



Trucking & Transportation Practice Group

March 21, 2008

## APPELLATE COURT HOLDS 'HITCHING' TRACTOR AND TRAILER REGISTRATION TO SAME STATE NOT REQUIRED

Author: Michael K. Sheehy  
Direct: (313) 983-4721  
msheehy@plunkettcooney.com

The Michigan Court of Appeals recently published its opinion in *Behnke Inc. v State of Michigan*, \_\_\_ NW2d \_\_\_, 2008 WL 467016, (Mich. App., Feb. 21, 2008), which held that the state of Michigan cannot require trucking companies, who have properly registered their tractors in Michigan, to also register their trailers in the state.

The court based its ruling on Section 404 of the International Registration Plan (IRP), which provides for full and free reciprocity to trailers properly registered in any member jurisdiction.

The plaintiffs in *Behnke* are trucking companies based in Michigan. They filed suit to prevent the Michigan State Police Motor Carrier Division from issuing civil infraction citations based upon the carriers' failure to display a valid Michigan license plate on their trailers as required under MCL 257.255(1). Both parties stipulated that the Motor Carrier Division did not enforce this requirement until after the 2003 amendment of MCL 257.255(1), which raised the registration fee for a trailer with a gross weight of over 10,000 pounds from \$39 a year to a one-time fee of \$300.

The trial court granted summary disposition in favor of the plaintiffs.

On appeal, the state of Michigan first argued that the Ingham County Circuit Court order was void for lack of subject matter jurisdiction and that jurisdiction in the Michigan Court of Claims was proper. The appellate court disagreed, holding that jurisdiction in the circuit court was proper, and even assuming that the Court of Claims had jurisdiction, such jurisdiction was not exclusive as to actions for declaratory or equitable relief and, therefore, the circuit court properly retained original jurisdiction.

The appellate court then turned to Section 404 of the IRP, in which Michigan, the other 47 contiguous United States and Canada participate. The court looked to the plain language of Section 404 and found that it clearly provides that if a carrier has properly registered its tractors in its home base the carrier can register its trailers in any IRP participating jurisdiction of its choice. Section 201 of the IRP defines a home base as the jurisdiction where the trucking company has an established place of business, from where the fleet accrues mileage and where the fleet's operational records are maintained.

For a complete copy of *Behnke Inc. v State of Michigan*, \_\_\_ NW2d \_\_\_, 2008 WL 467016, (Mich. App., Feb. 21, 2008), [click here](#).