



# BNA Daily Labor Report

February 24, 2011

## California Attorney General Asks Court to Uphold Port's Clean Truck Program

LOS ANGELES—California Attorney General Kamala D. Harris (D) Feb. 17 asked the U.S. Court of Appeals for the Ninth Circuit to affirm a federal district court ruling that upheld key elements of the Port of Los Angeles's clean truck program (*Am. Trucking Ass'ns Inc. v. City of Los Angeles*, 9th Cir., No. 10-56465, *amicus curiae* brief filed 2/17/11).

The attorney general's request came in an *amicus curiae* brief filed Feb. 17 in support of the port and the city of Los Angeles in the trucking industry's long-standing lawsuit alleging port officials overstepped their authority in adopting the program that imposed a phased-in ban on old, high-emitting diesel trucks in 2008.

At issue are concession agreements that are part of the port's clean truck program, not the ban on older trucks. Specifically, the case focuses on provisions that require motor carriers to use only employee-drivers to operate the trucks servicing the ports and maintain off-street parking for their trucks, away from residential areas.

The American Trucking Associations filed the challenge alleging federal laws governing motor carriers, including the Federal Aviation Administration Authorization Act, preempt the port's program.

In August, the U.S. District Court for the Central District of California upheld the port's program, finding that the port is a “market participant” and subject to exception to the Federal Aviation Administration Authorization Act provision ([167 DLR A-6, 8/30/10](#)).

ATA appealed the decision and in October won an injunction blocking the port from enforcing elements of the program at issue in the litigation ([207 DLR A-8, 10/27/10](#)).

The clean truck program is designed to reduce 80 percent of the diesel emissions generated in and around the port by 2012. In 2008, the South Coast Air Quality Management District study found that people living in the neighborhoods surrounding the port face a higher risk of cancer due to exposure to air pollution than elsewhere in the Los Angeles air basin.

“This case presents serious issues of harm to the environment, and of harm to the health of hundreds of thousands of people who live and work in and around the Port of Los Angeles,” the attorney general's office said in its brief.

By *Carolyn Whetzel*