# Maritime Law Association University of Miami 2018



Miami Maritime Arbitration Council

Michael Karcher

### The Lawyer's Perspective



# Maritime Arbitration 1000's of years old





#### **MMAC**

• The Miami Maritime Arbitration Council was founded in 1985 by the Marine Council of Greater Miami to provide an alternative method of dispute resolution for mariners and marine interests in Florida.

#### The MMAC Board & Panel

• The MMAC board was made up of maritime lawyers, surveyors, insurance agents and other maritime professionals to provide a balanced board and panel to provide maritime arbitration by professionals in the industry

### Sometimes, bad things happen.



### Salvage Claims





### Cargo Claims





### Shipyard Builders/Repair Contract Disputes



#### Crew Claims



#### Purchase & Charter Yacht Disputes

#### Florida Yacht Brokers Association, Inc.

PURCHASE AND SALE AGREEMENT FOR BROKERAGE VESSEL

VESSEL INFORMATION
Vessel Name:
Make:
Model Year:
Length:
□ Doc or □ Reg No.: Flag:
Hull No.:
Engines:
Listing Broker:
Selling Broker:
PURCHASE PRICE
Purchase Price:
Less Deposit:
Less Trade Allowance (see Addendum):
Balance:

Buyer agrees to purchase, and Seller agrees to light, title and interest to and in the Vessel on the first to the corresponding terms in the table of the terms. Capitalized words used to the corresponding terms in the table of the terms. If there is a Transmittions of the trade-in will be governed by the attached.

Vessel Addendum.

time Acceptance of Viessei; Conditions of Survey. Buyer's obligation to put the Vessel is subject the Survey of the Viessel, if Buyer elects to the Vessel inspection, with a trial run and survey of the Viessel, if Buyer elects to the Vessel inspection of the survey of the Survey, and not the Brokers, will be to be party respondents with respect to the survey, nowithstanding that the Brokers may have provided infort that of the survey of the survey of the survey, including assume the risks associated with, the trial run and Buyer shall pay all costs of the survey, including assume the risks associated with, the trial run, and Buyer shall pay all costs of the survey, including assume the risks associated with, the trial run, and Buyer shall pay all costs of the survey, including assume the risks associated with, the trial run, and Buyer shall pay all costs of the survey, including assume the risks associated with, the trial run, and Buyer shall pay all costs of the survey, including assume that the survey of the survey, including assume that the survey, including assume that the survey of the survey, including assume that the survey of the survey, including assume that the survey, including assume that the survey, including assume that the survey of the survey, including assume that the survey, including assume that the survey of the survey, including the survey of the survey of the survey, including the survey of the survey o



# Ship owners need to have a plan in place before they suffered a loss





#### An alternative to a lawsuit





#### arbitration in future disputes

Any dispute, controversy or claim arising from or relating to this contract or the breach, termination or invalidity thereof shall be settled by arbitration in accordance with the Rules of Procedure of the Miami Maritime Arbitration Council in effect at the commencement of the arbitration. The award shall be final and shall be enforceable by any court having jurisdiction.

#### Local dispute resolution

• MMAC was formed to provide an alternative to Foreign Arbitration of the yachting business as a growing majority of the recreational and large yacht business is located here in South Florida.

 Our panel of arbitrators are dedicated to providing fair and relatively inexpensive method of dispute resolution. The MMAC is managed by the Marine Council of Greater Miami and provides the arbitration rules, membership roster, model arbitration clauses, and procedures for arbitration.

### Selecting an Arbitration Panel



# Going to Court: You could get these judges.....



## Or, these judges....

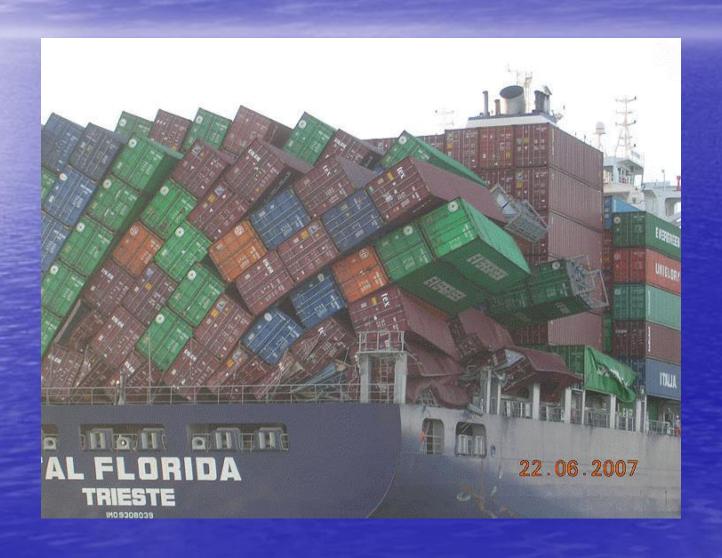




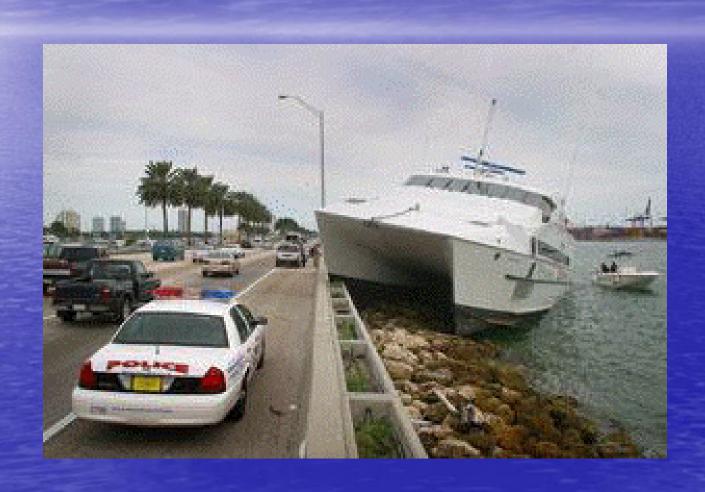
### Or this one....!



### Review your contracts.



### Review the rules in place.



#### Venue Selection Clause



### Agree on a location



# Preserve your records/evidence to support the claim

- Have all of your bills, photos, charts, time lines, correspondence, work orders, etc.
- Put together a presentation so it is easily understood by the client and the arbitrator
- Prepare a report for the arbitration panel
- Locate your witnesses.

## Now is not the time to read the Contracts.



### Speed is important.



# Try and move this along as quickly as possible.



#### **Business Benefits**

- Arbitration affords a certain amount of privacy.
- It is less confrontational then a court proceeding.
- It can be one last way to try to keep the customer.

## Avoid interest, lay days, down time, lost business.





#### submission clause

• The undersigned hereby agree to submit to arbitration under the Rules of Procedure of the Miami Maritime Arbitration Council the following dispute: (describe dispute briefly). We agree the award shall be final and enforceable by any Court having jurisdiction.

### Salvage Claims





### Lloyds – Salvage Agreement



TOU MAN



#### LLOYD'S STANDARD FORM OF SALVAGE AGREEMENT

Appropriate and Published by the Council of Little for

NO CURE - NO PAY

Committee of the Agreement of the Committee of	The country of the Co
1 April 100 F 100	- Manager Sept Sept State of the second
1 Det of the species.	L FAR CAMERE
. A be look than to species to the opens	et backman water
t mean aging to set accessions to potential	Total
Species -	Darken.

#### Crew Claims - Arbitration





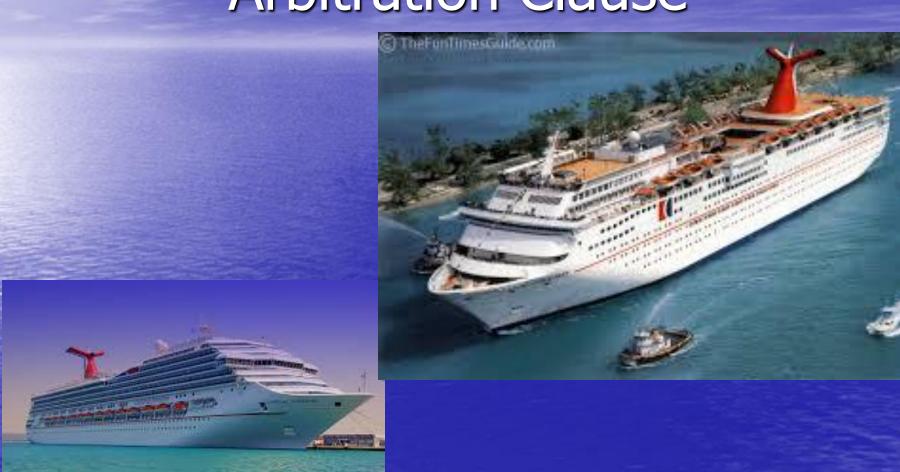
#### Crew Contracts — Arbitration

Agreements to arbitrate are governed by the Convention of the Recognition and Enforcement of Foreign Arbitral Awards ("Convention"). codified in the Federal Arbitration Act 9 U.S.C. §§ 201-208.

#### Federal Courts - Arbitration

Federal courts have the power to compel arbitration pursuant to an agreement to arbitrate, even where the arbitration is to be held outside of the United States. 9. U.S.C. § 206.

# Crew Employment Contracts Arbitration Clause



# Brokers and Owners need to have a plan beforehand in case something goes wrong....





# Have the Terms in Place Before the Deal is reached

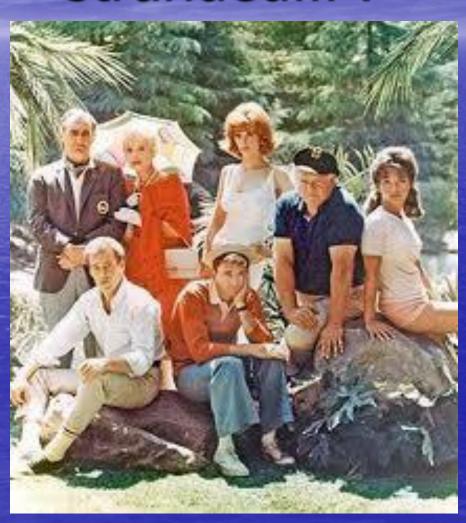




#### Maritime Arbitration - Trends

- A growing number of crew claims
- Increased recreational boat salvage
- Charter yacht claims
- Brokers/buyers/commission disputes
- Builders/repair contracts

# Otherwise you could be left stranded.....



#### Thank you!

Michael R. Karcher Miami Maritime Arbitration Council