

Twenty Common Law Factors

Employee vs. Independent Contractor

- 1. Instructions-** Employee complies with instructions about when, where, and how work is to be performed. Independent Contractor works his or her own schedule.
- 2. Training-** Employee is trained by experienced personnel. Independent Contractor uses own method of training.
- 3. Integration-** For employees, services of the individual are merged into the business. For independent contractors, success of the business is not dependent on his or her services.
- 4. Services Rendered Personally-** For employees, must be rendered personally. Contractors may assign people to do the job.
- 5. Hiring, Supervising, and Paying Assistance-** Employer hires, supervises, and pays workers at their discretion. Independent Contractor hires, supervises, and pays the other workers as a result of a contract under which contractor agreed to provide materials and labor and is responsible for the results.
- 6. Continuing Relationship-** Employees continue to work for the same person year after year. Independent Contractors have no continuous relationship.
- 7. Set Hours of Work-** Employees have set hours and days and Independent Contractors are masters of their own time.
- 8. Other jobs-** Employees must devote full time to the business of the employer. Independent Contractors are free to work for others.
- 9. Location-** Employees work under the control of employers in regards to physical location. Independent Contractors may work off employer's premises, may use own office, phone etc.
- 10. Order of Work-** For employees, set by employer. Independent Contractors can perform services at own pace.
- 11. Interim Reports-** Employees are required to submit regular reports to employer, Independent Contractors are not.
- 12. Payment-** Employees are paid by employer of regular amounts; Independent Contractors are paid by the job on a straight commission basis.
- 13. Expenses-** Employer pays employee's travel expenses etc. Independent contractor pays own expenses.
- 14. Materials-** Employee is furnished tools materials etc., while independent contractors furnish own tools and materials.
- 15. Investment-** Employees have a lack of investment and depends on the employer for such facilities. Independent contractors have a real essential investment.
- 16. Profits/Losses-** Employees cannot realize profit or loss via good or bad decisions. Independent Contractors can gain profits or losses via their services.
- 17. Working for more than one firm at a time-** Employee usually works for one employer while independent contractors can work for a number of firms at one time.
- 18. Services Available to Public-** Employees do not except through some company or business they have an interest in. Independent Contractors have own offices and assistants and holds a business license, are listed in business directories, run ads etc.
- 19. Right to Discharge-** Employees can be discharged at any time while independent contractors cannot be fired as long as they meet contract specifications.
- 20. Right to Terminate-** An employee can end relationship with employer at any time while independent contractors are responsible legally for the satisfactory completion of a specific job.