



California Trucking Association

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Truckers Sue Labor Commissioner for Public Records Act and Due Process Violations

Sacramento, CA- The California Trucking Association (CTA) filed a lawsuit on December 16 against California Labor Commissioner Julie Su, the California Division of Labor Standards Enforcement, the California Labor and Workforce Development Agency, California Secretary of Labor David Lanier, California Department of Industrial Relations, and Director of the Department of Industrial Relations Christine Baker, in Orange County Superior Court, alleging willful violations of the state's public records laws and deprivation of due process in a coordinated effort to transform the legal relationship between thousands of small business owner-drivers, from a business-to-business transaction into an employer/employee relationship.

CTA has turned to the courts because, for years, its members have not been provided with a fair and unbiased forum when the DLSE exercises its power to decide claims through "Berman Hearings." CTA believes and recognizes that when individual citizens, acting through their Legislature, entrust a governmental agency or department with the power to enforce laws or to adjudicate potential violations of law, they do so with the belief and assurance that the adjudicatory process will be neutral and fair, and that outcomes will not be pre-determined.

They do so assured that the agencies granted such concurrent powers and responsibilities will not conflate the two. No state agency or its executive has the power to ignore the rules or limits on its power. No state agency or its executive is authorized to misuse its power or ignore the limits on its actions to drive a particular social or economic result. The ends do not justify the means. That, however, has not been CTA's experience in these Berman Hearings.

"We believe the Labor Commissioner and Division of Labor Standards Enforcement (DLSE), for more than four years, have been intentionally ignoring their statutory obligations to be neutral and fair and are, instead, abusing their authority in order to drive a particular agenda – to undermine the many small business trucking companies that operate under the legal independent contractor relationship with other, larger companies – by forcing predetermined results from labor hearings," said Shawn Yadon, CEO of CTA.

CTA alleges that publicly available documents reveal that the International Brotherhood of Teamsters and affiliated groups, concerned by their inability to organize independent contractors, turned to state and federal agencies to assist in "cracking down" on allegedly unlawful independent contractor relationships. California state agencies, including the DLSE, then assisted in efforts to stimulate misclassification claims by owner-drivers. Commissioner Su has met with and is in communication with groups that have been working for years to force the reclassification of all owner-drivers to employees, regardless of their business arrangements or applicable law.

Through its lawsuit, CTA claims that these coordinated efforts have led to more than 1,500 complaints having been filed with the DLSE, resulting in prejudicial delays, violations of statutory deadlines, and abbreviated proceedings through which CTA's members have been denied legitimate due process. Defendants are ignoring

their statutory requirements and abusing their authorized powers to form a predetermined finding that owner-drivers are misclassified to further their political agenda in adjudicatory labor hearings, CTA alleges.

“We have seen the DLSE, at Commissioner Su’s direction, pervert the Berman Hearing process as a means to reclassify owner-drivers without regard to specific circumstances, individual facts or applicable law, despite the fact that our members entered into contracts with these owner-drivers with an understanding of the existing, legal rules that apply to those business relationships,” Yadon explained.

Contractual business relationships between owner-drivers and authorized carriers are permitted and recognized under Federal and California law. CTA asserts that the DLSE, without issuing any guidance or clarification through notice and comment, replaced the applicable legal test with its own undefined amalgamation that always comes out the same way, regardless of the evidence presented. The DLSE has applied that undefined test retroactively to find that authorized carriers, including CTA members, acted willfully.

“Our members’ experiences have been that during their portions of the Berman hearings the hearing officers largely ignore the presentations, engaging in such things as checking phone messages and reading emails. This is yet another example of preordained conclusions by the DLSE,” Yadon stated.

CTA also claims that, since 2013, it has sought information and documents from Defendants showing their motivations and coordinated efforts. Defendants have failed to comply with their obligations under the California Public Records Act.

“The lack of transparency to date has been astounding,” Yadon continued. “The California Public Records Act is a critical tool to hold government officials accountable. But despite repeated inquiries—and even agreements to narrow the scope of our requests—the Defendants have stonewalled us in a direct violation of state law. The conduct is more than suspicious. We hope that this lawsuit will bring needed sunlight to the actions taken by the Labor Commissioner and the DLSE.

“We are not fighting to avoid having legitimate disputes related to independent contractor status adjudicated; but we insist the process be fair, satisfying minimum statutory and constitutional requirements, and the result not predetermined. That is how our system of government is supposed to operate. Defendants’ demonstrated failure to do so is why we brought this lawsuit. We are asking the court to make the government produce the documents it should have disclosed long ago, undo the decisions that were issued during this tainted Berman Hearing process and, until the DLSE can demonstrate that it is providing what it should – a fair, unbiased forum where CTA’s members will face a fair process – preclude the DLSE from conducting Berman Hearings in matters involving CTA members,” Yadon concluded.

A copy of the legal complaint can be found [here](#).

To find out more information on the California Trucking Association, go to www.caltrux.org/

About the California Trucking Association

The California Trucking Association has been serving the commercial motor carrier industry in California, and the companies that provide products and services to the trucking industry, for 82 years. A critical and vital component of California’s economy, 78 percent of California communities depend solely on trucks to deliver their goods. Our carrier membership ranges from individual owner-operators to small for-hire fleets, to the largest national and international carriers. Allied members of the California Trucking Association range from businesses involved with truck and trailer sales, parts and service, insurance, legal services and all other businesses that support the trucking industry.

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The California Trucking Association promotes leadership in the California motor carrier industry, advocates sound transportation policies to all levels of government, and works to maintain a safe, environmentally responsible and efficient California transportation goods movement system.