

# Admiralty Law and Marine Insurance Update



# Outline

- Marine Insurance 101
- UNOLS Fleet Insurance Numbers
- World Insurance Market
- Relevant News
- Relevant Legal Decisions
- Conclusions

# Marine Insurance 101

Why do UNOLS vessels carry marine insurance, and what types and amounts are required?

# Hull Policy

- Based on the “agreed value” of the vessel, a dynamic number that can change every year – what I could sell it for tomorrow
- Generally operates like the collision policy on your car
- Historically, government owned vessels do not carry hull insurance because the federal government self-insures property
- But there is one risk in the hull policy that relates to liability issues – salvage expenses, which can rise to half of the value of the vessel saved
- Therefore, a typical UNOLS vessel only carries insurance under the salvage clause of the Hull policy

# Protection and Indemnity Policy

- Protects against liabilities faced during vessel operation, including collision, allision, injuries to personnel on board, and pollution
- Also roughly based on vessel's value, because of the Limitation of Liability Act of 1851
- Historically, smaller UNOLS vessels have been required to carry a minimum of \$10 million, large vessels at \$25 million
- However, the three new large vessels (Ride, Armstrong, Sikuliaq) have broken new ground with limits of at least \$75 million

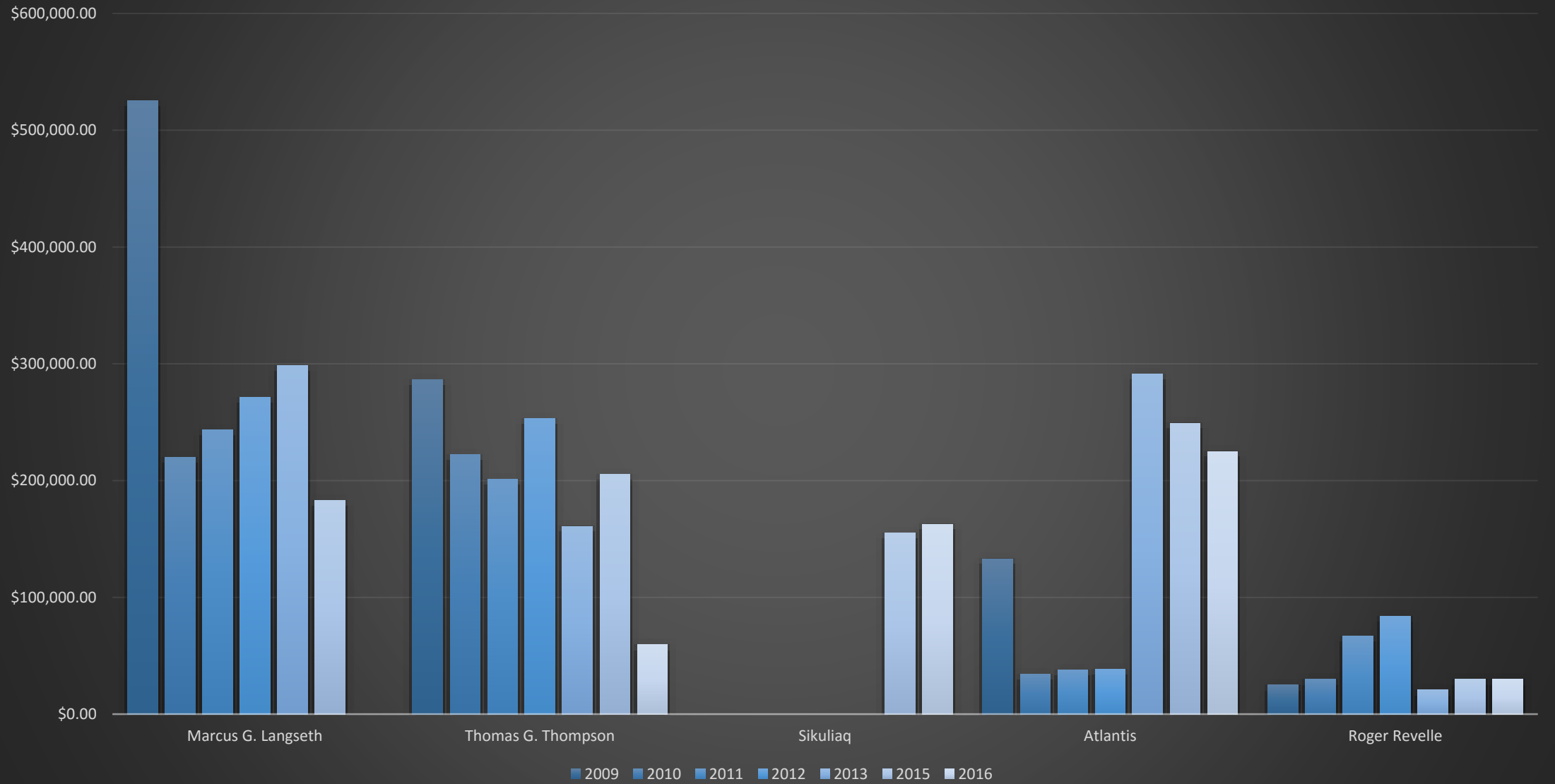
# Injuries on Board Most Common Risk

- Under the Oceanographic Research Vessels Act of 1965, only two classes of people exist aboard a research vessel – members of the crew, or members of the scientific party. No passengers!
- Members of the crew given special status by the Courts and Congress, entitling them to the “Blessed Trinity” of remedies: maintenance and cure, the Jones Act, and unseaworthiness doctrine
- Members of the scientific party must look to their home institutions for illnesses or injuries where there was no liability on the part of the ship. Potential for subrogation by the scientist’s insurer if his injury is caused by the vessel’s unseaworthiness

# UNOLS Insurance

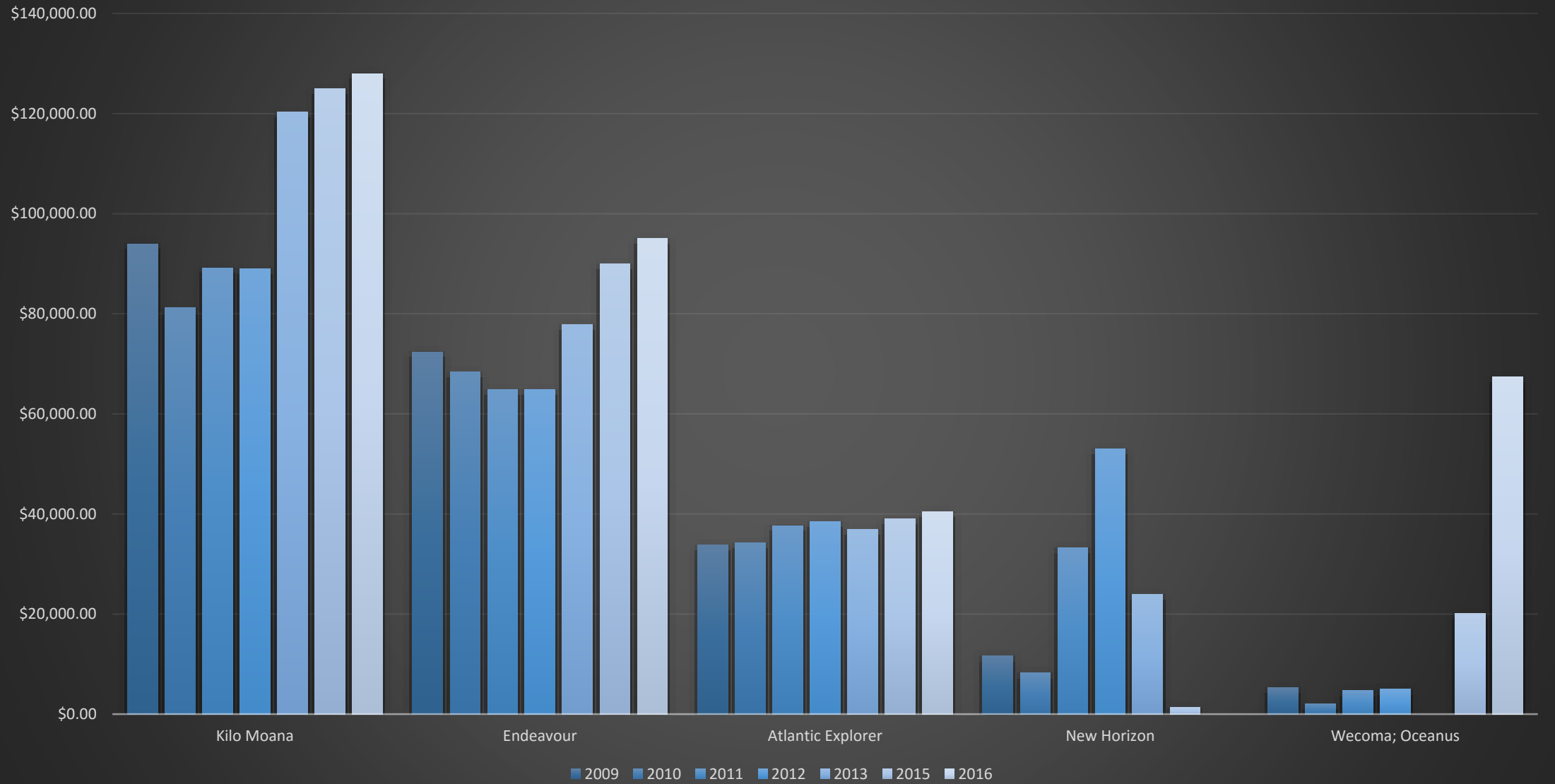


## UNOLS Insurance Global/Ocean

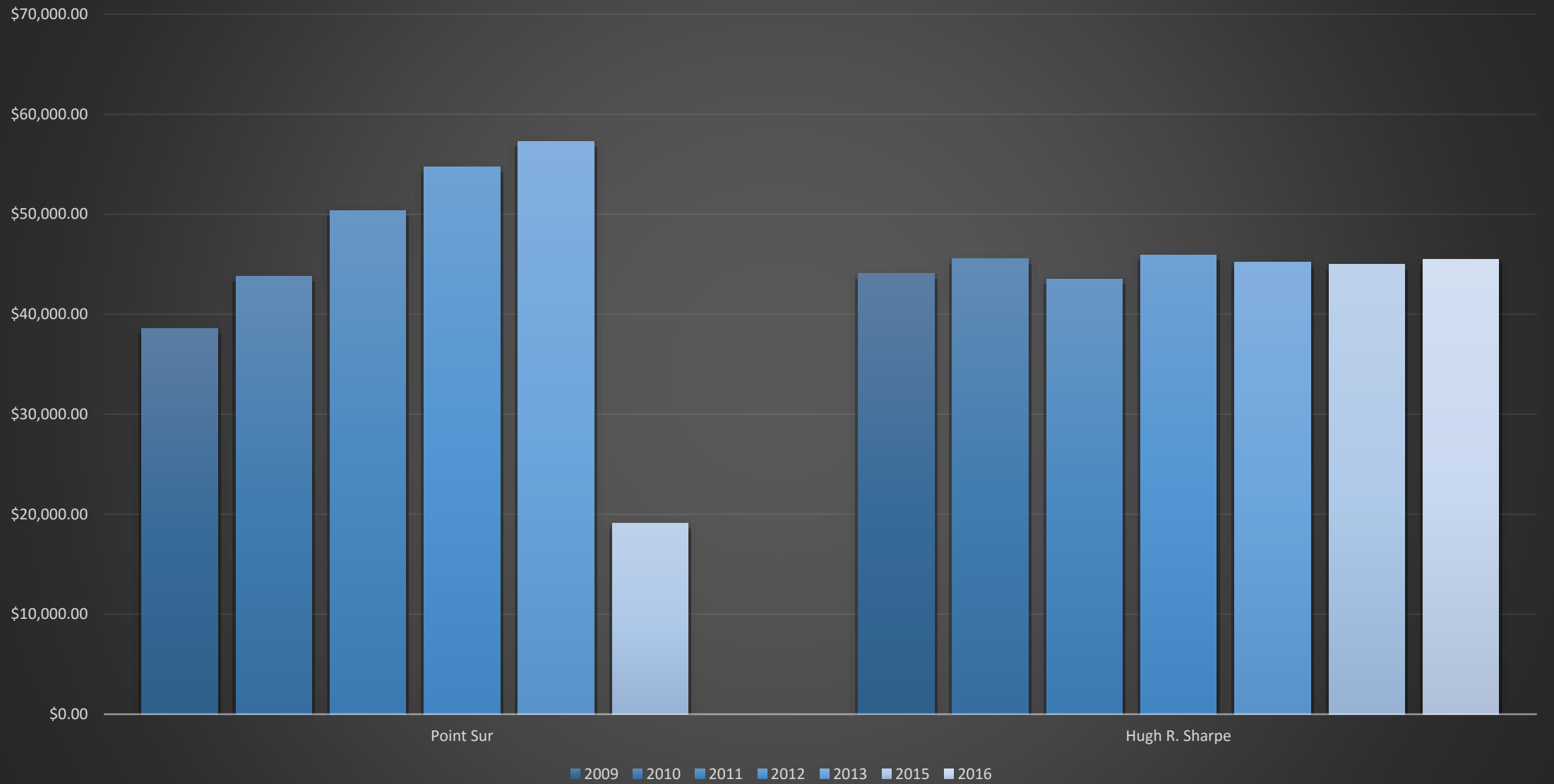




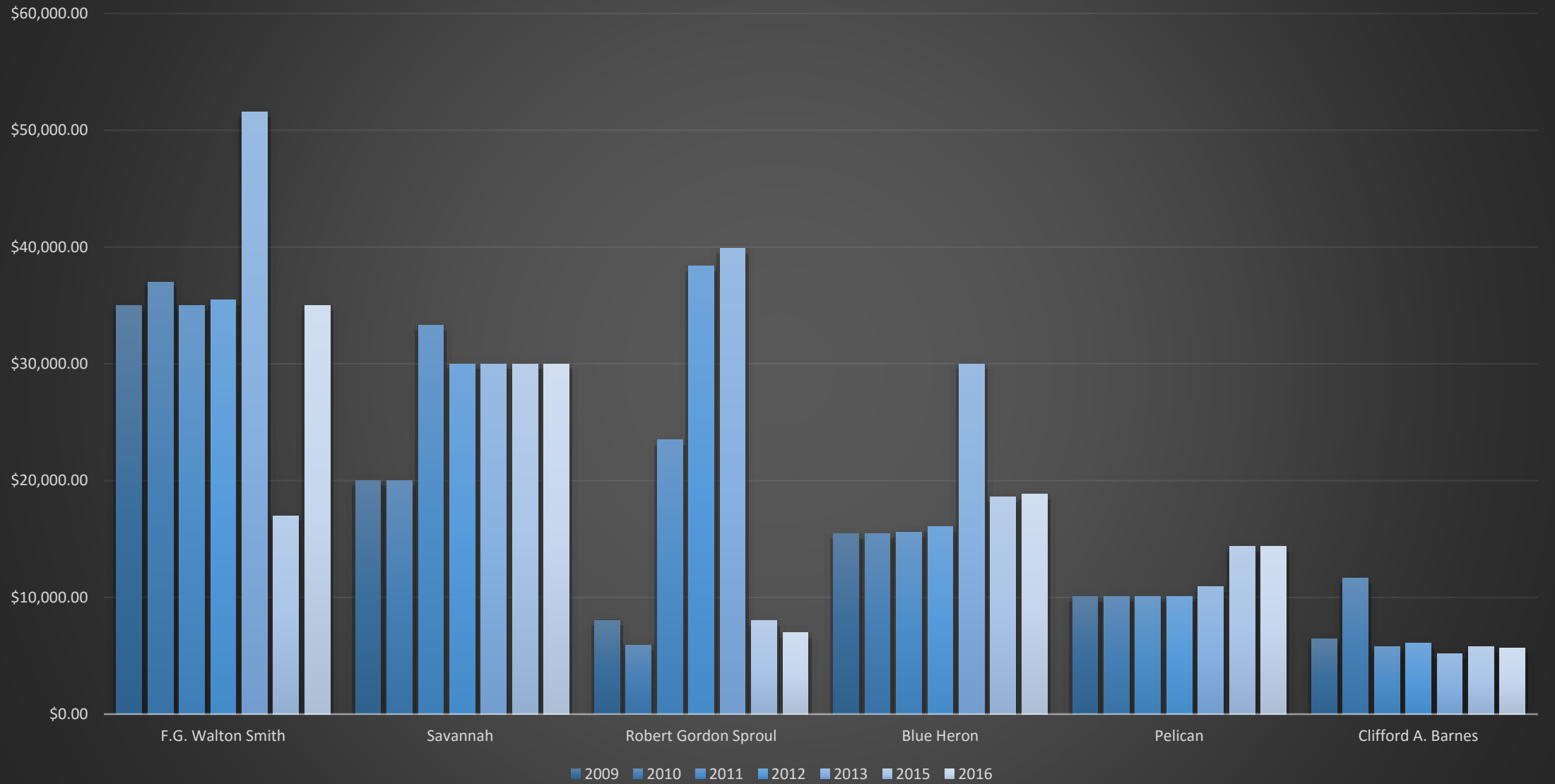
## UNOLS Insurance Ocean/Intermediate



## UNOLS Insurance Regional



## UNOLS Insurance Coastal/Local

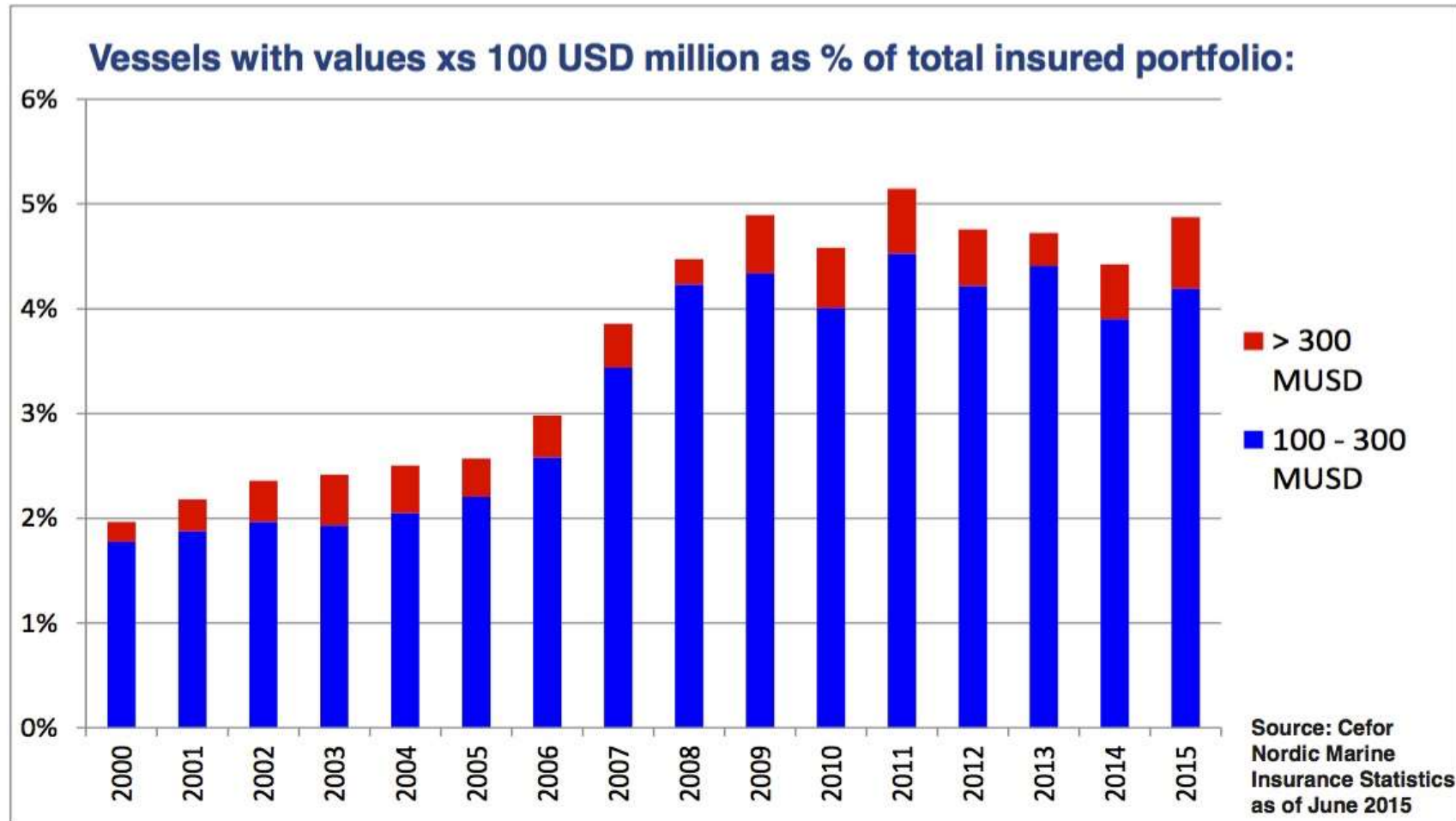


# World Insurance Market



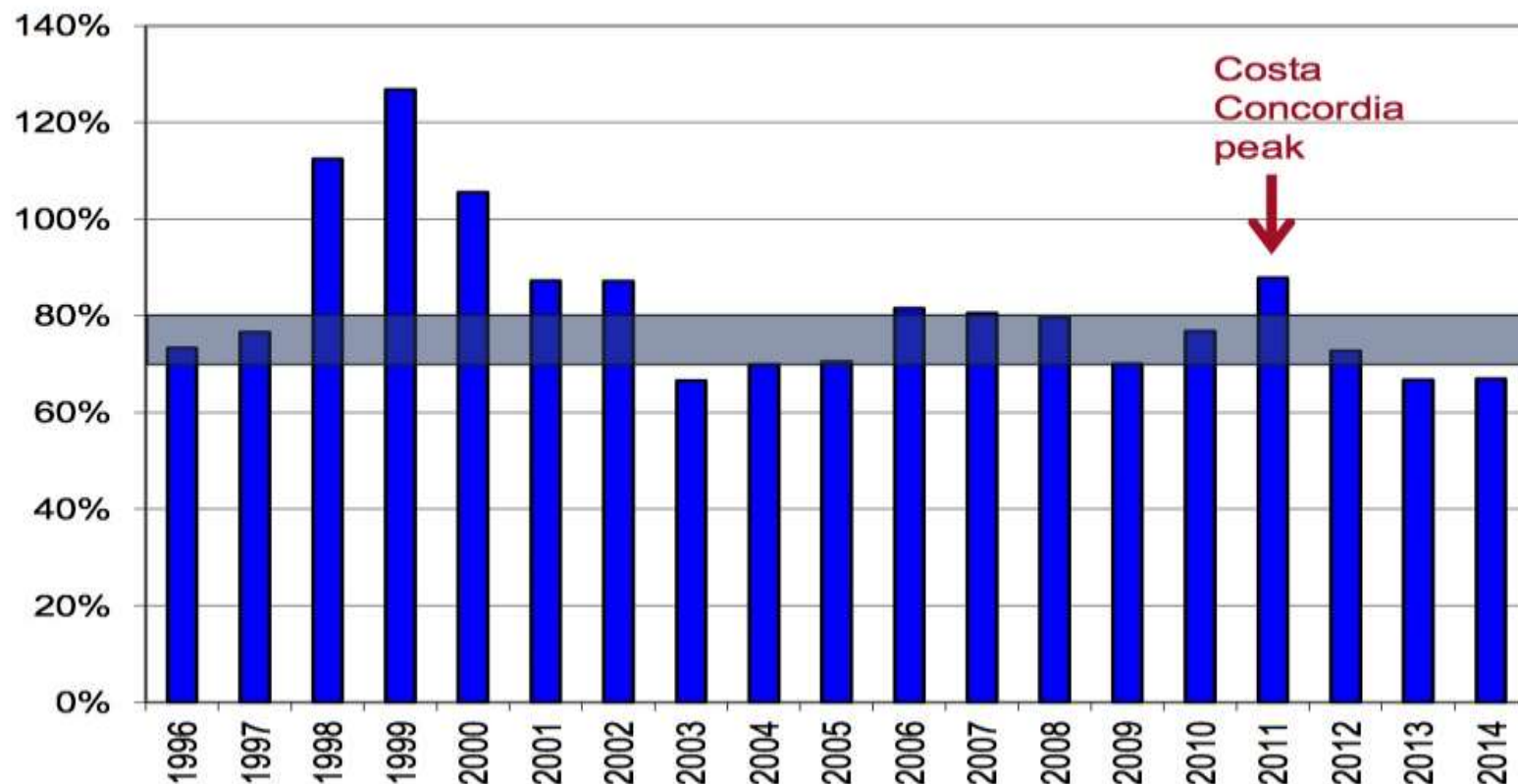
# THE RISK EXPOSURE –

## INFLOW OF HIGH-VALUE VESSELS CONTINUES



# HULL – ULTIMATE LOSS RATIOS\*

EUROPE/USA\*\*, UNDERWRITING YEARS 1996 TO 2014



## Since 2009:

Repair cost relative stable. Volatility by major loss impact (strong until 2011).

**2014:** Record-low major loss impact.

Technical profit for first time in years?

**2013** also improved (USD effect, when repairs not in USD?)

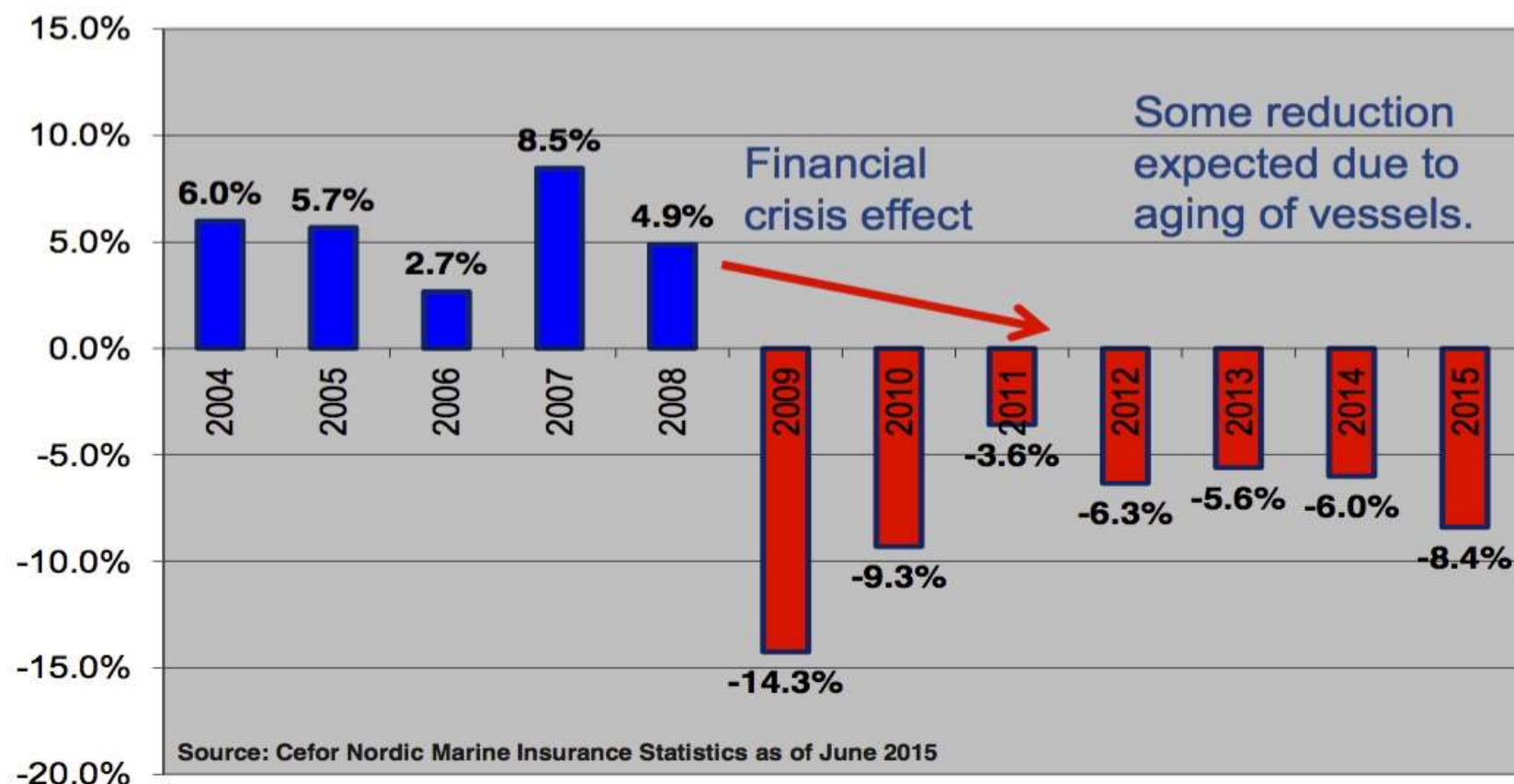
\* Technical break even: gross loss ratio does not exceed 100% minus the expense ratio (acquisition cost, capital cost, management expenses)

\*\* Data: Belgium, France, Germany, (Netherlands), Italy, Spain (until 2007), UK, USA



# CHANGE IN VALUES ON RENEWAL

= VALUE ON RENEWAL / VALUE PREVIOUS UW YEAR FOR SAME VESSELS



# Relevant News – RV Knorr Moves to Mexico





# *RV Neil Armstrong* Arrives in Woods Hole



Monday, 3/14: *R/V Neil Armstrong* and *Ex-Knorr* share a meeting near Cape Hatteras, NC

# Sinking of *El Faro*





# New Vessel Development for Taiwanese Ocean Research Institute



# *EV Nautilus* Spills Diesel in Ogden Point (Victoria, BC)



# *Aurora Australis* Runs Aground in Antarctica





# *LCS Fort Worth* Crippled by “Botched Maintenance”



# New Updates on Ballast Water Management



# Advancements in Arctic Research Vessel Protocol





# Legal Challenges of Autonomous Surface Vessels



# Rolls Royce: 'Autonomous Shipping by 2020'



# Top Ten Relevant Legal Decisions

No explicit research vessel cases, but look for the common theme of falling

# #1

## Neal v. Int'l Marine Inc.

- Engineer Neal sued employer Int'l in accordance with Jones Act regarding maintenance and cure / lost wages due to serious injury
- Neal “improperly entered a mechanical deck and crawl space through the vessel’s air intake”, sustained damage to head and neck
- 8 years of tax returns filed before case duration raised questions of Neal’s credibility
- Judge awarded \$1,531,000 related to pain / loss of past and future wages

## #2

## Lambert v. United States

- Marine repair estimator Lambert claimed damages under LHWCA after falling through cargo deck during ship check duties
- Fall from unprotected gap in walkway led to complex head, shoulder injuries requiring bone graft and three surgeries
- Lambert granted \$1.76 million by judge for lost/future wages, medical expense and pain
- Award later reduced 50% in judgment

# #3

## Newsom III v. Jantran Inc.

- Technician Newsom sought damages under Jones Act against Jantran for medical expense compensation and pain after falling through unsecured engine room deck plating
- Accident residuals included arthroscopic surgery and permanent nerve damage
- Jantran argued that “under repair” status of vessel exempted Jones Act liability
- Jury awarded Newsom \$2.2 million, later reduced by 56%

## #4          Francois v. Diamond Offshore Co.

- Crane operator Francois sued employer Diamond Offshore under Jones Act for wage compensation and past/future physical pain
- Francois stepped through missing grating and fell overboard, sustained injuries to lung, ribs and knee
- Expert witness asserted missing grating was in violation of OSHA regulation
- Jury awarded \$569,373 in damages

## #5 Jackson ex rel. Williams v. Groton

- Relative of deceased seaman Williams filed wrongful death lawsuit in accordance with both LHWCA and Jones Act
- Williams fell and drowned after working vessel was flipped by dock line winch
- Complaint argued employer failed to provide PFDs and other safety gear
- Judge granted quantum award of \$5,751,000, was later reduced by 25%



## #6 Maclay ex rel. Hawkins v. MV Sahara

- Relative of deceased office administrator Hawkins brought marine survival and wrongful death lawsuit against vessel owner
- Hawkins fell through unprotected upper deck and died while assisting construction clean-up work aboard a converted research vessel
- Vessel owner failed to retain LHWCA coverage, could not claim negligence against Hawkins
- A jury awarded \$3,450,000 in damages with interest of \$600,000

# #7

## In re Moran Towing Corp.

- Relatives of deceased seaman Young filed claim for damages under Jones Act against employer Moran Towing
- Young was hit and killed instantly by tightened tow line aboard working tug
- Judge claimed that inadequate training and safety procedures contributed to tug's unseaworthiness
- Award of \$2 million in damages granted for Young family

## #8                      Jefferson v. Weeks Marine, Inc.

- Plaintiff worked for three months as deckhand aboard dredge, was later transferred to a marine yard operated by employer
- Plaintiff sustained injuries in marine yard “performing work of maritime nature”, claims compensation under Jones Act
- Questions raised over the change of seaman status under Jones Act in relation to employee reassignment of duty
- No damages awarded

## #9 Rigsby v. Shawneetown Harbor Services

- Plaintiff was working aboard crane barge, suffered neck injury while moving cement blocks
- Coast Guard logbook signed by plaintiff on date of injury declared no accidents, claim that no accident report forms were made available until later
- Vessel was declared to have safe working conditions, no significant evidence of liability on employer for unseaworthiness claim

## #10      Meche v. Key Marine Services, LLC

- Plaintiff was captain of a vessel tied to an oil rig, suffered a back injury attempting to open a hatch to check machinery during heavy seas
- Employer and operator refused to pay maintenance and cure under Jones Act, believed that plaintiff was attempting to use pre-existing injury to lie about damages suffered
- Employer did not provide pre-employment medical examination, however plaintiff concealed material information from employer which led to eventual back injury
- No maintenance and cure awarded

# Conclusions

- Insurance market relatively stable, look for stable or even slightly reduced premiums
- Continued vigilance will keep the total insurance expense under 1% of vessel operating costs
- New builds are significantly more expensive, and have forced a new look at appropriate limits
- Fairly balanced series of decisions regarding injuries and fatalities aboard vessels
- Trend towards autonomous vessels accelerating despite legal questions

# Questions?

