

Defending Ride-Hailing and Car-Sharing Claims

Handling Accident-Related Lawsuits in a Shared Economy

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The sharing economy has grown exponentially in a short period of time. Rideshare platforms like Uber and Lyft, and car-sharing platforms like Turo, control a significant part of the sharing economy space.

Along with this rapid growth came insurance programs for ridesharing and car-sharing platforms, as well as a surge of claims and lawsuits against them, their users, and their insurers.

When accidents occur, rideshare and car share claims are complicated and require a detailed understanding of the platform and applicable insurance policy, as well as a nuanced defense strategy. For example, rideshare policies have their own vocabulary (such as numbered Periods), which generally control the available insurance coverage. In most rideshare cases, the accident occurs when a driver is:

- Using a vehicle with the rideshare app off (Period 0)
- Waiting for a ride or food delivery request with their ride-sharing app (Period 1)
- Driving to pick up the rider or food after the request is accepted (Period 2)
- Transporting the rider, or food, to a destination (Period 3)

The availability of insurance coverage and the applicable limits may change depending on the Period. Most states have enacted regulations addressing rideshare operations.

Because ridesharing and car-sharing technologies are relatively new, lawsuits involving these technologies are relatively recent, and there are fewer controlling legal precedents.

Rideshare and car share cases are inherently more complex than most personal and commercial auto claims. They often involve multiple parties, multiple claimants or plaintiffs, and various causes of action. Here's a sampling of the parties that may be involved:

- Rideshare platforms
- Car-sharing platforms
- Independent drivers using rideshare apps
- Owners of vehicles used for ridesharing or car-sharing
- Insurers that insure the platform
- Shared car drivers
- Rideshare or shared car riders
- Insurers that insure the independent drivers
- Insurers that insure the rideshare or shared car riders

The causes of action may include:

- Vicarious liability
- Negligent hiring or selection
- Negligent retention and supervision
- Negligent design of the rideshare application
- Negligent maintenance of a shared car
- Bad faith
- Uninsured and underinsured motorists

The particulars vary from state to state.

In the course of litigation, a company's intellectual property, such as the app data, may become the subject of discovery. This creates the need for confidentiality agreements and protective orders. They shield the proprietary and trade secret information of the rideshare or car share platform defendant.

Another element sometimes comes into play when rideshare or car share cases attract widespread media attention. Uber and Lyft are publicly traded companies followed by analysts and financial reporters. As a result, brand protection, through confidentiality agreements, may become part of the legal strategy when defending rideshare cases.

In more complex cases, such as those involving catastrophic injuries or death, attorneys are retained shortly after an accident happens. Why so quickly? Evidence disappears. Inspecting and preserving the scene and the vehicles involved in an accident is important. Witness statements must be taken early on because people's recollections can change. Sometimes, experts are needed.

On rare occasions, additional counsel is added in the late stages of litigation approaching

trial. At that point, more experienced litigators are brought in to represent the client and manage the trial.

Despite having so many moving parts, representing an independent rideshare or shared car driver often involves the assertion of fundamental commercial auto defenses which include:

- No negligence on the part of the driver
- Comparative fault on the part of the plaintiff
- Fault on the part of a non-party

These defenses usually stem from the initial accident investigation, including obtaining information from the crash report, taking statements from parties or witnesses, scene investigation, vehicle inspections, black box downloads, and accident reconstruction. Other defenses might include the seat belt defense, failure to mitigate damages, and setoffs.

Complications can arise when there is a misunderstanding as to what a rideshare driver is. In Florida, for example, that individual is not a common carrier, so there's no heightened duty. Instead, the regular negligence standard of reasonable care should apply.

Lawsuits involving a platform like Uber and Lyft typically revolve around vicarious liability. One issue becomes whether the driver is an independent contractor or is an employee or agent of the platform. The drivers are independent contractors, and thus there's no vicarious liability on the part of the platform under the theory of *respondeat superior* for the negligence of an independent driver.

In the context of car-sharing, the applicability of the Graves Amendment is often an issue. The Graves Amendment generally protects those in the business of renting or leasing motor vehicles from vicarious liability.

Finally, with increasing regulations, there may be defenses based on both state and federal law. Knowledge of the applicable regulations can be crucial to a successful defense.

As the sharing economy continues to grow, more lawsuits in the rideshare space may be

expected. Efficient resolution of these claims is possible when experienced defense counsel is retained.



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