



ATA LITIGATION CENTER, INC.

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VICTORY LIST

- 11/14/11 **Challenge to Anti-Indemnification Law Dismissed** - A Louisiana District Court dismissed a legal challenge to that State's anti-indemnification law in a case in which ATA and the Louisiana Motor Transport Association actively participated as *amici*. The Court found that the law, which protects motor carriers from being forced to indemnify shippers for losses caused by a shipper's own negligence, did not facially violate any of the constitutional provisions alleged by the plaintiffs and further held that the plaintiffs had not presented any set of facts under which the law would be unconstitutional. Consequently, the legal challenge was dismissed for failure to present a cause of action upon which relief could be granted.
- 09/26/11 **Independent Contractor Ban Preempted** - A unanimous Ninth Circuit decision found that the Port of Los Angeles attempt to ban independent contractors from port operations is preempted by the federal rates, routes, and services preemption provision. The decision overturned a District Court decision in the long-running ATA challenge and sets valuable precedent that will chill union efforts to secure this type of ban at other port facilities.
- 03/10/11 **Satellite Information System Found Tax Exempt** - In a case in which ATA and the Washington Trucking Association filed a joint *amicus* brief, the State Supreme Court found that Qualcomm satellite information systems were not subject to the State's retail sales tax. Quoting the *amicus* brief, the Court concluded that the satellite system was not merely a communication system, but rather was a vital truck and driver management tool used by carriers to supervise drivers and their operations.
- 02/22/11 **Rail Discrimination Claim Open to Favorable Legal Standard** - The United States Supreme Court found that railroads may bring a claim of discrimination under the 4R Act based on an exemption for motor carriers from the State's sales tax on diesel fuel. However, the dissent in the case adopted an argument advanced by ATA and not foreclosed by the majority opinion which would create a legal standard for determining whether the tax system did in fact discriminate that would likely lead to a non-discrimination finding. ATA strongly argued in an *amicus* brief that whether the system discriminated against the railroads could only be determined based on a comparison with the treatment of all retail sales taxpayers and not simply with motor carriers. Under such a standard, the widespread application of the tax would likely sustain its validity.
- 10/26/10 **Port Owner-Operator Ban Enjoined Pending Appeal** - In the ATA challenge to the Port of Los Angeles Concession Plan, the District Court enjoined the Port from enforcing the owner-operator ban provision of the Plan pending the outcome of an ATA appeal to the Ninth Circuit. Although the District Court had ruled in favor of the Port, it concluded that ATA had a fair chance of success on the merits of its



appeal and that motor carriers would be irreparably harmed if the Port was allowed to put the ban in place.

- 09/30/10 **FMCSA Ordered to Issue Supporting-Documents NPRM** - Granting an ATA petition for writ of mandamus, the United States Court of Appeals for the D.C. Circuit ordered the Federal Motor Carrier Safety Administration to issue a Notice of Proposed Rulemaking by December 31, 2010 as the first step to creating a supporting-documents regulation. ATA initiated the case to enforce a 1994 Congressional mandate that the agency precisely define which categories of documents a motor carrier must retain for hours-of-service verification purposes and in so doing ensure that motor carrier retention costs were at a reasonable level.
- 03/24/10 **Workers Compensation Exhaustion of Remedies Case** – In another private carrier case supported by ATA as an *amicus*, a Texas Court of Appeals overturns a workers compensation-related judgment, that included \$3 million in punitive damages, to a driver because the driver failed to exhaust his administrative remedies before the Indiana Workers Compensation Commission, the agreed upon jurisdiction for any such claims.
- 02/23/10 **Principal Place of Business Ruling** – The United States Supreme Court rejects the Ninth Circuit’s view that a corporation’s principal place of business is the state in which it conducts the plurality of its business in favor of the view that a corporation’s principal place of business is its nerve center from which operations are controlled, usually the corporate headquarters. The ruling makes federal court jurisdiction based on diversity grounds more readily available.
- 02/12/10 **Kansas Overtime Issue** – ATA appeared as an *amicus* in this case in which the Kansas Court of Appeals finds that state overtime provisions are not applicable to interstate drivers residing in Kansas. The Court finds that a provision exempting employers who are subject to the federal Fair Labor Standards Act from Kansas overtime requirements is controlling.
- 10/20/09 **Settlement With POLB Approved** – Based on the strong support of the merits of the ATA challenge in the Ninth Circuit injunction ruling, the Port of Long Beach agreed to eliminate its Concession Plan and replace it with a far less onerous Registration requirement. Financial capability provisions and placard display mandates were among the requirements eliminated.
- 03/30/09 **Injunction Granted in Ports Case** – Reversing the District Court, the Ninth Circuit Court of Appeals effectively orders the lower court to enjoin the most egregious elements of the Port of Los Angeles and Port of Long Beach’s Concession Plans. In a strong ruling, the Circuit Court found that the rates, routes, and services preemption provision likely preempts many of the Concession Plan requirements, including the phased-in ban of owner-operators, the requirement for off-street parking, and the financial capability provision.



- 09/23/08 **Broad Definition of Interstate Commerce Applied** – The Michigan Court of Appeals rules that a sales tax exemption provided to motor carriers who operate in interstate commerce is available to carriers hauling interstate freight, even though their trucks may never cross state borders. Such a broad definition of interstate commerce provides a number of benefits to the trucking industry, including exemption from various state regulations.
- 02/20/08 **U.S. Supreme Court Affirms Rowe Decision** – In a strongly worded opinion, the United States Supreme Court affirmed the lower-court ruling that Maine tobacco-delivery regulations were preempted by federal law. In doing so, the Court applied a very broad scope to the rates, routes, and services preemption provision and refused to read into it a public health exception.
- 01/24/08 **Public Citizen Motion to Enforce Mandate Denied** – In a further chapter of the HOS litigation, ATA assisted in securing a D.C. Circuit rejection of Public Citizen’s challenge to the 2007 HOS Interim Final Rule. That ruling left the IFR in place and set the stage for its re-adoption later in 2008 as the HOS Final Rule.
- 12/28/07 **ADA Physical Qualifications Case** - ATA participates in Ninth Circuit case which holds that motor carriers may consider FMCSA driver physical qualification standards in hiring drivers of lighter trucks to which those standards do not formally apply. The Court noted that a motor carrier was entitled to show that imposition of such safety standards was a business necessity.
- 09/28/07 **Stay of HOS II Ruling** – Following the second procedural rejection of the hours-of-service regulations in the Public Citizen litigation, ATA leads the way in securing a 90-day stay of the Court’s decision that allows the agency to readopt the rules as an Interim Final Rule before the decision becomes effective. ATA then effectively persuaded the agency that the Court’s rejection of the rules was merely procedural in nature and that their re-adoption would not violate the Court’s decision.
- 04/25/07 **Broker Workers Compensation Liability Case** - ATA participates in successful appeal of Arkansas Workers Compensation Commission ruling that held a broker to be a prime contractor liable for the failure of a motor carrier subcontractor to provide workers compensation coverage. The Court agreed with ATA that an to be a prime contractor, an entity must be engaged in the same business as the subcontractor and that brokers, who may not transport freight, are not in the same business as motor carriers.
- 11/15/06 **Section 530 Defense of Independent Contractor Status** – ATA representation of a small motor carrier in an IRS attempt to reclassify its independent contractors as employees results in the Service withdrawing in total the tax assessment. ATA successfully uses Section 530 to convince the Service that the taxpayer was protected from any potential reclassification by that section.



- 10/02/06 **Review of New Jersey Routing Restrictions Denied By Supreme Court** – ATA successfully opposes New Jersey’s attempt to secure Supreme Court review of the Circuit Court decision that found its highway routing restrictions unconstitutional under the Commerce Clause. This final stage of the litigation sets the stage for a permanent injunction of the enforcement of those regulations and the payment, from state funds, to ATA of more than \$800,000 in attorneys’ fees.
- 05/19/06 **Rowe First Circuit Victory** – In a case in which ATA appeared as an *amicus*, the Court of Appeals for the First Circuit finds that certain Maine cigarette-delivery regulations violate the federal law preempting states from enforcing laws that impact motor carrier rates, routes and services.
- 02/21/06 **New Jersey Highway Routing Restrictions** – The Third Circuit Court of Appeals affirms the District Court ruling that New Jersey’s restriction of interstate trucks to the National Network discriminates against interstate commerce.
- 12/09/05 **Oklahoma Class Action Settlement** - An ATA objection to a proposed refund distribution scheme of toll road overcharges helped secure significantly higher refunds to trucking companies than original proposed.
- 07/29/05 **RFA Ripeness Litigation** - The United States Court of Appeals for the District of Columbia rules that a regulation is ripe for a Regulatory Flexibility Act challenge at the time of enactment and that there need not be an adverse action taken against a person under the regulation before failure to follow appropriate RFA procedures can be alleged. ATA appeared as an *amicus* in this important procedural law case which allows small businesses to challenge a burdensome regulation before incurring what may be prohibitive compliance costs.
- 06/07/05 **New Jersey Flat-Fee Settlement** - ATA signs settlement agreement with the State of New Jersey settling long-running challenges to flat, annual hazardous waste transporter per-truck registration fee and A-901 annual per-carrier hazardous waste transporter fee. Under the settlement, the State agrees to \$8.25 million refund settlement fund and to making automatic refunds based on tax paid amounts in state records.



- 01/14/05 **Michigan Intrastate Flat Fee** - ATA convinces the United States Supreme Court to hear its appeal of Michigan court finding that flat, annual \$100 per-truck intrastate regulatory fee did not violate the Commerce Clause. United States Supreme Court review is granted in tiny percentage of appeals taken.
- 07/19/04 **New Jersey Per-Truck Hazardous Waste Fee** - The New Jersey Supreme Court affirms Tax Court ruling that flat, annual per-truck hazardous waste transporter registration fee inherently discriminates against interstate commerce and violates the Commerce Clause.
- 06/07/04 **NAFTA Decision** - The United States Supreme Court overrules the Ninth Circuit's holding that the Department of Transportation must do an Environmental Assessment (of the impact of the operation of Mexican-based trucks in the United States) related to its issuance of regulations opening the border for Mexican truck operations in the United States.
- 04/28/04 **Oregon Weight-Distance Tax** - The Oregon Court of Appeals, reversing a lower court ruling, holds that the flat fee option of the Oregon weight-distance tax system discourages and discriminates against interstate operations violates the Commerce Clause.
- 03/24/04 **New Jersey Truck Ban** - A New Jersey United States District Court finds that New Jersey regulations that restrict interstate trucks passing through the State to National Network highways discriminates against interstate commerce because local trucks do not face similar restrictions.
- 04/23/03 **Tennessee Preemption** - The United States Court of Appeals for the Sixth Circuit sustains Tennessee District Court ruling that sovereign immunity does not protect states from review of laws and regulations under Department of Transportation preemption determination process.
- 04/08/03 **California "Fleet Rules" Case** - The United States Supreme Court overturns Ninth Circuit ruling that allowed California Air Quality District to impose ban on purchase of types of new vehicles based on engine emission criteria. The California regulations applied to certain types of fleets and effectively eliminated the use of diesel-powered trucks. ATA filed an *amicus* brief in the case.
- 03/14/03 **New Jersey Flat Fee** - The New Jersey Tax Court finds that the State's \$212 per-truck hazardous waste transporter fee inherently discriminates against interstate commerce in violation of the Commerce Clause.
- 02/25/03 **Idaho Cy Pre Award** - An Idaho District Court awards ATA over \$3 million to fund safety, security, and insurance availability projects that benefit the trucking industry.



- 01/09/03 **Federal Hazardous Material Registration Fees** - Settlement of lawsuit filed by diverse group, including ATA, calls for reduction in per-company hazardous material federal registration fees, resulting in savings for motor carries and shippers of approximately \$26 million.
- 11/05/02 **SSRS Reciprocity/Yellow Case** - The United States Supreme Court, as ATA urged in an *amicus* brief, overturns a Michigan court ruling affirming State's denial to Yellow or reciprocity under Single State Registration System ("SSRS"). The Supreme Court finds that federal law requires states to honor preexisting reciprocity.
- 06/26/02 **Texas Diesel Exhaust Tort Case** - A Texas Court of Appeals rules that a railroad worker had not met his burden to establish a causal connection between his exposure to diesel exhaust and his illness. ATA filed an *amicus* in this matter because of the threat of similar litigation against trucking companies.
- 06/17/02 **New Mexico Flat Fee Settlement** - ATA and New Mexico enter a Stipulated Judgment settling ATA's challenge to New Mexico \$6 per-truck weight-distance tax identification card fee and \$250 per-carrier annual hazardous material transporter fee with agreement by State to no longer collect either fee.
- 04/12/02 **Oklahoma/IRP Administration** - An Oklahoma District Court, in a case in which ATA participated as an *amicus*, rules in favor of State, thereby allowing it to conform its administration of the International Registration Plan ("IRP") with Plan dictates and thus avoid IRP sanctions and disruptions to motor carriers based and operating it that State.
- 12/20/01 **Pennsylvania Owner-Operator Ruling** - The Pennsylvania Supreme Court again overturns lower court ruling that an owner-operator qualified as an employee eligible for workers' compensation benefits. ATA filed an *amicus*.
- 11/06/01 **IRS Expensing Issue** - The United States Court of Appeals for the Seventh Circuit found that trucking companies may treat license and permit fees and insurance premiums as ordinary expenses and did not need to capitalize them over a period of years. ATA filed an *amicus* brief in support of the motor carrier challenging the IRS non-expensing ruling.
- 10/30/01 **Texas Diesel Exhaust Trucking Case** - A Texas District Court dismisses railroad third- party complaint against individual motor carriers in case involving alleged illness caused by exposure to diesel exhaust.
- 02/27/01 **Tennessee Preemption Ruling** - A United States District Court in Tennessee rejects that State's claim that sovereign immunity protects it from scrutiny of its hazardous materials laws and regulations under the Department of Transportation's ("DOT") preemption determination process.



- 11/27/00 **Pennsylvania Owner-Operator Status** - The Pennsylvania Supreme Court rejects a Lower court ruling that found owner-operators to be employees and applies a legal analysis that eliminates employee-type control exercised because of government mandate.
- 10/14/00 **EPA Clean Air Case** - The United States Supreme Court agrees to hear ATA cross appeal of the issue of whether EPA must consider compliance costs when deciding whether clean air standard is reasonable.
- 06/13/00 **Idaho Weight-Distance Tax** - An Idaho District Court approves settlement that includes repeal of weight-distance tax and creation of \$27 million refund pool.
- 02/21/00 **Idaho Weight-Distance Tax** - An Idaho District Court finds that the State's two-tiered weight-distance tax discriminates in its practical effect against interstate commerce and enjoins collection of the reduced-rate fees.
- 02/09/00 **New Jersey Registration Fee** - The New Jersey Supreme Court orders the State to stop all collection efforts associated with its annual hazardous waste registration fee until the Court decides the merits of ATA's challenge.
- 07/27/99 **Logo Liability Claim Rejected** - The U.S. Court of Appeals in Boston rejects a claim of strict liability for a motor carrier that had properly cancelled a lease remained liable for the negligence of an owner-operator who wrongfully continued to display the carrier's placards. The Court found that the carrier's cancellation by mail was "a practicable and sensible arrangement" and that the continued presence of the carrier's placards did not offset an otherwise valid lease termination. The ATA Litigation Center filed a friend-of-the-court brief in support of the carrier.
- 06/22/99 **ADA Disability Definition** - The U.S. Supreme Court, in three related cases, rules that corrective measures (medication, prosthetic devices, etc.) must be taken into consideration when determining whether an individual is disabled under the Americans with Disabilities Act. The Court also holds that motor carriers have an unconditional obligation to follow DOT physical qualification requirements.
- 05/14/99 **EPA Air Quality Standards** - The D.C. Court of Appeals strikes down EPA's revised air quality standards for ozone and particulate matter. As ATA argues, the Court holds that EPA had not provided adequate standards to support the revisions nor had it appropriately taken into effect the beneficial health aspects of ozone.
- 04/09/99 **OSHA Cooperative Compliance Program** - The U.S. Court of Appeals in Washington invalidates OSHA's coercive Cooperative Compliance Program ("CCP") in a lawsuit brought by a broad industry coalition including ATA. The ruling provides strong precedent that OSHA cannot impose safety and health programs that it has been unable to institute through rulemaking.



- 02/09/99 **New York HazMat Ruling** - A New York federal court upholds DOT's preemption of a New York regulation that prohibits consolidation and transfer of hazardous waste during transportation. The court found that the regulation involved packing, repacking, and handling of a hazardous material, a "covered subject" under the federal law, and that state requirements dealing with such covered subjects must be substantively the same as the corresponding federal provision. The Center, on behalf of AWHMT, intervened in the case in support of DOT.
- 01/28/99 **Payphone Fees** – The FCC – in response to a lawsuit in which the Center participated - lowers the compensation rate for 800 number calls made from payphones from 28.4 cents-per-call to 24 cents. This reduction will save the trucking industry approximately \$11 million annually. In addition, the Commission strongly urges compensation to consumers who paid at the higher rate, a possible \$15 million benefit to trucking.
- 01/08/99 **American With Disabilities Act** – The US Supreme Court grants review of three cases on what constitutes a disability under the ADA, including a monocular vision case in which the Center filed an amicus brief on behalf of the ATA and several trucking conferences.
- 11/23/98 **Idaho Weight-Distance Tax** – The State's motion to dismiss the Center's challenge to the Idaho weight-distance tax is denied. The court's opinion notes that the state's allowance of the reduced rates to trucks not "exclusively" hauling special commodities may be in violation of express statutory requirements and that the dual rate structure of the tax may improperly favor local carriers in violation of the Commerce Clause.
- 10/23/98 **New Jersey A-901 License Fee** – Court of Appeals upholds preliminary injunction that prohibited the State of New Jersey from enforcing a regulatory requirement that motor carriers treat owner-operators as employees when they are hauling hazardous or solid waste under the carrier's A-901 license. The Center filed an amicus brief in support of the carrier.
- 10/15/98 **"Proposition 65"** - Won dismissal of a law suit, brought under California's Proposition 65, that would have required warnings to the public that diesel exhaust "is known to the State of California to cause cancer," and involved huge civil penalties for not providing warnings in the past. This case is being appealed.
- 08/27/98 **Worker Classification** - Won affirmation by the NLRB that the issue of whether a worker is an employee or instead an independent contractor should continue to be governed by principles of agency law, including the right of control test – a standard that has been favorable for trucking.



- 05/29/98 **"Conditional" Class Certification** - Federal Express helps strengthen the business community's defense against ungrounded plaintiffs' class actions when it won a decision in the Alabama Supreme Court forbidding "conditional" class certification. The Center filed an amicus brief in support of FedEx.
- 05/18/98 **Payphone Fees** - In a case in which the Center intervened, the U.S. Court of Appeals ordered the FCC to reconsider within six months its decision imposing a 28.4 cents-per-call fee for 1-800 coinless calls made from payphones.
- 04/24/98 **Electronic Records** - In settlement of the Center's court challenge to FHWA's policy of demanding carriers' vehicle-tracking electronic records for safety enforcement purposes, FHWA formally concedes that the policy does not require carriers to retain their electronic records for any longer than they otherwise would.
- 03/23/98 **Haz Waste Fee** - The New Jersey Tax Court strikes down the State's annual \$212-per-vehicle hazardous waste transportation fee on grounds that as a flat, unapportioned fee, it discriminates against interstate commerce in violation of the U. S. Constitution. The State is appealing .
- 03/13/98 **CALOSHA Ergonomics** - The Center wins a stay pending appeal from the California Court of Appeal reinstating the original CalOSHA ergonomics regulation and preventing the Superior Court's anti-business changes from going into effect. In its ongoing appeal, the Center is fighting both the original regulation and the lower court's changes.
- 02/17/98 **OSHA Ergonomics** - As part of a multi-industry coalition, the Litigation Center helps win a stay from the U.S. Court of Appeals in Washington halting, during its court appeal, OSHA's "Cooperative Compliance Program," which threatens to coerce companies unlawfully into adopting costly ergonomics programs.
- 01/26/98 **Union Polling** - The U.S. Supreme Court rules largely in favor of an employer the Center had supported through an amicus brief in declaring that the employer had properly polled its unionized workforce to determine if majority support for the union had lapsed.
- 12/01/97 **Numerous Carriers' Adverse Safety Ratings Nullified** - The Federal Highway Administration removed/upgraded the adverse safety ratings of ten motor carriers on whose behalf the ATA Litigation Center had filed individual petitions.
- 11/07/97 **Alabama "Conditional" Class Certification** - In the Green County Newspaper Company, Inc. v. Federal Express, the Alabama Supreme Court invalidated the "conditional" certification procedure ruling that there must be a "rigorous analysis" of whether the requirements for class certification have been satisfied, and that there must be an opportunity for defendants to challenge certification.



- 09/25/97 **Idaho Weight Distance Tax** - An Idaho District Court grants class action certification to the ATA Litigation Center's challenge to the state's weight-distance tax noting that the state will "face potential liability for a large [refund] award."
- 09/17/97 **California Attorney General Issues Favorable Prop 65 Letter** - The state Attorney General sent a favorable letter to the plaintiff's lawyers declaring that there is "no justification based on available evidence for asserting that [motor carriers] are in violation of Proposition 65" for failing to display warning signs on trucks and buses engaged in "ordinary on-road uses."
- 04/28/97 **Tribal Court Jurisdiction** - The U.S. Supreme Court rules that Indian tribal courts lack jurisdiction over personal injury claims involving non-tribe members arising out of conduct occurring on public rights of way that traverse Indian reservations.
- 01/31/97 **OSHA Survey** - The U.S. District Court in Washington, DC finds unlawful a mandatory enforcement-targeting survey sent to 80,000 truckers and other employers nationwide by the Occupational Safety and Health Administration (OSHA).
- 01/17/97 **Carmack Preemption** - The U.S. Court of Appeals in Boston reversed a lower court ruling and upheld the federal Carmack Amendment's preemption of state causes of action related to cargo loss/damage claims.
- 12/17/96 **Wisconsin Hazardous Materials Fee** - Wisconsin Supreme Court denies appeal of lower court decision declaring State's \$400-per-activity hazardous materials fee unconstitutional.
- 10/17/96 **Kentucky Flat Tax Refunds** - Following Litigation Center victories in the Kentucky courts and at the state's Board of Tax Appeals (4/17/96), the state gives final approval to distribution of \$15.9 million to over 1,300 qualifying motor carriers.
- 10/11/96 **Intermodal Safe Container Act Amendments** - The President signs the industry-supported reforms to the ISCA-92 which will make the law more effective and efficient by eliminating most burdensome aspects of the legislation.
- 09/26/96 **Excessive Alabama Attorney's Fees** - Alabama Circuit Court grants Litigation Center's motion to more than cut in half an excessive attorney fee award to a private law firm, thus increasing the flat-fee refunds going to motor carriers by over \$12 million.
- 09/09/96 **Striker Replacement** - The Clinton Administration announces it will not seek U.S. Supreme Court review of the U.S. Court of Appeals decisions on 2/2/96 and 5/10/96 that struck down the Executive Order prohibiting the use of permanent replacements for strikers.



- 07/25/96 **Schneider/Central States MPPAA Suit** - The U.S. District Court in Columbus, Ohio rejects Teamsters-Central States Pension Fund's motion to exclude Schneider National carriers from "withdrawal liability" case under Multiemployer Pension Plan Amendments Act.
- 06/20/96 **Labor/Antitrust Exemption** - In the *Brown v. National Football League* case, the U.S. Supreme Court rules that the labor exemption from the federal antitrust laws continues to protect employers taking joint action on wage terms even after an impasse develops in collective bargaining.
- 05/06/96 **New Hampshire Hazardous Materials/Waste Fees** - A New Hampshire Superior Court issues an order approving a settlement agreement and refund plan involving the state's hazardous-materials and hazardous-waste fees.
- 11/30/95 **Colorado VIN Marking Requirement** - In response to a joint effort by the Colorado Motor Carriers Association and the ATA Litigation Center, the Colorado Ports of Entry Division suspends enforcement of its vehicle identification number (VIN) marking requirement.
- 11/06/95 **Punitive Damages Case** - In a case in which the Litigation Center filed an *amicus* brief, the Supreme Court of Louisiana finds that petroleum lubricating oil was not "hazardous or toxic" and that its transport, therefore, does not support a punitive damages claim.
- 07/31/95 **Striker Replacement** - U.S. District Court in Washington, DC bars enforcement, until an appeal is resolved, of President Clinton's Executive Order banning use of permanent replacements for strikers.
- 07/31/95 **Americans With Disabilities Act** - The U.S. Court of Appeals rules that a motor carrier does not have to pay compensatory damages for firing a driver who had become medically unqualified to drive.
- 06/01/95 **Minnesota Intrastate Fee** - Minnesota Governor signs into law a bill repealing the \$40-per-truck intrastate regulatory fee and authorizing refunds for carriers that purchased them after January 1, 1995.
- 04/10/95 **EPA's California FIP** - President Clinton signs into law a provision that rescinds EPA's economically disastrous California Federal Implementation Plan for air quality.
- 04/06/95 **IRS Lumper Suit** - The IRS and the Justice Department formally concede their court action to reclassify lumpers as the "employees" of a motor carrier rather than as independent contractors.



- 04/05/95 **Preemployment Alcohol Testing Rules** - The United States Court of Appeals in Richmond, Virginia vacated and remanded the U.S. Department of Transportation's preemployment alcohol testing rule for motor carriers, thereby eliminating any obligation to conduct such testing.
- 04/01/95 **New Hampshire Flat-Fee Cases** - In an out-of-court settlement, New Hampshire agrees to (1) repeal its annual \$5-per-truck hazardous materials fee and \$200-per-vehicle combination hazardous waste fee, (2) make partial refunds totaling \$1 million, and (3) refrain from replacing the fees and from enacting or increasing any truck-only taxes or fees for two years.
- 02/17/95 **Radar Detector Ban** - The United States Court of Appeals in Cincinnati, Ohio upholds the Federal Highway Administration's rule banning radar detectors in commercial motor vehicles.
- 02/06/95 **California Air Quality FIP** - California Federal District court approves two-year delay in economically-disastrous EPA air-quality Federal Implementation Plan (FIP) for California. In addition, EPA announces revisions in FIP to make it less burdensome on trucking, as suggested by ATA's Environmental Affairs Department, the Litigation Center, and the California Trucking Association.
- 12/02/94 **Single State Registration System** - The United States Court of Appeals in Washington, D.C. affirms the Interstate Commerce Commission's (ICC) rules and regulations governing the Single State Registration System with respect to the limits on fees that may be assessed by states. The decision saves the average carrier that registers vehicles in several states as much as \$80 per-vehicle-per-year.
- 11/15/94 **Yellowstone Truck Ban** - The United States District Court in Montana formally dismisses the lawsuit brought by Canyon Citizens for a Safer Highway to stop truck traffic on U.S. Route 191 in Yellowstone Park. As a result, the park will stay open to all but hazardous material commercial truck traffic.
- 08/02/94 **Vision Waiver Program** - The U.S. Court of Appeals in Washington, D.C. invalidates FHWA's Vision Waiver Program, which allowed certain visually impaired drivers to operate in interstate commerce. The Court holds that FHWA must show that any such waiver program will not adversely affect highway safety.
- 07/05/94 **Used Oil** - The U.S. Court of Appeals in Washington, D.C. dismisses an environmental group's challenge to EPA's decision not to list used oil destined for recycling as a hazardous waste. The decision permits carriers to continue to enjoy savings of approximately \$120 per truck per year in disposing of used oil and to continue to blend used oil with diesel fuel to reduce fuel costs.



- 05/23/94 **Clean Air/Conformity in Rhode Island** - The U.S. Court of Appeals for the First Circuit upholds denial of a preliminary injunction sought by environmental groups to stop the construction of the Jamestown Connector highway in Rhode Island. The Court ruled that if a transportation project obtained conformity approval prior to the passage of the 1990 Clean Air Act Amendments, the conformity requirements of those amendments are not controlling.
- 04/26/94 **Nonretroactivity of Civil Rights Act** - The U.S. Supreme Court holds that the Civil Rights Act of 1991 (and all other new federal statutes) is retroactive only if Congress designates them as such either expressly or by "clear intent." The decision will spare businesses much cost and disruption because retroactive statutes tend to interfere with settled expectations and completed transactions.
- 04/07/94 **Massachusetts Flat Tax Refunds** - The Massachusetts Superior Court approves a Litigation Center settlement bringing carriers \$30 million in refunds of the State's \$14-per-truck decal fee and \$200-per-truck hazardous waste fee.
- 04/04/94 **Oregon Waste Fee** - The United States Supreme Court strikes down an Oregon waste disposal fee that imposes a higher per-ton charge on out-of-state waste. Decision cites *ATA v. Scheiner* and reaffirms principal that state taxes and fees that discriminate against interstate commerce are unconstitutional.
- 03/23/94 **Owner-Operator Classification** - The Ohio Supreme Court upholds lower court finding that an owner-operator is an independent contractor not eligible for workers compensation benefits.
- 03/22/94 **Negotiated Rates Act** - A U.S. District Court in California allows shippers to take advantage of the 1993's Negotiated Rates Act mandatory settlement provisions even as to undercharge claims by bankrupt motor carriers.
- 11/01/93 **Roadside Drug and Alcohol Testing** - The U.S. District Court for the District of Columbia holds that random roadside drug and alcohol testing by state law enforcement officials does not violate Fourth Amendment protections against unreasonable searches and seizures.
- 08/27/93 **Kentucky SHU Tax** - Kentucky Circuit Court rules that the State must make post-*Scheiner* refunds to carriers who filed timely claims as to their 1987 Supplemental Highway Use tax payments (State is appealing).
- 06/18/93 **Pilot Drug and Alcohol Testing Program** - U.S. Court of Appeals in Washington, D.C. dismisses Owner-Operator Independent Drivers Association challenge to USDOT's 4-state pilot program of roadside drug and alcohol testing.



- 05/25/93 **Massachusetts Flat Taxes** - Massachusetts Supreme Judicial Court finds that the state's \$14-per-truck decal fee and \$200-per-truck hazardous waste hauler fee are unconstitutional and that carriers are eligible for at least partial refunds for all such taxes paid after November 15, 1988.
- 04/21/93 **Railroad Grade Crossing Safety** - U.S. Supreme Court rules that railroads are responsible for maintaining adequate warning devices at railroad/highway grade crossings.
- 01/22/93 **Mississippi Decal Fee** - Mississippi court approves settlement halting \$12-per-truck fuel decal fee and paying \$9.5 million in refunds. In addition, State officials agreed not to seek or support any truck-only tax increase for two more years.
- 12/18/92 **Pennsylvania Axle Tax Refunds** - Pennsylvania court gives final approval to settlement under which out-of-state truckers will receive \$64 million in refunds of unconstitutional \$36-per-axle tax. State officials also agreed not to seek or support for two years any legislation increasing truck-only taxes. A 1987 replacement tax package already saves out-of-state truckers \$147.40 per truck per year, on average, or a total of \$20 million a year.
- 09/29/92 **Federal Manufacturing Tax** - United States Court of Appeals holds that federal truck manufacturing tax does not apply to reconditioning highway tractors.
- 07/20/92 **West Virginia Highway Access** - West Virginia Supreme Court overturns injunction that barred truck hauls to and from power plant.
- 06/09/92 **Arizona Repeals Flat Fees** - Following a law suit by the Center, Arizona legislature enacts bill repealing \$125-per-truck cargo tank fee and \$100-per-carrier, \$25-per-truck hazardous waste fees; State agrees to make refunds.
- 06/01/92 **Alabama Hazardous Waste Fee** - United States Supreme Court strikes down \$72-per-ton fee on hazardous waste brought into Alabama for disposal.
- 05/29/92 **New York City Haz Mat. Rules** - USDOT denies New York City's request for permanent waiver of federal preemption of the city's hazmat truck equipment requirements that conflict with federal requirements.
- 10/16/91 **MS Decal Fee Escrow** - Mississippi Supreme Court orders State to begin escrowing \$12-per-truck decal fees for possible refunding in future.
- 06/17/91 **ME Haz Mat. Fee** - Maine Supreme Judicial Court holds \$25-per-truck hazardous materials fee to be an unconstitutional "flat tax" under *ATA v. Scheiner*. State refunds all fee payments.



- 05/31/91 **AR Weight-Distance Tax Repeal and Refunds** - Court approves settlement under which Arkansas refunds \$25 million, repeals discriminatory 2.5¢-per-mile weight distance tax and \$10-per-truck fuel decal fee, and replaces them with nondiscriminatory diesel taxes and registration fees totaling \$10 million less per year.
- 05/31/91 **NH Decal Fee Refunds** - Court approves settlement calling for \$4 million in refunds of unconstitutional flat \$20-per-truck fuel decal fees; replacement legislation reduces fee to \$5 per truck and provides ongoing savings equivalent to 7¢ per gal.
- 05/02/91 **KY Property Tax** - Court issues agreed order requiring Kentucky to lower its unlawfully high property tax rate on trucks to the rate applied to other commercial property (including railcars).
- 03/04/91 **NJ Fuel Decal Refunds** - State settles case, agreeing to \$9.5 million in refunds of unconstitutional \$25-per-truck marker fee; no replacement tax.
- 02/20/91 **Attorneys' Fees/Commerce Clause** - U.S. Supreme Court rules that States and localities must pay the attorneys' fees of those whom win court challenges to governmental actions that discriminate against or unduly burden interstate commerce.
- 02/15/91 **KY Property Tax** - State agrees to lower a property tax rate on in-state and out-of-state trucks that violates Interstate Commerce Act by exceeding rate applied to other commercial property (including railcars).
- 01/22/91 **NH Decal Fee Refunds** - State settles case, agreeing to \$4 million in refunds of unconstitutional flat \$20-per-truck fuel decal fees; replacement legislation reduces fee to \$5 per truck and provides ongoing savings equivalent to 7¢ per gallon on average.
- 01/14/91 **AR Weight-Distance Tax Repeal and Refunds** - State settles case, agreeing to repeal discriminatory 2.5¢-per-mile weight-distance tax and \$10-per-truck fuel decal fee, to replace them with nondiscriminatory diesel tax and registration fee increases totaling only 2/3 as much revenue, and to refund \$25 million.
- 12/20/90 **NY Freight Claims** - NY Court of Appeals issues decision establishing precedent supporting uniform federal and state enforcement of carriers' right to limit their liability as to lost goods.
- 12/04/90 **MS Flat Fees** - Mississippi Chancery Court strikes down \$12-per-truck fuel decal fee and \$13-per-truck bingo stamp fee as unconstitutional flat fees. State is expected to appeal.



- 10/02/90 **AR Weight-Distance Tax** - In precedent-setting decision, Arkansas Chancery Court declares 2 1/2¢-per-mile weight-distance tax unconstitutional. Court holds that exemptions for agricultural commodities and excessive trip-permit rate caused the tax to discriminate against interstate commerce.
- 10/02/90 **AR Decal Fee** - Arkansas Chancery Court strikes down annual \$10-per-truck fuel decal fee as a discriminatory "flat" tax.
- 07/20/90 **ME Decal Fee Refunds** - Maine Superior Court grants final approval to process for distributing over \$2 million in decal-fee refunds.
- 06/29/90 **ME Haz. Mat. Fee** - Maine Superior Court declares annual \$25-per-truck hazardous materials fee unconstitutional under *ATA v. Scheiner*. The State is appealing.
- 06/04/90 **Supreme Court/Refunds** - U.S. Supreme Court issues unanimous decision paving the way for over \$100 million in flat-tax refunds from Arkansas, Pennsylvania, New Jersey, and Kentucky.
- 05/29/90 **ME Haz Mat Escrow** - Maine Superior Court escrows annual \$25-per-truck hazardous materials fee.
- 04/30/90 **Inadvertence Clauses** - U.S. Supreme Court refuses to review appellate court decision upholding carriers' use of released-rate inadvertence clauses to avoid excessive loss/damage liability where shippers conceal freight's high value.
- 04/26/90 **VT Refund Plan** - Vermont Superior Court gives final approval to plan for distributing \$11 million in refunds of \$50 fuel decal tax and \$10 retaliatory tax.
- 02/14/90 **ME Decal Fee Settlement** - Maine agrees to lower fuel decal fee from \$15 to \$5 per truck and to refund \$2 million.
- 12/11/89 **AR Tax Escrow** - Arkansas Supreme Court affirms order escrowing 2 1/2¢-per-mile weight-distance tax and \$10-per-truck annual fuel decal fee during litigation challenging constitutionality.
- 12/05/89 **Attorneys' Fees/Federal Preemption** - U.S. Supreme Court rules that winners of federal preemption suits against States and localities are entitled to attorney-fee awards.
- 11/28/89 **MI Cab Card Fee** - Michigan Circuit Court escrows \$50-per-truck retaliatory cab card fee; State then reduces fee to lawful \$10, and refunds the difference.
- 10/10/89 **50-Mile Container Rules** - U.S. Court of Appeals upholds carriers' use of released-rate inadvertence clauses to avoid excessive loss/damage liability where shippers conceal freight's high value.



- 09/29/89 **ME Decal Fee** - Maine Superior Court escrows annual \$15-per-truck fuel decal fee pending decision on constitutionality.
- 09/27/89 **NH Flat Fee Escrow** - New Hampshire Superior Court escrows annual \$20-per-truck fuel decal fee and \$25-per-truck hazardous materials license fee until constitutionality can be decided.
- 08/25/89 **VT Tax Refunds** - Vermont Supreme Court unanimously rules that State must refund \$11 million in unconstitutional flat decal taxes and retaliatory entry fees.
- 08/09/89 **VA Local Taxes** - Virginia Attorney General issues advisory opinion labeling "unconstitutional" certain local business license taxes being collected only from interstate carriers.
- 08/08/89 **NY Movers Tax** - New York State compelled to halt campaign to double-tax interstate van lines and their agents under gross earnings tax.
- 08/01/89 **AR W-D Tax Escrow** - Arkansas court orders State to start escrowing 2½¢-per-mile weight-distance tax and \$10-per-truck annual fuel decal fee.
- 06/19/89 **NYC Haz Mat Restrictions** - U.S. Department of Transportation upholds earlier advisory ruling that New York City's hazardous materials transportation restrictions conflict with federal law.
- 06/16/89 **KY SHU Tax Refunds** - Kentucky Board of Tax Appeals rules that State must refund former \$150/truck SHU tax, minus predecessor weight-distance tax (State is appealing). At stake: \$42.5 million.
- 03/03/89 **Owner-Operators/Independent Contractors** - U.S. Court of Appeals holds that certain North American Van Lines owner-operators are "independent contractors," not "employees," under the National Labor Relations Act, establishing a classification test helpful to many other carriers.
- 01/26/89 **MD Refunds** - Maryland Circuit Court approves distribution of \$10 million in flat-tax refunds following Center's victory in Maryland Court of Appeals.
- 01/23/89 **50-Mile Container Rules** - United States Supreme Court denies union's and ocean carriers' petition for review of decision declaring 50-Mile Container Rules unlawful.
- 01/12/89 **IN Tax Settlement** - Indiana Tax Court approves distribution of \$2.7 million in flat SHU tax refunds as part of settlement warding off \$90 million/year weight-distance tax.



- 09/88 **KY Truck-Numbering Rule** - Burdensome Kentucky KYU-identifier regulations eased following litigation/lobbying.
- 09/13/88 **NJ Tax Refunds** - New Jersey Tax Court awards \$34 million in flat tax refunds (order stayed pending state's appeal).
- 05/26/88 **TN Truck Ban** - Federal court holds that truck ban on I-440 in Tennessee is preempted by federal Surface Transportation Assistance Act.
- 03/14/88 **AR HUE Tax Refunds** - Arkansas Supreme Court orders \$4.9 million in escrowed HUE taxes to be refunded (Center appeals denial of pre-escrow refunds to U.S. Supreme Court).
- 01/21/88 **KY SHU Tax** - Kentucky Supreme Court declares Kentucky \$150/truck SHU tax unconstitutional.
- 01/07/88 **IN SHU Tax** - Indiana Tax Court rules Indiana \$50/truck SHU tax unconstitutional.
- 06/23/87 **PA Flat Taxes** - United States Supreme Court strikes down \$36-per-axle tax and \$25-per-truck fuel decal fee because, as flat annual taxes not apportioned to miles traveled in Pennsylvania, they cost out-of-state truckers more per mile and thus discriminate unconstitutionally against interstate commerce.