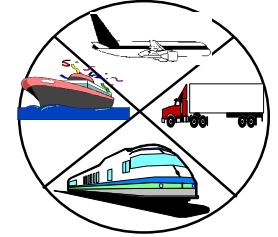


Rollin' On™ . . .



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"We might have the swamp just about drained."

So were the words of the attorney that filed a class action lawsuit against Churchill Truck Lines, after obtaining a court order certifying the class of all shippers who previously used Churchill or who had received undercharge claims from Trans-Allied Audit, Churchill's successor in interest. This order was issued on the heels of a prior order from the same judge in which the court enjoined Trans-Allied from pursuing its collection activities against Churchill's shippers. This double whammy is a big blow to these cretons, who will use whatever strategy available to squeeze settlements from shippers. There will of course be some further bottom feeding but as many flood victims can attest, the goo gets pretty sickly as the water recedes.

In another favorable development, Judge Robles of the L.A. bankruptcy court ruled that the 1994 act deregulating intrastate commerce prohibits undercharge claims for intrastate shipments, since the claims, filed on behalf of Industrial Freight System, were filed after the effective date of that law. Judge Robles rejected the trustee's contention that the law did not apply since the shipments occurred prior to the effective date of the new law. The court further rejected the California PUC's assertion that the law did not apply retroactively. Finally, Judge Robles stated that Industrial Freight collected the amount it bargained for, and could

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not attempt to collect more.

Risberg Rumblings

Judge Robles' ruling could assist local shippers against claims now being asserted by Interstate Audit Corp. on behalf of Risberg's Truck Line, which closed its doors last year (*Rollin' On, June 1995*). Some of those claims will probably arise from intrastate shipments. The interstate claims will basically be DOA.

Superior - Update

The summons and complaints are currently being served, as some of you unfortunately know from first hand experience. It appears that between 900-1000 cases were filed in the L.A. bankruptcy court, with an equal number filed around the country in various state and federal courts. I had wondered aloud (*Rollin' On, December 1995, Vol. I, Issue 12A*) why all of the cases were not filed in bankruptcy court, which is the normal practice. I suggested that cynics would assert a two-fold response: Divide and conquer, by making the formation of joint defense groups more difficult, and the L.A. bankruptcy court's dim view of these claims. As it turns out, it appears that these two factors were two of the primary reasons for dividing up the cases. Also, although not now confirmed, it may be that the shippers with Superior commodity rates may have been filed against in the bankruptcy court,

bankruptcy court, whereas the local cases may be against consignees of freight collect shipments that moved via a discounted class rate.

And who is the judge handling these Superior cases? That's right - none other than Judge Robles before whom a motion, in which I assisted, is pending on the issue of establishing a lead case approach to this multi-state litigation.

As I mentioned in this newsletter last month, I am serving as local counsel for the Transportation Claims and Prevention Council which has formed a joint defense group, in Oregon and elsewhere, to defend these claims. (I will also be returning to speak at TCPC's Annual Conference in Atlanta next month to again address issues concerning bills of lading and contracts.) Please let me know if we can be of assistance to you in these undercharge claims.

CLAIMS AND COSTS SEMINAR

As I also reported last month, Washington State University is sponsoring a two day seminar on March 19-20 regarding freight loss/damage claims and maximizing returns/reducing costs. For more information contact Lynn Mathers at WSU, (360) 737-2156. These opportunities don't come along very frequently, and you should take advantage of it.

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.