

California Supreme Court Restricts Use of Independent Contractors



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THE CALIFORNIA SUPREME COURT RESTRICTS USE OF INDEPENDENT CONTRACTORS

On April 30, 2018, The California Supreme Court issued a decision that embraced a standard presuming that all workers are employees instead of contractors, and placed the burden on any entity classifying an individual as an independent contractor of establishing that such classification is proper under the newly adopted “ABC test”.

THE ABC TEST

Under the ABC test, a worker will be deemed to have been “suffered or permitted to work,” and thus, an employee for wage order purposes, unless the putative employer proves:

- A. that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- B. that the worker performs work that is outside the usual course of the hiring entity’s business; and
- C. that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

Note that each of these requirements need to be met in order for the presumption that a worker is an employee to be rebutted, and for a court to recognize that a worker has been properly classified as an independent contractor.

WHAT THIS MEANS FOR CALIFORNIA BUSINESSES

Any business in California that uses “independent contractors” needs to take a hard look at classification (even possibly seeking legal counsel) to determine who bears the responsibility of paying Social Security and payroll taxes, unemployment insurance taxes and state employment taxes, for providing Worker’s Comp, and who needs to comply with all the other state and federal statutes governing wages, hours, and working conditions of employees.

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