



Construction Law: An attorney discusses independent contractors versus employees - by C. Jaye Berger

December 04, 2018 - Front Section

We all know about hiring construction companies to perform work in buildings and what is involved with negotiating contracts for such projects. Among other things, before any work commences, there must be insurance certificates provided by the contractor naming the building owners and managing agents as additional insureds and contract provisions agreeing to indemnify the owner for any liability for negligence. However, there is another category of tradespeople who are often left out of the negotiations. They are the bread and butter people who help building owners with handiwork work, such as painting and small renovation projects, for a few hours here and there. They are not set up as independent contractors with their own corporations and insurance, but they are also not technically employees. They can easily fall between the cracks and their status is often not noticed until there is an accident and one of them is injured and tries to apply for workers compensation.

Building owners must be conscientious about knowing who these tradespeople are, whether they are insured or not and what other arrangements can be made. It is too easy to turn a blind eye and say, "Oh, he has been helping me here and there for 20 years." It only takes one uninsured accident to open your eyes to the problem.

Sometimes they are moonlighting and work with established companies which may not know they are working on such outside projects. More often than not, they are just taking their chances on not being injured. The building owners are also rolling the dice on their not being injured. Either the building owners have to employ them as part-time employees and provide the requisite insurance or require that they become employed by other companies so that they fall under that company's insurance.

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