

ORAL ARGUMENT NOT YET SCHEDULED

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

PUBLIC CITIZEN et al.)	
)	
Petitioners,)	
)	
v.)	No. 09-1094
)	
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION,)	
)	
Respondent,)	
)	
WILLIAM B. TRESCOTT et al.)	
Intervenors)	
_____)	

**OPPOSITION TO MOTION FOR EXTENSION OF TIME
TO FILE BRIEF FOR RESPONDENT**

Pursuant to Rule 27(a)(3)(A) of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 27(h)(4), I hereby beg the Court to deny Respondent’s motion to extend time beyond the six calendar days allowed by the rule on the following grounds:

First, D.C. Circuit Rule 28(e)(1) provides that: “such motions will be granted only for extraordinarily compelling reasons.”

Second, a one month delay in vacating the truckers’ hours of service rule at issue could cost the lives of approximately 40 persons of whom

several are likely to be small children if fatality rates remain unchanged (*See* Init. Br. for Petitioners at 43 and Init. Br. of Intervenor for Petitioners at 15).

Third, although I believe I have met the President of the Maryland Trucking Association and consider her to be an effective lobbyist, she lacks the hundreds of thousands of crash free miles and numerous safety awards driving commercial vehicles normally needed to qualify for employment as a motor carrier safety professional as required by statute: Section 104 of *The Motor Carrier Safety Improvement Act of 1999* (P.L. 106-159) requires that the Federal Motor Carrier Safety Administrator possess “professional experience in motor carrier safety.” 49 U.S.C. § 113(c). Accordingly, allowing this particular person time to make recommendations to the Department of Justice concerning the Agency’s hours of service rule and the preparation of the government’s brief would not be in the interest of justice as it would, in effect, give Intervenors for Respondents an additional 14,000 words over and above the 8,700 allowed by the Court.

ARGUMENT

Respondent’s Brief should be a product of Agency expertise and represent the interests of the People of the United States, not the Maryland Trucking Association. This case hinges on whether data cited from the

National Highway Traffic Safety Administration's Fatality Analysis Reporting System is statistically significant. If the Respondent agency has determined that our calculations are correct, then it is unethical to proceed and the case should be conceded. I too have more than one case before this Court. Petitioners filed their brief on time despite substitution of counsel. If Opposing Counsel is overworked, the Respondent Agency should agree to a settlement. The Secretary of Transportation has my phone number. Recommendations from a particular appointee or any other unskilled person will not affect this determination and is therefore not an extraordinarily compelling reason to sacrifice the lives of an additional 40 people.

Accordingly, Respondent's Motion to Extend time should be denied.

Respectfully Submitted



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