

Maritime Law Cargo Claim Scenario

Problem set by:

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CANADA

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Problem

1) Rolls Royce Autos Ltd. of London, England (hereafter R.R.A.) sells to American Luxury Car Sales Ltd. (hereafter A.L.C.S.) of New York, U.S.A., ten new Rolls Royce autos "CIF New York, (Inco Terms)" for £50,000 each.

2) XYZ Container & Bulk Lines Ltd. of London, England (hereafter XYZ) operates a weekly liner service between Felixstowe, U.K. and New York, U.S.A., which service is advertised in all the trade journals and the voyage normally requires five days at sea.

3) XYZ has time chartered the M/V Hong Kong Star, owned by Hong Kong Star Co. Ltd. (hereafter H.K.S.), a one-ship company of Panama.

4) The M/V Hong Kong Star is registered in Panama.

5) An executive of R.R.A. telephones XYZ in London and it is agreed that the ten automobiles will be carried to New York, N.Y. from Felixstowe underdeck, which latter term is emphasized and agreed upon.

6) At Felixstowe, 5 autos are loaded on the deck of the M/V Hong Kong Star and 5 autos are loaded under deck.

7) A b/l is issued bearing on its head the name "XYZ Container & Bulk Lines Ltd." The b/l is signed by "XYZ Container & Bulk Lines Ltd., for the master", by an official of XYZ (authorized in the charterparty to sign such bs/l) and the autos are consigned to "A.L.C.S. or order or assigns".

8) The b/l notes on its face "5 automobiles on deck" and "5 automobiles underdeck". The b/l contains a "supersession clause", a "demise clause" and a "paramount clause", invoking the U.K. Carriage of Goods by Sea Act, 1971, including in particular the 1968 and 1979 Visby Protocols. A "deck carriage" clause excludes the carrier's liability for all cargo carried on deck. The supersession clause reads: "This bill of lading, once issued, replaces all previous agreements, contracts and undertakings between the parties, whatsoever." The demise clause reads: "If the ship is not owned or chartered by demise to the company or line by whom this bill of lading is issued, the bill of lading shall take effect as the contract with the owner or demise charterer as the case may be, through the agency of the said

company or line."

9) The b/l notes the weight per car as 2500 kilos and freight is charged at £1000 per car. There is a square on the face of the b/l where the value of the shipment can be declared. The space is empty.

10) The ship is at sea for two days when it is ordered by XYZ to Iceland, in order to pick up remunerative U.S. Army cargo for New York.

11) The change in course and the loading in Iceland, causes the ship to be delayed five days. Immediately after leaving Iceland, the ship encounters a very heavy storm, unexpected at that time and place. The deck cargo (including the 5 cars) is damaged 100% and the underdeck cargo (including the other 5 cars) is damaged 50%.

12) The ship arrives in New York on June 1, 2006 where the damage is confirmed.

13) At New York, the cargo insurer (Sovereign Insurance Co. of Liverpool, U.K.) pays the claim of A.L.C.S in full.

14) XYZ and H.K.S. deny all responsibility.

15) Sovereign Insurance Co. asks you for an opinion, as to if and how suit should be taken.

16) Suppose the value of one SDR equals £1 sterling.

Question

1) Write your opinion to Sovereign Insurance Co., based on the above facts.

2) What documents would you particularly insist upon seeing?

Assume you have:

a) an original b/l;

b) the invoice of sale;

c) the survey report made in New York;

d) the claim of A.L.C.S. to Sovereign.

3) Additional questions:

a) write an opinion letter to the P & I Club of XYZ;

b) write an opinion letter to the P & I Club of HKS.