

SBTC v. INDOR: Bullet Point Summary

- On November 17, 2017, the Small Business in Transportation Coalition (“SBTC”) filed a class action lawsuit against Indiana Department of Revenue (“INDOR”) in Marion County, Indiana, state court on behalf of the interstate motor carrier industry alleging unlawful collection of motor carrier registration fees for over a decade.

The Lead Plaintiff

- SBTC is a 501(c)(6) non-profit trade organization located in Washington, D.C. SBTC has over 8,000 members and represents, promotes, and protects the interests of small businesses in the transportation industry. SBTC is a watchdog group for the trucking industry that investigates government fraud, waste, mismanagement, and abuse. It is the policy of the SBTC to expose unlawful government activities and improprieties whenever discovered.

The Defendant

- INDOR is an Indiana government agency established for the purposes of administering, collecting, and enforcing specific taxes under Indiana Code Title 6, Article 8.1, as well as overseeing certification of motor carriers in Indiana under Indiana Code Title 8, Article 2.1.
- Under contract with the UCR Board, INDOR has been registering interstate motor vehicles from all over the United States and unlawfully collecting from them the *UCR Fees*, an *Instant Access Fee*, and an *Usage Fee*, since 2008 through an internet website, www.ucr.in.gov.
- The suit alleges that there is no Indiana state law that authorizes the INDOR to enter into the UCR Agreement, to contract with the UCR Board to administer the UCR Plan, to register truckers under the UCR Plan, or to collect UCR-related fees. Thus the INDOR has been illegally collecting UCR-related fees since 2008.
- INDOR has unlawfully collected approximately \$100,000,000 in UCR-related fees each year since 2008. The class action lawsuit asks that all UCR-related fees be refunded since 2008.

The UCR Plan & Agreement

- In 2005, Congress authorized the 50 states to voluntarily participate in an interstate compact agreement to coordinate registration of interstate motor carriers and collect registration fees through an “online registration system,” called the Unified Carrier Registration Plan, 49 U.S.C. § 13908(a) & (b) (“UCR Plan”). The UCR Plan established

a way for interstate truckers to register and pay fees only one time each year and for the states to share in the proceeds.

- To implement this online registration system, a “UCR Agreement” was created, which has been voluntarily signed by 41 states, including Indiana. The UCR Agreement is governed by:
 - 1) an UCR authorizing statute, the Unified Carrier Registration Act of 2005, found at 49 U.S.C. § 14504a; and
 - 2) a board of directors (“UCR Board”), appointed by the US Secretary of Transportation, to oversees the UCR Agreement, 49 U.S.C. § 14504a(d).
- For a state to be eligible to voluntarily be part of the UCR Agreement, that state must have an agency with the legal authority, resources, and personnel to implement the UCR Agreement. *See id.* at § 14504a(e)(1). The INDOR unlawfully claimed to be such an agency and it signed the UCR Agreement on behalf of the State of Indiana.
- The UCR Agreement requires each trucker to register with its home state, or the interstate online registration system administered by INDOR, before he or she begins to operate a commercial motor vehicle in interstate commerce. Trucker are subject to criminal penalties if they fail to register each year and they travel interstate.
- With their UCR registration, carriers must also pay UCR-related fees, including a UCR Fee, an UCR Usage Fee, if it is an out-of-state trucker registering in Indiana, and a UCR Instant Access Fee, if the trucker is paying by credit card.

The UCR Fee Brackets

- The Secretary of Transportation set the UCR Fee in 2007 and revised the UCR Fee in 2010. 49 C.F.R. §§ 367.20 and 367.30.
- The UCR Fees from 2007-2017 (based on number of commercial motor vehicles operated by a carrier in interstate commerce) have been as follows:
 - 2007 promulgated fees: *0-2 vehicles*: \$39.00; *3-5 vehicles*: \$116.00; *6-20 vehicles*: \$231.00; *21-100 vehicles*: \$806.00; *101-1000 vehicles*: \$3,840.00; and *1001 or more vehicles*: \$37,500.00
 - 2010 promulgated fees: *0-2 vehicles*: \$76.00; *3-5 vehicles*: \$227.00; *6-20 vehicles*: \$452.00; *21-100 vehicles*: \$1,576.00; *101-1000 vehicles*: \$7,511.00; and *1001 or more vehicles*: \$73,346.00

The Cause of Action

- Since 2008, INDOR has registered motor vehicles for states throughout the country, under an illegal contract with the UCR Board, and illegally collected the UCR-related fees.
- INDOR signed contracts with the UCR Board since 2008 to purportedly allow them to collect these fees from truckers throughout the country.
- However, Indiana law does not authorize INDOR to enter into any contract with the UCR Board and even more critically, Indiana law does not allow Indiana to participate in the UCR Agreement, to register truckers under the UCR Plan, or to collect UCR-related fees.
- Since there is no authority under Indiana law for INDOR to enter into the UCR Agreement, to enter into contracts with the UCR Board, to register truckers under the UCR Agreement or to collect UCR-related fees, INDOR has illegally collected UCR-related fees since 2008.

SBTC Attorney

- The SBTC is represented by The Bopp Law Firm, PC, www.bopplaw.com of Terre Haute, IN.

"Indiana law does not authorize the Indiana Department of Revenue to be part of the UCR Plan or to collect UCR-related fees. Without such authority under Indiana law, INDOR's nationwide collection of the UCR-related fees is unlawful and every trucker since 2008 is entitled to a refund of these illegally collected fees." SBTC Attorney James Bopp, Jr. said.

SBTC Leadership

- James Lamb is the founder and president of the SBTC.

*"SBTC has filed this class lawsuit on behalf of the trucking industry because INDOR has unlawfully collected a **billion** dollars in UCR-related fees from hundreds of thousands of motor carriers since 2008. The SBTC is a watchdog group for the trucking industry that investigates government fraud, waste, mismanagement, and abuse. It is the policy of the SBTC to expose unlawful government activities and improprieties whenever discovered,"* SBTC President James Lamb said.