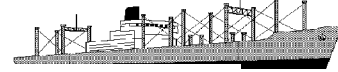




Rollin' On



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CSX - NS AGREEMENT: March Madness? (or worse?)

In the interest of big is better, another carrier is soon to be folded while its assets are sold off to two of its former competitors and interline partners. CSX had intended to buy most or all of Conrail's assets, but got derailed when Norfolk Southern became upset that it was not an invited participant in the marriage. Ignoring the old adage that two's a company and three's a crowd, NS made a cash bid that it claimed was higher than the CSX bid. Soon there was much courting of Conrail's shareholders, and it seemed that the time-honored tradition of having the celebration *after* the wedding somehow got switched around.

At the same time the STB (the Surface Transportation Board, soon to be the Surf n' Turf Board after Congress jettisons the Federal Maritime Commission) was making surprisingly strong comments to the effect that the threesome needed to sort out their differences and call the STB only after they resolved those differences. CSX thought it could still outmaneuver NS, but eventually also learned it is in bad taste to have the honeymoon before the formality of finalizing the deal (no exchange of vows contemplated, just a black widow type of lunch feast).

So you have the STB publicly declaring that it did not want to decide a dispute (but still collect their paychecks, a neat thing if you can get away with it), and NS running around offering cash plus more cash. Finally it was announced to all of the ship-

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ping community that it could breathe a collective sigh of relief inasmuch as CSX and NS had made their peace. As a consequence Conrail's shareholders are no longer nearly as popular, though they may still hold some party favors. And life as we know it, that big is better, remains intact.

I am not taking a position on the merits (or demerits) of the proposed CSX - Conrail - Norfolk Southern agreement. I am not privy to the discussions and even though I am an attorney I will not pretend to know everything. However, I believe we can all agree big is not *always* better. The problem is to figure out when a larger size works and when it does not. Fortunes and careers are made, and lost, making those decisions.

And that leads to some other thoughts . . .

Merger Mania Impact? Depends Where You Are When the Music Stops

The story is all too familiar: A company is bought out or merged. The cost savings go to the bottom line, while the axed employees go to the employment line. We all know someone who has been either spared or sacrificed. Sure, there may be a "parachute" for a softer landing in the form of severance pay. Given the choice, most will pass on the push from the plane and would stick with their jobs, thank you.

My friends at Thrifty Payless, who I have enjoyed assisting, are now leaving their jobs. They are well qualified, conscientious people. My brother, Cork, a 12 year employee with Superior Transportation Systems (four years longer than any other STS employee) which was recently bought by Greenbrier, was recently told that his services were no longer necessary. Many others within the transportation industry have similar stories, laid off perhaps due to business failures, restructuring or the always reliable personality conflict ("It's my way or the highway").

Ironically, many of the consolidations are directly attributable to the efforts of those terminated employees in making their companies more efficient. They may not only see it coming, they may subconsciously agree with it. It kind of validates their work.

There will be more changes, especially with the logistics trend sweeping the industry. Many decisions are made by management apart from the traffic department. No one, regardless of position, is exempt from becoming a statistic. What happens when the logistics folks merge with themselves?

I do not intend to be critical of logistic providers (or railroads). After all, they are responsive to the shippers' demands. Still, we have to wonder if the urge for cost reductions, and the resulting consolidations, may someday come back to haunt us.

That's all for now. To shippers, carriers, agents and other third parties, 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 20 years and emphasizing transportation law, business law and related litigation.