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Workers' Compensation Legal Update

Classification of Independent Contractors and Employees

- In the realm of Workers' Compensation, the current test to determine whether a worker is an "independent contractor" or an "employee" is a multi-factorial analysis that was established in 1989 (*Borello*), and remains in place today – *Dynamex* did not overturn this standard.
- Differing case law potentially allows a worker to be classified as a contractor for purposes of a wage order claim, while simultaneously being an employee who needs to be covered by workers' compensation.
- Commentators have observed the impracticality of operating under two different employment tests.
- Practice tip: Enter into a written contract.

X-Mods and Medical-Only Exclusion

- The WCIRB will no longer count the first \$250 of the cost of a claim against an employer's experience modification for 2019.
- Purpose: To encourage employers to report all claims, including those which only require basic first aid.

Jason J. Doshi is a senior counsel in the San Diego office of Manning & Kass, where he practices in the firm's Workers' Compensation Team. He has been named a 2015–2017 Rising Star, a distinction awarded to no more than 2.5 percent of the attorneys in a state.

Mr. Doshi received his BA in economics and English from the University of North Carolina at Chapel Hill in 2005, and his JD from the California Western School of Law in 2008. During law school and shortly after, he worked as a law clerk and an associate attorney for full service law firm in San Diego where he assisted small and mid-sized business owners with their litigation and transactional needs.

Prior to joining the firm, Mr. Doshi worked as an in-house counsel for Liberty Mutual Insurance Company in both workers' compensation and civil liability.

Mr. Doshi is admitted to the California State Court, the United States District Courts, and the Southern District of California and is a member of the San Diego County Bar Association and the San Diego Defense Lawyers.

Mr. Doshi is fluent in Spanish and Gujarati, and is highly proficient in French.