

Claims Management Under Charterparty Disputes

Anna Macdonald, Managing Associate



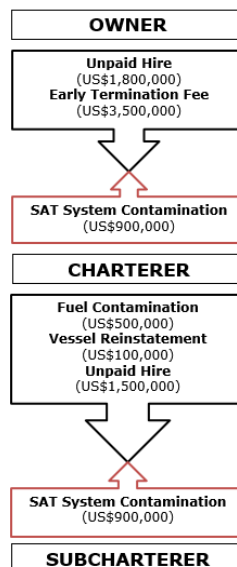
Case Study

DSV Unlucky

- > Chartered from Owners under amended Supplytime 2005 for three years
- > Charterers then subcharter vessel under amended Supplytime 2005 for three months
- > Prior to delivery into the subcharter, A Frame removed from vessel at Subcharterer's request and stored at Charterer's premises
- > Downtime during subcharter
- > Vessel redelivered by Subcharterer, and then redelivered early to Owners up the chain



Claims

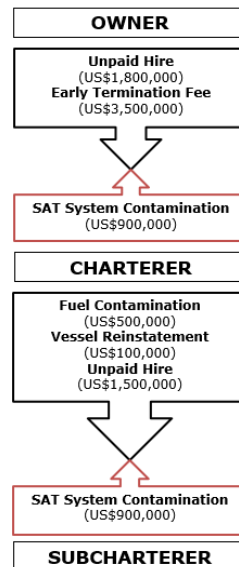


Claims

| | |
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| <p>13. Early termination of charter (Cl. 31(a))</p> <p>(i) State yes, if applicable</p> <p>(ii) If yes, state amount of hire payable</p> | <p>14. Number of days' notice of early termination (Cl. 31(a))</p> |
|--|--|

31. **Early Termination** 1168
 (a) ~~At Charterers' Convenience~~. - The Charterers may 1169
 terminate this Charter Party at any time by giving the 1170
 Owners written notice of termination as stated in Box 1171
 14, upon expiry of which, this Charter Party will 1172
 terminate. Upon such termination, Charterers shall pay 1173
 the compensation for early termination stated in Box 1174
 13 and the demobilisation charge stated in Box 15, as 1175
 well as Hire or other payments due under the Charter 1176
 Party up to the time of termination. Should Box 13 be 1177
 left blank, Clause 31(a) shall not apply. 1178

Claims



Claims

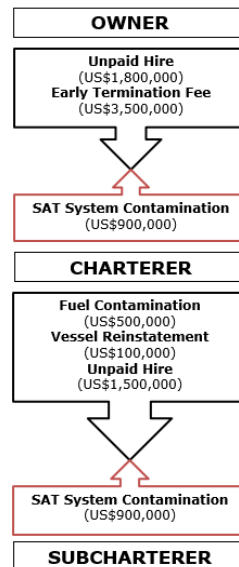
“

“(b) Knock for knock

(i) Owners - Notwithstanding anything else contained in this Charter Party...the Charterers shall not be responsible for loss of or damage to the property of any member of the Owners' Group, including the Vessel, or for personal injury or death of any member of the Owners' Group, arising out of or in any way connected with the performance of this Charter Party, even if such loss, damage, injury or death is caused wholly or partially by the act, neglect, or default of any member of the Charterers' Group, and even if such loss, damage, injury or death is caused wholly or partially by unseaworthiness of any vessel; and the Owners shall indemnify, protect, defend and hold harmless the Charterers from any and against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such loss, damage, personal injury or death.” (emphasis added)

”

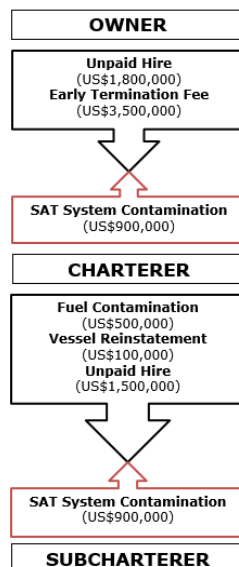
Claims



Claims

(d) Liability. – The Charterers shall be liable for any loss or damage to the Owners caused by the supply of unsuitable fuels or fuels which do not comply with the specifications and grades set out in Box 19 (iv) and the Owners shall not be held liable for any reduction in the Vessel's speed performance and/or increased bunker consumption nor for any time lost and any other consequences arising as a result of such supply.

Claims



Claims

4. **Structural Alterations and Additional Equipment** 87

The Charterers shall, at their expense, have the option 88
 of making structural alterations to the Vessel or installing 89
 additional equipment with the written consent of the 90
 Owners, which shall not be unreasonably withheld. 91
 Unless otherwise agreed, the Vessel is to be redelivered 92
 reinstated, at the Charterers' expense, to her original 93
 condition. The Vessel is to remain on hire during any 94
 period of these alterations or reinstatement. The 95
 Charterers shall at all times be responsible for repair 96
 and maintenance of any such alteration or additional 97
 equipment. However, the Owners may, upon giving 98
 notice, undertake any such repair and maintenance at 99
 the Charterers' expense, when necessary for the safe 100
 and efficient performance of the Vessel. 101

Main claims handling issues



Constitution of Tribunal



Disclosure



Witness evidence



Managing settlement
and mediation

Get lawyers involved early – a false economy?

- > Control over post incident documentation/correspondence
- > Privilege over internal reports
- > Preservation of evidence
- > Know your weakness
- > Local law issues

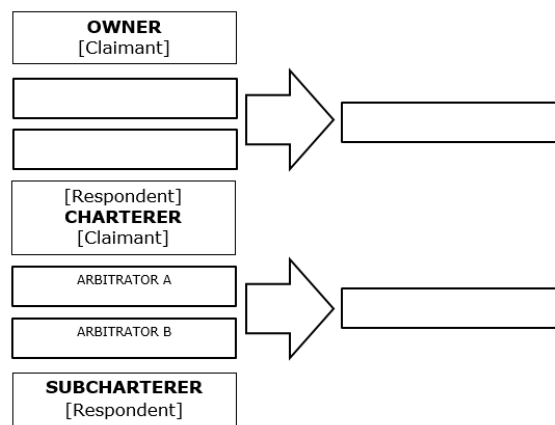
Constitution of Tribunal



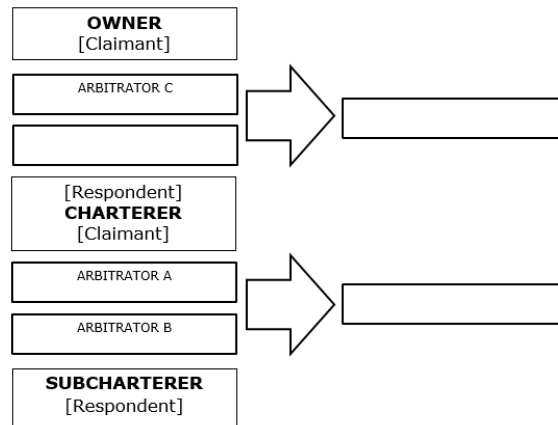
- > Commonality of Tribunal members in charter chain dispute
- > Challenges to proposed Tribunal appointees
- > Conflicts of interest?
- > "Unusual" decisions



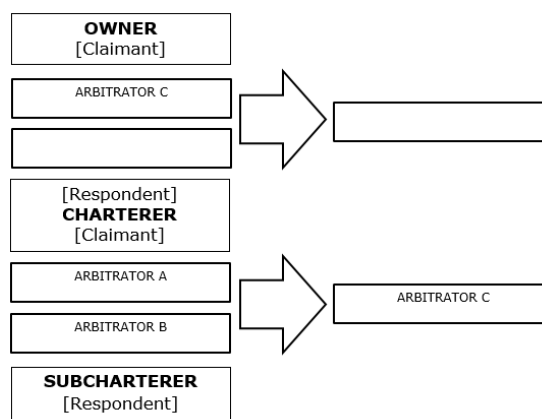
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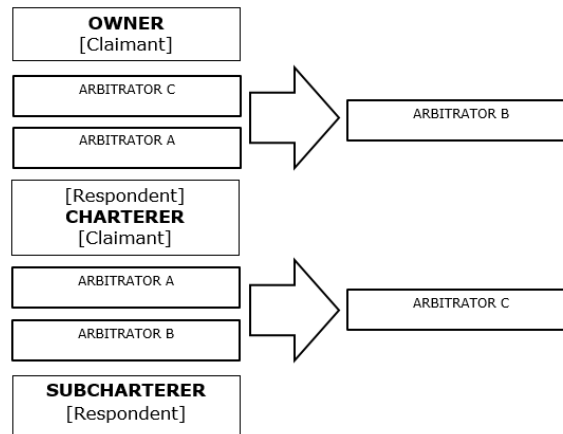
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Constitution of Tribunal



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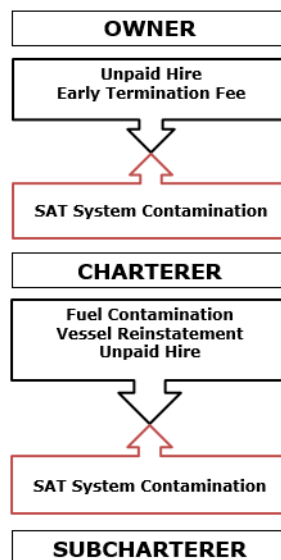
Disclosure



- > Getting hold of what you need
- > Move with the times
- > Increasingly disproportionate
- > Fishing expedition
- > Leverage
- > Light at the end of the tunnel?



Disclosure



Disclosure



- > Getting hold of what you need
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Witness evidence



- > No property in a witness
- > Lack of cooperation
- > Changing sides
- > Secure evidence early

Managing settlement and mediation



- > Logistically difficult to achieve
- > Buy-in from all parties needed
- > Back-to-back claims?

