

# Worker Classification Tests — One Is Never Enough: *Troyer v. T.John.E Productions*

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Classifying a worker as either an independent contractor or an employee is an important distinction. Taxes, pay, benefits, and whether the worker is protected by the Fair Labor Standards Act (“FLSA”) are all dependent on the classification a worker receives. Generally, independent contractors are owed fewer obligations than employees and, thus, the independent contractor label is often favored. However, misclassification may result in legal action and the possibility of significant consequences (see a post on the consequences [here](#)). Making the distinction is not always easy and usually requires a fact-specific analysis. Sometimes, workers may even be evaluated under different standards, depending on which government agency or type of action is involved. Case in point: *Troyer v. T.John.E Productions, Inc.*, from the U.S. District Court for the Western District of Michigan.<sup>[1]</sup>

The *Troyer* case involved a group of plaintiffs, led by Casey Troyer, who sought compensation from their former employers, T.John.E Productions, Inc., Think Fast Inc., X-Treme Entertainment, and certain operating members (herein “Defendants”). The defendants ran a business which created and booked an assortment of variety acts and game-show like productions for college markets. Plaintiffs alleged they were owed overtime pay and benefits under the FLSA. The FLSA’s protections are only afforded to workers who are “employees” – meaning that the plaintiffs’ classification was critical to their case.

During trial, plaintiffs introduced a very interesting piece of evidence: T.John.E’s SS-8 determination letters from the IRS, wherein the IRS determined that the plaintiffs were, in fact, “employees” under the 20-factor IRS guidelines and should be classified as such.

The IRS classifies workers to determine whether an employer must withhold taxes from the worker’s salary, and make certain contributions on a worker’s behalf. So, if the IRS already ruled that plaintiffs were employees, shouldn’t this be a clear win for them in the court action? The answer may surprise you; check back on Wednesday for the court’s ruling.

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<sup>[1]</sup> Case No. 1:09-CV-00821

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National Law Review, Volume III, Number 161

Source URL: <https://natlawreview.com/article/worker-classification-tests-one-never-enough-troyer-v-tjohne-productions>