

# Win for Motor Carriers in Battle in California over Employment Classification of Owner-Operators

Related People:  
 Ronald M. Leibman  
 Hugh F. Murray, III

## Transportation, Logistics & Supply Chain Management and Labor & Employment Law Alert

01.17.2020

A highly anticipated decision granting a preliminary injunction preventing California from applying its new independent contractor test to motor carriers was issued by Senior U.S. District Judge Roger T. Benitez on January 12. While the ruling was not unexpected given the tenor of the judge's December 2019 decision granting temporary relief to the California Trucking Association (CTA), it is nonetheless a significant victory for the trucking industry in the long-standing battle in California over the employment status of its owner-operators. The decision sends a notice of caution to other states seeking to follow California's lead in implementing "ABC" criteria.

In the case *California Trucking Assoc., et al. v Attorney General Xavier Becerra, et al.*, the court ruled in favor of the CTA, finding that the Federal Aviation Administration Authorization Act (FAAAA) preempts the state's ABC test (explained [here](#)) for employment classification, recently codified in California's Assembly Bill 5 (AB-5), as applied to motor carriers. In finding that the CTA had met its burden of showing a likelihood of success on the merits of its FAAAA challenge of AB-5, Judge Benitez stated that it was notable that in the only decision on FAAAA preemption of AB-5 (the Los Angeles Superior Court's recent decision in *People of the State of California v. Cal Cartage Transportation Express, LLC*), the state court found that preemption of the statute was proper. He further noted a 2016 First Circuit decision *Schwann v. FedEx Package Systems* in which the court struck down Massachusetts' identical ABC test as being preempted by the FAAAA.

Judge Benitez further found that the CTA had met its burden of showing that irreparable harm would occur if the relief sought was not granted, as motor carriers would face government action as well as civil and criminal penalties unless they significantly changed their "business operations to treat independent-contractor drivers as employees for all specified purposes under California laws and regulations."

In discussing the defense put up by the state, the court found that despite being offered the chance to do so, the state could not explain how a motor carrier could contract with an independent contractor as an employee rather than as an owner-operator without classifying the independent contractor as an employee, leading to its observation that "the ABC test appears to be rigged in such a way that a motor carrier *cannot* contract with independent contractor owner-operators without classifying them as employees."

In summary, Judge Benitez found that California "encroached on Congress' territory by eliminating the motor carriers' choice to use independent contractor drivers, a choice at the very heart of interstate trucking . . . instead adopting a law that produces the patchwork of state

regulations Congress sought to prevent. With AB-5, California runs off the road and into the preemption ditch of FAAAA.”

It is expected that the state will appeal this matter to the Ninth Circuit Court of Appeals. The decision in that court, which has a reputation for being unpredictable, may set up a conflict with the First Circuit’s decision concerning the Massachusetts law and thereby set the stage for a decision by the U.S. Supreme Court on the proper reach of the FAAAA regarding the employment status of owner-operators. In the meantime, motor carriers in California can continue, for now, using a mix of employee drivers and owner-operators. Motor carriers throughout the country can expect that similar state laws will now either be delayed pending resolution of this legal battle or themselves be challenged if they are enacted.

For further commentary on this case, please read the January 16, 2020, *Wall Street Journal* article “[Judge Blocks California Gig Economy Law Enforcement on Truckers](#)” quoting Ron Leibman.