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California Supreme Court finds GrubHub Drivers to be Independent Contractors

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Recently, in a very telling decision, a federal Magistrate Judge found that drivers for GrubHub Inc. ("GrubHub") are independent contractors and not employees. In doing so, U.S. Magistrate Judge, Jacqueline Corley, found that gig-economy drivers do not qualify for the protection of employees under California state law.

Employee Raef Lawson, brought this claim against Grubhub, after working as a delivery driver for 6 months. Lawson alleged that the company violated California Labor Laws by paying him less than minimum wage, not paying him overtime, and not reimbursing him for expenses. In California, as in most other states, the principal test of an employment relationship is whether the business has "the right to control the manner and means of accomplishing the result desired."

In this case, Judge Corley weighed many factors in her decision. Specifically, Judge Corley focused on seven factors relating to Lawson's employment: (1) Grubhub exercised little control over how drivers made their deliveries; (2) The company does not control their drivers' appearance, or require them to wear a uniform; (3) GrubHub does not require a training or orientation process for their drivers; (4) Drivers are permitted to have anyone accompany them while making deliveries; (5) Drivers are in complete control of how often they work and for how long; (6) Drivers could cancel their shifts with no negative consequences; and (7) Grubhub did not give their drivers performance evaluations.

Additionally, the judge weighed several "secondary" factors that may establish an employer-employee relationship between GrubHub and its drivers. Specifically, the judge cited: (1) Lawson was not engaged in a distinct occupation or business; (2) No special skills were necessary to operate as a driver; (3) Drivers were paid by the hour rather than by delivery; (4) Delivering food is a regular and essential part of Grubbs' business. These factors often lead courts to conclude that individuals should be classified as employees.

After weighing and considering all the primary and secondary factors, Judge Corley found that Mr. Lawson was an independent contractor and not an employee at GrubHub. Ultimately, the court found that GrubHub lacked the necessary control over the driver's work to be considered an employee.

This decision is a significant step for gig economy companies and comes at a time where more and more companies are using freelance or contractor models. Employers may be wise to consult with outside experts on their classification policies and programs if they lack the necessary training and knowledge themselves.

If you have any questions or concerns regarding employment related issues, please contact James G. Ryan at jryan@cullenanddykman.com or at 516-357-3750.

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