

PUBLICATION

It's 2 a.m. — Do You Know Where Your Tractor Is?

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In *Cargo Master, Inc. v. Ace United States, Inc. Co.*, a cargo company sued an insurance company for denying its claim under a motor truck cargo liability policy for tires stolen while in transit. The tractor portion of the tractor-trailer was having mechanical difficulties and needed to be repaired. Accordingly, the driver parked the trailer portion behind the Southgate Shopping Center in Memphis, Tennessee, only to return the following morning to find that the trailer and cargo had been stolen.

The trial court ruled for the insurance company on the basis that the shipment of tires was not "in transit" at the time the tires were stolen because the driver had effectively abandoned the freight when the driver left the trailer containing the cargo behind a shopping center separate from the tractor portion.

The Court of Appeals of Tennessee reversed and sent the case back to the trial court to determine whether the delay in transportation of the cargo constituted such a deviation from the course of delivery so as to render the shipment of tires no longer "in transit" or "in the course of transit." The Court of Appeals held that whether cargo is "in transit" depends upon the purpose and extent of the stop. The Court of Appeals also noted that because the cargo liability policy itself did not define "in transit," and because the definition of "in transit" was incomprehensive in the Williams case, that it was necessary to look to other jurisdictions. Overwhelmingly, other jurisdictions recognize that a temporary stop for reasons related to the carriage process itself generally does not mean that the cargo is not "in transit" for purposes of insurance coverage. *Cargo Master, Inc. v. Ace United States, Inc. Co.*, 2007 Tenn. App. LEXIS 28 (Tenn. Ct. App. 2007).

Simply having an insurance policy does not necessarily mean that you have coverage. Pay close attention to the language in your policies and make sure that your operations comply with the terms.