

Uber Wins Sanctions, Shakes Suit Over Buenos Aires Debut

By Dean Seal

Law360 (August 20, 2019, 4:39 PM EDT) -- A California federal judge sanctioned an attorney from Argentina on Monday for subjecting Uber's lawyers to "a needless round of motion work" in successfully fending off claims that the ride-hailing giant let him take the fall for its "disastrous" 2016 rollout in Buenos Aires.

U.S. District Judge Edward M. Chen said Argentine lawyer Michael R. Rattagan was told repeatedly by Uber Technologies Inc. that his beef was with two Dutch units of the ride-hailing company, rather than the San Francisco-based parent company, but he had failed to correct claims that Uber left him high and dry as the Buenos Aires debut stirred intense public backlash.

According to Judge Chen, the complaint clearly alleged that Uber's international subsidiaries tapped Rattagan to register Uber's Argentina subsidiary and use his law firm as its legal domicile before launch, but no evidence suggested that Rattagan ever had a direct attorney-client relationship or contractual relationship with the parent company.

"Instead, the evidence introduced by Uber Technologies shows that the direct legal relationship that existed was between the Uber International Entities and Rattagan, and further that Rattagan was fully aware of this fact, as demonstrated by his communications and billing invoices," the judge said.

Finding it to be "inaccurate and misleading" in its current form, Judge Chen dismissed the complaint, but gave Rattagan a month to amend it in case he is able to properly state a claim against Uber. The judge also ordered more than \$28,000 in monetary sanctions against Rattagan for failing to "allege accurate facts and reframe his legal claims," causing Uber's counsel to waste time seeking sanctions.

Since April, Rattagan has sought to hold Uber liable for breach of fiduciary duty, intentional infliction of emotional distress, negligence and fraud stemming from the company's April 2016 debut in Buenos Aires. Local officials and taxicab unions claiming Uber's ride-hailing services in the Argentine capital are illegal have targeted Uber for investigations, sanctions and protests.

Rattagan, a founding partner of Rattagan Macchiavello Arocena and co-head of the firm's mergers and acquisitions group as well as its natural resources and energy group, claimed he'd been caught in the crossfire since Uber tapped him in 2013 to register its Argentina subsidiary and use his law firm as Uber's legal domicile before an eventual launch in the city.

Argentine law requires that each foreign shareholder of an Argentine company name a local resident to act as its legal representative.

Uber didn't reach out again after that — the legal relationship went "dormant," Rattagan alleged — and Uber instead used other legal advisers to prepare to launch its services in Buenos Aires in April 2016 without consulting or even notifying Rattagan, according to the amended complaint.

But Argentine authorities publicly claimed that Uber either ignored or disregarded the particularities of Argentine law, politics and business practices when it made its debut, setting the stage for public scorn to fall on Rattagan and his firm, whose sterling reputation was being dragged through the mud, the suit said.

Uber responded in June that its operations in Buenos Aires have always been legal and the Court of Appeals of the City of Buenos Aires has even held that Uber's operations in Argentina were lawful in all respects. But the parent company's dismissal bid also laid into Rattagan for initially naming its Dutch units, Uber International BV and Uber International Holding BV, as defendants in the suit only to drop them after learning they would destroy diversity jurisdiction for his case.

On amendment, Rattagan dropped the two foreign defendants and reworded his allegations to imply a direct relationship with Uber Technologies — a fatal choice, Judge Chen found Monday, positing that Rattagan instead could have advanced a theory that Uber was legally responsible based on its indirect control of the two Dutch units.

The judge's order also ripped Rattagan's counsel for signing off on the latest amended complaint with no regard for evidence that Rattagan and Uber did not have a contractual relationship.

Rattagan has until Sept. 18 to amend his claims.

"We are disappointed with Judge Chen's ruling and believe it to be in error," Stephen Rosenfeld, an attorney for Rattagan, told Law360 on Tuesday. "While we are considering our options with respect to the sanctions, we are undeterred in our efforts to right the terrible wrong that Uber occasioned on our client and intend to replead."

Counsel for Uber did not immediately respond to a request for comment Tuesday.

Rattagan is represented by Stephen J. Rosenfeld and Christopher G. Dean of McDonald Hopkins LLC and Frank A. Cialone and Miles S. Winder of Shartsis Friese LLP.

Uber is represented by Clara J. Shin, Lindsey Barnhart, Jeffrey Davidson and Amy S. Heath of Covington & Burling LLP.

The case is Rattagan v. Uber Technologies Inc., case number 3:19-cv-01988, in the U.S. District Court for the Northern District of California.

--Additional reporting by Linda Chiem and Kevin Penton. Editing by Abbie Sarfo.