

No. 21-194

---

**In the Supreme Court of the United States**

---

CALIFORNIA TRUCKING ASSOCIATION, INC.;  
RAVINDER SINGH; AND THOMAS ODOM,

*Petitioners,*

v.

ROBERT BONTA, IN HIS OFFICIAL CAPACITY AS  
THE ATTORNEY GENERAL FOR THE STATE OF  
CALIFORNIA, et al.,

*Respondents.*

---

**On Petition for a Writ of Certiorari to  
the United States Court of Appeals for the  
Ninth Circuit**

---

**BRIEF FOR THE MINNESOTA TRUCKING  
ASSOCIATION, AS AMICUS CURIAE SUPPORTING  
PETITIONERS**

---

Stephen A. DiTullio  
*Counsel of Record*  
Michael C. Glover  
DEWITT LLP  
2100 AT&T Tower  
901 Marquette Avenue  
Minneapolis, MN 55402  
(612) 305-1400  
sad@dewittllp.com  
mglover@dewittllp.com

Doug Grawe  
PO Box 19074  
Minneapolis, MN 55419  
(515) 450-1860  
doug.grawe@thegrawegroup.com

*Counsel for Amicus Curiae*

---

**TABLE OF CONTENTS**

	<b>Page</b>
TABLE OF AUTHORITIES .....	ii
INTEREST OF THE AMICUS CURIAE .....	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT .....	3
I.    The owner-operator business model has a long history .....	4
II.   The owner-operator business model is an entrepreneurial melting pot .....	6
III.  The owner-operator business model benefits drivers, motor carriers, and shippers .....	7
A.  The owner-operator business model benefits drivers .....	7
B.  The owner-operator business model benefits the motor carrier .....	11
C.  The owner-operator business model benefits the shipper .....	14
IV.  Existing regulations, case law, and service providers protect and support the owner-operator .....	16
V.   The California ABC test cuts service available to shippers and protections available to the public .....	18
CONCLUSION.....	23

## TABLE OF AUTHORITIES

	Page
<b>Cases</b>	
<i>Agric. Transp. Ass’n of Texas v. King</i> , 349 F.2d 873 (5th Cir. 1965) .....	5
<i>Bibb v. Navajo Freight Lines, Inc.</i> , 359 U.S. 520 (1959).....	20
<i>Owner-Operator Indep. Drivers Ass’n v. Arctic Express, Inc.</i> , 270 F. Supp. 2d 990 (S.D. Ohio 2003) .....	5
<i>Owner-Operator Indep. Drivers Ass’n v. New Prime, Inc.</i> , 339 F.3d 1001 (8th Cir. 2003) .....	17
<i>Owner-Operator Indep. Drivers Ass’n v. Supervalu, Inc.</i> , 651 F.3d 857 (8th Cir. 2011) .....	17
<i>Owner-Operator Indep. Drivers Ass’n, v. Swift Transport. Co.</i> , 632 F.3d 1111 (9th Cir. 2011) .....	8, 17
<i>People v. Superior Court of Los Angeles County</i> , 57 Cal. App. 5th 619, 271 Cal. Rptr. 3d, 570, 579-82 (2020), <i>petition for cert. filed sub nom. Cal Cartage Transp. Express, LLC v. California</i> (U.S. Apr. 16, 2021) (No. 20-1453).....	18
<i>Schwann v. FedEx Ground Package Sys., Inc.</i> , 813 F.3d 429 (1st Cir. 2016) .....	23

**Statutes**

Motor Carrier Act of 1935, Pub. L. 74-255, 49 Stat. 543 (1935).....	4, 5
49 Stat. 543 (1935) .....	5
49 U.S.C. § 14102 .....	4
49 U.S.C. § 14501(c)(1).....	23
Cal. Labor Code § 2775 .....	3, 6
Cal. Labor Code § 2776 .....	19
Minn. Stat. § 176.043.....	6
Minn. Stat. § 363A.17 .....	16

**Rules**

49 C.F.R. §§ 376.1, <i>et seq.</i> .....	4, 8
49 C.F.R. § 376.12 .....	16, 19
49 C.F.R. § 387.7 .....	21
49 C.F.R. § 387.9 .....	21
49 C.F.R. § 390.5 .....	12, 17

**Other Authorities**

<i>2020 Essential Financial and Operating Information for the 100 Largest For-Hire Carriers in North America, Transport Topics <a href="https://www.ttnews.com/top100/for-hire/2020">https://www.ttnews.com/top100/for-hire/2020</a> .....</i>	14
Douglas C. Grawe, <i>Have Truck, Will Drive: The Trucking Industry and The Use of Independent Owner-Operators Over Time</i> , 35 <i>Transp. L.J.</i> 115 (2008) .....	4, 5, 6, 9

*Industry Facts*, Owner-Operator Indep. Drivers  
Ass'n, [https://www.ooida.com/wp-  
content/uploads/2021/03/  
Trucking-Facts.pdf](https://www.ooida.com/wp-content/uploads/2021/03/Trucking-Facts.pdf) .....11, 13, 14

Paul Stephen Dempsey, *Transportation:  
A Legal History*, 30 *Transp. L.J.* 235 (2003) ..... 4

*Professional Truck Driver Types*, The  
Trucker, [https://www.thetrucker.com/  
truck-driving-jobs/resources/professional-  
truck-driver-types](https://www.thetrucker.com/truck-driving-jobs/resources/professional-truck-driver-types) .....6, 13

## **INTEREST OF THE AMICUS CURIAE\***

Amicus is a Minnesota based trucking industry trade association. It has long supported the rights of professional truck drivers and motor carriers to choose independent owner-operator or employee driving opportunities. Amicus offers this brief in support of the Court granting Petitioners' petition so the Court may preserve the rights of professional drivers and motor carriers to choose their own working relationships and business opportunities.

---

\* All parties received timely notice of intent to file this brief at least 10 days in advance of the brief's due date. Amicus counsel confirms receipt of consent to file this brief from all parties. Pursuant to Rule 37.6, amicus curiae affirms no counsel for a party authored this brief in whole or in part and no person other than amicus, its members and its counsel made a monetary contribution to the preparation or submission of this brief.

## SUMMARY OF ARGUMENT

For over 100 years, the United States trucking industry has offered opportunities for professional drivers with entrepreneurial spirit to own their own business and contract with motor carriers as owner-operators. Through economic regulation and deregulation, through boom times and fuel shortages, through paper logbooks and electronic onboard recorders, owner-operators have provided the flexible capacity and service necessary to meet their own needs as well as those of motor carriers and shippers.

Owner-operators partner with motor carriers to safely move customer freight and protect the motoring public in accord with federal safety regulations. Owner-operators enjoy both the freedom and responsibility to be their own boss, earn a profit, or suffer a loss. Represented by their own trade associations and protected by state and federal laws, owner-operators proudly have stood the test of time.

**8QIRUWXQDWHO\ VWDWH ODZV OLNH &DOLI**  
 version of the ABC test at issue in this case  
 eliminate the owner-operator **V· DELOLWR**  
 that stand. Eliminating the owner-operator model  
**FXWV RII D SURIHVLRQDO GULYHU·V ULJKW W**  
 traditional employment or own their own  
 independent business. The law further eliminates  
 cargo capacity and service options of motor carriers  
 and shippers.

















































