



**AMERICAN BUS ASSOCIATION**

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## Member Alert

To: ABA Members

From: Peter J. Pantuso, President & CEO

Date: May 16, 2008

Re: **D.C. Judge Upholds Charter Bus Fees**

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In a decision issued from the bench at a hearing on May 16, D.C. Superior Court Judge Jeannette Clark upheld the validity of the District's new charter bus fees. The fees, which have been in effect since August 2007, were challenged by the American Bus Association, the National Tour Association, and the United Motorcoach Association. The lawsuit claimed that the fees discriminated against interstate commerce and conflicted with the requirements of the International Registration Plan. Judge Clark ignored all arguments from the plaintiffs and ruled that the fees met all applicable legal standards.

The plaintiffs argued that only D.C.-based carriers may register their vehicles as Class B vehicles with the District, and that the trip permit is an unconstitutional flat fee because it applies only to out-of-state operators entering the District. That leaves apportioned registration as the only available option, but the IRP provides that charter buses are not "apportionable vehicles," that is, the District may not require an out-of-state carrier to apportion its registration. Charter carriers may apportion registration at their option under the IRP, but the District's law now makes that essentially mandatory, the plaintiffs argued.

Judge Clark ruled that the flat trip fee does not discriminate against interstate commerce, that the District law does not conflict with the IRP, and that the fees were a legitimate exercise of the District's police power. She also erroneously noted that the fees only apply to intrastate commerce, and not interstate commerce, and that a carrier could operate through the District without being subject to the fees. The plaintiffs are considering whether to appeal the decision to the D.C. Court of Appeals.

As always, please feel free to call me directly with questions at 202-218-7229.