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## IS YOUR INDEPENDENT CONTRACTOR AN EMPLOYEE?

The gig economy is full of freelancers or independent contractors who provide their services to a company or that company's client. These workers are often online platform workers, on-call workers, or contract firm workers. They most likely work out of their home.

If your insured thinks they are hiring an independent contractor, they may want to verify if that is true. Currently, there are five factors used by the DOL to determine if they are an independent contractor or an employee. Out of that, two factors have the most weight. These two factors can be confusing, so that is why President Joe Biden recommends using the CA ABC Test as the standard.

The CA ABC Test was designed to make it easier to ensure these individuals are not misclassified and have workplace rights and protections if they are entitled to them. **By using this test, a worker is an “employee” unless the below criteria apply to them:**

1

The employer does not control their work nor give them direction. They are also not controlled by the employer.

2

The type of work they do is not something that the employer does within their own business.

3

The work is done by someone who has their own business doing the work that they do.

Currently, over 30% of the workforce are independent contractors. If your insureds are using independent contractors and classifying them incorrectly, they may not be covered in their EPL policy. Independent contractors are generally not covered in most EPL policies. Your insured will need to make sure they are included either in the base policy or added by endorsement. Play it safe, and make sure your independent contractors are covered!

**Reach out to one of our brokers for help with your Employment Practices Liability needs!**

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