# California Supreme Court Holds that a Challenge to Independent Contractor Status is Class Certifiable

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In *Ayala v. Antelope Valley Newspapers* the California Supreme Court held that the critical factor in determining whether a worker is an employee or an independent contractor is the degree of a hirer's right to control how the end result is achieved. Notably, even if that right is not exercised, the hirer will be deemed the employer of the worker and will be subject to all California laws governing employment relationships. The Supreme Court also held that with respect to class certification, the issue is whether there is a common way to show the employer possessed essentially the same legal right of control with each plaintiff.

The plaintiffs in this case worked as newspaper home delivery carriers for Antelope Valley Newspapers, Inc. and each carrier had signed an Independent Contractor Distribution Agreement with Antelope Valley. The plaintiffs filed a class action against Antelope Valley alleging they had been misclassified as independent contractors and were entitled to damages because they had not been, *inter alia*, paid overtime and provided meal and rest breaks in violation of California wage and hour laws.

The trial court denied class certification on the basis that common issues did not predominate because determining the carriers' employee status would require heavily individualized inquiries into Antelope Valley's control over the carriers' work. The California Court of Appeal agreed with the trial court that the carriers had not shown that their claims for overtime pay and missed meal and rest periods could be managed on a class-wide basis, but reversed the trial court's denial of class certification on the issue of whether the carriers had been misclassified as independent contractors. The Court of Appeal noted that the key issue – how much *right* does Antelope Valley have to control what its carriers do – could be addressed on a class-wide basis.

The California Supreme Court agreed with the Court of Appeal and held that the trial court will need to address whether Antelope Valley's right of control over its carriers is sufficiently uniform such that the issue of the carriers' employment status can be addressed on a class basis.

Specifically, the California Supreme Court stated (1) whether a common law employer-employee relationship exists turns principally on the degree of a hirer's right to control how the end result is achieved; (2) whether the hirer's right to control can be shown on a class-wide basis will depend on the extent to which individual variations in the hirer's rights concerning each putative class member exist, and whether such variations, if any, are manageable; and (3) the trial court in this case erred in rejecting certification based not on differences in Antelope Valley's right to exercise control, but on variations in how that right was exercised.

Class certification of wage and hour related issues will continue to be a hotly debated topic. Likewise, classifying workers as employees or independent contractors will also continue to be a closely monitored issue on a state and federal level. Employers are encouraged to audit their worker classifications to ensure legal compliance.