



A VL real life claim example

Bailees Liability

Bailee or Carrier

The Insured was a freight forwarder who organised inter-Island cargoes. It operated a store at the port and routinely held high valued goods.

In the claim, 11 pallets of electronics goods were delivered to the Insured by the owners in their own vehicle. Each pallet was addressed to a final consignee and invoices had been raised against the consignees. The goods were kept in the Insured's warehouse awaiting shipping. They were then to be put onto a container by the Insured and shipped. There were no separate charges for the storage.

The Insured's warehouse was burgled and six pallets were stolen with a total value in excess of \$100,000. It was alleged the Insured was negligent to the extent that it had a liability for failing to adequately safeguard the goods. The owner was indemnified by a cargo insurer who in turn claimed against the Insured for bailees liability and a claim was made under the Insured's Bailees policy.

The cargo insurer eventually conceded that there was no carrier's liability. A bailees liability claim was thereby averted but substantial costs were incurred in defending the Insured.

CEG 005-102019/000



A VL real life claim example

Bailees Liability

Earthquake Damage

The Insured provides contract packing and storage of pumpkins in the Bay of Plenty region. It also manufactures the wooden crates in which the product is packed and stored for export.

The claim arose when stacks of loaded pumpkin crates collapsed in a domino effect causing major spillage and consequent damage to about 50% of the product.

Claims were made on the Insured by the three owners of the pumpkins who lost export orders as a result of the damage. There was no worthwhile salvage value in the damaged product.

Inquiries into the cause indicated that the stacks may have collapsed following seismic activity in the area and liability was initially denied. However, in further investigations it was discovered that the configuration of stacking the crates was not up to best practice. In addition one of the crates had badly knotted timber and it was determined that it was this crate that collapsed causing the domino effect.

So notwithstanding that a small earth tremor may have triggered the collapse, the Insured was negligent in its crate manufacture and stacking methods. As a bailee bears the onus of proving it was not negligent, liability was admitted, indemnity confirmed and the claim was settled for circa \$100,000.

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A VL real life **claim example**

Bailees Liability

Mis-handling Product

The Insured is a general carrier and warehousing operation with a specialist division for bulk liquids cartage and storage. It stores various liquid products in a series of tanks.

In the claim the Insured's employee, who was the tank supervisor, was directing the transfer of resin 'A' from one tank into another tank which had previously contained resin 'B'. The 'B' tank had supposedly been cleaned out ready for fresh usage. However, this was not the case. There was still a residual quantity of 'B' in the tank. The two resins were completely incompatible, therefore resin 'A' was irremediably contaminated.

The Insured was clearly liable. The Bailees policy responded and a substantial sum was paid to settle the claim.

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A VL real life claim example

Bailees Liability

Spilled Wine

The Insured is a contract bottler to the wine industry. The vineyard delivers bulk wine to the Insured who initially stores it in tanks until it is scheduled for bottling. It is bottled and packed in cases and stored by the Insured until the vineyard instructs delivery to its customers. The Insured makes a separate charge for the storage of the bottled product but the bulk wine is effectively under gratuitous bailment.

Whilst moving pallets of bottled wine using an unregistered forkhoist onto a truck for dispatch to an end customer, the Insured's fork hoist operator misjudged distances and scraped a 10,000 litre tank containing another vineyard's bulk wine. The tank was punctured, the wine spilled and the pallet of bottled wine toppled from the hoist tines.

There were two claims against the Insured. The Bailees and Public Liability policies responded. The combined claims were circa \$80,000.

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