

Delivery Dudes expands despite growing pains

Delivery Dudes, a restaurant delivery service with food pickups throughout South Florida, is expanding again – this time to Hollywood, Aventura and Sunny Isles Beach.

But the expansion is not without growing pains.

"We've made changes to our hiring practices, our training practices. We continually try to protect ourselves," said founder and CEO Jayson Koss.



Max Schumacher a driver for Delivery Dudes, a restaurant delivery service based in Delray Beach, picks up an order on Thursday, July 28, 2016. The company is expanding again to Hollywood, Aventura and Sunny Isles. Randy Vazquez, Sun Sentinel (Randy Vazquez / Sun Sentinel)

Delray Beach-based Delivery Dudes, like several other competitors, has faced a labor lawsuit from workers who claim they should be classified as employees, not independent contractors. The company, which settled the lawsuit in May, has grown to about 2,000 drivers across the country.

Koss said Delivery Dudes is now focusing its expansion on company-owned locations, rather than franchises. Currently, about half of the company's locations nationwide and in South Florida are franchises.

The CEO said he has hired lawyers inside and outside the company to keep Delivery Dudes compliant with labor law. But he would like to see clearer contractor regulations.

Koss, who began the business in 2009 with a moped and cell phone and "\$50 in his pocket," said he would rather spend his time and money on growing his business than defending lawsuits.

Last year, Delivery Dudes driver Justin Attai and other drivers sued the company, alleging they were classified as independent contractors but were actually employees under the law. Attai claimed that Delivery Dudes paid certain drivers less than the minimum wage and failed to pay overtime in violation of the Fair Labor Standards Act. Attai's lawyer couldn't be reached for comment.

The lawsuit was settled but details are confidential, according to a filing in the Southern District of U. S. District Court. Koss said the drivers were part of a local franchise that is still operating and "doing well," but that he couldn't discuss the case or settlement.

Delivery Dudes is not alone among delivery services facing challenges by labor lawyers and their clients.

Competitors including Uber, GrubHub, Caviar and DoorDash also have been sued in recent months by drivers who claim they are incorrectly classified, according to The New York Times, Washington Post and other news reports.

What Koss calls the "black cloud of labor law" has coincided with growing competition in the food-delivery sector. Online retailer Amazon launched its Prime delivery service in Miami-Dade County in June, while car service Uber recently introduced UberEATS to Miami and other major cities. Uber recently settled lawsuits in California, arguing that the independent contractor system is good for workers, giving them work flexibility that being an employee cannot provide.

Brett Schneider, who heads the labor law practice at Weiss Serota Helfman in Fort Lauderdale, said the contractor classification issue has become a huge issue for employers, especially those with "novel" business models.

"The Obama Administration has made it a priority to crack down on this," he said. Schneider said new employers may think it's easier and cheaper to classify workers as independent contractors, paying them the gross amount for their work, without deducting income taxes, Social Security and Medicare taxes, and unemployment insurance. But in the long-run, it's risky business, Schneider said.

"When in doubt, you're better off making them an employee," he said.

Manuel Borna, founder and CEO of Cravy restaurant delivery service in West Palm Beach, said his business also uses independent contractors for drivers, but they choose when to work or even can decline a requested delivery.

To help ensure his drivers were in control of their own hours – a tenet of being an independent contractor, rather than an employee, Cravy drivers book their work hours using an online tool, Shiftboard, Borna said.

Borna said because he started his business in 2012, later than some competitors, he was able to recognize obstacles and avoid them.

"A lot of times first to market is not always best – because they have to deal with these expensive fixes," he said.

But even with Amazon Prime and UberEATS moving into the local market, Borna said he thinks there's still room for local delivery services that offer great service and custom delivery. "It's a very fractured industry. There is no real leader," he said.

Koss said he's bothered that Amazon and Uber entered the business. "We're still here and we're killing it.

Now Uber comes in and think their drivers can deliver food," he said. "It's annoying."

But Delivery Dudes is dealing with the competition "one delivery at a time. We take care of every delivery like it's *the* delivery," he said.

Delivery Dudes can be found at www.DeliveryDudes.com. Cravy can be reached at GoCravy.com. mpounds@sunsentinel.com or 561-243-6650