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Legal Ramifications of Uber Ignoring Drunk Driver Complaints

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Should Uber get sued if its driver is drunk and injures or kills someone after ignoring complaints about that driver being DUI? People routinely use Uber and similar ride-share services for transportation throughout Southern California and the state. Ride-share services in California are regulated by the state's Public Utilities Commission, which requires them to conduct background checks of their drivers. Reportedly, Uber is facing a fine of \$1.13 million for its alleged failure to investigate complaints of drunk Uber drivers and to suspend them.

Uber's stated policy and regulatory obligation on drunk driving

The Public Utility Commission requires Uber and other ride-share services to have zero-tolerance policies about drunk driving. Under Uber's policy, drivers who are found to be driving under the influence while using Uber's ride-share app are supposed to be permanently deactivated, meaning that they will not be able to use the app or drive for Uber any longer.

Uber relies on drivers admitting that they were drunk, customers supplying videos of intoxicated drivers, convictions, arrests and blood-alcohol concentration tests that are administered by law enforcement officers to prove that the drivers were intoxicated and to ban them. Uber also reports that it will suspend drivers from its service if the company receives three or more unconfirmed reports that a driver was driving while intoxicated. In practice, however, this policy has not worked well.

The Public Utilities Commission found that relying on drivers to self-report that they were drunk or on customers to submit videos is simply unrealistic. It also found that Uber has failed to suspend drivers who have had three or more complaints in many cases.

Uber has a company policy that addresses how it handles reports from customers about apparently intoxicated drivers. When they receive a complaint, the company is supposed to immediately suspend and investigate the driver. The PUC found that the company failed to suspend drivers who had been reported in 64 different cases within an hour of the complaints. Out of 154 complaints that the regulators reviewed, Uber failed to investigate or suspend drivers in 151 of them.

What happens if someone is injured by an intoxicated Uber driver?

When a person is injured by an Uber driver who is intoxicated, he or she may file a lawsuit against the driver. Uber may also be liable under theories of vicarious liability and negligent hiring and retention. There have been issues with suing Uber for the actions of its drivers in past cases because the company claims that its UberX drivers are independent contractors rather than their existing an employer-employee relationship. Proving that the driver is acting within the scope and course of his or her employment may also be problematic.

Vicarious liability issues with Uber

Under California law, an employer may be vicariously liable for the tortious conduct of its employees when the workers are acting within the scope and course of their employment at the time. An act falls within the scope of a person's employment if it is reasonably related to the worker's job duties, or it is something that is reasonably



Article By [Steven M. Sweat, APC](#)
[Steven M. Sweat](#)
[California Accident Attorney's Blog](#)

[Utilities & Transport](#)
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foreseeable. Uber has long argued that it is not vicariously liable for the actions of its drivers, claiming that there is no valid employer and employee relationship. It claims that its drivers are independent contractors, negating any potential liability that Uber might otherwise have when its drivers commit torts.

In *Doe v. Uber Technologies Inc.*, the U.S. District Court for the Northern District of California denied Uber's motion to dismiss two sexual assault complaints that were filed against it. Two women were sexually assaulted by their Uber drivers, and they sued the company based on a theory of vicarious liability. The court ruled that the plaintiffs had shown sufficient facts for a finding that an employer and employee relationship existed, denying Uber's motion to dismiss. The company settled the claims in Nov. 2016. It is possible that an injured plaintiff may similarly be able to show enough facts to support a finding of an employer and employee relationship between a drunk Uber driver and the company regardless of whether or not Uber claims that its drivers are not its employees.

Negligent hiring and retention issues

A corollary issue is whether or not Uber may have negligently hired or retained an Uber driver. The company is required to perform background checks on its drivers before allowing them to drive. If it does not perform the background check or allows a person to drive despite having prior drunk driving convictions, the company may hold liability under a theory of negligent hiring. In the case that Uber received a complaint about an Uber driver being intoxicated and didn't investigate the report or suspend the driver, the company may be liable if that driver later injures another person in a drunk driving accident under a theory of negligent retention.

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