



Gig Economy Giant's Uber-Creative Management Style for Maintaining Independent Contractor Workers

Insights

10.20.16

Uber's inventive management style continues to be a topic of conversation in the gig economy world. In the wake of the \$100M Uber class action litigation settlement being rejected (primarily due to monetary terms), a new case study explores Uber's inventive use of "algorithmic management" to incentivize workers toward specific behaviors in order to achieve its desired result – providing exceptional service to its customers.

Incentive-Based Pay and Surge Pricing

At times, Uber sends its drivers offers for "guaranteed fares" that promise a specific hourly rate for driving during certain times. Uber also pings its drivers to let them know that demand is high in specific areas during specific times. Some argue these tactics actually push workers into a pseudo-schedule, likening workers to employees. Others argue that Uber has creatively figured out how to communicate the market demand to its drivers. Helping its drivers decide where and when to work to maximize profits benefits both the drivers and Uber, while still providing workers the complete autonomy to reject such work. With "control" and "autonomy" being key factors in determining employment status, these tactics seem to fall squarely within the independent contractor-land.

Ratings

Uber previously deactivated drivers with low ratings from passengers. Critics argue that the ratings system sets up driver service "requirements," which may convert drivers to employees. However, Uber's deactivation process will likely change pursuant to its pending settlement. Further, drivers still remain the sole decision-maker when it comes to specific types of services it will offer passengers.

Uber's Ever-Evolving Management Tactics

Uber's \$100M settlement (although in limbo at the moment) expressly ensures that workers remain classified as independent contractors while providing them additional protections. Now, drivers can only be deactivated and removed from service if Uber shows "sufficient cause." Drivers will also have an appeals process option, can arbitrate their claims if they disagree, and can now collect tips from riders.

Takeaways for Gig Employers

Misclassification of gig workers continues to be challenged. Recently, the New York Times reported

that two Uber drivers were awarded unemployment benefits by the New York State Department of Labor. To be entitled to such benefits, the individual must be considered an employee. However, this is a standalone decision made by only one state governmental agency.

Some argue that gig business models warrant a new category of worker, i.e. a “dependent contractor” or “independent worker.” A new category could potentially give gig economy companies, like Uber, a third choice for classifying workers while providing more worker-protections, similar to Uber’s proposed settlement terms, but without converting workers into full-fledged employees. Win-win, right?

At a minimum, Uber’s creative and flexible “algorithmic management” style and pending settlement seem to show other gig companies how maintaining workers’ independent contractor status can be done while, at the same time, ensuring top notch customer service. Gig companies can only hope that legislators pay attention to this “Uber”-creative strategy and match it with new “Uber”-creative laws covering gig workers.