



ATTORNEYS AT LAW

Becker LLC's Joseph G. Harraka, Jr. interviews Lisa Yakomin, President of the Association of Bi-State Motor Carriers, discussing the Current State of the Trucking & Logistics Industry

***Harraka:* The Port of NY & NJ seemed to fare better than other ports in the U.S. when it came to handling operational challenges caused by the pandemic, despite being at the epicenter of the crisis early on. In August and September, NY/NJ set an all-time record for container volumes. To what do you attribute this success?**

Yakomin: There's no doubt that our port community here demonstrated an impressive level of resiliency in the face of enormous adversity, and I think a large part of the credit goes to the leadership in the Port Department at the Port Authority. The Port of NY & NJ has experienced extraordinary challenges in the past, such as the World Trade Center attack on 9/11/01 and the devastation wrought by Hurricane Sandy in 2012. Those crises led us to establish a strong foundation of open communication amongst port stakeholders through groups like the Council on Port Performance, which includes representatives from all facets of the supply chain. Once the State of Emergency was declared because of the coronavirus, the PANYNJ acted quickly to increase the frequency of CPP meetings, and added another weekly meeting for port stakeholders to share information and resources.

This high level of communication right from the start enabled us to react quickly when the COVID crisis hit, and address issues proactively before they reached critical mass. The intermodal trucking community had full visibility on what the marine terminals, shipping lines, equipment providers, longshoremen, warehouses, and cargo owners were experiencing, and vice versa, and that enabled us to coordinate our response efforts in a way that helped everyone address these challenges simultaneously, and assist one another as needed. As a result, we were able to stay open for business throughout the crisis, ride out the worst of it, and come back even stronger.

***Harraka:* Take out your crystal ball, how will the Pandemic reshape the future of the transportation industry, and what changes have occurred that you see becoming permanent in the post-Pandemic operating industry environment?**

Yakomin: One area where we were fortunate in NY & NJ is in the diversity of our trading partners: the percentage of freight that passes through our port from China is lower than what you typically see on the West Coast, so we didn't experience the precipitous drop in volume that other ports did at the start of the pandemic.

A significant amount of our imports in NY/NJ come from India and Vietnam, and it's anticipated that overseas manufacturing in the post-pandemic era will seek to diversify their supply chain operations by expanding in those locations—that's good news for us going forward.

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I also think the widespread use of Personal Protective Equipment is here to stay. Truckers can't "work from home" like those in other professions, and this crisis clearly demonstrated the importance of PPE, along with maintaining good hygiene practices and disinfecting protocols. We're seeing creative solutions being implemented in terms of the use of technology in reducing paperwork in favor of electronic options that don't require close personal contact. It's also great to see a heightened level of awareness and appreciation from the general public on the vital role that truck drivers play in maintaining the supply chain, especially once all of the toilet paper was gone from store shelves!

Harraka: **Is there any proposed legislation being considered here at the state level in New Jersey or at the federal level in Washington, DC that transportation firms need to be aware of and provide support for?**

Yakomin: Early this year, which seems like a lifetime ago, we successfully fought against statewide legislation (S863) which sought to eliminate Independent Contractors by forcing them all to become full-time employees. That would have been a disaster for the Port of NY & NJ, where as much as 77% of the driver workforce are independent owner operators. Unfortunately, attempts to do this on the Federal level persist, and we're doing our best to educate lawmakers on the negative consequences that would result from such measures. Fortunately, there is some good news to report: the U.S. Department of Labor is currently seeking to make [some long-overdue changes](#) to the Fair Labor Standards Act, which would clarify the factors for determining Independent Contractor status, and preserve that business model nationally.

The Federal Motor Carrier Safety Administration is also considering [a pilot program](#) that would allow 18 to 20-year-old drivers with CDLs to participate in Interstate trucking. This is something we've been requesting for years in order to address our chronic driver shortages, and it would also help to provide a career pathway for young people who are interested in intermodal trucking, but who don't want to wait until they're 21 to get started. [The deadline for submitting supportive comments on the USDOL proposal is October 26th, and the FMCSA is accepting comments until November 2nd. More information is listed on our website: <https://www.bistatemotorcarriers.com/>]

Harraka: **What is the Association doing for its members to assist them in addressing the challenges being imposed on the transportation industry? Could you outline those actions and steps?**

Yakomin: Right now we're focusing our advocacy efforts to engage and educate lawmakers on the important role that Independent Owner Operators play at the Port of NY/NJ, the essential flexibility they provide in allowing our workforce to expand and contract along with cyclical freight volumes, and the need to preserve the IOO business model in the face of legislation like The PRO Act and S863. We are also working closely with the New Jersey Department of Environmental Protection to provide data and guidance as they look to reduce emissions in New Jersey. They have expressed the desire for New Jersey to mirror California in their efforts to mitigate pollution issues, but there are many key differences between the two states that necessitate a different, more measured approach.

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Overall, we've made an effort to ramp up the level of communications with our members over the last several years, to keep them informed on key issues that affect their business. We do this via our email blasts, news bulletins, and posting on social media. We also engage directly with regulatory authorities, government officials, and other port stakeholders on behalf of our membership, to ensure that the needs and concerns of the motor carrier industry are being heard and addressed.

Harraka: What were some of the business and operational challenges faced by your members during the pandemic, (legal, accounting, banking, IT, etc.) and what solutions did they seek to support them through this crisis?

Yakomin: The pandemic has caused a number of challenges for motor carriers, as they have seen operating expenses increase with having to provide PPE and adjust their operations to keep their workers safe. The Federal government did step in via the CARES Act to provide funding to offset these expenses, including small business loans, such as the Payroll Protection Program, but there was a great deal of confusion on what businesses were eligible, and how to effectively secure that funding. There were also some problems that arose with the Pandemic Unemployment Assistance program, which, for the first time, allowed Independent owner operators to be eligible for federal unemployment benefits. This was unprecedented, and filling out the forms proved to be tricky. Those drivers who didn't fill out the forms correctly inadvertently misclassified themselves as employees, leading to potential legal issues for the carriers with whom they lease. We fielded many such inquiries from members who found the process confusing and overwhelming.

This is where a full-service law firm like Becker LLC really proved to be an asset to our organization. For those in the transportation space who need to navigate issues relating to Compliance, Insurance Coverage, Business Services, Employment, Finance, and Banking Needs, the team at Becker LLC provides professional expertise and sound advice that has proven essential in getting through this COVID-19 crisis. We're fortunate to have Becker LLC as an Allied Member, and appreciate the support and guidance you've given us and our membership!

About the Authors:



About Lisa Yakomin:

Lisa is the President, Communications Director, and the Director of Legislative Affairs for the Association of Bi-State Motor Carriers. She is a representative for a 170+ member association for businesses engaged in intermodal commerce at the Port of NY & NJ.

Lisa is a liaison with local, state, and federal government officials, issues press releases and policy statements, handles all media relations, spearheads advocacy efforts, maintains website and social media accounts, produces monthly newsletters, coordinates and promotes fundraisers, oversees the Association's annual scholarship program, creates targeted email campaigns, drafts issue and policies white papers, promotes legislative initiatives, and advocates on behalf of the intermodal drayage community.

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About Joseph G. Harraka, Jr. Esq.:

Joseph co-chairs the transportation group at Becker and as a senior member of the firm's litigation team, focuses his practice on being an aggressive advocate for his clients. He draws upon both his law and business degrees to understand his clients' respective legal and business needs and never loses sight of results that make business and economic sense to them.

With more than 30 years of experience, Mr. Harraka has served as lead counsel in business litigation matters before various state, federal, and bankruptcy courts, and he has first chaired numerous trials for clients. Additionally, he has handled numerous arbitrations and mediations and has significant experience resolving cases without the need for a trial. Mr. Harraka is also a state-certified mediator.

About Becker LLC:

Becker LLC is a premier mid-market firm with offices in New York, New Jersey, Philadelphia, and California. The firm provides the complete spectrum of legal services from litigation, transactional, labor, employment, and bankruptcy law counseling, to intellectual property, real estate, and construction law related advice. Our firm's size and regional footprint allows us to provide sophisticated services in a manner not only focused on results, but also on our client's return on their investment.

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