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Counsel for the Road Ahead®

"It Was A Very Good Year" (For Freight Brokers)

Marc S. Blubaugh

Frank Sinatra certainly was not thinking about freight brokers when singing this Grammy-winning song back in 1966. However, the title of the song definitely resonates for freight brokers in 2018. In addition to capitalizing on the robust 2018 economy, freight brokers now also have the benefit of two powerful court decisions issued in 2018 that use federal law to turn the tables on aggressive plaintiffs' personal injury lawyers.

First, in *Volkova v. C.H. Robinson Company*,[1] a freight broker retained a motor carrier that made a U-turn in the middle of a highway, causing a catastrophic, fatal accident with the driver of another tractor-trailer on the highway. The plaintiff commenced a wrongful death action against the freight broker, alleging that the broker had negligently hired the motor carrier and its driver. The freight broker defended the action by arguing that a federal law known as the Federal Aviation Administration Authorization Act (F4A) preempted the plaintiff's claim for negligent selection.

The district court judge agreed with the freight broker that the F4A preempted the plaintiff's wrongful death claim as a matter of law, explaining:

> A straightforward reading of Plaintiff's allegations demonstrates that the negligent hiring claims relate to the core service provided by [the broker]—hiring motor carriers to transport shipments. Further, in alleging that [the broker] has failed to adequately and properly perform its primary service, the negligent hiring claim directly implicates how [the broker] performs its central function of hiring motor carriers, which involves the transportation of property. Therefore, because enforcement of the claim would have a significant economic impact on the services [the broker] provides, it is preempted.

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"It Was A Very Good Year"

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Id. at *3 (internal citations omitted). In essence, the federal court agreed that state negligence laws that would have a direct and substantial impact on the way in which freight brokers hire and oversee motor carriers would hinder the primary objective of the F4A.

Similarly, only a few months after the decision in *Volkova*, another federal district court reached the same conclusion in a personal injury action brought against a transportation broker in Pennsylvania. In *Kraus v. Iris USA, Inc.*,[2] a shipper sold a load of Legos to a charitable organization and retained a freight broker to arrange for the transportation of the load to the buyer. The freight broker, in turn, retained a motor carrier to transport the load. During unloading at destination, a pallet cracked and injured a volunteer for the charity.

The volunteer sued the freight broker for negligence. Specifically, the plaintiff alleged that the freight broker was negligent in vetting the motor carrier in question and should have used a "heightened and elaborate" process for selecting appropriate motor carriers. The freight broker, in response, argued that the F4A preempted the plaintiff's personal injury claim. The federal court agreed with the freight broker and held that the F4A preempted all personal injury claims for negligence brought against freight brokers because such claims "go to the core of what it means to be a careful broker." The court observed that its conclusion was a matter of common sense:

> Indeed, carefully selecting a freight carrier is not simply 'close' to [the broker's] core service. It *is* the core service.

(emphasis in original). Accordingly, the court found that requiring a heightened selection process would necessarily impact directly upon the broker's services and prices and, therefore, the plaintiff's personal injury claims were entirely preempted by the F4A.

"The freight broker industry cannot thrive if it is subject to an inconsistent array of common-law mandates imposed by 50 different states (or judges within those states) dictating, shaping and constraining in a multitude of ways the services that freight brokers provide."

Recent, well-reasoned decisions like *Volkova* and *Kraus* apply the F4A to personal injury claims in the very same way that other courts have long applied the F4A to claims for loss of or damage to freight. After all, a negligent selection claim against a broker for a personal injury encroaches on the broker's service in the very same way that a claim for injury to freight encroaches upon a broker's service. See, e.g., *Georgia Nut Company v. C.H Robinson Company*[3] (finding that common law negligent hiring claim against broker was preempted because such claim would interfere with preemption-related objectives of the F4A), *Alpine Fresh, Inc. v. Jala Trucking Corp.*[4] ("[T]he Court concludes that the express prohibition against state regulation of 'intrastate services of any ... broker,' and 'related to a price, route or serve of any ... broker,' precludes the claims at issue here . . . ."); *Delta Leasing, LLC v. American Fast Freight*[5] (preempting state law negligence claims against a freight broker).

The F4A is fundamentally aimed at ensuring that freight brokers are able to perform their services without undue interference from state or local governments. The freight broker industry cannot thrive if it is subject to an inconsistent array of common-law mandates imposed by 50 different states (or judges within those states) dictating, shaping and constraining in a multitude of ways the services that freight brokers provide. Permitting such actions, and even permitting the mere threat of such actions, has the very real effect of compelling brokers to provide costly and time-consuming (not to mention wholly impractical) additional investigative and vetting services as part of their principal business of selecting motor carriers. Inevitably, doing so also increases a broker's prices.

In short, although freight brokers have been tagged with multimillion-dollar judgments in personal injury lawsuits in recent years, they can now take some solace that courts in 2018 have increasingly recognized that state-law negligent-hiring claims plainly and significantly frustrate the federal objectives of the F4A. Hopefully, this encouraging trend will continue in 2019.

For more information, please contact **MARC S. BLUBAUGH** at mblubaugh@beneschlaw.com or (614) 223-9382.

[1] Case No. 16 C 1883, 2018 WL 741441 (D.C. N.D. Ill. 2018).

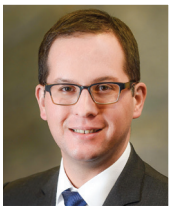
[2] Case No. 17-778 (E.D. Pa. 2018).

[3] Case No. 17 C 3018, 2017 WL 4864857, at *4 (N.D. Ill. Oct. 26, 2017).

[4] 181 F. Supp. 3d 250, 257 (D.N.J. 2016).

[5] Alaska Superior Court, Case No. 3AN-07-10226 (2007).

INCOTERMS – Ground Zero for Negotiating Tariff Impact



Jonathan Todd

Kristopher J. Chandler

The INCOTERMS published by the International Chamber of Commerce (ICC) have long served the international community by offering a "shorthand" for communicating key shipping terms. INCOTERMS are so ubiquitous in international procurement that their use is hardly remarkable—until now. The United States' unprecedented tariff activity, particularly the Section 301 tariffs on imports from China, has drawn INCOTERMS front and center in the down-and-dirty negotiations of which party to a transaction will bear the dramatic increase in import duties. Those three letters—the INCOTERM in question—in supply contracts and shipping documents are at this moment the fulcrum upon which many trading relationships pivot.

INCOTERMS and International Trade War

One INCOTERM in particular, DDP, also identifies the party responsible for the payment of duties upon entry at the country of import. The recent Section 301 tariff action against China has caused participants in global supply chains to dust off their supply contracts in addition to their tariff classifications. Foreign manufacturers, domestic buyers and domestic end-users are all at this moment wrestling with internalization of a 25% ad valorem increases in duties. Some contracts specifically identify the parties responsible for duties and taxes. For example, it is not uncommon for contracts to reference "shipping terms" generally, which would incorporate INCOTERMS, as indicative of the party responsible for duties.

INCOTERMS are performing in this era of lightning-fast tariff action as intended. They provide a tool for communicating party intent with respect to certain transaction costs. Use of the DDP INCOTERM indicates that the seller is responsible for costs and duties associated with entry of goods into the United States. However, the absence of a DDP term does not foreclose the possibility that a foreign supplier is responsible for duties. Many parties are finding (or at least arguing in favor of) different interpretations, absence of terms, or even ambiguity in their contracts as a means to position for more favorable price negotiations. As with all contract disputes, this is ultimately a question of party intent and resolution may require looking to the rules of contract construction that attorneys are skilled in applying to determine meaning.

Every day across the United States, buyers and sellers are engaged in heated contract interpretations and negotiations over whether and how the parties intended to accommodate tariff action. These commercial disputes are at their essence matters of price. The key question, of course, is which party will bear duties and whether that burden will be shared. We are aware of recent instances where suppliers in China have approached domestic buyers in a less-than-forthright fashion on this very issue. Proposed changes from DDP terms to alternates, such as DAP (Destination), have been presented to domestic buyers as merely ministerial changes for administrative convenience. This is, of course, not a change without cause, and accepting it could result in bearing a 25% increase in landed cost based upon the customs value.

INCOTERMS are Shorthand, not a Short Cut

We very often remind our clients that INCOTERMS are only shorthand. They should not be taken for granted. While simple, INCOTERMS convey the responsibilities, obligations and risks of both seller and buyer from the point of origin, through transportation, to the point of delivery. Every supplier and importer must consider the totality of its deal terms before looking to memorialize those in contract language. Drafting in plain language, especially on complex issues such as responsibility for duties, is sometimes preferred if INCOTERMS convey different or conflicting meanings. Some domestic importers take this a step further by expressly stating that INCOTERMS are for convenience only and do not change the parties intentions. Clearly drafting deal terms, and taking time to consider unintended consequences, can mean the difference between having the upper hand in price negotiations or accepting a 25% ad valorem increase in duties due to three simple letters.

An INCOTERMS Primer

The ICC publishes and maintains the INCOTERMS as a uniform set of rules to clarify any uncertainty in supply contract interpretation. A single three-character INCOTERM establishes the precise point at which key responsibilities transfer from seller to buyer. Thus, the INCOTERMS are a means of communicating the intent of the parties in a way that is both simple and useful to all participants in international trade, including the importers, exporters, transporters, lawyers and insurers who rely upon those terms every day.

The first set of INCOTERMS was published in 1936, and that list has been subsequently amended and restated seven times, most recently in 2010. The INCOTERMS have withstood the test of time due to the ICC's great work in recognizing modernization of international transportation, such as the rise in non-maritime transportation, advances in air travel, proliferation of container traffic, increased use of electronic messages, and need to cooperate on information sharing.[1] The ICC's next update to the INCOTERMS is scheduled for 2020.

Today, the ICC maintains 11 INCOTERMS:[2]

CFR Cost and Freight: "Cost and Freight" means that the seller delivers the goods on board the vessel or procures the goods already so delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel. The seller must contract for and pay the costs and freight necessary to bring the goods to the named port of destination.

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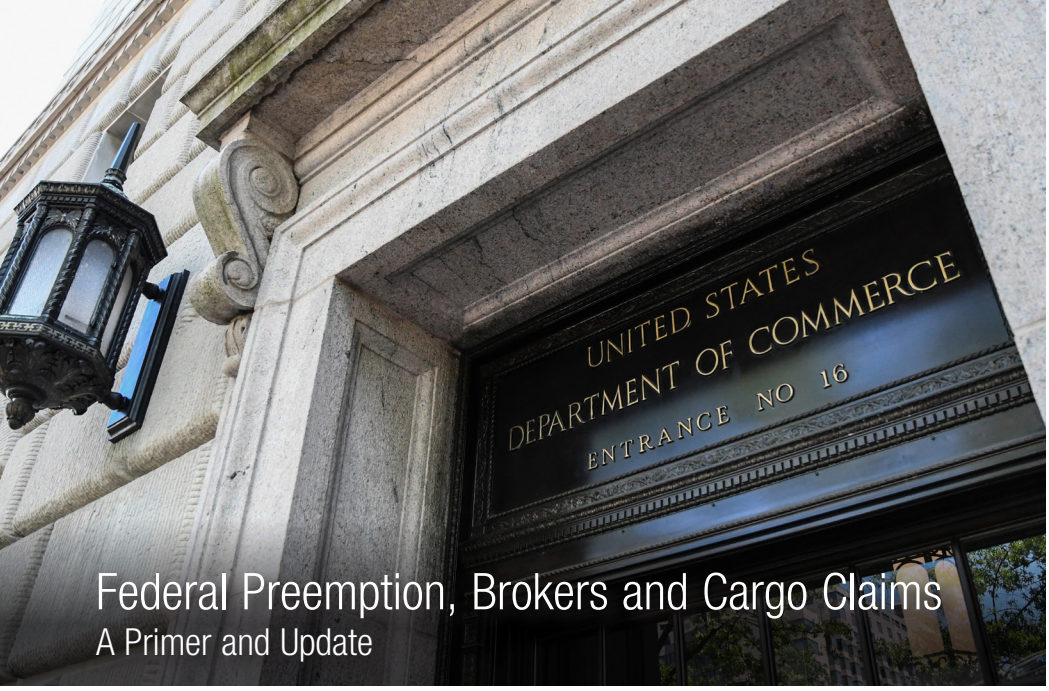

Federal Preemption, Brokers and Cargo Claims

A Primer and Update

Martha J. Payne

U.S. Constitution

Article VI: This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.[1]

Article 1, Section 8, Clause 3: Congress shall have the power …To regulate commerce with foreign nations, and among the several states, and with the Indian tribes…[2]

F4A: A State...may not enact or enforce a law...related to a price, route, or service of any... broker…with respect to the transportation of property.[3]

A small group of men in Philadelphia in 1787 recognized that commerce between the states should be governed by federal, rather than state law. The Commerce Clause[4] of the U.S. Constitution gave the federal government power to regulate commerce. Since then, federal regulation of the transportation industry has waxed and waned through the formation of the Interstate Commerce Commission,[5] enactment of the Motor Carrier Act of 1980,[6] F4A,[7] and the sunset of the Interstate Commerce Commission by ICCTA.[8]

Transportation was heavily regulated until 1980; at that time, Congress decided to allow market conditions, rather than government regulations, to determine rates and charges. The Motor Carrier Act of 1980 did not remove federal preemption. Congress reaffirmed federal preemption of transportation in 1994 in the Federal Aviation Administration Authorization Act (F4A). Pursuant to F4A, no state may enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law related to a price, route, or service of any motor carrier of passengers, motor carriers of property, freight forwarders or brokers.[9]

In 1995, the ICC Termination Act sunset the Interstate Commerce Commission and gave shippers and carriers more freedom to contract. A carrier providing transportation may enter into a contract with a shipper to provide specified services under specified rates and conditions.[10] If the parties expressly, in writing, waive certain provisions of the Interstate Commerce Act, those provisions are legally waived.

Although transportation has changed considerably and the degree of regulation has changed, the need for federal preemption remains. To ensure enforceability, contracts for transportation should include express waivers of the provisions of the Interstate Commerce Act that are not applicable. However, careful drafting of the waiver language is critical. Because it is critical to retain federal preemption, it is important *not* to waive the entire Interstate Commerce Act.

Today, the industry relies heavily on brokers[11] to arrange transportation of cargo. Federal preemption in regards to brokers is explicit in F4A.[12] However, plaintiffs' attorneys continue to file suits against brokers, based on state causes of actions. The courts continue to reaffirm federal preemption and to dismiss state causes of action because they are preempted by federal law. To maintain this favorable treatment, brokers must be careful to not give up their right to federal preemption.

Examples of some recent cases regarding federal preemption of claims against brokers are *Mecca & Sons Trucking v. White Arrow*,[13] *Nature's One, Inc. v. Spring Hill Jersey Cheese, Inc., v. WD Logistics, L.L.C. et al*,[14] and *Georgia Nut Company v. C.H. Robinson Company*.[15]

In *Mecca*, Trader Joe's purchased approximately $81,000 worth of cheese from Singleton Dairy. The Master Vendor Agreement between Trader Joe's and Singleton gave Trader Joe's the right to reject delivery of the cheese if the temperature during transit exceeded 40 degrees.

Singleton Dairy retained Mecca, as a broker, to arrange transportation of the cheese to Trader Joe's. Mecca arranged for White Arrow, a motor carrier, to provide the final leg of the move. The rate quote between White Arrow and Mecca specified a required temperature in transit of no more than 40 degrees.

When the shipment arrived at Trader Joe's, the temperature recorders onboard showed the ambient temperatures had exceeded 40 degrees during transit. Trader Joe's rejected 11 of the 17 pallets of cheese, based on the temperature readings. The rejected cheese was moved to a cold storage warehouse and inspected seven weeks later. The inspector found no damage to the cheese, even after this much time had elapsed.

Mecca filed a complaint against White Arrow in the Superior Court of New Jersey. White Arrow removed the case to Federal Court. Mecca then amended its complaint to add Trader Joe's as a defendant. The Second Amended Complaint asserted claims of negligence, breach of contract and indemnification against White Arrow and a claim for wrongful rejection against Trader Joe's.

White Arrow filed a cross-claim against Trader Joes' for wrongful rejection. Trader Joe's filed a cross-claim for indemnification against White Arrow. The subject case is in regards to the parties motions for summary judgment.

Trader Joe's motion for summary judgment on Mecca's claim and White Arrow's cross-claim were in regards to Trader Joe's alleged wrongful rejection of the cheese. Relying on the Master

Vendor Agreement between Trader Joe's and Singleton, which gave Trader Joe's the right to reject a shipment if the temperatures during transit exceeded 40 degrees, the court granted Trader Joe's motions for summary judgment.

As mentioned above, Mecca's Second Amended Complaint asserted claims of negligence, breach of contract and indemnification against White Arrow.

The contract between Mecca and White Arrow provided that "the Carrier's liability for cargo loss or damage shall be governed by the provisions of [the Carmack Amendment] 49 U.S.C. § 14706.[16] The court interpreted Mecca's breach of contract claim as a cause of action under Carmack. Mecca moved for summary judgment on its Carmack claim against White Arrow.

White Arrow's motion for summary judgment asked the court to dismiss the Second Amended Complaint against it, based on federal preemption of the negligence and indemnification causes of action and arguing that the Carmack claim failed in that Mecca failed to prove that the cheese was damaged in transit.

The court granted partial summary judgment for Mecca on the issue of Carmack liability, finding Trader Joe's rejection of the cheese reasonable and sufficient to satisfy the damage at destination element of the shipper's prima facie case under Carmack.

The court found for White Arrow on the issue of Carmack preemption of Mecca's state law claims.

In September 2017, the court award Mecca damages, including the amount it paid to Singleton based on the invoice value of the rejected goods, plus the costs of transporting, storing and disposing of the cheese after its rejection.

White Arrow has appealed to the Third Circuit Court of Appeals, asserting the following arguments: (1) White Arrow has demonstrated that Trader Joe's wrongfully rejected the cheese; (2) Mecca has not proven a prima facie case of liability against White Arrow; (3) Mecca has not overcome White Arrow's position that Mecca has no standing to sue White Arrow for its damages; and (4) Mecca is not entitled to recover damages.[17]

In the *Nature's One* case, WD Logistics (a broker), at the request of Triple T Dairy Commodities, arranged for transportation of five shipments of organic nonfat dry milk from Triple T to a company called Spring Hill Jersey Cheese. Spring Hill, in turn supplied the dry milk to Nature's One. The milk was later found to be contaminated with egg allergens.

Nature's One sued Spring Hill; Spring Hill sued WD Logistics. Four of Spring Hill's claims against WD Logistics alleged that WD Logistics' negligence was the proximate cause of the milk's contamination. Spring Hill also brought claims against WD Logistics for indemnity and contribution.

WD Logistics filed a motion for summary judgment on the basis that Spring Hill's state-law claims were preempted by F4A.[18] The court agreed and ruled correctly that claims for negligence against brokers are preempted under F4A.[19]

The court acknowledged that contract-based claims against brokers are not preempted by F4A, but as no contract-based claims had been pleaded, nor was a contract between Spring Hill and WD Logistics included in evidence, WD Logistics' motion for summary judgment was granted.[20]

In *Georgia Nut*,[21] shipper Georgia Nut filed a negligence-based suit in federal court against CH Robinson and All Interstate Trucking for failure to properly deliver a shipment of almonds. The court dismissed the causes of action against Robinson for negligent hiring and supervision, based on F4A preemption. Georgia Nut filed suit again, this time for breach of contract, alleging that Robinson failed to conduct due diligence in selecting the carrier. Robinson argued that F4A preempted a breach of contract claim against a broker when based on the same conduct alleged in a previously preempted negligent carrier hiring/supervision claim and that the contract claim could not stand because the shipper/broker contract did not contain a provision requiring Robinson to pay cargo claims.

The court ruled that because F4A does not preempt breach of contract claims, the contract count is not preempted and that the contract need not contain an express damage provision for a breach of contract claim to be viable.

These three cargo claim cases illustrate the importance of maintaining federal preemption in broker's contracts. Even though you should include waivers of conflicting provisions of the Interstate Commerce Act, it is important *not* to waive the entire Interstate Commerce Act. Without federal preemption, the protection given to interstate commerce by the Constitution would be lost and brokers would be subject to differing, onerous claims in each state.

For more information, please contact **MARTHA J. PAYNE** at mpayne@beneschlaw.com or (541) 764-2959.

[1] Article VI U.S. Constitution
[2] Article 1, Section 8, Clause 3 of the U.S. Constitution
[3] Federal Aviation Administration Authorization Act of 1994, Pub. L. 103; 49 U.S.C. § 14501(c)(1)(2006).
[4] Article 1, Section 8, Clause 3 of the U.S. Constitution
[5] Interstate Commerce Act of 1887
[6] Motor Carrier Act of 1980, Pub. L. No. 96-296, 94 Stat. 793
[7] Federal Aviation Administration Authorization Act of 1994, Pub. L. 103
[8] Interstate Commerce Commission Termination Act, Pub. L. No. 104-88,109 Stat. 803,804.
[9] 49 U.S. Code § 14501(b)(1)
[10] 49 U.S. Code § 14101(b)(1)
[11] 49 U.S. Code § 13102(2)
[12] 49 U.S.C. § 14501(c)(1)(2006).
[13] Mecca & Sons Trucking v. White Arrow 2016 WL 5859018 (D.N.J. 2016) on appeal to the Third Circuit.
[14] Nature's One, Inc. v. Spring Hill Jersey Cheese, Inc., v. WD Logistics, L.L.C. et al, 2017 U.S. Dist. LEXIS 160888
[15] Georgia Nut Company v. C.H. Robinson Company 2018 WL 2009499, 2018 U.S. Dist. LEXIS 71806 (N.D. Ill. Apr. 30 2018)
[16] 49 U.S.C. § 14706
[17] Mecca & Sons Trucking v. White Arrow 2016 WL 5859018 (D.N.J. 2016) on appeal to the Third Circuit.
[18] Nature's One, Inc. v. Spring Hill Jersey Cheese, Inc., v. WD Logistics, L.L.C. et al, 2017 U.S. Dist. LEXIS 160888
[19] The court relied on AIG Europe Ltd. v. Gen. Sys., Inc., WL 3671566 (D. Md. July 22, 2014) Ameriswiss Tech. LLC v. Midway Line of Ill., Inc., 888 F. Supp. 2d 197 (D.N.H. 2012) and Huntington Op. Corp. v. Sybonney Express, Inc., WL 1930087 (S.D. Tex. May 11, 2010)
[20] Nature's One, Inc. v. Spring Hill Jersey Cheese, Inc. , v. WD Logistics, L.L.C. et al, 2017 U.S. Dist. LEXIS 160888
[21] Georgia Nut Company v. C.H. Robinson Company 2018 WL 2009499, 2018 U.S. Dist. LEXIS 71806 (N.D. Ill. Apr. 30 2018)

Letters of Credit – Avoiding Supply Chain Interruptions

Jonathan Todd

Kristopher J. Chandler

Letters of Credit (LOCs) have long been used to minimize the financial risk of international purchase agreements. Sellers and buyers may agree to use LOCs to ensure that goods are received and payment is remitted as intended. Essentially, LOCs function to eliminate the requirement to either pay or release goods without commercial protection by instead agreeing upon the sequence of events under which the transaction will be consummated. LOCs typically establish terms providing for the draw of monies only upon presentment of shipping documents, such as bills of lading, or other documentary evidence demonstrating presence of the goods in the country of destination. This is a valuable tool particularly where trust between the parties is low, although we are often called upon to provide counsel for resolving supply chain interruptions when LOC transactions do not proceed smoothly.

LOCs as Tools for International Trade

A buyer wishing to import goods begins the LOC process by requesting that its bank issue the LOC (the Issuing Bank) to the seller (the Beneficiary) and the seller's bank (the Confirming Bank) in support of a purchase agreement. The LOC is itself an agreement that the Issuing Bank will "honor drafts or demands for payment on compliance with the conditions set forth in the letter of credit."[1] If a seller, or more commonly the seller's documentation, complies with the LOC terms and conditions, then the Issuing Bank is obligated to release the monies designated by the LOC. Thus, the specific conditions of an LOC are key to managing commercial risk in the international transaction.

Commercial LOCs typically involve one of two types of payment terms—either a date draft or a sight draft. A date draft sets forth a date on which the payment is to be made, which is most often the date the buyer has received the goods purchased.[2] A sight draft, on the other hand, requires presentment of the LOC and other documentation before payment is made. In either form, the date or sight draft serves as the principal mechanism for payment between buyer and seller. The terms and conditions of the LOC must therefore be strictly observed or the transaction itself will not be consummated. This is in contrast to standby LOCs, which are also used to minimize risk in international trade but serve only as a guarantee in the event of buyer default.

Presentment of an original bill of lading is often an element of an LOC's terms and conditions. Those terms will specifically require a particular origin, destination, description of goods, sailing dates and other relevant information about the shipment. The Issuing Bank will receive and review the bill of lading, or other supporting documentation, for conformity with the terms as required in the LOC. The intent behind this routine, of course, is to demonstrate that the goods purchased were in fact shipped from the country of export and received in the country of import. Any variance on the face of the bill of lading will cause any diligent Issuing Bank to refuse the release of funds, which will have the effect of both preventing payment to the Beneficiary as well as exercise of title by the buyer.

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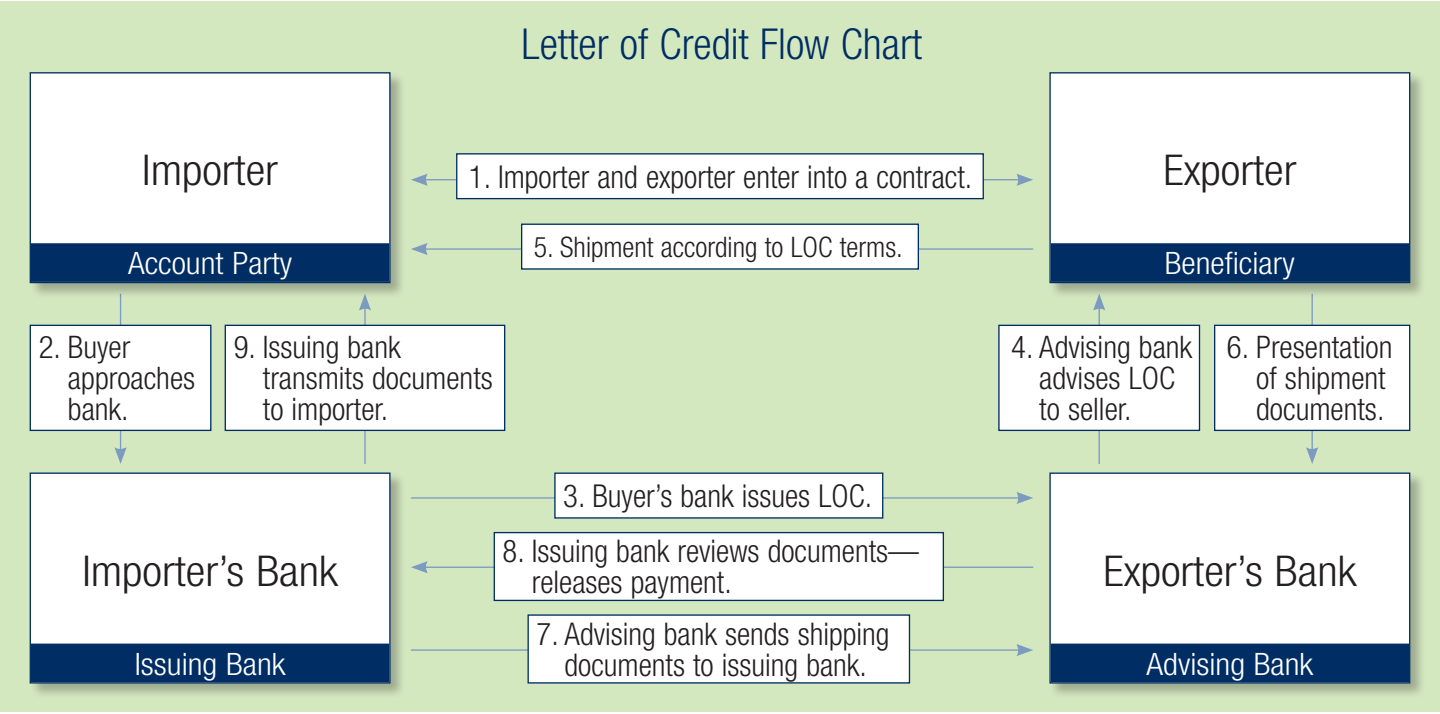

Fairness From the FMC is on the Horizon

Stephanie S. Penninger

John C. Gentile

A cloud of uncertainty hangs over the shipping industry with respect to violations of the Shipping Act—can a single act constitute a Shipping Act violation or does there have to be more pervasive or systematic conduct? But clear skies are not far off in the distance.

The Federal Maritime Commission (FMC) is in the process of clarifying the scope of 46 U.S.C. § 41102(c), previously known as Section 10(d)(1), of the Shipping Act of 1984. Section 41102(c) states that regulated entities, "may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property."

A combination of recent decisions straying from prior precedent and a clogged docket has forced the FMC to examine the limitations of section 41102(c). Possibly due to recent FMC decisions allowing a single act to constitute a Shipping Act violation, section 41102(c) is trending as a tool for solving mere commercial business disputes between or among cargo owners, non-vessel operating common carriers (NVOCCs), marine terminal operators carriers and ocean transportation intermediaries, as opposed to widespread issues affecting commerce. In some instances, section 41102(c) has been used by claimants to circumvent lower statutory limitations of liability and avoid shorter filing periods to which they would otherwise have been subjected.

The proposed rulemaking will clarify in 46 C.F.R. § 545.4 that to establish a successful claim for reparations for a Shipping Act violation under section 41102(c), there must be conduct occurring on a, "normal, customary, and continuous basis" as opposed to a one-time or occasional event.

How We Got Here

Prior to 2010, the FMC had been clear that isolated actions would not support a Section 41102(c) violation. For instance, a failure to notify a shipper of a reclassification of its cargo resulting in having to pay significantly higher shipping charges did not constitute a Shipping Act violation. *See European Trade Specialists v. Prudential-Grace Lines*, 19 SRR 59 (FMC 1979).

However, beginning in 2010, the FMC began issuing opinions stating that a regulated entity, such as a carrier or NVOCC, could be found in violation of the Shipping Act due to an unreasonable practice related to the handling, storing or delivery of a *single shipment* of cargo or a one-time occurrence—*not based on a course or history of bad conduct or dealings*. Decisions of this ilk were emboldening claimants to come forward and prosecute claims that likely could have been resolved without administrative law involvement, in light of the seemingly lower standard for establishing a Shipping Act violation. Starting with the decision in *Houben v. World Moving Services*, 31 SRR 1400 (2010), in which an unlicensed ocean freight forwarder and an NVOCC were found to have violated section 41102(c) after the NVOCC failed to pay its destination agent for services resulting in the holding of the complainant's cargo and a six-month delivery delay, and culminating in the 2013 decision of *Kobel v. Hapag-Lloyd A.G.*, 32 SRR 1720 (FMC 2013), the FMC's prior position has morphed into one where a single incident—even if predicated on good faith intentions—may constitute a violation.

In the 2013 *Kobel* decision, the FMC found that *discrete conduct* with respect to a *single shipment*—the "unlawful" liquidation of damaged containers that remained in storage at the destination port after having been accidentally loaded on to a vessel—supported a violation of Section 41102(c) *regardless of whether that conduct was indicative of the respondent's practice.*

There was no explicit explanation given by the FMC for the change in its interpretation of Section 41102(c), just that a single violation could land an unsuspecting carrier in hot water. "While the FMC can change its interpretation of the Shipping Act, it is well-settled that it must explain why it changed its mind." World Shipping Council, Comment to Docket No. 18-06, Interpretive Rule, Shipping Act of 1984 (October 10, 2018) (citing *FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 515 (2009)). Hence, the FMC's proposed rulemaking has resulted in response.

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Fairness From the FMC is on the Horizon

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The Impetus for Change

Given the FMC's subtle, but significant, turn toward embracing a single act as a possible violation of 46 U.S.C. § 41102(c), industry groups pushed for the FMC to clarify its stance on violations of Section 41102(c). This led to the FMC's publication of its *Notice of Proposed Rulemaking* on September 7, 2018 in Docket No. 18-06 (Notice).

Much concern had surfaced over whether, under the current construction of section 41102(c), *any dispute* concerning a single shipment *could* lead to a Shipping Act violation despite generally reasonable practices related to receiving, handling, storing or delivering cargo. Or whether, the Shipping Act could duplicate other statutory and common law maritime remedies enabling "legal regime shopping." For instance, why not avoid the one-year statute of limitations or $500 per package limitation of liability associated with filing a Carriage of Goods by Sea Act, 46 U.S.C. § 30701 note, formerly 46 U.S.C. § 1300 *et seq.* (COGSA) claim when a party can bring a claim under section 41102(c) two years later and possibly even recoup attorneys' fees?

On October 10, 2018, the FMC closed public comments on the proposed clarification and guidance regarding the interpretation of the scope of 46 U.S.C. § 41102(c). The FMC received four separate comments, all in support of the FMC's proposed clarification.

A common theme throughout the comments, submitted by industry leaders, is that the proposed action by the FMC is a welcome one, and will result in the removal of uncertainty currently hovering over the shipping industry when it comes to potential violations of the Shipping Act for a one-time occurrence. It is believed that the proposed clarification will strike the right balance between encouraging valid Shipping Act claims while directing litigants to file their other claims in another appropriate venue.

"Returning to the FMC's prior position on violations of 46 U.S.C. § 41102(c) will not leave claimants without remedies or provide carriers or other regulated entities with a "get out of jail free" card."

Finally, according to the industry groups, the proposed rulemaking would not result in prejudice against litigants, since just like prior to 2010, plenty of forums exist in which maritime and commercial claims not amounting to Shipping Act violations may be brought.

To Move Forward, Sometimes We Must Step Back

By returning to pre-2010 precedent, the FMC would again adhere to the true Congressional intent of 46 U.S.C. § 41102(c) in which only unjust and unreasonable conduct that is "normal practice or customary" on the part of respondent can be grounds for a violation of 46 U.S.C. § 41102(c). Most notably, the FMC itself stated in the Notice that for decades the FMC has held that to violate the Shipping Act, a practice could not be "an isolated or 'one shot' occurrence," but rather must be "habitually performed and impl[y] continuity," and be "positively established" by the regulated entity and imposed in a "normal, customary, repeated, systematic, uniform, habitual, continuous manner." *See Notice*, 83 Fed. Reg. at 45,369 (Sept. 6, 2018) (collecting cases).

Returning to the FMC's prior position on violations of 46 U.S.C. § 41102(c) will not leave claimants without remedies or provide carriers or other regulated entities with a "get out of jail free" card. Instead, clarifying section 41102(c) to require systematic problems over isolated incidents would be more in line with the true intention of the Shipping Act, which directs common breach of contract claims to the courts, not the FMC. According to the National Customs Brokers and Forwarders Association of America, Inc.'s comments, the proposed rulemaking should "serve to refocus the Commission's resources on issues that affect commerce, rather than converting civil disputes into quasi-criminal violations of the Shipping Act." Perhaps the change will better enable the FMC to concentrate on issues of broad application, *e.g.,* the reasonableness of ocean carrier and marine terminal detention and demurrage charges associated with abandoned shipments or containers not made available for pick-up.

STEPHANIE S. PENNINGER is a partner and the chair of the maritime transportation group and a member of Benesch, Friedlander, Coplan & Aronoff LLP's the litigation and national transportation and logistics practice groups. She may be reached at (312) 212-4981 or spenninger@benesch.com. **JOHN C. GENTILE** is an associate in Benesch's litigation and transportation and logistics practice groups. He may be reached as (302) 442-7071 or jgentile@beneschlaw.com.

Letters of Credit – Avoiding Supply Chain Interruptions

continued from page 6

LOCs as Traps for Transporters

Merchandise moving under an LOC is of course carried by an ocean or air carrier and, very likely, arranged and managed by an ocean or air forwarder. Shipping documents are often significant to the fulfillment of an LOC, but those materials are prepared by the transportation providers with often little or no communication regarding the specific terms of the LOC. A transportation provider may, as a result, unknowingly generate paperwork on which the transaction cannot be completed. The subsequent inconvenience burdens both seller and buyer as well as the transportation provider, who then must hold the merchandise and sometimes reissue documentation (even "original" documentation) in the interest of conforming with the newly disclosed LOC terms.

Buyers hold the keys to effectively communicating LOC requirements due to their direct relationship with the Issuing Banks. Buyers must consider the desired shipping terms and ensure that those are reflected in the terms of the LOC. The ports of loading and destination on the shipping documents must match those ports identified in the terms of the LOC. The description of the goods sold on the shipping documents must match the description of the goods denoted on the LOC. The exact documents to be presented for payment under the LOC must be presented at the time of collection. Thus, it is important that the buyer communicate with the seller to ensure alignment on those requirements and avoid supply chain interruption. The party responsible for arranging transportation, whether seller or buyer, must know precisely which terms must be evidenced on the bill of lading in order for the transaction to succeed.

Buyers must also remain cognizant of any changes in the terms of sale or transportation. The terms of an LOC cannot be altered by the Issuing Bank, regardless of the necessity for that change, without the express written consent of the buyer. Thus, if a buyer and its seller make changes to a supply contract that affect the use of an LOC then, if the LOC has already issued, the buyer must instruct the Issuing Bank to amend and reissue the LOC. Any transactional changes that inadvertently cause variance in terms evidenced on the bill of lading, invoice, or other transactional document must also be considered in terms of the LOC. If those documents do indeed change and are required for presentment, then the Issuing Bank very often may refuse payment on grounds of nonconformity. Some changes may be those that a transportation provider can accommodate, such as updating the legal name of a consignee, but others very well may require an amendment to the LOC terms.

Avoiding Supply Chain Interruptions

Effective communication is paramount due to the varying roles and interests of the many parties to an LOC transaction (seller, Confirming Bank, buyer, Issuing Bank and transportation services providers). The transportation services provider is often in a vulnerable position because it is furthest removed from the LOC terms. Those providers are required to issue bills of lading and other documentation precisely and without deviation from terms found in LOCs—terms that those providers neither negotiated nor had the opportunity to review. No party wishes for merchandise to sit at a receiving port collecting demurrage and other charges while LOCs are renegotiated and documents are reissued. The solution always involves educating the parties, aligning expectations, and bringing clarity to documentary requirements. In all events, if those remedial exercises had occurred in advance through proper communication, then the transactions would have proceeded without interruption.

JONATHAN TODD is Of Counsel with the national Transportation & Logistics Practice Group of Benesch, Friedlander, Coplan & Aronoff LLP. He is a licensed U.S. Customs Broker in addition to an attorney. You may reach Jonathan at jtodd@beneschlaw.com or (216) 363-4658. **KRISTOPHER J. CHANDLER** is an associate with the firm who practices in the areas of commercial transactions, transportation and intellectual property. You may reach Kristopher at kchandler@beneschlaw.com or (614) 223-9377.

[1] Goods in Transit § 2.07 (2018).

[2] https://www.export.gov/article?id=Letters-of-Credit-and-Documentary-Collection.

WHAT'S TRENDING

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INCOTERMS – Ground Zero for Negotiating Tariff Impact

continued from page 3

CIF Cost, Insurance and Freight: "Cost, Insurance and Freight" means that the seller delivers the goods on board the vessel or procures the goods already so delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel. The seller must contract for and pay the costs and freight necessary to bring the goods to the named port of destination. The seller also contracts for insurance coverage against the buyer's risk of loss of or damage to the goods during the carriage. The buyer should note that under CIF the seller is required to obtain insurance only on minimum cover. Should the buyer wish to have more insurance protection, it will need either to agree to as much expressly with the seller or to make its own extra insurance arrangements.

CIP Carriage and Insurance Paid To: "Carriage and Insurance Paid To" means that the seller delivers the goods to the carrier or another person nominated by the seller at an agreed place (if any such place is agreed between parties) and that the seller must contract for and pay the costs of carriage necessary to bring the goods to the named place of destination. The seller also contracts for insurance cover against the buyer's risk of loss of or damage to the goods during the carriage. The buyer should note that under CIP the seller is required to obtain insurance only on minimum cover. Should the buyer wish to have more insurance protection, it will either need to agree to as much expressly with the seller or to make its own extra insurance arrangements.

CPT Carriage Paid To: "Carriage Paid To" means that the seller delivers the goods to the carrier or another person nominated by the seller at an agreed place (if any such place is agreed between parties) and that the seller must contract for and pay the costs of carriage necessary to bring the goods to the named place of destination.

EXW Ex Works: "Ex Works" means that the seller delivers when it places the goods at the disposal of the buyer at the seller's premises or at another named place (i.e., works, factory, warehouse, etc.). The seller does not need to load the goods on any collecting vehicle, nor does it need to clear the goods for export, where such clearance is applicable.

FCA Free Carrier: "Free Carrier" means that the seller delivers the goods to the carrier or another person nominated by the buyer at the seller's premises or another named place. The parties are well advised to specify as clearly as possible the point within the named place of delivery, as the risk passes to the buyer at that point.

DAT Delivered At Terminal: "Delivered at Terminal" means that the seller delivers when the goods, once unloaded from the arriving means of transport, are placed at the disposal of the buyer at a named terminal at the named port or place of destination. "Terminal" includes a place, whether covered or not, such as a quay, warehouse, container yard or road, rail or air cargo terminal. The seller bears all risks involved in bringing the goods to and unloading them at the terminal at the named port or place of destination.

DAP Delivered At Place: "Delivered at Place" means that the seller delivers when the goods are placed at the disposal of the buyer on the arriving means of transport ready for unloading at the named place of destination. The seller bears all risks involved in bringing the goods to the named place.

DDP Delivered Duty Paid: "Delivered Duty Paid" means that the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.

FAS Free Alongside Ship: "Free Alongside Ship" means that the seller delivers when the goods are placed alongside the vessel (e.g., on a quay or a barge) nominated by the buyer at the named port of shipment. The risk of loss of or damage to the goods passes when the goods are alongside the ship, and the buyer bears all costs from that moment onwards.

FOB Free On Board: "Free On Board" means that the seller delivers the goods on board the vessel nominated by the buyer at the named port of shipment or procures the goods already so delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel, and the buyer bears all costs from that moment onwards.

The visual representation on the next page displays INCOTERMS and their practical implications for each party to the purchasing agreement.

JONATHAN TODD is Of Counsel with the Transportation & Logistics Practice Group of Benesch, Friedlander, Coplan & Aronoff LLP. He is a licensed U.S. Customs Broker in addition to an attorney. You may reach Jonathan at jtodd@beneschlaw.com or (216) 363-4658. **KRISTOPHER J. CHANDLER** is an associate with the firm who practices in the areas of commercial transactions, transportation and intellectual property. You may reach Kristopher at kchandler@beneschlaw.com or at (614) 223-9377.

[1] https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-rules-history/.

[2] These short descriptions were reproduced from the International Chamber of Commerce website at https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-rules-2010/. The full text of the 2010 edition of the Incoterms rules is available for purchase at http://store.iccwbo.org/.

INCOTERMS Practical Meanings

	Terms That Apply To Any Mode Of Transport							Terms That Apply To Sea And Inland Waterway Transport Only				
	EXW	**FCA**	**CPT**	**CIP**	**DAT**	**DAP**	**DDP**	**FAS**	**FOB**	**CFR**	**CIF**	
Services	Ex Works	Free Carrier	Carriage Paid To	Carriage & Insurance Paid To	Delivered at Terminal	Delivered at Place	Delivered Duty Paid	Free Alongside Ship	Free On Board	Cost & Freight	Cost, Insurance & Freight	Location of Freight
Export Packing												
Marking & labeling												Seller's Premises
Export Clearance												
Freight Forwarder Documentation Fees												
Inland Freight to Main Carrier												Carrier's Terminal At Origin
Origin Terminal Charges												
Vessel Loading Charges												
Ocean Freight / Air Freight												Loaded On Board Of Vessel At Port Of Origin / On Aircraft
Nominate Export Forwarder												
Marine Insurance												
Unload Main Carrier Charges												
Destination Terminal Charges												Unloaded From Vessel At Port of Destination / On Aircraft
Nominate On-Carrier												
Security Information Requirements												
Customs Broker Clearance Fees												Named Terminal
Duty, Customs Fees, Taxes												
Delivery to Buyer Destination												
Delivering Carrier Unloading												Buyer's Premises

LEGEND	
	Seller pays
	Buyer pays
	Not completed by Incoterms
	FCA Seller's Facility - Buyer pays inland freight; other FCA qualifiers. Seller arranges and loads pre-carriage and pays inland freight to the "F" delivery place
	Charges paid by Seller if through Bill of Lading or do-to-door rate to Buyer's destination
	Seller's risk
	Buyer's risk

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TRANSPORTATION & LOGISTICS GROUP ADDS MORE STRENGTH TO TEAM IN CHICAGO

Benesch is pleased to announce that Labor & Employment attorneys **Margo Wolf O'Donnell, Charles B. Leuin** and **Emily C. Fess** have joined the Transportation & Logistics Practice Group in Chicago.

Margo Wolf O'Donnell

Margo is Co-Chair of Benesch's Labor and Employment group. She has nearly 25 years of experience litigating and counseling clients on complex employment-related issues, including individual and group discharges, releases, confidentiality agreements, non-compete agreements and internal investigations. Margo has represented clients in the transportation and logistics industry in matters ranging from counseling on day-to-day employment issues to defending a national trucking company in one of the largest race discrimination class actions in history. She has been recognized as one of the *Best Lawyers in Americ*a, a "role model" by *Chambers*, and one of the top ten women employment management attorneys in Illinois by *Leading Lawyer*. Crain's Chicago included Margo in its inaugural list of "Most Influential Women Lawyers in Chicago" and its 2018 "Most Notable Women Attorneys in Chicago."

Margo can be contacted at (312) 212-4982 or modonnell@beneschlaw.com.

Charles B. Leuin

Charles is a partner with the firm and an accomplished first-chair trial lawyer who focuses his practice on a range of complex employment and commercial litigation matters, including restrictive covenant, trade secret and other intellectual property litigation, employment and whistleblower litigation, contract litigation and business disputes, fiduciary litigation, and class action defense. He possesses wide-ranging trial and appellate experience and has appeared in state and federal courts throughout Illinois and across the nation. Charles has handled numerous matters in and involving the transportation and logistics industry, including restrictive covenant cases that have led to a detailed understanding that includes freight brokerage, third-party logistics and trucking. Charles knows that the willingness and ability to stand up in front of a judge or jury to argue forcefully and effectively for his clients often is the best way to avoid litigation, to resolve it quickly and efficiently when it does occur, and to advance his clients' interests when full scale litigation is necessary.

Charles can be contacted at (312) 624-6344 or cleuin@beneschlaw.com.

Emily C. Fess

Emily is a seasoned labor associate and counsels employers on a broad range of employment law matters, including medical leave and accommodation requests, discipline and discharge, harassment and workplace investigations and wage and hour issues. Emily's litigation experience includes regularly responding to discrimination charges filed with the EEOC and state agencies and representing clients, including those in the transportation and logistics industry, in federal and state court in various Title VII, ADA, FMLA, FLSA and retaliation suits.

Emily can be contacted at (312) 624-6326 or efess@beneschlaw.com.

Since January 2015, Benesch has welcomed over 123 new attorneys, 58 staff members and opened a new office in Chicago. The strategic addition of these attorneys and offices is another step in executing the firm's aggressive growth plan and goal to continuously enhance the quality of service provided to clients.

RECENT EVENTS

National Tank Truck Carriers (NTTC) 2018 Summer Membership & Board Meeting
Richard A. Plewacki attended.
August 8–10, 2018 | Vail, CO

Cleveland State University—Monte Ahuja College of Business
Marc S. Blubaugh presented *Blockchain 101: Will Blockchain Transform the Supply Chain?*
August 10, 2018 | Cleveland, OH

21st Annual Northeast Ohio Logistics Conference
Jonathan Todd attended.
August 20, 2018 | Akron, OH

Intermodal Association of North America's (IANA) Intermodal Expo
Marc S. Blubaugh, Martha J. Payne and **Stephanie S. Penninger** attended.
September 16–18, 2018 | Long Beach, CA

Arkansas Trucking Seminar
Eric L. Zalud attended.
September 18–20, 2018 | Rogers, AR

Benesch Seminar: Privacy and Security—How to Protect What Your Company Values Most
Stephanie S. Penninger presented *Emerging Technologies for Transportation Service Providers and Mitigating Risk,* **Charles B. Leuin** presented *5 Tips for Drafting Non-Competes and Confidentiality Agreements* and **Margo Wolf O'Donnell** presented *Employment Policies to Prevent Claims of Discrimination and Harassment.*
September 20, 2018 | Chicago, IL

3rd Annual DAT User Conference
Martha J. Payne presented.
September 24–26, 2018 | Portland, OR

2018 Conference on Transportation Innovation and Cost Savings
Stephanie S. Penninger attended.
September 25, 2018 | Ontario, Canada

Truckload Carriers Association (TCA) Fall Policy Committee and Board of Directors Meetings
Richard A. Plewacki attended.
September 26, 2018 | Arlington, VA

Wreaths Across America Gala
Richard A. Plewacki attended.
September 28, 2018 | Arlington, VA

Breakbulk Americas Exhibition
Stephanie S. Penninger attended.
October 2–4, 2018 | Houston, TX

2018 TerraLex Global Meeting
Eric L. Zalud attended.
October 3–5, 2018 | Boston, MA

Trucking Industry Defense Association (TIDA) 26th Annual Seminar
Kevin M. Capuzzi attended.
October 3–5, 2018 | Austin, TX

2018 Co-Vest Annual Conference
Marc S. Blubaugh presented *Blockchain 101: What Does it Portend for Procurement.*
October 4, 2018 | Cleveland, OH

2018 International Warehouse Logistics Association (IWLA) Essentials of Warehousing Course
Marc S. Blubaugh presented *Fundamentals of Transportation Law.*
October 10–14, 2018 | Atlanta, GA

ABA TIPS Fall Leadership Meeting and Admiralty and Maritime Law Committee Meeting
Stephanie S. Penninger attended.
October 10–14, 2018 | Amelia Island, FL

6th Food and Beverage Exchange: Litigation, Compliance and Regulatory
Stephanie S. Penninger attended.
October 16–17, 2018 | Chicago, IL

Logistics and Transportation National Association (LTNA) National Conference 2018
Eric L. Zalud attended.
October 17–19, 2018 | New Orleans, LA

Canadian Transport Lawyers Association (CTLA)— AGM & Educational Conference 2018
Martha J. Payne presented *Case Studies: Shipper & Carriers / Cargo Claims: Move Fast, Move Slow but Protect Your Interests.* **Stephanie S. Penninger** presented *Maritime Tools in the Event of Bankruptcy.* **Eric L. Zalud** presented on M&A in the transportation and logistics sector.
October 25–27, 2018 | Montreal, Canada

American Trucking Associations Management Conference and Exhibition
Marc S. Blubaugh, Richard A. Plewacki, Matthew J. Selby and **Jonathan Todd** attended.
October 27–31, 2018 | Austin, TX

The Capital Roundtable's Conference on Private Equity Investing in Transportation and Logistics
Marc S. Blubaugh, Peter K. Shelton, Jonathan Todd and **Eric L. Zalud** attended.
November 1, 2018 | New York City, NY

2018 International Warehouse Logistics Association (IWLA) Legal Symposium
Verlyn Suderman presented on vendor contracts. **Kristopher J. Chandler** attended.
November 8, 2018 | Fort Worth, TX

51st Transportation Law Institute (TLI)
Marc. S. Blubaugh, Stephanie S. Penninger, Richard A. Plewacki, Jonathan Todd and **Eric L. Zalud** attended.
November 9, 2018 | Louisville, KY

Transportation Lawyers Association's Executive Committee Meeting
Marc Blubaugh attended as a Voting Past President.
November 10, 2018 | Louisville, Kentucky

Transportation Intermediaries Association Webinar
Stephanie S. Penninger presented *I'm Kind of a Big Dill: Current Challenges in Transporting Food Under FSMA.*
November 14, 2018 | Webinar

Women in Trucking 2018 Accelerate! Conference and Expo
Stephanie S. Penninger and **Jackie Staple** presented *Protecting Women From Harassment in the Workspace.*
November 12–14, 2018 | Frisco, TX

Transportation & Logistics Group

For more information about the Transportation & Logistics Group, please contact any of the following:

ERIC L. ZALUD, Co-Chair | (216) 363-4178
ezalud@beneschlaw.com

MARC S. BLUBAUGH, Co-Chair | (614) 223-9382
mblubaugh@beneschlaw.com

MICHAEL J. BARRIE | (302) 442-7068
mbarrie@beneschlaw.com

KEVIN M. CAPUZZI | (302) 442-7063
kcapuzzi@beneschlaw.com

KRISTOPHER J. CHANDLER | (614) 223-9377
kchandler@beneschlaw.com

JUSTIN P. CLARK | (216) 363-4616
jclark@beneschlaw.com

EMILY C. FESS
efess@beneschlaw.com | (312) 624-6326

JOHN C. GENTILE | (302) 442-7071
jgentile@beneschlaw.com

JOSEPH N. GROSS | (216) 363-4163
jgross@beneschlaw.com

MATTHEW D. GURBACH | (216) 363-4413
mgurbach@beneschlaw.com

JENNIFER R. HOOVER | (302) 442-7006
jhoover@beneschlaw.com

TREVOR J. ILLES | (312) 212-4945
tilles@beneschlaw.com

THOMAS B. KERN | (614) 223-9369
tkern@beneschlaw.com

PETER N. KIRSANOW | (216) 363-4481
pkirsanow@beneschlaw.com

DAVID M. KRUEGER | (216) 363-4683
dkrueger@beneschlaw.com

CHARLES B. LEUIN
cleuin@beneschlaw.com | (312) 624-6344

MICHAEL J. MOZES | (614) 223-9376
mmozes@beneschlaw.com

KELLY E. MULRANE | (614) 223-9318
kmulrane@beneschlaw.com

MARGO WOLF O'DONNELL
modonnell@beneschlaw.com | (312) 212-4982

STEVEN A. OLDHAM | (614) 223-9374
soldham@beneschlaw.com

LIANZHONG PAN | (011-8621) 3222-0388
lpan@beneschlaw.com

MARTHA J. PAYNE | (541) 764-2859
mpayne@beneschlaw.com

STEPHANIE S. PENNINGER | (312) 212-4981
spenninger@beneschlaw.com

JOEL R. PENTZ | (216) 363-4618
jpentz@beneschlaw.com

RICHARD A. PLEWACKI | (216) 363-4159
rplewacki@beneschlaw.com

JULIE M. PRICE | (216) 363-4689
jprice@beneschlaw.com

MATTHEW (Matt) J. SELBY | (216) 363-4458
mselby@beneschlaw.com

PETER K. SHELTON | (216) 363-4169
pshelton@beneschlaw.com

VERLYN SUDERMAN | (312) 212-4962
vsuderman@beneschlaw.com

CLARE TAFT | (216) 363-4435
ctaft@beneschlaw.com

JONATHAN TODD | (216) 363-4658
jtodd@beneschlaw.com

JOSEPH P. YONADI, JR. | (216) 363-4493
jyonadi@beneschlaw.com

www.beneschlaw.com

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ON THE HORIZON

Columbus Roundtable of Council of Supply Chain Management Professionals

Marc S. Blubaugh is moderating the *Annual Transportation Executive Panel.*
January 11, 2019 | Columbus, OH

The Ohio Trucking Association's Safety Council Meeting

Marc S. Blubaugh and **Kelly E. Mulrane** are presenting *Having a Winning Deposition Strategy.*
January 17, 2018 | Columbus, OH

BG Strategic Advisors Supply Chain Conference

Marc S. Blubaugh, Peter Shelton and **Eric L. Zalud** are attending.
January 23–25, 2018 | Palm Beach, FL

Transportation Law Association (TLA) Chicago Regional Seminar and Bootcamp

Marc S. Blubaugh, Kevin M. Capuzzi, William E. Doran, Emily C. Fess, John C. Gentile, Charles Leuin, Kelly E. Mulrane, Margo Wolf O'Donnell, Stephanie S. Penninger, Verlyn Suderman, Jonathan Todd and **Eric L. Zalud** are attending.
January 24–25, 2019 | Chicago, IL

Air Cargo Conference

David M. Krueger, Martha Payne and **Jonathan Todd** are attending.
February 10–12, 2019 | Las Vegas, NV

Stifel Transportation Conference

Marc S. Blubaugh and **Eric L. Zalud** are attending.
February 11–13, 2019 | Miami, FL

BB&T Transportation Conference

Marc S. Blubaugh and **Eric L. Zalud** are attending.
February 13–14, 2019 | Miami, FL

ABA TIPS Mid-Year Conference and Admirality and Maritime Law Committee Meeting

Stephanie S. Penninger is attending.
February 21–23, 2019 | Phoenix, AZ

Journal of Commerce 19th TPM Annual Conference

Stephanie S. Penninger is attending.
March 3–6, 2019 | Long Beach, CA

2019 International Warehouse Logistics Association (IWLA) Convention & Exp

Marc S. Blubaugh, Verlyn Suderman and **Eric L. Zalud** are attending.
March 10–13, 2019 | Savannah, GA

International Warehouse Logistics Association (IWLA) Webinar

Marc S. Blubaugh is presenting *Legal Lessons: Key Court Decisions of 2018.*
March 21, 2018 | Webinar

ABA TIPS Admiralty & Maritime Law Committee Admiralty Disruption Conference

Stephanie S. Penninger is moderating *From Blue to Brown Water: What Keeps Maritime In-House Counsel Up at Night and What Are Outside Counsel Doing to Create or Help Their Insomnia?*
March 22–23, 2019 | New Orleans, LA

Transportation and Logistics Council (TLC) 45th Annual Conference

Marc S. Blubaugh is presenting *The Amazon Effect.* **Eric L. Zalud** is presenting *Loss Prevention and Mitigation of Damage.* **Martha J. Payne** and **Stephanie S. Penninger** will also be presenting.
March 25–27, 2019 | Memphis, TN

ABA TIPS Admiralty & Maritime Law Committee and Women's International Shipping and Trading Association Roundtable

Stephanie S. Penninger is presenting *Batten Down the Hatches: Navigating the Seas of 2019 Hot Maritime Topics.*
April 2, 2019 | Stamford, CT

2019 Transportation Intermediaries Association (TIA) Capital Ideas Conference

Marc S. Blubaugh, **Martha J. Payne, Stephanie S. Penninger** and **Jonathan Todd** are attending.
April 11–12, 2019 | Orlando, FL

2019 TerraLex Global Meeting

Eric L. Zalud is attending.
April 10–13, 2019 | Kuala Lumpur, Malaysia

Intermodal Association of North America's Operations and Maintenance Business Meeting

Marc Blubaugh is attending.
April 30 – May 2 | Lombard, IL

ABA TIPS Section Conference and Admiralty and Maritime Law Committee Meeting

Stephanie S. Penninger is attending.
April 30–May 5, 2019 | New York, NY

For further information and registration, please contact **MEGAN THOMAS**, Client Services Manager, at mthomas@beneschlaw.com or (216) 363-4639.

Benesch