

(Plaintiffs' Amended Statement of Disputed and Undisputed Facts (referred to herein as "ECF No. 80 (Plaintiffs' Admitted Facts)"), at ¶ 13.

4. Luxe was incorporated in 2012. Exhibit 1 (Deposition of Umer Razak as Corporate Representative of Luxe Limousine Services, Inc. (referred to herein as "Luxe 30(b)(6) Depo.)) at 42:6-11; 227:5-14; 230:9-11, 231:6-11; Exhibit 9 (Luxe Limousine Pennsylvania Articles of Incorporation).

5. "Luxe is owned by Plaintiff Razak and his brother." Motion to Quash (ECF No. 100-1) at 15; *see also* Transcript of Hearing (Oct. 18, 2017) at 6:5-9 ("Luxe Limo is owned by Mr. Razak and his brother.").

6. Luxe is in the transportation business. Luxe 30(b)(6) Dep., 248:1-5.

7. Luxe has its own certificate from the Pennsylvania Public Utility Commission (PUC) to provide black car transportation services in the counties of Bucks, Chester, Delaware and Montgomery. Luxe 30(b)(6) Dep., 51:20 – 52:4, 335:18 – 336:24, 337:16-19; Exhibit 10 (Luxe's PUC Certificate).

8. Luxe's PUC certificate contemplates that Luxe will provide hourly-rate services, as well as fixed-fee black car services for special events such as weddings and proms. Luxe 30(b)(6) Dep., 339:17-24; Exhibit 10 (Luxe's PUC Certificate), at RAZAK_UBER_PL0007501.

9. Plaintiff Razak signed up to use the Uber App to connect with riders using the UberBLACK product on July 8, 2014 (two years *after* Luxe was incorporated). ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 10.

10. Plaintiff Sabani began performing transportation services in Philadelphia at the end of 2013. Exhibit 2 (Deposition of Kenan Sabani taken January 4, 2018 (referred to herein as "Sabani II Dep.)), at 65:7-10.

11. Plaintiff Sabani began performing transportation services with another limousine company—Barry Limo, LLC—in Philadelphia at the end of 2013. Sabani II Dep., 67:19-68:3. At that time, Mr. Sabani received dispatches for private trips (including some identified by Barry and some identified by King Limousine) and also provided transportation services to riders identified using the UberBLACK product. Exhibit 3 (Deposition of Kenan Sabani taken May 8, 2017 (referred to herein as “Sabani I Dep.”)), at 93:9-22; Sabani II Dep., 198:10-24 & 201:6-18 (provided private trips identified by Barry, outside the Uber App), 200:3-12 (provided private trips for King Limousine, outside the Uber App).

12. In August 2015, Plaintiff Sabani formed his own limousine company, Freemo Limo, LLC. Sabani II Dep., 9:9-22.

13. Freemo offers its transportation services to the public. Sabani II Dep., 90:19 – 94:24.

14. In addition to owning and operating Freemo, Plaintiff Sabani signed up to use the Uber App to connect with riders using the UberBLACK product on November 26, 2013. ECF No. 80 (Plaintiffs’ Admitted Facts), at ¶ 9.

15. Plaintiff Sabani is the sole owner of Freemo. Sabani II Dep., 9:9-22.

16. Milano is a “sole proprietorship” that is “owned by Mr. Cherdoud.” Motion to Quash (ECF No. 100-1) at 15; Transcript of Hearing (Oct. 18, 2017) at 6:5-9; Exhibit 7, Deposition of Khaldoun Cherdoud taken January 4, 2018 (referred to herein as “Cherdoud II Dep.”), 30:12-15 (authenticating Articles of Incorporation for Milano Limo, Inc.); Exhibit 28 (Articles of Incorporation for Milano Limo, Inc.).

17. Milano provides transportation services. Cherdoud II Dep., 10:8-18.

18. In addition to owning and operating Milano, Plaintiff Cherdoud signed up to use the Uber App to connect with riders using the UberBLACK product on December 26, 2013.

Exhibit 8 (Declaration of Jordan Holtzman-Conston (“Holtzman-Conston Decl.”)), ¶3.

II. PLAINTIFFS’ AGREEMENTS WITH DEFENDANTS

19. Independent transportation companies who desire to use the Uber App to obtain requests to provide limousine services on the UberBLACK product must first enter into a Software License and Online Services Agreement (or similar agreement such as a Technology Services Agreement, collectively referred to as the “Services Agreement”) with Uber that sets forth the relationship between Defendants and companies that want to gain access to the Uber App, as well as terms for receiving leads from Uber’s technology. Exhibit 8 (Holtzman-Conston Decl.), ¶4; Exhibit 11 (December 11, 2015 Technology Services Agreement).

20. These agreements are between “an independent company in the business of providing transportation services (“Customer or “You”)” and Uber. Exhibit 11 (December 11, 2015 Technology Services Agreement).

21. For purposes of the Services Agreement, companies like Luxe, Freemo, and Milano, are Uber’s “Customer[s]” who contract for the opportunity to use Uber’s technology. Exhibit 8 (Holtzman-Conston Decl.), ¶5.

22. In relevant part, the Services Agreement provides:

Customer [defined by the agreement as “an independent company in the business of providing transportation services”] acknowledges and agrees that Uber is a technology services provider that does not provide transportation services, function as a transportation carrier, nor operate as a broker for the transportation of passengers.

...

“Driver” means a principal, employee or contractor of Customer: (a) who meets the then current Uber requirements to be an active driver using the Uber Services; (b) whom Uber authorizes to access the Uber Services to provide Transportation

Services on behalf of Customer; and (c) who has entered into the Driver Addendum.

“Driver Addendum” means the terms and conditions that Customer is required to enter into with a Driver prior to such Driver providing Transportation Services on behalf of Customer (as may be updated by Uber from time to time).

...

“Transportation Services” means the provision of passenger transportation services to Users via the Uber Services in the Territory by customer and its Drivers using the Vehicles.

...

As between Uber and Customer, Customer acknowledges and agrees that: (a) Customer and its Drivers are solely responsible for determining the most effective, efficient and safe manner to perform each instance of Transportation Services; and (b) except for the Uber Services or any Uber Devices (if applicable), Customer shall provide all necessary equipment, tools and other materials, at Customer’s own expense, necessary to perform Transportation Services.

...

Customer’s Relationship with Users. Customer acknowledges and agrees that Customer’s provision of Transportation Services to Users creates a direct business relationship between Customer and the User.

...

Customer’s Relationship with Uber. Customer acknowledges and agrees that Uber’s provision to Customer of the Driver App and the Uber Services creates a direct business relationship between Uber and Customer. Uber does not, and shall not be deemed to, direct or control Customer or its Drivers generally or in their performance under this Agreement specifically, including in connection with the operation of Customer’s business, the provision of Transportation Services, the acts or omissions of Drivers, or the operation and maintenance of any Vehicles. Customer and its Drivers retain the sole right to determine when, where, and for how long each of them will utilize the Driver App or the Uber Services. Customer and its Drivers retain the option, via the Driver App, to attempt to accept or to decline or ignore a User’s request for Transportation Services via the Uber Services, or to cancel an accepted request for Transportation Services via the Driver App, subject to Uber’s then-current cancellation policies. With the exception of any signage required by local law or permit/license requirements, Uber shall have no right to require Customer or any Driver to: (a) display Uber’s or any of its Affiliates’ names, logos or colors on any Vehicle(s); or (b) wear a uniform or any other clothing displaying Uber’s or any of its Affiliates’ names,

logos or colors. . . .

Customer’s Relationship with Drivers. Customer shall have the sole responsibility for any obligations or liabilities to Drivers that arise from its relationship with its Drivers (including provision of Transportation Services). Customer acknowledges and agrees that it exercises sole control over the Drivers and will comply with all applicable laws (including tax, social security and employment laws) governing or otherwise applicable to its relationship with its Drivers.

. . .

Customer shall require each Driver to enter into a Driver Addendum (as may be updated from time to time) and shall provide a copy of each executed Driver Addendum to Uber.

. . .

Fare Calculation and Customer Payment. Customer is entitled to charge a fare for each instance of completed Transportation Services provided to a User that are obtained via the Uber Services (“Fare”), where such Fare is calculated based upon a base fare amount plus distance (as determined by Uber using location-based services enabled through the Device) and/or time amounts, as detailed at www.uber.com/cities for the applicable Territory (“Fare Calculation”).

. . .

Customer is also entitled to charge User for any Tolls, taxes or fees incurred during the provision of Transportation Services, and, if applicable. Customer: (i) appoints Uber as Customer’s limited payment collection agent solely for the purpose of accepting the Fare, applicable Tolls and, depending on the region and/or if requested by Customer, applicable taxes and fees from the User on behalf of the Customer via the payment processing functionality facilitated by the Uber Services; and (ii) agrees that payment made by User to Uber (or to an Affiliate of Uber acting as an agent of Uber) shall be considered the same as payment made directly by User to Customer. In addition, the parties acknowledge and agree that as between Customer and Uber, the Fare is a recommended amount, and the primary purpose of the pre-arranged Fare is to act as the default amount in the event Customer does not negotiate a different amount. Customer shall always have the right to: (i) charge a fare that is less than the pre-arranged Fare; or (ii) negotiate, at Customer’s request, a Fare that is lower than the pre-arranged Fare (each of (i) and (ii) herein, a “Negotiated Fare”).

. . .

Service Fee. In consideration of Uber’s provision of the Driver App and the Uber Services for the use and benefit of Customer and its Drivers hereunder, Customer agrees to pay Uber a service fee on a per Transportation Services transaction basis

calculated as a percentage of the Fare determined by the Fare Calculation (regardless of any Negotiated Fare), as provided to Customer and/or a Driver via email or otherwise made available electronically by Uber from time to time for the applicable Territory (“Service Fee”).

...

Customer agrees to maintain during the term of this Agreement on all Vehicles operated by Customer or its Drivers commercial automobile liability insurance that provides protection against bodily injury and property damage to third parties at levels of coverage that satisfy all applicable laws in the Territory.

...

Customer agrees to maintain during the term of this Agreement commercial general liability insurance that provides protection against personal injury, advertising injury and property damage to third parties at levels of coverage required by all applicable laws in the Territory.

Customer agrees to maintain during the term of this Agreement workers’ compensation insurance for itself and any of its subcontractors as required by all applicable laws in the Territory.

...

As between Customer and Uber, Customer is and shall be solely responsible for its Drivers’ provision of Transportation Services.

...

Except as otherwise expressly provided herein with respect to Uber acting as the limited payment collection agent solely for the purpose of collecting payment from Users on behalf of Customer, the relationship between the parties under this Agreement is solely that of independent contracting parties. The parties expressly agree that: (a) this Agreement is not an employment agreement, nor does it create an employment relationship, between Uber and Customer or Uber and any Driver; and (b) no joint venture, partnership, or agency relationship exists between Uber and Customer or Uber and any Driver.

Exhibit 11 (December 11, 2015 Technology Services Agreement) (emphasis in original); Exhibit 4, Deposition of Ali Razak taken May 8, 2018 (referred to herein as “Razak I Dep.”), at 13:2-21 (authenticating December 11, 2015 Technology Services Agreement).

23. Once a transportation company has entered into an agreement with Uber, drivers engaged by that transportation company may also use the Uber App once they agree to the terms of a Driver Addendum to the Services Agreement. Exhibit 8 (Holtzman-Conston Decl.), ¶6.

24. The Driver Addendum, in relevant part, provides:

This Driver Addendum to Technology Services Agreement (“*Addendum*”) constitutes a legal agreement between an independent company in the business of providing transportation services (“*Transportation Company*”) and an independent, for-hire transportation provider (“*Driver*” or “*You*”).

Driver maintains a contractual or employment arrangement with Transportation Company to perform passenger carriage services for the Transportation Company.

...

In addition to the transportation services it regularly performs pursuant to his or her contractual arrangement with Transportation Company, Driver is interested in receiving lead generation and related services through the Uber Services.

...

“Transportation Services” means the provision of passenger transportation services to Users via the Uber Services in the Territory by Transportation Company and its Drivers using the Vehicles.

...

“Uber Services” mean Uber’s on-demand lead generation and related services that enable transportation providers to seek, receive and fulfill on-demand requests for transportation services by Users seeking transportation services; such Uber Services include Uber’s software, websites, payment services, and related support services systems, as may be updated or modified by Uber at its discretion from time to time.

“User” means an end user authorized by Uber to use Uber’s mobile application for the purpose of obtaining Transportation Services.

...

Driver’s Relationship With Uber. Uber does not, and shall not be deemed to, direct or control Driver generally or in Driver’s performance of Transportation Services or maintenance of any Vehicles. Driver acknowledges that Uber does not control, or purport to control: (a) when, where, or for how long Driver will utilize the Driver App or the Uber Services; or (b) Driver’s decision, via the Driver App, to attempt to accept or to decline or ignore a User’s request for

Transportation Services, or to cancel an accepted request for Transportation Services, via the Driver App, subject to Uber's then-current cancellation policies.

Exhibit 8 (Holtzman-Conston Decl.), ¶7; Exhibit 5, Deposition of Ali Razak taken January 3, 2018 (referred to herein as "Razak II Dep."), at 46:11 – 47:22 (authenticating December 11, 2015 Driver Addendum), Exhibit 12 (December 11, 2015 Driver Addendum); Razak I Dep., 37:12-24 (acknowledging that a transportation company "has complete discretion to operate its independent business and direct its drivers at its own discretion.").

III. WHAT UBER IS AND WHAT IT IS NOT

25. Uber is a technology company that invented, develops, markets, licenses, and seeks to constantly improve a revolutionary technology that allows people who need things to almost instantaneously connect with a business that can provide it. Exhibit 8 (Holtzman-Conston Decl.), ¶9; Exhibit 6, Deposition of Jordan Holtzman-Conston (referred to herein as "Holtzman-Conston Dep."), 11:19-12:2, 12:8-10.

26. The Services Agreement defines "Uber Services" as:

Uber's on-demand lead generation and related services that enable transportation providers to seek, receive and fulfill on-demand requests for transportation services by Users seeking transportation services; such Uber Services include access to the Driver App and Uber's software, websites, payment services as described in Section 4 below, and related support services systems, as may be updated or modified by Uber at its discretion from time to time.

Exhibit 8 (Holtzman-Conston Decl.), ¶8; Exhibit 11 (December 11, 2015 Technology Services Agreement).

27. The Services Agreement states that:

Uber *does not, and shall not be deemed to, direct or control Customer or its Drivers* generally or in their performance under this Agreement specifically, including *in connection with the operation of Customer's business, the provision of Transportation Services, the acts or omissions of Drivers*, or the operation and maintenance of any Vehicles. Customer and its Drivers retain the sole right to determine when, where, and for how long each of them will utilize the Driver App or the Uber Services. Customer and its Drivers retain the option,

via the Driver App, to attempt to accept or to decline or ignore a User's request for Transportation Services via the Uber Services, or to cancel an accepted request for Transportation Services via the Driver App, subject to Uber's then-current cancellation policies. . . . ***Customer acknowledges and agrees that it has complete discretion to operate its independent business and direct its Drivers at its own discretion, including the ability to provide services at any time to any third party separate and apart from Transportation Services.*** For the sake of clarity, Customer understands that ***Customer retains the complete right to provide transportation services to its existing customers and to use other software application services*** in addition to the Uber Services.

Exhibit 8 (Holtzman-Conston Decl.), ¶10; Exhibit 11 (December 11, 2015 Technology Services Agreement).

28. Uber's most popular technology—commonly referred to as the Uber App—enables riders and drivers to make a match with each other based on their location, the rider's transportation budget and needs, and the drivers' preferences. Exhibit 8 (Holtzman-Conston Decl.), ¶11.

29. The Uber App offers riders an opportunity to request a trip from a number of different transportation options, including, but not limited to, UberBLACK, UberSUV, uberXL, and uberX. *Id.*, ¶12.

30. These options vary in cost, vehicle size, and vehicle options. *Id.*

31. UberBLACK is just one of Uber's technology products accessible through the Uber App, and enables riders to connect with luxury black car sedans or town cars. *Id.*, ¶13. The Uber App, when that term is used in connection with UberBLACK, refers to both the rider and driver versions of the app. *Id.*

32. UberSUV allows riders to connect with full-sized luxury SUVs, uberXL connects riders with drivers of cost-effective SUVs and other large vehicles, and uberX connects riders with drivers typically in more cost-effective vehicles. *Id.*, ¶14.

33. The Uber App is also not limited to connecting riders and drivers, and instead offers an array of marketplace products. *Id.*, ¶15.

34. The core of Uber's business is its technology, which drives its business model. *Id.*, ¶16.

35. Uber has spent and continues to spend tens of millions of dollars on developing, expanding, and deploying its technology products. *Id.*, ¶17.

36. Uber employs thousands of people in technology-centric roles, and it markets and promotes the services that users are able to access through its various products. *Id.*, ¶18.

37. Defendants do not transport riders in Philadelphia. *Id.*, ¶19.

38. Defendants do not hire, promote, or transfer transportation providers—like Plaintiffs—who actually provide black car transportation services in Philadelphia. *Id.*, ¶20.

39. If a rider cannot secure a driver willing to provide the rider black car transportation services in Philadelphia, there are no Uber employee drivers standing by to fulfill the trip request. *Id.*, ¶21.

40. Uber does not contractually or otherwise guarantee rides for riders seeking black car transportation services in Philadelphia, because it is not in the business of providing such transportation services. *Id.*, ¶22.

41. Gegen is a wholly-owned subsidiary of Uber that holds a certificate of public convenience from the Philadelphia Parking Authority (PPA). Holtzman-Conston Dep., 11:19-12:2, 12:8-10; 21:11-19.

42. Transportation companies and individual transportation providers who wish to provide black car limousine services in Philadelphia are required by applicable regulation to hold

a certificate of public convenience or to do so in connection with an entity that holds a certificate of public convenience from the PPA. *Id.*, ¶23.

43. The application fee for a PPA certificate of public convenience is \$12,000. *Id.*, ¶24.

44. Qualified transportation companies who do not hold their own certificate of public convenience, such as Plaintiffs' companies, may affiliate with an entity that holds a certificate of public convenience in order to enable them to provide limousine services in Philadelphia. Exhibit 8 (Holtzman-Conston Decl.), ¶25.

45. Some UberBLACK transportation providers operate under the certificate of public convenience held by Gegen, while others operate under a certificate held by other limousine companies licensed by the PPA. *Id.*, ¶26.

46. Plaintiff Sabani testified that one way to get into the transportation business without having to pay for a PPA license, is to incorporate and then affiliate with Gegen. Sabani II Dep., 70:15-71:24.

47. There are "many" companies that provide black car services in Philadelphia without relying on the Uber App to generate trip requests. Razak II Dep., 110:11-17.

IV. PLAINTIFFS MADE SIGNIFICANT INVESTMENTS IN THEIR BUSINESSES FOR THE PURPOSE OF GENERATING PROFITS AND AVOIDING LOSSES.

48. Luxe perceived that having multiple cars in its fleet was "good business." Luxe 30(b)(6) Dep., 109:11-19.

49. At the beginning of 2015, Luxe had just two vehicles. Luxe 30(b)(6) Dep., 251:16-23.

50. By the end of 2015, Luxe expanded its fleet to six vehicles. Luxe 30(b)(6) Dep., 249:23 – 250:1, 251:12-15, 251:20 – 252:1.

51. [REDACTED]

52. In 2016, Luxe acquired additional vehicles, including five vehicles at one time from another black car business. Luxe 30(b)(6) Dep., 252:2-12, 303:17 – 304:18.

53. In 2016, Luxe managed up to sixteen vehicles at one time. Luxe 30(b)(6) Dep., 250:2-7.

54. Luxe currently has 14 vehicles in its fleet. Luxe 30(b)(6) Dep., 25:22-24.

55. Luxe financed the purchase of its vehicles. Luxe 30(b)(6) Dep., 116:24 – 117:4, 187:4-8 (“Luxe is paying for the financing.”).

56. [REDACTED]

57. Luxe owns one of its vehicles (a Lincoln Navigator) outright, with no financing obligation. Luxe 30(b)(6) Dep., 117:5-13, 122:10-11.

58. As for the other 13 vehicles Luxe financed, Luxe will own them outright once its finance payments are completed. Luxe 30(b)(6) Dep., 121:15-24.

59. Luxe’s goal is to have one driver assigned to each of its vehicles. Luxe 30(b)(6) Dep., 178:10-12.

60. The number of drivers on Luxe’s active roster may vary from week to week and has been as high as 14-17 drivers. Luxe 30(b)(6) Dep., 26:8-14 (14 drivers on roster), 214:9-18 (had 17 active drivers on roster in May 2017).

61. [REDACTED]

[REDACTED]

62. Plaintiff Razak’s brother used to provide transportation services “a lot” using the Uber App. Luxe 30(b)(6) Dep., 192:3-8. However, he is now so busy operating the Luxe business enterprise (“doing the payroll, fixing the cars”) that he is not driving as much. Luxe 30(b)(6) Dep., 192:3-14.

63. When one of Luxe’s drivers provides transportation services (whether using the Uber App, Blacklane, or any other lead generation source), the revenue from those services is paid to Luxe. Luxe 30(b)(6) Dep., 39:6:17.

64. [REDACTED]

[REDACTED]

65. Luxe pays its drivers from the revenues generated from providing transportation services. Luxe 30(b)(6) Dep., 26:8-14.

66. [REDACTED]

[REDACTED]

67. [REDACTED]

[REDACTED]

68. Plaintiff Razak's brother handled the payroll for Luxe. Luxe 30(b)(6) Dep., 39:18-22.

69. In 2016, Luxe retained Visha Umer to perform payroll services for Luxe. Luxe 30(b)(6) Dep., 315:3-13, 316:1 – 317:2.

70. [REDACTED]

[REDACTED]

[REDACTED]

71. When a driver does not provide sufficient transportation services to generate enough revenue to cover his or her lease obligation, Luxe has to cover those expenses out of its own pocket. Luxe 30(b)(6) Dep., 101:2-10 & Ex 22.

72. While Luxe will then attempt to recoup the shortfall from the driver at a later time, that is not always possible. Luxe 30(b)(6) Dep., 102:5-10, 102:19 – 103:7.

73. When Luxe's drivers incur costs associated with parking tickets, Luxe attempts to pass the costs of those tickets to its drivers; but if the driver is no longer active, Luxe incurs the expense. Luxe 30(b)(6) Dep., 283:2-24.

74. Luxe incurs expenses for repairs and maintenance on its vehicles and endeavoring to have its vehicles repaired quickly. Luxe 30(b)(6) Dep., 137:16 – 139:14.

75. Luxe maintains a corporate account at a nearby Goodyear to provide automotive services. Luxe 30(b)(6) Dep., 175:15 – 176:1.

76. Luxe also incurs expenses in maintaining its fleet of vehicles, including finance payments, insurance, oil changes and repairs, towing expenses, maintenance, car washes, and “all kinds of professional fees.” Luxe 30(b)(6) Dep., 131:17 – 132:19, 133:7-18, 142:18 – 144:4, 299:2-11, 301:7-13, 302:2-11.

77. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

78. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

79. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

80. [REDACTED]

81. [REDACTED]

82. In order to promote its business and generate its own leads, Luxe advertised, developed an internet presence, and utilized Blacklane and the Uber App so that its drivers could receive trip requests. Luxe 30(b)(6) Dep., 49:20 – 50:14.

83. [REDACTED]

84. Luxe also created a website – luxelimousineservices.com (Luxe 30(b)(6) Dep., 341:17-342:3), a Facebook account (*Id.*, 347:21-22, 350:1-16), and a Twitter account. *Id.*, 350:23-351:2. *See also* Luxe 30(b)(6) Dep., 47:15-18 (Luxe operated a website to advertise its transportation services).

85. According to the Luxe website:

Our limo service was established back in 2012 with a dream to become the best transportation option state-wide. We set out to achieve this by offering our clientele the most luxurious, reliable and safe rides around town.

We are happy to provide you with complimentary drinks whether you're traveling to the airport, or just 5 blocks up the road. Rest assured that we'll get you there in style, glitz and comfort. We also believe in providing the safest rides around.

Luxe 30(b)(6) Dep., 341:21-342:3 (authenticating printout of Luxe’s website); Exhibit 17 (printout of Luxe’s website), at RAZAK_UBER_PL007434.

86. According to the Luxe website: “We are available around the clock and unlike most other limousine services we just need 30 min and the limousine will be ready, especially if you use our book now services.” Luxe 30(b)(6) Dep., Exhibit 17 (printout of Luxe’s website), at RAZAK_UBER_PL007434.

87. Potential customers could submit a booking request using the Luxe website. Luxe 30(b)(6) Dep., 47:19-22.

88. Potential customers emailed Luxe to request bookings. Luxe 30(b)(6) Dep., 226:12-14.

89. Luxe maintained its website at its expense. Luxe 30(b)(6) Dep., 341:21-24, 342:9-12 (Luxe paid fee to maintain website), 342:20 – 343:2 (Luxe paid third party to create website).

90. In 2017, Luxe engaged an internet Search Engine Optimization company named QRG Direct to help Luxe improve its web presence and to help generate leads independently, outside of Uber and Blacklane. *Id.*, 357:4-358:4, 358:18-360:14. Luxe spent approximately \$300 per month on QRG Direct’s services. *Id.*, 360:15-20.

91. Luxe has generated its own leads through advertising. Luxe 30(b)(6) Dep., 19:24 – 20:10, 30:19-21.

92. Luxe purchases supplies for its business. Luxe 30(b)(6) Dep., 284:1 – 285:1.

93. Luxe incurs travel expenses for its business, including sending Plaintiff Razak’s brother to Buffalo, Orlando, Miami and Tampa for the purpose of investigating the transportation business in those cities to ascertain whether there would be a “better opportunity” for Luxe in those locations. Luxe 30(b)(6) Dep., 286:1 – 288:5.

94. Luxe can control some of its costs, e.g., by delaying an expensive repair or oil change. Luxe 30(b)(6) Dep., 150:7-15.

95. Other costs are fixed (e.g., car payments and insurance) and will be incurred even if the driver does not generate sufficient revenues to cover his or her lease obligations. *Id.* at 150:7-15.

96. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

97. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

98. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

99. [REDACTED]

100. [REDACTED]

101. On approximately December 15, 2013, Mr. Sabani entered into a partnership agreement with Barry Limo, LLC that entitled him to 50% ownership of a 2012 Chevrolet Suburban. Sabani I Dep., 92:18-93:4, 94:6-9; Exhibit 19 (Barry Limo, LLC Partnership Agreement).

102. Barry Limo, LLC passed along responsibility for repair and maintenance costs to Sabani. Sabani II Dep., 130:5-131:24.

103. Plaintiff Sabani paid \$500 per week to Barry Limo, LLC to purchase a Chevrolet Suburban, and now owns the vehicle outright. Sabani II Dep., 73:16-74:3, 78:1-20, 79:10-81:18.

104. Plaintiff Sabani also engaged up to four independent contract drivers (including himself and at times Plaintiff Cherdoud), whose earnings Freemo reported on IRS 1099 Forms, to provide transportation services for Freemo. Sabani II Dep., 17:14-17.

105. Plaintiff Sabani testified that his brother affiliates with Freemo instead of creating his own company because his brother did not want to go through the hassle of satisfying the PPA requirements. Sabani II Dep., 12:8-15.

106. Plaintiff Sabani determines how much to pay his drivers. Sabani II Dep., 15:11-16.

107. Freemo could take a fee from the money earned by his drivers, but he chooses not to. Sabani II Dep., 15:17-20, 16:1-4 (could pay drivers less than what Uber transfers to Freemo).

108. [REDACTED]

109. [REDACTED]

110. One of Freemo's drivers in 2016 provided transportation services only for Freemo's private trips, and did not provide any services for trip requests from the Uber App. *Id.*, 87:12-21.

111. Freemo also created a website to advertise its business and to generate private trip requests. Sabani II Dep., 90:19-92:3 (authenticating printout of Freemo's website).

112. Freemo's website states:

Freemo Limo, LLC is a privately held, full service chauffeured transportation company

. . .

We provide a full complement of ground transportation solutions *for our various clientele*. Our fleet of vehicles and experienced chauffeurs can handle all of your transportation needs, whether you're with a Fortune 500 company or a family looking for airport transportation.

. . .

****Freemo Limo has the best prices in town.****

We do not publish our prices on the web because ***we stay so competitive in our pricing.***

...

We Offer Full Corporate Contracted accounts

...

Whether you need to transport one person or 500 people, Freemo Lio can take the headache out of planning corporate transportation.

Our fleet of vehicles from executive sedans to luxury SUV's, and we work with you to handle all of your special needs and requests. No matter where your business is going, Freemo Limo can take you there.

...

Freemo Limo is available 24 hours a day, 7 days a week, 365 days a year.

...

Before our chauffeurs are hired they must pass a drug & alcohol screening test . . . Random drug & alcohol screening is performed throughout a chauffeurs [sic] tenure with Freemo. ***We train our chauffeurs*** with over 40 hours of classroom training and then on the road experience. All chauffeurs are given a 90 day probationary period. Within that time they are ***required to attend a defensive driving course*** as well as hit certain milestones in real time performance. In addition ***drivers are monitored by GPS vehicle tracking systems***. Driving speeds, idling times and locations can be ***monitored by our 24-hour dispatch team***.

Our vehicles are maintained to specific factory specifications or better to keep them in safe running condition.

...

We Have The Best Professional Chauffeurs Committed To Safety.

Sabani II Dep., 90:19-92:3 (authenticating printout of Freemo's website); Exhibit 26 (printout of Freemo's website).

113. Freemo’s website solicits customers to make reservations either “online by emailing us or by calling our 24-hour service contact number.” Sabani II Dep., 90:19-92:3 (authenticating printout of Freemo’s website); Exhibit 26 (printout of Freemo’s website).

114. When he formed Freemo, Plaintiff Sabani intended to form a company that would own vehicles and lease them out to other drivers, thereby becoming a businessman who would make money by collecting lease payments from drivers. Sabani II Dep., 176:22-178:14 (“My goal was to run an independent business and maybe, five or six or 10 years from now, not have to drive - to live the American dream.”).

115. Freemo has advertised on Yelp, and has also created a Facebook profile. Sabani II Dep., 95:8-96:11 (authenticating printout of Freemo’s Yelp advertisement), 97:15-98:12 (Facebook page); Exhibit 27 (printout of Freemo’s Yelp advertisement).

116. Plaintiff Sabani noted he had been responsible for his driving expenses (including tires, brakes, oil changes, and tolls) when he drove for Barry Limo, LLC before starting Freemo. Sabani II Dep., 76:4-15.

117. [REDACTED]

118. [REDACTED]

119. [REDACTED]

120. Plaintiff Cherdoud was free as an independent contractor to purchase and finance a vehicle from whoever he wanted, and he chose to purchase his vehicle from Fred Beans and finance it through Exeter. Cherdoud II Dep., 94:19-95:17.

121. Milano also incurs unreimbursed business expenses that it claims on its taxes. Cherdoud II Dep., 74:16-75:12.

122. Plaintiff Cherdoud pays for his own phone, is responsible for tolls if he is not transporting a passenger, and pays for the PPA vehicle inspection. Cherdoud II Dep., 80:2-9, 91:5-18, 126:11-127:6.

V. PLAINTIFFS AND THEIR COMPANIES PROVIDED TRANSPORTATION SERVICES PROCURED FROM MULTIPLE LEAD CHANNELS – INCLUDING PRIVATE CLIENTS GENERATED THROUGH PLAINTIFFS’ INITIATIVE.

123. Defendants do not prohibit transportation providers from using software applications other than the Uber App or providing transportation services to others. ECF No. 80 (Plaintiffs’ Admitted Facts), at ¶ 47.

124. Luxe’s drivers can generate revenue by providing transportation services using lead generation sources other than the Uber App. Luxe 30(b)(6) Dep., 30:22 – 31:7, 55:7-13.

125. [REDACTED]

126. Luxe informed its drivers of the opportunity to provide transportation services through a company known as Blacklane. Luxe 30(b)(6) Dep., 378:21 – 379:10.

127. Plaintiff Razak and his brother, Umer Razak, dispatched Luxe drivers to handle Blacklane trips. Razak II Dep., 74:18-75:7.

128. Approximately five to seven of Luxe’s drivers signed up to use Blacklane to generate additional revenue for Luxe’s business. Luxe 30(b)(6) Dep., 62:21 – 63:3; Razak II Dep., 10:10 – 11:3.

129. In fact, Plaintiff Razak himself provided transportation services through Blacklane. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 71; Razak I Dep., 40:21-41:7; Razak II Dep., 73:5-8.

130. More frequently, however, Plaintiff Razak's job with respect to Blacklane trip requests submitted to Luxe was that of "dispatch" – assigning transportation requests to other drivers on Luxe's roster. Razak II Dep., 75:4-7.

131. When Luxe received transportation requests from Blacklane, Plaintiff Razak or his brother "accepted the Blacklane request" on behalf of Luxe and then "assigned the actual transportation job to another" on Luxe's active roster. Luxe 30(b)(6) Dep., 59:9-13 (Blacklane sent trip requests to Luxe); ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 72; Luxe 30(b)(6) Dep., 335:9-12 (Plaintiff Razak was authorized by Luxe to facilitate Blacklane transactions and trips); Razak II Dep., 10:10-22 ("I'm the one who will be accepting the jobs and distributing" them to the drivers); *id.* at 11:15 – 12:1 (Plaintiff Razak received requests from Blacklane and distributed them to Luxe's drivers).

132. If Luxe accepted the trip request from Blacklane, Luxe would then identify a driver to provide the transportation services. Luxe 30(b)(6) Dep., 59:14-16; Razak II Dep., 11:4-14.

133. After the trip was completed, Blacklane would pay Luxe, and Luxe would pay the driver who performed the transportation services. Luxe 30(b)(6) Dep., 65:6-14; *id.* at 65:21-24; *id.* at 68:9-12.

134. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

135. When Luxe’s drivers provided transportation services to riders they connected with using the Blacklane app or to private clients generated from Luxe’s own advertising, the revenue from those trips did not benefit Uber in any way. Luxe 30(b)(6) Dep., 56:10-24.

136. Plaintiff Cherdoud testified that he started providing black car services outside of the Uber App in 2016. Cherdoud II Dep., 12:7-18.

137. At first, Plaintiff Cherdoud worked with Freemo (Plaintiff Sabani’s company) to handle pre-arranged trips. Cherdoud II Dep., 12:19-22, 17:5-9.

138. [REDACTED]

[REDACTED]

139. Plaintiff Cherdoud testified that almost half of his personal income in 2016 was generated from trips performed for Freemo. Cherdoud II Dep., 112:1-4.

140. While Plaintiff Cherdoud admits that he lacked the “courage” of other transportation providers in terms of how aggressively to promote his business, even he has found ways to promote his independent business, such as by parking next to hotels and negotiating with the doormen to have them direct hotel guests to him, and he does so while he is online on the Uber App. Cherdoud II Dep., 20:22-21:21, 68:7 – 69:2.

141. Plaintiff Cherdoud has received trip requests from the hotel doormen, and uses a Square reader to charge the riders. Cherdoud II Dep., 21:22-23:1.

142. Freemo’s drivers have provided rides outside of the Uber App. Sabani II Dep., 16:5-11.

143. Mr. Sabani, on behalf of Freemo Limo, corresponded with private customers about his company's pricing for airport and local rides. Sabani II Dep., 107:23-109:14 (authenticating Sabani's correspondence with Freemo's private customer); Exhibit 21 (Sabani correspondence with Freemo's private customer), at RAZAK_UBER_PL0007541-7545.

144. Sabani personally provided over 100 trips through his company, and admitted that Uber placed no restrictions on his right to receive Freemo trip requests while simultaneously online on the Uber App. Sabani I Dep., 16:15-20 (over 100 trips), 18:18-19:6 (permitted to provide driving service through his company, Freemo Limo, and never harassed by Uber), 19:2-6 (no restrictions while online).

145. [REDACTED]

[REDACTED] If Freemo performed more than 40 trips per week, Plaintiff Sabani would strike some sort of deal for what to charge the private client. *Id.*, 109:19-110:1, 110:2-5.

146. The trips provided by Freemo are pre-arranged trips. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 13.

147. Freemo advertised its business in 2015 using pay per click on Google, and that advertising generated phone calls for trip requests. Sabani II Dep., 16:12-17:4.

148. As recently as 2017, Freemo has also obtained rides by handing out cards to hotels that say Freemo Limo Transportation Service. Sabani II Dep., 20:16-21:3, 49:11-20, 62:22-63:2 (100-150 business cards to hotels).

149. Freemo was paid in cash or using the Square payment processing tool for trips its drivers performed outside of the Uber App. Sabani II Dep., 18:9-19. [REDACTED]

[REDACTED]

150. Kevin Bryant is an independent transportation provider who has received leads from the UberBLACK product in Philadelphia. Exhibit 8 (Holtzman-Conston Decl.), ¶27.

151. On March 26, 2015, Mr. Bryant went online on the Uber App for the UberBLACK product at 6:40:19 p.m., went offline at 6:54:48 p.m., went online at 7:37:09 p.m., accepted a trip request at 7:43:09 p.m., picked up the rider at 7:51:14 p.m., and completed the trip at 8:01:42 p.m. *Id.*, ¶28.

152. Kevin Bryant also provides transportation services using the Lyft App. ECF No. 66-11 (Certificate of Counsel), ¶¶3-5, Exhibits 1 (subpoena to Lyft), 2 (Lyft letter responding to subpoena, including excerpts from Kevin Bryant's login and ride history records), 3 (Declaration of Custodian of Records).

153. According to records produced by Lyft, on March 26, 2015, Mr. Bryant logged onto the Lyft App at 6:40 p.m., finished a ride request at 6:53 p.m., and logged off at 7:44 p.m. ECF No. 66-11 (Certificate of Counsel), ¶¶3-5, Exhibit 2 to Certificate of Counsel (excerpts from Kevin Bryant's login and ride history records).

154. On March 31, 2015, Mr. Bryant went online on the Uber App at 6:22:39 p.m., accepted a trip on the UberBLACK product at 6:35:14 p.m., began the trip at 6:38:15 p.m., and completed the trip at 6:47:44 p.m. Exhibit 8 (Holtzman-Conston Decl.), ¶29.

155. According to records produced by Lyft, on March 31, 2015, Mr. Bryant finished a Lyft trip at 6:39 p.m. ECF No. 66-11 (Certificate of Counsel), ¶¶3-5, Exhibit 2 to Certificate of Counsel (excerpts from Kevin Bryant's login and ride history records).

VI. PLAINTIFFS DETERMINED WHEN, WHERE, AND HOW REGULARLY TO PROVIDE TRANSPORTATION SERVICES, REGARDLESS OF LEAD GENERATION SOURCE.

156. To access the Uber App, transportation providers open the app on their mobile device and log in using their username and password. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 14.

157. After logging on, transportation providers tap a button to go online to be eligible to receive trip requests. Exhibit 8 (Holtzman-Conston Decl.), ¶30.

158. Transportation providers are not required to remain on Uber's premises, physically or virtually (*i.e.*, being online) at any time; they have complete control over when their time spent online on the Uber App ("Online Time") begins and when it ends. Exhibit 8 (Holtzman-Conston Decl.), ¶31; Razak I Dep., 144:8-11 (can decide when to go offline), 171:8-13 (can go offline anytime he chooses and can stay online as long as he wants).

159. Drivers choose when to go online on the Uber App, and when to go offline. Razak II Dep., 28:21-24, 29:1-3.

160. Drivers can go online and offline whenever they want. Razak I Dep., 30:20-23.

161. Drivers can stay offline for as long as they want. Razak I Dep., 30:24 – 31:3.

162. Once online, there is no requirement that the driver be engaged with the Uber App in order to stay online. Exhibit 8 (Holtzman-Conston Decl.), ¶32.

163. Defendants do not control the number of trip requests that are generated by riders or the number of requests Plaintiffs will receive, schedule start or stop times for Plaintiffs, or require them to work for a set number of hours. Exhibit 8 (Holtzman-Conston Decl.), ¶33.

164. Trip requests are determined by the number of riders searching for rides, the number of other transportation providers who are available, and the location of the rider and driver. Exhibit 8 (Holtzman-Conston Decl.), ¶34.

165. Drivers are free to reject trip requests for any reason. ECF No. 93 (Memorandum re: Defendants' Motion for Partial Summary Judgment (Sept. 13, 2017)), at p 9.

166. Uber cannot require any driver to accept a trip. *Id.*, at p 9.

167. If not accepted, the request will then be offered to another online transportation provider. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 27; ECF No. 93, at p 9.

168. A trip request is sent to only one Uber driver at any given time, and having drivers who do not intend to give rides being online slows down the process of connecting riders and drivers, and leads to a poorer user experience for riders. ECF No. 93, at p 9.

169. If no other transportation provider is available or accepts, the trip request goes unfulfilled. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 28; ECF No. 93, at p 9.

170. If there are insufficient transportation providers to provide rides, there is nothing Defendants could do to force additional transportation providers to go online on the Uber App. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 67.

171. Plaintiffs never suffered any consequences for cancelling trips, and Plaintiffs have not personally been penalized for their respective acceptance rates, or for failing to accept rides. ECF No. 93, at p 9-10.

172. Drivers are free to cancel trips even after they have accepted them, which Plaintiffs testified they have done on numerous occasions. *Id.* ("This court has not been presented with evidence that, in practice, Uber imposed *any consequences* for drivers' acceptance rates."); Razak I Dep., 36:23 – 37:4.

173. A driver may cancel a trip after he has accepted it but before the rider enters the vehicle if, for instance, the driver calls the rider and asks the rider's destination, and the driver decides he does not want to travel there. ECF No. 93, at p 9-10.

174. Additionally, if the driver indicates on the Uber App that the trip has begun prematurely, he will see the rider's destination on the Uber App, and may choose to cancel it at that time. *Id.*, at 10.

175. For drivers registered with UberBLACK in Philadelphia, the requesting rider must be located within Philadelphia. The driver, however, may be *anywhere he chooses*. ECF No. 93, at p 10.

176. Ultimately drivers independently decide where to go to offer rides while Online, and drivers are free to ignore any and all information conveyed to them by Uber. *Id.*

177. Uber places no restrictions on drivers' ability to engage in personal activities while Online, and Plaintiffs here, in fact, engaged in a range of personal activities while Online. *Id.*, at p 11.

178. While online, transportation providers are free to send e-mails advertising their personal limousine company. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 52.

179. While online, transportation providers are free to run a personal transportation company and distribute trips to other drivers. ECF No. 80 (Plaintiffs' Admitted Facts), at ¶ 53.

180. If a driver chooses to accept a trip request, the driver taps "accept." ECF No. 93, at p 8.

181. While online, Plaintiffs, inter alia, accepted rides from private clients, slept, did personal errands, smoked cigarettes, took personal phone calls, rejected trips because they were tired, and conducted business for their independent transportation companies. *Id.* at p 11.

182. One transportation provider testified that he is a Certified Public Accountant (CPA), and he goes online while he is in his CPA offices, performing his CPA work. Clapp Decl., ¶5. While online, he continues doing his CPA work such as tax returns and audits. *Id.* If he

receives a trip request, and he's not otherwise in a client meeting or busy with something, he may accept the request. *Id.*

183. One transportation provider stated that Uber does not control him while he is online on the Uber App. ECF No. 66-10, ¶4. He said he has the right to reject and decline trip requests that he receives from the Uber App without penalty. *Id.* Uber has never assigned or required him to work in a specific geographical area, and he is free to leave his house and to provide his services wherever and whenever he chooses to. *Id.* Although he works in King of Prussia, Pennsylvania, he chooses to make himself available in the downtown Philadelphia area where he believes that there is a higher demand for limousine services. *Id.*

184. Plaintiff Razak testified that he left on vacation for two months in 2017, but did not have to ask permission from Uber to go offline for that long. Razak II Dep., 129:20-130:7, 131:8-13.

185. Plaintiffs did not have “a schedule, crafted by the [Defendants], in which the [Plaintiff] was obligated to spend time working an expressly delineated shift or period of being on-call.” ECF No. 93 (Memorandum re: Defendants’ Motion for Partial Summary Judgment (Sept. 13, 2017)), at p 26.

186. Uber does not require drivers to be online on the Uber App at any time. Razak I Dep., 25:4-6.

187. Plaintiff Cherdoud testified that it did not matter what his hours were using the Uber App. Cherdoud II Dep., 19:7-15.

188. Drivers are free to choose when to drive. Razak II Dep., 27:8-10.

189. Drivers retain the sole right to determine when and for how long they will use the Uber App. Razak I Dep., 25:7-10 (drivers determine when), 30:15-19 (drivers determine for how long); Exhibit 8 (Holtzman-Conston Decl.), ¶35.

190. Each driver “schedules himself.” Razak II Dep., 28:14-15.

191. Drivers choose when to provide transportation services based on their own interest and motivations. Razak II Dep., 29:15 – 30:3 (“It’s up to you.... [N]obody is forcing you.”). For example, Plaintiff Razak is driving less now than before for personal reasons. Razak II Dep., 79:14 – 80:7 (“I will keep myself busy with family, my mom, and other things.”).

VII. PLAINTIFFS’ MANAGERIAL SKILL AND ENTREPRENEURIAL EFFORT DIRECTLY IMPACTED, AND AT TIMES ENTIRELY DICTATED, THEIR OPPORTUNITY FOR PROFIT OR LOSS.

192. Plaintiffs’ earnings were generated by the job. They are not paid an hourly wage or on a salary basis. Exhibit 8 (Holtzman-Conston Decl.), ¶36.

193. Luxe charges its drivers a weekly lease payment amount for the use of its vehicles. Luxe 30(b)(6) Dep., 129:10-13, 130:7-10.

194. Luxe generates revenues from the weekly lease payments paid by drivers. Luxe 30(b)(6) Dep., 196:18-21, 27:6-18 (Luxe leases its cars to its drivers).

195. These weekly lease payments are the primary source of revenue for Luxe. Luxe 30(b)(6) Dep., 212:4-10.

196. In fact, “Luxe doesn’t care if the driver just parks the vehicle in their garage and never does any trips at all, as long as they make their weekly lease payments.” Luxe 30(b)(6) Dep., 189:19 – 190:1.

197. Luxe’s business model contemplates that it will lease the vehicles in its fleet to other drivers at a weekly lease amount that will exceed the expenses associated with maintaining the vehicles (*e.g.*, finance payments, insurance payments, repairs and maintenance, oil changes,

etc.), and that this excess amount will represent Luxe's profit from the operation of its business enterprise. Luxe 30(b)(6) Dep., 145:22 – 147:2, 154:20 – 155:5.

198. By acquiring more vehicles, it was Luxe's objective to generate more revenue by having more drivers pay more leases. Luxe 30(b)(6) Dep., 250:8-17; *id.* at 294:10-21 (noting that by adding more cars to its fleet, Luxe tripled its gross receipts in one year).

199. In setting the lease amounts, Luxe seeks to strike the right balance between covering its expenses, attracting drivers and making a profit. For example, the lease amount cannot be so low that Luxe is not making a profit. Luxe 30(b)(6) Dep., 149:23 – 150:6. And it cannot be so high that drivers will not want to lease its vehicles. Luxe 30(b)(6) Dep., 151:14-18.

200. Luxe sets the lease payment obligations of its drivers based in part on market conditions. Luxe 30(b)(6) Dep., 106:8-21, 148:2 – 150:6 (describing situation in which Luxe reduced a driver's weekly lease payment).

201. Luxe and its drivers discuss these issues with each other in an attempt to reach agreement on an appropriate weekly lease amount. Luxe 30(b)(6) Dep., 149:17 – 150:6.

202. [REDACTED]

203. [REDACTED]

205. When other vehicles were being refinanced to lower rates (thereby leading to lower lease payments but extending the lease term), Plaintiff Razak elected to not refinance his

vehicle, and to continue to make higher lease payments instead; this will result in his vehicle being paid off more quickly. Razak II Dep., 31:17 – 32:22.

206. Even though the Lincoln Navigator is owned outright by Luxe, the driver who uses it to provide transportation services (not one of Luxe’s owners) continues to pay a weekly lease to Luxe. Luxe 30(b)(6) Dep., 117:14 – 118:5.

207. [REDACTED]

208. [REDACTED]

209. Luxe “competes” against other corporations to attract drivers who may wish to lease vehicles from them to provide transportation services. Luxe 30(b)(6) Depo.137:16 – 138:24, 140:4-14 (noting that sometimes drivers will switch partner corporations because of their better reputation), 141:2-11 (drivers “pick and choose” between partner corporations); *id.* (describing situation in which a driver talked to two different partner corporations before choosing Luxe), 141:5-10 (Luxe is “better than others” in part because it has never made an error in processing the payments to its drivers, an error that has occurred “with other partners”), 161:17-19 (drivers have complained about other partners, but not about Luxe).

210. Another reason that drivers will switch partner corporations is that they wish to lease a different vehicle that their current partner corporation does not have available in its fleet. Luxe 30(b)(6) Dep., 217:12 – 218:8 & 220:12 – 221:1 (describing situation in which Luxe lost a

driver to another partner corporation because the driver wanted to drive a bigger car, and Luxe was already leasing all of its SUVs to other drivers).

211. For example, some drivers prefer SUVs, thinking they might obtain more trip requests. Razak II Dep. 33:12 – 34:13.

212. [REDACTED]

213. When Luxe acquired one of those SUVs, it negotiated with one of its existing drivers to change his lease from a sedan to the SUV, even though it meant that the driver's weekly lease payment would increase. Luxe 30(b)(6) Dep., 224:7-24.

214. Luxe believes that a limousine company's ability to move more quickly to repair and maintain vehicles would be appealing to drivers. Luxe 30(b)(6) Dep., 137:16 – 138:24 (claiming that "there is no one better" than Luxe at maintaining its fleet of vehicles).

215. Luxe also moves quickly in part because if one of its vehicles needs to be repaired, no one will lease it from Luxe and it will not generate any revenue for the company. Luxe 30(b)(6) Dep., 139:7-14.

216. Other limousine companies may not generate enough revenue to cover the expenses associated with operating the business, which might not be appealing to potential drivers. Luxe 30(b)(6) Dep., 142:21 – 143:5.

Respectfully submitted,

Dated: January 26, 2017

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