

# Grocery Delivery Drivers Sue for Alleged Labor Violations

*Workers complain of misclassification of employment status, unlawful tip deductions, retaliation and more in putative class action complaint*

SAN FRANCISCO, CALIFORNIA, UNITED STATES, April 17, 2023 /EINPresswire.com/ -- Delivery drivers for online grocer Weee! recently filed a class action lawsuit alleging the company committed a litany of labor law violations. The lawsuit touches on many of the concerns that have arisen in recent years as the “gig economy” has expanded in California and around the country. The case is YI SONG and XIANGYANG JI v. WEEE! LOGISTICS, INC. & WEEE! INC., case number 23CV029846, filed in California’s Alameda County Superior Court on March 27, 2023.

According to a putative class action complaint brought by several grocery delivery drivers, online grocery retailer Weee! regularly deprived its employees of proper pay and tips, failed to provide adequate rest and meal breaks, and committed many other acts in violation of California’s Labor Code. The lawsuit alleges that the labor law violations at Weee! “are routine and systematic and result from centralized policies and practices created by Weee! upper management.”

The lawsuit asserts that both W-2 drivers and 1099 drivers were treated the same, despite labor law protections for W-2 employees. Additional allegations include that employees were deliberately misclassified as independent contractors, prohibited from discussing wages and working conditions, subjected to health and safety violations, and generally underpaid by way of unlawful deductions of tips, failure to maintain accurate payroll records, and denial of full payment upon termination.

The distinction between independent contractors and employees has arisen in a number of lawsuits in recent years as rideshare driving and other “gig economy” jobs have become a mainstay in California and elsewhere. A state appeals court just recently upheld the right of ride-hailing and delivery companies to treat California drivers as independent contractors in accordance with 2020’s Proposition 22. Prop 22 was opposed by labor unions and other worker



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rights advocates concerned with the treatment of gig workers.

Richard Koss, a [California employment law attorney](#) practicing in the San Francisco Bay Area who is not involved in the present litigation, explains how independent contractors versus employees are currently defined under California law. “California workers are presumed to be employees unless they meet the “ABC

test,” he says. “To be an independent contractor,” Koss explains, “a worker must (A) be free from the control and direction of the hiring entity in doing their work, both according to the contract between the parties and in reality; (B) perform work that is outside the usual course of the hiring entity's business, and (C) normally work in an independently established trade, occupation, or business that relates to the work they're now performing.”

The benefits of being classified as an employee versus an independent contractor are legion, according to Koss. “As employees, workers are entitled to minimum wage, overtime, sick leave, meal breaks, rest breaks, reimbursement for out-of-expenses that are necessary for the job, unemployment insurance, workers’ compensation insurance, and paid family leave.”

“As an independent contractor, the worker has none of the above benefits.”

In addition to Weee!’s wage and hour violations, the plaintiffs claim Weee! subjected employees to unsafe working conditions. Drivers were apparently not trained in how to properly handle and transport dry ice, which was used to keep the food cold, nor were they provided gloves or other appropriate personal protective equipment. Dry ice can produce carbon dioxide gas; if inhaled by a person in an enclosed space, CO<sub>2</sub> gas is extremely dangerous. One driver, for example, says he experienced dizziness, trouble breathing, and nearly lost consciousness due to prolonged exposure to the chemical.

According to the complaint, workers who protested these untenable conditions were subject to retaliation. One of the named plaintiffs, for example, alleges he was terminated “in retaliation for reporting and protesting the company’s Labor Code violations.” The drivers’ attorneys assert that the company used retaliatory conduct and illegal confidentiality requirements to perpetuate unlawful practices while keeping the illegal conduct under wraps.

The plaintiffs seek to represent a class of all current and former similarly harmed hourly workers, as well as on behalf of the State of California and its employee protection agency. The claims are brought, in part, under the Private Attorneys General Act (PAGA), a California law that empowers private citizens such as employees to sue their employers for civil penalties on behalf of themselves, other employees, and the State of California for violations of the Labor Code. The plaintiffs are seeking civil penalties, repayment of lost wages and other damages, and litigation

costs.

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