

Vol. 32, no. 2: Table of Contents

# TRANSPORTATION LAW JOURNAL

---

Industry Leader in Multi-Modal Law, Economics & Policy

---

## ARTICLES

Prologue: Federal Motor Carrier Leasing  
and Interchange Regulations and OOIDA  
Litigation

*James C. Hardman*

The Lease and Interchange of Vehicles in  
the Motor Carrier Industry

*Jessica Goldstein*

An Overview of OOIDA Litigation

*James C. Hardman*

Private Rights of Action to Enforce the  
Truth-in-Leasing Regulations in Court

*James C. Sullivan*

OOIDA Litigation and the Arbitration of  
Motor Carrier Owner-Operator Disputes

*James C. Hardman*

OOIDA Class-Action Damages and  
Other Relief

*Daniel D. Doyle  
and Jennifer A. Fletcher*



Transportation Lawyers Association





UNIVERSITY OF DENVER COLLEGE OF LAW  
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 transportation—aviation/airports, motor, rail, maritime, aerospace, and pipelines, freight forwarders, and brokers.

The *Transportation Law Journal* is sponsored jointly by the Transportation Law Program of the University of Denver College of Law and the Transportation Lawyers Association, the largest bar association of its kind in the United States and Canada.

The *Transportation Law Journal* is published three times a year, summer, fall, and spring, by the students of the University of Denver College of Law. Fourth class postage paid at Lincoln, Nebraska, and at additional mailing offices.

Correspondence should be addressed to *Transportation Law Journal*, University of Denver College of Law, 2255 E. Evans Avenue, Room 448, Denver, Colorado 80208; (303) 871-6162. FAX: (303) 871-6165. E-mail: [tlj@student.law.du.edu](mailto:tlj@student.law.du.edu). Advertising rates are available on request.

Inquiries regarding submission of manuscripts for publication should be addressed to the Editor in Chief. All manuscripts are carefully considered by the Board of Editors, which reserves the right to make final publication decisions. Manuscript preparation instructions are available on request.

The opinions expressed herein do not necessarily reflect the views of the *Transportation Law Journal*, the University of Denver, or the Transportation Lawyers Association.

# TRANSPORTATION LAW JOURNAL

Volume 32

2005

No. 2

Copyright © 2005 by the Transportation Law Journal

## TABLE OF CONTENTS

### ARTICLES

- Prologue: Federal Motor Carrier Leasing and Interchange Regulations  
and OOIDA Litigation  
*James C. Hardman* ..... 127
- The Lease and Interchange of Vehicles in the Motor Carrier Industry  
*Jessica Goldstein*..... 131
- An Overview of OOIDA Litigation  
*James C. Hardman* ..... 147
- Private Rights of Action to Enforce the Truth-in-Leasing Regulations in  
Court  
*James C. Sullivan*..... 159
- OOIDA Litigation and the Arbitration of Motor Carrier Owner-  
Operator Disputes  
*James C. Hardman* ..... 175
- OOIDA Class-Action Damages and Other Relief  
*Daniel D. Doyle and  
Jennifer A. Fletcher* ..... 199

Dear Reader,

On behalf of all members of the 2005-2006 Transportation Law Journal ("TLJ"), I am pleased to introduce Volume 32:2, a publication centered on recent litigation brought by the Owner-Operator Independent Drivers Association, a topic of significant concern to the motor carrier industry. I am proud of the tremendous effort put forth by the entire staff in pulling this issue together, and particularly appreciative of the Journal's Executive Board, without whose unceasing dedication this publication would not have been possible.

I sincerely thank all of the authors who contributed to this publication: Mr. James C. Hardman, Ms. Jessica Goldstein, Mr. James C. Sullivan, Mr. Daniel D. Doyle and Ms. Jennifer A. Fletcher. Through their hard work and insightful commentary, they have made a significant contribution both to the TLJ and to the field of transportation law in general. Additionally, the Journal owes a debt of gratitude to two parties who were instrumental in this issue's development. First, a very sincere thank-you to Mr. James C. Hardman, who not only orchestrated the TLJ Symposium upon which this issue is based, but remained devoted to the project through its completion. Mr. Hardman was kind enough to step in at the last minute and author an additional article when the original author gave late notice that he was unable to participate. Without Mr. Hardman's determination and assistance, this publication would still be in progress.

Second, the 2005-2006 TLJ would like to extend a very genuine thank-you to the 2004-2005 TLJ, and in particular to Berry White (Editor in Chief), Jennifer Mullenbach (Articles Editor), and Tony Ryan (Managing Editor). Berry, Jennifer and Tony coordinated the publication of this issue with Mr. Hardman. Additionally, Jennifer and Berry took great pains to effectuate a smooth transition between Journal staff, resulting in a seamless transfer of responsibility that has allowed this year's TLJ to operate more effectively. Finally, Jennifer and Berry have been a constant source of assistance, advice and reassurance, and have never hesitated to answer even the most simple of questions. Thank-you, all!

Finally, I cannot refrain from adding that, on a personal note, the publication of this issue coincides with a particularly joyous blessing bestowed on my wife Elizabeth and I. On Saturday, October 29, 2005, at 6:53 p.m., we were ecstatic to meet our first son, Anderson Holden. The past two months have, as expected, been challenging, but they have also been more rewarding than I could ever have imagined. I consider it a tremendous privilege to combine two distinct but worthwhile ventures, publishing and fatherhood, into a single year of unparalleled learning and development.

Respectfully,

Stephen Wichern  
Editor in Chief  
Transportation Law Journal  
University of Denver Sturm College of Law

# TRANSPORTATION LAW JOURNAL

## 2005 – 2006

---

UNIVERSITY OF DENVER STURM COLLEGE OF LAW

*Editor in Chief*  
STEPHEN A. WICHERN

*Executive Articles Editor*  
KELLY A. FISCHER

*Executive Articles Editor*  
LINDSEY SABEC

*Business Editor*  
CECILA REYNA

*Managing Editor*  
PHILLIP DECARO

*Associates Articles Editor*  
NAOMI PERERA

*Technical Editors*  
ERIK DULLEA  
ALISON FOLEY  
LISA HERBST  
MATTHEW LINTON  
VIRGINIA WILKS

*Staff Editors*

ALENA AMUNDSON	JAMES DOWNING	MICHAEL MAHON
MARY BARHAM	RICK FEGER	ELLIOT MILLER
RYAN BEHRMAN	SHANE GARMAN	MIKE PIMENTEL
STEPHANIE BERBERICH	JESSICA GOLDSTEIN	ATHENA ROE
KENNETH BOYD	CRYSTAL GORDON	CHRISTINA ROY
KAMI BOYT-MIRC	LINDA KNIGHT	STEVE SIGSBURY
JENNIFER BROWN	MATHEW KOREN	JUSTIN TUCKER
JESSICA COLLIER	PRISCILLA J. LOEW	RANDY WEINSTEIN
FERNANDO DEJUAN		MATTHEW WHITE

*Faculty Advisor*  
ROBERT HARDAWAY

# TRANSPORTATION LAW JOURNAL

2004-2005

*Editor in Chief*

H. BERRY WHITE, IV

*Business Editor*

DANA TOM

*Managing Editor*

ANTHONY M. RYAN

*Senior Articles Editor*

JENNIFER MULLENBACH

*Technical Editors*

CHESSA BIERI

PHIL DECARO

JENNIFER DIVINE

LISA LABADIE

OSMAN NAWAZ

*Staff Editors*

BUCK BELTZER

OWEN BISHOP

JONATHAN REED BRITT

ERIK M. DULLEA

KELLY FISCHER

NICHOLAS DE LA GARZA

JESSICA GOLDSTEIN

CRYSTAL GORDON

JEFFREY LEAKE

MATTHEW LINTON

PRISCILLA J. LOEW

NAOMI PERERA

MELISSA E. PETER

MIKE PIMENTEL

JAY L. RAFTERY, JR

CECILA REYNA

LINDSEY SABEC

ROBB SCHROER

STEPHEN WICHERN

GINNY WILKS

BRIAN WILSON

*Faculty Advisor*

ROBERT HARDAWAY



## TRANSPORTATION LAWYERS ASSOCIATION

EXECUTIVE COMMITTEE MEMBERS 2005-2006

### OFFICERS

President .....	<i>Brian J. Smith</i>
President-Elect .....	<i>Greg E. Summy</i>
First Vice President .....	<i>Donald J. Vogel</i>
Second Vice President .....	<i>Eric L. Zalud</i>
Secretary-Treasurer.....	<i>Gordon D. McAuley</i>
Immediate Past President .....	<i>Kathleen C. Jeffries</i>

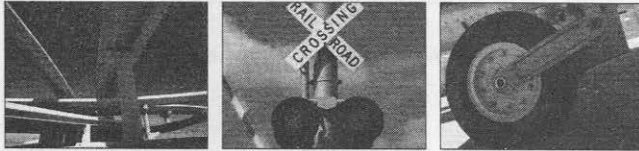
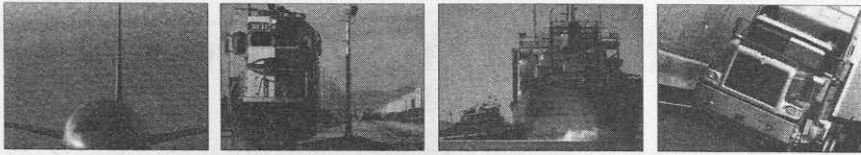
### Representatives-at-Large

<i>Eric R. Benton</i>	<i>James A. Calderwood</i>
<i>Stephen L. Day</i>	<i>David L. Dephtereos</i>
<i>Shaun M. McCaffrey</i>	<i>Carlos Sesma, Jr.</i>
<i>Katharine C. Weber</i>	<i>Richard A. Westley</i>

### Past Presidents

<i>Edward S. Brashears</i>	<i>Wentworth E. Griffin</i>	<i>Harold D. Miller, Jr.</i>
<i>Perry R. Moore</i>	<i>Howell Ellis</i>	<i>Wilmer B. Hill</i>
<i>James W. Wrape</i>	<i>Edwin C. Reminger</i>	<i>Frank W. Taylor, Jr.</i>
<i>Franklin J. Van Osdel</i>	<i>Ewell H. Muse, Jr.</i>	<i>A. Charles Tell</i>
<i>August W. Heckman</i>	<i>Phineas Stevens</i>	<i>Richard H. Champlin</i>
<i>Carll V. Kretsinger</i>	<i>Beverley S. Simms</i>	<i>Michael J. Ogborn</i>
<i>Harris J. Klein</i>	<i>John L. Bruemmer</i>	<i>Kim D. Mann</i>
<i>Truman A. Stockton, Jr.</i>	<i>John E. Jandera</i>	<i>Richard P. Kissinger</i>
<i>Glenn W. Stephens</i>	<i>Leroy Hallman</i>	<i>David R. Parker</i>
<i>Harold G. Hernly</i>	<i>Walter N. Bieneman</i>	<i>Mark J. Andrews</i>
<i>Donald A. Morken</i>	<i>Alvin J. Meiklejohn</i>	<i>Edward J. Kiley</i>
<i>Lee Reeder</i>	<i>James W. Hagar</i>	<i>Alex M. Lewandowski</i>
<i>Marion F. Jones</i>	<i>William J. Lippman</i>	<i>William D. Taylor</i>
<i>Regan Sayers</i>	<i>Thomas E. James</i>	<i>David B. Schneider</i>
<i>S. Harrison Kahn</i>	<i>Bertram S. Silver</i>	<i>James F. Flint</i>
<i>Franklin R. Overmyer</i>	<i>John A. Vuono</i>	<i>Ann M. Pougiales</i>
<i>Louis Tarlowski</i>	<i>Charles Ephraim</i>	<i>W. Robert Alderson</i>
<i>Louis E. Smith</i>	<i>James C. Hardman</i>	<i>Kenneth R. Hoffman</i>
<i>Robert E. Powell</i>	<i>Robert D. Schuler</i>	<i>Fritz R. Damm</i>
<i>Jack B. Josselson</i>	<i>James M. Doherty</i>	<i>Robert E. McFarland</i>
<i>George S. Dixon</i>	<i>John S. Fessenden</i>	<i>Catherine A. Pawluch</i>
		<i>Kathleen C. Jeffries</i>

\* *Francis E. Barrett Sr.,*  
*Honorary*



## TRACK A MOVING TARGET

Today's law of transportation, trade, distribution, e-commerce and logistics is ever-changing and ever more complex. Today's **TRANSPORTATION LAWYERS ASSOCIATION** is as dynamic as the field it follows — and leads.

**KEEP UP** with the changes by **JOINING** our lively network of professionals located almost everywhere in North America. **GAIN** from our unique partnership with the University of Denver's award-winning Transportation Law Program. **PROFIT** from a rich array of membership benefits including:

- Cutting-edge CLE programs with active input from the Sturm College of Law at the University of Denver.
- Free subscriptions to the *Transportation Law Journal*, as well as our own publication, *The Transportation Lawyer*.
- Reduced rate subscriptions to certain CCH® transportation publications.
- Direct access to the latest in dispute-resolution programs through our affiliated Transportation ADR Council, Inc.
- Close ties with our counterparts in the Canadian Transport Lawyers' Association.
- A deeply-rooted tradition of collegiality and civility in the practice of law.

*All This Is Yours for Annual Dues of \$185, or \$25 for Law Students.*

To learn more, visit our Web site at <[www.translaw.org](http://www.translaw.org)> or contact our executive director at the address below.

TRANSPORTATION LAWYERS  
ASSOCIATION



P. O. Box 15122 • Lenexa, Kansas 66285-5122 • 913-541-9077 Phone • 913-599-5340 Fax





## UNIVERSITY OF DENVER COLLEGE OF LAW

### ADMINISTRATIVE OFFICERS

Daniel L. Ritchie, A.B., M.B.A., Chancellor  
Robert Coombe, Ph.D., Provost  
Craig Woody, B.A., Vice Chancellor for Financial Affairs/Treasurer  
Carol Farnsworth, M.A., Vice Chancellor for Communications  
Mary Ricketson, B.A., J.D., Dean of the College of Law  
J. Robert "Jay" Brown, B.A., M.A., Ph.D., J.D., Associate Dean for Academic Affairs  
Gary L. Alexander, B.A., M.L.L., J.D., Asst. Dean of Information Services and Library  
Director  
David Ricciardi, B.S., Registrar  
Iain Davis, B.A., Financial Aid Director  
Keryn Goldstein, B.A., Chief Financial Officer  
Sheila Green, B.A., M.A.L.S., Reference Librarian  
Martha Keister, A.B., M.A., M.L.S., International Law Librarian  
Stephen Favreau, M.S., B.A., Asst. Dean of Administration  
Lauri A. Mlinar, Director of Events  
Nancy P. Nones, B.A., Administrator, International Legal Studies  
Laura Dean, B.A., Director of Alumni Relations  
Robin A. Ricker, B.S., Program Coordinator, Graduate Tax Program  
Patty Powell, B.A., J.D., Dean of Student Services  
Forrest Stanford, B.A., J.D., Director of Admissions  
Tim Henderson, B.A., M.S., J.D., Director of Career Services  
Shane Seymour, B.A., M.A., Executive Director of Development  
Robert Yegge, A.B., M.A., J.D., Dean Emeritus Professor of Law, Director, Legal Administration Program, Co-Director, Clinical Programs

### FACULTY

Tanya Bartholomew, B.A., J.D., Legal Writing Professor  
William M. Beaney, A.B., LL.B., Ph.D., Emeritus Professor of Law  
Arthur Best, A.B., J.D., Professor of Law  
Andrea Bloom, B.A., J.D., Legal Writing Professor  
Jerome Borison, B.S., J.D., LL.M., Associate Professor of Law, Director, Student Federal Tax Advocacy Clinic  
Burton F. Brody, B.S., J.D., LL.M., Professor of Law  
J. Robert "Jay" Brown, Jr., B.A., M.A., Ph.D., J.D., Associate Dean of Academic Affairs, Professor of Law  
Penelope Bryan, B.S., M.A., J.D., Associate Professor of Law  
John A. Carver, Jr., A.B., LL.B., LL.D., Emeritus Professor of Law  
Federico Cheever, B.A., M.A., J.D., Associate Professor of Law  
Alan K. Chen, B.A., J.D., Associate Professor of Law  
Christine Cimini, B.A., J.D., Assistant Professor of Clinical Programs  
Alfred J. Coco, B.A., J.D., M.L.L., Emeritus Professor of Law  
Roberto L. Corrada, B.A., J.D., Associate Professor of Law  
Tami D. Cowden, B.A., J.D., Legal Writing Professor  
Edward A. Dauer, A.B., LL.B., Dean Emeritus and Professor of Law  
Kate Duba, B.A., J.D., Legal Writing Professor  
Wendy Duong, B.S., J.D., LL.M., Assistant Professor of Law  
K.K. DuVivier, B.A., J.D., Assistant Professor of Law, Director of Lawyering Process Program  
Nancy S. Ehrenreich, B.A., J.D., LL.M., Professor of Law  
Christopher Gehring, B.A., J.D., Legal Writing Professor  
J. Wadine Gehrke, B.A., J.D., Assistant Professor of Clinical Programs  
Rashmi Goel, B.A., LL.B., J.S.M., Assistant Professor of Law  
Robert M. Hardaway, B.A., J.D., Professor of Law  
Jeffrey H. Hartje, B.A., J.D., Associate Professor of Law  
Timothy M. Hurley, B.A., J.D., Legal Writing Professor  
Sheila K. Hyatt, B.A., J.D., Professor of Law  
Sam Kamin, B.A., J.D., Ph.D., Assistant Professor of Law  
Martin Katz, A.B., J.D., Assistant Professor of Law  
Francis W. Jamison, B.A., J.D., Emeritus Professor of Law

Jan G. Laitos, B.A., J.D., S.J.D., John A. Carver, Jr. Professor of Law, Director of Natural Resources Program  
Harry O. Lawson, B.A., M.S., Emeritus Professor of Law  
Neil O. Littlefield, B.S., LL.B., LL.M., S.J.D., Emeritus Professor of Law  
Lucy A. Marsh, B.A., J.D., Professor of Law  
Esteban Martinez, B.A., M.A., J.D., Legal Writing Professor  
Michael G. Massey, B.A., J.D., Legal Writing Professor  
G. Kristian Miccio, B.A., M.A., J.D., LL.M., J.S.D., Assistant Professor of Law  
Ved P. Nanda, B.A., M.A., LL.B., LL.M., LL.D. (Hon.), Vice Provost for Internationalization, Evans University Professor, Thompson G. Marsh Chair, Director, International Legal Studies Program  
Julie A. Nice, B.A., J.D., Professor of Law, Delaney Chair  
Jim Otto, B.S., J.D., M.S., Director, Advanced Degree Programs in Natural Resources and Environmental Law  
Stephen L. Pepper, A.B., J.D., Professor of Law  
George W. "Rock" Pring, B.A., J.D., Professor of Law  
John H. Reese, B.A., LL.B., LL.M., S.J.D., Professor of Law  
Paula R. Rhodes, B.A., J.D., Associate Professor of Law, Director, LL.M. in American and Comparative Law Program  
Edward J. Roche, Jr., B.B.A., J.D., Professor of Law  
Howard I. Rosenberg, B.A., LL.B., Professor of Law  
Thomas D. Russell, B.A., M.A., J.D., Ph.D., Professor of Law  
John T. Soma, B.A., M.A., J.D., Ph.D., Professor of Law  
Mary A. Steefel, B.A., J.D., LL.M., Legal Writing Professor  
Celia R. Taylor, B.A., J.D., Associate Professor of Law  
Mark A. Vogel, B.B.A., J.D., LL.M., Professor of Law, Director, Graduate Tax Program  
Eli Wald, B.A., LL.B., LL.M., S.J.D., Assistant Professor of Law  
Timothy B. Walker, A.B., M.A., J.D., Emeritus Professor of Law  
James E. Wallace, A.B., LL.B., B.D., Ph.D., Emeritus Professor of Law  
James L. Winokur, B.A., LL.B., Professor of Law  
Robert B. Yegge, A.B., M.A., J.D., Dean Emeritus, Professor of Law, Director, Legal Administration Program, Co-Director, Clinical Programs  
Edward H. Ziegler, Jr., B.A., J.D., LL.M., Professor of Law