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GSCW chat: Transportation attorney says multiple factors shaping independent contractor definition

Blubaugh says he is encouraged so far by what US Supreme Court has done on the question of AB5



John Kingston • Wednesday, February 16, 2022 1 minute read

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THE 2022 BATTLEFIELD TO DECIDE: EMPLOYEE OR INDEPENDENT CONTRACTOR?



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FIRESIDE CHAT TOPIC: The 2022 battlefield to decide: Employee or independent contractor?

DETAILS: The never-ending legal and regulatory fight over whether a worker is an employee or an independent contractor faces the prospect of a significant 2022. Whether it's a U.S. Supreme Court resolution of California's AB5 relative to trucking, or a new rule on independent contractors coming out the Department of Labor, it's going to be a highly consequential year, and attorney Marc Blubaugh joins FreightWaves Editor at Large John Kingston to talk about it.

SPEAKER: Marc S. Blubaugh is co-chair of the Transportation & Logistics practice group of the law firm of Benesch Friedlander Coplan & Aronoff LLP. His clients include international and domestic carriers, freight forwarders, transportation brokers, and a wide range of other companies in the field. Blubaugh's area of expertise in transportation sees him consulting with clients on issues such as contracting practices and operating procedures, regulatory investigation, and the regulatory landscape.

KEY QUOTES FROM BLUBAUGH:

On AB5 and the Supreme Court: "I'm encouraged by where things stand right now. The Supreme Court is not obligated to review this case. The decision by the court to (have the Solicitor General) review the case is at least a sign of the court's interest in this case.

"My guess is we will hear whether the court will grant certiorari in the next couple of months."

"That won't be the end of the battle. There is a relentless attack on the IC model from a variety of fronts."

"If the Supreme Court issues a ruling on what is preempted and what is not, it will at least give motor carriers and others some predictability."

On a revised Department of Labor definition of independent contractors:

"Whatever version of the test that the BOL has at any given time, it has a way of permeating the industry. So [the Wage and Hour division] can be muscular.:

More articles by John Kingston

Weil's controversial Wage and Hour Division nomination heads to Senate



Supreme Court's AB5 appeal request keeps California trucking injunction in place for now

Legal match over fate of AB5 has new player: US solicitor general

#AB5

#Independent contractors

#Wage and Hour division