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TRANSPORTATION LAW JOURNAL

Industry Leader in Multi-Modal Law, Economics & Policy

ARTICLES

Preemption is Not Dead: the Continued
Vitality of Preemption Under the Federal
Railroad Safety Act Following the 2007
Amendment to 49 U.S.C. § 20106

Frank J. Mastro

The Employment Classification Issue in
the Motor Carrier Industry

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Strict Liability and COGSA versus
Carmack

Matthew K. Bell



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TRANSPORTATION LAW JOURNAL

The *Transportation Law Journal* is a major professional publication in the field of transportation law, and is dedicated to maintaining its position as a valuable working tool for the practicing bar, government, and the academic community. It addresses both domestic and international developments of legal, regulatory, economic, and political interest in all modes of passenger and freight transportation –aviation/airports, passenger rail, transit, cycling, freight rail, motor carrier, maritime, aerospace, and pipelines, freight forwarders, and brokers.

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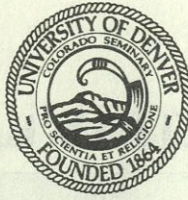
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Dear Reader:

The articles featured in the Spring 2010 issue of the Transportation Law Journal (TLJ) analyze rail safety, motor carrier employment, and cargo liability.

First, Frank Mastro examines state tort liability causes of action when federal law governs interstate rail safety. Federal law extensively regulates interstate rail activities from hours of service to newly promulgated Positive Train Control regulations. Should the railroad industry also be subjected to state tort law? Mr. Mastro examines this issue thoroughly and convincingly.

Veteran TLJ author, James Hardman, contributes once again to the TLJ with an article covering employment and the motor carrier industry. Mr. Hardman explores the disparate tests courts utilize to determine whether a motor carrier driver is an employee or an independent contractor. This issue seems particularly timely as our nation climbs out of the "Great Recession." If recession-weary employers choose to utilize contract drivers to save on employee-related overhead costs, courts and lawmakers will face increased pressure to simplify the definition of an employee and an independent contractor. The TLJ appreciates Mr. Hardman for his scholarship and continued support of the Journal.

Finally, Matt Bell provides his insight on the ever-complex issue of cargo liability. Cargo liability is a familiar issue to the TLJ due to the legal ambiguity surrounding cargo claims. Mr. Bell considers strict liability and COGSA versus CARMACK.

This journal is only published thanks to the diligent work of our student editors. I would like to recognize our Executive Article Editors: Paul Rupprecht, Amy Lopez, and Jason Alleman.

Also, special thanks to our Business Editor, Andrew Welch. Andrew works behind the scenes to keep the business affairs of the journal in order. Without Andrew's great organizational skills and attention to detail, the TLJ issues would not make to it your mailbox.

Please enjoy the issue.

Justin Marks
2009-2010 Editor in Chief

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