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“Best Law Firms” ranking.

Only one law firm per practice area in the U.S. is receiving this recognition, making this award a particularly significant achievement. This honor would not have been possible without the support of our clients, who both enable and challenge us every day, and the fine attorneys of our Transportation & Logistics Practice Group.

*The U.S. News & World Report/Best Lawyers® “Best Law Firms” rankings are based on an evaluation process that includes the collection of client and lawyer evaluations, peer review from leading attorneys in their field and review of additional information provided by law firms as part of the formal submission process. For more information on Best Lawyers, please visit [www.bestlawyers.com](http://www.bestlawyers.com).*



## The *InterConnect* FLASH!

Practical Bursts of Information Regarding Critical Independent Contractor Relationships

### FLASH NO. 56 IC CLASSIFICATION CLAIMS PREEMPTED BY FEDERAL TRUTH-IN-LEASING REGULATIONS

We first reported on the *Remington v. J.B. Hunt, Inc.* case last year in [Flash No. 46](#). Based on the First Circuit Court of Appeals’ decision in *Massachusetts Delivery Ass’n v. Coakley*, 769 F.3d 11 (1st Cir. 2014) (“MDA”), District of Massachusetts Judge Stearns dismissed the complaint on the grounds that the claims under the Massachusetts Independent Contractor Law were preempted by the Federal Aviation and Administration Authorization Act of 1994 (“FAAAA”). On appeal, the First Circuit issued an opinion affirming, in part, and reversing, in part, Judge Stearns’ decision, sending the case back to Judge Stearns for further proceedings (Flash No. 53).

When the case was sent back to Judge Stearns, he consolidated the *Remington* case with another putative class action brought by Abe Silfani. Silfani filed his complaint against J.B. Hunt in Massachusetts state court claiming, among other things, that J.B. Hunt misclassified him as an independent contractor and improperly withheld wages in violation of the Massachusetts Wage Act. In May, J.B. Hunt renewed a motion to dismiss both complaints.

In its motion to dismiss, J.B. Hunt argued that the Federal Truth-in-Leasing Regulations (the “Leasing Regulations”) preempted plaintiffs’ claims. Although the court declined to adopt J.B. Hunt’s entire argument, the court agreed that the Leasing Regulations preempted allegations of improper business expense deductions “insofar as [the] deductions constitute permitted cost-sharing under a compliant lease.” Based on the Leasing Regulations, the court held that “[w]hat is explicitly permitted by federal regulations cannot be forbidden by state law.” Thus, “[i]f the Massachusetts Independent Contractor [Law] and Wage Act were to be interpreted to require a carrier, such as J.B. Hunt, to bear the entirety of the expense associated with an equipment lease, these state laws would be preempted to this extent by the [Leasing Regulations].”

Interestingly, the First Circuit previously reversed Judge Stearns’ decision that Prongs 1 and 3 of the Massachusetts Independent Contractor Law were preempted under FAAAA based, in part, upon the fact that FedEx had not sought complete preemption in *Schwann, et al. v. FedEx Ground Package System, Inc.* Judge Stearns acknowledged in his *Remington* decision that, like FedEx, J.B. Hunt did not make that argument either. However, in a footnote, Judge Stearns highlighted two Massachusetts state court decisions in which all three prongs of the Massachusetts Independent Contractor Law were preempted by FAAAA on the grounds that application of any prong of the law would have a significant impact on the carrier’s prices, routes, and services. *See Rice v.*

*Diversified Specialty Pharm., LLC*, 2016 WL 4060956, at \*5 (Mass. Super. July 26, 2016); *Chambers v. RDI Logistics, Inc.*, 2015 WL 9911425, at \*12-14 (Mass. Super. Oct. 26, 2015).

Judge Stearns' decision is industry-positive for at least two reasons. First, the decision represents another arrow in the quiver of a motor carrier whose independent contractor classification is being challenged. Not only should those motor carrier's argue that state laws affecting prices, routes, and services are preempted by FAAAA, they should likewise argue that the Leasing Regulations preempt contractor's state law claims related to improper settlement deductions. Second, even though Judge Stearns clearly felt hamstrung by the First Circuit's ruling in *Schwann*, he nevertheless brilliantly encouraged motor carriers to argue that the entirety of the Massachusetts Independent Contractor Law is preempted as to motor carriers by FAAAA.

Unfortunately, Judge Stearns' opinion does not fully resolve the matter. He requested that the parties inform the court by September 30th whether they intend to seek an appeal of his decision or proceed with discovery. We will, of course, continue to monitor this case and further developments. In the meantime, should you have any questions regarding these developments or how they may impact your independent contractor operations, Benesch's Transportation & Logistics Team would be very happy to help.

#### For more information, contact:

**J. Allen Jones** at [ajones@beneschlaw.com](mailto:ajones@beneschlaw.com) or (614) 223-9323

Allen is a partner with Benesch's Transportation & Logistics Practice Group. He focuses his practice on the representation of companies located throughout the country in virtually all segments of the transportation industry, including, among others, truckload carriers, overweight/over-dimensional carriers, bulk and tank carriers, dray carriers, and third-party logistics providers in matters involving, among other things, independent contractor/owner-operator issues, lost, damaged or stolen freight, freight charge collection, and transportation related service agreements.

#### Additional Information

For additional information, please contact:

##### Transportation & Logistics Practice Group

**Michael J. Barrie** at (302) 442-7068 or [mbarrie@beneschlaw.com](mailto:mbarrie@beneschlaw.com)  
**Marc S. Blubaugh** at (614) 223-9382 or [mblubaugh@beneschlaw.com](mailto:mblubaugh@beneschlaw.com)  
**Matthew D. Gurbach** at (216) 363-4413 or [mgurbach@beneschlaw.com](mailto:mgurbach@beneschlaw.com)  
**James M. Hill** at (216) 363-4444 or [jhill@beneschlaw.com](mailto:jhill@beneschlaw.com)  
**Jennifer R. Hoover** at (302) 442-7006 or [jhoover@beneschlaw.com](mailto:jhoover@beneschlaw.com)  
**J. Allen Jones III** at (614) 223-9323 or [ajones@beneschlaw.com](mailto:ajones@beneschlaw.com)  
**Thomas B. Kern** at (614) 223-9369 or [tkern@beneschlaw.com](mailto:tkern@beneschlaw.com)  
**Peter N. Kirsanow** at (216) 363-4481 or [pkirsanow@beneschlaw.com](mailto:pkirsanow@beneschlaw.com)  
**David M. Krueger** at (216) 363-4683 or [dkrueger@beneschlaw.com](mailto:dkrueger@beneschlaw.com)  
**Christopher J. Lalak** at (216) 363-4557 or [clalak@beneschlaw.com](mailto:clalak@beneschlaw.com)  
**Stephanie V. McGowan** at (317) 685-6161 or [smcgowan@beneschlaw.com](mailto:smcgowan@beneschlaw.com)  
**Andi M. Metzel** at (317) 685-6159 or [ametzel@beneschlaw.com](mailto:ametzel@beneschlaw.com)  
**Kelly E. Mulrane** at (614) 223-9318 or [kmulrane@beneschlaw.com](mailto:kmulrane@beneschlaw.com)  
**Lianzhong Pan** at (86 21) 3222-0388 or [lpn@beneschlaw.com](mailto:lpn@beneschlaw.com)  
**Martha J. Payne** at (541) 764-2859 or [mpayne@beneschlaw.com](mailto:mpayne@beneschlaw.com)  
**Stephanie S. Penninger** at (317) 685-6188 or [spenninger@beneschlaw.com](mailto:spenninger@beneschlaw.com)  
**Joel R. Pentz** at (216) 363-4618 or [jpentz@beneschlaw.com](mailto:jpentz@beneschlaw.com)  
**Richard A. Plewacki** at (216) 363-4159 or [rplewacki@beneschlaw.com](mailto:rplewacki@beneschlaw.com)  
**Matthew J. Selby** at (216) 363-4458 or [mselecty@beneschlaw.com](mailto:mselecty@beneschlaw.com)  
**Brittany L. Shaw** at (317) 685-6118 or [bshaw@beneschlaw.com](mailto:bshaw@beneschlaw.com)  
**Peter K. Shelton** at (216) 363-4169 or [pshelton@beneschlaw.com](mailto:pshelton@beneschlaw.com)  
**Clare R. Taft** at (216) 363-4435 or [ctaft@beneschlaw.com](mailto:ctaft@beneschlaw.com)  
**Jonathan Todd** at (216) 363-4658 or [jtodd@beneschlaw.com](mailto:jtodd@beneschlaw.com)  
**Eric L. Zalud** at (216) 363-4178 or [ezalud@beneschlaw.com](mailto:ezalud@beneschlaw.com)

##### Labor & Employment Practice Group

**Maynard Buck** at (216) 363-4694 or [mbuck@beneschlaw.com](mailto:mbuck@beneschlaw.com)  
**Joseph Gross** at (216) 363-4163 or [jgross@beneschlaw.com](mailto:jgross@beneschlaw.com)  
**Rick Hepp** at (216) 363-4657 or [rhepp@beneschlaw.com](mailto:rhepp@beneschlaw.com)  
**Christopher J. Lalak** at (216) 363-4557 or [clalak@beneschlaw.com](mailto:clalak@beneschlaw.com)  
**Peter Kirsanow** at (216) 363-4481 or [pkirsanow@beneschlaw.com](mailto:pkirsanow@beneschlaw.com)

[www.beneschlaw.com](http://www.beneschlaw.com)

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