

## 3rd Circ. NJ Classification Ruling Curbs Scope of Preemption

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Ronald M. Leibman

The Third Circuit has found that federal law does not preempt New Jersey's standard for differentiating employees from independent contractors under the state's Wage and Hour and Wage Payment Laws in its decision in *Bedoya v. American Eagle Express Inc.*

This decision may act to hamper the trucking industry's ongoing battle with regulations of New Jersey and various other states that it claims hinder interstate transportation and increase labor and other costs of their providing services.

The federal circuit court rejected American Eagle Express Inc.'s argument that the Federal Aviation Administration Authorization Act's preemption of state laws "relating to a price, route or service of any motor carrier" was applicable to a proposed class action from delivery drivers claiming they were misidentified as independent contractors.

Though there is no unanimity between the Circuits on this preemption issue, this decision is one of several decisions in recent years limiting the scope of the act's preemption of state law and sends a message to the trucking industry that they cannot rely with certainty on the act to allow them to avoid regulations that apply to all industries. Similar conclusions on the scope of the act's preemption have been reached by the Seventh, Ninth and Eleventh Circuits.

Ron Leibman explained that the impact these preemption decisions will have outside their jurisdictions remains to be seen.

"There's no fixed test that says this is where the line is and if you cross the line, then you're affecting prices, routes, or services," he said. "You still are dealing with [different standards] until there's a single decision at the federal level at the Supreme Court, or you have Congress legislate."

He added, "To have all these cases set the bar that lawyers have to cross to prove their case, I don't think is 100 percent dispositive. It'll depend on what are your facts and where are you bringing it."