Bond Case Briefs

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Chamber of Commerce of United States v. City of Seattle

United States District Court, W.D. Washington, at Seattle - August 1, 2017 - F.Supp.3d - 2017 WL 3267730 - 209 L.R.R.M. (BNA) 3357

Business advocacy organization and its members brought action alleging that city ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them was preempted by Sherman Act and National Labor Relations Act (NLRA) and violated First Amendment and state law.

City moved to dismiss.

The District Court held that:

- Organization had associational standing to seek prospective injunctive relief;
- Action was ripe for adjudication;
- City was entitled to *Parker* immunity from antitrust liability;
- Ordinance did not violate Washington Consumer Protection Act (CPA);
- Ordinance was not preempted by National Labor Relations Act (NLRA);
- Ordinance was not preempted by affirmative national labor policy; and
- City did not exceed powers granted to it by state statutes.

Business advocacy organization had associational standing to seek prospective injunctive relief in its action alleging that city ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them was preempted by Sherman Act, despite city's contention that relief would have to be narrowly tailored to address threatened loss or damage each member of organization was experiencing, where organization's members had standing to bring antitrust action in their own right, organization's interests in litigation were germane to its organizational purposes, and organization alleged that ordinance was per se antitrust violation.

Business advocacy organization's action alleging that city ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them violated state and federal antitrust laws was ripe for adjudication, where specific driver representative targeted specific members of organization under process designed to horizontally fix price and terms on which driver coordinators could contract with drivers.

City was entitled to *Parker* immunity from antitrust liability under Sherman Act as result of its adoption of ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them, even though city's use of state statutes to regulate relationship between for-hire drivers and ride referral companies was novel and went beyond establishment of rates and regulatory requirements, and state did not actively supervise city, where statutes expressly delegated authority for regulating for-hire transportation industry to local government units and authorized them to use anticompetitive means in furtherance of goals of safety, reliability, and stability, including "[a]ny other requirement adopted to ensure safe

and reliable for hire vehicle transportation service," "without liability under federal antitrust laws," city council found that collective negotiation processes in other industries had achieved public heath and safety outcomes for general public and improved reliability and stability of industries at issue, and ordinance required that city's director of finance and administrative services actively implement and enforce its requirements, subject to judicial review.

Under Washington law, city ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them did not violate Consumer Protection Act (CPA).

City ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them was not preempted by National Labor Relations Act (NLRA), despite contention that ordinance allowed local officials and courts to make factual determination as to whether for-hire drivers covered by ordinance were "employees" or "independent contractors" that had to be left in first instance to National Labor Relations Board, where affected companies took position that for-hire drivers were independent contractors and not subject to NLRA.

City ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them was not preempted by affirmative national labor policy that precluded independent contractors from collectively bargaining; allowing independent contractors to unionize was not identified by Congress as threat to free flow of goods, and there was no indication that allowing them to participate in collective action would threaten independence of labor organizations or rights of management.

Under Washington law, city did not exceed powers granted to it by statutes delegating authority for regulating for-hire transportation industry to local government units when it adopted ordinance providing mechanism through which for-hire drivers could collectively bargain with companies that hired, contracted with, or partnered with them, even though city's approach was novel, where statutes expressly authorized wide array of municipal regulation of for-hire and taxicab transportation services, including "[a]ny other requirement adopted to ensure safe and reliable for hire vehicle transportation service," and city made findings regarding link between collective negotiation processes and improved public health and safety outcomes.