



Feature

## Transportation Attorneys Face a Rapidly Evolving Industry

By Paul Abercrombie

There was a time, not so long ago, when the lawyers who handled a firm's transportation and logistics clients may have had relatively little to do: keep track of federal trucking regulations for one client, maybe defend the occasional airline accident for another.



Those relatively calm and peaceful days are gone, thanks to the aftermath of 9/11 and NAFTA as well as the issues surrounding the security of America's borders.

Today, lawyers who handle transportation and logistical issues are often the busiest people in the office. If their work was once considered a bit, well, boring, it's now viewed as much more exciting — or at least interesting. There's more to keep track of, more to defend, and the needs of the industry that gets crucial goods to market become more complex, time-consuming, and expensive with each passing year.

Scott McMahon of Fowler White Boggs Banker's Tampa, FL, office has been handling the affairs of transportation and logistical clients for more than 20 years. But his life has gotten a good deal more interesting — not to mention busier — in the last few years.

"It's a heck of a business because it runs 365 days a year and 24 hours per day," McMahon said. "My clients don't sleep — they have millions of tons of cargo coming in and passing over millions of miles of highways at all hours of the day and night. All of them have my cell and home phone numbers, and they call me at any time Fowler and White's assistance is needed.

"It's a tiring job at times, but it is the most rewarding thing I have ever done in my life. I can't wait to get to work in the morning."

Separate events that have taken place during the past two decades have turned what was once "a fairly routine practice area into a demanding and exciting discipline that changes and evolves with lightning speed — and which can quickly leave behind those who don't keep up." Some of those changes can trace their origins to 9/11, but such other factors as NAFTA have also played a role.

"President Clinton signed the NAFTA legislation in 1994, and that dramatically changed the landscape with our neighbors to the north and south. It also opened up our borders. As a practical matter, trade barriers were dropped, and we became one in terms of the seamless movement of goods and services," McMahon said. "In light of what happened on 9/11, it changed many things. We soon found that having open free access might not be the best thing in terms of national security."

This changing landscape takes on urgency when one considers that the transportation and logistics industry is what gets all of our goods — our food, our building supplies, our clothing, our cars — to market. According to McMahon, transportation and logistics are the backbone of the American economy and form the nation's single most important industry.

The industry is scrambling to keep up with ever-increasing demand as it seeks to improve safety and security. Transportation attorneys are the people providing the counsel that is crucial to the industry's success in an ever more dangerous world. To do it right, transportation lawyers have to know more — and be more up-to-date — than ever before.

"The attorneys must advise their institutional clients about changes in the evolving landscape," McMahon said. "There was a time when attorneys who dabbled in trucking or airlines or railroads could call themselves transportation attorneys, but that doesn't cut it anymore — those attorneys don't understand the dynamics of how fast this segment of the economy has been evolving over the past two decades."

"Attorneys who don't adjust, who don't take time to research and learn the intricacies of the transportation industry and how the new laws affect it, will not survive," he added. "It's that simple."

To illustrate, McMahon described changes in the way goods move through America's ports system.



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"Back in October of '06, President Bush signed the Safe Port Act, which was designed to tighten security at our ports," he said. "At that time there were 10 to 12 million tons of cargo entering U.S. ports that were unchecked. It was basically the honor system — 'I am who I am, and what's in the boxes is what I say is in the boxes.' It is fair to say that that is not the best way to run our ports right now."

Bringing more security to the system makes good sense, but it also makes life more complicated for the transportation and logistics industry — there are more regulations to know and obey and more hoops to jump through.

"We look at this act constantly, and we advise our clients about what the act means to them, how it affects their

business, and what they have to do to be in compliance," McMahon said. "Here is how this will affect you in terms of your timely deliveries, here is what we can do to help you find exceptions to the law, here is how you can deliver your cargo so the automobiles we drive get to lots so we can buy them, so beef from Texas or lobsters from Maine arrive at the restaurants and stores where we buy them."

"That valuable advice is gold to these clients, and only a good transportation attorney can provide it."

Fowler White's transportation/logistics operation is the largest such practice in Florida, with offices in Miami and Jacksonville as well as Tampa. The firm represents ports, trucking companies, airlines, and other companies.

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