

# Kelley Drye Successfully Sets Aside An Arbitrator's Award Under Teamsters' National Master Freight Agreement

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Setting aside a "final and binding" arbitrator's award is virtually impossible, whether under the Federal Arbitration Act, the National Labor Relations Act, or State Law, absent corruption or a conflict of interest on the part of the arbitrator.

Yet, Kelley Drye was able to do this on behalf of Alvan Motor Freight, Inc. ("Alvan"), a mid-western automotive trucking company. Having lost a critically important arbitration case, Alvan's local counsel called upon Kelley Drye for assistance.

Alvan is signatory to a multi-employer/multi-union Teamster nation-wide collective bargaining agreement known as the National Master Freight Agreement ("NMFA"). Under the NMFA, Alvan makes monthly contributions to the Central States Pension Fund and health care contributions to the Central States Welfare Fund for one-half of its employees and to the Michigan Conference Teamster Welfare Fund ("MCTWF") for the other half.

When Central States Pension became financially strapped in 2004, the Teamsters ordered contributing employers to divert their monthly contributions from Central States Welfare to Central States Pension. Alvan agreed to do so since the Trustees of Central States Welfare consented. When the Teamsters later ordered contributing employers to divert from the MCTWF to Central States Pension, Alvan refused to do so because the MCTWF's Trustees refused to consent and threatened Alvan with litigation if Alvan made the diversion.

Central States Pension filed a grievance against Alvan seeking over \$2.4 million in lost contributions. An arbitrator under the NMFA found for Central States Pension.

Central States Pension commenced suit in the Federal District Court for the Northern District of Illinois in Chicago to confirm and enforce the Award. Alvan commenced suit in the Federal District Court for the Western District of Michigan in Grand Rapids to set aside the Award. It was at this juncture of the case that Kelley Drye was called in.

Kelley Drye was able to have the cases consolidated in the Western District of Michigan. Six law firms participated in the case, representing Central States Pension, the MCTWF, Michigan and Ohio Teamster Local Unions, the International Brotherhood of Teamsters, and Alvan. Kelley Drye drafted the briefs and planned the litigation strategy for Alvan.

Federal District Court Judge Zouhary set aside the Award based on Alvan's legal arguments, thereby saving Alvan \$2.4 million, plus interest. In addition, under the NMFA, as the losing party Central States Pension will now have to pay Alvan the attorney's fees and court costs Alvan incurred in the

case. Central States will likely appeal the District Court's decision to the Sixth Circuit Court of Appeals.