

ATA, Port Set for Courtroom Showdown

By Eric Miller
Staff Reporter

Pretrial oral arguments and months of dueling legal briefs and public relations spin are nearly over, and attorneys for American Trucking Associations and the Port of Los Angeles last week prepared for their courtroom showdown next month over the port's controversial clean-trucks plan banning owner-operators from performing drayage at the port.

The trial, scheduled for April 20 in the Los Angeles courtroom of U.S. District Judge Christina Snyder, is expected to take as many as eight days.

In October, ATA reached an out-of-court settlement with the Port of Long Beach. The Long Beach clean-trucks plan did not ban independent operators from entering the port.

But the Los Angeles port's concessionaire plan would require that drivers work only for licensed employers, not as self-employed contractors.

In oral arguments, both sides last month tried to avert a trial or narrow the legal issues in their favor by asking Snyder to grant their

motions for summary judgment.

The judge denied both motions in a Feb. 25 ruling.

"Having carefully reviewed the briefs and arguments of the parties, the Court determines that both motions raise substantial questions of fact that are better resolved at trial," Snyder said in her ruling.

Both sides have said they remain confident the law is on their side.

"We've already won the bulk of the case," ATA spokesman Clayton Boyce said recently.

"We are hopeful that the trial court will uphold the full concession agreement to provide full accountability and sustainability of the clean-truck program in the future," Los Angeles Mayor Antonio Villaraigosa said in a statement.

On the surface, it would appear that ATA has a leg up heading into the trial.

A temporary injunction Snyder issued last year blocked port officials from implementing most of the diesel-emissions plan's concession provisions — including a ban on owner-operators, street parking restrictions and proof of financial capability — until all the issues are aired during the trial.

ATA has argued that the port's con-

cession requirements will neither make motor carriers more accountable nor ensure cleaner air.

Snyder's temporary ban followed a federal appeals court ruling that most of the concession requirements were probably unconstitutional, and ATA was likely to prevail in trial on most of the significant issues — other than those related to the port's ability to enforce safety and security within its borders.

ATA is asking Snyder to find the port's concession agreement in violation of the federal preemption clause, which gives the federal government — not the ports — the right to regulate interstate trucking.

ATA also has argued that the concession agreement affects the "rates, routes or services" of its members, and port officials "do not have the power to suspend motor carriers from interstate operations."

However, port officials have countered that the clean-trucks plan, which gradually phases out independent owner-operator drayage carriers, is needed to reduce diesel emissions over the long haul, saying the "issue of control is the heart of an employer-employee relationship."