

Is Uber shortchanging drivers? As part of lawsuit, over 9,000 now say yes

Suit hinges on whether Uber violated its own work agreement with drivers.

Cyrus Farivar - 2/16/2018, 9:45 AM



[Enlarge](#) / The Uber ride sharing app is seen on a mobile phone on February 12, 2018.

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A North Carolina Uber driver who says he was consistently underpaid by the rideshare giant has now been allowed to represent a class of over 9,000 similarly affected drivers.

San Francisco-based US District Judge William Alsup, who coincidentally also recently oversaw the brief *Waymo v. Uber* trial, formally certified the case as a class-action lawsuit on Wednesday.

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The suit, *Dulberg v. Uber*, was filed nearly a year ago in federal court. It alleges that Martin Dulberg and other drivers like him are consistently underpaid based on the company's own formula.

Since nearly the beginning, Uber has paid its drivers 80 percent of a given fare. However, in the lawsuit, Dulberg claims that the company has now changed the way it calculates what that fare is. The result is that the company consistently pays between 70 and 80 percent—but not the *full* 80 percent—of what the fare should be.

As his lawsuit argues:

For example, on February 2, 2017, Plaintiff drove an UberX passenger from 3408 Cherry Lane in Raleigh, North Carolina, to 101 Macaw Street in Raleigh, North Carolina. The passenger was charged \$15.38. This is the Fare. The Booking Fee in Raleigh at the time was \$1.80. So Dulberg should have made 80% of $(\$15.38 - \$1.80) = \$10.86$.

But Dulberg was paid \$9.91 (80% of Uber's backend calculation of \$12.39). This is 95 cents less than Dulberg should have made under the Agreement (the difference is magnified on longer rides). Indeed, instead of receiving the promised 80% of the Fare, Dulberg received approximately 73%.

This, Dulberg claims, is in violation of the December 2015 work agreement (known as the Technology Services Agreement, or "TSA") that he and many other drivers signed. As they opted out of arbitration, they can sue, and band together as a class.

Indeed, **alleged violations** of the TSA are the only issue at hand: the case does not turn on whether Dulberg and the other drivers were properly classified as contractors or employees, as numerous other cases have.

"The theory is that the court should look closely at the terms of the agreement that Uber sends to the drivers, and see what it says about compensation; then make sure that Uber keeps to its side of the agreement," **Miriam Cherry**, a labor law professor at St. Louis University, emailed Ars. "The

drivers here seem to be alleging that there are two ways to calculate fares (estimated and actual), and that they are being paid on the lower number."

A trial date has been set for October 29, 2018 in San Francisco. Uber did not immediately respond to Ars' request for comment.