

E-News for October 23, 2006

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Regulators come to their Senses!

General Editor Peter Jones reports that, after a three-year battle that looked all but lost, BIFA has won an exemption for British freight forwarders from cumbersome new rules promulgated by the European Commission and intended to provide protection to the public in the sale of insurance. The real effect was to simply force many small to mid-sized forwarders to stop providing customers with insurance cover under a pre-existing open marine cargo insurance policy, to the detriment of both forwarders and their clients. For the full article click here:

http://www.forwarderlaw.com/library/view.php?article_id=405

US Second Circuit Muddies the Waters on COGSA

In its recent decision in *Sampo Japan v Union Pacific*, the Court of Appeals for the Second Circuit ‘distinguished’ the Supreme Court decision from *Kirby*, muddying waters that had only recently been cleared, Steve Block writes. For more on the connection between COGSA maritime claims and Carmack Amendment surface carriage, click here:

http://www.forwarderlaw.com/library/view.php?article_id=402

China Opens its Doors

Ik Wei Chong, our new Forwarderlaw correspondent from Shanghai, describes developments under the WTO and the CEPA that are opening China’s doors to freight forwarders. Find out more about the requirements for directly tapping into this tremendous source of industry growth. For the full article click here:

http://www.forwarderlaw.com/library/view.php?article_id=398

Shipper Fails in Claim under CMR for Duties Payable on Loss of Goods

Our newest correspondent, Arnold Van Steerenden of Van Steerenden Mainport Lawyers, Rotterdam, provides this timely update on *Phillip Morris Holland v. Van der Graaf Waalwijk*. Some readers will remember this case as having previously considered whether or not the failures alleged against the carrier constituted reckless misconduct, such that they would be deprived of the benefit of the limitation of liability under the CMR. Here, the question was whether or not extra VAT payable as a result of the goods not arriving at the intended destination constituted ‘extra charges’ payable under the terms of the CMR. Once again the Supreme Court of the Netherlands has taken a narrow approach to construing the terms, contrary to the British High Court decision in *Buchanan*. For the full article click here:

http://www.forwarderlaw.com/library/view.php?article_id=401

Anti-Suit Injunction enforced in Canada

The Federal Court of Appeal deferred to an English injunction prohibiting claims being brought in Canada under a bill of lading that contained an exclusive jurisdiction clause in favour of the London Courts. While s.46 of Canada's *Marine Liability Act* permits the bringing of such a claim in Canada, the Court of Appeal considered the legislature intended this provision to protect local cargo owners but not their large multinational insurers and confirmed that London was the more convenient jurisdiction. For further commentary by Peter Jones click here:

http://www.forwarderlaw.com/library/view.php?article_id=404

Don't Play Judge when Claims Arise!

Gavin Magrath reports on a Canadian duty-to-defend case, in which the insurer was successful in avoiding their obligation to defend and indemnify their insured based on failure to give timely notice as required under the policy. Don't get left holding the bag! For the full article click here:

http://www.forwarderlaw.com/library/view.php?article_id=406

Higher pump prices don't fuel transportation company profits

US contributor Steve Block discusses the impact of fluctuating fuel costs and the imposition of fuel cost surcharges on carrier profits and on their relationships with customers. For the full article click here:

http://www.forwarderlaw.com/library/view.php?article_id=400

Switched Bills of Lading Revisited

Vlad Cioarec supplements a previous article on switched and revised bills of lading. Forwarders issuing documents must take steps to protect themselves where 'replacement' bills of lading are requested. For the full article click here:

http://www.forwarderlaw.com/library/view.php?article_id=403

General

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