



## Court Found Shipper's Assertion that Goods Never Left Michigan was Contradicted by its Second Amended Complaint

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**ATTORNEYS**

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The United States District Court recently found that a shipper's assertion that goods never left the state of Michigan was contradicted by its second amended complaint, therefore, applying the Carmack Amendment and preempting the shipper's state law claims.

This case involved a shipper that contracted with a full service transportation provider and a Class I railroad to ship perishable goods from Michigan to the country of Jordan. The transportation provider picked up the shipping containers loaded with the shipper's goods, but the defendants did not complete the delivery because the shipping containers exceeded allowable weight limitations.

The defendants were on notice that the goods were perishable and time was of the essence, but nevertheless allegedly failed to inform the shipper of the weight issue. By the time the defendants delivered the goods to Jordan, their expiration date had passed. As a result of the delay, the shipper argued the goods spoiled, customs officials destroyed the goods when they arrived in Jordan, and the shipper allegedly suffered \$236,001.88 in damages.

The shipper's second amended complaint alleged state and common-law causes of action, breach of contract, breach of warranty, fraud, negligence, and bailment. The Class I railroad removed the case to federal court and filed a motion to dismiss the shipper's second amended complaint because Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. §11706 completely preempts the shipper's state-law claims.

The shipper argued the Carmack Amendment did not apply because the "shipping containers never left the state of Michigan" and, therefore, never traveled in interstate commerce.



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The Court found that the shipper's assertion that the goods never left the state of Michigan was contradicted by its second amended complaint: "Once the Defendants . . . finally delivered the crate to Aqaba, Jordan, the authorities ordered the entire product to be destroyed," and "[w]hen Defendants . . . did ship, it was shipped months later than expected, beyond the date by agreement."

So, whether or not the shipping container made its way to Jordan, the shipper alleged that the Defendants transported the goods in interstate commerce. Therefore, the Carmack Amendment applies and the shipper's state law claims were preempted.

**Al Joukhay Trading LLC, v. Vantage International Shipping Inc., and Norfolk Southern Corporation, 2017 U.S. Dist. LEXIS 58753 (E. D. MI. April 18, 2017).**

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