

**PRESENTED AT**  
The Car Crash Seminar

August 17-18, 2017  
Austin, TX

## Ride-Sharing Service Claims

**Paul Wingo**

Author Contact Information:  
Paul Wingo  
The Wingo Firm  
Dallas, TX 75201  
paulwingo@wingofirm.com  
972.338.5556

## RIDE SHARING

### I. OVERVIEW

“Ride-share” service applications such as Uber and Lyft are owned by Transportation Network Companies, commonly known as “TNCs”. TNCs are smartphone applications that serve as a link between people who need a ride, and drivers in the community who offer “vehicles-for-hire.”<sup>1</sup> TNCs are not considered “transportation services;” rather, they claim to be a method by which riders and drivers connect with one another. By doing so, these companies evade the requirement that their drivers hold commercial drivers licenses.

Using a TNC is fairly simple. Riders download the application and hail a ride through their phones, rather than in person. The driver then locates the passenger through their own smartphone GPS for pickup. Many TNC applications even send a photograph of the driver and his or her GPS location to the waiting passenger. Payment is also done electronically, typically by credit card that has been previously connected to the rider’s account.

### II. PRICING AND PAYMENT

Riders who opt to use a TNC are provided an estimated price for the ride, to which they must agree before the ride begins. This is

---

<sup>1</sup> See Sara Thornton, *The Transportation Monopoly Game: Why Taxicabs Are Losing and Why Texas Should Let Transportation Network Company Tokens Play*, 47 Tex. Tech L. Rev. 893 (2015).

<sup>2</sup> *Id.*, quoting Tyler Whitson, *Long Road Ahead for TNCs Ordinance*,

considered a “contract service.” By contrast, typical taxi drivers use meters, which create a predetermined rate based on number of miles travelled. One of the biggest distinctions here is that taxi passengers will not know the fee until they have reached their destination, and must pay in-person. Another unique feature of TNCs, commonly referred to as “surge pricing,” “increase[s] fare rates during times of high demand to incentivize drivers and decrease[s] rates during times of low demand to incentivize riders.”<sup>2</sup> Some TNCs even include a feature allowing multiple riders the opportunity to split the fare for a shared trip. For most TNCs, the vast majority of the payment for a trip will go directly to the driver.

### III. QUALITY AND SAFETY ISSUES

Taxi companies often argue that TNCs create health and safety risks because they are not required to hold permits. Proponents of TNCs disagree, citing one of the most unique aspects of TNC applications: the ability of riders and drivers to administer ratings when the trip has been completed. TNCs argue that this process allows riders to view previous reviews and assess the quality of the driver before entering the vehicle to begin their ride. TNCs argue that this mutual feedback keeps both parties accountable, which in turn keeps both parties safe and ensures quality service. TNC applications also provide direct contact between the riders and drivers. TNCs argue

AUSTIN MONITOR (Nov. 12, 2014), <http://www.austinmonitor.com/stories/2014/11/long-road-ahead-rideshare-ordinance/>.

that the availability of communication and lack of anonymity severely lessens the incentive to commit crimes. In fact, they cite that a significantly larger number of women choose to both ride with and drive for TNCs than they do taxi companies.<sup>3</sup>

#### IV. COMPETITION

In the pre-TNC transportation market, taxi services provided little to no opportunity for customers to “shop around” for the best rate or service. As a result, taxi drivers lack incentive to compete with one another, and rates for taxi services can be extremely unpredictable absent regulation. And with no easy mechanism for passengers to evaluate their services, taxi drivers are generally unconcerned with the quality of their services. Due to lack of competition and low probability of repeat service, it is also highly unlikely that a rider would discontinue using taxi services due to a single negative experience.<sup>4</sup>

#### V. REGULATION

Some disagreement exists as to whether TNCs should be regulated and controlled in the same manner as traditional taxicabs. Taxicab companies push towards taxi-like regulation for TNCs in order to protect against what they see as unfair competition;

---

<sup>3</sup> See Carolyn Said, *Why Do Women Like Driving for Lyft, Sidecar and Uber?*, SFGATE (Oct. 17, 2014, 7:16 PM), <http://www.sfgate.com/business/article/Why-do-women-like-driving-for-Lyft-Sidecar-and-5830862.php>.

<sup>4</sup> See Thornton, *supra* note 1, at 8.

complying with taxicab requirements is costly so it seems unfair to impose regulations on one and not the other.

TNCs claim that the unique use of smartphone applications to connect riders and drivers warrants less stringent regulation than taxicabs. In the absence of strict regulation, TNCs have had the flexibility to focus their energy on providing a higher quality service than taxicabs currently provide. Additionally, if taxi companies and TNCs remain distinct, viable options, they could cover a wider customer base and encourage the use of a better integrated mass public transit system.<sup>5</sup> Competition could encourage taxi companies to operate more efficiently in order to keep drivers and customers.

### AUSTIN-SPECIFIC ISSUES AND NEW LEGISLATION

#### I. HISTORY OF TNCs IN AUSTIN

Austin has a unique history when it comes to TNCs.<sup>6</sup> Early 2014 marked the first expansion of TNCs into Austin and other major Texas cities. This rapid expansion created difficulties with the outdated regulatory framework for transportation; because of their unique methods of operation, TNCs did not have to follow taxi ordinances.

<sup>5</sup> See Farhad Manjoo, *With Uber, Less Reason to Own a Car*, N.Y. TIMES, June 11, 2014, [http://www.nytimes.com/2014/06/12/technology/personaltech/with-ubers-cars-maybe-we-dont-need-our-own.html?\\_r=0](http://www.nytimes.com/2014/06/12/technology/personaltech/with-ubers-cars-maybe-we-dont-need-our-own.html?_r=0).

<sup>6</sup> See Timeline: Austin’s ride-hailing election, <http://www.mystatesman.com/interactive/timeline/uber-lyft-election-austin/>.

Find the full text of this and thousands of other resources from leading experts in over 30 legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Ride-Sharing Service Claims

First appeared as part of the conference materials for the  
2017 The Car Crash Seminar session  
"Ride-Sharing Service Claims"