



Rollin' On [®]



An Electronic and Facsimile Newsletter for the Transportation Industry

Volume VIII, Issue 11

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November 2002

DOCK STRIKE, AIR FREIGHT, STOCKBROKER & CIVIL WAR

Dock strike:

All's Quiet on the Waterfront

It has been very quiet these days concerning the docks. As they say, the silence has been deafening, courtesy of a news blackout by the federal mediator. They did announce that agreement had been reached on the technology issue, whatever that means, but that they were struggling with the pension and benefits number, a number that exceeds the average gross wage of the average red-blooded American.

Just because it is quiet, and even assuming an agreement is reached, does not mean that all is well for the business community. In fact, there is a good chance that the business community will not come out of these negotiations with the desired terms. You will recall that major league baseball settled its strike at the 11th hour, and it is still a big mess. A deal could be struck on the docks which could be equally unsatisfying, and the pain postponed for a couple more years. As long as a tiny block of people are in a position to bring their peers and the country to their collective knees, the good of the nation will be at risk. Some things just don't make any sense, regardless of how hard you try to understand or rationalize the situation.

Air freight, or is it, as Willie Nelson would say, On the road again?

Back in the good ol' days, air freight was ICC-exempt. That sounds simple enough. Stuff that flies doesn't get regulated by earth entrenched earthlings (even "Free Willie" if we want to consider him cargo instead of as a multi-million dollar black hole; you

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
www.rollin-on.com

would think there would be a better use for those precious dollars). As discussed earlier (*Rollin' On, April 1996, Vol. II, Issue 4*), there were other ICC exemptions. One was for the transportation of property which, prior to or subsequent to movement by air, was transported by a motor carrier. Another exemption was for transportation by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure or other causes due to circumstances beyond the control of the carrier or the shipper.

Those (now DOT) exemptions still exist. Also, carriers can limit their liability, whether the freight flies or not (also discussed earlier, *Rollin' On, January 2000, Vol. VI, Issue 1*), pursuant to an Oregon appellate court decision, courtesy of yours truly. But what if the supposed air freight is never intended to get off the ground, unbeknownst to the shipper? Is the limitation of liability still valid where the shipper believed the cargo would develop wings? There is a lot of "air freight" that never gets off the ground.

Back issues of Rollin' On: Etched in stone, or something.

Want to read a back issue of *Rollin' On*? They're all available on my website, archived in a restricted part. If you have misplaced the password or never got it in the first place, just go to the website, type in your name and job title where indicated, and the rest will happen. Don't worry, I don't sell or disseminate any info. It's just a feeble attempt to keep nontransportation types away.

Stockbrokers:

Joining the ever-expanding club.

We've already seen many other trades and professions discredited. Automobile mechanics, lawyers, aluminum siding salesmen (the latter actually blazed the trail for the rest). Then came doctors (they get to bury their mistakes) and priests. Then cpas and ceos. Politicians are an automatic. So who has been left out?

Anyone with a 401K or mutual fund or other financial instrument probably knows the answer: Stockbrokers. Investment consultants. Account executives. You pick the name. Most of them didn't see the market downturn coming, and in some cases refused to acknowledge that it actually arrived. Why not? Their self-interest would be jeopardized by directing people to the sidelines. They can't make money on the sidelines. They rationalize things by claiming that their own 401K has taken a hit. And that is supposed to be comforting. Truth is, and statistics bear this out, it's extremely difficult to outperform the market over a substantial period of time.

Civil War Game:

Once again, the Transportation Association of Portland, in conjunction with its fundraising activities, is off to the annual Oregon grudge match. The OSU and UO TV people have already started the food fight by arguing about who is going to broadcast the game. Yes, they're supposedly grown-ups.

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'*!

The Obligatory Disclaimer

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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.