



# Rollin' On <sup>®</sup>



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## FREIGHT CHARGES, COLLECTION, JAIL, TAP & E-MAILS

**Y**ou know the saying, be careful what you wish for. I'll be in federal court in a few days, trying to collect unpaid freight charges on behalf of a broker. Although the other side, which is a carrier acting as a broker-I-mean-shipper, denies liability, a perhaps larger issue will be in the post-season (post judgment), where we'll go looking for the dough. There again, we expect to find the assets; the carrier/broker is loaded with them. But are they all pledged as collateral? Also, a large judgment could put them in bankruptcy, so whatever you collect could possibly be dragged back into the bankruptcy estate. (Why do they call it an estate? Bankruptcies don't involve a Getty or Rockefeller. Just call it what it is, a bankruptcy poorhouse. The creditors, except the secureds, frequently don't get much. Worse are Chapter 11 or 13 cases, where sometimes the supposed bankrupt gets to discharge debts that can't be discharged in a Chapter 7 [supposed complete discharge], even fraudulently incurred debt.)

But back to the point. If we win, we go looking for assets, which could put the carrier over the edge (total liability is over \$100,000), and we've got the problems mentioned above. If we lose, the carrier goes about its merry way. Settlement is somewhat problematic. The broker had to pay its carriers, keeping only its commission. So if you're the broker and you knock off a portion of the debt, it can come out of your pocket, all for the pleasure of having arranged for the transportation of loads for someone else. True, those are the risks one takes as a broker, but

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it's still tough to voluntarily put yourself in that situation by agreeing to take less. Besides, we may be wrong, the carrier may not be on a banana peel, and you hate to leave any money on the table. Especially if you're in transportation.

As an aside, I'm taking my daughter (take your daughter to work day) to the pretrial conference. I'm wondering how smart this idea is. The judge will ask some direct questions of both sides, and federal judges get away with more (lifetime appointments have a way of doing that). Judges can take the ramifications of a case out on the attorneys, and every case has nuances. (I wonder if it's legal for minors to bail their parents out of jail. If so, I wonder how long it may take Johnnie or Susie to get to the courthouse. They may not be in a big hurry, especially if it's a weekend. They would know where their parents are, thus removing possible anxieties if they were considering some sort of inappropriate behavior.)

### TAP Golf Tournament

The Transportation Association of Portland is holding its annual golf scholarship outing on June 8, this year at Eastmoreland Golf Course. This is a new setting for TAP, and we're looking for to it. The format has changed, and I'll get it wrong if I try to explain it. But what the heck. It's Callaway, in a scramble format. There's of course more to it than that, just don't ask me for any particulars. All I know is that it apparently gives everyone a chance to win. There's also #17, which is a par 3 where a

hole-in-one gets you \$5,000. We've already sold our initial allotment of T times, and now we've expanded the times to allow for more golfers. And somehow or other we've kept the cost at \$85, which is remarkable given the fact that we are able to bestow scholarship monies that are derived from this tournament.

So if you want to meet or get reacquainted with your transportation brethren, come on out and hit a few balls, all in the name of charity.

### E-Mail Issues and Addresses:

FYI, you can have *Rollin' On* sent to you via e-mail if you prefer. Just e-mail me your name, address and fax # and I'll switch you over. Your e-mail address should be automatically shown, so no need to restate that, even though it may be tempting, knowing who the recipient is. Supposedly even yours truly can't screw that up, although I personally would have to question such an assumption. *Rollin' On* is in a word document format, if that makes any difference.

Also, back issues of *Rollin' On*, going back to January 1999, are available at my website. Still earlier issues will likewise be posted later on (back to the future). Those issues are in a PDF format, and are delivered via Adobe Acrobat Reader. The instructions for downloading are given at the website, and the theory is that it's user friendly. Just type in your credit card #, social security #, driver's license #, bank account #s, and the particulars of any identifying tatoos. And if you're willing to do that, just bring your stash over in a suitcase.

That's all for now. Keep the cargo *rollin'!*

### The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship

### Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 20 years and emphasizing transportation law, business law and related litigation