

## Drivers' Independent Contractor Status beyond Scope of Arbitration Agreement, California Court Rules

Date: 10.23.2012

---

Owner-operator truck drivers were not required to arbitrate whether they were misclassified as independent contractors in violation of the California Labor Code, where each of the parties' arbitration agreements applied to any dispute that arose "with regard to its application or interpretation," the California Court of Appeal has held. *Elijahjuan v. Superior Court*, No. B234794 (Cal. Ct. App. Oct. 17, 2012). The Court found the drivers' statutory claims fell outside of the agreements' scope and reversed the trial court's order compelling arbitration. The dissenting Justice took issue with the majority's narrow reading of the arbitration agreements, noting that it "ignored well-settled law favoring arbitration."

### Background

Hireem Elijahjuan and other owner-operator truck drivers who made deliveries for Michael Campbell Associates Ltd. (collectively, the "drivers") entered into either a "Broker/Carrier Agreement" or "Transportation Agreement" with MCA. The Agreements stated that the drivers were classified as independent contractors. The Agreements each contained a provision requiring arbitration of any dispute that arose "with regard to its application or interpretation."

The drivers sued MCA for alleged Labor Code violations and asserted that MCA had misclassified them as independent contractors. The trial court granted MCA's request to compel arbitration, ordered individual arbitration, and denied class arbitration. The drivers appealed.

### Applicable Law

"California law, like federal law, favors enforcement of valid arbitration agreements." *Armendariz v. Foundation Health Psychcare Services*, 24 Cal. 4th 83, 97 (Cal. 2000). However, this preference extends only to those disputes the parties agree to arbitrate. *Engineers & Architects Assn. v. Community Dev. Dept.*, 30 Cal. App. 4th 644, 653 (Cal. Ct. App. 1994). In determining arbitrability, California courts will examine whether the parties agreed to arbitrate their dispute. If the contractual language is clear and explicit, it governs.

### Threshold Issue of Drivers' Employment Status

The appellate court explained that the drivers' misclassification claims fell outside the Agreements' arbitration provision because they did not concern the application or interpretation of the Agreements; rather, the drivers sought to enforce their rights under the Labor Code. The Court found that the statutory rights were "distinct" from the contractual rights under the Agreements and the "ultimate issue" was whether MCA satisfied the Labor Code's requirements. This determination would involve examining various factors, such as whether the worker was engaged in a distinct occupation or business, the skill required, whether the employer or the worker supplied the tools and place of work, whether the worker was paid by time or by job, and whether the work is a part of the employer's regular business. The Court ruled that this assessment was "extra-contractual." Further, although the Agreements stated that the drivers were independent contractors, the Court noted that the "label placed by the

parties on their relationship” was not dispositive. Accordingly, the Court concluded that the Agreements did not include the drivers’ misclassification claims and reversed the order compelling arbitration.

## Dissent

Justice Elizabeth A. Grimes dissented. She took issue with the majority’s narrow reading of the Agreements. Justice Grimes pointed out that arbitration clauses, such as the one at issue, have been interpreted consistently as applying to extra-contractual disputes. Further, she noted that the resolution of the drivers’ claims required a determination whether the Agreements set the drivers’ compensation, or whether the Labor Code controlled. Citing the U.S. Supreme Court’s *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (2011) (requiring enforcement of consumer arbitration agreements under Federal Arbitration Act despite presence of class action waivers in violation of California contract law), Justice Grimes also suggested that the majority opinion amounted to “a judicial rule barring arbitration of wage and hour claims under the Labor Code in any contract that purports to have been made with an independent contractor, even a contract affecting interstate commerce,” and thus ran afoul of the Federal Arbitration Act.

\*\*\*

*Elijahjuan* exemplifies California courts’ hostility toward enforcing arbitration agreements and reminds employers that they need to make clear that all claims regarding the parties’ relationship are covered by the arbitration agreement. Employers should consult with their legal counsel in drafting arbitration agreements to better assure their enforceability.

## practices

Alternative Dispute Resolution

---

## contact

Mark S. Askanas

jackson lewis llp © 2012