

Press Coverage | March 25, 2022

Law360 Quotes New York's Richard Reibstein on Misclassification Suit Involving California Exemption From ABC Test

Law360

RELATED PROFESSIONALS

[Richard Reibstein](#)

Richard Reibstein, co-head of Locke Lord's Independent Contractor Misclassification and Compliance Practice, was quoted by Law360 on a misclassification lawsuit that was recently appealed to the Ninth Circuit. The appeal presents an issue of first impression with the courts regarding an exemption to California's rigorous standard for classifying workers as independent contractors based on the California Supreme Court's 2018 *Dynamex* decision. The exemption is available to companies that operate as referral agencies connecting service providers with clients. Those companies are permitted to establish an independent contractor relationship by use of a less rigorous standard based on the California Supreme Court decision called *Borello*.

Reibstein explains that the referral company exemption requires the business to meet 11 separate criteria, and the business might have a hard time trying to meet all 11 factors that are required for the exemption.

"The problem with the referral agency exemption is that you have to shoehorn your business into the confines of the exemption," he said. "You may have to make some structural changes to feel more comfortable that you've met the exemption."

To read the full article, click [here](#) (subscription may be required).

RELATED INDUSTRIES + PRACTICES

- [Independent Contractor Misclassification + Compliance](#)