



## Class Action Waivers Get Much-Needed Lyft

Insights

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I just wrote a detailed article about a recent federal court decision that upheld the validity of an employer's class action waiver, forcing a disgruntled worker into arbitrating his case individually instead of using the court system to launch a large-scale class action. Typically, this kind of decision would not be particularly significant; after all, many businesses employ class waivers, and the overwhelming number of federal courts examining them have approved their use. But this case is noteworthy for a few reasons, one of which being that the decision involves the economy (*Bekele v. Lyft, Inc.*). You can check out the full article on our website, but here's the quick summary for those of you in a hurry.

The case itself is fairly simple. Plaintiff Yilkal Bekele has worked as a Lyft driver since 2014, and in 2015 he filed a class action lawsuit in Massachusetts federal court against the ride-sharing company. He alleged that its "misclassification" of drivers as independent contractors led to an inappropriate requirement that drivers pay for their own vehicles, maintenance, gas, and insurance.

Lyft's defense was also very simple. Before even getting to the main issue of whether Bekele and the other drivers were classified properly, the ride-sharing company said that court was an inappropriate forum for the case because Bekele agreed to a binding arbitration agreement, and that class action was similarly inappropriate as a legal tactic because Bekele also agreed to a class waiver. Before agreeing to drive for the company, Bekele clicked "I accept" to a Terms of Service arbitration agreement that clearly said:

You and we agree that any claim, action, or proceeding arising out of or related to the Agreement must be brought in your individual capacity, and not as a plaintiff or class member in any purported class, collective, or representative proceeding. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative, collective, or class proceeding. YOU ACKNOWLEDGE AND AGREE THAT YOU AND LYFT ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING.

Bekele argued that this restriction should not apply to him because he didn't remember reading it, because the terms were too small to be read on his smartphone, and because the agreement was unconscionable. The court rejected each of these arguments applying state law principles. Bekele also argued, citing the recent *Epic Systems* decision out of the 7th Circuit, that the class waiver should be barred under the NLRA. The court also rejected this position.

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This decision is important for the gig economy in general. Many gig startups are fragile in their infancy, and rely on cost-saving techniques like arbitration agreements and class waivers to avoid getting entangled in expensive and distracting court battles. This recent decision, specifically involving one of the two foremost gig companies in the country, should give confidence to gig employers using class waivers. If you are in this boat, you would do well to specifically examine the method and manner in which Lyft implemented the class waiver, taking into account state and local legal requirements, and mimic its same policies.

Check out [the full article](#) for more details.

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