, and activity, sustaining injury to her nervous system and person,  
24 all of which have caused, and continue to cause, Plaintiff great mental, physical, and nervous pain and  
25 suffering.

26 218. Plaintiff is informed and believes, and thereon alleges, that these injuries will result in  
27 some permanent disability. As a result of these injuries, Plaintiff has suffered general damages in an  
28 amount within the jurisdiction of this court.



1           219. As a proximate result of the acts and failures to act of Defendant LYFT, Plaintiff has  
2 incurred, and will continue to incur, medical and related expenses. The full amount of these expenses is  
3 not known to Plaintiff at this time. Plaintiff will move to amend this complaint to state the amount when  
4 it becomes known to her, or on proof thereof.

5           220. As a further legal result of the acts and failures to act of defendant LYFT, Plaintiff was  
6 prevented from attending to her usual occupation and Plaintiff is informed and believes that she will be  
7 prevented from attending to her usual occupation for a period of time in the future. Further, Plaintiff is  
8 entitled to prejudgment interest on that amount when determined.

9   **RELIEF SOUGHT**

10           Plaintiff Cheyenne Gutierrez seeks judgment against defendant LYFT and against DOES 1  
11 through 100 as follows:

- 12           1. For compensatory damages for the described losses with respect to each cause of action;
- 13           2. For special damages, including but not limited to, past and future medical expenses  
14 according to proof;
- 15           3. For general damages according to proof;
- 16           4. For past and future emotional distress;
- 17           5. For pre-judgment interest, if warranted;
- 18           6. For costs incurred in this litigation;
- 19           7. For punitive damages with respect to each cause of action; and
- 20           8. For all other relief that the court deems just and proper.

21  
22 Dated: December 5, 2019

ESTEY & BOMBERGER, LLP



23  
24  
25 R. Michael Bomberger, Esq.  
26 Attorney for Plaintiff