

Bianca, Pam

From: Brian Marcucio <brian@mescourier.com>
Sent: Monday, February 23, 2015 1:53 PM
To: LABTestimony
Subject: Testimony submitted to the Connecticut Labor and

Testimony submitted to the Connecticut Labor and
Public Employees Committee on HB 5366

My name is Brian R. Marcucio, Owner of Mail Center Services, Inc. (MCS). We are a small independent family business, since 1992, here in CT operating in the Same Day Delivery business. We are a 24/7, 365 day a year on call operation. Our business is sporadic, on demand and is NOT a 9-5 type of service. We service customers by handling urgent, unforeseen shipping needs when their regular routed carriers can't cover them. When a customer calls with an urgent shipping need we match up an available Independent Contractor to be able to service that need.

Since our establishment in 1992 we have operated utilizing Independent Contractors (IC's) to service our customers'. We have four in house employees, Myself, My brother, my sister and one dispatcher. All deliveries are made by IC's utilizing their own equipment and vehicles. It would be impossible to run a 24/7 independent courier business with out IC's because staffing such an operation 24/7 with employee's and the equipment needed would be cost prohibitive. When we opened our business our father was a field auditor for the State Department of Labor. Back then the State used the "20 Questions" test to determine if an IC was truly an IC. Even with our own father being part of the department of labor there was not a clear, black and white, definition of Independent Contractor. We were taught to maintain as many points expressed in the 20 Question test in good faith and with regularity to maintain a healthy IC relationship in the eyes of the Department of Labor.

These days the "ABC" test is the benchmark to determine IC's Status. It is a good test to determine IC's relationships across industries and eliminates a lot of the ambiguities of the former "20 Question test". Here at MCS we have adopted the rules and guidelines to be in compliance. The rules stem from a Declaratory Ruling reached between the Courier Industry and the Department of Labor in 1994, and supported by the "Best Practices Agreement" developed in 2009 with the DOL. My concern is with a court case** that had nothing to do with the Courier industry that makes the "C" part of the test unmanageable. It is impossible for us as a company to completely monitor Independent Contractors outside business relationships nor do I believe it is my right to do so. We fully believe the Contractor HAS THE RIGHT to work for other companies, as many do, but some IC's like representing one Company. They shouldn't be forced to work for others to be considered a contractor nor should I as a company be held liable if they choose not to. Let me ask this in closing: by this ruling, I can't contract with an IC unless he/she is currently contracting with another company in a like business.....How does an individual start his/her own businesses as an Independent Contractor to do job one? So not only does the JSF** ruling make the "c" part of the test unmanageable, it technically eliminates anyone from ever being an Independent Contractor.

I am not asking for any special compensation or changes to any workers status with the State, I'm just requesting your support of HM5366 so we as an Industry can comply with the State's established principles and guidelines of IC's.

** (JSF decision reached in 2003 by the Connecticut Supreme Court, a decision which fundamentally changed the ABC test the DOL utilizes to determine independent status and removes any discretion the DOL might otherwise have when deciding such cases)

Thank You for your consideration on this matter.

Brian R. Marcucio, Owner

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