



Rollin' On [®]



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CONSIGNEE COLLECTION, COURT MUSINGS, BUFFALO

Economy Downturn Causes Collection Upturn

As the screws get tightened on the trucking industry, with a slow economy and high fuel costs resulting in the shutdown of many trucking companies, many shippers are likewise going under. Many carriers don't get paid when their shippers/customers take off, so many of them are attempting to collect freight charges from unsuspecting consignees. This is a very unpleasant surprise for those consignees.

But nasty demand letters and phone calls don't mean that the consignee is liable for any of those freight charges. There are factors to consider, such as whether the bill of lading is marked prepaid, whether the nonrecourse ("Section 7") box, if on the bill of lading, has been marked, and whether a broker is involved.

Court Musings

In a trial or hearing, when all is said and done and you're looking at the judge and wondering which way he/she is leaning, you try to decipher his/her demeanor, see if there's any eye contact, see if there are any sneers at either side. Of course there is no way of knowing. But sometimes there are telltale signs. These are some I encountered lately.

For example, at the conclusion of a recent bench trial (heard by a judge without a jury, and not to be confused with bench warming in athletics), the judge looked at one side and said that regardless of what her decision would be, that side was doing wonderful work. When you hear something like that, you know your goose is cooked.

On a different occasion, there was

LARRY R. DAVIDSON
Attorney at Law
1850 Benj. Franklin Plaza
One SW Columbia St.
Portland, Oregon 97258
(503) 229-0199
Fax (503) 229-1856
E-Mail: larry@rollin-on.com
www.rollin-on.com

an issue concerning the character of a youngish woman. Again, it was a bench trial. The elderly male judge, who had received briefs (the legal kind, though the case conjured up other thoughts) entered the courtroom, and looked only at the young lady. He didn't take one glance at the other side which could have been a nun or a refrigerator or the proverbial potted plant. Here again, that is a bad sign. Had it been a judge of the other gender, there could have been an entirely different subliminal message.

In yet a different proceeding, this time a "motion" hearing, where issues of law are discussed in the presence of attorneys only and the clients are usually not present, the judge bided his time until when all of a sudden he goes forth with the narration of an experience, in a comparable situation, that he had when he was in private practice, which ended up in a bad result for his client. Ergo, the moving party will be subjected to the same outcome, since to rule otherwise would mean that the judge was wrong when he was representing his client. And he couldn't have been wrong; just ask him and he'll tell you so.

Back to my Miami days, I once saw a boat with the name of "Motion Granted". Somewhere nearby there must have been a happy client and a happy attorney.

Sometimes other situations present themselves. A particularly dull attorney was presenting a case when one of the jurors fell asleep. The attorney asked the judge to have the bailiff wake up the offending juror, since it was

obviously a horrible affront to the court. The judge simply told the attorney that the attorney had the duty to wake the juror up since the attorney had put the juror to sleep in the first place.

Buffalo: The Other Red Meat

As I've reported here before, I was born and raised on a farm in the garden valley of the world, the Willamette Valley. In the pasture we always had buffalo (the domesticated variety, nothing wild or endangered). We ran low on our supply recently and purchased beef on a temporary basis, although we're not heavy meat eaters in the first place. When we received our last buffalo installment, we had some beef already thawed out, so we cooked a little bit of both. There's a remarkable difference, since the buffalo is leaner and tastier.

Peaks, Valley and Running Late

One thing about being a solo guy, it's one-half idealism and one-half lunacy. It's great to be your own boss and it sure cuts down on the administrative concerns. On the other hand, the peaks and valleys are more pronounced, since the larger you are, the flatter the line, whether it's going up or down or sideways or what was that? The old saying "when it rains it pours" has been humming through my brain lately, which might be OK since it's using what some people might refer to as otherwise unoccupied space.

All of this is to offer a lame excuse for why **Rollin' On** is so late this month.

Switch to email

Just email me your company name and fax number where **Rollin' On** is currently being received, and you'll be switched over.

That's all for now. Until next time, keep the cargo *rollin'*!

Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 25 years and emphasizing transportation law, business law and related litigation.

The Obligatory Disclaimer

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