



IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

DISTRICT OF COLUMBIA,
a municipal corporation
400 6th Street NW
Washington, D.C. 20001,

Plaintiff,

v.

SHIPT, INC.,
17 20th Street N Suite 100
Birmingham, AL 35203

Serve on: National Registered Agents, Inc.
1015 15th St. NW, Suite 1000
Washington, DC 20005,

Defendant.

Case No.:

2022 4909

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff District of Columbia ("District"), through the Office of the Attorney General, brings this enforcement action against Defendant Shipt, Inc. ("Shipt"), a delivery service company, for violations of the District's Minimum Wage Revision Act ("MWRA"), D.C. Code § 32-1001, *et seq.*, Wage Payment and Collection Law ("WPCL"), D.C. Code § 32-1301, *et seq.*, Sick and Safe Leave Act, D.C. Code § 32-531.01, *et seq.*, Universal Paid Leave Act ("UPLA"), D.C. Code § 32-531.01, *et seq.*, and Workers' Compensation Act ("WCA"), D.C. Code § 32-1501, *et seq.* In support of its claims, the District states as follows:

INTRODUCTION

1. This is a case about worker misclassification, which occurs when an employer misclassifies an employee as an "independent contractor." Much turns on this classification, as a suite of legal rights and duties attach to employees, but not to independent contractors. Through

misclassification, employers flout these rights and duties, stealing from both workers and the public.

2. Misclassification denies workers basic employment rights, such as minimum wage, overtime, and paid sick leave. Misclassification also subverts other legal requirements, such as by shifting to employees routine costs of business expenses like travel and work equipment.

3. Employers who misclassify workers also harm the public by evading the employers' duty to pay into government programs that are funded by payroll taxes, which are calculated as a percentage of wages paid by employers to employees. In addition to federal Social Security and Medicare taxes, these payroll taxes include the District's paid family leave tax, which provides workers with paid leave to allow them to care for newborn children or a serious health condition. Another similar program is the District's workers' compensation system, which requires employers to purchase no-fault insurance to compensate employees for workplace injuries. Employers evade paying these payroll taxes on misclassified workers altogether, shorting the public fisc and obtaining an illegal labor cost advantage over their law-abiding competitors.

4. Shipt is a gig economy company that provides consumers with shopping and delivery services, with a focus on groceries and household merchandise. Like many other gig companies, Shipt is dependent on maintaining a workforce of delivery workers who can be readily dispatched to handle customer orders.

5. Shipt refers to its delivery drivers as "shoppers." It employs hundreds of shoppers in the District and hundreds of thousands more nationwide.

6. Shipt shoppers bear all the hallmarks of employee status. Shipt has the power to hire and fire shoppers, unilaterally determines their rate and method of payment, and supervises and controls them with detailed shopping and delivery instructions, as well as a battery of

performance metrics. Moreover, shoppers do the work that is at the very heart of Shipt's business—without shoppers, Shipt could not provide the shopping and delivery services it sells to its customers.

7. However, Shipt has chosen to misclassify its entire shopper workforce as independent contractors. Through this unlawful scheme, Shipt reduces its labor costs by evading basic employment requirements for its core workers. Through misclassification, Shipt denies shoppers their rights to minimum wage, overtime pay, and paid sick leave. And Shipt evades its obligations to pay what it owes to District programs, including paid family leave and workers' compensation.

8. The District brings this action to enjoin Shipt's unlawful misclassification of its workers. The District seeks to recover all unpaid wages and paid sick leave to which District shoppers are entitled, to compel Shipt to fulfill its obligation to the District's public programs, and to recoup damages and penalties for Shipt's unlawful conduct.

JURISDICTION

9. The Court has jurisdiction over the subject matter of this case pursuant to D.C. Code § 11-921 and D.C. Code § 32-1306(a)(2).

10. This Court has personal jurisdiction over Shipt pursuant to D.C. Code § 13-423(a).

PARTIES

11. Plaintiff District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the seat of the federal government. The District brings this action through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the

District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1).

12. Defendant Shipt, Inc. is an Alabama corporation that provides consumers with shopping and delivery services and employs numerous shoppers who perform work in the District of Columbia. Shipt, Inc. is a wholly owned subsidiary of Target Corporation, a publicly traded Minnesota corporation that owns and operates retail stores nationwide, including in the District of Columbia.

FACTUAL ALLEGATIONS

A. Shipt's Business in the District of Columbia

13. Shipt's business is providing shopping and delivery services, via its shoppers, to consumers. Shipt advertises that customers can "order groceries, everyday essentials, and so much more from your favorite stores — delivered the same day by friendly shoppers who care about getting things just right."

14. Customers use the Shipt mobile app or website to select items, place orders, pay for orders, and leave tips. Shipt sets the prices for products that customers purchase through its website, which may vary from in-store prices, and provides an estimated delivery window and delivery updates to customers. Customers pay Shipt directly.

15. In order to provide shopping and delivery services, Shipt recruits shoppers with advertisements like "[b]e your own boss," and "[s]et your own hours for a completely flexible schedule." In order to become a shopper, prospective shoppers must meet certain requirements, complete an online application, engage in an interview conducted by Shipt staff, and pass a background check.

16. Once hired, shoppers use the Shipt app to sign up for time windows—shifts—in which they will be available to accept orders. Although shoppers are nominally permitted to use the Shipt app at any time, Shipt offers delivery orders first to those shoppers who previously signed up to accept orders during that shift, and shoppers who have not signed up in advance are unlikely to obtain work in that window.

17. Shipt offers delivery orders to shoppers through the Shipt app. When Shipt offers a delivery order to shoppers, it presents only a potential range of earnings, and shoppers do not know the exact earnings that they will be paid for a particular order before accepting.

18. Once a shopper accepts an order, Shipt requires them to complete the order within a set time frame. Shipt instructs the shopper where to shop, which products to purchase, and where to deliver the products to Shipt's customer.

19. Shipt has negotiated arrangements with some brick-and-mortar retailers where some orders are “delivery-only” and the retailer collects and packages the goods for the order, processing the payment directly from Shipt. For these orders, Shipt directs shoppers to retrieve the pre-packaged orders from the retailer and deliver them to the customer's address. In these instances, shoppers are simply Shipt's delivery people.

20. Shipt uses an algorithm to determine the rate of pay for completing an order, and there is no mechanism in the Shipt app for shoppers to negotiate different rates. Shipt's app is programmed so that shoppers do not learn what Shipt has paid them for a delivery or whether the customer has paid a tip until after an order is delivered to the customer. Shipt pays shoppers via direct deposit once a week based on their total deliveries. If shoppers want to receive their pay sooner, Shipt requires them to pay an additional fee.

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