

TRANSPORTATION

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IN THIS ISSUE

The United States Supreme Court recently addressed California's Assembly Bill 5 regarding the employment classification for independent owner-operators working for commercial motor carriers.

Motor Carriers Will Need to Learn the ABCs of AB 5

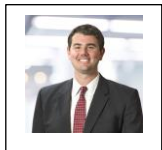
ABOUT THE AUTHOR



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ABOUT THE COMMITTEE

This IADC Committee was formed to combine practices of aviation, rail, maritime with trucking together to serve all members who are involved in the defense of transportation including aviation companies (including air carriers and aviation manufacturers), maritime companies (including offshore energy exploration and production), railroad litigation (including accidents and employee claims) and motor carriers and trucking insurance companies for personal injury claims, property damage claims and cargo claims. Learn more about the Committee at www.iadclaw.org.



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The International Association of Defense Counsel serves a distinguished, invitation-only membership of corporate and insurance defense lawyers. The IADC dedicates itself to enhancing the development of skills, professionalism and camaraderie in the practice of law in order to serve and benefit the civil justice system, the legal profession, society and our members.

On June 30, 2022, the U.S. Supreme Court denied a petition by the California Trucking Association (“CTA”) that sought to reverse the Ninth Circuit’s ruling that California’s Assembly Bill 5 (“AB 5”) was not preempted by federal law as it applied to truck drivers. The decision by the U.S. Supreme Court effectively deems California’s AB 5 applicable to independent owner-operators providing trucking services for motor carriers.

AB 5 is a California statute that uses the “ABC” test to define who is qualified to be independent contractors. Essentially, the “ABC” test provides that all workers should be considered a company’s employees *unless* they can satisfy the following three prongs: (A) free from the control and direction of the hiring entity, (B) performs work that is outside the usual course of the hiring entity’s business; and (C) the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed. Given the nature of the work by independent owner operators, it is basically impossible for owner-operators to satisfy prong “B” (and thus be deemed independent contractors) as they perform the same work as motor carriers.

With this denial by the U.S. Supreme Court, the preliminary injunction against the implementation of AB 5 against motor carriers will be lifted. According to the CTA: “In addition to the direct impact on California’s 70,000 owner-operators, who

have seven days to cease long-standing independent businesses, the impact of taking tens of thousands of truck drivers off the road will have devastating repercussions on an already fragile supply chain, increasing costs and worsening runaway inflation.” As recently on July 20, 2022, truckers protested at the Port of Oakland chanting, “The cargo won’t flow / until AB-5 goes!” The port shut down operations because of the protest.

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