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/ Statement from Labor Commissioner Asaro-Angelo on the Supreme Court's Favorable Decision in East Bay Drywall, LLC v. Dept. of Labor and Workforce Development

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FOR IMMEDIATE RELEASE

August 2, 2022

TRENTON – "Today's decision from the New Jersey Supreme Court is a significant victory that validates the Murphy Administration's commitment to solidifying our laws as the gold standard of protecting workers against misclassification. With bipartisan legislative support, we are able to ensure every employee is properly classified and receives the benefits and protections they are due. This is not only a win for misclassified workers, but also for employers who play by the rules, and for legitimate independent contractors enjoying the benefits of self-employment.

It should now be abundantly clear that simply because an employer or business issues a 1099, asks the worker to form an LLC, instructs the employer to obtain insurance, or makes any other business arrangement on paper, the facts of the employment relationship and application of New Jersey's laws to those facts dictate whether a worker is considered an employee or an independent contractor.

As noted by the Court in its unanimous opinion:

'A business practice that requires workers to assume the appearance of an independent business entity -- a company in name only -- could give rise to an inference that such a practice was intended to obscure the employer's responsibility to remit its fund contributions as mandated by the State's employee protections statutes. That type of subterfuge is particularly damaging in the construction context, where workers may be less likely to be familiar with the public policy protections afforded by the ABC test and consequently particularly vulnerable to the manipulation of the laws intended to protect all employees. Such a business practice also undermines the public policy codified in the UCL.'

It was encouraging to see that the Court, in describing, 'the public policy protections afforded by the ABC test,' cited and provided a [link to the Report of Governor Murphy's Task Force on Employee Misclassification](#), because it further confirms the recommendations of this important task force.

The Department will assess whether any parts of today's ruling will necessitate changes to our processes, which we are continually striving to make more user-friendly."

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