



# **SOUTHWEST DETROIT AUTO HERITAGE GUIDE**

Highlighting a Century of Auto History in a Neighborhood that Built the Car

## **BREAKING BARRIERS: THE OJ TRANSPORT STORY**

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In 1972 black and other minority suppliers were few and far between in the automotive industry. The number of black-owned trucking firms that had operating authority from the Interstate Commerce Commission (ICC) to carry freight across state boundaries was not much larger. The intersection of these two groups was exactly zero until the establishment of a small firm called O-J Transport Company, the creation of John James and his uncle, Calvin Outlaw. Success for James and Outlaw would not come easy - their path led all the way to the Supreme Court and ultimately to the halls of Congress, where landmark legislation passed that required the ICC to consider minority status when making decisions about operating authority.

The story of O-J Transport should be considered a classic example of the civil rights struggle of African Americans against institutional discrimination in the early 1970s. Regulations created during the New Deal in 1935 wound up systematically discriminating against African Americans later in the century. Although O-J's efforts to dismantle this discrimination through the courts were unsuccessful, the discriminatory barriers were removed through legislation in 1980 and thus they gained access to the automotive market. This success can be attributed to at least three factors: Republican efforts to foster black

entrepreneurship, automotive firms' support for affirmative action to build a minority supply base in the aftermath of the 1967 riots in Detroit, and a bipartisan effort to dismantle New Deal regulations in all forms of transportation,.

This paper will address those three topics and then tell the story of how O-J Transport took advantage of this confluence of factors to gain an opening for minority trucking firms in the automotive industry, subsequently building one of the most innovative and successful automotive logistics firms in the U.S.

## **Black Entrepreneurship**

There is a long history of African Americans engaging in entrepreneurial businesses, dating back to the time of the early republic. Prior to the Civil War, free blacks were able to build substantial businesses that employed both blacks and whites. For example, in Philadelphia during the 1820s and 1830s free blacks controlled the catering, hairdressing and sailmaking industries, and had both black and white employees. In 1864, a free black in New York named Stephen Smith had built a fortune worth over a half million dollars in the lumber industry. Louisiana also had a substantial number of successful free black entrepreneurs who catered to both black and white customers.<sup>1</sup>

However, even during the antebellum era, opposition by whites to African American businesses was significant. John Sibley Butler describes a free black named Henry Boyd who

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<sup>1</sup> John Sibley Butler, *Entrepreneurship and Self-Help among Black Americans: A Reconsideration of Race and Economics*, Revised Edition (Albany: State University of New York Press, 2005), 45-46, 51.

built a cabinet and furniture business in Cincinnati in the 1830s. Boyd's business was successful enough to employ as many as fifty workers, both black and white, and he had a national distribution. Unfortunately, Boyd's neighbors did not appreciate his success; his factory was burned down four times by local opponents, after which he gave up the business.<sup>2</sup>

After the Civil War and Reconstruction, discrimination against African Americans grew substantially in both the North and South as "Jim Crow" ideology took hold. White Americans were increasingly unwilling to patronize African-American businesses, and were equally unwilling to allow African Americans to patronize white businesses. The result was what Butler calls a "truncated middleman status" for African-American businesses. This means that African Americans were restricted to middleman "service" businesses such as retail, insurance and banking; however, the "truncated" part means they were restricted to serving the (relatively poor) African-American community and were unable to get into more lucrative fields such as manufacturing. This is in contrast to white ethnic groups, such as Irish, Jews or Italians, who were also restricted to middleman service businesses in their early immigrant days. However, these white ethnics were ultimately able to serve a larger clientele, and were therefore able to accumulate the capital necessary to enter manufacturing.<sup>3</sup>

The result was that African-American businesses tended to be smaller, less well-capitalized, and less profitable than comparable white-owned businesses. Of course, this did

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<sup>2</sup> Butler, 50.

<sup>3</sup> Butler, 74, 267.

not mean that there were no winners – there were quite a number of success stories of black-owned businesses, serving the black community, that created substantial wealth for their owners. For example, The North Carolina Mutual Insurance Company was founded in 1899 by former slave John Merrick, who was already wealthy from real estate and a group of barbershops he owned. As of 1995, this company was the largest African-American insurance company in the U.S. The hair care and cosmetics industries were particularly lucrative for African-American entrepreneurs. Anna Minerva Turnbo-Malone started a hair care product manufacturing company in 1900 that grew to world-wide distribution by 1922, and had more than 75,000 employees. John Johnson was able to build his Johnson Publishing Company into a publishing empire (including *Ebony*, founded in 1945) beginning in 1942. He was the first African-American included in the *Forbes* 400 of wealthiest Americans.<sup>4</sup>

This pattern of relative success serving an insular community, combined with an inability to expand beyond that community, remained mostly true until World War II. Butler cites 1944 data from twelve U.S. cities showing the range of African-American owned businesses – almost all were in services or retail; fewer than one percent were in manufacturing.<sup>5</sup>

During and after the war, the pattern of racial discrimination began to break down to a certain extent. Blacks were able to get relatively good jobs in Northern factories that

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<sup>4</sup> Juliet K. Walker, *The History of Black Business in America: Capitalism, Race, Entrepreneurship* (New York: MacMillan Library Reference USA, 1998), 190, 208-209, 299.

<sup>5</sup> Butler, 164-165.

increased their attractiveness as consumers to mainstream businesses. Challenges to discriminatory laws and practices became more frequent and more successful, increasing the ability of black consumers to shop anywhere. The result was a decline in black-owned businesses because of increased competition for the black consumer. However, this was not accompanied by a similar change in the behavior of white consumers – they continued to avoid black-owned businesses, sometimes because of discrimination, but perhaps just as much because they were simply more costly or not located in white neighborhoods.<sup>6</sup>

With the increasing strength of the Civil Rights movement in the mid-1960s and the shift of African-American loyalties to the Democratic party, Republicans sought a way to regain African-American support. After the Civil War blacks had been solidly Republican until the Depression years, when Franklin Roosevelt began to appeal to them, particularly with Roosevelt's Executive Order 8801 in 1941 that outlawed discrimination in war manufacturing. Many Republicans still hoped to draw African Americans back to their party. As Richard Nixon ran for President in 1968 he tried to appeal to African Americans with a proposal to foster "Black Capitalism." Nixon was particularly concerned with drawing support away from radical black separatist movements, so the notion of "empowering" blacks by helping them grow businesses had great appeal.<sup>7</sup>

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<sup>6</sup> Robert E. Weems, "A Crumbling Legacy: The Decline of African American Insurance Companies in Contemporary America," *The Review of Black Political Economy* 23, no. 2 (Fall 1994): 27; Robert E. Weems, "Out of the Shadows: Business Enterprise and African American Historiography," *Business and Economic History* 26, no. 1 (Fall 1997): 208.

<sup>7</sup> Robert E. Weems, *Business in Black and White: American Presidents and Black Entrepreneurs in the Twentieth Century* (New York: New York University Press, 2009), 41-42, 110-122.

One key reason for encouraging black-owned businesses is that they tend to employ more African Americans than white-owned businesses. Using data from a Congressional Budget Office (CBO) survey, Timothy Bates shows that “93 percent of black business employers rely upon minorities to fill 50 percent or more of their available jobs, nearly 60 percent of nonminority-owned employers have no minority employees.” This demonstrates the importance of fostering black business enterprises, since it results not simply in the creation of a small number of wealthy business owners, but also the creation of a substantial number of jobs for the overall minority workforce that would otherwise be discriminated against.<sup>8</sup>

Unfortunately, “Black Capitalism” was defined in the Nixon administration simply as helping to build black-owned businesses in poor black neighborhoods (“the ghetto”), essentially a reprise of the strategy used by black entrepreneurs before WW II that had begun to fail in response to changing social conditions. Nixon established the Office of Minority Business Enterprise (OMBE) in 1969 to implement the concept of Black Capitalism, but historians Robert Weems and Dean Kotlowski argue that it had little impact, other than to help meet the Nixon Administration’s goal to marginalize the black separatism movement.<sup>9</sup>

What did have some impact was the institution of federal government “set-asides” through the Small Business Administration (SBA) Section 8(a) program. Section 8(a)

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<sup>8</sup> Timothy Bates, “Utilization of Minority Employees in Small Business: A Comparison of Nonminority and Black-Owned Urban Enterprises,” *The Review of Black Political Economy* 23, no. 1 (Summer 1994): 113.

<sup>9</sup> Weems, *Business in Black and White*, 127; Dean Kotlowski, “Black Power-Nixon Style: The Nixon Administration and Minority Business Enterprise,” *The Business History Review* 72, no. 3 (Autumn 1998): 423.

expanded an existing SBA program that had granted government contracts to small businesses on a non-competitive basis, to small businesses owned by minorities and other disadvantaged groups. The idea behind this was that the government's large purchasing power could be used to foster the development of minority-owned businesses that would become competitive in the free market once they had built the business experience necessary to do so.<sup>10</sup>

The track record of Section 8(a) procurements is mixed at best. While a substantial number of minority-owned businesses were created to take advantage of 8(a), the number that have "graduated" to become viable in the private sector appears to be relatively small. This means that 8(a) procurements may have functioned more as a "jobs program" for minorities, than as a stepping stone to grow independent minority small businesses. There is also no evidence about the extent to which individual entrepreneurs who may have gotten a start in an 8(a) procurement, might have gone on to start other businesses, using the experience gained under 8(a).<sup>11</sup>

One positive outgrowth of the SBA's 8(a) program is that it provided an example for a comparable movement for local governments and private companies to use set-asides to provide a leg up to minority businesses. As somewhat less formally structured programs,

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<sup>10</sup> Neil Singer, "Federal Aid to Minority Business: Survey and Critique." *Social Science Quarterly* 54, no. 2 (1973): 294; Theophilos, Anthony. "Government Procurement and the Small Business Act of 1958." *American University Law Review* 22, no. 4 (1973): 735-739.

<sup>11</sup> Government Accounting Office. Briefing Report to the Chairman, Committee on Government Operations, House of Representatives, *Small Business Administration: Status, Operations, and Views on the 8(a) Procurement Program* (May 1988), GAO/RCED-88-148BR, 1988, 2-3.

some of these local and private programs have been quite successful. For example, Timothy Bates and Darrell Williams report that the local set-aside program in Atlanta was quite successful, while a similar program in Baltimore failed as a result of corruption. Their conclusion is that local management is key to whether the program is treated as an economic development opportunity or simply as a corrupt way to funnel public funds to non-minority firms. On the private sector side, one of the better examples is in the auto industry.<sup>12</sup>

## **The Auto Industry**

The automotive industry was seriously affected by the social changes that took place in the mid- to late-1960s. The most serious of the urban, racially-oriented riots of the 1960s took place in 1967 in the industry's backyard, Detroit. Moreover, the industry itself was subject to serious unrest among members of the workforce that affected both the four large auto companies of the day and the United Auto Workers (UAW) union. The most well-known worker movement of the time was the Dodge Revolutionary Union Movement (DRUM) at the Dodge Main plant in Highland Park, MI. Although DRUM itself began with a wildcat strike in May of 1968, there had been evidence of serious unrest throughout the industry for several years, based to a great extent on evidence of racial discrimination by plant management that kept black workers in the worst jobs. Despite historically being a leader in terms of civil rights, the UAW appeared to have little interest in addressing these concerns. Taken

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<sup>12</sup> Bates, Timothy and Darrell Williams. "Preferential Procurement Programs and Minority-Owned Businesses." *Journal of Urban Affairs* 17, no. 1 (1995): 1-17.



together with the riots in Detroit and elsewhere during this period, the management of the major auto companies had reason to be concerned about their public image with the African-American community.<sup>13</sup>

While all of the automotive companies had been hiring black workers for many years, there were few black automotive suppliers or dealers. As discussed above, the ability of black entrepreneurs to build a presence in manufacturing was limited by discrimination on the part of both customers and sources of capital. Consequently, in 1968 Ford and General Motors (GM) initiated "minority supplier" programs to develop minority companies that could participate in the manufacturing supply chain.<sup>14</sup>

In 1969, the Secretary of Commerce, Maurice Stans, encouraged Ford to increase the number of its minority-owned dealerships. Presumably, Stans also made similar overtures to other auto firms. Chrysler had given the first "Big 3" dealership to an African American in 1963; the second came from GM in 1967. By 1969 there were 24 African-American dealers nationwide. This has grown significantly; in 2001, Ford alone had 360 minority dealers, more than seven percent of its total number of dealers.<sup>15</sup>

Although the minority supplier programs started small and proceeded slowly, these programs have been quite successful. Ford began its program in 1968 with only 10 minority

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<sup>13</sup> Heather Ann Thompson, *Whose Detroit? Politics, Labor, and Race in a Modern American City*, (Ithaca, NY: Cornell University Press, 2001), 109; Thomas J. Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton, NJ: Princeton University Press, 2005), 95-100.

<sup>14</sup> Jack Wertz, *New Detroit Press Release*, October 13, 1981, (sourced from Ford Motor Company Archives, January 24, 2013); Dave Zoia, "Ford Widens Program for Minority Suppliers," *Automotive News*, October 13, 1986, 1.

<sup>15</sup> Kotlowski, 16; *Ebony* 25, Feb 1970, 66-74; *Ford Motor Company Press Release*, "Ford Motor Company Recognized for Minority Business Efforts by U.S. Commerce Department," September 13, 2002, (sourced from Ford Motor Company Archives, January 24, 2013).

suppliers, mostly in the services area and with only \$43,000 worth of contracts. By 1984, this had risen to \$147 million worth of contracts; the much larger GM had \$567 million, and the much smaller Chrysler had \$23 million worth of contracts with minority suppliers in the same year. Today those numbers are much larger; in 2011 Ford procured more than \$5 billion worth of work from minority suppliers.<sup>16</sup>

## The Trucking Industry

Trucking is a particularly good business for poor minorities to attempt to enter. It has low cost of entry in terms of capital and the educational requirements are minimal. It is also possible for a single individual, with a single truck (an “owner-operator”) to enter the business and find contract work for hire with a larger firm. Nonetheless, the number of African-American owner-operators and drivers was historically small until the 1980s to a great extent as a result of government policy.<sup>17</sup>

When O-J Transport began its quest to become an auto supplier in 1972, the trucking industry was one of the most regulated industries in the U.S. In the face of the chronic deflation of the Great Depression in the mid-1930s, the Roosevelt administration attempted to reduce competition in the trucking industry, and thereby raise profits and wages throughout the industry. The Interstate Commerce Act of 1935 gave jurisdiction over the

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<sup>16</sup> Marjorie Sorge, “Minority Parts Firms Come of Age,” *Detroit News*, December 27, 1987, 1E; Ford Motor Company Press Release, “Ford Sets New Record in Supplier Diversity with a 34 Percent Increase in Minority Sourcing,” May 24, 2012, (sourced from Ford Motor Company Archives, January 24, 2013).

<sup>17</sup> John S. Heywood and James H. Peoples, “Deregulation and the Prevalence of Black Truck Drivers,” *Journal of Law and Economics* 37, no. 1 (Apr. 1994): 133.

interstate trucking industry to the Interstate Commerce Commission (ICC), which had been created in 1886 to regulate the railroad industry.<sup>18</sup>

While the details of ICC regulation can be incredibly arcane, there are two primary forms of regulation of concern for this paper. First, all trucking firms engaged in interstate commerce in 1935 were “grandfathered” into the system and were automatically granted operating authority to continue in that status. Second, anyone who wanted to bring a new trucking firm into any interstate route had to apply to the ICC for operating authority, *for that specific route*, which included the particular goods to be transported on that route. Existing firms could formally object to any new entrants to their markets. New firms proposing to work on a given route had to clear a high bar, demonstrating that their entry into that particular route was both necessary for the public good *and* would not harm existing firms. This meant that it was quite difficult to enter the interstate trucking business after 1935.<sup>19</sup>

Given the state of racial discrimination in the U.S. in 1935, it will come as no surprise that there were relatively few black-owned trucking firms running interstate routes in that year; and given the process new firms had to endure, there were still few in 1972. Indeed, in 1960, only seven percent of independent owner-operators of trucks were black, and the vast majority of those were almost certainly running less lucrative, local routes. In one relatively well-known case, the Allstates Transworld Van Lines of St. Louis in 1969 applied for operating

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<sup>18</sup> Shane Hamilton, “The Populist Appeal of Deregulation: Independent Truckers and the Politics of Free Enterprise, 1935-1980.” *Enterprise and Society* 10, no. 1 (March 2009): 137-139; Tom B. Kretsinger, “The Motor Carrier Act of 1980: Review and Analysis,” *UMKC Law Review* 50, no. 1 (1981): 22-23.

<sup>19</sup> Shane Hamilton, *Trucking Country: The Road to American's Wal-Mart Economy*, (Princeton, NJ: Princeton University Press, 2008), 53.

authority to provide household moving services nationwide. This would have made it the only household moving service in the U.S. to provide nationwide moving services to inner-city African-American families, since many of the large van services of the time refused to serve African-American customers in the inner city. Their request was denied and Allstates' appeals through the Commission failed for 10 years (at a cost of \$100,000), until 1979, when they were granted limited authority in 47 states. Full, national authority was not granted until 1980.<sup>20</sup>

The shift by the ICC on Allstates took place concurrently with a larger policy shift toward deregulation of the nation's transportation systems that began under President Richard Nixon, but really took hold under President Jimmy Carter with the dramatic deregulation of the airline industry in 1978. Under increasing pressure from Republican conservatives such as Ronald Reagan, and with a weak economy that had yet to really recover from the oil embargo of 1973, the Democrats under Carter recognized the need to find ways to make the economy more efficient; the elimination of seemingly archaic transportation regulations fit the bill. Railroads had already been partly deregulated under President Gerald Ford, so after airline deregulation in 1978, the remaining regulated transportation industry was trucking.<sup>21</sup>

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<sup>20</sup> Hamilton, *Trucking Country*, 202; Walter E. Williams, *Race and Economics: How Much Can Be Blamed on Discrimination?* (Stanford CA: Hoover Institution Press, 2011), 110; Isaiah Poole, "Timothy Person's Moving Story," *Black Enterprise*, (May 1980): 18.

<sup>21</sup> Mark Rose, Bruce Seeley and Paul Barrett, *The Best Transportation System in the World: Railroads, Trucks, Airlines and American Public Policy in the Twentieth Century* (Philadelphia: University of Pennsylvania Press, 2010), 151; Micheline Maynard, "Did Deregulation Help Flyers?" *New York Times*, April 17, 2008, <http://www.nytimes.com/2008/04/17/business/17air.html?pagewanted=all> (Accessed April 16, 2013); President,

In June of 1979, President Carter introduced a proposal to Congress for the *Trucking Competition and Safety Act of 1979*. The President's message emphasized the efficiencies and reduced costs to be gained from the bill, but made no mention at all of benefits to minorities. Testimony in Congressional Hearings about the topic both before and after the President's Message also emphasized these issues, as well as the potential risks to current businesses that might result from passage of the bill.<sup>22</sup>

In contrast to the President's message, there was a substantial amount of testimony before Congress about the problems encountered by minority trucking firms and how this should be addressed. For example, in testimony to the Senate Committee on Commerce, Science and Transportation, M. Harrison Boyd, Executive Director of the Minority Trucking Transportation Development Corporation (MTTDC) discussed two minority trucking firms that had spent years trying to get ICC approval. Neither company is identified by name, but it is clear that one of the companies is Allstates Transworld; the other was seeking approval that would enable it to obtain government contracts for transportation. Boyd argued that ". . . overregulation of the trucking industry has stifled the business aspirations of minority truckers." Boyd also notes that there were only 143 minority firms involved in interstate commerce traffic out of 17,000 certificated firms, and only two of those had common carrier

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Message of Transmittal, "Trucking Competition and Safety Act of 1979, Washington: U.S. Government Printing Office, 1979, iii-iv; Public Law 94-210, 94<sup>th</sup> Cong., 2<sup>d</sup> sess., (Feb. 5, 1976), Railroad Revitalization and Regulatory Reform Act of 1976, 1.

<sup>22</sup> Senate Committee on Commerce, Science, and Transportation, Economic Regulation of the Trucking Industry, 96<sup>th</sup> Cong., 1<sup>st</sup> sess., March 28, 1979, 1-4; Senate Committee on Commerce, Science and Transportation, Economic Regulation of the Trucking Industry, 96<sup>th</sup> Cong., 1<sup>st</sup> sess., June 27, 1979, 359-374, only Senator Edward Kennedy's testimony is cited here, but that is simply an example of the volumes of similar testimony on the issue; President, Message of Transmittal, "Trucking Competition and Safety Act of 1979, iii-xvii;

status. Senator Edward Kennedy provided testimony about the effects of restricted entry on John Dotson, a minority trucker from Georgia who called “. . . the regulatory system “a dead end street.””<sup>23</sup>

On July 1, 1980, President Carter signed the *Motor Carrier Act of 1980* into law. The Act set the stage for the most broad-based transformation of the trucking industry since the original *Motor Carrier Act of 1935*. Most significantly, it reduced barriers to entry to interstate commerce by changing the rules so that the burden of proof to restrict entry was placed on those objecting to a new carrier, rather than the 1935 rule which required the new entrant to demonstrate the benefit of their entering the market. This made it much easier for any trucking firm to enter the interstate market. The new law also explicitly required the ICC to consider minority status in making decisions about operating authority. Under Congressional Findings (Section 3) the Act notes: “. . . historically the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and *opportunities for minorities and others to enter the trucking industry . . .*” It later goes on to say that National Transportation Policy should “. . . promote greater participation by minorities in the motor carrier system . . .” In effect, this ordered the ICC to take minority status into consideration.<sup>24</sup>

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<sup>23</sup> Senate Committee on Commerce, Science and Transportation, *Economic Regulation of the Trucking Industry*, 96<sup>th</sup> Cong., 1<sup>st</sup> sess., June 27, 1979, 551-552, 558; Senate Committee on Commerce, Science, and Transportation, *Economic Regulation of the Trucking Industry*, 96<sup>th</sup> Cong., 1<sup>st</sup> sess., March 28, 1979, 9.

<sup>24</sup> Thomas M. Corsi, Michael J. Tuck, and Leland L. Gardner, “Minority Motor Carriers and the Motor Carrier Act of 1980.” *Transportation Journal* 22, no. 1 (Fall 1982): 42; Public Law 96-296, 96<sup>th</sup> Cong., 2d sess. (1 July 1980), *Motor Carrier Act of 1980*, 793-794, (emphasis added).

Deregulation had a dramatic effect. In 1985 testimony, five years after passage of the Act, Congressman Jim Moody of Wisconsin reported that, "In 1980, 18,000 firms had operating authority. Last year, 31,000 firms were competing in the trucking industry." Moody also reported an impact on minority firms, describing two minority-owned firms in his home state of Wisconsin that ascribed their recent acquisition of operating authority to deregulation. Moody noted "During the old days you didn't get black-owned truck companies hardly ever able to compete." In a study commissioned by the ICC in 1981, Thomas Corsi and his associates found a very substantial increase in the number of minority-owned trucking firms just a short time after the passage of the Act. Using 1981 data, more than one-third of minority carriers in that year had received their operating certificate in either 1980 or 1981; an additional twenty-two percent had received their certificate between 1977 and 1979, as the ICC was beginning to deregulate on its own.<sup>25</sup>

## **O-J Transport**

O-J Transport was started by John James and Calvin Outlaw in Detroit in 1971 to haul malt beverages from Milwaukee to Detroit. James was a labor relations professional at Chrysler Motors and Outlaw was a mechanic at Hertz Truck Rentals. Naturally, O-J needed a certificate of operating authority from the ICC to provide service between Detroit and

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<sup>25</sup> House Subcommittee on Surface Transportation, Committee on Public Works and Transportation, Impact of the Motor Carrier Act of 1980 (Looking Back After 5 Years), 99<sup>th</sup> Cong., 1<sup>st</sup> sess., Nov. 5, 6, 7, 1985, 15, 955; Corsi, 43.

Milwaukee. While they received a series of temporary permits, they were denied full authority. This enabled them to be in business, but not to make much money, since they were unable to haul anything the other direction (deadheading), raising their costs. The lack of permanent operating authority also limited their ability to plan and raise capital that would enable them to expand and become more efficient.<sup>26</sup>

In 1972, James contacted Ford about becoming a supplier to them and were strongly encouraged by the Ford Transportation Analysis Procurement Department. Ford supported O-J's application for operating authority with the ICC and recommended them for routes between 14 locations in Wayne and Macomb Counties in Michigan and two locations in Chicago. Ford also noted that they were not fully satisfied with their current trucking suppliers and that they

“had a strong commitment, as a corporation, to assist and support in whatever way possible the growth of minority-owned businesses in the United States and this commitment resulted in part in Ford's support of O-J's application. Ford also referred to its Minority Group Supplier Program, established with the objective of increasing the amount of business sourced to minority owned businesses.”<sup>27</sup>

American Motors and General Motors also supported O-J's application. This type of support was necessary because the ICC did not grant operating authority in the abstract, but only for specific routes and only if the petitioner could demonstrate a need for their service

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<sup>26</sup> Shirley Hanshaw and Lemuria Carter, “Using Information Technology for Strategic Growth from Single-Mission Transportation Company to Multi-Faceted Global Logistics Corporation,” *Journal of Cases on Information Technology* 10 no. 3 (July-September 2008), 10-11; Robert E. McFarland, I. Huncce Naiman, Additional Contributors, *OJ Transport Company, Petitioner v. United States et al.* U.S. Supreme Court Transcript of Record with Supporting Pleadings. *The Making of Modern Law Print Editions: U.S. Supreme Court Records and Briefs, 1832-1978*, 4.

<sup>27</sup> McFarland, 5.



that could not be filled by existing firms. Ford's support specifically described the needs it had on specific routes, thus meeting the ICC's requirements.<sup>28</sup>

After their first, and then seven subsequent applications were denied, an ICC administrative law judge granted partial authority in 1973. However, this was quickly appealed by 25 large trucking companies which claimed that they already had sufficient capacity to serve this market and that there was no compelling reason to grant O-J's request. In a two to one decision, the full ICC denied O-J's application, noting:<sup>29</sup>

Applicant has introduced evidence concerning its ownership by members of a particular ethnic group and seems to contend that such evidence should be the basis, at least in part, for a grant of motor carrier operating authority. *Such evidence cannot play any role in determination as to whether a grant of authority should be made herein.* This agency is required to work within the framework of the Interstate Commerce Act and that statute requires us to consider each matter in the public interest as a whole. It does not provide us with any regulatory authority to favor any one group or individual over another for any such reasons as race, creed, color, sex, or national origin.<sup>30</sup>

O-J requested a reconsideration of this decision and having that denied, filed, in 1975, a Petition for Review in the Sixth Circuit of the U.S. Court of Appeals. The Court of Appeals expressed sympathy for O-J, but still upheld the ICC decision. The Court stated:

This court is aware of the problems which minority owned businesses encounter in getting established. This is particularly true in the field of motor transportation where the 'grandfather clause' insured the certification of existing carriers at a time when black business ownership was rare. Nevertheless, Congress has not chosen to require the Commission to consider minority ownership as a separate factor in

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<sup>28</sup> McFarland, 5-6.

<sup>29</sup> Hanshaw, 11-12; Michael T. Spink, "O-J Transport Co. v. United States: Minority Ownership in the Motor Carrier Industry," *Transportation Law Journal* 9 (1977): 211, <http://heinonline.org> (accessed February 14, 2013).

<sup>30</sup> McFarland, 9, (emphasis in original).

determining public convenience and necessity and it is beyond our authority to impose such a requirement.<sup>31</sup>

O-J then appealed this decision to the U.S. Supreme Court in 1976. The Supreme Court took the same position as the Court of Appeals and refused to hear the case.<sup>32</sup>

In 1980, Congress passed the *Motor Carrier Act* that specifically addressed lack of participation by minorities in the trucking industry, effectively voiding the Sixth Circuit Court of Appeals ruling. O-J may have played some role in either the passage of this legislation or the insertion of the language pertaining to minority firms since John James received a letter from President Carter thanking him for his “contribution to this landmark legislation.”<sup>33</sup>

As a result of the changed regulatory climate, O-J was then able to obtain the necessary operating authorities and went on to become an industry success story. A *Detroit News* story in 1988 spoke glowingly about the company, not only as a minority success story, but as an industry leader in creating new logistics services.:

Working closely with Ford engineers and materials handling people, O-J developed a system in which seats of various colors and styles are loaded on the company’s trucks, delivered to the plant under precise time schedules and unloaded in precise order for installation in the corresponding Lincolns rolling down the assembly line.

“We’ve been doing it for three years without a hitch,” said John James, co-owner of O-J Transport. “They were willing to take a chance on a small minority-owned company, and it is paying off for both of us.”

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<sup>31</sup> McFarland, 11.

<sup>32</sup> Hanshaw, 12.

<sup>33</sup> Hanshaw, 12, refers to this letter as being dated July 1, 1980 – the date the bill was signed into law. Based on interviews with James, Hanshaw makes reference to an intrastate operating certificate O-J received from the Michigan Public Service Commission in 1978 that significantly increased its business.

In 1998, after the death of Calvin Outlaw, O-J Transport changed its name to James Group International. It is now the largest volume logistics supplier to Ford and has grown to become one the best known logistics suppliers in the industry. One of the James Group's subsidiary companies is Renaissance Global Logistics (RGL), which has been widely recognized for its innovative logistics processes. According to the company's website, RGL ". . . receives over 8,000 different part numbers from 750 suppliers and consolidates this material into customer specific shipments to 23 locations on five continents."<sup>34</sup>

## **Conclusion**

O-J Transport is a classic example of the difficulties confronting black-owned businesses in the mid-twentieth century. Started by two African-American entrepreneurs with only limited capital, they faced institutional discrimination from one arm of a federal government that, with the other arm, was trying to encourage black entrepreneurship. This institutional discrimination was a side-effect of trucking regulations designed in the 1930s to address the problems of deflation that arose from the Great Depression. Long after the Depression had ended (and deflation replaced by inflation), the regulations remained, serving the needs of incumbent trucking firms that gained from the status quo. At the same time, O-J was seeking to become part of an automotive industry that was actively trying to overcome a legacy of industry-wide discrimination by supporting the development of minority suppliers.

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<sup>34</sup> Hanshaw, 13-14; <http://jamesgroupintl.com/rgl/> (accessed April 4, 2013).

Unfortunately, the efforts of O-J Transport and other trucking firms as civil rights leaders are not widely recognized because their victory came in the form of civil rights language inserted within the wider deregulation of the *Motor Carrier Act of 1980*. Was O-J able to succeed because of the change in National Transportation Policy contained in that Act, or was it able to succeed because of the larger deregulation? The answer will never be known for sure, but it seems more likely that deregulation was the greater factor. Since the ICC no longer had to pay much attention to the competing claims of incumbent trucking firms, they wound up granting operating authority almost by default to any qualified firm. The flood of minority-owned trucking firms after deregulation suggests that minority-owned firms no longer had to struggle to get operating authority. O-J Transport was then able to compete on a relatively level playing field, at least from a regulatory point of view.

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