

Lowe's Settles Independent Contractor Misclassification Case

Working Together

07.02.2014

By Jonathan Orleans

Buying something at Lowe's? Need help putting it where it belongs, hooking it up, making it work? "Get it installed by a Lowe's professional," Lowe's advertises.

Over 4000 such "Lowe's professionals" in California are members of the plaintiff class in an action alleging that Lowe's misclassified its installers as independent contractors, rather than employees, thus depriving them of a variety of employee benefits, from workers compensation insurance coverage to 401(k) plan participation.

Without admitting liability, Lowe's recently settled the case after mediation for a sum that could be as much as \$6.5 million, depending on how many of the installers actually file claims and what damages they can prove (and assuming the proposed settlement is approved by the court). Plaintiffs' attorneys fees may be up to 25% of that amount.

The plaintiffs claimed that Lowe's retained and exercised control over their work by requiring them to identify themselves as working for Lowe's, wear Lowe's hats and shirts, and attend training by Lowe's. Lowe's also designated the customers plaintiffs would serve, and the customers paid Lowe's directly. According to plaintiffs, Lowe's "directed" and oversaw their work.

Lowe's is a very large company, and most employer's don't require a workforce of "installers" or anything similar. But the lesson here is (once again) that misclassifying employees as independent contractors can be extremely expensive. Every business that uses contractors would be wise to take a close look at whether it is exposed to misclassification claims.

(Thanks to the Independent Contractor Compliance and Misclassification Legal Blog for making us aware of this case.)

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