

TECH

Uber Drivers Suit Granted Class-Action Status

Three drivers sued company over contractor status



The suit applies to all drivers in California who didn't waive their right to the class-action arbitration.

PHOTO: JEFF CHIU/ASSOCIATED PRESS

By **DOUGLAS MACMILLAN**

Updated Sept. 1, 2015 7:38 p.m. ET

Uber Technologies Inc.'s effort to stifle a legal challenge to its business model was struck down on Tuesday by a federal judge, who granted class-action status to a lawsuit claiming the car-hailing service treats its drivers like employees without providing the necessary benefits.

A 68-page court ruling from U.S. District Judge Edward Chen in San Francisco ordered that the suit, brought on behalf of three drivers, applies to all drivers in California who didn't waive their right to the class-action arbitration.

The ruling sets the stage for a high-profile legal battle which could have sweeping implications for Uber's business model and set a precedent for dozens of startups whose future fortunes rely on independent contractors to deliver food, run errands and clean houses.

Millions of Americans are opting for more flexible work arrangements that let them set their own schedules and hold multiple part-time occupations.

Uber has raised billions of dollars from investors at a [valuation that has surged to \\$51 billion](#) on the premise that it operates a technology platform connecting drivers and passengers, rather than a taxi service which owns cars and employs drivers. If the class-action suit succeeds, it could force Uber to pay drivers for health insurance, workers' compensation and work expenses such as tolls, fuel and car repairs.

In a statement, an Uber spokeswoman said the company plans to appeal Judge Chen's decision to certify class-action status. She also pointed out that Tuesday's ruling only permits a minority of California drivers to join the class, as most drivers waived their right to class-action arbitration when Uber updated its driver contract last year. The suit originally aimed to certify a potential class of all 160,000 people who have driven for Uber in California.

The judge also decided to exclude some drivers who work for independent transportation companies. That means that one of the three drivers who initially brought the suit, Thomas Colopy, may himself be eliminated from the class.

"While we are not surprised by this court's ruling, we are pleased that it has decided to certify only a tiny fraction of the class that the plaintiffs were seeking," the Uber spokeswoman said.

[The line between employee and contractor is vague](#), and in most states depends on variables including hours worked, who provides the necessary tools and whether the job requires special skills.

Uber argued that the vast majority of these workers prefer the flexibility that being an independent contractor affords them. In July, the company provided the court with 400 written

declarations from drivers who say they prefer to be independent contractors because of this flexibility.

During opening arguments in early August, Ted Boutros, an attorney representing Uber, said drivers have also signed at least 17 different versions of a contract with the company, each of which contains slight differences. In some of those contracts, drivers may have even waived their right to be part of a class-action suit.

Judge Chen had questioned the relevance of 400 drivers in a class he said could potentially include 160,000 individuals. Almost all class-action suits include some members of the class who object to its aim, he said.

Shannon Liss-Riordan, the attorney representing the three drivers, argued that Uber controls so many aspects of the drivers' experience—from setting fares to determining when and why they can be terminated—that they are more like employees than independent contractors, as Uber currently classifies them.

In an emailed statement Tuesday, Ms. Liss-Riordan called Judge Chen's ruling a "major victory" that will give thousands of Uber drivers the opportunity to recover expenses. She also said if successful, the case could have repercussions for all Uber drivers in the U.S.

"If we are successful for California drivers, we intend to appeal the ruling that limited the case to California and will seek reimbursement for expenses, as well as tips that were not distributed to Uber drivers, around the country," Ms. Liss-Riordan said in the statement.

Ms. Liss-Riordan said about 1,000 Uber drivers from California and another 1,000 from elsewhere in the U.S. have contacted her office for more information about the case.

In a separate case, California's labor commissioner in June [found that Uber treated one of its workers as an employee](#), forcing the taxi service to pay her the back wages she would have received as an employee.

The outcome of this lawsuit could also set a precedent that could carry over to other cases representing a broader group of Uber drivers and those outside of California, said Jim Evans of

Alston & Bird LLP, who has represented employers in class-action cases around the issue of employee misclassification.

“If they are the same issues affecting the same group or type of employees then it could bind them in other litigation,” Mr. Evans said.

This class-action case is likely to take years to reach an outcome, Mr. Evans cautioned.

Amid a number of similar suits threatening to reclassify contractors as employees, many startups aren't waiting for the legal system to play out.

In recent weeks several startups that rely on a freelance work force have said they are switching their business models. Luxe Valet Inc., an urban car-parking service, for example, said in July it planned to convert hundreds of parking attendants across seven U.S. cities to employees and pay for various expenses. Delivery startups Shyp Inc. and Instacart Inc. have also laid plans to switch.

Other companies, including Uber rival Lyft Inc. and delivery company Postmates Inc., have stood their ground, insisting that the majority of their chauffeurs and couriers enjoy the freedom of being independent contractors.

Write to Douglas MacMillan at douglas.macmillan@wsj.com