



CHALOS & Co.

International Law Firm



U.S. MARITIME ARBITRATION

“We’ll take it and give it the weight it deserves.”

By:

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CHALOS & CO, P.C.

International Law Firm

New York | Houston | Miami | Athens | Cyprus

www.chaloslaw.com



HISTORY OF ARBITRATION IN THE U.S.

- The Federal Arbitration Act (“FAA”) sets out the legislative framework for the enforcement of arbitration agreements and arbitral awards in the U.S.
- The FAA was principally drafted by Julius Henry Cohen, and was modeled after the New York Arbitration Act of 1920.
- The FAA was passed in 1925 with the intention to ensure arbitration agreements in maritime and commercial transactions were “valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” 9 U.S.C.S. § 2

HISTORY OF ARBITRATION IN THE U.S.

- Prior to the FAA, U.S. Federal Courts were hostile to arbitration agreements.
 - In 1920 the District Court for the Southern District of New York held “the arbitration clause cannot be availed of . . . to oust our courts of jurisdiction.” *Jane Palmer v. French Republic*, 270 F. 609, 613 (S.D.N.Y. 1920).
- Arbitration is now a preferred method of dispute resolution amongst commercial parties, and the Federal Courts protect the parties’ rights to proceed through the arbitral process.





SMA

Society of Maritime Arbitrators, Inc.

Resolving Maritime Disputes For Over 50 Years



www.smany.org



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- The Society of Maritime Arbitrators (“SMA”) is recognized as the leading forum for the arbitration of maritime and commercial disputes.
- Formed in 1963, the SMA has been resolving maritime disputes for nearly sixty (60) years.
- The SMA prides itself on creating guidelines of fairness to ensure just and sensible maritime arbitration procedures.

INITIATING ARBITRATION

- Claimant serves demand for arbitration upon his contract partner and appoints his arbitrator.
- If the responding party fails to appoint an arbitrator, the party demanding arbitration may appoint a second (2nd) arbitrator.
- The two (2) appointed arbitrators then appoint a third (3rd) arbitrator, who acts as procedural chairman of the panel.



DISCOVERY AND DISCLOSURE

- No automatic right to pre-hearing discovery.
- An arbitration panel may exercise its discretion to order pre-hearing discovery.
- Parties are encouraged to cooperate with respect to discovery and disclosure.

DISCOVERY AND DISCLOSURE

- Copies of any documents and/or exhibits intended to be introduced at a hearing are to be supplied to the other party and to Panel members at least ten (10) business days prior to the date of the hearing.
- Any fact or expert witness intended to testify before the Panel should likewise be identified and a brief description of his/her testimony given at least one (1) week in advance of the scheduled hearing.



ARBITRATORS ARE NOT STRICTLY BOUND BY FEDERAL RULES

- The arbitration panel is not limited by the Federal Rules of Civil Procedure or the Federal Rules of Evidence.
- The Federal Rules may or may not be strictly followed by the panel. Most often they are used as loosely applied guidelines.



THE AWARD

Unless there is a requirement in the contract for a unanimous decision, any decision by two (2) of the three (3) arbitrators will be final and binding on both parties.

SMA Arbitration Rule § 20



LIMITED GROUNDS TO VACATE AWARDS

- U.S. Courts have limited grounds to vacate or modify arbitration awards.
- The U.S. Supreme Court has reinforced the FAA's policy favoring arbitration when considering a court's power to vacate an arbitral award.

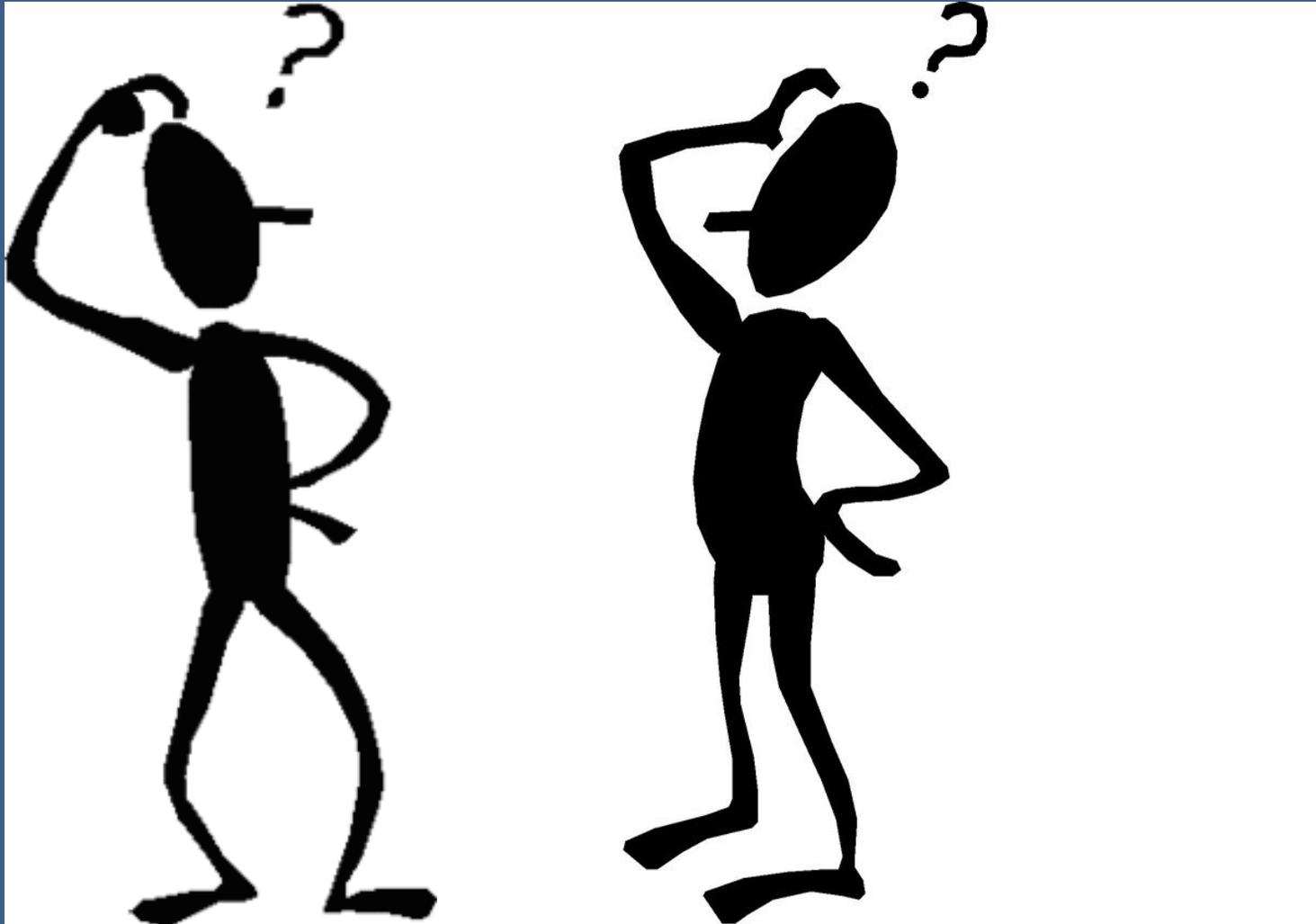
Mistake of Fact?



Mistake of Law?



Mistake of Fact and Law?



So Why SMA Arbitration?



WHY SMA ARBITRATION?

- Cost & Time Effective
- No Administrative Fee
- Subject Matter Experts
- Experienced Advocates



PRE-AWARD SECURITY

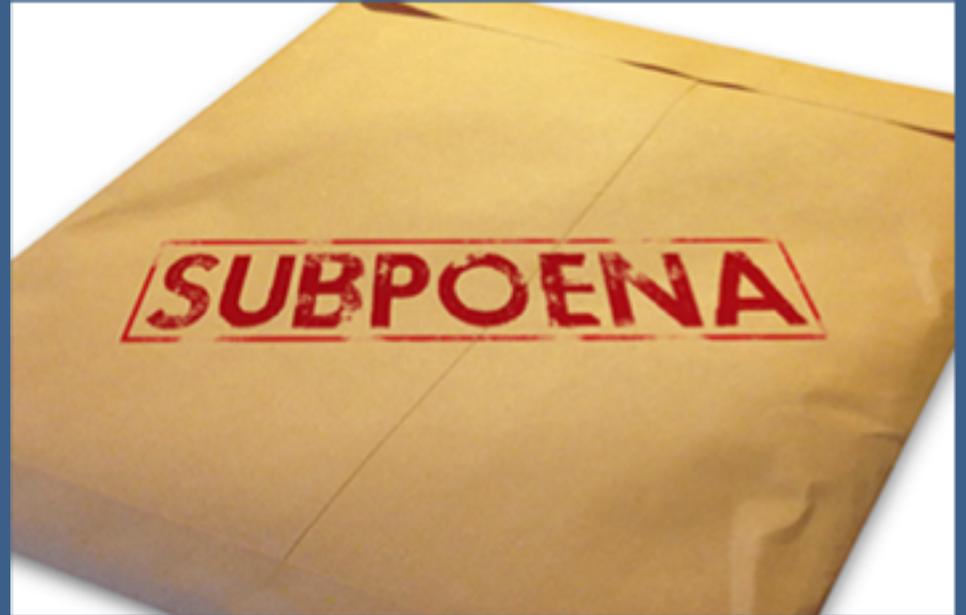
- Federal Law (i.e., Rule B attachments, Rule C arrests), and/or state law remedies may permit a claimant to obtain pre-judgment security in certain circumstances, but generally require *in rem* or *quasi in rem* jurisdiction.
- SMA arbitrators have the authority to order a litigant to post security.



EQUITABLE DISCRETION

- Power to subpoena witnesses;
- Power to subpoena documents;
- Power to award pre-judgment interest;

SMA Arbitration Rule §30



EQUITABLE DISCRETION

- Power to award attorney's fees and party costs, even if the arbitration clause does not expressly provide for such relief;
- Power to order specific performance.

SMA Arbitration Rule §30





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