

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL MARITIME COMMISSION)	
Plaintiff)	
vs.)	
CITY OF LOS ANGELES, CALIFORNIA)	
HARBOR DEPARTMENT OF THE)	
CITY OF LOS ANGELES)	
BOARD OF HARBOR COMMISSIONERS)	Civil Action No.
OF THE CITY OF LOS ANGELES)	08-1895
CITY OF LONG BEACH, CALIFORNIA)	
HARBOR DEPARTMENT OF THE)	
CITY OF LONG BEACH)	
BOARD OF HARBOR COMMISSIONERS)	
OF THE CITY OF LONG BEACH)	
Defendants)	

DECLARATION OF JOSHUA MATTHEW OWEN

Joshua Matthew Owen deposes and says:

1. I am President of Ability/Tri-Modal Transportation Services, Inc. (Ability/Tri-Modal). I hold a Master of Science degree in International Logistics from the Georgia Institute of Technology. I am the third generation of my family engaged in trucking company ownership in Southern California. My grandfather started in the trucking and warehousing industry in Southern California in 1947, and in the years since then, the names and forms of the family companies have evolved. I have drafted and read this declaration and have personal knowledge of the facts stated in it.
2. Our family trucking companies have served the Ports of Los Angeles and Long Beach (the Ports) since 1947, well before containerization. Since containerization, our family companies have moved freight by parcel or container. Ability/Tri-Modal was started in 1982 and has performed drayage services at the Ports for 26 years.
3. As owner of Ability/Tri-Modal, I oversee and coordinate the day-to-day operations of the company, along with the executive team of the Vice President of Operations, the Director of Operations, and Terminal Managers. I work directly in sales and marketing with the Vice President of Sales, and I also work with the Systems Administrator to oversee all technology aspects of the company, including general communications, warehouse management, driver management, and dispatch.
4. I am Co-Chair of the Intermodal Committee for the California Trucking Association, and a member of various committees of the Association. I work directly with the Intermodal Motor Carriers Conference and various committees of the American Trucking Association. I am also involved with the following trade associations and conferences: Retail Industry Leaders Association (RILA), Intermodal Association of North America (IANA), Footwear Distributors

and Retail Association (FDRA), International Warehouse Logistics Association (IWLA), and the American Apparel and Footwear Association (AAFA).

5. Ability/Tri-Modal is a trade name for Tri-Modal Distributions Services, Inc., which is registered with the Department of Transportation (#291700) and with the Department of Motor Vehicles (Motor Carrier Permit #0004286). Ability/Tri-Modal is a regional carrier for less-than-trailer load (LTL) and port drayage services, and also operates four warehouse and distribution facilities in the City of Carson. The company handles primarily import cargo but also provides drayage service for a small percentage of export cargo. Ability/Tri-Modal derives 42% of its revenues from port drayage.

6. Approximately 87% of the import containers Ability/Tri-Modal moves are drayed to its facilities in Carson, California, a distance of five to ten miles. Approximately 8% of containers are drayed to a customer site in the City of Industry, a distance of 30 to 35 miles, and approximately 5% of containers are drayed to the city of Redlands, a distance of 70 miles. Typical shippers served on movements to and from the Ports are major retailers and wholesalers of import consumer goods.

7. Ability/Tri-Modal's average per container drayage rate to/from the Ports for the nine months prior to October 1, 2008, was approximately \$148.00. The average weekly combined container loads to and from the Ports stands at 550 loads. The annual container load volume at the Ports in 2007 was 30,963 containers, and for 2008 year to date, the volume is 22,491.

8. Ability/Tri-Modal's business model prior to October 1, 2008, was to provide drayage services to our existing warehouse and distribution customers as an added value to extend the service offering. This service extension allows for improved service and coordination for customers' cargo movements. Ability-Tri-Modal employs dispatch personnel to coordinate with

the customers' import brokers, in order to expedite cargo pick-up and processing through our facilities.

9. Prior to October 1, 2008, Ability/Tri-Modal had 57 owner-operator drivers with active transportation agreements with the company. Two of these drivers have trucks that have been banned by the Ports and can no longer drive for us. We have enrolled the remaining drivers (with the exception of two drivers who are on vacation) as part of the company's drayage fleet in the Drayage Truck Registry (DTR). Ability/Tri-Modal has three employee drivers, but they do not work at the ports on a regular basis and therefore the company has not registered them in the DTR and paid the \$100 per truck fee for them.

10. Ability/Tri-Modal has filed concession applications with both Ports, because it believes that it would be very difficult, if not impossible, to sign with only the Port of Long Beach and operate effectively, due to vessel sharing agreements and cargo containers being allocated across vessels calling at both Ports.

11. Ability/Tri-Modal submitted the concession applications under duress, as explained in the attached cover letter submitted with concession applications to both Ports (see Attachment).

12. Ability/Tri-Modal has received a signed concession agreement from the Port of Long Beach, and is reviewing a revised concession agreement from the Port of Los Angeles.

13. Since October 1, 2008, Ability/Tri-Modal has lost two owner-operator drivers and may lose two more. It has not changed the number of employee drivers as of yet.

14. If the Employee Mandates of the Ports are upheld, Ability/Tri-Modal will concentrate its drayage services to areas without an employee mandate (Port of Long Beach, if their position on allowing Independent Contractors remains unchanged). Otherwise we will have no option other

than to notify our customer base that we are no longer in the drayage business and that they will have to contract with another drayage provider to continue moving containers to our facilities.

15. Ability/Tri-Modal has negotiated a 36% increase in its base drayage rate with one of its major drayage service customers, in order to purchase some new diesel trucks that will be exempt from the Ports' Clean Truck fees. Ability/Tri-Modal has also begun to increase our drayage rates by 7% in response to the additional costs of the concession agreement applications and DTR truck fees.

Executed this 31st day of October 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

A handwritten signature in black ink, reading "Joshua Owen", is written over a solid horizontal line.

Joshua Matthew Owen

President

Ability/Tri-Modal Transportation Services, Inc.



September 22, 2008

We are submitting the attached concession document under duress. The proposed document referred to as a "Concession Agreement" by the Ports of Los Angeles and Long Beach is not either an "agreement" or a "contract" by substance or definition. This is a tariff that was **not** negotiated but rather forced upon parties deemed "doing business with the Ports of Los Angeles and Long Beach".

Due to the eminent loss of business and economic failure that would befall Ability/Tri-Modal Transportation Services, Inc. by not signing the Ports' Concession Agreements, we have assured our customers that we will reluctantly sign the Port Concessions **pending** the American Trucking Association's ensuing lawsuit, the Federal Maritime Commission's question of Anti-Trust and other economic concerns issued to both Ports of Los Angeles and Long Beach, the unpreparedness of Marine Terminal Operators and the PortCheck systems under PierPass (which has been duly noted in letters submitted to Richard Steinke of the Port of Long Beach and Geraldine Knatz of the Port of Los Angeles), the pre-emption to existing Federal, State and Local safety, security, regulatory and environmental laws and regulations, the pre-empted implementation of the Transportation Worker's Identification Card (TWIC) before its Federally mandated implementation date and the general disruption of business that would befall Ability/Tri-Modal by relying on ill prepared drayage operators signed under the Ports' Concession Agreements that would not have the ability to communicate with the customs clearance systems, brokerage systems, multiple customers' systems, point of destinations' systems and other intricacies and nuances that make up the management and operational infrastructure to guarantee the flow of containers and goods to their accurate and precise destination.

The vagrant disregard to the "Motor Carrier Act of 1980" (and U.S. District Court Judge Christina Snyder's remarks that the Ports' argument that they are a "sovereign tideland" as well as the Ports' argument that they are a market participant with exception to preemption does not apply and are not valid), the effort to organize drayage drivers in a union fashion and the attempt to trump the trucking industry's efforts towards environmental betterment and to possibly reap any social, statistical, fiscal or monetary rewards in the process of doing so are iniquitous, immoral and outright unlawful.

Ability/Tri-Modal Transportation Services, Inc. in no way supports, endorses or agrees with the Port of Los Angeles' or the Port of Long Beach's concession and clean air action program. Our signatures, on said document(s), are solely to continue to allow Ability/Tri-Modal access to our customers' ocean containers and to continue to service our customer base until laws, rulings and/or other resources prevail and allow for alternate, untaxed, un-levied and less extorted access to our customers' ocean container freight.

Joshua Owen

Vice President
Ability/Tri-Modal Transportation Services, Inc.

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Defendants)	

DECLARATION OF KATHLEEN C. DODD

Kathleen C. Dodd deposes and says:

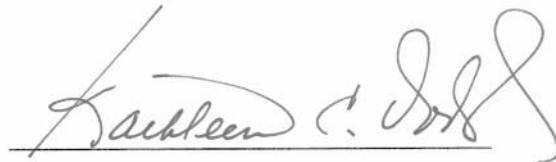
1. I am President of Atlas Marine (Atlas), a bonded trucking company with a small warehouse operation, located in Long Beach, California. As President, I am involved in the day-to-day management of the office operations, including payroll, accounts payable, invoicing and collections. I took over management of Atlas in 1990, after my husband passed away.
2. Atlas was started in 1978 as a port drayage company serving the Ports of Los Angeles and Long Beach (the Ports). Atlas is licensed in California (CA2527) and by USDOT (#340100, MC-254567). Atlas has provided drayage services at the Ports for 30 years, and derives 100% of its revenue from port drayage.
3. Atlas generally serves areas within a 100 mile radius of the Ports, and also serves San Diego. Our main customers import auto parts, oriental rugs, medical supplies, antiques, and general commodities. An average round trip container rate is approximately \$305.
4. Atlas owns 21 trucks and seven 3-axle chassis, which are used to legalize and move overweight containers. The company has mostly employee drivers for whom it pays health insurance and payroll taxes. Atlas' drivers earn an average of \$50,000 to \$60,000 a year.
5. Prior to October 1, 2008, Atlas had 13 employee drivers, and two owner-operator drivers. Since October 1, 2008, the company has lost one driver, and the other drivers are restless due to recruitment by Swift Transportation (Swift) and Knight Transportation (Knight).
6. Atlas has lost its second largest customer, based on the fact that Atlas was not able to qualify for the Ports exemption from the Clean Truck fee. Most truck companies were not aware that they had to go out and use private funds to purchase or show a purchase order for new, compliant trucks by September 19, 2008, in order to qualify for exemption from the fee. Without an exemption from the fee, Atlas' customers will be responsible for paying it. If our customers

can do business with large trucking companies that were able to quickly arrange for acquisition of compliant trucks and thus avoid the fee, they will likely switch their business to these companies.

7. The Ports' Clean Trucks model, designed to attract large, financially strong trucking companies such as Swift and Knight to port drayage, will make it impossible for small port drayage trucking companies to remain in business. At present, we are scrambling to lower our rates in order to retain existing customer accounts, attract more business, and be competitive with companies that will be exempt from the Clean Truck fee. I believe that Atlas will have to start by lowering the rates 20% in order to offset for Clean Truck fees otherwise payable by the customer.

Executed this 3rd day of November 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

A handwritten signature in cursive script, appearing to read "Kathleen C. Dodd", written over a horizontal line.

Kathleen C. Dodd

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DECLARATION OF MARY LOU HENDRICKS

Mary Lou Hendricks deposes and says:

1. I am President of Cal-West Express (Cal-West). I have been in the port drayage business for 25 years. I have been with Cal-West for 10 years, and as President, am responsible for sales and marketing. I have drafted and read this declaration and have personal knowledge of the facts stated in it.
2. Cal-West is licensed by the Department of Transportation and the State of California. Company operations include warehousing, distribution, trucking, and port drayage.
3. Cal-West has been operating at the Ports of Los Angeles and Long Beach (the Ports) for 25 years, and derives 21% of its revenues from drayage operations at the Ports. The average drayage haul is approximately 20 to 50 miles, and Rancho Dominguez is a typical destination. Drayage moves are typically made on behalf of import and export shippers. Cal-West's average per container drayage rate to/from the Ports for the nine months prior to October 1, 2008, was approximately \$140 to \$175, plus a fuel surcharge.
4. Prior to October 1, 2008, Cal-West used 10 owner operator drivers for port drayage operations. Cal-West has not used employee drivers for port drayage operations.
5. Cal-West has filed concession applications at both the Port of Los Angeles and the Port of Long Beach, in order to continue to operate in both Ports. It would be impractical for Cal-West to provide service only to one of the Ports and not to the other. Cal-West's customers do business with a number of ocean carriers that bring their loads to both ports. The inability to serve both Ports would make it difficult for Cal-West to enter into commitments with its customers. Therefore, Cal-West is compelled to sign agreements with both Ports and change its business operations to comply with the most stringent requirements of both Ports' agreements.
6. Cal-West has received signed agreements from both Ports.

7. Cal-West will incur additional costs associated with the use of employee drivers in its drayage operations, and would have to increase its drayage rates by 70% or more.

8. Cal-West will be greatly disadvantaged in its drayage operations at the Ports due to the exemptions from the Clean Truck fee offered to trucking companies that meet certain truck equipment requirements. The customers of these companies will not have to pay the Clean Truck fee, which will cause our customers to want to contract with trucking companies that can offer this advantage.

Executed this 10th day of November 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

A handwritten signature in cursive script, reading "Mary Lou Hendricks", written over a horizontal line.

Mary Lou Hendricks

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Defendants)	

DECLARATION OF MICHAEL J. LIGHTMAN

Michael J. Lightman deposes and says:

1. I am President of Great Freight, Inc. (Great Freight), which a partner and I founded in 2001. I have worked in the port drayage-related industry in many capacities including marketing, dispatch-customer service and safety director, besides being the COO. I have drafted and read this declaration and have personal knowledge of the facts stated in it.
2. As President of Great Freight, I am responsible for the day to day operations of the company. I am very familiar with the port-drayage business environment, specifically at the Ports of Los Angeles and Long Beach (the Ports). Great Freight has been serving both of the Ports since 2001, and we receive approximately 98% of our revenue from drayage or ancillary services connected with the Ports.
3. Great Freight is headquartered in Long Beach, California, and is licensed by the Department of Transportation and the State of California. Great Freight is a member of the American Trucking Associations, Inc. and the Intermodal Motor carriers Conference.
4. Great Freight participates in significant operations at the Ports of Long Angeles and Long Beach, with approximately 65% of its moves being from the Ports to Ontario, Fontana, Riverside, Chino, Long Beach, and downtown Los Angeles, and a substantial number of moves going to McFarland, Bakersfield, and San Diego. Great Freight also does several drays a week from the Ports to Phoenix, Arizona and vicinity. An average round trip drayage rate could be approximately \$180 to \$200, without fuel surcharges.
5. Great Freight's customers include Del Monte; Gerber Foods; Famosa Nuts; Trader Joe's Suppliers; Costco Suppliers; C.H. Robinson Logistics; and Microsoft Products.
6. Great Freight drivers are, and have been since the company was founded, 100% owner-operator/independent contractors.
7. Great Freight has filed Concession Applications at both of the Ports, in order to continue in the drayage business at the Ports. Great Freight has been told by each Port's Harbor Commission that without a Concession Agreement with each port, it would be denied access. If Great Freight were to be denied access to the Ports, it would immediately go out of business. Therefore, Great Freight had no alternative but to file concession applications.
8. It would be impractical for Great Freight to provide service to only one of the Ports and not to the other. Great Freight's customers do business with a number of ocean carriers that bring their loads to both Ports. The inability to serve both Ports would make it difficult for Great

Freight to enter into commitments with its customers. Therefore, Great Freight is compelled to sign agreements with both Ports and change its business operations to comply with the most stringent requirements of both Ports' agreements.

9. Great Freight has received a fully executed Agreement back from the Port of Long Beach. The Los Angeles application has been "Preliminarily Approved;" it has not received a signed Agreement from the Port of Los Angeles.

10. Due to requirements implemented October 1, 2008, by the Ports to register each of Great Freight's trucks in the Drayage Truck Registry, and to have stickers affixed to registered trucks to allow access to the Ports, Great Freight is experiencing delays of two to three days before trucks and drivers can be put into service. Because of these delays, Great Freight has already lost two drivers who wanted to work right away and so went elsewhere.

11. Currently, Great Freight's business model is the same for serving both of the Ports: Great Freight uses only owner operators as drivers and currently contracts with approximately 40 owner-operators. Great Freight uses the owner-operator model as it allows the company to reduce its capital investment and labor costs and adjust its operations to seasonal demand changes. Great Freight has found that owner-operator drivers are highly productive and can transport 2 to 3 loads a day.

12. Great Freight has not and will not hire employee drivers unless absolutely required to do so, and perhaps not then. For the last year and a half, Teamster organizers have been attending both Ports' commission meetings assisting drivers that state that they want to be employees. The Teamsters have also sponsored rallies to influence drivers to become employees, and have approached Great Freight's independent owner-operator drivers to join with them in demanding an employee-only driver model for harbor drayage work.

13. Great Freight may close down rather than deal with unionization of its business. Based upon present hours of service regulations and California meal and rest periods, it would be impossible for unionized drivers to be similarly productive to independent owner operators. With its present rates, Great Freight would be insolvent within 2 to 3 months. The only possibility to continue would require a 2 to 3 times rate increase, which seems very unattainable with the unbalanced bargaining power that our customers have.

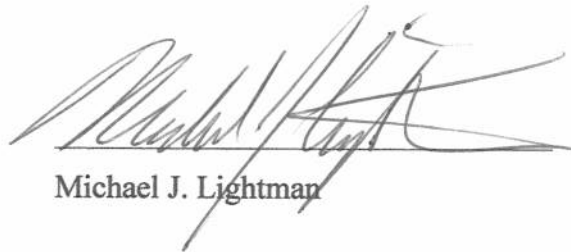
14. I estimate that Great Freight's drayage rates for serving the Ports would have to double or more than double if it used employee drivers. This kind of increase would represent a significant

increase in transportation costs, which would make it difficult for Great Freight to compete for Port business.

15. In addition, exemptions from payment of the Clean Truck fee offered by the Ports to trucking companies that meet certain truck equipment requirements have given companies able to comply with the requirements a competitive advantage over Great Freight. Cargo owners are responsible for payment of the Clean Truck fee and will want to contract with trucking companies that are able to comply with the Ports' requirements, so that the cargo owner will be exempt from payment of the fee.

Executed this 31st day of October 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Michael J. Lightman

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL MARITIME COMMISSION)	
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DECLARATION OF THELMA STANDART

Thelma Standart deposes and says:

1. Together with my husband Jeffrey Standart, I am a principal/owner of XRT Express Reefer Transport, Inc. (XRT), a small family owned trucking company that operates in the drayage business at the Ports of Los Angeles and Long Beach (the Ports). As principal/owner, I am responsible for new business development, day-to-day operations, and government compliance. I have been with the company for 20 years, and in the port drayage business for 25 years.
2. XRT was established in 1988 based solely on the port drayage opportunities offered by the growing import and export container volumes at the Ports. XRT derives 92% of its revenues from port drayage, 2% from related transloading services, and the remainder from other indirect port drayage related services. XRT operates as a licensed motor carrier under USDOT authority and state of California regulations. The company primarily serves export shippers of fresh California produce, but has also been involved in bonded cargo and imports. XRT specializes in the movement of reefer cargo through the Ports, and occasionally uses the Port of Oakland when cargo misses vessels at either Los Angeles or Long Beach.
3. XRT primarily serves the Citrus Belts of California: Bakersfield, Delano, Exeter, Reedley, Coachella Valley, and so forth. The average haul is approximately 300 miles round trip. Hauls are usually empty out of the Ports, and loaded into the Ports. Produce coming from Washington State, Arizona, and Mexico is now transloaded from over-the-road trailers to containers, in preparation for export from the Ports.
4. XRT operates using the trucking subcontractor, independent owner/operator model, which was and still remains the typical business model for new entries into the port drayage business serving U.S. ports. XRT is 100% reliant on subcontractor (independent truck

owner/operators) to serve its customers. The drayage market has dictated this business model for decades. Trucking deregulation coupled with increased foreign trade through the ports helped small businesses enter the drayage trucking industry. The owner/operator model allows small drayage trucking companies such as XRT to serve its customers in the most economical way.

5. Approximately 10 years ago, XRT experimented with the use of employee driver/company-owned equipment, when export produce was booming in California and agriculture was not greatly impacted by China's entry into the World Trade Organization. XRT abandoned the use of employee drivers and scrapped the company-owned equipment later on, and reverted back to using 100% subcontractors (independent truck owner/operators).

6. For our company's particular drayage specialization, using company-owned trucks and employee drivers is not an economically feasible proposition. The use of employee drivers produced operations that were less efficient than operations using independent owner/operator drivers, and the capital investments required using the employee model failed to provide the company with an adequate return. The Ports' programs are forcing XRT and other small drayage trucking companies to change to a business model that they are not built to handle.

7. Prior to October 1, 2008, XRT used 18 owner operators, plus the use of other licensed motor carriers' independent owner/operators on an as-needed basis. Due to the national shortage of truck drivers, licensed motor carriers rely on each other to share extra available independent owner/operator drivers.

8. Independent owner/operators who work in port drayage like to serve this market because they do not like long haul trucking and being away from their families. Also, the capital investment on an older model truck used in port drayage is more economical than on a long haul truck. There is a particular category of independent truckers who serve this niche market.

9. XRT has filed concession applications and signed agreements with both Ports. As with many licensed motor carriers, the applications were filed under protest. XRT and its independent owner/operator drivers could not risk stopping work and jeopardizing their position in the market. This would have led to defaulting on XRT's ability to: deliver, which is a business responsibility of serving its customers; losing credibility among its vendors and suppliers, inclusive of the owner/operators; losing its customers to larger trucking companies aided by the Ports so that these larger companies can enter or expand in the port drayage business; risking loss of sales and cash flow; and risking XRT's market share that it has taken 20 years to gain.

10. XRT and many other small drayage trucking companies serving the Ports do not have a choice other than to apply for concessions from the Ports, as there is no other marketplace for us. XRT is 100% reliant on serving shippers that export and import at the Ports, and there is no other alternative for the company but to enter into concession agreements with the Ports.

11. While the Port of Long Beach has given companies the choice of using independent owner/operator drivers or employee drivers, the Port of Los Angeles has not given us that choice. Therefore, XRT is forced to comply with the stricter Los Angeles employee mandate, since terminal operators are interconnected/interchangeable and a majority of our drivers move between affiliated port terminals. The inconsistencies between the Ports add to the complexity of port drayage operations.

12. XRT is faced with a high risk business proposition imposed by the Ports on it and other small port drayage companies. XRT will have to change its business model and buy equipment and hire 100% employees within five years. The Ports demands are putting a financial strain on XRT by disturbing the normal course of doing business and forcing it to make capital investments not otherwise warranted. Special funding sources have to be sought to raise capital

in order to make the large investments needed for truck purchases. Hard money resources are being sought as the capital markets are in turmoil and it is difficult to find funding in order to meet the Ports' deadlines. It is probable that XRT will have to rely on me and my husband to draw additional funding from personal equity to make the large capital investments that are required by the Ports.

13. XRT is currently using time and money that could be otherwise used for company operations, instead used to keep up with the Ports' disorganized implementation plans and constantly changing programs. The Ports' requirements impose a financial hardship on XRT and other small port drayage trucking companies, and will put many such companies out of business. Given the state of the current capital market, it is not possible for small drayage trucking companies to meet the Ports requirements for compliant trucks by the deadlines. The penalties incurred with the use of trucks that are not exempt from the Clean Truck fee will have an impact on the competitiveness of the rates we charge. Exemption from the Clean Truck fee, which will be paid by the beneficial cargo owner (BCO), was used by the Ports to lure BCOs to use larger trucking companies that have the ability to buy new 2007-compliant trucks that are exempt from the fee. XRT believes that this will divert its customers to larger trucking companies who were able to buy new compliant trucks by the October 1, 2008, deadline imposed by the Ports. For example, Swift Transportation Corporation, based in Arizona, currently has approximately 100 or more new, compliant trucks ready to enter drayage trucking at the Ports. Swift's customers will not have to pay the Clean Truck fee on the drayage movements of their cargo at the Ports.

14. The unwarranted costs related to employee drivers and capital investments for employee drivers being imposed by the Ports make it difficult for XRT and other small port drayage trucking companies to compete in our own market. It will be a struggle to survive. New pricing

strategies are being discussed as new expenses are being calculated and considered by XRT and its customers.

15. XRT's rates will be impacted as the company will have to absorb the extra costs associated with employee drivers and the acquisition of new trucks. There are many variables that affect the cost of using employee drivers, including increased employee benefits, equipment maintenance and the addition of office personnel to monitor employee drivers. These costs are usually incurred in connection with business expansion, and small businesses need time to plan for the absorption of such costs. These changes cannot be supported by small businesses overnight. The schedule for compliance issued by the California Air Resources Board would give the industry time to comply and is a more reasonable approach than what the Ports are demanding.

Executed this 4 day of November 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

A handwritten signature in cursive script, appearing to read "Thelma Standart", written over a horizontal line.

Thelma Standart

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DECLARATION OF DANIEL MEYLOR

UNITED STATES DISTRICT COURT
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DECLARATION OF DANIEL MEYLOR

Daniel Meylor deposes and says:

1. I am Customs Administration Manager of Carmichael International Service (Carmichael), a Customs Broker and Ocean Transportation Intermediary (OTI) located in Los Angeles, California. Along with my position as Customs Administration Manager, my responsibilities include working with transportation and logistics issues for our company in the Ports of Los Angeles and Long Beach (the Ports). I have managed a Carmichael facility that included a large warehouse for the transloading of freight arriving in the Ports of Los Angeles and Long Beach and have been involved with the arrangement of moving containers to our facility for loading and unloading. As a member of the board of the Los Angeles Customs Brokers and Freight Forwarders of Los Angeles, I often serve as a liaison with the Ports for other customs brokers and OTIs. I regularly communicate with the terminals and truckers in efforts to help cargo move efficiently. I have been with Carmichael for 12 years, but have been a part of this industry for 37 years. I have drafted and read this declaration and have personal knowledge of the facts stated in it.

2. Carmichael represents importers and shippers of all sizes, who rely on the Ports of Los Angeles and Long Beach for their supply chain. While Carmichael supports the goals of the San Pedro Bay Clean Air Action Program (CAAP), it has very significant concerns about the effect of certain provisions of the CAAP on the efficient movement of cargo in and out of the Ports. Carmichael also has significant concerns about the potential for very high increases in costs at a time when our customers are strained by the current economic crisis.

3. The trucking concession requirements imposed by the Port of Los Angeles will limit the number of trucking firms that Carmichael will be able to deal with. Carmichael has built up relationships with several trucking firms that use contract owner operators, and it will no longer

be able to rely on these firms since they will not qualify to work in the Port of Los Angeles. The loss of Carmichael's relationships with these trucking firms will mean the loss of insights into the needs of our mutual clients.

4. Carmichael anticipates that a decrease in trucking and drayage competition that will result from the concession requirement will raise the cost of draying cargo to and from the Ports, especially to small shippers that do not have enough volume to command reasonable pricing. Carmichael's experience is that many of the large trucking companies now focus their efforts and best pricing on their larger customers. When there are two containers with the same urgency, Carmichael has observed that the larger customer gets its container first. Small and medium importers and exporters rely on the smaller trucking firms to help move their cargo in a timely manner. Carmichael's customers that are small companies will find themselves lost among all the customers of the few large trucking firms that have the capital to participate as concessionaires of the Ports. These small companies will find themselves often getting stuck for delays and demurrage when their containers are bypassed because a large customer demands that its freight move first.

5. Carmichael is also concerned about the inefficiencies in its own process that will result from imposition of the Clean Truck fees by the Ports. The fees vary between the two Ports, and trucks that are exempt in one port are not exempt in the other. When Carmichael contracts for a shipment to be picked up, how will it know which truck will be used so that it can correctly quote the fees to a customer? If Carmichael is to act as agent for its customers, it will have to claim the full fee amount and include that full fee in our initial billing to the customer. If an exempt or partially exempt truck is used, Carmichael will receive refunds from PortCheck and then have to issue refunds to its customers after it receives the actual billing from PortCheck.

Carmichael will probably have to assign additional staff to handle the accounting for this process. Carmichael's customers are not happy with this process and some of its customers have already diverted from Los Angeles and Long Beach to other ports.

Executed this 31st day of October 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Daniel Meylor

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL MARITIME COMMISSION)	
Plaintiff)	
vs.)	
CITY OF LOS ANGELES, CALIFORNIA)	
HARBOR DEPARTMENT OF THE)	
CITY OF LOS ANGELES)	
BOARD OF HARBOR COMMISSIONERS)	Civil Action No.
OF THE CITY OF LOS ANGELES)	08-1895
CITY OF LONG BEACH, CALIFORNIA)	
HARBOR DEPARTMENT OF THE)	
CITY OF LONG BEACH)	
BOARD OF HARBOR COMMISSIONERS)	
OF THE CITY OF LONG BEACH)	
Defendants)	

DECLARATION OF
GREGORY LINDNER


Gregory Linder deposes and says:

1. I am the Director of Supply Chain Operations/International Logistics for TrueValue. I have been with TrueValue for 11 years.
2. TrueValue has relied on service to and from the Ports of Los Angeles and Long Beach (the Ports) for more than five years. The company moves approximately 100 forty-foot-equivalent units (FEUs) (40 foot containers) per month through the Ports. The average length of hauls to and from the Ports is ten miles.
3. In choosing a trucking company to perform its drayage movements at the Ports, TrueValue considers customer service and availability.
4. TrueValue is currently working with Ocean Carriers to identify trucking companies that are either exempt from the \$70 Clean Truck fee imposed in connection with the Clean Truck Program, or companies that will absorb the fee. It is my understanding that the Clean Truck fee will become effective on November 17, 2008, so these decisions must be made immediately.
5. TrueValue is actively looking to divert cargo to ports other than Los Angeles and Long Beach in order to avoid the controversies and burdens raised by implementation of the Clean Truck Program. TrueValue has already diverted approximately 40% of its movements away from Los Angeles and Long Beach to other ports.
6. TrueValue wholly supports Clean Air and Green initiatives and has implemented programs in its organization to further these initiatives. TrueValue believes that these are important issues that need collaborative, total supply chain solutions. However, imposing the cost of these initiatives on one participant in the supply chain is in fact penalizing that participant, when all participants share in the benefit of the commerce generated by international shipping, i.e., jobs and revenue for the local communities and economy.

7. Therefore, TrueValue opposes the Clean Truck Program in its present form, as it puts the full burden on the shipper.

Executed this 12 day of November 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Gregory Linder