
HOT TOPICS Archives

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Know the Claim Conditions of Your Cargo Policy

The following material is an excerpt from a cargo insurance manual dealing with the reporting, handling, and processing of claims, both direct damage and legal liability. This information is crucial to know in order not to jeopardize the coverage provided an insured within a cargo policy.

OWNERSHIP OF DAMAGED CARGO

Most assureds have the impression that the title to all damaged goods is automatically transferred to the insurance company and the assured no longer has any further interest in the cargo. This is not the case and any claimant who acts in accordance of such belief many find themselves jeopardizing the very rights he/she may be trying to protect. The most important thing to remember is that the cargo belongs to the assured and the assured alone is the one who has sustained the loss. Contrary to popular belief, the insurance company has no legal title to the goods and is not a party to the contract of carriage within the terms of the bill of lading. The insurance company can only pursue the claims against carriers after proving that a loss has been paid under the policy. The assured must always protect the insurance company's right to subrogate.

"ONUS OF GOOD FAITH"

An assured does not have the right to abandon cargo or fail to take any action which could result in averting or minimizing a loss or damage. In other words, the assured must at all times act in the same manner as they would if they were uninsured - "a prudent uninsured". This is called the "onus of good faith" and it is the basis on which all insurance is governed.

MINIMIZING A KNOWN LOSS

Some assureds will question the right to incur an expense in order to minimize a loss before receiving the insurance company's authority to incur that expense. Provided the expense incurred is reasonable relative to the amount of loss you are trying to avoid, the insurance company will pay for those expenses. This contingency is covered under the "Sue and Labor" clause of your marine policy.

"COVERED" BUT NOT PAID

Liability insurance is quite different from property insurance. As the insured under a liability policy, whether you are or are not at fault has everything to do with whether a claim will be paid. Because you are "covered" by the policy, even if the Underwriter declines to "pay" your claimant, he is still obliged to defend you in court should that declination cause your client to sue you.

No one wants a customer to blame them and maybe threaten to do business with someone else when a liability claim is denied for cause by the insurer, but the following things you absolutely DO NOT WANT TO DO:

1. Do nothing or handle it yourself for three months until the problem gets worse or gets totally out of control and **then** report it to Roanoke Trade Services.
2. Decide on your own (or have one of your employees or members decide) that it is a valid and payable claim, pay your client \$25,000 and **then** report your action to the Underwriters and expect Underwriters to give you back the \$25,000 that you have already paid without their prior authorization (which they won't do).
3. Tell your client, "don't worry, we're sure our insurance will pay you" and **then** report it to Underwriters asking them to honor the commitment you made without their prior authorization.

Your cargo liability policy will provide you with protection in the event that you are held liable on shipments under your bills of lading. Do not jeopardize your position by making any of these mistakes.

If a claim is made or suit is brought against you under your bill of lading or freight receipt, you need to IMMEDIATELY forward every demand, notice, summons or other process received by you to Roanoke Trade Services.
