

California Rules on Meal, Rest Breaks Preempted by Decision of Federal Trucking Regulator, Court Holds

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Ruling it lacked jurisdiction to review the Federal Motor Carrier Safety Administration's (FMCSA) decision barring enforcement of California's meal and rest period rules with respect to interstate motor carriers, a federal district court in California has dismissed a driver's meal and rest break claims based on California law. *Ayala v. U.S. Xpress Enterprises, Inc., et al.*, No. 15-cv-00137-GW-KK (C.D. Cal. May 5, 2019).

FMCSA had ruled in 2018 that California's meal and rest period rules do not apply to property-carrying commercial vehicle drivers transporting goods in interstate commerce. The court reasoned that the U.S. Court of Appeals for the Ninth Circuit, which has jurisdiction over the issue, must rule on the issue before this court could deviate from the FMCSA's ruling. It also noted that a number of petitions challenging the FMCSA's ruling are pending before the Ninth Circuit.

Background

In a lengthy opinion released on December 28, 2018, the FMCSA held that California's meal and rest period rules are unenforceable because the California rules:

- Are more stringent than the federal hours of service rules;
- Have no safety benefit beyond those already provided by the federal hours of service regulations;
- Are incompatible with the federal hours of service regulations; and
- Cause an unreasonable burden on interstate commerce.

See Dep't of Transp., Fed. Motor Carrier Safety Admin., No. FMCSA-2018-0304.

Accordingly, the agency held that the California meal and rest period rules are preempted by federal law (49 U.S.C. § 31141).

By statute, a FMCSA decision controls, unless a state, or person who is adversely affected by the FMCSA's order, petitions the Ninth Circuit and persuades it that the FMCSA's decision was wrong. To date, four such petitions have been filed challenging the FMCSA's 2018 Order, but the Ninth Circuit has yet to rule on the issue.

While waiting for the Ninth Circuit, U.S. Xpress Enterprises, Inc., filed a motion for partial summary judgment based on the FMCSA's ruling against the California meal and rest period claims asserted in a putative class action commenced by one of its former commercial truck drivers, Anthony Ayala.

The California District Court agreed with U.S. Xpress, holding that the FMCSA's Order "bars enforcement" of the California meal and rest period claims. The court explained that "it is bound by the FMCSA Order and will apply the Order unless and until it is

invalidated by the Ninth Circuit.” The court said that it “*currently* has no authority to enforce” the California meal and rest period rules. The court granted summary judgment in favor of the defendants on the meal and rest period claims, and noted that the plaintiffs would be permitted to seek reconsideration if the FMCSA’s Order is invalidated by the Ninth Circuit.

Takeaways

The Ninth Circuit (and, perhaps, the U.S. Supreme Court) will have to decide whether the FMCSA’s preemption Order will govern. Until the Ninth Circuit rules, covered carriers operating in California are left to choose between compliance with California’s meal and rest break rules or assume the risk the Ninth Circuit may overturn the FMCSA’s decision. If a carrier changes its policies and practices in reliance on the FMCSA decision, but the Ninth Circuit later overturns the FMCSA decision, then the carrier could accrue liability for missed California meal and rest breaks, including premium pay.

Employers thinking of changing their policies or practices to reflect the unenforceability of California’s meal and rest period rules might consider waiting for the Ninth Circuit’s decision before doing so.

Please contact a Jackson Lewis attorney with any questions about meal and rest period policies and practices, as well as the legal and practical implications of making changes to those policies.

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