

# Los Angeles Times

## Travis Kalanick is no longer Uber's CEO, but drivers still want him on the hook in lawsuit

Tracey Lien | Los Angeles Times | Jun 25, 2017



*Travis Kalanick at the Third Annual Breakthrough Prize Awards on Nov. 8, 2015, at NASA Ames Research Center Mountain View, Calif. -- Drew Altizer, Sipa USA via TNS*

SAN FRANCISCO (TNS) — Recent scandals have put Uber on such shaky ground that a lawyer representing aggrieved drivers has filed a lawsuit against Travis Kalanick and Garrett Camp — the ride-hailing firm's co-founders — in case the company doesn't survive long enough to defend itself.

Describing the lawsuit filed Thursday in the Superior Court for the State of California in Los Angeles County as a precaution in the event Uber goes bust, attorney Shannon Liss-Riordan acknowledged that her new filing shares many similarities with a 2013 class-action suit she filed alleging Uber wrongly classified drivers as independent contractors.

"I filed this as a precaution to ensure that if we are successful, and Uber is not around to see the end of this case, Travis Kalanick and others will be personally liable for that debt to the drivers," Liss-Riordan said.

"Last year it looked like Uber was unstoppable, and its only trajectory was up, and now it looks like the opposite. I wanted to take measures to protect drivers if things do turn south."

Shannon Liss-Riordan, attorney who filed a lawsuit Thursday against Uber's co-founders

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The suit, filed on behalf of plaintiffs Christopher James of Arcadia, Calif., and Christine Beatleston of San Francisco, alleges that Kalanick, Uber's chief executive until he resigned earlier this week, and Camp, board chairman, advised the company to misclassify drivers.

The lawsuit alleges that this misclassification cheated drivers out of expense reimbursements. The lawsuit also alleges that the co-founders advised Uber to cheat drivers out of gratuities.

Uber did not immediately respond to a request for comment.

The case shares many similarities with the 2013 lawsuit, which, filed in Federal court by Liss-Riordan, is ongoing. Both lawsuits seek reimbursement for expenses such as gas and mileage. Both want the defendants to pay tips to drivers that were collected but never paid out. (In its early days of operation, Uber marketed that tips were included in the passenger's fare; this week the company added tipping to its app).

Liss-Riordan has filed more than a dozen lawsuits against Silicon Valley technology companies, alleging that many have misclassified drivers and delivery workers as independent contractors. As independent contractors, workers are not entitled to expense reimbursements or benefits such as health insurance, social security or paid time off. Unlike employees, independent contractors are also not guaranteed a minimum wage.

The most high-profile of Liss-Riordan's cases is her class-action against Uber. In San Francisco's Federal Court, Judge Edward Chen certified the class in 2015, which at the time numbered some 240,000 Uber drivers in California (the

number of drivers in California is likely much higher now). Uber, however, appealed the certification, arguing that the majority of its drivers had signed an arbitration agreement, which forbids them from taking part in class-action suits against the company. The U.S. 9th Circuit Court of Appeals will be hearing arguments in September.

If the appeals court rules to exclude drivers who signed Uber's arbitration agreement from participating, then the class size could drop to between 8,000 and 10,000 drivers.

Uber also tried to settle that particular case with Liss-Riordan last year for \$100 million, but Judge Chen threw out the settlement because he believed the amount was too low.

There have been no further discussions about a settlement, Liss-Riordan said.

While Uber's arbitration agreements are broad, legal experts said a lawsuit brought against individuals instead of the company could potentially get around such an agreement.

"You may recall that Gretchen Carlson tried the same thing against Fox News when she was bound by an arbitration agreement with Fox," said Richard J. Reibstein, a lawyer who specializes in employment law at Pepper Hamilton. "She claimed her lawsuit against Roger Ailes was not governed by the Fox arbitration agreement because Mr. Ailes was not a party to the arbitration provisions."

Fox settled the lawsuit with Carlson last year for \$20 million.