



MV DALI: BALTIMORE BRIDGE COLLISION AND COLLAPSE

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Crash Course: U.S. Limitation of Liability Action ('LOLA')

Topics:

1. Casualty Date – March 26, 2024
2. Limitation Proceedings - (Filed April 1, 2024)
3. Claims (Deadline September 24, 2024)
4. Litigation and Appeals – Long Voyage!
5. Amendment to LOLA introduced August 13, 2024 (H.R. 9348)



Claims (and Expense)

- Hull & Machinery
- Bridge physical damage
- Business Interruption (Bridge owner and local businesses)
- Salvage
- Fatalities & Injuries
- General Average (New York jurisdiction agreed)
- Cargo & Container Claims
- Charter Party Disputes
- Ship and related transit delays (into and out of port)
- FBI Investigation (seafarers)
 - *Seaman's Manslaughter Statute?*
- Legal Fees



Petition for EXONERATION FROM or LIMITATION OF LIABILITY (1851 ACT)

(Federal Court - Maryland)

MULTIPLE BENEFITS OF LOLA:

- Post-Casualty value of vessel plus freight
- All claims against owner in one Federal forum (“concurus”)
- Security by Insurer’s Letter of Undertaking only
- Restraining Order issued by Federal Judge barring other actions against owner
- Non-jury trial
- Avoids inconsistent results in multiple jurisdictions
- Federal Judge familiarity with Admiralty Law
- U.S. Magistrate Judge oversight of all discovery
- Encourages settlements (Even outside of LOLA)

The DALI LIMITATION ACTION:

- The Limitation Fund: How derived and what it covers
- Hull Insurance not part of the limitation fund
- Likelihood of success?
- Potential THIRD-PARTY culpability (Products Liability)?
- Proposed amendment to LOLA: August 23, 2024, submitted to U.S. Congress (“Justice for Victims of Foreign Vessel Accidents Act”)

Vessel Owner's Petition for EXONERATION FROM or LIMITATION OF LIABILITY

(Federal Court - Maryland)

- BURDENS OF PROOF: 2 Prong Test in Non-Jury Federal Court Hearing:
 - #1. Claimants burden to prove Fault (*Negligence* or *Unseaworthiness*). If not, shipowner is Exonerated.
 - #2. If Negligence or Unseaworthiness of vessel is proven, then burden shifts to vessel owner to establish lack of *privity* or *knowledge* of such 'acts' or 'omissions' of the owner.
 - To succeed in limiting liability, vessel owner must not have personally participated in (or have knowledge of) the act or omissions that caused or contributed to the casualty.
 - If limitation granted, *pro rata* distribution of the Fund.

Defenses

I. TO LIABILITY

Rebut the Presumption of Fault? Exoneration?
Limitation of Liability



Potential Third-Party culpability (i.e. circuit breakers) to bolster limitation of liability potential.

Privity or knowledge test as defense to negligence and unseaworthiness claims.

Evidentiary Issues – Admissibility in evidence of NTSB & USCG reports.

II. TO DAMAGES

Business interruption recovery requires physical damage.

Owner of bridge has viable claim.

Owners of businesses effected do not (U.S. Supreme Court Precedent).

Building/Replacing the Bridge

Defense of *Betterment & Depreciation* to reduce extent of recoverable damages.

Defense that no upgrade to bridge protection (piers/dolphins) in decades (despite prior warning).

Betterment reductions subject to evidence and judges' discretion (i.e. Building a better bridge: adding more lanes; greater capacity; higher elevation)

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