

Uber On Trial: Why CHROs and CFOs Must Collaborate To Optimize Work

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Lead:

The legal ruling that an Uber driver was entitled to the benefits of employment was a legal question, but it carries important implications for financial and human capital, and raises vital questions that can be answered only through collaboration by HR and Finance leaders.

Body:

A June 3 California court ruling about the Uber ride-sharing service is one that CHROs and CFOs should be talking about.

As [the New York Times reported](#), the court asked whether a particular worker was an employee or contractor. The California Labor Commission argued that Uber claimed to be a neutral technology platform where independent drivers and passengers transact transportation business, but that in fact Uber exerted the “control and authority” of an employer. The legal question is framed as “contractor versus employer.”

For HR and Finance professionals, this can appear to be merely a matter of the tax status of a worker: W-2 employee versus 1099 contractor. Be careful. Simply seeing this as “employee” versus “contractor” obscures a much more vital question: *How will leaders make good decisions as work increasingly moves beyond regular full-time employment?* The Uber ruling is just the latest example of the significance of this issue, but it won’t be the last. These decisions require a wider set of options and deeper understanding of the intersection between work, risk, value and cost. That requires CFOs and CHROs to collaborate, and the disciplines of HR and Finance blend together.

You can see the nuances in the financial debate. Uber’s valuation of over \$40 billion is partly due to a business model that relies on drivers as contractors not employees, which saves significant employment costs. [Venture capitalists have poured](#) more than \$9.4 billion into such on-demand companies since 2010, spawning things like on-demand laundry services and hair stylists. Yet other investors bet that contractors carry too much legal risk, and the cost savings are illusory. Ron Johnson, the former CEO of J.C. Penney [has started a ride sharing service using](#) employees not contractors, a decision he says will “take the high road” and avoid the risk of an impending government crackdown that forces all ride-sharing organizations to reclassify their workers as employees. Johnson also proposes that drivers as employees is the only way to “get the best people to deliver the best service.” The CEO of a San Francisco ridesharing company says “[The 20 to 25% premium we are paying in payroll and workers’ compensation, we actually think it is worth it.](#) We spend less time recruiting and re-recruiting drivers which takes a lot of time, energy and expense.” Venture investors were convinced, [with one saying](#): “They were able to back it up with spreadsheets and projections, not just with enthusiasm and evangelism. When you look at the level of churn amongst the employee base and the customers, the high reviews from workers, the high customer-satisfaction rating — they were proving it from hard-core business metrics.”

Which side is right? [Costing employee turnover is not an exact science](#), and any statistics textbook will tell you that a correlation between employee and customer satisfaction does not necessarily mean one causes the other. Is making workers employees is the only way to achieve customer satisfaction? [A study of 33,000 employees in 26 countries](#) showed that independent workers were more satisfied, innovative and engaged with their clients than regular employees – even those designated as high potentials. The relationship between work arrangements, cost, risk value will vary by organization,

industry and the work. All the more reason that analyzing the tradeoffs demands a Finance-HR partnership, where the CFO and CHRO work together in the white space between their disciplines.

Is employment the key to competitive advantage? [One university professor interpreted the Uber ruling this way](#): “This is MBA 101 stuff ... When people are your source of competitive advantage, it’s clear that a long-term employment relationship and what we would call a ‘good job’ is good for the workers and good for the companies.” Yet, [many examples](#) show that the very best software coders, [biochemistry puzzle solvers](#), media producers or product designers are often available *only* as free agents on a platform like Topcoder or Tongal, and [free agent workers often value](#) periodic stints of work in jobs such as drivers, so that they can pursue passions such as music and art. Even when the best talent works as employees, you may be to borrow them from another organization, rather than compete to hire them, as [Siemens found when it borrowed Disney marketing experts for its hearing aid designed for children](#).

Long-term employment should and will remain a prominent option, but competitive advantage through people will likely rely on [other options as well](#) (such as part-time employment, lending/borrowing employees with other organizations, and even crowdsourced work that is not paid). More types of work are migrating to on-demand arrangements fueled by ever more sophisticated platforms and algorithms that match workers with the work that suits them, in real-time. [Such platforms may unlock trillions in economic value, particularly in emerging economies](#). Like Amazon and Netflix did in the retail and entertainment industries, the data these platforms generate may improve economic efficiency in sourcing, acquiring and deploying workers, and even redefine the meaning of work independent of job titles.

CEOs, Boards and investors increasingly demand insight about new work arrangements and their role in organizational success, beyond legal distinctions between employment and contracting. Those insights exist in the “white spaces” between disciplines like HR and Finance, and offer immense potential value for organizations where HR and Finance collaborate.

The Uber ruling looked like a simple issue of 1099 versus W-2, but is actually a rich opportunity and a call to action for finance and HR leaders.

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