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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16

17 RONALD GILLETTE, SHANNON WISE,  
18 BRANDON FARMER, and MEGHAN  
CHRISTENSON, individually, and on behalf of all  
19 others similarly-situated,

20 Plaintiffs,

21 vs.

22 UBER TECHNOLOGIES, INC., a California  
corporation; RASIER, LLC, a Delaware limited  
23 liability company,

24 Defendants.  
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Case No.: 3:14-cv-05241-EMC

**~~PROPOSED~~ ORDER GRANTING  
MOTION TO CONSOLIDATE AND  
APPOINT INTERIM LEAD COUNSEL**

Hon. Edward M. Chen

Date: September 24, 2015  
Time: 1:30 p.m.  
Courtroom: 5, 17th Floor

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1 On October 1, 2015, Plaintiffs’ Motion to Consolidate and Appoint Interim Lead Counsel  
2 (ECF No. 84) came before the Court for Hearing.

3 As set forth in a Minute Order entered following the Hearing (ECF No. 100), the Court granted  
4 Plaintiffs’ motion to consolidate, ordered the Plaintiffs to file a consolidated complaint within two  
5 weeks, and instructed Plaintiffs to submit a new proposed order granting their motion to appoint  
6 interim co-lead counsel to include a cost-control methodology. Plaintiffs have filed a new proposed  
7 order.

8 The Court hereby determines that appointment of interim co-lead counsel will promote fairness  
9 and judicial efficiency and avoid unnecessary cost and delay. After giving due consideration to the  
10 competing factors, the Court exercises its discretion and **GRANTS** Plaintiffs’ Motion to Consolidate  
11 and Appoint Interim Lead Counsel.

12 **IT IS HEREBY ORDERED** as follows:

13 **CONSOLIDATION AND MASTER CONSOLIDATED COMPLAINT**

14 As indicated in the Court’s Minute Order, the following three related class actions currently  
15 pending before this Court (the “Actions”) have been CONSOLIDATED for all purposes (the  
16 “Consolidated Action”):

- 17 (a) *Mohamed v. Uber Techs., Inc., et al.*, No. 14-cv-05200-EMC (filed November 24,  
18 2014),  
19 (b) *Gillette v. Uber Techs., Inc.*, No. 14-cv-05241-EMC (filed November 26, 2014), and  
20 (c) *Nokchan v. Uber Technologies, Inc., et al.*, No. 15-cv-03009-EMC (filed June 29,  
21 2015).

22 The master consolidated complaint to be filed by Interim Co-Lead Class Counsel, as  
23 appointed below, shall be captioned *In Re Uber FCRA Litigation*, Case No. 14-cv-05200-EMC,  
24 which will serve as the operative complaint for the consolidated action. The Consolidated Action  
25 shall bear the lowest case number of the three Actions. The partial stay entered in the *Mohamed*  
26 action shall not apply to the Consolidated Action, but rather shall apply to Plaintiff Mohamed  
27 individually, including any motion practice and discovery particular to his individual claims or  
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1 Defendants' defenses to his claims. (Case No. 3:14-cv-05200-EMC (ECF No. 93).)

2 **OTHER RELATED ACTIONS**

3 Any other actions asserting claims that are the same as or similar to the claims at issue in this  
4 Consolidated Action that are now pending, subsequently filed in, or transferred to, this District  
5 pursuant to the Court's Local Rules and General Orders shall be consolidated with this Consolidated  
6 Action for all purposes.

7 Whenever a case that should potentially be consolidated into this action is filed in, or  
8 transferred to, this District, the Defendants are directed to file an Administrative Motion to Consider  
9 Whether Cases Should be Related in accordance with Local Civil Rule 3-12 in the Consolidated  
10 Action, as well as in the docket of the new, potentially related case.

11 **APPOINTMENT OF INTERIM CO-LEAD CLASS COUNSEL**

12 The Court hereby appoints the law firms of Ahdoot & Wolfson, P.C. ("AW") and Goldstein,  
13 Borgen, Dardarian & Ho ("GBDH") as Interim Co-Lead Class Counsel, in accordance with Federal  
14 Rule of Civil Procedure 23(g)(3).

15 This Order shall apply to each case subsequently filed in this Court or transferred to this Court,  
16 unless a party objecting to the consolidation of such case or to any other provision of this Order files,  
17 within ten days after their action is transferred to or filed in this Court, an application for relief from  
18 this Order or any provision herein and this Court deems it appropriate to grant such application.

19 **A. Guidelines to Limit Costs and Expenses, Including Attorneys' Fees.**

20 Interim Co-Lead Class Counsel shall adhere to the following guidelines:

21 1. Staffing Practices

22 Interim Co-Lead Counsel will delegate work and authorize expenditures to other firms as  
23 needed, but will limit such delegation to tasks that are reasonable and necessary to the prosecution of  
24 this case. Only time and costs incurred pursuant to assignments authorized by Interim Co-Lead  
25 Counsel will be considered for compensation

26 a. Depositions

27 Unless otherwise authorized by Interim Co-Lead Counsel, Plaintiffs' counsel shall send no  
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1 more than two (2) attorneys and one (1) paraprofessional to any deposition. When possible, counsel  
2 shall limit attendance to no more than one (1) attorney and one (1) paraprofessional. For example,  
3 with regard to the depositions of class representative plaintiffs, counsel shall limit attendance to one  
4 attorney selected by Interim Co-Lead Counsel and, if necessary, one attorney from the firm  
5 representing that particular plaintiff.

6 b. Court Hearings

7 Absent unusual circumstances, Plaintiffs' counsel shall limit attendance at non-dispositive  
8 hearings to two attorneys. Counsel attending a hearing without making an appearance, or counsel who  
9 are not involved in briefing or arguing at the hearing shall be advised that their time will not be  
10 reimbursed at the time of any fee petition. With respect to hearings related to (1) class certification;  
11 (2) motions for summary judgment; (3) motions to compel arbitration; and (4) other significant pretrial  
12 motions, Interim Co-Lead Counsel will handle the arguments and delegate work on these important  
13 motions to other Plaintiffs' firms – to the extent they deem necessary – based on their knowledge of  
14 particular areas of the case. In this manner, Interim Co-Lead Counsel will endeavor to have certain  
15 firms specialize in certain areas of the case to reduce the learning curve and increase efficiency when it  
16 comes to handling such motions. Any such delegation of work will be done in a manner that avoids  
17 duplication of effort. Interim Co-Lead Counsel will limit the number of conference calls and group  
18 meetings that include multiple counsel, and will limit participation to indispensable attendees. Such  
19 conference calls and meetings will be limited to situations of strategic importance for the overall case,  
20 or where information (*e.g.* settlement) needs to be disclosed and discussed. To the extent possible,  
21 teleconferencing and video conferencing or other means will be used to limit travel expenses.

22 2. Travel Expenses

23 Plaintiffs' Counsel shall only seek reimbursement for economy or coach-class airfare for  
24 travel. Plaintiffs' Counsel are welcome to travel by any means they choose, but may only seek  
25 reimbursement for economy or coach-class airfare or similarly priced travel arrangements. Plaintiffs'  
26 Counsel will likewise make reasonable arrangements for lodging and shall seek reimbursement only  
27 for reasonable accommodations, not to exceed \$300 per night, plus tax. The per diem meal expenses  
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1 will not exceed \$100 per person. Interim Co-Lead Counsel will seek to minimize travel expenses by  
2 utilizing the services of local counsel when possible.

3 3. Administrative Expenses

4 Plaintiffs' Counsel may bill for all expenses reasonably incurred in prosecuting this case.  
5 Interim Co-Lead Counsel shall maintain records of all expenses incurred, as well as any funds  
6 maintained by Plaintiffs' Counsel for the purpose of paying such expenses. Interim Co-Lead  
7 Counsel's explicit authorization shall be required for any expenditure exceeding \$1,000. Expenditures  
8 under \$1,000, such as copying costs, will be left to the discretion of counsel working on authorized  
9 assignments, and will be reviewed by Interim Co-Lead Counsel in monthly reports.

10 Plaintiffs' Counsel shall not seek reimbursement for expenses or costs incurred as part of  
11 normal overhead costs for running a law firm.

12 4. Time Records

13 a. Recording Requirements

14 All billing Plaintiffs' Counsel shall record and maintain daily, contemporaneous time records  
15 for all work performed, including work by attorneys, paraprofessionals, and assistants. Plaintiffs'  
16 Counsel shall bill in increments no larger than one tenth of an hour, and shall maintain records in such  
17 a way that each billed activity is recorded separately. Plaintiffs' Counsel shall not combine  
18 unconnected billable activities into block-billing records. Plaintiffs' Counsel will not be reimbursed  
19 for any item of time or cost not described in sufficient detail to determine the nature and purpose of the  
20 service or cost.

21 b. Hourly Rates

22 Plaintiffs' Counsel shall record their then-present hourly rates for all attorneys and staff.  
23 Although Plaintiffs' Counsel may seek an award of fees based on their hourly rates at the time a  
24 settlement or judgment is reached to account for the delay in payment,<sup>1</sup> their billing records shall be  
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26 \_\_\_\_\_  
27 <sup>1</sup> The use of a current hourly rate for all hours billed is a permissible way to account for delay in payment. *See, e.g., In re*  
28 *Coordinated Pretrial Proceedings in Petroleum Prods. Antitrust Litig.*, 109 F.3d 602, 609 (9th Cir. 1997); *In re*  
*Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1305 (9th Cir. 1994).

1 prepared and recorded at the then-present rates. Plaintiffs' Counsel shall not bill a rate other than their  
2 standard rates at the time the work is performed.

3 c. Document Review

4 Document review can be the most challenging area of a case to keep control over time and  
5 expenses. A document review system will be used that avoids unnecessary travel expenses, and  
6 procedures will be put in place to monitor how much time is spent reviewing documents and to  
7 monitor the efficiency and quality of review by other Plaintiffs' law firms. Interim Co-Lead Counsel  
8 will use paraprofessionals as necessary, attorneys for higher level review, and senior attorneys for top-  
9 tier review and quality control. Interim Co-Lead Counsel will impose an hourly rate limitation on  
10 paraprofessionals and non-senior attorneys who review documents. That rate limitation cannot be set  
11 until the volume of documents and number of reviewers is determined. If the services of an  
12 ESI/hosting vendor are required, Interim Co-Lead Counsel will seek to engage a reasonably priced  
13 vendor.

14 d. Interim Co-Lead Counsel Review of Time Records and Expenses

15 All Plaintiffs' Counsel shall submit a copy of all billing and expenses to a senior attorney at  
16 Interim Co-Lead Counsel for review no later than the fifteenth day following the last day of each  
17 month. Interim Co-Lead Counsel will collect all billing records and expenses monthly and conduct a  
18 monthly review of time records and expenses to ensure that costs and expenses are reasonable.  
19 Interim Co-Lead Counsel shall take particular care to ensure that duplicative work is not being  
20 performed. Interim Co-Lead Counsel shall have the power to discount or eliminate non-compliant or  
21 unnecessarily duplicative bills, and shall not submit those time records to the Court nor seek  
22 reimbursement for unnecessary expenses.

23 Interim Co-Lead Counsel will maintain records in such a manner as to be prepared to submit  
24 for review a summary of their time and expenses to the Court for its interim review if the Court so  
25 desires. Interim Co-Lead Counsel understands that the Court may review time records in the event of  
26 a settlement in order to perform a lodestar cross-check or otherwise ensure that Plaintiffs' Counsel  
27 have not billed unnecessarily. Interim Co-Lead Counsel will make necessary efforts to pre-screen  
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1 billing records to eliminate unnecessary and duplicative work before submitting such records to the  
2 Court.

3 \* \* \*

4 Costs or expenses that do not fall within the limitations outlined herein will be presumptively  
5 unreasonable and not compensable in any fee award. That being said, the Court advises Interim Co-  
6 Lead Counsel that costs or expenses that do fall within the limitations herein shall not be deemed  
7 presumptively reasonable. For instance, the Court will not approve compensation attendance for two  
8 lawyers and a paralegal at a deposition unless shown to be reasonably necessary. The Court retains its  
9 authority to evaluate any costs or expenses submitted by counsel for reasonableness.

10 **B. Authority and Role of Interim Co-Lead Counsel.**

11 Plaintiffs' Interim Co-Lead Counsel are expected to maintain communications and promote  
12 harmonious dealings among all Plaintiffs' counsel for their respective actions. Plaintiffs' Interim Co-  
13 Lead Counsel also shall coordinate with each other during the course of proceedings. Plaintiffs'  
14 Interim Co-Lead Counsel shall be responsible for and have plenary authority to provide general  
15 supervision of the activities of plaintiffs' counsel in the Consolidated Action.

16 Specifically, Interim Co-Lead Counsel shall have the sole authority to:

- 17 (a) Make all work assignments on behalf of the plaintiffs in the Consolidated Action  
18 (hereinafter, the "Plaintiffs") in such a manner as to promote the orderly and efficient  
19 conduct of this litigation and to avoid unnecessary duplication and expense;
- 20 (b) Supervise and monitor the activities of Plaintiffs' counsel and to implement additional  
21 procedures to ensure that unnecessary expenditures of time and funds by counsel are  
22 avoided;
- 23 (c) Determine and present in pleadings, motions, briefs, oral argument, or such other  
24 fashion as may be appropriate to the Court and opposing parties, the position of the  
25 Plaintiffs as to all matters arising during all pretrial and trial proceedings;
- 26 (d) Conduct or coordinate discovery on behalf of Plaintiffs consistent with the  
27 requirements of the Federal Rules of Civil Procedure;
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- 1 (e) Enter into stipulations with opposing counsel for the conduct of the litigation;
- 2 (f) Sign all papers filed or submitted on behalf of Plaintiffs;
- 3 (g) Conduct all pre-trial, trial, and post-trial proceedings on behalf of Plaintiffs;
- 4 (h) Employ and consult with experts;
- 5 (i) Call and chair regular meetings of Plaintiffs' counsel;
- 6 (j) Conduct settlement negotiations with Defendants on behalf of Plaintiffs and to add such  
7 additional counsel as Plaintiffs' Interim Co-Lead Class Counsel may select;
- 8 (k) Otherwise coordinate the work of all Plaintiffs' counsel, and perform such other duties  
9 as the Plaintiffs' Interim Co-Lead Class Counsel deem necessary or as authorized by  
10 further order of the Court;
- 11 (l) Recommend apportionment and allocation of fees and expenses subject to Court  
12 approval; and
- 13 (m) Have authority over all other matters concerning the prosecution or resolution of any  
14 cases joined in the Consolidated Action.

15 Plaintiffs' Interim Co-Lead Class Counsel shall be the contact for all Plaintiffs' counsel in  
16 communications with Defendant's counsel, and shall be the spokesperson for Plaintiffs. Interim Co-  
17 Lead Class Counsel shall direct and coordinate the activities of Plaintiffs' counsel and be responsible  
18 for communicating with the Court. Interim Co-Lead Class Counsel are designated as the contact  
19 persons for all Plaintiffs' counsel and as the attorneys of record with whom the Court will be dealing  
20 throughout the course of this litigation. Plaintiffs' Interim Co-Lead Class Counsel shall be responsible  
21 for receiving and, as appropriate, distributing to other counsel Orders from the Court and documents  
22 from opposing counsel, and otherwise facilitating and expediting communications to the Court.  
23 Service by the Defendant on Plaintiffs of any papers shall be deemed complete when a copy is served  
24 on Interim Co-Lead Class Counsel. Plaintiffs' Interim Co-Lead Counsel shall maintain lists of all  
25 Plaintiffs' counsel and their respective addresses.

26 No pleadings or other papers shall be filed or tasks performed by Plaintiffs' counsel in the  
27 Consolidated Action without the advance approval of Plaintiffs' Interim Co-Lead Counsel. No  
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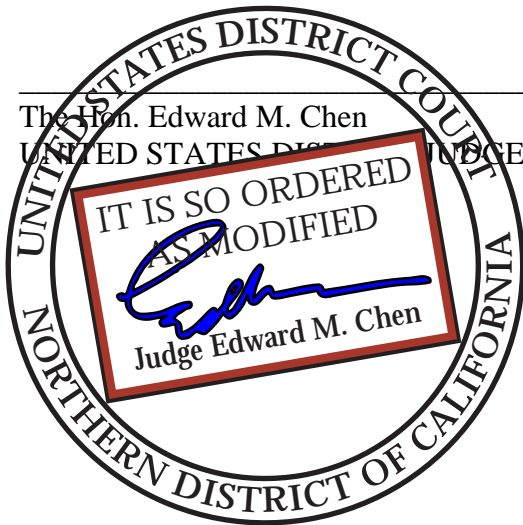
1 discovery shall be conducted by the Plaintiffs without the advance approval of Plaintiffs' Interim Co-  
2 Lead Counsel. This is intended to prevent duplication of pleadings, discovery, or tasks by Plaintiffs'  
3 counsel. Unless filing an application for relief from the Court's Order Relating, Reassigning and  
4 Consolidating Cases, all pleadings or other papers filed with the Court on behalf of any plaintiff shall  
5 be filed through Plaintiffs' Interim Co-Lead Counsel.

6 The Court recognizes that cooperation by and among counsel is essential for the orderly and  
7 expeditious resolution of this litigation. Accordingly, the mere communication of otherwise privileged  
8 information among and between plaintiffs' counsel shall not be deemed a waiver of the attorney-client  
9 privilege or the attorney work product immunity.

10 Counsel for all parties are directed to cooperate with one another, wherever possible, to  
11 promote the expeditious handling of pre-trial proceedings in the Consolidated Action.

12  
13 **IT IS SO ORDERED.** All future filings shall be filed under the lead consolidated case  
14 No. C14-5200 EMC and shall be captioned "In Re Uber FCRA Litigation."

15 Dated: 10/22/15



16 The Hon. Edward M. Chen  
17 UNITED STATES DISTRICT COURT JUDGE

18  
19  
20 Approved as to form:

21 /s/ Rod M. Fliegel  
22 Rod M. Fliegel  
23 Littler Mendelson, P.C.  
24 Attorneys for Defendants Uber Technologies, Inc. and Rasier, LLC

25 /s/ Timothy Hix  
26 Timothy Hix  
27 SEYFARTH SHAW LLP  
28 Attorneys for Defendant Hirease, LLC

**SIGNATURE ATTESTATION**

In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from the signatories on this e-filed document.

Dated: October 15, 2015

/s/ Andrew P. Lee  
Andrew P. Lee

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