Published on *The National Law Review* https://natlawreview.com

When Are Law Firm Partners Not Partners?

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The issue of who is a “partner” and thus not an employee continues to vex professional firms. Layers, doctors, dentists and other professionals often consider themselves non-employees, at least until they suffer an adverse workplace decision. Then, they may choose to describe their situation as employees, not non-employee owners. The distinction between employee and “partner” or owner status is a factual one.

A Court recently directed that limited discovery be conducted to explore where the line should be drawn for claims under Title VII and FLSA protection. Campbell v. Chadbourne & Parke LLP, 16-cv-6832 (Oetken, J.). Finding that titles are not determinative of “employee” status, the parties were directed to conduct limited discovery as to the long established “Clackamas” factors including:

- whether the firm can “hire or fire the individual or set the rules and regulations of the individual’s work,”
- whether the individual reports to someone “higher” in the firm,
- whether the individual “is able to influence” the firm, and
- whether “the individual shares in the profits, losses, and liabilities” of the firm.

National Law Review, Volume VII, Number 198