

Alsup Certifies a Class of Uber Drivers in Suit Over Fees

U.S. District Judge William Alsup of the Northern District of California certified a class of Uber drivers Wednesday in a case claiming the company takes an oversized chunk of ride fees.

By **Ross Todd** | The Recorder | February 15, 2018 at 01:34 PM



SAN FRANCISCO — The federal judge who oversaw Uber’s trade secrets trial showdown with driverless car rival Waymo has certified a class of Uber drivers in [a separate case](#) claiming the company takes an oversized chunk of the fees charged to

passengers.

U.S. District Judge William Alsup of the Northern District of California, who called *Waymo v. Uber* “ancient history” during a hearing where the parties [announced a settlement](#) last week, issued an order Wednesday evening certifying a class in the driver suit, *Dulberg v. Uber Technologies*. Alsup’s class certification order currently remains under seal, but the judge [publicly filed a notice](#) of the factors he’ll take into account upon reviewing any proposed class settlement in the case.

Uber Technologies Inc. representatives didn’t immediately respond to an email message Thursday morning.

Lawyers from the El Segundo and New York City offices of Napoli Shkolnik [sued Uber in February 2017](#) on behalf of North Carolina Uber

driver Martin Dulberg, claiming the company continues to pay drivers based on actual ride times and distances even though it moved to an “upfront” pricing model in autumn 2016 that charges passengers based on estimated ride lengths, which tend to be longer. According to the complaint, the new pricing model means Uber has kept a higher percentage of the overall charges to passengers in violation of its contractual agreement with drivers.

Uber’s defense lawyers [O’Melveny & Myers](#), who subbed into the case for counsel at Coblenz Patch Duffy & Bass since Alsup denied the company’s motion to dismiss, argued in their [opposition to class certification](#) that the case was unfit for class treatment. The O’Melveny lawyers argued that determining whether any particular driver would benefit from calculating their portion of the fee from the “upfront” price would be “an individualized issue dependent on his or her unique driving history.”

But Alsup agreed with the plaintiffs [who argued in their brief](#) that the case was “tailor-made for class certification” since it involved an alleged breach of a form contract between Uber and all of its drivers.

Paul Maslo, a partner in Napoli Shkolnik’s New York office who is leading the plaintiff’s case, said Alsup’s ruling “is significant because it allows the named plaintiff to prosecute this case on behalf of drivers throughout the country.”