

Judge to Uber: Let drivers join class-action lawsuit

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Uber sent notices to many U.S. drivers this week telling them how to join in a class-action suit against the on-demand ride company.

The suit claims that drivers are employees, not independent contractors — which would put Uber on the hook for expenses like gas, insurance and car maintenance. It also alleges that Uber has stiffed them on tips.

It's not that famously combative CEO Travis Kalanick suddenly lost his backbone. A federal judge told the San Francisco company that it must contact drivers who have started since August, explaining how to opt out of mandated arbitration. An increasing number of companies across many industries require employees and customers to agree to such private dispute resolution, which bars the possibility of a day in court.

But in Uber's case, it added a mandated arbitration clause for drivers last summer right as a Boston lawyer Shannon Liss-Riordan was filing a class-action suit. U.S. District Judge Edward Chen of San Francisco said the company must go back to drivers to give them a chance to say no thanks to the clause, and must tell the drivers about the class-action lawsuit.

The suit includes two huge gotcha's that Uber will fight tooth and nail.

First, it says that Uber drivers are actually the company's employees, not independent contractors. That would make Uber responsible for all their work-related expenses: gas, car maintenance, insurance, etc. Uber itself says those expenses average \$14,000 or \$15,000 per driver per year.

"Uber tells drivers how to interact with customers, dress, maintain their vehicles, and what (customer) ratings to get, and it 'deactivates' them, essentially firing them, if their ratings go too low," Liss-Riordan said. She argues that having that much control over drivers makes them employees even though they set their own hours.

Second, the suit says that Uber is stiffing drivers on tips.

"Uber has misrepresented to the public that a tip is included for drivers and therefore they don't need to tip," Liss-Riordan said. "That is not correct. There is no tip included. So reasonable

customers are unlikely to top on top of the fare.” Another tip issue: For a while Uber Taxi added a 20% gratuity to fares, but Uber kept half of that for itself.

Uber did not respond to requests for comments, but previously said the lawsuit was frivolous.

Judge Chen indicated in December that the tips allegation appeared valid, but questioned whether drivers would be able to prove that they are employees.

Drivers have 30 days to opt out of mandated arbitration, either by e-mailing that request to Uber at optout@uber.com or by contacting Liss-Riordan.

“It would be illegal for Uber to retaliate against any drivers who opt out of the mandated arbitration,” Liss-Riordan said.

The class-action covers all of Uber’s ride services, including Uber Black, UberSUV, Uber Taxi, UberX. The case is at the discovery phase and likely won’t go to trial until next year at the earliest.