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What's at Stake If Uber and Lyft's Labor Models Go to Trial

By: Rachel Emma Silverman | March 12, 2015

A driver with the ride-sharing service Lyft in Santa Monica, Calif. Reuters

A pair of court rulings involving Lyft and Uber Technologies may have far-reaching consequences for the ride-sharing firms, and may help to bring clarity to an murky–but increasingly important–area of employment law.

Two San Francisco judges separately ruled this week that suits filed by drivers of the ride-sharing services should go before juries. At issue in both cases is whether drivers, who are employed as independent contractors, should be considered employees of those firms, and thus entitled to the protections afforded most full-time workers.

Should the cases proceed to trial, the resulting verdicts could set a legal precedent about how some workers should be classified in the so-called on-demand economy. That could come as welcome news for employment lawyers and others charged with figuring out whether the workers who fulfill Instacart orders, drive UberX passengers, clean homes for Handy clients and perform other tasks assigned by apps should be considered independent contractors or actual employees.

Plaintiffs in both cases argue that drivers should be considered employees, not independents, and should thereby be protected by the same wage and labor rules as employees. The drivers also argue that they should be reimbursed for expenses such as gas and car maintenance that they currently pay out of pocket.

In the Uber case, heard in San Francisco, U.S. District Judge Edward Chen denied the company's motion for summary judgment, concluding that the plaintiffs "perform services for the benefit of Uber," and that the question of their employment status "presents a mixed question of law and fact that must typically be resolved by a jury."

Similarly, in the courtroom next door to Chen's, U.S. District Judge Vince Chhabria ruled that because California's "outmoded" test for classifying workers "provides nothing remotely close to a clear answer, it will often be for juries to decide."

Either or both cases could settle, although settlement talks haven't occurred yet, the plaintiffs' lawyer on both cases says. And an arbitration clause that both Uber and Lyft workers are required to sign could limit the scope of the cases.

Spokeswomen for both Lyft and Uber declined to comment on pending litigation.

Uber is likely to argue that an arbitration clause that its workers must sign limits them from participating in the case as class members, says Shannon Liss-Riordan, the plaintiffs' attorney in both cases and an employment lawyer with Lichten & Liss-Riordan PC in Boston. Lyft employees also sign an arbitration clause, but the company's lawyers have indicated that they are not planning to use the clause, Liss-Riordan says.

"When Uber stuck this arbitration clause in an attachment that workers swipe on their smartphone, no one read it," Liss-Riordan says. "No one reads these things."

Liss-Riordan says her firm is prepared to have plaintiffs appear individually in arbitration, if need be.

So far, she says, "there have been no settlement discussions going on" in either case.

Current labor regulations recognize two types of workers: employees in traditional work relationships and independent contractors. Employees are generally covered by protections such as minimum-wage and anti-discrimination statutes, workers' compensation, and union-organizing rights, while the latter have no such protections.

A growing number of firms rely on thousands of contract workers to serve as drivers, run errands or do data-entry at the swipe of an app. Firms often prefer independent contractors, because they are not subject to certain tax and legal liabilities and can cost firms less in pay and benefits.

If forced to reclassify drivers as employees, Lyft's and Uber's business models would be greatly altered. In the meantime, earlier this week Japanese e-commerce giant Rakuten led a $530 million round of funding for Lyft, helping to boost Lyft's valuation to more than $2.5 billion. Its much-larger rival Uber has raised more than $5 billion in funding and is valued at more than $41 billion.