

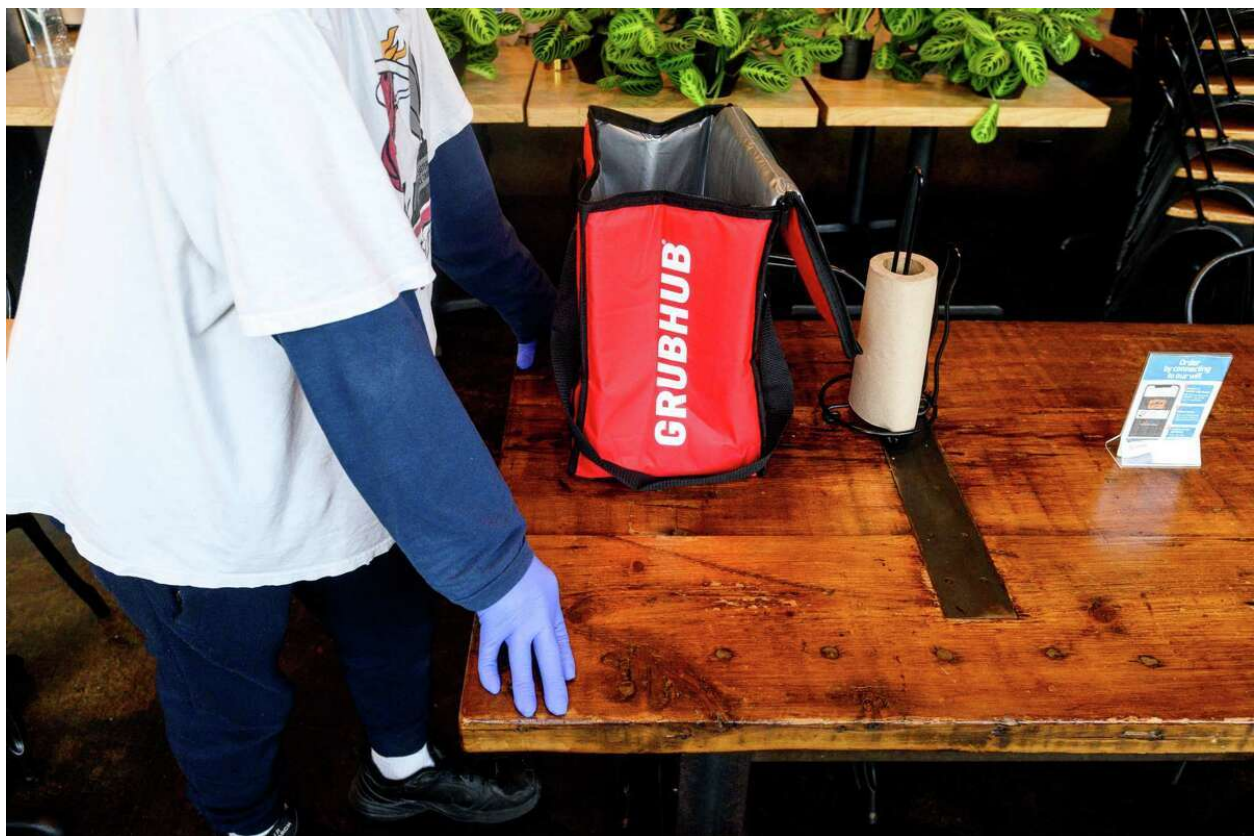
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POLITICS

Grubhub and Lyft workers win separate court cases on employee status

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A federal judge in San Francisco says a former driver for Grubhub was an employee — not an independent contractor, as the company claimed.

A federal judge in San Francisco says a former driver for Grubhub was an employee — and not an independent contractor, as the company claimed — because he delivered food to Grubhub's customers and did not operate his own business. His lawyer says it may be the first such ruling in the nation.

Raef Lawson's "work delivering food was within the usual course of Grubhub's business of connecting restaurants with diners to facilitate food ordering," U.S. District Judge Jacqueline Scott Corley said in her ruling Thursday. She said Lawson "did not run his own business, communicate with customers through independent channels, or advertise in any way."

The ruling entitles Lawson, who worked for Grubhub in Los Angeles for four months in 2015 and 2016, to minimum wages for the hours he drove or was required to be available to pick up customers.

Employees are also entitled to overtime pay, but Corley said Lawson had not worked more than 40 hours in any week. And although they generally must be reimbursed for workplace expenses, such as fuel and maintenance costs, Corley had ruled earlier that he did not qualify for expense reimbursements, said his attorney, Shannon Liss-Riordan.

She said Lawson is appealing the earlier ruling, which was based on a more business-friendly legal standard that California lawmakers changed in 2020.

"This was an important decision, a long time coming," Liss-Riordan said. She contended the companies "have succeeded in delaying these cases for years and years while they made money by misclassifying these workers."

Theane Evangelis, a lawyer for Grubhub, said the company disagreed with the ruling and was considering its options — even though, she said, it would entitle Lawson to only \$65 in back pay. She also cited Proposition 22, a 2020 ballot measure funded by the companies that classified their drivers as contractors rather than employees.

"Thanks to Prop. 22 — which California voters overwhelmingly enacted and the California Court of Appeal recently upheld — drivers who use the Grubhub app will continue to enjoy the freedom and flexibility of working as independent contractors," Evangelis said.

That appeals court ruling, issued March 13, upheld nearly all of Prop. 22, though the court said the state could still pass a law allowing the drivers to form unions.

Labor-backed organizations that challenged the measure are likely to appeal to the state Supreme Court.

Wednesday's federal court ruling was issued on the same day that a state appeals court allowed a former driver for Lyft to sue the ride-hailing company on behalf of his former co-workers for allegedly violating state law by classifying them as contractors.

The U.S. Supreme Court ruled last June that workers in California could not use a unique state law, the Private Attorneys General Act, or PAGA, to join together and sue their hiring company in the name of the state for violations of state labor laws such as those requiring minimum wages and meal and rest breaks for employees. The court said PAGA violates the rights of business owners whose contracts with workers require them to take disputes to individual arbitration rather than going to court.

But as the Second District Court of Appeal in Los Angeles observed Wednesday, state courts "are not bound by the United States Supreme Court's interpretation of California law."

The court said PAGA still allows individual workers, such as former Lyft driver Million Seifu, to sue on behalf of former co-workers for penalties state labor laws impose for illegal business practices. The workers receive 25% of the penalties and the state would collect 75%.

"PAGA standing is a matter of state law that must be decided by California courts," Justice Tracie Collins said in the 3-0 ruling, which upheld a Los Angeles judge's decision allowing Seifu's suit to proceed.

Lyft could appeal to the state Supreme Court, which has already agreed to review a similar suit by a driver for the food-delivery company UberEats. Liss-Riordan, who also represents Seifu in the Lyft case, said two other state appeals courts in the last month have allowed PAGA suits to continue, but the final decision will probably come from the state's high court.

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