

No. S271721

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

TINA TURRIETA,
Plaintiff,

v.

LYFT, INC.,
Defendant.

On Review from a Decision by the Court of Appeal
Second Appellate District, Division Four, Case No. B304701;
Superior Court of the County of Los Angeles,
Case No. BC714153, The Honorable Dennis J. Landin

**PETITIONER BRANDON OLSON'S
OPPOSITION TO RESPONDENT TINA TURRIETA'S
MOTION FOR JUDICIAL NOTICE**

Monique Olivier, SBN 190835
Christian Schreiber, SBN 245597
Rachel Bien, SBN 315886
OLIVIER & SCHREIBER LLP
475 14th Street, Suite 250
Oakland, California 94612
(415) 484-0980
monique@os-legal.com
christian@os-legal.com
rachel@os-legal.com

Jahan C. Sagafi, SBN 227887
Adam Koshkin, SBN 320152
OUTTEN & GOLDEN LLP
One California St., 12th Floor
San Francisco, CA 94111
(415) 638-8800
jsagafi@outtengolden.com
akoshkin@outtengolden.com

Attorneys for Petitioner
STATE OF CALIFORNIA *EX REL.* BRANDON OLSON

Petitioner Brandon Olson respectfully opposes Respondent Tina Turrieta's Motion for Judicial Notice of Exhibits 1, 4, and 5, filed in support of Turrieta's responsive brief.

First, the Court should deny Turrieta's motion to judicially notice a Floor Alert created by the California Chamber of Commerce (Ex. 1) because it does not constitute an "[o]fficial act" of the Legislature under Rule of Evidence section 452, subdivision (c) as Turrieta contends, but rather the political views of a private group outside of the government.

Second, the Court should deny Turrieta's request to judicially notice a coordination request filed by Olson and another plaintiff and a declaration that Turrieta's counsel filed in opposition to the request in a separate proceeding in San Francisco Superior Court involving public and private wage and hour claims against Lyft and Uber. (Exs. 4 & 5.) Neither document is relevant to this appeal. Moreover, Turrieta has asked the Court to judicially notice the contents of the documents as facts and not simply the existence of the records.

In particular, Exhibit 5 consists of Turrieta's counsel's self-serving declaration in which he characterizes certain oral communications that purportedly occurred between himself and counsel for Olson and makes unfounded conclusions about why Olson did not withdraw his objection to Turrieta's settlement. Such statements are plainly inadmissible under Rule of Evidence section 452, subdivision (h) because they are "[f]acts and propositions that are [] reasonably subject to dispute and are [not] capable of immediate and accurate determination by resort

to sources of reasonably indisputable accuracy.” (Evid. C. § 452, subd. (h).)

The Court should reject Turrieta’s attempt to do an end run around the judicial notice requirements by inserting disputed propositions into a declaration filed two years after the events described, in a separate judicial proceeding in a different court, and seek to have the Court judicially notice them as facts in this appeal. (*Cf. Kilroy v. State* (2004) 119 Cal.App.4th 140, 145-48) [courts may not take judicial notice of factual findings in prior judicial opinions because such matters are reasonably subject to dispute and therefore require formal proof]; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1749 [courts may not take judicial notice of factual assertions made in the documents of a previous case]; *Gilmore v. Superior Court* (1991) 230 Cal.App.3d 416, 417 [while “[a] court may take judicial notice of a related appellate court decision to the extent of recognizing the opinion exists and of the result reached, ... it may not rely upon statements of the facts surrounding the case to establish the truth thereof”].)

For these reasons, Turrieta’s Motion for Judicial Notice of Exhibits 1, 4, and 5, filed in support of her brief should be denied.

Dated: June 9, 2022

Respectfully submitted,

/s/ Monique Olivier
Monique Olivier
Christian Schreiber
Rachel Bien

Attorneys for Petitioner
State of California *ex rel.*
Brandon Olson

PROOF OF SERVICE

I am employed in the County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action; my business address is Olivier & Schreiber LLP, 475 14th Street, Suite 250, Oakland, CA 94612. On June 9, 2022, I served the following document(s):

PETITIONER BRANDON OLSON'S OPPOSITION TO RESPONDENT TINA TURRIETA'S MOTION FOR JUDICIAL NOTICE

on the interested parties as follows:

R. James Slaughter
Rachel E. Meny
Morgan E. Sharma
Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111
RSlaughter@keker.com
RMeny@keker.com
MSharma@keker.com

Peder K. Batalden
Christopher Hu
Horvitz & Levy LLP
3601 West Olive Avenue, 8th Floor
Burbank, CA 91505-4681
pbatalden@horitzlevy.com
chu@horitzlevy.com

Counsel for Defendant and Respondent Lyft, Inc.

Allen Graves
Jacqueline Treu
Jenny Yu
THE GRAVES FIRM
122 North Baldwin Avenue, Main Floor
Sierra Madre, CA 91024

allen@gravesfirm.com
jacqueline@gravesfirm.com
jennyyu@gravesfirm.com

Counsel for Plaintiff and Respondent Tina Turrieta

[X] BY E-MAIL OR ELECTRONIC TRANSMISSION: I am readily familiar with the business' practice for electronic transmission of correspondence via e-mail. I know that TrueFiling transmits filed documents on the same day this declaration was executed in the ordinary course of business to the e-mail addresses indicated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Hon. Dennis J. Landin
Los Angeles Superior Court
Stanley Mosk Courthouse
111 N. Hill Street
Los Angeles, CA 90012

[X] BY MAIL: I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence is deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at Oakland, California.

I declare under penalty of perjury under the laws of California that the above is true and correct. I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 9, 2022 at Oakland, California.

/s/ Raika Kim
Raika Kim

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **TURRIETA v. LYFT (SEIFU)**

Case Number: **S271721**

Lower Court Case Number: **B304701**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **monique@os-legal.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
REPLY TO ANSWER TO PETITION FOR REVIEW	2022.06.09 Olson's Reply Brief on the Merits
OPPOSITION	2022.06.09 Olson's Opposition to Turrieta's Motion for Judicial Notice

Service Recipients:

Person Served	Email Address	Type	Date / Time
Jahan Sagafi Outten & Golden LLP 224887	jsagafi@outtengolden.com	e-Serve	6/9/2022 3:12:39 PM
Alec Segarich Labor Commissioner's Office 260189	asegarich@dir.ca.gov	e-Serve	6/9/2022 3:12:39 PM
Christopher Hu Horvitz & Levy LLP 176008	chu@horvitzlevy.com	e-Serve	6/9/2022 3:12:39 PM
Allen Graves The Graves Firm 204580	allen@gravesfirm.com	e-Serve	6/9/2022 3:12:39 PM
Rachel Bien Olivier & Schreiber LLP	rachel@os-legal.com	e-Serve	6/9/2022 3:12:39 PM
Justine Gray The Graves Firm	justine@gravesfirm.com	e-Serve	6/9/2022 3:12:39 PM
Robert Slaughter Keker, Van Nest & Peters LLP 192813	rslaughter@keker.com	e-Serve	6/9/2022 3:12:39 PM
Monique Olivier Olivier & Schreiber LLP 190385	monique@os-legal.com	e-Serve	6/9/2022 3:12:39 PM
Peder Batalden Horvitz & Levy LLP 205054	pbatalden@horvitzlevy.com	e-Serve	6/9/2022 3:12:39 PM
Felix Shafir	fshafir@horvitzlevy.com	e-	6/9/2022 3:12:39

Horvitz & Levy LLP 207372		Serve	PM
Shannon Liss-Riordan Lichten & Liss-Riordan PC 310719	sliss@llrlaw.com	e-Serve	6/9/2022 3:12:39 PM
Christian Schreiber Olivier Schreiber & Chao LLP 245597	christian@osclegal.com	e-Serve	6/9/2022 3:12:39 PM
Jennifer Kramer Hennig Kramer Ruiz & Singh, LLP 203385	jennifer@laborlex.com	e-Serve	6/9/2022 3:12:39 PM
Jennifer Kramer Jennifer Kramer Legal APC 203385	jennifer@employmentattorneyla.com	e-Serve	6/9/2022 3:12:39 PM
Christian Schreiber Olivier & Schreiber LLP 245597	christian@os-legal.com	e-Serve	6/9/2022 3:12:39 PM
Patricia Matney Outten & Golden	pmatney@outtengolden.com	e-Serve	6/9/2022 3:12:39 PM
Monique Olivier Olivier & Schreiber LLP 190385	monique@osclegal.com	e-Serve	6/9/2022 3:12:39 PM
Alec Martin Outten & Golden LLP	amartin@outtengolden.com	e-Serve	6/9/2022 3:12:39 PM
Rachel Bien Olivier Schreiber & Chao LLP	rachel@osclegal.com	e-Serve	6/9/2022 3:12:39 PM
OSC Admin Olivier Schreiber & Chao LLP	admin@osclegal.com	e-Serve	6/9/2022 3:12:39 PM
Mark Kressel Horvitz & Levy, LLP 254933	mkressel@horvitzlevy.com	e-Serve	6/9/2022 3:12:39 PM
Hannah Shirey	hannah@os-legal.com	e-Serve	6/9/2022 3:12:39 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

6/9/2022

Date

/s/Monique Olivier

Signature

Olivier, Monique (190385)

Last Name, First Name (PNum)

OLIVER & SCHREIBER LLP

Law Firm

