

# **TRANSDIGEST**

**Transportation & Logistics Council, Inc.**

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**VOLUME XIV, ISSUE NO. 134, APRIL 2009**

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## EDITORIAL

### THE SIMPLE THINGS

by George Carl Pezold

You can spend lots of money on surveillance cameras, fences, lighting, electronic locks and passes, alarm systems, screening devices, special locks and seals, etc.

Sometimes people miss the simple things. We heard recently of another case where a trucker picked up a load and apparently just disappeared with the shipment -- and the shipper had no record or information about the identity of the thief! It is really amazing how many people don't have any idea what carrier has driven off with their valuable goods.

A good loss prevention program can help minimize losses due to theft, shortage or damage in transit. Here are some questions that you should be asking:

When a carrier comes to your facility to deliver or pick up a shipment, do you record:

- the name on the tractor (and on the trailer)?
- the DOT number (and the MC number) on the tractor?
- the license plates - the plate number and the state - for both the tractor and the trailer?
- the date and time the truck arrives, and when it leaves?

Do you request the driver to show you his driver's license - and make a copy?

Do you make sure that the driver clearly prints the name of his company, his own name, and signs the bill of lading or receipt?

Do you keep a loading tally to record what is actually tendered to the carrier? Is it dated and signed?

Do you insist that the driver signs for the number of packages (not just the number of pallets or slip-sheets)?

Do you use a digital camera to take pictures during the loading of the truck?

On high-value goods, do you record serial numbers on your shipping documents?

If seals are used, do you record the seal numbers on the shipping documents?

Do you inspect trailers before loading for holes, protruding nails, broken hinges, mold, wet spots, or contamination?

Do you know whether the carrier has a limitation of liability in its bill of lading or tariff? If so, you may want to declare a value or request excess valuation (or make sure your goods are insured).

These are simple precautions that could save your company a lot of money (and embarrassment).

## CCPAC AT THE ANNUAL CONFERENCE

### CCPAC NEWS

As in years past, CCPAC (Certified Claims Professional Accreditation Council) held its annual meeting in conjunction with the Transportation & Logistics Council. There has been a longstanding relationship between the two organizations as TLC was a founding co-sponsor of CCPAC.



Established in 1981, CCPAC is a nonprofit organization that seeks to raise the professional standards of individuals who specialize in the administration and negotiation of freight claims. Specifically, it seeks to give recognition to those who have acquired the necessary degree of experience, education and expertise in domestic and international freight claims to warrant acknowledgment of their professional stature.

CCPAC Officers and Board of Directors are proud to announce the newest Certified Claims Professionals (CCP) and the Spring Class of 2009. The following individuals all signed up for the CCP Primer Course at the St. Louis Conference on Sunday and successfully passed the CCP Exam given on the following Wednesday:

Deanna Avent, CCP  
Claims Manager  
Diversified Transfer & Storage  
Billings, MT

David Nordt, CCP  
Director Loss Prevention  
The Gilbert Companies  
Keasbey, NJ

Richard Cassar, CCP  
President  
One Stop Logistics  
Milwaukee, OR

Mark Stapley, CCP & High Score  
Claims Manager  
C R England  
Salt Lake City, UT

Following are some photos from the event (courtesy of Dave Nordt, CCP, Director Loss Prevention for The Gilbert Companies):



Wally Dammann, CCP (left) and CCPAC President and John O'Dell, HCCP (far right) and CCPAC Executive Director recognizing Marcus Hickey, CCP (center), and Manager of Claims for Forward Air, Columbus, OH as CCPAC's Immediate Past President for two years and congratulations on becoming the new editor of ProClaim.



Wally Dammann, CCP and CCPAC President and Senior Recovery Agent, MSI Claims (USA) Inc., New York congratulating Dave Nordt, Director of Loss Prevention, The Gilbert Companies, Keasbey, NJ on successfully passing the CCPAC Exam given at the Annual Conference in St. Louis and becoming CCPAC's newest CCP graduate.

## EDUCATION

### **FOURTH EDITION OF *FREIGHT CLAIMS IN PLAIN ENGLISH***

The fourth edition of *Freight Claims in Plain English* is now available. This long awaited update of a venerable classic of freight claims is a must for all persons involved in transportation. Details available at <http://www.transportlawtexts.com/freight-claims-in-plain-english.php>.

### **"Q&A IN PLAIN ENGLISH - BOOK VII" AVAILABLE**

*Transportation & Logistics - Q&A in Plain English - Book VII* is now available. This is the seventh in this series of the Council's popular texts, and contains a compilation of over 100 new "Q&As" from the TRANSDIGEST.

These are actual questions from shippers, carriers and logistics professionals, with clear, concise and informative answers by George Carl Pezold and Raymond A. Selvaggio, two leading transportation attorneys. Readers will find this text to be a useful deskbook and handy reference. It will also serve as an indispensable teaching aid for students and newcomers to the transportation and logistics field.

### **"Q&A IN PLAIN ENGLISH - BOOKS 1, 2 & 3 - A COMPILATION"**

"Q&A in Plain English - Books 1, 2 & 3" is a compilation of the first three of the Council's popular texts that were originally published in 1999, 2001 and 2003. As these were about to go out of print, the Council decided to re-publish this valuable reference material in a single CD version.

This compilation is a "gold mine" of information with some 577 questions and answers, a table of contents, topical index and table of authorities - over 300 pages if produced in a print version, and now available on a single CD.

For further information, or to purchase copies of these publications, contact Diane Smid at the Council, (631) 549-8984 or use the attached Order Form.

## AIR

### **AIR CARGO DECLINES**

According to the Air Transport Association, U.S. airlines saw air "cargo traffic – as measured by revenue ton miles – decline 21 percent year over year in February 2009, matching the decline measured in January and marking the seventh consecutive month of declining cargo traffic."

International traffic fell in all regions around the world with most of the declines ranging around 20 to 25 percent while some of the second-tier carriers, like Virgin Atlantic, Austrian and SAS suffered drops of greater than 30 percent. Bucking the trend, Turkish Airlines actually reported a 13 percent increase in freight traffic for February from the same month a year ago.

These decreases in traffic have caused carriers to incur losses despite reductions in capacity and declines in fuel costs.

Visit [http://www.airlines.org/news/releases/2009/news\\_4-16-09.htm](http://www.airlines.org/news/releases/2009/news_4-16-09.htm) to view the Air Transport Association news release.

## **BIRD STRIKE DATABASE AVAILABLE TO PUBLIC**

The Federal Aviation Administration (“FAA”) has made its entire Bird Strike database available online. Portions of the database had previously been publicly available since the information was first collected in 1990, but the public can now access all of the database’s fields.

The FAA will make improvements to the database to improve the search function and make it more user-friendly over the next four months. In its current format, users can only perform limited online searches or download the entire database.

While the reporting process is currently voluntary, the FAA plans to work with the aviation community to find ways to improve and strengthen bird strike reporting.

The impact of bird strikes was graphically brought to the public’s attention when a U.S. Airways pilot had to perform a dead stick landing on the Hudson River in January after both engines lost power resulting from ingesting Canadian geese. While most strikes do not have such dramatic results, they have resulted in fatalities and they can be costly to repair.

Also available from the FAA is a report on *Wildlife Strikes to Civil Aircraft in the United States 1990 to 2007*. Some excerpts from the report:

For the 18-year period (1990-2007), 82,057 strikes were reported to the FAA. Birds were involved in 97.5 percent of the reported strikes, terrestrial mammals in 2.1 percent, bats in 0.3 percent and reptiles in 0.1 percent.

Of the 79,972 bird strikes reported, 63,973 provided some indication as to the nature and extent of any damage. Of these 63,973 reports, 54,886 (86 percent) indicated the strike did not damage the aircraft; 4,856 (8 percent) indicated the aircraft suffered minor damage; 2,375 (4 percent) indicated the aircraft suffered substantial damage; 1,836 (3 percent) reported an uncertain level of damage; and 20 reports (less than 1 percent) indicated the aircraft was destroyed as a result of the strike

For the 18-year period, reported losses from bird strikes totaled 362,073 hours of aircraft downtime and \$291.1 million in monetary losses.

Visit [http://wildlife-mitigation.tc.faa.gov/public\\_html/index.html#access](http://wildlife-mitigation.tc.faa.gov/public_html/index.html#access) to access the database or <http://wildlife.pr.erau.edu/BASH90-07.pdf> to view a report on wildlife strikes to civilian aircraft from 1990 to 2007.

## **CLASSIFICATION**

### **NEW CCSB DOCKET AND PROCEDURES**

The Commodity Classification Standards Board (“CCSB”) will conduct its next public meeting to consider proposals for amending the *National Motor Freight Classification* (“NMFC”) in Docket 2009-2 on Tuesday, June 2, 2009 at the Crowne Plaza Hotel – Old Town Alexandria in Alexandria, Virginia commencing at 8:00 a.m. Following is the subject index for Section I of the docket:

**COMMODITY CLASSIFICATION STANDARDS BOARD DOCKET 2009-2  
INDEX OF SUBJECTS (PROPOSALS) - DESCRIPTION and SUBJECT**

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As noted in the docket:

Supporting data and other relevant information pertaining to each proposal in Section I herein, including how to contact the proponent, are contained in a Public Docket File. The public files are available online without charge at [www.nmfta.org](http://www.nmfta.org). They are organized by docket and subject numbers, and each file is indexed for ease of reference. Interested persons who do not have Internet access can obtain the public docket file for a particular proposal from the staff contact, subject to a charge for copying and transmitting the document(s) requested.

The public docket files are available for immediate access. New or additional information, including any underlying studies or supporting data, may be submitted by interested persons until May 26, 2009. No new facts, data or evidence submitted after May 26, 2009, can be accepted or considered, although interested persons may submit statements or analyses based on the information in the public file up to and including the meeting on June 2, 2009.

\* \* \* \*

Anyone having an interest in a proposal listed in Section I of this docket is welcome to attend the meeting and/or submit a statement relating to the transportation characteristics of the product(s) involved — or relevant to packaging materials or methods in connection with proposed packaging amendments. Statements should include any underlying studies, supporting data and other pertinent information.

All facts, data and evidence must be received by the CCSB no later than May 26, 2009, for inclusion in the public docket file. Decisions on docketed proposals will be based on the information contained in the public docket file.

Any person may become a **Party of Record** to a docketed proposal by submitting a written request prior to the meeting. The proponent(s) of a proposal and anyone who attends the meeting in connection with a proposal or submits a written statement prior to the meeting will be registered as a party of record to that proposal. Parties of record to a docketed proposal will receive a disposition of the proposal and will be entitled to seek reconsideration or arbitration should they disagree with that disposition. (One does not have to be a party of record to request reconsideration.)

Amendments to the *National Motor Freight Classification* resulting from the proposals listed in Section I of this docket will be published in a supplement to the *NMFC*, unless reconsideration is granted or arbitration is sought in accordance with the CCSB's rules. The supplement is scheduled to be issued on **July 23, 2009**, with an effective date of **August 22, 2009**.

The CCSB also urges anyone having an interest in the proposed amendments to the classification-making procedures, policies and directives, as shown in Section III of this docket, to attend the meeting and/or submit a statement. Statements may be submitted anytime up to and including the meeting on June 2, 2009.

Our address is: **Commodity Classification Standards Board, 1001 North Fairfax Street, Suite 600, Alexandria, Virginia 22314**, and our fax number is: 703-683-1094. Written statements may also be emailed to the staff contact involved. **To schedule an appearance at the meeting, or if you require further information**, please get in touch with the staff contact.

Shippers should also be aware of two other items. First, Section II of the Docket addresses what are called “pre-proposals,” which provides that:

Any person, firm, corporation or group having an interest in the *National Motor Freight Classification (NMFC)* may propose amendments to the *NMFC*. The Commodity Classification Standards Board (CCSB) itself may propose amendments to the *NMFC*; however CCSB proposals must first go through a pre-proposal public comment period.

Potential CCSB proposals, or pre-proposals, will be posted on NMFTA’s website, [www.nmfta.org](http://www.nmfta.org), for at least 30 days. During this period, any interested person may submit comments, and those comments will be posted on the website for public review. In the interest of confidentiality, the source of the comments will be identified only as “shipper/receiver,” “carrier” or the like.

Notice will be given on NMFTA’s website at least 15 days in advance before the comment period on any pre-proposal is closed.

At the close of the comment period, the Chairman of the CCSB will decide whether to conduct further research, to docket the pre-proposal or to take no further action.

The second item is in Section III, which is a Notice Of Proposed Amendments To The CCSB’s Procedures, Policies & Directives. Proposed changes include the possibility of fees for classification interpretations and that the CCSB will adjust the classification value guidelines proportional to the change in the Producer Price Index (“PPI”).

Shippers whose traffic may be affected by proposed changes should review the proposals and respond accordingly. Visit [http://www.nmfta.org/Dockets/Docket%202009-2/2009\\_2.pdf](http://www.nmfta.org/Dockets/Docket%202009-2/2009_2.pdf) to review the complete Docket online.

## INTERNATIONAL

### THE MEXICAN TRUCK SAGA

Mid-April talks between Presidents Obama and Calderon did not result in any progress on the cross-border trucking issue. Calderon urged Obama to press Congress to allow U.S. access to Mexican trucks.

The cross-border pilot program was stopped when Congress denied funding for it in the fiscal 2009 budget. Since then, Mexico has retaliated by imposing tariffs on U.S. exports affecting \$2.4 billion worth of goods, legal action has been taken by both sides and on both sides of the border, and interest groups have been pushing their respective positions.

An ad hoc coalition of 140 manufacturing, food and agricultural organizations pushing for a resolution to the issue said the retaliatory tariffs put over 12,000 agricultural and 14,000 manufacturing jobs in the U.S. at risk.

The American Trucking Associations (“ATA”) has indicated that it has no objections to opening the southern borders to allow Mexican and U.S. trucks direct access to their customers’ freight facilities. Opponents, such as the Teamsters union and Owner-Operator Independent Drivers Association, continue to express their concern regarding compliance with and enforcement of safety standards amongst other things.

## **MOTOR**

### **CARRIER PROFITS PLUNGE AND LOSSES GROW**

The evidence of the tough economic times carriers are facing has shown up in the financial reports for the first quarter. Some examples: YRC Worldwide lost \$257.4 million; Conway posted a \$154 million loss; Arkansas Best lost \$29 million; Old Dominion profits dropped 62% to \$4 million; and UPS Supply Chain and Freight profits fell 64.6 % to \$40 million. In an effort to reduce expenses, carriers have cut staffing and fleet sizes.

Underlying these numbers is the simple fact that with the economy slowing, fewer goods are being shipped. YRC Worldwide reported that tonnage at its national less-than-truckload operation declined 29 percent in the first quarter.

Reductions like this have resulted in a decline in truck orders. While orders for new Class 8 trucks for March were up 26 percent from February, they were still down 44 percent compared with March a year ago.

### **MID-STATES EXPRESS, INC. CLOSES**

On March 27, 2009 Mid-States Express, Inc. announced that it had to close and subsequently filed for bankruptcy. Mid-States provided regional truck-load and less-than-truckload services throughout the 11 Midwestern states for 20 years.

Mid-States closed down all of its 26 facilities across nine states, which employed roughly 750 employees. At the time of its closing, Mid-States had 537 tractors and 1,082 trailers for city pickup and delivery and line haul operations. Mid-States also provided warehousing and distribution services.

### **FUEL SURCHARGE LAWSUIT DROPPED**

A class action lawsuit alleging the nation's largest less-than-truckload ("LTL") carriers conspired to fix fuel surcharge prices was dropped recently. The lawsuit, originally filed in July 2007, alleged that carriers recouped much more than their fuel cost increases and that the fuel surcharges became profit centers for the carriers.

The federal court in Georgia dismissed the case in January for lack of evidence. The plaintiffs had until March 16 to amend their complaint, which they did not do. What the judge noted in his decision was that the plaintiff's allegations "do not show enough facts for the Court to find that agreement (among the carriers) was plausible. What the allegations show instead is that all LTL service providers had the same incentives to charge the same shipping rates, and that over time they eventually each did so." The plaintiffs could not produce actual facts that would lead a reasonable person to conclude some conspiracy existed.

### **UNIFORM CARRIER REGISTRATION**

The Uniform Carrier Registration program was placed into effect in 2007 and was designed to help reduce overall carrier fees. It has apparently not accomplished its goal. There has now been a proposal recommending that the current fees be more than doubled, with the existing \$37,500 fee for a fleet of over 1,000 units (tractors and trailers) going to \$83,000. Opposition is expected.

## OCEAN

### PIRACY RISES TO NEW LEVELS

In April pirates attacked the Maersk Alabama, an American flagged ship, some 200 miles off the coast of Somalia. This was the first time an American flagged ship has been attacked by pirates in recent history (there are not that many American flagged ships in commerce). While in some ways this was just one more of hundreds of pirate attacks, because the vessel was sailing under the U.S. flag, not only did the U.S. Navy have the right to get involved, it had the obligation. The story was headline news and resulted in three dead Somali pirates and one prisoner facing prosecution in the U.S. court system. This attack has also raised the public awareness of a problem that has been ongoing for some years.

One result of this awareness is that Congress will take up the legal and policy issues of piracy. The House Transportation Subcommittee on Coast Guard and Maritime Transportation will hold a hearing on May 20 to discuss “lessons learned” from the attacks on U.S. flagged ships in the Indian Ocean.

For some perspective, the Maersk Alabama was the first American flagged ship taken by pirates in about 200 years, and the last notable pirate prosecution in the U.S. was that of Blackbeard’s crew in the early 1700s.

Currently, ships being attacked are limited to taking evasive maneuvers and using non-lethal methods to repulse the pirates (fire hoses, flare guns, sonic deterrents etc.). While it would seem the obvious solution would be to arm the ships, there are many legal restrictions prohibiting commercial vessels from carrying weapons (other than as cargo). Two obvious concerns with arming commercial vessels are that of having poorly trained or inexperienced persons handling the weapons, and that most countries prohibit entry of armed personnel to their ports. The use of specially trained armed guards is a potential solution, one that Gen. David Patraeus suggested to a House Appropriations subcommittee recently. It might be possible for these armed guards to be transferred at sea from ships departing the danger area to those entering it.

The use of trained armed guards proved its efficacy recently when the Italian cruise ship, the Melody, was attacked in the Indian Ocean some 500 miles from the coast of Somalia. The Melody, with 991 passengers and 536 crew, was attacked by six men in a small, Zodiac type boat. Passengers threw deck furniture at the pirates as they tried to board the ship. The pirates broke off their attack when private Israeli security guards, hired to protect the ship, fired upon the pirates. The ship suffered minor damage (bullet holes and shattered glass) and two passengers suffered cuts from shattered glass. Reports indicate that over 200 rounds of ammunition were fired by the pirates.

While this was not the first attack upon a cruise ship, the distance from shore indicates a shift in the pirates’ tactical capabilities. With their ability to reach out further from shore, it makes it that much more difficult for the limited naval resources to effectively patrol and protect commerce.

Although piracy is a worldwide problem, the doubling of reported pirate attacks in the first quarter of 2009 over the same period in 2008 is almost entirely due to increased Somali pirate activity off the Gulf of Aden and the east coast of Somalia. These two areas accounted for 61 of the 102 attacks during the first quarter compared to six incidents for the same period in 2008.

According to the International Maritime Bureau (“IMB”) forty-one incidents were reported in the Gulf of Aden region, including the hijacking of five vessels. In January 2009, one in every six vessels attacked was successfully hijacked, with the rate decreasing to one in eight for February 2009 and one in 13 for the month of March. On average, one in eight vessels attacked was hijacked during the first

quarter. ([http://www.icc-ccs.org/index.php?option=com\\_content&view=article&id=350:piracy-attacks-almost-doubled-in-2009-first-quarter&catid=60:news&Itemid=51](http://www.icc-ccs.org/index.php?option=com_content&view=article&id=350:piracy-attacks-almost-doubled-in-2009-first-quarter&catid=60:news&Itemid=51))

Once a vessel is successfully hijacked, the vessel and its crew are often held for weeks before the pirates release them for large ransoms paid by governments or ship owners.

Somali pirates were holding at least 17 ships, with a total of nearly 300 hostages and over 11 ships have been hijacked since the start of April, despite the presence of around 20 foreign naval vessels in the area.

Some 60 ships a day or about 2,000 ships a month pass through Gulf of Aden. Five percent of world commodities go through Suez Canal and twenty percent of the world's oil. This is a strategic and important region for the world's economy.

So just what is actually going on? Piracy has become a major source of income for this region of Somalia, but it goes deeper. These pirates are not of the historic plunder and booty variety. They generally do not take the ships, do not steal the cargo and do not harm the crews. They hold the ships for ransom, which often ranges in the millions of dollars.

Who benefits? Obviously, the pirates themselves, but so do many others, some of them a surprise. In a recent report broadcast on National Public Radio, Dr. Peter Pham, director of the Nelson Institute for International and Public Affairs at James Madison University in Harrisonburg, Virginia discussed how this lucrative business makes up a large part of Somalia's economy, and also benefits others outside the impoverished nation. While the crews are held hostage, sometimes for months, they must be fed. Dr. Pham related a catering bill paid by pirates that ran in excess of \$100,000. Other obvious beneficiaries include negotiators, watchmen and those supporting the operations landside. A successful hijacker might get paid \$10-20,000, this in a land where the average Somali family lives on \$500 to \$600 a year.

A less obvious beneficiary, according to Dr. Pham, is the maritime insurance industry. Insurance companies are reaping a windfall. They apply a surcharge to all vessels transiting the area of \$20,000 to \$30-\$40,000 per vessel per transit. With 20,000 vessels a year being hit for the surcharge, the insurance companies collect a minimum of \$400 million in surcharges and perhaps over \$600 million. The insurance companies have paid only about \$100 million in ransom, resulting in windfall profits of at least \$300 million to the insurance companies. (<http://www.npr.org/templates/story/story.php?storyId=103490773>)

Are the pirates' motives purely economic? This is an opinion that appears to be widely held. The pirates have found a business model that works, and will not change until there is a strong enough inducement, financial or military. Until recently, the pirates generally got away unscathed and hostage crews, cargo and vessels were not harmed. However, there is some evidence that there are (or were initially) other motives for this activity. First is the historical perspective of piracy as Jihad.

This form of piracy has a unique characteristic; the pirates are seeking ransom, not plunder or booty. In general, the ships, crews and cargo are not harmed, they are just held until the ransom is paid. According to an article in the Wall Street Journal, this is a form of the longstanding Arabian practice of "ghazu", or bounty raid, that was practiced by the prophet Muhammad. "And at least some Somali pirates see their profiteering as consistent with submission to Allah. 'We are Muslims,' one pirate told a Reuters reporter earlier this month. 'We are marines, coastguards—not pirates.'"

While most of the pirates are probably operating out of greed, the article's conclusion is that as the international community attempts to draft solutions to Somali piracy, it needs to weigh religious causes alongside economic and political ones. (<http://online.wsj.com/article/SB124054446854951883.html>)

The second alternative motive relates to the Somali locals seeking to protect their coast from economic and environmental depredation.

Aside from the historical premise of piracy as jihad, there are allegations that the recent spate of Somali activity originated with the locals seeking to protect their coast from environmental and economic depredation. Specifically, that these waters were being used to dump nuclear and toxic waste and that foreign ships have been stealing more than \$300 million worth of tuna, shrimp, lobster and other sea-life by illegally sailing into Somalia's unprotected seas. The local fishermen have suddenly lost their livelihoods, and they are starving.

The dumping allegation involves European ships dumping barrels of nuclear and toxic waste into the ocean off the coast of Somalia. The coastal population allegedly began to sicken, suffering strange rashes, nausea and birth defects. After the 2005 tsunami, hundreds of leaking barrels washed up on shore and people began to suffer from radiation sickness, with more than 300 dying. The waste supposedly came from European hospitals and factories that passed it on to the Italian mafia to dispose of cheaply. ([http://www.huffingtonpost.com/johann-hari/you-are-being-lied-to-abo\\_b\\_155147.html](http://www.huffingtonpost.com/johann-hari/you-are-being-lied-to-abo_b_155147.html))

None of these rationales justify the violation of international law and there is probably no single truth, other than that ship owners are caught in the middle and must work to protect their property and the cargo in their possession. The IMB has published a "Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia" <http://www.icc-ccs.org/images/stories/pdfs/bmp.pdf>.

## PARCEL EXPRESS

### COURT RULES FEDEX DRIVERS NOT EMPLOYEES

In a victory for FedEx Ground, the D.C. Circuit Court of Appeals ruled in a split decision that drivers at two Massachusetts terminals were independent contractors and therefore not under the jurisdiction of the National Labor Relations Board ("NLRB"). In September 2007 the NLRB had ruled that FedEx committed an unfair labor practice because it refused to bargain with the union certified as the collective bargaining representative of its Wilmington drivers and FedEx sought review of that decision.

The court found that FedEx Home's drivers have "entrepreneurial potential" and can operate multiple routes and sell routes as well as hire helpers and additional drivers, and therefore should be considered independent contractors, and as such, they do not have the right to join a union.

Ken Hall, the director of the Teamsters' package division, indicated that they "remain committed to those FedEx drivers who have sought the protection of a legitimate collective bargaining agreement to improve their lives." He also expressed his belief that this decision "will not survive review by the full court or by the U.S. Supreme Court."

This decision has wider implications as lawyers for the plaintiffs voiced concern that the ruling could affect a nationwide class-action suit involving 27,000 FedEx Ground drivers, who accuse the company of misclassifying them as contractors to deny them overtime and health, retirement and other benefits.

FedEx already agreed to pay \$27 million to settle a misclassification lawsuit brought on behalf of 203 drivers in California this past December.

## QUESTIONS & ANSWERS

By George Carl Pezold, Esq.

### FREIGHT CLAIMS – DOES B/L OR RATE CONFIRMATION CONTROL?

**Question:** We are researching a claim where product was damaged due to the load not being tarped. The rate confirmation received by the carrier definitely shows an “N” in the tarp question section. However, clearly marked on the bill of lading (“B/L”) it states “load must be fully tarped”. Do we have an argument against the carrier that the prevailing document in this situation is the B/L?

**Answer:** The bill of lading is usually considered the “contract of carriage” between the shipper and the carrier, and is therefore binding on the parties. Normally an instruction to tarp a load that is clearly stated on the face of the B/L would be binding on the carrier when it accepts the shipment and issues (signs) the B/L.

I don’t think the “rate confirmation” trumps the B/L. However, depending on the facts, it is possible that the broker may have some liability to the shipper if it was negligent because it failed to give proper instructions to the carrier.

### FREIGHT CLAIMS – INSPECTION AND SALVAGE REQUIREMENTS

**Question:** I need help regarding a claim issue please. We have contracted carriers that drop/swap on our distribution center (“DC”) yard. Our contract states that we have 72 hours to notify the carrier of any discrepancies. If we encounter damage, we reference the National Motor Freight Classification (“NMFC”) for clarification regarding the exact number of days for the carrier to inspect the damage and take or render possession. The latest information I have is 15 days for compliance but can you verify or give me the exact wording from regulations? Thank you.

**Answer:** The National Motor Freight Classification (“NMFC”) contains the following provisions about inspection of damaged goods and salvage retention:

#### Item 300140 INSPECTION BY CARRIER

Inspection by carrier will be made as promptly as possible and practicable after receipt of request by consignee. Inspection will be made within five normal work days after receipt of request from consignee, excluding Saturdays, Sundays and holidays. A day will be considered as the passing of twenty four (24) hours from 9 A.M., local time from the date of receipt of request for inspection. Inspection of carrier will include examination of the damaged merchandise, the shipping container, and any other action necessary to establish all facts. If a shortage is involved, inspector will check contents of package with invoice, weigh the shipping container and contents, or conduct any other type of investigation necessary to establish that a loss has occurred. In either case inspection will be limited to factual report. Consignee must cooperate with carrier in every way possible to assist in the inspection. A written record of carrier's findings will be made at least in duplicate. The original of the report will be given the consignee for claim support. Any inspection report issued must be incorporated in claim file.

#### Item 300145 FAILURE TO INSPECT

In the event carrier does not make an inspection the consignee must make the inspection and record all information to the best of his ability pertinent to the cause. Consignee’s inspection,

in such case, will be considered as the carrier's inspection and will not jeopardize any recovery the consignee is due based on the facts contained in the report.

#### Item 300150 SALVAGE RETENTION

When visible or open damage to a shipment has been established by notation having been given at time of delivery or concealed damage established by inspection report, it is the duty of the consignee to retain damaged merchandise and shipping container until carrier desires to take possession of merchandise as salvage. If record conclusively reflects carrier liability, carrier will take possession of the damaged merchandise as soon as possible and in any event, within thirty (30) days from date shipment was noted damaged on carrier delivery receipt or from date of inspection report, if damage was concealed. If carrier does not take possession of the damaged merchandise within the time prescribed above, consignee must contact delivering carrier and request removal of goods from his premises within fifteen (15) days from the date of such communication. The above applies only when the carrier and consignee agree that the carrier will handle disposition of the salvage, and does not in any manner affect the legal duty that the consignee, when there is substantial value in the salvage, must accept and handle it in such a manner as to mitigate the carrier's loss as much as possible. If there is doubt of carrier liability, the carrier will so advise consignee; in which even the consignee may hold the merchandise until liability of carrier is determined, or may dispose of it so as to mitigate the damage, and may file claim for such damage. Carrier will remove the damaged goods within the fifteen (15) day period or advise consignee that carrier liability is in doubt and that damaged merchandise is to be retained by the consignee until carrier has completed investigation of claim.

It should be noted that the federal claim regulations are found in 49 CFR Part 370, Principles and Practices for the Investigation and Voluntary Disposition of Loss and Damage Claims and Processing Salvage, and these regulations apply to all motor carriers and freight forwarders.

Items 300140, 300145 and 300150 in the NMFC are NOT part of the federal regulations, and therefore they only become applicable by contract (e.g., a bill of lading or a transportation contract), and when the motor carrier is a participant in the NMFC, see 49 U.S.C. 13703(G).

### **RAIL CARRIERS – HOW EXTENSIVE IS THE DEFINITION?**

**Question:** I have a series of very basic questions about rail and intermodal transportation, which will show my ignorance on the subject. I apologize in advance.

1) Does the term "rail carrier" normally include entities other than the major railroads such as Union Pacific, CSX, Santa Fe, etc.? I'm reading Union Pacific's Master Intermodal Transportation Agreement, and there are provisions that say things like, "UPRR or any rail carrier party to an agreement that is subject to this agreement..." and "cargo loss and damage claims presented to UPRR will be resolved for the account of all domestic US and Canadian rail carriers involved in the transportation of shipments moving under the authority of this agreement..." Who are the "rail carriers" being referred to here? Are they other railroads, companies who manufacture the containers, companies who arrange rail transportation such as 'Intermodal Marketing Companies,' or someone else?

2) When a shipper or intermediary tenders a shipment to, say, UP Railroad, for an intermodal movement that is to be transported to its final destination by a drayage motor carrier, is there normally a Bill of Lading ("B/L") issued that would govern the entire trip, even the dray portion? Whether or not the entire trip is governed by one B/L, would there be a B/L pertaining to the rail portion that somehow

incorporates the railroad's Rules Circular? (I'm noticing that 49 USC 11706 reads almost exactly like 49 USC 14706 and says that bills of lading will be issued.)

3) Are all these railroads exempt from the federal regulations?

Would you agree that someone like JB Hunt whose containers and equipment are put on railroads qualifies as a rail carrier? 49 USC 10102 has the following definitions:

(5) "rail carrier" means a person providing common carrier railroad transportation for compensation...

(6) "railroad" includes-

(A) a bridge, car float, lighter, ferry, and intermodal equipment used by or in connection with a railroad;

So it seems to me that when a shipper tenders a continuous intermodal TOFC/COFC (trailer or container on flatcar) shipment to anyone who qualifies as a rail carrier, that shipment would be exempt but that the carrier would be required to offer Carmack protection to its customer, and if it doesn't Carmack liability would apply (because of sec 10502(e) of 49 USC and interpretations of that). Is that generally right?

**Answer:** Let me try to answer your questions.

1. Unless there is some other relevant language in the UP's Master Intermodal Transportation Agreement, I would think that the reference to "rail carriers" in the intermodal agreement means the actual railroads (receiving, interline and delivering carriers) that are parties to an intermodal movement that is covered by the contract.

Intermediaries such as an "IMC" are not normally considered to be a rail carrier, although it is possible that a stack-train operator might be considered a carrier depending on how it holds itself out to the public.

2. Usually an IMC does not issue a bill of lading. The IMC is similar to a broker, and most of them essentially disavow any liability for loss or damage in their "terms and conditions". (There are some IMC's that contractually agree to assume liability.)

Usually, separate arrangements are made with the drayage carriers and with the origin railroad, and there is no through bill of lading (contrary to the mandate of the Carmack Amendment). What this means is that the shipper must look to the responsible carrier in the event of loss or damage. This could be the receiving or delivering drayage carrier, or the receiving, interline or delivering railroad. Drayage carriers may or may not attempt to limit their liability through bills of lading and/or tariffs. The liability of a receiving, interline or delivering railroad will usually be governed by the origin railroad's tariff or exempt circular.

Sometimes a receiving motor carrier (drayage carrier) will issue a through bill of lading (or sign one prepared by the shipper). While there is little case law on this, under the Carmack Amendment, both the receiving and delivering motor carriers would be liable - regardless of where the loss occurred.

3. Railroads are not "exempt" from federal laws and regulations, but a substantial class of commodities and movements are exempt, either by statute or regulation, e.g., TOFC/COFC and boxcar movements, fresh fruits and vegetables, etc.

TOFC/COFC transportation provided by a RAIL carrier is "exempt" under 49 CFR 1090.2. Thus, although the railroad's liability is still subject to Carmack, see *Tokio Marine and Fire Ins. Co., Ltd. v. Amato Motors, Inc.*, 996 F.2d 874 (7th Cir. 1993), rail carriers usually offer "alternative terms" in their exempt circulars as provided in 49 U.S.C. 10502(e).

The TOFC/COFC exemption is not applicable to services provided by a MOTOR carrier that uses “substituted service” by rail for a portion of the movement.

I believe that J.B. Hunt would be considered a motor carrier that uses “substituted service” by rail (TOFC) as provided in 49 CFR 1090.3. It would not be considered a rail carrier, and the freight would move under its motor carrier’s bill of lading.

## **FREIGHT CLAIMS – TIMES TO FILE AND RETAINING RECORDS**

**Question:** We are a shipper of bulk aggregates used in heavy highway construction projects. All shipments are T/L (truckload) divisible loads and shipped via common carrier. All shipments are weighed and the bill of lading (“B/L”) produced for each load at the shipping location.

Typical deliveries can range from 5 to 50 loads per day and are dumped into a stockpile located on the customer’s property. The carrier will obtain signatures and render a signed copy to the consignee and the shipper.

My questions are:

How long must a carrier hold records of signed delivery bill to provide proof of delivery (“POD”)?

How long after delivery can the consignee claim non-delivery of one or more loads?

**Answer:** The federal requirements governing record retention are found in the Federal Motor Carrier Safety Administration’s (“FMCSA”) regulations at 49 CFR Part 379 - Preservation of Records, and apply to all motor carriers and brokers. The regulations specify various time periods depending on the type of record, and permit preservation “by any technology that is immune to alteration, modification, or erasure of the underlying data and will enable production of an accurate and unaltered paper copy”. Thus, it is clear that originals may be copied, scanned, microfilmed, etc. for this purpose.

A bill of lading or proof of delivery would generally fall into the group of documents that have a minimum one-year retention period (or one year after settlement if there was a claim involved).

Obviously, the best practice is to file a claim promptly upon delivery or discovery of any loss or damage. However, the “Carmack Amendment” (49 USC 14706) states that a carrier may not provide for anything less than 9 months from the date of delivery for the filing of a loss or damage claim, so that any claim filed within that period would be valid.

## **INTERSTATE COMMERCE ACT**

**Question:** Where can I find (preferably online) the full text of the most recent revision of the Interstate Commerce Act?

**Answer:** The former Interstate Commerce Act was codified in 1978 in Title 49 of the U.S. Code, and re-codified again as a result of the ICC Termination Act of 1995.

The present provisions of the ICA are now found in Title 49, Subtitle IV - Interstate Transportation which covers Rail Carriers (Part A), Motor Carriers, Water Carriers, Brokers, and Freight Forwarders (Part B) and Pipeline Carriers (Part C).

You can get Title 49 at most good libraries, or on-line through commercial legal services such as WestLaw or Lexis. It is also available on-line at <http://www.gpoaccess.gov/uscode/index.html> or [http://www2.law.cornell.edu/uscode/html/uscode49/usc\\_sup\\_01\\_49.html](http://www2.law.cornell.edu/uscode/html/uscode49/usc_sup_01_49.html) at no cost.

## **FREIGHT CLAIMS – AMENDING A CLAIM AFTER PAYMENT**

**Question:** A claim for damaged/refused product was filed and paid. Subsequently, within nine months, it was determined that a shortage noted on the delivery receipt was overlooked when the claim was filed. What are the limitations on filing or amending a claim after it has been paid?

**Answer:** The minimum time limit for filing a claim - or for amending a claim - is nine months under the Carmack Amendment, 49 U.S.C. Section 14706, so you can amend a claim at any time within that period.

However, there is another problem. You indicate that you were paid on this claim. If you have been paid, and have accepted and deposited the carrier's check in payment of the claim, under the laws in most states, this would be an "accord and satisfaction" that would bar any further claims arising out of the same transaction.

## **FREIGHT CHARGES – GENERAL RATE INCREASE**

**Question:** Can someone tell me what the general freight rate increase is nationwide for 2009?

**Answer:** There really are no collectively-made "general freight rate increases" any more for motor carriers since the rate bureaus lost their anti-trust immunity. Each of the major less-than-truckload carriers does publish its own rate increases from time to time and these are usually reflected in the carrier's individually-published class rate tariff.

## **FREIGHT CHARGES – DANGER OF DOUBLE BROKERED LOADS**

**Question:** I have a carrier who we contracted to haul 5 loads for us at a set price. After the carrier picked up the first load, they called us and asked if we would advance them a partial payment on the load. They asked for 40% at first and the next day they called in and said no, we need 90%.

This made us a little leery, so I put them off to do some checking. Then luckily a phone call came in about one of the loads we had posted on a load board. The carrier asked about the load and proceeded to tell us they had picked up a load for another brokerage from the same place going to the same place for a different amount. To be exact they were being paid \$300.00 more than what I was paying the carrier who was now brokering the freight.

Now before you ask, yes we are the only ones moving the freight from this warehouse. They are closing it down and have contracted us to move all the loads. I have a rate agreement from the carrier who called me showing the load being brokered to them. Also, on the bill of lading the carrier's name is not the one I gave the load to originally. I have an idea of what they are doing but can't prove it except from past experiences when I was working as a carrier.

Would you be able to advise me as to where I can find information on how to proceed? My contract does state if a carrier double brokers the freight to another carrier I am not responsible for paying them.

**Answer:** From your description of the facts, it appears that Carrier A "double-brokered" the load to Carrier B, which actually carried the shipment. It also appears that your rate agreement with Carrier A was some \$300 less than it agreed to pay Carrier B. Obviously, no legitimate business would do this.

This sounds like a scam. We have heard of similar scenarios where Carrier A (or a broker) books a shipment at a very low price in order to get the work, double brokers the load to Carrier B at a higher price, and then collects from its customer and doesn't pay Carrier B.

Be VERY careful! If you pay the wrong party, you could be liable for a double payment. If there is any question as to which carrier should be paid, get all the paperwork (bill of lading, delivery receipt, etc.) and verify which carrier actually handled the load. Get a written authorization from the carrier that double-brokered the load to pay the actual carrier; if they are not willing to do this, hold payment until it is clear that you won't end up with liability for a double payment.

## RAIL

### **RAIL COMPETITION HEARINGS POSTPONED**

At the request of Senators John. D. Rockefeller (D-WV), chairman of the Committee on Commerce, Science and Transportation and Frank R. Lautenberg, chairman of the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security, the Surface Transportation Board ("STB") announced that it was postponing its May 18 and 19 hearings on issues related to access and competition in the railroad industry.

The Senators expressed their desire that the STB refrain from holding the hearings until after the Commerce Committee has had the opportunity to conduct its legislative review of issues related to STB reauthorization. It is believed that Senator Rockefeller may be introducing legislation impacting competition in the rail industry as part of the bill reauthorizing the STB.

### **RAIL TRAFFIC DECLINES**

According to the Association of American Railroads ("AAR"), U.S. rail traffic was down 24.3 percent from the comparison week in 2008, although up 2.8 percent from the previous week this year. In comparison with last year, loadings were down 20.6 percent in the West and 28.6 percent in the East. All 19 carload commodity groups were down from last year, with declines ranging from 9.3 percent for grain mill products to 63.6 percent for metallic ores.

Intermodal volume of 183,141 trailers or containers was off 18.3 percent from last year, although up 2.7 percent from the previous week this year. Container volume fell 12.9 percent from last year, while trailer volume dropped 37.7 percent.

[http://www.aar.org/NewsAndEvents/PressReleases/2009/04\\_WTR/042309\\_Traffic.aspx](http://www.aar.org/NewsAndEvents/PressReleases/2009/04_WTR/042309_Traffic.aspx)

## RECENT COURT CASE

### **BROKER HELD VICARIOUSLY LIABLE IN \$23 MILLION AWARD FOR INJURIES**

In a decision with potentially widespread impact, an Illinois jury awarded \$23,750,000 in damages to a man injured, and the families of two other men that were killed, in a trucking accident where C.H. Robinson ("CHR") arranged for the transportation.

In 2004, CHR hired Utah-based Toad L Dragonfly Express to haul a load of potatoes. The truck was involved in an accident with two fatalities and one significant injury. The trucking company subsequently

went out of business and the driver was reported to have been driving on a suspended license with falsified log books.

The injured man and the estates of the deceased commenced litigation against the motor carrier and the driver. These defendants admitted liability, but were a limited source of recovery. CHR, a deep pocket, was also named as a defendant on the basis of “respondeat superior,” a legal doctrine that makes an employer vicariously liable for the actions of an employee when the actions take place within the scope of employment.

CHR argued that it should not be held liable, as it had merely booked the load with Dragonfly Express, the motor carrier that hired the driver. CHR asserted that the driver was not an employee, but rather an independent contractor with no legal connection to CHR and for whose negligence CHR should not be held liable. CHR acted as a broker and had only dispatched the truck. Even though there were no allegations that CHR was negligent or that its actions were unsafe, the jury determined that the motor carrier was considered part of the brokerage company instead of an independent carrier and CHR was liable as an employer.

CHR is insured with a \$5 million deductible. That means, unless the ruling is overturned on appeal, CHR could be liable for that \$5 million, which analysts expect could result in a 2 cent decline in earnings per share. It is expected that CHR will appeal this decision.

The case has raised concerns about the potential liability that transportation brokers and other transportation providers (surface freight forwarders, air freight forwarders, NVOCCs, customs brokers, etc.) could face when the motor carriers that they hire are involved in accidents.

Transportation brokers like CHR arrange for loads to move, but the licensed motor carrier issues the bill of lading and has primary liability for bodily injury and third-party property damage as well as for loss of or damage to freight. However, this case clearly demonstrates that a third-party logistics provider can have significant liability for the acts of motor carriers that they hire.

*Sperl v. Henry et al.* (04 L 428 consolidated) (Circuit Court of Will County, 2009)

## ADVERTISE IN THE TRANSDIGEST

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Full page and one-half page ads are now being accepted for the TRANSDIGEST. Reach a highly selective audience with information on your products and/or services at a reasonable cost.

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## PERSONAL

### FOUND IN THE “ATTIC”

A lot of folks who have attended our conferences like to collect the lapel pins that were given out. While housekeeping, we discovered a number of extra pins for the years 1996 and 1998-2008. They are

available free to TLC members on a first come, first served basis. Please contact Diane in Membership for further info: 631-549-8984 or e-mail: [diane@transportlaw.com](mailto:diane@transportlaw.com).

## **TRANSPORTATION SCHOLARSHIP**

Transportation Clubs International (“TCI”) is sponsoring some scholarships as follows:

### **Eligibility**

Any student enrolled in an educational program in an accredited institution of higher learning in a vocational or degree program in the fields of Transportation, Logistics or Traffic Management, or related fields, who intends to prepare for a career in these areas is eligible to apply for a TCI scholarship.

### **Determination of Awards**

All TCI scholarship awards are based upon scholastic ability, potential, professional interest, character and financial need.

### **Application Deadline:**

The completed application, with all supporting papers, documents and photograph, must be in the hands of the Awards Committee no later than **May 31st**. Winning candidates will be notified well in advance of the formal announcements at the Annual Educational Conference of Transportation Clubs International in September.

Completed applications with all required supportive paper work and photo must be mailed to:

### **Transportation Clubs International Scholarships**

**Attn: Bill Blair**

**Zimmer Worldwide Logistics**

**15710 JFK Boulevard**

**Houston, Texas 77032**

[BBlair@ZimmerWorldwide.com](mailto:BBlair@ZimmerWorldwide.com)

The scholarship application supporting paper work includes:

- A certified copy of the applicant's college/university transcript
- Three letters of recommendation
- A small, current photograph (to be used for publication)
- Essay\*

\* Separately, produce (Microsoft Word file only, please!) and submit an essay of not more than two hundred (200) words, explaining why you have chosen transportation or an allied field as a career path, and outline your objectives.

Visit <http://www.transportationclubsinternational.com/scholarships.html> for complete details and the application

# The Transportation & Logistics Council, Inc.

Phone: (631) 549-8984

120 Main Street, Huntington, NY 11743

Fax: (631) 549-8962

E-Mail: [tlc@transportlaw.com](mailto:tlc@transportlaw.com)

## APPLICATION FOR MEMBERSHIP

Membership in the Council is open to anyone having a role in transportation, distribution or logistics. Membership categories include:

- **Regular Member** (shippers, brokers, third party logistics and their representatives);
- **Multiple Subscriber** (non-voting additional representatives of a **Regular Member** firm); and
- **Associate Member** (non-voting members – carriers and freight forwarders).

All members receive:

- An email subscription to **TRANSDIGEST** (TLC's monthly newsletter) NOTE: There is an additional \$50 annual fee to receive the **TRANSDIGEST** hard copy by First Class mail.
- **Reduced rates** for most educational programs, texts and materials; and
- A **Directory** of Members.

New Members also receive:

- A complimentary copy of "**Freight Claim Prevention in Plain English**"
- A complimentary copy of "**Transportation Insurance in Plain English**"
- A complimentary copy of "**Transportation & Logistics – Q&A in Plain English Complete Set of Books I, II and III on CD Disk**"

All fees are for 12 months of membership in TLC.

If you are not presently interested in becoming a member, but would like to subscribe to the **TRANSDIGEST**, you can opt for a 1-Year/Non-member subscription to the newsletter by making the appropriate choice below.

How did you hear about TLC?

- Internet**  **Mailing**
- Seminar/Meeting. Please specify location \_\_\_\_\_
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- Other \_\_\_\_\_

Fill out the information below, detach and send with payment to:  
**TLC, 120 Main St., Huntington, NY 11743**

### Membership Application Form

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Associate Member [NON-VOTING/CARRIERS, ET AL.]		\$345.00	\$
Member Fee to Receive <b>TRANSDIGEST</b> Hard Copy by First Class Mail		\$50.00	\$
Introductory Subscriber [NON-MEMBER Subscription to <b>TRANSDIGEST</b> BY EMAIL 1YR ]		\$150.00	\$

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120 Main Street, Huntington, NY 11743

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## EDUCATIONAL MATERIALS

Item		Item#	Price
<i>Freight Claims in Plain English (3d ed. 1995),</i> by William J. Augello & George Carl Pezold (Two Volumes)	Member	511	\$85.00
	Non	511-NM	\$100.00
<i>Contracting for Transportation &amp; Logistics Services (rev. 2001),</i> by George Carl Pezold	Member	576	\$40.00
	Non	576-NM	\$48.00
<i>Transportation &amp; Logistics - Q&amp;A in Plain English – Book VII (2008)</i> by George Carl Pezold and Raymond Selvaggio	Member	584	\$70.00
	Non	584-NM	\$80.00
<i>Transportation &amp; Logistics - Q&amp;A in Plain English – Book VII (2008) on CD Disk</i> by George Carl Pezold and Raymond Selvaggio	Member	585	\$70.00
	Non	585-NM	\$80.00
<i>Transportation &amp; Logistics - Q&amp;A in Plain English - Book VI (2007)</i> by George Carl Pezold and Raymond Selvaggio	Member	583	\$70.00
	Non	583-NM	\$80.00
<i>Transportation &amp; Logistics - Q&amp;A in Plain English - Book V (2006)</i> by George Carl Pezold and Raymond Selvaggio	Member	582	\$50.00
	Non	582-NM	\$60.00
<i>Transportation &amp; Logistics - Q&amp;A in Plain English - Book IV (2004)</i> by George Carl Pezold and Raymond Selvaggio	Member	581	\$50.00
	Non	581-NM	\$60.00
<i>Transportation &amp; Logistics - Q&amp;A in Plain English – Complete set of Books I, II and III on CD Disk</i> by George Carl Pezold and William J. Augello (1999 – 2003)	Member	772	\$50.00
	Non	772-NM	\$60.00
<i>Freight Claims - Filing &amp; Recovery (rev. 2003),</i> by John Harvey & William J. Augello	Member	676	\$40.00
	Non	676-NM	\$48.00
<i>Transportation Insurance in Plain English (1985),</i> by William J. Augello	Member	521	\$13.00
	Non	521-NM	\$15.00
<i>Freight Claim Prevention in Plain English,</i> by Sue Smith, Alfred H. McKinley & William J. Augello	Member	531	\$21.00
	Non	531-NM	\$25.00
Shipper's Domestic Truck Bill of Lading® and Common Carrier Rate Agreement Kit (Text in Hard Copy AND on a CD Disk)	Member	769	\$40.00
	Non	769-NM	\$50.00
<i>Corporate Procedures for Shipping &amp; Receiving (August. 1998),</i> by William J. Augello	Member	574	\$65.00
	Non	574-NM	\$75.00
<i>Protecting Shippers' Interests (Sept. 1997),</i> by William J. Augello	Member	571	\$40.00
	Non	571-NM	\$50.00
<i>A Guide to Transportation After The Sunsetting of the ICC (2d ed. 1997),</i> by William J. Augello (Includes Shipper's Domestic Truck Bill of Lading® and Common Carrier Rate Agreement Kit)	Member	559	\$55.00
	Non	559-NM	\$65.00
<i>How to Read Tariffs to Avoid Surprises (1994),</i> by William J. Augello	Member	556	\$17.00
	Non	556-NM	\$20.00
<b>INSTRUCTIONAL CD Disk: TEAMWORK: The Key to Customer Satisfaction - Training Video for shipping/receiving personnel (17 ½ min.)</b>	Member	645	\$41.00
	Non	645-NM	\$49.00

### Order Form

Fill out the information below, detach and send with your payment to: **TLC, 120 Main St., Huntington, NY 11743**

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**New Member List  
April 2009**

**Regular Member**

**Alexander Kentfield**

Siemens Building Technologies, Inc.  
1375 Appomattox Trail  
Carol Stream, IL 60188-9047  
[Alex.Kentfield@siemens.com](mailto:Alex.Kentfield@siemens.com)

**Anna Schulz**

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