



Internal Uber e-mails reflect company's brash reputation

By: Carolyn Said

Uber's brash reputation evidently extends to the way its managers talk about drivers. In forceful and sometimes crudely derisive language, Uber bosses discussed when to fire drivers for the on-demand ride service, according to internal company reports and e-mails.

Uber was compelled to produce the documents as evidence for a class-action lawsuit by California drivers seeking to be considered Uber employees rather than independent contractors. The company sought to have them kept under seal but a federal judge ordered them made public. The judge heard arguments Friday about whether the case should be dismissed, but made no ruling.

The documents illuminate a sometimes-contemptuous culture that would make a human resources manager cringe.

"Well guess what Sami, we are doing something: BANNING YOUR ASS AGAIN," an Uber manager wrote about a driver who reportedly tried to scam the system with fake rides. The driver made "clearly pre-arranged pickups for various client accounts, all of which turned out to be fraudulent," the report said.

The managers' comments on firing — or "deactivating," in Uber parlance — cut to the heart of the drivers' case. The ability to fire a worker is a key signal that a company is an employer, said Shannon Liss-Riordan, a Boston attorney representing the drivers. The California Supreme Court last year affirmed that carriers for the Antelope Valley

Newspapers were employees because the company controlled the manner and means of their work, most notably having the power to discharge them at will.

A similar lawsuit seeks employee status for California Lyft drivers; that case was heard on Thursday by a different federal judge. Uber and Lyft did not respond to requests for comment.

In both instances, Uber and Lyft are asking for summary judgments to have the cases thrown out now. Treating drivers as employees would cost the companies a lot of money. Rulings on allowing both lawsuits could happen relatively soon; if they are allowed to proceed, the cases will unfold over many months.

The Uber drivers' suit cites a range of other reasons why they should be considered employees: Drivers are integral to the company's business; Uber directs and controls their work; Uber enforces driver requirements to promote its brand (for instance, discouraging driving for Lyft); it provides drivers with equipment such as an iPhone, the Uber app and its logo for their cars; it determines driver compensation; and it sets standards for their vehicles.

But it is the termination issue that may decide the case — deciding whether Uber was simply severing relations with a contractor or firing an employee.

“The comments show the ease with which managers feel they have the right to terminate people,” Liss-Riordan said. “Uber claims it doesn't control the drivers, but the whole point of the case is that they do.”

To be sure, Uber needs to be able to fire drivers who engage in conduct such as driving under the influence. In fact, some drivers clearly seemed ill-suited for their work.

“He needs anger management he punch one of our own client in his face because he ask him few personal questions,” a manager wrote about one driver.

The company relies heavily on passenger ratings of drivers, who can earn up to five stars per ride. However, the messages show that the cutoff point for termination varied.

“The documents regarding deactivation exemplify that Uber has the right to terminate for whatever reasons it wants to, and its managers somewhat cavalierly make comments,” Liss-Riordan said.

Interchanges such as “Get rid of this guy. We need to make some serious cuts of guys below 4.5,” and a response from an Uber manager: “Done via phone! Remote banning — I love it” showed the kind of callousness that critics contend characterizes Uber.

One lengthy interchange with a San Diego driver frustrated by glitches in Uber’s technology underscored drivers’ reliance on the service for earning a living.

Messages over five days showed the driver increasingly expressing anger that he was losing money from system freezes, incorrect addresses and other issues.

“I think you business nothing but a stupid model, you only care about yourself then the driver suck it up with the major cost,” he wrote. An Uber manager replied, “Google thinks we’re a pretty good business model,” linking to a story about Google Ventures’ \$258 million investment in Uber in 2013. That amount has since been dwarfed by several mega-funding rounds that brought the company’s war chest to over \$4 billion and its valuation to over \$40 billion.

Another Uber manager stepped in to tell the San Diego driver: “we have chosen to exercise our right to deactivate your account” because of his disrespectful e-mails to the support team.

The driver quickly responded, apologizing and pleading for another chance.

“I work hard ... and stay up late nights to see difference in pay,” he wrote. “My responds were to express the frustration I get. ... It’s a partnership as you said here, and expressing my side of issues with no solution but to come and terminate me is wrong.”

It did not appear that Uber reconsidered his case.

A win by the drivers could seriously affect Uber and Lyft’s bottom lines. The companies could be obligated to pay drivers’ operating expenses such as gas and vehicle maintenance. The Uber lawsuit’s lead plaintiff told Reuters that his annual expenses

topped \$10,000. The companies could also be on the hook for Social Security, workers' compensation and unemployment insurance. As of December, Uber had more than 160,000 active U.S. drivers in 161 cities, it said in a report this month. Lyft, which is in 60 cities, has not released its driver numbers.

"They think they've come up with a brilliant new model by which they can shift onto workers all the expenses of having a business," Liss-Riordan said. "California law doesn't allow them to do that."

In Friday's hearing, U.S. District Judge Edward Chen appeared skeptical of Uber's arguments that it's not a transportation provider but merely a software provider that makes money by licensing its app to drivers. If that's so, why does it screen drivers, set fares and sometimes terminate drivers, he asked its attorneys.

They argued that Uber's much-maligned surge pricing bolsters its claims that it's not an employer. It must use incentives to motivate drivers to work at certain times, they said, whereas if it were an employer, it could simply order them to show up or be deactivated.

Chen didn't issue a ruling, but appeared inclined to let the case proceed to trial.

In Thursday's hearing on the Lyft drivers' case, U.S. District Judge Vincent Chhabria said that California law appears to favor the drivers' contention that they are employees, according to Reuters, but he didn't issue a ruling.