SEAFARERS’ ADVOCACY:
KEY CHALLENGES

Tonya J. Meister
I. Knowledge of Legal Rights
   A. U.S. Maritime Law for Seafarers
      1. Maintenance and Cure- no fault
      2. Fault Based Claims
      3. Contract Based Claims
      4. Wrongful Termination
   B. Longshore Harbor Workers/ 905(b) Claim

II. Arbitration
   A. Employment Agreements/CBAs
   B. Unfair Process
   C. Foreign Law/Foreign Location

III. Misc. Seafarer Issues
   A. Must Understand Contracts and Forms
   B. Report Incidents and Injuries
   C. Time to Bring Legal Action
I. Knowledge of Legal Rights
   A. U.S. Maritime Law for Seafarers
      1. Maintenance and Cure - no fault
      2. Fault Based Claims
      3. Contract Based Claims
      4. Wrongful Termination
   B. Longshore Harbor Workers/ 905(b) Claim
II. Arbitration
   A. Employment Agreements/CBAs
   B. Unfair Process
   C. Foreign Law/Foreign Location
III. Misc. Seafarer Issues
   A. Must Understand Contracts and Forms
   B. Report Incidents and Injuries
   C. Time to Bring Legal Action
Early in our nation’s history, Justice Story declared: “Every court should watch with jealousy an encroachment upon the rights of a seaman, because they are unprotected and need counsel; . . . They are emphatically the wards of the admiralty.” Harden v. Gordon, 11 F. Cas. 480, 485 (C.C. Me. 1823).
Application of US law for Seafarers working for U.S. based companies or on U.S. based ships
I. Maritime Law - Seafarers
   A. Maintenance and Cure
      • Money for food/lodge ashore
      • Medical care
      • No fault benefit
      • Duration- maximum cure / maximum medical improvement
      • Defenses
I. Maritime Law - Seafarers
   B. Fault Based Claims

   • Jones Act Negligence
   • Unseaworthiness
   • Failure to Treat
   • Willful Refusal to Provide M & C
I. Maritime Law- Seafarers
   C. Contracts/Agreements

   • Disability Provision in CBA
   • Death Benefit
   • Retirement
I. Maritime Law - Seafarers
D. Wrongful Termination Claims

• At Will Employment

• UNLESS:
  • Discrimination
  • Seeking to Enforce Legal Rights
  • Violation of Public Policy
  • Whistleblower
I. Maritime Law - Workers
   B. Longshore Harbor Workers/ 905(b) Claim
OUTLINE

I. Knowledge of Legal Rights
   A. U.S. Maritime Law for Seafarers
      1. Maintenance and Cure- no fault
      2. Fault Based Claims
      3. Contract Based Claims
      4. Wrongful Termination
   B. Longshore Harbor Workers/ 905(b) Claim

II. Arbitration
   A. Employment Agreements/CBAs
   B. Unfair Process
   C. Foreign Law/Foreign Location

III. Misc. Seafarer Issues
   A. Must Understand Contracts and Forms
   B. Report Incidents and Injuries
   C. Time to Bring Legal Action
II. Arbitration

- Employment Agreements
- Collective Bargaining Agreements
II. Arbitration

- Unfair Process
  - Limited Discovery with Same Burden of Proof
  - Do not have Judicial safeguards
  - No court rules for fair process
  - Takes an unreasonable length of time
  - Limited appellate review
- Confidentiality
- Arbitrators tend to favor industry (the repeat customers)
- Attempt to mandate application of foreign law and location
OUTLINE

I. Knowledge of Legal Rights
   A. U.S. Maritime Law for Seafarers
      1. Maintenance and Cure- no fault
      2. Fault Based Claims
      3. Contract Based Claims
      4. Wrongful Termination
   B. Longshore Harbor Workers/ 905(b) Claim

II. Arbitration
   A. Employment Agreements/CBAs
   B. Unfair Process
   C. Foreign Law/Foreign Location

III. Misc. Seafarer Issues
   A. Must Understand Contracts and Forms
   B. Report Incidents and Injuries
   C. Time to Bring Legal Action
II. Misc. Issues

- Seafarers must read and understand documents that they sign and complete
  - Pre-employment Physical Forms
  - Written Statements
II. Misc. Issues

- Seafarers must report incidents and injuries
II. Misc. Issues

- Seafarers must timely pursue legal action in the proper forum
SEAFARERS’ ADVOCACY: Key Challenges

Thanks for attending.