

Yoga Vida NYC Wins- A Ray of Light in the Darkness of Independent Contractors?

The Background

On October 25, 2016, the Court of Appeals of New York delivered its opinion on *In the Matter of Yoga Vida NYC, Inc. v. Commissioner of Labor*. The Court overruled the Unemployment Insurance Appeal Board (the “Board”) that had affirmed the Commissioner of Labor’s decision that Yoga Vida’s teachers were employees. The Board had decided that Yoga Vida exercised enough control over the teachers’ work to justify a finding of an employment relationship.

The Court found that the Board’s decision that the teachers were employees was not based upon “substantial evidence.” The Court held that Yoga Vida’s teachers are not employees within the meaning of New York’s Unemployment Insurance Law.

Four reasons why this opinion is important

The Court’s opinion is important for several reasons. First, this is the first opinion of an appellate court I have seen that has considered the classification of teachers by a yoga studio. It is rare for a classification case to reach the appellate courts and even more rare for the case to involve a yoga studio. Most of these cases are resolved at the administrative level.

Second, the yoga studio won. Most studios lose their tax audits at the administrative level and pay the taxes and fines rather than appeal the decision to the court system.

Third, we have guidance from a New York appellate court on facts that support a finding of an independent contractor relationship. If a New York studio structures its relationship with its teachers the same way that Yoga Vida did, it can rely upon the Court’s opinion to argue that its teachers are independent contractors.

Fourth, the New York Department of Labor has been very hostile toward yoga studios classifying teachers as independent contractors. If we are fortunate, this opinion may cause a sea change in New York. The Department may decide to reduce its audits of yoga studios because it may feel that its chances of winning an audit have decreased.

It's precedent for New York only

Stare decisis is the doctrine of legal precedent. Courts rely upon stare decisis when the same case before them has been decided by another court. Courts will use the prior ruling as a guide on how they should rule. Generally, courts will respect the previous ruling and rule the same way. This is not always true because the facts between two cases are rarely the same.

This opinion is precedent only in New York. It will have little value outside of New York. If you are audited in another state and you cite the Yoga Vida case as precedent to support your position, a court will give it little, if any, weight.

However, if you are a New York yoga studio and you are audited, courts in New York will give this opinion a lot of weight.

How did Yoga Vida win?

Yoga Vida has two classes of teachers: “staff instructors” and “non-staff instructors.” The staff instructors are employees and the non-staff instructors are independent contractors. The Court found that Yoga Vida did not exercise control over the non-staff instructors and therefore, they were not employees.

Although the determination of whether a worker is an employee or an independent contractor is complicated, the basic test is whether the business exercises “control” over the worker. There are many federal and state tests to determine whether practices that regulate worker behavior constitute control. The more control the business has over the worker, the more likely the worker will be an employee. The less control it has over the worker, the more likely it will be an independent contractor.

In reaching its decision the Court found that Yoga Vida did not control the non-staff instructors because they:

1. made their own teaching schedules;
2. chose how they wished to be paid (i.e., hourly or on a percentage basis);
3. could teach anywhere they wished and market their classes at other studios to Yoga Vida students; and
4. were not required to attend any staff meetings or trainings.

The staff instructors, on the other hand, were subject to non-compete restrictions and were required to attend staff meetings and trainings. They were paid for teaching even if no students attended their classes.

The Court rejected the Board's finding that Yoga Vida controlled the non-staff instructors. The Court called these factors "incidental control" that did not show enough control to establish an employment relationship. These factors were that Yoga Vida:

1. inquired if the instructors had proper licenses to teach;
2. published the master schedule on its web site;
3. provided the studio space for the classes;
4. determined the fee to be charged and collected the fee directly from the students;
5. provided a substitute instructor if the non-staff instructor could not find a substitute; and
6. received feedback from the students.

The Court rejected these incidental factors as insufficient to constitute control and said the requirement that the work be done properly is required equally of an independent contractor and an employee.

Guidance for yoga studios in New York

If you are a yoga studio within New York and structure your relationships with your teachers the same way that Yoga Viya did and are audited, you now have legal precedent to strengthen your case. However, this case is not a silver bullet. If the facts of your case are materially different from those in the Yoga Vida case or if you are otherwise found to have exerted "control" over your teachers, you can still lose an audit.

Guidance for yoga studios outside of New York

The Yoga Vida case is not precedent if you are located outside New York and are audited. However, the federal and the state tests to determine control are similar. If you use the same structure as Yoga Vida, it will strengthen your case in general. I think it is a good practice to classify your teachers separately and to treat them differently the way Yoga Vida did. For those teachers whom you are classifying as independent contractors, you should exert as little control as possible over the way they perform their jobs. You want to build your best case so that, if you are audited, you are in a strong position to settle on favorable terms or to win.

Resources

Gary Kissiah's Website
<http://garykissiah.com/>

Light on Law-A Guide to Independent Contractors for Yoga Studios and Wellness Businesses
<http://garykissiah.com/light-on-law-independent-contractors-and-employees/>

Light on Law Newsletter
<http://garykissiah.com/light-on-law-newsletter/>