

In *Capps v. Southeastern Cable*, the employee was hired by Southeastern to install cable TV and internet service for Time Warner cable customers. Southeastern told its installers that they were being hired as independent contractors rather than employees. Installers were required to provide a certificate of insurance showing that they had workers' compensation coverage. Finally, Southeastern gave its installers 1099 tax forms, used for payments made to independent contractors.

While performing an installation, Mr. Capps fell and injured his foot. Alleging that he was an employee of Southeastern instead of an independent contractor, he filed a claim for workers' compensation benefits, which Southeastern denied. The Industrial Commission concluded that he was an independent contractor and denied benefits.

The Court of Appeals reversed the Industrial Commission and held that Mr. Capps was an employee. In reaching the decision, the Court engaged in a detailed analysis of what are known as the Hayes factors, used by courts to differentiate between an employee and an independent contractor.

Importantly, the Court of Appeals gave little weight to Southeastern's treatment of its installers as independent contractors. The opinion notes, "[W]e do not give significant weight to this evidence since all that this evidence tends to show is the manner in which Defendant wished to have the business relationship characterized. As the Supreme Court has previously noted, 'the parties' own conclusion about their legal relationship is not binding on the court.'" (emphasis added). In other words, just because Southeastern wanted Mr. Capps to be considered an independent contractor did not mean that he actually was one.

The Capps decision is important because it refuses to allow employers to avoid their responsibility to provide workers' compensation simply by labeling their workers 'independent contractors.' Employees have little to no control over a business' decision to pay them under a 1099 rather than a W2. If the Court had reached a different conclusion, employers could have easily 'gamed the system' by deciding to 'label' their employees as independent contractors. Capps prevents employers from manipulating the system and instructs the Industrial Commission to look at the actual facts rather than the employer's labels.

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