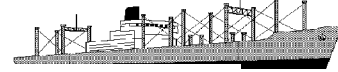




# Rollin' On



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## Tariffs, Wage Claims, Hats: *One size fits/does not fit all*

**T**he good old days of tariff regulation are long gone, and with them many of those perks that carriers grew to love. The USDOT was mandated by Congress to prepare a cargo liability study, which it did (more than a year late), recommending retention of Carmack's full liability for carriers yet only recommending minor changes to the status quo, whatever that is. But DOT does not consider the bill of lading to be a "de facto legal contract", considering it more like a receipt. Many, many (you get the picture) people disagree with that position.

Meanwhile, issues such as liability for double payment of freight charges and Section 7 liability (the nonrecourse provision on the Uniform Bill of Lading, where you sign to confirm that the carrier must look elsewhere to get paid) are murky. Before, all the carrier had to do was say constructive notice, and shippers would frequently fall over like bowling pins. Now, not so fast. Also, how many carriers have the authority to utilize the uniform bill of lading? And how many carriers and shippers actually know what it says? I continue to see references to the uniform bill of lading, sometimes with references to the reverse side when the reverse side is blank.

### **Wage Claims; or, Watching the daytime Soaps**

Here's the deal: Your employee has borrowed \$100 from you the employer, saying that you can withhold it from the next paycheck. The employee proceeds to go south on you and you're forced to fire her. You

#### **The Obligatory Disclaimer**

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write the final check, sans the \$100 and are about to wish her luck (you're thinking that she'll need that or a better attitude or both) when she says, "Excuse me, but give me the \$100 balance." You politely remind the dimwit, lest her extracurricular activities have taxed the apparent narrow limits of her thinking matter, that she owed you the \$100. She responds, "Well, Buckwheat, legally you can't withhold that money, you have to pay me, and then you can come and get it from me." All said with a smirk. You demand that she leave the premises as she is disturbing the rest of the employees, some of whom may also be southbound material, and maybe you even threaten to call the cops, secure in the knowledge of the location of the nearest donut shop. She leaves, advising you that you'll hear from her lawyer. That really scares you, since she can't buy her next pack of smokes, let alone a lawyer.

Six weeks go by, and you've forgotten all about Sally Southbound. Then you get a certified letter, from a lawyer credibly enough, saying that you owe Sally S. not only the \$100, but also for her month's wages, all pursuant to Oregon law. You figure it's all bunk, since she certainly has not worked for the last month and has undoubtedly been watching soap operas all day, assuming she hasn't hocked her TV. You call your attorney, wondering if you'll be billed for what you consider to be a ridiculous but necessary question.

Your lawyer starts off the way those lawyers frequently do, asking you about *paperwork* when all you want to know is whether you can make a counterclaim for your time, aggravation and attorneys fees. Your lawyer proceeds to tell you that if you don't have the *paperwork*, which means a signed statement allowing the withholding, then she is entitled

### **"Show me the money"**

(from the movie "Jerry Maguire")

In some legal circles they say that the A students become law professors, the B students become judges, and the C students go out and make the all the money.

to the \$100 and, adding insult to injury, can collect up to one month's salary and her attorneys fees. There are other ifs, ands or buts but (don't lose track here) you get the idea.

### **Rollin' On Hats**

You now have the chance to own your personal **Rollin' On hat**. The hats (low profile style) have a tan top, denim blue visor and **Rollin' On** logo. There's a truck and train but no ship or plane, I was told it made the hat look too cluttered. Anyway, if you're a client and want one, please send something that will work as a mailing label. If you're not a client, I'd appreciate it if you would also enclose \$5 to cover some (not all) of my out-of-pocket costs. Be sure to make sure your insurance covers the hat as it will undoubtedly be a collector's item. One size does fit all.

That's all for now. To shippers, carriers, agents and other third parties, keep the cargo rollin'!!

#### **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.