



SOUTHEASTERN ADMIRALTY LAW INSTITUTE N • E • W • S • L • E • T • T • E • R

John F. Unger, Editor in Chief

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MESSAGE FROM HODGE ALVES, SEALI CHAIRMAN

June is fast approaching, so please block out your calendar for SEALI's Annual CLE Seminar scheduled for June 25-26, 2004. This year, we will be hosting our seminar at the Sawgrass Marriott in Ponte Verda Beach near Jacksonville, Florida. John Merting, Vice-Chairman and in charge of planning the seminar, has put together a quality program, and the location is also ideal for bringing the whole family.

Regarding this year's committee assignments, I have requested David Sipple and John Ungar to continue in their chair positions for the Long-Range Planning Committee and the Editorial Committee, respectively. Both did a fine job last year and are in the middle of ongoing projects. I believe that their remaining in their chair positions will provide continuity for this year. Also, with David Sipple's concurrence, I have decided to appoint Geoffrey Losee to chair a subcommittee under David's Long-Range Planning Committee. This subcommittee will be assigned the task of evaluating SEALI's IT needs, not only with respect to maintenance and improvement of our website but also the development of other possible IT resources. David and Geoffrey will be asking members to agree to serve on this IT subcommittee. If anyone is particularly into technology and would like to serve on this subcommittee, please let us know. Stephen Mattesky has rotated off the Editorial Committee and David Pope off the Long-Range Planning Committee, and we appreciate their past service. Michael Bagot has been assigned to the Editorial Committee.

I am sure everybody joins me in recognizing the extremely fine job Robert Barbier did as our Chairman for 2003. I suspect that Larry Jones will enjoy a lot more free time with less frequent calls from the Chairman this year. Jest-ing aside, Robert devoted a lot of time to SEALI, and we definitely benefited from his chairmanship. Additionally, Robert's Annual Meeting in Sonoma this past October was a complete success, and no SEALI member left the valley thirsty.

As your new Chairman, I look forward to this year and serving along with John Merting (Vice-Chair), Frank Billings (Secretary) and Mary Hubbard (Treasurer).

This year's Annual Meeting will be held at the Jackson Lake Lodge in the Grand Teton National Park near Jackson Hole, Wyoming. The Lodge is located near the foot of the Grand Teton Mountains, and the views from the Lodge are spectacular. Jackson Hole is just to the south, and the Yellowstone National Park is a few miles north. With reasonable rates at the Lodge, this is going to be another SEALI meeting which will be ideal for the family as a whole. Additionally, we will have a three-hour CLE program which Jim Chapman is chairing. The dates are September 30-October 3, 2004. Please make your reservations early.

It is an honor to have been selected as Chairman of SEALI for 2004. I trust that I can live up to the standards set by those who precede me in this position. I welcome any comments, suggestions or thoughts any of you may have as to how SEALI can better carry out its mission of service to the Admiralty Bar.

Allison and I look forward to seeing all of you in June and then again in October.

Hodge Alves

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CASE SUMMARIES

Willard Stewart vs. DUTRA Construction Company, Inc., 343 F3d 10 (1st Cir. 2003)Writ of Certiorari Granted

On February 23, 2004 the United States Supreme Court granted a writ of certiorari in this case, and the ruling of the Supreme Court could have an enormous impact on seaman's personal injury litigation in the United States. The case comes out of Boston and concerns a personal injury to an engineer during the construction of a highway tunnel connecting downtown Boston to Logan Airport. The Plaintiff was a Marine Engineer assigned to maintain the mechanical systems on a dredge being used in the construction. The dredge was classified as an industrial vessel and was registered with, and complied with safety regulations issued by, the United States Coast Guard. It had navigation lights, ballast tanks and a dining area. Although it was capable of moving itself with the use of anchors and cables, movement of any significant distance was done by tow. The dredge's spoils would be placed into scows. Stewart was actually on board one of the scows performing some repairs when the dredge and the scow collided causing Stewart to fall through an opening on the scow and sustain serious injuries. The First Court of Appeals in *Willard Stewart vs. DUTRA Construction Company* 230 F3d 461 (1st Cir.2000) [Stewart I] affirmed the trial court's decision denying Stewart seaman status on the basis that the vessel to which he was assigned to work - the dredge - was not a vessel in navigation because any navigation or transportation function was incidental to

the primary function of the dredge which was "construction". The court held the fact that the dredge moved regularly each day across navigable waters did not make it a vessel because such motion was incidental to its central purpose of construction.

Stewart presented only one question to the Supreme Court in his petition for certiorari and that was the following: "To qualify for 'seaman status' under the Jones Act, a worker must have an 'employment-related connection to a vessel in navigation.' What is legal standard for determining whether a special purpose water craft (such as a dredge) is a Jones Act 'vessel'?" The petition for certiorari notes that there is a split among the circuit with respect to special purpose water craft. Most notably, the Gulf of Mexico circuits (the 5th and 11th) would hold that such special purpose vessels - such as movable drilling rigs - do not lose their vessel status even when they are not being used in their navigation function. The Supreme Court's decision in this case could obviously have a significant impact on how offshore oilfield workers are classified. If you would like copies of the underlying Circuit Court opinions, the Supreme Court's order granting certiorari, and/or a copy of the petition for writ, please contact john.unger@roystonlaw.com.

Petition of RJF International Corp., C.A. No. 03-1696 (1st Cir. 1/8/04)

The previous issue of this Newsletter reported on a recent decision from the District of Rhode Island involving a seaman who fell from his vessel into the waters of New Haven harbor, struck his head on the dock, remained submerged for seven to ten minutes before being retrieved from the water, and sustained severe brain injury. Over a period of approximately one and one half years his employer made maintenance cure payments including medical expenses in the amount of approximately \$1,000,000. The trial court found maximum cure had not been reached and accordingly, the obligation for maintenance and cure payments continued. In January the First Circuit affirmed. SEALI member John W. Merting, Gulf Breeze, Florida, was involved on behalf of the seaman.

Roger Allen Elected St. Luke's Seminary Community President

Roger D. Allen, former long-time SEALI member, has been elected President of The St. Luke's Seminary Community student governing body. Roger, who continues to reside in New Orleans, is in the second year of a three-year Master of Divinity Degree program at The School of Theology at Sewanee, University of the South.

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SOUTHEASTERN ADMIRALTY LAW INSTITUTE, INC.

Application for New 2004 Membership

(Please type or print)

The Applicant must complete this application and secure the sponsorship and seconding. The application together with the application fee of \$20.00 and the first year's annual dues of \$70.00 (total of \$90.00) should be sent to SEALI, P.O. Box 1885, Athens, GA 30603-1885. If you have any questions, please call the SEALI administration office at 706-369-5664.

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LAW DEGREE: _____ (College or University) _____ Date

Percent of Practice in Admiralty & Maritime Law: _____

Description of Relationship to Maritime Activities (to be answered only by applicants for Associate Membership):

SPONSORSHIP

Applicants for Membership must be sponsored and seconded by a Member of SEALI. Applicants may also be sponsored and seconded by **one** officer or **one** director.

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