

Uber's Other Legal Mess: Drivers Sue Over Missing Tips

By [Joshua Brustein](#) August 29, 2013



Photograph by Julie Glassberg/The New York Times via Redux

Uber has been embroiled in legal fights since it first launched an app allowing people to summon its car-service drivers, as municipal bureaucrats and rival businesses sought to subject the young company to existing regulations. Like any good underdog, Uber has framed itself as a disruptive innovator taking on an entrenched, unloved, and old-fashioned incumbent: the taxi industry.

But Uber is facing a new legal mess that doesn't quite fit the David-and-Goliath storyline: Drivers say the startup is stealing their tips. The allegations appear all the more odious in the wake of last week's news of a \$258 million investment from Google, making the tech darling seem, well, a lot like the established livery industry in its relationship to its driving workforce.

On the website, Uber explains that its taxi service adds a 20 percent tip for drivers; the black-car service offered by Uber doesn't discuss tips at all. In the past, the startup has explained that tips are calculated as part of its fares, but the current policy isn't completely clear. Uber's message to passengers is that no additional tip is needed beyond the fare—and the company explicitly prohibits drivers from taking cash tips directly from passengers.

Uber claims that its drivers make more than they would driving for other services, but disgruntled drivers are taking the company to court. Earlier this month, two Uber drivers filed a class-action lawsuit in California on behalf of all the company's drivers, charging that the tip-sharing arrangement cheats them out of money. The case is at least the third lawsuit making similar charges—the other two have been filed in Illinois and Massachusetts—and it has the potential to become the broadest.

“Really what Uber is trying to do is keep prices artificially low by having a price and saying you don't have to tip on top of this,” says Shannon Liss-Riordan, a lawyer for the plaintiffs. “It's a way for them to compete unfairly by lying to the customer.” She is a specialist of sorts in the targeted area of gratuity-related labor law, having represented airline employees, dancers at strip clubs, and restaurant workers who have had their tips skimmed by employers in various ways. The lawsuit also alleges that Uber incorrectly classifies its drivers as independent contractors, making them responsible for costs that would otherwise be covered and depriving them of workman's compensation and unemployment insurance.

Andrew Noyes, an Uber spokesman, says the lawsuit is without merit: “Frivolous lawsuits like this cost valuable time, money, and resources that are better spent making cities more accessible, opening up more possibilities for riders, and providing more business for drivers.” He declined to answer further questions about the case.

In the past, however, Uber has explained its tipping practices as a matter of convenience, and it's not the only example of new technology making gratuities easier for customers and less lucrative for workers. When credit-card machines were introduced in New York City taxis several years ago, a major complaint from drivers was that their tips would be subject to processing fees. Food-ordering websites like Seamless allow customers to include a tip in their meals, and then apply their commissions to those tips.

The first hurdle the plaintiffs will have to overcome is part of the latest contract signed by Uber drivers in July. According to court documents, the contract included an arbitration clause that barred the drivers from bringing class-action lawsuits against the company. Drivers had 30 days to opt out of the arbitration requirement, but the plaintiffs are asking the court to extend that time. Doing so is significantly less convenient than, say, booking a ride on Uber.

“They make it really easy for them to accept the agreement—by swiping yes on their phone,” says Liss-Riordan. “But to get out of it you have to write to their general counsel.”