

# TIDA's Amicus Brief Committee - Are you a Friend of the Court?

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For years, TIDA has had a robust amicus brief presence across the country. Our most recent filings of amicus briefs have been in the New Mexico Supreme Court, Alabama Supreme Court, Indiana Supreme Court, and the United State Supreme Court.

## The issues cut across a wide range of topics:

- (1) meaningful judicial review of compensatory damages awards for excessiveness against a TIDA motor carrier (New Mexico);
- (2) protective orders not prohibiting the plaintiffs' counsel from disseminating outside the litigation a TIDA motor carrier's confidential information obtained from its bills of lading and operations/safety manuals (Alabama);
- (3) an erroneous independent negligence theory against a TIDA motor carrier and erroneous duty on the motor carrier to monitor, 24/7, weather and road conditions for all of its drivers nationwide and then to make the call for them to cease operations if the conditions so dictate (Indiana); and
- (4) preemption under the Federal Aviation and Administration Authorization Act of 1994, 49 U.S.C. § 14501 ("FAAAA"), where a TIDA motor carrier challenged a Ninth Circuit ruling allowing the state of California to impose on the motor carrier various meal-break and rest-break laws which would alter the motor carrier's performance-based pay program for its drivers (U.S. Supreme Court).

In the next few weeks, TIDA will be filing an amicus brief in the Wisconsin Supreme Court on an issue concerning overweight citations – how and when can a municipality post overweight signs. Motor carriers run into these citations all over the country when they have no notice and then are fined for thousands of dollars (e.g. \$40,000) and yet such overweight

regulations are preempted by federal law. In other words, does the federal Surface Transportation Assistance Act, 49 U.S.C. §31114 preempt the State of Wisconsin and its municipalities from enacting non-safety specific regulations like the Town of Delafield's special weight limitation. A TIDA outside counsel member requested TIDA to submit an amicus brief to support his motor carrier client, and our brief will be prepared and submitted by TIDA outside counsel members John Halpin and Jack Laffey of Laffey, Leitner and Goode in Milwaukee, and Stephanie Hersperger and Mike Nerone of Pion, Nerone, Girman, Winslow & Smith, P.C. in Pennsylvania.

Our amicus briefs nearly always open up with the following introduction: Founded in 1993, TIDA is a non-profit association committed to sharing knowledge and resources among its over 1,600 member motor carriers, trucking insurers, defense attorneys and claims-servicing companies, and to reducing the costs of claims and lawsuits against the trucking industry, including personal injury claims and suits. TIDA advocates on behalf of the interests of its members and regularly participates as amicus curiae in cases involving issues of concern to its members, including cases in this Court.

When we are asked whether TIDA would file an amicus brief in support of the TIDA member's position on an appeal in a court case, the Amicus Brief Committee considers and votes on the request. If approved, the committee finds a TIDA outside counsel member in the court's jurisdiction who is willing to write and file the amicus brief on a pro bono basis. Committee members are not the ones writing and filing the briefs. We simply arrange for it to happen.

The TIDA outside counsel members writing and filing the amicus briefs in the above four cases are as follows: (1) Monica Garcia and Rheba Rutkowski of Butt, Thornton & Baehr in Albuquerque, New Mexico (New Mexico case), (2) David Wilson and Jimmy Mitchell of Wilson & Berryhill in Birmingham, Alabama (Alabama case), (3) Mike Langford of Scopelitis, Garvin, Light, Hanson & Feary in Indianapolis, Indiana (Indiana case), and (4) John Haluck, David Kash, Zachary Schwartz, LaKeysia Beene, and Eric Brumfield in the California and Arizona offices of Koeller Nebeker Carlson Haluck (U.S. Supreme Court case). We thank these dedicated TIDA members for their invaluable service.

If you are interested in joining the Amicus Brief Committee, please contact board member Mike Nerone (MNERone@pionlaw.com) or committee chair Jim Bryan (jbryan@nexsenpruet.com). We would love your help.

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