
SECURITIES - CALIFORNIA

Quinn v. LPL Financial LLC

Court of Appeal, Second District, Division 8, California - May 10, 2023 - Cal.Rptr.3d - 2023 WL 3334992

Registered securities broker-dealers and investment advisers brought action alleging that brokerage firm misclassified them as independent contractors, rather than employees, and failed to reimburse for business expenses and made unlawful wage deductions.

The Superior Court granted firm's motion for summary adjudication. Plaintiffs appealed.

The Court of Appeal held that:

- Statute creating different test for determining whether broker-dealers and advisors were employees did not violate their equal protection rights, and
- Retroactive application of the statute did not violate due process.

Statute stating that *Borello*, 48 Cal.3d 341, 256 Cal.Rptr. 543, 769 P.2d 399, rather than *Dynamex*, 4 Cal.5th 903, 232 Cal.Rptr.3d 1, 416 P.3d 1, test for determining status as employee or independent contractor applied to registered securities broker-dealers and investment advisers had rational basis and did not violate equal protection rights of advisors and broker-dealers, even if the exemption resulted from lobbying efforts; legislature rationally could believe such professionals, who asked people to trust them with wealth and finances, had more skill and bargaining power than the average worker and therefore were less vulnerable to exploitation by misclassification as independent contractors.

Registered securities broker-dealers and investment advisers had no vested right in a particular test for determining whether they were employees or independent contractors, and, thus, retroactive application of statute stating that *Borello*, 48 Cal.3d 341, 256 Cal.Rptr. 543, 769 P.2d 399, rather than *Dynamex*, 4 Cal.5th 903, 232 Cal.Rptr.3d 1, 416 P.3d 1, test for determining status as employee or independent contractor applied to registered securities broker-dealers and investment advisers did not violate due process.

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