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## Calif. Truckers' Wage Case Preempted By US Law: Judge

By Jonathan Randles

Law360, Los Angeles (October 21, 2011, 4:31 PM ET) -- In a potential boon for the California trucking industry, a federal judge on Wednesday tossed class action claims that Penske Logistics LLC underpaid for meal and rest breaks for employees who delivered Whirlpool Corp. appliances, saying those claims were preempted by federal law.

Judge Janis L. Sammartino said California's meal and rest break laws, which she described as fairly rigid, force drivers to alter their daily routes while searching out appropriate places to pull off the highway and park their vehicles, preventing them from making some daily deliveries. The state labor laws covering motor carriers limit the routes drivers can take, conflicting with the Federal Aviation Administration Authorization Act, which Congress had hoped, in part, would eliminate non-uniform state regulations on motor carriers, Judge Sammartino said in the ruling.

Allowing California to "insist exactly when and for exactly how long carriers provide meal breaks for their employees would allow other states to do the same, and do so differently," Judge Sammartino said.

Additionally, permitting California's meal and rest break laws and similar state laws could lead to a patchwork of state regulations on prices, routes and services, which Congress seeks to avoid, the ruling said.

"The court is confident that this decision does not force future courts down a slippery slope," Judge Sammartino said. "The [meal and rest break] laws at issue here are significantly more connected to the routes and services of a motor carrier than laws that merely impact the cost of labor. The laws restrict Penske's routes and services in a way that is binding."

The ruling is the first to apply the FAAA Act to the trucking industry's use of meal and rest break periods and should be a powerful tool for trucking companies operating within California who are fighting those claims, James Hanson, an attorney representing Penske from Scopelitis Garvin Light Hanson & Feary PC, told Law360.

Three employees working out of Whirlpool's Ontario, Calif. facility slapped Penske with the wage-and-hour lawsuit in 2008. In April 2010, the court certified a class of 349 hourly appliance delivery drivers and installers who were assigned to Penske's statewide Whirlpool account.

Besides meal and rest break violations, the plaintiffs accused Penske of failing to pay all wages due its workers and failing to reimburse workers for businesses expenses related to installation tools, according to the complaint.

According to the lawsuit, Penske used a dispatch record that documented its workers' delivery and installation schedule. But the company didn't schedule meal or break periods, and instead required workers to document their lunch breaks on its dispatch records forms.

Penske allegedly expected workers to take meal breaks and automatically deducted 30 minutes of work time daily, the lawsuit said.

A representative for the plaintiffs was not immediately available for comment.

The plaintiffs are represented by James Jason Hill and Michael D. Singer of Cohelan Khoury & Singer.

Penske is represented by James Hanson, R. Jay Taylor Jr. and Adam C. Smedstad of Scopelitis Garvin Light Hanson & Feary PC.

The case is Dilts et al. v. Penske Logistics LLC et al., case number 3:08-cv-00318, in the U.S. District Court for the Southern District of California.

--Additional reporting by Allison Grande. Editing by Cara Salvatore.

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