

Employee or Independent Contractor?

Historical Perspective, Current Risks, and Practical Tips

In 1869, using the lexicon of the times, the Court of Appeals of Maryland concluded that the most important factor in determining whether an individual was the “servant” of another “depends upon the control and direction that he could rightfully exercise over them.” *Deford v. State*, 30 Md. 179, 203 (1869). Some 34 years later, in 1903, a worker by the name of Albert N. Hall was painting the grill work in the basement of an elevator shaft when the elevator descended upon him and he sustained injuries that led to his death. His widow filed a negligence action against the company alleged to have employed him. Again, using the terminology of the day, one of the issues before the Court of Appeals of Maryland was whether the relationship of “master and servant” existed between Mr. Hall and the defendant. *State, Use of Isabel M. Hall v. Trimble, et al.*, 104 Md. 317 (1906). In reversing the directed verdict of the circuit court for a variety of reasons, the Court of Appeals found that the trial court had improperly limited the inquiry of the plaintiff into the issue of whether the defendant paid, or was reimbursed for, Mr. Hall’s wages. The court also considered the authority of the defendant to “employ and discharge” the worker and the direction provided to the worker.

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