



# Instacart Beats Back Attempt By San Diego To Force Reclassification Of Workers

Insights

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A gig economy business just prevailed in the first round of a misclassification legal battle worth keeping your eye on. A state court judge in California rejected San Diego's effort to use the state's unfair competition law to force Instacart to immediately reclassify its gig workforce as employees, denying a request for a temporary restraining order (TRO) on February 4 and handing a victory to gig economy businesses across the state. But the battle is far from over. The city attorney's office will continue to pursue litigation against Instacart using the state unfair competition statute. If the government wins, we could see other officials use this dangerous weapon against gig economy companies throughout California.

The story starts off in a very familiar way. Instacart has developed a business model that utilizes independent contractors to perform work for the business. The workers in question shop for and deliver groceries, connected to willing consumers through a digital platform. But as with most gig economy companies, the workers have a great deal of freedom in the performance of their work. That wasn't enough to satisfy the San Diego City Attorney's office that these workers were properly classified as contractors, however, and in September 2019 it filed a legal action against Instacart. San Diego ramped up its efforts in January by requesting a TRO that would immediately require the company to reclassify its contractor workforce as employees.

Here's where things took a twist. Instead of just relying on typical legal arguments, San Diego raised the state Unfair Competition Law as the vehicle by which it would pursue its argument. Claiming that unilaterally classifying the workers as contractors constituted an unlawful and unfair business practice, the city argued that Instacart should be forced to immediately changes its business model. However, the court yesterday rejected these efforts. Instacart pointed to [a recent ruling from a federal court](#) that blocked the state from enforcing the new ABC test to truck drivers as a reason to rule in its favor. Because of the court ruling denying the TRO, Instacart can continue to operate with its contractor business model – at least for the time being.

The next step in this litigation is a February 14 hearing. At that time, the city will ask the court to grant a preliminary injunction that would also effectively block Instacart from using the contractor model for its shoppers while the underlying lawsuit progresses towards trial. We'll monitor these proceedings and provide updates as warranted.

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