

donna@pilayer.com

Philadelphia, PA 19121

12 JURORS DEMANDED

$$\vdots$$

NO.:

**Asociacion de Licenciados
de Delaware County
Servicio de Referencia e Informacion
Front & Lemon Streets
P.O. Box 466
Media, PA 19063
(610) 566-6625**

Law Offices of Alfred V. Altopiedi, P.C.

By: Alfred V. Altopiedi, Esquire

Identification No.: 40313

Donna A. Casasanto, Esquire

Identification No.: 67692

902 Old Marple Road

Springfield, PA 19064

610-544-1800/610-544-1808 FAX

ava@pilawyer.com

donna@pilayer.com

debbie@pilawyer.com

Anthony D. Reagoso, P.C.

By: Anthony D. Reagoso, Esquire

Identification No.: 23454

902 Old Marple Road

Springfield, PA 19064

610-566-2390

areagoso@reagosolaw.com

MAJOR JURY TRIAL

12 JURORS DEMANDED

LINDA SCHELLENGER, individually and as
Executrix of the Estate of Sean Schellenger,
deceased

21 Gray Court

Berwyn, PA 19312

v.

UBER TECHNOLOGIES, INC., t/a/d/b/a

UBER EATS

7821 Bartram Avenue

Philadelphia, PA 19153

and

PORTIER, LLC, t/a/d/b/a UBER EATS

c/o C T Corporation

600 N. 2nd Street

Harrisburg, PA 17101

and

MICHAEL WHITE

1703 W. Norris Street, 1st Floor

Philadelphia, PA 19121

: IN THE COURT OF COMMON PLEAS
: DELAWARE COUNTY, PA

: NO.:

COMPLAINT

1. Plaintiff, Linda Schellenger, mother of the late Sean Schellenger, is an adult individual currently residing at 21 Gray Court, Berwyn, PA 19312.

2. Plaintiff, Linda Schellenger, is the Executrix of the Estate of Sean Schellenger, who died on July 12, 2018.

3. Defendant, Uber Technologies, Inc., t/a/d/b/a Uber Eats (hereinafter referred to as "Uber Eats"), is a corporation or other business entity authorized to conduct business in the

Commonwealth of Pennsylvania and is engaged in the business of carrying passengers for hire and food delivery through a web-based smartphone application, with a business address at 7821 Bartram Avenue, Philadelphia, PA 19153, who at all times material hereto was acting individually and/or by and through all lessees, agents, servants, workman and/or employees, including Defendant, Michael White.

4. Defendant, Portier, LLC, t/a/d/b/a Uber Eats (hereinafter referred to as "Portier") is a limited liability company organized and existing under the laws of the State of Delaware, authorized to conduct business in the Commonwealth of Pennsylvania with a place of business at 7821 Bartram Avenue, Philadelphia, PA, with a registered agent located at C. T. Corporation, 600 N. 2nd Street, Harrisburg, PA 17101.

5. Defendant, Michael White, is an adult individual residing at 1703 W. Norris Street, 1st Floor, Philadelphia, PA 19121.

6. Portier is an alter ego and wholly owned subsidiary of Uber, established to handle Uber Eats' affairs throughout the Commonwealth of Pennsylvania.

7. Defendants, Uber Eats and Portier, have developed, marketed and operated an Uber transportation and food delivery app that matches drivers with individuals who request food delivery through the smartphone app, with individuals paying for the food delivery automatically through the app.

8. The Uber driver community transports over one million riders and food deliveries every week, including transportation of riders and food in the Commonwealth of Pennsylvania.

9. At all times herein concerned, Defendants, Uber Eats and Portier regularly conduct business in and about the County of Delaware and venue is proper in Delaware County.

10. The acts alleged in this Complaint to have been done by Defendants were authorized, ordered, done and/or ratified by their respective officers, directors, agents, employees or representatives while engaged in the management, direction, control or transaction of their respective business affairs.

11. Defendants, Uber Eats and Portier, through their predecessors, parents, subsidiaries, affiliates, successors and/or assigns, acted and continue to act through their agents, servants and employees. They are vicariously liable for the conduct of these agents, servants and employees.

12. These actions are based on the wrongful death provisions of the Judicial Code, 42 Pa. Con. Stat. Ann., §§8301 and 5524(2), and the Pennsylvania Probate Estates and Fiduciary Code, Act of June 30, 2972, P.L. 508, 20 Pa. Con. Stat. Ann. §3373 and the survival provisions of the Judicial Code 42 Pa. Con. Stat. Ann., §§8302.

13. Decedent, Sean Schellenger, did not bring an action, and no action was brought against the Defendants during the lifetime of the decedent for the injuries which resulted in death, and no action for the wrongful death of the said decedent has been commenced against the Defendants on account of the grievances hereinafter set forth.

14. The action for the wrongful death of Plaintiff's decedent is brought on behalf of Linda Schellenger, individually and as executrix of the Estate of Sean Schellenger.

15. The survival action is brought on behalf of the estate of the deceased.

16. At all times relevant hereto, Defendant, Michael White, was riding his bicycle, which he was operating as an "Uber Eats" delivery driver through the Uber Eats mobile application.

17. At all times relevant hereto, Defendant, Michael White, was an employee of Defendants, Uber Eats and Portier.

18. In the alternative, at all times relevant hereto, Defendant, Michael White, was acting individually and/or as a business partner, lessee, agent, servant, and/or workman of Defendants, Uber Eats and Portier, with the express, apparent and/or implied permission, authorization and/or consent of Defendants, Uber Eats and Portier.

19. At all times herein concerned, Defendant, Michael White, was transporting/delivering food for Defendant, Uber Eats and Portier and furthering the financial interests of Defendants, Uber Eats and Portier.

20. On or about July 12, 2018, at approximately 11:00 p.m., Sean Schellenger left Rouge restaurant, located at 205 S. 18th Street, Philadelphia, PA 19103 with William Norris Jordan and Uri Jacobson, and got into a motor vehicle owned and/or operated by William Norris Jordan with the intention of going to the Happy Rooster restaurant. As the motor vehicle in which Sean Schellenger was a rear seat passenger approached the intersection of 17th and Chancellor Streets in Philadelphia, another motor vehicle was blocking the intersection, for no obvious reason, preventing William Norris Jordan from being able to drive through the intersection. At that time, Sean Schellenger exited from the rear of the motor vehicle to ask the driver of the blocking vehicle to move so they could pass. While this discussion was going on, Defendant, Michael White, who had already accepted a food delivery job on his Uber Eats mobile app, was riding his bicycle from Popeye's and on his way to deliver chicken to an Uber Eats customer, when he stopped his bicycle at the location where Sean Schellenger was having the discussion with the individual(s) in the blocking vehicle. Defendant, Michael White, a

bystander, was in no way involved in the discussion between Sean Schellenger and the other motor vehicle operator, but happened upon the scene and intentionally inserted himself into the situation. At that time, Defendant, Michael White, got off of his bicycle; placed his backpack on the ground; unzipped the backpack; and withdrew a twelve (12) inch knife with a seven (7) inch blade and told Sean: "Do you want some of this? Why do you have to be such a tough guy?" as Defendant, Michael White, held up the knife. Sean Schellenger, who was unarmed and unable to appreciate the danger of Defendant, Michael White, with a weapon, acted on instinct to disarm, Defendant, Michael White, by attempting to tackle him, and while Sean Schellenger lifted Defendant, Michael White, off of the ground, Defendant, Michael White stabbed Sean Schellenger in the back, sending him to the ground and then violently withdrawing the knife from his back, whereby Sean Schellenger sustained serious and fatal injuries as more fully set forth hereinafter. After Defendant, Michael White, stabbed Sean Schellenger and pulled the knife out of his back, he ran from the scene, leaving Sean Schellenger to die.

COUNT I

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased v.
DEFENDANT, UBER TECHNOLOGIES, INC., t/a/d/b/a UBER EATS**

NEGLIGENCE

21. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 20 above, as fully as though the same were set forth herein at length.

22. Defendant, Uber, had a duty, by and through its employees, agents, servants, workmen and/or ostensible agents to conduct its delivery operations in a safe and non-negligent manner and to avoid causing bodily injury and death to others, including members of the public

like Sean Schellenger.

23. In direct breach of this duty, Defendant, Uber, by and through its employees, agents, servants, workmen and/or ostensible agent, Michael White, negligently, carelessly and/or recklessly performed delivery services/operations in numerous ways, including but not limited to, the following:

- a. Failing to set up a comprehensive training program for its drivers/delivery persons in violation of its licensing agreement with the Commonwealth of Pennsylvania.
- b. Failing to proceed directly to the customer's location to deliver the customer's order in violation of Uber Eats policies and procedures;
- c. Allowing their delivery person to stop his bike and insert himself into a situation in which he was merely a bystander and had no involvement;
- d. Allowing their delivery person to carry a concealed and illegal weapon, being a twelve (12) inch knife with a seven (7) inch blade;
- e. Stabbing and killing Sean Schellenger, who was unarmed and who acted on instinct in attempting to disarm their driver;
- f. Carrying out his delivery operations and duties without due regard to the rights, safety and position of Sean Schellenger;
- g. Carrying out his delivery operations and duties without due regard to the rights, safety, and position of Sean Schellenger, in violation of the laws of the Commonwealth of Pennsylvania;

- h. Failing to require Defendant, Michael White, to complete any Uber Eats safety and operations courses;
- i. Failing to require Defendant, Michael White, to follow Uber Eats operating policies and procedures;
- j. Failing to require Defendant, Michael White, to disclose his past criminal history; propensity for violent behavior; and past psychiatric history for which he had been prescribed medication.

24. The negligence, carelessness and/or recklessness of Defendant, further consists of the following:

- a. Negligently hiring, training, managing or otherwise supervising Defendant, Michael White, when Defendant, Uber, knew or should have known that said delivery partner would act in a negligent, reckless and/or careless manner;
- b. Vicarious liability/respondent superior liability for the actions of its agent, Michael White, while performing deliveries on behalf of Defendant, Uber;
- c. Failing to monitor and supervise Defendant, Michael White, who they hired, knowing that he had a pending criminal case with charges that could greatly affect safe delivery to customers if repeated;
- d. Violating applicable provisions of the crimes code of the Commonwealth of Pennsylvania and such other statutes and case law;
- e. Permitting a non-trained or poorly trained individual to perform delivery services on its behalf;

- f. Failing to determine whether Defendant, Michael White, possessed the necessary skills and/or possessed the necessary mental or physical ability to exercise such delivery skills;
- g. Failing to perform a comprehensive background check of Defendant, Michael White's criminal history, which would have revealed that on November 3, 2017 (approximately 8 months prior to the incident complained of herein), he had been arrested and charged with:
- Theft by Unlawful Taking;
 - Receiving Stolen Property;
 - Possession of an Instrument of Crime with Intent;
 - Conspiracy; and
 - Possession of Marijuana.

and that at all times relevant hereto, these criminal charges were open and pending in the ARD program;

- h. Failing to perform a comprehensive background check, including social media search of Defendant, Michael White, which would have revealed his propensities for violent behavior;
- I. Failing to perform a comprehensive background check of Defendant, Michael White, which would have revealed his psychiatric history of bipolar disorder and propensity toward violent behavior;
- j. Failing to instruct Defendant, Michael White, in the proper and safe method of picking up and dropping off deliveries;

- k. Failing to insure that Defendant, Michael White, was properly trained in safe pickup and delivery procedures;
- l. Failing, as Defendant, Michael White's authority, to control Defendant, Michael White's conduct in regard to the manner in which he was performing his pickup and delivery activities;
- m. Failing to properly train and instruct Michael White, that he was not permitted to carry an instrument of crime and/or concealed weapon while performing deliveries.

25. As a direct and proximate result of the carelessness and negligence of the Defendant as aforesaid, Plaintiff suffered the following:

- a. Plaintiff's Decedent, Sean Schellenger, was the victim of extreme pain and suffering;
- b. Plaintiff's Decedent, Sean Schellenger, eventually died;
- c. Plaintiff has suffered financial loss, having incurred general expenses and bills;
- d. Plaintiff's Decedent experienced extreme pain and suffering prior to his death while laying in the street, and there were unnecessary expenditures for medical bills;
- e. Plaintiff has lost the right to future maintenance and support;

26. As a result of the carelessness, recklessness and negligence of the Defendant, Uber Technologies, Inc., t/a/d/b/a Uber Eats, the Plaintiff's decedent and Plaintiff, were caused to suffer the injuries and damages as set forth herein.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands judgment against Defendant, Uber Technologies, Inc., t/a/d/b/a Uber Eats, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, exclusive of pre-judgment interest, costs and interests and demands the following relief:

- Compensatory Damages;
- Punitive Damages;
- Reasonable Attorney's Fees and Costs;
- Damages for Delay;
- Such other damages and further relief as appears to be reasonable and just.

COUNT II

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased v.
PORTIER, LLC, t/a/d/b/a UBER EATS**

NEGLIGENCE

27. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 26 above, as fully as though the same were set forth herein at length.

28. Defendant, Portier, had a duty, by and through its employees, agents, servants, workmen and/or ostensible agents to conduct its delivery operations in a safe and non-negligent manner and to avoid causing bodily injury and death to others, including members of the public like Sean Schellenger.

29. In direct breach of this duty, Defendant, Portier, by and through its employees, agents, servants, workmen and/or ostensible agent, Michael White, negligently, carelessly and/or

recklessly performed delivery services/operations in numerous ways, including but not limited to, the following:

- a. Failing to set up a comprehensive training program for its drivers/delivery persons in violation of its licensing agreement with the Commonwealth of Pennsylvania.
- b. Failing to proceed directly to the customer's location to deliver the customer's order in violation of Uber Eats policies and procedures;
- c. Allowing their delivery person to stop his bike and insert himself into a situation in which he was merely a bystander and had no involvement;
- d. Allowing their delivery person to carry a concealed and illegal weapon, being a twelve (12) inch knife with a seven (7) inch blade;
- e. Stabbing and killing Sean Schellenger, who was unarmed and who acted on instinct in attempting to disarm their driver;
- f. Carrying out his delivery operations and duties without due regard to the rights, safety and position of Sean Schellenger;
- g. Carrying out his delivery operations and duties without due regard to the rights, safety, and position of Sean Schellenger, in violation of the laws of the Commonwealth of Pennsylvania;
- h. Failing to require Defendant, Michael White, to complete any Uber Eats safety and operations courses;
- i. Failing to require Defendant, Michael White, to follow Uber Eats operating policies and procedures;

- j. Failing to require Defendant, Michael White, to disclose his past criminal history; propensity for violent behavior; and past psychiatric history for which he had been prescribed medication.

30. The negligence, carelessness and/or recklessness of Defendant, further consists of the following:

- a. Negligently hiring, training, managing or otherwise supervising Defendant, Michael White, when Defendant, Uber, knew or should have known that said delivery partner would act in a negligent, reckless and/or careless manner;
- b. Vicarious liability/ respondeat superior liability for the actions of its agent, Michael White, while performing deliveries on behalf of Defendant, Uber;
- c. Failing to monitor and supervise Defendant, Michael White, who they hired, knowing that he had a pending criminal case with charges that could greatly affect safe delivery to customers if repeated;
- d. Violating applicable provisions of the crimes code of the Commonwealth of Pennsylvania and such other statutes and case law;
- e. Permitting a non-trained or poorly trained individual to perform delivery services on its behalf;
- f. Failing to determine whether Defendant, Michael White, possessed the necessary skills and/or possessed the necessary mental or physical ability to exercise such delivery skills;

g. Failing to perform a comprehensive background check of Defendant, Michael White's criminal history, which would have revealed that on November 3, 2017 (approximately 8 months prior to the incident complained of herein), he had been arrested and charged with:

- Theft by Unlawful Taking;
- Receiving Stolen Property;
- Possession of an Instrument of Crime with Intent;
- Conspiracy; and
- Possession of Marijuana.

and that at all times relevant hereto, these criminal charges were open and pending in the ARD program;

h. Failing to perform a comprehensive background check, including social media search of Defendant, Michael White, which would have revealed his propensities for violent behavior;

i. Failing to perform a comprehensive background check of Defendant, Michael White, which would have revealed his psychiatric history of bipolar disorder and propensity toward violent behavior;

j. Failing to instruct Defendant, Michael White, in the proper and safe method of picking up and dropping off deliveries;

k. Failing to insure that Defendant, Michael White, was properly trained in safe pickup and delivery procedures;

- l. Failing, as Defendant, Michael White's authority, to control Defendant, Michael White's conduct in regard to the manner in which he was performing his pickup and delivery activities;
- m. Failing to properly train and instruct Michael White, that he was not permitted to carry an instrument of crime and/or concealed weapon while performing deliveries.

31. As a direct and proximate result of the carelessness and negligence of the Defendant as aforesaid, Plaintiff suffered the following:

- a. Plaintiff's Decedent, Sean Schellenger, was the victim of extreme pain and suffering;
- b. Plaintiff's Decedent, Sean Schellenger, eventually died;
- c. Plaintiff has suffered financial loss, having incurred general expenses and bills;
- d. Plaintiff's Decedent experienced extreme pain and suffering prior to his death while laying in the street, and there were unnecessary expenditures for medical bills;
- e. Plaintiff has lost the right to future maintenance and support;

32. As a result of the carelessness, recklessness and negligence of the Defendant, Portier, LLC, t/a/d/b/a Uber Eats, the Plaintiff's decedent and Plaintiff, were caused to suffer the injuries and damages as set forth herein.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands judgment against Defendant, Portier, LLC, t/a/d/b/a Uber Eats, in

an amount in excess of Fifty Thousand (\$50,000.00) Dollars, exclusive of pre-judgment interest, costs and interests and demands the following relief:

- I. Compensatory Damages;
- ii. Punitive Damages;
- iii. Reasonable Attorney's Fees and Costs;
- iv. Damages for Delay;
- v. Such other damages and further relief as appears to be reasonable and just.

COUNT III

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased
v. MICHAEL WHITE**

NEGLIGENCE

33. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 32 above, as fully as though the same were set forth herein at length.

34. At the time of the aforesaid incident, the negligence, carelessness and/or recklessness of Defendant, Michael White, consisted of the following:

- a. Failing to proceed directly to the customer's location to deliver the customer's order in violation of Uber Eats policies and procedures;
- b. Stopping his bike and inserting himself into a situation in which he was merely a bystander and had no involvement;
- c. Carrying a concealed and illegal weapon, being a twelve (12) inch knife with a seven (7) inch blade;

- d. Stabbing and killing Sean Schellenger, who was unarmed and who acted on instinct in attempting to disarm Defendant, Michael White;
- e. Carrying out his delivery operations and duties without due regard to the rights, safety and position of Sean Schellenger;
- f. Carrying out his delivery operations and duties without due regard to the rights, safety, and position of Sean Schellenger, in violation of the laws of the Commonwealth of Pennsylvania;
- g. Failing to complete any Uber Eats safety and operations courses;
- h. Failing to follow Uber Eats operating policies and procedures;

35. As a direct and proximate result of the carelessness and negligence of the Defendant as aforesaid, Plaintiff suffered the following:

- a. Plaintiff's Decedent, Sean Schellenger, was the victim of extreme pain and suffering;
- b. Plaintiff's Decedent, Sean Schellenger, eventually died;
- c. Plaintiff has suffered financial loss, having incurred general expenses and bills;
- d. Plaintiff's Decedent experienced extreme pain and suffering prior to his death while laying in the street, and there were unnecessary expenditures for medical bills;
- e. Plaintiff has lost the right to future maintenance and support;

36. As a result of the carelessness, recklessness and negligence of the Defendant, Michael White, the Plaintiff's decedent and Plaintiff, were caused to suffer the injuries and

damages as set forth herein.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands judgment against Defendant, Michael White, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, exclusive of pre-judgment interest, costs and interests and demands the following relief:

- I. Compensatory Damages;
- ii. Punitive Damages;
- iii. Reasonable Attorney's Fees and Costs;
- iv. Damages for Delay;
- v. Such other damages and further relief as appears to be reasonable and just.

COUNT IV

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased
v. ALL DEFENDANTS**

WRONGFUL DEATH

37. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 36 above, as fully as though the same were set forth herein at length.

38. Plaintiff, Linda Schellenger, as Executrix of the Estate of Sean Schellenger, brings this action on behalf of the beneficiaries under and by virtue of the Wrongful Death Act, 42 Pa. C.S.A. §8301, and the applicable Rules of Civil Procedure and decisional law.

39. Under the Wrongful Death Act, which exists only for the benefit of parents, children and spouses, Sean Schellenger left surviving him his mother, Linda Schellenger, who is

entitled to recover for damages and on her behalf this action is brought.

40. As a result of the acts and omissions of all Defendants, Plaintiff's decedent was caused grave injuries and death, resulting in the entitlement to damages by said beneficiary under the Wrongful Death Act.

41. Plaintiff, Linda Schellenger, as Executrix of the Estate of Sean Schellenger, deceased, claims all Executrix' expenses recoverable under the Wrongful Death Act, including, but not limited to, damages for hospital, medical, funeral and burial expenses and expenses of administration necessitated by reason of injuries causing the decedent's death.

42. On behalf of the Wrongful Death Act beneficiary, the Executrix claims damages for monetary support that decedent would have provided to the beneficiary during her lifetime, including but not limited to, the support provided or which could have been expected to have been provided to the beneficiary.

43. On behalf of the Wrongful Death Act beneficiary, the Executrix claims damages for services provided or which could have been expected to have been performed in the future, by decedent.

44. On behalf of the Wrongful Death Act beneficiary, the Executrix claims damages for the loss of companionship, comfort, society, guidance, solace, and protection of decedent.

45. On behalf of the Wrongful Death Act beneficiary, the Executrix claims damages for all pecuniary loss suffered by the beneficiary.

46. On behalf of the Wrongful Death Act beneficiary, the Executrix claims damages for the full measure of damages allowed under the Wrongful Death Act of Pennsylvania and decisional law interpreting said Act.

47. By reason of the said tortious conduct of the Defendants, resulting in fatal injuries to and the death of the decedent, Plaintiff claims damages of the Defendants for and on behalf of the next of kin of the decedent, as follows:

- a. for loss of services, support and contributions which decedent had provided and made and which decedent would have provided and made during the remainder of decedent's natural life, which services, support and contributions would have continued until the termination of the decedent's natural life but for the aforesaid tortious conduct;
- b. for loss of decedent's society, companionship, comfort and guidance, which the decedent had provided and which decedent would have continued to provide during the remainder of decedent's natural life, but for the aforesaid tortious conduct;
- c. for funeral and burial expenses;
- d. for expenses incident to the last illness and death of Plaintiff's decedent;
- e. for expenses of Administration;
- f. for other losses and expenses caused by said tortious conduct.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands judgment against each Defendant in an amount in excess of Fifty Thousand Dollars (\$50,000.00) plus delay damages pursuant to Pa. R. C. P. 238, along with costs and fees.

COUNT V

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased
v. ALL DEFENDANTS**

SURVIVAL ACTION

48. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 47 above, as fully as though the same were set forth herein at length.

49. Plaintiff, Linda Schellenger, as Executrix of the Estate of Sean Schellenger, brings this survival action on behalf of the Estate of Sean Schellenger, under and by virtue of 42 Pa. C.S.A. §8302, and the applicable Rules of Civil Procedure and decisional law.

50. Plaintiff's decedent, Sean Schellenger, died leaving a will appointing Plaintiff, Linda Schellenger, as Executor and solo Beneficiary of his Estate. Accordingly, the beneficiary as described above, is entitled to the entire distribution of the Estate.

51. As a result of the acts and omissions of the Defendants, Plaintiff's decedent was caused grave injuries and death resulting in the entitlement of damages by said beneficiary under the Survival Act.

52. On behalf of the Survival Act beneficiary, Plaintiff claims loss of earnings and economic loss to the decedent's Estate, including, but not limited to, decedent's total estimated future earning power, less his cost of personal maintenance as a result of decedent's death.

53. On behalf of the Survival Act beneficiary, Plaintiff claims all loss of income, retirement and Social Security income as a result of decedent's death.

54. On behalf of the Survival Act beneficiary, Plaintiff claims damages for pain, suffering, and inconvenience endured by decedent prior to death, including, but not limited to,

physical pain and suffering, mental pain and suffering, and the fright and mental suffering attributed to the peril leading to decedent's death.

55. Plaintiff claims the full measure of damages under the Survival Act and decisional law interpreting said Act.

56. By reason of the said tortious conduct of the Defendants, resulting in fatal injuries to and the death of the decedent, Plaintiff claims damages of the Defendants for and on behalf of the estate of the decedent, as follows:

- a. for plaintiff's decedent's physical and mental anguish and pain, suffering and inconvenience from the time of injury until death;
- b. for plaintiff's decedent's shock and injury to the nerves and nervous system and has suffered or may suffer emotional distress from the time of injury until death;
- c. for Plaintiff's decedent's deprivation of the ordinary pleasures of life;
- d. for the lost earnings of the decedent from the date of injury through the end of the decedent's life expectancy less personal maintenance and lost contributions awarded under the wrongful death claim.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands judgment against each Defendant in an amount in excess of Fifty Thousand Dollars (\$50,000.00) plus delay damages pursuant to Pa. R. C. P. 238, along with costs and fees.

COUNT VI

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased v.
DEFENDANT, UBER TECHNOLOGIES, INC., t/a/d/b/a UBER EATS**

PUNITIVE DAMAGES

57. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 56 above, as fully as though the same were set forth herein at length.

58. On or about November 3, 2017, Defendant, Michael White was arrested and charged with the crimes of:

- Theft by Unlawful Taking;
- Receiving Stolen Property;
- Possession of an Instrument of Crime with Intent;
- Conspiracy; and
- Possession of Marijuana.

59. In disposition of these criminal charges, Defendant, Michael White, participated in the ARD program.

60. At all times relevant hereto, these criminal charges were open and pending, as the ARD requirements had not yet been completed.

61. Had Defendant, Uber Eats, performed a comprehensive background check of Defendant, Michael White, it would have discovered the charges of Theft by Unlawful Taking, Receiving Stolen Property, Possession of an Instrument of Crime with Intent, Conspiracy and Possession of Marijuana that were pending for Defendant, Michael White.

62. Had Defendant, Uber Eats, performed a comprehensive background check to include a social media search, it would have discovered Defendant, Michael White's propensity for violent and criminal behavior.

63. Defendant, Uber Eats, was well aware of its obligation to properly screen its delivery drivers to protect its customers and the public from harm.

64. Defendant, Uber Eats, memorialized its obligation for initial, as well as ongoing, screening and background checks of its delivery drivers by advertising to potential customers and the public that it does such screening and background checks to entice individuals to sign up and use its service.

65. Defendant, Uber Eats, recklessly failed to implement safe policies and procedures to prevent the hiring of drivers/delivery persons who had pending criminal charges against them, like Defendant, Michael White.

66. Defendant, Uber Eats, acted in a willful, wanton, outrageous and reckless manner when it hired as a delivery driver Defendant, Michael White, who Defendant, Uber Eats, knew or should have known, had a propensity for violent and criminal behavior.

67. Defendant, Uber Eats, acted in a willful, wanton, outrageous and reckless manner when it hired as a delivery driver Defendant, Michael White, who Defendant, Uber Eats, knew or should have known, had a psychiatric history of bipolar disorder and propensity toward violent and criminal behavior.

68. As set forth above, Defendant's conduct was willful, wanton, reckless and evidence a reckless disregard for the safety and well-being of the public, including Plaintiff's Decedent, Sean Schellenger.

69. When Uber Eats requested and accepted licensing by the Commonwealth of Pennsylvania, they agreed to implement safety and training courses for their drivers, which they have willfully failed to do.

70. As a direct and proximate result of such conduct by Defendant, Uber Eats, Plaintiff, suffered injuries, losses and damages as set forth above.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands punitive damages against Defendant, Uber Technologies, Inc., t/a/d/b/a/ Uber Eats.

COUNT VII

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased v.
DEFENDANT, PORTIER, LLC, t/a/d/b/a UBER EATS**

PUNITIVE DAMAGES

71. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 70 above, as fully as though the same were set forth herein at length.

72. On or about November 3, 2017, Defendant, Michael White was arrested and charged with the crimes of:

- Theft by Unlawful Taking;
- Receiving Stolen Property;
- Possession of an Instrument of Crime with Intent;
- Conspiracy; and
- Possession of Marijuana.\

73. In disposition of these criminal charges, Defendant, Michael White, participated in the ARD program.

74. At all times relevant hereto, these criminal charges were open and pending, as the ARD requirements had not yet been completed.

75. Had Defendant, Portier, performed a comprehensive background check of Defendant, Michael White, it would have discovered the charges of Theft by Unlawful Taking, Receiving Stolen Property, Possession of an Instrument of Crime with Intent, Conspiracy and Possession of Marijuana that were pending for Defendant, Michael White.

76. Had Defendant, Portier, performed a comprehensive background check to include a social media search, it would have discovered Defendant, Michael White's propensity for violent and criminal behavior.

77. Defendant, Portier, was well aware of its obligation to properly screen its delivery drivers to protect its customers and the public from harm.

78. Defendant, Portier, memorialized its obligation for initial, as well as ongoing, screening and background checks of its delivery drivers by advertising to potential customers and the public that it does such screening and background checks to entice individuals to sign up and use its service.

79. Defendant, Portier, acted in a willful, wanton, outrageous and reckless manner when it hired as a delivery driver Defendant, Michael White, who Defendant, Portier, knew or should have known, had a psychiatric history of bipolar disorder and propensity toward violent and criminal behavior.

80. Defendant, Portier, recklessly failed to implement safe policies and procedures to prevent the hiring of drivers/delivery persons who had pending criminal charges against them, like Defendant, Michael White.

81. Defendant, Portier, acted in a willful, wanton, outrageous and reckless manner when it hired as a delivery driver Defendant, Michael White, who Defendant, Portier, knew or should have known, had a propensity for criminal behavior.

82. As set forth above, Defendant's conduct was willful, wanton, reckless and evidence a reckless disregard for the safety and well-being of the public, including Plaintiff's Decedent, Sean Schellenger.

83. When Defendant, Portier, requested and accepted licensing by the Commonwealth of Pennsylvania, they agreed to implement safety and training courses for their drivers, which they have willfully failed to do.

84. As a direct and proximate result of such conduct by Defendant, Portier, Plaintiff, suffered injuries, losses and damages as set forth above.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands punitive damages against Defendant, Portier, LLC, t/a/d/b/a/ Uber Eats.

COUNT VIII

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased v.
DEFENDANT, MICHAEL WHITE**

PUNITIVE DAMAGES

85. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 84 above, as fully as though the same were set forth herein at length.

86. At all times relevant hereto, Defendant, Michael White, was in the process of making a food delivery as an Uber Eats representative;

87. Defendant, Michael White, failed to proceed directly to the Uber Eats customer's location to deliver the customer's order in violation of Uber Eats policies and procedures;

88. Defendant, Michael White, stopped his bike and inserting himself into a situation in which he was merely a bystander and had no involvement;

89. Defendant, Michael White, was carrying a concealed and illegal weapon, a twelve (12) inch knife with a seven (7) inch blade;

90. Defendant, Michael White, stabbed and killed Sean Schellenger;

91. Defendant, Michael White's action of stabbing and killing Sean Schellenger was willful, wanton, outrageous and in reckless disregard for the safety of Sean Schellenger, who was unarmed and in a condition that prevented him from being able to appreciate the danger of Defendant, Michael White, armed with a 12 inch knife..

92. Defendant, Michael White carried out his delivery operations without due regard for the rights, safety and position of Sean Schellenger;

93. Defendant, Michael White carried out his delivery operations without due regard for the rights, safety and position of Sean Schellenger, in violation of the laws of the Commonwealth of Pennsylvania;

94. Defendant, Michael White, failed to complete any Uber Eats safety and operations courses;

95. Defendant, Michael White, failed to follow Uber Eats operating policies and procedures;

96. Defendant, Michael White, never disclosed to Defendant that he had an open criminal case and was in an ARD program, wherein he had been arrested and charged with Theft by Unlawful Taking; Receiving Stolen Property; Possession of an Instrument of Crime with Intent; and Conspiracy.

97. As a direct and proximate result of such conduct by Defendant, Michael White, Plaintiff, suffered injuries, losses and damages as set forth above.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands punitive damages against Defendant, Michael White.

COUNT IX

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased v.
DEFENDANT, MICHAEL WHITE**

ASSAULT

98. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 97 above, as fully as though the same were set forth herein at length.

99. In the alternative to the Counts set forth above, Defendant, Michael White, intended to cause and did put Sean Schellenger in reasonable and immediate fear of harmful or offensive contact with his body.

100. As a result of Defendant, Michael White's acts as set forth hereinabove, Sean Schellenger was put in reasonable and immediate fear of harmful or offensive contact with his body.

101. In performing the acts alleged hereinabove, Defendant, Michael White, acted with the intent of making contact with Sean Schellenger's person.

102. At no time did Sean Schellenger consent to any of the acts by Defendant, Michael White, as alleged hereinabove.

103. As a direct and proximate result of Defendant, Michael White's conduct as alleged hereinabove, Sean Schellenger died.

104. The aforementioned conduct by Defendant, Michael White, was willful, wanton, and malicious.

105. At all times herein concerned, Defendant, Michael White, acted with conscious disregard of Sean Schellenger's rights

106. Defendant, Michael White, also acted with the knowledge of or reckless disregard for the fact that his conduct was certain to cause injury and/or death to Sean Schellenger.

107. Plaintiff believes and therefore avers that Defendant, Michael White, intended to cause fear, physical injury, pain and suffering and/or death to Sean Schellenger.

108. By virtue of the foregoing, Plaintiff is entitled to recover punitive damages from Defendant.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands punitive damages against Defendant, Michael White.

COUNT X

**PLAINTIFF, LINDA SCHELLENGER, individually
and as Executrix of the Estate of Sean Schellenger, Deceased v.
DEFENDANT, MICHAEL WHITE**

BATTERY

109. Plaintiff herein incorporates by reference the allegations contained in paragraphs 1 through 108 above, as fully as though the same were set forth herein at length.

110. In the alternative to the Counts set forth above, Defendant, Michael White, intended to cause harmful or offensive contact with Sean Schellenger's body.

111. Defendant, Michael White, intended to cause and did put Sean Schellenger in reasonable and immediate fear of harmful or offensive contact with his body.

112. As a result of Defendant, Michael White's harmful or offensive conduct with Sean Schellenger's body, Sean Schellenger died.

113. In performing the acts alleged hereinabove, Defendant, Michael White, acted with the intent of making contact with Sean Schellenger's person.

114. At no time did Sean Schellenger consent to any of the acts by Defendant, Michael White, as alleged hereinabove.

115. The aforementioned conduct by Defendant, Michael White, was willful, wanton, and malicious.

116. At all times herein concerned, Defendant, Michael White, acted with conscious disregard of Sean Schellenger's rights

117. Defendant, Michael White, also acted with the knowledge of or reckless disregard for the fact that his conduct was certain to cause injury and/or death to Sean Schellenger.

118. Plaintiff believes and therefore avers that Defendant, Michael White, intended to cause fear, physical injury, pain and suffering and/or death to Sean Schellenger.

119. By virtue of the foregoing, Plaintiff is entitled to recover punitive damages from Defendant.

WHEREFORE, Plaintiff, Linda Schellenger, Individually and as Executrix of the Estate of Sean Schellenger, demands punitive damages against Defendant, Michael White.

/s/ Alfred V. Altopiedi

ALFRED V. ALTOPIEDI, ESQUIRE

/s/ Anthony D. Reagoso, Esquire

ANTHONY D. REAGOSO, ESQUIRE

Attorneys for Plaintiff

VERIFICATION

I, Linda Schellenger, verify that the facts contained in the foregoing Complaint are true and correct to the best of my knowledge, information and belief; and that these statements are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


LINDA SCHELLENGER

Dated: 1/27/2020