

Grubhub delivery drivers sue over contractor status



Grubhub is the subject of a new class action lawsuit. (Keri Wiginton / Blue Sky)



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Blue Sky Innovation

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A new federal lawsuit claims Grubhub misclassified its delivery drivers as independent contractors across the country, the latest salvo in a legal battle that has spread across the gig economy.

The Chicago-based food ordering and delivery company is also [involved in a similar federal case](#) in California that was filed last September. Boston-based attorney Shannon Liss-Riordan, of Lichten & Liss-Riordan, is representing plaintiffs in both cases against Grubhub (NYSE: GRUB).

Liss-Riordan recently [settled a case with gig economy giant Uber for up to \\$100 million](#) over alleged worker misclassification, representing about 385,000 drivers in California and Massachusetts. She has also represented workers in cases against [Lyft](#), Instacart, DoorDash and others.

"In recent years, there have been a number of companies that call themselves part of the on-demand economy ... that dispatch their workforce using an app," Liss-Riordan said. "They somehow think that using an app to dispatch their workers allows them to avoid all the responsibilities of being an employer."

Liss-Riordan said she has noticed more sharing economy companies choosing to classify their workers as employees rather than independent contractors, like Instacart, Shyp, Luxe Valey, Munchery, Eden and Honor.

The new suit seeks class-action status. Liss-Riordan said she doesn't know the potential size of the Grubhub class, which could include drivers from all over the U.S. excluding California, but that she expects there could be tens of thousands of them.

The cost to Grubhub, she said, could be "quite substantial" — though she doesn't expect the case to match the scale of the Uber case.

Six plaintiffs from Illinois, Oregon, Pennsylvania, New York and Connecticut alleged that they were treated as employees by Grubhub but denied overtime pay when they worked more than 40 hours a week. They also said they didn't make minimum wage when they factored in the cost of fuel; the cost of owning, leasing and maintaining vehicles; and the cost of cellular data.

"Grubhub has misclassified its delivery drivers as independent contractors and, in so doing, has committed wage and hour violations under a variety of federal and state statutes," the plaintiffs' lawyers wrote in a complaint, which was filed Tuesday in the U.S. District Court's Northern Illinois District.

The suit requests permission to notify other Grubhub delivery drivers of the class action, compensation including all wages owed, costs and attorney's fees and an order that Grubhub comply with the Fair Labor Standard Act and appropriate state labor laws.

Plaintiff Thomas Souran, of Chicago, alleged he was mistreated by Grubhub while he was driving for them from December 2014 until August 2015. He said Grubhub should have paid overtime and expenses; that he was bitten by a dog while delivering, wasn't covered by insurance and lost several days of work; and that he was forced out of a contract and terminated without notice.

"Grubhub treated the drivers as outsiders, while they used corporate money (shareholder money) to throw parties, buy lunch and dinner for all employees and the drivers were the ones that were out in the cold and heat delivering and making it happen," Souran told Blue Sky Innovation in an email.

Souran said he hopes all of Grubhub's independent contractors will be reclassified as employees and that the company will pay overtime and expenses.

Grubhub declined to comment specifically on the lawsuit, citing company policy against talking about pending litigation. However, in an emailed statement, a company spokeswoman said Grubhub works "around the lives of our delivery drivers."

"We believe that the delivery partners who decide to contract with Grubhub value the ability to earn income while enjoying the freedom of a flexible work schedule," the statement said. "Additionally, while our delivery business is rapidly growing — we're currently in 50 markets — most restaurants on the Grubhub platform manage their own delivery operations."

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