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RIDESHARE INSURANCE COVERAGE 101

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RIDESHARE INSURANCE COVERAGE 101

I. INTRODUCTION TO RIDESHARE COMPANIES

Generally, a “transportation network company,” or “TNC” is an entity that enables passengers to use the entity’s digital network (through mobile technology) to prearrange rides with drivers. As of May 2019, the two TNCs that make up over 98% of the United States’ rideshare market are Uber Technologies, Inc. (“Uber”), which occupies 69% of the market, and Lyft, Inc. (“Lyft”), which currently accounts for approximately 29% of U.S. rideshare spending.¹

On May 10, 2019 Uber went public via an initial public offering, and it is currently valued at about \$70 billion.²³ Uber services 91 million users,⁴ 63 countries, and over 700 cities, with 331 of those cities located in North America.⁵ Lyft similarly went public on March 28, 2019, and is currently valued at approximately \$17.9 billion.⁶ Lyft services 20.5 million users,⁷ 350 U.S. cities, and 9 cities in Canada.⁸ There are also few local TNCs here in Austin, Texas, such as Ride Austin and Get Me, but many have gone out of business as a result of the May 2017

legislation in Texas that ushered Lyft and Uber back into Austin.

There are several different scenarios that passengers and drivers encounter in motor vehicle accidents when rideshare drivers are involved. The first set of scenarios involve a rideshare driver who causes an accident and thereby injures (1) his/her own passenger during the course of a prearranged ride, and/or (2) another driver. The second set of scenarios involve a non-rideshare driver who causes an accident and thereby injures (1) a rideshare driver, and/or (2) a rideshare passenger. This presentation will discuss the insurance coverage that is available in each of these scenarios, along with the implications of Chapter 2402 of the Texas Occupations Code, which established uniform statewide standards for TNCs.

II. INSURANCE COVERAGE AND RIDESHARING

When rideshare vehicles and drivers are involved in motor vehicle accidents, there are multiple possibilities when it comes to the insurance policies that may cover injuries sustained in such an accident. If a rideshare driver engaged in a prearranged ride is at fault, whether the accident results in injuries

¹ Kathryn Gessner, *Uber vs. Lyft: Who’s Tops in the Battle of U.S. Rideshare Companies*, DATA POINTS BLOG, June 25, 2019, <https://secondmeasure.com/datapoints/rideshare-industry-overview/>.

² Corrie Driebusch, Maureen Farrell, *Uber’s High-Profile IPO Upsets With Weak Debut*, THE WALL STREET JOURNAL, May 10, 2019, <https://www.wsj.com/articles/uber-stumbles-in-trading-debut-11557503554>.

³ Rachel Sandler, *Uber Among Worst Big Tech IPOs In A Decade*, FORBES, May 10, 2019, <https://www.forbes.com/sites/rachelsandler/2019/05/10/uber-among-worst-big-tech-ipos-in-a-decade/#3c225fbc480d>.

⁴ Danielle Abril, *Here’s What Analysts Are Saying About Uber’s IPO*, FORTUNE, May 10, 2019, <http://fortune.com/2019/05/10/uber-ipo-analysts/>.

⁵ <https://www.uber.com/cities/>.

⁶ The IPO Class of 2019: Zoom’s Value Races Past Lyft and Hangs Pinterest Up, FORTUNE, May 3, 2019, <http://fortune.com/2019/05/03/zoom-lyft-pinterest-best-performing-ipo-2019/>.

⁷ Eric Newcomer, *Lyft Tries to Assure Investors That Losses Will Drop in 2020*, BLOOMBERG, May 7, 2019, <https://www.bloomberg.com/news/articles/2019-05-07/lyft-surpasses-expectations-in-first-report-since-going-public>.

⁸ <https://www.lyft.com/driver/cities>.

to a rideshare passenger or another driver, the TNC's insurance policy will cover the injuries. In addition, the injured driver's and/or the injured rideshare passenger's personal automobile insurance will also provide coverage. If a non-rideshare driver is responsible for a motor vehicle accident that injures a rideshare passenger and/or a rideshare driver engaged in a prearranged ride, then the at-fault driver's automobile insurance will cover the injuries. In that scenario, for the injured rideshare passenger, both the TNC's insurance policy and the rideshare passenger's personal insurance will also cover his/her injuries. However, if a rideshare driver is injured in a motor vehicle accident caused by a non-rideshare driver, the rideshare driver's injuries will be covered by the TNC's insurance policy only if the rideshare driver was engaged in a prearranged ride at the time of the collision. If the rideshare driver is injured during the period when he/she is logged into the TNC's mobile app but is not carrying a passenger, the TNC's insurance policy will only kick in to cover the injuries if the driver requests it and if the driver's personal insurance is insufficient to cover all of the damages.

As demonstrated by the different scenarios above, whether a TNC's insurance policy applies to the collision at issue depends upon whether a rideshare driver is logged into the TNC's mobile app and/or whether the driver is engaged in a prearranged ride at the time of the accident.

At first, when a rideshare driver is not logged into the TNC's mobile app, and therefore unable to accept ride requests from customers, the TNC's insurance policy will not apply. During this first phase, the rideshare driver's personal automobile insurance will apply to any accidents that the driver causes. Next, when the rideshare

driver has logged into the TNC's mobile app, and is ready and available to pick up passengers, but before the rideshare driver has accepted any passengers, the primary insurance coverage will still be the driver's personal automobile insurance. However, during this second phase, the TNC's insurance coverage will provide partial coverage if the damages exceed the policy limits of the driver's personal insurance policy. This period is known as the insurance gap period, because a rideshare driver's personal auto insurance arguably does not apply (due to the commercial nature of the driving), and the TNC's insurance policy only offers limited coverage. To cover this insurance gap, most major insurance carriers have created rideshare insurance, either as part of a hybrid personal insurance policy, or as an endorsement or rider to the driver's existing auto insurance policy.

Finally, when a rideshare driver is actually engaged in a ride (i.e., from the moment a rideshare driver accepts a prearranged ride through the time the rideshare passenger exits the vehicle), the TNC's insurance policy provides primary liability coverage for the driver and the passenger. In addition, during this third phase, the TNC's insurance policy also applies to injuries sustained by third parties who are injured by a rideshare driver.

III. STATEWIDE TNC STANDARDS

On May 29, 2017, Governor Greg Abbott signed House Bill 100 into law. The law went into effect immediately and imposes state-wise standards for TNCs operating in Texas. The law, codified at Chapter 2402 of the Texas Occupations Code, explicitly provides that the state has exclusive authority

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