



# MAINBRACE

MAY 2021 • NO. 1

BLANKROME  
maritime

## CONTENTS

1. Note from the Editor
2. Considerations on the Use of Offshore Wind Vessels for U.S. Operations
4. Criminal Enforcement under the Biden Administration
6. Mainbrace Live Webinar Series
7. Favorable Offshore Winds Blowing from the Biden Administration
10. Blank Rome News & Honors
14. Severe Weather Emergency Recovery Team
15. Risks Attendant to U.S. Rule B Alter-Ego Vessel Seizures
17. *Safe Passage* Blog
18. Seaman's Manslaughter: An Arcane Statute Turned Present-Day Enforcement Risk
20. Coronavirus ("Covid-19") Task Force
21. About Blank Rome
22. Risk Management Tools for Maritime Companies
23. Blank Rome's Maritime Industry Team

# Note from the Editor

BY THOMAS H. BELKNAP, JR.

**When *Mainbrace* started some 30 years ago**, it was a traditional print newsletter that went out by mail. Over the years, the publication has seen many updates in form and format, mirroring the industry-wide evolution from print to digital. This spring, *Mainbrace* took the next step in its evolution with the launch of our *Mainbrace Live* virtual webinar series. In April, we hosted two webinars, the first on preparing for the Biden administration's maritime and foreign policy and the second on providing an update on the offshore wind industry. If you missed these presentations, you can still view them using the links in our *Mainbrace Live* section below. I also encourage you to register for our upcoming sessions, U.S. Maritime Litigation Trends (May 18) and U.S. Maritime Regulatory Update (June 22). If you miss them, don't worry—recordings will be posted for later viewing. And keep an eye out for more *Mainbrace Live* sessions in due course.

As you will see from this latest newsletter issue, we aren't abandoning or replacing the traditional print version of *Mainbrace*—we view *Mainbrace Live* as an addition to our communications toolbox. We are grateful for these opportunities to communicate with our clients and colleagues in the industry, and we hope that you enjoy this latest issue which, we think, dovetails nicely with the subjects covered in our new webinar series. As always, we welcome suggestions for new topics for *Mainbrace*, and now for *Mainbrace Live* as well. □ – 2021 BLANK ROME LLP



**EDITOR, *Mainbrace***

**THOMAS H. BELKNAP, JR.**

**Partner**

212.885.5270

[tbelknap@blankrome.com](mailto:tbelknap@blankrome.com)

# Considerations on the Use of Offshore Wind Vessels for U.S. Operations

BY JONATHAN K. WALDRON AND DANA S. MERKEL



**JONATHAN K. WALDRON**  
PARTNER



**DANA S. MERKEL**  
ASSOCIATE

As the offshore wind industry is growing in the United States, there is an influx of vessels that are considering operating on the U.S. outer continental shelf (“OCS”), both foreign- and U.S.-flag Jones Act-qualified vessels. An important consideration in planning for operations on the U.S. OCS is how the vessel must be crewed for such operations, which is often overlooked or misunderstood.

## Foreign-Flag Vessels

The U.S. Outer Continental Shelf Lands Act (“OCSLA”) generally requires all vessels that are engaged in “OCS activities” to crew the vessels with U.S. citizens. The U.S. Coast Guard defines “OCS Activity” as “any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf.” There is an exception to this rule that allows foreign-flag vessels that are over 50-percent foreign owned or controlled by foreign citizens to engage in U.S. OCS activities using foreign-citizen crewmembers. To use this exception, a formal application to the U.S. Coast Guard is required, which if validated by the U.S. Coast Guard, results in the issuance of a letter of non-applicability stating that the U.S. manning requirements do not apply to the vessel.

With respect to offshore wind farm work, the U.S. Coast Guard has taken the position that such work is not an OCS activity subject to this OCSLA requirement and the U.S. crew requirement does not apply. However, OCSLA was amended on January 1, 2021, to expressly clarify that U.S. laws, including the Jones Act, apply to offshore wind farm work in the same manner as they do to oil and gas work. The U.S. Coast Guard is now reviewing this change and, ultimately, we

expect the Coast Guard to change its position on OCS activities and begin applying the U.S. citizen crew requirements to vessels engaged in offshore wind farm work.

## U.S.-Flag Vessels

Absent limited exceptions, strict citizenship requirements apply to U.S.-flag vessels. All the officers must be U.S. citizens. Each unlicensed seaman must be a citizen of the United States, an alien lawfully admitted to the United States for permanent residence, or a foreign national who is enrolled in the United States Merchant Marine Academy. However, not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence. Although the U.S. Coast Guard has the authority to waive the citizenship requirements, other than for the master, if it is determined that qualified U.S. citizens are not available, it has not promulgated regulations to make such a determination, and has refused to date to use that authority to waive citizenship requirements.

**Under the new guidance, the term “seaman” is interpreted broadly to mean any individual engaged or employed in the business of a vessel or a person whose efforts contribute to accomplishing the vessel’s business, regardless of whether that person is involved with operation of the vessel itself.**

The term “seaman” for the purposes of applying the U.S. citizenship requirements is very broad as interpreted by the Coast Guard. It was not uncommon in the past for companies to place persons aboard a U.S.-flag vessel to perform special operations, particularly those that perform the industrial functions of the vessel, often referred to as back deck personnel. However, in 2017, the U.S. Coast Guard broadened its interpretation of the term “seaman” in relevant guidance and began strictly enforcing the requirements. Under the new guidance, the term “seaman” is interpreted broadly to mean any individual engaged or employed in the business of a vessel or a person whose efforts contribute to accomplishing the vessel’s business, regardless of whether that person is involved with operation of the vessel itself. For example, waiters, entertainers, industrial personnel, oil recovery

*(continued on page 3)*



in offshore wind work, this created a problem because the U.S. Coast Guard interpreted the citizenship requirement as not applying to offshore wind and these crewmembers would not have a letter to present to the embassy in support of a B-1 (OCS) application. Thus, their visa applications were being rejected.

In 2019, the State Department revised its Foreign Affairs Manual to provide a new B-1 visa annotation for offshore wind farm vessel crewmembers that allows them to obtain a B-1 visa without an exemption letter from the Coast Guard. These visas are annotated “B-1 for transit or travel to the OCS for wind activities; not OCS activity.” As mentioned above, however, since the change to OCSLA earlier this year, we will likely see a change in the Coast Guard’s view of OCS activities and application of U.S. manning requirements to offshore wind farm work, which will then likely require another update on visas for crewmembers on offshore wind vessels.

workers, riding, maintenance crews, and others employed in the business of the vessel are considered seamen to which the citizenship requirements apply. Accordingly, this interpretation will severely limit the ability of the wind industry to use foreign-citizen specialty personnel aboard a vessel engaged in offshore wind activities.

The Coast Guard does not consider a person who is briefly visiting the vessel in a consulting capacity (*e.g.*, a vendor’s technical representative) or shoreside personnel who come on board vessels while they are not underway to load or unload cargo or to perform services, such as maintenance of shipboard equipment, to be a crewmember. However, in general, individuals being compensated for performing their jobs while the vessel is underway are considered seamen for the purpose of applying citizenship requirements.

### Visas for Offshore Work

For some time now, foreign nationals bound for vessels working on the U.S. OCS would obtain B-1 (OCS) visas. To support their application for this visa type, they would have to provide the embassy with their vessel’s U.S. Coast Guard letter stating that the U.S. citizenship requirements do not apply to that vessel. For crewmembers headed to vessels engaged

### Crew Training

The offshore wind industry in the United States is small, but growing rapidly. There is a lot of emphasis on training and being prepared with adequately training personnel as the industry grows. Federal and state grants, combined with private contributions, have been dedicated to creation of shore-based training programs. With respect to training onboard newly built U.S.-flag vessels, however, it is more difficult due to the U.S. citizenship requirements that apply, as those individuals needed to facilitate onboard training often are not allowed to work onboard the U.S. vessels. It is critical that companies plan well in advance for crew training and be creative about how to prepare the crew for operations before vessel construction is complete and the vessel goes into operation. Such training can take place shoreside, in the shipyard, on similar foreign vessels, or even virtually, if practical.

### Conclusion

U.S. crewing requirements are an important consideration when planning work on the U.S. OCS, both for foreign-flag and U.S.-flag vessels. Ample planning is required to ensure that the vessel can, and will, meet applicable manning requirements, obtain visas as needed for crew, and plan for training, if needed. □ – 2021 BLANK ROME LLP



# Criminal Enforcement under the Biden Administration

BY KIERSTAN L. CARLSON



**KIERSTAN L. CARLSON**  
PARTNER

**We are nearly six months into** the Biden administration and its civil and criminal enforcement policies are taking shape. Under the Trump administration, the government's enforcement focus shifted away from white collar crimes and violations towards immigration, violent crimes, opioids, and the like.

Environmental enforcement in particular dipped dramatically. Although the Biden administration has not formally announced enforcement priorities, it is expected to shift back and renew the government's focus on corporations and certain white collar crimes. This likely will be true for the Department of Justice ("DOJ") as well as at the agency level, as agency heads are expected to be given a high degree of independence and agencies to be empowered to pursue enforcement actions and refer serious cases to the DOJ.

The Biden administration also has made some major policy changes with respect to environmental enforcement. Earlier this year, the Deputy Assistant Attorney General sent a memorandum to the heads of each section in the DOJ's Environmental and Natural Resources Division, which includes the sections that bring civil and criminal maritime environmental cases referred to the DOJ by the U.S. Coast Guard ("USCG") and the Environmental Protection Agency ("EPA"). The memorandum revoked nine policy directives that had been in place under the Trump administration. It also stated that the Biden administration will be focusing on climate change and environmental justice.

What does all of this mean for the maritime industry? There are a few key takeaways: 1) enforcement of MARPOL Annex I cases will continue and we may see an increased focus on MARPOL Annex VI and EPA emissions standards, as well as on ballast water; and 2) we also expect a continued focus on non-environmental enforcement areas that have long posed significant risks to the industry: sanctions, anti-corruption, anti-money laundering, and antitrust. This is not a complete list of the risks facing our very heavily regulated industry, but it captures the enforcement trends and what are, in our view, the most critical risks.

## Environmental Enforcement Trends

The maritime industry knows the great extent of MARPOL Annex I enforcement in the United States. The DOJ has actively prosecuted so-called "magic pipe" cases for decades. Its efforts are aided by a whistleblower provision in the U.S.

statute that implemented MARPOL, which states that anyone providing information that leads to a conviction may be awarded up to 50 percent of the criminal penalty imposed. This provides a massive incentive for seafarers to call out improper conduct—and such misconduct poses a grave risk to ship owners and operators alike. Indeed, MARPOL Annex I cases did not stop under the Trump administration, despite its lax approach to environmental enforcement, and they are not expected to stop now.

Aside from Annex I cases, the Biden administration's focus on climate change suggests that the USCG and DOJ may be more focused on compliance with Annex VI and EPA emissions standards, as well as associated risks, such as scrubber waste discharges. Annex VI compliance already is a routine part of port state control inspections and the DOJ brought its first Annex VI criminal case in 2019. This upward trend in enforcement likely will continue, particularly because the same incentives for whistleblowers apply for Annex VI violations.

Enforcement of U.S. ballast water regulations also may rise. The USCG has been increasingly aggressive in bringing civil and administrative actions against violators. And, the relatively new and complex regulatory scheme, plus confusion between U.S. and international ballast water requirements,

*(continued on page 5)*



only enhance the risks of non-compliance. Comparably, with the Biden administration's emphasis on environmental justice and commitment to pursue polluters, the DOJ may utilize the Clean Water Act to bring charges against ship owners or operators for improper discharges within U.S. waters.

### Other Enforcement Trends

As noted above, there are several non-environmental enforcement trends that have impacted the maritime industry and are likely to continue during the Biden administration.

#### FOREIGN CORRUPT PRACTICES ACT ("FCPA")

The FCPA is an anti-corruption law that, in essence, prohibits bribing foreign officials. Both foreign and domestic shipping companies have been prosecuted for FCPA violations, and such violations carry high monetary penalties. The FCPA remains a risk area for the industry, largely because 1) shipping companies frequently use third parties, such as customs brokers, freight forwarders, and local agents, and can be liable for bribes and other improper conduct by those third parties; and 2) vessels trade in locations with high levels of corruption, thus increasing the risk.

**Aside from Annex I cases, the Biden administration's focus on climate change suggests that the USCG and DOJ may be more focused on compliance with Annex VI and EPA emissions standards, as well as associated risks, such as scrubber waste discharges.**

#### SANCTIONS

The United States regularly utilizes economic sanctions for political purposes. The Trump administration expanded the breadth of the U.S. sanctions program, but took a unilateral and somewhat unprecedented approach, including targeting European maritime and offshore companies. The Biden administration has already signaled that it will continue utilizing the sanctions program in ways that impact the shipping and energy industries, and its emphasis likely will be on China, Iran, and Russia. This continued use of sanctions underscores the need for shipping companies calling on the United States to be diligent about with whom they do business and to ensure that no business is done with individuals or entities that are on the U.S. Department of Treasury's list of "specially designated nationals" and "blocked persons."

#### ANTI-MONEY LAUNDERING ("AML").

U.S. AML laws are often utilized in conjunction with prosecutions for violations of other laws, including sanctions or customs violations. In 2020, Congress passed the Anti-Money Laundering Act of 2020, which was a major revision to the prior regime. The new law increased penalties, expanded

the DOJ's authority to get documents from foreign banks, and enhanced the whistleblower program. While the Biden administration has indicated that its AML efforts will focus on cybersecurity and cryptocurrency, it is likely that the government will continue to use enforcement tools under AML laws in more traditional cases—including some of the other risk areas discussed here.

#### ANTITRUST

The transportation sector has long been a focal point for the DOJ's antitrust division. The DOJ has targeted cartels in international shipping, including by exercising jurisdiction over foreign companies for conduct by a U.S. subsidiary or harm felt in the United States. In the last 10 years, there were two major criminal antitrust cases involving maritime companies and corporate executives: a coastal freight price-fixing case in the District of Puerto Rico, and a cartel involving ro-ro cargo shippers in the District of Maryland. Although there have been few cases of this magnitude against shipping companies, the DOJ has not shied away from bringing them. And, the DOJ also has the ability to pursue civil enforcement actions for antitrust violations.

#### AVOID BECOMING PART OF AN ENFORCEMENT TREND

Regardless of the trends or priorities of the administration in charge, companies should develop compliance programs targeted to the areas where *their business* has the most risk. Such programs should be practical and should be put into action—in fact, a "paper only" policy will be viewed negatively by U.S. enforcement authorities. We also recommend that companies seek to have a culture of compliance and a commitment to compliance from the top down. For example, companies should implement internal reporting systems, act promptly when a report is made, and even reward employees for submitting reports. Such a system could be the difference between an internal investigation and a DOJ investigation based on a whistleblower tip. Finally, a compliance program should be a "living document"—i.e., something that is audited and adjusted over time based on lessons learned. Together, all of these things will help keep your company from becoming part of an enforcement trend.

**For more on this topic, please view our April 2021 Mainbrace Live webinar, co-presented by Kierstan Carlson, at [Prepare for the Biden Administration's Maritime & Foreign Policy](#). □ – 2021 BLANK ROME LLP**

### UPCOMING WEBINARS

#### U.S. MARITIME LITIGATION TRENDS

May 18, 2021

6:00–7:00 a.m. PDT / 9:00–10:00 a.m. EDT / 1:00–2:00 p.m. GMT

Join Blank Rome maritime attorneys as they discuss the latest U.S. maritime litigation trends, including:

- 1782: Purpose and criteria
- Judgment enforcement: Arrest, attachment, and more
- Timeline of a federal case: From complaint to trial, discovery, etc.

#### U.S. MARITIME REGULATORY UPDATE

June 22, 2021

6:00–7:00 a.m. PDT / 9:00–10:00 a.m. EDT / 1:00–2:00 p.m. GMT

Join Blank Rome maritime attorneys as they discuss the latest U.S. maritime regulatory updates, including:

- The 8-year conundrum in ballast water management: VIDA, VGP, and IMO
- Ongoing industry challenges as COVID-19 continues
- Emerging greenhouse gas regulations and shipping

[REGISTER FOR WEBINAR](#)

### IN CASE YOU MISSED IT

#### WEBINAR

#### PREPARE FOR THE BIDEN ADMINISTRATION'S MARITIME & FOREIGN POLICY

Blank Rome LLP and Blank Rome Government Relations LLC maritime attorneys and professionals discussed the outlook for maritime policymaking under the new Biden administration and Congress, as well as its impacts on the global shipping industry, including international trade sanctions, foreign policy, and enforcement trends.

[VIEW WEBINAR](#)

#### WEBINAR

#### U.S. OFFSHORE WIND INDUSTRY UPDATE

Blank Rome maritime attorneys discussed U.S. offshore wind development projects and infrastructure, the Biden administration's commitments to expand renewable energy, the Jones Act's impacts on existing and planned offshore wind installation and servicing projects, and pitfalls and opportunities for contractors and service providers looking to enter the industry.

[VIEW WEBINAR](#)

# Favorable Offshore Winds Blowing from the Biden Administration

BY JOAN M. BONDAREFF



JOAN M. BONDAREFF  
OF COUNSEL

**As part of his Executive Order on Tackling the Climate Crisis at Home and Abroad (EO 14008)**—issued on the first day he took office—President Biden made significant commitments to renewable energy. These commitments include collaborating with multiple federal agencies in the United States and promoting critical industry support for the

acquisition of electric vehicles for the federal fleet, as well as rejoining the Paris Climate Agreement, the landmark international agreement signed in 2015 to limit global warming. The goal is to have net-zero greenhouse gas (“GHG”) emissions by 2050.

Former Secretary of State John Kerry was appointed as the international climate envoy, and former Environmental Protection Agency (“EPA”) Administrator Gina McCarthy was designated as the domestic climate czar. They have their work cut out for them, as the goal of simply meeting the present Paris Climate Agreement goals may not reduce GHG emissions to the required levels.

Offshore wind will be a critical part of reaching the new domestic and international climate goals. President Biden recognizes this fact in the EO by promising to double offshore wind by 2030. This means, according to the new Director of the Bureau of Ocean Energy Management (“BOEM”), “30 GW of offshore wind by 2030”—a catchy and ambitious goal. Developers also recognize the connection by touting reductions in GHG emissions with each project. But playing the numbers game for this goal is too simplistic. For the United States to realistically double the amount of offshore wind, the states, private sector, and federal government must work together to take the necessary steps to meet and exceed this extraordinary commitment. A first step was taken with the issuance of the final Environmental Impact Statement (“EIS”) for the Vineyard Wind Project, discussed below. (See [Vineyard Wind 1 Offshore Wind Energy Project Final EIS](#).)

The next step was taken by the Cabinet officials of the departments of Interior (“DOI”), Energy (“DOE”), Commerce (“DOC”), and Transportation (“DOT”) on March 29, 2021, when they made the following commitments:

- DOI will establish a new priority wind energy area in the New York Bight between Long Island and New Jersey;
- DOI will issue new lease sales and complete review of at least 16 construction and operation plans (“COPs”) by 2025;
- DOI/BOEM will issue a notice of intent to prepare an EIS for ocean wind off the coast of New Jersey;
- DOT will notice \$230 million in funding for port infrastructure, with a focus on offshore wind ports;
- DOE will make available three billion dollars in loan guarantees under the title XVII Innovative Energy Loan Guarantee Program;
- DOC/National Oceanic and Atmospheric Administration (“NOAA”) will enter into a memorandum of understanding (commonly known as an “MOU”) with Ørsted to share physical and biological data in leased areas; and
- \$20 million will be made available under the National Offshore Wind Research and Development Consortium funded by DOE and the New York State Energy Research and Development Authority.

These steps are taken with a goal of creating 44,000 new jobs in the offshore wind industry by 2030. (See [Biden Administration Jumpstarts Offshore Wind Energy Projects to Create Jobs](#).) This article addresses what role the maritime industry can play in this vital new offshore wind industry.

## Vineyard Wind Receives Final BOEM Approval to Proceed with Construction and Operation

The first step that the Biden administration made to double offshore wind was to restart the National Environmental Policy Act (“NEPA”) process for the mega-offshore wind project known as Vineyard Wind, located off the coast of Martha’s Vineyard, MA, and expected to produce 800 MW of offshore wind and provide clean energy to 400,000 homes and businesses once it is operational in 2023. Vineyard Wind has committed to using the Port of New Bedford, MA, as its staging area.

On March 8, 2021, BOEM in the DOI issued the final EIS for Vineyard Wind, endorsing the preferred alternative of an east-west, north-south configuration of no more than 84 wind turbines with one nautical mile spacing between the wind platforms, which is consistent with the Coast Guard’s



recommendations. (See [Vineyard Wind 1 Offshore Wind Energy Project Final EIS](#).) Subsequently, BOEM issued the final Record of Decision or granting approval to proceed with construction on May 11, 2021. (See [Vineyard Wind](#).)

This is a critical step because it not only restarts a project that the prior administration delayed for too long, but it will also break the logjam for other pending projects by signaling the Biden administration's support for offshore wind with approval of the largest offshore wind farm in the United States—a major step towards meeting the president's "30 by 30" goal. At present, BOEM has approved 10 Site Assessment Plans ("SAPs") and has 10 COPs under review—with more anticipated. BOEM has committed to approving 16 COPs by 2025.

Another major project pending with BOEM is the Coastal Virginia Offshore Wind ("CVOW") project developed by Dominion Virginia Energy. This project will include 188 Siemens Gamesa turbines and will supply 2.6 GW of clean energy to 800,000 Virginia homes and businesses when fully operational in 2026. The commercial CVOW project follows on the two-turbine 12 MW research project—also called CVOW—that is the first offshore wind farm to become operational in federal waters in 2020. (Deepwater Wind off Block Island, RI, is the first in state waters.)

Dominion has also established a consortium to build the first Jones Act-compliant turbine installation vessel ("TIV"), called "Charybdis," currently under construction in the Keppel Yard in Brownsville, TX.

### **Role of the States and the Public**

The states along the Eastern Seaboard have played a critical role in promoting offshore wind. After all, the wind on the outer continental shelf ("OCS") must come ashore to stateside power stations and integrated with the electric grid. The price of offshore wind is coming down and becoming more competitive with natural gas through a combination of executive orders and state legislation. For example, Governor Gina Raimondo of Rhode Island, now the Secretary of Commerce, set a goal of meeting its electricity demand with 100-percent renewables by 2030. Governor Phil Murphy of New Jersey set a target of 7500 MW of offshore wind by 2035. The Commonwealth of Virginia passed

the Clean Economy Act in 2020, which called for zero carbon emissions by 2050 with 5200 MW of offshore wind by 2034. The commercial CVOW project is critical to meeting the Clean Economy Act goals. Absent state and public demand for clean energy, there likely would be little to no offshore wind industry in the United States.

### **PORT INFRASTRUCTURE, WORKER TRAINING, AND NEW VESSELS**

Many states have invested in new port infrastructure and new training programs for offshore wind workers. For example, Massachusetts was able to persuade three offshore wind developers to use its New Bedford Marine Commerce



Terminal for the staging, deployment, and assembly of offshore wind components. (See [Massachusetts Offshore Wind Ports & Infrastructure Assessment](#).) The Virginia Port Authority has leased 40 acres to Ørsted to stage equipment at its Portsmouth Marine Terminal, which will become the southeast offshore chain hub with almost 300 acres available for wind development. (See [Port of Virginia Leases 40 Acres to Offshore Wind Company at Portsmouth Terminal](#).) And Siemens Gamesa could construct a turbine facility at the same port.

*(continued to page 9)*

From a worker-training perspective, most workers will be expected to receive a Global Wind Organization certificate in order to work in this challenging new environment. A wind turbine alone can be 260 meters high, as in the case of the new GE Haliade-X 14 MW turbine. (See [World's Most Powerful Offshore Wind Platform: Haliade-X](#).) Consequently, safety considerations will need to be paramount. States like Maryland and New York have awarded grants for worker training, and Virginia has established the Mid-Atlantic Wind Training Alliance, which is a consortium of colleges and training centers that have created a critical workforce pipeline of highly skilled technicians. The early results of this consortium are very positive. But even with these programs, there is a lack of qualified U.S. mariners to crew all the new vessels. (See [Offshore Wind Energy: Planned Projects May Lead to Construction of New Vessels in the U.S., but Industry Has Made Few Decisions amid Uncertainties](#).)

**Offshore wind will be a critical part of reaching the new domestic and international climate goals. President Biden recognizes this fact in the EO by promising to double offshore wind by 2030.**

At the same time, developers are commissioning new offshore vessels, including crew transfer vessels and offshore support vessels. For example, Ørsted entered into a long-term charter arrangement with Edison Chouest Offshore (“ECO”) to build a Jones Act service operations vessel, which will be built in ECO’s yards in FL, MS, and LA, and used in Ørsted’s Revolution Wind, South Fork Wind, and Sunrise Wind projects off the northeast coast. (See [Ørsted and Eversource Charter First-Ever Jones Act SOV](#).) Larger TIVs are on the horizon, as noted in the Dominion “Charybdis” example above.

A recent report from the American Bureau of Shipping found that “demand for wind farm support vessels in the U.S. is expected to increase to support planned construction projects for both fixed and floating offshore wind farms in U.S. waters.” This will be done through a combination of Jones Act and foreign-flag vessels. (See [ABS Offshore Wind Report](#).)

#### **STREAMLINING THE NEPA AND PERMITTING PROCESS**

Another element that will be critical to meeting and even exceeding the Biden administration’s goal of doubling offshore wind will be budget and staffing support for the agency

that auctions leases on the OCS and approves SAPs and COPs. The former administration tried to streamline the NEPA and permitting process through new regulations and EOs. At the end of the day, it was not successful. The new Biden administration can learn from these attempts and undertake a new process for streamlining the review process without giving short shrift to climate and environmental justice—two of its principal goals.

#### **Role of the Maritime Industry**

The maritime industry has a key role to play in this burgeoning offshore wind industry. After all, most of the operations take place in the marine environment. The maritime industry can notably work with major developers and become contractors and subcontractors; encourage developers and shipyards to work together on new and needed crew transfer, supply, and support vessels; advocate for a streamlined title XI loan guarantee program administered by the Maritime Administration (“MARAD”) devoted to OSW vessels; facilitate the implementation of the title VII loan guarantee program at DOE; develop training programs for workers who may be losing jobs in the coal industry and want to transition to the new, clean economy; set up shops and production facilities in the newly designated ports for offshore wind, assisted by the expanded Port Infrastructure Development Program, also administered by MARAD; and apply its relevant expertise and experience from the oil and gas industry. All of this is needed to achieve the Biden administration’s goal for doubling offshore wind and meeting its new commitments under the Paris Climate Accords.

#### **Conclusion**

By setting an ambitious goal, the Biden administration, working with the states, private sector, and federal government, can double the amount of offshore wind by 2030—and even exceed it. This presents many new opportunities for the maritime industry, both at sea and onshore in shipyards, ports and maritime training colleges and universities.

Blank Rome’s Of Counsel Joan Bondareff also serves as chair of the Virginia Offshore Wind Development Authority.

□ – 2021 BLANK ROME LLP

**This article has been updated since its original April 2021 publication in [Maritime Reporter & Engineering News](#), to reflect new developments.**

# BLANK ROME NEWS & HONORS

## Blank Rome Announces 2021 Promotions: Kierstan L. Carlson Elected as Maritime Partner

Effective January 1, 2021, Blank Rome announced the election of [Kierstan L. Carlson](#) to partner in our Maritime and International Trade practice group.

### Kierstan L. Carlson • Washington, D.C.

**Kierstan focuses her practice on** white collar enforcement actions and complex civil litigation matters, with a focus on the shipping industry. She has substantial experience defending clients in environmental criminal cases involving MARPOL and the Clean Water Act, as well as in enforcement actions involving the False Claims Act, customs fraud, and other regulatory violations. Kierstan also represents clients in civil fraud litigation matters in state and federal courts. Beyond her everyday practice, Kierstan is dedicated to pro bono work, particularly on behalf of immigrants seeking asylum in the United States.



**KIERSTAN L. CARLSON**  
PARTNER

**In total, the firm elected eight associates and five of counsel to partner, and elevated four associates to of counsel.**

### NEWLY ELECTED PARTNERS

Ory Apelboim • Michael J. Barry • Shaun J. Bockert • Kierstan L. Carlson  
Melanie S. Carter • Thomas A. Cournoyer • Molly E. Crane • Ryan E. Cronin • Stephanie M. Harden  
Martin S. Krezalek • Kevin M. O'Malley • Michael D. Silberfarb • John P. Wixted

### NEW OF COUNSEL

Samir Ahuja • Kevin M. Eddy • Alexander S. Perry • Michael P. Trainor

To learn more, please visit [Blank Rome Announces 2021 Promotions: 13 Partners, 4 Of Counsel](#).



Ory Apelboim



Michael J. Barry



Shaun J. Bockert



Kierstan L. Carlson



Melanie S. Carter



Thomas A. Cournoyer



Molly E. Crane



Ryan E. Cronin



Stephanie M. Harden



Martin S. Krezalek



Kevin M. O'Malley



Michael D. Silberfarb



John P. Wixted



Samir Ahuja



Kevin M. Eddy



Alexander S. Perry



Michael P. Trainor

BLANKROME  
CELEBRATING 75 YEARS

## Jeanne M. Grasso Named a Top Woman in Shipping 2020 by *All About Shipping*

**Jeanne M. Grasso**, who serves as co-chair of our Maritime and International Trade group, was named among *All About Shipping's* "Top Women in Shipping" for the second year in a row. She is notably ranked in the top 30 of the 189 women from all sectors of the shipping industry recognized for 2020.

To determine the Top Women in Shipping, *All About Shipping* collects data and notes on the leading women in the industry who have offered and influenced the shipping world and the wider female community to all intents and purposes. The honorees for 2020 were particularly commended for being "valiant and admirable women" who outperformed during such a challenging year.



**JEANNE M. GRASSO**

PARTNER

To learn more, please visit

[Jeanne M. Grasso Named a Top Woman in Shipping 2020 by All About Shipping.](#)

## Blank Rome Attorneys Recognized by *Who's Who Legal 2020*

*Who's Who Legal 2020* recognized 23 Blank Rome attorneys as "Thought Leaders" and "Global Leaders" in 12 practice areas across the firm, including in the area of "Transport – Shipping."

### Thought Leader: Transport — Shipping



**JOHN D. KIMBALL**

PARTNER



**THOMAS H. BELKNAP**

PARTNER



**JEANNE M. GRASSO**

PARTNER



**RICHARD V. SINGLETON II**

PARTNER

### Global Leaders: Transport — Shipping



**MICHAEL K. BELL**

PARTNER



**JOHN D. KIMBALL**

PARTNER



**JONATHAN K. WALDRON**

PARTNER

To view all of Blank Rome's 2021 *Who's Who Legal* rankings, please visit [Blank Rome Attorneys Recognized by Who's Who Legal 2020.](#)



## Chambers Global 2021 Ranks Blank Rome Attorneys and Shipping and Energy Practices



**JOHN D. KIMBALL**

PARTNER

**Chambers Global 2021 recognized** our firm's attorneys, including our maritime partner [John D. Kimball](#), for their industry knowledge and leading practices, as well as Blank Rome LLP as a global leader in "Shipping: Litigation—Global-wide" and "Energy: Oil & Gas (Regulatory & Litigation)."

**As published in *Chambers Global*:**

**John D. Kimball – SHIPPING: LITIGATION, GLOBAL-WIDE**

"Discussing [John D. Kimball](#), one peer said: 'I think many people would consider him the go-to figure for any New York litigation work.' This opinion is echoed by further sources, who enthuse that 'he knows absolutely everything' about New York shipping disputes. His practice sees him assist with the full gamut of contentious shipping matters, including collision and casualty cases as well as charter party disputes and shipping company insolvencies."

### Blank Rome LLP – SHIPPING: LITIGATION, GLOBAL-WIDE

**What the team is known for:** "Blank Rome is a well-regarded shipping litigation practice, with considerable expertise in dealing with high-profile disputes, as well as maritime arbitration. It is respected both within the USA and internationally for its deep industry knowledge. The firm offers:

- Notable expertise handling a wide range of issues, including casualties, charter party disputes, bankruptcy and environmental matters.
- Experience acting for a mix of owners, operators, charterers, financial institutions and shipyards.
- Additional strength advising on shipping issues as they intersect with environmental litigation."

**Strengths:** "Shipping disputes lawyers describe Blank Rome as 'a class act on the litigation side- they have some very good people there.' One source added: 'They're a great firm that does really great work and they have a number of really good contacts throughout the US market,' concluding that 'they're my go-to US firm.'"

**To learn more, please visit**

**[Chambers Global 2021 Ranks Blank Rome Attorneys and Shipping and Energy Practices.](#)**





## Blank Rome Earns Perfect Score in 2021 Corporate Equality Index

**Blank Rome received a perfect score** of 100 percent on the [2021 Corporate Equality Index](#) ("CEI"), the nation's foremost benchmarking survey and report measuring corporate policies and practices related to LGBTQ workplace equality, administered by the Human Rights Campaign Foundation. With this score, Blank Rome has been designated for the sixth year in a row as a "Best Place to Work for LGBTQ Equality."



The 2021 CEI rated 1,142 U.S.-based businesses and evaluated in detail LGBTQ-related policies and practices under the following four central pillars: non-discrimination policies across business entities; equitable benefits for LGBTQ workers and their families; supporting an inclusive culture; and corporate social responsibility. Blank Rome's efforts in satisfying all of the CEI's criteria results in a 100 percent ranking and the designation as a "Best Place to Work for LGBTQ Equality."

**To learn more, please visit**

[Blank Rome Earns Perfect Score in 2021 Corporate Equality Index.](#)

## Blank Rome Recognized in 2021 Yale Law Women's Top Firms for Gender Equity & Family Friendliness Report

**Blank Rome was honored** for the [fourth year in a row](#) in the Yale Law Women's ("YLW") [Top Firms for Gender Equity & Family Friendliness Report 2021](#), in recognition of our commitment to advancing women within our firm and throughout the legal industry.

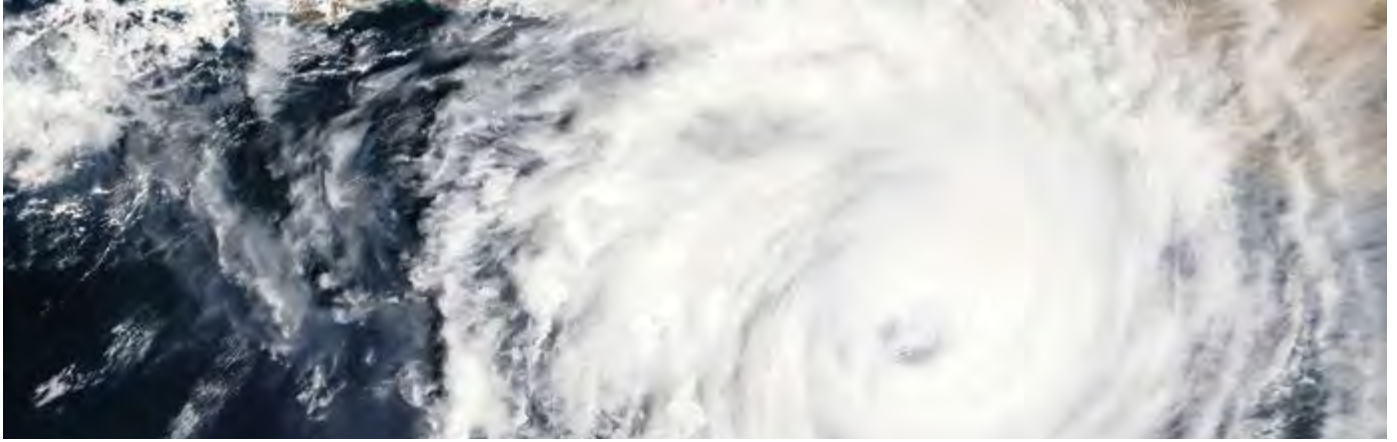
As stated in YLW's Part-Time Options section of the report: "Many attorneys seek part-time schedules or flexible full-time options to meet the demands of their personal lives and family needs. In practice, choosing whether to opt in to part-time or flex options tends to be a very gendered issue. Firms must ensure that women working part- or flex-time are not precluded from further opportunities for advancement, and moreover, that men who choose to opt-in to an alternative work schedule do not face cultural stigma that might similarly impair their career."



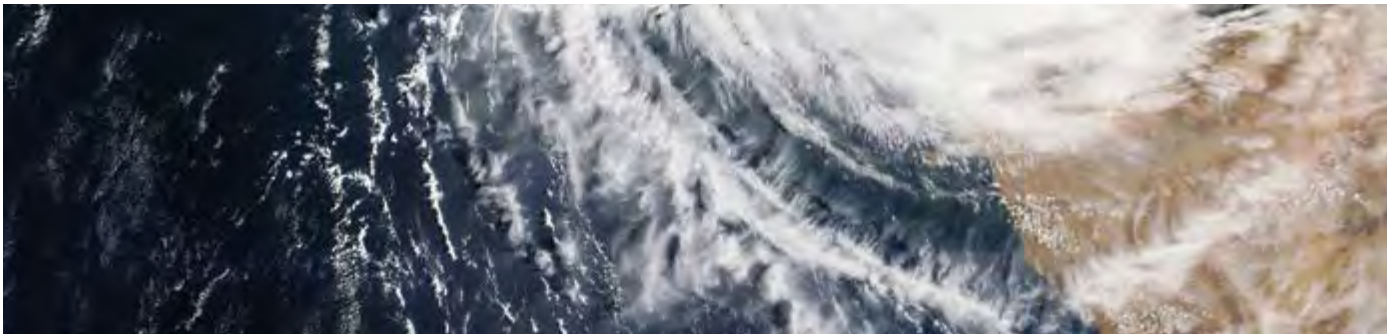
This is YLW's 16th annual Top Firms Report, produced each year to raise awareness of disparities within the legal profession, highlight progress being made in the industry, and identify areas for improvement. This year's report honored individual firms for excelling in specific categories concerning overall gender equity and family friendliness to best reflect the distinct needs and preferences of law firm employees as well as the multitude of factors leading to workplace equity.

**To learn more, please visit**

[Blank Rome Recognized in 2021 Yale Law Women's Top Firms for Gender Equity & Family Friendliness Report.](#)



## Severe Weather Emergency Recovery Team



### **Blank Rome's Severe Weather Emergency Recovery Team ("SWERT")**

helps those impacted by natural disasters like recent powerful hurricanes in the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico, and by wildfires and mudslides in California and Colorado. We are an interdisciplinary group with decades of experience helping companies and individuals recover from severe weather events. Our team includes insurance recovery, labor and employment, government contracts, environmental, and energy attorneys, as well as government relations professionals with extensive experience in disaster recovery.

Learn more: [blankrome.com/SWERT](https://blankrome.com/SWERT)

# BLANKROME

# Risks Attendant to U.S. Rule B Alter-Ego Vessel Seizures

BY KEITH B. LETOURNEAU



**KEITH B. LETOURNEAU**  
PARTNER

**A recent wave of vessel seizures** premised on alter-ego theories has swept through various U.S. federal courts. These cases present significant risks for vessel owners and ship managers, even if the underlying claims are ultimately defensible. Plaintiffs employ Supplemental Admiralty Rule B as the procedural device to seize vessels as an asset of the target defendant. Rule B

requires a *prima facie* showing that the defendant is not present within the district to satisfy the existence of general-personal jurisdiction. The Supreme Court's general jurisdiction ruling in *Daimler AG v. Bauman*, 134 S.Ct. 746 (2014), has made it much easier to meet Rule B's requirement because such jurisdiction is now predicated upon proof that the defendant's systematic and continuous contacts render it essentially at home within the district, effectively requiring its principal place of business to lie within the district. Given the peripatetic existence of merchant ships and their ownership—often by single ship-owning companies incorporated within flag-of-convenience countries—satisfying Rule B's "presence within the district" standard now is nearly automatic.

## Plaintiff Strategies

Plaintiffs couple Rule B's easy compliance with alter-ego allegations that the ship manager or ship-owning group are

dominated and controlled by a single individual or entity to the disadvantage of the plaintiffs and that the target defendant is but a corporate extension of the company with whom the plaintiffs' real dispute exists (and that dispute may have absolutely no connection with the United States). Supplemental Admiralty Rule E(4)(f) permits a defendant whose property has been seized to an immediate post-seizure hearing. While the federal courts are not aligned as to the standard that applies at such a hearing, it is fair to say that plaintiffs are required, at minimum, to meet the probable-cause test, which equates to reasonable grounds for supposing the allegations are well founded.

So, despite the fact that an *ex-parte* pre-judgment seizure of property is an extraordinary procedure and piercing the corporate veil of separately incorporated companies is an extraordinary remedy, plaintiffs have engineered a relatively easy litigation vehicle to bring considerable commercial pressure to bear upon shipowners and managers. By satisfying the probable-cause standard, plaintiffs open the door to the discovery of documents and witness testimony that often entail considerable time (years), expense, and inconvenience by vessels' interests to respond. And, either the vessel remains under seizure during the intervening period or substitute security is posted for its release. The Supplemental Admiralty Rules permit security up to 200 percent of the amount of the plaintiffs' claim, though often the amount does not exceed 150 percent. Nevertheless, that amounts to



a substantial premium added to the plaintiffs' claim and security from the vessel's protection and indemnity ("P&I") club may not be available for breach of contract claims, which often lie at the heart of these alter-ego cases.

### Fraud Challenges and Processes

The challenge for vessel interests at the Rule E(4)(f) stage is to contest the fundamental premise of the alter-ego claim, which is that the target defendant engaged in fraudulent activity or intended to circumvent statutory or contractual obligations. Under federal practice, fraud must be alleged

**Despite the fact that an *ex-parte* pre-judgment seizure of property is an extraordinary procedure and piercing the corporate veil of separately incorporated companies is an extraordinary remedy, plaintiffs have engineered a relatively easy litigation vehicle to bring considerable commercial pressure to bear upon shipowners and managers.**

with particularity—who did it, what was done, when was it committed, where was it committed, and how was it carried out. Are such allegations set forth in the plaintiffs' original verified complaint? Also, close attention must be paid to the verification accompanying the complaint and whether it truly verifies the allegations set forth therein. Federal courts examine a laundry list of factors, which differ slightly between circuit courts, for purposes of assessing whether the ostensibly controlling corporation exercised complete domination and control over the purported subservient corporation. These factors often include the following:

1. disregarding corporate formalities such as, for example, issuing stock, electing directors, or keeping corporate records;
2. capitalization that is inadequate to ensure that the business can meet its obligations;
3. putting funds into or taking them out of the corporation for personal, not corporate, purposes;
4. overlap in ownership, directors, officers, and personnel;
5. shared office space, address, or contact information;
6. lack of discretion by the allegedly subservient entity;
7. dealings not at arms-length between the related entities;
8. the holding out by one entity that it is responsible for the debts of another entity; and
9. the use of one entity's property by another entity as its own.

See *Pacific Gulf Shipping v. Vigorous Shipping & Trading S.A., et al*, 992 F.3d 893, 898 (9th Cir. 2021).

Once discovery is unleashed, the focus shifts to the nitty-gritty details of inter-corporate relationships and delving into the factors above. The process is daunting and entails enormous effort compiling the group's relevant corporate documents and vetting witnesses in preparation for invariably long depositions. Yet, overlap in corporate activities and operations and activities is not enough. There must be some evidence of wrongdoing. The gist of corporate fraud invariably involves the misuse of monies. Using a forensic accounting expert to examine the defendant's financial books may yield the best defense. For example, in *Pacific Gulf Shipping*, the Ninth Circuit noted that:

The auditor found no intermingling of funds and no raiding of bank accounts. Even the few potential irregularities that Pacific Gulf points to in Vigorous's bank statements (three payments to Giorgio Armani) were identified as payments on behalf of the master of the *Vigorous*, whose salary was reduced by those same amounts. Pacific Gulf points to no specific evidence disputing the probity of Blue Wall and Vigorous's books, so we deem that fact undisputed.

### Observations and Recommendations

What we have observed about corporate structures internationally versus domestically within the United States is that special purpose vehicle ("SPV") structures often do not meet the rigors of corporate separateness required in the States, which makes them more susceptible to the veil-piercing argument at the outset of the case. U.S. federal courts apply the corporate-formality requirements of their respective circuits, and not those employed by the country of incorporation. Also, the use of common officers, directors, offices, contact details, and common financial and operational management, while certainly more economical and efficient, makes it simpler for the plaintiffs to argue that the group structure at issue is dominated and controlled by one or two key individuals or parent company. Moreover, U.S. federal judges are not familiar with the role of ship managers and how they operate and manage their vessel fleets, nor are they familiar with how vessel-owning groups are constructed as investment vehicles for institutional investors. Consequently, there is much confusion that plaintiffs can create by showing how daily financial management and operational decisions are made by relatively few individuals to create the appearance of domination and control.

Vessel interests that regularly engage in commerce with the United States would be well served to closely examine the ownership, management, and corporate structure of their vessel-owning entities and beef-up the corporate walls that separate them. □ – 2021 BLANK ROME LLP

**Keith B. Letourneau served as lead counsel for Vigorous Shipping & Trading in the Pacific Gulf Shipping case.**



# SAFE PASSAGE

News & Views from Blank Rome Maritime and Mainbrace



**We invite our readers to dive into our archive** of *Mainbrace* newsletters and maritime development advisories, as well as keep abreast with all of our current and upcoming analyses on trending maritime topics and legislation, in our ***Safe Passage*** blog.

[safepassage.blankrome.com](https://safepassage.blankrome.com)

BLANKROME

maritime

[blankrome.com/maritime](https://blankrome.com/maritime)



# Seaman's Manslaughter: An Arcane Statute Turned Present-Day Enforcement Risk

BY JEANNE M. GRASSO AND KIERSTAN L. CARLSON



**JEANNE M. GRASSO**  
PARTNER



**KIERSTAN L. CARLSON**  
PARTNER

**Owners and operators of ships** calling on the United States know well that criminal prosecutions are now a regular occurrence in the maritime industry. Most relate to environmental violations and post-incident conduct like false statements and obstruction of justice. Recently, however, prosecutors also have used the Seaman's Manslaughter Statute as an enforcement tool.

The statute allows for federal charges against vessel officers and corporate executives of the vessel owner or charterer if a death results from negligence aboard a vessel. Several high-profile casualties have clearly placed the statute back on the government's radar and it is now an enforcement risk for passenger and cargo vessels alike.

## The Statute

The Seaman's Manslaughter Statute criminalizes negligence and inattention to duties by a captain, engineer, pilot, or other person employed on a vessel. Violations can result in up to 10 years' imprisonment, a fine, or both. The statute stems from 19th century laws aimed at preventing deaths from fires on steamboats, which were designed to punish ship's officers for negligent conduct. A similar focus exists today. Under the statute, vessel officers and shoreside employees may be liable for manslaughter if their negligent conduct causes a fatality. This is a "simple negligence" standard, meaning that the government need not prove the conduct was willful, knowing, or reckless.

However, a heightened, "gross negligence" standard applies for cases against executives of *corporate* vessel owners or charterers. There, the government must prove that the individual corporate executive: 1) had "control and management of the operation, equipment, or navigation" of the vessel; and 2) "knowingly or willfully caused or allowed" the negligent conduct that resulted in a death.

## Prosecutions through the 2000s

Few Seaman's Manslaughter cases were brought before the 2000s. The most notable was the *General Slocum* disaster in 1904, where over 1,000 people died in a vessel fire in New York. The captain, corporate executives, and the vessel inspector were indicted when the investigation revealed serious violations of safety standards and false records covering up the deficiencies. This incident led to major regulatory change and reform of the predecessor agency to the U.S. Coast Guard.

In the early 2000s, several major casualties revived the statute, including the Staten Island Ferry incident in 2003, where a ferry veered off course and allided with a concrete maintenance pier, killing 11 people and injuring 73 others. The resulting investigation found that: the pilot was taking painkillers, the pilot's doctor knew about his condition and falsified medical records that were a prerequisite to the

**Recent Seaman's Manslaughter cases exemplify the statute's breadth and show that a casualty with fatalities will almost certainly result in a criminal investigation, along with a parallel investigation by the National Transportation Safety Board and civil lawsuits.**

pilot's license; the director of ferry operations knew the ferry was operating in violation of a rule mandating two pilots in the wheelhouse; and the port captain lied to investigators about compliance with the rule. The pilot and director of ferry operations were convicted of manslaughter and the captain and doctor were convicted of making false statements and obstructing justice.

## Recent Prosecutions

Recent Seaman's Manslaughter cases exemplify the statute's breadth and show that a casualty with fatalities will almost certainly result in a criminal investigation, along with a parallel investigation by the National Transportation Safety Board and civil lawsuits.

*(continued on page 19)*

In the last few years, the government brought charges in two high-profile and tragic passenger vessel casualties: the *Stretch Duck* 7 duck boat disaster in the Ozarks in 2018, and the *P/V Conception* dive boat fire in California in 2019.

In the *Stretch Duck* incident, 17 people died when the vessel sank in a storm on Table Rock Lake in Missouri. The captain was charged with 17 counts of Seaman's Manslaughter and the indictment alleged that he failed to properly assess weather conditions, failed to act when the bilge alarm sounded, failed to instruct passengers to wear life jackets, and failed to prepare to abandon ship. Superseding indictments charged three corporate managers with the same 17 counts and added 13 counts against all defendants for grossly negligent operation of a vessel. The trial court dismissed the case in late 2020, finding that the lake on which the casualty occurred was not within the general admiralty jurisdiction or the "special maritime jurisdiction" of the United States, a jurisdictional prerequisite for a prosecution under the Seaman's Manslaughter Statute. The government appealed this decision to the Eighth Circuit Court of Appeals in December 2020, so the final outcome remains undetermined.

Comparably, in the *P/V Conception* case, 34 people died when the dive boat caught fire and sank in California. The captain was indicted on 34 counts of Seaman's Manslaughter in December 2020. The indictment alleged that he failed to have a night watch and conduct sufficient fire drills and crew training. The captain was released on \$250,000 bail, but his case remains pending. Thus far, the owning company has not been charged, but it sold off the remainder of the fleet amidst multiple wrongful death lawsuits.

Beyond these passenger vessel cases, the government has brought Seaman's Manslaughter charges for casualties on other types of commercial vessels, such as fishing charters, parasailing operations, tugs/barges, and cargo ships. Two cases serve as interesting examples: *U.S. v. Kaluza*, which relates to the *Deepwater Horizon* incident involving an

explosion, fire, and oil spill in the Gulf of Mexico in 2010, and *U.S. v. Egan Marine Corp.*, which involved a large explosion on a slurry barge in Chicago in 2005. Although the charges in these cases ultimately were dismissed, the dismissals were based on legal technicalities and the threat of prosecution following such incidents remains very real.

In *Kaluza*, *Deepwater Horizon* well site leaders were indicted because their failure to conduct proper pressure testing led to the explosion that killed 11 people. The defendants appealed and the 5th Circuit Court of Appeals held that the Seaman's Manslaughter Statute did not apply because they were not involved in the marine operation of the vessel. Yet, similar conduct by a chief engineer or comparable shipboard officer would have resulted in criminal charges.

*Egan Marine* involved a slurry barge explosion that occurred because the master told a deckhand to warm a cargo pump with a propane torch even though open flames were prohibited. The master and the company were convicted of one count of Seaman's Manslaughter for the deckhand's death. They appealed and in 2016 the 7th Circuit Court of Appeals overturned the convictions because a prior civil suit relating to the same incident had determined that there was not proof that the deckhand was using a propane torch at the time of the explosion.

## Conclusion

The government's increasing willingness to invoke the Seaman's Manslaughter Statute following maritime casualties should serve as a wakeup call for companies to avoid becoming a part of this trend. Today, a marine casualty resulting in a fatality will almost certainly prompt an investigation under the Seaman's Manslaughter Statute, in addition to any separate investigation by regulatory authorities and private civil lawsuits. This risk underscores the importance of implementing an effective, practical, and verifiable compliance program focused not only on the minimum regulatory requirements, but also the reduction of unnecessary risk. □ – 20201 BLANK ROME LLP

**This article was first published in *Maritime Executive* on April 5, 2021. Reprinted with permission.**



## Coronavirus (“Covid-19”) Task Force



*Since the outbreak of COVID-19 last year, businesses and public life around the world have been greatly impacted. From supply chain disruption, government-ordered closures, and event cancellations to employee safety concerns and social distancing recommendations, every company is facing its own unique challenges surrounding this global pandemic.*

---

**Blank Rome’s Coronavirus Task Force** is monitoring this ever-changing situation and is here to help. The Task Force is an interdisciplinary group of our firm’s attorneys with decades of experience helping companies and individuals respond to the legal fallout from disruptive crises and disasters. Our multifaceted team includes insurance recovery, labor & employment, maritime, litigation, corporate, real estate, and cybersecurity & data privacy attorneys prepared to analyze your issues from every conceivable angle to ensure a holistic, complete, and comprehensive approach to your specific needs and issues. With offices across the United States and in China, we are ready to assist businesses that must respond and prepare for an evolving public health emergency.

Learn more: [blankrome.com/coronavirus-covid-19-task-force](https://blankrome.com/coronavirus-covid-19-task-force)

BLANKROME

## About Blank Rome

**BLANK ROME IS AN AM LAW 100 FIRM** with 14 offices and more than 600 attorneys and principals who provide comprehensive legal and advocacy services to clients operating in the United States and around the world. Our professionals have built a reputation for their leading knowledge and experience across a spectrum of industries, and are recognized for their commitment to pro bono work in their communities. Since our inception in 1946, Blank Rome's culture has been dedicated to providing top-level service to all of our clients, and has been rooted in the strength of our diversity and inclusion initiatives.

Our attorneys advise clients on all aspects of their businesses, including:

- Compliance & Investigations
- Corporate
- Cross-Border / International
- Diversity, Equity, and Inclusion
- Environmental
- Finance & Restructuring
- Financial Services Litigation & Compliance
- Government Contracts
- Government Relations & Political Law
- Insurance Recovery
- Intellectual Property & Technology
- Labor & Employment
- Litigation
- Maritime
- Matrimonial & Family Law
- Tax
- Trusts & Estates
- White Collar Defense & Investigations

For more information, please visit [blankrome.com](http://blankrome.com).

### OFFICE LOCATIONS

#### CHICAGO

444 West Lake Street  
Suite 1650  
Chicago, IL 60606

#### CINCINNATI

1700 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202

#### FORT LAUDERDALE

Broward Financial Centre  
500 East Broward Boulevard  
Suite 2100  
Fort Lauderdale, FL 33394

#### HOUSTON

717 Texas Avenue  
Suite 1400  
Houston, TX 77002

#### LOS ANGELES

2029 Century Park East  
6th Floor  
Los Angeles, CA 90067

#### NEW YORK

1271 Avenue of the Americas  
New York, NY 10020

#### PHILADELPHIA

One Logan Square  
130 North 18th Street  
Philadelphia, PA 19103-6998

#### PITTSBURGH

Union Trust Building  
501 Grant Street  
Suite 850  
Pittsburgh, PA 15219

#### PRINCETON

300 Carnegie Center  
Suite 220  
Princeton, NJ 08540

#### SAN FRANCISCO

555 California Street  
Suite 4925  
San Francisco, CA 94104

#### SHANGHAI

Shanghai Representative Office, USA  
45F, Two IFC  
8 Century Avenue, Pudong  
Shanghai 200120  
China

#### TAMPA

Fifth Third Center  
201 East Kennedy Boulevard  
Suite 520  
Tampa, FL 33602

#### WASHINGTON

1825 Eye Street NW  
Washington, D.C. 20006

#### WILMINGTON

1201 N. Market Street  
Suite 800  
Wilmington, DE 19801

# Risk Management Tools for Maritime Companies

## COMPLIANCE AUDIT PROGRAM

Blank Rome Maritime has developed a flexible, fixed-fee Compliance Audit Program to help maritime companies mitigate the escalating risks in the maritime regulatory environment. The program provides concrete, practical guidance tailored to your operations to strengthen your regulatory compliance systems and minimize the risk of your company becoming an enforcement statistic. **To learn how the Compliance Audit Program can help your company, please visit [blankrome.com/complianceauditprogram](https://blankrome.com/complianceauditprogram).**



## MARITIME CYBERSECURITY REVIEW PROGRAM

Blank Rome provides a comprehensive solution for protecting your company's property and reputation from the unprecedented cybersecurity challenges present in today's global digital economy. Our multidisciplinary team of leading cybersecurity and data privacy professionals advises clients on the potential consequences of cybersecurity threats and how to implement comprehensive measures for mitigating cyber risks, prepare customized strategy and action plans, and provide ongoing support and maintenance to promote cybersecurity and cyber risk management awareness. Blank Rome's maritime cyber risk management team has the capability to address cybersecurity issues associated with both land-based systems and systems onboard ships, including the implementation of the *Guidelines on Cyber Security Onboard Ships* and the *IMO Guidelines on Maritime Cyber Risk Management in Safety Management Systems*. **To learn how Blank Rome's Maritime Cyber Risk Management Program can help your company, please visit [blankrome.com/cybersecurity](https://blankrome.com/cybersecurity).**



## TRADE SANCTIONS AND EXPORT COMPLIANCE REVIEW PROGRAM

Blank Rome's Trade Sanctions and Export Compliance Review Program ensures that companies in the maritime, transportation, offshore, and commodities fields do not fall afoul of U.S. trade law requirements. U.S. requirements for trading with Iran, Cuba, Russia, Syria, and other hotspots change rapidly, and U.S. limits on banking and financial services, and restrictions on exports of U.S. goods, software, and technology, impact our shipping and energy clients daily. Our team will review and update our clients' internal policies and procedures for complying with these rules on a fixed-fee basis. When needed, our trade team brings extensive experience in compliance audits and planning, investigations and enforcement matters, and government relations, tailored to provide practical and businesslike solutions for shipping, trading, and energy clients worldwide. **To learn how the Trade Sanctions and Export Compliance Review Program can help your company, please visit [blankrome.com/services/cross-border-international/international-trade](https://blankrome.com/services/cross-border-international/international-trade) or contact Matthew J. Thomas ([mthomas@blankrome.com](mailto:mthomas@blankrome.com), 202.772.5971).**







## Blank Rome's Maritime Industry Team

Our maritime industry team is composed of practice-focused subcommittees from across many of our firm's offices, with attorneys who have extensive capabilities and experience in the maritime industry and beyond, effectively complementing Blank Rome Maritime's client cases and transactions.

### Maritime Emergency Response Team ("MERT")

We are on call 24 / 7 / 365

In the event of an incident, please contact any of our MERT members listed in **red** below.

**William R. Bennett, III** – NYC  
CHAIR, BLANK ROME MARITIME

**Jeanne M. Grasso** – WAS  
CHAIR, BLANK ROME MARITIME

**Keith B. Letourneau** – HOU  
CHAIR, BLANK ROME MARITIME

**Richard V. Singleton, II** – NYC  
CO-CHAIR, MARITIME INDUSTRY TEAM

**Jeremy A. Herschaft** – HOU  
CO-CHAIR, MARITIME INDUSTRY TEAM

**Matthew J. Thomas** – WAS  
CO-CHAIR, MARITIME INDUSTRY TEAM

#### Bankruptcy

##### COMMITTEE CHAIR:

**Michael B. Schaedle** – PHL

Rick Antonoff – NYC

Ira L. Herman – NYC

Regina Stango Kelbon – PHL/WIL

#### Corporate/Financial/ Transactional

##### COMMITTEE CHAIRS:

**Stephen T. Whelan** – NYC

James C. Arnold – HOU

Grant E. Buerstetta – NYC

Brett M. Esber – WAS

Lawrence F. Flick, II – NYC/PHL

Michael Kim – NYC

Natalie M. Radabaugh – WAS

R. Anthony Salgado – WAS

Peter Schnur – NYC

Brad L. Shiffman – NYC

Scott R. Smith – NYC

#### Dispute Resolution (Litigation, Arbitration and Mediation)

##### COMMITTEE CHAIRS:

**Thomas H. Belknap, Jr.** – NYC

**Douglas J. Shoemaker** – HOU

**Michael K. Bell** – HOU

**William R. Bennett, III** – NYC

Alexandra Clark – NYC

**Noe S. Hamra** – NYC

**Jeremy A. Herschaft** – HOU

**Emma C. Jones** – WAS

**John D. Kimball** – NYC

**Keith B. Letourneau** – HOU

**Jeffrey S. Moller** – PHL

**Richard V. Singleton, II** – NYC

**Alan M. Weigel** – NYC

**Lauren B. Wilgus** – NYC

**Zachary J. Wyatte** – HOU

#### Employment/Labor/Tax/IP

##### COMMITTEE CHAIR:

**Joseph T. Gulant** – NYC

Susan B. Flohr – WAS

Anthony B. Haller – PHL

Brooke T. Iley – WAS

#### Enforcement/Criminal

##### COMMITTEE CHAIRS:

**Jeanne M. Grasso** – WAS

**Gregory F. Linsin** – WAS

#### Government Contracts

##### COMMITTEE CHAIR:

**Brian S. Gocial** – PHL

David M. Nadler – WAS

#### Regulatory/Energy/ Environmental

##### COMMITTEE CHAIRS:

**Kevin J. Bruno** – NYC

**Matthew J. Thomas** – WAS

George T. Boggs – WAS

Joan M. Bondareff – WAS

Kierstan L. Carlson – WAS

Kevin R. Doherty – NYC

Frederick L. Ikenson – WAS

Dana S. Merkel – WAS

Stefanos N. Roulakis – WAS

**Jonathan K. Waldron** – WAS

C. J. Zane – WAS

Please click on attorney names  
for contact information.

Attorney Office Locations:

HOU – Houston • NYC – New York City • PHL – Philadelphia • WAS – Washington, D.C. • WIL – Wilmington