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.