# San Francisco Files Misclassification Lawsuit Against DoorDash And Promises More Litigation Is To Come

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San Francisco ratcheted up the pressure on California gig economy companies by not only filing a misclassification lawsuit against DoorDash, but promising that more such litigation was to come against other companies. Upon filing the June 16 unfair business practices lawsuit – which appears to be the first instance where a California District Attorney has taken such an action – the San Francisco District Attorney said, "I assure you that this is just the first step among many steps that our office will take..." What do gig economy companies need to know about this latest troubling development?

**What Does The Claim Say?**
The contents of the claim are certainly not unique, and largely mirror the kinds of claims we often see in misclassification lawsuits and class actions brought by disgruntled contractor. What makes this case unique, however, is that it is being brought by the City of San Francisco itself – and is apparently the first time a District Attorney in California has done so. According to its complaint, DoorDash "has systematically misclassified workers and in so doing deprived workers of labor law safeguards to which they're legally entitled." This includes tangible benefits, such as minimum wage payments, entitlement to overtime pay, mandatory meal and rest breaks, paid sick leave, and business expense reimbursement, but also the benefit of being covered by state and federal discrimination protections and the right to organize into labor unions.

In order to force DoorDash to classify its contractors as employees, the City is asking a state court to judge to grant an order that would compel the gig economy company to stop treating its workers as independent contractors and begin working with them as employees. The lawsuit further seeks damages and penalties that could quickly add up, assuming a judge agrees with the City.

Of course, the legal standard the City is hinging its argument upon stems from AB-5 and the three-pronged ABC test that presumes employee status unless the hiring entity can demonstrate three factors that prove contractor status. The City argues that DoorDash cannot show that the workers in question (a) are free from the control of DoorDash in the performance of their work, (b) perform work that is outside the usual course of comapny business, and that (c) are customarily engaged in an independently established business of the same nature as DoorDash.

**What Can We Expect?**

We can expect to see DoorDash to vigorously defend itself and its business model, and we can expect to see California officials across the state to take up the same strategy and pursue similar litigation against other gig economy companies. Until now, we have not seen a definitive ruling from a court regarding the applicability of AB-5 to the traditional gig economy model, and no doubt companies are holding out hope that a ballot measure appearing before voters this November will moot this entire issue by amending the law in their favor. We will monitor this – and other – litigation and provide updates as necessary.

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