

Case No. S271721

IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA

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TINA TURRIETA  
Plaintiff and Respondent,

v.

LYFT, INC.,  
Defendant and Respondent.

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BRANDON OLSON,  
Petitioner.

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After a Decision by the Court of Appeal,  
Second Appellate District, Division Four, Case No. B304701  
Superior Court Case No. BC714153

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**RESPONDENT TINA TURRIETA'S  
MOTION FOR JUDICIAL NOTICE**

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THE GRAVES FIRM  
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TINA TURRIETA

## **MOTION FOR JUDICIAL NOTICE**

Respondent Tina Turrieta hereby moves, pursuant to Rule 8.54 of the California Rules of Court, for judicial notice of the following documents attached hereto:

- The July 28, 2004 Floor Alert from the California Chamber of Commerce to the Members of the California State Assembly regarding Senate Bill 1809, a true and correct copy of which is attached hereto as Exhibit 1;
- The July 28, 2004 Report of the Assembly Committee on Appropriations regarding Senate Bill 1809, a true and correct copy of which is attached hereto as Exhibit 2;
- The California Labor and Workforce Development Agency's June 16, 2016 Enrolled Bill Report for Senate Bill 836, a true and correct copy of which is attached hereto as Exhibit 3;
- Plaintiffs Brandon Olson and Uladzimir Tabola's Request to Coordinate Add-On Cases, filed by Petitioner Brandon Olson on February 28, 2022 in the coordinated proceeding *Uber Technologies Wage and Hour Cases*, Case No. CJC-21-005179 in the San Francisco Superior Court ("*Uber*"), a true and correct copy of which is attached hereto as Exhibit 4;  
and

- The Declaration of Allen Graves in Support of Plaintiff Tina Turrieta’s Opposition to Brandon Olson and Uladzimir Tabola’s Request to Coordinate Add-On Cases, filed by Tina Turrieta on March 25, 2022 in *Uber*, a true and correct copy of which is attached hereto as Exhibit 5. Respondent seeks judicial notice of Exhibits 1, 2 and 3 pursuant to California Evidence Code section 452 subdivisions (c) and (h). Respondent seeks judicial notice of Exhibits 4 and 5 pursuant to California Evidence Code section 452 subdivision (d)(1).

**MEMORANDUM OF POINTS AND AUTHORITIES**

California Evidence Code section 452, subdivision (c), authorizes a court to take judicial notice of official acts of the legislative and executive departments of any state of the United States. Subdivision (h) authorizes a court to take judicial notice of facts and propositions that are not reasonably subject to dispute, and that are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

Exhibits 1 and 2, reports made to and by the California Legislature in connection with then-pending Senate Bill 1809, are official acts of the legislative department of the State of California. The documents and comments therein reflecting the

position of the authors are also not reasonably subject to dispute, and are capable of immediate and accurate determination by review of the official legislative history of Senate Bill 1809, the contents of which history are of reasonably indisputable accuracy.

Exhibit 3, the California Labor and Workforce Development Agency's Enrolled Bill Report for Senate Bill 836, is an official act of the State of California in providing comment on and recommendations regarding SB 836, then pending in the California State Legislature. This document and the comments of the LWDA therein are also not reasonably subject to dispute, and are capable of immediate and accurate determination by review of the official legislative history of Senate Bill 836, the contents of which history are of reasonably indisputable accuracy.

Exhibits 1, 2 and 3 are relevant to the instant matter as they form part of the legislative history of the PAGA statute under consideration by this Court. Exhibits 1, 4 and 5 are thus judicially noticeable under both subdivision (c) and (h) of California Evidence Code section 452.

California Evidence Code section 452, subdivision (d)(1), authorizes a court to take judicial notice of "Records of . . . any court of this state." Exhibits 4 and 5 consist of documents filed with the San Francisco Superior Court, and constitute records of the court of the State of California.

Exhibit 4 is relevant to the instant matter as it demonstrates the current procedural status of the case, including Appellant Olson's current attempt to coordinate the *Turrieta* case below with his own pending action. Exhibit 5 is relevant to the instant matter as it demonstrates the procedural history of this appeal including negotiations between the parties regarding the amount of money that would need to be paid to Olson's counsel in exchange for Olson abandoning the instant appeal.

DATED: April 20, 2022

Respectfully submitted,  
THE GRAVES FIRM

By:           /s/ Allen Graves            
ALLEN GRAVES

Attorney for Plaintiff and  
Respondent Tina Turrieta

**CERTIFICATE OF WORD COUNT**  
**CALIFORNIA RULES OF COURT, RULES 8.204(c)**  
**& 8.486(a)(6)**

The text of Respondent's motion consists of 675 words as counted by the Microsoft Word 2021 word processing program used to generate the brief, exclusive of the tables, verification, supporting documents, and certificates.

DATED: April 20, 2022

Respectfully submitted,  
THE GRAVES FIRM

By:           /s/ Allen Graves            
ALLEN GRAVES

Attorney for Plaintiff and  
Respondent Tina Turrieta





# CALIFORNIA CHAMBER of COMMERCE

## FLOOR ALERT

July 28, 2004

TO: Members of the California State Assembly

FROM: Dominic DiMare, Vice President of Government Relations  
Julianne Broyles, Director of Employee Relations and Small Business  
Erika Frank, Counsel/Legislative Advocate

RE: **SB 1809 (DUNN) LABOR CODE PRIVATE ATTORNEY GENERAL ACT OF 2004 SUPPORT**

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The California Chamber of Commerce **SUPPORTS SB 1809 (Dunn)**, which makes substantive and important changes to the recently enacted Labor Code Private Attorney General Act of 2004 also referred to as SB 796. We believe that the changes contained in SB 1809 will make the Act a more fair and efficient tool for protecting employees from violations of the Labor Code and protect employers from unnecessary and frivolous lawsuits.

Our concerns with the passage of SB 796 was that the measure opened the door to abusive lawsuits that could potentially ruin employers over minor and technical violations of the labor code. Our concerns were validated when some of the first lawsuits filed under the new law requested recoveries in the millions of dollars for posting violations and other minor infractions. **SB 1809 will eliminate these unnecessary and frivolous actions and create a more balanced approach that is fair and equitable for employers and employees.**

**In general we support SB 1809 because it contains the following reforms to SB 796:**

- No posting, filing or reporting requirements are subject to a 2699 lawsuit.
- **Court review and approval of all settlements.**
- Court discretion to reduce 2699 penalties.
- Right to cure on certain violations.
- Bars a 2699 lawsuit if the Labor Agency and/or Cal/OSHA cites and employer cures or abates.



- The employer receives advance notice of potential violations prior to a suit being filed seeking 2699 penalties.
- Retroactive application on all pending cases files since 1/1/04 for the following:
  - The bar on 2699 penalties on posting, filing or reporting requirements.
  - Court review and approval of all 2699 settlements
  - Court discretion to reduce 2699 penalties
- Enhanced enforcement resources for the Labor Agency.
- Exempts employers in voluntary consultation from a 2699 lawsuit.
- Cal-OSHA investigation, inspection and abatement process remain available to employers to resolve health and safety issues.
- Establishes specific procedures for the employer and aggrieved employee to follow prior to the commencement of a 2699 lawsuit.
- A review of the 2699 lawsuits and their impact on Cal-OSHA enforcement. The review would be conducted by the Joint Committee on Boards, Commissions and Consumer protection in consultation with the appropriate policy committees within three years of the effective.
- Takes effect immediately

For these reasons, the California Chamber of Commerce **SUPPORTS SB 1809 (Dunn)**.

cc: The Honorable Joseph Dunn  
Richard Costigan, Office of the Governor  
Donna Earnest, Assembly Republican Caucus



Date of Hearing: July 28, 2004

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Judy Chu, Chair

SB 1809 (Dunn) – As Amended: July 27, 2004

Policy Committee: Labor and Employment  
Judiciary

Vote: 6-2  
6-3

Urgency: Yes State Mandated Local Program: No

Reimbursable:

SUMMARY

This bill significantly amends "The Labor Code Private Attorneys General Act of 2004" (SB 796, Dunn, Chapter 906 of 2003), by enacting specified procedural and administrative requirements that must be met prior to bringing a private action to recover civil penalties for Labor Code violations. Specifically, this bill:

- 1)  Serious Labor Code Violations . Establishes a new procedure that an aggrieved employee must follow prior to bringing a civil action to recover penalties for enumerated, serious Labor Code violations (including, but not limited to, violations of wage and hour, overtime, child labor, agricultural, entertainment and garment industry labor laws, and public works laws).
  - a) The aggrieved employee must provide written notice of the violation to the Labor and Workforce Development Agency and employer. The Labor Agency has 30 days to decide if it will investigate the violation.
  - b) If the Labor Agency decides to investigate the alleged violation, it must notify the employer and the aggrieved employee within 33 days. Within 120 days of that decision, the Labor Agency may investigate the alleged violation and issue any appropriate citation.
  - c) If the Labor Agency fails to act, the aggrieved employee may pursue a civil action pursuant to SB 796.
- 2)  Notice and Cure Procedures for Other Labor Code Violations . Establishes Notice and Cure provisions for those Labor Code violations not enumerated in paragraph (1) above, nor subject to the Cal-OSHA provisions specified in paragraph (3) below.
  - a) The aggrieved employee must give written notice to the Labor Agency and the employer of the alleged violation.
  - b) The employer may cure the alleged violation within 33 days and give written notice to the employee and the Labor Agency if the alleged violation is cured.
  - c) If the alleged violation is cured, no civil action pursuant to SB 796 may commence.

- d) If the alleged violation is not cured within the 33-day period, the aggrieved employee may commence a civil action pursuant to SB 796.
  - e) For the aggrieved employee to dispute that the alleged violation has been cured, the employee must provide written notice to the employer and the Labor Agency. Within 17 days the Labor Agency must review the actions of the employer and provide written notice of whether the alleged violation has been cured.
  - f) If the Labor Agency determines that the alleged violation has not been cured or if the agency fails to provide timely or any notification, the aggrieved employee may proceed with a civil action pursuant to SB 796. If the agency has determined that the alleged violation has been cured, but the employee still disagrees, the employee may appeal that determination to the superior court.
  - g) No employer may avail himself or herself of the Notice and Cure provisions more than three times in a 12-month period for the same violation or violations contained in the notice, regardless of the location of the worksite.
- 3) Health and Safety (Cal-OSHA) Violations. Establishes a new procedure that an aggrieved employee must follow prior to initiating a civil action to recover penalties for violations of Labor Code provisions pertaining to occupational safety and health (Cal-OSHA), other than sections that are specifically enumerated in paragraph (1).
- a) The aggrieved employee must give written notice to the Division of Occupational Safety and Health (DOSH) within the Department of Industrial Relations (DIR) and the employer of the alleged violation.
  - b) DOSH must inspect or investigate the alleged violation pursuant to existing provisions of law.
  - c) If DOSH issues a citation, no civil action pursuant to SB 796 may commence.
  - d) If, by the end of the period for inspection or investigation, DOSH fails to issue a citation and the employee disputes that decision, the employee may challenge the decision in the superior court. If the court finds that DOSH should have issued a citation and orders DOSH to issue a citation, then no civil action pursuant to SB 796 may commence.
  - e) If DOSH fails to inspect or investigate the alleged violation within the period specified in existing law, the Notice and Cure provisions outlined above in paragraph (2) apply to the determination of the alleged violation.
  - f) Requires superior court review of any proposed settlement of alleged safety in employment violations to ensure that they are at least as effective as the protections or remedies provided in federal and state law.
- 4) Judicial Discretion Over Award Amounts. Authorizes a court to award a lesser amount than the maximum civil penalty amount allowed if to do otherwise would result in an award that is "unjust, arbitrary and oppressive, or confiscatory."

- 5) Exemption for Minor Violations. Provides that no action under SB 796 may be brought for any violation of a posting, notice, agency reporting, or filing requirement except where the filing or reporting requirement involves mandatory payroll or workplace injury reporting.
- 6) Prohibition on Retaliation. Prohibits an employer from retaliating against any employee that brings a civil action under SB 796 in the form of discharge or any manner of discrimination.

### FISCAL EFFECT

- 1) Appropriates \$150,000 from the General Fund to the Labor Agency to implement this act. The Labor Agency indicates that its costs likely will exceed this amount, and it will redirect resources as necessary to accomplish the purposes of this act.
- 2) Modifies the civil penalty distribution formula under SB 796 that applies in cases where the employer employs one or more employees, as follows:
  - a) Increases the amount distributed to the Labor Agency for enforcement and education from 25% to 75%, and adds a continuous appropriation for these purposes.
  - b) Eliminates the distribution of 50% of these civil penalties to the General Fund.
  - c) Retains the current distribution of 25% of these civil penalties to the aggrieved employees.
- 3) Modifies the civil penalty distribution formula under SB 796 that applies in cases where the employer employs does not employ one or more employees, as follows:
  - a) Increases the amount distributed to the Labor Agency for enforcement and education from 50% to 100%, and adds a continuous appropriation for these purposes.
  - b) Eliminates the distribution of 50% of these civil penalties to the General Fund.

(The Labor Agency reports that most civil actions brought to date under SB 796 have been settled out of court, where these civil penalty distributions formulas do not apply. To date, the Labor Agency has only received distribution of civil penalty revenues, totaling less than \$100.)

### COMMENTS

- 1) Background. SB 796, Dunn, Chapter 906 of 2004, established an alternative "private attorneys general" system for labor law enforcement that allows employees to pursue civil penalties for employment law violations. SB 796 established a civil penalty where one was not specifically provided under the Labor Code of \$100 for each aggrieved employee per pay period for an initial violation, \$200 for each aggrieved employee per pay period for subsequent violations, and \$500 per violation where the violator did not employ any employees at the time of the violation.

SB 796 authorizes an aggrieved employee to recover civil penalties plus reasonable attorney's fees and costs in an action brought on behalf of himself or herself and other current or former employees against whom one or more of the alleged violations was committed. SB

796 provides that no private right of action may be maintained where the Labor Agency cites the alleged violator on the same facts and theories and under the same section or sections of the Labor Code, or initiates specified proceedings.

The civil penalties and private right of action established by SB 796 were intended to improve Labor Code enforcement. Under prior law, many Labor Code violations were punishable only as misdemeanors, with no civil penalty or other sanction attached. Since district attorneys tend to direct their resources to violent crimes and other public priorities, Labor Code violations rarely resulted in criminal investigations and prosecutions.

- 2) **Rationale.** Business groups and others opposed to SB 796 argue that it tips the balance of labor law protection in disproportionate favor of employees, by encouraging private attorneys to act as bounty hunters pursuing frivolous violations on behalf of employees, in the same manner in which Business and Professions Code Section 17200 has been abused.

This bill significantly amends the provisions of SB 796 by enacting specified procedural and administrative requirements that must be met prior to bringing a private action to recover civil penalties. Moreover, this bill provides that no action shall be brought for a posting, notice, agency reporting, or filing requirement, except as specified.

This bill also expands judicial review of SB 796 claims by requiring courts to review and approve any penalties sought as part of a proposed settlement agreement, and those portions of settlements concerning violations of health and safety laws. In addition, courts are authorized to award a lesser amount if to do so otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.

**Exhibit 3**

*CONFIDENTIAL- Not Subject to Disclosure under the Public Records Act*

<b>Department/Board:</b> Department of Industrial Relations	<b>Author:</b> Committee on Budget and Fiscal Review	<b>Bill Number/Version Date:</b> SB 836
<b>Sponsor:</b> Department of Industrial Relations and Department of Finance  <input checked="" type="checkbox"/> <b>Admin Sponsored</b> <b>Proposal No.</b>	<b>Related Bill(s)</b>	<b>Chaptering Order (if known)</b>  <input type="checkbox"/> <b>Attachment</b>
<b>Subject:</b> State government.		

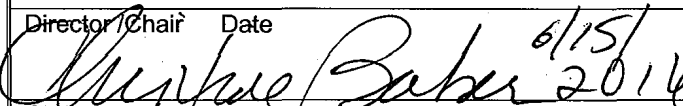
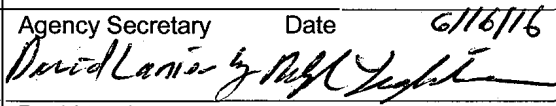
**SUMMARY**

This consolidated budget trailer contains provisions relating to multiple programs in state government. This analysis focuses only on the provisions impacting the Department of Industrial Relations and its programs. This bill will:

- (1) make procedural and structural reforms to the Labor Code Private Attorneys General Act (PAGA) to provide for greater agency and court oversight of PAGA claims and litigation;
- (2) make clarifying technical revisions to a new statute that extends public works requirements to ready-mix cement deliveries;
- (3) revise and bring into alignment several statutes that authorize the Divisions of Labor Standards Enforcement (DLSE) and Occupational Safety and Health (DOSH) to charge fees for various regulatory activities in order to (A) make the programs self-sustaining through user fees (rather than dependent on general employer assessments) and (B) reduce the number of designated funds into which those fees are deposited;
- (4) eliminate a duplicate inspection requirement in the Permanent Amusement Ride Safety Inspection Program; and
- (5) authorize the sharing of confidential information among state education and job training agencies for the purpose of evaluating and reporting on program performance and outcomes for program participants.

**RECOMMENDATION**

**SIGN.** This bill makes needed improvements to ensure that PAGA cases are pursued in the public's

Departments That May Be Affected					
<input checked="" type="checkbox"/> New / Increased Fee	<input type="checkbox"/> Governor's Appointment	<input type="checkbox"/> Legislative Report	<input checked="" type="checkbox"/> Regulations Required	<input type="checkbox"/> State Mandate	<input checked="" type="checkbox"/> Urgency Clause
<b>Dept/Board Position</b> <input checked="" type="checkbox"/> Sign <input type="checkbox"/> Veto <input type="checkbox"/> Defer to:		<b>Agency Secretary Position</b> <input checked="" type="checkbox"/> Sign <input type="checkbox"/> Veto <input type="checkbox"/> Defer to:			
<b>Director/Chair</b> <b>Date</b>  Christine Baker      6/15/16	<b>Agency Secretary</b> <b>Date</b>  David Lanier      6/16/16				



interest and not just for private purposes. It clarifies new public works requirements for ready-mix cement operators. It makes technical revisions to a number of DLSE and DOSH fee statutes to eliminate unnecessary inspections and unnecessary designated funds, make several statutory fee authorizations more consistent, and ensure that those fees support the associated regulatory activities without creating fund surpluses. It eliminates a superfluous inspection requirement in the Permanent Amusement Ride law. It also clarifies the ability of various state education and job training agencies to use share confidential employment information for program purposes, while continuing to preserve the confidentiality of that information.

### REASON FOR THE BILL

**PAGA:** PAGA was adopted in 2003 (and amended in 2004) to enable private litigants to take over some of the Labor Code enforcement work that DLSE and other divisions within DIR could not handle due to insufficient resources. The 2004 amendments provided a limited oversight mechanism through which the Labor and Workforce Development Agency (LWDA) receives notice and has a brief opportunity to take over a PAGA case before the plaintiff may proceed in court. However, an explosion in claims and the same lack of resources has prevented LWDA or DIR from conducting a meaningful review in more than a handful of the 6,000 or more notice claims submitted annually. The agencies have no way of knowing what happens subsequently in the cases that are not taken over, unless and until LWDA receives a check for its share of the PAGA penalties – which appears to occur in only about 10-15% of the cases. Court review only occurs in the small percentage of cases in which an award of PAGA penalties is sought. No PAGA penalties means no need for court approval of settlements (unlike in class action litigation) and no way for the state to know whether or how the interests of both the public and the employees who were represented in the action were served.

This bill makes modest changes to the PAGA statutes to (1) extend the time for LWDA to review PAGA notices for an additional 30 days before litigation may be commenced; (2) for cases accepted for investigation, enable LWDA to extend by 60 days the time available to investigate and cite the employer for the claimed violations before litigation may be commenced; (3) require PAGA litigants to timely provide LWDA with copies of the initiating court complaint, any proposed settlement of the PAGA action, and the concluding order or judgment awarding or denying PAGA penalties; and (4) require court approval of all settlements in PAGA actions, whether or not they include an award of PAGA penalties. This bill will also require parties to file the specified notices and other documents online and pay a \$75 filing fee (subject to *in forma pauperis* waiver) when filing an initial PAGA notice or an employer response to such a notice. The Budget Change Proposal that this proposal accompanies establishes a small PAGA Unit within LWDA to perform the oversight work contemplated by this bill as well as some additional investigations of PAGA claims.

It is not the intent of this bill to curtail or make it harder to pursue PAGA litigation. The state does not have the information needed to make or act upon any assumptions about PAGA's fairness or effectiveness as an enforcement mechanism. The intent of this bill and intent in creating a new PAGA Unit rather is to start acquiring that information with improved public oversight of PAGA cases.

**Ready-mix Cement:** This bill amends newly adopted Labor Code Section 1720.9 (Stats. 2015, c. 739 (AB 219)), which is scheduled to go into effect July 1, 2016. With consensus support from affected stakeholders, the bill makes minor revisions to (1) clarify that the new law does not make ready-mix cement operators contractors or subcontractors for purposes of other statutes, (2) extend the time for operators to supply employee time records to general contractors from three to five working days

after the employees are paid, and (3) clarify that the new law does not apply to public works contracts that were either advertised for bid or awarded prior to July 1, 2016.

**Revenue and Expenditure Requirements for Various Special Funds:** This bill amends approximately 40 sections of the Labor Code pertaining to fees and funds for over a dozen DLSE and DOSH permit, licensing, certification, inspection, and training programs. These sections were adopted at different times over the past fifty years to address specific concerns; and they articulate the state's authority to establish and collect fees for program services in a variety of different ways, even though the purpose of the fees (*i.e.* to support the associated regulatory activities) may be the same. Some include flat fee amounts that were established prior to DIR's move from general fund support to user funding; and some specify that fees be deposited into special designated funds that are now obsolete and unnecessary. This bill addresses these general problems by (1) bringing all the fee authorities into greater alignment with each other and the general concept of user-funding for the regulated activity, and (2) eliminating obsolete designated funds and instead requiring fees to be deposited into the DLSE's and DOSH's main support mechanisms, respectively the Labor Enforcement Compliance Fund and the Occupational Safety and Health Fund established by Labor Code Section 62.5. The elimination of obsolete funds will not change DIR's and the Department of Finance's obligation to account for each program's fees and expenditures separately to ensure that each program obtains the revenues needed for self- support without generating a surplus or running a deficit.

This bill also corrects some individual problems within the same set of statutes, including: (1) suspending any increase in car wash registration fees until the current surplus fund balance is reduced below a specified amount; (2) removing the misleading modifier "Aerial" from all the "Passenger Tramway" references (to be more consistent with the actual statutory definition in Labor Code § 7340(a) and consensus industry standards); and (3) authorizing DOSH to adopt emergency regulations to adjust fees for its portable amusement ride program in order to rectify a serious operational deficit created by current limitations.

**Permanent Amusement Ride Inspections:** Labor Code Section 7924 requires DOSH to conduct an inspection of a ride in conjunction with a review of an operator's inspection records, even if the inspection under review was just performed by a DOSH inspector. This bill will eliminate the inspection requirement in that circumstance.

## **ANALYSIS**

**PAGA:** *Under existing law* aggrieved employees may bring civil actions on behalf of themselves, other employees, and the state, to recover penalties for Labor Code violations. 75% of any penalties recovered in the action must be paid to LWDA, with the employees entitled to keep the remaining 25%. An employee who intends to file a PAGA case must first provide notice to the LWDA, which then has 30 days to review the notice and decide whether to investigate the violations alleged in the violation. If LWDA accepts the case for investigation, which only occurs in a small handful of cases, it has 120 additional days to investigate and cite the employer, with the citation having the effect of precluding the employee/plaintiff from suing over the same violations. If LWDA does not accept a case for investigation or does not cite within the prescribed time limits, the aggrieved employee is authorized to proceed with a PAGA lawsuit in which he or she stands in the shoes of the state. Any penalties awarded in that action must be approved by the court; but court approval is not required if the parties decide to waive penalties in their case. Most PAGA cases involve substantive wage or other employment rights claims; and the parties typically are more focused on resolving those claims than recovering PAGA penalties for the state. PAGA is also used as a class action substitute that is

not subject to waiver in an arbitration agreement, but also not subject to class action procedures that protect class members who are not directly before the court.

The volume of PAGA litigation is much greater than was ever anticipated, and the LWDA has lacked the capacity, both structurally and statutorily, to oversee PAGA cases in any meaningful way. This includes an inability to review PAGA notices (estimated at 6000 per year) in any meaningful manner within the time allotted and no way of knowing what happens with these cases once they are filed in court. Currently, LWDA's notice review responsibilities are delegated to the Labor Commissioner, and DIR's Accounting Unit receives and processes PAGA penalty payments, albeit without any capacity to determine or verify whether penalty recoveries are appropriate in the context of an individual case or in the broader context of the volume of PAGA litigation being conducted.

**This bill** will make modest revisions to the PAGA statutes to create meaningful oversight mechanisms, including (1) more time for LWDA to review PAGA notices; (2) the ability to track PAGA litigation through to conclusion; and (3) court oversight and approval of all settlements in PAGA actions. Currently courts must review and approve any settlement of a class action to ensure, among other things, that the interests of class members are adequately protected and accounted for by the parties before the court. Requiring courts to approve all PAGA settlements, which often cover a range of substantive claims, will afford the same protection to employees and the state whose interests are being represented by PAGA litigants.

**This bill** accompanies a budget item that funds the staff needed to perform LWDA's oversight functions under PAGA, which will include selecting an increased number of PAGA claim notices for investigation and potential citation and enforcement.

Other items: See discussions under "Reasons for Bill" above. These are principally a series of technical revisions and updating of statutory language to clarify and streamline DIR's various authorities to charge fees and segregate fee revenues into designated funds.

**This bill** also makes minor noncontroversial changes to three other sets of statutes (ready-mix cement, permanent ride inspections, and confidential information used for workforce development) to clarify the requirements of those statutes.

## LEGISLATIVE HISTORY

**AB 1506 (Hernández, Stats. 2015, c. 445)** amended PAGA to make it possible for employer to cure certain wage stub violations once in a 12-month period in order to avoid PAGA penalties.

**AB 2461 (Grove, 2016)** would repeal Labor Code Section 2699.5, which would have the effect of making it possible for an employer to cure any Labor Code violation in order to avoid PAGA penalties. The bill was referred to the Assembly Committee on Labor and Employment, and the first hearing was cancelled at the author's request.

**AB 2463 (Grove, 2016)** would amend PAGA to cap PAGA penalties at \$1,000 per employee. The status of this bill is the same as AB 2461.

**AB 2464 (Grove, 2016)** would amend PAGA to enable the court to dismiss a PAGA action if it finds that the employee suffered no appreciable physical or economic harm. The status of this bill is the same as AB 2461.

**AB 2898 (Assembly Comm. on Labor & Employment)** would amend PAGA to extend the time for LWDA to review an initial PAGA notice by an additional 15 days. AB 2898 was passed unanimously by the Assembly and is currently awaiting assignment by the Senate Rules Committee.

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**AB 219 (Daly, Stats. 2015, c. 739)** added a new Labor Code Section 1720.9 to extend public works requirements to the hauling and delivery of ready-mix concrete on a public works job.

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**SB 84 (Senate Comm. on Budget & Fiscal Review, Stats. 2015, c. 25)** was a budget trailer bill that amended various statutes related to state government. Section 44 of this legislation amended Labor Code Section 7314, pertaining to the collection of fees for elevator inspections, including by establishing a one-year "fee holiday" to reduce the balance in the Elevator Safety Account.

## **PROGRAM BACKGROUND**

See Reason for Bill and Analysis above.

## **OTHER STATES' INFORMATION**

There are many types of "private attorneys general" statutes, which in effect deputize private citizens to pursue claims on behalf of the public or in the public interest. At least one other state, Massachusetts, has a private attorneys general statute that enables employees to pursue court claims on behalf of themselves and other employees to enforce labor law rights.

## **FISCAL IMPACT**

The newly-adopted state budget provides \$1.6 million in initial funding to improve the handling of PAGA cases by LWDA, with anticipated costs of \$1.5 million annually thereafter. This cost will be offset to some extent by the new filing fee requirement (est. \$500,000 in annual revenue). The increased oversight and court scrutiny of settlements under this bill may also lead to an increase in penalty recoveries, although no meaningful estimate can be provided at this time.

The various fee and fund amendments will enable the Division of Labor Standards Enforcement (DLSE) and the Division of Occupational Safety and Health (DOSH) to bring the fees charged and collected into greater alignment with the true costs of operating the various programs, so that program costs are born by the business communities who consume or are directly impacted by those programs rather than being spread among all employers through general assessments. In at least one case (portable amusement rides) the amendments will enable the agency to raise fees to rectify a significant deficit that has developed under the current fee structure. In another (car wash operators), fees will be held in check until the current account balance is reduced.

## **ECONOMIC IMPACT**

This bill will increase costs for pursuing PAGA claims, or defending those claims at the agency level, through the charging of a \$75 filing fee. However, the fee will be a recoverable cost in any ensuing court litigation, and it is a minute fraction of the penalties at stake in a typical PAGA case. PAGA litigants will also have an additional albeit minor burden to provide LWDA with copies of court complaints, settlements, and judgments during the course of litigation. All of this will be done electronically (emailing or uploading of documents) at minimal expense to parties.

The payers of various fees to DLSE and DOSH may see those fees rise or fall under this bill, but the extent to which the agencies do a better job of apportioning costs to program users, there should be less reliance on general employer assessments (under Labor Code Section 62.5) to support the same activities.

### LEGAL IMPACT

The PAGA amendments will have the effect of adding to the time which must elapse between the filing a PAGA notice and the right to commence litigation, which some advocates claim will delay or possibly impede their ability to obtain relief, although the time extensions are minimal and do not count against statutes of limitation. The amendments also add a few additional procedural hurdles that potentially could become litigation issues if not strictly or substantially adhered to. The requirement for court approval of all settlements (first opposed but later embraced by representatives of the Consumer Attorneys of California) will make it far more difficult for parties to settle PAGA cases simply by agreeing to dismiss PAGA claims or by focusing exclusively on the interests of the plaintiffs' counsel, named plaintiffs, and defendant, to the exclusion of other employees and former employees whose interests purportedly are being represented.

A significant purpose of this legislation and the accompanying budget item is to enable LWDA to better evaluate what happens with these cases, which in turn will enable LWDA to better assess PAGA's fairness and effectiveness as an enforcement tool.

### APPOINTMENTS

None.

### SUPPORT/OPPOSITION

Support:

Opposition:

### ARGUMENTS

Proponents: This bill will improve oversight of PAGA cases, consistent with the law's original intent, to improve outcomes for workers and the state.

Opponents: This bill erects procedural barriers that will impede or discourage advocates from using PAGA to enforce worker rights. There is no evidence that PAGA currently does not work as intended.

### VOTES

Assembly Floor, PASS, 6/\_\_\_/16

Ayes: \_\_, Noes: \_\_

Senate Floor, PASS, 6/\_\_\_/16

Ayes: \_\_, Noes: \_\_

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19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
20 **COUNTY OF SAN FRANCISCO**

21 **COORDINATION PROCEEDING**

22 **UBER TECHNOLOGIES WAGE AND HOUR**  
23 **CASES**

24 *People of the State of California et al. v. Uber*  
25 *Techs., Inc., and Lyft, Inc., Case No. CGC-20-*  
26 *584402 (San Francisco Super. Ct.)*

27 *García-Brower v. Lyft, Inc., Case No.*  
28 *RG20070283 (Alameda Super. Ct.)*

*García-Brower v. Uber Techs., Inc., Case No.*  
*RG20070281 (Alameda Super. Ct.)*

Case No. CJC-21-005179

**PLAINTIFFS BRANDON OLSON AND**  
**ULADZIMIR TABOLA'S REQUEST**  
**TO COORDINATE ADD-ON CASES**

**Pursuant to Code of Civil Procedure §**  
**404.4 and Rule of Court 3.544.**

The Honorable Ethan P. Schulman  
DATE: April 1, 2022  
TIME: 9:00 a.m.  
DEPT.: 304



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*Olson et al. v. Lyft, Inc.*, Case No. CGC-18-566788  
(San Francisco Super. Ct.)

*Tabola v. Uber Techs., Inc.*, Case No. CGC-16-550992 (San Francisco Super. Ct.)

*Adolph v. Uber Techs., Inc.*, Case No. 30-2019-01103801-CU-OE-CXC (Orange Super. Ct.)

*Alamas v. Uber Techs., Inc.*, Case No. 19STCV29939 (Los Angeles Super. Ct.)

*Gregg v. Uber Techs., Inc.*, Case No. BC719085 (Los Angeles Super. Ct.)

*Rosales v. Uber Techs., Inc.*, Case No. BC685555 (Los Angeles Super. Ct.)

*Sherman v. Uber Techs., Inc.*, Case No. BC656880 (Los Angeles Super. Ct.)

1 **I. INTRODUCTION**

2 This coordinated proceeding involving wage and hour cases against Uber Technologies,  
3 Inc. (“Uber”) and Lyft, Inc. (“Lyft”) hinge on a core, common question: whether Uber and Lyft  
4 misclassified their drivers as independent contractors. There are currently three public law  
5 enforcement cases and eight private law enforcement cases pending against Uber or Lyft in this  
6 coordinated proceeding. There remain 21 additional private cases against Uber or Lyft asserting  
7 Labor Code or other employment claims pending in three other California Superior Courts, many  
8 of which involve virtually identical issues.

9 Through this request, PAGA Plaintiffs Brandon Olson and Uladzimir Tabola seek to have  
10 ten of those cases added on to this coordinated proceeding.<sup>1</sup> Litigating these cases in a single  
11 forum will benefit all involved because it will prevent duplicative litigation of the  
12 misclassification question and related issues, avoiding the risk of conflicting rulings and allowing  
13 for the efficiencies of a coordinated discovery process. This coordination will conserve both the  
14 parties’ and the many affected courts’ resources.

15 In addition, coordination lessens the danger of a reverse auction, whereby a plaintiff and a  
16 defendant settle out the claims in multiple overlapping representative lawsuits (e.g., class actions  
17 or PAGA actions) at an unreasonably low price, hoping that the court will approve the settlement  
18 without realizing the strength of the plaintiffs’ claims in other venues. In a CLE presentation, one  
19 defense lawyer described the reverse auction as a tool for achieving a discounted settlement  
20 amount where the court is not “sophisticated.” Declaration of Jahan C. Sagafi (“Sagafi Decl.”),  
21 Ex. A (Powerpoint Presentation). Coordination of these overlapping or even cookie-cutter cases  
22 is precisely what the coordination rules were made for.

23 ///

24 ///

25 ///

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26 <sup>1</sup> Olson and Tabola bring this motion jointly as to both Uber and Lyft cases, because each  
27 Plaintiff recognizes that the legal questions involved in cases against both defendants are  
28 identical, and the issues that are likely to arise in the litigation against one defendant are likely to  
arise in the litigation against the other. Therefore, Plaintiffs asserting claims against Uber will  
benefit from coordination of Lyft cases, and vice versa.

1 **II. PROCEDURAL HISTORY**

2 On April 30, 2021, the Labor Commissioner filed a petition to coordinate five pending  
3 actions asserting independent contractor misclassification claims against Uber and Lyft. On  
4 September 16, 2021, the coordination motion judge granted the Labor Commissioner’s petition.

5 The order granting coordination specifically reserved for the coordination trial judge the  
6 question of which potential add-on cases ought to be included in the coordinated proceeding. On  
7 September 7, 2021, Uber made a request to coordinate five additional cases and, on December 23,  
8 2021, Lyft submitted a request to coordinate one additional case as an add-on case. On January  
9 27, 2022, Lyft provided Plaintiffs with a list of nine additional potential add-on cases. On  
10 January 28, 2022, Uber provided Plaintiffs with a similar list containing 18 additional potential  
11 add-on cases. On February 14, 2022, the Court granted Uber and Lyft’s requests to add on six  
12 additional cases.

13 Plaintiffs Tabola and Olson now seek coordination of the following cases from Uber and  
14 Lyft’s January lists that they did not include in their requests:

- 15 1. *Azhar v. Uber Technologies, Inc.*, No. 20NWCV00114 (L.A. Super. Ct.) (Sagafi Decl. Ex. B)
- 16 2. *Barragan v. Raiser, LLC*, No. 21STCV29907 (L.A. Super. Ct.) (Sagafi Decl. Ex. C)
- 17 3. *Becker v. Uber Technologies, Inc.*, No. 21STCV46602 (L.A. Super. Ct.) (Sagafi Decl. Ex. D)
- 18 4. *Moreira et al. v. Uber Technologies, Inc.*, No. CGC-21-596441 (S.F. Super. Ct.) (Sagafi Decl. Ex. E)
- 19 5. *Qassimyar v. Uber Technologies, Inc.*, No. 37-2020-00044749-CU-BC-CTL (S.D. Super. Ct.) (Sagafi Decl. Ex. F)
- 20 6. *Toyserkani v. Rasier LLC*, No. BC660915 (L.A. Super. Ct.) (Sagafi Decl. Ex. G)
- 21 7. *Becerra v. Lyft, Inc.*, No. 21STCV32696 (L.A. Super. Ct.) (Sagafi Decl. Ex. H)
- 22 8. *Biggs v. Lyft, Inc.*, No 20CV366831 (Santa Clara Super. Ct.) (Sagafi Decl. Ex. I)
- 23 9. *Liner v. Lyft, Inc.*, No 22 STCV00103 (L.A. Super. Ct.) (Sagafi Decl. Ex. J)
- 24 10. *Turrieta v. Lyft, Inc.*, No. BC714153 (L.A. Super. Ct.) (Sagafi Decl. Ex. K)

24 **III. ARGUMENT**

25 Adding the ten cases above to the coordinated proceedings will promote efficiency and  
26 justice. *See* Code Civ. Proc. § 404.1. Most importantly, each case shares the predominating  
27 common question presented by each case in the coordinated proceedings: whether Uber and/or  
28 Lyft drivers are misclassified as independent contractors under the ABC test. Because of this

1 substantial overlap, litigation of these cases in the same proceeding and forum, in a coordinated  
2 fashion, will protect the parties’ and courts’ resources and facilitate settlement.

3 **A. Standard for Coordination of Add-On Cases.**

4 Once the Judicial Counsel process is complete and a series of related cases are  
5 coordinated into a single proceeding, Code of Civil Procedure section 404.4 governs the process  
6 for adding additional related cases to the coordinated proceeding. Code Civ. Proc. § 404.4; *see*  
7 *also Ford Motor Warranty Cases*, 11 Cal. App. 5th 626, 634 (2017).

8 Section 404.4 tasks the coordination trial judge with considering the factors set forth in  
9 Code of Civil Procedure section 404.1, which comprise: “[1] whether the common question of  
10 fact or law is predominating and significant to the litigation; [2] the convenience of parties,  
11 witnesses, and counsel; [3] the relative development of the actions and the work product of  
12 counsel; [4] the efficient utilization of judicial facilities and manpower; [5] the calendar of the  
13 courts; [6] the disadvantages of duplicative and inconsistent rulings, orders, judgments; and, [7]  
14 the likelihood of settlement of the actions without further litigation should coordination be  
15 denied.” Code Civ. Proc. § 404.1. In “the context of a request for coordination of add-on cases,  
16 the statutes and rules do not contemplate a further determination of whether the add-on actions  
17 themselves are complex. The only criteria to be applied are the coordination standards specified  
18 in section 404.1.” *Ford Motor Warranty Cases*, 11 Cal. App. 5th at 640.

19 **B. Cases Asserting Misclassification Claims Against Uber and Lyft Are**  
20 **Appropriate for Coordination.**

21 Olson and Tabola seek to add on the ten cases listed above that are pending against Uber  
22 and Lyft, because the predominant question in the litigation is whether Uber and Lyft drivers are  
23 employees or independent contractors.

24 **1. Each Proposed Add-On Case Shares a Predominant Question of Law,**  
25 **Such That Coordination Will Avoid Duplicative Rulings and Facilitate**  
26 **a Reasonable Settlement.**

27 Each of the ten cases listed above pending against Uber (*Azhar, Barragan, Becker,*  
28 *Moreira, Qassimyar, and Toyserkani*) and Lyft (*Becerra, Biggs, Liner, and Turrieta*) shares a  
“common question of fact or law [that] is predominating and significant to the litigation” with the

1 cases in the coordinated proceeding. *See* Code Civ. Proc. § 404.1. Central to each case is  
2 whether Uber and Lyft misclassified its drivers as independent contractors under the ABC test.  
3 Even though *Becker* and *Qassimyar* assert different underlying Labor Code claims than the other  
4 cases (and the cases already coordinated)<sup>2</sup>, even those claims require, as an initial matter,  
5 resolution of the common misclassification question before the underlying claims can be  
6 addressed. As a result, the cases will benefit from “early coordination of discovery and motion  
7 practice—benefits that are in no way negated by [a] concern over litigation that is heavily  
8 individualized.” *Ford Motor Warranty Cases*, 11 Cal. App. 5th at 643 (internal formatting  
9 omitted). And, once the Court answers the common misclassification question, it is empowered  
10 to send these cases back to their originating courts to litigate the claims that differ from those  
11 asserted by the other cases in the coordinated proceeding. Cal. Rule of Court 3.542.

12           Importantly – and key to the goals of the coordination process – including these cases in  
13 the coordinated proceeding and resolving the common misclassification question here will avoid  
14 the risk and “disadvantages of duplicative and inconsistent rulings, orders, [and] judgments.” *See*  
15 Code Civ. Proc. § 404.1. Similarly, coordination will facilitate settlement as it will ensure that all  
16 parties asserting these claims are part of any settlement negotiation and notified of any settlement  
17 reached. *See id.*

18                           **2.       Litigation in a Single Forum is Convenient and Efficient for the**  
19                           **Parties, Court, and Counsel.**

20           Because the proposed add-on cases share a common predominant question of fact and  
21 law, it is convenient to the parties, counsel, and the Court to litigate that question in a single  
22 forum. For example, each case will each require discovery related to the ABC test. Taking that  
23 discovery in the coordinated proceedings will conserve the resources of the Court, parties, and  
24 counsel by avoiding duplicative discovery requests, meet and confer discussions and negotiations  
25 (including negotiation and entry of protective orders and ESI protocols), discovery motions,  
26

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27 <sup>2</sup> *Becker* asserts claims under Labor Code sections 1101 and 1102, which prohibit an employer  
28 from influencing or coercing an employee’s political activity. *Qassimyar* asserts employment  
discrimination claims among other non-employment claims.

1 document productions, depositions, motion practice regarding overlapping legal issues such as the  
2 construction and application of Labor Code Section 2699(h), the enforceability of defendants’  
3 forced arbitration clauses, interpretation of the Supreme Court’s impending decision in *Viking*  
4 *River Cruises*, application of judicial decisions addressing the constitutionality of Proposition 22,  
5 etc. See *McGhan Med. Corp. v. Superior Ct.*, 11 Cal. App. 4th 804, 814 (1992) (“We are  
6 absolutely satisfied that the preparation for trial in terms of depositions, interrogatories,  
7 admissions, collection of physical data, etc., will be better achieved if done in a coordinated  
8 manner.”); *Ford Motor Warranty Cases*, 11 Cal. App. 5th at 645-46 (“[I]t is incontrovertible that  
9 coordinated management of discovery on those [common] issues will . . . promote the efficient  
10 utilization of judicial facilities and manpower.”).

11 Further, as the Court noted in its February 14 Order Granting Requests to Coordinate  
12 Add-On Cases, there is little prejudice to parties or counsel from litigating in a court based in a  
13 different location because litigation largely occurs by email and phone, and court appearances can  
14 be made by video or phone. See *Ford Motor Warranty Cases*, 11 Cal. App. 5th at 643 (“But with  
15 today’s technology, there is no reason why counsel, parties and witnesses should have to travel  
16 frequently to Los Angeles.”).

17 **3. The Procedural Posture of the Proposed Add-On Cases Supports**  
18 **Coordination.**

19 **a. Nearly All of the Proposed Add-On Cases Are in the Early**  
20 **Stages of Litigation.**

21 Nine of the ten add-on cases are in the early stages of litigation and are not so developed  
22 that coordination would prejudice the parties:

- 23 • *Azhar* is currently stayed pending appeal of an order granting Uber’s demurrer.

24 Coordination is appropriate because if the Plaintiff wins the appeal, the case will be able  
25 to join the coordination proceeding on remittitur and benefit from the ongoing litigation  
26 work. If Uber wins the appeal, the Court can enter judgment and dismiss the case.

- 27 • Uber represents that a motion to compel arbitration is pending in *Barragan*. This case  
28 would benefit from coordination because if the motion is denied, it can fall in with the  
coordinated litigation. If the motion is granted, the Court can hold the case in abeyance

1 and handle any post-arbitration motions, applying its expertise on the subject matter of  
2 these cases.

- 3 • In *Becker*, Uber contends that the plaintiff has not yet served it with the complaint. Once  
4 service is complete, the case will benefit from the more advanced position of the  
5 coordinated cases as it moves into discovery and litigates the underlying misclassification  
6 question.
- 7 • Uber was recently served in *Moreira* and has not yet filed a responsive pleading. As with  
8 *Becker*, this action is in such an early stage that it would benefit from joining with the  
9 more advanced coordinated cases, which assert nearly identical claims.
- 10 • *Qassimyar*, like *Barragan*, involves a pending motion to compel arbitration. This case  
11 would benefit from coordination because if the motion is denied, it can fall in with the  
12 coordinated litigation. If the motion is granted, the Court can hold the case in abeyance  
13 and handle any post-arbitration motions, applying its expertise on the subject matter of  
14 these cases.
- 15 • *Toyerskani* is at an early stage of proceedings: though filed in 2017, there have been  
16 minimal proceedings, and Uber has not yet answered.
- 17 • In *Becerra*, Lyft was served with the complaint in December and states that it intends to  
18 move to compel arbitration (though it has not yet done so). As no motion is pending, it is  
19 more efficient to litigate that question here, in the coordinated actions, along with the  
20 other motions to compel arbitration Lyft intends to file.
- 21 • In *Biggs*, the plaintiff's individual claims have been compelled to arbitration, but his  
22 PAGA claims remain pending and stayed in Santa Clara Superior Court. Because all  
23 other PAGA claims against Lyft have been coordinated in these proceedings, there is no  
24 reason not to coordinate these claims as well, even if they are stayed, since stays are not  
25 permanent and can be lifted at any time, causing the litigation (and consequent  
26 inefficiencies of duplicative activity) to commence. Further, Lyft contends these PAGA  
27 claims are subject to the same arguments under Labor Code § 2699(h) as the other  
28

1 coordinated PAGA actions. It is more efficient to litigate that question before one court  
2 rather than piecemeal.

- 3 • In *Liner*, like *Becerra*, Lyft was recently served with the complaint and has not yet  
4 responded. Given the early stage posture of this proceeding, there is no prejudice to either  
5 side from coordination, and the parties and Court will benefit from the efficiency of  
6 bringing the case in.

7 **b. *Turrieta* Should Also Be Coordinated, and Its Procedural  
8 Posture Highlights the Danger of Not Coordinating Stayed  
9 Cases.**

9 The tenth of the ten add-on cases is *Turrieta*. It, too, should be coordinated. *Turrieta*'s  
10 procedural posture is discussed separately because it is somewhat unusual. This discussion shows  
11 why *Turrieta* should be coordinated, and it serves as an object lesson in the danger of failing to  
12 coordinate based on procedural circumstances such as stays.

13 In *Turrieta*, the plaintiff asserts substantially similar PAGA claims to those asserted in  
14 *Olson* and *Seifu*. The cases were pending in parallel for several years. During that time, *Turrieta*  
15 was stayed pending the litigation of the earlier-filed *Olson* and *Seifu* actions. After minimal  
16 litigation and while still stayed, *Turrieta* and Lyft reached a settlement encompassing all claims  
17 across 32 months of *Turrieta*'s liability period, purporting to wipe out and 32 of the 35 months of  
18 the *Olson* liability period as well. The \$15 million *Turrieta* settlement resolved the claims of  
19 approximately 475,000 California Lyft drivers with total potential PAGA penalty exposure of  
20 \$7.5 billion to \$28 billion (depending on which of two methods is used to calculate PAGA  
21 penalties). *Olson* challenged the settlement, attempting to intervene and seeking to set aside the  
22 PAGA judgment. The trial court rejected *Olson*'s challenge. After the Court of Appeal affirmed,  
23 the Supreme Court granted review, and *Olson* filed his opening brief this month. Given the split  
24 in appellate authority on the core issue of whether PAGA plaintiffs have standing to object to  
25 PAGA settlements that extinguish their claims and the lack of guidance as to how trial courts  
26 should handle attempted reverse auctions, the subsequent steps in *Turrieta* are uncertain. *See*  
27 *Moniz v. Adecco USA, Inc.*, 72 Cal. App. 5th 56 (2021); *Uribe v. Crown Building Maintenance*  
28 *Co.*, 70 Cal. App. 5th 986 (2021).



1           The possibility of further litigation in *Turrieta* counsels in favor of coordination, out of an  
2 abundance of caution. The Supreme Court’s decision will either lead to (a) finalization of the  
3 settlement, (b) a new settlement, or (c) further litigation on the merits in *Turrieta*. Under  
4 scenarios A and B, this Court can oversee further proceedings or remand the case to the original  
5 Los Angeles Superior Court per Rule of Court 3.542. Under scenario C, coordination would  
6 yield all the benefits and avoid the harms discussed above.

7           *Turrieta* is a useful object lesson in the potential for a reverse auction where overlapping  
8 cases are proceeding in multiple venues, even where the case at issue is stayed. Lyft’s  
9 willingness to voluntarily stipulate to lift the stay in *Turrieta* to facilitate the settlement is an  
10 important caution for courts considering whether stayed cases should be included in coordinated  
11 proceedings. Keeping all overlapping actions in one venue, before a single judge who can be  
12 aware of settlement discussions and monitor the impact of one case on others, serves both  
13 efficiency and the interests of justice, which are particularly paramount in PAGA actions given  
14 the enormous impact on absent aggrieved employees who are not personally represented by  
15 counsel before the court.

16           For these reasons the Court should grant PAGA Plaintiffs’ request to coordinate the  
17 additional Uber cases.

18           **C.     The Court May Coordinate Cases that Are Stayed Pending Developments in**  
19           **Arbitration.**

20           In addition to the cases discussed above, seven actions filed against Uber and two against  
21 Lyft are pending in various Superior Courts but are stayed pending the outcome of individual  
22 arbitrations. Each addresses the same misclassification question as the coordinated cases, and  
23 there may be post-arbitration proceedings in the superior court, which would be more efficiently  
24 heard in the coordinated proceedings rather than piecemeal. These cases are:

- 25           • *Adri v. Uber Techs., Inc.*, No. 19STCV00739 (L.A. Superior Court)
- 26           • *Alamas v. Uber Techs., Inc.*, No. 19STCV29939 (L.A. Superior Court)
- 27           • *Brower v. Uber Techs., Inc.*, No. CGC-20-582262 (S.F. Superior Court)
- 28           • *Gupta v. Uber Techs., Inc.*, No. 30-2020-01121607 (O.C. Superior Court)
- *Howard v. Uber Technologies, Inc.*, No. CGC-18-572443 (S.F. Superior Court)
- *Mora v. Uber Technologies, Inc.*, No. CGC-21-590410 (S.F. Superior Court)

- *Smith v. Postmates, Inc. et al.*, No. 21STCV23777 (L.A. Superior Court)
- *Rogers v. Lyft, Inc.*, No. CGC-20-583685 (S.F. Superior Court)
- *Kunda v. Lyft, Inc.*, No. 20STCV46208 (L.A. Superior Court)

For example, if a plaintiff prevails in an arbitration, the parties will likely need to litigate the applicability of the arbitral decision on the case, such as whether the plaintiff can proceed on behalf of a PAGA group of aggrieved employees.

#### IV. CONCLUSION

Because each case listed above involves a common predominating question of law and fact, because all relevant factors counsel in favor of coordination, and because coordination generally promotes efficiencies and justice, the Court should grant Olson and Tabola's request to coordinate the add-on cases.

Dated: February 28, 2022

By: \_\_\_\_\_



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12 Attorney for Plaintiff  
13 Tina Turrieta

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF SAN FRANCISCO

16 **UBER TECHNOLOGIES WAGE AND  
17 HOUR CASES**

18 **Coordinated Actions:**

19 *People of the State of California et al. v.*  
20 *Uber Techs., Inc., and Lyft, Inc.,*  
21 Case No. CGC-20-584402 (San Francisco  
22 Super. Ct.)

23 *García-Brower v. Lyft, Inc.,*  
24 Case No. RG20070283 (Alameda Super. Ct.)

25 *García-Brower v. Uber Techs., Inc.,*  
26 Case No. RG20070281 (Alameda Super. Ct.)

27 *Olson et al. v. Lyft, Inc.,*  
28 Case No. CGC-18-566788 (San Francisco  
Super. Ct.)

*Tabola v. Uber Techs., Inc.,*  
Case No. CGC-16-550992  
(San Francisco Super. Ct.)

*Adolph v. Uber Techs., Inc.,*  
Case No. 30-2019-01103801-CU-OE-CXC  
(Orange Super. Ct.)

ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**03/25/2022**  
Clerk of the Court

BY: BOWMAN LIU  
Deputy Clerk

CASE NO.: CJC-21-005179

**DECLARATION OF ALLEN  
GRAVES IN SUPPORT OF  
PLAINTIFF TINA TURRIETA'S  
OPPOSITION TO BRANDON  
OLSON AND ULADZIMIR  
TABOLA'S REQUEST TO  
COORDINATE ADD-ON CASES**

Hearing Date: April 1, 2022  
Time: 9:00 a.m.  
Judge: Hon. Ethan P. Schulman  
Department: 304

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*Alamas v. Uber Techs., Inc.*,  
Case No. 19STCV29939 (Los Angeles Super.  
Ct.)

*Gregg v. Uber Techs., Inc.*,  
Case No. BC719085 (Los Angeles Super. Ct.)

*Rosales v. Uber Techs., Inc.*,  
Case No. BC685555 (Los Angeles Super. Ct.)

*Sherman v. Uber Techs., Inc.*,  
Case No. BC656880 (Los Angeles Super. Ct.)

*Seifu v. Lyft, Inc.*,  
Case No. BC712959 (Los Angeles Super. Ct.)

1 I, Allen Graves, declare:

2 1. I am counsel of record for Plaintiff Tina Turrieta in the matter of *Turrieta*  
3 *v. Lyft*, case number BC714153 in Los Angeles County Superior Court. I am licensed to  
4 practice law in the State of California and before this Court. I have personal knowledge  
5 of the facts herein.

6 2. After the court approved the settlement in the *Turrieta* matter, I participated  
7 in multiple phone conferences with counsel for Plaintiff Olson, Jahan Sagafi, and another  
8 associate representing Olson. In those phone conferences we discussed terms under  
9 which Olson would withdraw his objection in exchange for Turrieta agreeing to allocate  
10 a portion of the attorney fees from the settlement to Olson's counsel and requesting a  
11 service payment for Olson from the *Turrieta* settlement. The first of these  
12 communications occurred in January, 2020. Further communications occurred in April  
13 and May 2020.

14 3. Despite multiple discussions, the parties were unable to agree with regard  
15 to the portion of attorney fees that would be allocated to Olson's counsel. It is my  
16 understanding that the failure to agree with regard to the amount of attorney fees to be  
17 paid Olson's counsel was the only barrier to resolution of the objection.

18 4. The briefing on the *Turrieta* matter in the California Supreme Court has not  
19 yet been completed, and no date for oral argument has been set.

20  
21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct. Executed this 25<sup>th</sup> day of March, 2022 at Sierra Madre,  
23 California.

24  
25 

26 ALLEN GRAVES





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**Brandon Olson**

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Second Appellate District, Div. 4  
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**Attorneys for Petitioner**  
**Brandon Olson**

**VIA U.S. MAIL:**

Los Angeles County Superior Court  
Stanley Mosk Courthouse  
Civil Division, Department 51  
Judge Dennis J. Landin  
111 North Hill Street  
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on April 20, 2022, at Sierra Madre, California.

\_\_\_\_\_  
Justine Gray  
Type or Print Name

\_\_\_\_\_  
*/s/Justine Gray*  
Signature

Case No. S271721

IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA

---

TINA TURRIETA  
Plaintiff and Respondent,

v.

LYFT, INC.,  
Defendant and Respondent.

---

BRANDON OLSON,  
Petitioner.

---

After a Decision by the Court of Appeal,  
Second Appellate District, Division Four, Case No. B304701  
Superior Court Case No. BC714153

---

**[PROPOSED] ORDER GRANTING RESPONDENT  
TINA TURRIETA'S MOTION FOR JUDICIAL NOTICE**

---

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Attorney for Plaintiff and Respondent  
TINA TURRIETA

Having considered Respondent Tina Turrieta's Motion for Judicial Notice, the Court hereby Orders:

Pursuant to California Evidence Code section 452(c) and (h), judicial notice is taken of the following documents attached to Turrieta's Motion for Judicial Notice:

- The July 28, 2004 Floor Alert from the California Chamber of Commerce to the Members of the California State Assembly regarding Senate Bill 1809 (Exhibit 1);
- The July 28, 2004 Report of the Assembly Committee on Appropriations regarding Senate Bill 1809 (Exhibit 2); and
- The California Labor and Workforce Development Agency's June 16, 2016 Enrolled Bill Report for Senate Bill 836 (Exhibit 3).

Pursuant to California Evidence Code section 452(d), judicial notice is taken of the following documents attached to Turrieta's Motion for Judicial Notice:

- Plaintiffs Brandon Olson and Uladzimir Tabola's Request to Coordinate Add-On Cases, filed by Petitioner Brandon Olson on February 28, 2022 in the coordinated proceeding *Uber Technologies Wage and Hour Cases*, Case No. CJC-21-005179 in the San Francisco Superior Court ("*Uber*") (Exhibit 4); and

- The Declaration of Allen Graves in Support of Plaintiff Tina Turrieta's Opposition to Brandon Olson and Uladzimir Tabola's Request to Coordinate Add-On Cases, filed by Tina Turrieta on March 25, 2022 in *Uber* (Exhibit 5).

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_



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**Attorneys for Petitioner**  
**Brandon Olson**

**VIA U.S. MAIL:**

Los Angeles County Superior Court  
Stanley Mosk Courthouse  
Civil Division, Department 51  
Judge Dennis J. Landin  
111 North Hill Street  
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on April 20, 2022, at Sierra Madre, California.

Justine Gray  
Type or Print Name

/s/Justine Gray  
Signature

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: **allen@gravesfirm.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
REQUEST FOR JUDICIAL NOTICE	Turrieta v. Lyft Appeal - Turrieta's Mtn for Judicial Notice
ADDITIONAL DOCUMENTS	Turrieta v. Lyft Appeal - Prop Order Turrieta MJN

Service Recipients:

Person Served	Email Address	Type	Date / Time
Jahan Sagafi Outten & Golden LLP 224887	jsagafi@outtengolden.com	e-Serve	4/20/2022 3:22:15 PM
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Mark Kressel Horvitz & Levy LLP 254933	mkressel@horvitzlevy.com	e-Serve	4/20/2022 3:22:15 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.

4/20/2022

Date

/s/Allen Graves

Signature

Graves, Allen (204580)

Last Name, First Name (PNum)

The Graves Firm

Law Firm