

COURT DETERMINES INSURANCE AGENTS ARE EMPLOYEES

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Employee Benefits

Contrary to several other court decisions regarding the proper classification of insurance agents, the U.S. District Court for the Northern District of Ohio recently ruled that insurance agents for American Family Insurance should have been classified as employees, rather than independent contractors. Determining whether a worker should be classified as an employee or independent contractor is relevant for a number of important reasons, including eligibility for employee benefits. Properly classifying a worker as either an employee or independent contractor is often a difficult task because there are many factors that must be considered. In *Nationwide Mut. Ins. Co. v. Darden*, 503 U.S. (1992), the US Supreme Court looked at the degree to which a hiring party retains the right to control the manner and means by which service is rendered to determine employment status. In *Darden*, the Court outlined eleven factors that must be considered. Further noting that, “all of the incidents of the relationship must be assessed and weighed with no one factor being decisive.” In this case, the District Court considered each *Darden* factor relating to the employment relationship, and found that the factors were almost evenly split. Ultimately, the District Court concluded that the degree of control the company exercised over the agents was inconsistent with independent contractor status and more akin to the type of control a manager would expect to exert over an employee. Determining worker classification issues is always a fact specific exercise and the existence of an agreement identifying the worker’s status is only one factor to consider. Employers who use independent contractors should carefully consider the nature of the relationship to ensure the worker is properly classified. In addition, employers should review their benefit plan documents to confirm the documents contain language designed to mitigate damages associated with any workers who are later found to have been misclassified. *Jammal v. Am. Family Ins. Co.* (N.D. Ohio 2017).