



DAN FINNEY LAW
TRIAL ATTORNEY

October 20, 2024

Truck Leasing Task Force
Attn: Chairman Steve Rush

Re: Illusory truck leasing agreements

Dear Chairman Rush and members of the TLTF task force:

I am a personal injury attorney who represents individuals, including truck drivers, in auto crash cases. I've had an opportunity to investigate and litigate issues involving the truck leasing agreements this task force is investigating.

I've discovered three classes of operators:

1. Full-time employees of the carriers.

These employees operate their employers' trucks ("equipment") under the authority of their employers.

The law requires these employers to provide worker compensation and unemployment insurance, as well as overtime pay, for their full-time operators. Employers are also required to pay employer tax and contribute to the Medicare and social security of their full-time operators.

2. Owner-operators.

These operators either hold title to the equipment or pay the titleholder for the right to exclusive possession, use and control of the equipment.

Owner-operators are responsible for the equipment and anyone who operates it. They are free to lease the equipment to an approved carrier and operate that equipment for the

approved carrier. The carriers to whom they lease the equipment, and under whose authority they operate the equipment, issue the owner-operators 1099s.

The owner-operators are considered independent contractors because they are free to contract with any carrier of their choosing and bring their own equipment to the job.

3. Indentured servants.

These servants are no different than full-time employees of carriers, except for the following:

- a) The servants execute an illusory and illegal agreement with their masters (carriers). The illusory agreement purports to transfer the right to exclusive possession, use, and control of their master's equipment to the servant executing the agreement. However the servants never receive this right, and are fraudulently charged to operate maintain and insure their master's equipment, which they are only allowed to operate for their master.
- b) Their masters provide these servants with no workers compensation insurance, unemployment insurance, nor overtime pay.
- c) The servants must pay self-employment tax and make all contributions to their Medicare and social security.
- d) If the masters terminate the servants (which can be done at any time for any reason), or if the servants want to end their servitude, the servants must return the equipment and pay the master damages.
- e) The masters of these indentured servants embezzle around twenty to thirty thousand dollars a year from compensation owed to the servants through fraudulent wire-transfers pursuant to illusory agreements.
- f) The masters also convert premiums from the compensation owed to the servants. Insurance companies collude with the masters in the conversion of the premiums.

(The insurance companies turn a profit by illegally deferring taxes on returns of the investment of the premiums stolen from the servants. The insurance companies kick-back some of the illegal returns to the carriers through fraudulent negotiations of "proceeds". More on that later.)

The indentured servitude to which the servants agree is a violation of the 13th Amendment to the U.S. Constitution and almost every labor law in the country since the early 20th century.

OWNER-OPERATORS v. INDENTURED SERVANTS

Before examining whether leasing agreements in the transportation industry are fair, you must first distinguish between which leasing agreements are real, and which are illusions created to bind the operators to indentured servitude. The easiest way to do this is to examine the underwriting of the equipment the titleholder purports to lease to the operator.

Under a true leasing agreement, the titleholder transfers the right to exclusive possession, use and control of the equipment to the operator paying to rent and maintain the equipment.

Under a fraudulent leasing agreement, the titleholder, usually a shell company controlled by the carrier, does *not* transfer the right to exclusive possession, use and control of the equipment to the operator. By hiring criminals posing as attorneys to draft illusory leasing agreements, the titleholder/carrier can create the illusion of transferring the right to exclusive possession, use and control of the equipment to the operator, as a front to steal tens of thousands of dollars from each operator every year.

It is important to note the trickery and deception of the skilled “attorneys” drafting the illusory leasing agreements for the carriers often make it difficult or impossible to decipher which agreements are legitimate and which are illusory. The surest way to tell the difference is to examine the underwriting of the equipment.

Both the legitimate leasing agreements, and the illusory ones, contain a clause or addendum requiring the lessee (operator) to provide the lessor (titleholder) proof the lessee is covered from loss caused by damage to the equipment during the term of the lease. The lessor will not give the lessee possession of the equipment before the lessee provides proof the lessee is covered.

The reason the titleholder requires the operator provide proof that he or she is covered from loss resulting from damage to the equipment is because insurers can only underwrite coverage to that party which has the right to exclusive possession, use and control of the equipment.¹

If the underwriter can prove coverage of the operator, then the titleholder transferred the right to the exclusive use, possession and control of the equipment to the operator pursuant to the leasing agreement.

¹ The titleholders will require the proof of coverage also list the titleholder’s name as a “loss payee”. Property damage insurance does not cover a loss payee, who has no privity of contract with the underwriter. Only the operator as the covered party can make a claim under the policy. But the insurance company will not issue proceeds check to the covered party who asked to name a loss payee on the policy, without including the loss payee as a co-payee on the proceeds check. By insisting that the titleholder be listed as a loss payee, the titleholder is assured that the operator cannot take off with the proceeds without reimbursing the titleholder for the damage or destruction of the equipment.

If the insurance company cannot prove coverage of the operator, then the titleholder retained the exclusive use, possession and control of the equipment, and the leasing agreement is an illusion.

In other words, if the underwriting changes when the lease is executed, the leasing agreement is what it purports to be. If the underwriting does not change when the operator executes the leasing agreement, the agreement is an illusion.

Some insurers, such as Great West Casualty Company, will produce a document referred to as an “Independent Contractor Policy” (ICP) as proof of coverage. An ICP is nothing more than a fleet insurance policy with no one’s name on it.

An insurance policy covers no one if no one’s name is on the policy. If the “phrase” listed as the policy holder or named insured is not the legal name of an existing entity or individual, then the leasing agreement and the policy are fraudulent and evidence of collusion and racketeering by the carriers collecting the premiums, and the insurers engaging in the fraudulent underwriting.

As an example, (this is not the only one of which I’ve come across) let’s look at the case involving my client, a truck driver critically injured while operating equipment titled to Maverick Leasing, LLC, under the authority of Maverick Transportation, LLC. Both Maverick Leasing, LLC and Maverick Transportation, LLC share the same managers, operating account, place of business and single member: Maverick USA, Inc. Both Maverick Leasing, LLC and Maverick Transportation, LLC are shell companies for Maverick USA, Inc.

The operators, such as my client, who executed a “Maverick Leasing Agreement” were under the impression Maverick was transferring to them the exclusive use, possession and control of the equipment, as stated in the agreement, in exchange for the deduction of rent, maintenance and property damage insurance premiums from their compensation. But the operators never received the exclusive use possession or control of the equipment, and are indentured servants, not owner-operators.

The easiest way to prove the leasing agreement is an illusory contract designed to bind the operators to indentured servitude, is to look at Schedule D ¶ 1(a) on page 25 of the leasing agreement: ...LESSEE (operator) is required to procure carry and maintain physical damage insurance that *shall provide coverage to the LESSEE, at all times...*(emphasis added)

Pursuant to Addendum A10 of the Maverick Operating Agreement, Maverick “facilitated coverage” for my client under ICP00136S issued by Great West Casualty Company, with premiums Maverick deducted from my client’s compensation.

When my client demanded Great West Casualty Company prove he was covered from losses caused by damage to Maverick’s equipment, Great West Casualty produced an insurance policy

with no one's name on it, but rather what it called "phrasing" that refers to unnamed operators including my client. An insurance policy with no one's name on it insures no one.

I am not covered under a policy which lists as the named insured "US Citizen". I am a US Citizen, but that phrase is not the name of any individual or entity. As such, no one is covered under the terms of that policy.

An insurance policy with no one's name on it covers no one. Maverick never transferred exclusive control of its equipment to my client. Because the underwriting did not change when the leasing agreement was executed, the leasing agreement is an illusion.

All you need to do to recognize the "policy" is fraudulent is read it. The truth is in the language of the ICP. Hidden in plain sight. Because after all, who reads their insurance policy?

Any operator who signed a leasing agreement with Maverick, on whose behalf Maverick "facilitates" coverage through deductions of premiums from the operator's compensation, was an indentured servant, illegally charged to operate and maintain the equipment their employer assigns to them and insure their employer from losses because of damage to that equipment. Maverick never transferred exclusive possession, use and control to the operator, notwithstanding the words of the illusory leasing agreement.

I have more documents and analysis to provide, which I will get to you before the meeting October 30, 2024. It will help to further expose the fraudulent underwriting and illusory leasing agreements used to steal billions of dollars from indentured servants operating equipment owned by carriers, over the last few decades.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Innes M.", with a long horizontal flourish extending to the right.