

## AGENDA

### UNIFORMITY COMMITTEE MEETING

OCTOBER 22, 2014 2:00 - 3:00 P.M.

Palmer Biezup and Henderson, 190 North Independence Mall West, Suite 401  
Corner of 6<sup>th</sup> and Arch Streets, Philadelphia, PA

The following is the (belated for which I apologize) agenda for the Uniformity Committee, to be held at my office in Philadelphia next Wednesday

I will be prepared to lead a discussion of the following recent cases, but would appreciate input from each of you on these cases, or any other recent cases addressing issues of Uniformity of which you are aware.

- Punitive damages in personal injury actions. The Fifth Circuit sitting en banc reversed the earlier panel decision in *McBride v. Estis Well Service, L.L.C.*, and held that punitive damages were not available under the General Maritime Law. See 2014 WL 4783683, (5th Cir. Sept. 25, 2014), reversing 731 F.3d 505(5th Cir. 2014). Two other decisions also addressed the same issue, *In re Ingram Barge Co.*, 2014 WL 4817189 (D. Ill. Sept. 29, 2014) holding punitive damages were available, and *In re Asbestos Products Liability Litigation*, 2014 WL 3353044 (E.D. Pa. July 9, 2014) permitting punitive damages under the general maritime law to an injured plaintiff, but denying punitive damages in a survival action.
- Enforcement of foreign judgments. Although it is well established that a U.S. court has admiralty jurisdiction to enforce a foreign maritime *arbitration* award, some courts have questioned under what circumstances can a U.S. court enforce a *judgment* by a foreign court. In *Flame S.A. v Freight Bulk PTE. Ltd.*, 762 F. 3d 352 (4th Cir. 2014) the court held that it had admiralty jurisdiction to enforce a judgment by an English court, choosing to apply U.S. law rather than English law to determine whether the subject of the underlying contract was maritime in nature. *D'Amico Dry Ltd. v. Primera Maritime (Hellas) Ltd.*, 756 F. 3d 151 (2d Cir. 2014) addressed the issue whether a U.S. court had admiralty jurisdiction to enforce a judgment issued by an English court which was not sitting in admiralty.
- Is a state law which caps personal injury damages applicable in a 905 (b) action? – No says the court in *Price v. Atlantic Ro-Ro Carriers*, 2014 WL 4657301 (D. Md. Sept. 18, 2014).
- Is a seaman bound by the foreign arbitration award in his employment contract? – Not according to a District Court in Louisiana, because enforcement of the award would violate the most basic notions of morality and justice. *Lito Martinez Asignacion v. Rickmers Genoa Schiffahrts*, 2014 WL 632177 (E. D. La. February 10, 2014).

- Is a tour bus operator subject to a Rule B attachment? Yes – because taking a bus ride so you can go zip-lining has a potentially disruptive effect on maritime commerce and shows a substantial relationship to a traditional maritime activity. *Ash v. Royal Caribbean Cruises, Ltd.*, 2014 WL 2480612 (S.D. Fl. June 3, 2014)

I look forward to seeing you all on October 22.

Finally, if you are planning on attending, could you please send me an e-mail at [odonovan@pbh.com](mailto:odonovan@pbh.com) as that will facilitate your entry into the building.