

IN THE MUNICIPAL COURT OF ATLANTA

STATE OF GEORGIA

CITY OF ATLANTA, GEORGIA	)	CITATION NOS.
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versus	)	
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**ATLANTA’S BRIEF IN SUPPORT OF  
CITATIONS FILED AGAINST DEFENDANTS**

COMES NOW, the City of Atlanta, Georgia (hereinafter “Atlanta”), the prosecuting party in the above-captioned matter, and in accordance with this Court’s directive, files this Brief in support of the City’s prosecution of certain offenses pending against the Defendants, all of which are drivers for the company Uber (hereinafter collectively “Uber” or “Defendants”). In support of this filing, Atlanta shows the following:

**I. BACKGROUND and FACTS**

Uber is a company that operates a Smartphone application (hereinafter “app”) and is based out of San Francisco. The Uber app is designed to connect passengers with drivers on an “on-demand” basis operating in various cities throughout the country, including San Francisco, Dallas, Atlanta and Boston. Uber provides service to passengers when a person needing a ride from “Point A” to “Point B” uses his/her Smartphone to download the Uber app, sets up an Uber account with a credit card, and allows the Uber app to access his/her location through the Global Positioning System (hereinafter “GPS”) imbedded in the Smartphone. Uber then calculates a fare using a Smartphone-manufactured meter based on distance, time of day and customer demand. The passenger is picked up and dropped off to his/her desired destination and the credit card used to set up the account is charged the fare.

In Atlanta, Uber is not licensed by the City as a taxicab company nor are its drivers permitted as taxicab drivers. Further, some of the drivers do not hold permits from the State to be deemed legally permitted limo drivers. However, Uber is held out to be a limousine company and seeks the protection of O.C.G.A. § 40-1-162<sup>1</sup> to avoid being cited for violations such as staging<sup>2</sup> and operating without a certificate of public necessity (hereinafter “CPNC”)<sup>3</sup>.

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<sup>1</sup> O.C.G.A. § 40-1-162 provides in pertinent part that the State of Georgia fully occupies and preempts the entire field of regulation over limousine carriers; provided, however, that the governing authority of any municipal airport shall be authorized to permit any limousine carrier doing business at any such airport and may establish fees as part of such permitting process.

1-151 that Defense counsel relies upon to characterize Uber as a limo company actually supports the City's contention that Uber is a taxi company. Notably, the passenger, upon use of the app, notifies the Uber driver of his/her current location and inputs the final destination, creating a fixed route, which is identical to how taxis operate to provide taxi service to a customer. Consider the advertisement of Uber's on-demand service below from the Itunes website (emphasis added) that supports the City's argument that Uber operates over fixed routes.

## Uber

### By Uber Technologies, Inc.

[View More By This Developer](#)

### Description

Uber is your private driver in over 40 cities and 18 countries.

- Request a ride using the app and get picked up within minutes. On-demand service means no reservations required and no waiting in taxi lines.
- Compare rates for different vehicles and get fare quotes in the app. Add a credit card to your secure account so you never need cash on hand.
- Easily set your pickup location on the map, even if you don't know the exact address. Get connected to your personal driver and check the progress of your Uber at any time.
- Sit back, relax, and go anywhere you want. We'll email you a receipt when you arrive at your destination.

An entirely new and modern way to travel is at your fingertips.

[Uber Technologies, Inc. Web Site](#)[Uber Support](#)

The very act of giving a destination and a starting point fixes the route for fare calculation – a non-factor for limo drivers who are designed to charge a flat rate per hour or per trip.<sup>8</sup>

**b. Uber is a taxi company as it uses meters to calculate its fares.**

The second indication that Uber is a taxi company in disguise is the fact that Uber drivers utilize a meter imbedded in their Smartphones to calculate fares based on distance, not per hour or per trip. In providing an on-demand service, Uber illegally calculates fares without using the rate structure that is required for taxicab businesses and regulated by the City of Atlanta. Notably, the City Code imposes the following rate structure, in pertinent part:

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<sup>8</sup> See City Code § 162-133.

Sec. 162-118. Schedule of fares.

- (a) All taxicab companies and drivers shall charge the following schedule of fares, except as otherwise provided in this section:

- 1) The first one-eighth mile, \$2.50.
- 2) Each additional one-eighth mile, \$0.25.
- 3) Waiting time, \$21.00 per hour.
- 4) For each additional passenger in excess of one riding in the vehicle on the same trip, \$2.00 per person. Only one child in the company of an adult will be charged the additional passenger fee; any additional children will not be charged any additional passenger fee. Children under six will not be charged.
- 5) There shall be no charge for use of additional space for luggage, trunks or cargo for which the trunk space in a four-door sedan would not be adequate.
- 6) A 20 percent discount on a metered fare be given to a disabled or senior citizen.
- 7) *Fuel surcharge.* Once the gasoline price for regular unleaded fuel has averaged between \$2.90 and \$4.39 over a 14 consecutive day period according to the AAA published data, there shall be imposed a fuel surcharge of \$2.00 per trip.
- 8) *Initial airport fare.* A charge of \$1.50 shall be applied to all taxicab services originating from the Atlanta Airport. No mileage, waiting time, or other charges are included in the initial airport fare. Additional Atlanta Airport flat rate zone fares shall apply in the manner set forth in this section.

Once the gasoline price for regular unleaded fuel has averaged more than \$4.40 over a fourteen consecutive day period according to the AAA published data, there shall be imposed a fuel surcharge of \$3.00 per trip.

- (b) For taxicab trips between (to and from) the Atlanta airport and destinations within the Downtown Flat Rate Zone described in subsection (d) of this section, passengers shall be charged a flat rate fare of \$30.00, with an additional \$2.00 charge for each passenger. In addition to such flat rate fares, a charge of \$21.00 per hour of waiting time shall be imposed. If passengers on the same trip desire different destinations within the same flat fare zone, after the first stop, a \$1.00 charge, in addition to the per-passenger fare, will be assessed to each passenger discharged.

For taxicab trips between (to and from) the Atlanta Airport and to a destination within the Buckhead Flat Rate Zone described in subsection (d) of this section, passengers shall be charged a flat rate fare of \$40.00, with an additional \$2.00 charge for each passenger. In addition to such flat rate fares, a charge of \$21.00 per hour of waiting time shall be imposed. If passengers continue in the same flat fare zone, after the first stop, a \$1.00 charge, in addition to the per-passenger fare, will be assessed to each passenger discharged.

For taxicab trips between (to and from) the Atlanta Airport and to a destination within the Midtown Flat Rate Zone described in subsection (d) of this section, passengers shall be charged a flat rate fare of \$32.00, with an additional \$2.00 charge for each passenger. In addition to such flat rate fares, a charge of \$21.00 per hour of waiting time shall be imposed. If passengers continue in the same flat fare zone, after the first stop, a \$1.00 charge, in addition to the per-passenger fare, will be assessed to each passenger discharged.

All fares listed in this section shall include applicable sales tax.

- (c) If two or more passengers enter the same taxicab at the airport and the destinations of such passengers are not all within the downtown zone, the passenger going to the downtown zone shall pay the flat rate as set out in subsection (b) of this section, and the remaining passenger shall pay the same fare as the first passenger plus the fare computed on the meter as set out in subsection (a) of this section for the remaining segment of the trip. If passengers on the same trip desire different locations within the same flat fare zone, after the first stop, a \$1.00 charge or \$0.50 for senior and disabled citizens, in addition to the per-passenger fare, will be addressed to each passenger discharged.

- (d) Omitted.

- (e) For taxicab trips originating from a business (e.g. hotel, restaurant, mall, or other commercial enterprise) and concluding at another business within the Buckhead Flat Rate Zone described in subsection (d) above, a single passenger shall be charged \$8.00. Each additional passenger on the same trip shall be charged \$2.00. Trips engaged within the zone but destined to terminate outside the zone will be metered. Drivers are prohibited from engaging another passenger whose destination is more than a two-block diversion from the destination of any other passengers already engaged.

- (f) For taxicab trips originating from a business (e.g. hotel, restaurant, mall, or other commercial enterprise) and concluding at business within the Downtown Flat Rate Zone described in subsection (d) above, a single passenger shall be charged \$8.00. Each additional passenger on the same trip shall be charged \$2.00. Trips engaged within the zone but destined to terminate outside the zone will be metered. Drivers are prohibited from engaging another passenger whose destination is more than a two-block diversion from the destination of any other passengers already engaged. Drivers will be permitted to load and unload passengers at any location within the Downtown Zone unless such loading or unloading impedes the traffic flow or is unsafe for any other reason.

For taxicab trips originating from a business (e.g. hotel, restaurant, mall, or other commercial enterprise) and concluding at business within the Midtown Flat Rate Zone described in subsection (d) above, a single passenger shall be charged \$8.00. Each additional passenger on the same trip shall be charged \$2.00. Trips engaged within the zone but destined to terminate outside the zone will be metered. Drivers are prohibited from engaging another passenger whose destination is more than a two-block diversion from the destination of any other passengers already engaged.

- (g) The schedule of rates established in this section shall be mandatory and shall be charged by all taxicab drivers of all companies unless the mayor and council shall by ordinance provide otherwise.