



*State of New York
Court of Appeals*

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*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

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NOTICE TO THE BAR

Amicus Curiae Participation

The Court invites amicus curiae participation from those qualified and interested on a pending appeal in Matter of Vega (Postmates Inc. – Commissioner of Labor). The appeal, which involves unemployment insurance, is proceeding in the normal course of full briefing and oral argument.

Postmates Inc. operates a web-based platform that allows customers to request on-demand pick-up and delivery services from local restaurants or stores. Claimant was engaged as a courier for Postmates and applied for unemployment insurance benefits after Postmates terminated its relationship based upon alleged negative consumer feedback and/or fraudulent activity. The Unemployment Insurance Appeal Board determined that an employer-employee relationship existed between Postmates and Claimant, and ruled that Postmates was liable for additional unemployment insurance contributions on remuneration paid to Claimant and others similarly situated. The Appellate Division (162 AD3d 1337 [2018]), with two Justices dissenting, reversed, holding “[w]hile proof was submitted with respect to Postmates’ incidental control over the couriers, including . . . that Postmates determines the fee to be charged, determines the rate to be paid, tracks the subject deliveries in real time and handles customer complaints, in our view, such proof does not constitute substantial evidence of an employer-employee relationship to the extent it fails to provide sufficient indicia of Postmates’ control over the means by which these couriers perform their work.”

Amicus motions must comply with section 500.23 of the Rules of the Court of Appeals. Questions may be directed to the Clerk’s Office at (518) 455-7705.

John P. Asiello
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