WHITE PAPER
BEST PRACTICES

THE BASICS
FILING FREIGHT CLAIMS

MARCH 2017

FILE FREIGHT CLAIMS PROPERLY

GET PAID FASTER

MINIMIZE DISPUTES

DON'T GET TIME-BARRED

ELIMINATE WRITE-OFFS

Table of Contents

I. Overview

Freight Claims represent a small percentage of revenues, yet in most cases enough to be a trackable revenue dilution line item, and a direct bottom line loss if not managed properly. Most large corporations have professional traffic departments and systems to prevent these losses. Many smaller companies, however, are often not able to dedicate the resources to do it properly. Here are some straightforward ideas to help in this. Every dollar lost in transportation is a dollar of profit your company does not receive.

Filing freight claims for the loss of a shipment, a carton shortage, or product damage doesn't have to be a huge headache if you understand the process, and follow a few rules. However, the requirements have certain technical aspects, for example the time permitted for filing a claim, which you need to understand and comply with to avoid unnecessary losses. The responsibility for these losses can be traced to the Carrier, Shipper or Consignee, depending on the type of loss. For example,

Responsibility for Loss		
Loss or Carton Shortage	Concealed Shortages	Damages
• Carrier	• Shipper error • Customer error or pilferage • Carrier pilferage	• Ineffective Packing (Shipper) • Carrier Carelessness

II. The “Contract of Carriage”

Bill of Lading

The Bill of Lading (along with the relevant carrier tariffs) is your contract unless you negotiated a separate carrier contract, in which case that takes precedence. If you have a negotiated Carrier Contract, get familiar with the contract provisions, time limits, liability limits and other conditions. We suggest preparing a matrix of important terms, limits and conditions showing all of your carriers so you can determine who has the most favorable terms, as well as using it as guidance in filing claims.

Federal and State Regulations

There are Federal regulations governing freight claims for shipments in interstate commerce. Specifically, there is a statute called the “Carmack Amendment”[1] which covers interstate shipments of all commodities with the exception of farmers, fisherman, and some other categories. There are similar, but possible different, rules for intrastate shipments, covered by state laws. Here is a link to an excellent, detailed paper on Carmack for those that want the legalese.

[1] According to the Carmack Amendment carriers are considered to be virtual insurers and are strictly liable for cargo claims. There are, however, five recognized exceptions or defenses: (1) an act of God, (2) an act of the public enemy, (3) an act of a public authority, (4) an act of the shipper, or (5) an inherent vice of the product. And, even if one or more of these factors might be present, the carrier must also show that it was free of negligence.

Interstate commerce is trade, traffic, or transportation **involving** the crossing of a State boundary. Either the vehicle, its passengers, or cargo must cross a State boundary, or there must be the intent to cross a State boundary to be considered an interstate carrier. **Intrastate** commerce is trade, traffic, or transportation within a single State.

International-Ocean

For international or an ocean shipment, the claim may also be governed by international treaties, such as the Carriage of Goods by Sea Act (ocean shipments) or the Montreal Convention of 1999 (air shipments). The claim filing requirements are quite different than discussed here (which is intended as a primer for interstate claim filing). If you are interested in international or ocean freight claims, you need to do more research. Exempt rail, international ocean and air freight shipments may also have shorter time limits than shown below.

III. Time Bar For Claims and Lawsuits

In the U.S.A, common carrier rules allow nine (9) months from date of delivery to file a claim; if for non-delivery, nine months plus a reasonable time for delivery. The timely filing of a claim is a prerequisite for any later litigation, and if not filed within nine months, the claim is extinguished.

If the claim cannot be amicably resolved, you have two (2) years to file a lawsuit, from the point of rejection by the carrier.

Some traffic is not subject to the Carmack Amendment, including "exempt" shipments such as fresh fruits and vegetables, intermodal shipments, etc. which could have shorter time limits.

For Canada, you have only 60 days from date of delivery, or nine months if non-delivered.

IV. Departmental Responsibility and Timing

In most companies, the success of freight claims filing is the result of proactive teamwork and communication between two departments, the Accounts Receivable Department and the Traffic Department.

- The initial notice of a loss frequently is uncovered in the accounts receivable or collection department, after the customer fails to pay an invoice.
- If the shipment was a non-critical, routine shipment, the shipper may not even hear about it until the collection department calls for payment 30, 60 or even 90 days later.
- At that point, the traffic department will be asked to trace the shipment for a proof of delivery with the carrier, which could take an additional 30 or more days.
- If the problem is a carton shortage or product damage, the first time the shipper may hear of it is when the customer takes a deduction from payment and after the deductions have been analyzed.

Our point here is that by the time the traffic department files the claim, many months may have elapsed, and key documentation lost or misplaced (say, in the case of product damage). Consequently, it is critical that claims filing be done ASAP, always with an eye on the time bar date, so that the opportunity for recovery is not lost.

V. FOB Terms: Who Files

The claimant (ideally) should be that the company having title to the goods in transit, the entity assuming the risk of loss in transit, or an assignee of either. The way this is supposed to work is that if the shipment is FOB Destination (i.e., shipper (consignor) holding title until delivered) , the shipper files the claim, and if FOB Origin (consignee taking title at the point of shipment), the consignee files the claim.

FOB Origin

- The consignee assumes title and control of the goods the moment the carrier signs the bill of lading.
- The consignee assumes risk of transportation and is entitled to route the shipment.
- The consignee is responsible for filing claims for loss or damage.

FOB Destination

- The shipper retains title and control of goods until they are delivered and the contract of carriage has been completed.
- The shipper selects the carrier and is responsible for the risk of transportation.
- The shipper is responsible for filing claims for loss or damage.

As a practical manner, whoever is out the money better file the claim quickly, so if the shipper has not been paid by the customer, it behooves the shipper not to argue about the technicalities, but file the claim without delay. The carrier may ask for a bond of indemnity in case the party without legal title files the claim.

Which Carrier Do You File a Claim Against. When there is more than one carrier involved, file against either the originating carrier or the delivering carrier. The originating carrier makes the most sense for most shippers.

VI. The Claim Format

There is no “required” form, but here’s link to a standard claims format.

Standard Form for Presentation of Loss and Damage Claims

(Claimant's Number)*

(Company name of Claimant) (Address of claimant)

(Name of Carrier) (Date) (PRO Number)

(Address)

This claim for $________ (Amount of claim) is made against the carrier named above by ________ **(Name of Claimant)**

for ________ (Loss or damage) in connection with the following described shipment(s):

Description of shipment ________

Name and address of consignor (shipper) ________

Shipped from ________ (City, Town or Station) ,to ________ (City, Town, or Station)

Final Destination ________ (City, Town or Station) Routed via ________

Bill of lading issued by: ________ Date of Bill of Lading: ________

Paid Freight Bill (Pro) Number: ________

Name and address of Consignee (Whom shipped to) ________

If shipment reconsigned enroute, state particulars: ________

DETAILED STATEMENT SHOWING HOW AMOUNT CLAIMED IS DETERMINED
(Number and Description of articles, nature and extent of loss or damage, invoice price of articles, amount of claim, etc.)

Total Amount Claimed	

IN ADDITION TO THE INFORMATION GIVEN ABOVE, THE FOLLOWING DOCUMENTS ARE SUBMITTED IN SUPPORT OF THIS CLAIM**

( ) 1. Original bill of lading, if not previously surrendered to carrier.
( ) 2. Original paid freight ("expense") bill.
( ) 3. Original invoice or certified copy showing claimants cost.
( ) 4. Other particulars obtainable in proof of loss or damage claimed.

Remarks: ________

The foregoing statements of facts is hereby certified to as correct.

____
Printed name of claimant (print clearly)

____
(Claimants contact phone number)

____
(Signature of claimant)

*Claimant should assign to each claim a number, inserting same in the space provided at the upper right hand corner of this form. Reference should be made thereto in all correspondence pertaining to this claim.
Claimant will please place check **(X) before such of the documents mentioned as have been attached, and explain under **"Remarks"** the absence of any of the documents called for in connection with this claim. When for any reason it is impossible for claimant to produce original bill of lading, or paid freight bill, claimant should indemnify carrier or carriers against duplicate claim supported by original documents.

While you do not need to use a specific "Form" to file your claim, using one is easier and lends some structure to the process as compared with writing letters for each claim. The elements of a claim are the same regardless of how you file.

1. You need to identify the shipment and include Pro or waybill numbers so the carrier can identify it.
2. The Type and quantity of loss (loss, damage, etc) must be explained. Incase of damage, file for the full cost of the goods. This loss can be reduced later with mitigation measures, or salvage. Claim the full amount if you do not know the salvage value.
3. The dollar amount of the loss must be calculated.
4. The Claim <u>must</u> state you are demanding payment for the loss. It is <u>not</u> enough to just advise them of the loss.
5. A shipment tracer is not a Claim. Even if the tracer states your intent to file a claim, <u>you must actually file the Claim.</u>
6. <u>File the claim with the carrier's corporate claim department.</u>

Example of Claim Detail			
	Quantity	Price per Unit	Extended Cost
10 cases #34536 toasters(6 per case)	60	120.00	1200.00
5 cartons Water Damaged Men's #6475 Pants (10 per case)	50	10.00	500.00
Less salvage			(200.00)
Amount of Damage claim			$1500.00

Documents to include with your Claim

<u>Paid</u> freight bill
Original Bill of Lading
Delivery Receipt (if Damage or Shortage)
Related supporting documents
Customer invoice
Pictures (in case of damage or concealed shortages)
Loading/unloading information

Valuation Limit

The carrier has liability for value of the goods, generally, if you do not have a custom carrier contract or a different value is specified on the Bill of Lading. Technically, if the shipper holds title until received by consignee (FOB Destination), the value may be limited to the cost of goods. If the title is transferred when shipped (FOB Shipper's Warehouse), the sales invoice value will prevail. To be on the safe side, file claim for the maximum amount. It can always be amended later if you find mitigating evidence.

Mitigation of Losses

All parties involved have a legal obligation to lessen, to mitigate the damages. Be sure to keep the damaged freight; take pictures of it, but do not dispose of it (unless it is perishable), as the carrier has the right to inspect it, and also to salvage/resell it to mitigate their losses.

Note on Concealed Shortages and Damages

If the carton(s) has been opened or re-taped, that is evidence that pilferage occurred when in the carrier's possession, but concealed shortages are always sticky. Therefore, just as with a damaged shipment, it is essential that the carrier be called immediately and the evidence (the carton and contents) be retained for carrier inspection. See our separate white paper on Concealed Shortage Deductions.

Cargo Insurance. Many companies also carry shipper's cargo insurance, which will generally required you to give them notice of claims promptly in order for your claim to be valid in case the carrier does not pay.

Bankrupt Carriers You may have a claim against the carrier's insurance company. You may be able to get the interstate from the U.S Department of Transportation. Also, here are links to the state transportation departments.

VII. Filing and Tracking Your Claims

A freight claim must be in writing and can be transmitted by EDI, email attachment (you better check to see they accept this format) , overnight service, fax, or USPS, according to the practice between you and the carrier. You need to make sure you receive an acknowledgement that the claim was received.

If you cannot resolve the claim amicably, you have two years from the date the claim is denied by the carrier in order to file a lawsuit. You must abide by these time limits, or lose your right to collect. If you can not prove you filed the claim within 9 months, you have no recourse.Number claims sequentially and record and track them through resolution.

If you do not have many tracers or claims to manage, an Excel spreadsheet or even a manual ring binder-ledger may be all you need. If you are a big shipper, you should be using software to prepare and track freight claims. The point is to track of them so you know which were acknowledged, what the timing is, as well as the status throughout the tracer and claim lifecycle. You can find a number of specialized software solutions online.

Important claim follow-up milestones include.

- Claim Filing date must be within 9 months of shipping.
- Making sure the claim was acknowledged (wait no more than 30 days).
- If the claim is not paid in 120 days.
- Make sure you get updates at least every 60 days.
- Remember, if the claim is disallowed, you have 2 years to file a lawsuit.

Tracers. As with claims, tracers must also be tracked so you do not lose the opportunity to file a timely claim. Tracers should be followed up at maximum 30 day intervals, and if you are not getting any answers, file the claim. You have many more tracers than you do claims, so a systemized tracking method is important - remember the 9 month time-bar limit.

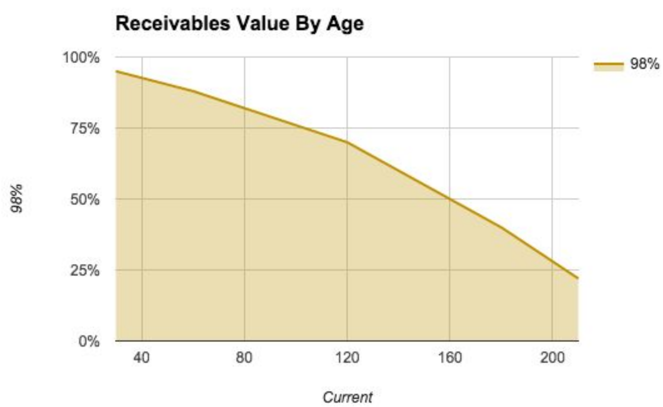
VIII. "SaaS" Tracer and Claim Tecnology

Using modern Software as a Service systems available over the internet, you can automate and manage the filing and resolution of tracers and claims for a faster process and a better result. The common features of these systems will enable you to.

1. Enter data just once.
2. Enable collaboration with accounts receivable.
3. Transition from a tracer to a claim without redundant entry.
4. Incorporate needed documents with claims.
5. Follow-up with predictive workflow, never missing a tickler or time-bar date.
6. Send follow-up communications automatically (email, Letter, etc.).
7. Interact with carriers by EDI.

8. Escalate collection follow-up to a higher authority.
9. Automatically generate carrier and root-cause reporting.
10. Integrate with your accounting systems.

IX. Claims Collection



It is a cliche but the value of any receivables plummet after 90 days, whether by turning into a dispute or uncollectible bad-debt. This is even more so with freight claims because they start off “old”, so prompt professional action is called for.

Collection Escalations

When you are not making progress, escalate the matter to your manager or carrier sales department, rather than continuing a fruitless pursuit. Each case will have its own solution, depending on the size, importance of the account and the circumstances.

- This can be your manager, or a if it is lot of money, your CFO. If it’s a $100,000 truckload, your CEO would be happy to call.
- If you are an important customer, a word to the carrier’s sales department may produce action.
- Lastly, your attorney can threaten action if resolution is not forthcoming.
- If you have cargo insurance, you can pass it off to them but only after you have exhausted efforts with the carrier directly.

X. Loss Prevention

Performance Tracking Systems are key to improving your operations, and managing your carriers. The cause of a damage freight claim could be, for example, poor packing materials or carton design. You need to get to the root causes of shipping problems so you can eliminate them at the source; otherwise, they become chronic and continue to dilute company profits.

This means you need to keep track for the reasons or circumstances under which freight claims occur, thus developing actionable information to solve root causes. Carton shortages or shipment losses are carrier problems, and you should compare carrier performance in this respect. Many damage claims can be attributable to shipper practices; these, you need to identify and correct.

Example Tracking For Root Causes

Claim	Date	Prod. if D	D/L/S	Valu e	Ware- house	Carrier	Cause if Known (Explain)
#							
#							
#							

D/L/S - Damage/Loss/ Shortage

XI. Conclusion

The function of managing freight claims and tracers is important, and deserves more attention than it receives. Sometimes, failures this area end up as write offs of accounts receivable, which when combined with other expensed write offs are largely hidden and end up as just another cost of business line item. In need not be so.

By adopting a more controlled and systematic approach to this age-old problem, write-offs can be eliminated and collections accelerated. Other corporate operations are engineered and automated to deliver the objective needed by the company; to a large extent this has not yet happened with freight claims.

With carefully thought out strategy, state-of-the-art technology, process, and training, it is possible to make *dramatic* improvements in cash acceleration, and with commensurate benefits of fewer losses for disputes and bad debts, as well as lower overheads.

End

About the authors: This paper was prepared by the Revenue Cycle Consultants at Smyyth/Creditek

Smyyth/Creditek provides world-class, end-to-end Order-to-Cash SaaS Technology (Carixa), and Outsourced Services, to enable companies to attain extraordinary cash flow and profits using best practices for management of credit, accounts receivable, collections, deductions, disputes and cash application.

The Carixa™ Order to Cash platform streamlines operations, slashes costs, and increases profits. Smyyth technology and services are built on Six Sigma principles and are Safe Harbor and SSAE16 compliant. www.smyyth.com

Carixa is a modular or an end-to-end solution for order-to-cash and is scalable from mid-market to the global enterprise. It comes with instant consolidation of subsidiary credit risks and receivables, collection and deduction management providing local operating power within a corporate policy framework. Need to centralize, decentralize, shift resources, or outsource? No problem, just set the policy and rules and it's done. Carixa integrates order-to-cash....credit, collections, deductions, reconciliation, EIPP, cash application, customer portals, and more.

For more information on Carixa or Smyyth services, we would be delighted to hear from you.
info@smyyth.com   www.smyyth.com

smyyth™
CREDITEK™