

7/13/17 S.F. Chron. C2  
2017 WLNR 21495882

San Francisco Chronicle (CA)  
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July 13, 2017

Uber may face class-action lawsuit  
Spotlight on the Workplace Market Data Provided by Bloomberg News  
Uber drivers win preliminary class-action status in labor case

By David Streitfeld

Uber drivers have won a tentative victory in their long-running legal battle to be classified as employees rather than independent contractors.

A federal court in North Carolina gave conditional certification on Wednesday to a class-action lawsuit by several Uber drivers that was brought under the Fair Labor Standards Act. The plaintiffs can now seek out the approximately 18,000 drivers who opted out of arbitration in their contracts with Uber and are thus eligible to join the case. Uber has more than 600,000 drivers in the United States.

"The ruling today is going to allow drivers across the country to band together to challenge Uber's misclassification of them," said Paul B. Maslo, a lawyer for the plaintiffs. "They are employees and should be getting minimum wage and overtime as required by federal law."

Jerry H. Walters Jr., a lawyer for Uber, declined to comment. The San Francisco company said it was "disappointed with this decision, particularly because a U.S. District Court recently denied conditional certification in another case"; that ruling was handed down last month in Florida.

Almost from the beginning of Uber's meteoric rise as an alternative to traditional taxis, the role of its drivers has been contentious. Many felt they were captive to Uber's rules and demands and should thus be accorded the protections and benefits of traditional employees. Uber has always challenged that notion.

A 2013 class-action suit filed in California suffered a setback in September when an appeals court said most Uber drivers must go to arbitration rather than court to settle claims. A significant settlement now appears unlikely in the California case.

Drivers in the North Carolina case still have a long road ahead of them. The U.S. District Court for the Middle District of North Carolina noted that requirements for conditional certification for class-action status were "modest." The plaintiffs needed only to show a reasonable basis for their claim that there were other employees similar to themselves.

"The bar is not super-duper high," Maslo said. But he noted that the court could have been more restrictive by, for instance, allowing only Uber drivers in the state, rather than the entire country, to join the class.

After the discovery phase of the case, the court will make a final determination as to whether the plaintiffs can proceed in a true class-action case.

Uber said it will push hard to decertify the class.

The drivers who opted out of arbitration are in an unusual position. A growing number of employers, from startups like WeWork to major retailers like Kmart and Sears, require their workers to agree that any dispute will be heard not in court but in arbitration - a secretive process that is often lopsided in favor of the employer. Few companies provide any opportunity to opt out of the arbitration clauses.

Such clauses have thwarted dozens of class-action cases before they gained momentum.

As the arbitration clauses have spread, so have concerns among labor officials who worry that they allow widespread problems to fester because the process prevents employees from sharing their experiences with others who might be in similar situations.

David Streitfeld is a New York Times writer.

---- **Index References** ----

Company: SEARS HOLDINGS CORP; UBER TECHNOLOGIES INC; WEWORK COMPANIES INC

News Subject: (Arbitration & Mediation (1AR68))

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Region: (Americas (1AM92); California (1CA98); North America (1NO39); North Carolina (1NO26); U.S. Southeast Region (1SO88); U.S. West Region (1WE46); USA (1US73))

Language: EN

Other Indexing: (Jerry Walters Jr.; David Streitfeld; Paul Maslo)

Keywords: (COURTS); (WORKING HOURS); (EMPLOYMENT)

Edition: 5star

Word Count: 531

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