Andrew S. Berns and Jenna A. Shorr Discuss New Independent Contractor Rule in *Business in New Jersey Everyday (BINJE)*

Andrew S. Berns, partner and chair of Einhorn Barbarito's Commercial Litigation and Employment Practices, and associate Jenna A. Shorr co-authored "Op-Ed: What employers should know ahead of new independent contractor rule," published by *BINJE* on September 11, 2026, examining what employers should know about New Jersey's newly codified ABC Test for determining independent contractor status.

The article examines the test's three prongs, addresses common misconceptions about worker classification and identifies practical steps employers can take now to evaluate existing independent contractor relationships and prepare for enforcement.

Specifically, the authors state that it is advisable to review the following proof points now to ensure compliance:

1. Review how each contractor's work is actually performed, not simply what the contracts say, and assess the relationship under all three prongs of the ABC test.
2. Gather and retain evidence supporting all three prongs of the test for each independent contractor relationship.
3. Consult with employment counsel on classification, coverage, and appropriate corrective steps.
4. Review whether any statutory exemptions apply to your workforce.
5. Budget for potential reclassification costs, including back taxes, benefits or other unpaid contributions, as well as potential penalties and related litigation or compliance costs.

Read the full article here.