

## Employment Alert

Jan-29-2010

### Illinois DOL Takes Aggressive Steps On Independent Contractor Issue

When the Illinois Employee Classification Act (ECA) became law on January 1, 2008, it was heralded by labor unions as a significant blow to construction companies who sought to defeat union organizing campaigns and evade obligations under Illinois workers compensation and unemployment insurance laws by misclassifying workers as independent contractors. Essentially, the ECA provides that individuals performing services for construction contractors are presumed to be employees of the contractor **unless** they meet the stringent criteria specified in the ECA. The ECA further provides that if a contractor has misclassified individuals as independent contractors, the Illinois Department of Labor (IDOL) may assess civil penalties and notify the state Department of Employment Security, the Department of Revenue and the Workers' Compensation Commission, all of whom are charged with enforcing contractor compliance with their laws.

Recently, the IDOL has demonstrated how powerful a tool the ECA can be when it issued a record civil penalty of \$328,500 against a Chicago-area contractor accused of misclassifying workers as independent contractors. What is just as noteworthy is that organized labor "assisted" the IDOL in this enforcement action. Jim Allen, President of the Bricklayers and Allied Craftworkers Local 21, specifically stated that the fined contractor "was on our hit list."

Needless to say, if the zeal of the joint union-IDOL enforcement efforts continues, any construction company that uses independent contractors, subcontractors, outside vendors, casual labor, or any kind of "non-employees" in the state of Illinois should evaluate potential exposure under the ECA. For more information, or to discuss whether the ECA might apply to your company, please contact Joe Tilson or any other MBT labor and employment lawyer at (312) 474-7900.

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