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Truckers' union win could have wide reach

Historic agreement classifies a company's short-haul drivers as employees

By Laura Hautala
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Plaintiffs' attorneys and the International Brotherhood of Teamsters have won a victory for short-haul truck drivers at one company operating in the ports of Long Beach and Los Angeles that could reverberate across the industry.

Shippers Transport Express agreed to classify its drivers as employees starting this month, and is expected to recognize a union for the workers Friday when the drivers' signed cards in favor of the union are verified.

"It's a historic agreement," said Julie Gutman Dickinson, a partner at Bush Gottlieb who serves as outside counsel to the Teamsters for its port campaign. "I think it's going to be a model for companies who want to succeed at the port."

The company faced an investigation by the U.S. Department of Labor in addition to a wage and hour class action and lawsuits from individual workers.

This would be the first unionization of the ports' short-haul truck drivers, who make trips taking goods from the port to nearby warehouses, to emerge from what's known as a card-check agreement during a push by the teamsters.

The company agreed to remain neutral and accept the union if a majority of workers signed cards indicating they want to be part of a bargaining unit.

The union's representation of the drivers takes hold amidst a backdrop of protests, strikes and legal action taken against a variety of similar companies operating at the ports. These efforts

have largely been coordinated by the Teamsters' port campaign and labor activists.

Dickinson said the Department of Labor was instrumental in achieving the first step necessary for unionizing the workforce: reclassifying the drivers as employees. When drivers are classified as independent contractors who own and operate their own trucks, they can't join a union.

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"When there's a neutrality card check agreement, to see it come to fruition is exciting," Dickinson said.

The Teamsters and a slew of plaintiffs' attorneys have argued for years that trucking companies are actually treating drivers as employees — controlling when and where they can work — while dodging the responsibility of following the state and federal laws that regulate employment.

That's what C. Joe Sayas, a plaintiffs' attorney in Glendale, argued in a proposed wage and hour class action on behalf of drivers at Shippers Transport Express. That case settled in November, though details of the tentative agreement have not been released. Sayas could not be reached for comment Wednesday.

Stephen Glick, another plaintiffs' attorney who sued the

company in a separate lawsuit on behalf of eight individual drivers, said the larger wage and hour class action helped put pressure on the company to change its approach.

He also said the employment model is better for his clients, who will now get meal and rest breaks, workers' compensation and other employee protections.

"They're working hard, long hours — harder than they should," he said. At least six of Glick's clients opted out of the larger wage and hour settlement, he said, and their trial date is set for late March.

Representatives for Shippers Transport Express could not be reached Wednesday.

Stacey McKee Knight, a partner at Katten Muchin Rosenman LLP who represents short-haul trucking companies but does not represent Shippers Transport Express, said the company fought a hard battle on many fronts.

"I think it's a big deal any time a company agrees to a card check neutrality agreement, particularly after they fought for so long," Knight said, noting that, "there's a tipping point of how much they're going to fight."

Knight said she has many clients who face investigations from several government agencies, each of which make rulings on whether the drivers should be classified as employees and can levy fines and back pay.

"I've had that experience with clients where when a union is attempting to organize, you can expect other agencies to start knocking on your door."

In addition to its decision to classify its drivers as employees and enter into a card check agreement, Shippers Transport Express will pay more than \$180,000 in fines and back pay as part of the Department of Labor's investigation.

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