A publication of Benesch Friedlander Coplan & Aronoff LLP's Transportation & Logistics Group

Fall 2017

InterConnect

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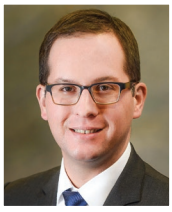
Counsel for the Road Ahead®

ELD Zero-Hour is Nearing, May Lay Traps for the Unwary



Jonathan Todd

Kristopher Chandler

Many outside of over-the-road motor carriers are taking notice of the looming Electronic Logging Device Mandate (ELD Mandate). We are seeing raised hands with many questions and some confusion at this very moment from a wide range of market participants, including shippers, private carriers, intermediaries and forwarders, and companies with unique and nuanced business models involving direct or indirect transportation. Let's set the record straight for those who may not have been following the play-by-play of the ELD Mandate over the last few years.

What is the ELD Mandate?

The ELD Mandate will take effect on December 18, 2017, and will require certain motor carriers to install and use Electronic Logging Devices (ELDs) in place of the paper logs currently used for compliance with federal safety regulations. The ELDs connect to the engine of commercial motor vehicles and log all activities while a vehicle is in use, including when a driver is off duty, in the sleeper birth, driving, or on-duty but not driving.[1] The Federal Motor Carrier Safety Administration (FMCSA) expects this ELD Mandate will increase safety on the country's roadways by eliminating the human error when logging drive time and thereby driving excess and unlawful hours as well as the possibility of "falsifying" paper logs.

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ELD Zero-Hour is Nearing, May Lay Traps for the Unwary

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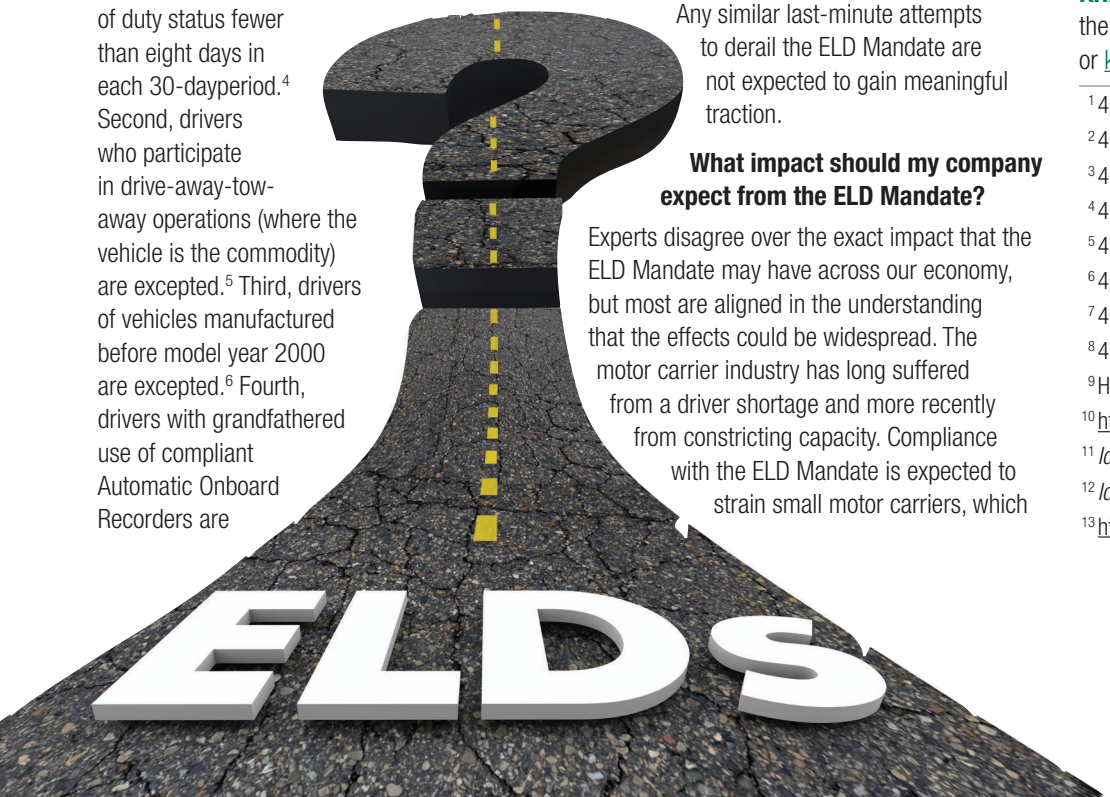
Who must comply with the ELD Mandate?

The ELD Mandate applies to all drivers of commercial motor vehicles who are currently required to use paper records of duty status. In general, a motor carrier must require drivers to record their duty status for every 24-hour period.[2] The current applicability of these logging requirements depends on certain characteristics, including the size of the commercial motor vehicle, the nature of commerce, and the availability of certain exceptions for short haul operations.[3] Although the ELD Mandate will start on December 18, 2017, the FMCSA recently released guidance advising that it will not alter scores under the Compliance, Safety, and Accountability (CSA) program based on ELD violations until April of 2018. However, FMCSA will still be enforcing the ELD Mandate and, as one would expect, compliance with the legacy logging requirements and all other safety-related regulations will continue to be enforced with all associated consequences.

What exceptions or exemptions from the ELD Mandate are available?

Certain exceptions are available for those to whom the ELD Mandate would otherwise apply. First, and perhaps the most valuable for occasional industry participants, is an exception for drivers who use paper records of duty status fewer than eight days in each 30-dayperiod.[4] Second, drivers who participate in drive-away-tow-away operations (where the vehicle is the commodity) are excepted.[5] Third, drivers of vehicles manufactured before model year 2000 are excepted.[6] Fourth, drivers with grandfathered use of compliant Automatic Onboard Recorders are excepted until 2019.[7] Finally, operators of commercial motor vehicles may petition the FMCSA for an exemption from the ELD Mandate, which is particularly valuable for those participants for whom compliance would be extremely burdensome and whose operational characteristics permit alternative measures to ensure safety.[8]



What is the likelihood that the ELD Mandate will be withdrawn?

The ELD Mandate is indeed here to stay, barring the most unforeseeable of circumstances. Supporters of the ELD Mandate, including the American Trucking Association and the current and prior Presidential administrations, have zealously advocated for the implementation of this requirement on the grounds of safety and the technological advancement of the transportation industry. Many legislators and private interest groups have attempted to force withdrawal of the ELD Mandate over the past few years. Most notably, this summer the Owner-Operator Independent Drivers Association unsuccessfully litigated the matter on constitutional grounds all the way to the United States Supreme Court. More recently, Representative Brian Babin (R-TX) introduced The ELD Extension Act of 2017, which would extend the initial implementation date for the ELD Mandate two (2) years to December 2019.[9] Any similar last-minute attempts to derail the ELD Mandate are not expected to gain meaningful traction.

What impact should my company expect from the ELD Mandate?

Experts disagree over the exact impact that the ELD Mandate may have across our economy, but most are aligned in the understanding that the effects could be widespread. The motor carrier industry has long suffered from a driver shortage and more recently from constricting capacity. Compliance with the ELD Mandate is expected to strain small motor carriers, which together represent the majority of available capacity, due to the need for strict hours of service compliance that could potentially force drivers off the road with loads under tow. Some estimate the decrease in productivity could amount to an 8% reduction in capacity.[10] Small motor carriers will also shoulder the cost of ELD devices, which range from around $200 to $800.[11] These carriers who would otherwise bring capacity to the market may even choose to leave the business altogether due to this commercial and regulatory environment.[12] This cascade of events may well result in higher linehaul transportation rates and other ancillary costs, including higher drayage and demurrage due to pressure on wait times at ports.[13] Fortunately, the ELD Mandate may succeed in balancing any such near-term pain against the intended safety benefits as well as long-term advancements in analytics and optimization that could significantly improve supply chains for the foreseeable future.

The Benesch Transportation & Logistics Practice Group stands ready to bring actionable clarity to regulatory compliance obligations such as the ELD Mandate as well as implementing strategic plans for the operational and defensive use of transportation technology. **JONATHAN TODD** is Of Counsel with the firm and may be reached at (216) 363-4658 or jtodd@beneschlaw.com. **KRISTOPHER CHANDLER** is an Associate with the firm and may be reached at (614) 223-9377 or kchandler@beneschlaw.com.

[1] 49 CFR 395.8(b)(1)-(4).
[2] 49 CFR 395.8(a)(1).
[3] 49 CFR 395.1(e)(1)-(2).
[4] 49 CFR 395.8(a)(1)(iii)(A)(1).
[5] 49 CFR 395.8(a)(1)(iii)(A)(2).
[6] 49 CFR 395.8(a)(1)(iii)(A)(3).
[7] 49 CFR 395.8(a)(1)(iii)(A)(4).
[8] 49 CFR 381.200.
[9] H.R. 3282.
[10] https://eldfacts.com/eld-facts/
[11] *Id.*
[12] *Id.*
[13] https://usportservices.com/eld-mandate-ready/

Blockchain & Transportation: Home Run or Hype?

Marc S. Blubaugh

Technology has increasingly served a critical—and sometimes transformational—role for providers and commercial users of transportation and logistics services. Automation, 3D printing, the Internet of Things, mobile applications, and ever more sophisticated transportation management systems and warehouse management systems all contribute to operational efficiency, improved performance, enhanced end-user experience, and, ultimately, the financial bottom line. Will smart contracts that use blockchain technology offer similar benefits?

"… a 'smart contract' simply implements a series of if-then rules that will be performed at least in part by computers without the need for third-party human interaction."

What is a Smart Contract?

Just as no universally accepted definition of a "3PL" exists, no universally accepted definition of a "smart contract" exists. Indeed, the term "smart contract" is a bit of a misnomer. In general, a smart contract is actually nothing more than a series of business rules that two parties may agree to adopt. In other words, a smart contract does not somehow perform its own reasoned analysis, unilaterally write or modify itself, or eliminate the possibility of disputes. Rather, a smart contract simply implements a series of if-then rules that will be performed at least in part by computers without the need for third-party human interaction.

What is Blockchain?

Blockchain is a decentralized database or spreadsheet (often referred to as a "digital ledger") that is maintained and updated by a network of participating computers. This highly secure technology permits parties to create a record (known as a block) that is timestamped and linked to the previous block such that it cannot be altered retroactively without the alteration of all subsequent blocks. The digital ledger is typically available to the public but can also be made private. Blockchain is the technology infrastructure for cryptocurrencies like Bitcoin. However, just as the internet has many uses beyond email, blockchain has many uses beyond cryptocurrencies.

How Could Smart Contracts and Blockchain Help Transportation and Logistics?

Proponents of blockchain technology have identified a wide variety of potential applications that would benefit the providers and commercial users of transportation and logistics services, such as:

- **Foiling Imposter Carriers.** Shippers sometimes fall victim to schemes whereby a fraudster masquerades as a legitimate carrier. For instance, the criminal intercepts information about a high-value load, arrives at the point of origin ahead of the legitimate carrier, obtains possession of the load with forged documents, and readily vanishes to fence the goods. However, blockchain may permit the shipper to identify a given carrier as an imposter if the carrier lacks the proper credentialing record created through blockchain technology.
- **Accelerating Load Tenders.** A shipper or freight broker having control of a load could tag the load with an RFID chip containing points of origin and destination, rate, or other criteria. The RFID chip would be connected to a network such that carrier software could automatically search and bid on the transportation of the load based on predetermined rules. The load tender and acceptance would happen without human intervention.
- **Track and Trace.** A pallet or other load tagged with an RFID chip could be tracked and traced via blockchain technology as that particular load moved through various locations having access to the internet, creating a detailed record of the load's pedigree and chain of custody. Having this data is particularly beneficial for those involved in the transportation of pharmaceuticals or food products—even more so when a product recall need arises.
- **Expediting Payment.** Shippers and carriers could enter smart contracts where the rules provide that payment is automatically made when a given load arrives at destination under various conditions. For instance, carriers may no longer need to devote substantial resources to billing and collection efforts if the network itself (rather than a third party) validates the blockchain such that payment is made automatically. This might also mean that certain carriers would no longer need to factor receivables.
- **Minimizing Claims.** The same application of blockchain to track and trace cargo could be used to minimize claims. For instance, whether the load or the truck itself is tagged, a blockchain record will develop showing the time of pick-up and delivery, thereby creating unalterable evidence as to whether a given load was delivered timely or not.
- **Leveling the Playing Field.** Many of the examples above illustrate how blockchain technology will benefit smaller carriers with limited resources by providing them faster payment, more expeditious claims handling, more and easier bid opportunities, and the like. By empowering smaller carriers, blockchain technology promises to make the transportation market more competitive.

Are There Impediments Moving Forward?

Blockchain, like any other technology, has its fair share of challenges. For instance, two significant, primary obstacles include:

- **No Current Uniform Standards.** At present, no uniform standards govern blockchain

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Lyfting TNCs and On-Demand/Sharing Economy Companies Out of the Misclassification Abyss By Mandating Workplace Insurance in Driver Contracts

Stephanie S. Penninger

Matthew J. Selby

Unlike traditional motor carriers that transport cargo, many Transportation Networking Companies (TNCs), e.g., Uber and Lyft, and similar on-demand/sharing economy companies (On-Demand Companies), e.g., GrubHub (a food delivery service provider), are silent on the issue of workplace insurance in their driver contracts or terms and conditions. This trend stems from a widespread concern that requiring independent contractors (ICs) to obtain workplace insurance, such as occupational accident (Occ/Acc) insurance (if workers' compensation insurance is not required or available in a particular state), or make settlement deductions for such cost could tip the control or balancing test used for determining IC/employee status.

A Whole New Ball Game: Misclassification Suits in the On-Demand Economy

Just last month, closing arguments were made in what is believed to be the first trial in a worker misclassification case against an On-Demand Company, GrubHub.[1] Other California Labor Code violation actions involving Uber and Lyft suggest that the TNCs and On-Demand Companies could face workers' compensation liability exposure, particularly since their contracts with their respective drivers tend to be silent regarding workplace insurance for drivers. In these lawsuits, the ICs have typically sought to establish employee status in order to assert wage claims under the Labor Code and/or claims for unlawful misclassification in violation of the Labor Code § 226.8.

Specifically, Lyft and Uber have been sued for their alleged failure to: (1) pay wages and overtime compensation; (2) provide meal and rest periods; (3) comply with itemized employee wage statement provisions or furnish accurate wage statements; (4) pay wage at the time of employment termination; and (5) reimburse for business expenses and illegal wage deductions. Lyft and Uber have also faced unfair competition, unfair business practices and claims pursuant to the Labor Code's Private Attorney General Act of 2004 (PAGA), which allows private individuals, who are considered "aggrieved employees," to sue their employers on behalf of the State of California Labor and Workforce Development Agency for violations of the Labor Code as an alternative avenue for enforcing the Labor Code.[2]

These lawsuits demonstrate that if there are sufficient indicia of employee status, then the drivers may be able to obtain wages,

overtime compensation and penalties through the establishment of a Labor Code violation. Presumably, in a similar fashion, the drivers would also be able to obtain other benefits to which an employee is entitled (as opposed to an independent contractor), such as workers' compensation insurance, in the event of a workplace injury.

The Best Defense is a Good Offense: Mandate Workplace Insurance

Notwithstanding the prevalent concern about worker misclassification actions, contractually requiring an IC to obtain some form of workplace insurance and requiring settlement deductions from ICs that *choose* to purchase such coverage, from an *individual policy* through the Company, *should not* adversely affect independent contractor status. In fact, most vendor-vendee contracts impose a requirement that those providing services will be protected by workplace accident insurance. For instance, the courts in California, Texas and Florida, which apply a multifactor control test in reviewing and determining worker misclassification claims, with the paramount factor being "control," have not considered Workplace Insurance requirements as indicia of control.

In *Lexington Ins. Co. v. Workers' Comp. Appeals Bd. & Sheik Zahid Ali*, a California case, a company and an owner-operator had an agreement that if the owner-operator provided Occ/Acc, then the company would deduct premiums and fees from the owner-operator's settlement checks and remit them directly to the insurance company.[3] The motor carrier found and provided the Occ/Acc to the owner-operators and did so as a *group policy*. Because the company—and not the owner-operators—provided and handled all aspects of insurance, the court found that it constituted "some evidence of its control 'over the details of the working relationships of the parties to the contracts.'" The court implied that if the owner-operators had procured their own Occ/Acc, then that would factor in favor of finding an IC relationship. Thus, a *group policy* is not recommended for such coverage, but having coverage itself is ideal.

Similarly, in Texas case *White v. D.R. & P.A., Ltd.*, a moving company entered into an independent contractor agreement with an individual driver that, among other things, required the driver to "obtain at his own expense automobile liability insurance and general liability insurance."[4] Ultimately, the court found that the agreement created an IC relationship and the right of control was squarely in the hands of the worker despite the insurance requirement.

Concerning the TNC segment, in *McGillis v. Dep't of Econ. Opportunity*, a Florida case, an Uber driver was found to be an IC, and not an employee, where the agreement between the company and driver unequivocally disclaimed an employer-employee relationship and the parties' actual practices reflected the arm's-length relationship depicted in the agreement. Specifically, the driver had discretion in carrying out his work, received a Form 1099 to report his income, and did not receive any fringe benefits from the company. Unsurprisingly, the determinative factor was control: the driver supplied his own vehicle and had no direct supervision. Thus, neither driver insurance nor vehicle insurance was a consideration, let alone a deciding factor, when making a workers status determination in Florida.

Hit it Out of the Park: Preventing Workplace Accident Claims

The starting point to preventing worker misclassification claims is to act like a vendor (and not an employer) and contractually require drivers to provide the TNC or On-Demand Company with evidence of workplace insurance when services are being rendered by the driver to the TNC or On-Demand Company. Any risk attributable to a worker misclassification determination is far outweighed by the risk of not having some form of workplace insurance. This coverage will serve as the first line of defense in the event of a workplace injury. Indeed, contracts that are silent as to workplace insurance *suggest* that the relationship between the TNC or On-Demand Company and their drivers is more like one of *employment*. Further, failing to require or provide workplace insurance significantly increases the likelihood of an IC challenging worker status, since the worker will have a greater need to find some avenue of benefits to cover medical costs in the event of an on-the-job mishap.

The best ways to prevent workplace accident claims and associated worker misclassification suits are to: (1) contractually require the IC have some form of workplace insurance (including Occ/Acc); (2) allow the IC the option to procure or provide its own workplace insurance; and (3) if the IC chooses to purchase such workplace insurance through the Company with settlement deductions (as required by the insurer), ensure that it is an individual and not a group policy.

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[1] See Lawson v. GrubHub, Inc., No. 3:15-cv-05128 (N.D. Cal.).

[2] See e.g., Del Rio v. Uber Technologies, Inc. et al., No. 3:15CV03667 (N.D. Cal.); Ronald Gillette, et al., v. Uber Technologies, et al., (consolidated at In Re Uber FCRA Litigation, C-14-5200 EMC) 3:14-cv-05241-EMC (N.D. Cal.); Armen Adzhemyan, et al., v. Uber Technologies, Inc., BC608874 (Ca. Super. Ct.); Douglas O'Connor, et al., v. Uber Technologies, Inc., et al., C-13-3826 EMC (N.D. Cal.).

[3] See Lexington Ins. Co. v. Workers' Comp. Appeals Bd. & Sheik Zahid Ali, No. A142340, 2015 Cal. App. Unpub. LEXIS 9181 (Cal. Ct. App. Dec. 16, 2015). This case only suggests how a decision could come down in California under these facts and is not binding authority due to it being an unpublished decision.

[4] White v. D.R. & P.A., Ltd., No. 01-12-00227-CV, 2014 Tex. App. LEXIS 209 at *7 (App. Feb. 25, 2014).

Class Actions: Maximum Wage and Hour and Other Developments

Verlyn Suderman

Any entity with a sizable hourly workforce is a potential target for class action lawsuits, especially those that do business in California. Many in senior management have a horror story about an inadvertent failure to put the employer's address on employee paychecks or an already-terminated one- or two-minute rounding practice or some other seemingly minor infraction that resulted in six-figure or greater liability. No one budgets for a class action and its associated attorneys' fees and settlement payouts, so it's always a very unhappy day when one of these actions materializes. For those who bear those scars, it appears that the future holds more of the same, as a number of recent surveys point to wage and hour as the fastest-growing area of class action activity. Given that reality, any prudent supply chain company or function is well advised to take stock of its employment practices and policies as it heads into 2018.

Class actions are often initiated against employers for the following kinds of employment-law-related violations, among others:

- Meal and rest period irregularities
- Non-neutral time-rounding practices
- Exempt/Non-exempt misclassification
- Auto-deduction from employee paychecks
- Vacation/PTO forfeiture
- Minimum wage noncompliance
- Background check violations (under FCRA)

With the continuing trend toward patchwork state and local minimum wage laws, the compliance challenges facing multistate employers become ever more complex, and minimum wage class action litigation is expected to increase dramatically as a result. Most employers are aware of the hourly wage thresholds established by these laws (although phased increases present additional timing risks), but there are numerous ways to run afoul of them even if the stated wage is at or above the prescribed level. For instance, how is the minimum wage requirement calculated per measurement period in a piece-rate environment? What happens if a paycheck deduction for safety shoes or uniform expense drops an employee's pay below the applicable minimum wage rate? If the employer requires the employee to spend a few minutes pre- or post-shift going through a security check or walking to and from his work location, and does not pay the employee for all of his or her "working time," has the employer violated the minimum wage (or the overtime) requirements if the employee's pay divided by total "working time" falls below the threshold wage?

Here are some possible actions to consider as you attempt to manage risk in these wage and hour areas:

- Require all employees to accurately record all hours worked and sign off on their timesheets to attest to their completeness and accuracy, subject to discipline for failure to do so.
- Emphasize wage and hour compliance as an important part of supervisors' job duties and closely monitor any manual adjustments made by supervisors to time records.
- Keep detailed and accurate employee and time records, and maintain as many employee records electronically as possible.
- Establish a user-friendly complaint procedure for employees to report any time inaccuracies.
- Assign an HR or legal professional to stay up to date with all of the minimum wage increases, "wage theft" legislation, and other changes in the laws affecting the jurisdictions in which your company operates.
- Maintain an internal dispute resolution procedure that provides for binding, individual arbitration (and prohibits class arbitration) as the exclusive mechanism for resolving employee wage disputes.

Regarding arbitration and class action waivers, please watch for the Supreme Court's soon-to-be-issued decision in *National Labor Relations Board v. Murphy Oil USA, Inc.*, in which the Court is considering whether arbitration agreements with individual employees that bar them from pursuing work-related claims on a collective or class basis in any forum are prohibited as an unfair labor practice. For what it's worth, the fantasyscotus.lexpredict.com website predicts that the Court will decide 5-4 that such agreements are not an unfair labor practice, with Justice Gorsuch casting the deciding vote.

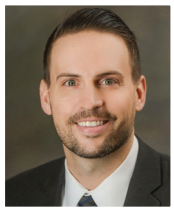
As a postscript, employers with Illinois operations should note that a new class action risk has emerged over the last few months. The Illinois Biometrics Information Privacy Act, which focuses on the collection and use of various forms of biometric information, including retina scans and fingerprints, became effective in 2008, but only in the last 6 months or so have plaintiff's attorneys begun to file class actions against employers and others for failing to fully comply with its policy and consent requirements. Specifically, the Act requires anyone collecting biometric information (including through time clocks using thumbprints) to (1) develop a written policy establishing a retention schedule and guidelines for permanently destroying biometric identifiers and information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied and (2) inform the individual from whom biometric information is sought of the purpose of its collection and use and obtain a written release from the individual prior to its collection. Statutory penalties are $1,000 for each negligent violation and $5,000 for each intentional violation.

Dozens of lawsuits have been filed in Illinois over the past few months, including against supermarket chains, airlines, cargo handling companies, 3PLs and packaging companies. Texas and Washington have enacted similar statutes but do not provide for a private right of action, so compliance risk exists in those states for any entity using a thumbprint or other biometric timekeeping system, but not significant class action risk. This is perhaps just the latest example of a new trap that has been laid for supply chain companies and others, but rest assured these kinds of risks will continue to surface as plaintiffs' attorneys become more and more creative and aggressive.

For more information, please contact **VERLYN SUDERMAN** at vsuderman@beneschlaw.com or (312) 212-4962.

Know Before You Grow: Proprietary Transportation Systems and Open Source Software Risk


Jonathan Todd


Justin P. Clark

We live in the era of gig economies and e-commerce, where supply chains are evolving before our eyes due in part to the speed of technological innovation. All transportation and logistics services are under pressure to deliver highly analytic data-rich solutions in addition to freight. The challenge to gain advantage through information technology systems, let alone to remain competitive, is often met through "homegrown" proprietary IT solutions in addition to those many options available on the market.

Developing proprietary IT systems, whether for core operating systems or customer-facing applications, can be a costly endeavor and therefore the speed and cost of development tend to be areas of concern. Most IT systems today contain what is known as open source software because using open source is generally much more cost-effective than developing entirely from scratch. While using open source software is advantageous in some ways, it also carries certain risks that must be navigated in order to achieve and protect the full potential of a homegrown system.

What is open source software?

Open source software is free software available in the form of source code but subject to license restrictions. The nature of open source permits the development team the right to modify and use the source code in a commercial setting without any license compliance issues. However, the distribution and sale of software developed with open source is likely restricted under the applicable open source license. Some open source licenses, for example, require that any software produced using such source code must be distributed under the same license it was received under. The result is that use of open source software can cause homegrown transportation and logistics systems to lose their competitive and proprietary character. This effect can significantly diminish the value creation otherwise anticipated at the outset of the development project.

What types of open source license restrictions exist?

Many open source licenses are designed to promote development and use without restriction, provided that minimal requirements are observed, such as maintaining the copyright notice. Other licenses include unique and sometimes cumbersome restrictions, such as the need to maintain open source software code in different files within the system architecture. The most restrictive, and dangerous, of open source licenses are known as "copy-left" licenses. These license terms require that any distributions of software developed utilizing open source code must be entirely licensed under the same copy-left license. In other words, copy-left licenses can cause what was intended to be a cutting-edge proprietary system to require publication of all

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Know Before You Grow: Proprietary Transportation Systems and Open Source Software Risk

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source code including the homegrown code (destroying the confidential nature of the system) and distribution for free under the same license (destroying the proprietary nature of the system).

How can open source software harm enterprise value?

The transportation and logistics space is a hot market for mergers and acquisitions, and proprietary technology systems are often touted as essential to enterprise value. Using certain open source licenses could be an obstacle if a potential buyer is relying on the ability to exclusively use or monetize the target company's technology. Buyers often require representations and warranties that no open source software has been incorporated into any proprietary systems or products in any way that would obligate the seller to disclose the source code. The eleventh hour of negotiations is not the time to learn that poor housekeeping during development of transportation systems threatens to diminish the return or even kill the deal.

Can transportation solutions created using open source software be proprietary?

The key to avoiding surprises when developing proprietary transportation and logistics systems with open source software is to identify, understand and comply with the license requirements of each open source component. Specifically, the safe use of open source elements when building proprietary solutions requires that development teams (1) are aware of each and every instance where the source code is used within the solution and (2) examine the license implications for the open source software and its impact on the nature and use of the entire application. These may sound like simple steps; however, knowledgeable management of open source libraries and license compliance is easily overlooked during the development process, and the consequences can be serious.

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Blockchain & Transportation: Home Run or Hype?

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technology. Various parties are developing their respective sets of standards, coding, and associated applications or other interfaces for deployment of blockchain solutions. For instance, the Blockchain in Trucking Alliance expects to develop broad standards for the trucking industry in the next 12–18 months.

- **Absence of Network Participants.** Even if a robust set of uniform standards is developed, the success of blockchain turns on how many parties adopt it. Specifically, the utility of blockchain technology depends on maximizing the number of network participants. Therefore, the value proposition for early-stage users is not necessarily evident.

While blockchain is not yet a home run for the transportation and logistics industry, it is also far more than mere hype. As suggested above, the transportation and logistics industry is highly likely to find a number of practical uses for blockchain technology. The real question is when and in what context. The bottom line is that forward-thinking companies should begin wrapping their minds around this technology and how it might add efficiency, increase security, and change the competitive landscape in the transportation and logistics industry.

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

RECENT EVENTS

TerraLex Fall Global Meeting
Eric L. Zalud attended.
September 6-9, 2017 | Salt Lake City, UT

Intermodal Association of North America Expo
Marc S. Blubaugh moderated "Legislative and Regulatory Impacts on Intermodal Operations." **Martha J. Payne** and **Stephanie S. Penninger** attended.
September 17–19, 2017 | Long Beach, CA

Ohio Trucking Association Annual Conference
Matthew J. Selby attended.
September 18–19, 2017 | Dayton, OH

SC&RA Crane & Rigging Workshop
Martha J. Payne attended.
September 20–22, 2017 | Kansas City, MO

The Council of Supply Chain Management Professionals (CSCMP) EDGE Conference
Verlyn Suderman attended.
September 25–27, 2017 | Atlanta, GA

The Annual Conference on Transportation Innovation and Savings
Eric L. Zalud attended.
September 26, 2017 | Burlington, ON

Transportation Lawyers Association (TLA) Webinar
Stephanie S. Penninger moderated "Know Your Limits! Recent Developments in Liability Limitations."
October 3, 2017 | Webinar

IWLA Essentials of Warehousing Course
Marc S. Blubaugh presented *Fundamentals of Transportation Law*. **Peter N. Kirsanow** presented on Labor & Employment Law.
October 4, 2017 | Minneapolis, MN

Canadian Transport Lawyers Association (CTLA) Annual Conference
Stephanie S. Penninger presented *To the Border, and Beyond! Freight Loss and Damage Liability for Cross Border Shipments*. **Martha J. Payne** attended.
October 5–7, 2017 | Ottawa, CA

Truckload Carriers Association, Fall Board of Directors Meeting and Committee Meetings
Richard A. Plewacki attended.
October 10–11, 2017 | National Harbor, MD

American Trucking Association (ATA) Management Conference & Exhibition (MCE)
Marc S. Blubaugh, Martha J. Payne, Richard A. Plewacki, Matthew J. Selby and **Jonathan Todd** attended.
October 21–24, 2017 | Orlando, FL

Logistics and Transportation National Association (LTNA) National Conference 2017
Jonathan Todd attended.
October 24–26, 2017 | Las Vegas, NV

Trucking Industry Defense Association (TIDA) Annual Conference
Eric L. Zalud attended.
October 25-27, 2017 | Las Vegas, NV

Capital Roundtable: PE Investing in Transportation, Distribution & Logistics Companies
Peter K. Shelton moderated a panel. **Marc S. Blubaugh, Eric L. Zalud, Jonathan Todd** and **Michael J. Mozes** attended.
November 2, 2017 | New York City, NY

Women in Trucking Accelerate! Conference & Expo
Martha J. Payne attended.
November 6–8, 2017 | Kansas City, MO

Transportation Intermediaries Association (TIA) Webinar
Stephanie S. Penninger presented *Romaine Calm! All is Well: Guidance for Navigating the New Food Safety Regulations*.
November 8, 2017 | Webinar

2017 IWLA Warehouse Legal Practice Symposium
Peter N. Kirsanow presented *Labor & Employment Law*. **Verlyn Suderman** attended.
November 9–10, 2017 | Chicago, IL

Transportation Lawyers Association (TLA) 50th Transportation Law Institute (TLI)
Eric L. Zalud moderated and **Marc S. Blubaugh** was a panelist on "The Jubilee Panel: A Half-Century of Game Changers that Rocked the Transpo World! And How They Impact Our Practices Today." **Martha J. Payne, Stephanie S. Penninger, Richard A. Plewacki** and **Jonathan Todd** attended.
November 10, 2017 | Norfolk, VA

Pacific Admiralty Seminar
Stephanie S. Penninger presented *Facing Both Ways—Cargo Claims Handling for Transportation Intermediaries*.
November 29, 2017 | San Francisco, CA

Transportation & Logistics Group

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

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ON THE HORIZON

Conference of Freight Counsel
Martha J. Payne and **Eric L. Zalud** are attending.
January 6–8, 2018 | Tucson, AZ

Columbus Roundtable of Council of Supply Chain Management Professionals
Marc S. Blubaugh is moderating the annual Transportation Panel.
January 12, 2018 | Columbus, OH

International Warehouse Logistics Association - Webinar
Marc S. Blubaugh is presenting *Separating the Wheat from the Chaff: Transportation Contracting for Warehouse Operators.*
January 18, 2018 | Webinar

Transportation Lawyers Association (TLA) Chicago Regional Seminar
Marc S. Blubaugh, Eric L. Zalud, Stephanie S. Penninger, Kelly E. Mulrane, Kevin Capuzzi and **Jonathan Todd** are attending.
January 19, 2018 | Chicago, IL

SMC3 Jump Start 2018
Martha J. Payne is attending.
January 22–24, 2018 | Atlanta, GA

BG Strategic Advisors 2018 Supply Chain Conference
Marc S. Blubaugh, Peter K. Shelton and **Eric L. Zalud** are attending.
January 24–26, 2018 | Palm Beach, FL

ABA Midyear and TIPS Admiralty and Maritime Law Committee Meeting
Stephanie S. Penninger and **Martha J. Payne** are attending.
January 31–February 6, 2018 | Vancouver

Cargo Logistics Canada
Martha J. Payne and **Stephanie S. Penninger** are attending.
February 6–8, 2018 | Vancouver

Stifel Transportation & Logistics Conference
Marc S. Blubaugh and **Eric L. Zalud** are attending.
February 13–14, 2018 | Miami, FL

BB&T Logistics & Transportation Conference
Marc S. Blubaugh and **Eric L. Zalud** are attending.
February 14–15, 2018 | Miami, FL

Air Cargo 2018
Martha J. Payne, Jonathan Todd and **David M. Krueger** are attending.
February 18–20, 2018 | Austin, TX

27th Biennial Tulane Admiralty Law Institute
Stephanie S. Penninger is attending.
February 28–March 2, 2018 | New Orleans, LA

International Warehouse Logistics Association (IWLA) Convention & Expo
Marc S. Blubaugh is presenting. **Chris Lalak** and **Verlyn Suderman** are attending.
March 11–13, 2018 | Tampa, FL

CMA Shipping and Conference Expo and ABA TIPS Admiralty & Maritime Law Committee/WISTA Panel
Stephanie S. Penninger will be moderating a maritime law panel.
March 12–14, 2018 | Stamford, CT

Transportation & Logistics Council (TLC) 44th Annual Conference
Marc S. Blubaugh is participating in "The Transportation Attorney Panel." **Eric L. Zalud** is presenting *Outsourcing: Dealing with Contractors and Intermediaries.* **Martha J. Payne** is speaking.
March 19–21, 2018 | Charleston, SC

American Moving and Storage Association (AMSA) Conference & Expo
Jonathan Todd is attending.
April 8–10, 2018 | Ft. Lauderdale, FL

Transportation Intermediaries Association (TIA) Capital Ideas Conference and Exhibition
Martha J. Payne is presenting *Have You Heard the One About the Attorney?* **Eric L. Zalud** is presenting, *Kicking the Tires: Buying and Selling Logistics Businesses.* **Marc S. Blubaugh, Eric L. Zalud** are **Stephanie S. Penninger** are attending.
April 8–11, 2018 | Palm Desert, CA

2018 TerraLex Global Meeting
Eric L. Zalud is attending.
April 18, 2018 | Barcelona, Spain

GNOBFA 36th River and Marine Industry Seminar
Stephanie S. Penninger is attending.
April 24–27, 2017 | New Orleans, LA

National Customs Brokers and Forwarders Association (NCBFAA) Annual Conference
Jonathan Todd is attending.
April 29–May 2, 2018 | Rancho Mirage, CA

ABA TIPS Section Conference and Admiralty & Maritime Law Committee Transportation Panel
Stephanie S. Penninger is speaking.
May 1–6, 2018 | Las Angeles, CA

Intermodal Operations & Maintenance Business Meeting
Marc S. Blubaugh is attending.
May 2–4, 2018 | Lombard, IL

Maritime Law Association of the United States Spring Meetings
Kelly E. Mulrane is attending.
May 2–5, 2018 | New York, NY

Transportation Lawyers Association (TLA) Annual Conference
Stephanie S. Penninger and **Eric L. Zalud** are presenting *Legal Strategies for Risk Management in the Transportation Sector.* **Marc S. Blubaugh** and **Martha J. Payne** are attending.
May 2–6, 2018 | Orlando, FL

Warehousing Education and Research Council
Verlyn Suderman is speaking.
May 6–9, 2018 | Charlotte, NC

VMA 15th Annual International Trade Symposium
Stephanie S. Penninger is attending.
May 9–11, 2018 | Norfolk, VA

Conference of Freight Counsel
Martha J. Payne and **Eric L. Zalud** are attending.
June 9–11, 2018 | Old Town Alexandria, VA

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