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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

UBER TECHNOLOGIES, INC.,

Plaintiff,

v.

DOORDASH, INC.,

Defendant.

Case No. CGC-25-622395

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT DOORDASH, INC.'S DEMURRER

Date: July 11, 2025
Time: 9:00 a.m.
Dept: 301
Judge: Hon. Christine Van Aken

Date Filed: February 14, 2025

Trial Date: None Set

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I. INTRODUCTION

This lawsuit is not about protecting competition—it's about Uber trying to avoid it. Uber has been unable to offer merchants, consumers, and couriers the high-quality services that DoorDash provides. Rather than compete on the merits, Uber, a company twice DoorDash's size, has resorted to asserting baseless legal claims against a more innovative competitor in a feeble attempt to accomplish through litigation what it can't with fair competition.

Uber's complaint is rooted in the misguided notion that DoorDash is required to alter its pro-competitive business practices to facilitate Uber's business. But the law is "concerned with the protection of *competition*, not *competitors*." *RLH Indus., Inc. v. SBC Commc'ns, Inc.*, 133 Cal. App. 4th 1277, 1285 (2005) (quoting *Brown Shoe Co. v. United States*, 370 U.S. 249, 320 (1962)). Stripped of its rhetoric, Uber's complaint boils down to a challenge of standard *pro*-competitive business practices, like discounted volume pricing, exclusive partnerships, and competing vigorously for merchant business. In fact, Uber admits that *its own* contracts contain some of the same provisions that it challenges here, including requiring "restaurant-customers" to engage with Uber on a "preferred" basis. *See* Compl. ¶ 54.

Uber's makeweight claims should be discarded at the pleading stage. Despite alleging a supposed "unlawful scheme to stifle competition," *id.* ¶ 1, Uber avoids bringing antitrust claims under either the Sherman Act or Cartwright Act. Instead, Uber attempts to shoehorn its competition claims into Business & Professions Code § 16600, a statute typically applied to disputes regarding employee non-compete provisions. DoorDash's agreements do not restrain anyone, much less Uber, "from engaging in a lawful profession, trade, or business." Bus. & Prof. Code § 16600(a). Businesses "routinely employ legitimate partnership and exclusive dealing arrangements, which limit the parties' freedom to engage in commerce with third parties." *Ixchel Pharma, LLC v. Biogen, Inc*., 9 Cal. 5th 1130, 1160–61 (2020). Because these "arrangements can have procompetitive effects," courts have "declined to construe section 16600 to call such arrangements into question simply because they restrain trade in some way." *Id.* Further, although Uber tries to sidestep antitrust pleading standards, the same antitrust "rule of reason applies to contractual restraints on business operations and commercial dealings under section 16600." *Id.* at

1151. Uber's complaint does not come close to pleading a rule of reason claim.

Uber's remaining grab bag of ill-fitting state law claims fare no better. Uber's tortious interference claims are non-starters. Uber fails to attach its contracts to its complaint; fails to describe the terms that DoorDash supposedly interfered with; and even fails to allege that its contracts were in force. Nor has Uber met its obligation to allege an independently wrongful act by DoorDash or conduct substantially certain to interfere with any Uber contract or prospective economic relationship. Uber's claim under the Unfair Competition Law (UCL) is just a recycled version of the same defective section 16600 and tortious interference claims. Uber's other state law "claims" for non-restitutionary disgorgement and declaratory relief are inapplicable remedies, not independent causes of action, and cannot stand.

Uber's lawsuit should be seen for what it is: sour grapes from a competitor that has been told by merchants, time and again, that they prefer working with DoorDash. That's not the basis for a lawsuit—it's just fair competition. The Court should sustain DoorDash's demurrer.

II. UBER'S ALLEGATIONS

DoorDash is a pioneer in facilitating high-quality food delivery services. Compl. ¶ 27. Uber is the dominant global rideshare company, with a market capitalization twice DoorDash's. DoorDash and Uber, like many other platforms, power both "first-party" and "third-party" delivery services. *Id.* ¶¶ 2–5. First-party delivery refers to transactions placed directly on a merchant's app or website, for which the platform (DoorDash Drive, Uber Direct, or others) then facilitates delivery. *Id.* ¶ 2. Third-party delivery refers to transactions where an end-customer goes to a platform's app or website (a DoorDash app or website, an Uber app or website, or some other app or website), and chooses from a variety of merchants available on the platform, with delivery facilitated by the platform. *Id.*

In this case, Uber complains that DoorDash offers discounted pricing terms to merchants who contract to use DoorDash as their "exclusive or near-exclusive" first-party delivery-facilitation service. *See id.* ¶ 1. Uber alleges that DoorDash "bullies" merchants into using first-party delivery platform by "making threats" regarding their access to DoorDash's third-party delivery and retaliating with "punitive charges" if a merchant opts to decrease its volume of

business with DoorDash. *Id.* ¶¶ 31, 32. But these merchants are sophisticated businesses, and Uber's *own contracts* similarly provide "for Uber to act as a preferred or co-preferred provider for First-Party Delivery services." *Id.* ¶ 54. Uber further alleges that DoorDash supposedly interfered with Uber's "contracts and business opportunities" with unnamed merchants. *Id.* ¶¶ 7, 51–61. But Uber failed to attach any contracts to its complaint, or to describe any contract term with which DoorDash purportedly interfered, and it refused to provide its contracts prior to this demurrer despite DoorDash's repeated requests. *Id.* ¶¶ 51–61.[1]

Uber argues that this supposed "anticompetitive conduct" gives rise to causes of action for restraint of trade under Business & Professions Code section 16600 (Compl. ¶¶ 95–104); tortious interference with contract and prospective economic advantage (*id.* ¶¶ 51–72); violation of the UCL (*id.* ¶¶ 73–94); "non-restitutionary disgorgement based on unjust enrichment/quasi-contract" (*id.* ¶¶ 105–116); and declaratory relief (*id.* ¶¶ 117–119). Each of these causes of action is inadequately pled and should be rejected.

III. LEGAL STANDARD

A demurrer will be granted when the complaint "does not state facts sufficient to constitute a cause of action." Code Civ. Proc. § 430.10(e). In evaluating a demurrer, the Court should treat as true only "properly pled" facts, "not logical inferences, contentions, or conclusions of fact or law." *Winn v. Pioneer Med. Grp., Inc.*, 63 Cal. 4th 148, 152 (2016). "[C]onclusory allegations are not sufficient to state a cause of action." *El Escorial Owners' Ass'n. v. DLC Plastering, Inc.*, 154 Cal. App. 4th 1337, 1349 (2007). Further, if the plaintiff fails to adequately plead a material element of a claim, then the demurrer must be sustained. *Landmark Screens, LLC v. Morgan, Lewis & Bockius, LLP*, 183 Cal. App. 4th 238, 244 (2010).

IV. ARGUMENT

A. Uber fails to state a claim under Business & Professions Code § 16600.[2]

The complaint is most notable for the claims that Uber does *not* bring. Uber wisely does

[1] More than six weeks after DoorDash requested that Uber immediately produce the contracts that form the basis of its complaint, Uber stated that it was only willing to do so if DoorDash agreed to unwarranted conditions, including that DoorDash maintain them on an "outside counsel only" basis and that the merchants consent to their production.

[2] Although the section 16600 claim is Uber's fourth cause of action, DoorDash addresses it first,

not assert antitrust claims under either the Sherman or Cartwright Acts. Instead, Uber tries to bypass the pleading standards for traditional antitrust claims by alleging a claim for restraint of trade under Business & Professions Code section 16600—a statute typically used to seek to "invalidate noncompetition agreements following the termination of employment or sale of interest in a business." *See Ixchel*, 9 Cal. 5th at 1159. But Uber cannot circumvent antitrust pleading standards by styling its cause of action under section 16600.

The California Supreme Court has held that section 16600 claims challenging "contractual restraints on business dealings" are subject to the same "rule of reason" pleading standard that applies to ordinary antitrust claims. *See Ixchel*, 9 Cal. 5th at 1155; *see also Quidel Corp. v. Superior Ct.*, 57 Cal. App. 5th 155, 168 (2020). As the Supreme Court explained in *Ixchel*, "contractual limitations on the freedom to engage in commercial dealings can *promote* competition," and section 16600 does not "call such arrangements into question simply because they restrain trade in some way." 9 Cal. 5th at 1160–61 (emphasis added). Instead, courts apply a rule of reason analysis, just as they would under federal and state antitrust law, assessing "whether an agreement harms competition more than it helps by considering the facts peculiar to the business in which the restraint is applied, the nature of the restraint and its effects, and the history of the restraint and the reasons for its adoption." *Id*. 1150 (internal quotations omitted). In other words, section 16600 "incorporate[s] the same rule of reason applied by the Cartwright Act," *Quidel*, 57 Cal. App. 5th at 170, which governs at the "pleading stage," *Ixchel*, 9 Cal. 5th at 1149.[3] Uber's complaint comes nowhere close to pleading facts that establish any violation under a rule of reason standard.

Failure to allege an unreasonable restraint of trade. Courts have long recognized that businesses "routinely employ legitimate partnership and exclusive dealing arrangements, which limit the parties' freedom to engage in commerce with third parties." *Ixchel*, 9 Cal. 5th at 1160–61. Those agreements help businesses "leverage complementary capabilities, ensure stability in

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because several of the complaint's other claims hinge on this deficient claim.

[3] "Since the Cartwright Act and the federal Sherman Act share similar language and objectives, California courts often look to federal precedents under the Sherman Act for guidance." *Chavez v. Whirlpool Corp.*, 93 Cal. App. 4th 363, 369 (2001).

supply or demand, and protect their research, development, and marketing efforts from being exploited by contractual partners." *Id.* Because such agreements "can have procompetitive effects," courts do not "strictly interpret[]" the law to invalidate "contracts that limit the freedom to engage in commercial dealing." *Id.* at 1160. These types of contractual arrangements are lawful and often *pro*-competitive. *See id.*; *Flagship Theatres of Palm Desert, LLC v. Century Theatres, Inc.,* 55 Cal. App. 5th 381, 404 (2020) (there is "substantial scholarly and judicial authority supporting the economic utility of vertical restraints," which are "widely used in our free market economy") (internal quotations omitted); *Dayton Time Lock Serv., Inc. v. Silent Watchman Corp*., 52 Cal. App. 3d 1, 6 (1975) (exclusive contracts "provide an incentive for the marketing of new products and a guarantee of quality-control distribution"); *Allied Orthopedic Appliances Inc. v. Tyco Health Care Grp. LP*, 592 F.3d 991, 996 (9th Cir. 2010) ("There are 'well-recognized economic benefits to exclusive dealing arrangements, including the enhancement of interbrand competition.'"); *PNY Techs., Inc. v. SanDisk Corp*., 2014 WL 2987322, at *4 (N.D. Cal. July 2, 2014) ("Exclusive dealing agreements are often entered into for entirely procompetitive reasons, and generally pose little threat to competition.").

Uber does not allege any activity by DoorDash that "tends to restrain trade more than promote it." *Quidel*, 57 Cal. App. 5th at 171. Nothing about the contractual terms that Uber challenges, negotiated by sophisticated businesses in arms-length transactions, unreasonably restrains trade. In fact, Uber admits that *it* enters into similar "preferred" contracts with merchants that it now (incorrectly) claims restrain trade. *See* Compl. ¶ 54 (Uber has "contracts that provided for Uber to act as a preferred or co-preferred provider for First-Party Delivery services."). DoorDash is unaware of *any* published decision invalidating such contractual agreements with customers under section 16600. The few cases that have applied section 16600 to business contracts are a far cry from this one. In *Ixchel*, for example, the plaintiff challenged an agreement that required the defendant to terminate a drug development partnership with the plaintiff and "effectively prohibited [plaintiff] from engaging in its entire business or a substantial part of it." 9 Cal. 5th at 1139. Even then, the Supreme Court "express[ed] no view on the validity of the agreement" under section 16600, noting that many forms of exclusive dealing "restrain parties

from engaging in a lawful business." *Id.* at 1161–62 (cleaned up and citing *Great W. Distillery Prods. v. John A. Wathen Distillery Co.*, 10 Cal. 2d 442, 445–46 (1937)). Uber makes no similar allegations of complete or near-complete restraint of trade here.

Failure to allege relevant markets and market power. Uber has also failed to plead any facts establishing the relevant "line of commerce, the market area, and the affected share of the relevant market." *Quidel*, 57 Cal. App. 5th at 169 (quoting *Dayton Time Lock*, 52 Cal. App. 3d at 6–7). To state a claim, Uber must plead facts establishing a "relevant market," composed of reasonably interchangeable products within a relevant geographic area of effective competition, and that DoorDash has enough power in the relevant market "to impair competition significantly." *Exxon Corp. v. Superior Ct.*, 51 Cal. App. 4th 1672, 1682 (1997). Without pleading the "boundaries of the market in which the plaintiff maintains the defendant harmed competition," the parties and the Court do not "know where to look in assessing anticompetitive and procompetitive effects of a practice." *Flagship Theatres*, 55 Cal. App. 5th at 413–14; *see also Marsh v. Anesthesia Servs. Med. Grp., Inc.*, 200 Cal. App. 4th 480, 495 (2011). The absence of these allegations is fatal to Uber's section 16600 claim.

The *Marsh* decision is instructive. There, the court affirmed the trial court's order sustaining a demurrer where the plaintiff failed to sufficiently allege "injury across the relevant market." 200 Cal. App. 4th at 675–76. A "complaint must allege facts from which injury to market-wide competition can be inferred," and without such allegations, "the complaint fails to allege a claim on which relief may be granted." *Id.* at 672, 675. Here, Uber's allegations are even more deficient than those the court rejected in *Marsh*. Uber's complaint includes *no* facts establishing relevant product markets; *no* allegations regarding product interchangeability; and *no* allegations regarding the geographic scope of any markets. The most that Uber does is gesture at first- and third-party delivery "services," but Uber does not plead any facts establishing those services as relevant markets (they are not). *See* Compl. ¶ 2. In fact, the complaint *undermines* any conclusion that first- and third-party services are distinct markets by detailing competition among *all* "delivery services" and "delivery platforms," and within the "delivery market" as a whole (which, if one exists, would extend well beyond just restaurant delivery). *See id.* ¶ 1.

Further, Uber admits that "[d]elivery service providers like DoorDash and Uber also have varying strengths in different geographical regions." *Id.* ¶ 6. But Uber does nothing to define geographic markets where it alleges competitive harm. Because Uber has not defined any relevant product or geographic markets, Uber's conclusory allegations that DoorDash has a "leading share" or is the "largest player" are meaningless. *See MLW Media LLC v. World Wrestling Ent., Inc.*, 655 F. Supp. 3d 946, 952–53 (N.D. Cal. 2023) ("bare allegation that WWE 'holds approximately 85% of the market,'" is insufficient because "Plaintiff does not even allege what it is measuring"). Simply put, Uber's complaint provides no notice whatsoever as to relevant product markets, geographic markets, or DoorDash's power in any relevant market. The complete absence of these fundamental allegations—the foundation of virtually every rule of reason complaint—compels sustaining the demurrer. *See Marsh*, 200 Cal. App. 4th at 495; *Exxon*, 51 Cal. App. 4th at 1682; *MLW Media LLC*, 655 F. Supp. 3d at 950.

Failure to allege substantial foreclosure. Finally, Uber has alleged no facts establishing that it has been foreclosed from "a substantial share of the line of commerce." *Quidel.*, 57 Cal. App. 5th at 171. Aside from reciting bare legal conclusions—which the Court must disregard, *Winn*, 63 Cal. 4th at 152—Uber has alleged *no* facts that it has been foreclosed from any market, let alone a *substantial share* of any market. Quite the opposite: Uber alleges that its "market-leading technology" allows it to provide "healthy competition to meet a growing demand for delivery services." Compl. ¶ 1. This is yet another independent basis to sustain the demurrer.

B. Uber fails to state a claim for tortious interference.

Uber attempts to recast the same legally deficient theory as separate claims for tortious interference with contract and tortious interference with prospective economic advantage.[4] Uber

[4] A claim for tortious interference with contract "requires (1) the existence of a valid contract between the plaintiff and a third party; (2) the defendant's knowledge of that contract; (3) the defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage." *Ixchel*, 9 Cal. 5th at 1141 (citation omitted). The elements of a claim for tortious interference with prospective economic advantage are similar: "(1) the existence, between the plaintiff and some third party, of an economic relationship that contains the probability of future economic benefit to the plaintiff; (2) the defendant's knowledge of the relationship; (3) intentionally wrongful acts designed to disrupt the relationship; (4) actual disruption of the relationship; and (5) economic harm proximately caused by the defendant's action." *Roy Allan Slurry Seal, Inc. v. Am. Asphalt S., Inc.*, 2 Cal. 5th 505, 512 (2017).

alleges that DoorDash interfered with Uber's contracts with "Customers A, B, D, and E and numerous others," Compl. ¶ 54, and prospective economic relationships with "Customers C and F-Q and numerous others," *id.*, ¶ 65. At bottom, all Uber alleges is that unidentified "customers" preferred to contract with DoorDash. Uber fails to plead a viable claim under either theory.

1. Uber fails to allege valid contracts, economic relationships, or DoorDash's knowledge of those contracts or relationships.

Uber's complaint fails to give DoorDash "notice of the issues sufficient to enable preparation of a defense." *Okun v. Superior Ct.*, 29 Cal. 3d 442, 458 (1981). For contract-interference claims, a plaintiff "must plead sufficient factual allegations about the terms of its enforceable contracts, such that Defendants are sufficiently on notice to defend themselves from the claim of causing the breach or disruption of those contracts." *Orchard Supply Hardware LLC v. Home Depot USA, Inc.*, 939 F. Supp. 2d 1002, 1012 (N.D. Cal. 2013). For prospective economic advantage claims, a plaintiff must plead "an economic relationship between the plaintiff and some third party, *with the probability of future economic benefit to the plaintiff*." *Golden Eagle Land Inv., L.P. v. Rancho Santa Fe Assn.*, 19 Cal. App. 5th 399, 429 (2018). A plaintiff must identify a "relationship [that] existed at the time of the defendant's allegedly tortious acts lest liability be imposed for actually and intentionally disrupting a relationship which has yet to arise." *Westside Ctr. Assocs. v. Safeway Stores 23, Inc.*, 42 Cal. App. 4th 507, 526 (1996). Courts routinely dismiss tortious interference claims where a plaintiff fails to adequately plead specific contract terms, economic relationships, and parties.[5]

Uber's complaint provides virtually *no* notice regarding the underlying contracts, terms, or customers that form the basis of its tortious interference claims. Uber chose not to name any of the customers at issue, not to attach any of the contracts at issue, and not to describe any of the contract terms with which DoorDash allegedly interfered. Instead, Uber's complaint includes conclusory narrative paragraphs regarding negotiations with unidentified "Customers A-Q." Compl. ¶¶ 34–47. But Uber does not even name the customers who purportedly had contracts

[5] *See, e.g.*, *R Power Biofuels, LLC v. Chemex LLC*, 2016 WL 6663002, at *17 (N.D. Cal. Nov. 11, 2016); *Bradley v. Google, Inc.*, 2006 WL 3798134, at *4 (N.D. Cal. Dec. 22, 2006); *AccuImage Diagnostics Corp v. Terarecon, Inc.*, 260 F. Supp. 2d 941, 956 (N.D. Cal. 2003).

with Uber, let alone describe the material terms of those contracts. Instead, Uber vaguely alleges that it had "contracts with certain restaurant-customers," including Customers A, B, D, and E, and "numerous others." *Id.* ¶ 54. Uber alludes to interference with "advanced-stage negotiations," *id.* ¶ 63, but again, Uber never identifies the customers, the negotiators, when the negotiations occurred, or what terms were being negotiated. And as DoorDash explains further below, Uber fails to identify any contract term that was breached or disrupted. Uber's unwillingness to supply even the most basic facts underlying its tortious interference claims leaves DoorDash without "notice of the issues sufficient to enable preparation of a defense." *Okun*, 29 Cal. 3d at 458.

Uber's allegations with respect to Customers C and F–Q are equally deficient. Uber's allegations with respect to these "customers" all follow the same pattern: the existence of contract negotiations, unspecified "interest" from a merchant, and the merchant deciding to contract with DoorDash in the end. Compl. ¶¶ 37, 47. These allegations merely amount to DoorDash out-competing Uber for business. That is not actionable. *See PMC, Inc. v. Saban Ent., Inc.*, 45 Cal. App. 4th 579, 604 (1996) ("[I]t is not actionable to outbid a competitor for a deal."); *A-Mark Coin Co. v. Gen. Mills, Inc.*, 148 Cal. App. 3d 312, 324 (1983) ("In short, it is no tort to beat a business rival to prospective customers."). Uber provides no factual allegations supporting the inference of a *probable* economic benefit that Uber might receive from an *existing* economic relationship. *See Golden Eagle Land*, 19 Cal. App. 5th at 429. Nor does Uber's conclusory allegation that it "reasonably expects to derive an economic benefit" from these negotiations suffice. Compl. ¶ 63. This sort of "lost opportunity" approach would impermissibly permit "recovery no matter how speculative [Uber's] expectancy." *Westside*, 42 Cal. App. 4th at 523. "It assumes what normally must be proved, i.e., that it is reasonably probable the plaintiff would have received the expected benefit had it not been for the defendant's interference." *Id.*

Further, Uber fails to sufficiently allege DoorDash's knowledge of any Uber contract or economic relationship. For example, for Customer E, the sole customer whose allegations span more than a single paragraph, Uber refers to a pilot program, Customer E's "satisfaction" with Uber, and Uber's efforts to renegotiate with Customer E. Compl. ¶¶ 40–45. But nowhere does Uber allege that DoorDash knew anything about Uber's contract with Customer E. *Id.* Uber's

complaint likewise omits any facts showing that DoorDash had knowledge of any Uber contract with Customers A, B, and D, or economic relationship with any other customer. *See id.* ¶¶ 35, 36, 38. Simply alleging that DoorDash continued to negotiate with merchants at the same time as Uber does not show DoorDash's knowledge of any Uber contract or economic relationship. And Uber's boilerplate allegation that DoorDash had "actual or imputed knowledge" of Uber's contracts or economic relationships is insufficient. *Id.* ¶¶ 54, 65. A complaint must contain allegations of facts, "as opposed to allegations of . . . legal conclusions." *Doe v. City of L.A.*, 42 Cal. 4th 531, 551 n.5 (2007) (alterations omitted).

2. Uber fails to allege breach or disruption.

Uber also fails to allege breach or disruption of any underlying contract or prospective economic relationship. To state its tortious interference claims, Uber must plead DoorDash's "intentional acts designed to induce a breach or disruption," and "actual breach or disruption" of the contractual or economic relationship. *Ixchel*, 9 Cal. 5th at 1141; *see also Roy Allan Slurry Seal*, 2 Cal. 5th at 512. "[A] defendant's conduct may give rise to a claim for tortious interference with contractual relations if it induces an actual breach of plaintiff's contract, or 'if plaintiff's performance is made more costly or more burdensome.'" *Rincon Band of Luiseno Mission Indians etc. v. Flynt*, 70 Cal. App. 5th 1059, 1111 (2021) (quoting *Pacific Gas & Elec. Co. v. Bear Stearns & Co.*, 50 Cal. 3d 1118, 1129 (1990)).

Uber does not allege that "Customers A, B, D, or E" breached any contract with Uber. *See* Compl. ¶¶ 35–36, 38–45. When it comes to the "numerous other" restaurants that Uber never identifies, and whose contracts Uber fails to describe, Uber likewise fails to allege a breach. Tellingly, the word "breach" does not appear anywhere in Uber's complaint.

That leaves "disruption." Although a plaintiff's increased cost or burden in performing a contract may constitute "disruption" in some circumstances, *Rincon*, 70 Cal. App. 5th at 1111, that is not what Uber alleges. Instead, Uber claims that one merchant, Customer A, "terminated" its contract with Uber. Compl. ¶ 35. For Customers B and D, Uber vaguely alleges that the merchants "acquiesced" to DoorDash. *Id.* ¶¶ 36, 38. But the complaint fails to allege how these merchants' relationships *with Uber* changed, if at all. As for Customer E, all Uber describes is

contract negotiations with a "parent holding company of [multiple] major fast-food and fast casual brands," that supposedly "forced [Uber] to renegotiate" or "alter the terms of its agreement." Compl. ¶¶ 39, 43. But DoorDash did not force Uber to renegotiate its contract terms. And any theory that DoorDash's contractual terms with merchants caused them to terminate their "at-will" contracts with Uber is foreclosed by *Ixchel*.

In *Ixchel*, the plaintiff (Ixchel) sued the defendant (Biogen) to challenge a settlement agreement that Biogen entered into with a third party (Forward) that required Forward to terminate its drug development contract with Ixchel. Like here, Ixchel pleaded both a contract-interference claim and a section 16600 claim. 9 Cal. 5th at 1137. On the contract-interference claim, the Supreme Court held that because the underlying Forward/Ixchel contract was terminable at-will, Ixchel was required to plead an "independently wrongful act" to survive a pleading challenge. *Id.* at 1148. Termination of an "at-will" contract, standing alone, is insufficient to constitute "disruption" as a matter of California law. *Id.* Here, Uber concedes that it enters into "at-will contracts with restaurant-customers." Compl. ¶ 63. As in *Ixchel*, the law does not allow "disappointed competitors" like Uber "to state claims for interference with at-will contracts without alleging independently wrongful conduct." 9 Cal. 5th at 1148. Uber's contrary theory would "expose routine and legitimate business competition to litigation." *Id.*

3. Uber fails to plead any independently wrongful act.

Finally, where, as here, the underlying contract is at-will, the plaintiff must plead an independently wrongful act. *Ixchel*, 9 Cal. 5th at 1148. This is because parties to "at-will contracts have no legal assurance of future economic relations" and allegations of "independent wrongfulness" are essential to avoid "chilling legitimate business competition." *Id.* at 1147–48. Likewise, to establish a claim for interference with prospective economic advantage, "a plaintiff must plead that the defendant engaged in an independently wrongful act." *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1158–59 (2003). An act is independently wrongful only "if it is proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard." *Id.*

Uber fails to allege any independently wrongful act. Uber's allegations of independently

wrongful conduct hinge on the same meritless theory that Uber espouses in its section 16600 cause of action, and recycles in its UCL and unjust enrichment claims. *See* Compl. ¶ 60. Because those claims fail, so too do Uber's derivative tortious interference claims. *See Ahn v. Stewart Title Guar. Co.*, 93 Cal. App. 5th 168, 173 (2023) ("Our conclusion that [the plaintiff] cannot demonstrate an antitrust violation affects his derivative economic relations tort claims, both of which require independently wrongful conduct."). Uber's allegations boil down to the fact that it lost competitive negotiations to DoorDash. But there is nothing tortious about the fact that certain customers "terminated" or "broke off" negotiations with Uber, "declined [Uber's] offer," or "declined to contract" with Uber. Compl. ¶ 47. That's just competition. The complaint contains no facts establishing that DoorDash engaged in any independently wrongful act. DoorDash is not required to alter its agreements with merchants so that Uber can "operate on a co-preferred basis." Compl. ¶ 55. Uber concedes as much by pursuing its own contracts that allow "Uber to act as a *preferred*" provider for merchants. *Id.* ¶ 54 (emphasis added). Uber's problem is not with any independently wrongful acts by DoorDash; but with Uber's inability to convert its merchant negotiations into anything more than a "desire for future benefit." *Blank v. Kirwan*, 39 Cal. 3d 311, 331 (1985).

C. Uber fails to state a claim under the UCL.

Uber's claims under the "unlawful" and "unfairness" prongs of the UCL, Cal. Bus. & Prof. Code § 17200, are derivative of its defective section 16600 and tortious interference claims, and fail for the same reasons as those claims. *See* Compl. ¶¶ 80–89. Uber cannot state a claim for "unlawful" competition predicated on its section 16600 and tortious interference claims because it has not sufficiently alleged any of those predicate claims. *See Ixchel*, 9 Cal. 5th at 1139 ("[B]ecause Ixchel's other claims had been dismissed, the district court dismissed Ixchel's UCL claim for failing to allege an actionable unlawful practice."). And Uber cannot state a claim for "unfair" competition because it has not sufficiently alleged any conduct that "significantly threatens or harms competition." *Cel-Tech Commc'ns, Inc. v. L.A. Cellular Tel. Co*., 20 Cal. 4th 163, 187 (1999). Where "the same conduct is alleged to be both an antitrust violation and an 'unfair' business act or practice for the same reason," then "the determination that the conduct is

not an unreasonable restraint of trade necessarily implies that the conduct is not 'unfair' toward consumers." *See Chavez*, 93 Cal. App. 4th at 375.

D. Uber fails to state a claim for "non-restitutionary disgorgement."

Uber's supposed "claim" for "non-restitutionary disgorgement based on unjust enrichment/quasi-contract" is not actionable. To the extent Uber is pursuing "unjust enrichment," that claim does not exist. *Melchior v. New Line Prods.*, 106 Cal. App. 4th 779, 793 (2003) ("[T]here is no cause of action in California for unjust enrichment."); *see also Durell v. Sharp Healthcare*, 183 Cal. App. 4th 1350, 1370 (2010). "The phrase 'Unjust Enrichment' does not describe a theory of recovery, but an effect: the result of a failure to make restitution under circumstances where it is equitable to do so." *Lauriedale Assocs., Ltd. v. Wilson*, 7 Cal. App. 4th 1439, 1448 (1992). In effect, "[u]njust enrichment is synonymous with restitution." *Durell*, 183 Cal. App. 4th at 1370.

Although a party might pursue restitution on a "quasi-contract" theory, *see id.*, it is unclear whether Uber seeks to do so, Compl. ¶ 113 (alleging that DoorDash has been "unjustly enriched"). Regardless, such a claim would still fail because Uber is seeking *non*-restitutionary relief. *Non*-restitutionary relief is not available in a claim for *restitution*. *See Korea Supply Co.*, 29 Cal. 4th at 1145 (noting the "distinction between restitution and disgorgement"); *Frieman v. San Rafael Rock Quarry, Inc.*, 116 Cal. App. 4th 29, 37 (2004) (rejecting nonrestitutionary relief for a restitutionary claim). There is a strong rationale for this: Allowing non-restitutionary disgorgement under an "unjust enrichment/quasi-contract" theory "would allow [p]laintiffs impermissibly to bypass the limits placed on damages under [California unfair competition laws] through a generic unjust enrichment claim based on the exact same underlying facts." *Samet v. Proctor & Gamble Co.*, 2019 WL 13167115, at *10 (N.D. Cal. Jan. 15, 2019).

Further, even if Uber had coherently articulated a quasi-contract claim, the claim still fails to meet the basic pleading standard. The equitable principle underlying quasi-contract is that "[w]hen a person has received a benefit from another, he or she is required to make restitution only if the circumstances of its receipt or retention are such that, as between the two persons, it is unjust for his or her to retain it." *City of Oakland v. Oakland Raiders*, 83 Cal. App. 5th 458, 478

(2022). But a "quasi-contract action for unjust enrichment does not lie where, as here, express binding agreements exist and define the parties' rights." *Cal. Med. Ass'n, Inc. v. Aetna U.S. Healthcare of Cal., Inc.*, 94 Cal. App. 4th 151, 172 (2001). The relationships between the relevant entities—Uber, DoorDash, and the unidentified merchants listed in the complaint—are defined by *actual* contracts, which displace any equitable theory Uber might manufacture.

Further, there is "no affiliation or connection" between Uber and DoorDash that might give rise to a quasi-contractual relationship between the two. *Sugarfina, Inc. v. Sweet Pete's LLC*, 2017 WL 4271133, at *8 (C.D. Cal. Sept. 25, 2017). DoorDash has not received any property from Uber; nor has it received and refused to return any property that legally belongs to Uber. *McBride v. Boughton*, 123 Cal. App. 4th 379, 388 (2004). And finally, a quasi-contract action must be based in genuine legal and equitable rights, not abstract ideas of right and wrong. Uber's vaguely pleaded claim rests on the notion that DoorDash obtained benefits "that it would not have otherwise obtained had it acted in a fair and just manner." Compl. ¶ 113. However, "[p]roof merely that the defendant has received a windfall, that the plaintiff has been ill-treated, and that the third party's payment to the defendant (or the defendant's retention of the payment as against the plaintiff) violates rules of good faith, basic fairness, or common decency, does not suffice to make out a claim in restitution." *Oakland Raiders*, 83 Cal. App. 5th at 479. Uber is not entitled to sue every time it loses business that it wishes it would have won.

E. Uber fails to state a claim for declaratory relief.

Uber seeks a declaratory judgment that "any provision in a contract between DoorDash and a restaurant in connection with Third-Party Delivery services — including with Customers A-Q — is void to the extent that it threatens or imposes penalties or other consequences, as set forth herein, on merchants for contracting with Uber or other third parties for the provision of First-Party Delivery services." Compl. ¶ 119 (emphasis added). Uber has no standing to pursue this sort of declaratory relief.

A claim for declaratory relief requires an "actual controversy relating to the legal rights and duties of the respective parties." Code Civ. Proc. § 1060. "[S]tanding . . . [is one of the] appropriate criteria in that determination." *Otay Land Co. v. Royal Indem. Co.*, 169 Cal. App. 4th

556, 563 (2008); *see also* Code Civ. Proc. § 367 ("Every action must be prosecuted in the name of the real party in interest . . . ."). Standing under section 1060 is limited to "[a]ny person interested under a written instrument . . . who desires a declaration of his or her rights or duties with respect to another." *Meyer v. Sprint Spectrum L.P.*, 45 Cal. 4th 634, 646 (2009). Uber is not an interested party because DoorDash's contracts with merchants were "not made for the benefit of [Uber]." *Lafferty v. Wells Fargo Bank*, 213 Cal. App. 4th 545, 570 (2013). Nor is Uber a party or third-party beneficiary of DoorDash's contracts. *See Fladeboe v. Am. Isuzu Motors Inc.*, 150 Cal. App. 4th 42, 54-55 (2007). Simply put, Uber has no standing to pursue declaratory relief regarding contracts to which it is not a party, or on behalf of third-party merchants whose business Uber lost (or never had). *See Lafferty*, 213 Cal. App. 4th at 570.

V. CONCLUSION

For the foregoing reasons, the Court should sustain DoorDash's demurrer in its entirety.

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