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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JENNIFER MILLER, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

AMAZON.COM, INC., and AMAZON LOGISTICS,
INC.,

Defendants.

NO.

CLASS ACTION COMPLAINT

JURY DEMAND

I. INTRODUCTION

1. This is a class action brought on behalf of individuals who have been “Amazon Flex” delivery drivers for Defendants Amazon.com, Inc. and Amazon Logistics, Inc. (together, “Amazon”) and have been subject to the unlawful practices described herein. On behalf of herself and all others similarly situated, Plaintiff Jennifer Miller alleges that Amazon has violated the Washington Consumer Protection Act, chapter 19.86 RCW, by unfairly and deceptively retaining portions of tips that belonged to the delivery drivers.

2. On behalf of herself and all other Amazon Flex drivers from whom Amazon withheld a portion of the tips to which they are entitled, Plaintiff seeks actual damages, exemplary damages, interest, attorneys’ fees, and costs, and any other relief that the Court deems proper, all as provided for by law.

1 **II. JURISDICTION AND VENUE**

2 3. The Court has jurisdiction over this case under 28 U.S.C. § 1332(d)(2) because
3 the matter in controversy exceeds \$5,000,000, exclusive of interest and costs, and is a class
4 action in which the named plaintiff is a citizen of a State different from the Defendants.

5 4. Venue is proper under 28 U.S.C. § 1391(b) because Amazon resides in this
6 district and a substantial part of the events and omissions giving rise to Plaintiff's claims
7 occurred in this district.

8 **III. PARTIES**

9 5. Plaintiff Jennifer Miller is a resident of Massachusetts, and she worked as an
10 Amazon Flex delivery driver from late 2018 to approximately March 2020, driving and doing
11 deliveries in Massachusetts and New Hampshire and around New England for Amazon.

12 6. This is a class action that the above-named Plaintiff brings on her own behalf and
13 on behalf of all others similarly situated, namely all other individuals who have been Amazon
14 Flex drivers during the statutory period applicable to the claims in this action and had a portion
15 of their tips withheld by Amazon. The proposed class meets the requirements for class
16 certification in Fed. R. Civ. P. 23.

17 7. Defendant Amazon.com, Inc. is a Delaware corporation with a principal office in
18 Seattle, Washington. Defendant Amazon.com, Inc. operates in all states in the country,
19 including Washington.

20 8. Defendant Amazon Logistics, Inc. is a Delaware corporation with a principal
21 office in Seattle, Washington and is a wholly owned subsidiary of Amazon.com, Inc. Defendant
22 Amazon Logistics, Inc. operates in all states in the country, including Washington and
23 Massachusetts.

24 **IV. STATEMENT OF FACTS**

25 9. Amazon offer products for customers to purchase online around the country,
26 including in both Washington and Massachusetts.

27

1 10. In 2015, Amazon implemented “Amazon Flex,” a delivery service through which
2 customers pay for drivers to deliver products to them using their own personal vehicles.

3 11. On some transactions through Amazon Flex, customers may add tips for their
4 drivers.

5 12. Amazon has consistently represented to both customers and drivers that all tips
6 paid by customers are paid in full to the drivers.

7 13. For example, the Amazon Flex app has informed drivers: **“You will receive 100%**
8 **of the tips you earn** while delivering with Amazon Flex.”

9 14. An earlier version of this communication similarly stated that Amazon “will pass
10 to you 100% of tips you earn.”

11 15. Based on Amazon’s representations, drivers expect to be paid 100% of customer
12 tips.

13 16. Customers are similarly informed that 100 percent of the tips they pay are
14 passed on to the delivery drivers.

15 17. The Amazon ordering interface for customers states: “100% of tips are passed
16 on to your courier.”

17 18. Amazon has not always paid all tips from customers for Amazon Flex deliveries
18 to the drivers.

19 19. Beginning in approximately 2016 and continuing to at least approximately
20 August 2019, Amazon retained portions of drivers’ tips instead of distributing them all to the
21 drivers.

22 20. Amazon’s statements to drivers and to customers constituted unfair and
23 deceptive acts and practices.

24 21. Amazon only changed its tip retention practices after the Federal Trade
25 Commission began investigating Amazon in regard to those practices.

26 22. The Federal Trade Commission’s investigation was only recently made public,
27 when it announced in February 2021 that it had filed a case against Amazon relating to the

1 practices described herein.

2 23. Until February 2021, drivers did not know, and could not have reasonably known
3 even with the exercise of due diligence, that Amazon’s practices concerning the distribution of
4 driver tips were unfair and deceptive.

5 24. Drivers had no practicable way of discovering that Amazon was withholding or
6 failing to distribute all of the tips paid to them by customers because Amazon did not make
7 information concerning the amounts actually paid in tips by customers available to the drivers.

8 25. Furthermore, the “Amazon Flex” system was designed by Amazon to be
9 “contact-less,” meaning drivers never had an opportunity to meet customers face-to-face and
10 thereby learn how much the customers were paying in tips.

11 26. As a result of the practices described above, Plaintiff and proposed class
12 members have been deprived of tips to which they are entitled.

13 27. The drivers have been injured as a result of Amazon’s actions because they have
14 not received all tips owed to them.

15 **V. CLASS ALLEGATIONS**

16 28. Under Fed. R. Civ. P. 23, Plaintiff Miller brings this class action lawsuit on behalf
17 of herself and all other individuals who have been Amazon Flex delivery drivers during the
18 statutory period relevant to this case as tolled by law.

19 29. Pending any modifications necessitated by discovery, the named Plaintiff
20 preliminarily defines the following class:

21 ALL INDIVIDUALS WHO WERE AMAZON FLEX DRIVERS AT ANY
22 POINT BETWEEN SEPTEMBER 22, 2016 AND AUGUST 22, 2019.

23 30. All potential Rule 23 class members are similarly situated because they all
24 suffered from Amazon’s common course of unfair and deceptive acts and practices, including:

25 a. Amazon’s representations to drivers that they would receive 100% of
26 customer tips;

27

- 1 b. Amazon's representations to customers that drivers would receive 100%
- 2 of customer tips;
- 3 c. Amazon's failure to distribute 100% of tips to drivers; and
- 4 d. Harm to drivers because of Amazon's actions.

5 31. The members of the class are so numerous that joinder of all of them is
6 impracticable. On information and belief, the number of class members is in the thousands.

7 32. There are issues of law and fact common to all class members because Amazon's
8 course of conduct regarding the distribution of tips applied equally to all class members. The
9 common questions of law and fact predominate over any questions affecting individual class
10 members.

11 33. The claims of the named Plaintiff are typical of the claims of all members of the
12 class because all members of the class were subject to the same unlawful acts and practices.

13 34. The named Plaintiff and her counsel will fairly and adequately represent the
14 interests of the class.

15 35. The claims asserted on behalf of the class predominate over any question of law
16 or fact affecting only individual members of the class. The predominant questions of law or fact
17 are clear, precise, well-defined, and applicable to the named Plaintiff as well as every absent
18 member of the proposed class.

19 36. A class action is superior in this case for several reasons, including but not
20 limited to the following: the case challenges uniform unfair and deceptive practices; many class
21 members may be reluctant to bring claims individually for fear of retaliation; some class
22 members may not have the motivation or resources to bring their claims individually; and it
23 would be an inefficient use of scarce judicial resources to require each individual affected by
24 the practices challenged herein to bring his or her own individual claim.

COUNT I

WASHINGTON CONSUMER PROTECTION ACT DECEPTIVE BUSINESS PRACTICES

37. Plaintiff hereby incorporates by reference each of the preceding allegations as though fully set forth herein.

38. Plaintiff and Class members are “persons” within the meaning of the Washington Consumer Protection Act, RCW 19.86.010(1).

39. Each Defendant is a “person” within the meaning of the Washington Consumer Protection Act, RCW 19.86.010(1), and conducts “trade” and “commerce” within the meaning of the Washington Consumer Protection Act, RCW 19.86.010(2).

40. The conduct described above and throughout this Complaint is deceptive within the meaning of the Washington Consumer Protection Act, chapter 19.86 RCW.

41. As set forth above, each Defendant engaged in deceptive acts and practices in the conduct of its business. These deceptive acts and practices include failing to disclose to Amazon Flex drivers that they would receive 100% of the tips Defendant promised the Amazon Flex drivers would receive.

42. By committing the foregoing acts and practices, as alleged herein, each Defendant has engaged in unfair and deceptive acts and practices that have impacted the public interest and caused injury and/or damages to Plaintiff and the Class, and thereby violated the Consumer Protection Act in the manner set forth herein.

43. As a result, Plaintiff and the Class are entitled to recover their damages from Defendants, in an amount to be proven at trial. Furthermore, under RCW 19.86.090, Plaintiff and the Class are entitled to a trebling of their proven damages.

44. Plaintiff and the Class are also entitled to the award of attorneys’ fees and costs under RCW 19.86.090.

COUNT II

WASHINGTON CONSUMER PROTECTION ACT UNFAIR BUSINESS PRACTICES

45. Plaintiff hereby incorporates by reference each of the preceding allegations as though fully set forth herein.

46. Plaintiff and Class members are “persons” within the meaning of the Washington Consumer Protection Act, RCW 19.86.010(1), and conducts “trade” and “commerce” within the meaning of the Washington Consumer Protection Act, RCW 19.86.010(2).

47. The conduct described above and throughout this Complaint is unfair within the meaning of the Washington Consumer Protection Act, chapter 19.86 RCW. These unfair practices include representing to Plaintiff and Class members that they would receive 100% of their tips but then failing to distribute the promised trips to Plaintiff and Class members.

48. Each Defendant’s systematic practices were unfair because these acts and practices: (1) caused injury to Plaintiff and Class members; (2) were not outweighed by any countervailing benefits to consumers or competitors; and (3) were not reasonably avoidable.

49. Each Defendant’s systematic practices were unfair because the acts and practices were immoral, unethical, oppressive, and/or unscrupulous.

50. Each Defendant’s unfair acts and practices have repeatedly occurred in trade or commerce within the meaning of the CPA, RCW 19.86.010(2) and RCW 19.86.020. Each Defendant’s activity, including the acts taken when compensating Flex Drivers, occurred in trade or commerce. RCW 19.16.440.

51. Each Defendant’s unfair acts and practices impacted the public interest because they occurred in Washington and injured thousands of Washington residents.

52. As a direct and proximate result of each Defendant’s unfair acts and practices, Plaintiff and Class members suffered injury.

53. Plaintiff and Class members are therefore entitled to legal relief against Defendant, including recovery of actual damages, treble damages, attorneys’ fees, costs of suit, and such further relief as the Court may deem proper.

JURY DEMAND

Plaintiff requests a trial by jury on all the claims.

WHEREFORE, Plaintiff requests that this Court enter the following relief:

- A. Certification of a class of similarly situated individuals under Fed. R. Civ. P. 23;
- B. Actual damages in the amount of all gratuities withheld from drivers;
- C. Three times actual damages for all members of the Class;
- D. Pre- and post-judgment interest;
- E. Attorney’s fees and costs; and
- F. Any other relief to which the employees may be entitled.

RESPECTFULLY SUBMITTED AND DATED this 17th day of February, 2021.

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