

Uber, Lyft pushback gets judge's sympathy; Reluctant to force companies to restructure

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Body

A California judge said he's reluctant to order Uber Technologies Inc. and Lyft Inc. to immediately convert their drivers into employees with benefits as the state's attorney general has demanded.

San Francisco Superior Court Judge Ethan Schulman heard arguments Thursday about whether the companies are violating Assembly Bill 5, the yearold California law aimed at requiring them to provide their drivers with overtime, health care and other benefits.

The judge pressed Uber and Lyft hard, but as the hearing wore on, he expressed sympathy for their arguments that such a wrenching restructuring of their business models might throw hundreds of thousands of drivers out of work.

"I feel a little bit like I'm being asked to jump into a body of water without knowing how deep it is, how cold the water is," the judge told a lawyer for California Attorney General Xavier Becerra. "What I'm struggling with is, with an injunction of this sweeping nature, how do I balance the harms if they are hard to measure?" Schulman said he'll decide the matter in a matter of days.

A ruling requiring more litigation would be a win for the companies, at least in the near term. Uber and Lyft urged the judge to pause California's lawsuit until November, when voters will decide the fate of Proposition **22**, a ballot measure sponsored by the companies that would exempt drivers from Assembly Bill 5.

But the hearing also revealed that Uber and Lyft still have a fight on their hands. Schulman made it clear that the potential outcome of a November ballot measure shouldn't factor into his decision.

Legal experts skeptical that the companies can avoid reclassifying their drivers point to a provision of AB 5 that says workers can generally be considered independent contractors only if they perform duties outside the usual course of a company's business. The companies' retort to the skepticism, repeated Thursday to the judge, is that they fall outside the law because they're technology platforms, not transportation companies.

"Seems to me if you look at Uber and Lyft, they're not in the business of maintaining an online app by itself," Schulman said. "Their business is providing rides to people for compensation. In plain English, that's what they do."

The suit's high stakes were reflected on the ground, where driver rallies in support of AB 5 were organized in Los Angeles and Oakland.

Earlier this week, supporters of **Prop 22** made a caravan outside Becerra's office in Sacramento.
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