

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**SUPERIOR COURT
C.A. NO. 2084CV01519-BLS1**

**ANDREA JOY CAMPBELL, in her official
capacity as ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS,**

Plaintiff,

v.

**LYFT TECHNOLOGIES, INC. and LYFT,
INC.,**

Defendants.

**ATTORNEY GENERAL'S OPTION 2 PROPOSED
FINDINGS OF FACT AS TO LYFT, INC.**

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INTRODUCTION

This is an action brought by Andrea Joy Campbell, in her official capacity as Attorney General for the Commonwealth of Massachusetts (“Attorney General”), against Defendants Uber Technologies, Inc. (“Uber”) and Lyft, Inc. (“Lyft”). The Attorney General seeks a declaratory judgment under G.L. c. 231A, § 1, that Defendants Uber and Lyft improperly misclassify drivers as independent contractors, rather than employees, under G.L. c. 149, § 148B(a).

Under G.L. c. 149, § 148B(a), there is a presumption that “an individual performing any service ... shall be considered an employee.” “Once [the party alleging misclassification] has shown the performance of services for the putative employer, the alleged employer may rebut the presumption by establishing each of ... the three prongs [under G.L. c. 149, § 148B(a)] by a preponderance of the evidence.” *Patel v. 7-Eleven, Inc.*, 489 Mass. 356, 360 (2022). These three prongs are:

- 1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and
- 2) the service is performed outside the usual course of business of the employer; and
- 3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

G.L. c. 149, § 148B(a).

The trial of this matter will concern each of these issues. The Attorney General respectfully submits the following proposed findings of fact as to Defendant Lyft:

GENERAL BACKGROUND: LYFT

1. Lyft has operated in the Commonwealth since 2011. Lyft operates in Massachusetts a business that connects riders in need of transportation with drivers who provide rides. AG1559 at 6. These rides are pre-arranged through Lyft’s mobile phone

application (the “App”). G.L. c. 159A 1/2, § 1; AG1559 at 6. Through the App, a driver picks a rider up at Point A and transports the rider to Point B, the rider’s destination. AG1559 at 6.

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

2. Lyft refers to this business as its “Ridesharing” business. *See* AG1559 at 6.

Lyft’s Response: Disputed unless “‘Ridesharing’ business” is changed to “Ridesharing Marketplace.”

3. Lyft treats drivers who provide rides on Lyft’s App as independent contractors. *See* AG1727 at 4399; AG1769 at 0550; Bird Dep. 4/10, 11:20-12:17; Riege Dep. 8/10, 727:11-24.

Lyft’s Response: Undisputed.

4. Since at least 2017, Lyft has treated drivers who provide rides on Lyft’s App as independent contractors. *See* AG1944 at 0524 (Lyft Terms of Service dated 09/30/2016 referring to drivers as “independent contracting parties”). AG1769 at 0550 (Lyft Terms of Service dated 02/06/2018).

Lyft’s Response: Undisputed.

5. Lyft does not reimburse drivers for business expenses they incur arising from providing rides on the Lyft App. Anticipated Testimony of Christopher Hansen (“Hansen Ant. Test.”).

Lyft’s Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

6. Lyft does not pay drivers for their time spent while waiting or driving between rides. Hansen Ant. Test.

Lyft’s Response: Disputed. David Riege and/or one or more of the following

third-party witnesses that have experience using the Lyft platform to provide rides: Khalid Benlail, John Bonham, Alain Cabache, Joshua Cambridge, Robert Ciccarelli, Shepard Collins, Benjamin Chase, Kevin Clark, Steven Cordiero, Raya Denny, Edward Gannon, Jr., Kevin Hyland, Rebekah Field, Christopher Hansen, Richard Kambugu, Felipe Martinez, Mary-Ellen McAllister, Octavio Mejia-Suarez, David Moyer, Mark Pompee, Ronald Skidmore, Kenneth Smock, Dhiraj Tulachan, Kyle Tsyvaer, Anthony Venezia, Timothy Wilkins, and Naser Zorroek (“Driver Witnesses”) will provide testimony showing the proposed finding is inaccurate and/or misleading.

7. Lyft does not pay drivers overtime pay for hours worked excessive of forty hours in a week. Hansen Ant. Test.

Lyft’s Response: Undisputed.

8. The number of drivers who completed at least one ride on the Lyft App. in 2017 through 2023 is as follows:

- a) In 2017, [REDACTED] drivers using the Lyft App performed one or more rides beginning in Massachusetts.
- b) In 2018, [REDACTED] drivers using the Lyft App performed one or more rides beginning in Massachusetts.
- c) In 2019, [REDACTED] drivers using the Lyft App performed one or more rides beginning in Massachusetts.
- d) In 2020, [REDACTED] drivers using the Lyft App performed one or more rides beginning in Massachusetts.
- e) In 2021, [REDACTED] drivers using the Lyft App performed one or more rides beginning in Massachusetts.

- f) In 2022, [REDACTED] drivers using the Lyft App performed one or more rides beginning in Massachusetts.

See LYFT2100 (Joint Stipulation Between The Attorney General And Lyft Regarding The Number Of Drivers Who Perform Rides In Massachusetts Using The Lyft App)

Lyft's Response: Disputed unless "through 2023" is changed to "through 2022."

LYFT'S TERMS AND CONDITIONS FOR DRIVERS

A. THE APPLICATION PROCESS

9. Before a driver can use Lyft as a driver, the driver must sign up and complete an application on Lyft's website or in the Lyft driver app. AG1688 at 3-172 (application process of new driver); Henry 7/25, 525:15-19; 528:22-529:4; AG1609 (Lyft Help Center - How to apply to become a driver).

Lyft's Response: Undisputed.

10. The application process has multiple steps, of which at least *four* are relevant here. AG1609. AG1609 is a page from Lyft's website that details the process for applying to be a Lyft driver. Henry 7/25, 548:22-549:4.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding; Olivia Henry and Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

11. *First*, the driver must create an account with Lyft and agree to be bound by Lyft's Terms of Service. AG1609 at 0137; AG1688 at 26; Henry 7/25, 529:21-530:6. Lyft requires driver-applicants to check a box next to the phrase "I agree to Lyft's Terms of Service." AG1688 at 5; Henry 7/24, 397:19-398:2; 398:6-20; 529:21-530:16.

Lyft's Response: Disputed. The cited documents and testimony do not support the proposed factual finding; Lyft has objected to the admissibility of this evidence; Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

12. Lyft, however, does not verify whether Drivers have read Lyft's Terms of Service before signing it as a first step in the application process. Henry 7/25, 531:5-14. And after a driver has electronically agreed to the Terms of Service, Lyft does not provide drivers individual copies of the agreement. Henry 7/25, 536:21-537:8.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

13. *Second*, drivers must provide Lyft details about the driver's vehicle (such as color, year, make, and model of the vehicle) and give Lyft their Social Security number, a valid driver's license, provide background check consent, upload a profile photo, self-certify fitness to drive, and complete community safety education. AG1688 at 3; Henry 7/25, 528:4-14; 538:1-539:2.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding; Lyft has objected to the admissibility of this evidence.

14. Lyft contracts with third-party agencies to conduct background checks of its drivers. Henry 7/25, 542:14-21. Lyft says "the results of the background check are reviewed by Lyft and assessed against applicable regulations and Lyft's internal safety criteria." AG1722 (Help center – driver requirements).

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

15. *Third*, Lyft asks driver applicants a series of questions:

- “why do you want to drive for Lyft?”;
- “How many hours are you looking to drive each week?”;
- “When do you want to drive?”; and,
- “Are you planning to drive with any other apps?”

AG1688 at 52; Henry 7/25, 539:13-541:11; Sengupta 8/4, 94:14-98:18. Lyft uses this information about driver-applicants to understand how a driver will use the app and why the driver wants to drive. Henry 7/25, 539:13-541:11.

Lyft’s Response: Disputed. The cited testimony does not support the proposed factual finding; Lyft has objected to the admissibility of this evidence.

16. *Fourth*, Lyft requires driver-applicants to watch a video titled “community safety education.” AG1688 at 132. Lyft instructs driver-applicants to “Please watch all videos in their entirety to ensure your participation is counted.” AG1688 at 138. Lyft requires driver-applicants to watch the video before they can complete their application. AG1688 at 138, 167 (“Required education. Required for driving with Lyft”).

Lyft’s Response: Undisputed.

17. Lyft rejects some driver applications. Henry 7/25, 555:22-24.

Lyft’s Response: Disputed. The cited testimony does not support the proposed factual finding.

18. Lyft also sometimes places driver applicants on an applicant waitlist. AG1609 at 139; Henry 7/25, 549:10-552:14. In emails to driver-applicants, Lyft says that it will not approve the driver-applicant “until there’s a better balance of drivers and passengers in your area.” AG1723; AG1724.

Lyft's Response: Disputed. The cited testimony is subject to Lyft's motion in limine.

A. THE TERMS OF SERVICE¹

19. Lyft's Terms of Service governs a driver's "use of the Lyft application (the 'Lyft App'), website, and technology platform," which is collectively referred to throughout the agreement as the "Lyft Platform." AG1615; Henry 7/24, 401:22-402:3. AG1615 is Lyft Terms of Service agreement. AG1615. The current version of the Terms of Service is dated January 22, 2024. AG1727. Between January 21, 2017, and March 31, 2024, there have been at least 7 effective versions of the Lyft Terms of Service. AG1769 (02.06.18); AG1770 (08.26.19); AG1771 (11.27.19); AG1772 (12.09.20); AG1773 (04.01.21); AG1727 (01.22.24).

Lyft's Response: Disputed unless "use of the Lyft application (the 'Lyft App'), website, and technology platform" is changed to "use of the Lyft applications, websites, technology, facilities, and platform."

20. Lyft's Terms of Service incorporates by reference terms and conditions outlined in separate company policies, some of which include Lyft's (i) Driver Addendum; (ii) Privacy Policy; (iii) Community Guidelines; (iv) Cancellation Policy; and (v) Driver Rewards Terms and Conditions. AG1615; Henry 7/24, 404:3-14, 410:12-14. By agreeing to

¹ Because the meaning of the various terms of Lyft's agreements with drivers are questions of law, the Attorney General reserves her discussion of the various terms regarding control retained by Lyft in these agreements to her forthcoming Proposed Conclusions of Law. *See* G.L. c. 149, § 148B(a)(1) ("the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service *and* in fact) (emphasis added); *see also*; *Depianti v. Jan-Pro Fran. Intern., Inc.*, 465 Mass. 607, 622 (2013) (expressly recognizing the "use of the conjunctive 'and'"); *DaSilva v. Border Transfer of MA, Inc.*, 296 F. Supp. 3d 389, 400 (D. Mass. 2017).

Lyft's Terms of Service, drivers agree to be bound by the terms and conditions outlined in these policies. AG1615; Henry 7/12, 143:16-21.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding.

21. Lyft's Terms of Service include hyperlinks to numerous Lyft documents, including Lyft's Community Guidelines, Lyft's Driver Addendum, Lyft's Help Center, Lyft's Privacy Policy. AG1615. For all hyperlinked information and documents incorporated into Lyft's Terms of Service Agreement, Lyft reserves the right to modify that information and the modification becomes effective upon Lyft posting it to Lyft's website. AG1615

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

22. AG1616 is Lyft's Driver Addendum. Henry 7/24, 420:23-422:23. Lyft's Driver Addendum is a document created by Lyft. AG1616; Henry 7/24, 420:23-422:23. The Driver Addendum details additional terms and conditions for drivers, including the payment structure for drivers and Lyft's pricing for riders. AG1616; Henry 7/24, 421:9-15. The current version Lyft's Driver Addendum is dated January 22, 2024. AG1730. Between January 1, 2017 and March 31, 2024, there have been at least 7 effective versions of the Lyft Driver Addendum. AG1774 (02.06.18); AG1775 (03.19.18); AG1776 (11.28.18); AG1777 (08.26.19); AG1778 (12.09.20); AG1616 (12.12.22); AG1730 (01.22.24).

Lyft's Response: Undisputed.

23. Lyft's Privacy Policy governs the information and data Lyft collects, uses, and shares from its customers and drivers, such as a driver's speed, acceleration, deceleration, and other mobile sensor data. AG1668; Sengupta 8/4, 99:6-115:6. The current version of Lyft's Privacy Policy is dated December 13, 2023. AG1728. Between January 1,

2017 and March 31, 2024, there have been at least 3 effective versions of the Lyft privacy Policy. AG1767 (02.08.17); AG1768 (12.12.22); AG1728 (12.13.23)

Lyft's Response: Disputed unless "customers and drivers" is changed to "riders and drivers."

24. AG1617 is Lyft's Community Guidelines. Henry 7/12, 150:20-151:19. It sets out Lyft's guidelines for individuals who "drive or ride with Lyft." AG1617; Henry 7/24, 404:3-14. The current version of Lyft's Community Guidelines is available on its website. AG1732. Between January 1, 2017 and March 31, 2024, there have been at least 3 effective versions of the Lyft Community Guidelines. AG1741 (as of 01.25.19); AG1779 (as of 08.04.19); AG1617 (as of 01.11.21); AG1732.

Lyft's Response: Disputed unless "AG1617 is Lyft's Community Guidelines" is changed to "AG1617 was Lyft's Community Guidelines."

25. The Community Guidelines include statements about "respect[ing] personal differences and keep[ing] your judgments to yourself," or "making sure it's OK before sharing a personal story, making a phone call, or turning up the volume on your party playlist." AG1617 at 271-272. They also incorporate Lyft's Health Safety Agreement, which includes wearing a mask, leaving the front seat open, and keeping the car clean. AG1617 at 272. An earlier version of Lyft's Community Guidelines identified a "high standard of conduct" for drivers. AG1741 (identifying key standards of conduct "be nice, be respectful, be safe, be helpful").

Lyft's Response: Disputed. Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

26. AG1618 is Lyft's Cancellation and No-Show Fee Policy for Drivers. This policy addresses circumstances of cancellations and fees related to such circumstances.

AG1618. The current version of Lyft's Cancellation and No-Show Fee Policy for Drivers is located on the Lyft website. *See* AG1729. Between January 1, 2017 and March 31, 2024, there have been at least 4 effective versions of the Lyft Cancellation and No-Show Fee Policy for Drivers. AG1780 (as of 01.25.19); AG1781 (as of 08.13.19); AG1782 (as of 01.11.21); AG1783 (as of 06.27.22); AG1729.

Lyft's Response: Disputed. The document cited does not support the proposed factual finding.

27. AG1731 is Lyft's Driver Rewards Terms and Conditions. This contract governs Lyft Driver rewards, including: driver points, driver tiers, and other incentive and reward program agreements. AG1731. The most recent version of Lyft's Driver Rewards Terms and Conditions is dated January 31, 2024. AG1731.

Lyft's Response: Undisputed.

28. Under the Terms of Service, Lyft retains the right to deactivate drivers' access to the driver app if Lyft believes that drivers have violated Lyft's terms of service, policies, or other guidelines. AG1619; AG1615 at 5958-5959; Henry 7/25 at 467:7-17; 500:3-18.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding; Lyft has objected to the admissibility of this evidence.

B. CHANGES TO THE TERMS OF USE

29. Lyft is free to and, as noted above, often makes changes to the terms and conditions in its Terms of Service and incorporated agreements. Henry 7/24, 393:21-24.

Lyft's Response: Disputed unless "often" is removed.

30. Drivers must accept any updates to the Lyft Terms of Service as pushed to drivers before they can continue to use the Lyft App. Henry 7/24, 396:22-397:10. As well, a

driver's continued use and/or access to the Lyft Platform constitutes acceptance of all terms within the Terms of Services. AG1615 at 5940-5941.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

31. If a driver does not agree to bound by the terms and conditions contained in the Lyft Terms of Service, the driver may not use or access the Lyft platform. Henry 7/24, at 397:19-23; AG1615 at 5940.

Lyft's Response: Undisputed.

32. Drivers have no input into and may not negotiate any portion of Lyft's Terms of Service Agreement. Henry 7/24, 397:11-15; 398:21-399:6; 399:17-24.

Lyft's Response: Disputed. Olivia Henry and/or David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

LYFT'S APP: THE BASICS

A. A TYPICAL LYFT RIDE SEQUENCE

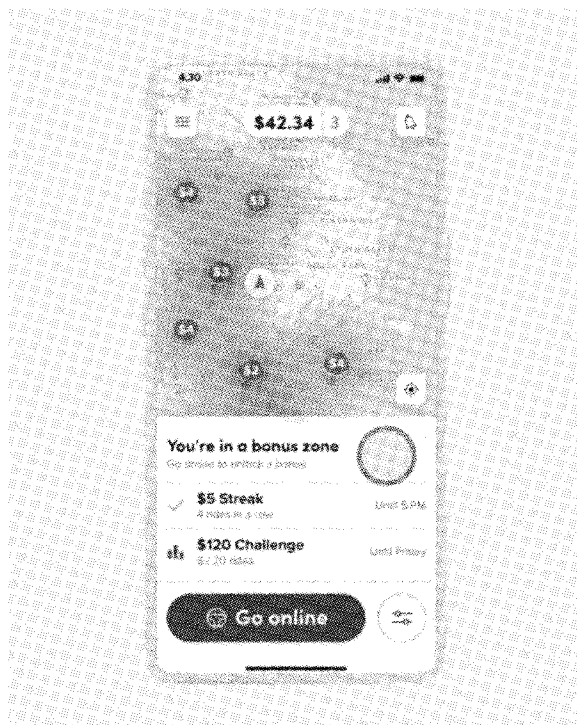
33. To provide rides on the Lyft app, a driver must open the Lyft driver app and press the icon "go online" to start receiving ride request notifications. AG1688 at 48; Riege 8/10, 606:11-20; Richard 1/31, 63:11-64:6; 137:22-24. If a driver has not pressed the "go online" button, Lyft tells drivers that "you're offline" and "you won't receive any ride requests." AG1688 at 146.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

34. When a driver opens the App, Lyft displays a map of the nearby area in the App. AG1638. This map shows the driver's location as well as shade areas corresponding with increased pricing (known as "Bonus Zones") based on real-time marketplace conditions

(see *infra*, FF 213-216 on bonus zones). AG1638 is a portion of Lyft's webpage entitled "Driver's Guide to Bonuses) showing an example of a Bonus Zones map for a driver. AG1638.

Lyft's Response: Undisputed.



35. Lyft notifies drivers of the availability of a ride request through the Lyft driver app, by sending a driver a ride request notification. Richard 1/31, 210:16-211:1; AG1687 at 9; AG1688 at 177.

Lyft's Response: Undisputed.

36. Lyft gives a driver 15 seconds to accept a ride request. Richard 1/31, 210:16-211:1; AG1717 at 082. After 15 seconds, Lyft removes the notification from the driver's display screen in the Lyft app. Richard 1/31, 210:16-211:1; AG1717 at 082.

Lyft's Response: Disputed unless "Lyft gives a driver 15 seconds" is changed to "Lyft typically gives a driver 15 seconds."

37. The information in the ride request notification has changed over time. Prior to 2022, Lyft's ride request notification in the app provided drivers with the rider's pickup location but not the rider's destination or the amount the driver would earn for completing that ride. *See, e.g.*, AG1688 at 177; Riege 8/10, 613:13-614:11.

Lyft's Response: Undisputed.

38. Starting in 2022, Lyft started providing drivers certain information about the ride and rider at the time Lyft sends the driver the ride request notification, including the first name of the rider, the rider's star rating, the rider's approximate pickup location, the rider's approximate drop off location, and the amount that driver will earn if the driver accepts the ride request. AG1687 at 9; Riege 7/26, 78:22-79:3, 89:1-22; AG1719. *See also* Riege 7/26, 79:1-16 (Upfront pay rollout completed by November 2022). Lyft called this "upfront pay" and stated that "Upfront pay allows drivers to see ride information in advance including the fare, pickup and drop-off locations, estimated time and distance, and a map view of the full ride." AG1719.

Lyft's Response: Undisputed.

39. If the driver accepts the ride request, Lyft provides driving directions for the driver to navigate to the pickup location for the rider unless the driver uses external mapping services. Riege 8/10, 633:13-20. AG1720 at 232-233.

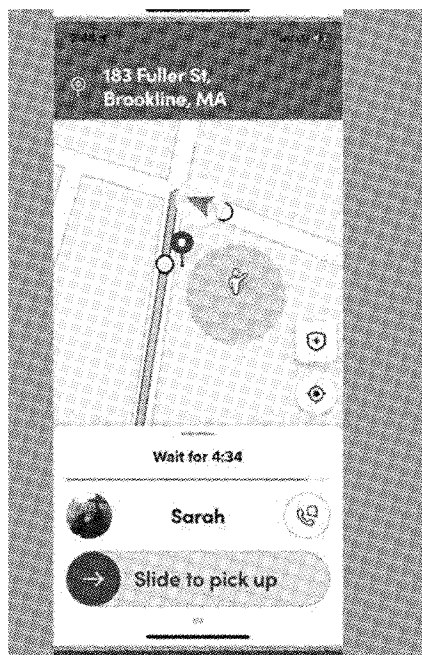
Lyft's Response: Undisputed.

40. When considering a ride request, drivers do not have the ability to change the upfront fare presented to them on the Lyft App. Riege 8/10, 537:22-538:12. At this time, drivers are unaware of the amount that riders are paying for the ride. Riege 7/27, 422:13-

423:8. *See infra*, FF 156-160 (discussing Lyft’s decoupling of rider prices and driver earnings).

Lyft’s Response: Disputed. Lyft has objected to the admissibility of this evidence; the cited paragraphs of Plaintiff’s Preliminary Proposed Findings of Fact as to Lyft do not support the proposed factual finding. David Riege, Esin Arsan Karasabun and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

41. When the driver arrives at the rider pickup location, the Lyft app prompts the driver to tap an icon stating “arrive” and then the Lyft app displays a clock counting down from 5 minutes next to the word “wait.” Riege 8/10, 625:15-626:3, 627:3-13; AG1688 at 375. Once the rider enters the vehicle, the driver presses an icon that says “slide to pickup.” AG1687; Riege 8/10, 631:10-18. This step is displayed in AG1688 at 375:



Lyft’s Response: Undisputed.

42. While the driver is transporting the rider to the rider's drop off location, Lyft uses GPS tracking to determine if a driver is going to the correct pick-up location. Riege 8/10, 624:17-625:10. Lyft monitors the routes drivers take, in part, to determine if the route a driver takes while transporting a rider was an inefficient route. Henry 7/12,90:22-91-9.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

43. If Lyft detects that the driver's car has driven off the course that Lyft expected the driver to use, Lyft will send an in-app message, either to the rider or driver. Riege 8/10, 633:21-634:9; AG1721 (Lyft text message to driver stating "You've been stopped for a while. Do you need help?").

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

44. Lyft will send a notification to drivers when they have not made sufficient progress to the drop-off location. Riege 8/10, 633:21-634:5; Riege 9/29, 646:2-16; AG1665 (Lyft email to driver stating, "We recently sent you a safety check-in, but didn't hear back from you. If you need help with anything, please contact us below.").

Lyft's Response: Disputed. The cited testimony and document do not support the proposed factual finding.

45. Lyft will also send a notification to the rider if the car is "far off course" of what the Lyft app would have expected. Riege 8/10, 634:5-9; AG1666 (Lyft text message to driver stating, "It looks like your ride is taking longer than expected. Check your route, and let us know if you need help.")

Lyft's Response: Undisputed.

46. Either before or during the ride, if a rider wants to change their drop-off location or add a stop, the rider can add a stop or update their destination in the app. AG1720 at 234. In the event this happens, Lyft will notify the driver of the new stop or new destination. *Id.*

Lyft's Response: Undisputed.

47. When a driver arrives at the drop off location, the Lyft app prompts the driver to press an icon labeled "slide to drop off" to indicate that the ride is complete. Riege 8/10, 637:11-17; AG1688 at 377.

Lyft's Response: Undisputed.

48. [REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

49. Lyft pays drivers when a rider's payment for a ride fails to process. Riege 7/26, 224:5-8.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

50. The pay-in payment processors send batches of rider payments to Lyft. Riege 9/29, 541:18-542:6. These batched ride payments are deposited into a Lyft-owned account. Riege 9/29, 542:7-545:18.

Lyft's Response: Undisputed.

51. Lyft uses third-party payment processors Stripe, Fiserve, and Payfare to pay out fares to drivers. AG1631. Driver pay comes out of the Lyft accounts. Riege 9/29, 542:7-545:18.

Lyft's Response: Undisputed.

52. To pay drivers, Lyft instructs the pay-out payment process which drivers to pay, how much to pay, and the destination of the funds. Riege 9/29, 544:13-545:13. Drivers then receive pay through the app. Riege 7/26, 189:4-17.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

53. Lyft offers drivers three ways in which to be paid their fares: (1) traditional weekly pay, (2) Express Pay, or (3) Lyft Direct. Riege 9/29 543:16-544:4.

Lyft's Response: Undisputed.

54. Under the weekly pay option, Lyft calculates the total fares a driver has earned for the week and disburses the value of those fares to the driver in one batch as a single payment. Riege 9/29 543:16-544:4.

Lyft's Response: Undisputed.

55. Express Pay is an option which allows drivers to request on-demand payout before the conclusion of the weekly pay interval. Riege 9/29, 543:16-544:4. For a fee of approximately 85 cents, drivers can receive disbursement of the value of their current earned fares to any bank account of their choosing. Riege 9/29, 543:16-544:4.

Lyft's Response: Undisputed.

56. Drivers can choose to enroll in Lyft Direct, a program in which Lyft opens the driver a special bank account and disburses the value of a driver fare immediately upon

completion of each ride, and from which a driver may withdraw funds at any time. Riege 9/29, 543:16-544:4.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

B. OTHER RIDE OPTIONS

57. Lyft has a default feature called Queued Rides in which Lyft provides a driver who is already giving a ride a new ride request notification to start when the existing ride ends. AG1689.

Lyft's Response: Undisputed.

58. Queued Ride requests are by default set to automatic acceptance in the Lyft app, but drivers may change the settings to allow them to manually accept or reject Queued Rides. AG1689.

Lyft's Response: Undisputed.

59. If a driver's app is set to automatic acceptance, then any ride added to that driver's queue whilst they are completing their current ride, will be automatically accepted and added as the driver's queued destination after drop-off of the current passenger. AG1689. If a driver goes into the setting in their app, they can change the default Queued Rides setting to manually accept or reject Queued Ride requests. AG1689. If a driver is using manual acceptance, they have a 15 second window upon receipt of a Queued Ride request to accept or reject it, if they do not reject the request within 15 seconds, the request is accepted and assigned to them. AG1689.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding. Esin Arsan Karasabun and/or Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

60. If a driver wishes to stop driving and therefore does not want any further Queued Rides added to their queue, the driver must indicate in the App using a toggle feature that they are no longer seeking ride requests. AG1689.

Lyft's Response: Undisputed.

61. At one point, 40% of Lyft ride requests were sent to drivers through the queued ride feature on the Lyft app. AG1745 at 6483.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

62. Previously Lyft offered a ride type called "shared rides." Riege 7/26, 37:15-38:8. During the time that Lyft offered shared rides, Lyft required drivers who accepted a shared ride request notification to follow Lyft's routing direction in order to be able to pick up and drop off riders in Lyft's requisite order. Gannon Dep. 38:24-39:6; AG1656 at 1110 ("Follow the app. Once you accept a Line ride, the app will guide you. Be prepared to change course at any time during the ride."). Lyft phased out the shared rides product in the spring of 2023. Riege 7/26, 38:3-8.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence; it is subject to Lyft's motion in limine.

LYFT SETS AND ENFORCES STANDARDS FOR DRIVER BEHAVIOR AND RIDE PERFORMANCE

63. Drivers on the Lyft App encounter a system that Lyft has developed that monitors, evaluates, constrains, and influences the way drivers behave and perform. Anticipated Testimony of Dr. Lindsey Cameron ("Cameron Ant. Test."). As part of that overarching system, Lyft has powerful means of detecting and disciplining drivers who engage in behaviors that depart from the norms Lyft has established. Cameron Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony will not support the proposed factual finding; it is subject to Lyft's motion in limine to exclude the testimony of Lindsey Cameron; and Esin Arsan Karasabun, Olivia Henry, Paul Oyer, Deborah Jay and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

64. Through its oversight of driver behaviors, Lyft is able to detect and discipline drivers for failing to comply with Lyft's standards of performance. Cameron Ant. Test. *First*, Lyft can deactivate a driver's account for falling below Lyft's star rating threshold. Henry 7/12, 145:7-17, 146:9-22; AG1615 at 5958-5959. *Second*, Lyft can deactivate a driver's account for exceeding Lyft's cancellation threshold. Henry 7/12, 145:7-17, 146:9-22; AG1615 at 5958-5959. *Third*, Lyft can deactivate a driver if their conduct does not meet Lyft's standards. Henry 7/12, 153:6-12, 159:14-24. *See* AG1617 at 273 (Lyft's Community Guidelines: identifying, in part, Lyft's standards of conduct and stating that "[a]nyone who doesn't take these guidelines - and Lyft's Terms of Service - seriously may be permanently removed from the Lyft platform."); *see also* AG1739 (similar, prior versions of Lyft's Community Guidelines identifying, in part, certain impermissible behaviors).

Lyft's Response: Disputed. The cited anticipated testimony will not support the proposed factual finding; it is subject to Lyft's motion in limine to exclude the testimony of Lindsey Cameron; and Olivia Henry, Paul Oyer, Catherine Tucker and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

A. LYFT'S STAR RATING SYSTEM

65. Lyft's performance standards are embedded in the company's star ratings system. Cameron Ant. Test. At the completion of each ride, Lyft prompts riders to provide

a star rating for drivers as well as provide feedback on the ride. AG1669 at 276; Henry 7/12, 47:14-21. It gives riders a period of 24 hours after the ride is completed to provide a rating. AG1669 at 276; Henry 7/12, 48:24-29:13, 52:14-53:2.

Lyft's Response: Disputed. The cited anticipated testimony will not support the proposed factual finding; it is subject to Lyft's motion in limine to exclude the testimony of Lindsey Cameron; and Olivia Henry, Paul Oyer, Catherine Tucker and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

66. AG1669 is a page from Lyft's public facing help center website entitled "Driver and passenger ratings," which describes the process for rating drivers and riders and how Lyft calculates ratings. Henry 7/12, 44:15-47:5.

Lyft's Response: Disputed. The cited document is subject to Lyft's motion in limine.

67. Lyft provides riders the option of selecting the number of stars from a range of 1-5 in the Lyft app. AG1669 at 275; Henry 7/12, 48:21-23. Using the Lyft app, riders select a star rating for a driver. AG1669 at 276; Henry 7/12, 48:12-23.

Lyft's Response: Undisputed.

68. Lyft collects the star rating of drivers submitted by riders. Henry 7/12, 53:13-17. If a rider fails to rate a driver within 24 hours, Lyft defaults the rider's star rating for the driver to five stars. AG1669 at 276; Henry 7/12, 53:4-11. Lyft calculates a driver's Star Rating based on their last 100 rides. AG1669 at 277; Henry 7/12, 59:5-7.

Lyft's Response: Undisputed.

69. As part of the rating process, Lyft also provides riders the option to select comment flags in the Lyft app. Henry 7/12, 49:15-50:5. Lyft generates the comment flags

shown to riders in the app. Henry 7/12, 51:3-11. The type of comment flags that Lyft provides to a rider depend on the star rating that the rider selected for the driver. Henry 7/12, 50:6-19.

Lyft's Response: Undisputed.

70. Lyft provides drivers their star rating in the aggregate. Henry 7/12, 53:13-54:9. Lyft does not tell a driver which rider submitted which rating. Henry 7/12, 54:10-55:7. Lyft also does not provide a driver all flags or comments a rider submitted about them. Henry 7/12, 55:10-56:23. And it does not tell a driver which rider submitted which flag or comment. Henry 7/12, 56:9-23.

Lyft's Response: Undisputed.

71. Drivers cannot opt out of being rated. Henry 7/12, 71:6-9.

Lyft's Response: Undisputed.

72. The Lyft app does not provide a rider with the star rating of the driver until after Lyft has paired the rider and driver. Henry 7/12, 76:16-22. And Lyft does not tell the rider what comments or flags the driver has received from previous riders. Henry 7/12, 77:21-78:4.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding; and Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

73. Lyft uses a driver's star rating as a criterion for suspending or deactivating a driver, however, Lyft does not tell drivers what numerical star rating the threshold is set at. Henry 7/12, 147:2-14; AG1615 at 5958-5959. At times, Lyft has advised drivers "if your rating is below 4.8, you may want to consider ways to improve it." AG1669 at 277.

Lyft's Response: Disputed. The cited evidence does not support the proposed factual finding.

74. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence. Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

75. Lyft can immediately deactivate a driver's account on a temporary or permanent basis for falling below Lyft's star rating threshold. Henry 7/12, 144:3-18; Henry 7/24, 266:10-267:5; AG1615 at 5958-5959.

Lyft's Response: Undisputed

B. LYFT'S CANCELLATION THRESHOLDS

76. Lyft's cancellation threshold is another mechanism Lyft uses to align drivers to one of Lyft's business aims, ensuring the efficiency and reliability of rides. Cameron Ant. Test. Lyft sets a cancellation threshold for drivers in its Terms of Service, however, the Terms of Service does not indicate what the cancellation threshold is or how it is calculated. AG1615 at 5958-5959.; Henry 7/12, 147:2-8.

Lyft's Response: Disputed. The cited anticipated testimony will not support the proposed factual finding; it is subject to Lyft's motion in limine to exclude the testimony of Lindsey Cameron; and Paul Oyer and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

77. Lyft sees high cancellations as a concern because “high cancellations impact the efficiency of how the app works.” Henry 7/12, 170:18-171:3.

Lyft’s Response: Undisputed.

78. [REDACTED]

Lyft’s Response: Disputed. Lyft has objected to the admissibility of this evidence; and it is subject to Lyft’s motion in limine.

79. [REDACTED]

Lyft’s Response: Disputed. The cited document and testimony do not support the proposed factual finding; Lyft has objected to the admissibility of this evidence; Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

C. LYFT’S TRAINING AND EQUIPMENT STANDARDS

80. Lyft makes explicit its standards through various forms of training and equipment requirements. Cameron Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony will not support the proposed factual finding; Paul Oyer, Catherine Tucker, Olivia Henry and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

81. Lyft has provided drivers a variety of tutorials and videos about “giving rides.” AG1737. These tutorials and videos include, among others:

- a) Tutorials on “Keeping Your Car Clean.” AG1736. (“Keeping your car clean. Having a clean car is a key part of the Lyft experience. It's relaxing for passengers (and you!) to ride in a spotless and nice-smelling car. You'll be rated accordingly.”; the document informs drivers of the cleanliness standards for Lyft driver's cars.)
- b) Tutorials on “How to Navigate a Ride.” AG1720. (“As a driver, you're there to get the passenger from point A to point B efficiently while providing a delightful experience.”; the document details the basic steps involved in giving rides through the Lyft app.).
- c) Videos about “Bike and Pedestrian Safety.” AG1735.
- d) Videos about “Inclusionary Culture.” AG1734.
- e) Videos about “How to treat passengers.” AG1733.

Lyft's Response: Disputed unless “provided drivers a variety of tutorials” is changed to “provided drivers access to a variety of optional tutorials.”

82. Lyft's website also has a “Learning Center” with information about various aspects of the driving experience on the Lyft app, including topics for drivers such as:

- a) Why time and place matter. AG1625 (Learning Center – Why time and place matter);
- b) Your Car Environment. AG1626 (Learning Center – Your Car Environment); and
- c) Safe driving tips. AG1627 (Learning Center – Safe driving tips).

Lyft's Response: Undisputed.

83. Lyft texts and emails drivers to inform them of customer (rider) complaints and direct them to Lyft tutorials and Lyft's Help Center in order to improve:

- a) In an email to a driver, Lyft stated: "Lyft here! Your passengers have reached out to us with safety concerns. For tips on improving, try reviewing 'Your First Ride' here" with a link to tutorials" AG1620.
- b) In an email to a driver, Lyft said "We noticed your driver rating is lower than the average driver in Boston. Poor ride experiences can leave people with a bad impression of our community, meaning they may not return to Lyft. . . How to Improve (1) Visit the Help Center to understand how your rating is calculated. . . . (3) Get tips from veteran drivers in the Dashboard's Tutorials tab." AG1621, Henry 7/12, 105:19-106:9.

Lyft's Response: Disputed. The cited documents do not support the proposed factual finding.

84. Lyft's driver requirements include the ability to download and run the Lyft Driver app. AG1680 at 786. Lyft informs drivers of the cell phone software recommendations and settings needed to support the latest features and updates on the Lyft App. AG1681.

Lyft's Response: Undisputed.

85. Lyft provides an in-app navigation system, designed to guide drivers' routes. AG1682 at 224-226. Lyft has recommended that drivers use Lyft's navigation system "to determine the best routes during rides." AG1683 at 238.

Lyft's Response: Undisputed.

86. Lyft maintains minimum standards for vehicle model type and requires drivers' vehicles to meet those standards. AG1680 at 785-786. Lyft requires drivers to have cars which meet certain vehicle age requirements. *Id.* Lyft has vehicle requirements for use of the Lyft App that prohibit drivers from using certain models of subcompact vehicles. *Id.*

Lyft only permits drivers with cars meeting age and model criteria to provide rides at higher tiers, such as XL, Black, and Black SUV. AG1684.

Lyft's Response: Undisputed.

87. Lyft provides drivers with tablets to install in the backseat for the use of riders. Sengupta 8/4, 112:3-113:8. Lyft provides drivers with a Lyft Amp which can change color and display messages controlled by Lyft during the course of a ride. Sengupta, 8/4 112:11-16; Bonham at 82:20-23; 83:1-6; Cabache at 59:18-60:15; Chase Deposition at 66:10-68:17; Cordeiro, 81:16-82:24. Lyft and not drivers, controls the coloration of the Lyft Amp and the messages displayed by the Amp device. Cabache at 62:22-63:10.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding; Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

D. LYFT MONITORS DRIVER BEHAVIOR AND SENDS DRIVERS MESSAGES WARNING SUSPENSION AND DEACTIVATION TO GET DRIVERS TO CONFORM TO LYFT'S PREFERED BEHAVIORS

88. [REDACTED]

Lyft's Response: Disputed. Vague. The cited testimony does not support the proposed factual finding.

89. [REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

90. [REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence. Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

91. [REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

92. [REDACTED]

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

93. [REDACTED]

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding; Lyft has objected to the admissibility of this evidence; Olivia Henry and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

94. [REDACTED]

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

95. Lyft automatically issues warnings, suspensions, or deactivations by sending emails, text messages, or in-app messages to drivers who have engaged in behavior that violates Lyft's Terms of Service. Henry 7/25, 467:12-17. Lyft's warnings inform drivers about consequences, including suspension or deactivation, if the driver fails to correct or improve the behavior. Henry 7/25, 480:22-481:23.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

96. AG1650, AG1621, AG1651 and AG1647 are messages from the “Lyft Drive Team”² to drivers warning drivers about unwanted behavior and the consequences of failing to rectify those behaviors. These messages are representative of the type of messages the Lyft Drive Team sends to drivers. Henry 7/12, 106:22 -107:17 (“whenever someone is at risk of deactivation because of low ratings, they would receive communications like this.”)

Lyft’s Response: Disputed. The cited testimony does not support the proposed factual finding; Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

97. AG1650 is an illustrative example of an instance where the Lyft Drive Team informs a driver that they are at risk of deactivation because of a low Star Rating. Henry 7/12, 97:9-99:1. The text message informs a driver that “Your Lyft driver account has been flagged for having a low star rating, putting it at risk of deactivation. Learn more: <https://lft.to/2Ga75va>.” AG1650.

Lyft’s Response: Undisputed.

98. AG1621 is an illustrative example of an instance where the Lyft Drive Team informs a driver, via email, that they are at risk of deactivation because their “driver rating is too low.” Henry 7/12, 105:5-106:9. The email informs the driver that “Poor ride experiences can leave people with a bad impression of our community, meaning they may not return to Lyft. **If your rating doesn’t improve, your driver account could be deactivated.**” AG1621 (emphasis in original).

Lyft’s Response: Undisputed.

² The “Lyft Drive Team” is now called the “Driver Experience Team.” Henry 7/12, 106:1-9.

99. AG1651 is an illustrative example of an instance of the Lyft Drive Team reaching out “ASAP” to inform a driver, via email, of cleanliness complaints from passengers. Henry 7/12, 101:22-105:4. The first line of the message is “SUBJECT: Passengers are still flagging you for cleanliness!” AG1651. The message also includes the following text, in bold: “**passengers have reached out with cleanliness complaints.**” AG1651. And in the message, Lyft tells the driver that cleanliness “is usually an easy fix,” includes resources on “How to Improve,” and remind the driver that “[d]elivering a 5-star experience” is “another reason” your passenger will have “to choose Lyft.” AG1651; Henry 7/12, 101:22-105:4. *See also* AG1648.

Lyft’s Response: Undisputed.

100. AG1647 is an illustrative example of an instance of the Lyft Driver Team reaching out to a driver, via email, in relation to “[p]oor passenger experiences on recent rides. The subject of the message is: “Poor passenger experiences on your recent rides.” AG1647. In the body of the message, Lyft informs the driver that their account “has been flagged for poor passenger experiences” and notes that Lyft had “received several reports where passengers gave you a low Star rating.” AG1647. Lyft warns the driver that “[t]hese” “violate the Lyft Terms of Service” and “put your driver account at risk.” AG1647. Lyft further warns the driver that “if we continue to receive reports like this, it could lead to account suspension and permanent deactivation of your Lyft driver account.” AG1647.

Lyft’s Response: Undisputed.

101. AG1655 is an illustrative example of an instance of the Lyft Driver Team reaching out to a driver, via email, in relation to “concerns of unsafe driving.” AG1655. The email warns the driver that this is their “Final deactivation warning” and that their “account

is at risk of deactivation.” AG1655. The email instructs the driver to “obey traffic and driving laws, including keeping to the speed limit and avoiding texting and driving.” AG1655.

Lyft’s Response: Undisputed.

102. AG1761 is an example of an exchange between a driver and a Lyft customer service representative, as recorded in Lyft’s Zendesk customer communication system, which shows a driver contacting Lyft after a customer complained about the driver “driving a little fast and braking very hard.” AG1761; *see* Henry 7/24, 488:15-489:23 (discussing Lyft’s use of Zendesk”). Lyft informed the driver of the complaints by the rider and asked the driver to “respond to these allegations directly.” AG1761. The exchange ends with the driver stating: “I really appreciate your efforts at getting the truth, I will continue to adhere strictly to the community guidelines and do my best always to ensure safety.” AG1761.

Lyft’s Response: Disputed unless “customer complained” is changed to “member of the community complained.” Additionally, Lyft has objected to the admissibility of this evidence.

103. [REDACTED]

Lyft’s Response: Disputed. The cited testimony and documents do not support the proposed factual finding; Lyft has objected to the admissibility of this evidence; Olivia Henry, David Riege, Paul Oyer and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

104. [REDACTED]

[REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

105. [REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

106. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

107. Lyft also coached drivers to follow or improve certain behaviors by sending drivers text messages or email with feedback and tips. *See, e.g.,* Henry 7/12, 87:13-88:19; AG1664, AG1725. As an example, Lyft sent a driver an email stating “Try this pro tips to improve your rating” and told the driver “where you shine” and “where you can improve.” AG1664 at 6528-6529. Similarly, Lyft sent a driver a text message stating “Lyft here! Looks like you've been getting low ratings lately. For tips on improving, tap “Be a 5-Star Driver” in the Driver Dashboard: <https://lft.to/tutorials>.” AG1762.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding.

108. Several drivers testified that they watched tutorial videos created by Lyft that focused on drivers’ improving their customer service skills, such as by being polite and asking riders what music they wanted to listen to. *See, e.g.,* Cordeiro, 24:23-27:7; Rosario, 124:13-126:14.

Lyft's Response: Disputed. The testimony does not support the proposed factual finding.

109. Lyft tracks behavior of drivers that it deems to be driver “fraud,” which Lyft has defined to be driver behavior that results in incorrect rider charge or fee. AG1653 at 3551. If a driver engages in behaviors that Lyft as defined as “fraud,” Lyft can deactivate the driver from the platform. AG1653 at 3550-3551. Lyft internal documents give examples of behaviors it considers fraudulent, such as Circuitous route, Contact post pick-up, Passenger cancel post pick-up, Location spoofing, Start/Stop, Far arrival. AG1653 at 3551.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of this evidence.

110. Lyft also tracks and can deactivate drivers for engaging in certain behaviors that it considers unsafe. Henry 7/25, 454:17-456:3; AG1653 at 3550-3551.

Lyft’s Response: Disputed. Vague. The cited testimony does not support the proposed factual finding.

111. Recourse for drivers who have been deactivated is limited; drivers can ask Lyft to be reinstated by calling Lyft, submitting a support ticket, or using Lyft’s Help Center. Henry 7/24, 266:10-268:23. *See also* Cameron Ant. Test.

Lyft’s Response: Disputed. The cited testimony does not support the proposed factual finding; it is subject to Lyft’s motion in limine to exclude the testimony of Lindsey Cameron; and Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

112. Generally, these requests go to Lyft’s safety team whose agents determine whether the safety deactivation should be overturned. Henry 7/24, 268:14-23. When it comes to “automatic”, or ratings-related, deactivations, however, those are usually deemed not reversible by Lyft. Henry 7/24, 267:21-268:2.

Lyft’s Response: Undisputed.

113. For example, Lyft's internal complaint management system shows an exchange between a driver and a Lyft customer service representative regarding Lyft deactivating the driver having a low rating. AG1763; Henry 7/25, 487:7-489:2. Although the driver asked to be reinstated, Lyft responded: "This decision has been reviewed and will remain final. You'll receive any remaining ride payments and additional amounts in your next scheduled direct deposit." AG1763.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

LYFT MEDIATES CUSTOMER COMMUNICATIONS AND COMPLAINTS

114. Throughout nearly all stages of a ride, including before and after the ride, Lyft mediates and oversees the communications between drivers and riders. Sengupta 8/4, 128:4-135:1. *See* Cameron Ant. Test. This is because Lyft strives to provide a standard of service, via drivers, and actively takes a role in monitoring communications between riders and drivers and addressing complaints about the quality of the ride. *See* Cameron Ant. Test.

Lyft's Response: Disputed. Vague. The cited testimony does not support the proposed factual finding. It is subject to Lyft's motion in limine to exclude the testimony of Lindsey Cameron. Catherine Tucker and/or Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

115. The Lyft App hosts nearly all communications between drivers and riders. *See* Sengupta 8/4, 126:5-127:4 (Lyft works with third parties to facilitate communications between Rider and Driver, all without revealing the phone number of either party). Lyft, not riders or drivers, has access to the personal information and contact information of each rider and driver. AG1668 at 5926-5938; Sengupta 8/4, 67:5-16. Specifically, Lyft maintains

contact information, such as the phone number, email, and Lyft account, for drivers. AG1668 at 5926-5928; Sengupta 8/4, 67:5-16. Lyft does not provide either party the personal phone number or email of the of person with whom they are matched. Sengupta 8/4, 126:15-127:14; 175:4-176:12.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

116. Lyft ensures that communications between a rider and driver are anonymized so that only Lyft knows either individual's contact information. Sengupta 8/4, 126:15-127:14; 175:4-176:12. Anytime a driver or a rider calls or texts each other after they've been paired together in the app, it is done so through a tool called Twilio that masks the phone numbers of each driver and ride, and Twilio shares records of those text messages and phone calls with Lyft. Henry 7/12, 174:20-175:3.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

117. Lyft monitors the content of communications (i.e., in-app messages and in-app phone calls) between riders and drivers. Sengupta 8/4, 128:5-134:4. Lyft retains data and contents of communications (i.e., in-app messages and phone calls) between riders and drivers. Sengupta 8/4, 128:5-134:3.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

118. Lyft's mediation of rider and driver communications also plays out in the ratings process. At the completion of each ride, Lyft, not the driver, asks riders to provide a star rating and feedback for drivers. AG1669; Henry 7/12, 47:14-21. The Lyft application provides the rider several "flag" icons representing feedback comments on the driver and

ride for riders to choose from. AG1669; Henry 7/12, 49:23-51:11. The comments associated with the feedback flags are written and suggested by Lyft. AG1669; Henry 7/12, 51:7-11.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

119. When riders provide feedback, Lyft reviews all feedback, often via algorithms, submitted on the App by riders. Henry 7/12, 63:3-64:5. Lyft also has teams of people, such as the safety team and customer care team, review the content of feedback from riders. Henry 7/12, 63:16-64:5.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

120. Lyft decides whether to share feedback submitted by a rider with the driver, including whether the rider feedback contains content that Lyft deems inappropriate. Henry 7/12, 63:3-16; 66:8-18.

Lyft's Response: Undisputed.

121. Star ratings, flags, and comments are submitted directly to Lyft. Henry Deposition 7/12 at 53:17-54:9. Drivers are not able to see star ratings, flags, or comments from specific individual drivers. Henry 7/12, 54:14-56:23. Lyft sends drivers periodic communications summarizing their recent star ratings, flags, and comments as summarized and curated by Lyft. Henry 7/12, 54:14-56:23.

Lyft's Response: Undisputed.

122. Lyft instructs riders and drivers to contact Lyft directly with concerns that they have been rated unfairly. AG1669 at 277; Henry 7/12, 67:1-16. When Lyft offered shared rides, Lyft advised riders who had complaints about other riders to contact Lyft

support. AG1670 at 5871. Lyft mediates contact between riders and drivers in instances of lost items or other situations where communication is required. Riege 9/29, 647:19-648:9. Lyft instructs drivers to report an accident and add photos of vehicle damage on the Lyft Driver App. AG1671 at 8505.

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. The document and testimony are subject to Lyft's motion in limine.

123. When drivers complained about damage to their vehicle caused by a rider, Lyft paid the driver for the damage and collected fees from the rider. AG1672 at 7714; AG1673 at 7861.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

124. In the case of complaints by riders about drivers, Lyft sometimes unilaterally changes the amount charged to the rider for the ride or provide the rider credit for future riders on Lyft. AG1674; Riege 7/26, 227:22-228:13; Riege 9/29, 555:17-556:4.

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

MATCHING: HOW LYFT ASSIGNS RIDERS TO DRIVERS

125. Matching is a process where Lyft determines how to match potential riders and drivers in a given area. Richard 1/31, 77:11-14. Lyft has a team, called dispatch, that is responsible for designing the algorithms that match riders and drivers. Richard 1/31, 72:3-7. And it refers to the collection of algorithms that match riders and drivers as its matching algorithms. Richard 1/31, 77:15-23.

Lyft's Response: Undisputed.

126. The way Lyft matches riders and drivers (*i.e.*, how it solves the complicated and dynamic problem of creating potential rider-driver pairs) illuminates several key points about Lyft's business model. Weil Ant. Test.

Lyft's Response: Disputed. Vague. The cited testimony will not support the proposed factual finding.

127. *First*, potential matches are determined by Lyft, with drivers having the option to accept or reject the offered match. Richard 1/31, 131:11-132:3 ("once we match riders and drivers, we send a notification to the driver so they can accept or reject the ride").

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Titouan Jehl, Esin Arsan Karasabun, and/or Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

128. [REDACTED]

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

A. HOW LYFT USES ITS MATCHING PROCESS TO MAXIMIZE ITS PROFIT

129. AG1748 is the native (and full color) version of AG1635. Richard 1/31, 68:9-15. AG1748 is a power point presentation entitled “Introduction to Dispatch 2022” created by the Lyft Dispatch Team. Richard 1/31, 66:18-72:24. The presentation explains the Dispatch Team’s responsibilities and examines the various systems that they develop. Richard 1/31, 69:1-6.

Lyft’s Response: Undisputed.

130. [REDACTED]

Lyft’s Response: Undisputed.

131. [REDACTED]

Lyft’s Response: Disputed. The cited testimony and documents do not support the proposed factual finding.

132.

Lyft's Response: Undisputed.

133.

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

134.

[REDACTED]

[REDACTED]³

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of this evidence.

135. As detailed in AG1748, Lyft's Scoring objectives for its matching algorithm have changed over time. AG1748 at 21-25.

Lyft's Response: Undisputed.

136. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. The evidence is subject to Lyft's motion in limine. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

³ [REDACTED]

137.

Lyft's Response: Disputed. The evidence is subject to Lyft's motion in limine.

138.

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

139.

[REDACTED]

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

140.

[REDACTED]

Lyft's Response: Disputed. The cited testimony and documents do not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

141.

[REDACTED]

Lyft's Response: Disputed. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

142.

Lyft's Response: Undisputed.

B. HOW LYFT USES ITS MATCHING PROCESS TO MAXIMIZE ITS NETWORK EFFECT

143.

Lyft's Response: Undisputed.

144.

Lyft's Response: Disputed. The cited testimony will not support the proposed factual finding. Titouan Jehl and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

C. OTHER RELEVANT ASPECTS OF LYFT'S MATCHING PROCESS

145. Lyft's matching process has additional uses that enable Lyft's to maximize its profitability and ensure brand reliability. *See* Weil Ant. Test.

Lyft's Response: Disputed. Vague. The cited testimony will not support the proposed factual finding.

146. One is that as part of its matching process Lyft has a feature that shows potential ride requests to drivers who are offline. Richard 1/31, 192:8-193:13; AG1748 at 35. Lyft uses this feature to encourage offline drivers to return to the app. Richard 1/31, 192:8-193:13. If those offline drivers do come back online, "[Lyft] might or might not decide to show some of those rides that go unfulfilled under maps and ... make them available for drivers to select." Richard 1/31, 192:22-193:13.

Lyft's Response: Disputed. The cited testimony will not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

147. Another is that Lyft, as part of its matching process, employs a mechanism called "swapping," where Lyft keeps looking for drivers to serve ride requests even more efficiently even after Lyft has made an initial rider-driver pairing. Richard 1/31, 214:5-215:5; AG1748 at 45, 49-50. If Lyft finds what it determines a better rider-driver pairing, Lyft will swap out the driver (even after the driver has accepted the ride request) and direct the original driver to a different pickup location to pick up a different rider. Riege 8/10, 617:19-618:19.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

148.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

149.

Lyft's Response: Disputed. Titouan Jehl will provide testimony showing the proposed finding is inaccurate and/or misleading.

PRICING: HOW LYFT SETS RIDER FARES AND DRIVER PAY

A. LYFT SETS RIDE PRICES AND DRIVER PAY

150. During the period applicable to this case, Lyft has set the prices riders pay for rides and the amount of earnings for drivers. Riege 7/26, 145:17-148:1 (prices for rides); Riege 7/26, 65:15-66:13; 71:3-6 (driver earnings). The two amounts are not directly connected to each other. *See, e.g.*, AG1549 at 29 (Logan Green, former Lyft CEO: “rider pricing is not directly connected to driver pricing”). As explained below, the differential is Lyft’s per-ride revenue.

Lyft’s Response: Disputed. The cited anticipated testimony will not support the proposed factual finding that Lyft sets “the amount of earnings for drivers”; and David Riege and Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

151. To earn the fare offered by Lyft, a driver must accept and complete the ride. Riege 7/26, 96:20-97:11. If a driver does not like the fare offered by Lyft, they can reject the ride request. Riege 8/10, 537:22-538:6; Richard 1/31, 131:11-132:3 (Lyft “send[s] a notification to the driver so they can accept or reject the ride”). A driver, however, cannot negotiate with Lyft over how much pay they will receive for giving a ride. Riege 8/10, 537:22-538:12; AG1629 at 1486-1487; Richard 1/31, 58:18-24; Collins 4/13, 47:8-13.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of this evidence.

152. Drivers have attempted to negotiate higher pay and Lyft refused. For example, on July 28, 2020, Mr. Hansen sent an email to Lyft asking if he could negotiate with Lyft as to the terms of his pay rates, acceptance rates, and cancellation fees. *See* Ant. Test. Mr. Hansen; *see also* AG1754 at 0001. That same day, July 28, 2020, Lyft responded to Hansen’s email stating that: “This is Nicolas from Lyft's support. Regarding your email,

Lyft doesn't negotiate the payments/acceptance rates/ or cancellations fees.” *See* Ant. Test. Mr. Hansen; *see also* AG1754 at 0001. Lyft’s email further stated: “You are able to see the payments per minute and per mile that are on your location through the app in the rate card. We are not able to change the payments because is the same condition for all drivers, we are not able to make any update to a specific driver I can see you are enrolled on the Lyft rewards program, you can maintain the rating above 90 percent to be able to see the ride information. If you have any questions please contact us back.” *See* Ant. Test. Mr. Hansen; *see also* AG1754 at 0001.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of this evidence.

153. Lyft does not offer higher earnings for drivers with more seniority. AG1751 at 1449 (“Driver Pay Strategy”). *See* Cameron Ant. Test.

Lyft’s Response: Disputed. The cited anticipated testimony is subject to Lyft’s motion to exclude the testimony of Lindsey Cameron. Lyft has objected to the admissibility of the document cited.

154. Drivers cannot negotiate the amount that Lyft charges riders for a ride. Richard 1/31, 58:18-59:14 (“drivers cannot influence what riders pay” on a per-ride basis). At the time Lyft offers a driver a ride request, the driver does not know how much Lyft is charging the rider for the ride. Riege 7/26, 96:21-98:14, 182:3-184:19. Additionally, the statement that Lyft provides the driver at the completion of the ride does not show how much the rider paid for the ride. *See* AG1630 at 9053 (showing only the duration of the trip, the distance, and the driver’s earnings for that ride). As such, drivers cannot accurately assess the actual value of the transportation service they are providing. Cameron Ant. Test.

Lyft's Response: Disputed. David Riege, Esin Arsan Karasabun, and/or Jeremy Bird will provide testimony showing the proposed finding is inaccurate and/or misleading. Portions of the cited anticipated testimony are subject to Lyft's motion to exclude the testimony of Lindsey Cameron. Lyft has objected to the admissibility of the evidence cited.

B. LYFT SETS RIDER PRICES AND DRIVER PAY TO FULFILL ITS PROFIT OBJECTIVES

155. Lyft sets rider prices and driver pay to fulfill its profit objectives. The pricing-related trial evidence will illustrate this in *three* main ways. *First*, Lyft decoupled rider pricing from driver earnings, affording it the opportunity to collect a much greater percentage of the rider's fare than under its old, fixed commission system. *See infra*, FF 156-160. *Second*, Lyft has incorporated price elasticity concepts into its ride pricing mechanisms and prices rides according to rider willingness to pay. *See infra*, FF 161-172. *Third*, Lyft has incorporated mechanisms that take advantage of price elasticity in driver earnings by setting driver pay at a level that corresponds with driver willingness to work. *See infra*, FF 173-189. Collectively, these afford Lyft the opportunity to collect a much greater percentage of the rider's fare and prioritize its revenue objectives. Weil Ant. Test.

Lyft's Response: Disputed. David Riege, Esin Arsan Karasabun, Jeremy Bird, Paul Oyer, and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

1. Lyft Decouples Rider Prices and Driver Earnings

156. Prior to 2018, Lyft calculated rider prices (based on a fare calculation that included the actual time and distance of a trip multiplied by per-minute and per-mile rates set by Lyft) and took a fixed commission on each completed ride based on the percentage of

the fare charged to the rider, with the driver receiving the difference. Riege 7/26, 146:6-17; AG1629 at 1487 (“we were effectively operating a commission model where Lyft charged a service fee to the rider, and collected twenty percent of the fare from the driver.”); *see also* AG1752 at 1454 (after decoupling, Lyft’s “commission % has been 25% for all drivers since April 2021”).

Lyft’s Response: Disputed. David Riege, Esin Arsan Karasabun and/or Jeremy Bird will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of the cited documents and testimony. The documents cited do not support the proposed finding. The document and testimony are subject to Lyft’s motion in limine.

157. Since 2018, Lyft has decoupled the price of the fare it quotes to a rider from the earnings for the driver who provides the ride. *See* AG1752 at 1454-455; *see also* Riege 7/26, 147:1-6, 155:9-156:14. In decoupled pricing, Lyft sets rider prices independently of driver earnings. AG1752 at 151454 (Lyft’s commission “became no longer proportional to Rider Base Price”). *See* AG1549 at 29 (Logan Green, former Lyft CEO: “rider pricing is not directly connected to driver pricing”).

Lyft’s Response: Disputed. David Riege, Esin Arsan Karasabun, Jeremy Bird, Paul Oyer, and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of the cited and testimony and documents (AG1752).

158. Decoupling pricing in this way allows Lyft to use separate considerations to set prices for riders and drivers. Riege 7/26, 148:20-150:10; AG1629 at 1487. It allows Lyft to price rides for riders according to rider willingness to pay while independently setting driver earnings at a level that corresponds with driver willingness to work. Riege 7/26, 94:13-

95:21, 145:17-146:24; AG1629 at 1487; *see also* Weil Ant. Test. This, in turn, allows Lyft to vary the fees and commission that it collects on each completed ride. Riege 7/26, 149:21-150:10; *see also* Weil Ant. Test.

Lyft's Response: Disputed. David Riege, Esin Arsan Karasabun, Jeremy Bird, Paul Oyer, and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

159. If Lyft can maximize the differential between rider willingness to pay and driver willingness to work, decoupled pricing allows Lyft to collect a much greater percentage of the total rider's fare than under its old, fixed commission system. AG1629 at 1488; Riege 7/26, 149:21-150:10; *see also* Weil Ant. Test. And this (*i.e.*, increasing its profits by managing the difference between the fares from riders and the earnings from drivers) has profound effects on Lyft's profitability. Weil Ant. Test.; Riege 148:20-150:10; AG1629 at 151487.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of the document cited. The document cited does not support the proposed finding.

160. In furtherance of this profitability objective, Lyft has worked extensively to refine both sides of its decoupled pricing system (*i.e.*, to independently measure and test rider willingness to pay and driver willingness to work). *See, e.g.*, AG1755 at 2108; AG1756 at 2112; AG1757 at 2247; *see also* Weil Ant. Test. Illustrative examples of these efforts are discussed in the two pricing sub-sections that follow. *See infra*, FF 161-172 (rider willingness) & 173-189 (driver willingness).

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of the documents cited.

2. By Factoring Rider Willingness to Pay into its Decoupled Ride Pricing, Lyft Can Stand to Earn a Greater Percentage of the Ride Fare.

161. When a rider is using the App to look for rides, Lyft presents a rider an “upfront price” of a ride at the time the rider requests a ride. Riege 7/26, 147:9-148:1; AG1758 at 7708.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the cited document.

162. The upfront ride price is based on Lyft's estimated time and distance, as well as modifications to reflect trip characteristics and rider willingness-to-pay. Riege 7/26, 145:17-146:24; 147:9-148:1, 167:5-24; Riege 9/29, 525:10-14; AG1629 at 1487 (stating “we try to charge more when we think passengers are willing to pay more”). Specifically, Lyft's rider pricing model takes into account the trip characteristics, requested, time, location, and other factors based on riders' elasticities of demand. AG1629 at 1487; Riege 7/26, 146:6-17, 147:1-8.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the cited document. The document cited does not support the proposed finding.

163. Elasticity of demand is a measure of the degree that a customer increases or decreases a purchase of a good given a decrease or increase in the price of that good. Weil Ant. Test. For Lyft, this translates into measuring how much a given increase or decrease in the price of a ride affects the rider's likelihood of requesting a ride. AG1629 at 1487; Riege 7/26, 146:6-17, 147:1-8.

Lyft's Response: Disputed. David Riege, Catherine Tucker, and/or Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of the document cited.

164. [REDACTED]

Lyft's Response: Disputed. David Riege, Catherine Tucker, and/or Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of the document and testimony cited.

165. [REDACTED]

Lyft's Response: Undisputed.

166.

Lyft's Response: Undisputed.

167.

Lyft's Response: Undisputed.

168.

Lyft's Response: Undisputed.

169.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited testimony does not support the proposed factual findings.

170.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

171.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence. The cited document does not support the proposed fact.

172.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

3. By Factoring Driver Willingness to Work into its Driver Earnings Calculations, Lyft Stands to Retain a Greater Share of the Overall Ride Payment

173. The evolution of driver earnings at Lyft also illustrates Lyft's pricing-related profit-minded objectives. Weil Ant. Test.

Lyft's Response: Disputed. Vague. Catherine Tucker, Paul Oyer, and/or David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

174. Although rider pricing and driver earnings were decoupled in 2018, Lyft continued to calculate pay for drivers using actual time and distance measurements until 2022. Riege 7/26, 65:15-66:13; 72:2-73:11; AG1688 at 266. Under this approach to driver earnings, Lyft set rates on a regional basis per-mile and per-minutes in a "rate card" and used those rates to calculate driver earnings from a ride when the ride was completed. Riege 7/26, 65:15-66:13.

Lyft's Response: Disputed. The cited document does not support the proposed factual findings. The cited testimony does not support the proposed factual findings. Lyft has objected to the admissibility of the cited testimony. The document and testimony are subject to Lyft's motion in limine.

175. AG1688 includes an example of a rate card displayed on the Lyft driver app for the Boston area. AG1688 at 266; Riege 7/26, 104:7-105:4. The card sets a per-mile rate of \$0.66 and a per-minute rate of \$0.27. AG1688 at 266; Riege 7/26, 104:7-105:4. Lyft determines the rate card amounts, and drivers cannot change the rates listed in the rate card. Riege 7/26, 102:1-13.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited testimony does not

support the proposed factual findings. Lyft has objected to the admissibility of the cited testimony. The document and testimony are subject to Lyft's motion in limine.

176. When a rate card is used to calculate driver's earnings, Lyft adds a flat amount, called a "base fare," that the driver earns irrespective of the number of miles or minutes of the completed ride. Riege 7/26, 69:14-18.

Lyft's Response: Disputed. The document and testimony are subject to Lyft's motion in limine.

177. Lyft has different rate cards for each product type (in Lyft's terms, "mode," e.g., Lyft XL, Lyft XL Black) in each region. AG1629 at 1486; AG1688 at 266. In Massachusetts, Lyft has four regions for the purpose of setting the fares and rate cards. Riege 7/26, 79:18-80:14. AG1629.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited. The document and testimony are subject to Lyft's motion in limine.

178. During this period, Lyft also had a program called "Priority Mode" (sometimes also called "Powermode") where drivers could agree to a lower rate card but receive a higher number of rides. Riege 7/26, 82:9-83:14; AG1759.

Lyft's Response: Disputed. Vague as to time period. The document and testimony are subject to Lyft's motion in limine.

179. When a driver activated Priority Mode, Lyft would move that driver to a higher level in the local queue, which increased the likelihood that the driver would be matched with a ride quickly. Weil Ant. Test. In return for the increase in matching priority,

the driver agreed to accept a reduced percentage of the total rider pay on each ride. *Id.*; AG1759.

Lyft's Response: Disputed. Vague as to time period. The document and testimony are subject to Lyft's motion in limine.

180. Lyft made Priority Mode available only to Lyft drivers who attained higher tiers in the Lyft Rewards program, which was tied to Lyft's measurements of driver performance. AG1759 at 1310 ("Being a top driver has its perks...Platinum drivers like you will have access to Priority Mode."); Weil Ant. Test. Lyft limited Priority Mode to approximately 10 –20% of drivers in a region at any one time. Richard 1/31, 181:3-17.

Lyft's Response: Disputed. Vague as to time period. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited document does not support the proposed factual findings. The document and testimony are subject to Lyft's motion in limine.

181. Lyft permitted drivers to use Priority Mode only for a limited number of hours a week. AG1759 at 1311. Lyft told drivers that while they would be paid less on a per ride basis but would receive an increased volume of rides. AG1759 ("Your rate card will be lower in Priority Mode – but you'll spend more time with passengers and have more opportunities to earn overall.")

Lyft's Response: Disputed. The document and testimony are subject to Lyft's motion in limine.

182. Starting in late 2022, Lyft switched its primary approach for calculating driver earnings from the fixed rate card model discussed above to a variable pricing model called "upfront pay." Riege 7/26, 92:7- 17; AG1752. Under upfront pay, Lyft tells a driver

what they will earn if they accept the ride, doing so at the time Lyft sends the ride request to the driver. Riege 7/26, 89:1-18.

Lyft's Response: Undisputed.

183. Upfront pay involved at least *three* changes pertinent to this case. *First*, Lyft ceased paying drivers based on the actual time and distance of a completed ride. Riege 7/26, 92:1-17. Instead, Lyft began using a model that calculates earnings based on Lyft's estimates about the ride. Riege 7/26, 92:1-17, Riege 8/10, 524:21-525:9. And because there were no longer explicit time and distance rates available to drivers, drivers no longer had information about how much of their earnings were attributed to the time or distance of the ride. AG1753 at 0604. *See also* Cameron Ant. Test.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited document does not support the proposed factual findings. Lyft has objected to the admissibility of this evidence. Portions of the cited anticipated testimony are subject to Lyft's motion to exclude the testimony of Lindsey Cameron.

184. AG1753 is an internal email thread among Lyft employees in April 2021. AG1753. The thread concerns a Lyft experiment regarding the rollout of upfront pay. *Id.* In that update, Lyft employees describe how instead of paying drivers for the actual time and distance, under upfront pay "drivers are paid for estimated time and distance based on obfuscated rates." *Id.* at 0604.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

185. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited document does not support the proposed factual findings. Lyft has objected to the admissibility of this evidence.

186. Lyft's CEO, Logan Green, and Lyft's President, John Zimmer, were part of the above-referenced email chain. AG1753 at 0603. Mr. Green wrote in the thread: "Congrats on launching the experiment! *Feels like a big unlock*. Can't wait to see what we learn." *Id.* at 0603 (emphasis added). In response to Mr. Green's message, Mr. Zimmer added: "Agree – extremely excited about this!!!" *Id.* at 0603.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

187. AG1752 also bears on this *second* pertinent point from Lyft's switch to upfront pay. AG1752 is a Lyft internal document called Upfront Pay Brown Bag Workshop that was prepared by Lyft employees. AG1752; Reige 7/26, 154:2-23. The document summarizes the history of driver pay at Lyft and discusses several of Lyft's motivations behind the change to upfront pay. AG1752 at 1454; Reige 7/26, 155:9-157:8. Under a section entitled "Lyft's Opportunity," the document identifies three ways that upfront pay would benefit Lyft: (1) "contract flexibility to market conditions and driver preferences," (2)

“Experimentation unlock to maximize efficiency,” and (3) “Operational agility to respond to competitive moves.” AG1752 at 1455. At their core, these items concern Lyft’s ability to set driver earnings more precisely based on market conditions, driver willingness to work, and/or competitor price changes. *Id.*

Lyft’s Response: Disputed. Lyft has objected to the admissibility of this evidence. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

188. AG1752 also expressly contemplates varying upfront pay dynamically based on “market conditions, time of week, driver-specific attributes” and certain driver incentives. AG1752 at 1478. In other words, one of Lyft’s goals for upfront pay was to gain the ability to incorporate the elasticity of supply (*i.e.*, specific driver’s willingness to work) into the calculation of the upfront pay offer to drivers on ride request. AG1752 at 1478.

Lyft’s Response: Disputed. The cited document does not support the proposed fact. Lyft has objected to the admissibility of this evidence. David Riege and/or Jeremy Bird will provide testimony showing the proposed finding is inaccurate and/or misleading.

189. *Third*, and relatedly, Lyft’s calculation of upfront pay takes into account “real-time market conditions,” such as driver supply, how many riders open the app and are looking to request rides, and then how many drivers are signed into the app and willing to provide rides. Riege 90:24-91:24, 94:13-95:21. To do this, Lyft uses an algorithm to analyze information about supply and demand conditions in a given region and automatically determines how the rider prices should change and how the driver fares should change. Riege 7/26, 95:2-21. And, when there are not enough drivers, Lyft “oftentimes increases the price

the riders pay,” which can “have the effect of increasing the driver fare as well.” Riege 7/26, 91:9-20.

Lyft’s Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

C. INCENTIVES: HOW LYFT USES INCENTIVES ENCOURAGE DRIVER RETENTION AND INFLUENCE WORKERS’ SCHEDULES

1. Lyft’s Goals For Its Incentives Programs

190. Lyft’s business model requires it to find ways to cost effectively move drivers to places and times where riders are seeking rides. Weil Ant. Test. To do this, Lyft deploys a system to increase driver earnings, called “driver incentives,” that allows Lyft to adjust driver supply in accordance with Lyft’s assessment of where, when, and how many riders are seeking rides. *Id.*

Lyft’s Response: Disputed. Jeremy Bird, David Riege, Paul Oyer, and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

191. Many of Lyft’s incentives provide an increase in a driver’s earnings if the driver completes rides at times and places designated by Lyft. AG1636; Riege 7/27, 308:17-309:4, 309:9-22; *see also* Weil Ant. Test. Lyft structures incentives as either “real time” incentives, in which Lyft notifies drivers of incentives that are available immediately, or “planned” incentives, in which Lyft gives drivers advance notice of incentives. Riege 7/27, 310:3-312:4.

Lyft’s Reponse: Disputed. Lyft has objected to the admissibility of the document cited.

192. Lyft's internal Lyft documents and Lyft's 30(b)(6) witness testimony reflect the importance of Lyft's incentive programs to Lyft's overall business model. Weil Ant. Test.

Lyft's Response: Disputed. David Riege, Catherine Tucker, and/or Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading. Vague.

193. An internal Lyft strategy document drafted by David Riege, the leader of Lyft's Driver Earnings team and Driver Growth team, and Shashi Sharma, a Product Lead at Lyft, states "The optimal strategy for a driver to maximize earnings should be to drive at the times and places Lyft needs them most, stay online, and accept all of the trips we offer them." AG1751 at 1448; Riege 7/26, 158:22-159:17.

Lyft's Reponse: Disputed. Lyft has objected to the admissibility of the document cited.

194. Lyft incentives can be classified as achieving one of two main objectives, (1) increasing the volume of driver hours, or (2) shaping when drivers choose to drive. Riege 7/27, 339:18-340:18, 467:12-468:11.

Lyft's Reponse: Undisputed.

195. Shaping incentives seek to move drivers into areas of high demand, i.e. places and times where Lyft has predicted high demand. Riege 7/27, 329:22-330:16, AG1636, 570; AG1637 ("Shaping incentives Goal: motivate drivers to drive in times/places we need them"). Lyft's 30(b)(6) witness testimony reflects the importance of shaping driver hours in a way that benefits Lyft: "[I]f what Lyft really cares about is providing a good experience to those riders, it's important that drivers are motivated to drive not only more in general, but also at specific times and in specific places where demand is higher." Riege 7/27, 339:18-340:18. To shape driver supply, Lyft restricts some incentives to certain geographic

areas to increase the availability of drivers in areas Lyft has identified demand for rides. Riege 7/27, 339:9-17.

Lyft's Reponse: David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited testimony and documents do not support the proposed finding of fact. Lyft has objected to the admissibility of the evidence cited.

196. In contrast to shaping, volume incentives aim to increase the total number hours that drivers provide rides on the Lyft app. Riege 7/27, 337:14-21; AG1637 (“volume incentives “goal, motivate drivers to drive more”). An increase in driver hours generally translates into more completed trips, which ultimately benefits Lyft. Riege 7/27, 337:22-338:9. Lyft uses volume incentives to keep drivers logged into the app and providing rides, where the driver might otherwise stop or choose to do their driving at a time less desirable for Lyft. Weil Ant. Test.

Lyft's Reponse: David Riege, Paul Oyer, and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has objected to the admissibility of the testimony cited.

2. How Lyft Generates and Targets Driver Incentives

197.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Reponse: Undisputed.

198.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Reponse: Disputed. Lyft has objected to the admissibility of the document cited.

199.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Reponse: Undisputed.

200.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft's Reponse: Disputed. Lyft has objected to the admissibility of the testimony cited.

201. [REDACTED]

Lyft's Reponse: Undisputed.

202. [REDACTED]

Lyft's Reponse: Undisputed.

203. [REDACTED]

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

204. Third, Lyft uses real-time incentives, which are “triggered based on real-time market conditions.” AG1637. Real-time incentives are used as “a last line of defense to help address supply gaps that [they] fail to predict and solve in advance.” AG1637 at 3765.

Lyft's Response: Undisputed.

205. Under Lyft's realtime incentives programs, drivers can earn additional payments on top of a driver's base earnings for accepting and completing rides at locations

identified by Lyft. Riege 7/27, 310:3-312:4. Lyft uses realtime incentives to address gaps in driver supply by bringing more drivers online or into a given area. Riege 7/27, 342:6-343:10; AG1637.

Lyft's Reponse: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The document and testimony cited do not support the proposed finding. Lyft has objected to the admissibility of the testimony cited.

206. In addition to forecasting how much and when to generate incentives, Lyft has also developed strategies to target those incentives to particular driver segments. Riege 7/27, 315:9-316:18. Lyft uses models to predict which drivers will be most responsive to a given incentive and targets incentives to drivers in accordance with its predictions. Riege 7/27, 332:17-23, 316:7-19; AG1636.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited. The document and testimony cited do not support the proposed finding.

207. Lyft employs this type of targeting because "it is in [their] interest" to motivate drivers to complete additional rides at times when drivers would not have otherwise driven and in areas of high demand. Riege 7/27, 316:7-19.

Lyft's Response: Disputed. The testimony cited does not support the proposed finding. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

208. Lyft's strategies for incentives are also informed by continuous experimentation. Weil Ant. Test. The two following experiments are examples of testing Lyft conducted to measure how incentives can result in driver behavior change:

- a) Lyft conducted experiments on how adjustments to incentive payment amounts affected driver behavior. AG1645. In one experiment with Bonus Zone incentives, Lyft experimented with showing different bonus amounts to different sets of drivers to evaluate the cost to Lyft of providing the bonus compared with the number of additional driver hours associated with that bonus level. Riege 7/27, 473:19-474:4; AG1645. This experiment and its goals are explained in AG1645, an internal email chain dated April 2022 among Lyft personnel, including a group called “supply shaping leads.” Riege 7/27, 471:6-18.
- b) Lyft also studied whether drivers’ ability to combine different Lyft incentives meant that some incentives were not motivating drivers to drive more. AG1646 at 1971; Riege 7/27, 432:7-20. In one experiment, Lyft experimented with modifying its “targeting logic” to increase incremental driving hours because the incentives overlap was leading to inefficiency. AG1646 at 1971; Riege 7/27, 431:17-436:9. This experiment and its goals are explained in AG1646, a Science Update email dated August 2018 that was shared to Lyft personnel. Riege 7/27, 427:1-8.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the documents cited.

3. Planned Incentives

209. Lyft’s planned incentives include programs called Ride Streaks, Ride Challenges, and Earnings Guarantees. Riege 7/27, 310:3-312:4.

Lyft’s Response: Undisputed.

210. Ride Streaks are a driver incentive where drivers can earn additional money for completing a certain number of back-to-back rides, without logging off, lapsing, or cancelling a ride. Riege 7/27, 386:18-387:24. Lyft uses Ride Streaks to increase the number of drivers working during peak times, when demand is high. Riege 7/27, 395:17-24, 402:4-9. How much advance notice Lyft provides drivers about the ride streak bonus depends on the type of ride streak, and can range from one to three days advance notice to a week’s notice. Riege 7/27, 396:1-24; Driver Incentives Overview (WIP) AG1637. When drivers complete a streak, Lyft sends messages to drivers through the app to encourage them to start another streak. AG1744.

Lyft's Response: Disputed. The testimony cited does not support the proposed finding.

211. With Ride Challenges, drivers earn a bonus payment if drivers complete a certain number of rides in a particular time interval. Riege 7/27, 310:3-312:4. Lyft offers Ride Challenges to drivers in two intervals per week: weekends and weekdays. Riege 7/27, 310:3-312:4. Lyft targets Ride Challenge incentives to drivers based on which riders Lyft predicts will be most responsive to the incentives. Riege 7/27, 332:3-23.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited testimony does not support the proposed fact.

212. Lyft provides an incentive called "Earnings Guarantee," which guarantees a driver will earn at least a certain amount of money if the driver completes a certain number of rides. Riege 7/27, 310:3-312:4. Lyft uses Earnings Guarantee to bring back drivers who have not completed a ride on the Lyft app within the last 30 days. Riege 7/27, 310:16-312:4, 318:7-13.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

4. Realtime Incentives

213. Currently, Lyft's primary realtime incentive is called "Bonus Zones." Riege 7/27, 310:3-312:4, 315:9-23. With Bonus Zones, Lyft shows all drivers in a region a map, known as a heatmap, on the app that is overlaid with bonus payment markers in various locations. Riege 7/27, 310:3-312:4, 315:9-23. On the heat map, Lyft identifies the location of the bonus and the amount of the bonus earnings a driver can receive for a giving ride in the bonus zone. Riege 7/27, 310:3-312:4; 315:9-23. A driver must drive into the bonus zone

indicated on the map and accept and complete a ride to get the bonus zone payment. Riege 7/27, 310:3-312:4.

Lyft's Response: Undisputed.

214. Lyft considers Bonus Zones a “driver engagement” form of incentive, meaning that it is geared at increasing the usage of the App by existing drivers. Riege 7/27, 325:15-326:10. Lyft uses Bonus Zones to increase driver availability in the zones designated by Lyft. Riege 7/27, 310:3-312:4.

Lyft's Response: Disputed. David Riege will provide contrary testimony. The cited testimony does not support the proposed fact.

215. Bonus Zones replaced an earlier Lyft real-time incentive called Personal Power Zones. Riege 7/27, 405:15-406:18, 419:10-16. Lyft's 30(b)(6) witness stated that Bonus Zones was a “superior product” to Personal Power Zones because it was “more effective at motivating drivers to choose to drive more hours using the Lyft platform.” Riege 7/27, 405:15-406:18, 419:10-16.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading. The cited testimony does not support the proposed fact. Lyft has objected to the admissibility of the cited testimony. The document and testimony are subject to Lyft's motion in limine.

216. Lyft collects the riders' prime time payments in a virtual account, which Lyft then distributes to real-time incentives, namely Bonus Zones, to drivers in the area where prime time is in effect. Riege 7/26, 172:7-174:7; 342:6-343:10.

Lyft's Response: Undisputed.

5. Lyft Rewards: Lyft's Loyalty Program

217. In 2019, Lyft implemented a loyalty program for drivers called "Lyft Rewards," with the dual purpose of improving productivity of drivers and reducing driver turnover. Henry 7/24, 192:16-193:15, 201:22-202:20, AG1639; *see also* Weil Ant. Test; Cameron Ant. Test.

Lyft's Response: Disputed. The proposed fact cites testimony that is subject to Lyft's motion to exclude the testimony of Dr. Lindsey Cameron.

218. Lyft Rewards uses a system of tiers, Silver, Gold, and Platinum, each of which entitles drivers to certain benefits. Henry 7/24, 192:16-193:15, AG1639. To reach a tier, drivers must meet qualifying criteria based on a points threshold and star ratings. Henry 7/24, 192:16-193:15, AG1639.

Lyft's Response: Undisputed.

219. Drivers earn points by completing rides on the Lyft app during busy hours and must accumulate a certain number of points to qualify for each tier. Henry 7/24, 192:16-193:15; AG1639. Similarly, with star ratings, Lyft sets a minimum star rating requirement and drivers must maintain that minimum rating or Lyft will demote the driver to a lower tier.⁵ Henry 7/24, 192:16-193:15; AG1639. Drivers get promoted in real time as they achieve the qualification for a tier, but at the end of every three months, the driver's reward status resets. AG1639 at 2951.

Lyft's Response: Undisputed.

220. Lyft provides benefits to drivers for attaining levels within Lyft Rewards. Henry 7/24, 193:17-194:13; AG1639, 952. The Lyft Rewards program provides savings on

⁵ Drivers must have a star rating of 4.9 out of 5 or higher to achieve the two highest tiers. Henry 7/12, 95:2-21; AG1639.

auto expenses, such as discounts on roadside assistance, cashback on gas, and savings on auto maintenance and repairs. AG1639, 952. The Rewards program also gives drivers access to exclusive features on the app such as the ability to see the ride destination when accepting rides, extra daily uses of Destination Mode, along with access to Priority Mode, Preferred Mode, and Streak Bonus privileges. AG1639, 952. Prior to Lyft's use of Upfront Pay, one of the benefits of Lyft Rewards included access to additional features and ride information, such as the destination of a ride before accepting. Henry 7/24, 282:11-283:4; AG1639.

Lyft's Response: Disputed. Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading. The testimony and documents cited do not support the proposed fact. The document and testimony are subject to Lyft's motion in limine.

221. The Lyft Rewards program is structured to reward hours driven, and acceptance rates, in busy markets and to increase driver supply and conversion rates, and to reinforce driver behaviors consistent with Lyft's core business. Weil Ant. Test. Lyft Rewards is similar to the incentive and bonus programs used by many other businesses with their workforces: it creates a mechanism that leads workers to benefit themselves while furthering the profitability of the company where they work. In so doing, they reduce the turnover and increase the productivity of key workers. Weil Ant. Test.

Lyft's Response: Disputed. Catherine Tucker and/or Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading.

222. Lyft's motivations behind Lyft Rewards are explained in slides from AG1639, a Lyft internal slide presentation, entitled "Lyft Rewards 101 – An Introduction to Driver Loyalty." Henry 7/24, 197:6-199:6. AG1639 was created at the time that Lyft was releasing the Lyft Rewards program to drivers. Henry 7/24, 197:6-199:6; AG1639.

Lyft's Response: Undisputed.

223. In that presentation, Lyft states that “[t]he primary goal of the program is to motivate drivers to drive when they’re needed most: busy hours.” AG1639 at 2948; Henry 7/24, 201:21-202:7; *see also* AG1749 at 6403 (Lyft team members estimating “PMM” profitability impact from Priority mode experiment to be 0.1 to 0.3 cents/ride). The Lyft app informs drivers where and when these “busy hours” occur. AG1639 at 2948, 2953; Henry 7/24, 192:16-193:15.

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document.

224. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft Response: Disputed. Olivia Henry will provide testimony showing the proposed finding is inaccurate and/or misleading.

225. Additionally, Lyft designed the rewards program, with three-month qualification cycles, creating a further mechanism for reinforcing driver productivity. AG1639, 2351. Each cycle, drivers’ points reset to zero and, to reach a tier, drivers must accumulate sufficient points by driving during times Lyft designates as “busy hours.” AG1639, 2951; Henry 7/24, 252:23-255:12. This means, as Lyft acknowledged, that drivers

have to “have to continuously exhibit desired behaviors period-over-period to retain their rewards.” AG1639 at 2951; *see* Cameron Ant. Test.

Lyft Response: Disputed. Olivia Henry, Paul Oyer, and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. Lyft has also objected to the admissibility of Lindsey Cameron’s testimony.

226. An internal email from Lyft’s “Driver Growth” team to Lyft’s “Marketing email group” in August 2020, discusses the launch of Lyft Rewards and provides insights into Lyft’s productivity goals. AG1747. In that email, Lyft stated that one of its goals was to use Lyft Rewards to determine “if tiers and non-monetary benefits can be an effective lever for shaping driver behavior.” Henry 7/24, 207:24-208:14; AG1747 at 8438-9. Lyft outlined key success metrics for Lyft Rewards to be increasing “peak driver hours” and increasing “gold/platinum driver retention.” AG1747 at 8438-9; Henry 7/24, 208:23-209:21.

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document.

227. Lyft will send messages to drivers to tell them how many points they need, when to drive and what rating they need to keep or to move up a level. AG1746; AG1744; AG1743. Messages like these, nudging drivers to keep driving to earn bonuses and points to attain a higher tier status, are highly motivating and encourage drivers to change their behavior and accept more rides. Cameron Ant. Test.

Lyft Response: Disputed. The cited testimony is subject to Lyft’s motion to exclude the testimony of Dr. Lindsey Cameron. Paul Oyer, Catherine Tucker, Deborah Jay and/or one or more of Lyft’s driver witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

228. The following are examples of emails from Lyft to drivers about Lyft rewards:

- a) AG1640 is an email from Lyft a driver that they have nearly qualified for Platinum Tier status. The email informs the driver that they must perform another 38 rides by the end of February to qualify. AG1640 Finally, the email advertises a number of rewards offered to Lyft drivers who achieve Platinum Tier status including: .07 cents savings per gallon at Shell gasoline stations, free roadside assistance from Allstate, faster service and the ability to skip lines at the Lyft Transit Hub, and access to Roadside Radar – a Lyft program which offered automatic assistance with common ride issues, without requests needed. AG1640.
- b) AG1641 is an email from Lyft congratulating a driver for qualifying for Platinum Tier for the first time. Lyft congratulates the driver on maintaining a 4.9/5 minimum star rating and earning enough points driving that month. AG1641. Lyft informs the driver that they now qualify for 24/7 free roadside assistance from AllState, free tax services from TurboTax, discounts on autocare with Openbay, two extra uses of Destination Mode per day, the ability to redeem Lyft points for cash or Lyft ride credits, and the ability to view up front trip information before accepting or rejecting a ride. AG1641.
- c) AG1642 is an email from Lyft to a driver informing the driver they requalified for Platinum Tier status by maintaining a minimum 4.9/5 star rating and "rack[ing] up points during busy hours". The email informs the Lyft driver that they are now qualified to receive up front trip information before accepting or rejecting a ride, two extra uses of Destination Mode per day, more ride requests through Priority Mode, and access to ride requests and bonuses through Preferred Mode. AG1642.

Lyft's Response: Undisputed.

6. Driver Value Score – Measuring the Productivity and Value of Drivers

229. After publicly launching Lyft Rewards in 2020, Lyft introduced an internal metric the following year called “Driver Value Score” to measure drivers based on their productivity and value to Lyft. Henry 7/24, 303:1-13; AG1643.

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document. The cited testimony does not support the proposed fact.

230. An internal Lyft presentation AG1643, entitled “Driver Value Score, Insights,” prepared by Lyft’s Driver Growth team discusses the score and how Lyft uses it. AG1643; Henry 7/24, 318:3-319:4.

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document and testimony.

231. [REDACTED]

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document and testimony. The document cited does not support the proposed fact.

232. [REDACTED]

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document. The document cited does not support the proposed fact.

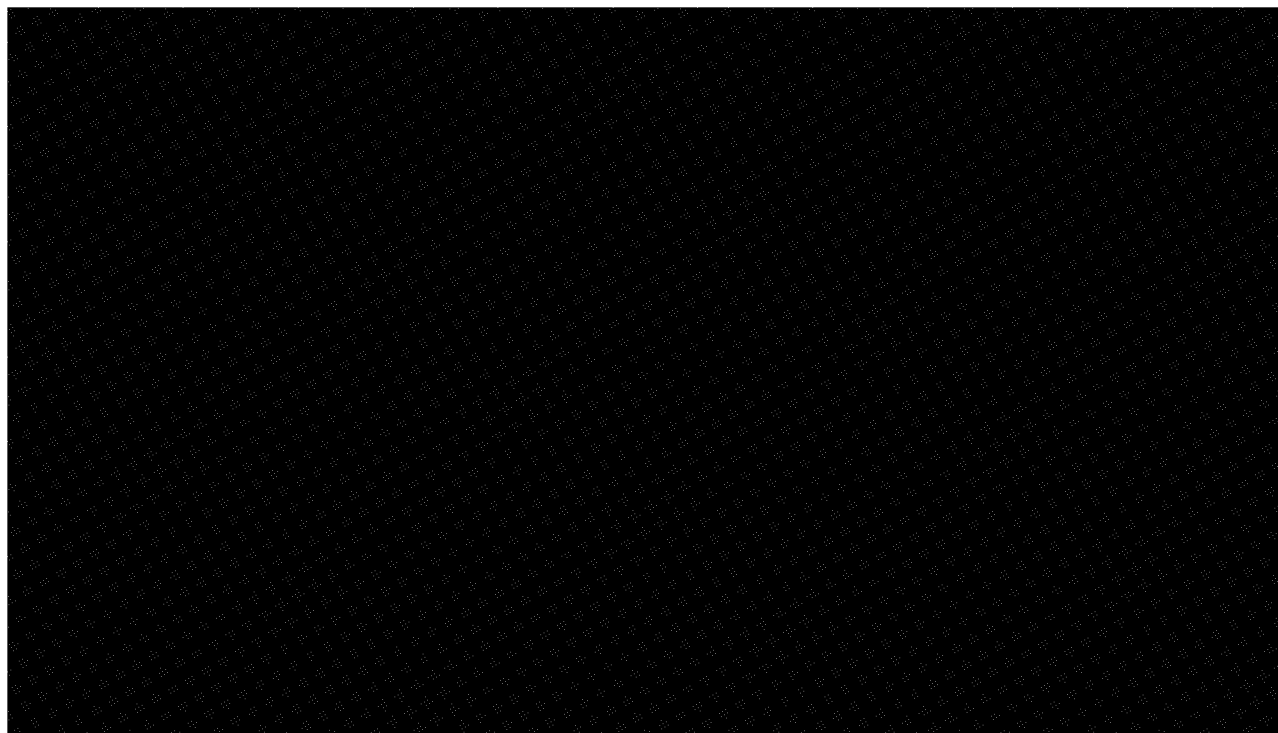
233. [REDACTED]

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document and testimony. The cited testimony and document do not support the proposed fact.

234. [REDACTED]

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document. The document cited does not support the proposed fact.

235. [REDACTED]



Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document.

236.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lyft Response: Disputed. Lyft has objected to the admissibility of the cited document.

LYFT'S SERVICE FEES: HOW LYFT EARNS REVENUE ON RIDES

D. LYFT'S SEC FILINGS AND EARNINGS CONFERENCE CALLS

237. On March 1, 2019, Lyft filed its Form S-1 with the U.S. Securities and Exchange Commission. AG1559. AG1559 is a true and accurate copy of Lyft's Form S-1. Anticipated Testimony of Edward Cherubin ("Cherubin Ant. Test.").⁶

Lyft's Response: Undisputed.

238. Lyft filed its S-1 in anticipation of the initial public offering of its stock in 2019. AG1559; Banerjee 10/6, 20:21-21:19.

Lyft's Response: Undisputed.

239. For every fiscal year since 2019, Lyft has filed a Form 10-K with the U.S. Securities and Exchange Commission. AG1554-AG1558. AG1554-AG1558 are true and accurate copies of Lyft's Form 10-Ks for 2019, 2020, 2021, 2022, and 2023. AG1000; Cherubin Ant. Test.

Lyft's Response: Undisputed.

240. Lyft's Form S-1 and Form 10-Ks contain disclosures from Lyft to investors about Lyft's business model, financial condition, revenues, risk factors Lyft believes it could face, and key terms that Lyft uses to describe its business. AG1554-AG1559; Banerjee 10/6, 24:7-25:21; 137:18-139:12.

Lyft's Response: Undisputed.

241. In addition to its Form S-1 and Form 10-Ks, Lyft filed quarterly reports (Form 10-Qs) with the SEC. Banerjee 10/6, 151:4-152:9. In connection with these quarterly SEC filings, Lyft executives make statements which they are authorized to make on behalf

⁶ Mr. Cherubin is a Senior Investigator in the Attorney General's Civil Investigations Division. The sole purpose of Mr. Cherubin's testimony is to authenticate various exhibits, such as the S-1 and various 10-Ks referenced in the foregoing paragraphs.

of Lyft regarding Lyft's financial results for the previous quarter, financial outlook, and updates on Lyft's business and key initiatives. AG1534-AG1553.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence. The cited documents do not support the proposed factual finding.

242. Lyft sometimes provides Earnings Supplemental Data to investors in conjunction with its quarterly Earnings Conference Calls. Banerjee 10/6, 156:5-15. These supplemental materials contain statements made by Lyft that are intended to be a visualization of key points from the earnings calls. *Id.* 156:5-157:1.

Lyft's Response: Undisputed.

243. Lyft understands that investors may rely on information contained in these materials when purchasing stocks. *Id.* 25:12-21; 139:3-8.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

E. LYFT'S SERVICE FEES

244. In its S-1, Lyft includes a Management Discussion and Analysis of Financial Condition and Results of Operations, which it advises investors to read in conjunction with its reported financial data. AG1559 at 83.

Lyft's Response: Undisputed.

245. As part of its discussion and analysis of financial condition and results of operations, Lyft discloses its revenue recognition policy for its Ridesharing business to investors. AG1559 at 110.

Lyft's Response: Undisputed.

246. According to its revenue recognition policy, Lyft recognizes revenue on a ride when the ride is complete. AG1559 at 111.

Lyft's Response: Undisputed.

247. The revenue that Lyft derives from a ride is primarily in the form of a service fee plus a commission that Lyft charges a driver. AG1559 at 98.

Lyft's Response: Undisputed.

248. This service fee and commission are based on the difference between the rider fare and the driver fare on a ride and make up the part that Lyft keeps when facilitating the transaction. Riege 7/26, 215:3-15.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding.

249. Lyft collects its service fee plus commission after the ride is completed. AG1559 at 98; *see also* Banerjee 10/6, 105:13-106:9.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

250. As drivers accept more rider leads and complete more rides, Lyft earns more revenue. AG1556 at 24724.

Lyft's Response: Undisputed.

251. Lyft sets the amount of the service fee and commission. Riege 7/26, 108:6-17; AG1629 at 151487; AG1630 at 9057 ("Commission. This line item represents Lyft's take from the ride. . . . It is calculated by multiplying the commission percentage that is given by the supply service by the earnings for the ride").

Lyft's Response: Undisputed.

252. Lyft's fees and commission varies from ride-to-ride. Riege 7/26, 110:14-111:8 (platform fee variable); AG1559 at 91 ("We receive a service fee plus a commission that varies based upon the price of a ride.").

Lyft's Response: Undisputed.

253. Drivers are not able to negotiate the amount of Lyft's service fee and commission. *See* FF 144.

Lyft's Response: Disputed. The cited paragraph of Plaintiff's Preliminary Proposed Findings of Fact as to Lyft does not support the proposed factual finding.

254. Drivers do not know the amount of service fee and commission that Lyft collects on a ride until after the ride is complete. *See* FF 241.

Lyft's Response: Disputed. The cited paragraph of Plaintiff's Preliminary Proposed Findings of Fact as to Lyft does not support the proposed factual finding.

255. Lyft attributes the service fee and commission that it collects from riders and drivers on each ride to the services it claims to provide to riders and drivers (e.g., matching, payment processing, quality verification). AG1559 at 234; *see also* Banerjee 10/6, 44:19-46:14.

Lyft's Response: Undisputed.

256. But Lyft does not recognize revenue for these discrete services that Lyft states it provides drivers and riders (i.e., matching, payment processing, verification of the quality of market participants). Banerjee 10/6, 46:15-47:19.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

257. Rather, the only transaction that transpires between riders and Lyft to which Lyft attributes Ridesharing revenue is the facilitation of “completion of rides,” upon which time “riders . . . pay[] a fare. Part of that fare is earned by drivers, and part of that fare is earned by Lyft.” Banerjee 10/6, 50:13-51:9.

Lyft’s Response: Disputed. The cited testimony does not support the proposed factual finding.

258. And Lyft further admits that if a ride is not completed, it does not collect a service fee and commission or otherwise generate revenue from its provision of the services it claims to provide to riders and drivers. Banerjee 10/6, 37:18-22; 58:16-59:1; 105:13-18; 106:2-9.

Lyft’s Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

F. LYFT’S REVENUE ACCOUNTING MODEL

259. Substantially all of Lyft’s revenue for its Ridesharing business comes from the service fees and commissions that Lyft collects from completed rides. AG1559 at 98; *see also* AG1554 at 24413; AG1555 at 24616; AG1556 at 24724.

Lyft’s Response: Undisputed.

260. In its SEC filings and Earnings Supplemental Data, Lyft reports Revenue per Active Rider to investors, which it defines as “quarterly revenue divided by the number of Active Riders for the same quarter.” AG1559 at 87-88; *see also* AG1577.⁷

Lyft’s Response: Undisputed.

261. The amount of Revenue Lyft earns per Active Rider is directly related to the frequency of rides, its service fees and commissions from each ride, and Lyft’s spend on driver incentives. AG1559 at 87 (“Since the second quarter of 2016, Revenue per Active Rider has increased, driven by greater ride frequency, increased service fees and commissions, improved efficiency and effectiveness of driver incentives and reduced market-wide price adjustment promotions offered to ridesharing riders.”).

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

262. As Lyft increases its service fee and commission from each ride, Lyft’s Revenue per Active Rider increases. AG1559 at 87; *see also* Banerjee 10/6, 93:16-94:3.

Lyft’s Response: Disputed. The cited document and testimony do not support the proposed factual finding.

263. As Lyft “deploys” its driver incentives more efficiently and effectively, Lyft’s Revenue per Active Rider increases. Banerjee 10/6, 94:4-96:1; *see also* AG1559 at 87. For Lyft, this means reducing “ineffective spend, meaning [it’s] deploying [its] resources more efficiently to get [its] desired outcome.” Banerjee 10/6, 95:59.

⁷ As of Q4 2023, Lyft no longer presents Revenue per Active Rider to investors, though it informs investors that this metric is still calculable because Lyft plans to continue to disclose the underlying components. AG1577 at 4.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

264. As riders take rides more frequently on Lyft's Ridesharing app, Lyft's Revenue per Active Rider increases. AG1559 at 87; *see also* Banerjee 10/6, 93:12-15.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding.

265. Revenue per Active Rider therefore reflects both Lyft's revenue per ride, as well as the number of rides taken by every Active Rider. Banerjee 10/6, 89:6-90:15. As such, Lyft informs its investors that Revenue per Active Rider represents Lyft's ability to "drive usage and monetization" of its Ridesharing app. AG1559 at 87.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding.

266. Lyft recognizes that its Revenue per Active Rider increases when it "improv[es] service levels" for riders in its Ridesharing marketplace. AG1571 at 3 ("Record revenue per Active Rider of \$51.79 grew 14 percent year-over-year and benefited from improving service levels in a large mix of longer, higher revenue rides.").

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

267. For Lyft, "improving service levels" means lowering ETAs—the time it takes for a driver to pick up a rider—and improving the pricing that faces a rider. Banerjee 10/6, 163:12-166:24; *see also* Riege 7/26, 161:3-162:2.

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

268. In Lyft's S-1, Lyft also provides investors with definitions of key business metrics that it uses to evaluate its business and measure its performance, including "Bookings"⁸ and "Revenue as a Percentage of Bookings." AG1559 at 89-91.

Lyft's Response: Undisputed.

269. Lyft defines Bookings as the "aggregate charges for Rides on our platform, as well as other revenue" less "amounts from which we would not generate revenue, such as pass-through amounts paid to drivers as our calculation of service fees and commissions excludes such amounts." AG1559 at 90.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

270. Bookings reflects "the total dollar value of transportation spend" that Lyft facilitates through its platform, excluding the amounts that Lyft does not generate revenue from. AG1559 at 90.

Lyft's Response: Undisputed.

271. Lyft believes Bookings is a "key indicator of the utility of transportation solutions" provided on its platform. AG1559 at 90.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

272. Lyft also reports Revenue as a Percentage of Bookings, which it defines as "revenue for a period divided by Bookings for the same period." AG1559 at 91.

⁸ Beginning in Q3 2023, Lyft introduced a new metric of "Gross Bookings," which it explains differs from the "Bookings" metric as defined in its S-1 in that "Gross Bookings" includes applicable taxes, tolls and fees in addition to the total dollar value of transactions invoiced to Rideshare riders. Bookings also includes dollar values invoiced for Lyft's other offerings that were not part of Lyft at the time of its IPO. AG1577 at 4.

Lyft's Response: Undisputed.

273. Revenue as a Percentage of Bookings is another word for Lyft's "take rate" on Ridesharing rides. Banerjee 10/6, 127:7-18. It is a measure of Lyft's ability to generate additional revenue and/or additional Bookings, potentially at the same rate or at differing rates of growth. *Id.* 128:20-129:8.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

G. LYFT'S MANIPULATION OF ITS TAKE RATE

274. Lyft considers its take rate on Ridesharing rides a "key measure" of its ability to increase driver utilization. AG1559 at 90.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

275. "Driver utilization" refers to the amount of time that a driver is performing rides during the time that they are logged into Lyft's Ridesharing app. Banerjee 10/6, 129:18-130:2. As drivers perform more rides during the time they are logged into Lyft's Ridesharing app, Lyft believes that may result in an increase in Lyft's Bookings, or in Lyft's revenue, or both. Banerjee 10/6, 129:18-130:2.

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

276. As such, Lyft reported in its S-1 that it expected its take rate to increase as it improved the utilization of driver hours on its Ridesharing app. AG1559 at 91. In other words, as drivers performed more rides, Lyft would be "generating incremental dollars that are less costly." Banerjee 10/6, 130:14-131:2.

Lyft's Response: Disputed. The cited document and testimony do not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

277. Relatedly, Lyft considers its take rate on Ridesharing rides a key measure of its ability to “increase the efficiency and effectiveness of driver incentives to meet demand.” AG1559 at 90.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

278. This is because Lyft's spend on driver incentives has the effect of reducing its revenue, as the incentive component is effectively deducted from the service fee and commission that Lyft earns from each ride. Banerjee 10/6, 79:1-8; *see also* AG1559 at 91.

Lyft's Response: Disputed. The cited testimony and document do not support the proposed factual finding.

279. Therefore, when Lyft improves the “efficiency and effectiveness” of driver incentives, (*i.e.* reduces its “ineffective spend, meaning [it's] deploying [its] resources more efficiently to get [its] desired outcome” (Banerjee 10/6, 94:12-95:9)) that reduces the amount of driver incentives that have the effect of decreasing Lyft's revenue per ride. AG1559 at 91.

Lyft's Response: Disputed. The cited testimony and document do not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

280. Inversely, Lyft informed its investors in its S-1 that its take rate declined during a period in which it needed to provide larger incentives to drivers to help keep up with rider demand during that period. AG1559 at 91. This is because Lyft may choose to increase

the incentives associated with a given ride, which may mean that ride would be recorded as a reduction to revenue. Banerjee 10/6, 66:3-10.

Lyft's Response: Disputed. The cited testimony and document do not support the proposed factual finding.

281. Lyft admits that it lowers its take rate so that its Ridesharing marketplace remains competitive with other marketplaces, and the marketplace remains balanced. Banerjee 10/6, 132:22-133:21. A balanced marketplace results in an increase in Lyft's revenue. Riege 7/27, 487:14-23 ("Balancing the marketplace benefits Lyft in that a balanced marketplace leads to more rides, which will lead to an increase in Lyft's revenue, because Lyft's fees are earned from rides that are completed and the difference between the fares from riders and the earnings from drivers.").

Lyft's Response: Disputed. The cited testimony does not support the proposed factual finding. Lyft has objected to the admissibility of this evidence.

282. Lyft also considers its take rate on Ridesharing rides a key measure of its ability to "earn increased service fees and commissions from drivers." AG1559 at 90-91.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

283. Indeed, Lyft reported that its Revenue as a Percentage of Bookings improved as it increased its service fees and commissions on completed rides. AG1559 at 91.

Lyft's Response: Undisputed.

H. LYFT'S REVENUE FROM RIDESHARING

284. Substantially all of Lyft's revenue for its Ridesharing business comes from the service fees and commissions that Lyft collects from completed rides. AG1559 at 98; *see also* AG1554 at 24413; AG1555 at 14616; AG1556 at 24724.

Lyft's Response: Undisputed.

285. The following table shows Lyft's total reported revenue for fiscal years 2016-2023. AG1559 at 81; AG1556 at 24803; AG1557 at 68; AG1558 at 77.

Fiscal Year	Total Revenue (in Millions)
2016	\$0.343
2017	\$1,059
2018	\$2,156
2019	\$3,615
2020	\$2,364
2021	\$3,208
2022	\$4,095
2023	\$4,404

Lyft's Response: Disputed. The cited documents do not support the proposed factual finding.

286. [REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

287. [REDACTED]

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

I. LYFT'S NETWORK

288. In a section titled “Our Business Model” in its S-1, Lyft describes its business model as “depend[ing] significantly” on its ability to “efficiently attract and retain drivers and riders” in the markets in which Lyft operates. AG1559 at 85. Lyft believes that having a robust set of users in its marketplace is important to the success of its business. Banerjee 10/6, 71:8-20.

Lyft's Response: Undisputed.

289. Additionally, Lyft believes the success of its business model depends significantly on its ability to “increase the amounts that riders spend on Lyft's platform over time.” AG1559 at 85.

Lyft's Response: Undisputed.

290. A key factor affecting the success of Lyft's business is its ability to attract and retain riders and increase its share of riders' transportation spend. AG1559 at 95.

Lyft's Response: Undisputed.

291. As Lyft states in its S-1, it grows its business by “attracting new riders” and “increasing their usage” of Lyft's platform over time. AG1559 at 95.

Lyft's Response: Undisputed.

292. Once riders start using Lyft, Lyft aims to “provide a quality experience and a diverse offering of products to accommodate different transportation use cases, retain riders and encourage repeat usage.” AG1559 at 95; see also Banerjee 10/6, 75:19-74:9 (“[I]t's a reflection of how well you're delivering for riders, such that they continue to interact with the network.”).

Lyft's Response: Undisputed.

293. Indeed, Lyft acknowledges that if it fails to grow its rider base, expand riders' use of its platform over time, or increase its share of riders' transportation spend, the results of its operations would be harmed. AG1559 at 95.

Lyft's Response: Undisputed.

294. In order to provide a "satisfying user experience" for riders on its ridesharing marketplace, Lyft needs to ensure "an ample number of drivers are in the right place when a rider requests a Ride." AG1559 at 95.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

295. To make sure drivers are available to riders who want rides, Lyft provides incentives to drivers to drive "when and where" it anticipates "high demand" as well as to retain drivers in its marketplace. AG1559 at 95.

Lyft's Response: Undisputed.

296. For this reason, Lyft informs its investors, "when we enter a new market, we typically need to make significant upfront investments to drive sufficient scale of drivers in order to establish a functioning marketplace for our riders." AG1559 at 95.

Lyft's Response: Undisputed.

J. LYFT'S KEY BUSINESS METRICS

297. In Lyft's S-1, Lyft discusses a series of rider-focused key business metrics, including Active Riders. AG1559 at 85-91. Lyft discusses these metrics in a section of its S-1 titled "Our Business Model." *Id*; Anticipated Testimony of Daniel Leistra-Jones.

Lyft's Response: Disputed. The cited document and anticipated testimony do not support the proposed factual finding.

298. Lyft defines “Active Riders” as “all riders who take at least one ride on our multimodal platform through the Lyft app during a quarter.” AG1559 at 86.

Lyft’s Response: Undisputed.

299. Lyft informs its investors that the number of Active Riders is a “key indicator of the scale of our community and awareness of our brand.” AG1559 at 86; *see also* Banerjee 10/6, 87:8-19.

Lyft’s Response: Undisputed.

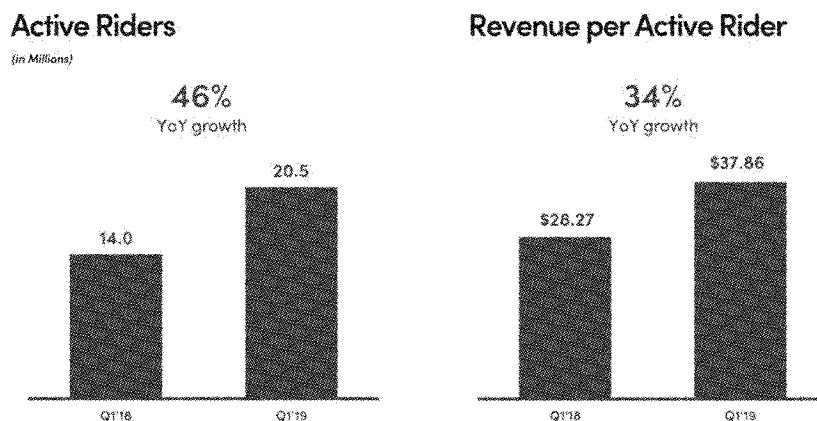
300. Lyft also believes that the growth of its Active Rider base is indicative of its long-term revenue growth potential. AG1559 at 86. Lyft believes Active Riders is material to Lyft’s financial condition, as it is “an important reflection of how well we’re delivering, again, a great experience to the users of our technology.” Banerjee 10/6, 83:2-9.

Lyft’s Response: Undisputed.

301. Yet, as Active Riders is meant to capture only the number of riders in Lyft’s user base, not drivers, Lyft ultimately admitted that this key metric is a reflection of how well Lyft is delivering a great experience for *riders*. Banerjee 10/6, 83:10-85:7 (emphasis added).

Lyft’s Response: Disputed. The cited testimony does not support the proposed factual finding.

302. In the Earnings Call Supplemental Data Lyft provides on a quarterly basis to investors in conjunction with its Earnings Conference Calls, Lyft routinely reports both year-over-year growth in both Active Riders, along with Revenue per Active Rider. *See, e.g.*, AG1560 at 5 (depicted below); *see also* AG1561 at 5 (reporting same metrics); AG1562 at 5 (same); AG1563 at 5 (same); AG1564 at 5 (same).



Lyft's Response: Undisputed.

303. Lyft also reports “Rides” to its investors, which it defines as “the total number of rides completed using our multimodal platform, across all modes of transportation we offer that directly contribute to our revenue.” AG1559 at 88; *see also* Banerjee 10/6, 110:11-15 (testifying that rides that have not been completed are not considered a Ride for this purpose).

Lyft's Response: Undisputed.

304. As Lyft only recognizes revenue from a Rideshare ride upon completion of the ride, Lyft considers the number of Ridesharing rides as an important component of Lyft's ability to generate revenue. Banerjee 10/6, 109:13-22; *Id.* 110:23-111:12; *see also* Riege 7/26, 59:21-60:9 (“As I mentioned before, the Lyft service fee—or the Lyft fees are a function of keeping or collecting the difference between what a rider pays for a ride and what a driver earns on that ride. So as a general rule, the more rides that are completed using the platform, the more total trips that occur. That is tied to increasing Lyft revenue.”).

Lyft's Response: Disputed. Lyft has objected to the admissibility of this evidence.

LYFT'S SELF-DESCRIPTION: HOW LYFT DESCRIBES ITSELF AS MUCH MORE THAN A PLATFORM FOR CONNECTING RIDERS AND DRIVERS.

A. MISSION STATEMENT

305. In its S-1, Lyft states that its mission is to “[i]mprove people’s lives with the world’s best transportation.” AG1559 at 8.

Lyft’s Response: Undisputed.

306. Lyft also states, “We believe that the world is at the beginning of a shift away from car ownership to Transportation-as-a-Service, or TaaS.” AG1559 at 8.

Lyft’s Response: Undisputed.

307. Lyft states “We believe the best transportation is the safest, most reliable, lowest cost to deliver and most caring about the communities served.” AG1559 at 10.

Lyft’s Response: Undisputed.

308. Lyft’s S-1 includes a section titled “Singular Focus on Transportation” in which Lyft states, “Transportation is not simply a massive market opportunity, but also an extremely complex problem demanding complete commitment and thoughtful execution. We are singularly focused on revolutionizing transportation. This enables us to continually address the needs of a diverse and evolving user base through innovative offerings, scale our user network and grow our market share. We believe that this focused approach is critical to truly leading and winning the TaaS market.” AG1559 at 10.

Lyft’s Response: Undisputed.

B. LYFT’S DISCUSSION OF RISK FACTORS

309. In the S-1, Lyft identifies certain risks that investors should consider before investing in Lyft’s stock. AG1559 at 28.

Lyft’s Response: Undisputed.

310. The risks Lyft identifies in its SEC filings include the following:

Lyft's Response: Disputed. The proposed factual finding does not provide the name of the trial witness or description of the trial exhibit that will provide evidence of the fact.

311. That Lyft may fail to cost-effectively attract and retain qualified drivers. AG1559 at 30 (“If we fail to cost-effectively attract and retain qualified drivers, or to increase utilization of our platform by existing drivers, our business, financial condition and results of operations could be harmed.”)

Lyft's Response: Undisputed.

312. That Lyft has offered, and may continue to offer, significant incentives to drivers and discounts and promotions to consumers. AG1559 at 30-31.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

313. That driver incentives could fail to increase driver utilization. “We frequently test driver incentives on subsets of existing drivers and potential drivers, and these incentives could fail to attract and retain qualified drivers or fail to increase utilization by existing drivers, or could have other unintended adverse consequences.” *Id.* at 30.

Lyft's Response: Undisputed.

314. That riders may choose other forms of transportation over Lyft. *Id.* at 30-31 (“Our success depends in part on our ability to cost-effectively attract new riders, retain existing riders and increase utilization of our platform by current riders. Our riders have a wide variety of options for transportation, including personal vehicles, rental cars, taxis, public transit and other ridesharing and bike and scooter sharing offerings. Rider preferences may also change from time to time.”).

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

315. That riders may not find the rides from the Lyft platform to be reliable, safe, and affordable, or relevant. *Id.* at 31 (“Further, if existing and new riders do not perceive the transportation services provided by drivers on our platform to be reliable, safe and affordable, or if we fail to offer new and relevant offerings and features on our platform, we may not be able to attract or retain riders or to increase their utilization of our platform.”).

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

316. That its business will be adversely affected if Drivers were classified as employees instead of independent contractors. AG1559 at 35.

Lyft's Response: Undisputed.

317. Lyft also informs investors in the S-1 that its growth depends almost exclusively on the number of rides drivers complete. *Id.* at 84. (“We generate substantially all of our revenue from our ridesharing marketplace that connects drivers and riders. We collect service fees and commissions from drivers for their use of our ridesharing marketplace. As drivers accept more rider leads and complete more rides, we earn more revenue.”)

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

C. LYFT'S DISCUSSION OF COMPETITORS

318. Lyft identifies its market as transportation in its S-1, writing “[t]ransportation is a massive market. In 2017, transportation was the second largest

household expenditure after housing and was almost twice as large as healthcare and three times as large as entertainment.” AG1559 at 11.

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

319. Lyft identifies some of its competitors as including Uber, Gett, Via, bike and scooter companies including Uber Jump, Lime and Bird. *Id.* at 151.

Lyft’s Response: Undisputed.

320. Additionally, Lyft identifies taxi cabs, livery companies and automotive manufacturers as competitors. *Id.* at 151.

Lyft’s Response: Undisputed.

321. Lyft identifies personal vehicle ownership as a competitor, stating “Our multimodal platform enables TaaS, which we believe offers a viable alternative to car ownership.” *Id.* at 83.

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

D. EARNINGS CALL STATEMENTS

322. Lyft hosts quarterly Earnings Conference Calls for investors, during which Lyft executives provide financial results for the previous quarter, financial outlook, and provide updates on Lyft’s business and key initiatives. AG1534 at 3.

Lyft’s Response: Undisputed.

323. Lyft executives make statements on these Earnings Conference Calls in their capacity as Lyft executives on topics that they were authorized to speak about. *Id.*

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

324. During these quarterly Earnings Conference Calls, both in opening remarks and in response to investor questions, Lyft executives routinely tell call participants how ridesharing revenues are a primary source of Lyft's value.

- a) On Lyft's Q1 2019 Earnings Conference Call, Lyft CFO Brian Roberts stated: "Total revenue for the quarter increased 95% year-over-year to \$776 million, driven by an increase in the number of active riders, and the revenue generated on our platform per active rider. The number of quarterly active riders increased by 46% year-over-year to a record 20.5 million primarily due to the wider market adoption of ride-sharing and our initiatives to attract and retain riders. ... As we continue to drive usage and monetization of our platform, revenue per quarterly active rider increased 34% year-over-year to \$37.86." AG1534 at 7-8.
- a) On Lyft's Q2 2022 Earnings Conference Call, Lyft CFO Elaine Paul stated: "In the second quarter, we delivered revenues of \$991 million, representing an increase of 13% versus Q1 and 30% versus last year. Q2 revenue was just 3% below the all-time peak reached in Q4 of 2019. Revenue growth was driven primarily by rideshare, which was up 27% year over year in Q2. Relative to guidance, Q2 revenues came in toward the high end of our range. Active Riders grew by more than 2 million versus Q1 and were the highest they've been since early 2020. Active Riders were 19.9 million in Q2, up 12% quarter over quarter and 16% versus last year. Sequential new rider growth outpaced the growth of returning riders, which is great to see since it speaks to the runway in front of us." AG1547 at 7.9

Lyft's Response: Disputed. The cited documents do not support the proposed factual finding. The cited documents contain necessary context that is not included in the factual finding.

325. Lyft executives also underscore the relationship between rides being performed and its financial outlook:

- b) On Lyft's Q2 2021 Earnings Call, CEO Logan Green said: "We designed our program to focus rewards on peak hours, which is when drivers can earn the most. *This is a great way to align incentives, because it is also when the*

⁹ See also AG1534 at 13 (similar, Roberts, Q1 2019); AG1535 at 9 (similar, Roberts, Q2 2019); AG1537 at 4, 11, 12 (similar, Roberts & Green, Q4 2019); AG1538 at 10 (similar, Roberts, Q1 2020); AG1540 at 4, 10 (similar, Green & Roberts, Q3 2020); AG1541 at 9 (similar, Roberts, Q4 2020); AG1542 at 8-9 (similar, Roberts, Q1 2021); AG1549 at 7 (similar, Paul, Q4 2022); AG1550 at 6 (similar, Paul, Q1 2023).

business benefits the most from having more driver hours.” AG1539 at 9 (emphasis added).

- c) On Lyft’s Q2 2021 Earnings Call, CEO Logan Green said: “[T]he market for drivers is large and broad and we’ve always looked at it taking the broad view of looking at the whole labor pool, and obviously COVID has sent shocks through the whole labor market that *significantly impacted us* and most players out there as well as a host of other businesses.” AG1543 at 20 (emphasis added).
- d) On Lyft’s Q3 2021 Earnings Conference Call, Lyft CFO Elaine Paul stated: “In Q3, new driver activations increased 34% quarter-over-quarter and jumped over 100% versus the number of activations in the first quarter of this year. The growth of new drivers contributed to strength in active drivers, which increased nearly 20% quarter-over-quarter. *And this improving supply position helped fuel volume growth that enabled us to outperform our financial outlook.*” AG1544 at 6 (emphasis added).
- e) On Lyft’s Q4 2022 Earnings Conference Call, Lyft CEO Logan Green stated: Revenue was the highest in our company’s history, and our results beat our outlook on every metric, excluding the action we took to strengthen our insurance reserves. Rideshare demand was strong. We had 20.4 million active riders, which was the highest level in nearly three years, and revenue per active rider reached a new record.” AG1549 at 5.
- f) On Lyft’s Q1 2023 Earnings Conference Call, Lyft CEO David Risher stated: “So, in Q1, we have the most drivers in about three years, which is really pretty exciting for us, and we see this growth has accelerated in Q1 for the first time in the year on the driver supply side. *And obviously, it’s very important for our business* and for our riders as well.” AG1550 at 20 (emphasis added).
- g) On Lyft’s Q4 2023 Earnings Conference Call, Lyft CFO Erin Brewer stated: “We are prioritizing operational excellent and seeing great results. Driver hours great 47% year over year in Q4. This reflects strong engagement by existing drivers and meaningful growth in new drivers. So, even while rider demand continued to increase, we were able to convert more ride intents into completed rides. The combination of these factors supported our accelerated rides growth along with improving service levels, including significantly less prime time year over year and faster ETAs. We ended the year healthier and stronger, which is reflected in our financial performance.” AG1553 at 1.¹⁰

¹⁰ See also AG1549 at 7(similar, Paul, Q4 2022); AG1545 at 5, 30-31 (similar, Green & Paul, Q4 2021); AG1544 at 7 (similar, Roberts, Q3 2021); AG1542 at 4, 7-8 (similar, Green & Roberts, Q1 2021); AG1539 at 11 (similar, Roberts, Q2 2020); AG1535 at 31 (similar, Roberts, Q2 2019).

Lyft's Response: Disputed. The cited documents do not support the proposed factual finding. The cited documents contain necessary context that is not included in the factual finding.

326. Also during these Earnings Conference Calls Lyft executives highlight the number of drivers on its network, often emphasizing its efforts to attract and retain a superior supply of drivers to meet the demand for ride requests:

- h) On Lyft's Q1 2021 Earnings Conference Call, Brian Roberts stated, "Yeah, I mean, we can't share much more [on driver supply] than we have already, but I would say we're pleased in terms of when we look at our funnel. We're seeing growth in the number of leads coming into the funnel. And that is generally, obviously, you fill in the funnel and then you drive activations of new drivers. So we do expect more new drivers coming into the platform, as well as bringing back drivers who may have stopped driving during the pandemic." AG1542 at 26.
- i) On Lyft's Q3 2022 Earnings Conference Call, Logan Green stated, "Overall service levels on our network keep getting better. Across the U.S., our average rideshare ETA was faster in Q3 than it was in Q2 '22 and got even closer to where it was before COVID, and our Q3 rideshare conversion rate was the highest that they've been in several years. Additionally, for riders, the average price per mile declined quarter over quarter, reflecting less prime time. Drivers were also incredibly productive in Q3. Active drivers gave 17% more rides on average than they did in 2019." AG1548 at 5.
- j) On Lyft's Q2 2023 Earnings Conference Call, David Risher stated, "Prime time, also called surge pricing by Uber, is where you basically don't have enough driver supply, so you have to price it high so it can sense more drivers out there and to also sort of suppress demand. That's a bad form of price raising. It's a particularly bad form because riders hate it with a fiery passion. And so we're trying to really get rid of it. And because we've got such good driver in supply, which we've worked really hard to get, it's decreased significantly. So just to quote that stat, our -- the share of rides affected by prime time is down 35% from Q1." AG551 at 21-23.
- k) On Lyft's Q4 2023 Earnings Conference Call, Erin Brewer stated, "As David discussed, we're working to give drivers and riders more great reasons to choose Lyft. We believe this will result in more efficient driver and rider

acquisition, higher levels of retention and engagement, and incremental revenue streams with attractive margins.” AG1553 at 4¹¹

Lyft’s Response: Disputed. The cited documents do not support the proposed factual finding. The cited documents contain necessary context that is not included in the factual finding.

327. Lyft executives routinely describe Lyft as involved in and/or focused on transportation:

- l) On Lyft’s Q4 2019 Earnings Conference Call, Co-Founder and President John Zimmer stated, “For almost any enterprise, transportation is a critical part of doing business. Lyft is particularly well-positioned not only because of *our singular focus on consumer transportation* but also because of our well-known reputation for our values and culture.” AG1537 at 7 (emphasis added).
- m) On Lyft’s Q1 2019 Earnings Conference Call, its first since going public, Co-founder and President, John Zimmer stated, “One, we are singularly focused on transportation. Two, we are investing in our driver community, and three, we are successfully executing on our enterprise strategy we call Lyft business. *It is our singular focus on consumer transportation* that has allowed us to go deep and both competitive advantages along the full stack of offerings.” AG1534 at 5 (emphasis added).
- n) On Lyft’s Q1 2020 Earnings Conference Call, John Zimmer stated, “COVID-19 highlights *how Lyft has become essential for modern transportation systems*. Governors and Mayors have recognized this and many have partnered with us as a critical link for non-emergency medical transport, food banks and other essential needs.” AG1538 at 7-8 (emphasis added).
- o) On Lyft’s Q2 2020 Earnings Conference Call, John Zimmer stated, “Now, more than ever, delivering on *our mission to improve people's lives with the world's best transportation* begins with users' health and safety.” AG1539 at 6 (emphasis added).
- p) On Lyft’s Q4 2020 Earnings Conference Call, Logan Green stated, “As a result, the pop in leisure travel that I mentioned may primarily occur within the US, which we're well positioned to capture. I think people are eager to get back to normal. There is pent-up demand to see friends, go to restaurants and bars and attend sporting events and concerts. *And by taking Lyft*, these venues can all be

¹¹ See also AG1542 at 21 (similar, Green, Q1 2021); AG1551 (similar, Risher, Q2 2023); AG1552 at 5 (similar, Risher, Q3 2023).

accessed responsibly without drinking and driving.” AG1541 at 6 (emphasis added).

- q) On Lyft’s Q1 2021 Earnings Conference Call, Logan Green stated, “As the vaccine rollout continues, warmer weather takes hold, and pandemic-related restrictions are eased, we anticipate more people wanting to go out and get together more often. And we’re working hard to get riders where they need to go.” AG1542 at 5.
- r) On Lyft’s Q2 2021 Earnings Conference Call, then-CFO Brian Roberts stated, “Since our inception, skeptics have debated the ridesharing business model and the events over the past year encourage some to question why going deeper as a transportation network makes sense. We have now demonstrated the *tremendous value of our transportation focus*.” AG1543 at 7 (emphasis added).
- s) On Lyft’s Q3 2021 Earnings Conference Call, John Zimmer stated, “As we look forward, we continue to see a very long runway to both add riders and capture more of their individual spend on transportation. Our work in addressing the \$1 trillion transportation market opportunity is just getting started.” AG1544 at 12.
- t) On Lyft’s Q4 2021 Earnings Conference Call, John Zimmer stated, “*As we’ve said for many years, we’re a transportation-focused company*.” AG1545 at 20 (emphasis added).¹²

Lyft’s Response: Disputed. The cited documents do not support the proposed factual finding. The cited documents contain necessary context that is not included in the factual finding.

328. To underscore the relationship between rides and Lyft’s revenue, Lyft focuses on key metrics related to rides and riders:

- a) On Lyft’s Q1 2019 Earnings Conference Call, Lyft CFO Brian Roberts stated: “Just as a data point, revenue per active rider jumped 16% quarter-on-quarter in the second quarter of last year, which led to 27% quarterly revenue growth and a 111% annual revenue growth.” AG1534 at 23.

¹² See also AG1534 at 5 (similar, Zimmer, Q1 2019); AG1535 at 32 (similar, Zimmer, Q2 2019); AG1536 at 4, 6, 7 (similar, Green, Q3 2019); AG1537 at 15, 16 19 (similar, Green, Q4 2019); AG1540 at 15–16, 19, 20 (similar, Green, Q3 2020); AG1541 at 6, 18, 20 (similar, Green & Zimmer, Q4 2020); AG1542 at 5-6 (similar, Green, Q1 2021); AG1543 at 12 (similar, Roberts, Q2 2021); AG1544 at 12 (similar, Zimmer, Q3 2021); AG1546 at 4, 10 (similar, Green & Zimmer, Q1 2022); AG1548 at 13 (similar, Zimmer, Q3 2022); AG1549 at 4, 13 (similar, Green & Zimmer, Q4 2022).

- b) On Lyft's Q1 2019 Earnings Conference Call, Lyft CFO Brian Roberts stated: "And we believe the market under-appreciates the importance of revenue per active rider. Lyft isn't like a Spotify or a Verizon Wireless in the sense where a typical user has an unlimited plan. Frequency matters, ride mix matters. I think it's obvious not all riders are created equal and we plan to focus on the ones who can drive the most profitable growth. And so in Q4 as you point out, we generated \$44.40 of revenue per active rider. We believe that this figure can significantly grow over-time by increasing ride frequency and just capturing our share of higher-value users and more valuable rides." AG1537 at 19 (emphasis added).¹³

Lyft's Response: Disputed. The cited documents do not support the proposed factual finding. The cited documents contain necessary context that is not included in the factual finding.

329. Finally, Lyft executives emphasize Lyft's control over various aspects of the ridesharing market, like ride pricing, driver earnings, and driver behavior, as well as how Lyft actions relating to drivers benefit Lyft:

- a) On Lyft's Q4 2023 Earnings Conference Call, Lyft CEO David Risher stated: "So, in the background, we've been working quite hard at making sure that our drivers are paid as well as they can." AG1553 at 9(emphasis added).
- b) On the same call, Risher also stated: "We have made a commitment that Lyft drivers will earn at least 70% of rider payments each week after external fees. Most of Lyft riders earn more than that already, but there are instances where that's not the case. The rideshare industry talks a lot about driver earnings often in terms of averages. But with averages, some people walk away unhappy. That's why we designed this as a guaranteed floor." AG1553 at 2 (emphasis added).
- c) On Lyft's Q3 2020 Earnings Conference Call, Lyft President John Zimmer said: "Giving drivers opportunities to maximize their earnings is critical to help them make the most of their time on the road. In addition, in Q3, we expanded our Lyft Rewards loyalty program, giving more to drivers when they drive during busy times. These efforts to increase retention and incremental usage of our platform by drivers are expected to lead to reduced incentives classified as contra revenue as a percentage of revenue in Q4 versus Q3. *These efforts should*

¹³ See also AG1547 at 7 (similar, Paul, Q2 2022); AG1534 at 29-30 (similar, Roberts, Q1 2019).

also improve the service levels on our marketplace, which translates to increased drive conversion.” AG1540 at 8.

- d) On Lyft’s Q2 2022 Earnings Conference Call, Lyft President John Zimmer said: “We’ve seen that upfront pay can *increase the number of drivers using Lyft and the amount of time they spend driving while also increasing ride completion rates.*” AG1547 at 13 (emphasis added).
- e) On Lyft’s Q4 2022 Earnings Conference Call, Lyft CEO Logan Green said: “Going forward, we’re *prioritizing competitive service levels to maximize long-term growth and retention.*” AG1549 at 5-6 (emphasis added). *See id.* at 12 (same, Zimmer).
- f) On Lyft’s Q1 2023 Earnings Conference Call, Lyft CEO David Risher stated: Here’s the game plan. First, at a time when demand is increasing, we are all about execution. We’re focusing on the basics of what riders and drivers want and demand and in particular, on *competitive pricing that increases our ride volumes.*” AG1550 at 5 (emphasis added).¹⁴

Lyft’s Response: Disputed. The cited documents do not support the proposed factual finding. The cited documents contain necessary context that is not included in the factual finding.

E. PUBLIC STATEMENTS BY EXECUTIVES

330. Logan Green served as the Chief Executive Officer (“CEO”) of Lyft from March 2013 to April 17, 2023. AG1501 at 157; AG1502 at 1.

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

331. John Zimmer served as the President of Lyft from March 2013 to April 17, 2023. AG1501 at 157; AG1502 at 1.

¹⁴ *See also* AG1539 at 7, 26 (similar re “waitlists”, Zimmer & Roberts, Q2 2020); AG1541 at 8, 13 (similar, Roberts, Q4 2020); AG1542 at 6 (similar, Green, Q3 2020); AG1542 at 9, 20 (similar, Roberts & Zimmer, Q1 2021); AG1543 at 10, 20 (similar, Roberts & Green, Q2 2021); AG1545 at 22-23 (similar, Zimmer, Q4 2021); AG1547 at 6, 17 (similar, Zimmer, Q2 2022); AG1549 at 29 (similar, Green, Q4 2022); AG1550 at 5, 13 (similar, Risher, Q1 2023).

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

332. David Risher was announced as the Incoming CEO of Lyft on March 26, 2023. He has served as the CEO of Lyft from April 17, 2023, to the present. AG1503 at 1. *See also* AG1502 at 1 (similar). At the time of the announcement, Mr. Green, Mr. Zimmer, and Mr. Risher all wrote letters that were posted on Lyft's website. AG1502 (Mr. Green); AG1504 (Mr. Zimmer); AG1505 (Mr. Risher).

Lyft's Response: Undisputed.

333. On March 29, 2019, Logan Green, the CEO of Lyft, and John Zimmer, the President of Lyft, were interviewed by Andrew Sorkin on CNBC. AG1506. The statements Mr. Green and Mr. Zimmer made during the interview were in their capacities as the CEO and President of Lyft on topics they were authorized to speak about. *Id.*

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

334. Mr. Green made the following statements during the March 29, 2019, interview with CNBC:

- a) "So, we want Lyft to be the first place you go to figure out which type of transportation you're going to take. So, we don't care if it's a ride on our platform or if it's a bus or train. And in fact, we'd love to connect you to whatever the best option is." AG1506 at 14:35-14:55.
- b) "We think almost every mile will take place on a transportation as a service network. We think, you know, people will continue to -- to own cars, but today, when you own a car, you're dealing with 10 plus different companies to piece together this experience. So, you go to a dealership to buy it. You have a separate company -- you go to insurance, a separate company to service it, you know, register it, park it, tow it, clean it, fuel it, charge it. And at each step of the way, you know, none of these experiences are integrated with each other. You're paying retail at every step. We are quite confident that we can create a single better consumer experience and use technology and our on the ground operations create a better customer experience and that we can use the scale of

our network. So last year, over 30 million unique riders across the country used Lyft. It's almost 10% of the population and we can use the scale of our business and that leverage to deliver better costs and a better experience. So that's the magic of the service, right? ... It's just a better experience at a better price point. *Id.* at 17:31-18:44.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

335. During the interview, Mr. Zimmer, in response to question about whether some rides were not profitable for Lyft, responded "No, no, no. That's not correct." AG1506 at 2:53-2:57. Mr. Zimmer also made the following statements during the March 29, 2019, interview with CNBC:

- a) "American households spending \$9,000 every year owning and operating a car and using it 5% of the time, ... if you think we can make that more efficient and save people thousands and thousands of dollars by doing all your transportation services in one place, then this is the right company for you." AG1506 at 3:30-3:56.
- b) "I think it's important to realize is that for – for us to be successful, we have to be great at technology, which includes software. You named several software companies And we have to great at physical operations. We're here today in our driver service center, which we're building out across the country. And it's not enough to just have software. You need to combine that with the read world. And that's something that we believe we can do better than anyone else." *Id.* at 6:35-7:01.
- c) "One, we've been and will always be focused on what we can control and what we do and that's paying off. People are choosing Lyft. You've seen our market share go from just over 20% to nearly 40% across the United States. And yes, Lyft is focused on consumer transportation, focused on North American, and focused on taking care of our drivers and passengers and that's paying off." *Id.* at 8:38 – 9:04.
- d) "Yeah, I think one thing to realize that in 2016 and prior here was a need for us to get up to scale. Scaling our business is a three-minute pickup time beyond that. You know, now what we have is 80% of our passengers are coming in organically. They're coming in because of the brand, because of the service, [and] because of our driver community. And so, it's not about a price, you know, battle between the two players anymore. It's about getting the best service, having the best software, and real-world operations." *Id.* at 10:26-10:57.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding. The cited document contains necessary context that is not included in the factual finding.

336. On November 20, 2019, John Zimmer, the President of Lyft, was interviewed by Wilfred Frost on CNBC. AG1507 (video), AG1533 (transcript). The statements Mr. Zimmer made during the interview were in his capacity as the President of Lyft and on topics he was authorized to speak about. AG1507.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

337. Mr. Zimmer made the following statements during the November 20, 2019, interview with CNBC:

- a) "And I think when we came into the market-- it was a new category of transportation. We started peer-to-peer transportation. We-- we initiated kind of that-- that new category." AG1507 at 0:00–0:10.
- b) "I think the way I think about it is, on the customer side, we are competing, I'd say more than we are on the driver side. For drivers to be able to have access to both platforms, for us in the newer market, that's advantageous that they can, you know, put some hours on one and some hours on the other. On the customer side it's all about, how can we provide the best product experience. And that's I'd say where the competition is more heavy" *Id.* at 0:32–1:02.
- c) "Yeah, so we are the network. We have the relationship with the customer. You know, we have over 20 million active riders on our platform today. . . [b]ut the customer wants 100% of their rides fulfilled. And so, the customer will come to us because they can get both an autonomous vehicle for 10% of their trips, and a driver for 90% of their trips. We're going to be able to provide all their transportation through that transition. And therefore, we are positioned as the network to best capitalize on that future." *Id.* at 1:52–2:51.
- d) "And so, similar to how we created a new category of transportation, my belief is that we're going to be able to create new protections while maintaining flexibility for drivers." *Id.* at 4:59–5:09.

- e) “Not interested. We-- we are focused on consumer transportation. That may have, you know, an interesting market. Food may have an interesting market at some point in the future. But to us, it is extremely different. You know, and if it is part of someone’s transportation wallet, we are interested in it. If it is within the consumer transportation use case, we are interested in it. Outside of that, we’re going to stay very focused. And we think that’s paying off.” *Id.* at 6:17–6:40.

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

338. On September 22, 2022, the YouTube account “The Rideshare Guy” posted a video interview led by Harry Campbell with John Zimmer. AG1508. The statements Mr. Zimmer made during the call were in his capacity as the President of Lyft on topics he was authorized to speak about. *Id.* 0:20-0:38.

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

339. Mr. Zimmer made the following statements during the September 22, 2022, interview with The Rideshare Guy:

- a) “That was the original tagline was, Lyft was your friend with a car and that other company was everyone’s private driver. And so it’s lasted, you know, well, maybe the tagline or the mustache and the fist bump have changed.” AG1508 at 4:03-4:15.
- b) “The – the next step on that, it is now that you’re telling drivers the info they need to make informed decisions, make sure that everything is worth their while.” *Id.* at 11:36-11:46.
- c) “The goal is that with upfront pay, we want drivers to want all the rides, but it’s on us, the company to make sure it is enticing and interesting. And so that’s what upfront pay I think, really exposes and puts the onus on us to solve. So, yes, a long trip bonus is in experimentation and being rolled out over the next several months. I’m super excited about that.” *Id.* at 12:35-12:59.
- d) “When I started studying hospitality, the first things, you know, we’d do is work in the hotel. If you’re going to create an environment or a community or hospitality service for people, you need to understand the work and I wish I

could drive more. *Id.* at 22:52-23:09 (responding to interviewer's question regarding the impact of personally driving on Lyft).

- e) "I would lay claim to, you know, we by surviving and by leading with some of those really early products that – that made it obvious, if you take care of drivers – that it's good for the business." *Id.* at 30:06-30:17.
- f) He also responded "I agree" to the interviewer's comment "It's crazy that you never knew th[e] information" that drivers are now provided via upfront pay. *Id.* at 11:02-11:06.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

340. On October 11, 2017, John Zimmer, the President of Lyft, was interviewed by Deirdre Bosa on CNBC. AG1509. The statements Mr. Zimmer made during the interview were in his capacity as the President of Lyft and on topics he was authorized to speak about. *Id.*

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

341. Mr. Zimmer made the following statements during the October 11, 2017, interview with CNBC:

- a) "We're gonna keep doing what we have been doing. It took us four years to hit the first hundred-million rides, and we did that in the last three months. And so, we're moving incredibly fast. And by focusing on our drivers, treating them well, and our passengers by providing them with the best customer experience, we're going to keep making progress." AG1509 at 0:01-0:18.
- b) And over the next 10 to 20 years, that spend will transition from car ownership to people accessing transportation as a service. We think eventually people will be subscribing to Lyft plans instead of owning a car." *Id.* at 1:03-1:14.
- c) "And as we move towards transportation as a service, there's going to be a lot more need for drivers" *Id.* at 3:30-3:36.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

342. On November 26, 2018, John Zimmer, the President of Lyft, was interviewed by John Furrier on Mayfield People First Network. AG1510. The statements Mr. Zimmer made during the interview were in his capacity as the President of Lyft and on topics he was authorized to speak about. *Id.*

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

343. Mr. Zimmer made the following statements during the November 26, 2018, interview with Mayfield People First Network:

- a) "We were two people that were incredibly passionate about our mission, which is to improve people's lives with the world's best transportation. So, we shared this passion. We shared this vision and we're two completely different people. So, our approaches were different. His -- his approach is, often product oriented and my approach is often hospitality oriented. And the fact is for transportation, you need to combine those two pieces." AG1510 at 4:44–5:06.
- b) "Uber existed, but they were doing cabs and limos. And we said, you know, that may work for 1% of the population, but we want to use this underutilized asset, which is the car that's sitting in everyone's parking spot or garage. And so, you know, that DNA of innovation, that DNA of being the underdog, the challenger has always been true to us, but also the people that we brought on and hired." *Id.* at 5:59–6:21.
- c) "Yeah, so we've done a billion rides since -- since inception, and we're focused on providing a full alternative to car ownership." *Id.* at 15:18–15:28.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

344. On December 11, 2018, John Zimmer, the President of Lyft, was interviewed by Laurie Segall on CNN Business. AG1511. The statements Mr. Zimmer made

during the interview were in his capacity as the President of Lyft and on topics he was authorized to speak about. AG1511, 14:55-17:22.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

345. Mr. Zimmer made the following statements during the December 11, 2018, interview with CNN Business:

- a) "We just take for granted that our cities have been designed around a car. We take for granted that Americans spend more money on the car than they do on food and only use their car 4% of the time. And something clicked for me at that moment, which said, we don't have to take that for granted. I think we could fix this." AG1511 at 6:07-6:28.
- b) "Yeah, Logan and I are heavily involved in our hiring process and we're working really hard to bring together a diverse set of leaders that have expertise in areas in technology and outside of technology. And then we marry those two pieces together to deliver the world's best transportation. One of our most recent hires was Secretary of Transportation, Anthony Foxx. Anthony Foxx was running the transportation system for the entire country. He was a regulator. He was also a mayor. And so as in order to build the best transportation in our cities, we have to think like Anthony Foxx and other mayors and now we get to have his perspective at the table." *Id.* at 11:18-11:40.
- c) "I was just incredibly excited to meet-- meet him, you know, for the work he had done for transportation. He was known as bringing a lot of equity to transportation and Charlotte where he was the mayor. And so I was-- you know, it was exciting to meet him. It was kind of towards the end, I think, of his time at the Department of Transportation." *Id.* at 12:14-12:36.
- d) "Getting it right, means maximizing a solution, a business that provides the most value to the people that are using it. In our case transportation. We want to create transportation that is more equitable than it has been in the past." *Id.* at 14:02-14:27.
- e) "I think at its core having empathy for the people that are affected by your platform, whether that's in our case, a taxi driver or a taxi medallion owner that is impacted by what we do. I sat down with every general manager in San Francisco of a taxi company when we launched. I wanted to understand their perspective. It doesn't mean that we always agree. It doesn't mean that we don't take on hard challenges where there are-- Positive and negative externalities, but I would not be sitting here today if I didn't believe, which I do that, the net of what we are doing at Lyft is extremely positive. And we're just 1% of-- of

the way there. I'm the type of impact we can have on our cities.” *Id.* at 14:55–15:25.

- f) “Over the next ten years-- I believe that we will have a proposition with Lyft for transportation as a service that is better than owning a car and the majority of miles will turn over to platforms like Lyft in that case, even if—8 We 10X, you know, go from 1% of miles, traveled to 10% of miles traveled. And if only 20% of those trips are with human drivers versus autonomous vehicles we’ll need twice as many drivers on the platform. I don't see a time in the next decade or longer that we will need less drivers is what I would say to that individual. And I would also say that I feel that incredible responsibility to make sure I know that that person has a family that that person has needs and that we as a company will do everything possible to make sure that if there was that extreme of a transition, which, again, I don't believe to be true, then we would be responsible in that.” *Id.* at 16:32–17:2.
- g) “Well, the first thing is when we started Lyft-- Six years ago, we said, we want to build the safest transportation for our loved ones to get around in. So, we looked at what--You know, other modes of transportation, whether it was taxis, limos, transit, what they required of drivers and passengers, and then we created a new benchmark. So, for-- for hire vehicles prior was about \$750,000 have insurance. We set it at a million dollars. Some require a background check, some didn’t; we require background checks for driving record check as well as criminal background checks. And so that was step one, imagining we're going to use the service. I'm both a driver and passenger on the Lyft platform. And so really understanding what that experience is like and saying, when are we going to feel comfortable with their own loved ones using the service.” *Id.* at 44:39–45:2.

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

346. On October 24, 2022, John Zimmer, the President of Lyft, was interviewed by Jamie Heller on Wall Street Journal Tech Live. AG1512. The statements Mr. Zimmer made during the interview were in his capacity as the President of Lyft and on topics he was authorized to speak about. *Id.*

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

347. Mr. Zimmer made the following statements during the October 24, 2022, interview with Wall Street Journal Tech Live:

- a) “In the beginning, people said, you know, when we said we’re going to get people to ride in and other people’s cars, they said, you know, my mom said, never ride in cars with strangers and never take candy from strangers and in the early days Lyft drivers had pink Starbursts, so we did both.” AG1512 at 1:22-1:35
- b) “We always believed that transportation itself is the largest. If you think about this, whether it’s a three year, five years, ten-year period, if you think about the opportunity, we have in front of us to affect a trillion dollars of annual spend, that’s how much is spent on transportation every year. It’s the second highest houses expense. The only thing Americans spend more money on is the house itself and Americans spend or use their car 4% of the time.” *Id.* at 5:32-5:58.
- c) “And so, I went to our general counsel about a year into this and said, hey, can we add health benefits for drivers that are driving, you know, more than 30, 40 hours per week? And she said – ‘The current rules around classification are that you either have employees or independent contractors and that benefits have historically been tied to employment.’ Well, we created this new transportation category. Can we-- can we change this? Obviously, labor law for many good reasons is not as malleable. And so-- but we’ve made progress.” *Id.* at 9:44-10:20.
- d) “We are just a small part of the transportation system overall in California.” *Id.* at 14:45-14:54.

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

348. On March 26, 2023, Lyft issued a press release announcing its “Leadership Succession Plan.” AG1503. Quoted in the release were John Zimmer, the President of Lyft, and Sean Aggarwal, then-Lyft board chair. The quoted statements in the release were made by Mr. Zimmer and Mr. Aggarwal in their respective capacities for Lyft on topics they were authorized to speak about. AG1503.

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

349. Mr. Zimmer made the following statement in Lyft's March 26, 2023, press release: "Logan and I were told we were crazy to think people would share a ride in another person's car. Over a decade later, Lyft is creating economic opportunity, building a sustainable future, and helping people make meaningful connections — with the support of millions of riders and drivers. I can't wait for what's next, and look forward to working with our deeply-capable successor, David, to improve people's lives with the world's best transportation." AG1503 at 1.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

350. Mr. Aggarwal made the following statements in Lyft's March 26, 2023, press release: "On behalf of the board and everyone else at Lyft, I want to thank Logan and John for everything they have done to build Lyft. They worked tirelessly to create the company that pioneered the rideshare industry. Today, one in three people across the country has taken a Lyft and Lyft drivers have earned tens of billions of dollars." AG1503 at 1.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

351. On March 26, 2023, David Risher, as the Incoming CEO of Lyft, posted a letter on the Lyft blog. AG1505. The statements Mr. Risher made in the letter were in his capacity as Incoming CEO of Lyft and on topics he was authorized to speak about. *Id.*

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

352. Mr. Risher made the following statement in his March 26, 2023, letter posted on Lyft's blog: "Our primary vehicle (ha!) will be rideshare. And we're going to focus

on making sure our riders and drivers have an incredible experience every time they interact with us, so they use us again and again to get out into the world.” AG1505 at 1.

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

353. On March 26, 2023, Logan Green, as then-CEO of Lyft, posted a letter on the Lyft blog. AG1502. The statements Mr. Green made in the letter were in his capacity as CEO of Lyft and on topics he was authorized to speak about. *Id.*

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

354. Mr. Green made the following statements in his March 26, 2023, letter posted on Lyft’s blog:

- a) “Today, one in three people across the country has taken a Lyft. Cities have come to life as millions of people get off the couch to go do things they never would have done and see people they never would have seen. Tens of thousands of lives have been saved with fewer drunk drivers on the road. And millions of people have saved thousands of dollars by getting rid of a car or living car-free.” AG1502 at 1.
- b) “It was unthinkable before 2012 that strangers might tap a button and pay to ride in each other’s cars.” *Id.*
- c) “And with our commitment to fully electrifying every Lyft on the road by 2030, we are playing a major role in accelerating the electrification of transportation.” *Id.*
- d) “As I pass the baton to David, I want to share this: We continue to have an incredible opportunity to push the boundaries on how transportation can help connect people and build a better future.” *Id.*

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

355. On March 26, 2023, John Zimmer, as co-founder and President of Lyft, posted a letter on the Lyft blog. AG1504. The statements Mr. Green made in the letter were in his capacity as CEO of Lyft and on topics he was authorized to speak about. *Id.*

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

356. Mr. Zimmer made the following statement in his March 26, 2023, letter posted on Lyft's blog: "I've deeply loved my interactions with the driver community who make so much of this possible, from the early days of personally interviewing every driver, to ringing in each New Year by joining them on the road for 11 years straight—thank you to everyone who's put their heart into giving a ride." AG1504 at p.1.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

357. On March 28, 2023, David Risher, as the Incoming CEO of Lyft, was interviewed by Bloomberg Technology, with the segment posted on Bloomberg Technology's YouTube channel. AG1513 (video), AG1514 (screengrab). The statements Mr. Risher made during the interview were in his capacity as Incoming CEO of Lyft and on topics he was authorized to speak about. AG1513.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

358. Mr. Risher made the following statements during the March 28, 2023, interview with Bloomberg Technology:

- a) "I'm not ruling it out, but really the focus is gonna be on picking you up on-time, matching, price, making sure you get dropped off on-time, that's the focus." *Id.* at 2:22–2:29.

- b) “The second thing though, which I think is a real asset and is underappreciated is -- millions and millions of people, a third of the U.S. population has taken a Lyft since its beginning. Millions of drivers have made billions of dollars on Lyft. So, this is not a small thing, this is quite a complicated thing.” *Id.* at 5:51–6:06.
- c) “Look -- the best way to get drivers, is to get passengers. If you’ve got a lot of passengers, the drivers will come.” *Id.* at 8:17–8:22.

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

359. On March 28, 2023, David Risher, as the Incoming CEO of Lyft, was interviewed again by Bloomberg Technology, with the segment also posted on Bloomberg Technology’s YouTube channel. AG1529 (video), AG1530 (screen grab). The statements Mr. Risher made during the interview were in his capacity as Incoming CEO of Lyft and on topics he was authorized to speak about. AG1529.

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

360. Mr. Risher made the following statements during this second March 28, 2023, interview with Bloomberg Technology:

- a) “Top three goals for Lyft as CEO—so first thing is, I want to pick you up on time, right? So you’re a customer, I want to pick you up on time. I want to make sure you get a good price.” AG1529 at 0:02-0:10.
- b) “And the third thing is, I want to get you out of the house. We’re not just competing against Uber, we’re competing against staying at home. Get out. Go out to dinner, have a movie. That’s a goal that I’ve got, but I think it’s a goal for you as well.” AG1529 at 0:16-0:26.

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

361. On March 29, 2023, David Risher, as the Incoming CEO of Lyft, was interviewed by Yahoo Finance, with the segment posted on Yahoo Finance's YouTube channel. AG1515 (video), AG1516 (screen grab). The statements Mr. Risher made during the interview were in his capacity as Incoming CEO of Lyft and on topics he was authorized to speak about. AG1515.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

362. Mr. Risher made the following statements during the March 29, 2023 interview with Yahoo Finance:

- a) "Listen, our top priority is getting a great experience to our customers. I mean, to a certain extent, it's a focus on the basics—make sure we pick you up on time, make sure when you open our app, we're priced in line with the other guys, and get you where you want to go." AG1515 at 0:26-0:41.
- b) "You know, I think the thing is—we've got to focus—we have to really focus on rideshare, and our customers, and our drivers. In a way, it's very simple. The more passengers and riders you have, the more drivers want to drive, the more drivers that want to drive, the faster your pickup time. So as long as we're doing a really good job on those basics, that's going to get—you know—us part of the way there." AG1515 at 1:06-1:28.
- c) "Driver supply is always an issue, the truth of the matter is, if you pay well—and we for sure have to focus on that—drivers tend to come." AG1515 at 5:24-5:33.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

363. On March 29, 2023, David Risher, as the Incoming CEO of Lyft, was interviewed on the podcast First Move with Julia Chatterley. AG1527 (video), AG1528 (screen grab). The statements Mr. Fisher made during the podcast were in his capacity as Incoming CEO of Lyft and on topics he was authorized to speak about. AG1527.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

364. Mr. Risher made the following statements during the March 29, 2023 interview on the podcast First Move:

- a) "Well, I think Lyft has enormous potential, and at the end of the day it's because we're really good at what we do. You know, over a third of the American population has taken a Lyft since its founding about fifteen years ago. Every single week, hundreds of thousands of drivers, people make billions of dollars on the platform, and so it's a very, very strong and successful service. And it's great for customers—it picks you up on time, we're competitive about price, and so forth." AG1527 at 1:10-1:36.
- b) "The world has gotten to a point through, you know, a number of years and different, you know, steps along the way of almost feeling like Uber is the default. And I recognize that. So we've got to fight really hard to remind people why Lyft—to pick people up on time, to give them a competitive price, to make sure they get where they're going, do all of the basics right. And I think, if you see, you know, markets like that where there are two players, you often see sort of a shift in share over time." AG1527 at 4:06-4:33.
- c) "If we focus on customers, if we focus on providing a great service, and really focus on it—and I understand that sounds a little generic, but there's a lot of work we can do with that laser focus on that one person who wants to get picked up right now, at you know, 6:40 in the morning. If we focus on that one person, and make sure that driver is getting paid fairly and well, that tends to take care of itself." AG1527 at 5:26-5:48.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

365. On April 21, 2023, David Risher, the CEO of Lyft, emailed a note to Lyft team members, which Lyft posted on the Lyft blog. AG1517. The statements Mr. Risher made in the letter were in his capacity as CEO of Lyft and on topics he was authorized to speak about. *Id.*

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

366. Mr. Risher made the following statements in his April 21, 2023, note to Lyft team members:

- a) “Lyft has two purposes that are linked to each other. We help riders get out and about so they can live their lives together, and we provide drivers a way to work that gives them control over their time and money.” *Id.* at 1.
- b) “And we need to bring our costs down to deliver affordable rides, compelling earnings for drivers, and profitable growth.” *Id.*

Lyft’s Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

367. On April 21, 2023, David Risher, the CEO of Lyft, was interviewed by Diane Brady of Forbes. AG1526. The statements Mr. Risher made during the interview were in his capacity as CEO of Lyft and on topics he was authorized to speak about. *Id.*

Lyft’s Response: Disputed. The cited document does not support the proposed factual finding.

368. Mr. Risher made the following statements during the April 21, 2023, interview with Forbes:

- a) “For sure as we came out of COVID driver supply was the constraint. Right, it’s no fun as a rider to push a button and then have the closest car be nine minutes away. You know, in our world where we’re all sort of impatient, that feels like you know – that feels like forever. So that was the big focus at that point.” AG1526 at 3:57-4:18.
- b) “From a driver’s perspective, we’ve got a pretty good value proposition and so the more drivers are happy, of course the faster the pickups are happening which means the more riders are happy” AG1526 at 4:37 – 4:45.
- c) “I want to make sure that driving for Lyft is an experience that people want to do.” *Id.* at 6:06-6:12.
- d) “So even if it’s just that, you know, really focusing on a certain type of reliability and focus for the airport ride, which is a little bit different, and then focus a little bit more on the entertainment for Saturday night, you can see how those if we’re designing those experiences right, they might end up feeling

somewhat different, even though the fundamental, you know, a car pulls up, is the same. *Id.* at 8:01-8:23.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

369. On May 12, 2023, David Risher, the CEO of Lyft, was interviewed on Bloomberg TV. AG1518 (video), AG1519 (article). The statements Mr. Risher made during the interview were in his capacity as CEO of Lyft and on topics he was authorized to speak about. AG1518.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

370. Mr. Risher made the following statements during the May 12, 2023, interview with Bloomberg TV:

- a) "We're letting you outsource the stress to Lyft, so Lyft integrates with your calendars now, and it'll give you a prompt saying, 'You know what, now's the time to order the Lyft,' and we'll take you right to the airport, and even more than that, we'll take you right to Terminal 2 because we know that your United flight leaves from Terminal 2 not from Terminal 1.' Big stress relief." AG1518 at 0:54-1:11.
- b) "So, here's the thing—you've got to do really well at the table stakes. The basics. And I think for a little while, in the fog of war, coming out of COVID and so forth, the company maybe wasn't as focused on its riders and drivers as it should have been, so now we are. That's one thing the new guy gets to do. So, our pricing is now competitive in a new way, the driver pick-up time is now competitive in a new way, the driver take rate—basically how much drivers get paid—competitive in a new way. Once you get there, that's when your market share starts to move. And we're seeing that—we've gone from high-20's to low-30's, up to 40's, even 50% in places like Portland and Phoenix just by doing the basics right." AG1518 at 4:47-5:26.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

371. On May 12, 2023, David Risher, the CEO of Lyft, was interviewed by Catherine Thorbecke on CNN. AG1520 (video), AG1521 (article). The statements Mr. Risher made during the interview were in his capacity as CEO of Lyft and on topics he was authorized to speak about. AG1520.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

372. Mr. Risher made the following statements during the May 12, 2023, interview with CNN:

- a) "My view is every single person who's a rider should have both apps on their phone, I really believe that, because sometimes you want a choice. But then we want you to choose Lyft, and the reason we want you to choose Lyft is because we think we can provide a better experience." AG1521 at 3.
- b) "You know, we want people 'Lyft Loyal.' We want people to say, 'I've got both apps, but I should've taken a Lyft.'" AG1520 at 0:56-1:01.
- c) "Yeah, I mean I'll focus on Jeff Bezos. He really said, 'focus on the customer' so for example, what we launched today is—you know, your plane—your wheels touch down, the flight attendant says you can turn your phone on, and all you have to do is open the Lyft app, answer one question, 'do you have baggage or not?' and then hit 'go.' And then we take care of the rest, so that by the time you're at the curb, the car has already arrived." AG1520 at 1:11-1:34.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

373. On May 12, 2023, David Risher, the CEO of Lyft, was interviewed by Jim Cramer, the host of Mad Money on CNBC, and the interview was posted by CNBC on its YouTube Channel. AG1522 (Video), AG1523 (Screen Grab). The statements Mr. Risher made during the interview were in his capacity as CEO of Lyft and on topics he was authorized to speak about. AG1522.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

374. Mr. Risher made the following statements during the May 12, 2023, interview with Jim Cramer:

- a) "So we just launched yesterday a new feature, it's called 'preorder'—it's got such a simple name but here's what happens. Plane touches down, as soon as the wheels hit the ground and you open your Lyft app, we'll say 'do you have baggage or no?' If you don't, you hit 'go,' and by the time you get to the curb, your car will be there. And if you do have baggage, no problem, we'll get it set up and then when you pick your bags up, 'boom,' by the time you get to the curb your car is there." AG1522 at 3:02-3:25.
- b) "The answer to your question is, when riders are starting to say, 'man, you know what'—and maybe they ride with the other guys--they say, 'you know what, I should've taken a Lyft.' Or when drivers say, 'I love riding for—driving for Lyft-- that's going to be your big, leading indicator that we're onto something.'" AG1522 at 4:36-4:52.
- c) "Think about it from the autonomous vehicle manufacturer side of things, they're going to put billions of dollars—they already have—into R&D. So then, they got to make their money back, right? And how are they going to do it? It's not just going to be by selling to folks like you and me, step-by-step, it's going to be going after whole operations, and we've got an operation—a fleet, effectively—of cars that match driver and rider at huge scale every day. So we're doing everything we can to make sure we're ready for autonomous when it comes, and I'm telling you, it's not going to be tomorrow, but you might be surprised that it comes over the next couple of years a little faster than you think." AG1522 at 6:48-7:20.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

375. On May 25, 2023, David Risher, the CEO of Lyft, was interviewed on CBS Mornings, and the interview was posted CBS on its website. AG1524 (video), AG1525 (screen grab). The statements Mr. Risher made during the interview were in his capacity as CEO of Lyft and on topics he was authorized to speak about. AG1524.

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

376. Mr. Risher made the following statements during the May 25, 2023 interview on CBS Mornings

- a) "It's like, from the time the plane touches down, we will do the math to figure out how to get you the car right as you get to the curb." AG1524 at 1:24–1:29.
- b) "We try to make it so that with our technology, and our product and service, by the time you're getting to that curb, you're walking off the -- off the property - - or driving off." *Id.* at 2:00–2:07.
- c) "Anyway, Lyft will literally give me a notification saying now's a good time to leave, we'll order your Lyft for you, and it'll get you to the airport." *Id.* at 3:10–3:16.

Lyft's Response: Disputed. The cited document contains necessary context that is not included in the factual finding.

377. On September 8, 2021, Mr. Zimmer, the President of Lyft, was interviewed on National Public Radio. AG1531 (video); AG1532 (transcript). The statements Mr. Zimmer made during the interview were in his capacity as the President of Lyft and on topics he was authorized to speak about. AG1532. During the interview, Mr. Zimmer described Lyft as "being in transportation." *Id.*

Lyft's Response: Disputed. The cited document does not support the proposed factual finding.

F. BRANDING

378. From 2017 through the present, Lyft has marketed itself to Massachusetts residents as a provider of transportation services. Anticipated Testimony of Ilana Bryant ("Bryant Ant. Test."); Anticipated Testimony of Chris Arning ("Arning Ant. Test.").

Lyft's Response: Disputed. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

379. Lyft devotes substantial resources to the strategic development and maintenance of its public brand image. Bryant Ant. Test.; Arning Ant. Test.; Anticipated Testimony of Representative of MediaRadar ("MediaRadar Ant. Test."); *see* AG1694; AG1691; AG1695.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the documents cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Daniel Friedman will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

380. Lyft carefully manages the content of public facing communications bearing upon the nature of its products and services, as well as those characterizing its relationships with drivers and riders. *Id.*

Lyft's Response: Disputed. Lyft has objected to the admissibility of the documents cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

381. AG1694 is an accurate copy of a document created by or at the direction of Lyft. Friedman 9/9, 95:18-98:6. AG1694 relates to Lyft's development and maintenance of its public brand perception. *Id.*; Bryant Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. Lyft has objected to the admissibility of the cited testimony. The cited anticipated testimony includes testimony from individuals who do not have knowledge of the proposed factual finding.

382. AG1694 prescribes standards for marketing communications targeting both riders and drivers. *Id.*

Lyft's Response: Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. Lyft has objected to the admissibility of the cited testimony. The cited anticipated testimony includes testimony from individuals who do not have knowledge of the proposed factual finding.

383. AG1691 is an accurate copy of a document created by or at the direction of Lyft. AG1691 relates to Lyft's development and maintenance of its public brand perception. Bryant Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

384. AG1691 states: “[a]s of 2018, we have given more than 1 billion rides in the US and Canda, doubling our ride count from 500 million in less than a year.” AG1691 at 1529.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited document does not support the proposed factual finding.

385. AG1691 evinces Lyft’s goal being perceived as having been founded with the purpose of “improv[ing] people’s lives with the world’s best transportation.” AG1691 at 1529 – 1530.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited document does not support the proposed factual finding.

386. AG1695 is an accurate copy of a document created by or at the direction of Lyft. Friedman 9/9, 111:7-116:1; Bryant Ant. Test. AG1695 relates to Lyft’s development and maintenance of its public brand perception. *Id.* AG1695 relates to Lyft’s brand positioning strategy relative to both drivers and riders. *Id.*

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. Lyft has objected to the admissibility of the cited testimony. The cited anticipated testimony includes testimony from individuals who do not have knowledge of the proposed factual finding.

387. AG1695 identifies payment, ownership, purpose, recognition, trust, and meaning as “emotional buttons to press in our drivers.” AG1695 at 6993.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding.

388. AG1695 identifies providing drivers with increased compensation and advance notice of ride destination as “tactics that can press the right emotional buttons.” AG1695 at 6995.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited document does not support the proposed factual finding.

389. Noting that “[d]riving is a financial necessity rather than a choice,” AG1695 identifies “reliable income” as a “pain point” for drivers to be “solve[d].” AG1695 at 6994.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited document does not support the proposed factual finding.

390. AG1695 opines that “it’s not what you call your employees that’s important” but, rather, “it’s how you make them feel.” AG1695 at 7005.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding.

391. AG1695 identifies “mak[ing] drivers feel like we’re partners in this together” as a “driver strategy” to be pursued through marketing efforts aimed at the “business objective” of “attract[ing] and retain[ing] more drivers.” AG1695 at 7012.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited document does not support the proposed factual finding.

392. As illustrated by the below referenced advertisements, from 2017 through 2023, Lyft marketed itself to Massachusetts residents as a provider of transportation services.

Lyft's Response: Disputed. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

1. 2017 Lyft Branding

393. In 2017, Lyft's mission statement was "to improve lives with the world's best transportation." AG1690; Bryant Ant. Test.; Cherubin Ant. Test.

Lyft's Response: Undisputed.

394. In 2017, Lyft spent in excess of \$22M related to advertising. Bryant Ant. Test.; MediaRadar Ant. Test. In 2017, Lyft's advertising efforts communicated a brand perception of a caring, conscientious community of riders and drivers, as well as the company itself. Bryant Ant. Test.; Arning Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

395. AG1589 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1589 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2017. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

396. AG1590 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1590 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2017. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

397. AG1591 includes accurate depictions of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused the items contained in AG1591 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2017. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

2. 2018 Lyft Branding

398. In 2018, Lyft's mission statement continued to be "to improve people's lives with the world's best transportation." AG1690; Bryant Ant. Test.

Lyft's Response: Undisputed.

399. In 2018, Lyft spent in excess of \$2M related to advertising. Bryant Ant. Test.; MediaRadar Ant. Test. In 2018, Lyft's advertising efforts communicated a theme of a reliable, convenient car ride on demand that is a better way to get around the city than alternatives. Bryant Ant. Test.; Arning Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

400. AG1579 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1579 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2018. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

401. AG1581 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1581 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2018. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The

cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

3. 2019 Lyft Branding

402. In 2019, Lyft's mission statement continued to be "to improve people's lives with the world's best transportation." AG1691; Bryant Ant. Test.

Lyft's Response: Undisputed.

403. In 2019, Lyft's had a vision "to help redesign cities around people, not cars, and make seamless and affordable mobility available to all." AG1692A, AG1692B; Bryant Ant. Test.; Cherubin Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the documents cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

404. In 2019, Lyft spent in excess of \$1M related to advertising. Bryant Ant. Test; MediaRadar Ant. Test. In 2019, Lyft's advertising efforts communicated acknowledgement of their responsibility as a public company as part of the transportation infrastructure of United States cities. Bryant Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

405. AG1580 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1580 to

be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2019. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

406. AG1592 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1592 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2019. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

407. AG1593 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1593 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2019. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

4. 2020 Lyft Branding

408. In 2020, Lyft's mission statement was "improve people's lives with the world's best transportation." AG1693; Bryant Ant. Test. In 2020, Lyft spent in excess of \$8.96M related to advertising. Bryant Ant. Test.; MediaRadar Ant. Test. In 2020, Lyft's advertising efforts communicated a theme of Lyft rides as a safe, reliable form of transportation for pandemic essential workers and people lacking transportation access. Bryant Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

409. AG1594 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1594 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2020. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

410. AG1595 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1595 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2020. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

411. AG1596 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1596 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2020. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

412. AG1597 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1597 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2020. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

413. AG1598 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1598 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2020. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

5. 2021 Lyft Branding

414. In 2021, Lyft's mission statement was "improve people's lives with the world's best transportation." AG1693; Bryant Ant. Test. In 2021, Lyft spent in excess of \$25M related to advertising. Bryant Ant. Test.; MediaRadar Ant. Test. In 2021, Lyft's advertising efforts communicated a theme of getting people moving again after the pandemic. Bryant Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

415. AG1599 includes accurate depictions of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused the items contained in AG1599 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2021. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

416. AG1600 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1600 to

be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2021. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

417. AG1601 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1601 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2021. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

6. 2022 Lyft Branding

418. In 2022, Lyft's mission statement was "improve people's lives with the world's best transportation." AG1693; Bryant Ant. Test. In 2022, Lyft spent in excess of \$30M related to advertising. Bryant Ant. Test.; MediaRadar Ant. Test. In 2022, Lyft's advertising efforts communicated Lyft as a simple and stress-free transportation experience. Bryant Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

419. AG1602 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1602 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2022. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

420. AG1603 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1603 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2022. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

7. 2023 Lyft Branding

421. In 2023, Lyft's mission statement was "improve people's lives with the world's best transportation." AG1693; Bryant Ant. Test. In 2023, Lyft spent in excess of \$5M related to advertising. Bryant Ant. Test.; MediaRadar Ant. Test. In 2023, Lyft's advertising efforts communicated Lyft as an affordable transportation option. Bryant Ant. Test.

Lyft's Response: Disputed. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual

finding. Daniel Friedman and/or Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

422. AG1604 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Antf. Test.; MediaRadar Ant. Test. Lyft caused AG1604 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2023. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

423. AG1605 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1605 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2023. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

424. AG1606 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1606 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2023. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The

cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

425. AG1607 includes an accurate depiction of marketing content produced by or at the direction of Lyft. Bryant Ant. Test.; MediaRadar Ant. Test. Lyft caused AG1607 to be accessible over the internet, on television, and/or in a print medium to Massachusetts residents in 2023. Bryant Ant. Test.; MediaRadar Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding.

426. AG1999 includes an accurate depiction of marketing content produced by or at the direction of Amtrak. MediaRadar Ant. Test. AG1999 is representative of transportation sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

427. AG1998 includes an accurate depiction of marketing content produced by or at the direction of Greyhound. MediaRadar Ant. Test. AG1998 is representative of transportation sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

428. AG1997 includes an accurate depiction of marketing content produced by or at the direction of American Airlines. MediaRadar Ant. Test. AG1997 is representative of transportation sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

429. AG1996 includes an accurate depiction of marketing content produced by or at the direction of Delta Air Lines. MediaRadar Ant. Test. AG1996 is representative of transportation sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide

testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

430. AG1995 includes an accurate depiction of marketing content produced by or at the direction of Boston Coach. MediaRadar Ant. Test. AG1995 is representative of transportation sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

431. AG1993–AG1994 include accurate depictions of marketing content produced by or at the direction of Universal Taxi Dispatch. MediaRadar Ant. Test. AG1993–1994 are representative of transportation sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the documents cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

432. AG1992 includes an accurate depiction of marketing content produced by or at the direction of Etsy. MediaRadar Ant. Test. AG1992 is representative of marketplace technology sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

433. AG1991 includes an accurate depiction of marketing content produced by or at the direction of Poshmark. MediaRadar Ant. Test. AG1991 is representative of marketplace technology sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

434. AG1990 includes an accurate depiction of marketing content produced by or at the direction of Sittercity. MediaRadar Ant. Test. AG1990 is representative of marketplace technology sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

435. AG1989 includes an accurate depiction of marketing content produced by or at the direction of Rover. MediaRadar Ant. Test. AG1989 is representative of marketplace technology sector marketing. Arning Ant. Test.

Lyft's Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited anticipated testimony consists of testimony from individuals who do not have knowledge of the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony.

G. SERVICE MARKS

436. Lyft has registered multiple service marks with the United States Patent & Trademark Office ("USPTO") that identify it as a source of transportation services, including "RIDING IS THE NEW DRIVING," "IT MATTERS HOW YOU GET THERE," "THAT'S Y," "LYFT UP". *See infra*, FF 467-470. As explained below, in each of its Statements of Use supporting the registration of these marks, Lyft provided evidence of these marks being used in commerce in transportation contexts and alongside other indicators that Lyft is,

indeed, a source of transportation services. *See* 15 U.S.C. § 1051(d) (requiring applicants to submit a “Statement of Use” for all marks registered with the USPTO).

Lyft’s Response: Disputed. The cited paragraphs of the Attorney General’s Preliminary Proposed Findings of Fact as to Lyft do not support the proposed factual finding. The proposed factual finding is not otherwise supported by any document or anticipated testimony. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

437. Lyft registered the service mark “RIDING IS THE NEW DRIVING” with the USPTO in 2017. AG1696 at 1. AG1697 is a true and accurate copy of Lyft’s application for the mark and AG1698 is Lyft’s Statement of Use. *See* Cherubin Ant. Test.; *see also* Friedman 9/8, 199:15-22. In its application, filed with the USPTO in 2016, Lyft told the USPTO it intended to use the mark in connection with the “[t]ransportation of passengers by motorized vehicle” and indeed subsequently used the mark in commerce in connection with this service, as evidenced by its Statement of Use. *See* AG1696-97.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. Lyft has objected to the admissibility of the cited testimony. The cited documents and anticipated testimony do not support the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

438. Lyft registered the word mark “IT MATTERS HOW YOU GET THERE” with the USPTO in 2019. AG1699. AG1700 is a true and accurate copy of Lyft’s application for the mark and AG1701 is a true and accurate copy of Lyft’s Statement of Use. *See* Cherubin Ant. Test. *See also* Friedman 9/8, 201:6-205:8. In its 2017 application, Lyft told

the USPTO that one of the intended uses of this mark was to identify Lyft as a source of “transportation of passengers by motorized vehicle.” AG1700 at 2. In its Statement of Use for this mark, filed with the USPTO in 2019, Lyft attached photographs of the mark in use in advertisements that Lyft posted in an airport. AG1701 at 7-8. In addition to the photographs, Lyft also described the mark’s use in commerce. *Id.* at 1. The description was: “The specimens show an advertisement for applicant’s *transportation services* at the arrivals section of an airport where passengers can book a ride from one of *applicant’s drivers* on their way out of the airport.” *Id.* (emphasis added).

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. Lyft has objected to the admissibility of the cited testimony. The cited documents and anticipated testimony do not support the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

439. In 2021, Lyft registered the service mark “THAT’S Y,” in connection with the services “vehicles, namely, automobiles; electric motor vehicles; self-driving transport vehicles” and “transportation and delivery services by land.” AG1702; AG1703 at 2-3. AG1703 is a true and accurate copy of Lyft’s application for the mark and AG1766 is a true and accurate copy of Lyft’s Statement of Use. *See* Cherubin Ant. Test.; *see also* Friedman 9/8, 205:13-210:22. Attached to its Statement of Use was a printout from Lyft’s website, where the service mark is displayed prominently alongside the various forms of transportation that Lyft offers to Riders. AG1766 at 12.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. Lyft

has objected to the admissibility of the cited testimony. The cited documents and anticipated testimony do not support the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

440. In 2022, Lyft registered the service mark “LYFT UP” in connection with the “transport of passengers by land,” namely, “charitable services” in the form of “providing transportation to persons in areas affected by natural disasters and emergencies.” AG1764 at 4. AG1764 is a true and accurate copy of Lyft’s application for the mark and AG1765 is a true and accurate copy of Lyft’s Statement of Use. *See* Cherubin Ant. Test. Attached to its Statement of Use was an image from Lyft’s website advertising its charitable transportation service, alongside the slogan “Transportation for all.” AG1765 at 14.

Lyft’s Response: Disputed. Lyft has objected to the admissibility of the document cited or otherwise referenced in the proposed factual finding. The cited documents and anticipated testimony do not support the proposed factual finding. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

LYFT’S EXPERIMENTATION

441. Every two weeks, Lyft sends Science Update emails to a large list of Lyft employees. Riege 7/27, 427:9-429:1; Riege 8/10, 551:22-552:10, 591:2-8.

Lyft’s Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

442. Lyft’s Driver Excellence team, now referred to as the Driver Experience team, also sent daily emails titled “[experimentation-updates]” about various experiments they ran on drivers. Henry 7/12, 116:1-116:6; Riege 8/10 622:12-623:10.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

443. The Lyft Science and Experimentation Update emails contain updates on the various studies and experiments that Lyft employees were either in the process of conducting or had completed. *See, e.g.*, AG1705; AG1710. The experiments discussed in the Science and Experimentation Updates fall into several categories. *See also* AG1718 at 2566 (“each week, we run hundreds of concurrent experiments”).

Lyft's Response: Disputed. The cited documents do not support the proposed factual finding.

444. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

a) [REDACTED]

b) [REDACTED]

c) [REDACTED]

[REDACTED]

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

445. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

a) [REDACTED]

b) [REDACTED]

c) [REDACTED]

[REDACTED]

d)

[REDACTED]

e)

[REDACTED]

f)

[REDACTED]

g)

[REDACTED]

h)

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

446.

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Lyft's Response: Disputed. The cited documents do not support the proposed factual finding.

447.

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¹⁵ Lyft's Express Drive (XD) program provides drivers with rental cars to use while driving on the Lyft app. AG 1750 at 2076.

[REDACTED]

Lyft's Response: Disputed. The cited documents do not support the proposed factual finding. Additionally, David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

448. Collectively, the Science Update and Experimentation Update emails demonstrate that Lyft consistently and rigorously studies and attempts to alter driver behavior, including by performing experiments on drivers, with and without their knowledge. Riege 7/27, 468:22-470:16. As well, they demonstrate how Lyft's various experiments on driver behavior lead to changes that increase Lyft's revenue. *See, e.g.*, AG1704 at 9857; AG1705; AG1706.

Lyft's Response: Disputed. David Riege will provide testimony showing the proposed finding is inaccurate and/or misleading.

THE ATTORNEY GENERAL'S EXPERTS

449. The Court will hear testimony from the Attorney General's expert witnesses—Dr. David Weil, Dr. Lindsey Cameron, Dan Leistra-Jones, Ilana Bryant, Chris Arning, and Dr. James Parrott. While the anticipated testimony of Ms. Bryant and Mr. Arning is discussed above, *see supra*, FF 378-472, the anticipated testimony of Dr. Weil, Dr. Cameron, Mr. Leistra-Jones, and Dr. Parrott is summarized below.

Lyft's Response: Disputed. Lyft objects to the admissibility of the cited testimony.

A. ANTICIPATED TESTIMONY OF DR. DAVID WEIL

450. David Weil, Ph. D. is a professor of social policy and economics at the Heller School for Social Policy and Management at Brandeis University. Weil Ant. Test

(“Weil Ant. Test.”). Dr. Weil was the Wage and Hour Administrator for the United States Department of Labor’s Wage and Hour Division from 2014 to 2017. *Id.* He specializes in employment and labor market policy; regulation; transparency policy; and the impacts of industry restructuring on employment, work, and business performance. *Id.* A major emphasis of his research, writing, and teaching over the past thirty years concerns how market structure and competitive forces shape business strategy and, in turn, on the organization of work and on business compliance with regulations. *Id.* An equally important, and related, emphasis in his research, writing, and teaching has been analyzing business restructuring in response to changing capital market pressures and economic competition and how evolving business models affects the organization of work and conditions at the workplace. *Id.* He is an expert in the assessment of a company’s business model.

Lyft’s Response: Disputed. Lyft objects to the nature and scope of David Weil’s expertise as described in the proposed finding.

451. Dr. Weil has been asked by the Attorney General to opine on (1) the nature of Lyft’s business models; (2) how Lyft achieves its service missions operationally; (3) what Lyft’s core business strategy says about the nature of its business models; and (4) how Lyft’s business model compares with other platform companies. Weil Ant. Test.

Lyft’s Response: Undisputed.

452. A business model comprises the core methods a company uses in order to maximize profits in the long run. Weil Ant. Test. It represents the underlying logic of the company and reveals the core decisions a company makes to sustain and increase its revenue and profitability. *Id.* It involves consideration of how a company maintains and expands its customer base and prices its services in a way that translates customers’ desire for that service into revenue. *Id.* A business model also delineates how a company controls the costs of

providing its service by selecting its most efficient scale of operation as well as its fixed and variable costs. *Id.* Understanding a business model is fundamental to an analysis of the nature of services a company provides and the decisions its makes. *Id.*

Lyft's Response: Disputed. Catherine Tucker and Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading.

453. Dr. Weil will opine that the business model underlying both Uber and Lyft is best characterized as providing reliable, efficient, quality transportation to allow their customers—riders—to go from point A to point B. Weil Ant. Test. In support of this opinion, Dr. Weil will testify that based on his review of Lyft's past and current operations, Lyft has consistently displayed three organizational principles, the persistence of which reveal the essential features of Lyft's profitability and business model. *Id.* They are:

- The customer for Lyft's transportation services is the rider. Lyft has built a brand around providing comprehensive transportation to people who need to get from point A to point B. The rider is the primary focus of these branding efforts. Branding efforts include the refinement of multiple product lines (e.g., Lyft Standard, Lux) developed to appeal to the needs of different types of customers and intended to create long term brand loyalty and internal systems (driver rating tools, rules of driver engagement, and other driver-focused carrots and sticks) that ensure that riders receive services consistent with brand expectations. This focus on the rider is also revealed in Lyft's pricing methods that seek to optimize revenue streams by charging prices based on customer preferences (i.e., "willingness to pay"). Weil Ant. Test.
- Lyft provides its transportation services by managing its labor force of drivers dynamically using its platform technology, while also carefully controlling associated unit labor costs. Lyft has developed a technology platform consisting of sophisticated pricing algorithms, bonus programs and other driver incentive systems in order to dynamically service the level of real time rider demand. Lyft's technology platform thereby provides it a unique capability to adjust the number of drivers it needs to fulfill rider demand to real-time market conditions. At the same time, Lyft carefully calibrates driver fares, bonuses and other driver incentive programs to driver willingness to work so as to offset its costs while still increasing the efficiency and productivity of drivers while they drive. Weil Ant. Test.
- Lyft's profit streams arise from the difference between revenues generated by their customers (riders) and the costs they incur in paying drivers to meet that demand.

Lyft seeks to maximize the difference between their operational revenues and costs by setting rider prices reflective of their willingness to pay and seeking to contain the costs for drivers by setting carefully calibrated fares based on drivers' willingness to accept rides at the time and in the place where they are most needed by the companies at the same time as increasing their efficiency (productivity) in the number of rides provided in a given amount of time through bonus and other incentive programs. Weil Ant. Test.

Lyft's Response: Disputed. Catherine Tucker and Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading.

454. In support of the several aspects of his opinion, Dr. Weil will discuss Uber-specific facts relating to these issues. *Id.* In particular, Dr. Weil will discuss facts relating to Lyft's core organizational policies, Lyft's underlying profit model, Lyft's decoupling of rider and driver pricing, the evolution of Lyft's matching of riders and drivers, Lyft's efforts to build and maintain an identifiable brand, Lyft's incorporation of rider willingness to pay into its rider pricing efforts, Lyft's incorporation of driver willingness to work into its driver earnings offers, Lyft's use of incentives to adjust driver supply, and Lyft's efforts to reduce driver-related costs by increase driver productivity. Weil Ant. Test. Dr. Weil will also contrast these aspects of Lyft's business model to the business models of other companies that are commonly accepted as platform businesses. *Id.*

Lyft's Response: Disputed. Catherine Tucker and Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading.

B. ANTICIPATED TESTIMONY OF DR. LINDSEY CAMERON

455. Lindsey Cameron, Ph. D. is an Assistant Professor of Management at the Wharton School of the University of Pennsylvania in Philadelphia, PA. Cameron Ant. Test.. She specializes in organizational control and management, with a focus on algorithmic management and on-demand organizations. *Id.* She teaches in the field, has written and researched extensively on these topics, is a reviewer of academic journals on management,

and has previously served as an expert witness on employee misclassification matters. *Id.* She is an expert in organizational control and algorithmic management as used by on-demand companies.

Lyft's Response: Disputed. Lyft objects to the nature and scope of Lindsey Cameron's expertise as described in the proposed finding.

456. Dr. Cameron has been asked by the Attorney General to (1) provide an overview of organizational control and algorithmic management as it applies to on-demand organizations; (2) apply organizational theories on if, and if so how, on-demand companies execute organizational control over their workers; (3) apply organizational theories on if, and if so how, ride-hailing companies execute organizational control over their workers; (4) provide an overview of narratives used by ride-hailing and on-demand companies to influence drivers and other stakeholders; (5) assess whether, and if so how, Lyft implements organizational control, as defined by the literature on organizational theory and behavior. Cameron Ant. Test.

Lyft's Response: Undisputed.

457. Dr. Cameron will opine that Lyft deploys organizational control through its algorithmic management systems and that this form of control is integral to its business model and is evident in its relationship with drivers. Cameron Ant. Test. She will further opine that Lyft deploys certain narratives to influence drivers' behavior. *Id.*

Lyft's Response: Disputed. This testimony is subject to Lyft's motion in limine to exclude the testimony of Dr. Lindsey Cameron. In addition, David Riege, Olivia Henry, Deborah Jay, Catherine Tucker, Paul Oyer, and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

458. Dr. Cameron will testify to the following:

- That Lyft employs algorithms to retain organizational control over drivers. Cameron Ant. Test. “Organizational control” is defined as any process that aligns an individual worker’s capabilities, activities and performance with the organization’s goals and aspirations. *Id.* There are two components to organizational control—general and detailed. *Id.* General control refers to the overarching accommodation of workers to the overall aims of the enterprise. *Id.* Detailed control refers to the organization’s control over the execution of the work itself. Organizations must balance general and detailed control measures to maintain a motivated workforce and achieve profitability. *Id.* Dr. Cameron will testify that Lyft’s upfront pricing mechanisms; planned incentives and loyalty programs (*i.e.*, Lyft Rewards); algorithmically mediated customer ratings and related systems of warnings, suspensions, deactivation; and reactivation process are examples of the general control Lyft exercises over drivers. *Id.* She will point to Lyft’s matching algorithm; monitoring and tracking of drivers; and driver experimentation as examples of the detailed control Lyft exercises over drivers. *Id.*
- That Lyft is an on demand company that relies upon algorithmic management for their organizational control. Cameron Ant. Test. Algorithmic management is a system of control over workers where self-learning algorithms are given responsibility for making and executing decisions affecting labor, thereby limiting human involvement and oversight over labor. *Id.* Lyft has designed an algorithmic management system to exercise control over drivers’ behaviors while also obfuscating their intent and inherent power in their relationship with drivers. *Id.* The algorithmic management system relied upon by Lyft is more comprehensive, instantaneous, interactive, and opaque than other management systems resulting in unprecedented quantification and intensification of organizational control over drivers. *Id.*
- That there are four features of an algorithmic management system that contribute to its quantification and intensification of control. Cameron Ant. Test. First, algorithms are engineered to monitor and track workers. *Id.* Second, the algorithm collects data from workers to feed back into the algorithm to make the management of the worker more efficient. *Id.* Third, algorithmic control is more interactive than other forms of organizational control because algorithms enable interactive participation from multiple parties in different locations. *Id.* This allows the on-demand company like Lyft to use the information collected to run experiments. *Id.* Fourth, algorithms are more opaque than previous forms of organizational control because the data and algorithms used to control workers are usually proprietary and undisclosed. *Id.*
- That as an on-demand organization, Lyft integrates customer control through its rider ratings system, into its algorithmic management system. Cameron Ant. Test. This, in fact, outsources the task of managing drivers to Lyft’s customers, the riders, empowering them to directly monitor, evaluate, and report on the drivers’ job performance. *Id.*

- That Lyft operates its algorithmically mediated management system as a closed labor market platform, as opposed to an open labor market platform (where customers are free to choose the freelancers to hire for their project facilitated by the app's matching algorithm). Cameron Ant. Test. While both open and closed labor market platforms rely upon customer ratings, in a closed labor market platform like Lyft, the algorithmic management is more deeply embedded in the labor process. *Id.*

Lyft's Response: Disputed. This testimony is subject to Lyft's motion in limine to exclude the testimony of Dr. Lindsey Cameron. In addition, David Riege, Olivia Henry, Deborah Jay, Catherine Tucker, Paul Oyer, and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

459. Dr. Cameron will also testify:

- That Lyft superficially provides drivers a sense of autonomy but retains organizational control over various processes and decisions. Cameron Ant. Test. Lyft employs three practices to promote that false sense of autonomy—constant and confined choice, gamification, and workplace games. *Id.*
- With constant and confined choices, the algorithm gives the driver a narrow set of choices that must be made in a short period of time (e.g. accepting or rejecting a ride request in a 15 second window). Cameron Ant. Test. Whether the driver engages with the algorithm within these confined boundaries, or risks sanction by the companies by attempting to deviate from it, the workers' choices are constrained by a predefined option set mediated by the algorithmic management system. *Id.*
- Lyft obfuscates control through gamification, which applies elements of a game in the algorithmic management system to entice drivers to work longer hours. Cameron Ant. Test. By making the work appear more fun, Lyft is better able to position the drivers' behavior with the companies' goals. *Id.*
- Unlike gamification which relies upon rules imposed by the organization, workplace games are the result of organic interact between the worker and touchpoints in their environment. Cameron Ant. Test. Some drivers play a "relational game" in which the drivers go above-and-beyond to create position rider experiences, while other play an efficiency game that sets boundaries with the riders, minimizing extra behavior and maximizing earnings in as most efficient a manner as possible. *Id.*

Lyft's Response: Disputed. This testimony is subject to Lyft's motion in limine to exclude the testimony of Dr. Lindsey Cameron. In addition, David Riege, Olivia Henry, Deborah Jay, Catherine Tucker, Paul Oyer, and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

460. In support of the several aspects of her opinion, Dr. Cameron will discuss Lyft-specific subsidiary facts relating to these issues. *Id.* In particular, Dr. Cameron will discuss subsidiary facts relating to Lyft's algorithmically mediated customer ratings and related systems of warnings, suspensions, deactivation; algorithms for matching riders with drivers; algorithms for setting prices; and algorithms for tracking and monitoring driver behavior; and algorithmically mediated incentive and rewards structure, all of which are set forth in the proposed findings above. *Id.*

Lyft's Response: Disputed. This testimony is subject to Lyft's motion in limine to exclude the testimony of Dr. Lindsey Cameron. In addition, David Riege, Olivia Henry, Deborah Jay, Catherine Tucker, Paul Oyer, and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

C. ANTICIPATED TESTIMONY OF DAN LEISTRA-JONES

461. Dan Leistra-Jones is a Principal at Industrial Economics, Inc. Anticipated Testimony of Dan Leistra-Jones ("Leistra-Jones Ant. Test."). He has more than 15 years of experience in financial and corporate analysis, with a particular emphasis on corporate finance. *Id.* He routinely reviews companies' quarterly and annual financial reports, quarterly earnings presentations and calls, and other information about companies' financial performance, future prospects, funding, and structure. *Id.*

Lyft's Response: Disputed. Lyft objects to the nature and scope of Dan Leistra-Jones' expertise as described in the proposed finding.

462. Mr. Leistra-Jones was retained by the Attorney General to evaluate how Lyft represents its investment proposition to investors and financial analysts, focusing on significant factors affecting Lyft's ability to generate revenues and profits; performance metrics relating to the same; the role of drivers in the business; and Lyft's involvement in the transportation or technology industries. Leistra-Jones Ant. Test. He is an expert in corporate financial analysis.

Lyft's Response: Undisputed.

463. Mr. Leistra-Jones will testify to the following:

- That Lyft's communications with investors and analysts show that substantially all of Lyft's ridesharing revenues come from fees and commissions collected from drivers, paid through a third-party payment processor, based upon fares set by Lyft for each ride. Lyft collects the fees and charges at the time the ride is delivered. Thus, riders demand the service that ultimately produces revenues for Lyft. Leistra-Jones Ant. Test.
- That Lyft consistently identifies driver supply, driver-related incentives, and demand for transportation (including economic recovery from COVID 19) as being among the major determinants of Lyft's ability to generate revenues and profit. Driver incentives, in particular, are key levers that Lyft uses to increase or decrease driver supply to help balance supply and demand on its platform. *Id.*
- Lyft employs multiple performance metrics to track the company's performance. Beyond standard financial metrics that are used by nearly all companies, the key metrics discussed by Lyft are active riders and revenue per rider, both of which are measures of ridership and, therefore, unambiguously transportation-related metrics. Technology-based metrics, such as the number of downloads, were discussed comparatively rarely. *Id.*
- Overall, Lyft's communications with investors and analysts demonstrate that the company's investment proposition shows numerous hallmarks of company whose business relies primarily upon transporting riders from one point to another. The aspects of Lyft's communication which illustrate the nature of Lyft's business are the means by which Lyft generates mobility revenue, the central importance of driver supply, the company's use of incentives to generate that supply, the influence

of large economic forces closely tied to transportation, and the nature of non-financial metrics used to analyze the company's performance. *Id.*

Lyft's Response: Disputed. Catherine Tucker and Paul Oyer will provide testimony showing the proposed finding is inaccurate and/or misleading.

D. ANTICIPATED TESTIMONY OF ILANA BRYANT

464. Ms. Ilana Bryant is an expert in brand marketing. Bryant Ant. Test.. Ms. Bryant will provide testimony related to Lyft's marketing and advertising efforts. *Id.* Ms. Bryant is a marketing consultant with over 25 years of experience in developing brand and advertising strategy, conducting market research, and developing communications strategy for Fortune 500 companies. *Id.* In 2011, Ms. Bryant founded the marketing consultancy Special Forces Agency, Inc. *Id.*

Lyft's Response: Disputed. Lyft objects to the nature and scope of Ilana Byrant's expertise as described in the proposed finding.

465. Ms. Bryant was retained by the Attorney General's Office to (1) provide an industry overview of marketing and branding, including the concepts of brand strategy, value proposition, and brand image; and (2) review and analyze Uber and Lyft's internal and public-facing branding and marketing materials to determine the value proposition that Uber and Lyft communicate to their customers. Bryant Ant. Test.

Lyft's Response: Undisputed.

466. Ms. Bryant will testify that Lyft has sought to position its brand as transportation in the minds of their customers. Bryant Ant. Test.

Lyft's Response: Disputed. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

467. Ms. Bryant will testify that Uber and Lyft's marketing utilized the visual and verbal language of transportation to build the value proposition of safe, convenient, and reliable transportation via brand messages, brand associations, brand meaning and memory structures in the minds of customers. Bryant Ant. Test.

Lyft's Response: Disputed. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

468. Ms. Bryant will testify that Uber and Lyft's marketing efforts to build transportation brand meaning were supported by significant media budgets, achieving significant ad impressions among customers between 2017 to 2023. Bryant Ant. Test.

Lyft's Response: Disputed. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

469. Ms. Bryant will testify that Uber and Lyft's marketing efforts included campaigns that promised a physically safe in-car experience and a value proposition extending beyond purely a technological driver-rider connection to a physical in-car experience during the journey. Bryant Ant. Test.

Lyft's Response: Disputed. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

E. ANTICIPATED TESTIMONY OF CHRIS ARNING

470. Mr. Chris Arning is an expert in applied semiotics. Arning Ant. Test. Mr. Arning will provide testimony related to Lyft's marketing and advertising efforts. *Id.* Mr. Arning is the Founder-Director of Creative Semiotics Ltd., a boutique consultancy specializing in semiotics, and has 22 years of experience practicing applied semiotics. Mr. Arning has been published in academic journals, in trade press including, and in UK national press. He has taught courses on applied semiotics and mentored students since 2012, and is

the co-founder of Semiofest, which began in 2012, where semioticians from around the globe gather to meet and exchange knowledge and ideas related to semiotics. *Id.*

Lyft's Response: Disputed. Lyft objects to the nature and scope of Chris Arning's expertise as described in the proposed finding.

471. Mr. Arning was retained by the Attorney General's Office to determine two questions (1) based upon the semiotic analysis of communications and codes found, what does Lyft communicate about the product or service it is selling; and (2) based upon the semiotic analysis of communications and codes found, what does Lyft communicate about the industry sector or category it belongs to? Arning Ant. Test.

Lyft's Response: Undisputed.

472. Mr. Arning will testify that:

- The dominant product claims in Lyft's advertising are more congruent with the transportation sector than marketplace technology sector. Arning Ant. Test.
- The dominant product claims for Lyft targeted towards riders include convenience, speed, and safety. *Id.*
- Lyft's advertising has similarities to several transportation sector codes and equate ride sharing with other modes of transportation. *Id.*
- Except for the presence of the app in some communications, marketplace technology codes are largely absent from Lyft's advertising. Arning Ant. Test.
- The value proposition of both Uber and Lyft in its advertising is heavily mediated and is presented as a standardized service. Arning Ant. Test.

Lyft's Response: Disputed. The anticipated testimony of Chris Arning is subject to Lyft's Motion to Exclude Chris Arning's Expert Testimony. In addition, Catherine Tucker and/or Driver Witnesses will provide testimony showing the proposed finding is inaccurate and/or misleading.

F. ANTICIPATED TESTIMONY OF DR. JAMES PARROTT

473. Dr. James Parrott is an economist and the Director of Economic and Fiscal Policies at the Center for New York City Affairs at The New York School in New York City. Anticipated Testimony of Dr. James Parrott (“Parrott Ant. Test.”). He was asked by the Attorney General to address, in rebuttal to Lyft’s experts, the feasibility and costs of an employee model in the rideshare industry and to examine the likely consequences for drivers, the companies, and riders. *Id.* Dr. Parrott will opine that Lyft’s expert has a flawed understanding of rideshare driver behavior and dynamics and consequently misjudges the impact of an employee model on Lyft, drivers, and riders. *Id.* He is an expert in labor economics.

Lyft’s Response: Disputed. Lyft objects to the nature and scope of James Parrott’s expertise as described in the proposed finding.

474. Dr. Parrott will testify:

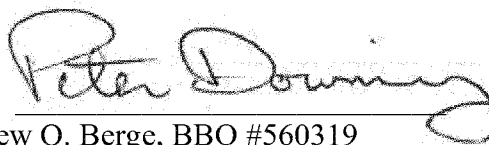
- That an employee model would generate offsetting savings for Lyft. Parrott Ant. Test. While an employee model may entail some higher costs for payroll taxes and unemployment insurance, other costs may decrease due to higher driver retention, savings on recruitment and incentives, and greater efficiencies in how Lyft manages drivers’ time. *Id.*
- Lyft’s high degree of market power gives it latitude to decide whether to pass on any cost increases to riders. Lyft’s take rate, a measure of its margins, has risen over the years. Should its net costs increase from an employee model, Lyft’s market position gives it the power to decide whether to pass those costs to customers or absorb them itself through lower margins. *Id.*
- Lyft’s high hour drivers provide most of the rides for Lyft riders and could easily adapt to an employee model. An analysis of Lyft data shows that not only does this group provide a disproportionate share of the Lyft rides they are responsible for an even larger share of Lyft’s profits. *Id.*
- Lyft can provide a wide array of full and part time scheduling opportunities for its drivers. Lyft has the capacity through its algorithmic management system to collect data and predict rider demand to make employee scheduling feasible. *Id.*

- While drivers like flexibility in scheduling, drivers use the Lyft app primarily to make money by providing rides. An employee model would provide all drivers with more reliable earnings. Drivers, like other workers, will adapt their behavior to maximize their earnings, much like they already do as drivers classified as independent contractors. *Id.*
- Lyft's preference for High Value Drivers is consistent with an employee model. The four components to Lyft's "Driver Value Score", which is a measure of the relevant value of drivers are: productivity, quality, safety and cost. Lyft's own analysis shows that the 20% of High Value Drivers contribute 80% of the Driver Value Scores. This means they are providing a disproportionately large share of corporate value. Furthermore, Lyft is losing money on the casual, lower value drivers, who cost Lyft more money. *Id.*
- Lyft's driver pay strategy is conducive to an employee model. The pay model is already geared toward providing the top pay to the High Value Drivers and to incentivize those drivers to work when and where demand is high. Lyft knows that with supply controls they can raise driver pay if they have fewer of them. *Id.*

Lyft's Response: Disputed. Catherine Tucker will provide testimony showing the proposed finding is inaccurate and/or misleading.

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