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File No. erywyrew

Creditor: reywyrew

Debtor: reywyrew

Pro No. reywyrew

Amount Due: erywyrew

This is to advise you that our office represents reywyrew ("ryewyrew") with respect to unpaid freight charges. ryewyrew, the Carrier, was not paid by ertywyrew, the original bill-to party, for the erywyrew of transportation services rendered, which are memorialized by the documents attached hereto and made a part hereof.

Based on the controlling legal precedent described on the reverse, since ertywyrew did not pay the freight bill, ryewyrew must look to their contract, the bill of lading, to ascertain the next party responsible for payment. Per the applicable bill of lading, the Shipper, erywyrew, is responsible.

Please pay the erywyrew of unpaid freight charges by rtyewyw in any of the following methods:

1. Mail – draft a check payable to reywyrew with file number erywyrew on the memo line and mail the check to our office at the address below
2. Online\* – pay with check or credit card with our processor: <https://www.afm-usa.com/payment>
3. Phone\* – pay with check or credit card by contacting our office at **(847) 259-4700**.

\*A convenience fee will be assessed for both check or credit card payments made online or by phone.

If we do not receive payment by rtyewyw, then ryewyrew will consider taking further action to recover the amount due. Please note that all communications and payments must now be directed to our office. ryewyrew hopes for a prompt resolution of this matter.

Thank you,

*ryeyte*

**rtywtyew**

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P.O. Box 31579, Chicago, IL 60631

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This is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose.

This transmittal may contain confidential information belonging to the sender which is legally privileged and/or exempt from disclosure. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents is strictly prohibited. If you received this transmittal in error, please call the sender immediately to arrange for the return of this letter.

## Legal Precedent

Canadian law provides that a shipper who engages or dispatches the carrier has the primary obligation to pay freight charges. As a general rule, once the shipper is identified – save and except the “collect” endorsement on a bill of lading – it is primarily liable for payment of freight charges. The prescribed “uniform bill of lading” in use in Canada does not contain a shipper’s ‘non-recourse’ [section 7] provision of election for the benefit of a shipper.

The Canadian Bills of Lading Act, *R.S.C. 1985, c. B-5*, provides as follows: 2. Every consignee of goods named in a bill of lading, and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes on or by reason of the consignment or endorsement, has and is vested with all rights of action and is subject to all liabilities in respect of those goods as if the contract contained in the bill of lading had been made with himself (“s. 2 of the *Bills of Lading Act*”).

The statutory imposition of liability on a consignee is considered ‘secondary’ as the carrier would intuitively look to its shipper first for payment. These ‘primary’ and ‘secondary’ exposures co-exist. They are mutually exclusive. However, s. 2 of the *Bill of Lading Act* does not contain a requirement that a carrier first exhaust its remedies against the shipper before it pursues avenues of recovery against a consignee. Specifically, in *S.G.T. 2000 Inc. v. Molson Breweries of Canada*, 2007 Q.C.C.A. 1364 (*Can. LII*), the Court of Appeal ruled the “prepaid” reference was not enough by itself to deprive the carrier of the protection of s. 2 of the *Bills of Lading Act*. Rather, this only manifested the standard carrier intent to initially look to the shipper for freight payments.

Further, in *Cassidy’s Transfer & Storage Limited v. 1443736 Ontario Inc. o/a Canada One Sourcing and The Attorney General of Canada*, [2011] ONSC 2871 (*Can. LII*), the judge ruled there is a presumption created by s. 2 of the *Bills of Lading Act* that consignee is responsible for payment of freight charges. To avoid liability, consignee must rebut this presumption by providing the existence of further arrangement by carrier that shipper alone would be responsible for freight charges and the carrier had waived the protection of s. 2 of the *Bills of Lading Act*. The carrier’s waiver in this regard may be express or implied, but may not be presumed from the silence of the parties nor, in and of itself, from the use of the phrase ‘freight prepaid’ on the bills of lading in question. Accordingly, consignee can rebut the presumption of liability but it will have to prove both existence of some arrangement by carrier whereby shipper alone would be responsible for the charges and the carrier had waived the protection of s. 2 of the *Bills of Lading Act*.

Lastly, under Canadian law, where a debtor chooses to pay a third party instead of paying his creditor, he/she does so at his peril.

Thus, according to Canadian law, since a shipper is primarily responsible for payment to a carrier, shipper is responsible for the unpaid freight charges in this matter.