

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)	
	)	Case 20090316-1-EDFF-MR-TRSF
UIIA Motor Carrier)	
Appellant, and	)	DECISION
	)	April 20, 2009
UIIA Equipment Provider)	
Respondent.)	

FACTS: Equipment Provider (EP) invoiced Motor Carrier (MC) on four separate invoices for single “flat spot” tires after the equipment was terminated at Lanport in Atlanta, GA.

Invoice 134092077A for \$___ indicated flat spots on the left front inside tire. The outgate from NS Austell indicated no damage. The notation on the ingate at Lanport Atlanta was unclear and did not spell out flat spot as was done on the other inspections.

Invoice 134092112A for \$___ indicated flat spots on the right rear outside tire. The outgate from NS Austell indicated no damage. The notation on the ingate at Lanport Atlanta indicated “flat spot” on RO Rear.

Invoice 134092218A for \$___ indicated flat spots on left front outside and cut on left rear outside. The outgate from CSX Fairburn indicated no damage. The notation on the ingate at Lanport Atlanta indicated LO Front “flat spot” and LO Rear “cut”.

Invoice 134092220A for \$___ indicated flat spots on right front outside tire. The outgate from Lanport Atlanta indicated “flat spot” RO Front. The ingate at Lanport Atlanta indicated “flat spot” RO Front and “worn” LI Rear.

BASIS OF APPEAL: MC asserts that if the flat spots were caused by driver abuse and not simply normal wear and tear both tires on the same axle would be flat spotted.

DISCUSSION: The correct notation for tires that have been damaged by motor carriers from Exhibit C of the UIIA is “Slid Flat” not “Flat Spot”. This is significant because the term “Slid Flat” requires the removal of 4/32nds of rubber. There is no similar definition for “flat spot”. A flat spot could be the result of uneven tread wear which is not the responsibility of the motor carrier.

Although the pictures included with the case were not identified as to which invoice they belonged, it was clear from the pictures that the flat spot was only on one tire on the axle. The pictures provided clear evidence that the damage was caused by something other than driver abuse.

For a cut to a tire to be considered damage caused by the motor carrier, the tire must have body ply or belt material exposed through the tread or sidewall as described in Exhibit C of the UIIA.

DECISION: Invoice 134092077A we find in favor of the MC. EP failed to clearly notate the damage on the ingate. Also invoice is for “flat spot” not “Slid Flat”, which is not billable damage under the terms and conditions of the UIIA (Exhibit C and Section D.3.d.(3)). EP must credit invoice in the amount of \$____.

Invoice 134092112A we find in favor of the MC. Invoice is for “flat spot” not “Slid Flat”, which is not billable damage under the terms and conditions of the UIIA (Exhibit C and Section D.3.d.(3)). EP must credit invoice in the amount of \$____.

Invoice 134092218A we find in favor of the MC. Invoice is for “flat spot” not “Slid Flat”, which is not billable damage under the terms and conditions of the UIIA (Exhibit C and Section D.3.d.(3)). Additionally notation of “cut” is not responsibility of MC. EP must credit invoice in the amount of \$____.

Invoice 134092220A we find in favor of the MC. Invoice is for “flat spot” not “Slid Flat”, which is not billable damage under the terms and conditions of the UIIA (Exhibit C and Section D.3.d.(3)). EP must credit invoice in the amount of \$____.

DAVID MANNING
Motor Carrier Member

PATRICK VALENTINE
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
UIIA Motor Carrier	)	Case Number: 20100315-1-XXXH-MR-OTH
Appellant, and)	
)	
UIIA Equipment Provider	)	Date of Decision: May 27, 2010
Respondent)	
_____)	

UNDISPUTED FACTS: Motor Carrier (MC) out-gated the unit in Los Angeles, CA on 12/23/2009 at 9:36 and in-gated the unit to the same location later that day at 12:09.

Invoice 333988 that was invoiced on a rebill 0200022, in the amount of 369.00 indicated the job code 4419-Door, showing the location as RR. The outgate EIR noted the following damage: 3" Cut Posts – Left Front, 3" Cut Posts – Left Front, 3" Cut Posts – Left Rear, 3" Cut Posts – Left Rear, 3" Cut Posts – Left Rear, 7" Cut Door Header – Rear and Bent Bumper – Rear. The Ingate EIR indicated the following: 4" Cut Door – Right Side, Broken Posts – Left Center and Broken Posts – Left Rear.

ISSUE: MC asserts that because the container shows extensive damage on the out-gate J1 that includes "Cut Door Header & Bent Bumper" that the container already had extensive damages to the rear of the trailer and the door issue was already apparent. EP asserts that the damages on the out-gate were not the same damage noted on the ingate. Billing was assessed for damage to the door, not the door header.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The MC claims that the damage reported on the EP's invoice existed before the MC received the equipment. The panel finds that the MC did not prove the damage existed at the time it received the equipment. Under provision D. 2. a. of the UIIA (November 18, 2009), if such damage was present before the MC took possession of the equipment, it was the MC's duty to describe such damage on the out-gate EIR. The damage invoiced by the EP was not listed on the out-gate EIR. Therefore, under UIIA provision D.3.d., the MC is responsible for the cost of repair to the equipment.

UIIA PROVISIONS RELIED UPON BY DISPUTE RESOLUTION PANEL:

The panel relied upon the following provisions from the UIIA (November 18, 2009) to make its decision:

D. Equipment Interchange... 2. Equipment Interchange Receipts...

"a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via recorded images taken at the time of Interchange. **[Revised 09/01/09]**"

D. Equipment Interchange... 3. Equipment Condition...

“d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**”

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

JEFF LANG
Motor Carrier Member

ROBERT E. HUFFMAN
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AGREEMENT
DISPUTE RESOLUTION PANEL

In the Dispute Between)	
	)	Case: 201000315-1-XXXR-MR-OTH
UIIA Motor Carrier)	
Appellant, and	)	DECISION
)	
UIIA Equipment Provider	)	May 24, 2010
Respondent.)	
_____)	

UNDISPUTED FACTS: Motor Carrier (MC) out-gated the unit at the M.I.T. Seagirt Marine Terminal in Baltimore on 12/22/09 at 8:07am. The unit was returned to M.I.T. the next day, 12/23/09 at 10:14am.

Invoice 3748 in the amount of \$00.00 indicated repair cost for damaged – 40' high cube reefer container with an attached estimate showing the details of the repairs that needed to be made to the unit. The out-gate EIR from M.I.T. shows, code 0247: Damaged Bent: J-bar. The ingate EIR indicated the following: 0247: Damaged Bent: Door Hinges, Right Panel and Right Rear Corner Post. Pictures were provided for review.

ISSUE: The MC asserts that it is not responsible for the invoiced damage. MC argues that the pictures that were provided by the EP clearly show that the damage is old and that all the damage occurred at the same time. If the damage was to the J bar only and not to the post then there would have been two impact zones, one when the J bar was bent and the other when the post and side panel were damaged. The J bar is part of and not a separate piece from the corner post.

The EP asserts that: "the driver accepted the TIR with notation "Damaged Bent: J-bar". This was probably minor damage as there is no clear indication as to the severity of the damage whether minor or major. But the major damage on this container...is the "Damaged Bent: Right Rear Corner Post". This damage was only indicated on the inbound/empty TIR."

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The MC raises a factual issue as to whether the damage reported on the EP's invoice existed before the MC received the equipment. The MC argues that the EP's photographs demonstrate that, for several reasons, the damage was "old." The panel finds that the MC did not prove the damage existed at the time it received the equipment. Under provision D. 2. a. of the UIIA (November 18, 2009), if such damage was present before the MC took possession of the equipment, it was the MC's duty to describe such damage on the out-gate EIR. The damage invoiced by the EP was not listed on the out-gate EIR. Therefore, under UIIA provision D.3.d., the MC is responsible for the cost of repair to the equipment.

UIIA PROVISIONS RELIED UPON BY DISPUTE RESOLUTION PANEL:

The panel relied upon the following provisions from the UIIA (November 18, 2009) to make its decision:

D. Equipment Interchange... 2. Equipment Interchange Receipts...

"a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange,

reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via recorded images taken at the time of Interchange. **[Revised 09/01/09]**"

D. Equipment Interchange... 3. Equipment Condition...

"d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**"

DECISION: The panel unanimously finds in favor of the EP.

ROBERT CURRY, JR.
Motor Carrier Member

DAVID DALY
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)	
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)	
UIIA Motor Carrier)	Case Number: 20100628-2-XXE-MR-OTH
Appellant, and)	
)	Date: January 19, 2011
UIIA Equipment Provider)	
Respondent)	

UNDISPUTED FACTS: Equipment Provider (EP) issued a Maintenance & Repair invoice to the Motor Carrier (MC) on a unit that was out-gated at the Maher Terminals on 04/8/2010 at 02:46 pm and in-gated at the Ironbound Intermodal Industries on 4/12/2010.

Invoice 838247, in the amount of \$00.00 indicated Steel Bottom Rail Repair. The out-gate EIR indicated: Inspection: Right Side Panel Dent Usable, Left Side Panel Dent Usable, Front Panel Dent Usable. The In-gate EIR shows: Insert right side bottom rail 12" (cut). The MC did provide pictures of the unit, but neither the ingate or outgate terminals were equipped with AGS gate systems.

ISSUE: MC argues that the damage is old damage and that it is impossible for the driver to have damaged the bottom rail this way. The MC feels that the damage was done from lifting the container and not from a driver backing into or hitting into something.

EP asserts that they have invoiced this MC for damage to this unit based on the in-gate EIR at Ironbound and that this damage was not noted on the outgate. The pictures clearly show the damaged bottom rail so the EP feels that the MC should have noted the damage on the out-gate inspection. However, there is no timestamp or date stamp on the photos to determine when and where they were taken. Therefore, the EP feels that they have invoiced the MC correctly.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds that the MC did not prove the damage existed at the time it received the equipment. Under provision D. 2. a. of the UIIA (May 12, 2010), if such damage was present before the MC took possession of the equipment, it was the MC's duty to describe such damage on the out-gate EIR. The damage invoiced by the EP was not listed on the out-gate EIR. Therefore, under UIIA provision D.3.d., the MC is responsible for the cost of repair to the equipment.

UIIA PROVISIONS RELIED UPON BY DISPUTE RESOLUTION PANEL:

The panel relied upon the following provisions from the UIIA (November 18, 2009) to make its decision:

D. Equipment Interchange... 2. Equipment Interchange Receipts...

"a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**"

D. Equipment Interchange... 3. Equipment Condition...

“d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**”

DECISION: The majority of the panel finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

JEFF LANG
Motor Carrier Member

DAVID DALY
Water Carrier Member

BOB HUFFMAN
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)	
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)	
UIIA Motor Carrier)	Case Number: 20100916-3-XXXS-MR-TR
Appellant, and)	
)	
UIIA Equipment Provider)	Date: February 8, 2011
Respondent)	

UNDISPUTED FACTS: Motor Carrier (MC) outgated the unit at Garden City Ocean Terminal in Savannah, GA on 06/07/2010 and was ingated to the same location on 06/26/2010.

SACP invoiced MC on behalf of the Equipment Provider (EP). Invoice 45C1080132, dated 08/04/2010, in the amount of 00.00, along with the repair vendor invoice SAVI228107, dated 07/20/2010 indicated the following: New Tire, Right Inside Rear, Cut Through Cord, Replace. The outgate EIR indicated no damage. The ingate EIR indicated the following: D247: Damaged RRI: tire is flat.

ISSUE: The MC states they are disputing this invoice based on the ingate documentation. Tires that are cut, run flat, and slid flat are visible at the time of interchange and are noted as such regardless of tire position all the time. In addition, the vendor inspection was 6 days after ingate, a time frame in which additional tire damage could have occurred.

Flexi-Van responded to the claim on behalf of the EP stating that the cut caused the flat. The ingate EIR noted the flat and from deeper inspection revealed that there was a cut in the tire.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. Under provision D. 2. a. of the UIIA (November 18, 2009), "at the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted". The damage invoiced by the EP was not listed on the out-gate EIR. " D247: Damaged RRI: tire is flat" was noted on the in-gate EIR. Upon inspection the cause of the flat was determined to be cut/torn. Therefore, under UIIA provision D.3.d., the MC is responsible for the damaged invoiced by the EP.

UIIA PROVISIONS RELIED UPON BY DISPUTE RESOLUTION PANEL:

The panel relied upon the following provisions from the UIIA (November 18, 2009) to make its decision:

D. Equipment Interchange... 2. Equipment Interchange Receipts...

"a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via recorded images taken at the time of Interchange.

[Revised 09/01/09]"

D. Equipment Interchange... 3. Equipment Condition...

“d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**”

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

MIKE WILSON
Water Carrier

VAL NOEL
Motor Carrier

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
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)	
UIIA Motor Carrier)	Case Number: 20110315-2-XXXP-MR-OTH
Appellant, and)	
)	
UIIA Equipment Provider)	Date of Decision: June 6, 2011
Respondent)	

UNDISPUTED FACTS: The Motor Carrier (MC) received two maintenance and repair invoices from the Equipment Provider (EP). Neither out-gate EIR applicable to these invoices noted damage. The in-gate EIRs from the rail facility indicated "Damage is captured on Recorded Images." Images for the out-gate and in-gate were provided for Invoice JS012117. The in-gate image was available for Invoice JS2924.

Invoice JS012117 (Bill Number) 3EB8592, dated 01/21/2011, in the amount of \$00.00 noted job code 3166-Landing Leg, Gear Side, Cond: 1-Replace w/new, Defect: 03-Broken, Location: LS

Invoice JS2924 (Bill Number) 3EC8501, dated 02/09/2011, in the amount of \$00.00 noted job code 4750-Corner Post, Steel, Cond: 1-Replace w/new, Defect: 02-Bent, Location: RF

ISSUE: The MC argues that in-gate AGS pictures do not show new damages as invoiced.

Invoice JS012117:

EP stated that when they received the MC's dispute on this invoice, the in-gate and out-gate AGS gate pictures were forwarded to the EP's inspector for review and the inspector confirmed and noted the damage on the AGS gate photos.

Invoice JS2924:

EP argues the fact that the out-gate at the 59th Street facility in Chicago showed no damages noted (a Non AGS gate facility). The unit was then in-gated at the AGS gate facility, Bedford Park, IL, and the photos show that the RF Corner Post Steel Bent. The EP again forwarded the AGS gate pictures to their inspector when the MC disputed the charges & the inspector confirmed the damage noted.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds the following:

Invoice JS012117:

Under provision D.3.d of the UIIA (November 8, 2010) the MC "will return the Equipment to the Provider in the same condition, reasonable Wear and Tear expected". The out-gate and in-gate images appears to exactly match and they show no visible damage. Therefore, the MC is not liable for the damages listed in this invoice.

Invoice JS2924:

The MC did not prove the damage existed at the time it received the equipment. Under provision D.2.a. of the UIIA (November 8, 2010), if such damage was present before the MC took possession of the equipment, it was the MC's duty to describe such damage on the out-gate EIR. The damage invoiced by the EP was not listed on the out-gate EIR. Therefore, under UIIA provision D.3.d., the MC is responsible for the cost of repair to the equipment.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (November 8, 2010) to make its decision:

D. Equipment Interchange....2. Equipment Interchange Receipts

a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange.

[Revised 05/12/10]

D. Equipment Interchange... 3. Equipment Condition...

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

DECISION: The panel unanimously finds in favor of the MC with regards to Invoice JS0121117 in the amount of \$00.00 and finds in favor of the EP with regards to Invoice JS2924 in the amount of \$00.00. MC and EP shall equally share the responsibility for the \$00.00 filing fee.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

GERRY BISAILLON
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
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UIIA Motor Carrier)	Case Number: 20110420-3-XXXP-MR-OTH
Appellant, and)	
)	
UIIA Equipment Provider)	Date of Decision: September 20, 2011
Respondent)	

UNDISPUTED FACTS: The Motor Carrier (MC) outgated Unit LSFZ531436 from NS Chicago 47th on 12/17/2010 and ingated the unit at the CSXI-Bedford Park on 12/18/10. The Equipment Provider (EP) sent the MC Invoice 3228 dated 03/21/2011 in the amount of \$00.00. The repair description on the invoice listed two repairs as follows: Job Code: 5020-MainFrameRail, Cond: C-Section, Defect: 02-Bent, Locations: LSC/RSC. The outgate EIR indicates no damage. The ingate EIR states "Damage is captured on Recorded Images." Images have been provided for review in this arbitration.

ISSUE: The MC argues that the images do not demonstrate frame damage. The MC argues that if the EP is claiming that the unit has frame damage, it could be existing crane damage (from a crane putting on or taking off a container on the chassis). The MC states they cross-towned this chassis bare from NS 47th to CSX Bedford.

The EP denied the dispute to the invoice based on D.3.a & D.3.d.1 of the UIIA. The EP argued that the Motor Carrier provided clean interchange from NS with no damage documented on the outgate EIR. The EP also claims that the MC acted in violation of the DOT Federal Motor Carrier Safety Administration, Section 392.7(b):

Drivers preparing to transport intermodal equipment must make inspection of the following components; and must be satisfied that they are in good working order before equipment is operated over the road. Drivers who operate the equipment over the road shall be deemed to have confirmed the following components were in good working order when the driver accepted the equipment.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel found that the images did not evidence the damage described on the EP's Invoice 3228. Therefore, the panel finds that the MC did not violate its obligations under UIIA Section D.3.d. and is not liable for Invoice 3228. In this dispute, the panel's decision is confined to enforcing the parties' obligations under the UIIA, not the Federal Motor Carrier Safety Regulations.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (November 8, 2010) to make its decision:

D. Equipment Interchange....3 Equipment Condition

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

DECISION: The panel finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

ROBERT HUFFMAN
Rail Carrier Member

DAVID DALY
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between

UIIA Motor Carrier
Appellant, and

UIIA Equipment Provider
Respondent

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Case Number: **20110901-7-XXXP-MR-OTH**

Date of Decision: 10/21/2011

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) an M&R invoice for a unit that was outgated at the CSX Chicago 59th facility and ingated at the CSX Bedford Park facility. Invoice C170097, dated 05/19/2011, in the amount of \$00.00, stated the following: "Job Code: 3355-DOT bumper Horizon Cond: 1-Replace w/new, Defect: 02-Bent, Locations: R."

The outgate EIR is not AGS equipped and noted no damage. The ingate at the CSX Bedford Park is an AGS gate facility, and EIR noted "Damage is captured on Recorded Images". Images have been provided for review.

ISSUE: MC disputes the invoice stating that the facilities AGS gate images do not show the DOT bumper as being bent under the frame and that it is perfectly aligned with the frame. The MC is basing their dispute on Exhibit A & Section D.3.d of the UIIA as shown below:

Exhibit A:

10. Rear Underride Guard ("ICC Bumper") (Check that Guard is in place and not bent under the frame.)

D. Equipment Interchange

3. Equipment Condition

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

The EP did not respond to the claim, but provided electronic images pertaining to the dispute.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. After reviewing the ingate AGS gate image provided, the panel finds that the recorded image is evidence that the left end of the horizontal member was bent forward more than 3 inches. This condition must be repaired under the AAR Intermodal Interchange Rules F(82)(d) and Appendix B15(a).

PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (April 14, 2011) to make its decision:

D. Equipment Interchange ... 3. Equipment Condition...

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

3) In any disputes arising in connection with classification of Wear and Tear, the Association of American Railroads TOFC/COFC Interchange Rules, Sections B, G, and F, shall be the controlling document.

AAR INTERMODAL INTERCHANGE RULES

F. Handling Carrier Responsibility... 82. Damage – Evidential

(d) DOT Under Ride Guard missing, or bent/cut per Appendix B15.

Appendix B15

(a) A vertical bend in excess of 3 inches in the horizontal member should be repaired.

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

ROBERT HUFFMAN
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between

UIIA Motor Carrier
Appellant, and

UIIA Equipment Provider
Respondent

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Case Number: **20111018-9-XXXP-MR-OTH**

Date of Decision: 01/04/2012

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) two M & R invoices on September 13, 2011 for the following damages:

Invoice 1 – C178070 is dated August 25, 2011, for the amount of \$00.00. The repair description states: “Job Code: 3144-Landing Leg Mounting, Cond: 8-Straighten, Defect: 02-Bent, Location: RS and Job Code: 3166-Landing Leg Gear Side, Cond: 8- Straighten, Defect: 02-Bent, Location: RS.”

Invoice 2 – JS8501 is dated August 5, 2011, for the amount of \$00.00. The repair description states: “Job Code: 4553-Roof, Steel Roof P, Cond: D-Weld, Defect: 14-Cut, Torn, Location: TF and Job Code: 4911-Top Rail, Steel, Cond: 1-Replace w/new, Defect: 02-Bent, Location: RSF.”

Both were out-gated at non-AGS gate facilities (CSX 59th Street) and the out-gate EIRs indicated no damage notations. The in-gate EIRs on both invoices noted “Damage is Captured on Recorded Images” (CSX Bedford Park – AGS facility). All AGS gate images have been provided for review.

ISSUE:

Invoice 1 – The MC argues that this was a cross-town move from CSX 59th Street (non-AGS) to CSX Bedford Park (AGS gate facility) and that the damage being billed by the EP does not show on the in-gate AGS images. The MC states that the unit was repaired two and a half months after in-gate. The MC is basing their dispute on UIIA Section D.3.d.

Invoice 2 – The MC argues that this was another cross-town move from one facility to another and the damage being billed by the EP does not show on the in-gate AGS images. The MC stated that the damage in question is located at the top of the unit where the driver would have no way of observing it at the time of the out-gate. In addition, the MC states that the CSX facility on 59th Street does not have mirrors for the drivers to see the top of the container. Furthermore, the MC stated the RFS rail looks old and rusted as does the rest of the unit and that no fresh damage can be seen and therefore should not be charged for old wear and tear on the unit. The MC is basing their dispute on Section D.3.d. of the UIIA.

EP believes charges are justified as invoiced. Both units were outgated with no damages listed on the outgate EIRs, however both were ingated with damages as shown on AGS images (included as part of case). EP declined the MC’s dispute to both invoices based on Section D.3.a. (1), D.3.d, Exhibit A item 4 of the UIIA, Section V1.D.2 of the EP’s addendum to the UIIA and AAR Section 122(A).5.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. After reviewing the in-gate AGS image provided, the panel finds as follows:

Invoice 1 – Based on Rule 82, Damage-Evidential, of the AAR TOFC/COFC Interchange Rules and the AGS image, the slight bend in the landing leg would not impair the function of the leg. Therefore, we find in favor of the motor carrier.

Invoice 2 – Since the container was under load, it would not be possible for the Motor Carrier to open the doors and inspect for roof damage. If the Motor Carrier has no way at out-gate time to inspect the roof, then the Motor Carrier cannot be held responsible for the roof damage. In regard to the top rail, the defect does not fit the description of damage under the AAR Interchange Rules when viewing from the ground (position of the driver). When viewing from a ground position, the top rail may be bent, however, it does not appear to be cut or impairing the operation of the container. Therefore, we find in favor of the motor carrier.

PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (April 14, 2011) to make its decision:

D. Equipment Interchange ... 3. Equipment Condition...

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.
- 3) In any disputes arising in connection with classification of Wear and Tear, the Association of American Railroads TOFC/COFC Interchange Rules, Sections B, G, and F, shall be the controlling document.

AAR INTERMODAL INTERCHANGE RULES

F. Handling Carrier Responsibility... 82. Damage – Evidential

Handling carriers are responsible for damage as follows:

- a. Metal door, gate, sheet, post, crossmember, brace, or support cut or torn through thickness of metal, including such cuts or tears covered by tape, caulk, and/or tar
- b. Metal door, gate, sheet, post, crossmember, brace, or support bent, where proper operation or function of unit is impaired, except when caused by deterioration due to corrosion or decay
- c. Clean Interior
- d. DOT Under Ride Guard missing or bent/cut per Appendix B, Section B15
- e. Tire sidewall cut/punctured through one or more plies of fabric
- f. Tire shoulder and/or tread cut/punctured through one or more plies of fabric, when such injury is larger than 1/4 inch. When the tire shoulder and/or tread is punctured through the tire, causing a hole 1/4 inch in diameter or less, the injury must be patched prior to reuse.
- g. Damage to tires and tubes as a result of being slid flat. Any tire is considered to be "slid flat" if a flat spot occurs and removes 4/32 inches of tread or rubber (when compared to the remaining tread). It is not necessary for the tire to have a loss of air.
- h. Damage to tires and tubes as a result of being run flat.

Appendix B5

(2) Defects

When a landing gear lower leg and/or upper leg assembly is bent, damaged, or deformed to a point that will not allow free vertical travel, the leg(s) should be replaced.

The normal defects associated with non-functional landing gear are:

- (a) Broken welds
- (b) Loose fasteners (missing, broken, defective, or improper materials)
- (c) Legs improperly adjusted
- (d) Defective components (bent or broken)
- (e) Dry or insufficient lubricant

DECISION: The panel unanimously finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

VAL NOEL
Motor Carrier Member

JANICE SCHAUB
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
)	
UIIA Motor Carrier	)	Case Number: 20111108-4-XXXI-MR-OTHTR
Appellant, and)	
)	
UIIA Equipment Provider	)	Date of Decision: 05/16/2012
Respondent)	

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) nine invoices showing the following:

Invoice 1 - Invoice 192803 (Bill Number) 3EJ8648, dated 07/22/2011, in the amount of \$00.00 indicated the Job Code as "1116-Radial Tire, Cond: 3- Replace, Defect: 34-Slid Flat, Location: ROR. The out-gate EIR at the CSX indicated no comments". The in-gate EIR at the CSX Bedford Park facility noted "Damage is captured on recorded images". Images have been provided for review.

Invoice 2 – Invoice 0190958 (Bill Number) 3EJ8648, dated 07/25/2011, in the amount of \$00.00 indicated the Job Code as: "1116-Radial Tire, Cond: 3-Replace, Defect: 14-Cut, Torn, Location: ROR. The out-gate EIR at the BNSF facility shows damage: N with no comments noted". The in-gate EIR at the CSX Bedford Park facility noted "Damage is captured on recorded images". Images have been provided for review.

Invoice 3 – Invoice 200340 (Bill Number) 3EJ8648, dated 08/05/2011, in the amount of \$00.00 indicated two Job Codes as: "1115-Bias Tire and 1509-Tube, Cond: 3- replace and 1-replace w/new, Defect: 13-Run Flat and 01-Asscoiated with, Location: ROR on both. The out-gate EIR at the BNSF facility shows damage: N with no comments noted." The in-gate EIR at the CSX Bedford Park facility noted "Damage is captured on recorded images". Images have been provided for review.

Invoice 4 – Invoice C175480 (Bill Number) 3EJ8648, dated 07/23/2011, in the amount of \$00.00 indicated two Job Codes as: "3166-LandingLeg, GearSide and 2144-LandingLegMounting..., Cond: 1-Replace w/new and 8-Straighten, Defects: 02-Bent (on both), Location: LS (on both). The out-gate EIR at the BNSF facility shows damage: N with no comments noted." The in-gate EIR at the CSX Bedford Park facility noted "Damage is captured on recorded images". Images have been provided for review.

Invoice 5 – Invoice C175613 (Bill Number) 3EJ8648, dated 08/05/2011, in the amount of \$00.00 indicated two Job Codes as: "3354-DOTBumperUpright (listed twice), Cond: 8-Straightn (listed twice), Defects: 02-Bent (listed twice), Location: RR and LR. The out-gate EIR at the BNSF facility shows damage: N with no comments noted." The in-gate EIR at the CSX Bedford Park facility noted "Damage is captured on recorded images". Images have been provided for review.

Invoice 6 – Invoice 200575 (Bill Number) 3EJ8648, dated 08/11/2011, in the amount of \$00.00 indicated two Job Codes as: "1115-Bias Tire and 1509-Tube, Cond: 3-replace and 1-replace w/new, Defects: 34-Slid Flat and 01-Associated With. Locations: ROR (listed twice). The out-gate EIR at the BNSF facility shows damage: N with no comments noted." The in-gate EIR at the CSX Bedford Park facility noted "Damage is captured on recorded images". Images have been provided for review.

Invoice 7 – Invoice BP9191188 (Bill Number) 3EK8508, dated 09/19/2011, in the amount of \$00.00 indicated the Job Code as: “3355-DOT Bumper Horizon..., Cond: 1-replace w/new, Defect: 02-Bent, Location: R.” The out-gate EIR at the BNSF facility shows damage: N with no comments noted. The in-gate EIR at the CSX Bedford Park facility noted “Damage is captured on recorded images”. Images have been provided for review.

Invoice 8 – Invoice 195919 (Bill Number) 3EK8508, dated 09/14/2011, in the amount of \$00.00 indicated two Job Codes as: “1115-Bias Tire and 1509-Tube, Cond: 3-replace and 1-replace w/new, Defects: 34-Slid Flat and 01-Associated With, Locations: ROF (listed twice). The out-gate EIR at the BNSF facility shows damage: N with no comments noted.” The in-gate EIR at the CSX Bedford Park facility noted “Damage is captured on recorded images”. Images have been provided for review.

Invoice 9 – Invoice C179009 (Bill Number) 3EK8508, dated 09/15/2011, in the amount of \$00.00 indicated three Job Codes as: “3354-DOTBumperUpright (listed twice) and 3355-DOTBumper Horizon..., Cond: on all three Job Codes 8-Straighten, Defects: on all three Job Codes 02-Bent, Locations: RR, LR, R. The out-gate EIR at the BNSF facility shows damage: N with no comments noted.” The in-gate EIR at the CSX Bedford Park facility noted “Damage is captured on recorded images”. Images have been provided for review.

ISSUES:

Invoice 1 – The MC disputes invoice 1 stating that the in-gate images from the CSX Bedford Park is distorted by the white glare in the background and stated that there is no visible damage to the tire. The MC is basing their dispute on Section D.3.d.1 and Exhibit C of the UIIA.

The EP argues the fact that the unit out-gated with no damage noted, but in-gated with damage as shown on the AGS gate images. The EP declines the MC’s dispute per Sections D.2.a, D.3.a(1), D.3.d.1 and Exhibits B & C of the UIIA.

Invoice 2 thru 9 – The MC disputes the fact based on the out-gate images/EIR’s display the same damage caught on the in-gate images. MC is basing their dispute on Section D.3.d.1, Exhibit C of the UIIA and the EP’s addendum to the UIIA Section VI.C.

The EP argues that the units out-gated with no damage noted, but in-gated with damage as shown on the AGS gate images. The EP declines the MC’s dispute per Sections D.2.a, D.3.a(1), D.3.d.1, Exhibits A, B & C of the UIIA and Section G.11.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties and finds as follows:

Invoices 1 – 4, 6 and 8 – After reviewing the in-gate and out-gate AGS images provided for these invoices, the panel finds that the condition of the unit when out-gated was the same as when the unit was in-gated. Under provision D.3.d of the UIIA the “Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.” The MC returned the equipment in the same condition as to when it took possession of the equipment. Therefore, the MC is not responsible for the damages in these invoices.

Invoice 5, 7, and 9 – The first two panel members were unable to agree upon what the evidence showed. Therefore, the third panel member was brought in under Exhibit D to the UIIA. Under provision D.3.a.1 of the UIIA (April 14, 2011), “Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement.” The

third panel reviewed the evidence and finds that the MC failed to comply with provision D.3.a.1 of the UIIA. On the EIRs of these invoices damage was not recorded, however a notation of "Inspection Waived –DAG Transaction" appeared. Further information concluded that "Inspection Waived – DAG Transaction" is when a driver goes to the Driver Assistance Gate (DAG) to complete the in-gate/out-gate transaction. When the interchange transaction is done through a "Drivers Assisted Gate" versus the kiosk, the MC has the opportunity to notate damage at out-gate even though it is an AGS facility. In these instances the MC did not report or record the damages and subsequently in-gated the unit with damages.

PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (April 14, 2011) to make its decision:

D. Equipment Interchange....3. Equipment Condition

a. Warranty: **WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.**

1) Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to his Agreement. **[Revised 01/17/05]**

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

DECISION:

Invoice 1 – 4, 6 and 8 – The panel unanimously finds in favor of the MC.

Invoice 5, 7 and 9 – The majority of the panel finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

GERRY BISAILLON
Rail Carrier Member

NEIL DESMOND
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
)	
UIIA Motor Carrier,	)	Case Number: 20120720-2-XXXT-MR-OTH
Appellant, and)	
)	
UIIA Equipment Provider,)	
	)	Date of Decision: 12/13/2012
Respondent)	

UNDISPUTED FACTS: The Equipment Provider sent the Motor Carrier (MC) a Maintenance & Repair invoice on 06/20/12 in the amount of \$00.00.

Invoice 1507704, shows the following: Flooring Repair \$00.00, Administrative Charge \$00.00, with at total of: \$00.00.

The out-gate EIR dated 05/23/12 (time: 7:35) shows that the unit was picked up at the NIT/VIT facility with no damage noted. The in-gate EIR dated 05/23/12 (time: 10:00) indicated the following: "M&R Exceptions: Floors/Interior/Dunnage."

Pictures were provided in ".pdf" format by the EP, but NIT/VIT is not an AGS gate facility.

ISSUE: The MC argues that the repairs to the floor are a result of normal wear and tear and not damage. The MC stated that this particular floor had previously been repaired in the same area making it weaker than normal and feels that they are not responsible for this invoice. The MC is basing their dispute on Exhibit B of the UIIA.

EP stated that their records show that there was no previous damage or repair made to the floor of the container since EP on-hired the container in March 2010. The EP feels that the photos that they provided show that the damage to the floor occurred where the dock plate from the warehouse would end and feels that the floor was damaged and not normal wear and tear.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The first two panel members were unable to agree upon what the evidence showed. Therefore, the third panel member was brought in under Exhibit D to the UIIA. The third panel member finds that under provision D.3.d of the UIIA and Section G of AAR Intermodal Interchange Rules the damage to the floor is clearly wear and tear and therefore it is the responsibility of the EP.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (June 10, 2012) to make its decision:

D. Equipment Interchange....3 Equipment Condition

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

3) In any disputes arising in connection with classification of Wear and Tear, the Association of American Railroads TOFC/COFC Interchange Rules, Sections B, G, and F, shall be the controlling document

AAR Intermodal Interchange Rules

G. ORDINARY MAINTENANCE

88. Owner Responsibility

Repairs, renewals or replacement of the following components shall be at the expense of the unit owner, except where directly associated with a component with Section F damage:

* * * *

(q) Floor or decking

DECISION: The majority of the panel finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

JEFF LANG
Motor Carrier Member

ROBERT HUFFMAN
Rail Carrier Member

DAVE DALY
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
)	
UIIA Motor Carrier,	)	Case Number: 20120917-4-XXXI-MR-OTH
Appellant, and)	
)	
UIIA Equipment Provider,	)	Date of Decision: 02/08/2013
Respondent)	

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) a Maintenance & Repair invoice number 101043949, dated 07/16/2012, in the amount of \$00.00 stating the following: "3353, Cond.: 1-Replace w/new, Defect 02-Bent, Loc: R".

The out-gate EIRs provided by the EP and the MC, dated 03/20/2012 indicated no damage. The J1 in-gate that was provided by the EP indicated the following Job Code: "4622 Side Post (listed twice), Location: LSC Left Side Center and RSC Right Side Center, Why Made: 02 Bent and 03 Broken, Qty.: 1 (listed twice)." The in-gate that was provided by the MC indicated the following: "Broken Posts – Right Center, Bent Posts – Left Center, Bent Bumper – Rear."

ISSUE: The MC disputes the invoice stating that there was no proof that the bolster was bent enough to impair the operation or function of the unit as required in Exhibit C of the UIIA. The MC also argued the fact that the in-gate was on 03/23/2012 but the unit was not repaired until 07/05/2012, 4 months after in-gate.

The EP responded to the MC's dispute stating the following: "A "clean" out-gate followed by a "dirty" in-gate establishes repair responsibility for the handling motor carrier. In this case, the out-gate J-1 shows no damage and the in-gate J-1 shows damage for a bent DOT Underride Guard. Repairs made by mechanical vendors determined that the DOT Underride guard had to be replaced due to it being bent. Per UIIA rule 7,B "...damage is presumed to have been caused by Motor Carrier to whom the equipment was last interchanges and the Motor Carrier will be liable for all such damage. The MC was the outgoing carrier listed on the J1." Therefore invoice 101043949 for MC should stand.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds in favor of the EP. When the MC took possession of the equipment there was no damage reported on the out-gate. On the contrary, both in-gates provided by the parties noted damages to the equipment. Therefore, the MC failed to comply with provision D.3.d.1) of the UIIA by not returning the equipment in the same condition as when it was out-gated, reasonable wear & tear excepted. Therefore, the MC is liable for invoice number 101043949.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (June 10, 2012) to make its decision:

D. Equipment Interchange 3. Equipment Condition

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

ROBERT CURRY
Motor Carrier Member

JAMES D. FITZGERALD
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
UIIA Motor Carrier	)	Case Number: 20121015-1-XXXW-MR-TRSF
Appellant, and)	
)	
UIIA Equipment Provider	)	Date of Decision: 02/04/2013
Respondent)	

UNDISPUTED FACTS: The Equipment Provider's (EP) sent a maintenance & repair (M&R) invoice from the third party billing vendor, South Atlantic Consolidated Chassis Pool (SACP) to the Motor Carrier (MC):

Invoice D86201, dated 09/19/2012 in the amount of \$00.00 stated the following: "Repair Type: Replace (listed 4 times), Damage: Slid Flat (listed 4 times), Component: Recap Tire (listed 4 times), Location: CRIR, CROR, CLIR, CRIF."

The out-gate EIR from Georgia Ports Authority (GPA), dated 09/07/2012 had no damage noted. The in-gate EIR from Lanport facility, dated 09/10/2012 indicated the following remarks: "1 – Worn, 4 – Slid Flat EIR Coverage – "Load.""

Photos taken by the driver when equipment was in-gated were submitted as part of the Motor Carrier's claim, however Georgia Ports Authority (GPA) and the Lanport facility are not AGS gates. Consequently, there were no date and time stamped "Recorded Images" available.

ISSUE: The MC argues that the tires were not slid flat and that this damage was disputed at the time the chassis was in-gated on 09/10/2012 at Lanport facility. The MC stated that "Lanport refused to take other measurements on the tire as requested that would have proven the tires had irregular wear and were not slid flat. MC is basing their dispute on Section E.4.b. of the UIIA.

SACP responded on behalf of the EP by stating "if the driver conducted a pre-trip inspection prior to out-gating this unit they could have had tires repaired or had damages noted prior to leaving GPA Garden City. The GPA out-gate does not reflect that this unit had any damages. Since we do not have any proof that damages were pre-existing we cannot validate that the damages were caused by the tires being worn."

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds in favor of the EP. At the time the MC took possession of the equipment the MC had ample opportunity to conduct a pre-trip inspection and report any damages prior to out-gating the equipment. The equipment was out-gated with no damage reported. When the equipment was in-gated, the EIR reported damage to the equipment. The MC failed to comply with provision D.3.d. of the UIIA by not returning the equipment in the same condition as to when it was out-gated. In addition, pursuant to Exhibit C and provision E.4.a. of the UIIA, the MC is responsible for the damage stated in Invoice D86201.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (June 12, 2012) to make its decision:

D. Equipment Interchange....3. Equipment Condition

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

**Exhibit C to UIIA
(Added to UIIA on 07/25/07, Last Revised 09/01/09)**

Motor Carrier Responsibility During the Interchange Period

Tires

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4".

E. Equipment Use....4. Tires

a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and Equipment use. **[Revised 09/01/09]**

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

DAVE DALY
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
)	
UIIA Motor Carrier	)	Case Number: 20130313-11-XXXI-MR-OTH
Appellant, and)	
)	
UIIA Equipment Provider	)	Date of Decision: 06/24/2013
Respondent)	

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) two Maintenance & Repair invoices detailing the following repairs:

Invoice 1: Invoice number EL10094, dated 01/29/2013, in the amount of \$189.85 stating the following Job code: "3355-DOT/MOTBumper Horizo..., Cond.: 1-Replace w/new, Defect 02-Bent, Loc: R, Time 2."

The out-gate EIRs provided by the EP and the MC, dated 10/31/2012 indicated no damage. The J1 in-gate that was provided by the EP indicated the following Job Code: "3350 DOT Under-ride Guard, Location: R Rear, Why Made: 02 Bent, Qty.: 1." The in-gate provided by the MC noted: "Bent Bumper - Rear."

Invoice 2: Invoice number EL08534, dated 01/29/2013, in the amount of \$189.85 stating the following Job code: "3355-DOT/MOTBumper Horizo..., Cond.: 1-Replace w/new, Defect 02-Bent, Loc: R, Time 2."

The out-gate J1 provided by the EP, dated 10/16/2012 noted: "4622 SidePost, Location RSC Right Side Center, Why Mad: 14 Cut, Torn, Qty: 4." The J1 in-gate EIR stated the following Job Code: "3350 DOT Under-ride Guard, Location: R Rear, Why Made: 02 Bent, Qty.: 1." The in-gate that was provided by the MC indicated: "Bent Bumper - Rear."

ISSUE: The MC disputes both invoices stating that there was no proof that the bent bumper was enough to impair the operations or function of the unit as required in Exhibit C of the UIIA & that the bent bumper was bent due to normal wear and tear. In addition, the MC is basing their dispute on Exhibit A of the UIIA & the AAR Intermodal Interchange Rules section B15. DOT Underride Guard.

The EP responded to the MC's dispute stating the following "Under EP's Addendum to the UIIA, Section 7.B; it is the motor carrier's responsibility to note any damage at the time of out-gate. The MC did not fulfill their obligation under this provision, and the out-gate noted a clean, no damage out-gate. Damage was discovered and reported on in-gate. On this basis, the MC is responsible.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds in favor of the EP. The MC's driver had the opportunity to inspect the equipment and note the physical condition of the bumper prior to the time of out-gate. However, the MC's driver did not make any notation in regards to the condition of the bumper so the equipment was out-gated with a clean EIR. Consequently, there was no proof to support that the bent bumper existed prior to the MC's driver accepting the equipment for interchange. When the equipment was in-gated, both EIRs had bent bumpers noted on the in-gate. Under provision D.3.d.1) of the UIIA the MC has the obligation to return the equipment to the Provider in the same condition as when it was out-gated, reasonable wear and tear excepted. The MC also indicated in its argument that it believed the bent bumpers were due to normal wear and tear. Section D.3.d.(3) of the UIIA states, "any disputes arising in the connection with the

classification of Wear and Tear, the AAR TOFC/COFC Interchange Rules, Sections B, F and G, shall be the controlling document.” Both unit repair invoices showed that the bumper was bent, Why made code 2, which is indicative and denotes the component is bent to the point of requiring repair (more than 3 inches) based on the criteria set forth in the AAR Intermodal Rules F(82)(d) and Appendix B15(a). Consequently, the Motor Carrier was billed correctly in accordance with Exhibit C of the UIIA.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (November 12, 2012) to make its decision:

D. Equipment Interchange... 2. Equipment Interchange Receipts

a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 5/12/10].**

D. Equipment Interchange.... 3. Equipment Condition

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.
 - 1. The responsibility for repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement.
 - 3. In any disputes arising in connection with classification of Wear and Tear, the Association of American Railroads TOFC/COFC Interchange Rules, Sections, B, G and F, shall be the controlling document.

AAR INTERMODAL INTERCHANGE RULES

F. Handling Carrier Responsibility... 82. Damage – Evidential

(d) DOT Under Ride Guard missing, or bent/cut per Appendix B15.

Appendix B15

(a) A vertical bend in excess of 3 inches in the horizontal member should be repaired.

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

ROBERT CURRY
Motor Carrier Member

JAMES D. FITZGERALD
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
UIIA Motor Carrier	)	Case Number: 20130314-12-XXXI-MR-OTH
Appellant, and)	
)	
UIIA Equipment Provider	)	Date of Decision:
Respondent)	

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) a Maintenance & Repair invoice number EL04551, dated 01/29/2013, in the amount of \$00.00 describing the following repair: "3353, Cond.: 1-Replace w/new, Defect 03-Broken, Loc: R."

The out-gate EIRs provided by the EP and the MC, dated 09/09/2012 notes no damage. The J1 in-gate that was provided by the EP notes the following Job Code: "3350 DOT Under-ride Guard, Location: R Rear, Why Made: 02 Bent, Qty.: 1." The in-gate that was provided by the MC states: "Bent Bumper - Rear."

ISSUE: The MC disputes the invoice stating that the repair bill states "broken bumper", but the in-gate EIR indicates "bent bumper – rear". Also, there was no proof that the bumper was bent enough to impair the operation or function of the unit as required in Exhibit C of the UIIA. The MC also argued the fact that the in-gate was on 09/10/2012, but the unit was not repaired until 11/20/2012, 71 days after in-gate.

The EP responded to the MC's dispute stating the following "Under UP's Addendum to the UIIA, Section 7.B; it is the motor carrier's responsibility to note any damage at the time of out-gate. The MC did not fulfill their obligation under this provision, and the out-gate noted a clean, no damage out-gate. Damage was discovered and reported on in-gate. On this basis, the MC is responsible."

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds in favor of the EP. When the MC took possession of the equipment there was no damage reported on the out-gate EIR. However, the in-gate EIRs provided by the parties both noted damages to the equipment. Therefore, the MC failed to comply with provision D.3.d.1) of the UIIA by not returning the equipment in the same condition as when it was out-gated, reasonable wear & tear excepted. Therefore, the MC is liable for invoice number EL04551.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (November 12, 2012) to make its decision:

D. Equipment Interchange.... 3. Equipment Condition

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

ROBERT CURRY
Motor Carrier Member

JAMES D. FITZGERALD
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)	
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UIIA Motor Carrier,)	Case Number: 20131216-2-XXXG-MR-OTHTR
Appellant, and)	
)	
UIIA Equipment Provider,)	Date of Decision: 3/14/2014
Respondent)	

UNDISPUTED FACTS: The MC received two Maintenance & Repair invoices:

Invoice 1 – The Motor Carrier (MC) received a Service Call Invoice (LA1I0003528), in the amount of \$00.00 from Trailco of Louisiana, Inc. stating the following: “Consumables/Shop Supplies (cotton pin, grease, gas), Repair landing Gear (RPL cotton pin on crank shaft & grease landing gear), Road Call to Plaquemine, LA.” The MC paid this invoice and on 10/08/2013 issued Invoice 11001146 to CCM/GCCP, EP’s third party billing vendor, for reimbursement.

Invoice 2 – Invoice 180957, dated 12/04/2013, in the amount of \$00.00 stated the following repair: “Repair Type: Replace, Damage: Flat/puncture, Component: Tube/Flat Repair, Location: CROR, Qty.: 1.” The out-gate EIR indicated no damage. The in-gate EIR indicated the following: “CHS DMG Remarks: RRO Flat.”

ISSUE: The MC’s argument is based on Section D.3.d.(2) of the UIIA, which states: “Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider.” For Invoice 1, the MC argues that although individual items on the repair bill were under the \$50 threshold, the entire service call was necessary to make the repair. Under the rule, therefore, the entire invoice, including the charge for the service call, was over the \$50 threshold and GCCP should reimburse the MC for it.

Invoice 2 was billed to the MC by GCCP. The MC believes that GCCP, billing on behalf of the EP, is interpreting Section D.3.d.(2) differently in this case since they are the party doing the billing. Invoice 2 shows that the actual repair was only \$15.10, but the GCCP is counting the labor costs as well, which brings the invoice over the \$50 threshold. The MC believes that GCCP cannot interpret Section D.3.d.(2) differently when they are the Invoicing Party versus when they are the Invoiced Party. If Section D.3.d.(2) only includes the actual repair, then this invoice would not meet the required “repair items” minimum of \$50 set forth in Section D.3.d.(2). Therefore the MC believes they are not responsible for these charges.

The EP submitted no response to this UIIA dispute.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds as follows:

Invoice 1 – The panel finds in favor of the MC. Section D.3.d (2) of the UIIA states that “Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange

Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider.” In this case, the MC issued the EP an invoice for \$00.00 which was over the minimum amount set under Section D.3.d (2). Therefore, the MC satisfied the requirements under this section.

Invoice 2 – The panel finds in favor of the EP. The EP issued the MC an invoice for \$00.00. Under section D.3.d (2) of the UIIA the EP complied with the requirement. The language in Section D.3.d (2) of the UIIA is inclusive of all charges, it does not limit the minimum charges only to parts cost. Therefore, the MC is liable for the invoice.

PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (August 26, 2013) to make its decision:

D. Equipment Interchange . . . 3. Equipment Condition

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

- 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider.

[Revised 07/25/07]

DECISION: The panel unanimously finds as follows:

Invoice 1 – Find in favor of the MC.

Invoice 2 – Find in favor of the EP.

CASE REVIEWED AND DECIDED BY:

DAVE MANNING
Motor Carrier Member

AL SMERALDO
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)	
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UIIA Motor Carrier)	Case Number: 20140111-6-XXXI-MR-TR
Appellant, and)	
)	Date of Decision: 05/05/2014
UIIA Equipment Provider)	
Respondent)	

UNDISPUTED FACTS: Midwest Consolidated Chassis Pool (MWCP), on behalf of the Equipment Provider (EP), sent the Motor Carrier (MC) a Maintenance & Repair invoice 173704 dated 11/01/2013 in the amount of \$00.00 stating the following: "Repair Type: Replace, Damage: Run Flat, Component: Recap Tire, Location: CRIR, Repair Qty: 1."

There was no damage noted on the out-gate EIR. However, the in-gate EIR stated the following under damage: "Current – Tire-Right Inner Rear, Flat Tire, Tire –Left Outer Front, Worn Out; Deteriorated, Mud Flap, Right Rear, Missing."

ISSUE: The MC disputes the invoice stating that the damage described on it, "Run Flat," does not match the damage described on the in-gate EIR, "flat tire." The MC is basing their dispute on Section E.3.a.(1) and Exhibit C of the UIIA.

Consolidated Chassis Management (CCM) responded on behalf of the EP by stating "if a tire is replaced for a flat, it would be deemed as a run flat, but if the tire is repaired, it is deemed as a flat. The in-gate may note tire damage as "flat/run flat" but the gate inspector may not be able to determine the extent of the damage to the tire, only the M&R vendor can determine the extent of the damage when the tire is removed."

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds in favor of the EP. At the time the equipment was out-gated, no damage was noted. When the MC in-gated the equipment, the J1 reported a "flat tire." Even though the invoiced damage does not have the exact same description as the damage described on the in-gate EIR, the panel agreed that the notation of "flat" on the EIR was sufficient to support the billing of the "run flat" repair to the Motor Carrier as the condition of the tube, which would determine whether the tire can be repaired or will need to be replaced, cannot always be determined until the tire has been removed from the rim. Consequently, under provisions D.3.d.1, E.4.a and Exhibit C of the UIIA the Motor Carrier is responsible for damages described on the disputed invoice. The prior case decision cited by the Moving Party (20130517-2-XXXXP-MR-OTH) involved a different type of repair and pre-existing damage so the circumstances in this claim were not the same as this case.

PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (August 26, 2013) to make its decision:

D. Equipment Interchange....3. Equipment Condition

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

- 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement.
[Revised 07/25/07]

E. Equipment Use....4. Tires

a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and Equipment use. **[Revised 09/01/09]**

**Exhibit C to UIIA
(Added to UIIA on 07/25/07, Last Revised 09/01/09)**

Motor Carrier Responsibility During the Interchange Period

Tires

Run Flat damage to tire and/or tube.

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

DAVE DALY
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between

UIIA Motor Carrier
Appellant, and

UIIA Equipment Provider
Respondent

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Case Number: **20140219-4-XXXP-MR-OTH**

Date of Decision: 05/09/2014

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) a maintenance invoice 12474030 dated 01/27/2014 in the amount of \$00.00. The invoice stated: "Rebill for the removal of placards, returned to VIT on 10/26/2013, noted on interchange."

The in-gate and out-gate EIRs both show "Placards: No". However, the EP supplied a third EIR showing that the unit was in-gated empty at VIT-NIT on 10/26/2013 showing "Placard Removal". The SCAC code on the VIT-NIT EIR shows as: "NWRR."

ISSUE: The MC disputes the invoice based on the in-gate and out-gate EIR's noting the presence of no placards. The MC is basing its dispute on Section D.3.d of the UIIA.

The EP declines the Motor Carriers dispute stating that because the VIT inspection and their M&R vendor inspection, at NIT, clearly showed that the placards were on the unit. The EP also stated that NS would have no reason to install placards on while moving the empty unit back to NIT in Norfolk. Therefore, the EP believes the charges should stand as invoiced.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel find in favor of the MC. Provision D.3.d of the UIIA states "Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted." In both interchanged stages (in-gate and out-gate) "Placards: No" is noted on the EIRs. Therefore, the MC returned the equipment in the same condition as to when it took possession.

PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (August 26, 2013) to make its decision:

D. Equipment Interchange..... 3. Equipment Condition

d. Motor Carrier will return the Equipment to the Provider in the same condition,
reasonable Wear and Tear excepted.

DECISION: The panel unanimously finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

DAVE DALY
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)
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UIIA Motor Carrier) Case Number: **20150330-1-XXXL-MR-OTH**
Appellant, and)
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UIIA Equipment Provider) Date of Decision: 09/08/2015
Respondent)

The motor carrier disputes the following invoice:

Invoice #	Inv. Date	Amount	Facility Outgate/ Ingate	Outgated	Ingated
GF0315502C	3/19/15	\$00.00	UP Avondale/A vondale CY West	1/22/15	1/28/15

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is that the damage being billed by the Equipment Provider pre-existed when the Motor Carrier out-gated the unit. The Motor Carrier refers to Section D.3.d. of the UIIA, which states "the Motor Carrier will return Equipment to the Provider in the same condition, reasonable Wear and Tear excepted." The Motor Carrier states that it returned the container to the Equipment Provider in the same condition it was received and is therefore, not responsible for the damage listed in the invoice. The Motor Carrier provided photos of EP containers that were in its yard at the time the invoice was received. The Motor Carrier states that all of these containers in its yard that day were damaged, but there is no damage noted on the out-gate EIR. In addition, the Motor Carrier states that the driver hooked and dropped the containers and that the equipment was never removed from the chassis. The Motor Carrier states that no inspection was performed by the facility when the equipment was out-gated. The Motor Carrier also argued that there are always dents and bruises on the containers, but that marks of this type are never noted on the EIR.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded that the repair billing is in accordance with the terms of the UIIA. Section D.2.a. of the UIIA states that at the time of interchange, "the parties shall execute an EIR that describe the physical condition of the equipment and any damage observable thereon, reasonable wear and tear excepted." In this case, the out-gate EIR showed no damages and the in-gate EIR reported "L/R corner casting damage" to the container. The damage billed is also consistent with items that are listed as the Motor Carrier's responsibility under Exhibit C of the UIIA.

DISCUSSION:

The Motor Carrier states that the damage was old and pre-existing, and that damage of such nature is normally not recorded on the EIR. The Motor Carrier believes that the equipment was returned to the Provider in the same condition that it was received in accordance with Section D.3.d.

The Equipment Provider's position is that the charges are valid as billed. If the damage was pre-existing at the time the Motor Carrier out-gated the equipment, it should have noted the condition on the EIR in accordance with Section D.2.a. Absent such evidence, the Equipment Provider believes the Motor Carrier is responsible for the damage in accordance with Exhibit C of the UIIA.

DECISION:

The panel reviewed all documents and evidence submitted by the parties. The two modal panel members could not reach a consensus. Therefore, the third panel member was brought in under Exhibit D to the UIIA.

The third panel member reached a split decision in this case. Under provision D.3.d of the UIIA, the Equipment Provider failed to prove that the damage occurred during the Motor Carrier's Interchange Period. Given the repair vendor's image of the damages, the third panel member stated that this damage (a crease in the front corner posts on both sides of the nose, approximately 8" from the ground on a mated container) could not have occurred while a tractor was connected to the container and that it was most likely caused by a nose impact with another container in a stack or when going to/from the railcar or ship, i.e. prior to the out-gate. Given that the damage existed prior to out-gate, the Motor Carrier's driver failed to comply with provision D.2.a. of the UIIA when it neglected to report the damage on the EIR at the time of the out-gate. The third panel member cautions the Moving Party that damage to the sides or rear of the container consistent with parking damages would have been ruled 100% in the Equipment Providers favor given the lack of damage notation on the out-gate EIR. Consequently, the third panel member finds that both parties have failed to comply with provisions under the UIIA and thereby should split the invoice, in the following manner: 50% to the Motor Carrier and 50% waived by the Equipment Provider.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 26, 2015) to make its decision:

D. Equipment Interchange2. Equipment Interchange Receipts

a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

D. Equipment Interchange....3. Equipment Condition

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

EXHIBIT D TO THE UIIA BINDING ARBITRATION PROCESS GUIDELINES (Added to UIIA on 8/1/08) (Last Revised 08/26/13)

A three-member arbitration panel will be appointed by IANA to handle disputed invoices submitted for arbitration. The panel will consist of one IANA member from each mode, i.e. a Motor Carrier, Water Carrier and Railroad. However, the decision will be rendered by the two arbitrators representing the modes involved in the disputed invoice(s). The third appointed arbitrator from the mode not involved in the transaction will act as an alternate, and will render a decision only in the event the arbitrators from the involved modes cannot agree on a resolution of the dispute.

DECISION: The majority of the panel finds as follows:

Invoice #	Inv. Date	Amount	MC Owed Amount	EP Waived Amount
GF0315502C	3/19/15	\$00.00	\$00.00	\$00.00

CASE REVIEWED AND DECIDED BY:

JEFF LANG
Motor Carrier Member

CLIFF CREECH
Rail Carrier Member

THOMAS BARATTINI
Ocean Carrier Member

In the Dispute Between

Case Number: **20160129-3-XXXP-MR-OTH**

Date of Decision: 05/02/2016

Invoice	Invoice #	Inv. Date	Amount	Facility Outgate/ Ingate	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	CWN1338356	01/20/16	00.00	VIG Port of VA/HRMS, Inc.	12/11/15	12/21/15	01/20/16	01/22/16	01/28/16	01/29/16

The Motor Carrier's basis of dispute is Sections D.2.a and D.3.d of the UIIA, which, in part, states the "Motor Carrier will return Equipment to the Provider in the same condition, reasonable Wear and Tear accepted." The Motor Carrier believes that the damage billed by the Equipment Provider was pre-existing when the Motor Carrier outgated the unit. The Motor Carrier stated that it returned the container to the Equipment Provider in the same condition it was received and is, therefore, not responsible for the damage listed on the invoice. The Motor Carrier also stated that the images provided by the Equipment Provider depicted rusted hinges and clearly shows that the damage was pre-existing (old damage).

The Equipment Provider did not respond to the arbitration claim; however, the Equipment Provider did respond to the Motor Carrier's initial dispute of the charges. The Equipment Provider indicated in its response to the Motor Carrier's dispute that the aging and rust noted in the pictures provided would not have prevented the doors from closing completely and/or leave a one inch gap. The Equipment Provider believes that for the door or hinge blades to become disfigured to the point that the doors would not shut properly, the damage would have had to have been caused by misuse of the equipment by the Motor Carrier.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Motor Carrier. The Motor Carrier panel member noted that the loaded container outgated on December 11, 2015, showing a seal, gross weight and bill of lading and ingated on December 21, 2015. No damage was noted on the J1 at ingate. The Motor Carrier panel member observed that there was no way for the Motor Carrier to see an issue when doors are closed and under a sealed container, and further commented that if you apply the UIIA rules, excluding the rusty hinges, with no ingate photos and with nothing noted on the J1, the Motor Carrier cannot be held responsible.

The Ocean Carrier panel member agreed, indicating that outgate and ingate EIRs did not reflect any damage to the unit. The Ocean Carrier panel member also noted there was no factual documentation or evidence supporting the Equipment Provider's determination that the Motor Carrier was responsible, nor was there any recorded images taken at the time of interchange depicting damage.

DECISION:

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (June 8, 2015) to make its decision:

- D. Equipment Interchange
 - 2. Equipment Interchange Receipts
 - a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**
 - 3. Equipment Condition
 - d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

DECISION: The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

JIM MICHALSKI
Ocean Carrier Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,
Appellant, and

UIIA EP,
Respondent

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Case Number: **20161107-14-XXXH-MR-OTH**

Date of Decision: 05/17/2017

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	283164351	EMHU265157	9/28/16	LATC- Manual/ELA- AGS	7/15/16	7/20/16	9/28/16	10/5/16	10/25/16	11/7/16

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section D.3.d. of the UIIA. The Motor Carrier's stated that it is being billed for pre-existing damage that is supported by the previous J-1 documentation provided to the Equipment Provider, dated July 15, 2016, which showed existing damage to the container. The Equipment Provider did not accept this as evidence that the damage was pre-existing and declined the Motor Carrier's dispute.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim stating that it is the Motor Carrier's responsibility to conduct a thorough pre-trip inspection to detect and notate equipment condition prior to acceptance per condition D.3 of the UIIA agreement (as well as 49 CFR Section 392.7). Any damage not notated on outgate is presumed to have occurred while in the possession of the Motor Carrier during the interchange period. The outgate on July 15, 2016 denotes LSF Cut/torn (6") damage from a manual gate. The unit ingated ELA on July 20, 2016 with the AGS images reflective of new side sheet panel damage LSR and LSC. By the Motor Carrier's own admittance, quoting "...the EIR provided would not cover the rear container damage (if deemed apparent), we would still be responsible for that

billed damage." The Equipment Provider indicated that it is in fact this new rear damage that the Motor Carrier is being billed for. The Equipment Provider argues that it is clear both in the AGS image and in the repair photos provided that this cut is 1) not on the front of the container; and 2) much longer than the 6" cut notation on the outgate for LSF.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier panel member noted that ingate images in his opinion to not show any left front damage, which is what the Motor Carrier originally noted on the outgate EIR. The Motor Carrier panel member indicated that it appears the Motor Carrier may have unfortunately noted the damage in the wrong place on the outgate J-1. Based on supporting documentation, the Rail Carrier panel member believes the charges were billed in accordance with the terms of the UIIA and also found in favor of the Equipment Provider.

DECISION:

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (September 19, 2016) to make its decision:

3. Equipment Condition
 - d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**
 1. The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

Exhibit C to UIIA - (Added to UIIA on 07/25/07, Last Revised 09/19/16)

Motor Carrier Responsibility During the Interchange Period

Cut or Torn (through the thickness of metal)

Metal door, gate, sheet, post, crossmember, brace or support
DOT Under Ride Guard

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

CLIFF CREECH
Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT DISPUTE RESOLUTION PANEL REVIEW AND DECISION

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Date of Decision: 08/22/17

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Inv. #	Invoice	Inv. Date	Facility	Outgated	Ingated	Date MC stated they rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute
1	8300042036	7/5/17	Detroit Intermodal Terminal/CPG Detroit	5/2/17	5/2/17	7/25/17	7/25/17	7/26/17

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is D.3.d.(3) and Exhibits A and C of the UIIA. The Motor Carrier is being billed for damage to container floor. The Motor Carrier indicates that container was outgated as a sealed load with no damage noted on the outbound TIR. The Motor Carrier noted that because this was a sealed load there was no way for them to inspect the condition of the floor at the time of interchange when unit was outgated. In addition, the Motor Carrier argues that Exhibit A of the UIIA, which lists the items that the Motor Carrier is to visually or audibly check prior to accepting equipment for interchange does not identify the condition of the container floor and/or cross members as items that the Motor Carrier is responsible for checking. Exhibit C of the UIIA that identifies items that the Motor Carrier is responsible for during the interchange period also does not mention the container floor. The Motor Carrier references prior DRP case decisions where charges related to damage to the floor of a sealed container were found in favor of the Motor Carrier since there is no way for the Motor Carrier to inspect the inside of the container at the time of outgate interchange. Consequently, the Motor Carrier believes this condition is a result of wear and tear and not their responsibility.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider did not provide any additional comments that disputed that the prior binding arbitration case decision involving this similar issue was not applicable to this claim. The Equipment Provider did respond to the Motor Carrier's initial dispute of the charges stating that Exhibit B of the UIIA states that repairs made to any item on this list that are result of damage and not wear and tear are the responsibility of the Motor Carrier. Floor and decking are shown as an item in Exhibit B. Therefore, the Equipment Provider denied the Motor Carrier's initial dispute of the charges and indicated invoice was valid.

DISCUSSION:

IANA staff reviewed all documents and evidence submitted by the Moving Party and it was determined that this issue had already been addressed and resolved in a prior arbitration decision that was rendered by the arbitration panel on case 20150414-4-XXXC-MR-OTH. Therefore, in accordance with Exhibit D, Item 8. of the UIIA, if it is determined that the submitted claim has already been addressed and resolved in a prior arbitration decision, then both the Moving and Responding Parties will be provided with the precedent set forth in the former decision and advised that this decision will apply to the submitted claim.

Therefore, both the Moving and Responding Parties were provided with the prior case decision and were advised that the decision applied to the current claim submitted by the Moving Party. Both parties were provided 10 days to submit additional information as to why the precedent decision did not apply to this claim or was in conflict with the Agreement. No additional comments were received within the 10-day period so the prior case decision is applied to this case and found in favor of the Moving Party.

At the time of outgate, the container was sealed so the Motor Carrier had no opportunity to inspect the container floor. Consequently, there is no supporting evidence that confirms that the Motor Carrier is responsible for the damages as required under Section E.3.a.(1) of the UIIA. In addition, Section D.3.d, states that the Motor Carrier is responsible to return the equipment to the Equipment Provider in the same condition reasonable wear and tear excepted. Since the Motor Carrier had no opportunity to inspect the floor of the sealed container then there is no evidence to support that the condition billed was not associated with normal and wear and tear versus damage.

DECISION:

UIIA PROVISIONS PRIOR AND CURRENT CASE DECISIONS BASED ON:

- D. Equipment Interchange.....3. Equipment Condition
 - d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. The Motor Carrier panel member noted that the Motor Carrier raised two issues regarding the charges being disputed in this case: 1) The first is that the Equipment Provider did not bill them within the time frame required by the UIIA; and 2) The second issue is that the damage was noted on the outgate interchange, and represents old damage.

As to issue 1, the Motor Carrier panel member stated that it is clear from the documentation that the Equipment Provider did invoice the Motor Carrier within the time frame required by the UIIA and noted that the Equipment Provider provided copies of the email messages sent to the Motor Carrier on May 25, 2017. The email addresses were confirmed. The Ocean Carrier panel member agreed that invoicing was timely in accordance with the Agreement.

As to Issue 2, the Ocean Carrier panel member argued in favor of the Equipment Provider stating that his position is not about specificity, but rather alignment based on the following observations regarding the interchange documentation:

The outgate has three codes	The ingate has three codes
1. Right Side Panel Bent – Usable 2. Left Side Panel Bent – Usable 3. Front Panel Bent - Usable	A. Left Whole/Panel Assembly/Bent B. Front Whole/Panel Assembly Bent C. Front Whole/Corner Post Assembly/Bent

The Ocean Carrier panel member in comparison of the outgate and ingate interchange documents noted that if A on the ingate EIR aligns with 2 (Left Side Panel Bent – Usable vs. Left Whole/Panel Assembly/Bent) on the outgate EIR and B on the ingate aligns with 3 on the outgate (Front Panel Bent – Usable vs. Front Whole/Panel Assembly/Bent), then these are quite similar in their specificity. The Ocean Carrier indicated that the fact that the entries left, which are 1 on the outgate EIR and C on the ingate EIR, which reads “Right Side Panel Bent – Usable and Front Whole/Corner Post Assembly/Bent” respectively does not add up, but not because one document is overly generic. Both contain specific information as to where the damage was found. Interchanges are typically clear in delineating between panels and corner posts. The Ocean Carrier panel member indicated that the Agreement states that the Equipment Provider must document damage invoices with evidence, which has been done in this case. The Motor Carrier panel member agreed with this assessment also finding in favor of the Equipment Provider.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 1, 2017) to make its decision:

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time

of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

3. Equipment Condition

a. Warranty: WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.

1) Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement. **[Revised 01/17/05]**

d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**

1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of AGS gate the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

c. Parties shall invoice repair costs no later than the following timeframes: If Parties are not invoiced within the established timeframes, the right of the Invoicing Party to recover such charges will be lost: **[Revised 01/26/15]**

1) Standard Gate System (manned) or Interchange between Motor Carriers: Invoices for repair of Damages must be issued no later than 165 calendar days from the date of Interchange at the time the Damage was documented. **[Revised 06/13/16]**

- 2) AGS Gate System (unmanned): Invoices for repair of Damages must be issued no later than 120 calendar days from the date of Interchange at the time the Damage was documented.
- 3) Invoices for repairs made during the Interchange Period must be issued no later than 90 calendar days from the date of the repair. Provider may, in its Addendum, adopt a shorter billing timeframe, which is no less than 45 days, and applies to both the Motor Carrier and Provider. **[Revised 01/26/15]**
- 4) The above timeframes shall not apply with respect to any Equipment that has been placed on hold at the request of any of the Parties because the Equipment was involved in an incident that could give rise to a claim or litigation. The applicable timeframe shall begin to run from the date on which all Parties agree to release the Equipment for repair. In the event that the circumstances referred to in this situation arise and a hold is placed by Provider, upon receiving notice of the damage, the Provider will give notice to the interchanging MC that such damages have occurred and that a hold has been placed on the repair. Failure to give such notice within 45 days of the Equipment being placed on hold will void the right of the Provider to invoice for such repairs. **[Revised 08/26/13]**

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

ROBERT CANNIZZARO
Ocean Carrier Member

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Motor Carrier for Invoice 1 (286777738) in the amount of \$00.00 and (Invoice 3 (287022557) in the amount of \$00.00, and in favor of the Equipment Provider for Invoice 2 (28699810) in the amount of \$00.00 for the following reasons:

- Invoice 1 (286777738) – The Rail Carrier panel member noted that there was a lack of documentation that the AGS image documented a condition requiring replacement of the tire. The Motor Carrier panel member agreed stating the AGS ingate photo does not provide factual documentation that the Motor Carrier damaged the tire.
- Invoice 2 (28699810) – The Rail Carrier panel member noted the invoice was issued in accordance with the UIIA and the Equipment Provider's Addendum. The Motor Carrier panel member stated that the AGS document shows an embedded object in tire necessitating repair.
- Invoice 3 (287022557) – The Rail Carrier panel member commented that the Equipment Provider did not establish that the tread depth met the requirements of Exhibit C to be invoiced as a slid flat tire. The Motor Carrier panel member agreed with the conclusion of the Rail panel member and stated that the ingate AGS photos did not document a slid flat condition per Exhibit C of the UIIA.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 1, 2017) to make its decision:

EQUIPMENT PROVIDER'S ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

7. EQUIPMENT INTERCHANGE RECEIPTS: GATE INSPECTIONS.

- A. At time of in-gate, EP's gatehouse operator will document the time of Interchange and other information on EP's J-1 report or in an electronic data format, including, if applicable, any Equipment damage noted by the gatehouse operator. When the gatehouse operator has completed the inspection, the gatehouse operator will give the J-1, or a similar receipt to the Motor Carrier's driver. If a J-1 report is used, both the gatehouse operator and the Motor Carrier's driver will sign the J-1. If, however, a receipt from an electronic data format is prepared, neither the gatehouse operator nor the Motor Carrier's driver will sign the receipt that is given to the Motor Carrier's driver. The J-1 report or the printed receipt from an electronic device will serve as the "Equipment Interchange Receipt".

At a manual gate, any damage to Equipment discovered by EP's gatehouse operator will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gate house operator.

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including

but not limited to any subsequent inspection by EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to EP's later attention. The damage brought to EP's later attention must be captured on an AGS image.

D. Equipment Interchange

2. Equipment Interchange Receipts

- c. If Recorded Images are taken at the time of Interchange, Damage will not be reported on ingate or outgate EIR. The words "Damage is captured on Recorded Images" will be printed on the Equipment Interchange Receipt. All such Recorded Images will be made available for each Party for a period of 1 year from Interchange without charge. **[Revised 11/12/12]**

3. Equipment Condition

- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**
 - 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**
 - 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

DECISION: The panel unanimously finds in favor of the Motor Carrier for Invoice 1 (286777738) in the amount of \$00.00 and (Invoice 3 (287022557) in the amount of \$00.00.

The panel unanimously finds in favor of the Equipment Provider for Invoice 2 (28699810) in the amount of \$00.00.

CASE REVIEWED AND DECIDED BY:

CLIFF CREECH
Rail Carrier Member

JEFFREY LANG
Motor Carrier Member

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. The Motor Carrier panel member stated the ingate clearly shows a bolt through the tread of the tire. The Rail Carrier panel member agreed stating the bolt through the tread of the RIF tire is clearly visible on the 4/3/17 ingate image.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 1, 2017) to make its decision:

D. Equipment Interchange

2. Equipment Interchange Receipts

- c. If Recorded Images are taken at the time of Interchange, Damage will not be reported on ingate or outgate EIR. The words "Damage is captured on Recorded Images" will be printed on the Equipment Interchange Receipt. All such Recorded Images will be made available for each Party for a period of 1 year from Interchange without charge. **[Revised 11/12/12]**

3. Equipment Condition

- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**
 - 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**
 - 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

CHAD PETERSON
Rail Carrier Member

later. The Motor Carrier also stated that the tread depth cannot be determined from the images provided. Therefore, the Motor Carrier feels they should not be held liable for this tire replacement

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim stating that after their review of both invoices, it believes that the Motor Carrier is responsible for damages in both cases. Under the UIIA, the outgates provided in both were clean. The ingates in both show damage. It is completely irrelevant if it was a cross-town move. The Motor Carrier attempted to point towards AAR billing between railroads. That is also irrelevant under the UIIA. No where in the UIIA does it point towards an extrinsic agreement between other parties. This invoice, and this damage is subject to the UIIA. There is no J2 billing process under the UIIA. The Equipment Provider added that had the Motor Carrier provided definitive proof that this damage was pre-existing, then the invoice would be removed from the Motor Carrier's account. Consequently, the Equipment Provider believes charges are valid as billed.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. The Motor Carrier panel member stated that a part of the dispute raised by the Motor Carrier is that these were cross-town moves and any damage should be considered normal wear and tear. The UIIA does not include any exceptions from reporting damage prior to interchange based on the type of movement involving the equipment. The fact that these were cross-town moves is not material to the damage issue involving either disputed invoice. In addition, the Motor Carrier panel member noted:

- INVOICE #1 - HGIU 504372/TSFZ 568814 - There is no damage listed on the outgate interchange from NS. The Equipment Provider provided an ingate image of the LIF tire that shows something may have punctured the tread when the equipment was returned to UP Global 4. The Equipment Provider provided a post ingate close up image of the tire that clearly shows a bolt has punctured the tread in the same location as the damage visible on the ingate image.
- Section 7.A paragraph 3 of the Equipment Provider's Addendum to the UIIA provides that any damage discovered after the equipment is interchanged will be considered the responsibility of the Motor Carrier provided the damage was captured on an AGS image at the time of interchange. The AGS images and post interchange image supplied by the Equipment Provider meet the requirement of UIIA Section E.3.(a) and UP Addendum Section 7.A.
- The Motor Carrier panel member also noted that circumstances regarding this invoice are similar to the decision reached in Case 20161125-15-DNNH-MR-OTH-UP.
- INVOICE #2 - HGIU 509624/NSFZ 131131 - There is no damage listed on the outgate interchange from NS. The Equipment Provider provided ingate images of the LOF tire that shows the side wall of the tire was cut. The AGS images supplied by the Equipment Provider meet the requirement of UIIA Section E.3.(a).

The Rail Carrier panel member agreed with the finding for the Equipment Provider adding:

- Invoice 1 - TSFZ 568814 – There was no outgate damage notated and clear damage (bolt in tread) on ingate photos. Combined with the repair picture, the bolt location was exactly the same as in the ingate photos.
- Invoice 2 - NSFZ 131131 - There was no outgate damage notated and clear damage (cut in tire) on ingate photo.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 1, 2017) to make its decision:

EQUIPMENT PROVIDERS ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

7. EQUIPMENT INTERCHANGE RECEIPTS: GATE INSPECTIONS.

- A. At time of ingate, EP's gatehouse operator will document the time of Interchange and other information on EP's J-1 report or in an electronic data format, including, if applicable, any Equipment damage noted by the gatehouse operator. When the gatehouse operator has completed the inspection, the gatehouse operator will give the J-1, or a similar receipt to the Motor Carrier's driver. If a J-1 report is used, both the gatehouse operator and the Motor Carrier's driver will sign the J-1. If, however, a receipt from an electronic data format is prepared, neither the gatehouse operator nor the Motor Carrier's driver will sign the receipt that is given to the Motor Carrier's driver. The J-1 report or the printed receipt from an electronic device will serve as the "Equipment Interchange Receipt".

At a manual gate, any damage to Equipment discovered by EP's gatehouse operator will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of ingate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior outgate EIR or outgate Recorded Image provides a copy of this documentation identifying the damage discovered by UPRR's gate house operator.

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including but not limited to any subsequent inspection by EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of ingate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior outgate EIR or outgate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to UPRR's later attention. The damage brought to EP's later attention must be captured on an AGS image.

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**
- c. If Recorded Images are taken at the time of Interchange, Damage will not be reported on ingate or outgate EIR. The words "Damage is captured on Recorded Images" will be printed on the Equipment Interchange Receipt. All such Recorded Images will be made available for each Party for a period of 1 year from Interchange without charge. **[Revised 11/12/12]**

3. Equipment Condition

- a. Warranty: WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.
 - 1) Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement. **[Revised 01/17/05]**
- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**
 - 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**
 - 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM WILLIAMS
Rail Carrier Member

In the Dispute Between

Case Number: **20171124-37-XXXP-MR-TR**

Date of Decision: 01/31/2018

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	289573669	TSXZ906129	10/03/17	Global 1/Global 4	6/27/17	7/28/17	10/03/17	10/12/17	11/10/17	11/24/17
2	289679299		10/09/17	Dolton/Global 2	7/19/17	7/24/17	10/09/17	10/12/17	11/10/17	11/24/17

The Motor Carrier's basis of dispute is Sections D.2.a. and D.3.d of the UIIA. The Equipment Provider furnished ingate images of the tire for Invoice 1; however the Motor Carrier does not believe the images depicted any damage or a run flat of the LIR tire. The images provided only showed shadows and glares making it impossible to accurately assess the tire tread depth on the provided AGS images. The Motor Carrier believes that the unit was returned in the same condition as when it was outgated, reasonable wear and tear excepted. The Motor Carrier also stated that on Invoice 2 the AGS images provided from the Equipment Provider do not depict a cut spotted to 0/32 inches and the tread depth of the tire cannot be determined. As with the first invoice, the Motor Carrier believes the equipment associated with Invoice 2 was also returned to the Equipment Provider in the same condition as when it was outgated, reasonable wear and tear excepted.

The Equipment Provider responded to the claim stating that the Motor Carrier is required to perform a thorough inspection of the unit prior to accepting for interchange. The Equipment Provider noted that according to the documentation associated with Invoice 1, the unit outgated with no damage notated. The unit then ingated with a concave tire, which is an indication of a flat condition. The Equipment Provider also indicated that the pre-repair photos show the tubing of the tire shredded inside. In accordance with Exhibit A, Item 8.a., the Equipment Provider indicated that the Motor Carrier

is to check for under inflation of tires (among other items) prior to accepting the unit for interchange. The Equipment Provider added that Exhibit C of the UIIA includes damage to a run flat tire and/or tube during the interchange period as the Motor Carrier's responsibility. Consequently, the Equipment Provider believes Invoice 1 should stand.

In regards to Invoice 2, the Equipment Provider noted that there was a typographical error on the outgate interchange documentation in regards to the alpha portion of the equipment identification number. The outgate references NSFZ for the chassis ID and it should be NSPZ as evidenced by the AGS images. The Equipment Provider believes this invoice is also valid as billed as both the AGS tire images and the pre-repair photo show that the tire suffered a major injury cutting through numerous treads exceeding well beyond a 1/4 inch. If the Motor Carrier alleges the condition was pre-existing, then it should have discovered the damage during its pre-trip inspection and corrected the condition prior to departing the ramp.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider for the following reasons:

- Invoice 1 - The LIR tire is concave. It definitely appears to be flat. Additionally, a close examination of the LOR tire visible on TSXZ 906129 G4 INGATE FULL - Invoice 1 AGS gate image shows that the outside tire was noticeably scuffed or scrapped. That suggests the tires impacted something. No damage was listed on the outgate interchange from CP for either the LIR or LOR tires. The LIR tire was flat when it arrived at the rail. As a result, the Motor Carrier is responsible for the damage.
- Invoice 2 - There is no damage listed on the outgate interchange from CP. The Equipment Provider has provided ingate images of the LOF tire that shows the tire was cut across several treads. The Equipment Provider provided post ingate images of the tire that clearly show the tread was cut through more than one plies of fabric at the shoulder. This meets the requirement for Motor Carrier responsibility listed in Exhibit C. In addition, Section 7.A paragraph 3 of the Equipment Provider's Addendum to the UIIA provides that any damage discovered after the equipment is interchanged will be considered the responsibility of the Motor Carrier provided the damage was captured on an AGS image at the time of interchange. Both panel members believe the AGS images and post interchange image supplied by the EP meet the requirement of UIIA Section E.3. (a) and EP's Addendum Section 7.A.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 1, 2017) to make its decision:

UIIA EQUIPMENT PROVIDERS ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

7. EQUIPMENT INTERCHANGE RECEIPTS: GATE INSPECTIONS.

- A. At time of in-gate, the rails gatehouse operator will document the time of Interchange and other information on EP's J-1 report or in an electronic data format, including, if applicable, any Equipment damage noted by the gatehouse operator. When the gatehouse operator has completed the inspection, the gatehouse operator will give the J-1, or a similar receipt to the Motor Carrier's driver. If a J-1 report is used, both the gatehouse operator and the Motor Carrier's driver will sign the J-1. If, however, a receipt from an electronic data format is

prepared, neither the gatehouse operator nor the Motor Carrier's driver will sign the receipt that is given to the Motor Carrier's driver. The J-1 report or the printed receipt from an electronic device will serve as the "Equipment Interchange Receipt".

At a manual gate, any damage to Equipment discovered by EP's gatehouse operator will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gate house operator.

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including but not limited to any subsequent inspection by EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to EP's later attention. The damage brought to EP's later attention must be captured on an AGS image.

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

3. Equipment Condition

- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**
 - 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**
 - 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit A to UIIA

- 8. Tires (Check that the following conditions are **not** present.)
 - a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
 - b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
 - c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
 - d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less

in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM WILLIAMS
Rail Carrier Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,

Appellant, and

UIIA EP,

Respondent

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Case Number: **20170831-9-XXXE-MR-TR**

Date of Decision: **February 1, 2018**

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	3MF5247	LSFZ535519	6/15/17	CSX S. Kearny Non-AGS/CSX S. Kearny AGS	5/2/17	5/23/17	6/15/17	7/7/17	7/7/17 but there was ongoing communication through 8/9/17	8/31/17

MOTOR CARRIER'S DISPUTE

The Motor Carrier's basis of dispute is Section E.3.a.(1), Section E.4.a. and Exhibit C of the UIIA. The Motor Carrier believes that a flat spot on a tire is a result of a mechanical issue, previous bad repair or bad equipment, and not any fault of the driver. Consequently, the Motor Carrier feels there is not sufficient evidence to hold them responsible for this invoice.

EQUIPMENT PROVIDER'S RESPONSE

The Equipment Provider responded to the claim stating that the MC interchanged the unit from the CSX Intermodal Terminals Inc. South Kearny location without reporting any defects on the electronic interchange receipt. The ingate portal image on 5/23/2017 into South Kearny clearly shows the slid flat damage to the ROR tire. The Equipment Provider also noted that the driver did not report any chassis defects, including any braking problems on the ingate EIR. In viewing the chassis repair history, the Equipment Provider added that there was no record of any repairs being performed on the braking components of the chassis. Consequently, the Equipment Provider believes that the Motor Carrier failed to meet the

requirements of section D.3.d of the UIIA in that the equipment was not returned to the Provider in the same condition, reasonable wear and tear excepted, specifically the equipment was returned with a ROR slid flat tire when no corresponding defect was noted on the out gate EIR.

DISCUSSION

After careful review of all documents and the evidence submitted by the parties, the two modal panel members that originally reviewed the claim were unable to reach a consensus in the case. The Motor Carrier arbitration panel member found in favor of the Motor Carrier indicating in his opinion it was impossible to have a slid flat on only one tire. The Motor Carrier panel member believes that either the tire was mounted with the slid flat already in place or there was a failure of the ABS system. The Rail arbitration panel member rendered its decision in favor of the Equipment Provider indicating that the Motor Carrier is responsible to perform a pre-trip inspection under Section D.3.a.(1) of the UIIA, which includes visually checking items under Exhibit A, Item 8. Tires. If the slid flat was not initially seen during the inspection, the Motor Carrier could have rolled the chassis slightly in order to visually inspect the chassis tread to ensure it completed a thorough pre-trip inspection as required under the UIIA.

In accordance with Exhibit D of the UIIA, in the event that the arbitrators from the involved modes are unable to agree on a resolution of the dispute, the case is sent to the senior arbitration panel for final determination, which consists of the longest tenured IIEC member or alternate from each mode.

During the senior arbitration panel's review of the case and supporting documentation, there was a discussion on the possible causes of slid flat tires, especially when unit is equipped with an ABS system. In addition, the panel also discussed the use of "split gate" technology by some Equipment Providers as it relates to the method used for capturing equipment condition at these locations being different at outgate versus ingate.

Upon review of the evidence presented in the case, the senior Motor Carrier panel member found that the invoice should be split between the involved parties. The senior Motor Carrier panel member indicated that it may not be fair to render a decision in this specific case solely based on the EIR documentation provided due to all the speculations surrounding the potential causes of a single slid flat tire as well as concerns that Motor Carriers have raised in the past with the fairness of "split gate" operations. The senior Motor Carrier panel member suggested that these two items be brought to the attention of the Intermodal Interchange Executive Committee (IIEC) for further review and discussion to determine how to address these two issues under the UIIA equitably for both Motor Carriers and Equipment Providers.

Although the Rail and Ocean Carrier senior arbitration panel members agreed that the two issues should be brought to the IIEC's attention, it was the consensus of both panel members that for consistency with the Agreement that the case decision should be rendered based on the current terms of the UIIA. It was noted by the senior Rail panel member that the basic premise of the Agreement currently is that if no damage is noted on outgate, but damage is captured on ingate then it is assumed that the condition was caused while in the Motor Carrier's possession and therefore its responsibility under the UIIA. Consequently, based on Section D.3.d. of the UIIA and the evidence presented in the case, both the Rail and Ocean senior arbitration panel members find in favor of the Equipment Provider for the full amount of the invoice.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 1, 2017) to make its decision:

D. Equipment Condition

3. Damage to Equipment

- d. Motor Carrier and Provider will interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted.
[Revised 06/13/16]

DECISION: The majority of the senior arbitration panel finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

GERRY BISAILLON
Rail Carrier Member

AL SMERALDO
Ocean Carrier Member

DAVE MANNING
Motor Carrier Member

- Previous binding arbitration case decisions that involve similar and identical circumstances related to responsibility for floor damage when container is sealed have found that the Motor Carrier is not responsible for these damages.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim stating that they generated the invoice and sent it out to the Motor Carrier on 11/29/17. The Motor Carrier did not respond in regards to the invoice until 1/31/18, which is past the timeframe for the Motor Carrier to dispute the charges. The Equipment Provider confirmed that the invoice was sent by mail, to the following address: 6205 West 101 Street, Chicago Ridge, IL 60415 and via e-mail contact with the following: -----@-----com. The address and e-mail on file with the UIIA on the date of 11/29/17 was 6205 West 101 Street, Chicago, IL 60415, which was the same address listed with the Equipment Provider. The primary e-mail address listed in the UIIA at the time of billing was -----@-----com with a secondary e-mail address of: -----@-----com. The Equipment Provider also noted that based on the photo and the TIR copy, it is clear that the container was heavily damaged while in the Motor Carrier's possession and not associated with normal wear and tear. Therefore, the Equipment Provider feels that based on UIIA (Exhibit B), the Motor Carrier is responsible for the floor damage unless it is associated with normal wear and tear so the invoice should stand.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Motor Carrier. The Motor Carrier panel member indicated that the Motor Carrier was unable to inspect the interior of the container at the time of outgate because the container was sealed. Consequently, the Motor Carrier had no way to report any interior damage at the time of outgate. The Ocean Carrier panel member also finds in favor of the Motor Carrier noting that the container was sealed; therefore, the Motor Carrier could not perform an inspection of the floor prior to outgate.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (September 16, 2017) to make its decision:

D. Equipment Interchange

3. Equipment Condition

- a. Warranty: **WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.**

- 1) Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement. **[Revised 01/17/05]**

- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**

- 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of an AGS gate transaction such documentation must include images depicting the condition of the Equipment at the time of that Interchange. **[Revised 09/16/17]**

G. General Terms

14. Notices

- c. In the event it becomes necessary for the Provider to suspend a Motor Carrier's interchange privileges for non-payment of outstanding invoices, Provider shall notify Motor Carrier, via confirmed facsimile, e-mail or letter, no less than 3 business days prior to suspension, that unless the outstanding issue is resolved, suspension of interchange privileges may occur. The final notification shall include contact information necessary for the Motor Carrier to resolve the outstanding issue. **[Revised 04/26/05]**

EXHIBIT C TO UIIA (Added to UIIA on 07/25/07, Last Revised 09/19/16)

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4".

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

Removable Items

Missing chains, binders and cables
Missing tarpaulins and securements
Missing tarpaulins bows
Missing rear header bar
Missing bulkhead

Cut or Torn (through the thickness of metal)

Metal door, gate, sheet, post, crossmember, brace or support
DOT Under Ride Guard

Bent (where proper operation or function of unit is impaired)

Metal door, gate, sheet, post, crossmember, brace or support
DOT Under Ride Guard

Missing Items

DOT Under Ride Guard
Door or Gate
Removable side or section
Refrigeration unit parts

Interior

Interior not free of dunnage, bracing and/or debris
Contamination

Other

Correction of temporary repairs

Citations

Citations may be rebilled from the owner to the user of the equipment

The foregoing list does not include Defects as defined in Section B, Definitions of Terms.

DECISION: The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

JIM MICHALSKI
Ocean Carrier Member

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. The panel noted the following:

- The Motor Carrier accepted a chassis that, in their words, had a bumper where "the bend is very slight and would not affect the functionality of the chassis". The Equipment Provider advised that, upon return, "the DOT Underride Guard is bent more severely, and is now past the 3" limit, and is DOT condemnable and needs repair". The images provided illustrate a change in the condition of the bumper.
- The chassis had non-condemnable wear and tear at the time of interchange to the Motor Carrier, but was interchanged back to the Equipment Provider with condemnable damage.
- The Motor Carrier further mentions the "discrepancies that we see between checkers upon ingate and outgate". It should be noted the Motor Carrier has the opportunity and responsibility to verify the condition of the equipment upon receipt and not rely on the checkers.
- The party causing damage to equipment to the extent that the equipment is no longer serviceable is responsible for the cost of repair.
- It is apparent from the pictures and case facts that excessive damage was sustained while the equipment was in the Motor Carrier's possession.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 1, 2017) to make its decision:

D. Equipment Interchange

3. Equipment Condition

- a. Warranty: WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.

- 1) Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement. **[Revised 01/17/05]**

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**

- 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

Exhibit C to UIIA - (Added to UIIA on 07/25/07, Last Revised 09/19/16)

Motor Carrier Responsibility During the Interchange Period

Bent (where proper operation or function of unit is impaired)

Metal door, gate, sheet, post, crossmember, brace or support

DOT Under Ride Guard

The foregoing list does not include Defects as defined in Section B, Definitions of Terms.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

GORDON GRAHAM
Rail Carrier Member

KEVIN LHOTAK
Motor Carrier Member

In the Dispute Between

Case Number: **20171124-37-XXXP-MR-TR**

Date of Decision: 01/31/2018

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	289573669	TSXZ906129	10/03/17	Global 1/Global 4	6/27/17	7/28/17	10/03/17	10/12/17	11/10/17	11/24/17
2	289679299		10/09/17	Dolton/Global 2	7/19/17	7/24/17	10/09/17	10/12/17	11/10/17	11/24/17

The Motor Carrier's basis of dispute is Sections D.2.a. and D.3.d of the UIIA. The Equipment Provider furnished ingate images of the tire for Invoice 1; however the Motor Carrier does not believe the images depicted any damage or a run flat of the LIR tire. The images provided only showed shadows and glares making it impossible to accurately assess the tire tread depth on the provided AGS images. The Motor Carrier believes that the unit was returned in the same condition as when it was outgated, reasonable wear and tear excepted. The Motor Carrier also stated that on Invoice 2 the AGS images provided from the Equipment Provider do not depict a cut spotted to 0/32 inches and the tread depth of the tire cannot be determined. As with the first invoice, the Motor Carrier believes the equipment associated with Invoice 2 was also returned to the Equipment Provider in the same condition as when it was outgated, reasonable wear and tear excepted.

The Equipment Provider responded to the claim stating that the Motor Carrier is required to perform a thorough inspection of the unit prior to accepting for interchange. The Equipment Provider noted that according to the documentation associated with Invoice 1, the unit outgated with no damage notated. The unit then ingated with a concave tire, which is an indication of a flat condition. The Equipment Provider also indicated that the pre-repair photos show the tubing of the tire shredded inside. In accordance with Exhibit A, Item 8.a., the Equipment Provider indicated that the Motor Carrier

is to check for under inflation of tires (among other items) prior to accepting the unit for interchange. The Equipment Provider added that Exhibit C of the UIIA includes damage to a run flat tire and/or tube during the interchange period as the Motor Carrier's responsibility. Consequently, the Equipment Provider believes Invoice 1 should stand.

In regards to Invoice 2, the Equipment Provider noted that there was a typographical error on the outgate interchange documentation in regards to the alpha portion of the equipment identification number. The outgate references NSFZ for the chassis ID and it should be NSPZ as evidenced by the AGS images. The Equipment Provider believes this invoice is also valid as billed as both the AGS tire images and the pre-repair photo show that the tire suffered a major injury cutting through numerous treads exceeding well beyond a 1/4 inch. If the Motor Carrier alleges the condition was pre-existing, then it should have discovered the damage during its pre-trip inspection and corrected the condition prior to departing the ramp.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider for the following reasons:

- Invoice 1 - The LIR tire is concave. It definitely appears to be flat. Additionally, a close examination of the LOR tire visible on TSXZ 906129 G4 INGATE FULL - Invoice 1 AGS gate image shows that the outside tire was noticeably scuffed or scrapped. That suggests the tires impacted something. No damage was listed on the outgate interchange from CP for either the LIR or LOR tires. The LIR tire was flat when it arrived at the rail. As a result, the Motor Carrier is responsible for the damage.
- Invoice 2 - There is no damage listed on the outgate interchange from CP. The Equipment Provider has provided ingate images of the LOF tire that shows the tire was cut across several treads. The Equipment Provider provided post ingate images of the tire that clearly show the tread was cut through more than one plies of fabric at the shoulder. This meets the requirement for Motor Carrier responsibility listed in Exhibit C. In addition, Section 7.A paragraph 3 of the Equipment Provider's Addendum to the UIIA provides that any damage discovered after the equipment is interchanged will be considered the responsibility of the Motor Carrier provided the damage was captured on an AGS image at the time of interchange. Both panel members believe the AGS images and post interchange image supplied by the EP meet the requirement of UIIA Section E.3. (a) and EP's Addendum Section 7.A.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 1, 2017) to make its decision:

UIIA EQUIPMENT PROVIDERS ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

7. EQUIPMENT INTERCHANGE RECEIPTS: GATE INSPECTIONS.

- A. At time of in-gate, the rails gatehouse operator will document the time of Interchange and other information on EP's J-1 report or in an electronic data format, including, if applicable, any Equipment damage noted by the gatehouse operator. When the gatehouse operator has completed the inspection, the gatehouse operator will give the J-1, or a similar receipt to the Motor Carrier's driver. If a J-1 report is used, both the gatehouse operator and the Motor Carrier's driver will sign the J-1. If, however, a receipt from an electronic data format is

prepared, neither the gatehouse operator nor the Motor Carrier's driver will sign the receipt that is given to the Motor Carrier's driver. The J-1 report or the printed receipt from an electronic device will serve as the "Equipment Interchange Receipt".

At a manual gate, any damage to Equipment discovered by EP's gatehouse operator will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gate house operator.

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including but not limited to any subsequent inspection by EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to EP's later attention. The damage brought to EP's later attention must be captured on an AGS image.

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

3. Equipment Condition

- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**
 - 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**
 - 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit A to UIIA

- 8. Tires (Check that the following conditions are **not** present.)
 - a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
 - b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
 - c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
 - d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less

in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM WILLIAMS
Rail Carrier Member

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. The panel noted the following:

- The outgate interchange executed on 12/19/17 does not contain any type of damage notation. It was a clean outgate interchange. The ingate interchange executed on 12/21/17 does include a notation that the equipment was damaged.
- The Motor Carrier argued that the damage description listed on the ingate interchange does not sufficiently describe the damage. The Motor Carrier further argues that its driver was not allowed to make any notation on the ingate interchange concerning the damage being reported by the terminal operator. The Motor Carrier contends these are both violations of UIIA Section D.2.a.
- The Equipment Provider states that the damage notation was clearly visible on the ingate interchange which the driver signed. The Equipment Provider also states that the driver had the opportunity to challenge the initial inspection performed on the equipment, and request a second inspection of the equipment. The Equipment Provider noted that no second inspection was requested on this equipment, and provided the terminals internal log as evidence to support their position.
- The evidence confirms that the Motor Carrier did have the opportunity to request a second inspection. The driver could have had additional information describing the damage added to the interchange. The Equipment Provider did comply with Section D.2.a of the UIIA regarding the damage listed on the ingate interchange receipt as well as Section E.3.a.(1) regarding invoicing the Motor Carrier for equipment repairs.
- The container interchanged out under a clean interchange and in with damage notated.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (September 16, 2017) to make its decision:

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

3. Equipment Condition

- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**

- 1) The responsibility for the repair and/or replacement of equipment items during the Interchange

Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

- 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of an AGS gate transaction such documentation must include images depicting the condition of the Equipment at the time of that Interchange. **[Revised 09/16/17]**

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

ROBERT CANNIZZARO
Ocean Carrier Member

In the Dispute Between

UIIA MC,
Appellant, and

UIIA EP,
Respondent

Case Number: **20190607-43-XXXP-MR-TR**

Date of Decision: 02/11/2020

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	299561470	TSFZ551517	3/28/19	CP Schiller Park/UP Global 1	2/21/19	2/21/19	3/28/19	4/24/19	5/23/19	6/7/19
2	300028477	EMHU270791	4/23/19	CP Schiller Park/UP Global 2	2/23/19	1/13/19	4/23/19	4/24/19	5/23/19	6/7/19

The Motor Carrier is disputing two repair invoices. The basis of the disputes are related to Section D.2.a., D.3.d. and E.3.a.(2) of the UIIA. For **Invoice 1**, the Motor Carrier states that this was a crosstown move from CP Schiller Park (non-AGS facility) to UP Global 1 (AGS facility). The Equipment Provider issued an invoice for cut/torn tire on the LOF. The Motor Carrier does not believe the AGS image provided by the Equipment Provider shows the damage being billed. The AGS image is not marked where there is a supposed cut/tear to the tire. The Motor Carrier argues that for a repair invoice to be valid it must detail the repairs done and also include factual documentation supporting the Equipment Provider's determination that the Motor Carrier is responsible for the repair. The Motor Carrier believes the invoice is not valid as there was not sufficient evidence provided to prove the tire was cut/torn and the Motor Carrier believes the equipment was returned in the same condition it was received reasonable wear and tear excepted.

For **Invoice 2**, the Motor Carrier states that this was also a crosstown move that outgated at a non-AGS facility and ingated at an AGS facility. The Equipment Provider issued an invoice for LSC cut/torn container. The Motor Carrier argues that the damage was pre-existing and they returned the equipment to the Equipment Provider in the same condition it was received, reasonable wear and tear excepted. The Motor Carrier also presented

a previous J1 in-gate receipt that showed a different Motor Carrier ingating the same equipment at a Norfolk Southern yard with the same damage written up. The Motor Carrier believes they are not responsible for the charges based on D.3.d. of the UIIA.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim regarding both invoices. For **Invoice 1**, the Equipment Provider stated that the fact that this involved a crosstown move is irrelevant as the UIIA is the contractual agreement between the Motor Carrier in possession of the unit reported under their interchange with the Equipment Provider. The Equipment Provider stated that the unit outgated with no tire damage noted and ingated on the same day with the tire visibly off the rim. A review of the pre-repair photos contributed the damage to the root cause of a cut torn tire, which the Motor Carrier was billed for. Consequently, the Equipment Provider believes that Invoice 1 is valid as billed.

For **Invoice 2**, the Equipment Provider stated that the unit outgated with no damage reported. The unit ingated Global 2 with visible cuts near the top of the container's LSC. If this condition was present at outgate, Section D.2.a. states that the Motor Carrier shall report the condition of the equipment at the time of interchange. There was no outgate documentation provided containing the LSC panel damage notation. The Equipment Provider indicated that the previous J1 that the Motor Carrier provided was a repair that took place as a result of additional damage detected at the Global 2 ingate over three and half months earlier on 9/27/18. The Equipment Provider indicated that they inspected the container on 11/9/18 and no repairable damage was detected at that time. Since the unit outgated with a clean EIR and ingated with damage noted, the Equipment Provider believes that Invoice 2 is also correct as billed.

DECISION:

Invoice 1 - #299561470

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, the Motor Carrier panel member found in favor of the Motor Carrier stating that pursuant to Section E.3.a.(2) of the UIIA, the photographic evidence is very unclear and does not show a cut/torn tire for which the Motor Carrier was invoiced. Based on the evidence submitted there is not enough factual information to support the charge back to the Motor Carrier. The Rail Carrier panel member disagreed finding in favor of the Equipment Provider noting the EQ owner's documentation does support a repair for cut/torn; it does clearly show that the tire bead is off the rim indicating damage.

Because the modal members could not reach a consensus, the senior DRP panel was brought in to render the final decision on Invoice 1 pursuant to Exhibit D.3 of the UIIA.

Based on the documentation presented, the senior arbitration panel members rendered the decision in favor of the Motor Carrier on **invoice 1** for the full amount. It was the consensus of all three senior arbitration panel members that the images provided did not provide evidence of a cut/torn tire. Therefore, the senior arbitration agreed that the Equipment Provider did not comply with Section E.3.a.(2) by providing sufficient documentation to support the repair being billed.

Invoice 2 - #300028477 - After careful review of all documents and the evidence submitted by the parties, the modal panel members unanimously find in favor of the Equipment Provider. The Motor Carrier panel member noted that the Motor Carrier did not report any damage at time of outgate. Per section D.2.a. of the UIIA, any observable damage must be reported at time of interchange. At the time of ingate there was reportable damage.

Even if the Motor Carrier did not cause the damage, unfortunately they are still held responsible to report damage at time of outgate. The Rail Carrier panel member agreed stating that the application of photos showing that a defect in the same area prior to this transaction does not automatically equal pre-existing condition. It is correct that the EP failed to follow the rules in place to seek J2 coverage for this invoice. However, that is an agreement between railroads and is outside UIIA. Consequently, based solely on the terms of the UIIA and the lack of evidence to sufficiently prove the damage condition was pre-existing, I find in favor of the Equipment Provider. .

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (October 1, 2018) to make its decision:

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

3. Equipment Condition

- d. Motor Carrier will reinspect and recertify the Equipment if the existing inspection will expire prior to the Motor Carrier's return of the Equipment to the Provider. This provision is only applicable to the Provider of the Chassis. **[Revised 06/08/15]**

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 2) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of a gate transaction using Recorded Images such documentation must include images depicting the condition of the Equipment at the time of that Interchange. **[Revised 10/01/18]**

Exhibit C to UIIA, Motor Carrier Responsibility during the Interchange Period (Added to UIIA on 07/25/07, Last Revised 10/01/18)

Tires

Tire sidewall, shoulder and/or tread cut/punctured/damaged exposing belt material

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

Run Flat Damage to tire and/or tube

Missing Tire, tube or rim

EXHIBIT D TO THE UIIA, BINDING ARBITRATION PROCESS GUIDELINES (Added to UIIA on 8/1/08) (Last Revised 09/16/17)

3. A two-member arbitration panel will be appointed by IANA to handle disputed invoices submitted for arbitration. The panel will consist of one IIEC member from each mode involved in the dispute. In the event that the arbitrators from the involved modes cannot agree on a resolution of this dispute, a decision will be rendered by a majority of a senior panel consisting of the longest tenured IIEC member or alternate from each mode, as determined by the Chairperson. **[Revised 09/16/17]**

DECISION: **Invoice 1 - #299561470** - The Senior DRP Panel unanimously finds in favor of the Motor Carrier.

Invoice 2 - #300028477 - The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

DAVE HENSAL
Motor Carrier Modal Panel Member

JEREMY LASKOS
Rail Carrier Modal Panel Member

DAVE MANNING
Motor Carrier Senior DRP Panel Member

AL SMERALDO
Ocean Carrier Senior DRP Panel Member

BILL TRAUB
Rail Carrier Senior DRP Panel Member