UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

POSTMATES, INC. Respondent, and b(6) & b(7)(C) [redacted] an individual Charging Party.	**Case No. 13-CA-163079**

ANSWER TO AMENDED COMPLAINT

Respondent POSTMATES, INC. ("Respondent"), in Answer to the Amended Complaint ("Amended Complaint") and Notice of Hearing filed by the Regional Director on April 13, 2017, states the following:

1. Admits the filing and service allegations in paragraphs 1(a), (b), (c), and (d) of the Amended Complaint.

2(a). Denies the allegations in paragraph 2(a) of the Amended Complaint.

2(b). Denies the allegations in paragraph 2(b) of the Amended Complaint.

2(c). Denies the allegations in paragraph 2(c) of the Amended Complaint. Additionally, to the extent that the allegations in paragraph 2(c) of the Amended Complaint lack sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

3. Denies the allegations in paragraph 3 of the Amended Complaint Additionally, to the extent that the allegations in paragraph 3 of the Amended Complaint lack

sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

4. Denies the allegations in paragraph 4 of the Amended Complaint. Additionally, to the extent that the allegations in paragraph 4 of the Amended Complaint lack sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

5(a). Denies the allegations in paragraph 5(a) of the Amended Complaint. Additionally, to the extent that the allegations in paragraph 5(a) of the Amended Complaint lack sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

5(b). Denies the allegations in paragraph 5(b) of the Amended Complaint. Additionally, to the extent that the allegations in paragraph 5(b) of the Amended Complaint lack sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

6. Denies the allegations in paragraph 6 of the Amended Complaint. Additionally, to the extent that the allegations in paragraph 6 of the Amended Complaint lack sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

7. Denies the allegations in paragraph 7 of the Amended Complaint. Additionally, to the extent that the allegations in paragraph 7 of the Amended Complaint lack sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

8. Denies the allegations in paragraph 8 of the Amended Complaint. Additionally, to the extent that the allegations in paragraph 8 of the Amended Complaint lack sufficient information to allow for an informed response to the legal conclusions contained therein, the allegations should be considered denied.

DEFENSES

1. The Amended Complaint does not state a claim upon which relief can be granted.

2. The Amended Complaint does not state facts sufficient to constitute an unfair labor practice or a violation of the Act.

3. Respondent alleges that, assuming, *arguendo*, any allegation in the Amended Complaint is found to be a violation, it is a *de minimis* violation that does not warrant or the issuance of a remedial order.

4. The Amended Complaint fails to allege any violation that impacted or affected the Charging Party. At no point during the time that the Charging Party contracted to provide services to Respondent was the Charging Party subject to an arbitration agreement. For those reasons, the Amended Complaint is fatally flawed, and no hearing can proceed.

5. The Amended Complaint fails to identify any specific Dispute Resolution and Arbitration Agreements that are alleged to be unlawful. For those reasons, the Amended Complaint is inadequately pled.

6. The Amended Complaint fails to allege an action or practice sufficient to constitute an unfair labor practice or a violation of the Act, as independent contractor misclassification is not recognized as an unfair labor practice or violation of the Act. For that reason, the Amended Complaint is fatally flawed, and no hearing can proceed.

7. The Amended Complaint seeks to infringe on Respondent's constitutional rights, by seeking to limit Respondent's freedom to express itself by conducting its business affairs as it wishes, namely by facilitating the engagement of independent contractors. For that reason, the Amended Complaint is fatally flawed, and no hearing can proceed.

8. The Amended Complaint seeks to infringe on Respondent's right to contract, guaranteed under both state and federal law, by alleging that Respondent's legitimate business relationships are inherently unlawful. For that reason, the Amended Complaint is fatally flawed, and no hearing can proceed.

9. Respondent alleges that the Amended Complaint has been issued, in whole or in part, without substantial justification.

10. Respondent reserves the right to modify or supplement defenses as may be appropriate subsequently.

WHEREFORE, Respondent requests that the Amended Complaint be dismissed in its entirety.

Dated: April 26, 2017

Respectfully submitted,

By: _____

Mel M.C. Cole
Littler Mendelson, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104
Direct: 415.276.2522
Fax: 415.449-3555
Email: mmcole@littler.com
Counsel for Respondent

CERTIFICATE OF SERVICE

I, undersigned state: I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is Littler Mendelson, P.C., 333 Bush Street, 34th Floor, San Francisco, California 94104. On April 26, 2017, I served the within document(s):

ANSWER TO AMENDED COMPLAINT
IN NLRB CASE NO. 13-CA-163079

on the interested parties by sending to the below addressed as follows:

Peter Sung Ohr, Regional Director
National Labor Relations Board, Region 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-1443

VIA E-FILING

b(6) & b(7)(C) [redacted]

VIA FEDEX & EMAIL

I am readily familiar with the firm's practice of collection and processing correspondence for mailing and shipping via overnight delivery service. Under that practice it would be deposited with the U.S. Postal Service or, if an overnight delivery service shipment, deposited in an overnight delivery service pick-up box or office on the same day with postage or fees thereon fully prepaid in the ordinary course of business.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct. Executed on April 26, 2017 at San Francisco, California.

Jennifer Llewelyn

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