

Reality, Not Possibility: The Eleventh Circuit Warns Employers About Labels in Independent Contractor Misclassification Analyses



Client Alert

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On October 16, 2025, the federal Eleventh Circuit Court of Appeals reversed and remanded the United District Court for the Southern District of Alabama’s decision to grant an employer’s motion for summary judgment in a matter involving alleged independent contractor misclassification and overtime back wages under the Fair Labor Standards Act (FLSA). In this decision, the Eleventh Circuit held that the relationship between a worker and alleged employer is not determined by a label the parties use or “how one could have acted under the contract;” rather, courts must analyze how the parties behaved.

Galarza v. One Call Claims, LLC, No. 23-13205 (11th Cir. Oct. 16, 2025) involved three contracted adjusters who commenced an action against outsourcing company One Call Claims (OCC) and wind and hail insurer Texas Windstorm Insurance Association (TWIA), along with two individual owners, seeking overtime pay under the FLSA as employees. The defendant companies had a service agreement under which OCC would provide contracted adjusters (and not employees) to TWIA to investigate insurance claims. However, the adjusters, while considered

independent contractors by OCC and TWIA, were subject to restrictions in their engagement. For example, the adjusters were assigned to work with TWIA indefinitely and their service contracts prohibited them from inducing (or attempting to induce) any customer or entity to cease doing business with OCC. The adjusters' hours and training were also strictly regimented by TWIA, even after the adjusters transitioned into remote roles. Ultimately, given these facts, the Eleventh Circuit concluded that various factors indicated that these adjusters had no control over their work, pay, or hours, and thus a jury could conclude that they were economically dependent on the defendant companies.

In reaching their conclusion, and in a very detailed opinion, the Eleventh Circuit applied its six-factor economic reality test articulated in 2013 in *Scantland v. Jeffrey Knight, Inc.*, 721 F.3d 1308 (11th Cir. 2013). To determine whether a worker qualifies as an employee and is entitled to certain protections under the FLSA, the Court assesses the "economic reality" of the relationship and whether the work is economically dependent on the alleged employer under the "totality of the circumstances." The factors analyzed include:

- **Control:** The nature and degree of the alleged employer's control as to the manner in which the work is to be performed. The alleged employer's control must be significant to support employee status, and control is significant if it reveals that the alleged employee does not stand as a "separate economic entity" who is "in business for [itself]."
- **Opportunity for Profit or Loss:** The alleged employee's opportunity for profit or loss depending upon his/her managerial skill and efficiency. The key element of this factor is the source of the opportunity.
- **Investment in Equipment or Materials:** The alleged employee's investment in equipment or materials required for the task, or employment of workers. An analysis may include whether the alleged employee had the ability to employ others or have resources to invest heavily into equipment owned by the alleged employee.
- **Special Skill:** The service rendered requiring special skills, training, or license.
- **Permanency and Duration:** The length of the term and exclusivity of the working relationship.
- **Integral Part of Alleged Employer's Business:** The extent to which the service rendered is an integral part of the alleged employer's business.

No one factor dominates the Court's analysis of worker classification, but the Court viewed the presented facts in a light most favorable to the party opposing the motion for summary judgment—in this case, the workers. The bottom-line inquiry of courts in the Eleventh Circuit into employee status is whether the workers acted more like employees depending on an employer than independent contractors with their own businesses. The Eleventh Circuit cares more about the reality of the relationship, and not its possibility. Ultimately, the Eleventh Circuit in *Galarza* analyzed each of the above factors in significant detail and, determining the issue in the light most favorable to the workers opposing summary judgment, remanded the case to the District Court. Such a remand generally means that the parties, absent settlement, will try the disputed issues of fact before a jury.

Recent trends demonstrate that state agencies also remain concerned with contractor misclassification by employers. A similar misclassification decision was rendered on October 30, 2025, by the California Labor Commissioner's Office (LCO) against Costco Wholesale Corporation and logistic entities concerning truck delivery drivers. The LCO fined the companies \$868,128 (of which \$662,978 was payable to the truck drivers) and found that the companies exercised both direct and indirect control over the delivery drivers, i.e., scheduling deliveries, mandating uniforms, enforcing protocols, and monitoring driver performance. These delivery drivers continued to receive flat daily rates without compensation for overtime and meal breaks, even after being reclassified as employees in 2023.

Employers must be cognizant of worker misclassification issues. Simply labeling a worker as an independent contractor to reap financial benefits does not preclude substantial damages and penalties. Employers must conservatively evaluate the *reality* of work performed by their workers and cannot rely on the *possibility* that a label of “independent contractor” alone will reduce exposure.

If you have any questions about independent contractors and misclassification risks related to the FLSA or applicable state law, please contact a member of our [Employment Practice Team](#).

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