

August 26, 2019

**Hon. Gavin Newsom**  
Governor, State of California  
State Capitol, First Floor  
Sacramento, CA 95814

**Hon. Toni Atkins**  
Senate President Pro Tem  
State Capitol, Room 205  
Sacramento, CA 95814

**Hon. Anthony Rendon**  
Assembly Speaker  
State Capitol, Room 219  
Sacramento, CA 95814

**Re: Opposition to ‘Gig Worker’ Carve-out to *Dynamex*/AB5**

Dear Governor Newsom and Legislative Leaders:

We write as academics (including law professors, labor economists, political scientists, sociologists, and historians) from across the country who have studied the intersections of law, regulation, misclassification, the platform economy, and/or precarious work. As a legal matter, we unequivocally support the California Supreme Court’s decision in *Dynamex v. Superior Court of Los Angeles* (2018) and AB5, the legislative effort to make employee-status the default under state law and to codify the ABC test.

*Dynamex* and AB5 (which extends the presumption of employee status and the ABC test to all California employment laws) contain a test of general application, as is appropriate. They simplify the definition of employee status for both employers and for workers. In turn, they give much-needed clarity to businesses while also ensuring economic stability and safety-net protections to workers in industries where misclassification is rampant—including the gig economy.

We oppose attempts to carve platform gig workers out of *Dynamex* and AB5. App-based workers, as many of us have found through our research, are algorithmically controlled in the traditional ways that employees are controlled. They have very limited—if any—entrepreneurial potential; their hours and work are highly structured by the platform employer; they can be unilaterally terminated from their work; and most do not set their own prices.

Any carveout based on the question of whether work is “gig work” or a related question of whether the putative employer is a “platform” or “technology company” is a category mistake for employment and labor law purposes. The applicability of rights guaranteed by labor and employment laws ought to be determined by criteria that track the purposes of the statutes themselves. As the California Supreme Court articulated in *Dynamex*, California employment laws exist both to “benefit law-abiding businesses” and to “benefit of the workers themselves...enabl[ing] them to provide at least minimally for themselves and their families and to accord them a modicum of dignity and self-respect.” Based on these principles, *Dynamex* and AB5 should be applicable to workers on labor platforms.

California is poised to lead the country—indeed, to lead the world—with the strongest law on record to protect workers from misclassification. We urge you to fully support codifying the *Dynamex* ABC test as a rule of general application, without an ad hoc carve-out for gig workers.

Sincerely,

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