

No. 25-40012

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

MIKE CRANE, as next friend D.J.M.; LAVON BETH MEYER, LEE ALLEN MEYER, Individually and as Representative of the Estate of Lyndon Dean Meyer,

Plaintiffs-Appellants,

v.

LIBERTY LANE, L.L.C.; PENSKE TRANSPORTATION MANAGEMENT, L.L.C.; PENSKE LOGISTICS, L.L.C.,

Defendants-Appellees.

On Appeal from an order of the United States District Court for the Southern District of Texas, Civil Action No. 2:19-CV-00094

**MOTION FOR LEAVE TO FILE BRIEF OF TRUCKING INDUSTRY
DEFENSE ASSOCIATION AS AMICUS CURIAE, AND BRIEF OF
AMICUS CURIAE, IN SUPPORT OF DEFENDANTS-APPELLEES'
PETITION FOR REHEARING EN BANC**

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CERTIFICATE OF INTERESTED PARTIES

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29, the undersigned counsel for amicus curiae Trucking Industry Defense Association certifies that amicus has no parent corporation, and that no publicly held corporation owns 10% or more of amicus's stock.

Amicus adopts and incorporates the Certificate of Interested Parties filed by amici American Trucking Associations, Inc. and Truckload Carriers Association, Inc. on August 26, 2026, and supplements it with the following additional interested party and counsel.

Amicus Curiae:

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Plaintiffs-Appellants:

Mike Crane, Guardian of the Estate of D.J.M., a Minor
Lavon Beth Meyer
Lee Allen Meyer, Individually and as Representative
of the Estate of Lyndon Dean Meyer

Intervenor:

Federal Insurance Company

Defendants-Appellees:

Penske Logistics, LLC
Penske Transportation Management, LLC
Former Defendants and Crossclaim Defendants:
Liberty Lane, LLC
Satnam Singh Lehal
Liberty Commercial, LLC
OK Trans Inc. d/b/a OK Transport

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Owners, Affiliates and Parents:

Penske Truck Leasing Co., LP (Sole member of Defendant-Appellee Penske Logistics, LLC)

Penske Logistics, LLC (Sole member of Defendant-Appellee Penske Transportation Management LLC)

Aleksandr Lastivka (Sole Member of Liberty Lane, LLC and Liberty Commercial, LLC)

Faisal Nadeem (Owner of OK Trans Inc. d/b/a OK Transport)

Insurers:

Insurers of Defendants-Appellees Penske Logistics, LLC and Penske Transportation Management, LLC:

TT Club Mutual Insurance Ltd
Mitsui Sumitomo Insurance Company of America
Great American Assurance Company
Travelers Property Casualty Company of America
Endurance Specialty Insurance, Ltd.
Hamilton Re, Ltd.
XL Bermuda, Ltd.
Aspen Bermuda Limited
Argo Re

Insurer of Liberty Lane, LLC:

Progressive Southeastern Insurance Company

Insurers of Satnam Singh Lehal and OK Trans Inc. d/b/a OK Transport:

National Liability & Fire Insurance Company
Chubb Group/Chubb Indemnity Insurance Co.

Dated: September 17, 2026 Respectfully submitted,

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Amicus adopts and incorporates by reference the Table of Authorities filed with the Brief of American Trucking Associations, Inc. and Truckload Carriers Association, Inc. as Amici Curiae in Support of Defendants-Appellees' Petition for Rehearing En Banc (Doc. 167, filed Aug. 26, 2026).

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE

The Trucking Industry Defense Association ("TIDA") respectfully moves, pursuant to Federal Rule of Appellate Procedure 29, for leave to file the accompanying brief as amicus curiae in support of Defendants-Appellees' Petition for Rehearing En Banc. In support of this motion, TIDA states as follows.

I. Interest of Amicus Curiae

TIDA is an international organization that includes over 1,900 members comprised of motor carriers, transportation logistics companies, insurers of motor carriers, third party claims administrators, and legal counsel. TIDA's motor carrier members include common carriers, private carriers, and private fleets. Its insurance company members provide transportation liability insurance for the trucking industry. One of TIDA's missions is to provide training and assistance to the trucking industry on risk management, personal injury, property damage, cargo damage and loss, and insurance coverage.

TIDA participates as amicus curiae in cases that raise issues of vital concern to its membership, which is the case here. The Panel Opinion imposes statutory employer liability on an authorized motor carrier for the acts of an employee driver of a wholly separate, authorized carrier, with whom the first carrier had no lease, no contract, and no knowledge of the vehicle or driver involved. That holding, if left undisturbed, directly affects how TIDA's motor carrier members structure brokered

and interlined freight movements, and how TIDA's insurer and claims administrator members underwrite and adjust the resulting risk. Many of TIDA's members are not parties to this appeal but will be bound, as a practical matter, by whatever rule of decision emerges from it.

No fee has been or will be paid for the preparation of this motion or the accompanying brief. No party's counsel authored the brief in whole or in part, no party or party's counsel contributed money intended to fund preparing or submitting the brief, and no person other than amicus, its members, and its counsel contributed money intended to fund preparing or submitting the brief. See Fed. R. App. P. 29(a)(4)(E).

II. This Brief Will Assist the Court

TIDA's proposed brief does not restate the arguments already before the Court in the Brief of American Trucking Associations, Inc. and Truckload Carriers Association, Inc. Rather, TIDA joins and adopts that brief in full and adds a short statement of the additional exposure the Panel Opinion creates for the insurers, third party claims administrators, and risk managers within TIDA's membership, a perspective distinct from the motor carrier operational perspective already presented. Because the brief is short and raises no new issue, it will not require the parties to secure any additional time or briefing to respond.

TIDA is filing this motion promptly upon learning of the Petition for Rehearing En Banc and the amicus brief in support of it. To the extent the Court deems any aspect of this filing outside the ordinary period contemplated by Rule 29(a)(6), TIDA respectfully requests leave to file given the brief's brevity, its full adoption of arguments already before the Court, and the absence of any prejudice or delay to the parties.

For these reasons, TIDA respectfully requests that the Court grant leave to file the accompanying brief as *amicus curiae*.

**BRIEF OF AMICUS CURIAE TRUCKING INDUSTRY DEFENSE
ASSOCIATION IN SUPPORT OF DEFENDANTS-APPELLEES'
PETITION FOR REHEARING EN BANC**

I. Introduction

TIDA joins and adopts, in full, the arguments set forth in the Brief of American Trucking Associations, Inc. and Truckload Carriers Association, Inc. as Amici Curiae in Support of Defendants-Appellees' Petition for Rehearing En Banc (Doc. 167, filed Aug. 26, 2026) (the "ATA/TCA Brief"). TIDA does not restate those arguments here. TIDA writes separately only to identify the additional consequences the Panel Opinion holds for the insurers, claims administrators, and risk managers within its membership, whose interests are not otherwise represented before the Court.

II. Argument

As the ATA/TCA Brief demonstrates, the Federal Leasing Regulations have, for roughly seventy years, applied only where a carrier leases a specific vehicle from an owner-operator to be operated under the lessee carrier's authority. See ATA/TCA Brief at 8 to 9. They have never been understood to reach an arrangement in which one authorized carrier engages another authorized carrier, through a broker or otherwise, to transport a shipment on that second carrier's own equipment and under that carrier's own operating authority. See *id.* at 12 to 13. The Panel Opinion breaks with that settled understanding by imposing statutory employer liability on Penske

Logistics for an accident caused by an employee driver of OK Trans, an entirely separate authorized carrier with which Penske Logistics had no lease, no direct contract, and no knowledge of the vehicle or driver involved. See *id.* at 3.

This Court has long recognized that the existence of a lease for specific equipment, evidenced by the carrier's ICC placard on that equipment, is what identifies a statutory employer under the Federal Leasing Regulations. *Jackson v. O'Shields*, 101 F.3d 1083, 1086 (5th Cir. 1996). The Panel Opinion inverts that rule by theorizing a lease where the record contains no evidence one existed, and by placing liability on an upstream carrier that had no ability to inspect the equipment, qualify the driver, or otherwise satisfy the safety functions the Federal Leasing Regulations were designed to ensure someone in the chain would perform.

For TIDA's membership, the practical consequence extends beyond the motor carriers named as parties. TIDA's insurer and third-party claims administrator members underwrite and adjust risk on the settled premise that statutory employer liability attaches to the carrier that leased the specific equipment involved, a fact ordinarily fixed and knowable at the time of underwriting. The Panel Opinion replaces that fixed inquiry with an open-ended one: any carrier anywhere upstream in a brokered or interlined chain of authorized carriers may be exposed to statutory employer liability for a driver it never engaged, never inspected, and never knew existed. Insurers cannot price a risk that cannot be identified in advance, and claims

professionals cannot reserve for exposure that depends on facts outside any carrier's own operation. If allowed to stand, the Panel Opinion will require TIDA's members to revisit underwriting and claims-handling practices built on seventy years of settled regulatory and judicial understanding, and to do so without any corresponding change in the text of the Control Statute or the Federal Leasing Regulations themselves.

These consequences confirm what the ATA/TCA Brief demonstrates from the regulatory history and the case law: the Panel Opinion is wrong, and the question it presents warrants review by the full Court.

III. Conclusion

For the reasons stated in the ATA/TCA Brief, which TIDA adopts in full, and for the additional reasons stated above, amicus curiae Trucking Industry Defense Association respectfully requests that the Court grant the Petition for Rehearing En Banc.

Dated: September 17, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 29(b)(4), I hereby certify that this brief contains 2,278 words, excluding the parts of the brief exempted by Rule 32(f), as established by the word count function of the computer program used to prepare this brief.

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated: September 17, 2026

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CERTIFICATE OF SERVICE

I certify that on September 15, 2026, a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: September 17, 2026

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