



THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

MLA PROCEEDINGS

Fall Meeting – November 2, 2013
Fajardo, Puerto Rico

Present:

ROBERT B. PARRISH
ROBERT G. CLYNE
HAROLD K. WATSON
DAVID J. FARRELL, JR.
WILLIAM ROBERT CONNOR, III
BARBARA L. HOLLAND
PATRICK J. BONNER

And the following 84 members:

Don C. Adams	Phillip A. Buhler
Muge Anber	Lucienne Bulow
Charles Anderson	Rob Burger
James W. Bartlett, III	Lizabeth L. Burrell
Jaime Betbeze	Peter Clark
Michael Black	Mark T. Coberly
Murray Bloom	Eric Daniel
James Brockmeyer	Christopher O. Davis

Charles DeLeo	Dennis Minichello
Vincent M. DeOrchis	James Miranda
Susan Dorgan	Jeffrey Moller
John S. Farmer	James F. Moseley, Jr.
David C. Farrell	James F. Moseley, Sr.
Boriana Farrar	Francis X. Nolan, III
Robert B. Fisher	Don O'Hare
Ed Floyd	Edward J. Powers
Vincent J. Foley	Edward C. Radzik
G. Beauregard Gelpi	Mary E. Reeves
Alexander M. Giles	Robert Reich
Geoffrey Ginos	J. Ramon Rivera-Morales
Don Greenman	William J. Riviere
Christopher M. Hannan	John Ryan
Raymond P. Hayden	John Scalia
Chester D. Hooper	Charles E. Schmidt
Lori Hopkins	Pamela Schultz
Rob Hopkins	J. Ben Segarra
Skip Keesal	Jonathan Spencer
Allen R. Kelley	Norman Stockman
Donald J. Kennedy	Michael F. Sturley
RADM Frederick J. Kenney	Kevin Thornton
Lawrence I. Kiern	Jeff Tillery
Sandy Knapp	John Vayda
Lynn L. Krieger	Chris Verducci
Marjorie F. Krumholz	Joseph A. Walsh, II
Erika J. Lindberg	John M. Woods
Ryon L. Little	Robert Zapf
Marker Lovell	JoAnne Zawitoski
Warren J. Marwedel	
Ray Massey	And the following two guests:
Howard McCormack	
Daniel G. McDermott	John O'Connor
Peter A. McLauchlan	Michiel Van Leeuwen

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MR. PARRISH: Good morning. Good morning. I'm just looking for a friendly face in the back of the room. There's Chris Hannan coming in. I'd like some of the people who are in the lobby to come in.

We'll commence the Fall 2013 Meeting of the Maritime Law Association of the United States, and I'm going to break tradition today and start from the podium, and then adjourn to the table to spare my bad back, but welcome everybody.

It's been a great week. I know we're all ready to get back to the mainland, some of us, but we're going to have a fairly short meeting this morning. We have eight or ten committee reports and we may be out of here earlier than usual.

The first thing I'd like to do is to bring Donny Radcliff up. Donny. Donny, of course, is our meeting chair.

(Applause.)

MR. PARRISH: As I mentioned in some forum, when we conceived of this joint meeting with the Instituto Iberoamericano de Derecho Marítimo, we knew that it would present certain challenges of culture merging, and Donny has been the chief emergence officer. Bill Graffam, is the president of IIDM, and also a long time MLA member, and of course a good friend, but without Donny we couldn't have made this thing happen, and I want to thank him from the bottom of my heart.

(Applause.)

MR. PARRISH: I think Donny is going to bring his committee up and recognize them, with spouses, and also talk to us about tonight.

MR. RADCLIFF: My family says I'm long winded and some say I talk slow. For those of you who were at the Spring

Meeting in New York, you will no doubt remember how Bob towered over me to finish up my spiel about this meeting.

So I'll try to be quick but I do want to recognize, and certainly Bob wants me to recognize all of the non-delegating members of the planning committee because it's been a lot of work for them.

If half of what could have gone wrong this week had gone wrong, then the hard work of Bob, Charlie Schmidt, who is our in-house expert on event planning and number crunching, and the committee, would not have mattered a whole lot.

And speaking in generalities and not specifics, when a group like ours partners with another professional organization, which has its own membership and its own tradition, to cohost a function such as we have had this week, I think the likelihood of something serious going wrong not only doubles, I think it triples or quadruples.

And I don't mean something inconsequential, like the next president of the MLA at midnight checking in with his wife being told his room had been canceled. Something more serious that would disrupt this meeting. But it hasn't happened. Murphy's Law has stayed away. And unless this group has had a complete metamorphosis and we all now keep our complaints to ourselves, then I think the meeting has gone well, because everybody has been complimentary and that is greatly appreciated.

Bob had to break from tradition in two ways in forming this committee. One was that he took almost half the available spots on the planning committee and put longstanding IIDM members on the committee. They are all San Juan maritime attorneys. They are now MLA members. They joined just so they could serve on this committee and they have all done a great job.

Manolo Rodriguez, his wife Olga, and Juan Carlos Deliz, were in charge of the fishing tournament. Raquel Dulziades and

Tony, her husband, were in charge of being the personal liaison and putting together all the information for tours, such as to the rain forest. And they have certainly done their work in those compartments very well. But actually, they are all law partners of Bill Graffam, the president of the IIDM, and had responsibilities far beyond their committee titles.

Manolo was John Farmer's counterpart on the CLE. He is the one who lined up all the IIDM speakers. Juan Carlos was pretty much Jim Moseley Jr.'s counterpart. He got everything that was to be delegated that didn't fit a particular category, including the sponsored trip to Old San Juan last night. Raquel also helped in both those big events. So they did far more work than just within their committee titles.

Luis Saldana and his wife Omara from San Juan were in charge of golf. When we met at our site committee meeting here last year, I told him I could make his job simple, but not easy. I said, "All you have got to do is make Hal Watson happy." I think he did. And Hal didn't win this time, which is highly unusual.

The other break from tradition that Bob very reluctantly, but wisely did, was because he knew we would have all kind of unexpected challenges in planning a joint meeting. So what we had to do this year was to fill the few remaining positions with repeat committee members. I have observed how the Planning and Arrangements Committee is chosen enough to know that in the committee selection process great effort is made to bring in new members. This has to be the best committee. It's rewarding, it's fun. But for this meeting we felt that we had to have experience at every level.

Pamela Schultz from San Francisco is the one new member. She was in charge of tennis and fun run. The fun run went off without any hiccups. When Pam got to the El Conquistador early this week, the tennis courts frankly were deplorable. She had to go to work on that. They were much better, and had had a good

make-over, by the time of the tournament. Most resorts have a dedicated tennis pro. This one does not. The tennis pro is the golf pro. And so Pam not only had to organize the tennis tournament, she had to put it on.

We had one signee who participated in the tournament who had never played tennis in his life. He watched a match on TV and said, "I can do that." And so Pam had to deal with those kind of unexpected ones. She did not have an easy job.

Paul and Mildred Calvesbert from San Juan are in charge of sailing. They are not here. They are on Palomino Island lining up the sailing event, which takes place at one o'clock this afternoon. But it is good that Paul is local, because he had trouble running down the manager and getting the equipment. I don't think anybody from the U.S. would have actually made the tournament happen. We certainly appreciate Paul and Mildred's help.

One of the unusual aspects of this meeting was, in addition to a million decisions, there was a lot of back and forth between the two organizations in trying to make it all work. One example is that the IIDM wanted all our evening functions to start at 9 p.m. Very nicely, they agreed to just start 30 minutes later than we usually do. But there's been a lot of negotiation between the groups trying to make both sets of members happy.

One thing we did not negotiate with was the evening event. We made it very clear Janet Marshall from New Orleans was going to make all the decisions. She knows what we like, she knows what we do not like, and she was to be the person in charge. Janet is not here. She is still working on tonight. If you saw her this week, you saw the crown of her head because she has been working all week at the registration table making sure the evening events were done as planned. Janet is ready for us tonight and has done a great job.

John and Jill Farmer from St. Louis were in charge of the CLE program. You have all seen him working the last two days. No delays. Everything went on time. Pat Smith of Tulane told me that she has handled scores and scores of CLE registrations for different groups and that she has never had one where the group did what they should have until John Farmer. Pat said it was to perfection. We appreciate John making that happen.

(Applause.)

MR. RADCLIFF: I have done registrations twice and the first time I didn't have a clue what I was doing. Daré and I were not able to make the Hawaii meeting so I don't know if Marker and Alli Lovell from San Francisco felt that way, but he had it down to perfection for this meeting.

I know she is not going to be reading the minutes, but I do need to thank Robin Becker with the MLA. At Bob Connor's recommendation, Robin was the person who collected the registration materials and the payments. That still left plenty for Marker to do before and at the meeting. Marker did what he normally does for us and he also did that for the IIDM, from ribbons to packets and other things. So, Marker, we appreciate your and Alli's help.

John and Ellen James were in charge of the programs and the committee meetings. Ellen helps with an SAT testing course each year several times. She had to return yesterday to do that in New York today, so they are not here. But John also had to work with both groups to do the registration materials and to do the booklets. He worked with eight committees in organizing what they needed for their Tuesday afternoon sessions and he did it without any type of mistake or error.

We all know that Jim Moseley, Jr. has his kind disposition from both his parents and he needed it in being our vice chair and treasurer -- Jim and his wife Heather. Any time Bob and I got a

dog job that we did not want to give to somebody else, we gave it to Jim. On one task, I was happy to see that Bob gave it to him instead of asking me to assign it. Jim called me a few minutes later and said that of all the volunteer work he had done for the MLA over the years, this is the first one he would have liked to say no to if he could have. So Jim was great to have.

I think unless I have left anybody out...yeah, I'm getting to it. My wife was not telling me to recognize her, but to recognize Forrest. And of course this is Bob and Forrest's party and she has done a great job throwing the party and I hope everybody enjoys the rest of the meeting.

We have sailing. It is at Palomino Island. Observers do not have to pay, so please join that sporting event. Of course we have a dinner/dance tonight, which is Bob and Forrest's goodbye celebration. For a year and a half I have been waiting to watch Liz Burrell and Professor Davies do the salsa and we are now less than eight hours away.

Everybody have a good trip home. I've enjoyed it, Daré has enjoyed it, and we'll see you throughout the rest of the day.

(Applause.)

MR. PARRISH: Donny, I was just getting ready to cut you off when you were talking about my wife.

Thank you very much for all the hard work. I know everybody has enjoyed it.

I next would like to introduce a few of our friends and some dignitaries we have with us today. We have a great delegation from the United States Coast Guard, Admiral Fred Kenney, Captain Melissa Bert, and Lieutenant Commander Lineka Quijano, and we'd like to ask our friend Admiral Kenney to come up and make a few remarks.

ADMIRAL KENNEY: Good morning, everybody. It's good to see you all here bright and early on a Saturday morning.

I wanted to thank Bob Parrish and Bill Graffam, who I know is not here, and also all the organizers of what has really been a great event. I'm not going to talk too much substance here today, but I did have a few comments that I wanted to make.

I usually come up here to report on the state of the Coast Guard-MLA relationship, and I'm very happy to report that it remains strong and continues to grow. It's events like these and the day-to-day interaction that we have with MLA members and Coast Guard, the CG JAG attorneys, that I think continues to grow the relationship. The opportunities to interact that we have, and venues like this, really make the ability for the free flow of communication between the Coast Guard and the maritime bar a reality.

And it's remarkable how I think we're able to work through issues more effectively and efficiently just by the enhanced communication that we have. You know, I certainly have gotten some suggestions for improvement while I've been here, and that's fine. That's really what I'm looking forward to whenever I come to these events.

I think this event really has been unique and special for another reason. If you listen to Admiral Papp, our Commandant, one of the things he really stresses for Coast Guard personnel is gaining proficiency in your craft. And proficiency is not just mere qualification and the ability to get the job done adequately. It's becoming the master of your trade.

And for maritime lawyers, the opportunity to master your craft and engage in professional development is really rather limited. I, as the head of CG JAG, really focus on professional development for my people as well. And it was interesting, Bob mentioned Melissa and Lineka, who both gave presentations here

this week. But we also had three Coast Guard attorneys who were here to get their CLE.

And I was talking to one of them on Thursday and he said, “You know, the MLA CLE sessions are really the only opportunity that most maritime lawyers have to gain CLE in their chosen craft and there’s no better opportunity to work to master your craft than meetings like this.” So I want to applaud you for that.

The next thing I wanted to touch on was really the brilliant stroke that Bob had in bringing the IIDM along with this. One of the things that I’ve really been focused on through my Coast Guard legal career is developing legal capacity around the world and trying to promote the rule of law in developing countries.

It’s very interesting to note when you get to most developing countries and you look at the way the United States tends to conduct capacity building and security cooperation, for most developing countries, they really can’t afford, nor do they need a navy. What they need is a Coast Guard, where they can protect their borders, where they can protect their fish stocks, where they can promote enforcement of international rules and regulations for the safety of navigation. I’m just giving a few examples. But that can’t happen unless a rule of law is in effect in the country that you’re speaking of.

One of the things that I always say is, you know, the Coast Guard is a very large law enforcement agency and we work to promote the law enforcement mission around the world, but it is very, very hard to conduct law enforcement when there’s no law to enforce. And we find that in country after country as we work to help them build coast guards.

And you look at some of the U.S. initiatives, the Africa Maritime Law Enforcement Partnership in both East and West Africa, the Oceania Maritime Security Initiative in the Pacific, and what the Coast Guard and the State Department have been doing in

Latin America, the eastern Pacific, the Caribbean nations, in terms of developing the rule of law when you look at our missions, like counter drug and migrant interdiction.

There's still a lot of work to be done, and I really think there's a role for the private bar in terms of developing legal capacity around the world. And why I was so excited about Bob bringing the MLA and the IIDM together is it provides another one of those opportunities, because the private bar really can have a role in identifying issues, working to promote the development of legal systems in countries where there is work to do, and that includes the United States.

And it's that interaction that allows us to work to get to where we need to be, where the rule of law takes hold around the world. That rising tide will lift all boats and we can have a consistent, understandable, transparent legal system that will facilitate ultimately what we're all here for -- to promote the maritime industry and the safe, secure and efficient flow of commerce around the world.

And so I wanted to just thank you again for really coming up with this great idea. I think it's good for the MLA, good for the IIDM, good for the maritime industry, and also good for the United States Coast Guard.

So thank you.

(Applause.)

MR. PARRISH: Thank you, Admiral.

Next I want to recognize our friend. I don't believe he's in the room. John O'Connor, are you here today? The President of the Canadian Maritime Law Association.

We are hopeful that he's out polishing up the Challenge Cup to return that to us.

But he's been here all week and I'm sure you've all seen him. He'll be around tonight as well.

Chris Davis, I didn't give you a warning, but if you would come up, I want to recognize you as having been elected as one of the two vice presidents of the Comité Maritime International, and ask you if you have some remarks as to the status of that organization.

MR. DAVIS: Thank you, Mr. President.

Good morning, ladies and gentlemen. I wasn't planning on coming up here this morning, so I'll be very brief. I want to thank the Association for its support. I've always stated that I serve on the Executive Council of the CMI at the pleasure of the MLA and its President and Board.

I firmly believe the CMI is an important and relevant organization. Those of you who were in the room when Johanne Gauthier gave her presentation, could feel the passion that she feels for this organization. It is vital that we remain involved in the work of the CMI and I look forward to serving both the CMI and the MLA.

Thank you.

(Applause.)

MR. PARRISH: For the record, we could not have a better member also in the leadership of the CMI, Chris Davis. We thank him for that service.

The next thing I wanted to mention was the IIDM, and obviously we're here at a joint meeting, but just briefly, I thank you all for your cordiality to those friends.

What many of you may not know is that those of us who've been meeting together for decades representing all the sea ports in

the United States, the friends that you've met this week are also leaders of their respective firms, throughout Central and South America in all the Spanish-speaking countries.

So I hope this has been an opportunity for us to make or renew good relationships between the northern and southern hemispheres, because I think that's going to be our future as we continue the practice of law. We have many foreign lawyers here today. I might have called them all out by name, I'm not sure which ones are with us this morning, but we've been blessed with a lot of foreign participation. The Canadians showed up in force, probably in anticipation of trying to take back the Challenge Cup, but we're glad to have them.

Officers' reports, Dave Farrell.

MR. FARRELL: Thank you, Mr. President.

I hope you've all signed in and any speakers who come up, please hand a business card to the court reporter, Joanne de Thomas of *Taquígrafos de Récord*. We're very grateful that she's here today, and if you have any court reporting needs in Puerto Rico, please consider hiring her.

Your Board has met twice since our Spring Meeting. First in August we met in Canada with the Canadian CMLA as our gracious host. And with many of our Canadian friends here in attendance this week with the splendid joint meeting with the IIDM, it can be fairly reported that the USMLA's tradition of congeniality and scholarship has been extended to maritime lawyers throughout the western hemisphere -- from the Straits of Magellan to the Great Northwest Passage.

The Board also met earlier this week, and I wanted to just advise you of some upcoming biannual events.

In the spring we're going to be returning to Cipriani Wall Street for our dinner on Friday, May 2, 2014.

A year from now we're going to have a city meeting in Philadelphia, October 22nd to 24th, 2014.

Then two years from now we're going to be having our next resort meeting, in the fall of 2015, on Bermuda at the Fairmont Southampton.

And there's plans for a joint meeting with the CMI during MLA week in the spring of 2016 in New York.

And then a city meeting in New Orleans in the fall of 2016 in conjunction with the 50th anniversary of the Tulane Admiralty Law Institute.

But the bulk of the Board's work over the last couple of months has involved revamping our web site. And our Magellan on this project is the very capable Lynn Krieger, who's also the Chair of our Website and Technology Committee. She's assisted by a special Board subcommittee comprised of Alex Giles, Katherine Newman, and Boriana Farrar. And I'm going to mangle website jargon if I continue much more, so I'm going to defer to Lynn to describe the specifics

That concludes my report.

MR. PARRISH: Treasurer Bob Connor.

MR. CONNOR: Good morning.

I'm happy to report that the Treasury is alive and well and in good fiscal shape. As usual, we still have 271 members who have not paid their dues. This is an important thing to the Association and I just think it's a moral commitment people should do.

One problem we do have, and I say it every time, if you change your e-mail address, if your firm moves or you change

firms, please, please, notify Robin Becker, because one of the problems we have is when we send out invoices and they come back returned, or an e-mail comes back returned, we don't know where to find you. So if you do that, please notify us. It will help us very much.

As to this meeting, we are hopeful that we will do well on the meeting and show a little profit to help the Treasury, but that all remains to be seen by how much you drink tonight. So drink the cheaper liquor. No, have a good time, because we're doing well, and the committee certainly has done a good job of planning it.

And that concludes my report, Mr. President.

MR. PARRISH: Thank you, Bob.

Just one remark on the Puerto Rico meeting. One of the challenges is that there are so many meetings around the world; literally one can go to a maritime industry meeting I think every week, truly. So what I thought was we would try to change the mode a little bit and it was not without some consternation that we -- well, the IIDM, which is very much used to it with their culture -- engage in sponsorship solicitation. They did that primarily. We did a little bit.

But they primarily engaged in sponsorship solicitation, which is their norm, and brought in a tremendous amount of dollars, which resulted in, I think, the lowest registration fee I've ever seen going back 30 years. So we're pleased with that. The goal of these meetings is not to run a profit. It's just to basically keep the costs as low as we can so we can gather people here to enjoy the CLE.

Barbara Holland, Membership.

MS. HOLLAND: Thank you, Mr. President.

Since we last met at our General Business Meeting in May of this year, I'm pleased to report that we have added 31 Associate members, one Academic member, and six Law Student members.

In addition, I'm very happy to advise you that one of our members has moved into the Judicial membership position. That is the Honorable Joe E. Basenberg of Mobile.

And we have three members who have been approved by the Proctor Admissions Committee for Proctor status. Those are:

Michael Black of Miami, Florida;

Andrea Jansz of Melville, New York; and

David Walker of Houston, Texas.

So that's very good news, and if you know these folks and see them, please congratulate them for their hard work.

I'm very sad to report to you that we have had the deaths of eight of our members since we last met in May:

Phil Berns of Henderson, Nevada, who, as many of you know, was the Membership Secretary of the Association for many years, and his reports to this group were legendary;

George Chandler, III, of Houston. George was a Titulary member of the CMI;

Mort Clark of Norfolk, Virginia. He was on the Executive Committee of the Association;

Victor Goldberg of Jacksonville, Florida;

Jeremy Harwood of New York, New York;

William Kardaras of New York, New York;

Russell Melton of Minneapolis, Minnesota; and

Carlton Russell of Costa Mesa, California.

If I could, please, I'd like to have a moment of silence to remember these members whom we have lost.

(Moment of Silence.)

MS. HOLLAND: Mr. President, as of today I can report that there are 2,864 members in the Association and, unfortunately, we are losing some members, but we are also continuing to add members. Please go out there and encourage people in your areas to join.

Thank you very much. That concludes my report.

MR. PARRISH: Thank you, Barbara.

The standing committee reports now. In honor of Bunky Healy, I'm going to continue doing it in reverse order.

Young Lawyers, Norman Stockman.

MR. STOCKMAN: Thank you, Mr. President.

Mr. President, officers, directors, members, and distinguished guests:

The Young Lawyers Committee did not hold a formal meeting this week in Puerto Rico. We did hold several informal meetings in Puerto Rico which I'll get to in a moment.

For information about the substantive work of our committee, our newsletter, "Theoretically Quarterly," has been published to the website. Of note, Stephanie Espinosa reports

that our committee's work with the Marine Insurance Committee in preparing a proposed uniform definition of the term "marine insurance" is nearing completion. In addition, we are beginning work on a new project for the MLA, compiling the *amicus curiae* briefs that have been filed by the Association. Committee member Ben Segarra is spearheading that work on behalf of the Young Lawyers Committee.

Despite not holding a formal meeting, we had several informal gatherings during this week. In particular, on Thursday night the Young Lawyers Committee organized a dinner and cocktails, a late dinner and cocktails, in conjunction with the Young Lawyers of the IIDM. That event was held at the Metropol Restaurant in Fajardo. A good time was had by all. A very special thanks are owed to our Young Lawyers Committee member Alberto Castañer. He organized the dinner, he arranged transportation, and he served generally as a host to those of us who were new to the area. Alberto did a wonderful job. It went off with a few hitches, but overall, we had a great time.

I also can report that last night after the cocktails and dinner, several detachments of the Young Lawyers Committee were sent out into Old San Juan to explore the area. The reports are beginning to filter back in from that expedition. The details right now are sketchy, but I do understand that several warranties may have been breached during those outings. I do believe that the navigation limits were certainly exceeded. We believe it was only a minor deviation, but nonetheless. In addition, the seaworthiness of at least one of the establishments visited is in question. However, as always, the members of the Young Lawyers Committee conducted themselves in utmost good faith. Further details, if any, will not be forthcoming.

And that concludes our report. Thank you, Mr. President.

MR. PARRISH: Norman, it's good to hear that you're

keeping up with the low standards of the Young Lawyers Committee.

Uniformity, Dan McDermott. Dan McDermott, are you here today? Do you have a report? You don't have to talk. Somebody said you wanted to talk. That was a refreshing change, but...

MR. McDERMOTT: Good morning, everyone.

The Uniformity Committee did not formally meet, however, we did have the honor of hitting off on the first panel discussion and it was very well received from what I understand. During my portion of the presentation on Global Uniformity of Maritime Law, I gave an overview of what the MLA is all about, what our purposes are, its history, all the fine work that everybody has done in moving maritime law and the MLA goals as we go forward.

I briefly spoke about some of the Supreme Court decisions on what is a vessel. I gave a brief speech capsulizing Mike Chalos' presentation on the COSTA CONCORDIA. The report I got back is that Tom Hanks has declined to represent Captain Schettino in the movie version.

Thank you very much. That concludes my report.

MR. PARRISH: Thank you, Dan.

I also want to mention that one of the things that your Board engages in on a very frequent basis is the processing of applications for MLA *amicus* briefs, and of course uniformity being certainly our *raison d'être*.

Dan is in the forefront of that and I want to thank him for all the quick responses to all the e-mails he gets from me seeking views as to whether or not the Association should file those briefs.

I want to break from the standing committee reports to recognize John O'Connor from the Canadian Maritime Law Association.

Noticeably absent is the Challenge Cup.

MR. O'CONNOR: May I say a few words.

MR. PARRISH: Please. Please come up.

MR. O'CONNOR: Thank you, Mr. President.

And good morning, ladies and gentlemen.

Two things I'd like to say. First, before I talk about the Challenge Cup, I'd like to say on behalf of the Canadians here present, Mr. President, we've had a wonderful week-event meeting, and I take the occasion on behalf of us all to thank you and to thank everyone in the organization of the USMLA for the wonderful reception you had. I try to butter you up here before I talk about the Challenge Cup.

But no, it's been fabulous and I've had one of our Spanish-speaking members do the same thing for the Iberoamericano Instituto, to thank them as well. So thanks very much for the hospitality. It was very much enjoyed.

Now, for the Challenge Cup. The Challenge Cup is the cup where the United States takes on the ROU, the "Rest of the Universe," with regard to the golf tournament, and in Hawaii, Canada unsurprisingly won the Cup. So we've had it in our possession for two years and it's been on a shelf. We're looking for it.

Our Secretary/Treasurer, Mr. Wilkins, brought the Cup here and gave it to the concierge. I've been with him now for half an hour not exactly trying to find it, trying to get them to give

it to me, which they haven't yet agreed to. But that's because I can't find Mr. Wilkins and it was he who had actually put it in the safe deposit. So I'm a little embarrassed at not having it up here. However, we will have it this afternoon, and perhaps tonight, if there's a moment, I can present it to the appropriate person.

I certainly agree with what Queen Victoria said many, many years ago, "It is America's Cup now," and hopefully in the next couple of years we'll have a chance to practice our golf and maybe get it back. So I apologize for not having it. Maybe we can find a minute tonight to present it.

MR. PARRISH: Thank you so much, John.

It goes without saying we very much appreciate your hospitality and the rest of the Board in Niagara-on-the-Lake last summer and it's clear to us all that our relationship with the Canadian Maritime Law Association is as strong as it could ever be thanks to that.

MR. O'CONNOR: Thank you very much. Thank you, everyone. Sorry to take your time.

MR. PARRISH: Stevedores, Alex Giles for Nash Bilisoly.

MR. GILES: Mr. President, officers, fellow directors, MLA members and distinguished guests: The committee on Stevedores, Marine Terminals, and Vessel Services met on Wednesday at two o'clock. We had fifteen members here in Puerto Rico and an additional seven members on the phone.

Chairman Nash Bilisoly unfortunately was unable to attend in person, but he contributed extensively via telephone, including some introductory remarks regarding committee member Gene George.

Vice Chairman Alex Giles, yours truly, provided a wrap-up of the Board's consideration of the request for an MLA *amicus*

brief in the CITGO ATHOS I case.¹ Committee member Tom Langan, as usual, provided an extensive update on recent longshore cases.

Chair Bilisoly spoke on two recent cases, one being the Fifth Circuit *en banc* decision in *New Orleans Depot Services, Inc. v. Director, OWCP*,² which resulted in an interesting discussion on the holding and on *situs vs. status*.

And the other case being the Benefits Review Board decision in *Lincoln v. Ceres Marine Terminals*,³ where the Board held that a voluntary payment of one half of one percent of the claim was substantial enough to prevent an award of the claimant's attorney's fees.

Vice Chair Giles then provided a summary of a recent opinion from the Court of Appeals of Maryland in *Dize v. Association of Maryland Pilots*,⁴ in which the Court dealt with the issue of Jones Act seaman status and provided further interpretation of *Chandris*,⁵ *Papai*,⁶ and what qualifies as time supporting the duration element of the *Chandris* status test.

Next, the committee was fortunate to have the presence of committee member Alberto Castañer from Puerto Rico, who provided us with a comprehensive presentation on stevedore and terminal operator developments in Puerto Rico, to include a discussion on general port statistics and identification of the relevant players in Puerto Rico's maritime industry, a discussion of the port of Ponce and its untapped potential, and the concerns of Puerto Rico regarding the Jones Act.

¹ *In re Petition of Frescati Shipping Co.*, 718 F.3d 184, 2013 AMC 1521 (3d Cir. 2013).

² 718 F.3d 384, 2013 AMC 913 (5th Cir. 2013).

³ BRB No. 12-0418 (Apr. 16, 2013).

⁴ 435 Md. 150, 2013 AMC 2576 (Md. 2013).

⁵ 515 U.S. 347, 1995 AMC 1840 (1995).

⁶ 520 U.S. 548, 1997 AMC 1817 (1997).

Finally, we heard from former Chair Tony Filiato with a legislative and regulatory update. Tony reported, unsurprisingly, that not much has been going on in D.C. with the recent government shutdown and related budget deficit issues. In fact, he reported that only three of the 90 employees of the OWCP were deemed necessary during the shutdown.

Despite the lack of recent activity, Tony did raise issues regarding Medicare Set-aside legislation and the status of TWIC cards and the yet to be deployed TWIC readers.

Mr. President, this concludes my report. Thank you.

MR. PARRISH: Thanks, Alex.

Regulation of Vessel Operations, Safety, Security, and Navigation, Jeff Moller.

MR. MOLLER: Thank you, Mr. President.

Good morning, ladies and gentlemen and fellow members. Our committee met on Wednesday at two o'clock. A written report of the meeting will be posted to the web page, and I would recommend that to you for a fulsome explanation of what was spoken about.

We had three speakers. I want to thank them for their obvious preparation, because they were very enlightening. Larry Kiern, the Vice Chair of our committee, spoke on legislative developments.

Captain Melissa Bert, the chief of the Coast Guard's Maritime & International Law Office, spoke on a whole list of regulatory projects and things of mutual concern to the Coast Guard and MLA members.

And Greg Linsin made a special guest appearance via telephone and spoke on latest developments in oil record book criminal litigation. I would recommend Greg's slides to anyone interested, which will be attached to the written report.

A number of issues were covered by the group, and I'll just quickly go over them. One thing that was common to both Larry's and Captain Bert's presentations was mention of the government sequester. Larry mentioned that it will be a major topic of upcoming congressional activity, and Captain Bert mentioned the fact that since the Coast Guard is already running lean and mean, that any further continuation of the sequester will mean cutbacks in the Coast Guard's personnel, which will of course have an impact on the regulated community in terms of timeliness of response, etc.

We discussed the new final regulation on non-tank vessel response plans, the ballast water management discharge program, the Maritime Labour Convention, and the MARPOL Annex V garbage discharge regs. The one thing I will mention about the Maritime Labour Convention is that although the U.S. has not ratified the convention, U.S. operators visiting ports of foreign countries that have ratified it will expect U.S.-flag vessels to be in compliance. The Coast Guard has gone out of its way to set up a voluntary compliance program, whereby U.S.-flag operators can get certificates from the Coast Guard to indicate their compliance that can be presented to the inspectors in foreign ports so that delays can be avoided.

That's all I have to say about our committee meeting. I recommend to you the written report attached to my committee's page on the MLA website.

Thank you very much, Mr. President.

MR. PARRISH: Thank you, Jeff.

Marine Torts and Casualties, Lisa Reeves.

MS. REEVES: Good morning, everyone, Mr. President, officers, members, and guests.

Marine Torts and Casualties met Wednesday afternoon and we had a joint meeting with the Cruise Committee and the Offshore Committee. Our committee's presentation was delivered by Josh Klarfeld, who is our Medicare and Medicare Set-aside guru. He did an excellent job.

Originally, we intended a debate or a panel discussion on whether attorneys and clients need to consider Medicare Set-asides with respect to future medicals upon a settlement or resolution of a tort case, whether it be Jones Act, passenger, or otherwise.

The conventional wisdom seems to be, "We'd better worry about it. We might have to pay three times if we make a mistake. Maybe the attorney, and certainly our client, could have a problem if we don't." Although Josh urged every attorney to make his or her own decision, he made the case that a set-aside for future medicals is not necessary as long as the settlement is reported to Medicare.

And as I said, it was supposed to be a panel discussion because the idea came from an article written by Richard McConnell, a D.C. attorney from Wiley Rein, who authored a very interesting article on the entire subject. He is not an MLA member, but nonetheless, agreed to come here on his own dime and join Josh in the presentation. Unfortunately, he developed the flu and had to cancel at the last minute. Despite the fact that Josh filed a brief on Monday, he stayed up all Monday night, and the entire plane ride here, preparing to give the entire presentation.

Josh gave an excellent presentation and there's a very persuasive argument that as long as you report the settlement, any payments that Medicare may make after the settlement cannot be "conditional," which is the statutory trigger for requiring a set-aside to reimburse for conditional payments. I would recommend

that all interested attorneys read the article and the materials from our meeting, which I will post to the web site.

I just want to give a final shout-out to Josh Klarfeld, who is very committed to our committee and the MLA. He responds at all hours of the day and night, and he just did an excellent, excellent job.

That concludes my report, Mr. President. Thank you.

MR. PARRISH: Thank you, Lisa.

Carriage of Goods, Ed Radzik.

MR. RADZIK: Good morning, Mr. President, officers and directors of the Association, members and guests.

The Carriage of Goods and the Marine Insurance and General Average committees jointly met on Wednesday. We had 37 in attendance and another seven phone-in.

We had the privilege to have a featured speaker, Robert Kuss, a German lawyer who practices maritime law in Cologne and Hamburg, who gave a PowerPoint presentation on the new German Maritime Trade Code.

Germany began a study of its need for a new carriage of goods by sea act around the same time that the Rotterdam Rules were being considered internationally. It had the hope that the Rotterdam rules would have been ratified by more countries than presently, and more importantly, the United States, but Germany kind of pushed the envelope and just this year enacted a new maritime code on the carriage of goods.

It has some similarities to the Rotterdam Rules, inasmuch as it eliminates the error in navigation defense. It also eliminates the fire statute defense. It provides for higher limits, and the

German code also provides for an arrest of a vessel procedure that the German code didn't have previously. Our thanks go out to Robert Kuss, who gave a very informative presentation.

Next we had an update on where the Rotterdam Rules stand in the United States. Don O'Hare gave us an update and told us that the Rotterdam Rules convention package has left the State Department and it's gone through interagency review by the Federal Maritime Commission, the Maritime Administration, and the Justice Department.

The State Department is anticipating those agency reports back in the near future, at which time the State Department will present the package to the President of the United States. The President will then forward the package to the Senate for advice and consent. A two-thirds vote of the Senate is required for ratification. There's no timetable, but it appears that some progress is being made.

Joe Grasso was unable to attend this morning but at our joint meeting reported that the Marine Insurance and General Average Committee had completed a project on the definition of marine insurance which will be posted on the MLA website.

As far as marine insurance is concerned, John Woods advised that one of the P&I Clubs is now considering offering COFR coverage for vessels and the Marine Insurance and General Average Committee was not able to respond to the questionnaire by the CMI as to inquiries about changes in the General Average Rules.

On behalf of the Carriage of Goods Committee, thanks go out to the members who responded to the recent request for whether the MLA should support a petition for *certiorari* in the *ABB v. CSX* case.⁷ There was a mixed bag of responses in that regard, but I understand that a Board decision was made not to support an *amicus* brief.

⁷ 721 F.3d 135, 2013 AMC 2142 (4th Cir. 2013).

Finally, there's on the table outside copies of the cargo newsletter put together by Mike Ryan, Cargo Newsletters 61 and 62.

That concludes my report. Thank you.

MR. PARRISH: Thank you, Ed.

Ed is another committee chair who I pester fairly frequently with requests for input to the Board on *amicus* requests, so I thank him for that, and also fighting a good fight for Past President Hooper on the soon to be adopted Rotterdam Rules. Let the record reflect that was said tongue in cheek.

Marine Financing, Practice and Procedure, Margie Krumholz. And is Eddie Powers also reporting?

MR. POWERS: Thank you, Mr. President.

We had a joint meeting Wednesday, approximately 25 in attendance, and another seven on the telephone.

I was going to start with a rendition of "Sweet Caroline" in honor of the Boston Red Sox World Championship, but President Parrish said I was not allowed to do that, so we'll keep this short.

I would like to thank John Cleary. As you recall, John, with Frank Nolan, wrote the *amicus* brief in the *Lozman*⁸ case and also attended oral arguments at the Court. John gave a presentation at the Spring Meeting in New York. He was asked to come back and give an update on recent cases that highlight the continuing tension between the Supreme Court's subjective test in *Lozman* and the ongoing issues with marine financing, particularly in fixed river boat gambling casinos. He gave a very good presentation and I thank him for that.

⁸ 133 S.Ct. 735, 2013 AMC 1 (2013).

Also I would like to thank Jorge Blasini from San Juan who gave an interesting talk on the current case he has in San Juan in which the limitation of liability proceedings he filed have been stayed by the Bankruptcy Court and the ongoing problems with that.

Since it was a joint meeting with Marine Financing, Marjorie Krumholz will finish with her report, including Frank Nolan's comments.

MS. KRUMHOLZ: Good morning.

As Ed just said, we had three speakers. He mentioned John and Jorge, and our last speaker was Frank Nolan, who made a presentation regarding CMI's working draft of the international convention for recognition of foreign judicial sales. This is something that Frank has been working on through CMI that addresses the risks faced by purchasers of vessels at foreclosure sales in jurisdictions that are other than where the flag state is.

These purchasers go to the flag state registry to attempt to have vessels deleted, and some of the registries are not allowing the deletion because mortgagees of those vessels have not actually released their ship mortgages. There have been a couple of cases that have come up as a result of this and that's what has prompted the convention.

Frank presented the working draft to the group. It's been posted to the Marine Financing website -- you can get it on other websites as well -- seeking our input as to whether there were any comments, and generally some feedback regarding the usefulness of the convention.

I also wanted to mention, which I mentioned at the meeting, that the MLA submitted a petition for rulemaking to the U.S. Coast Guard about two weeks ago regarding Part 67 of Title 46 of the CFR. Part 67 is the vessel documentation regulations. It's also the

regulations regarding the filing and recording of instruments with respect to U.S.-flag vessels, including ship mortgages.

The regulations have not been updated for many years, and as a result of change of law some of the regulations are a little obsolete, there's some inconsistencies, and we also over time have had situations come up where there are actually holes in the regulations.

For example, citizenship is always an important issue in the registration of U.S.-flag vessels, whether for registry or foreign trade or for the coastwise trade. However, for entities that are commonly used today, limited liability companies, there are no Coast Guard regulations on how you determine whether an LLC is a U.S. citizen.

The working group at Marine Financing started this initiative and worked very closely with officials of the National Vessel Documentation Center in developing these proposed rules. We submitted them a couple of weeks ago. We're hopeful that the Coast Guard will accept the petition. There were a couple of areas that were not agreed on, but I imagine that the Marine Financing Committee will comment further should there be a rulemaking.

And that concludes my report.

MR. PARRISH: Thank you, Margie.

On the rulemaking request, I want to thank Margie. It's about a 150-page document. It's literally been dotting the i's and crossing the t's. It reminds me of the Chapter 46 revision some 30 years ago when Jim Moseley hired me, and I think he knows the amount work involved, around that time, and Admiral Kenney has expressed to me how much he appreciates us working on that, the tough stuff that might not ever get done without some input from NGOs like ours.

So thank you, Margie.

International Organizations, Phil Buhler.

MR. BUHLER: Thank you, Mr. President.

The International Organizations, Conventions, and Standards Committee met on Wednesday, October 30th. Our committee Secretary, Boriana Farrar, chaired the meeting in my unavoidable absence.

Liz Burrell provided an overview of BIMCO, particularly the work of the Documentary Committee, including dispute resolution clauses and arbitration with Singapore added as a standard venue.

Leanne O'Loughlin, a claims executive with the Standard P&I Club in New York, gave a presentation by telephone on International Group pooling structure in the event of a major casualty, using the case of the COSTA CONCORDIA.

John Kimball reported on the meeting of CMI in Dublin in conjunction with the Irish MLA. He addressed some administrative changes at CMI, and also announced the important election of our own Chris Davis as a Vice President of CMI.

The next CMI meeting will be held in June 2014 in Hamburg, and planning continues for the joint meeting with the MLA in May of 2016 in New York.

Doug Schmitt, an attorney from Vancouver and an officer with the Canadian MLA, gave a presentation on the CMLA work on international conventions, including recognition of judicial sales. He also talked about a model taken from the Cape Town Convention on the Aviation Registry as a proposal for a global registry for vessels.

Captain Melissa Bert with the United States Coast Guard gave her usual thorough report, including addressing issues impacting the new Maritime Labour Convention, U.S.-Cuba Bilateral Search and Rescue Procedures, the Global Maritime Distress and Safety System, Vessel General Permits, and conflicts with U.S. Coast Guard regulations and the EPA.

Finally, Borianna Farrar gave a report on the most recent WISTA Conference.

Our May meeting in New York will have as its theme issues relating to the opening of the Arctic, and I will say we tried to set the mood with the temperature of the room this morning. We've already lined up several very knowledgeable speakers and we're seeking CLE approval for this program. Details will be posted on our web page.

Mr. President, that concludes my report.

MR. PARRISH: Thank you, Phil.

Fisheries, Mark Coberly.

MR. COBERLY: Thank you. Mr. President, members of the Association, special guests, officers and directors: The Fisheries Committee met on Wednesday, October 30th, and in addition to those attending in person, we had nine members attending by telephone as well.

We had an interesting program, including two special guest presentations. The first was presented by the indefatigable Manolo Rodriguez, who again offered his assistance in this program. He presented what he intended to be a summary of his CLE presentation which was to take place the next day on international fisheries conventions, with the focus on whether they effected a conservation of the species or a spoliation of the species.

As it turned out, his presentation at the CLE was abbreviated because of time constraints and we actually had twice as much time in our Fisheries Committee to discuss the issues he raised.

Our Coast Guard liaison, Lieutenant Commander Lineka Quijano, presented the Coast Guard's input on their enforcement activities with regard to international agreements and fishing conventions.

That was followed by a lively and interesting discussion regarding maritime liens, and the extent to which they would attach to fishing permits as appurtenances of vessels. Two of our members, David Smith and Steve Johnson, each separately authored articles on the subject from different perspectives that were published this week in *Benedict's Maritime Bulletin*, and each presented his respective viewpoints.

We then had a joint presentation from past Chair of the Fisheries Committee, Kevin Thornton, together with Lieutenant Commander Lineka Quijano, on the Coast Guard investigation report released on August 23, 2013, on the sinking of the fishing vessel LADY MARY. The report on this tragic sinking, in which all but one crew member perished, contains 43 safety recommendations, some of which may find their way into regulations in the future, especially in connection with smaller commercial vessels.

Finally, the committee Vice Chair, Terry Kenneally, provided a summary of relevant recent cases, which in written form is also posted on the MLA website on the Fisheries page.

Mr. President, that concludes my report.

MR. PARRISH: Thank you, Mark.

Cruise Lines, Carol Finklehoffe. Is Carol with us this morning?

ADR, Peter Skoufalos.

My records reflect that I've gone through all the standing committees that met in Puerto Rico.

Are there any other standing committees here that need to give a report at this time?

I have some special committee reports. The next one is very exciting to me.

I'm sorry? Bill?

MR. RIVIERE: Offshore Industries.

MR. PARRISH: Offshore, please. Thank you. Come on up.

MR. RIVIERE: Thank you, Mr. President.

Mr. President, officers, directors, distinguished guests, and fellow members: The Offshore Industries Committee met jointly with the Marine Torts and the Cruise Lines Committees on Wednesday, October 30, 2013.

Approximately 35 members of the Association and of the joint committees were in attendance in person or by phone.

Our particular focus this year, for the segment of the meeting apportioned to the Offshore Industries Committee, centered on the U.S. Fifth Circuit's *Ranger* decision,⁹ issued in connection with the indemnity and insurance coverage dispute surrounding the DEEPWATER HORIZON litigation, and now pending on issue certification to the Texas Supreme Court.

Chris Hannan of Baker Donelson's New Orleans office spoke on the topic, and presented a PowerPoint entitled "Whoa,

⁹ 728 F.3d 491, 2013 AMC 2429 (5th Cir. 2013).

Kemosabe: The Fifth Circuit's Decision in the *Ranger* Case.”

Chris Hannan's PowerPoint will be made available on the website linked to the Offshore Industries Committee. I also note that he made it more of a reference than just the topics covered in the meeting in case anyone seeks further depth on these issues.

As you also have heard, presentations were made on behalf of the Cruise Lines and the Marine Torts and Casualties Committees, but I will leave that discussion to the reports that were already made.

In closing, I note that our committee Chair, David Walker, of Royston, Rayzor, Vickery & Williams in Houston, was unable to make the journey to Puerto Rico, as he is rehabilitating a recent knee injury which prevented his journey here. However, he sends his regards and we look forward to seeing him in the spring in New York.

Mr. President, that concludes my report on behalf of the Offshore Industries Committee.

MR. PARRISH: Thank you, sir.

Now there's some special committee reports. The next one is Website and Technology.

Lynn Krieger, you can come on up.

About three or four years ago it came to my attention that many members of the Association felt that our website was either outdated, outmoded, or for lack of a better term, because I had a long list of -- how shall I call it? -- comments from the membership that it just didn't fit us anymore.

So I undertook the process of trying to slowly consider and explore how to change it, why to change it, in what ways. It's

probably been too slow for some people, but in my mind it was deliberate, and we're getting there, and the person that's really pushing that effort is the technogeek from San Francisco, Lynn Krieger.

She's going to tell us where we are.

MS. KRIEGER: Thank you, Mr. President, officers, and my fellow Board members.

I'll try to be brief, because I'm actually feeling like it's July in San Francisco right now.

I first wanted to send out a thank you. This is my first resort MLA meeting and it's been spectacular. To all of the people on the arrangements committee and our local hosts and speakers, everyone who went through so much trouble to make the rest of our event so enjoyable, it's been a spectacular time and I have to commend everybody who worries about all the nuts and bolts in an event like this and then still goes out at night and shows some pretty impressive staying power.

My report on the website is that the website is coming along on schedule with the assistance of not only the special Board committee, but our special website committee, all the Board members who have been giving me a lot of assistance and support, and everybody who comes up to me at various points and gives me ideas about how they want the website to look.

Robin Becker has done a wonderful job providing support to our consultants with regard to the historical organization of the website. She has been really retooling herself to become familiar with a lot of the new technology that she's going to encounter so that she can provide continued support to the MLA website.

In terms of what we have right now, we have a wireframe, which is really just the structure of the website. It's going into

production right now, so that pretty soon people can look at a static website and see how things are going and what it will generally look like when we go online.

We've been discussing some of the aesthetic aspects of what the website should look like. Although it's very difficult to have everybody agree on something, everybody has been very collaborative and it's actually one of the fun parts of putting a website together. We're all hoping that when we roll it out for our new president's tenure it will be something that everyone can be proud of and it will attract a lot of new, additional interest in the Maritime Law Association.

Last night I think some of us came up with some very creative ideas as a result of our experiences wandering around Old San Juan and I encourage anybody else to bring ideas about the organization of the website to me whenever you have the chance.

And that concludes my report. Thank you.

MR. PARRISH: Thank you, Lynn.

I anticipate that many of you, like me, are relatively technonaive. So in recognizing that, I believe we have a great, actually new, Board member in Lynn. Every time I see a new word, like "Twitter," I just write it down and say, "Lynn, would you make sure we're up to date with this." And she's doing that for us.

If you have any ideas on the website, stuff that I don't understand, please pass them on to Lynn. She does understand it and she will do the best job, along with a lot of the support people, to make sure that we continue in this 21st Century ahead of the curve.

Liz Burrell, Past President Burrell, would you talk to us about BIMCO.

MS. BURRELL: Next week there will be another meeting of the BIMCO Documentary Committee and to paraphrase the commercial, "It ain't just charter parties."

At this point BIMCO has forms for transactions in every aspect of marine operations, shore side as well as transport. There is now a suggestion for a project that will affect ship finance and ship sale. The minutes for the upcoming meeting indicate that there has been some industry consultation about the importance or viability or necessity for new forms in this area. As far as I can tell, however, nobody on this side of the Atlantic has been part of that consultation process.

Because these things come up very quickly, I don't have much lead time so if you have any ideas about this subject and whether such a project would be good expenditure of BIMCO's resources, please get in touch with me right away. I will give you all the information I have, which is not much, but I would be very grateful for your feedback.

Thank you very much.

MR. PARRISH: Thank you, Liz.

Liz is another person who does so much, continues to do so much, for the Association that not many people know about. She doesn't go around with a horn, but I can tell you the BIMCO representation of the Association is challenging and she does a fabulous job.

Jim Bartlett, ABA liaison.

MR. BARTLETT: Thank you, Mr. President.

I had the pleasure of representing this Association at the ABA House of Delegates Meeting on August 12th and 13th in San Francisco. Much that goes on at the ABA has very little to do with

this Association. However, there was one resolution that I think will be of interest to those of you who work with arbitral awards. The resolution was intended, or is intended, to address a perceived problem that will become evident when I read you the resolution:

Resolved, that the American Bar Association affirms that the U.S. common law doctrine of *forum non conveniens* is not an appropriate basis for refusing to confirm or enforce arbitral awards that are subject to the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards or the Inter-American Convention on International Commercial Arbitration, and that refusal on that basis is not consistent with U.S. treaty obligations under these Conventions and U.S. implementing legislation.

This resolution was passed on August 13th without any opposition. It was sponsored by the ABA Section of International Law.

Mr. President, that concludes my report.

MR. PARRISH: Thank you, Jim, for representing us at the ABA.

Next I want to call the First Vice President, Bob Clyne, for his remarks.

MR. CLYNE: Thank you, Mr. President.

As mentioned, next fall we're going to hold the MLA meeting, the port city meeting, in Philadelphia. It's going to be held October 22nd to the 24th, a Wednesday to Friday. We're going to hold the committee meetings in the law firms.

On Friday we're going to have our morning meeting, CLE, and our dinner at the Constitution Center. We're setting up a great CLE program and I'm hoping you can all attend. Although it's not part of the official program, we're also going to be trying to set up a golf outing at Merion, where the U.S. Open was played this year.

In the fall of 2015, we're very excited to announce that we just signed a contract, to go to Bermuda, to the Southampton Princess. That will be the third week in October and we're hoping that you can all join us. It's been 22 years since we've been to Bermuda and we're really looking forward to that event.

Thank you.

MR. PARRISH: Is there any other business to come before the Association this morning?

Past President Hooper, do you have a motion?

MR. HOOPER: Thank you, Mr. President.

I think the answer to your question is yes, but I'd like to tell a couple of little stories first, if time allows me.

I'd like to thank you for bringing Stephanie and me here finally and getting us into the hotel. In 1975 when Stephanie and I were married, Vince DeOrchis' father, my then boss and senior partner, generously gave us his time-share condominium down on the waterfront here for our honeymoon. I was in his office three times the week before we were married listening to him making the arrangements calling the hotel, and everything was all set. We drove down here and drove to the place to learn that it hadn't been built. This time it has been built and I see that it's there. Thank you.

I'd also like to tell you about a cargo case that Sea-Land had in San Juan, years ago. They brought a lot of bulls down here.

As they were discharging a bull, walking it down the ramp, the bull bolted, fell into the harbor, swam across the harbor -- apparently it did not enjoy the swim -- and climbed out of the water near the airport where a young couple was watching the planes take off and land. The bull charged the young couple. The young couple ran away from the bull, fell, or got injured in some way, and filed a claim. So how about that for a cause of action?

But that's it. And thank you very much, and congratulations for having this meeting; this may be your first meeting, Mr. President, not affected by a hurricane. I move to adjourn.

MR. PARRISH: We are adjourned. Thank you.

(The meeting concluded at 11:05 a.m.)

Report of the Arbitration and ADR Committee

The meeting of the Committee on Arbitration and ADR was held on October 30, 2013, at 2 - 3:30 P.M. at the El Conquistador Resort, Puerto Rico.

The Committee Meeting was chaired by Jack Vayda and speakers from around the globe agreed to participate in a discussion of the different views and perceptions of mediation by members of the international shipping community. The following speakers led the discussion:

Robert Glenn, Savannah
Jonathan Lux, London
Iwam Jaeger, Rio de Janeiro
Louise Barrington, Toronto (attending by conference call from
New York).

The meeting was attended by six by conference call from New York (including Louise) and by 17 (including the chair and speakers) in Puerto Rico.

The overall theme was inter-cultural issues playing out during a mediation and the following specific topics were addressed:

- 1) The role/function of the mediator in each of the different cultures;
- 2) The timing of the mediation;
- 3) 'Little white lies' in the give and take and negotiation that occurs during a mediation. Are they ethical in the different legal systems? Are they accepted from a cultural standpoint? How is the element of saving face relevant to the degree to which someone will be strictly truthful?

The specific example discussed was the attorney/advocate telling the mediator: “I can’t offer a cent more than USD 1 m” when, in fact, he was sitting on authority to offer USD 1.2 m.

Bobby Glenn was there to present the US perspective; Jonathan Lux covered Europe in general but England and Wales in particular; Iwam Jaeger gave the South American view in general but Brazil in particular; and Louise Barrington was able to give insight into Asia. There was wide ranging discussion occupying the full 1½ hours with questions raised from the audience both in New York and Puerto Rico.

The participants seemed to enjoy the session and the leaders felt it to be a success. The consensus view was that intercultural issues in mediation should be retained on the agenda for future meetings, as there is much more to be said on the subject.

Respectfully submitted,

Leo G. Kailas
Chair

**Report of the
Marine Insurance and General Average Committee**

MLA Committee on Marine Insurance and
General Average Meeting – 10/30/13

Our fall meeting was held jointly with the Committee on Carriage of Goods, with approximately 50 members in attendance (in person and by phone). We were pleased to announce the completion of our project on “The Definition of Marine Insurance”; we plan to post on the MLA website the following work product from this project in the near future:

- article
- proposed uniform definition
- compendium of state definitions
- compendium of case law

We thanked Gray Staring for donating his work to facilitate the project, and we thanked Stephanie Espinoza, Andy Kehagiaras, Brett LeBreton, John Ryan, and Joe Grasso for their contributions to the project.

The chair of the Hull and P&I Subcommittee, John Woods, reported that the Subcommittee plans to launch their project on Annotation of the Hull Clauses before the spring meeting in 2014. John also noted that one of the International Group of P&I Clubs (the Standard Club) recently announced that it plans to begin issuing COFRs.

Finally, with respect to our General Average Subcommittee, we noted that despite our requests (which also went to the In-House Counsel Committee and to the Carriage of Goods Committee), no substantive comments were provided in response to the request for comments from the CMI on proposed revisions to the York-Antwerp Rules; we advised the CMI accordingly in August.

Respectfully submitted,

Joseph G. Grasso
Chair

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

Held at the Prince of Wales Hotel
In conjunction with the meeting of the Board of Directors of the
Canadian Maritime Law Association
Niagara-on-the-Lake, Ontario
on
Saturday August 10, 2013
8:30 A.M.

The August 10, 2013, meeting was called to order by
President Robert B. Parrish at 8:30 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 present:

Patrick J. Bonner, Immediate Past President

Susan M. Dorgan	Robert B. Fisher, Jr.
Alexander M. Giles	Edward J. Powers
Charles B. Anderson	Michael K. Bell (by telephone)
Katharine F. Newman	Joseph A. Walsh, II
Christopher E. Carey	John S. Farmer
Boriana Farrar	Lynn L. Krieger

Past Presidents James F. Moseley, Howard M. McCormack,
and Thomas S. Rue also attended at the invitation of President
Parrish.

As the meeting commenced, John G. O'Connor, President of the Canadian Maritime Law Association, welcomed us to Niagara-on-the-Lake. Details for a late morning joint meeting of the MLAUS Board of Directors and the CMLA Board of Directors were provided as were plans for social events culminating with a joint banquet Saturday evening. President Parrish expressed his gratitude, on behalf of our Board of Directors, for the CMLA's kind hospitality.

President Parrish then welcomed our new directors, Mr. Carey, Mr. Farmer, Ms. Farrar, and Ms. Krieger, emphasizing the Board's important role as the determiner of MLA policy. President Parrish also recognized and expressed gratitude for the attendance of the Past Presidents who always provide valuable insight and historical perspective.

SECRETARY'S REPORT

On motion duly made and seconded, the Board approved the minutes from the May 2, 2013, meeting of the Board of Directors held in New York City.

TREASURER'S REPORT

Mr. Connor reported that the MLA's finances are doing well. He reported on dues collection, reviewed expenses and revenues related to the Spring 2013, dinner, and compared and contrasted certain expenses (such as printing costs for the *Directory*) which were incurred last year but will not be incurred this year.

On motion duly made and seconded, the Treasurer's Report for the three months ending June 30, 2013, were approved.

MEMBERSHIP SECRETARY'S REPORT

Ms. Holland reported that one judge (a former MLA director) had been proposed for Judicial membership:

Hon. Joe E. Basenburg
District Court of Mobile County, AL

Ms. Holland reported there were 14 applicants for Associate Lawyer membership:

Kelly Clark, Seattle, WA
Mehtap Cevher Conti, New York, NY
Todd Crawford, Gulfport, MS
William R. Ellis, Cincinnati, OH
Michele G. Hallowell, Washington, DC
Timothy John McLaughlin, Boston, MA
Olga Miller, New York, NY
Vincent D. Morgera, Providence, RI
Michael C. Nissim, New York, NY
Leanne O'Loughlin, New York, NY
Jack Paris, Miami, FL
Joshua S. Parks, Red Bank, NJ
David C. Reeves, Jacksonville, FL
Marcus J. Williams, New York, NY

In addition, two applications for reinstatement were received:

Leonel Perezniето, México, as an Associate Lawyer member

Professor Craig H. Allen, Seattle, WA, as an Academic member

Ms. Holland reported that two law students had submitted Law Student applications:

Eftihios Evan George Andronis, University of Miami

David Rood, University of Michigan

Ms. Holland regrettably reported learning of the following five deaths since our May 2, 2013, meeting:

George F. Chandler, III of Houston, TX; Life Member: elected 1973

Victor Y. Goldberg of Jacksonville, FL; Non-Lawyer: elected 2003

Jeremy J. O. Harwood of New York, NY; Proctor: elected 1990

William P. Kardaras of New York, NY; Life Member: elected 1966

Russell D. Melton of Minneapolis, MN; Proctor: elected 1989

With the above membership changes, the MLA's total membership now stands at 2,862 and is comprised as follows:

VOTING MEMBERS

Proctors	1306
Associates	1176
Non-Lawyers	175
Academic	27

NON-VOTING MEMBERS

Ex-Officio	15
Honorary	5
Judicial	123
Law Students	35

On motion duly made and seconded, the Board adopted Ms. Holland's report.

President Parrish addressed the above membership numbers and overall trends. While acknowledging some "graying" of the membership (as apparent by the increasing numbers of 40 year Life Members, with the concomitant loss of their dues payments pursuant to By-Law 210.2) as well as attrition due to member deaths, dues delinquencies, and continuing economic factors, Mr. Parrish noted that recruitment efforts during the last several years have sustained membership totals at static levels. The MLA remains healthy in his estimation, both in membership numbers and in the high quality of the MLA's work, and he is hopeful that will continue into the future.

Ms. Holland then moved to amend By-Law 204, refining its language in accordance with discussions held at prior Board meetings, to address a concern that a foreign lawyer member resident in the United States but not admitted to practice here would have voting rights potentially compromising the MLA's advisory role to the United States government. Changes are tracked as indicated:

204. ELIGIBILITY FOR NON-LAWYER MEMBERSHIP

Any person who ~~is a resident of the United States, has not been admitted to the practice of law, and~~ has rendered distinguished service in the advancement of the Maritime Law or its administration, may be eligible for Non-Lawyer membership ~~if he or she (1) is a resident of the United States, (2) is not admitted to the practice of law in the United States, and (3) is not engaged in the private practice of law.~~ A proposal for Non-Lawyer membership shall be submitted to the President in writing by two Proctor members. Non-Lawyer membership shall terminate when a Non-Lawyer members ceases ~~to be a resident of the United States to meet the requirements of this By-Law.~~ No Non-Lawyer member shall be elected when the Non-Lawyer members would thereby exceed ten percent of the total membership of the Association.

On motion duly made and seconded, the Board adopted the amendment.

SECOND VICE PRESIDENT'S REPORT

Mr. Watson advised he continues to work on updating the *Committee Chairs' Guide*. A current copy was provided with the agenda to the directors for their information.

Mr. Watson also presented a request from *Lloyd's List* to the MLA for our support of an inaugural North American Maritime Awards dinner to be held in Houston on February 19, 2014. For the MLA this would involve noting the event on our website's Events Calendar, with a link to the *Lloyd's List* awards dinner website. Several comments urged caution with committing the MLA to an endorsement of another organization's activities. By motion duly made and seconded, the Board approved the MLA's support for the *Lloyd's List* inaugural awards dinner, with the caveat that it would be reconsidered year-to-year.

BOARD SUBCOMMITTEE REPORTS

Reprinting of MLA Publications

Ms. Dorgan reported on efforts to prepare guidelines for reprinting copyrighted MLA publications. It was decided that a specific proposal would be submitted at a later date, to best coordinate with the new MLA website.

Membership Questionnaire

A letter was received from Messrs. Minichello, Nolan, Muzyka, and Nowell (whose terms on the Board had expired in May 2013) summarizing 150 responses to a recent membership survey they oversaw. This data was attached to the agenda for the Board's consideration.

AMICUS REQUESTS

President Parrish led a lengthy discussion on *amicus curiae* brief requests pursuant to By-Law 702, both generally and specifically regarding the ATHOS I case involving a 2004 oil spill in the Delaware River.

First, as a general overview and historical background, a partial listing of MLA *amicus* briefs going back to *Hickman v. Taylor*, 329 U.S. 495 (1947), as well as two emails from Immediate Past President Bonner were provided to the Board. In those emails Mr. Bonner thoughtfully addressed By-Law 702's language that the Board's approval of MLA *amicus* briefs "shall be sparingly authorized" and whether that language's goal of preserving the MLA's "brand name," particularly with the Supreme Court of the United States, remains valid. His emails also articulated the goal of serving and supporting our loyal members in obtaining *certiorari* in maritime cases, particularly when there are no major issue disputes among different MLA interests. It was also noted that the Maritime Law Board Subcommittee at the August 13, 2011, Board meeting recommended *amicus* brief participation as a way for the MLA to fulfill its core mission of working for the improvement and uniformity of maritime law.

Second, the Board addressed the extensive materials that had been submitted in support of and in opposition to filing an MLA *amicus* brief in the ATHOS I case, *In re Petition of Frescati Shipping Co.*, 718 F.3d 184, 2013 AMC 1521 (3d Cir. 2013).

As a preliminary matter, four directors (Mr. Watson, Ms. Dorgan, Mr. Walsh, and Mr. Bell) advised they would recuse themselves from the discussion and vote, such that only 15 directors participated. Nevertheless, pursuant to By-Law 702.5, “two-thirds of the total membership” of the 19 member Board would still be needed to approve an MLA *amicus* brief, meaning 13 votes in favor would be needed from the 15 participating directors in this case.

After extensive discussion, and since the filing of any MLA *amicus* brief would not be due until November 11, 2013, a consensus developed that it would be appropriate for the Board to immediately consult with the following five standing committees with subject matter expertise on issues presented by the ATHOS I case: Arbitration and ADR; Marine Ecology and Maritime Criminal Law; Practice and Procedure; Stevedores, Marine Terminals, and Vessel Services; and Uniformity of U.S. Maritime Law. It was agreed that after input from those committees the Board would be in the best position to further its discussion by telephone.

DISCUSSION ITEMS

CMI Questionnaire on General Average

On motion duly made and seconded, the Board approved responding to the CMI Questionnaire on General Average that the MLA could not reach a consensus so we would not be submitting comments.

46 C.F.R. Part 67 Revisions

In accordance with the approved Board minutes of the May 2, 2013, meeting, and on motion duly made and seconded, the Marine Financing and Fisheries Committees’ proposed revisions to 46 C.F.R. Part 67 were approved to send to the United States Coast Guard with the request that it initiate a rulemaking.

Federal Judicial Center

Mr. Walsh reported that the Ninth Circuit had concluded that a seminar on admiralty and maritime law was too narrow a focus given its training time constraints but it had referred the idea to the Federal Judicial Center.

UPCOMING EVENTS CALENDAR***CMI 2016 Conference in New York***

Continuing the discussions that took place at the last two Board meetings, and while recognizing that the MLA was founded in 1899 to be a constituent organization of the Comité Maritime International (“CMI”), the Board remained concerned that the MLA is expected to front many of the costs for the CMI 2016 Conference in New York.

President Parrish expressed reassurance that Messrs. Bonner, Clyne, Watson, Connor, and Schmidt would provide invaluable assistance to Mr. Foley in planning for the conference. Further, President Parrish planned on a *tête-à-tête* with CMI leadership at the CMI’s Dublin Symposium during September 2013, to further discuss the MLA’s concerns.

Puerto Rico Fall 2013 Joint Meeting with IIDM

Mr. Farmer reported on the status of preparations for the Puerto Rico Fall Meeting. He confirmed that the El Conquistador Hotel was a great venue and that the room rate and registration price were good bargains. CLE planning, with panels of MLA and IIDM speakers on topics relevant to both hemispheres and simultaneous translations, was shaping up well.

It was also noted that IIDM law firms and vendors had to-date agreed to contribute \$80,000 to defray the joint meeting’s expenses, thanks to IIDM President William A. Graffam’s

solicitations. In contrast with the MLA's past practices, this type of fundraising is part of the IIDM's culture.

MLA Annual Dinner, May 2, 2014, New York

Mr. Connor led a discussion on Cipriani Wall Street vs. Pier Sixty proposals for our Spring 2014, dinner. After considering various options and ticket pricing, the Board approved returning to Cipriani for the Spring 2014, dinner on the best terms possible.

Fall 2014 City Meeting in Philadelphia

Mr. Clyne reported on plans for a fall city meeting, Wednesday, October 22, thru Friday, October 24, 2014, in Philadelphia. MLA committee meetings will be hosted by Philadelphia law firms, with the Friday morning General Meeting of the Association and our Friday evening dinner held at the Constitution Center. Philadelphia Co-Chair Frank P. DeGiulio will report on more specifics at the Puerto Rico meeting.

Unrelated to the Philadelphia meeting, Mr. Clyne also noted that the Southern District of New York would be holding its 225th anniversary during the fall of 2014 and that the MLA would be involved in some capacity.

Fall 2015 Resort Meeting Site Selection

Mr. Clyne, in recommending Bermuda as the site of the MLA Fall 2015 Resort Meeting, began a discussion on the MLA's interaction, as a national organization, with regional events sponsored by the Tulane Admiralty Law Institute ("ALI") and the Pacific Admiralty Seminar ("PAS") and other groups. A summary of logistical difficulties in coordinating MLA city meetings, which by their nature move around our country's coastline, with the ALI and PAS meetings' two year cycles, was presented.

Past President Rue recounted the primary difference between resort and city meetings, with resort meetings designed

as an opportunity to get our widespread members out of the office to more fully bond professionally and socially as leaders of the MLA, in contrast to city meetings which were primarily designed to attract younger members from that region.

Ms. Krieger commented that the 2006 San Francisco city meeting held in conjunction with the PAS was a huge success, attracting West Coast members who appreciated the opportunity to avoid the long trek to the East Coast. She encouraged holding another joint MLA/ PAS meeting in San Francisco (or possibly the Napa Valley or Monterrey) in the fall of 2015.

While President Parrish, Mr. Clyne, and other Board members noted their keen awareness of West Coast members' concerns about repeated trips to the East Coast, several directors recognized the Fall 2011 Resort Meeting in Hawaii was in part an attempt to accommodate those travel concerns. The reality that less than one-third of our membership is from the West Coast was also recognized, with Ms. Holland suggesting that could be a "chicken or the egg" issue due to those travel concerns.

Recognizing interest in holding another West Coast fall meeting in the near future, Mr. Clyne asked that the Board give serious consideration to Bermuda for the 2015 resort meeting. Noting we had not held a meeting there since 1993, he envisioned there would be good international attendance from P&I Clubs and our UK colleagues, for example. He also highlighted that it would be nice to have everyone stay in a resort hotel of the Fairmount Southampton's caliber, anticipating a room rate under \$300. Ms. Farrar commented that Bermuda would be a real draw for many Young Lawyers from New York.

On motion duly made and seconded, the Board approved holding the MLA's Fall 2015 Resort Meeting in Bermuda.

Fall 2016 City Meeting in New Orleans

Mr. Watson advised that the plans for holding a 50th anniversary ALI seminar in the fall of 2016 in conjunction with an MLA city meeting in New Orleans are going forward.

NEW MLA WEBSITE PROJECT

Ms. Krieger reported on the status of updating the MLA website. She reviewed related documents that were attached to the agenda and led an extensive discussion on feedback received from various MLA stakeholders, vendor selection, contract terms, design development, timeline, and outstanding concerns.

The Board commended Ms. Krieger and Mr. Marling for their extensive due diligence in the request for proposal process and their identification of Boost by Design of Georgia as the most forward-thinking, reasonably priced, and thorough vendor proposal received. Importantly, it appears that Boost by Design is capable of dealing with the MLA's existing data as well as facilitating payment of dues, spring dinner, and resort registration fees by credit card, with safeguards to ensure security and member privacy.

To closely involve the Board in reviewing website design recommendations, President Parrish appointed a Board subcommittee consisting of Mr. Giles, Ms. Newman, and Ms. Farrar.

In the weeks and months ahead the Special Board Liaison Website and Technology Committee, with Ms. Krieger as Chair, would continue to obtain input from other MLA stakeholders, including for example, feedback from standing committee chairs on the design and functionality of their committee pages. A launch date following our Puerto Rico meeting and before January 1, 2014, was still anticipated.

On motion duly made and seconded, the Board authorized Ms. Krieger to continue discussions and negotiate a contract on the best terms possible with Boost by Design, cognizant of developing design processes as recommended by the Board subcommittee.

There being no other business, President Parrish adjourned the meeting.

Respectfully submitted,

/s/ David J. Farrell, Jr.
Secretary

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

Held at the El Conquistador Resort
Fajardo, Puerto Rico

on

Tuesday, October 29, 2013
2:30 P.M.

The October 29, 2013, meeting was called to order by President Robert B. Parrish at 2:30 P.M. In addition to President Parrish, the following officers were also present:

Robert G. Clyne, First Vice President (by telephone)
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 present:

Patrick J. Bonner, Immediate Past President

Susan M. Dorgan	Robert B. Fisher, Jr. (by telephone)
Alexander M. Giles	Edward J. Powers
Charles B. Anderson	Michael K. Bell
Katharine F. Newman (by telephone)	Joseph A. Walsh, II
Christopher E. Carey (by telephone)	John S. Farmer
Boriana Farrar	Lynn L. Krieger

Past Presidents James F. Moseley, Howard M. McCormack, Raymond P. Hayden, and Elizabeth L. Burrell also attended at the invitation of President Parrish.

Also in attendance at President Parrish's invitation were Donald C. Radcliff, Chair of the MLA Committee on Planning and Arrangements for the 2013 Fall Resort Meeting; Christopher

O. Davis, Vice President of the Comité Maritime International (“CMI”); Vincent J. Foley, MLA Chair of the CMI Spring 2016 Conference in New York; and Marjorie F. Krumholz, Chair of the Marine Financing Committee.

SECRETARY’S REPORT

On motion duly made and seconded, the Board approved the minutes from the August 10, 2013, meeting of the Board of Directors held at Niagara-on-the-Lake, Ontario.

TREASURER’S REPORT

Mr. Connor reported that the MLA’s finances are doing well and that we are in essentially the same position as last year at this time. He reported on dues collection, which has improved, as well as plans to follow-up with delinquent members, to avoid their automatic termination pursuant to By-Law 213.2 upon default in payment of dues for three consecutive years.

On motion duly made and seconded, the Treasurer’s Report for the three months ending September 30, 2013, was approved.

MEMBERSHIP SECRETARY’S REPORT

Ms. Holland reported that three Associate Lawyer members have been recommended for Proctor status by the Committee on Proctor Admissions:

Michael C. Black, Miami, FL

Andrea Jansz, Melville, NY

David R. Walker, Houston, TX

Ms. Holland reported there were sixteen applicants for Associate Lawyer membership:

Amanda O. Amendola, Boston, MA

Jaime W. Betbeze, Mobile, AL

Twain Braden, Portland, ME

Alexander T. Gruft, San Diego, CA

Scott R. Gunst, Jr., Philadelphia, PA

Samuel C. Higginbottom, Tampa, FL

David S. Humphreys, Jackson, MS

R. Isaak Hurst, Issaquah, WA

Christian T. Johnson, Philadelphia, PA

Timothy J. Jordan, Detroit, MI

Patricia V. Kingcade, Arlington, VA

George K. Kontakis, Port Washington, NY

Erika Lindberg, Houston, TX

Jensen S. Mauseth, Seattle, WA

J.D. Stahl, Bainbridge Island, WA

Richard Ethan Zubic, New Orleans, LA

Ms. Holland reported that four law students had submitted Law Student applications:

David Connors Farrell, Stetson University

Kathleen Hilton, Suffolk University

USCG LT Abigail S. LaFond, Suffolk University

Robert G. Leylegian, Suffolk University

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

Philip A. Berns of Henderson, NV; Life Member: elected 1964 (Membership Secretary 2002-08; Executive Committee 1991-93)

Morton H. Clark of Norfolk, VA; Life Member: elected 1961 (Executive Committee 1984-1987)

Carlton E. Russell of Costa Mesa, CA; Life Member: elected 1968

With the above membership changes, the MLA's total membership now stands at 2,864 and is comprised as follows:

VOTING MEMBERS

Proctors	1300
Associates	1180
Non-Lawyers	175
Academic	27

NON-VOTING MEMBERS

Ex-Officio	15
Honorary	5
Judicial	123
Law Students	39

On motion duly made and seconded, the Board adopted Ms. Holland's report.

FALL 2013 RESORT MEETING WITH IIDM

Mr. Radcliff provided an overview of the MLA's partnering with the Instituto Iberoamericano de Derecho Maritimo ("IIDM") in holding our joint fall resort meeting. All planning had come together nicely for what should be an excellent week. He projected that about 68% of the attendees would be MLA members and 32% of the attendees would be IIDM members.

He noted that IIDM normally seeks sponsors of various events from its attendees and for this meeting collected about \$90,000 in sponsorships from IIDM members. In view of this impressive effort, and although contrary to the MLA's traditions, our attendees were also solicited for their interest in sponsoring meeting events, with \$15,000 in sponsorships collected from MLA members. These sums, which will be used to defray meeting expenses, allowed for a reduction in registration fees.

In another first for the MLA, it was noted that Mr. Farmer had coordinated dual English/Spanish translations for the CLE program.

AMICUS REQUESTS

The Board voted not to file an *amicus curiae* brief in support of a petition for *certiorari* in *ABB Inc. v. CSX Transp., Inc.*, 721 F.3d 135, 2013 AMC 2142 (4th Cir. 2013).

By email vote following its meeting August 10, 2013, the Board had voted not to file an *amicus* brief in support of a petition for *certiorari* in the ATHOS I case, *In re Petition of Frescati Shipping Co.*, 718 F.3d 184, 2013 AMC 1521 (3d Cir. 2013).

DISCUSSION ITEMS

46 C.F.R. Part 67 Request for Rulemaking

In accordance with the approved Board minutes of the May 2, and August 10, 2013, meetings, Ms. Krumholz reported that an MLA petition for rulemaking had recently been submitted to the U.S. Coast Guard regarding vessel documentation regulations and filings with the National Vessel Documentation Center, as contained in 46 C.F.R. Part 67. The current regulations require some technical, non-substantive updating due to statutory amendments and business developments which have rendered certain provisions obsolete and inconsistent. For example, limited liability companies have become increasingly common business entities but there are currently no Coast Guard regulations for determining whether an LLC is a U.S. citizen for vessel registration purposes.

Status of International Conventions

Mr. Bonner reported that it is unlikely the United Nations Convention on Law of the Sea will be ratified by the Senate soon, despite widespread domestic support, in large measure due to Tea Party opposition. Similarly, he did not see ratification of the Rotterdam Rules as likely anytime in the near future.

UPCOMING EVENTS

Fall 2014 City Meeting in Philadelphia

Mr. Clyne updated plans for the Fall 2014 City Meeting in Philadelphia, Wednesday, October 22, thru Friday, October 24, 2014. There will be a cocktail reception Thursday evening and a dinner Friday evening at the Downtown Marriot, with a \$200 ticket price anticipated. Philadelphia Co-Chair Frank P. DeGiulio will report on details at the New York Spring 2014 Meeting.

Fall 2015 Bermuda Resort Meeting

Mr. Clyne also reported that a contract had been signed with the Fairmont Southampton resort for the Fall 2015 Bermuda Resort Meeting.

CMI Spring 2016 Conference in New York

Continuing the discussions that took place at the last several Board meetings, there was continued concern with CMI expectations that the MLA disproportionately front the costs for the CMI Spring 2016 Conference in New York.

Mr. Clyne reported that at the recent CMI meeting in Dublin a CMI 50% - MLA 50% split of advanced costs was agreed but subsequently the CMI had stated this would set a bad precedent and took the position that the MLA as host bear all the risk of advance booking costs. While the MLA remains excited about a CMI meeting in New York, most of the Board considered this a disappointing development.

In order to gauge the MLA's potential exposure, Mr. Foley provided a financial overview based on a breakeven projection of 300 CMI delegates and 100 accompanying persons. He estimated that deposits of \$114,000 would be needed soon for planning costs and to reserve venue selections and blocks of hotel rooms. He also estimated that a contractual commitment for the Gala Dinner alone would total \$250,000.

Mr. Connor thereupon expressed concern that another Superstorm Sandy or terrorist attack or worldwide travel restrictions etc. might force last minute delegate cancellations with the MLA then possibly losing its advance deposits. He opined that the CMI meeting should instead be a joint venture between the CMI and the MLA and that obtaining insurance covering the risk of major cancellations should be explored.

Mr. Watson, Ms. Burrell, Mr. McCormack, Mr. Moseley, Ms. Dorgan, and Mr. Powers, among others, generally echoed Mr. Connor's concerns, emphasizing that the MLA should insist that advance costs be split 50% with the CMI. It was also noted that the MLA has reason to believe the CMI has on at least one prior occasion split advance costs with the host country's maritime law association.

Following extensive discussion, the Board expressed the sentiment that a 50% - 50% sharing of advanced costs between the CMI and the MLA as equal partners was important in order for the MLA to approve its joint sponsorship of the CMI Spring 2016 Conference in New York. Accordingly, the Board authorized First Vice President Clyne to coordinate with Mr. Davis and so inform the CMI and to continue negotiations so as to achieve the best deal possible for the MLA.

NEW MLA WEBSITE PROJECT

A large portion of the Board meeting was devoted to the creation of the MLA's new website. Ms. Krieger took the Board on a tour of website possibilities, replete with an introduction to design jargon and various options for page appearances and functionalities. She sought and received the Board's extensive input on wide ranging topics and planned to circulate them to the Website and Technology Committee before passing them on to our vendor, Boost by Design.

Website Structure

Regarding website structure or wireframe, discussion began with Ms. Krieger's display of a prototype Home Page with various tabs the general public could click on to obtain additional information about the MLA -- in contrast to the private side of the website, accessible only following member log-in, when the member's Dashboard will appear. That Dashboard will provide individualized member information drawn from the MLA database

in four or so widgets: Breaking News; Committee News, for those committees on which the member has chosen to participate; Upcoming Events, highlighting the most immediate; and Forum Discussions in which the member has chosen to participate.

It was recognized that there would be varying degrees of access to documents stored on the website. For instance, the general public would continue to have access to final versions of Library documents such as *amicus* briefs, meeting minutes, and historical documents; members would have in addition access to their committees' work-in-progress documents; and officers and directors would have restricted access to working documents related to association management.

The website's visual and aesthetic appearance was discussed at length. The Board was clear that stereotypical photos of courthouse columns or scales of justice would be inappropriate for the MLA and that instead photos of various working vessels (both modern and historic); port infrastructure, bridges, drilling rigs, and lighthouses; maritime personnel; navigational equipment; and other nautical scenes would appropriately convey the MLA brand. Photos identifying a vessel's name or ownership would be avoided. And to increase variety, it was recommended that website photos could cycle via Flash Player and that each committee could post pertinent photos on its own committee page. Mr. Walsh offered to assist in collecting photos to achieve these goals.

A page dedicated to helpful resources with links to other websites was also addressed. Some of the ideas mentioned included links to American Maritime Cases, USCG Districts, the National Vessel Documentation Center, P&I Clubs, Ship Finder, Equasis, currency exchange rates (SDR), and the CMI, as examples. There was interest in eventually making this resource page the go-to maritime page, so its list of possible links will no doubt grow substantially.

MLA Database

While there is certainly overlap with wireframe issues, the second major topic in developing our new website goes on behind the scenes and involves preserving the MLA membership database, ensuring its smooth transfer from the current to the new website, while modernizing its functionality and interactive features.

The following updates were discussed for possible implementation: Streamlining membership application procedures with online submission of application forms and supporting letters; updating membership contacts, providing for the uploading of head shot photos and links to the member's firm website; automating dues invoicing and late reminders, including personalized notice of tardiness immediately upon a member's logging-in; and enhancing credit card or PayPal payment of dues, MLA dinners, and meeting registrations. Security and privacy concerns are paramount.

Improved sorting and report generation was also addressed. Facilitating sorting of the membership directory by name, firm, region, membership class, year of election, etc. was considered essential, as for example when a potential client is looking for representation or when an Associate Lawyer applicant is looking for a Proctor member's letter of support. In addition, for the purposes of association management, the ability to quickly obtain a variety of administrative reports ranging from delinquent dues listings, to regional membership totals, to membership age analyses all would be useful.

With training by Boost by Design, it is anticipated that these sorts of enhanced, automated functionalities will markedly assist MLA Administrator Robin Becker's day-to-day duties managing our database.

Recurring Questions

Several recurring questions arose, made more poignant with the approaching rollout of the new website.

First, how protective should we be regarding access to member contact information? Traditionally, downloading information can only be accomplished one MLA member at a time – to deter marketers’ blast emails from inundating our membership. The Board continues to believe that deterrence is appropriate. Current MLA policies do, however, allow certain related organizations and members to purchase email blasts of approved communications to all members. Revisiting this policy may be appropriate in conjunction with the rollout, as noted in the approved minutes of the Board’s May 2, 2013, meeting.

Second, the Board again addressed, as it has several times over the past decade, the cost of printing and mailing *The MLA Report* and the *MLA Proceedings* versus making those publications available only online, in order to save both paper and expenses. With the new website it will be feasible (on the member’s Dashboard, for example) to present members an “opt out” decision to discontinue receipt of hard copies, which would be recorded in the MLA database. This will be further addressed by the Board before rollout.

Other ongoing Board projects such as updating the *Committee Chairs’ Guide* and policies regarding the reprinting of MLA publications will be coordinated with the new website’s rollout.

President Parrish expressed great appreciation for Ms. Krieger’s efforts and the Board enthusiastically supported her continued work on the MLA website, with all looking forward to its rollout in 2014.

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There being no other business, President Parrish adjourned the meeting.

Respectfully submitted,

/s/ David J. Farrell, Jr.
Secretary