



## **NEW JERSEY SUPREME COURT WEIGHS IN ON THE VALIDITY OF LEASES IN THE MOTOR CARRIER INDUSTRY AND WHO AN OWNER IS UNDER TRUTH IN LENDING REGULATIONS**

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In a published opinion, on April 25, 2019, the Supreme Court of New Jersey affirmed the Appellate Division's holding (affirming the trial court's holding) in the case of Gonzalo Chirino v. Proud 2 Haul, Inc., which involved a violation of the Federal Truth in Lending ("TIL") regulations in the motor carrier industry. Specifically, the Court struck down the defendants' strategy of having a third-party lease trucks from owner-operators, and in turn, having that third-party assign all services and equipment it leased from the owner-operators to defendants, stating such an arrangement violates the TIL regulations (49 CFR 376.1 to .42.).

The facts and allegations underlying the Court's decision are as follows:

- The main defendant ("Carrier Defendant") was an entity that registered with the Federal Motor Carrier Safety Administration and was subject to both the Federal Motor Carrier Act ("MCA") and Federal Truth in Lending ("TIL") regulations, 49 CFR 376.1 to .42.
- In 2012, Carrier Defendant entered into an agreement with Trucking Support Services ("TRS") under which TRS leased trucks from the owner-operators, and in turn, TRS assigned the services and equipment it leased from the owner-operators to the Carrier Defendant.
- Plaintiffs alleged the Carrier Defendant violated TIL regulations by entering into this arrangement with TRS.

The trial court entered an order stating the defendants were in violation of TIL regulations by failing to have written lease agreements with plaintiffs, contrary to 49 C.F.R. § 376.12(a). This regulation provides:

The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives.

Defendants thereafter moved for reconsideration of that order based on a new legal theory that TRS, not plaintiffs, was the "owner" of the equipment as that term is defined in 49 C.F.R. § 376.2(d)(2) because TRS had the exclusive right to use of the equipment.<sup>1</sup> The trial court rejected that argument and denied reconsideration.

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<sup>1</sup> 49 C.F.R. § 376.2(d) states an "owner" is: A person (1) to whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment registered and licensed in any State in the name of that person.

The trial court held that TRS was not the “owner” of the trucks under TIL regulations because plaintiffs retained the ability to lease their trucks to others, including the Carrier Defendant. While stressing the purpose of TIL regulations was to protect individual truck drivers from large trucking concerns because the companies possess an unfair advantage, the trial court noted the agreements did not contain any language that made TRS’s relationship to plaintiffs exclusive because it did not permit plaintiffs from entering into contractual agreements with other motor carriers, and in fact, directly permitted such arrangements.. Thus, the trial court concluded that TRS did not have the right to exclusive use of the trucks as required by 49 C.F.R. § 376.2(d)(2).

The New Jersey

Supreme Court agreed with the lower court’s holding that allowing a corporate intermediary like TRS to be interjected into the relationship of plaintiffs and the Carrier Defendant would undermine TIL regulations and the MCA.