

FORWARDERLAW E-NEWS February 26, 2006



Forwarderlaw at AirCargoGroup Conference, Shanghai, February 17-18th.

AirCargoGroup is a Global Network of Air Cargo Wholesalers, Neutral Air Freight Consolidators, and Charter operators/Special commodities handling agents, committed to delivering outstanding service to retail Air, Ocean, Road, Project, Exhibition & Events Forwarders, and Logistics companies, Retail Couriers, Express Operators, Customs Brokers and Travel Agents.

Participants in **ACG** have access to special air freight consolidation rates, air cargo charters and specialized air transport handling. ACG is offering services exclusively to the freight forwarding, shipping, and logistics industry, acting as complete neutral intermediary worldwide.

George Wang, China Member of Forwarderlaw, was a guest speaker at the Annual Congress of the AirCargoGroup. His presentation explained the services that were available to an international organization through Forwarderlaw members. Christos Spyrou, the President of AirCargoGroup, confirmed that **ACG will appoint Forwarderlaw as an associated partner** in the near future.

Liabilities of North American Rail Carriers: one Continent but two systems

David Colford of the law firm of Brisset Bishop successfully defended an ocean carrier in a case where damage to goods in a container resulted from a rail derailment when the container was being carried by CP Railways from the port of discharge (Vancouver) to final destination (Montreal). CP Railways invoked a Himalaya Clause in the ocean carrier's bill of lading. In principle this case is an exact parallel for Kirby v. Norfolk Southern Railroad decided by the US Supreme Court. But unlike Norfolk Southern, CP Railways had to pay the full damages without the benefit of limitation.

[Read David's commentary to discover why!](#)

(http://www.forwarderlaw.com/library/view.php?article_id=367)

Inspection Agencies held to a high standard of conduct when issuing a certificate of quality of goods!

"Inspection companies are instructed in connection with domestic and international documentary sales because they are understood and expected to have the necessary facilities and expertise to enable them to determine whether

the seller has performed its contract in the relevant respects and are trusted to exercise independent judgment.”

These words are taken from a judgement by an English Court that imposed liability on an inspection company because it did not “blow the whistle” on their own negligence. This failure caused an increase in the amount of damages, particularly in the form of legal fees disputing issues of quality on the basis of an inaccurate certificate.

Read [The Role of Inspection Agencies who issue Certificates of Quality](http://www.forwarderlaw.com/library/view.php?article_id=363)
(http://www.forwarderlaw.com/library/view.php?article_id=363)

Jurisdiction Clauses – the law is changing.

Judges used to be antagonistic of jurisdiction clauses, as these clauses ousted the jurisdiction of the Court. In this litigious era, Court lists seem to grow despite heroic efforts of judges to deal quickly with cases. The time taken to get an action to trial has been steadily increasing, and the public complains about the law’s delay. So there seems to be a lessening of judicial opposition to jurisdiction clauses, which transfer cases from one court to another that may not be so busy!

Read about [recent Canadian cases.](http://www.forwarderlaw.com/library/view.php?article_id=364)
(http://www.forwarderlaw.com/library/view.php?article_id=364)

The House Bill of Lading before the Courts of Hong Kong

The owner of a consignment of electronics saw its shipment disappear into the hands of a French importer who had not paid for the goods. The owner had protected itself by insisting on a bill of lading made out to order of the consignee, and held this bill of lading to ensure the consignee paid for the goods. But the delivery agent had surrendered the goods without insisting on the surrender of the bill of lading!

Read [the first commentary on this case.](http://www.forwarderlaw.com/library/view.php?article_id=365)
(http://www.forwarderlaw.com/library/view.php?article_id=365)

Fine Print did not help!

The Forwarder had received a minimum compensation for issuing its house bill of lading. So it structured the document to avoid the obligations of a carrier. Unfortunately it used the fine print to achieve this end. The Court was unimpressed – if a bird walks like a duck, quacks like a duck, and you call it a duck, then it is a duck, whatever your lawyer might say. So the forwarder was held to the higher obligations of a carrier, and could not avoid them by the plea that it was only a forwarding agent!

Read [the second commentary on this case.](http://www.forwarderlaw.com/library/view.php?article_id=366)
(http://www.forwarderlaw.com/library/view.php?article_id=366)

General

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