

## California Appellate Court Rules That California's Prevailing Wage Laws Do Not Apply to Off-Site Fabrication

[Robert R. Roginson](#) | September 19, 2014

On August 27, 2014, the California Court of Appeal issued its decision in the long-anticipated *Russ-Will* case, *Sheet Metal Workers' International Association, Local 104 v. Duncan; Russ Will Mechanical, Inc.*, Court of Appeal of the State of California, First Appellate District, Division Three, No. A131489 (August 27, 2014). The court held that the California prevailing wage law does not apply to employees who fabricate materials for a public works project at a permanent, offsite manufacturing facility that is not exclusively dedicated to the project. It is a published decision, which means it is binding upon the California trial courts, the California Department of Industrial Relations (DIR), and the Division of Labor Standards Enforcement.

In *Russ-Will*, the court conducted an exhaustive analysis of whether off-site fabrication was considered covered work and concluded that neither the statute nor the DIR's treatment of the topic supported a finding that it was covered work. As the court stated:

Offsite fabrication is not covered by the prevailing wage law if it takes place at a permanent, offsite manufacturing facility and the location and existence of that facility is determined wholly without regard to the particular public works project. Because the offsite fabrication at issue here was conducted at Russ Will's permanent offsite facility, and that facility's location and continuance in operation were determined wholly without regard to the project, the work was not done "in the execution" of the contract within the meaning of section 1772.

The *Russ-Will* decision is an extraordinarily important decision for any project owner, contractor, or supplier involved with public works construction in California. The decision brings to rest significant confusion and debate over whether the off-site fabrication of items to be used on a public works construction site is subject to California's prevailing wage and apprenticeship requirements. It is anticipated that the debate will now turn to the California legislature, where we expect the Building Trades unions and other worker advocates will introduce new legislation to expand the scope of the prevailing wage laws to off-site fabrication.

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**September 19, 2014 | TAGS: [apprenticeship](#), [Building Trades unions](#), [California](#), [California Department of Industrial Relations](#), [construction](#), [DIR](#), [Division of Labor Standards Enforcement](#), [DLSE](#), [Prevailing Wage Law](#), [public works project](#), [Russ Will Mechanical Inc.](#), [Sheet Metal Workers' International Association Local 104 v. Duncan](#).**

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