

EXPRESSTRAK LEGAL PROCEEDINGS

The Tioga Group Inc. has provided support for ExpressTRAK Inc. in two legal cases. In the first, Tioga supported National Passenger Railway Association (AMTRAK) in establishing its right to transport “express” freight before the Surface Transportation Board. In the second, Tioga worked on behalf of ExpressTRAK in its lawsuit against AMTRAK to recover damages and force better service performance. ExpressTRAK’s business was to transport perishable items--mainly vegetables--in refrigerated boxcars pulled by AMTRAK trains.

Tioga’s contributions included expert witness reports and testimony in each case, Additionally, in the ExpressTRAK v. AMTRAK case, Tioga provided strategic analyses of freight market conditions, services and prices of competitive modes, comparisons of AMTRAK service performance with market requirements and truck competition, and assistance to counsel as to the approach and content of the case.



Specifically, Tioga provided

- Market-oriented explanations of how express services are distinguished from normal rail carload and intermodal services, both physically and in the perception of the marketplace.
- Information for counsel and other witnesses about the nature of the truckload perishables marketplace, the operating techniques used by successful truckers to properly serve the marketplace, and distinguishing truckers’ handling of the shipments from the way they are handled in rail intermodal or carload service.
- A ten-year forecast of truck rates, including fuel surcharge, for transcontinental perishable commodities.
- Detailed analysis of AMTRAK service performance and the complications its service imposed on ExpressTRAK.
- Commentary on AMTRAK’s service performance and details of how its practices were marginalizing ExpressTRAK’s creditability and market acceptance.
- Evaluations and critiques of opposition witnesses’ testimony and exhibits.
- Documentation of market characteristics based on customer interviews and receivers’ requirements and procedures.

In the first case, AMTRAK won approval to commence express services. The second case resulted in an out-of-court settlement satisfactory to ExpressTRAK.