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Pennsylvania Federal Court Rules that Drivers are Properly Classified as Independent Contractors

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In *Razak v. Uber Technologies, Inc.*, a Pennsylvania federal judge ruled last week that drivers for UberBLACK, the company's higher-end limousine service, are properly classified as independent contractors. In granting Uber's motion for summary judgment, this court was the first federal court to determine whether drivers for UberBLACK are employees or independent contractors under the Fair Labor Standards Act ("FLSA") and similar Pennsylvania state laws.

In its analysis, the court considered six factors in determining whether the drivers were properly classified. The court held that four of these six factors "weighed heavily" in favor of independent contractor status. These four factors included: (1) the degree of the employer's right to control the manner in which the work is to be performed; (2) the opportunity for profit or loss for the workers; (3) the worker's investment in equipment; and (4) the degree of permanence of the working relationship.

In determining that UberBLACK did not exercise a substantial control over its drivers, the court noted that the drivers had the ability to work for competing companies, hire subcontractors and were free to determine their own working hours. The court stated that any limitations or controls placed by the company on the driver's ability to drive were geared towards safety and quality control, such as forcing a break upon drivers who have been driving without any rest for 12 straight hours.

The two factors the court held that leaned towards employee status were: (1) whether the service rendered, driving, requires a special skill; and (2) whether it is an integral part of the employer's business. However, the court stated that holding these two factors in favor of the drivers did not alter the court's overall determination that, when examined as a whole, the drivers did not meet their burden of proving they were misclassified as independent contractors.

This significant ruling adds another win for companies in the 'gig economy' (a term used to characterize the prevalence of short-term contracts or freelance work as opposed to permanent jobs) after a federal judge in San Francisco determined at trial that food delivery workers for GrubHub, Inc. were not the company's employees. Companies should continue to ensure that they are properly classifying their workforce and using independent contractors appropriately based on the factors in their jurisdiction. For example, some jurisdictions and governmental agencies apply tests that are different from the six-factor standards and rely more heavily on whether the individual is economically dependent on the company for his or her livelihood.

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