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# california supreme court's independent contractor ruling only applies to claims brought under california wage orders

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MSK Client Alert

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Recently, in *Garcia v. Border Transportation Group, LLC*, the California Court of Appeals weighed in on the scope of the California Supreme Court's April 2018 ruling in *Dynamex Operations West, Inc. v. Superior Court*. In *Dynamex*, the Supreme Court adopted a new standard for determining whether a California worker is an employee or independent contractor under the California Industrial Welfare Commission's ("IWC") wage orders. This new standard, called the "ABC test" holds that a worker is properly considered an independent contractor to whom a wage order does not apply only if the hiring entity establishes: (A) that the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact; (B) that the worker performs work that is outside the usual course of the hiring entity's business; and (C) that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

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