

Chambers v. RDI Logistics: Independent Contractor or "Employee, Inc"?



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Thursday, December 22, 2016

It is usually the case that when you contract for services with another company you have engaged it as an “independent contractor.” And, as a result, its employees cannot claim that you owe them overtime pay. But the mere fact that the services provided are funneled through a corporate form does not end the independent contractor inquiry, as illustrated in a December 16, 2016 **Massachusetts Supreme Judicial Court** decision. **Chambers v. RDI Logistics, Inc.**, SJC-12080.

Facts

RDI is a furniture delivery company that provides “last mile” delivery services for large retail furniture companies. The plaintiffs led a class action claiming that they had been misclassified as independent contractors and were owed overtime pay, treble damages and attorneys’ fees. The plaintiffs all delivered furniture for RDI for several years on a full-time basis, working approximately sixty hours per week. RDI only does deliveries through “independent” business entities so each plaintiff had incorporated his own business and then entered into a contract with RDI. The contract precluded plaintiffs from performing any delivery services for RDI’s competitors during the contract term and for three years afterward. RDI required that the plaintiffs wear uniforms and to display signs on their trucks bearing either

RDI's logo or the logos of RDI's customers. RDI deducted from the plaintiffs pay the costs of uniforms, truck lease payments, and damage allegedly done to customers' property in the course of their deliveries. RDI also regulated how the plaintiffs loaded the furniture on their trucks, which customers they delivered to, and the specific windows of time in which they were to deliver their goods to customers. Finally, RDI required that the plaintiffs follow prescribed routes to reach their customers and use global positioning system devices to ensure that the plaintiffs did not deviate from their assigned routes.

The Lawsuit

RDI terminated the contract of one driver under disputed circumstances. Another driver spoke to other drivers about his view that they were misclassified as independent contractors. When the founder and president of RDI learned of this discussion among drivers, he terminated the second driver's contract. Two days later, the two terminated drivers led a class action on behalf of themselves and other similarly-situated drivers. The second driver also asserted a retaliation claim. RDI led counterclaims.

The Superior Court granted RDI's motion for summary judgment, holding that the Federal Aviation Administration Authorization Act of 1994 (FAAAA), intended to deregulate the trucking industry, preempted the misclassification claims under the Massachusetts independent contractor statute, G.L. c. 149, Section 148B. The Supreme Judicial Court granted plaintiffs' application for direct appellate review and determined that the FAAAA only partially preempted the Massachusetts statute and also found that there were material issues of fact for trial on the misclassification issues as well as on RDI's assertion that the plaintiffs lacked standing under the independent contractor statute.

Presumption Favoring Finding of Employee Status

The Court's preemption analysis will be of interest to readers in the trucking industry. However, we will address only the broader independent contractor issues here. Under Massachusetts law, as is generally the case, an individual performing any service for a company is presumed to be an employee rather than an independent contractor. To overcome the presumptive and establish that the individual is an independent contractor, an employer must prove that:

1. The individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact;
2. The service is performed outside the usual course of the business of the employer; and
3. The individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

G.L.C. 149, § 148B. To "rebut the presumption of employment," an employer must

satisfy all three of these prongs.

Standing

RDI argued that the protections of the independent contractor statute apply only to “individuals” who perform services as individuals. RDI claimed that because the plaintiffs contracted with RDI through corporate entities, they were foreclosed from asserting employee status. The Supreme Judicial Court responded that the statutory protection did not expressly exclude individuals who provide services through a corporation. The Court cited the following factors from a Massachusetts Attorney General advisory to determine if the corporate form represents a legitimate business-to-business relationship or a scheme to prevent the classification of workers as employees, whether:

1. The services of the alleged independent contractor are available beyond the contracting entity;
2. The business of the contracting entity is no different from the services performed by the alleged independent contractor; and
3. The alleged independent contractor is only a business requested or required to be so by the contracting entity.

The Supreme Judicial Court observed that this is a “non-exhaustive list of factors” and held that the touchstone is whether the use of the corporate form “was at the worker’s behest or forced upon the worker by an employer in order to misclassify him or her.”

TAKE-AWAYS:

1. The corporate form does not necessarily immunize you from a misclassification claim.
2. Make a fair evaluation, with the advice of legal counsel, on independent contractor status under the statutory criteria.
3. Don’t try to be “clever” to avoid treating workers as employees; the penalties can be substantial, to say nothing of the cost of litigation.

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