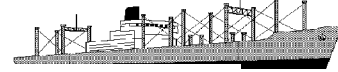




Rollin' On



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HOUSEHOLD GOODS: (Hey, where's my cat?)

Anyone who has shipped their household goods through a moving company can tell you that even when everything goes well, the experience is still stressful. In many cases the homeowners put everything they own, except their offspring (sometimes those too if they can get away with it) with a complete stranger on the premise that they will reconnect sometime later in a distant city and at a residence that the homeowners may have seen once or twice and that this stranger has never seen. Worse yet, this stranger (the driver, in most instances probably an honest-to-goodness decent guy) shows up with a helper who even the driver doesn't know to assist in loading the stuff and who looks like, shall we say, he has not been filing his self-employment income taxes (or paying his child support or insuring his vehicle, you get the picture)(one guy told me recently that it was cheaper for him to buy and drive old beaters for limited periods of time than to pay for insurance).

If the move was handled correctly, prior to the move day you signed a carrier-furnished Order for Service in which you specified, among other things, what value you placed on your possessions for the purposes of the move. Your choices were 60 cents/lb or full value, with a default selection of \$1.25 per pound. For the full value option you would be charged an added "insurance" cost, which is not actually insurance but still kind of works that way. You have to decide

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what your prized possessions, as well as your not-prized possessions (much of which does not look so good when it's all boxed or tied up) are actually worth since you are then charged accordingly.

So why even talk about a subject that has the excitement of paint drying? Because it can bring out nuances in human behavior.

I once represented a carrier that was transporting a load from Southern California to Bend. Fortunately, the family and pets arrived intact at destination with no problem.. Unfortunately, the van had less luck as it burned up. The cause was disputed: the carrier alleged that the homeowners flammable goods were included in the shipment, whereas the shipper claimed that the tires rubbed on the wheel wells. Unfortunately, the carrier's investigator appeared to have spent too much time in the sun (or elsewhere) and botched the investigation. The carrier decided to concede liability and focus on damages.

Meanwhile, the homeowners' insurance carrier wrote its insured a check for \$167,000 (that softened the pain; the wife spent the next month at Nordstrom's) and came knocking on the carrier's door for subrogation. The carrier said here's \$55,000 as the homeowners did not declare a value. Enter the husband (remember the wife is too busy with her pressing priority) who happened to be a CPA who got bored being a CPA and had

become a real estate syndicator, doing some pretty sophisticated stuff. The husband's deposition testimony was that he did not understand or know anything about released rates and that he honestly believed that his belongings were fully insured. (I am such a cynic that I felt like we may as well have taken the deposition of the loss prevention employee of the insurance company.) We ultimately settled the case for a small amount above the basic liability amount.

A few things about this case:

1. Anyone at anytime can claim ignorance about anything. Can you imagine a CPA-turned-real estate syndicator not understanding levels of valuation?

2..Your case is only as good as your investigation. The investigator was not skilled in fire matters, a real drawback when that is your central issue. Even if you get another report, you will always have the holes in the first one to plug up.

3. Witnesses vanish, usually at the worst times. Our driver, who was an owner-operator, took off to parts unknown and his helper, who we had trouble tracking down, did the indignity of dying. The homeowner claimed that the helper not only loaded the flammable material, but that the helper also owned it as well. Our rebuttal on that issue became problematic.

4..Most importantly, I can represent either the shipper or the carrier as long as there is no conflict!

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.