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TRANSPORTATION

Airporter of Colorado, Inc. v. Interstate Commerce Commission, 866 F.2d 1238

Author: Judge Baldock

Plaintiff, Airporter of Colorado, Inc. ("Airporter"), sought reversal of defendant, Interstate Commerce Commission's ("ICC"), order authorizing the transportation of passengers in interstate and intrastate commerce by a competing passenger motor carrier. Airporter argued that the ICC was without jurisdiction to grant certification absent a finding that the intrastate service of the carrier bore a proper relation to its interstate service. According to the ICC, there was no requirement of proportionality between the two under 49 U.S.C. § 10922(c)(2)(J) (1982 & Supp. 1987).

The Tenth Circuit reversed the decision of the ICC. The court held that the decision was not in accordance with the law, which makes the proportion of intrastate to interstate traffic relevant to the issue of interstate service needed to support intrastate authority. The court remanded the matter to the ICC for a determination of the proper relationship.

The court also affirmed, without prejudice, the ICC's denial of Airporter's request for an oral evidentiary hearing.

