CONTINGENT WORKERS: LEGAL ISSUES INVOLVING INDEPENDENT CONTRACTORS, TEMPORARY AND LEASED EMPLOYEES (WASHINGTON)

This keynote outlines the risks and benefits of utilizing independent contractors, temporary and leased employees, sets forth the factors that must be considered to ensure that individuals providing services to an organization are properly designated and addresses potential liability under numerous federal and state laws construing the employment relationship. The status of employees has been the subject of much interpretation by the courts, which generally favor a finding of employment status. The factors or “tests” used to analyze employment status have also evolved in recent years; they are typically construed in favor of employee status. Employers should enlist the assistance of legal counsel to examine each case individually. Merely executing an “independent contractor agreement” or designating a worker as a non-employee is not sufficient; factors such as the worker’s duties, degree of supervision and income dependence must be analyzed in order to make a reliable determination.

INDEPENDENT CONTRACTORS

An independent contractor is a third party hired to accomplish a specific task, where the hiring company retains only the right to determine the end result and relinquishes the right to dictate the means of achieving that result. The benefits of an independent contractor relationship to an organization include:

- Independent contractor is not subject to most employment-related laws and regulations.
- Hiring company does not have to pay income withholding, social security (FICA) taxes, industrial insurance (in most cases), or unemployment compensation premiums.
- Hiring company avoids administrative costs associated with payroll and personnel functions, including overtime savings and potential savings under general liability insurance coverage.
- Hiring company avoids cost of fringe benefits, e.g., vacations, holidays, sick leave, medical...
- In most circumstances, there is no liability for negligence of independent contractors because the hiring company has no right of control over the work performed.

The disadvantages of the independent contractor relationship include:

- Employer loses right to control the work process of the contractor and methods employed.
- Employer must bargain with the independent contractor over changes – no unilateral decisions.
- Terms and conditions of the relationship generally defined in a contract signed by both parties.
- Employer exposed to civil suit for workplace injuries; no limited liability.

Employer practices establishing that an independent contractor is actually an employee subjects the employer to litigation (individual and class action) and administrative action and liability for back pay, liquidated (double) damages and attorney’s fees.

LAWS RELATING TO INDEPENDENT CONTRACTORS

State and federal laws distinguish between independent contractors and employees and use varying tests, including the “economic realities” test and the “right of control test,” discussed below.
considering whether to hire or classify a worker as an “employee” or an “independent contractor,” it’s important to look at the test that provides the broadest definition of employee, and the narrowest definition of independent contractor, to determine whether you can lawfully classify a worker as an independent contractor. Though some agencies focus on the degree of control the employer may have over the “contractor,” the broadest test (and, therefore, the one that employers should consider first) is the “economic realities” test applied in the context of the Fair Labor Standards Act and Washington Minimum Wage Act.

THE “ECONOMIC REALITIES” TEST

Under the **Fair Labor Standards Act** and **Washington Minimum Wage Act**, non-exempt employees must be paid the minimum wage and overtime for hours worked over 40 in a work week. An independent contractor will be considered an “employee” entitled to minimum wage and overtime if as a matter of **economic reality**, the contractor is dependent on the business he/she serves.

The economic realities test is the standard used in Washington to determine whether workers are independent contractors or employees. It includes elements of the “right of control” test discussed below. The Washington Supreme Court has expressly stated that more workers will be considered employees under the economic realities standard.

In **Anfinson v. FedEx Ground Package Sys., Inc.**, No. 85949-3 (Wash. July 19, 2012), the Washington Supreme Court identified six factors to consider in determining whether workers are independent contractors or employees and confirmed that the economic realities test is the proper standard under Washington law. The Washington Supreme Court set forth six factors for the “economic realities” test:

1. The permanence of the working relationship between the parties;
2. The degree of skill the work entails;
3. The extent of the worker’s investment in equipment or materials;
4. The worker’s opportunity for profit or loss;
5. The degree of the alleged employer’s control over the worker; and
6. Whether the service rendered by the worker is an integral part of the alleged employer’s business.

In 2013, in **Becerra v. Expert Janitorial, LLC & Fred Meyer** (Wash. Ct. App. 2013), the Court of Appeals for the State of Washington First Division set forth a more extensive list - 13 factors - to be used to determine whether an individual is an independent contractor or employee.

The **Becerra** Court examined the following factors to determine whether a janitorial company and Fred Meyer were joint employers of custodial workers despite a written independent contractor agreement between the companies, stating that the “determination of whether an employer-employee relationship exists does not depend on ‘isolated factors’ but rather upon the circumstances of the whole activity.”

1. The nature and degree of control of the workers;
2. The degree of supervision, direct or indirect, of the work;
3. The power to determine the pay rates or the methods of payment of the workers;
4. The right, directly or indirectly, to hire, fire, or modify the employment conditions of the workers;
5. Preparation of payroll and the payment of wages;
6. Whether the work was a specialty job on the production line;
7. Whether responsibility between a labor contractor and an employer pass from one labor contractor to another without material changes;

8. Whether the premises and equipment of the employer are used for the work;

9. Whether the employees had a business organization that could or did shift as a unit from one worksite to another;

10. Whether the work was piecework as opposed to work that required initiative, judgment or foresight;

11. Whether the employee had an opportunity for profit or loss depending upon the employee’s managerial skill;

12. Whether there was permanence in the working relationship; and

13. Whether the service rendered is an integral part of the alleged employer’s business.

As the law currently stands, the factors listed in both the Washington Supreme Court and the Court of Appeals cases should be examined – with the advice of legal counsel – to determine whether your independent contractor is indeed an independent contractor under the law.

State and Federal laws prohibiting discrimination and requiring employers to grant protected leave also follow the “economic realities” test. **Title VII of the Civil Rights Act of 1964** prohibits employer discrimination on the basis of race, color, religion, sex or national origin; **The Age Discrimination in Employment Act of 1967** and **The Americans with Disabilities Act** follow a similar approach as with Title VII.

Independent contractors are excluded from statutory coverage by the Equal Employment Opportunity Commission (EEOC) and courts. The distinction between employment and an independent contractual affiliation depends upon the economic realities of the situation. The extent of the employer’s right to control the means and manner of the worker’s performance is the primary factor.

**Note, however, that independent contractor status is not a defense to a discrimination or harassment lawsuit under Washington law. The Washington State Law against Discrimination, RCW 49.60 et seq., allows independent contractors to sue putative employers for discriminatory acts. Marquis v. City of Spokane, 130 Wash.2d 97 (1996) (Golf professional under contract with city allowed to sue under state discrimination law).**

**Family and Medical Leave Act of 1993 (FMLA)** - For companies with 50 or more employees, employees may take up to 12 weeks of unpaid leave during a 12 month period upon the birth or adoption of a child, or to care for a seriously ill family member or the employee’s own serious health condition. The employer must maintain available health benefits during the leave, and restore the employee to the same or similar job after the leave. “Employee” under the FMLA follows the FLSA Economic Realities test. “In general an employee, as distinguished from an independent contractor who is engaged in a business of his/her own, is one who ‘follows the usual path of an employee’ and is dependent on the business which he/she serves.” 29 C.F.R. Sec. 825.105(a).

**AN EVEN STRICTER TEST: STATE WORKERS’ COMPENSATION AND UNEMPLOYMENT INSURANCE**

Even if you determine that your worker is properly classified as an independent contractor under the “economic realities” test, you may still need to pay workers’ compensation and unemployment insurance premiums, under even more restrictive tests:

For policy reasons, many states include independent contractors as covered workers under their respective workers’ compensation and unemployment insurance laws. In Washington, an “employee” includes one “who is working under independent contract, the essence of which is his or her personal labor for an employer, whether by way of manual labor or otherwise, in the course of his or her employment.” **RCW 51.08.180.** In 1991, Washington State adopted an alternate six-part
test (seven parts in the construction industry) to determine whether an employer is required to pay worker’s compensation premiums. The same test is used to determine whether the worker is covered by the state’s unemployment insurance statute. For the worker to be exempt from industrial insurance and unemployment insurance, either the first test or all of the factors in the second test must be met:

First Test: One of the following must be true:

1. Does the individual hire a crew or other employees, and you do not direct the work of those employees? If so, the individual is not your employee; or

2. Does the individual bring heavy, costly or specialized equipment to the job, and you do not direct or control the work?

If so, the individual is not your employee.

Second Test: If neither of the above tests is met, the individual may still qualify as an independent contractor if all of the following factors are met:

1. The worker is free from the control or direction over the performance of the service, both under the contract and in fact; and

2. The service is outside of the usual course of business for which the service is performed (the contractor does something different from what your business does), or the service is performed outside all of the places of business of the enterprise for which the service is performed (the contractor does his work away from where you perform your business), or the individual is responsible, both under the contract and in fact, for the cost of the principal place of business from which the service is performed (usually its headquarters); and

3. The individual is customarily engaged in an independently established trade of the same nature as that involved in the contract of service (and the business existed before you brought them in), or the individual has a principal place of business that is eligible for a business deduction for federal income tax purposes; and

4. On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract and in fact, a schedule of expenses with the IRS for the type of business the individual is conducting; and

5. On the effective date of service of the contract, or within a reasonable period thereafter, the individual has established an account with the department of revenue and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

6. The individual maintains a separate set of books and records that reflect all items of income and expenses of the business, which the individual is conducting.

7. [For construction contractors only]: On the effective date of the contract of service, the individual has a valid contractor registration or an electrical contractor license.

RCW 51.08.181; 51.08.195; RCW 50.04.140.

Reciting the above facts in a contract is not sufficient to establish an independent contractor relationship; you should obtain independent documentation from the contractor.

"RIGHT OF CONTROL" TEST

The “right of control” test is used by the IRS and courts in interpreting the Internal Revenue Code, Social Security Act, Employment Retirement and Income Security Act (ERISA) and

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1 The Department of Labor and Industries has published a useful guide to determine if these factors are met. See http://lni.wa.gov/IPUB/101-063-000.pdf
**National Labor Relations Act.** An employer may use this test as a defense against litigation arising under one of these statutes, but in classifying employees to avoid future risk of litigation, we recommend using the “economic realities test,” above.

1. **Internal Revenue Code (IRC)**

The IRC states that an independent contractor is a self-employed individual who is responsible for the payment of his/her individual estimated federal income tax liability. The individual also must pay self-employment taxes. 26 U.S.C. 3401(C); 26 C.F.R. 31.3401(C)-1. The factors for determining “control” in the IRS analysis are outlined in *Publication 15-A: Employer's Supplemental Tax Guide* and include three categories of control evidence: (a) behavioral control; (b) financial control; and (c) type of relationship.

Behavioral control evidence is comprised of facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired and includes the type and degree of instructions the business gives the worker. An employee generally is subject to his employer’s instructions about the manner and method of performing the work. However, even if there are no instructions given, sufficient behavioral control may exist if the employer has the right to control how the work results will be achieved. Behavioral control evidence also consists of training given to the worker. An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods.

Financial control evidence consists of facts that show whether the business has a right to control the business aspects of the worker’s job, such as the extent to which the worker has unreimbursed business expenses. Independent contractors are more likely to have unreimbursed expenses than employees. Fixed ongoing costs that are incurred regardless of whether the work is currently being performed are especially important. Employees, however, may also incur unreimbursed expenses in connection with the services they perform for the employer. The extent of the worker's investment is also financial control evidence. An independent contractor often (though not always) has a significant investment in the facilities he or she uses in performing services for someone else. Financial control is also shown by the extent to which the worker makes services available to the relevant market – in addition to the hiring company. Evidence regarding how the business pays the worker constitutes financial control evidence as well. An employee is generally paid by the hour, week or month. An independent contractor is usually paid by the job. It is common to pay some contracting professionals (e.g., lawyers, accountants, and engineers) by the hour. The IRS will take such industry practice into account. Finally, the extent to which the worker can realize a profit or incur loss constitutes financial control evidence. An independent contractor can make a profit or loss; employees cannot.

Type of relationship evidence is comprised of facts that show the parties’ type of relationship, such as:

- Written contracts describing the relationship the parties intended to create.
- Whether the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay or sick pay.
- Evidence indicating the permanence of the relationship. For example, if a business engages a worker with the expectation that the relationship will continue indefinitely, rather than for a specific period or project, this is generally considered evidence that the intent of the business was to create an employer-employee relationship.
- The extent to which services performed by the worker is a key aspect of the regular business of the company. If the worker provides services that are a key aspect of the firm's regular business activity, it is more likely that the business will have the right to direct and control his or her activities.
Section 530 of the Revenue Act of 1978 provides a safe harbor for companies using independent contractors in the ordinary course of business if they meet the following specific requirements:

- It must have treated and continue to treat the individual, and any other similarly situated workers, as independent contractors;
- It must have complied with all federal tax and information reporting requirements in a manner consistent with its treatment of the individual as an independent contractor, such as filing a Form 1099 MISC with the IRS for the workers involved; and
- The business must have a “reasonable basis” for treating the worker as an independent contractor. Factors to consider:
  - A longstanding recognized practice of a significant segment of the industry in which the worker at issue is engaged;
  - Judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;
  - A past IRS audit of the taxpayer if the audit resulted in no assessment of employment taxes for individuals performing positions substantially similar to the position held by the worker at issue; or
  - Demonstration “in some other manner” of a reasonable basis by the taxpayer.

If an employer unintentionally misclassifies an independent contractor, the employer is responsible for the unpaid taxes, together with a penalty equal to 1.5 percent of wages paid to the employee, plus 20 percent of the employee’s share of FICA taxes that should have been withheld (three percent and 40 percent, respectively, if a Form 1099-MISC was not issued). If it was a willful misclassification, the penalty is equal to 100 percent of the taxes due. The 100 percent penalty may be asserted against anyone the IRS determines to be a “responsible corporate officer,” i.e., anyone who had the responsibility to withhold and remit taxes, and who failed to do so.

2. **Social Security Act**

The Social Security Act specifically provides that the term employee, for whom an employer must make contributions, includes “any individual who, under the usual common law rules applicable in determining employer-employee relationship, has the status of an employee.” The right of control is the most critical factor and includes work according to the employer's specifications on materials or goods that are furnished by the employer and must be returned to it.

3. **Employee Retirement Income Security Act (ERISA)**

ERISA provides protection against discrimination with respect to the availability of company benefit programs and sets out complaint procedures for violations. Courts and administrative agencies interpreting ERISA laws use the Right of Control Test. As a result, contingent workers who participate in benefit programs have standing to sue to bring an action for breach of fiduciary duties, recover benefits, or enforce rights under ERISA laws.

An illustrative case study:

In *Vizcaino v. Microsoft Corp., 173 F.3d 713 (9th Cir. 1999)*, freelancers working for Microsoft brought an ERISA suit for benefits under Microsoft's retirement and stock purchase plans. The plaintiffs worked at Microsoft continuously before 1990, some for over two years. They worked on teams with regular employees, performed identical functions and shared the same supervisors. They worked the same hours as regular employees, and were required to work on-site. They received security cards, office equipment and supplies from Microsoft. Unlike employees, the freelancers were not paid through payroll but rather through accounts payable. Microsoft did not withhold FICA or income tax, nor did Microsoft pay the freelancers’ share of FICA. They were not allowed to participate in the company's 401(k) or Employee Stock Purchase Plans.
The IRS audited Microsoft in 1989 and 1990 and determined that the workers were employees rather than independent contractors for purposes of withholding income taxes and paying FICA and FUTA. Thereafter, Microsoft began making necessary corrections by issuing W-2 forms to the plaintiffs and paying FICA. The plaintiffs asserted that because the IRS classified them as employees, they were then eligible for the 401(k) and stock purchase plan. They asked the plan administrator to declare them eligible for benefits, but the administrator ruled them ineligible.

The Ninth Circuit ruled that the freelancers were, in fact, employees because of the company’s concession that the plaintiffs were employees for IRS purposes. This concession made them eligible for benefits, even though their employment agreements labeled them as independent contractors. The plan administrator’s ruling of ineligibility for 401(k) participation was arbitrary and capricious because the administrator’s determination was based on mistake, i.e., thinking that the plaintiffs were contractors, not employees. The court remanded the case to the district court to allow the plan administrator time to rule on eligibility based on other, permissible factors based on plan language, such as whether employees paid through accounts payable could be excluded from the plan.

4. **National Labor Relations Act**

Independent contractors are specifically excluded from the National Labor Relations Act by definition - Section 2(3). The *right of control* over the worker’s wages, benefits and working conditions is the most critical factor. Specifically, the NLRB emphasizes the degree of supervision over the contractor’s performance. Erroneous determinations can result in unfair labor practice charges, unit clarification proceedings, arbitrations, or civil suits from health and welfare or pension trusts.

**SUGGESTIONS FOR EVALUATING THE INDEPENDENT CONTRACTOR RELATIONSHIP**

1. Carefully review your organization to see what positions, if any, can be converted to an independent contractor relationship. Follow the “economic realities” test discussed above and keep in mind you may still be required to cover the contractor under workers’ compensation and unemployment insurance statutes under the tests above. If you have any questions about whether current independent contractors are properly classified, contact Archbright for a confidential, privileged audit. We can review the work relationships, draw conclusions and include options for implementing any necessary changes.

2. Do not force current employees into independent contractor relationships against their will.

3. Negotiate terms and conditions with independent contractors.

4. Avoid inter-mingling positions (i.e., do not have employees and independent contractors doing the same job).

5. Develop a written contract including the following:
   a. Establishment of the relationship of the parties as independent contractor-employer.
   b. General description of work to be performed.
   c. Statement as to limits of employer control.
   d. Contractor-employer mutual freedom to obtain other work or contractors.
   e. Exclusion of benefits.
   f. Compensation by job or some other formula.
   g. Time devoted to work.
   h. Insurance and indemnity.
   i. Termination of agreement prior to expiration.
   j. Duration of contract.
k. Signatures.

Note: See sample contract in Appendix A.

TEMPORARY WORKERS

A temporary worker (or agency worker) is an individual provided to a business operation by a third party to perform services for a very limited duration. A “temp” is employed and paid by the third party who receives a fee from the business for having provided the worker to the business. The benefits of temporary workers include:

- Generally, the third party pays all the required taxes.
- Employer avoids administrative costs associated with payroll and personnel functions.
- Reduced recruitment costs – immediate assistance is available.
- Employer avoids costs of providing health and welfare benefits.
- Employer retains the right of control over means, manner and method of the work performance.
- Reduced exposure to employment-related laws and regulations.

Disadvantages include:

- Arrangement is limited to a brief period of time.
- Limited continuity and/or loyalty of work force.
- Positions requiring temporary help require little knowledge and/or interest in employer's business practices, philosophy, etc.

LEASED EMPLOYEES

A leased employee is an employee of a leasing company, which leases the employee's services to a business. Usually, leased employees will be placed in a business for a longer period of time than will a temporary worker. The benefits of leasing employees are:

- Employer avoids administrative costs associated with payroll and personnel functions.
- Employer avoids costs of providing health and welfare benefits.
- Decreased employee turnover costs.
- Reduced exposure to employment-related laws and regulations.

Disadvantages include:

- Less control over workforce.
- Potential joint and several liability if the leasing organization and the employer are found to be “joint employers” (defined below).

LAWS PERTAINING TO TEMPORARY AND LEASED EMPLOYEES

The following definitions will aid in your review of the following employment related laws and regulations affecting temporary and leased employees:

“Subscribing (or user) employer” is a company who leases employees from the leasing organization.

“Joint employers” are two or more employers (i.e., the leasing employer and the subscribing employer) who exert significant control over the same employees and meaningfully affect matters relating to the employment relationship, legal liabilities may be imposed on both or more employers.
1. **National Labor Relations Act (NLRA)** - Under the NLRA, joint employers are jointly and severally liable for unfair labor practices. Independent contractors, however, are excluded (as employees) from coverage under the Act. The focus for “joint employer” cases is on the right to control workers. However, temporary and part-time employees are protected. Temporary or leased employees may be included in a bargaining unit of the user company only if the temporary agency agrees to their inclusion. Regular, part-time and temporary employees may be included in a unit if there is substantial community of interest with full-time employees in wages, hours and conditions of employment. Unionized employers should review the collective bargaining agreement before hiring or leasing employees to avoid violations based on subcontracting or work assignment clauses. Also, in negotiating changes to existing agreements, employers must consider the future use of leased or temporary employees.

2. **Title VII of the Civil Rights Act of 1964** - There is no requirement under Title VII that an employer-employee relationship exist between the company and a discrimination claimant. Thus, leased employees may bring charges against the user company, even if no joint employer or borrowed employee relationship exists.

3. **Americans with Disabilities Act** - Prohibits employees from engaging in contractual relationships that have the effect of subjecting either entity’s applicants or employees to discrimination on the basis of disability. Thus, the company may be liable for the discriminatory acts of a temporary or leasing agency where the company has control over the workers and participates in or fails to stop any discrimination.

4. **Fair Labor Standards Act (FLSA)**: The “employer of record” is primarily responsible for compliance with the FLSA; however, where a joint employer relationship exists, both the user and supplier of leased employees are individually and jointly responsible for ensuring FLSA compliance.

5. **Occupational Safety and Health Act (OSHA)**: Employers owe a duty to provide a safe work environment to all employees regardless of their employment status. Therefore, the subscribing employer is responsible for the workplace safety of both its leased employees and permanent employees.

6. **Workers’ Compensation**: The “employer of record” is responsible for paying Workers’ Compensation premiums for leased employees. However, if a joint employer relationship exists, the subscribing employer may be held jointly and severally liable for such premiums. The user and supplier of leased employees may also negotiate which of the two entities is responsible for the payment of Workers’ Compensation premiums. To ensure that a lessor is not in arrears in Labor & Industries premiums, employers should contact the Department of Labor and Industries to verify worker’s compensation coverage by the employer of record. This information is available at the following website: [http://www.lni.wa.gov/ClaimsIns/Insurance/Uninsured/default.asp](http://www.lni.wa.gov/ClaimsIns/Insurance/Uninsured/default.asp).

7. **Unemployment Compensation**: The “employer of record” is responsible for contributions for leased employees; however, joint employer principles are applicable in this area as well.

8. **FICA, State, and Federal Tax Withholding**: The temporary or leasing agency is responsible for making the appropriate deductions for State and Federal taxes and FICA, even if the subscribing employer controls the worker in the performance of the job.

9. **Family and Medical Leave Act of 1993**: “Joint employment will ordinarily be found to exist where a temporary or leasing agency supplies its employees to a second employer.” 29 C.F.R. sec. 825.106(3)(b). Thus, in a joint employer situation, the subscribing company must count temporary or leased employees to determine whether it is covered by the FMLA.
    a. Example: 40 regular employees, plus 15 temporary employees exceeds 50-person minimum; the company is covered by the FMLA.
b. The temporary or leasing agency is usually considered the “primary” employer and is responsible for providing notices, leave, benefits and job restoration.

c. The company that is the “secondary” employer must accept the employee returning from the leave, and may not interfere with or discriminate against workers exercising their FMLA rights.

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APPENDIX A

SAMPLE CONTRACT

[EMPLOYER NAME]

[JOB DESCRIPTION] AGREEMENT

NOTE: This is a sample contract. You should consult with Association counsel when considering entering into a contractual relationship with a contractor or third party for labor or services.

THIS CONTRACT is made by and between a Washington corporation, hereinafter referred to as "Company" and ________________ of ______________________, herein referred to as "Contractor." 

(Name)  
(Address)

RECITALS

1. Company desires to have the following services performed at its place of business:

   ________________________________.

2. Contractor agrees to perform these services for the Company under the terms and conditions set forth in this contract.

In consideration of the mutual promise set forth herein, it is agreed by and between Company and Contractor:

SECTION ONE

DESCRIPTION OF WORK

The work to be performed by Contractor includes all services generally performed by Contractor in his usual line of business, including but not limited to, the following:

   [General description of work to be performed]

SECTION TWO

RELATIONSHIP OF PARTIES

The parties intend that an independent contractor-company relationship will be created by this contract. Company is interested only in results obtained under this contract and the conduct and control of the work will lie solely with Contractor.

Contractor is not to be considered an agent or employee of the Company for any purpose, and is not entitled to the benefits provided by the Company to its employees, including but not limited to, group insurance, pension plans, paid vacation, sick leave and paid holidays. Contractor is free to contract for similar services to be performed for others while he is under contract with the Company. It is further understood that Company does not agree to use Contractor exclusively but is free to engage other independent contractors to perform the same work that Contractor performs hereunder.

SECTION THREE

PAYMENT

Company shall compensate Contractor the sum of $______________ per completed case irrespective of time worked. If, in the judgment of the Contractor, the work requires special procedures and skills beyond those generally performed, Contractor shall receive additional compensation in the amount of $______________.
SECTION FOUR
TAXES
Contractor shall be solely responsible for payment of all taxes owed as a result of work performed under this contract, including estimated federal income tax liability, self-employment tax, and Social Security (FICA) tax. Company shall not, under any circumstances deduct any taxes from Contractor’s payments. On the effective date of this Agreement, Contractor agrees that s/he is responsible for filing at the next applicable filing period, both under this Agreement and in fact, a schedule of expenses with the IRS for the type of business the individual is conducting.

SECTION FIVE
TIME DEVOTED TO WORK
In the performance of this service, the aforesaid services and hours to be worked will be entirely within Contractor’s control. Company will rely upon Contractor to put in such number of hours as is reasonably necessary to fulfill the spirit and purpose of this contract.

SECTION SIX
UNIFIED BUSINESS IDENTIFIER NUMBER
On the effective date of service of this Agreement, Contractor has established an account with the Washington Department of Revenue, for the business Contractor is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the State of Washington.

SECTION SEVEN
RECORDKEEPING
Contractor acknowledges and agrees to maintain a separate set of books and records that reflect all items of income and expenses of its business and this Agreement, which the individual is conducting in furtherance of this Agreement.

SECTION EIGHT
DURATION
Either party may cancel this contract on ___________ days’ written notice; otherwise, the contract shall remain in force for the term beginning ________________ and continue until and including ________________.

Dated this ________ day of ________________, (Year).

______________________________  ______________________________
Company                            Contractor (Name and Address)

______________________________  ______________________________
Company authorized Representative  Contractor

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