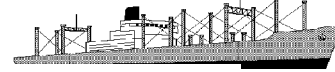




# Rollin' On



A Facsimile Newsletter for the Transportation Industry

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## SEASON'S GREETINGS FROM ROLLIN' ON

**F**or the first time in several years, Congress did not enact any significant changes to the transportation laws during the past calendar year (changes were made to the Intermodal Safe Container Act, an existing law). We have recently experienced a slew of new laws from Congress. In 1993, the Negotiated Rates Act brought some undercharge relief. In 1994, the Trucking Industry Regulatory Reform Act removed the vast amount of tariff filings, among other items. On the footsteps of TIRRA came the Federal Aviation Authorization Act which preempted state economic regulation. (Motor carrier deregulation from an air law? They say there are two things that you don't want to see made: sausage and the law.) In 1995 Congress enacted the ICC Termination Act, which eliminated the ICC but created a new agency, the so-called Surf 'n Turf Board (Surface Transportation Board), with fewer powers and functions than the ICC but with the prospect of picking up the functions of the Federal Maritime Commission.

This is not say that everything was static in the transportation industry. Quite to the contrary, there were several developments. For railroads, the STB approved the UP-SP merger, over the objection of the Departments of Justice, Transportation, Agriculture, major shipper organizations, and other railroads. Class I carriers have been reduced from approxi-



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mately 40 following passage of the Staggers Act in 1980 to eight today, if the CSX/Conrail merger is approved. In regard to air transport, DOT continues to exercise its authority to grant antitrust immunity to airlines for agreements relating to international air transportation, thus diluting the restrictions on foreign direct investment in pursuit of "open skies". Meanwhile, airlines are voluntarily adopting unlimited liability for passenger injuries contrary to the terms

## SEASONS GREETINGS AND MAY YOUR TRANSPORTATION TRAUMAS BE TRIVIAL.



**Larry Davidson**  
*Author and Editor of Rollin' On*

of the Warsaw Convention, a position which in turn is contrary to the attempts of motor carriers to obtain liability limitations. (DOT is required to prepare a report regarding motor carrier liability.) Finally, as for water, while the conferences may remain, ocean transportation will never be the same.

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## Happy Holidays!!

Although we can all ponder what 1997 will bring, at this time of year we should turn our thoughts to our families and to those who have been a part of our lives during the year. It

## Sidebar

The cross-examination had gone wonderfully. The witness, who claimed that he knew that the attorney's client had bitten off the end of the plaintiff's nose, admitted to not having actually seen the alleged act, that no one had told him about the supposed misdeed, and that the witness was not in a position to have seen this despicable act even if he had wanted or tried to see it. The attorney was happy, his client was ecstatic, everything went as well as could be expected. But then the attorney could not resist the urge to ask a final question:

**Q.** Mr. Witness, could you please be so kind and explain just how you could possibly know that my client bit off your friend's nose?

**A.** Because I saw your client spit it out.

First year law school stuff: You never ask a how or why question unless you know the answer.

is so easy to take it all for granted. And so I say to you, my readers, thank you for your attention and have a happy and safe holiday season.

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

### The Obligatory Disclaimer

This newsletter is distributed to shippers, carriers and third party intermediaries. It is for informational purposes, does not provide legal advice and does not create an attorney-client relationship.

### 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.