

CUTTING EDGE MAINTENANCE & CURE ISSUES



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“Contractual” basis for Claims

Pelotto v. L & N Towing Co., 604 F.2d 396, 400 (5th Cir. 1979)

“Cure [is a] centuries old [r]emedy under the general maritime law. A seaman’s right to . . . cure is implicit in the contractual relationship between a seaman and his employer, and is designed to ensure the recovery of these individuals upon injury or sickness sustained in the service of the ship. [C]ure [is] due without regard to the negligence of the employer or the unseaworthiness of the ship.”

Obligation to Provide

Aguilar v. Standard Oil Co. of N. J., 318 U.S. 724, 730-31 (1943)

Among the most pervasive incidents of the responsibility anciently imposed upon a shipowner for the health and security of sailors was liability for the maintenance and cure of seamen becoming ill or injured during the period of their*So broad is the shipowner's obligation that negligence or acts short of culpable misconduct on the seaman's part will not relieve him of the responsibility.*

Standard for decision

Vaughan v. Atkinson, 82 S.Ct. 997, 1000 (1962)

"Admiralty courts have been liberal in interpreting this duty 'for the benefit and protection of seamen who are its wards.' . . . the shipowner's liability for maintenance and cure was among 'the most pervasive' of all and that it was not to be defeated by restrictive distinctions nor 'narrowly confined.' When there are ambiguities or doubts, they are to be resolved in favor of the seaman."

Factoring and Cure

Katy Springs & Mfg., Inc. v. Favalora, 476 S.W.3d 579 (Tex. App. – Houston [14th Dist.] 2015, pet.req.)

“In a factoring case, where the record indicates that the claimant remains liable for the amounts originally billed by the medical provider, such amounts are recoverable medical expenses under section 41.0105, and evidence showing the amounts billed by the medical provider is admissible.”

Texas TRO Requirements

Helix Energy Solutions Grp., Inc. v. Howard, 452 S.W.3d 40 (Tex. App. – Houston [14th Dist.] 2014, no pet.)

An order on Maintenance and Cure is both immediately appealable and should meet Texas TRO requirements (including bond requirements) TEX. CIV. PRAC. REM. CODE § 51.014(a)(4).

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