

Hot Recent Cases in Motor Carrier Law

by *Steve Block* May 2004

The ongoing debate about owner-operator “employee” status: what about workers’ compensation premiums?

***OOIDA v. New Prime, Inc.*, 2004 WL 603821 (Mo.App. S.D. 2004)**

The Owner Operator Independent Drivers Association (OOIDA) took up its members’ cause in this dispute between a number of drivers and their carrier “employer,” New Prime. The drivers had entered into lease-purchase agreements with an outfit called “Success Leasing,” and were under contract to New Prime (Success and New Prime were affiliated companies, if not “alter egos” of each other). The New Prime contract provided that the drivers had to foot the tab for workers’ comp coverage, which could be obtained “through New Prime or a Prime affiliate.” The premiums were deducted from the drivers’ pay.

The drivers sued to recover those premiums as illegally collected under Missouri’s workers’ comp laws. New Prime moved to dismiss on the ground those laws do not provide for a private cause of action. However, it wasn’t strict enforcement of workers’ comp laws the drivers were after; rather, they sought reimbursement of illegally acquired monies under equitable theories. The motion was denied.

Next, New Prime sought dismissal alleging the drivers were owner-operators excluded from workers’ comp guidelines. True, a California case suggested this might be the case. But Missouri’s law read differently (and far more broadly). Most importantly, the Success lease clearly indicated that the drivers would not acquire an ownership interest in their trucks during the period of the lease. Especially given the relationship between New Prime and Success, the employer was aware of this. This motion also was denied.

... but what amount *employees* of owner operators?

***C. Brown Trucking v. Rushing*, 2004 WL 302266 (Ga. App. 2004)**

A similar issue from Georgia, this time dealing with the employee of an owner-operator under lease to a carrier. The owner-operator didn’t enjoy workers’ comp and other niceties of an employer/employee relationship. But his driver/employee did (at least in the Peach State). Georgia’s statute on the subject was detailed, going through various categories of workers exempted along with “their employees.” Owner-operators weren’t included in that laundry list. Their employees, therefore, presumptively weren’t meant to be excluded.

Accordingly, the carrier is the statutory employer of the owner-operator’s employees, even though it’s not the owner-operator’s employer. The court went so far as to find the carrier’s actions “unreasonable,” and awarded the employee driver his attorneys’ fees to boot.

Alleging a bill of lading is enough to keep an action in federal court
Nippon Express v. Mitsui Sumitomo Ins. Co., et al, 2004 WL 856582 (N.D. Ill 2004)

Nippon issued a bill of lading for shipment of a container of Sony PlayStation games from Tokyo to Illinois. To transport the freight, Nippon hired carrier Hanjin, which promptly issued its own bill of lading identifying Nippon as shipper. Hanjin made separate arrangements with rail carriers BNSF and Norfolk Southern to transport the cargo from Tacoma, Washington to Illinois. Norfolk Southern hired carrier Omni Rail Intermodal to haul the freight to ultimate destination. Of course, the games never arrived.

The whole mess went to the federal district court sitting in the Northern District of Illinois under Nippon's declaratory relief action. Sony's insurer wanted a Prairie State court to preside, and brought a motion to dismiss the federal action for lack of jurisdiction. The theory was that Carmack and its federal jurisdiction provisions didn't apply, because a through ocean bill (originating in a foreign country) governed the transport.

The only problem was that Nippon, in its complaint for declaratory relief, alleged that the railroads had issued their own separate bills of lading. Never mind that no such documentation ever surfaced (and their existence was actually denied); the allegation is enough (in this court, at least), to keep the matter federal.

Cop's Level II inspection of a truck finds pot - legally
U.S. v. Mendoza-Gonzalez, 2004 WL 769747 (8th Cir. 2004)

A driver pulled into a weigh station in Iowa, his stash of marijuana and amphetamines hidden under the sleeper berth. A police officer discovered log book violations and elected to do a Level II inspection as authorized by FMCSA regs. After checking all equipment, the cop asked the driver if he could search his personal belongings. The driver said "yes, I have nothing to hide," but asked that the cop be careful not to awaken the driver's brother who was "sleeping" in the sleeper berth.

The officer looked into the berth and found a marijuana scent (and no sleeping brother). The berth's occupant restraints were not visible, which sometimes is the result of their being tucked under the mattress. The cop lifted up the mattress and there, lo and behold, was a shoe box full of dope. The driver, charged with possession with intent to distribute, claimed the search violated his Fourth Amendment rights.

The Eighth Circuit, reviewing the scope of a Level II inspection, found that safety restraints were validly the subject of the cop's look-see. It didn't matter what prompted attention to the berth's restraints, even if it was something the inspection could not legally include. If the cop could validly lift the mattress, whatever he found there was fair game and admissible evidence.

State's limitation of access to roads for interstate truckers is highway robbery
American Trucking Associations v. Whitman, 2004 WL 601659 (D. NJ 2004)

New Jersey noticed an increase in traffic accidents caused by truckers hauling interstate cargo. Statistical studies showed that truckers running to and from points outside the Garden State caused congestion and safety problems – more so that those on local moves. New Jersey's Department of Transportation responded by designating categories of transportation operating within the state, one of which was double-trailer and 102-inch semi's. Those classes of truck, when passing through Jersey, were restricted to certain routes. Of course, the allocated routes were less desirable (i.e., more costly) to navigate. Restricted trucks could venture onto other roads only for fueling, repairs, lodging, etc.

The American Trucking Associations heeded its aggrieved members' call, and sued the Garden State in the U.S. District Court for the District of New Jersey. The state's actions, alleged ATA, amounted to an impermissible restriction on interstate commerce, which is a serious no-no under the Commerce Clause of the U.S. Constitution' Article I. New Jersey responded by pointing to precedents wherein local government enjoys leeway to regulate safety issues, particularly in the highway traffic arena.

However, that deference had been granted only when state laws do not discriminate "either on their face or in effect." Because that was exactly the case here, the court ruled that the route-restricting regs in question must be heavily scrutinized (and not subject to deferential review). The court agreed that Jersey's regs served a legitimate local purpose. However, after reviewing a number of statistical studies the state had submitted in support of its case, the court concluded there were less discriminatory options available to achieve the desired ends. The court enjoined further enforcement of the regs as violative of the Commerce Clause.