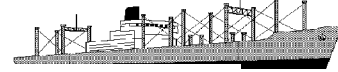




Rollin' On



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Adiós, 1998: Hello, 1999 (Y2K-1)

It's the time of year when we lean back in our chairs (but of course always vigilant) and reflect on what the year has brought and what is on the horizon for the coming year. We hope to have at least 20-20 hindsight, but will settle for much less on the foresight part. Otherwise, we would all be stockbrokers and retire early or wonder what to do with all the money.

We saw the master freight agreement get signed without the ruinous strike of a few years ago. During all times pertinent (I have to throw in legal mumbo-jumbo once in a while), the Teamster leadership was in limbo, with Ron Carey, the so-called reformer of a few years ago, ousted by the feds for some pécadillos, and then, lo and behold, James Hoffa Jr., who lost to Carey in the past election, emerges as the winner. The only real opposition came from Portland's own Tom Leedham, who needs to take some cheating lessons if he ever expects to amount to anything. Can't he take a cue from labor's (and Congress' but that's another story) time-honored tradition? Some people just don't get it.

Mr. Hoffa promises to be more aggressive, and I'm sure he'll keep his word. Problem is, labor had more muscle in the good-old days of regulation. Now shippers, at least the ones without cement shoes, can switch to nonunion carriers. The Teamsters do have their problems, now that it's broke and has some carriers, such as UPS, that want to work out their separate arrangements, such as pensions, with labor. But



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UPS doesn't get it either, since access to those pensions is a fringe benefit of labor management.

Meanwhile, DOT finally came in with its cargo study, recommending retention of Carmack's full liability for carriers. The ball is now back with Congress, so, altogether now, let's hold our breath (and noses and ears).



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What remains to be seen is how Carmack is dealt with and how that impacts labor.

We also saw the dismissal of the Superior Fast Freight undercharge cases, but in the meantime millions of dollars were collected and retained, all (of course) in the name of the unsecured creditors. Although shippers were outraged when the lawsuits were filed, and even though the court allowed shippers to pursue counterclaims for attorneys fees after dismissal of the lawsuits, most or all shippers abandoned those claims.

In 1999 expect to see the Oregon Legislature tackle the weight-mile tax once again. The difference is that this year may be the best shot yet that carriers will have to replace this tax with a fuel tax. To be sure, there will be much resistance to the change from vested interests, such as some classes of carriers that currently receive more favorable tax treatment. But if the industry can establish that the change would be revenue neutral, it could happen.

I absolutely refuse to speculate about the Congressional future of Carmack. The politics of hate and partisanship, which are currently consuming Congress, could make the passage of future legislation by a Republican Congress, subject to the veto power of a Democratic administration, very problematic. Meanwhile, the courts have to grapple with Carmack's current reading, which to date has brought mixed messages.

So relax, sip your favorite beverage, eat a little too much, and enjoy the season with family and friends. 1999 promises to have its moments, but it can wait for now.

SEASONS GREETINGS, AND MAY YOUR TRANSPORTATION TRAUMAS BE TRIVIAL

And now I yield to the distinguished gentleman from (somewhere), and then I yield to the very distinguished gentlemen from (somewhere else). I could not pass up the temptation.

That's all for now. To shippers, carriers, agents and other third parties, 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.