

Callahan & Blaine Negotiates \$42 Million Settlement for Orange County Register Newspaper Carriers in Employment Lawsuit

By: Callahan & Blaine

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The vast majority of newspapers in the U.S. consider newspaper delivery personnel to be independent contractors – not employees. This means that the newspapers do not have to pay the carriers any employee benefits. But when 6000 current and former carriers from the Orange County (California) Register decided to sue the paper for past employee benefits, including unpaid overtime wages, damages for uncompensated break time, and reimbursement of business expenses, the law firm of Callahan & Blaine was proud to represent them in their case (Gonzalez v. Freedom Communications Inc., 03CC08756 [Orange Super. Ct., filed July 7, 2003]).

Attorney Daniel Callahan argued that, under California law, the question that determines employment is “whether the person has control over the means by which his or her work is accomplished.” Callahan argued that the Register tells its carriers when to pick up papers, where to deliver them, when to deliver them, how to assemble and stuff them and whether to wrap them in bags or rubber bands. He said supervisors – who are Register employees – even instructed carriers to drive on the wrong side of residential streets to make deliveries more accurate. He further argued that “these are the hallmarks of an employment relationship and the Register engaged in this practice in an apparent attempt to avoid providing benefits otherwise required by California law.”

The Orange County Register decided to settle the case in the middle of the trial, after Callahan had presented his case. The Register has agreed to pay \$36 million in past damages and an estimated \$6 million in benefits going forward to existing and future carriers. This settlement is the first of its kind in the United States.

According to an article in the Orange County Herald, [Register settles lawsuit by newspaper carriers](#), Scott Flanders, president and CEO of Freedom Communications, the Register’s parent company, stated that “I am pleased that the five-year protracted litigation has been resolved through a settlement that is fair to both sides. With this resolution, we bring certainty and finality to this issue, and we can move forward to address other challenges and to strengthen our business.”

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