

## *Trucking*

### **Drayage Drivers Fired by California Firm Return to Work as Legal Case Unfolds**

**T**he U.S. Court of Appeals for the Ninth Circuit Oct. 31 denied a California drayage firm's emergency motion to stay a federal district court's order that the employer refrain from interfering with the labor law rights of workers while the National Labor Relations Board resolves charges brought against the company by the International Brotherhood of Teamsters (*Garcia v. Green Fleet Sys., LLC*, 9th Cir., No. 14-56656, 10/31/14).

The decision cleared a path for Mateo Mares and Amilcar Cardona to return to work immediately at Green Fleet Systems LLC in Carson, Calif., a Teamsters representative said Nov. 7 during a teleconference call with the press. Mares returned to work Nov. 7, and Cardona is expected to do so Nov. 8.

"The [appeals court] has affirmed that Green Fleet cannot continue to violate the law with impunity," attorney Julie Gutman Dickinson, who represents the IBT Port Division, as well as Mares and Cardona, said during the call.

She added, "The ruling sends the message loud and clear to the trucking industry and to all employers who try to pass off regular employees as independent contractors that misclassified independent contractors are, in fact, employees who are entitled to choose union representation and that they cannot be fired for their union activities or for filing claims for wage theft."

Representatives for Green Fleet were unavailable to comment.

**Preliminary Injunction a Coup for Teamsters.** In October, Judge Philip S. Gutierrez of the U.S. District Court for the Central District of California granted the preliminary injunction under Section 10(j) of the National Labor Relations Act (199 DLR A-1, 10/15/14).

Gutierrez said at the time that NLRB Regional Director Olivia Garcia, who presides over Region 21 in Los Angeles, presented evidence that Green Fleet interfered with the IBT Port Division's organizing efforts by

launching a "litany" of threats, promises, interrogations and other coercion at the firm's employees.

The Teamsters alleged in a statement the union released Nov. 6 that Green Fleet fired Mares and Cardona "for challenging their misclassification, for filing claims for stolen wages with the California Division of Labor Standards Enforcement, and for publicly supporting the Teamsters."

Gutierrez also said the NLRB will likely find Mares and Cardona were fired because of union activity, and he ordered Green Fleet to reinstate them pending completion of NLRB proceedings.

Subsequently, Green Fleet filed a motion to stay the court's order.

**Port Drivers: 'Poster Child for Wage Theft.'** James P. Hoffa, the Teamsters general president, said in the union's Nov. 6 statement that the IBT is committed to working with drivers and their allies "to stop wage theft in the port trucking industry."

"America's port drivers are the poster child for wage theft in America," he said. "Like millions of workers, drivers are treated like regular employees but illegally compensated as independent contractors."

Fred Potter, a Teamsters vice president and director of the union's Port Division, echoed Hoffa. "We've engaged labor throughout the country, particularly in Southern California, and we will continue our fight with our partners against income inequality and the misclassification of drivers," Potter said during the call.

Before beginning his shift at Green Fleet at 6 a.m. Nov. 7, Mares, who commented in Spanish, said during the call through an interpreter: "My hope is that all port drivers will one day have a union contract so that . . . we all get treated with respect."

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*Text of the appeals court denial is available at <http://op.bna.com/dlrcases.nsf/r?Open=rsmh-9qmrhe>.*

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