

[Firm Name]
[Firm Address]
[City, State, Zip Code]
[Date]

[Client Name]
[Client Address]
[City, State, Zip Code]

Re: Classification of Per Diem Court Appearance Attorneys

Dear [Client Name],

You have requested a legal opinion regarding the proper classification of per diem attorneys engaged by [Firm Name] to handle specific court appearances. This letter evaluates whether these individuals should be classified as independent contractors or employees for tax and labor purposes.

Factual Background

It is our understanding that the per diem attorneys:

- Provide services on an as-needed, appearance-by-appearance basis.
- Maintain their own independent legal practices and professional liability insurance.
- Exercise independent professional judgment regarding the conduct of the hearing.
- Use their own equipment and travel to locations at their own expense.
- Are paid a flat fee per appearance rather than an hourly wage or salary.

Legal Analysis

Under applicable common law and regulatory standards, the primary factor in determining worker status is the "right to control" the details and means by which the work is performed. In the context of per diem court appearances, the firm controls the *result* (the completion of the appearance), but the attorney retains control over the *manner* of legal advocacy.

Opinion

Based on the facts provided, it is our opinion that per diem appearance attorneys are properly classified as **independent contractors**. This is supported by their specialized skill, the sporadic nature of the work, and the lack of direct supervision during the courtroom proceedings.

Recommendations

To maintain this classification, we recommend:

- Executing a written Independent Contractor Agreement for each engagement.
- Ensuring per diem attorneys are issued Form 1099-NEC for annual payments exceeding \$600.
- Refraining from providing firm-branded business cards or email addresses to these individuals.

This opinion is limited to the facts presented and the laws currently in effect.

Sincerely,

[Signature]

[Name of Attorney/Partner]

[Title]