

Combating Cargo Claims



By Sonya Kivisto, Marcello and Kivisto, LLC

Trucking companies earn their money one mile at a time with small profit margins. When a cargo claim arises, a trucking company not only pays for drivers' wages, fuel, maintenance, operations expenses, taxes and insurance, but it also potentially must pay for the cargo it just transported, eliminating any profit for that load and likely the next few.

While not every cargo claim can be avoided, there are steps that can be taken to minimize the likelihood of a claim or to create a defense to any potential claim.

Many times shippers state that they have a bill of lading signed by the driver noting no damage and/or noting the amount of freight that was on the trailer. The shippers also say that the driver made no notations to the bill of lading and signed it accepting the load. Shippers use this bill of lading as proof that the load was not damaged at the time the driver took possession of it and that the amount of freight the shipper alleges was on the load was there. The shippers tell the trucking companies that this is evidence of receipt in good order of the total amount of freight. And the shippers are right. You can work to overcome the presumption that a clean bill of lading has, but it is often easier to combat a cargo claim if the driver does more than simply sign the bill of lading and head on down the highway.

First, verify the count. Shortage claims can be avoided if the driver verifies the count at the shipper and at the receiver. The driver should then note the count on the bill of lading. If

necessary the driver should recount. Drivers must understand that when they sign their name to a bill of lading, they are accepting responsibility for what the bill of lading says is on the trailer.

There are times when it might not be possible for the driver to verify the count because it is a sealed load, the load was preloaded, the driver was not permitted on the dock or the items are palletized. In these circumstances the driver should note that on the bill of lading. If a driver is not permitted on the dock, he should note that on the bill of lading with "Not Allowed On Dock" and "Shipper's Load and Count." These two notations indicate that the shipper loaded and counted the load with no opportunity for the driver to inspect it.

If the load is palletized, the driver should note that on the bill of lading. For example if there are 10 pallets and the shippers say that the pallets contain 1000 pieces, the driver should note "10 pallets said to contain 1000 pieces."

If the trailer was preloaded before the driver took possession of it, the driver should note "Preloaded" on the bill of lading. Again, this is evidence that the driver had no opportunity to inspect or count the load before receiving it.

If the load was preloaded and sealed, the driver should note "Preloaded and Sealed Trailer" on the bill of lading. This will confirm that the driver was given no opportunity to review the load before receiving it.

If the load is a refrigerated load, the driver should verify the temperature that the refrigerated trailer should be set to. Prior to leaving the shipper, the driver should check the fuel level of the trailer to confirm that there is sufficient fuel in the trailer. At each stop, the driver should check the trailer temperature. If the refrigerated unit is to be dropped off, the driver should confirm that the fuel tank is topped off at the time the trailer is dropped, he should make sure the unit is operating, and he should get a signed bill of lading. The signature by the receiver is proof of delivery. If the receiver fails to unload the trailer in a timely fashion after the driver has received a signed bill of lading from the receiver, you have a strong defense that the load was delivered properly and in good order and that the receiver accepted that delivery.


The driver should check with the shipper or loader to determine if there are any special instructions on how the load should be loaded, blocked or braced. It is the shipper's freight; if there is any potential issue with the transport of it, the shipper should know.

If damage does occur, the driver should document the damage - how much of the cargo was damaged, where was the damage to the cargo, how bad was the damage, and what happened during transport that could have caused the damage. The driver should treat cargo damage like an accident scene and take pictures of all damage, where the freight was located on the trailer, as well as the quantity and kind of damage.

If an issue arises at either the shipper or the receiver, the driver should call your company to report this issue. It is possible that the issue can be worked out over the phone between operations and the shipper or receiver. Once the driver pulls away from the dock, it is too late. Additionally, if there is going to be a problem, you will want to know this and give your driver guidance on how best to proceed to protect your interests.

Finally, make drivers accountable for their loads. When the driver accepts freight, he signs the bill of lading accepting responsibility for the load. Drivers are accountable for their actions in driving the tractor. Drivers who violate motor vehicle laws receive citations or are subject to company discipline. Drivers who are involved in an accident are potentially subject to company discipline. The same can potentially be applied to cargo claims.

As a driver is the company's first line of defense in any cargo claim it is imperative that drivers follow the above guidelines when receiving, transporting and delivering a load. This will help to reduce potential cargo claims and to combat those claims that are brought.

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