



Franchising™
Building local businesses,
one opportunity at a time.

RULING THREATENS VIABILITY OF FRANCHISE BUSINESSES IN MASSACHUSETTS

For immediate release

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WASHINGTON, March 29, 2010—A recent ruling by U.S. District Court of Massachusetts Judge William G. Young will severely impact the ability of franchise businesses to operate, create jobs and provide millions in economic output in the Commonwealth, the International Franchise Association said today.

“Franchising is a significant source of small business activity in the Commonwealth and has greatly increased small business ownership, particularly among women and minorities,” said IFA Vice President of Government Relations David French. “We feel the judge did not take fully into account the unique attributes of franchising and the federal regulatory oversight of the franchise business model. Wrongfully defining franchisees as employees of the franchisors instead of business owners, as the ruling does, threatens the viability of franchising as a business model in Massachusetts and will likely lead to franchise companies ceasing operations.”

French said that because of the 16,000 franchise businesses in Massachusetts 300,000 jobs are created and \$37 million in economic output is provided.

The judge granted summary judgment to plaintiffs based on his conclusion that under Massachusetts’ Independent Contractor Statute, Massachusetts franchisees of the defendant Coverall North America were actually employees misclassified as independent contractors. Under the statute, individuals providing a service are considered employees if they meet one of three prongs of the “ABC test” of employee misclassification. The judge based his decision on prong two (“the service provided by the worker is outside the employer’s usual course of business”), asserting there is no distinction between the defendant’s business and that of its franchisees. In what amounts to a threat to the entire franchise business model, Judge Young brings into question the legitimacy of every business that relies on contractually related firms as sources of revenue.

This ruling is the latest in a series of adverse actions relative to the independent contractor statutes in Massachusetts. IFA is supporting legislation filed in Massachusetts that would stipulate that all three prongs of the ABC test must be violated in order for an independent contractor to be deemed a misclassified

worker.

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About the International Franchise Association

The International Franchise Association is the world's oldest and largest organization representing franchising worldwide. Celebrating 50 years of excellence, education and advocacy, IFA protects, enhances and promotes franchising through government relations, public relations and educational programs. Through its awareness campaign highlighting the theme, Franchising: Building Local Businesses, One Opportunity at a Time, IFA promotes the 21 million jobs and \$2.3 trillion of economic activity generated by franchising. IFA members include franchise companies in over 90 different business format categories, individual franchisees and companies that support the industry in marketing, law and business development.

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