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UBER AND LYFT SETTLEMENT PROVIDES NEW PRECEDENT FOR THE GIG ECONOMY AND MAJOR BENEFITS FOR MASSACHUSETTS DRIVERS: KEY EMPLOYER TAKEAWAYS

Insights
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Uber and Lyft just reached a $175 million settlement with Massachusetts state prosecutors that permits their drivers to stay classified as independent contractors – not employees – but entitles the drivers to significant benefits. Almost four years after the Massachusetts attorney general's office filed a lawsuit against the rideshare companies seeking a court ruling that rideshare drivers are employees under state law, the parties agreed to a resolution. The parties announced a full settlement on June 27 that includes significant financial payments and access to improved working conditions moving forward.

Case Background

This settlement marks the culmination of a multi-year litigation effort by the Massachusetts attorney general's office against the rideshare giants. State prosecutors alleged multiple violations of Massachusetts wage and hour laws and challenged Uber and Lyft's classification of their drivers' employment status as independent contractors.

Specifically, they alleged that the rideshare companies could not meet the difficult three-part classification test set out by statute. In Massachusetts, every individual who performs services for another party is classified as an employee unless:

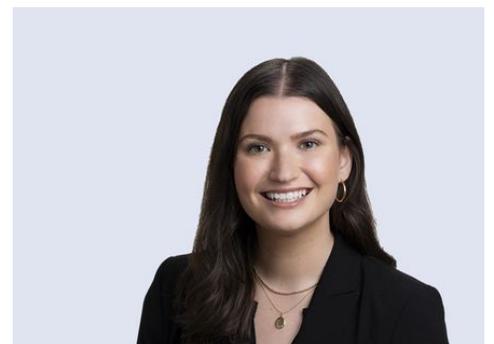- the individual is free from the alleged employer's direction or control;

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- the services the worker performs are outside the usual course of the employer's business; and

- the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the service performed for the party.

Given the difficulty in establishing independent contractor status, the attorney general's office argued that Uber and Lyft drivers should be classified as employees, entitling them to the benefits and protections afforded by Massachusetts employment and wage and hour laws.

Key Settlement Terms

Financial Settlement

The companies have agreed to pay a combined $175 million to the state. The majority of the settlement amount will be distributed to current and former rideshare drivers. The attorney general's office will announce details in the coming weeks on how drivers can file claims.

Minimum Wage Standard

The settlement also requires the companies to pay the drivers at least $32.50 per hour for the time spent traveling to pick up riders and driving them to their destination. This hourly floor does not apply to the time drivers are waiting in between rides. This rate will be adjusted annually for inflation.

Benefits

The parties also agreed that the companies will offer drivers the following benefits – despite that they will remain non-employees:

- **Paid sick time**. Drivers will earn up to one hour of sick pay for every 30 hours worked, up to a maximum of 40 hours per year, and be able to use the leave consistent with the existing paid sick leave statute.

- **Paid Family and Medical Leave**. Drivers will now also receive a stipend to buy into the Commonwealth's Paid Family and Medical Leave program as independent contractors.

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- **Health insurance**. Drivers will be able to pool their hours together to obtain a health insurance stipend if they drive for more than 15 hours per week.

- **Occupational accident insurance**. Drivers will now be eligible to receive up to $1 million in coverage for work-related injuries. This insurance will be paid for by Uber and Lyft.

Additional Provisions

The parties also agreed on other provisions including non-discrimination and retaliation protections for drivers, in-app driver language support, more detailed trip information and earning transparency for drivers, and performance of an annual audit to ensure compliance with this settlement agreement.

What's Next?

The settlement avoids a potentially negative decision as to the classification of rideshare drivers and preserves the flexibility of their independent contractor model. As a result, Uber and Lyft will withdraw their support for a referendum on the 2024 Massachusetts state ballot which seeks to codify gig workers as independent contractors under state law. This petition to include such a referendum on the November ballot was just affirmed as properly certified by the attorney general, along with another petition which would allow Uber and Lyft drivers to form a union and engage in collective bargaining, if endorsed by the voters.

Outside of Massachusetts, this settlement – which allows for both the maintenance of an independent contractor model and important protections for drivers – may serve as a model for other companies operating in the gig economy and could influence similar cases in other states. And if implemented preemptively, it could help stave off widespread reclassification efforts and litigation.

This settlement is a milestone for the gig economy, but other developments are expected in the near future. The California Supreme Court recently heard arguments challenging a ballot measure passed in November 2020 allowing drivers to be classified as independents contractors so long as they were paid at least 120% of minimum wage while completing rides and received subsidies to pay for health insurance. A decision is expected in the coming months and, if affirmed,

could help to cement this model of independent contractors with benefits in the gig economy.

Conclusion

We will continue to monitor developments as they unfold. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox. Should you have any questions on the implications of these developments and how they may impact your operations, please do not hesitate to contact your Fisher Phillips attorney, the authors of this Insight, or any attorney [in our Boston office](#) for additional guidance.