



Keeping Customers in Today's Market

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1. Be honest about who you are

- *H&H Brokerage v. JR Simplot*, 2008 WL 394998 (ED ARK 2008)
 - H&H operated a motor carrier and a brokerage under different companies
 - 2 Companies in privity
 - Broker's unpaid freight charges should have been raised in suit against carrier
 - Seems to disregard corporate entities

2. Good contracts make for good customers

- With a handshake you both think you are right
- Problem with Corporate Memory
 - Employees turnover
 - Relationships change
- <http://www.nitl.org/ModelMotorCarrierShipperwithGeneralInstructions.pdf>



3. Look at the big picture

- What are you doing?
- Dropped trailers
- Container detention
- What do seals mean?



3. Look at the big picture

- What rules for food/drug security will apply?
- Do your insurance coverages match up with this freight?



4. Prevalence of Intermediaries

Trans-Pro v. Coby Electronics,
2008 WL 4163992 (ED NY 2008)

1. Coby was shipper
2. Trans-Pro intermediary
3. TRT broker
4. CSXI intermediary



4. Prevalence of Intermediaries

5. ARL carrier
6. Delivered load – seal in tact
7. Factual dispute as the role Trans-Pro played.
 - a. Sloppy documentation
 - b. Inconsistent roles described
8. SJ denied



4. Prevalence of Intermediaries

Werner v. Westwind,
07-15488 (11th Cir. 2009)

1. Nextel shipping cell phones
2. Westwind intermediary
3. Transpro intermediary
 - a. Contained limitation of liability of \$200,000



4. Prevalence of Intermediaries

Werner v. Westwind,
07-15488 (11th Cir. 2009)

4. Werner was carrier

5. Cell phones stolen

6. Holding: Intermediary's limitation applied to protect motor carrier



5. Fire 25% of your shippers

- You will be lean and mean after recovery
- Don't be too quick to increase capacity
- Increase QUALITY

5. Fire 25% of your shippers

- Look at shipper-consignee history
 - Claims history
 - What is shipper promising consignee?
- Why are they looking for a new carrier?

6. Improve Communication between Sales and Operations

- What is sales promising to this shipper?
- Can operations do it?
- Is this consistent with your company vision?



7. Be Ready for CSA 2010

- What will your shippers require as a floor for safety?
- Will hit you quickly
 - Hundreds of warning letters go out upon start up
 - Will have to react quickly



8. Develop Process for Managing Nonpayment and Bankruptcy

- Get immediate notice of Bankruptcy of shipper
- Consider Holding Freight in the Pipeline
- Get immediate decision on critical vendor status
- Follow tariff for Collections

Questions?

