

# California Ruling a 'Seismic Shift' for Gig Economy Workers

A California Supreme Court ruling would limit businesses from classifying workers as independent contractors who aren't eligible for certain benefits and employment protections.

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FILE - In this Jan. 17, 2013, file photo, a Lyft car crosses Market Street in San Francisco. In a big win for labor advocates, the California Supreme Court has limited the ability of businesses to classify workers as independent contractors, which could affect a range of workers in the so-called "sharing economy," such as Uber and Lyft drivers. (AP Photo/Jeff Chiu, File) The Associated Press

**AP**

By BRIAN MELLEY and CHRISTOPHER RUGABER, Associated Press

LOS ANGELES (AP) — A [California](#) Supreme Court ruling that would limit businesses from classifying workers as independent contractors who aren't eligible for certain benefits and employment protections was hailed as a big victory for labor and could shake up the state's so-called gig economy.

The unanimous ruling Monday in a case involving package delivery drivers adopted a broad definition for those who qualify as employees in a lawsuit likely to expand the number of workers eligible for minimum wage, rest breaks and other benefits under state wage laws.

Here are some questions and answers about the ruling and its impact on businesses that employ independent contractors:

#### WHAT DID THE RULING FIND?

The court put the burden on California employers to prove a worker is an independent contractor.

To do so, the company would have to pass each part of a three-prong test, known as the ABC standard, to prove a worker is an independent contractor: The worker is free of control and direction; the work is outside the course of business for which the work is performed, such as a plumber hired by a store to repair a leaky faucet; and the worker is engaged in an independently established trade or occupation.

"It seems like a seismic shift," said Veena Dubal, professor at University of California, Hastings law school. "I'm pretty floored by this decision."

#### HOW MUCH IMPACT WILL THE RULING HAVE FOR WORKERS CURRENTLY CLASSIFIED AS INDEPENDENT CONTRACTORS?

The ruling is specific only to California, but it mirrors employment standards already adopted in [Massachusetts](#) and [New Jersey](#).

Its impact in California will depend on how many workers decide to challenge their employment status. In order for the ruling to be applied, workers will have to go to court or arbitration to press their cases.

As a practical matter, only those who claim they aren't making minimum wage or are being deprived overtime or other benefits would file legal cases. But the ruling lowers the bar for those workers to prove their cases and lawyers will have greater incentive to represent them, Dubal said.

She noted that other states could adopt a similar approach to determine who is an employee.

"I think a bunch of states are going to jump on this ABC bandwagon," Dubal said. "People, particularly in other blue states, look to California for interpretation of laws like this."

#### DOES THIS DECISION MEAN COMPANIES LIKE UBER OR TASKRABBIT WILL HAVE TO TREAT THEIR WORKERS AS REGULAR EMPLOYEES?

Not any time soon. There have been other recent court decisions that have gone in the other direction. For example, a federal court in Philadelphia ruled just last month that

limousine drivers for Uber's UberBLACK service are independent contractors, not employees.

At the same time, courts in the United Kingdom ruled last fall that Uber drivers are, in fact, employees.

"Right now, there's still a lot of confusion over this," said Miriam Cherry, a law professor at St. Louis University Law School.

In California, though, the ruling appears to favor Uber drivers challenging their employment status, attorney Shannon Liss-Riordan said.

"The test will provide much stronger worker protections and make it extremely difficult for companies to classify their workforce as independent contractors," said Liss-Riordan, who represents Uber drivers in class action lawsuits in California and Massachusetts.

#### HOW MANY PEOPLE WORK AS INDEPENDENT CONTRACTORS OR "GIG" WORKERS ANYWAY?

The number of people working outside traditional, permanent jobs has grown sharply in the past decade or so, though growth has slowed in recent years as the economy has improved. One of the most conclusive studies, by economists Lawrence Katz and Alan Krueger, found that the proportion of workers in "alternative work arrangements" jumped to 15.8 percent in 2015 from 10.1 percent a decade earlier. That figure includes temporary help workers, independent contractors, freelancers, and workers on sharing economy websites such as Etsy.

Relatively few of those workers participate in online platforms, however. A separate study by economists at the JPMorgan Chase Institute found that just 0.9 percent of adults performed work through online sharing-economy sites, such as Uber, Airbnb, and eBay, in June 2016. That was double the proportion in 2014, but little changed from a year earlier.

#### WHAT'S DRIVING THE INCREASE IN THESE TEMPORARY WORK ARRANGEMENTS?

Many labor economists argue that corporations are simply trying to cut costs. Publicly-traded companies are under heavy pressure from shareholders to focus on their core businesses and maximize profits. Businesses don't have to pony up for health insurance or other benefits for independent contractors, nor do they have to cover Social Security or unemployment insurance taxes. They're also not subject to minimum wage laws or overtime rules.

Some people, however, enjoy the flexibility of gig work. These are typically older, better educated professionals who work on professional projects such as software development or legal work, sometimes through boutique temp agencies.

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