



J. Philip Nester

Senior Managing Associate

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Main Bio

Phil's work focuses on transactional and regulatory issues across the transportation services and supply chain management continuum, where he represents users and providers, including manufacturers, distributors, retailers, carriers, brokers, intermediaries, forwarders, and managed transportation service providers in connection with general business consultation, regulatory compliance, drafting and negotiation of contracts, litigation, dispute resolution, enforcement defense, investigations, and audits. Phil's clients span the spectrum of market participants, so he works closely with clients' in-house counsel, business teams, and supply chain management colleagues to advise on the legal and regulatory impact of commercial, operational, and enterprise risks.

Phil has broad experience advising clients across all modes of transportation, but he regularly provides strategic legal, commercial, and operational guidance to clients who procure and provide services in the ocean transportation industry, including shippers, ocean transportation intermediaries, drayage carriers and inland service providers, and the steamship lines for the movement of cargoes in international trade as well as the domestic and noncontiguous trade of the United States. Phil has extensive experience counseling clients on maritime and admiralty law issues, ocean regulatory compliance, drafting and negotiating ocean transportation service agreements for all manner of cargoes, including containers, roll-on-roll-off, break bulk, specialty cargoes, and charters, managing and negotiation ocean bids, advising on processes and adjustments to general average and salvage claims, diversion claims, casualty matters, freight charge disputes, and cargo claims for loss, damage, or delay.

Phil has significant experience representing all manner of parties and aspects of transportation, logistics, and global supply chain management, and he knows what does and does not work across the modes and ancillary services on a global basis. As a former trucking defense attorney and in-house attorney at a national insurance carrier specializing in products

Related Practices

Litigation

Related Industries

Transportation & Logistics

Education

- Cleveland State University College of Law, 2013, J.D.
 - *Cleveland State Law Review*, Research Editor 2012–13; Associate Member 2011–12
- Virginia Polytechnic Institute and State University, 2009, Master of Arts, Philosophy
 - *cum laude*
- Miami University, 2007, Bachelor of Arts, Philosophy
 - *cum laude*
 - Dean's Scholar

Credentials

- Ohio
- U.S. District Court for the Northern District of Ohio
- U.S. District Court for the Southern District of Ohio

for the commercial transportation industry, Phil provides valuable industry perspectives with a deep and broad knowledge of the regulatory and legal regimes impacting day-to-day operations, risks, and claims. Phil understands his clients' businesses and he understands the thought processes, rationales, and risk-reward motivations of other participants in supply chains with whom his clients have dealings.

Phil has a valuable global perspective that benefits all manner of transactions and emerging issues, and he is always happy and willing to have a conversation.

Experience

Transportation & Logistics

- Represented a subsidiary of one of the largest energy companies in North America in a general average matter involving multiple shippers when the carrier's vessel caught fire while in transit in the Pacific Ocean.
- Represented an American sporting goods retail chain and national apparel and accessory retailer in drafting and negotiating Ocean Transportation Service Agreements and managed its annual ocean bid.
- Developed an entire suite of template agreements for all modes of transportation for one of the world's leading manufacturer of construction and mining equipment, off-highway diesel and natural gas engines, industrial gas turbines, and diesel-electric locomotives.
- Advised multiple enterprise shippers, intermediaries, and carriers to help navigate the practical impact the FMC's Final Rule on Carrier Automated Tariffs under 46 C.F.R. Part 520 and Final Rule on Demurrage and Detention Billing Requirements under 46 C.F.R. Part 541 may have on the performance services, operations, and ongoing regulatory compliance.
- Represented a global luxury apparel and accessories company in drafting and negotiating Ocean Transportation Service Agreements and managed its annual ocean bid.
- Represented a leading domestic ocean shipping and integrated logistics company in an assortment of regulatory matters, including addressing FMC tariff and rate-related inquiries, matters concerning inland surface transportation movements as part of water carriage between noncontiguous domestic U.S. points of origin and destination, advising on legal, commercial, and operational risks, as well as operating authority issues.
- Represented a leading American big-box retail chain of home furnishing stores in drafting and negotiating Ocean Transportation Service Agreements.

- Developed parallel legal and commercial approaches for a global supplier of natural ingredients, including organic, non-GMO, and conventional product lines to manage a multi-million dollar dispute involving demurrage and detention charges against several ocean carriers.
- Developed the strategic path forward and agreements for one of the world's leading vertically integrated producers, distributors, and marketers of fresh and fresh-cut fruits and vegetables achieve the sale of two foreign-flagged ocean vessels registered in the Cayman Islands.
- Reviewed, assessed, and drafted new house bills of lading for an NVOCC that operates as an American multinational shipping and receiving and supply chain management company.
- Representation of ocean carriers/NVOCCs regarding maritime and multimodal contractual drafting and negotiations.
- Representation of NVOCCs and OFFs in risk management and risk prevention matters.
- Represented an American multinational, pharmaceutical, and medical technologies corporation in drafting and negotiating Master Ground Transportation Services Agreements for freight brokerage services and motor carrier services throughout North America.
- Addressed regulatory matters concerning the FMC and OTI (NVOCC and OFF) operating authority for a multimodal transportation services company.
- Representation of transportation entities and non-transportation entities seeking to register and undertake operations as NVOCCs and/or OFFs.

Articles and Presentations

- Liability Insurance Limits Double for CMVs on July 1st under New Jersey Law, June 14, 2024
- The FMC's Final Rule on Detention and Demurrage Billing Requirements Takes Effect Despite Pending Litigation, May 20, 2024
- FMC Dispute Resolution: A Guide for Using CADRS to Resolve Ocean Carriage Disputes, March 21, 2024
- InterConnect Newsletter - Q1 2024, March 21, 2024
- Obligations of the Insurer to the Insured in Litigation and Settlements: Avoiding Bad Faith Claims, March 14, 2024
- A Whole New World: FMC Issues Final Rule on Demurrage and Detention Billing Requirements , February 27, 2024
- FMC Final Rule Updates Shipping Rate Regulation, January 18, 2024

- Informal FMC Charge Complaint Process Available, September 13, 2023
- InterConnect Newsletter - Summer 2023, September 13, 2023
- Regulatory Update for Marine Terminal Operators, September 7, 2023
- Insurance Considerations for Supply Chains Amid Pandemic and War | J. Philip Nester, Jonathan R. Todd, Council of Supply Chain Management - Professionals (CSCMP) Edge 2022 , September 18–21, 2022
- Emerging Trends for Ocean Service Contract Bid Season, June 14, 2022
- InterConnect Newsletter - Spring 2022, June 14, 2022
- Navigating the Perils of General Average, June 14, 2022
- InterConnect Newsletter - Winter 2021-2022, February 8, 2022
- Withhold Release Orders (WROs): Supply Chain Diligence, Compliance, and Best Practices , February 8, 2022

News

- Ready for What's Next - Steven D. Lesser, J. Phillip Nester, and Christopher C. Razek join Benesch's Transportation & Logistics Group, August 17, 2021
- David M. Hopkins and J. Phillip Nester mentioned in Crain's Cleveland People on the Move, July 12, 2021
- Benesch Adds Two Associates to Cleveland Office, June 28, 2021