

# CLIENT ALERT: SJC Rules City of Boston Taxi Drivers Are Independent Contractors

In a major ruling issued on April 21, 2015, the Massachusetts Supreme Judicial Court ruled that taxi drivers in the City of Boston who lease taxicabs from medallion owners are independent contractors and not employees. *Sebago, et al. v. Boston Cab Dispatch, et al.* (SJC-11757; April 21, 2015).

Initially, the SJC held that the independent contractor statute, G.L. c. 149, § 148B applies to the taxicab industry. The Court also found that taxicab drivers provide a service to radio associations. (Radio associations are the entities that dispatch taxicabs to passengers who avail themselves of this service.) The Court did not rule on whether taxi drivers provide a service to medallion owners who lease their taxicabs, finding it unnecessary to make such a ruling because it held that the medallion owners satisfy all three prongs of the independent contractor statute.

Prong 1 requires that taxi drivers be free from direction and control. This prong was easily met as taxi drivers received almost no direction from medallion owners or radio associations. The drivers were free to use the taxicab as they wish during the lease period and used it to attend classes and to drive to volunteer jobs. Drivers set their own schedules and drivers were free to choose whether or not to accept a dispatch from a radio association.

Prong 3 requires that drivers “be customarily engaged in an independently established trade, occupation....” The SJC concluded that the drivers were, in fact, engaged in an entrepreneurial endeavor, noting that they were free to lease from whomever they wished and could advertise their services.

The core issue was whether the employers could meet the second prong of the independent contractor statute. This prong requires the drivers’ services to be “outside the usual course of the business of the employer.” In analyzing this prong, the Court looked carefully at the regulatory framework and the corporate structure established by that framework.

Based on that analysis, the SJC concluded that the regulatory framework created three separate and distinct businesses – one business leasing taxicabs engaged in by medallion owners; a second business dispatching taxicabs engaged in by radio associations; and a third business transporting passengers for fares engaged in by taxicab drivers. In so holding, the SJC noted two very important features of the taxicab industry in the City of Boston.

First, and most importantly, the leasing scheme was not concocted by the medallion owner or radio associations to circumvent Massachusetts wage law. Rather, it was a system created by the Police Commissioner in the context of a legislative mandate to regulate the taxicab industry. Second, the fares received by taxi drivers for transporting passengers belonged to the drivers (apart from small fees for credit card and voucher processing). As to the latter, the result in this case would likely have been different if medallion owners retained any portion of the passenger fares.

The Court’s conclusion relied significantly on the regulatory framework under which the taxicab industry in Boston operates. Accordingly, unless an employer operates in a regulated industry or is a lessor of equipment (and even in both of these cases questions may remain), the SJC’s decision will not help employers avoid the broad reach of the independent contractor statute. On the contrary, the decision goes to great lengths to maintain the vitality of the independent contractor statute. Accordingly, it is important that employers consult with their MBJ attorney before or if classifying any individuals as independent contractors.

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