

## **CARGO UPDATE NEWSLETTER**

### **CARRIER NOT NAMED IN B/L MAY NOT USE B/L TO LIMIT LIABILITY – Fall 2014**

In a recent decision, the United States District Court for the Northern District of Illinois, in *Frontier Supply Chain Solutions, Inc. v. Streamline Transport Solutions, LLC*, 2014 WL 3705349 (N.D. IL 2014), denied a motor carrier's motion for partial judgment on the pleadings seeking to limit liability under terms of the shipper's bill of lading, where the motor carrier was not listed as the "carrier."

The case involved the theft of cargo from the motor carrier's warehouse in Illinois that was destined for Winnipeg, Canada. Frontier, a Canadian logistics company, agreed to transport the goods for three of its customers and issued three bills of lading. Frontier hired Streamline, a motor carrier, to transport the cargo and a load confirmation sheet was also issued. The three bills of lading listed Frontier and Streamline as the "shipper," and no entity was identified as the "carrier." The bills of lading each contained a \$2.00 per pound limitation of liability and there was no value declared. The load confirmation sheet designated Frontier as the "shipper," and Streamline as the "carrier," and also stated, "Carrier accepts full liability from pickup to delivery for temperature control, piece count, damage, and on-time service." Frontier alleged that it was the "originating carrier" and contended that the bills of lading were its agreements with the three shipping customers and that the load confirmation sheet was evidence of its contract with Streamline. Frontier sought indemnification from Streamline under Carmack for the full amount of the loss, \$99,569.80. Streamline sought partial judgment on the pleadings arguing that its potential liability was limited to \$16,888.00 by virtue of the bill of lading \$2.00 per pound limitation.

The court denied Streamline's motion because it could not conclude as a matter of law that the parties agreed to the bill of lading limitation. The bills of lading did not establish conclusively an agreement between Streamline and Frontier to limit liability. The court found the identity of the "carrier" to be ambiguous since the bills did not name any carrier. The court held that because the identities of the "carrier" and the parties to the bills of lading were ambiguous, and it was unclear how the bills of lading and load confirmation relate, it could not be determined as a matter of law that Streamline's liability was capped at \$2.00 per pound. Given the ambiguity or potential ambiguity, the non-moving party had the right to present extrinsic evidence as to the meaning of the contested terms.

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