

Tad A. Devlin quoted in USA Today and other publications regarding the California Labor Commission Ruling on Uber

Tad A. Devlin has been extensively quoted in three June 2015 publications:

USA Today - *"Uber's 'we're not a ride-sharing service' argument goes nowhere"*
by John Shinal - San Francisco, June 18, 2015

Tad Devlin comments on: Uber's innovative transportation software that has disrupted the taxi and limousine business worldwide. The company's attempt to use its app as an argument to re-invent employment law in its home state was just rejected by the California Labor Commission.

"I think you'll see a parade of 'Berwicks' after this ruling," says Tad A. Devlin, an attorney and partner in the San Francisco office of Kaufman Dolowich Voluck, who litigates for corporate clients in California labor lawsuits.

Devlin was referring to Barbara Ann Berwick, the named plaintiff in a labor complaint that prompted the labor commission this month to award her \$3,878 in reimbursements and another \$274 in interest.

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Other publications he was quoted in regarding the Uber ruling in California include:

Market Watch - *"Ride-sharing drivers see themselves as independent contractors, not employees"* By Caitlin Huston - June 19, 2015

"The idea of a new hybrid classification may be realized if transportation network companies such as Uber and Lyft reach a compromised business settlement," said Tad Devlin, a partner at Kaufman, Dolowich & Voluck. Uber and Lyft both face class-action suits on the issue of drivers as employees or independent contractors.

This new employment classification, which Devlin called "an Uber," could mean the companies would cover costs and benefits based on the amount of hours a driver works, he said.

That model may increase rates for passengers, however, as Uber seeks to balance out employee-related costs, he said. "The current definitions of employee versus independent contractor aren't compatible with the sharing economy framework," he said.

"It's a square peg, round hole [situation]," Devlin said.

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Quinten Plummer's **E-Commerce Times** article - *Uber Loses Crucial California Court Battle* - Jun 18, 2015

The commission found that the plaintiff was an employee of Uber rather than an independent contractor, as the company had maintained. It ordered payment of US\$4,152 in reimbursable expenses and interest.

The commission based its decision, in part, on 11 factors that are used to distinguish employees from independent contractors. The California Supreme Court established those 11 factors in 1989 with the court case *Borello & Sons, Inc. v. Dept. of Industrial Relations*.

Those 11 factors can be used to analyze the relationship between an individual and an organization, according to Tad Devlin, a commercial and insurance litigation partner at Kaufman Dolowich & Voluck. "The analysis includes consideration of the amount and type of control the principal — Uber, in this case — has over the individual, and what the individual's duties are, and how they relate to the principal's business," he told the E-Commerce Times.

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