

TRANSDIGEST

Transportation & Logistics Council, Inc.

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- **Fines for Late Deliveries or Missed Appointments**
- **New CCSB Docket**
- **More Driver Mis-Classification Cases**
- **FMC Considers Demurrage and Detention Fees**
- **NYC Considers Congestion Pricing**
- **China Restricts Import of Recyclables**
- **Watch Out for Those Tariff Rules!**
- **More Q&A's**

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EDITORIAL

FINES FOR LATE DELIVERIES OR MISSED APPOINTMENTS

By George Carl Pezold
Executive Director, T&LC

Recent articles in the trade press have described “fines” that are levied by major grocers on refrigerated carriers transporting perishables for late deliveries and missed delivery appointments. Among the retailers that have been named are three major grocery chains, Kroger, Safeway and Wal-Mart. While it is well known that delay (and temperature abuse) can cause or contribute to spoilage or shortened shelf life, the carriers complain that often these penalties are unfair because they fail to recognize the problems that carriers run into with severe weather, bad roads, congestion and hours of service limitations.

Apparently these penalties take different forms. In some situations the fines (or “chargebacks”) are directed to the seller or supplier and in others they are levied on the carrier or even the truck driver. In one case it was said that “Drivers won’t unload the trailer until the late fee is paid. For carriers and drivers, it’s a bad situation.” Often the “chargeback” takes the form of a deduction (weeks later from the seller’s invoice for the shipment).

The question is whether the retailer or buyer has the right to pursue the carrier, or its seller or supplier, for these penalties or chargebacks.

So, what are the “legal” issues? It would seem that this hinges on the contractual relationships between the parties.

1. The shipper/seller arranges for the transportation, has a contract with the carrier and pays the freight.
2. The consignee/buyer arranges for the transportation, has a contract with the carrier and pays the freight.
3. The buyer and seller have a contract that requires the seller to comply with its delivery requirements.
4. There are no formal contracts between any of these parties (e.g. transportation was arranged by a broker or some other third party).

In Number 1, does the shipper/seller have a transportation contract with its carrier that provides that the carrier must comply with seller’s dispatch instructions as to appointments and delivery windows? Does it allow the shipper/seller to pass along to its carrier any charges for late deliveries, missed appointments or chargebacks that it receives from its customer?

In Number 2, does the consignee/buyer have a transportation contract with its carrier that provides that the carrier must comply with consignee/buyer's dispatch instructions as to appointments and delivery windows? Does it allow the consignee/ buyer to levy fines or to charge penalties to its carrier for late deliveries or missed appointments?

In Number 3, does the "contract of sale" between the buyer and seller require the seller to comply with the buyer's instructions or requirements for specific delivery times and/or deliveries by appointment, and for penalties or chargebacks for failure to do so?

And, then there is Number 4, where the question is whether there is any contractual basis for these charges.

Whether or not there is a legal basis for these "fines", this is a very controversial subject. Hopefully, the involved parties will recognize these issues, sit across the table from one another, and come up with more reasonable solutions. Unfortunately, whether these practices are "right or wrong", this may be one of these "thousand-pound Gorilla" situations where both the carriers, that are caught in between, and the shippers/sellers, may just have to live with the fact that these big retailers have enough "clout" to do what they please.

ASSOCIATION NEWS

44TH ANNUAL CONFERENCE – EDUCATION FOR TRANSPORTATION PROFESSIONALS REGISTER NOW

The Transportation & Logistics Council's ("TLC") 44th Annual Conference, "Education for Transportation Professionals", is coming up soon at the Francis Marion Hotel in Charleston, South Carolina on March 19 – 21, 2018. Other organizations have conventions and trade shows, but whether you are a seasoned professional or a newcomer, there is no other program that exclusively dedicates itself to providing educational opportunities to the people that actually "make the wheels go round".

Starting with the "kickoff" on Monday morning, "The Transportation Industry - Updates and Trends", attendees will enjoy a number of great general sessions: the perennial favorite, "Law of The Land, Law of The Jungle", "How Good is Your Security Program", the popular "Transportation Attorney Panel", an opportunity to "Meet the Experts", and sessions on "Loss Prevention and Mitigation of Damages" and "Freight Claims - Questions and Answers". Then there will be choices among the intensive topical workshops: "Transportation of Food and Drugs", "Outsourcing - Dealing With Contractors and Intermediaries", "International Trade - What Importers and Exporters Need to Know", "Working Together to Save \$", "Impact of New Laws and Regulations" and "Insurance and Transportation Contracts".

These are the kind of things TLC's Annual Conferences have focused on since it was established 44 years ago, and what transportation professionals really need to know about. The Council has assembled an impressive list of speakers and presenters for the educational sessions, including top experts and experienced practitioners who will give attendees practical information and advice that they can use in their everyday business.

There will also be great "networking" opportunities to get to know other transportation professionals at the Hospitality Suites on Monday and Tuesday evenings, as well as the President's Reception with cocktails and dinner on Tuesday evening. All this, as well as luncheons with two great guest speakers on Monday and Tuesday, continental breakfasts and coffee breaks - and all included in the registration fee.

Don't miss out on the best educational program and best value in the industry. Visit the TLC's Website at www.TLCouncil.org for complete details on the Conference program, [on-line registration](#) and [hotel accommodations](#), or contact TLC by phone at (631) 549-8984.

WHAT TO DO IN CHARLESTON

Charleston was founded in 1670 and is known for its rich history, well-preserved architecture, distinguished restaurants, and mannerly people. It has much to offer, ranging from historic walking tours around the city, visits to antebellum plantations or a boat ride to Ft. Sumter.

Charleston has been renowned for three centuries as "a city set in a garden." From March 15 to April 21, 2018 the Historic Charleston Foundation's 70th Annual Spring Festival of Houses and Gardens will allow visitors to experience the charm only found beyond Charleston's private garden gates and historic homes.



For more information on the Historic Charleston Foundation's Spring Festival, visit <https://www.historiccharleston.org/blog/events/category/festival-houses-gardens/>.

For more information on what else to do and see in Charleston visit <https://www.charlestoncvb.com/plan-your-trip/tours-attractions~204/>.

NEW MEMBERS

The Transportation & Logistics Council would like to welcome the following new members:

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CLASSIFICATION

NEW CCSB DOCKET 2018-1

The Commodity Classification Standards Board (“CCSB”) will conduct its next public meeting to consider proposals for amending the National Motor Freight Classification (“NMFC”) in Docket 2018-1 on Tuesday, February 13, 2018 at the Hyatt Regency Newport Beach, 1107 Jamboree Road, Newport Beach, California 92660, commencing at 11:00 am Pacific Time.

Anyone having an interest in a proposal listed in this docket may attend the meeting on February 13, 2018 and/or communicate that interest in writing by mail, email or fax prior to the meeting. Such Interested Persons will be notified of the CCSB’s disposition of the proposal.

Following is the subject index for Section I of the docket:

**COMMODITY CLASSIFICATION STANDARDS BOARD DOCKET 2018-1
 INDEX OF SUBJECTS (PROPOSALS) - DESCRIPTION and SUBJECT:**

A
 Air Cleaners or Air Filtering Machines,
 electrostatic or mechanical.....13
 Arch Supports or Arch Support Insoles,
 boot or shoe.....14

B
 Bakeware, aluminum.....6
 Balls, billiard or pool, ivory.....22
 Birdseed or Bird Food.....16
 Borax (Sodium Borate).....9
 Boxes, storage, pickup truck bed, plastic.....10

C
 Cabinets, computer component security,
 lockable, metal.....7
 Capsules, dosage, empty.....12

Cars, motor, not designed for general
 highway use.....8
 Cartridges, ink, dry ink or toner, copier,
 printer or fax machine.....1
 Chairs, laminated wood.....20
 Coffee Makers or Coffee or Hot Water Urns.....4
 Coils, stoneware, condensing or distilling.....21
 Compressors, refrigeration or air conditioning.....3
 Cookware, aluminum.....6

D
 Developer, copying machine toner.....1
 Doors, shower or bathtub, glass or plastic.....5
 Dry Ink, copier, printer or fax machine.....1

E
 Enclosures or Enclosure Sections, shower

or bathtub, glass or plastic.....5	Pins, potters’21
F	Pottery, gold or silver deposit.....21
Fireplace Inserts.....19	Privacy Partitions or Stalls, toilet, urinal or shower.....2
G	S
Games, NOI, metal.....17	Saggers, pottery.....21
I	Spermaceti.....22
Ice Breaking, Crushing, Shaving or Shredding Machines.....18	Spurs, potters’21
Ink, copier, printer or fax machine.....1	Stall Partitions, toilet, urinal or shower.....2
Insoles, boot or shoe.....14	Stilts, potters’21
K	Sweeteners, including Sugar Alcohols.....15
Knob Tops, door or drawer, pottery.....21	T
L	Teletypewriters, Telegraph Instruments or Parts thereof, used.....21
Lift Trucks, motor.....8	Toner, copier, printer or fax machine.....1
M	Tools, power, other than power hand tools.....11
Moss, Iceland.....22	Toys, NOI, metal.....17
O	Tugs or Tuggers, motor, used to push or pull heavy wheeled equipment or vehicles.....8
Organizers, storage, pickup truck bed, plastic.....10	V
P	Vehicles, motor, not designed for general highway use.....8
Package 2490.....3	W
Pickup Truck Bed Storage Boxes or Organizers, plastic.....10	Worms, stoneware, condensing or distilling.....21
Pins, husking.....22	

Shippers whose traffic may be affected by proposed changes should review the proposals and respond accordingly. Visit http://www.nmfta.org/Dockets/DOCKET%202018-1/2018_1.pdf to review the complete Docket online. Proposals to be included in the Public Docket must be submitted by 5:00 pm Eastern Time, February 2, 2018 and requests to be a Party of Record must be received no later than 5:00 pm Eastern Time, February 2, 2018.

The CCSB invites all interested persons to participate in the classification process. Anyone having an interest in a proposal listed in the docket is welcome to attend the meeting and/or submit a statement relating to the transportation characteristics of the product(s) involved — or relevant to packaging materials or methods in connection with proposed packaging amendments. Statements should include any underlying studies, supporting data and other pertinent information.

Written submissions will be included in the respective public docket file. Decisions on docketed proposals will be based on the information contained in the public docket file.

The address is: Commodity Classification Standards Board, 1001 North Fairfax Street, Suite 600, Alexandria, Virginia 22314, and the CCSB fax number is: 703.683.1094. Written statements may also be emailed to the staff contact involved. To schedule an appearance at the meeting, or if you require further

information, please get in touch with the staff contact. Anyone requesting assistance in accordance with the Americans with Disabilities Act will be accommodated.

The CCSB’s policies and procedures as well as other information on the CCSB and the National Motor Freight Traffic Association are available online at <http://www.nmfta.org>.

Amendments to the National Motor Freight Classification resulting from the proposals in this docket will be published in a supplement to the NMFC, unless reconsideration is granted or arbitration is sought in accordance with the CCSB’s rules. The supplement is scheduled to be issued on March 29, 2018, with an effective date of April 28, 2018.

FUTURE COMMODITY CLASSIFICATION STANDARDS BOARD (“CCSB”) DOCKETS

	Docket 2018-2	Docket 2018-2
Docket Closing Date	April 12, 2018	August 16, 2018
Docket Issue Date	May 10, 2018	September 13, 2018
Deadline for Written Submissions and to Become a Party of Record	June 1, 2018	October 4, 2018
CCSB Meeting Date	June 12, 2018	October 16, 2018

Dates are as currently scheduled and subject to change. For up-to-date information, go to <http://www.nmfta.org>.

INTERNATIONAL

CHINA RESTRICTS IMPORT OF RECYCLABLES

The Institute of Scrap Recycling Industries, Inc. (“ISRI”) released the following response to China’s move to restrict scrap imports on January 11, 2018 (See TRANSDIGESTS 233 & 237 for previous coverage):

China’s Final Scrap Import Standards Disappointing for Recycling Industry

In response to the publishing of the final *Environmental Protection Control Standards for Imports of Solid Wastes as Raw Materials (GB 16487.2-13)* – the quality standards for imported scrap by China’s Ministry of Environmental Protection (MEP), the Institute of Scrap Recycling Industries (ISRI) has released the following statement:

“ISRI is very disappointed to see the Chinese Government finalizing its *Environmental Protection Control Standards* and failing to take the opportunity to bring them in line with global standards that reflect manufacturing requirements and are utilized by environmentally responsible recycling operations in the U.S. and around the world” said Robin Wiener, president of ISRI. “We continue to be supportive of the Chinese Government’s drive to improve the environment in China, but we continue to hope that such support can be realized through collaboration that achieves China’s environmental improvement goals without impairing trade of high quality, specification-grade scrap commodities required by China’s manufacturing sector. ISRI continues to respectfully request an opportunity for dialogue on these critical issues, and obtain a delay in implementation to ensure full compliance.”

In November, China notified the World Trade Organization (WTO) of its intent to lower contamination thresholds. Despite filings and feedback from the global recycling industry, led by ISRI, on the negative impact these thresholds would have on trade, China’s final standards remained the same:

Smelt Slag	0.5
Wood	0.5
Ferrous	0.5
Nonferrous	1.0
Electric Motors	0.5
Wires and Cables	0.5
Metal and Appliances	0.5
Vessels	0.05
Plastic	0.5
Autos	0.3

ISRI will continue to follow this development and proactively represent the industry with the U.S. and Chinese governments and other stakeholders.

<http://www.isri.org/news-publications/article/2018/01/11/isri-china-s-final-scrap-import-standards-disappointing-for-recycling-industry>

These changes are having a significant adverse impact on U.S. exports of recyclable materials as they struggle to expand new markets in Southeast Asia and India. Ocean carriers have also been suffering with the three hardest hit carriers, Zim Integrated Shipping Services, Hapag-Lloyd, and Maersk Line, recording declines for scrap hauling of 50.2 percent, 48.8 percent, and 40.7 percent, respectively.

Ports are also being impacted by the ban with Los Angeles-Long Beach the most affected of all US ports. Plastics exports were down 14.2 percent to 49,642 TEU, textiles were down 13.1 percent to 1,138 TEU, and wastepaper was down 18 percent to 276,739 TEU, for the first 10 months of 2017. New York-New Jersey, the second-largest gateway, was down 10.7 percent to 16,067 TEU in plastics and 6.4 percent to 165,257 TEU in scrap paper.

MOTOR

CONGESTION PRICING

The concept of “congestion pricing”, charging more during periods or areas of greater demand in an effort to control activities or maximize profits, has been around for a long time. Just compare prices to book a flight during the Thanksgiving break as opposed to the beginning of November, or a Caribbean vacation over Christmas break as opposed to mid-summer. The differential provides an incentive to move activity to off-peak times.

Governor Cuomo’s Fix NYC panel submitted a proposal that vehicles driving in Manhattan below 60th Street will be subject to a charge: \$11.52 for cars, between \$2 and \$5 for taxis or other for-hire vehicles, and \$25.34 for trucks. The money collected from the endeavor would go to funding repairs to the city’s ailing public transit system, while also easing record traffic in Manhattan.

The plan defines a geographic “pricing zone” and recommends the installation of technology to monitor traffic and charge vehicles electronically.

The central business district for Manhattan is bounded by 60th Street on the north, Battery Park on the south, the Hudson River and the East River. Under the panel's plan, automobiles entering between 6 a.m. and 8 p.m. on work days would pay the additional fees.

The proposed plan would raise revenue of \$810 million, not including for-hire vehicles, and reduce traffic into the zone 13%, according to the panel. It also would help increase average vehicle speeds by 9%.

Cuomo, a second-term Democrat, created the panel in October and asked it to devise congestion-reducing proposals for this year's legislative session. Mayor Bill de Blasio, a Democrat who has long feuded with the governor, opposes congestion pricing and calls it a "regressive tax."

In April 2008, the state Assembly rejected then-Mayor Michael Bloomberg's proposal to charge cars \$8 and trucks \$21 upon entering the most congested parts of Manhattan, which he said would reduce pollution and raise close to \$500 million.

When and if the current proposal becomes legislation, it is likely to look a different from what it is now.

MORE DRIVER MIS-CLASSIFICATION CASES

The Los Angeles city attorney recently filed actions against three port trucking companies alleging the firms misclassified their drivers as independent contractors. The lawsuits, filed against CMI Transportation, K&R Transportation California and Cal Cartage Transportation Express allege they engaged in schemes to avoid paying minimum wage and employee benefits by classifying hundreds of workers as independent contractors even though the companies "exert near complete control" over the drivers' schedule.

All three companies are owned by NFI Industries, a New Jersey-based logistics firm. NFI purchased the businesses from Long Beach-based California Cartage in October.

The question of driver classification keeps coming up all around the country, with varying results based upon the specific facts and the jurisdiction. California, with its strong labor employment laws, has generally come down on the side of drivers being misclassified as independent contractors, with large financial repercussions for the employer.

These suits are the latest in a long-running dispute at the twin ports of Los Angeles and Long Beach, where many port truck drivers say they are improperly classified as independent contractors and must lease their rigs under unfair terms. The terms, they say, are so onerous that for some pay periods they make nothing and actually end up owing the trucking company money.

There are numerous factors involved in determining whether a driver is an independent contractor, or an employee, with most factors focusing on the degree of control the company has over the operations and schedule of the individual.

According to the city attorney, these companies "make assignments, unilaterally set the rates they pay drivers and retain and exercise the right to terminate drivers without cause." He alleges the leases place strict requirements on how many loads must be undertaken for the company, essentially chaining a so-called independent contractor to one firm.

According to the lawsuits, a large part of the problem are lease programs the companies established to comply with 2008 city rules mandating low-emission trucks be used to deliver goods to and from the ports of Los Angeles and Long Beach. Last decade, the Port of Los Angeles tried to mandate truckers be employees of companies, fearful that workers couldn't afford the newer, cleaner rigs. But that mandate was struck down by federal courts, a decision that driver advocates blame for exacerbating an existing problem of abusive leases.

These suits can be expensive for carriers as since 2011, the California labor commissioner's office has awarded port truck drivers more than \$46 million in cases where they contended they were misclassified as contractors.

OIDA SUPPORTS GLIDER KITS

No, not the balsa wood variety you might have known as a child, but heavy trucks that are built by pairing a new chassis with an old diesel engine and powertrain.

To make a glider, companies typically combine a new truck body and cab with a salvaged engine and powertrain. The vintage of the reused engine is important: Many of them date to before 2010, when the Environmental Protection Agency ("EPA") instituted the Phase 2 requirements that tightened emissions standards for pollutants such as nitrogen oxide and particulate matter emitted by heavy duty diesel engines.

For years, usable powertrains had been salvaged from wrecked trucks to make glider vehicles that cost about 25 percent less than new trucks, the EPA says. But it was only after the recent enactment of new emissions restrictions that glider vehicles were "produced in any great number," according to the EPA.

The issue is the EPA's initial decision to classify glider kits, glider vehicles and glider engines as 'new motor vehicles' under the Clean Air Act, subjecting them to the Phase 2 requirements that would irreparably damage a truck manufacturing industry that has become increasingly popular in recent years as an affordable and reliable alternative to increasingly expensive new vehicles.

The EPA proposed a rule to exempt these vehicles from the tighter Phase 2 requirements and it received more than 24,000 comments by the time the comment period ended January 5, 2018. More than 3,000 of the comments were unique, while about 21,000 were duplicate form letters from various organizations. Many truck drivers and members of the glider kit industry spoke favorably of the rule, while many environmental groups and the American Trucking Associations opposed the repeal.

In a letter supporting the proposed change, the Owner-Operator Independent Drivers Association ("OIDA") demonstrated its support for the EPA's plan to repeal emission requirements for glider kits through a letter to the Committee on Environment and Public Works on Thursday, January 25. From the OIDA January 26 press release:

For many small business truckers, glider kits offer a more affordable and reliable alternative to increasingly expensive new vehicles," said Todd Spencer, OIDA acting president and CEO. "Their regulation under Phase 2 would effectively destroy the American glider kit industry, eliminating the opportunity for our members to continue purchasing the vehicles that best fit their unique needs."

The letter goes on to point out that while glider kits provide appealing cost savings for drivers, they are also reliable, efficient, and meet all of the required environmental and safety standards necessary for operation, as documented in a recent study by Tennessee Tech University. In this study, an array of remanufactured engines and original equipment manufacturer (OEM) "certified" engines were evaluated for fuel efficiency and emission standards. Ultimately, researchers discovered remanufactured 2002-2007 engines performed as well as OEMs, and in some cases, outperformed their newer counterparts in emissions reductions.

This environmental benefit is compounded when considering glider kits utilize many remanufactured components, resulting in the reuse of approximately 4,000 pounds of cast steel per unit.

Visit <https://www.ooida.com/MediaCenter/PressReleases/pressrelease.asp?prid=455> to view the press release and visit <https://www.ooida.com/Documents/letter-senate-epw.pdf> to view the letter.

OCEAN

FMC CONSIDERS DEMURRAGE AND DETENTION FEES

In mid-January, the Federal Maritime Commission (“FMC”) held public hearings in response to Petition P4-16, filed by the Coalition for Fair Port Practices, regarding issues associated with detention, demurrage, and per diem charges (see TRANSDIGEST 237 for prior reporting).

Reports from the hearing indicate that while it provided an opportunity for interested parties to air their thought/opinions/complaints, there is no speedy resolution likely from the FMC and the question has been raised of whether the FMC even has the authority to act in this matter.

The relief sought by the Coalition for Fair Port Practices, a group of 26 organizations, seems simple: guidelines are needed to help determine whether demurrage and detention charges are unfairly applied. At the hearing, the coalition argued that they are not against paying late fees, as they realize they are needed to improve terminal fluidity and equipment utilization, but that commercial solutions have failed, requiring the FMC to step in. The petition does not seek new regulations, but simply “a statement of policy that would provide a guardrail.”

On the other side, the carriers and marine terminal operators (“MTOs”) told the FMC commissioners such guidelines would create more problems than they solve, and by using a “not-my-fault standard,” the risk would just be shifted to terminal operators, carriers and MTOs argued. In effect, the granting of the petition would “transform carriers and MTOs into guarantors or insurance providers for weather events, labor disruptions, equipment shortages, and government cargo inspections,” said John Butler, CEO of the World Shipping Council, whose members control roughly 90 percent of global container capacity.

In the current environment of deregulation, the FMC is in a difficult position. With two of the FMC’s five seats vacant, with no sign the Trump administration plans to fill them soon, it is hesitant to overreach or impose burdensome new regulations. On the other hand, it can not be seen as ignoring the complaints of shippers, intermediaries and truckers. Inaction may be the path of least resistance.

Visit http://www.fmc.gov/assets/1/documents/p4-16_petition.pdf to view the 12/7/16 Coalition for Fair Port Practices Petition for Rulemaking and visit <https://www.fmc.gov/assets/1/Page/reportdemurrage.pdf> to view a 4/3/15 report on the demurrage problem.

QUESTIONS & ANSWERS

By George Carl Pezold

FREIGHT CHARGES – CHARGED FOR FREIGHT NOT DELIVERED

Question: We submitted a quote request for 35 pallets which included all dimensions, and the shipping company sent us back a quote. The bill of lading shows that they only delivered 26 pallets but billed us for the full amount. What is our recourse?

Answer: I reviewed the document that you sent and the request for quote that you provided very clearly shows the pallet sizes (47 x 39) and the number of pallets (35). The freight quote confirmation is for 35 pallets for a total price of \$3,126 and their invoice shows 35 pieces and a price of \$3,126. The bill of lading prepared by the shipping company also shows 35 pallets (there is a handwritten notation, with “26 pallets” - apparently entered by the truck driver).

Assuming that a 53 foot trailer was used, my arithmetic indicates that the maximum number of pallets that can be floor loaded would be either 26 pallets or 32 pallets, depending on how the pallets are loaded (lengthwise or widthwise).

Your company is not in the trucking business. You would not be expected to know how many pallets could be floor loaded in a 53 foot trailer. However, the shipping company is a transportation expert and most certainly would know this.

They should not have given you a quote for 35 pallets, when it was obvious that they could not be carried in a single truckload.

In my opinion, the shipping company’s freight quote confirmation was a binding contract to transport 35 pallets for the price of \$3,126. Since only 26 pallets were actually transported (74.3%) that is all you should have to pay for (\$2,322).

FREIGHT CLAIMS – OFFER ON CONCEALED DAMAGE

Question: Can you please advise me how a carrier’s concealed damage offer is calculated? If a carrier is willing to make an offer for a concealed damage or shortage of 1/3, is that based on the amount of the claim or 1/3 of the maximum liability?

In this case the freight originated out of Canada and the maximum liability is based on \$2 per pound on the total weight of the shipment. So if a claim is filed with the carrier at \$1000 and the weight is 200 lbs. – does the 1/3 get calculated on \$1000 or \$400?

Answer: There are a couple of issues here.

First, the offer of 1/3 is based upon the supposition that there are three parties to the transaction, shipper, carrier and consignee, and because it is not determined where the damage occurred, the carrier is only responsible for 1/3. There is no law or rule to support this 1/3 formula.

Concealed damage does involve factual issues as to where and when the loss or damage occurred, e.g., the shipper has the burden of proving that the shipment was tendered to the carrier in good order and condition and that there was loss or damage at the time of delivery (and not after the shipment was delivered). The carrier is required to make a diligent investigation before declining a claim or making a settlement offer, based on the facts.

Second, you indicate that the shipment was “out of Canada” and therefore might be subject to the provincial regulations governing motor carrier bills of lading, so the \$2.00 per pound liability limitation would be applicable. A liability limitation is a “cap” on the carrier’s liability, but it is based on the weight of the shipment, or in the case of a partial loss, the weight of the article(s) that are lost or damaged. It has nothing to do with any so-called “1/3 rule”.

CARRIERS – ELD COMPLIANCE

Question: Is it a shipper’s responsibility when hiring freight carriers to make sure they are meeting electronic logging device (“ELD”) mandated requirements, or is it fully the responsibility of the carrier/driver?

Answer: I believe that the federal regulations place the burden of compliance on the motor carrier, and not the shipper. You can, of course, clarify this requirement in your shipper-carrier transportation agreement if you wish.

FREIGHT CLAIMS – DAMAGES FOR LATE DELIVERY

Question: We imported a machine from overseas, and the project cargo division of our forwarding agent hired 3 teams of drivers to deliver the freight. One of the “teams” was not a team at all, as confirmed upon delivery.

As a result, the delivery was very late, causing us to pay for riggers to stand around for an entire day due to outright lies about the location from the dispatcher, and fictitious arrival times. We wanted a team because we needed a team to get it there as fast as possible. We didn't want a single driver who thought he could drive fast. This cost a lot of money unnecessarily, had they just been honest and not taken the load trying to get double paid. Do we have any recourse for these fees?

Answer: It is not clear which party is at fault for the delay, the “project cargo division of our forwarding agent” or the motor carrier that they hired.

If the agent was negligent in failing to select an appropriate carrier or in failing to give them proper delivery instructions you might have a basis for contesting their charges.

On the other hand, a motor carrier typically is only required to deliver with “reasonable dispatch” and would only be liable for delay (special damages) if was clearly put on notice of the requirement to deliver by a particular date and time, and what the consequences of failure to do so would be, in this case “riggers to stand around for an entire day”.

I think you need to investigate further as to which party is responsible.

FREIGHT CHARGES – CARRIER FAILS TO PAY INTERLINE CARRIER

Question: We are a third party logistics provider in California. A trucking company that we used recently closed their doors. The trucking company sometimes co-brokered shipments using different regional trucking companies to make the final delivery to locations where they did not deliver directly.

We have a broker-carrier agreement on file and the Bills of Lading all show the trucking company as the carrier and our company as the 3rd PARTY BILL FREIGHT PREPAID TO party. If we paid the trucking company for a shipment but they did not pay their delivering agent are we (or our customer) still legally liable for payment? There was no Section 7 signed. I know there are numerous older cases filed in court that protect shippers and brokers from double payment liability, are they are still applicable in today's law?

Answer: From your description of the facts it would appear that the carrier you hired probably interlined the freight to a delivery agent (as opposed to “brokering” the freight to another carrier which would have been illegal if the carrier did not have a broker's license). If so, the delivery agent would normally only have a claim against the interlining carrier for its agreed charges or portion of the freight revenue, and there would be no contractual basis for pursuing the shipper, consignee or “bill to” party.

FREIGHT CLAIMS – INSPECTING SHRINK WRAPPED PALLETS UPON DELIVERY

Question: As a retailer, we find that in some cases the freight driver gets very annoyed and impatient with us inspecting and counting the material on a pallet that we have to sign for. They say we are signing for a pallet of material not specifically what is on the pallet. Shouldn't they realize we are liable for the correct merchandise once we sign his freight papers?

Answer: This is a common problem, and it occurs both on the shipper end as well as at the consignee's facility.

When shipments are palletized and shrink-wrapped, most carriers instruct their drivers to sign only for the number of pallets, since the driver is usually unable to inspect or count the number of packages or cartons that the shipper has loaded on the pallet. Then, when damage or shortage is discovered at the time of delivery, carriers will argue that it is "concealed" damage or shortage, and deny the claim.

In any event, you do have the right to inspect and count the packages or cartons on the pallet at the time of delivery, and it is a good practice to do so, before the driver leaves, and to make appropriate notations on the bill of lading and delivery receipt. The only suggestion I have is to do this quickly, as soon as the shipment is delivered, so as not to unduly delay the driver.

FREIGHT CLAIMS – MITIGATION OF DAMAGES

Question: Let me preface this by saying we are the consignee for this particular shipment. In August we received two transmissions that had been dropped by the carrier. The bill of lading was noted for damaged materials and I promptly filed a claim with the carrier and notified the shipper. We have also been billed by the shipper for the cost of the two transmissions, \$6724.43.

The transmissions were brand new and for vehicles that were in our shop. They are also electronically controlled and come with included CDs to program them after installation, which were destroyed, as well as external damage to the transmissions. The carrier did send an inspector out.

I contacted the carrier for updates but was informed of the 4 month period they have to make a decision. On 12/27, after the 4 month period had elapsed, I called and was informed the claim was denied and a letter would be sent to me. They finally emailed the denial letter which was dated 11/20 with this explanation:

As per the National Motor Freight Classification on "Mitigation of Damages," it is the legal obligation of the shipper/consignee to mitigate the damages.

At this time, we are requesting that an amended claim be submitted to XXXXX for further review. This amendment should reflect a reasonable salvage allowance, repair cost, discounted sale price for the product referenced in the above freight claim.

Given all of the facts above, your claim is denied as filed.

These transmissions are worth nothing to me. They were new so there is no core charge and we have no way to determine what issues they may have other than what we can see. I have been in contact with the shipper throughout this and they are trying to assist. Do we have any other recourse other than legal?

Answer: Ordinarily there would be a duty to "mitigate damage" if it is reasonable under the circumstances to do so. You might ask the shipper for a letter stating whether it is possible to salvage or repair the transmissions, and if possible, what it would cost, and submit it to the carrier.

Otherwise, your recourse is to bring a lawsuit. You may be able to do this yourself in the local small claims court. In this regard, note that the burden to prove failure to mitigate damage would fall on the carrier.

FREIGHT CLAIMS – INSURER DEMANDS RATE CONFIRMATION

Question: The insurance company is refusing to review a claim because a rate confirmation between insured and broker cannot be produced. The bill of lading however, has the insured's name listed as pick up carrier. Is the rate confirmation necessary to move the claim along?

Answer: I assume this is a loss or damage claim. From the limited information provided, I would think that the bill of lading, which is the “contract of carriage”, should be sufficient if it identifies the shipper, consignee and the carrier that transported the shipment.

I don’t see how a “rate confirmation” would be relevant. In this regard, it should be noted that freight payment terms (prepaid, collect, bill to third party, etc.) do not determine risk of loss or liability for cargo loss or damage.

FREIGHT CLAIMS – COLLECTING SMALL CLAIMS

Question: As the Cargo Claims Administrator for a national brokerage company, I sometimes find that the “normal” channels to collect on a claim end after the insurance denies coverage (for this example good reason) yet the trucker still is liable for the loss due to negligence or an uncovered type of loss.

Our company will either write off the loss, send it to a collections agency, or submit to our contingent cargo coverage...all of these results are costly, and sometime even unrealistic financially.

Before accepting these costs we will send the usual demand letters, and that seems to be the limit of our in-house ability to collect. I am wondering what my options may be to handle these collections actions in-house, is there any special licensing required? Is there training available to help develop the skills for this?

Answer: I assume that you are asking about smaller claims. Unless you are an individual, sole proprietorship, or a small corporation with only one or two employees you probably can’t bring a lawsuit in small claims court.

Unfortunately, for smaller claims, it is often not cost-effective to retain an attorney.

On the other hand, for larger claims, if you have thoroughly investigated the facts and are reasonably sure that there is carrier liability, you probably should consider hiring an attorney. Litigation can be slow and costly, but often an attorney is able to get a better settlement without actually having to file a lawsuit or go to trial.

TARIFF WATCH

What the large print giveth, the small print taketh away.

WATCH OUT FOR THOSE TARIFF RULES!

By Stephen W. Beyer, Esq.

It has been a while since we focused on carrier tariffs, but a recent item has been brought to our attention and needs to be reviewed. It is also a reminder that unless you familiarize yourself with a carrier’s tariffs, you may be “agreeing” to terms that are antithetical to your interests, and to which you never considered.

The problem arises because unless alternate terms are specifically provided in a contract, or by other means, a carrier’s tariffs are ‘incorporated by reference’ in the Uniform Bill of Lading:

RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request:

The carrier is not required to provide their tariffs to you unless requested, and it is not required to notify you of any changes that they make to their tariff (note that that many carrier tariffs are readily available online).

Which brings us to several provisions in Central Transport's ("CT") rules tariff. We are not sure when they were first included, but they were in the CT's Rules Tariff 100-BB with an effective date of August 1, 2017 and are carried forward to tariff 100-BC with an effective date of January 8, 2018.

First, contrast CT's Rules tariff:

ITEM 111—JURISDICTION

Jurisdiction: Exclusive jurisdiction for all civil actions arising out of transportation services provided by Central Transport LLC including but not limited to actions arising from alleged damage to cargo and collection actions shall be either the state or federal courts in the State of Michigan. If any party files a legal action in contravention of the foregoing sentence, Central Transport shall be entitled to collect its reasonable attorney fees and costs associated with enforcing the foregoing sentence regardless of the ultimate outcome of the legal action. Shipper, consignee, third-party, ultimate debtor or any agent of any of these parties, by tendering freight to Carrier or by being a party to the same shipment transaction in any way whatsoever, hereby consents to the personal jurisdiction of the state and federal courts of the State of Michigan. Laws of the State of Michigan shall apply to all contract or service disputes relating to indemnity by Carrier.

With the Carmack Amendment statute at 49 U.S.C. §14706:

(d) Civil Actions.—

(1) Against delivering carrier.—

A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

(2) Against carrier responsible for loss.—

A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

With this tariff provision, CT appears to abrogate the jurisdiction provisions of the Carmack Amendment. No matter where the damage or loss occurred, pursuant to tariff, the claimant must bring the action in Michigan and face possible attorney fees, regardless of the outcome of the litigation.

The broad language of "all civil actions" would appear to include not only loss and damage claims, but claims for freight charges, and even state law tort claims resulting from personal injury. It is arguable that this would contravene public policy by making the winner pay the loser's costs, amongst other things.

Will this intimidate plaintiffs with small claims? Only time will tell the outcome if this gets litigated.

Second, contrast CT's Rules tariff:

ITEM 112—RECOVERY OF FREIGHT CHARGE

Recovery of Freight Charges: Pursuant to 49 U.S.C §14101(b)(1), customers that participate in and benefit from Central Transport's discount and/or pallet programs expressly waive the "18 months" provision of 49 U.S.C § 14705(a) and replace it with 72 months.

With the statute at 49 U.S.C. §14705(3) Limitations on Actions by and Against Carriers:

(a) In General.—

A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

and 49 U.S.C §14101 Providing Transportation and Service:

(b) Contracts With Shippers.—

(1) In general.—

A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(10)(A), to provide specified services under specified rates and conditions. If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies. The parties may not waive the provisions governing registration, insurance, or safety fitness. (Emphasis added).

Here, CT has expanded its right to recover freight charges (note that 49 U.S.C. §14705 (b) Overcharges and 49 U.S.C §13710 Additional Billing Practices (a)(3)(A) & (B) (the “180 day notice rule for overcharges and undercharges) are NOT included) that it failed to bill or were never paid from a year and a half to six years.

Can a shipper waive a statute of limitations simply by tendering a shipment? If a carrier went bankrupt would the Trustee have six years to collect balance dues? Tariff Item 111 would also appear to make Michigan the venue for any and all civil actions that CT might seek to commence.

While 49 U.S.C §14101 is only expressly mentioned in Tariff Item 112, CT would likely argue that it applies to any and all its tariff items. The issue would be whether a court would agree that simply signing a bill of lading incorporating CT’s tariffs by reference would qualify as “the shipper and carrier, in writing, expressly waiv[ing] any or all rights and remedies under this part for the transportation. . . .” Again, it may take litigation to determine the outcome.

Finally contrast CT Tariff ITEM 460—OVERCHARGE AND DUPLICATE PAYMENT CLAIMS:

The following restrictions shall apply to any overcharge claim:

(1) Overcharge claims must be filed no more than 180 days after Carrier’s receipt of the shipment for which the claim was filed. (Emphasis added)

With statute at 49 U.S.C §13710 Additional Billing Practices (a)(3)(B)

(3) Billing disputes.—

....

(B) Initiated by shippers.—

If a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Board determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges. (Emphasis added)

While the difference may not be that significant, 180 days from when carrier receives the shipment is NOT the same as 180 days from when shipper receives the bill.

This brief review of several items in CT's rules tariff (NOTE that this is NOT a thorough review of CT's Tariff) will hopefully remind readers of the absolute importance of a regular and ongoing review of the tariffs of the carriers that you use and the need to understand the terms ahead of time.

Other than continually reviewing carrier tariffs, the only means for shippers to protect themselves is to utilize a well drafted transportation contract.

Thanks to Gil Williams of Williams & Associates and Brent Primus, Esq. for the heads up on this matter.

Visit http://www.centraltransportint.com/!Downloads/ctii_rules.pdf to view CT's 100-BC rules tariff and <https://www.law.cornell.edu/uscode/text/49/13710>, <https://www.law.cornell.edu/uscode/text/49/14705>, <https://www.law.cornell.edu/uscode/text/49/14706> and <https://www.law.cornell.edu/uscode/text/49/14101> for the referenced statutory provisions.

CCPAC NEWS

CCPAC

Established in 1981, the Certified Claims Professional Accreditation Council ("CCPAC") is a transportation cargo claim accrediting organization with a global membership and is comprised of shippers, manufacturers, freight forwarders, brokers, logistics companies, insurance companies, law firms and transportation carriers including air, ocean, truck and rail and various related transportation organizations. CCPAC seeks to raise the professional standards of individuals who specialize in the administration and negotiation of cargo claims. Specifically, it seeks to give recognition to those who have acquired the necessary degree of experience, education, expertise and who have successfully passed the CCP Certification Exam covering domestic and international cargo liability, warranting acknowledgment of their professional stature.

The next CCP exam will be offered Wednesday, March 21, 2018 at the conclusion of the 44th Annual Transportation & Logistics Council's Conference to be held March 19-21, 2018 in Charleston, SC. A special and optional CCP Primer Class will be offered Sunday, March 18, 2018 in Charleston prior to the start of the conference.

Information can be obtained by contacting John O'Dell, Executive Director of CCPAC, by phone: 904-322-0383 or email: jodell@ccpac.com or visit <http://www.ccpac.com/>.

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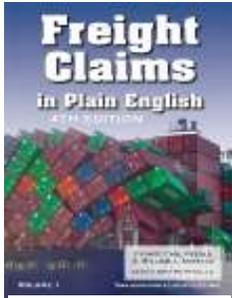
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FREIGHT CLAIMS IN PLAIN ENGLISH Includes "Freight Claims in Plain English 4th Ed." On CD ROM	\$550	\$625
CONTRACTING FOR TRANSPORTATION & LOGISTICS SERVICES Includes "Seminar Manual"	\$520	\$595
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2018 CONFERENCE PROGRAM

Sunday, March 18th

8:30am-9:00am	<u>Pre-Meeting Breakfast</u>
9:00am-4:00pm	<u>Board of Directors Meetings</u>
	Transportation & Logistics Council, Inc.
9:00am-5:00pm	<u>Optional Seminars</u>
	1. CONTRACTING FOR TRANSPORTATION & LOGISTICS SERVICES Presented by Raymond A. Selvaggio, Esq. An intensive workshop on the practical and legal aspects of contracting for both purchasers and providers of transportation and logistics services. Includes a review of important legal principles, statutes, regulations and a "walk through" and in-depth discussion of actual contract provisions, terms and conditions.
	2. FREIGHT CLAIMS IN PLAIN ENGLISH Presented by Gerard F. Smith, Esq. Based on the recently-published 4th Edition of the text by George Carl Pezold & William J. Augello, this session covers basics of carrier liability, bills of lading, burdens of proof, defenses, damages, limitations of liability, time limits, liability of freight forwarders, intermediaries, warehousemen, air and ocean carriers.
	3. TRANSPORTATION, LOGISTICS AND THE LAW Presented by Brent Wm. Primus, JD This unique one-day course based upon Bill Augello's landmark text is designed to provide a basic working knowledge of the laws and regulations affecting the supply chain and those governing the relationships between the parties -- shippers, carriers, and intermediaries. This is the vital information you need for minimizing risks and protecting revenues for your organization, and for your own individual professional growth.
	4. CCP PRIMER CLASS This is a fast paced review that covers a broad base of subjects to help those preparing to take the Certified Claims Professional (CCP) exam. Attendees must apply and receive pre-qualified approval from CCPAC in order to take the CCP Primer or the Exam. The CCP Exam will be administered on Wednesday immediately following the close of the Conference. Information and pre-qualifications requirements can be found on the CCPAC website at www.ccpac.com
10:00am-10:30am	<u>Mid-Morning Break</u>
12:00pm-1:00pm	<u>Luncheon</u>
1:00pm-5:00pm	<u>Registration</u>
3:00pm-3:30pm	<u>Mid-Afternoon Break</u>
7:00pm-9:00pm	<u>Hospitality Suite</u>

Monday, March 19th

	<u>Pre-Meeting Breakfast</u>	
7:30am-5:00pm	<u>Registration</u>	
7:30am-5:00pm	<u>Exhibits</u>	
8:30am-10:00am	<u>General Session I</u>	<p><u>THE TRANSPORTATION INDUSTRY - UPDATES & TRENDS</u> Leading representatives from industry and the trade press will provide an overview of critical issues facing the transportation and logistics industry – the economic outlook, effect of consolidation and mergers in all modes of transportation, the Internet and demise of retail stores, funding for infrastructure, the impact of recent legislation and regulatory initiatives, and administration policies affecting international trades.</p> <p><u>Moderator:</u> Robert Voltmann, President & CEO, Transportation Intermediaries Association</p> <p><u>Panelists:</u> William B. Cassidy, Senior Editor, The Journal of Commerce Dr. Robert C. Lieb, President, Supply Chain Management, Northeastern University Marianne Rowden, President & CEO, American Association of Exporters and Importers</p>
10:00am-10:30am	<u>Mid-Morning Break</u>	
10:30am-12:00pm	<u>Workshop 1</u>	<p><u>TRANSPORTATION OF FOOD AND DRUGS</u> This session will cover recent new laws and regulations, including implementation of the Sanitary Food Transportation Act of 2005 and the FDA Food Safety Modernization Act of 2011, and what shippers, carriers and receivers are doing to ensure that their practices and procedures are in compliance with the new requirements. Panelists will also discuss some of the common issues involving transportation of food and drug shipments such as broken seals, contamination, salvage, and will suggest “best practices” to avoid typical problems.</p> <p><u>Moderator:</u> John Perez, Esq., Partner, Perez & Morris LLC</p> <p><u>Panelists:</u> Kenneth Cash, Senior Investigator, U.S. Dept. of Agriculture-FSIS Dianna D. Whitby, Risk Manager, H & M Bay Dennis Minichello, Esq., Marwedel, Minichello & Reeb, P.C.</p>
10:30am-12:00pm	<u>Workshop 2</u>	<p><u>OUTSOURCING; DEALING WITH CONTRACTORS & INTERMEDIARIES</u> Many companies are “outsourcing” transportation and logistics functions that are not part of their core business to take advantage of the skills and resources of third-party service providers. However, in addition to the benefits there are risks and disadvantages when contracting with a 3PL, broker, freight bill audit and payment company, or other intermediary. Panelists will discuss current issues involving</p>

		<p>brokers, freight forwarders and 3PL's; liability for freight charges, cargo loss and damage, surety bonds and insurance, "double brokering", liability for "negligent hiring", and how the parties can protect their interests.</p> <p><u>Moderator:</u> Curtis Hart, Director Carrier Development, GEODIS</p> <p><u>Panelists:</u> Steve Broussard, CTL, CTB, Broussard Logistics, L.L.C. Josh Hoyle, Senior Compliance Specialist, AFN Eric Zalud, Esq., Benesch, Friedlander, Coplan & Aronoff LLP</p>
12:00pm-1:30pm		<p><u>Luncheon - Guest Speaker:</u> Tonn Ostergard, Chairman & CEO, Crete Carrier Corporation</p>
1:30pm-3:00pm	<u>General Session II</u>	<p><u>LAW OF THE LAND, LAW OF THE JUNGLE</u> A continuation of the ever-popular annual session where "Lawyers Explain the Law, and Businessmen Tell It Like It Is.</p> <p><u>Moderator:</u> Gerard F. Smith, Esq., Pezold, Smith, Hirschmann & Selvaggio, LLC</p> <p><u>Panelists:</u> Jeff Blakeman, President/Owner, Blakeman Transportation, Inc. Wesley S. Chused, Esq., PretiFlaherty Matt Clark, CTB, Director, Transportation & Logistics, Port Jersey Logistics Raymond A. Selvaggio, Esq., Pezold, Smith, Hirschmann & Selvaggio, LLC Les Vaagen, VP Cargo Claims, Midwest Motor Express, Inc.</p>
3:00pm-3:30pm		<p><u>Mid-Afternoon Break</u></p>
3:30pm-5:00pm	<u>Workshop 3</u>	<p><u>INTERNATIONAL TRADE - WHAT IMPORTERS & EXPORTERS NEED TO KNOW</u> Panelists will give an overview of major issues affecting international trade such as the aftermath of the Hanjin bankruptcy, global carriers alliances and their impact on capacity and rates, the political situation - protective trade policies and tariffs, and changes to NAFTA that could affect cross-border commerce with Canada and Mexico. Attendees will learn the basics of what importers and exporters need to know about the different types of service providers, international treaties and laws governing cargo liability, and compliance with CPB security initiatives and regulations. Common problems and how to avoid them will be discussed with suggested "best practices" for shippers, carriers and intermediaries involved in air, ocean and cross-border shipping</p> <p><u>Moderator:</u> Carl Soller, Esq., Soller Law Int'l, LLC</p> <p><u>Panelists:</u> Steven W. Block, Esq., Foster Pepper, PLLC Angela Alexander Savino, Esq., Perez & Morris, LLC James Manson, Associate, Fernandes Hearn LLP</p>

3:30pm-5:00pm	<u>Workshop 4</u>	<p><u>WORKING TOGETHER TO SAVE \$</u> Shippers and carriers working together to solve common problems can result in savings of time and money for both parties. Panelists will discuss carrier complaints about waiting time for loading and unloading, unreasonable transit time demands, penalties for missed pickup and delivery appointments, etc. and some of the solutions - drop trailers, "drop & pick" arrangements, modifying shipping schedules, more flexible shipping and receiving hours; use of night shifts and overtime, avoiding peak highway congestion.</p> <p><u>Moderator:</u> Askia Shaheer, Manager, Transportation Financial Planning, Big Lots</p> <p><u>Panelists:</u> Sheri J. Kerestman, Senior NA Transportation Manager, The Goodyear Tire & Rubber Company Landon J. Long, National Carrier Manager, Old Hickory Logistics Jeffrey L. Meyer, Group Manager Transportation, Nestle Purina PetCare</p>
5:15pm-6:15pm	<u>CCPAC Annual Meeting</u>	
7:00pm-9:00pm	<u>Hospitality Suite</u>	
7:00pm-9:00pm	<u>Exhibits</u>	

Tuesday, March 20th

7:30am-8:30am	<u>Pre-Meeting Breakfast</u>	
7:30am-5:00pm	<u>Registration</u>	
7:30am-5:00pm	<u>Exhibits</u>	
8:30am-10:00am	<u>General Session III</u>	<p><u>HOW GOOD IS YOUR SECURITY PROGRAM?</u> We once worried about bandits with masks and six-guns - and we still have plenty of old fashioned hijackings and theft that cost shippers and carriers millions every year. But the crooks and thieves have become smarter and more sophisticated. We now have identity and impostor theft and cyberattacks with hackers getting access to critical personal and business data. Panelists will discuss these threats and give tips and advice on what you can do to minimize exposure and improve your security programs.</p> <p><u>Moderator:</u> Stephanie Castro, Senior Transportation Coordinator, John Soules Foods</p> <p><u>Panelists:</u> Sandor Lengyel, Director of Security, NFI John C. Tabor, Senior Vice President-Supply Chain, National Retail Systems</p>
10:00am-10:30am	<u>Mid Morning Break</u>	
10:30am-12:00pm	<u>Workshop 5</u>	<p><u>IMPACT OF NEW LAWS AND REGULATIONS</u> Panelists will review the status and impact of recent federal laws like MAP-21, the Fixing America's Surface Transportation Act (FAST) as well as regulatory initiatives and mandates such as Electronic Logging Devices (ELD's), speed limiters, driver coercion rules, Hours of Service (HOS), changes to the Compliance, Safety & Accountability (CSA) program and Safety Fitness Determination (SFD) methodology. Also covered will be new state labor laws and regulations affecting classification and treatment of independent contractors, as well as environmental standards and regulations since they increase the cost of doing business in those states and have serious consequences for both shippers and carriers.</p> <p><u>Moderator:</u> Sara Perez, Esq., Partner, Perez & Morris LLC</p> <p><u>Panelists:</u> Joseph Riggs, General Manager Transportation Services, Big Lots Aaron Schmidt, Branch Manager, NFI Industries Henry E. Seaton, Esq., Seaton & Husk, L.P.</p>
10:30am-12:00pm	<u>Workshop 6</u>	<p><u>INSURANCE AND TRANSPORTATION CONTRACTS</u> Insurance is a major expense for most any business. What kinds of insurance do shippers, carriers and brokers really need? Panelists will</p>

		<p>discuss identification and analysis of the risks, how to determine what to look for when purchasing insurance or specifying the coverage your service providers should have, and the allocation of risk through transportation contracts with typical contract provisions and requirements.</p> <p><u>Moderator:</u> David Popowski, Esq., Popowski Law Firm, LLC</p> <p><u>Panelists:</u> Raymond A. Selvaggio, Esq., Pezold, Smith, Hirschmann & Selvaggio, LLC Keith Waters, Sr. Risk Analyst, GEODIS Mark Yunker, CIC, CRM, Risk & Insurance Consultant, Associated Benefits & Risk Consulting</p>
12:00pm-1:30pm		<u>Luncheon - Guest Speaker. Cynthia Hetherington, President, Hetherington Group</u>
1:30pm-3:00pm	<u>General Session IV</u>	<p><u>TRANSPORTATION ATTORNEY PANEL</u> Leading transportation attorneys will address current court decisions and legislation impacting shippers, carriers and intermediaries – loss and damage claims, freight charge disputes, multimodal issues, liability for highway accidents and other current issues.</p> <p><u>Moderator:</u> George Carl Pezold, Esq., Pezold, Smith, Hirschmann & Selvaggio, LLC</p> <p><u>Panelists:</u> Dirk H. Beckwith, Esq., Foster Swift Collins & Smith, PC Marc S. Blubaugh, Esq., Benesch, Friedlander, Coplan & Aronoff LLP Jason Tutrone, Associate, Thompson Hine, LLP</p>
3:00pm-3:30pm		<u>Mid-Afternoon Break</u>
3:30pm-5:00pm	<u>General Session V</u>	<p><u>MEET THE EXPERTS</u> Would you like help with a problem or have questions that need answers? Then this session is perfect. A Pre-Scheduled one-on-one meeting with top transportation professionals will give you an opportunity to ask specific questions or get guidance with a problem. Each meeting will be 10-15 minutes of uninterrupted time with a presenter or panelist of your choice. Sign up at the registration table for your own personal consultation.</p> <p><u>Moderator:</u> Nadia Martin. CCP, Loss Prevention & Carrier Compliance Manager, Blakeman Transportation, Inc.</p>
6:30pm-10:00pm		<u>President's Reception</u>

Wednesday, March 21st

7:30am-8:30am	<u>Pre-Meeting Breakfast</u>		
7:30am-10:00am	<u>Registration</u>		
8:30am-10:00am	<table border="1"><tr><td><u>General Session VI</u></td><td><p><u>LOSS PREVENTION AND MITIGATION OF DAMAGES</u></p><p>Theft, hijacking, shortage and damage cost shippers and carriers millions every year. This session will cover what shippers and carriers can do to prevent transit loss and damage - packaging, blocking & bracing, scheduling and routing; security practices - locks & seals, GPS tracking, screening and background checks, and premises security such as fencing, cameras, identity checks; Mitigation of losses through prompt action - investigation and salvage services; Special situations such as broken or missing seals on shipments of food, food-related products or drugs; special order goods; as well as product liability, brand and trademark considerations; "Best Practices" for dealing with common situations, both before and after a loss; corrective action to prevent future losses.</p><p><u>Moderator:</u> Martha J. Payne, Esq., Benesch, Firedlander, Coplan & Aronoff LLP</p><p><u>Panelists:</u> Daniel I. Hill, CPP, Director, SRV, Cargo Claims & Prevention, ABF Freight Jeffrey Simmons, Esq., GlobalTranz Enterprises Inc. Ed McQueen, Director, Loss Prevention, Southeastern Freight Lines, Inc.</p></td></tr></table>	<u>General Session VI</u>	<p><u>LOSS PREVENTION AND MITIGATION OF DAMAGES</u></p> <p>Theft, hijacking, shortage and damage cost shippers and carriers millions every year. This session will cover what shippers and carriers can do to prevent transit loss and damage - packaging, blocking & bracing, scheduling and routing; security practices - locks & seals, GPS tracking, screening and background checks, and premises security such as fencing, cameras, identity checks; Mitigation of losses through prompt action - investigation and salvage services; Special situations such as broken or missing seals on shipments of food, food-related products or drugs; special order goods; as well as product liability, brand and trademark considerations; "Best Practices" for dealing with common situations, both before and after a loss; corrective action to prevent future losses.</p> <p><u>Moderator:</u> Martha J. Payne, Esq., Benesch, Firedlander, Coplan & Aronoff LLP</p> <p><u>Panelists:</u> Daniel I. Hill, CPP, Director, SRV, Cargo Claims & Prevention, ABF Freight Jeffrey Simmons, Esq., GlobalTranz Enterprises Inc. Ed McQueen, Director, Loss Prevention, Southeastern Freight Lines, Inc.</p>
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10:30am-12:00pm	<table border="1"><tr><td><u>General Session VI I</u></td><td><p><u>FREIGHT CLAIMS - QUESTIONS & ANSWERS</u></p><p>Panelist will tackle questions submitted by the audience and to the Council's "Q&A" forum, tell how they would answer them from both a shipper and carrier view point, and give suggestions on how to resolve difficult situations. Be sure to bring your questions to this session!</p><p><u>Moderator:</u> Wally C. Dammann, CCP, Asst. VP & Natl Recovery Manager, Mitsui Sumitomo Marine Management (USA)</p><p><u>Panelists:</u> Kathleen C. Jeffries, Partner, Scopelitis, Garvin, Light, Hanson & Feary, LLP David Nordt, CCP, Director of Claims, The Gilbert Company Brent Wm. Primus, JD, Primus Law Office, P.A. Richard Rathbun, C.C.P., National Cargo Claims Administrator, Allen Lund Company Paul J. Kozacky, Esq., Partner, Kozacky, Weitzel, McGrath, PC</p></td></tr></table>	<u>General Session VI I</u>	<p><u>FREIGHT CLAIMS - QUESTIONS & ANSWERS</u></p> <p>Panelist will tackle questions submitted by the audience and to the Council's "Q&A" forum, tell how they would answer them from both a shipper and carrier view point, and give suggestions on how to resolve difficult situations. Be sure to bring your questions to this session!</p> <p><u>Moderator:</u> Wally C. Dammann, CCP, Asst. VP & Natl Recovery Manager, Mitsui Sumitomo Marine Management (USA)</p> <p><u>Panelists:</u> Kathleen C. Jeffries, Partner, Scopelitis, Garvin, Light, Hanson & Feary, LLP David Nordt, CCP, Director of Claims, The Gilbert Company Brent Wm. Primus, JD, Primus Law Office, P.A. Richard Rathbun, C.C.P., National Cargo Claims Administrator, Allen Lund Company Paul J. Kozacky, Esq., Partner, Kozacky, Weitzel, McGrath, PC</p>
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12:00pm	<u>Grand Prize Drawing & Adjournment</u>		

The Transportation & Logistics Council, Inc.

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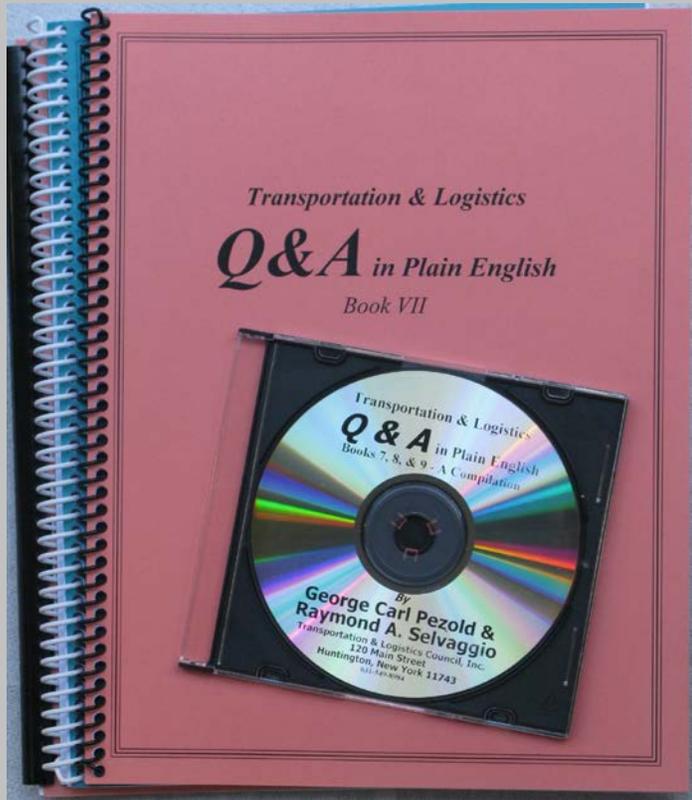
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Item		Item#	Price
Shipping & Receiving in Plain English, A Best Practices Guide (2009), by George Carl Pezold	Member	586	\$70.00
	Non	586-NM	\$90.00
Contracting for Transportation & Logistics Services (rev. 2001), by George Carl Pezold	Member	576	\$40.00
	Non	576-NM	\$60.00
Transportation & Logistics - Q&A in Plain English – Books VII, VIII & IX A Compilation on CD Disc by George Carl Pezold and Raymond Selvaggio (2015) ***NEW***	Member	594	\$70.00
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Transportation & Logistics - Q&A in Plain English – Books IV, V and VI A Compilation on CD Disc by George Carl Pezold and Raymond Selvaggio (2004 – 2007)	Member	589	\$60.00
	Non	589-NM	\$80.00
Transportation & Logistics - Q&A in Plain English – Book X (2014) by George Carl Pezold and Raymond Selvaggio	Member	592	\$50.00
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