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LEAGUE SAYS COURT ERRED IN PORTS' TRUCK PLAN

Arlington, VA – In two major actions before the United States Court of Appeals for the Ninth Circuit, The National Industrial Transportation League (NITL) told the court that it supports the motion by the American Trucking Associations (ATA) which seeks to stop the October 1, 2008 implementation date of the Clean Truck Program (CTP) approved by the Ports of Los Angeles and Long Beach. Additionally the League is also seeking permission from this court to participate as an *amicus curiae* (friend of the court) on the merits of arguments which are in opposition to the CTP's truck concession licensing provisions.

The CTP would in part retire the use of older, dirtier trucks and replace them with newer and cleaner vehicles by way of regulations on trucking practices in the ports through concession licensing agreements.

In a letter dated September 16, 2008 to the court, the NITL said it supports the Emergency Motion by ATA which requests an injunction pending an appeal of a lower court decision which denied the trucking group's motion for a preliminary injunction.

The NITL argued that the truck concession agreements would result in substantial adverse consequences for cargo owners (which comprise a large portion of NITL's members). By the ports' own commissioned analysis, the CTP would increase rates by some 80 percent in just the Port of Los Angeles which would ban owner-operator drivers.

It also told the appellate court that the lower court judge erred in applying the use of a "Safety Exception" to preempt the application of federal law. In this instance, the NITL said the truck concession programs deal extensively with economic regulation of truck practices and this has little or no bearing on operational safety.

In a separate filing before the same appellate body, the NITL asked to participate in an amicus brief setting forth arguments in support of the ATA complaint. While its interests are similar to ATA, the NITL said its members have a unique and distinct perspective as the majority of its members are comprised of shippers that own or control cargo moved by the truckers in the two ports.

The chief NITL argument is that the lower court's decision "...opens the door to the creation of a patchwork of new economic regulations at all major ports, undermining present uniformity and leading to potentially conflicting regulatory requirements."

Bruce Carlton, president of NITL, said following these filings that, "While the League is strongly in favor of the CTP to reduce emissions and foster a cleaner environment, the manner in which this program has been approached and applied by the two ports would create operational nightmares for not only southern California but for the rest of the nation without any assurances that they will achieve a cleaner and safer environment."

The League is an association of companies that conduct industrial and/or commercial shipping throughout the United States and internationally. Founded in 1907, the League is one of the oldest and largest associations representing some 700 member companies involved with the transport of all kinds of freight in domestic and international commerce.