

President's Memo

TO: MCAA Membership

FROM: Mark Chiusano, MCAA President

RE: Legal Challenges to IC Status

Maintaining the right of courier firms to utilize Independent Contractors is one of the founding principles of the MCAA. In the past we have fought both legal and legislative battles to keep IC status as a viable option in the same day delivery industry. We are seeing our way of doing business under attack - this time primarily at the state level. Your Board has been monitoring several decisions from a number of states that have called into question currently accepted practices concerning IC's. A recent case in Massachusetts being only the latest decision to go against a courier company. State courts are now referencing the decisions of other state courts (the Massachusetts case noted a similar case in Illinois) and we must guard against a snowball effect that could sweep the country state by state.

The MCAA Board has decided on a number of actions to fight a battle- and we need your help.

Our plan is as follows:

1. Legal review of all pertinent court cases to determine basic facts used by the court in each case.
2. Develop some basic guidelines to help courier companies fully understand the differences between employees and independent contractors. We also plan to help companies that are facing audits or other legal challenges by working closely with them to help in any way possible.
3. MCAA may support the legal challenge of IC case where victory can help the entire industry.
4. We plan to support selected lobbying efforts in states where we feel there are issues at hand.
5. We have involved our new partners at the NFIB in the effort. We have been in contact with the NFIB Legal foundation on this issue - NFIB has offices in all 50 states.
6. We will include educational programming on maintaining IC status at the annual convention in May of 2003 in Orlando. The next issue of Courier World Magazine will have an informative article on this pressing issue.
7. The MCAA web site will have a new section on IC issues including a primer on what to do if you are audited.

If your company has had a favorable ruling on the State or Federal level, please let us know so that we may archive the decision for future reference. If your company is subject to legal action on the state level that threatens the status of your IC's, please notify us immediately. Also inform us if you know of any other courier companies in your state that have been targeted.

We will keep you posted on this critical issue and urge you to use the Association's resources.