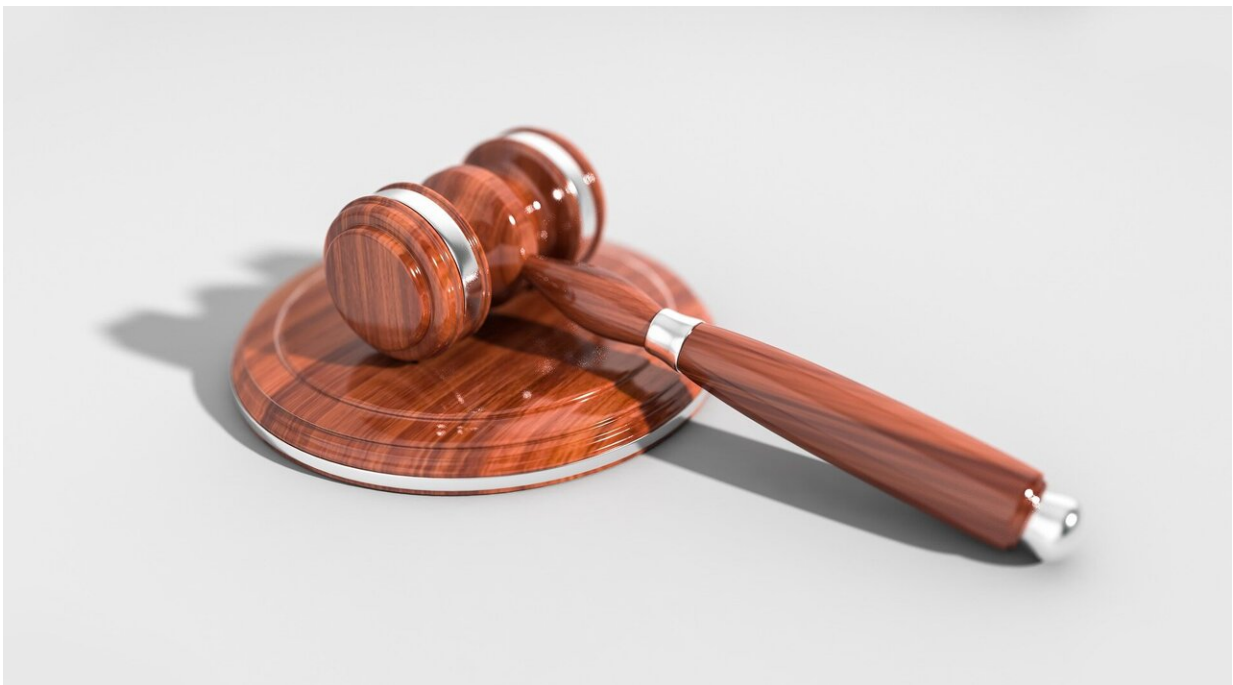


Federal judge rips Bay Area delivery firm DoorDash: 'This hypocrisy will not be blessed'

February 17 2020, by Ethan Baron, The Mercury News



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A Bay Area federal judge has mocked and slammed gig-economy meal-delivery firm DoorDash, after thousands of its workers joined together to weaponize a controversial labor-control tactic used by the company and many Silicon Valley technology businesses.

In a scathing ruling, Judge William Alsup issued an order that compels DoorDash to abide by the arbitration clause it imposes on workers after the firm failed to meet deadlines or pay fees in a case involving thousands of couriers.

The case revolves around a claim by nearly 6,000 DoorDash delivery workers that the San Francisco company improperly classified them as independent contractors rather than employees. Central to the judicial smackdown was the "mutual arbitration provision" allegedly agreed to by the workers.

That provision required workers to resolve any contract disputes with the company, including those over workers' classification as contractors, through arbitration rather than in a [class-action](#) lawsuit or other [court](#) action. Such provisions have become hotly contested in Silicon Valley, where they're widely used in agreements between companies and consumers and between companies and their workers. Critics allege the provisions put employers at an advantage, with workers winning less often than in court and receiving lower damage payments.

When DoorDash couriers in August sought individual arbitrations, with each paying the required \$300 filing fee, the firm failed to meet arbitration-process deadlines or pay any of its required fees of \$1,900 per arbitration, according to claims in two now-consolidated lawsuits that seek an order compelling arbitration for the thousands of workers.

DoorDash, meanwhile, sought to get Alsup to put it on hold pending resolution of a tentative \$39.5 million settlement in a related California state court case between DoorDash and its couriers—a dispute that Alsup said had become a class action despite DoorDash's efforts to scuttle it on the basis that workers had a duty to arbitrate. The judge pointed out that DoorDash was asking him to let it escape arbitration in the federal case, based on developments in a state class-action case.

"In [irony](#) upon irony, DoorDash now wishes to resort to a class-wide lawsuit, the very device it denied to the workers, to avoid its duty to arbitrate," Alsup wrote in a blistering conclusion to his ruling. "This hypocrisy will not be blessed, at least by this order."

Alsup also noted DoorDash's failure to pay the filing fees its own arbitration provision required.

"The employer here, DoorDash, faced with having to actually honor its side of the bargain, now blanches at the cost of the filing fees it agreed to pay in the arbitration clause," the judge wrote in an order issued Monday in U.S. District Court in San Francisco. "No doubt, DoorDash never expected that so many would actually seek arbitration."

DoorDash declined to comment on Alsup's ruling.

The order granted the motion to compel arbitration for 5,010 of the workers. Alsup denied the motion with regard to 869 couriers who did not submit the required declarations to the court concerning their work for DoorDash.

Shannon Liss-Riordan, a lawyer representing plaintiffs in the state court case against DoorDash, said the tactic of seeking arbitration for many workers at a time is the result of U.S. Supreme Court rulings that let companies enforce [arbitration](#) clauses that ban class actions.

"This is a game on both sides now because plaintiffs' lawyers as well know that it is not possible for thousands of arbitrations to actually take place," Liss-Riordan said. "So we file as many (individual arbitrations) as we can, we proceed on them aggressively, and ultimately we have often been able to reach a class settlement."

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