

# Martin Law Helps Clarify Independent Contractor Law In Pennsylvania



judge hammer and worker  
helmet

In Pennsylvania, employees can receive workers' compensation benefits, while independent contractors typically cannot. While this seems like a straightforward issue, in reality it is one of the most complicated areas of workers' comp law. A recent case handled by Martin Law shows just how complex this area of the law can be and how something as simple as timing can impact eligibility for workers' comp benefits.

---

## The Injury

A worker with 20 years of painting and roofing experience responded to an advertisement requesting the services of a painter. The employer who placed the ad met with the worker and offered to pay him \$100 a day for his work. Shortly thereafter, the worker showed up at the employer's job site. He brought his own tools, but the employer provided everything else (ladders, etc.).

On his third day on the job, the worker slipped off the roof and hit his head on the sidewalk below. He was taken to the hospital and discharged later that day. He underwent surgery on his right knee and left ankle later that month. A few months after his surgery, the worker filed a claim for workers' comp benefits.

The lasting effects of the injuries were extensive; almost two years later, an independent medical examination revealed that the worker was able to return to only light duty work.

## **Was The Worker An Independent Contractor?**

The critical question in this case was whether the worker was an independent contractor or an employee.

The Pennsylvania Workers' Compensation Act lists a variety of factors that must be present for a worker to be classified as an independent contractor instead of an employee. One of the most crucial provisions requires that a worker have a written contract for the services he or she was hired to perform.

In this situation, there was a written contract, but the case hinged on *when that contract was signed and when it went into effect*. While an employer would typically have a worker sign an independent contractor agreement before starting a job, the worker in this case was not asked to sign such an agreement until after he was injured. Once he was released from the hospital, he went to retrieve his tools and obtain payment for his services. At that time, the employer asked him to sign an independent contractor agreement, and he did so.

Because this written, signed contract did not exist at any point during the time the worker was providing services to the employer, he could not be considered an independent contractor.

# The Result

The Commonwealth Court affirmed previous decisions that said the worker was an employee, not an independent contractor. This meant that the man had rightfully received benefits for his on-the-job injury.

The court made it clear that the worker signing the agreement *after* his injury did not limit his eligibility for workers' comp benefits, because it did not modify his employment status *at the time of the injury*.

## Martin Law's Involvement In The Case

Martin Law partner John Dogum was the attorney for the employee in this case. Regarding the case, Dogum said:

"I applaud the Legislature and the legislation it put in place to protect workers in difficult situations such as this. When the law is followed, employers who properly classify their workers for various payroll taxes and workers' compensation premiums benefit from the legislation as much as injured workers.

"In addition to the fact that the employer did not satisfy any element of the Misclassification Act (as noted in the concurring opinion), any finding of a valid contract applicable to this injury would have been against public policy. [The worker] was presented with the so-called independent contractor agreement in one hand and pay in the other at a time of duress *after* he was released from the hospital, and allowing such a contract to have any bearing on the injury would be against the public's interest.

"Sadly, situations such as the one in this case occur far too frequently. Unscrupulous contractors still utilize

‘independent contractors’ in construction without meeting the elements of the Misclassification Act – often with undocumented workers who are fearful of stepping forward. This not only results in a lack of or substandard medical care (as well as lost wages) for workers, but also results in lost premiums for the insurance industry, uncollectible medical expenses and lost payroll taxes.”

---

To learn more about this topic, read our main independent contractor page.