Admiralty Law & Marine Insurance Update

RVOC 2017

Dennis Nixon, UNOLS Legal Advisor
Outline

• Global Marine Insurance Update
• UNOLS Fleet Insurance Update
• Jones Act and Injuries at Sea
• Public Vessel Act
• Relevant News & Legal Decisions
Global marine insurance report

Astrid Seltmann, IUMI F&F vice chairman, Analyst/Actuary @ Cefor, the Nordic Association of Marine Insurers
THE RISK EXPOSURE
PORTFOLIO SHARE OF SHIPS WITH VALUES XS USD 100 MILLION

Inflow of high-value vessels continues.

Source: Cefor Nordic Marine Insurance Statistics as of June 2016
HULL – ULTIMATE LOSS RATIOS*
EUROPE/USA**, UNDERWRITING YEARS 1996 TO 2015

2015: impacted by 2015 major losses and deteriorating premiums.

* Technical break even: gross loss ratio does not exceed 100% minus the expense ratio (acquisition cost, capital cost, management expenses)
** Data: Belgium, France, Germany, Italy, Spain (until 2007), UK, USA

2015 Hull acquisition cost % as reported by some countries: 12%-18%
CHANGE IN VALUES ON RENEWAL
= VALUE ON RENEWAL / VALUE PREVIOUS UW YEAR FOR SAME VESSELS

Source: Cefor Nordic Marine Insurance Statistics as of June 2016
Jones Act and Injuries at Sea

- Scientists or crew under the ORVA
- Temporal requirement for crew
- Blessed Trinity of seamen’s remedies:
  - Maintenance and Cure
  - Jones Act
  - Doctrine of Unseaworthiness
Public Vessel Act

- Limited waiver of sovereign immunity (1925)
- Public vessels not defined in great detail
- Would provide several advantages for UNOLS fleet
- Federal agencies have historically resisted claiming public vessel status because of potential clearance issues
- Perhaps the time to ask the question again to determine costs and benefits of restructuring charter party and cooperative agreements
Recent Maritime Accidents and Sinkings
Aurora Australis Grounded in Antarctica
Seaman Falls from Accommodation Ladder
One Dead, Three Injured in Lifeboat Drill
Explosion Kills Cruise Ship Crewmember in Port Chalmers
Captain Found Asleep in Baltimore Cruise Crash
Florida Man Pays $1M to USCG after False Search
Captain Charged with Drunkenness after Near Miss
22 School Children Rescued from Sinking Chesapeake Bay Education Vessel
Sinking of *El Faro* and the Limited Liability Act
Tour boat Sinking Highlights Problems with Evacuation Regulations
Historic R/V Hero Sinks in Washington State
Automated Technology News
Automation and Maritime Accident Concerns
Drone Applications in the Maritime Industry
Proposal for Global Oceanographic ASV Fleet
Rolls Royce: Automated Shipping by 2020
China Returns Seized U.S. Underwater Drone
Vessel News
US Navy Transfers *Knorr* to Mexico
New Research Vessel for Bangladesh
China’s New Polar Research Vessel under Construction
New Norwegian Research Vessel Sets Sail under UN Flag
New Fisheries Research Vessel Ordered for Germany
Report: Russian Spy Ship off Delaware
Royal Navy Chases Spanish R/V away from Gibraltar
R/V Polarstern Will Drift with Arctic Sea Ice in 2019-20 for Experimental Expedition
Research & Regulation News
Update on Ballast Water Management
Advocates Condemn Norwegian Whale Hunt Quota
New Research on Ships and Subsurface Noise
U.S. Customs to Close Jones Act Loophole
Punitive Damages and the Jones Act
Relevant Legal Decisions

Jefferson v. Weeks Marine, Inc.

• Plaintiff Jefferson worked for Weeks Marine as a deckhand and was later transferred to marine yard position

• Jefferson suffered injury moving debris from a dock to a vessel

• Claim filed under Jones Act for compensation related to “maritime nature” of work

• Court noted seaman status changes with assignment of specific duties, denied Jones Act claim
Relevant Legal Decisions

Institute of Cetacean Research v. Sea Shepherd Society

• ICR filed lawsuit against Sea Shepherd and activist Paul Watson for harassment of permitted whale research vessels

• Related to specific events in 2013 involving dangerous behavior and collision with Japanese vessel

• Preliminary injunction included $2.5 million in damages related to collision damages as well as restraint requirements
Relevant Legal Decisions

United States v. Citgo Asphalt Refining Co.

• In 2004, oil tanker *MT Athos* struck an abandoned ship anchor while coming to port in Delaware River

• Striking led to spill of approximately 264,000 gallons of crude oil

• Legal issue in question focused on responsibility of charter provision for safe berth

• No credible evidence showed poor navigation or seamanship. Negligence claims held against wharf owner, award of $55 million
Relevant Legal Decisions

Mohammed Soliman v. Maersk Line Ltd.

- Soliman was injured while tossing a heavy bag into port garbage disposal, tearing his rotator cuff

- Claims filed against employer Maersk under the Jones Act seek compensation for loss of employment

- Nature of Jones Act demands that causation be judged under a reduced standard in regard to employer negligence

- Maersk breached duty of care by failing to conduct a risk assessment of its garbage disposal procedures
Relevant Legal Decisions

Nanquin v. Elevating Boats, LLC

• A shipyard crane failed during ‘test-block’ operation, Nanquin escaped crane house but broke both feet and suffered severe hernia in crash

• Nanquin filed instant Jones Act suit alleging that Elevating Boats was negligent in construction/maintenance of crane, EBI countered claims regarding seaman status

• ‘Two-pronged’ test to determine seaman status (contribution to vessel function & connection to vessel in navigation)

• Jury concluded Nanquin was a seaman under Jones Act, entitled to compensation
Conclusions