

DYNAMEX OPERATIONS WEST, INC. V. SUPERIOR COURT OF LOS ANGELES (DYNAMEX)

WHAT IS THE SIGNIFICANCE OF THE DYNAMEX RULING

In 2018, the California Supreme Court issued its ruling in Dynamex. The Court's ruling impacted businesses by burdening the classification of the independent contractor.

WHAT WAS THE DYNAMEX CASE ABOUT

The case was brought by two delivery drivers as a class action against Dynamex, a same-day courier and delivery company. Dynamex had changed their classification from employees to independent contractors and required them to purchase and maintain their vehicles while Dynamex misclassified them as independent contractors rather than employees. The Court ruled in favor of the employees and created a huge burden on employers.

WHAT DID THE COURT ESTABLISH AS LAW

Dynamex established a three-factor "ABC" test to answer whether a worker is a legal "employee" in cases brought under California wage laws. To prove a worker isn't actually a formal employee, companies have to show

1. The worker has freedom from control over how to perform the services provided;
2. That the services are outside the business's normal variety or workplace; and
3. That the worker is engaged in an independently established role.

The test replaced a multifactor analysis that made it easier for companies to argue workers should be classified as contractors.

California bill, AB 5, which is making its way through the legislature, would codify the court decision and clarify how it would be applied to jobs in the state. Additionally, the recent case (Vasquez v Jan-Pro) in the Ninth Circuit Court of Appeals further affirmed the "ABC" test and applied it to franchises retroactively.

HOW MAY IT IMPACT A SMALL BUSINESS

The Dynamex and Jan-Pro decisions along with the potential passing of AB5 may and probably will make it almost impossible to classify workers as independent contractors. For businesses with limited resources, it will impact their bottom lines and they will be forced to reconsider their operational efficiency to avoid passing the extra costs to their clients and remain competitive.

WHAT SHOULD A SMALL BUSINESS DO

Small Business should re-evaluate their personnel profiles and seek the advice of counsel to appropriately evaluate the classifications and implement the proper changes to avoid exposure to legal challenges and government intervention.

Information is provided by Caltrans D11 Small Business Councilmember Gustavo Rios, PE, Esq. at the Caltrans Small Business Council Professional Services Committee Meeting on 6/26/2019 from 8a – 9a.

All information provided is published online and available by the public. Any determination of your situation shall be consulted by a Labor Law Attorney.

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