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Seyfarth Shaw Secures Summary Judgment in Worker Misclassification Case

Independent contractor misclassification cases are one of the hottest areas of wage and hour law right now

SAN FRANCISCO (January 23, 2011) – Seyfarth Shaw, one of America’s leading law firms, announced today that a team of Labor & Employment attorneys secured summary judgment in the high-profile case of *Arnold v. Mutual of Omaha*, a putative class action in Contra Costa County brought by a former Mutual insurance agent.

In her Order, State Superior Court Judge Cheryl Mills agreed that Mutual presented overwhelming evidence that the plaintiff was an independent contractor, and as such, could not bring claims under California Labor Code sections 2802 (business expenses) or 203 (late payment of wages at termination), as those code sections apply only to employees.

According to Judge Mills, the causes of action alleged in the complaint all depended upon the plaintiff being an employee, rather than an independent contractor. Given that there is no statutory definition of “employee” for the purposes of California Labor Code Section 2802, the court relied instead on a common law test. The court found that when applying the common law test to the facts of the case, the court was persuaded that the plaintiff was an independent contractor and not an employee of the company.

“This is a major victory for our client and California employers in general who face mounting lawsuits over worker misclassification issues,” said Seyfarth partner Francis “Tripper” Ortman.

Ortman was assisted on the case by New York partner Christie Del Rey-Cone and associate Robb McFadden.

Seyfarth Shaw has over 750 attorneys located in 10 offices throughout the United States, including: Atlanta, Boston, Chicago, Houston, Los Angeles, New York, Sacramento, San Francisco, and Washington D.C., as well as internationally in Brussels, Belgium. Seyfarth Shaw provides a broad range of legal services in the areas of labor and employment, employee benefits, litigation, corporate, and real estate. The firm’s practice reflects virtually every industry and segment of the country’s business and social fabric. Clients include over 300 of the *Fortune* 500 companies, financial institutions, newspapers and other media, hotels, health care organizations, airlines and railroads. The firm also represents a number of federal, state and local governmental and educational entities. For more information, please visit www.seyfarth.com.

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