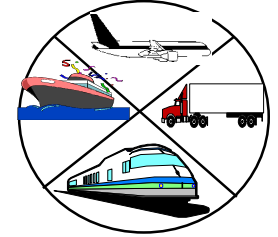


Rollin' On™ . . .



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BULLETIN!!

I have learned that approximately 115 lawsuits were filed late last week on behalf of Superior Fast Freight, Inc. As many of you know, Superior Fast Freight filed bankruptcy in 1993. The attorneys for the Superior bankruptcy trustee earlier stated that the statute of limitations would run on December 16, 1995, which was last Saturday. The lawsuits were filed in Multnomah County (e.g. 39 were filed on December 13), Clackamas County, Washington County, and Marion County. I was also informed by one of the trustee's attorneys that some of the cases may have been filed in bankruptcy court in Los Angeles, the location of Superior's bankruptcy proceedings, a fact that I have not yet confirmed. The attorney told me that some of the smaller cases may have been filed in Los Angeles which, if true, would really stink as they may be more expensive to defend.

As I reported in prior issues of *Rollin' On* (Oct. and Nov. 1995), these lawsuits were anticipated. Some of you previously received demands from the trustee, who had retained attorneys who in turn hooked up once again with that beloved company known as Trans Allied. This illustrious group was able to squeeze settlements from some shippers, but many of the claims were not settled.

It is interesting that many of the lawsuits were filed in state court. Nor-

The Obligatory Disclaimer

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mally the claims are filed as "adversary proceedings" in the bankruptcy court where the bankruptcy proceedings are pending, which places out-of-state defendants at a disadvantage since they are then forced to defend lawsuits that may be thousands of miles away from their place of business. Such was the situation with P.I.E. Nationwide, Inc., whose trustee filed 32,000 cases in Jacksonville, Florida against businesses located throughout the country. The question thus arises as to

Superior Fast Freight, Inc. is not to be confused with other companies with similar names, such as **Superior Transportation Systems, Inc.**, a local brokerage company with no affiliation whatsoever with Superior Fast Freight, Inc.

why these lawsuits were filed in our local courts. A cynic would respond that it could hamper the formation of large joint defense groups, as the defendants would be splintered throughout various courts. There may be some other reason, such as the fact that the cases may otherwise end up in the same bankruptcy court as the *Transcon* cases. This would be a dubious outlook for the trustee given the recent setbacks for *Transcon* by a court that may be less than enthusiastic about handling more undercharge cases by the same trustee attorneys and with claims that are generally believed to be weaker than the *Transcon* cases.

The splintering of defendants will not adversely affect the formation of a local joint defense group, at least not in this area. At the risk of sounding too self-serving, I represented over 30 defendants in the P.I.E. Nationwide, Inc. proceedings, prorating legal costs based upon the amount of the claim. It worked out well for both small and large claims.

I should also note that we have good law here in the 9th Circuit Court of Appeals. Again, at the risk of nauseating the reader, I was the first Portland attorney to obtain a post-*Maislin* referral order of an undercharge claim to the Interstate Commerce Commission. Recent un-

First Special Edition of Rollin' On

I went 12 for 12 (months/issues) in my first year and thought that I was done with this for the year.

dercharge developments, discussed in prior issues of *Rollin' On*, should assist shippers in putting on a strong defense to these lawsuits. It's also nice to be on your own turf for a change.

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

HAPPY NEW YEAR!!

Short Bio

Admitted to the bars of the states of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 15 years and emphasizing transportation law, business law and related litigation.