

Industry Insights Business Insurance

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In an Era of Increased Responsibility and Liability... Claims Scenarios to Consider

Financial exposure exists due to errors or omissions regardless of the limitations of liability that you have printed on your bills of lading or the limitations printed in your Terms & Conditions of Service contracts.

For example, a shipper may try to seek full value reimbursement for misdirection of goods, wrongfully released cargo, loss of income or other consequential damages. Whether real or alleged, the mistakes your employees make or are perceived to make can be costly. The following scenarios provide some examples.

Method of Handling

A transportation specialist was asked to arrange transportation on a sensitive piece of medical equipment and was given specific instructions as to how the piece of equipment was to be handled by the common carrier. The transportation specialist failed to provide those "safe handling" instructions to the common carrier and the piece of machinery arrived non-operational. The common carrier declined responsibility for the damages on the grounds that they were not told of the "special handling" requirements. The owner of the equipment held the transportation specialist responsible for the cost of repairs.

Transportation Selection

A transportation specialist contracts with a reliable trucking company to deliver merchandise from New York to its final destination in New Jersey. The delivering trucker has an accident on the way to New Jersey causing \$30,000 in damages to the merchandise. The shipper holds the transportation specialist responsible simply because they made the transportation arrangements.

Demurrage

A transportation specialist fails to notify the party to pick up the freight timely and demurrage charges are incurred. The party holds the transportation specialist responsible for those charges and the transportation specialist is forced to pay them.

Misdirected Freight (example 1)

A transportation specialist fails to note that a large consignment for an importer was specified for local delivery rather than delivery to a plant in another state where this importer's shipments normally were delivered. The importer holds the transportation specialist responsible for the additional transportation charges needed to get the merchandise to the proper destination.

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Misdirected Freight (example 2)

A transportation specialist mixes shipments and sends a shipment to France that should have been sent to England. The British consignee does not get the merchandise until two weeks after the scheduled arrival time. As the merchandise was “time sensitive” in nature, he loses the order he needed to fill and in addition, he alleges that the ultimate purchaser will no longer do business with him as a result of this mix-up. The consignee alleges that this customer would have meant several hundred thousand dollars in profit and sues the transportation specialist for that amount.

Cargo Insurance

A transportation specialist is not asked to insure a shipment for transit. The shipment, valued at \$75,000, is stolen during transit. The shipper did not obtain insurance for the shipment and holds the transportation specialist responsible for not offering insurance on the shipment, on the grounds that it is the responsibility of the transportation specialist to have offered this coverage to the client.

Clerical Error

A transportation specialist makes clerical errors on documents accompanying a draft on a letter of credit. The bank refused to honor the draft and the letter of credit expired before resubmission could be made. The shipper is then unable to collect directly from the consignee and holds the transportation specialist responsible for the full value.

Clerical Omission

A transportation specialist is instructed to specify C.O.D. on a shipment. The documents are prepared improperly and the shipment is released to the consignee without payment. The consignee fails to pay the shipper for the goods and the transportation specialist is held responsible for the full invoice value of the shipment, plus legal fees and freight charges.

Improper Release of Merchandise

The shipper’s letter of credit requires that their merchandise be released only to the bank. The transportation specialist fails to follow those instructions and releases the merchandise directly to the importer who fails to pay the bank. As the letter of credit conditions were violated, the shipper does not get paid for the merchandise and sues the transportation specialist for the full invoice value of the shipment plus the legal fees and freight charges.

Hazardous Materials

A transportation specialist is instructed to ship liquid hazardous materials via rail. The U.S. Department of Transportation alleges that the appropriate paperwork was not completed nor was the appropriate export permits obtained. The shipper is fined \$25,000 for the violation and holds the transportation specialist responsible on the grounds that it had relied on the transportation specialist’s “professional experience” to ensure that it was in compliance with all federal regulations.

Delay

A transportation specialist is instructed to ship \$200,000 worth of merchandise to a destination in interior Russia. Due to the turmoil in the transportation system inside Russia, the merchandise arrived several weeks late and with a variety of damage and pilferage. As a result of the delay, the shipper was not paid by the consignee and lost “future business” opportunities with the consignee. The transportation specialist is sued for the damage and pilferage on the specific shipment. In addition, the transportation specialist is sued for \$1,000,000 due to the lost “future business” opportunities, because he failed to have the merchandise delivered timely, in good condition, per the shipper’s instructions. The fact that the transportation specialist had advised the shipper that he could not guarantee a timely delivery did not prevent them from incurring a costly lawsuit.
