



Rollin' On [®]



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DEFAULTS, ANDERSEN AND LONGSHOREMEN

Default judgment: By plan or accident?

I recently obtained default judgments against a couple of companies. One of the companies is an out-of-state motor carrier. The carrier was served by a warm body, none of this publication in the paper stuff. So it will be hard to plead ignorance, although you never know. Maybe they'll claim the janitor must of received the summons and complaint, or that a receptionist tossed it out.

But assuming there's none of that, you wonder what the thinking is. The company ran trucks in Oregon, so there's what we call jurisdiction, meaning that the Oregon court had the right and power to hear the case. The judgment can thus be recorded – domesticated – as we call it, in the other state. The other state is then required to give the Oregon judgment "full faith and credit". This means that unless the motor carrier can show some jurisdictional defect, the judgment will be enforced.

So where does that leave us? Probably banana peel time. The carrier is probably having financial problems. Prior to the judgment being "domesticated" in the carrier's home state, the creditor is required to give advance notice, usually 10 days or so, of its intent to proceed with collection efforts. This gives the carrier a chance to rearrange its bank accounts and to undertake other creative measures.

Arthur Andersen: A whole lot of company

Talk about tough deals. Imagine that you're one of 89,000 employees in a national and international company. The federal government figures there

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are some bad apples in one of the company offices, and files a lawsuit, not against those wayward employees, but against the whole company for the misdeeds. The mere existence of the lawsuit, even before the proverbial day in court, substantially harms not only the operations of the company, but also its very existence. To make matters worse, the judge rules that the jury need not agree as to which employees did the company wrong, just as long as the collective finger points to the company as an entity. It would seem that anytime, anywhere, that you collect 89,000 people together, you're going to get some moral derelicts.

If you're an Andersen employee, you know the feeling. The Enron case in Houston has essentially destroyed the company, and many of the offices, including Portland's, are either gone or are a shell of their former selves. It also helps illustrate the difference between having your own IRA or retirement plan (many people these days have renamed their 401K accounts as 201K accounts in view of the state of the stock market) or comparable retirement plan, as opposed to having your money tied up in the company.

Meanwhile, just when you're feeling some sympathy for those Andersen employees, along comes the news that WorldCom misstated 3.8 billion in expenses over the last five quarters. Guess who the auditor was. Andersen has had trouble all around the country cases. And you can bet there's more

to come, courtesy of Andersen as well as others.

Longshoremen: Walking down the aisle

Many of you know that negotiations are underway with the West Coast longshoremen, whose current contract expires on July 1. The issues, we're told, are not economic. The average longshoreman makes \$80,000 per year. A skilled crane operator can make \$300,000 (that is not a typo). I wonder how much an untrained crane operator makes, and where to apply. That's even more than those river pilots who only make \$200,000 plus per year. If you want one of those jobs, you'd better arrange your marital status to allow you to marry into one, since they're kept in the family.

So what are the noneconomic issues? Can you say job protection? Productivity is a third of what it is in Europe and Asia. All EDI documents must be re-keyed, and by people who are making lots of money. Containers are tracked via chalk. Employees receive daily assignments instead of reporting to the same job everyday. It is estimated that out of the 13 hours that the ports are open, only about 8 hours of work are achieved.

If the union calls a strike, the President can get an injunction to order them back to work while negotiations are undertaken. Still, a slowdown could be even more harmful.

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'!*

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.

The Obligatory Disclaimer

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