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THE SEVENTH CIRCUIT VACATES FMCSA'S FINAL RULE ON ELECTRONIC ON BOARD RECORDERS (EOBRs)

Washington, DC, August 27, 2011. The U.S. Court of Appeals for the Seventh Circuit vacated the Federal Motor Carrier Safety Administration's (FMCSA's) final rule approving use of electronic on board recorders (EOBRs) on trucks operated by certain motor carriers. EOBRs are devices intended to track the movement and duty status of drivers operating commercial motor vehicles. The federal appeals court found that the final rule was "arbitrary and capricious" because FMCSA failed to include provisions ensuring that motor carriers do not use these electronic tracking devices to harass drivers. The rule was challenged by the Owner Operator Independent Drivers Association, Inc. (OOIDA) of Grain Valley Missouri on behalf of drivers whose privacy interests were threatened by FMCSA's proposed rule.

"The Seventh Circuit's ruling is a great victory for OOIDA and thousands of drivers whose interests were threatened by the EOBR rule" said Paul D. Cullen, Sr. of The Cullen Law Firm, OOIDA's Washington, DC based counsel. OOIDA challenged the final rule on several grounds, but the court found it necessary only to rule on the harassment issue. "FMCSA must go back to the drawing board when the rule is remanded to it for further proceedings" observed Cullen. OOIDA also contends that the agency cannot cost-justify the rule. "EOBRs provide no advantages over paper log books for compliance with hours-of-service regulations," said Cullen. OOIDA also contends that the mandatory use of EOBRs violates drivers' rights to be free from unreasonable searches and seizures in violation of the Fourth Amendment.

The Seventh Circuit's [opinion](#) deals with a final rule that would have applied only to trucking companies with poor hours-of-service compliance records. FMCSA is also proposing a separate rule that would mandate installation of EOBRs on over 4 million long-haul trucks. OOIDA also opposes promulgation of the second rule on grounds similar to those raised in the Seventh Circuit case. "The Seventh Circuit holding will almost certainly force FMCSA to go back to square one before going forward with its proposal to burden all long-haul drivers with EOBRs," Mr. Cullen concluded.

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