



## Phase One Of Grubhub Trial Ends; Waiting Game Begins

Insights

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The evidentiary phase of the [Grubhub misclassification trial](#) ended last week; now the gig economy world waits with bated breath for a final ruling. For those unfamiliar with the situation, this could be the first time the common classification system in the gig economy is on trial. A former delivery driver, Raef Lawson, alleges he was actually an employee and should be compensated for unreimbursed expenses, while the company adamantly argues that he was correctly classified as an independent contractor. Although less than \$600 in damages is on the line, the very nature of the gig classification system could be at stake, as a negative ruling could open the floodgates for untold numbers of gig workers across the country to claim they are actually employees.

Last week, we posted [a summary of the first half of the trial](#). The second part of the trial wrapped up late last week, and it appears there were moments of drama during the defense presentation of evidence as well. [According to Law360](#), a company manager accused the plaintiff of gaming the Grubhub clock-in system and committing “fraud.” Jared Grebner, the company’s manager of driver recruitment and engagement, noted that Lawson electronically checked in for some shifts minutes before they ended without making a single delivery. The company designates “blocks” of time for drivers during which they are guaranteed a certain pay to be on call and await delivery orders. Grubhub maintains this system provides a crucial incentive for independent contractors so they can be ready to go to deliver food in an efficient manner, while Lawson and his attorneys claim it is evidence of hourly pay demonstrating employee status. Regardless of the legal arguments, the defense attacked Lawson’s credibility by demonstrating that he would check in late for his blocks, pointing out that he would log into the app and check in just two minutes before his three-hour block ended. Grebner called this “potential true-up fraud” on the stand.

So what’s next? [According to BNA](#), the parties will soon submit post-trial briefs and then appear for closing arguments on October 30. The judge could rule at any time thereafter. If she rules in favor of Grubhub, the trial will be over (although an appeal would be likely). If she rules in Lawson’s favor, the parties would then shift their arguments to determine whether he could make a larger misclassification claim on behalf of other drivers.

We’ll continue to monitor developments and update this blog as events warrant.

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