Maritime Liens—
Physical Suppliers' Perspective



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South Texas College of Law

UT Admiralty Law Seminar

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Expectations

- OW/ING
  - Supplied no fuel
  - Paid for no fuel
  - Only expected a small margin on each transaction
  - Demand 100% of the value of the fuel
  - Agreed to allow NuStar to pursue maritime lien claims outside OW's bankruptcy proceeding
  - ING's security agreement granted no maritime lien rights

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Expectations

- NuStar
  - Physically supplied the fuel
  - Worth more than $18 million
  - Pursued maritime lien claims against vessels worldwide
  - Obtained security for each claim
  - Identified by the Owner, Charterer or their agents in each sales confirmation as the supplier

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Expectations

- NuStar (cont.)
  - Coordinated delivery in each case with ship's agent and vessel's chief engineer
  - Bunker Delivery receipt referenced NuStar's maritime lien, which was signed by each chief engineer
  - Expected that it possessed a maritime lien against each vessel

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Expectations

- Vessel Owners
  - Need bunker fuel for vessel propulsion systems
  - Playing the market to obtain lowest cost bunkers
  - Don't want to be exposed to double liability
    - *In personam* v. *in rem* claims
  - Interpleader actions
    - In a variety of cases, did not act as disinterested stakeholder
    - Took sides with OW/ING to avoid potential double-liability exposure

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The Statute

- CIMLA—every person that provides necessaries on the order of the owner or person authorized by the owner is entitled to a maritime lien (46 U.S.C. § 31342(a))
  - No requirement for contractual privity or agency relationship
- Persons authorized by the owner are presumed to include (46 U.S.C. § 31341(a)):
  - Owner
  - Master
  - Charterer
  - Officer or agent of either Owner or Charterer

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