Hypothetical Scenario For Independent Contractor Vs Employee Classification – Federal



Allie is a small business owner and is opening her first bakery. Allie plans to hire three employees: a cashier and two bakers. Allie also needs someone to clean up the bake shop after hours, but she cannot afford to hire another employee and she doesn't want to invest in any cleaning equipment. Allie wants to enter into an arrangement with her friend, Freddie, who owns a cleaning service, where Freddie agrees to clean the bakery for a flat fee each week. Freddie agrees to the arrangement so long as he can set his own hours to clean the bakery because he provides cleaning services to several other businesses around town so he needs to be able to manage his own time and scope of work. Allie does not want to get in trouble with the Department of Labor so she asks her local attorney if Freddie can be properly classified as an independent contractor and, if so, whether the attorney can draft an independent contractor agreement for her.

Freddie can be classified as an independent contractor under federal law. His cleaning service is not an integral part of Allie's core business, which is that of a bakery. In addition, Freddie likely has his own equipment and materials necessary to carry out the cleaning work and he maintains primary control over the work that he performs and the timing of when it is performed. Finally, Freddie has several other customers that he provides his cleaning services to and is not otherwise exclusively dependent upon Allie's business.