

Dept. of Labor Rule Impacting Independent Contractors and Gig Workers Rescinded by Biden Administration

Articles, News May 7, 2021

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In a January 2021 Post-Gazette article ([available here](#)), Attorney Katherine A. Janocsko of Tucker Arensberg's Labor & Employment group predicted that the chances of a new federal Department of Labor Rule being upheld by the incoming Biden Administration were "slim." As predicted, the Rule was officially rescinded and withdrawn by the President Biden's Department of Labor on May 5, 2021.

The withdrawn Rule was entitled "Independent Contractor Status Under the Fair Labor Standards Act" and attempted to clarify the distinction between an independent contractor and employee under the Fair Labor Standards Act (FLSA). The Rule was generally viewed as being employer-friendly and would have arguably made it easier for employers to classify workers as independent contractors, thus removing the employer's burden to provide such workers with benefits. In rescinding the Rule this week, the Biden Administration's Department of Labor wrote: "The Rule is inconsistent with the FLSA's text and purpose, and would have a confusing and disruptive effect on workers and businesses alike due to its departure from longstanding judicial precedent."

The full text of Department of Labor's Rule rescission is available here:

<https://www.federalregister.gov/documents/2021/05/06/2021-09518/independent-contractor-status-under-the-fair-labor-standards-act-flsa-withdrawal>

For more information, please contact Katherine Janocsko.
