

## A PRIMA FACIE CASE . . .

Prima Facie is a legal term that stems from the Latin meaning “on its face, or at first glance”. It means to establish that the mover is guilty of damage or loss. To do this the claimant must show all of the following:

- The item was tendered (given) to the carrier *in a certain condition*;
- That the item was delivered in damaged condition or not delivered; and
- The claimant must show the “measure of damages”.

Once the claimant meets all three of the requirements the mover must accept liability unless they can show that the damage occurred due to one of the following:

- Act of God, public authority, or negligence of the owner and/or owner’s agent.
- Hostile or warlike action in the time of peace or war.
- Any weapon of war employing atomic fission or radioactive force.
- Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such occurrence, seizure, or destruction, under quarantine or customs regulations, confiscation by order of any government of public authority, or risks or contraband or illegal transportation or trade.
- Strikes, lockouts, labor disturbances, riots, civil commotion, actions of person or persons taking part in such occurrence or disorder.
- Inherent vice of the article or infestations by mollusks, arachnids, crustaceans, parasites, or other types of pests; fumigations or decontamination when not the fault of the carrier.

It is difficult to deny due to one of these causes. The carrier has to prove that the above cause was the “sole and proximate” cause of damage, and that negligence of the carrier played no part.