

A third-party plaintiff shipper sued the third-party defendant motor carrier for contractual indemnification related to injuries and damages allegedly sustained by the motor carrier's employee after he fell from a flat-bed trailer while trying to tarp a load of steel tubing. The motor carrier had entered into a contract with a freight broker to pick up and haul steel tubing from the shipper's plant in Chicago. The motor carrier-broker contract stated that:

Carrier . . . agrees to indemnify, defend, and hold harmless Broker, Shippers and Consignees, from and against all losses, damages, injuries and/or claims for same asserted by any and all persons, including the employees, agents, servants, passengers or guests of the carrier, in connection with the carriage of any and all goods and merchandise under this agreement.

The shipper (who was sued by the injured driver) sued the motor carrier for contractual indemnification based on the contract language. However, Cray Huber attorneys argued that indemnity provisions in motor-carrier transportation contracts are void, unenforceable, and against public policy under an Illinois anti-indemnification statute, 625 ILCS 5/18c-4105. The statute states:

- (a) Notwithstanding any other provision of law, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend or hold harmless, or has the effect of indemnifying, defending or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this State and is void and unenforceable.

625 ILCS 5/18c-4105(a).

As the indemnification provision sought to indemnify the shipper for its own negligence, the indemnification provision was void, unenforceable, and against public policy under 625 ILCS 5/18c-4105. The United States District Court for the Northern District of Illinois agreed and entered partial summary judgment for the motor carrier.