Gig Companies Are Facing Dozens of Lawsuits Over Workplace Violations

At work, we should all expect to make enough to live and thrive; care for our families, ourselves, and our communities; and work together to improve our working conditions. Laws regulating the workplace provide a basic foundation on which to build.

Workers Are Suing to Defend Their Rights

Some companies that use technology to dispatch workers to short-term jobs (often called the “gig economy”), together with their lobbyists and public relations teams, want to convince workers and policymakers that workers are better off without core workplace protections. Many of these companies assert that their workers are happy with jobs that provide no minimum wage, no protection against discrimination, no workers’ compensation, and no say in the terms and conditions of their employment—simply because their workers have some degree of “flexibility” to determine their own schedules.

Legal claims filed against the companies tell a different story. Our review of litigation filed against just eight companies—Uber, Lyft, Handy, Doordash, Instacart, Postmates, Grubhub, and Amazon—finds that these companies have been sued at least 70 times by workers claiming protection under state and federal labor laws. The claims cover underpayment of wages, tip-stealing, unfair shifting of business costs onto workers, discrimination, and unfair labor practices meant to keep workers from joining together to improve conditions. Plainly, these workers are not happy with the status quo.

Uber alone has been sued in at least 38 instances for improperly paying or classifying its drivers, including two cases pending in federal courts of appeal. Lyft’s initial-public-offering disclosures to the Securities and Exchange Commission (SEC) show that it has been subject to nine lawsuits, but our review located 12 cases. Handy has been sued in five separate class action lawsuits. Doordash and Instacart have each been sued three times, Postmates once, Grubhub four times. Amazon’s delivery drivers have also sued the giant online retailer multiple times. At least four complaints have been filed with the National Labor Relations Board.

Forced Arbitration in the Fine Print

The companies also claim that the law isn’t clear on whether they are obligated to treat their workers as employees. A primary reason that the law is not clear is that the companies, citing the fine print in their contracts, are ensuring that courts have no opportunity to look at the facts of their relationship with their workers. Instead, the companies have argued and
won decisions forcing workers’ claims into arbitration, where the deck is stacked against the workers. The companies’ forced arbitration agreements require workers to litigate their claims individually in closed-door, non-court settings. Many workers don’t have the resources to litigate their claims individually through arbitration, so they are left with no legal recourse at all.

It is impossible to determine with specificity how many workers are part of lawsuits against the companies. Most of the claims filed are class actions that cover all of a company’s workers, but workers have been sent to arbitration, and because arbitrations are secret proceedings, there is no official count of the number that are pending.

Nevertheless, Uber’s initial public offering filed with the SEC indicates it is currently facing 60,000 arbitration claims. Lyft is currently facing nearly 3,500 arbitration claims. One lawyer, Shannon Liss-Riordan, who has represented workers in many cases against the companies, is representing thousands of workers in arbitration claims.

State-Level Claims
It is impossible to determine how many state-level claims have been filed against the companies for unpaid wages, workers’ compensation benefits, or unemployment insurance benefits, as these are not generally publicly available. However, Lyft’s SEC disclosures indicated that it is under investigation by state agencies in five states. Uber has been determined to be an employer for purposes of unemployment insurance in three states (New York, California, and Oregon), and appeals are pending against Postmates and Uber for unemployment insurance benefits in New York and Pennsylvania, respectively.

Conclusion
To turn gig jobs—and all jobs—into good jobs, we must enforce existing laws, raise wages, provide all workers with fair schedules, ensure that paid sick days and paid family leave are available to all workers, and make sure workers can bargain with the boss. That’s what tens of thousands of app-based workers are doing, and that’s the way we build an economy that works for all of us.
Endnotes


7 Uber: 14-CA-158833; 29-CA-177483, 13-CA-163062. A fourth NLRB charge was closed in 2016. 28-CA-160791. Handy: 01-CA-158125. A recent decision by the National Labor Administration NLRB finding Uber drivers to be “independent contractors” under that statute makes it doubtful that workers will be able to look to that agency for protection in the near term. U.S. National Labor Relations Board, Office of the General Counsel Advice Memorandum, Uber Technologies, Inc., http://uberlawsuit.com/Oregon.pdf


10 E-mail exchange with Shannon Liss-Riordan, July 10, 2019.