In April 2021, the 9th Circuit panel held that the application of California Assembly Bill 5 (AB 5) to motor carriers is not preempted by the Federal Aviation Administration Authorization Act of 1994 (FAAAA). Under AB 5, the test for whether a worker is appropriately classified as an independent contractor became more stringent, creating potential issues for motor carriers that traditionally operated with independent owner-operators.

The 9th Circuit panel found the district court abused its discretion by granting a
preliminary injunction. The panel concluded AB 5 is a generally applicable labor law that affects a motor carrier’s relationship with its workforce and does not bind, compel, or otherwise freeze into place the prices, routes, or services of motor carriers.

In August 2021, the California Trucking Association (CTA) filed a petition for *writ of certiorari* with the U.S. Supreme Court, requesting the high court weigh in on whether the FAAAA preempts the application to motor carriers of a state worker-classification law that effectively precludes motor carriers from using independent owner-operators to provide trucking services.

The Supreme Court denied CTA’s petition. This comes after the Solicitor General for the United States submitted an *amicus brief* at the request of the Court which stated the petition should be denied. The United States’ brief argued the court of appeals correctly determined that petitioners were unlikely to succeed on their claim that the FAAAA preempts applying the ABC test as codified under California law to owner-operators, and the court’s decision did not conflict with any decision of the Supreme Court.

The Supreme Court’s decision to deny the petition for review means that the 9th Circuit ruling stands, and the preliminary injunction preventing AB 5 from being enforced against motor carriers will be dissolved.

California Assembly Republicans have made a request to Governor Newsom to either delay application of AB 5 or exempt the trucking industry altogether from the ABC test. To date, the Governor has not indicated if he will take any action.

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