

SJC puts workers compensation onus on employers

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The state **Supreme Judicial Court** ruled Wednesday that employers may not pass on to employees costs for worker's compensation insurance premiums.

The court also ruled that employers may not deduct "franchise fees" from compensation that essentially is wages.

Both rulings were made in response to questions put to the SJC by a U.S. District Court judge in the case Pius Awuah v Coverall North America Inc.

The underlying issue in the federal case that spawned the questions was whether workers who had entered into what were described as "janitorial franchisee agreements" were independent contractors. The federal court concluded that Coverall North America Inc. misclassified some Massachusetts residents as independent contractors when in effect they were functioning as employees.

In addition to taking on the issues of franchise fees and worker's compensation premiums, the SJC concluded that employers may not use what is called "accounts receivable financing" -- essentially waiting to pay workers for services until the ultimate recipients of those services pay their bills.

The SJC became involved to resolve the worker's compensation issue, which is governed by state law.

The lawyers in the case were:

- **Shannon Liss-Riordan** and **Hillary Schwab** for the janitors who brought the initial claim.
- **Michael D. Vhay** and **Norman M. Leon** for Coverall.

Friend-of-the-court briefs were submitted by:

- **Catherine Ruckelshaus** for the Brazilian Immigrant Center.

• **Eric H. Karp, Doris M. Fournier, Robert K. Sawyer Jr. and Adam N. Lewis** for the **International Franchise Association.**

• Massachusetts Attorney General **Martha Coakley** and Assistant Attorne General **Karla E. Zarbo**