



# Rollin' On <sup>®</sup>



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## FREIGHT CHARGES, LEGAL SERVICES, WORKER'S COMP, UMBRELLAS AND RIVERS

It's tough out there in the trenches these days. Carriers are having trouble paying their bills. For that matter, so are many shippers. The people in between, such as brokers and forwarders, know the same feeling. If one entity or person along the way doesn't pay their freight charges, the rest of the players in the chain can suffer severe consequences, especially when too much credit has been extended.

Then the situation arises where you not only don't get paid, but the responsible party files banko, or just closes its doors. Then what do you do? Situations arise where the hit is too big for the person who is owed the money, and then you see another bankruptcy or business closure. Or you've been good, paid your bills, and then the carrier or someone on its behalf wants you to pay the freight charges, again, since those freight charges you already paid did not end up where they're supposed to. Those claims for double payment were stronger in the good old days of regulation. However, claims for double payment can still be made pursuant to agency law, where payment to your agent doesn't get you anywhere.

### Other Legal Services, and Referrals

Although transportation law is my focus, I do work with other attorneys on various types of cases. We just settled a personal injury case, on a work-related accident (see below), in the seven digit range, which made for a nice recovery for the client, thank you very much. I've also worked with other

#### The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship.

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attorneys on other matters, without any extra cost to the client. If you need help on a different type of case, just give me a holler and I'll help connect you with an expert in that area.

I also work with attorneys in other states. Sometimes the cases are pending here in Oregon, whereas in other instances the cases are pending in some other state, frequently though not necessarily in federal court. This arrangement allows cases to proceed without unnecessary travel and related expense. For some reason, clients don't like to pay their attorneys to travel to exotic places or dine in lavish settings. These clients believe they're the boss. They take the fun out of boondoggles. They're a tough bunch.

Finally, sometimes I do work for other attorneys. They don't know transportation, and they send it to me. I just prepared a Carmack lawsuit for filing in a different state court. The attorney didn't know the difference between Carmack and caramel. Which is fine since I don't know about laws such as those pertaining to the SEC, or criminal laws or the like. It helps to be able to work with other attorneys on these issues, especially when clients have these little concerns such as staying out of jail. I guess those orange or blue uniforms aren't custom tailored. Also, your roommates may not have the same table manners, or other manners, that you have. Those types of differences can really be annoying.

### Umbrella policies

On a related topic, you may want to take a look at your various policies,

such as your umbrella policy if you have one. For those of you who don't, these policies act somewhat like excess policies, where the limits for your various policies can be increased through one policy. They aren't very pricey, and yet they can substantially increase your limits.

### Worker's comp: Opt out.

I mentioned above settlement of a workplace injury. An employee can choose to go after a different company (not the employer) for a work-related injury instead of filing a worker's comp claim. The employee is not limited to worker's comp limits. The disparity can be startling. I once recovered \$6,000 for an employee, whereas an employee of the offending company received only \$300-400 for the same injury. Just make sure the offending company has insurance or the wherewithal to pay.

### Red, right, return

Travel on the region's rivers is getting trickier as the drought continues. Rocks are appearing that have never been seen before. Water-going vessels are running aground. Channel markers have been moved further toward the center of the river in search of higher water. The high water and low water lines are changing. Who's liable when an obstruction is hit that in the past was clearly beyond the low water line? Who's thinking about that issue as the boat begins its voyage to the bottom of the river?

### Email Changeover

Send me via email the fax number now being used and I'll switch you over to email.

That's all for now. Keep **rollin' on!**

#### 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.