KAUFMAN | DOLOWICH

Fitting a Square Peg Into Two Round Holes – Redefining the Employment Classification for Your Uber or Lyft Driver? Professional Liability Underwriting Society Plus Journal, ft. Tad Devlin & Sheila Pham

By **Tad Devlin & Sheila Pham**

Ride-sharing companies like Uber and Lyft have disrupted (and likely forever changed) the transportation industry. Now the sharing economy business model with on demand labor is challenging well-established labor and employment laws.

The Uber and Lyft business models (and exponential ascension) depend (and capitalize) on classifying drivers as independent contractors. Drivers can drive for both companies, part time, full-time, or as a side job. If they drive for Uber or Lyft, they do so without employee benefits. The ridesharing companies use independent contractor agreements and issue 1099 tax forms to their drivers.

Two federal cases are pending in the United States District Court for the Northern District of California: *Douglas O'Connor, et al. v. Uber Technologies, Inc. before Judge Edward Chen ("Uber Court") and Patrick Cotter, et al. v. Lyft, Inc before Judge Vince Chhabria ("Lyft Court"). The cases involve current and former Uber and Lyft drivers ("Uber Plaintiffs" and "Lyft Plaintiffs") who sued claiming misclassification as independent contractors, not employees, and violations of the California Labor Code. The Lyft Plaintiffs filed a Motion for Summary Judgment. Lyft and Uber each filed a Motion for Summary Judgment. All motions concerned the issue of employment classification.*