

Decision No. 28107

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PASSENGER CARRIERS ASSOCIATION,

Complainant,

vs.

JOSEPH BAUMEISTER, First Doe,
Second Doe, Third Doe, Fourth Doe
and Fifth Doe.

ORIGINAL

Case No. 4018

Orla St. Clair and Howard Day, for complainant.

BY THE COMMISSION -

O P I N I O N

By complaint filed on May 15, 1935, complainant charges defendant with unlawful common carrier passenger operations by automobile between Coalinga and Los Angeles and intermediate points.

Public hearing was had by Examiner Williams at Coalinga, on June 27, 1935, on which date the case was submitted.

The facts as developed at the hearing may be summarized briefly as follows:

Defendant did not respond either personally or by counsel at the hearing. The testimony of Howard Day and Marie Morris established the fact that Baumeister had transported them from Coalinga to Los Angeles in a sedan bearing a license issued by the State of Utah; that he charged and collected from each of them \$4.75 for his service; that other passengers at other times were transported; that defendant posted in hotels in Coalinga and Los Angeles and at other points enroute placards (Exhibit No. 1) announcing daily schedules between termini and eighteen intermediate points (via Mc Kittrick, Taft and Maricopa). Also that defendant advertised such service in a Coalinga paper as a "daily licensed and bonded coach."

Defendant began his operations about May 1, 1935, and continued them until about June 15, 1935.

Defendant possessed no certificate of public convenience and necessity to establish or conduct such an operation, as required by Section 50½ of the Public Utilities Act.

A case and desist order should issue.

An order of this Commission finding an operation to be unlawful and directing that it be discontinued is in its effect not unlike an injunction issued by a court. A violation of such order constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vest the Commission with power and authority to punish for contempt in the same manner and to the same extent as courts of record. In the event a party is adjudged guilty of contempt, a fine may be imposed in the amount of \$500.00, or he may be imprisoned for five (5) days, or both. C.C.P. Sec. 1218; Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224; re Ball and Hayes, 37 C.R.C. 407; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v. Keller, 33 C.R.C. 571.

It should also be noted that under Section S of the Auto Truck Act (Statutes 1917, Chapter 213, as amended), a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$1000.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Likewise a passenger or other person who aids or abets in the violation of an order of the Commission is guilty of a misdemeanor and is punishable in the same manner.

IT IS HEREBY FOUND THAT Joseph Baumeister is operating as a transportation company, as defined in Section 50½ of the Public Utilities Act, as amended, with common carrier status, between fixed termini and over regular routes and public highways,

between Coalinga and Los Angeles, via Mc Kittrick, Taft, Maricopa and Maricopa Junction and all intermediate points, without having obtained a certificate, or certificates, of public convenience and necessity, or without having any prior operative right for any or all of such operations.

O R D E R

Based upon the Opinion and the findings herein,

IT IS HEREBY ORDERED that the following transportation company, to wit: Joseph Baumeister, shall cease and desist, directly or indirectly, or by any subterfuge or device from continuing any or all of such operations, hereinabove set forth, and more specifically shall cease and desist, directly or indirectly, or by any subterfuge or device from operating as a common carrier between any or all of the following points, to wit: Coalinga, Mc Kittrick, Taft, Maricopa, Maricopa Junction and Los Angeles and all intermediate points, and shall similarly cease and desist from operating as a common carrier between any two or more of the points hereinabove specified and found as being places between which the said Joseph Baumeister is now operating, unless and until a certificate of public convenience and necessity shall have been obtained from this Commission.

The Secretary of the Commission is directed to cause personal service of a certified copy of this decision to be made upon Joseph Baumeister.

This order shall become effective twenty (20) days after the date of personal service.

Dated at San Francisco, California, this 8th day of

July, 1935.

Leon Aubrey

M B Harris

Frank R. H. H. H.

COMMISSIONERS.