

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

IN RE: CON-WAY FREIGHT
INC.

CON-WAY FREIGHT INC.,
Petitioner,

v.

UNITED STATES DISTRICT
COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA,
SAN FRANCISCO,
Respondent,

JORGE R. QUEZADA,
Real Party in Interest.

No. 13-71160

D.C. No.
3:09-cv-03670-
JSW

ORDER

Petition for Writ of Mandamus from the
United States District Court
for the Northern District of California

Submitted to Motions Panel June 17, 2013*

Filed June 27, 2013

Before: Michael Daly Hawkins, Ronald M. Gould,
and Paul J. Watford, Circuit Judges.

COUNSEL

Barrett Green, Littler Mendelson P.C., Los Angeles, California; Richard H. Rahm and Angela J. Rafoth, Littler Mendelson P.C., San Francisco, California, for the Petitioner.

Lawrence Cagney, Westrup Klick, LLP, Long Beach, California; Michael Lee Carver, Law Offices of Michael L. Carver, Chico, California; Jonathan Che Gettleman, Law Office of Jonathan Che Gettleman, Santa Cruz, California, for the Real Party in Interest.

Richard Pianka, ATA Litigation Center, Arlington, Virginia, for the Amici Curiae.

ORDER

The court has considered the “amicus curiae” letter submitted in support of this petition for writ of mandamus by Downtown LA Motors LP.

* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The motion of American Trucking Associations, Inc. and California Trucking Association for leave to file a brief amicus curiae is granted. The Clerk shall amend the docket to reflect this status and shall file the amicus brief submitted on April 9, 2013.

Petitioner's request for judicial notice is granted.

Petitioner has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. United States Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Indeed, we find the petition to be frivolous and wholly without merit. Accordingly, the petition is denied.

Within 21 days after the date of this order, counsel Barrett Green, Richard H. Rahm, and Angela J. Rafoth of Littler Mendelson P.C. shall show cause in writing why monetary sanctions should not be imposed against counsel individually for filing a frivolous petition for writ of mandamus. *See* 9th Cir. R. 46-2(d), (I); 9th Cir. Gen. Ord. 12.9(a); *see also* 9th Cir. R. 46-2 advisory committee's note (8) (court may impose monetary sanctions under inherent powers of the court); *Chambers v. Nasco, Inc.*, 501 U.S. 32, 45–51 (1991).

Counsel's failure to file a timely response will result in the imposition of sanctions without further notice.

Counsel's response to the order to show cause is referred to the Appellate Commissioner, who shall conduct whatever proceedings he deems appropriate and shall have authority to

enter an order, including an order imposing monetary sanctions.

DENIED.