Mass High Court Rules Out-of-State Contractors Subject to MA Wage Laws

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In *Taylor, et al. v. Eastern Connection Operating, Inc.*, the Supreme Judicial Court (SJC) ruled that workers of a Massachusetts-based company, who lived and performed services in New York, enjoyed the protections of the Massachusetts independent contractor and wage laws. These laws typically do not have "extraterritorial effect," meaning that they do not apply to workers who live and perform services outside the Commonwealth. However, in this case, the SJC ruled that the laws applied extraterritorially because the parties' independent contractor agreement provided that Massachusetts law would govern any legal controversy that arose between the parties.

Legal Issue:

Whether the parties' express choice of Massachusetts law means that the plaintiffs enjoyed the protection of the Massachusetts independent contractor law and wage statutes, even though the plaintiffs neither lived, nor performed services in Massachusetts?

Ruling:

The SJC ruled that the lower court should not have dismissed the plaintiffs' complaint because the defendant-company wrote an agreement providing for the application of Massachusetts law. Where the parties to a contract agree to adopt the law of a particular jurisdiction, Massachusetts courts will uphold such a choice where, as here (i) Massachusetts had a *logical connection* to the parties because the company was based in the state, and; (ii) the *application of Massachusetts law was not contrary to a fundamental public policy* of the state where the plaintiffs lived and worked (New York).

Background:

The defendant, Eastern Connection Operating, Inc., (ECO) is a package delivery company located in Woburn, MA. The plaintiffs lived, and worked as couriers for ECO, in New York. Each plaintiff entered into an identical independent contractor agreement with ECO providing that

This Contract and all rights and obligations of the parties shall be construed in accordance with the laws where [ECO] is headquartered and any action shall be commenced in that jurisdiction.

In 2010, the plaintiffs filed suit alleging that ECO had misclassified them as independent contractors rather than as employees, in violation of G. L. c. 149, § 148B, the Massachusetts independent contractor statute. They also alleged that ECO failed to pay them wages and overtime in violation of G. L. c. 149, § 148, the Massachusetts wage

statute, and G. L. c. 151, § 1A, the Massachusetts overtime statute (collectively, the Massachusetts wage statutes).

ECO moved to dismiss the complaint on the basis that the Massachusetts independent contractor statute does not apply to non-Massachusetts residents working outside the state. From that argument, ECO also argued that because the plaintiffs were independent contractors, they were not entitled to the protection of the Massachusetts wage statutes, since those statutes apply only to employees. The judge agreed with ECO and dismissed the plaintiffs' claims.

On appeal, the plaintiffs argued that the choice-of-law clause in the contract required the application of Massachusetts law.

Analysis of the Ruling:

ECO argued that even though its independent contractor agreement provided that Massachusetts law would govern any legal controversy, such a provision could not imbue the wage statute with extraterritorial effect it otherwise lacked. The SJC disagreed. It held that where, as here, the parties expressed a specific intent as to the governing law, Massachusetts courts would uphold the parties' choice except when (i) the chosen state has *no substantial relationship to the parties* and there is no other reasonable basis for the parties' choice, or (ii) application of the law of the chosen state would *be contrary to a fundamental public policy* of a state which has a materially greater interest.

Here, ECO drafted the parties' contract and chose Massachusetts law to govern any legal dispute. Neither of the two exceptions to the "choice of law" principles applied. First, Massachusetts certainly had a "substantial relationship" to the parties: it is the state where ECO is located. Second, there is nothing in the Massachusetts independent contractor law that is contrary to a fundamental public policy of New York. Said another way, under both Massachusetts and New York law, a purported independent contractor who does not enjoy sufficient independence from the hiring party is deemed an employee. Although the Massachusetts independent contractor statute features a more expansive definition of "employee" than the New York common-law test, such a distinction is insufficient to show that Massachusetts' law is repugnant to a fundamental public policy of New York.

Finally, the SJC ruled that because the Massachusetts independent contractor statute applied to the plaintiffs' misclassification claim, the lower court should not have dismissed the corresponding overtime and minimum wage claims.

Takeaways:

A number of Massachusetts courts have ruled that the Commonwealth's wage statutes – amongst the most employee-friendly in the country – do not apply to individuals that neither live nor perform services in the state. However, this general premise will not apply if an employer has drafted a contract or employment policy that provides for the

application of Massachusetts law. Employers should ensure that they have not inadvertently drafted contracts or policies that provide for the application of Massachusetts law to employees who neither live nor work in the state.