

## BLOGS

Legislation and Rulemaking

# Updates Surrounding California's AB-5

In the wake of the California legislature's passage of AB-5 in September, thought leaders continue to examine how the new legislation may impact the franchising industry in California. A few recent cases are likely to have an impact. Each of these cases examines *Dynamex Operations West, Inc. v. Superior Court*, the California Supreme Court decision that AB-5 is intended to codify, and the "ABC Test" for determining whether a worker is an "employee" or an "independent contractor" that is described therein. First, in *Gonzales v. San Gabriel Transit, Inc.*, a California appeals court determined that *Dynamex* should be applied retroactively to wage and hour claims, and remanded the case to the trial court to apply the ABC Test. Second, the same day that *Gonzales* was decided, another California appellate court held in *Henderson v. Equilon Enterprises LLC*, that the "ABC Test" in *Dynamex* is not intended to apply to joint employer claims. This holding was consistent with an earlier holding by the Ninth Circuit in *Salazar v. McDonald's Corp.*, which also found that *Dynamex* was inapposite in that case because no party was alleging that a worker was an independent contractor. AB-5 will take effect on January 1, 2020.

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