

Uber pushing to take the 'class' out of its class-action lawsuit

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If Uber gets its way, the class-action lawsuit it faces in San Francisco over worker classification could become a run-of-the-mill lawsuit with only three plaintiffs.

The on-demand transportation company filed Thursday what is known as an "opposition to motion for class certification," arguing that the lawsuit should not proceed as a [class action](#).

Uber's reasoning: Plaintiffs Thomas Colopy, Matthew Manahan and Elie Gurfinkel, all former Uber drivers, are not representative of all, or even most, Uber drivers.

Regardless of whether Uber succeeds, an Uber spokesperson confirmed that the lawsuit will proceed. But Uber, like most companies, will do what it can to avoid a class-action lawsuit. Losing a class action can be a lot more expensive than losing a suit against individuals. Any court orders could also apply to entire class, not just a few drivers. The plaintiffs are claiming to represent a class of 160,000 drivers.

At the heart of the suit is whether Uber drivers should be considered employees or independent contractors. If the courts say they are employees, it would substantially increase Uber's costs of doing business and restrict the company's approach to managing its drivers. On the other hand, Uber drivers would gain more rights and benefits.

The company said plaintiffs Colopy and Gurfinkel "suffer from

credibility problems," pointing to occasions when they allegedly contradicted themselves in depositions on how much control Uber exerted over them as Uber drivers.

The company also called plaintiff Manahan a fraudster, pointing to his admission in a deposition that he "fraudulently manipulated" Uber's driver referral program - where he referred drivers to Uber, paid them to complete sham rides, and collected more than \$25,000 in referral incentive payments. Those facts make Manahan unfit as a class representative, Uber claimed.

Uber also argued that because it has created so many different service agreements over the years, not all Uber drivers have signed the same contract and are bound by the same terms, so many of the plaintiffs' complaints are not applicable to all Uber drivers.

"The mountain of evidence submitted with the court ... proves that these three plaintiffs do not and cannot represent the interests of the thousands of other drivers who value the complete flexibility and autonomy they enjoy as independent contractors," said attorney Ted Boutros of the law firm Gibson Dunn, who is representing Uber.

The attorney representing the plaintiffs, Shannon Liss-Riordan, did not immediately respond to requests for comment.

Uber competitor Lyft faces a similar class-action [lawsuit](#) in San Francisco. In March, judges said in two rulings in San Francisco federal court that juries will have to determine the status of each company's [drivers](#).

In a separate development, a California Labor Commissioner ruled in June that Uber driver Barbara Ann Berwick was an employee of the company and was entitled to an award of \$4,000 in expense payments.

The ruling was a setback for Uber, but applies only to Berwick and broader ramifications are unclear.

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