

Barton Gilman Attorney Files Amicus Brief for Mass. Defense Lawyers Association in Case Involving Uber Technologies

Uber Technologies' clickwrap agreement is before the Massachusetts Supreme Judicial Court for the second time in less than three years

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/EINPresswire.com/ -- Uber

Technologies' clickwrap agreement is before the Massachusetts Supreme Judicial Court (SJC) for the second time in less than three years. In a 2021 decision (*Kauders v. Uber Technologies, Inc.*, 486 Mass. 557 (2021)), the Court found that the rideshare company needed to revise its

Terms of Use to provide reasonable notice that customers were entering into a binding contract when requesting a ride. In the case currently before the SJC, *Good v. Uber Technologies, Inc.* (Docket No. SJC-13490), the Court will decide whether the company's revised user agreement met the instructions outlined in the *Kauders* decision.

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Derek Gillis

Derek Gillis, an appellate and complex litigation attorney at Barton Gilman, filed an amicus brief on behalf of the Massachusetts Defense Lawyers Association and in support of Uber. In the brief, Derek argues that clickwrap agreements like Uber's are common and generally enforceable and that “[t]he Court should continue to apply the reasonable notice standard articulated in *Kauders* because actual notice and actual review of the Terms of

Use are not required.”

On December 30, 2023, Massachusetts Lawyers Weekly featured the *Good* case in “Two-plus years after ‘*Kauders*,’ Uber's clickwrap makes return trip to SJC.” Derek spoke with the publication



about the amicus brief and the case and noted, “The Uber clickwrap agreement is a standard type of agreement. There is nothing particularly unique or different than most clickwrap agreements.” Derek notes that the Court’s decision will affect all contracts and all e-commerce websites, regardless of the product sold, the service offered, or the size of the business. In the amicus brief, Derek argues that holding Uber’s clickwrap agreement enforceable is consistent with the development of the law of consumer contracts and e-commerce, stating “If the Court holds that Uber’s clickwrap agreement is unenforceable, it will likely invalidate many agreements that govern everyday transactions and services.”



Derek Gillis

The SJC held oral argument in the case on January 5, 2024. Issues raised by Derek’s amicus brief were discussed during the parties’ arguments. Derek commented that “amicus briefs are a valuable tool industry groups or other interested parties can utilize to have a voice in appellate cases that will establish precedent with broad impacts. This case shows that appellate courts think deeply about these issues and that amicus briefs can play a critical role in the development of the law.”

Read [Brief of Amicus Curiae Massachusetts Defense Lawyers Association](#).

[Read the article](#) “Two-plus years after ‘Kauders,’ Uber’s clickwrap makes return trip to SJC” on the Massachusetts Lawyers Weekly website (subscription required).

About Barton Gilman

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