

LEGAL UPDATES

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# Part II, Baltimore's Key Bridge Collapsed: What Happens Next?

The second installment in our Baltimore Key Bridge collapse series examines the court proceedings that have begun to determine the liability incurred. The M/V Dali—which lost power just after midnight on March 26, 2024, before colliding into the Baltimore Key Bridge—is owned by Grace Ocean Private Limited (Grace Ocean) and managed by Synergy Marine PTE LTD (Synergy), (collectively the petitioners). Grace Ocean and Synergy filed a petition in the U.S. Federal District Court for the District of Maryland for exoneration from or limitation of liability under the Limitation Act. (46 U.S.C. § 30501, et seq.)

Under the Limitation Act, the exact amount of liability is not determined at this point, but the interim stipulation for value and stipulation for costs under the act has been accepted by the court for \$43,670,000. This amount may be adjusted based on the factors outlined below.

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## The Limitation Act

The act statutorily limits liability to the value of the vessel and pending freight. 46 U.S.C. § 30505. According to the case law, these terms are interpreted as follows:

1. The value of the vessel is determined at the termination of the voyage (after the allision).
2. Pending freight is calculated based on the owner's total earnings for the vessel's voyage, including prepaid earnings and uncollected earnings. The length of the voyage can be calculated based on the full round-trip or on only a particular leg.

3. For personal injuries and death, which are unfortunately at issue in this scenario, the shipowner may be required to increase the limitation fund up to \$420 per ton of the vessel's tonnage, if the limitation fund is insufficient to cover losses in full. 46 U.S.C. § 30506.

### **General average**

Another possible impact to the liabilities following the allision is general average. As occurs in many admiralty losses, the vessel may invoke general average in the midst of a Limitation Act proceeding.

General average establishes that all sea cargo stakeholders (owners, shippers, etc.) evenly share any damage or losses that may occur as a result of a voluntary sacrifice or expenditure of part of the vessel or cargo to save the whole in an emergency. In particular, the extraordinary sacrifice or expenditure must be intentionally and reasonably made or incurred for the common safety for the purpose of preserving from peril the property involved in a common maritime adventure. (York-Antwerp Rules (YAR) 2016, Rule A.)

Only certain admiralty damages or losses can qualify for general average. An allision with a bridge is not squarely within the parameters of general average. Especially because the allision was not intentional, reasonably made, or incurred for the common safety. But it is possible that through extensive litigation, a court could find otherwise.

If general average is asserted, the universe of expenses to be shared may take years to be calculated. The shipowner will assert a lien on the cargo for the amount owed as general average and the cargo owners may also assert liens against the vessel. The cargo interests will typically execute a general average guarantee (through a bond or underwriter) so that the cargo can be discharged.

Based on this, general average may not apply, and the petition has not invoked it yet.

### **Next steps for cargo interests**

Regardless of the general average component, the Limitation Act proceeding will continue. Cargo interests will need to file their claims against the petitioners by September 24, 2024, and all suits will be stayed while the Limitation Act proceeding is resolved.

### **Contact us**

If you or your customer has a container on the M/V Dali and you need assistance with filing a claim and navigating the upcoming costs and liabilities, please reach out to Julie Maurer, Carlos Rodriguez, Julia Banegas, or your Husch Blackwell ocean transportation attorney.

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