

“Instacart is stealing, manipulating and creating stress”

## US grocery delivery workers file lawsuit over reduced pay

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Earlier this month 12 Instacart workers filed a proposed US federal class-action lawsuit against the San Francisco based company, claiming it violated state and federal labor laws. The suit would allow the case to be expanded to cover all 14,000 of the company’s workers nationwide.

This is the second lawsuit filed against Instacart since 2015. An earlier lawsuit was dismissed in November.

Instacart is a business that allows customers to place grocery orders online. The company’s workers, or “shoppers,” will then deliver the order. Similar to ride sharing companies like Uber and Lyft, Instacart classifies its employees as “independent contractors” so that it does not have to provide unemployment benefits, overtime pay, or workers compensation coverage, or permit workers to seek reimbursement for mileage and tips. Neither can workers seek collective bargaining rights.

In October, Instacart announced it would stop collecting tips from customers, instead collecting what it called a “service fee.” The move had the effect of further reducing employees’ already miserly compensation.

Sandra, an Instacart employee (all names have been changed to prevent possible retaliation), told the World Socialist Web Site: “Since the deceptive ‘tip change’ I have seen my wages shrivel down to nothing and I rarely get tips from customers now. Due to the language that Instacart uses on the explanation page, many customers think they are giving us a tip with the ‘service fee.’ They are not. That service fee goes back to Instacart and, if applicable, the ISS [in store shopper] receives a percentage of that service fee since they are considered employees. FSS [full service shoppers] do

not receive any portion of that service fee.”

The lawsuit, *Husting v. Maplebar dba Instacart*, alleges that workers did not receive reimbursement for work-related expenses or overtime and were not paid at or above minimum wage “regularly.” The lawsuit contends that Instacart workers are owed far in excess of \$5 million.

In a ruling with a bearing on this case, in August, the 9th US Circuit Court of Appeals found that employees cannot be forced into binding arbitration, a private legal process that heavily favors corporations and makes class action lawsuits difficult if not impossible.

Mary told the WSWS: “Not receiving tips reduced my income by a third, overnight. I now have to work 65 hours to make what I used to make in 45 hours. What's crazy is that all these new shoppers coming on think the money is so great, but that is because they haven't taken into consideration the wear and tear on their cars!

“But I guarantee they haven't looked into unemployment taxes, business taxes, licensing and all the other stuff that goes along with this. Halfway through the year I know that I had paid up to \$5,000 in taxes. Believe me they're going to get a ticket or two along the way as well.”

In June 2015, Instacart allowed its delivery drivers to become part-time workers, with a maximum of 30 hours a week. The move was to prevent Instacart drivers from qualifying for the Affordable Care Act which defined full-time employment as working, “on average 30 hours a week.”

According to a report by the Freelancers Union and temporary job platform, Upwork, as many as 55 million Americans are employed at least part-time in a non-traditional or on-demand job. Of these, 53 percent hold

down at least one traditional job.

The total number of people who have spent some time working a temporary job jumped by two million over the last two years, an increase of four percent compared to the nearly three percent increase in the workforce nationwide. The Bureau of Labor Statistics defines temporary workers as those in “jobs that are structured to last only a limited period of time.”

Annie, another Instacart worker, told the WSWS, “I worked at Instacart for about a year and a half as a part-time individual.

“The Instacart experience meant you would go to a store in your area and wait until you get your next order. There were times I would sit there for half of my shift and not get any order, or sometimes during my whole shift I wouldn’t get any orders whatsoever. The tips helped offset some of that down time.

“In September, Instacart announced they would be taking the tips away and I would be making \$10 to \$12 an hour, and that was a drastic pay cut. There are no benefits, you don’t get the tip fee, and there are all these other factors. You go work at McDonald’s or Starbucks for \$10 to \$12 an hour and they get benefits.

“Every single government official I talked to shuffled me from one person to another. The last thing someone told me was ‘there are no rules for independent contractors.’ There are no legal parameters so no one has protection. I’ve been told the only option is to go through an attorney, but the company made it so you can’t go through with a class action lawsuit.

“So now you’ve got to take out hundreds, if not thousands, out of your own pocket to fight it in court. If you are only making \$10 an hour, how can you afford an attorney?

“The system is so skewed and screwed up. This is why these big companies are able to take advantage of us because they know we don’t have any backing.

“This country is turning into ‘The Hunger Games.’”

Kelly said: “I have been able to hustle extremely hard and maintain some tips. I have been on both sides of the coin since the recent changes. Both are tiring, overwhelming and stressful. Shoppers are hurting and customers are being deceived. Instacart is stealing, manipulating and creating stress and competition and fear where none existed before ... and they're getting away with it.”

Sandra continued: “The original plan by the CEO was

to remove tips all together. However, due to the backlash, they left them in but ‘hid’ them. Many of us believe it was retaliation.

“Last month, Instacart shoppers created fliers explaining the new service fee to customers. Some shoppers also talked to the customers in person or used the app to explain the service fee. Most customers were outraged and began leaving comments on shoppers’ reviews. Some even went as far as to complain directly to Instacart, demanding a refund and asking that their service fee instead be given to shoppers. Instacart didn’t seem to like that very much.”

She added: “Instacart updated the shopper contract and added an arbitration clause about three months ago, pre-flyering. Many of us believe that this was the result of the lawsuit they had brought against them last year. Many shoppers chose to sign it ‘under duress,’ and they really did feel it was under duress. You couldn’t start your shift or pick up hours until you signed it.”



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