

THE PRESIDENT'S NEWSLETTER

Summer/Fall 2011

Document No. 801

Fellow Members:

I hope you enjoyed the summer. The MLA has been very active and I write to brief you on some of the activity:

Conference Call-in Numbers

I have asked each committee chair to obtain an individual call-in number from freeconferencecall.com for each committee. We could have the same call-in number for future committee meetings. Your committee chairs should be sending this number to the committees. If you do not hear from your chair, I recommend that you contact him or her.

Uniformity Committee

The Board of Directors voted to change the status of this committee from a Special Committee to a Standing Committee. This means that anyone can join the committee through the website and members no longer have to be nominated by the President.

MARAD Forum

Members Denise Krepp and Rand Pixa of the Maritime Administration asked the MLA to set up a MARAD Forum similar to our Coast Guard Forum. We agreed and I have appointed Clay Cook of Washington, Marge Krumholz of Washington, Warren Marwedel of Chicago, Robin Minturn of Nashville, Frank Nolan of New York and Skip Volkle of Seattle to be on the MARAD Forum Committee. If you have any issues with Marad, complaints or things that you want to discuss with MARAD, please advise one of the committee members and they can place it on the agenda for a future meeting with Marad.

Website

I have appointed a committee to look into replacing our website with a new model. The website has served us well but it is over thirteen years old.

Payment by Credit Card

The MLA is mindful that credit card processors usually charge 2-3 percent as their fee for processing the transaction. Although we are not happy about giving up 3 percent of dues or registration fees to a third party, this is a convenience that some of the members want. We are

looking into various companies but we think that it may be more economical to add this feature to the new website rather than modifying the current website to accept credit card payments.

Proctors

Those who were members in 1982 automatically became proctors. For those joining after 1982, the MLA set up a process for one to become a proctor. This has not worked as well as the MLA hoped as less than 50% of those joining after 1982 became proctors. I have asked the four new Board members, Susan Dorgan of New York, Rob Fisher of New Orleans, Alex Giles of Baltimore and Ed Powers of Norfolk to look into the proctor status and provide the MLA Board with a report and recommendation on the proctor status and the process for becoming a proctor. If you have any comments, please contact one of them.

Breaking News

There is a section in the Breaking News portion of the website for Member news. The Board has agreed on a policy to post death notices, retirements, firms merging or splitting up, changes of address or phone numbers, new partners, members becoming judges, certain awards made to members and publication of members' legally related books and treatises. If you wish to post something on the website, please send an e-mail to Bob Parrish.

Publications

Currently, Robin Becker sends out paper copies of the Proceedings and MLA Report. If you do not wish to receive the paper copies but prefer to receive the publications electronically, please send me an email to bonner@freehill.com.

MLA Report

Chet Hooper and David Nourse are the editors of the MLA Report. If you have an article that you would like to have included in the MLA Report, please contact Chet or David.

Domestic Law

Rotterdam Rules

Chet Hooper advised in June that the Department of State was working on a transmittal package to the Senate for the Rotterdam Rules. They hoped to have the transmittal package done before the end of the summer. In June, the MLA was a co-signer of a letter with NITL, World Shipping Council, Retail Foundation, Transportation Institute and UPS to Senators Kerry and Luger asking them to speed up the process. This letter is posted on the web site under Breaking News- Professional News. A similar letter was sent to the Under Secretary of State in April.

UN Convention on the Law of the Sea

The Department of State has reactivated this project. Doug Burnett is the MLA point person on this issue and has attended meetings at the Department of State. I understand that they are looking at holding hearings next year after the Republican primaries. The MLA has supported this project for many years and we have offered to have the MLA President at the time testify before Congress in support of the Convention.

Short Seas Shipping

The Coastwise Coalition is a group of public and private organizations set up to promote “Short Seas Shipping.” The MLA was asked by the Coalition to co-sign a letter to Congress asking Congress to repeal the Harbor Maintenance Tax as it applies to non-bulk cargo in domestic trade and to offer tax incentives for use of the marine highway system. The MLA is on record favoring the repeal of the Harbor Maintenance Tax but we have taken no position on tax incentives for any particular group or groups. Thus, we will not be signing the Coalition’s letter. We will write to Congress separately on the repeal of the Harbor Maintenance Tax.

Congratulations to Steve Poulin

Member Steve Poulin was recently selected for Rear Admiral. Usually, the Coast Guard Officer who is the Chief of the Office of Maritime and International Law, is the MLA contact in the Coast Guard. Steve is the fourth Chief of Maritime and International Law in a row to be promoted to Rear Admiral following Bill Baumgartner, Chuck Michel and Fred Kinney. Congratulations Steve.

Amicus Briefs

The Board voted to submit an amicus brief in the Supreme Court case of Pacific Merchant Shipping Association v. Goldstene et al. This case involved the California Air Pollution Regulations. Jeff Moller prepared the brief and it is on the website.

The Board voted not to submit an amicus brief in the case of Minton v. Exxon Mobil Corporation pending in Virginia State Court. This case involved an injury to a longshoreman and the State court’s interpretation of Scindia.

The Board also voted not to file an amicus brief in Cape Flattery Limited v. Titan Marine, LLC pending in the 9th Circuit. This case involved the interpretation of an arbitration clause in a salvage agreement.

The By-laws state that amicus curiae briefs should be authorized sparingly and most of the recent amicus briefs have been submitted for cases pending in the Supreme Court.

International

Arctic Working Group

The CMI has set up a working group to study the applicability of the existing maritime law conventions and other laws on the Arctic and the Antarctic. I have appointed Doug Davis of Anchorage to be on this working group.

BIMCO

For a number of years, BIMCO has had a dispute resolution clause that gives the parties to BIMCO form contract a choice between London and New York arbitration, with London serving as the default in the event the parties do not make an affirmative election. There was a proposal in a BIMCO draft to change the clause to eliminate New York as a stated option. The parties then were required to pick a location for arbitration, with London still serving as a default in the event the parties do not make an affirmative election. Members from New York objected to this change and I wrote a letter to BIMCO setting forth the reasons why the MLA opposed such a change. The letter is on the website under Breaking News- Professional News. BIMCO subsequently decided to shelve this issue until later in the Fall after they have looked into various arbitration venues further. I have asked Keith Heard to attend the BIMCO consultation meeting in London on September 26 where they will discuss this issue.

Instrument on the Recognition of Foreign Judicial Sales of Ships

A working group of the CMI has produced a draft Instrument on the Recognition of Foreign Judicial Sale of Ships. It is posted on the web site under Breaking News- Professional News. Frank Nolan of New York was a member of the working group. The CMI has now set up an International Sub Committee to work on this project. The Sub Committee will be meeting in Oslo on September 27. I have asked Frank Nolan to represent the MLA on this Sub Committee.

Activities of the President on behalf of the Association

The Association's Officers held the January meeting in Washington on January 26, 2010 and in conjunction with the meeting, we hosted a luncheon for various Government lawyers who deal with MLA members on a daily basis. On March 4th, I traveled to Houston to be a judge at the Annual John Brown Moot Court Competition. Once again, Michael Sturley chose a topic that the Supreme Court later agreed was cert. worthy. One of the highlights of this trip was listening to Gus Schill speak to the law students about the life of Judge Brown.

Later in March, I had the honor of representing the Association at Tulane- first speaking at the Tulane Maritime Law Journal Dinner on March 20th and then addressing the opening session of the Tulane Admiralty Law Institute.

I attended the IMO Legal Committee meeting in London from April 4th through 7th as an advisor to the United States Delegation. I was back in London on May 11th to attend a private dinner at the Baltic Exchange with the leadership of the Association of Average Adjusters. The

following day, I attended the General Meeting and Annual Dinner of the Association of Average Adjusters. On June 3rd, I attended the Annual General meeting of the Canadian Maritime Law Association and then attended their 60th Anniversary Dinner that night. I attended the Annual Meeting of BIMCO in Vancouver from June 4th through June 8th. Finally, The Board of Directors met in Gettysburg on the weekend of August 13th.

Schedule of Future MLA and related Events:

The CMI is sponsoring a seminar followed by a General Assembly in Oslo on September 26 and 27.

The MICA Dinner will be held on September 30 at the Marriott Marquis in New York.

The Average Adjusters Dinner will be held on October 6 at the Marriott Financial Center in New York.

The Admiralty Committee of the Washington State Bar is hosting a seminar on October 21 at Century Square in Seattle.

I look forward to seeing you in Oahu. The Arrangements Committee and Jared Washkowitz are looking into a paddle race in the hotel lagoon during the late afternoon of Monday, December 5, 2011. This would be a competition involving the Canadians, Australians, New Zealanders and Americans. We have added a cocktail party to be held that night, hopefully on the beach where the paddle racing will take place.

The Board has agreed that the Fall 2012 meeting will be held in New York. We are considering having a dinner dance with attendance limited to members and significant others.

Best regards

Pat Bonner