

**CHASING THE PAPER TRAIL
DISCOVERY FOR CLAIM RECOVERY**

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Good Morning/Afternoon:

My name is Pierce Power and I am presently working as an engineer and surveyor for the firm Martin, Ottaway, van Hemmen & Dolan, Inc.

I have been asked to give a brief outline of the various documents and to describe these documents which would be of interest with regard to Cargo Claims Recovery.

Before this, I would like to give a brief outline of the main functions of the firm.

The firm has been in existence since 1875, a little bit longer than myself I may add. As a firm we are accustomed to providing engineering and surveying services on short notice all over the world.

Most of the firm's work is related to commercial maritime affairs, which includes ships, shipyards, dry-docks, off shore equipment, drill rigs, shore side equipment and floating construction equipment.

Vessels experience range from super tankers to small crafts, including passenger ships, high performance vessels and yachts.

The firm serves a wide variety of clients; these include ship owners, underwriters, attorneys, investors and financial institutions. The services provided to these clients include claims formulation, expert testimony, arbitration, construction supervision, failure analysis, salvage coordination, condition surveys, P & I surveys, some cargo surveys, vessel appraisals, safety and quality management consultancy and proposal evaluations.

The firm's headquarters are located in Red Bank, New Jersey and has branch offices in Charleston, South Carolina, Philadelphia, PA, and Rotterdam, the Netherlands and as of next week, New Orleans. Close association and agreements are maintained with consultants in all major ports in the United States, as well as in Piraeus, Greece, England and Singapore.

Now to come back to the topic of this presentation.

When a vessel gets into difficulty either by stranding, heavy weather or main engine problems and General Average is declared, the interested parties (Vessel & Cargo) are obliged to contribute based on the related values of contributing parties.

Once a declaration has been made to attempt to recover damages by the vessel's Owners, discovery will be initiated by the interested parties.

In any damage incident the attending parties are generally made up of the following:

Owner's Representative
Hull & Machinery Surveyor
P & I Surveyor
Cargo Surveyor
Charterer's Surveyor
Classification Surveyor

The underwriters of the above parties will also be in attendance.

During this presentation I hope to outline the sources of information which one seeks to determine the sequence of events which led up to the incident and being able to get to all the facts relating to this misadventure and put the puzzle together.

I would now like to outline the main points and give a brief description outlining how these points could help elucidate matters.

Classification Records:

The Classification Society monitors the construction and condition of the vessel. The vessel is required to have the most up to date Classification Status Report on board. This will give a listing of the last drydocking, annual surveys, also it will list any outstandings the vessel may have.

In the case of bulk carriers and tankers significant other documentation is required to be on board as a consequence of the Enhanced Survey Regime implemented in July 1993.

Vessel's Logs:

A properly managed vessel will maintain log books which are filled out by the vessel's crew. These logs may not always be properly maintained, sometimes written in a foreign language. Such logs generally are the primary source for initiating an investigation.

The following are a listing of the various logs required on board a vessel:

Deck and Engine Room Log Books

Hourly logs kept by the crew monitoring the condition of the weather, speed, fuel consumption and engine room pressures and temperatures. There are both smooth and rough logs on some vessels.

Bell Book

This is a record of the orders given by the master or pilot while entering or leaving a harbor.

Oil Record Book(s)

Record of the fuel and lubricating oils usage on board the vessel.

Oily Water Monitor - with printouts to show use

As the discharge of oil is prohibited, an oily water separator is fitted to the vessel to separate the oil from the water, thus discharging the water.

Sounding Book

A log of the quantities of fuel oils, fresh water, lubricating oils within the various tanks on board the vessel.

Radar Log

Record of the corrections to the radar and maintenance performed on same.

Radio Log

This is a log of all the radio communications to and from the vessel.

Compass Error Book

The chief mate is to check the compass at certain intervals to see if the compass is calibrated correctly. Any deviations in the compass are logged and the officer on watch then plots his course with this deviation taken into consideration.

Chronometer Rate Book

Record of the ship's chronometer or the clock.

Night Order Book

This book gives the orders of the Master to the crew of what has to be carried out over the time period that the Master is not available. In addition, all ships have Master's standing orders and some chief engineer standing orders and night orders.

Passage Plan

Prior to leaving the last port of call the vessel is to have a clearly mapped out route of the intended voyage, listing the navigational charts, course and speed setting.

Navigational Charts

A vessel's course is to be plotted on an up to date chart. Navigation chart should provide the route the vessel took prior to the incident. An updated chart should also incorporate updates from the Notice to Mariners, which are published by the authority that produces the chart. In addition, chart correction records are required to be kept on board.

Company Regulations

Most well run shipping companies issue company regulations/instructions for the safe operation and upkeep of the vessel; encompassed within these are the directions to the master as well.

Loading Instrument/Computer - with printouts to show use of same

This is usually operated by the second mate during loading and off loading of the vessel and is designed to indicate when overdue stress is being put on the vessel during these operations.

Loading & Stability Information

These are instructions/directives given with the vessel from the shipyard and approved by the Classification Societies for the proper procedures to load a vessel.

All of the above are essential for the smooth operation of a vessel at sea. At times the logs have been known to be altered to hide certain aspects of the incident, but such alterations often come to light when additional logs, such as company-held abstracts, are compared.

However, with the introduction of computers and automation on most modern vessels, especially engine room equipment, information is automatically logged which makes it more difficult to alter.

Cargo Records & Data:

The vessel's cargo is closely monitored at various stages of the voyage. Commonly the location, quality and quantity are assessed at the time of loading and discharge. These can provide insight in, for example, the cause of an explosion, or the loss of cargo due to a leak or collision. The vessel also maintains pre-stow and actual stowage plans.

Weather Data:

Weather data is available from public and private sources. Also, while underway, the crew has access to weather radio and telefaxes plus weather routing stations. Weather routing services are available for the clearest and safest route a vessel can take.

Vessel Maintenance Records:

The vessel should have records with regard to maintenance work that is carried out by the crew; most vessels have a planned maintenance system that should be closely adhered to.

Sistership Information:

It is not at all uncommon that similar defects will develop in such sisterships. Investigation of records of sisterships, even if not operated by the same companies, could show operational or structural problems which might apply to the incident under investigation.

Vessel Traffic Systems:

Many ports have been fitted with vessel traffic systems which provide routing directions to vessels operating in ports similar to the way air traffic controllers control aircraft. In many cases the radio traffic and radar information are recorded and provide insight into the way casualties developed.

Vessel Certificates:

A vessel has to carry Statutory and Classification Certificates to enable it to trade worldwide. These can provide information with regard to the vessel's operational practices, or can enable elimination of certain causes.

The following is a partial list of documents:

- Certificate of Registry
- International Tonnage Certificate and Tax Certificate
- Stability Booklet
- Suez Canal Tonnage Certificate
- Panama Canal Tonnage Certificate
- Loadline Certificate
- International Oil Pollution Certificate (Marpol Annex 1)
- Shipboard Oil Pollution Plan
- Cargo Ship Safety Construction Certificate
- Cargo Ship Safety Equipment Certificate
- Cargo Ship Safety Radio Certificate
- Deratting Certificate
- Certificate of Insurance in Respect of Civil Liability for Oil Pollution
- TOVALOP (Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution)
- Safe Manning Certificate
- Life Raft Annual Survey Certificate
- Radio License Certificate (Flag State)
- P&I Cover Note
- Foam and CO₂ Certificates

The above listing constitutes the various documents which are supposed to be located onboard the vessel which should be requested during discovery.

By carefully studying these documents one seeks to get a better view or picture as to the events leading up to and during the incident. If one is acting on behalf of the Cargo, as are the audience here today, the hope being that somewhere within these documents there will be indications where the Owners did not provide and/or maintain a seaworthy vessel prior to the commencement of the voyage.

Now that I have taken enough of your time and sincerely hope that I haven't bored you, I hope that I have given you an insight as to the various documents required in order to further investigate the circumstances surrounding a particular incident or casualty.

Thank you for your kind attention.

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