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Protests Show Uber Is Über Alles

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Europeans like to protest, but even so, the protests across Europe were world news. They were supposed to paint Uber as unfairly taking food off taxi drivers' tables. Yet the backlash was curious, giving Uber press coverage worth millions. Taxi drivers caused an inconvenience, and Uber ended up with a big uptick in business.

Uber's signups in the U.K. alone rose 850%. In fact, the story was ubiquitous enough to cause some to wonder if Uber's [\\$18.2 billion worth](#) might be *low*. Many taxi drivers argue that Uber should be forced to follow the same licensing and fare rules as taxis. Uber says it has a different business model and doesn't need to.

Legal disputes with new technology are inevitable. In London, the high court has agreed to rule on the matter, for there and elsewhere, licenses remain a big issue. Elsewhere, the issue is more targeted around airports, with [ride-shares warned by regulators not to make airport runs](#). Insurance is an issue too, one that will grow as Uber and other ride share companies expand.



London anti-Uber taxi protest June 11, 2014 (Photo credit: David Holt London)

And as Uber grows, there will be more accidents. When they occur, the liability would be direct if the company didn't adequately screen drivers. Liability can also be vicarious, a type of agency liability. It makes a company liable for the acts of employees. Those two types of liability are both key with ride sharing.

One wrongful death suit in San Francisco was brought after the [death of a 6-year-old girl](#). Former Uber driver [Syed Muzzafar](#) faces charges of vehicular manslaughter with gross negligence and failure to yield. The suit against Uber claims drivers must respond quickly, making the accident Uber's fault at least in part.

There have also been claims for assault and battery, sexual assault, etc. These generally focus on whether Uber should have done a better job screening. Yet the fact is, there are going to be liability claims against Uber and against taxi companies. Injured parties sue the taxi driver and the cab company, but are unlikely to stop there.

Taxi companies and Uber *both* treat their drivers as independent contractors. Taxi drivers and Uber drivers may be different, but at least on overall name-calling, taxi drivers should be careful what they say and how loudly they say it. In an accident, any plaintiff would rather have multiple defendants, preferably with deep pockets. An \$18.2 billion pocket is deep and pretty alluring.

One way to expand liability is to sue the company (whether Uber or a cab company) claiming that the independent contractor arrangement is a sham. If a driver has to obey many rules and is subject to the control of Uber, a court could find employee-employer liability. In Texas, a Dominos pizza delivery accident led to a [\\$32M verdict](#).

Many taxicab, limo and package delivery cases raise the age-old line between independent contractors and employees. Under agency law, a company is liable when an employee acts up, but not where an independent contractor does the same thing. Independent contractor vs. employee characterization questions occur with many state and federal government agencies and with private parties.

Workers may be labeled as "independent contractors," but arrangements may be mere labels with no chance of standing up against the IRS, other government agencies or the courts. Yet if the case is about Uber's screening, a court could find that ride share services are putting drivers on the street without adequate screening for criminal backgrounds or mental diseases or defects. In that case, the liability wouldn't depend on whether the driver is an independent contractor or employee.

Uber, Sidecar and Lyft have already roiled the marketplace. And taxi drivers and companies may have hurt their cause more than they helped it. But taxing and employment agencies that stand to make money off employees and not off independent contractors are likely watching too. In that sense, all of the upheaval isn't over yet.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.