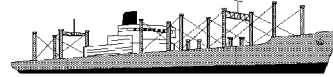
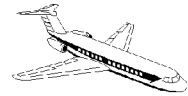




Rollin' On



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SALVAGE, WORKERS COMP, DINNER, CHILD LABOR, IDIOT

Salvage:

Carriers' Loot, or Loss

Where there is a total loss, the carrier is entitled to the salvage. After all, the carrier is basically buying the load, so the carrier has an opportunity to mitigate its damages, if only a little bit. Every little bit helps.

In a recent case a consignee claimed a total loss on a 40,000 pound container load of various limestone pieces transported from Italy. The consignee did not make a claim until after the carrier retrieved the container from the consignee's premises. Then the consignee said, Oh by the way, I have a claim on this load. The carrier tried to investigate the claim, and wanted to look at the salvage. The consignee said that it had done the carrier a favor by disposing of the limestone on its own. The carrier said thanks but no thanks, I'll deal with the salvage as I deem fit. But the limestone is no where to be found, a not so insignificant issue where 20 tons of the stuff is involved.

Meanwhile, the carrier's insurance carrier, without even issuing a written report, made a \$5,000 payment to the consignee, in view of its BMC 32 (cargo insurance) filing with the feds. And now the consignee is demanding that the carrier pay the remaining \$4,000 of the \$9,000 claim. The motor carrier is wondering who is on whose side. And the limestone remains MIA.

Worker's Compensation/Settlement: Let No Good Deed Go Unpunished

I recently settled a third party worker's comp claim, where the employee made a claim against the

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company at fault that was not her employer. Since the employee had been receiving worker's comp benefits from her employer's carrier which had written the claim off as unrecoverable, I suggested that it should consider giving a portion of its otherwise unrecoverable claim to the injured worker. The carrier said sure, as long as I did the same. So the upshot was that I obtained a recovery that had been written off, giving a windfall to the sleeping carrier, then that sleeping carrier made me give up a part of my statutory share in order to do the settlement and thus provide a larger benefit to my client. Had I not made the suggestion (i.e. kept my mouth shut), I would have received what the statute said was mine. Sure, I could have refused to go along, at the expense of my client.

What's for Dinner?

My wife and I recently were returning home around twilight one evening when we saw a coyote, with a cat in its mouth, cross the road ahead of us. For various reasons, city government and others are opposed to trying to eliminate these animals from within the city limits. I wonder if they would feel the same way if their cat ended up being dinner for a member of the local coyote population.

Child labor

My 12 year old, fresh out of school for the summer, wanted to come to the office to test her skills. She likes to type, and is actually pretty fast and good at it. So I took her up on it and gave her some dictation to do. She did

quite well and she learned a few things in the process. I also learned something as well, which is to enunciate better since she gave one letter to me that was addressed to "Gramspants" instead of Grants Pass. In the meantime she also played on the internet and read her book.

Now for those of you wondering about child labor, there are of course laws that apply. Fortunately, the legislature has given parents a lot more leeway with their own children. Growing up on the farm, we had work weeks of 100 hours plus.

State of Idiots

We Oregonians are a bunch of idiots. We enact the death penalty, put people on death row, give them three squares a day, then go to extraordinary length to keep them alive. You may have seen where we're paying for a kidney transplant, at a cost of over \$100,000, for a guy who has been on death row for 15 years. Meanwhile, due to budget constraints, we won't do that for the law abiding poor guy on the street. If you're poor and you live in Oregon and you need a kidney transplant, it would be in your best interests to whack someone on the wait list, since as a criminal you would then qualify for state assistance, and you would at the same time eliminate someone on the list ahead of you, a veritable two-fer (two for one).

Someone could probably make a good argument that we should instead enforce the laws on the books, put some finality to the death row appeals and help out the poor working stiff. But that's probably too outrageous and controversial.

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.