

- 1 **CONTROL TEST DEFINES INDEPENDENT CONTRACTOR OR EMPLOYEE SPORTS OFFICIAL**

- 2 **control test determines whether a particular individual is an employee or independent contractor for workmen's compensation.**

- 3 **control test is applied to determine agency tort liability for personal injury and/or property damage caused by employee negligence.**

- 4 **Internal Revenue Service applies this same control test to determine whether a particular individual providing services to an agency is an employee or independent contractor for federal employment tax purposes**

- 5 **agency will be responsible for agents who are employees,**

but not services provided by independent contractors.

- 6 **degree of control exercised by an agency over the operational details of an individual's work product is determinative of employee or independent contractor status.**

- 7 **no clear line of demarcation between employee and independent contractor status.**

- 8 **Lynch**
v.
Workmen's Compensation Appeal Board (Connellsville Area School District),

Pa.Comm.w. (1989)

- 9 **injury during a high school football game which gave rise to his claim for workmen's compensation benefits.**
- 10 **whether a football official's relationship is that of an employee or independent contractor of a high school for the purpose of workmen's compensation."**
- 11 **whether a relationship is one of employer-employee or independent contractor,**
- control of the manner that work is to be done; responsibility for result only;**
- 12 **terms of agreement between the parties;**
- nature of the work or occupation;**
- skill required for performance;**
- 13 **whether one employed is engaged in a distinct occupation or business;**
- which party supplies the tools;**
- whether payment is by the time or by the job;**
- 14 **whether the work is part of the regular business of the employer,**
- right to terminate the employment at any time.**
- 15 **right to control is the most persuasive indication of one or the other.**

most important factor is control of the manner in which the work is accomplished.

- 16 **traditional test of the employer-employee relation is the right of the employer to control the details of the work.**

- 17 **Workmen's Compensation Board had based its conclusion that Lynch was not an employee of the District**

- 18 **paid by the job, not by the time spent doing the job, and no deductions were made from his pay,**

- 19 **required to possess a certain skill to be a referee which skills are not possessed by people who are not so trained.**

- 20 **did in fact perform a similar service for other schools and organizations during the same season**

- 21 **supplied his own clothing, flags, shoes and whistle,**

home team had no right to dismiss the official at any time.

- 22 **no evidence to indicate that the District had, or exercised, any control whatsoever**

over the manner in which Lynch and the other officials performed their duties during the game."

- 23 **whether a relationship is one of employer-employee or independent contractor,**
- no one test standing alone, except the right of control of the manner of the work to be done, is decisive.**
- 24 **officials were not on the District's payroll and no deductions were taken from their fee for taxes or social security.**
- 25 **not given the benefits which other District employees received.**
- 26 **They bought their own uniforms, shoes, hats, whistles and penalty markers, and provided their own medical insurance.**
- 27 **"clear that the District exercised no control over the manner in which Lynch performed his work as an official during the game,**
- 28 **method of payment was indicative of an independent contractor status**
- 29 **no equipment was furnished to Lynch and the District had no right to discharge him."**
- 30 **appeals court affirmed the order of the Workmen's Compensation Board denying Lynch's claim against the District.**
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