

Argentinian Atty Loses Suit Over Uber's Buenos Aires Debut

By **Andrew Strickler**

Law360 (August 20, 2020, 4:56 PM EDT) -- An Argentine lawyer's lawsuit accusing Uber of making him the patsy for the troubles with the company's Buenos Aires launch four years ago broke down in a California federal court Wednesday.

In a final dismissal with prejudice of a twice-amended complaint, U.S. District Judge Edward M. Chen said attorney Michael R. Rattagan "has demonstrated, through multiple iterations of his allegations, many of which exemplify shifting and often inconsistent and contradictory allegations and theories, that his claims suffer from deficiencies that cannot be cured by further amendment."

Judge Chen said Rattagan, now a partner at Dentons, had pegged the time of his alleged injuries to his arrest for aggravated tax evasion, which occurred in late 2017. But the attorney's own complaint detailed a litany of consequences he suffered related to his work for Uber that started many months earlier, according to the decision.

Those included a police raid on his law office, Rattagan's replacement by Uber amid a heated backlash to the ride-sharing launch, and the public vilification of Rattagan's firm, Rattagan Macchiavello Arocena, in the local press, all of which happened or began in early 2016.

Those alleged injuries, Judge Chen said, started the clock on a two-year statute of limitations for two of his four claims — negligence and breach of the implied covenant of good faith and fair dealing. As he filed his lawsuit in April 2019, they are time-barred and must be tossed, Judge Chen said.

Rattagan's two other claims for fraudulent concealment and negligence also failed because they stemmed from Rattagan's stance that he was in an attorney-client relationship with Uber.

But that means his tort claims are barred under the so-called economic loss doctrine, which limits a party in a contract to recovering losses "due to disappointed expectations," the court said.

Rattagan, a founding partner of Rattagan Macchiavello Arocena and co-head of the firm's mergers and acquisitions group, started working for Uber subsidiaries in 2013 to lay the groundwork for a launch in the Argentine capital.

But after many local officials and taxi unions became incensed by Uber's entry in the city, Rattagan claimed he was "thrown to the wolves" and bore the brunt of the outcry, which led to the raid as well as

his criminal prosecution for tax evasion.

Uber has maintained its operations in Buenos Aires have always been legal, and that all of Rattagan's claimed injuries stemmed from Argentine governmental authorities, the media and local trade unions.

Rattagan's counsel Andrew A. August said, "Obviously we are disappointed in Judge Chen's ruling. We are considering our appeal options, especially because the order granting the dismissal does not address the 'special relationship' exception to the economic loss rule that we raised at the hearing."

"The order also seems to say that as a matter of law, clients owe no duties to their lawyers other than to pay their bills," August added. "There is sparse law on this latter subject and perhaps this may be the factual case to clarify the existence and scope of client duties to their counsel."

Last summer, Judge Chen sanctioned Rattagan for a "misleading" complaint aimed at Uber rather than the overseas entities. But the judge allowed him to recast the suit, leading to the third amendment.

Dentons absorbed the Rattagan firm earlier this year.

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

Rattagan is represented by Andrew A. August and Allan Steyer of Steyer Lowenthal Boodrookas Alvarez & Smith 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 Dean Seal. Editing by Marygrace Murphy.