CLIENT ALERTS & INSIGHTS

Ejected! California District Court Dismisses Trucking Industry's New AB5 Challenge

MARCH 18, 2024

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As March Madness gets underway, a California federal judge has called a flagrant foul and ejected the trucking industry from its ongoing battle to challenge Assembly Bill No. 5 ("AB5"). On Friday, March 15, 2024, the United States District Court for the Southern District of California dismissed the trucking industry's long-pending action challenging the statute, which codifies a rigid "ABC" test used for determining whether a worker is an employee or an independent contractor. Judge Roger Benitez, the same judge who issued a preliminary injunction on December 31, 2019 to prevent the enforcement of AB5 against the trucking industry, and who was later reversed on appeal, rejected the industry's latest legal arguments, instead ruling in favor of California's Attorney General and the International Brotherhood of Teamsters. As a result, absent an appeal, the trucking industry will remain subject to AB5 just as it has been ever since the U.S. Supreme Court declined to review the subject in June 2022.

Background and Case History

Shortly after AB5 was enacted in 2019, the California Trucking Association ("CTA") obtained a temporary restraining order and preliminary injunction preventing enforcement of AB5 against motor carriers operating in California on the basis that the Federal Aviation Administration Authorization Act ("FAAAA") preempted AB5. After this injunction was overturned by the Ninth Circuit, and after the Supreme Court declined to review the Ninth Circuit's decision, AB5 and its ABC test to determine worker classification became enforceable against the trucking industry in California, making it difficult if not impossible for trucking companies to utilize non-employee owner-operators to haul freight given that the "B" prong of the ABC test would inevitably result in classifying any truck driver as an employee. After all, the "B" prong of the ABC test requires that the person performing the work (*i.e.*, a truck driver) performs work that is outside the usual course of the hiring entity's business (*i.e.*, a motor carrier).

AB5 Reviewed Again by the Southern District of California

When the case arrived back at the District Court, CTA and an intervening party, the Owner-Operator Independent Driver Association ("OOIDA"), continued to challenge AB5's enforcement against the trucking industry. In addition to continuing to argue that AB5 was expressly preempted by the FAAAA, CTA and OOIDA advanced several other legal theories - implied preemption, Dormant Commerce Clause preemption, and a violation of equal protection under the law.

The Court rejected the argument that it was impossible for a motor carrier to comply with both state and federal law, reasoning that the absence of a federal standard of classification requiring compliance did not make it impossible for truck drivers to comply with federal and state law. Further,

the Court brushed aside CTA's and OOIDA's argument that AB5 would establish a "patchwork quilt" of regulations since Congress, in enacting the FAAAA, only appeared concerned with carrier prices, routes, and services rather than worker classification for the purpose of wage and hour protection.

The Court also rejected CTA's and OOIDA's arguments under the Dormant Commerce Clause, finding no evidence that AB5 served economic protectionism since, among other things, AB5 burdens in-state motor carriers as well as out-of-state motor carriers operating in California. Finally, the Court rejected the challenge based on equal protection principles due to limited evidence of legislative animus and purported satisfaction of the generally easy-to-meet test of rational basis review.

Notably, the Court also addressed the often-discussed business-to-business exemption ("B2B exemption") which provides that AB5's ABC test does not apply to bona fide business contracting relationships if a bevy of individual factors are satisfied. The Court indicated that it was unconvinced that the federal Truth-in-Leasing obligations prevent motor carriers from satisfying the B2B exemption.

Conclusions and Future Implications

As the Court observed in the final paragraph of the decision, further challenges to AB5 should probably be made on a "soap box" or at the "ballot box" as opposed to in the "jury box." In other words, for his part, Judge Benitez has plainly signaled that he views further criticism of AB5 as best suited for the political arena.

While one can certainly critique various elements of the Court's decision, whether CTA or OOIDA will appeal the District Court's decision is currently unknown. However, considering that AB5 has been in effect for over four years, and has been enforceable against the trucking industry since mid-2022, most responsible motor carriers operating in California have already pivoted to alternative business models that comply with AB5. Those who have not yet done so are cautioned to do so promptly.

For assistance in determining how the District Court's ruling may impact your operations, or compliant ways to operate in California, contact a member of Benesch's Transportation & Logistics Group.

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