

ST. LOUIS MARITIME ATTORNEY URGES MARINE OPERATORS TO CONSIDER AN ALTERNATIVE TO THE HIGH COST OF LITIGATION

All marine operators dread the prospect of expensive litigation that follows when a company is sued. Whether it involves property damage or personal injury, lawsuits are expensive, time consuming, and divert company resources from its business plan. When a company is sued, the outcomes available from traditional litigation often present a lose/lose situation. If the company goes to trial and loses, it is faced with paying the judgment in favor of the plaintiff and paying all of the costs and expenses of the legal defense. Even if the company wins, there are still considerable resources expended for the legal defense. While insurance may cover the defense cost, the expenses of litigation can affect the company's insurance loss record, increasing insurance premiums for many years to come.

Sophisticated marine companies and their insurance underwriters recognize in many cases if a reasonable settlement can be reached early in the litigation, a lot of time and expense can be saved. So how does a company reach a prompt and reasonable settlement? Ron Fox of the Fox Galvin law firm has practiced maritime law for nearly 40 years. He knows the answer is mediation. "Mediation is a simple, informal, flexible process where the parties work to settle a suit or even a claim on terms both can accept," Fox says. "In mediations, both sides meet, share information, and their perspectives with the hope to find

common ground." Fox trained at the University of Missouri Center for Dispute Resolution. He has many years of experience with mediations representing marine companies. Now, he has taken the next step and serves as a neutral in mediations. A neutral or mediator is the umpire at the mediation who helps the parties reach a settlement. Whether it is Jones Act personal injury or a navigation related property damage matter, Fox has the combined marine and mediation experience to optimize the chances of a cost saving settlement.

Fox points out there are so many reasons mediation is better than litigation. First, mediations are confidential. So nothing said or done during mediation can be used against a party, even if no settlement is reached. Second, a settlement from mediation is prompt and final. That is to say, settlements end protracted litigation, and there is no appeal, which could drag on for years. Third, mediation settlement agreements can include remedies or benefits which a trial could never provide. For example, the parties can agree that the settlement terms, including any amount paid, will be kept secret and never disclosed. By contrast, a court could never order a verdict to be kept secret. Finally, and perhaps most importantly in mediation, the parties, not a judge

or jury, control the outcome. In mediation, the parties decide whether they will settle and on what terms. The parties are entirely in control. Fox notes, "A major incentive to settle a case is to avoid the risk and uncertainty of trial. Settlement eliminates these uncertainties. A good mediator helps the parties understand they can either take control of a case by settling, or they can face the risk of trial over which they have little or no control. Having control is frequently better than rolling the dice." Fox welcomes the opportunity to help parties understand that more times than not, the benefits of mediation and settlement outweigh a trial.

For more information about Fox Galvin's Mediation Practice, please contact Ron Fox at 314-588-7000, Ext. 122, or rfox@foxgalvin.com

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