1 The Honorable Chad Allred

Trial Date : September 24, 2018

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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

8 IN AND FOR THE COUNTY OF KING

9 MUSTAFE ISMAIL , ALI SUGULE, and

SULDAN MOHAMED, NO . 17-2-25402-9 KNT

10 Plaintiffs,

11 CLASS ACTION COMPLAINT

v.

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EASTSIDE FOR HIRE, INC., a Corporation,

1. and, ABDIGAFAR HASSAN, ABDISELAM GELLE, AHMED MOGOW , ABDULAHI
2. ADEN , and ABDIRIZAK HIRSI, Individuals ,

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Defendants.

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#### I. INTRODUCTORY STATEMENT

1. This is a class action brought by Plaintiffs on behalf of themselves and other similarly
2. situated taxi/for-hire drivers against Defendant Eastside For Hire, Inc. and its individual
3. owners for breach of contract , breach of the covenant of good faith and fair dealing, unjust 21

enrichment, conversion , negligent misrepresentation, violations of Washington's Consumer

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Protection Act , RCW 19.86 *et seq.,* and injunctive and declaratory relief , RCW 7.40, 7.24 *et*

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1. *seq.*

#### II. PARTIES & JURISDICTION

1. 2.1 Plaintiffs Mustafe Ismail , Ali Sugule, and Suldan Mohamed work as taxi/for-

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1 hire drivers for Eastside For Hire, Inc.

2 2.2 Defendant Eastside For Hire, Inc. ("Eastside") is a Washington corporation

3 that does business in the State of Washington , including in King County. Its headquarters are

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located in Burien , Washington .

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2.3 Defendants Abdigafar Hassan , Abdiselam Gelle, Ahmed Mogow, Abdulahi 6

Aden , and Abdirizak Hirsi are individual owners of Eastside ("Owners"), all of whom reside 7

8 in the State of Washington.

9 2.4 The Superior Court of Washington has jurisdiction over Plaintiffs ' claims

1. pursuant to RCW 2.08 .010, RCW 7.24.010 , and CR 23.
2. 2.5 Venue in King County is appropriate pursuant to RCW 4.12.025. 12

**III. STATEMENT OF FACTS**

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3. 1 Defendant Eastside For Hire, Inc. is a taxi/for-hire service company that has 14

been in business since approximately 2007. 15

1. 3.2 Defendants have classified and continue to classify their workforce of taxi/for-
2. hire drivers as "independent contractors."
3. 3.3 In July 2016, following a competitive public bidding process , the Port of

19 Seattle awarded Eastside the exclusive right to provide on-demand taxi/for-hire service to 20

passengers flying into Seattle-Tacoma International Airport . In exchange , Defendants

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guaranteed the Port a minimum of $4 million in payments during the first year of operations ,

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1. with payments increasing by a quarter-million dollars each year for five years . The
2. Defendants' bid indicates that the minimum annual payment to the Port will come primarily
3. from per-trip fees of $7 for each outbound revenue trip, with increases to such fees in the
4. amount of $.50 per year.

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1 3.4 Defendants ' contract with the Port commenced on October 1, 2016 .

2 3.5 Because Eastside is the only taxi/for-hire service permitted to operate out of

3 the Airport , taxi/for-hire drivers who wish to pick up passengers at the Airport have no 4

choice but to contract with Defendants .

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3.6 Rather than employ drivers and pay them minimum wage and overtime to 6

serve Airport passengers, Defendants entered into contracts with hundreds of taxi/for-hire 7

8 drivers, including Plaintiffs Mustafe Ismail , Ali Sugule, and Suldan Mohamed ("Drivers ").

9 3.7 Roughly two-thirds of the Drivers operate vehicles with meters (including Mr.

1. Ismail and Mr. Mohamed) ; the remainder (including Mr. Sugule) charge passengers a flat
2. rate for their service ("Metered Drivers" and "Flat-Rate Drivers ," respecti vely).

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3.8 In exchange for providing Drivers the opportunity to provide service to

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Airport passengers , Defendants required Drivers to pay substantial start-up fees (alternativel y

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15 termed , e.g., "capital contributions," "subscription fees," and "entrance reserv ation fees").

16 The start-up fees were in arbitrary amounts, ranging anywhere from three thousand to

17 upwards of nine thousand dollars .

18 3.9 In addition , Defendants contracted with Drivers to pay the entirety of the $7 19

per-trip fee owed to the Port. However , instead of collecting the per-trip fee based on the

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*actual* number of outbound revenue trips taken (i.e., *per-trip) ,* Defendants have collected and

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continue to collect a flat fee from Drivers in advance of any such trips and regardless of the

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1. number of trips taken. For example , recently , the flat fee was $240 per week , or the
2. equivalent of 34 outbound revenue trips . Defendants have not reimbursed those Drivers who
3. make fewer trips than what is covered by the flat-fee .

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3.10 Defendants also charge Drivers weekly "dispatch services fees" in the amount

2 of $155. In exchange for such fees, Defendants promised Drivers they would receive

3 dispatches for trips other than for those passengers arriving at the Airport (which are on-

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demand, and require no dispatch) . Despite collecting these dispatch fees, Defendants provide

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almost no dispatch service beyond the occasional "Hopelink" trip, for which passengers pay

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using a voucher rather than cash and for which Defendants do not immediately or completely 7

8 reimburse Drivers.

9 3.11 Further , Defendants charged Metered Drivers a one-time "software and

1. equipment upgrade" fee of $605 for their on-board computer systems. Defendants promised
2. Metered Drivers they would receive the appropriate technology to allow them to receive and 12

process information such as dispatches , customer data, payments , and route mapping.

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Instead , for the majority of the relevant time period , the on-board computer system for 14

1. Metered Drivers has not been operational.
2. 3.12 Compounding all of the above, Defendants imposed and continue to impose
3. restrictions on the number of days Drivers can work at the Airport despite the fact that none
4. of the contracts with Drivers permit or provide for such restriction nor was any such

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restriction communicated to Drivers in advance of them paying substantial "start up" fees.

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Drivers are divided into three groups (A, B, and C) and can only pick up passengers on the

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date assigned to their group.

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1. 3.13 For the Drivers , the effect of limiting the number of days available to pick up
2. Airport passengers significantly impairs their opportunity for income. For Defendants ,
3. having more Drivers than necessary allows them to extract more fees. 26

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* 1. Defendants ' bid for the Port contract was premised on projections of the

2 number of revenue trips that would be conducted in the aggregate and per Driver. Defendants

3 knew or should have known at the time they negotiated the contract with the Port that these 4

projections were unrealistic and that the number of Drivers with whom they contracted

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would exceed Airport passengers ' demand for taxi/for-hire service .

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* 1. Throughout the relevant time period , and notwithstanding the so-called

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8 "exclusive" right granted to Eastside to serve Airport passengers , the Port neverth eless

1. permits transportation network companies (e.g., Lyft , Uber) to pick up SeaTac passengers for
2. reduced per-trip fees.
3. 3.16 The individual Defendant Owners have used the corporate Defendant 12

(Eastside) to violate or evade their duties to Drivers.

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3.17 Disregard of the corporate entity and imposition of personal liability on the 14

1. Owners is necessary and required to prevent unjustified loss to the Drivers .
2. **IV. CLASS ALLEGATIONS**
3. 4.1. Defendants have engaged in a pattern and practice of limiting Drivers '
4. schedules and charging Drivers fees for trips they do not make and for services they do not

19 receive.

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4.2. As a result of the foregoing, Plaintiffs file this lawsuit on behalf of themselves

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and similarly situated current or former taxi/for-hire drivers who have paid Defendants to

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1. serve passengers flying into the Airport ("Drivers") since on or around October 1, 2016.
2. 4.3. The class described above is sufficiently numerous such that joinder of all of
3. them is impractical , as required by CR 23(a)( 1). 26

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##### Pursuant to CR 23(a)(2) , there are questions of law and fact common to the

1. class, including , but not limited to: whether Defendants have charged and retained fees in
2. excess of what they are entitled to ; whether Defendants have failed to provide dispatch 4

services to Drivers; whether Defendants have failed to provide functioning software and

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##### equipment upgrades to Metered Drivers ; whether Defendants have collected flat fees from

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##### 7 Drivers (rather than per-trip fees); whether Defendants must reimburse Drivers wher e

8 Drivers paid more in flat fees than the actual per-trip fee charge warrants ; whether

9 Defendants can, under the parties' contracts or otherwise , charge Drivers dispatch fees where

1. little to no such service was provided; whether Defendants can, under the parties ' contracts
2. or otherwise, charge a technology fee where no functioning service was provided during the

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##### majority of the class period ; whether Defendants are entitled to limit Drivers ' schedules ;

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whether Defendants have breached their duty of good faith and fair dealing; whether 14

15 Defendants have willfully interfered with Drivers ' property by collecting flat fees in excess

1. of the actual outbound revenue trips taken; whether Defendants have been unjustly enrich ed
2. by charging arbitrary start-up fees, fees for trips the Drivers do not make , and fees for

18 services the Drivers do not receive ; whether Defendants supplied information to Drivers

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##### regarding per-trip , dispatch, and technology fees that was false; whether Defendants knew or

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should have known that the information supplied to Drivers regarding fees would guide

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##### Drivers ' business decisions ; whether Defendants had a duty to disclose to Drivers their intent 22

23 to restrict Drivers ' schedules ; whether Defendants failed to disclose information regarding

24 restrictions on Drivers' schedules; whether restrictions on Drivers' schedules constitute a fact

25 basic to the transaction; whether Defendants committed unfair or deceptive acts; whether

26 Defendants are engaged in trade or commerce in their provision of taxi/for-hire services;

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##### whether Defendants ' unfair or deceptive acts affect the public interest ; whether Drivers have

2 been injured in their business or property by Defendants ' unfair or deceptive acts; and

3 whether Defendants ' unfair or deceptive acts have caused injury to Drivers .

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* 1. Pursuant to CR 23(a)(3), Plaintiffs ' claims are typical ofthe claims of all class

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##### members and of Defendants ' anticipated affirmative defenses thereto .

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* 1. Plaintiffs will fairly and adequately protect the interests of the classes as

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##### required by CR 23(a)(4) .

1. 4.7. Pursuant to CR 23(b)(3) , Defendants have acted on grounds generally

10 applicable to members of the class by charging Drivers fees for trips they did not make and

11 for services they did not receive. Questions of law or fact common to members of this class 12

predominate over any questions affecting only individual members and a class action is

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superior to other available methods for the fair and efficient adjudication of the controversy .

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1. **V. CLAIMS FOR RELIEF**
2. 5.1. Plaintiffs repeat and reallege the allegations set forth above.
3. 5.2. Breach of Contract. As a result of the foregoing events, Defendants have
4. breached and continue to breach the terms of their contracts with Drivers by, *inter alia,*

19 limiting Drivers ' schedules, collecting fees for outbound revenue trips Drivers do not make ,

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##### collecting fees for dispatch services Drivers do not receive , and collecting fees from Metered

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Drivers for software and equipment upgrades when such equipment does not function .

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1. 5.3. Breach of the Duty of Good Faith and Fair Dealing. Defendants breached their
2. duty to deal fairly and in good faith with Plaintiffs by , *inter alia,* failing to cooperate with the
3. Drivers so that they may receive the full benefit of their contracts. 26

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* 1. Conversion . Defendants have willfully interfered with Drivers' property by ,

2 *inter alia,* depriving Drivers of the possession of their money when Defendants were under

3 obligation to return it and/or because it was wrongfully received in the first instance as flat- 4

fees instead of per-trip charges.

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* 1. Negligent Misrepresentation. Defendants have engaged m negligent

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misrepresentation by, *inter alia,* failing to disclose information to Drivers that they had a 7

8 duty to disclose regarding restrictions on Drivers' schedules and by supplying information to

1. Drivers that was false regarding per-trip charges and the provision of dispatch and
2. technology services.

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* 1. Unjust Enrichment. Defendants collected and retained money from Drivers

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which in justice and equity belong to the Drivers. Defendants have been unjustly enriched by

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collection and retention of such money. 14

1. 5.7. Consumer Protection Act Violations. Defendants have engaged in unfair and
2. deceptive practices by , *inter alia,* limiting Drivers ' schedules, collecting fees for outbound

17 revenue trips Drivers do not make, collecting fees for dispatch services Drivers do not

18 receive, and collecting fees from Metered Drivers for software and equipment upgrad es when 19

such equipment does not function.

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5.8. Declaratory and Injunctive Relief . Plaintiffs are entitled to and seek a

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declaration of their rights under their contracts with Defendants and to enjoin further

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1. breaches of such rights.

#### VI. PRAYER FOR RELIEF

1. Plaintiffs pray for relief as follows, individually and on behalf of the similarly

26 situated persons :

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1. Certification of this case as a class action pursuant to CR 23;

2 b. Damages in amounts to be proven at trial;

3 c. A declaration that Defendants have breached and continue to breach duties 4

and obligations owed to Drivers;

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d. An injunction, preliminary and permanent , enJommg Defendants from

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engaging in the acts set forth above, including limiting Drivers ' schedules, its 7

8 retention of per-trip fees in excess of the actual outbound revenue trips made

9 by each Driver , and its collection of dispatch and technology fees .

1. e. Attorneys' fees and costs pursuant to RCW 4.84.330 and RCW 19.86.090;
2. f. Statutory damages pursuant to RCW 19.86.090;

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g. Prejudgment interest;

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h. Disgorgement; 14

1. 1. Such other and further relief as the Court deems just and proper.
2. DATED this 26th day of September, 2017 .
3. SCHROETER GOLDMARK & BENDER

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