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Teamsters Claim Most Port Drivers Are Misclassified

Joseph Bonney, Senior Editor (<https://www.joc.com/users/joseph-bonney>) | Feb 19, 2014 4:50PM EST

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The Teamsters union and its allies say they're scoring a series of recent victories in cases claiming port owner-operator drivers are misclassified as independent contractors instead of employees.

Drivers "are filing complaints, and they're winning at every forum," said Rebecca Smith of the National Employment Law Project.

A group of organizations including the National Employment Law Project, Los Angeles Alliance for a New Economy and Change to Win Strategic Organizing Center, a labor federation that includes the Teamsters, touted a report claiming 49,000 of 75,000 port drivers nationwide are misclassified as independent contractors.

The report was an update of a 2010 report that claimed port drivers earned an average of \$28,000 a year. Industry officials criticized the 2010 report, calling it biased and statistically flawed.

The Teamsters have been stymied in more than a decade of efforts to organize owner-operators, whose status as independent contractors makes them ineligible to unionize.

Instead, the union and its supporters have focused their efforts on filing claims that owner-operators under companies' control should be considered employees.

"There are workers who are properly independent contractors. They're simply few and far between," Smith said.

She said port drivers have filed 400 misclassification complaints with the California Division of Labor Standards Enforcement and that 19 have won penalties averaging \$66,240 for back pay. Smith cited other successful complaints in Washington state and New Jersey.

Not all misclassification cases have gone in the drivers' favor, however. A federal judge in New Jersey ruled in 2012 (https://www.joc.com/trucking-logistics/labor/federal-judge-dismisses-drayage-lawsuit-new-jersey_20120716.html) that Ironbound Express, a Newark drayage company, had properly classified its drivers as independent contractors.

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