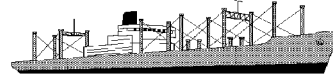




Rollin' On [®]



An Electronic and Facsimile Newsletter for the Transportation Industry

Volume IX, Issue 7

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July 2003

AGENCY, MONARCHY, DEMOCRACY, & THOUGHTS

Agency:

Who is working for whom?

Agents and brokers are all over the place, such as in transportation, real estate, mortgage lending and travel. When you deal with an agent or a broker, you may wonder who is this person really working for. Is it me or is it the person on the other end of the transaction? A cynic would respond that it is neither, that the only concern of the agent or broker is his or her commission. This is more of a concern in larger, more isolated transactions.

Usually an agent or broker has one principal, as an agent can't represent both sides in a transaction. However, that isn't the case for real estate where the Oregon Legislature has changed the rules of the game. To take a typical situation, a piece of property is listed by a seller with a broker. That broker obviously is working for the seller, who usually pays the commission. A prospective buyer can go down the street and get his/her own agent, a buyer's agent, and then each side has an agent and let the bidding begin.

The prospective buyer also has the option of going directly to the listing broker, in which case the broker would then be working in a dual capacity as both seller's agent and buyer's agent. That broker has obligations owed to both parties and has to be careful about not crossing the line. Things get even kinkier when a second prospective buyer for the same property goes to that broker, in which case the broker now seemingly represents everyone including your grandmother. The broker can get signed consents and what-not but the

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whole endeavor is fraught with peril.

I've got a situation where this latter example has occurred. The broker entered that minefield without much caution. One of the prospective buyers can suffer a lot of harm from the broker's missteps where the competing interests of both buyers are not kept in mind.

Monarchies and Democracies: What you see, you don't get.

Over 200 years ago, brave residents on the east coast rebelled against the British government, won the Revolutionary War and implemented a democracy which critics said wouldn't work. Despite its pitfalls – Rumsfeld says democracies are not tidy – our government is still working. But how it works is sometimes perplexing.

The English still defend their monarchy and you would think that the King (or Queen) can do no wrong and thus need not defend his or her actions. Yet Tony Blair, the very abled Prime Minister, appears almost daily in the legislative trenches where he is required to explain and defend the actions of the government. And regardless what you think about his politics, Blair is very good at what he does.

Contrast that with the U.S. system, where we have a government that is elected by the people, for the people. President Bush is not required to appear in the halls of Congress on a frequent basis. It's even rare for him to hold a full fledged press conference, preferring photo ops instead.

So there's a reversal of expectations. The political leader of the monarchy defends its position on nearly a daily basis with the other elected representatives of government, whereas the elected U.S. democratic leader chooses to have only infrequent contact with the legislators.

Thoughts to live by

You will find these at my website.

1. Cases that are prepared to be tried get settled. Cases that are prepared to settle get tried.
2. There is absolutely no substitute for a genuine lack of preparation.
3. Shared responsibility is no one's responsibility.
4. If you can smile when things go wrong, you have someone in mind to blame.
5. Indecision is the key to flexibility.
6. This is as bad as it can get, but don't bet on it.
7. Everything should be made as simple as possible, but no simpler.
8. Friends come and go, but enemies accumulate.
9. Someone who thinks logically is a nice contrast to the real world.
10. Lawyer to judge about a witness: Your honor, this witness is a golfer and a fisherman. Can we really rely on his his testimony?
11. Attorney fantasy: Attorney tipping by clients.

You can also add a couple from Mark Twain: (1) When in doubt, tell the truth. (2) First know the facts, then distort them as much as you want to.

Switch to email

Just email me your company name and fax number where **Rollin' On** is currently being received, and you'll be switched over.

That's all for now. Until next time, 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 25 years and emphasizing transportation law, business law and related litigation.