Plaintiffs' Attorneys Already Lining Up To Weaponize Latest SCOTUS Ruling Against Gig Economy Companies

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After the Supreme Court ruled a few weeks ago that independent contractors working "in interstate commerce" were exempt from arbitration pacts due to a broad interpretation of the Federal Arbitration Act (*New Prime v. Oliveira*), I wrote a blog post about how labor law commentator Ross Runkel wondered whether gig business ride-share drivers and others would be able to extend that ruling in their favor and escape typical arbitration agreements. National Law Journal's Erin Mulvaney followed this thinking by writing an article recapping how gig economy plaintiffs will soon be test-driving the *New Prime* decision to see if it can work in their favor. As she says, "already in the weeks since the ruling was issued, there are signs plaintiffs lawyers will use the opinion to reinforce their arguments that drivers who signed arbitration agreements should nonetheless be allowed to sue their employers in court."

She cites to one of the more prolific plaintiffs' attorneys (Shannon Liss-Riordan) who has made a name for herself filing misclassification cases against gig economy businesses. Mulvaney reports that the attorney has already alerted judges in her pending cases about the impact of the *New Prime* decision and how it may work to exempt gig economy drivers from arbitration. After all, she argues, what they do involves transportation work much the same way that truck drivers operate; if the Supreme Court believes truck drivers should avoid arbitration, why not ride-share drivers or delivery drivers? Pending claims that may turn on this question include litigation against Amazon.com, GrubHub, Postmates, and DoorDash. As Liss-Riordan is quoted: "the *New Prime* decision is helpful because it clarifies the court does not need to decide whether the workers are employees."

Mulvaney noted how the U.S. Chamber of Commerce foresaw such a problem when it filed an amicus brief with the Supreme Court in the hopes of swaying the justices to rule in New Prime's favor. In its May 2018 filing, the Chamber argued that "untold thousands of arbitration agreements would be called into question" if the court ruled for the truck drivers. We may soon find out whether that concern was justified.

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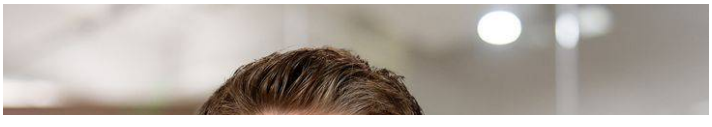

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