

BONN & WILKINS  
CHARTERED  
805 North Second Street  
Phoenix, AZ 85004  
(602) 254-5557

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Randall D. Wilkins, State Bar No. 009350  
Brian J. Campbell, State Bar No. 013177  
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(202) 944-8600

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Owner-Operator Independent Drivers  
Association, Inc. and David Hayes, Bobby  
Campbell, Gerald Webb, David Rush,  
Valarie Helton, John Nunn, Sr., Wayne  
Bibicoff, Roy Sparks, Olin Sparks, Paul  
Hawkins, and Frank Carter, individually,  
and on behalf of all others similarly  
situated,

Plaintiffs,

vs.

Swift Transportation Co., Inc. (AZ), Swift  
Transportation Co., Inc. (NV), M.S.  
Carriers, Inc., and M.S. Carriers  
Warehousing & Distribution, Inc.,

Defendants.

Civ. 02-1059 PHX PGR

**MOTION FOR A PRELIMINARY  
INJUNCTION AGAINST  
DEFENDANTS  
SWIFT TRANSPORTATION, INC (AZ)  
AND M.S. CARRIERS, INC.**

Plaintiffs hereby move, pursuant to Fed.R.Civ.P. 65, 49 U.S.C. §§ 14102(a) and  
14704(a)(1), and 49 C.F.R. §376.11(a), for a preliminary injunction enjoining and restraining  
Swift Transportation Co., Inc. of Arizona (“Swift”) and M.S. Carriers, Inc. (“M.S. Carriers”)  
from performing transportation of property that requires Department of Transportation  
authorization in motor vehicle equipment Defendants do not own until Defendants execute

1 written lease agreements with the owners of such equipment that meet the requirements  
2 contained in 49 C.F.R. § 376.12. In support of this motion, the Court is referred to the  
3 following documents:

4 1. Plaintiffs' Class Action Complaint.

5 2. A genuine copy of the "Contractor Agreement, East Coast" executed on  
6 December 17, 2001 between David B. Hayes and Swift Transportation Co., Inc. attached to  
7 Plaintiffs' Complaint at Tab 1.

8 3. A genuine copy of the "Contract Hauling Agreement" executed on March 7,  
9 2001 between David B. Hayes and M.S. Carriers, Inc. attached to Plaintiffs' Complaint at  
10 Tab 2.

11 4. A genuine copy of the "Equipment Lease" executed on March 7, 2001 between  
12 David B. Hayes and M.S. Carriers Warehousing and Distribution, Inc. attached to Plaintiffs'  
13 Complaint at Tab 3.

14 5. A genuine copy of a Contract Hauling Agreement executed on December 7,  
15 1998 between Frank S. Carter and M.S. Carriers (the "Carter Contract Hauling Agreement")  
16 attached to Plaintiffs' Complaint at Tab 4.

17 6. Declaration of David B. Hayes authenticating documents at Tabs 1, 2, and 3  
18 attached to Plaintiffs' Complaint at Tab 5.

19 7. Declaration of Frank S. Carter authenticating the document found at Tab 4  
20 attached to Plaintiffs' Complaint at Tab 6.

21 8. Memorandum of Law in Support of Motion For a Preliminary Injunction  
22 Against Defendants Swift Transportation, Inc (AZ) and M.S. Carriers, Inc.

23 9. Declaration of David B. Hayes in support of the preliminary injunction..

24 10. Declaration of Frank S. Carter in support of the preliminary injunction.

25 11. Declaration of Wayne Bibicoff in support of the preliminary injunction.

26 12. Declaration of James J. Johnston, President of OOIDA, in support of the  
27 preliminary injunction.

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Plaintiffs request Oral Argument before the Court on the above motion.

RESPECTFULLY SUBMITTED this \_\_\_\_ day of \_\_\_\_\_, 2002.

BONN & WILKINS, CHARTERED

By: \_\_\_\_\_  
Randall D. Wilkins  
Brian J. Campbell

and

THE CULLEN LAW FIRM, PLLC

By: \_\_\_\_\_  
Paul D. Cullen, Sr.  
David A. Cohen  
Joseph A. Hennessey

*Attorneys for Plaintiffs*