

U. S. Supreme Court To Hear Case Brought by the Scopelitis Firm

On January 14, 2005, Scopelitis attorneys received word they will soon appear before the U.S. Supreme Court to argue an important case on behalf of the trucking industry.

The Court has agreed to review the Scopelitis firm's legal challenge to the flat \$100 decal fee imposed annually by the Michigan Public Service Commission on each for-hire truck operated in interstate commerce and base plated in Michigan. Indianapolis partners Andy Light, Jim Hanson, and Lynne Lidke have prosecuted the claim since the firm was appointed co-class counsel in the case almost ten years ago, but the Michigan courts upheld the decal fee in each step of the appeal process.

Now, the U.S. Supreme Court will address the claim that Michigan's \$100 fee violates the \$10 maximum imposed by the Single State Registration System (SSRS), a federal program that limits the means by which states may register interstate motor carrier operations. According to Jim Hanson, "Congress enacted the SSRS to establish a uniform procedure for state registration of interstate carriers, but the Michigan fee and the Michigan decisions upholding it violate the very notion of uniformity and create a loophole allowing other states to charge excessive fees as well."

The ultimate goal, say Andy Light and Michigan co-counsel Bob McFarland of Foster, Swift, Collins & Smith, is to obtain refunds dating back to at least 1994 on behalf of members of the transportation industry, including class representatives Mid-Con Freight Systems and Lafond Express and other interstate carriers.

First, however, Hanson will be preparing for his Supreme Court appearance in late April in an effort to persuade the nine justices that the Michigan fee is illegal. He will be aided in his task by an *amicus curiae* ("friend-of-the-Court") brief filed by the U.S. Solicitor General and the Federal Motor Carrier Safety Administration in support of the firm's position. Also on the docket will be a related argument by the American Trucking Associations (ATA), which intervened in the case to join the firm's challenge to a separate \$100 fee assessed

against Michigan intrastate carrier operations. ATA will argue the claim that the intrastate fee burdens interstate commerce and thus violates the Commerce Clause of the U.S. Constitution.

Congratulations to Ted Thompson and the Green Bay Packers

One of the many leadership changes that are a fact of life in the National Football League at season's end rekindled a friendship with roots in Houston and led to a first for the Scopelitis firm: participation in an NFL contact negotiation.

The Green Bay Packers' recent introduction of Ted Thompson as the organization's new general manager marked the beginning of what Thompson called "a dream job" with the Packers.

Thompson was represented in his contract negotiations by Scopelitis attorney Greg Ostendorf. Ostendorf and Thompson first crossed paths in Houston, where Ostendorf was then in private practice and Thompson was in the midst of a 10-year career as a linebacker with the Houston Oilers.

Plans Underway for Firm-Sponsored Restructuring Seminar This Spring in Chicago

The Scopelitis restructuring team is making plans for a seminar to be held in Chicago in April 2005 for interested trucking owners and executives.

The business environment for trucking companies over the past several years has been referred to by many as "the perfect" storm. A combination of factors including a downward economic trend, rising insurance costs, and spiraling jury verdicts in highway accident litigation have caused many trucking companies to re-evaluate their current corporate structure and organization. With insight and authority gained from restructuring transactions effected around the country, the speakers will delve into the "trucking specific" myriad of corporate, tax, legal, administrative and insurance issues presented by such a transaction.

For more information, contact Allison Smith at asmith@scopelitis.com or at (317) 637-1777.

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