

EXAM
OPTIONAL SUBJECT
MARITIME LAW
AUTUMN 07

Exam JUR5401 - Maritime Law

Autumn 2007

Question 1

Furniture producer Vinje from Telemark wanted to transport three pallets of furniture from his store in Telemark to a new store he was going to open in Rotterdam on October 15. He contacted the shipping company Fahrer in Oslo, whose liner ship Matilde sailed in liner trade between Oslo and Rotterdam. The shipping company's representative, A. Agent, offered to transport the furniture with Matilda from Oslo on October 12. Normally, the journey took two days. The furniture would then be in Rotterdam in time for the opening of the new store. Vinje accepted the offer. At the same time he informed the shipping company that the transport concerned Norwegian wood-furniture which were sensitive to water, and therefore needed to be transported below deck.

On agreement with the shipping company, Vinje delivered the goods at the port on October 11. The three pallets of furniture were wrapped in thin plastic. The representative of the shipping company, S. Stevedor, reacted to the wrapping, saying it was not suitable for transportation at sea. He offered to put on an extra layer of plastic to protect the pallets. Vinje accepted his offer and then received a sea waybill as documentation of the agreement he had entered into.

The pallets were placed under roof at the port after instructions from the shipping company for loading the next day. The loading started early next morning. It was a typical autumn day with pouring rain and strong winds. The pallets were driven to the side of the ship where they stood for a few hours before they were driven on board by S. Stevedor. The goods were stowed and secured in a dry cargo hold below deck. The vessel left the harbour according to plan on October 12.

As they sailed out in the Oslofjord the wind dropped, but it was still raining. When the crew was about to lock the hatches, one of the closing mechanisms broke, leading to a crack in the closing mechanism and rainwater entering into the cargo hold. The captain decided to go to Horten port to have the damage repaired before the vessel set out on open sea. There had been problems with the closing mechanism earlier, but it was functional.

While in Horten, the cargo hold was wiped. It was only a matter of some water on the floor. The repair took one day and Matilda did not arrive in Rotterdam until the evening of October 15. Vinje's representative, S. Salesman, received the goods. The third officer and S. Salesman unpacked the goods together. As it turned out, two of the three pallets were damaged by water and the furniture had to be returned to the

factory in Norway for repairs. The value of the furniture was NOK 200.000 per pallet. The transport back and forth to the factory for the two damaged pallets was stipulated to NOK 16.000, while the total repair costs amounted to NOK 40.000. It was also agreed that Vinje missed a profit of NOK 50.000 because the furniture were not available for sale at the opening of the store.

S. Salesman immediately called Vinje to inform him of the damages. The following day, Vinje alerted the shipping company on phone saying he would hold them responsible for all losses he had suffered because of the transport. Clearly, the furniture had been exposed to water both during loading onto the vessel and as a consequence of rainwater entering into the cargo hold. The parties agreed that 50% of the water damage came from the loading and 50% from the rainwater in the cargo hold. Vinje held the shipping company responsible for both water damages and claimed coverage for the repair costs, the transport costs and for the loss of profit.

Against this, Fahrer argued that the water damage was caused by poorly wrapping of the furniture. Vinje had to take responsibility for this alone. Also, the water damages could in no way be related to shortcomings of the transport. Even if there had been problems with the closing mechanism previously, it had been functioning, and the shipping company had reacted immediately when it broke. Regardless of this fact, it was S. Stevedors, and not Fahrer, who was liable for the part of the damage that was caused during the loading. If Fahrer was liable for the water damages, the liability, under any circumstance, was limited to the repair costs. In addition, Fahrer claimed that Vinje had failed to notify about the damage to the goods in time.

The following questions are to be discussed and answered:

1.1 Has Vinje notified about the damage to the goods in time?

1.2 Provided that the notification was made in good time, is Fahrer liable for the water damage which arose under

- a) loading, and/or
- b) the sea transport between Oslo and Rotterdam

1.3 If Fahrer is liable for the water damage, must then the shipping company indemnify:

- a) the repairs of the furniture, amounting to NOK 40.000,
- b) the transport of the furniture to Vinje and back, amounting to NOK 16.000, and
- c) the loss of profit as a consequence of the furniture not being sold during the opening of the store, NOK 50.000.

Question 2

Give a presentation of the conditions for obtaining a salvage award.

All questions must be answered.

