

Jane Doe No. 1 v. Uber Technologies, Inc. (2022) 79 Cal.App.5th 410

Uber did not have a duty to protect or warn based on a common carrier-passenger special relationship with women who were abducted and sexually assaulted by assailants posing as Uber drivers.

FACTS/PROCEDURE

Between June 2017 and February 2018, Jane Doe Nos. 1, 2 and 3 (collectively “the Jane Does”) were each sexually assaulted after using the Uber app to request a ride home after a night out in West Hollywood and downtown Los Angeles. In each instance, after requesting a ride, the Jane Does individually received confirmation that an authorized Uber driver was on the way. The app displayed the driver’s name, picture, license plate number and vehicle description. Before the authorized drivers arrived, however, other vehicles bearing Uber decals arrived, the drivers of which held themselves out as the ride home assigned by the app. Ultimately, each woman was abducted and raped by persons posing as an authorized Uber driver.

In the months before each assault, the LAPD contacted Uber multiple times to notify the entity of predators in the area specifically seeking out young, inebriated women waiting for rides home from Uber and posing as authorized drives to lure them into their cars. The Jane Does’ legal filings labeled this abduction and assault of women waiting for rides as “the fake Uber scheme (“scheme”), alleging the Uber business model created the risk criminals would employ these tactics, and then failed to protect potential victims. Specifically, the Jane Does alleged Uber failed to implement additional safety precautions to protect young women riders against third parties employing the “scheme,” while continuing to advertise Uber as a safe means of transportation for women.

The Jane Does’ second amended complaint (SAC) alleged that Uber negligently failed to warn and protect against predators’ use of the “scheme,” and but also negligently acted so as to *create* the risk of third parties’ employment of the “scheme.” The trial court sustained Uber’s demurrer to the SAC without leave to amend and dismissed the complaint with prejudice. The Jane Does appealed.

HOLDING/DISCUSSION

The California Court of Appeal for the Second Appellate District **affirmed**. California courts “have uniformly held” a defendant owes no legal duty where he “neither performed an act that increases the risk of injury to the plaintiff, nor sits in a relation to the parties that creates an affirmative duty to protect the plaintiff from harm.” (*Brown v. USA Taekwondo* (2021) 11 Cal.5th 204, 216.) While a common carrier has a duty to warn a passenger of reasonably foreseeable risks where the passenger is within a carrier’s care and control, there is generally no duty to act to protect others from the acts of third parties.

Here, the Jane Does were still waiting for their authorized rides. Uber had no control over their movements, or the environment where the women waited. The court reasoned Uber’s ability to direct the Jane Does to a particular pick-up location, even combined with the additional knowledge the women were in a place where others waiting for an Uber had been recently abducted, was “not akin to passengers ‘submitting themselves completely to the carrier’s charge[.]’” (*Jane Doe No. 1 v. Uber Technologies, Inc. (2022) 79 Cal.App.5th at 422*) (internal citations omitted). Thus, Uber did not have a duty to protect based on a common-carrier special relationship.

Further, although it is foreseeable that third parties could abuse the Uber app in the manner at issue, such crime must be a “necessary component” of the Uber app or the company’s actions in order for the entity to be held liable, absent a special relationship between Uber and the Jane Does. The court distinguished the circumstances at hand from the caselaw the Jane Does cited in their support, on the key fact that in that case, the

plaintiff was injured by third parties “doing exactly what the defendant’s conduct encouraged them to do... whatever the cost.” (*Id.* at 415.) Here, there was no conduct by the Uber encouraging sexual predators to prey on their victims. Therefore, the SAC failed to allege facts sufficient to establish a special relationship or misfeasance creating the risk the women would be assaulted. Thus, Uber owed no duty to protect against such third-party assaults. Therefore, the California Court of Appeal held that the trial court correctly concluded that Uber could not be held liable for causing or contributing to the Jane Does’ harm.