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## Taxi driver files class-action suit against Five 6's Cab Company

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A driver with Five 6's Taxi Service has filed a class-action lawsuit against the company, claiming it is violating the Fair Labor Standards Act. (ROB O'NEAL/The Citizen)

A taxi driver is suing the Five 6's Cab Company in a collective action complaint, alleging that the taxi cab company has violated the Fair Labor Standards Act of 1938 by incorrectly classifying its drivers as independent contractors.

In a suit filed on Oct. 20, Brian Jurgensmeyer alleges that Five 6's should be paying each of its drivers minimum wage, and further claims that drivers receive no compensation at all from their employer.

“This case presents yet another attempt by an employer to evade the mandatory minimum wage provisions of the FLSA by improperly designating its core revenue-generating employees as independent contractors,” wrote Chad E. Levy, Jurgensmeyer’s attorney.

In the suit, Jurgensmeyer seeks compensation for himself and any other person under the employ of Five 6’s within the last three years, which is the statute of limitations. Jurgensmeyer himself is seeking approximately \$34,800 in unpaid compensation, stating he worked 50 hours per week since Oct. 20, 2015 and received no minimum wage payment. As such, Levy wrote in a calculation that Jurgensmeyer is owed \$362 per week for 96 weeks.

“The core harms for which this case seeks redress arise from unpaid minimum wage under the FLSA,” wrote Levy. “[Five 6’s] has a longstanding policy of misclassifying its employees as purported independent contractors.”

However, Attorney Brett Tyler Smith, who is representing Five 6’s, stated in his defense that the taxi company has not misclassified its drivers.

“[Five 6’s] utilizes a traditional economic model common across all taxi companies nationwide, that is, independent drivers pay [the cab company] a fee to lease a taxi medallion and a vehicle that is insured and maintained by [the drivers], along with the benefit of utilizing [the cab company’s] dispatch services, advertising and marketing,” wrote Smith.

The complaint and the defense appear to disagree on a number of issues, such as whether the taxi drivers are actually “employed” by the cab company, and whether or not the drivers are economically dependent on the company itself.

“The drivers were and are totally dependent on [Five 6’s] to market, advertise, and generate customers, because without customers, the drivers lack any income,” wrote Levy.

However, Smith claims that the drivers were never actually employed by the taxi company, nor are they dependent on them for income.

“Drivers are not required to report to [the cab company] how much they made during a particular shift,” wrote Smith. “Each of the drivers use their own cellphone number, which allows the drivers to build a portfolio of clients who can call them directly, bypassing Keys Taxi’s dispatch service.”

Furthermore, Smith added that each driver enters into an independent contractor agreement with the cab company prior to becoming a driver.

The lawsuit between taxi drivers and the cab company is reminiscent of a lawsuit between exotic dancers and strip clubs that occurred in 2016, a case where the dancers were also represented by Levy.

Then, several dancers filed a suit against strip clubs such as Teasers, Bare Assets and Red Garter Saloon, which alleged that the clubs had violated the FLSA by not paying the dancers hourly or overtime wages. In the case of Red Garter Saloon, the owner reached a settlement for up to \$1.2 million to cover the claims of approximately 122 dancers.

Neither Levy nor Smith were available for comment as of press time.

The case has been assigned to Chief Judge K. Michael Moore, although a court date has not been set as of yet.

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