

M.L.A. OFFSHORE INDUSTRIES COMMITTEE
MINUTES OF MEETING ON NOVEMBER 12, 2004
Boardroom at Chaffe, McCall in New Orleans, LA.

The chairman Grady Hurley called the committee meeting to order at 2:15 p.m. After the attendees introduced themselves, Chairman Grady Hurley of New Orleans gave a brief welcoming statement and recognized the committee officers, Bradley A. Jackson of Houston as Vice Chairman, Wm. Ryan Acomb on New Orleans as Secretary and Christopher O. Davis of New Orleans as Liaison to the Board.

MISSION STATEMENT

Hurley called upon Acomb to discuss the Mission Statement. The original MLA description of the committee was read:

Committee on Offshore Industries (all issues related to offshore oil and gas industries): Provides a forum for those involved in offshore industries; monitors and studies legal and practical matters affecting maritime operations involved in offshore industries.

The committee officers to give a fuller description of the committee drafted the following the Mission Statement:

Mission Statement

To review, discuss and report on current developments regarding (maritime) laws, legislation and/or activities related to domestic offshore industries, from sources including federal and state jurisprudence, administrative law, legislation, and regulations from U.S. Coast Guard, Environmental Protection Agency, Customs, Minerals Management Service, Maritime Administration, National Transportation Safety Board, the Labor Department, and state and local agencies of government.

Bill Porteous of New Orleans suggested including insurance in the Mission Statement since insurance matters are vitally important many of the issues involving the offshore industries. On inquiry by Frank Allen of New Orleans, the Mission Statement will be posted on the MLA website for review and any comments can be sent to the committee officers.

HONORABLE EDITH BROWN CLEMENT

The committee was honored to have Judge Edith Brown Clement from the United States Fifth Circuit report to the committee on recent admiralty decisions of interest from the U.S. Fifth Circuit.

Judge Clement reviewed recent statistical data for Federal Court arbitrations. The Second and the Sixth Circuit, the Circuits that do the majority of the maritime arbitration, surely decreased in arbitration and their case load.

NEWSLETTER

Acomb will be the newsletter editor. The committee will publish a newsletter bi-annually in the winter and summer. The newsletter will probably be distributed by email and posted on the MLA website. All contributions for the newsletter are welcomed and anyone wishing to participate in the composition of the newsletter may volunteer.

SUBCOMMITTEES AND SPEAKER PROGRAM

Hurley advised that the committee intends to have featured speaker at all future programs, and then Hurley called on Brad Jackson to discuss subcommittees. Jackson is in the process of formulating subcommittees and solicited input from the members as to what subcommittees would be useful to them.

MEMBERSHIP

As discussed by Hurley, the scope of the membership is intended to have all of the interests of the offshore industries represented, including Plaintiff attorneys, Defense attorneys, In-House counsel and industry representatives.

Case law update on *Stewart v. Dutra*

Brad Jackson, who assisted in an Amicus brief for the International Association of Drilling Contractors, gave a report on *Stewart v. Dutra* currently pending before the United States Supreme Court with Oral Arguments heard on November 1, 2004. A transcript of the actual Oral Arguments of the parties can be reviewed on the United States Supreme Court website. The case focuses on the issue of what qualifies as a vessel under the Jones Act. Oral Argument focused on the proper definition and use of the statutory definition. The decision will have an impact on the limited use vessels used in the offshore industry.

NEW BUSINESS – ORGANIZATIONAL ISSUES

The MLA website should be updated by February 15, 2005, to allow members to join up to three (3) committees without having to be appointed by the President as is the current procedure.

Marion McDaniels, Jr., representative of the CLE panel for the Fall, 2005 meeting in Scottsdale, Arizona, invited the Offshore Committee to participate in the Fall, 2005 CLE program.

REPORT ON OIL FIELD WORK ORDERS

Charles R. “Chuck” Lane, Senior Counsel for Halliburton in New Orleans gave a presentation on red letter clauses contained on offshore work orders as recently interpreted by the U.S. Fifth Circuit in *Houston Exploration Co. v. Halliburton Energy Services, Inc.*, 359 Fed.3rd 777 (Fifth Circuit 2004). Lane provided written materials including a case history, the actual

court decisions and the Halliburton work order. Following a discussion of the specific facts and decisions in the Houston Exploration decisions, Lane led a general discussion on the problems and pitfalls with Master Service Agreements and work orders. Lane pointed out that Halliburton's Master Service Agreement incorporates by reference all work orders. Toni Ellington with Kerr Magee pointed out that the oil companies viewpoint is that the Master Service Agreement should control and that no one in the field has authority to change the contract. Hurley added that indemnification for ones own negligence should be specific in the contract. As pointed out by Lane, a problem with indemnification can arise for service companies if the claim involves oil well damage because service companies cannot buy well control insurance since they are not the operator.

ADJOURNMENT

Hurley adjourned the meeting at 3:45 p.m.