

SMA AT 60

SMA Holiday Luncheon
December 13, 2023

THE SMA STORY

A.J. Siciliano, former SMA President, begins our story:

In the spring of 1963, nine highly regarded men in the maritime trades gathered at a New York City downtown restaurant to discuss the formation of an organization devoted solely to the promotion of fair and impartial maritime arbitration in the port of New York. Guided by attorney lawyer **Wilbur Dow**, it was **Jack Reynolds**, **Eric Skoglund**, **John Besman**, **Bob McGrath**, **John Greene**, **Fred Sauer**, **George Stam**, **Ed Shilling** and my pal **Peter Siebel** who founded the Society of Maritime Arbitrators Inc. (SMA). All nine founders were experienced arbitrators; and all were dissatisfied with the unstructured and overly casual form of arbitration prevailing in the port of New York. All recognized the need to establish an appropriate set of maritime arbitration rules, adopt ethical standards and attract new members of good reputation and sound credentials in maritime disciplines. Among the first of those new 1963 members was the highly regarded and seasoned arbitrator **Lloyd C. Nelson**. The equally regarded **Jack Berg** joined four years later. I think it more than likely that Lloyd's and Jack's outstanding credentials prompted others to join SMA and get the organization underway. Not only was the SMA Jack Reynolds' idea but he was its most ardent supporter. Jack served as SMA's first president and personally funded most of the fledgling group's expenses through its initial years. Those of us who endured his interrogation as part of our SMA admission process, will remember his crusty manner and pointed questions.

ACCESSING THE ARCHIVE: THE SMA STORY

ASSOCIATION OF MARITIME ARBITRATORS

Minutes of First Meeting

Held at the Downtown Athletic Club in New York City
Tuesday, August 6, 1963

Present

John P. Besman
John Green
Burton Kellogg
Robert McGrath
John M. Reynolds
Edward Schilling
Peter Siebel, Jr.
Eric A. Skoglund
George Stam

After preliminary discussion, those present decided to form the Association of Maritime Arbitrators with themselves as charter members.

The suggested By-Laws were examined and certain changes were made. In final form as attached to these minutes they were adopted on motion by Mr. Kellogg, seconded by Mr. McGrath.

Edward Schilling was designated Chairman of a committee to work out a set of qualifications and submit same to the next meeting of the of the Association. He chose John Green and John M. Reynolds to serve on the committee with him. It was decided that there will be no major attempt to get publicity for the Association until this committee renders its report and same is adopted.

Robert McGrath was designated Acting Secretary-Treasurer and authorized to accept \$20.00 as dues for the current year from each of those present and use same for expenses incurred by the Association.

It is understood that we may use the Maritime Exchange as a mailing address at a very nominal expense and John M. Reynolds was requested to investigate the actual possible arrangements.

The meeting adjourned at 7:05 P.M. subject to call as soon as the Qualifications Committee renders its report and same has been disseminated to all hands.

James Robert McGrath
Acting Secretary-Treasurer

James Robert McGrath

(1)

ASSOCIATION OF MARITIME ARBITRATORS
Holding Office at Court of N.Y.
60 Broad St., New York 4, N.Y.

----- X

In the Matter of the Arbitration :
between :
ORLEN SHIPPING & TRADING CO., INC. :
Petitioner-Owner, : ARBITRATION
-and- : AWARD
CIA SAN JUAN, S. A. :
Respondent-Charterer :
----- X

The sole issue is whether the expense of having a Union Clerk of the International Longshoremen's Association, Local No. 1242, in attendance during the discharge of cargo at Philadelphia, Pa., is to be borne by the Owners or Charterers.

It is the decision of the majority of the Arbitrators that the expense of having a Union Clerk in attendance during the discharge of the cargo is for the account of the Owners.

The arbitration fees are set at \$100.00 (one hundred dollars) to each of the three Arbitrators, and this, as well as rental of arbitration room, to be shared equally by the Charterers and Owners.

Dissenting Opinion Attached.

Edward Schilling
Edward Schilling

John M. Reynolds
John M. Reynolds

Gerald A. Dundon
Gerald A. Dundon

Dated: New York, N.Y.
October 23, 1966

ACCESSING THE ARCHIVE: THE SMA STORY

SOCIETY OF MARITIME ARBITRATORS

MINUTES

of the

Second General Meeting of the Society
September 18, 1963

Held at the Downtown Athletic Club in New York City

The meeting came to order at 6:15 P.M. with all founding members present except Messrs. Besman, Green, and Skoglund.

The group considered the recommendations of the Qualifications Committee and decided to alter the name of the organization to the Society of Maritime Arbitrators. The group otherwise adopted the report of the committee except that they omitted any requirements for sponsors and approved the suggested form of application blank striking out sponsorship and striking out a statement that applicant has read the By-Laws. They considered the question of educational requirements but decided to omit any.

The group then elected officers to serve until the annual meeting next May as follows:

President: John M. Reynolds
Vice President: Eric A. Skoglund
Secretary-Treasurer: James R. McGrath

The other founding members were designated Directors, namely, Messrs. Besman, Green, Kellogg, Schilling, Seibel, and Stam.

The Board of Governors, now functioning, thereupon unanimously elected C. V. Thavenot an honorary member.

The Qualifications Committee remains as it is under the Chairmanship of Edward Schilling. They are authorized to seek publicity for the Society.

The meeting adjourned sine die at approximately 7:30 P.M.

James R. McGrath
James R. McGrath
Secretary-Treasurer

In the matter of the Arbitration under
charter party dated December 30, 1954

between

HASIM MARDIN, Owner of the S.S. "MARDIN"
(represented by George C. Stern, Inc.)

and

KROMY LTD., Charterers
(represented by Levine Shipping Company)

BEFORE:

MESSRS. R. G. CARPENTER,
J. M. REYNOLDS,
C. P. LAMBERT

Arbitrators.

A dispute having arisen under the above charter party concerning alleged demurrage thereunder, the above named arbitrators, by virtue of submission form duly attested to by representatives of the involved parties, having heard the evidence presented in open hearing and after due consideration thereof render the following unanimous decision.

Owners maintain that by reason of a lion having been placed against the cargo by a third party, vessel's loading was delayed eight days, twenty two hours, thirty minutes and that this delay, because of circumstances involved should be paid for by charterers, at a per diem rate of \$2500. and not figured at charter party rate; the \$2500. figure representing her true market value.

Charterers maintain that because of conditions beyond their control they are not responsible for any time lost by reason of libelled cargo and in any case the demurrage rate provided in charter party must be the controlling factor in determining their liability.

The Arbitrators have decided that Owners contention is not sound and that he is entitled to demurrage, if any, only on the basis of the charter party rate of Eight Hundred Dollars per day for such time lost over and above the time allowed.

Charterers contention that they are relieved of responsibility for demurrage for time lost by reason of libelling of cargo is not allowed and that such time is to be computed as laytime and demurrage incurred is to be computed as laytime and demurrage incurred is to be paid for at the rate of Eight Hundred Dollars per day.

It is also the decision of the arbitrators that the sum of \$452.41, representing cost of shifting is due by the charterers to owners.

Arbitrators fees are fixed at \$100., plus \$25. for use of arbitration room, one half to be paid by Owners and one half to be paid by Charterers. The respective amounts to be sent to C. P. Lambert, 19 Rector Street, New York 6, N.Y. for distribution.

Dated New York
18th July, 1955

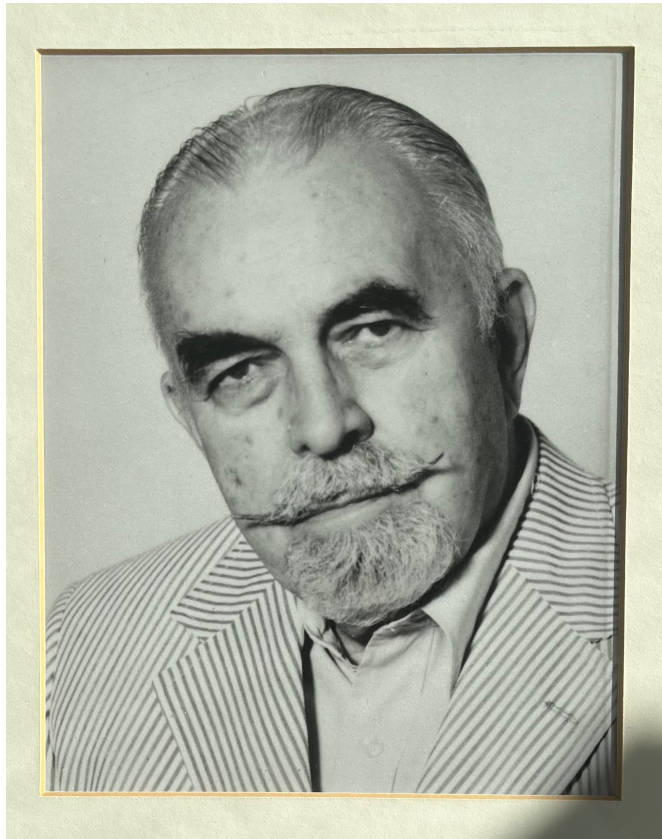
T. G. Carpenter
T. G. Carpenter

J. M. Reynolds
J. M. Reynolds

C. P. Lambert
C. P. Lambert

ACCESSING THE ARCHIVE: THE SMA STORY

Jack Reynolds, First SMA President



SMA PRESIDENTS

1963-1965 – John M. Reynolds

1965-1967 – Eric A. Skoglund

1967-1969 – John P. Besman

1969-1971 – Ferdinand E. Sauer

1971-1974 – Michael A. van Gelder

1974-1975 – Donald E. Zubrod

1975-1979 – Jack Berg

1979-1982 – Michael A. van Gelder

1982-1985 – Donald E. Zubrod

1985-1986 – Charles F. Nisi

1986-1988 – Alexis Nichols

1988-1993 – Manfred W. Arnold

1993-1995 – Henry E. Engelbrecht

1995-1997 – A. J. Siciliano

1997-2001 – Lucienne C. Bulow

2001-2005 – David W. Martowski

2005-2009 – Klaus C.J. Mordhorst

2009-2013 – Austin L. Dooley

2013-2017 – James J. Warfield

2017-2019 – Robert G. Shaw

2019-2021 – Nigel J. Hawkins

2021-Present- LeRoy Lambert

THE SMA 40+ Group

- Jack Berg (1967)
- John J. Ring, Jr. (1970)
- Stephen Busch (1972)
- Klaus C.J. Mordhorst (1974)
- A.J. Siciliano (1974)
- Thomas J. Bradshaw (1976)
- Joseph J. Cuneo (1979)
- Eddie J. Poe (1979)
- Lucienne C. Bulow (1980)
- Soren Wolmar (1982)
- David W. Martowski (1984)

Manfred Arnold



In Memoriam – Remembering Manfred W. Arnold
By A.J. Siciliano, SMA Member, former President of the SMA

May 18, 2022 is a date that will be long remembered by the SMA and the entire New York maritime arbitral community. It was then that our friend and colleague Manfred W. Arnold passed at age 83 leaving his devoted wife Susan, daughters Heidi and Kirsten and their families to ponder a future without him. Those of us privileged to have shared a panel or otherwise work closely with or alongside him know that Manfred was an exceptional individual with a wide variety of cultural and other interests. Apart from his legendary love of fast cars, fine wines, gourmet foods, Chinese snuff bottles and manually building stone walls at his summer home in the Poconos, Manfred would challenge himself with the Sunday New York Times crossword puzzle. Rumor has it that he did so in ink rather than the forgiving pencil we less intrepid mortals would use.

Manfred was no stranger to the pages of *The Arbitrator*. Less than a year ago, readers were treated to President Lambert's interview with him in the October 2021 (Volume 51/Number 3/p.13) issue of this publication. Even if you have already read it, I encourage you to revisit that informative article which includes a fine photograph of Manfred https://smany.org/pdf/Vol51_No3_Oct2021.pdf. There, in his own words, Manfred recounts his family's opposition to his early aspiration to become an artist and the circumstances that caused him to choose a career in the maritime industry which in turn led to his stellar achievements as a maritime arbitrator. He describes how he and Susan met in 1963 and were married a year later in Tokyo, where Manfred was then working. Shortly thereafter, the couple returned to New York where Manfred continued working for a German shipowner. He later became a "ship loan bail-out" officer for a New York bank, followed by a stint with Cargill before joining a ship management company as a sort of "troubleshooter." In 1985, Manfred became a full-time maritime arbitrator and, in his words, "the rest is history."

Manfred was admitted into SMA membership in 1971 and quickly rose through the ranks to become one of its leading arbitrators and spokespersons. Believe it or not, in those days Manfred was clean shaven. He did not sport his signature beard and mustache until years later. In 1988, Manfred was elected president of SMA and remained in that position for five consecutive terms. As a member of the Board of Governors in those years, I witnessed the exceptional skill and foresight with which Manfred both guided the SMA and managed the often divergent views of its Boards of Governors. He had an uncanny ability to fit just the right person to fill a particular task.

Following a series of health issues and despite my urging him not to do so, Manfred found it necessary to resign from SMA in 2021. During his 50 years of membership, Manfred rubbed elbows with many of SMA's founders including its crusty first president Jack Reynolds and shared panels with nearly every subsequent SMA president as well as with distinguished members of the bar. Manfred proved to be SMA's most prolific maritime arbitrator, issuing in excess of 1,000 published awards and dozens more that for one reason or another were not

published. Although Jack Berg is close behind, Manfred's enviable case-count is unlikely to ever be equaled.

Manfred's many accomplishments extend beyond his role as a leading maritime arbitrator. Not to be overlooked are the several years Manfred devoted to the expansion of ICMA, his published writings and work as joint publisher of *The Maritime Advocate*. I am especially grateful for his life-long efforts to champion ADR, the SMA and its membership. More than anyone else, it was Manfred who, after years of effort by scores of others, finally made the Friends and Supporters program a funded reality.

At the risk of borrowing a few words from a fellow Long Islander (Walt Whitman), Manfred was "large" and he did "contain multitudes."

Rest in peace dear friend ... you've earned it

**Originally published in *The Arbitrator*,
Sept. 2022**

MILESTONES

35th Anniversary Celebration, Sky Club March 26, 1998



Top Row from Left: Manfred Arnold, A.J. Siciliano, Lucienne Bulow, Donald Zubrod, Michael van Gelder, Henry Engelbrecht
Bottom Row from Left: John Besman, Peter Siebel, Charles Nisi



MESSAGE FROM THE PRESIDENT

Welcome to the SMA 35th Anniversary Celebration. It is a great honor for us to be graced by the presence of so many of our friends from abroad, from elsewhere in the United States as well as from the Tri-State area. We are especially honored to have with us Senior District Judge and Mrs. Charles S. Haight, Jr. and other Federal Judges from the Southern and Eastern Districts of New York.

We have a great deal to celebrate. By honoring the contributions of our founders and our past presidents, we look back to our roots and find strength in the accomplishments of our organization.

The SMA was founded by individuals who had already been arbitrating disputes for a number of years in an informal fashion, as told by Peter Siebel, our founder-historian. Our nine founders came from various sections of our industry. They were brokers, shipowners, charterers, P & I Club representatives, terminal operators, surveyors, marine engineers or engaged in vessel repairs. It is precisely this commercial experience which makes the SMA unique: the true heir to the long tradition of commercial maritime arbitration.

No organization can thrive without wise counsel, and the SMA was fortunate enough to have Wilbur Dow, the tenth man. An attorney, he helped in developing the SMA Code of Ethics, By-Laws and the first edition of the SMA Rules.

Although we have not strayed too far from our origins, it is clear that we have definitely improved with age.

We now look forward to the future with confidence and trust that we will continue to provide well the service required from us by the industry.

Lucienne Carasso Bulow

MILESTONES

50th Anniversary Celebration, New York Yacht Club, November 21, 2013



From Left to Right:
Klaus Mordhorst
Michael van Gelder



Chief Judge Loretta A. Preska,
U.S. District Court, S.D.N.Y.



Jack Warfield



Jack Berg

MILESTONES

55th Anniversary Celebration, Union League Club, November 1, 2018



Please Join Us for a
Celebration and Roast
of
Clay Maitland
Thursday, November 1, 2018

The SMA, with members of the board of NYMAR
and other friends of Clay Maitland,
will be holding a celebration and roast of Clay
at The Union League Club
on the evening of Thursday, November 1st
The Hon. John G. Ingram will preside as Master of Ceremonies

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

Preparing this program to mark the 60th year of the SMA has made me appreciate even more the privilege I have of serving as the SMA's present President. SMA members and all stakeholders look back with justifiable pride at what has been accomplished. More importantly, though, we look forward with optimism to the future. With the support of our members and Friends & Supporters, the SMA renews its commitment, in the words of Past President David Martowski, to “getting it right, expeditiously, and at reasonable cost”!

LeRoy Lambert, SMA President, 2021-Present

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

Based on my experiences as a former president and a governor of the SMA, what impresses most about the Society, is the consistency of the dedication of its members to promoting maritime and international trade dispute resolution. It is easy to take for granted or overlook how much effort they devote to the maintenance and improvement of the Society's many important functions. These include the Award Service (which is unique in international maritime arbitration), the arbitration and mediation rules, education seminars, guest speaker luncheons, the publication of The Arbitrator, and the website. Altogether these activities reflect six decades of voluntary care and attention as well as the excellent support of our executive office. With our new and longer-standing members, we continue to include on our roster professionals with a range of maritime industry backgrounds and talents. As our current president LeRoy Lambert recently said, "we have much to be proud of."

Robert Shaw, SMA President, 2017-2019

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

What a journey! During its 6 decades, SMA's reputation for excellence has spread far beyond its humble port of New York beginning. Today SMA is the premier organization for the resolution of maritime disputes in the USA and has also earned an honored place among the world's leading international forums for maritime arbitration. Although thanks is certainly due SMA's founders and those former presidents and governors who selflessly labored to add to its prestige, I attribute much of SMA's current standing to many of its members who are no longer with us. At the risk of excluding someone worthy of mention, those include **Hammond Cederholm, George Blake, Joseph Calamari, Rod Elden, Al Forti, Jerry Georges, George Hearn, Joe Homicki, Harry Hunter, Stan Kleppe, Dave Letteney, Kostas Livanos, Lloyd C. Nelson, John Palmer, Bill Peters, Eugene Spitz, Herb Sondheim, Don Szostak, Pieter Vismans** and especially **Joe Winer**.

A.J. Siciliano, SMA President, 1995-1997

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

ICMA

October 22-26, 2001

Post 9/11



From Left: Manfred Arnold, Hon. Justice Mr. Waung, Hong Kong, David Martowski, Klaus Mordhorst

The Fourteenth International Congress of Maritime Arbitrators

Program of Daily Activities



New York

October 22 – 26, 2001

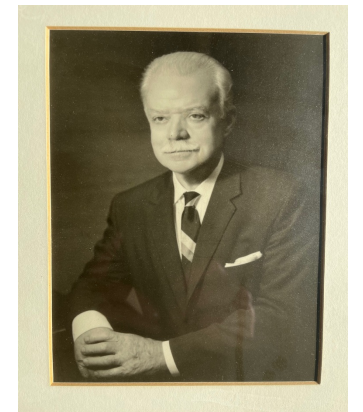
Hosted by the Society of Maritime Arbitrators, Inc.
New York

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

Since its inception, SMA has made the entire texts of its fully reasoned awards available to the maritime community by subscription to its Awards Service. For years, the Award Service consisted of nothing more than crude photocopies of awards with handwritten topic notes added by the legendary **Captain Jones F. Devlin**. Thereafter, the awards were distributed in poorly bound volumes that often fell apart when opened. It wasn't until 1993 that the current two column lay-out, loose-leaf binder distribution with which we are all familiar was introduced. As of today, the SMA Awards Service has published a remarkable 4,468 awards on such knotty and diverse subjects as Adequate Assurance of Performance, Attorney Fees, Burden of Proof, Force Majeure, Fraud, Ice Clauses, Laches/Time Bar, Latent Defect, Letters of Indemnity, Deviation, Perils of the Sea, Proximate Cause, RICO/Punitive Damages, Rights and Obligations of Non-Signatories, Safe Berth/Port, Security in Aid of Arbitration, Sovereign Immunity, Specific Performance, Pollution, Unjust Enrichment and Vetting and others too numerous to list here. Those finalized awards offer valuable insight into how and why arbitrators came to decide a dispute as they did.

A.J. Siciliano, SMA President, 1995-1997

Captain Jones F. Devlin

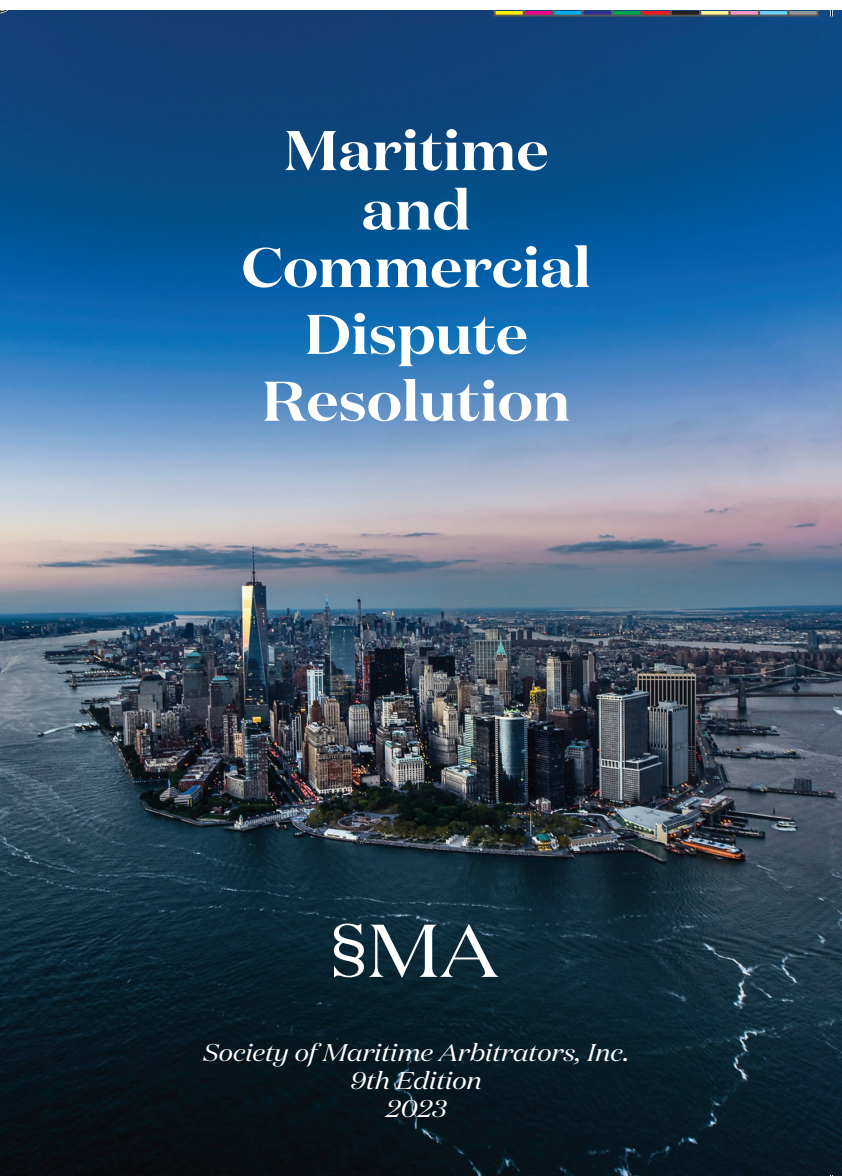


CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

Aside from the publication of reasoned awards, what differentiates the SMA from other arbitration organizations are our arbitration rules. Around 1991 or 1992, the MLA's Arbitration Committee held sessions where users were asked their opinions about New York and London arbitration. Many users stated that they liked the fact that London arbitrators awarded attorneys' fees under English law. The SMA By-Laws and Rules Committee, of which I was Chair, recommended changing the rules so that arbitrators could award attorneys' fees and expenses or costs incurred by a party in the prosecution or defense of a case, although this would be contrary to the "American Rule" where each party would pay for its own fees and costs. Whenever an opponent failed to appoint its arbitrator, the claimant would have to go to court and compel arbitration. This was an expensive process which also delayed the commencement of the arbitration. The SMA decided to adopt the same type of provision as in the ASBATANKVOY where, after twenty days, the claimant could appoint the second arbitrator. Following the 1993 decision of the U.S. Court of Appeals (2d Cir.) in *Government of United Kingdom of Great Britain v. Boeing Co.*, where the Court held that a "district court cannot consolidate arbitration proceedings arising from separate agreements to arbitrate, absent the parties' agreement to allow such consolidation", the SMA took steps to amend its rules as we believed that consolidation was a most efficient method of dealing with some types of back-to-back disputes. Since the Court required agreement by the parties, we crafted a rule that stated that by adopting our rules, a party agreed to consolidation of disputes. If parties did not wish to agree to consolidation, they could opt out of that rule. With the agreement of the Liaison and MLA Arbitration committees, we issued our amended Rules on May 10, 1994, which allowed consolidation, the easy constitution of a panel and the award of attorneys' fees and expenses or costs incurred by a party.

Lucienne Carasso Bulow, SMA President, 1997-2001, Past Chair, SMA By-Laws & Rules Committee

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS



SMA THE **ARBITRATOR**

SOCIETY OF MARITIME ARBITRATORS, INC.

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October 2023

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President's Message

By LeRoy Lambert, SMA President

The SMA is growing! At the September meeting, we were delighted to welcome four new members to the SMA: Bill Moore, Kevin Byrne, James Vlachos and Antonios Panagiotareas. You will find their bios on pages 2-3. All are active in the maritime industry and will provide new links between the industry and the SMA. Welcome!

We are close to finalizing a contract with Jus Mundi, www.jusmundi.com, which will introduce the SMA to thousands of users around the world, most of whom will be hearing about the SMA for the first time.

On November 1, the SMA and BIMCO will be the lead sponsors of a seminar to discuss the GENCON 2022 charter party form. ASBA, CMA, and NYMAR are sponsoring as well. The panelists will include John Weale, the chair of the revision committee, along with Stephen Harper of BW Group, Paul Hirtle of N.W. Johnsen, Magne Andersen of Nordisk, and the

The SMA will offer its popular, comprehensive seminar:

Maritime Arbitration in New York

As an ONLINE ZOOM PROGRAM in March and April 2024

The program will consist of live interactive Zoom video sessions with Professor Weiss and the SMA Education Committee.

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

SPREADING THE WORD

SMA SEMINAR , Piraeus Yacht Club, 1996



A.J. SICILIANO

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

SPREADING THE WORD

1988: SMA/MLA Delegation to PRC

2002: SMA Presentations, Panama City
Seminar in Houston

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

SPREADING THE WORD

SMA Presentation to London
P&I Club Defence Managers,
2003



CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

SPREADING THE WORD

Houston Seminar, 2005

“Dispute Resolution: The New York
Arbitration Alternative”

SMA Presentation
Manzanillo, 2005



CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

SPREADING THE WORD

SMA Presentation to P&I Club Defence Managers,
New York, 2018



CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

SPREADING THE WORD

“New York & London – Perception and Reality”, Harvard Club, NYC, 2014

Houston Seminar, 2019

“Arbitration: A Better Resolution”

SMA/NIAC Seminar, New York, 2023

“Resolving Disputes with a Salty Flavor”

Resolving Disputes with a “Salty Flavor”: Current and Future Issues in International Maritime Arbitration



Wednesday, June 7, 2023
12:00-2:00 pm ET
Holland & Knight LLP
31 West 52nd Street (between 5/6 Avenues), Floor 12
New York, NY 10019

CHALLENGES AND ACHIEVEMENTS OVER 60 YEARS

<https://smany.org>

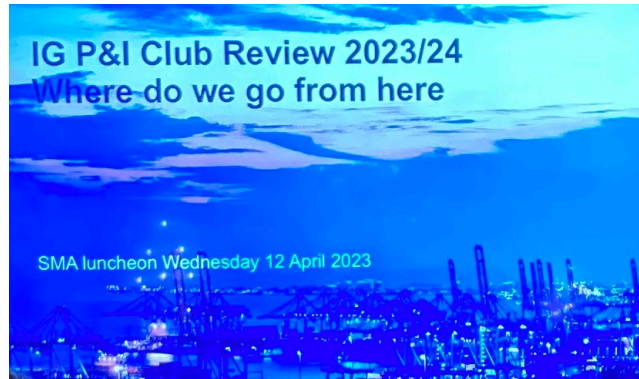
LEXIS-NEXIS

WESTLAW

§MA | SOCIETY OF
MARITIME
ARBITRATORS



OUT AND ABOUT: THE SMA AT HOME AND ABROAD



IMAGINING THE SMA AT 70



THANK YOU!

