

AGENDA FOR MEETING OF THE MLA IN-HOUSE COMMITTEE

1:30 - 3:30 pm, Thursday, May 5, 2011

Member Call-In 877-366-0711 // Access no. 53289969#

HOLLAND & KNIGHT
12th Floor, 31 West 52nd Street
New York, NY

1. INTRODUCTIONS (10 Min.): (Mead/Volkle/All)
2. CONTINUING LEGAL EDUCATION (1Hr.): (Reddick)

The Attorney-Client Privilege, Work Product and Incident Reporting
Ernie Reddick
NIXON PEABODY, LLC
San Francisco, CA

3. JONES ACT PERSONAL INJURY STANDARD OF CARE (20Min.):

Discussion of McBride v. CSX Transportation and Brown v. Reinauer Transportation

Gino Zonghetti & Noreen Arralde
Kenney & Zonghetti LLC
26 Broadway, 27th Floor
New York, New York 10004

Arguably one of the most important FELA (and therefore Jones Act) cases to be decided by the Supreme Court in many years, McBride raises the question of whether plaintiffs in negligence cases brought under the Federal Employers Liability Act must show proximate causation to recover for their injuries, i.e., whether the “featherweight” burden of causation applies. At issue is the claim of a CSX railroad engineer who said he was required to “constantly” use a device that fatigued his hands, which led to his hand injuries. He says the company was negligent in the way it configured its trains’ switching mechanism. Robert McBride sued CSX in federal court, and won \$184,000 at trial. CSX took issue with the trial judge’s jury instruction on causation, which stated that McBride was required to show only that the company “played a part, no matter how small, in bringing about the injury.” The 7th U.S. Circuit Court of Appeals affirmed the verdict, disagreeing with CSX’s contention that proximate causation is required for liability under FELA. The case was recently argued before the Supreme Court.

The Brown case raises similar issues directly under the Jones Act. A petition for certiorari was filed, and is being held in abeyance pending the decision in McBride. Mr. Zonghetti and Ms. Arralde represent Reinauer.

4. MALPRACTICE INSURANCE FOR CORPORATE COUNSEL (15Min.): (AON)

Scope of Coverage and Administrative Matters

AON RISK MANAGEMENT SERVICES

New York, NY

5. CRISIS MANAGEMENT (15Min.): (Wynne)

Issues and Advice for Handling Media Relations and Corporate Communications in the Event of a Marine Casualty

Thomas Wynne

General Counsel

THE INTERLAKE STEAMSHIP COMPANY

Richfield, Ohio

6. SUNDRY OTHER MATTERS/DISCUSSION (Time Permitting): (All)

(a) U.S. Tonnage Tax; (b) VGP; (c) Proposed Vessel Rebuild Regs.; (d) MARAD/EPA Scrapping, generally; (e) Safety Reporting and Litigation Issues, generally; and (f) E-Discovery/Records Retention, Best Practice

7. ADJOURN