

Officials Expected to Clarify Definition of ‘Independent Contractor’, Inside Counsel , ft. Jennifer E. Sherven

Jennifer E. Sherven, Attorney at KD Law in Woodbury, has been quoted in a *Inside Counsel's* article by Ed Silverstein, published July 13, 2015. Jennifer comments specifically on this summer's U.S. Department of Labor's Wage and Hour Division's clarification of the definition for independent contractor. This should make it more clear whether to classify a worker as an independent contractor or employee. The guidance will come in the form of an administrator's interpretation.

"Because it is an administrator's interpretation the guidance will not be something that is proposed, with opportunity for comments from the public. It will be in effect after its release," according to Jennifer Sherven, an attorney at Kaufman Dolowich & Voluck. The administrator's interpretation is likely to be an "improvement" over the current situation, but Sherven confirmed in an interview with *Inside Counsel* "there could still be gray areas."

She points out that making a mistake on the classification of employees can be "costly" for employers. There have been many cases filed recently by attorneys representing workers regarding misinterpretation. "It's definitely a hot area of the law," Sherven said.

Sherven recommends that general counsel – before the guidance comes out – evaluate the current workforce, and look to see if any workers are now misclassified. "It's definitely a wise time to be proactive," she said.