

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

OWNER-OPERATOR INDEPENDENT )  
DRIVERS ASSOCIATION, INC. (a.k.a “OOIDA”), )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
 )  
 )  
UNITED STATES DEPARTMENT OF )  
TRANSPORTATION, FEDERAL MOTOR )  
CARRIER SAFETY ADMINISTRATION; MARY )  
E. PETERS, Secretary of the U.S. Department of )  
Transportation; JOHN H. HILL, Administrator of the )  
Federal Motor Carrier Safety Administration; and )  
THE UNITED STATES OF AMERICA, )  
 )  
Respondents. )  
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**DECLARATION OF PAUL D. CULLEN SR.  
IN SUPPORT OF A STAY PENDING APPEAL**

1. My name is Paul D. Cullen Sr. I am Managing Partner of The Cullen Law Firm, PLLC, located in Washington, DC and General Counsel to the Owner-Operator Independent Drivers Association, Inc. of Grain Valley, Missouri, Petitioner in the above-captioned proceeding.

2. From time to time the Respondent, Federal Motor Carrier Safety Administration (FMCSA), conducts pilot programs as provided for in 49 U.S.C. § 31315(c). In the past, FMCSA has signaled the commencement of a pilot program through publication of a “Notice of Final Determination” in the Federal Register. See for example, “Hours of Service of Drivers; Pilot Program for Drivers Delivering Home Heating Oil [FMCSA Docket No. FMCSA-99-3585] 66 Fed. Reg. 36823 (July 13, 2001), a copy of which is attached hereto as Exhibit 1.

3. In the present case, FMCSA has not published a Notice of Final Determination. Rather, on September 6, 2007, John Hill, Administrator, FMCSA held a press conference announcing the start of a year-long “Demonstration Project” in which operating authority will be issued to up to 100 Mexican motor carriers to operate commercial motor vehicles throughout the United States. Administrator Hill also announced that on September 6, 2007 operating authority was conferred upon Transportes Olympic of Neuvo Leon, Mexico, a Mexican-domiciled motor carrier. A copy of the September 6, 2007, press release issued by FMCSA is attached as Exhibit 2.

4. Allowing Mexico-domiciled motor carriers to operate in the United States under the circumstances outlined in the Petitioner’s Emergency

Motion for a Stay creates important safety issues for professional truck drivers who use the nation's highways 24 hours a day, 7 days a week. See *International Brotherhood of Teamsters v. Peña*, 17 F.3d 1478, 1483-1484 (D.C. Cir. 1994). Petitioners will experience tangible harm on account of unsafe vehicles and drivers being admitted to the nation's highways, harm for which no other remedy exists. In addition, Petitioners will also experience permanent harm if the Respondents are permitted to implement their pilot program without affording Petitioners the substantive rights and procedural safeguards provided for by statute and regulation.

5. Respondents will not consent to a stay pending appeal without a formal written request by me setting forth the reasons for such a stay. I will renew my request to FMCSA using these motion papers as the basis for my request.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 7, 2007

  
Paul D. Cullen, Sr.