

SUNY Maritime College

Maritime Law Summer and Fall 2011

TMGT 8440

Professor Janis G. Schulmeisters

Syllabus

Course description: The areas of American maritime law encountered by seagoing officers are covered. They include the specifics of admiralty jurisdiction, including the *in rem* or the personification of vessel aspects in contract and tort situations. It then proceeds to deal with the relationships between vessel owners and the crews of vessels and other harbor workers, and the rights and liabilities of the parties. The law of the carriage of good by sea is examined as well as the subjects of the issues that may come up, including the laws for preventing collisions at sea, general average, salvage and aspects of marine insurance. Also towage and pilotage and limitation of liability are examined. For the practical understanding of these matters an extensive fact pattern has been prepared, is given to the class and is discussed in detail as the course progresses. This illustrates the practical application of all the covered subjects.

Course objectives: At the completion of this course the student should have an understanding of ^{American} admiralty and maritime laws and practices as they apply to ship owners, seamen and ship officers, ship insurers and charterers (renters of ships). Also, the basics of our court systems where maritime cases are handled will be discussed. The duties of ship owners and ship officers with respect to cargoes are covered as well as their duties to the crews that man their ships. The *in rem* aspects and personification of vessels is covered; application of navigation rules is touched upon and how claims may be made and handled in case of accidents or breaches of maritime contracts. Obviously all these areas are broad and detailed knowledge of all is not expected, but familiarity of the subject areas should be gained. The course seeks to satisfy the need to understand the general maritime principles needed by ship officers and ones working in the maritime industry ashore.

Texts: Admiralty and Maritime Law in the United States, 2nd edition by David W. Robertson, Steven F. Friedell and Michael F. Sturly, Carolina Academic Press ISBN: 978-1-59460-580-2

Also, Statutory Supplement to Admiralty and Maritime Law in the United States, 2nd edition by Robertson, Friedell and Sturley ISBN: 978-1-59460-635-9

Yes, we have had other texts before this, but the above are more up to date with respect to the 2006 changes in 46 U.S. Code dealing with our maritime statutes.

Prerequisite: There is no prerequisite for this course, although it is suggested that the student first take and complete the Business Law course so that knowledge of our court systems and the ability to find the

statutes and court decisions is at hand. Also, it is suggested that students should be in their third year at the college when first taking this course.

Course procedure: As detailed below, students are expected to read the text and to familiarize themselves with the statutes and rules in the Statutory Supplement, used together with the text. Students will be called upon in class to discuss practical issues and will be examined in quizzes. As law does not exist in a vacuum, at the beginning of the course students will be given an extensive fact pattern dealing with the voyages of two ships that eventually wind up in a collision then enter the port for repairs and other quite common things take place. As the course progresses the occurrences in the fact pattern will illustrate the applicable issues of law. The quiz and final examination will be tailored to the issues arising in the fact pattern, as it will touch upon every subject covered in the course.

Grading: All quizzes and the final examination will deal with issues arising from the fact pattern. The quiz average of four or five quizzes counts for 40% of the final grade and the final examination for 60% of the grade. While there will be several essay questions, most will be True/False type questions. Careful reading of the questions and a thorough knowledge of the fact pattern are essential requirements. The numerical values are:

A 94 – 100	B 84 – 86	C 74 – 76	D 60 – 64
A-90 – 93	B 80 – 83	C- 70 – 73	F 59 and below
B+ 87 - 89	C+ 77 – 79	D+ 65 - 69	

Assessments: As this is an intensive course dealing with the learning and use of analyses of new areas, there is no real opportunity for exhibition of leadership. On the other hand, the ability to analyze issues and problems is a major portion of the course, as well as the ability to communicate one's understanding of the issues and the subject matter at issue. Also, ethics is a major component in all maritime dealings and is dealt with frequently.

Class participation – Students will be called upon in class to discuss issues pertinent to the lecture, the questions at the end of the chapter, and from time to time some interesting or significant items in the news related to maritime law or business.

Reading of the New York Times' and Lloyds List is encouraged as well as the Wall Street Journal for latest maritime developments. They are in the library.

Plagiarism - Plagiarism, including copying material from the internet without attributing its source and passing it on as your own work, is unacceptable. Official SUNY Maritime policy states: "A student who violates academic integrity may, depending on the nature of the offense, be subject to one or more of the following measures: failure of the assignment or examination, failure of the course, dismissal from the Regiment of Cadets, or dismissal from the College. Violations of academic integrity, also known as academic dishonesty, are subject to review by the Judicial Board. In addition to facing the Judicial Board. Regimental Students may be brought before a Captain's Mast and/or a Suitability Hearing Board. For further information, see the Organization, Operation, and Regulations Manual for the Regiment of Cadets." You should review the entire policy on academic integrity, which is available from the Dean of Students in Bayliss Hall, and can be found on the college website within the Student Code of Conduct,

beginning on page 7, at:

<http://www.sunymaritime.edu/documents/2007/8/6/Code%20of%20Conduct.pdf>. A student found to have plagiarized in GBTT 431 will receive an "F" for the course.

Contact information and office hours - I do not have specific office hours but you can call me at home or send me an e-mail at home and I will make arrangements to meet with you at the college, – *as long as you make **atimely**arrangementand do not wait until a few days before the semester ends.* Each semester the arrangement of classes changes and at the beginning of each semester I will give the class my schedule. Thus at the beginning of the semester my office hours will be given to the class. Usually I am at the college two or three times a week and appropriate times can be arranged for all necessary meetings. Also, the student may call me at home to make arrangements for a meeting (845-284-2135). If I am not at home, leave a message with your telephone number and I will return the call. Students can make an appointment to see me before or after or in between classes. For other days call me and I am willing to come to the college to meet with you if it is a real question. My home e-mail, which you may use any time, is: jgschulmeisters@optonline.net

Missing quizzes – As quizzes are announced ahead of time there should not be any missed quizzes unless you are out on an authorized school activity. Should you miss one anyway by reason of illness or a legitimate absence from the college (for which proof is necessary) it will not count against you but you are still responsible for the material as a substantial part of the final examination will be material covered in the quizzes.

Spelling and script - The use of proper English in written submissions is essential. Sentences start with a capital letter and end with a period or other appropriate punctuation mark. Deductions will be made for spelling errors. Also, if I can not read what you have written due to poor penmanship it will be marked “wrong.”

Text assignments:

Chapter 1 Admiralty Jurisdiction, Conceptual Structure and Practice pp. 1 – 136

A Historical background and development pp 1-16

DeLovio: Court of the United States have jurisdiction over all maritime tort and contract cases.

Thomas Jefferson: Admiralty refers to waters affected by ebb and flow of the tide (from old British rule).

The Genesee Chief and the Eagle : Admiralty includes the Great lakes, although there is no tide there.

B What are navigable waters and what is a vessel pp. 17 – 27

Le Blanc and Stewart cases

C Admiralty jurisdiction in tort and contract cases pp. 28 – 55

Grubart, Taghadomi, Tagliere and North Pacific Steamship cases

D Intermodal shipping situations pp. 56 – 60

Kirby case

E Exclusive federal jurisdiction & where states have concurrent jurisdiction pp. 60 - 72

- F Distinctiveness of the federal admiralty court pp. 72 – 85
Romero case and note on admiralty procedure before 1966
- G When jury trial available in admiralty cases pp. 85 – 92
- H Notes on *in rem* procedures and “removal of cases to federal court pp. 102 – 112
- I Sources of substantive admiralty law pp. 114 – 136
Erie Railroad, Pope & Talbot, Kossick and parts of Kirby case(s)

Chapter 2 Personal Injury, Death and Tortious harm to property

- A Basic maritime tort law pp. 137 – 163
Kermarec, Brotherhood Shipping, East River Steamship, McDermott, and Exxon v. Sofec cases
- B Injuries to seamen pp. 163 – 172
Historical background, the Osceola, Chelelentis and Paama railroad cases
- C Maintenance and cure pp. 173 – 184
Warren and Farrell cases and notes
- D Jones Act coverage pp. 184 –
Gautreaux, Norfolk v, Sorrell and Kernan cases
- E Unseaworthiness causing injury pp. 201 – 214
Mitchell v. Trawler Racer and Usner cases
- F Seaman status pp. 215 – 229
Chandris and Scheuring cases
- G Longshore and Harbor worker Compensation Act and relevant cases pp. 230 – 246
- H Offshore Oil and Gas workers pp. 246 – 258
- I Fatal injury remedies pp. 259 – 280
Moragne, Miles, Dooley and Yamaha cases

Chapter 3 Carriage of Goods

- A Introduction and reference to the various statutes pp 281 – 282
- B The Harter Act and its latest amendment(s) pp. 283 – 287
- C The Hague Rules, COGSA and more recent regimes pp. 288 – 291
- D Cargo claims under COGSA pp. 291 – 334
Additional references in the supplement, as assigned
- E Charter parties and their types pp. 334 – 340

Chapter 4 Collision

- A The 1972 rules for preventing collisions in the supplement
The Pennsylvania, Reliable Transfer, Atlantic Mutual cases and notes following pp. 341 – 362

Chapter 5 Towage and Pilotage

- A Towage cases pp. 363 – 372
In re Denet towing, Lone Star Industries and Dillingham Tug & Barge Corp. cases
- B Pilotage cases pp. 372 – 377
The China and Nielson cases

Chapter 6 General Average

- A Historical notes pp. 379 – 380
Digest of Justinian and the laws of Oleron
- B Introduction to the current doctrine and principles pp. 380 - 395
The sacrifice, the peril, vessel fault, rights of vessel and cargo and the future

Bernard, Ralli, The Jason and Zim Israel Navigation cases

Chapter 7 Salvage

- A The salvage cases and notes pp. 397 – 421
Markakis, Margate Shipping and Sea Hunt Inc. cases and notes
Also Lloyds open form salvage agreements

Chapter 8 Maritime Liens and Ship Mortgages

- A The personification of the vessel pp. 423 – 429
Harmer and Cavcar cases
- B Claims that give rise to maritime liens pp. 429 – 433
Pacific Export Lumber and Kraus Bros. Lumber cases
- C The Federal Maritime Lien Act pp. 433 – 439
Providing necessaries to the vessel Silver Star enterprises case
On the Credit of the vessel
Presumed Authority
- D Priority among maritime liens pp. 439 – 445
John G. Stevens and William Leishear cases
- E Ship mortgages pp. 445 – 449

Chapter 9 Limitation of liability

- A Discussion and introductory notes and cases pp. 455 – 469
Lewis and In re Bethlehem Steel cases
Supplement pages 44 – 47

Chapter 10 Marine insurance

- A Introduction and cases pp. 471 – 492
Just a quick review as covered in different course.
Standard Oil, Wilburn Boat, Albany Insurance and Shaver Transportation cases

Chapter 11 Sovereign Immunity –Suits against the government

- A Introductory comments and notes pp. 493 – 508
- B Suits in Admiralty and Public Vessels Act language in the supplement at pages 53 - 59
- C Time to sue different when dealing with the government, which is jurisdictional