

# THE **RECORD**ER

## Uber's Least Favorite Lawyer Strikes Again

Marisa Kendall 01/06/2016



SAN FRANCISCO — The plaintiffs lawyer who's forged a place as Uber's legal nemesis launched a fresh attack this week seeking employee protections for dozens of drivers who won't be included in her huge class action.

Boston-based attorney Shannon Liss-Riordan sued Uber Technologies Inc. on behalf of drivers left out of *O'Connor v. Uber* because they drove through intermediary limo companies or used corporate names.

U.S. District Judge Edward Chen of the Northern District of California found their situations could be varied enough to preclude class treatment.

"We're not going to leave them out in the cold," Liss-Riordan said. "We represent these individuals and we want to be sure to protect their rights."

In an email, an Uber spokeswoman pointed out: "The federal district court already rejected plaintiff's request to certify a class of these groups, whose circumstances vary widely and who have control over how they use the app."

The [suit](#) filed Monday in San Francisco Superior Court names 78 plaintiffs, and Liss-Riordan said she expects to add more as drivers continue to contact her.

Uber has estimated about 10,000 drivers were excluded from the *O'Connor* litigation, compared to the 150,000 in the class that Chen certified.

Ironically, the man whose name is attached to the case, lead plaintiff Douglas O'Connor, was among those excluded because he drove for Uber through a third-party company. He's named as a plaintiff in the new suit.

The *O'Connor* case is set for a June trial in the Northern District of California. Liss-Riordan will argue her clients are Uber employees and must receive employee benefits, reimbursement for driving expenses, and compensation for tips she claims the company illegally withheld. Uber maintains its drivers are independent contractors because they have the freedom to control factors such as the hours and schedules they work and the routes they drive. Chen [certified](#) a class of California drivers in September, and [expanded](#) the class last month. Uber is represented by Gibson, Dunn & Crutcher partner Theodore Boutrous Jr.

Liss-Riordan argues the plaintiffs in her new case also are Uber employees, even though they drove through intermediaries.

For now Liss-Riordan is litigating the excluded drivers' claims individually, as they may not be eligible for class treatment under a new arbitration agreement Uber rolled out last month. "This is the type of result you see," Liss-Riordan said, referring to her ponderous suit, "when there is a high degree of interest in a case and employees aren't allowed to pursue claims as a class action."

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