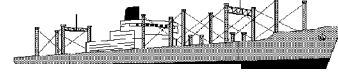




Rollin' On



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Lawsuit Mania: Whose Madness Is It?

We all see those articles about lawsuits where someone sues for some unbelievable amount, and then actually receives some huge award that defies logic, something like contracts in professional sports. Invariably, the lawyers are blamed, as well they should be, as they have definitely played an important part. But we must remember that those awards come from juries (you know, your peers in your communities) and that lawyers are not on those juries (lawyers do get on juries these days but have not served on the high profile cases).

So the next time you tee off on the lawyers for the large verdicts, remember who is awarding those verdicts. Or paying those ticket prices for professional sports. [My above comments notwithstanding, my long time readers know that I do not stand on high defending lawyers.]

UPS:

Opposites Do Not Always Attract

Did UPS request Pres. Clinton to intervene in order to assure that he would not intervene? Wouldn't his pro-labor inclinations preclude him from siding with, or appearing to side with, the company? . . . Meanwhile, UPS has over 500 million cash on the sidelines, while the union will struggle to pay its members \$55 per week. . . UPS wants to control its members' pension fund. Given the respective track records, who would you want to control your retirement monies? . . . The Carey/Hoffa election has not yet

The Obligatory Disclaimer

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

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been certified; contrast that with UPS whose stock is privately held.

This is a mismatch of parties made in a nightmare (but perhaps a lawyer's dream). After the feuding is over, the employer/employee relationship will go on, but the scars will linger. Many of those who lose their jobs will eventually be hired back; many will never return. Most of the customers will return; many will not return or will spread some of their freight around to other carriers. UPS will once again reign supreme but not untarnished. To the victors go the spoils. Now I've lost track: who are the victors?

Alternative Dispute Resolution: A Legal System Off-Ramp

Some of you already know about Alternative Dispute Resolution (ADR). In short, it is an alternative to a decision handed down by the court, whether through judge or jury, of a legal dispute. ADR includes arbitration, mediation and settlement conference, among others.

The various forms of ADR work in different ways. In arbitration the normal procedure is for a hearing to be held, testimony and evidence received, and a decision rendered by the arbitrator. (There are arbitrations without hearings but I will exclude them for these purposes.) Pursuant to a state law, many state court cases are referred to arbitration. By contrast, in mediation there is no hear-

ing. Instead, the parties present their arguments to a mediator who makes a recommendation which the parties can accept, reject or tweak. The Oregon Court of Appeals refers some of its cases to nonbinding mediation.

Due to the time, cost and delay that parties are subjected to in the legal system, ADR is increasingly becoming more accepted and utilized by parties to a dispute. ADR is especially useful where the parties desire, or need, to have a continued relationship, business, personal or otherwise, after the dispute is finally resolved. After all, in many instances the parties have to deal with one another after the lawyers have left the scene.

I am currently the chairperson of the ADR committee for the Multnomah County Bar Association. ADR is of interest to me for the foregoing reasons, as well as it allows the parties to be less antagonistic or defensive. It also helps those persons who do not desire to go through the regular legal channels, whether due to the possible intimidating aspects of the legal system or because they simply do not want, or do not have the time, to devote to a protracted legal dispute. After all, at a minimum, lawsuits do divert your attention from your day to day business. It can be a real distraction.

Please let me know if you have any questions about ADR or if I can be of assistance to you.

That's all for now. To shippers, carriers, agents and other third parties, keep the cargo rollin'!!

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.