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Siemens v. Schenker – the final chapter

The High Court of Australia has decided that Siemens was not entitled to full damages for the loss of its expensive telecommunications equipment, but could only receive the limitation amount calculated on the basis of the air freight limitation of \$20. USD per pound. The decision was close: 3 judges decided in favour of Schenker Australia, and two judges decided in favour of Siemens. Both minority and majority judges tackled the issue of Article 4 of the neutral Air Waybill carefully, and the reasoning of both sides is very persuasive But some one has to win.

Peter McQueen, the Forwarderlaw National Editor for Australia, was the solicitor advising the forwarder and its insurers. His common sense approach eventually was the factor that nudged the majority judges to find in favour of his client. Watch for his complete analysis of the case which will be released on Forwarderlaw immediately.

John O'Reilly did a good job in a losing cause. Naturally he considers the judgment wrong, but that is a consequence of every solicitor and barrister who has the courage of his or her convictions.

Go to <http://www.forwarderlaw.com/Cases/siemen1.htm>

Pay attention to the fine print on the bills of lading that you receive from ocean carriers!

There is no doubt that the liabilities that flow from the issue of an original negotiable bill of lading are onerous. Many an ocean carrier, acting quite reasonably and in perfect good faith, has been stung because the holder of the bill of lading insists upon delivery after the goods have been released to another party. Just one of many examples: read the report in Forwarderlaw on the decision against Maersk in the case of the [Maersk Rotterdam](#).

But Courts consider that this strict liability is necessary to maintain commercial confidence in the negotiable bill of lading, which has been the foundation of a large percentage of international trade in goods.

Carriers don't think that altruistically, and they have taken to introducing clauses on the reverse side of their bills of lading that are intended to off load the risks of delivery to a third party on cargo interests.

These clauses are a concern to Forwarders. [Go to an explanation of what you might find if you take out your magnifying glass and read some of these fine print gems.](#)

So what is a forwarder to do?

Forwarders will be interested in a follow up exchange of views on the subject of the release of cargo against document between Chris Gillespie, the Chair of the FIATA Multimodal Transport Institute, and the General Editor.

<http://www.forwarderlaw.com/Feature/blclaus1.htm>

A consignee's Involuntary Prohibition caused by the loss of his vodka!

A real human interest story! A consignee sued Hapag Lloyd and the NVOCC for the loss of 800 bottles of vodka. The report does not disclose whether it was theft, poor packing or rough handling. What ever the cause, the consignee invoked the Consumer Protection Legislation of one of the States of the USA. (Yes, consummation of liquor is equally protected!)

And for the lawyers, they can read about a US doctrine that makes NVOCC's agents for their customers in dealings with the ocean carrier.

Thanks to Andy Trasler of the TT Club for this unusual decision. Go to

<http://www.forwarderlaw.com/Cases/nvocrol1.htm>

Reminder: There is a Features page that allows a quick means to keep up to date on Forwarderlaw articles!

If you have not been on the site for a couple of weeks, you can catch up on articles that may have been posted in the meantime, but are not longer referred to on the Front Page. Go to the [Features Page](#).

In the United Kingdom the language of common commercial documents such as insurance policies dates from many years ago. The parties who use these documents are reluctant to change the wording as they will lose the benefit of numerous judicial decisions that have interpreted the language.

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