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## Philly Uber Drivers Claim Wage Violations, Illegal Competition

By **Alex Wolf**

Law360, New York (January 7, 2016, 7:21 PM ET) -- Uber limousine drivers in Philadelphia sued the ride-sharing company in Pennsylvania state court Wednesday, alleging Uber has endangered their livelihoods by introducing an illegal competitor through its UberX service and by misclassifying them as independent contractors instead of as employees, violating state and federal wage laws in the process.

The putative class and collective action, filed by three Philadelphia UberBLACK drivers on behalf of current and former drivers, targets Uber and its Philadelphia-based subsidiary Gegen LLC for allegedly violating the Federal Labor Standards Act and Pennsylvania wage laws. The drivers claim that because they are not classified as employees of the company, Uber is able to charge them for business expenses and avoid providing them employee benefits and paying hourly and overtime wages as well as various taxes.

In addition to committing wage violations, the plaintiffs allege that by launching its UberX service in Philadelphia in 2014, the company has further endangered their ability to earn a living. The suit claims UberX is unregulated and thus illegal in Philadelphia, where the city's parking authority maintains oversight of cab services.

Unlike UberBLACK drivers, the company does not require UberX drivers to comply with parking authority regulations, allowing UberX drivers to incur fewer expenses, charge illegal rates, avoid regular testing and inspections and enjoy other benefits, according to the suit.

The plaintiffs complain that the UberX service not only operates outside of the law but is also anti-competitive. The drivers say that instead of helping them work within the law, the company has recommended that they become UberX drivers.

"Defendants purposely forced plaintiffs and class members into a dire financial situation by cannibalizing UberBLACK business," the complaint said. "Now defendants have the audacity to tell plaintiff and class members that they should break the law in order to earn more money. Meanwhile, defendants continue to cover their own bills by automatically deducting money earned by plaintiffs and class members."

In addition to paying the company a required 25 percent of their earnings, the plaintiffs claim that they are also forced to pay regulatory fees, vehicle payments and insurance premium payments from a company called Knightbrook Insurance Company. They allege that Uber refuses to release the terms of the policy to its drivers even though they are paying for it.

Additionally, the drivers say that they are subject to stringent rules such as transferring their vehicles' title over to Gegen, being unable to determine the frequency of fares they

receive, potentially being suspended for receiving poor performance reviews from passengers, being required to refuse gratuity and accepting reduced payments in cases of fraudulent billing.

The drivers are seeking injunctive relief requiring Uber to come into compliance with applicable state and federal laws. They have also requested compensatory damages, liquidated damages and coverage of litigation expenses.

In a statement sent to Law360 on Thursday, an Uber spokesman said the majority of drivers prefer the business model as is.

"Nearly 90 percent of drivers say the main reason they use Uber is because they love being their own boss," the statement said. "Drivers are independent contractors who use Uber on their own terms; they control their use of the app. As employees, drivers would lose the personal flexibility they value most — they would have set shifts, earn a fixed hourly wage and be unable to use other ride-sharing apps."

The plaintiffs are represented by Jeremy E. Abay and John K. Weston of Sacks Weston Diamond LLC.

Counsel for the defendants was not immediately available Thursday.

The case is Ali Razak et al. v. Uber Technologies Inc. et al., case number 160100404, in the Philadelphia Court of Common Pleas.

--Editing by Patricia K. Cole.

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