The California Supreme Court issued its decision in *Castellanos v. State* (*Castellanos*) on July 25, 2024, ruling Proposition 22 (Prop 22), the initiative that allows businesses to classify drivers for app-based transportation or delivery companies as independent contractors, is constitutional.

Background

In 2019, the California Legislature enacted Assembly Bill No. 5 (AB 5) addressing the test for distinguishing independent contractors from employees. In doing so, it codified the "ABC test" set forth in *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903 (2018). AB 5 took effect in January 2020.[1]

In November 2020, the coalition "Protect App-Based Drivers and Services" helped place Prop 22 on the general election ballot. The stated purpose of Prop 22 was, among other things, to "protect the basic legal rights of

Californians to choose to work as independent contractors with rideshare and delivery network companies." The initiative passed with the support of 58.6% of voters and enacted sections 7448 through 7469 of the Business and Professions Code. Relevant here, Section 7451 allows businesses to classify drivers for app-based transportation or delivery companies as independent contractors, which exempts them from workers' compensation laws.

Procedural History

In February 2021, a group of app-based drivers and labor unions (the plaintiffs) filed *Castellanos*, in which they alleged that Prop 22 conflicted with the California Constitution. Specifically, the plaintiffs argued that by entirely removing app-based drivers from California's workers' compensation laws, Section 7451 conflicted with the California Constitution, which vests the Legislature with "unlimited" power to govern workers' compensation. Plaintiffs further argued that pursuant to the language of Section 7467, if Section 7451 is invalid, the entirety of Prop 22 is also invalid.

The trial court found Section 7451 was an unconstitutional limitation on "the Legislature's power to determine what workers must be covered or not covered by the worker's compensation system" and, given that Section 7451 is not severable, the trial court found that Prop 22 was invalid in its entirety. [1]

The California Court of Appeal reversed *Castellanos*, 89 Cal. App. 5th 131 (2023), *as modified* (Apr. 12, 2023). In relevant part, the appellate court relied on *Independent Energy Producers Association v. McPherson*, 38 Cal. 4th 1020 (2006) (*McPherson*), to conclude that the state constitution confers power on the Legislature and the electorate acting through the initiative power. Thus, Prop 22 did not improperly conflict with the Legislature's authority to enact workers' compensation laws. The plaintiffs petitioned the California Supreme Court for review.

Issue

The California Supreme Court addressed the question: "Does Business and Professions Code section 7451, which was enacted by Proposition 22 (Protect App-Based Drivers and Services Act), conflict with article XIV, section 4 of the California Constitution and therefore require that Proposition 22, by its own terms, be deemed invalid in its entirety?"

Holding

In an opinion authored by Justice Goodwin Liu, the California Supreme Court held that Section 7451 does not conflict with the California Constitution because the state constitution does not "preclude the electorate from exercising its initiative power to legislate on matters affecting workers' compensation."

The court reviewed the legislative history behind the "unlimited" provision of the state constitution and concluded that the amendment "was a response to constitutional challenges to the existing workers' compensation system" and "does not show that the amendment was meant to limit the initiative power in any respect." The court emphasized the need to avoid (1) unduly restricting the electorate's initiative power and (2) giving "the Legislature what would essentially be a first-mover advantage, precluding the electorate from undoing any action the Legislature takes pursuant to [the state constitution]." Accordingly, because the initiative power includes "the power to abrogate existing laws," the court held that "the people may alter existing workers' compensation policy without running afoul of [the state constitution]."

Key Takeaways

Following the California Supreme Court's ruling, companies with app-based drivers that are covered by Prop 22 can continue to utilize the conditions set forth in Prop 22 to treat such app-based drivers as independent contractors. Companies with further questions regarding this ruling should reach out to experienced counsel.

Endnote

[1] *Castellanos v. State*, No. RG2108875, 2021 WL 3730951 (Cal. Super. Aug. 20, 2021).

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