

# CALIFORNIA SUPREME COURT DECISION REDEFINES THE GUIDELINES OF INDEPENDENT CONTRACTORS

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On April 30, 2018, The California Supreme Court issued a ruling in *Dynamex Operations West, Inc. v. Superior Court*, making it much more difficult to classify

an individual as an independent contractor (rather than employee). The previous standard for classifying individuals as employees or independent contractors had been in place since the 1980's and was based on a multi-factor test that considered, among other factors, the individual's abilities, the method of payment, and the extent of control exercised over individual. In the *Dynamex* ruling, the Supreme Court adopted a new three-part "ABC Test" that is intended to reduce the use of independent contractors in the California workforce.

The new standard adopted by the California Supreme Court requires the hirer to establish three factors in order to properly classify a worker as an independent contractor – and in the process greatly expands the definition of "employee" under California law.

Here is the information to classify an individual as an Independent Contractor:

- A. Is free from the control and direction of the hirer in connection with the performance of the work, both under contract for the performance of such work and in fact; and
- B. Performs work that is outside the usual course of the hiring entity's business; and
- C. Is customarily engaged in an independent established trade, occupation or business.

All three are required in order to fulfill the test.

Even though the "ABC Test" is written to simplify the definition of independent contractor, the application of the three part test is not going to be that simple. It will be the hirer's responsibility to satisfy the "ABC Test" in order to lawfully classify an individual as an independent contractor.

Please keep in mind, this decision was made under the Wage Orders of the Industrial Welfare Commission. As we all know, there will more than likely be subsequent cases, actions and rulings that will be restricting or expanding the Court's decision to other state department (i.e. Workers' Compensation). So, if you are hiring independent contractors or being hired as an independent contractor, now is the time to review the following regarding the new "ABC Test":

- Identify your independent contractor relationships
- Description of duties of those relationships to the "ABC Test" article.

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