



## Settlement Clears Way for Unionization at Pacific 9 Transportation

Bill Mongelluzzo, Senior Editor | Mar 21, 2014 7:16PM EDT

The Teamsters union said today that a settlement agreement announced by Region 21 of the National Labor Relations Board will open the door to drivers at Pacific 9 Transportation in Southern California to organize a union at the harbor trucking company.

The settlement agreement that was announced on March 19 indicates that the drivers for Pac 9 were illegally classified as independent owner-operators, the Teamsters stated. The evidence indicates the company exerted as much control over their daily activities as it would over direct employees, the union said.

"I do the exact same work, and in the same way, as employee drivers, but I earn a lot less because the company deducts their business expenses from my paycheck" said driver Amador Rojas.

The Pac 9 case is similar to dozens of cases across the country in which owner-operators charge that they are being illegally misclassified as independent contractors. This has implications for unions because, by law, unions can not organize independent contractors. Workers must be classified as employees in order to be unionized.

Driver misclassification is a huge issue at container ports across the nation and is being used increasingly by the Teamsters union in its efforts to turn the port industry, which is overwhelmingly owner-operator, to an employee-driver business model.

Frederick Potter, the Teamsters' international vice president and port division director, drew sweeping implications from the NLRB ruling in

Southern California. "The 30-year debate is over, port drivers are employees," Potter said.

Attorneys who represent trucking companies say that sentiment is too ambitious because misclassification cases are fact-intensive, and normally a ruling applies only to the company in question. Each trucking company operates differently, so its contract with the drivers and its protocol for daily operations must be considered as a stand-alone case, they say.

The NLRB settlement agreement in the Pac 9 case states that the allegations involve the company's conduct in the fall of 2013. That conduct included "threats to employees to close the business and the loss of their jobs if the International Brotherhood of Teamsters ('Union') were to succeed in its organizational efforts, and interrogating employees about their union sympathies."

The Teamsters noted that drivers who have been misclassified as independent contractors may be eligible for compensation at the state level through the California Division of Labor Standards Enforcement.

"To date, the DLSE has ruled on 30 of the more than 400 wage and hour claims port drivers have filed in the Los Angeles area. All 30 rulings have determined drivers are employees and awarded over \$3.5 million in back pay to drivers," the Teamsters stated.

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