

October 7, 2009

Liability for Acts of Independent Contractors

On September 10, 2009, the Second Circuit Court of Appeals issued a noteworthy decision for New York companies that give independent contractors the authority to make employment-related decisions on their behalf. In *Halpert v. Manhattan Apartments, Inc.*, the court ruled that a New York company can be held liable for discriminatory acts committed by an independent contractor while working as an agent of the company. Specifically, the court held that if a company gives an independent contractor the authority to make hiring decisions, then the company may be held liable under the Age Discrimination in Employment Act if the independent contractor improperly discriminates against applicants or employees on the basis of age.

Accordingly, companies should review their contracts with independent contractors and consider adding language that will require their independent contractors to abide by all laws, including those prohibiting discrimination. Moreover, it is also advisable that companies include an indemnification clause that specifically protects the company from liability in the event that the independent contractor commits a discriminatory act while acting on behalf of the company.

If you need assistance drafting new language for your contracts with independent contractors or further advice on this matter, please contact [Farah Mollo](#) at (212) 758-1078.

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