California Truckers Get Biggest Misclassification Win Yet; Gig Economy Companies Await Their Fate

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The federal court that had granted a temporary restraining order on New Year's Eve blocking California's misclassification law from taking effect against the trucking industry just extended that ruling by granting a preliminary injunction which will block AB-5 as to truckers for the foreseeable future. It's a big win for the trucking industry in the state, and it keeps alive the hope that the ABC test will never be applied for those California businesses – and truck drivers – in the motor carrier field. But of course, we continue to wait for the other shoe to drop: will a court also block AB-5 when it comes to gig economy companies?

We've talked about the truck driver litigation several times on this blog; we reported on the initial lawsuit filed back in November, the temporary restraining order granted right before the law went into effect on January 1, and a related case in state court that also saw the law blocked on a temporary basis last week. In a nutshell, the litigation all relates to whether the new misclassification law is preempted by a federal statute called the Federal Aviation Administration Authorization Act (FAAAA). Today's ruling confirmed that the court believes that those challenging the law were likely to succeed on the merits of their lawsuit, and therefore approved a preliminary injunction. By granting the injunction, the court didn't issue a final ruling on the matter; it simply preserved the status quo and the rights of the parties until a final judgment can be issued after a thorough amount of litigation.

The court's reasoning focused on the restrictive nature of the ABC test ushered in by AB-5, specifically Prong B of the test. That test "categorically prevents motor carriers from exercising their freedom to choose between using independent contractors or employees," the court said, because "drivers who own and operate their own rigs will never be considered independent contractors under California law" if AB-5 were allowed to stand. In concluding that the federal FAAAA should preempt AB-5, the court concluded by saying "there is little question that the State of California has encroached on Congress' territory by eliminating motor carriers' choice to use independent contractor drivers, a choice at the very heart of interstate trucking. In so doing, California disregards Congress' intent to deregulate 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 the FAAAA."

But as we've said before, this decision isn't necessarily cause for celebration for gig economy companies in California. The FAAAA has not been ruled to apply to the average gig economy worker

companies in California. The FAAAA has not been ruled to apply to the average gig economy worker, so it seems unlikely that a court would find that a similar rationale should be applied to the case currently pending in court, filed by Uber and Postmates, that seeks to strike down the law on a broader basis. Instead, we'll continue to wait to see whether another court agrees to press pause on the law as it applies to the gig economy, or whether – as was the case a few weeks ago in a similar lawsuit filed by freelance artists aiming to block the law – we'll need to continue to adjust to the new post-AB-5 world.

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