



## Meet the Lawyer Challenging the Food-Delivery Industry

by [Gloria Dawson](#) Dec 29, 2015, 2:00p



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*After confronting labor practices at Uber, Shannon Liss-Riordan is looking to your takeout next.*

Uber's employment practices have been [making headlines](#) lately, and the pending lawsuit against the company in the state of California could have **wide-ranging implications for the entire on-demand economy**. The crux of the case is the classification of Uber drivers. Many drivers claim they are employees, not contract workers, but the company disagrees. The classification is important: When companies classify workers as contract workers, employers don't have to pay [minimum wage](#) or contribute to Social Security payments, unemployment, or workers' compensation. And contract workers shouldn't legally be trained or told how to perform their job.

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The Boston-based attorney Shannon Liss-Riordan is representing Uber drivers in California, but it's not just the ride-share app she has her sights on — it's the entire on-demand economy, which Liss-Riordan believes encourages a systematic misclassification and mistreatment of its workers. "Unfortunately, we've seen this for many years and from many industries," Liss-Riordan says, referring to the cleaning, trucking, adult entertainment, and call center industries. "Employers realize they can save a whole lot of money on labor costs by classifying their workers as independent contractors rather than employees."

The latest companies that have attracted Liss-Riordan's attention, and her litigations, are food delivery start-ups. Liss-Riordan currently has a lawsuit against [Postmates](#) pending in federal court in California. In California state court, she's filed class-action complaints against [DoorDash](#) and [GrubHub](#), and she's representing one driver in arbitration for on-demand food delivery service [Caviar](#). Liss-Riordan is uniquely attuned to the issues facing restaurant workers: In the past, [she's sued Starbucks](#) for letting supervisors take a cut of pooled tips, and has represented restaurant workers in wage and hour cases. And in [an unlikely side project of sorts](#), Liss-Riordan **actually owns a restaurant** in Cambridge, a pizzeria called Just Crust, that she hopes can be a model for a workplace that benefits employees.



Liss-Riordan at the 2013 opening of Just Crust. Photo: Facebook

Liss-Riordan's career progressed naturally from representing servers to drivers in the on-demand economy. "I started the work on behalf of restaurant workers, mostly waiters and waitresses, and one case lead to another and another, and before I knew it, I had spent more than a decade [in this line of work]," she says. "I've just gotten enormous satisfaction from being able to go after big companies who think they don't need to worry about how they treat their workers because their workers need the jobs."

In her current pending cases against food delivery start-ups, Liss-Riordan alleges that **delivery drivers should not be considered independent contractors**, as their companies have deemed them, but official employees. With the class-action complaints, Liss-Riordan is pushing for the ability for employees to join together to sue the company. (Many of these workers [must sign contracts](#) that include clauses barring them from bringing class-action lawsuits against the companies they work for.)

The cases can get complicated quickly. "For Postmates, we actually have a case not just on behalf of the couriers, but also for the customer service representatives who take the calls and place the orders," Liss-Riordan says. "They're also classified as independent contractors. They work out of their homes, they get paid \$.35 per call, and it doesn't come to minimum wage." That case may also include Postmates' data entry workers. "Those are the people who take the restaurant's menu, type it up, and put it in the Postmates system. They get paid per menu, and likewise, the rate is so low it doesn't even come to minimum wage."

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Many of the delivery companies who employ contract workers **say their employees benefit** from flexible work schedules. "While we will vigorously defend these lawsuits and we feel strongly that our business model is lawful, we recognize that the issues being raised are important ones," a DoorDash spokesperson told Eater. "We are proud to have created opportunities for Dashers that offer them flexibility, freedom, and a meaningful source of income."

But even putting aside potential lawsuits, food delivery companies might want to rethink their employment practices for the good of their companies, says Stephen Zagor, the dean of business management at the Institute of Culinary Education. "For these food delivery startups to thrive, they need to control the food service, the ambiance — which for delivery companies, could include everything from packaging to even how a courier greets customers — and the sizzle, or a unique selling proposition," says Zagor, who teaches courses in food business entrepreneurship. "And to some degree, that control goes in the face of an independent contractor arrangement."

Liss-Riordan agrees. Companies "need to train [their workers] if they want to provide that high-quality customer service that they are advertising to the public," she says. "**There's a tension** in claiming that you are this great company providing a great service, but then denying that you're going to give any training, rules, or supervision to the people who are providing that service."



Scenes from the Just Crust. Photo: [Facebook](#)

Of course, there are people who want the flexibility of the on-demand economy. According to Zagor, a new employment classification might be the answer. "It's easy for a lawyer to go in and say, 'You're doing this wrong,'" he says. Zagor suggests a change in the system: **an "independent employee" classification**, a cross between a contract worker and an employee. (Zagor isn't the only one proposing a new category of employee. Earlier this month, the Hamilton Project, part of the Brookings Institute, [published a paper](#) by economist Alan Krueger and former Deputy Secretary of Labor Seth Harris proposing on-demand workers receive certain protections and benefits offered to employees, but not all.)

In Liss-Riordan's opinion, a role that offers flexible hours and employee benefits already exists: It's **part-time employment**, under which workers receive protections from the Fair Labor Standards Act. Some food start-ups, [like on-demand chef service Kitchensurfing](#) and the grocery delivery service Instacart, have already made the switch from contract workers to part-time employees. "I've been very heartened to see a number of companies decide that they don't want

to get involved in these battles, and they are just going to — from day one or early on — convert to having their workers be employees," Liss-Riordan says.

Liss-Riordan's restaurant is "trying to show that it's possible to run a business by treating workers well."

For her part, at her own restaurant, which Liss-Riordan says came to her after "an unusual set of events," all of her workers, including delivery drivers, are employees. In 2011, Liss-Riordan was [fighting Boston pizza chain](#) the Upper Crust in a class-action case over workers' back wages, and eventually, [the chain went into bankruptcy](#). In December 2012, she bought the Harvard Square location of the Upper Crust when it went on the auction block. She [changed the name to the Just Crust](#), inadvertently becoming a restaurant operator — though not necessarily with the usual ambitions tied to restaurant ownership. Instead, Liss-Riordan says, taking over the pizzeria came "with the goal of **making it a workplace with good employment policies**, fair wages, and trying to show that it's possible to run a business by treating workers well and not doing things the way we had seen them done by other restaurants."

The plan is to share profits with employees, too, although at about two-and-a-half years in, there aren't profits to share yet.

Liss-Riordan doesn't expect everyone who's concerned about workers' rights to buy their own pizza joint, but she does hope consumers become more aware of the true price of their dinner delivery. "Obviously, what these companies are selling is a huge convenience for consumers, and people love them because you press a button and food comes to your door. And it's so cheap and easy!" Liss-Riordan says. "But I hope people stop and think, 'What did it take to have that cheap and easy convenience?'"