

THE MIRROR

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Employee Classification – What to Expect When the State of California Is Through With You and The IRS Takes Over



By Mitch Reitman

The October issue of THE MIRROR contained a very informative article by Shane Clary about California Assembly Bill 5, which adds some statutory clarity to employee vs. independent contractor relationships in California. As Shane mentioned the bill codifies a decision from the California Supreme Court in *Dynamex Operations West v. Superior Court* (2018) 4 Cal. 5th 903 (the *Dynamex* case). If you haven't read Shane's article go back and read it, because if you own, or work in any capacity, for an alarm company, it may very well affect you.

While the State of California has made employee classification a priority, there is another, more powerful group out there waiting to take their bite of the apple. The Internal Revenue Service estimates that 30% of employees may be misclassified as independent contractors. This means that hundreds of millions of dollars of Income Tax, Social Security, and Medicare payments may not be paid in a given year. This is low hanging fruit and the IRS intends to pick it.

Although the IRS tests for employee/contractor relationships are similar to the ABC tests that Shane mentions in his article, the IRS considers **all** information that provides degree of control and independence when evaluating the relationship. Additionally, the IRS particularly focuses on one element of the relationship, that is the B of the ABC test ... "that the worker performs work that is outside the usual course of the hiring entity's business." This is the test that shoots down most independent contractor assertions. ***If the hiring entity already knows how to perform the work (i.e. installing an alarm panel), then why would they need to contract this function out?*** This test is typically applied, and failed, when the relationship is between a hiring company and an individual. AB 5 defines contractors that are truly businesses, and, contracting businesses that meet the requirements of the Bill may avoid scrutiny from the IRS.

But what about the individual that you contract to do an install in Blythe? You don't have an office there, you don't normally install alarms there, so you hire a "contractor" to put the system in. The "contractor" works at other times for a licensed company, has a State Registration, and does the installation piecemeal. While

Employee Classification, continued on page 8



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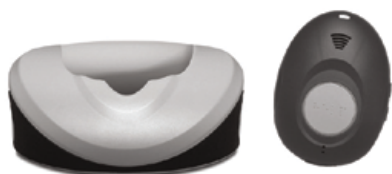


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Dear CAA Member,

As we wind down the year, I'd like to take a moment to give thanks for the blessings in our lives and express our appreciation and recognize our association.

The California Alarm Association has 11 regional chapters which serve you in your community. Thanks is given to the volunteer leadership who monitor and manage the affairs of the chapters, work with local public safety agencies and ensure that any threats are mitigated. If you attend their quarterly meetings, you will also become aware of opportunities for your company and our industry.

At the state level, we have several committees who continuously work to enhance the market in which we all do our business.

The CAA Government Affairs Committee monitors state legislation and works closely with our legislative advocate to ensure that legislation and regulatory issues are fair to our businesses and our customers.

Our CAA Scholarship Committee continues to advocate strong relationships with our public safety partners, and the CAA Technology Committee keeps a finger on the pulse of developing trends.

The CAA Board of Directors represents you and maintains a strong organization that is well prepared to advance the industry, your company and our businesses.

The most important thank you goes to you, the member company, who provides the financial support that allows us to maintain legislative and legal oversight and to manage industry issues.

Thank you, and all the best for a happy, healthy and prosperous New Year.

Sincerely,

Tim Westphal
CAA President



By Tim Westphal

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PAC ALERT

\$30,000 GOAL FOR 2019

By Don Gilbert, Mike Robson, and Trent Smith

The Political Action Committee (PAC) is an important part of the CAA governmental relations program. In past years, CAA has raised more than \$30,000 in its PAC to contribute to business-minded legislators. We want to establish this funding level as a goal for 2019 and encourage CAA members to contribute what they can to reach this goal.

As a reminder, PACs allow citizens with a common interest to join together to participate in the political process. Members of an industry association or employees of a company have an interest in supporting candidates whose philosophy is conducive to creating an environment in which their business can succeed. By donating to the company or association's PAC fund, employees or members help ensure that legislators will be elected who are interested in and responsive to the concerns of the company or industry.

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Control4 Smart Home OS 3 platform. Neo delivers fast access to the entertainment systems and smart home devices homeowners use most—their favorite streaming services, most-watched TV stations, playlists, lighting scenes, thermostats, and more. For information, visit www.snapav.com.

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Employee Classification, continued from page 1

this may conceivably fit the definition of AB 5, it will most probably not fly with the IRS. The IRS has established a task force, based in Oklahoma City, with hundreds of Revenue Agents and Officers, who are actively scanning tax returns for this type of situation.

Let's say you hired this guy as an independent contractor and, somehow, the State of California is cool with it. That should cover you with the IRS, right? Well, not exactly: if you pay this person \$600 in a calendar year, you are required to issue them a 1099. If the "contractor" doesn't have a business tax ID number (i.e. he/she is using their Social Security Number) our friends in Oklahoma may be alerted to the fact that you are making payments to individuals who may, in fact, be employees. Just as many State investigations are triggered by a "contractor" who files for unemployment or workers' compensation benefits, workers who believe that they may have been misclassified for Federal purposes may file Form SS 8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*. This form may be filed for a number of reasons, for example, one of the requirements to claim the Child Care Credit is that the Taxpayer have earned income from employment. Self employment income (from, say, being a 'contractor') doesn't count.

Many 'contractors' who find themselves missing out on a \$4,000 plus tax credit may be advised by their friendly neighborhood tax preparer to file the form, especially when they also realize that they owe \$6,000 plus of Self Employment Tax on their \$20 an hour 'contracting' income. This is when things can get bad. The IRS leans on the 'contractor' for income tax and self-employment taxes (Social Security) and the 'contractor's' recollection of the relationship undergoes a drastic metamorphosis. The 'contractor' suddenly remembers that they were an employee. They can then file Form 8919, Uncollected Social Security and Medicare Tax on

Wages to figure and report their share of uncollected Social Security and Medicare taxes due on their compensation. If a Form 8919 is filed, our Friends in Oklahoma City will most definitely get involved.

If the IRS opens an investigation and determines that the 'contractor' is in fact an employee, what can happen? - A \$50 penalty for each form W-2 that the employer failed to file because of classifying employees as independent contractors.

Since the employer failed to withhold income taxes, it faces penalties of 1.4% of the wages, plus 40% of the FICA taxes that were not withheld from the employee's wages and 100% of the matching FICA taxes the employer should have paid. Interest is also accrued on those penalties daily from the date that the amounts should have been deposited.

A Failure to Pay Taxes penalty equal to 5% of the unpaid tax liability can be imposed and for up to 25% of the total tax liability.

If the IRS suspects fraud or intentional misconduct, it can impose additional fines and penalties. For instance, you would be subject to penalties that include 20% of all of the wages paid, plus 100% of the FICA taxes (both employer and employee). Criminal penalties of up to \$1,000 per misclassified worker and one year in prison can be imposed as well.

And, just to rub salt in the wound, since many of the above amounts are penalties, they aren't deductible from income tax.

If you still want to wade into the Contract Employee pool, remember that you swim at your own risk.

Mitch Reitman is the Managing Principal of Reitman Consulting Group. He is a CAA Associate Member, winner of the 2007 Mark Schubert CAA Associate of the Year Award, and is a member of the Electronic Security Industry Hall of Fame.



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- 2020 Annual Meeting and Codes Conference, Phoenix, AZ, May 4 - 7, 2020
- 2020 Annual Breakfast (Held in Conjunction with NFPA Conference), Orlando, FL, June 16, 2020



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Lead for Success in the New Year



By Harvey Eisenstadt

The new year is just around the corner and no matter how well you did this year your objective must be to make next year even better. To achieve accelerated success in the coming year you must begin by analyzing this past year. What were your goals and expectations for this year, and did your sales team meet, miss or excel in achieving them? As a sales leader you must take a close look at each member of your sales team and identify which of these salespeople met, missed or excelled in their endeavor to meet the goals and expectations set forth by your management team. Your focus must be on growing market share and winning new accounts.

The significance of the economy unquestionably plays an important role in the actions employed by sales leaders when analyzing their team's progress. In a strong economy your team may be meeting or excelling in the goals and expectations of management. The question sales leaders must answer is whether their teams are truly excelling in this strong economy or is it the economy that is creating the results? Is your team ready to meet or excel if, and when, the economy begins to slow down?

As their sales leader you know the importance of consistency when it comes to bringing in new business. Also, as their sales leader you know the leadership you must provide to both guide and motivate the team to achieve these goals. Here are a few leadership strategies you can bring to your team so that they kick off the new year both motivated and knowledgeable on how to excel in bringing in that new business.

Many salespeople devote a significant amount of time servicing existing customers and the opportunities they present for new business. Unquestionably, your existing customer base plays a significant role in the discovery of new business opportunities. However, salespeople must also have goals for new customer business. Leadership must provide the guidance to devoting the time and plan necessary to find and successfully develop the new customers to meet those goals.

As their leader you should sit down with each salesperson, analyze the new business results from their existing customer base while creating the new customer goals for them. These goals should represent a percentage of new business from their existing customer base and a percentage of new business from new customers. When the new customers become part of their existing customer base, they should be viewed as part of the pipeline that is always feeding sales to the company regardless of the economy. You and the salesperson will determine the percentages based on their existing volume and the known new business opportunities in their market.

To accomplish the task of keeping the pipeline filled, each salesperson must begin by maintaining a targeted list of quality prospects in their market. Two distinct activities that can provide the salesperson the opportunity to accumulate this list is their participation in networking events and cold calling in their market area.

Salespeople must never forget that it is not only who you know or what you know but more importantly who knows you. In every market area there are many organizations, both business and nonprofits, where businesspeople gather for a common cause. Participating in these organizational events is where people will get to know you and the benefits of the business you represent. As this relationship strengthens, the birth of new business opportunities will prevail.

Similarly, cold calling is a very effective strategy for creating new business opportunities. There are many reasons why salespeople avoid cold calling and interestingly none of these reasons are related to the power and effectiveness of cold calling. Cold calling properly planned and executed can deliver a plethora of new business opportunities. To learn more about developing and employing a successful cold calling plan, see my article in the June 2019 issue of the Mirror, Sentinel and Sentry.

Existing customer business is the foundation for stability while new customer business is the foundation for growth. So, as their leader, ensure that your salespeople employ every tool available to them to keep their existing customer base growing while bringing in new business to keep that pipeline full.

My very best wishes to all for good health, happiness and success in 2020.

Harvey Eisenstadt is a Sales Consultant, Trainer, Speaker, Mentor and Author. Harvey possesses more than 55 years of successful sales and sales management experience and is a nationally recognized authority on relationship building. Harvey can be reached at 818-701-7799 or harvey@hjesales.com



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Michelle Sierra and Laura Hutchinson of All American Monitoring delivered the good news from THE MIRROR at ISC East.

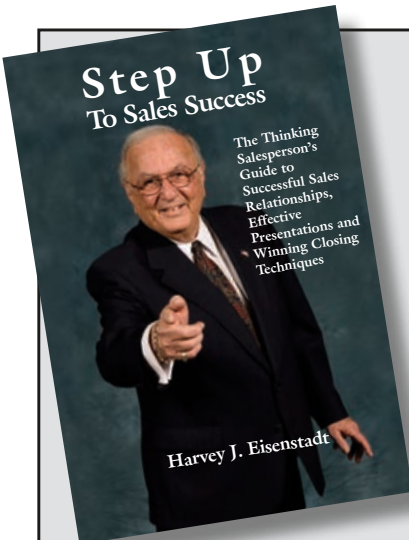


Joe Goodman of COPS Monitoring and CAA Executive Director Jerry Lenander with THE MIRROR on Times Square at ISC East.



CAA Past President John Hopper delivered THE MIRROR to the Great Pyramids.





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CASIA Executive Director Pat Reames and Graham Billings of Alarm.com delivered The SENTINEL and THE MIRROR to the Association Pavilion at ISC East.

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TMA Presents 2019 Mel Mahler President's Award

To Steven Correll

The Monitoring Association (TMA) had the honor of recognizing the significant contribution of Nlets' Executive Director Steven E. Correll to the monitoring industry with the presentation of the TMA's 2019 Mel Mahler President's Award for Outstanding Service to the Monitoring Industry (formerly the President's Award), Mon., Oct. 14. The Mel Mahler President's Award is presented each year at the discretion of the presiding TMA president to formally acknowledge an individual's contribution to the monitoring industry. Former TMA President Ivan Spector presented this year's award to Correll at the 2019 Annual Meeting in Napa, CA.

In this role for more than 18 years, Correll serves as the executive director for the National Law Enforcement Telecommunications Systems (Nlets), the premiere interstate justice and public safety network in the nation for the exchange of law enforcement, criminal justice, and public safety-related information. Over two billion exchanges took place in 2018.

**"Steve's contribution to
the establishment and
successful evolution of
TMA's ASAP-to-PSAP
service cannot be over-
estimated"**

"Steve's contribution to the establishment and successful evolution of TMA's ASAP-to-PSAP service cannot be over-estimated," stated former TMA President Ivan Spector. "With his leadership and support, ASAP-to-PSAP has steadily grown, ensuring faster and

more accurate information communication in an emergency. As of today, this life-saving service is being used by 62 jurisdictions across the U.S. Steve made this possible."

"The work that I did with TMA and the alarm industry in partnership on the ASAP-to-PSAP project was some of the most meaningful work that I accomplished during my tenure with Nlets," stated Correll. "Accelerating accurate alarm notifications to public safety dispatch centers via Nlets is a crucial effort, and one that I am proud to have worked on with the good people of TMA!"



Jay Hauhn Honored by TMA

With the Stanley C. Lott
Memorial Award

The Monitoring Association's (TMA) highest honor, the Stanley C. Lott Memorial Award for Exemplary Service, was presented to former TMA President and past Executive Director Jay Hauhn at the 2019 Annual Meeting in Napa, Calif. on October 16. The award honors Hauhn's dedication and service to TMA and the monitoring industry over the course of his career, which spans more than 40 years.

"There are few individuals like Jay who has sustained such significant contributions to TMA and our industry. I have had the distinct honor to work with him both as an association leader and as an industry executive with ADT," commented former TMA President Ivan Spector, who presented the award to Hauhn. "He played an integral role in the successful development and implementation of TMA's ASAP-to-PSAP service—a program he continues to promote today."

Hauhn was admittedly caught off-guard by the prestigious award. "It was quite unexpected," remarked Hauhn, "Especially given the list of previous winners, I was overwhelmed and humbled by Ivan's comments and the award presentation. It has been an honor to be of service to TMA and a great reward to contribute to some of the industry's most critical programs."



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2/4/2020 – Disruption Crisis
4/28/2020 – Video Integration
8/18/2020 – The True Cost of False Alarms



SILICON VALLEY ALARM ASSOCIATION

@ Uncle Buck's Fish Bowl (Bass Pro)
2/5/2020 Legislation 2020 Review
4/29/2020 – Fire Forum
8/19/2020 – Recruiting Top Talent



GOLDEN GATE ALARM ASSOCIATION

@ Chevy's 141 Hickey Blvd, South San Francisco, CA 94080
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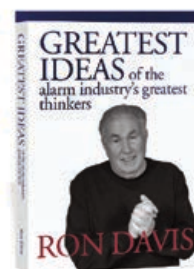
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Mike Salk, EBAA President / CAA Vice President NorCal

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2020

- ♦ February 4 Disruption Crisis
- ♦ April 28..... Video Integration

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Richmond Ordinance

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RAA MEETINGS

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Deric Morrow, President

SVAA Information

If you are not on our e-mail list, please contact Deric Morrow at (510) 921-3987 or deric.morrow@jci.com. It is so important to get involved with your local associations more than ever and to keep up to date on all the new information.



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Paul Wassem, President

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2020

♦ **February 6** Dealer Partnerships adding new services to your catalog

♦ **April 30**..... Protecting the Masses (Active Shooter)

For further information, contact the CAA at info@caaonline.org or call 800-437-7658.

Security Industry Alarm Coalition (SIAC)

Visit www.SIACinc.org for alarm management resources for alarm companies, law enforcement and public safety policy development officials. Resources include model ordinance, ECV information and alarm school materials.



George De Marco of ESX presented information on industry trends and future opportunities at the SVAA meeting.



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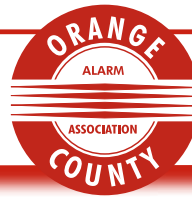
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November 20 General Meeting
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steve@siacinc.org

CBFAA had a great meeting in October. Stan Martin of SIAC spoke to members about SIAC's ongoing work with false alarms across the country and work right here with CBFAA in Colorado. We also had Marshall Lorden of Telguard speak to members about 3G sunset and a little about the coming 5G. Important info for our members!

CBFAA is working for you even when you're not attending a meeting. New technologies are moving fast and regulation continues to impact our industry without much consultation with us. CBFAA works to keep you abreast of the newest information and making sure our industry's voice is heard at the local and state levels. Add your voice to ours by joining today!

CBFAA has a new easy flat rate dues structure for 2020! CBFAA Members: Watch for your invoice from CBFAA coming soon. Non-Members: Fill out our new membership application available on our website www.cbfaa.org.

Upcoming Schedule

December 4 Holiday Party

New to CBFAA? Add your name to our email list to get meeting notifications and our newsletter. Once you see the benefits of membership, you'll want to add your voice to ours. Info and membership applications available on our website www.cbfaa.org



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OBFAA Membership

Please contact us if you would like to be a member of the OBFAA. Being part of the OBFAA has many benefits such as the latest news dealing with the alarm industry in the Pacific Northwest, OBFAA represents You and Your opinion to consumers, lawmakers and the public at large. The bigger the organization, the louder its voice.

Security Industry Alarm Coalition (SIAC)

Visit www.SIACinc.org for alarm management resources for alarm companies, law enforcement and public safety policy development officials. Resources include model ordinance, ECV information and alarm school materials.



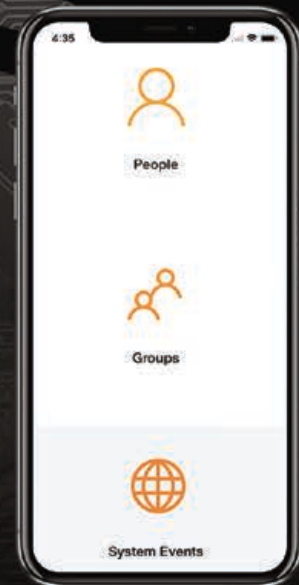
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The ESA Member Buying Program, designed to save you and your company significant amounts of time and money, now offers collective buying power through our Buying Group Alliance, made up of more than 250,000 businesses. ESA members are seeing immediate value and reporting an average of 20% savings. "We are thrilled to deliver another valuable member benefit to ESA member companies and their employees. Members taking advantage of this program may be able to pay for their ESA membership many times over by saving significant money on products and services they already buy," said Knox. Electronic Security Association members can register for the ESA Member Savings Program by going to www.esaweb.org.

Security America Risk Purchasing Group

Security America Risk Purchasing Group (SARPG) is an insurance company developed by the ESA and administered through Marsh Insurance. Security America RRG was formed in 2003 to provide affordable and stable insurance coverage exclusively to ESA member companies. Security America RPG offers general liability including errors & omissions insurance specifically tailored to meet the needs of electronic life safety, security, and systems professionals throughout the country. Domiciled in Vermont, Security America RPG is registered in all 50 U.S. states. For information visit www.securityamericarrg.com, call 866-315-3838 or e-mail info@securityamericarrg.com.

NTS Expands Online Courses

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WBFAA UATC Apprentice Enrollment for Spring Semester Class Open

Member companies can register new apprentices anytime. If you will be hiring new apprentices or technicians, member companies are encouraged to send job postings to info@wbfaa.net and we will send to our list of qualified prospects. The WBFAA UATC is open to member companies of the CAA or CAFAA who require having registered apprentices with the State of California. Call the WBFAA UATC at 800-809-0280 if you are interested in joining.

Certification – Fire/Life Safety Technician - Renewal

For Fire/Life Safety Technicians with 4,000 hours of work experience, the state law requires them to be certified by passing the state exam. The renewal application is posted at www.dir.ca.gov/das and the state does not send out reminders. For information on the Electrician Certification Program visit www.dir.ca.gov/das and follow the links.

The WBFAA UATC has certification prep material available to member companies of the WBFAA UATC. If you are a member and would like the material, please contact the WBFAA UATC at 800-809-0280 or email info@wbfaa.net.

CSLB Enforces Zero Tolerance

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WBFAA UATC Offers Online Continuing Education

The WBFAA UATC is offering an online continuing education program for electronic security systems technicians with nearly 100 hours of course offerings. Registered technicians with member companies will have access to 18 hours of online courses annually at no fee. In addition, registered technicians will have access to courses offered in physical classrooms and can submit third-party training for certification for renewal of the state Fire/Life Safety Certification card. For more information, visit www.wbfaa.net or www.wbfaatraining.net.

WBFAA UATC Invites Membership

Assented member companies register all fire alarm technicians in the program and pay a monthly fee of \$25 per technician. The apprentice program and course, prep material for certification and continuing education courses are provided at no additional fee. In addition, member companies who contribute to public works training trust funds to the WBFAA receive a \$.15 per hour credit for registered technicians. For complete information, visit www.wbfaa.net or call the WBFAA UATC at 800-809-0280.



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December 12GVAA General Meeting Manteca

2020

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February 6GGAA General Meeting S. San Francisco
March 17SIA/ISC Loves Security Las Vegas
March 18-20ISC West Las Vegas
April 28EBAA General Meeting Emeryville
April 30GGAA General Meeting S. San Francisco

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