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# InterConnect

A PUBLICATION OF BENESCH FRIEDLANDER COPLAN &amp; ARONOFF LLP'S TRANSPORTATION AND LOGISTICS GROUP

## “10 + 2” Rule Impacts Cargo Arriving in U.S. Ports

On January 26, 2009, the Department of Homeland Security and U.S. Customs and Border Protection (CBP) published an Interim Final Rule establishing the Importer Security Filing and Additional Carrier Requirements (ISF) for cargo arriving in U.S. ports.

The Office of Management and Budget's Regulatory Assessment estimates approximately 11 million shipments to the U.S. will be impacted by this Rule each year.

Commonly known as “10 + 2,” the Rule increases and modifies the advance trade data required of importers and vessel operating carriers for non-bulk cargo shipments arriving into the U.S. by vessel. The Rule requires importers to electronically submit 10 pieces of advance shipping data 24 hours prior to loading at a foreign port. Six of the original 10 are modified. The requirements regarding timing of transmission for two of the 10 and flexible requirements for four of the 10 are adopted as an *interim final* rule. The other requirements in the rule are adopted as a *final* rule. In addition to the 10 elements required of importers, ocean carriers are now required to provide two sets of information.

That gives us “10 + 2.”

### Importer Requirements

U.S.-bound cargo, including FTZ and IT, requires the electronic filing of an Importer Security Filing (ISF) comprising 10 data elements 24 hours prior to vessel lading.

1. Importer of Record Number
2. Consignee Number
3. Seller (Owner)
4. Buyer (Owner)
5. Ship To Party\*
6. Manufacturer (Supplier) Name/Address\*
7. Country of Origin\*
8. Commodity HTS-6\*
9. Container Stuffing Location\*\*
10. Consolidator (Stuffer) Name/Address\*\*

Transit Cargo (FROB, IE and TE) requires the electronic filing of an ISF comprising five data elements.

1. Booking Party Name/Address
2. Ship To Party
3. Commodity HTS-6 Number
4. Foreign Port of Unlading
5. Place of Delivery

### Carrier Requirements (in addition to existing carrier requirements)

1. Vessel Stow Plans
2. Container Status Messages

Carriers are required to submit a vessel stow plan for vessels destined for the U.S. For voyages longer than 48 hours, carriers are required to transmit the stow plan so CBP receives it no later than 48 hours after the carrier's departure from the last foreign port. For voyages less than 48 hours, CBP must receive the stow plan prior to the vessel's arrival at the first port in the U.S.

Carriers are required to submit Container Status Messages for certain events relating to any containerized cargo destined for the U.S., provided the carrier already crates or collects that information in its

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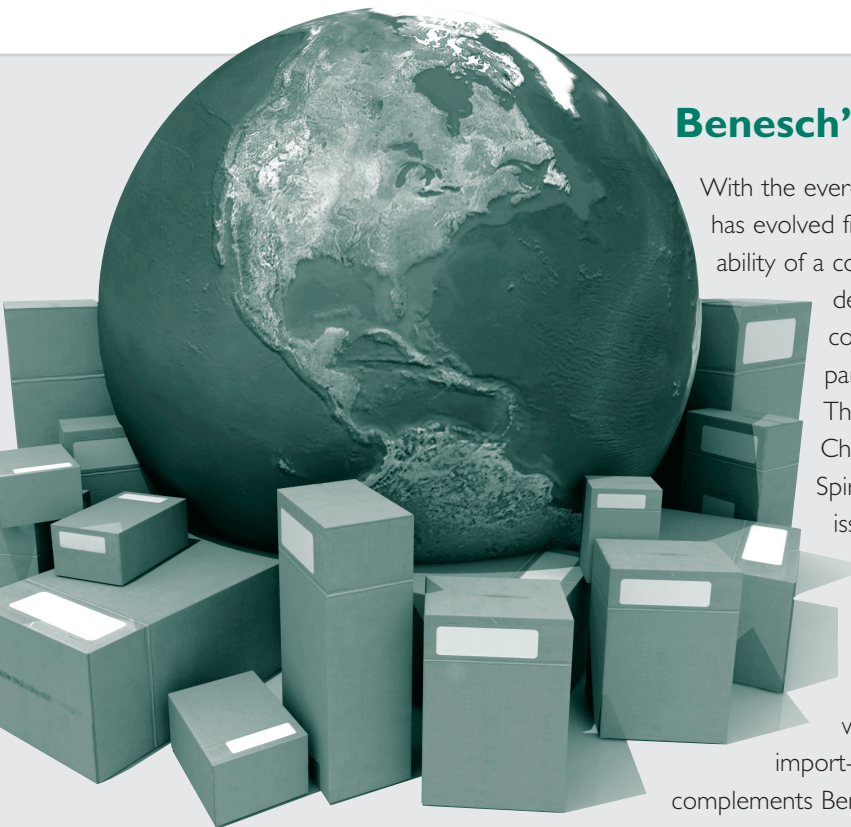
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\* These elements are still required 24 hours prior to vessel lading. Importers, in their initial filing, will be permitted to provide a range of acceptable responses based on facts available at the time, in lieu of a single specific response. Importers will be required to update their filings as soon as more precise or more accurate information is available.

\*\* ISF Importer must file this data as soon as possible, but no later than 24 hours prior to U.S. arrival.



## Benesch's New International Trade Group

With the ever-increasing global expansion of goods and services, international trade has evolved from a luxury into a necessity for most domestic companies. The ability of a company to compete and financially grow in a particular industry may depend upon tailoring a program to buy and sell products from and to companies and consumers in other countries. Manufacturers are thus part of a supply chain that is global in scope and constantly evolving. That is why Benesch has created its International Trade and Supply Chain Management Practice Group, led by Mariann E. Butch, Robert M. Spira and E. Mark Young. The Group assists companies with a host of issues they face at any stage of international expansion, including importing or exporting challenges.

Benesch services in this arena range from assisting domestic companies with creating programs to import and/or export goods, to assisting companies in structuring programs to ensure compliance with the various state and federal trade guidelines, to actual import-export and customs compliance matters. The Group's expertise complements Benesch's broad-based experience in transportation and logistics law.

## Is Your Imports/Exports Compliance Program in Compliance?

Creating a compliance program is vital for domestic companies striving to compete in a global economy. Compliance programs are essential for adhering to various import and export guidelines, standards and procedures, as well as tracking inventory. Typically, companies work diligently to tailor a compliance program to serve their respective needs and then rarely, if ever, revisit that program, which in some cases can be rendered obsolete.

A proper compliance program should not only satisfy current needs, but also be a mechanism for evaluating company performance. Accordingly, it is critical that compliance programs are reviewed every few years.

Generally compliance programs should contain the following systems:

### Import/Export Controls

Detailed consideration must be given to the goods that companies import and export. U.S. Customs and Border Protection (CBP) assigns categories of goods a particular Harmonized Tariff Schedule (HTS).

That numerical HTS classification determines the duty rate, for categories of goods, that must be paid by a company.

Accordingly, compliance programs must ensure that proper HTS codes are applied to merchandise. Failure to designate HTS codes properly may lead to errors in calculating duty rates, which, in turn, can result in penalties and fines from CBP, even when such error is unintentional.

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### Utilization of Customs Brokers

A number of companies rely heavily upon customs brokers to assist with filing paperwork necessary to secure and clear goods through customs. Retaining customs brokers does not relieve a

company from its obligations. It is important to recognize that the company, as importer of record, is responsible for any errors associated with paperwork filed

with CBP. For example, if a customs broker unintentionally uses an incorrect HTS code for a product, thereby resulting in a lower duty, CBP views the company, as the importer of record, responsible for any monetary deficiency. In addition to being responsible for any shortfall in duty owed, a company may

be subject to penalties and fines from CBP for actions taken by the company's agent. Therefore, it is imperative for a compliance program to have a mechanism for evaluating paperwork prepared and filed by a company's customs broker.

### Records Management

A compliance program should have a records retention policy. Records retention policies, similar to compliance programs, must be tailored to satisfy a company's industry demands as well as its specific business operations. Identifying which records should be maintained is extremely important. Once categories of records are identified, a checklist should be created to ensure that each item imported/exported is properly accounted for, along with relevant records.

### Awareness of Rulings Affecting Your Business

Just as it is vital for companies to stay abreast of changing market conditions, it is equally important for companies that import and export goods to stay current with trade requirements. Having a specific compliance department that receives regular training is a necessity. Further, creating a company compliance manual is always a good idea. Given the speed at which the status quo can change, a compliance program must contain a procedure for staying current with recent legal rulings, trade regulations and filing guidelines.

### A Culture of Compliance

Compliance programs are rendered useless when companies fail to adhere to the procedures they set forth. Failure to abide by the parameters of a compliance program can be a function of many variables, such as a lack of employee training and a lack of strict enforcement. These impediments hinder company performance and can have a detrimental impact on complying with trade regulations. To avoid these pitfalls, employees must be routinely trained in connection with compliance issues. It is

important to understand not only the language, but also the spirit of compliance programs. For instance, by understanding the purpose of a compliance program, employees are able to call attention to matters that run counter to the program. This level of prevention adds an express level of checks and balances to a properly run compliance program. Similarly, failure to enforce compliance program procedures leads to non-adherence to guidelines that are specifically tailored and implemented to protect a company.

Decreasing costs is an ancillary benefit of a compliance program. Noncompliance with trade regulations can result in a product not being allowed to load at its point of origin. Spot inspections

performed by CBP can also lead to delays in clearing merchandise through customs, which can result in penalties and fines in the event paperwork is not properly filed. A financial cost usually occurs each time such problems arise.

No matter the size of your business, a compliance program is a necessary business tool. These programs are not a one-size-fits-all proposition, but must be customized to address a company's industry and specific business operations in order to be effective.

For more information, please contact E. Mark Young at [myoung@beneschlaw.com](mailto:myoung@beneschlaw.com) or (216) 363-4518 or Mariann E. Butch at [mbutch@beneschlaw.com](mailto:mbutch@beneschlaw.com) or (216) 363-4198.

## Export Compliance Evaluation

	When was the last time you reviewed your product line against the Export Administration's Commerce Control List?
	Do you have a process to screen all exports for compliance with the Export Administration Regulations?
	Do you have a process to screen all exports for compliance with the Foreign Corrupt Practices Act?
	Do you have a process to screen all transactions for prohibited entities and persons lists?
	Do you have a records retention policy for all export transactions?
	Do you have procedures to protect against deemed exports?
	Have all export licenses been reviewed against business needs and practices in the past year?
	Do you have a procedure if a representative of BIS, OFAC, OEE or Customs and Border Control calls for an appointment?
	Are all of the above policies and procedures reviewed annually for effectiveness and compliance with regulatory changes?



## Benesch Adds New Partners, Practice Group

Benesch is pleased to announce the addition of three partners and associates to the firm. They will serve as core members of our new Public Finance Practice Group. The group will service clients in matters involving public works, infrastructure projects and bond issuances, and will offer our clients counsel in relation to the many government-initiated stimulus projects that are expected to arise in 2009.

### MY BENESCH MY TEAM



**Michael J. Melliere** has joined the firm as a partner and Chair of the Public Finance Practice Group. He serves as bond

counsel, underwriter's counsel, letter of credit bank counsel, borrower's counsel and issuer's counsel on a variety of tax exempt financings for 501(c)(3) organizations, such as schools, nursing homes and long-term care facilities, hospitals, retirement housing communities and cultural and recreational facilities. Mr. Melliere is also experienced in assisting faith-based organizations and schools in securing tax-exempt financing in states where schools cannot otherwise utilize such financing due to constitutional impediments.

Mr. Melliere received his B.S. from Purdue University in 1988 and his J.D. from University of Michigan Law School in 1991.

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**Stephen P. Grassbaugh** has joined the firm as a partner in the Public Finance Practice Group. Mr. Grassbaugh serves as bond counsel for political

subdivisions, special counsel on economic development matters, underwriter counsel for investment banking firms and special counsel on matters including Ohio ethics laws, annexation, intergovernmental agreements, state and federal loans and grants, and constitutional and public law issues. His client base of political subdivisions includes the State of Ohio, county agencies and departments, municipalities, townships, school districts, port authorities, metropolitan park districts and conservancy districts.

Mr. Grassbaugh received both his B.A. and B.S. from The Ohio State University in 1973 and his J.D. from Case Western Reserve University in 1984.

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**Jason L. George** has joined the firm as a partner in the Public Finance Practice Group. Mr. George focuses his practice on conduit

financing, including serving as bond counsel, underwriter's counsel, issuer's counsel, borrower's counsel, bank counsel and derivative counsel for a client base that includes acute and long-term care facilities, industrial developers and multi-family housing developers. He is also experienced in handling 501(c)(3) and energy-related financings.

Mr. George received his B.A. from DePauw University in 1995 and his J.D. from Indiana University School of Law—Bloomington in 1998.

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**Susan Bender Price** serves as bond counsel and underwriter's counsel for taxable and tax-exempt financings, and focuses her practice on education,

health-care and senior living transactions. She is experienced in managing all aspects of complex, multimillion-dollar tax-exempt financing transactions. In connection with such transactions, Ms. Price performs intensive contract review, drafts documentation, prepares resolutions, coordinates issuer and borrower board meetings and presents resolutions at such board meetings. In addition, she is well-versed in all aspects of documentation and tax analysis of conduit financings.

Ms. Price received her B.A. cum laude from DePauw University in 1999 and her J.D. from University of Cincinnati College of Law in 2002.

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**Catherine M. Swartz** focuses her practice on serving as bond counsel in general obligation and revenue bond financings for Ohio cities, counties,

school districts and villages. She assists her school district clients in matters regarding the classroom facilities assistance program, tax levies, construction, competitive bidding, purchase, sale and lease of real property and other school law matters. Ms. Swartz drafts continuing disclosure filings for political subdivisions, advises counties regarding implementing sales and use taxes and researches counties' acquisitions and financings of real property.

Ms. Swartz received her B.A. magna cum laude from the College of Wooster in 1998 and her J.D. with honors from The Ohio State University, Moritz College of Law in 2002.

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**Allison M. Binkley** focuses her practice on conduit financings, leasing transactions and traditional bond work. She serves as bond counsel and

underwriter's counsel for financings including 501(c)(3) and health care financings. Her client base includes health care organizations, private schools and traditional government issuers. Ms. Binkley handles the drafting of bond documents, offering statements, swap documents and closing documents. She also performs in-depth research and memorandum writing of various bond and tax law issues.

Ms. Binkley received her B.A. cum laude from Grove City College in 1999 and an M.A. in Economics from The Ohio State University in 2000. She received her J.D. from The Ohio State University, Moritz College of Law in 2007.

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## Feds Expand Use of Tax-exempt Financing for Transportation-related Projects

Tax-exempt bond financing has been used for decades by state and local governments and non-profits. Historically, such financing has been available for a limited number of for-profit entities, but recent federal legislation greatly expands the ability of for-profits to utilize tax-exempt bond financing. If a project can be financed with tax-exempt bonds, the investor in such bonds is willing to accept a lower interest rate because interest on the debt is excluded from the investor's income for federal income tax purposes. Because the investor is willing to accept a lower interest rate, the total cost of capital is lower than in a conventional financing.

To qualify for tax-exempt bond financing, certain provisions of the federal tax code must be satisfied, including a requirement that the bond proceeds be used to finance specific types of facilities. Some of these facilities include airports, docks and wharves and mass commuting facilities, as long as such facilities are owned by a governmental unit (the facilities can, however, be leased by the governmental entity to a for-profit entity). Storage or training facilities that are directly related to such facilities are also eligible to be financed on a tax-exempt basis.

The recent federal stimulus legislation, the American Recovery and Reinvestment Act of 2009 (ARRA), greatly expands the types of facilities that can be financed on a tax-exempt basis. Under ARRA, \$15 billion of "recovery zone bonds" can be issued nationally for private companies' facilities if the facility to be financed is located in a "recovery zone." A recovery zone includes an area designated by a city or county as having significant poverty, unemployment, rate of home foreclosures, or general distress. Potential borrowers of "recovery zone bonds" will need to work with the city or county in which the facility is to be located to obtain an "allocation" of the \$15 billion available nationally. In a throwback to the pre-1986 days when industrial development bonds, or "IDBs," could be used to finance almost any capital project, including projects of for-profit companies, "recovery zone bonds" can similarly be used to finance most capital projects for for-profit companies. Transportation-related projects that would qualify for recovery zone bond financing include logistics, distribution, cargo and warehouse facilities and corporate office buildings. Companies need to act quickly, though, to avail themselves of recovery zone bonds—the ARRA provisions allowing recovery zone bonds to be issued expire on December 31, 2010.

To find out more about tax-exempt financing possibilities for your project, including the availability of "recovery zone bonds," please contact a member of the Benesch Public Finance team: Jason George at [jgeorge@beneschlaw.com](mailto:jgeorge@beneschlaw.com) or (614) 223-9311; Steve Grassbaugh at [sgrassbaugh@beneschlaw.com](mailto:sgrassbaugh@beneschlaw.com) or (614) 223-9327; Mike Melliore at [mmelliore@beneschlaw.com](mailto:mmelliore@beneschlaw.com) or (614) 223-9331; Susan Price at [sprice@beneschlaw.com](mailto:sprice@beneschlaw.com) or (614) 223-9377; Allison Binkley at [abinkley@beneschlaw.com](mailto:abinkley@beneschlaw.com) or (614) 223-9376; or Catherine Swartz at [cswartz@beneschlaw.com](mailto:cswartz@beneschlaw.com) or (216) 363-4546.

## Recent Events

**Martha Payne** attended the **Air Cargo Conference** in Las Vegas, NV, on March 8–10, 2009.

**Marc Blubaugh** and **Eric Zalud** attended the **International Warehouse & Logistics Association's Annual Convention & Expo** in St. Petersburg, FL, on March 8–10, 2009.

**Marc Blubaugh** moderated and **Frank Reed** was a panelist for a **Columbus Roundtable of the Council of Supply Chain Management Professionals** program, entitled *The Greening of the Supply Chain and Today's Economy* in Columbus, OH, on March 19, 2009.

**Martha Payne** presented *Cargo Claims – A Short Course* and **Eric Zalud** presented *Freight Intermediary Contracting and Liability* at the **Transportation & Logistics Council/Transportation Loss Prevention & Security Association's 35th Annual Conference** in St. Louis, MO, on March 23–25, 2009.

**Frank Reed** presented *An Interactive Review: Environmental Legal Considerations* at the **Tank Cleaning and Environmental Council Seminar** at the **National Tank Truck Carrier's Conference** in Savannah, GA, on March 30, 2009.

**Eric Zalud** presented *Legally Speaking – Liability Limitations to Third Party Intermediaries* and **Martha Payne** presented *Contracts – It Said What?* at the **Transportation Intermediaries Annual Convention and Trade Show** in San Antonio, TX, on April 1, 2009. **Bob Spira** also attended the convention.

**Peter Kirsanow** spoke at a one-day **Symposium on the Employers Free Choice Act** sponsored by the **National Tank Truck Carriers** in Baltimore, MD, on April 7, 2009.

## New Grant and Loan Money Available to Retrofit Diesel Engines

The U.S. Environmental Protection Agency (EPA) first issued new stricter regulations on the emissions from diesel engines in 2000. The original regulations were scheduled to become effective with heavy-duty engines manufactured in 2007. The EPA

then extended the date to 2009, with a requirement that all engines comply with the new regulations by 2010. The regulations were

aimed at the human health risks caused by diesel engine emissions, which contain high levels of nitrogen oxide (NOx) and particulate matter (PM). Fleet owners have the option of either replacing their vehicles with newer, low-emissions vehicles or retrofitting their older vehicle engines with emission control technologies.

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA), more commonly known as the "Stimulus Bill." As part of ARRA, \$300 million will be available to the National Diesel Emissions Reduction Program. Funds will be distributed on a competitive basis, with those seeking funds applying to individual state EPA agencies.

The EPA suggests that potential applicants for ARRA funds begin to assess their diesel fleets to determine vehicle eligibility. Private parties seeking funds are encouraged to establish the necessary partnerships with public entities, since the National Diesel Emissions Reduction Program requires Public-Private Partnerships in order for private diesel fleets to access its funds.

Another source of funding is the Energy Policy Act of 2005, which established a grant program whereby the EPA distributes funds to states so they may achieve "significant reductions in diesel emissions." For example, in Ohio,

*Several programs offer eligible fleet owners opportunities to defray the costs associated with achieving full compliance.*

R.C. §122.861 creates Ohio's Diesel Emissions Reduction Grant (DERG) program, as well as a revolving loan fund, a program jointly

administered by the Ohio Director of Development. In order to be eligible for this funding, projects must focus on retrofitting, repowering, installing anti-idle equipment or replacing public diesel-powered fleets. Additionally, the project must demonstrate a reduction in NOx and PM pollutants. Finally, projects may be more likely to receive DERG funds if the requesting party agrees to use biodiesel fuels, which have fewer harmful emissions.

A third source of funds is the federal Congestion Mitigation and Air Quality (CMAQ) program. The federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), enacted in 2005, established the criteria for funds available under CMAQ program, and is designed to make attainment and maintenance of the federal Clean Air Act's National Ambient Air Quality Standards (NAAQS) more feasible. Under the CMAQ program, the Federal Highway Administration gives priority to diesel emissions reduction projects and congestion mitigation projects.

Finally, EPA's Smartway Transport Finance Program (Smartway) offers low-cost loans for either the purchase of new diesel-powered vehicles with EPA-certified emissions control technology or the equipment to retrofit older vehicles with EPA-certified emissions control technology. Smartway funds can also be used to install idle-reduction technologies. The program allows \$3 million to be distributed on a competitive basis to selected applicants. Smartway funds are available to local and state governmental entities that operate diesel fleets. Additionally, non-profit organizations are eligible to receive Smartway funds if they will distribute the funds to operators of diesel fleets or promote awareness of air quality considerations in the transportation industry.

The EPA's 2010 deadline for diesel fleet owners to comply with emissions reduction regulations is rapidly approaching. Several programs offer eligible fleet owners opportunities to defray the costs associated with achieving full compliance. Given the competitive nature of the application processes for these funding options, fleet owners must have an understanding of the program requirements and decision makers' relevant considerations.

For more information, please contact Frank J. Reed, Jr. at [freed@beneschlaw.com](mailto:freed@beneschlaw.com) or (614) 223-9304.

## Does Your Company Pay Its Dispatchers Overtime?

Probably not. Most transportation companies consider their dispatchers salaried employees and not eligible for overtime. But now may be a good time for these companies to review the reasons they consider their dispatchers "salaried." Some dispatchers may be entitled to overtime.

In the recent case of *Iaria v. Metro Fuel Oil Corp.*, a New York federal court, deciding an overtime claim under both the federal Fair Labor Standards Act (FLSA) and New

York state law, recently held that a group of dispatchers could proceed to trial on the issue of whether they are subject to the "administrative" exemption under the FLSA. Although the court noted that dispatchers generally qualify under the exemption, it was not satisfied that the plaintiff-dispatchers' actual duties made them subject to the exemption.

Employees of a "bona fide administrative capacity" are not subject to, and are exempt from, the FLSA's overtime provisions, provided that they are paid a salary of at least \$455 per week and their primary duties are "the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers" and they "exercise ... discretion and independent judgment with respect to matters of significance." While the parties conceded that the plaintiffs were paid a sufficient salary, they disputed whether the dispatchers' duties involved the level of discretion and judgment required by the FLSA.

To support its position that the plaintiff-dispatchers were not entitled to a trial, the defendant-employer provided evidence that its dispatchers "ensured that the defendant's product (fuel) was delivered timely and efficiently." The court found that that this general job description was not in line with the type

*Although transportation companies typically assume that their dispatchers should be salaried employees, they should not rely on assumptions or what other companies do.*

of administrative functions contemplated by the FLSA, such as those performed by accountants, personnel officers and computer programmers.

The court also questioned whether the dispatchers exercised discretion and independent judgment on "matters of significance," and whether they were required to use judgment that was "more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources."

The court acknowledged that the Wage and Hour Division's Field Operations Handbook provides that the Division's investigators should consider dispatchers as acting in a bona fide administrative capacity when they are required to handle emergency situations or make choices between using company trucks or those of a contract carrier. However, the court found that the plaintiff-dispatchers provided evidence that they had to seek the approval of their supervisor before taking most actions, which negated the discretion required by the "administrative" exemption. Accordingly, the court held that a trial was needed to determine whether the dispatchers were entitled to overtime.

Although transportation companies typically assume their dispatchers should be salaried employees, they should not rely on assumptions or what other companies do. The standards for an FLSA exemption need to be satisfied for each employee. This means that companies should examine, or re-examine whether the actual job duties of their salaried dispatchers satisfy the "administrative" or some other FLSA exemption. As the *Iaria* case demonstrates, unless dispatchers use independent judgment and exercise discretion on matters of significance, a court may find they are entitled to overtime, or at least a trial.

Joseph N. Gross, Partner, an OSBA Certified Specialist in Labor & Employment Law, and Patrick O. Peters, associate, are members of Benesch's Labor & Employment Practice Group and practice in the area of labor and employment law, including wage and hour compliance. For more information concerning compliance with any aspect of the FLSA, please contact Joe at [jgross@beneschlaw.com](mailto:jgross@beneschlaw.com) or (216) 363-4163 or Pat at [ppeters@beneschlaw.com](mailto:ppeters@beneschlaw.com) or (216) 363-4434.



## On the Horizon

Eric Zalud will be attending the **Terralex Annual North American Conference** in Atlanta, GA, on April 23, 2009.

Mariann Butch will be presenting *Electronic Discovery and Records Retention as Applied to Transportation Entities* and Peter Kirsanow will be speaking on diversity at the **Transportation Lawyers' Association Annual Conference** in Carlsbad, CA, from April 28–May 2, 2009. Eric Zalud and Marc Blubaugh will be attending both the **Executive Committee Meeting** of the **Transportation Lawyers Association** as well as the Annual Conference, and Bob Spira will be attending the Annual Conference and Chairing the Motor Carriers Committee meeting. Martha Payne will also be attending the Conference.

Eric Zalud and Frank Reed will be attending the **National Tank Truck Carriers Annual Conference** in San Diego, CA, on May 10–12, 2009.

Bob Spira will serve as Chair of a full-day seminar titled *Going Global Today* in Cleveland, OH, on May 12, 2009. The seminar is sponsored by the **International Law Section of Cleveland Bar Association** in partnership with the **International Trade Assistance Center**.

Eric Zalud will be attending the **Conference of Freight Counsel Meeting** in Philadelphia, PA, on June 28–29, 2009.

For further information and registration, please contact Megan Thomas, Client Services Manager at [mthomas@beneschlaw.com](mailto:mthomas@beneschlaw.com) or (216) 363-4639.

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equipment tracking system. If this applies, carriers are required to submit the information no later than 24 hours after the message is entered into the carrier's equipment tracking system.

There are other provisions in the ISF. Liquidated damages for violations have been modified to \$5,000 for each violation. Liquidated damages for violations of advance cargo information requirements are capped at \$100,000 for vessel carriers. Powers of Attorney must be in English. Bond requirements have changed.

There is a 12-month restrained enforcement period to allow the industry to comply with the new requirements. During that 12-month period, importers must show they are making satisfactory progress toward compliance and making a good faith effort to comply.

For more information, please contact Martha Payne at [mpayne@beneschlaw.com](mailto:mpayne@beneschlaw.com) or (541) 764-2859.

### Help us do our part in protecting the environment.

If you would like to receive future issues of this newsletter electronically, please e-mail Sam Daher at [sdaher@beneschlaw.com](mailto:sdaher@beneschlaw.com).

Pass this copy of *InterConnect* on to a colleague, or e-mail Liz Highley at [ehighley@beneschlaw.com](mailto:ehighley@beneschlaw.com) to add someone to the mailing list.

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