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Employee or Contractor?: Rideshare driver connects at Long Beach Airport.

Uber, Lyft Remain in Business for Present

Judge postpones injunction for rideshare companies.

By **MICHAEL AUSHENKER** and **ANDREW FOERCH** *Staff Reporters*

A California appeals court judge granted Uber and Lyft's emergency stay earlier this month, postponing an injunction from taking effect that would make the rideshare companies reclassify their drivers as employees rather than contractors.

The court will now review Uber and Lyft's appeal to overturn an earlier trial court's ruling.

The companies have until early September to outline their plans regarding how they will make drivers employees if they lose the appeal as well as if Proposition 22 doesn't pass in November. The state ballot measure seeks to classify app-based drivers as contractors, in contrast to California law AB 5, which classified them as employees starting in January.

Ahead of the temporary stay order, Lyft had threatened to suspend its rideshare operations in California.

Lyft said in a statement: "We don't want to suspend operations. We are going to keep up the fight for a benefits model that works for all drivers and our riders. We've spent hundreds of hours meeting with policymakers and labor leaders to craft an alternative proposal for drivers that includes a minimum earnings guarantee, mileage reimbursement, a health care subsidy, and occupational accident insurance, without the negative consequences."

California officials have advocated for benefits to drivers who work on the Uber or Lyft platforms — including a minimum earnings guarantee and a health care subsidy.

While the injunction names only Uber and Lyft as defendants, **Sue Bendavid**, chair of the Employment Law Practice Group at Encino law firm **Lewitt Hackman**, told the Business Journal the case could set an important roadmap for how the state will treat other app-based ride-hailing and food-delivery companies, including **Doordash**, **Grubhub** and **Postmates**.

Those large gig employers have joined Uber and Lyft in lobbying against the injunction and supporting Prop 22.

Bendavid said it will be interesting to see what happens with future litigation if Prop 22 fails in November.

"(Other gig employers) might be more likely to leave California," she said. "Each company is going to have to analyze how big a market California is for them."

She said Los Angeles in particular, with all of its urban sprawl, is more heavily reliant on cars than other metropolitan areas and offers less in the way of accessible public transportation, meaning locals are more likely to rely on Uber, Lyft and other rideshare services to get from place to place. To see those companies exit the state would create big problems not just for drivers, but for consumers and related industries.

"I wish that, for the gig economy, (officials) could agree on a hybrid classification," Bendavid said. "That way we could have a classification that works for everyone — something that offers the benefits of employment as well as the flexibility and convenience that you get as a contractor. It can't be so black and white. Something has to change."