

Fellow Members:

The MLA continues to be very active and I write to brief you on some of the activity:

Credit Cards

This January, we added the option of paying your dues by credit card. We did not publicize the option because we wanted to start slowly to work out any problems. So far, 106 members have paid their dues by credit card without any problems. We will be expanding this facility and you will be able to pay for the Spring Dinner by credit card.

Bankruptcy Committee

We established a new Bankruptcy Committee with John Bradley of New York as the First Chair. They will be having their initial committee meeting in New York this May and we sent you the particulars on this meeting and the other committee meetings last week.

Spring Committee Meetings

Bob Clyne of New York and Alex Giles of Baltimore worked out a new committee meeting schedule so that the downtown meetings were scheduled on one day and the midtown meetings scheduled another day. We hope to minimize the travel time between committee meetings. We have at least five foreign lawyers who will be traveling to New York and will be addressing various committees. If you cannot make it to New York, you will be able to phone in to participate in committee meetings. Contact your Committee Chair for further details.

CMI – Spring 2016

We have invited the CMI to hold a General Assembly in connection with our Spring meeting in 2016. Vince Foley of New York has agreed to Chair the Organizing Committee and he is looking for people to assist him in this job. We last hosted a CMI General Assembly in 1965. I think this is a great opportunity for the MLA to show off our organization to all the foreign lawyers who will be traveling to New York for the meetings.

Spring Meetings

The brochure, schedule and dinner order forms went out last week. At the general meeting, the Marine Finance Committee will be proposing a resolution approving the Uniform Certificate of Title for Vessels Act as an appropriate act for State legislatures to adopt. We will have a vote at the general meeting on this resolution. The Salvage Committee has withdrawn its resolution on amending the 1989 Salvage Convention so there will be no vote on that resolution.

Fall 2012

As advised, we will be having a Dinner Dance for members and significant others on November 9, 2012. We have booked the Edison Ballroom at 240 West 47th Street for the event. The attire will be black tie for men and appropriate dinner attire for women.

Domestic Law

Rotterdam Rules

The MLA has continued its activity in support of the ratification of the Rotterdam Rules. The Department of State has not yet sent the transmittal package to the Senate for ratification. The MLA representatives and other members of the US delegation attended a meeting in Washington on January 13, 2012 with the Department of State to discuss the present status and to respond to any questions of the DOS. In November, the Department of State responded to the MLA's letter calling for action. They advised that they continue to discuss various issues with stakeholders and hoped to resolve the matter soon and proceed with the transmittal package.

Harbor Maintenance Tax Exemption

On February 14, I sent a letter to senior House of Representatives members urging that Congress pass legislation to exempt certain non-bulk cargo from Harbor Maintenance Tax in order to further develop America's Marine Highways. The letter and MLA Resolution regarding the Harbor Maintenance Tax are on the website under Breaking News, Pending Legislation.

Law of the Sea Convention

Doug Burnett of New York attended a meeting at the State Department on January 20, 2012 on the ratification of UNCLOS. He reports that the current plan is to hold hearings with the Senate Foreign Relations Committee in the May 15 – May 30 time frame. There will likely be three hearings followed by a Senate vote in June/July. One hearing will be based on national security issues, one on private industry issues and one hearing for the opposition. He advises that Secretary of State Clinton is pressing to have the Convention ratified.

Choice of Court Convention

On March 5, 2012, I attended a meeting of the U.S. Department of State, Advisory Committee on Private International Law Study Group on the Hague Convention on Choice of Court agreements. The State Department has proposed implementing the Convention with a Federal Act that would allow each State to opt out and enact its own Uniform Act that should closely mirror the Convention. In addition, the State Department proposal varies from the New York Convention and Federal Arbitration Act in that it does not grant Federal question jurisdiction but requires diversity jurisdiction for litigants to get into Federal Court. This cooperative federalism approach deviates from the principle of uniformity that is the main objective of the MLA. The Board of Directors will be discussing whether the Association should take a position on the Convention at the next Board meeting in Norfolk.

MARAD Forum

The Marad forum met in Washington D.C. on January 26 with officials from Marad. It was a productive meeting and a number of items of interest were discussed.

Amicus Briefs

As I advised in the last newsletter, the Board voted to submit an amicus brief in the Supreme Court case of Pacific Merchant Shipping Association v. Goldstene et al. This case

involves the California Air Pollution Regulations. The Supreme Court asked the Solicitor General if the United States intended to take a position on this case. The Solicitor General's office held a meeting with the attorneys for the parties on February 28th to consider the position of the United States. As far as we know, a final decision has not been made by the Solicitor General yet.

The Board voted to submit an amicus brief supporting the grant of certiorari in the case of Lozman v. City of Riviera Beach. This case is from the Eleventh Circuit and deals with the definition of "vessel". The amicus brief was not on the merits but simply asked the Supreme Court to grant cert to resolve a conflict within the circuits. The Court granted cert. Both parties have now asked the MLA to submit an amicus brief on the merits and this issue is currently under discussion with the Board of Directors.

In my last newsletter I advised that the Board voted not to file a brief in Cape Flattery Limited v. Titan Marine LLC, then pending in the Ninth Circuit. This case involved the interpretation of an arbitration clause in a salvage agreement. The Ninth Circuit denied the petition for rehearing and the defendant filed for certiorari with the Supreme Court. The defendant again requested that the MLA submit an amicus brief supporting its position but the Board of Directors voted not to file a brief in this case.

International

CMI

The CMI will be holding its next conference in Beijing, Peoples Republic of China from October 14 through 19, 2012. The substantive program will include panels on the Salvage Convention, 1989, Recognition of Judicial Sales of Ships, the Rotterdam Rules and other topical subjects. A tour of the Great Wall of China is scheduled as well as cultured tours for accompanying persons. The CMI is also arranging educational and cultural events in Shanghai from October 20-22, 2012. All MLA members are invited to attend.

BIMCO

Earlier, I reported on the proposal to change the BIMCO form forum selection clause to eliminate New York as a stated option. Keith Heard of New York attended a BIMCO consultation meeting in London on September 26 on behalf of the MLA and argued persuasively that BIMCO should not drop New York from the standard forms. When he returned to the U.S., Keith was able to generate additional letters from interested parties in support of retaining New York. The MLA, Society of Maritime Arbitrators and others wrote to BIMCO stating the many reasons why New York should continue to be listed in BIMCO forms. In November, Liz Burrell, the MLA's co-opted delegate to the BIMCO Documentary Committee, reported that BIMCO agreed to retain New York as an optional forum in the dispute resolution clause in their Norwegian SALEFORM, which is used in many ship sales. Keith deserves our congratulations on a job well done.

Activities of the President on behalf of the Association

On September 27, 2011, I attended the CMI Assembly in Oslo. I also attended the seminar on September 26 at DNV on a “Futuristic View of the Future.”

On October 5, I attended the Chairman’s dinner in connection with the Association of Average Adjusters of the United States’ annual meeting. The following day I spoke briefly at the general meeting and then attended the lunch and dinner of the Association of Average Adjusters of the United States.

I spoke at a luncheon hosted by the Society of Maritime Arbitrators on October 12.

The following day, I spoke at Professor Joe Sweeney’s Admiralty law class at Fordham Law School.

I delivered a paper at a seminar sponsored by the Federal Bar Association of the Western District of Washington and WSBA-CLE in Seattle on October 21.

On October 28, I had a conference call with law students from a number of schools throughout the country who were interested in practicing admiralty law.

I attended the AIMU dinner on November 17.

We had a very successful joint meeting with the Canadian, Australian and New Zealand MLAs in Oahu from December 2-6.

On January 26, 2012, we had the annual meeting of the MLA officers in Washington D.C. The MLA hosted a luncheon for about 45 government lawyers at the Army-Navy Club after the officers’ meeting.

On March 5, 2012 I attended the Department of State meeting on the Choice of Court Convention treaty described above.

Every two years, the President of the MLA is invited to Tulane to be the John Sims Practitioner In Residence. I “resided” at Tulane on March 22 and 23.

The final arguments in the John Brown Moot Court competition were held in New Orleans on March 24. The MLA President is one of the Judges for the semi-final round and I was impressed by the advocacy skills of the students. I also presented the MLA Award for best brief to the University of Houston team, ably coached by MLA member John Unger of Houston. This year 60 MLA members participated in grading the briefs. At the Awards Ceremony, I highlighted the great participation by MLA members and said this was one of the strengths of our organization.

Schedule of Future MLA and related Events

The IMO Legal Committee is meeting in London from April 16-20. The MLA President is part of the United States Delegation and I will be attending the IMO meeting.

The MLA Board will be meeting in Norfolk on March 31, 2012.

We will have our annual meeting in New York during the week of April 30. The general meeting and dinner will be held on Friday May 4.

Best regards

Pat Bonner

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