



# Rollin' On <sup>®</sup>



An Electronic and Facsimile Newsletter for the Transportation Industry

Volume VII, Issue 6

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June 2001

## STOCKS, WAGES, RECYCLING, OLD ISSUES AND NEW HATS.

**L**et's check out what's happening in the transportation world.

### Stocks.

The market has been kind to much of the industry during the past year. While the Dow has struggled and the Nasdaq has plunged, several transportation stocks have gone up considerably. Some of it is due to good performance, while some is due to just having good company. That is fortunate, as a stock can drop in value due solely to having bad company all around it.

Now the analysts are saying the good ride is over, although that doesn't mean the stocks are going south. At the same time, several large carriers have gone out of business. These are perplexing times for the industry.

### Wage claims.

An employer is required to pay all accrued wages to a departing employee immediately upon termination. If the wages are not paid as required, the employee is entitled to 30 days (business, not calendar) of additional compensation. Ouch. From an employee point of view, you can go home, sit on the couch, watch TV and eat donuts all day, while you're still on the clock. If the employee still isn't paid after all of that time, the employee can file a lawsuit for the wages. The employer usually has the pleasure of paying the employee's attorney fees.

So when your employee is shown the door, especially the ones that get a little boost to the door, make sure all wages have been paid. Or else at least demand a portion of those donuts, the purchase of which you'll be subsidizing.

#### The Obligatory Disclaimer

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

**LARRY R. DAVIDSON**  
**Attorney at Law**  
1850 Benj. Franklin Plaza  
One SW Columbia St.  
Portland, Oregon 97258  
(503) 229-0199  
Fax (503) 229-1856  
E-Mail: [larry@rollin-on.com](mailto:larry@rollin-on.com)  
[www.rollin-on.com](http://www.rollin-on.com)

### Recycle that box.

A little over a year ago, a federal judge in Portland ruled that the transportation of dropboxes, used by businesses and construction companies and ranging in size from 10 to 40 yards, was preempted when those dropboxes were transported to a recycling facility. The judge ruled that since those boxes contain property such as wood, cardboard, metal and other recyclable materials, federal law preempted any state or local law regarding their transportation. Many counties and cities, excluding Portland and most of Multnomah County, award exclusive franchises to haulers. This case, which is now at the 9<sup>th</sup> Circuit Court of Appeals in San Francisco, threw a monkey wrench into that franchise system. These loads were usually landfilled by the franchised hauler instead of being recycled.

The same judge recently came to an opposite conclusion where the contents of smaller boxes from various businesses were consolidated before being transported to the same recycling facility. Thus, for the smaller boxes, the franchise system remains intact. Some of those haulers, many of whom have owned their franchises for several decades, also own landfills or other disposal facilities, meaning that they get paid twice, once for the haul and once for the dump. It's of course always more fun to get paid twice than once. Also, many of the local franchises have been purchased by large national companies, and in some instances they still use the old name. Small businesses, or businesses that

don't need a large box, can't seek a competitive service, while larger businesses can shop around.

The counties and cities can change their ordinances, but don't hold your breath. In fact, many of them changed their ordinances last year to provide that only the franchise haulers can consolidate these loads before transport. Anyone else has to transport one small box at a time, which is financially impossible to do. Courtesy of our elected officials, even though they could exact the same fees. Remember, there are two things you don't want to watch being made: sausage and the law.

### Rollin' On hats.

Just arrived! New and improved! Won't last long! Okay, so much for the hyperbole. I do have a new batch of hats for those of you who wish to have one. I'm sure the first edition hat will soon be found on Ebay at a prohibitive price, so don't miss out this time. Distribution is the same as before: If you're a client, just send me a mailing label and I'll get it to you. If you're not a client, please also send me a mailing label, along with \$5 toward a portion of the cost. I'll subsidize the rest.

### More past issues.

Doesn't that sound like an oxymoron? More past issues are recently released? My website now has the 1997 and 1998 issues available for viewing. The final two years, 1995 and 1996, will come along later, although it's a little scary to look back that far.

### Switch to email!

Just email me the fax number now being used, and I'll switch you over to the email address in your message.

#### 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.