

Yes, But (individuals)

<i>Last Name</i>	<i>First Name</i>	<i>MI</i>	<i>Notes</i>
Berschler	Arnold	I.	<p>Supports certifying qualified practitioners as specialists in the field of Maritime Law but feels negatively about the proposed criteria for certification (and re-certification).</p> <p>Many seasoned maritime lawyers, including me, might not qualify for certification. This is because, over the years, we have chosen to "sub-specialize." Therefore, many of us may not have exposure to some of the practice areas that have been proposed as defining criteria. This is especially true of practitioners in small firms, which do not attract a wide array of client and matters, and to sole practitioners who survive because they concentrate in a few sub-specialties.</p> <p>The criteria proposed are focused in such a way as to make certification available primarily to members of large firms, representing fleet operators' or underwriters' interests, and inevitably will preclude practitioners who regularly represent small commercial vessel owners, pleasure and houseboat owners, seafarers, cruise liner passengers from being certified. The criteria should not convert the "Certified Maritime Law Specialist" bar into a club for only a portion of the active maritime law practitioner community.</p> <p>The predicate to certification should focus upon how much maritime law – of any traditional sort – the applicant has practiced in the relevant period, and be less onerous with the requirement that certain sub-fields of practice have been experienced in that period. And/or a practitioner should be allowed to list practice in a particular field that was accomplished much earlier than the presently proposed criteria. Also, as a reliable screening device, Proctor Members of the MLA should be certified. The MLA continues to insure its Proctor members are knowledgeable and competent before being admitted. State re-certification of such Proctors as specialists should be subject to other criteria however.</p>
Meadows	John	F.	<p>... [T]he maritime filed has been shrinking within the last few years and ... There is no longer a practitioner who only does admiralty and maritime law. . . Thus, to be "substantially involved" in the practice for the last five years will be an obstacle for any applicant.</p> <p>Also, I suggest that you extend that period to 10 or 15 years. Once one proves that he/she performed the tasks you enumerated, he/she has developed the skill and the passing of time will not erase that skill . . .</p> <p>(See separate chart for a summary of Mr. Meadows' proposed changes and concerns)</p>

Maynard, Lorna

From: berschler [Arnold@berschler.com]
Sent: Thursday, July 03, 2008 2:31 PM
To: Maynard, Lorna
Subject: MARITIME LAW CERTIFICATION OF SPECIALISTS: COMMENT

Dear Ms. Maynard:

I support the Bar certifying qualified practitioners as specialists in the field of Maritime Law. I feel negatively about the proposed criteria for certification (and re-certification) for the following reasons.

I have been a "Proctor" member of the Maritime Law Association of the United States continuously since 1980. In order to achieve that status, I had to be nominated for membership by two Proctors, one of whom I had tried an admiralty case against. Thereafter, I was an associate member for five years before becoming a full Proctor member.

I have practiced maritime law every year since 1974. This year, each and every case-file that I have opened has been a maritime matter, most requiring litigation.

Nevertheless, many of the seasoned lawyers practicing primarily maritime law in California, including me, might not qualify for certification. This is because, over the years, we have chosen to "sub-specialize." Therefore, many of us may not have exposure to some of the practice areas that have been proposed as defining criteria. This is especially true of practitioners in small firms, which do not attract a wide array of client and matters, and to sole practitioners who survive because they concentrate in a few sub-specialties. For instance, many of my clients are merchant mariners; others are small commercial vessel operators; others have maritime insurance issues. I have never handled a cargo claim. I am involved in only one aspect of the pollution claim that arose from the m/v COSCO BUSAN allision with the Bay Bridge. Further, I have been involved in vessel arrests, but try to avoid such because many of my clients' claims are diminished by the remedies permitted in the sort of matters that allow arrest.

In short, the criteria proposed are focused in such a way as to make certification available primarily to members of large firms, representing fleet operators' or underwriters' interests. The criteria proposed inevitably will preclude practitioners who regular represent small commercial vessel owners, pleasure and houseboat owners, seafarers, cruise liner passengers from being certified. The certification in Appellate Law allows all those who regularly practice in the courts of appeal to be certified. Family Law does not discriminate between lawyers who primarily or exclusively represent one sex and not the other.

Please do not allow the criteria to convert "Certified Maritime Law Specialist" bar into a club for only a portion of the active maritime law practitioner community.

I propose that the predicate to certification focus upon how much maritime law – of any traditional sort – the applicant has and is practicing in the relevant period, and be less onerous with the requirement that certain sub-fields of practice have been experienced in that period. And/or a practitioner should be allowed to list practice in a particular field which was accomplished much earlier than the presently proposed criteria. Also, as a reliable screening device, Proctor Members of the Maritime Law Association of the United States ("MLA"), should be certified. The MLA continues to insure its Proctor members are knowledgeable and competent before being admitted. State re-certification of such Proctors as specialists should be subject to other criteria however.

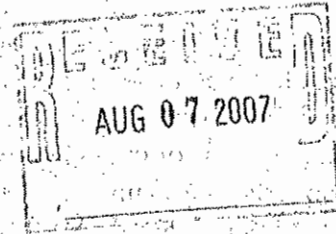
Thank you.

8/6/2008

**Jedeikin & Spaulding
Meadows & Schneider**

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John F. Meadows
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August 6, 2007

Board of Legal Specialization
State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Re: Proposed Admiralty & Maritime Law Specialty Certification

Ladies and Gentlemen:

This letter is in response to the Bar's inquiry concerning subject specialization.

I have been practicing law in the admiralty and maritime field since my first law job here in San Francisco, which was circa March, 1952. I attach my firm resume which recites much of my experience in this area of the law. For my first 20 years, I handled only maritime cases. However, you should know that the maritime field has been shrinking within the last few years and that there is no longer a practitioner who only does admiralty and maritime law. We all have to do other kinds of work as well, though our first love is admiralty and maritime law. Thus, to be "substantially involved" in the practice for the last five years will be an obstacle for any applicant.

Also, I suggest that you extend that period to 10 or 15 years. Once one proves that he/she performed the tasks you enumerated, he/she has developed the skill and the passing of time will not erase that skill - particularly since we all keep files for use as forms. For example, I have handled a large number of ship collisions in the past - most of which occurred more than five years ago. Because of greater efficiency in the use of radar plotting (largely through automatic plotting devices on the radar), there are only a few ship collisions at present but I can still handle such a case better than anyone else I know who is still in practice. In fact, I have written two books on the subject.

Further, you give no credit that I can see for legal writing in that area. And as for CEB courses, I have never seen one in admiralty and maritime law.

Someone has done a lot of careful work in writing up your questionnaire but I think that it is too draconian - I would consider a specialist in admiralty and maritime law to include a

Jedeikin, Spaulding, Meadows & Schneider

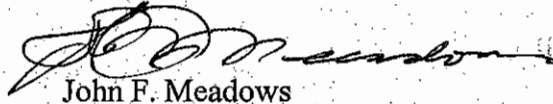
August 6, 2007

Page 2 of 2

lawyer who knows bow from stern (i.e., who knows ships and what the crew does) and does not have to be educated by the ship master or other officer when a case involving a collision or allision comes in the door. For one not to know ship operation, he/she shouldn't take a ship casualty case or even a cargo case. Our practice depends on such knowledge. I knew a skipper who, after a few moments with my associate, refused to talk further with him as to the facts of the collision. Despite my training, the associate hadn't learned enough of the sea-going terminology to be able to take a statement in such a case. Even though that associate could have passed your questionnaire, I would not consider him/her a specialist – nor did the ship master.

I would be very happy to speak to your committee or even serve on it, if you would like. A full review of your standards by letter would take an excessive amount of time.

Sincerely,



John F. Meadows

Jedeikin, Spaulding, Meadows & Schneider, and various of its members have experience in all aspects of maritime and admiralty law including administrative law involving the Coast Guard, NTSB and Armed Services Board of Contract Appeals. The firm has nearly 50 years of experience in litigation and transactions in this area of the law and can provide legal services in the maritime area, including:

Administrative/Regulatory Law
Cargo Defense and Recovery
Chartering
Collections Against Vessels
Commercial Law
Defense of Injury Claims
Oil Spills/Environmental Claims
OSHA
Financing/Ship Sales/Preferred Ship Mortgages & Foreclosures
Government and Other Contracts Including Ship Repair
Marine Ins. Defense & Coverage
Maritime Salvage, Wreck Removal
Vessel Casualties of all Kinds, including Fire
General Average
Sales & Vessel Documentation
Vessel Arrest and Attachment
Recreational Boating

Members of the firm have represented shipowners, cargo interests and marine insurers in all types of cases, including for example handling the cargo claims in such cases as *The Puerto Rican* [tanker exploded, with stern section sinking. Full recovery made for client Chevron Chemical Company]; Collision cases such as *President Grant-Martin Higgins* [collision in dense fog in San Francisco entrance channel, with *Higgins* sinking;]; *Jack Jr. - Golden Gate* [Keystone Tankship Corp. Lim.] [mysterious disappearance of trawler and her three man crew in fog off Pt. Reyes;]; and OPA '90 cases such as *Sammi Superstars* (Limitation of Liability) [Korean freighter spilled fuel oil into Los Angeles Harbor while taking on bunkers from client's fuel oil barge, giving rise to the first case and appeal arising under Oil Pollution Act of 1990. At issue were more than 16 million in claims for clean-up costs and third party claims. Case settled while appeal pending for less than three percent of total claims against client].

MARITIME LAW PRACTICE

JOHN F. MEADOWS

John F. Meadows is admitted to practice before the United States Supreme Court, all federal courts in California as well as the Ninth Circuit Court of Appeals, all of the courts of the State of California, trial and appellate. He received an A.B. degree from the University of California and his LL.B from the University of California School of Jurisprudence (Boalt Hall). Mr. Meadows is also a member of the Northern Marianas Bar.

Since 1964, John Meadows has been an associate editor of American Maritime Cases. He is the author of "Preparing a Ship Collision Case for Trial": (1970 and 1997), and several law review articles on various maritime subjects. He was Trial Attorney, and later, Attorney in Charge of the West Coast Office, Admiralty and Shipping Section of the U. S. Department of Justice. While in that position, Mr. Meadows was responsible for all the maritime

litigation on the West Coast, Hawaii, Guam and the Orient involving the U.S. Government and its departments and agencies, including the Navy, Coast Guard, Maritime Administration, Federal Maritime Commission and Army Corps of Engineers.

Mr. Meadows has extensive litigation experience involving maritime subjects, e.g., Jones Act, collision, ship pilot defense, cargo, breach of charter, oil pollution under OPA '90, marine insurance, product liability, execution of maritime liens all the way through judicial sale, preferred ship mortgage foreclosure, and also major non-maritime civil litigation, including insurance defense cases. Besides court and jury cases, his trial experience includes the handling of administrative law cases before various Boards of Contract Appeals, ALJ's, Special Masters, USCG/NTSB Marine Boards and USCG hearing officers.

Admiralty and Maritime Law Public Comment - Yes (individuals)

Last Name First Name MI Notes

Benedict	Michael	D.	<p>One of my duties [as Director of Operations at Driscoll Boat Works] is to handle various legal activities. . . .</p> <p>While I think I am quite knowledgeable, . . . I would not think of getting into any action other than the most trivial without consulting . . . a recognized expert in Maritime Law. I recently argued an appeal of a bad Small Claims Court decision in Superior Court. The other side was represented by an attorney, who though seemingly intelligent and earnest, had no idea of what she was doing. I won easily. While . . . I would not have wanted a serious maritime attorney on the other side opposing me, the fact is that the other party probably wasted \$2,000 - \$2,500 - and lost the case.</p>
Bremer	Ted		<p>This initiative would benefit legal customers.</p>
Bull III	Edward	M.	<p>I understand that the [Maritime Law Association] and the [Pacific Admiralty Seminar] Board (of which I am still a member) have opposed the proposed certification pointing mainly to: (1) the fact that the maritime practice is very broad and that, therefore, (they assert), no one can be a specialist and (2) that maritime clients are sophisticated and do not need the protection that the certification would provide. . . . I respectfully disagree.</p> <p>First, the system as planned requires hours (points) in a wide variety of sub-specialties and only someone with both in-depth and broad maritime experience would qualify for certification. As such, I think the California proposal addresses the primary concern of the MLA and the PAS.</p> <p>Second, as a former maritime corporate/ship-owner/defense lawyer of ten plus years, and a current plaintiff's lawyer for seamen, commercial fishermen, longshoremen, passengers and recreational boaters, I can attest that most of these "consumer" clients have no idea who to hire to represent their interests, do not even know that maritime law is a special area and are absolutely at risk of hiring counsel who are not qualified to handle maritime matters. While I see this all the time in clients who come to us after it is too late, I saw it even more as a defense attorney when we were the ones filing the motions to dismiss, raising the obscure defenses, and litigating against lawyers who had no idea what they were doing.</p> <p>Because I do think that there is a real need for consumer protection and guidance that can be addressed by the proposed certification, I support certification. I do not think there is any risk of misleading the public or of certification of the unqualified and I do not think the MLA concerns justify rejecting this proposal.</p>
Davies	Sergio		<p>I am a proponent for specialization in Maritime Law as a protection for consumers.</p>
Dupree	Eric	A.	<p>In favor. Offers to assist with process.</p>
Enger	William	K.	<p>. . . I believe that a Specialty Certification will promote quality representation to consumer and institutional clients as well as promote more efficient and effective advocacy before our courts.</p> <p>(Mr. Enger also proposed changes to the standards - see separate chart)</p>
Farzam	Joseph		<p>. . . I am admitted to the Patent Bar as well as practice maritime law . . . The rigorous process involved in obtaining the ability to practice before the patent office is commensurate with the level of skill needed to successfully prosecute patents. . . .</p> <p>Fortunately for those seeking patent advice, the professional skills possessed by patent attorneys are tested by comprehensive exam on US patent office practice to ensure a level of competency. Certification of those claiming to be able to handle a maritime cases (sic) would likewise provide those seeking specialized maritime advice the minimal tools to choose appropriate counsel.</p>

Felder B. Ouis . . . Permitting certification has no real disadvantage to anyone and promotes the mission of the State Bar to "Preserve and improve our justice system in order to ensure a free and just society under the law"

Most, if not all of these areas [of certification already approved by the State Bar] are broader in scope than maritime practice and could be broken down into individual substantive areas. . . This is not . . . a proper basis to deny certification.

. . . [C]onsumers having access to certified maritime practitioners . . . will benefit by having a lawyer at least familiar with and competent to address basic maritime concepts in increasing the quality of representation. . . [W]hether looking for counsel or seeking to represent a party in a maritime action, those who do so without knowledge of the particular rules and maritime precedent proceed at their peril. Certification provides a guide to those looking for assistance in commercial maritime transactions as well and likely decreases that peril.

Our courts are also likely to benefit from creating a process of certification . . . Increased familiarity with special maritime rules among those practicing in this area should streamline the litigation process promoting judicial efficiency. . .

Likewise, certification . . . will foster uniformity, not discourage it as those likely to succeed in obtaining certification will also have knowledge of general maritime uniformity principles. The lack of certification that presently exists, with anyone being able to say they handle maritime cases without any objective criteria to support it, promotes a lack of uniformity as counsel unfamiliar with the subject matter have promoted concepts, some of which contradict existing maritime precedent.

[Certification] will foster increased knowledge of the subject area and promote the skill level within the practice generally. [Goes on to note numerous sources of CLE activities in maritime law]

. . . The [Maritime Law Association] arguments that [certain members of the Pacific Admiralty Seminar] raise, namely that there are too many sub-practices in maritime law, that there is no need for certification among commercial parties seeking counsel, that certification is inconsistent with uniformity, and that there are not enough educational opportunities, . . . were "out of date" decades ago.

Haarala John T. As an attorney licensed in Michigan who engages and works with California attorneys on a consistent basis, I support the proposal. As corporate counsel for a bank holding company, I often must search for outside counsel to represent our eight affiliate banks located in California. Last year, I needed to find an attorney who could foreclose a preferred ship mortgage for one of our banks. It took me several weeks to find a qualified attorney capable of handling this task. It was very difficult to sort the qualified maritime attorneys from those with little or no experience in this area of the law. If maritime lawyers were certified as a specialty by the California Bar, I would have had a much easier time locating attorneys that possessed at least the minimum level of competency required to become certified in this highly specialized area of law.

Hartley Jason S. I . . . know first hand the confusion on the part of many attorneys who are unfamiliar with admiralty laws and are unaware of their unique rules in many ways . . . Traditional or state personal injury law does not apply to passengers on ships at sea (principally because of ticket contracts), to seamen (due to special Jones Act laws) nor to longshoremen. The employment laws are different from state employment laws. It is among the oldest areas of practice in legal history and to be successful today, it requires a highly developed and specialized knowledge of that unique area of law.

Hobbs Roy F. . . [W]e have encountered numerous occasions when we were in need of legal representation for admiralty and maritime matters. In almost all of those situations our qualified counsel faced opposing counsel who had no prior experience or legal background in this specialty. In each instance our encounters have resulted in extraordinary legal fees and court costs for both sides. The outcomes were always predictable in matters that could have been settled without extended litigation, but for opposing counsels' learning-curve requirements.

We cannot imagine being without specialty legal classifications for taxation and workers' compensation issues. Admiralty and maritime matters are similarly unique. Clients should be able to easily find competent maritime counsel. They should not be subjected to attorneys who accept an engagement, but are not at least provably knowledgeable in this field.

We understand that a maritime membership fee base organization is opposing this certification. However, we do not understand why simply having an attorney pay a fee provides knowledgeable and practiced legal services. . .

Last Name First Name MI Notes

Jones	George		I believe the public will be better served through [certification] in that Admiralty Law is unique historically, substantively and procedurally. By choosing a lawyer who demonstrates a basic understanding and competency in Admiralty Law, a client is better served in that the matter is likely to be handled in a more efficient (thus less expensive) manner by someone who understands the idiosyncrasies of admiralty.
Konopasek	Kevin		I am a proponent for specialization in Maritime Law as a protection for consumers.
Levine	Bob		I am a proponent for specialization in Maritime Law as a protection for consumers.
LiMandri	Charles	S.	... [Certification] would elevate the practice, inform the public, and should cause much more admiralty/maritime law CLE courses to be offered to practicing attorneys. ... [A] certification program ... would also assist me in hiring qualified maritime attorneys. ...
Mendoza	Teresa		[Certification] will elevate the maritime practice, and allow for more continuing education in this diverse field.
O'Brien	Kathy		... [A] good idea and helps to protect the consumer.
Pennell	Deborah		I support an initiative to create a specialization certification for maritime lawyers as a protection for consumers.
Poret	David		This is an area of law that really requires an in depth knowledge of the law and for a consumer such as myself it would be a comfort to know that some attorneys have taken and successfully completed an exam pertaining to maritime law.
Sloan	Sheldon	H.	(Former State Bar president.) Have observed the benefits of certifying specialized practice areas to consumers of legal services, both individuals and small businesses. Admiralty and maritime law would be an excellent addition. The State Bar maintains list of certified specialists that members may use to refer individuals and business owners with assurance that the certified specialists are competent in their areas of practice. Such referrals are not possible when the requests are in an area, such as admiralty and maritime law, where expertise is needed to competently practice but certification is not yet available.
Stein	Robert		Although for some time we have utilized the services of experienced maritime lawyers and appreciate the importance of doing so, ... there are many smaller waterfront businesses that only rarely have occasion to need the services of a maritime lawyer. It is this group of businesses ... that would ... be well served by the establishment of a formal specialization in maritime law. ... [M]aritime service providers who do not already have an established relationship with an experienced maritime lawyer receive some substantial level of protection by [certification]. ...
			I understand [the Maritime Law Association] ... opposes creating the proposed specialization [but] does not, however, require that its members pass any examination. ... [I]t apparently does not do that which is proposed for the protection of the consumer ... passing an examination to demonstrate at least basic competency. ... [T]he M.L.A. and a certified specialization in maritime law are not mutually exclusive and they can co-exist.
			... [I]t is so much more efficient when both attorneys in a maritime action are actually knowledgeable in maritime law. In fact we have experienced delays in settling cases because the attorney representing the other party was NOT knowledgeable. ... No client wants to pay for a lawyer to "get up to speed."

Stires	J.	<p>Maritime law is such a unique body of law that certification is justified. The specialty requirements put forward by the Bar fulfill the guidelines set forth in the "Concise Guide to Lawyer Specialty Certification" put forth by the ABA Standing Committee on Specialization. In the section entitled "Why Board Certification," the ABA states the following:</p> <p>"The initial efforts to develop legal specialist certification programs reflected a process for complying with ethical rules relating to lawyer advertising. But as more experience with these programs has been gained and as more certified specialists have become involved in bar and law firm leadership positions, board certification is becoming an accepted measure of professionalism and commitment to specialty practice. There is ample evidence demonstrating that certification specialists can have a beneficial impact on practicing lawyers, clients and the legal profession."</p> <p>Certification provides an incentive for the improvement of the skills and knowledge of lawyers, which leads to the improvement of the quality of legal services available. It provides a framework for professional development. Certification by an independent, recognized authority, such as the California State Bar, conveys real meaning to prospective clients, professional peers, and institutions regarding the professional capabilities of legal specialists. Continuing legal education and training is encouraged and rewarded with formal recognition, and it is better focused.</p> <p>Certification is a means to providing lawyers with a credible way to make their expertise known to other lawyers. Very little is currently offered as far as CLE in specific areas of admiralty/maritime law. Certification would expand what is currently available with regard to CLE classes.</p>
Stires	J.	<p>[Certification would elevate the practice, inform the public, and would cause much more admiralty/maritime law CLE courses to be offered.</p> <p>Much of the opposition to this certification comes from the Maritime Law Association . . . I would welcome the MLA to actually require a competency standard to be a member, rather than a simple fee and recommendation from another member. . . [S]ince the MLA has not done anything to certify maritime law as a specialty, I fully and strongly support the California State Bar's certification program for admiralty/maritime law.</p>
Thompson	P.	<p>The contribution of maritime commerce to the State's economy cannot be overstated, and . . . those of the bar who represent the maritime carriers and their customers deserve our recognition and commendation. However, as there are other modes of transportation . . . equally vital to our State's (and Nation's) commerce, . . . you should consider enlarging the field to include those who practice in all fields of transportation. However, I condition my endorsement on the State Bar's proposed action . . . [on] the unlicensed practice of transportation law by a horde of so-called "transportation lobbyists," etc., who pass themselves off as qualified to render advice . . . Unless the Bar convinced the Legislature, Attorney General, and local elected officials to refuse to condone UPL in the transportation law field, then your proposal will be undermined and rendered meaningless. . .</p>
Uthoff	M.	<p>In favor but proposes changes (see separate chart for a summary of Mr. Uthoff's proposed revisions and concerns).</p>
Weiss	E.	<p>Some members of the MLA have expressed opposition based on the premise that creating a formally recognized specialty in maritime law would be duplicative, given the existence of the MLA. The MLA does not set any standards for even basic competency. All one need do to join is find an existing member to sponsor membership and to pay a modest fee. Likewise, the MLA does not require any demonstration of proficiency in maritime law for a member to acquire "Proctor" status. The consumer of maritime legal services is provided no assurance that a member of the MLA is a qualified maritime lawyer. Granted, qualifying as a specialist in CA would not guarantee the lawyer is fully competent in the admiralty law arena, but an appreciable level of assurance is provided.</p> <p>The MLA is not necessarily an adequate resource for those seeking a maritime lawyer. First, while large maritime enterprises (shipping companies, for example) will be well aware of the existence of the MLA and can select a member from its directory, there are thousands of small maritime businesses and individuals who (I believe) have never heard of the MLA. Second, not all maritime law practitioners are members of the MLA.</p> <p>In opposing the establishment of maritime law as a formally recognized area of legal specialization, the MLA seems to be motivated by self interest alone.</p>

Last Name *First Name* *MI* *Notes*

Winter

Jeffrey

M.

The areas covered seem to be appropriate. Sections 2.1.11 and 2.1.12 seem to be redundant since LHWCA matters are before the U.S. Department of Labor.

Also, with CLE requirements already in place 45 credits hours within a three year period may be overwhelming. Even though I am a proponent of CLE and usually have more than I need I would recommend a slightly lower number over the three year period.

Culp, Phyllis

From: Mike Benedict [mbenedict@driscollinc.com]
Sent: Thursday, August 09, 2007 3:30 PM
To: Curd, Patricia
Cc: Philip E. Weiss, Esq.
Subject: Specialty in Admiralty and Maritime Law

Ms. Curd-

I am the Director of Operations at Driscoll Boat Works in San Diego. We are one of the larger boat yards in San Diego, with approximately 70 employees, and an annual Work Order volume of approximately 2500 boats.

One of my duties is to handle various legal activities for Driscolls - ranging from collections to boat arrest to liability claims to contractual disputes. Over the years, I have always thought that I was much better served by attorneys specializing in maritime law. Most recently, I have worked with Phil Weiss, and previously with Bill Dysart. Compared with working with other non-specialist attorneys, the difference in quality of representation, efficient use of my time, and efficient use of the attorney's billable-to-me time is very apparent.

Phil has alerted me to the proposals from the Admiralty and Maritime Law Consulting Group to the California Bar Association Board of Governors regarding establishing a specialty in maritime law, along with certification standards. I believe that maritime law is a definitely a specialty area, much as bankruptcy, family law, workers comp, and other recognized specialties. I very much support this proposal.

While I think I am quite knowledgeable, and have represented our company in Small Claims and Superior Court actions successfully, I would not think of getting into any action other than the most trivial without consulting Phil - as a recognized expert in Maritime Law. I recently argued an appeal of a bad Small Claims Court decision in Superior Court. The other side was represented by an attorney, who though seemingly intelligent and earnest, had no idea of what she was doing. I won easily. While, from a personal perspective, I would not have wanted a serious maritime attorney on the other side opposing me, the fact is that the other party probably wasted \$2,000 - \$2,500 - and lost the case. That is unfortunate.

I believe that consumers needing legal services would be well served by being able to select an attorney certified in this specialty area.

Thank you for your consideration of my points. Should you have any questions, I would be happy to chat with you.

Regards,

Michael D. Benedict
Driscoll Boat Works
2500 Shelter Island Drive
San Diego CA 92106
619-226-2500

8/14/2007

Maynard, Lorna

From: Curd, Patricia
Sent: Thursday, August 09, 2007 4:02 PM
To: Maynard, Lorna
Subject: FW: Maritime Law Specialization

-----Original Message-----

From: Ted Bremer [mailto:Dana_Marina@thedana.com]
Sent: Thursday, August 09, 2007 3:28 PM
To: Curd, Patricia
Subject: Maritime Law Specialization

As a dockmaster, I am in favor of the initiative for the certification of specialists of Maritime Law. This initiative would benefit legal customers.

Ted Bremer
Dockmaster
Dana on Mission Bay
(619) 222-6440
dana_marina@thedana.net

Maynard, Lorna

From: Ed Bull [Ebull@banningmicklow.com]
Sent: Thursday, August 09, 2007 3:48 PM
To: Legal Specialists
Subject: Admiralty and Maritime Law - Proposed Specialty Certification

Dear Bar Representative:

I write to comment on the proposal to add admiralty and maritime law to the Legal Specialization program. I have been practicing maritime law on a full time basis for the last 18 years. I was Editor-in-Chief of the USF Maritime Law Journal while studying at USF (1988 & 1989), am the former Chair of the San Francisco Barristers Club Admiralty and Maritime law sub-committee, have been a session chair on marine pollution (1994) and Admiralty procedures (2000) for the Pacific Admiralty Seminar (the PAS is the BASF maritime sub-committee) and was the Chair of that organization in 2002 through 2004. I am an active Adjunct Professor of maritime law at University of San Francisco School of Law and am also a member of Maritime Law Association of the United States (MLA).

I understand that the MLA and the PAS Board (of which I am still a member) have opposed the proposed certification pointing mainly to: (1) the fact that the maritime practice is very broad and that, therefore (they assert), no one can be a specialist and (2) that maritime clients are sophisticated and do not need the protection that the certification would provide. In due respect to these fine institutions, I respectfully disagree.

First, the system as planned requires hours (points) in a wide variety of sub-specialties and only someone with both in-depth and broad maritime experience would qualify for certification. As such, I think the California proposal addresses the primary concern of the MLA and the PAS.

Second, as a former maritime corporate/ship-owner/defense lawyer of ten plus years, and a current plaintiff's lawyer for seamen, commercial fishermen, longshoremen, passengers and recreational boaters, I can attest that most of these "consumer" clients have no idea who to hire to represent their interests, do not even know that maritime law is a special area and are absolutely at risk of hiring counsel who are not qualified to handle maritime matters. While I see this all the time in clients who come to us after it is too late, I saw it even more as a defense attorney when we were the ones filing the motions to dismiss, raising the obscure defenses, and litigating against lawyers who had no idea what they were doing. While I do not mean to suggest that the opposition to certification is in anyway driven by this fact, there is no doubt that the very same clients who have "knowledge about the need for maritime counsel" are the ones that typically take advantage of these non-maritime lawyers (and the members of our consumer population who hire them). While it is true that some union members have a source of guidance in selection counsel, the vast majority of maritime plaintiffs (potential maritime legal consumers) are not union members (typically, for example, less than 5% of marine fatalities each year in the United States involve commercial maritime activities).

Because I do think that there is a real need for consumer protection and guidance that can be addressed by the proposed certification, I support certification. I do not think there is any risk of misleading the public or of certification of the unqualified and I do not think the MLA concerns justify rejecting this proposal.

Respectfully Submitted.

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10/31/2007

Culp, Phyllis

From: Sergio Davies [sdavies@halfmooninn.com]

Sent: Thursday, August 09, 2007 2:22 PM

To: Curd, Patricia

I operate a 182 slip marina located in Shelter Island, San Diego. I am a proponent for specialization in Maritime Law as a protection for consumers



Sergio Davies C.H.A.
General Manager
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Maynard, Lorna

From: Eric Dupree [edupree@dupreelaw.com]
Sent: Friday, July 11, 2008 5:10 PM
To: Maynard, Lorna
Subject: maritime law specialization

I'm in favor. Let me know if I can assist in the process

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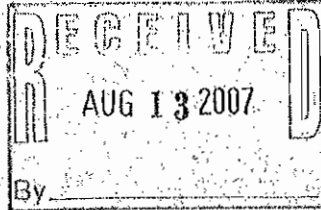
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August 9, 2007

VIA FACSIMILE

Board of Legal Specialization
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: **Admiralty and Maritime Law
Proposed Specialty Certification**

Gentlepersons:

Please accept this expression of support for the Proposed Specialty Certification in Admiralty and Maritime law. The proposal rightfully recognizes the area as highly specialized and involving distinct and time honored procedural rules and substantive doctrines. As a practitioner in the area for close to twenty years, I believe that a Specialty Certification will promote quality representation to consumer and institutional clients as well as promote more efficient and effective advocacy before our courts.

The rigorous standards proposed are noted with approval. I suggest that a practitioner also receive credit for presenting on topics on Admiralty or Maritime law in a professional educational context or teaching in an accredited law school.

Thank you for your efforts.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

William K. Enger



August 9, 2007

Board of Legal Specialization
State Bar of California
180 Howard Street
San Francisco, California 94105

Re: Certification for Maritime Speciality

Ladies and Gentlemen:

Thank you for the opportunity to comment in support of certification of maritime law as a specialty practice. I am admitted to the Patent Bar as well as practice maritime law, including recently prevailing in a class action on behalf of seafarers against both Carnival Corporation and its sister company, Princess Cruises, arising in part from cruises concluding in California ports.

The rigorous process involved in obtaining the ability to practice before the patent office is commensurate with the level of skill needed to successfully prosecute patents. Patent attorneys must principally be able to understand what makes a particular invention patentable and what factors might hinder the invention's patentability. Further, patent attorneys must learn to speak the language of the patent office. Likewise, successful maritime lawyers need to have a knowledge of the practice area as well as be able to communicate with seafarers and others whether prosecuting or defending maritime claim.

Fortunately for those seeking patent advice, the professional skills possessed by patent attorneys are tested by comprehensive exam on US patent office practice to ensure a level of competency. Certification of those claiming to be able to handle a maritime cases would likewise provide those seeking specialized maritime advice the minimal tools to choose appropriate counsel. Again, I appreciate the invitation and opportunity to provide this unique perspective to the Board.

Very Truly Yours,

JOSEPH FARZAM LAW FIRM

Joseph Farzam



PRINCESS CRUISES

7 August 2007

VIA FAX

415.538.2180

Board of Legal Specialization
State Bar of California
180 Howard Street
San Francisco, California 94105-1639

**Re: Admiralty & Maritime Law
Proposed Specialty Practice Certification**

Dear Board Members:

As a member of the Admiralty and Maritime Law Consulting Group created by the Board of Governors, a Proctor in Admiralty as recognized by the Maritime Law Association ("MLA"), a member of the University of San Francisco Maritime Law Journal's Board of Advisors, and counsel for the largest California-based maritime employer of crew and carrier of cruise passengers, I write in support of creating a voluntary means of certifying legal specialists in maritime law so as to benefit the People of California, our courts, maritime practitioners, and this practice area itself. Permitting certification has no real disadvantage to anyone and promotes the mission of the State Bar to "Preserve and improve our justice system in order to ensure a free and just society under the law."

In analyzing the issue of certification, California maritime lawyer Graydon Staring, former MLA President and then Chair of an Ad Hoc Committee on State Certification of Admiralty as a Specialty, wrote an article for the Journal of Maritime Law and Commerce (attached), noting many lawyers have long regarded admiralty and maritime law as a specialty in fact, the only other than patent law, where the lawyers enjoyed a traditional exception permitting them to announce themselves as practicing in those fields. Unlike the patent bar, however, the maritime area has no exam nor has any other objective means to qualify those seeking to specialize in this area, except in Florida, where certification of maritime law is already permitted.



PRINCESS CRUISES

August 7, 2007

Page 2

Former President Staring goes on to explain that by 1980, the ABA was considering omitting the traditional maritime exception regarding advertising a specialty, apparently in recognition that the maritime area would have quickly become a certified specialty practice in most states. In response, the MLA created an Advisory Committee on the issue, which identified a number of sub-specialties within maritime law, so as to convince the ABA to keep the traditional language in its rules. The Committee's motivation appears to have been to avoid having those well regarded in the practice from having to pass an examination before continuing to promote themselves to the public as being certified as maritime attorneys.

Staring's analysis concludes, however, that **"Examined against two decades of history, the motives of the position taken by the MLA in 1980 appear out of date."** (Emphasis added). He recommends that the MLA consider producing and furnishing concrete criteria, including testing and grading, to state agencies with respect to certification, or develop its own complete program. Regrettably, the MLA has not adopted such a methodology, and appears to continue to oppose certification on the same outdated view. Yet, based on the Consulting Group's and others' analysis, the need for certification remains in California and is justified when weighing the benefits against the non-existent costs.

As recognized by the Board, California's Legal Specialization program began in the 1970s and was made permanent by 1985. The State Bar already certifies 4000 attorneys in such "general" areas as appellate law, bankruptcy law, criminal law, estate planning and probate law, family law, franchise and distribution law, immigration law, tax law, and workers compensation law, even though each of these have sub-specialties. Certification by accredited organization is also available in business bankruptcy law, consumer bankruptcy law, creditor rights law, civil trial advocacy, criminal trial advocacy, family law trial advocacy, accounting malpractice, legal malpractice, medical malpractice, elder law and child welfare law.

Most, if not all of these areas, are broader in scope than maritime practice and could be broken down into individual substantive areas. For example, criminal law specialization could be broken down along the lines of type of crime, punishment, or court system, state or federal. This is not, in my view, a proper basis to deny certification.



PRINCESS CRUISES

August 7, 2007

Page 3

Certification has been approved in the above areas as it would promote awareness to consumers of legal services of various specializations, allowing a process to verify a professional credential recognizing a level of proficiency and competency. Consumers looking for a maritime attorney would likewise generally benefit to know whether their counsel has any knowledge of a particular area.

More specifically, consumers having access to certified maritime practitioners, just like having a certified practitioner in any of the above areas, will benefit by having a lawyer at least familiar with and competent to address basic maritime concepts in increasing the quality of representation. For example, federal maritime statutes provide that carriers, like Princess, may limit the time in which suit may be brought to one year. Likewise, federal maritime law permits enforcement of forum selection provisions, including Princess, which requires its passengers to bring suit in Los Angeles County. Consumers and non-maritime practitioners may not appreciate such limitations.

As explained in my article in the ABA's Business Law Today (copy attached), many involved in commercial matters also consider the seas of maritime practice to be rough waters. The article concludes that whether looking for counsel or seeking to represent a party in a maritime action, those who do so without knowledge of the particular rules and maritime precedent proceed at their peril. Certification provides a guide to those looking for assistance in commercial maritime transactions as well and likely decreases that peril.

Our courts are also likely to benefit from creating a process of certification, as they have in other areas of specialization. Increased familiarity with special maritime rules among those practicing in this area should streamline the litigation process promoting judicial efficiency. For example, counsel familiar with maritime law would likely know that a foreign crewmember on an international cruise cannot file for workers' compensation benefits and thus avoid consuming resources on this issue. Likewise, maritime practice is often regarded by federal courts as being more cooperative than combative in and out of the court room as those experienced in this area often direct their attention to the issues of merit, as opposed to collateral issues. Certification will tend to promote maritime matters being handled in this manner.



PRINCESS CRUISES

August 7, 2007

Page 4

Likewise, certification of the maritime specialty will foster uniformity, not discourage it as those likely to succeed in obtaining certification will also have knowledge of general maritime uniformity principles. The lack of certification that presently exists, with anyone being able to say they handle maritime cases without any objective criteria to support it, promotes a lack of uniformity as counsel unfamiliar with the subject matter have promoted concepts, some of which contradict existing maritime precedent.

With respect to benefit to maritime practitioners, certification will clarify solicitation rules between the ABA and our state rules. The ABA Model Rule of Professional Conduct Rule 7.4(c) permits attorneys engaged in Admiralty practice to use the designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation, recognizing that designation having a long historical traditional associated with maritime commerce and the federal courts. While these designations may not be commonly recognized by the public, our Bar's Rules of Professional Conduct, Rule 1-400(D)(6) nonetheless prohibit members from soliciting by representing she or he is a "certified specialist" unless the member holds a current certificate as a specialist issued by an approved entity. Permitting voluntary certification would thus permit Proctors and others specializing in maritime law to explain how they achieved their expertise along with creating a mechanism to ensure certification is the result of objective criteria.

The certification processes itself, especially the educational requirements, will foster increased knowledge of the subject area and promote the skill level within the practice generally. The University of San Francisco has since 1989 offered courses in various maritime law areas that could be used in meeting the educational requirement. Its programs, including maritime law, are often taken by students in other Bay Area schools through an inter-school exchange program as well as those already admitted to practice in order to increasing their knowledge about maritime law subjects. USF also, from time to time, offers special maritime seminars for practitioners to gain updates concerning maritime law, including most recently a one-day course presented designed for attorneys to familiarize them with the Jones Act from the perspectives of both plaintiff and defense lawyers. Likewise, other law schools in California offer courses which could contribute in meeting educational requirements for initial certification. The California Maritime Academy and other programs offer a number of extended learning classes in maritime law related subjects.

August 7, 2007
Page 5

In addition to maritime law programs offered throughout the state by law schools and other institutions, the Pacific Admiralty Seminar offers presentations on recent developments in this specialty practice that could be used toward satisfying the educational requirements. Likewise, the Longshore Institute offers not only a 2-day comprehensive seminar geared to those who require a solid working knowledge of the Longshore Act, but also provides for individual seminars for particular areas of practice. Various local bar associations also promote educational opportunities on the subject; for example, I am speaking before a section of the Orange County Bar Association next month on insights into maritime law (which has been approved for MCLE credit). In addition to these programs by local bar associations, various professional organizations, including the San Francisco Marine Claims Association, the San Francisco Board of Marine Underwriters, and the Marine Underwriters of Southern California, to name a few, promote educational programs with respect to issues concerning maritime law.

Further to those educational opportunities in California that will increase knowledge of maritime law practice, there are a number of other seminars, courses, and programs in other states that could assist in increasing practitioner knowledge and meeting the education qualification for voluntary certification. All of this voluntary effort to obtain additional knowledge and skill in particular areas of practice benefits the public as well as should be recognized by allowing certification.

As the Board has noted, there is no fiscal nor personnel impact on the general fund. Nor are there any other negative consequences of permitting certification in an area of law already recognized as a specialty practice. With respect to the issues raised by certain members of the Pacific Admiralty Seminar against certification, I note that in voting I observed that most of the votes against support were by senior defense counsel based along similar motivation lines suggested to be outdated in the attached Staring article. The MLA arguments that they raise, namely that there are too many sub-practices in maritime law, that there is no need for certification among commercial parties seeking counsel, that certification is inconsistent with uniformity, and that there are not enough educational opportunities, as Staring would put it, were "out of date" decades ago.



August 7, 2007
Page 6

Without any significant downside, a voluntary certification program for the maritime specialty will promote the interests of justice and our mission as members of the State Bar.

Respectfully submitted,

A handwritten signature in black ink that reads "B. Otis Felder".

B. Otis Felder
Corporate Counsel

Enc.:

Graydon S. Staring, *The Proctor's Dilemma: Certifying Specialties in Admiralty*,
28 J. Mar. L. Com. 503 (1997)

B. Otis Felder, *Get on Board, Yes Maritime is Different*
Business Law Today (March/April 2006)

Get on board

Yes, maritime law is different

By B. Otis Felder

Many consider the seas of maritime practice to be rough waters.

A difficulty in understanding maritime law is that although much of it appears familiar, there remain various subtleties between shore-side practice and the applicable law at sea that can affect outcomes. Recognition that not all commercial transactions are governed the same is the first step in developing an understanding of the impact of maritime law.

All too often, business clients may not fully be aware of the diversity of the law, and that maritime transactions, in particular, may subject the participants to unfamiliar rules when conducting what may be viewed as an otherwise typical business deal. Maritime law itself is a separate body of substantive as well as procedural law, distinct from common law and with its own rules. In fact, it is one specialty the ABA recognizes as requiring special expertise. Business lawyers, whether they are advising on transactional or litigation matters, should not overlook the potential differences in maritime rules when advising their clients.

The recognition that this area of law may have its own set of requirements is not, of course, limited to those thinking of shipping goods or

chartering vessels. Many commercial transactions involving those who sail abroad are premised with a mistaken belief that shore-side state law travels with them, like an invisible third piece of luggage. But as coined by federal Judge Jane Roth in *Hodes v. S.N.C. Achille Lauro ed Altri-Gestione*, 858 F.2d 905 (3rd Cir. 1988), "American passengers simply do not carry American public policy on their backs wheresoever they may venture." Similarly, traditional commercial law notions may not be applicable in dealing with settled federal maritime law.

Nor can American businesses presume that what the United States considers to be proper under its maritime law will govern a particular transaction. As the Supreme Court announced in *The BREMEN*, 407 U.S. 1 (1972), U.S. courts should not place "a heavy hand indeed on the future development of international commercial dealings by Americans" by insisting "on a parochial concept that all disputes must be resolved under our laws and [in] our courts." If something other than general maritime law is to apply in a contractual relationship, the participants would be wise to say so in their dealings.

Regardless of what law is chosen by the parties for their contractual relationship, General Maritime Law (GML) governs many maritime transactions. It is deeply rooted in historical notions developed through volumes of admiralty cases. GML forms

out of a recognition of various international treaties and conventions, interstate commerce as well as the practical need for a uniform approach that disputes will be resolved in the same manner regardless of the forum in which they arise. In this sense, the various interplay and interaction of law can become somewhat complex and overwhelming to clients unfamiliar with maritime practice.

While mastering the nuances of the GML takes years, there are some initial tenets worth considering as well as some basic misconceptions to avoid in advising clients on business transactions involving maritime commerce. The first and largest among these, of course, is separating out for a client that a matter may not be the usual transaction and could involve special considerations despite its otherwise familiar appearances.

Primary to the goal of appreciating maritime law for what it may mean to a transaction is developing an understanding of its basis. Primarily, because of a need for uniformity in the law governing maritime commerce, the Constitution grants the federal courts the judicial power to hear all cases of admiralty and maritime jurisdiction. From this grant of power, the federal courts have developed the substantive law applicable to these cases. GML is a result of the federal courts' decisions, including the body of judicial principles that have been adopted by the federal courts in resolving maritime

Felder is a proctor in admiralty at Kaye, Rose & Partners, LLP, in Los Angeles. His e-mail is ofelder@hayerose.com.

disputes. That is why some refer to GML as federal maritime law.

As new situations arise that are not decided by admiralty precedent or federal statute, federal courts, in building the GML, fashion new rules by looking to federal precedent, or where none, to state law by applying general principles of commercial and contract law, including the UCC. State law can supplement GML provided it does not conflict with GML precedent, federal law, or the need for uniformity — namely that there is not a rule that is different from state to state.

It is important to know that between an actual conflict regarding GML and state law, GML controls. Where there is no settled rule under GML or federal law, state law can supplement. In other words, traditional commercial law notions based on state law may not apply.

In addition to the judicially created body of GML, Congress has enacted a number of statutes that control issues concerning cargo disputes, the rights of marine employees and collisions — to name a few. Where such a federal statute exists, it controls over the GML, subject always that the statute is constitutional. In addition, treaties that the United States has ratified have the same force as a statute, and likewise control areas governed by their terms.

In addition to federal statutes, federal courts use the Supplemental Rules for Certain Admiralty and Maritime Claims, along with the Federal Rules of Civil Procedure, over specific maritime issues, including enforcement of maritime liens through arrest or attachment of the vessel or a shipowner's property. These liens provide a remedy for those who extend credit to a vessel in need of service. They may be enforced wherever the vessel can be served or property located. Liens are also created by torts committed by the vessel. As a consequence, maritime law is full of cases in which the vessel is the named party.

After determining that a particular transaction may invoke maritime treatment, business lawyers may also wish to recommend a particular body of

substantive law they would like to supplement GML if there is no governing rule. In doing so, consideration may be given to the nationality of the vessel.

Some courts view a ship on the high seas as assimilated to the territory of the flag state so that what happens on the vessel is treated as if it occurred in the territory of the state whose flag the ship flies. Others take the pragmatic approach that there must be some law on shipboard that cannot change at every change of waters and that the vessel's flag ought to apply.

More modern commentators, however, have agreed that a ship has the nationality of the state that registered it but only if there is a "genuine link" between the state and the ship, namely whether the company owning the ship is owned by nationals of the state; whether the officers and crew of the ship are nationals of the state; how often the ship stops in the ports of the state; and how extensive and effective is the control that the state exercises over the ship. Regardless of the theoretical basis, an important factor in what law supplements general maritime law is the ship's nationality.

In addition to the various initial jurisdictional and substantive law issues to be determined in any maritime case, maritime law is substantially different from shore-side law especially in the way it treats the relationship between parties. Clients unfamiliar with these special relationships should be cautious when entering into agreements.

Consider, for example, the employer-employee relationship at sea. Although seafarers are considered "wards" of the court entitled to special protection, seafarers have no common law right to sue their employer for negligence. Rather, they were entitled to maintenance (reasonable expenses of room and board while ashore and unfit for duty), cure (reasonable medical expenses incurred for curative care), and unearned wages (wages that would have been received had the seafarer not become sick or injured, until the end of the voyage). A seafarer assigned to a vessel could also sue for unseaworthiness, meaning that if a seaman suffered injury or death that was caused by the vessel that was not fit for its intended purposes, he would be entitled to damages.

Where's the property?

Whether wire-transfer funds held by an intermediary bank between the originator's and the beneficiary's banks is subject to maritime attachment is resolved differently under maritime law as compared with state law. The UCC would usually preclude attachment of funds in the hands of an intermediary bank. Maritime attachment is, however, an ancient remedy and a characteristic feature of the general maritime law whereby a defendant's tangible or intangible property can be seized wherever it is to provide a means to assure satisfaction if a suit is successful and to force the defendant's appearance in the forum where the property is located.

While New York law under the UCC provides that such property cannot be attached, the U.S. Court of Appeals for the Second Circuit recently found that federal law recognizes such funds to be subject to attachment making state law inapplicable to the analysis. See *Winter Storm Shipping v. Ipi*, 310 F.3d 263 (2nd Cir. 2002). In other words, quasi in rem jurisdiction may still be found in maritime actions such that the location of the property can form a basis for creating jurisdiction over its owner.

— B. Otis Felder

In 1920, Congress passed the Jones Act, which among other things granted seafarers a right of action against their employers for damages caused by negligence. In so doing, Congress did not define what a seaman was, leaving the courts to determine the status.

The courts have used various tests in making that determination, finding that not only the crew navigating the vessel is entitled to sue their employer for negligence, but also, and perhaps surprisingly, those permanently assigned to the vessel in aid of its mission — such as cooks, bartenders, musicians and beauticians. These are probably not what most people would envision when asked what a seaman is, but much of what defines the law, and maritime issues in particular, are unique to the practice and created from the development of GML. Leaving to chance the question of who is the employer in a particular transaction could put the client in an unfamiliar situation.

In addition to many interpretation issues of what various terms mean under the Jones Act, courts have also determined that the statute can apply to foreign-flagged vessels, although Congress made no specific mention that the law should apply extraterritorially. In so doing, the U.S. Supreme Court has directed that in determining whether a particular shipowner should be held to be an "employer" under the Jones Act, courts consider a variety of factors, including:

- the shipowner's base of operations,
- the place of the wrongful act,
- the law of the flag,
- the allegiance or domicile of the injured,
- the allegiance of the defendant shipowner,
- the place where the contract of employment was made,
- the inaccessibility of a foreign forum,
- as well as the law of the forum.

More recently, general maritime law has applied these choice-of-law principles to extend to all maritime tort cases, not just those between

THE JONES ACT NEGLIGENCE

While the Jones Act provides the seaman with a right to sue his employer, it provides a proprietary interest in the vessel, giving the seaman the right to recover that interest. The following hierarchy of claims is most commonly followed by U.S. courts:

- court expenses while the vessel is in custodia legis;
- seamen's wages;
- salvage and general average;
- tort claims;
- ship mortgages;
- repairs, supplies, necessaries and other contract claims;
- state-created liens of a maritime nature;
- tax liens;
- nonmaritime liens;
- nonlien claims.

This hierarchy is subject to the Ship Mortgage Act, which provides that the recording of a ship mortgage will elevate repairs, supplies, necessaries and contract claims that precede the ship mortgage to first priority security, and those recorded after the mortgage to lower rank.

employer and employee.

While they will use a balancing of factors in identifying the contacts of the parties in resolving what law may supplement GML in tort matters, U.S. courts will also recognize the parties' contractual choice of law with respect to maritime contracts. Those dealing

with commercial disputes already are likely to know that parties to a contract may include forum selection and arbitration provisions to govern the place where a future dispute will be resolved. While some states have enacted certain limitations on arbitration, the Federal Arbitration Act generally promotes the

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use of arbitration as a means of commercial dispute resolution.

As GML is generally made up of federal law, the Federal Arbitration Act ought to exercise control over state limitations of whether or not to compel arbitration in a maritime transaction. While the list of differences between shore-side law and maritime law could go on and on, the important first consideration for the business client is seeing that the distinction is one that makes a difference.

With the understanding that controlling general maritime law, while looking familiar may have unfamiliar twists, specific problems may require a business lawyer to recommend assistance from a specialist. When it comes to finding the right counsel for piloting through a series of legal issues, there's little substitute for expertise and familiarity in a particular legal field of practice.

That is especially true in the practice of maritime law, where lawyers are, under the ABA Rules, allowed to advertise themselves as "proctors in admiralty" designating their specialty. The Maritime Law Association of the United States, www.mlaus.org, now lists on its Web site those qualified as proctors for consultation or representation in a number of jurisdictions.

In seeking specialized advice, and recalling that maritime law is often different than a shore-side analysis, there are a few misconceptions that should be kept in mind.

First, as discussed above, the initial question should always be whether general maritime law applies to a particular situation. If not, then no maritime expertise is necessarily required. Consider for example a contract involving building a ship. Because building a ship is typically done on shore, maritime law is not likely to apply.

However, once the vessel is launched, the same type of contract to provide a particular service to a vessel would likely invoke admiralty jurisdiction and be governed under the GML. While in both cases the same business transaction may be at issue, the change in the circumstances could change the law applicable to the transaction.

Second, all maritime specialists are not alike. While the maritime practice area is in reality small, there remain sub-specialties even in this unique practice area. Some counsel spend more time doing cargo-related matters, others consult with respect to charter parties, and a number counsel on employment-related issues.

In addition to area of specialization, geographical location may also be relevant in seeking advice. While maritime law strives for uniformity, there remains conflict between views on particular issues between various circuits. District courts are still bound by the federal

maritime law in their individual circuits. It also may be worth inquiring into the specialist's background — the University of San Francisco, for example, offers courses in maritime law.

Whether looking for counsel or seeking to represent a party in a maritime action, those who do so without knowledge of the particular rules and maritime precedent proceed at their peril. While many of the maritime law concepts look familiar or analogous to shore-side practice, even a cursory examination reveals that there are issues particular to maritime that require careful attention to stay afloat. **ELI**

About that forum

Consider a situation where a family living in Washington decides to cruise in French Polynesia. The father, employed in a shore-side position for the cruise line, books the cruise for his family. Their cruise ticket specifies that passengers' rights will be construed in accordance with the General Maritime Law of the United States, but also notes that nothing in the ticket shall limit the parties to the benefits of any law of any country.

The cruise ship is owned and flagged by a Liberian corporation. Liberian law specifically incorporates U.S. General Maritime Law but also adopted the Athens Convention limiting the amount a passenger can recover as damages. The Liberian shipowners hire a Cypriot company to crew the vessel and appoint a German managing agent to handle provisioning.

The family departs Los Angeles to meet the cruise ship in Tahiti, where they board. While on the cruise, they ferry aboard French-built Zodiac rafts to a coral atoll for sightseeing, and during the attempted landing, the Zodiac capsize in the surf. The father and his daughter suffer injuries, while the crewmember piloting the Zodiac is killed.

This is no mere hypothetical. It's just one example of the types of situations maritime counsel face in practicing their craft. Finding the right governing principles depend on whether the case is within a court's admiralty jurisdiction, who or what are the defendants, and what law governs the dispute.

In the case above, the Ninth Circuit Court of Appeals, in *Chan v. Society Expeditions*, 123 F.3d 1287 (9th Cir. Wash. 1997), explained that in the absence of a contractual choice-of-law clause, federal courts sitting in admiralty apply federal maritime choice-of-law principles discussing the various relevant contacts. But where the parties specify in their contractual agreement which law will apply, admiralty courts will generally give effect to that choice unless the party challenging the enforceability of the provision can establish that enforcement would be contrary to public policy. The clause was invalid for such reasons as being over broad and unenforceable, or contravening public policy. It is not clear from the text whether the clause was enforceable or not.

— *John S. Felder*

Maynard, Lorna

From: John Haarala [John.Haarala@capitolbancorp.com]
Sent: Friday, July 11, 2008 1:17 PM
To: Maynard, Lorna
Subject: Comment on Proposed Maritime Law Certification

Lorna Maynard,

I am writing to express my support for the proposal currently before the California Bar to create a Maritime Law Certification. As corporate counsel for a bank holding company, I often must search for outside counsel to represent our eight affiliate banks located in California. Last year, I needed to find an attorney who could foreclose a preferred ship mortgage for one of our banks. It took me several weeks to find a qualified attorney capable of handling this task. It was very difficult to sort the qualified maritime attorneys from those with little or no experience in this area of the law. If maritime lawyers were certified as a specialty by the California Bar, I would have had a much easier time locating attorneys that possessed at least the minimum level of competency required to become certified in this highly specialized area of law.

Although not a member of the California Bar, as an attorney licensed in Michigan who engages and works with California attorneys on a consistent basis, I support the proposed certification for maritime lawyers.

Sincerely,

John T. Haarala
Corporate Counsel
Legal Department
Capitol Bancorp Ltd.
200 N. Washington Square, Suite 320
Lansing, Michigan 48933
telephone: (517) 316-0157
facsimile: (517) 374-2546
john.haarala@capitolbancorp.com

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8/6/2008

Maynard, Lorna

From: Jason Hartley [jhartley@rdblaw.com]
Sent: Thursday, August 09, 2007 9:32 AM
To: Legal Specialists
Subject: Admiralty Law Specialty Certification - YES

I write to express my support for the introduction of an Admiralty and Maritime Law Specialty Certification as part of the California bar. Few areas of practice are so specialized. I practiced Admiralty law for 3 years and know first hand the confusion on the part of many attorneys who are unfamiliar with admiralty laws and are unaware of their unique rules in many ways. There is even an entire section of the Federal Civil Procedure Rules dedicated solely to Admiralty procedures. Traditional or state personal injury law does not apply to passengers on ships at sea (principally because of ticket contracts), to seamen (due to special Jones Act laws) nor to longshoremen. The employment laws are different from state employment laws. It is among the oldest areas of practice in legal history and to be successful today, it requires a highly developed and specialized knowledge of that unique area of law.

There should certainly be a Specialty Certification.

Jason S. Hartley, Esq.
ROSS, DIXON & BELL, LLP
550 West B Street, Suite 400
San Diego, CA 92101
ph.: (619) 235-4040
fax: (619) 231-8796
e-mail: jhartley@rdblaw.com

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Thank you.



August 9, 2007

Facsimile to 415-538-2180

Board of Legal Specialization
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Members of the Board:

This is to express our unqualified support for an Admiralty and Maritime Law specialty certification.

We operate a small business on the waterfront in San Diego. Our core business has been in existence since 1985. Most of our legal issues involve admiralty and maritime law. Given our many years of practical experience, we conclude that this area of the law is very technical and requires knowledgeable counsel. In many situations it produces counterintuitive results for companies that are accustomed to California business law and the Commercial Code.

Since our inception we have encountered numerous occasions when we were in need of legal representation for admiralty and maritime matters. In almost all of those situations our qualified counsel faced opposing counsel who had no prior experience or legal background in this specialty. In each instance our encounters have resulted in extraordinary legal fees and court costs for both sides. The outcomes were always predictable in matters that could have been settled without extended litigation, but for opposing counsels' learning-curve requirements.

We cannot imagine being without specialty legal classifications for taxation and workers' compensation issues. Admiralty and maritime matters are similarly unique. Clients should be able to easily find competent maritime counsel. They should not be subjected to attorneys who accept an engagement, but are not at least provably knowledgeable in this field.

We understand that a maritime, membership fee based organization is opposing this certification. However, we do not understand why simply having an attorney pay a fee provides knowledgeable and practiced legal services. After all, there is nothing to prevent an attorney from having both a certification and membership in this or any other similar organization. Similarly, a CPA can have a specialty classification as an auditor and still be a member of the American Institute of Public Accountants.

For these reasons we strongly urge you to adopt a specialty in Admiralty and Maritime law.

Sincerely,

A handwritten signature in black ink that reads "Roy F. Hobbs". The signature is written in a cursive, flowing style.

Roy F. Hobbs
Chief Executive Officer

Maynard, Lorna

From: Curd, Patricia
Sent: Tuesday, October 23, 2007 8:46 AM
To: Maynard, Lorna
Subject: FW: Admiralty Section

-----Original Message-----

From: George Jones [mailto:gjones@weissjones.com]
Sent: Monday, October 22, 2007 6:53 AM
To: Curd, Patricia
Subject: Admiralty Section

Dear Ms. Curd,

I write in support of the establishment of Admiralty Law as an area of specialization within the California Bar Association. As a Proctor in Admiralty (so designated by the United States Maritime Law Association), I estimate that 75% of my civil litigation practice is devoted to Admiralty.

I believe the public will be better served through such a designation in that Admiralty Law is unique historically, substantively and procedurally. By choosing a lawyer who demonstrates a basic understanding and competency in Admiralty Law, a client is better served in that the matter is likely to be handled in a more efficient (thus less expensive) manner by someone who understands the idiosyncrasies of admiralty. Please add my name to the roster of those in support of the creation of an Admiralty Law Specialty within the California Bar.

Thank-you,

George Jones

WEISS & JONES
One World Trade Center
Suite 800
Long Beach, CA 90831
Tel: (562) 983-8003
Fax: (562) 685-0460
www.weissjones.com

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10/31/2007

Culp, Phyllis

From: Kevin Konopasek [kkonopasek@thedana.com]
Sent: Thursday, August 09, 2007 1:54 PM
To: Curd, Patricia
Subject: RE: Maritime Law Specialization

-----Original Message-----

From: Kevin Konopasek
Sent: Thursday, August 09, 2007 1:47 PM
To: 'patricia.curd@calbar.ca.gov'
Subject: Maritime Law Specialization

I am an operator of a 140 slip marina located in Mission Bay, San Diego. I am a proponent for specialization in Maritime Law as a protection for consumers.

*Kevin Konopasek, General Manager
The Dana Hotel & Marina on Mission Bay
1710 W. Mission Bay Dr. San Diego
www.thedana.com*

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Culp, Phyllis

From: Bob Levine [rlevine@islandpalms.com]

Sent: Thursday, August 09, 2007 1:59 PM

To: Curd, Patricia

Subject: Maritime Law Specialization

I am an operator of a 140-slip marina located in Mission Bay, San Diego. I am a proponent for specialization in Maritime Law as a protection for consumers.

Bob Levine

General Manager

Best Western Island Palms Hotel & Marina
(619) 222-0561

*Bartell Hotels...San Diego's Unforgettable Locations
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8/14/2007

06/27/2007 14:30 1858755538 LAW OFFICES OF CHARLES S. LIMANDRI PAGE 01/01

Law Offices of
CHARLES S. LiMANDRI
A PROFESSIONAL CORPORATION

CHARLES S. LIMANDRI*

STERLING J. STIRES
TERESA L. MENDOZA

RICHARD SALPIETRA
Of Counsel

POST OFFICE BOX 9120
RANCHO SANTA FE, CALIFORNIA 92067
TELEPHONE: (858) 759-9930
FACSIMILE: (858) 759-9938

WEBSITE: www.limandri.com

PHYSICAL ADDRESS:

16236 SAN DIEGUITO ROAD
BUILDING 3, SUITE 3-15
RANCHO SANTA FE, CA 92067

CARMEN SERRANO
Office Administrator

*BOARD CERTIFIED CIVIL TRIAL ADVOCATE;
ALSO ADMITTED TO THE DISTRICT OF COLUMBIA BAR

June 26, 2007

Board of Legal Specialization
The State Bar of California
180 Howard Street
San Francisco, CA 94105
415-538-2180 Fax

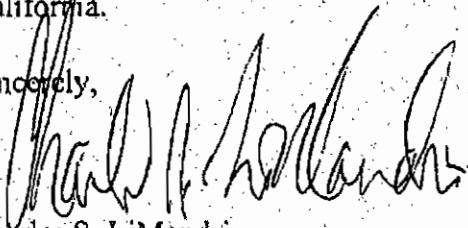
Re: Admiralty/Maritime Law Specialty Certification

To the Board of Legal Specialization:

My law firm handles a wide variety of maritime law issues, and has done so for over 20 years. I am board certified as a trial specialist by the National Board of Trial Advocacy, and a member of the American Board of Trial Advocates. I believe that the maritime law certification program would elevate the practice, inform the public, and should cause much more admiralty/maritime law CLE courses to be offered to practicing attorneys. Further, as an owner of a law firm, the State Bar's certification program for maritime lawyers would also assist me in hiring qualified maritime attorneys; the certification program would allow me to know if potential-hires have the knowledge required to practice at my firm.

I strongly support the creation of Admiralty/Maritime Law as a certified specialty in California.

Sincerely,



Charles S. LiMandri
Law Offices of Charles S. LiMandri, APC

Law Offices of
CHARLES S. LiMANDRI
A PROFESSIONAL CORPORATION

CHARLES S. LIMANDRI
STERLING J. STIRES
TERESA L. MENDOZA
RICHARD SALPIETRA
Of Counsel

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CARMEN SERRANO
Office Administrator

BOARD CERTIFIED CIVIL TRIAL ADVOCATE
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June 26, 2007

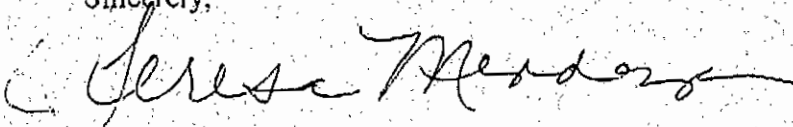
Board of Legal Specialization
The State Bar of California
180 Howard Street
San Francisco, CA 94105
415-538-2180 Fax

Re: Admiralty/Maritime Law Specialty Certification

To the Board of Legal Specialization:

Our office practices in a wide variety of legal areas, including maritime law. Our maritime practice is diverse, and very specialized. I believe that the certification process will elevate the maritime practice, and allow for more continuing education in this diverse field. I, therefore, strongly support the creation of Admiralty/Maritime Law as a certified specialty in California.

Sincerely,



Teresa Mendoza
Law Offices of Charles S. LiMandri, APC

Culp, Phyllis

From: Kathy Obrien [kathy@sun-harbor.com]
Sent: Thursday, August 09, 2007 3:48 PM
To: Curd, Patricia
Subject: Maritime Law Certification Support

Patricia,

I understand there is a proposal to make maritime law a certified specialty. To become a certified specialist will require passing an examination and demonstrate experience in the field. As the general manager of Sun Harbor Marina a LEED certified facility in San Diego, it seems to me this is a good idea and helps to protect the consumer. I write to offer my support for the proposed specialization.

Best regards,

Kathy OBrien
Sun Harbor Marina
www.sun-harbor.com
619-222-1167 ext 200
619-222-9387 fax
619-808-9518 cell

Culp, Phyllis

From: Deborah Pennell [dmason@islandpalms.com]
Sent: Thursday, August 09, 2007 3:21 PM
To: Curd, Patricia
Subject: Maritime Law Specialization

I am an operator of a 188 slip marina located in San Diego Bay, San Diego California. I support an initiative to create a specialization certification for maritime lawyers as a protection for consumers.

Deborah Pennell

Marina Manager
Shelter Island Marina
at the Island Palms Hotel
2071 Shelter Island Drive
San Diego, CA 92106
619-223-0301 www.islandpalms.com
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Culp, Phyllis

From: David Poret [david@cvmarina.com]
Sent: Thursday, August 09, 2007 2:29 PM
To: Curd, Patricia
Subject: Maritime Specialization

Hello Patricia

I wanted to take this opportunity to voice my support for requiring attorneys to pass an exam that would test their abilities concerning maritime law.

This is an area of law that really requires an in depth knowledge of the law and for a consumer such as myself it would be a comfort to know that some attorneys have taken and successfully completed an exam pertaining to maritime law.

Thank you for your time

Best regards,
David Poret

Manager
Chula Vista Marina
550 Marina Parkway
Chula Vista, CA 91910
619-691-1860



THE STATE BAR
OF CALIFORNIA

SHELDON SLOAN
PAST PRESIDENT

July 11, 2008,

THE STATE BAR OF CALIFORNIA
SPECIAL ADMISSIONS AND SPECIALIZATION

JUL 14 2008

RECEIVED:

\$:

Via Facsimile (415) 538-2180 and U.S Mail

California State Bar
Office of Special Admissions & Specialization
Admiralty and Maritime Consulting Group
180 Howard St.
San Francisco, CA 94104

RE: Certification of Admiralty and Maritime Law

To: The Office of Special Admissions & Specialization
and the Members of the Admiralty & Maritime Consulting Group

I have previously expressed my support for the efforts of the Office of Special Admissions & Specialization in the ongoing efforts to develop task requirements and standards for certifying Admiralty and Maritime Law as a recognized specialized field of practice and I continue to believe that California is in a unique position to become the second State Bar to develop standards for certifying this specialized field of practice.

I have observed the benefits of certifying specialized practice areas to the consumers of legal services, both individuals and small businesses, in areas where special knowledge of substantive law and procedure is necessary to render competent legal services. Admiralty and Maritime law would be an excellent addition to our other areas of recognized specialties, which currently include: Appellate law; Bankruptcy law; Criminal law; Estate Planning, Trust and Probate; Franchise and Distribution law; Family law; Taxation; Immigration and Nationality law; and Workers Compensation law.

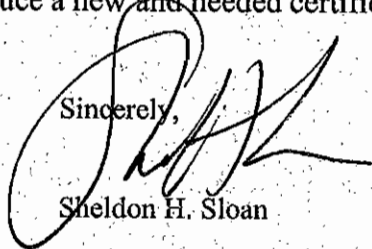
The State Bar maintains lists of those attorneys practicing in California who are Certified Specialists in these areas, as a service to both the public and the membership. Members who are not specialists may refer individuals and business owners to certified specialists with assurance that the certified specialist is competent in the certified field. The State Bar may refer individuals and businesses to certified specialists where the field is a certified specialty, but are unable to respond to requests for referrals to lawyers in fields where expertise is necessary to competently practice, but that are nonetheless not yet recognized as certified specialties. Such is

"To Improve the Justice System and Assure a Free and Just Society Under the Law"

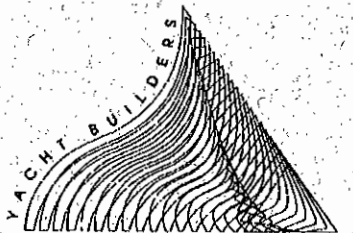
the case with Admiralty and Maritime law, even though most of us practicing would agree that a high level of expertise in this particular field is necessary to practice competently.

My support for the efforts of the Office of Special Admissions & Specialization, and the Consulting Group, remains constant and I write this letter to continue to encourage those who have devoted tens of hours of their time *pro bono* to this project and to say that it is my heartfelt wish that your efforts will produce a new and needed certified specialty: Admiralty and Maritime law.

Sincerely,

A handwritten signature in black ink, appearing to read 'SHS', is written over the word 'Sincerely,'.

Sheldon H. Sloan



GAMBOL INDUSTRIES, INC.

August 9, 2007

Ms. Patricia Curd
California Board of Legal Specialization
180 Howard Street
San Francisco, CA 94105

Re: Opinion Favoring Formal Specialization in Maritime Law

Dear Ms. Curd:

I understand that the Board of Governors of the California Bar Association will soon consider a proposal to establish a formal specialization in maritime law. As the owner of Gambol Industries, Inc., which owns a boatyard Long Beach, California, I am aware that unique principles and laws are applied in maritime cases. I am aware, for example, that many of the rules relating to maritime liens are counter-intuitive and are in many ways different than other liens. We have had occasion to arrest vessels in order to enforce our rights in admiralty and our work order contract is crafted to take advantage of the special rights and remedies that are available to our shipyard.

Although for some time we have utilized the services of experienced maritime lawyers and appreciate the importance of doing so, I also believe that there are many smaller waterfront businesses that only rarely have occasion to need the services of a maritime lawyer. It is this group of businesses, in particular, that would in my view be well served by the establishment of a formal specialization in maritime law. As I understand it, in order for an attorney to be certified under the proposed program, he or she will have to both demonstrate some real life experience in the maritime law arena, and also pass a basic examination. I believe that maritime service providers who do not already have an established relationship with an experienced maritime lawyer receive some substantial level of protection by the establishment of the proposed field of specialization. If these providers are referred to a lawyer who has passed such an examination and has demonstrated an actual history of practicing maritime law, it seems certain that they would be better protected than they would be if they select an attorney with little or no demonstrable experience in the maritime law field.

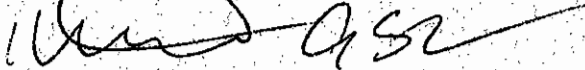
I understand a national organization of maritime lawyers exists, the Maritime Law Association, and that it opposes creating the proposed specialization. I understand that the M.L.A. does not, however, require that its members pass any examination. Therefore, while I do not doubt the importance of the M.L.A., it apparently does not do that which is proposed for the protection of the consumer of legal services – passing an examination to demonstrate at least basic competency. It seems to me the M.L.A. and a certified specialization in maritime law are not mutually exclusive and they can co-exist.

1825 Pier D Street • Long Beach, California 90802 • Phone: 562-901-2470 • Fax: 562-901-2472
Web: www.gambolindustries.com • E-mail: gambolindustriesinc@earthlink.net

I believe that most maritime business owners who have hired a non-maritime lawyer in connection with a maritime matter pay a price for such lawyer's inexperience. As you can imagine, it is so much more efficient when both attorneys in a maritime action are actually knowledgeable in maritime law. In fact we have experienced delays in settling cases because the attorney representing the other party was NOT knowledgeable in maritime law. No client wants to pay for a lawyer to "get up to speed."

Certification of a lawyer as a specialist by the California Bar Association is meaningful and useful to maritime service providers, and I strongly urge that the Board of Governors approve the proposed specialization.

Please feel free to contact me, should you have any questions or comments.

A handwritten signature in black ink, appearing to read "Robert Stein", written over a horizontal line.

Robert Stein, President
Gambol Industries, Inc."

Law Offices of
CHARLES S. LiMANDRI
A PROFESSIONAL CORPORATION

CHARLES S. LIMANDRI*

STERLING J. STIRES
TERESA L. MENDOZA

RICHARD SALPIETRA
Of Counsel

POST OFFICE BOX 9120
RANCHO SANTA FE, CALIFORNIA 92067
TELEPHONE: (858) 759-9930
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16236 SAN DIEGUITO ROAD
BUILDING 3, SUITE 3-15
RANCHO SANTA FE, CA 92067

CARMEN SERRANO
Office Administrator

*BOARD CERTIFIED CIVIL TRIAL ADVOCATE;
ALSO ADMITTED TO THE DISTRICT OF COLUMBIA BAR

June 26, 2007

Board of Legal Specialization
The State Bar of California
180 Howard Street
San Francisco, CA 94105
415-538-2180 Fax

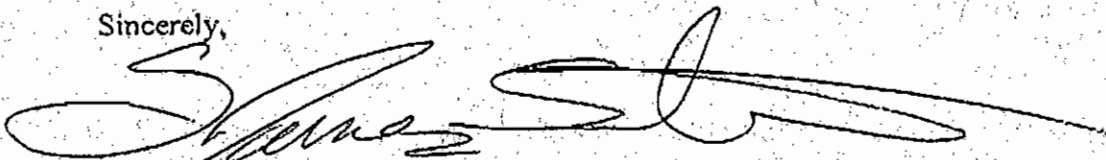
Re: Admiralty/Maritime Law Specialty Certification

To the Board of Legal Specialization:

My practice includes maritime law, and I am very much in favor of having maritime law be a certified specialty. I believe that the certification program would elevate the practice, inform the public, and would cause much more admiralty/maritime law CLE courses to be offered.

Much of the opposition to this certification comes from the Maritime Law Association (the "MLA"). I would welcome the MLA to actually require a competency standard to be a member, rather than a simple fee and recommendation from another member. Since the MLA pays very little attention to California, and since the MLA has not done anything to certify maritime law as a specialty, *I fully and strongly support the California State Bar's certification program for admiralty/maritime law.*

Sincerely,



Sterling J. Stires, Esq.
Senior Associate

Maynard, Lorna

From: Sterling J. Stires [sstires@limandri.com]
Sent: Friday, July 11, 2008 11:40 AM
To: Maynard, Lorna
Subject: Specialty Certification for Admiralty and Maritime Law

Dear Ms. Maynard:

I am very much in favor of certifying admiralty/maritime law as a legal specialty. Maritime law is such a unique body of law that certification is justified. Furthermore, the specialty requirements put forward by the Bar fulfill the guidelines set forth in the "Concise Guide to Lawyer Specialty Certification," which was put forth by the ABA Standing Committee on Specialization. In the section entitled "Why Board Certification," in that publication, the ABA states the following:

"The initial efforts to develop legal specialist certification programs reflected a process for complying with ethical rules relating to lawyer advertising. But as more experience with these programs has been gained and as more certified specialists have become involved in bar and law firm leadership positions, board certification is becoming an accepted measure of professionalism and commitment to specialty practice. **There is ample evidence demonstrating that certification specialists can have a beneficial impact on practicing lawyers, clients and the legal profession.**"

Certification provides an incentive for the improvement of the skills and knowledge of lawyers, which leads to the improvement of the quality of legal services available. Certification provides a framework for professional development in legal specialties and offers lawyers incentive to improve their skills and knowledge. Certification by an independent, recognized authority, such as the California State Bar, conveys real meaning to prospective clients, professional peers, and institutions regarding the professional capabilities of legal specialists. Continuing legal education and training is encouraged and rewarded with formal recognition, and it is better focused.

Certification is a means to providing lawyers with a credible way to make their expertise known to other lawyers. I am referred cases often by other lawyers, and would certainly benefit in this regard by being a certified specialist.

Very little is currently offered as far as CLE in specific areas of admiralty/maritime law. Clearly, certification would expand what is currently available with regard to CLE classes. This will allow maritime lawyers, whether certified specialists or not, to obtain CLE credits in their area of practice, and would allow these maritime lawyers to keep up with the trends of maritime law. This would benefit the overall quality of the practice for consumers, clients and other lawyers.

For these reasons, I whole heartedly support the idea of having maritime law be a certified legal specialty in California.

Thank you.

Sterling J. Stires, Esq.
Senior Associate
Law Offices of Charles S. LiMandri, APC
(858) 759-9930
sstires@limandri.com

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8/6/2008

JOSEPH P. THOMPSON

Attorney at Law

8339 Church Street, Suite 112, Gilroy, CA 95020

Post Office Box 154, Gilroy, CA 95021-0154

Telephone (408) 848-5506; Fax (408) 848-4246

E-mail: TransLaw@PacBell.Net**Date:** July 12, 2007**To:** Board of Legal Specialization, State Bar of California FAX (415) 538-2180**Re:** Announcement-Public Comment: page 14, California Bar Journal July 2007: Proposed creation of legal specialization program in admiralty and maritime law**From:** Joseph P. Thompson

Dear Sirs,

I endorse the proposed legal specialty for transportation lawyers engaged in the practice of admiralty and maritime law.

Identity: This year I am celebrating my 45th year in the transportation industry, the past 29 of which I've spent representing carriers and their customers before state and federal courts and agencies. I am a member of the Transportation Lawyers Association, and serve on its committees on Freight Claims, Intermodal, Arbitration, Bankruptcy, and Legislation (past-Chair). I am also a member of the Association of Transportation Law Professionals (formerly known as the Interstate Commerce Commission Practitioners Assn.), and other professional organizations in the transportation bar. I am past-president of the Gilroy-Morgan Hill Bar Assn., and have served on the SCCBA's debtor-creditor-commercial law and bankruptcy committee for many years.

Public Comment: I speak only for myself, and not on behalf of any client that I represent or organization to which I belong. The venerable, indeed ancient practice of admiralty and maritime law should be recognized as a field of legal specialization. The contribution of maritime commerce to the State's economy cannot be overstated, and therefore, those of the bar who represent the maritime carriers and their customers deserve our recognition and commendation. However, as there are other modes of transportation, e.g., highway, rail, air, and space, equally vital to our State's (and Nation's) commerce, I believe that you should consider enlarging the field to include those who practice in all fields of transportation. However, I condition my endorsement on the State Bar's proposed action by a far more important issue that faces the transportation bar today. That is, the unlicensed practice of transportation law by a horde of so-called "transportation consultants," "transportation lobbyists," etc., who pass themselves off as qualified to render advice, especially to government agencies, on transportation law questions and issues. I believe that unless the Bar convinces the Legislature, Attorney General, and local elected officials to refuse to condone UPL in the transportation law field, then your proposal will be undermined and rendered meaningless. Thank you and *caveat viator*.

Very truly yours,

JOSEPH P. THOMPSON, ESQ.

cc: FAX (916) 324-7544
Hon. Tom McClintockFAX (916) 445-0713
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Hon. Abel Maldonado

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VIA E-MAIL ONLY

August 9, 2007

Board of Legal Specialization
State Board of California
180 Howard Street
San Francisco, California 94105

Re: Admiralty and Maritime Law - Proposed Specialty Certification

Dear Board of Legal Specialization:

By way of background, I am an attorney that has practiced primarily in the Maritime Law field for the past 17 years. I believe I would meet the qualifications to become a Maritime Admiralty Specialist as presently proposed. However, I would like to make the following comments.

1. Generally many of the criteria require the participation or preparation of briefs involved in "dispositive" hearings or trials. Given the fact that over 90% of all cases settle prior to trial, a practitioner could find himself without being entitled to points even though he has substantially participated in several maritime cases. For example I could file a complaint for cargo damage in federal court asserting Admiralty jurisdiction, conduct discovery, and settle at mediation. Because I did not participate in any dispositive hearings or trial I would not be entitled to any points. I think the Board should be mindful that the proposed specialty is Admiralty and Maritime law, not exclusively Admiralty and Maritime litigation.

2. In addition, you may wish to include other tasks which are also within the realm of Admiralty and Maritime practice but do not seem to be included.

A. Litigation concerning the terms and conditions of any bill of lading, charter or contract of affreightment.

B. Litigation concerning carrier's tariff or freight charges.

C. Participation or the drafting of any pleading in any action brought within the Admiralty jurisdiction of the United States District Court.

3. With regards to your criteria found in 2.4.3, I would also suggest that you include licensing of non-vessel operating common carriers and freight forwarders.

4. Educational requirements. I am most concerned with the educational requirement for the specialization. You state that 45 hours of educational requirements are needed for the three years preceding the application for certification. While I have not undertaken any type of scientific study, continuing education in the Maritime/Admiralty field is not prevalent in the State of California. I believe it would be difficult for any Maritime practitioner to comply with this request given the amount of courses offered at the present time. I believe that a Maritime practitioner would necessarily have to travel out of state to comply with this request which may be an undue burden.

Thank you for your work on the proposed specialty certification and the opportunity to comment thereon.

Regards,

Stephen M. Uthoff

Stephen M. Uthoff

Maynard, Lorna

From: Philip E. Weiss, Esq. [shiplaw@earthlink.net]
Sent: Friday, July 11, 2008 11:29 AM
To: Maynard, Lorna
Subject: Support for Establishment of Maritime Law as Formally Recognized Specialty

Dear Lorna:

I write to memorialize my unqualified support for the establishment of maritime law as a formally recognized area of legal specialization in California.

I understand some members of the Bar, who are members of the Maritime Law Association, have expressed opposition based on the premise that creating a formally recognized specialty in maritime law would be duplicative, given the existence of the Maritime Law Association. It is important to bear in mind that the MLA does NOT set any standards for even basic competency. All one need do to join is find an existing member to sponsor membership and to pay a modest fee. Likewise, the MLA does not require any demonstration of proficiency in maritime law for a member to acquire "Proctor" status. The consumer of maritime legal services is provided NO assurance that a member of the MLA is a qualified maritime lawyer. Granted, qualifying as a specialist in Cal. under the proposed standards would not guarantee the lawyer is fully competent in the admiralty law arena, but an appreciable level of assurance is provided.

In addition, the MLA is not necessarily an adequate resource for those seeking a maritime lawyer. First, while large maritime enterprises (shipping companies, for example) will be well aware of the existence of the MLA and can select a member from the MLA directory, there are thousands of small maritime businesses and individuals who (I believe) have never heard of the MLA. Second, not all maritime law practitioners are members of the MLA. I for one, am not, though probably 95% of my work falls squarely within the maritime law field.

In opposing the establishment of maritime law as a formally recognized area of legal specialization, the MLA seems to be motivated by self interest alone. The proposal has my unqualified support. I will, of course, be available to respond to any questions or comments you might have.

Respectfully yours,

Phil Weiss

Maynard, Lorna

From: JWntrLaw@aol.com
Sent: Tuesday, June 26, 2007 2:19 PM
To: Legal Specialists
Subject: Maritime/Admiralty Specialization

To Whom It May Concern:

I believe this is a good idea. The areas covered seem to be appropriate. Sections 2.1.11 and 2.1.12 seem to be redundant since LHWCA matters are before the U.S. Department of Labor.

Also, with CLE requirements already in place 45 credits hours within a three year period may be overwhelming. Even though I am a proponent of CLE and usually have more than I need I would recommend a slightly lower number over the three year period.

Jeffrey M. Winter
(619) 235-9737
Bar # 129095

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