



# Court Says Uber Drivers Can Proceed With National Misclassification Class Action

Insights

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A federal court judge in North Carolina last week granted permission to a group of Uber drivers challenging the company's classification structure to band together and proceed with a class action lawsuit against the ride-hailing company. The drivers claim they are improperly labeled as independent contractors and should be entitled to minimum wage, overtime, and other wage and hour protections under the federal Fair Labor Standards Act (FLSA). According to the attorneys representing the drivers, the July 12 ruling is the first time a court has tentatively allowed a nationwide FLSA case to proceed against Uber on this theory. This decision means that those drivers who opted out of arbitration agreements – some 15,000 to 19,000 workers – will now have the opportunity to join the case and bring their claims against Uber.

Although this isn't great news for Uber or other gig economy companies, there are three big reasons why this isn't the end of the world. First, there is a relatively low bar to succeed at this stage of the game. To get conditional certification of a class action case at this step is relatively easy; if the drivers can simply show they are "similarly situated" to each other, they are just about there. And because they can show they generally work the same job and operate under the same set of company rules, the judge had little problem granting this conditional certification motion. Second, once the rest of the participants join the class action suit, Uber will have a second bite at the apple and will be able to challenge certification once again. This time, however, with a much larger pool of potential class members, there will be more of an opportunity for the company to draw distinctions between the drivers in order to show a lack of similarity. Finally, this decision does not speak to the ultimate issue in the case – whether Uber drivers are correctly classified as independent contractors. Only if and when a class is certified will Uber have to defend that position.

We will monitor these developments and update our readers as this case proceeds through the court system.

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