Insights, News & Events

NEW YORK'S HIGH COURT ISSUES PRO-EMPLOYER RULING IN MISCLASSIFICATION CASE

Decision Helps Employers Who Use Independent Contractors

Insights
Nov 1, 2016

On October 25, 2016, the New York Court of Appeals – New York's highest court – ruled that non-staff instructors at a yoga studio were properly classified as independent contractors, and were not employees. The Court of Appeals' decision was the culmination of a case that had more twists and turns than an expert yoga instructor (*Matter of Yoga Vida NYC, Inc.*).

The New York State Department of Labor (NYSDOL) originally found that Yoga Vida owed unemployment insurance contributions for its non-staff instructors, ruling they were employees and not contractors. An Administrative Law Judge (ALJ) reversed, finding that Yoga Vida correctly classified its non-staff instructors as independent contractors. The Unemployment Insurance Appeal Board reversed the ALJ's decision, sustaining the NYSDOL's original determination.

The Appellate Division – New York's second highest court – upheld the Unemployment Insurance Appeal Board's decision. Employers can claim a final victory, however, now that the Court of Appeals reversed the decision again and ruled in favor of independent contractor classification. The case is a boon to New York employers who utilize independent contractors, as you can now point to a recent decision from New York's highest court in support of your classification decisions.

Related People

Seth D. Kaufman
Partner
212.899.9975

Service Focus

Litigation and Trials

Industry Focus

PEO

Control Over The Means Used To Achieve Results Is Key
Although the Court of Appeals' decision may have come as a surprise to employers, the standard used by the Court of Appeals was a familiar one – the Court of Appeals looked at whether "the employer exercised control over the results produced and the means used to achieve the results." In determining that Yoga Vida did not exercise sufficient control over the means used by its non-staff instructors to achieve their end goal of providing yoga classes, the Court of Appeals focused on the following factors:

- the non-staff instructors made their own schedules;
- the non-staff instructors chose how they were paid, either hourly or on a percentage basis;
- the non-staff instructors were paid only if a certain number of students attended their class, which differed from the staff instructors (who were Yoga Vida's employees) who were paid regardless of whether any students attended their class;
- Yoga Vida placed no restrictions on the non-staff instructors' ability to teach classes at other yoga studios, in contrast to the staff instructors, who could not teach classes at other studios within a certain geographical area;
- the non-staff instructors were free to inform their students of classes the non-staff instructors were teaching at other yoga studios; and
- the non-staff instructors were not required to attend meetings or receive training from Yoga Vida, in contrast to the staff instructors, who were required to do so.

The Court of Appeals found that certain indications of incidental control were insufficient to support an employer-employee relationship. Examples of this incidental control included that Yoga Vida provided space for the classes, Yoga Vida made sure the non-staff instructors had proper licenses, Yoga Vida published a master schedule of classes on its website, Yoga Vida collected the fee for the classes taught by non-staff instructors directly from the students, and Yoga Vida provided a substitute instructor if a non-staff instructor could not make a scheduled class.

Related Offices

New York

The Court of Appeals also rejected the fact that Yoga Vida solicited feedback about non-staff instructors as an indication of control sufficient to create an employer-employee relationship. The Court of Appeals reiterated that the "requirement that the work be done properly is a condition just as readily required of an independent contractor as of an employee and not conclusive as to either."

Takeaways For Employers

The Court of Appeals' decision upholding Yoga Vida's classification of its non-staff instructors as independent contractors could be very helpful for employers who appropriately utilize independent contractors. From a legal perspective, the Court of Appeals provided several good examples of both factors that do not indicate control, and factors that are minor indications of control that are insufficient to outweigh other evidence. These examples should surely form the basis for any future employer's argument that their independent contractors are analogous to Yoga Vida's non-staff instructors.

In addition, it is significant that the Court of Appeals reiterated the legal point that an employer ensuring its independent contractors properly perform the desired services does not necessarily indicate an employer-employee relationship exists. This provides some comfort to employers who don't exercise great control over their independent contractors, but still wish to ensure that they are receiving proper services from their independent contractors.

Moreover, from a practical perspective, a decision from New York's highest court overruling the NYSDOL provides good ammunition in dealing with the NYSDOL, which has become increasingly more aggressive in challenging employers' independent contractor classifications. However, you must still be careful to ensure that you are thoroughly reviewing your relationships with those individuals you classify as independent contractors, including reviewing any independent contractor agreements.

Ultimately, Yoga Vida did not prevail because of any change in the law or because the Court of Appeals used a different legal analysis. Yoga Vida prevailed because it had the facts on its side. Employers who fail to properly analyze whether they truly exercise sufficient control over those they classify

as independent contractors are not likely to be as successful.

For more information about how this ordinance affects your workplace, contact any attorney in our New York City office at 212.899.9960, or your regular Fisher Phillips attorney.

This Legal Alert provides information about a specific New York court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.