

## Uber Argues That Its Drivers Are Not Employees

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In a case pending in California federal court, Uber is arguing that its drivers are not employees. *O'Connor et al. v. Uber Technologies, Inc. et al.*, No. 3:13-cv-03826 (N.D. Cal. filed Aug. 16, 2013). Uber drivers have sued the company in a putative class action that alleges that they were short-changed because they received only a portion of the 20 percent gratuity paid by passengers. In response, Uber recently filed a motion for summary judgment that argued that its drivers are not employees because they do not provide services to Uber. Rather, Uber provides a service to its drivers, because drivers pay for access to “leads,” or potential passengers, through the Uber application, and therefore, like passengers, drivers are customers who receive a service from the company. Uber also argued that even if drivers are deemed to provide services to Uber, they do so as independent contractors, not employees. This is because, Uber contends, the company provides drivers with a lead generation service but does not control the manner or means of how they work, and therefore, Uber is in a commercial rather than an employment relationship with its drivers. This is not the first and likely not the last of Uber’s legal troubles in California. Passengers have also filed a proposed class action over the 20 percent gratuity, and last week, San Francisco and Los Angeles District Attorneys have hit Uber with a consumer safety suit over how it screens its drivers. There will surely be more to come as we watch what happens with Uber in California.

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