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# **A Broker's Perspective on Freight Claims, ELDs, Insurance, and Safety**

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# Loss & Damage Claims Handling

- Arts of communication and timing
- Effect of business relationship on claims processing
- Validity of some typical damage and shortage claims
- Shipper and carrier perspectives and fairness



## Loss & Damage Claims Handling (Cont'd)

### Bills of Lading Act

- Carrier not liable when goods are loaded by shipper, describes goods “in a statement about kind, quantity, or condition...to the extent carrier does not know whether any part of the goods were received or conform to the description.”
- Carrier “not liable for damages caused by improper loading if the shipper loads and the goods and the bill contains the words ‘shipper’s weight, load, and count’ or words of the same meaning indicating the shipper loaded the goods.”





# Cargo Liability Agreements

- FSMA/Sanitary Transportation of Food Rule and related agreements drafted by shippers
- Seals, broken seals, and missing seals
- “Freeze Protect.” – What does it mean?
- Water-damaged freight and wet trailers



# Cargo Liability Agreements (Cont'd)

If you encounter the same problem frequently, address it in the agreement with carriers. Sometimes, “Carmack Liability” doesn’t suit the Shipper’s or Broker’s needs.

## Examples:

- Food Safety, Salvage/Mitigation

Withholding/Offset Language in Carrier Contracts.

Withholding/Offsetting Money in Practice.

Loss Prevention Requirements/Freight Security



# Insurance Requirements of Carriers

- Workers' Compensation? Why?
- Cargo limit requirement may depend upon Broker's/Shipper's Cargo insurance policy
- Cargo Policy Exclusions
- Auto Liability: \$1,000,000 vs. \$750,000
- General Liability? Why?



# Major Claims Involving Insurance:

## Truck Accidents & Truckload Thefts

- Make sure carrier cargo insurer is notified as soon as it's known the incident is serious.
- Determine whether there's an applicable exclusion.
- If no insurance coverage, weigh your options.  
Litigation/collection efforts not as painful as they might seem.





# Safety Requirements of Carriers

- Which “Unrated” carriers are safe to use?
- Are there “Conditional” carriers who are safe to use?
- Are there “Satisfactory” carriers who are unsafe to use?





# ELDS

- Primary effect (in addition to compliance-related out of service violations) of ELD Rule is to make falsification of logs more difficult
- Intermediary and Shipper Responsibility: Should the addition of one more set of regulations alter the Broker's/Shipper's duty in carrier selection?
- ELD mandate highlights the value of carriers' time
- Efficient shippers & receivers attract ELD-compliant carriers



# ELDs (Cont'd)

- Inefficient shippers tend to force carriers to choose between delivering loads on time and complying with Hours of Service rules. Carriers who habitually violate safety regulations may not mind this choice, but carriers who take measures to avoid the choice – i.e., those who are more likely to be fully ELD-compliant – will look to haul the freight of efficient shippers who don't cause long waiting times.
- Even if a shipper's fear of negligent hiring lawsuits is primarily driving its actions regarding ELDs, the shipper can do more to mitigate risk by improving warehouse procedures that it can by forcing carriers and brokers to sign agreements about ELD-compliance.







**Thank you!**

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