

Federal Court Upholds Independent Contractor Test for Delivery Drivers

By David J. Sprong, Esq.

Livingston, N.J. - The United States Court of Appeals ruled yesterday that a federal law governing the transportation industry does not limit New Jersey's law regarding the Independent contractor status of delivery drivers.

The New Jersey Supreme Court ruled previously that the "ABC Test" must be used to determine if a driver is an employee or an independent contractor. A certain logistics company continued to designate drivers as independent contractors, and the drivers filed a class action lawsuit against it. The logistics company argued that federal law "preempted" New Jersey law so that New Jersey should not be permitted to impose the ABC Test. The Court of Appeals ruled against the logistics company and the New Jersey ABC Test was allowed to stand.

The ABC Test essentially provides that all drivers are employees unless a transportation company can show that (a) the drivers are free from their control, (b) perform work that is outside the company's business and (c) are in an independently established business. The case firmly sets the precedent for New Jersey and answers any outstanding questions regarding the classification of drivers in New Jersey. As the logistics company argued to the Court of Appeals, this decision could have negative financial ramifications to wages, costs and prices across the industry. All companies in this industry must be mindful of the impact of this decision on their bottom line.

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