



Judge rejects Uber's settlement offer with drivers



[Elizabeth Weise](#), USATODAY 10:14 p.m. EDT August 18, 2016



(Photo: Ryan Mercer, USA TODAY NETWORK)

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SAN FRANCISCO – In a decision that leaves a major gig-economy case hanging, a judge has rejected as inadequate a proposed settlement between Uber and drivers for the ride-hailing service in California and Massachusetts.

The case [has been in the courts since 2013](#). The drivers claimed they were employees entitled to reimbursement for expenditures. Uber contended they were independent contractors not entitled to such benefits.

The drivers and their lawyer had reached a settlement with Uber in April. However on Thursday U.S. District Judge Edward Chen in San Francisco ruled it was not fair or adequate for drivers because the terms — \$100 million — were too low.

Under the settlement, drivers who had jointed the suit would have continued to be classified as independent contractors but would have gotten a settlement based on the number of miles they drove.

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In the [settlement](#) filed in U.S. District court in Northern California on April 21, Uber agreed to pay the plaintiffs \$84 million, with a second payment of \$16 million if the company were to go public and its valuation were to increase one and a half times from that of Dec. 2015.

Chen found the majority of the settlement “adequate” and did not take issue with the notion that the drivers were independent contractors.

It was the money that was wanting. Uber couldn't give Chen information about how likely that outcome was, so Chen declined to include it in the settlement amount. He then said that \$84 million was too low, representing only 5% of what the drivers might have won from a jury, and so he rejected the claim.

Some of the drivers involved in the original case had also stated they felt the amount was too small, including one of the original named plaintiffs.

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In a statement, Uber said the settlement, which had been mutually agreed to by both sides, was fair and reasonable and that it was looking at its options.

Another major uncertainty

There is, however, another possible shift in what's already been a case full of surprising twists and turns.

As it now stands, Uber and the drivers can either go back to the negotiation table or choose to take the case to trial.

"It is possible the parties could reach a revised agreement that satisfies the court's concerns regarding the PAGA (Private Attorney General Act), claims. But if not, as I've said before, I will take the case to trial and fight my hardest for the Uber drivers," said the drivers' lawyer, Shannon Liss-Riordan.

However, there is the possibility of a different outcome, said Thomas Wassel, a partner of Cullen and Dykman in Garden City, New York.

The original case was only possible because Liss-Riordan had gotten a district court to set aside as invalid an arbitration agreement that 232,000 out of the 240,000 drivers had signed prior to working with Uber.

That decision was appealed by Uber and has slowly been moving through the courts as well.

While no decision has yet been rendered, when the three judge panel met in June to consider the appeal, some felt the judges' lines of questioning might indicate they were inclined to agree with the appeal.

Thus, they could possibly overturn the original setting aside of the arbitration agreement the majority of the drivers had agreed to.

That would reduce the scope of the class involved in the case to 8,000 drivers.

Liss-Riordan, said that wouldn't stop her efforts for those drivers.

"We are prepared to start bringing these claims individually, and more than 1,000 drivers in California have already signed up with us to bring individual claims in arbitration if that becomes necessary, so other drivers who want to be included would need to contact us," she said.

But none of these outcomes are that helpful for those who had hoped this case might answer the underlying question of whether people working in the gig economy are legally speaking employees or contract laborers.

“This really gets nothings solved, other than money changing hands,” said Todd Scherwin, a partner and labor and employment lawyer with Fisher Phillips, in Los Angeles.

“We’re going to be right back where we started,” he said.