

Summary of California Multimodal LLC (CMI) DLSE Decisions (Jan 9, 2019)

Highlights: On December 26, 2018, the Division of Labor Standards Enforcement (DLSE) issued an Order, Decision, or Award of the Labor Commissioner (ODA) in the cases of 10 port truck drivers against California Multimodal LLC (CMI).

In the 75-page decision, the Hearing Officer for **the DLSE found that the 10 drivers are employees – not independent contractors** – and therefore protected by California’s wage and hour laws. The decision orders **CMI to pay those 10 drivers a total of \$2,172,889.99** for:

- **unpaid wages** that include the following:
 - **illegal paycheck deductions** - California’s Labor Code prohibits an employer from making deductions from an employee’s paycheck. CMI made illegal deductions from drivers’ paychecks for truck payments, fuel, materials, supplies and services, parking, and others;
 - **nonproduction hours** – CMI failed to pay drivers for hours worked which fall outside the scope of piece rate, such as time waiting to get dispatched, processing daily logs, inspecting trucks, and repairing trucks.
- **unreimbursed expenses** - CMI failed to reimburse drivers for out-of-pocket business expenses, such as fuel.
- **meal and rest break premiums** - CMI failed to provide 30-minute meal periods for every five hours worked and 10-minute rest period for every four hours worked;
- **waiting time penalties** - for all earned wages due immediately upon termination.
- **liquidated damages** - for failure to pay the state’s minimum wage under California’s Industrial Welfare Commission Wage Orders.
- **Interest** - accrued for all due and unpaid wages.
- **Attorney fees.**

The highest individual award is \$392,694.61 with the average award being \$217,289.

Summary of process: The claims were first filed between August 3, 2017 and October 20, 2017. Hearings were held from August 6, 2018 through August 14, 2018. For nine of the drivers, the claim period starts in September/October 2013 and for the remaining driver his claim period starts on April 2017. The end period for the claims vary, depending if the driver remains employed at the company or if they have been terminated.

Total CMI claims: In total, since 2016, **the Labor Commissioner has ordered CMI to pay 15 drivers \$2,800,732.57**. Of these, five claims were settled in 2017. The remaining 10 – from the December 2018 ODA – are within the appeal period and thus remain pending.

Status of claims: CMI has 15 days to either pay the drivers the amounts owed or appeal; if they do neither, then the decisions will become final judgments. If final judgments go unpaid, CMI’s customers could be held liable for future claims under California’s new joint liability law, SB1402.