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# Uber Sexual Assault Judges Weigh Duty to Riders Amid Legal Fog

By Maia Spoto

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- California top court denied separate Uber responsibility case
  - Answer would have helped clarify uncertain area of state law

The California Supreme Court's decision not to clarify Uber Technologies Inc.'s responsibility in a case where a passenger was assaulted by an imposter driver leaves the judges overseeing pending coordinated cases in state and federal court grappling with growing uncertainty on the issue.

In a rare denial, the state's top court decided on Wednesday not to weigh in on the Ninth Circuit's questions about Uber's role in case where a rider was assaulted by someone posing as an Uber driver, instead kicking the case back to the appeals court.

That case was proceeding separately from pending consolidated litigation against both Uber and Lyft Inc. in San Francisco Superior Court and pending multidistrict litigation against Uber in the US District Court for the Northern District of California, where passengers alleged were sexually assaulted by rideshare drivers who validly worked for Uber or Lyft.

The cases have stark differences in regard to Uber's responsibility to passengers.

The case denied by the top court Wednesday dealt with whether Uber had a duty to get its placards back from a former driver—the alleged assailant in that case was a former Uber driver, dismissed after other assault complaints—said Rachel Abrams, of Peiffer Wolf Carr Kane Conway & Wise, LLP.

"It's a very different duty," she said.

An answer from the California Supreme Court, despite the differences in the cases, would have provided some clarity for judges dealing with a hotly contested area of state law, said Mark Geistfeld, a professor specializing in torts, product liability, and insurance at New York University School of Law.

Questions about Uber's responsibility to passengers are essential to all these cases—and until that question is resolved, judges will have to grapple with “uncertainty that’s going to percolating at the lower courts” in these kinds of claims, Geistfeld said.

“The ball is in their court now,” Geistfeld said, referring to the judges who oversee the consolidated litigation. “The California Supreme Court says it’s for you to decide, not us. But it has to be resolved, one way or the other.”

### Lack of Clarity

Sara Peters, who represented the plaintiff in *Doe v. Uber*, said all the parties in the case had asked California's top court for clarity.

Now, “there’s some universal disappointment not to have that level of clarity that we had hoped for from the California Supreme Court,” said Peters, a shareholder of Walkup, Melodia, Kelly & Schoenberger.

Questions of responsibility are particularly salient in California after an appeals court issued what Peters called a “new twist” on principles of responsibility while upholding the denial of a different *Doe v. Uber* case in 2022.

California's Second District Court of Appeal reasoned that for a company to be responsible for harm from third-party criminal conduct, the third-party crime needs to have been a “necessary component” of the company's actions.

Uber didn't have enough of a special relationship with the Jane Does in that case to owe a duty of protection, the appeals court ruled in 2022. The California Supreme Court also declined to review that case.

Peters sees the 2022 decision as “a rogue” among state case law, she said.

“You don't have a duty to jump into a lake and rescue someone from drowning, but if you build a pool and push them in, then you do,” Peters said. “Our argument was that Uber built the pool and pushed them in.”

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