

Risk Management Insights

Issue 1

A Closer Look at Errors and Omissions Insurance



Through a periodic review of actual claims that have occurred, we hope to illustrate how valuable an E&O Policy is in managing your business risks. In each of the following cases, the settlement and the legal fees were the amounts paid by the insurance company. The insured paid their deductible on the settlement amount if any.

Insured Freight Forwarder

Damages Sought: \$249,000

Claim Scenario: Release of Goods without Securing Original Documents

A shipment of cargo shorts shipped from Hong Kong to the U.S. was released by the freight forwarder to the trucker prior to securing the original Bill of Lading. The consignee refused to return the cargo to the forwarder and also refused to pay the supplier alleging that there was a manufacturing defect in the shorts. The supplier in Hong Kong filed a claim against their insurer with a threat of legal action who, in turn, filed a claim against the forwarder for the improper release.

Outcome Summary

Compelling evidence of negligence and the absence of terms and conditions of service were detrimental to the freight forwarder's case. Counsel was appointed to assist in collecting from the buyer who argued that the product had no value because of the defect and was past its selling season. Counsel was essential in proving otherwise resulting in the contribution from the buyer.

$$\begin{array}{r}
 \$249,000 \\
 \text{(Settlement)}
 \end{array}
 +
 \begin{array}{r}
 \$60,000 \\
 \text{(Legal Fees)}
 \end{array}
 -
 \begin{array}{r}
 \$115,000 \\
 \text{(Recovery)}
 \end{array}
 =
 \begin{array}{r}
 \$154,000 \\
 \text{(Insurance Company} \\
 \text{Total Payment, before} \\
 \text{insured's deductible)}
 \end{array}$$

Freight Forwarder's Contribution: \$10,000 deductible

Because an E&O policy was in place, the freight forwarder's financial contribution was substantially less than the final claim amount

Insured Freight Forwarder

Damages Sought: \$448,524

Claim Scenario: Delay in Delivery of Goods

The freight forwarder was engaged by a production company to arrange transportation of video, audio and lighting equipment to and from the Dominican Republic. The production company filed suit against the forwarder for failure to return the cargo timely. The delay resulted in additional charges to the leasing company for rental costs of new equipment and payment of lost sales.

The reason for the delay was that Dominican Customs could not match up the export documents with the import documents at no fault of the forwarder. The forwarder operated using terms and conditions of service referenced on their freight invoices which the production company had seen over several years of working with the forwarder. The case was settled at mediation.

Outcome Summary

There were several factors resulting in a contribution of settlement. Although the forwarder did operate using terms and conditions of service, several versions had been issued over a period of time of doing business with their customer. It was not clear which terms and conditions could, if any, be enforced on that basis. The forwarder was not responsible for the delay, but could possibly have made other arrangements to get the cargo exported timely.

$$\begin{array}{rcl} \$75,000 & + & \$108,000 \\ \text{(Settlement)} & + & \text{(Legal Fees)} \\ \hline & = & \$183,000 \\ & & \text{(Insurance Company} \\ & & \text{Total Payment, before} \\ & & \text{insured's deductible)} \end{array}$$

Freight Forwarder's Contribution: \$5,000 deductible

Because an E&O policy was in place, the freight forwarder's financial contribution was substantially less than the final claim amount.

Contact Us

If you are already working with Roanoke Trade, we thank you and ask you to please contact us with your feedback and suggestions as we strive to continuously adapt to your changing needs. If you are not working with Roanoke Trade, contact us today to arrange a comprehensive evaluation of your insurance and surety needs.

Additional Specialty Insurance and Surety Products Available For 3PLs, Transportation Intermediaries and Customs Specialists:

- Cargo Insurance
- Cargo Legal Liability
- Import Bonds
- Transportation Related Bonds
- ATA Carnets
- Property and Casualty

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For more information on Errors and Omissions coverage, or to receive a proposal, contact us at 1-800-ROANOKE, ext 1066 or infospot@roanokegroup.com

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