



FMCSA Has New Administrator and D.O.T. Settles Hours of Service Lawsuit

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The new administration nominated Anne Ferro to head the Federal Motor Carrier Safety Administration. Ms. Ferro, for the past six years, has been the head of the Maryland affiliate of the American Trucking Association. The immediate response from the trucking industry was great joy that the president had picked someone “on their side.” The response from the safety community was disbelief and dismay. The safety community was absolutely opposed to a person who had been a lobbyist for the trucking industry becoming the chief overseer of safety in the industry. They did not want to put a fox in charge of guarding the chicken house. The safety community’s response was echoed by the New York Times Editorial Board. They criticized Mr. Obama’s appointment as a breach of his promise of a “clean break” from business as usual. They also criticized the appointment as a violation of the spirit of President Obama’s order limiting the ability of lobbyists to enter government as high officials and to influence policy from within. Although the order technically bars only federally registered lobbyists, they stated it is hard to understand how naming a trucking in-

dustry insider like Ms. Ferro, to lead the Federal Motor Carrier Safety Administration is consistent with Obama’s stated policies, or with highway safety.

The Times editorial pointed out the dilemma that the leadership of the Senate Commerce, Science and Transportation Committee would have. These same members had previously noted that it was wrong for the Bush White House to install people from the trucking industry to regulate their own industry. This time it was the president of their own party making the same blunder. The conclusion of the Times Editorial Board was that Ms. Ferro’s involvement with the industry should disqualify her from the appointment. Nonetheless, she was approved not only by the committee, but was overwhelmingly approved by the Senate as a whole and began work as Administrator on November 9, 2009.

Ironically, at the same time as Ms. Ferro’s confirmation process was proceeding, the Secretary of Transportation

Continued on page 5

AAJ INTERSTATE TRUCKING LITIGATION GROUP PAGE 2

made the decision to settle the Hours of Service lawsuit filed by a variety of safety advocacy groups. The lawsuit was the third lawsuit regarding the 2004 (and later) Bush Administration regulations regarding the hours of service (after the regulations had twice been held to be unlawful). The suit sought an order requiring the Secretary to start a new rulemaking process regarding HOS. Under the settlement, the Secretary agreed to issue a new rulemaking and set time lines for such issuance.

We now have the situation in which a former industry advocate/lobbyist who coauthored a letter to the Baltimore Sun defending the Bush Administration’s (unlawful) loosening of regulations on drivers’ schedules, heads up the rulemaking body charged with establishing the new safe hours of service for truckers. Ms. Ferro is on record as stating that the Bush Administration Hours of Service had reduced driver fatigue and increased safety, in spite of very significant evidence to the contrary and two court decisions striking the rules down.

The trucking industry has routinely used extremely misleading statistics and “surveys” to try to document the validity of questionable practices. Ms. Ferro’s former employer is one of the groups that helped to assemble one-sided information to load up the record with such misinformation to support the former illegal rules. For its entire existence, the FMCSA has been little more than a toothless watchdog in regard to hours of service, and has essentially parroted whatever the industry touted. The FMCSA has been more interested in defending its own lackluster safety performance and in finding ways to make it sound as though it is just fine if more than 5,000 people are killed in truck crashes each year, than in making the changes necessary to save these lives. Now that she is the Administrator, we hope that Ms. Ferro will be able to set aside her industry bias and act to improve truck safety on our highways. We will soon see whether Ms. Ferro is truly interested in saving lives and reducing the number of truck crashes or whether she is yet another FMCSA puppet for the industry.

AAJ INTERSTATE TRUCKING LITIGATION GROUP PAGE 5