PENDER & COWARD
ATTORNEYS AND COUNSELLORS AT LAW

PRACTICE AREA

MARITIME PERSONAL INJURY AND PROPERTY DAMAGE

Our experienced attorneys counsel and defend waterfront and maritime employers in the complex jurisdictional crossroads that involve the Jones Act, Unseaworthiness, Maintenance and Cure, Longshore, 905(b), Admiralty Extension Act, State Workers Compensation, and State Common and Statutory Law. Waterfront and maritime employer negligence, maritime wage and hour disputes, maritime accidents, and personal injury litigation defense are in our wheelhouse whether you are dealing with offshore injury claims or claims closer to shore. Contact us to learn more about your options and strategies before, during, and after litigation.

Seamen's Rights: Jones Act, Unseaworthiness, and Maintenance and Cure

An injured employee seaman will often claim three causes of action against an employer. These claims of negligence under the Jones Act, damages allowed by the maritime law of unseaworthiness, and the ancient maritime obligations of maintenance and cure combine with the Savings to Suitors Clause to allow an injured seaman to bring these federal claims against his maritime employer in federal or state court. Bundling these claims ensures the seaman will have his or her claims heard by a judge and a jury.

General Maritime Negligence

General maritime law is the federal common law of personal injury and property damage as it relates to maritime accidents and maritime injuries. Where a federal statutory scheme does not control a particular action, this law applies. For instance, a person injured onboard a marine vessel, who does not qualify as a seaman, still possesses personal injury claims arising by operation of general maritime law. Additionally, the Admiralty Extension Act confirms these claims arise by operation of general maritime law regardless of whether the symptoms of the alleged injury first occur at sea or on land.

Longshore and 905(b)

Many employers have familiarity with state workers' compensation laws, but waterfront and maritime employers must understand not only the complexities of those statutory requirements but also the federal statutory requirements of the United States Longshore and Harbor Workers' Compensation Act. Like state workers' compensation laws, the Longshore Act provides statutory compensation in lieu of tort damages. However, this federal workers' compensation program requires a status and situs analysis and differs from state workers compensation laws in several ways. Moreover, section 905(b) of this federal workers compensation program allows injured workers to bring tort-based claims for breaches of marine vessel duties against vessel owners including an owner, who is the direct employer.

Property Damage

It is difficult to separate maritime property damage claims from maritime personal injury claims given the nature of vessel collisions and allisions. When vessels collide or allide both personal injury and property damage claims can often arise. In these situations, the violation of a statute or regulation normally decides the source of liability. The International Regulations for Preventing Collisions at Sea, the Uniform Inland Navigational Rules, and local navigation rules and ordinances are some of the laws that create the Rules of the Road for vessel operations and often come into play when dealing with personal injury and property damage claims. In addition, the Suits in Admiralty Act, the Federal Torts Claim Act, the Public Vessels Act, The Rivers and Harbors Act (Wreck Act), and maritime common law and its established maritime presumptions can come into play. Cargo damage claims have their governing statutory scheme and will often be governed by the provisions of the Harter Act and the Carriage of Goods by Sea Act (COGSA). We can assist with property damage claims falling into this complex arena of the law.

Admiralty

Whether the matter involves property damage or personal injury, our attorneys are well versed in maritime law and the Supplemental Rules of Admiralty. We can help with maritime attachments and garnishments, in rem actions against vessels, the arrest of vessels, limitation of liability actions by vessel owners, and vessel forfeitures.

We have handled a multitude of maritime matters for public and private marine terminals, shipyards, tug and barge interests, marine construction and engineering companies, fishing vessel owners, international ship lines, salvage companies, other waterfront and maritime businesses, and recreational boaters.