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TRUCKERS CLAIM 'WAGE THEFT'

By Fiona Smith, Daily Journal Staff Writer

While the trucking industry managed to temporarily beat back a Port of Los Angeles requirement to hire truck drivers as employees under the Clean Truck Program, one trucking company is nonetheless facing a class action wage-and-hour lawsuit from port truck drivers alleging they were bilked out of pay.

Three truck drivers employed by Total Transportation Services Inc. sued the company along with three staffing agencies, alleging they conspired to violate several wage-and-hour laws. The violations reportedly occurred during the roughly six months it took for the American Trucking Associations to win a preliminary injunction in federal court in May against the Clean Truck Program's employee requirement, which mandated that trucking companies hire drivers as employees instead of contract workers.

The suit, filed earlier this week in Los Angeles Superior Court, claims potentially hundreds of drivers were not fully paid for the hours they worked and were deprived of meal and rest breaks, among other labor code violations. *Montoya v. Total Transportation Services Inc.*, BC425121.

"This is a mind-boggling array of wage-and-hour violations, including failure to pay drivers at all for time spent picking up and inspecting trucks before the official start of the workday, failure to allow drivers to take required meal and rest breaks, and failure to reimburse drivers for work-related expenses," Adam Luetto, an attorney with the Law Offices of Ellyn Moscowitz in Pasadena who is representing the drivers, said in a statement. "This kind of employer behavior at our ports amounts to nothing short of wage theft and we want to make sure the rights of these drivers are vindicated and the employers who perpetrated such employment practices are held accountable."

Total Transportation Services and the staffing agencies Source One Staffing LLC and Rally Management Services LLC did not return calls seeking comment. The third staffing agency that was sued, Quality Driver Solutions Inc., declined to comment.

The case comes as the trucking association has been fighting against efforts by the Ports of Los Angeles and Long Beach to slash diesel truck pollution by 80 percent by 2012 through a joint Clean Truck Program. The Port of Los Angeles adopted its own requirement that trucking companies hire drivers as employees, a move that upset trucking companies, which have traditionally used drivers as independent contractors. Port officials argue that well-capitalized trucking companies are better able to cover the high cost of purchasing and maintaining cleaner burning big rigs.

The American Trucking Associations sued both ports last year to block the program, alleging it set onerous requirements on trucking companies and illegally interfered with interstate commerce. The association recently settled its claims with the Port of Long Beach, but it is set to go to trial against the Port of Los Angeles in Los Angeles federal court next year. *American Trucking Associations v. City of Los Angeles*, 08-04920.

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