

## Massachusetts SJC Rules that Taxicab Drivers Are Independent Contractors Under the Wage Act

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On April 21, 2015, the Massachusetts Supreme Judicial Court (SJC) held in *Sebago, et al. v. Boston Cab Dispatch, Inc., et al.*, that taxicab companies may classify taxicab drivers as independent contractors. The plaintiffs in this case were taxicab drivers that leased taxis and medallions at a flat-rate from taxicab and medallion owners. The plaintiffs brought suit against three groups of defendants: taxicab and medallion owners, dispatch service companies and a taxicab garage. They claimed that the defendants jointly misclassified them as contractors rather than employees, entitling them to relief under Massachusetts' minimum-wage and overtime laws.

The SJC ruled against the taxicab drivers. In reaching this conclusion, the court first addressed the issue of whether the defendants were joint employers. It held that the defendants should not be considered "as a single employer exercising monolithic control over the taxicab industry." Instead, entities can formulate legitimate business-to-business arrangements to secure services, and this, on its own, does not render the entities joint employers. Thus, when analyzing claims under the independent contractor statute, the SJC explained that courts must look separately at each defendant's relationship with the plaintiffs to assess potential liability.

Before determining whether the taxicab drivers were employees, the court assessed the threshold question of whether the taxicab drivers provided services to the defendants. The court held that the drivers provided no services to the garage, but that the drivers did provide services to the dispatch companies and the taxicab and medallion owners.

Next, the court turned its analysis to whether the dispatch companies and taxicab and medallion owners could lawfully classify the drivers as independent contractors under Massachusetts' independent contractor statute. The SJC explained that all three of the following elements must be met in order for the defendants to prevail: (1) the drivers must be "free from control and direction in connection with the performance of the service," both under their contracts and in fact; (2) the service being performed must be "outside the usual course of the business of the employer"; and (3) the drivers must be "customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed."

Under the first prong, freedom from direction and control, the SJC determined that the drivers were mostly independent. The drivers selected their own shifts and which passengers to pick up or refuse. The court also found that the defendants satisfied the second prong because the drivers' services were outside the usual course of the defendants' businesses. The court reasoned that the medallion owners' leasing businesses were not dependent on the success of the drivers' operations. Rather, a driver paid a daily flat-rate to lease a taxicab, and the taxicab and medallion owner retained this fee regardless of how much money the driver earned on a given day. The court similarly found that the dispatch companies were not in the business of giving rides; instead, they were in the business of selling dispatch services to medallion owners.

Finally, under the last prong, the court found that the drivers engaged in an independent trade or business. Specifically, the drivers had the freedom to lease from whomever they wanted on whatever days they wanted. The drivers were not tied to particular medallion owners, and they were free to advertise their services as they wished. Because the defendants carried their burdens under all three prongs of the statute, the SJC ruled that the drivers were properly classified as independent contractors. A significant component of the court's rationale was that regulations governing the taxicab industry recognized that drivers could be independent contractors as well as employees. Under this regulatory scheme, the entities—be it the taxicab and medallion owners, dispatch companies or the drivers themselves—are free to plan an arrangement that provides for either result.

*Sebago* is important because it reiterates that legitimate business-to-business relationships are outside of the stringent Massachusetts

independent contractor statute. The plaintiffs' bar will likely claim that the unique regulatory scheme covering the taxicab industry makes this case inapposite to misclassification disputes arising in other industries. However, the decision suggests that businesses in any industry will not be treated as employers for purposes of state wage laws when the services they provide are legitimately different from those provided by a contractor.

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