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THE MARITIME LAW ASSOCIATION  
OF THE UNITED STATES

**MLA PROCEEDINGS**

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## **PREFACE**

As an historical note, this edition of *MLA Proceedings* lacks a transcript of our Fall 2012 General Meeting of The Maritime Law Association of the United States, which of course was cancelled due to Superstorm Sandy. MLA members and the general public in downtown Manhattan and coastal areas of the tri-state region who suffered losses and dislocation remain in our thoughts and prayers.

Despite this interruption, the work of the MLA has continued through the activities of our Standing Committees and Board of Directors. As an example, the minutes which follow reflect the Board's ongoing management of the MLA and efforts to advance maritime law since our last Spring 2012 General Meeting.

David J. Farrell, Jr.  
Secretary

**MINUTES OF THE BOARD OF DIRECTORS MEETING  
OF THE MARITIME LAW ASSOCIATION OF  
THE UNITED STATES**

Held at the Millennium Hotel  
Boston, Massachusetts

on

Saturday, August 4, 2012

at

9:00 a.m.

The August 4, 2012, meeting was called to order by President Robert B. Parrish at 9:00 a.m. In addition to President Parrish, the following officers were also present:

Robert G. Clyne, First Vice President  
Harold K. Watson, Second Vice President  
David J. Farrell, Jr., Secretary  
William Robert Connor, III, Treasurer  
Barbara L. Holland, Membership Secretary

The following directors were also present:

Patrick J. Bonner, Immediate Past President

Dennis Minichello  
Francis X. Nolan, III  
Susan M. Dorgan  
Edward J. Powers  
Michael K. Bell  
Joseph A. Walsh, II

Thomas J. Muzyka  
George W. Nowell  
Alexander M. Giles  
Charles B. Anderson  
Katharine F. Newman

Charles E. Schmidt and David A. Nourse were also present at the invitation of President Parrish.

## **SECRETARY'S REPORT**

On motion duly made and seconded, the minutes from the May 3, 2012, meeting of the Board of Directors were approved. Mr. Watson, reporting as former Secretary, anticipated that the MLA Proceedings from the May 4, 2012, General Meeting and the next MLA Report will hopefully be mailed around the end of September. He also reported on the status of incorporating the MLA logo.

## **TREASURER'S REPORT**

On motion duly made and seconded, the Treasurer's Report was approved. Mr. Connor reported on various issues regarding dues collection and credit card payments, which seem to be working well.

On review of the spring 2012 dinner at Pier 60, Mr. Connor recommended that in the future, in order for a firm to reserve a table, a minimum of eight seats per table must be purchased by the firm, and the Board agreed.

Mr. Connor also discussed several financial matters he is assessing for future report to the Board.

## **MEMBERSHIP SECRETARY'S REPORT**

Ms. Holland reported that the following 13 attorneys had applied for Associate Lawyer Membership:

O. Shane Balloun, of Bellingham, WA  
Kate B. Belmont, of New York, NY  
William Tracy Freeman, of Houston, TX  
Sarah Y. Gayer, of Portland, ME  
Euyelit Adriana Kostencki, of Miami, FL  
Gregory R. Kozlowski, of New York, NY  
Dana LeDoux-Cortez, of Houston, TX  
Duncan R. McIntosh, of Bainbridge Island, WA

Francis X. Nolan, IV, of New York, NY  
Leonard R. Schwigen, of Glendale, CA (Reinstatement)  
Thomas H. VanHorn, of Arlington, VA  
Peter J. Wenker, of Rock Island, IL  
Cynthia Brooks Winton, of Houston, TX

The following four applications for Law Student Membership have also been received:

Phillip Choi, Tulane Law School  
Dennis E. Harbin, III, Dickenson School of Law  
Douglas R. Nannene, Suffolk Law School  
Andrew Strosahl, UNH School of Law

Ms. Holland regretfully reported the following members passed away since our May 2012 meeting:

Charles Brown of New York, NY;  
Life Member: elected 1956  
Gerald Ginter of New York, NY;  
Non-Lawyer: elected 1996  
James W. Lynch of Mineola, NY;  
Life Member: elected 1950  
John R. Newton of Wilmington, NC;  
Life Member: elected 1968  
Thomas O. Murphy of Cleveland, OH;  
Life Member: elected 1959

On motion duly made and seconded the above applications for membership were approved. With these new members, the MLA's total membership now stands at 2,937.

Ms. Holland reported on efforts to recruit new members from the Maritime Administrative Bar Association in conjunction with the Officers' January 2013 meeting in Washington, DC.

Ms. Holland anticipates that copies of the 2012-2014 *Directory* will hopefully be mailed and in members' hands by the MLA's General Meeting on November 9, 2012.

Ms. Holland also presented proposed amendments to two by-laws dealing with Law Student members, to simplify administrative procedures subsequent to the March 2012 amendment of By-Laws 208 and 210. Occasionally a part time law student who is active in the maritime industry is interested in joining the MLA as a Law Student member but By-Law 208 currently requires applicants to be full time students. Also, several Academic Members and other members who are Adjunct Law Professors have emphasized that due to the relatively short term of Law Student membership, there is a need to act promptly on applications, particularly during law firm recruiting season. Providing the Membership Secretary discretion in these areas seemed appropriate and accordingly Ms. Holland proposed amendments (changes tracked) as follows:

#### 208. ELIGIBILITY FOR LAW STUDENT MEMBERSHIP

Any person who is a resident of the United States, who is enrolled as a ~~full-time~~ student in a U.S. school of law, accredited by the American Bar Association, and who has expressed an interest in the practice of admiralty law, ~~shall~~may be eligible for Law Student membership, which shall terminate at the end of the calendar year in which the member graduates or ceases to be a student in good standing at the school. An applicant shall file with the Membership Secretary an application for Law Student membership on a form provided by the Membership Secretary, accompanied by a one-time dues check in an amount set by the Board of Directors. Each

application shall be supported in writing by a professor or administrative official at the law school attended by the applicant or by a member of the Association. The letter shall be annexed to the application.

## 201. MEMBERSHIP CLASSES

Any person who is interested in the objectives of the Association and who can satisfy the qualifications required for membership in any of the below designated classes shall be eligible for membership. There shall be nine classes of members:...

### 9. Law Student

Members shall be elected by the Board of Directors, with the exception of Life Members, who shall automatically be elevated to that category in accordance with the requirements of Section 210, and Law Student Members, who may be admitted to membership in accordance with the requirements of Section 208....

On motion duly made and seconded, these amendments to By-Laws 201 and 208 were approved.

## **BOARD SUBCOMMITTEE REPORTS**

### *Publication of MLA Documents*

Ms. Dorgan reported that she and Messrs. Fisher, Giles, and Powers had continued their work preparing recommended guidelines for reprinting copyrighted MLA publications and discussed related logistics. It was noted that there should be no prohibition on the reprinting of MLA publications within an MLA member's firm.



Further action will be considered at the next Board meeting on November 8, 2012.

### *Membership Questionnaire*

Mr. Minichello circulated a questionnaire to the Board that he and Messrs. Muzyka, Nolan, and Nowell drafted to be sent to the membership regarding membership issues. The Board agreed that they should finalize the questionnaire and send it out.

## **OTHER REPORTS**

### *November 2012 New York Meeting and Dinner Dance*

Status reports were provided on several planning aspects for the MLA's next meeting in New York during November 2012.

To provide some variety from last spring's Wednesday Downtown/Thursday Midtown committee meeting schedule, Mr. Watson reported that Wednesday November 7, 2012, committee meetings are planned for Midtown while Thursday November 8, 2012, committee meetings are planned for Downtown. The Board of Directors' meeting and luncheon will accordingly be held Downtown on Thursday November 8, at the India House. As usual when held in New York, the MLA General Meeting will be at the New York City Bar Association, on Friday November 9.

Mr. Clyne reported on plans for the November 9 formal dinner dance at Cipriani Wall Street and Mr. Connor reported on pricing options. After discussion, the Board decided it appropriate to charge \$250 for the cocktail reception and dinner dance -- including wine with dinner at that price -- in an effort to avoid interrupting dinner service with wine orders.

The Board also decided that attendance at the dinner dance would be limited to MLA members and their spouses/significant others. Invitations would be extended, in addition, to certain non-

member officers of various maritime organizations as well as the Chief Judges of the United States District Courts for the Southern and Eastern Districts of New York.

### ***MLA Website and Administration Issues***

President Parrish reported on and then led a discussion on the MLA website and utilization of our Administrator, Robin Becker.

President Parrish first presented an overview of several website issues which require further evaluation. As part of this ongoing project, and in the wake of feedback received *inter alia* during the May 2, 2012, Committee Chairs' meeting, Mr. Parrish has followed-up and received input from various MLA members including committee chairs, Website and Technology Committee Vice Chair Lynn L. Krieger, the Young Lawyers Committee, and Ms. Becker. From a computer programming perspective, with the website grounded in dated software, there is a concern over the extent to which the MLA's online data can be transferred to a modernized website, as advocated by several members. There are also technical concerns regarding the website's interface with our server, ICVM, as well as practical concerns over the MLA's day-to-day reliance for administrative matters on the good work of Ms. Becker, with the recognition that she does not have guaranteed personnel back-up.

To assist in evaluating these issues -- and with the goal of making the best decisions possible -- President Parrish reported he had narrowed his search and recently interviewed a consultant who may be charged with evaluating our online operations and administrative activities, with the consultant's understanding that he would not then be retained to implement his own recommendations or broker hard or software.

President Parrish along with the Board, the Website and Technology Committee, and knowledgeable members will continue evaluating the appropriateness of website modifications, and because it is a multi-faceted project, specific written questions

and parameters including the List of Issues generated from MLA membership (which was attached to the Board agenda) will be articulated for the consultant so that he can undertake an effective evaluation of our website and related administrative issues.

### ***Board Handbook***

An outline of the Duties of the Directors of the Maritime Law Association of the United States prepared by Mr. Watson was circulated before the meeting (and was attached to the Board agenda). President Parrish emphasized that the Board of Directors' most important duty is to determine and make MLA policy.

### ***Amicus Curiae***

President Parrish acknowledged Mr. Nolan's good work on the amicus brief in *Lozman*, which the U.S. Supreme Court has set for oral argument on October 1, 2012.

### ***BIMCO***

President Parrish acknowledged the good work of Keith W. Heard and his successor, Past President Lizabeth L. Burrell, as MLA representatives to BIMCO. The MLA's challenge ahead is to dissuade BIMCO from revising its form contracts by adopting arbitration clauses which exclude United States arbitration venues.

### ***Hague Choice-of-Court Convention***

President Parrish sent an email (which was attached to the Board agenda) on May 14, 2012, to the U.S. Department of State consistent with Past President Bonner's November 30, 2011, letter on the Hague Choice-of-Court Convention.

*United Nations Convention on the Law of the Sea*

President Parrish sent a letter (which was attached to the Board agenda) on May 17, 2012, to Senator John F. Kerry, Chair of the Foreign Relations Committee, urging that the Senate give its advice and consent to the United States' accession to UNCLOS. This letter tracked and updated previously approved Board policy.

*Incoterms® 2010*

President Parrish sent a letter (which was attached to the Board agenda) on May 22, 2012, to the U.S. Department of State supporting UNCITRAL's endorsement of Incoterms® 2010.

**DISCUSSION ITEMS**

*Comite Maritime International,  
October 2012 Beijing Meeting*

A lengthy discussion was held on the upcoming CMI meeting in Beijing during October 2012, and specifically the MLA's position on four substantive topics on the CMI agenda.

First, on environmental salvage, Mr. Anderson commented that the P&I Clubs and the salvage industry appear to be in general agreement that recent use of the SCOPIC Clause has adequately addressed environmental salvage compensation. He therefore does not anticipate that the IMO will be making any changes to 1989 Salvage Convention articles dealing with environmental salvage and he did not see a need for the MLA to take a position on any related proposals that may be discussed in Beijing. The Board agreed.

Second, a possible revision to the York-Antwerp Rules on general average was recently proposed. Joseph F. Grasso and other MLA members are studying the issue and will advise President Parrish and the Board in due course.

Third, on cross-border judgment enforcement, it was agreed that further investigation and study was needed before the MLA could take a position.

Fourth, Mr. Nolan recommended, and the Board agreed, that further study is needed before the MLA can take a position on the Recognition of Foreign Judicial Sales of Ships.

Finally, there was a discussion on who would be attending the CMI meeting on behalf of the MLA. In addition to President Parrish, First Vice President Clyne, and Immediate Past President Bonner, it was decided that Mr. Nolan as well as Vincent J. Foley (who will chair the CMI's New York meeting in the spring of 2016) will attend. Reimbursement amounts toward their travel expenses were approved.

### ***Federal Judicial Education***

Mr. Nowell reported he had been contacted by the Ninth Circuit inquiring about the possibility of an MLA admiralty law education program for the Ninth Circuit Judicial Conference and the Federal Judicial Council. The Board supported Mr. Nowell's continued discussions.

### ***MLA Joint Sponsorship of Regional CLE Programs***

The Pacific Admiralty Seminar (which is held in even-numbered years in the fall) has once again contacted the MLA inquiring about joint-MLA sponsorship. Such a meeting was held in San Francisco in the fall of 2006.

On a related topic, Mr. Watson reported the Tulane Admiralty Law Institute (held in odd-numbered years in the spring) will be celebrating its 50<sup>th</sup> anniversary in 2016 and Mr. Watson suggested the possibility of seeking to hold the Institute in conjunction with an MLA fall city meeting in New Orleans.

A general discussion ensued on the feasibility of rotating MLA fall meetings, theoretically on a three year cycle, generally between the West Coast and Gulf Coast, with MLA resort meetings in the fall of odd-numbered years. It was noted that other CLE programs are also interested in partnering with the MLA, including the University of Texas School of Law Admiralty and Maritime Law Conference. Such a meeting was held in Houston in the fall of 2010.

It was noted that from the MLA's perspective it will be difficult to co-sponsor one of these joint-CLEs when the MLA is holding its own, separate meeting a few weeks before or after, out of concern that attendance at the MLA meeting would be diluted. Yet there is a clear appreciation of the mutual benefits that can accrue from close MLA coordination with regional CLE programs. The Board will continue to consider these possibilities in the future.

### ***Resort Planning and Arrangements Committee***

Mr. Schmidt, Chair of the Meetings and Events Committee, discussed reimbursing members' spouses for travel attendant to planning for resort meetings, which he advocated. He observed that over the years only about 2% of resort meeting revenues have been used to reimburse Arrangements Committee members and their spouses, who are integral in achieving the gracious welcome and warm personality for which our resort meetings are widely recognized. Moreover, the Arrangements Committee members and their spouses typically work long hours during the resort meetings. The Board agreed and will continue the tradition of reimbursing spouses for their planning and arrangement travel expenses.

### ***Fall 2014 Philadelphia Meeting***

Mr. Clyne reported on plans for a fall 2014 meeting, with Philadelphia as the host city, and the Board approved these plans. Former Board members Henry C. Lucas and Frank P. DeGiulio have expressed interest in assisting.

## **RESOLUTIONS OF MEMORIAL**

The Board adopted two Resolutions of Memorial, for Past Presidents David R. Owen and Kenneth H. Volk, both of whom recently passed away, in recognition of their profound contributions to the MLA.

## **NEW BUSINESS**

Mr. Nolan reported on recent developments by the Marshall Islands and Liberian ship registries regarding the filing of charter parties under their auspices. He will monitor this and report back to the Board in due course.

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,

David J. Farrell, Jr.  
Secretary

**MINUTES OF THE EMERGENCY MEETING OF  
THE BOARD OF DIRECTORS OF  
THE MARITIME LAW ASSOCIATION OF THE  
UNITED STATES**

Held by Teleconference  
Originating from Jacksonville, Florida  
on  
Friday, November 2, 2012  
at  
3:00 p.m.

A November 2, 2012, emergency meeting held by teleconference was called to order by President Robert B. Parrish at 3:00 p.m. EDT. The reason for the meeting was to address the impact of Hurricane Sandy on the MLA's New York City Fall Meeting scheduled for November 6 - 9, 2012. In addition to President Parrish, the following officers were also present:

Robert G. Clyne, First Vice President  
Harold K. Watson, Second Vice President  
David J. Farrell, Jr., Secretary  
William Robert Connor, III, Treasurer  
Barbara L. Holland, Membership Secretary

The following directors were also present:

Dennis Minichello	Thomas J. Muzyka
Francis X. Nolan, III	George W. Nowell
Susan M. Dorgan	Alexander M. Giles
Edward J. Powers	Charles B. Anderson
Michael K. Bell	Katharine F. Newman
Joseph A. Walsh, II	

Charles E. Schmidt and Boriana Farrar also called in at the invitation of President Parrish.



President Parrish advised the Board that due to the hurricane he recommended cancelling all MLA Fall Meeting events in New York City scheduled for the following week. He expressed concern for all hurricane victims and specifically for MLA members in the region. He succinctly summarized the reasons for his recommendation based on his assessment of physical conditions in Downtown Manhattan, with extensive input he obtained over the last several days from members in New York City; from members in the tri-state region of New York, New Jersey, and Connecticut; and from members around the country. President Parrish noted that many comments from out-of-towners expressed reluctance to overburden our New York area members with an MLA meeting superimposed on a two week disruption of their daily lives and law practices.

The Board then extensively discussed and reviewed the situation in New York City. Topics addressed included storm damage sustained Downtown; electricity, telephone, and internet disruptions; subway flooding; air and rail logistical problems in travelling to New York City; hotel cancellations; aggravated traffic gridlock throughout Manhattan; and the feasibility of holding a formal dinner dance at Cipriani's Wall Street on Friday night. Options for moving all MLA committee meetings and other events to Midtown as well as rescheduling the week's events to another time or location were considered.

Mr. Schmidt, Chair of the Meetings and Events Committee (whose office is Downtown), first spoke about storm damage in that area. He described much of it as a flood zone with a continuing stench of fuel oil in the air. He noted that a subway shutdown would persist until tunnels are dewatered and power is restored and that bus transportation was problematic. Even with predictions that many services would be restored over the weekend of November 3-4, he projected that difficulties would persist into the next week and that holding an MLA meeting then would be tough on members whose lives and work had been disrupted by the hurricane.

Mr. Clyne then reported on post-hurricane discussions he had with Cipriani's Wall Street regarding the formal dinner dance. Cipriani's Wall Street has already been paid per our contract and states it will be ready, willing, and able to perform on Friday November 9 but it also expressed a willingness to work with the MLA on mutually agreeable options. Mr. Clyne outlined the MLA's four options: (1) cancel the formal dinner dance; (2) hold the formal dinner dance as planned; (3) consider an alternate date for a dinner dance at Cipriani's Wall Street during mid-winter 2013; or (4) hold the MLA Spring 2013 dinner at Cipriani's Wall Street in lieu of the MLA's current plan to hold it at Pier 60. Any option of moving the Friday November 9 formal dinner dance to Cipriani's Midtown location that night was not viable because that venue will be used then by another group. Mr. Connor also commented on other MLA contracts, such as the band hired for the dinner dance. Arrangements with the India House for the Thursday November 8 Board meeting and luncheon were also addressed.

Mr. Powers commented that it seemed appropriate to defer to the New York members' assessment of the situation there. While Mr. Nolan (whose office is in Midtown) noted that physically Midtown was unaffected by the storm, Mr. Anderson (whose office is in Midtown) expressed grave doubts about holding the MLA meeting next week. He had been stranded in his office for the past three days. He had observed chaos driving in and around Manhattan and anticipated that out-of-towners would not only experience travel problems getting to New York but also hotel problems on arrival, with hotels precluded from evicting prior guests such that MLA members' room reservations might well not be honored. Mr. Anderson could not imagine how local members, having endured regional dislocation for two weeks, would have any appetite for staying in the city any longer than necessary on Friday November 9 to attend a formal dinner dance.

Ms. Newman then confirmed from her own observations that hotels were not honoring reservations from out-of-towners and she was concerned in any event whether there would be full restoration

of telephone and internet services in New York City by next week. Mr. Muzyka noted that one of the hotels which had set aside rooms for MLA members could not guarantee those reservations and that Amtrak schedules for next week were not guaranteed either. Ms. Holland commented that the Tribeca hotel where she planned to stay was still without power, with her reservation status unclear. She was concerned that some out-of-town members might be inclined to make the trip to New York City since airlines would not be refunding fares only to find their hotel reservations cancelled upon arrival.

Mr. Walsh noted that his reservation had already been cancelled by his hotel. He also commented that due to the region's severe problems it would be inappropriate for the MLA to hold a celebratory black tie event. Mr. Minichello noted that these concerns as well as media reports regarding local conditions would likely result in poor attendance by non-New Yorkers. Mr. Watson then stated that a decision needed to be made before the weekend and he was concerned that MLA members would be greatly disappointed and inconvenienced if the meeting went ahead with conditions as poor as projected.

With similar concerns expressed by other Board members, on motion duly made and seconded, the Board of Directors unanimously adopted President Parrish's recommendation to cancel the MLA New York City Fall Meeting scheduled for November 6 - 9, 2012 in the aftermath of Hurricane Sandy.

A general discussion then ensued on options for future MLA meetings. President Parrish suggested a possible abbreviated meeting, perhaps held over a Thursday and Friday in January 2013 in Washington, D.C., in conjunction with the annual Officers' meeting with federal government attorneys. Other options, such as a rescheduled New York City meeting in mid-winter 2013 as well as a possible decision to not meet again until the next scheduled general meeting in the spring of 2013 in New York City were discussed. The possibility that MLA standing committees might

hold teleconference meetings next week during their previously scheduled time slots was also considered.

There was also further discussion with questions raised regarding specific costs that might be incurred by the MLA due to the cancellation of next week's New York City functions. The Board recognized that refunds would be provided to members who had made dinner dance reservations. Several ideas and general strategies were suggested in an effort to avoid or minimize MLA financial losses.

The Board agreed that the Officers should work out these logistics, detail cost containment options, and prepare alternatives for future Board action. It was further agreed that these topics would be added to the agenda for the Board's next meeting, which was scheduled for Thursday November 8, 2012 at 1:00 pm EST, to be held again by teleconference.

Finally, the Board approved President Parrish's plan to prepare an email blast to the entire membership advising them as soon as possible on Friday November 2 of the decision to cancel the New York City meeting next week. The meeting was then adjourned.

Respectfully submitted,

David J. Farrell, Jr.  
Secretary

**MINUTES OF THE BOARD OF DIRECTORS MEETING  
OF THE MARITIME LAW ASSOCIATION OF  
THE UNITED STATES**

Held by Teleconference  
Originating from Jacksonville, Florida  
on  
Thursday, November 8, 2012  
at  
1:00 p.m. EST

The November 8, 2012, meeting was called to order by President Robert B. Parrish at 1:00 p.m. EST. The meeting was held by teleconference because the Board of Directors had cancelled the MLA New York City Fall 2012 Meeting in the aftermath of Hurricane Sandy.

In addition to President Parrish, the following officers were also present by telephone:

Robert G. Clyne, First Vice President  
Harold K. Watson, Second Vice President  
David J. Farrell, Jr., Secretary  
William Robert Connor, III, Treasurer  
Barbara L. Holland, Membership Secretary

The following directors were also present by telephone:

Patrick J. Bonner, Immediate Past President

Dennis Minichello	Thomas J. Muzyka
Francis X. Nolan, III	George W. Nowell
Susan M. Dorgan	Alexander M. Giles
Edward J. Powers	Charles B. Anderson
Michael K. Bell	Joseph A. Walsh, II

Past President Lizabeth L. Burrell was also present by telephone at the invitation of President Parrish.

### **SECRETARY'S REPORT**

On motions duly made and seconded, the Board approved the minutes from the August 4, 2012, Boston meeting of the Board of Directors and the minutes from the November 2, 2012, emergency teleconference meeting of the Board of Directors cancelling the New York City Fall 2012 meeting.

Mr. Farrell reported that the MLA Proceedings from the May 4, 2012, General Meeting and the next MLA Report have recently been bound and will be mailed to the membership in about a week or so.

### **TREASURER'S REPORT**

Mr. Connor reported that the MLA's finances were in good shape and addressed our 2011 tax-exempt IRS return. On motion duly made and seconded, the Treasurer's Report for the three months ended July 31, 2012, was approved.

Regarding tardy dues payments, Mr. Connor reported that he had recently dunned delinquent members and most of those who had been behind in dues payments for two or three years had paid up.

Mr. Connor made three recommendations that the Board approved.

First, on motion duly made and seconded, the Board designated President Parrish, First Vice President Clyne, and Treasurer Connor as the three signatories on all MLA bank accounts at Citibank and HSBC. There will be a formal resolution from the Board reflecting this to present to the banks.

Second, on motion duly made and seconded, the Board agreed to transfer MLA funds in a Citibank government securities mutual fund with virtually no yield to a Citibank FDIC-insured money market account to gain a higher interest rate return.

Third, at the request of the MLA's accountants, McGladrey & Pullen, LLP, by November 12, 2012, email vote the Board approved changing the MLA fiscal year from our current fiscal year beginning May 1 to a calendar year beginning January 1, 2013. While our current fiscal year coincides with the terms of MLA Officers elected at our spring meetings, the accountants believe that changing to a calendar year will better reflect MLA cash flow because we collect dues on a calendar year basis yet our biggest financial event each year, the May dinner, currently has revenues and expenses in two different fiscal years. The change to a calendar year necessarily means the MLA will have a shortened, eight month May-December fiscal year in 2012 which will cause some inability to compare fiscal year 2012 with calendar year 2013 quarterly reports because time frames will not match. After that first year of transition, though, the accountants believe a calendar year accounting cycle will make the MLA revenue/expense picture clearer for accurate year-to-year comparisons.

## **MEMBERSHIP SECRETARY'S REPORT**

Ms. Holland reported that seven applicants had been recommended for Proctor membership by the Committee on Proctor Admissions:

John J. Bromley, of Boston, MA  
John E. Casperson, of Seattle, WA  
Steven A. Clark, of New Haven, CT  
Lauren C. Davies, of Southport, CT  
John Kimmerlein, of Bainbridge, WA  
Kevin T. Murtagh, of Hicksville, NY  
Neil Quartaro, of New York, NY

On motion duly made and seconded, the Board approved these Proctor applications.

Ms. Holland reported that seventeen applicants have applied for Associate Lawyer Membership:

Andy Aley, of Seattle, WA  
William C. Baldwin, of New Orleans, LA  
Janine E. Brown, of New York, NY  
Jeffrey R. Coleman, of New York, NY  
George Cornell, of New York, NY  
Ashley Craig, of Washington, DC (Reinstatement)  
Basel W. Frens, of West Chester, PA  
Richard Gluck, of Washington, DC  
Marc C. Hebert, of New Orleans, LA  
Brent Jones, of Seattle, WA  
Jeffre Juliano, of Honolulu, HI  
Mari Orser, of San Francisco, CA  
Ren Rong Pan, of New York, NY (Reinstatement)  
Thomas J. Ptacek, of Oakbrook Terrace, IL  
Andrew L. Sriro, of South Jakarta, Indonesia  
Lt. Nick Stampfli, of Washington, DC  
Paul W. Wojciak, of Duluth, MN

On motion duly made and seconded, the Board approved these Associate Lawyer applications.

The following five law students have become Law Student members of the MLA since our August 2012, meeting:

Richard Beaumont, Tulane Law School  
Rebecca L. Gibson, University of Texas Law School  
Crystal Headrick, New England Law School  
Charles Henderson II, Tulane Law School  
Michael Mitchell, University of Baltimore School of Law



Ms. Holland regretfully reported learning of the following deaths since our August 2012 meeting:

Hon. Robert L. Carter, of New York, NY;  
 Judicial Member: elected 1973  
 Hon. William C. Conner, of New York, NY;  
 Judicial Member: elected 1983  
 Hon. Betty R. Fletcher, of Seattle, WA;  
 Judicial Member: elected 1985  
 Thomas E. Leeds, Jr., of New York, NY;  
 Life Member: elected 1960  
 Kenneth E. Roberts, of Portland, OR;  
 Life Member: elected 1955

With the above new members, the MLA's total membership now stands at 2,946 and is comprised as follows:

#### VOTING MEMBERS

Proctors	1333
Associates	1200
Non-Lawyers	176
Academic	33

#### NON-VOTING MEMBERS

Ex-Officio	15
Honorary	5
Judicial	123
Law Students	61

Ms. Holland anticipates that copies of the 2012-2014 *Directory* will be mailed and in members' hands during December 2012.

In an effort to recruit new MLA members, Ms. Holland reported she is coordinating with officers from the Maritime Administrative Bar Association and intends to invite them to a reception in conjunction with the MLA Officers' January 2013, meeting in Washington, DC.

## **SECOND VICE PRESIDENT'S REPORT**

Mr. Watson reported some continuing frustration that committee chairs are often slow to post committee meeting agendas on the MLA website. While most chairs eventually do so, several reminders are typically necessary. Timely agenda posting several weeks prior to our fall and spring meetings is considered an important responsibility of chairs, apprising members of substantive developments and assisting members in determining which committee meetings to attend.

## **HURRICANE SANDY AFTERMATH ISSUES**

President Parrish reported that he had received numerous communications from members commending the Board for its decision to cancel the MLA New York City Fall 2012, Meeting due to problems the Board correctly anticipated would continue in the aftermath of Hurricane Sandy. He was pleased with the prompt actions of committee chairs in altering committee meetings as well as MLA Administrator Robin Becker's timely website updates and email notices.

President Parrish also recognized Mr. Clyne for his positive negotiations over the past week with Cipriani's Wall Street. Because it held a November 7 event attended by 850, Cipriani's Wall Street seemed unwilling to refund the MLA's payment for our cancelled November 9 formal dinner dance based on *force majeure*. Nevertheless, in the course of quite some back and forth with Cipriani's Wall Street, Mr. Clyne had managed to eliminate several of its demands, such as a two year dinner commitment, as unacceptable to the MLA. It also became apparent that rescheduling

the dinner dance to mid-winter 2013 was not feasible as MLA out-of-town members were unlikely to travel to New York City then. There developed, however, increased mutual interest in a Cipriani's Wall Street Friday May 3, 2013, dinner coinciding with the MLA New York Spring 2013 Meeting. At \$250/plate, Cipriani's Wall Street desired a 650 attendee guarantee and seemed willing in return to credit the MLA's prior payment for the November 9, 2012 dinner dance toward the cost of a May 3, 2013 dinner.

A lively Board discussion ensued. Mr. Connor reported that the band hired by the MLA for November 9, 2012, was also available May 3, 2013, and was willing to transfer our payment to the later date. However, there were doubts expressed by several Directors that the MLA would be able to guarantee 650 attendees for a dinner dance then, whether formal or business attire. It was noted that recently MLA spring dinner attendance exceeds 900 with invitations made by law firms to clients and non-members. Practical problems were identified in attempting a hybrid MLA dinner dance to which law firm clients and perhaps their spouses and significant others might be invited.

After carefully considering these issues a consensus emerged among the Board to hold a May 3, 2013, dinner at Cipriani's Wall Street without a dance and rather as a traditional MLA spring dinner in business attire, open to non-members. The Board anticipated the MLA would be able to satisfy a 650 minimum at a price of \$250 including wine with dinner. The Board was advised that Cipriani's Wall Street can accommodate up to 850 diners with a band and 930 diners without. While it was agreed that the previously hired band would play tasteful mood music during dinner and also be available afterwards to enliven festivities, the Board recognized that the spring 2013 MLA dinner announcement should be carefully worded to be inclusive yet not suggest we are holding a dinner dance.

Consistent with this consensus, on motion duly made and seconded, the Board authorized Mr. Clyne to negotiate a new

contract on the best terms possible with Cipriani's Wall Street for a May 3, 2013, dinner, crediting the MLA's payment for the cancelled November 9, 2012, dinner dance.

Several residual issues were also addressed. The Board agreed that Mr. Connor will email those members who had made dinner dance reservations to let them know refunds would be issued on request. Also, the Board carefully revisited its earlier plan to hold the May 3, 2013, dinner at Pier 60 and our \$10,000 down payment. It was agreed that Mr. Clyne will approach Pier 60 in a few weeks with the goal of applying that down payment to an MLA May 2014, dinner there. Finally, President Parrish noted that Jerry Janove of Resort Meetings Consortium reported the two hotels which had reserved blocks of rooms for our fall meeting had waived cancellation fees.

In sum, the Board was pleased that it appeared the MLA would largely escape Hurricane Sandy unscathed financially.

## **BOARD SUBCOMMITTEE REPORTS**

### ***Reprinting of MLA Publications***

Ms. Dorgan reported that she and Messrs. Giles and Powers were continuing their work preparing guidelines for reprinting copyrighted MLA publications. While Hurricane Sandy power outages had interrupted their work, Ms. Dorgan summarized the plan thus far. She envisions that there will be notice language at several MLA website locations (such as the Library) advising visitors of the need to go to the MLA Forms tab and submit a request for permission to reprint to the Secretary. Ms. Dorgan noted that consistent with earlier Board discussions there would be no impediment to a member's circulating copyrighted materials within the member's own firm.

### *Membership Questionnaire*

Mr. Minichello reported that the membership questionnaire he and Messrs. Muzyka, Nolan, and Nowell were preparing will be sent to the membership before Thanksgiving or soon thereafter.

## **OTHER REPORTS**

### *Lozman v. City of Riviera Beach*

Mr. Nolan, who drafted the MLA amicus brief and attended the October 1, 2012, oral argument at the United States Supreme Court, offered several observations and his projection that the Court will issue a written opinion around the end of the year.

### *BIMCO*

Past President Burrell reported on her observations and discussions with BIMCO officials regarding apparent BIMCO efforts to eliminate New York as an arbitration venue on BIMCO form contracts. President Parrish invited her to contact the Board as needed for specific authority to protect MLA members' interests.

### *Marshall Islands and Liberian Registries*

Mr. Nolan provided an update on the Marine Financing Committee's work drafting charter financing proposals to suit the statutory framework of the Marshall Islands and Liberian vessel registries.

Substantively, the Marine Financing Committee's drafts track an April 27, 2008, Board Resolution which would permit filing with the USCG National Vessel Documentation Center a bareboat charter party which in economic reality constitutes the sale of a vessel, with a retained security interest deemed a preferred mortgage lien. This would have extended to vessels the same range of lease financing options already available for non-maritime assets

under the Uniform Commercial Code, for example. While the MLA-sponsored lease financing mechanism has not been passed by Congress, it is anticipated that the Marshall Islands and Liberia may be interested in establishing such a system, and the Board was interested in providing MLA support for those initiatives.

By email vote November 13, 2012, the Board accordingly authorized Mr. Nolan, as Chair of the Marine Financing Committee, to recommend its charter financing proposals for various flag of convenience registries, and to report on MLA sponsorship of the proposals at the Marine Money NY Deal Makers Forum on November 15, 2012.

## **DISCUSSION ITEMS**

### ***MLA Website Project***

President Parrish reported the MLA is making steady process towards his goal of fully addressing our website utilization issues during his term as President. Pursuant to an October 4, 2012, contract with the MLA, independent consultant Spencer Sahim has reviewed the MLA website, has interviewed Ms. Becker, and is currently interviewing ICVM. President Parrish expects a written report from Mr. Sahim in the near future.

Past President Burrell reported also on the status of the MLA archives project, including the need to address the extent to which historical documents are searchable on the MLA website and the need to identify a volunteer willing to catalogue documents now stored in multiple cardboard boxes at different locations.

### ***CMI: Beijing/Shanghai Meeting, October 14-23, 2012***

President Parrish reported on the Comité Maritime International (“CMI”) meeting held recently in China. The Board agenda incorporated working papers in four areas: Environmental Salvage; York-Antwerp Rules; Cross Border Insolvency; and

International Recognition of Foreign Judicial Vessel Sales. There were no final actions taken on any of these at the CMI meeting. Mr. Nolan added regarding International Recognition of Foreign Judicial Vessel Sales that there appeared to be some progress in creating a narrow, useful document rather than a far-ranging discourse on tangential issues.

Generally, though, the MLA delegation had concerns about the CMI meeting. For example, the MLA's strong candidate for Vice President, Christopher O. Davis, lost election to a candidate supported by a European block of members. As another example, in recent years the MLA has pointedly questioned its CMI dues assessment, which resulted in some annual dues reductions for the MLA, but with a less than satisfactory long-term resolution given a CMI dues structure that dates back to post-World War II. On top of these concerns, the MLA delegation has basic questions about the role of the CMI as an international organization. It has been noted that the CMI has had little success recently in shaping international maritime law, as particularly apparent from the controlling role in such of the International Maritime Organization ("IMO") and the United Nations Commission on International Trade Law ("UNCITRAL").

On behalf of the MLA, President Parrish voiced concerns about the role of the CMI from the meeting floor in Beijing. The MLA delegation observed that President Parrish's comments may have made a positive impact among some other nations' maritime law associations who are CMI members. At the request of the CMI President, President Parrish has suggested that Past President Burrell chair a CMI study group to assess CMI's role internationally, what it can accomplish, and its future. Immediate Past President Bonner suggested that an MLA member active in the international field, but who has not otherwise been involved in CMI, be appointed to that study group.

President Parrish also reported that the CMI will be meeting in New York City during the week prior to the MLA Spring 2016

New York Meeting. Planning for that CMI meeting, to be chaired by Vincent J. Foley, is in the early stages.

### ***Numbering of MLA Documents***

Mr. Watson reported that the *Proceedings* and *The MLA Report* are the only two MLA documents that receive document numbers with consecutive pagination. In the past other MLA publications, including Presidential Newsletters, have not been given document numbers and consecutive pagination.

### ***National Vessel Documentation Center***

Mr. Nolan reported a problem at the USCG National Vessel Documentation Center (“NVDC”) during September 2012. NVDC services, such as the issuance of Abstracts of Title, were shut down to enable internal computer system changes. According to Mr. Nolan, the timing was particularly poor as occurring without adequate notice and just prior to the end of the fiscal quarter when many vessel transactions were scheduled to close.

Because this government shut down adversely affected marine finance lawyers, President Parrish will continue discussions with the Coast Guard JAG leadership in an effort to prevent any repeat.

### ***Federal Judicial Education***

Mr. Nowell provided the Board with an update on his discussions with the Ninth Circuit regarding its 2014 judicial conference. He has been asked to prepare an outline for a 50 to 90 minute breakout session on admiralty and maritime law. President Parrish will assemble a Board subcommittee of Ninth Circuit Directors to assist Mr. Nowell.



### *Commodities Committee*

Following up on an inquiry from a member, Mr. Clyne had determined that several other members expressed interest in a new substantive committee on commodities. Mr. Nolan also expressed interest on that subject. Past President Burrell suggested a joint commodities subcommittee of the Arbitration and ADR Committee and the Carriage of Goods Committee might be appropriate. It was decided that Mr. Clyne will assemble the names of those interested so that formation of a new committee or subcommittee can be further explored.

### *Regional MLA Events*

President Parrish reminded the Board that holding an informal event for members at the local or regional level is an excellent way to engender MLA collegiality and recruit new members. Something as simple as a Dutch Treat lunch held in a Director's city can be effective in accomplishing these goals. President Parrish also offered his availability to attend any such function by teleconference to provide updates on MLA projects.

## **FUTURE MEETINGS**

### *Joint Board Meeting with CMLA, August 2013*

President Parrish reported that he had recently received an invitation from the Canadian Maritime Law Association to jointly hold MLA and CMLA board meetings this summer in Canada. This most recently occurred in Quebec City in 2009. The CMLA is planning to meet next summer in Niagara-on-the-Lake, Ontario. President Parrish inquired whether the first or second weekends of August 2013 would work for our Board and will propose a schedule as appropriate.

### ***Puerto Rico Fall 2013 Meeting***

President Parrish reported that planning is well underway for next year's resort meeting in Fajardo, Puerto Rico, to be held October 30 to November 2, 2013. This will be a joint MLA meeting with the Instituto Iberoamericano de Derecho Maritimo ("IIDM") which is projecting 200 registrants. Efforts are being made to accommodate the needs and interests of both MLA and IIDM members. For example, President Parrish noted that CLE programs will be bi-lingual with real-time translations to and from English/Spanish available for attendees.

### ***MLA Joint Sponsorship of Regional CLE Programs***

The Board generally explored several preliminary ideas for meetings three and four years in the future, and beyond.

Mr. Watson expressed interest in holding a Fall 2016 MLA city meeting in New Orleans, noting that would be the 50<sup>th</sup> anniversary year of the Tulane Admiralty Law Institute ("ALI"). Should the two events be held together, ALI would likely skip its March 2015 program, and perhaps be set up to continue thereafter on a three year cycle. These discussions were recognized as exploratory because ALI has not yet met to address these sorts of changes.

Mr. Nowell then noted that the Pacific Admiralty Seminar ("PAS") is scheduled to meet October 2016, which would conflict with a possible fall 2016 joint MLA/ALI New Orleans meeting. The Board discussion then proceeded to question whether PAS might also consider a three year cycle, starting with a fall 2015 joint MLA/PAS Napa Valley meeting, for example.

Mr. Nowell requested that the Board make specific its requirements for joint MLA/PAS meetings so that discussions between PAS and the MLA might advance. He also responded that in any event, in his view, a one day Napa Valley PAS seminar in conjunction with an MLA meeting seemed feasible for the fall of 2015.

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,

David J. Farrell, Jr.  
Secretary