



THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

1700 North Moore Street, Suite 1900  
Arlington, VA 22209  
(703) 524-5011 • Fax: (703) 524-5017

**For Immediate Release**  
October 22, 2008

For Information, Contact  
Peter J. Gatti  
(703) 524-5011

## **NITL SAYS COURT ERRED ON LA/LB TRUCK PROGRAM**

In a "friend of the court" amicus brief filed with the U.S. Court of Appeals for the 9<sup>th</sup> Circuit, The National Industrial Transportation League (NITL) said the lower district court was wrong in permitting the Ports of Los Angeles and Long Beach to go forward with a truck concession licensing program superseding federal law and authority. The NITL brief supports the lawsuit filed by the American Trucking Associations (ATA) which seeks to overturn the ports' trucks concession licensing program which is an integral part of the "Clean Trucks Program" approved by the Ports.

NITL emphasized that while it supports the ports' Clean Truck Program and the goals it seeks to achieve, namely a reduction in harmful emissions through the retirement of older vehicles with new less polluting trucks, the program's attempts at regulating trucks is contradicting applicable federal law.

Specifically NITL told the appellate court that the lower court improperly construed the motor vehicle safety exemption (for the application of federal law found in the *Federal Aviation Administration's Authorization Act of 1994*) to encompass port security. This NITL said led the lower court to wrongly determine that, "the safety regulations at issue are not properly related to 'safety operations of motor carriers of property,' but rather address concerns more tangentially related to the operation of motor carriers...such as the security of the Ports."

Additionally the NITL said the truck concession program is contradictory to pro-competitive and non-discriminatory policies of the *Shipping Act of 1984* as amended by the *Ocean Shipping Reform Act of 1998* (OSRA). In this same regard NITL said the action by the Port of Los Angeles to ban owner-operators from participation in its concession program, "is wholly discriminatory and will reduce completion among available carriers."

Finally it said if the truck concession programs are upheld it would create, "...a patchwork of inconsistent state regulations which would further undermine uniformity" as set forth under U.S. shipping statutes.

NITL is the only shipper based group actively engaged in the judicial proceeding. For a copy of the NITL brief click here: [http://www.nitl.org/NITL\\_Amicus\\_Brief\\_No08-56503.pdf](http://www.nitl.org/NITL_Amicus_Brief_No08-56503.pdf)

The NITL is an association of companies that conducts 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.