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## Supreme Court Rules on Independent Contractor/Employee Determination

On April 30, 2018, the California Supreme Court issued its long-awaited opinion in *Dynamex Operations West, Inc. v. Superior Court*, regarding the standard for determining whether a worker should be classified as an employee or as an independent contractor for purposes of wage orders adopted by California's Industrial Welfare Commission ("IWC"). The Court reaffirmed that there is a presumption that individual workers are employees, and that a company classifying an individual as an independent contractor accepts the burden of establishing that such a classification is correct.

To meet this burden, the employer must meet three factors, commonly known as the "ABC test":

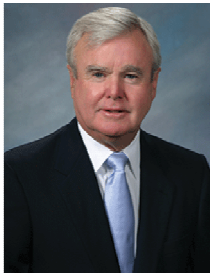
(A) That the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;

(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.

As a consequence of this decision, businesses in California that treat some workers as independent contractors may want to review their “employment” status under the “ABC test” to determine if any or all such workers should be reclassified.

If you have any questions about the new court ruling or how it might affect your business(es), please contact us.



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