

IN TRANSIT



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News on industry developments and transportation projects from
the Transportation and Logistics Law Group at Dean & Fulkerson

ROAD REPORT

■ **AMBIGUOUS PROVISIONS VIOLATE TRUTH-IN-LEASING** Finding an equipment lease's language ambiguous, thus violating federal Truth-In-Leasing regulations, a Court rejected the carrier's interpretation excluding accessorial services billed to shippers but not performed by lessors' drivers from the lease's percentage of "gross revenue" computation.

Owner-Operator Independent Drivers Association v Bulkmatic (DC Ill 2007)

■ **CARRIER COLLECTION THWARTED** A Court nixed a carrier's efforts to use contract and equitable claims under state law to avoid freight charge claims being time barred by the Interstate Commerce Commission Termination Act's 18-month time limit. Reason? ICCTA preempts any state law providing a longer period, regardless of how characterized.

Emmert Industrial Corporation v Artisan Associates (9th Cir 2007)

■ **BROKERING LOAD NOT DEFENSE** A shipper's damage claim was determined to have been properly brought against a carrier which performed no over-the-road services but, instead, acted merely as a property broker by arranging for service by another carrier. The facts that the defendant carrier held a broker license, was permitted to broker loads by the shipper contract and issued no transportation documents with regard to the ill fated shipment were immaterial to the Court's imposition of *Carmack* liability on defendant.

Land O'Lakes v Superior Service Transportation (DC Wis 2007)

ON THE DOCK

■ **DETROIT AREA TRUCKING SEMINAR** D&F and the Michigan Trucking Association co-sponsored the third annual Detroit Area Trucking Seminar on November 7. D&F and outside speakers discussed Driver Privacy Issues, Sleep Apnea and Safety Compliance Reviews.

*D&F Attorneys: Janet Lanyon,
John Bryant, Neill Riddell*

■ **MEDICAL DISQUALIFICATION** Several D&F clients have faced problems with drivers who had clearly disqualifying medical conditions (diabetes, monocular vision) that were not reflected on their medical certificates. D&F assisted in providing remedies under FMCSA rules to force recertification testing and disqualification for future driving.

D&F Attorney: Ian Hunter

■ **HOURS OF SERVICE** D&F has been advising clients on the timing and possible stays of the hours of service litigation in the District of Columbia Circuit, based on contacts with counsel of record and experience in federal appeals litigation.

D&F Attorney: John Bryant

■ **ARBITRATION, NOT JURY** D&F recently concluded arrangements to remove a truck accident case from a pending Wayne County Circuit Court jury trial and

FEATURE:
NEW MICHIGAN TAXES FOR
TRUCKING COMPANIES

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