

Massachusetts High Court Rules That Franchisees Are Independent Contractors

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In a win for businesses, the Massachusetts Supreme Judicial Court (“SJC”) has ruled that individuals in true franchisor-franchisee relationships are independent contractors.

In [Patel v. 7-Eleven, Inc.](#), the SJC found that defendant franchisor 7-Eleven, Inc. (“7-Eleven”) did not misclassify certain franchisees in violation of the Commonwealth’s independent contractor statute, [M.G.L. c. 149, § 148B](#), which presumptively considers an individual “performing any service” for a putative employer to be an employee of said putative employer, rather than an independent contractor, unless: (1) the individual is free from control and direction in connection with the performance of the service; (2) the service is performed outside the usual course of the business of the employer; and (3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature at that involved in the service performed.

In a long saga to determine whether 7-Eleven properly classified certain franchisees as independent contractors, the United States Court of Appeals for the First Circuit (“First Circuit”) certified two questions to the SJC. On the first question back in 2022, the SJC [ruled](#) that where a franchisee is an “individual performing any service” for a franchisor, the independent contractor statute applies to the relationship between the franchisor and the franchisee. The decision here involved a second question that the First Circuit certified to the SJC related to the threshold determination of the independent contractor statute:

Do the plaintiffs perform any service for 7-Eleven within the meaning of the independent contractor statute, where, as here, they perform various contractual obligations under the Franchise Agreement and 7-Eleven receives a percentage of the franchise’s gross profits?

The SJC answered the certified question “no,” first turning to a few guiding principles that have emerged from applicable case law to inform its analysis:

- The label—such as “franchisee”—used by the parties to characterize their relationship does not govern the threshold determination.
- The threshold determination does not center on the services the putative employer might

provide to the individual, such as training, procedures, equipment, or an initial customer base.

- The threshold determination is not satisfied simply because a putative employer derives revenue from the sales of its products or services to the individual who is claiming to be an employee.
- “Performing any service” requires labor performed in the interest or under the direction of the putative employer, whether paid or unpaid.

The SJC then turned to the relationship between 7-Eleven and the franchisees, in which franchisees must operate their stores in compliance with obligations that maintain and enhance the value of 7-Eleven’s business format franchise. Finding that the franchisees were not performing any services for 7-Eleven by complying with certain contractual obligations, the SJC concluded that the parties’ relationship did not satisfy the threshold determination. In so doing, the SJC noted that if the franchisees’ obligations were considered “performing any service,” all typical franchise relationships would be presumptive employment relationships, resulting in an unreasonable construction of the independent contractor statute. Rejecting such a construction, the SJC reasoned:

Such a sweeping classification of independent owners of franchises as presumptive employees of their franchisors does not further the main object to be accomplished of the independent contractor statute: to protect workers by classifying them as employees, and thereby grant them the benefits and rights of employment, where the circumstances indicate that they are, in fact, employees.

This is a positive decision not just for franchisors, but for all businesses, as it adds to sparse case law and guidance around the independent contractor law’s threshold question of what it means to perform a service for an employer, and further acknowledges that “there are legitimate independent contractors and business-to-business relationships in the Commonwealth” and that such relationships “are important to the economic wellbeing of the Commonwealth and, provided that they are legitimate and fulfill their legal requirements, they will not be adversely impacted by enforcement of the independent contractor statute.”

Employers, however, should be aware that Massachusetts has one of the most onerous independent contractor laws in the country, and the Massachusetts Attorney General’s Office has aggressively investigated and enforced compliance with the law in recent years. Thus, employers should always proceed with caution and consult with counsel to ensure they properly classify their workforce.

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