

# Hypothetical Scenario For Independent Contractor Vs Employee Classification – California



TP&J is a nationwide janitorial service with a roster of over 300 janitors available day or night to meet the needs of TP&J's corporate VIP customers. TP&J recently signed on a new VIP customer in Southern California who is willing to pay TP&J top dollar for its janitorial service so long as it hires the customer's nephew, Aaron, as a favor. Aaron has zero experience doing janitorial work plus he is lazy and rude. TP&J wants to please its new VIP customer so it reluctantly agrees to bring Aaron aboard as an independent contractor. TP&J assigns Aaron to one of the company's best janitors to learn the ins and outs of the janitorial business. As Aaron gets more comfortable with his janitorial duties, TP&J allows him to go out on cleaning jobs all on his own. However, TP&J provides Aaron with a detailed list of duties that he must complete on each assignment and the company also requires Aaron to routinely check-in with a TP&J supervisor about his progress while at the different customer sites. One day, TP&J received a call from the Labor Commissioner's Office asking if Aaron is an independent contractor or an employee. TP&J is concerned that it may have misclassified Aaron as an independent contractor and asks an employment attorney for help.

*Aaron is misclassified as an independent contractor. Aaron is subject to the control and direction of TP&J when it comes to the performance of his job duties as a janitor for TP&J's VIP customers. Aaron does not have his own business. His job with TP&J is the first job he ever had. TP&J's classification of Aaron as an independent contractor does not satisfy California's ABC test and, therefore, Aaron must be hired as an employee.*