Wheeler Trigg O'Donnell

Jessica Scott, Frederick Yarger Comment on DOL Proposed Rule on Contractors

News
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The U.S. Department of Labor made waves last week with its unveiling of a long-awaited proposed rule from the Biden administration setting out new criteria to determine whether an individual may be considered an independent contractor or an employee.

FreightWaves, a leading trade journal to the transportation industry, yesterday quoted Wheeler Trigg O'Donnell partners Jessica Scott and Frederick Yarger in an **article** on what the proposed rule means. Scott pointed out that the draft rule upends long-standing practice. "It has been pretty well settled for decades that if you are talking about something that is mandated by the government, like a DOT regulation, that is not considered employer-type control. This has now flipped."

Yarger added that the ruling will "empower the Wage and Hour Division to take test cases and push this rule in whatever direction they want it to go. [I]t will be the agency interpreting the statute and telling a court how to address it."

The recent media coverage builds on Scott and Yarger's prior commentary on employee classification. The two published an **article** in Law360's Employment Authority newsletter in August. Good additional coverage of how the change may affect employers is available **here** (paywall).

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