

# Best Freight Broker Claim Prevention Tips

*Questions to Ask When Working With Brokers*



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### Introduction

Freight brokers can be a wonderful time saver for hiring and managing carriers. Freight brokerage is a great system most of the time – but working with a freight broker can get complicated if things do not go as planned.

For example, brokers are the ones who hire the carriers on your behalf – although if the carrier damages or loses your shipment, the broker is not considered to be liable. You would need to claim against the carrier, who you did not choose in the first place.

Alternatively, if the broker goes out of business and fails to pay the carrier, the carrier will pursue you for their payment – even if you already paid the broker. The courts are divided on whether or not shippers are liable to carriers who were not paid by the broker – depending on the court, you could end up paying for your shipping twice.

For these reasons, it is important to carefully choose your broker and ensure that you take the proper measures to protect yourself from claims and additional expenses. This will help to ensure that both you and your broker have a positive experience.

### How Does the Broker Select Carriers?

Ensure that your broker is selecting their carriers with the same standards that you would use. For example:

- Does the broker ensure that the carriers have appropriate insurance?
- Do they check the carrier's DOT safety rating?
- Do they regularly review their carriers' financial standing?

If the carrier crashes with your load and subsequently goes out of business, you won't be able to make your claim, because the broker technically isn't liable. Therefore, ensure you take the proper precautions in your choice of broker.

## **Is the Broker Insured?**

A broker should carry Errors and Omissions Insurance, in case a carrier or its insurance company refuse to pay a valid freight claim. For example, Errors and Omissions Insurance can help to protect you in the event that there is an accident and the carrier's insurance has expired.

## **Is the Broker Enrolled in any Trade Groups?**

The trade group Transportation Intermediaries Association (TIA) requires that their members to follow a firm code of ethics. Look for members of this group or other trade groups that are committed to fair dealings. These groups provide a constant reminder and social pressure to do business ethically.

## **Does the Broker Use Broker-Carrier Contracts?**

Your broker should have written contracts with each carrier that they work with. Written contracts ensure that the broker and carrier are each in agreement and aware of what is expected of each of them. Contracts clearly lay out each parties' rights and responsibilities. Furthermore, they can be referenced in the event that someone does not do what is expected of them.

## **How is the Broker Managing Carriers?**

Your broker should be communicating to carriers in writing, not just over the phone. This ensures that carriers have written instructions that they can refer to after they are initially given, increasing the likelihood that instructions are successfully followed. It also provides a paper trail in the event of miscommunication. You should also ask what processes the broker has in place to ensure that the load is delivered successfully.

## Have You Created a Shipper-Broker Contract?

It is important to have a contract with your broker so that the terms of your agreement are in writing. Make sure that you use a contract that is specific to a shipping and a broker, rather than a carrier.

The Freight Broker Institute has produced a sample contract, [available here](#).

## Have You Read the Contract?

This should go without saying, but if the broker has their own contract for you to sign, read it carefully. You do not want to find out that there was something you disagreed with after you have signed the contract! If anything is unclear, ask for clarification.

## Is the Broker Paying Carriers Promptly?

One of the terms in your shipper-broker contract should be that carriers are paid promptly. This will reduce the likelihood that a carrier will go unpaid by the broker and pursue you for the payment. You should monitor your broker to ensure that they are consistently paying carriers on time. If they are missing payments, that may be a sign that you should find a new broker before they go out of business, leaving you to pay the carriers' bills.

## Have You Signed Section 7?

You should make a point to sign Section 7 on the Bill of Lading. If you do not sign this section, you are giving permission for the carrier to collect payment for the shipment from you, the shipper, if the consignor will not or cannot pay them. This would apply *even if* the terms of payment are collect on delivery (COD).

## Are You Communicating to Carriers?

The advantage of hiring a broker is that you do not need to manage carriers. However, you can still make your expectations clear by adding a notice to the bill of lading. TransDigest, (May 2012 issue) recommends including the following statement to deter a carrier from pursuing you for payment owed by the broker:

*Notice: If this shipment is arranged through a broker, the carrier agrees that it will look solely to the broker for payment of its charges, and waives any right to recover payment of its charges from any party except the broker.*

## Is the Paperwork Clear?

If you include the broker's name on the bill of lading, ensure that you specify "broker" next to their name. This way it will be clear, legally, that they are a broker rather than a carrier.

## Are You Tracking Brokers & Carriers After Hiring?

By following these steps, hopefully you will reap the many benefits of working with a freight broker without any serious issues.

However, as long as you are shipping, you are bound to have some freight claims – no carrier or broker is perfect. However, you can track which carriers/brokers are associated with the most freight claims using MyEZClaim freight claim management software.

### Tracking Broker & Carrier Claim Information Allows You To:

- Work with problem carriers or brokers to resolve the issue
- Ship only with carriers or brokers with the lowest loss & damage rates
- Negotiate better pricing from carriers or brokers based on their loss & damage rates

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