

# COX, WOOTTON, GRIFFIN, HANSEN & POULOS, LLP

TERENCE S. COX  
RICHARD C. WOOTTON\*  
MITCHELL S. GRIFFIN  
RUPERT P. HANSEN  
GREGORY W. POULOS  
FREDERICK J. CARR  
MARC T. CEFALU

\*ALSO ADMITTED IN HAWAII

ATTORNEYS AT LAW  
190 THE EMBARCADERO  
SAN FRANCISCO, CALIFORNIA 94105  
TELEPHONE (415) 438-4600 • FACSIMILE (415) 438-4601  
www.cwghp.com

LYNN L. KRIEGER  
MAX L. KELLEY  
GALIN G. LUK  
COURTNEY M. CRAWFORD  
CHRISTOPHER S. KIELIGER

July 11, 2008

Via Email

[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov)

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

**RE: Negative Comment on Proposed Specialty Certification for Admiralty  
and Maritime Law**

Honored Members of the Board:

I write to urge you to *decline* to adopt the proposed Specialty Certification for Admiralty and Maritime Law currently pending before you.

**1. QUALIFICATIONS TO OFFER COMMENT**

I was admitted to practice law in California in 1978. My California State Bar Number is 82302. I have practiced admiralty and maritime law for 29 years. I am a founding partner of the maritime law firm of Cox, Wootton, Griffin, Hansen & Poulos, LLP, prior to that I was a partner in the maritime department of Graham & James LLP, and I began my maritime law career at the firm of Derby, Cook, Quinby & Tweedt in San Francisco, California. I have been a "Próctor" member of the United States Maritime Law Association ("MLA") for 26 years. I am a past Chair of the American Bar Association's Torts and Insurance Practice Section's subcommittee on Admiralty and Maritime Law. I am also the immediate past Chair of the Pacific Admiralty Seminar -2006. I have been a long-term member of the MLA's subcommittees for Practice and Procedure, and Marine Insurance and General Average.

In the maritime law academic environment, early in my career I earned an LL.M from the University of London in British shipping subjects, and an LL.M. in Admiralty *with distinction* from Tulane University. To the best of my knowledge no other lawyer in California has earned *both* of these advanced maritime law degrees. Building and giving back from this educational base, I was one of the founding Adjunct Faculty members of the University of San Francisco Law School's maritime law program where I taught

maritime law and marine insurance for 13 years, from 1989 – 2003. I have been a member of the Advisory Board to the University of San Francisco's Maritime Law Journal since its inception in 1989. I have been a frequent speaker on a wide range of maritime law subjects, including ship finance, Flags of Convenience, vessel documentation, marine insurance, salvage, vessel arrests, personal injury and death, arbitration clauses, Flags of Convenience, and jurisdiction and forum non conveniens, to name a few. I have also testified as an expert in litigation on marine insurance.

In terms of professional recognition, I am A.V. rated by Martindale Hubble, and have been recognized as a Northern California Super Lawyer in the field of maritime law by *Law and Politics Magazine*, and am listed in *Best Lawyers in America* for maritime law.

Professionally, my maritime clients have covered an expansive range of U.S. domestic and foreign entities, including ship owners, ship charterers, tug operators, cruise lines, yacht owners, yacht managers, marinas, ship builders, ship breakers (dismantelers), ship brokers, yacht managers, ship agents, marine terminals, ports, marine casinos, marine constructors, crane manufacturers, financial institutions, private foundations, waterfront developers, Port property leasees, maritime lien holders, shipping container companies, dredging companies, ferry operators, protection and indemnity associations, and marine insurance companies. My practice includes a broad range of maritime business law and maritime litigation for this diverse group of clients.

## **2. MARITIME LAW IS TOO BROAD TO "MASTER" EVEN IN A CAREER**

The proposal before the Committee contains and allows "points" for but a very small portion of the over-all field that comprises "maritime law." To say that the proposal before the Committee is top-heavy in its weight given to (a) personal injury and death, and (b) cargo claims, is a gross understatement. The Committee has been well and thoroughly advised on this fact, with numerous examples, by the many learned maritime lawyers who have written to the Committee in opposition to the current proposal. This opposition concurs in those opposition comments.

However, to properly consider whether the concept of a "specialty certification" in maritime law will benefit the business and individual consumers of legal services in the State of California at all, the Committee first needs to know more about the nature and scope of maritime law. Maritime law is a body of law, primarily judge made, which applies to an *entire transportation sector*. It has grown ever more complex in just the brief period of time I have spent trying to understand its full metes and bounds.

I have often explained to my maritime law and marine insurance students that the practice of maritime law is akin to stepping through Alice's looking glass into the 'maritime world.' *All areas of the law* of the 'real world' are there, but with a maritime

bent, *i.e.*, real estate (Port leases), environmental (Oil Pollution Act of 1990), bankruptcy (maritime bankruptcy is among the most rarefied of the sub-specialties), finance (ship and marine asset finance), regulatory (regulation of shipping commerce, documentation, trade, port security, safety), licensing (maritime technology), construction (marine construction), creditors rights (maritime liens and ship mortgage foreclosures), etc. All have ever-present maritime cautions and concerns which must be legally dealt with properly.

I have not met any maritime lawyer who has professed to have practiced in, much less has claimed to have mastery of, all of the sub-areas of maritime law. To state that one was a California State "certified specialist in maritime law" would wrongly imply and potentially mislead that the party who is certified is at least highly competent in all sub-areas of maritime law. The Committee should not lend itself to such mischief.<sup>1</sup>

---

<sup>1</sup> While the world and maritime law have all grown and become complex together over the last 200 years, the practice of maritime law was, long ago, a very arcane and select practice conducted by "Proctors." A colorful description of a Proctor's activities is contained in Charles Dicken's (loosely autobiographical) book *The Personal History of David Cooperfield* which was published in installments from 1849-50:

"What is a proctor, Steerforth?" said I.

"Why, he is a sort of monkish attorney," replied Steerforth. "He is, to some faded courts held in Doctors' Commons—a lazy old nook near St. Paul's Churchyard—what solicitors are to the courts of law and equity. He is a functionary whose existence, in the natural course of things, would have terminated about two hundred years ago. I can tell you best what he is, by telling you what Doctors' Commons is. It's a little out-of-the-way place, where they administer what is called ecclesiastical law, and play all kinds of tricks with obsolete old monsters of Acts of Parliament, which three-fourths of the world know nothing about, and the other fourth supposes to have been dug up, in a fossil state, in the days of the Edwards. It's a place that has an ancient monopoly in suits about people's wills and people's marriages, and disputes among ships and boats."

"Nonsense, Steerforth!" I exclaimed. "You don't mean to say that there is any affinity between nautical matters and ecclesiastical matters?"

"I don't, indeed, my dear boy," he returned; "but I mean to say that they are managed and decided by the same set of people, down in that same Doctors' Commons. You shall go there one day, and find them blundering through half the nautical terms in Young's Dictionary, apropos of the 'Nancy' having run down the 'Sarah Jane' or Mr. Peggotty and the Yarmouth boatmen having put off in a gale of wind with an anchor and cable to the 'Nelson' Indiaman in distress; and you shall go there another day, and find them deep in the evidence, pro and con, respecting a clergyman who has misbehaved himself; and you shall find the judge in the nautical case, the advocate in the clergyman case, or contrariwise. They are like actors: now a man's a judge, and now he is not a judge; now he's one thing, now he's another; now he's something else, change and change about; but it's always a very pleasant profitable little affair of private theatricals, presented to an uncommonly select audience."

At pages 319-320, (Ward Lock & Co. 1912)

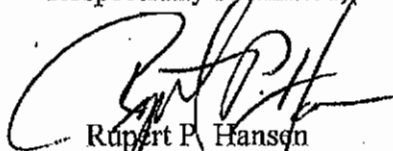
**3. THE CLE STANDARDS ARE UNREALISTIC**

It has already been explained to the Committee that to attempt to acquire the 45 hours of CLE within 3 years for a certification application, an applicant would have to either go to two out-of-state Admiralty Seminars (in addition to attending the Pacific Admiralty Seminar), or become a professor of maritime law. The whole maritime bar cannot become professors, so most will have to leave the State to attempt to comply with the CLE.

The alternative of acquiring an LL.M. within 5 years of applying for certification, fails to recognize the fact that many persons in the maritime bar already hold LL.M. degrees in Admiralty, which do not become obsolete when more than 5 years old. Very few of those who already hold LL.M. degrees that are more than 5 years old, would be as foolish as the undersigned to go out and obtain a second LL.M. in maritime law just to meet the CLE requirements.

For the foregoing reasons, it is respectfully submitted that the certification proposal for maritime law be *declined* by the Committee.

Respectfully submitted,



Rupert P. Hansen  
Of COX, WOOTTON, GRIFFIN,  
HANSEN & POULOS, LLP

Stanley L. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Mark E. Lovell, Jr.  
Michelle L. Tommey  
Joshua A. Southwick  
Chelsea D. Yuan  
Marisa G. Huber

**GIBSON ROBB & LINDH LLP**  
**100 First Street, 27<sup>th</sup> Floor**  
**San Francisco, CA 94105**

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

[www.gibsonrobb.com](http://www.gibsonrobb.com)

July 7, 2008

**Via Facsimile(415) 538-2180**

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

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

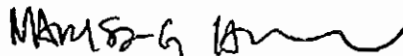
Dear Boardmembers:

This is a public comment against the proposed certification of a specialty for admiralty and maritime law in California.

I have read Jennifer Tomlin Sanchez' letter on behalf of the Pacific Admiralty Section of the Bar Association of San Francisco and agree with all the reasons set forth in that letter that proposed certification of an admiralty specialty should not be approved. It is not needed, and is poorly drafted so that it will not help the public or the profession.

Very Truly Yours,

GIBSON ROBB & LINDH LLP



Marisa G. Huber

MGH:tpw

LAW OFFICES  
**KEESAL, YOUNG & LOGAN**  
A PROFESSIONAL CORPORATION

400 OCEANGATE  
LONG BEACH, CA 90802  
P.O. BOX 1730  
LONG BEACH, CA 90801-1730  
(562) 436-2000  
FACSIMILE:  
(562) 436-7416  
[www.kyl.com](http://www.kyl.com)

GLEN R. PIPER  
CATHARINE M. MORISSETT  
CHRISTOPHER A. STECHER  
DIANA J. COBURN  
AUDETTE PAUL MORALES  
SCOTT E. HINSCH  
MELANIE L. RONEN  
BENJAMIN W. WHITE  
ELIZABETH A. LOGAN  
BENTLEY P. STANSBURY III  
ATLANTIS TILLMAN LANGOWSKI  
JOHN D. KIMMERLEIN  
EVELYN A. CHRISTENSEN  
MARGARET A. DEGOOYER

ASHLEY YOUNG ADAMS  
GARRETT R. WYNNE  
JOHN L. BABALA  
JASON K. LINDSAY  
JOHN COX  
DAVID A. TONG  
MARK A. WILLIAMS  
MOMO E. TAKAHASHI  
TONI Y. LONG  
CHARLES M. BILLY  
ANGELIKI J. PAPADAKIS  
STEFAN PEROVICH  
AILAN L. LIU  
NICOLAS J. VIKSTROM

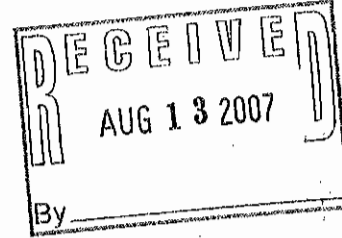
August 9, 2007

\* ADMITTED IN ALASKA  
† ADMITTED IN WASHINGTON  
‡ ADMITTED IN WASHINGTON & CALIFORNIA  
§ ADMITTED IN ALASKA & CALIFORNIA  
¶ ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA  
• REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY OF HONG KONG & ADMITTED IN NEW YORK  
\* SOLICITOR ADMITTED IN ENGLAND, WALES AND NORTHERN IRELAND

ALL OTHERS ADMITTED IN CALIFORNIA

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

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



Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

I have read my partner Bill Collier's letter stating his objection to the proposed certification in admiralty and maritime law. As an attorney who has practiced in the maritime field for over 30 years, I agree with Bill and request that my objection to this proposed certification is also noted by the State Bar.

Thank you for your consideration.

Very truly yours,

Samuel A. Keesal, Jr.  
[skip.keesal@kyl.com](mailto:skip.keesal@kyl.com)

SAK:vlg (sak/ltrs/07/MLA)

SAN FRANCISCO OFFICE  
SUITE 1800  
FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111  
(415) 398-8000  
FACSIMILE:  
(415) 981-0136 • (415) 981-7729

ANCHORAGE OFFICE  
SUITE 550  
1029 WEST THIRD AVENUE  
ANCHORAGE, AK 99501-1954  
(907) 279-9696  
FACSIMILE: (907) 279-4239

SEATTLE OFFICE  
SUITE 1515  
1301 FIFTH AVENUE  
SEATTLE, WA 98101  
(206) 622-3790  
FACSIMILE: (206) 343-9529

HONG KONG OFFICE  
1603 THE CENTRE MARK  
287 QUEEN'S ROAD CENTRAL  
HONG KONG  
(852) 2554-1718  
FACSIMILE: (852) 2541-6189

Stanley L. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Mark E. Lovell, Jr.  
Michelle L. Tommey  
Joshua A. Southwick  
Chelsea D. Yuan  
Marisa G. Huber

**GIBSON ROBB & LINDH LLP**  
**100 First Street, 27<sup>th</sup> Floor**  
**San Francisco, CA 94105**

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

[www.gibsonrobb.com](http://www.gibsonrobb.com)

July 9, 2008

**Via Facsimile**  
**(415) 538-2180**

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

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

Dear Board members:

This is a public comment against the proposed certification of a specialty for admiralty and maritime law in California.

First, I was surprised to recently learn that Marva Jo Wyatt included my name on a list of 72 supporters in a letter she sent to the State Bar in December, 2005. She did not have my authorization to use my name, and I do not support certification.

I have read Jennifer Tomlin Sanchez' letter on behalf of the Pacific Admiralty Section of the Bar Association of San Francisco and agree with all the reasons set forth in that letter that proposed certification of an admiralty specialty should not be approved. It is not needed, and is poorly drafted so that it will not help the public or the profession. Nor is the admiralty practice in California growing, requiring a process to distinguish competent maritime attorneys from those simply wishing to associate themselves with the practice area.

I understand that purpose of certification is to help the general public locate attorneys proficient in a particular area. First, it seems to me there must be at least some showing that the general public is unable to identify proficient maritime attorneys to warrant the certification. Second, the requirements should be evenly weighted to allow proficient maritime attorneys to become certified. For example, the requirements fail to award points for criminal matters and barely acknowledge marine insurance. Thus, if the proposed requirements are adopted, a member of the general public involved in a criminal maritime matter would not benefit from certification. Nor would a member of the general public with a cargo loss, nor a member of the public who had a coverage dispute with a marine insurer. Until requirements are proposed that

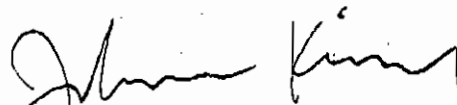
truly reflect the broad scope of the maritime practice, the proposed certification should be rejected. The fact that drafting such a point system is a difficult, if not impossible task, only illustrates the greater problem with certifying such a broad practice area.

I assume proponents of an admiralty certification have argued that there is no harm in having a certification because maritime attorneys like me who oppose the certification may simply choose not to become certified. This argument fails to recognize that the proposal may result in actually misleading the public. Moreover, as an attorney who has practiced almost exclusively in maritime law in California for 13 years, I would feel compelled to seek the certification, though I would be reluctant to do so given the poorly drafted requirements and the fact that a solid majority of maritime attorneys I know do not support the certification. Presumably, the Board of Specialization intends that attorneys like me will seek certification so that the public can find attorneys proficient in admiralty. If only a handful of attorneys seek the certification, it would defeat the whole purpose of assisting the public.

The proposed certification should not be adopted. I do not believe it is needed, and have not heard any facts supporting the certification.

Very Truly Yours,

GIBSON ROBB & LINDH LLP

  
Joshua E. Kirsch

JEK:tpw

**Maynard, Lorna**

---

**From:** Arthur Leonard [aleonard@filegal.net]  
**Sent:** Monday, July 07, 2008 2:28 PM  
**To:** Legal Specialists  
**Subject:** Admiralty and Maritime Law, Proposed Specialty Certification

Please allow this to be my further comments regarding the proposed Admiralty and Maritime Law Specialty Certification:

After further consideration of the proposed certification, I am not in favor of it. I was initially in favor of the certification in principal, but did have serious concerns about the initially proposed standards for certification. I do not believe the revised proposed standards for certification have fully addressed the concerns I initially had, which initial concerns I previously commented upon. Moreover, however, I am not now convinced that the specialty certification will assist the public, regardless of whatever the particular standards for certification might be. I do not believe the proposed specialty certification addresses any actual public need, and do not believe certification would in fact be of any true public benefit. I am concerned that the proposed certification, especially as now structured, will create more problems than it could ever address. I have also been persuaded by the position of the Maritime Law Association of the United States on this issue, and by the Pacific Admiralty Section of the Bar Association of San Francisco, whose comments I believe are very well reasoned.

Thank you.

Arthur A. Leonard  
Forgie & Leonard LLP  
233 Wilshire Boulevard, Suite 700  
Santa Monica, California 90401  
(310) 319-5450  
(310) 319-9125 fax  
aleonard@filegal.net

# FORGIE

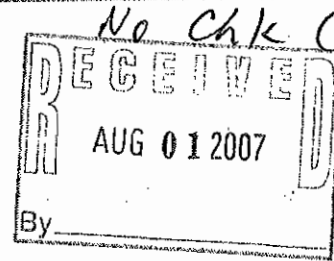
&

LEONARD LLP

ATTORNEYS AT LAW

233 WILSHIRE BLVD, SUITE 700  
SANTA MONICA, CALIFORNIA 90401  
TEL: (310) 319-5450 • FAX: (310) 319-9125

July 30, 2007



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

Re: Admiralty and Maritime Law – Proposed Specialty Certification

Dear Board of Legal Specialization:

Please accept these as my comments to the proposed Standards for Admiralty and Maritime Law Specialty Certification.

Initially, I am in favor of such a certification. I have practiced admiralty and maritime law for some 26 years, as a member of both the Louisiana and California state bars. I am a proctor member of the Maritime Law Association of the United States, and have been so since 1982.

I believe there are a number of subjects which are not identified in the tasks set out in the proposed task requirements. These would include, but not be limited to:

1. Collisions and allisions and other maritime casualties;
2. Maritime products liability;
3. Marine insurance;
4. Collection of freight, and other contract based claims;
5. Salvage;
6. Liabilities for crew wages, maintenance and cure;

These are all significant areas of admiralty and maritime law.

For example, serving as a principal attorney in any of the above types of cases would appear not to necessarily be included in section 2.1, and preparing briefs, reports, etc. or providing substantive advice on these areas wouldn't appear to be included in section 2.2.

Also as to 2.1 in general, many maritime matters are resolved by settlement, either at a settlement conference or otherwise, or by mediation, and I may be mistaken, but these types of proceedings do not appear to fall within the requirement of a "potentially dispositive hearing or a trial." Points are afforded mediators in formal mediations, but again, unless I am mistaken, it appears no points would be given to the participating counsel. If I am not mistaken on these points, it

appears counsel could devote a significant amount of time in a matter, but related solely to pleadings and discovery, and if the matter settles no points would be allowed.

Additionally, the handling of a personal injury matter is given 40 points, and a lien matter, for example, may be given 30 points, while a matter involving loss or damage to cargo is only given 15. Matters involving loss or damage to cargo may be substantively more complex than either personal injury or lien matters, as may be matters involving the areas not even identified in the tasks, such as collision, etc.

As to 2.2, it appears 30 points may be given to preparing and filing a complaint asserting a claim for maritime personal injury, and points may be given for limitation of liability related actions, but no points may be afforded for preparing and filing any other type of complaint. Also, no points are afforded for filing responsive pleadings, including cross or counter complaints. No points appear to be afforded for any particular type of discovery.

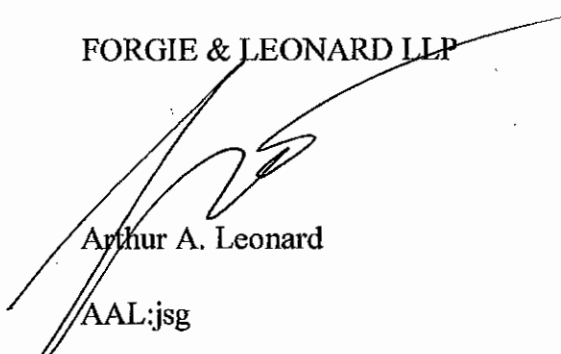
In general, I believe the proposed task requirements overlook a number of substantive admiralty and maritime practice areas, and as to the ones that are enumerated, the requirements may not be fairly weighted. Also, as a general comment, no points appear to be available under items 2.1 or 2.3 unless the attorney acted as the principal attorney, and while I certainly agree that acting as the principal attorney is entitled to the most significant consideration, perhaps at least some points should be allowed for significant participation as a non-principal attorney.

I also believe that a number of attorneys in the practice area tend to specialize in certain areas, such as personal injury or cargo loss or damage, and that the requirements as written wouldn't allow many attorneys to receive a certification, even though their practice was devoted entirely or nearly so to an area of admiralty and maritime law. However, I also recognize this may be the nature of specialization certifications.

Thank you for considering my comments, and I would be pleased to speak or correspond further with you on these matters if the Board so wishes.

Very truly yours,

FORGIE & LEONARD LLP



Arthur A. Leonard

AAL:jsg

Stanley L. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua F. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Mark E. Lovell, Jr.  
Michelle L. Tomney  
Joshua A. Southwick  
Chelsea D. Yuan  
Marisa G. Huber

**GIBSON ROBB & LINDH LLP**  
**100 First Street, 27<sup>th</sup> Floor**  
**San Francisco, CA 94105**

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

[www.gibsonrobb.com](http://www.gibsonrobb.com)

July 7, 2008

**Via Facsimile(415) 538-2180**

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

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

Dear Boardmembers:

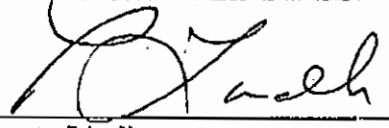
This is a public comment against the proposed certification of a specialty for admiralty and maritime law in California.

First, I was surprised to recently learn that Marva Jo Wyatt included my name on a list of 72 supporters in a letter she sent to the State Bar in December, 2005. She did not have my authorization to use my name, and I do not support certification.

I have read Jennifer Tomlin Sanchez' letter on behalf of the Pacific Admiralty Section of the Bar Association of San Francisco and agree with all the reasons set forth in that letter that proposed certification of an admiralty specialty should not be approved. It is not needed, and is poorly drafted so that it will not help the public or the profession.

Very Truly Yours,

GIBSON ROBB & LINDH LLP

  
Peter A. Lindh

PAL:tpw

LAW OFFICES  
**KEESAL, YOUNG & LOGAN**  
A PROFESSIONAL CORPORATION

SAMUEL A. KEESAL, JR.  
STEPHEN YOUNG  
MICHAEL M. GLESS  
PETER R. BOUTIN  
SCOTT T. PRATT  
TERRY ROSS  
JOHN D. GIFFIN  
WILLIAM H. COLLIER, JR.  
PHILIP A. McLEOD  
NEAL SCOTT ROBB  
BEN SUTER  
ALBERT E. PEACOCK III  
CAMERON STOUT  
ROBERT J. STEMLER  
LISA M. BERTAIN  
ROBERT J. BOCKO\*\*  
MICHELE R. PRON  
ELIZABETH P. BRAZLEY  
JOSEPH A. WALSH II

HERBERT H. RAY, JR. \*\*  
JODY S. COHEN  
PHILIP R. LEMPIERE \*\*  
JULIE L. TAYLOR  
STACEY MYERS GARRETT  
JON W. ZINKE  
DOUGLAS R. DAVIS \*\*  
GORDON C. YOUNG  
ELIZABETH H. LINDH  
KELLY J. MOYNIHAN  
CARA L. MEREDITH  
SARAH TONG SANGMEISTER  
MARC R. GREENBERG  
ESTHER E. CHO  
JULIE A. KOLE  
GLEN R. PIPER  
DAVID D. PIPER  
THEODORE H. ADKINSON  
CATHARINE M. MORISSET \*

400 OCEANGATE  
P.O. BOX 1730  
LONG BEACH, CA 90801-1730  
(562) 436-2000  
FACSIMILE:  
(562) 436-7416  
www.kyl.com

CHRISTOPHER A. STECHER  
DIANA J. COBURN  
AUDITTE PAUL MORALES  
SCOTT E. HINSCHÉ  
SCOTT E. RAHN  
MELANIE L. RONEN  
BENJAMIN W. WHITE  
ELIZABETH A. LOGAN  
BENTLEY P. STANSBURY III  
ATLANTIS T. LANGOWSKI  
JOHN D. KIMMERLEIN\*  
EVELYN A. CHRISTENSEN  
MARGARET A. DeGOCYER  
ASHLEY YOUNG ADAMS

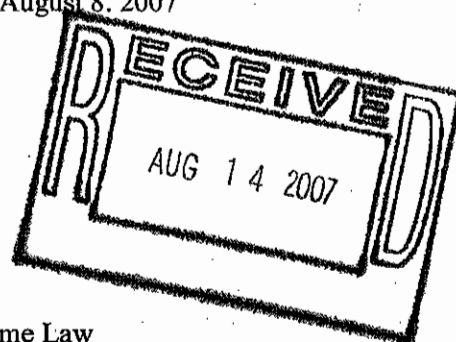
GARRETT R. WYNNE  
JOHN L. BABALA  
JASON R. LINDSAY  
JOHN COX  
CAROL A. DWYER  
DAVID A. TONG  
MARK A. WILLIAMS  
MOMO E. TAKAHASHI  
TONI Y. LONG  
CHARLES M. BILLY  
ANGELINI J. PAPADAKIS  
STEFAN FEROVICH  
KIMBERLY A. SHIELDS

OF COUNSEL  
ROBERT H. LOGAN  
RICHARD A. APPELBAUM\*  
REAR ADMIRAL, U.S.C.G. (RET.)  
ELIZABETH A. KENDRICK  
RICHARD L. LANDES

SANDOR X. MAYUGA  
DAVID W. TAYLOR II  
NANCY HARRISS †  
FRANCES L. KEELER

\* ADMITTED IN ALASKA  
† ADMITTED IN WASHINGTON  
‡ ADMITTED IN WASHINGTON & CALIFORNIA  
§ ADMITTED IN ALASKA & CALIFORNIA  
± ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA  
° REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY  
OF HONG KONG & ADMITTED IN NEW YORK  
□ SOLICITOR ADMITTED IN ENGLAND, WALES AND  
NORTHERN IRELAND  
ALL OTHERS ADMITTED IN CALIFORNIA

August 8, 2007



Via U.S. Mail & Fax (415) 538-2180

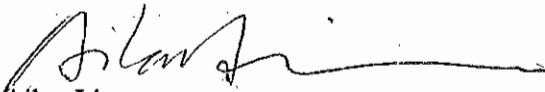
Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, Ca 94105-1639

Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

I am writing to express my opinion that the proposed certification in admiralty and maritime law is unnecessary, and even potentially harmful to the public it purports to protect. I fully agree with the opinion and comments expressed in the letter by Mr. William Collier dated August 8<sup>th</sup>, 2007. Therefore, I respectfully recommend that the proposed certification in admiralty and maritime law be rejected by the Board of Legal Specialization.

Very truly yours,

  
Ailan Liu  
ailan.liu@kyl.com

SAN FRANCISCO OFFICE  
SUITE 1500  
FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111  
(415) 398-9000  
FACSIMILE:  
(415) 981-0136 • (415) 981-7729

ANCHORAGE OFFICE  
SUITE 650  
1029 WEST THIRD AVENUE  
ANCHORAGE, AK 99501-1954  
(907) 279-9898  
FACSIMILE: (907) 279-4236

SEATTLE OFFICE  
SUITE 1515  
1301 FIFTH AVENUE  
SEATTLE, WA 98101  
(206) 822-3790  
FACSIMILE: (206) 343-9529

HONG KONG OFFICE  
1803 THE CENTRE MARK  
287 QUEEN'S ROAD CENTRAL  
HONG KONG  
(852) 2854-1718  
FACSIMILE: (852) 2841-8189

EMARD DANOFF PORT TAMULSKI & PAETZOLD LLP  
ATTORNEYS

49 Stevenson Street, Suite 400  
San Francisco, California 94105

www.edptlaw.com

Telephone: (415) 227-9455  
Facsimile: (415) 227-4255

July 11, 2008

Via Email and Facsimile  
[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov)  
(415) 538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Specialty Certification in Admiralty and Maritime Law

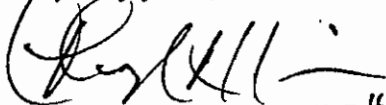
Dear Boardmembers:

I write to submit a public comment against the adoption of certification of a specialty for admiralty and maritime law in California. By now, this matter has been briefed extensively and many of my colleagues on the maritime bar have addressed the points I believe weigh most heavily against certification. My primary objections to the certification are briefly as follows:

- 1) Certification criteria does not accurately reflect the broad reach of maritime practice and does not accord appropriate "credit" for the handling of many complex admiralty matters;
- 2) Certification is not necessary given that the maritime bar through the Maritime Law Association has already designated a "Proctor" status to identify experienced and proficient maritime lawyers
- 3) Certification will be superfluous if proposed California Professional Rule of Conduct 7.4 receives formal approval;
- 4) the CLE requirements are unreasonably onerous given the limited availability of quality "maritime" conferences which offer CLE credit;

Proctor status in the MLA has provided the maritime bar the means to recognize colleagues of extraordinary talent and commitment to the practice. California certification, as proposed, would only serve to exclude many of those attorneys. Please register my vote in opposition.

Very truly yours,



Cheryl A. Morris

JB# 184541

GEORGE W. NOWELL  
PAUL B. ARENAS

JOHN H. CIGAVICHI \*

\* Also admitted in New York

LAW OFFICES OF  
**GEORGE W. NOWELL**

120 MONTGOMERY STREET, SUITE 1990  
SAN FRANCISCO, CALIFORNIA 94104-4322  
TELEPHONE: (415) 362-1333  
FACSIMILE: (415) 362-1344  
www.nowelllaw.com

APPOINTMENTS AVAILABLE IN  
LOS ANGELES

george.nowell@nowelllaw.com  
paul.arenas@nowelllaw.com

john.cigavich@nowelllaw.com

July 10, 2008

**BY FACSIMILE & EMAIL**

Board of Legal Specialization  
State Bar of California  
180 Howard Street  
San Francisco, CA 94105  
Fax: (415) 538-2180  
legalspec@calbar.ca.gov

Re: **Proposed Specialty Certification in Admiralty and Maritime Law**  
Our File: 06

Dear Boardmembers:

As you can tell from my bar number, I have been a practicing attorney in the State of California for almost 30 years. A great deal of my practice during that time has involved admiralty law in almost all sub areas. I have been a member of the Pacific Admiralty Seminar Steering Committee during most of that time and have served in almost all capacities within that group, including as Chairperson. I have also been a member of the Maritime Law Association since 1980. I oppose adoption of the pending proposal for Specialty Certification in Admiralty and Maritime Law and urge that careful consideration be given to the letters submitted to you by those organizations.

I write very briefly to raise only two fundamental points. First, although my name appears on the attached "list of 72" persons identified at one time as supporting certification, I have never intended to express an endorsement of any particular plan, criteria or program for certification in admiralty under the auspices of the California State Bar Association. The circumstances of my name appearing on that list are highly suspect to say the least. At no time did anyone associated with that list ever approach me with any specifics of any plan for certification or specialization in admiralty law. No one associated with that letter has informed me that my name appeared on that letter nor have they communicated with me in any fashion about the letter or the subjects associated with that letter after the date of that letter. It is my understanding on an anecdotal basis that a significant number of other persons listed in that letter have been surprised at being named and included therein. Accordingly, on a personal basis, I challenge the relevance of that letter for any purpose whatsoever. Please remove my name from any association with that list and any purposes to which it is being applied.

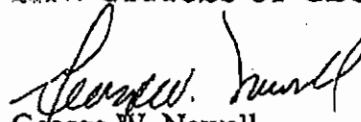
Second, I believe many aspects of admiralty law are international and national in nature, and involve reliance on international and national jurisprudence, treaties and laws. While I recognize the geographic size and importance of the State of California, I believe the immediate exploration of the need for and efforts to facilitate certification and/or specialization should involve working with the Maritime Law Association, at least initially. I believe a national

Board of Legal Specialization  
July 10, 2008  
Page 2

component to any form of specialization program in admiralty would be beneficial, if not necessary. I believe such an immediate focus could still allow a California-focused component should it prove necessary.

I would be willing to work on a committee to study and develop ideas relating to Certification and Specialty in Admiralty. I stand by to respond to any questions regarding my comments.

Respectfully submitted,  
**LAW OFFICES OF GEORGE W. NOWELL**



George W. Nowell  
SBN: 83868

GWN/ng  
L0710.2008-06

**WYATT LAW OFFICES**

Attorneys

455 E. Ocean Boulevard, Suite 1104

Long Beach, California 90802

Telephone: (562) 437-0077 Fax: (562) 437-0009

e-mail: [mwyatt@wyattlaw.us.com](mailto:mwyatt@wyattlaw.us.com)

December 8, 2005

J. Scott Bovitz  
Vice-Chair California State Bar  
880 W. 1<sup>st</sup> Street  
Los Angeles, CA 90012

*Via U.S. Mail*

Re: California State Bar Board of Legal Specialization

Dear Vice-Chair Bovitz:

It has been some time since my last correspondence with you regarding the California State Bar recognizing Admiralty and Maritime Law as a speciality certification.

I brought this topic up at a meeting of the Long Beach Maritime Bar and have a growing roster of about 72 attorneys who have authorized me to include their names and bar numbers on the attached list of supporters. I am hopeful that the State Bar will soon begin the vetting process for certification of this speciality area of Admiralty and Maritime Law.

In the meantime, if I can be of any assistance in this process or supply you with additional information, please do not hesitate to contact me. I look forward to speaking from you in due course. Happy holidays, I remain

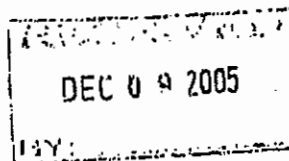
Yours very truly,

WYATT LAW OFFICES

A handwritten signature in cursive script, appearing to read "Marva Jo Wyatt".

Marva Jo Wyatt

MJW:jkw  
Enclosure



**CERTIFICATION FOR ADMIRALTY & MARITIME LAW  
SPECIALTY APPROVALS**

**California State Bar Members**

- |     |                                      |                              |
|-----|--------------------------------------|------------------------------|
| 1.  | Aksana Moshav (#190125)              | amoshav@kayerose.com         |
| 2.  | Andy D. Kchagiaras (#207767)         | adk@cargolawmail.com         |
| 3.  | Anita Marle Eilert (#133639)         | aeilert@kayerose.com         |
| 4.  | Arthur Alan Leonard (#110858)        | aleonard@pixelgate.net       |
| 5.  | B. Otis Felder (#177628)             | ofelder@kayerose.com         |
| 6.  | Bradley Michael Rose (#126281)       | brose@kayerose.com           |
| 7.  | Cameron William Roberts (#176682)    | roberts@cargolaw.com         |
| 8.  | Carlton Eugene Russell (#32304)      | cerussell@rmlaw.com          |
| 9.  | Charles D. Naylor (#62243)           | cdn@naylorlaw.com            |
| 10. | Charles Salvatore LiMandri (#110841) | cslimandri@limandri.com      |
| 11. | Christina Lee Owen (#52685)          | email@cnc-law.com            |
| 12. | Conrad J. Lopes (#45533)             | conradlaw@blope.com          |
| 13. | Cory A. Birnberg (#105468)           | birnberg@birnberg.com        |
| 14. | Dana Youngcun Kim (#228366)          | dkim@mckassonklein.com       |
| 15. | Danny Morin (#66915)                 | morin@pmlaw.com              |
| 16. | Darren Johnson (#210836)             | djohnson@mckassonklein.com   |
| 17. | David Weil (#180420)                 | dweil@weilaw.com             |
| 18. | Dennis Joel Seider (#41787)          | seider@pmlaw.com             |
| 19. | Derek Brian Jacobson (#88417)        | Unknown                      |
| 20. | Douglas Dale Holthaus (#74560)       | ddh@holthaus.org             |
| 21. | Edward Carl Walton (#78490)          | walton@waltonlaw.com         |
| 22. | Edward M. Bull III (#141996)         | ebull@banningmicklow.com     |
| 23. | Eric Danoff (#60915)                 | edanoff@edptlaw.com          |
| 24. | Florian Max Hardberger (#194990)     | captmax@maritimeatty.com     |
| 25. | Forrest Booth (#74166)               | fbooth@cozen.com             |
| 26. | Frank Xavier Dipolito (#137157)      | frankiedip@aol.com           |
| 27. | Fred Harold Middaugh (#62133)        | MiddaughatLaw@aol.com        |
| 28. | G. Geoffrey Robb (#131515)           | Grobb@gibsonrobb.com         |
| 29. | George Wesley Nowell (#83868)        | george.nowell@nowelllaw.com  |
| 30. | Gerald L. Gorman (#69663)            | ggorman@kayerose.com         |
| 31. | Howard D Sacks (#41768)              | info@howardsacks.com         |
| 32. | James W. Alcantara (#152747)         | JimA@AlcantaraAssociates.com |
| 33. | Jason S. Hartley (#192514)           | Unknown                      |
| 34. | Jeffrey M. Winter (#129095)          | jwntrlaw@aol.com             |
| 35. | Jennifer TomlinSanchez (#191548)     | jsanchez@gibsonrobb.com      |
| 36. | Jess Borden Millikan (#95540)        | jess.millikan@bullivant.com  |
| 37. | John A. McGuinn Jr. (#36047)         | Unknown                      |
| 38. | John Frederick Meadows (#23050)      | Unknown                      |
| 39. | John Hillsman (#71220)               | uroy3@aol.com                |
| 40. | John Rains Calhoun (#30455)          | calhou3@attglobal.net        |

41.	Jonathan Adam Alexander (#206061)	jalexander@kayerose.com
42.	Jonathan W. Thames	jthames@gibsonrobb.com
43.	Joshua Erik Kirsch (#179110)	jkirsch@gibsonrobb.com
44.	Kathy Wagner Stein (#132712)	boatlaw@earthlink.net
45.	Lawrence George Mallon (#129301)	lgmallon@vcweb.org
46.	Lawrence Wayne Kaye (#86218)	lkaye@kayerose.com
47.	Mark Daniel Holmes (#156660)	mholmes@mckassonklein.com
48.	Mark Keith DeLangis (#190083)	mdelangis@lucasvalleylaw.com
49.	Marker Ellsworth Lovell Jr (#208659)	Mlovell@gibsonrobb.com
50.	Marva Jo Wyatt (#182480)	mwyatt@wyattlaw.us.com
51.	Michael J. Cummins (#184181)	mcummins@gibsonrobb.com
52.	Michael James Pearce (#90154)	mpearce@wiselawyers.com
53.	Michael Lee Swain (#133260)	swaindipolito@lawyer.com
54.	Michael R. Adkins (#56414)	Unknown
55.	Michael Robert Fischer (#202543)	mfischer@mckassonklein.com
56.	Michael Sullivan McDaniel (#66774)	mcdaniel@cargolaw.com
57.	Michelle Tommey (#196166)	mtommey@gibsonrobb.com
58.	Neil Bruce Klein (#142734)	neilk@mackassonklein.com
59.	Pamela Ann Swindells (#134057)	pswindells@kaiserlaw.com
60.	Peter A. Lindh (#61907)	Plindh@gibsonrobb.com
61.	Preston W. Easley (#108347)	Unknown
62.	R. Michael Underhill (#104986)	miko.underhill@usdoj.gov
63.	Raymond Theodore Kaiser (#71398)	rkaiser@kaiserlaw.com
64.	Robert J. Zapf (#183762)	rzapf@coudert.com
65.	Stanley L. Gibson (#47882)	sgibson@gibsonrobb.com
66.	Stephen Michael Uthoff (#145206)	suthoff@intermodallaw.com
67.	Sterling James Stires (#199218)	sstires@limandri.com
68.	Susan Ann Regeimbal (#207670)	regeimballawoffice@att.net
69.	Terry John Coniglio (#91639)	tconiglio@intermodallaw.com
70.	Thomas G. Stolpman (#69640)	stolpman@stolpman.com
71.	Wayne David Louvier (#110874)	waynelouvier@kaiserlaw.com
72.	William Joseph Tucker (#63048)	wtucker@kayerose.com

# EMARD DANOFF PORT TAMULSKI & PAETZOLD LLP

ATTORNEYS

www.edptlaw.com

Telephone: (415) 227-9455

Facsimile: (415) 227-4255

49 Stevenson Street, Suite 400  
San Francisco, California 94105

July 11, 2008

**Via Email and Facsimile**

legalspec@calbar.ca.gov

(415) 538-2180

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

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

Dear Board Members:

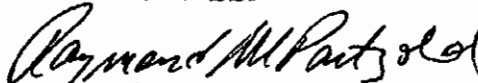
This is a public comment in opposition to the current proposal for Specialty Certification in Admiralty and Maritime Law.

I am a long time member and past chair of the Pacific Admiralty Seminar and have practiced Admiralty and Maritime Law for over 30 years, including periods as an attorney with the U.S. Coast Guard, with the West Coast Office of the U.S. Department of Justice, Torts Branch (in what was then called the Admiralty and Shipping Section), and in private practice. I am a partner with Emard Danoff Port Tamulski & Paetzold LLP. I am a member of the Maritime Law Association of the United States and recognized under its rules as a Proctor in Admiralty, and I serve as mediator and neutral evaluator in maritime cases for the U.S. District Court, Northern District of California.

I concur with the reasoning expressed in the attached letter from the current chair of the Pacific Admiralty Seminar, Ms. Jennifer Tomlin Sanchez, as well as the written comments submitted to you by the Attorney in Charge of the West Coast and Pacific Rim Office of the Torts Branch of the U.S. Department of Justice, R. Mike Underhill, dated July 7, 2008 and by two past chairs of the Pacific Admiralty Seminar, Forrest Booth and Gregory W. Poulos, dated July 7 and 8, 2008, respectively. For the reasons expressed therein, I urge you to reject the current proposal for specialty certification in admiralty and maritime law.

Respectfully submitted

EMARD DANOFF PORT TAMULSKI  
& PAETZOLD LLP



Raymond M. Paetzold  
California State Bar No. 77678

RMP/  
enc.



THE BAR ASSOCIATION OF  
SAN FRANCISCO

2008 OFFICERS AND  
BOARD OF DIRECTORS

James Dorato  
President

Russell Roaco  
President-Elect

Arturo J. González  
Treasurer

Priya S. Sanger  
Secretary

Laurel Beeler  
Daniel Dean  
Kelly Dermody  
Nicole Harris  
David Hopmann  
Christopher Kearney  
Bill Lann Lee  
Joseph M. Malkin  
M. Elizabeth McDaniel  
Lorie Noehlis  
Angela Padilla  
Vidhya Prabhakaran  
Eliza M. Rodriguez  
Jennifer L. Shoda  
Robert Sims  
L. Julius M. Turman  
Doron Wainberg  
James V. Weixel, Jr.

BARRISTERS CLUB  
OFFICERS

Robert Augustine Depew  
President

Sara J. Savage  
Vice-President

Alan B. Boyer  
Treasurer

Krista L. Mitzel  
Secretary

EXECUTIVE DIRECTOR  
AND GENERAL COUNSEL

Daniel Burkhardt

Via Email and Facsimile  
[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov)  
(415) 538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Specialty Certification in Admiralty and Maritime  
Law

Dear Boardmembers:

This is a public comment on behalf of the Pacific Admiralty Section of the Bar Association of San Francisco.<sup>1</sup> On behalf of the PAS Steering Committee, I previously wrote to you encouraging you not to approve a specialty for admiralty and maritime law in California. For all of the reasons stated in our previous letter, we continue to oppose the proposed specialty, and offer this further comment on the revised proposed requirements.

To assist the Board in understanding the breadth of maritime practice, attached is the topic list from the American Maritime Case digest. (The AMC reporter, founded in 1923, reports all significant maritime decisions by United States federal and state courts, and is used extensively by maritime lawyers.) Also attached is a listing of substantive committees of the Maritime Law Association of the United States. These two lists illustrate the extremely varied nature of the admiralty and maritime practice, and the inadequacy of the proposed requirements, which fail to adequately address many maritime practice areas, or simply leave them out altogether.

<sup>1</sup> There are 49 people on our PAS roster. However, because PAS is a section of the Bar Association of San Francisco, which has 8,000 members, this public comment is approved by the BASF and its Board of Directors. We ask the Board of Legal Specialization consider these facts and accord the appropriate weight to the PAS' position.



THE BAR ASSOCIATION OF  
SAN FRANCISCO

Following are some of the specific problems with the proposed certification requirements.

1. The Certification Requirements are Poorly Drafted.

The proposed certification requirements are blatantly weighted to give maximum credit to maritime personal injury lawyers, and fail to address many areas of maritime law. By being specifically weighted to favor a particular group of maritime lawyers and ignoring the practice of others, the proposed certification requirements are not drafted to help the public identify attorneys proficient in admiralty and maritime law.

Task 2.2.5 gives 30 points for preparing and filing a maritime personal injury complaint. There is no provision giving credit for answering or responding to a personal injury complaint. There is no provision giving points to an attorney who prepares and files any complaint other than one for personal injury.

Task 2.1.6 allows 25 points for serving as a principal attorney in a dispositive motion, arbitration, or trial of a cargo case. As drafted, an attorney in a multi-million dollar cargo case could spend weeks in trial and earn less credit than an attorney who files a personal injury complaint, which can be done on a basic judicial council form complaint.

Task 2.1.7 addresses credit for tort actions. There is no corollary provision for contract actions despite the fact that a significant portion of maritime disputes involve contract disputes.

There are no provisions giving credit for acting as the principal attorney in a dispositive motion, arbitration, or trial of many admiralty and maritime matters, including the following:

- Ship finance
- Yacht licensing, mooring, repairs, collisions
- Criminal matters
- Marina liability
- Marine construction
- Marine insurance coverage disputes
- Towing disputes
- Breach of a marine services agreement (MSA)
- Breach of a charter party
- Salvage disputes
- Piracy
- Fisheries
- Bankruptcy actions involving vessels



THE BAR ASSOCIATION OF  
SAN FRANCISCO

The requirements also fail to address General Average, and the various tasks relating to General Average. Following is the definition of General Average from the Glossary of Marine Insurance and Shipping Terms:<sup>2</sup>

An ancient principle of equity, recognized by maritime nations, predating the concept of insurance and still valid today, in which all parties involved in a sea adventure (vessel, cargo, and freight) proportionally share losses resulting from a voluntary and successful effort to save the entire venture from an imminent peril.

Interests on behalf of the COSCO BUSAN declared General Average after the vessel spilled fuel oil in San Francisco Bay in November 2007. General Average is one of the "saltier" aspects of our practice, unique to admiralty, but wholly forgotten by the proposed requirements.

Task 2.1.8 awards 30 points for an "arrest of a vessel to the conclusion of the action." As drafted, this does not make sense. A vessel may be arrested to enforce a maritime lien pursuant to FRCP, Supplemental Admiralty Rule C. (This is one of the "lettered" Federal rules cited as a basis for the need of an admiralty certification in California.) The arrest process obtains jurisdiction over a defendant vessel and provides security for the lien holder. The arrest in and of itself is not an "action" taken to a conclusion. In many cases, security in the form of a bond or a Letter of Undertaking is put up on behalf of an arrested vessel, and the vessel is then released. It is doubtful that the drafters of the proposed requirements intended accepting security for the release of an arrested vessel as the "conclusion", though the vessel is released and the arrest concluded.

If the drafters of the proposed requirements intended to award points for arresting a vessel, then 2.1.8 should be drafted to do so. It is not. Also, provisions would need to be included to award points for moving to quash or set aside an arrest, actions for wrongful arrest, and motions for seeking a lesser amount of security.

The requirements fail to allow points for any tasks involving the following "lettered" admiralty procedural rules (the rules cited as a basis for the need for certification):

---

<sup>2</sup> Published by the Association of Marine Underwriters of San Francisco, Inc., second edition (2002).



THE BAR ASSOCIATION OF  
SAN FRANCISCO

Rule B: In Personam Actions: Attachments and Garnishment  
Rule D: Possessory, Petitory, and Partition Actions

Marine insurance is not adequately addressed. The few nods to marine insurance include task 2.2.8(e) awarding 15 points for drafting a marine insurance contract (something few if any maritime lawyers actually do), and task 2.2.9 awarding 10 points for giving written legal advice about marine insurance coverage. Maritime lawyers regularly perform tasks relating to marine insurance beyond advising their clients, including litigation of coverage disputes.

Salvage is not adequately addressed. Only task 2.2.10 addresses salvage, awarding 5 points for giving advice regarding a salvage claim. It should be obvious that maritime lawyers involved in salvage and salvage disputes do much more than advise clients, and the requirements should reflect that.

Marine pollution is not adequately addressed. The only credit is task 2.1.7 awarding 40 points to a principal attorney in a dispositive motion, arbitration, or trial of a pollution claim. Maritime attorneys act in many other areas involving pollution other than dispositive motions, arbitration, and trials. For example, many legal issues arose following the fuel oil spill of the COSCO BUSAN in November 2007, which are not addressed by the proposed requirements. Maritime environmental law is a significant practice area. An entire session is devoted to the subject at the Pacific Admiralty Seminar 2008. (A copy of the PAS 2008 brochure is attached.)

Given that the requirements are so poorly drafted and many practice areas are ignored or not adequately addressed, we are concerned about what might be included on the written test for certification. Even if a lawyer were able to acquire sufficient points to certify as a specialist, there is real concern about whether lawyers who practice in areas other than personal injury could pass the test if it is as blatantly weighted to give the advantage to maritime personal injury lawyers as the proposed requirements.

## 2. Certification is Impossible Because of the CLE Requirements.

It is not possible to satisfy the proposed requirement of 45 credits in admiralty CLE obtained in the 3 years before application for certification. The PAS is the primary provider of admiralty CLE in California. The PAS conducts a two-day biennial seminar that generally provides 15 CLE units. (In 2006, the seminar was held in conjunction with the San Francisco meeting of the Maritime Law Association of the United States, and



THE BAR ASSOCIATION OF  
SAN FRANCISCO

was reduced to a single day providing only 6 units.) The maximum number of admiralty CLE credits that can be obtained in 3 years is 30, assuming the PAS sticks to its two-day format. Even if additional CLE providers were to come forth, it is unlikely we are going to have the significant number of programs needed to satisfy the proposed certification requirements.

There is a maritime law symposium held biennially at Tulane University in New Orleans which provides 10 to 15 CLE units. It would be unfair and frankly absurd if qualifying as certified California Legal Specialist required traveling to another state for legal education.

The only other alternative to satisfy the CLE requirement is to be a recent graduate of an accredited LLM in admiralty. The only ABA accredited LLM in admiralty is at Tulane Law School in Louisiana. Thus, the only qualified applicants for certification who are likely to qualify are recent Tulane Law School graduates. Of course, this would bar nearly every experienced maritime lawyer in California from certifying as a specialist, and would be inconsistent with the stated purposes of the Legal Specialization program to help the public identify attorneys proficient in a particular area of law.

3. California's Revisions to the Rules of Professional Responsibility Already Address Admiralty Practice.

Admiralty, along with patent law, is already recognized by the ABA model rules of professional responsibility. Rule 7.4 (c) provides that "a lawyer engaged in Admiralty practice may use the designation 'Admiralty,' 'Proctor in Admiralty' or a substantially similar designation." Subsection (d) bars other lawyers from stating or implying that they are certified as a specialist in a particular field of law unless "certified as a specialist by an organization that has been approved by an appropriate state authority or that has been accredited by the American Bar Association."

The California State Bar Commission for the Revision of the Professional Rules of Conduct is currently engaged in revising California's rules to make them consistent with the format of the ABA Model Rules of Professional Conduct.<sup>3</sup> On October 8, 2004, the Commission tentatively approved Proposed New Rule 7.4, which is nearly identical current ABA Model Rule 7.4. If formally approved by the California Supreme Court, new rule 7.4 will allow California lawyers engaged in Admiralty practice to use the designation "Admiralty," or "Proctor in Admiralty," or a substantially similar designation.

---

<sup>3</sup> California State Bar Releases Proposal to Update Standards, Adopt ABA Format, 75 U.S. L. Wk. 2067, 2067 (2006).



THE BAR ASSOCIATION OF  
SAN FRANCISCO

The Board of Legal Specialization's consideration of an admiralty and maritime specialty appears to be at odds with the Commission's position acknowledging that admiralty lawyers currently enjoy a distinction. The basis behind the ABA's recognition of the unique character of admiralty lawyers is thoughtfully set out in *The Proctor's Dilemma: Certifying Specialties in Admiralty*, Graydon S. Staring, 28 J. Mar.L. & Com 503 (1997). A copy of this article was attached to our initial letter, and we again attach it here because of its outstanding discussion of proposed certification of admiralty and maritime specialties.

Very truly yours,

Jennifer Tomlin Sanchez  
Gibson Robb & Lindh LLP  
Chair  
2008 Pacific Admiralty Seminar  
Steering Committee  
California Bar No. 191548

LAW OFFICES  
**KEESAL, YOUNG & LOGAN**  
A PROFESSIONAL CORPORATION

SAMUEL A. KEESAL, JR.  
STEPHEN YOUNG  
MICHAEL M. GLESS  
PETER R. BOUTIN  
TIT T. PRATT  
JERRY ROSS  
JOHN D. GIFFIN  
WILLIAM H. COLLIER, JR.  
PHILIP A. MCLEOD  
NEAL SCOTT ROBB  
BEN SUTER  
ALBERT E. PEACOCK III  
CAMERON STOUT  
ROBERT J. STEMLER  
LISA M. BERTAIN  
ROBERT J. BOCKO\*  
MICHELE R. FROV  
ELIZABETH P. BEAZLEY

JOSEPH A. WALSH II  
HERBERT H. RAY, JR.\*  
JODI S. COHEN  
PHILIP R. LEMPRIERE\*  
JULIE L. TAYLOR  
STACEY MYERS GARRETT  
JON W. ZINKE\*  
DOUGLAS R. DAVIS\*  
GORDON C. YOUNG  
ELIZABETH H. LINDH  
KELLY J. MOYNIHAN  
CARA L. MEREDITH  
SARAH TONG SANGMEISTER  
MARC R. GREENBERG  
JULIE A. KOLE  
DAVID D. PIPER  
THEODORE H. ADKINSON  
ESTHER E. CHO

400 OCEANGATE  
LONG BEACH, CA 90802  
P.O. BOX 1730  
LONG BEACH, CA 90801-1730  
(562) 436-2000  
FACSIMILE:  
(562) 436-7416  
[www.kyl.com](http://www.kyl.com)

GLEN R. PIPER  
CATHARINE M. MORISSET  
CHRISTOPHER A. STECHER  
DIANA J. COBURN  
AUDETTE PAUL MORALES  
SCOTT E. HINSCHKE  
MELANIE L. RONEN  
BENJAMIN W. WHITE  
ELIZABETH A. LOGAN  
BENTLEY P. STANSBURY III  
ATLANTIS TILLMAN LANGOWSKI  
JOHN D. KIMMERLEIN  
EVELYN A. CHRISTENSEN  
MARGARET A. DeGOOYER

ASHLEY YOUNG ADAMS  
GARRETT R. WYNNE  
JOHN L. BABALA  
JASON K. LINDSAY  
JOHN COX  
DAVID A. TONG  
MARK A. WILLIAMS  
MOMO E. TAKAHASHI  
TONI Y. LONG  
CHARLES M. BILLY  
ANGELIKI J. PAPADAKIS  
STEFAN PEROVICH  
AILAN L. LIU  
NICOLAS J. VIKSTROM

ROBERT H. LOGAN  
RICHARD A. APPELBAUM+  
REAR ADMIRAL, U.S.C.G. (RET.)  
ELIZABETH A. KENDRICK  
RICHARD L. LANDES

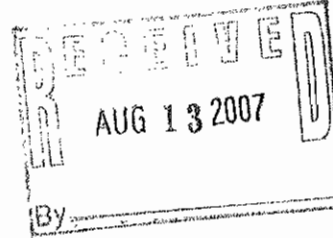
OF COUNSEL

SANDOR X. MAYUGA  
DAVID W. TAYLOR+  
NANCY HARRISS+  
FRANCES L. KEELER

August 9, 2007

VIA U.S. MAIL & FACSIMILE (415) 538-2180

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



\* ADMITTED IN ALASKA  
† ADMITTED IN WASHINGTON  
‡ ADMITTED IN WASHINGTON & CALIFORNIA  
§ ADMITTED IN ALASKA & CALIFORNIA  
+ ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA  
• REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY OF HONG KONG & ADMITTED IN NEW YORK  
\* SOLICITOR ADMITTED IN ENGLAND, WALES AND NORTHERN IRELAND

ALL OTHERS ADMITTED IN CALIFORNIA

Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

I am writing to express my concerns and to recommend that the proposed certification in admiralty and maritime law be rejected by the Board of Legal Specialization. The maritime certification can harm the maritime legal community because it may mislead unsophisticated clients, and may create an unnecessary barrier that could deter attorneys from entering the field of practice. I respectfully ask that the proposed certification be rejected.

The maritime certification is unnecessary and may mislead unsophisticated clients. The field of maritime law is diversified and specialized, encompassing such issues as oil spill and pollution prevention, personal injury, cargo claims, insurance, finance, etc. As with the general practice of law, no maritime attorney can be fully qualified to represent clients in all phases of the industry. A maritime certification creates a danger to unsophisticated clients who are more apt to believe that a maritime-certified attorney is experienced in the practice area related to the client's matter. On the other hand, sophisticated clients are not benefited by the certification because they are capable of determining if a prospective attorney possesses the desired skill set and experience, and because most sophisticated industry clients have already developed relationships with firms and attorneys specializing in particular maritime matters.

Certification may serve as an unnecessary hindrance preventing attorneys from entering this diverse and interesting field of practice. Clients with maritime matters will likely only seek out maritime-certified attorneys. The prospect of obtaining the certification may prevent many attorneys from gaining experience with maritime matters and may cause younger attorneys to turn away from the practice area before ever being exposed to it. Thus, the maritime certificate may inhibit the development of California's maritime legal community.

SAN FRANCISCO OFFICE  
SUITE 1500  
FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111  
(415) 398-6000  
FACSIMILE:  
(415) 981-0136 • (415) 981-7729

ANCHORAGE OFFICE  
SUITE 650  
1029 WEST THIRD AVENUE  
ANCHORAGE, AK 99501-1954  
(907) 279-9696  
FACSIMILE: (907) 279-4239

SEATTLE OFFICE  
SUITE 1818  
1301 FIFTH AVENUE  
SEATTLE, WA 98101  
(206) 622-3790  
FACSIMILE: (206) 343-9529

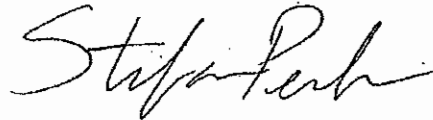
HONG KONG OFFICE  
1603 THE CENTRE MARK  
287 QUEEN'S ROAD CENTRAL  
HONG KONG  
(852) 2854-1718  
FACSIMILE: (852) 2541-6169

Board of Legal Specialization  
August 9, 2007  
Page 2

Re: Proposed Specialty Certification in Admiralty and Maritime Law

For the foregoing reasons, I respectfully request the Board reject the proposed maritime certification program.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Stefan Perovich', written in black ink.

Stefan Perovich  
[stefan.perovich@kyl.com](mailto:stefan.perovich@kyl.com)

SP:pmv (KYL\_LB1107675)

LAW OFFICES  
**KEESAL, YOUNG & LOGAN**  
A PROFESSIONAL CORPORATION

SAMUEL A. KEESAL, JR.  
STEPHEN YOUNG  
MICHAEL M. GLENN  
TER R. BOUTIN  
TIT T. PRATT  
IRY ROSS  
JHN D. GIFFIN  
WILLIAM H. COLLIER, JR.  
PHILIP A. McLEOD  
NEAL SCOTT ROBB  
BEN SUTER  
ALBERT E. PEACOCK III  
CAMERON STOUT  
ROBERT J. STEMLER  
LISA M. BERTAIN  
ROBERT J. BOCKO†  
MICHELE R. PRON  
ELIZABETH P. BEAZLEY

JOSEPH A. WALSH II  
HERBERT H. RAY, JR.†  
JODI S. COHEN  
PHILIP R. LEMPRIERE†  
JULIE L. TAYLOR  
STACEY MYERS GARRETT  
JON W. ZINKE\*  
DOUGLAS R. DAVIS†  
GORDON C. YOUNG  
ELIZABETH H. LINDH  
KELLY J. MOYNIHAN  
CARA L. MEREDITH  
SARAH TONG SANGMEISTER  
MARC R. GREENBERG  
JULIE A. KOLE  
DAVID D. PIPER  
THEODORE H. ADKINSON  
ESTHER E. CHO

400 OCEANGATE  
LONG BEACH, CA 90802  
P.O. BOX 1730  
LONG BEACH, CA 90801-1730  
(562) 436-2000  
FACSIMILE:  
(562) 436-7416  
[www.kyl.com](http://www.kyl.com)

GLEN R. PIPER  
CATHARINE M. MORISSET†  
CHRISTOPHER A. STECHER  
DIANA J. COBURN  
AUDETTE PAUL MORALES  
SCOTT E. HINSCHÉ  
MELANIE L. ROSEN  
BENJAMIN W. WHITE  
ELIZABETH A. LOGAN  
BENTLEY P. STANSBURY III  
ATLANTIS TILLMAN LANGOWSKI  
JOHN D. KIMMERLEIN†  
EVELYN A. CHRISTENSEN  
MARGARET A. DEGOOYER  
ASHLEY YOUNG ADAMS

GARETT R. WYNNÉ  
JOHN L. BABALA  
JASON R. LINDSAY  
JOHN COX  
DAVID A. TONG  
MARK A. WILLIAMS  
MOMO E. TAKAHASHI  
TONI Y. LONG  
CHARLES M. BILLY  
ANGELIKI J. PAPADAKIS  
STEFAN PEROVICH  
AILAN L. LIU  
NICOLAS J. VIKSTROM†  
G HANS SPERLING

OF COUNSEL

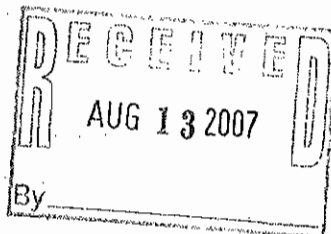
ROBERT H. LOGAN  
RICHARD A. APPELBAUM†  
REAR ADMIRAL, U.S.C.G. (RET.)  
ELIZABETH A. KENDRICK  
RICHARD L. LANDES

SANDOR X. MAYUGA  
DAVID W. TAYLOR\*  
NANCY HARRISS†  
FRANCES L. KEELER

August 9, 2007

**FACSIMILE: 415/538-2180 and**  
**VIA U.S. MAIL**

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



Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

I am writing to express my concern and state my objection to the proposed certification in admiralty and maritime law. This legal specialization is unnecessary, will not serve the desired goals, will be potentially harmful to the public it purports to protect and will likely impede the growth of the maritime legal community.

The field of admiralty and maritime law is as broad and diversified as it is specialized and unique. The practice encompasses a wide range of issues including cargo claims, collisions, criminal, marine insurance, regulatory law of many types, charter party work, pollution law, maritime finance and personal injury law of several distinct types. The leading association of counsel in the area, The Maritime Law Association of the United States (MLA), has said that since admiralty and maritime law includes such diverse practice areas, "it can be stated conservatively that there is no admiralty or maritime lawyer fully qualified to represent clients in all phases of maritime practice."

The breadth of maritime law forces practitioners to specialize in just one or a few of the specific areas mentioned above. As a result, the subject of maritime law is too broad and the actual practice is ordinarily too narrow for maritime law to be a single specialty.

- \* ADMITTED IN ALASKA
- † ADMITTED IN WASHINGTON
- ‡ ADMITTED IN WASHINGTON & CALIFORNIA
- § ADMITTED IN ALASKA & CALIFORNIA
- ¶ ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA
- \* REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY OF HONG KONG & ADMITTED IN NEW YORK
- ‡ SOLICITOR ADMITTED IN ENGLAND, WALES AND NORTHERN IRELAND

ALL OTHERS ADMITTED IN CALIFORNIA

Re: Proposed Specialty Certification in Admiralty and Maritime Law

Moreover, establishing a legal specialization in maritime law would not be useful, either professionally or commercially. Generally, legal specialization in the State of California is designed to assist the public with identifying attorneys who have demonstrated proficiency in one of nine specialty fields and to encourage attorney competence.<sup>1</sup> The ultimate goal of legal specialization is to direct members of the public who are not regular consumers of legal services to an attorney that is certified by the State Bar in a very specific and narrow area of the law (e.g. taxation, bankruptcy, family law, estate planning and workers compensation). However, in the maritime context, most potential clients are sophisticated members of the shipping industry such as shipowners, charterers, shipbuilders, repairers, vessel and cargo underwriters, banks, and seamen's or harbor worker's unions. Such maritime industry participants are well versed in the legal issues that affect them and are readily familiar with legal counsel that are competent to handle their particular needs. A program of specialization in maritime law serves no meaningful purpose other than to imply knowledge in such a variety of areas as to mislead the public about broad levels of purported competence which no lawyer can truthfully attest to having achieved.

Lastly, certification may prevent attorneys from entering this diverse and interesting field of practice. Clients are likely to have a misplaced belief that maritime-certified attorneys are better suited to handle all legal issues relating to the industry and will not seek out or allow younger attorneys, which have yet to obtain the certification, to work on matters that they are otherwise well qualified to handle. Having a specialization in maritime and admiralty law will likely prevent many attorneys from gaining experience in the maritime and admiralty field and may cause younger attorneys to turn or be turned away from the practice area before ever being exposed to it, thereby inhibiting the development of California's maritime legal community.

It is my opinion that the proposed certification in admiralty and maritime law is unnecessary and does not serve the purposes of legal specialization in general. Such a certification program would have no practical effect because virtually all maritime clients are already experienced and sophisticated in their knowledge of how to identify competent counsel. A certification program in maritime law would have no public benefit, because it would only serve to mislead uninformed clients rather than help them identify attorneys with competence in the

---

<sup>1</sup> The State Bar of California Board of Legal Specialization currently has nine practice areas that it certifies and an additional eleven that are certified by organizations whose certification programs have been accredited by the State Bar.

Board of Legal Specialization

August 9, 2007

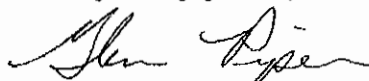
Page 3

Re: Proposed Specialty Certification in Admiralty and Maritime Law

particular area of maritime law. Further, the specialization will impede the growth of the maritime legal community and will limit the ability of young attorneys to gain meaningful experience in this interesting and diverse area of the law.

For the foregoing reasons, I respectfully request that the Board reject the proposed maritime certification program.

Very truly yours,



Glen R. Piper

[glen.piper@kyl.com](mailto:glen.piper@kyl.com)

GRP:bjd (KYL\_LB1107752)

# COX, WOOTTON, GRIFFIN, HANSEN & POULOS, LLP

TERENCE S. COX  
RICHARD C. WOOTTON\*  
MITCHELL S. GRIFFIN  
RUPERT P. HANSEN  
GREGORY W. POULOS  
MARC T. CEFALU  
\*ALSO ADMITTED IN HAWAII

ATTORNEYS AT LAW  
190 THE EMBARCADERO  
SAN FRANCISCO, CALIFORNIA 94105  
TELEPHONE: (415) 438-4600  
FACSIMILE: (415) 438-4601  
WEBSITE: <http://www.cwghp.com>

LYNN L. KRIEGER  
MAX L. KELLEY  
GALIN G. LUK  
COURTNEY M. CRAWFORD  
JODY M. TALIAFERRO  
CHRISTOPHER S. KIELIGER

**July 8, 2008**

Via Email  
[Legalspec@calbar.ca.gov](mailto:Legalspec@calbar.ca.gov)

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Legal Specialization for Maritime Law

Dear Board Members:

I am a Partner in the law firm of Cox, Wootton, Griffin, Hansen & Poulos, LLP. I have been practicing law for nearly twenty-one years, and for most of that time I have specialized in handling cases that are governed by the maritime law of the United States, the International Law of the Sea, and / or the maritime law of other nations. I am a Proctor in Admiralty, a past Chair of the Pacific Admiralty Seminar, an advisor to the USF Maritime Law Journal and the current Vice-Chair of the International Bar Association Maritime and Transport Law Committee. I have published articles on various issues of concern to the maritime legal community, and I have spoken at both national and international conferences on maritime law topics. With this background, I am writing to you to voice my opposition to the proposal to create a certification process for maritime law specialists in general, and my further opposition to the particular plan currently under consideration.

## Maritime Law Specialization In General:

Before the board embarks on certification of a "maritime law" specialty, it must understand what the "maritime law" of the United States is. Maritime law is a body of federal common law. "Judge made" to a great extent, it is the law that relates not to a particular topic, but to a particular industry, the industry or "business of carrying goods and passengers by water." See, Gilmore & Black, Ch. 1 at p. 1 (1975). Since the law relates to an entire industry, there is a vast array of legal issues that arise under the general nomenclature of "maritime law." To give the board just a brief idea, "maritime law" encompasses everything from the way that ships navigate and conduct operations (i.e. collisions, groundings, and allisions<sup>1</sup>) to what duties they owe to other parties (i.e. cargo loss or damage, personal injuries to crew members, passengers or longshoremen).

---

<sup>1</sup> A collision with a fixed object.

Maritime law also involves matters of contract drafting and interpretation with specialized contracts governed by both national and international laws (bills of lading, charter parties and preferred mortgages). Maritime law also has special rules for creditors such as the maritime lien act that involves the ranking and enforcement of maritime liens. Environmental laws also can be relevant in maritime practice, and some maritime lawyers are specialists in RCRA, CERCLA and the Oil Pollution Act of 1990. Maritime law also has specialized procedural rules allowing for such remedies as "Rule B" attachments and Rule C vessel arrests. The list could and does go on. The point is that maritime law is not a single subject matter but is broadly the law applicable to the entire industry.

The breadth and diversity of maritime law means that most practicing lawyers "specialize" in only one or two of these areas. In the maritime field we have attorneys who are known for their expertise in charter parties and bills of lading while others are renowned for their expertise in Jones Act personal injury cases. Still others will only handle maritime cargo cases or collisions and groundings. Many of the best known law firms in the world recognize the impossibility of being a specialist in all areas of maritime practice and divide their practice groups into the "wet" and "dry" sides of maritime practice (meaning contractual versus casualty).

Given the diversity of "maritime law," creating a certificate for specialization as a "maritime lawyer" in California would give the false impression that a person who may know a great deal about maritime personal injury law would be equally qualified to handle a cargo case, a vessel collision or a charter party dispute. In this regard the proposed certification would be counter productive to the goals of the Board of Legal Specialization.

#### The Plan for Specialization as Currently Proposed:

Even if there was a need to create a certificate for specialization as a maritime lawyer, and a means of doing so that recognizes the diversity of maritime law, there is, in my opinion, no logic behind the proposed point system. To point out just a few of the most obvious errors I mention the following:

- Why is handling a cargo claim worth 25 points but a personal injury matter is worth 40? Over my twenty-one years of practice I have handled many cargo cases that were far more complex than a personal injury case, and some personal injury cases more complex than what might have been a simple cargo claim. This is a purely arbitrary point allocation.
- Similarly, there are some complex issues that can arise in a maritime arrest case, but that gets only 30 points if handled "to conclusion of the matter" while the personal injury category gets 40 points even if not handled to conclusion.
- Why is a vessel purchase transaction (which may involve issues of reflagging, complex tax issues, application of the Jones Act to proposed uses of the

vessel, citizenship requirements, etc) worth only 15 points when a personal injury case is allocated 40 points? Does it make sense that an attorney who handles the sale of a twenty million dollar American Flag oil tanker to an off-shore entity that requires the vessel to be reflagged foreign would deserve less recognition (and points) than an attorney who files a complaint for a slip and fall?

- The proposed point system also allows manipulation by the person submitting. For example, I recently handled a vessel foreclosure action in federal court in which the vessel (a small fishing boat) was arrested. In filing a summary adjudication brief we addressed both the Court's jurisdiction and the counterclaim for wrongful arrest asserted by the vessel owner. Under the existing point system I could submit this motion for credit under either section 2.2.1 (jurisdiction) and get 10 points or under 2.1.7 (maritime tort / wrongful arrest) and get 40 points. Perhaps I should submit it under both categories and get 50 points. Of course this ignores the issue of whether the jurisdiction issue was of greater complexity than the tort issue.
- I also question the validity of basing legal certification on elements such as providing substantive legal advice to a client. See, 2.2.3 or 2.2.4. What if the advice is wrong? Who decides? Do we have to submit the advice and, if so, isn't that a potential waiver of the attorney client privilege?
- Yet another problem with the current proposal is the unrealistic CLE requirement. As a long time practicing "maritime lawyer" and the former chair of the Pacific Admiralty Seminar, I am only aware of one seminar in California for maritime lawyers. That seminar is the Pacific Admiralty Seminar, and it is only held every second year. A person who attends the entirety of that two day seminar can gain generally 15 hours of credit. There are other seminars held around the Country, such as the Tulane Admiralty Seminar and the Houston Marine Insurance Seminar, but those obviously require a California lawyer to travel out of State to obtain credits toward the specialization certificate. Maritime law has become increasingly an area for specialization within small firms and solo practitioners who may find it hard to afford the cost of attending out of state seminars.

#### Conclusion:

The current proposal to create a maritime law specialization within the California bar is an ill conceived idea that gives little or no consideration to the breadth of maritime law or the important role that certification of a specialty plays in the delivery of services to the public. Maritime law is not a single set of laws that one can specialize in. It is the law that serves an industry, not a subject. It would ill serve the public for the Board to certify a person who can draft a personal injury complaint while ignoring the fact that the client may need a cargo or collision specialist. Moreover, to adopt the illogical point system would only serve to create marketing opportunities for personal injury attorneys at the expense of the general public.

Board of Legal Specialization  
State Bar of California  
July 8, 2008  
Page 4

I urge the committee to reject this proposal as grossly and irreparably flawed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory W. Poulos', with a stylized flourish at the end.

Gregory W. Poulos  
Partner  
Cox, Wootton, Griffin, Hansen & Poulos,  
LLP

Stanley L. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Mark E. Lovell, Jr.  
Michelle L. Tomney  
Joshua A. Southwick  
Chelsea D. Yuan  
Marisa G. Huber

**GIBSON ROBB & LINDH LLP**  
**100 First Street, 27<sup>th</sup> Floor**  
**San Francisco, CA 94105**

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

[www.gibsonrobb.com](http://www.gibsonrobb.com)

July 8, 2008

**Via Facsimile**  
(415) 538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

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

Dear Boardmembers:

This is a public comment against the proposed certification of a specialty for admiralty and maritime law in California.

First, I was surprised to recently learn that Marva Jo Wyatt included my name on a list of 72 supporters in a letter she sent to the State Bar in December, 2005. She did not have my authorization to use my name, and I do not support certification.

I have read Jennifer Tomlin Sanchez' letter on behalf of the Pacific Admiralty Section of the Bar Association of San Francisco and agree with all the reasons set forth in that letter that proposed certification of an admiralty specialty should not be approved. It is not needed, and is poorly drafted so that it will not help the public or the profession.

Very Truly Yours,

GIBSON ROBB & LINDH LLP

  
\_\_\_\_\_  
G. Geoffrey Robb

GGR:tpw

Sender's Direct Email:  
drusso@sterlingandclack.com

Firm Email:  
thefirm@sterlingandclack.com

**STERLING & CLACK**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

Paul Gary Sterling  
Of Counsel

101 HOWARD STREET, SUITE 400  
SAN FRANCISCO, CALIFORNIA 94105

TELEPHONE (415) 543-5300 • FACSIMILE (415) 543-3335

July 9, 2008

VIA EMAIL & FACSIMILE

legalspec@calbar.ca.gov

(415) 538-2180

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

Re: Proposed Specialty Certification in Admiralty and  
Maritime Law

Dear Board Members:

Please accept this public comment against the proposed certification of a specialty for admiralty and maritime law in California.

You are no doubt aware that both the Maritime Law Association of the United States ("MLA") and the Pacific Admiralty Seminar Committee of the Bar Association of San Francisco ("PAS") have opposed the proposal for a maritime specialty certification. I join in the criticisms both of those organizations have expressed with regard to the proposal.

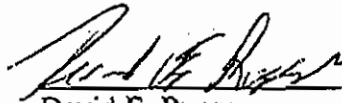
It appears that the Board has not thoroughly considered whether the proposed specialization is needed, particularly in light of the role played by the MLA. The maritime bar in California, and in fact nationwide, is very small relative to most other areas of law practice. Maritime law has developed slowly over time and as such is learned through law practice and exchanges with other maritime practitioners. The MLA has served the maritime bar for over 100 years. Its endeavors reflect the way that this area of law is learned by practitioners. In addition to having associate members, the MLA recognizes those practitioners with expertise in maritime law by bestowing on them Proctor status. Among other requirements, Proctor status may only be achieved through demonstrated commitment to, and experience in maritime law, the recognition of fellow Proctor members, and evidence of significant participation in maritime trials or other legal proceedings. It has long been recognized in the maritime bar that Proctor status is a well earned recognition of expertise in admiralty and maritime law.

Board of Legal Specialization  
State Bar of California  
July 9, 2008  
Page 2

Against this background the Board appears to be attempting to craft a specialty which emphasizes the accumulation of points for a variety of tasks but without a genuine reflection of what is truly required to be considered a maritime law specialist. In taking that approach, the Board's proposal would oddly result in the exclusion of many maritime lawyers acknowledged by their peers to be specialists in their field while, on the other hand, according such status to those who may have only rotely accumulated sufficient points under the Board's plan. This would not serve the interest of the public or the bar.

I therefore urge the Board to consider seriously the opinion of the MLA in opposition to the proposed rule for certification as well as the opinions in opposition expressed by the PAS. These organizations undoubtedly represent the vast number of maritime lawyers in California.

Very truly yours,



David E. Russo  
STERLING & CLACK

DER:jr

LAW OFFICES  
**KEESAL, YOUNG & LOGAN**  
A PROFESSIONAL CORPORATION

SAMUEL A. KEESAL, JR.  
STEPHEN YOUNG  
MICHAEL M. GLESS  
PETER R. BOUTIN  
TIT T. PRATT  
JRY ROSS  
AN D. GIFFIN  
WILLIAM H. COLLIER, JR.  
PHILIP A. MCLEOD  
NEAL SCOTT ROBB  
BEN SUTER  
ALBERT E. PEACOCK III  
CAMERON STOUT  
ROBERT J. STEMLER  
LISA M. BERTAIN  
ROBERT J. BOCKO\*\*  
MICHELE R. FROV  
ELIZABETH P. BEAZLEY

JOSEPH A. WALSH II  
HERBERT H. RAY, JR.\*†  
JODI S. COHEN  
PHILIP R. LEMPRIERE\*†  
JULIE L. TAYLOR  
STACEY MYERS GARRETT  
JON W. ZINKE  
DOUGLAS R. DAVIS\*\*†  
GORDON C. YOUNG  
ELIZABETH H. LINDH  
KELLY J. MOYNIHAN  
CARA L. MEREDITH  
SARAH TONG SANGMEISTER  
MARC R. GREENBERG  
JULIE A. KOLE  
DAVID D. PIPER  
THEODORE H. ADKINSON  
ESTHER E. CHO

SUITE 1500  
FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CALIFORNIA  
94111  
(415) 398-6000  
FACSIMILE:  
(415) 981-0136  
[www.kyl.com](http://www.kyl.com)

GLEN R. PIPER  
CATHARINE M. MORISSET†  
CHRISTOPHER A. STECHER  
DIANA J. COBURN  
AUDETTE PAUL MORALES  
SCOTT E. HINSCHKE  
MELANIE L. RONEN  
BENJAMIN W. WHITE  
ELIZABETH A. LOGAN  
BENTLEY P. STANSBURY III  
ATLANTIS TILLMAN LANGOWSKI  
JOHN D. KIMMERLEIN†  
EVELYN A. CHRISTENSEN  
MARGARET A. DeGOOYER  
ASHLEY YOUNG ADAMS

GARRETT R. WYNNE  
JOHN L. BABALA  
JASON R. LINDSAY  
JOHN COX  
DAVID A. TONG  
MARK A. WILLIAMS  
MOMO E. TAKAHASHI  
TONY Y. LONG  
CHARLES M. BILLY  
ANGELIKI J. PAPADAKIS  
STEFAN PEROVICH  
AILAN L. LIU  
NICOLAS J. VIKSTROM†  
G. HANS SPERLING

OF COUNSEL  
ROBERT H. LOGAN  
RICHARD A. APPELBAUM+  
REAR ADMIRAL, U.S.C.G. (RET.)  
ELIZABETH A. KENDRICK  
RICHARD L. LANDES

SANDOR X. MAYUGA  
DAVID W. TAYLOR+  
NANCY HARRISS†  
FRANCES L. KEELER

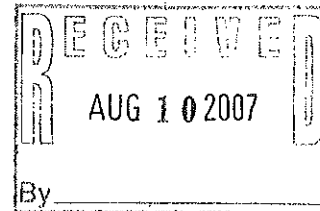
August 9, 2007

\* ADMITTED IN ALASKA  
† ADMITTED IN WASHINGTON  
‡ ADMITTED IN WASHINGTON & CALIFORNIA  
§ ADMITTED IN ALASKA & CALIFORNIA  
+ ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA  
\* REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY  
OF HONG KONG & ADMITTED IN NEW YORK  
± SOLICITOR ADMITTED IN ENGLAND, WALES AND NORTHERN  
IRELAND

ALL OTHERS ADMITTED IN CALIFORNIA

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

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



Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

I am an associate attorney with Keesal, Young & Logan, and my practice includes the admiralty and maritime field. I am writing in support of the August 9, 2007 letter of my colleague William H. Collier, Jr., in which he concludes that the proposed certification in admiralty and maritime law is unnecessary and potentially harmful to the public interests it purports to protect. I concur with Mr. Collier's conclusions and respectfully request that the proposed certification in admiralty and maritime law be rejected by the Board of Legal Specialization.

As Mr. Collier indicates in his letter, the field of admiralty and maritime law is as broad as it is unique. The field encompasses a vast range of issues, including cargo claims, collisions, marine insurance, regulatory law of many types, charter party work, pollution law, maritime finance, and personal injury law of several distinct types. This breadth forces practitioners to specialize in just one or a few of the specific areas mentioned above. As a result, the field of maritime law is extremely broad, but the actual practice of any maritime lawyer is ordinarily too narrow for maritime law to be a single specialty.

Establishing a legal specialization in maritime law would not be beneficial, either professionally or commercially. Generally, legal specialization is designed to identify to the public attorneys who have demonstrated proficiency in the specialty fields and to encourage attorney competence. The ultimate goal in legal specialization is to protect potential clients from inexperienced attorneys.

LONG BEACH OFFICE  
400 OCEANGATE  
P.O. BOX 1730  
LONG BEACH, CA 90801-1730  
(562) 436-2000  
FACSIMILE: (562) 436-7416

ANCHORAGE OFFICE  
SUITE 650  
1029 WEST THIRD AVENUE  
ANCHORAGE, Ak 99501-1954  
(907) 279-9696  
FACSIMILE: (907) 279-4239

SEATTLE OFFICE  
SUITE 1515  
1301 FIFTH AVENUE  
SEATTLE, WA 98101  
(206) 622-3790  
FACSIMILE: (206) 343-9529

HONG KONG OFFICE  
1603 THE CENTRE MARK  
287 QUEEN'S ROAD CENTRAL  
HONG KONG  
(852) 2854-1718  
FACSIMILE: (852) 2541-6189

Board of Legal Specialization  
August 9, 2007  
Page 2

Re: Proposed Specialty Certification in Admiralty and Maritime Law

However, in the maritime context, most potential clients are sophisticated members of the shipping industry such as shipowners, charterers, shipbuilders, repairers, vessel and cargo underwriters, banks, and seamen's or harbor worker's unions. Such maritime industry participants are well versed in the legal issues that affect them and are readily familiar with the names of legal counsel who are competent to handle their particular needs.

A program of specialization in maritime law serves no meaningful purpose other than to imply complete knowledge in such a vast area of the law as to mislead the public about broad levels of purported competence which no lawyer can honestly attest to having achieved. Consequently, a program of specialization in maritime law would have the perverse effect of misleading the public — rather than ensuring it — as to the competence of attorneys.

The proposed certification in admiralty and maritime law is unnecessary and does not serve the general purposes of legal specialization. Such a certification program would have no practical effect and would have no real public benefit. Indeed, it would only serve to mislead uninformed clients rather than help them identify attorneys with competence in the particular area of maritime law.

For the foregoing reasons, I respectfully request that the Board reject the proposed maritime certification program.

Very truly yours,



Christopher A. Stecher  
*christopher.stecher@kyl.com*

CAS:cmg (KYL\_SF455444)

Stanley L. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Mark E. Lovell, Jr.  
Michelle L. Tommey  
Joshua A. Southwick  
Chelsea D. Yuan  
Marisa G. Huber

**GIBSON ROBB & LINDH LLP**  
**100 First Street, 27<sup>th</sup> Floor**  
**San Francisco, CA 94105**

Telephone  
(415) 348-6000  
  
Facsimile  
(415) 348-6001

[www.gibsonrobb.com](http://www.gibsonrobb.com)

July 7, 2008

**Via Facsimile(415) 538-2180**

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

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

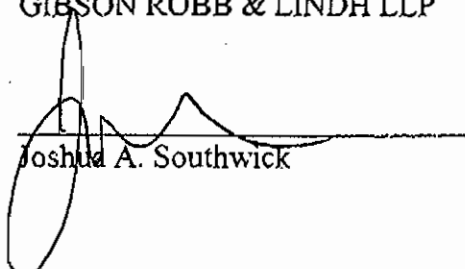
Dear Boardmembers:

This is a public comment against the proposed certification of a specialty for admiralty and maritime law in California.

I have read Jennifer Tomlin Sanchez' letter on behalf of the Pacific Admiralty Section of the Bar Association of San Francisco and agree with all the reasons set forth in that letter that proposed certification of an admiralty specialty should not be approved. It is not needed, and is poorly drafted so that it will not help the public or the profession.

Very Truly Yours,

GIBSON ROBB & LINDH LLP



Joshua A. Southwick

JAS:tpw

EMARD DANOFF PORT TAMULSKI & PAETZOLD LLP  
ATTORNEYS

49 Stevenson Street, Suite 400  
San Francisco, California 94105

www.edplaw.com

Telephone: (415) 227-9455  
Facsimile: (415) 227-4255

Via Email and Facsimile  
[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov)  
(415) 538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Specialty Certification in Admiralty & Maritime Law

This is my public comment in opposition to the proposed Specialty Certification. In summary, the Proposal is one of the most ridiculous ones I have ever read emanating from the State Bar. If the State Bar were to proceed with this proposal it would be guilty of seriously misleading the general public.

I have had the pleasure of practicing admiralty and maritime law for over 36 years. The only way to really know this area of the law, and to hold yourself out to be expert in any one of its many sub-specialties, is to practice in it.

There are numerous opportunities for individuals to practice in this area, if they really have the desire. But to have the State of California bless and sanctify some individual with the title of a maritime law specialist based upon the proposed criteria is a mockery of the entire Certification process. If the proposed admiralty certification is reflective of the other certifications allowed by the State Bar, then they are obviously all worthless. I would not be surprised to see the State Bar included as a defendant in malpractice cases brought against California "Specialists."

I have read the letter submitted by Mr. Forrest Booth, of Severson & Werson and entirely support it. Thank you for your consideration.

Very truly yours,



James J. Tamulski  
State Bar No. 064880



U.S. Department of Justice

Civil Division

July 7, 2008

RMU:sel

West Coast Office  
7-5395 Federal Building  
Post Office Box 36028  
450 Golden Gate Avenue  
San Francisco, California 94102-3463  
Telephone: 415-436-6648  
Fax: 415-436-6632  
Internet: mike.underhill@usdoj.gov

Via E-mail and Fax  
legalspec@calbar.ca.gov  
(415) 538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

I am the Attorney in Charge of the West Coast and Pacific Rim Office of the Torts Branch (formerly the Admiralty and Shipping Section) of the U.S. Department of Justice, the office that handles maritime litigation on behalf of the United States in the Ninth Circuit, the Pacific Ocean and Pacific Rim, and elsewhere. My name and my professional affiliation with the Dept. Of Justice have been listed in support of the proposed specialty certification. Please understand that while I am sure that the listing was both innocent and accidental, it was not made with my knowledge or approval. To the extent that the representation was taken as express or implied support for the proposal by the Dept. Of Justice, this letter advises that such *was and is not* the case.

Insofar as my personal position with respect to the proposal, I am writing separately to set out my opinion.

Very truly yours,

R. Mike Underhill  
Attorney in Charge  
West Coast Office  
Department of Justice, Torts Branch

R. MIKE UNDERHILL  
1190 NOE STREET  
SAN FRANCISCO, CA 94114  
CELL: 415-533-1551  
FAX NO WK: 415-436-6632

July 7, 2008

Via E-mail and Fax  
legalspec@calbar.ca.gov  
(415) 538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Specialty Certification in Admiralty and Maritime Law.

Dear Board Members:

This is a public comment clarifying my personal opposition to the proposed certification of a specialty for admiralty and maritime law in California.

As for my professional background, I am the Attorney in Charge of the West Coast and Pacific Rim Office of the Torts Branch (formerly the Admiralty and Shipping Section) of the U.S. Department of Justice, the office that handles maritime litigation on behalf of the United States in the Ninth Circuit, the Pacific Ocean and Pacific Rim, and elsewhere. (Under separate cover, I have written you a letter in my professional capacity as the Attorney in Charge of my office within DOJ.) Since joining the office as a Trial Attorney in 1983, I have represented the United States in, among other areas, affirmative and defensive admiralty tort cases, maritime commercial litigation, and maritime/bankruptcy litigation throughout the Districts of the Ninth Circuit, including Alaska, Hawaii, and Guam. My primary practice is maritime environmental litigation on behalf of the federal government, including cases such as the *T/V EXXON VALDEZ*, *M/V COMMAND*, *T/V GLACIER BAY*, *M/V HYUNDAI NO. 12*, *M/V CARISSA*, and currently the *M/V COSCO BUSAN*, the ship that allided with the San Francisco Bay Bridge in 2007. In addition to my work at the Dept. Of Justice, I have taught Maritime Law and Maritime Environmental Law at the University of San Francisco School of Law; have served as Chair and at various times as a session chair and speaker at the Pacific Admiralty Seminar; have authored law review articles concerning maritime environmental law; am the Chair of the Local Admiralty Rules Committee of the Federal District Court of the Northern District of California; am a member of the Maritime Law Association of the United States and presently am the Vice-Chair of the MLA's Practice and Procedure Committee. Prior to law school, I sailed as a merchant mariner in Alaska for five years. I received my J.D., *cum laude*, from the University of San Francisco in 1982 and have been a member of the California Bar since admission to practice that same year.

First, and perhaps most importantly, my name and my professional affiliation with the Dept. Of Justice have been listed in support of the proposed specialty certification. Please understand that while I am sure that the listing was both innocent and accidental, it was not made with my knowledge or approval and, in any event, misstates my position – that is, I do *not* support the proposed certification.

Second, I understand that you have received other letters setting out opposition to the proposal by various of my colleagues. While I shall not reiterate the same arguments here, a few bear re-emphasis and/or setting out anew.

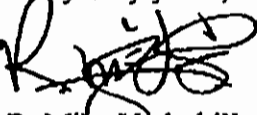
As perhaps can be seen from the foregoing outline of my bio and the scope of my professional duties over of the years, I strongly suspect that I would qualify for certification under just about any reasonable criteria that could be devised. For that reason, as well as the fact that I do not represent private clients who would (or could be) persuaded or dissuaded from retaining me based upon specialty certification or lack thereof, I have no personal financial stake in the issue.

It is precisely because of the breadth of my admiralty and maritime practice, however, that I oppose the proposal. To begin with, the criteria and related point system for gaining certification appear not merely random, but actually counter-intuitive and fundamentally wrong. *By way of example only*, the drafting of a personal injury complaint is worth an excessive number of points, despite the fact that maritime personal injury complaints (and I have seen literally hundreds of them over my career) tend in most cases to be “cookie-cutter” pleadings. Conversely, there are many aspects of maritime practice other than personal injury work that are highly complex and require a great deal more work and experience to perform – or at least perform well – yet they garner little to no points towards certification.

More importantly, in my view, the fundamental flaw of the proposed certification is the lumping of the breadth of admiralty and maritime practice into a single basket. By way of analogy, it would be like proposing a certification for “federal law practice” or “state law practice”, *etc.* There are a great number of specialities within the scope of admiralty and maritime law and, frankly, there are not that many admiralty practitioners, even highly experienced ones, who honestly would profess to being experts in more than a handful of maritime sub-specialties. As a personal example, I would *never* hold myself out to be an expert on maritime cargo-related practice. Indeed, when I taught maritime law my co-professor (an expert in the field of cargo law) taught that area of practice. On the other hand, he left the teaching of maritime environmental law and maritime personal injury to me since those fields were within my legitimate area of specialty.

Under the proposed certification, a prospective client likely would reasonably expect (or certainly have no reason to question) my qualification to handle a cargo case. They would be wrong. Similarly, an attorney who handles almost exclusively a maritime personal injury practice likely would not have any qualification to hold himself/herself out as an expert in cargo law, maritime environmental law, maritime finance, maritime commercial litigation, insurance coverage issues, barratry, salvage, maritime lien practice (other than perhaps as it relates to a personal injury case), *etc.* In short, I respectfully believe that the proposed certification has great potential actually to mislead prospective clients rather than serve their interest.

For the foregoing reasons, as well as other reasons pointed out by colleagues who have voiced opposition to the proposal, I do not favor the proposed certification. Should you have other questions, please do not hesitate to contact me at your convenience.

Very truly yours,  
  
R. Mike Underhill

August 3, 2007

Matthew P. Vafidis  
415 743 6950  
mvafidis@hklaw.com

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

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

To the Board:

I write as a member of the California Bar to express my objection to the proposal to establish a California specialty certification for admiralty and maritime law. I am a partner in the law firm Holland & Knight LLP. My comments herein are made as a member of the Bar and are not to be construed as expressing the opinion of my Firm or, necessarily, of any other of its members, associates or professionals.

### Qualifications

In addition to being a member of the California Bar, I am a member of the Bar of England & Wales, having graduated from Cambridge University in 1978 with a Master of Arts degree, and the Inns of Court School of Law in 1979. I have practiced law in San Francisco since April 1981, specializing in admiralty and maritime law. Prior to my being a partner with Holland & Knight, I was a partner with the internationally renowned maritime firm of Haight, Gardner, Poor & Havens, and prior to that I was a partner at Lillick & Charles, San Francisco, at that time one of the premier U.S. maritime firms. For the past 25 years, I have been a member of the Maritime Law Association of the United States, and have served on its Hazardous and Noxious Substances Sub-Committee. I am a past Chairperson of the American Bar Association Young Lawyer's Division Admiralty Committee and a past Chairperson of the San Francisco Bar Association Barrister's Club Admiralty Committee. I have served for over 20 years as a Committee Member of the Pacific Admiralty Seminar, a section of the San Francisco Bar Association, and was Chairperson of the Seminar in 1994. At the request of the Chief Judge, I served on the Local Admiralty Rules Advisory Committee for the United States District Court for the Northern California. I serve on the District Court's Alternative Dispute Resolution panel, primarily mediating admiralty cases, and act as both a mediator and arbitrator for such cases.

I have authored numerous articles and papers, and lectured in California and throughout the world on various aspects of admiralty and maritime law, especially concerning oil and air pollution, the carriage of goods by sea and maritime arbitration. I am listed in Chambers USA as one of America's leading lawyers for business specializing in admiralty and maritime law; I am also listed as an admiralty lawyer in the publications Best Lawyers in America, Northern California Super Lawyers and the International Who's Who of Shipping and Maritime Lawyers. I have handled several hundred admiralty and maritime cases in my career, and would, I think, be considered to be one of the leading maritime specialists in the country in the areas of marine oil pollution and the carriage of goods by sea.

### Comments Regarding the Proposal

I have two main criticisms of the proposal. The first is that it could well operate in such a way as to exclude from eligibility many of the finest admiralty and maritime lawyers in California. The second is that I question the need for or efficacy of the proposal.

#### (a) Eligibility Requirements

With respect to the proposal itself, it not clear to me how it might operate in practice, but, based on my experience and perception the Admiralty Bar, I perceive it may have serious flaws. I am concerned about the mechanics of determining eligibility by totaling up, through the points system, particular types of admiralty experience gained over a recent period of time. Such is reduced volume of maritime work currently practiced by even the most experienced and qualified admiralty practitioners that this proposal runs the risk of effectively excluding many of California's leading maritime lawyers from eligibility. Moreover, since the proposal lays emphasis on a range of admiralty experience rather than the degree of knowledge and expertise in the many sub-specializations of the practice, there is a risk, I believe, that eligibility will be granted to those with broad, generalized practices, but denied to those with specialist expertise.

While the proposal would take into consideration non-litigation experience, most of its emphasis is on litigation. In this respect, the specifics for earning eligibility through litigation experience, which require participation in a "potentially dispositive hearing or a trial" are problematic and may penalize the very finest and more specialized practitioners. Most admiralty matters, as they are practiced by the California admiralty bar, particularly those matters that are more complex and involve more significant issues and amounts in controversy, tend to be resolved through the productive efforts of highly skilled, knowledgeable admiralty practitioners, without trial and without "dispositive hearing." This is very sort of experience and practice that should be recognized by the certification requirement, but is not recognized, at least not directly. By categorizing litigation experience as only matters involving a "dispositive hearing" or trial, eligibility for certification would, as a practical matter, be substantially limited and, contrary to the presumed purpose of the program, may therefore exclude the very lawyers the program should give certification: those handling the more complex and serious admiralty matters.

(b) Need and Efficacy

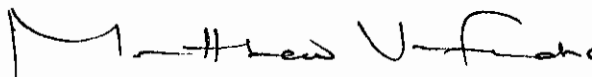
Above all, I am concerned about why this program should be considered necessary. Unless it can be shown that a substantial section of that portion of the California public that has a need for representation by admiralty and maritime specialists is not currently being adequately served by the Bar, I question the need for this proposal. I sincerely doubt that such a showing could be made or has been found to be likely, let alone probable.

Based on my experience over my years of practice, I believe that the number or proportion of the California public that is or may be involved in admiralty and maritime matters is relatively small. Of that group, the vast majority consist of those involved in the maritime industries, as workers, ship owners, operators, and managers, suppliers and specialist support industries, and insurers. Few, if any, of that majority is not able to identify and locate an experienced and California maritime lawyer. We are a relatively small admiralty bar, well known to one another, and to the maritime industry, in California, throughout the United States and abroad. While it is certainly conceivable that there might come a time when a member of the California public not otherwise involved in the maritime industry may need a maritime lawyer, there is no indication that he or she would not be able, without such a specialist certification program, to conduct the research in order to locate and contact an experienced maritime lawyer in California.

I have not addressed the more academic and far reaching implications involved in this proposal because those have been well stated elsewhere. I commend to the Board the enclosed article by Graydon Staring, probably the leading admiralty lawyer of his generation, who has expressed these issues more eloquently than I could do. Admiralty law is a specialist federal practice already, with a well-established national professional association, in the form of the Maritime Law Association of the United States, dedicated to maintaining professional and educational standards and expertise.

I hope that the Board considers my comments and that it rejects this proposal.

Sincerely,



Matthew P. Vafidis

MPV:mpv

# 4713190\_v1

**Maynard, Lorna**

---

**From:** Matthew.Vafidis@hklaw.com  
**Sent:** Wednesday, July 02, 2008 10:42 AM  
**To:** Legal Specialists  
**Subject:** Admiralty Specialization Proposal  
**Importance:** High

Dear Members of the Board of Legal Specialization

I write to express my continuing opposition to the proposal, as amended, to certify Admiralty as a specialty of the California Bar. In the interest of brevity, I am resubmitting herewith my letter of opposition sent to the Board on August 3, 2007 (without its enclosure). I also wish to express my agreement with the comment in opposition of the Pacific Admiralty section of the San Francisco Bar Association, sent in June 2008. I hope you will take these comments and our opposition into due consideration in making your decision. In reviewing the relevant materials and consultation with my colleagues, I am concerned that the Board may be under a misapprehension, based in part on initial expressions of interest years ago, as to the degree of support for this proposal currently held by the Admiralty practitioners of the State Bar, and would encourage the Board to consider fairly all submissions on this subject.

Sincerely,

Matthew P. Vafidis  
Holland & Knight LLP  
50 California Street, Suite 2800  
San Francisco, CA 94111  
Phone: (415) 743-6950  
Fax: (415) 743-6910  
Cell: (510) 366-4449

This email is intended solely for the use of the individual to whom it is addressed and may contain information that is privileged, confidential or otherwise exempt from disclosure under applicable law. If the reader of this email is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the listed email address. Thank you.

8/6/2008

LAW OFFICES  
**KEESAL, YOUNG & LOGAN**  
A PROFESSIONAL CORPORATION

SAMUEL A. KEESAL, JR.  
STEPHEN YOUNG  
MICHAEL M. GLESS  
TER R. BOUTIN  
OTT T. PRATT  
BRY ROSS  
JOHN D. GIFFIN  
WILLIAM H. COLLIER, JR.  
PHILIP A. MOLEOD  
NEAL SCOTT ROBB  
BEN SUTER  
ALBERT E. PEACOCK III  
CAMERON STOUT  
ROBERT J. STEMLER  
LISA M. BERTAIN  
ROBERT J. BOCKO†  
MICHELE R. FRON  
ELIZABETH P. BEAZLEY

JOSEPH A. WALSH II  
HERBERT H. RAY, JR.†  
JODI S. COHEN  
PHILIP R. LEMPRIERE\*  
JULIE L. TAYLOR  
STACEY MYERS GARRETT  
JON W. ZINKE\*  
DOUGLAS R. DAVIS\*†  
GORDON C. YOUNG  
ELIZABETH H. LINDH  
KELLY J. MOYNIHAN  
CARA L. MEREDITH  
SARAH TONG SANGMEISTER  
MARC R. GREENBERG  
JULIE A. KOLE  
DAVID D. PIPER  
THEODORE H. ADKINSON  
ESTHER E. CHO

400 OCEANGATE  
LONG BEACH, CA 90802  
P.O. BOX 1730  
LONG BEACH, CA 90801-1730  
(562) 436-2000  
FACSIMILE:  
(562) 436-7416  
[www.kyl.com](http://www.kyl.com)

GLEN R. PIPER  
CATHARINE M. MORISSET†  
CHRISTOPHER A. STECHER  
DIANA J. COBURN  
AUDETTE PAUL MORALES  
SCOTT E. HINSCH  
MELANIE L. RONEN  
BENJAMIN W. WHITE  
ELIZABETH A. LOGAN  
BENTLEY P. STANSBURY III  
ATLANTIS TILLMAN LANGOWSKI  
JOHN D. KIMMERLEY†  
EVELYN A. CHRISTENSEN  
MARGARET A. DEGOOYER

ASHLEY YOUNG ADAMS  
GARRETT R. WYNNE  
JOHN L. BABALA  
JASON R. LINDSAY  
JOHN COX  
DAVID A. TONG  
MARK A. WILLIAMS  
MOMO E. TAKAHASHI  
TONI Y. LONG  
CHARLES M. BILLY  
ANGELIKI J. PAPADAKIS  
STEFAN FROVICH  
AILAN L. LU  
NICOLAS J. VIKSTROM

ROBERT H. LOGAN  
RICHARD A. APPELBAUM+  
REAR ADMIRAL, U.S.C.G. (RET.)  
ELIZABETH A. KENDRICK  
RICHARD L. LANDES

OF COUNSEL

SANDOR X. MAYUGA  
DAVID W. TAYLOR+  
NANCY HARRISS†  
FRANCES L. KEELER

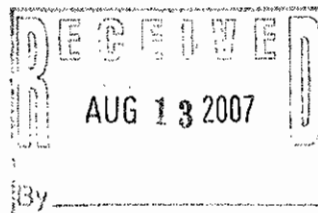
August 9, 2007

- \* ADMITTED IN ALASKA
- † ADMITTED IN WASHINGTON
- ‡ ADMITTED IN WASHINGTON & CALIFORNIA
- § ADMITTED IN ALASKA & CALIFORNIA
- ¶ ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA
- + REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY OF HONG KONG & ADMITTED IN NEW YORK
- ‡ SOLICITOR ADMITTED IN ENGLAND, WALES AND NORTHERN IRELAND

ALL OTHERS ADMITTED IN CALIFORNIA

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

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



Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

I am writing to express my opinion that the proposed certification in admiralty and maritime law is unnecessary, and even potentially harmful to the public it purports to protect. I respectfully recommend that the proposed certification in admiralty and maritime law be rejected by the Board of Legal Specialization.

The field of admiralty and maritime law is as broad and diversified as it is specialized and unique. The field encompasses such a vast range of issues including cargo claims, collisions, marine insurance, regulatory law of many types, charter party work, pollution law, maritime finance, and personal injury law of several distinct types. The leading association of counsel in the area, The Maritime Law Association of the United States (MLA) has said that since admiralty and maritime law includes such diverse practice areas, "it can be stated conservatively that there is no admiralty or maritime lawyer fully qualified to represent clients in all phases of maritime practice." The breadth of maritime law forces practitioners to specialize in just one or a few of the specific areas mentioned above. As a result, the subject of maritime law is too broad and the actual practice is ordinarily too narrow for maritime law to be a single specialty. To my knowledge, only one other state has adopted legal specialization of this field of law, and the experiment has proven to be a failure.

Further, establishing a legal specialization in maritime law would not be useful, either professionally or commercially. Generally, legal specialization is

SAN FRANCISCO OFFICE  
SUITE 1500  
FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111  
(415) 399-6000  
FACSIMILE:  
(415) 981-0138 • (415) 981-7729

ANCHORAGE OFFICE  
SUITE 650  
1029 WEST THIRD AVENUE  
ANCHORAGE, AK 99501-1954  
(907) 279-8696  
FACSIMILE: (907) 279-4239

SEATTLE OFFICE  
SUITE 1515  
1301 FIFTH AVENUE  
SEATTLE, WA 98101  
(206) 622-3790  
FACSIMILE: (206) 343-9539

HONG KONG OFFICE  
1603 THE CENTRE MARK  
287 QUEEN'S ROAD CENTRAL  
HONG KONG  
(852) 2554-1718  
FACSIMILE: (852) 2541-6169

Re: Proposed Specialty Certification in Admiralty and Maritime Law

designed "to identify to the public attorneys who have demonstrated proficiency in the specialty fields and to encourage attorney competence." The ultimate goal in legal specialization is to protect potential clients from inexperienced attorneys. However, in the maritime context, most potential clients are sophisticated members of the shipping industry such as shipowners, charterers, shipbuilders, repairers, vessel and cargo underwriters, banks, and seamen's or harbor worker's unions. Such maritime industry participants are well versed in the legal issues that affect them and are readily familiar with the names of legal counsel who are competent to handle their particular needs. A program of specialization in maritime law serves no meaningful purpose other than to imply knowledge in such a variety of areas as to mislead the public about broad levels of purported competence which no lawyer can truthfully attest to having achieved.

Given that the field is so broad and that no attorney could possibly be well versed in all aspects of it, a "certification" in maritime law is more apt to mislead a potential client into believing that a particular attorney is experienced in the area relating to his or her claim. Consequently, a program of specialization in maritime law would have the perverse effect of misleading the public as to the competence of attorneys rather than ensuring it.

Historically, Bar Associations have not favored maritime certification programs. The American Bar Association (ABA) considered and rejected such a proposal in July 1980. In rejecting the proposed maritime specialization, the ABA deemed the program to be unnecessary given the sophistication of industry members, overreaching in terms of its scope, and difficult to implement given the breadth of the maritime field. Also, many states have considered similar proposals but only Florida has adopted a maritime specialty, with mixed results.

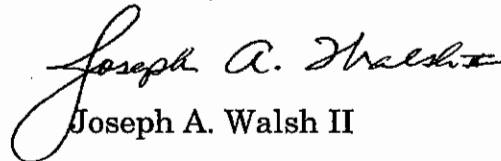
In closing, the proposed certification in admiralty and maritime law is entirely unnecessary and does not serve the purposes of legal specialization in general. Such a certification program would have no practical effect because virtually all maritime clients are already quite experienced and sophisticated in their knowledge of how to identify competent counsel. Further, a certification program in maritime law would have no public benefit, because it would only serve to mislead uninformed clients rather than help them identify attorneys with competence in the particular area of maritime law.

Board of Legal Specialization  
August 9, 2007  
Page 3

Re: Proposed Specialty Certification in Admiralty and Maritime Law

For the foregoing reasons, I respectfully request that the Board reject the proposed maritime certification program.

Very truly yours,

  
Joseph A. Walsh II

JAW:smu (KYL\_LB1107612)

Stanley I. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Mark E. Lovell, Jr.  
Michelle L. Tommey  
Joshua A. Southwick  
Chelsea D. Yuan  
Marisa G. Huber

**GIBSON ROBB & LINDH LLP**  
**100 First Street, 27<sup>th</sup> Floor**  
**San Francisco, CA 94105**

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

[www.gibsonrobb.com](http://www.gibsonrobb.com)

July 7, 2008

**Via Facsimile(415) 538-2180**

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

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

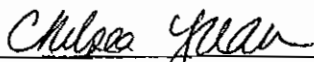
Dear Boardmembers:

This is a public comment against the proposed certification of a specialty for admiralty and maritime law in California.

I have read Jennifer Tomlin Sanchez' letter on behalf of the Pacific Admiralty Section of the Bar Association of San Francisco and agree with all the reasons set forth in that letter that proposed certification of an admiralty specialty should not be approved. It is not needed, and is poorly drafted so that it will not help the public or the profession.

Very Truly Yours,

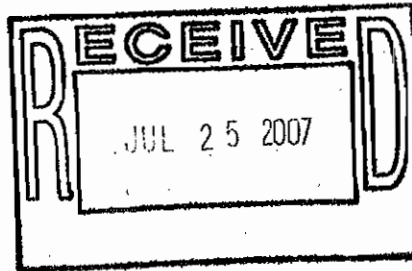
GIBSON ROBB & LINDH LLP

  
\_\_\_\_\_  
Chelsea D. Yuan

CDY:tpw

NEW YORK  
 LONDON  
 LOS ANGELES  
 CHICAGO  
 HOUSTON  
 PHILADELPHIA  
 SAN DIEGO  
 SAN FRANCISCO  
 BOSTON  
 WASHINGTON, DC  
 LAS VEGAS  
 ATLANTA  
 MIAMI  
 PITTSBURGH  
 NEWARK  
 ALLENTOWN  
 WILMINGTON  
 HARRISBURG  
 PRINCETON  
 LAKE TAHOE

ROBERT J. ZAPF  
 DIRECT DIAL: 213.689.7475  
 E-MAIL: rjzapf@duanemorris.com



July 23, 2007

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

Re: Admiralty and Maritime Law – Proposed Specialty Certification

Dear Sirs:

I received your notification and request for comment concerning a Proposed Specialty Certification for practitioners of Admiralty and Maritime Law. I have been practicing admiralty and maritime law for 32 years, the last 11 of which have been here in California as a member of the California State Bar (No. 183762). I write to oppose the addition of this practice area to state bar certification and qualification requirements, for the reasons set forth below.

First and foremost, admiralty and maritime law is substantively and procedurally international in nature, and in this country, federal in nature, not principally a matter of state law. One of its governing tenants is uniformity, a goal which is pursued on both the national level within the United States, and on the international level with various organizations including the Comite Maritime International (“CMI”), the International Maritime Organization (“IMO”), the United Nations Conference on Trade and Development (“UNCTAD”), and the United Nations Commission on International Trade Law (“UNCITRAL”). Admiralty law practitioners are familiar with the substantive and procedural international and federal laws governing that practice and routinely appear on behalf of clients in numerous states around the country. It would ill behoove the practice and the practitioner to be subject to the vagaries of various state requirements for qualification or certification to practice in this area. With numerous states having ports on all coasts of the United States, if each such state adopted requirements for the qualification or certification of admiralty practitioners, uniformity would be adversely affected on a large scale, to the confusion and detriment of the practice and of the interests of the clients we serve.

Board of Legal Specialization  
July 23, 2007  
Page 2

Further, there are already in place nationwide standards governing and applicable to practitioners of admiralty and maritime law.

The Maritime Law Association of the United States (“MLA”) was founded in 1899 and is an association of over 3,000 members consisting largely of attorneys from around the United States (259 of which are California attorneys) who engage in the practice of admiralty and maritime law in various federal and state courts.<sup>1</sup> MLA members are or represent clients engaged in all aspects of the international and domestic shipping industry, including shippers, carriers, stevedores, terminal operators, ship owners and operators, cargo owners, tug and barge owners and operators, cruise lines, passengers, marine insurers, financial institutions, and all persons and entities engaged in maritime commerce. The objectives of the MLA are to advance reforms in the marine laws of the United States, facilitate justice in its administration, promote uniformity in its enactment, interpretation, and enforcement, to furnish a forum for the discussion and consideration of problems affecting maritime law, and to act with other associations in an effort to bring about a greater harmony in the shipping laws, regulations, and practices of different nations. To that end, the MLA is a constituent member of the CMI and an affiliated organization of the American Bar Association.

In recognition of the desire of clients and the public at large to be able to satisfy themselves concerning the qualifications of admiralty and maritime law practitioners, a number of years ago the MLA adopted a two tier system of attorney membership – Associate Members and Proctor Members. The title of “Proctor in Admiralty” harkens back to the early days of practice in the Admiralty Courts of England beginning in the 13<sup>th</sup> century, and later in the United States at the time of the founding of our country, and was adopted to recognize the rich history of admiralty practice. In order to qualify as a “Proctor” member, the MLA adopted the following requirements:

1. Associate lawyer membership in good standing in the Association for a period of at least (4) years and admission to the Bar of the appropriate United States District Court.
2. Letters in support from at least two Proctor members in good standing whose principal area of maritime practice is the same as that of the applicant, stating that the applicant has demonstrated expertise in that area of practice as well as high standards of ethical and professional conduct; neither the proposer nor the seconder shall be associated with the applicant in the practice of law.

---

<sup>1</sup> While I am an MLA member, I write not as a representative of the MLA but as an individual practitioner in the State of California.

3. At least one of the following:
  - a. evidence of earning a total of 20 credit points in continuing legal education in the field of Admiralty after the admission to the applicable state bar, computed as follows:
    - i. one half ( $\frac{1}{2}$ ) point for each hour of attendance at a seminar approved by the Association's Committee on Continuing Legal Education;
    - ii. one (1) point for each hour of class attendance as a post-graduate course in Admiralty conducted by an ABA accredited Law School.
  - b. publication by the applicant of an article, speech, or text or casebook on a subject related to the practice of Maritime Law; or
  - c. evidence of concerns for the professional standards and aims of the Association by participation in the work of committees, the other activities of the Association, recognized institutions of higher learning, bar associations; or
  - d. evidence of other achievements which, in the opinion of the members of the Admissions Committee, promote and enhance the status of the Admiralty Bar, the cause of justice, and the general aims of the Association; or
  - e. evidence of significant satisfactory participation in maritime trials, arbitrations or hearings or significant satisfactory participation in the preparation of appellate briefs or other legal documents (including memoranda, opinions, contracts, et cetera) relating to maritime matters.

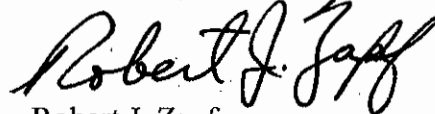
These qualifications are posted on the MLA website, [www.mlaus.org](http://www.mlaus.org), under the link "Membership Forms." Members with Proctor status are listed under the link "Members."

Thus, clients and the public are easily capable of locating and ascertaining the qualifications of admiralty and maritime law practitioners, without the necessity of checking different state rules and requirements for such qualifications and certifications. Further, as a very collegial bar, it is quite customary for admiralty practitioners in one part of the country to recommend practitioners in another part of the country, if so requested.

Board of Legal Specialization  
July 23, 2007  
Page 4

In short, adding the specialty certification requirements for the practice of admiralty and maritime law in the State of California is unnecessary and detrimental to the concept of uniformity which guides that practice area.

Respectfully submitted,



Robert J. Zapf

cc. Lizabeth B. Burrell, Esq.  
President, The Maritime Law Association of the United States

Forrest Booth, Esq.  
Messrs. Severson & Werson

Stanley L. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez

**GIBSON ROBB & LINDH LLP**  
100 First Street, 27<sup>th</sup> Floor  
San Francisco, CA 94105

Marker E. Lovell, Jr.  
Joshua A. Southwick  
Ellen G. Lauck

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

June 26, 2007

VIA Email

[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov)

and Fax – 415-538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Speciality Certification in  
Admiralty and Maritime Law

Dear Board Members:

I offer these comments on the proposed specialty certification in admiralty and maritime law as a member of the California Bar on my own behalf and not on behalf of any organization.

#### QUALIFICATIONS

I have been a member of the California Bar for over 35 years and have devoted virtually my entire career to practicing in many of the areas the proposed specialty identifies as “admiralty and maritime law.” I have litigated numerous cases in the federal courts and appeals in the Ninth Circuit involving loss or damage to cargo, tug and tow disputes and casualties, collision, salvage, maritime liens, limitation actions, disputes under marine insurance policies and wrongful death during vessel repair. I have been selected by litigants to privately mediate numerous cases involving “maritime law” pending in the federal courts in California.

I am an adjunct professor of Maritime Law at USF law school, where I have been

co-teaching Introduction to Maritime Law since 2001. I am on the board of advisors to the USF Maritime Law Journal. In 1985, I was invited by the PRC as its guest to teach a course on the US Carriage of Goods by Sea Act and the Foreign Sovereign Immunities Act at the Shanghai Maritime Institute, which I did in November of 1985. I am also on the Northern District of California's appointed panel of Early Neutral Evaluators for maritime cases. I have published articles on maritime law involving loss/damage to cargo, *The Development of Unreasonable Deviation Under U.S. COGSA*, University of San Francisco Maritime Law Journal, Summer 1991 (lead article) and *Sky Reefer Muddies the COGSA Waters*, University of San Francisco Maritime Law Journal, Fall 1996 (lead article). I was a Speaker/Panelist at the prestigious Admiralty Law Institute program on Tug & Tow Issues at Tulane University in 1995.

## COMMENT

To put it simply, the proposed specialty is far too broad to be meaningful to the public or reasonable for a practitioner to achieve expertise in all areas designated as maritime law in the proposal's definition (Proposal 1.0). One of the stated goals of certifying a specialty is to help the public identify attorneys who are proficient in a *particular area of law*. When the proposed specialty is defined so broadly that no practitioner can be a specialist in all of the areas, the public can easily be misled into believing a specialist in a particular area of maritime law is being retained when, in fact, that attorney may have no particular expertise in the required area of maritime law. As a result, in my opinion, certifying a California specialty in Admiralty and Maritime law is far more likely to mislead the public than to aid in the selection of competent counsel in a particular case potentially involving maritime law.

Maritime law involves all of the disciplines that encompass all aspects of commerce on, and use of, the navigable waters of the United States and in international waters. Maritime law and the Admiralty practice are so broad that no practitioner can be a true "specialist" in all areas. Certifying a speciality in admiralty and maritime law would be like certifying a specialty in "business law" or "business litigation." How would that assist the public in selecting competent counsel in a slip and fall on board a vessel; in a pleasure boat collision on San Francisco Bay; in a case of a seaman injured on board his employer's vessel; in a ship finance transaction; in a cargo loss or damage case; in a marine insurance case; in a United States Coast Guard licensing issue; in a dispute with the Federal Maritime Commission; in the negotiation and drafting of a marine services

agreement; in the drafting or arbitration of a charter party (vessel lease); in filing or responding to an action to limit liability to the value of the vessel at the end of its voyage? The list can and does go on and on.

After having practiced for 35 years in the field, I have not handled, nor would I feel competent to handle, a labor matter before an ALJ for the Dept. of Labor (Proposal Task 2.1.11), whatever that has to do with the practice of maritime law, or to represent a party in an LHWCA proceeding (Proposal Task 2.1.12). I would not expect a practitioner well versed in those proceedings to be a “specialist” in all of the “maritime law” areas in which I do practice.

To be sure, many aspects of a “maritime law” practice are unique and highly specialized, requiring knowledge of laws and concepts handed down from the civil law and not the common law. There are unique procedures derived from the admiralty courts of England unknown to the common law and embodied in special rules of procedure incorporated into the FRCP when the admiralty rules of procedure were combined with the FRCP in 1967. However, this does not mean that a broad and diverse body of law and procedure is a legitimate candidate for certification as a narrow speciality.

There is also the aspect of the need for uniformity in the application and practice of maritime law which is primarily federal in nature. Having different states certifying a primarily federal practice based on separate state certification standards is not wise and could be misleading to the public. This issue has been addressed in a thoughtful article by California Bar member Graydon Staring in *The Proctor's Dilemma: Certifying Specialties in Admiralty*, 28 *Journal of Maritime Law and Commerce* 503 (1997). I attach it hereto and urge members of the Board of Legal Specialization to read this article before coming to any conclusions.

Respectfully submitted,

/s/ Stanley L. Gibson

Stanley L. Gibson

California Bar No. 047882

Stanley L. Gibson  
C. Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Mark E. Lovell, Jr.  
Michelle L. Tommey  
Joshua A. Southwick  
Chelsea D. Yuan  
Marisa G. Huber

## GIBSON ROBB & LINDH LLP

100 First Street, 27<sup>th</sup> Floor  
San Francisco, CA 94105

[www.gibsonrobb.com](http://www.gibsonrobb.com)

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

Writer's Direct Dial  
(415) 979-2820

[sgibson@gibsonrobb.com](mailto:sgibson@gibsonrobb.com)

July 10, 2008

VIA Email

[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov)

and Fax - 415-538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Speciality Certification in Admiralty and  
Maritime Law  
Comments re Proposed Revisions

Dear Board Members:

The proponents of certification have submitted revised requirements to certify the above speciality, indicating that the Board continues to be interested in certifying a speciality in this field. I therefore take this opportunity to comment on some of the specific proposed requirements.

I expressed opposition to the original proposal focusing on the concept of certifying a speciality in a field as broad and international as Admiralty and Maritime Law. I attach a copy for your easy reference which also sets forth a recitation of my qualifications to address the issue. In brief, I have practiced maritime law for over 35 years and have co taught "Introduction to Maritime Law" at USF Law School for the last 7 years. My sections of the course teach the origins of maritime law, contracts subject to the admiralty jurisdiction of the federal courts, maritime liens, preferred ship mortgages, *in rem* jurisdiction and procedure, carriage of goods by sea, collision, salvage, general average, marine insurance, charter parties and tug & tow. I do not teach any

maritime personal injury subjects in my sections, but my sections are, nonetheless, 100% maritime law.

As can be seen from the recitation of subjects which I teach in an *introduction* course (from which no specialists emerge) when compared to the revised proposed requirements, there are glaring omissions of entire topics and underweighting of many others in comparison to the field of maritime personal injury, which, in my view, is grossly overweighted in the proposed task requirements. For example:

2.0 requires an applicant to accumulate a total of 300 points over the five previous years, of which 100 must be accumulated in the 2.1 tasks. How can one meet this "specialization requirement?" It can be met solely by handling personal-injury related matters:

- 2.1.6 maritime personal injury or wrongful death claim – 40 points per matter. Maximum points per category = 120. Handling only 3 personal injury matters and *nothing else* meets the minimum requirement of 100 points in the 2.1 tasks.
- 2.1.12 LHWCA proceedings (maritime workers' comp. – solely on the job injuries) -- 30 points per matter. Maximum points: 150. Again, handling only 4 LHWCA matters and *nothing else* meets the requirement of 100 points in the 2.1 tasks.

An attorney seeking certification as an admiralty and maritime law specialist, implying knowledge and expertise in *all* maritime law fields, can amass *270 points* of the required 300 by handling 8 matters in only two areas of practice, both solely related to personal injuries. How does one achieve the remaining thirty points? Under 2.2.5 – simply prepare and file a complaint asserting a claim for a maritime personal injury – 30 points per matter. Or, under 2.2.4, one can provide substantive written legal advice/analysis to a client evaluating the merits of a maritime personal injury claim or defense – 5 points per matter and 30 maximum points. The result: *The entire practice task requirement of 300 points can be met solely by handling personal injury matters.*

On the other hand, there are:

*ZERO* – Points for advising a small uninsured exporter whose cargo was on board the Cosco Busan when it hit the Bay Bridge and is being held on the Oakland pier pending posting of GA (general average) security after the vessel owner declared a GA event. GA is one of the most maritime of legal doctrines and one that exists only in maritime law. It is not even on the list of requirements. See Ralli v. Troop, 157 U.S. 386 (1895) for the history and application of the principle. Today, most GA bonds and guarantees require disputes to be arbitrated in London.

*ZERO* – Points for negotiating and preparing an MSA (Marine Services Agreement) for movement of cargo and/or people within the navigable waters of the United States. The Bay

Bridge and other retrofit projects have generated the need for such agreements.

*ZERO* – Points for negotiating/drafting/advising re a service agreement between a high volume cargo shipper and an ocean carrier. Such agreements were authorized by the Ocean Shipping Reform Act (amended 1998).

*ZERO* – Points for providing substantive written legal advice/analysis to a client evaluating the merits of a claim for loss or damage to ocean cargo.

*ZERO* – Points for drafting a complaint to recover for loss or damage to ocean cargo (there are many small importers in California).

*ZERO* – Points for drafting a complaint to recover for collision damage (recreational boaters and fishermen have collisions far more often than large commercial vessels and recreational boaters and fishermen are frequently uninsured).

*ZERO* – Points for drafting a complaint for salvage;

*ZERO* – Points for drafting a complaint to enforce a maritime lien for necessities (small businesses repair yachts and pleasure craft);

*ZERO* – Points for drafting a complaint to recover under a contract of marine insurance (probably one of the persons most in need of a maritime law specialist);

*ZERO* – Points for drafting a complaint for breach of a towage contract;

*ZERO* – Points for drafting a complaint seeking declaratory relief to test coverage under a contract of marine insurance,

*ZERO* – Points for drafting a complaint to enforce an arbitration award rendered after arbitration of a maritime dispute (many maritime disputes are subject to arbitration by the involved contract).

*WHY IS IT THAT THE ONLY COMPLAINT WHICH EARNS POINTS TOWARD SPECIALIZATION CERTIFICATION IS A COMPLAINT TO RECOVER FOR MARITIME PERSONAL INJURY OR WRONGFUL DEATH?*

*ZERO* – Points for drafting an Answer to *any* complaint alleging maritime causes of action, with the exception of an Answer and Claim in a Rule F limitation action and that is worth only 5 points.

*ZERO* – Points for advising a client regarding the defense against, applicability or enforcement of

a preferred ship mortgage – the only way to borrow money on a U.S. flag vessel and purely a creature of federal statute. See 46 USC § 31301(6), 31307;31322, 31325 for the basics.

*MARINE INSURANCE* – Maritime law and marine insurance go hand in hand. There are full semester law school courses devoted solely to the subject of marine insurance. However, this very important area of maritime law is essentially dismissed by the proposed certification requirements.

I teach the three most basic kinds of marine insurance policies as part of my Introduction class: cargo, hull and P&I (liability). Each policy has unique features very different from their landside cousins and, in my view, *anyone certified as a specialist in maritime law MUST have a working knowledge of the primary characteristics of each policy, the applicable California law and the interplay with Federal Maritime law.* (See Wilburn Boat v. Fireman's Fund Ins. Co., 348 U.S.310 (1955)). The California Insurance Code §1900, et. seq. sets forth substantive law which applies only to *marine insurance*, including formation of the contract and other strictly maritime obligations.

An attorney's lack of knowledge of marine insurance law and the relevant California Ins. Code provisions can be devastating to consumers of marine insurance, be they individuals or large entities. For example, just ask Mr. and Mrs. William Smith who learned they had no coverage due to a provision of the California Marine Ins. code after their vessel sank. See CNR Atkin v. Smith, 137 F.3d 1169 (9<sup>th</sup> Cir. 1998). P&I policies have their peculiarities unknown on land, as the City of San Francisco learned to its dismay. See City and County of S.F. v. Underwriters at Lloyd's, 141 F.3d 1371 (9<sup>th</sup> Cir. 1998). Also, most P&I policies are self-consuming. That is, there is a stated maximum amount payable under the policy for any reason, including defense costs. The more the liability claim is defended, the less money there is available for settlement.

What do the proposed requirements accomplish to protect a California consumer seeking legal advice concerning marine insurance, an area of maritime law at least as, and quite probably more, intricate and specialized as maritime personal injury law and which has at least as much, if not more, effect on the consumer? *NOTHING*. There are no specific requirements for knowledge of even the basics of cargo, hull or P&I insurance and applicable California or federal law. There is no ability to earn points towards specialization for handling matters specific to any of the basic policies or any marine insurance policy.

Moreover:

*ZERO* – The points one can earn toward specialization under 2.1 by handling marine insurance coverage matters, litigated or not, either representing plaintiff or defendant. There is *nothing* in 2.1 regarding marine insurance. Recall that the proposal requires that a minimum of 100 points must be earned by accomplishing one or more of the tasks listed in 2.1.

Under 2.2.8, drafting an insurance contract is lumped in with all other contracts and one can earn up to 15 points per contract for a maximum of 90 points. That would be 6 insurance contracts. The problem is, 99% of marine insurance contracts are already drafted by the time lawyers in California deal with them. Clients might seek advice concerning endorsements for new kinds of coverage, but that is exceedingly rare. Thus, it would be virtually impossible for a maritime lawyer who frequently deals with marine insurance issues to earn any points under this section.

2.2.9 provides the only realistic way for an attorney with a marine insurance practice seeking specialist certification to earn points, up to 10 points per matter with a 50 point maximum. *Why is marine insurance not given equal weight in comparison to maritime personal injury in 2.1.6 – 40 points per matter with a maximum of 120 points? Or, more appropriately, why isn't 2.1.6 limited to 10 points per matter with a 50 point maximum?*

### *Ocean Cargo Law*

2.1.5 – Those who practice in the area of movement of goods by ocean in international commerce – an arena governed by federal statutes – mostly the U.S. Carriage of Goods by Sea Act (Coga) – are somehow deemed less worthy of certification than those practicing personal injury law, even after the revisions – 25 points per matter with a maximum of 75 points. Again, while an improvement over the points for marine insurance practice, why isn't 2.1.6 limited to 25 points per matter with a 75 point maximum? Why does providing substantive written legal advice/analysis to a client evaluating the merits of a claim for loss or damage to cargo merit *ZERO* points while accomplishing the same task arising out of a claim for maritime personal injuries merits 5 points per matter with a maximum of 30 points?

### Conclusion

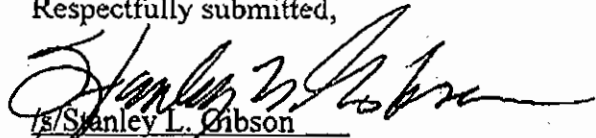
Whether intended or not, the current requirements are a fast-track way for those practicing primarily in the maritime personal injury field to obtain certification as a maritime law specialist – an implied representation that they are experienced in *all* maritime law fields. Yet, this certification can be obtained without venturing outside the area of maritime personal injury law. Those who practice maritime law primarily in other fields have no such advantage. Their areas of practice are mostly ignored or carry little “weight” in terms of available “points” toward certification. The Board ought not favor one practice area over another when considering certifying a specialty that covers so many different and important sub-areas of unique law. At a minimum, the Board should require that *ALL* areas of maritime law be given equal weight in setting the requirements to achieve specialty certification. To this end, the Board should mandate that any “points” be awarded in a manner that requires experience in handling matters in *each* area. The current proposal falls far short of that goal.

To be sure, meeting the necessary requirements for experience in, and knowledge of, all areas of maritime law and practice will be difficult. It should be if certification is to have credibility and

Board of Legal Specialization  
July 10, 2008

not mislead the public. Perhaps the objection will be heard that no practitioner could ever meet the necessary requirements to be certified as an Admiralty and Maritime Law specialist. That point may be well taken, which brings us back to the original objection: it is a bad idea. With the currently proposed and grossly out of balance requirements, it is a bad idea made even worse in the details.

Respectfully submitted,



/s/ Stanley L. Gibson

Stanley L. Gibson

California Bar No. 047882

Stanley L. Gibson  
G. Geoffrey Robb  
Peter A. Lindh  
Joshua B. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez

**GIBSON ROBB & LINDH LLP**  
100 First Street, 27<sup>th</sup> Floor  
San Francisco, CA 94105

Marker T. Lovell, Jr.  
Joshua A. Southwick  
Ellen G. Lauck

Telephone  
(415) 348-6000

Facsimile  
(415) 348-6001

June 26, 2007

VIA Email

[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov)

and Fax – 415-538-2180

Board of Legal Specialization  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: Proposed Speciality Certification in  
Admiralty and Maritime Law

Dear Board Members:

I offer these comments on the proposed specialty certification in admiralty and maritime law as a member of the California Bar on my own behalf and not on behalf of any organization.

### QUALIFICATIONS

I have been a member of the California Bar for over 35 years and have devoted virtually my entire career to practicing in many of the areas the proposed specialty identifies as “admiralty and maritime law.” I have litigated numerous cases in the federal courts and appeals in the Ninth Circuit involving loss or damage to cargo, tug and tow disputes and casualties, collision, salvage, maritime liens, limitation actions, disputes under marine insurance policies and wrongful death during vessel repair. I have been selected by litigants to privately mediate numerous cases involving “maritime law” pending in the federal courts in California.

I am an adjunct professor of Maritime Law at USF law school, where I have been

co-teaching Introduction to Maritime Law since 2001. I am on the board of advisors to the USF Maritime Law Journal. In 1985, I was invited by the PRC as its guest to teach a course on the US Carriage of Goods by Sea Act and the Foreign Sovereign Immunities Act at the Shanghai Maritime Institute, which I did in November of 1985. I am also on the Northern District of California's appointed panel of Early Neutral Evaluators for maritime cases. I have published articles on maritime law involving loss/damage to cargo, *The Development of Unreasonable Deviation Under U.S. COGSA*, University of San Francisco Maritime Law Journal, Summer 1991 (lead article) and *Sky Reefer Muddies the COGSA Waters*, University of San Francisco Maritime Law Journal, Fall 1996 (lead article). I was a Speaker/Panelist at the prestigious Admiralty Law Institute program on Tug & Tow Issues at Tulane University in 1995.

## COMMENT

To put it simply, the proposed specialty is far too broad to be meaningful to the public or reasonable for a practitioner to achieve expertise in all areas designated as maritime law in the proposal's definition (Proposal 1.0). One of the stated goals of certifying a specialty is to help the public identify attorneys who are proficient in a *particular area of law*. When the proposed specialty is defined so broadly that no practitioner can be a specialist in all of the areas, the public can easily be misled into believing a specialist in a particular area of maritime law is being retained when, in fact, that attorney may have no particular expertise in the required area of maritime law. As a result, in my opinion, certifying a California specialty in Admiralty and Maritime law is far more likely to mislead the public than to aid in the selection of competent counsel in a particular case potentially involving maritime law.

Maritime law involves all of the disciplines that encompass all aspects of commerce on, and use of, the navigable waters of the United States and in international waters. Maritime law and the Admiralty practice are so broad that no practitioner can be a true "specialist" in all areas. Certifying a speciality in admiralty and maritime law would be like certifying a speciality in "business law" or "business litigation." How would that assist the public in selecting competent counsel in a slip and fall on board a vessel; in a pleasure boat collision on San Francisco Bay; in a case of a seaman injured on board his employer's vessel; in a ship finance transaction; in a cargo loss or damage case; in a marine insurance case; in a United States Coast Guard licensing issue; in a dispute with the Federal Maritime Commission; in the negotiation and drafting of a marine services

agreement; in the drafting or arbitration of a charter party (vessel lease); in filing or responding to an action to limit liability to the value of the vessel at the end of its voyage? The list can and does go on and on.

After having practiced for 35 years in the field, I have not handled, nor would I feel competent to handle, a labor matter before an ALJ for the Dept. of Labor (Proposal Task 2.1.11), whatever that has to do with the practice of maritime law, or to represent a party in an LHWCA proceeding (Proposal Task 2.1.12). I would not expect a practitioner well versed in those proceedings to be a "specialist" in all of the "maritime law" areas in which I do practice.

To be sure, many aspects of a "maritime law" practice are unique and highly specialized, requiring knowledge of laws and concepts handed down from the civil law and not the common law. There are unique procedures derived from the admiralty courts of England unknown to the common law and embodied in special rules of procedure incorporated into the FRCP when the admiralty rules of procedure were combined with the FRCP in 1967. However, this does not mean that a broad and diverse body of law and procedure is a legitimate candidate for certification as a narrow speciality.

There is also the aspect of the need for uniformity in the application and practice of maritime law which is primarily federal in nature. Having different states certifying a primarily federal practice based on separate state certification standards is not wise and could be misleading to the public. This issue has been addressed in a thoughtful article by California Bar member Graydon Staring in *The Proctor's Dilemma: Certifying Specialties in Admiralty*, 28 Journal of Maritime Law and Commerce 503 (1997). I attach it hereto and urge members of the Board of Legal Specialization to read this article before coming to any conclusions.

Respectfully submitted,

/s/ Stanley L. Gibson

Stanley L. Gibson

California Bar No. 047882

LAW OFFICES  
**KEESAL, YOUNG & LOGAN**  
A PROFESSIONAL CORPORATION

BAMUEL A. KEESAL, JR.  
STEPHEN YOUNG  
MICHAEL M. GLESS  
PETER R. BOUTIN  
SCOTT T. PRATT  
TERRY ROSS  
JOHN D. CIPPIN  
WILLIAM K. COLLIER, JR.  
PHILIP A. MOLEOD  
NEAL SCOTT ROSS  
BEN BUTER  
ALBERT E. PEACOCK III  
CAMERON STOUT  
ROBERT J. STEMLER  
LISA M. BERTAN  
ROBERT J. BOCKO\*\*  
MICHAEL R. FRON  
ELIZABETH P. BEAZLYK

JOSEPH A. WALON II  
HERBERT H. RAY, JR.\*  
JODI S. COHEN  
PHILIP R. LEMPROERE\*\*  
JULIE L. TAYLOR  
STACEY MYERS GARRETT  
JON W. SINKE\*  
DOUGLAS R. DAVIS\*\*  
GORDON C. YOUNG  
ELIZABETH H. LINDH  
KELLY J. MOYNEER  
CARA L. MEREDITH  
SARAH TONG SANOMEISTER  
MARC R. GREENBERG  
JULIE A. HOLE  
DAVID E. PIPER  
THEODORE H. ADKINSON  
ESTHER E. CHO

400 OCEANGATE  
LONG BEACH, CA 90802  
P.O. BOX 1780  
LONG BEACH, CA 90801-1780  
(562) 436-2000  
FACSIMILE:  
(562) 436-7418  
[www.kyl.com](http://www.kyl.com)

GLEN R. PIPER  
CATHARINE M. MORISSETT  
CHRISTOPHER A. STECHER  
DIANA J. COBURN  
AUDETTE PAUL MORALES  
SCOTT E. HINGSCHE  
MELANIE L. RONEN  
BENJAMIN W. WHITE  
ELIZABETH A. LOGAN  
BENTLEY P. STANBURY III  
ATLANTIS TELLMAN LANCOWSKI  
JOHN D. KIMMERLEIN†  
EVELYN A. CHRISTENSEN  
MARGARET A. DEGOOVER

ASHLEY YOUNG ADAMS  
GARRETT R. WYKNE  
JOHN L. BARALA  
JASON R. LINDSAY  
JOHN COX  
DAVID A. TONG  
MARK A. WILLIAMS  
MOMO K. TAKAHASHI  
TONI V. LONG  
CHARLES M. SULLY  
ANGELINA J. PAPADAKIS  
STEFAN FEROVICH  
ARLAN L. LIU  
NICOLAS J. VIKSTROM

OF COUNSEL  
ROBERT H. LOGAN  
RICHARD A. APPELBAUM\*  
REAR ADMIRAL, U.S.C.G. (RET.)  
ELIZABETH A. KENDRICK  
RICHARD L. LANDES

SANDOR X. MAYUGA  
DAVID W. TAYLOR  
NANCY HARRISS†  
FRANCES L. KOEHLER

August 9, 2007

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

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

Re: Proposed Specialty Certification in Admiralty and Maritime Law

Dear Board Members:

Below, in quotes, is the text of a letter which colleagues of mine in the Maritime Bar have asked that I forward to you. Rather than submitting the letter as my own I prefer to note that I adopt all that is said in the letter and urge the State Bar of California not to adopt a certification in admiralty and maritime law.

I also note that I have practiced maritime law in California since being admitted to the Bar in 1979. Virtually all of my work is maritime in nature.

The field of maritime law is extremely broad. In fact when people outside of the practice ask me about maritime law I routinely tell them that practicing maritime law is similar in scope to representing clients in virtually every practice area there is.

I, and my firm, routinely represent shipowners, charterers and their insurers in matters involving virtually anything that can happen on, to or near a ship, or that involves the carriage of goods or passengers at sea. As such our work involves personal injury claims (crewmembers, longshoremen, passengers, etc.), contracts (charter parties, bills of lading, terminal lease agreements, equipment interchange agreements, etc.), regulatory issues involving regulations of the U.S. Coast Guard, the Maritime Administration, the Immigration and Customs Enforcement Service, the Department of Defense, the California Department of Fish and Game, Air and Water Quality Districts and other Federal and State agencies. We also represent vessel owners and managers with regard to potential civil and criminal sanctions involving oil spills, pollution and contraband. Other significant

SAN FRANCISCO OFFICE  
SUITE 1800  
FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111  
(415) 390-8000  
FACSIMILE:  
(415) 681-0136 • (415) 681-7720

ANCHORAGE OFFICE  
SUITE 680  
1029 WEST THIRD AVENUE  
ANCHORAGE, AK 99501-1954  
(907) 270-0808  
FACSIMILE: (907) 270-4239

SEATTLE OFFICE  
SUITE 1818  
1301 FIFTH AVENUE  
SEATTLE, WA 98101  
(206) 622-3700  
FACSIMILE: (206) 343-9820

HONG KONG OFFICE  
1002 TIDE CENTRE MARK  
207 QUEEN'S ROAD CENTRAL  
HONG KONG  
(852) 3884-1718  
FACSIMILE: (852) 2541-6189

\* ADMITTED IN ALASKA  
† ADMITTED IN WASHINGTON  
‡ ADMITTED IN WASHINGTON & CALIFORNIA  
§ ADMITTED IN ALASKA & CALIFORNIA  
¶ ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA  
• REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY OF HONG KONG & ADMITTED IN NEW YORK  
• SOLICITOR ADMITTED IN ENGLAND, WALES AND NORTHERN IRELAND

ALL OTHERS ADMITTED IN CALIFORNIA

Board of Legal Specialization

August 9, 2007

Page 2

Re: Proposed Specialty Certification in Admiralty and Maritime Law

areas of our practice involve assisting our clients in complying with international conventions, such as the Maritime Pollution Convention, the Load Line Convention, the Convention on Safety of Life at Sea, Standards of Training, Certification and Watchkeeping and many others.

Also we routinely represent our clients with regard to claims relating to the damage of cargo, as well as groundings and collisions. Due to the multi-modal nature of the transportation of goods, cargo claims involve the application of the laws of multiple states and countries and multiple modes of transportation. Therefore in our practice we routinely deal with state and federal laws relating to the carriage of goods by sea, truck, rail and air. In addition, we must be familiar with international conventions regarding the carriage of goods by sea as well as the manner in which other countries adopt and codify those conventions.

Other areas of our maritime practice include labor issues involving seamen's unions, longshore unions, and truck drivers. In addition we represent our clients in employment issues involving maritime workers, including wage and hour disputes and class actions relating to collective bargaining agreements. We routinely appear in both state and federal courts in California as well as in arbitration forums and before administrative bodies including the United States Coast Guard, State Air and Water Quality Management Districts and the Department of Fish and Game. We also represent clients before various maritime boards and commissions such as the Board of Pilot Commissioners.

In short, based upon the extremely broad nature of the practice of maritime law, I can see no reasonable way for the Board to develop an appropriate criteria for specialization in that practice area. I can see no benefit to the Bar, to our clients or to the community for establishing such a certification. I strongly urge the Board to reject the proposed certification in admiralty and maritime law.

The following is the text which I adopt as my own:

"The field of admiralty and maritime law is as broad and diversified as it is specialized and unique. The field encompasses such a vast range of issues including cargo claims, collisions, marine insurance, regulatory law of many types, charter party work, pollution law, maritime finance, and personal injury law of several distinct types. The leading association of counsel in the area, The Maritime Law Association of the United States (MLA) has said that since admiralty and maritime law includes such diverse practice areas, "it can be stated conservatively

Re: Proposed Specialty Certification in Admiralty and Maritime Law

that there is no admiralty or maritime lawyer fully qualified to represent clients in all phases of maritime practice." The breadth of maritime law forces practitioners to specialize in just one or a few of the specific areas mentioned above. As a result, the subject of maritime law is too broad and the actual practice is ordinarily too narrow for maritime law to be a single specialty. To my knowledge, only one other state has adopted legal specialization of this field of law, and the experiment has proven to be a failure.

Further, establishing a legal specialization in maritime law would not be useful, either professionally or commercially. Generally, legal specialization is designed "to identify to the public attorneys who have demonstrated proficiency in the specialty fields and to encourage attorney competence." The ultimate goal in legal specialization is to protect potential clients from inexperienced attorneys. However, in the maritime context, most potential clients are sophisticated members of the shipping industry such as shipowners, charterers, shipbuilders, repairers, vessel and cargo underwriters, banks, and seamen's or harbor worker's unions. Such maritime industry participants are well versed in the legal issues that affect them and are readily familiar with the names of legal counsel who are competent to handle their particular needs. A program of specialization in maritime law serves no meaningful purpose other than to imply knowledge in such a variety of areas as to mislead the public about broad levels of purported competence which no lawyer can truthfully attest to having achieved.

Given that the field is so broad and that no attorney could possibly be well versed in all aspects of it, a "certification" in maritime law is more apt to mislead a potential client into believing that a particular attorney is experienced in the area relating to his or her claim. Consequently, a program of specialization in maritime law would have the perverse effect of misleading the public as to the competence of attorneys rather than ensuring it.

Historically, Bar Associations have not favored maritime certification programs. The American Bar Association (ABA) considered and rejected such a proposal in July 1980. In rejecting the proposed maritime specialization, the ABA deemed the program to be unnecessary given the sophistication of industry members, overreaching in terms of its scope, and difficult to implement given the breadth of the maritime field. Also, many states have considered similar proposals but only Florida has adopted a maritime specialty, with mixed results.

Board of Legal Specialization

August 9, 2007

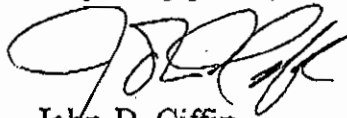
Page 4

Re: Proposed Specialty Certification in Admiralty and Maritime Law

In closing, the proposed certification in admiralty and maritime law is entirely unnecessary and does not serve the purposes of legal specialization in general. Such a certification program would have no practical effect because virtually all maritime clients are already quite experienced and sophisticated in their knowledge of how to identify competent counsel. Further, a certification program in maritime law would have no public benefit, because it would only serve to mislead uninformed clients rather than help them identify attorneys with competence in the particular area of maritime law."

For the foregoing reasons, I respectfully request that the Board reject the proposed maritime certification program.

Very truly yours,



John D. Giffin

CASB No. 89608

[john.giffin@kyl.com](mailto:john.giffin@kyl.com)

JDG:rdh (KYL\_SF455420)