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Captain's Coverage Presentation

For:



March, 2009 Meeting

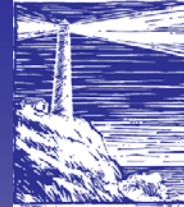
March 23rd, 2009

Presented by James Robinson of Robinson & Son



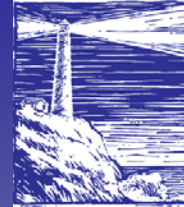
- ❖ Recent Incidents that indicate a trend in lawsuits against the individual mariner
- ❖ Protections available to the individual mariner
- ❖ What is Captain's Coverage?

Please note that these slides are meant to assist in understanding insurance policies available. All coverage and limits are governed by actual policy conditions.



Maritime attorney John D. Kimball writes:

“Another trend in the US legal system is the application of criminal law in maritime cases. This has been most pronounced in environmental cases, but also can be seen in antitrust cases and cases involving passenger deaths. The Seaman’s Manslaughter Act has recently been used in prosecutions against individual ship operators who allowed underage drinking on a pleasure cruise, which resulted in the death of a minor, and in the Staten Island Ferry case against senior management of New York’s ferry operation. This trend can be expected to continue and, not surprisingly, criminal behavior will be met by criminal prosecution”



It is generally accepted maritime principal that a Captain can be held individually responsible for the safe operation and security of the vessel under their command.

In addition to owners, Captains, Mates and Engineers can face lawsuits from two areas following a maritime casualty:

- ❖ Civil Lawsuits – plaintiffs pursue your assets
- ❖ Criminal Lawsuits – prosecutors seek fines and jail time.

2003 Bouchard, Buzzards Bay Oil Spill



LITTLE RIVER

SLOCUMS RIVER

DARTMOUTH

SEALS X

MISHAUM POINT

BARNEYS JOY

WESTPORT

2006 M/V ETHAN ALLEN, Lake George, NY





2006 M/V ZIM MEXICO III; Mobile, AL



2008 M/V COSCO BUSAN; San Francisco, CA

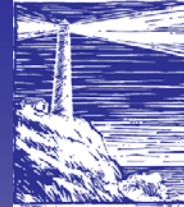
2005 Staten Island Ferry Incident





Some Lesser known cases include:

- 2001 U.S. vs SHORE: Captain & Mate charged with Seaman's Manslaughter for death of an underage intoxicated woman
- 2001 U.S. vs. Thurston: Chief Mate charged with Seaman's Manslaughter for death of a crewman

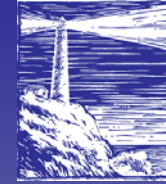


Civil Lawsuits:

- Passenger Injury
- Bridge & Pier Allisions
- Crew Injury
- Jones Act

Criminal prosecution:

- Migratory Birds Act of 1918
- Oil Pollution Act of 1990
- Act to Prevent Pollution from Ships
(Whistleblower)
- Seaman's Manslaughter Act

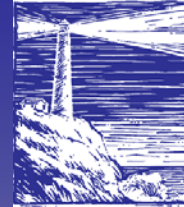


MOPS – License Defense and Lost Income

- A common result of any maritime casualty is that the U.S. Coast Guard will pursue the licensed mariner involved in separate proceedings for license suspension

MOPS policy benefits include:

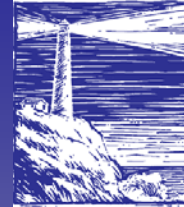
- Unlimited cost of License Defense
- Income reimbursement as a result of a lost license for up to one year



Vessel Owner's Policy

Some defense or recovery may be available under the owner's policy if the interests of the captain are the same as the vessel owner and the owner's insurance company.

- o Limitation of Liability Act (EASTLAND) – if the captain is deemed at fault, the owner and insurers may limit their liability to the value of the vessel after the casualty. If insurers defend captain, they may lose the ability to limit their liability
- o A Vessel Owner's policy may not respond for criminal defense
- o Insurer may not add a captain as an additional insured unless they are an owner
- o Following an accident, if a captain is named, and the company is not, then the company policy will most likely not respond

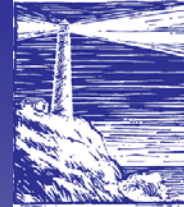


A Brief History of Captain's Coverage

We inquired of several brown water underwriters whether they would schedule non-owner captains as additional insureds on their P&I policies

Most brown water underwriters declined to name anyone but owner operators.

In searching the insurance marketplace we noticed there were no facilities that would provide civil liability and defense, or criminal defense, for the individual captain, mate or engineer.



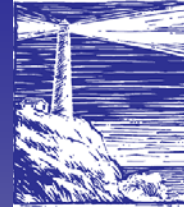
Our Answer – Maritime Officer's Legal Liability or *Captain's Coverage*

A liability policy for the individual mariner

Combined Single Limits of \$500,000 or \$1,000,000, which are inclusive of defense costs

Subject to actual policy conditions, coverage responds to 3rd party bodily injury, property damage or pollution arising out of a maritime accident. Defense Costs are included within the limit of liability, and respond for civil proceedings against an insured for the full limit of the policy, and up to \$250,000 for criminal defense.

The insurance contract was developed in consultation with attorneys and Marine insurance company representatives and is based upon a common Commercial Protection & Indemnity form known as SP-38, Shore side General Liability coverage, and some elements of OPA-1990 Pollution coverage.



Several Exclusions to coverage apply to Maritime Officer's Legal Liability including:

- Any incident where you are operating a vessel outside of your license grade or without a valid or current license;
- Any incident where you are operating under the influence of illegal drugs or alcohol;
- Knowingly committing an act in the conduct of duty.

Maritime Officers Liability insurance is written with National Liability and Fire Insurance Company, an A.M. Bests A++ rated insurer.



Insurer Information:

National Liability & Fire, through Starr Marine Agency, Inc.

A.M. Best A+ rated carrier

Claims Handling

- Claims Handling is administered by Vericclaim, Inc., who provides a 24/7 reporting facility and network of adjusters.
- This year, a wallet sized information card will be issued, with policy number, phone number, and mailing address for reporting an incident.
- Vericclaim, Inc. and Starr Marine have access to a network of maritime attorneys.



Premiums

Prices begin at: \$500 for a \$500,000 Combined Single Limit

\$1,000 for a \$1,000,000 Combined Single Limit

- Pricing is based on tonnage of an individuals license and the geographic scope of coverage

What is \$500?

- An initial phone call to a lawyer may cost \$500
- Lawyer's retainers can easily exceed \$500 or \$1,000.

We sincerely thank you for your time!

Additional Information can be found:

At www.captainscoverage.com

At www.robinsonandson.net

Or by contacting us at 888.746.9230