

INDEPENDENT CONTRACTOR ISSUES

Many trucking companies rely heavily upon the use of independent contractors/owner-operators to supplement their driver workforce. In some cases, our clients exclusively use owner-operators. Although the use of such contractors may be a cost-effective means of remaining competitive, there are numerous legal ramifications involved as well. For instance, the reclassification of a driver's status from independent contractor to employee continues to be a key issue of concern in the trucking industry. Reclassification has significant impact in the context of IRS payroll tax audits, workers' compensation premium calculation and claim payment, state unemployment compensation, and numerous labor-related issues. In addition, the use of independent contractors can result in contract disputes, equipment leasing issues, and litigation pertaining to "logo liability" exposure in highway accident cases. Further, the structure of insurance programs designed to assist owner-operators in obtaining various insurance coverages, including occupational accident insurance coverage, continues to pose complex issues that challenge the trucking industry.

The Scopelitis firm has considerable experience in assisting its clients to protect the independent contractor status of owner-operators. In the workers' compensation context, for example, our attorneys drafted legislation, subsequently adopted into law in the State of Indiana, that presumptively defines an owner-operator as an independent contractor for purposes of workers' compensation. This law eliminated much of the uncertainty that previously existed when an owner-operator injured on the job filed a workers' compensation claim. We have also counseled and assisted the American Trucking Associations in introducing similar legislation in other states.

Scopelitis attorneys have been involved in the design of insurance programs that afford owner-operators the opportunity to secure the proper insurance coverage. In addition, our attorneys author nationally-published materials to assist the trucking industry in understanding and analyzing insurance requirements and coverages relating to the use of owner-operators.

Because the financial ramifications of reclassification can be so great, we regularly perform on-site audits at our clients' request to ensure that their contracts, leases, qualification documents, policies, and daily operations are structured to protect the independent contractor status of owner-operators and other entities performing contract services. Our attorneys also have the experience and "trucking" knowledge to assist clients in avoiding internal disputes and unwanted litigation involving their independent contractors. When such a contract dispute or a reclassification attempt by a governmental agency does occur, we are capable of providing whatever legal resources may be necessary to zealously and successfully represent our clients' interests.