

What You Should Know

## **Cargo Loss and Damage Claims**

### **LIMITED LIABILITY**

The following may limit your liability, the amount you may recover in case of loss or damage for whatever reason.

Your shipment may be moving at a released rate as shown in the National Motor Freight Classification or WWAT tariff. This means that the carrier's maximum liability may be limited. Some of the limited liability items are:

Used items as defined in our tariff WWAT 100 Item 180 are limited to \$.10 per pound:

The term "used" will include the following: fixed up, over-hauled, patched, rebuilt, reconditioned, refurbished, remanufactured, renovated, repaired, restored and any other term to describe merchandise other than "new" or of original manufacture. National Motor Freight Classification Item 172 other items as other items listed in the National Motor Freight Classification.

FedEx National LTL Tariff page.

FedEx National LTL maximum is \$25.00 per pound times the weight of the item lost or damaged unless it is released as stated above.

**DOCUMENTS REQUIRED TO SUPPORT YOUR CLAIM Invoice:** We need a copy of the complete purchase invoice showing discounts and totals covering the merchandise on this shipment, not just the items for which you are claiming.

**Proof of Ownership:** If you are not the shipper or the consignee you must submit proof that you are the legal owner of the goods

### **300100**

#### **Application**

These Rules are published in compliance with the report and order of the Interstate Commerce Commission in Ex Parte No. 263, Rules, Regulations, and Practices of Regulated Carriers with Respect to the Processing of Loss and Damage Claims, served February 24, 1972. The purposes of these Principles and Practices are:

- a.** To obtain uniformity on the part of all carriers and uniform treatment of all claimants in the disposition of claims of like nature.
- b.** To secure and preserve harmonious relationships in claim matters between carriers and their patrons.
- c.** To effect and maintain a prompt and efficient service to the public in connection with the investigation and disposition of freight claims.

### **300115**

#### **Claims Filed for Uncertain Amounts**

Whenever a claim is presented against a proper carrier for an uncertain amount, such as "\$100 more or less," the carrier against whom such claim is filed will determine the condition of the shipment involved at the time of delivery by it, if it was delivered, and will ascertain as nearly as possible the extent, if any, of the

loss or damage for which it may be responsible. It will not, however, voluntarily pay a claim under such circumstances unless and until a formal claim in writing for a specified or determinable amount of money has been filed in accordance with the provisions of item 300105.

### **300105**

#### **Filing of Claims**

**a.** Claims in writing required. A claim for loss or damage to baggage or for loss, damage, injury, or delay to cargo will not be voluntarily paid by a carrier unless filed in writing, as provided in subparagraph (b) below, with the receiving or delivering carrier, or carrier issuing the bill of lading, receipt, ticket, or baggage check, or carrier on whose line the alleged loss, damage, injury, or delay occurred, within the specified time limits applicable thereto and as otherwise may be required by law, the terms of the bill of lading or other contract of carriage, and all tariff provisions applicable thereto.

**b.** Minimum filing requirements. A communication in writing from a claimant, filed with a proper carrier within the time limits specified in the bill of lading or contract of carriage or transportation, and (1) containing facts sufficient to identify the baggage or shipment (or shipments) of property involved, (2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, will be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage.

**c.** Bad order reports, appraisal report of damage, notations of exceptions on freight bills or other documents, inspection reports issued by carrier inspectors or inspection agencies, tracers or inspection requests do not comply with claim filing requirements.

#### **Documents Required in Support of Claims**

### **300110**

**a.** A written demand for payment, asserting carrier liability for alleged loss, damage, injury or delay, and containing facts sufficient to identify the shipment or shipments involved will constitute a claim, regardless of form, and will be required.

**b.** When claimant does not appear from the supporting documents to be an interested party, carrier will require any necessary written assignment or other proof to determine the claimant is the proper party to receive any claim payment.

**c.** Claim must be supported by either the original invoice; a photographic copy of the original invoice; an exact copy thereof, or an extract therefrom, certified by the claimant or his authorized representative to be true and correct with respect to the property involved in the claim and reflecting all trade or other discounts, allowances, or deductions of any nature. When the original invoice is not submitted, such document must be made available for inspection by carrier representative upon request.

**d.** When determined by the carrier to be a necessary part of the investigation, the following will be required:

1. The original freight bill and bill of lading or other contract of carriage. When claimant cannot furnish these documents, carrier may require suitable indemnity from the claimant.
2. When the property involved in the claim has not been invoiced to the consignee or where invoice does not show price or value, or where the property has not been sold but transferred at bookkeeping values only, or where property has been shipped on consignment or approval, documentation to establish destination value in the quantity shipped and certification of the correctness thereof.
3. In order to establish the full recoverable loss caused by the carriers, the original account of sale, showing the date of sale and the amounts realized on the damaged and undamaged portions, respectively, showing grade, brands, quality, variety, size and condition, together with any deductions, allowances, and commissions, or a copy thereof certified correct over the signature of the claimant or an authorized representative thereof.
4. When shipment has received prior transportation and is reshipped from a distribution or warehousing point but has been opened and examined and contents verified as being in undamaged condition, certification thereof must be made by a person having actual knowledge of such inspection and a statement to that effect incorporated in such certification.
5. When an asserted claim for loss of an entire package or on an entire shipment cannot be otherwise authenticated upon investigation, the carrier will obtain from the consignee of the shipment involved, a certified statement in writing that the property for which the claim is filed has not been received from any source.

### **300120**

#### **Acknowledgment and Disposition of Claims**

Carrier will acknowledge claim in writing within 30 days after receipt thereof, informing the claimant of identifying number assigned thereto, and will pay, refuse payment, or make a firm compromise offer within 120 days after receipt of claim, except, that if claim cannot be disposed of within this period, carrier will at that time and at the end of each succeeding 60-day period thereafter while claim remains pending, inform the claimant in writing of the reason for failure to conclude claim. A separately numbered file will be established for each claim filed in accord with the provisions of this tariff. All documents, records and correspondence pertaining to such claim will be identified with

### **300122**

#### **Two or More Claims Presented on Same Shipment**

When investigation of a claim develops that one or more other carriers has been presented with a similar claim on the same shipment, the carrier investigating such claim will communicate with each such other carrier and, prior to any

agreement entered into between or among them as to the proper disposition of such claim or claims, will notify all claimants of the receipt of conflicting or overlapping claims and will require further substantiation, on the part of each claimant of his title to the property involved or his right with respect to such claim.

**Regulations Governing the Inspection of Freight before or after Delivery to Consignee and Adjustment of Claims for Loss or Damage**

**Item (Provisions named herein are not applicable on interstate or foreign commerce for account of carriers referenced with F or H (except SEAU or TOTE) shown on pages 5 through 48 of Classification or as amended.)**

**300125**

**Application**

Loss or damage to contents of package, not definitely known to exist at time of delivery by carrier to consignee may be due to negligence in packing, handling or unpacking, or abstraction from containers, and is the subject of frequent claims and controversies. In order to avoid any discrimination, and so that practices will be certain and uniform in the treatment of claims of this character, the following rules apply.

**300130**

**Pilferage**

When offering a shipment for delivery, if any portion of shipment bears any indication of having been pilfered, a joint inventory of contents must be made by carrier and consignee and the results of inventory so noted on carrier's delivery receipt.

**300135**

**Reporting Concealed Damage**

When damage to contents of a shipping container is discovered by the consignee which could not have been determined at time of delivery, it must be reported by the consignee to the delivering carrier upon discovery and a request for inspection by the carrier's representative made. Notice of loss or damage and request for inspection may be given by telephone or in person, but in either event must be confirmed in writing by mail. If more than fifteen days pass between date of delivery of shipment by carrier and date of report of loss or damage, and request for inspection by consignee, it is incumbent upon the consignee to offer reasonable evidence to the carrier's representative when inspection is made that loss or damage was not incurred by the consignee after delivery of shipment by carrier. While awaiting inspection by carrier, the consignee must hold the shipping container and its contents in the same condition they were in when damage was discovered insofar as it is possible to do so.

### **300140**

#### **Inspection by Carrier**

Inspection by carrier will be made as promptly as possible and practicable after receipt of request by consignee. Inspection will be made within five normal work days after receipt of request from consignee, excluding Saturdays, Sundays and holidays. A day will be considered as the passing of twenty-four (24) hours from 9 a.m., local time from the date of receipt of request for inspection. Inspection of carrier will include examination of the damaged merchandise, the shipping container, and any other action necessary to establish all facts. If a shortage is involved, inspector will check contents of package with invoice, weigh the shipping container and contents, or conduct any other type of investigation necessary to establish that a loss has occurred. In either case inspection will be limited to factual report. Consignee must cooperate with carrier in every way possible to assist in the inspection. A written record of carrier's findings will be made at least in duplicate. The original of the report will be given the consignee for claim support. Any inspection report issued must be incorporated in claim file.

### **300145**

#### **Failure to Inspect**

In the event carrier does not make an inspection the consignee must make the inspection and record all information to the best of his ability pertinent to the cause. Consignee's inspection, in such case, will be considered as the carrier's inspection and will not jeopardize any recovery the consignee is due based on the facts contained in the report.

### **30015**

#### **Salvage Retention**

When visible or open damage to a shipment has been established by notation having been given at time of delivery or concealed damage established by inspection report, it is the duty of the consignee to retain damaged merchandise and shipping container until carrier desires to take possession of merchandise as salvage. If record conclusively reflects carrier liability, carrier will take possession of the damaged merchandise as soon as possible and in any event, within thirty (30) days from date shipment was noted damaged on carrier delivery receipt or from date of inspection report, if damage was concealed. If carrier does not take possession of the damaged merchandise within the time prescribed above, consignee must contact delivering carrier and request removal of goods from his premises within fifteen (15) days from the date of such communication. The above applies only when the carrier and consignee agree that the carrier will handle disposition of the salvage, and does not in any manner affect the legal duty that the consignee, when there is substantial value in the salvage, must accept and handle it in such manner as to mitigate the carrier's loss as much as possible. If there is doubt of carrier liability, the carrier will so advise consignee; in which event the consignee may hold the merchandise until liability of carrier is determined, or may dispose of it so as to mitigate the damage, and may file claim

for such damage. Carrier will remove the damaged goods within the fifteen (15) day period or advise consignee that carrier liability is in doubt and that damaged merchandise is to be retained by the consignee until carrier has completed investigation of claim.

**300155**

**Prior Transportation**

If a concealed damage inspection report covers merchandise which has had prior transportation movement, consignee is required to assist carrier in determining if shipment was opened and inspected by shipper prior to reshipment, and if not, shall then assist carrier in every way possible to establish record of prior transportation.