

California Court Determines Gig-Economy Drivers Are Independent Contractors

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In a ruling that will likely have a significant impact on all sharing economy companies, San Francisco U.S. Magistrate Judge Jacqueline Scott Corley ruled that gig-economy drivers are independent contractors. In other words, platforms that are built on pairing customers with products and services through the use of mobile applications can continue to do so without having to reclassify their drivers as employees. The opinion holds that such workers do not qualify for the protections offered to employees under California law. It was the first case of its kind that went to trial. The case was brought by Raef Lawson, a food delivery driver, against Grubhub, Inc. Lawson worked for the company for less than six months, and his complaint claimed that Grubhub violated California labor laws by paying him less than minimum wage and failing to pay him overtime, and for not reimbursing his expenses. The main question in the case focused on whether Lawson was an employee, and turned on the extent of control Grubhub exerted over the work time of its drivers. A pivotal aspect focused on the *Borello* test, which looks at various circumstances such as whether the work performed is part of the company's regular business, the skill required to perform the work, the payment method and if the work is done under managerial supervision. The purpose of the test is to determine whether a worker is a W-2 employee or a 1099 contractor. Judge Corley said that "[a]fter considering all of the *Borello* factors as a whole in light of the trial record, the Court finds that Grubhub has satisfied its burden of showing that Mr. Lawson was properly classified as an independent contractor. While some factors weigh in favor of an employment relationship, Grubhub's lack of all necessary control over Mr. Lawson's work, including how he performed deliveries and even whether or for how long, along with other factors persuade the Court that the contractor classification was appropriate for Mr. Lawson during his brief tenure with Grubhub." She concluded that "[u]nder California law whether an individual performing services for another is an employee or an independent contractor is an all-or-nothing proposition." This decision is a *big* win for Grubhub, California employers, and U.S. employers at large, as California courts have a relatively high standard for establishing workers as independent contractors. Independent contractors are paid via a 1099, which allows employers to avoid paying taxes, or provide overtime pay, benefits and workers' compensation. The case is *Lawson v. Grubhub Inc.*, 15-cv-05128, U.S. District Court, Northern District of California (San Francisco).

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