FORD & HARRISON LLP
THE RIGHT RESPONSE AT THE RIGHT TIME
LEGAL ALERT

Legal Alert: In Surprising Decision Court Finds That The California Trucking Industry Does Not Have To Comply With California's Rest And Meal Break Laws

11/2/2011

Executive Summary: A federal judge in the Southern District of California handed down a significant legal victory to the trucking industry by ruling that California's meal and rest break laws are preempted by federal law. See Dilts v. Penske Logistics LLC (Oct. 19, 2011). The Court found that California's laws interfere with the price, route, or service of a motor carrier, which in turn impacts competitive market forces. It remains to be seen whether the Ninth Circuit will affirm or reverse this unique decision.

Factual Background

Defendant Penske Logistics, LLC ("Penske") provided transportation and warehouse services for Whirlpool in California. During the relevant time frame, its employees were responsible for inventorying the appliances at its warehouses and loading the appliances onto trucks for delivery and installation to customers in California.

The plaintiffs, Mickey Lee Dilts, Ray Rios, and Donny Dushaj, worked as installers and truck drivers who filed a class action alleging that Penske failed to provide proper meal and rest breaks because it was improper for Penske to automatically deduct 30 minutes of work time to account for the employees' daily meal breaks without inquiring whether the employee was actually provided with a break.

Penske moved for summary judgment arguing that it is not required to comply with California meal and rest break laws because those laws are preempted by federal law. The Court acknowledged that this was a "close question" but agreed with Penske and found that these laws, which do not directly target the motor carrier industry, "bind Penske's prices, routes, or services and thereby interfere with competitive market forces within the industry."

Preemption Pursuant To The Federal Aviation Authorization Act ("FAAA Act")

The FAAA Act is a federal law that regulates transportation, including motor carriers in the trucking industry, and expressly provides for preemption of state law. It provides that a State "may not enact or enforce a law,

regulation, or other provision having the force and effect of law related to a ***price, route, or service*** of any motor carrier . . or any motor private carrier, broker, or freight forwarded with respect to the transportation of property."[1]

Penske's business operations qualified it as a "motor carrier" within the meaning of the FAAA Act.[2]

The Court found that California rest and meal break laws impose substantive standards related to Penske's "***price, route, or service.***" The length and timing of meal and rest breaks impose substantive restrictions, which bind a motor carrier to a set of routes, services, schedules, origins, and destinations that interferes with the competitive forces in the industry. If California was allowed to mandate when and how a carrier provides breaks to its employees, other states could do the same and do so differently. This would permit states to create a "patchwork" of state service-determined laws that would impact the routes or services of motor carriers.

This Court's holding is based in part on the recognition that in enacting a preemption provision identical to that of the Airline Deregulation Act of 1978 (ADA), which deregulated air carriers, Congress sought to "even the playing field" between air carriers and motor carriers. The court rejected the plaintiffs' efforts to distinguish Blackwell v. SkyWest Airlines, Inc., a recent decision holding that the ADA preempts California meal and rest break laws.

The Court Expressly Found That California Meal And Rest Break Laws Do Not Regulate Wages

Plaintiffs attempted to avoid preemption by arguing that meal and rest break laws are essentially "wage laws" because the employer is required to pay a penalty of one hour of wages for every break that is missed. Wage laws may not be preempted by federal law. The court rejected that argument and noted that meal and rest break laws do not require the payment of a higher wage, therefore, federal preemption applies.

Employer's Bottom Line:

This court's decision is encouraging for California employers who fit within the definition of "motor carriers." However, it is too early to tell whether it may be relied upon because it is likely that the order will be reviewed on appeal.

If you have any questions regarding this decision or other labor or employment related issues, please contact the author of this Alert, Michelle Abidoye, mabidoye@fordharrison.com, or the Ford & Harrison attorney with whom you usually work.

[1] See 49 U.S.C. § 14501(c)(1).

[2] "The term 'motor carrier' means a person providing commercial motor vehicle transportation for compensation. See 49 U.S.C. § 13102(14).