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Motor Carriers Face Uphill Battle After California Supreme Court Decision

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Harris v. Pac Anchor Transportation, Inc., No. S194388 (July 28, 2014): In a unanimous decision, the California Supreme Court has held that the Federal Aviation Administration Authorization Act of 1994 (FAAAA) does not preempt an action brought under California's Unfair Competition Law (UCL) when the action does not relate to the prices, routes, or services of a motor carrier with respect to the transportation of property. As a result, the state of California can proceed with its action against a trucking company and its owner for allegedly misclassifying their drivers as independent contractors and for other alleged violations of California's labor and unemployment insurance laws.

Alfredo Barajas is the owner and manager of Pac Anchor Transportation, Inc., a trucking company in Long Beach, California. Barajas also separately owns 75 trucks. He recruits drivers to drive his trucks and leases the drivers and trucks to Pac Anchor. Both Barajas and Pac Anchor classify these drivers as independent contractors. The drivers invest no capital, own no trucks, and do not use their own tools or equipment. The drivers are employed for extended periods of time, but can be discharged without cause. They do not have their own customers or substantial control over operations. The drivers take all of their instructions from Barajas and Pac Anchor. The drivers perform the core activity of Pac Anchor's trucking business of delivering cargo.

In 2008, the state of California filed suit against Pac Anchor and Barajas under the UCL for allegedly misclassifying their drivers as independent contractors and, consequently, illegally lowering their cost of doing business. Pac Anchor and Barajas argued that the FAAAA preempts the state's UCL action.

The trial court found that the UCL action was preempted by the FAAAA because it relates to the company's "price, route, or service." The court reasoned, in part, that requiring the company to treat its drivers as employees would increase operational costs.

The California Court of Appeal disagreed with the trial court. It held that although the FAAAA "preempts state and local regulations relating to the prices, routes, or services of motor carriers with respect to the transportation of property," the state's unfair competition action seeks to enforce the employers' statutory obligations and is not related to a price, route, or service of any motor carrier—even though it may "remotely affect" them.

The California Supreme Court agreed with the Court of Appeal. The state high court held that an action by the state under California's UCL that is based on a trucking company's alleged violation of state labor and insurance laws, is not preempted by the FAAAA because it is not "related to a price, route, or service" of the company.

The justices held that employers, including trucking companies, are free to use independent contractors as long as such individuals are properly classified "in order to conform to state law." In fact, the court specifically stated, "The defendants' assertion that the [state] may not prevent them from using independent contractors is correct." The issue of whether the defendants actually misclassified their drivers as independent contractors, however, must be decided by the trial court.

Key Takeaways

According to Robert A. Jones, a shareholder in the San Francisco office of Ogletree Deakins: "What is most troubling in the court's opinion is its holding that in enacting the FAAAA, Congress did not intend to preempt 'basic regulation of employment conditions even though such regulation will invariably affect the cost and price of services.'"

Jones added, "Given its discussion of the existing case law with respect to FAAAA preemption, it appears the California courts will ultimately find that no matter what state law criteria applies to who may be properly classified as an independent contractor—as long as that criteria may be characterized as a 'basic regulation of employment conditions'—FAAAA preemption will not be found."

Rafael G. Nendel-Flores, a shareholder in the Orange County office of Ogletree Deakins, noted: "In this case, the California Supreme Court avoided the FAAAA's broad prohibition against state laws and regulations that relate to a price, route, or service of a motor carrier. The court did so by asserting that

state law provisions (e.g., state wage and hour provisions, state unemployment insurance tax provisions, and state workers' compensation provisions) that on their face apply to all employers, and only remotely affect prices, routes, or services of motor carriers, are not preempted by the FAAAA."

Nendel-Flores continued, "Further, the court's statement that motor carriers 'are free to use independent contractors as long as they are properly classified' provides little comfort. This is akin to stating that motor carrier drivers are free to go through the eye of a needle so long as their trucks fit. California law presumes that workers are employees and the burden rests with companies utilizing independent contractors to prove otherwise. Further, California's enforcement agencies such as the Division of Labor Standards Enforcement and the Employment Development Department are hostile towards independent contractor classifications. Put differently, motor carriers will continue to face an uphill battle convincing California regulators that their independent contractors are properly classified."

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